

EVALUATION AND FITNESS CHECK (FC) ROADMAP			
TITLE OF THE EVALUATION/FC	Evaluation for the Review of Directive 2012/27/EU on energy efficiency		
LEAD DG RESPONSIBLE UNIT	DG ENER C3	DATE OF THIS ROADMAP	11/ 2015
TYPE OF EVALUATION	Evaluation Linked to initiative 2016/ENER/002	PLANNED START DATE	06 / 2014
		PLANNED COMPLETION DATE	continuous
		PLANNING CALENDAR	http://ec.europa.eu/smart-regulation/evaluation/index_en.htm
This indicative roadmap is provided for information purposes only and is subject to change.			

A. Purpose

(A.1) Purpose

The Commission's Communication on a Framework Strategy for the Energy Union adopted on 25 February 2015 (COM(2015) 80 Final) indicates that Energy efficiency, contributing to moderation of demand, represent one of the five mutually-reinforcing and closely interrelated dimensions designed to bring greater energy security, sustainability and competitiveness in Europe.

Directive 2012/27/EU on energy efficiency (EED) establishes a set of binding measures to help the EU reach its 20% energy efficiency target by 2020. Under the Directive, all EU Member States are required to use energy more efficiently at all stages of the energy chain, from energy production to its final consumption. EU Member States were required to transpose the Directive into their national laws by 5 June 2014.

This initiative aims at a targeted evaluation of the EED to respond to the decision of the October 2014 European Council that the EU energy efficiency target needs to be of at least 27% by 2030 to be reviewed by 2020, "having in mind an EU level of 30%". It also follows up to the Communication on an Energy Union, which announced a review of the EED by the end of 2016.

The results of this evaluation will feed into the Impact Assessment of policy options in the framework of the EED review. The evaluation will be accompanied by an EU wide (internet-based) public consultation.

(A.2) Justification

The EED is one of the EU instruments to incentivise the societal and economic changes needed to reach the 2020 20% energy efficiency target (embedded in Article 3 of the EED). Based on analyses of Member States' actions and additional forecasts, it is estimated¹ that the 2020 target is likely to be missed by 1-2 percentage points, unless additional efforts are made to ensure timely and full implementation of the agreed legislation.

Given the wider and overarching objective for 2030 and the need for the Commission to respond to the request by the European Council to review the 27% target having the 30% in mind, the EED needs to be aligned with the 2030 perspective and the establishment of the new governance of the Energy Union.

Article 24 of the EED specifically stipulates that the Commission shall review the effectiveness of implementation of Article 6 (on purchasing by public bodies) by December 2015, and of Article 7 (on energy efficiency obligation schemes and alternative measures) by June 2016 and report on progress to the European Parliament and the Council with accompanying legislative proposals where appropriate. This evaluation will therefore also serve the purpose of reporting to the European Parliament and the Council on Article 6 and Article 7 of the EED.

B. Content and subject of the evaluation

(B.1) Subject area

Energy efficiency was identified as one of the priorities of Europe's 2020 Strategy for smart, sustainable and inclusive growth² and its Energy strategy³ with its 20-20-20 targets setting three objectives for the EU that

¹ Communication on Energy Efficiency and its contribution to energy security and the 2030 Framework for climate and energy policy COM(2014) 520 final.

http://ec.europa.eu/energy/sites/ener/files/documents/2014_eec_communication_adopted_0.pdf.

² COM(2010) 2020

³ COM(2010) 0639

represented an integrated approach to climate and energy. Energy efficiency is identified as one of the key pillars of the 2030 EU climate and energy framework⁴, due to its important contribution towards lower emissions and reduced energy dependency, to improved economic competitiveness, employment possibilities and social impacts. Energy efficiency is also recognised as a key instrument in the European Energy Security Strategy⁵, as it contributes to the reduction of the EU's energy dependency. Last but not least, energy efficiency is one of the five dimensions of the Energy Union Strategy adopted on 25 February 2015. The Strategy stressed that it was necessary to fundamentally rethink energy efficiency and treat it as an energy source in its own right, representing the value of energy saved. In this context and to respond to the overarching objective of decarbonising the EU by 2050 and the closer objective of the 2030 target, the Energy Union Communication announced that the EU's energy efficiency legislation will be reviewed in 2016.

The EED builds on Directive 2006/32/EC on energy end-use efficiency and energy services. It establishes a common framework of measures for the promotion of energy efficiency within the EU to ensure the achievement of the 20% headline target on energy efficiency by 2020 and to pave the way for further energy efficiency improvements beyond that date.

The EED is part of the broader EU energy efficiency policy framework, which brings together other key documents such as the Energy Performance of Buildings Directive (2010/31/EU) (EPBD) and Energy Labelling Directive (2010/30/EU) and Ecodesign Directive (2009/125/EC), as well as measures in the finance field.

The EED is interlinked with other energy and climate policy areas, notably, the ETS and non-ETS, and security of supply, market design and also policy actions of the White Paper on transport⁶.

(B.2) Original objectives of the intervention

The EED establishes a common framework of energy efficiency measures within the Union in order to ensure the achievement of the Union's 2020 20% headline target on energy efficiency and to pave the way to further energy efficiency improvements beyond that date (see Article 1). It lays down rules designed to remove barriers in the energy market and overcome market failures that impede efficiency in the supply and use of energy, and provides for the establishment of indicative national energy efficiency targets for 2020.

The EED quantifies, in Article 3(1)(a), the 20% target of energy efficiency by 2020, stating that "the Union's 2020 energy consumption has to be no more than 1483 Mtoe of primary energy and no more than 1086 Mtoe of final energy".

(B.3) How the objectives were to be achieved

The Energy Efficiency Directive establishes a set of binding measures to help the EU reach its 20% energy efficiency target by 2020. Under the EED, all EU Member States are required to use energy more efficiently at all stages of the energy chain from energy production to its final consumption.

In line with the EED, Member States have certain flexibility to set their own level of ambition and take measures that are most suitable for their own specific situation – as long as the overall EU energy efficiency target is achieved.

The following measures established by the EED aim to ensure major energy savings in the supply and use of energy:

- Member States are obliged to establish long-term strategies for mobilising investments in the renovation of the national stock of residential and commercial buildings, both public and private (Article 4);
- Every year, EU governments shall carry out energy efficient renovations on at least 3% by floor area of the buildings owned and occupied by the central governments (Article 5);
- The public sector in EU countries should purchase by public procurement energy efficient buildings, products and services (Article 6);
- Energy distributors and/or retail energy sales companies that are designated as obligated parties by each Member State shall achieve 1.5% new end-use energy savings per year through the implementation of an energy efficiency obligation scheme. Member States can also opt to achieve the same level of end-use savings through the alternative measures (Article 7);
- Companies that are not SMEs should carry out energy audits (the first has to be completed by the end of 2015) to help them identify ways to reduce energy consumption. The EED encourages Member States to also

⁴ COM(2014) 15 final

⁵ COM(2014) 330

⁶ COM/2011/0144 final

establish national incentives for SMEs to undergo energy audits (Article 8);

- Energy consumers are empowered to better manage energy consumption. This includes easy and free access to data on consumption through individual metering (Articles 9-11);
- Member States have to carry out, by December 2015, a comprehensive assessment of the potential for the application of high-efficiency cogeneration and efficient district heating and cooling (Article 14);
- Member States need to monitor the efficiency levels in new energy generation capacities and identify concrete measures and investments for the introduction of cost-effective energy efficiency improvements in the network infrastructure, also providing a timetable for the introduction of these measures (Article 15).

C. Scope of the evaluation/FC

(C.1) Topics covered

The EED specifically requires the Commission to review certain provisions: assess the effectiveness of the implementation of Article 6 concerning public procurement (Article 24(8)) and assess the implementation of Article 7 concerning energy efficiency obligation schemes and alternative measures (Article 24(9)) and requires submitting reports on both Articles to the European Parliament and the Council, accompanied, where appropriate, by proposals for further measures or by a legislative proposal. The evaluation is therefore focused on complying with these obligations.

This would be complemented by a more general evaluation covering certain other measures where this is important to ensure overall coherence: a number of consumer related issues linked to aspects of Articles 9-11 (on metering, billing information and cost of access to metering and billing information) and of Article 15 (on energy transformation, transmission and distribution), in particular paragraph 8 on demand response) will also be addressed in parallel by the Electricity Market Design and Delivering a New Deal for Energy Consumers initiatives, which will equally provide input for the work under the EED.

The evaluation of relevant planning and reporting obligations for energy efficiency up to 2020 will be addressed in the framework of the Energy Union governance (Fitness Check). The assessment of options for streamlining of planning and reporting obligations post 2020 will be done in the framework of the Energy Union governance initiative on streamlining planning and reporting obligations.

A wider evaluation of the EED as a whole would be premature given the relatively recent (June 2014) deadline for transposition of the majority of the provisions, the fact that the deadline for transposition has not passed in some cases (Article 14 on promotion of efficiency in heating and cooling), and that work to transpose and implement is still ongoing in Member States.

(C.2) Issues to be examined

The evaluation to be carried out will be based on the principles laid out in the Commission's Communication "Better regulation for better results - An EU agenda" of 19 May 2015 (COM(2015) 215 final) (the five Better Regulation criteria of relevance, coherence, effectiveness, efficiency and EU-added value, and quantification of cost and cost/benefit, simplification, and impact on SMEs where relevant). The main evaluation questions to be answered for each of the issues within the scope are provided below:

- To what extent have (the measures) referred to in Article 6 and Article 7 achieved its objectives?
- What main factors, in particular related to national implementation related to Article 6 and Article 7 of EED, have positively influenced, or prevented achieving the objectives?
- Is there potential to simplify and deliver the objectives of the EED, or of those elements of it for which evaluation is already possible, more efficiently. How?
- Are there some ways to simplify or streamline the provisions of Article 6 and Article 7?
- To what extent the provisions contained in Article 6 and Article 7 are internally coherent or what are the possible overlaps with other relevant EU legislation?
- Do provisions contained in Article 6 and Article 7 contradict or complement other EU interventions with similar objectives?
- Do the objectives of Article 6 and Article 7 still correspond to the needs of the policy area concerned/ to what extent is the intervention still relevant?
- What are stakeholders and/ or citizens' expectations for the EU role to ensure energy efficiency objectives related to Article 6 and Article 7?
- What has been the EU-added value of Article 6 and Article 7, and do the issues addressed continue to require

action at EU level?

- Why would the objectives of Article 6 and Article 7 be better achieved by EU action?

As regards Article 7, particular attention will be paid to the date referred to in Article 7(1) and the requirements in Article 7 (1), (2), (3) and (7), in accordance with Article 24(9).

(C.3) Other tasks

The evaluation will feed into the Impact Assessment of policy options in the framework of the review and possible revision of the EED announced in the Energy Union Strategy. A public consultation supporting both this evaluation and the future impact assessment (via IPM tool) will be launched in October 2015.

D. Evidence base

(D.1) Evidence from monitoring

Information on the implementation of energy efficiency current policies is available from the regular dialogue with Member States and the reporting obligations under the EED. This information is built mainly on: 1) Member States Annual Reports on the progress towards their national indicative energy efficiency targets⁷; 2) the National Energy Efficiency Action Plans (NEEAPs) submitted every three years by the Member States⁸, with the first one having been submitted in 2014 and the second one expected for 2017; 3) the Commission annual report assessing the progress of the EU towards reaching the 2020 target and checking the national implementation of the EED. The 2015 Progress report will be published along with the Report on the State of the Energy Union on 18 November.

Feedback on the practical application at Member State level is also provided through the ongoing work of the Concerted Action on the Energy Efficiency Directive (<http://www.esd-ca.eu>) and the building-related Concerted Action work on the EPBD (<http://www.epbd-ca.eu/>), and the Directive on Renewable Energy Sources.

(D.2) Previous evaluations and other reports

Given the recent entry into force (5 June 2014) of most provisions of the EED and the fact that some have not yet entered into force, no detailed evaluation or reports has been carried out. However, as mentioned above, both the 2014 Energy Efficiency Communication and the 2015 Commission Annual Report (to be published as part of the 2015 State of the Energy Union package) offer assessments and evaluation of various aspects of the EED.

(D.3) Evidence from assessing the implementation and application of legislation (complaints, infringement procedures)

As the Commission is concerned to work closely with the Member States in their transposition and effective implementation of the EED, the Commission also issued a Communication on the implementation of the Energy Efficiency Directive⁹, to which seven Guidance Notes in the form of Staff Working Documents on various articles of the EED (Articles 5, 6, 7, 8, 9-11, 14 and 15) were attached to explain in the Commission's services' view certain provisions of the Directive in more detail.

Moreover, timely transposition and implementation of the EED is facilitated through constant collaboration between the Commission and Member States. DG Energy has met bilaterally with Member States in numerous occasions and organised missions to individual Member States.

A small number of formal complaints have been received through the "CHAP" system which have been investigated and mostly found not to involve breaches of the Directive. Lessons learnt (for example, reason for protracted implementation) will be fed into the evaluation.

(D.4) Consultation

An open internet-based consultation supporting both this evaluation and the future impact assessment of the EED Review (via IPM tool) will be launched in October 2015.

The target groups of this consultation will be public authorities, Member States authorities, private organisations and industry associations, SMEs, consultancies and NGOs, other relevant stakeholders and citizens (inside and outside of the European Union). The questions will be elaborated in a way that the consultation feeds well into the evaluation exercise and at the same time provides a basis for the identification of policy options that will be part of the Impact Assessment in the framework of the EED Review. Results will be made available online.

As regards Article 6 (public procurement), a specific survey targeting procuring bodies in Member States has been carried out by external consultants for the Commission during July/August 2015. The feedback is currently being

⁷ <http://ec.europa.eu/energy/en/topics/energy-efficiency/energy-efficiency-directive/national-energy-efficiency-action-plans>

⁸ <http://ec.europa.eu/energy/en/topics/energy-efficiency/energy-efficiency-directive/national-energy-efficiency-action-plans>

⁹ COM/2013/0762 final.

analysed.

In addition, input from the Consultation on the Electricity Market Design launched in July 2015 may prove relevant in so far as Article 15 is concerned. In parallel, the Joint Research Centre is surveying expert stakeholders on their views on implementation of this Article.

(D.5) Further evidence to be gathered

Further evidence to underpin the evaluation will be gathered in the context of the following ongoing studies performed by external consultants on behalf of the Commission:

- Study reviewing the effectiveness of implementation of Article 6 of the Energy Efficiency Directive¹⁰;
- Study assessing the implementation of Article 7¹¹.

¹⁰ Study on the review of effectiveness of Article 6 of the EED implementation (Final Report due November 2015);

¹¹ A Study on evaluating implementation of Article 7 of the EED (Final Report due by December 2015).

E. Other relevant information/ remarks