COUNCIL REGULATION (EC) No 1223/2004

of 28 June 2004

amending Regulation (EC) No 1228/2003 of the European Parliament and of the Council as regards the date of application of certain provisions to Slovenia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union and in particular Article 2(3) thereof,

Having regard to the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, and in particular Article 57 thereof,

Having regard to the request of Slovenia,

Having regard to the proposal from the Commission,

Whereas:

(1) 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 [1] aims at setting fair rules for cross-border exchanges in electricity. That Regulation shall apply from 1 July 2004.

(2) In accordance with Article 6(1) of Regulation (EC) No 1228/2003, network congestion problems are to be addressed by means of non-discriminatory market-based solutions which give efficient economic signals to the market participants and transmission system operators involved.

(3) The Guidelines on the management and allocation of available transfer capacity of interconnections between national systems, set out in the Annex to Regulation (EC) No 1228/2003, contain rules which are directly linked to the general principle contained in Article 6(1) of that Regulation.

(4) Slovenia has requested a transitional period for the application of Article 6(1) of that Regulation and the related provisions in those Guidelines, until 1 July 2007.

(5) Slovenia has demonstrated that without a transitional period certain Slovenian energy-intensive industries would be adversely affected by higher prices for electricity imported from Austria and certain electricity producers by lower incomes from export sales to Italy. That situation would impede the ongoing efforts of the industries concerned to restructure and respectively comply with Community acquis applicable to electricity production.

(6) The reasons provided by Slovenia justify a derogation. Furthermore, due to the small interconnection capacity of the two interconnections concerned and given that that situation is unlikely to change before 1 July 2007, the practical impact on the internal market of such a derogation will be very small.

(7) The derogation should be limited to what is strictly necessary in view of the Slovenian request. It should, therefore, only cover the part of the interconnection capacity allocated by the Slovenian transmission system operator and apply only insofar as such capacity does not exceed half of the total capacity available.

(8) Regulation (EC) No 1228/2003 should therefore be amended accordingly,

[1] OJ L 176, 15.7.2003, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

In Article 15 of Regulation (EC) No 1228/2003, the following subparagraph shall be added:

'As regards interconnections between Slovenia and neighbouring Member States, Article 6(1), as well as rules 1 to 4 contained in the chapter entitled "General" of the Annex, shall apply from 1 July 2007. This paragraph shall apply only to the interconnection capacity which is allocated by the Slovenian transmission system operator and only insofar as such capacity does not exceed half of the total available interconnection capacity.'

Article 2

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

It shall apply from 1 July 2004.

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

Done at Luxembourg, 28 June 2004.

For the Council
The President
M. CULLEN