



Brussels, 21/06/2019  
SG.A2/AM

## **Opinion**

**Title: Evaluation of the Energy Taxation Directive**

**Overall opinion: NEGATIVE**

### **(A) Context**

Since 2003, the Energy Taxation Directive has provided an EU framework for taxation of energy products used for transport, heating and electricity. The aim is to support the internal market. The Directive sets minimum levels of taxation, but permits Member States to allow certain exemptions that lead to lower energy use and emissions.

The Commission proposed changes to the Directive in 2011, but Member States did not agree on them. This evaluation assesses what has worked and what has not.

### **(B) Main considerations**

**The Board finds the evaluation succinct and generally well presented. The Board takes note of commitments to add more information about stakeholder views and to mention two relevant citizens' initiatives.**

**However, the Board considers that the report contains important shortcomings with respect to the following issues:**

- (1) The report is not sufficiently clear on what the Energy Taxation Directive was supposed to achieve. This hampers the structure of the analysis.**
- (2) The evaluation does not sufficiently explain relevant market developments and how the regulatory framework has evolved.**
- (3) The evaluation does not provide clear and robust analysis of and conclusions on whether the Directive achieved its objectives, and on possible unintended effects.**

**Against this background, the Board gives a negative opinion. The Board considers that in its present form this report does not provide appropriate input for any possible forthcoming related policy initiative.**

**(C) Further considerations and adjustment requirements**

(1) The evaluation should present more clearly the context in which the Directive was proposed and adopted, including the reasons for revising the previous Directive. It should clarify the objectives established at the time, and identify points of comparison and expected outcomes. It should explain that the objective of the evaluation was narrow: to avoid detrimental energy tax competition, while giving the necessary flexibility to Member States to use tax policy for other objectives (e.g. promotion of renewable energy).

(2) The evaluation should explain better how Member States implemented the Directive. The implementation section should also describe relevant market and related regulatory developments.

(3) The evaluation should present a consistent narrative of the evidence and findings on effectiveness, relevance and coherence, based on the Directive's narrow objective. It should identify any unintended effects that may have occurred. Such unintended effects could influence the Directive's coherence with other policies and instruments, as well as its relevance. The relevance analysis should take into account that also other regulations exist to promote renewable energy and to tackle climate change.

(4) The evaluation should be clear about the evidence supporting its findings and about its level of robustness. To the extent that it identifies considerable data gaps, it should draw conclusions on the needs for data collection for future monitoring and evaluation purposes. The evaluation should be transparent in reporting the observed variety in stakeholder views, collected during the exercise, and make clear how the different views were used.

(5) The report might usefully prioritise its conclusions, based on the magnitude of the issues identified.

**(D) RSB scrutiny process**

**The Board advises the DG not to launch the interservice consultation before substantially revising the report.**

**The DG may resubmit to the Board a revised version of this report.**

Full title	Evaluation of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity
Reference number	PLAN/2017/1028
Date of RSB meeting	19/06/2019



Brussels, 23/07/2019  
SG.A2/AM

## **Opinion**

**Title: Evaluation of the Energy Taxation Directive**

**Overall opinion: POSITIVE**

### **(A) Context**

The 2003 Energy Taxation Directive establishes an EU level framework for taxation of energy products used for transport, heating and electricity. The aim is to support the internal market. The Directive sets minimum levels of taxation but allows Member States exemptions that lead to lower energy use and emission reductions.

The Commission proposed changes to the Directive in 2011, but Member States could not agree on them. This evaluation aims to assess what worked and what did not.

### **(B) Main considerations**

**The Board notes that the resubmitted evaluation presents more clearly the objective of the Directive. The analysis of effectiveness, relevance and coherence follows this objective more consistently.**

**The Board gives a positive opinion. The Board also considers that the report should further improve with respect to the following key aspects:**

- (1) The intervention logic is not in line with the revised explanation of how the Directive was intended to work.**
- (2) The report is not sufficiently transparent about significant data limitations and associated uncertainty around some conclusions.**
- (3) The report does not sufficiently distinguish the views of different stakeholder groups on the Directive and its impact.**

### **(C) Further considerations and recommendations**

(1) The report should present an intervention logic that corresponds to the updated explanation of the objectives and how the Directive works. In particular, it should reflect the flexibility that the Directive accords Member States to pursue additional policy objectives.

(2) The baseline section should present the points of comparison that the report uses as reference points for the analysis.

- (3) The updated intervention logic and the analysis should make clearer that exemptions from minimum taxation include substitution of modes of energy use.
- (4) The report should be clear where and why there are not enough data to assess how well the Directive has delivered on objectives. The report identifies several hypothetical issues without substantiating evidence (e.g. by having a certain kind of flexibility there is a risk that...). It should either present supporting evidence or make clear that there is none available.
- (5) The report should draw conclusions on the limits of the underlying data. The conclusions should identify the data necessary to collect and assess the performance of the initiative in the future.
- (6) The views of different stakeholder groups could provide an indication of where the problems lie or if there are tensions between different interests. The report should present these views more clearly.
- (7) While the presentation of the arguments is now better structured, some parts of the report still seem misplaced. For example, much of the baseline section arguably belongs under the description; many of the shortcomings identified in the implementation section call for discussion under the effectiveness and relevance analysis; some of the effectiveness conclusions seem better placed under relevance.

**(D) RSB scrutiny process**

**The Board advises the DG to take these recommendations into account before launching the interservice consultation.**

Full title	Evaluation of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity
Reference number	PLAN/2017/1028
Date of RSB meeting	Written procedure