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EU Government Affairs Practice
Global Trade Practice

European Commission Presents Far-Reaching New Climate Change Package

On January 23, 2008, the European Commission presented a far-reaching package of proposals that will deliver on the European Union's ambitious commitments to fight climate change and promote renewable energy up to 2020 and beyond. The package includes detailed plans on how the European Union intends to meet its 2020 climate change aims. These include a 20% reduction in greenhouse gas emissions, a 20% share of renewables in overall EU energy consumption by 2020, a 20% increase in energy efficiency and a 10% biofuel component in vehicle fuel by 2020.

The "Climate action and renewable energy package" establishes the contribution expected from each Member State toward meeting these targets and proposes a series of measures to help them achieve the targets. The proposed measures will dramatically increase the use of renewable energy in each country and set legally enforceable targets for governments to achieve them. All major CO₂ emitters will be given an incentive to develop clean production technologies through a thorough reform of the Emissions Trading System (the "ETS") that will impose an EU-wide cap on emissions.

The package consists of a set of key legislative and policy proposals that are closely interlinked. The main ones include the following:

- Proposal for a Directive amending the current EU Emissions Trading Directive;
- Proposal for a Directive promoting renewable energy;
- Proposal for a Directive on carbon capture and storage ("CCS");
- Communication on the support of early demonstration of sustainable power generation from fossil fuels and new Guidelines for environmental state aid.

EU Emissions Trading System

The Commission proposes to strengthen the single, EU-wide carbon market to include more greenhouse gases (currently only CO₂ is included) and involve all major industrial emitters. The emission allowances put on the market will be reduced year-on-year to allow for emissions covered by the ETS to be reduced by 21% from 2005 levels in 2020.

The power sector – responsible for the majority of EU emissions – will face full auctioning from the start of the new regime in 2013. Other industrial sectors, as well as aviation, will step up to full auctioning

gradually, although an exception may be made for sectors particularly vulnerable to competition from producers in countries without comparable carbon constraints. In addition, auctions will be open, such that any EU operator will be able to buy allowances in any Member State.

Revenues resulting from the ETS will accrue to Member States and should be used to help the EU to adjust to an environment friendly economy by supporting innovation in areas such as renewables, CCS and R&D.

Under the new system over 40% of total emissions will be covered by the ETS. In sectors not covered by the ETS such as buildings, transport, agriculture and waste, the EU will reduce emissions to 10% below 2005 levels by 2020. For each Member State the Commission is proposing a specific target by which it must reduce or, in the case of new Member States, may increase its emissions up to 2020. These changes range from -20% to +20%.

Renewables

Today, the share of renewable energy in the EU's final energy consumption is 8.5%, which means that an average increase of 11.5% is needed to meet the target of 20% in 2020. In order to achieve this, the Commission is today proposing individual, legally enforceable targets for each of the Member States. The options for developing renewable energy vary from one Member State to another and lead times for bringing renewable energy on stream are long.

The national action plans to be prepared by Member States will set out how they intend to meet their targets and how progress can be monitored effectively. As long as the EU's overall target is met, Member States will be allowed to make their contribution by supporting Europe's overall renewables effort, and not necessarily inside their own borders. This would shift investment to where renewables can be produced most efficiently.

Biofuels

To ensure consistency in transport fuel specifications and availability, the 10% target to be met by 2020 for renewable energy in transport has been established at the same level for each Member State and renewable transport fuels should be available to Member States that lack the appropriate resources to produce biofuels. The Commission believes that it is likely and desirable that the biofuel needs of the European Union will be met through a combination of domestic EU production and imports from third countries. However, the Directive establishes stringent environmental sustainability criteria to ensure that biofuels that are to count towards the European targets are produced in a sustainable manner and that they are not in conflict with the overall environmental goals of the European Union.

Carbon Capture and Storage

The package also includes a proposal for a directive on CCS. While the Commission thus confirms its commitment to CCS and calls for the development of effective demonstration of CCS through industry and public initiatives, it also recognizes that the uptake of CCS on a commercial scale may only begin around 2020. However, it is not proposing that CCS become mandatory. Decisive financial commitment

from industry and Member State support measures will both be important.

Accordingly, the Commission has expressed a favorable view of the use of certain state aid for CCS demonstration projects. As the ETS will recognize CO₂ that has been safely captured, transported and stored as not having been emitted, CCS should begin to be deployed in earnest once the price per ton of CO₂ avoided by CCS will be lower than the carbon price.

According to Commission President Barroso, the cost of tackling climate change in this way is "manageable." The Commission estimates the additional effort needed to realize the proposals to be less than 0.5% of GDP by 2020. However, Barroso conceded that the costs of emissions abatement could have an adverse impact on the competitiveness of energy-intensive industries in the European Union. To the extent these industries might relocate in countries with less stringent standards, Barroso acknowledged that an international agreement would be the best solution in this context.

For more information on the energy package, please contact Dr. Günter Burghardt, gburghardt@mayerbrown.com, Charles De Jager, cdejager@mayerbrown.com, or Lia Keune, lkeune@mayerbrown.com in our Brussels office.

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