



GIE Response to the European's Commission Communication "The Future Role of Regional Initiatives"

Introduction

On 7 December 2010 the European Commission has published a communication to the European Parliament and the Council on "The future Role of Regional Initiatives"¹, which evaluates the ERGEG regional initiatives five years after their set-up with a view to assessing whether any modifications to the process, composition or governance could further enhance their effectiveness and contribution to the completion of the internal market. The Commission invites all interested parties to express their views on the policy orientations in its communication by 15 February 2011.

Who is GIE?

Gas Infrastructure Europe (GIE) is an association representing the sole interest of the infrastructure industry in the natural gas business such as Transmission System Operators, Storage System Operators and LNG Terminal Operators. GIE has currently 66 members in 26 European countries.

One of the objectives of GIE is to voice the views of its members vis-à-vis the European Commission, the regulators and other stakeholders. Its mission is to actively contribute to the construction of a single, sustainable and competitive gas market in Europe underpinned by a stable and predictable regulatory framework as well as by a sound investment climate.

A new start for regional co-operation

GIE welcomes the opportunity to provide input regarding the future framework for regional co-operation in the context of the implementation of the 3rd Energy Package.² The communication of the European Commission provides a good opportunity to provide insight to the new requirements regarding regional co-operation and how it should be organised.

The progressive harmonisation of access rules to transmission infrastructure through the process of Framework Guidelines and Network Codes at European level will drive deeper co-operation between neighbouring TSOs and NRAs. Regional co-operation, which pays attention to the goal of the Internal Gas Market, could be a means to achieve such co-operation more efficiently by bringing together all involved parties instead of developing numerous bi-lateral initiatives that could result in a lack of

¹ Communication from the Commission to the European Parliament and the Council, *The future Role of Regional Initiatives*, ref. COM(2010)721 final, 7 December 2010.

² Article 12(1) of Regulation 715/2009/EC requires TSOs to "establish regional cooperation within the ENTOS for Gas" for the task of network codes development according to art. 8(1), 8(2) and 8(3), and also to "publish a regional investment plan every two years". Article 6(9) of Regulation 713/2009/EC requests the Agency (ACER) to monitor the regional co-operation of TSOs.



harmonisation. By finding solutions in the balanced interests of all involved parties for several countries at once, while duly taking into account of regional specificities, properly organised regional co-operation can lead to a more effective implementation of the 3rd Energy Package and can facilitate this process. The different forms of regional co-operation that developed under the Second Energy Package have proven very different in terms of the results obtained depending on the regions.

In the following sections GIE would like to emphasise some aspects of importance in order to develop successful regional co-operation in the new context.

1. Regional co-operation vs European progress

After the adoption of the 1st and 2nd Energy Packages³, each country developed its own regime of third-party access for transmission – and in some countries for storage and LNG terminalling –, in accordance with the European and national laws. As each third-party access regime had to take into account the physical capabilities of the infrastructures as well as the national specificities regarding market structure, these regimes currently present many differences. These differences are considered as unacceptable if they hamper cross-border trade. Therefore, after the initial introduction of third-party access rules for transmission in each country, a second step has already started, consisting in a progressive approximation of some access rules in order to foster cross-border trade.

As such approximation of access rules seemed difficult at European level under the 2nd Energy Package, several regional initiatives – including ERGEG's Gas Regional Initiatives (GRI) – started with this aim. They resulted in improved co-operation between infrastructure operators, among others on transparency and open season processes. The implication of NRAs, network users, traders, platform operators, as well as member states, was key to develop successful solutions on some issues.

The 3rd Energy Package introduces new processes for the approximation of third-party access rules to transmission infrastructure: Framework Guidelines and Network Codes. Third-party access rules of all TSOs within Europe are expected to comply in the future with the provisions of the Network Codes. Consequently the Network Codes should specify all provisions that are considered as important in order to achieve the Internal Gas Market.

As a consequence, the scope of the existing regional initiatives has changed: in the future many rules regarding access to transmission infrastructure will be identical across Europe, leaving room for regional specificities only.

2. New approach to regional co-operation

The progressive harmonisation of access rules to transmission infrastructure resulting from the 3rd Energy Package will take several years to complete and the final result is unknown yet. This leaves opportunities to develop regional co-operation in the interim period and also later to tackle regional specificities. Regional co-operation should only focus on issues where they have a clear added value.

³ In this document, the 1st Energy Package refers to Directive 98/30/EC, the 2nd Energy Package refers to Directive 2003/55/EC and Regulation 1775/2009/EC, while the 3rd Energy Package refers to Directive 2009/73/EC, Regulation 715/2009/EC and Regulation 713/2009/EC.



- **Early implementation**

Implementation of harmonised access rules will likely be carried out in several steps. It is likely that certain regions in Europe will be faster in implementing new Network Codes than others. In this context regional co-operation will ensure for the consistent early implementation of the new rules across several countries of a region. The geographical extent of the regions could be chosen according to which access rules will be implemented early, and which countries are willing to develop faster, taking into account the rules they currently apply.

- **Pilot projects**

Many future European rules are not yet designed or tested. It is often difficult to assess the effectiveness of measures before they are implemented. Therefore new rules could be tested in one or several countries, or in a region, in a pilot project. To be able to inform the European processes and the Network Code, the pilot project has to be established several years before the work on the Framework Guidelines and/or the Network Codes begins. If the pilot project is successful, these new rules may eventually be extended to the European level through the Network Code development process.

- **Regional issues**

Regional issues have to be dealt with consistently with the European approach, e.g. regional investments, cross-border balancing, local gas quality constraints, interconnection agreements... Such issues will not likely require solutions at European level but solutions will likely be designed by the concerned parties at bi-lateral or regional level.

The implementation of the Security of Supply Regulation 994/2010/EU will also address regional issues. Joint risk assessments, preventive action plans and emergency plans may be needed for strongly interconnected countries.

The future Energy Infrastructure Package⁴ may require regional co-operation regarding the identification of investments needed for the well-functioning of the market as well as for the enhancement of security of supply.

- **Individual initiatives from operators**

Some room has to be foreseen for individual initiatives from operators to improve the functioning of the market: new services, enhanced products, new types of co-operation... The initiatives that were successful are now considered as best practices and may eventually be included in the future Target Model. Such room for initiative should remain in the future in order to ensure progress, even if an extensive harmonisation of access rules to transmission is ensured.

3. Geographical scope for regional co-operation

A pragmatic approach should be followed when designing the geographical scope of the regions. The types of regional co-operation described under point 2 naturally lead to the concept that the

⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Energy infrastructure priorities for 2020 and beyond – A Blueprint for an integrated European energy network*, COM(2010)677, 17 November 2010.



geographical scope of the regions should depend on the issue to be tackled. An approach where the regions are fixed in advance is less appropriate to contribute effectively to the goals, as some problems would require additional co-operation across fixed regions, while others would only involve some countries in one region. It is essential that the inclusion of a country within a region should provide a benefit to the region as a whole and not only to the country with which it has an interconnection.

For example, early implementation of new rules for capacity allocation would be carried out first in a region of strongly interconnected countries, while a regional project of balancing across countries could be handled by the involved countries, and security of supply in Central Europe likely requires the participation of the concerned countries.

It is theoretically possible that one country participates in several regional co-operations for the same issue. However one should avoid designing different solutions in the same country. In such case it would be more efficient to extend the regional co-operation on that issue to design a unique solution across a bigger region and to impede a fortified dispersion of solutions across Europe.

It is important to avoid duplication of work from national or European level, and to tackle each issue at the most effective level. Operators, regulators and all stakeholders have limited resources that should be allocated where they are most efficient according to a limited set of priorities.

4. Organisation of regional co-operation and governance issues

The 3rd Energy Package requests TSOs to establish regional co-operation within the ENTSO for Gas.⁵ There is no other legal provision requesting a formal organisation at regional level, nor any delegation of powers for binding decisions at regional level. Therefore any other form of regional co-operation will remain voluntary.

Consistency of development across different regions needs be ensured, as well as consistency with development at European level. Therefore a close follow-up of the work at regional level from the European level should be organised.

As stated in points 2 and 3, regional co-operation should very much depend on the issue to be tackled. Therefore the organisation should reflect this aspect: all involved parties should be represented in order to efficiently design solutions; and the governance should reflect the interests of the internal energy market as a whole. In particular, transmission system operators, storage operators and LNG terminalling operators should be represented adequately. Experience from the ERGEG-led Regional Initiatives emphasises the need to closely involve the Member States concerned and the European bodies (European Commission, ACER, ENTSO for Gas).

5. Target Model and potential role of market coupling for gas markets

This point has been brought forward in the framework of the discussion on a Target Model for gas transmission, as proposed at the Madrid Forum XVIII in September 2010. GIE refers to its answer to the CEER's Call for Evidence.⁶ In particular, the appropriateness of market coupling as it is being

⁵ Article 12(1) of Regulation 715/2009/EC.

⁶ GIE Response to CEER's Call for Evidence on a "Vision for a conceptual model for the European gas market", ref. 10GIE095, 14 January 2011.



developed in European electricity markets should be assessed taking the major differences between the electricity and gas markets into account.

6. Role of storage and LNG terminalling in regional co-operation

Storage and LNG terminalling are key activities for the functioning of the European gas market and its security of supply. Therefore storage operators and operators of LNG terminalling facilities should be involved in regional co-operation for the relevant topics.

For example, regional investment plans have to take into account investments in storage and in LNG terminalling facilities and involve the concerned operators. The implementation of the Security of Supply Regulation 994/2010/EU at regional level will also require the strong involvement of LNG and storage operators. Risk assessments, preventive action plans and emergency plans have to take these facilities into account. These installations are key in providing back-up gas in case of supply disruption, as was illustrated during the Russia-Ukraine gas crisis of January 2009.

Regional co-operation in the context of the development of Framework Guidelines and Network Codes aims at progressively harmonising access conditions to transport gas across Europe. There is no such process for storage, which is often subject to negotiated TPA, nor for LNG terminals. As access to the transport side of the interconnection points with storage or LNG terminals has to comply with the provisions of the Network Codes, such development may indirectly impact on the access to storage or LNG facilities.

Given the above, the development of Network Codes – and its regional dimension⁷ – should not affect competitive activities which are key elements for the development of the internal gas market and for the provision of security of supply in Europe. Such development should consistently take into account possible interaction with storage and LNG terminalling but should not impact on non-regulated activities. It should leave full freedom to LNG and storage activities for defining and implementing access rules to be consistent with the access rules on the transmission side.

Conclusions

The 3rd Energy Package has introduced the process of Framework Guidelines and Network Codes to ensure a progressive harmonisation of access rules to transmission infrastructure. Therefore the scope, structure and governance of regional co-operation have to be revisited intensively.

The geographical scope of regional co-operation should depend on the issue tackled. It should only focus on issues where they have a clear added value, and can take 4 different forms:

- Early implementation of European Network Codes;
- Pilot projects for testing potential new rules;
- Regional issues like regional investments, security of supply;
- Individual initiatives from operators, leaving room for further progress.

⁷ Article 12(1) of Regulation 715/2009/EC requires TSOs to “establish regional cooperation within the ENTSO for Gas” for the task of network codes development.



The organisation of regional co-operation has to take into account the interest of the European energy market. Member States should be closely involved as well as the European bodies (European Commission, ENTSO for Gas, ACER).

Storage and LNG terminalling are key activities for the functioning of the European gas market and its security of supply. Therefore storage operators and operators of LNG terminalling facilities should be involved in regional co-operation for the topics concerning them.