



EUROPEAN COMMISSION
Impact Assessment Board

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Opinion

Title **Impact Assessment on a Commission initiative for the energy infrastructure package**
(draft version of 1/09/2010)

(A) Context

The Energy Infrastructure Package (EIP) was announced in the Second Strategic Energy Review, which was published together with a Green Paper in November 2008. The review was adopted by the European Council on 19 February 2009. At its March summit in 2009, the EU Council invited the Commission “to present early in 2010 its proposal for a new EU Energy Security and Infrastructure Instrument.” (EESII). This impact assessment accompanies phase 1 of the development of the package. A separate assessment will be carried out to prepare the legislative proposal for a new European energy security and infrastructure instrument, which is to be presented in 2011 (phase 2 of the Energy Infrastructure Package).

(B) Overall assessment

While the IAB takes note of the two-step approach – a Communication now, followed up by legislative instrument – there are a number of important issues that require significant further work already in this IA. First, the IA report should provide greater clarity on the estimated infrastructure investment needs, and bring out uncertainties about these figures and the major assumptions behind them. Second, the IA report needs a more developed discussion of the financing issues, rather than suggesting a simple increase in public spending. Third, greater attention must be paid to subsidiarity issues when discussing simplification of permitting procedures in the Member States. Finally, the report needs to be clearer with regard to the selection procedure of projects within the new TEN-E framework, including an assessment of administrative costs.

Given the nature of these recommendations, the Board asks DG Energy to resubmit a new version of the report, on which it will issue a new opinion.

(C) Main recommendations for improvements

(1) Clarify the exact scope of this initiative and specify which problems it will address. The IA report needs to be clear which of the identified problems – uncertainty about the technologies, tariff regulation, permitting/social acceptance, internal market, external aspects and TEN-E governance framework – will be tackled in this report, which in the IA on the legislative proposal for a new financial instrument, which elsewhere and adapt the sections on objectives and options accordingly. The baseline needs to be strengthened by consolidating the relevant elements currently presented throughout the report, and present more clearly the expected impact of the 3rd legislative package for the internal market for electricity and gas.

(2) Be more transparent on the estimation of investment needs for energy infrastructure. The IA report should explain in greater detail which models were used for these estimates, on the basis of which baselines and assumptions on price, market and technology developments, and regarding the regulatory framework. It should explain to what extent the modelling is coherent with analytical work done by the Commission services on related issues, such as cost estimates of achieving the climate change and renewable energy targets for 2020. This should include a discussion of the robustness of the estimates and their acceptance by stakeholders. Finally, the report needs to be more precise with regard to the likely contribution of the proposed actions to the carbon and renewable energy targets for 2020, given that some technologies, such as carbon capture and storage are in an early phase of the development.

(3) Potential financing issues should be discussed in more depth. The IA report should include a broad discussion of how the infrastructure needs can be financed including a discussion of the role of market based instruments, a clear explanation of what is understood as 'commercially viable' and to what extent this notion remains valid throughout the entire time horizon of the analysis. This should take into account the specificities of the gas and electricity markets, such as the high degree of regulatory intervention. Where the regulatory framework is the driver that makes investments not commercially viable, such as tariff regulation, the report should consider additional options in which the regulatory constraints are modified.

(4) The analysis of subsidiarity of policy options on simplification of permitting procedures needs to be improved. The report should provide a clearer overview of public authorities involved at different levels in permitting procedures differentiated by policy sector (gas, electricity, smart grids, CCS). On that basis it should provide a more thorough assessment of the options for permitting, in particular the idea of a one-stop shop, from the point of view of subsidiarity, compatibility with national legal systems, trade-off between public acceptance and speed of procedures, and costs. Finally, the assumptions for concluding that the impact of simplification of permitting procedures will be a significant increase in investment need to be explained more clearly in the IA report.

(5) The report should include greater clarity with regard to the new governance structure of the TEN-E. In the analysis of policy area B (design), the report should be clearer, how the proposed changes would differ from the current system, in particular if additional co-ordinating structures are created, and how they would impact on the speed of the project selection. The report should present the basic principles for project

selection, and clarify the process in which the detailed rules will be established thereafter. The administrative costs of the proposed changes need to be assessed.

(D) Procedure and presentation

The report should make the links between identified problems, objectives and policy options more direct. For instance, the widening of the scope of the TEN-E instrument seems to be treated in the section on problem definition only cursorily. A glossary should be added for an easier reading.

(E) IAB scrutiny process

Reference number	2010/ENER/016
External expertise used	No
Date of IAB meeting	22 September 2010