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WORKING PAPER

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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on Energy
Subject:	Presidency non papers on the Directive on the energy efficiency - recitals and PEFs - Art. 7, Annex V and energy poverty

In view of the Energy Working Party on 3 May, delegations will find attached the Presidency non papers on the above.

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Energy Working Party 3 May - EED

Recitals and PEFs

I. RECITALS

At the technical meeting held on 25 April 2018 between the Presidency, the Commission and the European Parliament, this latter made some proposals as regards recitals.

For the Working Party of 3 May 2018, the Presidency will ask the delegations to indicate their position and possible flexibility on the recitals listed below covering lines: 3, 5, 9, 11, 20, 21, 22, 23, 24, 25, 27, 29, 31, 34, 36, 37, 38, 39 and 49.[1]

	COMISSION PROPOSAL (COD 2016/0376 - doc. 15091/16)	EP PLENARY TEXT (voted on 17/01/2018)	COUNCIL GENERAL APPROACH (doc. 11119/1/2017 REV1)	Presidency's assessment and compromise suggestions
2.	**RECITALS**			
3.	(1) Moderation of energy demand is one of the five dimensions of the Energy Union Strategy adopted on 25 February 2015. Improving energy efficiency will benefit the environment, reduce greenhouse gas emissions, improve energy security by reducing dependence on energy imports from outside the Union, cut energy costs for households and companies, help alleviate energy	**AM 1** (1) Moderation of energy demand is one of the five dimensions of the Energy Union Strategy adopted on 25 February 2015. Improving energy efficiency ***throughout the full energy chain, including energy generation, transmission, distribution and end-use,*** will benefit the environment***, improve air quality and public health,*** reduce	Commission proposal unchanged	*EP negotiating team: Maintain AM 1, including the reference to the full energy chain. Can also be seen in conjunction with line 20 and similar references in lines 56 and 57 (Article 1)* (1) Moderation of energy demand is one of the five dimensions of the Energy

[1] All other recitals that are not included in the above mentioned list either have been (provisionally) dropped/accepted by one of the two co-legislators at the technical level or will be discussed following the agreement on EU targets and Article 7.

	poverty and lead to increased jobs and economy-wide economic activity. This is in line with the Union commitments made in the framework of the Energy Union and global climate agenda established by the Paris Agreement of December 2015 by the Parties of the United Nation Framework Convention on Climate Change.	greenhouse gas emissions, improve energy security by reducing dependence on energy imports from outside the Union, cut energy costs for households and companies, help alleviate energy poverty and lead to increased ***competitiveness,*** jobs and economy-wide economic activity ***thus improving citizens' quality of life***. This is in line with the Union commitments made in the framework of the Energy Union and global climate agenda established by the ***Conference of the Parties of the United Nation Framework Convention on Climate Change (COP21) held in*** Paris ~~Agreement of~~ ***in*** December 2015 ~~by the Parties of the United Nation Framework Convention on Climate Change~~ ***('the Paris Agreement'), committing to holding the increase in the global average temperature to well below 2°C above pre-industrial levels and to pursuing efforts to limit the temperature increase to 1,5°C above pre-industrial levels***		Union Strategy adopted on 25 February 2015. Improving energy efficiency ***throughout the full energy chain, including energy generation, transmission, distribution and end-use,*** will benefit the environment***, improve air quality and public health***, reduce greenhouse gas emissions, improve energy security by reducing dependence on energy imports from outside the Union, cut energy costs for households and companies, help alleviate energy poverty and lead to increased ***competitiveness,*** jobs and economy-wide economic activity ***thus improving citizens' quality of life***. This is in line with the Union commitments made in the framework of the Energy Union and global climate agenda established by the ***Conference of the Parties of the United Nation Framework Convention on Climate Change (COP21) held in*** Paris ***in*** December 2015 ***('the Paris Agreement'), committing to holding the increase in the global average temperature to well below 2°C above pre-***

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				industrial levels and to pursuing efforts to limit the temperature increase to 1,5°C above pre-industrial levels.
5.		**AM 3** ***(2a) All forms of primary energy (non-renewable and renewable) should take into account the additional energy input required to acquire that energy, to establish and operate power installations and to dismantle them, as well as to eliminate the associated threats to the environment.***		*EP negotiating team: Keep AM 5*
9.		**AM 7** ***(4a) The principle of equity among Member States should be applied when determining national energy efficiency targets. Energy is an essential commodity and minimum levels of energy consumption are therefore inevitable, a fact that should be properly taken into account when setting national targets. In general, countries whose energy consumption per capita is below the Union average should be given more flexibility when setting their targets.***		*EP negotiating team: Maintain AM 7 (linked with Governance)*
11.		**AM 9** ***(4c) The Commission and the Member States need to ensure that the reduction in energy consumption results from greater energy efficiency and not macro-economic circumstances.***		*EP negotiating team: Maintain AM 9, with possible redrafting if necessary*

20.		**AM 16** ***(9a) It is important to include all energy chain steps into the counting of savings in order to increase the energy savings potential in transmission and distribution of electricity.***		*EP negotiating team: Keep AM 16. To be seen in conjunction with the reference to the 'full energy chain' in line 3 (AM 1)*
21.	(10) Energy savings which result from the implementation of Union legislation may not be claimed unless the measure in question goes beyond the minimum required by the Union legislation in question, whether by setting more ambitious energy efficiency requirements at national level or increasing the take up of the measure. Recognising that renovation of buildings is an essential and long term element in increasing energy savings, it is necessary to clarify that all energy savings stemming from measures promoting the renovation of existing buildings can be claimed if they are additional to developments that would have happened in the absence of the policy measure and if the Member State demonstrates that the obligated, participating or entrusted party has actually contributed to the achievement of the savings claimed from the measure in question.	**AM 17** (10) Energy savings which result from the implementation of Union legislation may not be claimed unless the measure in question goes beyond the minimum required by the Union legislation in question, whether by setting more ambitious energy efficiency requirements at national level or increasing the take up of the measure. ~~Recognising that~~ ***Buildings present a substantial potential for further increasing energy efficiency, and*** renovation of buildings is an essential and long term element ***with economies of scale*** in increasing energy savings~~,~~***. It*** is ***therefore*** necessary to clarify that all energy savings stemming from measures promoting the renovation of existing buildings can be claimed if they are additional to developments that would have happened in the absence of the policy measure and if the Member State demonstrates that the obligated, participating or entrusted party has actually contributed to the achievement of the savings claimed from the measure in question.	(10) Energy savings which result from the implementation of Union legislation may not be claimed unless the measure in question goes beyond the minimum required by the Union legislation in question, whether by setting more ambitious energy efficiency requirements at national level or increasing the take up of the measure. Recognising that renovation of buildings is an essential and long term element in increasing energy savings, it is necessary to clarify that all energy savings stemming from measures promoting the renovation of existing buildings can be claimed if they are additional to developments that would have happened in the absence of the policy measure and if the Member State demonstrates that the obligated, participating or entrusted party has actually contributed to the achievement of the savings claimed from the measure in question. **Renovation should be understood to cover the**	*EP negotiating team: Maintain AM 17 and ask Council for clarification on the last part of its text*

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			renovation of buildings, the building envelope and building elements including technical building systems. Installation of individual equipment on its own should not be considered a 'system'.	

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22.		**AM 18** ***(10a) The effective management of water can make a significant contribution to energy savings. The water and wastewater sector account for 3,5 % of electricity use in the Union[1a]. Moreover, water demand is expected to increase by 25 % by 2040, mainly in urban areas. At the same time, water leaks account for 24 % of the total amount of water consumed in the Union, resulting in energy and water losses. All measures aiming to achieve more effective water management and a reduction in water use therefore have the potential to make a significant contribution to the Union's energy efficiency objective[1b].*** _____ ***[1a] World Energy Outlook 2016, International Energy Agency, 2016*** ***[1b] World Energy Outlook 2016, International Energy Agency, 2016***		*EP negotiating team: Merge AMs 18, 20 & 21 in a single recital as follows:* ***(10a) The effective management of water can make a significant contribution to energy savings. The water and wastewater sector accounts for 3,5% of electricity use in the Union and this share is expected to rise. At the same time water leaks account for 24% of total water consumed in the Union and the energy sector is the largest consumer of water, accounting for 44% of consumption. The potential for energy savings through the use of smart technologies and processes should be fully explored.***
23.		**AM 19** ***(10b) This review includes provisions related to the treatment of energy efficiency as an infrastructure priority, recognising that it fulfils the definition of infrastructure used by the IMF and other economic institutions, and makes it a crucial element and a priority consideration in future investment***		*EP negotiating team: Maintain AM 19. Redraft as follows:* ***(10b) <u>Energy efficiency should be considered</u> an infrastructure priority, recognising that it fulfils the definition of infrastructure used by the IMF and other***

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		decisions on the Union's energy infrastructure[1a]. _____ ***1a Wording from the European Parliament report of 2 June 2016 on the implementation of the Energy Efficiency Directive (2012/27/EU)-(2015/2232(INI))***		***economic institutions, and makes it a crucial element and a priority consideration in future investment decisions on the Union's energy infrastructure.***
24.		**AM 20** ***(10c) The energy sector is the largest consumer of water in the Union, accounting for 44 % of water consumption[1a]. The use of smart technologies and processes for the efficient management of water has the potential to generate significant energy savings while enhancing the competitiveness of enterprises.*** _____ ***[1a] Commission staff working document, Agriculture and sustainable water management in the EU, 28 April 2017***		*EP negotiating team: See proposal in line 22*
25.		**AM 21** ***(10d) The water and wastewater sector can also contribute to the production of renewable energy and the reduction of fossil energy supply. For instance, the recovery of energy from sludge produced through the treatment of wastewater, makes it possible to produce energy on site.***		*EP negotiating team: See proposal in line 22*

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29.		**AM 24** ***(12b) Low energy bills should be achieved by assisting consumers in reducing their energy use via reduction of energy needs of buildings, improvements in the efficiency of appliances, availability of low energy transport modes integrated with public transport and cycling. Improving building envelopes and reducing energy needs and uses are fundamental aspects to ameliorate health conditions of low income segments of the population.***		*EP negotiating team: Maintain AM 24. Possible redrafting as follows:* ***(12b) Low energy bills should be achieved by assisting consumers in reducing their energy use via reduction of energy needs of buildings <u>and</u> improvements in the efficiency of appliances, <u>which should be combined with</u> availability of low energy transport modes integrated with public transport and cycling. ~~Improving building envelopes and reducing energy needs and uses are fundamental aspects to ameliorate health conditions of low income segments of the population.~~***

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31.		**AM 26** ***(12d) Around 50 million households in the Union are affected by energy poverty. Energy efficiency measures must therefore be central to any cost-effective strategy to address energy poverty and consumer vulnerability and are complementary to social security policies at Member State level. To ensure that energy efficiency measures reduce energy poverty for tenants sustainably, the cost-effectiveness of such measures, as well as affordability to owners and tenants should be taken into account, and adequate financial support for such measures should be guaranteed at Member State level. The Union's building stock will need to become, in the long term, NZEBs, in line with the objectives of the Paris Agreement. Present building renovation rates are insufficient and buildings occupied by low-income citizens affected by energy poverty are the hardest to reach. The measures laid down in this Regulation with regard to energy savings obligations, energy efficiency obligation schemes and alternative policy measures are therefore of particular importance.***		*EP negotiating team: Maintain AM 26, complementary to the provisions on energy poverty. Replace the word 'Regulation' with 'Directive'.*

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34.		**AM 29** ***(13a) The energy balance in Member States' businesses and industries can be improved, building on the principles of the circular economy, by means of the proper use of industrial waste as secondary raw materials, provided that their energy potential is higher than the potential of alternative primary raw materials.***		*EP negotiating team: Merge AMs 29 and 31 in a single recital as follows:* ***(13a) When implementing this Directive and taking other measures in the field of energy efficiency, Member States should pay particular attention to synergies between energy efficiency measures and the efficient use of natural resources in line with the principles of the circular economy.***
36.		**AM 31** ***(13c) Member States should demonstrate a high degree of flexibility in the design and implementation of alternative measures for determining their national priorities for energy efficiency, including both energy efficient products and energy-efficient technological production processes. Support is required for actions focusing on targets related to the efficient use of natural resources or to the need to introduce the circular economy.***		*EP negotiating team: See text in line 34. The sentence "Member States should demonstrate a high degree of flexibility in the design and implementation of alternative measures" should be integrated in a Recital.*

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37.	(14) As part of the measures set out in the Commission's Communication New Deal for Energy Consumers, in the context of the Energy Union and the Heating and Cooling strategy, consumers' minimum rights to clear and timely information about their energy consumption need to be strengthened. Articles 9 to 11 and Annex VII of Directive 2012/27/EU should be amended to provide for frequent and enhanced feedback on energy consumption. It should also clarified that rights relating to billing and billing information apply for consumers of heating, cooling or hot water supplied from a central source even where they have no direct, individual contractual relationship with an energy supplier. Therefore, for the purposes of these provisions, the term 'final user', should cover final customers purchasing heating, cooling or hot water for their own use as well as occupants of individual units of multi-apartment or multi-purpose buildings where such units are supplied from a central source. The term 'sub-metering' should refer to measuring consumption in individual units of such buildings. By 1 January 2020 newly installed heat meters and heat cost allocators should be remotely readable to ensure cost-effective, frequent provision of consumption information. The new Article 9a is	**AM 32** (14) As part of the measures set out in the Commission's Communication New Deal for Energy Consumers, in the context of the Energy Union and the Heating and Cooling strategy, consumers' minimum rights to ***accurate, reliable,*** clear and timely information about their energy consumption need to be strengthened. ***Whilst individual metering should continue to be required where it is technically feasible and cost-effective in terms of being proportionate in relation to the potential energy savings,*** Articles 9 to 11 and Annex VII ~~of~~ ***to*** Directive 2012/27/EU should be amended to provide for frequent and enhanced feedback on energy consumption***, taking into account the availability and capabilities of measurement devices, with the aim to optimise energy use. Member States should also take into account that the successful implementation of new technologies for measuring energy consumption require enhanced investment in education and skills for both users and energy suppliers***. It should also ***be*** clarified that rights relating to billing and billing ***or consumption*** information apply for consumers of heating, cooling or hot water supplied from a central source even where they have no direct, individual contractual relationship with an energy supplier. Therefore, for the	(14) As part of the measures set out in the Commission's Communication New Deal for Energy Consumers, in the context of the Energy Union and the Heating and Cooling strategy, consumers' minimum rights to clear and timely information about their energy consumption need to be strengthened. Articles 9 to 11 and Annex VII of Directive 2012/27/EU should be amended to provide for frequent and enhanced feedback on energy consumption**[ ], when this is technically feasible and cost-efficient in view of the measurement devices in place. It should be clarified that whether sub-metering is cost-efficient or not depends on whether the related costs are proportionate in relation to the potential energy savings. The assessment thereof may take into account the effect of other concrete, planned measures in a given building, such as a forthcoming renovation. It should also be clarified that rights relating to billing, and billing or consumption** information apply for consumers of heating, cooling or hot water supplied	*EP negotiating team: Merge EP and Council texts into two recitals (Recitals 14 & 14a), subject to further discussion on the definitions of 'final costumer' and 'final user' in the Council's text (see definition of 'final customer' in Article 2 (23) of the current Directive).* (14) As part of the measures set out in the Commission's Communication New Deal for Energy Consumers, in the context of the Energy Union and the Heating and Cooling strategy, consumers' minimum rights to ***accurate, reliable,*** clear and timely information about their energy consumption need to be strengthened. Articles 9 to 11 and Annex VII of Directive 2012/27/EU should be amended to provide for frequent and enhanced feedback on energy consumption**[ ], when this is technically feasible and cost-efficient in view of the measurement devices in place. It should be clarified that whether sub-metering is cost-efficient or not depends on whether the related costs are**

	intended to apply only to heating, cooling and hot water supplied from a central source.	purposes of these provisions, the term 'final user', ~~should cover~~ ***in addition to*** final customers purchasing heating, cooling or hot water for their own ~~use as well as~~ ***end use, should also cover*** occupants of individual units of multi-apartment or multi-purpose buildings where such units are supplied from a central source ***who have no direct or individual contract with the energy supplier***. The term 'sub-metering' should refer to measuring consumption in individual units of such buildings. By 1 January 2020 newly installed heat meters and heat cost allocators should be remotely readable to ensure cost-effective, frequent provision of consumption information. The new Article 9a is intended to apply only to heating, cooling and hot water supplied from a central source.	from a central source even where they have no direct, individual contractual relationship with an energy supplier. **The definition of the term 'final customer' may be understood to include only natural or legal persons purchasing energy based on a direct, individual contract with an energy supplier.** Therefore, for the purposes of these provisions, the term 'final user'**[ ]**should **[ ]be introduced to refer to a broader group of consumers. The term 'final user' should, in addition to** final customers purchasing heating, cooling or hot water for their own **end** use**[ ], cover also** occupants of individual units of multi-apartment or multi-purpose buildings where such units are supplied from a central source**[ ] and where the occupants have no direct or individual contract with the energy supplier.** The term 'sub-metering' should refer to measuring consumption in individual units of such buildings. By 1 January 2020 **[, or by the transposition date if that date is later,]** newly installed heat meters and heat cost allocators should be	**proportionate in relation to the potential energy savings. The assessment thereof may take into account the effect of other concrete, planned measures in a given building, such as a forthcoming renovation. It should also be clarified that rights relating to billing, and billing or consumption** information apply for consumers of heating, cooling or hot water supplied from a central source even where they have no direct, individual contractual relationship with an energy supplier. **The definition of the term 'final customer' may be understood to include only natural or legal persons purchasing energy based on a direct, individual contract with an energy supplier.** Therefore, for the purposes of these provisions, the term 'final user'**[ ]**should **[ ]be introduced to refer to a broader group of consumers. The term 'final user' should, in addition to** final customers purchasing heating, cooling or hot water for their own **end** use**[ ], cover also** occupants of individual units of multi-apartment or

			remotely readable to ensure cost-effective, frequent provision of consumption information. The new **[ ]**Articles 9a **[ ]9b, 9c, 10a, 11a and Annex VIIa are** intended to apply only to heating, cooling and hot water supplied from a central source**. Member States are free to decide whether walk-by/drive-by technologies shall be considered remotely readable or not. Remotely readable devices do not require access to individual apartments or units to be read**.	multi-purpose buildings where such units are supplied from a central source**[ ] and where the occupants have no direct or individual contract with the energy supplier.** The term 'sub-metering' should refer to measuring consumption in individual units of such buildings. By 1 January 2020 **[, or by the transposition date if that date is later,]** newly installed heat meters and heat cost allocators should be remotely readable to ensure cost-effective, frequent provision of consumption information. The new **[ ]Articles** 9a **[ ]9b, 9c, 10a, 11a and Annex VIIa are** intended to apply only to heating, cooling and hot water supplied from a central source**. Member States are free to decide whether walk-by/drive-by technologies shall be considered remotely readable or not. Remotely readable devices do not require access to individual apartments or units to be read**. ***(14a) Member States should take into account that the successful implementation of***

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				new technologies for measuring energy consumption require enhanced investment in education and skills for both users and energy suppliers.
38.		**AM 33** ***(14a) Billing information and annual statements are an important means by which customers are informed. Data on consumption and costs can also convey other information that helps consumers to compare their current deal with other offers and resort to complaint management and dispute resolutions. However, considering that bill-related disputes are a very common source of consumer complaints, a factor which contributes to persistently low levels of consumer satisfaction and engagement in the energy sector, it is necessary to make bills simpler, clearer and easier to understand, while ensuring that separate instruments, such as billing information, information tools and annual statements, provide all the necessary information to enable consumers to regulate their energy consumption, compare offers and switch suppliers.***	**(14a) To ensure transparency of accounting for individual consumption of thermal energy and thereby facilitate the implementation of sub-metering, Member States should make public any applicable national rules on the allocation of the cost of heating, cooling and hot water consumption in multi-apartment and multi-purpose buildings. In addition to transparency, Member States may wish to consider taking measures to strengthen competition in the provision of sub-metering services and thereby help ensure that any costs borne by final users are reasonable.**	*EP negotiating team:* *- Maintain AM 33.* *- Accept Council's Recital 14a with the following modification (in line with text agreed in line 159)*
39.		**AM 34** ***(14b) Small and medium-sized enterprises (SMEs) that fall within the scope of this Directive are those that***		*EP negotiating team: Keep AM 34. Clarify its relationship with Article 8 and the existing definition in Article 2 (26)*

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		employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million, in accordance with Article 2(1) of the Annex to Commission Recommendation 2003/361/EC[1a]. ***[1a] Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).***		
49.		**AM 43** ***(19b) Local and regional authorities should be given a leading role in the development and design, execution and assessment of the measures laid down in the Directive, so that they are able properly to address the specific features of their own climate, culture and society.***		*EP negotiating team: Maintain AM 43*

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II. Primary Energy Factors (PEFs) - lines 42 and 225

Until now, this topic has been discussed many times. The Presidency showed openness towards finding a compromise (covering both lines 42 and 225), but some concerns are still expressed by the Commission on the text proposed by the European Parliament indicated below.

For the Working Party of 3 May 2018, the Presidency will ask the delegations to clearly indicate whether:

- they can support the 2,0% figure;

- they can support the text as regards the reference to the applicability of the default coefficient to this Directive **only.**

	COMISSION PROPOSAL (COD 2016/0376 - doc. 15091/16)	EP PLENARY TEXT (voted on 17/01/2018)	COUNCIL GENERAL APPROACH (doc. 11119/1/2017 REV1)	EP negotiating team proposal
42.	(16) Reflecting technological progress and the growing share of renewable energy sources in the electricity generation sector, the default coefficient for savings in kWh electricity should be reviewed in order to reflect changes in the primary energy factor (PEF) for electricity. Calculations of the PEF for electricity are based on annual average values. The Physical energy content accounting method is used for nuclear electricity and heat generation and the Technical conversion efficiency method is used for electricity and heat generation from fossil fuels and biomass. For non-combustible renewable energy, the method is the direct equivalent based on the Total primary energy approach. To calculate the primary energy share for electricity in CHP the method set out in Annex II of Directive 2012/27/EU is applied. An average market position is used rather than a marginal one. Conversion efficiencies are	**AM 37** (16) ***Strictly limited to the objectives of this Directive and*** reflecting technological progress and the growing share of renewable energy sources in the electricity generation sector, the default coefficient for savings in kWh electricity should be ***carefully analysed and possibly*** reviewed in order to reflect changes in the primary energy factor (PEF) for electricity ~~Calculations~~***,*** ***reflecting the energy mix*** of the~~ PEF for electricity are based on annual average values. The Physical energy content accounting method is used for nuclear electricity and heat generation and the Technical conversion efficiency method is used for electricity and heat generation from fossil fuels and biomass. For non-combustible renewable energy, the method is the direct equivalent based on the Total primary energy approach. To calculate the primary energy share for electricity in CHP the method set out in Annex II of Directive 2012/27/EU is applied. An average market position is used rather than a marginal one. Conversion efficiencies are assumed to be 100 % for non-combustible renewables, 10 % for geothermal power stations and 33 % for	Commission proposal unchanged	(16) Reflecting technological progress and the growing share of renewable energy sources in the electricity generation sector, the default coefficient for savings in kWh electricity, ***which is applicable to this Directive only,*** should be reviewed in order to reflect changes in the primary energy factor (PEF) for electricity. Calculations ***reflecting the energy mix*** of the PEF for electricity are based on annual average values. The Physical energy content accounting method is used for nuclear electricity and heat generation and the Technical conversion efficiency method is used for electricity and heat generation from fossil fuels and biomass. For non-

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	assumed to be 100 % for non-combustible renewables, 10 % for geothermal power stations and 33 % for nuclear power stations. Total efficiency for cogeneration is calculated based on the most recent data from Eurostat. As for system boundaries the PEF is 1 for all energy sources. Calculations are based on the most recent version of the PRIMES Reference Scenario. The PEF value is based on the projection for 2020. The analysis covers the EU Member States and Norway. The dataset for Norway is based on ENTSO-E data.	~~nuclear power stations. Total efficiency for cogeneration is calculated~~ based ~~on the most recent data from Eurostat. As for system boundaries the PEF is 1 for all energy sources. Calculations are based on the most recent version of the PRIMES Reference Scenario. The PEF value is based on the projection for 2020. The analysis covers the EU~~ ***respective*** Member ~~States and Norway. The dataset for Norway is based on ENTSO-E data~~ ***State by way of a comparable and transparent methodology***.		combustible renewable energy, the method is the direct equivalent based on the Total primary energy approach. To calculate the primary energy share for electricity in CHP the method set out in Annex II of Directive 2012/27/EU is applied. An average market position is used rather than a marginal one. Conversion efficiencies are assumed to be 100 % for non-combustible renewables, 10 % for geothermal power stations and 33 % for nuclear power stations. Total efficiency for cogeneration is calculated based on the most recent data from Eurostat. As for system boundaries the PEF is 1 for all energy sources. Calculations are based on the most recent version of the PRIMES Reference Scenario. The PEF value is based on the projection for 2020. The analysis

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					covers the EU Member States and Norway. The dataset for Norway is based on ENTSO-E data.
225.	(a) in Annex IV, footnote 3 is replaced by the following: '(3) Applicable when energy savings are calculated in primary energy terms using a bottom-up approach based on final energy consumption. For savings in kWh electricity Member States may apply a default coefficient of 2,0. Member States may apply a different coefficient provided they can justify it.'.	**AM 114** (a) in Annex IV, footnote 3 is replaced by the following:'(3) Applicable ***for the purpose of this Directive only and*** when energy savings are calculated in primary energy terms using a bottom-up approach based on final energy consumption. For savings in kWh electricity Member States ***shall apply a coefficient established through a transparent method comparable across Member States, on the basis of national circumstances affecting primary energy consumption. Those circumstances shall be duly substantiated, measurable and verifiable and based on objective and non-discriminatory criteria. For savings in kWh electricity Member States*** may apply a default coefficient of ~~2,0~~***2,3 or*** ~~. Member States may apply~~ a different coefficient provided they can justify it. ***When doing so, Member States shall take into account their energy mix included in their integrated national energy and climate plans to be notified to the Commission in accordance with Article [3] of Regulation (EU) XX/20XX [Governance of the Energy Union]***.	Commission proposal unchanged	(a) in Annex IV, footnote 3 is replaced by the following:'(3) Applicable when energy savings are calculated in primary energy terms using a bottom-up approach based on final energy consumption. For savings in kWh electricity Member States ***shall apply a coefficient established through a transparent methodology*** ~~***comparable across Member States***~~ ***on the basis of national circumstances affecting primary energy consumption, in order to ensure a precise calculation of real savings. Those circumstances shall be*** ~~***duly***~~ ***substantiated,*** ~~***measurable and***~~ ***verifiable and based on objective and non-***

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		The default coefficient shall be revised every 5 years based upon actual observed data.		***discriminatory criteria. For savings in kWh electricity Member States*** may apply a default coefficient of 2,0, which shall only be applicable for the purpose of this Directive and shall be without prejudice to Member State's discretion in defining primary energy factors.. Member States may apply a different coefficient provided they can justify it. ***When doing so, Member States shall take into account their energy mix included in their integrated national energy and climate plans to be notified to the Commission in accordance with Article [3] of Regulation (EU) XX/20XX [Governance of the Energy Union]. The default coefficient shall be revised every 5 years based upon actual observed data.***

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Energy Working Party 3 May - EED

EU targets, Article 7, Annex V and energy poverty

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I. EU targets, Article 7and Annex V

In view of preparing the third trilogue scheduled on 16 May 2018 and thus paving the way for a political agreement, the Presidency prepared package deals which cover variable aspects of the main deal-breakers for this dossier (i.e. EU targets, Article 7 and Annex V).

The suggestions have been drawn up while taking account of recent discussions at the Energy Working Party meeting of 12 April 2018, at the informal meeting of Ministers which took place on 19 April 2018 in Sofia and at the last technical meeting with the European Parliament and the Commission which took place on 25 April 2018.

Please note that some specific aspects are identical in both packages as it is the Presidency's view that they cannot constitute variables to trade off during the negotiations (unless delegations strongly express a different position). These aspects can be listed as follows:

- **line 83, where the Presidency suggests to maintain "and/or";**
- **"excess savings" by Member States in 2014-20 can be carried forward to 2021-30;**
- **lower savings rate (i.e. 0,8%) for MT and CY is to be preserved;**
- **early action (pre-2014) to be allowed as an exemption under the cap in Article 7(2);**
- **GA lines 234, 235, 240, 244 and 249 (Annex V) are to be preserved**.

As regards the new proposal drafted by the European Parliament on the cumulative approach, the Presidency's preliminary assessment suggests that this might allow Member States flexibility as to in which year they make savings (as long as the overall level required for the period is reached at its end), while also covering some important provisions of the Council's General Approach such as those on excess savings (line 106 and 107) and allowing "continuing measures" in 2018-20 to count towards the next period (line 100).

In the light of the above, for the Energy Working Party of 3 May, the Presidency will ask the delegations to:

1) provide guidance on the new proposal drafted by the European Parliament on the cumulative approach so that it can be taken into account in the choice of one of the package deals;

2) express their preference for one of the following packages:

Article 1 and 3	**Package A**	**Package B**		
character of headline target	**binding**	**Not binding**		
level of headline target	**[30% - 31%]**	**[32% - 33%]**		
Article 7		**Option 1**	**Option 2**	**Option 3**
aspects that decrease the level of ambition of Article 7 relative to COM proposal	exemptions under Article 7(2) capped at 35% savings rate falls (as default) to 1% from 2026 pre-2012 building codes count without additionality or materiality requirements "excess savings" by Member States in 2014-20 can be carried forward to 2021-30	exemptions under Article 7(2) capped at 35% savings rate falls (as default) to 1% from 2026 pre-2012 building codes count without additionality or materiality requirements	exemptions under Article 7(2) capped at 35% savings rate falls (as default) to 1% from 2026	exemptions under Article 7(2) capped at 25%
aspects that increase the level of ambition of Article 7 relative to COM proposal	1. all transport energy consumption is taken into account 2. accept new EP proposal as regards AM 68 which consists of replacing this AM with the following recital and change in line 239 of Annex V: "*Energy efficiency improvement measures in transport undertaken by Member States are eligible for achieving the energy end-use savings requirements. This can be done*	1. {85%} of transport energy consumption (about equivalent to the road sector) is taken into account 2. accept new EP proposal as regards AM 68 which consists of replacing this AM with the following recital and change in line 239 of Annex V: "*Energy efficiency improvement measures in transport undertaken by Member States are eligible for achieving the energy end-use savings requirements. This can be done*	1. {30%} of transport energy consumption is taken into account 2. accept new EP proposal as regards AM 68 which consists of replacing this AM with the following recital and change in line 239 of Annex V: "*Energy efficiency improvement measures in transport undertaken by Member States are eligible for achieving the energy end-use savings*	1. transport energy consumption is not taken into account 2. accept new EP proposal as regards AM 68 which consists of replacing this AM with the following recital and change in line 239 of Annex V: "*Energy efficiency improvement measures in transport undertaken by Member States are eligible for achieving the energy end-use savings requirements. This can be done by dedicated policies that inter alia promote more efficient*

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	by dedicated policies that inter alia promote more efficient vehicles, modal shift to cycling, walking and collective transport, or mobility and urban planning which reduces demand for transport. In addition, schemes which accelerate the uptake of new, more efficient vehicles or policies fostering a shift to better performing fuels that reduce energy use per kilometer can also be eligible, subject to compliance with the rules on materiality and additionality in Annex V". Line 239: "(d) policies which aim at encouraging higher ***levels of*** energy efficiency of products, equipment, ***transport systems, vehicles and fuels*****,** buildings and building elements, processes or markets are permitted;"	*by dedicated policies that inter alia promote more efficient vehicles, modal shift to cycling, walking and collective transport, or mobility and urban planning which reduces demand for transport. In addition, schemes which accelerate the uptake of new, more efficient vehicles or policies fostering a shift to better performing fuels that reduce energy use per kilometer can also be eligible, subject to compliance with the rules on materiality and additionality in Annex V*". Line 239: "(d) policies which aim at encouraging higher ***levels of*** energy efficiency of products, equipment, ***transport systems, vehicles and fuels*****,** buildings and building elements, processes or markets are permitted;"	*requirements. This can be done by dedicated policies that inter alia promote more efficient vehicles, modal shift to cycling, walking and collective transport, or mobility and urban planning which reduces demand for transport. In addition, schemes which accelerate the uptake of new, more efficient vehicles or policies fostering a shift to better performing fuels that reduce energy use per kilometer can also be eligible, subject to compliance with the rules on materiality and additionality in Annex V*". Line 239: "(d) policies which aim at encouraging higher ***levels of*** energy efficiency of products, equipment, ***transport systems, vehicles and fuels*****,** buildings and building elements, processes or markets are permitted;"	*vehicles, modal shift to cycling, walking and collective transport, or mobility and urban planning which reduces demand for transport. In addition, schemes which accelerate the uptake of new, more efficient vehicles or policies fostering a shift to better performing fuels that reduce energy use per kilometer can also be eligible, subject to compliance with the rules on materiality and additionality in Annex V*". Line 239: "(d) policies which aim at encouraging higher ***levels of*** energy efficiency of products, equipment, ***transport systems, vehicles and fuels*****,** buildings and building elements, processes or markets are permitted;"
cumulative approach in Article 7	no	yes (allowing "excess savings" and "early action" in 2014-20 to be taken into account)	yes (allowing "excess savings" and "early action" in 2014-20 to be taken into account)	yes (allowing "excess savings" and "early action" in 2014-20 to be taken into account)

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extension of Article 7 after 2030	yes, unless a review says no	no, unless a review says yes	no, unless a review says yes	no, unless a review says yes
exemptions allowed for 2021-30 under the cap in Article 7(2)	- ETS - supply side - early action (pre-2014) - up to 30% of on-building renewable energy - early action (2018-20)	- ETS - supply side - early action (pre-2014) - up to 30% of on-building renewable energy	- ETS - supply side - early action (pre-2014) - up to 30% of on-building renewable energy	- ETS - supply side - early action (pre-2014)

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II. Energy poverty

In addition to the above, the issue of energy poverty should also be addressed and complement the final deal, whatever the choice of the package deal is.

The Presidency acknowledges the sensitivity of this topic for most delegations and, at the same time, its importance to the European Parliament and the Commission.

Until now, this topic has been discussed many times, even in the context of other energy files. Taking account of all discussions held within the Council and with the co-legislator and the Commission, the Presidency prepared the compromise below as a very last concession the Council can make to the European Parliament in this respect.

For the Energy Working Party of 3 May 2018, the Presidency will ask the delegations to express their support for this compromise proposal.

- **Line 27 AM 22 – Recital 12*:**

(12) Improvements to the energy efficiency of buildings should benefit ***all consumers and*** in particular ~~***[ ]***~~ ***those*** affected by energy poverty. Member States can already require obligated parties to include social aims in energy saving measures, in relation to energy poverty, and this possibility should now be extended to alternative measures **[ ]. Member States should take** into **[ ]account energy poverty when designing their** obligation **schemes and alternative measures, including by requiring a share of energy efficiency measures to be implemented as a priority in low-income households, including those affected by energy poverty and in social housing,** while **[ ]retaining** full flexibility **[ ]**with regard to **[ ] the** size, scope and content **[ ] of their obligation schemes and alternative measures.** In line with Article 9 of the **[ ]TFEU**, the Union's energy efficiency policies should be inclusive and therefore also ensure accessibility of energy efficiency measures for **[ ]**consumers **affected by energy poverty**.

Each Member State may define energy poverty, and what constitutes a low-income household in accordance with its specific national circumstances.

** to be adapted to final agreement in lines 122 and 136*

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- ~~**Line 110**~~

~~**6a. In designing policy measures referred to in Article 7a and 7b, Member States shall take into account the need to alleviate energy poverty, in accordance with the criteria defined by Member States and taking into account their existing practices in this field.**~~

- **Line 122**

Article 7a

(a) shall take into account, in the saving obligations they impose, the need to alleviate energy poverty, in accordance with criteria established by the Member States and considering their existing socially aimed practices in the field, for instance by requiring a share of energy efficiency measures to be implemented as a priority ~~in~~ **among** ~~**low-income**~~ ~~households,~~ **vulnerable households including those affected by energy poverty and, where appropriate, in social housing**.

Member States shall **inform about the outcome of measures to alleviate energy poverty in the context of this Directive** ***in the integrated national energy and climate progress reports in accordance with*** ~~***Article 21 of***~~ ***Regulation (EU) XX/20XX*** **[*Governance of the Energy Union*].**

Pres. would further request:

1) a recital specifying that MSs hold the due flexibility to "quantify" the share of measures and to prioritise it;

2) a recital to explain the meaning of "among" which could read as follows or any similar (to be adapted further to final agreement):

"(12a) When designing their energy efficiency obligation schemes and alternative policy measures Member States have the right to establish which actions they consider relevant to alleviate energy poverty in their territory and which categories of beneficiaries should be targeted. Member States should therefore identify, in accordance with their specific circumstances, which households need to be targeted as a priority among low-income households, households affected by energy poverty or those in social housing."

- **Line 136**

Article 7b

2. In designing alternative policy measures to achieve energy savings, Member States shall, where appropriate, take into account the effect on households**,** affected by **need to alleviate**energy poverty**,** and for that purpose shall consider, inter alia, ensuring **ensure** that a share of measures are implemented as a priority **among ~~low-income~~** ~~households,~~ **vulnerable households including those affected by energy poverty and, where appropriate, in social housing**.

***Member States shall* inform about the outcome of measures to alleviate energy poverty in the context of this Directive *in the integrated national energy and climate progress reports in accordance with ~~Article 21 of~~ Regulation (EU) XX/20XX* [*Governance of the Energy Union*].**

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