



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 8 October 2013**

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**NOTE**

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from: General Secretariat of the Council  
to: Permanent Representatives' Committee

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No. Cion prop.: 7735/13 ENER 102 CODEC 645

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Subject: Proposal for a Regulation of the European Parliament and of the Council  
concerning the notification to the Commission of investment projects in energy  
infrastructure within the European Union and replacing Council Regulation (EU,  
Euratom) No 617/2010  
- *Preparation of informal trilogue*

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1. The Commission tabled the above proposal on 20 March 2013, proposing as legal basis Article 194 TFEU. This followed the annulment, by the European Court of Justice on 6 September 2012 of Council Regulation 617/2010 <sup>1</sup>, because the Court considered that an incorrect legal basis had been used. This incorrect legal basis consisted of Art. 337 TFEU and Art. 187 of the Euratom Treaty, and the co-decision procedure therefore did not apply: the European Parliament was entitled to give an opinion under the consultation procedure.
2. The aim of the Regulation is to bring more transparency to the process of investment in energy infrastructure in the Union, by generating more and better data through biennial reporting by Member States. This will allow an improved, cross-sectoral analysis of needs, shortcomings, potential risks, bottlenecks *et cetera* and will therefore enable better coordination, between Member States concerned and at Union level.

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<sup>1</sup> OJ L 180, 15.7.2010, p. 7

3. Besides the change of legal basis and some adaptations, the text of the Commission proposal was virtually identical to that of Council Regulation 617/2010 (whose effects are maintained until the entry into force of a new Regulation). For this reason, delegations indicated in the Energy Working Party that they could accept the Commission proposal as it stood.
4. On 26 September, the European Parliament's ITRE Committee voted on its opinion, thus providing rapporteur Mrs. Vălean (ALDE) with a mandate to negotiate with Council <sup>1</sup>. The Energy Working Party has examined the 38 draft amendments proposed, as well as corresponding Presidency compromise proposals. The Presidency holds the view that two Informal Trilogues should suffice to achieve a first-reading agreement; the first one is scheduled for 16 October.
5. Delegations could support, or show flexibility on, a number of amendments. However, two categories of enlargements of the scope proposed by Parliament are firmly opposed: the inclusion of the extraction of oil (AM 32), gas (AM 33) and coal (AM 38); and the proposed lower reporting thresholds for thermal and nuclear power stations (AM 34), wind farms (AM 35) and photovoltaic installations (AM 36). It is recalled that the Commission proposed to address the possible inclusion of oil/gas/coal extraction in the 2016 review (Art. 11, p. 23), and that the Presidency and Parliament propose, as a compromise, to address possible lower thresholds for renewable energies also in that review.
6. The three column document in Annex serves to prepare Council's position for the first informal trilogue. The first column contains the Council position <sup>2</sup>. The second column contains the ITRE opinion, as voted on 26 September. The third column contains the Presidency compromise proposals. Changes compared to the previous text (doc. 13560/1/13 REV 1) are identified with underlined text.
6. The Permanent Representatives Committee is invited to grant the Presidency a mandate for the first Informal Trilogue, on the basis of the text in Annex.

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<sup>1</sup> In her report, rapporteur Vălean notes with satisfaction that many amendments adopted by the EP in 2010 through the consultation procedure were already taken on board (by Council).

<sup>2</sup> Note: this text is identical to the Commission proposal, with a few technical adaptations in underlined text.

draft

## REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

concerning the notification to the Commission of investment projects in energy infrastructure within the European Union and replacing Council Regulation (EU, Euratom) No 617/2010 and repealing Council Regulation (EC) No 736/96

| COUNCIL POSITION<br>( N.B. identical to <i>Commission proposal</i> , with <i>underlined corrections</i> )    | ITRE OPINION | PRESIDENCY COMPROMISE PROPOSALS |
|--|--------------|---------------------------------|
| CITATIONS  |              |                                 |
| THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,   |              |                                 |
| Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194 thereof, |              |                                 |
| Having regard to the proposal from the European Commission,  |              |                                 |
| Having regard to the opinion of the European Economic and Social Committee,                                  |              |                                 |
| Having regard to the opinion of the Committee of the Regions,  |              |                                 |
| Acting in accordance with the ordinary legislative procedure,  |              |                                 |
| Whereas:   |              |                                 |

| <b>RECITALS</b>   |   |  |
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| <b>AM 1</b>   | <b>AM 1</b>   | <b>AM 1</b>  |
| <p>(1) Obtaining an overall picture of the development of investment in energy infrastructure in the Union is essential for the Commission to perform its tasks in the field of energy. The availability of regular and up-to-date information should enable the Commission to make the necessary comparisons, evaluations or to propose relevant measures based on appropriate figures and analysis, in particular concerning the future energy supply-demand balance.</p> | <p>(1) Obtaining an overall picture of the development of investment in energy infrastructure in the Union is a <i>prerequisite for the development of the European energy policy</i>. The availability of regular and up-to-date data and information should enable the Commission to make the necessary comparisons and evaluations or to propose relevant measures based on appropriate figures and analysis, in particular concerning the future energy <i>supply/demand</i> balance. <i>Any measures proposed or taken at Union level should be neutral and should not amount to interventions in the functioning of the market.</i></p> | <p>(1) Obtaining an overall picture of the development of investment in energy infrastructure in the Union is essential <b>[for the development of the European energy policy]</b> and is essential for the Commission to perform its tasks in the field of energy. The availability of regular and up-to-date data and information should enable the Commission to make the necessary comparisons and evaluations or to propose relevant measures based on appropriate figures and analysis, in particular concerning the future energy <i>supply/demand</i> balance.</p> |
| <b>AM 2</b>   | <b>AM 2</b>   | <b>AM 2</b>  |
| <p>(2) The energy landscape within and outside the Union has changed significantly in recent years and makes investment in energy infrastructure a crucial issue for securing the internal market and for the transition towards a low-carbon energy system the Union has begun.</p>  | <p>(2) The energy landscape within and outside the Union has changed significantly in recent years and makes investment in energy infrastructure a crucial issue for securing the Union's energy supply, for the functioning of the internal market and for the transition towards a <i>sustainable</i> energy system the Union has begun.</p>  | <p><i>Reject</i></p>   |

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| <p>(3) The new energy context requires significant investment in all kinds of infrastructure in all energy sectors as well as the development of new types of infrastructure and new technologies to be taken up by the market. The liberalisation of the energy sector and the further integration of the internal market give a more prominent role to economic operators for investment. At the same time, new policy requirements such as targets affecting the fuel mix will alter Member States' policies towards new and/or modernised energy infrastructure.</p> |  |  |
| <p>(4) In this context, greater attention should be paid to investment in energy infrastructure in the Union, in particular with a view to anticipating problems, promoting best practices and establishing greater transparency on the future development of the Union's energy system.</p>   |  |  |
| <p>(5) The Commission and in particular its Market Observatory for Energy should therefore have at its disposal accurate data and information on investment projects, including decommissioning, in the most significant components of the energy system of the Union.</p>   |  |  |

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| <p>(6) Data and information regarding foreseeable developments in production, transmission and storage capacities and projects in the various energy sectors are of interest to the Union and important to future investment. It is therefore necessary to ensure that the Commission is notified of investment projects on which construction or decommissioning work has started or on which a final investment decision has been taken.</p> |   |   |
| <p>(7) Pursuant to Articles 41 and 42 of the Euratom Treaty, undertakings are under an obligation to notify their investment projects. It is necessary to supplement such information with, in particular, a regular reporting on the implementation of investment projects. Such additional reporting is without prejudice to Articles 41 to 44 of the Euratom Treaty.</p>  | <p style="text-align: center;"><b>AM 3</b></p> <p>(7) Pursuant to Articles 41 and 42 of the Euratom Treaty, undertakings are under an obligation to notify their investment projects. It is necessary to supplement such information with, in particular, a regular reporting on the implementation of investment projects. Such additional reporting is without prejudice to Articles 41 to 44 of the Euratom Treaty, <b>while the imposition on undertakings of a double burden should be avoided wherever possible.</b></p>                  | <p>(7) Pursuant to Articles 41 and 42 of the Euratom Treaty, undertakings are under an obligation to notify their investment projects. It is necessary to supplement such information with, in particular, a regular reporting on the implementation of investment projects. Such additional reporting is without prejudice to Articles 41 to 44 of the Euratom Treaty, <b>while the imposition on undertakings of a double burden should be avoided wherever possible.</b></p> |
| <p>(8) In order for the Commission to have a consistent view of the future developments of the Union's energy system as a whole, a harmonised reporting framework for investment projects based on updated categories for official data and information to be transmitted by the Member States is necessary.</p>   | <p style="text-align: center;"><b>AM 4</b></p> <p>(8) In order for the Commission to have a consistent view of the future developments of the Union's energy system as a whole, a harmonised reporting framework for investment projects based on updated categories for official data and information to be transmitted by the Member States is necessary. <b>Such a harmonised reporting framework should set up a balanced system for reporting investment projects with a view to avoiding disproportionate administrative burdens.</b></p> | <p><i>Reject</i></p> <p>Note: provision already addressed in Recital 11.</p>  |

| <b>AM 5</b>   |  |   |
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| <p>(9) Member States should, to this end, notify to the Commission, data and information on investment projects in energy infrastructure concerning production, storage and transport of oil, natural gas, electricity, including electricity from renewable sources, bio-fuels and the capture and storage of carbon dioxide planned or under construction in their territory, including interconnections with third countries. Undertakings concerned should be under an obligation to notify to the Member State the data and information in question.</p> | <p>(9) Member States should, to this end, notify to the Commission, data and information on investment projects <b><i>in energy infrastructure planned or under construction in their territory</i></b> concerning production, storage and transport of oil, natural gas, electricity, including electricity from renewable sources, <b><i>electricity from coal and lignite, and the co-generation of electricity and useful heat; the production of bio-fuels; and the capture, transport and storage of carbon dioxide</i></b> [ ]. <b><i>Member States should also notify investment projects in electricity interconnections and gas interconnections with third countries.</i></b> Undertakings concerned should be under an obligation to notify to the Member State <b><i>concerned the data and information in question.</i></b> [ ].</p> | <p>(9) Member States should, to this end, notify to the Commission, data and information on investment projects <b><i>in energy infrastructure planned or under construction in their territory</i></b> concerning production, storage and transport of oil, natural gas, electricity, including electricity from renewable sources, <b><i>electricity, coal and lignite, the co-generation of electricity and useful heat, as well as investment projects in biofuel production and the capture, transport and storage of carbon dioxide. Member States should also notify investment projects in electricity and gas interconnections with third countries.</i></b> Undertakings concerned should be under an obligation to notify to the Member State <b><i>concerned the data and information in question. Member States and the Commission should be obliged to ensure the confidentiality of data provided by undertakings.</i></b></p> |
| <p>(10) Given the time horizon of investment projects in the energy sector, reporting every two years should be sufficient.</p>   |  | <p>Note: see also recitals 12, 13 &amp; 14 on data confidentiality</p>  |

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| <p>(11) With a view to avoiding disproportionate administrative burdens and to minimise costs to Member States and undertakings in particular for small and medium enterprises, this Regulation should give the possibility to exempt Member States and undertakings from reporting obligations provided that equivalent information is supplied to the Commission pursuant to energy sector-specific legal acts, adopted by the institutions of the Union, aiming at achieving the objectives of competitive energy markets in the Union, of sustainability of the energy system of the energy supply to the Union. Any duplication of reporting requirements specified in the third internal market package for electricity and natural gas should therefore be avoided.</p> | <p><b>AM 6</b></p> | <p>(11) With a view to avoiding disproportionate administrative burdens and to minimise costs to Member States and undertakings, in particular for small and medium-sized enterprises, this Regulation should give the possibility to exempt Member States and undertakings from reporting obligations provided that equivalent information <i>has already been</i> supplied to the Commission [] pursuant to energy sector-specific legal acts, adopted by the institutions of the Union, aiming at achieving the objectives of competitive energy markets in the Union, of sustainability of the energy system of the Union and of the security of energy supply to the Union. Any duplication of reporting requirements specified in the third internal market package for electricity and natural gas should therefore be avoided. <b>In order to ease the reporting burden, the Commission should provide support to Member States with a view to [] clarify in which cases it considers the data or information already notified to it under other legal acts to meet [] the requirements of this Regulation.</b></p> |
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| <p>(12) To process data as well as to simplify and secure data notification, the Commission and in particular its Market Observatory for Energy should be able to take all appropriate measures to that effect, in particular the operation of integrated IT tools and procedures.</p>   | <p style="text-align: center;"><b>AM 7</b></p> <p>(12) To process data as well as to simplify and secure data notification, the Commission and in particular its Market Observatory for Energy should be able to take all appropriate measures to that effect, in particular the operation of integrated IT tools and procedures, <b>which should guarantee the confidentiality of the data or information notified to the Commission.</b></p>  | <p>(12) To process data as well as to simplify and secure data notification, the Commission and in particular its Market Observatory for Energy should be able to take all appropriate measures to that effect, in particular the operation of integrated IT tools and procedures, <b>which should guarantee the confidentiality of the data or information notified to the Commission.</b></p>   |
| <p>(13) The protection of individuals with regard to the processing of personal data by the Member States is governed by Directive 95/46/EC of the European Parliament and of the Council<sup>1</sup>, while the protection of individuals with regard to the processing of personal data by the Commission is governed by Regulation (EC) No 45/2001 of the European Parliament and of the Council<sup>2</sup>. This Regulation leaves those provisions intact.</p>   | <p style="text-align: center;"><b>AM 8</b></p> <p>(14) Member States, or their delegated entities, and the Commission should preserve the confidentiality of commercially sensitive data and information. Therefore, Member States or their delegated entities should, with the exception of data related to cross-border transmission projects, aggregate such data and information at national level before submitting it to the Commission. If required the Commission should further aggregate this data in such a way that no details concerning individual undertakings and installations are disclosed or can be inferred.</p>                             | <p style="text-align: center;"><b>AM 8</b></p> <p>(14) Member States, or their delegated entities, and the Commission should preserve the confidentiality of commercially <b>and/or strategically</b> sensitive data and information. Therefore, Member States or their delegated entities should, with the exception of data related to cross-border transmission projects, aggregate such data and information at national level before submitting it to the Commission. If required the Commission should further aggregate this data in such a way that no details concerning individual undertakings and installations are disclosed or can be inferred.</p> |
| <p>(14) Member States, or their delegated entities, and the Commission should preserve the confidentiality of commercially sensitive data and information. Therefore, Member States or their delegated entities should, with the exception of data related to cross-border transmission projects, aggregate such data and information at national level before submitting it to the Commission. If required the Commission should further aggregate this data in such a way that no details concerning individual undertakings and installations are disclosed or can be inferred.</p> | <p style="text-align: center;"><b>AM 8</b></p> <p>(14) Member States, or their delegated entities, and the Commission should preserve the confidentiality of commercially <b>and/or strategically</b> sensitive data and information. Therefore, Member States or their delegated entities should, with the exception of data related to cross-border transmission projects, aggregate such data and information at national level before submitting it to the Commission. If required the Commission should further aggregate this data in such a way that no details concerning individual undertakings and installations are disclosed or can be inferred.</p> | <p style="text-align: center;"><b>AM 8</b></p> <p>(14) Member States, or their delegated entities, and the Commission should preserve the confidentiality of commercially <b>and/or strategically</b> sensitive data and information. Therefore, Member States or their delegated entities should, with the exception of data related to cross-border transmission projects, aggregate such data and information at national level before submitting it to the Commission. If required the Commission should further aggregate this data in such a way that no details concerning individual undertakings and installations are disclosed or can be inferred.</p> |

<sup>1</sup> OJ L 281, 23.11.1995, p. 31.

<sup>2</sup> OJ L 8, 12.1.2001, p. 1.

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| <p>(15) The Commission and in particular its Market Observatory for Energy should provide a regular and cross-sector analysis of the structural evolution and perspectives of the Union energy system and, where appropriate, more focused analysis on certain aspects of this energy system. This analysis should in particular contribute to identifying possible infrastructure and investment gaps in view of an energy supply and demand balance. The analysis should also form a contribution to a discussion at Union level about energy infrastructures and should be forwarded to the Council and the European Economic and Social Committee and made available to interested parties.</p> | <p style="text-align: center;"><b>AM 9</b></p> <p>(15) The Commission and in particular its Market Observatory for Energy should provide a regular and cross-sector analysis of the structural evolution and perspectives of the Union energy system and, where appropriate, more focused analysis on certain aspects of this energy system. This analysis should in particular contribute to <b>enhancing energy security</b> by identifying possible infrastructure and investment gaps <b>and associated risks</b> in view of an energy supply and demand balance <b>and should complement national approaches, by developing regional dimensions</b>. The analysis should also form a contribution to a discussion at Union level about energy infrastructures and should therefore be forwarded to the European Parliament, the Council and the European Economic and Social Committee and made available to interested parties.</p> <p style="text-align: center;"><b>AM 10</b></p> <p>(15a) <b>Small and medium-sized enterprises should be able to benefit from the monitoring tool for investment projects resulting from this Regulation which will make the collected data publicly available and, in the long term, contribute to new and better coordinated investments.</b></p> | <p>(15) The Commission and in particular its Market Observatory for Energy should provide a regular and cross-sector analysis of the structural evolution and perspectives of the Union energy system and, where appropriate, more focused analysis on certain aspects of this energy system. This analysis should in particular contribute to <b>enhancing energy security</b> by identifying possible infrastructure and investment gaps [] in view of an energy supply and demand balance []. The analysis should also form a contribution to a discussion at Union level about energy infrastructures and should therefore be forwarded to the European Parliament, the Council and the European Economic and Social Committee and made available to interested parties.</p> |
| <p>(16) The Commission may be assisted by experts from Member States or any other competent experts, with a view to developing a common understanding of potential infrastructure gaps and associated risks and to fostering transparency regarding future developments.</p>  | <p style="text-align: center;"><b>AM 11</b></p> <p>(16) The Commission may be assisted by experts from Member States or any other competent experts; with a view to developing a common understanding of potential infrastructure gaps and associated risks and to fostering transparency regarding future developments <b>which is of particular interest for new market entrants.</b></p>   | <p>(16) The Commission may be assisted by experts from Member States or any other competent experts; with a view to developing a common understanding of potential infrastructure gaps and associated risks, and to fostering transparency regarding future developments <b>which is of particular interest for new market entrants.</b></p>   |

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|   | <b>AM 12</b>   | <i>Reject</i> |
|   | <i>(16a) Given the reporting of investment projects at regular intervals, the Commission should provide an analysis to the Member States notifying them of the measures necessary to reduce risks of underinvestment or inadequacy of investments.</i> |               |
| <p>(17) This Regulation replaces Council Regulation (EU, Euratom) No 617/2010 of 24 June 2010, which was annulled by the European Court of Justice on 6 September 2012<sup>1</sup> and whose effects were maintained until <input type="checkbox"/> the entry into force of a new Regulation. Therefore, with the entry into force of the present Regulation, the <u>annulment of Regulation (EU, Euratom) No 617/2010 as pronounced by the Court takes effect. Furthermore, Council Regulation (EC) No 736/96, that was repealed by the annulled Council Regulation (EU, Euratom) No 617/2010 of 24 June 2010, should be repealed by the present Regulation.</u></p> <p>(18) The form and technical details of the notification to the Commission of data and information on investment projects in energy infrastructure are set out in the Commission Regulation (EU, Euratom) No 833/2010 of 21 September 2010, implementing Council Regulation (EU, Euratom) No 617/2010. Commission Regulation (EU, Euratom) No 833/2010 remains applicable until its revision, which will follow the adoption of this Regulation.</p> <p><b>HAS ADOPTED THIS REGULATION:</b></p> |  |               |

<sup>1</sup> Case C- 490/10, European Parliament v Council of the European Union [OJ C 331/2 of 27.10.2012]

| ARTICLES   |   |
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| <i>Article 1</i><br><b>Subject matter and scope</b>  |   |
| 1. This Regulation establishes a common framework for the notification to the Commission of data and information on investment projects in energy infrastructure in the oil, natural gas, electricity, including electricity from renewable sources, and bio-fuel sectors, and on investment projects related to the capture and storage of carbon dioxide produced by these sectors.  | 1. This Regulation establishes a common framework for the notification to the Commission of data and information on investment projects in energy infrastructure in the <b>sectors of</b> oil, natural gas, electricity - including electricity from renewable sources, <b>electricity from coal and lignite, and cogeneration of electricity and useful heat - [] as well as</b> on investment projects <b>related to bio-fuel production and</b> the capture, <b>transport</b> and storage of carbon dioxide produced by these sectors. |
| 2. This Regulation shall apply to investment projects of the types listed in the Annex on which construction or decommissioning work has started or on which a final investment decision has been taken. Member States may furthermore submit any estimated data or preliminary information on investment projects of the types listed in the Annex on which construction work is scheduled to start within five years and to those which are scheduled to be decommissioned within three years, but for which a final investment decision has not been taken. | 2. This Regulation shall apply to investment projects of the types listed in the Annex, <b>as well as those included in multiannual gas and electricity network development projects</b> on which construction or decommissioning work has started or on which a final investment decision has been taken.  |
| <i>Article 2</i><br><b>Definitions</b>   |   |
| For the purpose of this Regulation, the following definitions shall apply:   |   |
|  | <b>AM 13</b>  |
|  | <b>AM 14</b>  |
|  | <i>Reject</i>   |

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| <p>1. 'infrastructure' means any type of installations or part of installations related to production, transmission and storage;</p>  | <p><b>AM 15</b></p> <p>1. 'infrastructure' means any type of installations or part of installations related to production, transmission and storage, <b>including interconnections between the Union and third countries;</b></p> | <p>1. 'infrastructure' means any type of installations or part of installations related to production, transmission and storage, <b>including interconnections between the Union and third countries;</b></p> |
| <p>2. 'investment projects' means projects aiming at:</p> <p>(i) building new infrastructure;</p>   | <p><b>AM 16</b></p>   |   |
| <p>(ii) transforming, modernising, increasing or reducing capacities of existing infrastructure;</p>  | <p>(ii) transforming, modernising, increasing or reducing capacities of existing infrastructure <b>and interconnecting two or more components in existing or installed infrastructure;</b></p>                                    | <p><i>Reject</i></p>  |
| <p>(iii) partial or total decommissioning of existing infrastructure;</p>   |   |   |
| <p>3. 'final investment decision' means the decision taken at the level of an undertaking to definitively earmark funds towards the investment phase of a project, the investment phase meaning the phase during which construction or decommissioning takes place and capital costs are incurred. The investment phase excludes the planning phase, during which project implementation is prepared and which includes, where appropriate, a feasibility assessment, preparatory and technical studies, obtaining licences and authorisations and incurring capital costs;</p> |   |   |
| <p>4. 'investment projects under construction' means investment projects for which construction has started and capital costs are incurred;</p>   |   |   |
| <p>5. 'decommissioning' means the phase where an infrastructure is permanently taken out of operation;</p>  |   |   |
| <p>6. 'production' means the generation of electricity and the processing of fuels, including bio-fuels;</p>  |   |   |

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| <p>7. 'transmission' means the transport of energy sources or products or carbon dioxide, through a network, in particular:</p>   | <p style="text-align: center;"><b>AM 17</b></p>  |  |
|   | <p><i>(7a) 'capture' means the process of capturing carbon dioxide from industrial installations for storage purposes;</i></p> | <p><i>(7a) 'capture' means the process of capturing carbon dioxide from industrial installations for storage purposes;</i></p> |
| <p>(i) through pipelines, other than upstream pipeline network and other than the part of pipelines primarily used in the context of local distribution; or</p>   |  |  |
| <p>(ii) through extra high voltage and high-voltage interconnected systems and other than the systems primarily used in the context of local distribution;</p>  |  |  |
| <p>8. 'storage' means the stocking on a permanent or temporary basis of energy or energy sources in above-ground or underground infrastructure or geological sites or containment of carbon dioxide in underground geological formations;</p> |  |  |
| <p>9. 'undertaking' means any natural or legal private or public person, deciding or implementing investment projects;</p>  |  |  |
| <p>10. 'energy sources' means:</p>  |  |  |
| <p>(i) primary energy sources, such as oil, natural gas or coal;</p>  |  |  |
| <p>(ii) transformed energy sources, such as electricity;</p>  |  |  |
| <p>(iii) renewable energy sources including hydroelectricity, biomass, biogas, wind, solar, tidal, wave and geothermal energy; and</p>  |  |  |
| <p>(iv) energy products, such as refined oil products and bio-fuels;</p>  |  |  |

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| <p>11. 'specific body' means a body entrusted by any energy sector-specific legal act of the Union with the preparation and adoption of Union-wide multi-annual network development and investment plans in energy infrastructure, such as the European network of transmission system operators for electricity ('ENTSO-E') referred to in Article 4 of Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity<sup>1</sup> and the European network for transmission system operators for gas ('ENTSO-G') referred to in Article 4 of Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks<sup>2</sup>.</p> | <p style="text-align: center;"><b>AM 18</b></p>   |  |
|  | <p><i>(11a) 'aggregated data' means data aggregated at a national or regional level. If aggregation at a national level would reveal the commercially sensitive information of an individual undertaking, data may be aggregated at a regional level. The appropriate regional level shall be decided by the Commission upon a joint proposal by the Member States concerned or their delegated entities;</i></p> | <p><i>(11a) 'aggregated data' means data aggregated at the level of one or more Member States.</i></p> |

<sup>1</sup> OJL 211, 14.8.2009, p. 15.

<sup>2</sup> OJL 211, 14.8.2009, p. 36.

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| <p style="text-align: center;"><i>Article 3</i><br/><b>Notification of data</b></p> <p>1. While keeping the collection and reporting burden proportionate, Member States or the entities to which they delegate this task shall compile all data and information specified in this Regulation from 1 January 2015 and from then onwards every two years.</p> <p>They shall notify the data and relevant project information specified in this Regulation to the Commission in 2015, that year being the first reporting year, and from then onwards every two years. This notification shall be made in aggregated form, except for data and relevant information relating to cross-border transmission projects.</p> <p>Member States or their delegated entities shall notify aggregated data and relevant project information by 31 July of the reporting year concerned.</p> |  |  |
| <p>2. Member States or their delegated entities are exempted from the obligations set out in paragraph 1, provided that, and to the extent that, pursuant to energy sector-specific Union law or the Euratom Treaty:</p>   |  |  |
| <p>(a) the concerned Member State or its delegated entity has already notified to the Commission data or information equivalent to the requirements of this Regulation and has indicated the date of the notification and the specific legal act concerned; or</p>   |  |  |



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| <p>(b) a specific body is entrusted with the preparation of a multi-annual investment plan in energy infrastructure at Union level and compiles to this end data and information equivalent to the requirements of this Regulation. In this case and for the purposes of this Regulation, the specific body shall notify all the relevant data and information to the Commission.</p>  |   |  |
| <p><i>Article 4</i><br/><b>Data sources</b></p>  | <p><b>AM 19</b></p>   |  |
| <p>The undertakings concerned shall notify the data or information referred to in Article 3 to the Member States, or their delegated entities, in whose territory they are planning to carry out investment projects before 1 June of each reporting year. The data or information notified shall reflect the situation of investment projects as of 31 March of the relevant reporting year.<br/>The first paragraph shall not apply to undertakings where the Member State concerned decides to use other means of supplying the data or information referred to in Article 3.</p> | <p>The undertakings concerned shall notify the data or information referred to in Article 3 to the Member States, or their delegated entities, in whose territory they are planning to carry out investment projects before 1 June of each reporting year. The data or information notified shall reflect the situation of investment projects as of 31 March of the relevant reporting year.<br/>The first subparagraph shall not apply to undertakings where the Member State concerned decides to use other means of supplying the Commission with the data or information referred to in Article 3, <b>provided that the data or information supplied is comparable and equivalent.</b></p> | <p>The undertakings concerned shall notify the data or information referred to in Article 3 to the Member States, or their delegated entities, in whose territory they are planning to carry out investment projects before 1 June of each reporting year. The data or information notified shall reflect the situation of investment projects as of 31 March of the relevant reporting year.<br/>The first subparagraph shall not apply to undertakings where the Member State concerned decides to use other means of supplying the Commission with the data or information referred to in Article 3, <b>provided that the data or information supplied is comparable.</b></p> |
| <p><i>Article 5</i><br/><b>Content of the notification</b></p>   |   |  |
| <p>1. With regard to investment projects of the types listed in the Annex, the notification provided for in Article 3 shall indicate, where appropriate:</p>   |   |  |
| <p>(a) the volume of the capacities planned or under construction;</p>   |   |  |
| <p>(b) the type and main characteristics of infrastructure or capacities planned or under construction, including the location of cross-border transmission projects, if applicable;</p>   |   |  |

| <b>AM 20</b>   |  | <i>Reject</i>   |
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| (c) the probable year of commissioning;  | (c) the probable year of commissioning <b>and any delays incurred or expected to occur;</b>  |   |
| (d) the type of energy sources used;   |  |   |
| (e) the installations capable of responding to security of supply crises, such as equipment enabling reverse flows or fuel switching; and  |  |   |
| (f) the equipment of carbon capture systems or retrofitting mechanisms for carbon capture and storage.   |  |   |
| 2. With regard to any proposed decommissioning of capacities, the notification provided for in Article 3 shall indicate:   |  |   |
| (a) the character and the capacity of the infrastructure concerned; and  |  |   |
| (b) the probable year of decommissioning.  |  |   |
| <b>AM 21</b>   |  |   |
| 3. Any notification under Article 3 shall include where appropriate the total volume of installed production, transmission and storage capacities which are in place at the beginning of the reporting year concerned or whose operation is interrupted for a period exceeding three years.<br>Member States, their delegated entities or the specific body referred to in Article 3(2)(b) may add to their notifications relevant comments, such as comments on delays or obstacles to the implementation of investment projects. | 3. Any notification under Article 3 shall include where appropriate the total volume of installed production, transmission and storage capacities which are in place at the beginning of the reporting year concerned or whose operation is interrupted for a period exceeding three years.<br><b>Where</b> Member States, their delegated entities or the specific body referred to in point (b) of Article 3(2) <b>possess any information concerning delays and/or obstacles to the implementation of investment projects, those Member States shall include that information in the notification provided under Article 3.</b> | 3. Any notification under Article 3 shall include where appropriate the total volume of installed production, transmission and storage capacities which are in place at the beginning of the reporting year concerned or whose operation is interrupted for a period exceeding three years.<br><b>Where</b> Member States, their delegated entities or the specific body referred to in point (b) of Article 3(2) <b>possess any information concerning delays and/or obstacles to the implementation of investment projects, they may include that information in the notification provided under Article 3.</b> |

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| <p style="text-align: center;"><i>Article 6</i></p> <p style="text-align: center;"><b>Quality and publicity of data</b></p> <p>1. Member States, their delegated entities or, where appropriate, the specific bodies shall aim to ensure the quality, relevance, accuracy, clarity, timeliness and coherence of data and information they notify to the Commission.<br/>In case of specific bodies, the data and information notified may be accompanied by appropriate comments from Member States.</p> |   |  |
| <p>2. The Commission may publish data and information forwarded pursuant to this Regulation, in particular in analyses referred to in Article 10(3), provided that the data and information are published in an aggregated form and that no details concerning individual undertakings and installations are disclosed or can be inferred.</p>   | <p><b>AM 22</b></p> <p>2. The Commission may publish <i>aggregated</i> data and information forwarded pursuant to this Regulation, in particular in analyses referred to in Article 10(3), provided that the data and information are published in an aggregated form <i>at national or regional level</i> and that no details concerning individual undertakings and installations are disclosed or can be inferred.</p> <p style="text-align: center;"><b>AM 23</b></p> | <p>2. The Commission may publish <i>aggregated</i> data and information forwarded pursuant to this Regulation, in particular in analyses referred to in Article 10(3), provided that [] no details concerning individual undertakings and installations are disclosed or can be inferred.</p> <p>Note: see definition in Art. 2(11a)</p> |
| <p>3. Member States, the Commission, or their delegated entities shall each preserve the confidentiality of commercially sensitive data or information in their possession.</p>  | <p>3. Member States, the Commission, or their delegated entities shall each preserve the confidentiality of commercially <i>and/or strategically</i> sensitive data or information in their possession.</p>   | <p><i>Reject</i></p>   |

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| <p align="center"><i>Article 7</i></p> <p align="center"><b>Implementing provisions</b></p>   | <p align="center"><b>AM 24</b></p> <p>Within the limits laid down by this Regulation, the Commission shall adopt, within two months after the entry into force of this Regulation, the provisions necessary for its implementation, concerning the form and other technical details of the notification of data and information referred to in Articles 3 and 5, <b>including the application of the exemption under Article 3(2), and in particular provisions concerning the timing and content of the notifications and the entities which are subject to the reporting obligations.</b> Until then, Commission Regulation (EU, Euratom) No 833/2010 of 21 September 2010 implementing Council Regulation (EU, Euratom) No 617/2010 remains applicable.</p> | <p>Within the limits laid down by this Regulation, the Commission shall adopt, within two months after the entry into force of this Regulation, the provisions necessary for its implementation, concerning the form and other technical details of the notification of data and information referred to in Articles 3 and 5 []. Until then, Commission Regulation (EU, Euratom) No 833/2010 of 21 September 2010 implementing Council Regulation (EU, Euratom) No 617/2010 <b>shall remain</b> applicable.</p> <p>Note: see also recital 11</p>  |
| <p align="center"><i>Article 8</i></p> <p align="center"><b>Data processing</b></p>   | <p>The Commission shall be responsible for developing, hosting, managing and maintaining the IT resources needed to receive, store and carry out any processing of the data or information on energy infrastructure notified to the Commission pursuant to this Regulation.</p>  | <p>Within the limits laid down by this Regulation, the Commission shall adopt, within two months after the entry into force of this Regulation, the provisions necessary for its implementation, concerning the form and other technical details of the notification of data and information referred to in Articles 3 and 5, <b>including the application of the exemption under Article 3(2), and in particular provisions concerning the timing and content of the notifications and the entities which are subject to the reporting obligations.</b> Until then, Commission Regulation (EU, Euratom) No 833/2010 of 21 September 2010 implementing Council Regulation (EU, Euratom) No 617/2010 <b>shall remain</b> applicable.</p> |
| <p>The Commission shall be responsible for developing, hosting, managing and maintaining the IT resources needed to receive, store and carry out any processing of the data or information on energy infrastructure notified to the Commission pursuant to this Regulation.</p> | <p align="center"><b>AM 25</b></p>   | <p><b>The Commission shall also ensure that the IT resources needed for the purposes referred to in the first paragraph guarantee the confidentiality of the data or information notified to the Commission pursuant to this Regulation.</b></p>  |
| <p><b>The Commission shall also ensure that the IT resources needed for the purposes referred to in the first paragraph guarantee the confidentiality of the data or information notified to the Commission pursuant to this Regulation.</b></p>                                | <p><b>The Commission shall also ensure that the IT resources needed for the purposes referred to in the first paragraph guarantee the confidentiality of the data or information notified to the Commission pursuant to this Regulation.</b></p>   | <p><b>The Commission shall also ensure that the IT resources needed for the purposes referred to in the first paragraph guarantee the confidentiality of the data or information notified to the Commission pursuant to this Regulation.</b></p>  |

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| <p style="text-align: center;"><i>Article 9</i></p> <p><b>Protection of individuals with regards to the processing of data</b></p>  |  |   |
| <p>This Regulation is without prejudice to Union law and, in particular, does not alter Member States' obligations with regard to the processing of personal data, as laid down by Directive 95/46/EC, or the obligations incumbent upon the Union's institutions and bodies under Regulation (EC) No 45/2001 with regard to the processing of personal data by them in the course of their duties.</p>   |  |   |
| <p style="text-align: center;"><i>Article 10</i></p> <p><b>Monitoring and reporting</b></p> <p>1. On the basis of data and information forwarded and, if appropriate, of any other data sources including data purchased by the Commission, and taking into account relevant analyses such as the multi-annual network development plans for gas and for electricity, the Commission shall forward to the European Parliament, to the Council and to the European Economic and Social Committee and shall publish every two years a cross-sector analysis of the structural evolution and perspectives of the energy system of the Union. This analysis shall aim in particular at:</p> | <b>AM 26</b>   |   |
| <p>(a) identifying potential future gaps between energy demand and supply that are of significance from an energy policy perspective of the Union;</p>  | <p>(a) identifying potential future gaps between energy demand and supply that are of significance from an energy policy perspective of the Union, <i>with a special emphasis on potential forthcoming deficiencies and flaws in the production and transmission infrastructure;</i></p> | <p>(a) identifying potential future gaps between energy demand and supply that are of significance <b>for the energy policy</b> [] of the Union, <b>including for the functioning of the internal energy market, with an [] emphasis on potential future [] deficiencies and flaws in the production and transmission infrastructure;</b></p> |

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|  | <b>AM 27</b>   |  |   |
|  | <i>(aa) identifying the investment needed in order to improve the functioning of the internal energy market.</i>   |  | <i>Reject</i><br><i>Note: addressed in (a) above</i>      |
|  | <b>AM 28</b>   |  |   |
|  | <i>(aa) identifying cross-border transmission gaps and deficiencies that hinder the functioning of the energy internal market;</i>   |  | <i>Reject</i><br><i>Note: task of ENTSO-E and ENTSO-G</i> |
| (b) identifying investment obstacles and promoting best practices to address them; and   |  |  |   |
| (c) increasing transparency for market participants and potential market entrants.   |  |  |   |
| On the basis of this data and information, the Commission may also provide any specific analysis deemed necessary or appropriate.  |  |  |   |
| 2. In preparing the analyses referred to in paragraph 1, the Commission may be assisted by experts from Member States and/or any other experts, professional associations with specific competence in the area concerned. The Commission shall provide all Member States with an opportunity to comment on the draft analyses. |  |  |   |
|  | <b>AM 29</b>   |  |   |
|  | <i>The Commission shall provide an analysis to the Member States notifying them of the measures necessary to reduce risks of underinvestment or inadequacy of investments.</i> |  | <i>Reject</i>   |

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| <p>3. The Commission shall discuss the analyses with interested parties, such as ENTSO-E, ENTSO-G, the Gas Coordination Group, the Electricity Coordination Group and the Oil Coordination Group.</p>  | <p><b>AM 30</b></p> <p>3. The Commission shall discuss the analyses with interested parties, such as ENTSO-E, ENTSO-G, the Gas Coordination Group and the Oil Supply Group. <i>It shall forward the analyses to the European Parliament, the Council and the European Economic and Social Committee, and shall publish them.</i></p>   | <p>3. The Commission shall discuss the analyses with interested parties, such as ENTSO-E, ENTSO-G, the Gas Coordination Group, the Electricity Coordination Group and the Oil Coordination Group.</p> <p>Note: already addressed in para (1)</p> |
| <p><i>Article 11</i><br/><b>Review</b></p> <p>By 31 December 2016, the Commission shall review the implementation of this Regulation, and present a report on the results of this review to the European Parliament and to the Council. In the review, the Commission shall, <i>inter alia</i>, examine the possible extension of the scope to include <i>terminals for the exportation of compressed natural gas, as well as whether thresholds for renewable energy installations should be lowered. The Commission shall also examine the involvement of Union investment in projects in third countries which have a direct impact on the Union's energy market and on its security of supply.</i></p> | <p><b>AM 31</b></p> <p>By 31 December 2016, the Commission shall review the implementation of this Regulation, and present a report on the results of this review to the European Parliament and to the Council. In the review, the Commission shall, <i>inter alia</i>, examine:</p> <ul style="list-style-type: none"> <li>- the possible extension of the scope to include the extraction of gas, oil and coal;</li> <li>- <b>the possible extension of the scope to include <i>terminals for</i> <input type="checkbox"/> <i>compressed natural gas</i>;</b></li> <li>- <b>the possible extension of the scope to include additional types of electricity storage currently not covered under this Regulation *); and</b></li> <li>- <b>whether or not thresholds for renewable energy installations should be lowered.</b></li> </ul> <p><b><u>In examining these options, the Commission shall take into account the need to ensure a balance between the increased administrative burden and the benefits of acquiring the additional information.</u></b></p> <p>*) Note: hydrostorage is covered by the present Regulation (see Commission Regulation 833/2010)</p> |  |
| <p><i>Article 12</i><br/><b>Repeal</b></p> <p>Council Regulation (EC) N° 736/96 <input type="checkbox"/> shall be repealed from the date of the entry into force of this Regulation.</p>   |  |  |

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| <p><i>Article 13</i><br/><b>Entry into force</b></p>  |  |
| <p>This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i>.</p>  |  |
| <p>This Regulation shall be binding in its entirety and directly applicable in all Member States.<br/>Done at Brussels,<br/><br/><i>For the European Parliament For the Council</i><br/><i>The President The President</i></p>  |  |
| <p><b>ANNEX</b><br/><b>INVESTMENT PROJECTS</b></p>  |  |
| <p><b>1. OIL</b></p>  |  |
| <p>1.1. Refining</p> <ul style="list-style-type: none"> <li>– distillation plants with a capacity of not less than 1 million tonnes a year,</li> <li>– extension of distilling capacity beyond 1 million tonnes a year,</li> <li>– reforming/cracking plants with a minimum capacity of 500 tonnes a day,</li> <li>– desulphurisation plants for residual fuel oil/gas oil/feedstock/other petroleum products,</li> <li>– chemical plants which do not produce fuel oil and/or motor fuels, or which produce them only as by-products, are excluded.</li> </ul> |  |



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| <p>1.2. Transport</p> <ul style="list-style-type: none"> <li>– crude oil pipelines with a capacity of not less than 3 million metric tonnes a year, and extension or lengthening of these pipelines, which are not less than 30 kilometres long,</li> <li>– petroleum product pipelines with a capacity of not less than 1,5 million tonnes a year, and extension or lengthening of these pipelines, which are not less than 30 kilometres long,</li> <li>– pipelines which constitute essential links in national or international interconnecting networks and pipelines and projects of common interest identified in the guidelines established under Article 171 of the Treaty on the Functioning of the European Union ('TFEU').</li> </ul> |  |   |
| <p>Pipelines for military purposes and those supplying plants outside the scope of point 1.1. are excluded.</p>   |  |   |
| <p>1.3. Storage</p>   |  |   |
| <ul style="list-style-type: none"> <li>– storage installations for crude oil and petroleum products (installations with a capacity of 150 000 m<sup>3</sup> or more or, in the case of tanks, with a capacity not less than 100 000 m<sup>3</sup>),</li> </ul>  |  |   |
|   | AM 32  |   |
|   | <p><b>(1.3a) Extraction</b></p> <ul style="list-style-type: none"> <li>– <b>extraction installations with a capacity of not less than 1 million tonnes per annum.</b></li> </ul> | <p><i>Reject</i></p> <p>Note: see Art. 11</p> |
| <p>Tanks intended for military purposes and those supplying plants outside the scope of point 1.1. are excluded.</p>  |  |   |

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| <p><b>2. GAS</b></p>  |  |  |   |
| <p>2.1. Transmission</p> <ul style="list-style-type: none"> <li>- gas, including natural gas and biogas, transport pipelines that form part of a network which mainly contains high-pressure pipelines, excluding pipelines that form part of an upstream pipeline network and excluding the part of high-pressure pipelines primarily used in the context of local distribution of natural gas,</li> <li>- "pipelines and projects of common interest" identified in the guidelines established under Article 171 TFEU.</li> </ul> |  |  |   |
| <p>2.2. LNG terminals</p> <ul style="list-style-type: none"> <li>- terminals for the importation of liquefied natural gas, with a regasification capacity of 1 billion m<sup>3</sup> per year or more.</li> </ul>   |  |  |   |
| <p>2.3. Storage</p> <ul style="list-style-type: none"> <li>- storage installations connected to the transport pipelines referred to in point 2.1.</li> </ul>  |  |  |   |
|   |  | <p><b>AM 33</b></p>  |   |
| <p>Gas pipelines, terminals and installations for military purposes and those supplying chemical plants which do not produce energy products, or which produce them only as by-products, are excluded.</p>  |  | <p><i>(2.3a) Extraction</i></p> <ul style="list-style-type: none"> <li>- <i>plants for the conventional and/or unconventional extraction of natural gas with a capacity of 180 million m<sup>3</sup> per annum.</i></li> </ul> | <p><i>Reject</i></p> <p>Note: see Art. 11</p> |

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| <b>3. ELECTRICITY</b>  |   |              |                                    |
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| 3.1. Production  |   |              |                                    |
|  |   | <b>AM 34</b> | <i>Reject</i>                      |
| <ul style="list-style-type: none"> <li>– thermal and nuclear power stations (generators with a capacity of 100 MWe or more),</li> <li>– biomass/bioliqids/waste power generation installations (with a capacity of 20 MW or more),</li> <li>– power stations with cogeneration of electricity and useful heat (installations with an electrical capacity of 20 MW or more),</li> <li>– hydro-electric power stations (installations having a capacity of 30 MW or more)</li> </ul> | <ul style="list-style-type: none"> <li>– thermal and nuclear power stations (generators with a capacity of <b>50 MWe</b> or more),</li> </ul>   |              |                                    |
|  |   | <b>AM 35</b> | <i>Reject</i><br>Note: see Art. 11 |
| <ul style="list-style-type: none"> <li>– wind power farms with a capacity of 20 MW or more,</li> </ul>   | <ul style="list-style-type: none"> <li>– wind farms, <b>defined as a spatial collection of wind turbines which comprise a single unit organisationally and/or technically</b> with a capacity of <b>10 MW</b> or more <b>and individual wind turbines with a capacity of 5 MW or more,</b></li> </ul> |              |                                    |
| <ul style="list-style-type: none"> <li>– concentrated solar thermal and geothermal installations (with a capacity of 20 MW or more),</li> </ul>  |   | <b>AM 36</b> |                                    |
| <ul style="list-style-type: none"> <li>– photovoltaic installations (with a capacity of 10 MW or more).</li> </ul>   | <ul style="list-style-type: none"> <li>– photovoltaic installations (with a capacity of <b>5 MW</b> or more).</li> </ul>  |              | <i>Reject</i><br>Note: see Art. 11 |

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| <p>3.2. Transmission</p> <ul style="list-style-type: none"> <li>– overhead transmission lines, if they have been designed for the voltage commonly used at the national level for the interconnection lines, and provided they have been designed for a voltage of 220 kV or more,</li> <li>– underground and submarine transmission cables, if they have been designed for a voltage of 150 kV or more,</li> <li>– projects of common interest identified in the guidelines established under Article 171 TFEU</li> </ul> |  |   |
|  | <p><b>AM 37</b></p>  |   |
|  | <p><b>3.2a. Storage</b></p> <ul style="list-style-type: none"> <li>– <i>Electricity storage facilities</i></li> </ul>  | <p><i>Reject</i></p> <p>Note: see Art. 11</p> |
|  | <p><b>AM 38</b></p>  |   |
| <p>4.1. Production</p> <ul style="list-style-type: none"> <li>– Installations that are able to produce or refine bio-fuels (installations with a capacity of 50 000 tonnes/year or more).</li> </ul>   | <p><b>3a. COAL</b></p> <p><b>3a.1 Extraction and production</b></p> <ul style="list-style-type: none"> <li>– <i>extraction and production installations with an annual output of at least one million tonnes.</i></li> </ul> | <p><i>Reject</i></p> <p>Note: see Art. 11</p> |
| <p><b>5. CARBON DIOXIDE</b></p>  |  |   |
| <p>5.1. Transport</p> <ul style="list-style-type: none"> <li>– CO 2 pipelines related to production installations referred to in points 1.1. and 3.1.</li> </ul>   |  |   |

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| 5.2. Storage  |  |  |
| – storage installations (storage site or complex with a capacity of 100 kt or more),    |  |  |
| Storage installations intended for research and technological development are excluded. |  |  |

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