



**COUNCIL OF
THE EUROPEAN UNION**



Council Conclusions on the Operation of the Internal Energy Market

**2735th TRANSPORT, TELECOMMUNICATIONS and ENERGY Council meeting
Luxembourg, 8-9 June 2006**

The Council adopted the following conclusions:

" The Council,

Bearing in mind the conclusions of the 2006 Spring European Council, in particular paragraph 46 (b) and paragraphs 12 to 18 of Annex III,
In the light of the Commission report on progress in creating an internal gas and electricity market (14800/05),

Noting the Commission preliminary report on the energy sector inquiry highlights areas where more needs to be done before we have a fully functioning internal energy market,
Addressing the issues relating to the internal energy market that are raised in the Commission Green Paper on a European Strategy for Sustainable, Competitive and Secure Energy,

STRESSES that

1. Secure supplies of electricity and gas at competitive prices, delivered on open, transparent and competitive interconnected markets, with adequate protection of final consumers, are crucial to Europe's competitiveness, and progress has to be made with the second electricity and gas directives leading to full market opening in July 2007, while accepting the special circumstances of some small and isolated Member States.
2. The right balance should be found among the three objectives of competitive markets, security of supply and sustainability, taking national circumstances into account. An effective and well functioning internal market plays a key role in this respect.

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3. Full, effective and transparent implementation and consistent application of existing legislation not just according to its letter, but equally its spirit, has to be ensured. This implementation should be beneficial to both household consumers and businesses and be in line with public service obligations, including any on affordable access to energy for those Member States who choose to implement specific provisions in this respect.
4. A coherent and integrated approach towards a competitive energy policy and competitive energy markets, ensuring the availability of reasonably priced energy, should be created by the regulatory framework as well as oversight by regulatory authorities and competition authorities. In this respect, the exchange of best practice between all market actors, including networks operators, and regulators, should be promoted. The Commission should monitor developments and report on progress made, using its enforcement powers where necessary.
5. Enhanced cooperation and coordination, in particular between regulators, system operators, energy exchanges and governments, have to be ensured; for instance, more use could be made of non-legislative action such as the exchange of best practice. To that effect valuable existing fora such as Madrid and Florence, the Council of European Energy Regulators (CEER), the European Energy Regulators' Group for Gas and Electricity (ERGEG) and the European Transmission System Operators (ETSO, GTE) should continue playing an active role. In this respect, initiatives such as the Electricity Regional Initiative recently launched by the European Energy Regulators' Group for Gas and Electricity should be supported.
6. The national regulatory authorities, relevant state administration bodies and competition authorities have to play an increasingly important role in delivering liberalised energy markets across the EU. In the light of concentration indicators for many gas and electricity markets, a thorough application of competition rules, including merger control, is necessary, at both EU and national level. The relevant authorities should be able to carry out their tasks effectively and in a clearly defined manner, and cooperate and coordinate with each other, particularly on issues such as the regulation and monitoring of cross-border network access and trading in order to achieve adequate regulatory consistency across Member States and to avoid double regulation and the imposition of additional unnecessary costs.
7. Fair and non-discriminatory access to the network for all system users is essential if competition is to develop. This requires effective unbundling of network businesses.
8. Transparency on the energy markets, for both operators and final consumers, has to be ensured. Market players must have equal access to accurate, timely and comprehensive information, especially on price formation and available network capacity, including capacity on cross-border infrastructure. More information could be released to the market under the existing legislation, under the effective monitoring and supervision of regulatory authorities which should consider whether any obstacles to the provision of sufficient information remain.

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9. Cross-border exchange of energy should be improved and the coordinated development of regional energy cooperation should be accelerated while facilitating the integration of regional energy markets into, and the further development of, the EU internal market notably through adequate and coherent interconnection and access to interconnection capacity, paying particular attention to countries and regions with energy networks that are largely isolated from the EU energy network. To that effect the Commission is invited to submit by the end of 2006 a Priority Interconnection Plan identifying measures to be taken at Member State level as well as Community level.
10. Regular meetings at regional level, such as in the Nordic and North West European markets, could make a useful contribution by focusing on practical obstacles to cross-border trade and fostering co-operation.
11. Cross border exchanges with third countries should be enhanced, and approaches similar to that of the internal energy market should be promoted to neighbouring countries whenever possible. At the same time, due account should be taken of the risk of abuse of market position resulting from dependency on a single supplier and of the importance of reciprocity to ensure a level playing field in terms of access to markets and infrastructure, and in terms of environmental standards and safety. In this context, a clear framework of trade rules has to be established, and the prompt implementation of the Energy Community Treaty and the EU-Russia energy dialogue have a useful role to play, also with a view to ratification of the Energy Charter Treaty by the Russian Federation.
12. Obstacles to investment in cross-border infrastructure, storage capacity and LNG terminals have to be addressed and steps should be taken to increase the liquidity of wholesale markets (electricity exchanges and gas hubs).
13. Investment should be encouraged within the Community by regulatory frameworks which are stable and transparent and provide clear investment incentives. In the same vein, administrative authorisation procedures should be speeded up substantially while maintaining environmental and health standards, *inter alia* by considering time-limits for the procedures if appropriate.
14. Medium- to long-term investment planning procedures and investment coordination should be improved, including with the private sector and European financial institutions, especially as regards cross-border interconnection, gas infrastructure including underground storage and LNG facilities as well as generation capacities. A business climate more conducive to long-term investment should be ensured through increased transparency and exchange of information based *inter alia* on Member States' own monitoring.
15. A balanced mechanism in regard of long term contracts needs to be provided that will strengthen competition on the internal market, address transparency issues and at the same time safeguard investment incentives and security of supply.

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16. TSOs should cooperate with each other to define complete and consistent technical rules required for the facilitation of cross-border trade in energy, especially how congestion is managed on the electricity market, with a view to making networks operate like a single grid from the end-user's point of view. Those rules are essential and must be agreed at an early date. In order to increase the safety of the grid and to optimise cross-border exchanges, TSOs should cooperate and coordinate at regional level and exchange information on a regular basis.
17. In order to help the gas market catch up more rapidly and achieve smooth functioning, a number of specific issues have to be resolved at the technical and regulatory level - having regard to national circumstances - such as interoperability issues relating to gas quality and access to conversion facilities; the functioning of gas market flexibility instruments has to be improved, including access to storage capacities and networks, and competition between external suppliers should be aimed for.
18. Prior to considering further legislation, the impact of existing legislation should be assessed while certain factors may require more investigation such as the role of long term gas contracts and external suppliers, the impact of the Emissions Trading Scheme and primary energy prices - especially for energy-intensive industries - the specific needs of energy-intensive industries, dependence on external suppliers, how to assess market concentration and the need to secure adequate capacity margins and non-discriminatory access to the market. Moreover, the further development of the internal markets in electricity and gas should be discussed again involving all stakeholders.
19. Security of electricity and gas supply has to be enhanced. To that end, diversification of sources and routes for primary energy sources has an essential role to play, and adequate monitoring of the supply and demand adequacy should be put forward at European level. Furthermore, the contribution of renewable energies to diversification of supply should be taken into account.

LOOKS FORWARD to the 2006 Commission report called for by Directives 2003/54 and 2003/55 and the outcome of its investigation of the above factors, as well as to the Commission's final report on the energy sector inquiry."

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