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FEPORT

The Federation of European Private Port Companies and Terminals

Position Paper on the Energy Taxation Directive

Introduction

FEPORT, representing the interests of 1225 private port companies and terminal operators which employ over 390.000 workers in the EU, welcomes the opportunity to provide input regarding the revision of the Energy Taxation Directive.

As already expressed in our response on the roadmap regarding the ETD revision, FEPORT is a firm supporter of the European Green Deal. FEPORT members have since many years committed to the decarbonization of cargo handling operations and have already met several years ago the emission reduction targets set for 2020.

FEPORT acknowledges that it is important to design tax schemes that incentivize the use of sustainable fuels. In this respect, the revision of the Energy Taxation Directive provides an excellent opportunity to align the Directive, which entered into force in 2003, with the EU's enhanced environmental ambitions and developments in the fuels and energy markets. It is also key that a revised Energy Taxation Directive ensures fair competition in the internal market by installing uniform tariffs across Member States, while preventing EU industry from losing its competitiveness vis-à-vis third countries' markets.

The Energy Taxation Directive affects the business of private port companies and terminals in many different ways. The ETD has implications for the price terminal operators pay for the energy they use to operate their cargo handling equipment. At the same time, energy taxes influence the price and by consequence the demand for marine fuels. This has repercussions for the demand of port infrastructure for clean fuels and energy supplies.

Moreover, the ETD affects the markets for energy commodities (e.g. oil, gas, LNG and Hydrogen) that some port operators among FEPORT's membership also handle.

Therefore, the revision of the Energy Tax Directive should not lead to a short-term categorical rejection of tax concessions for fossil fuels. It must meet objective economic, ecological, and competitive requirements in a more balanced way.

In our view, a categorical rejection of tax concessions for fossil fuels would be neither realistic nor a positive signal, since a transitional period must be guaranteed for investments allowing for a retrofitting or conversion of the equipment. The same applies to recognizing LNG as a transitional fuel, until cleaner alternatives reach maturity and can be deployed on a large scale.

It should, moreover, be noted that aside from terminal emissions, energy prices also affect other emissions ascribed to ports, such as those emitted by incoming trucks.

FEPORT would like to underline that terminals are an essential link between sea and land transportation networks. We therefore believe that it is necessary to take a broader view on the decarbonisation challenge, rather than adopting a position on specific fuels.

As preliminary comments, FEPORT would like to underline the following:

- EU port terminals are competing with non-EU neighbouring actors and should not be penalized because they proactively engage to reduce the carbon footprint of their operations while their non-EU competitors do not. It is therefore key that the EU, aside from aligning its own energy taxation rules to the ambitions of the Green Deal, also pleads for a real level playing field and raises its voice in international fora to persuade other countries to do the same. Ultimately, this will have a positive impact on both European competitiveness as well as decarbonization across the globe.

- We support zero emissions as an ambition and consider that this needs to be supported by an implementation of both European and global solutions.

- Accompanying measures as well as initiatives from regulators are needed to create a **technology-neutral enabling framework** that **facilitates the development of new, low carbon fuels and technologies**, including sizeable investments in bunkering infrastructure.

FEPORT suggests that, when revising the Energy Taxation Directive, the following principles are considered:

1. **Adopt a broad approach towards sustainable development and ensure consistency between the ETD revision and other legislative initiatives**

It should be avoided that the ETD revision process focuses on environmental concerns only; a broader approach towards sustainability should be adopted focusing on all sustainable development goals, most notably, the social and economic goals.

It is crucial to align the ETD's policy goals with other legislative initiatives, in particular the evaluation of the AFI Directive and ReFuelEU Maritime as well as targets laid down in the Renewable Energy Directive. If a certain energy source is promoted under the AFI Directive or ReFuelEU Maritime – for example, LNG, Onshore Power Supply or Hydrogen -, this should be reflected in the ETD by allowing a favourable tax treatment.

In this way, the ETD can be an additional stimulus to the demand for sustainable marine energy sources acting in concordance with ReFuel EU Maritime and the AFI Directive.

Moreover, the revised Energy Taxation Directive should be consistent with changes to the EU ETS system that are currently being discussed. If shipping would be included into ETS (be it for international or intra-EU voyages only), this should be accompanied by a preferential go hand in tax treatment too.

Taxes on relatively polluting energy sources should only be increased if at the same time industry is given the opportunity to step up its environmental efforts through dedicated funding for research and innovation. For example, if shipping were to be included in the EU ETS system, revenues (from ETS) should be invested back into the sector through a "Maritime Climate Fund".

2. Continue to recognize LNG as a transitional fuel

To come back to the above point regarding consistency between the ETD and other pieces of legislation: the 2014 AFI Directive spells out that LNG needs to be available in core network ports by 31 December 2025.

FEPORT therefore argues that LNG should continue to benefit from a preferential tax treatment until at least 2030, to prevent stranded assets and not discourage first movers. A longer transition period could be considered depending on technological developments in the various transport sectors where LNG is used.

LNG has taken over 10 years to establish itself on the market but on the maritime technology side, it has not yet established itself as a solution for all types of vessels. Taxing LNG more heavily would discourage R&D into LNG's applications, which are crucial for the further reduction of the environmental footprint of maritime transport.

In line with this, it should be considered that some forms of LNG (such as bio-LNG or synthetic LNG) are cleaner than others. A preferential tax regime should therefore be maintained, to stimulate the uptake of and research into such cleaner alternatives.

LNG should be promoted on the short- to medium-term, as alternatives are not sufficiently mature. The EU hydrogen strategy, for example, expects hydrogen to be only ready for "some maritime transport applications" between 2025-2030. Alternatives such as hydrogen should first be allowed to establish themselves before any tax exemption is abolished.

LNG could be beneficial in the long term when the EU wishes to switch to hydrogen. LNG terminals in ports and pipelines could be repurposed for hydrogen transport (*See p.1 of EU Hydrogen Strategy*). It can also help to reduce emissions from trucks visiting port premises as well as those produced by port equipment and ships. But to encourage investments in innovation with respect to LNG, certainty is required regarding until which date LNG can qualify as a greener alternative.

In conclusion, FEPORT finds it of paramount importance to continue recognizing LNG as a transitional fuel at least until 2030 to prevent stranded assets and provide time for cleaner alternatives to reach maturity.

Although LNG might not, at the moment, reduce CO2 significantly, it has the potential to improve the health of coastal populations by lowering emissions of sulphur, nitrogen oxide and particulate matter, which all have adverse health effects to people living close to ports.

3. **The uptake of sustainable alternative fuels and energy sources should be stimulated, by providing for a permanent tax exemption**

One of the main goals of the European Commission's ReFuel EU Maritime initiative is to stimulate the demand for clean fuels.

As underlined in our response to the ReFuel EU Maritime consultation, FEPORT believes that granting a tax exemption for clean fuels and energy sources could be an effective way to stimulate demand.

In that respect, FEPORT favours a lifecycle approach, where not only emissions occurring during the combustion of fuels are taken into account, but also the environmental costs of their production. Moreover, GHG emissions should not be the only sources of pollution to be considered. Emissions of other air pollutants such as NOx, SOx and particulate matter should also be taken into consideration.

At the moment, exemptions are only possible for OPS and Member States have to go through complicated administrative procedures to acquire such an exemption. These tax exemptions should also be included in the EU guidelines on state aid for environmental protection and energy.

FEPORT believes that the Energy Taxation Directive should allow for a permanent tax exemption for all clean energy sources, including OPS. However, this exemption should be based on technology neutral and goal-based criteria, so it can account for any new green solutions that could become deployable in the future.

Such a tax exemption would also mean a stimulus for Research and Innovation, as a favourable tax treatment would make it easier to bring innovations into the market.

Moreover, infrastructure development in ports could get another impetus when the price of low carbon fuels drops, meaning a renewed ETD can constitute a complement to the already existing AFI Directive as a way of stimulating alternative fuel infrastructure in ports.

As a possible means to speed up the uptake of clean alternative fuels as well as Research and Innovation, a "bonus-malus" system could be envisaged. Instead of a total exemption, a reduced tax rate could be applied in the case of heavy fuels. Such an approach would have the benefit of stimulating the uptake of clean alternatives and rewarding first-movers. The zero-tax-rate or exemption could be reserved to the users of clean alternative fuels.

Caution is needed however when using increased taxes on heavy fuel oil or marine gas oil to stimulate the demand for green alternatives as ships might choose to bunker outside of the EU ,for example, in the Maghreb countries or in the near future in the UK. Carbon leakage is more than a potential threat. It is a real one.

A loss of competitiveness of the European port industry could have very negative environmental implications, as ports are key in ensuring an increased utilisation of clean transport modes such as rail or inland waterways, which also help reduce road congestion.

FEPORT is following the discussions on the Carbon Border Adjustment Mechanism with interest, as such a measure could provide a potential counterweight against the negative implications for competitiveness of the EU's enhanced climate ambition.

4. FEPORT favours transition periods for tax exemptions currently in place for diesel used by terminal equipment

As explained above, terminal operators are committed to decarbonization and have since many years already met the GHG emissions reduction targets of 2020. Emissions from port operations constitute a small part of total port emissions (around 10%).

Terminal equipment is already covered by the Non-Road Mobile Machinery Regulation (2016/1628) which aims to progressively reduce the emissions of NRMM equipment and to phase out equipment with the most polluting engines.

Most port equipment falls in the Stage V category of the NRMM Regulation, meaning that Member States are allowed to still place replacement engines on the market for most port equipment up to until 20 years after the entry into force of the regulation, that is, until 2036 (see article 58(11) of the NRMM Regulation).

This transition period is particularly important for FEPORT members as retrofits of port vehicles (e.g. straddle carriers) are not always technically feasible since green engines are usually much larger. In the case of straddle carriers, probably no technology will be in place before 2025. As the lifespan of straddle carriers amounts to 10+ years, it would be reasonable and consistent to allow for a tax exemption for diesel for port equipment up until 2036, in line with the timeline of the NRMM Regulation.

This being said, FEPORT members have already committed to be more ambitious in terms of greening of their equipment and would therefore propose to start phasing out the preferential tax exemption for diesel for port equipment as from 2030 and ending it by 2036. This will be a good means to reward early movers.

In the case of Automated Guided Vehicles (AGVs), i.e. driverless vehicles that are used to transport goods between quayside cranes and storage areas on the yard, as those are already using either fully electrical drive systems or hybrid diesel-electric ones, FEPORT would advocate for reduced taxation or tax exemptions. The cost savings that such a favourable tax treatment for clean propellants for port equipment would allow for, could be invested in conversions and replacements as well as technical innovations.

5. Conclusion

Taxation policies have a crucial role in increasing the uptake of clean alternative fuels and energy sources by all actors of the logistics chain including port terminals. Reduced taxes or tax exemptions can stimulate demand and allow for cost savings that can be used to invest in greener operations as well as Research and Innovation.

In the case of tax exemptions or reductions for less green alternatives, adequate transition periods should be envisaged.

Tax exemptions for LNG as a marine fuel should not be abolished in the short to medium term, as the path to decarbonization of the maritime sector is not yet clear. Increasing taxes may disincentivize the installment of LNG infrastructure in ports.

In addition, a tax exemption should be granted for shore-side electricity supply to ships in ports and this possibility should be incorporated in the EU guidelines on state aid for environmental protection and energy.

When it comes to cargo handling equipment, it is particularly important to consider the typical lifetime of port vehicles as well as the fact that retrofits are not always possible.