

Electricity: common rules for the internal market

1991/0384(COD) - 01/06/1995

'Following the modified proposals for Directives on setting up common rules for the internal gas and electricity market, after consultation of the European Parliament and of the Economic and Social Committee, and while confirming the conclusions adopted by the Council on 30 November 1992 and 29 November 1994, the Council: 1) reaffirms the 4 points of agreement as identified in the Council conclusions of 29 November 1994, keeping in mind the need for further discussion and clarification with regard to market liberalisation beyond the production sector and other aspects of the Directive, for instance that of harmonisation and taking into account the fact that each of these 5 key topics should represent part of an overall agreed solution; 2) recalls that, in the abovementioned conclusions of 29 November 1994, the Council requested further discussion on how to open the markets beyond the area of electricity production, especially on the question of the possible simultaneous introduction of a negotiated TPA and a so-called single-buyer system. In this context it agreed to verify that both approaches, in a spirit of reciprocity, lead to equivalent economic results and, therefore, to a directly comparable level in the opening of markets and to a directly comparable degree of access to electricity markets, and that they conform to the provisions of the Treaty; 3) notes the Commission's working paper on the organisation of the internal electricity market, following the request expressed by the Energy Council at its meeting on 29 November 1994; 4) confirms, in the light of this working paper, that one of the Directive's main objectives concerning the internal electricity market is to increase competition in the interests of all consumers, and that, to this end, European electricity systems must progressively take market mechanisms into account, allowing in particular for the situation of independent producers and eligible consumers, in the framework of flexible and pragmatic solutions that will: - permit the performance of public service obligations imposed on electricity undertakings in the general economic interest, including objectives set by each Member State regarding security of supply and environmental protection. The implementation of these obligations, in accordance with the Treaty, and in particular with Article 90(2) thereof taken as a whole, will include, for those Member States that so wish, the implementation of long-term planning, as cited by the Commission and in line with the Council conclusions of 30 November 1992, as being a means of ensuring these objectives. The development of trade must not be affected to an extent that would be contrary to the interests of the Community; - take into consideration the principle of subsidiarity and the different situations and forms of organisation in the various Member States in this sector as well as endogenous resource utilisation; - take into account the question of transitional arrangements, in accordance with the conclusions of the Council at its meeting on 30 November 1992; 5) considers that the two systems, both within the European Community and within those countries of the European Community that so wish, can co-exist subject to certain conditions, intended to ensure reciprocity between the two systems and equivalent effects, being met as indicated in paragraph 2. There is agreement on the following points without prejudice to the discussions to be continued on these conditions, as indicated in paragraph 6: - the single buyer must purchase electricity under objective conditions that guarantee, in particular, transparent transport prices and a total lack of discrimination; - a system of authorisations granted to independent producers, based on transparent criteria, will be introduced along with competitive bidding procedures in the zone covered by the single buyer, while complying with the provisions of paragraph 4; - within a single-buyer system, eligible consumers in accordance with the principle of equivalence referred to above, will be able to negotiate supply contracts abroad, while complying with the provisions of paragraph 4; - the appropriate conditions for transparency in transport and distribution will be defined in both systems so as to guarantee that any sort of discrimination or predatory behaviour, in particular in intra-Community trade, is avoided; - appropriate and effective regulatory and control mechanisms and mechanisms for the settlement of disputes will be introduced in both systems so as to avoid any abuse of a dominant position to the detriment in particular of consumers; - in the single-buyer system, producers who are not bound by contract with the single buyer should be able to export their electricity via the network of the single buyer,

provided that there is sufficient transport capacity on that network and that this is technically feasible; 6) considers that further discussions are necessary on the following points: - the building and use of direct lines; - the question of the definition of independent producers; - the question of the definition of all eligible consumers and of their rights and responsibilities; - the concrete conditions for accepting or rejecting authorisations for independent producers in relation to planning and to the capacity of the system and the conditions under which independent producers may negotiate supply contracts with eligible consumers; - the question of possible quantitative limits on the electricity imported by eligible consumers; - the issue of integrated companies in both systems, as regards production, transport and distribution, so as to avoid discrimination, cross--subsidisation and unfair competition; - the question of who will be responsible, in both systems, for the organisation of the tender procedures; - the detailed procedures as regards transitional periods and arrangements; - the problem of stranded investments; - the conclusions to be drawn in particular from the working document submitted on 11 May 1995 by the Commission on the specific nature of small systems, notably small highly interconnected systems, in particular as regards the realisation of direct lines; 7) invites the Permanent Representatives Committee to finalise its work on the basis of these conclusions to enable the Council to adopt a common position before the end of the year.'