



The Effort Sharing Decision

Assuming its proper place in the 2030 framework

Policy Briefing – July 2016

The EU Effort Sharing Decision (ESD) sets the European Union's greenhouse gas (GHG) emissions reduction target for sectors such as transport, buildings, and agriculture (see box). The decision lays out the rules for how the target is shared between Member States, and for ensuring that those targets are met. The current ESD covers the period 2013-2020 and needs to be reviewed and amended to cover the 2021-2030 period.

The amended ESD must reflect the principles of good governance through a legal framework that is fit for purpose - ensuring policy coherence, transparency and accountability.

The importance of the ESD must not be under-estimated. The ESD covers around 60% of EU GHG emissions. The current ESD target is to reduce non-Emissions Trading Scheme (ETS) emissions across the EU by 10%, by 2020. The poorest Member States are allowed to increase their emissions by 20%, while the wealthiest have to cut their emissions by 20%.

The proposed overall 'at least -40%' EU GHG target for 2030 foresees a 30% reduction in emissions from ESD sectors, compared to 2005 levels. Efforts will continue to be distributed between Member States on the basis of relative GDP per capita. All Member States will contribute to the overall EU reduction in 2030 with targets spanning from 0% for the poorest, to -40% for the wealthiest.



Key recommendations

1. Raise ambition

The ESD must allow for the regular review and ratcheting up of EU emissions cuts to keep pace with the global aim to hold temperature increases to well below 2 °C, and to pursue efforts to limit the rise to 1.5 °C.¹

2. Strengthen planning and reporting

Member States' National Energy and Climate Plans (NECPs) must be governed by binding standards sufficient to ensure that Member State commitments (planning) and performance (reporting) in the ESD-covered sectors are credible, transparent, comparable, and accountable.

3. Devise and implement a credible, robust compliance regime

If a Member State is not meeting its commitment to cut GHG emissions, the European Commission should have the tools to ensure appropriate course correction, including requiring Member States to take specific actions to get back on track.

4. Promote consistency across policy areas

The revised ESD should seek to maximise emissions cuts in all of the sectors it covers and explicitly support the overachievement of the ESD's targets for the EU and Member States.

5. Promote consistency over time

The revised ESD must ensure the EU's 2030 climate and energy targets, and the way they are met, support long term goals of holding global temperature increases to well below 2 °C, and pursuing efforts to limit them to 1.5 °C.

In detail – what the ESD needs

1. Raise ambition

2015 saw the agreement of a historic global deal to tackle climate change, with 195 countries agreeing in Paris to hold the global temperature increase to well below 2 °C, and to pursue efforts to limit the rise to 1.5 °C. To match the ambition of the Paris Agreement and to maximise the benefits of an energy transition that cuts emissions, the ESD must 1) reflect the goals of the Paris Agreement in its emissions reductions targets for 2030 and 2050 and 2) Include a review and ratchet up mechanism which, starting in 2018 and every five years thereafter, provides a credible process for EU emission cuts to be accelerated as required by the latest science and/or by technological advances.

2. Strengthen planning and reporting

Commission proposals to streamline climate and energy planning and reporting must boost the transparency, investor certainty and accountability provided by the ESD. The

¹ <https://unfccc.int/resource/docs/2015/cop21/eng/lo9r01.pdf>

current framework² is incapable of conveying sufficient information so that stakeholders understand Member States' plans or can track their progress towards achieving their ESD obligations.

Planning obligations in the current ESD are fairly weak. Member States need only indicate planned policies and measures and provide reports on 'projected'³ progress. These requirements hardly push Member States to develop a transparent or convincing narrative on how they will meet their share of EU GHG targets.

The revised ESD should reflect a more robust post-2020 planning and reporting regime, including clear cross referencing to the expected proposal for stand-alone governance framework for 2030 climate and energy targets. Clear links between NECPs that are developed in line with binding templates and updated/reported on according to a binding timetable will be particularly important.

While requirements for Member States to report on their implementation of ESD obligations are binding,⁴ they are not very prescriptive. Furthermore, the methodology and standards for reporting give Member States significant discretion to decide on what they choose to report.

To ensure effectiveness, transparency, accountability, quality, comprehensiveness and policy coherence, **the legal instrument on streamlined climate and energy planning and reporting for post-2020 must:**

- Ensure that planning and reporting templates and obligations are binding and detailed, reflecting both a 2030 and 2050 time horizon, and that they are cross referenced in the revised ESD;
- Maintain annual reporting on GHG emissions, the use of credits, and the use of any additional policies and measures going beyond ESD action e.g. acceleration of introducing Near Zero Energy Buildings (NZE) into a Member State's building stock;
- Improve the methodologies for reporting on policies, measures, and projections, including for the use of EU level indicators; and
- Ensure that the Commission has sufficient and comparable information on policies and measures to track Member States' progress towards their ESD obligations, which it can effectively communicate to stakeholders.

3. Devise and implement a credible, robust compliance regime

Linking planning and reporting to an effective compliance mechanism is crucial for the credibility and robustness of the ESD. Without a strong and well understood compliance mechanism, it will not be possible to ensure that Member States meet their commitments

² Planning and reporting requirements are rooted in the ESD, while they are further elaborated under the Monitoring Mechanism Regulation, or MMR (Regulation 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision No 280/2004/EC, OJ 165, 18.6.2013 p 13).

³ Article 6(1) of the ESD, states that starting in 2015 Member States must report every two years on, their 'projected' progress towards meeting their obligations under the ESD.

⁴ Article 6 of the ESD: Reporting, evaluation of progress, amendments and review; and Articles 13 and 14 of the MMR.

to cut emissions. The current ESD allows the Commission to take action against Member States that do not comply with their annual GHG reduction commitments. However, the 2020 target is low, and is being easily met thanks to flexibilities and loopholes such as buying carbon credits abroad, rather than actually reducing emissions at home. Course correction under the ESD has not yet been tested.

‘Corrective actions’ in the current ESD⁵ that the EU can use if a Member State is not complying with their legal obligations to cut emissions fast enough:

- Requiring the Member State to make the missing emissions cut the following year, at a slightly accelerated rate to compensate for the delayed action;
- Temporarily blocking the Member State’s ability to transfer part of its emissions allocation to another Member State;
- Requiring the Member State to develop a corrective action plan to meet its emission cuts, and a timetable for assessing progress towards the implementation of the corrective plan.

In addition to these corrective actions, the Commission could also impose monetary penalties. Such penalties could be based on a set carbon price. Repeated non-compliance could be met with both increased penalties and the requirement for and accelerated emissions reductions in subsequent years. This approach could be a new option for the post-2020 regime.

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Maintaining regular compliance checks/cycles

The current ESD requires compliance checks every year. This cycle is adequate and should not be lengthened. Reducing the frequency of compliance checks would reduce the ability of the Commission and Member States to take any corrective action that may be needed in a timely manner.

More effective Commission oversight

Under the current ESD, the Commission’s power to require a non-compliant Member State to prepare a corrective action plan is weak. At present, the Commission ‘may’ give its opinion on the corrective action plan, but it has no legal mechanism to require changes to the plan if its policies and measures are insufficient.

Post-2020, the ESD should strengthen existing compliance tools to ensure accountability for effective progress in reducing GHG emissions. The ESD should maintain annual compliance checks, as this will ensure the Commission can ensure Member States maintain momentum throughout the period 2020-2030.

The revised post-2020 ESD should, at the very least, place an obligation on the Commission, upon assessment and a finding of continued non-compliance, to require Member States performing below a certain threshold to make appropriate amendments to their NECPs. To ensure the transparency, corrective amendments to NECPs should be publicly available on a ‘Transparency Platform’ that is independent of the Commission's

⁵ Article 7 of the ESD: Corrective Action.

own website. One potential host could be the existing EIONET,⁶ although this would need to be made more visible to the public.

4. Promote consistency across policy areas

The revised ESD should maximise emissions cuts in all of the sectors it covers and should support the surpassing of ESD targets. Supporting those Member States that are beating their targets so they continue to do so should go alongside making sure that all Member States deliver at least their minimum emissions cuts.

To ensure Member States maximise their emissions reductions, the revised ESD should link to a requirement in NECPs, and related legislative instruments, to identify mutually reinforcing sectoral policies. Member States should be required to explain in their NECPs how their energy efficiency and renewables policies and measures combine to help cut emissions in non-ETS sectors.

The ESD should also continue to be used as a facilitator of additional EU level measures where significant gaps in specific ESD-covered sectors are identified. Such a mechanism was already utilised in the current ESD for energy efficiency, which helped enable the adoption of the Energy Efficiency Directive. Post-2020, the ESD could provide for an assessment of the need for EU level measures to ensure GHG cuts from other ESD-covered sectors requiring coordinated action, such as transport or buildings.

5. Promote consistency over time

The ESD should not restrict its view to 2030. One of the objectives of the revised ESD should be the delivery of medium term targets to support the long term goals of holding the global temperature increase to well below 2 °C, and pursuing efforts to limit the rise to 1.5 °C. For the ESD, this means acknowledging the need for a significant increase in the EU's current emissions reduction goal for 2050. The ESD should also acknowledge the need to plan climate and energy action on three mutually reinforcing levels: 1) political commitments (2030 national targets); 2) Detailed 2030 projections, policies, and measures; and 3) long-term energy transition plans up to 2050. This approach should be supported in all post 2030 EU climate and energy legislation, especially the governance instrument.

The Effort Sharing Decision must be revised for the post-2020 period in a way that ensures:

- 1. Adequate ambition, in line with climate science**
- 2. Clear links to strong planning and reporting**
- 3. Effective, robust compliance**
- 4. Consistency across policy areas**
- 5. Consistency across time**

⁶ EIONET currently hosts reporting of data and information under the Monitoring Mechanism Regulation, among other things.



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