



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

from:	General Secretariat of the Council
to:	Delegations
Subject:	Review of Council conclusions of 24 November 2011 on strengthening the external dimension of the EU energy policy - <i>Draft Presidency report on the Review</i>

Delegations will find in Annex the draft Presidency report on the Review, for the further discussion in the Energy Working Party on 15 October. Eventually, the final version of the Presidency report will be submitted to the TTE (Energy) Council on 12 December.

**REVIEW OF COUNCIL CONCLUSIONS OF 24 NOVEMBER 2011
ON STRENGTHENING THE EXTERNAL DIMENSION OF THE EU ENERGY POLICY**

Report by the Presidency

Introduction

The European Council on 22 May 2013 ¹ instructed the Council to "*follow up on its conclusions of November 2011* ² and review developments regarding EU external energy policy ³" and to do so before the end of 2013.

In the context of this review, the Commission presented on 13 September 2013 its Report "*Implementation of the Communication on Security of Energy Supply and International Cooperation and of the Energy Council Conclusions of November 2011*" ⁴. An attached Staff Working Document provides a good overview of existing cooperation frameworks and agreements, and international organisations and initiatives relevant to the energy sector. Apart from this Report, Member States and the Commission provided extensive oral and written input, including at the occasion of the discussion on this topic during the informal meeting of Energy Ministers in Vilnius on 19-20 September. This Presidency report on the Review has been written using this input as a basis.

In order to better assess the progress and achievements of the EU external energy policy since 2011 it is useful to put them in perspective by reporting the main developments in the global energy landscape since 2011.

¹ doc. EUCO 75/1/13 REV 1

² Conclusions of the TTE Council of November 24, 2011 on the Commission Communication on Security of Energy Supply and International Cooperation – "The EU Energy Policy: Engaging with partners beyond our borders" (17615/11)

³ doc. EUCO 76/12

⁴ doc. 13642/13

I. Developments in the global energy landscape since 2011

Since 2011, important developments have taken place in the field of energy. In its recent Report, the Commission highlights the following:

- With their increasing consumption, the role of emerging countries in 'global energy governance' is increasing.
- Even though there is no global climate agreement yet, more and more countries become active on energy efficiency and renewable energies.
- The situation in the Middle East & North Africa remains volatile, and this tempers the Union's energy cooperation efforts in those regions.
- Following the Fukushima accident, calls for global nuclear safety standards have become louder, leading to increased international cooperation.
- The potential for shale gas exploitation in other parts of the world (besides the US) has become evident, including in EU; furthermore, potential new supplies of conventional fossil fuels have appeared in the Eastern Mediterranean and East Africa.
- Probably the most significant development is the growth in the production of unconventional oil and gas in the US. This led to lower global coal prices globally, and lower energy prices in the US. In turn, this is leading to a higher use of coal in the EU, and to lower greenhouse gas emissions in the US. The result is that US industry is gaining a competitive edge - especially the energy-intensive industry - whereas both industry and households in the EU still face substantially higher energy costs, dampening prospects for economic recovery and posing a problem for the Union's energy-intensive industry.

II. Progress and achievements of the EU external energy policy since 2011

Following European Council guidance on improving consistency and coherence of external energy policy, the Commission set out for the first time in its September 2011 Communication a comprehensive external energy policy, on the basis of which the abovementioned Council conclusions were adopted in November 2011. Since then, much progress has been made in the cooperation with neighbouring countries, and energy is becoming a key component in many meetings that the Union has with third countries and with regional organisations.

The **Energy Community** is among the most sophisticated policy frameworks of the European external energy policy, and a successful result of that policy. It has grown and has achieved much in terms of creating a stable regulatory framework, regional security and investment. The Vilnius **Eastern Partnership** Summit in November 2013 will be important for cementing our ties with the neighbouring countries in the Partnership, and the Summit will take account of the work of its platform dedicated to energy security. Work is progressing on our **Association Agreements** with Ukraine, Moldova and Georgia, which will contain key energy provisions. A Ministerial meeting of the **Union for the Mediterranean** is due to take place in December, with deliverables including starting a process towards the establishment of a Mediterranean Energy Community, and the endorsement of the Mediterranean Solar Plan. Cooperation with the **US** (EU-US Energy Dialogue), with **OPEC** (annual Ministerial meetings), with **China** (in the context of the urbanisation partnership), and with **Russia** (annual EU-Russia Permanent Partnership Council on energy) is continuing; an "EU-Russia 2050 Roadmap" was agreed.

The Commission is progressing in the negotiations with the Russia and Belarus on an Agreement on the legal framework for **electricity system operation and electricity market interfaces between the Baltic EU Member States and Russia and Belarus**, on the basis of a mandate delivered by Council in February 2012. Furthermore, on the basis of a mandate delivered by Council in September 2012, the Commission negotiates with Turkmenistan and Azerbaijan on the legal framework for a **Trans-Caspian natural gas pipeline system**. A **Memorandum of Understanding on energy cooperation** was signed with **Algeria** in June 2013. Furthermore, the Commission has played a valuable role in assisting Member States in their bilateral negotiations on energy issues with third countries.

To improve at Union level the coherence and coordination of messages towards specific partner countries, the **information exchange mechanism with regard to intergovernmental agreements (IGAs) between Member States and third countries in the field of energy** (Decision 994/2012/EU) entered into force on 17 November 2012. Member States must submit their existing legally binding agreements having an impact on the operation or the functioning of the internal energy market or on the security of energy supply and their new agreements, once ratified. The Commission has analysed the 114 IGAs submitted so far for their compatibility with EU legislation.

This analysis has identified some provisions where a higher risk of incompatibility with the EU legislation exists, and the Commission is following up on these provisions on a bilateral basis with the Member States concerned. Before the end of 2013, the Commission will organise an information exchange meeting with Member States on lessons learned, common problems and possible actions to mitigate incompatibilities.

Strategies and initiatives vis-à-vis third countries are discussed in the framework of the new **Strategic Group for International Energy Cooperation**, established in 2012. The Strategic Group has met five times so far, and has discussed relations with China, Ukraine, the Southern Mediterranean, the U.S. and the Eastern Partnership. The discussions enabled a better shared understanding of common priorities and next steps in energy cooperation with these partners. Member States are generally satisfied with the functioning of the Strategic Group.

III. Further strengthening and improving the EU external energy policy

The EU should continue to develop **consistent and coherent coordination** in its dealings with international organisations, such as the Energy Charter, the IEA, the IPEEC, IRENA, IEF, and UNECE, by preparing "lines to take" or "shared orientations" whenever needed. A coordinated approach should be taken on EU energy dialogues with third countries as well, also in order to ensuring complementarity with Member States' bilateral dialogues with third countries.

Energy issues are discussed more and more in non-energy formations, such as the various Council formations on foreign relations, competitiveness, industry, environment, *et cetera*. This requires more and better **coordination and transparency** between the different actors involved, including the EEAS, the Commission, the different Council formations, but also *within* Member States: the delegations abroad of the EEAS and Member States could contribute to the sharing of information and monitoring.

In this context, every effort should be made in order to ensure a **level playing field** with other third countries, and this should be taken into account in EU trade agreements or within international organisations such as the WTO. Energy specific issues such as access to resources and networks, regulatory convergence regarding pricing policies should be addressed in the context of the EU's bilateral, multilateral agreements and dialogues with third countries.

The further development and strengthening of the **Strategic Group for International Energy Cooperation** could be considered, in order to fully exploit its potential as a forum for the exchange of views between Member States, and between Member States and the Commission, on relevant international energy issues. Its work could benefit from a reinforced exchange of information between Member States on their activities in third countries.

The EU should focus on the **completion of the Internal Energy Market**, including notably the Third Energy Package, as an achievement that will greatly reinforce the Union's clout in external energy matters. At the same time, the successful and efficient functioning of the internal energy market is closely interlinked with the development of an effective external dimension of the Union's energy policy.

Furthermore, there is a continuing need to better align the EU external energy policy with **other policy areas**, such as foreign affairs, industry, trade, transport, competition, research and innovation, environment and climate.

In this context, Member States and the Commission should continue to ensure that bilateral energy agreements with third countries fully respect the rules of the internal energy market. The **information exchange mechanism with regard to intergovernmental agreements (IGAs) between Member States and third countries in the field of energy** is the main instrument for this. This instrument notably provides the option of Commission assistance and ex-ante revision during bilateral negotiations that Member States have with third countries.

Member States are very satisfied with the progress achieved in the **Energy Community** in recent years and have underlined that it should continue to grow, - in particular through the swift accession of Georgia - should continue to focus on the practical implementation of the EU energy *acquis* and should broaden and deepen its scope. A thorough discussion and analysis addressing any weaknesses, leading to substantial improvement of the Treaty's substance and procedures to adequately address the manifold challenges should be carried out, and possible ways of improving the enforcement mechanism should be considered. Further progress in the integration of the gas and electricity networks in the region should be achieved by adopting and implementing the list of Projects of Energy Community Interest (PECI). The Energy Community Treaty should be extended for 10 years beyond 2016 and the Energy Community should be promoted as a framework for energy relationships with countries in the Western Balkans and other neighbouring countries willing and able to implement the EU energy *acquis*.

The possible future development, by the Union for the Mediterranean, of a **Mediterranean Energy Community** is supported, *inter alia* in the context of new fossil fuel discoveries in the area and the potential for renewable energies and energy efficiency. In general, the 'export' of the energy *acquis* should be continued, when and where appropriate.

The modernisation of the **Energy Charter** process, and the further growth of the ECT membership is supported; however, the Energy Charter Treaty itself should remain untouched.

Regulatory convergence is a key instrument for the extension of the EU internal energy market to neighbouring countries. Market reforms, development and modernisation of institutional frameworks as well as the creation of stable and predictable investment frameworks should be encouraged, as appropriate and as needed, in relations with third countries. In doing so, a regional approach should be favoured whenever possible, and differentiation and flexibility are important underlying principles for engaging with EU neighbours.

In line with its own recent progress in these areas, the EU should continue its efforts to promote **high nuclear safety standards** and **high offshore safety standards** at the global level, building on the best EU standards and practices. Dialogues with third countries concerned should be developed on these subjects, in particular with neighbouring countries.

The construction of the **energy infrastructure Projects of Common Interest** should proceed swiftly, whilst also using, where appropriate, the financial instruments and funding of the **Connecting Europe Facility**. In the context of the Union's external energy policy, this relates specifically to those PCIs that establish infrastructure links with third countries, thus contributing to the diversification of suppliers, routes and sources of energy supply

In the context of the **Union's global competitiveness**, in particular of its energy-intensive industries, the Commission will present before the end of 2013 an **analysis** of the **composition and drivers of energy prices and costs** in Member States, as requested by the European Council. The analysis will include a focus on the impact on SMEs and energy intensive industries, and will analyse price developments in the EU vis-à-vis price developments in other major economies. The European Council will return to these issues in February 2014.

This issue is closely linked to the need to ensure a **level playing field** with all partners. This level playing field should be based on reciprocity, transparency, fairness, non-discrimination and openness to competition, and should encompass both economic and environmental aspects. Fair competition both for the EU industry but also for EU power producers, vis-à-vis their counterparts outside the EU, should be established. It is important that EU cooperation with third countries is fully in line with the EU energy legislation and that it is applied to all entities within the internal energy market.

In the relations with **Russia**, energy cooperation should be based on the principle of gradual integration of the economies. The negotiations on the energy chapter of the new Partnership and Cooperation Agreement with full consistency with the internal energy market legislation should be advanced with vigour and firmness, in line with the mandate for the PCA. Access to energy resources and infrastructure, investment protection, supply crisis prevention and management, security and reliability of energy systems, level playing field, reciprocity and non-discriminatory pricing of energy resources are issues to be addressed. The functioning of the Early Warning System agreed in 2011 should be guaranteed, and a long-term cooperation under the 2050 Roadmap should be developed. As regards the **US**, the negotiations on a future Transatlantic Trade and Investment Partnership (TTIP) should include a chapter on energy; considering the common ground in the area of energy, the potential for mutually beneficial provisions is considerable.

The Union should continue to focus on **diversification of routes and suppliers**, and on the development of **indigenous energy resources**: both will strengthen the Union in its dealings with external energy partners, and both will serve to reduce the Union's energy import dependency.

The development of **strategic corridors** remains a key priority. Therefore, efforts of the Commission and Member States should continue in the Caspian region with potential suppliers to the **Southern Corridor**. The various **negotiations** with third countries that are underway, led by the Commission on the basis of Council mandates, should be concluded successfully, and rapidly if possible. Where appropriate and needed, in line with common guiding principles regarding the added-value for the EU energy policy objectives, EU-level negotiations may be beneficial when speaking with strategic suppliers on long-term contract conditions or energy pricing principles.

Support for, and closer **cooperation with key energy partners in the European neighbourhood** should continue, *inter alia* through the European Neighbourhood Policy, the Eastern Partnership and the Union for the Mediterranean, but also through Memoranda of Understanding and wider Free Trade Agreements, as appropriate.

More emphasis could be placed on the **development** aspect of energy policy, for instance through the Sustainable Energy 4 ALL initiative of the UN that is supported by the EU Sustainable Energy for All initiative.

IV. Conclusion

An important policy impetus has been given to the Union's external energy policy by the Council conclusions of November 2011. The Union's external energy policy has grown stronger, more transparent and more focused as a result of their implementation.

Since 2011, changes have occurred in the global energy landscape that have only strengthened the case for a coordinated and coherent Europe that speaks with one voice and acts as one on key energy issues. *That* Europe will be better equipped to defend its own interests at the global level and reap the benefits thereof, on issues ranging from security of supply to carbon leakage. *That* Europe will also be a more credible and powerful promoter of the common climate/energy goals that are increasingly shared at the global level, relating to *inter alia* energy efficiency, RD&D, renewable energy, fossil fuel subsidies, nuclear safety, greenhouse gas emissions and electricity storage.

These aims will complement national policies, and will be supported by practical, pragmatic measures and coordination using existing tools and instruments. Cooperation and coordination towards these aims does not lead to a shift in the balance of competences, as Member States retain their rights to act and speak as Member States.

This Review has identified areas that should be developed further as well as some new issues that deserve attention. This reinforces the case for the continued ambitious implementation of the 2011 conclusions that remain fundamentally valid.

The Commission's Report of 13 September 2013 is welcomed for the contribution that it makes to the work ahead, and its conclusion is broadly supported.

The Commission, the Council and Member States should continue their efforts in the further development of the Union's external energy policy, on the basis of the 2011 conclusions and taking due account of the recommendations set out in this Review.

The Council is invited to return to this issue by the end of 2016.
