



Council of the
European Union

182072/EU XXVII. GP
Eingelangt am 29/04/24

Brussels, 29 April 2024
(OR. en)

12034/06
DCL 1

CH 38
ENER 201
MI 156
ENV 424
COMPET 216
OC 569

DECLASSIFICATION

of document: ST 12034/06 RESTREINT UE/EU RESTRICTED
dated: 10 October 2006
new status: Public

Subject: Draft Decision of the Council authorising the Commission to open negotiations between the European Community and the Swiss Confederation on a Protocol on electricity to the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972

COMMON GUIDELINES

Consultation deadline for Bulgaria and Romania: 20-10-2006

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

RESTREINT UE



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THE EUROPEAN UNION

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"I/A" ITEM NOTE

from: Working Party on European Free Trade Association (E.F.T.A.).
to: COREPER (PART 2) / COUNCIL
No. Cion prop 12033/06 CH 37 ENER 200 MI 155 ENV 423 COMPET 215 RESTREINT UE
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1. The Commission submitted on 25 July 2006, a Recommendation on this issue for approval by the Council.
2. The EFTA Working Party having completed its examination at its meeting on 26 September 2006, it is suggested that the Permanent Representatives Committee invite the Council, to adopt, as an "A" item the draft Council Decision attached to this note.

ANNEX

DRAFT DECISION BY THE COUNCIL
AUTHORISING THE COMMISSION TO OPEN NEGOTIATIONS
BETWEEN THE EUROPEAN COMMUNITY AND
THE SWISS CONFEDERATION
ON A PROTOCOL ON ELECTRICITY TO
THE AGREEMENT BETWEEN
THE EUROPEAN ECONOMIC COMMUNITY AND
THE SWISS CONFEDERATION
OF 22 JULY 1972

The Council decides that:

- The Commission is authorised to negotiate on behalf of the European Community, in respect of the matters falling within its competence, a Protocol on electricity to the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972;
- The Working Party on European Free Trade Association (EFTA) is appointed as the special Committee to assist, in close consultation with the Working Party on Energy, the Commission in this task;
- The Commission will conduct these negotiations in accordance with the negotiating directives set out in the annex hereto.

annex

DIRECTIVES FOR THE NEGOTIATION
BETWEEN THE EUROPEAN COMMUNITY AND
THE SWISS CONFEDERATION
OF A PROTOCOL ON ELECTRICITY
TO THE AGREEMENT BETWEEN
THE EUROPEAN ECONOMIC COMMUNITY AND
THE SWISS CONFEDERATION
OF 22 JULY 1972

1. PURPOSE

The purpose of the envisaged Protocol is the integration of the Swiss electricity market into the electricity market of the European Community on the basis of the *acquis communautaire*.

To that effect, the European Community's aims are to:

- Ensure a level playing field for electricity generators and suppliers in the European Community and the Swiss Confederation;
- Develop energy market competition on a broader scale and exploit economies of scale, for the benefit of customers;
- Enhance security of supply of the European Community;
- Facilitate transit of electricity through the Swiss Confederation in compliance with the internal electricity market *acquis communautaire*;
- Guarantee a level playing field for electricity producers and a high level of environmental protection.

2. SCOPE AND OPERATIONAL PROVISIONS

The Protocol shall contain clauses:

- clarifying and complementing the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972¹ in the electricity sector with a view to integrate fully the Swiss electricity market into the electricity market of the European Community;
- providing for the application in the Swiss Confederation of the competition *acquis communautaire* relevant for the proper functioning of the Internal Electricity Market
- providing for the application in the Swiss Confederation of the Internal Electricity Market *acquis communautaire*, which should notably include:
 - (i) Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC;²
 - (ii) Regulation (EC) No 1228/2003 of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity;³
 - (iii) Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market,⁴ and
 - (iv) Directive 2005/89/EC of the European Parliament and of the Council of 18 January 2006 concerning measures to safeguard security of electricity supply and infrastructure investment;⁵
- providing for the application in the Swiss Confederation of the environmental *acquis communautaire* relevant for electricity production, which should notably include:

¹ Signed in Brussels on 22 July 1972 and entered into force on 01 January 1973 (OJ L 300, 31.12.1972, p. 189).

² OJ L 176, 15.07.2003, p. 37.

³ *Ibid.*, p. 1.

⁴ OJ L 283, 27.10.2001, p. 33.

⁵ OJ L 33, 04.02.2006, p. 22.

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- (i) Council Directive 1985/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment⁶ and its subsequent amendments as of 31 December 2004;⁷
- (ii) Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC;⁸
- (iii) Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants,⁹ and
- (iv) Article 4(2) the Council Directive 1979/409/EEC of 02 April 1979 on the conservation of wild birds.¹⁰

The Protocol may also contain clauses providing for a mechanism of co-ordination to prevent disruption of electricity affecting the European Community or the Swiss Confederation.

3. ADAPTATION

The Joint Committee established by the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972¹¹ should be authorised to adopt by decision the technical adaptation of the Agreement in line with the development of the *acquis communautaire*. Implementing measures adopted by the Commission under Regulation (EC) No 1228/2003 shall be automatically applicable on the Swiss territory.

⁶ OJ L 175, 05.07.1985, p. 40.

⁷ i.a. Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC (OJ L 156, 25.06.2003, p. 17).

⁸ OJ L 121, 11.05.1999, p. 13.

⁹ OJ L 309, 27.11.2001, p. 1.

¹⁰ OJ L 103, 25.04.1979, p. 1.

¹¹ Article 29.

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4. PARTICIPATION OF SWISS REPRESENTATIVES IN COMMITTEES

Provided that the Swiss Confederation takes over the relevant Community legislation, a Council Declaration would be attached to the Protocol on the participation as observers of representatives of the Swiss Confederation in the committee established under Regulation (EC) 1228/2003¹² and in the European Regulators Group for Electricity and Gas established by Commission Decision 2003/796/EC of 11 November 2003¹³ as far as the application of the Protocol is concerned. Issues relating to the bilateral relations will be addressed within the Joint Committee established by the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972.

5. FINANCIAL IMPLICATIONS

The Protocol shall have no financial implications for the Community budget.

¹² Article 13.

¹³ OJ L 296, 14.11.2003, p. 34.