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Brussels, 20 September 2000

OPINION

of the

Economic and Social Committee

on the

Proposal for a Directive of the European Parliament and of the Council on the promotion of electricity from renewable energy sources in the internal electricity market

COM(2000) 279 final - 2000/0116 (COD)

On 26 June 2000 the Council decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

> *Proposal for a Directive of the European Parliament and of the Council on the promotion of electricity from renewable energy sources in the internal electricity market*
> COM(2000) 279 final - 2000/0116 (COD).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 September 2000. The rapporteur was **Mrs Sirkeinen.**

At its 375th plenary session (meeting of 20 September 2000) the Economic and Social Committee adopted the following opinion with 105 votes to 1 and 4 abstentions.

1. Introduction

1.1 The Economic and Social Committee follows with great concern the developments in the EU and Member States towards meeting the obligations of the Kyoto Protocol, in order to combat global climate change. As energy production and use is a major source of carbon dioxide emissions in the EU and increased use of renewable energy sources is one of the possibilities to curb these emissions, the Committee appreciates that the Commission has finally, as one key action in this area, presented its draft Directive concerning renewable energy sources in the internal electricity market.

1.2 The White Paper "Energy for the future: renewable sources of energy"[1] set an indicative objective of doubling the share of renewable energy from 6% to 12% of the gross inland energy consumption by 2010. This share was further translated into a specific share for the consumption of electricity from renewable energy sources, RES-E, now updated to 22.1%. The White Paper also established a comprehensive Action Plan, including as one of many measures a Directive on RES-E in the internal electricity market. In its Opinion the Committee supported in general the thrust and the goals of the White Paper, even if it found the objective of 12% very ambitious, and underlined the need for substantial measures in order to meet the goal.

1.3 The European Council at Lisbon in March 2000 decided to speed up the development of the internal market for electricity, established by the Directive of 1996. A well functioning internal market partly supports the goal of increasing RES-E while enhancing efficient use of resources[2], economies of scale and better ground for R&D and innovation. The internal electricity market can work well only if all actors have a level playing field in different Member States, i.e. competition and intra-EU-trade must not be distorted by national actions like restrictions, support schemes, etc.

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1 Communication from the Commission: Energy for the future: Renewable Energy Sources-White Paper for a Community Strategy and Action Plan ". COM (97) 599 final, 26.11.1997. ESC opinion - OJ C 214, 10.7.1998, p.56.

2 COM(98) 246 final. Opinion of the Economic and Social Committee on the "Communication from the Commission: Energy Efficiency in the European Community - Towards a strategy for the rational use of energy". OJ C 407, 28.12.1998.

1.4 Several Member States have established systems to increase the share of RES-E in their national electricity consumption. Public financial support in different forms is often substantial. This is justified by the need to compensate for the public support given to traditional energy sources, in some cases directly as subsidy and in any case by not internalising all external costs in the prices.

1.5 The problem to be solved in a balanced way is in brief the following. How to speed up development and market share of RES-E and at the same time ensure the proper functioning of the internal electricity market and not unduly increase the cost burden on state and consumers.

2. The Commission proposal

2.1 The basic aim of the proposed Directive is to create a framework which will facilitate the medium-term significant increase in renewable generated electricity ("RES-E") within the EU. The promotion of renewable sources of energy is a high Community priority, for reasons of security and diversification of energy supply, for reasons of environmental protection, economic and social cohesion.

2.2 In order to achieve the Directive's objectives, Member States will therefore have to set and meet national targets for the domestic future consumption of RES-E which are consistent with the White Paper on renewables and national commitments to reduce greenhouse gas emissions in the light of the Kyoto obligations. The Commission presents indicative national targets in Annex I of the Draft Directive.

2.3 The Directive puts an obligation on the Commission to monitor the application of support schemes in favour of generators of electricity from renewable as well as conventional energy sources in Member States and, no later than 5 years after the entry into force of this Directive, to present a report on the experience gained with the application and the co-existence of different support schemes in Member States.

2.4 Besides, the proposed Directive foresees a number of accompanying measures intended to create a level playing field and facilitate the penetration of RES-E in the internal electricity market, notably regarding administrative procedures and grid system issues.

2.5 The Directive proposes that all Member States take the necessary measures to ensure that the consumption of RES-E develops in line with the above energy and environmental objectives. Member States will therefore be obliged:

- to set and meet on a yearly basis national targets for domestic future consumption of RES-E in terms of kWh consumed or as a percentage of electricity consumption for the next 10 years. These targets shall be compatible with the objectives outlined in the White Paper on RES;
- to publish, on an annual basis, their domestic objectives and the measures taken and to be taken at national level in order to meet these objectives.

2.6 Therefore, the Directive contains a provision whereby Member States shall take the necessary measures to ensure that transmission system operators and distribution system operators in their territory grant priority access to the transmission and distribution of electricity from renewable energy sources.

3. General comments

3.1 The legal base of the draft Directive is Article 95 of the EC Treaty, dealing with the internal market. The Committee agrees with this as the objective of this Directive is to ensure possibilities of increasing the share of RES-E in a well functioning internal electricity market. However, the Committee considers that the Article 95 is not enough to impose binding targets on Member States.

3.2 RES has a significant role to play in combating climate change. This role is, however, only partial and rather small in the overall challenge of achieving the goals set at Kyoto. RES is a high Community priority also for reasons of security and diversification of energy supply as well as economic and social cohesion. Furthermore, RES have their applications in heat generation and CHP, which may be economically more efficient and viable than electricity generation under some circumstances. To set a realistic framework for these proposed actions the Commission should develop an overall, very long term energy vision.

3.3 It should be borne in mind that the proposed Directive under consideration constitutes only one part of the EU actions towards enhancing RES, that of the relation between RES-E and the internal electricity market. There are numerous other actions ongoing or under preparation as listed in the White Paper.

3.4 The Commission should consider the fact that sensitising consumers (industry, businesses and citizens) to the use of alternative sources of energy is also a means to promote renewable electricity. A natural demand for renewable electricity should even be a primary objective, constituting a healthy market situation.

4. Objectives on the consumption of electricity from renewable energy sources

4.1 The Committee again emphasises the need for strong action in order to make optimal use of the potential of RES-E. Member States have, however, at present different shares of RES in their energy mix and the use of each form of RES varies considerably due to differences in geography, climate and the economy. The same variable picture is true for the potential to increase the use of RES.

4.2 Each Member State has committed itself to national targets within the EU burden sharing concerning the Kyoto Protocol. Governments are to plan and implement their individual programmes in order to meet their Kyoto targets. The role of different sectors of the economy, different measures within each sector and instruments used will vary between States. Binding sectoral targets at EU level as well as their transposition into national targets are difficult to incorporate in this approach. One could even argue that they are in clear conflict with subsidiarity vis-à-vis meeting the targets of the Kyoto protocol burden sharing as well as the Member States right to decide upon its own energy mix.

4.3 Situations may arise where a Member State attains its Kyoto targets, but does not meet the RES-E levels imposed in the Directive. In this light, the Committee feels that the Commission should spell out more clearly how the wider targets of the Kyoto protocol on the one hand and the sector-specific RES-E targets on the other hand interact with each other. Two parallel sets of targets may reduce the clarity of the objectives that will have to be met by Member States.

4.4 The Commission refers to the use of highly sophisticated modelling as a base for setting the indicative national targets for each Member State. However, it remains unclear which country-specific criteria have been used, not least in the light of close study of the national figures. Consequently it is difficult to discuss the "fairness" of this burden sharing as such.

4.5 The Commission does not directly propose binding national targets for RES-E, but in effect the proposed approach seems to lead to that. The Committee sees a need to re-evaluate the proposal on this point. Also the legal character of an "indicative target" is unclear and should be clarified, including the question of possible sanctions in cases of non-compliance.

4.6 The Committee agrees with the proposal to put obligations on Member States to publish objectives and measures as well as to report on progress and on the Commission to make an annual assessment report. However, in the Committee's view the national reports should be based on their Kyoto obligations and measures to meet them as a whole, not cover RES-E in isolation. The Commissions' assessment should have the same approach – is the Member State acting towards meeting its overall obligation, and is the role of RES-E viably dealt with in that context.

5. **Support mechanisms**

5.1 RES can and should contribute to sustainable development. All energy production and use has, however, impacts on the environment. Different types of RES have substantially different kinds and levels of environmental impacts. In order to achieve the best effects for sustainability it is, therefore, necessary to establish a specific environmental or ecobalance for each RES technology. This environmental evaluation should also take into account especially indirect impacts on climate change. On the basis of these balances priority support can then be given to RES technologies with a particularly positive ecobalance and a corresponding potential to replace fossil energy.

5.2 In enhancing the use of RES-E, account must also be taken of the limits to the potential use of many forms of RES-E. Biomass has its limitations due to land use and alternative end use. Hydropower is dependent on rainfall. Wind and solar energy have to be balanced by other generation, suitable for regulation. In particular, in the case of biomass serious natural and economic equilibria must not be disrupted artificially.

5.3 The argument that all external costs must be internalised in energy prices and thus level out the playing field for RES, is important and pertinent. The problem is, however, that so far there is no scientifically founded and generally accepted method to do this. Efforts in this area are vital and must continue. Meanwhile, and probably for a long time, support to renewable energy sources is needed. This

should be generally acceptable as long as the absolute amount of such kinds of support is not disproportionate to the scale of overall cost of energy.

5.4 The ESC took in its Opinion on the Commission Working Document the view that a proactive creation of a single market through Community action would be needed. This entails that the direct support schemes comply with a number of basic requirements in such a way as to ensure the different schemes are sufficiently compatible with one another, permitting effective trade and, thus, competition. To postpone the definition of a harmonised framework for support to RES-E until 2005 as mooted by the Commission is accordingly a matter of some concern to the Committee.

5.5 Without incentives, the RES share may remain static or even decline. Member States already have various schemes to enhance RES-E but to act in line with the targets in the White Paper and the draft Directive they have to strengthen their efforts considerably. When by 2005 the share of RES-E is due to rise considerably, there is a clear risk of a distorting impact on the market.

5.5.1 Investments in the power field are made for decades. It is therefore essential to give actors in the electricity market certainty on operating conditions for at least the medium term.

5.5.2 Also, after establishing and operating their schemes for years, Members States will certainly be reluctant to change. In particular, when changing a support and thus operating framework, the problem of stranded investments usually rises.

5.5.3 The ESC naturally supports the Commission when it points out that State aid rules apply in this area also. But, as the Commission itself notes, even under these rules national systems can offer different conditions. This could lead distortion of the market when RES producers will try to benefit from the national system offering the best conditions and thus possibly to aid competition.

5.6 The Commission rightly points out that there is not yet enough experience to decide on one common EU-wide support system. In absence of a common approach and system, the Committee however sees that some principles should be established as soon as possible. In the Committee's view a possibility could be to set a cap on national support. For each technology a maximum support amount, for instance as a relative amount in relation to market prices or as euros per kWh, could be set at EU level, taking into account the true environmental quality, efficiency and availability of power produced by each technology. In the end, it is the absolute support given, or equivalent assistance in other ways, that has impact on competition.

5.7 The Committee agrees with the principles set out in Article 4 of the draft Directive, which should in any case apply to support schemes. It is in particular pleased, that the Commission has taken on board its proposal, presented in the opinion on the Working Document, to take into account the characteristics of the different renewable technologies.

5.8 In addition, the Committee proposes the following principles to be taken into consideration:

– the financial burden on public funds and, in particular, the cost burden on the energy user must, be affordable, proportional and fairly distributed;
– compensation should decrease over time to take into account techno-economic development, no technology can be supported continually in the long term;
– schemes should as far as possible be designed so as to leave the final decision to the market;
– all support schemes must be fully transparent
– no support scheme should offer income to a generator without normal market risk, which all generators have to bear.

5.9 To the Committee's knowledge new Community guidelines on State aid for environmental protection are presently under preparation in the Commission, but there has been no transparency regarding either the preparation process or the contents. It is of crucial importance that these guidelines are drafted in a manner to comply with the draft Directive.

6. Guarantee of origin

6.1 The Committee agrees in general with the Commission's proposal that Member States set up systems for certification of the origin of RES-E. The measures to ensure accuracy and reliability of such systems are of vital importance. In addition, the Committee would like to stress two points.

6.1.1 In a functioning internal electricity market there will be limitations to the extent to which a certain unit of electricity sold can be traced from generator to end user. Some classification, i.e. different brands of electricity, will probably be marketed by the exchanges but there has for practical reasons to be a limited amount of brands. This means that certification of every single source or form of generation will have no practical meaning in the market and should therefore not be required.

6.1.2 In order to facilitate mutual recognition of certificates as well as possible future trade in the internal market, it seems essential that the certification systems in Member States are, from the start, fully compatible with one another. The Commission must ensure the compatibility of national certification systems.

7. Administration and planning

7.1 The Committee agrees with the proposal on this point.

8. Grid connection

8.1 Given the special features of RES-E and its most usual generators, this part of the proposal is of vital importance. Also, the roles of grid and system operators in different Member States are different both legally and operationally. It seems that this part of the draft Directive needs further clarification, taking particular account of the role and of operators. The Committee sees need for clarification on at least three points.

8.1.1 Different dispatching systems (central dispatching vs. market based) should be considered in the proposal. Some may in practice render priority access impossible or unnecessary.

8.1.2 Unlimited priority access can cause serious problems, in particular in isolated systems, if the share of RES-E of total electricity generation is high and back-up generation capacity is not sufficient.

8.1.3 Article 7.2 does not give clear guidance on how costs and benefits generated by renewable energy installations should be divided and borne. It is important that the costs of grid connection are equitably distributed between parties involved.

8.1.4 In Article 7.5, the concept of two-way metering is unclear and should have been explained by the Commission.

9. Definitions

9.1 The Committee finds it correct, as it stated in its Opinion on the working document, that the Directive does not give a definition on renewable energy sources as such but gives in Article 2 definitions only for the purpose of this Directive.

9.2 The Committee wonders, however, why biomass in particular has here been defined differently than in the White Paper, without any explanation. This needs clarification. In particular, organic residues from forest industries and separated recycled fuels should be included in the definition. Naturally, avoiding and reducing waste as well as recycling are primary objectives, but when this is not possible, energy generation should be provided for instead of landfill or equivalent use. The potential harmfulness of incineration of certain kinds of waste has been mitigated by the recent Directive on waste incineration, so there should be no environmental or health arguments against broadening the definition of the draft Directive as proposed here.

9.3 In Article 2.2 the treatment of hybrid plants is ambiguous. The expression “in particular for back-up purposes” should not mean any sort of restriction.

9.4 The Committee agrees with the treatment of large hydropower in the draft Directive as a whole. As large hydro is in principle competitive there is no reason why it should benefit from support systems. Still the question remains, how to deal with large hydro if exceptionally it would be in need of support measures. This could for instance sometimes be the case when renewing and at the same time upgrading existing plants.

10. Final provisions

10.1 Considering the approach of the draft Directive, which identifies needs for Community action, but leaves key issues to be decided upon only after some years, the extensive system of reporting, review and assessment is needed. It is naturally of vital importance, in this as in all other cases, that Member States comply fully with the Directive. As the goals of this Directive are to be seen as a

part of a broader priority of the Union, the follow-up should also be set into that context. The Committee here refers to paragraph 4.6. above.

11. Socio-economic impacts

11.1 Inevitably, the increased use of RES-E will have positive impact on the business sector in question. In particular, it is important to maintain and develop the leading position EU business has in this area. This creates new jobs. The impact on remote areas and in particular islands can be considerable.

11.2 Liberalisation of the energy sector has caused some job losses. Creation and durability of jobs in the renewables sector is, for natural reasons, hard to predict. Because the new jobs will have new skill demands, serious attention should be paid to sufficient retraining and education. Concerning the overall impact on employment, the Commission refers to one report that is very positive about these consequences. In the Committee's view this important question should, however, have been dealt with more profoundly on the basis of verified, reliable data.

11.3 The Commission states that its proposal will have very limited financial repercussions on EU funds. But it is surprising that the Commission has not in any way referred to the costs for Member States and/or consumers. It is clear that even rather high costs may be outweighed by benefits in the long term. But as the draft Directive in its present form sets very ambitious objectives while leaving free choice to Member States in supporting the development, the costs may be both very high and unevenly distributed. This should have been properly dealt with by the Commission.

12. Summary

The Committee

- agrees with the legal base of the draft Directive but considers that Article 95 does not provide for imposing binding targets on Member States;
- sees a significant but still only partial role for RES-E in the overall challenge to achieve goals set at Kyoto, and urges the Commission to develop a long term energy vision;
- emphasises the need for strong action to make optimal use of RES-E potential and agrees with obligations on Member States to publish objectives and measures to this end, but sees the imposing of practically binding targets might be in conflict with subsidiarity applied to actions in order to meet Kyoto targets;
- sees a clear need for incentives to increase the use of RES-E but, in order to avoid market distortions and unacceptably high costs, proposes that some principles for support should be established as soon as possible, for instance in the form of a cap on national (effective) support, taking into account the true environmental quality, efficiency and availability of power produced by each RES technology;
- agrees with the proposal on systems for certification of origin of RES-E and points out that they should be designed to fit an open electricity market while the Commission must ensure the

compatibility of national systems;

- sees the part on grid connection to be central to the proposed Directive and points out a need for clarification on several points;
- agrees with the treatment of hydropower in the proposal but does not agree with the changes made in the definitions of the Directive relative to those in the previous White Paper, in particular concerning biomass residuals from forest industries;
- is supportive to the positive economic impacts of the proposal on the business sector in question but finds the analysis concerning impacts on employment and economic impacts on States and consumers very unsatisfactory.

Brussels, 20 September 2000

The President of the Economic and Social Committee	The Secretary-General of the Economic and Social Committee
Beatrice Rangoni Machiavelli	**Patrick Venturini**