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2 October 2002

**\*\*\*I**

## **REPORT**

on the proposal for a European Parliament and Council decision on amending  
Decision No 1254/96/EC laying down a series of guidelines for trans-European  
energy networks  
(COM(2001) 775 – C5-0111/2002 – 2001/0311(COD))

Committee on Industry, External Trade, Research and Energy

Rapporteur: Ward Beysen

***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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## PROCEDURAL PAGE

By letter of 6 March 2002 the Commission submitted to Parliament, pursuant to Article 251(2) and Article 156 of the EC Treaty, the proposal for a European Parliament and Council decision on amending Decision No 1254/96/EC laying down a series of guidelines for trans-European energy networks (COM(2001) 775 – 2001/0311 (COD)).

At the sitting of 11 March 2002 the President of Parliament announced that he had referred this proposal to the Committee on Industry, External Trade, Research and Energy as the committee responsible and the Committee on Budgets, Committee on Economic and Monetary Affairs, Committee on Legal Affairs and the Internal Market and Committee on Regional Policy, Transport and Tourism for their opinion (C5-0111/2002).

The Committee on Industry, External Trade, Research and Energy appointed Ward Beysen rapporteur at its meeting of 27 March 2002.

It considered the Commission proposal and draft report at its meetings of 21 May 2002, 9 July 2002 and 1 October 2002.

At the latter meeting it adopted the draft legislative resolution by 34 votes to 12.

The following were present for the vote: Carlos Westendorp y Cabeza, chairman; Peter Michael Mombaur and Jaime Valdivielso de Cué, vice-chairmen/; Ward Beysen, rapporteur; Gordon J. Adam (for Massimo Carraro), Konstantinos Alyssandrakis, Sir Robert Atkins, Danielle Auroi (for Nuala Ahern), María del Pilar Ayuso González (for Guido Bodrato), Luis Berenguer Fuster, Felipe Camisón Asensio (for Bashir Khanbhai), Giles Bryan Chichester, Nicholas Clegg, Willy C.E.H. De Clercq, Thierry de La Perrière (For Marco Cappato), Marie-Hélène Descamp (for Werner Langen), Harlem Désir, Concepció Ferrer, Francesco Fiori (for Angelika Niebler), Norbert Glante, Michel Hansenne, Roger Helmer (for Christian Foldberg Røvsing), Hans Karlsson, Dimitrios Koulourianos (for Fausto Bertinotti), Rolf Linkohr, Caroline Lucas, Eryl Margaret McNally, Erika Mann, Marjo Matikainen-Kallström, Giuseppe Nisticò (for Paul Rübig), Reino Paasilinna, Paolo Pastorelli, Elly Plooij-van Gorsel, John Purvis, Godelieve Quisthoudt-Rowohl, Bernhard Rapkay (for Imelda Mary Read), Ilka Schröder (for Yves Piétrasanta), pursuant to Rule 153(2)), Konrad K. Schwaiger, Esko Olavi Seppänen, Claude Turmes, W.G. van Velzen, Alejo Vidal-Quadras Roca, Dominique Vlasto, Anders Wijkman (for Umberto Scapagnini), Myrsini Zorba and Olga Zrihen Zaari.

The opinion of the Committee on Economic and Monetary Affairs is attached; the Committee on Budgets, the Committee on Legal Affairs and the Internal Market and the Committee on Regional Policy, Transport and Tourism decided on 19 March 2002, 27 March 2002 and 21 March 2002 not to deliver opinions.

The report was tabled on 2 October 2002.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

## DRAFT LEGISLATIVE RESOLUTION

### European Parliament legislative resolution on the proposal for a European Parliament and Council decision on amending Decision No 1254/96/EC laying down a series of guidelines for trans-European energy networks (COM(2001) 775 – C5-0111/2002 – 2001/0311(COD))

#### (Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2001) 775<sup>1</sup>),
  - having regard to Article 251(2) and Article 156 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C5-0111/2002),
  - having regard to Rule 67 of its Rules of Procedure,
  - having regard to the report of the Committee on Industry, External Trade, Research and Energy and the opinion of the Committee on Economic and Monetary Affairs (A5-0324/2002),
1. Approves the Commission proposal as amended;
  2. Asks to be consulted again should the Commission intend to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

#### Amendment 1 Recital 2

(2) The new priorities stem from the creation of a more open and competitive internal energy market, as a result of the implementation of Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricity and of Directive 98/30/EC of 22 June 1998 concerning common rules for the internal market in natural gas. They follow the conclusions of the Stockholm European Council of March 2001

(2) The new priorities stem from the creation of a more open and competitive internal energy market, as a result of the implementation of Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricity and of Directive 98/30/EC of 22 June 1998 concerning common rules for the internal market in natural gas. They follow the conclusions of the Stockholm European Council of March 2001

<sup>1</sup> OJ C 151 E 25.6.2002, p. 207

concerning the development of the infrastructures needed for the operation of the energy market, ***and they are consistent with*** the objective of making greater use of renewable energy sources as a contribution to furthering a sustainable development policy.

concerning the development of the infrastructures needed for the operation of the energy market. ***A special effort will be undertaken to achieve*** the objective of making greater use of renewable energy sources as a contribution to furthering a sustainable development policy.

#### *Justification*

*Concrete steps are needed to implement the objective of making greater use of renewable energy.*

#### Amendment 2 Recital 2 a (new)

***(2 a) As a rule the construction and maintenance of energy infrastructure should be subject to market principles. This is also in line with the Commission proposals for the completion of the internal market in energy and the common rules on competition law which aim at the creation of a more open and competitive internal energy market in the European Union.***

#### *Justification*

*It is necessary to underline that measures adopted under the present Decision should not lead to a distortion of the internal market in energy.*

*It is important to stress that the key responsibility for ensuring adequate infrastructure lies with EU industry and companies. This was also highlighted in the Conclusions of the European Council in Barcelona according to which "financial requirements should be met mainly by the enterprises involved". In this respect the trans-European energy networks sector is different from the trans-European transport networks.*

#### Amendment 3 Recital 2 b (new)

***(2 b) Energy infrastructure should be constructed and maintained so as to enable the internal energy market in the EU to***

*operate efficiently, without detracting from strategic and universal service criteria.*

*Justification*

*The aim of competition and completion of the internal energy market should be implemented in such a way as to allow for universal service obligations.*

Amendment 4  
Recital 3 a (new)

***(3 a) The need for an efficient integration of the candidate countries' energy networks will make it necessary for the Commission to present a proposal for a Decision amending the present Decision in due time before the accession of the first new Member States.***

*Justification*

*The need for an initiative in view of enlargement has to be emphasised in the present Decision.*

Amendment 5  
Recital 4

Among the projects relating to trans-European energy networks, it is necessary to highlight the priority projects, which are very important for the operation of the internal energy market or the security of energy supply.

Among the projects relating to trans-European energy networks, it is necessary to highlight the priority projects, which are very important for the operation of the internal energy market or the security of energy supply. ***It should consequently be possible for higher subsidies to be allocated to the development stage of these priority energy network projects without any resultant increase in the Community appropriations earmarked in the 2003-2006 financial perspective for energy networks. Such subsidies should***

***apply to priority energy network projects that are conducted in separate undertakings, are necessary to the European economy as a whole, but are commercially unprofitable and do not distort competition between undertakings.***

#### *Justification*

*A similarly worded provision was submitted by the Committee on Industry, External Trade, Research and Energy, which is also the committee responsible for the present proposal for a decision, during the proceedings on the regulation on Community assistance. The restrictions are appropriate in the context of regulatory policy, and should be reiterated here.*

#### **Amendment 6 Recital 5**

(5) It is necessary to adapt the procedure for identifying projects relating to trans-European energy networks in order to ensure the harmonious application of Council Regulation (EC) No 2236/95 of 18 September 1995 laying down general rules for the granting of Community financial aid in the field of trans-European networks.

(5) It is necessary to adapt the procedure for identifying projects relating to trans-European energy networks in order to ensure the harmonious application of Council Regulation (EC) No 2236/95 of 18 September 1995 laying down general rules for the granting of Community financial aid in the field of trans-European networks.

***The Commission will submit a report to the European Parliament and the Council listing and describing the measures on the energy networks which are likely, in the event of an increase in Community subsidy from 10% to 20%, to lead to more rapid completion of the relevant priority projects.***

#### *Justification*

*There is a very strong link between the present proposal and the Commission proposal amending Council Regulation (EC) No 2236/95 laying down general rules for the granting of Community financial aid in the field of trans-European networks. (COM (2002) 134-Report by Mr. Turchi - A5-188/2002).*

*The above-mentioned wording forms part of the ITRE-committee's opinion for the above-mentioned report and was adopted as such by the plenary on 2 July (see the amendment concerning article 5, paragraph 3, letter d).*



*A report which justifies the increase in Community subsidy from 10% to 20% is needed in order to guarantee transparency and to keep the legislator( the EP and the Council) duly informed.*

Amendment 7  
Recital 5 a (new)

***(5 a) The proposed increase in Community subsidy from 10% to 20% refers only to the developing phase of priority projects.<sup>1</sup> Community financial aid for the construction phase has to remain a very exceptional case in which special justification is needed.***

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Proposal for a Regulation on amending Regulation No. 22365 laying down general rules for granting of Community financial aid in the field of trans-European networks COM (2002) 134, see opinion of the industry committee of 21 May (draftsman: Mrs. Erika Mann)

*Justification*

*It is important to underline that any Community aid to the construction phase of trans-european networks must remain the exception. See also the justification to recital 2 a (new).*

Amendment 8  
Recital 7

***(7) Since the project specifications are liable to change, they are given indicatively. The Commission should therefore continue to be empowered to update them.***

***(7) Since the project specifications crucially determine the use of significant amounts of public funds, the legislator must, for reasons of supervision and transparency, exercise decision-making competence over the said specifications within the framework of the guidelines and criteria laid down in the present Decision.***

### *Justification*

*Annex III contains exact descriptions of the projects eligible for assistance. It is impossible to see why the authority to change them should be transferred from the requirement, as hitherto, of codecision procedure to the competence of a regulatory committee. Increased support for TEN-Energy projects from public funds is precisely the kind of operation that self-evidently calls for more stringent legislative supervision.*

### Amendment 9

#### ARTICLE 1, PARAGRAPH -1

#### Article 3 (Decision No 1254/96/EC)

***(-1) Article 3, first indent, is replaced by the following:***

- encouraging effective operation of the internal market in general and of the internal energy market in particular, while encouraging the rational production, distribution and utilization of energy resources and the development and connection of renewable energy resources, so as to reduce the cost of energy to the consumer and contribute to the diversification of energy sources,***
- facilitating the development and reducing the isolation of the less-favoured regions of the Community, thereby helping to strengthen economic and social cohesion,***
- reinforcing the security of energy supplies, for example by strengthening relations with third countries in the energy sector in their mutual interest, in particular in the framework of the Energy Charter Treaty and cooperation agreements concluded by the Community.***

### *Justification*

*A special effort is needed in order to improve the connection of renewable energy resources which will contribute to a diversification of energy sources and thus to the security of energy*

supply.

Amendment 10  
ARTICLE 1, PARAGRAPH 2  
Article 6, paragraph 3 (Decision No 1254/96/EC)

Any modification which changes the description of a project as it appears in Annex II shall be decided upon in accordance with the procedure laid down in Article 251 of the Treaty.

Any modification which changes the description of a project as it appears in Annex II ***or the indicative specifications contained in Annex III*** shall be decided upon in accordance with the procedure laid down in Article 251 of the Treaty.

*Justification*

*Annex III contains exact descriptions of the projects eligible for assistance. It is impossible to see why the authority to change them should be transferred from the requirement, as hitherto, of codecision procedure to the competence of a regulatory committee. Increased support for TEN-Energy projects from public funds is precisely the kind of operation that self-evidently calls for more stringent legislative supervision.*

Amendment 11  
ARTICLE 1, PARAGRAPH 2  
Article 6, paragraph 4 (Decision No 1254/96/EC)

The indicative project specifications, comprising the detailed description of the projects and, where appropriate, their geographical description, shall be as set out in Annex III.  
These specifications shall be updated in accordance with the procedure referred to in Article 9(2).

***Deleted.***

### *Justification*

*Annex III contains exact descriptions of the projects eligible for assistance. It is impossible to see why the authority to change them should be transferred from the requirement, as hitherto, of codecision procedure to the competence of a regulatory committee. Increased support for TEN-Energy projects from public funds is precisely the kind of operation that self-evidently calls for more stringent legislative supervision.*

### Amendment 12 ARTICLE 1, PARAGRAPH 3 Article 6 a, title (Decision No 1254/96/EC)

Priority ***projects*** of European interest

Priority ***axes*** of European interest

### *Justification*

*From a strategic point of view it is better and also less confusing to use here the term "axes". Priority projects are those projects of common interest which are situated on the priority axes. See also justification to the amendment referring to the title of the Annex.*

### Amendment 13 ARTICLE 1, PARAGRAPH 3 Article 6a, paragraph 1 (Decision No 1254/96/EC)

1. Priority shall be given to network developments which are compatible with sustainable development and which meet the following criteria:  
(a) they must have a significant impact on the competitive operation of the internal market; and/or  
(b) they must strengthen security of supply in the Community.  
The list of priority axes which meet these criteria shall be as set out in Annex I.

1. Priority shall be given to network developments which are compatible with sustainable development and which meet the following criteria:  
(a) they must have a significant impact on the competitive operation of the internal market; and/or  
(b) they must strengthen security of supply in the Community.  
The list of priority axes which meet these criteria shall be as set out in Annex I. ***All modifications to that annex shall be decided upon in accordance with the procedure laid down in Article 251 of the Treaty.***

### *Justification*

*Annex III contains exact descriptions of the projects eligible for assistance. It is impossible to see why the authority to change them should be transferred from the requirement, as hitherto, of codecision procedure to the competence of a regulatory committee. Increased support for TEN-Energy projects from public funds is precisely the kind of operation that self-evidently calls for more stringent legislative supervision.*

#### Amendment 14

##### ARTICLE 1, Paragraph 3

##### Article 6 a, paragraph 3 (Decision No 1254/96/EC)

3. The Member States concerned and the Commission shall endeavour, each within its own sphere of competence, to further the carrying-out of priority projects of European interest.

3. The Member States concerned and the Commission shall endeavour, each within its own sphere of competence, to further the carrying-out of priority projects of European interest ***especially as far as transborder projects are concerned.***

### *Justification*

*As the dependence on energy imports is increasing continually there is a special need to focus on transborder projects. This is also indispensable in view of the completion of the internal market in energy (see also justification to amendment 16).*

#### Amendment 15

##### ARTICLE 1, PARAGRAPH 3 A (new)

##### Article 7 (Decision No 1254/96/EC)

***(3 a.) Article 7 is replaced by the following:***

***When projects are considered, an effort shall be made to take into account the effects on competition. Private financing or financing by the economic operators concerned shall be encouraged. Any competitive distortion between the operators on the market shall be avoided as much as possible.***

### *Justification*

*See justification to amendment on recital 2 a (new). It is necessary to set out a clear framework within which operations in the field of transeuropean energy projects can take place under the present Decision.*

### Amendment 16

#### ARTICLE 1, PARAGRAPH 4

Article 10, paragraph 1 a (new) (Decision No 1254/96/EC)

***1 a. Every two years Member States shall draw up a report on the implementation and progress made in carrying-out of priority projects of European interest which concern transborder connections as mentioned in Annex III, a), b) and f). This report shall be submitted to the European Parliament, the Council, the Economic and Social Committee and the Committee of Regions.***

### *Justification*

*There is a need to evaluate the implementation of the projects on a regular basis.*

*Member States are playing an important role in this sector. As mentioned in Article 6, paragraph 6 of the current Decision No 1254/96/EC "Member States shall take any measures they consider necessary to facilitate and speed up the completion of projects of common interest and to minimise delays while complying with Community law and international conventions on the environment. In particular, the necessary authorisation procedures shall be completed rapidly".*

*It is therefore suggested to ask Member States to report on an annual basis on the European transborder energy infrastructure projects (especially those mentioned in Annex III, projects a), b) and f). These projects are of special interest for the completion of the internal market in energy. According to the conclusions of the European Council in Barcelona Member States have agreed to meet a "target of a level of electricity interconnections equivalent to at least 10% of their installed production capacity".*

Amendment 17  
ARTICLE 1, PARAGRAPH 4 a (new)  
Article 10 a (new) (Decision No 1254/96/EC)

***10 a. Accession countries***

***The Commission will present a proposal for a Decision amending the present Decision no later than 3 months before the accession of new Member States.***

*Justification*

*Bearing in mind the considerable period of time usually needed for the implementation of transeuropean networks there has to be a guarantee that candidate countries are involved immediately.*

Amendment 18  
ANNEX I, TITLE

TRANS-EUROPEAN ENERGY  
NETWORKS

Priority projects of European interest  
Priority axes

TRANS-EUROPEAN ENERGY  
NETWORKS

Priority projects of European interest  
***situated on the following Priority axes as defined in Article 6 a, paragraph 2:***

*Justification*

*This addition is needed in order to clarify the system of the Annexes as proposed by the Commission (see also amendment 12).*

Amendment 19  
ANNEX I, EL.5.

EL.5. United Kingdom – continental Europe  
and Northern Europe:

establishing/increasing electricity  
interconnection capacities.

EL.5. United Kingdom – continental Europe  
and Northern Europe:

establishing/increasing electricity  
interconnection capacities ***and possible integration of offshore wind energy in the North Sea.***

### *Justification*

*The amendment refers to the reference in recital 2 in which the Commission states that ‘they [the new priorities] are consistent with the objective of making greater use of renewable energy sources as a contribution to furthering a sustainable development policy’.*

*The Fifth Ministerial Declaration on the Protection of the North Sea, signed in Bergen, Norway, in March 2002, included a commitment by the North Sea Ministers (representing Belgium, Denmark, France, Germany, the Netherlands, Norway, Sweden, Switzerland and the United Kingdom) to take action to exploit the large renewable energy potential in the North Sea. The declaration states:*

*‘The Ministers welcome the development of renewable energy, inter alia, offshore wind energy, that has the potential to make a significant contribution to tackling the problems of climate change. They agreed to take action in order to exploit this potential fully and safely, taking into account the global and European commitments linked to the Kyoto Protocol. (...)’*

*The Ministers invite the oil and gas industries to consider the market potential for renewable energy, in particular offshore wind, within the North Sea and to further the existing co-operation with the offshore renewable energy industry with respect to the sharing of information, technology and infrastructure.’*

### Amendment 20 ANNEX I, EL.6.

EL.6. Ireland – Northern Ireland – United Kingdom:

establishing/increasing electricity interconnection capacities.

EL.6. Ireland – Northern Ireland – United Kingdom:

establishing/increasing electricity interconnection capacities ***and possible integration of offshore wind energy.***

### *Justification*

*See justification for the amendment on ANNEX I, EL.5.*

### Amendment 21 ANNEX III, introduction

Project (a) Developing electricity networks in island, isolated, peripheral and

Project (a) Developing electricity networks in island, isolated, peripheral and



ultraperipheral regions while promoting the diversification of energy sources and the use of renewable energies, and connection of the electricity networks of those regions, if appropriate.

ultraperipheral regions while promoting the diversification of energy sources and ***enhancing*** the use of renewable energies, and connection of the electricity networks of those regions, if appropriate.

*Justification*

*The European Union has committed itself to a share of 22 % of electricity to be produced from renewable energy by 2010.*

## EXPLANATORY STATEMENT

### 1.) Key issues of the present proposal

The present proposal for a revision of the Guidelines for Trans-European Energy Networks (TEN-Energy) was put forward by the Commission taking account of the recent developments following from the implementation of the Directive on liberalising the markets for electricity and natural gas, the increasing dependence on imported energy and the setting of targets for the penetration of renewable energy sources.

It is part of the measures requested by the Stockholm and Barcelona European Councils with a view to exploiting the potential of the internal market, in particular for the creation of the framework for the establishment of efficient trans-frontier markets with the support of appropriate infrastructure capacities. At Barcelona the European Council established "the target for Member States of a level of electricity interconnections equivalent to at least 10% of their installed production capacity by 2005".

As far back as its Green Paper, 'Towards a European strategy for the security of energy supply' the Commission referred to the need to expand the European energy infrastructure still further (particularly in Southern Europe, between France and Spain), but there are still political and financial obstacles to this. The main aim is to realise two priority objectives: to ensure security of energy supply and to complete the internal market in energy. The Commission notes that a functioning internal market in electricity and gas, in which there should also be cross-border trade and competition, is inconceivable without the necessary infrastructure.

The present proposal is aimed at amending the TEN-Energy Guidelines by identifying a distinct category of priority projects among the projects of common interest.

The projects of common interest are those which correspond to the criteria and objectives fixed by the TEN-Energy Guidelines. The current list was adopted by the European Parliament and the Council as an Annex to the Decision establishing the TEN-Energy Guidelines in 1996, and added to in 1997 and 1999. The updating of the list of projects of common interest is foreseen in this proposal (see Annexes II and III). The projects of common interest are defined more broadly (10 thematic projects instead of the current 90 detailed projects). The detailed project definitions are incorporated into the project specifications mentioned in Annex III of the proposal. This new structure introduced by the proposal is an important difference with regard to the current Decision.

It is thus proposed to identify a category of priority projects of European interest among the projects of common interest. This category will include a restricted number of energy network projects which will have very important impact from the point of view of the essential criteria of energy policy, i.e. completing the internal market and reinforcing security of supply (see Annex I).

The Commission proposes to focus the means available under the TEN policy on the priority projects. In particular, priority will be given to the priority projects when funding under the TEN Financial Support Regulation is decided. The Commission also believes that when

deciding on financial support under the TEN Regulation, priority should be given to the development phase (which follows the phase of initial studies), including the removal of obstacles to carrying out projects; previously, priority was given to the design and initial feasibility study phase (see also point 2.).

## **2.) The Commission proposal on amending Council Regulation (EC) No 2236/95 laying down general rules for the granting of Community financial aid in the field of trans-European networks**

The present proposal for a revision of the Guidelines for Trans-European Energy Networks (TEN-Energy) is closely linked to the proposed amendment of the rules for the granting of Community aid in this field<sup>1</sup>.

More than five years after the entry into force of Regulation (EC) 2236/95 of 18 September 1995 laying down general rules for the granting of Community financial aid in the field of trans-European networks, which has already been amended once in 1999, the Commission considers it necessary to make technical adjustments ‘in order to reflect current policy priorities’.

In December 2001 the Commission therefore proposed an amendment to the current Regulation which provides for an increase in the maximum rate of Community subsidy from 10% to 20% of total costs for particular TEN projects which make an important contribution to the objectives of the Trans-European Networks but have a low level of profitability. Initially the proposal was limited to specific trans-European networks (cross-border rail bottlenecks, bottlenecks at borders with candidate countries, satellite positioning, navigation systems). According to the Commission the telecommunications area was not included because the proposal on priority projects in this area is not yet ready for a decision. On 12 March 2002 the Commission modified this proposal and extended it to ‘priority projects essential for completing the trans-European energy network’.

The Commission stresses that there is no question of increasing appropriations in the energy sector, and that the proposal – unlike in the case of the trans-European transport networks – will not therefore lead to any increase in the Community budget set aside in the financial perspectives for energy networks. For 2002 an amount of EUR 21 m is set aside for the trans-European energy infrastructure.

Unfortunately the two proposals are neither dealt with in the same committee of the European Parliament nor at the same time which led to the situation whereby the Committee on Industry, External Trade, Research and Energy had to give an opinion on the rules for the granting of Community financial aid in the field of TEN-energy before the EP had taken a decision on the guidelines including the priority projects for which an increase in the maximum rate of Community subsidy from 10% to 20% of total costs had been suggested.

In its opinion on financial aid in the field of transeuropean energy networks the ITRE-committee adopted the following position which is of interest in the context of the present

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<sup>1</sup> COM(2002) 134; Report by Mr. Turchi (A5-0188/2002), which was adopted in plenary on 2 July 2002; see also the opinion by the Committee on Industry, External Trade, Research and Energy (Draftsman: Mrs. Erika Mann)

report:

\* The total amount of Community aid may exceptionally reach 20% of the total investment cost in the case of certain priority projects on the energy networks listed in the Decision of the European Parliament and of the Council amending Decision No 1254/96/EC laying down a series of guidelines for trans-European energy networks.

\* In order to define these priority projects on the energy networks, the Commission shall submit a report to the European Parliament and the Council listing and describing the measures on the energy networks which are likely, in the event of an increase in Community subsidy from 10% to 20%, to lead to more rapid completion of the relevant priority projects.

\* Only the development stage of priority projects on the energy networks should therefore also qualify for higher financial aid without this leading to any increase in the Community funds set aside for energy networks in the 2003-2006 financial perspectives.

\* This aid is in respect of priority projects on the energy networks carried out in own (unbundled) companies, which are necessary in the interests of the European economy but unprofitable in business terms and which do not distort competition between enterprises.

### **3.) The proposed amendments**

The following main ideas have been considered in view of the amendments proposed in the framework of the present report:

1.) It is important to stress that the key responsibility for ensuring adequate infrastructure lies with EU industry and companies. This was highlighted as well in the Conclusions of the European Council in Barcelona according to which "financial requirements should be met mainly by the enterprises involved". In this respect the trans-European energy networks sector is different from the trans-European transport networks.

2.) New Member States will have to be integrated in the internal market in energy. The present proposal takes into account a few projects concerning the connection between EU Member States and candidate countries (see for example Annexe III, project f) and h). A revision of the current Decision will be necessary in view of enlargement and should therefore be proposed in due time before the accession of new Member States.

3.) Reference is made to the text adopted by the ITRE-committee in the framework of the opinion on the Commission proposal on amending Council Regulation (EC) No 2236/95 laying down general rules for the granting of Community financial aid in the field of trans-European networks<sup>1</sup>.

4.) As far as the comitology procedure is concerned, the Commission proposes to introduce the possibility of updating the specifications mentioned in Annex III in accordance with the procedure referred to in Article 9, paragraph 2 (regulatory procedure). According to the Commission this flexibility is needed in order to react to new developments.

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<sup>1</sup> COM(2002) 134: Report by Mr. Turchi (A5-0188/2002); Opinion by the Committee on Industry, External Trade, Research and Energy which was adopted on 21 May 2002.

This has to be considered carefully by the EP. There must be a balance between the need to react quickly to new developments concerning the projects and the need for an efficient control by the co-legislator (the EP) especially as the priority axes and projects set out in Annex I are very largely defined.

5.) It has to be made clear that in Annex I priority axes are established. According to article 6 priority projects are those projects of common interest identified in accordance with this Decision, which are situated on the priority axes. In this respect the terminology used in the proposal needs clarification.

6.) The Commission proposes to extend the reporting period for the implementation reports from 2 to 4 years since, in pursuance of Regulation (EC) No 2236/95 (rules for granting Community financial aid for TEN), it already submits an annual report which contains information on the progress of projects.

This extension of the reporting period should be considered carefully. It should at least be ensured that progress is made and controlled regularly.

It is therefore proposed that Member States be asked to report on an annual basis on the European transborder energy infrastructure projects (especially those mentioned in Annex III, projects a), b) and f). These projects are of special interest for the completion of the internal market in energy. In this context it has to be considered that requests for financial aid under the rules concerning TEN-energy are presented via the Member States, which are playing an important role in this sector. They have also proposed the different projects. As mentioned in Article 6, paragraph 6 of the current Decision No 1254/96/EC "Member States shall take any measures they consider necessary to facilitate and speed up the completion of projects of common interest and to minimise delays while complying with Community law and international conventions on the environment. In particular, the necessary authorisation procedures shall be completed rapidly".

7.) There is a need to add concrete projects to improve the connection of renewable energy sources, for example as far as offshore windparks in the North Sea are concerned (to be added in Annex III, project c).

28 August 2002

## **OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS**

for the Committee on Industry, External Trade, Research and Energy

on the proposal for a decision of the European Parliament and of the Council amending Decision No 1254/96/EC laying down a series of guidelines for trans-European energy networks

(COM(2001) 775 – C5-0111/2002 – 2001/0311(COD))

Draftsman: Peter Michael Mombaur

### **PROCEDURE**

The Committee on Economic and Monetary Affairs appointed Peter Michael Mombaur draftsman at its meeting of 15 April 2002.

It considered the draft opinion at its meetings of 3 June 2002, 9 July 2002, 10 July 2002 and 27 August 2002.

At the last meeting it adopted the following unanimously.

The following were present for the vote: Christa Randzio-Plath, chairman; José Manuel García-Margallo y Marfil, Philippe A.R. Herzog and John Purvis, vice-chairmen; Generoso Andria, Luis Berenguer Fuster (for Pervenche Berès), Hans Blokland, Renato Brunetta, Hans Udo Bullmann, Jonathan Evans, Lisbeth Grönfeldt Bergman, Mary Honeyball, Christopher Huhne, Pierre Jonckheer (for Alain Lipietz), Othmar Karas, Giorgos Katiforis, Christoph Werner Konrad, Wilfried Kuckelkorn (for Robert Goebbels), Werner Langen (for Ingo Friedrich), Astrid Lulling, Helmuth Markov (for Armonia Bordes), Ioannis Patakis, Fernando Pérez Royo, Mikko Pesälä (for Carles-Alfred Gasòliba i Böhm), Alexander Radwan, Bernhard Rapkay, Olle Schmidt, Peter William Skinner, Charles Tannock (for Hans-Peter Mayer), Helena Torres Marques, Jaime Valdivielso de Cué (for Mónica Ridruejo) and Theresa Villiers.

## SHORT JUSTIFICATION

### Commission proposal

The Commission has proposed a revision of the guidelines currently applicable to trans-European energy networks (TEN-Energy), drawing on its assessment of activities in that area in the period 1996-2001. Despite a favourable assessment overall, the Commission comes to the conclusion that the progress made with a good many key projects has been slow. Of the 14 actions designated by the Essen Summit as specific projects, only three have been realised. To ensure that important actions can in future be put into effect more quickly, the Commission proposal now provides for what are called 'priority projects of European interest'. The crucial innovation is that it will now be possible for these to be promoted at the rate of up to 20% of total costs from Community funds. That aspect is to be decided in the TEN Financial Support Regulation now also under consideration. In addition, the development stage of the projects will now also be eligible for support, whereas only advance feasibility studies had been financed hitherto.

The details of those priority projects are specified in Annexes I to III. Annex I provides a geographical breakdown of 'priority axes', Annex II outlines 10 very general, thematically defined, objectives. These are intended, according to the Commission, to replace the annex to the old decision with its 90 projects. Combining the geographical and thematic principles yields the specific objectives newly included in the proposal and listed indicatively in Annex III. Annex II is to be open to amendment by way of the codecision procedure, and Annex III by regulatory committee.

Two new political priorities are in addition being introduced that reflect EU legislative activities in the area of energy since 1996, viz:

- backing up implementation of the internal market; and
- connecting renewable energy production to the interconnected energy networks.

Finally, the Commission now wishes to submit a special TEN-Energy report only every four years (instead of every two years, as hitherto), and refers in that connection to the annual general reports on the TENs.

### Draftsman's assessment

- The draftsman expressly welcomes the Commission's approach of stepping up the use of the TEN financial assistance mechanism to complete the internal market in electricity and gas. That accords with the report adopted by the European Parliament at first reading on 13 March 2002 on the proposal for a regulation on promoting the cross-border trade in electricity. The plenary agreed with the rapporteur in insisting that the financing of transit of electricity and management of bottlenecks would have to be regulated so as to ensure that cross-border trade would not be restricted. It also became clear that most such bottlenecks were arising at national borders. The expansion of international link-up facilities is thus in the interests of completion of the internal market, and with it of the consumer.

- The question nevertheless arises of the extent to which such activity should be publicly financed. The Commission proposal provides for a substantial increase in the public-sector contribution to energy projects by doubling the maximum assistance rate and extending assistance from preliminary studies to the development stage (see TEN Financial Support Regulation). The Commission is here taking an approach paralleling that adopted for TEN-Transport. The two sectors differ, however, in the sense that infrastructure projects in the area of transport are public-sector financed (by the Member States), whereas electricity and gas supply-lines are built by network operators and/or owners. They are thus much more strongly subject to a commercial logic. Whether or not the latter can be decisively influenced by limited public subsidies, thus enabling Community assistance to develop its own steering effect - as distinct from being pulled in the same direction - is uncertain. It cannot make sense to reward network operators, who in any event already hold a strong position in most Member States as integrated units in a large-scale supply chain, by simply handing them a substantial new source of income.

It must on the other hand also be recognised that network operators often have no interest on their own account in removing bottlenecks in the supply to their neighbours, since these are precisely what better enables monopoly-like positions in well-established supply areas to be defended. That very situation might very well justify public-sector intervention in the interests of competition.

- Since public financing of TEN-Energy projects is thus not without its problems, it at the very least requires more stringent public-sector monitoring. As against that, the Commission proposal provides for changes to the list of projects eligible for assistance to be made in future by a regulatory committee (Annex III). That would be tantamount to a disempowerment of the legislator, for the detailed list of projects has always hitherto been subject to amendment by way of codecision procedure (most recently by the Decision of 29 July 1999 - EP rapporteur Gordon Adam). That procedure will now apply only to the very general definition of objectives in Annex II. Your draftsman of opinion rejects that change.

Attention should moreover be drawn to an inconsistency in the Commission's explanatory memorandum. In the introduction it is claimed that the proposal 'places specific stress on electricity interconnections with the candidate countries'. That stands in mild contradiction to the fact that in specifying the 'priority axes', the Commission has omitted the accession countries. The European Parliament should therefore call on the Commission, in the course of subsequent investigations into bottlenecks in the electricity network, to look more closely into the situation in the applicant countries, in particular those that are already connected to the continental UCTE network, and to undertake an extension of the priority axes in that connection without waiting until 2004.



## AMENDMENTS

The Committee on Economic and Monetary Affairs calls on the Committee on Industry, External Trade, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission<sup>1</sup>

Amendments by Parliament

### Amendment 1 Recital 4

Among the projects relating to trans-European energy networks, it is necessary to highlight the priority projects, which are very important for the operation of the internal energy market or the security of energy supply.

Among the projects relating to trans-European energy networks, it is necessary to highlight the priority projects, which are very important for the operation of the internal energy market or the security of energy supply. ***It should consequently be possible for higher subsidies to be allocated to the development stage of these priority energy network projects without any resultant increase in the Community appropriations earmarked in the 2003-2006 financial perspective for energy networks. Such subsidies should apply to priority energy network projects that are conducted in separate undertakings, are necessary to the European economy as a whole, but are commercially unprofitable and do not distort competition between undertakings.***

### *Justification*

*A similarly worded proviso was submitted by the Committee on Industry, External Trade, Research and Energy, which is also the committee responsible for the present proposal for a decision, during the proceedings on the regulation on Community assistance. The restrictions are appropriate in the context of regulatory policy, and should be reiterated here.*

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<sup>1</sup> OJ C 151, 25.6.2002, p. 207.

Amendment 2  
Recital 7

(7) Since the project specifications *are liable to change, they are given indicatively. The Commission should therefore continue to be empowered to update them.*

(7) Since the project specifications *crucially determine the use of significant amounts of public funds, the legislator must, for reasons of supervision and transparency, exercise decision-making competence over the said specifications.*

*Justification*

*Annex III contains exact descriptions of the projects eligible for assistance. It is impossible to see why the authority to change them should be transferred from the requirement, as hitherto, of codecision procedure to the competence of a regulatory committee. Increased support for TEN-Energy projects from public funds is precisely the kind of operation that self-evidently calls for more stringent legislative supervision.*

Amendment 3  
Article 1, paragraph 2  
Decision No 1254/96/EC - Article 6, paragraph 3

Any modification which changes the description of a project as it appears in Annex II shall be decided upon in accordance with the procedure laid down in Article 251 of the Treaty.

Any modification which changes the description of a project as it appears in Annex II ***or the indicative specifications contained in Annex III*** shall be decided upon in accordance with the procedure laid down in Article 251 of the Treaty.

*Justification*

*Annex III contains exact descriptions of the projects eligible for assistance. It is impossible to see why the authority to change them should be transferred from the requirement, as hitherto, of codecision procedure to the competence of a regulatory committee. Increased support for TEN-Energy projects from public funds is precisely the kind of operation that self-evidently calls for more stringent legislative supervision.*

Amendment 4  
Article 1, paragraph 2  
Decision No 1254/96/EC - Article 6, paragraph 4

The indicative project specifications, comprising the detailed description of the projects and, where appropriate, their geographical description, shall be as set out in Annex III.

***Deleted.***

*Justification*

*Annex III contains exact descriptions of the projects eligible for assistance. It is impossible to see why the authority to change them should be transferred from the requirement, as hitherto, of codecision procedure to the competence of a regulatory committee. Increased support for TEN-Energy projects from public funds is precisely the kind of operation that self-evidently calls for more stringent legislative supervision.*

Amendment 5  
Article 1, paragraph 3  
Decision No 1254/96/EC - Article 6a, paragraph 1

Priority shall be given to network developments which are compatible with sustainable development and which meet the following criteria:  
(a) they must have a significant impact on the competitive operation of the internal market; and/or  
(b) they must strengthen security of supply in the Community.  
The list of priority axes which meet these criteria shall be as set out in Annex I.

Priority shall be given to network developments which are compatible with sustainable development and which meet the following criteria:  
(a) they must have a significant impact on the competitive operation of the internal market; and/or  
(b) they must strengthen security of supply in the Community.  
The list of priority axes which meet these criteria shall be as set out in Annex I. ***All modifications to that annex shall be decided upon in accordance with the procedure laid down in Article 251 of the Treaty.***

*Justification*

*Annex III contains exact descriptions of the projects eligible for assistance. It is impossible to see why the authority to change them should be transferred from the requirement, as hitherto,*

*of codecision procedure to the competence of a regulatory committee. Increased support for TEN-Energy projects from public funds is precisely the kind of operation that self-evidently calls for more stringent legislative supervision.*