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**II

RECOMMENDATION

of the Committee on Energy, Research and Technology

on the COMMON POSITION established by the Council with a view to the adoption of a directive on the transit of natural gas through grids
(C3-0012/91 - SYN 206)

Rapporteur: Mr Charles-Alfred GASOLIBA I BÖHM

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A Series: Reports - B Series: Motions for Resolutions, Oral Questions - C Series: Documents received from other Institutions (e.g. Consultations)

*	= Consultation procedure requiring a single reading
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**II	= Cooperation procedure (second reading) which requires the votes of a majority of the current Members of Parliament for rejection or amendment
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**I	= Cooperation procedure (first reading)
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***	= Parliamentary assent which requires the votes of a majority of the current Members of Parliament
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At its sitting of 11 July 1990 the European Parliament delivered its opinion at first reading on the Commission proposal for a Council directive on the transit of natural gas through grids.

At the sitting of 24 January 1991 the President of Parliament announced that the common position had been received and referred to the Committee on Energy, Research and Technology as the committee responsible and to the Committee on Economic and Monetary Affairs and Industrial Policy, the Committee on Transport and Tourism and the Committee on the Environment, Public Health and Consumer Protection for their opinions.

At its meeting of 4 February 1991, 27 February 1991 and 21 March 1991 the Committee on Energy, Research and Technology considered the common position and the draft recommendation.

At the last meeting it adopted the recommendation unanimously.

The following took part in the vote: La Pergola, chairman; Anger, vice-chairman; Gasoliba I Böhm, rapporteur; Bettini, Desama, Ford, Garcia Arias, Görlach (for Schinzel), Hervé, Larive, Linkohr, Pierros, Pompidou, Regge, Robles Piquer, Rovsing, Seligman and Verwaerde.

This recommendation was tabled on 22 March 1991.

The deadline for tabling amendments to the common position or proposals to reject it will appear on the draft agenda for the part-session at which the recommendation is to be considered.

A
RECOMMENDATION
(Cooperation procedure: second reading)

on the common position established by the Council
with a view to the adoption of a directive on the transit
of natural gas through grids
(COM(89) 334 final¹ and COM(90) 425 final²)

The Committee on Energy, Research and Technology,

- having regard to the common position of the Council (C3-0012/91 - SYN 206),

Recommends that the European Parliament amend the common position as follows:

Common position of the Council

Amendments

(Amendment No. 1)
First recital a (new)

Whereas development of the internal market in energy will require the development and adoption of an integrated approach to Community energy policy that will eliminate structural differences and be equal to the major challenges of (1) environmental protection (2) risk minimization, and (3) security of supply;

(Amendment No. 2)
Second recital

Whereas completion of the internal market, more particularly in the natural gas sector, contributes to the subsequent formulation of Community energy objectives and enables the major challenges of environmental protection and security of supply to be met;

Whereas the completion of the internal market for gas requires the formulation and adoption by the Community of a global strategy for energy centred on risk reduction;

(Amendment No. 3)
Eighteenth recital a (new)

Whereas the Commission shall, before the end of 1992, submit the results of a survey conducted to determine whether the voluntary solution has prevented third parties from transiting gas through high-pressure grids;

¹ OJ No. C 247, 28.9.1989, p. 6

² OJ No. C 268, 24.10.1990, p. 9

(Amendment No. 4)
Article 2(2)

2. The high-pressure natural gas transmission grids and the entities responsible for them in the Member States, which are listed in the Annex, shall be covered by this Directive. This list shall be updated by the Commission, after consultation with the Member State concerned, whenever necessary within the context of the objectives of this Directive and in particular taking into account paragraph 1(a).

2. The right and obligation of transit shall apply to all undertakings listed in the annex hereto. The list may be amended by decision of the Commission on a proposal from the Member States, and if the name of a new undertaking is added to the list that undertaking must be competent to assume the transit obligations with the high-pressure grid operated by it.

(Amendment No. 5)
Article 3(3), introduction

Member States shall take the measures necessary to ensure that the entities under their jurisdiction referred to in the Annex act without delay to:

Member States shall take the measures necessary to ensure that the entities under their jurisdiction referred to in the Annex act within one month to:

(Amendment No. 6)
Article 3(3), fifth indent (new)

- transit must comply with all aspects of existing contracts to which the entities responsible are party and shall not endanger the security of supply for which the gas company is responsible.

B

EXPLANATORY STATEMENT

1. Between consultation of the Parliament and adoption at first reading a full year elapsed. Another six months passed before Council agreed on the Common Position or, in the words of the Commission, Council reached a political agreement by qualified majority. The long negotiations show not only the far reaching importance and consequences adoption of this directive is expected to have on the European gas market, but also the many interests involved.

2. The debate and negotiations before concluding first reading in Parliament also bore witness to this. Indeed, the twenty amendments adopted by the Committee responsible and subsequently adopted in plenary were themselves compromises, reflecting Parliament's wish, on the one hand, to allow freer competition in the gas market but, on the other hand, to have due consideration for the make up of that market and for other policies of the Community such as - and in particular - risks and environmental aspects. The compromise amendments also reflected a recognition of the importance to be attached to an energy sector characterised by long lead investments in a highly capital intensive industry. Finally it was recognised that each individual Member State differs from the others concerning the structure of the gas market as well as some of the policies pursued, thus setting some limits for a directive on the transit of natural gas through the major systems.

3. As mentioned, Parliament adopted twenty amendments at first reading.³ The Commission, in its amended proposal,⁴ accepted nine amendments adopted by Parliament. Council, in its Common Position, accepted seven of the nine amendments proposed by the Commission. Council itself, in its motivation, claims to have accepted the vast majority of Parliament's amendments but was not able to accept amendments no. 2 and no. 6.

4. In amendment no. 2 Parliament stated that completion of the Internal Market for gas required the formulation and adoption of a global strategy for energy centred on risk reduction.

In amendment no. 6 Parliament pointed to the fact that increased trade, implying an increase in interconnection and use of the network, made it advisable to harmonise standards of safety and environmental protection, both of which would require prior assessment of risks and environmental impact of transit.

5. Concerning environmental impact and safety risks, Council argues that these objectives already constitute a part of the Community's horizontal policies and the 1995 energy objectives and should therefore not be specifically attached to gas transit. This argument of the Council covers both amendments.

It should be added that Council, in its assessment of these aspects, views the impact in a different way to Parliament, as the latter underlines a requirement for risk and environment policies as a prerequisite for an internal market for energy. Council finds that the Internal Market

³ OJ No. C 231 of 17.9.1990

⁴ OJ No. C 268 of 24.10.1990, original proposal OJ No. C 247 of 28.9.1989

contributes to the formulation of the objectives and meeting the challenges of environmental protection and security of supply.

Amendments will be retabled to reflect the necessity of stating that risk assessment is a requirement and not merely a political philosophy.

6. The Committee welcomes Council's specific inclusion in the Common Position of the objectives of economic and social cohesion and the hope that the directive will facilitate the linking up of outlying areas and islands and cooperation with third countries.

7. Article 2 of the directive defines the conditions for transit of gas by identifying both a point of origin and a point of destination, which must be situated in the Community, must cross at least one intra-Community frontier and identify the transmission entity responsible. The rapporteur finds this definition a clear improvement on the original Commission proposal.

The consultation procedure envisaged for a revision of the list of entities responsible for the transmission grids (Art. 2, para. 2) is also seen as an improvement as the definition of the Common Position assures a more open market which remains the thrust of an internal market. The rapporteur recalls though the definition adopted by Parliament at first reading whereby transit only takes place if the transport takes place through a Member State, passes two frontiers, that of the country of origin and that of destination, that one of these is a Member State and finally that no trade takes place during transit. The amendment stating this position shall therefore be retabled to reflect the Committee's opinion at first reading, though the rapporteur insists that the Common Position does constitute a clear improvement on the first proposal.

8. Council has proposed a slightly different ruling concerning the conditions for transit by referring to the rules of Treaty obligation of information and by proposing that a request for transit be subject to conciliation by a body, on which the entities involved are represented. The setting up of this conciliation body is a clear improvement and should, together with the notification procedures, guarantee a certain amount of transparency, an important factor in a market very much dominated by monopolies.

9. Finally note should be taken of a commentary by the Commission in its communication on the Common Position. Before the Commission declares its agreement with the Common Position it also declares its obligation to include in the Council's protocol that the directive concerns exclusively the right of transit. The "common carrier" very much ventilated in the debate on gas transit is clearly a long way away from being introduced in the European gas market.

