



**COUNCIL OF
THE EUROPEAN UNION**

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INFORMATION NOTE

from: General Secretariat of the Council

to: Delegations

Subject: Council (Transport, Telecom, **Energy**) meeting on 14 February 2012

- Proposal for a Decision of the European Parliament and of the Council setting up an information exchange mechanism with regard to intergovernmental agreements between Member States and third countries in the field of energy
= Information from the Presidency
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Delegations will find attached the abovementioned information note.

**Proposal for a Decision of the European Parliament and of the Council setting up an
information exchange mechanism with regard to intergovernmental agreements
between Member States and third countries in the field of energy**

Information from the Presidency

Background

The February 2011 European Council invited Member States to inform the Commission on all new and existing bilateral energy agreements with third countries, and invited the Commission to make this information available to all other Member States in an appropriate form, with due regard to the protection of commercially sensitive information. The Commission proposal was tabled in September 2011 on the basis of article 194 TfUE.

Content of the proposal

The proposal contains however additional elements compared to the request from the European Council, since it foresees that:

1. Member States should inform the Commission in detail *before* the start of any negotiation with a third country;
2. the Commission would have the right to be present at meetings throughout the negotiations;
3. Member States would not only have to send the (draft) agreement, but also each relevant other document to which the agreement refers - which could notably include commercial agreements;
4. the Commission would be given the opportunity and time to form an opinion on the compatibility of each draft agreement with internal energy market legislation *before* such agreement would be signed;
5. the Commission would develop "model clauses" that Member States could use.

State of play

The examination by the Council instances started in September 2011 and has progressed well since. Discussions by the Council instances have shown that there is strong opposition from a large number of Member States to the obligatory nature of points 1 to 4 cited above. Whereas the potential added value of Commission expertise during the negotiation process is acknowledged, many Member States hold that the use of Commission expertise - at any stage of the negotiations - should remain optional.

Even though some other Member States support or could accept the *obligatory* nature of these provisions, it has not been possible in revised drafts of the Decision to do otherwise than to make the provisions 1 to 4 listed above *optional*, in order to prevent outright rejection of the proposal by a large majority of delegations. The broad outline of Council's position is clear by now.

As regards the European Parliament, the ITRE Committee is scheduled to vote on the draft report on 28 February. Both the Polish and Danish Presidencies have held informal contacts with rapporteur Dr. Arturs Krišjānis Kariņš (EPP, Latvia). Based on these contacts and the draft report, it would appear that Parliament is likely to give strong support across political parties to the Commission proposal, and could possibly even strengthen some provisions.

Next steps

Following the examination of the amendments supported by the European Parliament's ITRE Committee, informal negotiations between the Institutions could start in the weeks after the ITRE vote, provided that both sides agree that a first-reading agreement appears feasible.