

INCEPTION IMPACT ASSESSMENT			
TITLE OF THE INITIATIVE	Energy Union Governance – Planning, Reporting and Monitoring obligations		
LEAD DG – RESPONSIBLE UNIT – AP NUMBER	ENER - A1 / CLIMA – C2 / SG – D3 [AP 2016/ENER+/029]	DATE OF ROADMAP	17 March 2016
LIKELY TYPE OF INITIATIVE	Legislative proposal		
INDICATIVE PLANNING	http://ec.europa.eu/atwork/pdf/planned_commission_initiatives_2016.pdf		
ADDITIONAL INFORMATION	-		
<p style="text-align: center;">This Inception Impact Assessment is provided for information purposes only and can be subject to change. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content and structure.</p>			

A. Context, Subsidiarity Check and Objectives

Context

The Commission's Communication on a Framework Strategy for the Energy Union, adopted on 25 February 2015 (COM(2015)80), foresees that the Energy Union needs an integrated governance and monitoring process, to make sure that energy-related actions at European, regional, national and local level all contribute to the Energy Union's objectives. The Communication also points out that the governance process should streamline current planning and reporting requirements, avoiding unnecessary administrative burden. In its State of the Energy Union 2015 (COM(2015)572) the Commission announced a proposal in 2016 on streamlining planning and reporting requirements related to climate and energy actions for Member States and the Commission to reduce as soon as possible unnecessary administrative burden in line with the better regulation agenda and to align planning and reporting requirements with the Energy Union Framework Strategy.

In October 2014 – in the context of the 2030 Framework for climate and energy – the European Council also called for a reliable and transparent governance system without any unnecessary administrative burden to help ensure that the EU meets its energy policy goals. On 19 March 2015, the European Council reiterated that a reliable and transparent governance system must be developed.

The core of the governance system will consist of several components: Integrated national energy and climate plans, a transparent monitoring mechanism based inter alia on streamlined reporting, and further regional integration. This Inception Impact Assessment outlines the available options for the design of the different components, including one or more legislative proposals on planning, reporting and monitoring for the post-2020 framework.

This initiative is closely related to the other more specific initiatives aimed at delivering upon the five dimensions of the Energy Union, namely energy security, solidarity and trust, a fully integrated European energy market, energy efficiency, decarbonisation, research, innovation and competitiveness. The assessment of the options will build on the Fitness Check evaluation that is being carried out on the planning, reporting and monitoring obligations in the EU energy *acquis*. The Fitness Check is part of the REFIT agenda (see [Communication on Better Regulation COM\(2015\)215](#), p. 12, and the [REFIT Scoreboard 2015, SWD\(2015\)110](#), p. 58; see also AP 2016/ENER/024) and the Commission Work Programme 2016 (see [Annex 2 to the Commission Work Programme 2016, COM\(2015\)610final](#)). Relevant evidence on planning, reporting and monitoring collected in the evaluation of other energy directives and on the recently streamlined Monitoring Mechanism Regulation in the field of climate legislation will also be used.

Policy coherence will be ensured by introducing a comprehensive process that will allow to monitor all the dimensions of the Energy Union and to identify the most important interactions among them. Particular attention will be given to ensure policy coherence and consistency between planning, reporting and monitoring in the energy and climate fields.

Issue

The current EU energy and climate *acquis* includes numerous planning and reporting obligations, for both Member States and the Commission. The most notable *planning* obligations, with a 2020 perspective, are in the areas of renewable energy (Directive 2009/28/EC), energy efficiency (Directive 2012/27/EU)

and low carbon development strategies (Monitoring Mechanism Regulation N° 525/2013). *Reporting* obligations are included in nearly every legislative act, although with different degrees of required detail and timing. They aim to provide information on national implementation, to track progress towards targets and alert to the need for policy reforms. As regards, the Commission's side, the reporting obligations are meant to inform the EU institutions, the social partners, the stakeholders and the general public.

These obligations have been introduced in various legislative processes over the years that were generally initiated from a sectorial policy perspective and established at different points in time. This has resulted in planning and reporting requirements that are not fully aligned with the needs for coherent EU energy and climate policy development, partly overlapping, and heterogeneous in terms of detail and timing. Consequently, unwarranted administrative burden originates, inter alia, from redundancy, incoherence, differing periodicity, and lack of coordination among the different obligations – both within the energy field and between the energy and climate fields. Moreover, the lack of coherence of the different obligations has resulted in a situation where important aspects of the comprehensive Energy Union strategy are currently not adequately covered or not subject to any planning or reporting obligations at EU level. As the plans and reports are developed at a sector or sub-sector level, the interactions and interdependencies between policy areas of the Energy Union are not sufficiently covered in either plans by Member States or reports by Member States and the Commission.

The current sector specific approach towards planning and reporting in the energy field implies the existence of a number of reporting obligations, delays in reporting and divergent approaches from Member States which hampers the comparability of results. Delayed or insufficient reporting has led to the opening of a large number of investigations by the Commission services (where over the past 7 years the Commission engaged in structural dialogue with the Member States in 270 instances, 40 of which led to the opening of infringement procedures). While most Member States complied with their reporting obligations at the end, this approach revealed unsustainable as the Commission could not monitor the progress towards the policy goals of all Member States at the same moment and with the same amount of reliable evidence.

In the context of the Energy Union strategy, the main objective of the future integrated national energy and climate plans should be to ensure that the flexibility given to Member States in defining national energy and climate policies is compatible with the attainment of common energy and climate objectives. The plans must result in greater coherence among Member States' approaches, promote further market integration and competition and provide predictability and certainty for investment. The plans should be guided by and reflect the broader objectives of the five dimensions of the Energy Union strategy. Moreover, the plans should take a holistic approach to the energy system and fully recognise all interactions between e.g. climate action objectives, development of new electricity generation capacity and energy infrastructure, energy savings, energy security and market integration, etc. They will cover the period post-2020, and in particular up to 2030, but will need to demonstrate that the path described is compatible with the 2050 objectives. Wherever possible, all this should be done from a regional perspective (covering more than one Member State) rather than national perspective, and the planning should build on regional cooperation (among Member States) already from the outset.

Monitoring mechanisms for the plans shall be tailored to their content. Whereas in the current EU legislation planning, reporting and monitoring obligations have been designed separately for each EU energy and climate policy action, the new planning, reporting and monitoring obligations should provide a more holistic and integrated view on the delivery of the five dimensions of the Energy Union and on their interactions, while continuing to take into account existing reporting requirements under international agreements (i.e. United Nations Framework Convention on Climate Change). Such an approach should also allow reducing the administrative burden on the Member States and on the Commission.

The initiative is needed to ensure that all the measures aimed at achieving the EU 2030 targets will be in place at the right time. If no action is taken, there is a great risk that the common objectives will not be met, in particular taking into account that for renewable energy binding targets have been agreed at EU and not at national level. At the same time, it could be difficult to link together the five dimensions of the Energy Union and ensure policy coherence.

The new planning, reporting and monitoring obligations will concern the energy and climate field. Therefore, the initiative will also affect all the segments of the energy industry and the final consumers.

Subsidiarity check

The legal bases for the initiative are Articles 192(1) and 194 TFEU and, with reference to the nuclear sector, the Treaty establishing the European Atomic Energy Community. In line with the subsidiarity principle, any proposal will have to respect Member States' competence. However, the options to be explored aim at ensuring that the content of the plans and the monitoring mechanisms are fully in line with the Energy Union strategy. From this point of view, action at EU level is needed because of the cross-border relevance of each dimension of the Energy Union and because of the lack of binding targets

at national level. None of such dimensions could be satisfactorily delivered without an EU governance process.

Main policy objectives

The general policy objective of this initiative is to set up a reliable and transparent governance system without any unnecessary administrative burden to help ensure that the EU meets its energy policy goals in line with the five dimensions of the Energy Union.

The more specific policy objectives of the initiative can be described as follows:

- 1) Reducing the administrative burden of planning, reporting and monitoring obligations for Member States, the Commission and stakeholders by streamlining these obligations in line with the Better Regulation principles of effectiveness, efficiency, EU added value, relevance and coherence.
- 2) Ensuring that the process for preparing and finalising the integrated national energy and climate plans is timely and that all the interested stakeholders can express their views.
- 3) Ensuring consistency of the content of these plans across Member States and the reflection of the broader objectives of the five dimensions of the Energy Union including the 2030 targets for climate and energy.
- 4) Ensuring that the plans are reliable and thus contribute to investor confidence and certainty. The revision process of these plans shall therefore be transparent, predictable and foster investments in the energy sector.
- 5) Ensuring that the planning, reporting and monitoring obligations on all the dimensions provide relevant information to monitor progress and steer the policy debate.

B. Option Mapping

Baseline scenario – no EU policy change

An evidence-based qualitative assessment of the baseline scenario will be provided in the Impact Assessment. Without any policy change, planning, reporting and monitoring in the post-2020 framework would be organized according to the requirements laid down in the current EU energy legislation. The baseline scenario therefore reflects an unchanged continuation of existing planning, reporting and monitoring obligations, but no introduction of new obligations. This would imply planning and reporting requirements that are not fully aligned with the needs for coherent EU energy and climate policy development, partly overlapping, and heterogeneous in terms of detail and timing.

The current energy efficiency framework for reporting as well as the climate monitoring mechanism cover the period after 2020, but are based on the architecture of the 2020 targets. Furthermore, meeting the 2030 target for renewable energy set at the EU level could be jeopardised by relying on existing obligations. In addition, the planning, reporting and monitoring obligations currently in place through different pieces of legislation do not cover all the dimensions of the Energy Union.

Options of improving implementation and enforcement of existing legislation or doing less/simplifying existing legislation

Implementation and enforcement of existing planning and reporting obligations already takes place on a regular basis, even if the reporting pace is different in the various parts of the EU energy acquis. According to the Commission's Annual Reports on the application of EU law, the number of infringement proceedings in the energy sector is relatively high. Some of these infringement proceedings concern reporting obligations. However, the Commission cannot go any further with infringement proceedings to ensure more streamlined planning, reporting and monitoring as the current legislative framework is the limit of any such action. Therefore, the present initiative is needed and aims at streamlining and better coordinating existing obligations.

Streamlining of the planning and reporting obligations contained in the Energy acquis is instrumental for moving towards integrated governance and for monitoring process in achieving the Energy Union objectives. However, often plans and reports submitted by Member States are delayed, incomplete and difficult to compare. For this reason in the past 7 years the Commission engaged in structural dialogue with the Member States in 270 instances, 40 of which led to the opening of infringement procedures for non-compliance with reporting obligations. The structural dialogues were efficient as the number of infringement procedures opened is significantly lower than the investigations launched. The infringement procedure went to the stage of a decision for a referral to Court only for 2 Member States in 2015.

Despite the successful outcome of most pre-infringement and infringement procedures, Member States continue to be systematically delayed to comply with their planning and reporting obligations. While the

reasons for delayed or incomplete plans and reports vary, this reveals a clear opportunity to improve compliance through streamlining the relevant legal obligations. Timely submission of plans and reports by Member States will also allow the Commission to better perform its monitoring and reporting duties under EU Energy law. In the climate field, where reporting obligations have already undergone a streamlining exercise with the adoption of the Monitoring Mechanism Regulation in 2013, the amount of infringements is limited.

Alternative policy approaches

Several different policy approaches will be considered, namely:

1) *Providing only soft guidance to Member States on planning, reporting and monitoring.* Member States would be invited to streamline and improve planning and reporting within the limits of the current or the future energy and climate sectorial legislation. This option implies an assessment of reasons for not changing the current planning and reporting obligations. At the same time it also implies not regulating the structure or process for the integrated national energy and climate plans and respective progress reports.

2) *Regulating planning, reporting and monitoring obligations through sectorial energy and climate legislation only.* This option implies an assessment of reasons for achieving the streamlining of the current planning, reporting and monitoring obligations post 2020 into national energy and climate plans, respective progress reports as well as streamlined monitoring through the review of several pieces of sectorial EU energy and climate legislation while ensuring consistency of overall planning, reporting and monitoring obligations.

3) *Regulating planning, reporting and monitoring obligations through a single legislative act.* This option implies a legislative act covering the planning, reporting and monitoring obligations related to the five dimensions of the Energy Union. Legislative provisions should be adopted in a single harmonised instrument with the aim of clarifying and harmonizing the process for the development and structure of national energy and climate plans, respective progress reports as well as further streamlining monitoring obligations in order to assess progress as regards the implementation of the Energy Union. In parallel, revisions of sectorial legislation would be needed to implement and fulfil the Energy Union policy objectives and targets.

Alternative policy instruments

Using self- or co-regulation would entail delegating to private actors some of the tasks related to planning and reporting, while currently such tasks are carried out by the national authorities. The costs and benefits of these instruments will be analysed in the Impact Assessment.

Alternative/differentiated scope

All the policy options will affect the whole energy industry. Therefore, SME and micro-enterprises will be affected as well. The Impact Assessment will include the SME Test to ensure that neither EU legislation nor the Member States impose unjustified burdens when designing their plans and collecting information for planning, reporting and monitoring.

Options that take account of new technological developments

The introduction of a unified electronic platform, to be established at EU level, for all the Member States' reporting obligations will be considered. Such a platform should ensure that all the relevant knowledge can be easily processed and made available for policy purposes. The use of the existing platform for climate reporting managed by the European Environment Agency (Reportnet) will also need to be considered. Interoperability with Eurostat's databases in the energy sector will be ensured as well. A study on the architecture of such a digital initiative will be launched in Q1/2016. In line with the Better Regulation guidelines, a digital assessment of all the options on the design of planning, reporting and monitoring obligations will be carried out in the Impact Assessment.

Preliminary proportionality check

To implement the Energy Union and in particular the 2030 climate and energy framework, EU action is needed. This also applies to the governance as the Member States have committed to commonly achieve these goals. However, each of the above mentioned options will have to be screened from the point of view of the proportionality test. Only the measures that are needed to ensure the delivery of the Energy Union will be considered for adoption. Also, the proportionality test will be applied to the choice of the policy instrument (guidance, self- or co-regulation, legislative act).

C. Data Collection and Better Regulation Instruments

Data collection

Several different sources of information will be used to assess each option:

- a) Evidence collected through the Fitness Check evaluation on planning, reporting and monitoring obligations.
- b) Evidence collected through the evaluations of other legislative acts in the EU energy field, evaluation of coherence between the reporting obligations in the energy and climate fields, as well as through the Impact Assessment carried out in the process of revising those legislative acts.
- c) Additional evidence collected for the relevant Impact Assessment, to be carried out in 2016.
- d) Evidence collected through the stakeholder consultation on this inception Impact Assessment.

Consultation approach

An open public consultation for both the evaluation of existing planning and reporting obligations in the EU energy legislation (Fitness Check) and streamlining of these obligations (Inception Impact Assessment) has been launched in January 2016. The consultation seeks to gather information which could be used for the evaluation of the existing planning and reporting obligations in the EU energy legislation, as well as opinions on the options that could be adopted in order to revise the current framework.

1) Objectives: To collect views and opinions of stakeholders and to gather factual information, data and knowledge. The consultation will cover the policy objectives and the policy options listed above.

2) Stakeholders to be consulted: Member States, industry associations, consumer associations, NGOs, individual citizens

3) Consultation method/tools: Dedicated questionnaire published on the "Your voice in Europe" website and the website of DG ENER: <https://ec.europa.eu/energy/en/consultations/consultation-streamlining-planning-and-reporting-obligations-part-energy-union>. In addition to the public consultation, expert meetings with stakeholders will be organised.

4) Timeframe: 12 weeks, open until 8 April 2016.

5) Launch of consultation: 11 January 2016, The public consultation has been published on [Your Voice in Europe](#).

Publication of contributions: The contributions will be published on the dedicated webpage, together with a summary of the key issues.

Will an Implementation plan be established?

Yes No

The Commission will set out an implementation plan aimed at supporting Member States with guidance notes, data analysis and sets of indicators. Support will also be provided on the use of new electronic tools for planning, reporting and monitoring.

D. Information on the Impact Assessment Process

The Impact Assessment will start as soon as the preliminary results of the Fitness Check evaluation on the planning, reporting and monitoring obligations become available. The foreseeable starting date is Q2/2016.

E. Preliminary Assessment of Expected Impacts

Likely economic impacts

Expected positive impact on investments in the energy sector because of the increased certainty provided by the planning process. The significance of the impact cannot be quantified at this stage.

Likely social impacts

Expected positive impact on employment, to the extent that the delivery of the Energy Union strategy will contribute to economic growth. The significance of the impact cannot be quantified at this stage.

Likely environmental impacts

Expected positive impact due to the achievement of the 2030 targets for renewable energy and energy efficiency, and more generally to the policy measures in the decarbonisation dimension of the Energy Union strategy. The significance of the impact cannot be quantified at this stage.

Likely impacts on simplification and/or administrative burden

Expected positive impact from the streamlining of planning, reporting and monitoring obligations. The significance of the impact cannot be quantified at this stage.

Likely impacts on SMEs
To be analysed in the Impact Assessment.
Likely impacts on competitiveness and innovation
Expected positive impact on both competitiveness and innovation due to the increased stability of the regulatory framework in the new governance system. The significance of the impact cannot be quantified at this stage.
Likely impacts on public administrations
Expected positive impact thanks to streamlining of existing planning, reporting and monitoring obligations. The significance of the impact cannot be quantified at this stage.
Likely impacts on third countries, international trade or investment
Expected positive impact on foreign direct investments in the EU thanks to the increased stability of the new governance system. The significance of the impact cannot be quantified at this stage.