

**French-German Non-Paper on a  
European Common Rule Book on RES-E Support Scheme Design  
and contribution on the Heating and Cooling Sector**

The RED II should set a **comprehensive and reliable EU support framework** which clearly sets the basic common rules on “how” support schemes should be designed in order to ensure at least a minimum of common rules for support schemes across Europe and to ensure predictability and security for investors and Member States.

*Why not rely on state aid guidelines and decisions only?*

- The Energy Transition is one of the biggest investment projects for Europe – it needs a clear investment framework and perspective. Otherwise targets will not be met.
- The Energy transition needs to give Member States a sufficient scope of action to achieve their national targets and consequently the European target.
- This means that the right for Member States to choose their own energy mix and to develop the RES technologies that they have chosen e.g. for diversification needs to be guaranteed, especially in the design of support schemes.
- Market integration of RES is not only an individual support case – it is a matter of changing the whole energy system. It has therefore to be organised **in a coordinated way**. It cannot be left only to fragmented procedures depending on individual notification schedules of Member States and negotiation outcomes.
- The common rulebook should pave the way for a support framework adapted to all RES capacities and jointly moving forward to further implementation of **market responsive** and **market-based support schemes except for small installations**.
- The individual implementation of the Directive will remain to be done case by case in the notification procedure – but the basic requirements of the Energy Framework for Europe need to be agreed in Council and Parliament.
- This will also help to “upgrade” the best practice achieved as a common standard. And it will build legitimacy and public acceptance in Parliaments for the market integration agenda as such as well as for future state aid decisions to be taken on this basis.
- We need **flexibility** for future development. However, this cannot translate into an empty box. Therefore the framework should focus on **basic but substantial design elements**. And the RED II should be **dynamic**. Open questions should be subject to testing and learning first, possibly with other MS and in regional fora. An assessment of the Directive should be made in 2024.

*What should be in the Directive?*

- Maintain Art. 3 para. 3 of the current Directive as a legal basis for **national support schemes** as the key instruments for contributions to the 2030 target. The ETS and the market design alone cannot drive RES yet: removing must-run requirements in the market needs time and the sharp increase of the ETS certificate price that would be needed is unlikely until 2030 even according to the Commission’s scenarios.

- The directive should provide for an evolution towards more **market-based** (tender) and **market responsive** (premium) support schemes, in a way adapted to each RES technologies and capacities. This scheme cannot be applied to all RES; we need exemptions for small capacities. Lowering of thresholds should be done according to a progressive and planned calendar. An adapted framework will ensure that support will automatically adapt to increasing ETS prices and an improved market design, while not slowing down the development of small capacities and innovative technologies. Member States should be able to choose between a fixed or sliding premium.
- The directive should ensure the right for Member States to choose their own energy mix. It should therefore define a support framework that allows Member States to put in place schemes that support the deployment of specific technologies (exemptions of applying tenders and possibility to have technology specific tenders). It should as well ensure the deployment of new or non-mature technologies in a medium/long term and allows Member States to adapt their support scheme to their local constraints: grid or environmental constraints, technical potential, technological evolution, security for supply or acceptability of projects for example.
- As much as RES have to market their electricity themselves in market responsive support schemes (premiums) they should also be **fully balancing responsible**. However, it does not make sense to introduce balancing responsibility for small installations that are below thresholds for direct marketing.
- **Priority dispatch** for RES should be **replaced** as much as we move to market-responsive support schemes. It should be replaced by priority grid access, i.e. a rule of **last curtailment** for RES in case of local grid constraints. Exemptions are needed for grid stability and significantly higher efficiency. If RES are curtailed too often, we need higher total installed capacities to achieve the climate and energy targets. Also the Commission's Impact Assessment shows 10% higher CO<sub>2</sub> emissions in the scenario without priority access.
- **Retroactive changes** should be excluded.
- There should be **no issuing of Guarantees of Origin for supported RES** units. Otherwise consumers will pay twice. Furthermore, support and trade of green electricity should be strictly separated in order to avoid that support schemes distort green electricity trade.
- There should be a **blueprint for cross-border-cooperation** with a set of concrete options Member States can choose from on a voluntary basis.
- The consequences and instruments for a EU-Gapfiller-mechanism ("**What-if**") need to be clarified **ex-ante in the RED II**. Particularly, it should be clarified that voluntary contributions by MS to avoid a gap are being taken into account as **early efforts** when sharing the effort for closing the gap. Otherwise no Member State will pledge. This will require at least **some minimum back-up effort sharing rules** in case of a gap.
- **Regarding heating and cooling**, the directive should take into account the conclusions of the heating and cooling strategy document, take into consideration that the implementation of the strategy will require the use of financial support schemes, and insofar focus on particular issues.

## The substance of RED II in detail

### A. General rules

- **Article 3 para. 2 and 3** of the current Directive should be maintained and reflect national support schemes as the key instruments for the national contributions to the binding EU target. The Åland case of the ECJ has underlined the importance of these paragraphs to ensure legal certainty for investors and Member States.
- The Directive should **exclude retroactive changes**. Exemptions will be necessary for minor adjustments regarding e.g. technical requirements. These, however, should not affect the economic basis of a project. In this case measures providing compensation need to be put in place.

### B. Support scheme design

- The directive should ensure the right for Member States to choose their own renewable mix. It should therefore define a support framework that allows Member States to put in place schemes that support the deployment of specific technologies (exemptions of applying tenders and possibility to have technology specific tenders) to achieve Member States RES objectives.

Support schemes need to be adapted to all RES capacities and jointly moving forward to further implementation of **market responsive** and **market-based support schemes**.

#### *Market-based support/Competitive tenders*

- Except for small capacities, support schemes should be market based, i.e. the level of support should be determined through a competitive mechanism. **Competitive tenders** should be the default mechanism for a market based determination of the support level for RES installations. Quota obligations and related certificate trading schemes should remain a possible alternative.
- **Technology-specific tenders** are needed particularly to ensure lower system costs and diversification. The higher the RES share the more important technology diversification becomes. The limited ability of wind and PV to react to the market can be overcome much more easily and at much lower overall system costs if there is a diversified deployment of wind and PV, both as regards the technology as well as regards the sites, since then wind and PV can balance each other and reduce back-up capacity and thus have a higher capacity credit.
- It should as well ensure the deployment of new or non-mature technologies in a medium/long term and allows Member States to adapt their support scheme to their local constraints and include non price based criteria: grid or environmental constraints, technical potential, technological evolution, security for supply or acceptability of projects for example.
- For smallest capacities, non-mature technologies and other cases, specific rules are needed. The Directive should provide for **de minimis thresholds** that Member States can set for small installations, for which support does not need to be tendered. These thresholds should be maximum thresholds, Member States can go below. Thresholds should be gradually lowered, however leaving room for exempting smallest installations. Thereby the Directive sets a reliable

perspective for further phase-in of market-responsive support. Whether an adjustment of these maximum *de minimis* rules is appropriate should be discussed in the 2024 assessment in the light of the further development in the coming years.

#### *Market responsiveness of support*

- Except for small capacities, support should be market responsive, i.e. RES installations should be exposed to market price signals and market their electricity themselves. To this end, all Member States should choose a form of “**direct marketing**”.
- Support should be granted in the form of **market premiums or Contracts for Difference**. Member States should be able to choose between a **fixed or a sliding premium**.
- For small capacities and non-mature technologies, Member States should be allowed to grant feed-in-tariffs. The Directive should provide for ***de minimis* thresholds** that Member States can set for direct marketing. For small installations below these thresholds, fixed tariffs should remain possible. As for competitive bidding, these thresholds should be maximum thresholds; Member States can go below. Again, thresholds should be gradually **phased-down** until 2030, however leaving room for exempting smallest installations. Hereby the Directive sets a reliable perspective for further phase-in market-responsive support. Whether an adjustment of the maximum *de minimis* rules is appropriate should be discussed in the 2024 assessment in the light of the further development of the electricity markets in the coming years.
- **Direct marketing and balancing responsibilities** should **go hand in hand**. Installations that have to market their electricity themselves should also have to bear full balancing responsibility.

#### *Geographical diversification*

- Member States may provide for mechanisms or concepts to **enable regional diversification**. This is key to keep system costs down, ensure system and grid stability and to avoid excessive over-compensation for new installations.
- For those Member States which want to take into account geographical diversification, a **common European methodology** should be developed. This methodology could be applied or not by Member States depending on their regional constraints. It must be given the possibility for Member States to adapt it. National mechanisms will, however, remain in place, until such a European methodology is established.

#### *Rules on self-consumption regimes*

- The common rule book **should not try to align rules for self-consumption schemes**. The starting conditions with regard to taxation, levies and fees and charges are very diverse across Member States. Thus, the design of a self-consumption scheme needs to be decided in the light of the specific national conditions in order to avoid excessive support or a significant impact on the financing mechanisms.

## C. Market and Grid Integration Rules

### *Priority dispatch and curtailment*

- **Priority dispatch for RES should be replaced** as much as we move to market-responsive support schemes. It should be replaced **by priority grid access**, i.e. a rule of last curtailment for RES in case of local grid constraints. Exemptions are needed for grid stability and significantly higher efficiency.
- If RES are curtailed too often, we need higher total installed capacities to achieve the climate and energy targets. Also the Commission's Impact Assessment shows 10% higher CO<sub>2</sub> emissions in the scenario without priority access.
- The Directive should include a provision that Member States should provide for **non-discriminatory adequate compensation rules** in case of grid related curtailment which ensure that the economic basis of a project is not at risk because of the curtailment. Consequently, lost support needs to be adequately compensated, too. The reason for this is that local grid bottlenecks cannot be assigned to specific installations and cannot be fully projected at the time of the investment decision.
- Both rules (last curtailment and compensation) have to be seen in the context of the wider regulatory framework. They should be embedded into an overall framework which helps to reduce the need for curtailment by network operators, most importantly through grid expansion and reinforcement.

### *Support in times of negative prices*

- The Directive should allow those Member States, who opt for it, to support RES for a limited time period also in times of negative prices in a transitional phase until 2030. However, this option should be gradually phased-out until 2030.

## D. Heating and cooling

Regarding heating and cooling, the Directive should take into account the conclusions of the heating and cooling strategy document, take into consideration that the implementation of the strategy will require the use of financial support schemes, and insofar focus on these particular issues:

- **The Directive should set general objectives, not the way to achieve them: it has to take into account that no single solution will suit all different kinds of heating and cooling needs.** The Directive should assist Member States in achieving the full potential for improvements in the heating and cooling sector, while taking into account national, regional or local specificities and conditions. It should leave enough leeway for different developments. It should consider existing policies and instruments as well as legislation and the Directive should allow for flexible solutions in the Member States.
- **Regarding the planning for the development of renewable energies**, the Directive should take into account a comprehensive assessment of the potential for renewable energies, as well as for future energy efficiency gains that affect energy demand, based on a combination of several criteria: sustainability, environmental impact, cost (...) but also the capacity of the market to

develop the technology based on its current strengths, weaknesses and also the opportunities for and threats to this technology.

- **The improvement of energy efficiency and the integration of renewable energies and waste heat recovery is a major issue for the building sector** including the tertiary sector and industrial buildings. The goal should be to implement a twofold strategy of reducing consumption of final energy while simultaneously increasing the share of renewable energy sources in the remaining final energy consumption at the same time.
- **For the industrial sector, the development of waste heat recovery** should be continued and should take into account the results of the implementation of Article 14 of the Energy Efficiency Directive. In addition, the results of the energy audits performed according the Directive 2012/27/EC should to be used too. **The Directive could include efficient waste heat recovery through district heating to achieve the global renewable target.**
- **The Directive should include efficient cooling systems from RES to achieve the overall target.** The Directive should define criteria for an efficient district cooling and should adopt a measurable method. It will be important to develop Guidance for good practices.
- **Sustainable bioenergy policy should be part of the Directive insofar as it affects renewable energy production, to allow for a consistent policy approach of European legislation.**
- The Directive should continue to foster efforts of Member States to raise the professionals' awareness of energy efficiency and renewable heating and cooling technologies by communication efforts and to support schemes to promote/finance corresponding qualification/training measures.
- **Research and development** should be encouraged for new emerging renewable energies using technologies with high energy efficiency and low air quality impact.