



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 7.2.2003  
SEC(2003) 164 final

2001/0311 (COD)

**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 a series of guidelines for trans-European  
energy networks**

**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 a series of guidelines for trans-European  
energy networks**

**1. BACKGROUND OF THE DOSSIER**

Date of transmission of the proposal to EP and Council (document COM(2001) 775 final – 2001/0311 (COD)):	6.3.2002
Date of opinion of the European Economic and Social Committee:	18.7.2002
Date of opinion of the Committee of the Regions:	16.5.2002
Date of opinion of the European Parliament (first reading):	24.10.2002
Date of transmission of the revised proposal:	[no revised proposal]
Date of adoption of the common position:	6.2.2003

The European Parliament delivered its opinion on first reading on 24 October 2002, proposing 24 amendments. The Commission accepted 14 in their entirety and one in part (AM 1, 2, 3, 6 in part, 9, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22).

The common position of the Council is a consolidated text intended to replace Decision No 1254/96/EC as last amended by Decision No 1741/1999/EC.

**2. PURPOSE OF THE COMMISSION PROPOSAL**

The purpose of the Commission initiative was to update the guidelines for trans-European energy networks.

The Commission therefore submitted a proposal the main objectives of which were to focus the guidelines more on projects having the greatest priority, update the list of projects and allow flexibility for subsequent updatings of the detailed list of projects.

### **3. COMMENTS ON THE COMMON POSITION**

#### **(a) General**

The political importance of the dossier was recognised by the Barcelona European Council of 16 March 2002 which called for the adoption of the revised guidelines by the end of 2002.

The Commission considers that the solutions agreed on by the Council are consistent with the spirit of the Commission's proposal and that they meet the main concerns of the European Parliament.

In particular, the Council, has strengthened the criteria relating to projects of common interest indicated in Annex II (which can only be amended by co-decision), thus meeting the European Parliament's concern for precise identification of the projects in the guidelines. The Council has maintained flexibility regarding the updating of the detailed project descriptions in Annex III (which can be amended by committee procedure), which is in line with the Commission's objectives.

#### **(b) The main elements of the common position relating to the amendments requested by the European Parliament**

- European Parliament amendments concerning the substance

The following European Parliament amendments have been incorporated into the common position:

- greater recourse to renewable energy sources, including the integration of offshore wind energy (AM 1, 19, 20, 21);
- the need to resolve the problem of the isolation of the less-favoured and island regions (AM 22);
- the construction and maintenance of energy infrastructure in accordance with market principles, while taking into account strategic and universal service criteria and avoiding distortion of competition (AM 2, 3, 9, 15);
- particular attention to trans-border projects (AM 14).

On the other hand, the common position does not incorporate the European Parliament amendments proposing:

- preferential financial treatment for priority projects (AM 5, 6 in part, 7):

On this issue; the Commission has already adopted a proposal to revise the TEN financial support Regulation (amended proposal COM(2002) 134 final of 12.3.2002) in order to raise from 10 to 20% the maximum rate of support for priority projects in the context of the trans-European energy networks.

The Commission is of the opinion that issues concerning financial support should be settled in the context of the revision of the TEN financial support Regulation in progress (2001/0226 (COD)) and not in the guidelines.

- the requirement for a detailed evaluation of projects as a pre-condition for identifying them in the guidelines (AM 26).

It should be recalled that only projects identified in the guidelines qualify for TEN financial support. Consequently, adopting this amendment would preclude using TEN financial resources to speed up the detailed evaluation of projects, which is in fact an important stage in the preparation of TEN projects.

- European Parliament amendments concerning procedures:

The following European Parliament amendments have been taken into account in the common position:

- the priority routes (Annex I) can only be modified by co-decision (AM 12, 13, 18);
- periodic submission of a report on measures taken concerning priority transboundary projects (AM 6 in part, 16).

On the other hand, the common position does not incorporate the following European Parliament amendments:

- setting of a deadline for the Commission with regard to the inclusion of the new Member States in the guidelines (AM 4, 17):

The Commission has already announced its intention of making a proposal by 2004 on this subject, but cannot accept having its right of initiative limited.

- refusal of committee procedure for updating the detailed project descriptions (AM 8, 10, 11):

The European Parliament wishes to be involved in the detailed project descriptions.

The Commission considers that exclusive use of the co-decision procedure for updating the definition of the projects of common interest has resulted in and will result in delays hindering the provision of support in good time for project variants or new projects consistent with the policy defined by the guidelines.

The common position takes into account the European Parliament's concern by transferring from Annex III (which can be amended by committee procedure) to Annex II (which can be amended by co-decision procedure) the most political elements of the identification of projects. The common position maintains flexibility with regard to the updating of the detailed project descriptions.

#### **4. CONCLUSIONS**

The Commission considers that the common position adopted by the Council on 6.2.2003 is in line with the spirit of the Commission proposal of 20 December 2001.

In general, where the common position departs from the Commission proposal it clarifies and supplements the concepts and approaches set out in the original text; this is particularly true as regards the definition of the priority routes and the projects (definitions contained in Annexes I and III respectively).

With regard to the criteria which the projects of common interest must meet (criteria contained in Annex II), in its common position the Council has adopted an intermediate solution between the Commission proposal which provided only for the definition of very general thematic criteria and the European Parliament's request for very precise identification of projects, with no flexibility with regard to updating the detailed definition of the projects of common interest.

The Commission is of the opinion that the Council's common position thus resolves the delicate problem of identifying the projects of common interest more precisely but allowing flexibility in the updating of the detailed project descriptions through a committee procedure.

The Commission considers this flexibility to be necessary on account of the emergence of new variants of projects already identified or new projects which are in line with the priorities and criteria of the guidelines but which, for practical reasons connected with the length of the co-decision procedure, cannot be added in good time to the list in the guidelines, and cannot therefore benefit from TEN financial support.

In addition, the Commission considers this flexibility to be proportionate, since it is a question of essentially technical adjustment to the detailed list of projects.

Consequently, the Commission invites the European Parliament to approve this common position.