



**COUNCIL OF
THE EUROPEAN UNION**



14726/04 (Presse 326)

PROVISIONAL VERSION

PRESS RELEASE

2665th Council Meeting

Transport, Telecommunications and Energy

Brussels, 29 November 2004

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Main Results of the Council

The Council agreed on a general approach on measures to safeguard security of electricity supply and infrastructure investment.

*The Council adopted its common position on the **eco-design requirements for energy-using products** draft Directive.*

*The Council adopted conclusions on the development of the contribution of **renewable energies in the European Union**.*

*The Council discussed extensively measures for enhancing the **cost-effective and efficient end-use of energy** in the Member States.*

*The Council also decided to extend the mandate of the **European Agency for the reconstruction of the Western Balkans** until 31 December 2006.*

*The Council approved the **Agreements with Liechtenstein and San Marino on the taxation of savings income** in the form of interest payments.*

*The Council adopted its common position amending the **Community Customs Code**.*

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- Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in the heading for the item concerned and the text is placed between quotation marks.
- The documents whose references are given in the text are available on the Council's Internet site <http://ue.eu.int>.
- Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements are available on the abovementioned Council Internet site or may be obtained from the Press Office.

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Mr Andris PIEBALGS

Member

ITEMS DEBATED

SECURITY OF ELECTRICITY SUPPLY AND INFRASTRUCTURE INVESTMENT

Pending the European Parliament opinion at first reading, the Council agreed on a general approach on a proposal for a Directive on measures to safeguard security of electricity supply and infrastructure investment, whilst the Commission reserved its position at this stage.

In the light of the 10% target agreed at the Barcelona European Council on March 2002, the Commission proposal aims at ensuring security of electricity supply by defining the roles and responsibilities of Transmission System Operators (TSOs) and suppliers, setting and ensuring network performance standards for TSOs and Distribution System Operators (DSOs), balancing supply and demand, facilitating transmission and distribution network investment taking into account increased access for renewable electricity, prioritising demand side management (DSM) as well as generation/network investment, and facilitating interconnector construction and the better co-ordination of investment strategies.

This proposal should be seen as a response to a recent series of black- and brownouts and supplements more general provisions featuring in Directive 2003/54/EC¹ on the Internal market in Electricity or in Regulation 1228/2003/EC².

The key features of the general approach are:

- As regards the establishment of a high level of security of electricity supply, the text tries to find a balance between binding criteria³ and optional ones.

¹ OJ, L 176, 15.7.2003, p. 37

² OJ, L 176, 15.07.2003, p. 1

³ Among these binding criteria, there are mentioned, *inter alia*: a) the importance of ensuring continuity of electricity supplies; b) the importance of a transparent and stable regulation framework; c) the internal market and the possibilities for cross-border co-operation in relation to security of electricity supply or d) the need for regular maintenance and, where necessary, renewal of the transmission and distribution networks to maintain the performance of the network.

- Concerning provisions on operational network security and the need of maintaining a balance between demand and supply, it has been clarified that the main components of security of electricity supply are taken into account in the following way:
 1. The operational rules and obligations are foreseen in order to ensure the necessary transmission margins in the network.
 2. A specific provision establishes the requirements for the daily management of the systems.
 3. Momentary generation reserve capacities and the text also reflects the need for other reserve capacities.
- The provisions on transmission and distribution network investment have been simplified by deleting the prioritisation of demand side management measures when investment decisions are taken and removing certain conditions for investment decisions such as the need to take into account the increased possibilities for connecting renewable electricity.
- The role of the regulatory authorities and the Commission regarding investments for interconnection construction has been reduced, by removing the most interventionist elements, and the reporting requirements imposed on TSOs have been simplified.

RENEWABLE ENERGY - Council conclusions

The Council adopted conclusions on the Commission's Communication "The share of renewable energy in the European Union" whereby endorsing the Commission's assessment of the development of the contribution of renewable energy sources in the EU.

The Council adopted the following conclusions:

"The Council,

BEING aware of the assessment made in the EU common approach (doc. 10190/04) developed in preparation of the International Conference for Renewable Energies (Bonn, June 2004) and further substantiated in the Commission Communication "The share of renewable energy in the EU", according to which renewed and sustained national policies have to be in place and implemented to secure the achievement of the 2010 indicative targets,

TAKING note that Member States stand by their commitments with respect to Directive 2001/77/EC on the promotion of electricity from renewable energy sources and Directive 2003/30/EC on the promotion of the use of biofuels or other renewable fuels for transport,

WELCOMING the outcome of the Bonn Conference in which Ministers and Government Representatives from 154 countries acknowledged that renewable energies combined with enhanced energy efficiency can significantly contribute to sustainable development, and where they shared the vision that renewable energies, combined with increased energy efficiency, will become a most important and widely available source of energy,

NOTING with satisfaction the number and significance of actions and commitments from the EU, Member States and EU-institutions recorded in the International Action Programme as a major outcome of the Bonn Conference;

BUILDING on the analysis of the difficulties faced by Member States in meeting their targets as well as of the factors of success, identified in the common approach and the Communication,

BEING aware that cost-efficiency of the incentives and policy measures is a key requirement in the development of renewable energy sources,

STRESSING the importance to increase the competitiveness of renewable energy by e.g. lowering production costs for these energy sources, focussing research and development and acting for internalisation of the external costs and of environmental benefits of all energy sources,

BEING aware that Member States which already have a high proportion of electricity from renewable energy sources are likely to be confronted with higher costs,

IS of the view that as regards

1. Institutional, administrative and technical barriers

- With a view to contributing to a well-functioning market, allowing for the successful development of renewable energy, due attention should be paid by Member States to various pre-conditions, such as reducing planning and licensing red tape, facilitating grid access, the set-up of the technical system, preserving network stability notably in case of large injection of intermittent renewable electricity, providing sufficient network capacity and cross-border interconnection, and to the provision of guarantee of origin. It requires also appropriate policy framework conditions and incentives for targeted and efficient support to contribute to the security of investment. Full implementation of the provisions set out in Directives 2001/77/EC and 2004/8/EC on the promotion of cogeneration will contribute to meeting these conditions. The specific technical competence of the system operators as well as the adequate provision of the ancillary services (e.g. balancing) are equally important.
- The importance of local factors has to be recognised.
- The development of heating and cooling from renewable sources needs further attention and would benefit from assessing its potential and identifying specific barriers. As a first step, the Commission, in collaboration with the Member States, is invited to carry out this assessment of both the potential and the barriers.

2. Biomass ¹ energy action plan

- The Commission's intention to develop a European Biomass Action Plan is welcomed, taking into account the potential of biomass as a renewable energy source especially if combined with the promotion of relevant technologies e.g. for CHP.
- In line with the Commission communication, this plan:
 - = should be based on scientific data and commercial experiences. It should include analysis of potentials and how biomass can be utilised in a cost-effective and sustainable way. The findings should be collected and compiled by the Commission and made available to the Member States. The plan should deal with the use of biomass in the three areas electricity, heating/cooling and transport, taking into account potential conflicts and synergies that may arise from the use of biomass for different purposes.
 - = should inter alia address issues like R & D in biomass, biomass standards, administrative and licensing barriers, sustainable production methods and incentives, availability of biomass in a long term perspective, the possibility to develop recovered fuels based on biomass, developing the fuel supply chain and transparency of biomass markets, and an assessment of possible biomass imports from third countries.
 - = should take into consideration local situations, be consistent with sustainable agriculture and forestry and sustainable management of waste, taking into account developments in the EU agriculture policy, and contribute to the development of the EU Waste strategy.

3. Renewable energy conference

- It could be beneficial for EU policy-makers in the field of renewable energy to avail themselves of an informal conference for the development of renewable energy policy, comparable to the Florence and Madrid fora whose decisive contribution to the functioning of the electricity and gas internal market is widely acknowledged. The Council would support initiatives leading to the establishment of such a conference comprising all relevant stakeholders, to address both the implementation of the Renewables Directive and the broader administrative and technical issues as well as the operation of the market in relation to the promotion of renewable energy.
- This conference should avoid duplication with existing fora and have a demonstrable added-value.

¹ It is recalled that Directive 2001/77/EC, Article 2, gives a comprehensive definition of "biomass".

4. Sources of renewable energy with high potential such as wind offshore energy
- In order for several sources with a high technical and economical potential to make a significant contribution to meeting the EU-targets on renewable energy there is a need for enhanced co-operation and planning between European network operators, the competent authorities and, where appropriate, the European Commission notably on electricity grid integration issues, for joint R&D efforts focussing on further cost reductions of supporting technologies and for an improved exchange of information on the environmental implications of these technologies. Efforts should be made not only in developing these sources but also in removing the barriers that prevent their penetration of the market.
 - Taking into account the large potential of wind energy, and notably offshore wind energy in the EU, the statements and recommendations of the recent EU Policy Workshop Development of Offshore Wind Energy in Egmond, the Netherlands, are worth noting. These recommendations refer to specific actions on market development, environment, grid integration and follow-up, which according to the recommendations should be undertaken by the European Commission, Member States and essential stakeholders. In this respect, the Danish offer to organise a follow-up seminar in 2005 is welcomed.
5. Community financial instruments
- While the role of the private sector and market-based instruments in the development of renewable energy should be duly acknowledged, renewable energy should be given adequate priority in Community funding¹, making sure that added value is achieved at Community level.
 - To the extent possible consistency should be ensured between national programmes and these instruments while leaving national actors decide on the most appropriate projects. It is also important that Member States learn from each others good practices concerning financing and other incentives.
 - In this context, due attention should be given to the need to address the gap between the demonstration and market phases of renewable technologies.

¹ In the Commission's view possible instruments to that effect could be *inter alia* the future European Regional Development Fund and Cohesion Fund, as well as the 7th RTD Framework Programme of the EU and the next Intelligent Energy-Europe Programme, as mentioned in the Communication.

6. Actions in third countries

- The priority for Member States should be to implement the actions recorded in the common approach and the International Action Programme welcomed by the Bonn Conference before launching further action. In order to avoid duplication and achieve cost-effectiveness this should be done while ensuring an effective coordination between these various actions as well as an adequate monitoring of their implementation. The Bonn Conference conveyed that renewable energy sources together with energy efficiency contribute to a win-win-situation by tackling climate change, enhancing energy security and decreasing dependency on fossil fuels, and combating poverty throughout the world.
- The EU should continue to defend its global leading role with progressive policies and measures, use its influence to prioritise and further strengthen an efficient renewable energy deployment policy in relevant international bodies such as OECD, IEA, World Bank and the "Johannesburg Renewable Energy Coalition – JREC" and use the global increase in the use of renewable energies as a means of making a substantial contribution to climate protection.

7. Medium and long term strategy

- Investors in renewable energy benefit from long term certainty in market conditions and confidence in market prospects and thus benefit from the setting of a clear frame for action.
- The EU should develop a strategy for addressing the medium and long term time frame for renewable energy beyond 2010 along the lines set out in the Commission's Communication.

- In developing this strategy, especially as regards possible new long term targets :
 - = the progress of international climate change negotiations should be taken into account,
 - = the interplay between targets and the EU-emissions trading scheme should be carefully taken into account as this scheme is affecting the energy market conditions;
 - = adequate R & D has to be provided.
- As regards the setting of new targets on renewable electricity for 2020 this process should start at the end of 2005 on the basis of the Commission report foreseen by Article 8 of Directive 2001/77/EC, with a view to its finalisation by the end of 2007.
- Before deciding on new steps for the period beyond 2010, a thorough assessment of the progress made towards the 2010 targets, the costs and benefits, *inter alia* to final consumers, and progress in energy efficiency, should be made."

ENERGY END-USE EFFICIENCY

On the basis of a Presidency Note, the Council held a policy debate on a Proposal for a Directive on energy end-use efficiency and energy services (demand side management).

This Commission's proposal aims at enhancing the cost-effective and efficient end-use of energy in the Member States by:

- providing the necessary targets, mechanisms, incentives and institutional, financial and legal frameworks to remove existing market barriers and imperfections for the efficient end use of energy;
- developing a market for energy services and for the delivery of energy efficiency programmes and other energy efficiency measures to end users.

At the end of the debate, the Presidency draw a number of conclusions.

OTHER BUSINESS

– ***Integrated energy market in South-East Europe***

The Council was informed by Commissioner Andris Piebalgs on the state of play concerning negotiations on the establishment of an integrated energy market in South-East Europe. Negotiations are currently taken place between the European Community, represented by the Commission and Croatia, Bosnia-Herzegovina, Serbia and Montenegro, the United Nations Interim Administration Mission in Kosovo, Albania, Romania, Bulgaria, the Former Yugoslav Republic of Macedonia and Turkey.

– ***EU-Russia energy dialogue***

The Council was briefed by Commissioner Andris Piebalgs on the state of play of the energy dialogue with Russia in the light of the 14th EU-Russia Summit held on 25 November in The Hague.

– ***Conference on sustainable mobility***

The Presidency informed the Council on the above-mentioned Conference held in Amsterdam on 19 October 2004.

OTHER ITEMS APPROVED

ENERGY

Eco-design requirements for energy-using products

The Council adopted a common position on a draft Directive setting out a framework for the setting of eco-design requirements for energy-using products (*11414/04 and 11414/04 ADD1*).

The draft Directive aims at:

- ensuring the free movement of energy-using products (EuP) within the internal market. EuP meaning a product that is dependent on energy input (electricity, fossil fuels and renewable energy sources) or a product for the generation, transfer and measurement of such energy;
- improving the overall environmental performance of these products and thereby contributing to the protection of the environment;
- contributing to the security of energy supply and enhancing the competitiveness of the EU economy.

The text applies in principle to any product, except means of transport for persons or goods, using energy to perform the function for which it is designed, manufactured and put on the market or into service, and covers all energy sources, although it is likely that only those using electricity, solid, liquid and gaseous fuel will be the subject of implementing measures.

The main changes introduced by the Council in its common position are as follows:

- Clarification of the purposes of the directive and the attribution of responsibility as regards conformity of EuP;
- Member States will designate authorities in charge for market surveillance;
- EuP must comply with eco-design parameters which are covered by the applicable implementing measure;

- While maintaining the choice for a manufacturer between the internal design control and the management system, the latter has been amended with a view to keeping the possibility for the manufacturer to use quality management systems for proving conformity, as long as they meet the requirements on management system for assessing conformity;
- Eco-labels which will be considered to fulfil conditions equivalent to the Community eco-label will be presumed to be in conformity with the requirements of the applicable implementing measures;
- While it is stated that the Commission shall adopt implementing measures, criteria and steps to be taken when preparing implementing measures have been clarified and specified, in particular a minimum sales and trade volume threshold;
- The Commission will establish a working plan setting out a list of products which could be subject to implementing measures as a priority, in particular those products which have been identified by the European Climate Change Plan as offering a high potential for cost-effective reduction of greenhouse gases;
- Consultation Forum : when envisaging to prepare an implementing measure with regard to a given product, the Commission has to ensure balanced participation of Member States and proper involvement of all parties concerned. To this effect, the common position provides for the establishment of a consultation forum;
- An evaluation of the Directive and of the implementing measures which may have been adopted within 5 years after the adoption of the Directive.

The draft Directive amends Council Directives 92/42/EEC, 96/57/EC and 2000/55/EC. It foresees an implementing period by Member States of two years after the entry into force.

EXTERNAL RELATIONS

Western Balkans - European Agency for Reconstruction

The Council adopted a Regulation extending the mandate of the European Agency for the reconstruction of the Western Balkans until 31 December 2006 (14712/04).

The Regulation amends Regulation 2667/00 and takes into account the Constitutional Charter adopted in the Federal Republic of Yugoslavia in 2003 renaming the country "Serbia and Montenegro".

The Agency is responsible for the management of the main EU assistance programmes in Serbia and Montenegro, Kosovo and the former Yugoslav Republic of Macedonia (<http://www.ear.eu.int/>).

ECONOMIC AND FINANCIAL AFFAIRS

Draft EU Budget for 2005 – Council second reading *

The Council adopted a Decision to proceed with the second reading of the general budget for 2005 after having agreed on the outcome of the Conciliation meeting with the European Parliament and the Commission on 25 November 2005 (15112/04).

The draft general budget will be forwarded to the European Parliament for its second reading.

(Further details can be found in press release 14617/04).

TAXATION

Liechtenstein and San Marino - Agreements on taxation of savings income

The Council adopted Decisions authorising the signature of Agreements and Memoranda of Understanding with Liechtenstein and with San Marino on the taxation of savings income (12637/04 and 14583/04).

The Agreements aim at ensuring taxation of savings income in the form of interest payments through the adoption of equivalent measures to those applied within the Community and laid down in Council Directive 2003/48/EC.

Under the Agreements, Liechtenstein and San Marino will retain 25% of the revenue from the withholding tax and transfer 75% to the Member State of residence of the beneficial owner of the interest payment.

JUSTICE AND HOME AFFAIRS

Switzerland – Agreements on Schengen acquis and asylum - Parliament's opinion

The Council adopted a Decision to request the European Parliament's opinion on two draft agreements with Switzerland, one concerning the development of the Schengen acquis and another on asylum ("Dublin" and Eurodac Regulations) (14928/04).

INTERNAL MARKET

Electromagnetic compatibility

The Council adopted a Directive of the European Parliament and of the Council on electromagnetic compatibility and repealing Directive 89/336/EEC (PE-CONS 3684/04).

The Directive aims at enabling the free movement of electrical equipment in the single market whilst ensuring that electromagnetic disturbances do not affect the correct functioning of other such equipment, including telecommunication and electricity distribution networks.

In relation to the old Directive, it aims to:

- clarify the scope by means of clearer definitions
- establish a more appropriate regulatory regime for fixed installations
- set out more detailed essential requirements
- clarify the role of harmonised standards
- simplify the conformity assessment procedure and place it under the sole responsibility of the manufacturer
- increase manufacturers' choice
- improve market surveillance through better traceability of the manufacturer.

The Directive will enter into force 20 days after publication in the EU Official Journal, and the Member States will have to adopt the new provisions into their national law in one year at the latest.

Member States should not impede the placing on the market and/or the putting into service of equipment which is in compliance with the provisions of the old Directive and which was placed on the market before 4½ years after entry into force.

TRADE POLICY

Community Customs Code - Common position*

The Council adopted a common position on a draft Regulation amending the Community Customs Code in order to establish an equivalent level of controls for goods entering and leaving the Community by introducing a system of pre-arrival and pre-departure declarations and by using an improved system of data communication and information sharing between Member States (12060/04).

The draft Regulation, which modifies Regulation 2913/92, endeavours to establish a balance between the aim of strengthening security by better-targeted border controls and limiting the additional administrative burden for economic operators created by the obligation to deliver advance information to enable such controls.

The common position will be forwarded to the European Parliament for a second reading.

Anti-dumping - China - Ring binder mechanisms

The Council adopted a Regulation imposing anti-dumping duty for four years on imports of certain ring binder mechanisms originating in China (14057/04).

APPOINTMENTS

Committee of the Regions

The Council adopted the following Decision:

- Ms Gema AMOR PEREZ, Consejera de Cooperación y Participación - Gobierno de la Comunidad Autónoma de Valencia, is hereby appointed an alternate member of the Committee of the Regions in place of Mr Alejandro FONT de MORA y TURÓN for the remainder of his term of office, which runs until 25 January 2006 (14516/04).