Procedure file

Basic information

COD - Ordinary legislative procedure (ex-codecision procedure) Directive	1991/0385(COD)	Procedure completed
Natural gas: common rules for the internal market Repealed by 2001/0077A(COD) Subject 3.60.03 Gas, electricity, natural gas, biogas		

Key players

European Parliament	Committee responsible	Rapporteur	Appointed
	ENER Research, Technological Development and Energy	PSE DESAMA Claude J.-M.J.	19/07/1994
Council of the European Union	Council configuration	Meeting	Date
	Research	2092	11/05/1998
	Research	2067	12/02/1998
	Energy	2058	08/12/1997
	Energy	2035	27/10/1997
	Energy	2009	27/05/1997
	Energy	1975	03/12/1996
	Energy	1850	01/06/1995

Key events

21/02/1992	Legislative proposal published	COM(1991)0548	Summary
06/04/1992	Committee referral announced in Parliament, 1st reading		
08/10/1993	Vote in committee, 1st reading		Summary
08/10/1993	Committee report tabled for plenary, 1st reading	A3-0281/1993	
16/11/1993	Debate in Parliament		Summary
17/11/1993	Decision by Parliament, 1st reading	T3-0641/1993	Summary
07/12/1993	Modified legislative proposal published	COM(1993)0643	Summary
01/06/1995	Debate in Council	1850	

03/12/1996	Debate in Council	1975	
27/05/1997	Debate in Council	2009	
27/10/1997	Debate in Council	2035	
12/02/1998	Council position published	13347/1/1997	Summary
19/02/1998	Committee referral announced in Parliament, 2nd reading		
22/04/1998	Vote in committee, 2nd reading		Summary
22/04/1998	Committee recommendation tabled for plenary, 2nd reading	A4-0140/1998	
30/04/1998	Debate in Parliament		Summary
30/04/1998	Decision by Parliament, 2nd reading	T4-0234/1998	Summary
11/05/1998	Act approved by Council, 2nd reading		
22/06/1998	Final act signed		
22/06/1998	End of procedure in Parliament		
21/07/1998	Final act published in Official Journal		

Technical information

Procedure reference	1991/0385(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Repealed by 2001/0077A(COD)
Legal basis	EC before Amsterdam E 057-p2; EC before Amsterdam E 066; EC before Amsterdam E 100A
Stage reached in procedure	Procedure completed
Committee dossier	ENER/4/09781

Documentation gateway

Legislative proposal		COM(1991)0548	21/02/1992	EC	Summary
Economic and Social Committee: opinion, report		CES0077/1993 OJ C 073 15.03.1993, p. 0031	27/01/1993	ESC	Summary
Committee report tabled for plenary, 1st reading/single reading		A3-0281/1993 OJ C 296 01.11.1993, p. 0004	08/10/1993	EP	
Reconsultation		COM(1993)0570	10/11/1993	EC	
Text adopted by Parliament, 1st reading/single reading		T3-0641/1993 OJ C 329 06.12.1993, p. 0094-0182	17/11/1993	EP	Summary
Modified legislative proposal		COM(1993)0643	07/12/1993	EC	Summary
Economic and Social Committee: opinion, report		CES0577/1994 OJ C 195 18.07.1994, p. 0082	28/04/1994	ESC	Summary

Council position		13347/1/1997 OJ C 091 26.03.1998, p. 0046	12/02/1998	CSL	Summary
Commission communication on Council's position		SEC(1998)0209	12/02/1998	EC	Summary
Committee recommendation tabled for plenary, 2nd reading		A4-0140/1998 OJ C 152 18.05.1998, p. 0006	22/04/1998	EP	
Text adopted by Parliament, 2nd reading		T4-0234/1998 OJ C 152 18.05.1998, p. 0017-0037	30/04/1998	EP	Summary
Commission opinion on Parliament's position at 2nd reading		COM(1998)0299	05/05/1998	EC	Summary
Non-legislative basic document		COM(1999)0198	04/05/1999	EC	
Document attached to the procedure		COM(1999)0612	23/11/1999	EC	
Follow-up document		SEC(2001)1957	03/12/2001	EC	Summary
Document attached to the procedure		SEC(2002)1038	01/10/2002	EC	Summary

Additional information

European Commission	EUR-Lex

Final act

Directive 1998/30
OJ L 204 21.07.1998, p. 0001 Summary

Natural gas: common rules for the internal market

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Natural gas: common rules for the internal market

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Natural gas: common rules for the internal market

After a series of votes on the amendments, the Committee on Energy defined its position on the complex and (in some respects) controversial question of the proposal for a directive concerning common rules for the internal market in electricity/gas. However, as the rapporteur, Mr Desama, stated, this position is purely 'indicative'. The Commission recently asked for a trialogue to be held on this matter without delay, to consider what amendments might be made to its initial proposal in order to formulate a new text. The meeting is to be held on 13 October. It should be noted that the Council view on the Commission's initial proposal is far from unanimous and the proposal has been much criticised in the committee. It was specifically with this trialogue in mind that the committee was anxious to adopt a position constituting a 'mandate for negotiation' with the Commission and the Council. It should also be noted that this is a matter to which the co-decision procedure will be applicable once the Treaty of Maastricht enters into force. In its votes on the amendments, the Committee on Energy expressed its support for the approach recommended by its chairman. It stresses the need for harmonisation in the electricity/gas sectors in preference to the liberalisation aspect, although it does not wish to eliminate the latter. The harmonisation relates to the establishment of common rules for production, transport and distribution (electricity sector) and for storage, transport and distribution (gas sector). This must be done by determining the arrangements for the organisation and operation of those sectors, defining tasks in the public interest (security of supplies, obligation to provide and build lines, establishment of a price taking account of environmental costs, etc.) and market access. The harmonisation relates particularly to the rules on environmental protection, taxation and the transparency of accounts. The liberalisation concerns in particular the tender procedures for the new capacities provided for in the electricity sector. Harmonisation is to be implemented progressively, with provision for a transitional period from July 1994 to the end of 1998. It is to be put into effect in specific directives, which need to be proposed in the near future (before the end of 1994) so that they can come into force before the end of the preparatory period. That period is without prejudice to subsequent developments (TPA or otherwise) after 1998. As regards the preparatory period, in respect of the common rules for the electricity sector, particularly on exclusive rights and concessions, it is proposed that those rights be abolished at production level for the new capacities, which will be allocated by invitations to tender. As far as transport is concerned, it is proposed that each Member State appoint the network operator(s) for a 15-year period. In the case of distribution, any concessionary rights held by local and regional authorities will be maintained. Access to the network is to be opened to autoproducers and independent producers and to producers

outside the territory covered by the network to combat abuse of a dominant position. It should be noted that even before the end of the preparatory period each Member State may establish a TPA (third party access) system, subject to compliance with the common rules laid down. ?

Natural gas: common rules for the internal market

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Natural gas: common rules for the internal market

The European Parliament tabled amendments on: adding to the proposed legal basis (Article 90(2)); emphasising the need for harmonisation rather than liberalisation in the electricity/gas sectors, but without abandoning the latter; providing for harmonisation to be implemented gradually, and for a transitional period from July 1994 to the end of 1998 for that purpose; providing for special directives to be proposed quickly before the end of 1994 to harmonise the environmental protection rules and tax rules applicable to energy; establishing in each Member State a Gas and Electricity Council responsible for submitting an annual report on the state of the market in natural gas and electricity; providing for the Member States to be able to grant import, export, storage or distribution licences for a period of at least 15 years, with exclusive concessions restricted to a maximum of 15 years; also maintaining the distribution concessions of local and regional authorities; allowing the Member States to keep the concession to import and supply to the network, whilst still being able to set up a third-party access system provided that it complied with the common rules established by the directive. ?

Natural gas: common rules for the internal market

The amended Commission proposal incorporated many of the amendments adopted by the European Parliament and took account of the six principles which the Council wanted: - security of supply; - protection for the environment; - protection for small consumers (by strengthening public service requirements); - transparency and non-discrimination; - recognition of the differences between the existing national systems; - transitional provisions (a transitional period was scheduled from 1 July 1994 to 31 December 1998 at the earliest). The Commission's main amendments in the electricity sector basically concerned: - the structure of the proposal: a special chapter was devoted to the rules for access to networks; - third-party access to the network. The regulated access provided for in the initial proposal was replaced by the possibility of negotiated access, with arbitration mechanisms if there were problems in negotiating or implementing the contract; - the introduction of a work programme allowing the Commission, during the second phase of market liberalisation, to draw up the harmonisation proposals needed for the successful operation of the market; - strengthening the references to public service requirements; - unbundling: separate management was abolished; separate accounting was maintained, however, and supplemented by giving the competent authorities right of access to companies' internal documents; - the introduction of tendering procedures as an option when allocating new transport and production capacity; - the simplification of the rules relating to use of the transport and distribution networks. The Commission did not accept Parliament's amendments on the following: - the requirement for the Member States to set up an Electricity and Gas Council; - the link between the transition to the final phase of liberalisation and prior harmonisation in the environmental and taxation fields; - allowing the distribution companies to keep the supply monopoly. ?

Natural gas: common rules for the internal market

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Natural gas: common rules for the internal market

The common position incorporates in full or in part 38 amendments adopted by Parliament and accepted by the Commission in its amended proposal. The Council reached unanimous agreement on the text of the common position on the basis of the following general outline: - the recently adopted directive for the internal market in electricity has served as the basis during the discussion; objective reasons have been put forward in those cases where this directive differs from the directive for the internal market in electricity; - the Directive introduces competition in the natural gas sector in order to enhance the competitiveness of the Community and to strengthen security of supply, while at the same ensuring public service obligations; - the internal market in natural gas shall be opened gradually on the basis of both qualitative and quantitative criteria, but Member States may open their markets more quickly than required by the Directive if they wish; - the internal market in natural gas shall be achieved by creating a right of access to the system and by making it possible to build new parallel pipelines; Member States may choose a system of either negotiated or regulatory access, or both; - access to upstream pipeline networks is needed to achieve a competitive market in natural gas, but such access should have regard to the special economic, technical and operational characteristics of such networks; - access to the system and authorization to build and/or operate systems should be based on the principles of objectivity, transparency and non-discrimination; - refusal of access to the system shall be possible under certain circumstances; such refusals must be duly substantiated; an independent authority shall be designated in each Member State to settle disputes in relation to access to the system; - derogations shall be possible in certain cases to take account of specificities of the natural gas market; in particular, such derogations may be granted in order to avoid serious economic and financial difficulties because of take-or-pay commitments; - the differences between the national system have been recognized; thus, temporary derogations shall also be possible concerning national markets and other geographically limited areas which have not yet reached a developed natural gas market. ?

Natural gas: common rules for the internal market

The Commission upholds the common position which in general is in line with its amended proposal. It will gradually open the natural gas market to more competition, while ensuring the fulfilment of public service obligations and guaranteeing reasonable safeguards for operators from possible economic and financial difficulties deriving from take-or-pay commitments. The Commission regrets, however, that distributors will not in all cases be fully eligible to participate in the new market arrangements. ?

Natural gas: common rules for the internal market

The Committee has adopted the recommendation for second reading by Claude DESAMA (PES, B) on Council's common position concerning the common rules for the internal market in natural gas.The Committee decided to follow its rapporteur and to accept the common position unmodified. The proposal was part of the framework for the internal energy market with a view to establishing common rules governing the internal market in electricity and natural gas. The Directive on the electricity market was adopted in December 1996. The draft basically took over the principles of the electricity directive, i.e. access to the system, reciprocity, subsidiarity and the gradual opening up of the market, while taking account of the specific features of the natural gas market. The only amendment adopted was one that called on the Commission to review the application of the directive after three years and to submit a report on the functioning of the internal market in natural gas and the implementation of the general rules. ?

Natural gas: common rules for the internal market

In adopting the report by Mr Claude DESAMA (PSE, B) on the internal market in natural gas, the European Parliament adopted the common position of the Council unamended. This proposal forms part of the package of measures to establish the internal energy market. ?

Natural gas: common rules for the internal market

The rapporteur stressed that Parliament?s main concerns, which specifically related to the safety and supply of natural gas within the European Union and the storage and use of installations, including maintaining long-term contracts, had been accepted by the Council. He therefore called on Parliament to vote against the four re-tabled amendments, considering that this compromise represented the successful conclusion of six years of work and discussions. Commissioner Papoutsis thanked the EP for speeding up its procedures, which would allow the Council to meet its deadlines. He also indicated that several Member States intended to go beyond the directive?s requirements, which would lead to greater liberalisation of the market in question.

Natural gas: common rules for the internal market

Pursuant to Article 189 B(2) of the Treaty, the Commission has submitted its opinion on Parliament's second reading on the draft directive on the internal market in natural gas, which took place on 30 April 1998. As Parliament did not adopt any amendments to the Council's common position, the Commission recommends speedy adoption of this text in line with the text of the common position. ?

Natural gas: common rules for the internal market

OBJECTIVE: to further the completion of the internal energy market by establishing common rules for the transmission, distribution, supply and storage of natural gas. COMMUNITY MEASURE: Directive 98/30/EC of the European Parliament and of the Council concerning common rules for the internal market in natural gas. SUBSTANCE: The directive lays down the rules relating to the organisation and functioning of the natural gas sector, including liquified natural gas (LNG), access to the market, the operation of systems and the criteria and procedures applicable to the granting of authorisations for transmission, distribution, supply and storage of natural gas. The directive introduces competition into the natural gas sector to improve the Community's competitiveness and reinforce security of supply while introducing public service obligations. The internal market in natural gas will be gradually opened up on the basis of both qualitative and quantitative criteria, but Member States may if they wish open up their market more rapidly than the directive requires. The internal market must be built up by establishing a right of access to the network and the possibility to build new parallel pipelines. Member States may opt for a negotiated access network or a regulated access network or both types of network. Access to upstream pipeline networks is needed to create a competitive market in natural gas, but such access must take account of the special economic, technical, and operational characteristics of such networks. Access to the network and authorisation to construct and/or operate networks must be based on the principles of objectivity, transparency and non-discrimination. It must be possible to refuse access to the network under certain circumstances; reasons must be given for such refusals. An independent authority must be designated in each Member State to settle disputes concerning access to the network. Derogations must be possible in certain cases to take account of the special characteristics of the natural gas market; in particular, such derogations may be granted to avoid serious economic and financial difficulties because of 'take or pay' obligations. Differences between national networks are recognised: consequently, temporary derogations must also be possible with regard to national markets and other geographically limited zones where the natural gas market has not yet reached a developed stage. ENTRY INTO FORCE: 10/08/1998. DEADLINE FOR TRANSPOSITION: 10/08/2000. ?

Natural gas: common rules for the internal market

The European Council at Stockholm requested a detailed evaluation of the situation in the gas sector relating to market opening. This has been carried out in the form of a benchmarking report considering in detail the regimes in place in different Member States for gas. The report

reveals that almost all Member States have transposed the gas Directive although legal implementation has been delayed in France and is incomplete in Germany, and infringement procedures have been launched. Other than Finland, Portugal and Greece, which are emerging markets and have certain derogations in place, all Member States except France and Denmark are envisaging full market opening before 2008. However, a number of obstacles to full competition have been identified in the Commission's report as follows: - network access tariffs based on distance and point to point capacity reservation which do not allow flexibility to third parties to change their gas sources or their customers base without incurring higher costs, - high network tariffs, which will form a barrier to competition in themselves by discouraging third party access, and may provide revenue for cross subsidy of affiliated business int he competitive market, - concentration of gas production and import with one or two companies, which tends to mean that new entrants find it very difficult to buy wholesale gas on reasonable terms, - balancing regimes which are non-market based and which are unnecessarily stringent and not reflected of costs incurred, - insufficient unbundling, which serves to obscure possible discrimatory charging structures and again lead to possible cross subsidy, - network access tariffs and conditions that are not subject to ex-ante approval; this may lead to uncertainty and create costly and time consuming disputes unless combined with full ownership unbundling. In addition to the barriers to competition within Member Staets, there are also several constraints on cross border transactions. The report examines the rules in place at borders with the following conclusions: very little progress has been made towards a transparent and cost reflective system for cross border transactions. In conclusion, there are considerable assymmetries in the implementation of the current Directive. These are leading to considerable distortions of the internal market.?