## Basic information

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Repealed by 2001/0077A(COD)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

## Key players

**European Parliament**

| Committee responsible | Rapporteur | Appointed |
|---|---|---|
| ENER Research, Technological Development and Energy | DESAMA Claude J.-M.J. (PSE) | 19/07/1994 |

**Council of the European Union**

| Council configuration | Meetings | Date |
|---|---|---|
| Energy | 2009 | 1997-05-27 |
| Energy | 1975 | 1996-12-03 |
| Energy | 1850 | 1995-06-01 |
| Energy | 2058 | 1997-12-08 |
| Energy | 2035 | 1997-10-27 |
| Research | 2067 | 1998-02-12 |
| Research | 2092 | 1998-05-11 |

## Key events

| Date | Event | Reference | Summary |
|---|---|---|---|
| 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 |
| 16/11/1993 | Debate in Parliament | | Summary |
| 07/12/1993 | Modified legislative proposal published | COM(1993)0643 | Summary |
| 01/06/1995 | Debate in Council | | |
| 03/12/1996 | Debate in Council | | |

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|---|---|---|---|
| 27/05/1997 | Debate in Council | | |
| 27/10/1997 | Debate in Council | | |
| 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 |
| 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

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| **Amendments and repeals** | Repealed by 2001/0077A(COD) |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

## Documentation gateway

**European Parliament**

| Document type | Committee | Reference | Date | Summary |
|---|---|---|---|---|
| Committee report tabled for plenary, 1st reading/single reading | | A3-0281/1993<br>OJ C 296 01.11.1993, p. 0004 | 08/10/1993 | |
| Text adopted by Parliament, 1st reading/single reading | | T3-0641/1993<br>OJ C 329 06.12.1993, p. 0094-0182 | 17/11/1993 | Summary |
| Committee recommendation tabled for plenary, 2nd reading | | A4-0140/1998<br>OJ C 152 18.05.1998, p. 0006 | 22/04/1998 | |
| Text adopted by Parliament, 2nd reading | | T4-0234/1998<br>OJ C 152 18.05.1998, p. 0017-0037 | 30/04/1998 | Summary |

**Council of the EU**

| Document type | Reference | Date | Summary |
|---|---|---|---|

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|---|---|---|---|
| Council position | 13347/1/1997<br>OJ C 091 26.03.1998, p. 0046 | 12/02/1998 | Summary |

**European Commission**

| Document type | Reference | Date | Summary |
|---|---|---|---|
| Legislative proposal | COM(1991)0548 | 21/02/1992 | Summary |
| Reconsultation | COM(1993)0570 | 10/11/1993 | |
| Modified legislative proposal | COM(1993)0643 | 07/12/1993 | Summary |
| Commission communication on Council's position | SEC(1998)0209 | 12/02/1998 | Summary |
| Commission opinion on Parliament's position at 2nd reading | COM(1998)0299 | 05/05/1998 | Summary |
| Follow-up document | COM(1999)0198 | 04/05/1999 | |
| Follow-up document | COM(1999)0612 | 23/11/1999 | |
| Follow-up document | SEC(2001)1957 | 03/12/2001 | Summary |
| Document attached to the procedure | SEC(2002)1038 | 01/10/2002 | Summary |

**Other institutions and bodies**

| Institution/body | Document type | Reference | Date | Summary |
|---|---|---|---|---|
| EESC | Economic and Social Committee: opinion, report | CES0077/1993<br>OJ C 073 15.03.1993, p. 0031 | 27/01/1993 | Summary |
| EESC | Economic and Social Committee: opinion, report | CES0577/1994<br>OJ C 195 18.07.1994, p. 0082 | 28/04/1994 | Summary |

**Additional information**

| Source | Document | Date |
|---|---|---|
| European Commission | EUR-Lex | |

**Final act**

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|---|---|
| Directive 1998/0030<br>OJ L 204 21.07.1998, p. 0001 | Summary |

# Natural gas: common rules for the internal market

1991/0385(COD) - 17/11/1993 - Text adopted by Parliament, 1st reading/single reading

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

1991/0385(COD) - 07/12/1993 - Modified legislative proposal

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

1991/0385(COD) - 03/12/2001 - Follow-up document

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.

# Natural gas: common rules for the internal market

1991/0385(COD) - 12/02/1998 - Council position

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

1991/0385(COD) - 27/01/1993 - Economic and Social Committee: opinion, report

# Natural gas: common rules for the internal market

1991/0385(COD) - 05/05/1998 - Commission opinion on Parliament's position at 2nd reading

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

1991/0385(COD) - 22/06/1998 - Final act

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

1991/0385(COD) - 28/04/1994 - Economic and Social Committee: opinion, report

# Natural gas: common rules for the internal market

1991/0385(COD) - 12/02/1998 - Commission communication on Council's position

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

1991/0385(COD) - 01/10/2002

This Report provides initial results for the second benchmarking report on the implementation of the internal electricity and gas market. The report shows that: 1) for electricity, only four Member States do not intend to fully open their market, and of those, Italy expects market opening to all non-households by 2004. The European electricity market is therefore around 70% open to competition at present and this will rise to 82% by 2005 even without the measures agreed at Barcelona. There has been some progress in the electricity sector since the first report in terms of the general functioning of the market particularly in Germany, Austria and the Netherlands. However, there remain areas that are causing particular difficulties as follows: - differential rates of market opening continue to reduce the scope of benefits to customers from competition, leading to higher prices than otherwise to small businesses and households, and also promote distortion of competition between energy companies by allowing the possibility of cross-subsidies at a time when companies are restructuring themselves into pan-European suppliers; - disparities in access tariffs between network operators which, due to the lack of transparency caused by insufficient unbundling and inefficient regulation, may form a barrier to competition; - the high level of market power among existing generating companies associated with a lack of liquidity in wholesale and balancing markets which impedes new entrants; - insufficient interconnection infrastructure between Member States and, where congestion exists, unsatisfactory methods for allocating scarce capacity. 2) for gas, other than Finland, Portugal and Greece, which are emerging or non connected markets and have certain derogations in place, all Member States except France and Luxembourg envisage full market opening. On average 80% of EU gas demand is now, in principle, open to competition and this is already scheduled to increase to around 90% by 2005. Regarding structural measures, the regulator has recently taken responsibility for access to the gas network in both Austria and Ireland. This means that all Member States except Germany have a system of access involving independent regulation for electricity, and all but Germany and France for gas. As far as gas is concerned, there has been less progress since last year than for electricity, the most significant barriers being as follows: - similar concerns to those for electricity about the unequal level of market opening; - inappropriate tariff structures and large and unexplained disparities in network access tariffs between countries and regions for transportation and distribution transactions which form a barrier to competition and provide revenue for cross-subsidies; - lack of transparency regarding the availability of infrastructure capacity, both internally and cross-border, as well as capacity reservation procedures which do not allow third parties the flexibility to change their gas sources or their customer base without incurring increased costs; - concentration of gas production and import in a few companiesand slow development of gas trading hubs which often means that new entrants find it very difficult to buy wholesale gas on reasonable terms; - balancing regimes which are unnecessarily stringent, being non-market based and not reflective of the costs incurred. 3) As regards public service issues : terms of the measures being taken to ensure public service in a competitive market. It shows that Member States are aware of the need to ensure security of supply, to deliver high levels of service to all customers and to defend the Community's environmental objectives. Key issues being addressed in Member States include: - the projected security of supply position for electricity in certain regions such as the Nordic countries and Ireland as well as the longer term issues relating to gas supplies from outside the EU; - continuing attention on the need to ensure low income customers should benefit from competition and continue to have access to electricity at an affordable price and that disconnection should be a last resort; - measures to increase the share of renewable energy and combined heat and power (CHP), and to encourage demand management. In conclusion, the report states that his analysis again supports the hypothesis that full market opening, when combined with appropriate structural measures relating to unbundling and regulation, is necessary to deliver consistent benefits across all consumer groups. In particular, it is clear that smaller consumers in markets without full and effective market opening are unable to benefit from competitive conditions and are likely to suffer in relative terms as a consequence.

# Natural gas: common rules for the internal market

1991/0385(COD) - 21/02/1992 - Legislative proposal

# Natural gas: common rules for the internal market

1991/0385(COD) - 30/04/1998 - Text adopted by Parliament, 2nd reading

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.