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NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee

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Subject: ***Preparation of the Council meeting (Transport, Telecommunications, Energy) on 9 December 2014***
Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions
- Progress towards completing the Internal Energy Market
= *Draft Council conclusions*

Following the Commission communication of 13 October 2014 on "Progress towards completing the Internal Energy Market" which indicates that good progress has been made towards the completion of the internal energy market while noting that further efforts would still need to be stepped up to achieve a fully functioning and connected internal energy market, delegations will find in Annex a set of draft Council conclusions on the above subject.

The draft conclusions build on the outline of possible elements circulated on 11 September 2014 (doc.11461/14) and the intensive examination by the Working Party on Energy on several occasions. Furthermore, the discussion at the Informal Energy Ministerial, held on 6 October 2014, was also considered in the examination.

The discussion at the level of the Working Party revealed different views and priorities among Member States on several aspects of the draft conclusions. Accordingly, the Presidency has made a strong effort to strike a proper balance in the text annexed while accommodating the various concerns raised by delegations. Thus, the Presidency believes that the prepared draft Council conclusions, as set out in Annex, constitute a well balanced compromise which, in principle, can be supported by all delegations.

Following the above, the Permanent Representatives Committee is invited to confirm the agreement on these conclusions with a view to their adoption by the TTE(Energy) Council on 9 December 2014.

**Draft Council conclusions on the completion
of the Internal Energy Market**

The Council of the European Union:

RECALLING:

- the conclusions adopted by the European Council on 4 February 2011, especially with regard to paragraphs 4 and 5, section I (Energy), noting that the internal market should be completed by 2014 so as to allow gas and electricity to flow freely,
- the conclusions on "strengthening the external dimension of the EU energy policy", adopted by the TTE (Energy) Council on 24 November 2011, and the subsequent Council report on "the follow up to the European Council on 22 May 2013; review of developments on the external dimension of the EU energy policy", adopted by the TTE (Energy) Council on 12 December 2013,
- the conclusions adopted by the European Council on 22 May 2013, especially with regard to paragraph 2, section I (Energy), reaffirming the objectives of completing the internal energy market by 2014 and developing interconnections so as to put an end to any isolation of Member States from European gas and electricity networks by 2015,
- the conclusions on the Commission communication "Making the internal energy market work", adopted by the TTE (Energy) Council on 7 June 2013,
- the Council report on "progress on the completion of the Internal Energy Market", adopted by the TTE (Energy) Council on 12 December 2013,
- the conclusions adopted by the European Council on 20 and 21 March 2014, especially with regard to paragraph 19 of Section C (Climate and Energy),
- the Commission communication of 28 May 2014 on "European Energy Security Strategy",
- the conclusions on the Commission communication "Energy prices and costs in Europe", adopted by the TTE (Energy) Council on 13 June 2014,
- the conclusions adopted by the European Council on 26 and 27 June 2014, especially with regard to Section B (Climate and Energy) and on 23 and 24 October 2014, especially with regard to Section I (2030 Climate and Energy Policy Framework).

CONSIDERING that the completion of the internal energy market is a pre-requisite to achieve, in the most cost-effective way, the main objectives of the EU energy policy: sustainability, competitiveness and security of energy supply, and ACKNOWLEDGING that a well-functioning, integrated, interconnected and competitive internal energy market is an important component of the 2030 policy framework on climate and energy and of the security of energy supply as well as a tool to strengthen Union's external energy policy.

CONSIDERING that Europe is well underway towards the completion of the internal energy market; however, EMPHASISING that further efforts are needed to remove remaining obstacles to ensuring a well-functioning interconnected and integrated cross-border energy market and the development of interconnections and NOTING, in this context, that certain Member States might continue to remain isolated beyond 2015.

RECALLING section I.4 of the **European Council** conclusions of 23 and 24 October 2014 and STRESSING that all efforts must be mobilised to achieve the objective of a fully functioning and connected internal energy market as a matter of urgency. In this regard, UNDERLINING that the prevention of "inadequate interconnections of Member States with the European gas and electricity networks and ensuring synchronous operation of Member States within the European Continental Networks as foreseen in the European Energy Security Strategy will also remain a priority after 2020"¹ and that urgent measures will be taken by the Commission supported by the Member States "in order to ensure the achievement of a minimum target of 10% of existing electricity interconnections, as a matter of urgency, and no later than 2020 at least for Member States which have not yet attained a minimum level of integration in the internal energy market, which are the Baltic States, Portugal and Spain, and for Member States which constitute their main point of access to the internal energy market."² In this regard, INVITING the Commission to "report regularly to the **European Council** with the objective of arriving at a 15% target by 2030, as proposed by the Commission. Both targets will be attained via the implementation of PCIs".³

¹ See doc. **EUCO 169/14**, section I.4, First paragraph.

² See doc. **EUCO 169/14**, section I.4., First paragraph, First indent.

³ *Ibidem.*

RECALLING section I.4 of the European Council conclusions of 23 and 24 October 2014 that Member States and the Commission will facilitate the implementation of projects of common interest including those identified in the European Energy Security Strategy which link in particular the Baltic States, Spain and Portugal, to the rest of the internal energy market, ensure that they have the highest priority and will be completed by 2020 and that special attention will be paid to the more remote and/or less connected parts of the single market such as Malta, Cyprus and Greece.

ACKNOWLEDGING that Member States with small and isolated energy systems present certain technical and/or regulatory specificities and RECOGNISING the importance of promoting adapted solutions for such energy systems.

TAKING NOTE OF the Commission communication of 13 October 2014 on "Progress towards completing the Internal Energy Market" which indicates that despite progress towards the completion of the internal energy market, efforts need to be stepped up to achieve a fully functioning and connected internal energy market.

IN ORDER TO COMPLETE THE INTERNAL ENERGY MARKET, THE COUNCIL:

1. REAFFIRMS the urgent need for effective and consistent implementation and application of the provisions set out in the Third Energy Package by all EU Member States so as to provide a sound and market-driven investment climate throughout the whole European Union based on a stable and transparent European legal framework.
2. In order to foster cross-border energy exchanges, STRESSES the importance of timely adoption and implementation of network codes and guidelines for gas and electricity throughout the European Union and CALLS for continued work to ensure a commonly agreed operational framework for the efficient and non-discriminatory use and development of capacities in gas pipelines and electricity grids.

3. UNDERLINES the fact that the Projects of Common Interest (PCI), as set out in the Union list adopted by the Commission, including those projects identified in the Commission communication on European Energy Security Strategy, urgently need to be realised so as to further strengthen the integrated energy market and STRESSES in this regard the continued swift implementation of the "TEN-E Regulation 347/2013 on guidelines for trans-European energy infrastructure" of 17 April 2013 providing fast-track permit authorisation procedures for projects coordinated across borders and the availability of EU co-funding.
4. CALLS on the Commission to report on all possible sources of financing, including on the possibilities of EU financing, in order to ensure that the 10% target will be met and to make proposals, including on finance.
5. REAFFIRMS that in the cases where the implementation of these projects will not be sufficient to reach the minimum target of 10%, new projects should be identified, added as a matter of priority in the upcoming review of the list of projects of common interest and swiftly implemented, with the co-financing made available by EU.
6. REAFFIRMS the need for more investment in strategic, smart and flexible⁴ infrastructure in a cost-effective manner as being a precondition for the completion of the internal energy market, in particular sufficient interconnections between Member States and regions as well as internal grid reinforcements to allow for availability and efficient usage of existing interconnections aimed to improve security of supply and diversification of both energy routes and sources, to end energy isolation and integrate the more remote and/or less well connected parts of the single market into the European continental networks, to enable the uptake of increasing amounts of variable renewable energy and to foster significant volumes of cross-border trading in gas and electricity.
7. RECALLS the importance of addressing the problem posed by unplanned power flows on electricity interconnections through the implementation of appropriate methodologies of calculation and allocation of transmission capacities and, where appropriate, grid reinforcement.

⁴ Flexible should be understood as accommodating bidirectional and variable flows or permitting modular expansion.

8. SUPPORTS in this regard the review and, where appropriate, the revision of existing bidding zones and their optimal setting, according to the criteria provided in the CACM⁵ guidelines once finalised, considering that effective bidding zones are a prerequisite for reaching the full potential of implementing the flow-based method.
9. ACKNOWLEDGES that the Agency for the Cooperation of Energy Regulators (ACER) provided opinions and recommendations on Cost-Benefit Analysis (CBA) methodologies drawn up by the European Networks of Transmission System operators for electricity (ENTSO-E) and for gas (ENTSO-G) and notes that PCI selection and cross-border cost allocation will be based on CBA methodologies.
10. INVITES the Commission to review and, where needed, to propose improvements for cooperation amongst the European Networks of Transmission System Operators (ENTSOs) and other bodies essential to the functioning of the internal energy market such as the Agency for the Cooperation of Energy Regulators (ACER).
11. To this end, UNDERLINES the continued cooperative efforts at European level of national administrations, National Regulatory Authorities and network operators, notably within ACER and ENTSOs, while STRESSING the importance for ENTSOs to perform their role of monitoring implementation of the network codes and guidelines, as they have been entrusted under the Third Energy Package.
12. NOTES that security of supply would benefit from a more coordinated and efficient approach towards consistent system adequacy and increased flexibility, which encompasses generation, demand, interconnection, storage and cooperation, especially in case of supply disruption, while recognising the responsibility of Member States as regards ensuring security of supply.
13. REAFFIRMS the importance of ensuring stable, competitive and affordable energy prices, recognising the need for cost-reflectiveness or contestability of prices, within the Internal Energy Market and, to this end, RECALLS the Council conclusions of 13 June 2014, especially with regard to paragraphs 2, 3, 4, 6 and 10.

⁵ Capacity Allocation and Congestion Management (CACM).

WHOLESALE MARKETS

14. While CONSIDERING regional market integration⁶ as an important step towards ultimate consolidation of a single energy market across the European Union, CALLS for the assurance of necessary conditions to enhance liquidity at regional level both in the electricity market, *inter alia* encouraging market coupling, and in the gas market, and UNDERLINES the importance of ensuring an adequate level of cross-border cooperation with regard to balancing markets, without hampering the proper functioning of the grids, through the finalisation and timely implementation of the related network codes and guidelines, in order to allow the sharing of balancing resources between Member States and enhance security of supply and generation adequacy at lower costs for the system.
15. RECOGNISES that ensuring generation and system adequacy, including through improved market integration and demand flexibility, is a key challenge to be continuously addressed by Member States as the Union moves towards a safe and sustainable low carbon energy system; Member States considering implementing capacity mechanisms should take into account synergies of cross-border regional cooperation and avoid any disincentives for investment in interconnection while minimising market distortion. State intervention in this context should be implemented in compliance with the new State aid Guidelines on energy and environment⁷. In this regard, the Council ENCOURAGES the Commission to undertake detailed studies on the development of a European generation and system adequacy assessment, involving also ENTSO-E, ACER and the Member States' authorities, including through the Electricity Coordination Group, while recognising the responsibility of Member States as regards ensuring security of supply and the right for Member States to determine their energy mix.
16. **[] ACKNOWLEDGES** the Gas and Electricity Target Models as a basic reference for the coherent development of the internal energy market and their ongoing development, where appropriate, to meet evolving system and market needs.

⁶ For instance, BE-DE-FR-LU-NL Pentalateral Energy Forum, North Sea Countries Offshore Grid Initiative (NSCOGI) and CZ-HU-RO-SK market coupling.

⁷ Commission's Communication " Guidelines on State aid for environmental protection and energy 2014-2020" of 9 April 2014.

17. As regards gas supply contracts, **¶ ENCOURAGES the consideration of** the adoption of gas pricing formulas linked to hub prices in the destination markets in order to address the issue of the contractual linkage of gas and oil prices and **STRESSES** the importance of ensuring the removal of contractual clauses contrary to EU law.
18. **REAFFIRMS** the importance of ensuring an adequate market transparency level for creating a level playing field between market participants and avoiding the scope for market power to be abused. To this aim, while **RECOGNISING** the improvement made thanks to the ongoing implementation of the Regulation on wholesale energy market integrity and transparency ('REMIT Regulation'), **INVITES** regulators and ACER to effectively monitor the trading activities and welcomes the establishment of the ENTSO-E and ENTSO-G Transparency Platform.
19. While **RECOGNISING** that investments in energy infrastructure are capital-intensive and require stable and predictable regulatory conditions, **STRESSES** the importance of eliminating existing market distortions to provide for more market-driven investment signals accompanied, where appropriate, by established EU financial instruments to optimise the use of existing infrastructure and ensure investments in the most economically sensible projects for the future, without prejudice to the possibility for Member States to take measures to secure supply or their right to determine their energy mix and the conditions for exploiting their energy resources.

RETAIL MARKETS

20. **UNDERLINES** the importance of strengthening the role, rights and awareness of consumers in line with the Council conclusions of 7 June 2013 and **REAFFIRMS** the use of a coordinated and balanced combination of social, energy and consumer policy, as determined by each Member State, to combat energy poverty, where appropriate, and to assist consumers in vulnerable situations, as set out in the Council conclusions of 13 June 2014.

21. **SUPPORTS** the empowerment of consumers to participate actively in energy markets, including through stakeholder panels and consumer representative bodies with the aim of increasing the awareness and the involvement of the consumers. In this context, while **ACKNOWLEDGING** that the end-consumers would benefit by the completion of the internal energy market, **UNDERLINES** the importance of competitive retail market designs that support the move of consumers from passive to active consumption habits in order to lower their energy costs and **EMPHASISES** that consumers should have easy access to their consumption data, adequate tools to make informed choices in a simple manner and to adjust the time and amount of their consumption while taking into account the costs and benefits of these measures.
22. **STRESSES** that innovation is a key factor for enabling the retail market to be designed in a way that allows all possible innovative business models and technologies. In that regard, **UNDERLINES** the importance of deploying available technologies such as smart grids and smart meters to exploit the potential of demand response and energy efficiency while taking into account the costs and benefits of these measures.
23. **EMPHASISES** the role of the National Regulatory Authorities and the Competition Authorities in ensuring that markets are open and transparent to new services and service providers so as to guarantee a more competitive retail market. **UNDERLINES** the need to maintain and develop a secure, reliable, and cost-efficient distribution system taking into account possible network constraints and impacts on technical operation.
24. **CALLS** for the Commission to swiftly present its communication on the electricity and gas retail markets recognising the importance of promoting flexible demand response.

NEXT STEPS

25. **ACKNOWLEDGES** the impact of the above measures on the completion of the internal energy market and **CALLS** for a follow-up review by the Commission on its progress by 2016.