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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	ANNEX to the Recommendation for a Council Decision authorising the opening of negotiations on an agreement between the European Union and the Russian Federation on the operation of the Nord Stream 2 pipeline

Delegations will find attached document COM(2017) 320 final - Annex.

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ANNEX 1

ANNEX

to the

Recommendation for a Council Decision

**authorising the opening of negotiations on an agreement between the European Union
and the Russian Federation on the operation of the Nord Stream 2 pipeline**

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Directives for the negotiation of an agreement between Russia and the European Union on the operation of the Nord Stream 2 pipeline

1. PARTIES TO THE AGREEMENT

The Russian Federation and the European Union shall be the parties to the agreement.

2. PURPOSE

The purpose of the agreement between the Russian Federation and the European Union should be to ensure that the Nord Stream 2 pipeline is operated in accordance with a mutually agreed regulatory framework which incorporates the core principles of international law and European union law on energy, taking into account at the same time the impact of the pipeline's operation on the current gas supply from Russian Federation to the European Union, including through Ukraine.

3. REGULATORY FRAMEWORK FOR THE OPERATION OF THE NORD STREAM 2 PIPELINE

The rules for the operation of the Nord Stream 2 pipeline to be agreed with Russian Federation should reflect the following principles of international and EU energy law.

Unbundling

The agreement should seek to ensure a separation between activities of gas production/supply and transmission. The purpose of such separation is to avoid conflict of interests and to enhance competition. In the context of the present agreement, the EU should aim to ensure full structural separation between gas production and supply activities on one hand and transmission activities on the other hand. As a minimum, the application of alternative unbundling models, such as the Independent System Operator (ISO) or the Independent Transmission System Operator (ITO) models could be considered.

Third-party access

Access to transmission capacity to interested shippers on a transparent and non-discriminatory basis is important to safeguard competition in the internal market and energy security. Capacity should be allocated via regular transparent auctions. A part of the capacity should be offered on a short-term basis to prevent market foreclosure. The share of capacity reserved for such auctions should approximate EU standards set out in relevant network codes.

Tariff regulation

Transmission tariffs should be transparent, non-discriminatory and cost-reflective, including an appropriate return on investments. Compliance with these requirements has to be subject to sufficient regulatory oversight with the involvement of the respective national regulatory authorities of Member States.

Transparency

Transmission system operators should make available to network users all relevant information on the operation of the pipeline needed to ensure the proper functioning of the market.

4. MITIGATION OF POTENTIAL DETRIMENTAL EFFECTS OF THE OPERATION OF THE NORD STREAM 2 PIPELINE

The agreement should include appropriate measures to ensure the possibility of mitigating the potential negative market impact of the Nord Stream 2 pipeline, in particular: the need for sustainable long-term gas transit after 2019 along a number of existing supply routes, notably via Ukraine, Member State endeavours to open up their gas markets in accordance with relevant obligations under EU energy law and Member States' goals to diversify their gas supplies, notably in Central and Eastern Europe.

5. DISPUTE SETTLEMENT, AMENDMENTS, TERMINATION, ENTRY INTO FORCE

The parties should agree provisions on dispute settlement, amendments, termination and entry into force, including simplified mechanisms for technical amendments.