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INFORMATION NOTE

from: General Secretariat of the Council

to: Delegations

Subject: Current legislative proposals

- Proposal for a Directive of the European Parliament and Council on Energy Efficiency and amending and subsequently repealing Directives 2004/8/ EC and 2006/32/EC

= Information from the Presidency

Delegations will attached an information note from the Presidency outlining the state of play on the above proposal.

Proposal for a Directive of the European Parliament and of the Council on energy efficiency and repealing Directives 2004/8/EC and 2006/32/EC**State of play**

The Commission submitted the above proposal on 22 June 2011, based on Article 194(2) of the Treaty on the Functioning of the European Union. It follows on from the Commission's Communication of 8 March 2011 on an "Energy Efficiency Plan 2011, on which Council adopted conclusions on 10 June 2011 (10709/11). On several occasions the European Council called for an early agreement on the proposal on energy efficiency, which should establish an ambitious and flexible framework in line with the 20% target for 2020 as agreed by the June 2010 European Council. The EP's Committee on Industry, Research and Energy voted its draft report on 28 February. The Economic and Social Committee and the Committee of the Regions adopted their opinions on 26 October and 14 December 2011 respectively.

STATE OF PLAY

Building on the intensive work on the proposed Directive carried out since the tabling of the proposal, as reported to the February TTE Council, and then on the thorough consideration of the EP draft report, it was possible to define first of all a series of key principles (7659/12) underpinning the Council's preliminary position, notably that the Directive needs to provide the necessary level of ambition and flexibility for Member States to engage in the most cost-efficient measures.

Successive mandates could then be defined and agreed at Coreper level with a view to achieving a first reading agreement by the deadline set by the European Council. These mandates allowed the Presidency to engage with the EP delegation in a series of trialogues, five of which took place in April, May and June, the last one being scheduled on 13 June. These trialogues were all along supplemented by technical meetings.

Without prejudice to the final outcome and bearing in mind that nothing is agreed until everything is agreed, one can note that so far it has been possible to make good progress on Articles 13 [qualification and certification schemes], 13a [information and training], 14 [energy services], 15 [other measures to promote energy efficiency], 15a [financing and technical support], 19a [online platform] and 21a [amendments to EU legislation], on which a common understanding between the co-legislators can be recorded, in addition to Articles 8a [consumer information] and 9 [penalties] on which a provisional understanding was reached. Progress can also be noted regarding a possible package on Articles 4 [exemplary role of public buildings], 5 [purchasing by public bodies], 6 [obligation schemes], 7 [energy audits], 8 [metering and billing], 10 [efficiency in heating and cooling], 12 [energy transmission and distribution] and 19 [review and monitoring].

This notably reflects:

- on the one hand the approach promoted by the Council e.g. regarding
 - article 4, combining a 3% target for building renovation with a scope focused on central government buildings, as well as equivalent alternative measures;
 - article 6, combining a 1.5 % binding target for obligation schemes with the possibility of using a bundle of flexibility measures subject to a cap, as well as equivalent alternative measures;
 - article 8, now restructured in articles 8A, 8B and 8C, with a clearer distinction between metering provisions (in line with existing commitments), billing provisions and cost of access to information;
 - article 10, with a clearer articulation between the cost-benefit analysis of installations and the possible investment decision to be considered following this analysis;
 - article 12, with a more balanced formulation on dispatching rules for high-efficiency cogeneration and for renewable energy.
- on the other hand the inclusion of several provisions inspired by EP amendments, for instance as regards article 3a on building renovation, article 8a, 13a, 15a and 19a, or the acknowledgement of some of its concerns, for instance as regards the impact of the proposed Directive on the ETS Directive.

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The information contained in the present note will be updated at Council in the light of the last trialogue on 13 June and of its consideration by Coreper on 14 June