



EUROPEAN COMMISSION

Brussels, 18.4.2012
C/2012/ 2464 final

Mr Milan ŠTĚCH
President of the Senate of the
Parliament of the Czech Republic
Valdštejnské náměstí 17/4
CZ – 118 01 PRAGUE 1

Dear President,

The Commission would like to thank the Senát for its opinion on the Commission Proposal for a Council Directive amending Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity {COM(2011) 169 final}.

The Commission would like to underline that the proposed Directive is in essence intended to ensure that the internal market continues to function properly in a context of new requirements relating to the limitation of climate change, to the use of renewable energy sources and to energy savings, as endorsed by the Presidency Conclusions of the European Council of 8-9 March 2007 and of 11-12 December 2008. In addition, the Presidency Conclusions of the European Council of 13-14 March 2008¹ refer expressly to the need to consider a review of the Energy Taxation Directive to bring it into line with the EU's Energy and Climate Change objectives.

The Commission considers that a separate treatment of CO₂-related taxation is key to these objectives. In addition, the separation of this taxation from general energy consumption taxation also creates the technical conditions for avoiding potential distortions due more specifically to the coexistence of energy taxation and the EU Emission Trading System. In this regard, the Commission draws attention to a request by the Council of the EU, in a statement entered into the minutes of the Council meeting at the time of adoption of Directive 2003/96/EC. This request reads as follows: "On the basis of a proposal from the Commission, the Council undertakes to positively examine tax measures which will accompany the future implementation of a Community emission trading scheme, particularly in order to avoid cases of double taxation." (See Council of the EU document 13253/03 ADD 1, 07/10/2003).

In reply to the specific concerns expressed in your opinion I would like to point out that the proposal provides for minimum tax rates based on the energy content and on CO₂ emissions depending on the use of the energy and regardless of the source. In other words the Commission proposes a minimum tax rate on energy and on CO₂ emissions which will eliminate distortions of the market of energy products which currently can exist due to arbitrary taxation rates.

¹ 7652/1/08 rev.1, 20/5/2008.

The proposal is not intended to penalise individual Member States on account of the energy intensity of their economy. As you have noticed, it takes into account existing differences between Member States and therefore provides for a transitional period until 2021 for the introduction of CO₂-related taxation for some countries, including the Czech Republic. Also after this transitional period, Member States would continue to be able to fix national amounts of taxation in accordance with their needs and wishes, provided they respect the criteria of the Directive, in particular the minimum amounts foreseen therein. Consequently, they would have a variety of possibilities to reflect CO₂ emissions and energy content in the energy tax system. For the same reasons, the influence of a Directive containing provisions along the lines of the proposal on the energy intensity of a given Member State would to a large extent depend upon the way those provisions are implemented in that State. Adaptations conditioned by commitments already made, including quantified emission reduction targets, will be necessary independently from the proposal in question.

As regards your concerns that the suggested new wording of Article 4(3) violates the principle of proportionality, I would like to assure you that the Commission took into consideration this principle when drafting its proposal. Article 4(3) introduces the principle of fair treatment of energy depending on its use and prevents distortion of competition depending on energy sources used. The proposal does not go beyond what is necessary to this effect.

As regards liquefied petroleum gas (LPG) and natural gas, the Commission is of the view that preferential tax treatment of these fuels should be phased out since neither of them is a renewable energy source. The environmental benefits (in terms of CO₂ emissions) are limited and fiscally promoting these fuels would in the long term hamper the development of cleaner technologies (electric cars, hybrids, etc). The lower emissions of other greenhouse gases, like nitrogen oxides (which can be tackled more effectively via other specific measures such as the Euro standards for motor vehicles), do not justify a special tax treatment. Finally, it should be noted that the proposal provides for a beneficial tax treatment for LPG and natural gas due to their lower CO₂ emissions per unit of energy compared to other fossil fuels such as petrol, gas oil, kerosene or coal. Finally, the transitional period until 2023 should allow both business and consumers sufficient time to adapt.

The Commission hopes that these clarifications address the concerns expressed in your Opinion and is looking forward to further developing its political dialogue with the Senát.

Yours faithfully,

*Maroš Šefčovič
Vice-President*