



European
Environmental
Bureau



Environmental Fiscal Reform
Making Prices Work for
the Environment

Campaign Newsletter 7

June 2003

Welcome to the seventh campaign newsletter of the EEB European campaign on Environmental Fiscal Reform (EFR)!

EDITORIAL

Finally, after nearly six years of negotiations, an agreement was struck on the EU energy taxation directive by the EU Finance Ministers on March 20th! However, as you could read in our previous newsletter, we were globally disappointed with this text. It falls so short of our environmental ambitions and even of the Commission's original proposals of 1992 and even 1997, which then had some environmental dimension.

Nevertheless, since the start our campaign has never focused solely on the EU energy taxation proposal. There is still a lot to do! The EEB and its members promote EFR developments at national level too, and there is still room for manoeuvre there, and plenty of it in some Member States! At EU level, there are also other opportunities coming up on EFR and related instruments.

One example is diesel taxation (see also two previous newsletters). The proposed tax rates may not be as high as we would like to see, but this proposal contains interesting features, including aligning taxes of non-professional diesel to that of petrol (at least for what concerns EU minimum rates) and a price-indexation mechanism for the tax levels.

Another important development in the near future is transport infrastructure pricing. The Commission is set to publish a proposal for harmonising transport infrastructure charging across the EU. This will require a rather complex system, notably at the technical level. However, if properly designed, it could be an important tool for better taking into account the external environmental costs of transport -the EU sector with the fastest growing greenhouse gases emissions. Also, its implementation could bring considerable revenues. There is discussion going on about how to use this revenue: earmark it towards more infrastructure or, as we would prefer, towards environmental expenditure. Another option that we favour is to implement an ambitious road pricing system that would allow the reform of fiscal systems in order to help both the environment and employment. A road pricing system that covers external costs should be implemented in a revenue neutral way: its considerable revenues should then go towards decreases in labour taxes.

Another topic we study in this issue is enhanced co-operation: following the disappointing agreement of March 20th, should this EU institutional tool be considered in order to allow a group of countries to go further in harmonising their energy taxes to higher levels?

One of the main perceived obstacles against the implementation of strong EU energy taxation directives and strong national EFRs is economic competitiveness. On June 20th we organise a seminar on this issue. More info inside! We will also take this opportunity to present our new publication "Environmental Fiscal Reform: Perspectives for Progress in the European Union". This publication calls on the Convention on the Future of the Union to extend Qualified Majority Voting to taxation areas linked with the environment, and studies ways to move forward on EFR in the EU.

Campaign Objectives:

- Implementation of an ambitious and effective Environmental Fiscal Reform throughout Europe.
- Changing consumption and production patterns towards greater sustainability.
- Raising awareness about EFR among the public as well as among governments and private sector players.
- Improving the quality of the political discourse on Environmental Taxation Reform and overcoming resistance.

Campaign Demands :

- An additional 10% shift in total tax revenue from labour to environmental use by 2010, at EU and national level
- Removal or reform of all environmentally adverse subsidies by 2005
- Measures to address any potential social impact
- Energy saving and efficiency policies
- Fiscal incentives for environment protection

► see the campaign strategy and objectives in more details at <http://www.ecotax.info/platform.pdf>
the campaign platform is also available in French, German and Spanish on www.ecotax.info (in “documents”)

CAMPAIGN NEWS

European Campaign

EU news in brief

- **Energy Taxation directive proposal**

There was an agreement in the Ecofin on March 20th.

→ see in-depth topic of Newsletter 6 www.ecotax.info/newsletter6.pdf

This agreement is so different than the original Commission's proposal of 1997 that it has to go back to Parliament for a (non-binding) new opinion.

- **Diesel tax directive proposal**

The proposal is now set to go back to the Economic and Monetary Affairs Committee for the adoption of the final opinion of the Parliament.

→ see EEB and T&E full position at: www.ecotax.info/dieseltax.pdf

→ see proposed amendments at: www.ecotax.info/DIESELamendments.pdf

- **Transport infrastructure pricing**

The key idea behind transport infrastructure charging policy is that transport taxes and charges in every mode of transport should be varied to reflect the cost of different pollution levels, travelling times and damage costs as well as infrastructure costs. –This would apply the polluter pays principle and provide clear fiscal incentives to help achieve goals of reducing transport's congestion, pollution, re-balancing the modal split and decoupling transport growth from economic growth.

At EU level, the Commission published on this subject the 1998 White Paper "Fair Payment for Infrastructure Use: A phased approach to a common transport infrastructure charging framework in the EU". The Commission initially promised a directive in its 2001 transport White Paper. The directive is supposed to set a framework for charging rates and revenue utilisation for different transport modes. The main motivations are to take better into account the real costs of infrastructure for transport users, to harmonise the legal framework (principally to re-balance the shares of different transport modes), and to remove distortions in the internal market. Other motivations include strengthening EU competitiveness, better reflecting all costs in order to reduce the impact of transport, and guaranteeing territorial balance between peripheral and central European countries.

Though it was due to be published in 2002, this proposal is still not out. This may be due to on-going discussions inside the Commission, as well as with stakeholders and national governments. It seems that many questions remain and delay the publication of a proposal. Indeed, in December 2002, the Commission published a "Communication on the methodology for transport infrastructure pricing", that included some questions such as : which costs should be internalised? How can the costs be monetarised? Which are the factors characterising the costs? Is there a need to fix maximum price levels? Etc.

At the end of April 2003, the Commission proposed a draft directive on interoperability of national electronic road tolling systems. From the start of 2005, there should be a single European charging service ensuring interoperability of payment systems for all vehicles over 3.5 tonnes or carrying ten or more people. From 2010, these requirements would be extended to passenger cars and all other classes of vehicle. All tolling systems would be covered by the interoperability requirement, whether on roads, bridges, tunnels or vehicle-carrying ferries. There should be a single contract per user and a single box per vehicle. Starting from service agreements between toll operators, the eventual aim is to achieve technical harmonisation. An additional objective of this directive is to find applications for Galileo. It requires that after 2008 new systems within the European service may only be based on satellite navigation and by 2012 also existing systems based on microwaves have to use satellite navigation.

Our partners Transport and Environment¹ have deplored the lack of environmental ambition in the Commission's communications. The Commission focuses on financing transport infrastructure and eliminating market distortions. There are even some considerations for compensating drivers by reducing fuel taxes, or recycling extra revenues (deemed inevitable "surpluses" if pricing really covers external costs) towards more infrastructure developments.

For the EEB, such surpluses should be either earmarked towards environment and /or health expenditure, or towards cuts in other taxes, such as labour, along the principles of environmental fiscal reform.

The EEB campaign

- The campaign was officially launched with a Press Conference² in Brussels on November 27th 2001. The campaign website was launched in December 2001.
- The EFR European Working Group, comprised of representatives of EEB member-organisations from 18 EU and Accession countries, has met four times already in order to organise the campaign at the European and national levels.
- The campaign platform <http://www.ecotax.info/platform.pdf> was published at the end of March 2002. Please contact sylvain.chevassus@eeb.org (full contacts below) if you would like copies in printed format. Electronic versions in English, French, German and Spanish are available on the website → www.ecotax.info

Upcoming main campaign actions

- **Elaboration of a new strategy** on EU energy taxation, EFR and related instruments, following the agreement of March 20th 2003
- **Follow up of the Parliament's opinion** on the energy taxation agreement of March 20th
- **Follow up of the new directive proposal on diesel fuel tax arrangements:** European Parliament's opinion, future work in the Council of Ministers
- **New publication on EFR in June 2003:** this publication, due for June 17th, will describe the EU state of play regarding EFR and will propose ways of moving forward.
Please order copies to : sylvain.chevassus@eeb.org

¹ <http://www.t-e.eu>

² See press release at: http://www.eeb.org/press/press_release_fiscal_eng_n27.htm

- **Seminar with industry and other stakeholders in June on the issue of “EFR and economic competitiveness”**

Brussels, Friday, June 20th 2003. No entrance fee. 9h30-18h00.

Seminar venue: CENELEC, 35 rue Stassart, 1050 Brussels (metro Porte de Namur)

Co-organisers: EEB, OEGUT (Austrian Society for Environment and Technology), E⁵ (The European Business Council for a Sustainable Energy Future)

Objectives:

- promote EFR as an instrument to combat climate change and move towards greater sustainability in a cost effective way
- promote the positive aspects of EFR on energy/resource efficiency, innovation, and competitiveness
- promote EFR as an opportunity to reform taxation systems and mentalities
- counter-act the “anti-competitiveness” arguments against EFR and offer policy recommendations to mitigate impacts in some sectors
- show how EFR can benefit competitiveness
- create a synergy between ENGOs and business about EFR
- debate the EU situation in terms of EFR/ energy taxation and related instruments
- present the new EEB publication on EFR that aims at offering ways of moving forward at the EU and national levels

→ find agenda and registration form at : www.ecotax.info

National campaigns

At national level, our participating members in Austria, the Czech Republic, Finland, France, Ireland, Portugal and Slovenia have started many new actions. Belgium, Denmark, Germany, Greece, Hungary, the Netherlands, Poland, Sweden, and the UK are continuing with the actions already in progress before joining the campaign whilst adding this new European profile to their individual work. Some national news from three of our Members is presented as follows:

(→ you can find news from all participating countries at www.ecotax.info)

France

Campaign Participant: [France Nature Environnement](http://www.fne.asso.fr) www.fne.asso.fr

Overview:

- 1997 : TGAP (*Taxe Générale sur les Activités Polluantes*)

European Environmental Bureau

Boulevard de Waterloo 34 B-1000 Brussels Belgium

Campaign tel : + 32 2 289 13 02 fax : +32 2 289 10 99 e-mail sylvain.chevassus@eeb.org

website (EFR campaign) : www.ecotax.info (EEB) : www.eeb.org

The first phase unifies and simplifies a set of five existing ecotaxes (treatment and storage of special industrial wastes, air pollution, oils, noise nuisances, domestic wastes) to prepare the structure for a general energy tax to be introduced in 2000. The revenues are not allocated to environment or water agencies anymore but towards decreases in employers' social contributions.

- 2000: Second text of TGAP (energy tax)

This energy tax was planned to be on industrial energy consumption and its revenue should have been initially affected to social contribution's reduction, ("double dividend"). However, there was a controversy about later plans of the government on using the income to finance the 35h-week programme. The project of the energy phase of the TGAP raised two other kinds of conflicts: between central and local decision levels, and between the different aims of the TGAP (in the later plans of the government used to finance the « 35 hour programme » rather than to reduce employer's social contributions).

There was a discussion to find the best way to tax industrial energy consumption and especially energy intensive industries. It looked into conditions of implementation of an energy tax on industrial consumption with regards to four criterions: impact on competitiveness, environmental efficiency, legal certainty and administrative management complexity. The mechanisms of providing incentives to greenhouse gas reduction (voluntary agreements or tradable permits) were not fixed.

The text of the Energy TGAP was rejected by the *Conseil Constitutionnel* (Dec. 2000) because of what the judges perceived as a problem of inequity (some less energy intensive industries would end up paying more than very energy intensive ones). Also, the specific allocation of revenue towards cuts in other taxes, particularly social contributions, was deemed unconstitutional. There is a principle of clear separation of the state and social security budgets in France.

So the Energy TGAP failed altogether. The TGAP nevertheless was extended to new areas in 2000 (detergents, graver, pesticides, industrial classified facilities...)

Except for the -failed- projected tax on industrial energy consumption, there are no real innovations concerning the others sectors, especially transport. Plans to tax kerosene (and even more widely, air and sea transport) and to lower the price and tax difference between diesel fuel and other fuel were stopped. Even worse for what concerns transport and climate change, the vehicle annual fee (car vignette) was abolished.

In December 2001, industry and the environment ministry met with leaders of 18 large energy-intensive or energy producing firms to discuss creating voluntary agreements for "significant" cuts in carbon dioxide (CO₂) emissions. Voluntary agreements will initially run from 2002 to 2004, after which they will be adapted to ensure compatibility with the EU emissions trading regime.

In 2001, after the rejection by the *Conseil Constitutionnel* of the energy tax plan, Prime Minister Jospin postponed the project for after the elections of 2002. But the new

government elected in May 2002 has not put forward any environmental / energy taxation project.

Environmental Fiscal Reform in France has traditionally been kept as a matter of experts (inside and outside the fiscal administration) and not a political party prospect. There is no public debate on this issue. The debate that occurred with the Energy TGAP proposal, at least among decision-makers, industry and some politicians, seems now forgotten and lost.

NGO:

France Nature Environnement (FNE) is aiming at re-starting the debate in France on energy taxation and EFR.

- **December 13th 2002: meeting at French Sustainable Development State Secretariat**
EEB member France Nature Environnement and the EEB met Mr Jean-François Thibous, the advisor for economic and social affairs of the new State Secretary for Sustainable Development Ms Tokia Saifi in Paris. They discussed the possible organisation of a conference around the theme of "taxation and sustainable development", as well as NGO contribution to the taxation chapter of the draft national sustainable development strategy.
- **February 2003:** France Nature Environnement sent a contribution to the Sustainable Development National Council for the taxation chapter of the upcoming national Sustainable Development Strategy. This contribution describes the state of play on EFR in France and in some EU countries, and makes a concrete proposal for EFR in France.
→ see text (in French) at: www.ecotax.info/FNEcontribution.doc
- FNE is planning to organise a **conference on EFR** at the end of the year. The idea is to re-start the public debate on the issue by confronting the views of different stakeholders, showing progress in other EU countries, and making concrete proposals.

Contact: Claude Kieffer kieffer.claude@worldonline.fr

Finland: recent news

We wrote about Finland in our first newsletter, dated March 2002 (→ www.ecotax.info/newsletter1.pdf). However, there have been new political developments and NGO actions since.

• **October 2002:**

The government presented in the budget proposal of 2003 increases in tax rates of both energy taxes and waste tax and in turn reductions of income taxation. The government emphasised the need to support employment and economic growth by lowering income tax rates and by increasing environmental tax rates. There has been a trend from 1990's of lowering labour taxes and increasing environmental taxes, but the amounts do not correspond; reductions have been much bigger than increases in environmental taxes (see figures below). For example, in the budget for 2003 reductions in income taxation are 315 million EUR but increases are only about 136 million EUR.

Energy taxes

An average 5,2 % increase in electricity tax rate and fuel tax rates: motor fuels, other energy products (heat production)

This makes 133 million EUR increase in energy tax revenues (all revenues from energy taxes will be 2900 million EUR)

There will be also an increase in tax subsidies for renewable energy sources by 7,25 million EUR (2001 subsidies were all together 44 million EUR: 43 million for wood and 1 million for wind power).

Waste tax

Waste tax will gradually increase from nowadays 15,14 EUR per tonne of waste to 23 EUR (from 1.1.2003) and up to 30 EUR (from 1.1.2005).

Total revenues from waste tax will be about 32 million EUR year 2003.

Waste tax amendments are based on the revised National Waste Plan (until 2005), where development of policy instruments is called after to better achieve policy goals.

According to Waste Plan, state subsidy for the development and research of waste management will be increased by 30 million EUR (budget for 2004).

In spite of increases in tax rate, there is still weakness and incoherence in waste taxation, mainly stemming from the fact that private owned landfills (those of industries) are totally exempted from waste tax. This is a situation that – hopefully – would be changed in near future. At least it's recognised as a problem also in the Waste Plan.

Income taxation

The government planned a reduction of 315 million EUR in income taxation. Reduction will be made mainly by decreasing all the marginal rate percentages by 0,3 percentage unit and by raising all income limits by one percentage unit.

April 2003:

EFR in the New Government Programme

The new Government of Finland, elected in March 2003, presents in its programme environmental fiscal reform as a tool for promoting sustainable development. The three-party coalition is led by the Centre party, and includes also the social democrats, and the Swedish people's party. The new minister of the environment is Mr. Jan-Erik Enestam,

chairman of the Swedish people's party, and the new minister of finance is Mr. Antti Kalliomäki, social democrat.

In the environmental policy section of the programme, government aims to further ecological tax reform in order to promote sustainable production and consumption patterns. The main objectives of environmental taxes are to reduce use of non-renewable resources, and to promote recycling and greater eco-efficiency. A national intersectoral programme on ecologically, socially and economically sustainable ways of production and consumption will be drawn up. The potential for cutting environmentally harmful subsidies will be examined.

As regards the amendment of taxes on energy and electricity, the competitiveness argument and the harmonisation at EU level are emphasised, is stressed in the programme.

In the taxation policy section, one of the main objectives is to promote employment through lowering labour taxes, at least by 1120 million euros. Particular emphasis will be placed on measures to reduce income taxation. For employment reasons, the tax reductions will be directed to lowering the income taxation of low and middle-income groups. The demand of low-paid labour will be increased by targeted reductions in indirect labour costs.

NGO:

- Within the Finnish Association for Nature Conservation (FANC) there is a working group for Economic Instruments of Environmental Policy. Its aim is to promote environmental fiscal reform and to deal with issues concerning other economic instruments such as emission trading and subsidies.
- FANC promoted environmental tax reform as one of the main themes for the parliamentary election (March 2003) campaign and for the new Government Programme. A press release (press conference 8th January), leaflet on environmental tax reform and other proposals for the Government Programme, speeches and Power Point presentations and further material can be found at <http://www.sll.fi/vaalit/>
- FANC also put out a concrete proposal "Environmental Tax Reform as Basis for Government Programme". The aim of the proposal is to give an example of how environmental tax reform could be further implemented in Finland. The objective of revenue neutral tax reform is to promote sustainable production and consumption patterns. The proposed tax base covers emissions, fertilisers, and natural resources such as water, gravel, fossil fuels, and disposable products as well. Accordingly, tax revenues from environmental taxes could be increased by 2400 million euros, up to 10 % of total tax revenues. The overall objective is to increase revenues from environmental taxes up to 20 % of total tax revenues by 2010. Revenue recycling should be made mainly through reduction of labour taxes, both social security contributions and personal income taxation. Another recycling option is differentiation of VAT according to environmental grounds, e.g. lower tax rates for organic food, eco-labelled products, public transportation, and repair services. The entire proposal can be found (in Finnish) at <http://www.sll.fi/vaalit/ekoverouudistus>
- FANC made a statement on a bill for changes in energy tax legislation (HE 130/2002) at the Finance Committee of Parliament of Finland, 24th October 2002. FANC

presented a need for a time schedule for gradual increases in tax rates, a CO2 tax back into electricity taxation, the gradual removal of tax exemptions, a rebate system and the removal of differentiation of tax rates (in existing tax legislation a lower rate applies for industry and greenhouse agriculture).

- FANC made minority reports to Energy Conservation Programme 2003-2006. Minority report can be found at <http://arkisto.sll.fi/tiedotus/2002/ESOERIava.html>
- FANC made also a minority report to Action Plan for Renewable Energy Sources 2003-2006. It can be found at <http://arkisto.sll.fi/tiedotus/2002/UEEOERIava.html>

contact: [Sarianne Tikkanen](mailto:sarianne.tikkanen@helsinki.fi) sarianne.tikkanen@helsinki.fi

Greece: recent news

We wrote about Greece in our first newsletter, dated March 2002

(→ www.ecotax.info/newsletter1.pdf). However, there have been new NGO actions since.

- Elliniki Etairia organised a conference on Environmental Fiscal Reform in Athens, on November 7th and 8th 2002 (see Newsletter 4). The following themes were covered: the environment and the market, sustainable development (“a contradiction in terms or an economic necessity?”), land planning, and the impact of taxes and subsidies on environmental degradation and employment. Yannis Paleocrassas presented the motivation for a radical fiscal reform (shifting the tax burden from labour to environmental protection, including the abolition of harmful subsidies and measures to redress the regressive impact of environmental taxation) and developed a concrete proposal for such a reform in Greece. Other speakers included Prof. Ernst Von Weizsacker of the German Bundestag, MEPs Mani Malliori and Konstantions Hatzidakis, consultant Dr. Stefan Speck and John Hontelez of the EEB.

→ you can now find the proceedings of the conference, in English, in a book entitled “Making taxes work for the environment” (*to get copies please contact Elliniki Etairia at elet@elliniketairia.gr or tel: + 30 210 322 52 40*)

- Elliniki Etairia organised a media event on May 16th in Thessaloniki in order to present this new publication, the EFR campaign and the proposal for a tax shift in Greece. The event was very successful and attracted 150 participants, mostly from the business and academic world.
- Further presentations of the EFR campaign and tax shift proposal are likely to take place in the near future, notably at the Athens Agricultural University.

contact: [Yannis Paleocrassas](mailto:paleocrassas@spectrum.com.gr) paleocrassas@spectrum.com.gr

IN-DEPTH TOPIC:
Can EU "enhanced co-operation" be an option for energy
taxation?

After nearly 6 years of difficult negotiations, the Commission's Directive Proposal on a Community Framework for Energy Taxation was finally agreed by EU Finance Ministers on March 20th 2003. However, as a result of the low rates and the many possibilities for exemptions contained in the agreement of March 20th, this directive will have very little impact on the price of energy in the EU, and thus on environmental protection. It will also do very little in helping to fulfil the Kyoto targets and fight climate change.

EU commitments

Since the 2001 European Council of Goteborg, the EU has been committed to "getting the prices right" (with an environmental objective). It has its own Sustainable Development Strategy, and it wants to be a world leader regarding environmental policies. Furthermore, the 6th Environmental Action Programme, adopted in 2002, clearly calls for the "promotion of sustainable production and consumption patterns", particularly through "promoting and encouraging fiscal measures such as environmentally related taxes and incentives".

The EEB saw an EU agreement on energy taxation as a first minimal step towards "getting prices right", for helping to achieve the EU's Kyoto target of a 8% cut in CO₂ emissions, and for Environmental Fiscal Reform (EFR). However, it is clear that the EU energy taxation directive, in the shape of the current agreement, will hardly achieve any of this. This poor result also shows that there is no room for real progress in policy areas where unanimity voting is required and when there is no real political will....

EEB campaign strategy

We believe that much more dramatic changes are needed to ensure that in the future the market no longer promotes unsustainable production and consumption patterns. This is why in our campaign we advocate at least an additional 10% tax shift from labour to environmental use until 2010, at the national and EU levels. Such a shift is revenue neutral, and would help to protect both the environment and employment. The EEB also demands a removal or reform of all environmentally adverse subsidies in addition to a number of other measures (see www.ecotax.info). The EU needs a real broad Environmental Fiscal Reform if it wants to become sustainable.

The Ecofin agreement does not change this main demand of our campaign. We also believe that there is still room for progress at national level, in many countries, including EFR frontrunners: our campaign has never focused solely on the EU energy taxation directive proposal.

Thirdly, we are going to study other ways of promoting EFR in the EU. In the Convention process, we will push for the introduction of majority voting in the Council of ministers for taxation measures linked to the environment. There is also the possibility of enhanced co-operation.

What is Enhanced co-operation?

When a directive which has been put forward by the Commission fails to be adopted by the majority, if at least 8 Member States can agree on the proposal, the states are permitted to adopt and implement this harmonisation using the EU institutions and procedures. This opportunity was introduced in the Amsterdam Treaty. Since the (recently ratified) Nice Treaty, the procedure for using it has become more flexible - for example, one Member State cannot anymore veto the use of enhanced co-operation by others. The introduction of eco-taxes by enhanced co-operation can be seen as a second best solution when unanimity can not be reached. But it must not represent an easy opt-out for those who do not want to participate. Therefore incentives are needed in order to stimulate the “outs” to join later.

Enhanced co-operation in the field of energy taxation

EU institutional and legislative framework

Implementing harmonisation among the “EFR like-minded” countries can take place within the EU institutional framework. This means that such countries could use the organisational facilities and decision-making rules provided by the Community. This would greatly facilitate the harmonisation task, considering that Member States are used to the EU decision-making procedures, and they would get support from the Commission for the implementation of legislation.

Efficiency

Thanks to the use of the Community framework, enhanced co-operation guarantees more efficiency than informal co-operation. An EU text constitutes a clear commitment for signatory countries. An EU directive will set clear targets and a timetable for tax increases, and implementation will be monitored.

Incentives for non-participating countries

Behind enhanced co-operation is the idea that leading countries would set an example of deeper integration and that the initial non-participating countries will want to catch-up and join the co-operation as soon as possible. This is the idea of “integration acceleration”. The “openness principle”³ requires that the co-operation remains open at all time to those who want and can join. Indeed, as in European Monetary Union, there might be entry criteria. So the co-operation countries must offer incentives to the non-

³ Article 43 b, the EU Treaty.

participating countries to join as soon as possible. Also, because non-participating countries can sit through the proceedings, they can better track the enhanced co-operation than in the case of informal co-operation.

Provisions for Accession countries⁴

Provided that the Accession countries fulfil the entry criteria, the enhanced co-operation procedure offers more guarantees that the participation of Accession countries will be taken into account than informal (outside the treaty) co-operation. They will be left with the choice of whether to join the enhanced co-operation or not⁵. Joining would not be made compulsory by special protocols, as current Member States are not compelled to participate.

Some issues

Competitiveness

As energy taxation increases in the co-operating countries, net production costs in energy intensive sectors also increase. Therefore, important taxation differences can bring about competitiveness problems in a free trade area. Moreover, compliance with the single market rules is one of the most stringent legal pre-requisites for the establishment of an enhanced co-operation⁶. Participating countries cannot close their borders to products from non-participating countries. The single market could represent the main obstacle to enhanced co-operation for energy taxation, especially when we consider energy intensive industry.

However, several arguments can mitigate this view. The new energy taxes can be implemented in a revenue neutral way, and eco-tax revenue can be used to decrease labour taxes in order to favour employment. The issue would then be more about redistribution than competitiveness. Also, Governments can find ways to compensate those energy-intensive sectors.

Moreover, the enhanced co-operation countries would gain advantage in terms of resource efficiency and product innovation and competitiveness. Such countries will compete on product quality rather than on lower production costs.

Furthermore, a study by the legal services of the Council of Ministers, of October 2001, concluded that there are no legal obstacles, notably regarding the internal market principles, against the establishment of an enhanced co-operation in the field of energy taxation.

⁴ I.e, before they enter the EU - once they enter, they will be subject to the same rules as other member states.

⁵ *“The Commission and the participating member states shall assure that as many member states as possible are encouraged to take part”*, article 43 b, the EU Treaty.

⁶ Article 43, part e-f, the EU Treaty.

Risk of splits and multi-speed approaches

Enhanced co-operation can represent a risk of establishing multi-speed approaches to environmental policy (or policy related to the environment such as energy taxation), with the possibility that gaps in environmental standards will widen further. This risk will be even more real after enlargement. However, where there is a real deadlock, enhanced co-operation can become useful. In energy taxation, the split already exists inside the EU. Frontrunners cannot go as far as they would like. There is no Environmental fiscal reform at EU level. Enhanced co-operation, by setting higher tax rates, preferably within an EFR scheme, could prove to be an integration tool.

In order to avoid having too many enhanced co-operations, the Commission and the Parliament could establish an institutional watchdog and ensure that there will be an on-going process to stimulate the non-participants to join.

Opportunities and limitations

To conclude, the use of enhanced co-operation is a very relevant tool when unanimity cannot be reached at the EU level. Enhanced co-operation can represent an opportunity to reach higher environmental standards, but only if incentives to include non-participating countries are well designed and efficient.

However, there is still a disincentive acting against the use of enhanced co-operation – especially what is called “the last resort condition” (which was not changed in the Nice Treaty).

The “last resort condition” requires that enhanced co-operation can only be launched after exhaustion of all Commission legislative proposals⁷. This restricts enhanced co-operation to Commission proposals, and means that there can be no self-initiative by the Member states. This raises questions about the capacity of like-minded countries to tailor their own directive if they wish to go for a more ambitious text. Co-operation between Member States and the Parliament could be contemplated in order to push the Commission to put forward a new proposal. Nonetheless, this would be a lengthy process, especially if it first needs to go through “adoption failure”. We hope that the Convention will soften this requirement and allow to establish an enhanced co-operation in a more positive context than a legislative failure.

The power of the Commission in the enhanced co-operation procedure is great and this has not been changed by the Nice Treaty. It is still up to the Commission to interpret the legal pre-requisites, some of which are quite vague and general, and to judge if an enhanced co-operation proposal can be put forward to the Council.

⁷ Article 43, part a, the EU Treaty.

Conclusion

In situations where progress is blocked or impeded by unanimity voting -as is the case for energy taxation- enhanced co-operation can prove to be an integration tool, provided that watchdogs are set to avoid the establishment of deep gaps inside the EU. Currently, a majority of EU countries are in favour of higher energy taxation and would certainly have backed the 1997 proposal in its original version, but will this still be the case next year, after the enlargement? If the Convention does not manage to extend qualified majority voting to taxation areas linked to the environment, enhanced co-operation may provide an adequate tool to nevertheless allow a group of countries to move further.

Campaign participants:

- **Umweltdachverband**, Austria
www.umweltdachverband.at
- **ÖKÖ-BÜRO**, Austria
www.oekobuero.at
- **BBL Bond Beter Leefmilieu**, Belgium
www.bblv.be
- **Inter-Environnement Wallonie**, Belgium
www.iewonline.be
- **Society for Sustainable Living**, Czech Republic
<http://www.czp.cuni.cz/stuz>
- **Danish Ecological Council**, Denmark
www.ecocouncil.dk
- **Finnish Association for Nature Conservation**, Finland
www.sll.fi
- **France Nature Environnement**, France
www.fne.asso.fr
- **BUND / Friends of the Earth Germany**
www.bund.net and www.oeko-steuer.de
- **Elliniki Etairia**, Greece
www.ellinikietairia.gr
- **Clean Air Action Group**, Hungary
www.levego.hu
- **An Taisce**, Ireland
www.antaisce.org
- **Legambiente**, Italy
<http://www.legambiente.com/>
- **Stichting Natuur en Milieu**, Netherlands
www.snm.nl
- **Institute of Sustainable Development**, Poland
www.ine-isd.org.pl
- **GEOTA Grupo de Estudos de Ordenamento do Território e Ambiente**, Portugal
www.despodata.pt/geota
- **Swedish Society for Nature**, Sweden
<http://www.snf.se/>
- **Friends of the Earth England, Wales and Northern Ireland**, United Kingdom
www.foe.co.uk

Newsletter and campaign contact :

Sylvain Chevassus
+ 32 (0)2 289 13 02
sylvain.chevassus@eeb.org

European Environmental Bureau
Boulevard de Waterloo, 34
B-1000 Brussels

European Environmental Bureau

Boulevard de Waterloo 34 B-1000 Brussels Belgium

Campaign tel : + 32 2 289 13 02 fax : +32 2 289 10 99 e-mail sylvain.chevassus@eeb.org
website (EFR campaign) : www.ecotax.info (EEB) : www.eeb.org

The European Environmental Bureau (EEB)

The EEB is a federation of 133 environmental citizens organisations based in all EU Member States and most Accession Countries, as well as a few neighbouring countries. They range from local and national to European and international. The aim of the EEB is to protect and improve the environment of Europe and to enable the citizens of Europe to play their part in achieving that goal. The EEB office in Brussels was established in 1974 to provide as a focal point for its members to monitor and respond to the emerging EU environmental policy. It has an information service, it runs nine working groups of EEB-members, it produces position papers on topics that are, or should be, on the EU agenda and it represents the Membership in discussions with the Commission, European Parliament and the Council. It closely co-ordinates EU-oriented activities with its Members on the National levels. Furthermore it follows closely the EU enlargement process as well as some pan-european issues like the follow up of the Aarhus Convention.

Editor responsible:

John Hontelez
European Environmental Bureau (EEB)
Boulevard de Waterloo, 34
B-1000 Brussels
Tel.: +32 2 289 1090
Fax: +32 2 289 1099
e-mail: info@eeb.org
web-site: www.eeb.org

The EEB gratefully acknowledges the financial assistance by the Commission of the European Communities, the Dutch Environment Ministry and the Belgian Environment Ministry. The publication reflects the author's view. The donors are not liable for any use that may be made of the information contained in this publication.

Reproduction of all or part of the publication is encouraged with acknowledgement of the source.

Printed on 100% recycled chlorine-free paper.