European Commission Clean Energy Package

AFEP & Cercle de l'Industrie's position paper

AFEP's (the French Association of Large Companies) and Cercle de l'Industrie's member companies welcome the Clean Energy package published on 30 November 2016, as an ambitious step towards the Energy Union. Our member companies are already major players of the low-carbon economy and expect that the Clean Energy Package will help delivering the targets in line with the Paris agreement, while protecting their competitiveness.

AFEP and Cercle de l'Industrie's comments and recommendations on this package mainly focus on the revisions of the Energy Efficiency Directive (EED), the Energy Performance of Buildings Directive (EPBD), the Electricity Regulation and the proposed Regulation on the governance of the Energy Union.

a) In a nutshell, AFEP and Cercle de l'Industrie call for the **following improvements** of the Commission proposals:

EU Energy and Climate policy

- Ensure a better coordination between the EED and the ETS Directive

Energy Efficiency Directive (EED)

- Clarify the procedure to set the energy efficiency target after 2030
- Maintain the calculation principles of the current Directive
- Maintain the current flexibilities to reach the energy saving target and extend the new Renewable Energy Sources (RES) flexibility

Energy Performance of Buildings Directive (EPBD)

- Member States' long-term renovation strategies should be built on a clear 2050 vision, and meet more specific requirements to ensure that they will be implemented "on the ground"
  - Clarify the meaning of "decarbonised building stock"
  - Specify the elaboration process and content of the long-term renovation strategies, while ensuring intermediary milestones also for 2040 to reach 2050 objective in terms of building decarbonisation and intermediary five-year measures for technical building systems
  - Specify the energy management in the scope of technical building systems
- Include energy storage as a key part of an optimised distribution and use of energy
- Maintain the promotion of high efficiency alternative systems for new and existing buildings
- Support green mobility

Electricity Regulation

- Promote long-term supply contracts and long-term hedging opportunities to ensure electro-intensive industrial consumers' predictability

b) AFEP and Cercle de l'Industrie also **welcome the Regulation on Governance of the Energy Union**, although it should respect the sovereignty of Member States on their energy mix.

These positions (cf. a)) are detailed in this document and are subject to amendment proposals in **Annex 1.** The amendment references are indicated after each position in this document.
The amendments proposed by the Platform for Electro-Mobility and supported by AFEP and Cercle de l'Industrie are mentioned in **Annex 2.**

1. EU Energy and Climate policy

1.1. The legislative proposals of the EU energy & climate packages for 2021-2030 must be coordinated

It is crucial to ensure an efficient coordination between the legislative proposals of the EU energy & climate packages – especially between ETS and EED – in order to avoid triggering unwanted interactions and cross effects that have already been identified and assessed within the current 2020 framework. According to some experts[1], the implementation of EE target over the phase 3 of the ETS contributed to the reduction the EU ETS allowance demand and the increase of the accumulated EU ETS allowance surplus by 500 $MtCO_2e$ until 2020 (over a total net surplus of 2 124 $MtCO_2e$). This is likely to occur again over the phase 4 with the current wording of the Commission's proposals.

Consequently:

- In order to minimise adverse interaction, energy efficiency policies should focus firstly on energy efficiency saving in non-ETS sectors, notably buildings, sustainable mobility and networks (including energy storage), where the most cost-effective potential lays. The contribution of these sectors towards the Energy Efficiency 2030 target shoud be predicted and factored in.

- There is a need to adopt a holistic and systemic approach of the different texts of EU energy & climate framework for 2021-2030, including the amendments that are to be discussed during the parallel legislative processes, to ensure the overall consistency of the global framework and the integrity of each of its components. The proposals under discussion should be considered as a package, including cross references, instead of working in silos.

  Based on the Parliament report on the ETS Directive, it is proposed that, if an increased energy efficiency target leads to an additional emission reduction, it shall be without prejudice to the share of free allowances necessary to protect the 10% most efficient installations in sectors at risk of carbon or investment leakage.

- It is also necessary to anticipate the hypothesis where unforeseen interactions occur among the various parts of the 2021-2030 framework. To this end, a comprehensive dedicated monitoring and steering process of the cross effects and interactions between texts should be introduced in the mid-term review clause, in order to assess the overall consistency of EU legislation on energy and climate for 2021-2030.

→ **See amendment proposal 1 in Annex 1**

1.2. The consequences of a "binding target at EU level" should be clarified

In its 30 November 2016 proposal for a Directive amending Directive 2012/27/EU on energy efficiency, the Commission proposed inter alia a 30% binding EE target for 2030 at EU level, whereas the current Directive imposes an indicative target at EU level and binding national measures.

Beyond the positions on the level of ambition of the EE target, **how could the Commission be responsible for reaching a target that it will not implement itself?** What would be the specific mechanisms that would be used to achieve the objective? What kind of guarantees would the proposed Regulation on Governance offer if the Member States do not reach the target?

[1] Study "EXPLORING THE EU ETS BEYOND 2020 - A first assessment of the EU Commission's proposal for Phase IV of the EU ETS (2021-2030)" by I4CE and Enerdata (COPEC Research Program: the COordination of EU Policies on Energy and CO2 with the EU ETS by 2030), November 2015, pages 23-24.

2. Energy Efficiency Directive

AFEP and Cercle de l'Industrie underline some positive aspects of the Commission proposal that need to be maintained, but also raise issues that need to be better taken into account in the forthcoming negotiations.

2.1. Positive aspects of the Commission proposal

- Generally speaking, the proposal updates the current EED for the 2021-2030 period, while maintaining the main tools already in place. The Commission has taken into account the fact that it is too early to assess the implementation of the EED adopted in 2012, and that, consequently, a deep revision of the text is not necessary.

- AFEP and Cercle de l'Industrie fully support the maintaining of the flexibility allowing **Member States to set their EE target based on energy consumption, energy savings OR energy intensity**. It is fundamental for companies that Member States keep the possibility to express their target in relative terms, taking into account the levels of production.

2.2. AFEP and Cercle de l'Industrie call for the following modification of the Commission proposal

- **Clarify the procedure to set the energy efficiency target after 2030**

The Commission proposal extends up to 2030 the requirement for Member States to ensure that energy suppliers and distributors save energy by 1.5% per year. This requirement would be pursued 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.

As it is impossible to know what the energy situation will be in 2030, it is **not relevant to allow an automatic extension** of 1.5% energy savings obligation after that date. Member companies underline that the decision of such prolongation should not be implicit, but **conditioned by an ex ante impact assessment study by 31 October 2027**. This would also ensure the set a **more appropriate target after 2030 (equal, increased or decreased target).**

Furthermore, this assessment could be **integrated in the reporting proposed by the Commission in the proposal for a Regulation on the Governance of the Energy Union** (Article 25 paragraphs 1 and 3). This would thus make the proposed EED more coherent with the proposed Regulation on the Governance of the Energy Union.

→ See amendment proposal 2 in Annex 1

- **Maintain the calculation principles of the current Directive**

The Commission proposal modifies the current Directive which allows Member States to calculate energy savings in terms of primary energy OR final energy, and impose instead to calculate energy savings in terms of **primary energy AND final energy**.

As the revision aimed at extending the current legal framework up to 2030, it is not necessary to change these provisions. Furthermore, the additional calculation principles to set the level of energy savings could create an **unnecessary administrative burden**. Therefore, AFEP and Cercle de l'Industrie support the **maintaining of the current provisions of the EED**.

→ See amendment proposal 3, 4 & 5 in Annex 1

- **Maintain the existing flexibilities to reach the energy saving target and extend the new RES flexibility**

Member companies very much welcome the maintaining of the four existing flexibilities allowing to calculate the 1.5 % annual energy saving target.
To promote renewable energy sources (RES), the European Commission has proposed that the verifiable amount of energy generated on or in building for own use can alleviate the annual energy savings requirement each Member State have to carry out. This flexibility must be supported as long as Member States, within the cap of 25%, may **also take into account RES produced in the surroundings not to penalize other RES which are not produced in or on buildings (like biogas, biomethane or biomass delivered through district heating networks for example)**. Moreover, this will favor local production of green gas thus contributing to the reduction of the European fossil gas dependency.

→ See amendment proposal 6 in Annex 1

3. Energy Performance of Buildings Directive

3.1. Member States' long-term renovation strategies should be built on a clear 2050 vision, and meet more specific requirements to ensure that they will be implemented "on the ground"

- **The meaning of "decarbonised building stock" should be clarified** as this concept is the basis for the vision to 2050 on which Member States will draw up their long-term renovation strategies.

- **The proposal to transfer long-term building renovation strategies from the EED (Article 4) into the EPBD is a positive step** as it will ensure more consistency between those directives and within the EPBD. However, such improvement is undermined by the fact that reporting obligations are stated by the proposal on governance.

  Furthermore, companies consider that **paragraph 1 should be elaborated further upon:** requirements on **the content** of those strategies should be **more specific**, and the drafting of those strategies should **involve closely stakeholders. This will ensure that long-term renovations strategies have an impact "on the ground" and will be accepted by all stakeholders**.

  In **paragraph 2**, Member States' roadmaps should include **"milestones"** not only for 2030 but also for **2040**, to ensure that 2050 targets are reached. Roadmaps should also include **intermediary five-year measures** (by 2025, 2030, … up to 2050) to ensure the uptake of all the equipments of **technical building systems** as defined in Articles 2 point 3 and 8.

- The definition of a "technical building system" should include explicitly **energy management** as a key element for **optimising buildings' use of energy** (allowing for instance adaptation to local conditions such as local energy consumption patterns).

→ See amendment proposals 7, 8 & 9 in Annex 1

3.2. Energy storage should be included as a key part of an optimised distribution and use of energy in buildings

The ability of a building to store (thermal) energy has benefits both in terms of energy efficiency of the building itself, and of its ability to participate in increasing the use of energy from intermittent renewable sources. The Building Performance Institute Europe in its report "Is Europe ready for the smart buildings revolution?" notes that building energy storage will be an important part of smart buildings, and is insufficient in Europe today in regard to the energy efficiency target. Storage is a key part of optimised distribution and use of energy. However, currently buildings' ability to provide this storage locally is insufficient.

→ See amendment proposals 10 & 11 in Annex 1

3.3. Maintain the promotion of high-efficiency alternative systems for new and existing buildings

The Commission proposes to delete the references to **high-efficiency alternatives** regarding new and existing buildings (Articles 6 and 7), although these are the only occurrences in the Directive where efficient supply is mentioned.

Such deletion could be justifiable on the ground that the need to consider these alternatives is implicit in the case of new buildings, since it would otherwise be very difficult to achieve « near zero energy buildings » status from a technical point of view. On the other hand, this would be problematic in the case of existing buildings, especially in urban areas, in which the potential for the introduction of onsite RES and/or efficiency measures is typically more limited.

Therefore, companies consider that the deleted references should be kept in the revised version of the EPBD 2010/31/EU. Such a list does not create any administrative burden. On the contrary it usefully draws the attention to promote efficient technologies that are not used enough in the renovation process. The **cost-optimal assessment shall consider all viable alternatives**. Deleting some of them would be a wrong political signal, detrimental to the recognition of the virtue of such important, but sometimes forgotten, technologies.

→ See amendment proposals 12 & 13 in Annex 1

3.4. Support green mobility

- AFEP and Cercle de l'Industrie welcome the Commission's proposal to promote e-mobility by boosting the installation of recharging points for electric vehicles in private spaces. In this regard, **they very much support the amendments proposed by the Platform for Electro-Mobility**.

→ See amendment proposals in Annex 2

- AFEP and Cercle de l'Industrie insist on the fact that green mobility also relies on gas-related alternative fuels **such as biogas, hydrogen, compressed natural gas (CNG), or liquefied natural gas (LNG)**. Article 8 should be amended so as to include support to those alternative fuels to ensure fair competition among energy sources and technologies.

→ **See amendment proposal 14 in Annex 1**

4. Electricity Regulation

Contractual long-term hedging offer already exists on the electricity European market, but such offer is practically restricted to mid-term hedging contracts, without exceeding three to four years.

This reflects a market failure hindering certain operators who request a long-term visibility to ensure the viability of their business model in Europe. This is particularly true for the electro-intensive industrial consumers, as they are at the same time able to contribute significantly to balancing the electricity market and to managing efficiently the transportation system, notably through demand side response.

Long-term supply contracts offer can cope with such a market failure and should therefore be promoted.

Such long term supply contracts with electro-intensive industrial consumers are in place in many countries (Norway, Island, Quebec, New Zealand), where such consumers – which are in direct competition with equivalent facilities located within EU – are consequently active contributors to electricity market balancing and transportation network security.

→ **See amendment proposals 15 & 16 in Annex 1**

5. Governance of the Energy Union regulation

Member companies support the Commission's proposal for a Regulation on the governance of the Energy Union, and especially:

- its provisions on Member States' integrated national energy and climate progress reports, which should enable the European Commission to **monitor and assess exhaustively every two years** the progress of each Member State and of the EU as a whole towards the objectives;
- the possibility for the Commission to take action when EU's objectives may not be reached:
  - either because one or several Member States make insufficient progress in implementing its/their national plan(s) (the Commission may then issue recommendations to the concerned Member State(s)),
  - or because its aggregate assessment of Member States' national progress reports may not enable the EU to reach its targets (the Commission may then take action at EU level, via the normal legislative procedure).

However, **the Commission's prescriptions to Member States should not interfere with their sovereignty over they energy mix.**

Member companies also stress that the new integrated national reporting must achieve its **simplification** target and, in any case, prevent any new administrative burden for competent authorities and companies.

They are concerned that the idea of better integration between energy and climate at Member State level be difficult to establish if all Energy and Climate legislative proposals have not been examined in parallel by the Council and the Parliament in order to avoid inconsistencies.

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