



Extension of the acquis under the Energy Community Treaty – Initial Views

Regulation 1775/2005/EC New Gas Infrastructure Investment Guidelines

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Overview

- What do we want to achieve?**
- Legal requirements and possibilities**
 - Which instruments can we use?
 - Who is entitled to take measures?
 - What can be the content?
 - Which countries can be affected? – Geographic scope
- NGIIR – Possible Content**
- Next Steps**





New Gas Infrastructure Investment Guidelines

What do we want to achieve?

Scope

- establish a legally and economically stable and predictable regulatory framework
- create of a single regulatory space for trade capable to ensure appropriate regulatory cooperation

With a view to

- attract investments
 - ensure stable energy supply
 - develop a broad ranging and integrated market in which connections to gas reserves can be developed and indigenous reserves can be exploited
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Legal Requirements and Possibilities – 1

Which instruments can we use?

- ❑ **ECT defines acquis on energy for its purpose** (Art 11 ECT)
 - ❑ Directive 2003/55/EC
 - ❑ Directive 2003/54/EC
 - ❑ Regulation 1228/2003/EC
 - ❑ **ECT entitles the Energy Community**
 - ❑ to extend the *acquis communautaire* (Art 100 ECT)
 - ❑ to implement amendments to the *acquis communautaire* in line with the evolution of the European Community law (Art 25)
 - ❑ **ECT requires the Energy Community**
 - ❑ to take additional measures establishing a single mechanism for the cross border transmission of Network Energy (i.e. transmission in the sense of Directive 2003/55/EC) (Art 28)
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Legal Requirements and Possibilities – 2

Who is entitled to take measures? What can be the content?

Measures can be taken

- on proposal from a Party** (the Contracting parties or the EC)
- by**
 - the Ministerial Council or
 - the PHLG, if empowered by the Ministerial Council or
 - the Regulatory Board (ECRB), if empowered by the Ministerial Council





Legal Requirements and Possibilities – 3

What is the possible geographic scope?

Measures can cover the geographic scope of



1/ TITLE III - ECT

Contracting Parties

HR, Serbia, BiH, FYR Macedonia,
UNMIK, Albania, Montenegro

+

Art 27 Countries

AT, H, IT, SL, GR, ROM, BULG

2/ TITLE IV – ECT

Contracting Parties

+

European Community





New Gas Infrastructure Investment Guidelines

Possible content

- 1. Establish a single mechanism for the cross border transmission** (Art 28 ECT)
 - Implement Regulation 1775/2005/EC
- 2. Establish common rules for exemptions from TPA** (Art 22 Directive 2003/55/EC, Art 7 Regulation 1228/2003/EC)
 - Narrow down the criteria for TPA exemption



Scope

establish a legally and economically stable and predictable regulatory framework on TPA and exemption rules for investors
attract investments and ensure stable energy supply





Regulation 1775/2005/EC

Content

- Detailed requirements with a view to implementing Directive 2003/55/EC concerning the access to gas transmission pipelines on**
 - Tariffs to access to networks
 - TPA services
 - Capacity allocation and congestion management
 - Transparency
 - Balancing rules and imbalance charges
 - 2ndary market trading
 - Including annexed guidelines to Regulation 1775/2005/EC
 - EC Explanatory Notes**
 - ERGEG Guidelines for Good Practice (Balancing, Open Season, Storage)**
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Summary

Open

- Amend the acquis of the Treaty or decision of the Council for implementation?
- Geographic scope
- Detailed requirements narrowing down Art 22/Art 7

Next Steps

- Revised proposal likely to be presented by the EC





European Commission
DG Energy and Transport

ANNEX





ANNEX – Art 22 Directive 2003/55/EC

1. Major new gas infrastructures, i.e. interconnectors between Member States, LNG and storage facilities, may, upon request, be exempted from the provisions of Articles 18, 19, 20, and 25(2), (3) and (4) under the following conditions:
 - (a) the investment must enhance competition in gas supply and enhance security of supply;
 - (b) the level of risk attached to the investment is such that the investment would not take place unless an exemption was granted;
 - (c) the infrastructure must be owned by a natural or legal person which is separate at least in terms of its legal form from the system operators in whose systems that infrastructure will be built;
 - (d) charges are levied on users of that infrastructure;
 - (e) the exemption is not detrimental to competition or the effective functioning of the internal gas market, or the efficient functioning of the regulated system to which the infrastructure is connected.





ANNEX – Art 7 Regulation 1228/2003/EC

- I. New direct current interconnectors may, upon request, be exempted from the provisions of Article 6(6) of this Regulation and Articles 20 and 23(2), (3) and (4) of Directive 2003/ /EC under the following conditions:
 - (a) the investment must enhance competition in electricity supply;
 - (b) the level of risk attached to the investment is such that the investment would not take place unless an exemption is granted;
 - (c) the interconnector must be owned by a natural or legal person which is separate at least in terms of its legal form from the system operators in whose systems that interconnector will be built;
 - (d) charges are levied on users of that interconnector;
 - (e) since the partial market opening referred to in Article 19 of Directive 96/92/EC, no part of the capital or operating costs of the interconnector has been recovered from any component of charges made for the use of transmission or distribution systems linked by the interconnector;
 - (f) the exemption is not to the detriment of competition or the effective functioning of the internal electricity market, or the efficient functioning of the regulated system to which the interconnector is linked.
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