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Supporting delivery of climate ambition through the Energy Union

What is needed from Member States' National Energy Plans?

The challenge of governing the energy transition

When the Commission launched its Communication on an Energy Union in February, 2015, it presented a vision of a fundamentally transformed European energy system, with a sustainable, low carbon and climate-friendly economy designed to last. 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.

However, turning the Energy Union into reality will require the EU not only to adjust the policy framework but also to establish the right governance arrangements. Credible governance is critical for unlocking investor confidence and other core conditions necessary to ensure reliable delivery of Energy Union objectives, in particular the EU's 2030 climate and energy targets.

In its first presentation of what is to become an annual 'State of the Energy Union', the Commission has taken a number of concrete steps towards developing an Energy Union Governance System, including the provision of Guidance to Member States on the development of new 'National Energy and Climate Plans' (national plans).

This briefing presents key messages stemming from three recent research papers¹ that have considered the options for reforming planning and reporting (P&R), and related issues that are fundamental to the development of credible governance arrangements for the Energy Union.

1. An effective P&R system covering all Energy Union objectives needs to serve many different functions, which a single national plan may not be able to provide – **a modular structure should be deployed**;

¹ These three papers are: 1) 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 - <http://www.ecologic.eu/12445>;

2) ClientEarth (2015), "Streamlining Climate and Energy Planning and Reporting: Understanding the options, risks and opportunities", ClientEarth, London - <http://documents.clientearth.org/download/4256/>; and

3) 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 - <http://www.iddri.org/Publications/Designing-planning-and-reporting-for-good-governance-of-the-EU-s-post-2020-climate-and-energy-goals>.

2. Arrangements for both the development of national plans, as well as reporting, need to be **firmly anchored in legislation**, and conform to the principles of good governance; and
3. The Energy Union governance arrangements must facilitate the development of forward-looking **low carbon plans for 2050**.

1 National plans should incorporate a modular approach to accommodate different policy objectives

To plan for and monitor the implementation of current EU climate and energy policy, a range of obligations and processes already exist.² This current landscape serves vital functions to the system and produces a wealth of information, but it also contains both overlaps and also a few gaps. Overall, **the system is working, but it can be improved**.

The arrangements for post-2020 national P&R must **facilitate better integration** between the different objectives. Integration is needed between achieving greenhouse gas (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.

However, there **are a number of other factors driving the EU climate and energy governance debate**, namely assertion by Member States over their national energy mix and for more flexibility; and the increasing focus on 'streamlining' and 'better regulation'.

If excessive or poorly designed, **streamlining could weaken monitoring and accountability**, increasing the challenge posed to the Energy Union Governance System to ensure the delivery of the 2030 targets; and help ensure achievement of broader Energy Union objectives.

Any P&R regime must conform to the principles of good governance, namely: transparency, effectiveness, accountability, legitimacy, flexibility, certainty and policy integration.³ In the October 2014 Conclusions,⁴ the European Council stated that post-2020 governance should as a minimum be reliable, transparent and predictable. In addition, the European Council mandated that the post-2020 governance regime should "build on the existing building blocks;" essentially a call to maintain conformity with core principles of good governance that underpinned the 2020 regime.

A thorough evaluation of different options for how the P&R system for 2030 could be better integrated and streamlined (measured against the above mentioned criteria) has led to the following insights:

All options struggle with making trade-offs between the level of integration and added value and practical feasibility of integrating different elements of the Energy Union strategy.

² The current P&R landscape was analysed thoroughly in Umpfenbach (2015) – see footnote 1 above.

³ ClientEarth (2014). EU Climate and Energy Governance Health Check. Available at <http://www.clientearth.org/reports/141127-eu-climate-and-energy-governance-health-check.pdf>.

⁴ European Council, Conclusions on 2030 Climate and Energy Policy Framework (23 and 24 October 2014), SN 79/14.

A **single high level plan and report** replacing all existing P&R **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 deprive the Commission of a crucial means to monitor how Member States implement mandatory measures contained in EU directives (e.g. simplification of licensing procedures for renewable energy plants or alternative policy measures to achieve required energy savings under Article 7 of the Energy Efficiency Directive) at 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, given the scope of the Energy Union agenda and the stated desire of the Commission to comment on national plans and promote peer review, 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.

Moreover, given the scope of the Energy Union project, it is important to be clear about, and **distinguish between, the different governance objectives** that national plans should respond to. For example, as discussed thus far, national plans have been suggested as simultaneously being a way to ensure that:

- Member States set and collectively meet high level 2030 targets and objectives;
- The Commission has the information to be able to evaluate and to enforce EU legislation; and
- Member States provide transparency on other aspects of their national strategies for information sharing purposes (e.g. for regional cooperation, investor visibility, tracking EU level progress, development of future policy, etc).

However, these **different governance objectives imply different things for P&R**. In particular, they have different implications for what kinds of information are relevant to plans or reports, for how information is collected and used, and to whom different pieces of information are most relevant. This would in turn suggest that, if P&R is to be fit for purpose, it must be designed with the different end goals clearly in mind.

The analysis therefore concluded that by adopting a **calibrated “modular” structure** for Energy Union P&R, 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:

1. **high level strategies**, including 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
2. **more detailed transparency and information-sharing** that builds on existing P&R requirements on the other hand. This modular approach is outlined in **Figure 1**, below.

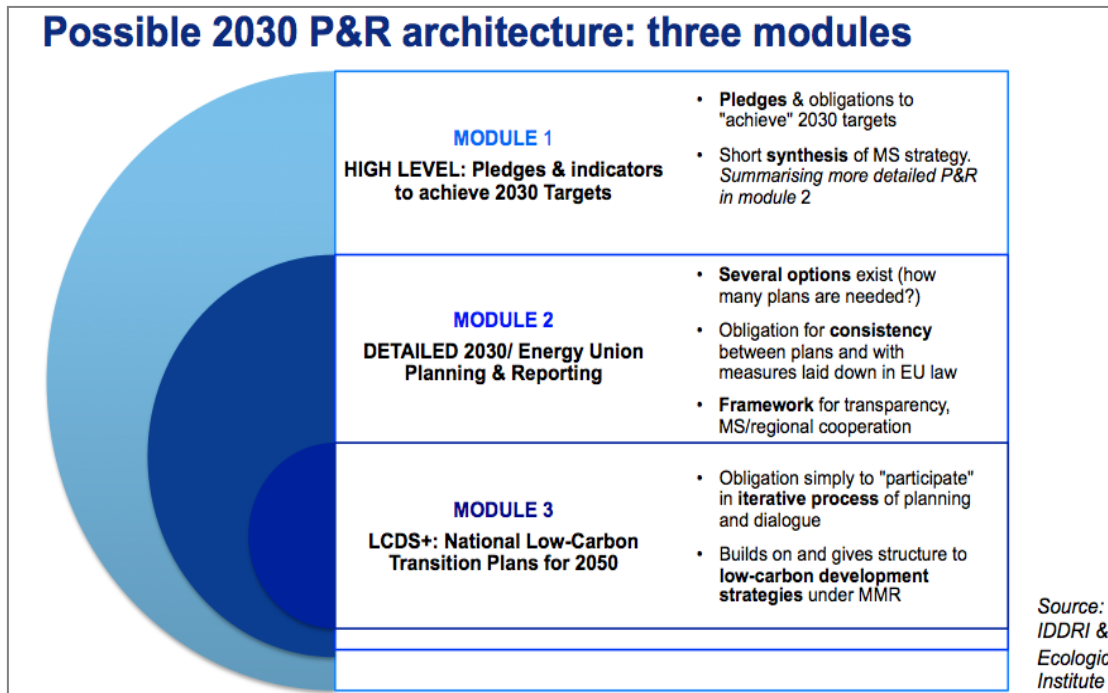


Figure 1 - Illustration of modular structure with separate tiers for post-2020 governance system

2 Both reporting and planning arrangements must be anchored in a legislative framework

In order to have a reliable and transparent process capable of ensuring that energy-related actions at European, regional, national and local level all contribute to the Energy Union's objectives, **the Energy Union Governance System needs to be firmly anchored in legislation**. This has been acknowledged by the Commission in its Communication on the State of the Energy Union. Even if at this point the level of detail and legal basis is not entirely clear, the Commission has at least signalled that it is willing to take steps to embed streamlined P&R in a legislative framework.

However, it also seems that the Commission is currently proposing a process of **starting the development of national plans outside of a binding legal framework**. With its Communication on the State of the Energy Union, the Commission has released 'Guidance' to Member States on their national plans, which is essentially soft and non-binding in nature. The lack of a legal framework to govern the development of national plans is a weak form of governance, incapable of providing a credible and transparent framework for ensuring the Commission has the right information to place the EU on a credible trajectory towards achieving concrete objectives. This is essentially because key minimum criteria to ensure accountability, transparency and stakeholder engagement supported by a legislative framework, and necessary enforcement, are missing.

A soft planning process could make it much harder for the Commission to collect data to establish and verify Member States' contributions towards meeting Energy Union objectives,

particularly the 2030 targets. This is a situation Europe cannot afford, as the period 2021 – 2030 will be key in ensuring domestic action to reduce GHG emissions in sectors such as the built environment, transport, agriculture and waste, takes place. The establishment of robust plans for 2030 is even more important given the fact that although the energy savings and renewable energy targets are non-binding on Member States, they contribute significantly to the achievement of the binding GHG emission reduction objectives.

Furthermore, encouraging a soft system of national planning could divorce Member State action from sectoral (EU level) legislation, predetermining outcomes before key directives on energy efficiency and renewable energy are revised. For instance, once a soft process of developing national plans is complete, Member States could potentially try to prevent a legally binding P&R regime from taking root.

Without a legislative framework for planning, citizens and other stakeholders could also be deprived from exercising their rights (e.g. under the Aarhus Convention) to effectively participate in the development of national plans, which will likewise limit potential opportunities for them to become involved in climate solutions. Furthermore, **the role of the European Parliament** in participating - and having its say - in the legislative process **could potentially be circumvented**, undermining the legitimacy of the national planning process.

Hence, there is a need to anchor not just reporting, but also planning, within a **legislative framework that ensures accountability, transparency and legitimacy**. Based on our analysis of what has ensured credible governance in the 2020 governance framework, the process of developing national plans should incorporate a number of key features:

- **binding templates** detailing data requirements that allow for effective monitoring, progress comparison, and EU level aggregation;
- a legal **mechanism** for enabling the Commission to **ensure that the sum of Member State effort is sufficient** to enable the EU meet its 2030 targets;
- a legal **mechanism for ensuring national accountability** for progress;
- transparent **access to relevant documentation** held at EU and Member State levels;
- **regular status updates** on Member States' and Commission's actions;
- regular **updates of plans**, if necessary; and
- meaningful **participation of stakeholders** in the plan-making processes.

3 Integrating forward-looking perspectives to 2050 decarbonisation needs

A structurally important element of the Energy Union project is the EU's commitment to reduce its GHG emissions by **80-95% by 2050**. Achieving this goal has major implications for policy coordination across all five dimensions of the Energy Union project, from research and development, to internal energy market completion and energy security. The current policy debate around the EU's climate and energy policy framework focuses to a large extent on setting and achieving targets and objectives for 2030. Hence, it is just as important to make sure that Member States are also putting in place the "**enabling conditions**" that allow for **deeper structural changes** in the economy and energy system that are needed to reach more

ambitious overarching climate objectives. Momentum is also building for the Paris Agreement to contain language that captures this idea.⁵

If this longer-term strategic thinking is to have any bearing on Member States actions to implement the Energy Union, then the **Member States must begin to explore their own possible pathways towards the EU's 2050 decarbonisation goals**. However, to date, only a handful of Member States have developed detailed and concrete long-term (2050) transition scenarios towards a low-carbon economy. The Commission's 2050 Roadmap modelling scenarios can provide one important vision - the Commission's - of how a European low-carbon transition might look. However, such "top-down" exercises can never be a substitute for Member State's own perspectives. Member State governments and their stakeholders must take ownership of their national strategies if they are to implement them consistently and coherently.

In this context, the present debate over the new EU energy and climate governance mechanism is an opportunity to promote the broader development and use of longer term planning and facilitate much-needed dialogue on their implications. To operationalise this, we have proposed **including a separate chapter or "module" of the new national climate and energy plans**, which would simply require all Member States to develop exploratory and concrete national 2050 decarbonisation strategies.⁶ These strategies would build on, and give much needed structure to, the very weak existing requirements under the EU's Monitoring Mechanism Regulation for Member States to develop "**low carbon development strategies**." Their content would be non-binding on Member States, but their form would be guided to ensure consistency and a minimum amount of rigour (e.g. via common, binding templates).

These plans would serve two main purposes. Firstly, they would help **strengthen the process of strategic planning for decarbonisation in Member States**. The fact of having to prepare these long-term strategies, improve them at regular intervals, and engage in technical dialogue on their implications for EU goals and policy, would oblige Member States to develop national capacity for strategic planning for decarbonisation. Secondly, the plans could feed into a **coordinated process of technical dialogue with other Member States and the Commission**. This process would serve to reveal valuable information about Member States' own perspectives on their low-carbon transitions; identify opportunities for coordination; anticipate barriers to achieving the EU's long-term decarbonisation targets; and inform thinking about policy evaluation and development.

The goal would not be to have all Member States perfectly anticipate the future, nor to lock-in Member States to binding long-term strategies. On the contrary, the goal would be to **establish a necessary process of strategic thinking and dialogue on how to achieve the long-term goal of reducing greenhouse gas emissions by 80-95% by 2050 in a cost-efficient way**, based on national perspectives. This would, in turn, allow the plans inform "on-the-ground" policy development over time.

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⁵ Article 3.12 of draft Paris Agreement text: <https://unfccc.int/files/bodies/application/pdf/ws1and2@2330.pdf> "formulate and communicate longer-term low emissions development strategies."

⁶ Cf. Sartor et al, 2015, Designing planning and reporting for good governance of the EU's post-2020 climate and energy goals, IDDRI, Paris.