



COPA-COGECA POSITION ENERGY TAXATION DIRECTIVE: A FAIR GREEN TRANSITION

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Bioenergy, Biotechnology and non-food

copa*cogeca
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Copa and Cogeca take note of the proposal for the revision of the Union framework for the taxation of energy products and electricity. The review of the directive is presented among the initiatives both at EU and Member State level that can be implemented to reach the EU climate policy goals by encouraging a switch to cleaner energy, more sustainable and more environmentally friendly choices, as part of a socially fair green transition. The agriculture and forestry sectors are the only sectors capable of providing not only carbon sequestration but also alternatives through renewable raw materials to substitute fossil-based products. European farmers and agri-cooperatives are ready to play their part in delivering the ambitious EU climate objectives. These will only be achievable by putting in place efficient legislative instruments that build on the climate change mitigation potential of the land-based sectors.



Energy products used for agricultural, horticultural or aquaculture works, and in forestry: fair treatment

With the current Energy Taxation Directive (ETD), Member States may apply a level of taxation down to zero to energy products and electricity used for agricultural, horticultural or piscicultural works, and in forestry. The Commission draft maintains the possibility for derogations for energy products used for heating purposes and for electricity, used for agricultural, horticultural or aquaculture works, and in forestry, but it significantly increases the minimum levels allowed from day one, 1.1.2023, until 1.1.2033.

Copa and Cogeca call for the current derogations concerning the levels of taxation to be maintained, for the following reasons:

- Unlike industry, agriculture and forestry work with natural biological cycles. Indeed, not all aspects of these can be fully controlled by human intervention. For example, the climate performance or the energy yield of plants depends on the seeds' genetic make-up.
- Greenhouse gas emissions from the agricultural sector have already been significantly reduced (by around 435 million tonnes of CO₂-equivalent, a 25% decrease compared to 1990)¹
- The value of energy products used in agriculture, forestry and horticulture represent a significant share of agricultural costs. Therefore, an increase in the cost of agricultural inputs would have severe repercussions for the price of agricultural, horticultural and forestry products. This is not in the interest of EU consumers.

Eliminating the zero-taxation linked to the use of energy products and electricity in agriculture, horticulture, and forestry would have an impact on the competitiveness of these sectors and would lead to these activities moving to third countries. This will be crucial particularly if the current trend of increasing production costs for farmers (i.e. feed, fertilisers, energy) continues to have a significant impact on agricultural income. In turn, this would result in investments in the sector falling through, which would lead to job losses in rural areas and threat particularly to those activities which depend on cogeneration (Combined Heat and Power - CHP). Article 17 of the recast of Directive 2003/96/EC on the taxation

of energy products and electricity should be adapted accordingly allowing energy products and electricity used for agricultural, horticultural or aquaculture works, and in forestry to continue being part of the sustainable green transition.



The contribution of arable crop and forestry-based biofuels: moving away from fossil fuels

The sustainability criteria and the rules related to indirect changes in the use of land certified under the RED II framework provide full guarantees on the environmental performance of arable crop and forestry-based biofuels. According to the Commission report², certified sustainable arable crop and forestry-based biofuels are the most consumed renewable energy source in the EU road transport sector. It is fair to assume that the emission reductions in the transport sector mostly result from the use of arable and forestry-based biofuels. According to Eurostat/SHARES, the share of renewable energy sources in transport in 2019 is 8.9% with the multiplier coefficients, thus below the 10% target laid out by directive (EU) 2009/28/EC in 2020.

To reach the European Climate Law's ambition and the objective to decarbonise transport, given that the majority of new vehicles will still contain an internal combustion engine, the EU will continue to depend on liquid fuels. No technology such as sustainable arable crop or forestry-based biofuels should be left out of the toolbox to decarbonise the transport sector, the emissions of which represent one quarter of total emissions and remain above the 1990 level.

The decarbonisation of agriculture and forestry is also an important question, in particular off-road traction, which largely depends on liquid fuels. Certified sustainable arable crop and forestry-based liquid biofuels are necessary to continue to use existing machines in primary agricultural production.

Arable crop-based biofuels lie at the heart of the EU's ambition in terms of plant proteins. The ETD proposal should incorporate the strategic nature of having a strong and competitive agricultural sector in Europe, one that supplies safe, quality and affordable food. The taxation of energy products should help to develop the bioeconomy and the circular economy stemming from European raw materials, generating by-products rich in plant protein or in cellulose and that create jobs. A thorough shift is required. This is already happening under the ETD framework, but it should be sharpened. Such actions would promote the transition and necessary electrification.

Forest biomass can be converted into solid, liquid, or gaseous biofuels that can then be burned for energy or used as fuel substitutes for transportation or industrial processes. Trees are useful for energy because they convert energy from the sun into biomass through photosynthesis, a process that captures carbon dioxide from the atmosphere. The majority of forest biomass used for bioenergy in the EU is produced from waste or residues from manufacturing processes.

Renewable energies are also a source of economic growth and jobs, particular in rural areas. In addition to this, no correlation has been observed between food

¹ Source: DG AGRI
² COM(2020)952

prices and biofuel demand in recent years. Any impact on food prices is marginal in comparison to other dynamics on the global food market.

Copa and Cogeca call on the Commission to adopt a stable and long-term policy for arable crop and forestry-based biofuels and advanced biofuels and to strengthen the consistency between the different EU political domains. The proposal for a directive should not lead to an increase in minimum levels of taxation on agricultural and forestry renewable energy sources.

Given that in the Member States the ETD exists alongside the EU emissions trading system (EU ETS), coherence between the levels of taxation needs to be guaranteed. The biofuels and bioliquids that adhere to the sustainability criteria and the energy produced from agricultural and forest biomass should not be hit by a CO₂ tax because the CO₂ emissions released during their combustion are deemed to be neutral.

Copa and Cogeca positively welcome the proposal aiming to tax fuels based on their energy content (rates in euros/gigajoule) but call for this to only concern those of fossil origin to encourage investments in clean technologies. In addition, it would be unacceptable, to the say the least, for biofuels to be taxed more than equivalent fossil fuels with the same energy content. A tax based on the carbon intensity of the energy would be the right way to decarbonise the energy.

Copa and Cogeca do not support certain Commission proposals regarding the recast of the directive on the taxation of energy products and electricity as they stand, notably the proposals aiming to:

- set a minimum level of half of the reference rate³ for sustainable food and feed crop biofuels and for sustainable biofuels used as heating or motor fuels as of 1st January 2023;
- tax sustainable food and feed crop biofuels at the same level as conventional fossil fuels as of 1st January 2033.

Only the motor and heating fuels produced or derived from biomass that do not conform with the sustainability requirements of directive (EU) 2018/2001 and/or that pose a high indirect land use change-risk should be taxed at the same level as fossil fuels.

No discrimination should be made between sustainable food or feed crop biofuels and advanced biofuels as long as they adhere to the sustainability criteria as laid out in Directive (EU) No 2018/2001 (RED II).

Copa and Cogeca call for the issue of an energy transition that is affordable for consumers to be taken into account by supporting more specifically the fuels with higher biofuel content (B10, E10+, E85, ED95 and B100) in the carriage of passengers and goods sector.

Copa and Cogeca reaffirm their position according to which it is fundamental to provide for a derogation scheme specific to energy used in agriculture, horticulture and forestry and biofuels in the framework of the recast of directive 2003/96/EC on the taxation of energy products and electricity. They call for a reduction in excise duties for pure and directly or indirectly blended biofuels/bioliquids. Copa and Cogeca expect a commitment from the European Commission and Member States to maintain the reduction (or exemption where there is

one) so that the sector can work based on a clear vision that allows for planning.

Article 16 §3 of directive 2003/96/EC on the taxation of energy lays out that the exemption or reduction of taxation applied to biofuels is adjusted by Member States according to the evolution of the raw material prices in order to ensure that such reductions do not lead to overcompensation of the additional costs of producing biofuels. It goes without saying that the adjustment of taxation on biofuels must also take into account the price of biomass.

Copa and Cogeca are of the opinion that direct or indirect fiscal incentives for the biofuel/bioliquid industry should take into account the Community preference.

The biofuels used in agriculture and forestry must also be certified as sustainable in accordance with the requirements laid out in Directive (EU) No 2018/2001 (RED II). Nevertheless, the proof of sustainability is not required based on the current Energy Taxation Directive (2003/96/EU) nor is it required based on this recast proposal.

Copa and Cogeca note that with the introduction of minimum levels of taxation for biofuels in agriculture and forestry, the approval under State aid legislation for national implementation is not required.



An appropriate time frame for the Energy Taxation transition

The Commission proposes that the revision of the ETD shall apply from 01.01.2023. This will give the agricultural, forestry and horticulture sector and other businesses a very short time to adjust to the considerable changes proposed. Copa and Cogeca plead for a gradual transition by asking that any change to the current derogation schemes specific to energy used in agriculture, horticulture, forestry, and biofuels should include:

- an appropriate transitional phase with its implementation not starting from day one 01.01.2023,
- Realistic adjustment phases.

This would allow operators to have the much-needed time to adapt to the heavy economic impact of the proposed changes and enhance investments. The current context of higher energy prices, combined with increased costs for farmers and its uncertain duration could lead to the unsustainability of business activities for many farmers and cooperatives.

³ Highest rate applicable to conventional fossil fuels (€10.75/gigajoule)



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Copa and Cogeca are the united voice of farmers and agri-cooperatives in the EU.

Together, they ensure that EU agriculture is sustainable, innovative and competitive, guaranteeing food security to half a billion people throughout Europe. Copa represents over 22 million farmers and their families whilst Cogeca represents the interests of 22,000 agricultural cooperatives. They have 66 member organisations from the EU member states.