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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	15 July 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
Subject:	REGULATORY SCRUTINY BOARD OPINION Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 201/82001 of the European Parliament and of the Council, Regulation (EU) 2018/1999 of the European Parliament and of the the Council and Directive 98/70/EC of the European Parliament and of the Council as regards the promotion of energy from renewable sources, and repealing Council Directive (EU) 2015/652

Delegations will find attached document SEC(2021) 657.

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EUROPEAN COMMISSION

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SEC(2021) 657

REGULATORY SCRUTINY BOARD OPINION

Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 2018/2001 of the European Parliament and of the Council, Regulation (EU) 2018/1999 of the European Parliament and of the Council and Directive 98/70/EC of the European Parliament and of the Council as regards the promotion of energy from renewable sources, and repealing Council Directive (EU) 2015/652

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EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB

Opinion

Title: Impact assessment / Revision of the Directive on renewable energy sources

Overall 2nd opinion: POSITIVE WITH RESERVATIONS

(A) Policy context

To achieve climate neutrality by 2050, the Commission has proposed to reduce greenhouse gas emissions by at least 55% by 2030 compared to 1990. This impact assessment analyses how a revised Renewable Energy Directive (RED) can contribute to this objective.

The Directive currently aims to increase the share of renewable energy in final energy consumption to at least 32% by 2030. It establishes a common set of rules to facilitate the increase of renewable energy in electricity, heating and cooling and transport. It also includes sustainability criteria for bioenergy.

According to the analysis supporting the 2020 climate target plan (CTP), the increased climate ambitions would require to increase the share of renewable energy to at least 38% - 40%. This impact assessment considers options to do this in a cost-effective manner. The revision of the RED is part of a package of initiatives revising other, interrelated climate, energy and transport legislation contributing to the achievement of the European Green Deal objectives.

(B) Summary of findings

The Board notes the clarifications in the revised report on the context and scope.

However, the report still contains significant shortcomings, in particular as regards subsidiarity and proportionality. The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects::

(1) The report does not sufficiently demonstrate the rationale for a number of the measures, such as electric vehicle charging infrastructure.

(2) The report does not consider systematically and adequately the subsidiarity and proportionality of the measures, such as (district) heating and cooling.

(3) The analysis and comparison of options is not comprehensive enough to justify the set of preferred measures. In particular, this regards the options related to bioenergy. Impacts on Member States are not presented.

(4) The report does not sufficiently report on different stakeholder groups' views.

This opinion concerns a draft impact assessment which may differ from the final version.

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EU countries at their respective national or local levels. Therefore, measures should be assessed from the point of view of being in conformity with the principle rather than whether the subsidiarity is impacted or not.

(10) The report is far too long and should be shortened in a manner that ensures effective information for policy makers.

The Board notes the estimated costs and benefits of the preferred option(s) in this initiative, as summarised in the attached quantification tables.

(D) Conclusion

The DG must revise the report in accordance with the Board's findings before launching the interservice consultation.

Full title	Revision of the Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources
Reference number	PLAN/2020/7536
Submitted to RSB on	30 April 2021
Date of RSB meeting	Written procedure

ANNEX: Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

SUMMARY OF COSTS AND BENEFITS – based on modelling

Benefits							Costs	
		Scenarios			MIX vs MIX-LD	Interpretation	MIX vs MIX-CP	Interpretation
2030 EU27 results unless otherwise stated	**metric**	**MIX**	**MIX-CP**	**MIX-LD**	Difference MIX vs MIX-LD illustrates impact of drivers representing revision of RED working together with other "Fit for 55" proposals	**RED revision brings:**	Difference MIX vs MIX-CP illustrates impact of achieving necessary 2030 RES ambition by drivers representing revision of RED rather than very high carbon pricing	**RED revision compared to very high carbon price brings:**
GHG reductions (incl intra EU aviation and maritime, excl LULUCF) wrt 1990	% change from 1990	53,1%	53,0%	52,1%	1,0	1 p.p. of necessary GHG reduction compared to 1990	0,1	difference is negligible all core scenarios were designed to achieve GHG 55% target
Overall RES share	%	38,0%	37,6%	36,3%	1,7	1.7 p.p. bigger share of total RES in final energy consumption in 2030	0,3	Small difference showing that high level of carbon pricing can be as effective as renewables policies in achieving necessary RES shares
RES-E share	%	62,6%	63,0%	60,2%	2,4	2.4 p.p. bigger share of RES in electricity in 2030	-0,4	Small difference showing that high level of carbon pricing can be as effective as renewables policies in achieving necessary RES shares in electricity

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RES-H&C share	%	38,9%	37,8%	36,9%	2,0	2 p.p. bigger share of RES in H&C in 2030	1,1	Small difference showing that ambitious regulatory measures are more effective in achieving necessary RES shares in H&C than even very high level of carbon price (€65/t)
RES-T share	%	26,4%	26,1%	25,9%	0,6	0.6 p.p. bigger share of RES in transport in 2030	0,4	Small difference stemming from the fact that level of RES-T ambition is established by ambitious NECPs and initiatives on aviation and maritime fuels
PEC energy savings	% change from 2007 Baseline	38,5%	38,0%	37,9%	0,6	0.6 p.p. bigger primary energy savings in 2030	0,5	Small difference illustrating that higher RES-E shares have positive impact on PEC
FEC energy savings	% change from 2007 Baseline	35,8%	34,9%	35,3%	0,5	0.5 p.p. bigger final energy savings in 2030	0,8	Small difference illustrating that higher RES-H&C shares have positive impact on FEC
Investment expenditures (excl transport) av annual (2021-30)	bn €'15/year	410	393	396	13	Average annual investment needs higher by € 13bn	17	Average annual investment needs higher by € 17 bn compared to case with high carbon price as main driver
Energy system costs excl carbon pricing and disutilities av annual (2021-30)	bn €'15/year	1543	1535	1539	4	Average annual system costs higher by € 4bn	8	Average annual system costs higher by € 4bn compared to case with high carbon price as main driver
ETS price in current sectors (and maritime)	€/tCO2	46	51	46	0	no significant change - level of carbon price was frozen between MIX and MIX-LD	-5	Carbon price can by lower by 5€/t in the current ETS sectors
ETS price in new sectors (buildings and road transport)	€/tCO3	46	68	46	0	no significant change - level of carbon price was frozen between MIX and MIX-LD	-23	Carbon price can by lower by 23€/t in the new ETS sectors

Average Price of Electricity	€/MWh	166	167	165	1	no significant change	-1	no significant change
Import dependency	%	53%	53%	53%	0	no significant change	0	no significant change
Fossil fuels imports bill savings compared to BSL for the period 2021-30)	bn €'15	91	79	75	16	Savings on fossil fuels import bill are higher by 16 bn	12	Savings on fossil fuels import bill are higher by 12 bn
Energy-related expenditures (excl transport) of households as % of households income	%	7,8%	7,7%	7,7%	0,1	no significant change	0,1	no significant change

EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB

Opinion

Title: Impact assessment / Revision of the Directive on renewable energy sources

Overall opinion: NEGATIVE

(A) Policy context

To achieve climate neutrality by 2050, the Commission has proposed to reduce greenhouse gas emissions by at least 55% by 2030 compared to 1990. This impact assessment analyses how a revised Renewable Energy Directive (RED) can contribute to this objective.

The Directive currently aims to increase the share of renewable energy in final energy consumption to at least 32% by 2030. It establishes a common set of rules to facilitate the increase of renewable energy in electricity, heating and cooling and transport. It also includes sustainability criteria for bioenergy.

According to the analysis supporting the 2020 climate target plan (CTP), the increased climate ambitions would require to increase the share of renewable energy to at least 38% - 40%. This impact assessment considers options to do this in a cost-effective manner. The revision of the RED is part of a package of initiatives revising other, interrelated climate, energy and transport legislation contributing to the achievement of the European Green Deal objectives.

(B) Summary of findings

The Board notes the additional information provided in advance of the meeting and commitment to make changes to the report. It also notes the significant efforts to coordinate and ensure coherence across the 'Fit for 55' initiatives.

However, the Board gives a negative opinion, because the report contains the following significant shortcomings:

(1) The report does not sufficiently demonstrate the rationale, EU added value and proportionality of a number of the proposed measures. It is not clear which measures are crucial and which are less important to achieve the objectives of the initiative.

(2) Modelling results for the different levels of ambition are not sufficiently complemented by an analysis of impacts (qualitative or quantitative) of the specific measures.

(3) The presentation of the analysis and comparison of the options is often confusing or incomplete. In particular, this regards the options related to bioenergy and

impacts on Member States.

(4) The report does not clearly explain who will be affected and how by the initiative. It does not sufficiently report on different stakeholder groups' views.

(C) What to improve

(1) The report should clearly define the scope of the initiative. It should specify how it aligns with the greenhouse gas reduction targets of the Climate Law, and how it follows or differs from the CTP modelling scenarios. On this basis, the report should make clear what are the open policy choices that this impact assessment aims to inform. The report should explain how the other 'Fit for 55' initiatives may affect the scope, choices or impacts of this initiative.

(2) The report should present a much more thorough justification for proposing some of the measures. In the absence of an evaluation, the report should provide evidence supporting the identified problems, in particular as regards the insufficient energy system integration and bioenergy sustainability criteria. The report should better explain which problem drivers cannot be addressed by market based instruments (the extension of the emissions trading system to transport and buildings and the Energy Taxation Directive) and require further regulatory intervention at EU level.

(3) The report should clarify which measures are crucial to achieve the policy objectives and which are only 'nice to have'. Given that parallel initiatives also contain measures regulating industry, transport and buildings, the report should better substantiate the rationale for proposing additional measures and demonstrate that they are needed to reach the objectives.

(4) The value added of some of the measures, specifically from the EU perspective, needs to be better justified in the report. In particular, for measures relating to heating and cooling that are by their nature deployed at a local level, subsidiarity considerations need to be clarified. The report should also justify the need for proposing menus of measures that are to be implemented by Member States.

(5) The impact analysis for measures regulating bioenergy seems too narrow. The report should analyse the effects on the bioenergy sector resulting from the increasing demand for renewable energy sources and clarify assumptions, uncertainties and potential risks. In particular, this relates to sectors that are difficult to electrify (e.g. aviation and maritime transport). It should analyse to what extent the increased demand for renewable energy could be satisfied from within the EU. The report should clarify whether the proposed sustainability criteria for biomass and the increased use of bioenergy (especially after 2030) are aligned to the Green Deal's 'do no harm' principle, in particular for air pollution. It could be clearer on potential trade-offs with the revised LULUCF, the EU's biodiversity strategy and the bioenergy sector, and how different interests are balanced.

(6) The report should complete the analysis of impacts. Modelling results should be complemented by a more thorough (qualitative or quantitative) assessment of the considered individual measures, drawing on other available evidence. The report should clarify who is affected and how. In particular, it should show how effects are distributed across Member State. It should revise the presentation of the comparison of options. It should always compare options against the baseline and adjust the scoring accordingly. Options should be systematically compared to all assessment criteria, based on the impact analysis.

(7) Views of stakeholders, in particular the dissenting and minority views should be better reflected throughout the report, including on the problem definition, construction of options and the choice of the preferred option(s).

(8) The report should improve the presentation of the estimated costs and benefits of the preferred option(s) and include a more comprehensive overview in Annex 3. As far as possible, the report should quantify the expected increase in administrative burden.

(9) The methodological section (in the annex), including methods, key assumptions, and baseline, should be harmonised as much as possible across all 'Fit for 55' initiatives. Key methodological elements and assumptions should be included concisely in the main report under the baseline section and the introduction to the options. The report should refer explicitly to uncertainties linked to the modelling. Where relevant, the methodological presentation should be adapted to this specific initiative. In particular, the report should clarify that the modelling results show the impact of the assumed overall ambition level of measures, instead of the effect of the specifically proposed measures.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG must revise the report in accordance with the Board's findings and resubmit it for a final RSB opinion.

Full title	Revision of the Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources
Reference number	PLAN/2020/7536
Submitted to RSB on	11 March 2021
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