

Le secteur européen de l'électricité et du gaz soutient énergiquement les mesures de lutte contre la fraude TVA proposées par la Commission et la présidence irlandaise de l'UE

Depuis 2009, les neuf associations européennes du secteur de l'électricité et du gaz naturel (régulateurs, bourses de l'énergie, courtiers, chambres de compensation, gestionnaires de réseaux de transport, sociétés de négoce d'énergie, sociétés de production et de commercialisation d'électricité et de gaz) se sont unies pour prendre des mesures afin d'empêcher les tentatives d'intrusion de fraudeurs à la taxe sur la valeur ajoutée (TVA) au sein des marchés de gros de l'électricité et du gaz, comme elles s'y étaient engagées dans leur [Déclaration commune de décembre 2011](#). En dépit de l'action coordonnée de tous les acteurs européens, des mesures prises par certains Etats et de nos alertes constantes adressées aux autorités, les fraudeurs ont accru leur sophistication et les premiers signes de fraude à la TVA sur les marchés de gros de l'électricité et du gaz ont été rapportés.

L'adoption de mesures fiscales pérennes est indispensable pour éradiquer le risque de fraude à la TVA dans le secteur du gaz et de l'électricité et empêcher que les budgets des Etats membres subissent de nouveau des pertes de TVA similaires à celles endurées en 2009 sur les marchés de quotas de CO₂¹. Dans cette perspective, nos associations ont rencontré la présidence irlandaise de l'Union européenne en mars 2013 pour lui exprimer leurs craintes et étudier les solutions possibles. Le [train de mesures contre la fraude à la TVA](#) présenté par la Commission et la présidence irlandaise du Conseil de l'Union européenne **mettrait à la disposition des Etats membres de réels moyens de défense contre les fraudeurs**, et en particulier :

- Un mécanisme d'auto-liquidation de TVA, optionnel pour chaque Etat Membre, applicable aux secteurs économiques déjà visés par la fraude, comme les marchés de gros de l'électricité et du gaz. L'auto-liquidation transfère l'obligation de collecter la TVA du fournisseur des marchandises au client, supprimant ainsi toute possibilité de fraude TVA sur ces transactions.
- Un mécanisme de réaction rapide autorisant aux Etats membres à solliciter une mesure dérogatoire à la Directive TVA leur permettant de prendre des dispositions temporaires pour faire face à des risques nouveaux de fraude TVA massifs et soudains.

Nous prenons acte avec satisfaction de la résolution de la Commission et de la présidence irlandaise du Conseil de faire aboutir ces mesures de lutte contre la fraude à la TVA. Nous encourageons les Etats membres à s'entendre sur une proposition à même de recueillir un soutien unanime.

L'adoption de ces directives fermerait à la fraude la porte des marchés de gros de l'électricité et du gaz et garantirait l'intégrité de ces marchés, la liberté du commerce et la libre concurrence au bénéfice des consommateurs d'énergie européens.

Tous les secteurs ciblés par les fraudeurs sont dans la même situation. C'est pourquoi nous **invitons les autres industries menacées par la fraude à la TVA** à joindre leurs efforts pour **soutenir publiquement les mesures proposées par l'Union européenne** et demander à **tous les Etats membres d'agir maintenant pour sauvegarder l'intégrité et la sécurité des marchés de l'électricité et du gaz**, pour le bien du consommateur final.

Bruxelles, le 25 mars 2013

Notes for editors

ⁱ Carousel Fraud, also known as Missing Trader Intra-Community Fraud (“MTIC”), follows three basic steps – buy without VAT, sell with VAT and disappear before paying VAT to the tax authorities. In 2009, carousel fraud extended to CO₂ Emissions trading. Legislative changes were implemented (Directive 2010/23/EU, March 2010) to combat fraud, but far too late: € 5 billion in VAT had been evaded in the period 2008-2009.

Following the fraud in CO₂ markets, it was identified that VAT fraud could also be perpetrated in gas and electricity wholesale markets. Therefore, individual measures have been taken by the wholesale electricity and gas sector at the national level to block or slow down the progress of VAT fraudsters

- Reinforcement of KYC at all levels
- Increased surveillance of transaction volumes
- Increased awareness of legitimate market participants
- Increased awareness of all actors in the industry of the threat

However the fraudsters have learned how to circumvent these defenses (which from the beginning the sector has insisted could not be bullet-proof) and frauds are occurring on wholesale electricity and gas markets.

In 2012, different Member States took action domestically in response to this risk:

- April 2012: France adopted the reverse charge mechanism for gas and electricity. April 2012: The Netherlands adopted a zero VAT rate on wholesale gas & electricity, in which suppliers will have the facility to opt to supply at a zero VAT rate, but only if they operate through a specially provided “VAT warehouse” scheme.
- June 2012: Germany requested to the commission to derogate from the VAT directive for wholesale gas & electricity.
- July 2012: Austria requested to the Commission to derogate from the VAT directive for wholesale gas & electricity.

At the end of 2012, the European Commission refused the derogation from the VAT Directive requested by France, Germany and Austria, stating that the existence of VAT fraud cases had not been evidenced. Additionally they stated that the application for a reverse charge would have “a considerable negative impact on other Member States” as “fraud in these types of goods and services can quickly move from one Member State to another”.

Now, the European Commission and the Irish Council Presidency are committed to fighting VAT fraud in all industries, and have proposed a viable anti-VAT fraud package to the ECOFIN Council in March 2013. The Irish Presidency plans to go before the Council of the EU again before June 2013 to deliberate this further.



Information on the nine associations:

About CEER - The Council of European Energy Regulators

The Council of European Energy Regulators (CEER) is the voice of Europe's national regulators of electricity and gas at EU and international level. Through CEER, a non-for-profit association, the national regulators cooperate and exchange best practice. A key objective of the CEER is to facilitate the creation of a single, competitive, efficient and sustainable EU internal energy market that works in the public interest.

<http://www.energy-regulators.eu>

About EACH - European association of CCP Clearing Houses

European central counterparty clearing houses (henceforth CCPs) formed EACH in 1991. EACH's participants are senior executives specialising in clearing and risk management from CCPs, both EU and non-EU. Increasingly, clearing activities are not restricted exclusively to exchange-traded business. EACH has an interest in ensuring that the evolving discussions on clearing and settlement in Europe and globally, are fully informed by the expertise and opinions of those responsible for providing central counterparty clearing services.

<http://www.eachorg.eu>

About EFET- European Federation of Energy Traders

The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent and liquid wholesale markets, unhindered by national borders or other undue obstacles. EFET currently represents more than 100 energy trading companies, active in over 27 European countries.

<http://www.efet.org>

About ENTSO-E - The European Network of Transmission System Operators for Electricity

ENTSO-E is the European Network of Transmission System Operators for Electricity, representing 41 Transmission System Operators (TSOs) from 34 countries. TSOs are responsible for the bulk transmission of electric power on the main high voltage electric networks, one of the most important infrastructure backbones of Europe's service and industrial economy.

ENTSO-E's legal basis is Regulation (EC) 714/2009 on electricity cross-border exchanges, mandating it to draft network codes and non-binding community-wide ten-year network development plans; and to ensure the optimal management, coordinated operation and sound technical evolution of the European electricity transmission network.

<http://www.entsoe.eu>

About ENTSG - The European Network of Transmission System Operators for Gas

ENTSG was founded on 1 December 2009 in line with Regulation (EC) 715/2009 (Regulation) and currently comprises 42 TSO Members and 3 Associated Partners from 25 EU countries, and 4 Observers from 4 non-EU countries. ENTSOG works to promote the completion and functioning of the internal market and cross-border trade for gas and to ensure the optimal management, coordinated operation and sound technical evolution of the European natural gas transmission network.

<http://www.entsog.eu>



About Eurelectric - The Union of the Electricity Industry

The Union of the Electricity Industry-EURELECTRIC is the sector association which represents the common interests of the electricity industry at pan-European level, plus its affiliates and associates on several other continents.

<http://www.eurelectric.org>

About Eurogas - The European Union of the natural gas industry

Eurogas is an association representing about 50 companies and associations engaged in the wholesale, retail and distribution of gas in Europe. Eurogas provides data and information relevant to EU decision makers and opinion formers in making the right policy choices.

<http://www.eurogas.org>

About Europex - Association of European Energy Exchanges

Europex is a not-for-profit association of European energy exchanges that represents the interests of the exchange-based wholesale markets for electrical energy, gas and environmental markets with regard to developments of the European regulatory framework for wholesale energy trading and provides a discussion platform on a European level.

<http://www.europex.org>

About LEBA - London Energy Brokers Association

The London Energy Brokers' Association (LEBA) was formed in 2003 to represent the interests of London-based energy brokers. LEBA comprises 10 members, which together provide coverage for all key product groups in the energy sector: oil, gas, power, coal and emissions.

<http://www.leba.org.uk>



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