



**COUNCIL OF  
THE EUROPEAN UNION**

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**NOTE**

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from:	General Secretariat of the Council
to:	Delegations
No. Cion prop.:	16202/12 ENER 467
Subject:	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Making the internal energy market work = <i>Draft Council conclusions</i>

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Delegations will find in Annex the above, amended in light of the discussion in the Energy Working Party on 18 March and written positions of delegations.

Changes as compared to the previous version are reflected in underlined text; deletions by [].

*draft*

**Council conclusions on the Commission Communication**

**"Making the internal energy market work" <sup>1</sup>**

THE COUNCIL OF THE EUROPEAN UNION

RECALLS that completion of the Internal Energy Market is a priority action under the Single Market Act II;

RECALLS the conclusions of the European Council of 4 February 2011 which stated that the internal market should be completed by 2014 and that no Member State should remain isolated from the European gas and electricity networks after 2015;

EMPHASISES the significant contribution that the completed Internal Energy Market will make to all three pillars of the Union's energy policy: sustainability, competitiveness and security of supply, but also to the Union's jobs and growth agenda, to the Union's energy and climate targets, to the transition to a low-carbon economy, to the strengthening of the Union's external energy policy and to the reduction of the Union's external dependency;

STRESSES the need to ensure a fully consistent and synergistic approach between different energy policies strands such as those relating to renewable energy, energy efficiency, the internal energy market and future energy policy goals, and also with closely linked policies such as transport policy, climate policy and economic policy and their respective goals;

RECALLING that in the further development of the Union's energy policies, account should continue to be taken of the specific circumstances of some Member States or regions, such as those with an insular or peripheral character, and of 'energy islands';

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<sup>1</sup> doc. 16202/12 ENER 467

Note: the numbering contained in these conclusions was added to facilitate discussions and will disappear in the final version.

IN ORDER TO COMPLETE THE INTERNAL ENERGY MARKET AND ACHIEVE THE 2014 AND 2015 DEADLINES, THE COUNCIL:

1. CONFIRMS its full commitment to the correct and urgent implementation of the internal energy market legislation, including notably the third energy package, which includes acting in line with the spirit of that legislation and ensuring proper application and enforcement to ensure a Union-wide level playing field;
2. INVITES all Member States to assess [] - whilst taking into account universal service obligations - the impact of existing end user price regulation measures, in particular of those measures that have unintended negative effects on the functioning and completion of the internal energy market and that:
  - do not [] focus [] on well-defined groups of vulnerable consumers;
  - are not [] of an emergency nature;
  - are not [] justified by wholesale markets that are uncompetitive due to their geographical isolation or their temporary lack of interconnections or supply diversity.Council invites Member States to subsequently consider the need to maintain such measures, and take appropriate action, whilst duly taking the economic conditions into account;
3. CALLS on Member States to rationalise and to phase out environmentally or economically harmful subsidies, including for fossil fuels<sup>1</sup>, *inter alia* in order to create a level playing field for different types of generation, whilst recalling the TTE Council conclusions of 3 December 2012 relating to the gradual phasing out of support for new projects of certain types of maturing renewable energies, when their economic viability and competitiveness have been achieved and bearing in mind national specificities [].

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<sup>1</sup> Note: from ECOFIN conclusions 21.2.2012, doc. 6678/12

4. UNDERLINES the importance of finalising and implementing the Target models for electricity and for gas, from balancing to long-term markets, and for the continued rapid *development* of framework guidelines and network codes, and the adoption of the latter through the Comitology process and in close and early consultation with all relevant stakeholders, as set out *inter alia* in the Action Plan for Europe annexed to the Communication "Making the Internal Energy Market work", that will ensure the optimal functioning of the internal gas and electricity markets. In particular, Council underlines the need to improve capacity utilisation in gas and electricity networks and improve consistency in EU cross-border transportation tariff calculation;
5. STRESSES the responsibility of Member States, cooperating at Union and regional level, to ensure *generation* adequacy and the secure supply of consumers. However, the market has the ☐ key role to play in providing clear investment incentives for new generation capacity, new interconnections, network and system optimisation, *et cetera*. Therefore Council calls for the further enhancement of cooperation and coordination at policy as well as operational level, and welcomes the role of the Electricity Coordination Group.
6. SUPPORTS the further strengthening of regional initiatives, regional cooperation and planning to improve the overall functioning of the internal energy market, in particular in order to assist in improving system adequacy, the implementation of the Target models for electricity *and* for gas, the establishment of further energy interconnections and energy market integration. In cases where these are lacking, the establishment of further interconnections and better market integration should receive the highest priority;
7. HIGHLIGHTS the role that energy infrastructure plays in the completion of the internal energy *market* and the achievement of energy and climate objectives. A precondition to the completion of the internal energy market is adequate infrastructure, in particular sufficient interconnections between Member States and regions to improve security of supply, to end energy isolation, to enable the uptake of increasing amounts of variable renewable energy and to foster significant volumes of crossborder trading in gas and electricity. Furthermore, Council underlines the importance of adequate infrastructure connecting remote areas and islands, as well as the contribution of adequate infrastructure to the territorial integrity of the Union and to social and economic development;

8. URGES [] therefore Member States, [] the Commission and relevant stakeholders, in particular Transmission System Operators and project promoters, to devote all necessary efforts to the swift implementation and application of the Regulation on guidelines for trans-European energy infrastructure, and invites the Commission and ACER to promote regional initiatives to play a prominent role in bridging infrastructure gaps;
9. UNDERLINES that in order to further proceed with the market integration in Europe clear rules of congestion management on cross-border gas connections with third countries need to be developed. The Council invites the Commission to present possible options to resolve this issue within the EU bilateral dialogues with relevant third countries;
10. STRESSES that an effective regulatory framework that is predictable and reliable on a long-term basis is vital for creating the necessary investment incentives in network infrastructure;
11. HIGHLIGHTS the positive effects that the unbundling provisions of the third energy package have on the development of energy infrastructure and on competition, while underlining the importance of assessing the effectiveness of the different unbundling models, and invites the Commission to present an analysis and guidance on institutional investors that wish to invest in both energy generation capacity and energy infrastructure;
12. UNDERLINES that the principles of the third energy package should be applied to the power system management in Baltic Member States, as this is a necessary prerequisite for the completion of the fully-fledged and EU-wide internal energy market. Therefore, the ongoing negotiations between the European Union, Russia and Belarus on the electricity system operation of the Baltic Member States should continue, with a view to reaching this objective, in line with the negotiation mandate of the Commission.

13. RECOGNISES the problem posed by unplanned power flows occurring frequently and on a large scale and the potential dangers that this poses to the secure [] functioning of transmission systems and the social welfare costs these flows might cause. Council underlines the need to address this problem [that may result from the mismatch between unpredictable amounts of variable electricity inflow and grid development and/or grid management]. This should be done in the long term *inter alia* by [] the development and upgrade of the grid. In the short and medium term, in order to avoid security of supply incidents, further appropriate measures could include: [] establishing proper market bidding zones, [] closer coordination and improved transparency among TSOs in congestion management, [] improved forecasts and planning, and [] further measures such as the implementation of flow-based capacity calculation, appropriate compensation mechanisms and the coordinated management [] of control equipment on cross-border lines. Council considers [] that [] this issue requires close bilateral and regional cooperation of the TSOs as well as further analysis and coordination effort [] at Union level;
14. EMPHASISES once again the significant role that energy efficiency and energy saving play in helping to solve a wide range of challenges facing the internal energy market, including from an infrastructure perspective, and underlines the importance of implementing the Energy Efficiency Directive, which includes provisions on distributed generation, demand response and related price signals, which will all help the completion of the internal energy market [];
15. RECALLS the need to keep the internal energy market adequately supplied, taking advantage of [] the Union's indigenous resources and using as well [] resources from external suppliers, whilst bearing in mind the need to continue the process of cooperation and, where applicable, integration with neighbouring countries based on the relevant Union *acquis*, and to ensure a level playing field for business and industry so that they can be competitive in the global marketplace, having regard *inter alia* to the impact of [] carbon leakage;
16. UNDERLINES the important role of indigenous energy sources in ensuring security of supply, in reducing the Union's external energy dependency, and in stimulating economic development within the Union.

IN ORDER TO IMPROVE THE RIGHTS AND ROLES OF CONSUMERS, THE COUNCIL:

17. STRESSES the rights of consumers to transparency, equality and predictability in particular with regards to contracts, billing and pricing schemes;
18. EMPHASISES [] that the interests of consumers [] play a central role in the internal energy market and that consumers should be a driving force for market integration, efficient market functioning and [] the creation of integrated national and crossborder retail markets, by exercising their right to choose the best offer from different electricity and gas providers - having regard to *inter alia* prices [] and pricing schemes, quality of service, contractual conditions and environmental and sustainability aspects - and, where framework conditions allow, by lowering their energy costs through demand response based on correct price signals;
19. ENCOURAGES therefore awareness-raising and trust-building activities such as clear, regular and targeted communication and education measures, from both public and private actors, aimed at various [] consumer groups, using consumer-focused instruments that enhance consumer choice and empowerment, such as price comparison tools that enhance transparency and comparability of information, e.g. on prices [] and pricing schemes, quality of service, contractual conditions and environmental and sustainability aspects, and tools for switching suppliers;
20. HIGHLIGHTS the importance of affordable energy for [] households and for the competitiveness of European industrial consumers, and the value of assessing future energy policy initiatives from the perspective of the consumer, including where appropriate the implementation of specific cost-benefit analyses; []

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21. UNDERLINES the importance of protecting vulnerable consumers [] through energy policy and/or [] social policy, as determined by the Member State, and underlines the need to use specific and well-targeted consumer information [] on any measures taken. In this context, Council recognises the scope for the exchange of best practices among Member States as an input and stimulus for national policy development, whilst underlining that measures to support [] vulnerable consumers should not undermine energy efficiency policy or the correct functioning of the market, including price signals for demand. Furthermore, Council underlines the particularly effective role that energy efficiency measures and policy can [] play in helping vulnerable consumers.
22. HIGHLIGHTS the importance of smart meters, micro-generation, micro-storage, home automation and smart appliances, in empowering consumers and delivering demand response, whilst underlining the need to ensure adequate privacy and data protection and address other issues related to the consumer acceptance of such devices, including notably the need to inform and educate consumers. Council therefore emphasises the need for Member States to consider the adoption of strategies for the roll-out of smart meters, which may be subject to the outcome of [] cost-benefit analyses where undertaken by Member States and where these [] demonstrate the net benefits for the consumers, as well as for other energy actors;
23. ENCOURAGES the roles that the consumer can play in the micro-generation of renewable energy ("prosumers"), and in micro-storage, and the multiple potential benefits that this can have on important elements of the Union's energy and climate policy, whilst also having regard to the accompanying costs;



24. WELCOMES AND SUPPORTS initiatives that raise public acceptance for infrastructure projects, in particular those that encourage and enable participation of individual citizens in infrastructure projects, generation projects and storage projects, especially those in their local area. This should be done, when appropriate, also in line with the measures set out in the Regulation on guidelines for trans-European energy infrastructure, and taking into account the importance of communicating on the need for, and the challenges associated with, the completion of essential energy infrastructure.

IN ORDER TO CONTRIBUTE TO THE TRANSITION TO THE INTERNAL ENERGY MARKET OF THE FUTURE, THE COUNCIL:

25. while noting the need to take into consideration actions already undertaken by Member States, CALLS FOR the rapid development of standards for smart meters, smart grids and smart appliances and notes that rules and standards for the seamless interaction of smart meters, smart grids, smart appliances, micro-generation and micro-storage technologies and home automation are essential, *inter alia* for enabling demand response and data management. In this context, Council underlines the important role that the European regional policy and its priorities under the 2014-2020 financial framework can play in supporting the deployment of smart technologies.
26. NOTES the intention of the Commission to propose guidance [] for a roll-out of smart meters, and invites the Commission to take into consideration actions already undertaken by Member States. Council underlines [] the need for transparency, coordination and exchange of best practice in the roll-out of smart meters, as well as the need to take into account local network and distributed generation characteristics, the level of demand and economic considerations. In the roll-out process, an important role can be played by national action plans;
27. SUPPORTS further Research, Development and Demonstration projects on smart grids, and encourages Member States to prepare national action plans for smart grid development. Council supports the development of cross-border smart grids in the Union, in particular where these contribute to generation adequacy, security of supply, the uptake of increasing amounts of variable renewable energy, and optimal network management.

28. UNDERLINES the potential role that can be played by the providers of innovative services and new actors such as ICT companies, for developing demand response systems in distribution networks. Council notes that there may be a need to assess the tasks and roles of Distribution System Operators (DSOs) in light of the emergence of new consumer demand [] for innovative services. In general, Council emphasises the need to exploit the large synergistic potential that lies in the cooperation between energy actors: energy companies, DSOs, Transmission System Operators, National Regulatory Authorities, Member State authorities, retailers, ICT and telecom companies and system developers;
29. UNDERLINES that further efforts are needed to facilitate and enable the development of more and better energy storage solutions, in all sizes and types, and therefore supports further Research, Development and Demonstration in this area as well as closer cooperation between Member States and neighbouring EFTA countries;
30. UNDERLINES the contribution that the large-scale use of both micro-generation of renewable energy and micro-storage of energy can make to generation adequacy and security of supply, and calls upon the Commission, Member States and relevant authorities including notably DSOs to ensure that technical and administrative barriers to the large-scale deployment of these types of generation and storage are removed or minimised. In this context and in light of the recent Commission proposal for a Directive on the deployment of alternative fuels infrastructure, Council underlines the importance of a successful integration of the micro-storage and demand response potential of electric cars into smart grids, which is an aspect of particular importance to energy policy;

31. UNDERLINES that generation adequacy should be measured at Member State level and at the appropriate regional level. Relevant factors within the appropriate wider region should be taken into account, such as crossborder energy flows, available interconnection capacity, market coupling, base load, potential demand flexibility and available production capacity, including both variable and flexible generation. In order to further improve the security and reliability of energy supply and the efficient functioning of the internal energy market, Council welcomes initiatives to promote further transparency of methodologies and practices used to assess generation adequacy. Such initiatives could, following further detailed analysis, lead to proposals for minimum criteria aimed at converging or harmonising national and regional generation adequacy methodologies, if appropriate;
32. UNDERLINES that any state intervention in the energy market should be within the limits of Union law, should only take place after due consideration of the alternatives available within the relevant timeframe - in particular the removal of existing distortions, the promotion of demand response mechanisms and energy efficiency, as well as additional interconnection capacity - and should be the least distortive possible. Council notes that the use of capacity mechanisms could be an option to consider, with the aim of guaranteeing generation adequacy and security of supply in situations where the internal market does not yet function effectively, for instance due to a lack of interconnection, or where the inflow of large quantities of variable power generation causes a need for sufficient investment in flexible generation that the market does not meet, whilst noting the potential negative effects of capacity mechanisms as set out in the Communication;

33. STRESSES therefore, that with a view to excluding or minimising potential negative effects of capacity mechanisms on the functioning of the internal energy market, coordination at regional and Union level is needed, and the following issues relating to capacity mechanisms should be examined thoroughly: criteria [] for their use (which could [] include an assessment of the alternatives available, such as additional interconnection capacity, market coupling, storage, demand response mechanisms *et cetera*); [] design, including existing and envisaged designs of capacity mechanisms; [] potential effects - including on cross-border trade, on investment in interconnections, on other Member States and producers; and how to optimally prepare their possible later phase-out as the internal energy market and technology [] develop and thus improve the security of supply. This examination should closely involve Member States and relevant actors and may lead to non-binding guidance at EU level on the use of capacity mechanisms, to coordination at Union and regional level, and to criteria to assess consistency of national capacity mechanisms with the internal market. Council recognises that the different nature of generation adequacy-problems in different Member States should be duly taken into account in this process. Non-binding guidance on these issues should help in minimising the possible drawbacks of these mechanisms.
34. NOTES the Commission's announced non-binding guidance on renewable energy support schemes reform, welcomes the revision of the guidelines on State aid for environmental protection, and underlines that in the context of Union legislation on antitrust and State aid, there is a continued need to ensure a level playing field and respect of competition rules;
35. STRESSES that when Member States, in exercising their rights to determine their energy mix, make choices [] that have a substantial impact on neighbouring Member States, they should duly consider ways to minimise negative repercussions and maximise the positive effects that such choices may have on neighbouring Member States [] and their region, including through coordination and dialogue with affected Member States;

IN LIGHT OF THE ABOVE, THE COUNCIL:

- SUPPORTS the broad thrust of the Action Plan for Europe as set out in Annex 1 to the Communication, whilst underlining the messages contained in these Council conclusions. Council therefore invites the Commission to proceed with its implementation, taking due account of [ ] these Council conclusions and with regular reporting by the Commission to the Council instances on its implementation, so that these instances can monitor this implementation;
- EMPHASISES the need to take stock of the work done in 2011 on the strengthening of the European External Energy Policy and welcomes the discussion on the lessons learned, scheduled to take place in the second half of 2013. Council underlines that this discussion should take due account of the need to deepen the energy market integration with neighbouring countries based on the EU energy *acquis*;
- STRESSES that it intends to review the implementation of these conclusions by end 2014.