

## Public Consultation Response

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### Energy Taxation Directive



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The current European Energy Taxation Directive prescribes minimum taxation levels for energy consumers. The impact assessment proposes an alignment of energy products and electricity with EU energy and climate policies as well as an update of scope and structure to streamline tax exemptions and reductions.

Aurubis as Europe's largest copper producer, the globally largest copper recycler and producer of many other metals and thus a highly energy-intensive company, would like to use the opportunity to outline certain impacts and opportunities within this review that could help determine the path of reconciling climate change mitigation and competitiveness.

Only a strong and competitive industry can develop innovative sustainable technologies and products to make the Green Deal work. It is therefore of the utmost importance that the revised energy taxation directive does not create additional or unnecessary tax burdens.

Aurubis believes that there are uncertainties around rising the minimum taxation levels and streamlining tax exemptions and reductions, which may hamper the global competitiveness of the EU energy intensive industry.

#### Competitiveness issues

- While raising minimum levels of taxation may even out differences across EU member states, increased cost of energy use will put the energy intensive industry, in particular the copper industry, at a disadvantage in global competition.
- Aurubis would ask to refrain from removing taxation exemptions/reductions as this would additionally damage competitiveness on global markets. To that end, this revision should be preceded by an impact-assessment to ensure that energy-intensive industries – and in particular the copper industry – do not face a burden regarding competitiveness.

#### Legal basis

- The current system in place is based on Article 113 TFEU. Any changes to the legal basis in the revision of the directive may create uncertainties, increase costs and regulatory burdens and thus must be avoided.

#### Exemptions, scope and implementation

- Keep current exemptions: For the competitiveness of the energy intensive industry, it is of utmost importance that exemptions and tax benefits continue for those sectors that compete on global level. As energy costs are a major factor of production costs, the incentive to reduce energy consumption is already present without additional taxation.
- The revised directive must envisage not only final consumption for production but include energy use and generation along the entire production loop as well as savings and efficiency gains outside of the company sites (e.g. achieved through sector-coupling, use of surplus heat from industrial processes for district heating etc.). This shall account for offsets in the taxable amount.
- Revenues generated by the energy tax should not be used as a source to cross-finance public services. Rather it should be earmarked to flow into support of energy projects for enterprises. This is a crucial demand as offsetting increased payments through the energy tax by reducing labor costs as proposed in the inception impact assessment document, is entirely a decision of member states. To increase planning and cost security, earmarking earnings from energy taxes already in the basic legislative act may reduce the impact of the cost burden and may incentivize investments in new technologies.
- Clarifying the scope of the Directive is necessary to prevent double taxation of energy in sectors covered by the ETS and avoid overlaps. In case of introduction of a carbon tax, activities covered by ETS should be fully exempted.
- To support the shift towards electrification, non-avoidable energy use (due to processes or regulatory requirements) or emissions should be exempted to focus on avoidable emissions or energy use.
- Basing the energy taxation rate on energy content may hamper the use of best available technologies in copper production. Sulphur as a fuel comes within concentrates and as an exothermic reaction with oxygen produces the heat necessary to melt copper. This is an important exemption that has to be maintained in order to promote the uptake of this best available technology (Non-ferrous metals BREF).
- A lot of energy is currently used by the energy intensive industry to deploy and run environmental protection technologies to comply with environmental legislation and obligations. This energy use should be exempted from further taxation as the use of this technology is already mandatory and additional cost burdens would hamper competitiveness.
- The options provided for a basis for minimum tax rates are all geared towards raising this rate, putting additional cost burdens on industry and ignoring potential conflicting policy objectives of electrification of

industrial processes and primary/final energy consumption. Rather they seem to align energy taxation with energy saving obligations. Efficiency is a market-induced incentive for energy intensive industries – additional tax burdens and raising minimum rates on arbitrary metrics are rather hampering competitiveness than providing positive incentives. In addition, the impact of the options provided cannot be conclusively assessed without clear definitions, applicability and exemption mechanisms. A similar issue of understanding pertains to nominal tax rates: it does not provide any clear indication of exemptions and the wording does not allow a clear interpretation of whether constraints and restrictions continue to allow for lower than threshold rates as it is currently the case. In absence of a comment function or alternative answering options, the answers chosen for questions 6.1 and 6.2 are set at “no opinion”.

- Rules for energy products and use of electricity in industrial processes such as for metallurgical, processes and dual use (district heating coming from industrial heat) should be simplified and allow for incentives to invest into these technologies.
- Rates are always set locally, depending on energy mix and the trajectory towards more climate protection. A one-size-fits-all approach here would have an impact on the energy intensive industry.

In summary, for the copper and non-ferrous metals industry, it is of utmost importance that the current system of exemptions should be kept. Including carbon content to calculate the tax base would be unjust as this is already covered by the ETS and would amount to a double taxation. To foster the uptake of new technologies, in particular hydrogen and electrification of industrial processes, taxing these input factors would be disincentivizing and should be rather equipped with incentives such as wide-ranging exemptions. In addition, the energy-intensive copper production has been striving and automatically continues its efforts towards more energy efficiency to have a competitive advantage. Linking energy taxation with energy efficiency will have to take into account exemptions based on

- Deployment of best available technologies
- Already achieved energy efficiency levels that are technically and economically feasible
- The systemic interaction of energy efficiency, resource efficiency and circular economy and potential conflicting policy objectives