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REPORT

on the proposal for a Council directive on repealing Council Directives 68/414/EEC and 98/93/EC imposing an obligation on Member States of the EEC to maintain minimum stocks of crude oil and/or petroleum products, and Council Directive 73/238/EEC on measures to mitigate the effects of difficulties in the supply of crude oil and petroleum products (COM(2002) 488 – C5-0489/2002 – 2002/0221(CNS))

Committee on Industry, External Trade, Research and Energy

Rapporteur: Hans Karlsson

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 15 October 2002 the Council consulted Parliament, pursuant to Article 100 of the EC Treaty, on the proposal for a Council directive on repealing Council Directives 68/414/EEC and 98/93/EC imposing an obligation on Member States of the EEC to maintain minimum stocks of crude oil and/or petroleum products, and Council Directive 73/238/EEC on measures to mitigate the effects of difficulties in the supply of crude oil and petroleum products (COM(2002) 488 – 2002/0221(CNS)).

At the sitting of 21 October 2002 the President of Parliament announced that he had referred the proposal to the Committee on Industry, External Trade, Research and Energy as the committee responsible and the Committee on Economic and Monetary Affairs, to the Committee on Legal Affairs and the Internal Market and to the Committee on the Environment, Public Health and Consumer Policy for their opinions (C5-0489/2002).

The Committee on Industry, External Trade, Research and Energy appointed Hans Karlsson rapporteur at its meeting of 12 November 2002.

The committee considered the Commission proposal and draft report at its meetings of 22 January 2003, 23 January 2003, 28 January 2003, 19 March 2003, 29 April 2003, 19 June 2003, 9 July 2003, 10 July 2003 and 9 September 2003.

At the last meeting it adopted the draft legislative resolution unanimously.

The following were present for the vote Yves Piétrasanta (acting chairman), Hans Karlsson (rapporteur), Gordon J. Adam (for Eryl Margaret McNally), Sir Robert Atkins, Ward Beysen (for Marco Cappato), Hans Blokland (for Yves Butel pursuant to Rule 153(2)), Guido Bodrato, Gérard Caudron, Giles Bryan Chichester, Willy C.E.H. De Clercq, Carlo Fatuzzo (for Umberto Scapagnini), Colette Flesch, Christos Folias (for W.G. van Velzen), Glyn Ford (for Gary Titley), Norbert Glante, Alfred Gomolka (for Werner Langen), Malcolm Harbour (for Bashir Khanbhai), Efstratios Korakas (for Konstantinos Alyssandrakis pursuant to Rule 153(2)), Hans Kronberger (for Daniela Raschhofer pursuant to Rule 153(2)), Peter Liese (for Peter Michael Mombaur), Rolf Linkohr, Hans-Peter Martin (for Mechtild Rothe), Marjo Matikainen-Kallström, Ana Clara Maria Miranda de Lage, Elizabeth Montfort, Bill Newton Dunn (for Nicholas Clegg), Giuseppe Nisticò (for Michel Hansenne), Reino Paasilinna, Paolo Pastorelli, Samuli Pohjamo (for Elly Plooij-van Gorsel), John Purvis, Godelieve Quisthoudt-Rowohl, Alexander Radwan (for Angelika Niebler), Imelda Mary Read, Jacques Santer (for Paul Rübig), Konrad K. Schwaiger, Esko Olavi Seppänen, Alejo Vidal-Quadras Roca, Dominique Vlasto, Olga Zrihen Zaari.

The opinion of the Committee on Economic and Monetary Affairs is attached. The Committee on Legal Affairs and the Internal Market decided on 3 December 2002 and the Committee on the Environment, Public Health and Consumer Policy decided on 27 November 2002 not to deliver an opinion.

The report was tabled on 10 September 2003.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council directive on repealing Council Directives 68/414/EEC and 98/93/EC imposing an obligation on Member States of the EEC to maintain minimum stocks of crude oil and/or petroleum products, and Council Directive 73/238/EEC on measures to mitigate the effects of difficulties in the supply of crude oil and petroleum products

(COM(2002) 488 – C5-0489/2002 – 2002/0221(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2002) 488)¹,
 - having regard to Article 100 of the EC Treaty, pursuant to which the Council consulted Parliament (C5-0489/2002),
 - 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 (A5-0293/2003),
1. Approves the Commission proposal;
 2. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 3. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 4. Instructs its President to forward its position to the Council and Commission.

¹ OJ C 331E of 3.12.2002, p. 279

21 May 2003

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS

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

on the proposal for a Council directive on repealing Council Directives 68/414/EEC and 98/93/EC imposing an obligation on Member States of the EEC to maintain minimum stocks of crude oil and/or petroleum products, and Council Directive 73/238/EEC on measures to mitigate the effects of difficulties in the supply of crude oil and petroleum products (COM(2002) 488 – C5-0489/2002 – 2002/0221(COD))

Draftsman: Ioannis Marinos

PROCEDURE

The Committee on Economic and Monetary Affairs appointed Ioannis Marinos draftsman at its meeting of 27 November 2002.

It considered the draft opinion at its meetings of 27 January, 18 March and 20 May 2003.

At the last meeting it adopted the following amendments by 20 votes to 0, with 1 abstention.

The following were present for the vote Christa Randzio-Plath (chairwoman), Philippe A.R. Herzog (vice-chairman), John Purvis (vice-chairman), Ioannis Marinos (draftsman), Generoso Andria, Hans Blokland, Manuel António dos Santos (for Pervenche Berès), Jonathan Evans, Carles-Alfred Gasòliba i Böhm, Robert Goebbels, Lisbeth Grönfeldt Bergman, Christopher Huhne, Othmar Karas, Christoph Werner Konrad, Werner Langen (for Ingo Friedrich), David W. Martin, Peter Michael Mombaur (for Renato Brunetta), Mónica Ridruejo, Peter William Skinner, Helena Torres Marques, Theresa Villiers.

SHORT JUSTIFICATION

1. The creation of the internal market in energy must be accompanied by measures to enhance security of supply for energy products, in particular oil and natural gas. This opinion confines itself to oil.
2. It should be noted that the EU's dependence on external supplies of oil will increase (currently 75%, it is likely to exceed 85% by 2020). It should also be pointed out that 80% of EU's imports of petroleum products come from the Persian Gulf region where the concentration of oil production is likely to increase significantly over the next few decades: this will further exacerbate existing uncertainties surrounding the EU's energy supply, given the political instability of the region (as recently evidenced by the Iraq crisis). Furthermore, the very limited flexibility of the oil market in the short term, as regards both supply and demand, means that oil prices are highly volatile. This may thus contribute to a slow-down in economic growth and seriously disrupt the economy, producing a social backlash in Europe and the rest of the world.
3. Measures must be taken to address not only permanent or temporary physical disruptions of supply, but also, and more importantly, the economic risks due to market instability which could be triggered even by the threat of a physical disruption of supply.
4. Energy dependence therefore raises questions of economic stability, international competitiveness and the social harmony which have a direct impact on unemployment levels. Security of supply is therefore a priority objective in the internal market in energy and every effort must be made to attain it. This cannot be effectively done with existing national rules which may cause distortions, owing to inadequate harmonisation as regards the organisation of security stocks and measures to deal with crises. Community intervention is therefore necessary, particularly since the International Energy Agency does not provide an adequate framework.
5. The Commission's proposal therefore seeks to align security stocks systems by defining minimum requirements (90 days of security stocks which shall be gradually increased to 120 days). It also provides that Member States are obliged to set up a national stockholding agency and that one Member State may set up and maintain security stocks on the territory of another Member State.
6. Your draftsman considers that it is more difficult to foresee the economic disruption of supplies: flexible and effective response mechanisms are therefore needed so that adjustments can be made. A form of management must therefore be chosen which allows the greatest possible flexibility in providing a rapid response to external challenges. Your draftsman also considers that the provisions should be reviewed after a specific implementation period, while regular briefings of Parliament would allow a debate to be held, thus increasing awareness of this important issue.
7. The measures proposed seek to address possible risks of disruptions in energy supplies, mainly after the event, and to limit their economic consequences. Other actions are also necessary, such as strengthening TransEuropean Energy Network interconnections, broadening the geographical spread of sources of oil supplies and reducing demand for oil, either by saving energy or by developing renewable and new sources of energy, for example increasing the use of solar and wind energy, nuclear fusion, cogeneration of electricity and

heat, the use of biomass for heating etc. In other words a comprehensive approach is needed comprising both short-term and long-term measures. In this context, improving the stockholding system – a measure with which your draftsman agrees – constitutes only one aspect of the problem, albeit an essential one. Diversifying sources of supplies on the one hand and eliminating distortions of competition at all stages, including at the refining and distribution stages, on the other, and also promoting programmes for saving energy and alternative forms of energy, for example by establishing a fund endowed with a percentage of the tax on traditional forms of energy, might help achieve the desired objective. They would also have a beneficial effect on the environment by contributing to a reduction in atmospheric pollution which is also one of the demands of the Kyoto Convention.

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 ¹	Amendments by Parliament
Amendment 1 Recital 1	
(1) The completion of the internal energy market must be accompanied by the necessary coordination of measures to guarantee the security of the Community's external oil supplies. The internal market is based on the need for solidarity between the Member States, which can be seen more particularly in the essential energy supply sectors of oil and gas.	(1) The completion of the internal energy market must be accompanied by the necessary <i>harmonisation and</i> coordination of measures, <i>in so far as necessary</i> , to guarantee the security of the Community's external oil supplies. The internal market is based on the need for solidarity between the Member States, which can be seen more particularly in the essential energy supply sectors of oil and gas.

Justification

The directive provides for harmonisation of measures, but only to the extent that this is necessary in order to achieve its objectives.

¹ OJ C331 E, 31.12.2002, p. 249.

Amendment 2
Recital 7

(7) To this end also, it is appropriate to harmonise the national provisions relating to the management of stocks by setting up a public body, as exists in certain Member States, responsible for managing at least one-third of the stockholding obligations *in accordance with* the principles relating to the opening-up of the national market.

(7) To this end also, it is appropriate to harmonise the national provisions relating to the management of stocks by setting up a public body, as exists in certain Member States, responsible for managing at least one-third of the stockholding obligations. ***The acquisition and management of the stocks in question by the public body must be governed by the principles relating to the opening-up of the national market and the functioning of the internal market and freedom of competition.***

Justification

The establishment and operation of the public body must not affect the sound functioning of the internal market or stand in the way of freedom of competition. The public body must therefore observe the principles in question in performing its duties.

Amendment 3
Recital 11

(11) Apart from the release onto the market of security stocks built up to deal with a crisis situation, the measures intended to mitigate the effects of difficulties related to the supply of crude oil and petroleum products also include measures to curb consumption. It is essential to provide for appropriate procedures and instruments to ensure the rapid, coordinated and unified implementation of these two types of measures.

(11) Apart from the release onto the market of security stocks built up to deal with a crisis situation, the measures intended to mitigate the effects of difficulties related to the supply of crude oil and petroleum products also include measures to curb consumption ***temporarily***. It is essential to provide for appropriate procedures and instruments to ensure the rapid, coordinated and unified implementation of these two types of measures.

Justification

This provision concerns administrative measures to curb consumption. The reduction in question must therefore be temporary so as not to distort the market and not lead to a decline in economic activity.

Amendment 4
Recital 12

(12) To this end, all the Member States must have the necessary powers to take the relevant measures, where appropriate and without delay, including in situations in which there is not an actual physical shortage, but sharp price rises have come about as a result of the expectation of the risk of a physical disruption.

(12) To this end, all the Member States must have the necessary powers to take the relevant measures, where appropriate and without delay, including in situations in which there is not an actual physical shortage, but sharp price rises ***which are not justified by the functioning of the market*** have come about ***or are very likely to come about*** as a result of the expectation of the risk of a physical disruption.

Justification

This directive is not concerned with price rises which are the result of the functioning of the market.

Amendment 5 Article 1

The aim of this Directive is to ensure the proper functioning of the internal market in petroleum products. For this purpose, it provides for the alignment of the provisions of the Member States with regard to oil stocks and crisis measures and coordinated action between the Member States in the event of a supply crisis.

The aim of this Directive is to ensure ***the unimpeded supply of the European Union with petroleum products and to strengthen*** the proper functioning of the internal market in petroleum products. For this purpose, it provides for the alignment of the provisions of the Member States with regard to oil stocks and crisis measures and coordinated action between the Member States in the event of a supply crisis.

Justification

Security of supply is the principal objective of this directive.

Amendment 6 Article 2, paragraph 2

2. The level of minimum stocks referred to in paragraph 1 shall be increased to 120 days as soon as possible following the publication of this Directive and no later

Deleted

than 1 January 2007.

Or. en

Justification

There is no evidence that the present level of security stocks (90 days of consumption according Directive 98) is insufficient to face disruptions. The proposed increase has not been justified nor quantified by the Commission either in terms of expected benefit or in terms of costs to the Community. The increase in stock will imply new depots being built with an increase in environmental impact and risk of relevant accident to the territory and nearby populations, according to Seveso 2 regulations.

Amendment 7
Article 2, paragraph 3

3. Member States shall ensure the availability and accessibility of the stocks held in accordance with ***paragraphs 1 and 2***, in order to be able to take, without delay, appropriate measures for their use in accordance with Article 6.

3. Member States shall ensure the availability and accessibility of the stocks held in accordance with ***paragraph 1***, in order to be able to take, without delay, appropriate measures for their use in accordance with Article 6.

Or. en

Justification

Consistent with deletion of paragraph 2.

Amendment 8
Article 2, paragraph 4

4. Member States shall send the Commission, no later than one year following the entry into force of this Directive and then every six months until the level of stocks defined in paragraph 2 has been achieved, a detailed report on the measures taken or to be taken to achieve this level of stocks.

Deleted

Or. en

Justification

Consistent with deletion of paragraph 2.

Amendment 9
Article 2, paragraph 5

5. The stocks referred to in ***paragraphs 1 and 2*** shall be built up and maintained by Member States within their territory or in the territory of another Member State.

5. The stocks referred to in ***paragraph 1*** shall be built up and maintained by Member States within their territory or in the territory of another Member State.

Or. en

Justification

Consistent with deletion of paragraph 2.

Amendment 10
Article 3, paragraph 1, second indent (new)

1a. The acquisition, possession and management of stocks by the public body must not affect the functioning of the internal market or undermine fair competition in the market in petroleum products.

Justification

See amendment 2.

Amendment 11
Article 3, paragraph 2

2. Where a Member State imposes stockholding obligations on operators in the market, the public stockholding body shall assume the stockholding obligations of ***non-refiners*** which so wish, subject to a payment ***with*** shall not exceed the costs of the services rendered.

2. Where a Member State imposes stockholding obligations on operators in the market, the public stockholding body shall assume the stockholding obligations of ***operators*** which so wish, subject to a payment ***which*** shall not exceed the costs of the services rendered.

Or. fr

Justification

There is no reason for creating discrimination between refiners and non-refiners. All the operators on this market must have the opportunity to obtain cover from the stockholding body.

Amendment 12
Article 4, paragraph 2

2. Member States shall ensure that their arrangements do not disadvantage supplies from ***refineries*** located in other Member States as compared with supplies from ***refineries located in their own territory***. They shall in particular authorise any undertaking which has a stockholding obligation and which obtains its supplies of

2. Member States shall ensure that their arrangements do not disadvantage supplies from ***operators*** located in other Member States as compared with supplies from ***local operators***. They shall in particular authorise any undertaking which has a stockholding obligation and which obtains its supplies of refined products from one ***Member State*** to

refined products from one *or more other Member States* to fulfil this obligation through stocks held *in the Member States concerned*.

fulfil this obligation through stocks held in *any Member State*.

Or. fr

Justification

There is no reason for allowing refiners to play the role of supplier. Opening up the possibility of using the security stocks of any Member State in order to meet one's obligations will reduce the cost of the service by increasing supply and will thus cut the final cost paid by consumers. Operators importing products from outside the European Union should be in a position to find cover for this requirement in any Member State. This additional competition will bring about a reduction in the prices paid by the end user.

Amendment 13 Article 6, paragraph 2

2. Apart from the cases referred to in Articles 7 and 8, Member States shall refrain from drawing on stocks where this would have the effect of reducing them to below the minimum compulsory level, except in cases of local supply difficulties, after having informed the Commission, or to comply with their international obligations.

2. Apart from the cases referred to in Articles 7 and 8, Member States shall refrain from drawing on stocks where this would have the effect of reducing them to below the minimum compulsory level, except in cases of ***extraordinary*** local supply difficulties, ***which may have serious economic or social consequences***, after having informed the Commission, or to comply with their international obligations. ***The use of the stocks in the case set out in this paragraph must not be intended to reduce prices or directly or indirectly to limit the activities of market operators.***

Justification

This provision must not be at odds with the main objective of the directive. Measures to tackle local problems must be allowed only where these problems are extraordinary and may have serious economic and social consequences. Any other intervention would replace the mechanisms governed by the functioning of the market, which would be unacceptable.

Amendment 14 Article 7, paragraph 1, introductory paragraph

1. In the event of a disruption of oil supply which may seriously disrupt the functioning of the economy and the internal market in petroleum products, the Commission may, by taking a decision in accordance with the procedure provided for in Article 9(2), **require** the Member States to:

1. In the event of a disruption of oil supply which may seriously disrupt the functioning of the economy and the internal market in petroleum products, the Commission may, by taking a decision in accordance with the procedure provided for in Article 9(2), **request** the Member States to:

Or. fr

Justification

Where the making available of stocks is subject to IEA standards, all Member States already have international obligations to comply with which the directive is not seeking to revoke.

Amendment 15

Article 7, paragraph 1, subparagraph a)

(a) make the security stocks referred to in Article 2(1) and (2) gradually available,

(a) **take the necessary measures to** make the security stocks referred to in Article 2(1) and (2) gradually available, **in accordance with the agreements in force between Member States and the IEA,**

Or. fr

Justification

Where the making available of stocks is subject to IEA standards, all Member States already have international obligations to comply with which the directive is not seeking to revoke.

Amendment 16

Article 7, paragraph 1, second indent

The measures to be taken by the Member States **must** restrict competition **as little as possible**. The Commission shall ensure that this principle is complied with throughout the period of application of the measures.

The measures to be taken by the Member States **which may** restrict competition **must not exceed the minimum limits required or last longer than necessary to attain their intended purpose**. The Commission shall ensure that this principle is complied with throughout the period of application of the measures.

Justification

The excessive use of the measures permitted by this existing directive would lead to distortions which would hinder the development and operation of enterprises engaged in the petroleum product sector.

Amendment 17 Article 9, paragraph 1

1. The Commission shall be assisted by a Committee made up of representatives of the Member States and chaired by the Commission representative.

1. The Commission shall be assisted by a Committee made up of representatives of the Member States and chaired by the Commission representative.

Representatives of the candidate countries may also be invited to attend the above Committee as observers.

Justification

The participation of representatives from the candidate countries ensures exchange of information and a greater degree of coordination with these countries.

Amendment 18 Article 9, paragraph 2

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, in accordance with the provisions of Article 8 thereof. The period provided for in Article 5(6) of Decision 1999/468/EC shall be one week.

2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, in accordance with the provisions of Article 8 thereof. The period provided for in Article 3(2) of Decision 1999/468/EC shall be one week.

Justification

Replacing the regulatory committee by a consultative committee would allow more rapid intervention if necessary.

Amendment 19

Article 13a (new)

13a.

1. The Commission shall submit an annual report to the Council and the European Parliament on the implementation of this directive. This report shall set out in detail, inter alia, the Commission's assessments concerning the consequences for the functioning of the internal market in petroleum products and competition and also its assessments regarding the cost of managing the stockholding system.

2. The report could also contain possible proposals on the distribution of costs so as to avert excessive increases in the cost of production at the expense of competitiveness and monetary stability.

Justification

It is indispensable that the Council and Parliament be informed on a regular basis in order to allow a broader exchange of views and discussions on this important matter. The provisions laid down in the directive constitute an intervention in the functioning of the internal market and freedom of competition, and they must be kept under constant review. Furthermore this is a system which involves costs, and an assessment of its consequences is imperative. It would be useful to have information on the cost increase involved in increasing stocks to cover 120 days.

Amendment 20
Article 14a (new)

14a. Three years after the completion of the implementation of the directive, as of 1 January 2010, the Commission shall submit a proposal for a review of the directive.

Justification

The maintenance or revision of the adopted system must be possible after a period of implementation