



Submission of evidence on EU Energy Governance to the House of Lords European Union Committee

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1 Summary

The European Council's Conclusions of October 2014 on the EU 2030 Energy and Climate Framework and the Council's subsequent adoption of the Commission's Energy Union strategy signals an important renewal of political commitment to the European energy transition and long-term decarbonisation. These documents define a number of important strategic objectives that are essential to making the transition towards a low-carbon, secure and integrated European energy system by 2050. However, turning the Energy Union into reality will require the EU not only to reaffirm and reset the policy framework but also to get the governance of these strategic objectives right. In the recent European policy debate, the word „governance“ has become synonymous with the Commission's proposal for more streamlined and integrated planning and reporting of the Member States contributions towards the Energy Union and the structural transition towards decarbonised energy systems. However, Energy Union governance must be understood more broadly as referring to the institutional, legal, procedural, market and financial arrangements put in place to allocate responsibility between Member States, the European Parliament, and the Commission to ensure the delivery of agreed Energy Union objectives, including the 2030 targets. Getting governance right requires both reform and continuity across this landscape, albeit with an enhanced role for appropriate national climate and energy planning and reporting as an important commitment, coordination and transparency tool.

Getting EU climate and energy governance right in the post-2020 period will require reform of existing arrangements because the challenges are different to the pre-2020 period. As the EU intensifies its efforts to decarbonise, the changes required will no longer be at the margins of national energy systems. They will require deeper, structural changes to national energy systems. This necessary implies a stronger role for Member State ownership and competency in terms of implementation. Thus, an approach that respects subsidiarity and allows Member States more say in determining the specific components of their national decarbonisation and energy strategies is essential to the longer term success of EU objectives.

At the same time, however, care must be taken that a more „bottom up“ approach to EU energy governance does not lead to ineffective EU governance in which Member States are no longer bound to make and honour their commitments to collective EU objectives. Moreover, there is a need to maintain valuable elements of pre-2020 EU climate energy governance acquis, which has served Europe well. This is true of key elements of the existing planning and reporting framework under different Directives and regulations, of the role of EU legislation in the areas of energy efficiency, renewable energy and energy security, of the role of the EU institutions in ensuring that Member States fulfil their obligations on core issues of common EU interest, and of regional fora. These elements of EU energy governance have been critical enablers of a reliable, investor-friendly, least-cost pathway to achieving the outcomes on which the Energy Union depends and care must be taken to maintain them, even as the overall governance framework evolves.

The challenge for the EU energy and climate governance system is therefore to find an appropriate balance between reform and continuity, on the one hand, and between subsidiarity and credible commitments and assurance of delivery by Member States, on the other. All Member States, including the UK, should have a strong interest in ensuring that the governance system finds the right balance. This is because Member States will need to be confident about the delivery of EU goals beyond their borders in order to plan and coordinate effectively and give confidence to investors. This seems to be particularly true for the UK. The UK has set itself ambitious decarbonisation targets to 2050 and should therefore in principle be keen to ensure that its neighbouring Member States in the EU are also acting in kind. A divergence between the ambition and effectiveness of implementation of climate goals in the UK, on the one hand, and a significant number of its EU trading partners, on the other, would also seem to pose problems in terms of competitiveness, market integration, and investor certainty for UK firms.

To better understand these issues in January 2015 a group of independent think tanks launched an interdisciplinary research project on EU energy and climate governance. Three of the group's

papers considered the options for reforming planning and reporting that could accommodate potentially competing policy drivers while keeping the EU on the pathway to achieving its 2030 and 2050 targets. These papers are:

- Umpfenbach, Katharina (2015): “Streamlining planning and reporting requirements in the EU Energy Union framework. An opportunity for building consistent and transparent strategies,” Ecologic Institute, Berlin
- ClientEarth (2015), “Streamlining Climate and Energy Planning and Reporting: Understanding the options, risks and opportunities”, ClientEarth, London
- Sartor, O, M. Colombier, T. Spencer (2015), “Designing planning and reporting for good governance of the EU’s post-2020 climate and energy goals”, IDDRI, Paris

While ClientEarth is preparing a separate submission of evidence, this submission reflects the findings of Ecologic Institute and IDDRI which are relevant for questions 2, 3, 4 and 6 of the Call for Evidence. Key recommendations that emerged from this work were the need for:

1. A more integrated, co-ordinated and dynamic framework of national planning that enables Europe to work collectively to complete the Internal Energy Market, scale up renewables deployment, make energy efficiency first a reality, and to achieve economy-wide decarbonisation and an energy secure and competitive Energy Union.
2. A planning and reporting regime that has a basis in law to ensure comparability and consistency and conforms to good governance principles of effectiveness, accountability, transparency, legitimacy, policy coherence and subsidiarity. Robust climate and energy plans underpinned by rigorous modelling are key for unlocking the investment to ensure reliable, least-cost delivery of the EU’s 2030 targets.
3. The new planning and reporting regime must ensure that Member States make meaningful, credible and reliable commitments to „achieving outcomes“. The most credible means for ensuring this commitment is by the rule of law. In its absence, it is incumbent on Member States to propose effective alternatives.
4. A differentiated approach to the design and use of different parts of the new national climate and energy plans (see answer to question 4 below); with clear differentiation in levels of commitment and obligation by Member States and in EU competences to review and ensure delivery between the parts.
5. A long-term strategic approach to forward planning orientated towards full decarbonisation by 2050 as an essential element of making the move towards more „bottom up“ EU climate and energy governance more effective, by enhancing Member State ownership, facilitating coordination, and building coherence between national 2030 strategies and EU 2050 goals. It is important to note, however, that the long-term strategies would not be understood as a target-setting tool, but rather allow for information exchange and facilitate strategic planning in the period to 2030.
6. A more streamlined planning and reporting regime that intelligently reduces administrative burden would avoid overlaps and improve coherence between reporting on national strategies.
7. A planning and reporting regime that balances respect for national choices over the energy mix while reflecting the EU’s Treaty mandate and appropriate role to orient the European energy transition in core areas of common interest.
8. A more inclusive and participative planning regime for energy and climate policy.

2 Question 2: Renewable energy targets

In the European discussion on the 2030 Climate and Energy Framework, the UK and other Member States have expressed a strong preference not to be obligated to fulfil legally binding national renewable energy targets after 2020. The EU has thus proposed a target for renewable energy that is only binding on the EU.

To date, the existence of binding national renewable energy targets has served several important functions in EU energy policy, including inter alia:

- Investor stability and confidence despite changes in government at national level. This has been important in particular to establishing and connecting both local and European value chains for deploying renewable energies more cost-effectively.
- It has helped to bring down the cost of renewable energies (and of the support schemes promoting them) by obliging Member States to develop investment conditions that are conducive to the economics of these new technologies.
- High deployment first in Europe and now globally has been essential to paving the way for affordable technology options being available for ambitious future decarbonisation pathways at least costs.
- Helped the EU will meet its 2020 non-ETS GHG emissions target of -10% vs. 2005 levels – a target which covers ~60% of gross EU GHG emissions (ex. LULUCF)¹.
- Provided a credible and concrete basis for regional fora in the domain of electricity markets to begin discussing and developing responses to market integration challenges.

A fundamental question for EU energy governance post-2020 is therefore what tools it will use to ensure that these outcomes continue to be achieved in the absence of nationally binding renewables targets. Despite the Market Stability Reserve reform of 2015, research suggests that the EU Emissions Trading System on its own will not provide sufficient incentives for investors to drive further deployment of renewables between 2020 and 2030². In the non-ETS sectors, legally binding national GHG targets should help to incentivise Member States to develop low-carbon energy solutions in the transport and heating and cooling sectors, including renewable energy. However, in practice, the experience with the 2020 Effort Sharing Decision suggests that the combination of high-level GHG targets, on the one hand, and sector or technology specific targets and measures, on the other, has been a very effective combination.

In the absence of nationally binding targets, and in the context of a weak EU ETS, it is incumbent upon the EU's Member States to propose a credible alternative mechanism to furthering the deployment of renewables and other low-carbon energy sources. This is necessary to make sure that deployment is consistent with enabling the achievement of the EU's 2050 climate goals. It is by no means obvious that allowing Member States to determine their own 2030 contributions to deploying renewables independently of a guiding long term decarbonisation strategy, and without any effective obligation to deliver outcomes to 2030, will do this.

Thus, one option explored in IDDRI's paper is the combination of a pledging and monitoring system for 2030 strategies, including explicit pledges on the contribution of both renewables and low-carbon energy in terms of their contributions in both ETS and non-ETS sectors. Member States would be free to determine their own pledged level of renewables in line with their own national decarbonisation strategies. However, to ensure that the nationally determined pledges are consistent with creating the enabling conditions to achieve the EU's 2050 climate targets, the plans would also require Member States to develop coherent (but non-binding) decarbonisation strategies to 2050. These non-binding strategies would inform their pledges on 2030 renewables and low-carbon energy deployment. In addition, a continuation of the EU Renewable Energy Directive to ensure best practice integration practice and procedures in Member States and set minimum standards will also be important in the post-2020 period – not least to minimise fragmentation in the internal market for energy.

¹ European Environment Agency, October 2014, GHG Emissions Trends and Projections in Europe: Tracking progress towards Europe's climate and energy targets for 2020, EEA Report N°6/2014, Copenhagen.

² O. Sartor, M. Matthieu, P. Del Rio, V. Graichen, S. Healy (2015) Decarbonising the power sector: what role for the EU ETS and complementary policies post-2020? Climate Strategies, London.

To conform to good governance principles and be credible for investors, the governance regime must be designed to enable the EU to reliably achieve its 2030 target with respect to renewables by requiring Member States to “deliver outcomes”. This means a governance regime that requires Member States to: (i) make clear their intended contributions to meeting EU 2030 target in a manner that allows for aggregation at EU-level, (ii) commit to a forward strategy to deliver national pledges and implement required measures at the sector-specific level and (iii) foresees a mechanism to incentivise additional deployment if the EU proves not to be on track towards its 2030 target.

3 Question 3: Implications of a strengthened EU approach to energy governance

In the post-2020 period, EU energy governance will need to address several critical governance needs for the Energy Union project to succeed. Firstly, it will need to ensure that Member States meaningfully contribute to the goals of the Energy Union and that the 2030 climate and energy goals are achieved. This is essential to ensuring that the EU remains on track to achieve its 2050 decarbonisation objectives, that the EU fulfils its international climate commitments, that it fills remaining gaps in its energy security strategy, and that it establishes a concrete and practical basis of action for regional cooperation and coordination initiatives to complete the internal market.

Secondly, the governance system must create a solid basis for regional cooperation and EU coordination to work. It is increasingly evident that the EU’s low-carbon transition cannot succeed without strong cooperation and coordination between Member States, and especially at regional level. This is particularly apparent in the areas of electricity and transport. To date regional cooperation initiatives have focused largely on reacting to market developments (e.g. due to higher intermittent renewable energy penetration). However for the energy transition to succeed, such cooperation will need to become increasingly forward looking and anticipate necessary changes to the energy system.³ For this, a combination of transparent planning and information sharing of Member States strategies is a required, along with a coordinating role to be played by regional fora and EU institutions.

Thirdly, the EU needs to ensure coherence between 2050 decarbonisation scenarios and its actions in the short to medium term. The European energy system is built on lumpy investments in capital stock and this creates considerable inertia in terms of the overall capacity to decarbonise the energy system in short periods of time. 2030 will represent roughly the half-way point between the point when the 2020 Climate and Energy Package was first implemented and the 2050 objective of 80-95% decarbonisation. It is therefore essential that the right enabling conditions are created in the period 2020-2030 to unlock deeper decarbonisation objectives by 2050. This is because higher uncertainty on the political commitment translates into higher risks for investors and into higher costs of capital, thus increasing the transition’s overall costs. To date, only a few Member States have begun to tackle this question via the development of concrete and sufficiently detailed long term strategic plans. The EU therefore needs to incentivise all Member States to engage in this process and to begin a dialogue at the EU level to aggregate the results of different Member States’ visions into a common vision. This process is essential for ensuring Member State ownership of the decarbonisation goal, and for setting national, regional and EU policy agendas in the short and immediate term (e.g. for R&D, infrastructure build out, etc.).

³ Umpfenbach, K., Graf, A., Bausch, C. (2015): Regional cooperation in the context of the new 2030 energy governance. Berlin: Ecologic Institute.

Finally, to be credible and permit an investor-friendly transition, the EU's post 2020 planning and reporting must conform to the principles of good governance. The success of the 2020 acquis in driving delivery of the EU's 2020 targets and the EU's standing as a global climate leader rests in large part on the fact that the planning and reporting regime put in place to ensure those targets' delivery conformed to EU principles of good governance: effectiveness, accountability, transparency, legitimacy, policy coherence and subsidiarity. This requires that the post-2020 governance framework incorporates a number of standardised elements that must be addressed by all Member States, including, *inter alia*: binding templates for plans and reports detailing data requirements that allow for effective monitoring, progress comparison, projections, and EU-level aggregation; a credible mechanism for enabling the Commission to ensure that the sum of Member State effort is sufficient to enable the EU to meet its 2030 targets; a credible mechanism for ensuring national accountability for progress; transparent access to relevant documentation and reporting data; regular status updates on Member State and Commission's actions; regular updates of plans; meaningful participation of stakeholders in the plan making processes; and a clear long-term perspective.

There are legitimate and important opportunities for streamlining and reducing different planning and reporting obligations under the 2020 acquis. However, there is also danger that this streamlining agenda will go too far and large amounts of vital information for ensuring transparent and effective governance of EU and national policies will be lost. A careful and appropriate balance must be struck (see also question 4).

4 Question 4: National Energy and Climate Plans

The arrangements for post-2020 national planning and reporting must facilitate better integration between objectives. Integration is needed between achieving GHG reduction objectives, scaling up renewable and low-carbon energies, significantly improving energy efficiency, on the one hand, and between these areas and national contributions to energy security and full implementation of the internal energy market, on the other hand.

National planning for completing the internal energy market (in particular enhancing interconnectivity and creating better functioning and more liquid markets for electricity and gas) and energy security should be embedded in a more strategic and long-term decarbonisation perspective. Meeting the EU's 2030 and Energy Union objectives will require Member States to make non-marginal and coordinated changes to their energy systems. It is therefore essential that post-2020 governance provide both a credible mechanism to ensure delivery of the EU's 2030 targets and a framework for ensuring a more integrated, strategic, dynamic and long-term process of national energy and climate planning that ensures that Member States work collaboratively to take account of regional and bilateral spillovers and synergies in how they approach the post-2020 stage of the energy transition.

To be workable in practice, post-2020 planning and reporting should be designed around a "modular" structure comprising different "chapters" or "tiers" of governance to reflect the reality that different elements of the energy transition should be governed differently. Credible pledges and monitoring of those elements of national strategies that are relevant to deliver core Energy Union objectives, including the 2030 targets, cannot be achieved by merging all of the current planning and reporting arrangements into just one single high-level energy and climate plan and one report.

The authors do agree that the existing regime includes areas of overlap and fragmentation and thus significant scope for streamlining. However, a single plan and report replacing all existing planning and reporting would imply a significant loss of detailed information. This would be inconsistent with the EU's stated commitment to transparent and participatory governance. Moreover, it would also deprive the European Commission of a crucial means to monitor how Member States implement mandatory measures contained in EU directives (e.g. on competition in the energy sector or simplification of licensing procedures for renewable energy plants) on

national level. An EU with the power to make policy and pass laws but without the power to monitor their implementation or effectiveness is a recipe for bad governance.

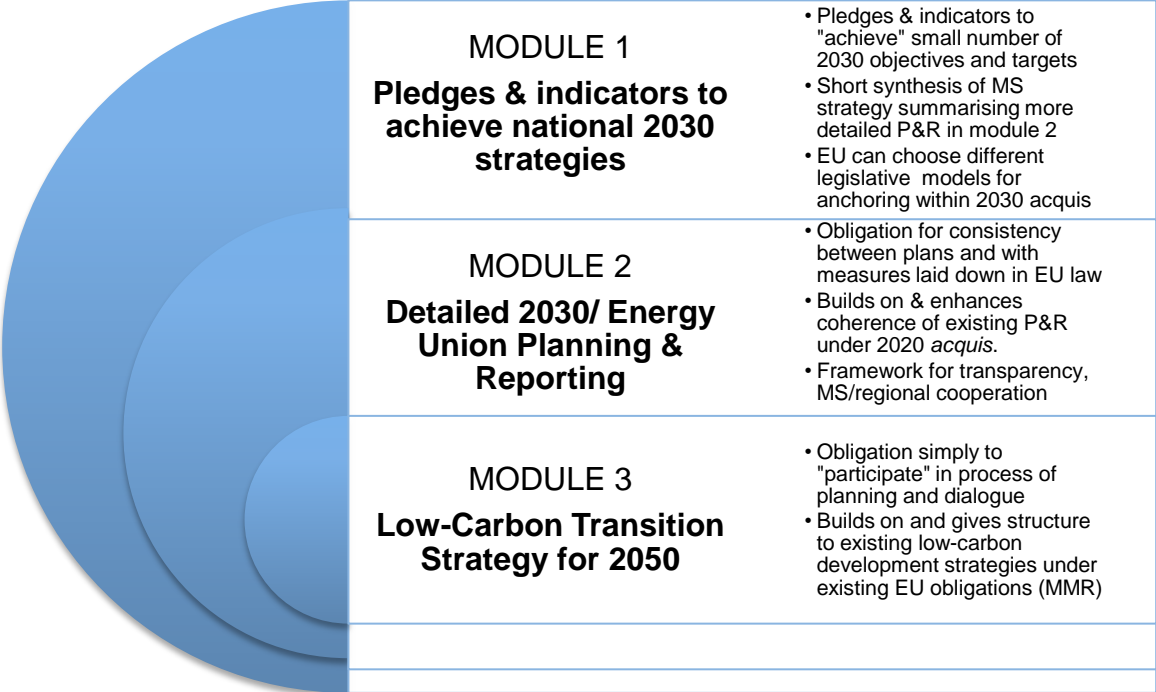
On the other hand, if the single climate and energy plans *were* to include all the information that is currently provided by a set of separate documents, the co-ordination of such a wide-ranging process risks being impractical for national administrations. More importantly, such a scenario could imply a level of EU oversight and interference into national policy implementation choices that would be inconsistent with the principle of subsidiarity and the rights of Member States to choose their energy mix. It is therefore necessary to introduce some differentiation between the chapters or component „modules“ of national plans and reports.

The analysis concluded that by adopting a calibrated “modular” structure for Energy Union planning and reporting, it will be possible to achieve both a streamlined and integrated governance regime as well as conformity with good governance principles. Such a modular structure would allow for high-level pledges towards EU targets and tracking of key indicators that are relevant to Member States achieving outcomes of strategies in core areas of the Energy Union on the one hand, and more detailed transparency and information-sharing that builds on existing planning and reporting requirements on the other hand.

The key features of the recommended modular structure are summarised below. It should be noted, however, that in the modular architectures proposed:

- (a) The constituent tiers or modules of planning and reporting operate as a package of complementary documents;
- (b) It is envisaged that all modules should be grounded in law. The studies identify different legislative options for achieving this;
- (c) All modules within the recommended governance regime are designed to conform with good governance principles;
- (d) Within each module, Member States are subject to different levels of obligation.

Figure 1. Modules of new planning and reporting framework



Module 1: This module of planning and reporting would comprise of a concise, limited and high-level set of targets, pledges and indicators that would together summarise the Member State's strategy for implementing the EU's 2030 targets and objectives under the Energy Union. Member States' strategies would show quantitatively how the Member State intends to meet and contribute to nationally binding, EU binding and non-binding EU objectives and targets. By limiting the list of items on which Member States would be required to pledge or provide an indicative goal, this would help to ensure buy-in and commitment from all Member States to the core objectives of the Energy Union and the 2030 Framework.

This tier of governance would be supported by strong and regular (annual) review by the Commission and characterised by obligations to "achieve outcomes" to ensure that the EU is on track to implementing the overall 2030 strategy. However, there would be some differentiation between the level of obligation attached to different items contained in the high-level strategies – for instance, nationally binding GHG targets would of course be legally binding, pledges relating to EU-binding targets would be required to be sufficient in aggregate to ensure collective fulfilment at EU level, while non-binding indicators would allow more flexibility provided the Member State was on track with broad aims of its strategy in each dimension of the Energy Union. This short, high-level strategy document would also allow for effective and explicit integration and coordination of trade-offs and synergies between the core elements of the Energy Union; and facilitate a clear vision of what each Member State is contributing to the Energy Union.

Module 2: This planning and reporting module would provide additional and more detailed information about the specific assumptions, measures and implementation of Member State pledges set out in Module 1. In particular, it would allow the Commission to monitor how Member States implement the measures included in the revised Directives (e.g. priority access to the grid for RES, increasing competition in national energy markets). This information would be used to set agendas for regional cooperation and coordination, provide certainty for investors and transparency in the interests of good governance. This module should also be enshrined in law clarifying templates, reporting obligations and uses of the information. This information would in effect cover the essential information currently provided as part of planning and reporting obligations under related EU legislation (e.g. renewables and energy efficiency directives) to avoid overlap and ensure consistency. A key conclusion of the analysis by IDDRI and Ecologic Institute is that it would be impossible to include all elements of the current *acquis* into one detailed plan or report on a regular basis, given the scope of the information and the way in which it cuts across different government departments and independent agencies.

Module 3: This longer-term strategy development module would replace one of the existing obligations under the Monitoring Mechanism Regulation with a more concrete and practically useful template and process for developing national low-carbon strategies. By obliging all Member States to undertake such a process of reflection, it would provide a basis for creating coherence between national 2030 strategies and the EU's 2050 decarbonisation goals. A further extension of this module is that Member States could be required to participate in the definition of a new EU2050 Roadmap to a low-carbon economy that would involve iterative rounds of plan submission and dialogue with the Commission and other Member States to identify the nationally acceptable conditions under which the EU could achieve its 2050 targets. To reduce the administrative burden, this module could initially be submitted separately and potentially at a later date than the planning element in Modules 1 and 2, with later iterations bringing the dates closer together. This module would be characterised by light-touch obligations to simply participate in the plan-making and information-exchange process. The importance and potential structure of this module of governance is discussed at length in the paper by IDDRI.

5 Question 6: The need for legislation

Governance must be anchored in legislation. In the post-2020 period the revised Renewable Energy Directive, Energy Efficiency Directive, Effort-Sharing Decision and Emissions Trading System Directive, and revised legislation on security of supply and internal energy market integration should continue to perform the functions of articulating the EU's agreed targets for increasing use of renewable energy, reducing energy demand, reducing GHG emissions and improving gaps in the EU's security of energy supply. These tools have thus far proved essential for specifying the measures that must be taken at national level to ensure the necessary regulatory, investment and infrastructural conditions to deliver European outcomes of common interest. In the post-2020 period, Member States' flexibility to adapt their strategies to national circumstances and preferences will become increasingly relevant. However, this doesn't need not to be inconsistent with well-crafted EU legislation which sets minimum standards that are relevant to all Member States, promotes best practice implementation, and facilitates harmonisation and coordination to minimise costs.

The EU in general has a poor track record of achieving targets without obtaining concrete commitments from Member States with some form of legal backing for ensuring achievement of outcomes – even the European Semester process is backed by legislation. The EU's Member States must therefore be careful not to abandon essential safeguards of a robust European climate and energy governance system, even as it tries to integrate greater flexibility and a greater role for national competences and preferences into the post-2020 governance architecture.

Planning and reporting itself should also ideally be anchored in law. These governance tools are used to support Member States in formulating a harmonised, transparent and investable strategy for implementing measures and contributing to the delivery of EU targets. While the arrangements for post-2020 planning and reporting must evolve to facilitate a more integrated, streamlined and dynamic approach, these governance processes are critical enablers of an investor-friendly, least-cost energy transition, of transparency, effective policy revision and development, and regional cooperation. As such, it is essential they conform clearly to good governance principles and thus remain component of the revised 2030 acquis.

The EU can choose between a range of credible options for ensuring better integrated and more streamlined planning and reporting. Similarly, the EU can choose between a range of legislative options for credibly anchoring the revised arrangements within the 2030 *acquis* depending on the scale of integration and streamlining sought. Ensuring that an appropriate legal relationship is forged between the revised planning and reporting process and the revised 2030 acquis requires that they are both addressed together as part of the complete 2030 legislative package. Addressing these issues in isolation risks generating uncertainty as to the EU's commitment to credible governance of the energy transition. This could in turn quickly drain investor confidence in the post-2020 period and sharply increase the costs of achieving the EU's 2030 targets.