

FITNESS CHECK (FC) ROADMAP			
TITLE OF THE FC	Streamlining reporting and planning obligations in the EU energy acquis [REFIT]		
LEAD DG – RESPONSIBLE UNIT – AP NUMBER	ENER – A1 AP 2016/ENER/024	DATE OF THIS ROADMAP	12 / 2015
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		PLANNED COMPLETION DATE	Q3 / 2016
		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
<p>This Fitness Check will address reporting and planning obligations in the EU energy <i>acquis</i> to ascertain whether there are simplification and burden reduction potentials and the extent to which the current obligations are coherent, effective, efficient, relevant and add EU value. Reporting and planning obligations are regularly included in new legislative act and sometimes in non-legislative acts. The main goal of the reporting and planning obligations is to provide the Commission with the data needed to assess whether EU legislation has been implemented and whether it produces its intended effects. The main goal of Commission's reporting obligations is to inform the European Parliament, the Council and the general public about the results achieved by EU legislation and to propose possibly policy reforms.</p> <p>The reporting and planning obligations are essential elements of the EU monitoring system. However, the current EU energy <i>acquis</i> includes a large number of reporting and planning obligations that might entail high administrative burden for the Member States and other stakeholders. Moreover, these obligations have been set up over the years for different sectors of EU energy. Even though each obligation provides useful information on a specific aspect of EU energy policy, interactions with other aspects might not be taken into account. Therefore, the purpose of this Fitness Check is to measure the overall administrative burden of EU energy law reporting and planning obligations, to assess the degree of coordination among them and to identify any information gaps. A Fitness Check is required because only an assessment of the reporting and planning obligations in different sectors of the energy field allows verifying whether unexploited synergies or unjustified burdens do exist. Moreover, the interaction between the reporting and planning obligations in the energy <i>acquis</i> and in the EU climate legislation will be considered as well.</p> <p>The results of the Fitness Check will be used to underpin a streamlined new reporting and planning system in the framework of the Energy Union strategy. The new system will cover the five dimensions of the Energy Union and will be closely linked to the integrated national energy and climate plans to be implemented for the period after 2020.</p>
(A.2) Justification
<p>The Energy Union Framework Strategy (COM(2015)80) stated that the Energy Union will need an integrated governance and monitoring process. One of the purposes of the governance process will be to streamline current planning and reporting requirements, avoiding unnecessary administrative burden. This objective was endorsed by the European Councils of 24 October 2014 and 19 March 2015.</p> <p>The communication on Better Regulation (COM(2015)215, p. 12) included the review of reporting requirements in the energy sector among the initiatives aimed at improving the implementation of EU law in the context of the REFIT Programme.</p> <p>The present Fitness Check follows up on the commitments made in the Commission's communications and the</p>

requests made by the European Council.

B. Content and subject of the evaluation

(B.1) Subject area

The Fitness Check will assess reporting and planning obligations in the EU energy acquis. This is a broad and complex policy area that has been developing in the last decades. The main legal bases of EU energy policy are Article 194 TFEU and the Treaty establishing the European Atomic Energy Community. Before entry into force of the Lisbon Treaty, EU energy policy was often based on internal market provisions (Articles 47, 55, 95 TEC). In some cases, EU energy legislation also refers to the environmental (Article 191 and 192 TFEU) or the security of supply provisions (art 122 TFEU). Broadly speaking, the EU energy *acquis* includes measures aimed at ensuring well integrated and competitive energy markets, a high level of energy security for companies and citizens, and a sustainable, low-carbon and climate-friendly economy.

The implementation of the above mentioned policy goals required the adoption of several legislative and non-legislative instruments which include many different reporting and planning obligations. From the point of view of their content, reporting and planning obligations can refer to progress in meeting the targets set up in EU legislation, to the communication of data on the national situation or to the choices made by Member States when using their discretion. The level of detail required for reporting and planning can vary from one area to another. From the point of view of their frequency, the main distinction is between regular reporting and planning, to be undertaken several times at fixed intervals, and irregular reporting and planning, to be undertaken only once. The reporting and planning obligations can be imposed on Member States, national independent authorities or economic operators (e.g. Transmission System Operators or promoters of Projects of Common Interest). At EU level, reporting obligations can be imposed on the Commission or EU agencies (e.g. the Agency for the cooperation of energy regulators [ACER]).

(B.2) Original objectives of the intervention

The adoption of reporting and planning obligations was meant to provide both the EU institutions and the Member States with the knowledge needed to monitor progress in achieving the policy goals mentioned above (B.1) and to identify the need for possible policy reforms. The reporting obligations were also designed to ensure the effective enforcement of EU law. Missing or incomplete information could signal that a directive has not been transposed in the national legal system or that the national measures are not compliant with EU law. In some cases, the non-transposition of the reporting and planning obligations has been the object of infringement procedures.

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

The intervention logic of the current reporting and planning obligations in the energy acquis can be summarized as follows. For each sector of the energy field, the Member States' reporting and planning obligations are designed to flag whether all the measures are properly implemented and whether such measures contribute to the achievement of the stated objectives. Therefore, the key issue for each reporting and planning obligation is to identify the type of information that allows assessing the impact of EU energy law. Drawing on the information supplied by the Member States, the Commission should be able to assess progress and to propose revisions of existing policies. The effectiveness of this monitoring system depends crucially on:

- 1) The existence of a direct link between the information collected and the real impact produced by EU energy policies.
- 2) The possibility to collect information about the interplay among the different dimensions of EU energy policy. The interplay with other EU policies (e.g. in the climate or transport area) should also be taken into account.
- 3) The possibility for the Commission to use the information supplied by the Member States.
- 4) The existence of external factors (such as technological developments [not dependent on EU policies], economic crises or international agreements) that could hinder or help the achievement of the policy goals to the extent that they have an impact on reporting and planning. These external factors should be considered to clarify the causal relationship between the reporting and planning obligations and the development of EU energy policies.

A simplified description of the reporting and planning process would start with the three general objectives of EU energy policies (competitiveness, security and sustainability) being reflected in EU energy law. The latter includes reporting and planning obligations that provide the evidence needed to assess the impact of legislative measures. Other EU policies and external factors might affect the final outcome.

C. Scope of the evaluation/FC

(C.1) Topics covered

The Fitness Check will cover the EU energy acquis. In particular, the Member States' and the Commission's reporting and planning obligations will be assessed, as well as potential knock-on effects on stakeholders as data providers, where these can be identified, in the following dimensions of the Energy Union strategy:

- a) Internal energy markets and infrastructures;
- b) Energy security;
- c) Decarbonisation of the Economy including renewable energy;
- d) Energy efficiency;
- e) Research, innovation and competitiveness.

The Fitness Check will focus on reporting and planning obligations with the following characteristics:

- 1) The reports have to be submitted on a regular basis by the Member States or the Commission.
- 2) The reports include information that can be used to assess progress with respect to EU energy policy goals.

Excluded from the present Fitness Check are:

- 1) Reports that are submitted on an irregular basis (required only once or submitted upon request by the Commission). Unlike the regular reporting obligations, these reporting obligations do not require Member States to put in place permanent structures to collect and analyse data. Therefore, irregular reporting obligations are less relevant from the point of view of measuring the administrative burden and streamlining the current monitoring system. Moreover, many irregular reporting obligations were already performed in the past and are not required anymore.
- 2) Reports that do not relate to the achievement of EU energy policy goals. One example are the reports to the European Parliament on the use of delegated powers. Being related to inter-institutional relationships, these reports are outside the scope of the present Fitness Check.
- 3) Notification obligations of the Member States related to the transposition and application of EU law. These obligations stem directly from the acquis and are outside the scope of this Fitness Check.

The results of the Fitness Check will be compiled in a Staff Working Document, which respects the Commission's Better Regulation principles.

(C.2) Issues to be examined

The Fitness Check will be carried out according to the five Better Regulation criteria of effectiveness, efficiency, relevance, coherence and EU-added value, and cover also quantification of costs and cost/benefit, as well as possibilities for simplification or lift burdens from SMEs. In particular, the following issues will be addressed:

1) **Effectiveness:**

To what extent do the current Member States' reporting and planning obligations provide information on the impact of EU energy policies? What have been the quantitative and qualitative effects of the reporting and planning obligations? Is there quantitative or qualitative evidence showing that such information is actually used to shape EU energy policies?

2) **Efficiency:**

To what extent are the costs involved justified, given the changes/effects which have been achieved? Are the costs proportionate to the benefits achieved? What is the overall administrative burden of EU energy reporting and planning obligations for both Member States and other stakeholders (economic operators and citizens)?

3) **Relevance:**

Are the current reporting and planning obligations well-suited to the objectives of EU energy policy? Will the reporting and planning obligations in each sector be useful for the Energy Union strategy? Did the current reporting and planning obligations adapt to technological developments in the field of analytical tools for big data?

4) **Coherence:**

To what extent are the reporting and planning obligations for each sector of the EU energy field coherent among themselves? Are the interactions among different reporting and planning obligations inside and outside (e.g. climate policy reporting and planning) the energy field taken into account?

5) **EU-added value:**

To what extent do the current reporting and planning obligations contribute to the coordination of energy policies

at EU level? Did they contribute to the integration of national energy systems?
(C.3) Other tasks
A preparatory study for the Commission's Fitness Check will be carried out by an external contractor.

D. Evidence base
(D.1) Evidence from monitoring
<p>As so far there is no evidence about the overall quality of the existing reporting and planning obligations, the proposed Fitness Check will help to address this knowledge gap. A REFIT evaluation of Directive 2009/28/EC was carried out in 2014, covering, among other issues, the reporting obligations. It showed that using templates helped reduce the administrative burden for Member States¹.</p> <p>A preliminary assessment of the reporting obligations currently included in the EU energy legislation shows that:</p> <ol style="list-style-type: none"> 1) A large number of reporting obligations can be found in the EU energy and in the EU climate legislation, both for the Member States and the Commission. 2) Irregular reporting obligations are more numerous than regular reporting obligations. Many irregular reporting obligations have already been performed in the past. 3) The level of detail in describing the content of each reporting obligation varies from one sector to the other.
(D.2) Previous evaluations and other reports
<p>In 2013 DG ENER and DG REGIO carried out assessments of their respective reporting obligations. Only Commission's reporting obligations were considered. The results of the assessment were published in the 2014 REFIT Scoreboard (SWD(2014)192/2, p. 57 f.). The final report outlined the importance of good management of the frequency, conciseness and content of reports, of improving the relations with the agencies charged with similar reporting obligations and of linking future reports to the information to be provided by Member States and involved stakeholders. This exercise gave more visibility to the existing legal obligations and allowed ENER to significantly reduce the number of reports through merging reports (43 reporting obligations to be merged into 14).</p> <p>The assessment and the proposals made in the 2013 report will be used in this Fitness Check to work out proposals for streamlining the existing reporting and planning system.</p>
(D.3) Evidence from assessing the implementation and application of legislation (complaints, infringement procedures)
<p>Compliance with Member States' reporting obligations has been ensured through continuous dialogue with the competent national authorities. When necessary, the Commission has started infringement procedures.</p>
(D.4) Consultation
<p>Public consultation</p> <ol style="list-style-type: none"> 1) Consultation Objectives: To collect views and opinions of the public and to gather factual information, data and knowledge on the costs and benefits of current reporting and planning obligations as well as the administrative burden associated with these obligations. The consultation will cover the five evaluation criteria listed in C.2. 2) Mapping of Stakeholders: Given the breadth of this Fitness Check, Member States and their public administrations, together with the energy industry, will be the categories of stakeholders most affected and directly involved in the implementation of the reporting obligations. However, the close link between reporting and planning obligations and goals of EU energy policies suggest that final consumers and their representative organizations shall be consulted as well. Academic and consultancy institutions may provide useful information on the administrative burden of existing reporting and planning obligations. 3) Consultation methods/tools: Dedicated webpage on ENER website; experts meetings, open public consultation,

¹ European Commission, *Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Renewable energy progress report*, COM(2015) 293 final, Brussels, 15.6.2015, <https://ec.europa.eu/transparency/regdoc/rep/1/2015/EN/1-2015-293-EN-F1-1.PDF>.

targeted consultation.

4) Consultation website: http://ec.europa.eu/yourvoice/consultations/index_en.htm; Timeframe: 12 weeks; Launch of consultation: Q1/2016

Publication of contributions: The contributions will be published on the dedicate webpage. A synopsis report will be annexed to the above mentioned Staff Working Document on the outcome of the Fitness Check evaluation and provide an analysis of the results of all the consultation activities.

(D.5) Further evidence to be gathered

The most important type of evidence to be gathered refers to the administrative burden related to the reporting and planning obligations. The methodology to be adopted will follow the Standard Cost Model. Data already available in the EU database on administrative burden and other statistical data will be used. Additional information could be collected through exchanges with Member States.

E. Other relevant information/ remarks

None