



## 2023: A year for the EU to deliver the legislative framework of the Green Deal

Since the Commission tabled the 'Fit for 55' packages in July/December 2021, the European Council (the Council) and the European Parliament (EP) have worked diligently to advance these initiatives. Besides the acts already agreed in November and December 2022, all the legislative acts of the two Fit for 55 packages, complemented by a new proposal regarding electricity market design and a Hydrogen Bank, need to be adopted by European legislators before the end of 2023. This timing is not only crucial in order to speed up the implementation of the Fit for 55 packages but is indispensable because the EP will not be able to exercise its role as co-legislator after Q1 2024 due to the European elections in June 2024 and the start of the election campaign in April 2024.

The following sections provide an overview of the legislative process that needs to happen in 2023 and highlights the major issues which are at stake in each area:

### **Legislation adopted relating to the two Fit for 55 Packages and due to come into force in 2023**

The Council and the EP reached a provisional political agreement on the reform of the ETS<sup>1</sup> and the CBAM<sup>2</sup> in November/December 2022 pending formal adoption by both institutions which is due in early 2023.

The Council also formally adopted new measures on Joint Purchases of Gas and a Solidarity Mechanism in December 2022. In addition, in December 2022 the Council adopted a regulation that establishes a Market Correction Mechanism to protect citizens and the economy against excessively high prices. The regulation aims to limit episodes of excessive gas prices in the EU that do not reflect world market prices, while ensuring security of energy supply and the stability of financial markets. All three measures are due to come into force in 2023.

### **Ongoing legislative debate relating to the two Fit for 55 Packages**

- **Renewable Energy Directive:** Discussions are continuing, with the key areas of debate being the headline renewables target, the obligation to replace 75 per cent of grey hydrogen in

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<sup>1</sup> Emissions Trading System

<sup>2</sup> Carbon Border Adjustment Mechanism



industry with renewable hydrogen by 2030, and the revision of guarantees of origin for renewable sources.

- REPowerEU Amendments: Discussions will start in January and the key issues are the renewable energy headline target, the framework for renewables permitting, and the definition of 'overriding public interests.'
- Hydrogen and Decarbonised Gas Package: Discussions can only start once the EP and the Council have respectively adopted their report and general approach, likely in Q1.
- Methane Regulation: Discussions can start once the EP has adopted its report (likely in January) with the key issues being leak detection and repair obligations, monitoring and reporting obligations for underground coal mines, and the role of the International Methane Emissions Observatory.
- Energy Efficiency Directive: Discussions are ongoing around the scope of the energy efficiency first principle and the EU-wide 2030 energy efficiency target.
- Energy Tax Directive: Discussions within the Council are continuing with the main remaining issues being to allow more flexibility for Member States' specific national circumstances, potential exemptions for aviation and maritime, and a potential transition period for the increased taxation of fossil fuels.
- In addition, EP and Council have to start and finalise the discussions on the following legal proposals: Energy Performance of Buildings Directive; Alternative Fuels Infrastructure Regulation; ReFuelEU Aviation Regulation and ReFuelEU Maritime Regulation

#### **New legislative discussions to be started by the European Commission in 2023**

- Electricity market redesign: A targeted, structural reform of the EU electricity market framework was announced by the Commission President in September 2022 as a reaction to criticism of the present system in the light of the current energy crisis. However, the Commission may well limit its proposal in Q1 to those elements that can be seen as an improvement on the Clean Energy Package, such as grandfathering the inframarginal clawback, consumer protection, notably against high energy prices, long-term contracts, and peak-shaving demand reduction. For the more controversial topics (notably the possible replacement or deeper reform of the merit order and the marginal pricing system, the introduction of a kind of nodal system, and the EU wide introduction of capacity markets), more consultations and analysis are needed. The Commission might undertake such analysis in 2023/24, leaving the tabling of the legislative proposal to the new Commission in 2025.
- Hydrogen Bank proposal: this proposal was also announced by the Commission President in September 2022. Funding of around EUR 3 billion will be proposed, to be administered via the Innovation Fund. The pilot phase of the Hydrogen Bank would start in Q3 2023 with a CfD<sup>3</sup> scheme allocated via a competitive bidding mechanism, with a view to covering the cost gap between renewable hydrogen and methane or hydrogen produced from natural gas in the EU.

#### **Assessment**

This work program for 2023 represents a huge challenge for the European institutions. However, the EU must deliver on all its ambitious legislative actions if it wants to live up to its climate targets. This needs to happen at a time where the energy crisis is causing economic and social challenges in the shadow of the ongoing Russian war against Ukraine. If in previous times when the EU had to go through economic or political crises there was always the expectation that it would emerge even stronger from the crisis, this expectation cannot be taken for granted this time. The negotiations will show whether or not the Member States in the Council, the different political groupings in the EP, and the Commission are capable of striking compromises that truly deliver on all three overarching energy policy objectives: fostering sustainability by agreeing on an ambitious but also realistic path toward a high level of

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<sup>3</sup> Contract for Difference



renewable energy in the European mix; safeguarding the security of energy supply for all Member States by moving forward in solidarity and accepting hydrocarbons and technologies like CCUS as important stepping stones for reaching carbon neutrality without jeopardizing security of supply; and guaranteeing households and industries affordable energy prices by developing the necessary support instruments at EU and national levels, including targeted measures to help the most vulnerable and energy poor. Only if all actors conduct negotiations with all three objectives in mind can one expect an outcome that not only makes the European energy system more resilient and fairer but also lays the foundation for an acceleration of the decarbonisation of the European economy in future years.

*Klaus-Dieter Borchardt* (<mailto:klaus-dieter.borchardt@oxfordenergy.org>)