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MEETING DOCUMENT

From: General Secretariat of the Council
To: Working Party on Energy

Subject: Amendments to Regulation (EU) 2017/1938 through Article 67 of the Recast Regulation
- Presidency non-paper

In view of the Working Party on Energy on 12 January, delegations will find in the annex the Presidency non-paper on the amendments to Regulation (EU) 2017/1938 through Article 67 of the Recast Regulation.

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Presidency non-paper - Amendments to Regulation (EU) 2017/1938 through Article 67 of the Recast Regulation

Regulation (EU) 2017/1938 concerning measures to safeguard the security of gas supply entered into force in 2017 and has served as the main policy tool to ensure the EU's security of gas supplies. The main purpose of the regulation is to allow for exceptional measures to be implemented when the market can no longer deliver the gas supplies required, including solidarity measures of a last resort. The Commission proposed additional measures in December 2021 through Article 67 of the Recast Regulation (COM (2021) 804 final) to further enhance Regulation (EU) 2017/1938 in a targeted manner, such as broadening the scope to also cover renewable and low carbon gases and new measures on cyber security.

Since then, the geopolitical context has changed. On the 23rd of February 2022, Russia initiated an unprovoked and unjustified aggression against Ukraine. This is first and foremost a great tragedy for Ukraine and its people. It has also changed the policy-landscape of security of gas supplies within the EU through several new crisis instruments adopted. To name a few, Member States and the European Parliament agreed on mandatory storage filling targets until 2025 during the FR PCY and the CZ PCY successfully guided Member States to agree on a natural gas savings obligation, default solidarity rules in absence of a solidarity agreement and measures to lower gas prices. Some of these measures are meant to reinforce security of supply in the medium to longer term, and other crisis measures are temporary in nature.

The CZ PCY has made impressive progress on the gas and hydrogen package in the context of the energy crisis. A remaining discussion to be held is the potential alignment of the security of supply provisions in Article 67 of the Recast Regulation with the new crisis measures that has been agreed in parallel work streams. While many elements of Article 67 have become obsolete in view of recently adopted EU Regulations, some elements may also be transferred into the Recast Regulation. To make progress on this matter, Member States are invited to share their views on the following questions:

- Does your Member State see a need to revise and/or strengthen the provisions on gas storage filling targets within the Recast Regulation in view of the assessment and experience with the Storage Regulation,¹ for instance by introducing a permanent storage obligation?
- In view of the Solidarity Regulation (2022/2576) agreed to by Council in December 2022, the solidarity provisions in Article 67 and Annex I of the Recast regulation appear outdated. Does your Member States consider the provisions on solidarity in Article 67 of Rev 3 of the Recast Regulation should be replaced by the provisions on solidarity in the chapter IV of Regulation 2022/2576? If so, to what extent?

In addition, Member States are invited to share their views on what is not covered in Article 67 or by current regulation that may enhance the security of supply:

- As regards the Gas Demand Reduction Regulation (2022/1369), does your Member State see a merit in prolonging a voluntary and/or binding natural gas savings target? Would there be any argument to introduce a general obligation in the Recast Regulation instead of prolonging the Gas Demand Reduction Regulation?
- As regards provisions on joint purchasing of gas, the Solidarity Regulation (2022/2576) introduces measures which are currently under implementation and their impact on the natural gas market and the security of supply in the EU are yet to be assessed. Would your Member State support making provisions of Article 3 on transparency and information exchange a permanent provision under the Recast Regulation?
- Does your Member States see a merit in reflecting any other provision of the recent emergency regulations in the Recast Regulation? If so, to what extent should that be accommodated?

¹ The new Articles 7a-c proposed in Article 67 of the December package were removed from Rev 3 of the Recast Regulation as they overlap with the Gas Storage Regulation (2022/1032).