



Contribution by the Central Commission for the Navigation of the Rhine to the European Commission consultation on the revision of the Energy taxation directive

Reducing the impact of **climate change** is currently a political **priority** both nationally and internationally. The Paris Agreement, which aims to slow the pace of climate change (maximum 2° C increase) by reducing CO₂ emissions is one of its key components. In the Declaration signed in Mannheim on 17 October 2018, the inland navigation ministers of the Member States of the Central Commission for the Navigation of the Rhine (CCNR - Germany, Belgium, France, Netherlands, Switzerland) reassert the objective of **largely eliminating greenhouse gases and other pollutants by 2050**. The CCNR is currently engaged in important work to identify and implement actions capable of delivering on this ambitious objective.

As the European Commission puts it in its Communication “A Clean Planet for all: a strategic long-term vision for a prosperous, modern, competitive and climate-neutral economy” environmental tax is one of the most effective environmental and climate policy tools.¹ Based on the above, the CCNR promotes the creation of tax incentives, in particular by means of tax exemption, to encourage inland navigation to make the energy transition to a zero-emission sector.

The European Parliament, in its resolution of 25 October 2018 on the “deployment of infrastructure for alternative fuels in the European Union: time to act!”² also emphasised that *“taxation has a major impact on the price competitiveness of alternative fuels”* and that *“current disparities in terms of energy taxation between the different modes of transport, [...], should be addressed”*.

Directive 2014/94/EU on the deployment of infrastructure for alternative fuels³ also sets an important deadline: *“Shore-side electricity supply shall be installed as a priority in ports [maritime and inland] of the TEN-T Core Network, and in other ports [maritime and inland], by 31 December 2025, unless there is no demand and the costs are disproportionate to the benefits, including environmental benefits”*. In the light of this requirement, European ports are investing in electricity supply via the shore-side network whereas the tax regime, which makes its use more expensive for vessels, often results in these facilities being underused.

Finally, the evaluation of directive 2003/96/EC (the “Energy Taxation Directive”) of 11 September 2019 proves that the directive does not contribute to the European Union’s political objectives on climate change. Indeed, the directive does not create any link between minimum levels of taxation on energy sources, their energy content and CO₂ emissions. Furthermore, the discrepancies between national levels of taxation on energy sources may result in fragmentation of the internal market and, consequently, precludes fair competition, whether between energy sources or different modes of transport. This problem is exacerbated by the widespread prevalence of optional tax exemptions. The evaluation concludes that the overlaps, gaps and inconsistencies observed in the directive are a considerable impediment to the European Union’s objectives in the energy, environment, climate change and transport fields. In addition, its recent Communication regarding “the European Green Deal”⁴ reasserts the essential need for taxation to be aligned with climate objectives and confirms that the European Commission will propose to revise the Energy Taxation Directive.

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52018DC0773>

² http://www.europarl.europa.eu/doceo/document/A-8-2018-0297_EN.html

³ <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32014L0094>

⁴ https://ec.europa.eu/info/sites/info/files/european-green-deal-communication_en.pdf

Based on the above, the CCNR considers that tax exemptions can be important tools and incentives for promoting the deployment of alternative low carbon and zero carbon emission energy sources (including electricity) as well as shore-side electricity supply for inland vessels at berths. These are essential elements in enabling the sector to achieve climate neutrality by 2050.

First of all, the CCNR wants not only to endorse the evaluation's main findings but also to seize the opportunity the evaluation affords to highlight those aspects peculiar to inland navigation which differ from the maritime sector and ought to be taken into account in a possible revision of the directive.

Energy taxation is a tool to be used in promoting the development of cleaner energy sources for inland navigation and ensuring an energy transition to a zero-emission inland navigation sector.

The CCNR is a firm believer in the directive developing in such a way that it enables the creation of tax exemptions for alternative energy sources, including electricity, and enabling low emission and zero emission inland waterway vessels' propulsion, as well as shore-side electricity supply for vessels at berths. To be low or zero emission, these alternative energy sources must also be derived from renewable sources. It is important that the directive's scope takes account of this aspect and that a distinction is made between the production of low and high emission energy. This implies a far-reaching review of the directive's scope bringing it into line with technological developments. Such a revision should also provide a "level playing field" between modes and dispel the current uncertainties concerning certain of the directive's provisions, especially when it comes to distinguishing between the maritime and inland navigation sectors.

The CCNR then also wishes to recall the role that inland navigation already plays in cutting transport-related emissions. Indeed, a modal shift to cleaner modes of transport, such as inland navigation, is a considerable advantage in terms of cutting emissions, greenhouse gas emissions in particular. Efforts to encourage such a shift should therefore continue. This is why any change in the current taxation of energy sources used in inland navigation should be phased in, at least until alternative (near) zero emission energy sources are widely available. In particular, the removal pure and simple of the exemption for gasoil used in inland navigation would pose a major threat to the sector's survival and would inevitably lead to a modal shift to other modes with higher emissions.

The CCNR also wishes to inform the European Commission that it is not out of the question that the CCNR will, if necessary, take measures applicable to the waterways referred to in the Revised Convention for the navigation of the Rhine of 17 October 1868 ("Act of Mannheim")⁵, in relation to the taxation of alternative energy sources.

A more detailed analysis by the CCNR of the issues to be considered in the context of a possible revision of the directive is available below.

⁵ Not available in English but available in French, Dutch and German on the following website: <https://ccr-zkr.org/13020300-en.html>

Detailed analysis by the CCNR of the issues to be considered in the context of a possible revision of the directive 2003/96/EC

1. The CCNR shares the main findings of the European Commission's analysis of the directive

Observation: The tax exemption for electricity supplied for use as fuel only applies to the carriage of persons and goods by rail, metro, tram and trolley bus⁶ and not to inland navigation.

Consequences:

- Therefore, when the directive, in its article 15(1)(f) allows Member States to apply total or partial exemptions on the level of taxation on energy products supplied as a fuel for inland navigation, this exemption does not include electricity supplied for use as fuel. The reason is as follows: the ability to use electricity as fuel for navigation could not be foreseen at the time. Nowadays, the use of electricity as fuel for inland navigation is a reality.
- The fact that electricity for use as fuel for inland navigation is not currently covered by the directive is an impediment to its deployment as compared with other fuels that are tax-exempt, notwithstanding the fact that electricity is a very good fit with the socially desirable and necessary transition to zero emission and climate-neutral inland vessels.
- This is why the directive should allow the introduction of such an exemption for electricity supplied as fuel for inland waterway vessels' propulsion:
 - irrespective of where the latter is produced (to take account of the fact that the supply of electricity for inland navigation differs from the supply of electricity rail, metro, tram and trolley bus) and,
 - if the latter is produced from renewable sources. Indeed, should this not be the case, electricity supplied for use as fuel would not be (almost) neutral in terms of emissions. Indeed, it is important that the directive's scope take account of this aspect and that a distinction be made between the production of low and high emission energy.

Observation: the directive covers electricity produced on board a craft but not electricity supplied at berth.

Consequences:

- As such, article 15(1)(f) only provides for exempting electricity produced on board a craft and not the ability to exempt electricity supplied at berth. As a result, only electricity produced on board a craft by the combustion of tax-exempt fuels can be (totally) exempt from taxes without any further action.
- Accordingly, the only course of action currently available to Member States to introduce an electricity-friendly tax regime for shore-side electricity supply is to apply for a temporary derogation based on article 19 of the directive after a long and uncertain procedure requiring unanimous Council agreement, based on a European Commission proposal.
- The current situation disadvantages shore-side electricity supply, although it is clearly stated in directive 2014/94/EU that "*shore-side electricity can contribute to reducing the environmental impact of inland waterway vessels*".

⁶ See article 15.1.e "energy products and electricity used for the carriage of goods and passengers by rail, metro, tram and trolley bus".

Observation: Certain tax exemptions envisaged in the directive are mandatory for certain transport sectors (maritime and air) whereas they are only optional for others (rail or inland navigation).

Consequences:

- This situation affects the “level playing field” between transport modes to the detriment of inland navigation and the rail sector.

Observation: The directive is no longer in line with technological developments; the directive’s scope does not cover all the relevant energy sources.

Consequences:

- Certain energy sources such as ethanol, synthetic methanol or hydrogen (carriers) are not covered despite being relevant in supporting the inland waterway transport sector’s energy transition.
- Here too it needs to be stated that in order to be emissions-neutral, these energy sources must be renewable in origin. It is important that the directive’s scope takes account of this aspect and that a distinction be made between energy sources depending on whether their production generates low or high emissions.

Observation: Certain of the directive’s provisions are confusing, especially when it comes to differentiating between the maritime sector and IWT sector.

Consequences:

- There is confusion over the applicable rules especially because of the use of vague terms such as “community waters” that may give rise to differences of interpretation by the Member States (see especially article 14(1)(c) and article 15(1)(f).⁷.

Observation: In the directive, levels of taxation are based solely on the volumes consumed and take no account of energy density or the environmental performance of the various energy sources.

Consequences:

- The upshot is a potentially higher tax burden for certain alternative energy sources with a lower energy density than fossil energy sources.

In the light of the aforementioned facts, the CCNR is firmly in favour of changes to the directive, in particular in relation to its scope, with the aim of making it more responsive to the European Union’s objectives in the energy, environment, climate change and transport fields.

⁷ Article 14(1)(c) says “energy products supplied for use as fuel for the purposes of navigation within Community waters and electricity produced on board a craft” shall be tax-exempt. However, article 15(1)(f) states that such exemption is optional for inland navigation. This would be tantamount to saying that the notion of community waters does not cover inland navigable waterways.

This uncertainty can also be seen in the comments made in the evaluation itself: the evaluation states that article 15(1)(f) of the directive discourages actions aiming to improve energy efficiency in the maritime transport sector, for example through electrification of the ports, making production on board a craft artificially less expensive, whereas this article pertains to inland navigable waterways.

2. However, any change in the current taxation of energy sources used in inland navigation should, in any event, be phased in.

The evaluation of 11 September 2019 calls for changes in the directive such that it does away with tax exemptions for fossil energy sources. The removal pure and simple of the exemption for gasoil used in inland navigation would pose a major threat to the sector's survival at European level and would not necessarily cut emissions. Indeed, such a removal would inevitably entail a modal shift to road transport, thereby increasing emissions. If the CCNR recalls that this risk does not apply to navigable waterways included in the geographical scope of the Revised Convention for the navigation of the Rhine of 17 October 1868 ("Act of Mannheim")⁸ inasmuch as gasoil enjoys a tax exemption in this geographical area, it may apply more generally to the inland navigation sector and inland waterways outside this scope.

Indeed, a modal shift to cleaner modes of transport, such as inland navigation, is a considerable advantage in terms of cutting emissions, greenhouse gas emissions in particular.

At the same time, the introduction of tax exemptions must be a tool in promoting the development of cleaner energy sources for inland navigation and ensuring an energy transition to a zero-emission inland navigation sector. Maintaining an exemption on gasoil for inland navigation therefore remains justified at least until such times as the inland navigation sector can complete such an energy transition.

For inland navigation, a key factor in the context of revising this directive is therefore the transition. It will be necessary to think about the best way of completing this transition to a zero-emission regime by 2050, without undermining the inland waterway sector because of the tax on gasoil.

⁸ https://ccr-zkr.org/files/conventions/convrev_f.pdf