

## Working document

# **Draft Regulation of the European Parliament and of the Council establishing a programme to aid economic recovery by granting Community financial assistance to projects in the field of energy**

## **CHAPTER I INTRODUCTORY PROVISIONS**

### *Article 1 Subject matter*

This Regulation establishes a financing instrument, the European Energy Programme for Recovery, hereinafter referred to as "the EEPR", for the development of projects in the field of energy in the Community that contribute by providing a financial impulse to economic recovery, the security of energy supply and the reduction of greenhouse gas emissions.

It establishes sub-programmes to advance those objectives in the fields of:

- (a) gas and electricity infrastructures;
- (b) offshore wind energy; and
- (c) carbon capture and storage.

It identifies projects to be financed under each sub-programme and lays down criteria for identifying and implementing actions to realise these projects.

### *Article 2 Definitions*

For the purposes of this Regulation, the following definitions shall apply:

- (a) "carbon capture and storage" shall mean the capture of carbon dioxide (CO<sub>2</sub>) from industrial installations, its transport to a storage site and its injection into a suitable underground geological formation for the purposes of permanent storage;
  - (b) "eligible costs" shall have the same meaning as in Regulation (EC) No 2342/2002
  - (c) "gas and electricity infrastructures" shall mean :
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- (i) all high-voltage lines, excluding those of distribution networks, and submarine links, provided that this infrastructure is used for interregional or international transmission or connection;

- (ii) high-pressure gas pipelines, excluding those of distribution networks;
  - (iii) underground storage facilities connected to the high-pressure gas pipelines referred to in point (ii);
  - (iv) reception, storage and regasification facilities for liquefied natural gas (LNG); and
  - (v) any equipment or installations essential for the infrastructure referred to in subparagraph (i), (ii), (iii) or (iv) to operate properly, including protection, monitoring and control systems;
- (d) "part of a project" means any activity that is independent financially, technically or over time and which contributes to the completion of a project;
- (e) "investment phase" shall mean the phase of a project during which construction takes place and capital costs are incurred;
- (f) "offshore wind energy" shall mean the electric power generated from turbine engines powered by wind and that are situated in the sea - near or far from the shore;
- (g) "planning phase" shall mean the phase of a project that precedes the investment phase, during which project implementation is prepared, including, where appropriate, feasibility assessment, preparatory and technical studies and the obtaining of licences and authorisations and capital costs are incurred.

*Article 3*  
*Budget*

1. The financial envelope for the implementation of the EEPR for 2009 and 2010 shall be EUR 3,980 million, allocated as follows:
    - (a) gas and electricity infrastructure projects: EUR 2,365 million;
    - (b) offshore wind energy projects: EUR 565 million;
    - (c) projects for carbon capture and storage: EUR 1,050 million.
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2. Individual legal commitments implementing the budgetary commitments made in 2009 and 2010 shall be made before 31 December 2010.

## **CHAPTER II**

### **SUB-PROGRAMMES**

#### **SECTION 1**

#### **GAS AND ELECTRICITY INFRASTRUCTURE PROJECTS**

##### *Article 4* *Objectives*

The Community shall promote gas and electricity infrastructure projects having the highest Community added value and contributing to the following objectives:

- (a) security and diversification of sources of energy, routes and supplies;
  - (b) optimisation of the capacity of the energy network and the integration of the internal energy market, in particular concerning cross-border section;
  - (c) development of the network to strengthen economic and social cohesion by reducing the isolation of the less-favoured and island regions of the Community;
  - (d) connection and integration of renewable energy resources; and
  - (e) safety, reliability and interoperability of interconnected energy networks, including enabling multidirectional gas flows.
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## *Article 5*

### *Priorities*

The EEPR shall serve to urgently adapt and develop energy networks of particular importance to the Community in support of the operation of the internal energy market and, in particular, to increase interconnection capacity, security and diversification of supply and to overcome environmental, technical and financial obstacles. Special Community support is necessary to develop energy networks more intensively and to accelerate their construction, notably where the diversity of routes and sources of supply is low.

## *Article 6*

### *Granting of Community financial assistance*

1. Financial assistance under the EEPR (hereinafter referred to as "EEPR assistance") for gas and electricity infrastructure projects shall be awarded to actions that realise the projects in the Annex, Part A, contributing to the objectives laid down in Article 4, or parts thereof.
2. The Commission shall call for proposals to identify the actions referred to in paragraph 1 and shall assess the compliance of these proposals with the eligibility criteria laid down in Article 7 and the selection and award criteria laid down in Article 8. The Commission shall inform the beneficiaries of any EEPR assistance to be granted.

## *Article 7*

### *Eligibility*

1. Proposals shall be eligible for EEPR assistance only if they implement the projects listed in the Annex, Part A, do not exceed the maximum amount of EERP assistance laid down there and fulfil the selection and award criteria under Article 8.
  2. Proposals may be submitted:
    - (a) by one or several Member States acting jointly;
    - (b) with the agreement of all Member States directly concerned by the project in question, by one or several public or private undertakings or bodies acting jointly;
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- (c) with the agreement of all Member States directly concerned by the project in question, by one or several international organisations acting jointly; or
  - (d) with the agreement of all Member States directly concerned by the project in question, by a joint undertaking.
3. Proposals submitted by natural persons shall not be eligible.

*Article 8*  
*Selection and award criteria*

1. In assessing the proposals received under the call for proposals referred to in Article 6(2), the Commission shall apply the following selection criteria:
- (a) the soundness and technical adequacy of the approach;
  - (b) the soundness of the financial package for the full investment phase of the action.
2. In assessing the proposals received under the call for proposals referred to in Article 6(2), the Commission shall apply the following award criteria:
- (a) maturity, defined as reaching the investment stage, and incurring substantial capital expenditure by the end of 2010;
  - (b) the extent up to which lack of access to finance is holding back the implementation of the action;
  - (c) the extent to which EEPR assistance will stimulate public and private finance;
  - (d) socio-economic impacts;
  - (e) environmental impacts;
  - (f) the contribution to the continuity and interoperability of the energy network, as well as to the optimisation of its capacity;
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- (g) the contribution to the improvement of service quality, safety and security;
- (h) the contribution to the creation of a well integrated energy market.

*Article 9*  
*Funding conditions*

1. EEPR assistance shall contribute to project-related expenditure for the implementation of the project, incurred by the beneficiaries or by third parties responsible for the implementation of a project.
2. EEPR assistance shall not exceed 50% of the eligible costs.

*Article 10*  
*Instruments*

1. Following the call for proposals referred to in Article 6(2), the Commission, acting in accordance with the procedure referred to in Article 26(2), shall select the proposals to receive EEPR assistance and determine the amount of EEPR assistance to be granted. The Commission shall specify the conditions and methods for their implementation.
2. EEPR assistance shall be granted on the basis of Commission decisions.

*Article 11*  
*Member States' financial responsibilities*

1. Member States shall undertake the technical monitoring and financial control of projects in close cooperation with the Commission and shall certify the amount and the conformity with this Regulation of the expenditure incurred in respect of projects or parts of projects. Member States may request the participation of the Commission during on-the-spot checks.
  2. Member States shall inform the Commission of the measures taken under paragraph 1 and, in particular, shall supply a description of the control, management and monitoring systems established to ensure that projects are successfully completed.
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**SECTION 2**  
**OFFSHORE WIND PROJECTS**

*Article 12*  
*Granting of EEPR assistance*

1. EEPR assistance for offshore wind projects shall be awarded following a call for proposals limited to the actions that realise the projects listed in the Annex, Part B.
2. The Commission shall call for proposals to carry out the actions referred to in paragraph 1 and shall assess the compliance of these proposals with the eligibility criteria laid down in Article 13 and the selection and award criteria laid down in Article 14.
3. The Commission shall inform the beneficiaries of any EEPR assistance to be granted.

*Article 13*  
*Eligibility*

1. Proposals shall be eligible for EEPR assistance only if they implement the projects listed in the Annex, Part B, do not exceed the maximum amounts of EEPR assistance laid down there and fulfil the selection and award criteria under Article 14. The corresponding projects shall be led by a commercial undertaking.
  2. Proposals may be submitted by one or several undertakings, acting jointly.
  3. Proposals submitted by natural persons shall not be eligible.
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*Article 14*  
*Selection and award criteria*

1. In assessing the proposals received under the call for proposals referred to in Article 12(1), the Commission shall apply the following selection criteria:
    - (a) the soundness and technical adequacy of the approach;
    - (b) the soundness of the financial package for the full investment phase of the project.
  
  2. In assessing the proposals received under the call for proposals referred to in Article 12(1), the Commission shall apply the following award criteria:
    - (a) maturity, defined as reaching the investment stage, and incurring substantial capital expenditure by the end of 2010;
    - (b) the extent up to which lack of access to finance is holding back the implementation of the action;
    - (c) the extent to which the project improves or increases the scale of installations and infrastructures that are already under construction, or are in the planning phase;
    - (d) the extent to which the project includes the construction of full-size and industrial-scale installations and infrastructures, and the extent to which it addresses in particular:
      - (i) balancing the variability of wind electricity through integrative systems;
      - (ii) large-scale storage systems;
      - (iii) management of wind farms as virtual power plants (more than 1 GW);
      - (iv) turbines placed further from the shore or in deeper waters (20 to 50 m) than is currently standard;
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- (v) novel sub-structure designs; or
- (vi) processes for assembly, installation, operation and decommissioning and testing of these processes in life-size projects;
- (e) the innovative features of the project and the extent to which it will demonstrate the implementation of such features;
- (f) the impact of the project and its contribution to the Community's offshore wind grid system, including its replication potential.
- (g) the commitment demonstrated by the beneficiaries to diffuse the results of technological advances made by the project to other European operators in a manner compatible with Community law and in particular with the objectives and structures outlined in the Strategic Energy Technology Plan for Europe.

*Article 15*  
*Funding conditions*

1. EEPR assistance shall contribute to project-related expenditure for the implementation of the project.
2. EEPR assistance shall not exceed 50% of the eligible costs.

*Article 16*  
*Instruments*

1. Following the call for proposals referred to in Article 12(1), the Commission, acting in accordance with the procedure referred to in Article 26(2), shall select the proposals to receive EEPR assistance and determine the amount of funding to be granted. The Commission shall specify the conditions and methods for their implementation.
  2. EEPR assistance shall be granted on the basis of grant agreements.
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**SECTION 3**  
**CARBON CAPTURE AND STORAGE**

*Article 17*  
*Granting of EEPR assistance*

1. EEPR assistance for carbon capture and storage projects shall be awarded to actions that realise the projects in the Annex, Part C.
2. The Commission shall call for proposals to carry out the actions referred to in paragraph 1 and shall assess the compliance of the proposals with the eligibility criteria laid down in Article 18 and the selection and award criteria laid down in Article 19.
3. If several proposals from projects located in the same Member State comply with the eligibility criteria laid down in Article 18 and the selection criteria laid down in Article 19(1), the Commission shall select for EEPR assistance, on the basis of the award criteria in Article 19(2), no more than one proposal per Member State among those proposals.
4. The Commission shall inform the beneficiaries of any EEPR assistance to be granted.

*Article 18*  
*Eligibility*

1. Proposals shall be eligible for EEPR assistance only if they implement the projects listed in the Annex, Part C and fulfil the following conditions as well as the selection and award criteria under Article 19:
    - (a) projects shall demonstrate that they have the ability to capture at least 80 % of CO<sub>2</sub> in industrial installations and the ability to transport and geologically store this CO<sub>2</sub> safely underground;
    - (b) in power installations, CO<sub>2</sub> capture has to be demonstrated on an installation of at least 250 MW electrical output or equivalent;
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- (c) project promoters shall make a binding declaration that the generic knowledge generated by the demonstration plant will be made available to the wider industry and to the Commission to contribute to the Strategic Energy Technology Plan for Europe <sup>1</sup>.
2. Proposals shall be submitted by one or several undertakings, acting jointly.
  3. Proposals submitted by natural persons shall not be eligible.

*Article 19*  
*Selection and award criteria*

1. In assessing the proposals received under the call for proposals referred to in Article 17(2), the Commission shall apply the following selection criteria:
  - (a) the soundness and technical adequacy of the approach;
  - (b) maturity, defined as reaching the investment stage, which includes exploration and development of storage options, and incurring substantial investment-related expenditure for the project by the end of 2010;
  - (c) the soundness of the financial package for the full investment phase of the project;
  - (d) identification of, all necessary permits required for construction and operation of the project at the proposed site(s) and having a strategy to secure those permits.
2. In assessing the proposals received under the call for proposals referred to in Article 17(2), the Commission shall apply the following award criteria:
  - (a) the extent up to which lack of access to finance is holding back the implementation of the action;
  - (b) requested funding per tonne of CO<sub>2</sub> to be abated in the first 5 years of operation;

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<sup>1</sup> COM (2007) 723.

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- (c) complexity of the project and level of innovation of the overall installation including other accompanying research activities as well as the commitment demonstrated by the beneficiaries to diffuse the results of the technological advances made by the project to other European operators in compatibility with Community law and in particular with the objectives and structures outlined in the Strategic Energy Technology Plan for Europe;
- (d) soundness and adequacy of the management plan including, in relation to the scientific, engineering, and technical information and data that it contains, documenting readiness of the proposed concept to achieve operation of the project by 31 December 2015.

*Article 20*  
*Funding conditions*

1. EEPR assistance shall contribute only to those project-related expenditure for the implementation of the project which are attributable to carbon capture, transport and storage, taking account of possible operating benefits.
2. EEPR assistance shall not exceed 80% of total eligible investment costs.

*Article 21*  
*Instruments*

1. Following the call for proposals referred to in Article 17(2), the Commission, acting in accordance with the procedure referred to in Article 26(2), shall select the proposals to receive EEPR assistance and determine the amount of EEPR assistance to be granted. The Commission shall specify the conditions and methods for the implementation of the proposals.
  2. EEPR assistance shall be granted on the basis of grant agreements.
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## **CHAPTER III**

### **COMMON PROVISIONS**

#### *Article 22*

#### *Other EEPR assistance and instruments*

1. A part of the Community assistance for the projects listed in the Annex may be implemented through a contribution to an appropriate instrument under the resources of the European Investment Bank. That contribution shall not exceed EUR 500 million.
2. The Community exposure to the loan guarantee instrument or other financing instrument, including management fees and other eligible costs, shall be limited to the amount of the Community contribution to that instrument and there shall be no further liability on the general budget of the European Union.
3. The Commission, acting in accordance with the procedure referred to in Article 26(2), shall decide on the amount of EEPR assistance to be granted to this instrument. The Commission and the European Investment Bank shall establish a memorandum of understanding specifying the conditions and the methods for the implementation of that decision.

#### *Article 23*

#### *Programming and implementing modalities*

1. Calls for proposals shall be directly launched by the Commission on the basis of budgetary availabilities referred to in Article 3(1) of this Regulation and on the basis of the eligibility, selection and award criteria as set out in Chapter II of this Regulation.
  2. EEPR assistance shall cover only project-related expenditure incurred by the beneficiaries responsible for the implementation of a project. Expenditure may be eligible as from the date referred to in Article 29.
  3. VAT shall not be an eligible cost, except for non-refundable VAT.
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4. Projects and actions financed under this Regulation shall be carried out in conformity with Community law and shall take into account any relevant Community policies, in particular those relating to competition including the applicable state aid rules, the protection of the environment, health, sustainable development and public procurement.

*Article 24*  
*Member States' general responsibilities*

Within the sphere of their responsibility, the Member States shall make every effort to implement the projects which receive EEPR assistance, notably through efficient administrative and authorisation, licensing and certification procedures.

*Article 25*  
*Protection of the European Communities' financial interests*

1. The Commission shall ensure that, when actions financed under this Regulation are implemented, the financial interests of the Community are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and by the recovery of amounts unduly paid and, if irregularities are detected, by effective, proportional and dissuasive penalties, in accordance with Council Regulation (EC, Euratom) No 2988/95, Council Regulation (Euratom, EC) No 2185/96 and with Regulation (EC) No 1073/1999 of the European Parliament and of the Council
  2. For the Community actions financed under this Regulation, the notion of irregularity referred to in Article 1(2) of Regulation (EC, Euratom) No 2988/95 shall mean any infringement of a provision of Community law or any breach of a contractual obligation resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the European Union or budgets managed by it, by an unjustified item of expenditure.
  3. All implementing measures resulting from this Regulation shall provide, in particular, for supervision and financial control by the Commission or any representative authorised by it, and by audits by the European Court of Auditors, if necessary on-the-spot audits.
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## **CHAPTER IV**

### **IMPLEMENTING AND FINAL PROVISIONS**

#### *Article 26* *Committees*

1. The Commission shall be assisted by the following committees:
  - (a) for gas and electricity infrastructure projects, the committee established by Article 15 of Regulation (EC) 680/2007 of the European Parliament and of the Council;
  - (b) for offshore wind projects, the committee established by Article 8 of Decision 2006/971/EC;
  - (c) for projects for carbon capture and storage, the committee established by Article 8 of Council Decision 2006/971/EC<sup>1</sup>.
2. Where reference is made to this Article, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

#### *Article 27* *Evaluation*

1. The Commission shall carry out an evaluation of the EEPR by 31 December 2011 in order to assess its contribution to the effective use made of the appropriations.
2. The Commission may request a beneficiary Member State to provide a specific evaluation of projects financed under Chapter II Section 1 of this Regulation or, where appropriate, to supply it with the information and assistance required to undertake an evaluation of such projects.

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<sup>1</sup> 2006/971/EC

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3. The Commission shall present to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions an evaluation report on the results achieved by the EEPR.

*Article 28*  
*Information to the European Parliament and the Council*

The Commission shall monitor the implementation of this Regulation. Each year, when it presents the preliminary draft budget, it shall present a report to the European Parliament and to the Council on the implementation of the Programme.

If the report identifies serious risks in implementing the priority projects the Commission should recommend measures to offset those risks, and make additional proposals for projects consistent with the Recovery Plan, if appropriate.

*Article 29*  
*Entry into force*

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

Eligible projects**A. INTERCONNECTORS****1. Gas interconnectors**

<b>Project</b>	<b>Location of projects supported</b>	<b>Envisaged Community contribution (€million)</b>
<i>Southern Gas Corridor</i> Nabucco	Austria, Hungary, Bulgaria, Germany, Romania	200
ITGI – Poseidon	Italy, Greece	100
<i>Baltic interconnection</i> Skanded, Baltic Pipe	Poland, Denmark, Sweden	150
<i>LNG network</i> Liquefied Natural Gas terminal at Polish coast at port of Świnoujście	Poland	80
<i>Central and South East Europe</i> Slovakia-Hungary Interconnector (Velky Krtis – Vecsés)	Slovakia, Hungary	30
Gas transmission system in Slovenia between the Austrian Border to Ljubljana (excluding the section Rogatec-Kidričevo)	Slovenia	40
Interconnection Bulgaria-Greece (Stara Zagora - Dimitrovgrad-Komotini)	Bulgaria, Greece	45
Romania-Hungary gas interconnector	Romania, Hungary	30
Expansion of Gas Storage Capacity in the Czech hub	Czech Republic	35
Infrastructure and equipment to permit reverse gas flow in the event of short term supply disruption	Austria, Bulgaria, Czech Republic, Estonia, Greece, Hungary, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia	80
Slovakia-Poland interconnection	Slovakia, Poland	20
Hungary-Croatia interconnection	Hungary	20
Bulgaria-Romania interconnection	Bulgaria, Romania	10

<i>Mediterranean</i> Reinforcement of FR gas network on the Africa- Spain-France axis	France	200
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GALSI (Gazoduc Algérie-Italie)	Italy	120
Gas Interconnection Western Axis Larrau Branch	Spain	45
<i>North Sea area</i>		
Germany-Belgium-United Kingdom pipeline	Belgium	35
France-Belgium connection	France, Belgium	200
<b>TOTAL</b>		<b>1440</b>

## 2. Electricity interconnectors

<b>Project</b>	<b>Location of projects supported</b>	<b>Envisaged Community contribution (EUR million)</b>
<i>Baltic interconnection</i>		
Estlink-2	Estonia, Finland	100
Interconnection Sweden- Baltic States, and strengthening of the grid in Baltic States	Sweden, Latvia, Lithuania	175
<i>Central and South East Europe</i>		
Halle/Saale – Schweinfurt	Germany	100
Wien-Győr	Austria, Hungary	20
<i>Mediterranean</i>		
Portugal-Spain interconnection reinforcement	Portugal	50
Interconnection France-Spain (Baixas – Sta Llogaia)	France, Spain	225
New 380 kV AC submarine cable between Sicily-Continental Italy (Sorgente – Rizziconi)	Italy	110
<i>North Sea area</i>		
500 MW Ireland/Wales interconnector (Meath-Deeside)	Ireland, United Kingdom	110
Electricity interconnection Malta-Italy	Malta/Italy	20
<b>TOTAL</b>		<b>910</b>

## 3. Small island projects

Small isolated island initiatives	Cyprus	10
	Malta	5
<b>TOTAL</b>		<b>15</b>

## B. OFFSHORE WIND PROJECTS

Project	Capacity	Location of projects supported	Envisaged Community contribution (EUR million)
<i>1) Grid integration of offshore wind energy</i>			
<b>1.1. Baltic - Kriegers Flak I, II, III</b> Building on projects under development. Financing aimed at ensuring extra cost for securing a joint interconnection solution.	1.5 GW	Denmark, Sweden, Germany, Poland	150
<b>1.2. North sea grid</b> Modular development of offshore grid, demonstration of virtual offshore power plant and integration in the existing onshore grid system.	1 GW	United Kingdom, Netherlands, Germany, Ireland, Denmark, Belgium, France, Luxembourg	165
<i>2) New turbines, structures and components, optimisation of manufacturing capacities</i>			
<b>2.1 Borkum West II - Bard 1 - Nordsee Ost - Global Tech I</b> New generation of multi-megawatt size turbines (5-7 MW) and innovative structures, situated far from shore (up to 100 km) in deeper waters (up to 40 m).	1.6 GW	Germany	200
<b>2.2 Aberdeen offshore wind farm</b> (European testing centre) Building on project presently under development - Testing of multi-MW turbines. Development of innovative structures and substructures including optimisation of manufacturing capacities of offshore wind energy production equipment. An increase in size of 100MW can be envisaged.	0.25 GW	United Kingdom	40
<b>2.3 Thornton Bank</b> Building on project presently under development. Learning from the Downvind project (co financed through FP6); Upscaling the Downvind installations turbines (5 MW size) in deep waters ( up to 30 m) with low visual impact (up to 30 km).	90MW	Belgium	10
<b>TOTAL</b>			<b>565</b>

### C. CARBON CAPTURE AND STORAGE PROJECTS

Project Name/ Location		Envisaged Community contribution (EUR million)	Fuel	Capacity	Capture Technique	Storage Concept
Huerth	Germany	180	Coal	450 MW	IGCC	Saline Aquifer
Jaenschwalde			Coal	500 MW	Oxyfuel	Oil/Gas fields
Eemshaven	Netherlands	180	Coal	1200 MW	IGCC	Oil/Gas fields
Rotterdam			Coal	1080 MW	PC	Oil/Gas fields
Rotterdam			Coal	800 MW	PC	Oil/Gas fields
Belchatow	Poland	180	Coal	858 MW	PC	Saline Aquifer
Compostilla (León)	Spain	180	Coal	500 MW	Oxyfuel	Saline Aquifer
Kingsnorth	United Kingdom	180	Coal	800 MW	PC	Oil/Gas fields
Longannet			Coal	3390 MW	PC	Saline Aquifer
Tilbury			Coal	1600 MW	PC	Oil/Gas fields
Hatfield (Yorkshire)			Coal	900 MW	IGCC	Oil/Gas fields
Porto Tolle	Italy	100	Coal	660 MW	PC	
<b>Industrial carbon capture project</b>						
Florange	France	50	Transport of CO <sub>2</sub> from industrial installation (steel plant) to underground storage (saline aquifer)			
<b>TOTAL</b>				<b>1050</b>		