



Brussels, 20 May 2015
(OR. en)

8370/1/15
REV 1

ENER 129

"I/A" ITEM NOTE

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| From: | General Secretariat of the Council |
| To: | Permanent Representatives Committee/Council |
| No. Cion doc.: | 7745/15 ENER 116 + ADD 1 |
| Subject: | COMMISSION REGULATION (EU) No .../.. of XXX establishing a Guideline on Capacity Allocation and Congestion Management - Decision not to oppose adoption (regulatory procedure with scrutiny) |

1. The measure envisaged being in accordance with the opinion of the relevant committee, the Commission has submitted the above draft measure¹ to the Council for scrutiny in accordance with the procedure in Article 5a(3)(a) of Council Decision 1999/468/EC². The Commission having presented the draft measure on 1 April 2015, the Council has until 1 July 2015 to decide to oppose the adoption by the Commission.

¹ 7745/15 ENER 116 + ADD 1

² Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23), as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

2. Delegations were asked to submit any comments on this file by 8 May 2015. With the exception of Bulgaria, delegations have not provided any indication that there is any reason to oppose the draft measure in question on the grounds described in Decision 1999/468, namely that it:
 - exceeds the implementing powers provided for in the basic instrument;
 - is incompatible with the aim or content of the basic instrument; or
 - does not respect the principles of subsidiarity or proportionality.
3. At the meeting of the Permanent Representatives' Committee on 20 May 2015, Bulgaria reiterated its concerns and objected to the draft measure on the grounds that it creates unequal treatment between EU Member States and non-EU countries that are contracting parties to the Energy Community Treaty, and does not respect the principle of proportionality.
4. No other objections were raised. It is therefore suggested that Coreper recommend that the Council confirm the above positions and conclude that there is no qualified majority to oppose the draft measure. This implies that, unless the European Parliament opposes it, the Commission may adopt the proposed measure in accordance with Article 5a(3)(d) of Council Decision 1999/468/EC.
