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WORKING PAPER

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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Energy
Subject:	Directive on renewable energy - working paper

In view of the Energy Working Party taking place on 27 April, delegations will find in the annex a working paper on the Directive on renewable energy.

ENERGY WORKING PARTY 27/4
(WK 4550/18)

With a view to make swift progress in the negotiations and in order to facilitate preparations of the next trialogue with the EP, the Presidency would like to put forward for discussions the compromises as presented below. The compromises proposed shall be seen in the view of the overall EU target for renewables. Reflecting views of the majority of Member States expressed at the Ministerial Council in Sofia, the Presidency will include a proposal for such an overall target into the document that will be distributed for the upcoming COREPER meeting.

I. Formula

<p>AM 111</p> <p>AM 270</p>	<p>Could the Member States agree to the following wording as regards the text proposed by the EP in AM 111 and AM 270?</p> <p>Could the Member States agree to the weights and the elements of the formula as proposed by the EP in Annex Ia?</p>	<p>Article 3</p> <p>2. Member States shall set targets national contributions to collectively meet this overall 2030 target as part of their Integrated National Energy and Climate Plans in accordance with Articles 3 to 5 and Articles 9 to 13 of Regulation ... <i>of the European Parliament and of the Council [on the Governance of the Energy Union, transport2016/0375(COD)]</i>. <u>In preparing the drafts of these plans Member States shall use the formula in Annex Ia.</u></p> <p><i>If, on the basis of the assessment of the final draft integrated national energy and climate plans submitted pursuant to Articles 9 and 27(1) of Regulation ... of the European Parliament and of the Council [on the Governance of the Energy Union, 2016/0375(COD)], the Commission concludes that Member States' contributions are insufficient for the collective achievement of the Union's binding overall target, it shall follow the process pursuant to Articles 9, 13 and 27(1) of Regulation ... of the European Parliament and of the Council [on the Governance of the Energy Union, 2016/0375(COD)] and use <u>inter alia</u> the formula in Annex Ia in this process.</i></p> <p><i>Where a Member State cannot meet its target because of exceptional and duly justified circumstances, it may deviate from its target by a maximum of 10 %, notifying the Commission by 2025. Should this put at risk the achievement of the Union binding overall target, the Commission and Member States shall take corrective measures as those set</i></p> <p>Annex Ia</p> <p><u>Pursuant to Article 3(2), the Member States and the Commission shall use the following formula representing the sum of the following components-objective criteria listed in Article 5 (1) (d) (i) - (v) of Regulation ... of the European Parliament and of the Council [on the Governance of the Energy Union, 2016/0375(COD)], each expressed in percentage points:</u> [formula components]</p>
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II. Support schemes

Article 4(3bis):

Could the Member States agree to the wording of Article 4 with a modified list of exemptions?

"Member States may limit competition between technologies on the basis of one or several of the following objectives, where such objectives cannot be addressed in the design of the support:

- a) *the long-term potential of a particular technology;*
- b) **the need to achieve diversification;**
- c) *network constraints and grid stability;*
- d) *grid integration costs;*
- e) **for biomass, avoiding distortions on the raw material markets."**

Article 5(1). Opening of support schemes:

Could the Member States agree to the following compromise in Article 5:

- Wording based on "Member States **shall aim for opening** of support schemes"
- Explaining in the recital that the shares of 5% each year, between 2023 and 2026 and 10% between 2027 and 2030 depending on the level of interconnectivity of a Member State included in Article 5 **are indicative shares.**
- Obligation to organize one or several pilot schemes where support is open to generators located in other Member States and covering at least 1% of the newly-supported capacity of that year in order to acquire further implementation experience..

Article 6. Stability of financial support

Could the Member States agree to the following changes:

"Without prejudice to adaptations necessary to comply with **Articles 107 and 108 of the Treaty on the Functioning of the European Union []**, Member States shall ensure that the level of, and the conditions attached to, the support ~~that has been~~ granted to renewable energy projects are not revised in a way that [] **restricts negatively impacts** the rights conferred thereunder and **undermines** the economic **viability** of supported projects."

And to move the following sentence "This provision shall not affect the possibility for Member States to adjust the level of support according to objective criteria [], provided that such criteria [] are established in the original design of the support scheme" from paragraph 1 after paragraph 1b as self-standing paragraph starting from words "**Members States shall be able to adjust (...)**".

III. Permit granting process (Article 16):

Could the Member States agree to the following compromise as regarding the way forward on Article 16:

- Contact points to **guide through and facilitate** the entire administrative process. The contact points shall be the **sole interface** with the administration for the entire process.
- The permit granting process of three years **for procedures applicable to power plants** can be extended in case of extraordinary circumstances by up to **eight** months (general extension, the specific description of the cases to be deleted).

IV. Guarantees of Origin (Article 19)

Given that the Guarantees of origin would be valid for one year as specified in GA, could the Member States agree to the following change in 19(8):

8. Where an electricity supplier is required to prove the share or quantity of energy from renewable sources in its energy mix for the purposes of Article 3 of Directive 2009/72/EC, it [] **may must** do so by using guarantees of origin

V. Self-consumers and energy communities

Article 21(1): Could the Member States agree to the following changes in Article 21:

(a) are entitled to: [] **generate renewable energy, including for their own consumption [], store and sell, []** for instance through power purchase agreements, **aggregators and electricity suppliers, and peer-to-peer trading arrangements** their excess production of renewable electricity without being subject:

i) in relation to the electricity they consume from or inject into the grid, to discriminatory or disproportionate procedures and charges and to network charges that are not cost-reflective

ii) in relation their self-generated renewable electricity which remains within their premises, to discriminatory or disproportionate procedures and charges except for installations with an installed capacity of less than [50] kWp which, up to the return of investment costs, shall not be subject to any charge or fee. (...)

VI. RES in heating and cooling (Articles 23 and 24)

Could the Member States point out to the favorite option or options among those specified below?

<i>Option A</i>	<i>Option B</i>	<i>Option C</i>
<ul style="list-style-type: none"> - a non-binding share of RES in H&C at least 1.5 pp increase - flexibility to use waste and heat within the target limited up to the limit of 50% 	<ul style="list-style-type: none"> - a binding share of RES in H&C at least 1.3 pp increase - flexibility to use waste and heat within the target limited up to the limit of 50% 	<ul style="list-style-type: none"> - a non-binding share of RES in H&C at least 1.3 pp increase and 1.5pp if using waste and heat to reach the target (0.2pp on top of the target)
Delete “endeavor” in Article 24(4)a, replace every year with a yearly average for two periods 2021-2025 and 2026-2030	Keep “endeavor” in Article 24(4)a, replace every year with a yearly average for two periods 2021-2025 and 2026-2030	Delete “endeavor” in Article 24(4)a, replace every year with a yearly average for two periods 2021-2025 and 2026-2030
Replace “terminate the contract” with “disconnect”	Replace “terminate the contract” with “disconnect”	Replace “terminate the contract” with “disconnect”

VII. Transport (Article 25): Given that the structure of the GA remains for Article 25, flexibility on single elements is necessary. Could the Member States point out to the favorite option or options among those specified below?

<i>Option A</i>	<i>Option B</i>	<i>Option C</i>
Overall transport target 15%	Overall transport target 16%	Overall target 12%
Share of advanced biofuels (Part A in Annex IX) 0.2% in 2022, 1% in 2025, 3.5% in 2030	Share of advanced biofuels (Part A in Annex IX) 0.2% in 2022, 1% in 2025, 3.5% in 2030	Share of advanced biofuels (Part A in Annex IX) 0.2% in 2022, 1% in 2025, 3% in 2030
Multipliers: - Road transport: 4 - Rail: 1.5 - Aviation 2 and maritime 1.2, both with the exception of fuels produced from food or feed crops -	Multipliers: - Road transport: 5 - Rail: 1.8 - Aviation 2 and maritime 1.2, both with the exception of fuels produced from food or feed crops	Multipliers: - Road transport: 5 - Aviation 2 and maritime 1.2, both with the exception of fuels produced from food or feed crops
Double counting kept for Part A and B in Annex IX	Double counting kept for Part A and B in Annex IX	No double counting
Contribution from biofuels and bioliquids produced from food or feed crops, no more than their level in 2020 in the given Member State with a maximum of 7% of gross final consumption in rail and road in that MS. MSs with contribution below 2% can go up to 2%. Possibility of GA to set lower obligation on those biofuels, and lowering the overall transport target to be kept.	Contribution from biofuels from food and crops as in GA	Contribution from biofuels and bioliquids produced from food or feed crops as in Option A

VIII. Sustainability criteria

Could the Member States agree to the following compromises regarding the sustainability criteria and related issues?

Article 26(8) – adding letter c), adding an option that MSs “**may apply the requirements of paragraph 1 of the article to installations with lower fuel capacity**”.

Waste hierarchy:

One reference in Article 3 of the body of the text and possibly one recital to be added:

“Member States shall ensure that their national policies, including support schemes, and setting the obligation under Article 25 are designed in accordance with the waste hierarchy, as set out in Directive 2008/98/EC and avoid distortive effects on the raw material markets. To that end, Member States shall regularly review their national policies and justify any significant deviation in the reports required under Article 18(c) of Regulation ...of the European Parliament and of the Council [on the Governance of the Energy Union, 2016/0375(COD)].”

Deforestation issue: The two options below are proposed to apply in addition to the text proposed in the non-paper for the EWP on 16/4 regarding Article 25(1) and can be applied in combination with each other:

Option A (policy action on the level of the EU)

“The Commission shall submit, by 31 December 2023 at the latest, to the European Parliament and the Council a report on how the risks of deforestation were taken into account in the sustainability criteria and the potential actions to limit these risks to a minimum level, involving a dialogue with the producer countries.

The report shall be accompanied, where appropriate, by legislative proposals addressed to the European Parliament and the Council to revise the sustainability criteria as set out in paragraphs 2 to 6 (taking as a basis the existing standards) and aiming at setting rigorous criteria and, if appropriate, guidelines to the Member States. The report and the accompanying proposals shall be based on the best available scientific data, while taking into account the actions to fight against deforestation undertaken at the EU level and at the producer-country level and the existing strategies to fight against deforestation and forest degradation.

Option B

“As of January 1, 2022, each individual consignment shall fulfill the requirements of sustainability criteria set out in paragraphs 2.a) and 3.b)c) of Article 26.”