



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 26.07.1995

COM(95) 118 final

95/0083 (CNS)

Proposal for a

COUNCIL REGULATION (EC)

on notifying the Commission of investment projects of interest
to the Community in the petroleum, natural gas and electricity sectors

(presented by the Commission)

COMMUNICATION FROM THE COMMISSION
CONCERNING A PROPOSAL FOR A REGULATION
REFORMULATING REGULATION (EEC) No 1056/72 OF THE COUNCIL
ON NOTIFYING THE COMMISSION OF INVESTMENT PROJECTS
OF INTEREST TO THE COMMUNITY
IN THE PETROLEUM, NATURAL GAS AND ELECTRICITY SECTORS

The proposed regulation reformulates Regulation (EEC) No 1056/72 of the Council, as amended by Council Regulation (EEC) No 1215/76.

After an indepth study of the effectiveness of the existing Regulation, based on the experience acquired from implementing it, the Commission considers that amendments and simplification are needed.

This proposal forms part of the Commission's legislative programme for 1995 and is the most effective way of presenting the new Council Regulation bringing together in a single text the existing Regulations (1056/72 and 1215/76) and making the amendments which the Commission considers necessary.

This proposal is also of relevance to the European Economic Area (EEA). However, no specific adjustments are necessary to attain the objectives of the EEA.

The Council is requested to adopt the proposal for a regulation, after having received the opinions of the European Parliament and the Economic and Social Committee.

EXPLANATORY MEMORANDUM

Regulation (EEC) No 1056/72 of the Council,¹ as amended by Council Regulation (EEC) No 1215/76,² provides for notifying the Commission of investment projects of interest to the Community in the petroleum, natural gas and electricity sectors.

It applies to terminals for the importation of liquefied natural gas, energy production plant (power stations and oil refineries), oil and natural gas pipelines, electricity transmission lines and oil and natural gas storage installations.

The objective is to supply the Commission with detailed information on planned energy investment projects of interest to the Community and thereby give it an overall picture of the capacity and equipment plans in the energy sector in the Community. All the information required is based on existing data the industry or in some cases also the Member States possess, which means in fact that this Regulation does not impose any constraint to the industry but for the obligation in some cases to fill in the tables.

The notification procedure provided for by the Regulation was added to the similar rules in the Euratom and ECSC Treaties in order to build up a stock of data allowing assessment and, if necessary, redirection of the general trends and patterns of investment.

The information gathered pursuant to the Regulation is needed for the Commission's ongoing activities, not only in the energy sector but also for other purposes, such as to supply data to official bodies such as the Statistical Office (which publishes them in its annual energy statistics), to other Commission's services in order to implement existing Community policies like environmental, internal market, public health protection, competition rules, etc., for regular transmission to any Member States which so request or for analyses of the situation in the relevant sectors.

This information gives the Commission the full picture for management of its instruments and administration of its competition and financial policy instruments. However, with a view to ensuring transparency between the Member States themselves and all institutions concerned, the data are also necessary to enable the industry and the authorities to take decisions in the future, through for instance the Green and White papers of the Commission for a Community energy policy.

Considering the fundamental contribution which investments in energy handling, production, transmission and storage facilities make to the security of supply of consumers in the Community, it is essential for the Commission to be informed in good time of planned developments so that it can take them into account when formulating its energy policy proposals since concordance between the Member States' investment projects and estimated trends in demand is one of the essential measures evaluating the Community's long-term energy balance.

This information should show the allocation of resources to energy investments between Member States and make it possible to monitor the capacity available and in service and

¹ OJ No L 120, 25.5.1972, p. 7.

² OJ No L 140, 28.5.1976, p. 1.

to compile an inventory of the new capacity or of the closures in progress or planned. In this way, it can be used to forecast the security of supply of each Member State and, hence, of the Community in order to study, where appropriate, the measures needed to ensure better safeguards for supplies.

The past data and forecasts collected are also a source of statistics of primordial importance for compilation of the Commission's regular reports on the industry and the three markets concerned, like for instance the annual energy report to the Council (based on article 3 of the Regulation), the gas report at present under discussion, the oil refinery sector report every two years and the preparation of the forecast scenarios for the year 2020.

The information on the investments planned makes it possible to foresee how capacity is adapting to demand trends and, in the case of oil in particular, how higher value added products meeting more stringent environmental regulations and standards are coming onto the market.

It also puts the Commission in a better position to handle with the Community actions in the trans-European network sector, by providing information on the completion of the specific projects of common interest and on the evolution of production and storage capacities leading to new needs for interconnections.

The Regulation is the Commission's only official source of information on developments in production, processing and transmission capacity in the Fifteen. In their capacity as intermediaries for collecting the information, the Member States in turn find it a source of relevant, regular, and reliable information. Thanks to this information the Commission can constantly monitor changes in existing or planned capacity in the various energy sectors of the Member States.

In view of the wide variety of information gathered, the number of parties involved and the possible differences of interpretation of the information requested, verification of the information received is essential. This has shown that the data gathered are the most reliable from the sources available to the Commission. In particular, the information comes straight from the national administrations and it allows improvement of administrative cooperation to facilitate the smooth running of the internal market.

Nevertheless, the quality and accuracy of the data varies from one Member State to another. Sometimes the information is incomplete and has to be corrected after bilateral talks. Other Member States continue to submit information not fully in line with the contents of the Regulation. An effort must be made to supply exactly the data requested by the Regulation.

The time limit for submission of the information to the Commission (15 February) still is not met and the consequent delays have a knock-on effect on processing of the data and on preparation of the summary.

In response to the European Council meeting in Edinburgh on 11 and 12 December 1992, the Commission gave an undertaking to check and adapt legislation in force, in accordance with the subsidiarity principle, and to amend it accordingly. Even though Regulation 1056/72 was not on the list drawn up by the Council, the Commission considered it important to analyze the usefulness of this regulation.

A preliminary assessment by the Commission, with the agreement of the Member States, concluded that the Regulation is needed. However, in keeping with the principle of proportionality, the Commission recognizes that the obligation imposed on the industry to supply the Member State with the data collected, even if the Member State prefers to use another more efficient source, goes further than necessary and imposes administrative constraints out of proportion with the benefits which can be expected. The net result is, therefore, that the Regulation loses effectiveness.

To remedy the difficulties encountered with implementation of the Regulation and, where appropriate, guarantee that the information collected is of maximum use, the Commission proposes repealing Regulation (EEC) No 1056/72 of the Council, as amended by Council Regulation (EEC) No 1215/76, and combining the two Regulations into a new Regulation, in line with the draft annexed (in which the additions and amendments are underlined) and, at the same time, announces its intention to simplify its implementing Regulation (No 3025/77).

In particular, the Commission's proposal leaves it to the Member States to decide which means they wish to use to supply the information necessary to meet the objectives set in the text. It also changes the time limits for submission of the data and shortens the list of data in the Annex to the Regulation.

The Commission will revise this Regulation on the basis of article 2.2 when the experience in applying it will show that further modifications or simplifications are necessary in order to render it more effective.

The Council is therefore requested:

- to adopt the annexed proposal for a Council Regulation on notifying the Commission of investment projects of interest to the Community in the petroleum, natural gas and electricity sectors and, accordingly, to repeal Regulation 1056/72;
- to request the European Parliament for its opinion on the draft;
- to consult the Economic and Social Committee.

COUNCIL REGULATION (EC) No
of

on notifying the Commission of investment projects of interest
to the Community in the petroleum, natural gas and electricity sectors

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and
in particular Articles 5 and 213 thereof,

Having regard to the Treaty establishing the European Atomic Energy
Community, and in particular Articles 187 and 192 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,¹

Having regard to the opinion of the Economic and Social Committee,²

Whereas, out of concern for clarity and for the purpose of new
amendments, it is necessary to reformulate Regulation (EEC) No
1056/72 of the Council of 18 May 1972 on notifying the Commission of
investment projects of interest to the Community in the petroleum,
natural gas and electricity sectors;³

Whereas the introduction of a common energy policy is one of the
objectives of the Communities; whereas it is the task of the Commission
to propose the measures to be taken for this purpose;

1

1056/72

Whereas the information gathered pursuant to the Regulation is necessary
for the Commission's ongoing activities; whereas these data are the
Commission's only official source of information on developments in
production, processing and transmission capacity in the electricity,
petroleum and natural gas sectors;

Whereas, after studying the communication made to it by the
Commission on 18 December 1968 on initial guidelines for a
Community energy policy, the Council, during its 88th session held on
13 November 1969:

2

1056/72

- approved the basic principles of that communication in the light of
the report from the Committee of Permanent Representatives;
- requested the Commission to put before it as soon as possible the
most urgent concrete proposals in this field;
- agreed to study these proposals as soon as possible in order to
establish a Community energy policy;

¹ OJ No C 280, 8.12.1975, p. 58.

² OJ No C 35, 16.2.1976, p. 22.

³ OJ No L 120, 25.5.1972, p. 7, as last amended by Council Regulation (EEC) No
1215/76 (OJ No L 140, 28.5.1976, p. 1).

Whereas obtaining an overall picture of the development of investments in the Community is one feature of such a policy; whereas this will, in particular, enable the Community to make the necessary comparisons;

3

1056/72

Whereas the accomplishment of that task requires the most accurate information possible on investments; whereas, with regard to coal and atomic energy, undertakings are under an obligation, pursuant to the Treaty establishing the European Coal and Steel Community and the Treaty establishing the European Atomic Energy Community, to notify their investment projects; whereas it is desirable to supplement such information with particulars relating to petroleum, natural gas and electricity; whereas to this end the Commission should be informed of investment projects which are of interest to the Community in the sectors concerned;

4

1056/72

Whereas, so that the Commission may carry out its task, it should be informed in good time of any fundamental alteration in such projects, in particular as regards the period required for carrying them out and the planned capacity; whereas in consequence communication of such particulars is similarly indispensable;

5

1056/72

Whereas Member States should for this purpose communicate to the Commission, with any comments they may have, particulars of investment projects concerning production, storage and distribution of petroleum, natural gas or electric power planned in their territory; whereas to this end the persons and undertakings concerned must be under an obligation to communicate to the Member States the information in question;

6

1056/72

Whereas some Member States have no need to maintain this obligation on the persons and undertakings concerned in order to know the investment projects which must subsequently be notified to the Commission;

Whereas, because of the technical, financial, industrial and social aspects of investment projects in the electricity sector, there is a growing tendency to formulate such projects at least five years before the expected commencement of work;

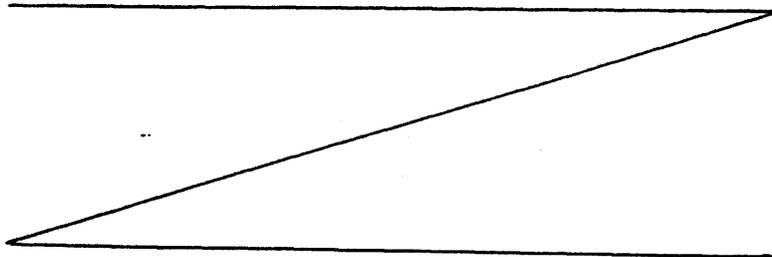
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1215/76

Whereas it is therefore necessary to ensure that the Commission is notified of investment projects in the electricity sector on which work is expected to commence within five years from 1 January of the current year;

3

1215/76



6

1215/76

Whereas, in the case of petroleum refining, investment in desulphurization plants for residues, gas oil and feedstock or other petroleum products is of increasing importance in view of the strict quality standards to be adopted within the Community in order to control pollution;

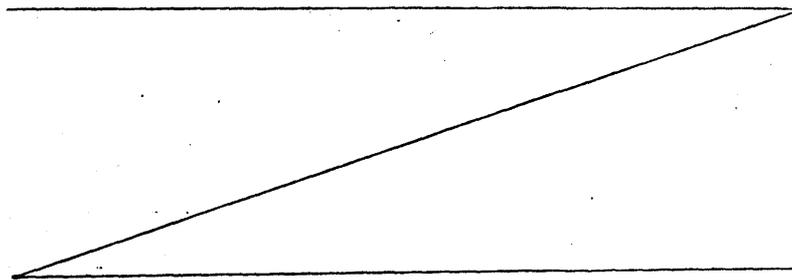
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1215/76

Whereas Articles 41 and 42 of the Treaty establishing the European Atomic Energy Community provide that the Commission must receive notification of any kind of nuclear investment project not later than three months before the first contracts are concluded with the suppliers or three months before the work begins; whereas this means that notification of projects is given when they are at a very advanced stage and then only at the initiative of and on the date chosen by the person or undertaking making the investment;

10

1215/76



11

1215/76

Whereas in order to assist manufacturing industry in undertaking the investment and adjustments necessary for the supply of heavy plant under the investment programmes relating to electric power supplies, the Commission must be informed of the projects involved in these programmes sufficiently far in advance of their implementation to be able to provide industry with information - the exact form varying according to the degree of final commitment reached with regard to the construction plans - which will enable an accurate assessment to be made of the technical, financial and social risks involved;

12

1215/76

Whereas, in the electricity and natural gas sectors, investment projects relating respectively to underground and sub-marine transmission cables and pipelines, which constitute essential links in national or international interconnecting networks as well as in the transeuropean networks, are of interest to the Community; whereas the Commission needs information on such projects to enable it to carry out its task in the electricity and natural gas sectors; whereas provision should be made to ensure that such projects are communicated to the Commission;

13

1215/76

Whereas experience has shown that the dates of 15 February and 15 January leave the persons and undertakings concerned and the Member States insufficient time to collect the information necessary;

Whereas it is desirable to enable the Commission to prescribe, if need be, certain practical details, such as the form and content of the notifications to be made;

7

1056/72

Whereas experience has shown that some of the data collected impose administrative constraints which go further than necessary, in relation to the advantages which can be expected, and that it is necessary to reduce and change the data collected;

Whereas observance of the obligations provided for in this Regulation and the confidential nature of the information collected should be ensured,

8

1056/72

HAS ADOPTED THIS REGULATION:

1056/72

Article 1

1. Member States shall, before 15 April of each year, communicate to the Commission the information they have obtained on the basis of the provisions of paragraph 2 concerning investment projects listed in the Annex which relate to the production, transport, storage or distribution of petroleum, natural gas or electric power and on which work is scheduled to start within three years, in the case of projects in the petroleum and natural gas sectors, or within five years, in the case of projects in the electricity sector; the notifications must take account of the latest developments in the situation.

1215/76

Member States shall add to their notifications any comments they may have.

2. In order to fulfil the obligation laid down in paragraph 1. the persons and undertakings concerned shall, before 15 March of each year, communicate details of investment projects referred to in paragraph 1 to the Member States in whose territory they are planning to carry them out. However, this provision shall not apply where the Member State concerned decides to use other means of supplying the Commission with information on the investment projects referred to in paragraph 1.

1056/72

3. The notifications provided for in paragraphs 1 and 2 shall, moreover, indicate the volume of capacities in commission or under construction or which are scheduled to be taken out of commission within three years.

4. When calculating capacities or dimensions mentioned in the Annex, the Member States, persons or undertakings concerned shall take into account all parts of a project, in so far as they together constitute a technically indivisible whole, even where the project is carried out in several successive stages.

5. The notifications provided for in paragraphs 1 and 2 shall also cover investment projects of which the major features (location, contractor, undertaking, technical features, etc.) may, in whole or in part, be subject to further review or to final authorization by a competent authority.

1215/76

Article 2

1. With regard to investment projects planned or in progress, any notifications as referred to in Article 1 shall indicate the following:

1056/72

- the name and address or seat of the person or undertaking planning to make the investments;
- the precise purpose and nature of such investments;
- the planned capacity or power;
- the probable date of commissioning;
- the type of raw materials used.

1215/76

As regards any proposed withdrawal from service, notifications shall indicate the following:

1056/72

- the character and the capacity or power of the installations concerned;
- the probable date when the installations will be withdrawn from service.

2. Within the limits laid down by this Regulation and the Annex thereto, the Commission is authorized to adopt implementing provisions concerning the form, content and other details of the notifications provided for in Article 1.

1056/72

Article 3

The Commission shall place before the Council a summary of the information obtained pursuant to this Regulation.

Article 4

Information forwarded pursuant to this Regulation shall be treated as confidential. This provision shall not prevent the publication of general information or of summaries not containing particulars concerning individual undertakings.

Article 5

Member States shall take appropriate measures to ensure observance of the obligations arising under Articles 1(2) and 4.

Article 6

Regulation (EEC) No 1056/72 of the Council is hereby repealed.

Article 7

This Regulation shall enter into force on the day after its publication in the Official Journal of the European Communities.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council

The President

ANNEX

INVESTMENT PROJECTS

1. PETROLEUM

1.1 Refining

- distillation plants with a capacity of not less than 1 000 000 metric tons a year;
- extension of distilling capacity beyond 1 000 000 metric tons a year;
- reforming/cracking plants with a minimum capacity of 500 metric tons a day;
- desulphurization plants for residual fuel oils/gas oil/feedstock/other petroleum products.

1215/76

Chemical plants which do not produce fuel oil and/or motor fuels, or which produce them only as by-products, are excluded.

1056/72

1.2 Transport

- transfrontier oil pipelines as well as projects of common interest identified under the guidelines established by application of Article 129c of the Treaty.

Pipelines for military purposes and those supplying plants outside the scope of item 1.1. are excluded.

2. NATURAL GAS

2.1 Transport

- transfrontier gas pipelines as well as projects of common interest identified under the guidelines established by application of Article 129c of the Treaty.
- terminals for the importation of liquefied natural gas.

Gas pipelines and terminals for military purposes and those supplying chemical plants which do not produce energy products, or which produce them only as by-products, are excluded.

2.2 Distribution

- underground storage installations with a capacity of not less than 150 000 000 m³.

Installations for military purposes and those supplying chemical plants which do not produce energy products, or which produce them only as by-products, are excluded.

3. ELECTRICITY

3.1 Production

- thermal power stations (generators with a unit capacity of 200 MW or more). 1215/76
- hydro-electric power stations (power stations having a capacity of 50 MW or more). 1056/72

3.2 Transport

1215/76

- overhead transmission lines, if they have been designed for a voltage of 345 kV or more;
- underground and sub-marine transmission cables, if they have been designed for a voltage of 100 kV or more and constitute essential links in national or international interconnecting networks.
- projects of common interest identified under the guidelines established by application of Article 129c of the Treaty.

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