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THE EU ENERGY UNION LEGISLATIVE PACKAGE

IMPLICATIONS FOR THE UK

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On 30 November 2016, the European Commission will launch a new legislative package on energy. It will be substantial covering electricity market rules, targets and policies for renewables, energy efficiency, planning and reporting requirements. Following the UK's vote to leave the European Union, there is now considerable uncertainty about whether the proposals will apply to the UK market. This note sets out the potential implications for the UK.

- > No agreements have yet been reached on the **future relationship** between the UK and the EU-27, and negotiations will not commence until Article 50 is triggered (most likely in March 2017). Ultimately the applicability of the legislative package to the UK will depend on the form of the relationship. All options remain on the table.
- > The UK will not be required to be a member of the EEA or of the European single market to **participate in the Internal Energy Market**. Leaked drafts of the package contain provisions for third countries to participate in the IEM with the same rights and the same requirements as EU members. Conditions include agreeing to environmental standards and state aid controls, and judicial oversight by an independent authority (e.g. the European Court of Justice or equivalent). It is too early to know whether this is an option that the UK will pursue.
- > The EU legislative package will need to be agreed by the European Parliament and European Council. This means that the **UK government and UK MEPs will participate in negotiations**. The negotiations are expected to last until late 2018 or 2019, meaning the proposals could become law before the UK exits the EU (which may not occur until 2019 or later). It's unclear whether the proposed directives would be immediately transposed into UK law through the anticipated Great Repeal Act, if the UK decides to exit the Internal Energy Market as well as the European Union.



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- > The legislative package includes new **2030 targets for renewables and energy efficiency**. EU targets have been contentious in the UK in the past. However unlike the 2020 renewables target, the 2030 targets are expected to be binding at EU rather than national level. The UK will also need considerable deployment of new renewables and energy efficiency under domestic Carbon Budgets meaning it is likely to keep pace with EU targets in these areas.
 - > The governance proposals will include a requirement for member states to produce **National Energy and Climate Plans (NECPs)**. The UK already produces an Emissions Reduction Plan under the terms of its Climate Change Act, which can form the basis for the UK NECP. The proposed legislation will bring other member states in line with existing UK practice.
 - > The legislative package will also introduce new requirements for member states that wish to introduce **capacity mechanisms**. Regional assessments of capacity adequacy (rather than solely national calculations) will be required before capacity mechanisms can go ahead. Capacity mechanisms will also need to be fully open to cross-border competition, and to participation from demand-side resources. These provisions are designed to ensure energy security and least cost and to minimise distortions to the market. The UK's current capacity mechanism may need to be amended under these provisions if the UK stays in the Internal Energy Market. However as the capacity mechanism is already up and running, the UK would have two years after the proposal enters into force to make the necessary changes.
 - > Much of the legislative proposal focuses on more **active consumer participation** and developing more **demand-side flexibility**. This includes reforms to pricing to reward flexibility for generation, demand-response and storage. As a consequence, the proposals are likely to be aligned with the new UK government initiative on developing **A Smart, Flexible Energy System**.

E3G recently released reports on how to develop **active consumer participation** and **smart flexible grids**.