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From: General Secretariat of the Council

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Subject: 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
- Progress report

I. INTRODUCTION

1. The Commission submitted the above proposal on 14 July 2021, as part of the 'Fit for 55' package which aims at the implementation of the European Green Deal and follows on the increased binding EU climate target of a net domestic reduction of at least 55% in greenhouse gas emissions by 2030, endorsed by the European Council conclusions of 10-11 December 2020.¹

¹ doc. 22/20 EUCO.

2. Against this background, the proposed directive increases the EU-level target for renewable energy to at least 40% and introduces new sector-specific measures, or enhances existing ones, to increase the share of renewable energy in heating and cooling, transport, industry, buildings and electricity generation and facilitate cost-effective renewables deployment and achievement of the overall target. The proposed directive also strengthens existing sustainability criteria for forest biomass and introduces a number of solutions in line with the Commission's strategies on energy system integration and hydrogen published in 2020.
3. The opinions of the Economic and Social Committee and the Committee of the Regions are not yet available.
4. The examination of the above proposal by the European Parliament has been assigned to the Committee on Industry, Research and Energy (MEP Markus Pieper, DE, EPP rapporteur). The Committee on Environment, Public Health and Food Safety will be associated with this report (MEP Nils Torvalds, FI, Renew, rapporteur) and will have exclusive responsibility on a number of provisions, notably bioenergy sustainability. A number of Committees (TRAN, AGRI, REGI, DEVE, PETI) will also contribute with non-binding opinions.
5. The Permanent Representatives Committee/Council (TTE - Energy) are invited to take note of this progress report drawn up under the responsibility of the Presidency. This report outlines the main issues discussed and the state of play of the negotiations.
6. The Slovenian Presidency has also prepared a report (doc. 13977/21) aiming to provide an overall state of play and overview of progress made not only on this proposal but overall on the "Fit for 55" package. The report focuses on the horizontal aspects of the package, such as interlinkages between proposals, and the main issues raised in discussions so far. That report has been distributed to all Council formations responsible for the different proposals of the package as a background document.

II. STATE OF PLAY

The Working Party on Energy examined the proposed amending Directive (and the impact assessment) intensively from July to November, analysing first the main principles and provisions, and then all articles and annexes. The Impact Assessment (IA) accompanying the proposal was presented by the Commission and discussed at the Energy Working Party on 6 September 2021, where delegations had an opportunity to ask questions on the substance thereof. Overall, delegations asked questions regarding possible interactions and cumulative impacts of the other proposals as part of the "Fit-for-55" Package.

Delegations hold general reservations/scrutiny reservations and are partly still analysing in more depth the provisions contained in the proposed amending Directive as well as the links to other proposals in the "Fit-For-55" Package. Member States have also stressed that scrutiny by national parliaments is still ongoing.

A. General views:

It is the understanding of the Presidency that, in line with the conclusions of the European Council of 20 December 2020, delegations agree that achieving a higher EU renewable energy objective is fundamental for the overarching EU decarbonisation goals while also contributing to EU competitiveness and security of supply. Overall, delegations support the aim of the proposal, and in particular the need to accelerate, in a coordinated way, the transition towards a more integrated energy system largely based on renewables and energy efficiency. However, they ask for more flexibility so as to be able to introduce the most appropriate solutions to consider national specificities and different starting points. Delegations also emphasise the need to respect the principles of subsidiarity, fairness, fair transition and technological neutrality. Finally, delegations assert that additional administrative burden should be limited to the strictly necessary.

B. Main issues:

It is the Presidency's understanding that the general goals justifying the revision of this Directive, as presented in the Commission proposal, are generally welcomed by delegations. In particular, Member States share the view that such revision is needed to achieve an increase in the use of energy from renewable sources by 2030, to foster better energy system integration and to contribute to climate and environmental objectives. However, the following main issues have emerged from the discussions at the Energy Working Party and will require further in-depth consideration, without prejudice to particular points of interest of individual delegations or other provisions included in the proposal.

New headline 2030 EU target (Article 3):

Several Member States still have scrutiny reservations on the proposed 2030 EU target of at least a 40% share of energy from renewable sources in the Union's gross final consumption of energy in 2030. While most delegations seem positively inclined towards increased ambition, some Member States are also concerned about possible implications for their national contributions, intermediate reference points or current trajectories. Member States also still have questions related to future updates needed to their National Energy and Climate Plans (NECPs) or to the Regulation on the Governance of the Energy Union and Climate Action.

The Commission reiterated the need to increase the renewables target to 40 % to step up the ambition and deliver on the 55 % emissions reduction cost-effectively and reassured delegations by stating that the review of the Governance Regulation may have to be advanced to 2023, in particular with regard to the gap-filling mechanism.

New forest biomass sustainability criteria (Article 3 and 29):

Delegations remain divided on the proposed provision strengthening the current sustainability criteria. While some delegations support the ambition of the Commission proposal, several remain concerned about some elements. In particular, a majority of delegations have reservations on the proposed extension of sustainability criteria to a larger number of installations (Article 29). Several delegations have reservations also with regard to the newly proposed obligation to design renewables support schemes in accordance with the waste hierarchy and biomass cascading principle and the proposed obligation to phase out support for plants producing only electricity and not also heat from biomass from 2026 (Article 3). It appears that further work will be needed to clarify definitions and modalities of operation of the proposed provisions.

The Commission reiterated the need to ensure that bioenergy is used sustainably and in the most efficient way, as well as the need to avoid distortive effects on the raw material market and negative impact on biodiversity, in line with the Biodiversity Strategy.

Proposed obligation for joint renewables projects (Article 9):

A majority of delegations are asking for more flexibility with regard to the proposed obligation for Member States to have a cross-border pilot project by the end of 2025. Most Member States are also cautious on the obligation to cooperate on the amount of offshore renewable generation to be deployed within each sea basin.

However, the Commission has stressed the crucial importance, particularly in the context of a higher EU-level target, to take better advantage of the potential of regional cooperation to support cost-efficient renewable deployment as well as to harness the regional offshore wind potential.

Mainstreaming renewable energy in buildings (Article 15a):

Delegations generally acknowledge the need to increase renewables penetration in buildings. However, a number of delegations have expressed reservations on the new indicative EU target target for 49 % of energy use in EU buildings, with some considering this objective unrealistic, while others pointed to existing provisions in other legislation such as the Energy Performance of Buildings Directive (EPBD). Delegations underline the need to maintain flexibility and to clarify some definitions, such as that relating to 'efficient district heating and cooling', as well as to clarify other aspects, notably in terms of data availability.

The Commission has stressed the importance of these measures with a view to implementing the Renovation Wave's priorities as well as the significant untapped cost-effective potential for renewables in building. These provisions would be important to promote the switch from fossil fuel heating systems to renewables.

Guarantees of Origin (Article 19):

A number of delegations have strong reservations about the proposal to remove Member States' ability not to issue Guarantees of Origins to a producer that receives financial support. Member States are notably interested in keeping the market value of the GOs and avoiding double financing. From the Commission's perspective, however, the proposed revision is important to ensure that all renewable energy produced can receive a guarantee of origin, thus increasing transparency for final consumers and removing a key barrier hampering the uptake of Power Purchase Agreements.

System integration of renewable electricity (Article 20a):

A majority of delegations broadly support the overall goal of the proposed provisions. A number of elements, however, require further consideration and clarifications, notably on the new reporting obligations provided for, possible links with other legislative files and in terms of impacts and modalities of operation of the new provisions.

From the Commission's perspective, these provisions are key to ensure higher system integration of renewable electricity and hence cost-effective deployment. In particular, they would steer consumer patterns and investments in a way that aligns consumption with renewable production.

Mainstreaming renewables in industry (Article 22a):

Delegations generally support further deployment of renewables by industry. However, several delegations are of the opinion that the introduction of sub-targets reduces flexibility and increases administrative burden and costs. In particular, most delegations are concerned about the introduction of a binding sub-target of 50% for renewable fuels of non-biological origin (RFNBOs) used as feedstock or as an energy carrier, since the introduction of a binding target may negatively affect the deployment of hydrogen technologies and their use in this sector. In this context, delegations are divided on the role of low-carbon hydrogen production modes. Whilst some ask for their inclusions in this directive, others oppose considering low-carbon fuels as energy from renewable sources under the RED.

Still in the same article, several delegations are equally concerned about the indicative average annual increase of 1.1 percentage points per year in the share of renewables in the industrial sector. On both the sub-target and the indicative benchmark, delegations still have numerous questions on the methodology for calculation, verification methods, scope of application and foreseen impacts.

The Commission has reiterated that these provisions are instrumental for a number of hard-to-decarbonise production processes where renewables can only be used in the form of RFNBOs. In this vein, the proposed provision would provide the right incentives and the necessary investment certainty to ensure the deployment of sufficient RFNBOs. In particular, the sub-targets on RFNBOs for industry and transport are instrumental to deliver on the Hydrogen Strategy as presented by the Commission by channelling renewable hydrogen to those sectors where it is most needed to achieve climate neutrality.

Mainstreaming renewables in heating and cooling (article 23):

Delegations generally support further deployment of renewables in heating and cooling. However, several delegations have strong reservations about the proposal to make binding the annual increase of 1.1 percentage points of renewables in heating and cooling. In particular, several Member States argue that the implementation of this target could be both technically and economically difficult. Most delegations also have reservations about the proposed indicative national top-ups (included in the new Annex 1a). Numerous technical questions were asked on the nature and methodology of calculation of national top-ups and its interactions with the binding annual increase.

The Commission has insisted on the necessity of such measures for a sector where progress on renewable deployment has been traditionally slow and which represents half of the EU final energy consumption. From the Commission's perspective, the combination of a minimum binding increase, indicative top-ups at Member States level and the extended list of measures will provide certainty for investors, while allowing sufficient flexibility for Member States.

District heating and cooling (article 24):

Some delegations are sceptical about those provisions, and in particular, with regard to the proposed increase (from the current 1 to 2.1 percentage points) of the indicative target of renewables sources and from waste heat and cold in district heating. Several delegations find the implementation of this target to be particularly difficult and entailing excessive administrative burden.

The Commission stressed that the proposed changes build to a large extent on the existing Directive and contribute to mainstreaming renewables in heating and cooling supply and in buildings and to modernising existing systems/networks, whilst gradually promoting a more efficient fuel mix.

Greenhouse gas intensity reduction in the transport sector from the use of renewable energy
(Articles 25 and other related articles):

Delegations acknowledge the need to accelerate renewables penetration in transport and seem ready to support a more ambitious target. However, several delegations perceive the proposed 13% greenhouse gas intensity reduction target as too ambitious. Moreover, delegations are divided on the proposal to express the renewable transport target as a greenhouse gas intensity reduction target instead of the currently applicable methodology. If this new approach is to be maintained, further clarifications will be needed concerning the underlying calculation methods.

A majority of delegations also have reservations concerning the proposed increase in the sub-targets for advanced biofuels (at least 0.2% in 2022 to 0.5% in 2025 and 2.2% in 2030), and the proposed new 2.6% sub-target for the use of RFNBOs in transport. As for the industry sector, Member States are divided when it comes to the role of low carbon electricity in the renewable target in transport. However, delegations seem more positively inclined to the proposed introduction of a credit mechanism to promote electro-mobility.

From the Commission's perspective, the shift to an emission-based approach is needed to incentivise the use of fuels with the lowest carbon footprint. However, energy-based sub-targets are still needed to promote innovative fuels which cannot yet compete on a cost basis, but are crucial for reaching carbon neutrality. The introduction of the sub-target on RFNBOs is necessary to trigger demand in this hard-to-decarbonise sector and, together with industry, deliver on the ambition of the Hydrogen Strategy.

