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From:	General Secretariat of the Council
To:	Delegations
Subject:	Explanatory note on DE position on provisions on adaptation to climate change in the Governance Regulation

Delegations will find in the annex a DE explanatory note on adaptation in the context of the Governance Regulation.

## **Explanatory note on DE position on provisions on adaptation to climate change in the Governance Regulation**

September 2017

Germany in general supports the proposed binding and detailed structure of the national energy and climate plans and progress reports of the Commission. However, we believe it is important to also make sure that the Member States will not be subject to new planning and reporting obligations that do not serve the objectives of the Energy Union.

Against this background, Germany cannot support the proposed integration of adaptation aspects into the national integrated energy and climate plans, the corresponding reporting obligation as well as the assessment of national adaptation activities by the Commission.

In our view the requirements on adaptation are not linked to the achievement of the EU's energy and climate targets. At the same time, the Commission proposal for a Governance Regulation would imply a substantial extension of the existing legal scope concerning adaptation.

There are currently no compulsory adaptation targets either at EU level, or at the UNFCCC level. Under the Paris Climate Agreement the EU has opposed the establishment of quantitative adaptation objectives as a compulsory part of nationally defined contributions. Quantitative targets are not appropriate for adaptation. Suitable adaptation measures result from the specific predicted impacts of climate change, differ from region to region and require an individual approach. The effectiveness of adaptation measures can only be measured over long time periods. Accordingly, biannual reporting requirements are not suitable.

Germany would prefer the reporting on adaptation to continue to be regulated separately and apart from the national energy and climate plans and progress reports.

The Commission proposal makes national planning in the area of adaptation to climate change an integral element of integrated national energy and climate plans (Article 3 (1), Article 4 (a) (1) (iv), Annex I paragraph 3.1.3.) and integrated national energy and climate progress reports (Article 15 (2) (d)). As a consequence, national adaptation plans would be subject to the review mechanisms of the European Commission (Articles 25 and following). In contrast to the field of energy and climate policy, however, under the existing legal framework of the EU there are no requirements for national adaptation plans that could be the basis for reviews by the Commission. Germany and a large majority of Member States opposed earlier considerations by the European Commission for drawing up a directive laying down

requirements for national adaptation plans in the context of the consultations and the impact assessment for the communication “An EU-Strategy for Adaptation to Climate Change”, finally published in April 2013 without such a proposal. The Member States made it clear that they consider adaptation to climate change being the responsibility of the Member States.

However, we see the need to enable the Commission to fulfil the EU’s reporting obligations as party to the UNFCCC and the Paris Agreement and to provide information about its Member States’ adaptation policies, also in cooperation with the EEA (see Article 35 (e)). For this reason we propose to include the provisions laid out in Article 15 of the Monitoring Mechanism Regulation (Regulation (EU) No 525/2013) regarding reporting on national adaptation planning and strategies into the Governance Regulation.

In the following, proposals for amending provisions regarding adaptation to climate change of the Governance Regulation are made.

### **Proposed changes**

#### **Delete paragraph 3.1.3 ii of Annex I**

##### **Rationale**

**Article 3 (1)** in conjunction with **Annex I paragraph 3.1.3 ii** makes “strategies, plans and measures on adaptation” integral elements of integrated national energy and climate plans. **Paragraph 3.1.3 ii of Annex I should therefore be deleted.** Deleting this paragraph would also cancel out the applicability of **Articles 7 to 13** regarding adaptation to climate change, since it would no longer be an obligatory element of the integrated national energy and climate plans.

#### **Delete reference to adaptation in Article 4 (a) (1) (iv)**

##### *Article 4*

*National objectives, targets and contributions for each of the five dimensions of the Energy Union*

*Member States shall set out in their integrated national energy and climate plan the following main objectives, targets and contributions, as specified in Section A.2. of Annex I:*

*(a) as regards the dimension "Decarbonisation":*

*(1) with respect to greenhouse gas emissions and removals and with a view to contributing to the achievement of the economy wide EU greenhouse gas emissions reduction target:*

*(...)*

*iv. where applicable, other objectives and targets, including sector targets ~~and adaptation goals~~;*

#### Rationale

Article 4 (a) (1) (iv) would obligate member states to set out national adaptation targets in their integrated national energy and climate plans. Since we reject the inclusion of adaptation plans in the integrated energy and climate plans, this provision should be **deleted**.

#### **Delete Article 15 (2) (d)**

##### *Article 15*

##### *Integrated National Energy and Climate Progress Reports*

*(...)*

*2. The report referred to in paragraph 1 shall cover the following elements:*

*(...);*

~~*(d) information on national climate change adaptation planning and strategies in accordance with Article 17(1);*~~

#### Rationale

Article 15 (2) (d) makes information on national climate change adaptation planning and strategies a mandatory element of reporting to the Commission. **Article 17 (1) in conjunction with Annex VI Part I** specifies reporting obligations on adaptation with regard to contents and deadlines. We cannot support the inclusion of adaptation to climate change in the progress reports. These reports will form the basis for the Commission's assessment of progress pursuant to Article 25 and the related possibilities for the Commission to draw up recommendations to the Member States pursuant to Article 28.

#### **Amendment of Article 17 (1) and (4), deletion of Annex VI Part I**

##### Article 17

##### *Integrated National Energy and Climate Progress Reports*

~~*1. By 15 March 2021, and every two years thereafter, Member States shall report to the Commission information on their national climate change adaptation planning and strategies, outlining their implemented or planned actions to facilitate adaptation to climate change, in accordance with the reporting requirements agreed upon under the UNFCCC and the Paris Agreement, including the information specified in Part 1 of Annex VI.*~~

*4. The Commission shall adopt implementing acts ... reporting of information pursuant to para 2 of this Article ...*

## *Annex VI Part I - Delete*

### Rationale

Deleting Article 15 (2) (d) would basically also render Article 17 (1) in conjunction with Annex VI Part I obsolete. However, with a view to enabling the Commission to fulfil the EU's reporting obligations as party to the UNFCCC and the Paris Agreement the existing reporting requirement under Article 15 of the MMR regulation could be transferred to article 17 of the Governance. The information requirements should be in line with agreed reporting requirements under UNFCCC and the Paris Agreement and should not go beyond. The level of detail in Annex VI goes well beyond the so far existing requirements. By including a general reference to existing and future requirements under the UNFCCC and the Paris Agreement a delegation of competences to the Commission for adopting implementing acts concerning reporting on adaptation becomes obsolete and therefore should be restricted to para 2 of Article 17.