

EU pushes ahead with green energy legislation

The EU is pressing ahead with reforms to the directives on renewable energy and energy efficiency, though it is unclear how much of these will apply to the UK, which is due to exit the EU in 2019. Keith Nuthall and, in Brussels, Liz Newmark have been keeping a close eye on developments.



It was a key strength of the 2015 Paris agreement on climate change that it set out a clear macro target of limiting global warming, while giving flexibility to support governments on how to achieve this goal. And the same could be said of the EU's current approach towards promoting green energy – with broad targets linked to a range of policy choices regarding implementation (although there is plenty of detailed guidance – this is the EU after all).

This all dovetails with the strategy of the current European Commission under its President Jean-Claude Juncker, which has been to focus on wider policy goals than some of its predecessors. Promoting green energy has been a key focus of the current Brussels administration.

Early in its mandate, Juncker's team laid down a new green energy target of ensuring that by 2030 renewable sources supply at least 27% of energy consumed, which was written into the EU's framework on climate and energy for 2030, released in 2014.

This broad policy has sparked a range of detailed reforms – and these are now working their way through the EU's often slow

legislative machine. A key current issue are reforms to the Renewable Energy Directive or RED (currently numbered 2009/28/EC), drafted to bring this key legislation in line with the EU's new more ambitious green energy policy.

Under existing legislation (dating back to before the 2014 policy), only 24.3% of energy consumed across the EU would be green, according to projections from the EU executive. And this cannot stand, because it would breach commitments made in Paris.

So, reforms have been proposed to the directive, which were subject to recent votes at the EU Council of Ministers (on 17 December), and the European Parliament (on 17 January).

Tripartite negotiations

How the final text turns out will depend on 'tripartite' negotiations between the Parliament, Council and Commission, but as it stands, 27% will be the minimum commitment – given the European Parliament has said it wants 35%, in its plenary vote on the legislation.

Under the text approved by MEPs, national targets should also be set, from which member states could deviate by a maximum of 10%

under certain conditions. These deviations would only be justified by 'duly substantiated, measurable and verifiable circumstances, based on objective and non-discriminatory criteria,' said a parliamentary amendment.

The text defines renewables as energy from wind; solar (solar thermal and solar photovoltaic); geothermal energy; ambient energy; tidal, wave and other ocean energy; hydropower; biomass; biomethane; landfill gas; sewage treatment plant gas; and biogases.

To encourage this green energy growth, says the current parliamentary text, support schemes shall be market-based to avoid distorting EU electricity markets, while ensuring producers consider electricity supply and demand, plus system integration costs and grid constraints.

MEPs have welcomed the new targets: 'This is the first time that European legislation has developed, in particular, an EU 35% renewable energy target and a 35% energy efficiency target for 2030, a methane strategy and obligations to fight against energy poverty,' said French Green MEP Michèle Rivasi.

Luxembourgish Green MEP Claude Turmes was also pleased: 'After the very weak deal reached by the Council in December... I am proud that Parliament today contributed to restore the EU's credibility on climate.' But Spanish Socialist politician José Blanco López argued: 'If Europe wants to fulfil its Paris commitments, we need to do more.'

Biomass, on-site renewables

Looking at other details of the European Parliament's RED text, special rules on biomass have been written in. Here, MEPs want support schemes for biomass energy to avoid encouraging the consumption of unsustainable feedstocks if there are better industrial or material uses, 'as carbon captured in wood would be released if it were burned for heating,' said a Parliament note. 'For energy generation, priority should therefore be given to burning wood wastes and residues,' it added.

That said, stronger direct support can be given to biomass energy installations in remoter EU regions,

Maroš Šefčovič, European Commission Vice-President for the Energy Union at a One Planet Summit in Paris last December

Photo: European Commission

maybe with less concern about the environment, where assessments of sustainability can be adapted to local conditions.

Meanwhile, the Parliament has backed guarantees to consumers who produce renewable electricity on their premises, saying they should be entitled to consume this power and install storage systems without having to pay any charges, fees or taxes. It also wants this law to ensure that consumers, particularly households, can join renewable energy communities, without having to fulfil tough conditions or procedures.

The law as it stands does little to promote carbon capture and storage, bar that calculations assessing compliance with the law can take account of emissions saving from carbon capture and replacement, and even then, only regarding carbon dioxide capture where the carbon originates from biomass used to replace fossil-derived carbon dioxide.

Such detailed issues will be the focus of the tripartite negotiations, which – judging by the December Council votes – should be practical, despite the wide gap in ambition regarding overall renewables targets between the Council and the Parliament.

In its note, following its meeting on 18 December, the Council

stressed how it wanted member states to be authorised to open their national renewables support schemes across borders to generators of renewable energy in other member states. Also, regarding renewables investments, the Council has joined the Commission in promoting predictability for investors by agreeing clauses ‘preventing unjustified retroactive changes to support schemes.’

Commenting on the backing for the directive, Kadri Simson, Minister for Economic Affairs and Infrastructure for Estonia, which held the EU presidency until 31 December, said: ‘Using more renewable energy will help our cities, industries and houses become cleaner, healthier and more sustainable. The directive will also make it easier for consumers to take the initiative and become producers themselves.’

Westhof Bio farm, in Friedrichsgabekoog, Germany, which uses a biogas plant and wind power to make organic produce with renewable energy

Photo: European Commission



So, good will to strike a deal is certainly there. But it will not be a simple issue, given the complexity of the legislation.

Biofuels difficulties

One knotty and technical issue that could cause difficulties is biofuels. The old directive included targets for member states to increase the mix of biofuels in their transport fuel mix. This initial simple goal became muddled as knowledge increased about how land use changes caused by biofuel production could cause the destruction of natural vegetation. It led to the 2015 Indirect Land Use Change Directive which sought to limit the production of biofuels made from food crops that have the largest land use impact.

So, the biofuel targets in RED have been a subject of detailed contention. The Council vote said that biofuels should make up at

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least 14% of energy consumption by the transport sector across the EU by 2030 – that is up from the current target of 10%.

Importantly, the Council agreed that half of this consumption (that is 7% of total energy usage) can still be made up from biofuels produced from food or feed crops. This is more relaxed than some biofuel producers feared – the Commission had initially proposed a minimum share of 6.8% for biofuels only from waste and residues and no minimum share open for biofuels from agricultural crops.

The Parliament voted that the directive should mandate a lower proportion of energy used by the transport sector come from biofuels – at 12%. However, like the Council, the Parliament also insisted that each member state must achieve this rate individually. That reduces the flexibility allowed to member states should these calculations be made on an EU-wide basis, allowing some member states to dip below this target if others exceed it.

The Parliament also said that first-generation biofuels (made from food and feed crops) should be capped at 2017 levels, although it mirrored the Council's view that a maximum of 7% of road and rail transport biofuels could be of this type. MEPs also want a ban on the use of palm oil to make biofuels

used in the EU from 2021.

The Parliament voted to say that the share of advanced biofuels, renewable transport fuels of non-biological origin, waste-based fossil fuels and renewable electricity should deliver at least 1.5% of transport energy consumption in 2021, rising to 10% in 2030.

Commenting, Belgian Socialist MEP Kathleen Van Brempt highlighted consensus on the palm oil ban, saying: 'We all agree on palm oil...' Dutch Green MEP Bas Eickhout also welcomed the 'total phase-out of palm oil for biofuels [from 2021]'. But he regretted the lack of proposals 'to make sure the market will steer away from... food-based crops' as a feedstock. Instead, the overall 12% share of energy from renewables in transport target for 2030 'will push for food-based crops again,' he said.

EU Climate Action and Energy Commissioner Miguel Arias Cañete said that suggestions for national instead of EU caps on 'conventional' [first-generation] biofuels 'could be a compromise in a very divisive issue.'

In a related provision, MEPs have voted for the directive to mandate that by 2022, 90% of fuel stations along roads that are 'Trans-European Networks' (TENs) linking EU member states should be equipped with high power

recharging points for electric vehicles. The Parliament also wants to give the Commission the authority to extend these commitments, so these stations also offer advanced biofuels.

Brexit in the room

Finally, one elephant in the room that has yet to be tackled is Brexit. All the targets and calculations agreed during this year's negotiations will have to be reviewed, assuming the UK quits the EU, as planned, next March (2019).

The remaining EU will have to decide whether to revise down the EU target and keep existing member state targets the same; or to keep the same level of ambition, EU-wide – which would involve the 27 remaining member states having higher renewable energy targets.

A third option, discussed in a European Parliament paper released last November, suggests that the EU maintains its current level of ambition per EU citizen, which – because the UK currently has a comparatively low renewable target for 2020 (of 15%) – would mean some member states would see their targets reduced. ●

EU also moves forward on energy efficiency

The European Parliament's January votes also laid down a negotiating position on proposals to revise the EU's energy efficiency directive. MEPs want a binding EU-wide target for improving energy efficiency by 35% by 2030. Assessments to demonstrate compliance would be held under the PRIMES model, which simulates EU energy consumption and the energy supply system.

National targets for energy efficiency that would enable this goal to be met would also have to be created, but be indicative rather than compulsory, under the text approved by the European Parliament on 17 January. That said, MEPs voted for member states to make 1.5% year-on-year new energy savings annually until December 2020 (assessing energy sales to final customers by volume); and new savings annually from 2021 to 2030 of at least 1.5%.

Amendments passed by the Parliament included that the European Commission and member states ensure that energy efficiency services are provided transparently and competitively, so that businesses in the sector can survive when utilities also offer such services.

And the legislation would ensure the 'energy efficiency first' principle be used when setting new energy rules. 'The Commission should prioritise energy

efficiency and demand-side response over increased generation capacity,' said the parliamentary text. 'Energy efficiency needs to be considered whenever energy system planning and financing decisions are taken. Investments to improve final energy efficiency need to be realised whenever it is more cost-effective than equivalent supply-side solutions,' it added.

Commenting, Czech social democrat MEP Miroslav Poche, who has been piloting this legislation through the Parliament (as rapporteur), said: 'Energy efficiency is one of the key dimensions of the EU's Energy Union strategy. An ambitious policy in this area will contribute to achieving both our climate and energy goals as well as to increasing our competitiveness.'

Conflicting views were seen during a two-and-a-half-hour European Parliament debate on the proposals – for example on if there should be indicative or binding energy efficiency targets. Irish MEP Seán Kelly, speaking for the centre-right European People's Party, Parliament's largest political group, said a 35% energy efficiency target and no mandatory member state goals would 'raise ambition without impinging on investor certainty.'

However, Kathleen Van Brempt – in line with environmental organisations such

as Greenpeace and CAN (Climate Action Network) Europe – called for a 40% target. She said this would 'boost our economy, create jobs and ensure that energy poverty is tackled.'

Partners, not rivals

One particularly controversial issue that will doubtless feature in future discussions is whether a growth in renewable energy usage should be counted towards energy efficiency targets. Such proposals will be resisted by the European Commission. EU Climate Action and Energy Commissioner Miguel Arias Cañete told the Parliamentary debate: 'Renewable energy and energy efficiency are partners, not rivals.'

As with the renewable energy directive, the Council of Ministers has already debated these energy efficiency reforms, and detailed negotiations between the Council, Parliament and the Commission on a final text will now be undertaken.

Also, as with all legislation currently under discussion, it will not apply to Britain, should it go ahead with its plans to quit the EU in March 2019, although – as with the renewable energy directive – there would be adjustments for remaining member states to consider regarding national and EU targets.