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| From: | General Secretariat of the Council |
| To: | Working Party on Energy |
| Subject: | Presidency paper on the Revision of the Renewable Energy Directive - Preparation of next iterations with the European Parliament |

In view of the Energy Working Party on 8 December, delegations will find in the annex the Presidency paper for the preparation of next iterations with the European Parliament on RED II.

Presidency non-paper

Revision of the Renewable Energy Directive

Preparation of the Third informal trilogue

Delegations have received on the 6 December the 4column document regarding the interinstitutional negotiations on the Proposal of the Revision of the Renewable Energy Directive (ST 15643/22).

During the Interinstitutional Technical Meetings (ITM) with the Parliament on 25 November and 2 and 5 December, the Presidency managed to advance on a number of Articles.

In view of the upcoming third trilogue, the Presidency would like to seek Delegations' views and flexibilities around Articles 29, 3(3), 33, 31a and 30.

- **Regarding Article 29** (Sustainability and greenhouse gas emissions saving criteria for biofuels, bioliquids and biomass fuels) and **Article 3(3)** (Support to energy from biomass), the Parliament made the sustainability framework for forest biomass considerably stricter compared to the Commission proposal and the general approach reached in the Council. In particular, it keeps in place the approach in relation to no-go-areas and introduces a new definition of 'primary woody biomass' for the purposes of capping the contribution of the energy share from solid biomass fuels derived from such biomass at 2017-2022 consumption levels and restricting financial support for such energy.
- A first discussion of these articles took place at the latest two ITMs, where the two institutions explained their approach. Against this background the Presidency would explore the Delegations' flexibility on the following elements:
 - o The different thresholds mentioned in these articles, including as regards the greenhouse gas emissions savings;
 - o Strengthen review clauses for the assessment of the implementation of the sustainability provisions instead of Parliamentary suggestions to gradually phase-in of a ban on support to forest biomass;
 - o Explore flexibilities of the Parliament on a definition of 'primary woody biomass';
 - o Simplified national verification schemes for installations with a thermal input up to 20 MW;
 - o Considering tightening the language in Article 29(6)(a) while fully respecting Member States competence, for example by specifying that harvesting should be carried out in compliance with national and/or subnational legislation governing the maximum size of clear-cuts and determining locally appropriate thresholds for deadwood extraction; and
 - o Considering, instead of the LULUCF compliant cap defined at national level proposed by the Parliament, to include a provision whereby biofuels, bioliquids and biomass fuels produced from forest biomass would need to be consistent with the policies and measures included by the Member State in their NECP [updated in 2024].
- **Regarding Article 30** (Verification of compliance with sustainability and greenhouse gas emissions saving criteria), the Parliament asked for more transparency and mandatory auditing, which is already required under RED II (and Implementing Regulation (EU) 2022/3740), but

would make the obligations more explicit, in particular if Member states would not use voluntary schemes but other ways of ensuring compliance of economic operators. Some other elements introduced by the Parliament still need to be clarified by them, in particular on how they can be implemented (e.g. take into account biodiversity targets in the certification without proposing any provisions that integrate them in Article 29). Against this background and in the spirit of compromise, the Presidency would explore Delegations' flexibility to accept these changes proposed by the Parliament.

- **Regarding Article 31a** (Union Database (UDB)), the Parliament proposals overall support the development of the UDB in line with the Commission proposal. However, it proposes to extend the UDB to solid biomass fuels, to delete the option for voluntary schemes to use third party service providers and it addresses the treatment of guarantees of origin in the context of the UDB. The Presidency would welcome Delegations' views on the drafting suggestions as contained in the Annex to this note on Article 31a which uphold the General Approach, but also include a number of the amendments of the Parliament.

- **Regarding Article 33** (Monitoring by the Commission), the Parliament proposes an obligation on the Commission to review the main elements of the revised Directive, including an impact assessment on a possible phase down of the share of fuels derived from forest biomass. The Presidency would welcome Delegations' views on this review clause in Article 33.

Article 31a (Union Database)

1. **[By 1 year after entry into force of this amending Directive,]** the Commission shall ensure that a Union database is set up to enable the tracing of liquid and gaseous renewable fuels and recycled carbon fuels **(the "Union Database")**.
2. Member States shall require the relevant economic operators to enter in a timely manner accurate information into that database on the transactions made and the sustainability characteristics of the fuels subject to those transactions, including their life-cycle greenhouse gas emissions, starting from their point of production to the moment it is consumed in the Union. **The interconnected gas system shall be considered to be a single mass balance system. Information about injection and withdrawal of renewable gaseous fuels shall be provided in the Union Database.** Information on whether support has been provided for the production of a specific consignment of fuel, and if so, on the type of support scheme, shall also be included in the database. **These data can be entered into the Union database via national databases.**

Where appropriate to improve traceability of data along the entire supply chain, the Commission is empowered to adopt delegated acts in accordance with Article 35 to further extend the scope of the information to be included in the Union database to cover relevant data from the point of production or collection of the raw material used for the fuel production.

Member States shall require fuel suppliers to enter the information necessary to verify compliance with the requirements laid down in Article 25(1), first subparagraph, into the Union database.

Notwithstanding subparagraphs 1 to 3, for gaseous fuels injected into the European interconnected gas infrastructure, economic operators should enter information on the transactions made and the sustainability characteristics and other relevant information such as greenhouse gas emissions of the fuels up to the injection point to the interconnected gas infrastructure, where the mass balancing traceability system is complemented by guarantees of origin.
3. Member States shall have access to the Union database for the purposes of monitoring and data verification.
4. **Where** guarantees of origin have been issued for the production of a consignment of renewable gases, Member States shall ensure that those guarantees of origin are **transferred to the Union database at the moment when a consignment of renewable gases is registered in the database and are respectively cancelled after the consignment of renewable gases is withdrawn from the European interconnected grid for gas. Such guarantees of origin, once transferred, shall not be tradable outside of the Union database.**
5. Member States shall ensure **in their national legal framework** that the accuracy and completeness of the **data entered** by economic operators in the database is verified, for instance

by using **certification bodies in the framework of** voluntary or national schemes **recognised by the Commission pursuant to Article 30(4), (5f) and (6).**

Such voluntary or national schemes may use third party information systems as intermediaries to collect the data, provided that such use has been notified to the Commission.

Member States may use already existing national databases aligned to and linked with the Union database via interface or set up a national database that can be used by economic operators as a tool for collecting data and for entering, transferring and declaring those data into the Union Database, provided that:

(a) the national database complies with the Union Database including in terms of the timeliness of data transmission, the typology of data sets transferred, and the protocols for data quality and data verification; Member States may set up their national Database according to the national provisions, for instance to take into account stricter national requirements, as regards sustainability criteria. This should not hinder the overall traceability of sustainable consignments of raw materials or fuels to be entered into the Union Database in line with this Directive.

(b) Member States ensure that the data entered in the national database is instantly transferred to the Union database.

The verification of the data quality entered through national databases to the Union database, the sustainability characteristics of the fuels related to that data, and the final approval of transactions shall be performed solely through the Union Database. The accuracy and completeness of the data must be checked in line with Commission Implementing Regulation 2022/3740 on rules to verify sustainability and greenhouse gas emissions saving criteria and low indirect land-use change-risk criteria, and therefore may be checked by certification bodies.

Member States shall notify the detailed features of their national database to the Commission. Following that notification, the Commission shall assess whether the national database complies with the requirements in points (a) and (b) of the third subparagraph. If that is not the case, the Commission may require Member States to take appropriate steps to ensure compliance with those requirements.

5a. The database shall be made publicly available and kept up-to-date. The Commission shall publish annual reports for the general public about the information reported in the Union database including the quantities, the geographic origin and feedstock type of renewable and low carbon fuels.