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**BRIEFING PAPER** November 2016

# THE EU ENERGY UNION LEGISLATIVE PACKAGE

## BENCHMARKS FOR SUCCESS

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On 30 November 2016, the European Commission will launch a legislative package on energy. This represents a ‘once-in-a-decade’ set of reforms to the design of electricity markets, to renewables and energy efficiency targets and policies, and to the governance rules for planning and reporting on climate and energy. The “jumbo” package of at least 8 legislative initiatives is likely to run to over 1,000 pages. This briefing note offers a guide for navigating the package and evaluating its success.

### Principles

The agenda for an EU Energy Union was set out by the European Commission in a February 2015 communication. This set out a strong vision on clean energy, including:

- > “An Energy Union with **citizens at its core**, where citizens take ownership of the energy transition”
- > “**Energy efficiency and demand side response can compete on equal terms** with generation”
- > “Becoming the **world leader in renewable energy**”
- > “An **integrated continent-wide energy system** where energy flows freely across borders”
- > “Move **away from an economy driven by fossil fuels** ... and outdated business models”
- > “Longer-term policy coherence ... provides **long term certainty and guidance for investors**”.

The upcoming legislative package is the primary opportunity of the current European Commission’s term to deliver these ambitions.



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## Legislative measures

The Energy Union legislative package will contain 4 sets of legislative measures:

- > A regulation on '**Governance of the Energy Union**'. This consolidates planning and reporting standards for member states on energy, and introduces a requirement to produce National Energy and Climate Plans.
- > An updated **Energy Efficiency Directive**, which will set out the design and implementation plans for a new efficiency target for 2030, alongside a revised **Energy Performance of Buildings Directive**.
- > An updated **Renewable Energy Directive** setting out a new 2030 renewables target and associated measures, along with a new **bioenergy sustainability policy**.
- > A **Market Design Initiative**, consisting of:
  - > A **Directive on Common Rules for the Internal Market in Electricity**, which focusing on active consumers, self-generation and demand flexibility.
  - > **Electricity Market Regulation**, covering electricity trading rules over different timeframes, regional cooperation amongst Transmission System Operators and conditions for national capacity mechanisms.
  - > An updated **Regulation on the Agency for Cooperation of Energy Regulators**. This is likely to strengthen the remit and powers of ACER in shaping cross-border energy market arrangements.
  - > A **Risk Preparedness Regulation** for electricity. This focuses on electricity security of supply and will be important for developing confidence in integrated markets.

## What the legislative package needs to achieve

The Energy Union legislative package will be the biggest set of changes to EU energy policy and market design since the 'Third Energy Package' and the EU '20:20:20 climate and energy package' were proposed nearly a decade ago.

It comes at an important moment for the EU on energy. The EU was seen as an early mover on clean energy with the publication of the 20:20:20 climate and energy package. However the EU overshot its weak 2020 greenhouse gas target 6 years early and momentum is now slipping. While other markets pick up the pace of clean energy investment following the Paris Agreement, in the EU renewables investment has fallen and efficiency improvements have slowed. Meanwhile power markets suffer from continuing overcapacity of aging, high-carbon coal plant, which limits space for new clean generation.



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In this context, the EU legislative package will need to:

- > **Provide a clear statement of intent** that Europe will complete its energy transition. Citizens, businesses, investors and international partners need to be confident about the EU's direction of travel towards a clean energy economy.
- > **Set the frame for the next 15-20 years.** Markets are slow to change, and legislation takes time to enact. The current proposals are set to underpin the market for at least the next 10-15 years; investments triggered could be on the system for many decades more. This means that rather than incremental changes to the current market arrangements, the package will need to be designed to underpin the smart, efficient and largely renewable power system of the future.
- > Enable a **return to growth for clean investment.** A clear litmus test for the success of the package is whether it will turn around the recent decline in clean energy investment in Europe through a strong supporting framework. By contrast, a weakening of targets and governance and a failure to deal with unreformed incumbents (and particularly the overcapacity in coal and lignite) could exacerbate the decline even further.
- > **Strengthen the rights of active consumers.** New technologies and business models enable an energy system driven by active participation from consumers - including demand flexibility and self-generation. However current markets were not designed with this in mind, and active consumers are too often frozen out of the market by regulatory barriers and unfair impediments.
- > **Put energy efficiency at the heart of the package.** The Commission has adopted the principle of 'Energy Efficiency First', which recognises energy efficiency as an alternative to supply-side investment. The key test for this principle is not in the Energy Efficiency Directive, but in whether efficiency is built in to the other legislative initiatives.
- > Finally, the package will need to **ensure the EU energy system is compatible with the aims of the Paris Agreement** on climate change: by shifting financial flows away from fossil fuels, planning for mid-century decarbonisation and ratcheting up ambition over time.

A printable guide for appraising the success of the EU Energy Union legislative package in fulfilling these aims and its initial principles is set out overleaf.

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# Energy Union Legislative Package Tick-list: what does it need to succeed?

OBJECTIVES	MUST INCLUDE	MUST AVOID
 <p>“An Energy Union with <b>citizens at its core, where citizens take ownership</b> of the energy transition”</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> A citizens’ right to produce, consume and trade renewable energy and flexibility services</li> <li><input type="checkbox"/> Dynamic wholesale and retail energy market pricing, to enable consumers to participate in the market</li> <li><input type="checkbox"/> Requirement for electric vehicle charging points in new and renovated buildings</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Unfair fixed capacity-based network charges that undercut energy efficiency</li> <li><input type="checkbox"/> Unfair remuneration levels for self-consumption</li> </ul>
 <p>“Energy efficiency and demand side response can <b>compete on equal terms</b> with generation capacity”</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Guarantee for demand side participation, new market entrants and new business models to be fairly remunerated in all markets</li> <li><input type="checkbox"/> Benchmarks for uptake of Demand Response to trigger additional measures if current policies fall short</li> <li><input type="checkbox"/> Demand reduction and demand response prioritised over supply-side generation in any capacity mechanisms</li> <li><input type="checkbox"/> Demand Response Aggregators and other energy service providers are able to access the market without prior agreement from the consumer’s retailer or other barriers</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Privileging incumbent players, including through compensation</li> <li><input type="checkbox"/> National capacity markets that are designed for fossil generation capacity, rather than on specific system capabilities and needs</li> <li><input type="checkbox"/> Barriers against demand-side participants in energy markets</li> </ul>
 <p>“Fundamentally <b>rethink energy efficiency</b> and treat it as an energy source in its own right”</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Binding 40% energy efficiency target for 2030</li> <li><input type="checkbox"/> Extension of national energy savings obligations</li> <li><input type="checkbox"/> Renovation targets for existing building stock, with guidance to member states on renovation strategies</li> <li><input type="checkbox"/> Deeper requirements on minimum levels of energy performance for public buildings</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Assumption that emissions trading will be enough to drive energy efficiency investment</li> <li><input type="checkbox"/> Supply-side instruments that fail to fully consider demand-side alternatives</li> </ul>
 <p>“Becoming the <b>world leader in renewable energy</b>”</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Continued commitment to meeting and enforcing national 2020 renewables targets</li> <li><input type="checkbox"/> Stronger 2030 targets and an EU instrument for “filling the gap” if target off track</li> <li><input type="checkbox"/> A “common rule book” for renewable energy schemes, to make it easier to invest in or buy renewable energy across Europe</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Assumption that emissions trading will drive renewables on its own</li> <li><input type="checkbox"/> Removing priority dispatch before appropriate market arrangements are fully implemented</li> <li><input type="checkbox"/> Counting unsustainable bioenergy as a renewable source</li> </ul>
 <p>“An <b>integrated continent-wide energy system</b> where energy flows freely across borders”</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Coupling of balancing markets</li> <li><input type="checkbox"/> Steps towards regional system operation and control centres</li> <li><input type="checkbox"/> Independent assessment and delivery of security of supply at a regional level</li> <li><input type="checkbox"/> Stronger regulatory coordination</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> National capacity markets that excludes or ignores capacity in other countries</li> </ul>
 <p>“Move away from an economy driven by <b>fossil fuels ... and outdated business models</b>”</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Emissions standards to exclude coal from capacity market subsidies</li> <li><input type="checkbox"/> An ‘exit ramp’ from coal set out in the National Energy and Climate Plans</li> <li><input type="checkbox"/> Social transition assistance to help communities and workers adjust to a changing energy economy</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Assumption that emissions trading will be enough to remove the oldest and most polluting coal plant from the system</li> </ul>
 <p>“<b>More and longer-term policy coherence</b> [which] provides long term certainty and guidance for investors”</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Legally binding governance instrument, with compliance mechanisms to ensure commitments are met</li> <li><input type="checkbox"/> National Climate and Energy Plans to 2050, not just 2030</li> <li><input type="checkbox"/> Increasing ambition over time, through a ratchet and review mechanism</li> <li><input type="checkbox"/> National plans to raise investment, with a clear link to EU budget and European Investment Bank</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Purely national approaches: local authorities, investors, neighbouring countries and civil society should be involved in design of national plans</li> </ul>