

Letter from: Permanent Representation of the Grand Duchy of Luxembourg to the European Union

Date: Brussels, 12 April 2011

Subject: Request for further information regarding Luxembourg's Renewable Energy Action Plan

Ref.: 21202
17.1.103-E.17.01.103 (gw)

I am writing with the answers of the Luxembourg authorities to the questions raised in your letter No 102445 dated 9 February 2011.

In response to part one of **Q4.2.1** regarding the authorisation procedures and, more specifically, resolving the conflict between nature protection and renewable energies, I can give you the following information:

Section 4.2.1 of the National Renewable Energy Action Plan provides an overview of the administrative and spatial planning procedures (Article 13(1) of Directive 2009/28/EC on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (hereafter 'the Directive')). Section 4.2.1(a) sets out a list of national and, where applicable, regional legislation concerning the authorisation, certification, licensing and spatial planning procedures applied to generating installations and the associated transmission and distribution network infrastructure. Section 4.2.1(b) lists the responsible Ministry(/ies) / authority(/ies) and their competences in the field and 4.2.1(f) describes which level of administration (local, regional or national) is responsible for authorising, certifying and licensing renewable energy installations and for spatial planning.

A consultation process has been launched involving the Ministry(/ies) / authority(/ies) (listed under section 4.2.1(b) and (f) of the Action Plan) responsible for the national legislation referred to in section 4.2.1(a) of the Action Plan and the Ministry responsible for the transposition of the Directive. The consultations look at how the current situation and, in particular, the conflict between nature protection and renewable energies can be improved through specific measures. The ministries/authorities involved in the consultation process are the ministries/authorities which are responsible for nature protection and renewable energies, namely the following:

- Ministry of Sustainable Development and Infrastructure
- Administration for the Environment
- Administration for Water Management
- Ministry of Economic Affairs and Foreign Trade

If necessary, these ministries concerned will consult with the Committee for Administrative Simplification attached to the Minister of State in order to take additional measures.

In response to part two of **Q4.2.1** regarding authorisation procedures and, in particular, the classes of establishment, I can give you the following information:

Section 4.2.1(i) of the Action Plan states that the classes of establishment (1, 2, 3, 3A, 3B or 4) are determined by the type of technology used. Other classification criteria include the size of the installation (e.g. output, dimensions) or its location.

In response to **Q4.2.3** concerning buildings and, in particular, the increase in the share of renewable energies in the building sector, I can give you the following information:

Section 4.2.3(c) of the Action Plan states that:

‘In 2007 a new methodology (based on primary energy consumption) was introduced for calculating energy ratings for use in energy performance certificates and licences in the building sector. It is possible to achieve a higher energy rating by using renewable energies so this acts as a positive incentive for doing so. As part of the transposition of Directive 2009/28/EC there is to be a review of whether and, if so, when it might be worthwhile to impose minimum criteria for the use of renewable energies in buildings in order to achieve the renewable energy target.’

Section 4.2.3(f) of the Action Plan also states that:

‘There are no plans at present to include minimum requirements for the use of renewable energies in building regulations and codes. The specific characteristics of renewable energy sources are taken into consideration when calculating total primary energy consumption and total CO₂ emissions within the meaning of the Grand-Ducal Regulation of 30 November 2007 on the energy performance of residential buildings. This indirectly encourages the use and increased use of renewable energies in buildings. As part of the transposition of Directive 2009/28/EC there is to be a review of whether and, if so, when, it might be worthwhile to impose minimum criteria for the use of renewable energies in buildings in order to achieve the renewable energy target.’

I therefore take the view that, for the time being, certifying the energy performance of buildings provides sufficient incentive for the use of renewable energies in buildings. It should be pointed out, however, that proposed reforms to raise energy efficiency standards in buildings will in turn increase the use of renewable energies as the calculation methodology used in Luxembourg sets out requirements for both primary energy and heat energy consumption.

In response to **Q4.2.5** concerning the certification of installers and, more specifically, the responsible body for setting up and authorising certification/qualification schemes by 2012 for installers of small-scale biomass boilers and stoves, photovoltaic and solar thermal systems, shallow geothermal systems and heat pumps, I can give you the following information:

Sections 4.2.3(a) and (b) of the Action Plan state that:

‘There are currently no legal or other instruments in place to implement the certification schemes or equivalent qualification schemes within the meaning of Article 14(3). These are to be established with the transposition of the Directive.’

Article 14(3) of the Directive provides that:

‘Member States shall ensure that certification schemes or equivalent qualification schemes become or are available by 31 December 2012 for installers of small-scale biomass boilers and stoves, solar photovoltaic and solar thermal systems, shallow geothermal systems and heat pumps.’

No responsible body has yet been designated for the setting up and authorising of certification/qualification schemes. Luxembourg is considering various options with regard to the setting up of such certification schemes and intends to introduce legislation in this area by the deadline laid down in the Directive in order to comply with this provision. It is important to point out, however, that – as stated in section 4.2.5(c) of the Action Plan – the Chamber of Trades of the Grand Duchy of Luxembourg provides ongoing training for the craft industry and for installers. Companies whose employees successfully follow this training are awarded a quality mark.

In response to part one of **Q4.2.6** concerning grid development and, in particular, the capacity and timing of the project concerning additional connection with the French electricity grid, I can give you the following information:

Luxembourg's transmission system operator CREOS Luxembourg S.A. has confirmed that research is being carried out with a view to identifying opportunities for establishing additional connections to grids in Luxembourg's neighbouring countries. Since the research is still in progress it is not possible at this stage to provide further information on the timing of any potential projects. It should, however, be made clear that the research will take into account renewable energy development at both a national and European level. In this context, I refer to you my letter No 21003 of 16 February 2011 addressed to Catherine Day, which also tackles the issue of grid development.

In response to part two of **Q4.2.6** concerning grid development and, more specifically, the coordination of grid infrastructure approval and other administrative planning procedures, I can give you the following information:

Any transmission system operator intending to build a new high voltage grid infrastructure would be responsible for obtaining all the relevant authorisations required under national legislation and regulations.

In terms of speeding up and simplifying authorisation procedures for grid infrastructure, the Luxembourg government is, in accordance with the 2009 government programme, preparing a draft law entitled 'Draft law on a) simplifying and speeding up the authorisation procedure for classified establishments and b) amending the amended law of 10 June 1999 on classified establishments', one of the principal objectives of which is to simplify and speed up the "commodo-incommodo" (public enquiry) procedure established by the amended law of 10 June 1999 in relation to classified establishments.

In response to part three of **Q4.2.6** regarding grid development and, more specifically, how it will be ensured that transmission and distribution system operators provide new producers wishing to be connected with a precise timetable for processing their request and an indicative timetable for their grid connection, I can give you the following information:

In my letter No 21003 of 16 February 2011 addressed to Catherine Day I explained that Article 5(3) and (5) of the amended law of 1 August 2007 on the organisation of the electricity market (hereafter, 'the electricity act') provides that system operators are required to establish general service terms which must form an integral part of contracts to be concluded between the system operator concerned and the client. In addition, each operator must establish financial and technical connection conditions. These conditions must be subject to the acceptance procedure provided for by the electricity act. The manner in which the relevant operator must inform the producer concerned of the technical and financial conditions and the respective deadlines is regulated by the Institut Luxembourgeois de Régulation pursuant to Article 54(4)(a) of the electricity act which

provides that the regulator must devise the necessary practical and procedural arrangements in certain areas.

In response to **Q4.2.7** concerning grid operation and, more specifically, the implementation of grid- and market-related operational measures taken in order to minimise the curtailment of electricity produced from renewable energy sources, I can give you the following information:

With regard to adjustment issues, Article 27(10) of the electricity law provides that:

‘When, in the context of the adjustment, the transmission system operator or industrial system operator makes use of these measures they shall take into account the economic precedence of electricity from available generating installations or interconnector transfers and the technical constraints on the system whilst giving priority to generating installations using renewable energy sources or waste, or producing combined heat and power.’

In response to question **Q4.2.10** on the sustainability criteria of biofuels and, more specifically, on providing more information on how the sustainability criteria for biofuels and bioliquids will be implemented at national level, I can give you the following information:

In my letters to Catherine Day dated 16 February 2011 (No 21003) and 30 March 2011 (No 21148) respectively, Luxembourg notified complete transposition of the provisions of the Directive. The provisions in the Directive on the sustainability criteria were transposed into national law by the *Grand-Ducal Regulation of 27 February laying down the sustainability criteria for biofuels and bioliquids* (Memorial A No 41 of 2 March 2011, p. 590). This regulation lays down the sustainability criteria for biofuels and bioliquids released on the market in Luxembourg and the system for verification of compliance with the sustainability criteria. It also creates a basis for taking biofuels and bioliquids into account in order to achieve the national objectives provided for by the Directive. In particular, Article 2 of the Grand-Ducal Regulation provides that:

‘Irrespective of whether the raw materials were cultivated in the European Union or in a third country, biofuels and bioliquids released for consumption on the national market must comply with the sustainability criteria provided for in Articles 3 to 6.’

Articles 3 to 6 of the Grand-Ducal Regulation repeat the sustainability criteria in Article 17(2) to (5) of the Directive.

Article 8 of the Grand-Ducal Regulation states that:

‘The operators concerned must demonstrate that the biofuels and bioliquids comply with the sustainability criteria laid down in Articles 3 to 6.’

Article 9(1) of the Grand-Ducal Regulation also states that:

‘For the purposes of Article 8, the operators concerned must submit reliable information to the Administration for the Environment and, on request, the data that were used to develop the information.’

The Administration for the Environment is therefore responsible for monitoring the fulfilment of the sustainability criteria for biofuels.

In response to question **Q4.5** regarding biofuels support schemes and the concrete obligations/targets per year (per fuel or technology) for the period until 2020, I can give you the following information:

Table 12 in section 5.1 of the Action Plan gives precise details of the obligations/targets per year, per fuel for the period until 2020.

In response to **Q4.6.1** regarding biomass supply and, more specifically, the conversion factors for the direct supply of wood biomass for energy generation, I can give you the following information:

The allocations of national resources planned are expressed in ktoe, as is primary energy generation. Therefore there is no conversion factor linking the two columns. The first column shows the amount of resources expected for the year in question whilst the second column shows the energy content of the actual amount of resources used for energy generation. This means that if the resources value is higher than the primary energy value, then the resources have not been fully utilised for energy generation. Conversely, if the primary energy generation value is higher, this would indicate that some energy has been imported. This is especially true of the indirect supply of wood biomass. Section 4.6.1 of the Action Plan provides further clarification as follows:

‘What is the estimated role of imported biomass up 2020? Please specify the quantities expected (ktoe) and indicate possible import countries.

Imports of biomass, in particular in the category ‘indirect supply of wood biomass for energy generation’ are expected to reach 45 ktoe by 2020. The possible supply countries will depend on the market for these products in the future.’