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WORKING PAPER

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CONTRIBUTION

From:	General Secretariat of the Council
To:	Delegations
Subject:	DE comments on the revised EED proposal

Delegations will find in the annex the DE comments on the revised Energy Efficiency Directive proposal.

German comments on the REV2 document of the presidency of 28 April 2017 to the EC proposal of 30 November 2016 for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2012/27/EU on energy efficiency and its annex, COM(2016) 761 final

	EC proposal in the version of the compromise proposal REV 2 of the presidency	German proposal	Rationale of the German proposal
Recital 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,	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	We prefer the deletion of the supplemented sentences because they will have nearly the same effects like the word “major” in Annex V Nr. 2 b) (deleted in this proposal). In addition the recital 10 seems to be not only applicable to legislative measures but to all measures promoting the renovation of buildings, e.g. also promoting programs. The supplemented sentences would have a too restrictive effect on the possibility to considerate energy savings stemming from these measures.

	<p>participating or entrusted party has actually contributed to the achievement of the savings claimed from the measure in question. <u>For this purpose, renovation should be understood to cover the renovation of buildings, the building envelope and building elements including technical building systems. Installation of individual equipment on its own is not considered a "system".</u></p>	<p>contributed to the achievement of the savings claimed from the measure in question. For this purpose, renovation should be understood to cover the renovation of buildings, the building envelope and building elements including technical building systems. Installation of individual equipment on its own is not considered a "system".</p>	
Recital 13	<p>Energy generated on or in buildings from renewable energy technologies reduces the supplied fossil energy. The reduction of energy consumption and the use of energy from renewable sources in the buildings sector are important measures to reduce the Union's energy dependency and greenhouse gas emissions, especially in view of ambitious climate and energy objectives set for 2030 as well as the global commitment made in the Conference of the Parties of the United Nation Framework Convention on Climate Change (COP21) held in Paris in December 2015. <u>For the purposes of the energy savings obligation in Article 7</u> Member States should therefore be able to take into account <u>energy savings from</u> a certain amount of renewable energy generated on or in buildings for own use into account to satisfy their energy savings requirements. For this purpose Member States</p>	<p>Energy generated on or in buildings from renewable energy technologies reduces the supplied fossil energy. The reduction of energy consumption and the use of energy from renewable sources in the buildings sector are important measures to reduce the Union's energy dependency and greenhouse gas emissions, especially in view of ambitious climate and energy objectives set for 2030 as well as the global commitment made in the Conference of the Parties of the United Nation Framework Convention on Climate Change (COP21) held in Paris in December 2015. <u>For the purposes of the energy savings obligation in Article 7</u> Member States should therefore be able to take into account <u>energy savings from</u> a certain amount of renewable energy generated on or in buildings for own use into account to satisfy their energy savings requirements. For this purpose Member States should be allowed to use calculation methodologies established under Directive 2010/31/EU.</p>	<p>Art. 7 deals with energy savings, not with different forms of energy generation. The use of RES does not save energy as such but substitutes one form of energy generation (non-RES) for another form of energy generation (RES). This is why – within the scope of art. 7 – RES should not count as energy saving. Therefore we prefer having Annex V No 2 lit dd) deleted, in order to have a clear distinction between RES (substitution) and end energy savings (see below at Annex V No 2 lit dd)). Therefore recital 13 should be deleted as well (though of course there may be solutions that imply both RES and savings – in this case the savings-part can be counted under the general rules).</p>

	should be allowed to use calculation methodologies established under Directive 2010/31/EU.		
Recital 14a		<u>Apart from the required transparency, there are other suitable measures to strengthen competition, and thus to avoid an excessive financial burden on consumers. Such measures would help to support the basic idea of Art. 11a, i.e. to transfer only reasonable costs onto the final users. Therefore Member States take into account that measures like the ones referred to in Art. 11 para. 3 can contribute towards this objective and help to minimize the imbalances in the triangular relationship of sub-metering. At the same time, this serves the principle of cost-effectiveness and thus broadens the scope of sub-metering.</u>	Germany proposes a new Art. 11a para 3 and a corresponding recital. The Reasoning is explained below in the context of the provision.
Art. 1	Amendments to the EED		
No (1)	In Article 1, paragraph 1 is replaced by the following: '1. This Directive establishes a common framework of measures to promote energy efficiency within the Union in order to ensure that the Union's 2020 20 % headline targets and its 2030 30 % binding indicative headline targets on energy efficiency are met and paves the way for further energy efficiency improvements beyond those dates. It lays down rules designed to remove barriers in the energy market and overcome market failures that	In Article 1, paragraph 1 is replaced by the following: '1. This Directive establishes a common framework of measures to promote energy efficiency within the Union in order to ensure that the Union's 2020 20 % headline targets and its 2030 30 % binding indicative headline targets on energy efficiency are met and paves the way for further energy efficiency improvements beyond those dates. It lays down rules designed to remove barriers in the energy market and overcome market failures that	The 2030 30 % headline target on energy efficiency should definitely be binding – and this should be stated in the provision. We need clear rules in order to reach the target via the development of an energy services market. The IA of the commission states that this is the cheapest way of reaching the target.

	impede efficiency in the supply and use of energy, and provides for the establishment of indicative national energy efficiency targets and contributions for 2020 and 2030.’	impede efficiency in the supply and use of energy, and provides for the establishment of indicative national energy efficiency targets and contributions for 2020 and 2030.’	
No (2)	<p>Article 3 is replaced by the following:</p> <p>‘Article 3</p> <p>Energy efficiency targets</p> <p>[...]</p> <p>4. Each Member State shall set indicative national energy efficiency contributions towards the Union's 2030 target referred to in Article 1 paragraph 1 in accordance with Articles [4] and [6] of Regulation (EU) XX/20XX [Governance of the Energy Union]. When setting those contributions, Member States shall take into account that the Union’s 2030 energy consumption has to be no more than 1 321 Mtoe of primary energy and/or no more than 987 Mtoe of final energy. Member States shall notify those contributions to the Commission as part of their integrated national energy and climate plans in accordance with the procedure pursuant to Articles [3] and [7] to [11] of Regulation (EU) XX/20XX [Governance of the Energy Union].’;</p>	<p>Article 3 is replaced by the following:</p> <p>‘Article 3</p> <p>Energy efficiency targets</p> <p>[...]</p> <p>4. Each Member State shall set indicative national energy efficiency contributions towards the Union's 2030 target referred to in Article 1 paragraph 1 in accordance with Articles [4] and [6] of Regulation (EU) XX/20XX [Governance of the Energy Union]. When setting those contributions, Member States shall take into account that the Union’s 2030 energy consumption has to be no more than 1 321 Mtoe of primary energy and/or no more than 987 Mtoe of final energy. Member States shall notify those contributions to the Commission as part of their integrated national energy and climate plans in accordance with the procedure pursuant to Articles [3] and [7] to [11] of Regulation (EU) XX/20XX [Governance of the Energy Union].’;</p>	<p><u>Ad art 3 para 4:</u></p> <p><u>1) Deletion of the word „or“:</u> The reduction of end energy consumption is an important target on the EU-level. Therefore, in case Member States do set their indicative national in terms of <u>primary</u> energy consumption (according to art. 4b para 1 governance regulation) they should take into account also <u>EU final</u> energy consumption target.</p> <p><u>2) Mechanism for filling a possible gap:</u> It is important to agree on rules that will apply in the event of non-attainment of the EU target. A mechanism for filling a possible gap (in the case of insufficient ambition of national contributions or insufficient progress made towards the EU-wide target) needs to be further developed in order to organize a fair distribution of efforts and to set incentives right. (→ defining a “What-if” procedure). If MS are asked for further contributions (in order to fill the gap)</p>

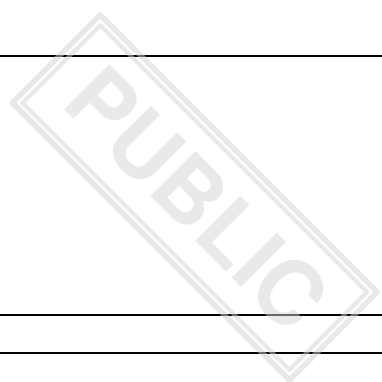


			subsequent to Art. 27.5, early efforts and early action (measures before 2014 and even before 2005, which are impacting the Primes 2007 figures) should be taken into account. We should agree on objective criteria or a method how to take into account early efforts and early action. One possible solution would be to introduce a cap to limit possible additional requested contributions.
No (3)	<p>Article 7 is replaced by the following:</p> <p>‘Article 7</p> <p>Energy savings obligation</p> <p>1.</p> <p>Member States shall achieve cumulative end-use energy savings at least equivalent to:</p> <p>(a) new savings each year from 1 January 2014 to 31 December 2020 of 1.5 % of annual energy sales to final customers by volume, averaged over the most recent three-year period prior to 1 January 2013;</p> <p>(b) new savings each year from 1 January 2021 to 31 December 2030 of 1.4% of annual energy sales to final customers by volume, averaged over the most recent three-year period prior to 1 January 2020.</p>	<p>Article 7 is replaced by the following:</p> <p>‘Article 7</p> <p>Energy savings obligation</p> <p>1.</p> <p>Member States shall achieve cumulative end-use energy savings at least equivalent to:</p> <p>(a) new savings each year from 1 January 2014 to 31 December 2020 of 1.5 % of annual energy sales to final customers by volume, averaged over the most recent three-year period prior to 1 January 2013;</p> <p>(b) new savings each year from 1 January 2021 to 31 December 2030 of 1.54% of annual energy sales to final customers by volume, averaged over the most recent three-year period prior to 1 January 2020.</p>	<p><u>Ad para 1 subpara 1 lit b:</u></p> <p>We would be well-advised not to lower the overall level of ambition of the operational provisions. We urge the presidency to reinsert a factor of 1.5% (as proposed by the European Commission).</p>

	<p>[...]</p> <p>■</p> <p>[...]</p> <p>The sales of energy, by volume, used in transport may be partially or fully excluded from these calculations.</p> <p>[...]</p>	<p>[...]</p> <p><u>Member States shall continue to achieve new annual savings of 1.5% for ten year periods after 2030, unless reviews by the Commission by 2027 and every 10 years thereafter conclude that this is not necessary to achieve the Union's long term energy and climate targets for 2050.</u></p> <p>[...]</p> <p>The sales of energy, by volume, used in <u>international aviation and shipping transport</u> may be partially or fully excluded from these calculations.</p> <p>[...]</p>	<p>[...]</p> <p><u>Ad para 1 subpara 2</u></p> <p>We urge the presidency to reinsert the original wording of para 1 subpara 2 (as proposed by the European Commission). It is important to have a longterm perspective here for reasons of efficiency, predictability, growth, jobs etc. The proposal of the presidency with regard to Art. 24 para 12 seems to be too weak and should be deleted as there would be needed a new legislative procedure in order to extend art 7 para 1 beyond 2030.</p> <p>[...]</p> <p><u>Ad para 1 subpara 4 (in the REV2-counting subpara 3):</u></p> <p>Traffic should be eligible for an exclusion from the calculations <u>only insofar as international aviation and shipping is concerned.</u></p> <p>[...]</p>
No (4)	<p>The following Articles 7a and 7b are inserted:</p> <p>[...]</p>	<p>The following Articles 7a and 7b are inserted:</p> <p>[...]</p>	<p>We propose that the presidency substitutes the word “shall” by the word</p>

	<p>Article 7b Alternative policy measures [...]</p> <p>2. In designing alternative policy measures to achieve energy savings, Member States shall take into account the <u>need to alleviate energy poverty, in accordance with the criteria defined by Member States [pursuant to Article 29 of [Directive XXXX on common rules for the internal market in electricity], and taking into account their existing practices in this field.</u></p>	<p>Article 7b Alternative policy measures [...]</p> <p>2. In designing alternative policy measures to achieve energy savings, Member States shall <u>may</u> take into account <u>the effect on households affected by energy poverty.</u></p>	<p>“may” and that – for the rest of the sentence – comes back to original wording (more appropriate as the provision might be used to hamper energy efficiency measures).</p>
No (10)	<p>The following Art. 11 a is inserted: Article 11a Cost of access to metering and billing consumption information for heating, and cooling and domestic hot water</p> <p>1. Member States shall ensure that final ■ users receive all their bills and billing information for energy consumption free of charge and that final ■ users also have access to their consumption data in an appropriate way and free of charge.</p> <p>2. Notwithstanding paragraph 1, the distribution of costs of billing information for the individual consumption of heating, cooling and hot water in multi-apartment and multi-purpose buildings pursuant to Article 9a(2) shall be carried out on a non-profit basis. Costs resulting from the assignment of this task to a</p>	<p>The following Art. 11 a is inserted: Article 11a Cost of access to metering and billing consumption information for heating, and cooling and domestic hot water</p> <p>1. Member States shall ensure that final ■ users receive all their bills and billing information for energy consumption free of charge and that final ■ users also have access to their consumption data in an appropriate way and free of charge.</p> <p>2. Notwithstanding paragraph 1, the distribution of costs of billing information for the individual consumption of heating, cooling and hot water in multi-apartment and multi-purpose buildings pursuant to Article 9a(2) shall be carried out on a non-profit basis. Costs resulting from the assignment of this task to a</p>	

	<p>third party, such as a service provider or the local energy supplier, covering the measuring, allocation and accounting for actual individual consumption in such buildings, may be passed onto the final users to the extent that such costs are reasonable.</p>	<p>third party, such as a service provider or the local energy supplier, covering the measuring, allocation and accounting for actual individual consumption in such buildings, may be passed onto the final users to the extent that such costs are reasonable.</p> <p><u>3. To help ensure that the costs of sub-metering services as referred to in paragraph 2 are reasonable, Member States may take measures to stimulate competition in their provision, for example by recommending or otherwise promoting the use of tendering and/or the use of interoperable devices facilitating switching between service providers.</u></p>	<p>GER proposes a new Art. 11a para. 3 for the following reasons: As announced in the first meetings of the EWP, competition authorities in GER led a so called “sectoral inquiry” in the market of sub-metering service providers (Sub-metering in GER has already been introduced in 1981). The inquiry revealed problems occurring from the specific structure of the market, i.e.</p> <ul style="list-style-type: none"> - the triangular relationship between owners, service providers and final users and - the long term contracts based on proprietary systems. <p>These problems are likely to develop in every submetering market. The GER proposal would – on a voluntary basis for MS – seek to address these important findings in the Directive taking up the recommendation given by competition authorities to regulators. That would help to bring down costs of the services, and thus contribute to strengthening the instrument.</p> <p>GER apologizes for bringing up the</p>
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			<p>topic in an already advanced process, but the inquiry has been published just recently.</p> <p>Please let us know, if further information on the subject is required to carry forward this important subject.</p>
No (12)			Question: Should para 5 not also be renumbered as a new para 6?
No (13)	<p>in Article 24 the following paragraph 12 is added:</p> <p>12. The Commission shall evaluate this Directive by 28 February 2024 at the latest, and every five years thereafter, and shall submit a report to the European Parliament and the Council. <u>That report shall, in particular, examine whether to change the final date laid down in Article 7(1)(b).</u> That report shall be accompanied, if appropriate, by proposals for further measures.</p>	<p>12. The Commission shall evaluate this Directive by 28 February 2024 at the latest, and every five years thereafter, and shall submit a report to the European Parliament and the Council. That report shall, in particular, examine whether to change the final date laid down in Article 7(1)(b). That report shall be accompanied, if appropriate, by proposals for further measures.</p>	<p>The proposal of the presidency with regard to Art. 24 para 12 seems to be too weak and <u>should be deleted, if art 7 para 1 subpara 2 is reinserted</u> (see above art 7 para 1 subpara 2): With the wording in REV2 there would be needed a new legislative procedure in order to extend art 7 para 1 beyond 2030. Therefore, we urge the presidency to reinsert the original wording of art 7 para 1 subpara 2 (as proposed by the European Commission, see above). It is important to have a longterm perspective here for reasons of efficiency, predictability, growth, jobs etc. (see above).</p>
No. (14) + annex No. 1	<p>Annexes IV and V are amended as follows:</p> <p>[...]</p>	<p>Annexes IV and V are amended as follows:</p> <p>[...]</p> <p>(b) Annex V is replaced by the following:</p>	<p>[...]</p>

<p>(b) Annex V is replaced by the following:</p> <p>‘Annex V</p> <p>Common methods and principles for calculating the impact of energy efficiency obligation schemes or other policy measures under Articles 7(1) and (2), Articles 7a and 7b and Article 20(6):</p> <p>[...]</p> <p>2. In determining the energy savings for an energy efficiency measure for the purposes of Articles 7(1) and (2), Articles 7a and 7b and Article 20(6) the following principles apply:</p> <p>[...]</p> <p><u>(dd) Also additional energy savings resulting from policy measures promoting the installation of small-scale renewable energy technologies on or in buildings are eligible.</u></p> <p>[...]</p> <p>(e) for policies that accelerate the uptake of more efficient products and vehicles, full credit may be claimed provided it is shown that the uptake takes place before the expiry of the av-</p>	<p>‘Annex V</p> <p>Common methods and principles for calculating the impact of energy efficiency obligation schemes or other policy measures under Articles 7(1) and (2), Articles 7a and 7b and Article 20(6):</p> <p>[...]</p> <p>2. In determining the energy savings for an energy efficiency measure for the purposes of Articles 7(1) and (2), Articles 7a and 7b and Article 20(6) the following principles apply:</p> <p>[...]</p> <p>(dd) Also additional energy savings resulting from policy measures promoting the installation of small-scale renewable energy technologies on or in buildings are eligible.</p> <p>[...]</p> <p>(e) for policies that accelerate the uptake of more efficient products and vehicles, full credit may be claimed provided it is shown that the uptake takes place before the expiry of the</p>	<p><u>Ad Annex V No 2 lit dd):</u></p> <p>We should have a clear distinction between RES (substitution) and end energy savings. This is why we propose a deletion (compare also recital 13 above).</p> <p><u>Ad Annex V No. 2 lit. e):</u></p> <p>Many technologies are longer in use than the average of the expected lifetime. It is the aim of energy efficiency promoting measures to address especially these technologies because often they are very inefficient. Therefore Member States should be allowed to</p>
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	<p>average expected product or vehicle lifetime, or before the product or vehicle would usually be replaced, and savings are only claimed for the period until the expiry of the average expected lifetime of the product or vehicle to be replaced;</p>	<p>average expected product or vehicle lifetime, or before the product or vehicle would usually be replaced, and savings are only claimed for the period until the expiry of the average expected lifetime of the product or vehicle to be replaced;</p>	<p>take all energy savings into account which had been achieved through measures replacing inefficient technologies without consideration of the question if the replacement of the technology was within its expected lifetime.</p> <p>Also the calculation executing the proposed rule would be very difficult in the case of energy savings which had been achieved through promoting programs because of the large number of single cases. It would be not possible to reconstruct in every single case if the replacing happened before the expiry of the average expected product or vehicle lifetime.</p>
	<p><i>‘Annex VIIa</i> Minimum requirements for billing and consumption information based on actual consumption of heating, cooling and hot water</p> <p>1. Billing based on actual consumption In order to enable final users to regulate their own energy consumption, billing shall take place on the basis of actual consumption at least once per year.</p> <p>2. Minimum frequency of billing or consumption information</p> <p>As of [XXX date of ■ transposition] where</p>	<p>As of [XXX date of ■ transposition] where</p>	<p>It is still a crucial point for GER to</p>

	<p>remotely readable meters or cost allocators have been installed, billing or consumption information based on actual consumption shall be made available at least quarterly upon request or where final customers have opted to receive electronic billing, or else twice yearly.</p> <p>As of 1 January 2022, where remotely readable meters or cost allocators have been installed, billing or consumption information shall be made available at least monthly. Heating and cooling may be exempted from this outside the heating/cooling seasons. ...</p>	<p>remotely readable meters or cost allocators have been installed, billing or consumption information based on actual consumption shall be made available at least quarterly upon request or where final customers have opted to receive electronic billing, or else twice yearly.</p> <p>As of 1 January 2022, where remotely readable meters or cost allocators have been installed, billing or consumption information shall be made available at least quarterly monthly. Heating and cooling may be exempted from this outside the heating/cooling seasons. ...</p>	<p>reduce the frequency of information to a reasonable extent. The current concept of at least monthly information risks to completely devalue the instrument. An overload of information [at the moment 18 (!) informations per year, 6 times heat, 12 times warm water] will be the consequence. A compulsory quaterly information is completely sufficient and guarantees a sufficient distinction between the subparas 1 and 2 of the provision. GER undelines, that its established sub-metering market suffer from structural difficulties on the cost-side. A monthly information risks to produce even more costs without corresponding benefit. The acceptance of the instrument will be unnecessarily jeopardized.</p>