Cefic position on the Commission proposal amending the Energy Taxation Directive (ETD)

Cefic supports Europe's ambition to become climate neutral by 2050. To achieve this objective, large volumes of renewable and low carbon energy, as well as breakthrough technologies, supported by enabling frameworks for the very large investments needed, will be required.

The chemical industry provides key enabling technologies to make this transition happen. It is a supplier of materials and technologies to a range of sectors including the energy/electricity producing industries. Moreover, energy carriers produced from low-carbon - like renewable - sources (electricity and hydrogen in particular), play a key role in reducing GHG emissions in our sector.

Developing and scaling-up these energies and technologies will require an ambitious industrial policy that creates the enabling framework for the transformation of Europe's industrial base. We view setting a predictable taxation regime supporting the EU's climate objectives without hampering its competitiveness in the global market space as a necessary part of such an industrial policy framework.

In the context of the European Commission's proposal for a recast of the Energy Taxation Directive (ETD), we would hence like to put forward a number of recommendations, focusing on the key following issues:

- **Improving Complementarity between Energy Taxation & Carbon Pricing**
  - **Cefic recommendation: To resolve the overlap between ETS and ETD, the ETD should differentiate between energy levies and environmental charges. Environmental charges should be levied only on those consumers not covered under other carbon pricing instruments, such as the EU ETS.**

- **Providing Essential Safeguards for Industrial Competitiveness**
  - **Cefic recommendation: Maintain Member State flexibilities for differentiating tax-rates between business & non-business users, as well the possibility for regressive tax-rates based on quantitative consumption levels and full exemption for the most energy-intensive consumers.**

- **Promoting Hydrogen Use through an Enabling Taxation Framework**
  - **Cefic recommendation: Incentivise hydrogen up-take through a uniform taxation level equivalent to that for electricity, regardless of the underlying production pathway. Lowering the GHG-emissions of the EU hydrogen mix is already being driven by the designated legislative tools, such as the EU ETS.**

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1. Improving Complementarity between Energy Taxation & Carbon Pricing

Insofar as adapting the existing ETD regime aids in providing a complementary fiscal signal to improve energy efficiency, we welcome the recent legislative proposal put forward by the European Commission. In particular, we view favorably the change towards an energy-, rather than volume based taxation, and support setting the lowest taxation minima for electricity, hydrogen, and advanced biofuels[1] (Annex I, current Art. 15).

In principle, we are also supportive of introducing an environmental component in the ranking of taxation minima (Annex I) for different energy carriers under the ETD, which could help to share the responsibility of mitigating climate change across all sectors in society, provided these avoid double taxation with other carbon pricing and are set based on objective criteria for assessing the respective climate impact.

Indeed, overlapping and potentially conflicting policy instruments should be avoided. In particular, we recommend delineating clearly the differences in scope and objective between the ETD recast and the established EU ETS.

The EU ETS, through market-based carbon pricing, already provides a strong incentive for reducing industrial emissions via, inter alia, energy efficiency and low-carbon solutions. Moreover, the ETS contains instruments addressing the risk of carbon leakage to safeguard EU competitiveness – something the ETD does not. Despite this, the fuel hierarchy in the ETD would dictate investments, regardless of ETS incentives or local conditions (e.g. country fuel mix, energy infrastructures...) – and may hence set conflicting incentives. Therefore, the ETD threatens to overlap with the design of the EU ETS, without providing equivalent safeguards for industrial competitiveness via carbon leakage protection.

Should the EU wish to incorporate an environmental ranking of energy carriers in the ETD, this ranking should be differentiated from the energy taxation and limited to that energy consumption which is not yet covered by other, overlapping legislation, such as the EU ETS. To this end, we suggest to differentiate between a base tax-rate on the energy content of a given fuel, and – on top of that – an environmental charge that is primarily derived from the (fossil) emissions intensity of the fuel use. This environmental charge should be levied on those sectors not yet subject to carbon pricing (e.g. through the EU ETS or Germany's BEHG) and be established in a way that minimises the resulting administrative burden

Cefic recommendation: To resolve the overlap between ETS and ETD, the ETD should differentiate between energy levies and environmental charges. Environmental charges should be levied only on those consumers not covered under the EU ETS.

2. Providing Essential Safeguards for Industrial Competitiveness

Existing flexibilities for Member States should be preserved, for instance in differentiating taxation rates between business & non-business users (current Art. 5 & Art. 11), or for establishing regressive tax rates based on consumption (current Art. 5), which has aided in safeguarding EU industry from competitive distortions in international markets. For the same reason, we recommend maintaining the flexibility for Member States to fully exempt the most energy-intensive industries (current Art. 17). Abolishing these exemptions could have significant adverse effects on energy intensive industries' capacity to invest in their energy transition, at a point in time, when large CAPEX expenditures are required to deliver on the objectives of the EU Green Deal. On the other hand, a continuation of these exemptions would allow Member States to consider the international competitiveness of specific energy intensive installations, and address in a more targeted manner energy-poverty in households. In the long term, a convergence of these exemptions at EU-level would be desirable to ensure a level-playing field in the internal market.

[1] As defined in the ETD recast proposal 2021/0213 (CNS)

Besides, certain low-carbon and renewable technology pathways, such as low-carbon/renewable hydrogen or CCUS, will require greater volumes of low-carbon/renewable energy. The up-take of these technologies may be adversely affected by discontinuing the possibility for the above mentioned exemptions.

In addition, the impact of the general increase in ETD minima such as for natural gas, for instance through indexation or the change in the taxation basis, may adversely affect export-oriented industries and is not directly addressed in the proposal, as is the case for example in the ETS. In the absence of such dedicated mechanisms or the possibility for exemptions, implementing the changes introduced in the ETD recast following a post-2023 transitionary period, within which industries may actively invest in their energy transition in anticipation of future tax-increases, should be considered to smooth possible competitiveness shocks. Besides, CEFIC recommends a transversal industrial strategy assessing competitiveness in relation to obligations over the whole Fit-for-55 package.

Cefic recommendation: Maintain Member State flexibilities for differentiating tax-rates between business & non-business users, as well the possibility for regressive tax-rates based on quantitative consumption levels and full exemption for the most energy-intensive consumers.

3. Promoting Hydrogen Use through an Enabling Taxation Framework

The EU chemical industry is a frontrunner in the EU hydrogen economy, and low-carbon and renewable hydrogen represent a critical pathway to reducing GHG emissions in our sector. Hydrogen, like electricity, generates no carbon emissions at the point of consumption, while the respective GHG emissions at the point of production are being progressively reduced by the EU ETS in order to meet the 2050 climate neutrality objective.

To facilitate the scale-up of hydrogen consumption in a timely manner, and hence incentivise the early adaptation of industrial sites and infrastructure to accommodate the higher up-take of hydrogen, the ETD should set a uniform taxation level for hydrogen equivalent to that for electricity. This level should apply regardless of the hydrogen production pathway, as is done for electricity consumption to the benefit of electrification.

Cefic recommendation: Incentivise hydrogen up-take through a uniform taxation level equivalent to that for electricity, regardless of the underlying production pathway. Lowering the GHG-emissions of the EU hydrogen mix is already being driven by the designated legislative tools, such as the EU ETS.

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About Cefic
Cefic, the European Chemical Industry Council, founded in 1972, is the voice of large, medium and small chemical companies across Europe, which provide 1.1 million jobs and account for 15% of world chemicals production.