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'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. Cion doc.:	ST 15962/17 ENER 527 CODEC 2135
Subject:	Proposal for a Regulation of the European Parliament and of the Council repealing Regulation (EU) No 256/2014 of the European Parliament and of the Council concerning the notification to the Commission of investment projects in energy infrastructure within the European Union - Approval of the Commission text

1. The Working Party on Energy examined and agreed to the Regulation of the European Parliament and of the Council repealing of Regulation (EU) No 256/2014 of the European Parliament and of the Council concerning the notification to the Commission of investment projects in energy infrastructure within the European Union¹ at its meeting of 16 January 2018.
2. The European Parliament Committee for Industry, Research and Energy (ITRE) voted on the repeal Regulation at its meeting on 19 June 2018, also endorsing the proposal without proposing amendments to it.

¹ 15962/17

3. The Permanent Representatives Committee is therefore invited to:

- endorse the annexed proposal by the Commission, and
 - mandate the Presidency to inform the European Parliament that, should the European Parliament adopt its position at first reading, in accordance with Article 294 paragraph 3 of the Treaty, in the form set out in the Commission proposal contained in the Annex to this document, the Council would, in accordance with Article 294, paragraph 4 of the Treaty, approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position.
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2017/0347 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

Repealing Regulation (EU) No 256/2014 of the European Parliament and of the Council concerning the notification to the Commission of investment projects in energy infrastructure within the European Union

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,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹¹,

Having regard to the opinion of the Committee of the Regions¹²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The European Parliament, the Council of the European Union and the European Commission confirmed their joint commitment to updating and simplifying legislation in the Interinstitutional Agreement on Better Law-Making of 13 April 2016¹³.
- (2) In order to clean -up and reduce the volume of legislation, it is necessary to identify legislation that is obsolete or no longer fit-for-purpose. Repealing such legislation keeps the legislative framework transparent, clear and easy to use.
- (3) Regulation (EU) No 256/2014 of the European Parliament and of the Council¹⁴ required Member States to notify the Commission of investment projects on which construction or decommissioning work had started or on which a final investment decision had been taken.
- (4) The obligations under Regulation (EU) No 256/2014 concerning the notification of investment projects and certain information and data relating to it already existed under Council Regulation (EU, Euratom) No 617/2010¹⁵. The Court of Justice annulled Regulation (EU, Euratom) No 617/2010¹⁶ due to it not having the correct legal basis, but its effects were maintained until Regulation No 256/2014 was adopted.
- (5) The previous legislative framework was intended to provide the Commission with data and information on planned developments in production, transmission and storage capacities as well as on projects in the energy sectors. It was intended to give the Commission an overall picture of the development of investment in energy infrastructure in the Union.
- (6) There have been three reporting exercises since the creation of the obligations under Regulation (EU) No 256/2014 and Council Regulation (EU, Euratom) No 617/2010 (in 2011, 2013 and 2015). Furthermore, the Commission ordered three external studies after the three Member States' reporting exercises which took place under Regulation (EU) No 256/2014. Consequently, enough time has elapsed and sufficient experience has been gained for the Commission to be able to carry out an evidence-based critical analysis of whether the Regulation has delivered the expected results.

- (7) In 2016 the Commission carried out the review provided for in Article 11 of Regulation (EU) No 256/2014, including a stakeholder consultation covering all planning and reporting obligations in the energy sector. The Commission came to the conclusion that there were significant overlaps between reporting obligations under Regulation (EU) No 256/2014 and the reporting obligations to the Energy Transmission System Operators ENTSO-E and ENTSO-G. It also became apparent that the quality and appropriateness of the information and data received were often poor, and that this information and data had become available to the Commission via other sources, such as ENTSOs (European Network of Transmission System Operators), TYNDPs (ten-year network development plans), the annual reports of Transmission System Operators and utility companies, national development plans, etc. Furthermore, it was noted that the Commission had direct access to market data via its Energy Market Observation System (EMOS).
- (8) Regulation (EU) No 256/2014 has therefore not delivered the expected results in terms of quantity, quality and appropriateness of data and information received by the Commission.
- (9) Consequently, Regulation (EU) No 256/2014 should be repealed,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 256/2014 is repealed.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.