

EN

EN

EN



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 16.7.2009  
COM(2009) 361 final

2009/0106 (CNS)

Proposal for a

**COUNCIL REGULATION**

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

{SEC(2009) 971}

{SEC(2009) 972}

## **EXPLANATORY MEMORANDUM**

### **CONTEXT OF THE PROPOSAL**

#### **Grounds for and objectives of the proposal**

In the context of the new Energy Policy aiming at securing supply, mitigating climate change and ensuring competitiveness, significant investment in energy infrastructure is crucial. Private economic operators have now a more prominent role for investment in infrastructure. New policy requirements such as targets affecting the fuel mix will alter Member States' policies towards new and modernised energy infrastructure. The Commission has to monitor closely the situation to anticipate any potential problems and bring sufficient transparency to market participants. However, the Commission needs appropriate data on investment projects.

The current regulatory framework imposing on Member States reporting obligations on energy infrastructure is heterogeneous. Relevant and validated data is not sufficiently available for monitoring developments in a cross – sector perspective at EU level. In addition, Council Regulation (EC) No 736/96 on notification to the Commission of investment projects in EU energy infrastructure in the petroleum, natural gas and electricity sectors is no longer enforced consistently and geared to the most recent evolutions of the energy sector.

The overall objective of the revision is to revise and to further strengthen the system laid down in Council Regulation (EC) No 736/96 while easing the administrative burden. The framework for reporting needs to be updated and to be complemented by a regular analysis of the situation which should be discussed with stakeholders and published in order to increase transparency.

#### **General context**

There is a high degree of uncertainty related to the realisation of investment projects and the current credit crunch and economic crisis constitute a major additional difficulty for investment projects needed in the energy sector.

EU institutions have adopted an improved framework for investment in EU energy infrastructure, with clear and predictable RES targets and new rules for the internal market. However, they have called for further action. The **European Council** Action Plan 2007-09 on Energy Policy for Europe has invited the Commission and the Member States to identify investment required to satisfy EU strategic needs in relation to gas and electricity supply and demand. In the wake of the Second Strategic Energy Review adopted in 2008 by the Commission, both the **Council of the European Union**<sup>1</sup> and the **European Parliament**<sup>2</sup> agreed with the Commission and insisted on promoting investments and improving transparency as well as of intensifying the works on supply and generation adequacy outlooks and network development plans.

---

<sup>1</sup> Energy Council Conclusions (6692/09) on 2<sup>nd</sup> Strategic Energy Review.

<sup>2</sup> EP resolution on the 2<sup>nd</sup> Strategic Energy Review, 2/00/2009, (2008/2239(INI)).

## **Existing provisions in the area of the proposal**

A number of provisions exist but they do not provide the Commission with coherent, forward looking information on investment projects and their developments.

Directive \*\*\*\* of the European Parliament and of the Council establishing common rules for the internal market in natural gas and repealing Directive 2003/55/EC;

Council Directive 2004/67/EC concerning measures to safeguard security of natural gas supplies;

Decision No 1364/2006/EC of the European Parliament and of the Council laying down guidelines for trans- European energy networks;

Directive \*\*\*\* of the European Parliament and of the Council establishing common rules for the internal market in electricity and repealing Directive No 2003/54/EC;

Directive 2005/89/EC of the European Parliament and of the Council concerning measures to safeguard security of electricity supply and infrastructure investment;

Council Regulation No 2857/1999/EC defining the investment projects to be communicated to the Commission in accordance with Article 41 of the Euratom Treaty;

Directive 2009/31/EC of the European Parliament and of the Council on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006;

Directive 2009/28/EC of the European Parliament and of the Council on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC;

## **Consistency with other policies and objectives of the Union**

This proposal is consistent with the objectives of the Union, especially those concerning the establishment of an internal market and the sustainable development of Europe based on balanced economic growth and price stability. The proposal is also consistent with the climate and energy policy, one of the pillars of which is the security of energy supply.

## **CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT**

### **Consultation of interested parties**

#### *Consultation methods, main sectors targeted and general profile of respondents*

A public consultation to get the views of interested parties (Member States, representatives of industry of all sectors of energy, energy regulators) took place in February - March 2009. The first consultation was based on a questionnaire sent to these parties with a view to learning in particular more about monitoring aspects and the scope, design and impact of a reporting mechanism. A final consultation was carried out during a technical workshop where more detailed aspects have been discussed with consulted parties (14 May 2009).

### Summary of responses and how they have been taken into account

For most of the respondents, whether Member States or industry representatives, an appropriate monitoring of investment projects into infrastructure in the energy sector is seen as relevant. It is regularly considered as essential for transparency, policy-making and support to specific projects. However, a monitoring instrument is supported on the condition that it remains a transparency tool, provides an added-value and does not represent a high administrative burden. These requirements have been fully taken into account when formulating the current proposal.

#### **Collection and use of expertise**

DG TREN has met with representatives of the European Network Transmission System Operators for Electricity and for Gas in charge of the preparation of the ten-year investment plan for electricity and for gas networks foreseen by the third internal market package, with data providers who have developed ways of analysing data based on simulation and with a rating agency to get information on credit quality of European utilities active in the energy sector. DG TREN also participated as an observer in several meetings organised by one Member State's authorities on an indicative planning for future investments for electricity, gas and heat.

No external contractor was involved in preparing the impact assessment or the legislative proposal.

#### **Impact assessment**

Four options were considered in the accompanying impact assessment, and the outcome can be summarised as follows.

##### **Option 0: Status quo - Policy monitoring without a specific reporting mechanism**

Under this option, policy monitoring is carried out by the Commission on the basis of various data, either data supplied by commercial data providers or possible data notified by Member States or companies under EU energy sector – specific legislation. Council Regulation (EC) No 736/96 is an additional source of data. With no policy change, effective collection of EU-wide relevant data and transparency of data and analysis cannot be guaranteed and monitoring is likely to be difficult because of the sector – specific legislation having incoherent characteristics (frequency, update, confidentiality...) or due to the gaps in data from commercial information providers.

##### **Option 1: Repeal of Council Regulation (EC) No 736/96**

This option would consist 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 could 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: Policy monitoring with a complementary reporting mechanism**

Member States, after possible notification from companies, will notify information to the Commission on investment projects. The scope of notification would cover, with an

expansion of the scope and revised thresholds, all infrastructure of interest for energy security and the shift towards a low carbon economy. In order to avoid multiple notifications, it would take into account existing reporting or monitoring obligations provided that equivalent information is made available. Reporting would apply every two years further easing the administrative burden and aligning this obligation with other relevant frameworks. Data and information collected could be made public except where they are commercially sensitive. On the basis of data collected and any other relevant source, the Commission would prepare regular analysis of the future development of the EU energy system in a cross sector perspective with a view to identifying potential gaps and potential problems as well as bringing transparency to market participants. This option provides a balanced and coherent system.

### **Option 3: Policy monitoring with a fully – fledged reporting mechanism**

As under option 2, a global and integrated framework combining reporting and monitoring would be set up under option 3. However, option 3 would set a fully-fledged integrated reporting system. Member States would be obliged to notify and validate all requested information to the Commission, irrespective of other existing notification mechanisms. This option does not comply with the proportionality principle.

## **LEGAL ELEMENTS OF THE PROPOSAL**

### **Summary of the proposed action**

Building on option 2 which provides the best compromise, the proposed Regulation establishes a common framework for the notification to the Commission of data and information on investment projects in energy infrastructure in the petroleum, gas, electricity and bio-fuel sectors and related to carbon dioxide produced by these sectors.

Every two years, Member States or the entity they delegate this task to would be required to collect and notify data and information on investment projects concerning production, transport and storage. To minimise the administrative burden, two elements of flexibility and simplification are introduced:

- Unless otherwise decided by Member States, undertakings would be under an obligation to provide Member States - or the competent entity - information on their investment projects, including decommissioning projects;
- Member States would be exempted from reporting if they already provide equivalent information to the Commission under EU energy sector – specific legislation. This would also be the case if the bodies in charge of network development plans for gas and electricity collect the relevant data. In this case, they would be requested to notify the relevant data to the Commission, with the appropriate comments of Member States if necessary.

Data and information collected (type of investment, planned capacities and major obstacles...) would provide the major trends for investment in EU energy infrastructure. Provision is made to guarantee that data and information notified to the Commission meet generally accepted standards; that data and information are received, stored and processed with the appropriate IT tools and in full compliance with the legal framework on data

protection for individuals; that data and information will be made public except where they are commercially sensitive.

On the basis of the data and information received, the Commission will provide a regular and cross – sector analysis of the structural evolution and perspectives of the EU energy system and any other specific analysis needed. This would allow for an identification of potential future demand and supply gaps and obstacles to investment. With these analyses, the Commission will be in a better position to promote best practice and to establish greater transparency for market participants. To develop common views on these issues, the results of these analyses would be discussed with stakeholders and published.

### **Legal basis**

The legal bases for the proposal are Articles 284 of the Treaty establishing the European Community and 187 of the Treaty establishing the European Atomic Energy Community.

### **Subsidiarity principle**

This draft proposal aims at strengthening the framework for collection of data and information for the Commission's tasks. With appropriate data, the Commission and in particular its Market Observatory for Energy will be in a better position to monitor the evolution of the EU energy system, in a cross – sector perspective and at EU level, and the potential problems which could delay or hinder investment projects. Given the interrelations of energy sub sectors (e.g. electricity and gas) and the existence of an internal market, the EU-wide dimension is becoming more and more relevant, thus justifying the role of EU institutions and of the Commission in particular.

### ***Proportionality principle***

The proposal complies with the proportionality principle. This proposal does not go beyond what is necessary in order to achieve the objectives. Member States will continue to have considerable flexibility in choosing the arrangements to collect data.

### **Choice of instruments**

The instrument proposed is a Regulation as it revises an existing Regulation.

### **BUDGETARY IMPLICATION**

The proposal will have a limited impact on the Community budget, in particular to cover expenditure on information technology and, should the Commission so decide, expenditure on data purchasing of data and reimbursement of experts. No major direct impact is foreseen for the budgets of Member States.

### **ADDITIONAL INFORMATION**

#### **Simplification**

By taking account of existing reporting obligations and monitoring mechanisms, this proposal does not add an unnecessary administrative burden but should apply for its reporting part only if equivalent data and information is not provided by sector- specific legislation.

**Review clause**

After five years, the Commission will review the reporting and monitoring mechanism laid down by the new Regulation.

Proposal for a

**COUNCIL REGULATION**

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 284 thereof,

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

Having regard to the proposal from the Commission<sup>3</sup>,

Having regard to the opinion of the European Parliament<sup>4</sup>,

Whereas:

- (1) The introduction of a common energy policy aiming at securing the Community's energy supply, a transition towards a low carbon energy system and the functioning of competitive energy markets is an objective which the Community has set itself.
- (2) Obtaining an overall picture of the development of investment in energy infrastructure in the Community is one feature of such a policy. It should enable the Community to make the necessary comparisons, evaluations or to take relevant measures based on appropriate figures and analysis, in particular concerning the future energy supply – demand balance.
- (3) The energy landscape within and outside the Community has significantly changed in recent years and makes investment in energy infrastructure a crucial issue for securing the Community's energy supply, for the functioning of the internal market and for the transition towards a low carbon energy system the Community has embarked on.
- (4) The new energy context requires significant investment in all infrastructure in all energy sectors as well as the development of new types of infrastructure and new technologies being taken up by the market. The liberalisation of the energy sector and the further integration of the internal market give a more prominent role to economic operators for investment and at the same time, new policy requirements such as targets

---

<sup>3</sup>

<sup>4</sup>

affecting the fuel mix will alter Member States' policies towards new and/or modernised energy infrastructure.

- (5) Given the new policy objectives and market developments, greater attention should be paid to investment in energy infrastructure in the Community, in particular with a view to anticipating problems, promoting best practices and establishing greater transparency on the future development of the energy system in the Community.
- (6) The Commission and in particular the Market Observatory for Energy should therefore dispose of accurate data and information on investment projects, including decommissioning, in the most significant components of the energy system of the Community.
- (7) Data and information regarding foreseeable developments in production, transport and storage capacities and projects in the various energy sectors are of interest to the Community. It is therefore necessary to ensure that the Commission is notified of investment projects on which work has started or is scheduled to start within five years and which aim at taking infrastructure out of commission within three years.
- (8) Pursuant to Articles 41 and 42 of the Euratom Treaty, undertakings are under an obligation to notify their investment projects; it is necessary to supplement such information with, in particular, a regular reporting on the implementation of investment projects; this further reporting shall be without prejudice to Articles 41 to 44 of the Euratom Treaty.
- (9) In order for the Commission to dispose of a consistent view of the future developments of the whole Community energy system, a harmonised reporting framework for investment projects based on updated categories for official data and information to be transmitted by the Member States is necessary.
- (10) Member States should for this purpose notify to the Commission, data and information on investment projects concerning production, storage and transport of oil, natural gas, electric power, bio-fuels and carbon dioxide planned or under construction in their territory. Undertakings concerned should be under an obligation to notify to the Member State the data and information in question.
- (11) Given the time horizon of investment projects in the energy sector, reporting every two years should be sufficient.
- (12) With a view to avoiding an un-proportionate administrative burden and minimise costs for Member States and undertakings in particular for small and medium enterprises, this Regulation should give the possibility to exempt Member States and undertakings from reporting obligations provided that equivalent information is supplied to the Commission pursuant to EC energy sector specific legislation, adopted by institutions of the European Union and aiming at achieving the objectives of competitive European energy markets, of sustainability of the European energy system and of the security of energy supply to the European Community.
- (13) To process data as well as to simplify and secure data notification, the Commission and in particular its Market Observatory for Energy should be able to take all

appropriate measures to that effect, in particular the operation of integrated IT tools and procedures.

- (14) The protection of individuals with regard to the processing of personal data by the Member States is governed by Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>5</sup>, while the protection of individuals with regard to the processing of personal data by the Commission is governed by Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>6</sup>. This Regulation leaves these provisions intact.
- (15) The Commission and in particular the Market Observatory for Energy should provide a regular and cross-sector analysis of the structural evolution and perspectives of the Community energy system and, where appropriate, more focused analysis on certain aspects of this energy system; this analysis should in particular contribute to identifying possible infrastructure and investment gaps in view of a long-term energy supply and demand balance.
- (16) The Commission may be assisted by experts from Member States or any other competent experts; with a view to developing a common understanding and to fostering transparency regarding future developments which is of particular interest for new market entrants.
- (17) The technical measures, including supplementary technical definitions, necessary for the implementation of this Regulation, should be adopted by the Commission.
- (18) Given the amendments necessary to adapt it to today's energy challenges and for the sake of clarity, Regulation (EC) No 736/96 should therefore be repealed and replaced by a new Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*  
*Subject matter and scope*

1. This Regulation establishes a common framework for the notification to the Commission of data and information on investment projects in energy infrastructure in the oil, natural gas, electricity and bio-fuel sectors, and on investment projects related to carbon dioxide produced by these sectors.
2. This Regulation shall apply to the types of investment projects listed in the Annex on which work has started or is scheduled to start within five years or which are scheduled to be taken out of operation within three years.

---

<sup>5</sup> OJ L 281, 23.11.1995, p. 31.

<sup>6</sup> OJ L 8, 12.1.2001, p. 1.

*Article 2*  
*Definitions*

For the purpose of this Regulation, the following definitions shall apply:

- (1) “infrastructure” means any type of installations or part of installations related to the production, transport and storage of energy or carbon dioxide;
- (2) “investment projects” mean projects aiming at
  - (a) building new infrastructure;
  - (b) transforming, modernising, increasing or reducing capacities of existing infrastructure;
  - (c) decommissioning of existing infrastructure;
- (3) “planned investment projects” mean investment projects before construction starts and capital costs are incurred or before decommissioning is effective, including 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 authorisation;
- (4) “investment projects under construction” mean investment projects for which construction has started and capital costs are incurred;
- (5) “decommissioning” means the phase where an infrastructure is permanently taken out of operation;
- (6) “production” means the generation of electricity and the processing of fuels, including bio-fuels;
- (7) “transport” means the transmission of energy sources or products or carbon dioxide, through a network, in particular:
  - (a) through pipelines, other than upstream pipeline network and other than the part of pipelines primarily used in the context of local distribution;
  - (b) through extra high voltage and high-voltage interconnected systems and other than the systems primarily used in the context of local distribution;
- (8) “storage” means the stocking on a permanent or temporary basis of energy sources or carbon dioxide in above ground and underground infrastructure or geological sites;
- (9) “undertakings” means any natural or legal private or public person, deciding or implementing investment projects;
- (10) “energy sources” mean
  - (a) Primary energy sources, such as oil, natural gas or coal, or transformed energy sources, such as electricity;

- (b) Renewable energy sources including hydroelectricity, biomass, wind, solar, tidal and geothermal energy;
- (c) Energy products, such as refined oil products and bio-fuels.

*Article 3*  
***Notification of data***

1. While keeping the collection and reporting burden proportionate, Member States or the entity they delegate this task to shall compile all data and information specified in this Regulation from the beginning of 2010 and from then onwards every two years.

They shall notify the aggregated data and relevant project information to the Commission in 2010, that year being the first reporting year, and from then onwards every two years.

Member States or their delegated entities shall notify aggregated data and relevant project information by 31 July of the concerned reporting year.

2. The Commission shall exempt the Member States or their delegated entities from the obligation referred to in paragraph 1 where pursuant to EC energy sector - specific legislation:
  - (a) the concerned Member State or its delegated entity has already notified the requested data or information and has indicated the date of the notification and the specific legislation concerned;
  - (b) a specific body is entrusted with the preparation of a multi-annual investment plan in energy infrastructure at Community level and compiles to this end equivalent data and information; in this case, the specific body shall notify all the relevant data and information to the Commission within the time-limits laid down in paragraph 1.

*Article 4*  
***Data sources***

1. Undertakings concerned shall notify the data or information referred to in Article 3 to the Member States, or the entity to which they have delegated, in whose territory they are planning to carry out investment projects before 31 May of each reporting year. The data or information notified shall reflect the situation of investment projects as of 31 March of the concerned reporting year.

However, subparagraph 1 shall not apply to undertakings where the Member State concerned decides to use other means of supplying the Commission with the data or information referred to in Article 3.

2. Member States shall avoid any duplication of data collection and shall minimise costs for undertakings.

*Article 5*  
***Content of the notification***

1. With regard to investment projects referred to in the Annex, the notification provided for in Article 3 shall indicate where appropriate:
  - (a) the capacities planned or under construction;
  - (b) the location, name, type and main characteristics of infrastructure or capacities planned or under construction;
  - (c) the probable date of commissioning;
  - (d) the type of energy sources used;
  - (e) the technologies of interest for security of supply purposes, such as reverse flows, fuel switching capacities or any other relevant equipments;
  - (f) the equipment of carbon capture systems or retrofitting mechanisms;
2. With regard to any proposed decommissioning of capacities, the notification provided for in Article 3 shall indicate:
  - (a) the character and the capacity of the infrastructure concerned;
  - (b) the probable date of decommissioning.
3. Any notification under Article 3 shall include the volume of installed capacities at the beginning of the reporting year concerned.

Member States, their delegated entities or the specific body referred to in Article 3(2) shall add to their notifications any comments they may have, such as comments on delays or obstacles to the implementation of investment projects.

*Article 6*  
***Quality and publicity of data***

1. Member States, the entity they delegate to or where appropriate the bodies entrusted with EU energy sector specific investment plans shall ensure the quality, relevance, accuracy, clarity, timeliness and coherence of data and information they notify to the Commission.

In case of bodies entrusted with EU energy sector - specific investment plans, the data and information notified shall be accompanied by appropriate comments from Member States on the quality of data and information collected.
2. The Commission may publish data and information forwarded pursuant to this Regulation, in particular in analyses referred to in Article 10(3), provided that data and information are published in an aggregated form and that no details concerning individual undertakings are disclosed.

Member States or their delegated entities shall preserve the confidentiality of commercially sensitive data or information.

*Article 7*  
***Implementing measures***

The Commission shall adopt the measures necessary for the implementation of this Regulation, concerning in particular the calculation methodologies to be used, the technical definitions, the form, the content and other details of the notification of data and information referred to in Article 3.

*Article 8*  
***Data processing***

The Commission shall be responsible for developing, hosting, managing and maintaining the IT resources needed to receive, store and carry out any processing of the data or information notified to the Commission pursuant to this Regulation.

*Article 9*  
***Protection of individuals with regards to the processing of data***

This Regulation is without prejudice to the provisions of Community law and, in particular, does not alter Member States' obligations with regard to the processing of personal data, as laid down by Directive 95/46/EC, or the obligations incumbent upon Community institutions and bodies under Regulation (EC) No 45/2001 with regard to the processing of personal data by them in the course of their duties.

*Article 10*  
***Monitoring and reporting***

1. On the basis of data and information forwarded and, if appropriate, of any other data sources including data purchased by the Commission, the Commission shall provide at least every two years a cross-sector analysis of the structural evolution and perspectives of the EU energy system in particular with a view to:
  - (a) identifying potential future gaps of energy demand and supply;
  - (b) identifying investment obstacles and promoting best practices to address them;
  - (c) increasing transparency for market participants.

The Commission may also provide on the basis of this data and information any specific analysis deemed necessary or appropriate.

2. In preparing the analyses referred to in paragraph 1, the Commission may be assisted by experts from Member States and / or any other experts with specific competence in the area concerned.

3. The Commission may discuss the analyses with interested parties. It shall forward the analyses carried out to the European Parliament, to the Council and to the European Economic and Social Committee and publish them.

*Article 11*  
**Review**

Within five years of the entry into force of this Regulation, the Commission shall review its implementation.

*Article 12*  
**Repeal**

Regulation (EC) No 736/96 is repealed.

*Article 13*  
**Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

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. OIL**

**1.1. Refining**

- Distillation plants with a capacity of not less than 1 Mio tonnes a year;
- Extension of distilling capacity beyond 1 Mio tonnes a year;
- Reforming/cracking plants with a minimum capacity of 500 tonnes a day;
- Desulphurisation plants for residual fuel oil/gas oil/feedstock/other petroleum products.

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

**1.2. Transport**

- Crude oil pipelines with a capacity of not less than 3 Mio Metric tonnes a year, and extension or lengthening of these pipelines, which are not less than 30 kilometres long;
- Petroleum product pipelines with a capacity of not less than 1.5 Mio tonnes a year, and extension or lengthening of these pipelines, which are not less than 30 kilometres long;
- Pipelines which constitute essential links in national or international interconnecting networks and pipelines and projects of common interest identified in the guidelines established under Article 155 of the EC Treaty.

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

**1.3. Storage**

- Storage installations for crude oil and petroleum products (installations with a capacity of 150 Mio m<sup>3</sup> or more or, in the case of tanks, with a capacity not less than 100 000 m<sup>3</sup>).

Tanks intended for military purposes and those supplying plants outside the scope of point 1.1 are excluded.

**2. GAS**

**2.1. Transport**

- Gas, including natural gas and biogas, transport pipelines ;

- Pipelines and projects of common interest identified in the guidelines established under Article 155 EC Treaty.

## **2.2. LNG terminals**

- Terminals for the importation of liquefied natural gas.

## **2.3. Storage**

- Storage installations connected to the transport pipelines referred to in point 2.1.

Gas pipelines, terminals and 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 and nuclear power stations (generators with a unit capacity of 100 MW or more);
- Hydro-electric power stations (power stations having a capacity of 30 MW or more);
- Wind power farms (with a capacity of 20 MW or more for offshore farms or with a capacity of 10 MW or more for onshore farms);
- Concentrated solar thermal, geothermal and photovoltaic installations (generators with a unit capacity of 10 MW or more);
- Biomass/waste power generation installations (generators with a unit capacity of 10 MW or more);
- Power stations with cogeneration of electricity and useful heat (units with an electrical capacity of 10 MW or more).

## **3.2. Transport**

- Overhead transmission lines, if they have been designed for a voltage of 150 kV or more;
- Underground and submarine transmission cables, if they have been designed for a voltage of 100 kV or more;
- Projects of common interest identified in the guidelines established under Article 155 EC Treaty.

#### **4. BIOFUEL**

##### **4.1. Production**

- Bio-fuel production installations (refinery with a capacity of 50 000 tonnes/year or more).

#### **5. CARBON DIOXIDE**

##### **5.1. Transport**

- CO<sub>2</sub> pipelines related to production installations referred to in points 1.1 and 3.1.

##### **5.2. Storage**

- Storage installations (storage site or complex with a capacity of 100 kt or more).

Storage installations intended for research and technological development are excluded.

## LEGISLATIVE FINANCIAL STATEMENT

*This document is intended to accompany and complement the Explanatory Memorandum. As such, when completing this Legislative Financial Statement, and without prejudice to its legibility, an attempt should be made to avoid repeating information contained in the Explanatory Memorandum. Before filling in this template, please refer to the specific Guidelines that have been drafted to provide guidance and clarification for the items below.*

### **1. NAME OF THE PROPOSAL:**

Proposal for a Regulation of the Council of the European Union concerning notification to the Commission of investment projects in energy infrastructure within the European Community and repealing Regulation (EC) No 736/96.

### **2. ABM / ABB FRAMEWORK**

Policy Area(s) concerned and associated Activity/Activities:

06: Energy and transport

06 04: Conventional and renewable energies

### **3. BUDGET LINES**

#### **3.1. Budget lines (operational lines and related technical and administrative assistance lines (ex- B.A lines) including headings:**

06 01 01: Expenditure related to staff in active employment of 'Energy and transport, policy area'

06 01 04 03: Conventional energy — Expenditure on administrative management

06 04 03: Security of conventional energy supplies

#### **3.2. Duration of the action and of the financial impact:**

Start: 2010 End: not determined

### 3.3. Budgetary characteristics (add rows if necessary):

Budget line	Type of expenditure		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
06 01 01	Non-comp	Non-Diff	NO	NO	NO	<b>No 5</b>
06 01 04 03	Non-comp	Non-Diff	NO	NO	NO	<b>No 1a</b>
06 04 03	Non-comp	Diff	NO	NO	NO	<b>No 1a</b>

## 4. SUMMARY OF RESOURCES

### 4.1. Financial Resources

#### 4.1.1. Summary of commitment appropriations (CA) and payment appropriations (PA)

EUR million (to 3 decimal places)

Expenditure type	Section no.		2010	2011	2012	2013	2014	2015 and later	Total
<b>Operational expenditure<sup>7</sup></b>									
Commitment Appropriations (CA)	8.1	a	0.40		0.30		0.30		1.00
Payment Appropriations (PA)		b	0.30	0.1	0.20	0.1	0.20	0.1	1.00
<b>Administrative expenditure within reference amount<sup>8</sup></b>									
Technical & administrative assistance (NDA)	8.2.4	c	0.05		0.06		0.06		0.17
<b>TOTAL REFERENCE AMOUNT</b>									
Commitment Appropriations		a+c	<b>0.45</b>		<b>0.36</b>		<b>0.36</b>		<b>1.17</b>
Payment Appropriations		b+c	<b>0.35</b>	<b>0.1</b>	<b>0.26</b>	<b>0.1</b>	<b>0.26</b>	<b>0.1</b>	<b>1.17</b>

<sup>7</sup> Expenditure that does not fall under Chapter xx 01 of the Title xx concerned.

<sup>8</sup> Expenditure within article xx 01 04 of Title xx.

**Administrative expenditure not included in reference amount<sup>9</sup>**

Human resources and associated expenditure (NDA)	8.2.5	d	0.12		0.12		0.12		0.36
Administrative costs, other than human resources and associated costs, not included in reference amount (NDA)	8.2.6	e							

**Total indicative financial cost of intervention**

<b>TOTAL CA including cost of Human Resources</b>		a+c +d+ e	0.57		0.48		0.48		1.53
<b>TOTAL PA including cost of Human Resources</b>		b+c +d+ e	0.47	0.01	0.38	0.01	0.38	0.1	1.53

**Co-financing details**

If the proposal involves co-financing by Member States, or other bodies (please specify which), an estimate of the level of this co-financing should be indicated in the table below (additional lines may be added if different bodies are foreseen for the provision of the co-financing):

*EUR million (to 3 decimal places)*

Co-financing body		2010	2011	2012	2013	2014	2015 and later	Total
.....	f							
<b>TOTAL CA including co-financing</b>	a+c +d+ e+f							

**4.1.2. Compatibility with Financial Programming**

- Proposal is compatible with existing financial programming.
- Proposal will entail reprogramming of the relevant heading in the financial perspective.
- Proposal may require application of the provisions of the Inter-institutional Agreement<sup>10</sup> (i.e. flexibility instrument or revision of the financial perspective).

<sup>9</sup> Expenditure within chapter xx 01 other than articles xx 01 04 or xx 01 05.

<sup>10</sup> See points 19 and 24 of the Interinstitutional agreement.

#### 4.1.3 Financial impact on Revenue

- Proposal has no financial implications on revenue
- Proposal has financial impact – the effect on revenue is as follows:

***NB: All details and observations relating to the method of calculating the effect on revenue should be shown in a separate annex.***

EUR million (to one decimal place)

Budget line	Revenue	Prior to action [2009 ]	Situation following action						
			[2010]	[2011]	[2012]	[2013]	[2014]	[2015] <sup>11</sup>	
	<i>a) Revenue in absolute terms</i>								
	<i>b) Change in revenue</i>	$\Delta$							

*(Please specify each revenue budget line involved, adding the appropriate number of rows to the table if there is an effect on more than one budget line.)*

#### 4.2. Human Resources FTE (including officials, temporary and external staff) – see detail under point 8.2.1.

Annual requirements	2010	2011	2012	2013	2014	2015 and later
Total number of human resources	1	0	1	0	1	

### 5. CHARACTERISTICS AND OBJECTIVES

**Details of the context of the proposal are required in the Explanatory Memorandum. This section of the Legislative Financial Statement should include the following specific complementary information:**

<sup>11</sup> Additional columns should be added if necessary i.e. if the duration of the action exceeds 6 years.

### **5.1. Need to be met in the short or long term**

The Regulation requires the development of a new IT application for reception, storage and protection of data and information to be notified under this Regulation.

The Regulation also foresees that data may be purchased from commercial providers to carry out the analysis required for the situation of investment projects in infrastructure within the European Community.

To carry out the analysis, the Commission may also be assisted by external experts.

### **5.2. Value-added of Community involvement and coherence of the proposal with other financial instruments and possible synergy**

The Regulation creates a new framework combining reporting and monitoring (analysis) of investment projects in EU energy infrastructure. Significant investment in infrastructure is necessary to ensure security of energy supply to the EU and to achieve the targets set to mitigate the effects of climate change.

The EU has a responsibility to contribute to security of supply and has to ensure that in the conditions of an EU integrated internal market, investment are properly decided and implemented and that sufficient transparency on the evolution of the EU energy system is provided to market players.

The Community is the appropriate level to address this issue with a cross - sector perspective (oil, gas, electricity...) and at EU level. To avoid duplication of data collection, the Regulation takes into account sector – specific legislation already imposing reporting obligations on investment in EU infrastructure.

### **5.3. Objectives, expected results and related indicators of the proposal in the context of the ABM framework**

The objective of the proposal is to provide the Commission with the data on investment projects in energy infrastructure. These data and information are necessary for the accomplishment of the Commission's tasks in the context of an EU energy policy aiming in particular at security of supply and sustainability.

It is expected that closer and regular monitoring and analysis of investment in energy infrastructure will provide robust information for policy-making and evaluation of EU policies which have completely changed the market design and set new policy objectives to mitigate climate change. It is expected that on the basis of this regular analysis, the Commission will be in a better position to bring transparency on the evolution of EU energy system for market participants who will implement investment and that it will also be able to promote best practices and anticipate potential problems.

#### **5.4. Method of Implementation (indicative)**

Show below the method(s)<sup>12</sup> chosen for the implementation of the action.

x Centralised Management

x<sup>1</sup> Directly by the Commission

### **6. MONITORING AND EVALUATION**

#### **6.1. Monitoring system**

After 5 years, the Commission will evaluate the impact of the Regulation.

#### **6.2. Evaluation**

##### *6.2.3. Ex-ante evaluation*

Not applicable

##### *6.2.4. Measures taken following an intermediate/ex-post evaluation (lessons learned from similar experiences in the past)*

Not applicable

##### *6.2.5. Terms and frequency of future evaluation*

Not applicable

### **7. ANTI-FRAUD MEASURES**

No specific measures are needed, the normal framework will apply.

---

<sup>12</sup> If more than one method is indicated please provide additional details in the "Relevant comments" section of this point.

## 8. DETAILS OF RESOURCES

### 8.1. Objectives of the proposal in terms of their financial cost

*Commitment appropriations in EUR million (to 3 decimal places)*

(Headings of Objectives, actions and outputs should be provided)	Type of output	Av. cost	2010		2011		2012		2013		2014		2015 and later		TOTAL	
			No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost
OPERATIONAL OBJECTIVE No.1 <sup>13</sup> .....																
<b>Action 1: IT development/maintenance</b>																
- Output 1	contract		1	0.10											1	0.10
- Output 2	contract						1	0.01			1	0.01			2	0.02
<b>Action 2: Data purchasing</b>																
- Output 1	contract		2	0.30			2	0.30			2	0.30			6	0.90
<b>TOTAL COST</b>			3	0.40			3	0.31			3	0.31			9	1.02

<sup>13</sup>

As described under Section 5.3.

## 8.2. Administrative Expenditure

### 8.2.1. Number and type of human resources

Types of post		Staff to be assigned to management of the action using existing and/or additional resources ( <b>number of posts/FTEs</b> )					
		2010	2011	2012	2013	2014	2015
Officials or temporary staff <sup>14</sup> (XX 01 01)	A*/AD	0.5		0.5		0.5	
	B*, C*/AST	0.5		0.5		0.5	
Staff financed <sup>15</sup> by art. XX 01 02							
Other staff <sup>16</sup> financed by art. XX 01 04/05							
<b>TOTAL</b>		1		1		1	

### 8.2.2. Description of tasks deriving from the action

- Preparation, organisation and follow-up of the collection of data, meetings with experts and Member States and stakeholders.
- Data purchasing to get additional source of data for analysis purposes.
- IT development and maintenance to receive and store and protect data and information notified to the Commission.

### 8.2.3. Sources of human resources (statutory)

(When more than one source is stated, please indicate the number of posts originating from each of the sources)

- Posts currently allocated to the management of the programme to be replaced or extended
- Posts to be redeployed using existing resources within the managing service (internal redeployment)
- Posts required for year n although not foreseen in the APS/PDB exercise of the year in question

<sup>14</sup> Cost of which is NOT covered by the reference amount.

<sup>15</sup> Cost of which is NOT covered by the reference amount.

<sup>16</sup> Cost of which is included within the reference amount.

8.2.4. *Other Administrative expenditure included in reference amount (XX 01 04/05 – Expenditure on administrative management)*

EUR million (to 3 decimal places)

Budget line	2010	2011	2012	2013	2014	2015 and later	TOTAL
06 01 04							
<b>1 Technical and administrative assistance (including related staff costs)</b>							
Executive agencies <sup>17</sup>							
Other technical and administrative assistance							
- <i>intra muros (experts)</i>	0.05		0.05		0.05		0.15
- <i>extra muros (IT maintenance)</i>			0.01		0.01		0.02
<b>Total Technical and administrative assistance</b>			0.06		0.06		0.17

8.2.5. *Financial cost of human resources and associated costs not included in the reference amount*

EUR million (to 3 decimal places)

Type of human resources	2010	2011	2012	2013	2014	2015 and later
Officials and temporary staff (06 01 01)	0.12		0.12		0.12	
Staff financed by Art XX 01 02 (auxiliary, END, contract staff, etc.) (specify budget line)						
<b>Total cost of Human Resources and associated costs (NOT in reference amount)</b>	<b>0.12</b>		<b>0.12</b>		<b>0.12</b>	

Calculation– *Officials and Temporary agents*

*Reference should be made to Point 8.2.1, if applicable*

*Year n: 2 officials (1 FTE) (122.000 €/official/year)*

<sup>17</sup> Reference should be made to the specific legislative financial statement for the Executive Agency(ies) concerned.

## 8.2.6. Other administrative expenditure not included in reference amount

EUR million (to 3 decimal places)

	2010	2011	2012	2013	2014	2015 and later	TOTAL
XX 01 02 11 01 – Missions							
XX 01 02 11 02 – Meetings & Conferences							
XX 01 02 11 03 – Committees <sup>18</sup>							
XX 01 02 11 04 – Studies & consultations							
XX 01 02 11 05 - Information systems							
<b>2 Total Other Management Expenditure (XX 01 02 11)</b>							
<b>3 Other expenditure of an administrative nature</b> (specify including reference to budget line)							
<b>Total Administrative expenditure, other than human resources and associated costs (NOT included in reference amount)</b>							

The needs for human and administrative resources shall be covered within the allocation that can be granted to the managing DG in the framework of the annual allocation procedure in the light of budgetary constraints.

<sup>18</sup> Coordination group and (comitology) committee foreseen in the draft legislation.