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**COMMISSION IMPLEMENTING DECISION**

of **XXX**

**establishing the 2013 annual work programme for granting financial aid in the field of trans-European networks (TEN) - area of energy infrastructures (TEN-E)**

## COMMISSION IMPLEMENTING DECISION

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**establishing the 2013 annual work programme for granting financial aid in the field of trans-European networks (TEN) - area of energy infrastructures (TEN-E)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Regulation (EC) No 680/2007<sup>1</sup> of the European Parliament and of the Council of 20 June 2007 laying down general rules for the granting of EU financial aid in the field of trans-European networks, and in particular Article 8 thereof,

Having regard to the Regulation (EU) No 670/2012<sup>2</sup> of the European Parliament and of the Council of 11 July 2012 amending Decision No 1639/2006/EC establishing a Competitiveness and Innovation Framework Programme (2007-2013) and Regulation (EC) No 680/2007 laying down general rules for the granting of Community financial aid in the field of the trans-European transport and energy networks, which establishes the legal basis for a pilot phase for a project bond initiative,

Having regard to Decision 1364/2006/EC<sup>3</sup> of the European Parliament and of the Council of 6 September 2006 laying down guidelines for trans-European energy networks,

Having regard to Council Regulation (EC, EURATOM) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>4</sup> and in particular Articles 53d, 75 and 110 thereof,

Having regard to Commission Regulation (EC, EURATOM) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, EURATOM) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>5</sup> and in particular Article 90 thereof,

Whereas:

- (1) In accordance with Article 75 of Regulation (EC, Euratom) No 1605/2002 and Article 90(1) of the Regulation (EC, Euratom) No 2342/2002, the commitment of expenditure from the budget of the European Union shall be preceded by a financing decision setting out the essential elements of the action involving expenditure and adopted by

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<sup>1</sup> OJ L 162, 22.6.2007, p.1.

<sup>2</sup> OJ L 204, 31.7.2012, p.1

<sup>3</sup> OJ L 262, 22.9.2006, p.1.

<sup>4</sup> OJ L 248, 16.09.2002, p.1.

<sup>5</sup> OJ L 357, 31.12.2002, p. 1.

the institution or the authorities to which powers have been delegated by the institution.

- (2) The use of joint management mode is justified as per Article 6 of the Regulation (EC) No 680/2007 of the European Parliament and of the Council of 20 June 2007 as amended by the Regulation (EU) No 670/2012. The European Investment Bank (EIB) is subject to compliance assessment in accordance with Article 53d of the Financial Regulation. In anticipation of the results of that assessment the authorising officer considers that, given the long standing cooperation with this Organisation, joint management can be proposed and a delegation agreement with an international organisation can be signed in accordance with the provisions of Article 43 of the Implementing Rules.
- (3) This Decision should allow for the payment of interest due for late payment on the basis of Article 83 of Regulation (EC, Euratom) No 1605/2002 and Article 106(5) of Regulation (EC, Euratom) No 2342/2002.
- (4) For the application of this Decision, it is appropriate to define the term 'substantial change' within the meaning of Article 90(4) of Regulation (EC, Euratom) No 2342/2002.
- (5) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 15(2) of Regulation (EC) No 680/2007.
- (6) In line with the Regulation (EU) No 670/2012 of the European Parliament and of the Council of 11 July 2012 amending Decision No 1639/2006/EC and Regulation (EC) No 680/2007, an amount of up to EUR 10 million for energy projects, may be redeployed for the risk-sharing instrument for project bonds from the TEN-E budget lines. To ensure the most effective use of the financial resources available for the implementation of TEN-E projects, should less than EUR 10 million be called for by the EIB for the risk-sharing instrument, the outstanding amount shall be used to provide grants for projects under the call for proposals referred to in the Annex.

HAS DECIDED AS FOLLOWS:

#### *Article 1*

The 2013 annual work programme in the field of Trans-European Energy networks (hereinafter "work programme"), as set out in Annex 1, is adopted. It constitutes a financing decision in the meaning of Article 75 of Regulation (EC, Euratom) No 1605/2002.

#### *Article 2*

The maximum contribution for the work programme is set at € 22.200.000,00<sup>6</sup>, to be financed from the budget line 32 03 02 of the General Budget of the European Union for 2013.

These appropriations shall cover interest due for late payment.

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<sup>6</sup> This amount may be increased to include appropriations corresponding to assigned revenue, if they are available at the time the financing decision is adopted.

The implementation of this Decision is subject to the availability of the appropriations provided for in the draft budget for 2013 after the adoption of the budget for 2013 by the budgetary authority or provided for in the provisional twelfths<sup>7</sup>.

### *Article 3*

The budget implementation of tasks to be carried out by joint management, as identified in the work programme, may be entrusted to the international organisation(s) identified therein.

### *Article 4*

Cumulated changes to the allocations to the action not exceeding 20% of the maximum contribution set in Article 2 are not considered to be substantial within the meaning of Article 90(4) of Regulation (EC, Euratom) No 2342/2002, where those changes do not significantly affect the nature and objective of the work programme. The increase of the maximum contribution set in Article 2 may not exceed 20%.

The authorising officer responsible may adopt such changes in accordance with the principle of sound financial management and principle of proportionality.

Any portion up to EUR 10.000.000 of the contribution set in Article 2 which is earmarked for the risk-sharing instrument for project bonds but ultimately not requested by the EIB shall increase the amount earmarked for grants for projects under the call for proposals referred to in the Annex.

Done at Brussels,

*For the Commission*  
*Günther Oettinger*  
*Member of the Commission*

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<sup>7</sup> The reference to the provisional twelfths is necessary for decisions which are conditioned to the approval of the Budget. In case the Budget is not approved by 31<sup>st</sup> of December, this decision would allow the commitment and payment of the provisional twelfths appropriations.

## ANNEX I

### **2013 annual work programme for granting financial aid in the field of trans-European networks (TEN) - area of energy infrastructures (TEN-E)**

#### **1. BASIC ACT**

Council Regulation (EC) No 680/2007<sup>8</sup>, laying down general rules for the granting of EU financial aid in the field of trans-European networks (hereinafter "**TEN Regulation**").

Decision 1364/2006/EC<sup>9</sup> of the European Parliament and of the Council of 6 September 2006 laying down guidelines for trans-European energy networks and repealing Decision n° 96/391/EC and Decision n° 1229/2003/EC (hereinafter "**TEN-E Guidelines**").

#### **2. BUDGET HEADING**

Article **32 03 02** – financial support for projects of common interest in the trans-European energy network.

#### **3. AIMS**

- The 2013 annual programme for granting financial aid in the field of trans-European networks (TEN) - area of energy infrastructures (TEN-E) - will encourage the effective operation and development of the internal market, reinforce the security of supplies and the diversification of energy suppliers and routes, facilitate the development and reduce the isolation of less-favoured regions, contribute to sustainable development and protection of the environment, inter alia by involving renewable energies.
- Furthermore, it will promote the interconnection, interoperability and development of trans-European energy networks and access to such networks in accordance with current EU law.
- The programme will also allow for rolling out the pilot phase for the project bond initiative<sup>10</sup> and making this financial instrument available to TEN-E projects with the objective of accelerating of their implementation. The risk-sharing instrument for project bonds is a joint instrument by the Commission and the EIB which addresses sub-optimal investment situation when projects face difficulties with accessing long term debt financing. The EIB shall be a risk-sharing partner and will manage the European Commission's contribution of the risk-sharing instrument for project bonds on behalf of the Union. The more detailed terms and conditions for implementing the instrument, including its monitoring and control, will be laid down in a co-operation agreement between the Commission and the EIB, taking into account the provisions laid down in the Annex to the TEN Regulation, as amended.

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<sup>8</sup> OJ L 162, 22.6.2007, p. 1.

<sup>9</sup> OJ L 262, 22.9.06, p. 1.

<sup>10</sup> In line with the Regulation (EU) No 670/2012 of the European Parliament and of the Council of 11 July 2012 amending Decision No 1639/2006/EC and Regulation (EC) No 680/2007

- Particular attention shall be given in accordance with the TEN Regulation art 5(3) to projects of European interest that contribute to:
  - (a) the development of the network to strengthen economic and social cohesion by reducing the isolation of the less-favoured and island regions of the Union;
  - (b) the optimisation of the capacity of the network and the integration of the internal energy market, in particular concerning cross-border section;
  - (c) the security of energy supply, diversification of sources of energy supplies and, in particular, interconnections with third countries;
  - (d) the connection of renewable energy resources; and
  - (e) the safety, reliability and interoperability of interconnected networks.

#### **4. PRIORITIES AND THE RESULTS EXPECTED**

The priorities for action by the EU on trans-European energy networks for 2013, shall be compatible with sustainable development and are defined in article 4 of the TEN-E guidelines. The projects of common interest referred to in Article 6 (3) of the TEN-E guidelines and covered by the axes for priority projects set out in its Annexe I shall have priority for the EU financial aid in the form of for grants for projects (see Article 7 (1) of the TEN-E guidelines).

##### **4.1 For both electricity and gas networks**

- (a) Adapting and developing the energy networks in support of the operation of the internal energy market and, in particular, solving the problems of bottlenecks especially transfrontier bottlenecks, congestion and missing links, and taking account of the needs arising from the functioning of the internal market for electricity and natural gas and the enlargement of the European Union;
- (b) Establishing energy networks in island, isolated, peripheral and ultra peripheral regions while promoting the diversification of energy sources and the use of renewable energy sources, together with the connection of those networks, where necessary;

##### **4.2 For electricity networks**

- (a) Adapting and developing networks to facilitate the integration and connection of renewable energy production;
- (b) Ensuring interoperability of electricity networks within the European Union with those in the accession and candidate countries and other countries in Europe and in the Mediterranean and Black Sea basins.

##### **4.3 For gas networks**

- (a) Developing natural gas networks in order to meet the EU's natural gas consumption needs and to control its natural gas supply systems;

- (b) Ensuring interoperability of natural gas networks within the EU and with those in accession and candidate countries and other countries in Europe, in the Mediterranean Sea, Black Sea and Caspian Sea basins, as well as in the Middle East and the Gulf regions, and diversification of natural gas sources and supply routes.

In particular and in order to continue the TEN - Energy programme, the Commission considers it important, in 2013, to focus the available funding, including through the project bond initiative<sup>11</sup>, on the projects to:

- Promote the diversification of energy sources and supply routes, aiming to enhance the EU's energy security of supply;
- Reduce the bottlenecks, congestion and missing links;
- Encourage the development and connection of renewable energy sources;
- Increase the underground storage capacity of natural gas;
- Increase the capacity of reception, storage and re-gasification for liquefied natural gas (LNG);
- Encourage the construction of high pressure gas pipelines for diversification of natural gas towards EU regions;
- Improve the flexibility of the existent gas network particularly through bi-directional physical flows.

## **5. SCHEDULE OF CALLS FOR PROPOSALS**

A call for proposals is foreseen in January-February 2013.

## **6. INDICATIVE AMOUNT**

The EU budget allocation available in 2013 for this programme is **EUR 22.200.000,00**<sup>12</sup>, of which an amount of up to EUR 10 million is foreseen for the risk-sharing instrument for project bonds implemented by EIB. For the call for proposals 2013, the total indicative amount for grants for projects in the field of trans-European energy network is EUR 12.200.000.

In line with the Regulation (EU) No 670/2012 of the European Parliament and of the Council of 11 July amending Decision No 1639/2006/EC and Regulation (EC) No 680/2007, the final amount to be used for the risk-sharing instrument for project bonds will be established on the basis of the transfer request which the Commission shall receive by 31 December 2012. Should less than EUR 10 million were requested, the outstanding amount shall be used to provide grants for projects under the call for proposals referred to above. If necessary, a reserve list of selected projects shall be established.

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<sup>11</sup> In line with the Regulation (EU) No 670/2012 of the European Parliament and of the Council of 11 July 2012 amending Decision No 1639/2006/EC and Regulation (EC) No 680/2007

<sup>12</sup> Conditional on the adoption of the 2013 budget

## **7. ELIGIBILITY CRITERIA**

### **7.1 Eligible applicants**

With the exception of the contribution to the risk-sharing instrument for project bonds which is covered by special provisions<sup>13</sup>, eligible are project proposals which are submitted, in the form of a written grant application, by one of the following types of applicants:

- one or (jointly) several Member States
- one or (jointly) several public or private undertakings or bodies with the agreement of the Member State(s) directly concerned by the project in question or
- one or (jointly) by several international organisations with the agreement of all Member States directly concerned by the project in question
- A Joint Undertaking with the agreement of all Member States directly concerned by the project in question.

Project proposals submitted by natural persons are not eligible.

In no case, projects proposals submitted by third Countries or legal or natural persons established outside EU countries can be beneficiaries of the funds.

### **7.2 Eligible projects**

#### **7.2.1 Common interest**

Only projects related to one or more of the projects of common interest identified in the TEN-E Guidelines<sup>14</sup> may receive EU financial aid in form of grants and risk-sharing instrument for project bonds.

#### **7.2.2 Compliance with the EU Law**

Projects and actions receiving EU financing in the field of trans-European networks shall be carried out in conformity with Union law and shall take into account any relevant Union policies, in particular those relating to competition, the protection of the environment and public procurement as provided for by the relevant article of the TEN Regulation<sup>15</sup>.

#### **7.2.3 Other sources of financing**

The project must involve co-financing and shall not have the purpose or effect of producing a profit for the beneficiary<sup>16</sup>.

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<sup>13</sup> In line with Article 6(1)(g) of the Regulation (EC) No 680/2007 as amended by the Regulation (EU) No 670/2012 of the European Parliament and of the Council of 11 July 2012, the detailed terms and conditions for implementing the risk-sharing instrument for project bonds, shall be laid down in a cooperation agreement between the Commission and the EIB.

<sup>14</sup> Article 6 of the TEN-E guidelines identifies “projects of common interest” which meet the abovementioned aims

<sup>15</sup> Article 12 of the TEN Regulation

<sup>16</sup> According to Article 109 of the Financial Regulation



No EU financial aid shall be awarded to actions receiving funds from other sources of EU financing<sup>17</sup>. The same costs shall not be financed twice by the budget<sup>18</sup>.

### **7.3 Prohibition of retroactive financing**

Expenditure shall be eligible from the date on which an application for aid is lodged.

No EU financial aid may be awarded retrospectively for actions already completed<sup>19</sup>.

### **7.4 Grounds of exclusion**

In the call for proposals the Commission will draw the applicants' attention to Articles 93 to 96 and Article 114 of the Financial Regulation, as well as to Article 133 of the Implementing Rules for the Financial Regulation.

## **8. SELECTION CRITERIA**

The applicant to the call for proposals referred to above must have access to solid and adequate funding sources, so as to be able to maintain activities for the period of the project funded and to help finance the project. The applicant must have the professional skills and qualifications required to complete the proposed action.

### **8.1 Financial capacity**

The applicants must have the financial capacity to complete the action for which the grant is sought and will provide their annual accounts for the last financial year. These documents must be attached to the application for aid.

The demonstration of the financial capacity does not apply to Member states, public bodies, joint undertakings established under Article 187 of the Treaty on the functioning of the European Union and to international organisations<sup>20</sup>.

### **8.2 Technical capacity**

The applicants must have the technical and operational capacity to complete the project for which the grant is sought and must provide appropriate documents attesting to that capacity (proof of the experience in carrying out actions of the type in question).

The demonstration of the technical capacity of applicants applies to all applicants. Information submitted by applicants who benefited from TEN-E aid as from 2004, may be taken into account in the evaluation of these applicants' technical capacity.

## **9. AWARD CRITERIA**

Only proposals submitted to the call for proposals referred above which are compliant with the eligibility, exclusion and selection criteria will be evaluated according to the following award criteria whose main objective is to assess the quality of the proposals. These criteria, set out in the TEN Regulation (Article 5), will be equally applied to all project proposals.

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<sup>17</sup> Including Euratom

<sup>18</sup> According to Article 111 of the Financial Regulation

<sup>19</sup> According to Article 112 of the Financial Regulation

<sup>20</sup> Article 176(4) of the Implementing Rules for the Financial Regulation.

- Maturity
- The need to overcome financial obstacles
- The stimulating effect of the EU intervention on public and private finance
- The soundness of the financial package
- Socio-economic effects
- Environmental consequences
- The degree of contribution to the continuity and interoperability of the network, as well as to the optimisation of its capacity
- The degree of contribution to the improvement of service quality, safety and security
- Quality of the application

## **10. FORMS OF INTERVENTION**

Successful proposals will be financed in accordance with the TEN Regulation laying down general rules for the granting of EU financial aid in the field of trans-European networks, as amended. The forms of EU financial aid are grants for studies and works as well as risk-sharing instrument for project bonds.

In line with Article 6(1)(g) of the Regulation (EC) No 680/2007 as amended by the Regulation (EU) No 670/2012, the detailed terms and conditions for implementing the risk-sharing instrument for project bonds, shall be laid down in a cooperation agreement between the Commission and the EIB.

EU financial aid granted may not exceed 50% of the eligible costs for studies and 10% for works.