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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	13 January 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2023) 407 final
Subject:	COMMISSION DECISION of 13.1.2023 establishing the ad hoc Steering Board to facilitate the coordination of demand aggregation and joint purchasing of gas

Delegations will find attached document C(2023) 407 final.

Encl.: C(2023) 407 final



EUROPEAN
COMMISSION

Brussels, 13.1.2023
C(2023) 407 final

COMMISSION DECISION

of 13.1.2023

**establishing the ad hoc Steering Board
to facilitate the coordination of demand aggregation and joint purchasing of gas**

COMMISSION DECISION

of 13.1.2023

establishing the ad hoc Steering Board to facilitate the coordination of demand aggregation and joint purchasing of gas

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Council Regulation (EU) 2022/2576 on enhancing solidarity through better coordination of gas purchases, exchanges of gas across borders and reliable price benchmarks, and in particular Article 4(2) thereof,

Whereas:

- (1) The ongoing energy crisis exposed the Union's dependency on Russian fossil fuels and the impact of uncoordinated actions by Member States faced with the weaponisation of gas supply by Russia, which led to excessive prices.
- (2) Cooperation on energy is at the core of the European Union. A close cooperation between relevant actors, in particular the Member States and the Energy Community Contracting Parties is critical to tackle the energy crisis in unity.
- (3) The EU Energy Platform was initiated on 7 April 2022 following the mandate of the European Council, with a range of actions in the field of natural gas, liquefied natural gas (LNG) and hydrogen purchase: international outreach, demand aggregation, efficient use of Union gas infrastructures and in particular better usage of LNG terminals to support the Union's security of supply and access to affordable energy.
- (4) On 20 October 2022, the European Council endorsed the principle of joint purchasing of gas, coordinating and prioritising negotiations with reliable partners to seek mutually beneficial partnerships by exploiting the Union's collective market weight and making full use of the EU Energy Platform.
- (5) Council Regulation (EU) 2022/2576 provides a legal framework for the EU Energy Platform to support Member States in the preparation for the winter 2023/2024 and notably the filling of their storage facilities.
- (6) Article 3 of Council Regulation (EU) 2022/2576 lays down transparency provisions in order to ensure better coordination and energy solidarity among Member States. Where the Commission considers that planned gas purchases may have a negative impact on the functioning of joint purchasing, the internal market, the security of supply or energy solidarity, it may issue recommendations. Such recommendations would be addressed to the relevant natural gas undertakings or undertakings consuming gas established in the Union or authorities of Member States requesting them to consider appropriate measures with the aim of furthering coordination.
- (7) Before issuing any such recommendation, the Commission should inform the ad hoc Steering Board, which should assist the Commission in assessing whether the planned gas purchases enhance security of supply in the Union and are compatible with the principle of energy solidarity, and whether further coordination could improve the

functioning of the joint purchasing. The ad hoc Steering Board should therefore be established.

- (8) Rules of disclosure of information by members of the group should be laid down.
- (9) Personal data should be processed in accordance with Regulation (EU) No 2018/1725 of the European Parliament and of the Council¹.

HAS DECIDED AS FOLLOWS:

Article 1

The ad hoc Steering Board

The ad hoc Steering Board is established.

Article 2

Mission and tasks of the ad hoc Steering Board

1. The ad hoc Steering Board shall be consulted by the Commission on draft recommendation(s) pursuant to Article 3 of Regulation (EU) 2022/2576:
 - (1) on whether further coordination with regards to the launch of a tender for the purchase of gas or planned gas purchases could improve the functioning of joint purchasing;
 - (2) on whether the launch of a tender for the purchase of gas or planned gas purchases may have a negative impact on the internal market, on security of supply or on energy solidarity;
2. The ad hoc Steering Board shall act as an entity for enhanced coordination at Union level, with the aim of facilitating demand aggregation and joint gas purchasing, including from third countries;
3. Where appropriate, the Commission shall inform the ad hoc Steering Board about the activities of the Energy Platform;
4. The Commission shall inform the ad hoc Steering Board about the impact of the participation of undertakings in the joint purchasing platform on security of supply in the Union and energy solidarity.

¹ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

Article 3

Membership

1. Members of the ad hoc Steering Board shall be Member States' authorities.
2. Each Member State's authority shall nominate its representative and shall be responsible for ensuring that its representative provides a high level of expertise related to energy matters, particularly gas.
3. Each representative may be supported by a technical expert.

Article 4

Chair

The ad hoc Steering Board shall be chaired by the Vice President of the European Commission in charge of Interinstitutional Relations and Foresight.

Article 5

Operation

1. The ad hoc Steering Board shall act at the request of its Chair.
2. Meetings of the ad hoc Steering Board shall, usually, be held on Commission premises but may be held virtually, depending on the circumstances.
3. The Commission Directorate-General for Energy shall provide secretarial services for the ad hoc Steering Board. Commission officials from other departments with an interest in the proceedings may attend meetings of the group and its sub-groups.
4. The ad hoc Steering Board may, by simple majority of its members, decide that deliberations shall be public.
5. Minutes on the discussion on each point on the agenda and on the assessments delivered by the ad hoc Steering Board shall be meaningful and complete. Minutes shall be drafted by the secretariat under the responsibility of the Chair.
6. As far as possible, the ad hoc Steering Board shall adopt its assessments by consensus.

Article 6

Sub-groups

The Chair may set up sub-groups for the purpose of examining specific questions on the basis of terms of reference defined by the Commission. Sub-groups shall operate in compliance

with the Commission's horizontal rules on expert groups ('the horizontal rules')² and shall report to the ad hoc Steering Board. They shall be dissolved as soon as their mandate is fulfilled.

Article 7

Invited experts

The Chair may invite experts with specific expertise with respect to a subject matter on the agenda to take part in the work of the ad hoc Steering Board or its sub-groups on an ad hoc basis.

Article 8

Participation in meetings and Observers

1. The Secretariat of the Energy Community ('Secretariat') may participate in the meetings of the ad hoc Steering Board, as an Observer, upon invitation of the Commission on matters of mutual concern. In that case, it shall nominate its representative(s).
2. Representatives of the Energy Community Contracting Parties may participate in the meetings of the ad hoc Steering Board upon invitation of the Commission on matters of mutual concern.
3. Observers and their representatives, as well as representatives of the Energy Community Contracting Parties, may be permitted by the Chair to take part in the discussions of the ad hoc Steering Board and any sub-groups and provide expertise. However, they shall not participate in the formulation of assessments to the ad hoc Steering Board.

Article 9

Rules of procedure

The ad hoc Steering Board shall adopt its Rules of Procedure by qualified majority at its first meeting.

Article 10

Protection of commercially sensitive information

1. Members of the ad hoc Steering Board shall handle sensitive information with due confidentiality, including any commercially sensitive information, which shall not be shared with any undertakings or used for any other purpose than for fulfilling the tasks of the ad hoc Steering Board specified in this Decision.

² Commission Decision C(2016) 3301 establishing horizontal rules on the creation and operation of Commission expert groups

2. Any personal data that might be processed as part of demand aggregation and joint purchasing shall be processed in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council³ and Regulation (EU) 2018/1725.

Article 11

Professional secrecy and handling of classified information

The members of the ad hoc Steering Board as well as invited experts and observers, are subject to the obligation of professional secrecy, which by virtue of the Treaties and the rules implementing them applies to all members of the institutions and their staff, as well as to the Commission's rules on security regarding the protection of Union classified information, laid down in Commission Decisions (EU, Euratom) 2015/443⁴ and 2015/444⁵. Should they fail to respect these obligations, the Commission may take all appropriate measures.

Article 12

Transparency

1. The ad hoc Steering Board and any sub-groups shall be registered in the Register of Commission expert groups and other similar entities ('the Register of expert groups').
2. As concerns the ad hoc Steering Board and sub-groups' composition, the following data shall be published in the Register of expert groups:
 - (1) the name of Member State's authorities represented in the ad hoc Steering Board;
 - (2) the name of observers.
3. All relevant documents, including the agendas, the minutes and the participants' submissions, shall be made available on the Register of expert groups. In particular, the agenda and other relevant background documents shall be published in due time ahead of the meeting, followed by timely publication of minutes. Exceptions to publication shall only be possible where it is deemed that disclosure of a document would undermine the protection of a public or private interest referred to in Article 4 of Regulation (EC) No 1049/2001⁶.

³ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)(OJ L 119, 4.5.2016, p. 1).

⁴ Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ 72, 17.3.2015, p. 41).

⁵ Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

⁶ These exceptions are intended to protect public security, military affairs, international relations, financial, monetary or economic policy, privacy and integrity of the individual, commercial interests, court proceedings and legal advice, inspections/investigations/audits and the institution's decision-making process.

Article 13

Meeting expenses

1. Participants in the activities of the ad hoc Steering Board and its sub-groups shall not be remunerated for the services they offer.
2. Travel expenses incurred by participants in the activities of the ad hoc Steering Board and sub-groups shall be reimbursed by the Commission. Reimbursement shall be made in accordance with the provisions in force within the Commission and within the limits of the available appropriations allocated to the Commission departments under the annual procedure for the allocation of resources.

Done at Brussels, 13.1.2023

For the Commission
Ursula VON DER LEYEN
The President