



Council of the  
European Union

Brussels, 20 February 2015  
(OR. en)

5347/1/15  
REV 1

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**"I/A" ITEM NOTE**

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. Cion doc.:	16844/14 ENER 510 + ADD 1
Subject:	COMMISSION REGULATION (EU) No .../.. of XXX establishing a Network Code on Interoperability and Data Exchange Rules - Decision not to oppose adoption (regulatory procedure with scrutiny)

1. The measure envisaged being in accordance with the opinion of the relevant committee, the Commission has submitted the above draft measure<sup>1</sup> to the Council for scrutiny in accordance with the procedure in Article 5a(3)(a) of Council Decision 1999/468/EC<sup>2</sup>. The Commission having notified the draft measure on 11 December 2014, the Council has until 11 March 2015 to decide to oppose the adoption by the Commission.

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<sup>1</sup> 16844/14 ENER 510 + ADD 1

<sup>2</sup> Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23), as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

2. At the meeting of the Permanent Representatives' Committee on 28 January 2015, France raised objections to the draft measure, on grounds that it exceeds the implementing powers provided for in the basic instrument, and does not respect the principles of subsidiarity and proportionality.
3. The Working Party on Energy has examined the draft measure at its meeting on 17 February 2015 and heard a presentation by the Commission and an assessment by the representative of the Council's Legal Service. Delegations agreed that there are no grounds for the Council to oppose adoption of the draft measure, with the exception of France.<sup>3</sup> Spain has indicated that it would not take a position either for or against the draft measure.
4. It is therefore suggested that Coreper recommend that the Council confirm the above positions and conclude that there is no qualified majority to oppose the draft measure. This implies that, unless the European Parliament opposes it, the Commission shall adopt the draft measure in accordance with Article 5a(3)(d) of Council Decision 1999/468/EC.

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<sup>3</sup> Article 5a(3)(b) provides that the Council may, acting by qualified majority, oppose the adoption of such measures on the grounds that they exceed the implementing powers provided for in the basic instrument, are not compatible with the aim or the content of the basic instrument or do not respect the principles of subsidiarity or proportionality.