



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 12 April 2012**

**5520/1/12  
REV 1**

**ENER 18  
CADREFIN 89**

**NOTE**

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from: General Secretariat of the Council  
to: Delegations

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No. Cion prop.: 16196/11 CADREFIN 117 POLGEN 177 REGIO 111 ENER 345 TRANS 292  
TELECOM 161 COMPET 472 MI 533 ECO 129

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Subject: Proposal for a Regulation of the European Parliament and of the Council  
establishing the Connecting Europe Facility

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Delegations will find in **Annex A** two proposals for Article 4(1)(b).

The **Presidency proposal 1** refers just to the general objectives. This will avoid any impression that the CEF Regulation provisions establish a "pre-selection" of energy projects. It will also avoid a lengthy discussion in the Energy Working Party on this Article - the discussion on the selection criteria for, and the eligibility of, projects will be held in the framework of the discussion of Articles 4 and 15 of the Infrastructure Regulation <sup>1</sup>.

The **Presidency proposal 2** still only refers to the general objectives, but includes the part "*to be measured by...*" which serves for the *ex-post* assessment ("measurement") of the results of the CEF; similar text is also foreseen for the areas of transport and telecom and may therefore be preferable from the perspective of legal consistency. The additions in this proposal are based on the written contributions received.

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<sup>1</sup> N.B. Should delegations wish, any deleted part of Art. 4(1)(b) of the draft Regulation on CEF can be inserted in Art. 4 of the draft Infrastructure Regulation.

**Annex B** contains the text proposals made for the COMBUD Group, which that Group will discuss on 17 April concerning Art. 7(3), Article 20 and Annex part II ("*List of infrastructure priority corridors and areas in the field of energy*").

These proposed changes concern:

- **Article 7(3)**

The changes to the text make it clear that the CEF Regulation establishes no additional conditions or additional requirements to the selection of PCIs; the CEF Annex will be made identical to the Annex I of the Infrastructure Regulation (see new footnote to Annex).

- **Article 20**

This Article on the use of delegated acts now excludes Part II of the Annex ("*List of infrastructure priority corridors and areas in the field of energy*").

- **Annex**

A new footnote recalls that Part II of the Annex will be aligned with the final version of the Annex of the Infrastructure Regulation (except the Oil Priority Corridor). (No changes will be possible to both these Annexes after adoption.)

The Presidency's view is that these proposals, drawn up in close cooperation with the Council Legal Service, address in a satisfactory way the concerns that had also been identified in the Energy Working Party and that were already communicated informally to COMBUD.

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*Article 4*  
*Specific Sectoral Objectives*

1. *Further to the general objectives set out under Article 3, the Connecting Europe Facility should contribute to achieving the following sector specific objectives:*

(...)

**PRESIDENCY PROPOSAL 1:**

- (b) In the field of energy, the Connecting Europe Facility shall support projects of common interest pursuing **one or more of** the following objectives **]]**:
- (i) promoting the further integration of the internal energy market and the interoperability of electricity and gas networks across borders **]]**;
  - (ii) enhancing Union security of **energy** supply **]]**; **or**
  - (iii) contributing to sustainable development and protection of the environment **]]**.

**The conditions for eligibility for projects of common interest are set out in Article 15 of Regulation (EU) No xxxx/2012 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC, whilst the selection criteria for projects of common interest are set out in Article 4 of that Regulation.**

## **PRESIDENCY PROPOSAL 2:**

(b) In the field of energy, the Connecting Europe Facility shall support projects of common interest pursuing **one or more of** the following objectives **[]**:

(i) promoting the further integration of the internal energy market and the interoperability of electricity and gas networks across borders.

**The achievement of this objective <sup>1</sup> shall be measured *ex post* by: []**

- **the number of projects effectively interconnecting Member states' networks and removing internal **constraints** [];**

- **the reduction or elimination of Member States' energy isolation;**

- **the percentage of electricity cross border transmission power in relation to installed electricity generation capacity in the relevant Member States; and**

- **the percentage of the highest peak demand of the two Member States concerned covered by reversible flow interconnections for gas.**

(ii) **Enhancing Union security of **energy** supply, to be measured by the evolution of system resilience and security of system operations. []**

**The achievement of this objective shall be measured *ex post* by: []**

- **the number of projects allowing diversification of supply sources, supplying counterparts and routes;**

- **the number of projects increasing storage capacity;**

- **the number of disruptions and their duration;**

- **the amount of avoidable spillage of renewable energy due to a lack of crossborder connections;**

- **the connections of isolated markets with more diversified supply sources; or**

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<sup>1</sup> *Note: a reference to the Art. 14b(k) of the draft CEF Regulation could be made here. This Article concerns the annual report of the Commission, which shall include "(k) the contribution of the financial instrument to the achievement of the objectives of the programme concerned as measured by the established indicators, including, where applicable, the geographical diversification."*

(iii) Contributing to sustainable development and protection of the environment **[ ]**.

**The achievement of this objective shall be measured *ex post* by: [ ]**

- the transmission of renewable **electricity** [ ] from generation to major consumption centers and storage sites;

- the sum of CO2 emissions prevented by the construction of the projects which benefited from CEF.

**The conditions for eligibility for projects of common interest are set out in Article 15 of Regulation (EU) No xxxx/2012 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC, whilst the selection criteria for projects of common interest are set out in Article 4 of that Regulation.**

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**Presidency proposals in COMBUD as regards Articles 7(3), 20 and Annex**

**N.B.** The definition of "bottleneck" in **Art. 2(12)**, which carried a risk of confusion with the use of "bottleneck" in the area of energy, has been amended in the COMBUD text: "*bottleneck*" in the field of transport means...."

*Article 7*

*Eligibility and conditions for financial assistance*

(...)

3. In the field of energy, **[ ] all actions implementing those projects of common interest that relate to the priority corridors and areas referred to in Part II of the Annex to this Regulation are eligible** for Union financial aid in the form of financial instruments and grants under this Regulation **on the basis of the conditions [ ]** set out in Article 15 of Regulation (EU) No XXXX/2012 [Guidelines for **trans-European** energy infrastructure].

(...)

*Article 20*  
*Delegated acts*

**Subject to the second paragraph of Article 172 TFEU, the Commission shall be empowered to adopt delegated acts in accordance with Article 25 concerning the [ ] modification of [ ] Parts I and III of the Annex, to take account of changing financing priorities in the trans-European networks and of changes relating to projects of common interest identified in [Regulation (EU) No XXX/2012 [TEN-T Guidelines] and Regulation (EU) No XXX/2012 [ICT Guidelines]. When amending Parts I and III of the Annex, the Commission shall ensure:**

- (a) that the projects of common interest according to Regulation (EU) No XXX/2012 [TEN-T Guidelines] and Regulation (EU) No XXX/2012 [ICT Guidelines], are likely to be realised fully or partly under the Multiannual Financial Framework 2014-2020;**
  
- (b) that the modifications comply with the eligibility criteria set out under Article 7 of this Regulation;**
  
- (c) as regards Part I of the Annex, that all actions included in the list are large infrastructure projects whose realisation will necessitate their inclusion in a multiannual work programme under Article 17(3) of this Regulation, and that actions that Member States no longer envisage to propose for Union financial aid under Article 17(3) of this Regulation are excluded;**
  
- (d) as regards Part III of the Annex, that new priorities and areas of intervention meet the criteria of Article 3 and Article 4(c) of this Regulation.<sup>1</sup>**

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<sup>1</sup> Consistency between the Guidelines and the CEF to be assured.

## **Annex to Annex B**

Parts I, II and III of the Annex stay.

To Part II (Energy), the following temporary footnote will be added:

**"Note: before this Regulation is adopted, the text of Part II of the Annex will be aligned with the final text of the Annex I of Regulation XXXX on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC, with the exception of the Priority Oil Corridor."**

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