

European Council: The Article 50 meeting – Guidelines

There has been some confusion created by this slim document that came from the EU after the recent Council meeting. Some seem to think it was an agreed document with the UK, and that we should therefore take its positions as the likely outcome of the negotiations between the UK and the EU. It is, of course, just a statement of a bargaining position by the EU preparatory to the talks on transition and a future relationship. The UK's opening position will I assume be rather different!

That became clear in the Prime Minister's response to questions on her Statement yesterday following the EU Council meeting. She confirmed that

1. Nothing is agreed until everything is agreed
2. The UK will not make a formal offer of money unless and until there is an Agreement on everything else which the UK Parliament approves
3. There will need to be UK legislation to provide the powers to pay the money and to implement any Agreement
4. The UK is seeking a wide ranging partnership based on good access to the EU single market.

The EU document wants the UK to convert the draft partial Agreement so far into legally binding promises. It says if there is to be a 2 year transition the UK will have to obey all legal and financial commitments of a member of the EU. It is coy over what it might offer on trade and access to the single market over and above the access we will have anyway as a WTO partner. It suggests no deal on trade before we have left. It imagines we will spend two years accepting all EU law and decisions, without the benefit any more of a veto over some items and a vote in Council on others.

There would clearly need to be changes to this approach if there is to be any deal the UK could expect Parliament to accept. It remains the case that a zero for zero tariff deal on goods is greatly in the EU's interest, as is continued similar service access.

Any potential Agreement will be subject to ratification by both sides. This rightly includes the UK Parliament, as well as the Council and the EU Parliament. The EU will need to understand that a Deal does indeed have to be better than No Deal. No Deal gives us freedom to make our own laws, settle our own borders, sign our own trade deals and spend our own money. A wide ranging partnership could add to that, but only if the price of it does not damage the changes No Deal offers too much.

Governance of the Energy Union – Council agrees general approach

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On 18 December, the Council agreed on a **general approach** (negotiating position) on a regulation setting out the system for the governance of the Energy Union which integrates, climate and energy planning into a single framework.

The regulation, which is part of the clean energy package, establishes a cooperation and control mechanism to oversee the **implementation of the 2030 EU climate and energy policy objectives and targets**, in particular those regarding renewables, energy efficiency, interconnections and greenhouse gas emissions.

The new rules will, above all, ensure long-term policy coherence and stability in the climate and energy sector, provide certainty to investors and enhance coordination between member states.

“The debate in the Council has shown the determination of all member states to create a resilient Energy Union. Today’s agreement is its cornerstone, providing robust rules, an effective framework for implementation and is future-proof. Energy and climate goals are two sides of the same coin and it is crucial to look at them together, to make sure our policies are coherent.”

Kadri Simson, Minister of Economic Affairs and Infrastructure of the Republic of Estonia

Following in-depth discussions on the Commission’s proposal, the Council has included the following **main elements** in its position:

National energy and climate plans

Member states will submit integrated **national energy and climate plans**, presenting their objectives, policies and measures in all five areas of the Energy Union, including greenhouse gas emissions reduction targets. These plans would cover the period 2021-2030 and would be renewed every 10 years.

Tracking the renewable energy target achievement

Three benchmarks were adopted to the **indicative renewables trajectory** for member states to ensure the EU achieves its renewables' target of 27% by 2030. These milestones are 24% in 2023, 40% in 2025 and 60% in 2027 applicable at both EU and member state levels. These values are calculated on the basis of the 20% renewables target set for 2020 as the starting point ("0%") and the 27% 2030 target as the end point ("100%"). This will guarantee that all EU countries make a constant and incremental contribution towards the final goal.

An '**iterative** process' between member states and the Commission forms the cornerstone of the governance process. In this process, member states submit draft plans, final plans and progress reports, and the Commission can react to them. Namely, the '**gap-filler mechanism**', proposed by the Commission, is retained in the Council text as the way to address and close possible gaps of delivery in member states. The cause of these gaps could either be that planned national renewable energy contributions of EU countries do not add up to the planned EU targets, or **inadequate achievement** of the contributions that the member states have planned.

A list of **objective criteria** is included to assess the initial level of ambition of member states in their planned contribution for 2030. The Commission will use these criteria to identify which EU countries are facing an ambition gap and, on the basis of that analysis, can issue non-binding recommendations to increase their voluntary contribution of the member states to meet the EU-level target.

Member states must continue to meet and maintain their binding **2020 renewable energy target** by and beyond 2020. If a country was to drop below its **2020 baseline**, it would be obliged to take additional measures within one year to close that gap.

Internal energy market

The Council strengthened measures to facilitate the achievement of the interconnections target for all member states and introduced key criteria to assess the need for increased interconnection capacity.

Reporting

Member states will submit integrated **national energy and climate progress reports** every two years. The Commission will monitor progress and assess the need for recommendations, which may trigger additional measures to be taken at national or EU level.

On 30 November 2016, the Commission submitted the **clean energy package**. Its eight legislative proposals, including governance of the Energy Union, aim at implementing the 2015 strategy for an Energy Union with a forward-looking climate policy.

The package as a whole was presented at the Energy Council meeting of December 2016. EU ministers had a first **exchange of views** on the entire

package in February 2017 and assessed the **progress made** on governance, renewable energy and the electricity market design in June 2017.

At the **European Parliament**, the ITRE and ENVI committees adopted the report regarding governance on 7 December 2017. It will be put to a vote during the Parliament's January 2018 plenary session.

Following today's agreement, the Council is ready to **start negotiations** with the co-legislator in the new year.

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[Creating a modern electricity market – Council agrees its position](#)

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On 18 December, the Council agreed its **negotiating position** (general approach) on a regulation establishing the framework for an **internal electricity market** across the EU.

This regulation is one of the legislative proposals of the clean energy package and is the cornerstone of the **redesign of the electricity market**. It revises the rules and principles to ensure a **well-functioning, competitive and undistorted** electricity market with the aim of enhancing flexibility, decarbonisation and innovation.

In so doing, it will help the EU transition towards a low-carbon economy and meet the **objectives of the Energy Union**, in particular the **2030 climate and energy framework**.

“Electricity market design has been a priority for the Estonian presidency and I am extremely pleased that the Council has come to an agreement on this very important regulation where the member states have had very different views. I want to thank all my colleagues and their teams for helping us get here. EU electricity market has been transformed by digitalisation, renewables and active consumers and we need new rules to fit the new reality. With today's decision, we have taken a huge step to make that happen.”

Kadri Simson, Minister for Economic Affairs and Infrastructure of the Republic of Estonia

This general approach means the Council will be able to enter into negotiations with the Parliament next year. These are the **central elements** of the Council's position:

In line with the Commission's proposal, there are new rules to ensure appropriate conditions for **electricity trading** within different timeframes, but with a definite aim to bring trading closer to the real-time. This will allow higher share of renewables production in the energy systems. The new rules on **dispatching and balancing responsibility** will limit the distortions on the market allowing less exemptions compared to now.

The principles for establishing '**bidding zones**', in other words electricity trading areas, are more clearly defined. The rules on capacity allocation as specified in the Commission's proposal require maximum capacity to be allocated to the market participants on the border of a bidding zone. In the Council text, a **benchmark level** of maximum capacity is established on the border and must be respected. Countries below the benchmark level will need to start implementing remedial actions or reconfigure the bidding zones. A **deadline** has been introduced for the entire process, and the Commission is given the opportunity to intervene if the benchmark has not been met by then.

Installations will continue to be rewarded for making electricity generation capacity available through **capacity mechanisms** to cope with peak demands. To ensure the smooth functioning of the internal market, the rules for these mechanisms must be harmonised. The Council position sets out the design principles for capacity mechanisms as well as arrangements for their implementation. An important element is that new installations will be eligible to participate after 2025 only if their emissions are below 550gr CO₂/kWh or below 700 kg CO₂ on average per year per installed kW. Also there is a limit for participation for existing power plants which cannot receive payments after 2030 and the payments need to decrease after 2025.

A **European adequacy resource assessment** will be created and used as a basis for decisions on capacity mechanisms along with the national ones.

According to the general approach, by 2025 the Commission will draw up a report evaluating which elements of existing network codes could be included in EU acts concerning the internal electricity market. Amendments to the network codes will be possible up to the end of 2027.

Additionally, the general approach supports the establishment of a European entity of **distribution system operators** and strengthens the role of **regional security coordinators**, defining their geographical scope and concrete tasks.

Timeline and next steps

On 30 November 2016, the Commission submitted the **clean energy package**, including a legislative proposal for a revised regulation on the internal

electricity market.

The package as a whole was presented at the Energy Council meeting of December 2016. EU ministers had a first **exchange of views** on the entire package in February 2017 and assessed the **progress made** on electricity market design, governance of the Energy Union and renewable energy in June 2017.

Today's general approach enables the Council to **start negotiations** with the European Parliament as soon as it adopts its position on the file.

Background

The Commission presented the '**Clean Energy for all Europeans**' package on 30 November 2016 aiming at implementing the 2015 strategy for an Energy Union with a forward-looking climate policy.

Four of the eight legislative proposals in the package seek to redesign the internal electricity market of the EU. In addition to this regulation, it includes a revised directive on **common rules for the internal market in electricity**, a revised regulation on a **European Agency for the Cooperation of Energy Regulators** (ACER) as well as a proposal for a new regulation on **risk-preparedness** in the electricity sector.

The new electricity market design will facilitate the transition to a **low-carbon economy** by addressing factors such as increasing inflows of renewables, subsidy schemes, network access rights, storage solutions and regional cooperation.

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[Promoting renewable energy use – Council adopts its position](#)

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On 18 December 2017, the Council adopted its position on a directive promoting **the use of renewable energy** across the EU. This agreement paves the way for the Council to start negotiations with the European Parliament as soon as its negotiating mandate is agreed.

The EU is committed to reach a target of **at least 27% renewable energy** of its overall energy consumption by 2030. This directive, in line with the guidelines of the European Council from October 2014, confirms this binding target and puts in place the appropriate framework and tools to achieve that goal.

The new legislation addresses bioenergy, sustainability, transport, electricity, heating and cooling, and in particular, focuses on empowering consumers. Facilitating and enhancing consumers' use of renewables is a key element in the Council's position.

"This decision has a direct and positive impact on all Europeans. 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. Through a combination of action by governments, companies and consumers, we will be able to maintain our global leadership in renewables."

Kadri Simson, Minister for Economic Affairs and Infrastructure of the Republic of Estonia

The **main elements** of the Council's general approach are as follows:

Consumers will benefit from simplified notification procedures for small-scale installations, and the rights and obligations of '**renewable self-consumers**' as well as **renewable energy communities** are now clearly set out.

Regarding **heating and cooling**, member states will have to adopt measures to achieve an indicative **annual 1 percentage point increase in the share of renewable energy**. As existing national systems and installations differ widely across the EU in this respect, this is taken into account in the Council text. In particular, it reflects the specific characteristics of 'cooling' installations in warmer climates.

In the transport sector, the **renewables target** for 2030 is set at 14% for each member state, and there is a sub-target of 3% for '**advanced biofuels**', for which double-counting will be allowed. This advanced biofuels target has an intermediate binding milestone of 1% in 2025 to increase investment security and guarantee the availability of fuels throughout the period. **Electromobility** is strongly encouraged by two multipliers of 5x for renewable electricity used in road transport, and of 2x for rail transport.

The existing 7% cap on **first-generation biofuels** is maintained to provide certainty to investors. If a member state sets a lower cap, it will be rewarded with the option of lowering its overall target for renewables in transport.

The directive also clarifies rules concerning the sustainability criteria and greenhouse gas emissions saving criteria that apply to biofuels, bioliquids and biomass fuels.

Member states will have the possibility of opening up their **national support schemes** across borders to generators of renewable energy in other member states, but the final decision on this will remain with them. In relation to investments in renewable energy, the Council text, like the Commission's proposal, addresses the stability of **financial support** by preventing unjustified retroactive changes to support schemes.

On 30 November 2016, the Commission submitted the **clean energy package**. Its eight legislative proposals, including the renewable energy directive, aim at implementing the 2015 strategy for an Energy Union with a forward-looking climate policy.

The package as a whole was presented at the Energy Council meeting of December 2016. EU ministers had a first **exchange of views** on the entire package in February 2017 and assessed the **progress made** on governance, renewable energy and the electricity market design in June 2017.

The European Parliament is expected to agree on its negotiating mandate for this directive in the beginning of next year. The Council stands ready to start negotiations immediately after.

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[Labour secures vote on amendment to force equality impact assessment of Government's economic policies](#)

Labour has secured a vote on its amendment to the Finance Bill to force the Government to conduct an assessment of the impact of social security changes and fiscal measures on disadvantaged groups.

The Government failed to meet Labour's demand for the Budget to be audited on the basis of gender, race, age, disability, class and region. Other parties have now joined Labour calls for transparency, with 127 MPs from Labour, the Lib Dems, SNP and the Greens, signing Dawn Butler's letter to Justine Greening calling for all Government policy to be assessed for their impact on disadvantaged groups.

Although the Public Sector Equality Duty (PSED) places a legal responsibility on public bodies, including

the Treasury, to conduct equality assessments, the Treasury has failed to publish adequate equalities audits of its fiscal measures.

This comes as analysis shows that 86 per cent of tax and social security changes continue to fall on women and women only received two thirds of the spending men received in this budget.

**Dawn Butler MP,
Labour's Shadow Women and Equalities Minister, said:**

"The Tories' failed austerity project has hit the most vulnerable groups in our society the hardest, forcing women, ethnic minority communities and disabled people to pay the highest price.

"The Finance Bill represents more of the same for groups with protected characteristics who have borne the brunt of Conservative economic failure for too long. We need a detailed assessment to reveal the full damage of Tory austerity.

"The next Labour government will ensure that we publish comprehensive equality impact assessments to enable us to truly build an economy that works for the many, not the few."