



EUROPEAN COMMISSION

Brussels, 12/06/2009
C/2009/4610

Ms Verbeet
President of the House of Representatives
of the States-General
P.O. Box 20018
2500 EA The Hague

Dear President,

Thank you for your letter of 24 February enclosing comments from Tweede Kamer of the States-General on the proposal for a Council decision establishing a critical infrastructure warning information network (CIWIN) {COM(2008)676}.

In line with the Commission's decision to encourage National Parliaments to react to its proposals to improve the process of policy formulation, we welcome this opportunity to respond to your comments which are instrumental to the proceedings of the Commission. I enclose the Commission's reply and hope you will find this a valuable contribution to your own deliberations.

I look forward to developing our policy dialogue further in the future.

Yours sincerely,

Margot Wallström
Vice-President of the European Commission



EUROPEAN COMMISSION

Brussels, May 2009

COMMENTS OF THE EUROPEAN COMMISSION ON AN OPINION FROM THE TWO CHAMBERS OF THE STATES- GENERAL OF THE KINGDOM OF THE NETHERLANDS

COM(2008)676 - PROPOSAL FOR A COUNCIL DECISION ESTABLISHING A CRITICAL INFRASTRUCTURE WARNING INFORMATION NETWORK (CIWIN)

The Commission thanks the Dutch House of Representatives for its opinion, stating that the proposal for a Council Decision establishing a Critical Infrastructure Warning Information Network (COM (2008) 0676) respects both the principle of subsidiarity and the principle of proportionality.

In parallel to the subsidiarity and proportionality assessment, the Dutch House of Representatives addressed also the issue of the legal basis of the proposal. The House of Representatives supported the choice of Article 308 TEC as the chosen legal basis and stressed the need to understand such legal basis only as a last resort instrument to put forward proposals that contribute to the achievement of the objectives of the Community. In this sense, the Commission wishes to underline that Article 1 of the proposal provides that CIWIN aims at "assisting Member States to exchange information on shared threats, vulnerabilities and appropriate measures and strategies to mitigate risks related to critical infrastructure protection". The adoption of "measures in the sphere of civil protection" is amongst the "activities of the Community", set forth by Article 3(1), subparagraph (u) TEC, this proposal would pursue an objective of the European Community.

Furthermore, the EU's right to act in the field of EPCIP and CIWIN has been acknowledged by the Council, which requested the Commission to develop a programme to improve critical infrastructure protection, and asked the Commission to address the exchange of information. The following documents refer to CIWIN:

- on 2 December 2004, the JHA Council agreed in its "prevention, preparedness and response to terrorist attacks" conclusions that the main purpose of a CIWIN network should be to exchange information on threats and vulnerabilities of trans-boundary critical infrastructures (document 15232/04, p. 8);
- on 2 December 2004, the JHA Council adopted the "EU Solidarity Programme on consequences of terrorist treats and attacks" which stipulated that a CIWIN network should mainly stimulate an exchange of information on threats and vulnerabilities (document 15480/04, p. 13);

- on 16/17 December 2004, the European Council concluded that a European Programme for critical infrastructure protection should be established before the end of 2005 (document 16238/1/04 Rev 1, p. 11);
- on 8-9 December 2008, the Council adopted the EPCIP Directive that in recital (2) stated "*.....the Commission adopted a Green Paper on a European Programme for Critical Infrastructure Protection which provided policy options on the establishment of the programme and the Critical Infrastructure Warning Information Network*".

It can therefore be concluded that the JHA Council has previously agreed on the necessity of CIWIN as an exchange forum, and acknowledged the EU's right to act in this field. Since there is no other specific and horizontal legal basis for adoption of measures in the area of civil protection, Article 308 as a subsidiary legal basis can be used for a proposal that is considered to contribute to the achievement of the objectives of the Community.