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NOTA DO PUNKTU I/A

Od:	Sekretariat Generalny Rady
Do:	Komitety Stałych Przedstawicieli / Rada
Dotyczy:	Międzynarodowa karta energetyczna (Haga, 20–21 maja 2015 r.) – Ustalenie stanowiska Unii Europejskiej i Euratomu w sprawie przyjęcia i podpisania

Delegacje otrzymują w załączeniu ostateczny tekst Międzynarodowej karty energetycznej, który zostanie przyjęty i podpisany na konferencji ministerialnej w sprawie karty energetycznej w Hadze 20–21 maja 2015 r.

Tekst został uzgodniony na specjalnym posiedzeniu Strategicznej Grupy ds. Karty Energetycznej 29–30 października 2014 r. i zatwierdzony na szczepku grupy roboczej w Radzie.

Komitet Stałych Przedstawicieli jest proszony o potwierdzenie tego zatwierdzenia i o zaproponowanie Radzie, aby zatwierdziła przyjęcie i podpisanie przez Unię Europejską i Euratom Międzynarodowej karty energetycznej, w wersji zawartej w załączniku, na konferencji ministerialnej w sprawie karty energetycznej w Hadze 20–21 maja 2015 r.

**ENERGY CHARTER
SECRETARIAT**

UEC 36

Brussels, 14 November 2014

Subject: Final Text of the International Energy Charter

The Secretariat hereby circulates the final text of the International Energy Charter for adoption at the Ministerial Conference on the International Energy Charter ("The Hague II") in 2015.

The text has been agreed at the Special Session of the Strategy Group of the Energy Charter on 29-30 October 2014, except for one issue which remained open. In UEC 35, a deadline was given for last comments by 10 November 2014.

The open issue referred to above concerns three paragraphs with similar language: paragraph 3 on page 3, paragraph 2 on page 5 and paragraph 1 on page 7. The final wording contained in the attachment is the one most likely to be supported by consensus.

Under Title I., section 3, third bullet point, iii., the word "clean" was inserted in the phrase "use of renewable energy sources and clean technologies, including fossil fuel technologies", to read "use of renewable energy sources and clean technologies, including clean fossil fuel technologies". This was done upon request of one party and with the agreement of the party originally having suggested the addition starting with "including", in order to reflect more accurately the intended meaning.

The Secretariat has corrected the punctuation in some places.

In the coming days, Ministers of all delegations will receive letters from the Secretary General, asking to confirm in writing, by 31 January 2015, the acceptance of the final text.

CONCLUDING DOCUMENT OF THE MINISTERIAL (“THE HAGUE II”) CONFERENCE ON THE INTERNATIONAL ENERGY CHARTER

The Ministerial (“The Hague II”) Conference on the International Energy Charter was held in The Hague on 2015 to adopt the International Energy Charter as an update of the European Energy Charter. At that Conference, the high representatives of the signatories of the European Energy Charter of 1991, as well as non-signatories of the European Energy Charter of 1991, signed or expressed their consent to the International Energy Charter. The signatories of the International Energy Charter who signed it or expressed their consent at the Conference, or will do so after are hereinafter referred to as the “signatories”.

INTERNATIONAL ENERGY CHARTER

The representatives of the signatories meeting in The Hague on ... 2015,

Desirous to better reflect the new realities of the energy sector, especially the growing weight from developing countries, including emerging economies, and to serve the interests of the existing and potential participants of the Energy Charter constituency;

Having regard to the European Energy Charter adopted in the Concluding Document of the Hague Conference on the European Energy Charter signed at The Hague on 17 December 1991 signature of which allows states and Regional Economic Integration Organisations to accede to the Energy Charter Treaty of 1994 and which will continue to exist for this purpose;

Recalling the Decision adopted by the Energy Charter Conference in its 23rd Meeting in Warsaw in 2012 to engage in a process that could lead to the adoption of an updated version of the European Energy Charter;

Aware that the concept of the International Energy Charter aims at enhancing international cooperation in order to meet common challenges related to energy at national, regional and international levels, including the evolution of global energy architecture;

Recalling the objectives of the International Energy Charter:

- to support the Charter’s policy of Consolidation, Expansion and Outreach with the aim to facilitate the expansion of the geographical scope of the Energy Charter Treaty and Process;
- to engage in a structured dialogue with non-signatories of the European Energy Charter in order to promote the principles of the Charter and its framework for cooperation on the global scale;
- to modernise the European Energy Charter as the basic political declaration of the Energy Charter Process;
- to support active observership in the Energy Charter Conference, aiming at close political cooperation and early accession of observer countries to the Energy Charter Treaty;

Whereas the International Energy Charter is a declaration of political intention aiming at strengthening the energy cooperation between the signatories and does not bear any legally binding obligation;

Having regard to the principles of the UN Charter and to the outcome documents of various energy-related regional and international conferences and other events as well as initiatives listed in the Annex to this declaration;

Recognising the sovereignty of each State over its energy resources, and its rights to regulate energy transmission and transportation within its territory respecting all its relevant international obligations;

Recognising the global challenge posed by the trilemma between energy security, economic development and environmental protection, and efforts by all countries to achieve sustainable development;

Recognising the importance of energy security of energy producing, transit and consuming countries, regardless of their state of economic development, as well as access to modern energy services, which needs to be based on environmentally sound, socially acceptable and economically viable policies, with emphasis on mutual responsibilities and benefits;

Anxious to give a new impulse to the desire for enhanced regional and global cooperation based on mutual respect and confidence;

Resolved to promote long-term energy cooperation at regional and global levels within the framework of a market economy and based on mutual assistance and the principle of non-discrimination, being understood as most-favoured nation treatment as a minimum standard;

Aware that account must be taken of the problems of construction and restructuring faced by a considerable number of countries, and that it is desirable for the signatories to participate in joint efforts aimed at facilitating and promoting market-oriented reforms and modernisation of energy sectors in these countries;

Certain that taking advantage of the complementary features of energy sectors in the markets represented by the signatories will benefit the world economy;

Acknowledging that enhanced energy trade is a powerful catalyst for strengthening regional and international cooperation in energy security and for sustainable use of energy among all stakeholders, including energy producing, transit and consuming countries;

Persuaded that broader energy cooperation among signatories is essential for economic progress and more generally for social development, energy poverty alleviation, and a better quality of life;

Convinced of the signatories' common interest in problems of energy security, safety of industrial plants, including nuclear facilities, and environmental protection;

Willing to do more to attain the objectives of energy security and efficient management and use of resources, and to utilise fully the potential for environmental improvement, in moving towards sustainable development;

Willing to develop cooperation with regional and international organisations for sharing experience and specific examples from national practice in the area of sustainable development, access to modern energy services, energy poverty reduction, green economy, clean energy, energy efficiency, as well as development, introduction and broader use of new clean technologies;

Convinced of the essential importance of efficient energy systems in the production, conversion, transport, distribution and use of energy for energy security and for the protection of the environment;

Convinced that investing in energy efficiency and renewable energies can enhance energy security and contribute to sustainable economic growth;

Encouraging synergies among energy-related multilateral fora;

Aware of the obligations under major relevant multilateral agreements, of the wide range of international energy cooperation, and of the extensive activities by existing international organisations in the energy field and willing to take full advantage of the expertise of these organisations in furthering the objectives of this Charter;

Recognising the role of entrepreneurs, operating within a transparent and equitable legal framework, in promoting cooperation under this Charter;

Determined to promote closer, mutually beneficial commercial relations and investments in the energy field;

Affirming the importance of freedom of movement of energy products, and of developing an efficient international energy infrastructure in order to facilitate the development of stable and transparent trade in energy;

Aware of the need to promote technical and technological cooperation among signatories;

Affirming that the energy policies of signatories are linked by common interests of all countries and that they should be implemented, including by taking the consequent action and applying the principles set out below;

HAVE ADOPTED THE FOLLOWING

TITLE I OBJECTIVES

The signatories are desirous of sustainable energy development, improving energy security and maximising the efficiency of production, conversion, transport, distribution and use of energy, to enhance safety in a manner which would be socially acceptable, economically viable, and environmentally sound.

Recognising the sovereignty of each State over its energy resources, and its rights to regulate energy transmission and transportation within its territory respecting all its relevant international obligations, and in a spirit of political and economic cooperation, they decide to promote the development of efficient, stable and transparent energy markets at regional and global levels based on the principle of non-discrimination and market-oriented price formation, taking into account environmental concerns and the role of energy in each country's national development.

They are determined to create a climate favourable to the operation of enterprises and to the flow of investments and technologies to achieve the above objectives.

To this end, and in line with these principles, they will take action in the following fields:

1. Development of trade in energy consistent with major relevant multilateral agreements such as the WTO Agreement and its related instruments, where applicable, and nuclear non-proliferation obligations and undertakings, which will be achieved by means of:
 - an open and competitive market for energy products, materials, equipment and services;
 - access to energy resources, and exploration and development thereof on a commercial basis;
 - access to national, regional and international markets;
 - providing transparency for all segments of international energy markets (production/export, transit, consumption/import);
 - removal of technical, administrative and other barriers to trade in energy and associated equipment, technologies and energy-related services;
 - promoting the compatibility of national and regional energy systems and to create a common energy space;
 - promotion of the harmonisation of rules, regulations and standards in the field of energy;
 - promoting the realisation of infrastructure projects important for providing global and regional energy security;
 - modernisation, renewal and rationalisation by industry of services and installations for the production, conversion, transport, distribution and use of energy;
 - promoting the development and interconnection of energy transport infrastructure and the regional integration of energy markets;
 - promoting best possible access to capital, particularly through appropriate existing financial institutions;
 - facilitating access to transport infrastructure, for international transit purposes in line with the objectives of this Charter;

- access on commercial terms to technologies for the exploration, development, conversion and use of energy resources;

2. Cooperation in the energy field, which will entail:

- coordination of energy policies, as necessary for promoting the objectives of this Charter;
- exchange of information and experiences relevant for this Charter;
- enhancing capacity building of the countries involved;
- mutual access to technical and economic data, consistent with proprietary rights;
- formulation of stable and transparent legal frameworks creating conditions for the development of energy resources in the context of sustainable development;
- coordination and, where appropriate, harmonisation of safety principles and guidelines for energy products and their transport, as well as for energy installations, at a high level;
- facilitating the exchange of technology information and know-how in the energy and environment fields, including training activities;
- research, technological development, demonstration projects and their commercialisation;
- creating a favourable environment for investments, including joint venture investments, for design, construction and operation of energy installations.

3. Energy efficiency and environmental protection, which will imply:

- creating mechanisms and conditions for using energy as economically and efficiently as possible, including, as appropriate, regulatory and market based instruments;
- encouraging the clean and efficient use of fossil fuels;
- promotion of a sustainable energy mix designed to minimise negative environmental consequences in a cost-effective way through:
 - i. market-oriented energy prices which more fully reflect environmental costs and benefits;
 - ii. efficient and coordinated policy measures related to energy;
 - iii. use of renewable energy sources and clean technologies, including clean fossil fuel technologies;
- achieving and maintaining a high level of nuclear safety and ensuring effective cooperation in this field;
- promotion of cooperation to reduce, as much as possible, gas flaring and venting;
- sharing of best practices on clean energy development and investment;
- promotion and use of low emission technologies.

TITLE II

IMPLEMENTATION

In order to attain the objectives set out above, the signatories will, without prejudice to the sovereignty of each State over its energy resources, and its rights to regulate energy transmission and transportation within its territory respecting all its relevant international obligations, take coordinated action to achieve greater coherence of energy policies, which should be based on the principle of non-discrimination and on market-oriented price formation, taking due account of environmental concerns.

They underline that practical steps to define energy policies are necessary in order to intensify cooperation in this sector and further stress the importance of regular exchanges of views on action taken, taking full advantage of the experience of existing international organisations and institutions in this field.

The signatories recognise that commercial forms of cooperation may need to be complemented by intergovernmental cooperation, particularly in the area of energy policy formulation and analysis, as well as in areas which are essential and not suitable to private capital funding.

They decide to pursue the objectives of this Charter by strengthening and integrating regional energy markets and enhancing the efficient functioning of the global energy market by joint or coordinated action under this Charter in the following fields:

- access to and development of energy sources;
- access to energy markets;
- liberalisation of trade in energy;
- promotion and protection of investments in all energy sectors;
- safety principles and guidelines;
- research, technological development technology transfer, innovation and dissemination;
- energy efficiency, environmental protection and sustainable and clean energy;
- access to sustainable energy;
- education and training;
- diversification of energy sources and routes.

In implementing this joint or coordinated action, they decide to foster private initiative, to make full use of the potential of enterprises, institutions and all available financial sources, and to facilitate cooperation including through technical cooperation, between such enterprises or institutions from different countries, acting on the basis of market principles.

The signatories will ensure that the international rules on the protection of industrial, commercial and intellectual property are respected.

1. Access to and development of energy sources

Considering that efficient development of energy resources is a sine qua non for attaining the objectives of this Charter, the signatories decide to facilitate access to and development of resources by the interested operators. To this end, they will ensure that relevant rules are publicly available and transparent in consistence with domestic legislation and international obligations; they recognise the need to formulate such rules wherever this has not yet been done, and to take all necessary measures to coordinate their actions in this area. Development of energy resources should take place in economic and environmentally sound conditions.

With a view to facilitating the development and diversification of resources, the signatories decide to avoid imposing discriminatory rules on operators, notably rules governing the ownership of resources, internal operation of companies and taxation.

2. Access to markets

The signatories will strongly promote access to national, regional and international markets for energy products for the implementation of the objectives of this Charter. Such access to markets should take account of the need to facilitate the operation of market forces, and promote competition.

3. Liberalisation of trade in energy

In order to develop and diversify trade in energy, the signatories decide progressively to remove the barriers to such trade with each other in energy products, equipment and services in a manner consistent with the provisions of the WTO Agreement and its related instruments, where applicable, and nuclear non-proliferation obligations and undertakings.

They will work together in view of the further development of market-oriented energy prices.

The signatories recognise that transit of energy products through their territories is essential for the liberalisation of trade in energy products. Transit should take place in economic and environmentally and commercially sound conditions.

They stress the importance of the development of international energy transmission networks and their interconnection, including cross-border oil and gas networks and power grids. They recognise the need to intensify efforts to coordinate among themselves, and to encourage cooperation among relevant entities in view of their development, the compatibility of technical specifications governing the installation, and the operation of such networks.

4. Promotion and protection of investments

In order to promote the international flow of investments, the signatories will make every effort to remove all barriers to investment in the energy sector and provide, at national level, for a stable, transparent legal framework for foreign investments, in conformity with the relevant international laws and rules on investment and trade.

They affirm that it is important for the signatory States to enter into bilateral and/or multilateral agreements on promotion and protection of investments which ensure a high level of legal security and enable the use of investment risk guarantee schemes.

The signatories affirm the importance of full access to adequate dispute settlement mechanisms, including national mechanisms and international arbitration in accordance with national laws and regulations, including investment and arbitration laws and rules, all the relevant bilateral and multilateral treaties and international agreements.

Moreover, the signatories recognise the right to repatriate profits or other payments relating to an investment and to obtain or use the convertible currency needed.

They also recognise the importance of the avoidance of double taxation to foster private investment.

5. Safety principles and guidelines

Consistent with relevant major multilateral agreements, the signatories will:

- cooperate to implement safety principles and guidelines, designed to achieve and/or maintain high levels of safety standards and the protection of health and the environment;
- develop such common safety principles and guidelines as are appropriate and/or concur on the mutual recognition of their safety principles and guidelines.

6. Research, technological development technology transfer, innovation and dissemination

The signatories decide to promote exchanges of technology and cooperation on their technological development and innovation activities in the fields of energy production, conversion, transport, distribution and the efficient and clean use of energy, in a manner consistent with nuclear non-proliferation obligations and undertakings.

To this end, they will encourage cooperative efforts on:

- research and development activities;
- pilot or demonstration projects;
- the application of technological innovations;
- the dissemination and exchange of know-how and information on technologies.

7. Energy efficiency, environmental protection and sustainable and clean energy

The signatories confirm that cooperation is necessary in the field of efficient use of energy, development of renewable energy sources and energy-related environmental protection.

This should include:

- ensuring, in a cost-effective manner, consistency between relevant energy policies and environmental agreements and conventions;
- ensuring market-oriented price formation, including a fuller reflection of environmental costs and benefits;
- the use of transparent and equitable market-based instruments designed to achieve energy objectives and reduce environmental problems;
- the creation of framework conditions for the exchange of know-how regarding environmentally sound energy technologies, renewable energy sources and efficient use of energy;

- the creation of framework conditions for profitable investment in energy efficiency and environmental friendly energy projects.

8. Access to sustainable energy

The signatories underline the importance of access to sustainable, modern, affordable, and cleaner energy, in particular in developing countries, which may contribute to energy poverty alleviation.

To this end, the signatories confirm that they will make efforts to strengthen their cooperation and to support initiatives and partnerships at international level which are conducive to these goals.

9. Education and training

The signatories, recognising industry's role in promoting vocational education and training in the energy field, decide to cooperate in such activities, including:

- professional education;
- occupational training;
- public information in the energy efficiency and renewable energy field.

10. Diversification of energy sources and supply routes

The signatories confirm that in order to enhance energy security, energy generation from a diverse set of sources and diversification of supply routes is of significant importance.

TITLE III

SPECIFIC AGREEMENTS

The signatories decide to pursue the objectives and principles of this Charter and implement and broaden their cooperation, including in the following areas:

- horizontal and organisational issues;
- energy efficiency, including environmental protection;
- prospecting, production, transportation and use of oil and oil products and modernisation of refineries;
- prospecting, production and use of natural gas, interconnection of gas networks and transmission via high-pressure gas pipelines;
- all aspects of the nuclear fuel cycle including improvements in safety in that sector;
- modernisation of power stations, interconnection of power networks and transmission of electricity via high-voltage power lines;
- development of integrated regional energy markets;
- all aspects of the coal cycle, including clean coal technologies;
- development of renewable energy sources;
- access to sustainable energy;

- transfers of technology and encouragement of innovation;
- cooperation in dealing with the effects of major accidents, or of other events in the energy sector with transfrontier consequences.

TITLE IV

FINAL PROVISIONS

The original of this Charter will be transmitted to the government of the Netherlands which will retain it in its archives. Each of the signatories will receive from the government of the Netherlands a true copy of the Charter.

The signatories request the Government of the Netherlands to transmit the text of the International Energy Charter, as adopted during the High Level Conference on ... in, along with a note verbal to the Secretary General of the United Nations for his/her information and circulation among all UN Member States. The text of the International Energy Charter will be officially translated in Arabic, Chinese, French, German, Italian, Russian, and Spanish languages and distributed.

Done at The Hague on the [date].....

**Outcome documents of energy-related regional and international conferences
and other events as well as initiatives referred to on page 2**

- The Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects which entered into force on 16 April 1998 establishing an international framework encouraging cooperation in the field of energy efficiency in a way compatible with sustainable development;
- The Plan of Implementation of the World Summit on Sustainable Development adopted in Johannesburg on 4 September 2002, calling for enhancing international and regional cooperation to improve access to reliable, affordable, economically viable, socially acceptable and environmentally sound energy services, as an integral part of poverty reduction programmes, by facilitating the creation of enabling environments and addressing capacity-building needs, with special attention to rural and isolated areas, as appropriate;
- The declaration “Global Energy Security” of the Summit of the G8 in St. Petersburg on 16 July 2006 where the G8 Leaders expressed their support for the principles of the Energy Charter and the efforts of participating countries to improve international energy cooperation;
- The “Riyadh Declaration” of the Third OPEC Summit of 18 November 2007 in which the heads of State and Government underscored the interrelationships between global security of energy supply and security and predictability of demand. They also expressed their decision to strengthen and broaden the dialogue between energy producers and consumers through the relevant/competent international and regional fora, for the benefit of all;
- The Statute of the International Renewable Energy Agency (IRENA), signed at the Conference on the Establishment of the IRENA in Bonn on 26 January 2009, in which the parties express their desire to promote the increased adoption of renewable energy with a view to sustainable development and their firm belief in the vast opportunities offered by renewable energy for addressing and gradually alleviating problems of energy security and volatile energy prices;
- The Joint Statement by the G8 Energy Ministers Meeting in Rome on 25 May 2009, where the G8 Energy Ministers, the European Commissioner for Energy, and the Energy Ministers of Algeria, Australia, Brazil, China, Egypt, India, Indonesia, Korea, Libya, Mexico, Nigeria asked the Energy Charter Secretariat and International Financial Institutions to prepare a strategy for the development of energy networks and corridors assuring transit towards the integration of national energy markets in Africa, while identifying financing mechanisms;
- The Rome Statement adopted by the Energy Charter Conference on 9 December 2009 to address global energy challenges in the framework of the modernisation of the Energy Charter Process;

- The Agreements of the United Nations Climate Change Conference reached in Cancun on 11 December 2010, in which the international community agreed on a set of significant decisions to address the long-term challenge of climate change collectively and comprehensively and that the parties should take urgent action to meet this long-term goal with a view to reducing global greenhouse gas emissions so as to hold the increase in global average temperature below 2°C above pre-industrial levels;
- The International Energy Forum Charter approved and signed at the IEF Ministerial Meeting held in Riyadh on 22 February 2011 demonstrating a reinforced political commitment to an open global energy dialogue among the energy consuming and energy producing members of the IEF, including transit States, in order to ensure global energy security;
- The objectives under the global “Sustainable Energy for All” (SE4All) initiative of the UN of September 2011 and the “2014-2024 World Decade for Sustainable Energy” aiming to achieve universal energy access, improve energy efficiency and increase the use of renewable energy;
- The objectives under the “EU-Africa Energy Partnership”;
- The Doha Declaration adopted at the First Summit of the Gas Exporting Countries Forum on 15 November 2011, which called for promotion and development of new and effective channels of dialogue between natural gas producers and consumers, through international and regional energy organisations and for a, for the purpose of ensuring technology transfer, market transparency, stability, and growth for the benefit of all.
- The conclusions of the Council of the European Union of 24 November 2011 on strengthening the external dimension of the EU energy policy where EU called for a need of geographical enlargement of Energy Charter Treaty which will aim at strengthening the role of the Treaty as a global instrument, recognised as the basis for international energy regulation in its main fields of competence;
- The Outcome Document entitled ‘The Future We Want’ which was endorsed by the UN Conference on Sustainable Development of 22 June 2012 and was annexed in the UN General Assembly Resolution 66/288, which recognised the critical role that energy plays in the development process, as access to sustainable modern energy services contributes to poverty eradication, saves lives, improves health and helps provide basic human needs;
- “The St. Petersburg Resolution” of the 2012 APEC Energy Ministerial Meeting on 24-25 June 2012, in which APEC Energy Ministers recognise that enhancing energy security requires concerted action in many areas and commit to continue their efforts to improve the sustainability, efficiency, predictability and transparency of traditional energy markets;
- The OSCE Parliamentary Assembly Resolution “Promotion and use of new and renewable sources of energy” adopted at the 21st OSCE PA Annual Session in Monaco on 9 July 2012, stressing the crucial role of energy security in the new security environment and the imperative need for fairness and transparency, in accordance with international law and the European Energy Charter;

- The Final Document of the 16th Summit of Heads of State or Government of Non-Aligned Movement, which took place on 26-31 August 2012 in Teheran, in which the Heads of State or Government stressed the importance of enhancing international Cooperation through partnership in all forms of energy including clean and renewable Energy. They called upon the developed countries to transfer more efficient and environmentally sound technologies to developing countries, and for the United Nations to promote and facilitate this;
- The Concluding Declaration of the Rabat Energy Forum of 21 September 2012 in which the Energy Charter was recognised as an efficient instrument to contribute and strengthen energy cooperation in the MENA region;
- UN General Assembly Resolution 67/263 “Reliable and stable transit of energy and its role in ensuring sustainable development and international cooperation” adopted on 17 May 2013, noting that stable, efficient and reliable energy transportation, as a key factor of sustainable development, is in the interest of the entire international community, and welcoming the efforts at the national, bilateral, sub-regional, regional and international levels in building energy transportation systems and facilitating the trade of energy resources to promote sustainable development;
- The Ministerial declaration on regional cooperation for enhanced energy security and the sustainable use of energy in Asia and the Pacific adopted on the Asian and Pacific Energy Forum in Vladivostok, Russian Federation, on 30 May 2013 where energy security is recognised as a key development issue for all countries in the Asia-Pacific region and the crucial importance of energy as a prerequisite to poverty eradication and ensuring economic growth is stressed;
- The Leader’s Declaration of the Summit of the G20 in St. Petersburg on 5-6 September 2013 expressing their commitment to enhance energy cooperation, to make energy market data more accurate and available and to take steps to support the development of cleaner and more efficient energy technologies to enhance the efficiency of markets and shift towards a more sustainable energy future.
