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COMMISSION OF THE EUROPEAN COMMUNITIES

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**COMMISSION STAFF WORKING DOCUMENT**

*Accompanying document to the*

Proposal for a

**COUNCIL REGULATION**

**concerning the notification to the Commission of investment projects into energy  
infrastructure within the European Community  
and repealing Regulation (EC) No 736/96**

**SUMMARY OF THE IMPACT ASSESSMENT**

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## 1. PROBLEM DEFINITION

### 1.1. What is the problem?

The problem that requires action is the **lack of consistent data and information** on investment projects (in their different phases) and the related **shortcomings**. Data, whatever source, is not always complete, reliable or fit for the required analysis: for example, EUROSTAT data deals with past developments while prospective data/information is necessary for investment projects. Council Regulation (EC) No 736/96 should in principle allow a monitoring of investment projects at EU level. The Commission shall be notified once a year of major investment projects or major decisions affecting investment projects in the petroleum, natural gas and electricity sectors. However, this Regulation is no longer consistently enforced nor adapted to today's energy challenges. No other horizontal instrument at EU level exists.

Without appropriate data, the Commission is not in a position to:

- analyze the likely evolution of EU energy infrastructure, detect any potential gaps and anticipate future energy supply;
- evaluate EU energy policy and support policy-making with official data;
- promote transparency on the likely evolution of the EU energy system.

Data reporting (i.e. notification of information) and monitoring (i.e. analysis) of investment projects and the evolution of the EU energy system are considered important in particular in this period of time. While significant investment into EU energy infrastructure is crucial, there is a high degree of uncertainty - increased by the current economic and financial crisis - related to the realisation of investment projects. As mentioned in the Second Strategic Energy Review adopted by the Commission in 2008, these investments are required to respond to future energy demand, to foster the transition to a low carbon energy future and to ensure greater energy security in case of a crisis as well as the effective functioning of the internal market.

### 1.2. Who is most affected and why is public intervention necessary?

EU institutions lack relevant/consistent data on the development of energy infrastructure in the EU to assess the strategic supply/demand balance. Industry is potentially affected by insufficient transparency on the likely evolution of the EU energy system.

## 2. ANALYSIS OF SUBSIDIARITY

EU institutions have decided new policies and set up a regulatory framework in which economic operators have to make investment decisions. Data reporting and monitoring (i.e. analysis) of data on the progress of investment projects are necessary. As the EU/regional dimension and EU policies are more and more

predominant and given that energy sectors are more and more interrelated and integrated, national or sector – specific information risks to become insufficient.

### 3. OBJECTIVES OF THE EU INITIATIVE

The general objectives of the revision of Council Regulation (EC) No 736/96 are to build an effective and efficient reporting and monitoring tool, i.e. to collect appropriate data on investment into EU energy infrastructure and to set up a mechanism for sharing the resulting analysis with Member States and stakeholders.

### 4. POLICY OPTIONS

Four options have been considered:

- **Option 0 – Status quo - Monitoring of the evolution of energy infrastructure on the basis of exiting reporting requirements:** Under option 0, data and information on investment projects into EU energy infrastructure would be either provided through existing EU reporting mechanisms and / or purchased by the Commission.
- **Option 1 – Repeal of Council Regulation (EC) No 736/96:** Compared to the status quo, this option consists in repealing Council Regulation (EC) No 736/96 given the poor implementation of this Regulation and its growing inability to capture the new EU energy system. Assuming that in the longer run markets would balance supply and demand regular monitoring would be replaced by studies that could be conducted on a case by case basis if specific policy decisions would require an analysis of energy related investment projects.
- **Option 2 – Monitoring of the evolution of energy infrastructure with a complementary reporting:** An improved and updated reporting tool is devised: data requirements reflect the evolution of the EU energy system and requirements for quality of data are reinforced. The reporting obligations are aligned with recent legislative developments (e.g. reporting every two years, monitoring under the third internal market package) and are simplified: Member States may be exempted from reporting under this Regulation if equivalent data is provided by other means (e.g. under existing specific legislation) and companies may also be relieved to notify information if Member States decide and provide the required info via other means. On top of reporting, provision is made for analysis of the data by the Commission and for a possible transparency of data collected, except for the commercially sensitive ones.
- **Option 3 – Monitoring of the evolution of energy infrastructure with new and fully-fledged reporting requirements:** The difference with option 2 is that option 3 sets a fully-fledged integrated reporting and monitoring system. Member States are obliged to notify and validate all requested information to

the Commission, irrespective of other existing notification mechanisms or monitoring mechanisms developed at EU level.

## **5. ASSESSMENT OF IMPACTS**

An improved and strengthened reporting system will increase data availability and the quality of data and information notified to the Commission on a short term basis. Regular analysis of the situation and increased transparency will be possible. In a medium to long term perspective, the elaboration of an EU consistent approach and overview of the likely evolution of the EU energy system, based on accurate and appropriate information, is generally valued by investors, in particular if it reveals obstacles to investment projects such as undue authorisation procedures or lack of credit. With better information, the Commission could promote best practices.

Policy options 2 and 3 are considered more relevant. They provide a useful framework for discussion between public authorities and stakeholders in the analysis of future trends and investment projects and encountered investment barriers.

The maximum administrative cost (for companies, 27 Member States and the Commission included) for a full reporting induced by a revised Council Regulation (EC) No 736/96 is estimated at about half a million €. However, this maximum cost will not be actually incurred as some data will have to be collected by Member States, at any rate due to other legal requirements.

## **6. COMPARISON OF OPTIONS**

Against the criteria of efficiency, effectiveness and coherence, option 2 presents the most favourable outcome of the options considered and best reaches the objectives set for the revision of Council Regulation (EC) No 736/96. It provides an integrated and updated framework combining reporting and monitoring at EU level. It gives the possibility to use validated data, which will improve acceptability of data and allow for comparison. As it takes into account the existing reporting which is of possible interest, it avoids duplicating existing work and minimizes the administrative burden imposed on Industry and Member States. It is a proportionate option.

## **7. MONITORING AND EVALUATION**

The impact of the new reporting and monitoring mechanism will be observed on the basis of the number of Member States complying with the reporting obligation and of the quality, completeness, appropriateness of data collected. Participation of stakeholders and of interested entities in the monitoring mechanism (interest in analytical reports, participation in meetings...) and the use of its results by EU institutions and other interested parties will also be monitored.