# Member States/third countries intergovernmental agreements in the field of energy: information exchange mechanism

2011/0238(COD) - 30/07/2012 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Industry, Research and Energy adopted the report by Krišjnis KARIŠ (PPE, LV) on the proposal for a directive of the European Parliament and of the Council setting up an information exchange mechanism with regard to intergovernmental agreements between Member States and third countries in the field of energy.

The committee recommends that the European Parliament's position in first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

**Transparency**: the report states that a high degree of transparency with regard to agreements between Member States and third countries in the field of energy would be of benefit in achieving both closer intra-Union cooperation in the field of external energy relations and the Union's long-term policy objectives relating to energy, climate and security of energy supply.

**Information exchange between the Member States and the Commission**:

Where those existing intergovernmental agreements refer explicitly to other texts, **Member States shall also submit to the Commission those other texts**, insofar as they contain elements which have an impact on the functioning of the internal energy market or on the security of energy supply in the Union. However, that obligation does not apply in respect of agreements between commercial entities.

By three months after the entry into force of the Decision, Member States shall inform the Commission whether any part of such intergovernmental agreements is to be regarded as **confidential** and whether the information provided may be shared with other Member States. Where the Member State concerned has indicated that the information may be shared, the Commission shall make the information received accessible to all Member States in secure electronic form.

Where following its first assessment, the **Commission has doubts** as to the compatibility with Union law of agreements, in particular with Union competition law and internal energy market legislation, the Commission shall inform the Member States concerned accordingly within 9 months following the submission of those agreements.

Before or during negotiations with a third country on an intergovernmental agreement or on the amendment of an existing intergovernmental agreement, a **Member State may inform the Commission in writing of the objectives of, and the provisions to be addressed in, the negotiations** and may communicate any other relevant information to the Commission.

Where a Member State gives the Commission notice of negotiations, the **Commission may provide it with advice** on how to avoid incompatibility of the intergovernmental agreement or of the amendment to an existing intergovernmental agreement under negotiation with Union law.

**Confidentiality**: when providing information to the Commission, a Member State may indicate whether any part of the information, be it commercial or other information the disclosure of which could harm the activities of the parties involved, is to be regarded as confidential and whether the information provided

can be shared with other Member States. The Commission shall respect those indications. Requests for confidentiality under this Article shall not restrict access of the Commission itself to confidential information.

**Assistance from the Commission**: at the request of the Member State concerned, or at the request of the Commission and with the written approval of the Member State concerned, the Commission may participate in the negotiations as an **observer**. Where the Commission participates in the negotiations as an observer, it may provide the Member State concerned with advice on how to avoid incompatibility of the intergovernmental agreement or amendment under negotiation with Union law.

**Compatibility assessment**: where a Member State has been unable, on the basis of its own assessment, to reach a firm conclusion as to the compatibility of the intergovernmental agreement or amendment under negotiation with Union law, it shall inform the Commission thereof before the closure of the negotiations and submit the draft agreement or amendment together with any annexes to it. The Commission shall, within four weeks from the date of receipt of the draft agreement or amendment, including annexes thereto, inform the Member State concerned of any doubts it may have as to the compatibility of the draft intergovernmental agreement or amendment with Union law. In the absence of a response from the Commission within that period, the Commission shall be deemed not to have any doubts.

**Coordination among Member States**: the Commission shall facilitate and encourage coordination among Member States with a view to reviewing developments in relation to intergovernmental agreements and striving for consistency and coherence in the Union's external energy relations with producer, transit, and consumer countries.

**Reporting and review**: by 1 January 2016, the Commission shall submit a report on the application of this Decision.