

Energy end-use efficiency and energy services

2003/0300(COD) - 23/09/2005 - Council position

The Council agrees with the Commission on the need to make energy savings and to use energy more efficiently. It therefore broadly supports the general aim of the Commission's proposal. Where the Council has made changes they relate mainly to adapting the Directive to different national situations and existing practices in order to lower the cost and administrative burden of the proposal's application and generally to make it easier to implement.

Of the 97 amendments adopted by the European Parliament, the Council has accepted 37 and rejected the remaining 60. Several of the key amendments rejected were done so on the premise that they go far beyond the provisions of the original Commission's proposal. As far as the Commission's proposal is concerned, the Council has introduced a number of changes.

To summarise, the main changes introduced by the Council are as follows:

- Instead of *mandatory* targets, the Common Position contains an *indicative* target of 6% for the sixth year of the Directive's application. Member States will be obliged to take measures that contribute towards achieving the indicative target and shall fix themselves an intermediate indicative target for the third year of application. The grounds given by the Council for using indicative rather than mandatory targets is that the Member States do not want to be taken to the European Court of Justice for failing to implement a 6% target – especially if they have already achieved, say, a 5% target.
- The Common Position does not make reference to a separate, higher target for the public sector but it does require the public sector to fulfil an exemplary role and to take one or more energy efficiency improvements – such as legislative initiatives and/or voluntary agreements or other schemes with an equivalent effect. In addition, Member States are expected to monitor their performance in relation to a national indicative savings target. Regarding the cost-effectiveness of measures, the Member States want to take the most effective measures for cutting costs – irrespective of whether this is in the public or private sector.
- The Common Position introduces a comitology procedure. Its main tasks will be to help develop the methods of calculation set out in the Annexes. Provisions have been introduced allowing for the use of voluntary agreements to help contribute to the indicative targets.

In other, more editorial changes, the Council has:

- Introduced several new recitals and expanded existing recitals.
- Changed the wording whereby rather than developing a market for energy services the Directive's provisions will now seek *to create* the conditions.
- Exempted transport undertakings which rely primarily on the use of aviation and maritime bunker fuels from the scope of the Directive. Certain parts of the armed forces have similarly been excluded.
- Attempted to align the definitions in Article 3 with those in other Community legislation.

- Introduced an element of flexibility regarding cost-effective measures. The list of public purchasing guidelines has been moved to Annex V in order to exclude other potential cost-effective measures which the public sector could take.
- Ensured optimal transparency concerning information relating to energy efficiency mechanisms and financial/legal frameworks.
- Allowed Member States, *where necessary*, to make qualification, certification and accreditation schemes available to energy service providers – rather than making the Member States responsible for ensuring that *all* market players have access to them.
- Introduced two paragraphs allowing for other, less costly audit measures as well as allowing audits resulting from schemes based on voluntary agreements.
- Replaced the Commission proposed deadline of 01/06/2006 for transposition with a more realistic deadline of two years.
- Amended Annex I to reflect the new methodology for calculating national savings targets.
- Made it clear in Annex III that the list contains examples of eligible measure, rather than being limited in nature.
- Made changes to Annex IV by adding details for the top-down and bottom-up calculation methods. Further, changes have been made to the list of harmonised lifetimes for energy efficiency improvements.

To conclude, the Council notes that both institutions have expressed their support for the overall aim of the Commission's proposal. The Council is of the view that its Common Position does justice to the overarching objective of the proposal.