



**COUNCIL OF
THE EUROPEAN UNION**



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PRESS RELEASE

2875th Council meeting
Transport, Telecommunications and Energy
Luxembourg, 6 June 2008

President

Mr Andrej VIZJAK
Minister of Economy of Slovenia

P R E S S

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Main results of the Council

*The Council reached a broad agreement on the essential elements of the **internal energy market** legislative package.*

*The Council held a public policy debate on the **climate-energy** legislative package, focusing on the proposal for a directive on the promotion of the use of **energy from renewable sources** and took note of a Presidency progress report on the work carried out so far.*

* * *

*In addition, the Council adopted, without debate, six following common positions on the basis of five Commission proposals of the **third maritime safety package**:*

- *on a draft directive establishing a Community vessel traffic monitoring and information system;*
- *on a draft directive establishing fundamental principles governing the **investigation of accidents in the maritime transport** sector;*
- *on a draft a directive on **port State control**;*
- *on a draft regulation on the **liability of carriers of passengers by sea** in the event of accidents;*
- *a draft directive on common rules and standards for **ship inspection and survey organisations** and for the relevant activities of maritime administrations;*
- *a draft regulation on common rules and standards for **ship inspection and survey organisations**.*

The common positions will be transmitted to the European Parliament in order to reach a quick agreement and start their implementation as soon as possible.

*The Council also took note that the next **elections to the European Parliament** will be held from **4 to 7 June 2009**.*

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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.
- Documents for which references are given in the text are available on the Council's Internet site (<http://www.consilium.europa.eu>).
- 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 Council's Internet site or may be obtained from the Press Office.

PARTICIPANTS

The governments of the Member States and the European Commission were represented as follows:

Belgium:

Mr Paul MAGNETTE

Minister for Climate and Energy

Bulgaria:

Ms Galina TOSHEVA

Deputy Minister for the Economy and Energy

Czech Republic:

Mr Martin TLAPA

Deputy Minister for Industry and Trade, European Union Section

Denmark:

Ms Connie HEDEGAARD

Minister for Climate and Energy

Germany:

Mr Michael GLOS

Federal Minister for Economic Affairs and Technology

Estonia:

Mr Juhan PARTS

Minister for Economic Affairs and Communications

Ireland:

Mr Eamon RYAN

Minister for Communications, Energy and Natural Resources

Greece:

Mr Christos FOLIAS

Minister for Development

Spain:

Mr Miguel SEBASTIÁN GASCÓN

Minister for Industry, Tourism and Trade

France:

Mr Jean-Louis BORLOO

Ministre d'État, Minister for Ecology and for Sustainable Development and Town and Country Planning

Italy:

Mr Claudio SCAJOLA

Minister for Economic Development

Cyprus:

Mr Efstathios HAMBOULLAS

Permanent Secretary, Ministry of Commerce, Industry and Tourism

Latvia:

Mr Anrijs MATĪSS

State Secretary, Ministry of Economic Affairs

Lithuania:

Mr Vytas NAVICKAS

Minister for the Economy

Luxembourg:

Mr Jeannot KRECKÉ

Minister for Economic Affairs and Foreign Trade, Minister for Sport

Hungary:

Mr Pál SZABÓ

Minister for Transport, Telecommunication and Energy

Malta:

Mr George PULLICINO

Minister for Resources and Rural Affairs

Netherlands:

Ms Maria VAN DER HOEVEN

Minister for Economic Affairs

Austria:

Mr Martin BARTENSTEIN

Federal Minister for Economic Affairs and Labour

Poland:

Mr Marcin KOROLEC

Deputy State Secretary, Ministry of Economic Affairs

Portugal:

Mr Manuel PINHO

Minister for Economic Affairs and Innovation

Romania:

Mr Darius MESCA

State Secretary for Energy, Ministry of the Economy and Finance

Slovenia:

Mr Andrej VIZJAK
Mr Igor ŠALAMUN

Minister for the Economy
Director General for Energy, Ministry of Economy

Slovakia:

Mr Ľubomír JAHNÁTEK

Minister for the Economy

Finland:

Mr Mauri PEKKARINEN

Minister for Economic Affairs

Sweden:

Mr Ola ALTERÅ

State Secretary to the Minister for Enterprise and Energy

United Kingdom:

Mr Malcom WICKS

Minister of State for Energy

Commission:

Mr Andris PIEBALGS

Member

ITEMS DEBATED

INTERNAL ENERGY MARKET

The Council discussed the third package of legislative measures¹ for the internal energy market that was submitted by the Commission on 19 September 2007 in response to the call made at the 2007 spring European Council². This package aims to complement the existing rules in order to make the internal market work for all consumers and to help the EU achieve the objective of more secure, competitive and sustainable energy supply.

Although not all Member States could agree with all elements of the package, the President concluded that the Council reached a broad agreement on the essential elements of this internal energy market package.

The agreement was reached on the basis of the Presidency compromise proposal ([9968/08](#)) amended during the Council and covering in particular the following elements:

- Effective separation of supply and production activities from network operation

All delegations agreed that effective separation of supply and production activities from network operations should be achieved in accordance with the orientations defined by the 2007 spring European Council.

¹ The Commission energy package contains the following proposals:

- a proposal for a directive amending directive 2003/54/EC concerning common rules for the internal market in electricity ([13043/07](#));
- a proposal for a directive amending directive 2003/55/EC concerning common rules for the internal market in natural gas ([13045/07](#));
- a proposal for a regulation establishing an Agency for the Cooperation of Energy Regulators ([13046/07](#));
- a proposal for a regulation amending regulation (EC) No 1228/03 on conditions for access to the network for cross-border exchanges in electricity ([13048/07](#));
- a proposal for a regulation amending regulation (EC) No 1775/05 on conditions for access to the natural gas transmission networks ([13049/07](#)).

² Action Plan 2007 – 2009 "Energy Policy for Europe" ([7224/1/07](#)).

However, while the majority of delegations and the Commission see full ownership unbundling as the first best option, an option allowing for an independent transmission operator has been developed in order to take account of cases where arrangements are in place for a transmission system that belongs to a vertically integrated undertaking, which guarantees more effective independence of the TSO. These provisions aim at balancing concerns on the scope, timeframe and enforceability of this option with keeping it workable and preserving the financial interest of the vertically integrated undertaking.

The ITO option will be available to both gas and electricity sectors for member states where the transmission system belongs to a vertically integrated undertaking on entry into force of the directive. This option would allow companies to retain ownership of transmission systems on condition that they are managed by an independent transmission operator. A number of provisions will ensure:

- the effective independence of the operator, its management and the supervisory body;
- that conflicts of interest are avoided;
- fair and non-discriminatory network access;
- undistorted incentives to invest and the development of investments and interconnection infrastructure;
- independent access to means and resources for TSO's work.

The Commission will carry out a specific review of the ITO-related provisions, to be conducted two years after implementation on the basis of objective criteria, leading, where appropriate, to proposals to ensure full and effective independence of the TSO.

- Third country clause

Irrespective of the option retained to achieve effective separation, the text needs to ensure that the issue of third country control of networks is addressed in a non-protectionist way which guarantees that these companies respect the same rules that apply to EU undertakings and addresses Member State concerns about third country control. It also needs to address concerns about potential implications on Community competence and the handling of existing investment as well as provide the criteria against which investment from third country would be assessed, in particular the EU security of supply.

- Derogations

The Council agreed on derogations for small or isolated systems, with nominative derogations for Cyprus, Luxembourg and Malta for both gas and electricity sectors as well as derogation for Estonia, Finland and Latvia regarding gas until any of these Member States is directly connected to the system of other Member State than these countries.

- Market functioning including retail markets

The texts will include provisions on extended record keeping (supply undertakings need to keep at the disposal of regulators the relevant data relating to transactions in supply contracts and gas/electricity derivatives) and on consumers' rights (guaranteeing that customers are properly informed on their energy consumption and costs frequently enough to regulate their electricity/gas consumption, give them the right to change supplier at any time and require energy companies that bills are sent within three months after a consumer switches supplier).

- Agency for the Cooperation of Energy Regulators

The regulatory Agency to be established will be independent from the Member States and the Commission and will have well circumscribed tasks. It will focus on issues involving more than one Member State as far as binding decision-making is concerned. Its involvement in technical matters has been strengthened, but is still of an advisory nature; it generally allows for the national levels to play their parts. In all these tasks, market participants and authorities at national level are duly consulted and due account is taken of the outcomes of regional cooperation between TSOs and between regulators.

Other elements, which form part of the package are the following: minority shareholding, public ownership, certification or designation of transmission systems operators, adoption of network codes, regulatory authorities, handling of cross-border cases, guidelines to be adopted through comitology, regional cooperation and gas specific issues.

This will be the basis for further work at working party and Coreper level.

The European Parliament is expected to adopt its first reading opinions on the electricity directive, the electricity regulation and the agency regulation on 17 June and on the gas part of the package on 8 July.

CLIMATE ACTION AND RENEWABLE ENERGY PACKAGE

The Council took note of a progress report on climate change-energy legislative package prepared by the Presidency ([9648/08](#)) and held a public policy debate on the main outstanding issues identified in it.

The climate change-energy package, submitted by the Commission on 23 January, complements existing measures aiming at reaching the overall objective - endorsed by the European Council in March 2007 ([7224/1/07](#)) - of a 20% reduction in greenhouse gases by 2020 and of achieving a 20% share of renewable energies in overall EU energy consumption by 2020, including a 10% target for renewable transport fuels.

The progress report was presented to both Council formations Energy and Environment¹ as it deals with the package as a whole. The Energy ministers' debate focused on a proposal for a directive on the promotion of the use of energy from renewable sources ([5421/08](#)), with the aim of providing input for further work of the Council and its preparatory bodies under the incoming French Presidency. Written contributions by delegations can be found in document *10236/08* and its addenda.

The Presidency progress report points out the main outstanding issues identified in all four legislative proposals in the package. As far as the renewables directive is concerned, these are the following: targets (level of the national renewable energy targets, conditionality of the renewable transport fuel target and the indicative trajectory and its consequences), long lead-time projects, the systems of trading in guarantees of origin and reinforcing measures.

One part of the report is devoted to the progress made on the sustainability criteria for biofuels, which are considered necessary to ensure that the production of biofuels does not have negative consequences that outweigh the benefits arising from their use. In February Coreper established an ad hoc working party with the task of drawing up a common sustainability scheme for biofuels for the purposes of the renewables and fuel quality² directives. The working party met on several occasions and made progress on numerous issues. However, some issues need to be addressed further: the level and date of application of the second stage for the minimum greenhouse gas emissions saving requirement, the environmental and social sustainability of biofuel production which would apply also in third countries and the methodology for calculating greenhouse gas emissions saving.

¹ For information on Environment Council of 5 June see press release 9959/08, p. 6.

² Proposal for a directive amending directive 98/70/EC as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions from the use of road transport fuels and amending Council directive 1999/32/EC, as regards the specification of fuel used by inland waterway vessels and repealing directive 93/12/EEC ([6145/07](#)).

INTERNATIONAL RELATIONS IN THE FIELD OF ENERGY

The Council took note of information provided by the Presidency and the Commission of the events and developments concerning international relations which have taken place during the Slovenian presidency or will take place in the near future ([9408/08](#)).

This information covered, *inter alia*, the EU-OPEC Dialogue, preparations for the International Partnership for Energy Efficiency Cooperation and the Energy Community.

OTHER BUSINESS

Effects of rising oil prices on the European economy

The Council took note of comments by the Portuguese delegation ([10048/08](#)).

OTHER ITEMS APPROVED

TRANSPORTS

Vessels traffic monitoring and information system

The Council adopted a common position on a proposal for a directive amending directive 2002/59/EC establishing a Community vessel traffic monitoring and information system ([5719/08](#) + [ADD1](#)).

The common position will be forwarded to the European Parliament for a second reading in the framework of the codecision procedure.

The draft directive is aimed in particular at incorporating additional measures to enhance ship safety and environmental protection and harmonising implementation of plans of places of refuge by the member states.

The proposal includes in particular the development of the Community maritime safety information exchange system SafeSeaNet, the designation by member states of an independent authority for the accommodation of ships in distress, measures to be taken in the presence of ice as well as the treatment of uninsured ships. In addition, it suggests the use of automatic identification systems (AIS) to be made compulsory for fishing vessels longer than 15 metres and tightening of the shipper's information obligations.

Compared to the Commission's initial proposal, the Council common positions modified in particular the following provisions:

- the Council accepted to increase safety in fishing vessels with a overall length of more than 15 metres by fitting them with automatic identification systems (AIS). However, it specified conditions for this provision and reviewed the implementation timetable proposed by the Commission to ensure that the time constraints are feasible for all parties;
- as far as the accommodation of ships in places of refuge is concerned, the Council in particular clarified that the acceptance or refusal of a ship in need of assistance in a place of refuge will be subject to a prior assessment of the situation carried out on the basis of the plan for the accommodation and a decision taken by the competent authority;

- enhancing ship monitoring through the SafeSeaNet information exchange system, adding a provision that the Commission shall ensure that this system is operational on a 24 hours-a-day basis;
- Member states will have 18 months from the entry into force of the directive to comply with its provisions.

The Commission presented this proposal in December 2005 as part of its third maritime safety package ([5171/06](#)). The European Parliament adopted its first reading opinion on 25 April 2007 ([8724/07](#), p. 69).

Investigation of accidents in the maritime transport sector

The Council adopted a common position on a proposal for a directive establishing fundamental principles governing the investigation of accidents in the maritime transport sector and amending directives 1999/35/EC and 2002/59/EC ([5721/08](#)+ [ADD1](#)).

The common position will be forwarded to the European Parliament for a second reading in the framework of the codecision procedure.

The Commission sent its proposal to the Council in February 2006 ([6436/06](#)) as part of its third maritime safety package.

The draft directive is aimed at improving maritime safety by establishing Community-wide rules on the independent technical investigations to be carried out following maritime casualties and incidents. Such technical investigations do not aim at determining civil or criminal liability, but at establishing the circumstances and at researching causes of maritime casualties or incidents in order to draw all possible lessons from them. The proposal is in compliance with the rules of international maritime law and in accordance with the definitions and recommendations contained in the International Maritime Organisation's Code for the investigation of marine casualties and incidents and its ongoing revision.

The Council modified the Commission's original proposal in particular to ensure the independence and discretion powers of the investigative body. Compared to the Commission proposal, which sets an obligation of mandatory safety investigations for very serious and serious marine casualties and incidents, the text agreed by the Council provides for mandatory investigations only in case of very serious casualties and incidents. The investigative body will decide whether or not to undertake a safety investigation of other marine casualty or incidents, taking account in particular of the seriousness of the casualty or incident and the possible lessons to be learned. In addition, the text agreed by the Council extends the scope of the directive for reason of consistency with the Council's common position on the draft directive establishing vessel traffic monitoring and information system. It will apply to marine casualties and incidents involving fishing vessels with a length of more than 15 metres and not of 24 metres as proposed by the Commission. It also includes some European Parliament's amendments adopted in first reading.

The European Parliament adopted its first-reading opinion on this proposal on 25 April 2007 ([8724/07](#), p. 90).

Port State control

The Council adopted¹ a common position on a proposal for a directive on port State control ([5722/08](#)+[ADD1](#)).

The common position will be forwarded to the European Parliament for a second reading in the framework of the codecision procedure.

The Commission's proposal was submitted to the Council in January 2006 ([5632/06](#)). It recasts successive amendments to directive 95/21/EC on port state control in a consolidated text, as well as simplifies or amends certain provisions in order to reinforce the effectiveness and quality of inspections on ships by the port State with a view to enhancing the fight against substandard vessels navigating in Community waters.

The text agreed by the Council establishes a new inspection system with the aim of ensuring that a maximum of ships calling at ports are inspected, taking into account the equitable sharing of the overall inspection commitment among member states. Compared to the Commission's initial proposal the common position provides for applying inspections to ships calling at port of a member state to engage in a ship/port interface and to ships at anchor in areas under the jurisdiction of the port.

¹ The Maltese delegation abstained from voting.

Inspections will be focused on substandard vessels, which will be checked more often, while the burden will be alleviated with regard to quality vessels. As ultimate measure against substandard ships, whose performance will be *inter alia* evaluated in relation to the performance of the flag State, the access of these ships to member states' ports will be indefinitely refused. This indefinite access refusal may be lifted after 36 months and only if certain conditions are fulfilled.

The new inspection regime provides for an equitable share of the overall inspection commitment, while also taking account of the specific situation of each member state resulting in a an unequal number of ships calling at their respective ports. Member states are allowed to miss a small percentage of inspections, namely inspections on 5% of ships with a high risk profile and on 10% of other ships. They must, however, give particular attention to ships that do not often call at ports within the Community. Furthermore, member states may, in specific circumstances, postpone an inspection for 15 days.

In order to allow for a seamless implementation of the new complex port State control regime, the text as agreed by the Council establishes a transposition period of 36 months, after which the directive will be applied by all member states as of the same day.

The European Parliament adopted its first-reading opinion on 25 April 2007 ([8724/07](#), p. 25).

Liability of carriers of passengers by sea in the event of accidents*

The Council adopted¹ a common position on a proposal for a regulation on the liability of carriers of passengers by sea in the event of accidents ([6389/08](#) + [ADD1](#), [8924/08 ADD1](#)).

The common position will be forwarded to the European Parliament for a second reading in the framework of the codecision procedure.

The Commission transmitted its proposal ([6827/06](#)) to the Council in February 2006 as part of its third maritime safety package. The draft regulation aims at creating a single set of EU rules governing the rights of carriers by sea and their passengers in the event of an accident. To this end it incorporates into Community legislation the Athens Convention relating to the carriage of passengers and their luggage by sea as amended in 2002. The proposal also includes several additional requirements related in particular to compensation for damage or loss of mobility equipment, pre-journey information of passengers and advanced payments.

¹ The Italian delegation abstained from voting.

Compared to the initial Commission proposal, the Council's common position modified, among others, the provisions concerning the scope, the relation between the regulation and other international conventions on global limitation of liability, advance payments and the transitory provision of the regulation. It also includes the European Parliament's first-reading amendments acceptable to the Council.

As far as the scope is concerned, the Council rejected the Commission's proposal to extend the application of the Athens Convention to international and domestic carriage by inland waterways. As the European Parliament's amendments, it is of the opinion that the Athens Convention is dealing with carriage by sea, and that an extension to carriage on inland waterways would not be appropriate and would not take sufficiently account of the specificities of the sector. In addition, the Council common position specifies, that as regards the carriage by sea within a single member state, the regulation will apply to ships of a class A in accordance with the directive 98/18/EC but Member States may decide to apply the regulation to all domestic sea going voyages.

The regulation will apply from the date of the entry into force of the Athens Convention for the Community.

The European Parliament adopted its first-reading opinion on 25 April 2007 ([8724/07](#), p. 97).

Ship inspection and survey organisations*

The Council adopted common positions with a view to the adoption of a directive on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations ([5724/08+ADD1](#), [8925/08 ADD1](#)) and of a regulation on common rules and standards for ship inspection and survey organisations ([5726/08+ADD1](#)).

The common positions will be sent to the European Parliament for a second reading in the framework of the codecision procedure.

The Commission transmitted its proposal for a recast directive ([5912/06](#)) to the Council in February 2006 as part of its third package on maritime safety. The proposal aims at recasting, in a consolidated text, successive amendments to directive 94/57/EC establishing common rules and standards for organisations that inspect ships and issue ships' certificates, the so-called recognised organisations. In addition, certain provisions of the existing directive are amended with a view to their reinforcement or simplification, e.g. by strengthening the control of recognised organisations and by reforming the system of penalties against those that do not fulfil the established minimum criteria.

The main issue that raised concerns during the discussions in the Council bodies was the form of the legal act proposed by the Commission. At the Council meeting in November 2007, the Council agreed in its political agreement to split the Commission's initial proposal into two separate instruments: a directive and a regulation. The directive includes provisions addressed to the member states concerning their relationship with ship inspection and survey organisations, while the regulation contains all provisions related to the recognition at Community level, i.e. the granting and the withdrawal of the recognition by the Commission, the obligations and criteria to be fulfilled by the organisations to be eligible for Community recognition as well as possible sanctions against recognised organisations that fail to fulfil these obligations and criteria.

As far as a draft directive is concerned, the Council agreed on almost all main elements of the Commission's proposal on relationship of member states with organisations entrusted with the inspection, survey and certification of ships. However, it modified provisions, contained in a new regulation, related to Community recognition of ship inspection and survey organisations. They concern in particular the following issues: scope of recognition and minimum recognition criteria; imposition of fines against recognised organisation; harmonisation of rules of recognised organisations and mutual recognition of certificates issued by them.

Both texts include the European Parliament's first-reading amendments acceptable to the Council.

The European Parliament adopted its first reading opinion on 25 April 2007 ([8724/07](#), p.5).

GENERAL AFFAIRS

2009 European Parliament elections

The Council took note that the next elections to the European Parliament will be held from 4 to 7 June 2009.

APPOINTMENTS

Committee of the Regions

The Council adopted a decision appointing for the remainder of the current term of office, ending on 25 January 2010 as members:

- Mr Roger KNOX, Member of the Scottish Parliament,
 - Mr Giuseppe MICARELLI, Sindaco del Comune di Capodimonte,
 - Mr John LAHART, Member of Dún Laoghaire–Rathdown County Council,
 - Mr Alfred ALMONT, Conseiller municipal de Schoelcher,
 - Mr Olivier BERTRAND, Conseiller municipal de Saint-Sylvain de Bellegarde.
-