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COMMISSION OPINION

of 6.7.2017

**under Regulation (EU) No 994/2010 on the Joint Preventive Action Plan submitted by
the Competent Authorities of Ireland and the United Kingdom to the European
Commission**

(Only the English text is authentic)

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1. PROCEDURE

In accordance with Article 6(3) of Regulation (EU) No 994/2010 ("Regulation"), a joint Preventive Action Plan ("Joint PAP") shall be established where the Competent Authorities of the concerned Member States decide to comply with the N-1 formula as required by Article 6(1) of the Regulation at a regional level instead of at national level. This decision needs to be based on the Risk Assessments referred to in Article 9 of the Regulation. The joint Plan has to be updated every two years, unless circumstances require more frequent updates.

The compliance with the N-1 formula aims at ensuring that in the event of the disruption of the single largest gas infrastructure in a Member State, the capacity of the remaining infrastructure is able to satisfy total gas demand of the calculated area during a day of exceptionally high gas demand occurring with a statistical probability of once in 20 years.

The Competent Authorities of Ireland and United Kingdom, the Commission for Energy Regulation ("CER") and the Department for Business, Energy and Industrial Strategy ("BEIS") respectively, notified their updated Risk Assessments pursuant to Article 9 of the Regulation to the Commission on 27 September 2016.

The CER and the BEIS notified to the Commission on 5 December 2016 of their Joint Preventive Action Plan.

Thus having assessed the Plan in view of the criteria mentioned in Article 4(6)(b)(i) to (iii) of the Regulation, and having reported its main findings to the Gas Coordination Group on 18 January and 3 February 2017, the Commission notes as follows.

2. ASSESSMENT AND CONCLUSION

The Joint PAP enables Ireland to meet the N-1 infrastructure standard that it can only meet as part of a regional approach. The Joint PAP is overall in line with the wider objectives set by the Regulation. Among other things, the infrastructure and supply standards are clearly explained and the Joint PAP clarifies that the risks identified in the accompanying Risk Assessment are effectively mitigated. As the Joint PAP should be considered as building on national plans, the Commission concludes that the Joint PAP complies with criteria in Article 4(6)(b) of the Regulation.

However, the Commission would like to draw the attention of CER and BEIS to some of the elements of the Joint PAP which do not necessarily raise legal concern in terms of their compatibility with the abovementioned Article, but which the Commission considers important to future iterations:

The Joint PAP presents the infrastructure standard, recalls that scenarios have been analysed but does not provide a list of those scenarios or whether demand-side measures are used to meet the standard as required by the Regulation.

The Joint PAP could better clarify the obligations, roles and responsibilities falling on natural gas undertakings, as well as specifying public service obligations relating to Security of Supply. The Joint PAP recalls that such obligations set at national level "do not differ under a regional approach". It may also be significant to consider spill over effects to other sectors such as electricity.

The Joint PAP does not report on links or references to other Member States' PAP or Risk Assessments, or any other cooperation dependence. The Joint PAP does not specify either whether it has been shared, at draft status, to other neighbouring Member States. We invite CER and BEIS to include such references for future reiteration of the Joint PAP.

The Commission's assessment expressed in this opinion is without prejudice to any position it may take *vis-à-vis* Ireland and the United Kingdom as regards compatibility of national measures with EU law, including in the context of infringement proceedings.

The Commission will publish this opinion. The Commission does not consider the information contained herein to be confidential, in particular as it relates to documents which are publicly available. The CER and BEIS are invited to inform the Commission within five working days following receipt of the opinion whether it considers that it contains commercially sensitive information, the confidentiality of which is to be preserved.

Done at Brussels, 6.7.2017

For the Commission
Miguel ARIAS CAÑETE
Member of the Commission

