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

Subject: Draft REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the internal market for electricity (recast) **(first reading)**

- Adoption of the legislative act
- Statements

Statement by the Commission on the interconnector definition

The Commission notes the agreement of the co-legislators relating to the recast Electricity Directive and Recast Electricity Regulation, reverting back to the definition of “interconnector” used in Directive 2009/72/EC and Regulation (EC) 714/2009. The Commission agrees that electricity markets differ from other markets such as natural gas, e.g. by trading products which can currently not be easily stored and are produced by a large variety of generating installations, including installations at distribution level. As a consequence, the role of connections to third countries differs significantly between the electricity and gas sectors and different regulatory approaches can be chosen.

The Commission will further examine the impact of this agreement and provide guidance on applying the legislation where needed.

For the sake of legal clarity, the Commission wishes to highlight the following:

The agreed definition of interconnector in the Electricity Directive refers to equipment linking electricity systems. This wording does not distinguish different regulatory frameworks or technical situations and thus, a priori, includes all electric connections to third countries in the scope of application. As regards the agreed definition of interconnector in the Electricity Regulation, the Commission underlines that the integration of electricity markets requires a high degree of cooperation between system operators, market participants and regulators. While the scope of applicable rules may vary depending on the degree of integration with the internal electricity market, close integration of third countries into the internal electricity market, such as participation in market coupling projects, should be based on agreements requiring the application of relevant Union law.

Statement by the Commission on market reform implementation plans

The Commission notes the agreement of the co-legislators relating to Art. 20(3) which provides that Member States with identified adequacy concerns shall publish an implementation plan with a timeline for adopting measures to eliminate any identified regulatory distortions and/or market failures as a part of the State Aid process.

Pursuant to Article 108 TFEU, the Commission has exclusive competence to assess the compatibility of State aid measures with the internal market. This Regulation cannot affect and is without prejudice to the Commission's exclusive competence pursuant to the TFEU. The Commission may therefore, where relevant, give its opinion on market reform plans in parallel to the process of approving capacity mechanisms under State aid rules, but the two processes are legally separate.

Statement by Greece

Greece recalls the assurances provided by the European Commission during the Coreper I meeting of 18 January 2019, as well as its subsequent Statement issued in the above mentioned Coreper I meeting.

Based on the above mentioned assurances, it is our understanding that the lignite power plant of Ptolemais 5, currently under construction, can be included in the provisions of Article 22 par. 5 (previously Article 18b, par. 5), according to which it is possible for commitments or contracts concluded before 31 December 2019 not to be modified in order to comply with the new provisions of the Regulation on the internal market for electricity.

It is on this understanding, and in a constructive spirit, that Greece votes positively on the final text of the recast of the Electricity Regulation.

Statement by Croatia

The Republic of Croatia in principle supports the goals and objectives of this Regulation, however, it expresses concerns regarding the Article 71 and the date of entry into force.

Taking into account that the goal of this Regulation is to create a market with the highest standard for consumers and to set the fundamental principles for well-functioning, transparent and integrated electricity markets, the Republic of Croatia believes that the provisions of Article 71 will have a negative impact on the Member States with smaller administrative capacities.

Furthermore, having in mind the cross-border transmission capacities at the borders of the Republic of Croatia and the wide use of this capacity by market participants outside the Republic of Croatia, we are concerned with the provisions of Article 16 and the minimum value of 70%, because it could have a potentially negative impact on the security and stability of the power system.