

TAXATION OF ENERGY PRODUCTS AND ELECTRICITY TO THE EUROPEAN UNION LEVEL

PĂUNESCU ALBERTO NICOLAE

ECONOMIST PHD, TURCENI ENERGY COMPLEX, ROMANIA

BĂLĂCESCU ANIELA

LECTURER PHD, „CONSTANTIN BRANCUSI” UNIVERSITY OF TARGU JIU, FACULTY OF
ECONOMICS AND BUSINESS ADMINISTRATION, ROMANIA

Abstract:

U.E established to increase socio-economic stability and security of supply, the Energy Community has set a good example of regional cooperation in which the EU and the South-Eastern European countries can diversify their energy sources. It has created a functioning institutional framework and more legal certainty for investors. Next steps are to enhance market reforms and to boost investments in the energy sector. The final objective is that the regional market should be fully integrated in the European's internal energy market.

Keywords: *taxation, energy, politics*

Clasificare JEL : *H20, H23*

1. Introduction

At European Union level, the taxation of energy products and electricity covered by Directive 2003/96/EC of the Council. Were introduced a number of charges with respect to electricity, in particular for the protection of the environment, public health and to ensure a prudent and rational utilization of natural resources. In this context have been laid down various regulations and minimum excise duty on mineral oils, diesel fuels and biofuels.

Also should not be forgotten that the percentage of imported energy in the EU – currently 80% for oil and 60% for gas-is constantly increasing. The decisions taken at national level and the Member States with third countries have a considerable impact on the development of energy infrastructure and energy supply of the European Union as a whole. The interests of the EU to be better promoted in its relations with the countries of transit and producing energy. At the same time, thanks to new patterns of supply and demand on the global energy markets and increased competition for resources, the EU should pursue its aggregate external relations in energy.

In accordance with article 93 of the Treaty establishing the EC, the Council shall adopt measures for the harmonization of "turnover taxes, excise duty and other forms of indirect taxation ' where they are necessary to ensure the establishment and functioning of the internal market".

Article 175 thereof, introduced by the Maastricht Treaty, also allows the community to take measures, including the "tax" in nature, and to achieve the objectives set out in article 174: protection of the environment or public health and promoting "a prudent and rational utilization of natural resources.

However, before the Treaty of Maastricht, other factors have played a role as important in determining the structure and level of levies on mineral oils as those stipulating in article 93.

Control of pollution caused by the burning of mineral oils was always a major element of environmental policy. It was the determining factor in the setting of minimum levels of taxation of unleaded petrol with and. Control of pollution caused by the burning of mineral oils was always a major element of environmental policy. It was the determining factor in the setting of minimum levels of taxation of petrol with or unleaded.

General energy policy has also played an important role in determining levels of taxation on mineral oils: for example, the balance between the various energy sources (coal, oil, gas, nuclear energy, etc.) and the indigenous and imported sources.

The basic structure of excise duties on mineral oils within the community was established by Directive 92/81/EEC. Each Member State must apply excise duty to mineral oils used as fuels or for heating purposes, subject to certain exemptions, which would be reviewed by no later than 1997. Commission decision 92/510/EEC of the

Council has authorized a number of derogations for exemption or reduced rate applicable to certain products in different Member States.

The fees are specific, i.e. calculated per 1000 litres of the product or 1 000 kg. For purposes of excise duties, mineral oil, leaded petrol is unleaded petrol, diesel, heavy fuel oil, liquefied petroleum gas (LPG) and kerosene, methane.

The initial proposals of the Commission in respect of excise duty on mineral oils, in the context of the programmed for the single market [COM (97) 324], provide for absolute harmonization, based on average rates (average for gasoline and LPG, the weighted average for diesel). In a revised proposal in June 1989 [COM (89) 260], the Commission said even that should be applied to single or package rates of tax on mineral oils because "the risks of distortion of competition [...] are higher in this sector than in that of alcohol and tobacco".

However, as for alcohol and tobacco, Directive 92/82/EEC introduced only minimum rates:

- leaded petrol: ECU 337 per 1000 litres;
- unleaded petrol: ECU 287 per 1000 litres on the understanding that "in every case the rate of duty shall be below that charged on leaded petrol";
- gas oil: ECU 245 per 1000 litres with reduced rates for heating oil;
- heavy fuel oil (diesel): ECU 13 per 1000 kg;
- LPG and methane used as a propellant: ECU 100 per 1000 kg.; in other cases ECU 36 per kg. or ECU 0 per kg;
- kerosene used as propellant: ECU 245 per 1000 litres; otherwise ECU 18 per 1 000 litres or ECU 0.

Every two years "and for the first time no later than 31 December 1994", the rates should be reviewed "based on a report and, where necessary, on the basis of a proposal from the Commission". However, the Commission's report was not officially published until September 1995 [COM (95) 285]. Although the draft initial proposed a series of amendments to the minimum levels, the final report did not contain any formal proposal.

Under the Treaty of accession to the EU, the amount of excise duty for unleaded petrol was supposed to reach the minimum level in the Union until 1 January 2011, and those for diesel were supposed to be aligned up to 2013. At present the minimum level of excise duty for unleaded petrol at EU level is euro to 1,000 litres of 359. The minimum level of diesel oil in the EU is EUR 330 per 1 000 litres. In Romania if the excise duty on energy products for unleaded petrol increased from 1 January 2011, with EUR 15 per tonne, i.e. from 452 euros/1000 litres to 467 euros/1000 litres. Diesel excise taxes climbed from 1 January 2011 to 11 euros per tonne to 347 euros/1000 litres to 358 euros/1000 litres.

2. The proposal for the taxation of CO2 and energy

The main objective of the Commission's proposals of 1992 concerning a community charge for emissions of carbon dioxide and energy was to stabilise CO2 emissions by 2000 to their 1990 level. The objective was considered to be an essential element of a global policy which sought to reduce the emission of greenhouse gases and the fight against global warming. A subsidiary objective was a general energy saving, this is in part the reason for which the charge has been created as including only 50% of CO2 emissions, the other half being on energy. The proposal was also seen as part of a general policy of fiscal reform. Considering that it should be "neutral point of view of taxation", revenue could be used to reduce other taxes-in particular, to transfer the overall tax burden on "taxing jobs" (in particular non-wage costs of labour) on a taxation of resource use. This transfer has been described as a "double dividend".

As a result of a deadlock within the Council on the 1992 proposals-which met with opposition both for technical reasons and for reasons relating to national tax sovereignty – the Commission has published a revised version [COM (94) 127] which provide for the widest flexibility in setting the fees Member States. The minimum rates laid down in the initial proposal have become targets, being authorized exemptions for different industries. However, the Council has not adopted any revised proposal. Instead, Member States have continued to implement their own solutions for reducing CO2 emissions. Environmental aspects of the situation were outlined in a communication on environmental taxes and Charges in the single market "[COM (97) 9].

In 1997, the Commission published new proposals for restructuring the Community framework for taxation of energy products "[COM (97) 30]. They had to rely on a system of taxation of mineral oils by extending it to all energy products and, in particular those which directly or indirectly may be substituted for mineral oils: coal, coke, lignite, bitumen and products derived there from; natural gas and electricity.

Among other proposed electricity tax included and the applicable VAT on natural gas and electricity [COM(2002) 688]. Currently, the place of taxation is the place of delivery, but it becomes increasingly more difficult to determine because cross-border trade of electricity began to grow. The proposal requires that the place of taxation to the place where the purchaser is established. For the final consumers, it will be the place of consumption.

The taxation of energy is already in all the Member States, being more or less harmonised at EU level. The current directive on the taxation of energy, adopted in 2003, was designed primarily to avoid distortion of competition in the energy sector of the internal market. The directive establishes common rules relating to the subject and at the time and the circumstances under which exemptions are allowed. Established minimum levels, mainly based on the amount of energy consumed, for products used in the heating, electricity and fuel. In addition to these minimum levels, Member States are free to establish their own national rates, as they think fit.

3. Why do you want to review these rules?

The current directive on the taxation of energy can be considered to be exceeded due to the fact that it does not address the larger ambitions of EU policies in the field of energy and climate change. Another reason for the revision of the directive is the problems that have emerged in the domestic market. You can say that its scope is not consistent with the establishment of the EU emissions trading (ETS) which is the most complete international scheme of tradable emissions of greenhouse gases.

First, the current minimum rates of taxation on energy products shall be based primarily on volume (EUR/1000l) and shall be determined on the basis of historical exchange rates recorded in the Member States. This method makes it unfair competition between sources of fuel and generates unwarranted tax benefits for certain types of fuel. For example, in the light of the minimum rates currently applied, coal is the least taxed, while ethanol is taxed. From renewable energies are discriminated against in the light of the current directive on the taxation of energy, because they are taxed at the same rate as the energy source whose replacement is sought (biodiesel is taxed like diesel, etc.). Since rates are based on volume and not on the energy content, the products containing less energy from renewable energies such as bear a greater tax burden than competing fuels. This aspect will be addressed in the revised directive, because it ensures that the tax on energy to be tied to energy content.

Secondly, in terms of climate change, the current directive on the taxation of energy is not at all subject to the need to reduce CO₂ emissions. In fact, as outlined above, certain fossil fuels are imposed more favourably than their competitors than clean. An EU framework should enable Member States to apply a tax on CO₂ in order to achieve the objectives of the national effort to reduce emissions without any fear endangerment their competitiveness within the EU.

Finally, a directive on the taxation of energy with a component relating to CO₂ is likely to prevent the emergence of barriers to and distortions in the internal market due to the heterogeneity of national policies. Member States are starting to introduce their own already taxes CO₂ national, but different interpretations can lead to double taxation and to supporting the high costs of compliance by companies carrying out cross-border activities. An approach at EU level with regard to the taxation of CO₂ would create a fair competitive environment for industries throughout the Union and would facilitate cross-border activities. Because CO₂ taxation should not be applied to energy from renewable sources, they would benefit from an edge competing with conventional fuels.

4. What are the main objectives of the new directive on the taxation of energy?

- ✓ The revised directive aims at restructuring the energy, shall be taxed to support the objective of the transition to an economy with low-carbon and efficiency of energy and to avoid the emergence of problems in the internal market.
- ✓ Climate change: The introduction of the CO₂ energy tax component, the proposal aimed at achieving convergence between the taxation of energy and commitment of the EU with regard to climate change. It will establish a tax on CO₂ emitted by the sectors that are not covered by EU ETS, which will increase in proportion to the volume of emissions generated by a particular fuel, favouring the use of renewable sources and contributing to the efforts to meet the objectives of the EU on CO₂ reduction, energy efficiency and use of energy from renewable sources.
- ✓ Energy efficiency: Taxation should reflect the scarcity of energy that we face. Networking with the duty of the energy content of fuels would stimulate all sectors to put more emphasis on energy efficiency.
- ✓ Internal market: creating an EU framework for the taxation of CO₂ would avoid the heterogeneity of energy taxation policies in the Member States and companies would benefit from a greater degree of legal certainty and reduce the costs of compliance. The proposal would also make a distinction between the sectors concerned and those not covered by EU ETS, thereby avoiding double taxation.
- ✓ Promoting economic growth and the creation of jobs: Member States may decide to apply a transitional tax favourable economic growth by increasing the tax on energy products in favour of reducing the tax burden on labour, in accordance with the strategy 2020.

5. The essential elements

The revised directive on the taxation of energy will allow Member States to use taxes in an optimal way and, finally, to support "sustainable growth". To do this, the directive proposes the distribution of the minimum rate of taxation in two parts:

- One part will be based on the emissions of CO₂ from energy product and will be fixed at EUR 20 per tonne of CO₂.
- The other side will be based on the energy content, i.e. the actual power it generates product, measured in gigajoules (GJ). The minimum rate of taxation shall be fixed to 9,6 EUR/GJ for fuels and from 0.15 EUR/GJ for fuels for heating. This applies to all fuels used in transportation and heating.

Take social aspects into account, Member States may exempt all of the energy consumed for heating households, without taking into account energy used product.

Grace long transitional periods, until 2023, to complete alignment with the taxation of energy content, industry will have sufficient time to adapt to the new tax structure.

6. Conclusions

Through the new system of assessment, the Commission considers that:

- *promote renewable sources of energy and encourage the consumption of energy from sources which produce less CO₂*. Currently, energy sources which pollute the most are, paradoxically, least-taxed. On the other hand, biofuels are part of the most taxed energy sources, despite the commitments entered into by the EU in favour of increasing the share of renewable energies in transport. The new proposal is to eliminate these inconsistencies.
- the new text will *provide a more coherent approach to energy taxation across the EU*, avoiding the patchwork of national policies and contributing to the creation of fair conditions of competition throughout the EU industry.
- the revised directive aims *to complete EU emission trading of greenhouse gas (ETS)*, by charging a tax on CO₂ in sectors which are not part of the scope (transport, industry, agriculture and small industry). They are responsible for half of the CO₂ emissions in the EU and, therefore, it is important to address, in addition, a signal on the price of CO₂

7. Bibliography

- [1] Directive MEMO 11/238/EC Brussels April 13, 2011
- [2] Directive 2003/96/EC of 27 October 2003
- [3] Directive 92/81/CEE, Directive 94/74/CE, Directive 92/82/CEE 18 October 1992
- [4] Law 218/2003 of electricity
- [5] *** <http://epp.eurostat>
- [6] ***<http://eur-lex.europa.eu>
- [7] ***<http://www.europarl.europa.eu>
- [8] ***www.anre.ro
- [9] ***www.opcom.ro