



COMMISSION OF THE EUROPEAN COMMUNITIES

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**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT**

pursuant to the second subparagraph of Article 251 (2) of the EC Treaty

concerning the common position of the Council on the adoption of a Decision of the European Parliament and of the Council laying down guidelines for trans-European energy networks and repealing Decisions No 96/391/EC and No 1229/2003/EC

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1. BACKGROUND

Date of transmission of the proposal to the EP and the Council (document COM(2003) 742 – C5-0064/2004 – 2003/0297(COD)) 04.02.2004

Date of the opinion of the European Economic and Social Committee: 02.06.2004

Date of the opinion of the European Parliament, first reading: 07.06.2005

Date of adoption of the common position: 01.12.2005

2. OBJECTIVE OF THE COMMISSION PROPOSAL

The security of energy supply and the functioning of the internal energy market are key policy issues. This is mirrored in the Trans-European Energy (TEN-E) guidelines aiming at the installation of an electricity and gas network of truly European character by better linking the fragmented national networks.

Since the last adoption of the existing Guidelines for TEN-E in June 2003, the need has arisen to fully integrate the new Member states and candidate countries in these guidelines and to further adapt those guidelines to the new European Neighbourhood policy.

The revision of the TEN-E Guidelines proposed by the Commission in December 2003 aims at explicitly incorporating the ten new Member States into the priority projects. The TEN-E support is shifting from co-financing feasibility studies to supporting the most important interconnection capacity in the Annex IV of the original proposal. The main new elements of the proposed Guidelines are (i) designation of projects of European interest for the projects with a very significant cross-border dimension, and (ii) designation of a European coordinator who would be designated to contribute to their efficient preparation and their implementation within the agreed time frame. By accelerating the implementation of essential cross-border interconnections the new measures contribute to ensuring secure and competitive energy markets.

The Projects of European Interest have the objective to support the rapid implementation of the most important cross-border interconnection capacity. Projects are qualified as of European interest if they fulfil certain criteria in particular they have to be situated on a

priority axis, are of cross-border nature or have significant impact on cross-border transmission capacity and are mature in the sense that they could be started before end of 2006 and completed in 2010.

The European coordinator shall encourage cooperation with users and operators, promote the projects amongst private investors and financial institutions. A coordinator would be designated by the Commission, after consultation of the Member states concerned and will act in the name and on behalf of the Commission.

3. COMMENTS ON THE COMMON POSITION

3.1. Overall remarks on the common position

Council supports the main aim of the Commission's proposal: to adapt the trans-European energy network guidelines to the consequences of the recent enlargement of the Union. However, Council did not accept the new elements concerning implementation introduced by the Commission.

During an informal trilogue which took place in first reading, compromises were reached on the issues of appropriate references to olefin gases and renewable sources of energy; these compromises are included in the common position.

The Commission is of the opinion that the common position improves the Commission proposal by clarifying a number of issues, such as the project specification, the olefin networks and renewable sources of energy. The project specification is now listed in three annexes, where the character of a 'closed list' for the projects of European interest - originally listed in Annex IV but now merged into Annex I – is maintained. Further, the 'olefin networks' are included under the condition that the corresponding projects are not funded by the TEN-E budget line, but could receive support otherwise and additional references to renewable sources of energy are introduced.

The Council position basically did not change in relation to the issues referring to the declaration of European interest and the European coordinator from its position of June 2004. Therefore, the necessary **coordination of cross-border projects** and the corresponding cooperation of Member States are not established. The Council did not take up the proposal to coordinate better all Community funds and to give them the same priority, in particular for projects of European interest. Further, it did not accept the reporting requirements for all priority projects declared of European interest irrespective of possible funding by the Commission.

In the informal discussions the differences with regard to these issues could not be resolved. Consequently, the Commission regrets that despite in-depth informal discussions it was not possible to reach an agreement in first reading.

On the EP side, the rapporteur of the Committee on Industry, Research and Energy in the Parliament, Mrs Lapperouze, strongly supported the Commission proposal especially on projects of European interest and on the European Coordinator in her report to the EP. Furthermore, in Plenary Session and the subsequent vote of Parliament on 6-7 June in Strasbourg the report of Mrs Lapperouze was accepted by a very large majority.

Out of the 30 amendments adopted by EP (1-30, except 20, which was replaced by amendment 38) the Commission has accepted fully or partly: from 1 to 19 inclusive, 21 to 30 inclusive and amendment 38.

3.2. Amendments accepted by the Commission and incorporated in full or in part in the common position

Concerning the 30 amendments adopted by the European Parliament, the Council has accepted the following 20 amendments:

- fully (sometimes with redrafting): 1, 2, 4, 5 (recital 6), 6 (recital 11), 8 (recital 14a), 11, 16, 22 (Art. 8.1), 23 (Art. 9), 30;
- partly: 7 (recital 14), 12, 17, 24 - 29.

In amendments 24 - 29 which concern the Annexes, Council did not accept the references to "projects of European interest".

3.3. Amendments accepted by the Commission and not incorporated in the common position

Council rejected the following 10 amendments: 3, 9, 10, 13, 14, 15, 18, 19, 38, and 21.

AM 3 details the conditions for under which community aid is possible (The Council returns to the text of the Commission proposal). AM 13 is concerned about olefins; this issue is shifted to the additional recital (5) in the common position. AM 15 introduces 'environmental externalities'. The remaining amendments concern the declaration of European interest and the European coordinator.

The Council acknowledges in particular the restraint exercised by the European Parliament in its treatment of the Annexes, where Parliament has accepted the changes made and mutually agreed by the Commission and the Council, without making further changes itself. In the further legislative procedure regarding this dossier, any further changes to the Annexes could block a swift adoption of the Decision.

3.4. New elements introduced by the Council

Concerning the Commission proposal, the Council has introduced a number of changes which are reflected below.

- In line with the deletion of Articles 8, 9 and 10, the Council also deleted in the recitals the references to the Declaration of European interest (Recital 6, second sentence) and the European coordinator (recital 9). However, in order to retain certain elements contained in these Articles and recitals, Council inserted new recitals 9, 10 (concerning funding of priority projects), 12 and 13 (concerning coordination) in its common position. A new recital 5 on olefins was also added.
- In Article 4.2(b), a reference to "candidate countries" was inserted; the reference to olefin gases was deleted in Article 4.3(c).
- The reference to "priority projects" was deleted in Article 5(a).

- In Article 6.6, "after consulting" [the Member States] was replaced with "by agreement with", and a reference to multilateral agreements was added.
- A reference to "responsible companies" was added to Article 7.2.
- In Article 12 (Article 9 of the common position), it was specified that private financing or financing by economic operators shall be "the main source for financing".

The Commission considers the proposed additional recitals that specify measures for coordination and preference of financial support for priority projects as not appropriate to compensate the deletion of the declaration of European interest and the designation of a European coordinator.

4. CONCLUSION

The Commission considers that the common position unanimously adopted on 1 December 2005 further clarifies certain issues, but basically does not change from its position of June 2004.

In consequence, the Commission maintains its objection to the deletion of the proposed measures concerning the designation of a "European coordinator" and the separate category of "projects of European interest" notably in view of ensuring secure and competitive energy markets, and recalls that the Parliament's opinion at first reading accepted the Commission's proposal on this aspect. This is indicated in a statement for the Council minutes (see below).

The Commission stresses that the objectives of the TEN-E policy pursued in the revision are in line with the conclusions of the Informal Meeting of EU Heads of State or Government held at Hampton Court on 27 October, 2005 as expressed in the statement by Tony Blair: "in respect of energy, there was an agreement to take forward work in the energy sector, including how we try to establish a common European grid. Obviously there are already on a bilateral basis certain interconnections. There is a lot more we can do however, and it is important too that energy policy is something that we work on together as a European Union, given the fact that according to the European Commission, over the next few years we will start to import round about 90% of our oil and gas needs in Europe."

The Commission notes the unanimous political agreement in the Council.

The Commission recalls its proposal regarding the possibility of designating a "European Coordinator" and of granting the "Declaration of European interest" to the cross-border priority projects, and stresses that the Council's approach to the dossier needs to accord with what the Council and the European Parliament already accepted on 29 April 2004 in relation to the guidelines for the trans-European transport networks.