Fit for 55 package: Energy from renewable sources


This briefing provides an initial analysis of the strengths and weaknesses of the European Commission’s impact assessment (IA) accompanying the above-mentioned proposal, submitted on 14 July 2021 and referred to the Committee on Industry, Research and Energy of the European Parliament.

Directive (EU) 2018/2001 of 11 December 2018 on the promotion of the use of energy from renewable sources (RED II) lays down a binding target of a share of at least 32% of energy from renewable sources in the Union’s gross final consumption of energy by 2030. This was set within the context of a target of a minimum 40% cut in greenhouse gas (GHG) emissions from 1990 levels, as set out in the Commission’s 2014 policy framework for climate and energy.

With the adoption of the European Green Deal (EGD) communication, the Commission recalibrated its objectives and set EU targets of 55% GHG reductions from 1990 levels by 2030 and climate neutrality (net zero GHG emissions) by 2050. Both targets were written into law in the European Climate Law. In September 2020, the Commission adopted the 2030 Climate Target Plan (2030 CTP), which looks at how to achieve the targets set in the EGD. In particular it ‘previews a set of actions required across all sectors of the economy’ and sets the stage for a number of proposals for new legislative instruments and for the revision of a number of others under the so-called ‘Fit for 55’ package to achieve the increased ambition. The package is part of the 2021 Commission work programme and includes, inter alia, the revision of RED II.

Problem definition

The IA explores three ways in which RED II fails to contribute sufficiently to the increased ambition and new policies adopted under the EGD: (i) the targets and measures set in RED II are not sufficiently ambitious to achieve the new ambition cost-effectively, (ii) RED II does not properly reflect the measures that were proposed after its 2018 revision to achieve a more integrated energy system, namely in the energy system integration strategy and in the hydrogen strategy, and (iii) the sustainability criteria for bioenergy need to be reinforced in a targeted way in light of the increased climate and biodiversity ambition of the EGD.

The IA discusses the problem drivers and how the problem would evolve without a revision of RED II: without such revision, the EU is expected to reach a share of renewables of around 33% in 2030, which is below the necessary 38-40% indicated in the 2030 CTP to be consistent with the -55% target by 2030. Thus, the IA argues that, in view of the heightened GHG emission reduction targets, leaving the ambition level of RED II unchanged ‘would put additional burden for increased decarbonisation on other instruments’. (IA, p. 19) The IA examines the nature and scale of the problem, substantiating its findings with references to relevant sources mostly investigating the state of play in the deployment of different types of renewable sources of energy within the EU.
Subsidiarity / proportionality

The IA includes a distinct section on subsidiarity under ‘Chapter 3 – Why should the EU act?’, where it explains the necessity and added value of EU action. In particular, the IA argues that the role of Member States is crucial to reach the EU GHG reduction ambitions and ‘simply setting targets at EU level and leaving Member States complete freedom as to how to achieve them would ... not be an effective way to achieve the agreed targets’ (IA, p. 22) and risks distorting the internal market. The IA emphasises that the Member States' right ‘to determine the conditions for exploiting their energy resources, their choice between different energy technologies and the general structure of their energy supply’, which are safeguarded under Article 194 TFEU, ‘remain fully untouched’ (IA, p. 22).

According to the IA, the combination of preferred options ‘are considered to strike the correct balance between the need to increase level of ambition commensurate with increased climate target and the need to leave flexibility to Member States to decide which measures are best suited and the most effective for them’ (IA, p. 193).

Subsidiarity and proportionality are also among the criteria used by the IA in the comparison of the options to choose the preferred options.

The deadline for the submission of reasoned opinions by national parliaments with regard to respect of the principle of subsidiarity was 8 November 2021. By that date, two national parliaments (the Swedish Parliament and the Irish Houses of Oireachtas) had issued a reasoned opinion on non-compliance with the principle of subsidiarity.

Objectives of the initiative

The IA clearly identifies the general and specific objectives of the initiative. The IA underlines that this initiative, like all ‘Fit for 55’ initiatives, builds on the 2030 CTP and on its underlying IA, where the Commission takes the view that an increase in the share of renewable energy in the range of 38-40 % by 2030 would be one of the contributions necessary to enable the achievement of a 55 % emission cut in a responsible way. In this context, the general objective of the initiative is to ensure that the revised RED II is fit to contribute to the -55 % target in a cost-effective and sustainable way.

The specific objectives of the initiative are:

1. to increase the renewables share in final energy consumption sufficiently to ensure that the deployment of renewable energy in 2030 is in line with the 2030 CTP findings, thus cost-effectively contributing to the new climate target;
2. to increase energy system integration by promoting electrification based on renewable electricity, to create a level playing field for all innovative renewable and low carbon fuels and to specifically promote innovative renewable fuels;
3. to ensure that renewables, in particular produced from biomass, are sustainable, including by minimising the risk of significant negative environmental and climate impacts.

The specific objectives do seem to be specific, relevant, time-bound (they are linked to the 2030 climate target) and achievable, as required in the Better Regulation Guidelines. However, specific objectives 2 and 3, as stated, do not appear to provide sufficient clarity regarding a desired future state (in measurable terms), undermining verification of their achievement. Moreover, considering that the IA does not set out operational objectives, there appears to be little operational guidance on what is to be achieved.

Additionally, the general objective and specific objective 1 seem to already pre-empt a certain course of action, appearing to favour the implementation of a target in the range of 38-40 % (see ‘Range of options considered’ below), since, according to the 2030 CTP and its IA, the cost-effective path to achieve the 2030 climate target involves an increase in the share of renewable energy to 38-40 % by 2030.
The IA does appear to draw a clear logic between the problems, their drivers, the objectives and the policy interventions under consideration, as required in the Commission's Better Regulation Guidelines.

**Range of options considered**

The IA translates each of the specific objectives it identifies (see above) into three policy areas, for which it lays down policy and sub-policy options to achieve those objectives. A fourth policy area (also subdivided) corresponds to 'flanking and enabling measures' that support the measures under the first three policy areas.

The IA ends up analysing more than 70 options, amongst which feature the baseline/no change options (options 0 in Table 1 below) for each set of options, and often a non-regulatory option. The presentation of the options, however, tends to be inconsistent and unclear. The IA adopts different methods of presenting the options for the different policy and sub-policy areas. Furthermore, it is at times unclear whether options and sub-options are meant to be alternative or complementary to one another. It is also not straightforward to identify the options picked as preferred options from the description given in Chapter 8 of the IA. This inconsistency and lack of clarity risk undermining the IA's ability to effectively inform decision-making.

Table 1 below (drawn up for the purpose of this initial appraisal), seeks to give a schematic overview of the policy areas and the respective options whilst remaining faithful to the textual presentation in the IA. Comments in square brackets (made for the purposes of this initial appraisal) contain clarifications about the options or suggest a possible interpretation of certain situations where the presentation of the options is unclear. It must be borne in mind, however, that this interpretation might differ from that intended by the authors of the IA.

**The IA underscores the fact that the key options analysed 'do not concern the level of ambition (which is considered as agreed based on the [2030] CTP analysis) but the ways of implementing this level of ambition' (IA, p. 184).** The target level thus seems to have already been determined, even though the IA still goes on to assess other options regarding the level of the target (see also the section on 'Objectives of the initiative' above).

Preferred policy options are marked in **bold** in the table. Given the multitude of options, at times complementary and at others alternative to each other, and the equivocal description of the preferred options in Chapter 8 of the IA (which needs to be read in conjunction with other parts of the IA), it is possible that the identification of the preferred options is subject to differing views.

**Table 1 – Options**

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<th>Policy area 1: Insufficient ambition in EU and Member State legislation from both a 2030 and a 2050 perspective</th>
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<td>Sub-policy area 1.2: options to increase renewable energy in the heating and cooling sector</td>
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<td>Option 0: maintain the current indicative average annual increase target in renewables and the current list of measures to implement that average annual increase.</td>
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Option 2: extend the current list of measures in RED II to implement the indicative average annual increase in renewables.
Option 3: change in the level and/or nature of the annual increase target in renewables. This option is divided into Options 3a, 3b, 3c and 3d offering different combinations of changes to the annual increase target. Options 3a, 3b and 3c are mutually exclusive, whilst Option 3d is complimentary to the other three and may be applied to reinforce any of them.
[Option 3, with its sub-options, is meant to be complimentary to Options 0, 1 and 2.]

Sub-policy area 1.3: options to increase renewable energy in the district heating and cooling sector

Option 0: maintain current policies under RED II.
Option 2: strengthen existing measures, e.g. improved information for consumers, strengthened rights for renewable heat suppliers, etc.
Option 3: concerns the level and nature of the annual increase target in renewables. This option is divided into the mutually exclusive Options 3a, 3b, 3c and 3d, offering different combinations in the level and nature of the annual increase target in renewables.
[Options 3a involves keeping the status quo in regard to the level and nature of the target; one assumes therefore that Option 3 is meant to be complimentary to the other options and not an alternative to them. This assumption is confirmed in the selection of the preferred options, with Option 3c selected to complement Option 2 as a preferred option.]

Sub-policy area 1.4: options to increase renewable energy in the transport sector

Option 0: no change.
Options regarding the level and nature of the targets.
Option 1: higher targets for renewables in transport and the introduction of new fuel blends as renewables to facilitate the achievement of the higher targets.
Option 1A: the target for renewables is increased and the sub-target for advanced biofuels is increased.
Option 1B: the introduction of a dedicated sub-target for renewable fuels of non-biological origin (RFNBOs) in addition to the increase in the targets for renewables and in the sub-target for advanced biofuels.
Options regarding the measures. [Option 2 and the sub-options under it are understood to be complementary to Options 0 and 1 and not necessarily an alternative to them. This seems to be confirmed in the selection of policy options.]

Option 2: Member States are required to set out an obligation on fuel suppliers that ensures the target is achieved.
Option 2A: the obligation on fuel suppliers is expressed in terms of energy (i.e. suppliers are required to incorporate a minimum share of renewable energy in the fuels they supply).
Option 2B: the obligation on fuel suppliers is expressed in terms of emission savings with no sub-targets for advanced biofuels and RFNBOs.
Option 2C: the choice between the approaches described in Options 2A and 2B is left to the Member States.
Option 2D: the obligation on fuel suppliers is expressed in terms of emission savings, but operators are required to achieve minimum shares for advanced biofuels and RFNBOs.

Policy area 2: Insufficient promotion of energy system integration

Sub-policy area 2.1: Measures to enhance the contribution of transport and heating and cooling to the system integration of renewable electricity

Options regarding the availability of renewable energy source (RES) relevant system information.
Option 1.0: no change – baseline scenario.
Option 1.1: in addition to price signals, mandate transmission system operators (TSOs) and distribution system operators (DSOs) to make information available on the RES share of
the electricity in the system, as well as forecasting information where possible, in a real-time and interoperable manner.

**Option 1.2:** in addition to option 1.1, also mandate electricity suppliers to provide information in bills on the actual RES share of electricity consumed.

Options regarding set minimum requirements for the availability of intelligent infrastructure for the integration of electric vehicles in the electricity system.

**Option 2.0:** no change – baseline scenario.

**Option 2.1A:** mandate Member States to ensure that all recharging points installed in their territory are able to support smart charging functionality.

**Option 2.1B:** same as Option 2.1A, but allow Member States to exclude certain locations where smart charging would typically not present added value to system flexibility.

**Option 2.1C:** mandate Member States to assess the extent to which the deployment of additional smart charging points in their territory can further contribute to system flexibility and penetration of renewable electricity, going beyond the minimum requirements of their deployment for mobility purposes.

**Option 2.2A:** mandate Member States to ensure that all recharging points installed in their territory are able to support vehicle to grid (V2G) functionality.

**Option 2.2B:** same as Option 2.2A, but allow Member States to evaluate the level of deployment of bidirectional charging (V2G) according to the specific needs of their system.

Options regarding ensuring a level playing field in the market of electricity supply and electric mobility services, specifically for aggregation of distributed assets.

**Option 3.0:** no change – baseline scenario.

**Option 3.1:** ensure that electricity storage systems or devices are treated by network and market operators in ways that are not discriminatory or disproportionate.

**Option 3.2:** give electricity market participants and mobility service providers access to basic battery information, such as state-of-health and state-of-charge.

**Option 3.3:** ensure open access to charging infrastructure that is not for own use.

### Sub-policy area 2.2: Terminology covering all renewable and low-carbon fuels

**Option 0:** continue with existing definitions of RFNBOs and recycled carbon fuels (RCFs) as categories.

**Option 1:** extend the definition of RFNBOs only.

**Option 2:** include a new definition of low carbon fuels as being: recycled carbon fuels, low-carbon hydrogen, and synthetic fuels the energy content of which is derived from low-carbon hydrogen – without any GHG threshold associated.

**Option 3:** same as Option 2, but associate a specific GHG threshold that such low-carbon fuels have to meet in order to be considered low-carbon; empower the Commission to come up with a common methodology to demonstrate achievement of such GHG threshold by way of delegated act. Within this option, Option 3A would define a GHG threshold that is specific to low-carbon fuels whilst Option 3B would define a GHG threshold that is the same as for RFNBOs and RCFs.

### Sub-policy area 2.3: European system of certification of renewable and low carbon fuels

Options regarding the scope and content of the certifications system.

**Option 0A:** no change – baseline scenario based on voluntary and national certification schemes.

**Option 1A:** adjustment of the scope and content of the certification system to include all fuels covered by RED II, as well as improvement of the certification process to take additional requirements and methodologies into account.

**Option 2A:** further development and harmonisation of the existing system of guarantees of origin as an alternative certification system for renewable and low carbon gases and renewable electricity.

Options regarding traceability.

**Option 0B:** remain with the current scope of the Union database to cover only liquid and gaseous transport fuels.
Option 1B: a single information system is developed covering all energy end-use sectors and the respective supply chains in a life cycle approach (from production to place of consumption of the fuels).

### Sub-policy area 2.4: Promotion of innovative renewable and low carbon fuels

- **Option 0**: No changes – baseline scenario based on non-regulatory measures.

**Options regarding the extension of the scope of accounting.**

- **Option 1**: extend RFNBO accounting beyond transport to include heating and cooling and industry, improve the consistency of accounting and the way RFNBOs count towards the overall target.
- **Option 2**: allow Member States to count low-carbon fuels towards the sectoral RFNBO targets (in transport and industry), but not allow low carbon fuels to count towards the overall RES target.

**Options regarding the creation of specific sub-targets for RFNBOs.**

- **Option 3**: dedicated RFNBOs targets in hard-to-decarbonise sectors such as transport and industry.
- **Option 4**: combined target for RFNBOs in transport and industry.

**Options regarding the creation of specific sub-targets for all innovative low-carbon fuels.**

- **Option 5**: dedicated low-carbon fuels targets in hard-to-decarbonise sectors such as transport and industry.
- **Option 6**: combined low-carbon fuel target in transport and industry.

### Policy area 3: Options to ensure bioenergy sustainability

- **Option 0**: baseline scenario with the adoption of implementing acts under RED II.
- **Option 1**: non-regulatory measures.
- **Option 2**: targeted strengthening of the EU bioenergy sustainability criteria.
- **Option 3**: application of the EU sustainability criteria to small-scale installations.
- **Option 4**: national caps on the use of high quality stemwood for energy. (Option 4 is subdivided into Sub-option 4.1 (full exclusion of high quality stemwood as a renewable energy source) and Sub-option 4.2 (minimisation of national financial support for the use of high quality stemwood for energy)).
- **Option 5**: national caps on the use of forest biomass for energy.

[Options 2 and 3 are complementary; Options 4 and 5 are alternatives to one another and complementary to Options 2 and 3.]

### Policy area 4: Flanking and enabling measures

**Sub-policy area 4.1: Measures to increase cross-border cooperation**

- **Option 0**: baseline scenario based on cross-border cooperation on a voluntary basis.
- **Option 1**: non-regulatory option, whereby the Commission issues updated guidance on cross-border cooperation.
- **Option 2**: obligation for Member States to test cross-border cooperation (pilot project) within the next three years (paving the way for a partial opening of support schemes in the future).
- **Option 3**: mandatory partial opening of support schemes.
- **Option 4**: enhanced use of the EU’s renewable energy financing mechanism via Member States.

[The IA states that ‘while options 1 and 4 could be complementary to the other options, options 2 and 3 are rather alternatives to each other (with option 2 being a stepping stone to option 3)’ (IA p. 45).]

**Sub-policy area 4.2: Measures to promote and scale up offshore renewable energy**

- **Option 0**: no changes – baseline scenario.
Assessment of impacts

The IA uses a range of scenarios to assess the impacts of the options. The three core scenarios are: (i) the 'REG core scenario', which relies on intensification of energy and transport policies alone in the absence of an extension of the current emission trading system (ETS); (ii) the 'MIX core scenario', which relies on an ETS extension to road transport and buildings and the intensification of energy and transport policies; and (iii) the 'MIX-CP core scenario', which illustrates a lower ambition revision of energy policies (and CO₂ standards for vehicles), but with a strong role for carbon price signals. The three core scenarios are complemented by variants that help to assess specific policy options: the 'MIX-H2 variant', which illustrates a higher uptake of hydrogen in final energy demand sectors by 2030 (compared to the three core scenarios); and the 'MIX-LD variant', which aims to assess the impacts of the absence of a revision of RED II, whilst maintaining all other policies on the level of ambition/stringency modelled in the MIX scenario.

The IA describes the three core scenarios as 'cost-effective pathways that capture all policies needed to achieve the increased climate target of 55 % GHG reductions'. However, the IA does not seem to explain clearly enough the relationship between the options as presented and the scenarios, and what option combinations could constitute the different scenarios.

The IA goes through the remarkable task of analysing the economic, environmental and social impacts of the retained options for each of the policy and sub-policy areas and also their effectiveness and coherence, together with, where relevant, the administrative burden and compliance costs that would fall on public authorities and economic agents.

In analysing the social impacts, the IA examines the energy-related expenditures incurred by households in particular (purchases of energy and equipment/services related to buildings and transport), which are regarded as 'key social impacts of the core scenarios' (IA, p. 58). Moreover, the IA recognises 'the need for targeted policies addressing needs of vulnerable households' (IA, p. 58), and mentions that the resultant distributional impacts could be addressed (at least to some extent) with a targeted use of carbon pricing revenues to decrease low income consumers' energy bills.

Concerning the environmental impacts, the IA focuses on the positive effects on air quality, CO₂ emissions and biodiversity conservation.

Throughout the assessment, it becomes apparent that accomplishing the heightened ambition level will require considerable investment in the various sectors. In this respect, the IA argues that while 'such profound changes do not happen overnight and the magnitude of investment is a challenge ... the revision of RED can deliver best on specific support measures for new renewable solutions and create certainty for investors to make the accelerated energy transition happen' (IA, p. 6). In particular, the IA points out that the initiative complements the ETS by providing the...
investment signals that are needed to foster innovation (particularly in regard to electromobility services and renewable and low carbon fuels) and to promote innovative fuels such as advanced biofuels and RFNBOs.

The specific impacts of introducing renewable energy targets in industry are also examined, with the IA explaining that 'industrial investment cycles are relatively long, and can set the direction for a company for multiple decades'. Given the lock-in effects of investment cycles in industry and the insufficient signal provided by carbon prices, the IA argues that setting renewable energy benchmarks will 'allow industries to already consider renewables within the period up to 2030, avoiding any lock-in situations after 2030' (IA, p. 139).

While EU-level impacts are the focus of the assessment, impacts at Member State level are also considered, with the IA presenting national results from modelling. The IA particularly refers to the different national circumstances (e.g. renewable potential, share of fossil fuel in the energy mix) and how these translate into different impacts on households' energy-related expenditures and electricity prices for each Member State.

When it comes to comparing the options, the IA considers their effectiveness, efficiency, coherence and proportionality, in line with the Commission’s Better Regulation Guidelines, and also takes into account subsidiarity and the administrative and compliance costs for Member States, industry and households. In an effort to facilitate the comparison of options and the identification of the rationale behind the selection of the preferred options, the IA presents all options in a summary table showing how the options score (from -- to ++) under the main comparison criteria. There does seem to be, however, at least one instance where the scoring in the summary table (IA, p. 174) is not consistent with the text.

Regarding setting an overall minimum renewable energy target, the IA justifies, through its assessment of impacts and its comparison of options, the choice of Option 1 (a minimum target in the range of 38-40 %) as the preferred option. However, it is not very clear how the IA settles on the specific percentage of 40 % (within the range in the preferred option of 38-40 %) as a minimum overall renewable energy target for 2030.

SMEs / Competitiveness

The impacts on small and medium-sized enterprises (SMEs) are analysed for two (sub-)policy areas:

- **Policy area 3** (mainly for policy option 3, which specifically targets small-scale enterprises in the solid biomass sector), with the IA presenting the distribution of businesses per size and assessing the impacts with some differentiation between micro, small and medium enterprises. In particular, the IA identifies three impacts under policy option 3 that concern SMEs: (i) the administrative burden and resulting additional compliance costs for installations under 20MW and for small local forest owners and agriculture biomass producers; (ii) possible closures of small heat and power installations due to their inability to comply; and (iii) possible reduction of the revenues of small farmers. Moreover, the disproportionate impacts on SMEs seem to have been taken into account to discard policy options at an early stage.

- **Sub-policy area 2.1 (Option 3.3)**, with the IA referring to the benefits for small charge point operators and e-mobility service providers, but with little differentiation and characterisation of the operators. The impacts are presented in a qualitative manner and are related to market entry and growth opportunities.

The IA does not explain why the impacts on SMEs are assessed in the above-mentioned (sub-)policy areas but not in others, nor why it does not conduct an SME test. Neither does the IA indicate how SMEs were represented in the stakeholder consultations or give an account of their views.

Concerning competitiveness, the IA assesses the impacts within the EU market for the economic players mentioned above. The potential changes in the competitiveness of EU industry vis-à-vis third
countries are discussed for two particular policy options: (i) the IA mentions that labels (Option 2A in Sub-policy 4.3 – part of the package of preferred options) will contribute to the competitive level playing field in industries not only across Member States, but also with non-EU competitors, with their voluntary nature minimising potential negative effects on international trade; (ii) for hard-to-decarbonise industry sectors (e.g., steel), which can see their costs increase with the implementation of an RFNBO target (Option 3 in Sub-policy 2.4 – part of the package of preferred options), the IA refers to the need for complementary measures, such as a carbon border adjustment mechanism, to provide a level playing field with non-EU producers.

Simplification and other regulatory implications

The IA emphasises the efforts undertaken to ensure coherence of the initiatives under the 'Fit for 55' package. Among these efforts are the development and use of common scenarios and a specific section – under the analysis of impacts of the options under each policy area – examining the coherence of the options with existing EU legislation, policies and proposals. Coherence is also one of the criteria for the comparison of the options.

The IA shows an awareness that 'the revision of RED II can have many positive synergies with other elements of the "Fit for 55" package'. In particular, it points out that 'the most relevant interactions are with the Emissions Trading System, in the option which extends it to buildings and transport', underlining how the revision of RED II and of the ETS are complementary and mutually reinforcing in driving an accelerated switch to renewable fuels, while avoiding extreme regulatory or carbon pricing scenarios. The IA also highlights the strong synergies in the field of energy efficiency, as discussed in the IA accompanying the proposal for a recast of the Energy Efficiency Directive. It also makes reference to the IA on the 2030 CTP, which shows that the 'strengthening of regulatory measures promoting renewables works in synergy with carbon pricing', explaining how this finding is also confirmed in the 'Fit for 55' core scenarios (IA, p. 68).

Thus, for example, in assessing the social impacts of options regarding the heating and cooling sector, the IA envisages the targeted use of ETS revenues to accelerate both energy efficiency and renewable technologies, and to support low-income consumers. On the other hand, according to the IA, the possible extension of the ETS to transport would result in higher energy prices for consumers.

Monitoring and evaluation

The proposal leaves the RED II provisions on monitoring and evaluation unchanged. The IA argues that the monitoring and evaluation of the policy objectives of the revised RED II 'should be done using, to the greatest extent possible, existing instruments and data already available from Eurostat', with the development and addition of new official statistics to take new elements introduced by the revision into account.

The Governance Regulation aims to provide a streamlined and integrated approach to the main planning, reporting and monitoring obligations related to the achievement of the GHG emission reduction commitments of the EU, and thus plays an important role in the monitoring, reporting and evaluation of RED II and its targets. The IA considers that the Governance Regulation has served its purpose well in its first two years of operation and that the monitoring and evaluation of progress towards the policy objectives of the revised RED II should continue to avail of the support of the Governance Regulation, updated to account for the revised ambitions in terms of sources of renewable energy.

Stakeholder consultation

The IA gives a systematic overview of the opinions of different stakeholder groups. The IA is also transparent in instances where most stakeholders were in favour of one option which did not feature on the IA's package of preferred options, and explains the reasons for the deviation. Thus, for example, the IA explains that while the majority of stakeholders expressed a preference for
national binding overall renewable energy targets, they ‘would not be more effective than the EU-level target ... and could create subsidiarity issues’ (IA, p. 178), and therefore retains the baseline of an EU-level binding target as the preferred option.

Annex 2 to the IA provides insight into the stakeholder consultation activities that fed into the IA process. The consultation activities included, amongst others, the opportunity for stakeholders to give feedback on the inception impact assessment (with a total of 374 contributions received), a 12-week online public consultation (with a total of 39,074 respondents, 98% of which [38,313 responses] resulted from a coordinated campaign replying to only two questions with a standard reply concerning forest biomass), and targeted consultation activities.

Supporting data and analytical methods used

The data supporting the reasoning of the IA comes mainly from modelling work, the 2030 CTP and its IA, Member States' national energy and climate plans, scientific studies, including studies by the Joint Research Centre (JRC), and inputs from stakeholders.

The IAs accompanying several of the legislative proposals in the 'Fit for 55' package, including the IA of the proposal for the revision of RED II, rely on a common analytical framework, which aims at ensuring 'consistency of the analysis across all initiatives' (Annexes, p. 87). This framework is embedded in several modelling tools with proven track record in supporting EU policy-making, which are used to produce a common baseline reflecting the current policy framework (the EU Reference Scenario 2020, REF2020) and a set of core scenarios which are complemented by specific variants (see ‘Assessment of impacts’ above). These modelling tools are available to the public via the European Commission's Modelling Inventory and Knowledge Management System (MIDAS), including PRIMES and GEM-E3. A dedicated webpage on MIDAS presents the models used in the IA accompanying the proposal for the revision of RED II, as well as their contributions to the IA.

With the exception of GEM-E3, all models and their underlying assumptions and data sources are described in the IA (Annex 4, in line with Better Regulation Toolbox Tool #62). Data inputs are adequately referenced, except for a few instances where the IA mentions that 'other data comes from different sources', without specifying them. Some limitations are mentioned throughout the analysis of impacts and seem to primarily concern modelling constraints. The limitations of each model are, however, not specifically addressed, as required by the Commission’s Better Regulation Guidelines. Furthermore, there is little clarification about how the limitations affect the final results.

The modelling work is based on socio-economic and technology assumptions regarding the evolution of the European population and gross domestic product, international energy prices, and the development of technologies, in terms of performance and costs. These are based on published databases/projections, which also account for the effects of the Covid-19 pandemic.

The assessment is a qualitative and quantitative exercise, with the IA taking a long-term perspective, in line with the targets, and presenting model projections up to 2030 and, in some cases, 2050. While the IA does not perform a cost benefit analysis, it does provide an account of the monetised benefits arising from improved health and reduced air pollution control costs; these are, however, only presented for the MIX scenario. The assessment is further complemented by a qualitative analysis which, in turn, focuses on the impacts of the policy options.

Additional modelling work was conducted with the METIS model to assess the effects of demand-side measures on the electricity system, which included defining additional scenarios, each building on the MIX core scenario. The assumptions that underpin the scenarios are stated in the IA, but specific data inputs and the limitations of the model are not specified.

Finally, it is worth mentioning that the IA uses the JRC study on woody biomass for energy production as a key input. The study, which is available for public consultation, recommends two policy changes within the scope of RED II to address the risks associated with forest management practices: (i) extending the no-go criteria to forest biomass to avoid the negative impacts of biomass
sourcing from primary and highly biodiverse forests; and (ii) applying the sustainability criteria to smaller installations (i.e. lowering the current threshold of 20MW) to regulate a larger share of biomass use. Both recommendations feature in the set of preferred policy options (Options 2 and 3 of policy area 3, respectively).

Follow-up to the opinion of the Commission Regulatory Scrutiny Board

The Commission’s Regulatory Scrutiny Board (RSB) initially issued a negative opinion on a draft version of the IA on 19 April 2021, whereby it recommended a more thorough and stronger justification for proposing some of the measures.

Following the submission of a revised version on 28 April 2021, the RSB issued a positive opinion with reservations on 28 May 2021. The RSB noted the clarifications in the revised report, but also remarked that it contained significant shortcomings, among which that (i) the IA does not sufficiently demonstrate the rationale for a number of measures, (ii) the IA does not systematically and adequately consider the subsidiarity and proportionality of the measures, (iii) the analysis and comparison of options is not comprehensive enough to justify the set of preferred measures, and that (iv) the report does not sufficiently report on different stakeholder groups’ views. Annex I to the IA describes how the RSB’s recommendations in its two opinions were addressed. Among the most notable changes were (i) a restructuring, clarification and simplification of the options to distinguish between essential areas of action directly linked to the specific objectives and ‘flanking and enabling measures’; (ii) improvements in the parts discussing subsidiarity and added value (see ‘Subsidiarity/proportionality’ above); and (iii) the inclusion of additional references to stakeholder views (see ‘Stakeholder consultation’ above).

While it does seem that an effort was made to address all the RSB’s recommendations, shortcomings in the organisation and presentation of the options and of the assessment of impacts continue to hinder the IA’s ability to sufficiently clearly demonstrate the rationale behind some of the policy choices made in the proposal.

Coherence between the Commission’s legislative proposal and IA

The proposal appears essentially to correspond to the preferred policy options indicated in the IA. This appraisal of the coherence of the proposal with the IA is, however, subject to a considerable degree of uncertainty considering the lack of clarity in the identification of the preferred options as noted in the section ‘Range of options considered’ above.

The IA discusses the nature and scale of the problem, its drivers and its likely evolution, substantiating its findings. It identifies general and specific objectives, and draws a clear logic between the problems, their drivers, the objectives and the policy interventions under consideration. The IA emphasises that the retained options are mainly concerned with ways to implement a level of ambition of GHG emission reduction that has already been set by the 2030 CTP and the IA underpinning it. The task of analysing the huge number of retained options in the IA is undoubtedly remarkable, but the vast amount of work which must have gone into such an assessment is to some extent impaired by the inconsistent, unclear presentation of options and the equivocal identification of preferred options. Also, while the preferred option of an overall minimum renewable energy target in the range of 38-40 % appears well justified, the IA is not clear as to how it ultimately settles on the specific target of 40 %. Nor does the IA explain the limited attention paid to SMEs in the analysis. Finally, while the IA was clearly an extremely complex exercise and appears to be based on reliable data, analysis and modelling, different choices as to its organisation and presentation would have likely considerably improved the IA’s clarity and readability and its ability to support the policy choices made in the proposal.
ENDNOTES


4 Regulation (EU) 2021/1119 of 30 June 2021 establishing the framework for achieving climate neutrality (‘European Climate Law’).


8 Option 0 is the baseline option i.e. the option of changing nothing. The IA explains that the EU Reference Scenario 2020 is the baseline for this IA and for all IAs for all of the initiatives under the ‘Fit for 55’ package.

9 For example, for a 1MW heating plant, the costs of certification are estimated to be at least 10 % of the fuel cost.

10 Similarly, the IA clarifies that while there would be an administrative cost for those enterprises that choose to use labels, ‘it can be expected that they would only do it if the advantages vis-a-vis consumers outweighed the costs’. (IA, p. 173).

11 Concerning the method of computation of use of RFNBOs, the IA points out that the current formula (whereby RFNBOs are accounted in the place of production rather than consumption, along with the renewable electricity used to produce them) results in double-counting, inefficiencies in production and misallocation due to conversion losses in production. The IA thus argues for an update of the computation method such that the energy from RFNBOs is accounted for in the sector in which it is consumed and the renewable electricity used in the production process is not included in the RES-E shares of the Member State of production.


This briefing, prepared for the Committee on Industry, Research and Energy (ITRE), analyses whether the principal criteria laid down in the Commission’s own Better Regulation Guidelines, as well as additional factors identified by the Parliament in its Impact Assessment Handbook, appear to be met by the IA. It does not attempt to deal with the substance of the proposal.

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