

Summary Report

Public consultation on the revision of the Energy Taxation Directive (ETD)

1. Background

The **Energy Taxation Directive 2003/96** lays down the EU rules for the taxation of energy products used as motor fuel or heating fuel and of electricity. However, since its adoption in 2003, energy markets and technologies in the EU have experienced significant developments, and the EU's international commitments, including the Paris Agreement, as well as the EU's regulatory framework in the area of energy and climate change, have evolved considerably since then.

The **European Green deal** adopted by the Commission on 11 December 2019 aims to transform the EU into a modern, resource-efficient and competitive economy where there are no net emissions of greenhouse gases in 2050 and where economic growth is decoupled from resource use. It includes increasing the EU climate ambition towards 50-55% GHG emission reductions for 2030. This requires effective carbon pricing and the removal of fossil fuel subsidies. Well-designed taxes play a direct role by sending the right price signals and providing the right incentives for sustainable practices of producers, users and consumers. The revision of Energy Taxation Directive forms part of a group of policy reforms to deliver on the increased ambition for 2030. The revision is an integral part of the European Green Deal and should therefore focus on environmental issues.

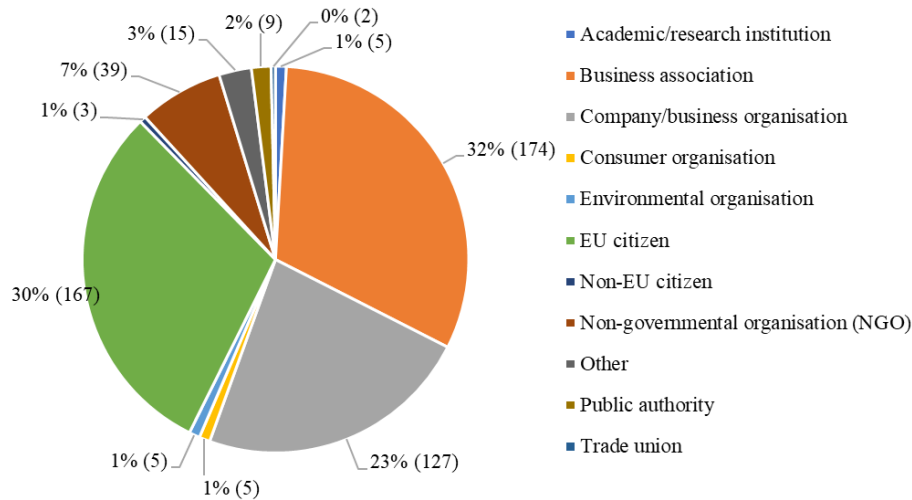
A public consultation was undertaken in relation to the revision of the ETD in line with the Better Regulations Guidelines. This consultation was placed on the EU website, which remained open for 12 weeks from 22 July 2020 to 14 October 2020. The OPC questionnaire consisted of 25 questions: 24 closed-ended question with four with related open text questions, and a final open text question enabling respondents to provide additional arguments. The questionnaire focused on three areas: minimum excise rates, exemptions for industry sectors, and exemptions or incentives for alternative fuels. These were supported by questions about respondents' views on the ETD and its priorities, together with a question about social impacts. Respondents were also allowed to upload position papers.

The responses to the public consultation are described below.

2. Respondents profile

563 respondents participated in the public consultation. However, 12 responses were blank or meaningless, leading to 551 valid contributions. Figure 1 shows the type of respondents.

Figure 1 Total number and percentage (%) of responses by stakeholder type (N = 551), values = % (n)



Source: Public Consultation questionnaire responses

Among companies or business organisations who provided feedback, 30% were from large companies, 16% were from medium, 23% from small and 31% from micro organisations. Of the nine public authorities that responded, three are local, four are regional and two are national.

Table 1 shows the country of residence of the respondents, which took part in the public consultation. A vast majority of the respondents were from Germany (27%), Belgium (20%), Sweden (11%), France (8%), Spain (6%) and Poland (5%). 26 respondents were from outside the EU.

Table 1: Respondents categorised by their country of residence

Geographical location	No (%)	Geographical location	No (%)
Austria	2% (13)	Luxembourg	0% (1)
Belgium	20% (108)	Malta	0% (1)
Croatia	0% (1)	Netherlands	2% (10)
Czech Republic	1% (6)	Poland	5% (25)
Denmark	1% (3)	Portugal	1% (6)
Estonia	0% (2)	Romania	0% (2)
Finland	2% (13)	Slovakia	1% (6)
France	8% (42)	Slovenia	0% (1)
Germany	27% (151)	Spain	6% (32)
Greece	0% (1)	Sweden	11% (62)
Hungary	0% (2)	Norway	1% (4)

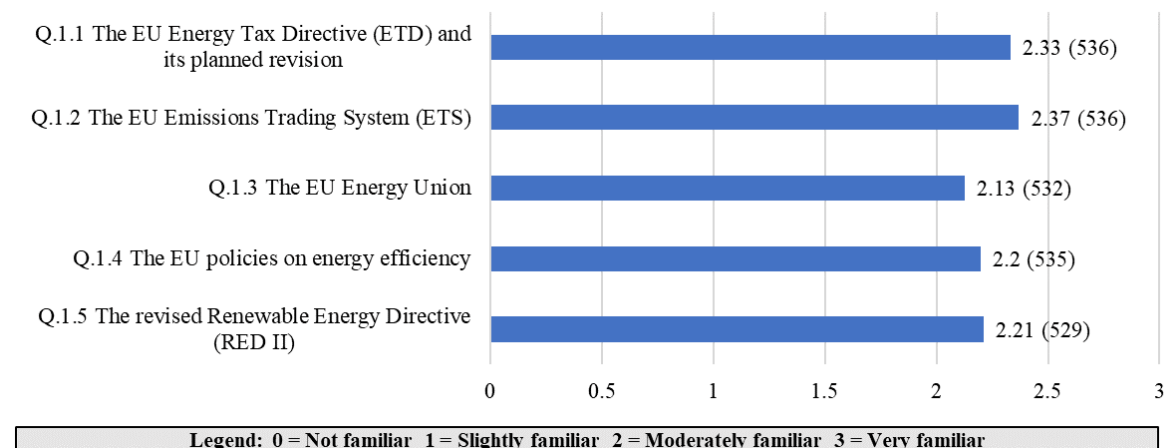
Geographical location	No (%)	Geographical location	No (%)
Ireland	1% (5)	Switzerland	0% (2)
Italy	5% (28)	United Kingdom	1% (8)
Latvia	0% (1)	United States	2% (11)
Lithuania	1% (3)	Venezuela	0% (1)
Total	551 (100%)		

Source: Public consultation questionnaire responses

Context

Respondent levels of **familiarity with key EU climate related initiatives** are outlined in Figure 2. All five climate initiatives have average values above 2 indicating that respondents are at least moderately familiar with them all. Respondents are most familiar with the EU Emissions Trading System (ETS) (average of 2.37). The lowest level of familiarity is for 'The EU Energy Union' with an average of 2.13.

Figure 2 Q.1. To what extent are you familiar with the following climate and energy related initiatives? Values = average (n)



Source: Public consultation questionnaire responses

Looking at the respondent levels of **familiarity for the three climate related initiatives**, the European Green Deal, the EU Climate Policy, and the Paris Agreement on climate change have high levels of familiarity with all initiatives, indicating an average of at least 2.5 (the midpoint between moderately and very familiar).

Respondents also have high levels of agreement with the following **three policy objectives**: (1) EU's plans to increase climate ambition for 2030, (2) EU's economy and society becoming climate-neutral by 2050, and (3) the EU's Green Deal zero-pollution ambition for a toxic-free environment. All three have averages of at least 3.4 (between 'somewhat agree' and 'strongly agree').

Respondents were asked about their agreement with several **statements about the ETD and some general issues**. There were average agreement levels of over 3

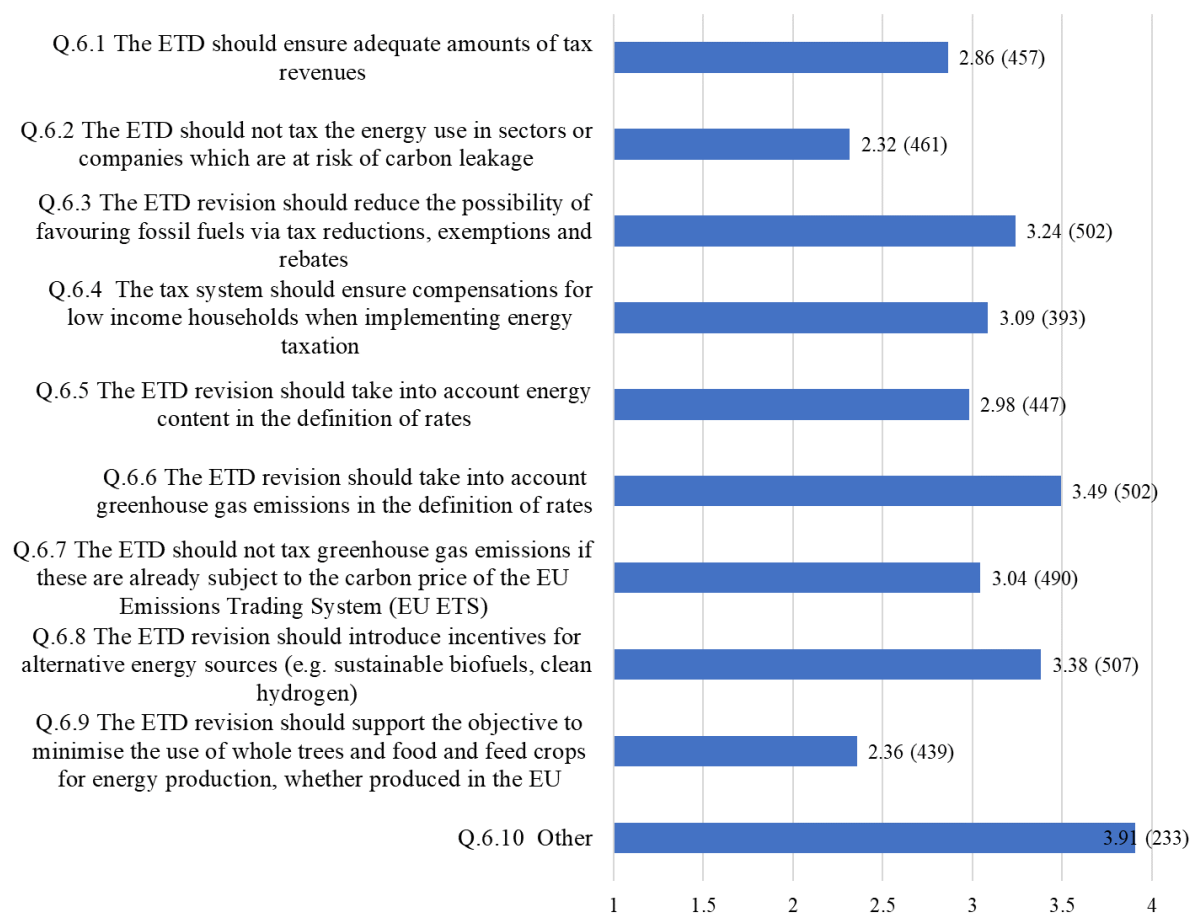
(‘somewhat agree’) with the following statements, the averages are given in parenthesis:

- ETD should be revised to aid the EU’s transition toward climate neutrality (3.66);
- ETD has to be revised to tackle environmental concerns like air pollution (3.23);
- ETD has to be revised in order to better ensure the smooth functioning of the internal market (3.37);
- ETD has to be revised in order to account for the changed energy mix with higher shares of renewables and electricity (3.53);
- ETD should better promote energy saving and efficiency (3.54);
- ETD is applied in a too diversified way across Member States (3.42);
- The recent sanitary (COVID-19) and economic crisis increases the need to comply with the objectives of the EU’s Green Deal (3.22); and
- Fiscal reforms consisting in shifting taxation from labour to environment can contribute to the economic recovery (3.26).

The statement saying that the ETD de facto favours fossil fuel consumption gains the lowest level of agreement with an average of 2.84. An average of 2.5 implies neither agree nor disagree.

Respondents were asked about their **priorities for the ETD** and the responses are shown in Figure 3, which shows that the highest levels of agreement were for the ETD revision taking into account greenhouse gas emissions in the definition of rates, followed by introducing incentives for alternative energy sources such as clean hydrogen and sustainable biofuels. Two priorities were below the average of 2.5 implying that, overall, people disagreed with these options. These are that the ETD should not tax the energy use in sectors of activity which are at risk of carbon leakage, and that the ETD revision should support the objective to minimise the use of whole trees and food and feed crops for energy production, whether produced in the EU or imported.

Figure 3 Q.6. Which of the following priorities are important for the EU Energy Taxation Directive (ETD)? Values = average (n)



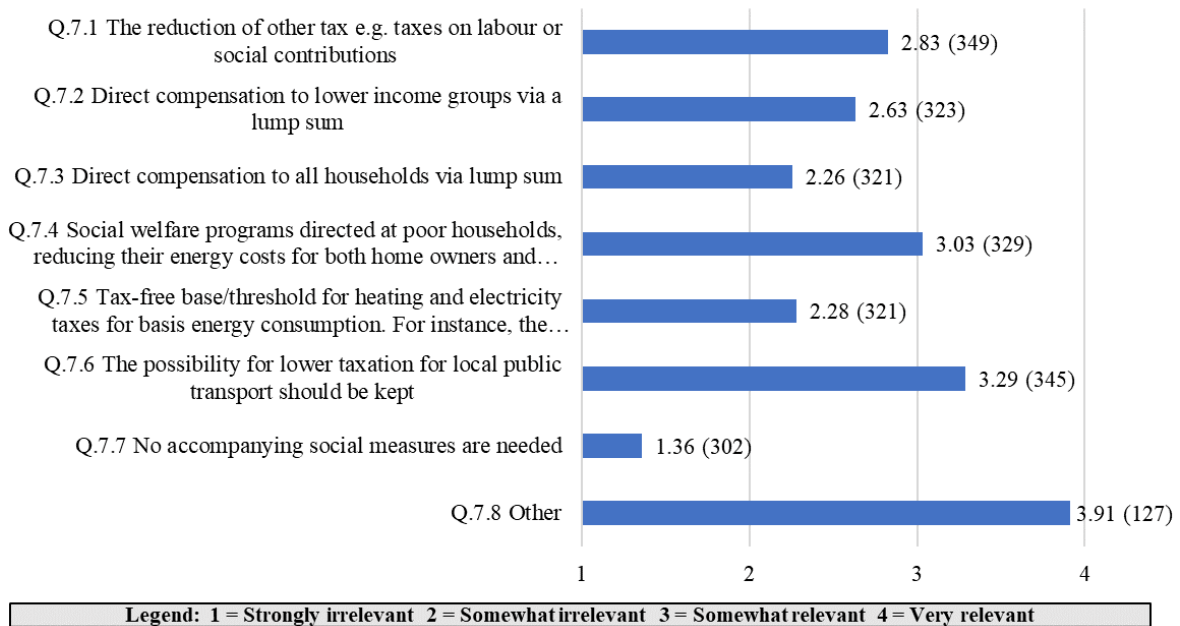
Legend: 1 = Strongly disagree 2 = Somewhat disagree 3 = Somewhat agree 4 = Strongly agree

Source: Public consultation questionnaire responses

Social Impact

Respondents' views on the accompanying measures considered to be the **most relevant accompanying social policies** are summarised in Figure 4 and show that four social policies were considered relevant with averages over 2.5. The policy considered the most relevant was lower taxation for public transport, followed by social welfare programs for poor households. The other options considered relevant are reduction of other tax, e.g. taxes on labour or social contributions, and direct compensation for lower income groups.

Figure 4 Q.7. Which of the following accompanying measures do you consider as most relevant social policies? Values = average (n)

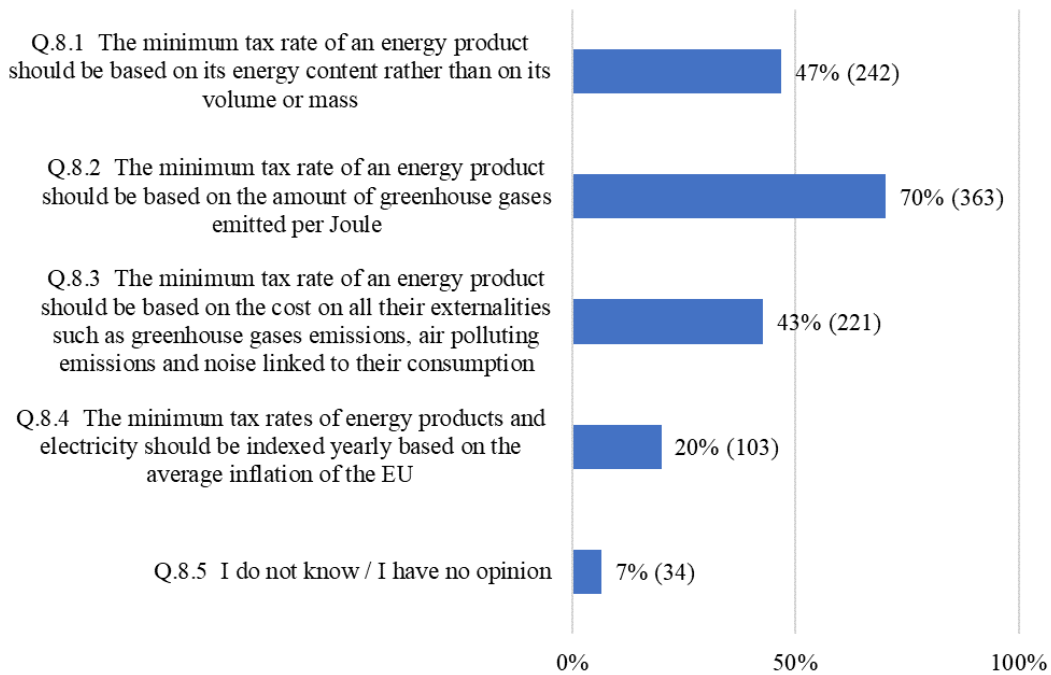


Source: Public consultation questionnaire responses

Rules for Taxation

Respondents' views on the basis of **minimum tax rates** of an energy product are summarised in Figure 5 and the majority (70%) believe that it should be based upon the amount of greenhouse gases emitted per Joule. There are similar percentages for two other options: based upon its energy content rather than on its volume or mass (47%); and based upon the cost of all externalities such as greenhouse gases emissions, air polluting emissions and noise linked to their consumption. 14% of respondents indicated that they did not know or had no opinion.

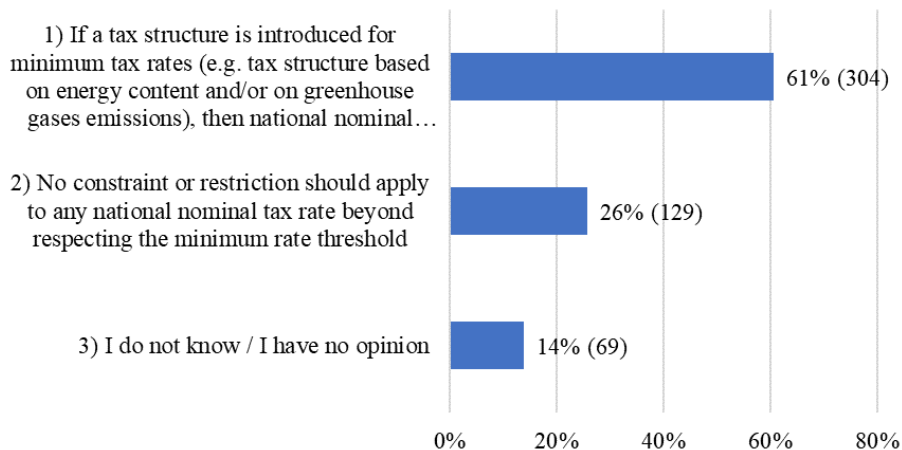
Figure 5 Q.8. Which options do you consider as relevant for minimum tax rates. Multiple options are possible. Values = percentage (n)



Source: Public consultation questionnaire responses

Respondents’ views on options relevant to **nominal tax rates** are summarised in Figure 6: the strongest support (61%) is for national nominal tax rates to follow the same structure as those introduced for minimum tax rates. Less than half of this number of respondents (26%) believe that there should be no constraints or restrictions applied to national nominal tax rates beyond respecting the minimum rate threshold. There is considerable unanimity between all the stakeholder groups, with only public authorities taking a different view. The nine public authorities who responded to the consultation were less keen on being restrained by an EU tax structure and would prefer there be no restrictions on national nominal tax rates. Besides, a relatively high proportion of public authority respondents indicated that they did not know or had no opinion (44%). Stronger than the average support for “national nominal rates following the EU structure” occurs in Belgium and Germany, whereas Poland and Sweden both have more responses in favour of the option for “no constraints or restrictions applied to national nominal tax rates beyond respecting the minimum rate threshold”.

Figure 6 Q.9. Which option do you consider as most relevant for nominal tax rates? Values = percentage (n)



Source: Public consultation questionnaire responses

Sector exceptions

Respondents were asked their opinions on specific exemptions and policies relating to several specific sectors. When asked about energy tax treatment exceptions for **agriculture and forestry**, and for **fishery**, in both cases 46% and 48% of respondents respectively indicated that no exceptions should be granted. In both questions, high numbers of respondents indicated that they did not know or had no opinion, with 36% and 43% respectively.

Respondents were asked their opinion on the tax treatment of energy products and electricity for the **aviation** sector. There was reasonable support for two options. For the option gaining the most support, 44% indicated that “there should not be a mandatory exemption for kerosene and other aviation fuels for flights between the EU and third countries, even if the possibility to tax them depends on the relevant bilateral Air Service Agreements”. The second most popular option with 41% of responses being in favour, is that “kerosene and other aviation fuels for intra EU flights should be taxed with the standard rules on nominal and minimum tax rates for motor fuels”. Only 22% of all stakeholders believe that “ticket taxes based on distance price should be introduced for all passengers (including transfer passengers)”. Furthermore, 26% of all respondents indicate that they do not know or have no opinion. The remaining response options all receive minimal support with less than 10% of respondents choosing these.

With regard to respondents’ opinions on energy tax treatment of energy products and electricity for **maritime** transport and **inland waterways**, in both cases, 53% and 54% respectively indicated that fuels should be taxed as motor fuel. In both questions, high numbers of respondents indicated that they did not know or had no opinion, 27% and 30% respectively. Respondents were also asked about their views regarding **shore side electricity** (SSE) and they favoured two of the four options. The most preferred option (61%) is that “SSE should be stimulated by regulation, for instance by an obligation to use shore side electricity in harbours when available”. The second most popular option (53%) is that “instead of giving a special tax treatment for SSE, the use of fossil fuels on board of ships in harbours should be subject to energy taxation”. Two further options gained some support: 21% selected the option

that "SSE should be stimulated by introducing the possibility to introduce a differentiated energy tax treatment (e.g. reduced tax rate) for shore side electricity", and 16% selected the option that "SSE should be stimulated by a mandatory zero rate (energy tax exemption) for shore side electricity".

When asked about the tax treatment of **diesel or other motor fuels used as a propellant for commercial purposes**, a large majority of responses (70%) support the option that any motor fuel used in road transport should be taxed with the standard rules, whether used for commercial purposes or not.

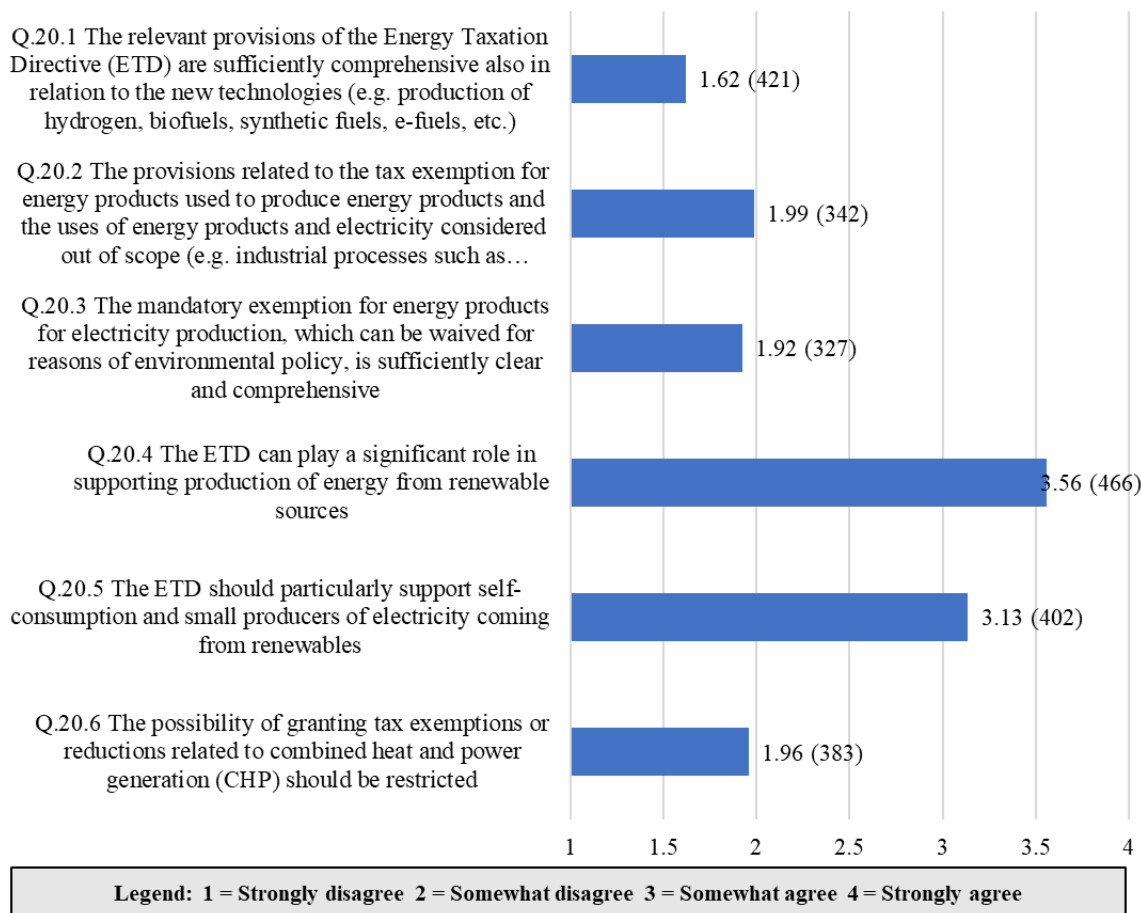
When asked about the **tax treatment of electricity used in electric vehicles in road transport**, 49% of responses indicate that there is no need for a specific treatment of electricity used in electric vehicles (road transport). Only 19% indicate that a specific lower tax rate should be introduced for the use of electricity for electric vehicles, but this option is the most frequent response to the open text accompanying question, with 28 people leaving additional feedback.

Respondents were asked about their opinions on the **energy tax treatment of energy products in industry** and although there was a mixed reaction overall, a clearly preferred treatment could be identified. The highest number of respondents (34%) ticked the option for "energy products and electricity in the industry sector should not be differentiated when used for heating (including Combined Heat & Power generation) and motor fuels and industrial processes". All three remaining choices have similar relatively low levels of support.

When asked about their views on EU rules for the **taxation of energy products and electricity used in the industry sector**, 39% of respondents prefer the option "energy products and electricity consumption by industry should be taxed with the EU standard rules on nominal and minimum rates". However, 35% of respondents indicate that they do not know/have no opinion. The second most supported option (28%) is 'energy products and electricity consumption by industry should be taxed with the EU rules only for the energy content and not for the carbon content because the latter is, for an important part, covered by the EU Emissions Trading System'.

Respondents' views on the extent to which they agree with statements regarding **environmental and efficiency goals and functioning of the internal market** are presented below in Figure 7. By far the statement gaining the most agreement, with an average of 3.56, was for option 4, "the ETD can play a significant role in supporting production of energy from renewable sources". Option 5 also has high agreement with an average of 3.13: "the ETD should particularly support self-consumption and small producers of electricity coming from renewables". However, respondents broadly disagree with all other question options as the averages are all under 2.5.

Figure 7 Q20: To what extent do you agree with the following statements taking into account environmental and efficiency goals and the functioning of the internal market? N=519, Values = average (n)



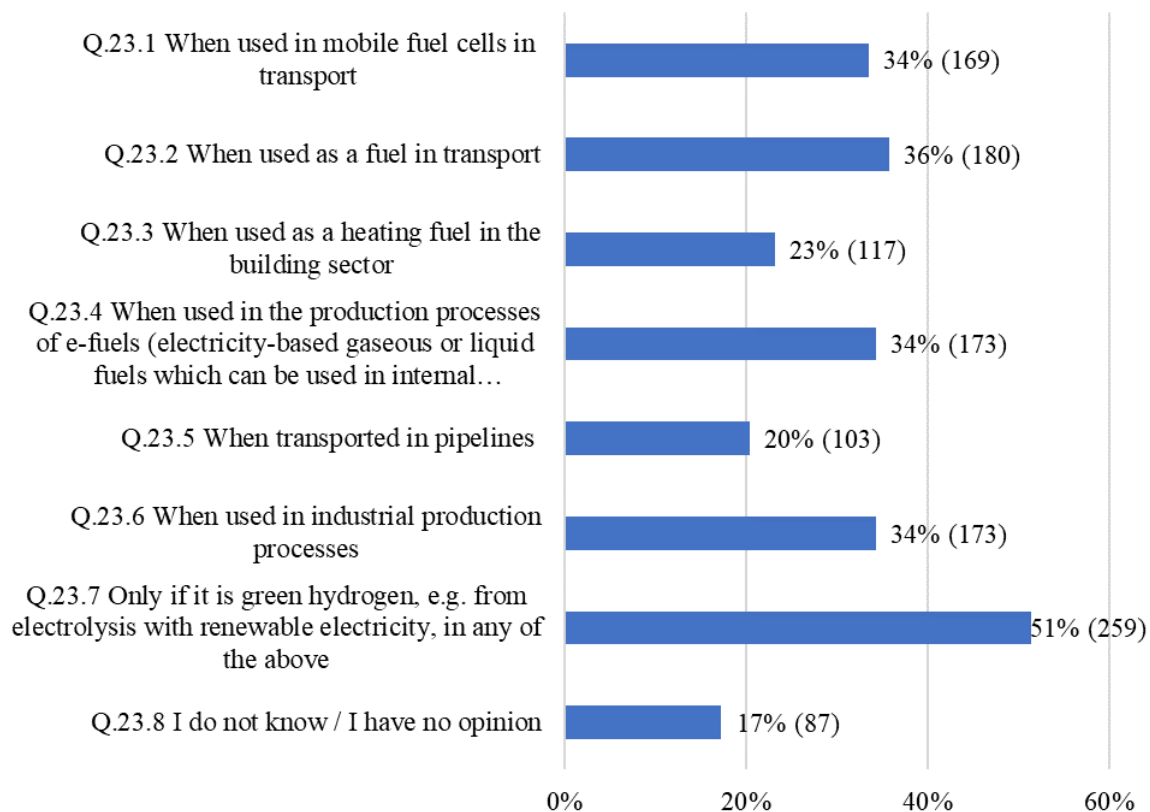
Source: Public consultation questionnaire responses

Lower Carbon products

When asked about differentiated tax treatments for **low-carbon fuels and applications**, and for **selected fuels (e.g. advanced biofuels and synthetic fuels)**, in both cases the majority said "Yes", with 75% and 63% of respondents, respectively.

Respondents' views about policy options addressing particular uses of hydrogen in the ETD are shown in Figure 8. The highest level of support (51%) is for option 7 that 'only if it is green hydrogen, e.g. from electrolysis with renewable electricity, in any of the above'. Four further options each received support from about a third of the respondents.

Figure 8 Q23: As hydrogen will play an important role in achieving climate neutrality, which particular uses should be addressed in the Energy Taxation Directive? (Multiple options are possible) N=504, Values = percentage (n)



Source: Public consultation questionnaire responses

When asked about their views about **tax differentiation for Compressed Natural Gas (CNG) and Liquefied Natural Gas (LNG)**, the most frequent response (43%) was 4, 'No'. The second most frequent response (23%) was that preferential treatment is permissible but should be linked to the standard energy tax components (e.g. energy content and greenhouse gas emissions). Finally, 17% indicated that they did not know or have no opinion.