



# Legislative update Current & future actions

EFIEES meeting

Milan, 6 December 2013

## Climate and Energy Framework for 2030 – what is at stake?

- ★ **Green Paper** by European Commission addressing:
  - ★ Objectives, targets, other instruments and their mutual coherence
  - ★ Lessons learned from the current framework for 2020
  - ★ EFIEES' response in July 2013

Now: the **European Parliament** is discussing its report, Committee Vote: 09/01/2014,  
Vote in Plenary: 04/02/2014

**European Commission** is working on Impact Assessment, to be presented on **22 January 2014** with **3 possible options**:

- 1) a target for GHG emissions including elements of supporting RES and EE policies;
- 2) a target for GHG emissions + a target for RES + explicit additional energy efficiency measures
- 3) a target for GHG emissions + explicit additional EE measures and elements of supporting RES policies

## Climate and Energy Framework for 2030 – EFIEES’s activities

**Main goal: to bring energy efficiency to the centre of the debate**, mobilisation of our allies: joint position papers, suggestions for amendments, meetings, events with the EU decision makers

★ **EE binding target** ⇒ within the **Coalition for Energy Savings**

★ **An integrated policy for heat, 3-target approach** ⇒ within the **Heat Coalition**

★ **Crucial role of EE for EU industry, EE binding target** as an important tool for boosting EU competitiveness, security of supply, GHG-emissions reduction ⇒ **Energy Efficiency Industrial Forum**

★ **European Parliament:** Social-Democrats: K. Van Brempt (BE); Christian-Democrats : **A. Delvaux (BE)**, A. Vidal- Quadras (ES), G. Franco (FR), Bend Bendsen (DK) + T. Linnemann (DE), group’s advisor; the Greens: C. Turmes (LU) + M. Raquet, group’s advisor; Liberals: Fiona Hall (UK); right wing : N. Tzavela (GR) from Europe of freedom and democracy Group (GR); Conservatists: **K. Szymański (PL)** ....

★ **Suggestions for amendments and their impact:** a target for energy efficiency expressed in **primary energy of 40% by 2030** tabled by Social-Democrats (Van Brempt), the Greens; **an integrated policy for heating an cooling** covering both ETS and non-ETS sectors (Van Brempt) based on adequate statistics (K.Szymanski, N. Tzavela, H. Reul), support to a development of **local heating and cooling infrastructures**\_(B. Thomsen, M. Groote , G. Franco).

★ **Cabinets of Commissioners: Energy, Climate Action, Enterprise, Environment.**

## EFIEES' allies: coalitions at the EU level

EFIEES is a member of 3 Coalitions working at the EU level:

★**Coalition for Energy Savings** – 24 organisations supporting energy efficiency including **industries**: Cogen Europe, CECED (household appliances), Eurima (insulation manufacturers), EuroAce (energy savings' goods and services for buildings), LightingEurope, Glass for Europe, Copper Institute, EPEE (refrigeration, air-conditioning and heat pump industry)..., **NGOs** (WWF, Climate Action Network-Europe, European Climate Foundation, Friends of the Earth Europe...), **professionals** (the Architects' Council of Europe)

★**Energy Efficiency Industrial Forum** – a group of industrial members of the Coalition for Energy Savings having its own agenda: Cogen Europe, CECED (household appliances), Eurima, PU-Europe (insulation manufacturers), EuroAce (energy savings' goods and services for buildings), LightingEurope, Glass for Europe, Copper Institute, EPEE (refrigeration, air-conditioning and heat pump industry)

★**Heat Coalition** - stakeholders and supporters of the **heat sector**: Euroheat&Power, COGEN Europe, AEBIOM (bioenergy), CEWEP (waste-to-energy), EGEC (geothermal), ESTIF (solar thermal), EHI (producers of heating equipment) + (EHPA - heat pumps), Cecodhas (social housing), Energy Cities

## Climate and Energy Framework for 2030

### - latest discussions, next steps

★EFIEES' participation in a high-level panel « **Next low carbon economy targets**, hosted by MEP Vittorio Prodi (Social-Democrats, IT) on 27 November 2013 – Valérie as one of the panellists.

#### Next steps:

★ European Commission to present a reform package on 22 January 2014:

★ White Paper with an impact assessment with policy options for 2030

★ proposals for reform measures to strengthen EU ETS

★ report on energy prices

★ report on shale gas

## Prospects for the EU ETS

- ★ European Commission's options for proposals for a structural reform of the EU ETS:
  - **Increasing the EU's greenhouse gas emissions reduction target for 2020 from 20% to 30% below 1990 levels** ⇒ *it's rather late for modifying a target by 2020*
  - **Retiring a certain number of phase three allowances permanently** ⇒ *continuation of the "backloading" approach*
  - **Revising the 1.74% annual reduction in the number of allowances to make it steeper** ⇒ *supported by many stakeholders, different levels discussed: 2.3%, 3%...*
  - **Bringing more sectors into the EU ETS** ⇒ *EC: it is an option rather for after 2020*
  - **Limiting access to international credits** ⇒ *quite opposite opinions from stakeholders*
  - **Introducing discretionary price management mechanisms such as a price management reserve** ⇒ *EC considers it, exchanges with experts on the architecture of such a mechanism: meeting with experts on the 2<sup>nd</sup> of October 2013:*
    - *The proposal will be subject to the co-decision procedure, EC aims at having relatively simple system for discussions with the EP and the Council, however EC said that 1 measure only will not address the outstanding problems with a supply-demand mismatch.*

# Implementation of Energy Efficiency Directive

## Next steps in the implementation process:

- By 5 December 2013: MS to notify a detailed methodology for operation of the energy efficiency obligation schemes
- By 31 December 2013: MS to establish an inventory of heated and/or cooled central government buildings (over 500 m<sup>2</sup>) + the alternative measures that they intend to adopt

## EFIEES' activities within the Coalition for Energy Savings :

★ Chapter on **implementation of provisions regarding energy efficiency services including EPC** in the [Guidebook for a strong implementation of EED](#)

★ **Further measures to 2020 and beyond for energy efficiency services and energy efficiency to affect the supply-side** (together with COGEN Europe), to be elaborated in March 2014 (first draft by 17 January 2014). Main points on the transformation sector:

- ★ EED lacks stronger provisions on **recovering waste heat**, suggestions: to consider energy savings in transformation, transmission and distribution as eligible under Article 7, key barriers: discriminations within the EU ETS, regulated heat pricing as a national barrier to investments in energy efficiency.

⇒ **New econometric energy model for up to 2050**, [a call for tender](#) by 10/01/ 2014

# Directives on public Procurement and Concessions (1)

★ Vote in Plenary on 14 January 2014 (no change to be adopted since June 2013)

## Main issues for implementation, Directive on Concessions:

★ No justification for the duration of contracts up to 5 years.

★ **For contracts of a longer duration** the notions which define the duration are: investments for operating the works or services together with a return on invested capital taking into account the investments required to achieve the specific contractual objectives. Initial investments and those commenced during the life of the concession should be taken into account.

★ **Modification of concession** contracts without a new award procedure generally possible when the value of the modification is **below 5 million Euro** and when the modification does not exceed the value of **10% of the initial concession**. **For necessary modifications for additional works and services** by the original concessionaire, where a change of a concessionaire cannot be made for economic or technical reasons: **any increase in value may not be higher than 50% of the value of the original concession**.

★ **Definition of “in-house” and “affiliated undertakings”** - bodies affiliated to contracting entities or operating entities under concession contracts. These entities will be able to operate up to 20% of their turn-over on the competitive market with an exemption from tendering. ⇒ ***Will this issue have an impact and to what extent in specific MS?***



# Directives on public Procurement and Concessions (2)

## Main issues for implementation: Directive on Public Procurement

- ★ Principle of **splitting contracts into lots is obligatory, unless public entities state reasons** for not splitting contracts into lots.
  - ★ It may be problematic for public entities to justify their choice and may orientate public purchasing towards splitting contracts!
- ★ Another possibility is that **MS oblige public entities to split contracts into separate lots in accordance with their national law.**
  - ★ If properly transposed, public entities could afford the possibility to consider EPC and other overall energy efficiency service contracts as exempted under national law from splitting obligation. ⇒ ***To be closely monitored at the national level.***

## Review of VAT legislation on public bodies and tax exemptions in the public interest – reform options

- ★ **Public consultation** by European Commission **by 14 February 2014**
- ★ Main issues for EFIEES : public sector and exempted activities in the public interest (health, education...) cannot recover VAT invoiced by private companies
  - ★ makes investments in professional energy efficiency services more expensive for exempted bodies as the VAT cannot be recovered + no incentive to outsource

### **Possible options proposed by European Commission concerning VAT Directive:**

- 1. Full VAT for all economic activities** – *politically and socially difficult*
- 2. Deletion of special VAT rules for public bodies** (Article 13), **while maintaining all or most of the exemptions in the public interest** (Art. 132)– *no distortion from the public side, but this will not address a problem of disincentives to outsource*
- 3. Refund system at EU level** – *exists already in some MS, but not is really « efficient »*
- 4. Sectoral reform** – limitation of the reform to the sectors where distortions of competition can clearly arise between the public and private or/and which is usually associated with high investment costs. Already identified sectors by a complementary study: waste/sewage management, broadcasting, postal services.

## Review of VAT legislation on public bodies and tax exemptions in the public interest : questionnaire

- ★ Problems of the current VAT rules, are there any distortions of competition, in which sectors?
- ★ Is the **distortion of competition clause**, Article 13 (1), VAT Directive (2006/112/EC) effective in your country?:
  - ★ When public entities engage in activities where their treatment as non-taxable persons would lead to distortions of competition, they should be regarded as taxable persons.
- ★ **Does the national mechanism in your country provide for a legal mechanism** according to which a private entrepreneur who is experiencing unfair competition from a public sector body could formally raise this issue with the tax authorities in the courts?
- ★ **EFIEES' answer on reform options**
  - ★ Deletion of special rules for public bodies – the right direction? How to tackle the issue of disincentives to outsource?
  - ★ Sectoral reform – how to be «in»?
  - ★ A special Working Group at EFIEES on this exercise?

## Revision of General Block Exemption Regulation on state aid measures (GBER)

- ★ **Aim:** simplifying the procedures for aid granting authorities (which are mostly local)
- ★ Involves provisions on conditions for **investment aid for efficient district heating and cooling and high-efficiency cogeneration** allowing not to notify to the Commission state aid granted to investments in efficient DHC and cogeneration projects under certain conditions
- ★ EFIEES actions: Submission to public consultation on GBER in July 2013 + a joint meeting (EFIEES-EHP) with DG Competition, European Commission. Main messages:
  - ★ To reflect a true scale of necessary investments: to set minimum aid intensity at the level of 50% of eligible costs and at 60% in case of the use of waste heat, to raise notification threshold of aid from current 7.5 million to 25 million Euro
  - ★ State aid should target not only new projects, but also refurbishment and extensions.
  - ★ Investment aid should be available under the same rules regardless the size of undertakings. Otherwise, there is a danger of “cherry picking” (providing services to the “best” clients, for example hospitals) by medium companies.
- ★ **Next steps:** DG Competition wants to adopt a text by July 2014 and is expected to issue guidelines for projects falling outside the scope of GBER

# Vulnerable Consumers Working Group Report

- ★ Working Group composed of national ministries, energy agencies, consumer organisations, social NGOs, industry, chaired by European Commission.
- ★ Focus on Member State obligations for vulnerable customers as defined in EU energy-related legislation, and the need for comprehensive transposition of the relevant Directives, including the recent Energy Efficiency Directive (2012/27/EU).

## EFIEES contribution to the report, main messages:

- ★ MS to support **energy efficiency services including EPC** especially in social and collective housing and to **tackle the barriers to the development of energy efficiency services market.**
- ★ **Reducing primary energy consumption in a cost-efficient way should be a priority.**
- ★ **Cost-effectiveness of electric heating** as well as its performance in terms of primary energy has to be assessed on a case-by-case basis.
- ★ Member States should address the issues of access to and the **availability of efficient and affordable heating and cooling services**, with a key role of **the assessment of the potential for efficient DHC and cogeneration in the framework of EED.**
- ★ **MS and local authorities to develop a strategy analysing national measures** (taxation, public procurement and regulated heat pricing...) in particular where they are hindering **energy efficiency investments or the optimisation of heat production** (Resolution of the EP, Energy Roadmap 2050).
- ★ Lessons learned from EU projects, e.g. Fresh project on **energy efficiency in social housing** (“warm rents systems”).

## Other activities by EFIEES and its members

★EFIEES as a member of Steering Committee of the European project **Transparens** aiming at elaborating **EPC Code of Conduct**.

### Main issues:

- ★ A chapter on characteristics of a good EPC to be included
- ★ Not to limit ESCOs to only EPC providers; as in practice they provide other types of energy efficiency services too
- ★ Idea to have benchmarks for EPC – the survey on EPC will not provide sufficient information, no need to have them since every contract is different + any additional surveys to the one by JRC, European Commission are unnecessary

★EFIEES as the **liaison organisation** with European Committee for Standardisation **CEN** and its **Technical Committee 371** working on **energy performance of buildings**.

★**Energy Efficiency Forum in Romania by ARPEE**, 15 November 2013, Bucharest

★Any other business?

# Ends