



Plenary sitting

A8-0305/2016

18.10.2016

*****I**
REPORT

on the proposal for a decision of the European Parliament and of the Council on establishing an information exchange mechanism with regard to intergovernmental agreements and non-binding instruments between Member States and third countries in the field of energy and repealing Decision No 994/2012/EU
(COM(2016)0053 – C8-0034/2016 – 2016/0031(COD))

Committee on Industry, Research and Energy

Rapporteur: Zdzisław Krasnodębski

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a decision of the European Parliament and of the Council on establishing an information exchange mechanism with regard to intergovernmental agreements and non-binding instruments between Member States and third countries in the field of energy and repealing Decision No 994/2012/EU (COM(2016)0053 – C8-0034/2016 – 2016/0031(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0053),
 - having regard to Article 294(2) and Article 194(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0034/2016),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy and the opinions of the Committee on Foreign Affairs and the Committee on International Trade (A8-0305/2016),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a decision

Recital 1

Text proposed by the Commission

(1) The proper functioning of the internal energy market requires that the energy imported into the Union be fully governed by the rules establishing the internal energy market. An internal energy market that does not function properly puts the Union in a vulnerable and

Amendment

(1) The proper functioning of the internal energy market requires that the energy imported into the Union be fully governed by the rules establishing the internal energy market. ***Transparency and compliance with Union law represents an important element in ensuring energy***

disadvantageous position with regard to security of energy supply, and undermines its potential benefits to European consumers and industry.

stability of the Union. An internal energy market that does not function properly puts the Union in a vulnerable and disadvantageous position with regard to security of energy supply, and undermines its potential benefits to European consumers and industry.

Amendment 2

Proposal for a decision Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) In order to safeguard the Union's energy supply, it is necessary to diversify energy sources and build new energy interconnections between Member States. At the same time, it is essential to increase cooperation with regard to energy-security with the Union's neighbouring countries, with strategic partners and also among the Union institutions.

Amendment 3

Proposal for a decision Recital 2

Text proposed by the Commission

Amendment

(2) The objective of the Energy Union Strategy, as adopted by the Commission on 25 February 2015³, is to give consumers secure, sustainable, competitive and affordable energy. More precisely, the Energy Union Strategy emphasizes that full compliance of agreements related to the buying of energy from third countries with Union law is an important element in ensuring energy security, building on the analysis already carried out in the European Energy Security Strategy of May 2014⁴. In the same spirit, the European

(2) The objective of the Energy Union Strategy, as adopted by the Commission on 25 February 2015³, is to give consumers secure, sustainable, competitive and affordable energy. ***This can be achieved when energy, trade and external policies are pursued in a coherent and consistent manner.*** More precisely, the Energy Union Strategy emphasizes that full compliance of agreements related to the buying of energy from third countries with Union law is an important element in ensuring energy security, building on the analysis already

Council in its conclusions of 19 March 2015 called for full compliance with Union law of all agreements related to the buying of gas from external suppliers, notably by reinforcing transparency of such agreements and compatibility with Union energy security provisions.

carried out in the European Energy Security Strategy of May 2014⁴. In the same spirit, the European Council in its conclusions of 19 March 2015 called for full compliance with Union law of all agreements related to the buying of gas from external suppliers, notably by reinforcing transparency of such agreements and compatibility with Union energy security provisions. ***The Commission should therefore attempt, within its areas of competence and subject to the principles of subsidiarity and proportionality, to ensure that dominant gas suppliers in a region do not abuse their position in breach of Union competition rules, with particular reference to unfair prices charged in Member States as well as to the use of interruptions in supplies for economic and political blackmail.***

³ COM(2015)80.

⁴ COM (2014)330.

³ COM(2015)0080.

⁴ COM (2014)0330.

Amendment 4

Proposal for a decision Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) The European Parliament, in its resolution of 15 December 2015 entitled Towards a European Energy Union^{1a}, stressed the need to enhance the coherence of the Union's external energy security and greater transparency in energy-related agreements.

^{1a} ***Texts adopted P8_TA(2015)0444.***

Amendment 5

Proposal for a decision Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) A high degree of transparency with regard to agreements between Member States and third countries in the field of energy allows the Union to take coordinated action, in the spirit of solidarity, in order to ensure that such agreements comply with Union law and effectively secure energy supply. Such transparency should also be of benefit in achieving both closer intra-Union cooperation in the field of external energy relations and the Union's long-term policy objectives relating to energy, climate and security of energy supply.

Amendment 6

Proposal for a decision Recital 5

Text proposed by the Commission

Amendment

(5) In order to avoid any ***incompliance*** with Union law and enhance transparency, Member States should inform the Commission of their intent to enter into negotiations with regard to new intergovernmental agreements or amendments to existing intergovernmental agreements as soon as possible. The Commission should be kept informed regularly of the progress of the negotiations. Member States should have the possibility to invite the Commission to participate in the negotiations as an observer.

(5) In order to avoid any ***non-compliance*** with Union law and ***provisions relating to Union energy security, and to*** enhance transparency, Member States should inform the Commission of their intent to enter into negotiations with regard to new intergovernmental agreements or amendments to existing intergovernmental agreements as soon as possible. The Commission should be kept informed regularly ***and adequately*** of the progress of the negotiations. ***The Commission should participate in the negotiations as an observer if it considers this to be necessary in light of the functioning of the internal energy market or the security of energy supply in the Union.*** Member States should, ***in any event***, have the

possibility to invite the Commission to participate in the negotiations as an observer.

Amendment 7

Proposal for a decision Recital 6

Text proposed by the Commission

(6) During the negotiations the Commission should ***have the possibility to advise*** on how to ***avoid incompatibility*** with Union law. In particular, the Commission ***could*** develop, together with Member States, optional model clauses or guidelines. The Commission should have the possibility to draw attention to the Union's energy policy objectives and the principle of solidarity between Member States and Union policy positions adopted in Council or European Council conclusions.

Amendment

(6) During the negotiations ***of an intergovernmental agreement*** the Commission should ***advise the Member State concerned*** on how to ***ensure compliance*** with Union law. In particular, the Commission ***should*** develop, together with Member States, optional model clauses or guidelines ***and examples of draft clauses that should, in principle, be avoided. Such model clauses or guidelines should serve as a tool of reference for the competent authorities and increase transparency and compliance with Union law.*** The Commission should have the possibility to draw attention ***of the Member State concerned*** to the ***relevant*** Union's energy policy objectives and the principle of solidarity between Member States and Union policy positions adopted in Council or European Council conclusions.

Amendment 8

Proposal for a decision Recital 7

Text proposed by the Commission

(7) In order to ensure compliance with Union law, Member States should notify the draft intergovernmental agreement to the Commission before it becomes legally binding for the parties (ex-ante). In a spirit of cooperation, the Commission should support the Member State in identifying

Amendment

(7) In order to ensure compliance with Union law ***and to respect the objectives of the Energy Union Strategy,*** Member States should notify the draft intergovernmental agreement to the Commission ***as early as possible*** before it becomes legally binding for the parties (ex-

compliance issues of the draft intergovernmental agreement or amendment. The respective Member State would then be better prepared to conclude a Union law compliant agreement. The Commission should have sufficient time for such an assessment in order to provide for as much legal certainty as possible while avoiding undue delays. In order to fully benefit from the Commission's support Member States should refrain from concluding an intergovernmental agreement until the Commission has informed the Member State of its assessment. ***The Member States should take all necessary steps to find a suitable solution to eliminate the incompatibility identified.***

ante). In a spirit of cooperation, the Commission should support the Member State in identifying ***potential*** compliance issues of the draft intergovernmental agreement or amendment. The respective Member State would then be better prepared to conclude a Union law compliant agreement. The Commission should have sufficient time for such an assessment in order to provide for as much legal certainty as possible while avoiding undue delays. ***The Commission should consider shortening the periods provided for its assessment, in particular if a Member State so requests.*** In order to fully benefit from the Commission's support Member States should refrain from concluding an intergovernmental agreement until the Commission has informed the Member State of its assessment. ***Such an assessment should not prejudice the substance or content of intergovernmental agreements, but should ensure that they comply with Union law. In the event of incompatibility, Member States should find a suitable solution to eliminate the incompatibility identified.***

Amendment 9

Proposal for a decision

Recital 8

Text proposed by the Commission

(8) In light of the Energy Union Strategy, transparency with regard to past and future intergovernmental agreements continues to be of utmost importance. Therefore, Member States should continue notifying to the Commission existing and future intergovernmental agreements, whether they have entered into force or are being applied provisionally within the meaning of Article 25 of the Vienna Convention on the Law of Treaties, and new intergovernmental agreements.

Amendment

(8) In light of the Energy Union Strategy, transparency with regard to past and future intergovernmental agreements continues to be of utmost importance ***and is an important element in ensuring the Union's energy stability.*** Therefore, Member States should continue notifying to the Commission existing and future intergovernmental agreements, whether they have entered into force or are being applied provisionally within the meaning of Article 25 of the Vienna Convention on the Law of Treaties, and new

intergovernmental agreements.

Amendment 10

Proposal for a decision

Recital 9

Text proposed by the Commission

(9) The Commission should assess the compatibility *with Union law* of intergovernmental agreements that entered into force or are applied provisionally prior to the entry into force of this Decision and inform the Member States accordingly. In the event of incompatibility, *Member States should take all necessary steps to find a suitable solution to eliminate the incompatibility identified.*

Amendment

(9) The Commission should assess the compatibility of intergovernmental agreements *with Union law* that entered into force or are applied provisionally prior to the entry into force of this Decision and inform the Member States accordingly. *Such an assessment should not in any way prejudice the substance or content of agreements, but should ensure they comply with Union law.* In the event of incompatibility, Member States should find a suitable solution to eliminate the incompatibility identified.

Amendment 11

Proposal for a decision

Recital 10

Text proposed by the Commission

(10) This Decision should only apply to intergovernmental agreements that have *an* impact on the internal energy market or the security of energy supply in the Union. In case of doubt, Member States should consult the Commission. In principle, agreements that are no longer in force or are no longer applied *do not have an impact on the internal energy market or on the security of energy supply in the Union and* should therefore not be covered by this Decision.

Amendment

(10) This Decision should only apply to intergovernmental agreements that have *a potential* impact on the internal energy market or the security of energy supply in the Union. *It may concern the purchase, trade, transit, sale, storage or supply of energy in or to at least one Member State, or the construction or operation of energy infrastructure with a physical connection to at least one Member State.* In the case of doubt Member States should consult the Commission *without delay*. In principle, agreements that are no longer in force or are no longer applied should therefore not be covered by this Decision.

Amendment 12

Proposal for a decision Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) The fact that an instrument, or of parts thereof, is legally binding and not its formal designation should determine whether it qualifies as an intergovernmental agreement or, where it is not legally binding, as a non-binding instrument, for the purposes of this Decision.

Justification

It is important to underline that it is the content which determines the nature of the document and not its formal designation.

Amendment 13

Proposal for a decision Recital 11

Text proposed by the Commission

Amendment

(11) Member States establish relations to third countries not only by concluding intergovernmental agreements, but also in the form of non-binding instruments. Even if legally non-binding, such instruments can be used to set out a detailed framework for energy infrastructure and energy supply. In this respect non-binding instruments can have similar impacts on the internal energy market as intergovernmental agreements as their implementation might result in a violation of Union law. In order to ensure greater transparency regarding all measures applied by Member States that can have an impact on the internal energy market and energy security, Member States should therefore submit to the Commission, *ex*

(11) Member States establish relations to third countries not only by concluding intergovernmental agreements, but also in the form of non-binding instruments. Even if legally non-binding, such instruments can be used to set out a detailed framework for energy infrastructure and energy supply. In this respect non-binding instruments can have similar impacts on the internal energy market as intergovernmental agreements as their implementation might result in a violation of Union law. In order to ensure greater transparency regarding all measures applied by Member States that can have an impact on the internal energy market and energy security, Member States should therefore submit to the Commission, *ex-*

post, also the respective non-binding instruments. The Commission should assess the submitted non-binding instruments and, if appropriate, inform the Member State accordingly.

ante, also the respective non-binding instruments. The Commission should assess the submitted non-binding instruments and, if appropriate, inform the Member State accordingly.

Amendment 14

Proposal for a decision Recital 12

Text proposed by the Commission

(12) Intergovernmental agreements or non-binding instruments which need to be notified in their entirety to the Commission on the basis of other Union acts or concern matters *such as* within the purview of the Treaty establishing the European Atomic Energy Community should not be covered by this Decision.

Amendment

(12) Intergovernmental agreements or non-binding instruments which need to be notified in their entirety to the Commission on the basis of other Union acts or concern matters within the purview of the Treaty establishing the European Atomic Energy Community should not be covered by this Decision.

Amendment 15

Proposal for a decision Recital 13

Text proposed by the Commission

(13) This Decision should not create obligations as regards agreements between undertakings. However, Member States should be *free* to communicate to the Commission, *on a voluntary basis*, such agreements that are referred to explicitly in intergovernmental agreements or non-binding instruments.

Amendment

(13) This Decision should not create obligations as regards agreements *that are concluded solely* between undertakings. However, *subject to fully respecting commercially sensitive information* Member States should be *obliged* to communicate to the Commission agreements that are concluded solely between undertakings *where they* are referred to explicitly in intergovernmental agreements or non-binding instruments.

Amendment 16

Proposal for a decision Recital 14

Text proposed by the Commission

(14) The Commission should make information it receives available to all other Member States in secure electronic form. The Commission should respect requests from Member States to treat information submitted to it as confidential. Requests for confidentiality should, however, not restrict access of the Commission itself to confidential information, as the Commission needs to have comprehensive information for its own assessments. The Commission should be responsible for guaranteeing the application of the confidentiality clause. Requests for confidentiality should be without prejudice to the right of access to documents as provided for in Regulation (EC) No 1049/2001 of the European Parliament and of the Council¹¹.

¹¹ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 299, 27.10.2012, p. 13).

Amendment 17

Proposal for a decision Recital 15

Text proposed by the Commission

(15) If a Member State considers an intergovernmental agreement to be confidential, it should provide the Commission with a summary *of it* for the

Amendment

(14) The Commission should make information it receives *on intergovernmental agreements and non-binding instruments* available to all other Member States in secure electronic form *in order to enhance coordination and transparency between Member States and thus leveraging their negotiation power vis-à-vis third countries*. The Commission should respect requests from Member States to treat information submitted to it as confidential. Requests for confidentiality should, however, not restrict access of the Commission itself to confidential information, as the Commission needs to have comprehensive information for its own assessments. The Commission should be responsible for guaranteeing the application of the confidentiality clause. Requests for confidentiality should be without prejudice to the right of access to documents as provided for in Regulation (EC) No 1049/2001 of the European Parliament and of the Council¹¹.

¹¹ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 299, 27.10.2012, p. 13).

Amendment

(15) If a Member State considers an intergovernmental agreement to be confidential, it should provide the Commission with a summary *containing*

purposes of sharing that summary with the other Member States.

its main elements and relevant clauses, including restrictions, for the purposes of sharing that summary with the other Member States.

Amendment 18

Proposal for a decision

Recital 16

Text proposed by the Commission

(16) A permanent exchange of information on intergovernmental agreements at Union level should enable best practices to be developed. On the basis of those best practices, the Commission, where appropriate in cooperation with the European External Action Service as regards the Union's external policies, should develop optional model clauses to be used in intergovernmental agreements between Member States and third countries. The use of such model clauses should *aim to avoid conflicts of* intergovernmental agreements with Union law, *in particular internal energy market rules and competition law*, and conflicts with international agreements concluded by the Union. Their use should be optional, and it should be possible to adapt their content to any particular circumstance.

Amendment

(16) A permanent exchange of information on intergovernmental agreements at Union level should enable best practices to be developed. On the basis of those best practices, the Commission *in cooperation with Member States, and* where appropriate in cooperation with the European External Action Service as regards the Union's external policies, should develop optional model clauses to be used in intergovernmental agreements between Member States and third countries, *as well as a list of examples of clauses that do not respect Union law or the objectives of the Energy Union that should in principle be avoided*. The use of such model clauses should *ensure compliance of* intergovernmental agreements with Union law and conflicts with international agreements concluded by the Union. Their use should be optional, and it should be possible to adapt their content *and structure* to any particular circumstance.

Amendment 19

Proposal for a decision

Recital 17

Text proposed by the Commission

(17) The improved mutual knowledge of existing and new intergovernmental agreements and non-binding instruments

Amendment

(17) The improved mutual knowledge of existing and new intergovernmental agreements and non-binding instruments

should *allow for better* coordination in energy matters between Member States and between Member States and the Commission. Such improved coordination should enable Member States to benefit fully from the political and economic weight of the Union and enable the Commission to *propose solutions for problems identified* in the *area of intergovernmental agreements*.

should *enhance transparency and* coordination in energy matters between Member States and between Member States and the Commission. *Enhanced transparency and coordination is especially important for Member States relying on the interconnections with a Member State negotiating an intergovernmental agreement*. Such improved coordination should enable Member States to benefit fully from the political and economic weight of the Union, *increase their negotiation power vis-à-vis third countries* and enable the Commission to *ensure security of energy supply* in the *Union*.

Amendment 20

Proposal for a decision Recital 18

Text proposed by the Commission

(18) The Commission should facilitate and *encourage* coordination between Member States with a view to enhancing the overall strategic role of the Union through a *strong* and effective coordinated approach to producer, transit, and consumer countries.

Amendment

(18) The Commission should facilitate and *ensure* coordination between Member States with a view to enhancing the overall strategic role *in the field of energy* of the Union through a *well-defined* and effective *long-term* coordinated approach to producer, transit, and consumer countries.

Amendment 21

Proposal for a decision Article 1 – paragraph 1

Text proposed by the Commission

1. This Decision establishes a mechanism for the exchange of information between Member States and the Commission with regard to intergovernmental agreements and non-binding instruments in the field of energy

Amendment

1. This Decision establishes a mechanism for the exchange of information between Member States and the Commission with regard to intergovernmental agreements and non-binding instruments in the field of energy

as defined in Article 2, in order to optimise the functioning of the internal energy market.

as defined in Article 2, in order to optimise the functioning of the internal energy market *and to ensure security of supply to the Union and to help achieve the goals of the Energy Union Strategy.*

Amendment 22

Proposal for a decision Article 2 – paragraph 1 – point 1

Text proposed by the Commission

(1) ‘intergovernmental agreement’ means any legally binding agreement between one or more Member States and one or more third countries having an impact on the operation or the functioning of the internal energy market or on the security of energy supply in the Union; however, where such a legally binding agreement also covers other issues, only those provisions that relate to energy, including general provisions applicable to those energy-related provisions, are deemed to constitute an ‘intergovernmental agreement’;

Amendment

(1) ‘intergovernmental agreement’ means any legally binding agreement, ***regardless of its formal designation,*** between one or more Member States and one or more third countries, ***including international organisations, companies in which a third country is the major stakeholder and companies in which the third country has a major influence in the decision-making process,*** having a ***potential*** impact on the operation or the functioning of the internal energy market or on the security of energy supply in the Union ***and which may concern the purchase, trade, sale, transit, storage or supply of energy in or to at least one Member State, or the construction or operation of energy infrastructure with a physical connection to at least one Member State;*** however, where such a legally binding agreement also covers other issues, only those provisions that relate to energy, including general provisions applicable to those energy-related provisions, are deemed to constitute an ‘intergovernmental agreement’;

Amendment 23

Proposal for a decision Article 2 – paragraph 1 – point 3

Text proposed by the Commission

(3) ‘non-binding instrument’ means a legally non-binding arrangement between one or more Member States and one or more third countries, such as a memorandum of understanding, joint declaration, ministerial joint declaration, joint action or joint code of conduct, which contains interpretation of Union law, sets the conditions for energy supply (such as volumes and prices) or the development of energy infrastructures;

Amendment

(3) ‘non-binding instrument’ means a legally non-binding arrangement between one or more Member States and one or more third countries, such as a memorandum of understanding, joint declaration, ministerial joint declaration, joint action or joint code of conduct, which contains interpretation of Union law, sets the conditions for energy supply (such as volumes and prices) or the development **or operation** of energy infrastructures;

Amendment 24

Proposal for a decision

Article 3 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Where the Member State **gives** the Commission such notice of negotiations, the Member State concerned **should** keep the Commission regularly informed of the progress of the negotiations.

Amendment

Once the Member State **has given** the Commission such notice of negotiations, the Member State concerned **shall** keep the Commission regularly informed of the progress of the negotiations.

Amendment 25

Proposal for a decision

Article 3 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

The information provided to the Commission shall include indications of the provisions to be addressed in the negotiations, the objectives of the negotiations and other relevant information in accordance with confidentiality provisions as set out in Article 8.

Amendment 26

Proposal for a decision
Article 3 – paragraph 2 – subparagraph 2 b (new)

Text proposed by the Commission

Amendment

The Commission shall make the information received, with the exception of confidential parts identified in accordance with Article 8, and any note regarding the incompatibility with Union law accessible to all Member States in order to ensure that the objectives of the Energy Union are achieved.

Amendment 27

Proposal for a decision
Article 3 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

Where the ratified intergovernmental agreement or amendment to the intergovernmental agreement refers explicitly to other texts, the Member State concerned shall also submit those other texts in so far as they contain ***elements which may have an impact on the functioning*** of the ***internal energy market or on the security of energy supply in the Union***.

Where the ratified intergovernmental agreement or amendment to the intergovernmental agreement refers explicitly to other texts, the Member State concerned shall also submit those other texts in so far as they contain ***any*** of the ***elements listed in Article 2(1)***.

Amendment 28

Proposal for a decision
Article 3 – paragraph 4

Text proposed by the Commission

Amendment

4. The obligation to notify to the Commission according to paragraphs 2 and 3 ***does*** not apply in respect of agreements between undertakings.

4. The obligation to notify to the Commission according to paragraphs 2 and 3 ***shall*** not apply in respect of agreements ***that are concluded solely*** between undertakings.

In the case of doubt as to whether an agreement constitutes an

intergovernmental agreement or an existing intergovernmental agreement and thus whether it is to be notified in accordance with Articles 3 and 6, Member States shall consult the Commission without delay.

Amendment 29

Proposal for a decision Article 4 – paragraph 1

Text proposed by the Commission

1. Where a Member State gives the Commission notice of negotiations pursuant to Article 3(1), the Commission services *may* provide it with advice on how to *avoid the incompatibility of* the intergovernmental agreement or *of* the amendment to an existing intergovernmental agreement under negotiation *with Union law. That Member State may also request the assistance of the Commission in those negotiations.*

Amendment

1. Where a Member State gives the Commission notice of negotiations pursuant to Article 3(1), the Commission services *shall* provide it with advice *and guidelines* on how to *ensure that* the intergovernmental agreement or the amendment to an existing intergovernmental agreement under negotiation *comply with Union law and the Union's energy security objectives.*

Amendment 30

Proposal for a decision Article 4 – paragraph 2

Text proposed by the Commission

2. *At the request of the Member State concerned, or at the request of the Commission and with the written approval of the Member State concerned, the Commission may participate in the negotiations as an observer.*

Amendment

2. *Where the Commission considers it to be necessary in view of the functioning of the internal energy market or the security of energy supply in the Union, it shall participate in the negotiations as an observer without limiting Member States' freedom of negotiations. A Member State concerned may also request the assistance of the Commission in the negotiations.*

Amendment 31

Proposal for a decision Article 4 – paragraph 3

Text proposed by the Commission

3. *Where the Commission participates in the negotiations as an observer, it may provide the Member State concerned with advice on how to avoid the incompatibility of the intergovernmental agreement or amendment under negotiation with Union law.*

Amendment

3. *In the course of the negotiations, the Commission shall provide the Member State concerned with advice on how to ensure that the intergovernmental agreement or amendment under negotiation complies with Union law and respects Energy Union objectives. Commission representatives shall handle sensitive information received during the negotiations with due confidentiality.*

Amendment 32

Proposal for a decision Article 5 – paragraph 1

Text proposed by the Commission

1. The Commission shall, within *six* weeks of the date of notification of the complete draft intergovernmental agreement or amendment, including annexes thereto, pursuant to Article 3(2), inform the Member State concerned of any doubts it may have as to the compatibility of the draft intergovernmental agreement or amendment with Union law, *in particular with internal energy market legislation and Union competition law*. In the absence of a response from the Commission within that period, the Commission shall be deemed not to have any such doubts.

Amendment

1. The Commission shall, within *four* weeks of the date of notification of the complete draft intergovernmental agreement or amendment, including annexes thereto, pursuant to Article 3(2), inform the Member State concerned of any doubts it may have as to the compatibility of the draft intergovernmental agreement or amendment with Union law. In the absence of a response from the Commission within that period, the Commission shall be deemed not to have any such doubts.

Amendment 33

Proposal for a decision Article 5 – paragraph 2

Text proposed by the Commission

2. Where the Commission informs the Member State *concerned* pursuant to paragraph 1 that it *has doubts, it shall inform the Member State concerned of its opinion on the compatibility* with Union law, *in particular with internal energy market legislation and Union competition law, of the draft intergovernmental agreement or amendment concerned* within 12 weeks of the date of notification referred to in paragraph 1. In the absence of an opinion from the Commission within that period, the Commission shall be deemed not to have raised any objections.

Amendment

2. Where the Commission informs the Member State concerned pursuant to paragraph 1 that it *finds an intergovernmental agreement or amendment to be incompatible* with Union law, *it shall provide the Member State with a detailed opinion* within 12 weeks of the date of notification referred to in paragraph 1. In the absence of an opinion from the Commission within that period, the Commission shall be deemed not to have raised any objections.

Amendment 34

Proposal for a decision Article 5 – paragraph 3

Text proposed by the Commission

3. With the approval of the Member State concerned, the periods referred to in paragraphs 1 and 2 may be extended. The periods referred to in paragraphs 1 and 2 shall be shortened in agreement with the Commission if circumstances so warrant.

Amendment

3. With the approval of the Member State concerned, the periods referred to in paragraphs 1 and 2 may be extended. The periods referred to in paragraphs 1 and 2 shall be shortened in agreement with the Commission if circumstances so warrant, *in order to ensure that the negotiations are concluded in due time.*

Amendment 35

Proposal for a decision Article 5 – paragraph 4 – subparagraph 2

Text proposed by the Commission

When signing, ratifying or agreeing to an intergovernmental agreement or amendment, the Member State concerned shall **take utmost account of** the Commission's opinion referred to in paragraph 2.

Amendment

Before signing, ratifying or agreeing to an intergovernmental agreement or amendment, the Member State concerned shall **demonstrate how** the Commission's opinion **as** referred to in paragraph 2 **has been addressed in order to ensure full compliance with Union law**.

Amendment 36

Proposal for a decision

Article 6 – paragraph 1 – subparagraph 1

Text proposed by the Commission

By [3 months following the entry into force of this Decision] **at the latest** Member States shall notify to the Commission all existing intergovernmental agreements, including annexes and amendments thereto.

Amendment

By [3 months following the entry into force of this Decision] Member States shall notify to the Commission all existing intergovernmental agreements, including annexes and amendments thereto. **Where there are indications that it may be necessary to enter into negotiations with a third country in the future, Member States shall inform the Commission accordingly.**

Amendment 37

Proposal for a decision

Article 6 – paragraph 1 – subparagraph 3

Text proposed by the Commission

The obligation to notify to the Commission according to this paragraph **does** not apply in respect of agreements between undertakings.

Amendment

The obligation to notify to the Commission according to this paragraph **shall** not apply in respect of agreements **that are concluded solely** between undertakings .

Amendment 38

Proposal for a decision

Article 6 – paragraph 3

Text proposed by the Commission

3. The Commission shall assess intergovernmental agreements notified in accordance with paragraph 1 or 2. Where, following its first assessment, the Commission has doubts as to the compatibility of those agreements with Union law, Union competition law, the Commission shall inform the Member States concerned accordingly within nine months of the notification of those agreements.

Amendment

3. The Commission shall assess intergovernmental agreements notified in accordance with paragraph 1 or 2. Where, following its first assessment, the Commission has doubts as to the compatibility of those agreements with Union law the Commission shall inform the Member States concerned accordingly within nine months of the notification of those agreements.

Amendment 39

Proposal for a decision

Article 6 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Commission's assessment of intergovernmental agreements and existing intergovernmental agreements shall be without prejudice to the application of the Union rules on infringements, State aid and competition and shall not in any way pre-empt their assessment.

Amendment 40

Proposal for a decision

Article 7 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Upon adopting a non-binding instrument or an amendment to a non-binding instrument, the Member State concerned shall notify the non-binding instrument or

Amendment

Before adopting a non-binding instrument or an amendment to a non-binding instrument, the Member State concerned shall, ***promptly***, notify the non-binding

the amendment, including any annexes thereto, to the Commission.

instrument or the amendment, including any annexes thereto, to the Commission.

Amendment 41

Proposal for a decision Article 7 – paragraph 3

Text proposed by the Commission

3. The obligation to notify to the Commission according to paragraphs 1 and 2 does not apply in respect of agreements between undertakings.

Amendment

3. The obligation to notify to the Commission according to paragraphs 1 and 2 does not apply in respect of agreements ***that are concluded solely*** between undertakings.

Amendment 42

Proposal for a decision Article 7 – paragraph 4

Text proposed by the Commission

4. ***Where, following its first assessment, the Commission considers*** that the measures implementing the non-binding instrument notified to it under paragraphs 1 and 2 could conflict with Union law, in particular with internal energy market legislation ***and*** Union competition law, the Commission ***may inform*** the Member State concerned ***accordingly***.

Amendment

4. ***The Commission shall inform the Member State concerned of its doubts*** that the measures implementing the non-binding instrument notified to it under paragraphs 1 and 2 could conflict with Union law ***or the objectives of the Energy Union Strategy***.

4a. Before signing, ratifying or agreeing to a non-binding instrument or amendment, the Member State concerned shall demonstrate how the Commission's opinion has been addressed to ensure full compliance of its implementing measures with Union law and the objectives of the Union's energy security.

In the absence of a response from the

Commission within four weeks of notification, the Commission shall be deemed not to have any such doubts. The Commission's opinion on non-binding instruments shall be non-binding. However, when signing, ratifying or agreeing to a non-binding instrument, or an amendment to a non-binding instrument, the Member State concerned shall take utmost account of the Commission's opinion and address problematic provisions of such instruments.

4b. In the case of doubt as to whether an instrument constitutes a non-binding instrument or an existing non-binding instrument and thus whether it is to be notified in accordance with Article 7, Member States shall consult the Commission without delay.

Amendment 43

Proposal for a decision Article 8 – paragraph 2

Text proposed by the Commission

2. Where a Member State has not identified the information as confidential in accordance with paragraph 1, the Commission shall make that information accessible in secure electronic form to all other Member States.

Amendment

2. Where a Member State has not identified the information as confidential in accordance with paragraph 1, the Commission shall make that information accessible in secure electronic form to all other Member States *together with the note regarding any incompatibility with Union law.*

Amendment 44

Proposal for a decision Article 8 – paragraph 3 – subparagraph 2 – point e a (new)

Text proposed by the Commission

Amendment

(ea) information regarding provisions

falling within the Union's competence in the context of the Common Commercial Policy.

Justification

The rapporteur considers that there should be put special emphasis also on the compliance with matters falling under exclusive Union competencies under the Common Commercial Policy

Amendment 45

**Proposal for a decision
Article 8 – paragraph 4**

Text proposed by the Commission

4. The Commission shall make the summaries referred to in paragraph 3 accessible in electronic form to all other Member States.

Amendment

4. The Commission shall make the summaries referred to in paragraph 3 accessible in electronic form to all other Member States ***together with its comments regarding the compliance with the Energy Union Strategy.***

Amendment 46

**Proposal for a decision
Article 8 – paragraph 5**

Text proposed by the Commission

5. Requests for confidentiality under this Article shall not restrict the access of the Commission itself to confidential information. The Commission shall ensure that access to the confidential information is strictly limited to the Commission services for which it is absolutely necessary to have the information available.

Amendment

5. Requests for confidentiality under this Article shall not restrict the access of the Commission itself to confidential information. The Commission shall ensure that access to the confidential information is strictly limited to the Commission services for which it is absolutely necessary to have the information available. ***Commission representatives participating as observers in negotiations on intergovernmental agreements shall handle sensitive information received during those negotiations with due confidentiality.***

Amendment 47

Proposal for a decision

Article 9 – paragraph 1 – point b

Text proposed by the Commission

(b) identifying common problems in relation to intergovernmental agreements and non-binding instruments and considering appropriate action to address those problems and, where appropriate, proposing solutions;

Amendment

(b) identifying common problems in relation to intergovernmental agreements and non-binding instruments and considering appropriate action to address those problems and, where appropriate, proposing **guidance and** solutions;

Amendment 48

Proposal for a decision

Article 9 – paragraph 1 – point c

Text proposed by the Commission

(c) on the basis of best practices and in consultation with Member States, developing optional model clauses, which, if applied, would significantly improve compliance of future intergovernmental agreements and non-binding instruments with Union law;

Amendment

(c) on the basis of best practices and in consultation with Member States, developing, **by ... [insert the date: 1 year after the date of entry into force of this Decision],** optional model clauses **and guidelines**, which, if applied, would significantly improve compliance of future intergovernmental agreements and non-binding instruments with Union law;

Amendment 49

Proposal for a decision

Article 9 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. By ... [insert the date: 1 year after the date of entry into force of this Decision], the Commission shall, on the basis of best practices and after consulting Member States, develop an

aggregated information system which, while protecting the confidentiality of sensitive information, guarantees increased transparency of the main elements of intergovernmental agreements so as to establish an indicative benchmark which can be used by Member States in negotiations in order to prevent the abuse of dominant positions by third countries.

Amendment 50
Proposal for a decision
Article 10 – paragraph 1

Text proposed by the Commission

1. By **1 January 2020 at the latest**, the Commission shall submit a report on the application of this Decision to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

Amendment

1. By ... [**two years after the date of entry into force of this Decision**], the Commission shall submit a report on the application of this Decision to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

EXPLANATORY STATEMENT

The main component of a successful energy policy as defined in the Energy Union communication is access to secure, sustainable and competitively priced energy for all Europeans. Let us take them one by one and see how they are addressed in the IGA proposal.

Energy security

As far as security is concerned, the Commission proposes that non-binding instruments, such as joint declarations between EU member states and third countries, be subject to a review after they have been signed. This is in stark contradiction with intergovernmental energy agreements which are to be examined *ex ante*. Documents of that kind shall all be subject to an assessment by the Commission before they are allowed to go ahead. This would bring in not only necessary legal certainty for capital-intensive investments but also address the problem of the lack of a definition for “energy security” which, unfortunately, is nowhere to be found in EU law. Since the term is extremely hard to pinpoint legally, the Commission needs to be able to intervene if legitimate energy security concerns arise. The exact scope of the Commission’s involvement can be further discussed to tailor it specifically to the needs of member states suffering from the dominance of one supplier that refuses to play by the common market rules. Other EU countries must show solidarity in this respect with less privileged members of the bloc. Equal scrutiny of intergovernmental contracts and non-binding instruments will also prevent temptation by the parties to play “regulatory jugglery” and pursue negotiations based on a less rigorous cooperation model.

Competition

Up-front regulatory check-up would ensure a well-functioning internal market without fragmentation and encourage more fair competition. Under the current IGA decision, the Commission established that 17 intergovernmental agreements were not compliant with EU law. This represents roughly one third of the most relevant deals that were analysed, i.e. those related to infrastructure projects or energy supply. Having detected the irregularities, the Commission decided not to launch an infringement procedure against any of the member states concerned. This proved to be difficult for political and legal reasons. But the fact remains that these agreements skew the functioning of the common market and harm its competitiveness. It also undermines trust among EU countries that see some members of the club sign such deals irrespective of the interest of the Union as a whole. Fortunately enough, the Commission managed to block South Stream – the most controversial agreement of this kind. Had it gone ahead it would have threatened Europe’s diversification efforts including the Southern Gas Corridor (one of its key investments in this respect) and forced out potential suppliers other than Russia. The fact that the Commission could only examine the South Stream case based on its results created a difficult situation for the parties involved, since deals had already been signed and certain investments already been made. This is yet another argument for more transparency in energy negotiations which, if applied by all member states, would eliminate investment risks and direct funds into projects fully compliant with EU law and energy security objectives.

Sustainability

Some opinions have been expressed that the sustainability issue has not been properly addressed in the Commission’s proposal as it focuses on energy imports to the EU which

makes it more dependent on external energy suppliers. Given the EU's efforts to increase its energy efficiency, the argument goes, the Commission risks overestimating gas demand. This is flawed reasoning. The heating and cooling strategy is an important element of the sustainable energy security package focusing exclusively on moderating Europe's demand. Concrete EU legislative actions are also expected later this year. In the IGA proposal, it is important to concentrate on the supply side of the energy equation. In this context, one has to remember that gas is a necessary transition fuel towards a low-carbon future. If we are to import any fossil fuel it would better be gas, which is the least dirty. Yet those who think that Europe should increase its energy imports are missing the point. This proposal is not only about Europe's gas consumption but more importantly its import dependency. In 2013 (the latest figures available from Eurostat) the latter stood at about 65%, increasing from roughly 43% in 1995. Demand for imported gas is likely to remain stable at least over the next two decades since domestic EU production is set to decline by 60% by 2035 according to ENTSOG. The conclusion is that in the years to come, Europe will get a lot of its gas from abroad, which is why our diversification efforts need to be maximised.

Energy policy at a crossroads

The EU is in desperate need of a success. Torn apart between migratory and eurozone crises, it needs a new integration narrative that will prove Europe can successfully move forward. Energy is one of the fields where the EU's potential has remained largely untapped. This can be changed by applying the basic principles on which the integration project was founded, i.e. solidarity and trust among member states, to future European energy endeavours. In front of us, there is a unique opportunity to put a game-changing piece of legislation in place which would show that Europe stands united on the energy front. If we fail, there is a serious risk that a key policy area, instead of being at the core of European integration, will make member states drift further apart.

14.9.2016

OPINION OF THE COMMITTEE ON FOREIGN AFFAIRS

for the Committee on Industry, Research and Energy

on the proposal for a decision of the European Parliament and of the Council on establishing an information exchange mechanism with regard to intergovernmental agreements and non-binding instruments between Member States and third countries in the field of energy and repealing Decision No 994/2012/EU
(COM(2016)0053 – C8-0034/2016 – 2016/0031(COD))

Rapporteur: Eduard Kukan

AMENDMENTS

The Committee on Foreign Affairs calls on the Committee on Industry, Research and Energy, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a decision

Recital 1

Text proposed by the Commission

(1) The proper functioning of the internal energy market requires that the energy imported into the Union be fully governed by the rules establishing the internal energy market. An internal energy market that does not function properly puts the Union in a vulnerable and disadvantageous position with regard to security of energy supply, and undermines its potential benefits to European consumers and industry.

Amendment

(1) The proper functioning of the internal energy market requires that the energy imported into the Union be fully governed by the rules establishing the internal energy market. ***Transparency and compliance with Union law represents an important element in ensuring energy stability of the Union.*** An internal energy market that does not function properly puts the Union in a vulnerable and disadvantageous position with regard to security of energy supply, and undermines its potential benefits to European consumers and industry.

Amendment 2

Proposal for a decision

Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) In order to safeguard the Union's energy supply, it is necessary to diversify energy sources and build new energy interconnections between Member States. At the same time, it is essential to increase energy-security cooperation with the Union's neighbouring countries, with strategic partners and also among the Union institutions.

Amendment 3

Proposal for a decision

Recital 2

Text proposed by the Commission

Amendment

(2) The objective of the Energy Union Strategy, as adopted by the Commission on 25 February 2015³, is to give consumers secure, sustainable, competitive and affordable energy. More precisely, the Energy Union Strategy emphasizes that full compliance of agreements related to the buying of energy from third countries with Union law is an important element in ensuring energy security, building on the analysis already carried out in the European Energy Security Strategy of May 2014⁴. In the same spirit, the European Council in its conclusions of 19 March 2015 called for full compliance with Union law of all agreements related to the buying of gas from external suppliers, notably by reinforcing transparency of such agreements and compatibility with Union energy security provisions.

(2) The objective of the Energy Union Strategy, as adopted by the Commission on 25 February 2015³, is to give consumers secure, sustainable, competitive and affordable energy. ***This can be achieved when energy, trade and external policies are pursued in a coherent and consistent manner.*** More precisely, the Energy Union Strategy emphasizes that full compliance of agreements related to the buying of energy from third countries with Union law is an important element in ensuring energy security, building on the analysis already carried out in the European Energy Security Strategy of May 2014⁴. In the same spirit, the European Council in its conclusions of 19 March 2015 called for full compliance with Union law of all agreements related to the buying of gas from external suppliers, notably by reinforcing transparency of such agreements and compatibility with Union energy security provisions. ***Given the above, the Commission should attempt,***

within its competence and with respect to the rules of subsidiarity and proportionality, to ensure that dominant gas suppliers in a region do not abuse their position in breach of Union competition rules, with particular reference to unfair prices charged in Member States as well as to the use of interruptions in supplies for economic and political blackmail.

³ COM(2015)80.

⁴ COM (2014)330.

³ COM(2015)0080.

⁴ COM (2014)0330.

Amendment 4

Proposal for a decision Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) In this context the European Parliament, in its resolution of 15 December 2015 on Towards a European Energy Union^{1a}, stressed the need to enhance the coherence of Union external energy security and greater transparency in energy-related agreements.

^{1a}*Texts adopted P8_TA(2015)0444.*

Amendment 5

Proposal for a decision Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) A high degree of transparency with regard to agreements between Member States and third countries in the field of energy allows the Union to take coordinated action, in the spirit of solidarity, in order to ensure that such

agreements comply with Union law and effectively secure energy supply. Such transparency should also be of benefit in achieving both closer intra-Union cooperation in the field of external energy relations and the Union's long-term policy objectives relating to energy, climate and security of energy supply.

Amendment 6

Proposal for a decision

Recital 5

Text proposed by the Commission

(5) In order to avoid any incompliance with Union law and enhance transparency, Member States should inform the Commission of their intent to enter into negotiations with regard to new intergovernmental agreements or amendments to existing intergovernmental agreements as soon as possible. The Commission should be kept informed regularly of the progress of the negotiations. Member States should have the possibility to invite the Commission to participate in the negotiations as an observer.

Amendment

(5) In order to avoid any incompliance with Union law and ***provisions on Union energy security, and to*** enhance transparency, Member States should inform the Commission of their intent to enter into negotiations with regard to new intergovernmental agreements or amendments to existing intergovernmental agreements as soon as possible. The Commission should be kept informed regularly ***and adequately*** of the progress of the negotiations. Member States should have the possibility to invite the Commission to participate in the negotiations as an observer.

Amendment 7

Proposal for a decision

Recital 6

Text proposed by the Commission

(6) During the negotiations the Commission should have the possibility to advice on how to avoid incompatibility with Union law. In particular, the Commission ***could*** develop, together with Member States, optional model clauses or guidelines. The Commission should have the possibility to draw attention to the

Amendment

(6) During the negotiations the Commission should have the possibility to advice ***the Member State(s)*** on how to avoid incompatibility with Union law. In particular, the Commission ***should*** develop, together with Member States, optional model clauses or guidelines. The Commission should have the possibility to

Union's energy policy objectives and the principle of solidarity between Member States and Union policy positions adopted in Council or European Council conclusions.

draw attention to the Union's energy policy **objectives including energy security** objectives and the principle of solidarity between Member States and Union policy positions adopted in Council or European Council conclusions.

Amendment 8

Proposal for a decision

Recital 7

Text proposed by the Commission

(7) In order to ensure compliance with Union law, Member States should notify the draft intergovernmental agreement to the Commission before it becomes legally binding for the parties (ex-ante). In a spirit of cooperation, the Commission should support the Member State in identifying compliance issues of the draft intergovernmental agreement or amendment. The respective Member State would then be better prepared to conclude a Union law compliant agreement. The Commission should have sufficient time for such an assessment in order to provide for as much legal certainty **as possible while avoiding** undue delays. In order to fully benefit from the Commission's support Member States should refrain from concluding an intergovernmental agreement until the Commission has informed the Member State of its assessment. **The Member States should take all necessary steps to** find a suitable solution to eliminate the incompatibility identified.

Amendment

(7) In order to ensure compliance with Union law **and provisions on Union energy security**, Member States should notify the draft intergovernmental agreement to the Commission before it becomes legally binding for the parties (ex-ante). In a spirit of cooperation, the Commission should support the Member State in identifying compliance issues of the draft intergovernmental agreement or amendment. The respective Member State would then be better prepared to conclude a Union law compliant agreement. The Commission should have sufficient time for such an assessment in order to provide for as much legal certainty. **Where possible the Commission should avoid undue delays in the reassessment and should take into consideration information provided by the Member States during the negotiations. Furthermore, the Commission should also avoid** undue delays **that can have a negative effect on the negotiating position of the Member State**. In order to fully benefit from the Commission's support Member States should refrain from concluding an intergovernmental agreement until the Commission has informed the Member State of its assessment. **Where the Commission finds that draft international agreement does not comply with Union law, the Member State(s) concerned**

should find a suitable solution to eliminate the incompatibility identified.

Amendment 9

Proposal for a decision

Recital 8

Text proposed by the Commission

(8) In light of the Energy Union Strategy, transparency with regard to past and future intergovernmental agreements continues to be of utmost importance. Therefore, Member States should continue notifying to the Commission existing and future intergovernmental agreements, whether they have entered into force or are being applied provisionally within the meaning of Article 25 of the Vienna Convention on the Law of Treaties, and new intergovernmental agreements.

Amendment

(8) In light of the Energy Union Strategy, transparency with regard to past and future intergovernmental agreements continues to be of utmost importance ***and is an important element in ensuring the Union's energy stability***. Therefore, Member States should continue notifying to the Commission existing and future intergovernmental agreements, whether they have entered into force or are being applied provisionally within the meaning of Article 25 of the Vienna Convention on the Law of Treaties, and new intergovernmental agreements.

Amendment 10

Proposal for a decision

Recital 10

Text proposed by the Commission

(10) This Decision should only apply to intergovernmental agreements that have an impact on the internal energy market or the security of energy supply in the Union. In case of doubt, Member States should consult the Commission. In principle, agreements that are no longer in force or are no longer applied do not have an impact on the internal energy market or on the security of energy supply in the Union and should therefore not be covered by this Decision.

Amendment

(10) This Decision should only apply to intergovernmental agreements that have an impact on the internal energy market or the security of energy supply in the Union ***and in transiting countries***. In case of doubt, Member States should consult the Commission. In principle, agreements that are no longer in force or are no longer applied do not have an impact on the internal energy market or on the security of energy supply in the Union and should therefore not be covered by this Decision.

Amendment 11

Proposal for a decision

Recital 11

Text proposed by the Commission

(11) Member States establish relations to third countries not only by concluding intergovernmental agreements, but also in the form of non-binding instruments. Even if legally non-binding, such instruments can be used to set out a detailed framework for energy infrastructure and energy supply. In this respect non-binding instruments can have similar impacts on the internal energy market as intergovernmental agreements as their implementation might result in a violation of Union law. In order to ensure greater transparency regarding all measures applied by Member States that can have an impact on the internal energy market and energy security, Member States should therefore submit to the Commission, *ex post*, also the respective non-binding instruments. The Commission should assess the submitted non-binding instruments and, if appropriate, inform the Member State accordingly.

Amendment

(11) Member States establish relations to third countries not only by concluding intergovernmental agreements, but also in the form of non-binding instruments. Even if legally non-binding, such instruments can be used to set out a detailed framework for energy infrastructure and energy supply. In this respect non-binding instruments can have similar impacts on the internal energy market as intergovernmental agreements as their implementation might result in a violation of Union law. In order to ensure greater transparency regarding all measures applied by Member States that can have an impact on the internal energy market and energy security, Member States should therefore submit to the Commission, also the respective non-binding instruments. The Commission should assess the submitted non-binding instruments and, if appropriate, inform the Member State accordingly.

Amendment 12

Proposal for a decision

Recital 16

Text proposed by the Commission

(16) A permanent exchange of information on intergovernmental agreements at Union level should enable best practices to be developed. On the basis of those best practices, the Commission, where appropriate in cooperation with the European External Action Service as regards the Union's external policies, should develop optional model clauses to

Amendment

(16) A permanent exchange of information on intergovernmental agreements at Union level should enable best practices to be developed. On the basis of those best practices, the Commission, *in cooperation with Member States and* where appropriate in cooperation with the European External Action Service as regards the Union's external policies,

be used in intergovernmental agreements between Member States and third countries. The use of such model clauses should aim to avoid conflicts of intergovernmental agreements with Union law, in particular internal energy market rules and competition law, and conflicts with international agreements concluded by the Union. Their use should be optional, and it should be possible to adapt their content to any particular circumstance.

should develop optional model clauses **and guidance** to be used in intergovernmental agreements between Member States and third countries. The use of such model clauses should aim to avoid conflicts of intergovernmental agreements with Union law, in particular internal energy market rules and competition law, and conflicts with international agreements concluded by the Union. **The Commission should also provide guidelines to avoid incompatibility of intergovernmental agreements with Union's energy security objectives.** Their use should be optional, and it should be possible to adapt their content to any particular circumstance.

Amendment 13

Proposal for a decision Article 1 – paragraph 1

Text proposed by the Commission

1. This Decision establishes a mechanism for the exchange of information between Member States and the Commission with regard to intergovernmental agreements and non-binding instruments in the field of energy as defined in Article 2, in order to optimise the functioning of the internal energy market.

Amendment

1. This Decision establishes a mechanism for the exchange of information between Member States and the Commission with regard to intergovernmental agreements and non-binding instruments in the field of energy as defined in Article 2, in order to optimise the functioning of the internal energy market **and ensure security of energy supplies to the Union.**

Amendment 14

Proposal for a decision Article 2 – paragraph 1 – point 3

Text proposed by the Commission

(3) ‘non-binding instrument’ means a legally non-binding arrangement between one or more Member States and one or more third countries, such as a memorandum of understanding, joint

Amendment

(3) ‘non-binding instrument’ means a legally non-binding arrangement between one or more Member States and one or more third countries, such as a memorandum of understanding, joint

declaration, ministerial joint declaration, joint action or joint code of conduct, which contains interpretation of Union law, sets the conditions for energy supply (such as volumes and prices) or the development of energy infrastructures;

declaration, ministerial joint declaration, joint action or joint code of conduct, which contains interpretation of Union law, sets the conditions for energy supply (such as volumes and prices) or the development **or operation** of energy infrastructures;

Amendment 15

Proposal for a decision Article 4 – paragraph 1

Text proposed by the Commission

1. Where a Member State gives the Commission notice of negotiations pursuant to Article 3(1), the Commission services may provide it with advice on how to avoid the incompatibility of the intergovernmental agreement or of the amendment to an existing intergovernmental agreement under negotiation with Union law. That Member State may also request the assistance of the Commission in those negotiations.

Amendment

1. Where a Member State gives the Commission notice of negotiations pursuant to Article 3(1), the Commission services may provide it with advice **and guidelines** on how to avoid the incompatibility of the intergovernmental agreement or of the amendment to an existing intergovernmental agreement under negotiation with Union law. That Member State may also request the assistance of the Commission in those negotiations.

Amendment 16

Proposal for a decision Article 4 – paragraph 3

Text proposed by the Commission

3. Where the Commission participates in the negotiations as an observer, it may provide the Member State concerned with advice on how to avoid the incompatibility of the intergovernmental agreement or amendment under negotiation with Union law.

Amendment

3. Where the Commission participates in the negotiations as an observer, it may provide the Member State concerned with advice **and guidelines** on how to avoid the incompatibility of the intergovernmental agreement or amendment under negotiation with Union law **and the Union's energy security objectives**.

Amendment 17

Proposal for a decision

Article 5 – paragraph 4 – subparagraph 2

Text proposed by the Commission

When signing, ratifying or agreeing to an intergovernmental agreement or amendment, the Member State concerned shall take utmost account of the Commission's opinion referred to in paragraph 2.

Amendment

Before signing, ratifying or agreeing to an intergovernmental agreement or amendment, the Member State concerned shall take utmost account of the Commission's opinion referred to in paragraph 2.

Amendment 18

Proposal for a decision

Article 7 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Upon adopting a non-binding instrument or an amendment to a non-binding instrument, the Member State concerned shall notify the non-binding instrument or the amendment, including any annexes thereto, to the Commission.

Amendment

Before adopting a non-binding instrument or an amendment to a non-binding instrument, the Member State concerned shall notify the non-binding instrument or the amendment, including any annexes thereto, to the Commission.

Amendment 19

Proposal for a decision

Article 9 – paragraph 1 – point b

Text proposed by the Commission

(b) identifying common problems in relation to intergovernmental agreements and non-binding instruments and considering appropriate action to address those problems and, where appropriate, proposing solutions;

Amendment

(b) identifying common problems in relation to intergovernmental agreements and non-binding instruments and considering appropriate action to address those problems and, where appropriate, proposing **guidance and** solutions;

Amendment 20

Proposal for a decision

Article 9 – paragraph 1 – point c

Text proposed by the Commission

(c) on the basis of best practices and in consultation with Member States, developing optional model clauses, which, if applied, would significantly improve compliance of future intergovernmental agreements and non-binding instruments with Union law;

Amendment

(c) on the basis of best practices and in consultation with Member States, developing optional model clauses ***and guidelines***, which, if applied, would significantly improve compliance of future intergovernmental agreements and non-binding instruments with Union law;

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Establishing an information exchange mechanism with regard to intergovernmental agreements and non-binding instruments between Member States and third countries in the field of energy and repealing Decision No 994/2012/EU	
References	COM(2016)0053 – C8-0034/2016 – 2016/0031(COD)	
Committee responsible Date announced in plenary	ITRE 7.3.2016	
Opinion by Date announced in plenary	AFET 7.3.2016	
Rapporteur Date appointed	Eduard Kukan 15.3.2016	
Discussed in committee	14.6.2016	12.7.2016
Date adopted	12.9.2016	
Result of final vote	+	40
	-	7
	0:	0
Members present for the final vote	Lars Adaktusson, Michèle Alliot-Marie, Nikos Androulakis, Francisco Assis, Petras Auštrevičius, Elmar Brok, Klaus Buchner, James Carver, Fabio Massimo Castaldo, Lorenzo Cesa, Javier Couso Permuy, Andi Cristea, Arnaud Danjean, Georgios Epitideios, Knut Fleckenstein, Eugen Freund, Iveta Grigule, Sandra Kalniete, Manolis Kefalogiannis, Tunne Kelam, Afzal Khan, Eduard Kukan, Ilhan Kyuchyuk, Arne Lietz, Barbara Lochbihler, Sabine Lösing, Andrejs Mamikins, Ramona Nicole Mănescu, David McAllister, Demetris Papadakis, Alojz Peterle, Tonino Picula, Kati Piri, Cristian Dan Preda, Sofia Sakorafa, Jacek Saryusz-Wolski, Jaromír Štětina, Charles Tannock, Miguel Urbán Crespo, Ivo Vajgl, Hilde Vautmans	
Substitutes present for the final vote	Reinhard Bütikofer, Othmar Karas, Javi López, Marietje Schaake, Traian Ungureanu	
Substitutes under Rule 200(2) present for the final vote	Heidi Hautala	

26.9.2016

OPINION OF THE COMMITTEE ON INTERNATIONAL TRADE

for the Committee on Industry, Research and Energy

on the proposal for a decision of the European Parliament and of the Council on establishing an information exchange mechanism with regard to intergovernmental agreements and non-binding instruments between Member States and third countries in the field of energy and repealing Decision No 994/2012/EU
(COM(2016)0053 – C8-0034/2016 – 2016/0031(COD))

Rapporteur: Bendt Bendtsen

AMENDMENTS

The Committee on International Trade calls on the Committee on Industry, Research and Energy, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a decision
Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) The European Parliament, in its resolution of 15 December 2015 on Towards a European Energy Union, stressed the need to enhance the coherence of the Union's external energy security and greater transparency in energy-related agreements^{1a}.

^{1a} ***Texts adopted P8_TA(2015)0444***

Amendment 2

Proposal for a decision

Recital 7

Text proposed by the Commission

(7) In order to ensure compliance with Union law, Member States should notify the draft intergovernmental agreement to the Commission before it becomes legally binding for the parties (ex-ante). In a spirit of cooperation, the Commission should support the Member State in identifying compliance issues of the draft intergovernmental agreement or amendment. The respective Member State would then be better prepared to conclude a Union law compliant agreement. The Commission should have sufficient time for such an assessment in order to provide for as much legal certainty as possible while avoiding undue delays. In order to fully benefit from the Commission's support Member States should refrain from concluding an intergovernmental agreement until the Commission has informed the Member State of its assessment. The Member States should take all necessary steps to find a suitable solution to eliminate the incompatibility identified.

Amendment 3

Proposal for a decision

Recital 13

Text proposed by the Commission

(13) This Decision should not create obligations as regards agreements *between* undertakings. However, Member States

Amendment

(7) In order to ensure compliance with Union law *and the objectives of the Energy Union Strategy*, Member States should notify the draft intergovernmental agreement to the Commission before it becomes legally binding for the parties (ex-ante). In a spirit of cooperation, the Commission should support the Member State in identifying compliance issues of the draft intergovernmental agreement or amendment. The respective Member State would then be better prepared to conclude a Union law compliant agreement. The Commission should have sufficient time for such an assessment in order to provide for as much legal certainty as possible while avoiding undue delays *which may jeopardise conclusion of the agreement*. In order to fully benefit from the Commission's support Member States should refrain from concluding an intergovernmental agreement until the Commission has informed the Member State of its assessment *within the time limits indicated*. The Member States should take all necessary steps to find a suitable solution to eliminate the incompatibility identified.

Amendment

(13) This Decision should not create obligations as regards agreements *to which only* undertakings *are a party*. However,

should be free to communicate to the Commission, on a voluntary basis, such agreements that are referred to explicitly in intergovernmental agreements or non-binding instruments.

Member States should be free to communicate to the Commission, on a voluntary basis, **all** such agreements that are referred to explicitly in intergovernmental agreements or non-binding instruments **Moreover, Member States should communicate to the Commission agreements with third-country undertakings, where a third country is a major stakeholder, that are referred to explicitly in intergovernmental agreements or non-binding instruments.**

Amendment 4

Proposal for a decision

Recital 14

Text proposed by the Commission

(14) The Commission should make information it receives available to all other Member States in secure electronic form. The Commission should respect requests from Member States to treat information submitted to it as confidential. Requests for confidentiality should, however, not restrict access of the Commission itself to confidential information, as the Commission needs to have comprehensive information for its own assessments. The Commission should be responsible for guaranteeing the application of the confidentiality clause. Requests for confidentiality should be without prejudice to the right of access to documents as provided for in Regulation (EC) No 1049/2001 of the European Parliament and of the Council¹¹.

¹¹ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of

Amendment

(14) The Commission should make information it receives available to all other Member States in secure electronic form. The Commission should respect requests from Member States to treat information submitted to it as confidential **in order to maintain the level of confidentiality needed to safeguard the interests of the Member States during the negotiations with the other party.** Requests for confidentiality should, however, not restrict access of the Commission itself to confidential information, as the Commission needs to have comprehensive information for its own assessments. The Commission should be responsible for guaranteeing the application of the confidentiality clause. Requests for confidentiality should be without prejudice to the right of access to documents as provided for in Regulation (EC) No 1049/2001 of the European Parliament and of the Council¹¹.

¹¹ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of

30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 299, 27.10.2012, p. 13).

30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 299, 27.10.2012, p. 13).

Amendment 5

Proposal for a decision Recital 15

Text proposed by the Commission

(15) If a Member State considers an intergovernmental agreement to be confidential, it should provide the Commission with a summary *of it* for the purposes of sharing that summary with the other Member States.

Amendment

(15) If a Member State considers an intergovernmental agreement to be confidential, it should provide the Commission with a summary ***containing its main elements and relevant clauses, including restrictions,*** for the purposes of sharing that summary with the other Member States.

Amendment 6

Proposal for a decision Recital 16

Text proposed by the Commission

(16) A permanent exchange of information on intergovernmental agreements at Union level should enable best practices to be developed. On the basis of those best practices, the Commission, where appropriate in cooperation with the European External Action Service as regards the Union's external policies, should develop optional model clauses to be used in intergovernmental agreements between Member States and third countries. The use of such model clauses should aim to avoid conflicts of intergovernmental agreements with Union law, in particular internal energy market rules and competition law, and conflicts with international agreements concluded

Amendment

(16) A permanent exchange of information on intergovernmental agreements at Union level should enable best practices to be developed. On the basis of those best practices, the Commission, where appropriate in cooperation with the European External Action Service as regards the Union's external policies, should develop optional model ***positive and negative*** clauses to be used in intergovernmental agreements between Member States and third countries ***to assist in the legal definition of those agreements.*** The use of such model clauses should aim to avoid conflicts of intergovernmental agreements with Union law, in particular internal energy market

by the Union. Their use should be optional, and it should be possible to adapt their content to any particular circumstance.

rules and competition law, and conflicts with international agreements concluded by the Union. Their use should be optional, and it should be possible to adapt their content to any particular circumstance.

Amendment 7

Proposal for a decision Recital 18

Text proposed by the Commission

(18) The Commission should facilitate and encourage coordination between Member States with a view to enhancing the overall strategic role of the Union through a strong and effective coordinated approach to producer, transit, and consumer countries.

Amendment

(18) The Commission should facilitate and encourage coordination between Member States with a view to enhancing the overall strategic role of the Union through a strong and effective coordinated approach to producer, transit, and consumer countries, ***including with a view to ensuring consistency between the principles of Union energy policy and the common commercial policy.***

Amendment 8

Proposal for a decision Article 1 – paragraph 1

Text proposed by the Commission

1. This Decision establishes a mechanism for the exchange of information between Member States and the Commission with regard to intergovernmental agreements and non-binding instruments in the field of energy as defined in Article 2, in order to optimise the functioning of the internal energy market.

Amendment

1. This Decision establishes a mechanism for the exchange of information between Member States and the Commission with regard to intergovernmental agreements and non-binding instruments in the field of energy as defined in Article 2, in order to optimise the functioning of the internal energy market, ***the Energy Union Strategy, and the coherence of the Union's external energy security policies.***

Amendment 9

Proposal for a decision

Article 2 – point 1

Text proposed by the Commission

(1) ‘intergovernmental agreement’ means any legally binding agreement between one or more Member States and one or more third countries having an impact on the operation or the functioning of the internal energy market or on the security of energy supply in the Union; however, where such a legally binding agreement also covers other issues, only those provisions that relate to energy, including general provisions applicable to those energy-related provisions, are deemed to constitute an ‘intergovernmental agreement’;

Amendment

(1) ‘intergovernmental agreement’ means any legally binding agreement between one or more Member States and one or more third countries ***or between one or more Member States and one or more third country undertakings in which a third-country is a major stakeholder,*** having an impact on the operation or the functioning of the internal energy market or on the security of energy supply in the Union; however, where such a legally binding agreement also covers other issues, only those provisions that relate to energy, including general provisions applicable to those energy-related provisions, are deemed to constitute an ‘intergovernmental agreement’;

Amendment 10

Proposal for a decision

Article 2 – point 3

Text proposed by the Commission

(3) ‘non-binding instrument’ means a legally non-binding arrangement between one or more Member States and one or more third countries, such as a memorandum of understanding, joint declaration, ministerial joint declaration, joint action or joint code of conduct, which contains interpretation of Union law, sets the conditions for energy supply (such as volumes and prices) or the development of energy infrastructures;

Amendment

(3) ‘non-binding instrument’ means a legally non-binding arrangement between one or more Member States and one or more third countries ***or regional organisations, and between one or more Member States and one or more undertakings in which a participating third-country is a major stakeholder or holds a decision-making power,*** such as a memorandum of understanding, joint declaration, ministerial joint declaration, joint action or joint code of conduct, which contains interpretation of Union law, sets the conditions for energy supply (such as

volumes and prices) or the development of energy infrastructures;

Amendment 11

Proposal for a decision Article 3 – paragraph 4

Text proposed by the Commission

4. The obligation to notify to the Commission according to paragraphs 2 and 3 does not apply in respect of agreements *between* undertakings.

Amendment

4. The obligation to notify to the Commission according to paragraphs 2 and 3 does not apply in respect of agreements *to which only* undertakings *are a party*.

Amendment 12

Proposal for a decision Article 5 – paragraph 3

Text proposed by the Commission

3. With the approval of the Member State concerned, the periods referred to in paragraphs 1 and 2 may be extended. The periods referred to in paragraphs 1 and 2 shall be shortened in agreement with the Commission if circumstances so warrant.

Amendment

3. With the approval of the Member State concerned, the periods referred to in paragraphs 1 and 2 may be extended. The periods referred to in paragraphs 1 and 2 shall be shortened in agreement with the Commission if circumstances so warrant, *in order to ensure that the negotiations are concluded in due time*.

Amendment 13

Proposal for a decision Article 5 – paragraph 4 – subparagraph 2

Text proposed by the Commission

When signing, ratifying or agreeing to an intergovernmental agreement or amendment, the Member State concerned shall *take utmost account of* the Commission's opinion referred to in

Amendment

Before signing, ratifying or agreeing to an intergovernmental agreement or amendment, the Member State concerned shall *demonstrate how objections expressed in* the Commission's opinion

paragraph 2.

referred to in paragraph 2 *have been addressed in order to ensure compliance with Union law and with the objectives of the Energy Union Strategy.*

Amendment 14

Proposal for a decision Article 6 – paragraph 1 – subparagraph 3

Text proposed by the Commission

The obligation to notify to the Commission according to this paragraph does not apply in respect of agreements *between* undertakings.

Amendment

The obligation to notify to the Commission according to this paragraph does not apply in respect of agreements *to which only* undertakings *are a party*.

Amendment 15

Proposal for a decision Article 6 – paragraph 3

Text proposed by the Commission

3. The Commission shall assess intergovernmental agreements notified in accordance with paragraph 1 or 2. Where, following its first assessment, the Commission has doubts as to the compatibility of those agreements with Union law, in particular with internal energy market legislation, *and* Union competition law *in particular with internal energy market legislation and Union competition law*, the Commission shall inform the Member States concerned accordingly within nine months of the notification of those agreements.

Amendment

3. The Commission shall assess intergovernmental agreements notified in accordance with paragraph 1 or 2. Where, following its first assessment, the Commission has doubts as to the compatibility of those agreements with Union law, in particular with internal energy market legislation, Union competition law *and matters falling under Union competence in the context of the Common Commercial Policy*, the Commission shall inform the Member States concerned accordingly within nine months of the notification of those agreements.

Justification

The rapporteur considers that there should be put special emphasis also on the compliance with matters falling exclusive union competences under the Common Commercial policy.

Amendment 16

Proposal for a decision

Article 7 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. **Upon** adopting a non-binding instrument or an amendment to a non-binding instrument, the Member State concerned shall notify the non-binding instrument or the amendment, including any annexes thereto, to the Commission.

Amendment

1. **Before** adopting a non-binding instrument or an amendment to a non-binding instrument, the Member State concerned shall notify the non-binding instrument or the amendment, including any annexes thereto, to the Commission.

Amendment 17

Proposal for a decision

Article 7 – paragraph 3

Text proposed by the Commission

3. The obligation to notify to the Commission according to paragraphs 1 and 2 does not apply in respect of agreements **between** undertakings.

Amendment

3. The obligation to notify to the Commission according to paragraphs 1 and 2 does not apply in respect of agreements **to which only** undertakings **are a party**.

Amendment 18

Proposal for a decision

Article 7 – paragraph 4

Text proposed by the Commission

4. Where, following its first assessment, the Commission considers that the measures implementing the non-binding instrument notified to it under paragraphs 1 and 2 could conflict with Union law, in particular with internal energy market legislation and Union competition law, the Commission may inform the Member State concerned accordingly.

Amendment

4. Where, following its first assessment, the Commission considers that the measures implementing the non-binding instrument notified to it under paragraphs 1 and 2 could conflict with Union law, in particular with internal energy market legislation and Union competition law, the Commission may inform the Member State concerned accordingly, **within six weeks after such notification. Within that period, Member**

States shall refrain from signing or otherwise concluding the non-binding instrument. The Commission's opinion shall not be binding, but the Member State may address the concerns of the Commission.

Amendment 19

Proposal for a decision

Article 8 – paragraph 3 – subparagraph 2 – point e a (new)

Text proposed by the Commission

Amendment

(ea) information regarding provisions falling within the Union's competence in the context of the Common Commercial Policy.

Justification

The rapporteur considers that there should be put special emphasis also on the compliance with matters falling under exclusive Union competencies under the Common Commercial Policy

Amendment 20

Proposal for a decision

Article 9 – point b

Text proposed by the Commission

Amendment

(b) identifying common problems in relation to intergovernmental agreements and non-binding instruments and considering appropriate action to address those problems and, where appropriate, proposing solutions;

(b) identifying common problems in relation to intergovernmental agreements and non-binding instruments and considering appropriate action to address those problems and, where appropriate, proposing **guidance and** solutions;

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Establishing an information exchange mechanism with regard to intergovernmental agreements and non-binding instruments between Member States and third countries in the field of energy and repealing Decision No 994/2012/EU
References	COM(2016)0053 – C8-0034/2016 – 2016/0031(COD)
Committee responsible Date announced in plenary	ITRE 7.3.2016
Opinion by Date announced in plenary	INTA 7.3.2016
Rapporteur Date appointed	Bendt Bendtsen 14.3.2016
Discussed in committee	13.7.2016
Date adopted	26.9.2016
Result of final vote	+: 30 –: 1 0: 4
Members present for the final vote	Laima Liucija Andrikienė, David Campbell Bannerman, Daniel Caspary, Marielle de Sarnez, Eleonora Forenza, Karoline Graswander-Hainz, Alexander Graf Lambsdorff, Bernd Lange, David Martin, Emmanuel Maurel, Emma McClarkin, Anne-Marie Mineur, Sorin Moisă, Alessia Maria Mosca, Franz Obermayr, Inmaculada Rodríguez-Piñero Fernández, Tokia Saïfi, Marietje Schaake, Helmut Scholz, Joachim Schuster, Joachim Starbatty, Iuliu Winkler, Jan Zahradil
Substitutes present for the final vote	Eric Andrieu, Reimer Böge, José Bové, Edouard Ferrand, Gabriel Mato, Frédérique Ries, Lola Sánchez Caldentey, Jarosław Wałęsa
Substitutes under Rule 200(2) present for the final vote	Werner Kuhn, Verónica Lope Fontagné, Francisco José Millán Mon, Cláudia Monteiro de Aguiar, Milan Zver

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Establishing an information exchange mechanism with regard to intergovernmental agreements and non-binding instruments between Member States and third countries in the field of energy and repealing Decision No 994/2012/EU		
References	COM(2016)0053 – C8-0034/2016 – 2016/0031(COD)		
Date submitted to Parliament	10.2.2016		
Committee responsible Date announced in plenary	ITRE 7.3.2016		
Committees asked for opinions Date announced in plenary	AFET 7.3.2016	INTA 7.3.2016	
Rapporteurs Date appointed	Zdzisław Krasnodębski 25.2.2016		
Discussed in committee	20.4.2016	4.7.2016	5.9.2016
Date adopted	13.10.2016		
Result of final vote	+: –: 0:	53 10 0	
Members present for the final vote	Nikolay Barekov, Bendt Bendtsen, Xabier Benito Ziluaga, José Blanco López, David Borrelli, Jerzy Buzek, Angelo Ciocca, Edward Czesak, Jakop Dalunde, Pilar del Castillo Vera, Christian Ehler, Fredrick Federley, Ashley Fox, Adam Gierek, Theresa Griffin, András Gyürk, Roger Helmer, Hans-Olaf Henkel, Eva Kaili, Kaja Kallas, Barbara Kappel, Krišjānis Kariņš, Seán Kelly, Jaromír Kohlíček, Zdzisław Krasnodębski, Miapetra Kumpula-Natri, Janusz Lewandowski, Ernest Maragall, Edouard Martin, Angelika Mlinar, Nadine Morano, Dan Nica, Morten Helveg Petersen, Miroslav Poche, Carolina Punset, Herbert Reul, Paul Rübig, Algirdas Saudargas, Jean-Luc Schaffhauser, Sergei Stanishev, Neoklis Sylikiotis, Antonio Tajani, Dario Tamburrano, Patrizia Toia, Evžen Tošenovský, Claude Turmes, Vladimir Urutchev, Henna Virkkunen, Martina Werner, Lieve Wierinck, Anna Záborská, Flavio Zanonato, Carlos Zorrinho		
Substitutes present for the final vote	Pilar Ayuso, Michał Boni, Rosa D'Amato, Esther de Lange, Cornelia Ernst, Francesc Gambús, Jens Geier, Benedek Jávor, Olle Ludvigsson, Vladimír Maňka, Marian-Jean Marinescu, Clare Moody, Maria Spyrali		
Date tabled	18.10.2016		

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

53	+
ALDE	Fredrick Federley, Kaja Kallas, Angelika Mlinar, Morten Helveg Petersen, Carolina Punset, Lieve Wierinck
ECR	Nikolay Barekov, Edward Czesak, Ashley Fox, Hans-Olaf Henkel, Zdzisław Krasnodębski, Evžen Tošenovský
EFDD	Barbara Kappel
PPE	Pilar Ayuso, Bendt Bendtsen, Michał Boni, Jerzy Buzek, Francesc Gambús, Krišjānis Kariņš, Seán Kelly, Janusz Lewandowski, Marian-Jean Marinescu, Nadine Morano, Herbert Reul, Paul Rübig, Algirdas Saudargas, Maria Spyrali, Antonio Tajani, Vladimir Urutchev, Henna Virkkunen, Anna Záborská, Esther de Lange, Pilar del Castillo Vera
S&D	José Blanco López, Jens Geier, Adam Gierek, Theresa Griffin, Eva Kaili, Miapetra Kumpula-Natri, Olle Ludvigsson, Edouard Martin, Vladimír Maňka, Clare Moody, Dan Nica, Miroslav Poche, Sergei Stanishev, Patrizia Toia, Martina Werner, Flavio Zanonato, Carlos Zorrinho
Verts/ALE	Jakop Dalunde, Ernest Maragall, Claude Turmes

10	-
EFDD	David Borrelli, Rosa D'Amato, Roger Helmer, Dario Tamburrano
ENF	Angelo Ciocca, Jean-Luc Schaffhauser
GUE/NGL	Xabier Benito Ziluaga, Cornelia Ernst, Jaromír Kohlíček, Neoklis Sylikiotis

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention