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From:	General Secretariat of the Council
To:	Permanent Representatives Committee
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Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2012/27/EU on energy efficiency - Analysis of the final compromise text with a view to agreement

Delegations are invited to note the following corrections in document ST 10309/18 INIT:

- On page 22, Article 7(2):

"2. Provided that Member States achieve at least their cumulative end-use energy savings obligation referred to in point (b) of paragraph (1), they may calculate the required amount of energy savings by:

- (a) **applying an annual savings rate on energy sales to final customers, averaged over the most recent three-year period prior to 1 January 2019, or on final energy consumption;**

- (b) excluding, partially or fully, energy used in transport from the calculation baseline;
- (c) subject to paragraph 3a (new), making use of any of the options in paragraph 3.

Where Member States make use of the possibilities provided for in points (a), (b) **or** (c) of the first subparagraph, they shall establish:

- i) their own annual savings rate that will be applied in the calculation of their cumulative end-use energy savings, which shall ensure that the final amount of their net energy savings is no lower than those required under point (b) of paragraph 1; and
- ii) their own calculation baseline which may exclude, partially or fully, energy used in transport.

- On page 23, Article 7(3)(b):

"(b) exclude from the calculation all or part of the sales **of energy used**, by volume, with respect to the period referred to in point (a) of paragraph 1, or final energy consumed, with respect to the period referred to in point (b) of paragraph 1, ~~of energy used~~ [] **by** industrial activities listed in Annex I to Directive 2003/87/EC;"

- On page 24, Article 7(3)(g):

"count towards the required cumulative energy savings amount those energy savings that exceed the cumulative energy savings required from 1 January 2014 to 31 December 2020, provided that those savings result from individual actions undertaken under policy measures **referred to in Article 7a and Article 7b**, notified by Member States in their National Energy Efficiency Action Plans and reported in their progress reports [according to Article 23bis Governance Regulation]."

- On page 25, Article 7(4b):

"4b. By way of derogation, Member States that allow obligated parties to use the possibility in Article 7a(5)(b) ~~to~~ may, for the purpose~~d~~ of point (a) of paragraph 1, count energy savings obtained in any given year after 2010 and before the obligation period in point (a) of para~~graph~~**graph** 1 as if they had instead been obtained after 31 December 2013 and before 31 December 2020, provided all the following circumstances apply:

- i. the energy efficiency obligation scheme was in force at any point between 31 December 2009 and 31 December 2014 **and included in the first national energy efficiency action plan submitted under Article 24;**
- ii. the savings were generated under the obligation scheme;
- iii. the saving are calculated in accordance with Annex V;
- iv. the years for which the savings are counted as having been obtained were reported in the national energy efficiency action plans ~~or annual reports~~ in accordance with Article 24(2)."

- On page 27, Article 7a(2):

"Member States shall designate, on the basis of objective and non-discriminatory criteria, obligated parties among energy distributors, retail energy sales companies and transport fuel distributors or transport fuel retailers operating in their territory. The amount of energy savings needed to fulfil the obligation shall be achieved by the obligated parties among final customers, designated by the Member State, independently of the calculation made pursuant to Article 7(1), or, if Member States so decide, through certified savings stemming from other parties as described in point ~~(b)~~ (a) of paragraph 5 of this Article."

- On page 32, Article 2 of Commission proposal:

"Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by XXXX [Please insert the date [] 18 months following the date of entry into force] at the latest.

Notwithstanding the first subparagraph, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 9, 9a, **9b, 9c**, 10, 10a, 11, 11a and Annexes VII and VIIa by XX [Please insert the date [] 22 months following the date of entry into force] at the latest.

They shall immediately communicate the text of those measures to the Commission.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made."

- On page 43, Annex V(2)(dd):

"(dd) Measures promoting the installation of small-scale renewable energy technologies on or in buildings may be eligible towards the fulfilment of energy savings requirements under Article 7(1), provided they result in verifiable, and measurable or estimable, ~~end-use~~ energy savings. The calculation of energy savings shall comply with the requirements of this Annex."