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NOTE

From: Permanent Representatives Committee (Part 1)
To: Council

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Subject: Governance system of the Energy Union
= Draft Council conclusions

1. The development of the governance system of the Energy Union with a forward-looking climate policy has been a priority of the Luxembourg Presidency, in view of the agreement of the October 2014 European Council that a reliable and transparent governance system will be developed to help ensure that the EU meets its energy policy goals, and in view of the fact that the governance system will form an essential element in the construction and functioning of the Energy Union. Furthermore, the conclusions of the March 2015 European Council stated that the EU institutions and the Member States will take work forward on building an Energy Union, and that Council will report to the European Council before December 2015.

2. Following the meeting of Directors General for Energy and Climate on Energy Union governance on 15 July 2015, and taking into account the results thereof, the Presidency presented draft Council conclusions. These were discussed extensively in the Energy Working Party. The discussions revealed different views and priorities among Member States on several aspects contained in the draft conclusions. Thanks to the work and the constructive attitude of delegations, a proper balance could be struck in the text, whilst at the same time accommodating delegations' concerns.
3. At the meeting of Coreper on 11 November, delegations reached an agreement on the text of the draft conclusions.
4. The TTE (Energy) Council is invited to adopt, at its meeting on 26 November 2015, to adopt the draft Council conclusions as set out in Annex.

***draft* COUNCIL CONCLUSIONS ON
THE GOVERNANCE SYSTEM OF THE ENERGY UNION**

THE COUNCIL OF THE EUROPEAN UNION

RECALLING:

- the relevant Articles of the TEU, among which Articles 14(2) and 16(1) defining the joint legislative function of the European Parliament and the Council, and Article 17(2) according to the Commission the power of legislative initiative, and the relevant Articles of the TFEU, in particular, without prejudice to Articles 191 and 192, Article 194 which sets out the objectives of energy policy, stating that *'in the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim, in a spirit of solidarity between Member States, to: (a) ensure the functioning of the energy market; (b) ensure security of energy supply in the Union; (c) promote energy efficiency and energy saving and the development of new and renewable forms of energy; and (d) promote the interconnection of energy networks'* (...) and that *'the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the measures necessary to achieve the objectives (...)',* and also providing that *'such measures shall not affect a Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply, without prejudice to Article 192(2)(c). (...)'*;

- the conclusions of the European Council of 23 and 24 October 2014, which agreed on the 2030 climate and energy policy framework, including EU-level targets; which *inter alia* agreed that an EU target of at least 27% is set for the share of renewable energy consumed in the EU in 2030. This target will be binding at EU level. It will be fulfilled through Member States contributions guided by the need to deliver collectively the EU target without preventing Member States from setting their own more ambitious national targets and supporting them, in line with the state aid guidelines, as well as taking into account their degree of integration in the internal energy market. The integration of rising levels of intermittent renewable energy requires a more interconnected internal energy market and appropriate back up, which should be coordinated as necessary at regional level. (...) These targets¹ will be achieved while fully respecting the Member States' freedom to determine their energy mix. Targets will not be translated into nationally binding targets; which agreed that a reliable and transparent governance system without any unnecessary administrative burden will be developed to help ensure that the EU meets its energy policy goals, with the necessary flexibility for Member States and fully respecting their freedom to determine their energy mix. This governance system will: build on the existing building blocks, such as national climate programmes, national plans for renewable energy and energy efficiency. Separate planning and reporting strands will be streamlined and brought together; step up the role and rights of consumers, transparency and predictability for investors, inter alia by systematic monitoring of key indicators for an affordable, safe, competitive, secure and sustainable energy system; facilitate coordination of national energy policies and foster regional cooperation between Member States; which furthermore recalled its goal to build an Energy Union aiming at affordable, secure and sustainable energy, as stated in its Strategic Agenda;

¹ Note: "these targets", as well as "targets" in the next sentence, refer to *both* the EU target of at least 27% for renewable energy *as well as* the indicative target at the EU level of at least 27% for improving energy efficiency (as mentioned in the preceding subparagraphs of point I.3 of the quoted European Council conclusions).

- the conclusions of the European Council of 19 and 20 March 2015, which noted that the EU is committed to building an Energy Union with a forward-looking climate policy on the basis of the Commission's framework strategy, whose five dimensions are closely interrelated and mutually reinforcing (energy security, solidarity and trust; a fully integrated European energy market; energy efficiency contributing to moderation of demand; decarbonising the economy; and research, innovation and competitiveness). The EU institutions and the Member States will take work forward and the Council will report to the European Council before December. The European Council will continue to give guidance. While emphasizing the importance of all dimensions of the Energy Union, the European Council focused on some of the aspects and called for *inter alia*: reviewing and developing legislation related to emissions reduction, energy-efficiency and renewables to underpin the agreed 2030 targets; developing a reliable and transparent governance system;
- the conclusions of the TTE (Energy) Council of 8 June 2015 on the implementation of the Energy Union entitled "empowering consumers and attracting investments in the energy sector", which called on the Commission to rapidly present initiatives on the governance system of the Energy Union, to be developed swiftly and endorsed by the Council as a first step to develop the governance system;

NOTING:

- the Commission's Communication of 18 November 2015 on the State of the Energy Union, which includes guidance to Member States on national energy and climate plans as well as a first report on key indicators;

CONSCIOUS OF:

- the crucial importance of a reliable and transparent governance system of the Energy Union with a clearly defined, long-term policy planning and monitoring process for the implementation of the Energy Union strategy;
- the need to anchor measurement of progress in building the Energy Union in comparable, relevant, coherent and reliable data and information, and the need to streamline the planning and reporting obligations of Member States in relation to the Union's climate and energy policies;

RECOGNISING THAT:

1. the governance system of the Energy Union will be an essential tool for the efficient and effective construction of the Energy Union and the achievement of its objectives;
UNDERLINES the following principles for the Energy Union governance system:

- 1.1 the governance system will integrate strategic planning and reporting on the implementation of climate and energy policies and will actively foster coordination between actors responsible for climate and energy policy, at EU, regional and national level;

- 1.2 the governance system will be constructed on the basis of existing building blocks in climate and energy policy as well as on the agreed targets for 2030, and will include planning and reporting obligations. It will monitor the EU's collective progress towards the achievement of EU energy and climate targets and its general policy objectives across the five dimensions, and thus provide for a consistent and transparent overview of the state of the Energy Union;
- 1.3 the governance system will streamline and bring together separate planning and reporting strands, while maintaining the established level of substance and data quality. The reporting under the governance system is also intended to reduce the administrative burden of future reporting obligations, and rationalise them; the reporting obligations should as a general rule be integrated into the reporting process;
- 1.4 the governance system will provide sufficient flexibility for Member States to choose measures based on national specificities, choices, circumstances, technological developments and changing external conditions;
- 1.5 the governance system will be reliable. Through long-term planning by Member States, covering all five dimensions of the Energy Union equally, it will enhance the stability and predictability of the investment climate. The governance system will take into account the different nature and scope of binding, EU-binding or indicative 2030 climate and energy targets, as well as of those specific targets and more general policy objectives relating to the five dimensions; it will be accompanied by reviewing and developing legislation related to emissions reduction, energy efficiency and renewables to underpin the agreed 2030 targets;

- 1.6 regional cooperation has proved to be a key instrument for progressing towards *inter alia* the completion of a well functioning internal energy market, for trans-European infrastructure development, for the cost-efficient achievement of energy and climate policy objectives *inter alia* by increasing interconnection capacity, and for increasing security of supply. Therefore, enhanced regional cooperation and consultation on issues such as these, where appropriate, will become a cross-cutting and important aspect of the future governance system of the Energy Union and needs to be facilitated or incentivised;
- 1.7 dialogue as a concrete expression of the requirement of Article 13(2) of the TEU on mutual sincere cooperation has historically played a key role in the construction of the European project. It will play a central role in the Energy Union governance system. The design and implementation of Energy Union governance will integrate cooperation and ensure exchanges of information and best practices through a constructive dialogue between Member States and the Commission. The energy governance implementation will also encourage consultations at national level with civil society and stakeholders and will ensure the trust of investors, consumers and citizens.
2. Having regard to these principles, IDENTIFIES the following as essential components of the governance system:
- a National Energy and Climate Plan (hereinafter 'National Plan') to be adopted by each Member State, followed by Progress Reports on the implementation of the National Plan, both based on standardised templates;
 - constructive dialogues between the Commission and the Member States; and
 - monitoring and evaluation based *inter alia* on key indicators;
- and SPECIFIES that:

2.1 the first National Plan will cover the period from 2021 to 2030, will integrate energy and climate components, and should be holistic and reflect the five dimensions of the Energy Union. The National Plan will be a concise, synchronised high-level strategic planning document;

2.2 the National Plan will:

- outline the state of the national energy system, national climate policy, and the national policy framework for all five dimensions of the Energy Union, including relevant national specificities and challenges such as the degree of integration in the internal market;
- while guaranteeing sufficient flexibility and the right of each Member State to choose its energy mix, include the Member State's policy planning, objectives on climate and energy as well as targets, as or if Member States set them in the light of the different nature and scope of the targets and objectives. Thereby the plans will contribute to the EU climate and energy policy goals and targets for 2030. They will also reflect a perspective that consistent with recent IPCC findings, in order to stay below 2°C, global greenhouse gas emissions need to peak by 2020 at the latest, be reduced by at least 50% by 2050 compared to 1990^[1] and be near zero or below by 2100; and that all Parties should pursue transformative pathways towards a long-term vision of global and sustainable climate neutrality and climate resilience in the second half of this century and that is related to the EU objective in the context of necessary reductions according to the IPCC by developed countries as a group, to reduce emissions by 80-95% by 2050 compared to 1990, as it was accordingly emphasized and recalled in the Council conclusions of 18 September 2015;

^[1] See for example 14790/09 (paragraph 7) and 14747/14 (paragraph 2).

- include trajectories for the achievement of binding greenhouse gas targets in line with relevant EU legislation, and set out realistic indicative trajectories for other objectives as well as targets, as or if Member States set them in light of the different nature and scope of the targets and objectives. In particular, the National Plans will identify the national contributions to EU energy policy objectives and EU climate and energy targets for 2030, including projections, and will be developed in line with the conclusions of the European Council of October 2014. As such, the National Plans will serve as initial reference points for monitoring the achievement of all EU energy policy objectives and targets;
- set out actions aiming at strengthening the security of supply as well as actions aiming at improving and strengthening the internal energy market;
- provide the appropriate level of data relating to key indicators;
- include regional cooperation in the planning and implementation process for relevant aspects and identify regional challenges; this should include exchanges, consultation and/or coordination on draft National Plans between neighbouring Member States, and the sharing of experiences and best practices in relevant energy sectors;
- address the synergies and potentials with other relevant policy areas;

2.3 Progress Reports will be submitted by Member States to the Commission every two years, taking into account the objective of reducing administrative burdens and with a view to aligning the timescales for domestic, EU and international reporting;

- 2.4 the standardised templates and key indicators will be developed by the Commission in close cooperation with, and subject to agreement by, Member States; the list of key indicators should help to ensure progress and balance as regards all five dimensions, including the agreed EU climate and energy targets, as well as EU energy policy objectives, to ensure an affordable, safe, competitive, secure and sustainable energy system as agreed in the European Council conclusions of October 2014;
- 2.5 the monitoring of key indicators based upon national data, relating to the five dimensions, will be performed systematically at EU level. Key indicators will enable analyses and/or aggregated EU projections which will allow the assessment of future progress towards meeting EU climate and energy policy objectives and agreed EU targets. The Commission will summarise and assess the overall progress made at EU level in its annual report on the State of the Energy Union;
- 2.6 Member States will draw up their National Plan covering all the components set out in paragraph 2.2. They may receive recommendations by the Commission and/or comments from neighbouring Member States in the context of regional cooperation on relevant issues, and consider them, if appropriate. Based on this, Member States will transmit their finalised National Plan to the Commission;
- 2.7 the preparatory work as set out in paragraph 2.6 notwithstanding, the first National Plans will be finalised by the end of 2019. A biennial review cycle will start with the first Progress Report of Member States, followed by an iterative dialogue with the Commission on implementation and possible decision to adjust its National Plan by the Member State. Each review will take stock of the results achieved;

- 2.8 While bearing in mind the need for a reliable and transparent governance, Member States may decide, if appropriate, to update or review their National Plan in light of changes in national circumstances;
- 2.9 the governance system will provide a timely assessment and forecast as regards the fulfilment of EU energy policy objectives and agreed climate and energy targets. As a result, timely action could be undertaken, whilst respecting the nature of the particular objective or target in question; such action could consist of improving the implementation of existing policies and measures, adjusting them or undertaking additional policies and measures. As regards the binding EU renewable target this action should be undertaken if there is a gap based on the national plans or based on reviewed or updated national plans in the mid-2020s, and while taking into account how much a Member State reliably contributes in its plan to this EU target, whilst being guided by the need to deliver all the targets and objectives of the five dimensions;
- 2.10 the governance system will be flexible by allowing Member States to choose the most cost-effective policies in relation to objectives and targets;
- 2.11 the relevant stages during the cycle of the governance system will be presented to, and discussed by, the Council. The European Council will continue to give guidance on the development of the Energy Union and the governance system, based *inter alia* on the Commission's annual reports on the State of the Energy Union which will be presented to the European institutions;

RECALLING that a resilient Energy Union with a forward-looking climate change policy is a key priority of the Commission,

3. CALLS ON the Commission to ensure a swift follow-up to these conclusions and to prepare in close cooperation with the Member States *inter alia*:

3.1 the basis for the following essential components:

- as a matter of urgency, an inventory of existing planning and reporting obligations and proposals for streamlining these obligations in order to reduce administrative burden and ensure coherence, simplification and consistency;
- draft standardised templates for the National Plans and biennial Progress Reports;
- guidance on regional cooperation, building on existing best practices and structures;
- a list of indicators and a methodology for these common key indicators, (reference) scenarios and projections;

3.2 a general outlook including :

- the dialogues between Member States and the Commission and the interinstitutional annual dialogue on the State of the Energy Union reports; and
- a detailed calendar for such actions;

3.3 and to work closely with the Member States, European institutions as well as with other relevant stakeholders in order to deliver on the objectives set out above.