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M. Laurent MOSAR
Président de la Chambre des Députés
rue du Marché-aux-Herbes 23
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Dear President,

The Commission would like to thank the Chambre des Députés of the Grand-Duché of Luxembourg for its Opinion on the Commission's proposal for a new Energy Efficiency Directive¹, and apologises for the extremely long delay in responding to your opinion.

The Commission shares your conviction that the commitment to achieve the 20% primary energy saving target is a key objective under the Europe 2020 Strategy.

As the Chamber rightly notes the proposal for a new Directive is a response to calls made by the European Council and European Parliament for the Commission to propose measures stimulating efforts to exploit the considerable cost-effective energy efficiency potential remaining in the European Union.

The Commission notes the Chamber's comments that the new measures and the level of control by the Commission would increase the administrative burden of Member States. The Commission would like to stress that one of the aims of the proposal is the streamlining and simplifying of existing EU legislation. The Chamber has specifically expressed concerns about the proposed reporting obligations. The Commission would like to point out that these, as compared to the current reporting obligations, will bring a significant reduction of the overall administrative burden for the following reasons:

First, the new Directive will remove the most complicated and costly reporting requirements by focusing on the impact of the overall mix of measures on the main sectors of economy instead of determining the impact of each individual national policy measure.

Second, because the new Directive covers all sectors, it will be easier to capture important savings in all major sectors, such as generation, transmission, distribution and end-use of energy. This will make it easier to include the major primary energy savings gained by cogeneration in the calculation of progress towards the national target, which is not possible under the existing reporting regime. Also the energy savings in the sectors falling under the EU emissions trading scheme (ETS) will now be recognised and encouraged.

¹ COM(2011) 370 final

Third, the new reporting scheme integrates under a single reporting scheme already existing reporting obligations set under three different EU Directives: Directive 2006/32/EC on energy end-use efficiency and energy services², Directive 2004/8/EC on the promotion of cogeneration³ and Directive 2010/31/EU on the energy performance of buildings⁴. This single reporting scheme is designed to facilitate a comprehensive strategic approach, and a better planning and execution of reporting requirements. This should eliminate the risk of duplication of work and inconsistent information provision from unsynchronised timing and lack of synergies resulting from preparing a number of separate reports of limited scope.

The more detailed complementary reports, which are to be submitted every three years, in practice represent a relief for Member States from a number of different complex existing reporting obligations, such as determining the impact of each single policy measure on final energy savings under Directive 2006/32/EC on energy end-use efficiency and energy services, which in many Member States could only be fulfilled through the use of expensive ex-ante and ex-post bottom-up measurement methods and the separate calculation of savings that are “not eligible” (e.g. savings achieved in ETS undertakings, savings that might not be generated by the policy measures as such, etc). Due to the difficulties of collecting hard statistical data at micro-economic level, the current approach typically requires Member States to contract external scientists whose conclusions are not underpinned by a common set of agreed reporting principles, in contrast to the approach proposed in the new Directive.

It is important to stress that the annual reporting required is integrally linked to the follow-up of the Europe 2020 Strategy. The reporting will be limited to the collection of basic key indicators for energy efficiency for the previous year; e.g. estimates of primary energy consumption and final energy consumption in the main sectors of the economy and short updates on major new policy measures introduced in the previous year would suffice. In the view of the Commission, the linking of the annual reporting of major energy efficiency indicators to the overall EU reporting cycle of other macro-economic level data under the Europe 2020 Strategy and the comprehensive supplementary reporting scheme should result in net benefits for Member States in terms of both raising the political importance of energy efficiency and providing a cost-effective strategic approach to national energy efficiency policies.

The Chamber indicated that other measures proposed by the Commission could also raise cost-benefit concerns and pleaded for greater flexibility for Member States to select the instruments best suited to their objectives. In this respect, the Commission would like to highlight that the Energy Efficiency Directive proposal aims at setting a broad framework to ensure that the common EU objective is reached, while the formulation of measures provides flexibility for Member States to adapt the measures to their national circumstances. As an example the setting of energy efficiency obligation schemes under Article 6 includes harmonisation requirements for only key features of such schemes (level of ambition, obligation to introduce penalties in case of non-compliance), while allowing Member States to decide on a large range of specific elements (e.g. obliged parties, eligible saving measures) adapted to the structure of the national energy sector. Moreover Member States have also the possibility to propose alternative energy savings mechanisms that lead to the same results but are not based on an obligation on energy companies.

² OJ L 114, 27.4.2006

³ OJ L 52, 21.2.2004

⁴ OJ L 153, 18.6.2010

The principle of cost-effectiveness underpins all the measures in the proposal and leaves room for variations between Member States. Two elements can be used to exemplify it. Firstly, in line with Article 4 of the proposal an annual 3% renovation target for publicly-owned buildings is proposed, however, the level applied to this renovation target is to be defined by the Member States and a number of elements provide flexibility for choosing the concrete path of implementation. Likewise, the promotion of efficient heating and cooling under Article 10 of the Directive is subject to a cost-benefit analysis that needs to take into account national circumstances and local conditions.

I hope that these clarifications address the questions and concerns raised in your opinion, and I look forward to continuing our political dialogue.

Yours faithfully,

*Maroš Šefčovič
Vice-President*