

Deutsche Unternehmensinitiative Energieeffizienz e.V. (DENEFF)
(German Business Initiative on Energy Efficiency)

Our Common Energy Efficiency Policy – Key for Long-term Competitiveness and Wealth in Europe

Recommendations on the

Implementation report on the Energy Efficiency Directive

Draft Report ITRE 2015/2232(INI)

Friday, May 20, 2016

Contact:

Christian Noll
Managing Director

Deutsche Unternehmensinitiative Energieeffizienz e.V. (DENEFF)

Kirchstraße 21 – 10557 Berlin
Telefon: +49 (0) 30 36 40 97 02
Mobil: +49 (0) 179 149 576 4
christian.noll@deneff.org

Supported by:



**EUROPEAN ALLIANCE TO
SAVE ENERGY**
Creating an Energy-Efficient Europe

I. Introduction

Today, the EU imports more than half of the energy it consumes (Eurostat) and more than two thirds of its natural gas. For some member states import dependencies are even higher (e.g. Belgium, Germany, Ireland, Italy, Luxemburg etc.). To overcome this vulnerability of our industry and society to future energy price shocks and to safeguard the security of supply in an affordable and sustainable way it would be economically unviable to solely rely on the substitution of imported fuels by domestic sources. The overall costs and risks of the energy supply are largely determined by the volume of energy consumed (and therefore imported or sourced, converted, transmitted and stored).

Consequently energy waste is a severe burden to individual energy consumers and our economies as a whole. The energy we could save is the most secure, cleanest and cheapest available domestic energy resource. This has greatly been reflected by Energy Commissioner Cañete's and Vice President Juncker's call for an "energy efficiency first" principle which now needs to be transformed into a robust and working political framework.

By starting an implementation report the European Parliament's Industry, Research and Energy Committee has taken the right decision to timely assess the existing Energy Efficiency Directive (EED) in regard of its effectiveness in the light of the upcoming revision.

DENEFF – the German Business Voice on Energy Efficiency - welcomes this initiative as it also crucial for companies across Europe whose core competency is modern energy efficiency solutions (products and services). More than 535,000 citizens are employed in this outstandingly growing sector (approx. 10 % CAGR 2014-2015) in Germany alone. Companies also attribute high impact by national and European political instruments to their business as shown by the 2016 energy efficiency sector monitor recent survey (DENEFF, PwC, 2016). Other studies attribute impressive growth and job effects of the German Energy Efficiency Action Plan (NAPE) which is motivated by the EED (Ringel, Schломann et al., 2016).

Yet the full economic potential of energy efficiency remains largely untapped: By doubling energy productivity the EU could decrease its energy dependency down to 40 % until 2030. At the same time this would lead to an additional 4.5 trillion EUR in GDP growth (+1.53 %) and 1.2 million new jobs. Further effects would be a 35% reduction in energy demand, one-third lower energy costs per household and substantially lower energy prices for all (Ecofys, 2015) as well as manifold side benefits to health, disposable income and wealthier and more liveable cities and regions.

The upcoming revision of the EED can contribute largely to wealth and growth in Europe by:

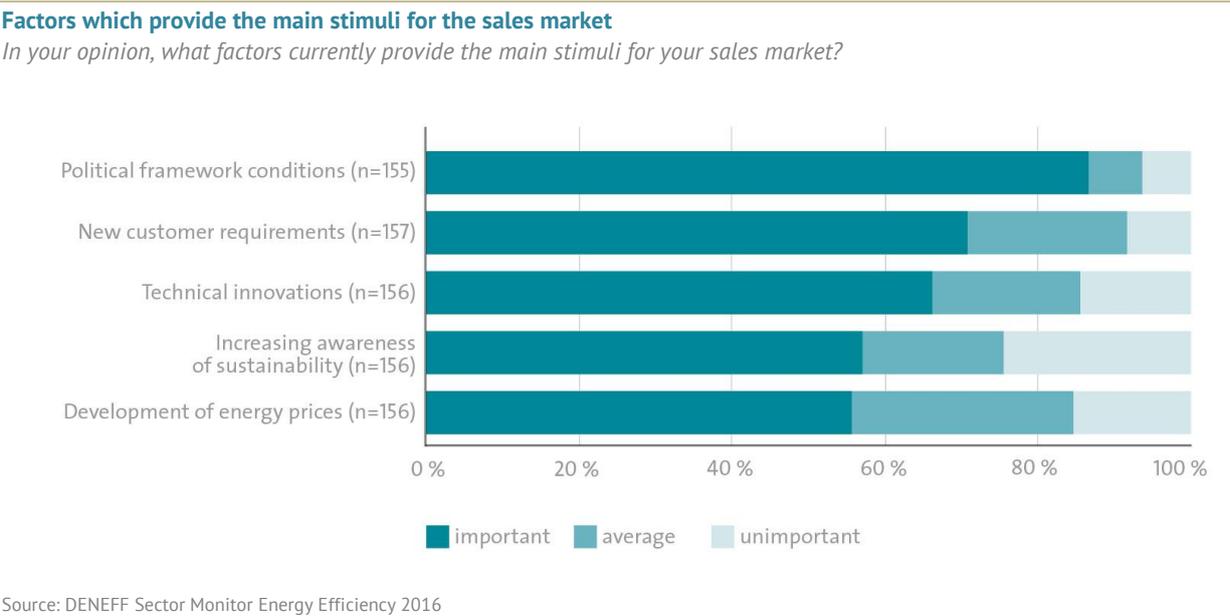
- retaining the positive climate for investments and growth by stable framework conditions for energy efficiency by including binding and ambitious energy efficiency targets for 2030, removing the sunset clause of article 7 and improved long-term renovation strategies,
- reducing the complexity of regulation while improving adaptability and ease of implementation,
- creating the right framework to let market forces do their work but also
- removing disincentives e.g. by combining energy price subsidies with clear return services in the field of energy efficiency and
- acknowledging the value of the manifold side benefits of energy efficiency such as indoor air quality, health effects, comfort and employment.

On the following pages DENEFF likes to point out key learnings on the implementation of the EED so far and the planned revision as well as to comment the draft report.

II. The EU-Energy Efficiency Directive – a success story that needs to continue

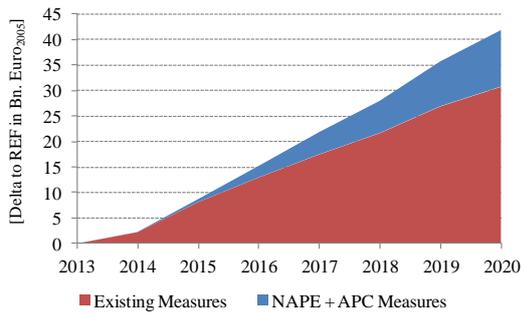
Although a large part of energy efficiency measures are cost-efficient, they are not broadly implemented due to market barriers which are of non-economic nature, e. g. split incentives between owners and users, information deficits, accounting rules for public investments but also regulatory barriers. Therefore (higher) energy prices (due to ETS) widely fail to incentivize energy savings. However, policy instruments like the German KfW building rehabilitation scheme have proven to be successful to overcome some of those barriers.

While it is too early to measure comprehensive results of the effects of the EED recent surveys show that the EED and subsequent national policies such as the German National Action Plan on Energy Efficiency (NAPE) significantly increased confidence amongst companies. Suppliers expect most of the measures to deliver significant positive effects to the market. And: for the first time, policy framework conditions are valued as the most important driver by companies in the field of energy efficiency (DENEFF, PwC, 2016). At the same time the importance of energy price developments dropped down to rank 5.

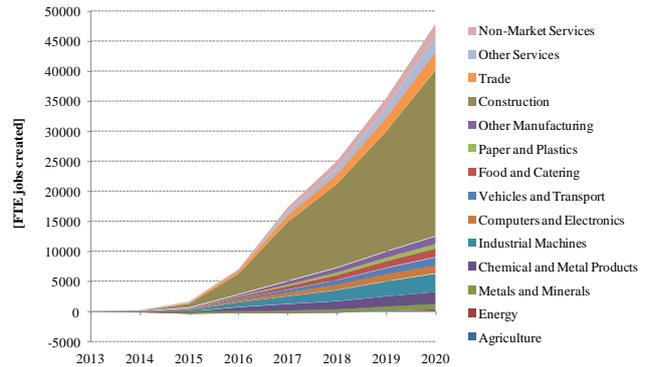


Article 7 EED allowed member states to flexibly embark or build up on successful domestic policies and to learn from examples from other countries. For example Germany’s national action plan (NAPE) scales up existing measures but also transfers good practices from abroad. Most notable examples are competitive tendering schemes as existing in Switzerland, Portugal, UK and US states or the voluntary initiative to create 500 new “learning energy efficiency networks” for companies which is based on an earlier Swiss approach. Half of the foreseen new measures had been implemented within one year. A recent study (Ringel, Schlomann et al., 2016) projects an additional GDP growth of more than 40 bn EUR by existing policy measures between 2013 and 2020 of which at least 11 bn EUR are due to most recent policy decisions (NAPE, Climate Action Programme (APC)). It also shows job effects of 48.000 additional jobs in Germany. In relation to an estimated 135 bn EUR annual turnover and 535.000 existing jobs in the national energy efficiency sector in 2015 (DENEFF, PwC, 2016) this is an impressive policy effect.

Impacts of existing, NAPE and APC measures on GDP compared with REF



Jobs created (full-time-equivalent) per sector by NAPE and APC measures

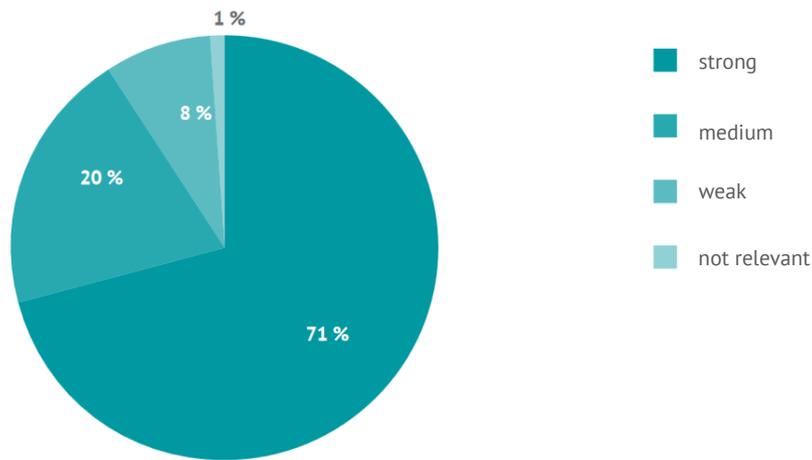


Source: Ringel, Schlomann, Krail, Rohde (2016): Towards a green economy in Germany? The role of energy efficiency policies, Applied Energy, <http://dx.doi.org/10.1016/j.apenergy.2016.03.063>

In particular, companies regard the obligation for larger companies to implement energy audits (article 8) as highly effective (DENEFF, PwC, 2016). Many companies were motivated to go beyond the minimum requirements and plan to implement energy management systems (ibid) and to undertake concrete investments (EEP, 2015): 100% of the participants answered they plan to invest in energy efficiency – mostly driven by policies (energy audits, energy management systems or learning energy efficiency networks) which are also the main national contributions to article 7.

About 70 percent of companies regard mandatory audits as effective

In your opinion, how effective are mandatory energy audits for bigger companies?



n=139

Source: DENEFF Sector Monitor Energy Efficiency 2016

Buildings account for 40% of the energy consumption in Europe and thus constitute a high saving potential. Together with the EPBD the EED has contributed positively to energy savings in Europe and has been an important first step. Nevertheless member states do not seem to fully act on the multiple benefits to society of implementing EED. For example the required renovation strategies have varied in scope and ambition level, stressing the importance of clear targets.

An energy efficient and healthy building stock lead to vast benefits such as local job creation, improved productivity and health for those working and living in buildings, therefore multiple benefits should be taken more seriously into account. E.g. 80 million Europeans live in damp

and mouldy buildings and this nearly doubles the risk of developing asthma (Fraunhofer IBP, 2014). An analysis of residential building regulations in 8 Member States (BPIE, 2015) makes clear that indoor climate has been neglected in many member states' implementation.

Nevertheless, also other inconsistencies in the directive's text are partly reason for the weak implementation as it created insecure planning circumstances for the member states.

Above all it is important to companies that the political framework gives the needed stability for future investments and to undertake measures cost-effectively. While companies in the energy efficiency sector value the political framework as an important market driver their biggest concern lies in uncertainties about their future developments (DENEFF, PwC, 2016).

The EU has an important responsibility to retain the existing positive climate of investment. Therefore one thing should be prevented by any means: That article 7 goes out of force in 2020. This could happen as the directives text contains a sunset clause by which this articles exits out of force as long as there is no political decision to remove that sunset. Also a new and ambitious target for 2030 must be set and be binding to give European and national policies a clear direction.

If nothing is done about this governments will lose traction to continue with their efforts, investor confidence will be damaged and Europe will face a "low carbon leakage" – meaning energy efficiency companies will move to other regions with a more reliable policy framework.

III. ITRE's implementation report comes in the nick of time

The ITRE's draft initiative report tabled by its rapporteur Dr. Markus Pieper provides important conclusions about the status of implementation of the EED. The draft text highlights the key role of energy efficiency for environmental and climate protection and supply security and the EED as providing an important basis in this connection. Whilst DENEFF shares this view further emphasis should be put on the economic benefits as pointed out above.

To draw a holistic picture, we recommend to additionally considering the following aspects to the rapporteur's conclusions:

"Energy Efficiency Directive only inadequately implemented – saving targets achieved nonetheless"

Comment: The EU Commission has started infringement procedures against almost all member states. Only provided that member states implement all of the existing legislation the Commission expects that the 2020 target will be missed by 1-2%. Recent years decrease in energy consumption should not be mistaken for a sufficient energy efficiency progress. The 2020 target in article 3 is based on a projection including a 1.5% GDP growth rate which has been already undershot in the last three years (EUROSTAT). Even if the 2020 target could be met in the remaining years it is now about time to consider a binding and ambitious energy efficiency target for 2030 that reflects the full benefits of energy efficiency to the economy.

Flexibility allowed member states to establish or to refine policy mixes such as the German NAPE or to focus on key policies such as building codes and energy efficiency obligations as named by EED and EPBD. But the vague eligibility criteria of article 7 also created loopholes that motivated member states to do as little as possible and to claim that extraneous policies would cause energy savings without substantial proof.

The rapporteur's criticism that some member states still have not introduced mandatory energy audits (article 8) is important as this shortfall is also a lost opportunity and a distortion to the competitiveness of the other EU member states' companies. Where mandatory audits were introduced companies often voluntarily exceeded the minimum requirements and introduced energy management systems (see above). In the light of the above, the Commission should be urged to investigate the implementation of article 8 EED not only in the light of the Energy Efficiency Directive but also from the perspective of competition policies.

“Competing legal provisions slow down environmental progress, create red tape and increase energy costs”

Comment: We welcome the rapporteur's call to for more coordination of national legislation by the Commission (point 8) – at least as it concerns or limits energy efficiency. Governance should be lean to be cost-efficiently implemented and able to react to market dynamics. While the energy production sector is highly regulated the energy consumption sector is rather low and incoherently regulated. Missing links between both and an unequal footing are the main reason for disincentives that create unnecessarily high costs to energy consumers.

For future national plans it seems to be most relevant to also take an integrated perspective which treats energy efficiency on equal footing with energy generation and transmission (“energy efficiency first”). With special regard to national energy efficiency actions plans (NEEAPs) a robust forward planning perspective should be required as they are mostly just answering to reporting obligations. Still reporting of policies and measures is important to monitor progress. The existing reporting and monitoring system under the EED could be more effective if a binding template and standardized energy data, definitions and indicators were used. Eurostat should undertake additional efforts to provide this data, especially as regards CHP.

“Energy legislation needs to be more coherent and more flexible”

Comment: It is mainly inconsistencies that limited bold success of the EED so far whilst flexibilities seem to be sufficient. To streamline the EU's energy efficiency policy the EED should be the lead policy to give energy efficiency policy a clear and effective overarching structure with binding and ambitious energy efficiency targets. The role of other policies such as EPBD, Eco Design or Energy Labelling Directives should be deriving from that to contribute to the overall targets. National regulations impacting energy efficiency (mostly negatively) can be found on manifold levels such as tenancy law, energy utility regulation, procurement rules for public bodies etc. It is unlikely that these can be merged in a comprehensive manner. Acknowledging this, the EU has an outstanding responsibility to give the right impetus to member states so as to treat energy efficiency as a resource of its own right and to codify this in national energy efficiency legislation.

The flexibility allowed by article 7 truly helped member states to embark new energy efficiency programs. At the same time unclear eligibility rules for alternative measures to energy efficiency obligations motivated member states not to come up with effective additional measures but rather to notify existing policies in other fields that are not intended to improve energy efficiency to deliver energy savings without any sound prove (e.g. feed-in-tariffs). Furthermore, the calculation rules for the 1.5 % energy saving target

(article. 7.1) are too complicated and have been very heterogeneously applied by member states.

While energy used for transport can be excluded from the saving target, savings in this sector can be used to fulfill the remaining target. Due to additional exemptions (article 7.2.) member states unevenly reduced the 1.5% target in total to less than 0.5% (e.g. Luxemburg, Cyprus) or at least 0.9% (Slovakia, Romania and Finland) p.a. In terms of effort sharing, this cannot be called a level playing field. In terms of competition policies, this raises serious concerns about competitive distortions due to a lax interpretation of the article 7 target.

“Competing legal provisions slow down environmental progress, create red tape and increase energy costs”

Comment: Far more than the ETS which has almost no impact on end-use efficiency many rules within tenancy law, public spending rules and other regulations are a barrier to or even discriminate the use of energy-efficiency products and services. Other examples are the exemption rules for energy cost intensive companies (e.g. on German renewables surcharge EEG). These are designed in a way that energy efficiency progress can endanger privileges which is then far more severe to affected companies than possible cost savings.

In general, regulation on energy production is designed without any consideration on possible energy efficiency progress that could result in a lower energy infrastructure demand. Therefore an “energy efficiency first” principle should be implemented in all member states jurisdiction to remove those inconsistencies and reduce energy costs. A revised Energy Efficiency Directive can provide the right guidance to do so for member states

“More energy efficiency – EU support, best practice and optimizing the EED”

Comment: The rapporteur highlights the importance to increase the effectiveness of EU funded projects and to make better use of those funds for energy efficiency investments which is highly welcome from the perspective of the energy efficiency industry. Also the recommended exchange of ideas amongst member states is becoming more and more important as on articles 4, 5, 6 and 7 indeed various practices exist that can learn from each other.

DENEFF shares the rapporteur’s view that energy audits are proven means of boosting energy efficiency – but only as long as barriers are removed and the right incentives are set for subsequent investments. The reference to non SMEs in art 8.4 seems simple but gives no clear definition. In practice it has proven to be highly difficult to determine which companies and energy uses are subject so that member states used inhomogeneous or even limited approaches of implementation (e.g. France excluded small companies that are part of bigger companies while Germany did not).

In reply to the draft report and beyond DENEFF likes to give the following recommendations for the upcoming revision of the Energy Efficiency Directive.

IV. Future recommendations

1. Retain the positive climate for investments and growth

- Remove the 2020 sunset clause in article 7 to retain confidence in a stable energy efficiency framework and thus provide planning security to investors
- Set a binding energy efficiency target of 40 % for 2030 that allows future growth but also exploits the cost-effective energy savings and triggers the associated benefits Make “energy efficiency first” the abiding principle for EU and national energy politics
- Long-term renovation strategies (article 4) need to be improved to ensure policies are on track towards long-term goals. This requires clear transformation scenarios and objectives to be set, alongside a set of new measures including various financing tools and options.

2. Reduce complexity while improving adaptability and ease of implementation

- Give better guidance for article 7 by offering a concrete menu of best practice policy options as alternatives to energy company obligations. This should explicitly include energy efficiency support systems such as funding schemes (e.g. KfW loans and grants) or competitive tenders for cost-effective energy efficiency measures (implemented/piloted in CH, P, UK, US, DE)
- Make the EED the lead policy to give energy efficiency policy a clear and effective overarching structure. The role of other policies such as EPBD, Ecodesign and or Energy Labelling directives should be derived from that to contribute to the overall targets

3. Let market forces do their work

- End discrimination of energy service companies by defining strict rules to to remove legal barriers in members states (e.g. in Germany tenancy law, renewables surcharges)
- Empower final customers to implement energy savings by giving tenants the right to obtain sub-metered (consumption based) energy bills and monthly consumption information (additional energy savings up to 16 %, as proven in a current dena field project).
- Support national, regional and local public bodies to take up energy efficiency measures by setting rules to ensure the consideration of energy performance contracting and other sources of third-party financing
- Modify EU and national interpretations of accounting rules on public debt and deficit need so that investments in energy efficiency under energy service contracts are not necessarily counted as deficits in national and public accounts

4. Quid pro quo: Combine subsidies on energy prices with clear return services

- Companies with high energy intensities should be privileged by rebates on energy taxes or levies to stay competitive on global markets. At the same time they should demonstrate a special duty to prevent energy waste. Following Germany’s example, beneficiaries should be required to introduce certified energy management systems (ISO 50001). Beyond that it should be monitored if measures that were identified as cost-effective within those systems are implemented.

5. Activate the multiple benefits of energy efficiency

- Besides energy costs savings impact assessments and future policies must also take into account reduced costs in the energy system (import dependency, generation, distribution and storage), reduced non-ETS GHG emissions and positive effects on competitiveness and employment in Europe.
- EU regulation on buildings should include requirements to achieve an nZEB level building stock by 2050, accompanied by a clear trajectory with milestones for 2030 and 2040 and also have in to contribute to a healthier building stock (e.g. a healthy indoor climate and daylight, productivity and learning abilities of the people living and working in the buildings).

APPENDIX – Voting Recommendations:

For the ITRE vote on 24 April we would like to point out the compromise agreements that are helpful and those that seem problematic from the point of view of the energy efficiency industry.

- **We support CA 3a**

Even if member states implement all of the existing legislation the 2020 target can be roughly met. CA 3a points out that additional action is needed while CA 3 overestimates the given self-interest of citizens and businesses to cut energy costs.

- **We support CA 4 and 4a**

They correctly define art. 7 **EED as the pillar of the EED**. The provision on Energy efficiency obligation schemes or alternatives measures is the only binding obligation directly linked to achieve energy savings targets. They are also instrumental in unlocking investments in energy efficiency which is a strategic issue as 50% of investments need to go into energy efficiency if we want to reach our 2050 goals as highlighted by the international energy agency. We therefore support the **removal of loopholes and the sunset clause** to ensure that the 1.5% target is extended beyond 2020 and the strengthening of the wording to ensure that it reaches its full potential.

- **We do not support CA7a**

The text suggests that there is as a contradiction in the way that article 7 contains an energy saving target but the directive aims to improve energy efficiency. Article 7 asks for measures appropriate to save energy but does not rationalize growth of consumption as those measures can deliver different effects: improvements of efficiency resulting in constant consumption, limited consumption growth (both parallel to higher productivity) or absolute savings.

- **We do not support CA8**

Better regulation means streamlining reporting obligations which are essential to evaluate the progress and implementation of existing energy efficiency legislation. The text states that energy reporting obligations limit the potential for growth and innovation. However, red tape and administrative burdens need to be reduced and simplified.

- **We do not support the first part of CA12**

The introduction of the **Efficiency First principle is welcomed, but** not the wording to describe it. It introduces a doubt that the energy efficiency first principle could be a threat to the deployment of renewable energy, with which we do not agree. We believe energy efficiency and renewable energy are complementary, also because the application of the energy efficiency first principle will make sure that Europe's energy political triangle (sustainability, security of supply and affordability) is safeguarded and we do not end with stranded assets.

- **We support CA 10a and 16a**

They introduce a **positive wording on the 2030 binding energy efficiency target and the discount rate** to ensure ambitious implementation following up the COP21 agreement.

- **We reject CA16**

A single EU GHG emissions target would fail to trigger additional energy savings or stop wasteful energy use and spending. Energy efficiency is the key to mutually supporting energy and climate policies and must therefore come first in the design of the policy framework.

- We **support CA 19a and 20**

The extension of the scope of art. 5 to **cover all public buildings** and the competitiveness potential for EU industry to undertake **energy audits** are additional improvements for the EED revision.

Finally, **we welcome the opinion report of Peter Liese MEP as voted in ENVI, which will also be voted in ITRE on 24 May.** We support the overall opinion and particularly recommend the inclusion of the following paragraphs in Markus Pieper MEP's report:

- Para 7, 9: the need to focus on the **renovation of the existing building stock**;
- Para 10: nZEB by 2050
- Para 16 that considers **energy efficiency as an infrastructure investment**;
- Para 23, 24 & 27 on **energy efficiency discount rate and the societal value of energy efficiency**;
- Para 34 – removal of loopholes in Art. 7
- Para 40 on **public procurement**.