

**21st round of Informal Russia-EU Consultations on EU Regulatory Topics
&**

**14th meeting of the EU-Russia Gas Advisory Council's
Work Stream on Internal Market Issues (WS2 GAC)**

22 September 2014

**ENTSO-E premises Brussels
(Avenue De Cortenbergh, 100 – Ground floor)**

MINUTES

The agenda is attached to the minutes.

1. Greetings / Opening remarks by Co-Chairmen

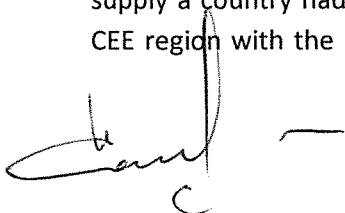
The Co-Chairmen informed the participants that the European Commission was not present at the meeting but will be briefed on the outcome of the discussions.

2. TYNDP - planned infrastructure in Central and Eastern Europe

Mr. Lebois from ENTSOG presented an outlook on planned infrastructure in Central and Eastern Europe (TYNDP 2013-2022) and the GRIP (gas regional investment plan) for 2014-2023 as well as a project specific assessment of the new TEN-E regulation. The presentation was circulated to the participants.

In relation to the TYNDP 2013-2022, Mr. Lebois pointed to the results of ENTSOG's assessment of CEE infrastructure resilience (under peak conditions) and stated that the CEE region will remain under the threat of demand disruption without new final investment decisions. Mr. Konoplyanik asked for clarification of the term "demand disruption" and Mr. Lebois explained that "demand disruption" in this context refers to a situation in which demand can no longer be fully fulfilled due to a disruption of supply. Mr. Konoplyanik also asked why ENTSOG seems to single out Russian gas disruptions without taking other international supply disruptions into consideration. Mr. Lebois clarified that ENTSOG worked on multiple scenarios for pipeline gas (disruptions) from Russia, Norway, Algeria and Libya and stated that the slides presented at this meeting show the specific situation for the CEE region under the two scenarios of transit disruptions in Belarus and Ukraine.

Mr. Lebois continued by explaining the various supply options to the region, i.e. how many sources of supply a country had at its disposal. The results showed a strong dependence on Russian gas in the CEE region with the exception of Romania. Thus, there was a need for new projects (both FID and

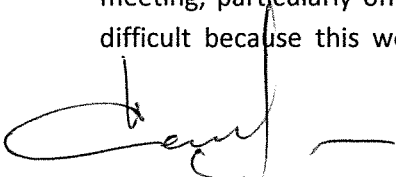


non-FID) in the CEE region in order to lower dependence on Russian supply and increase source diversification. While Mr. Konoplyanik agreed to the need for more projects, he urged to use more neutral language on the issue as it was not clear why Russia should be named explicitly, particularly in the context of a European wide analysis where there might also be other regions which are dependent on a single (non-Russian) source. Mr. Lebois agreed. Another question was raised by Ms. Medvedeva asking how ENTSOG predicts and calculates its demand estimates. Mr. Lebois said that ENTSOG uses the year on year predictions made by its member TSOs for average and peak demand in each country.

Mr. Dickel then inquired how ENTSOG counts the actual supply options for each country, e.g. in the case of Poland he mentioned that the options would be Russian gas, reverse flows and perhaps new LNG in the future. Mr. Lebois stated that the calculations do indeed take the number of entry points into consideration whereby a higher number of entry points tends to have a more positive impact on the overall assessment of a country. Mr. Konoplyanik expressed concern over this approach as it neglects the economic feasibility of big projects (through which less entry points may be needed in a given country) due to the economies of scale. Mr. Lebois explained that ENTSOG's work is purely analytical and not arguing for or against specific projects or the economic feasibility of the conclusions drawn. ENTSOG's assessment did, however, show that more entry points contribute to better diversification according to Mr. Lebois. Mr. Boltz added that the diversification of supply sources and routes is a clear objective which is also stated in the Gas Target Model. He added that a higher degree of diversification will naturally come at a cost but that each country is free to decide which approach and measures to take in this regard. Mr. Boltz mentioned that Finland for example decided not to diversify sources and routes but to provide back-up fuels to which consumers could switch in case of a supply disruption.

Mr. Lebois moved on to the slides on the CEE-GRIP and the new TEN-E regulation. A discussion on the criteria to achieve PCI-status followed. Ms. Zhur inquired whether it was right to assume that a project with a positive cost-benefit analysis would have a very high chance to be awarded PCI-status. Mr. Lebois stated that, in fact, there was no direct link between the result of the cost-benefit analysis and the award of PCI-status as several other criteria including political factors would be taken into account by the European Commission. Mr. Konoplyanik argued that, in his view, a single criterion could be sufficient for the decision whether or not to award PCI-status, namely the financeability of a project. Additionally, any new gas pipeline to Europe could be considered as a contribution to improved security of supply in Europe. Mr. Esnault replied that the aim of a PCI is to make projects happen which would not go ahead otherwise. He further stated that projects can of course also be built without PCI status. Ms. Zhur criticized that the selection process was not transparent given that the PCI criteria were not publically available and that it would, thus, be difficult to assess whether applicants have a chance to succeed. Mr. Benoit said that the elements mentioned in the regulation do give hints on some crucial factors to be fulfilled for PCI-status. Mr. Boltz added that the process around PCIs has, in fact, always been politically driven and was never designed to be a purely mechanistic exercise. The intention behind the process is to have policy decisions based on more facts and comparative data.

As a final point, Mr. Konoplyanik asked whether participants think it would be feasible to carry out further work on the gap of infrastructure density between CEE and NWE as identified in the last meeting, particularly on the costs and time needed to cover this gap. Mr. Boltz said this could be difficult because this working group is not entitled to decide on any actions in this regard. Mr.



Konoplyanik stated that it could still be a positive signal if any form of joint analysis could be undertaken in this regard and that the Russian side is ready to undertake its part of the job.

3. Russian proposal on Coordinated Open Seasons for Mega-Projects (CAM Amendment)

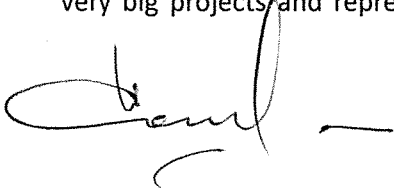
Mr. Wiekens from ENTSOG presented the draft refined incremental proposal. The presentation was circulated to the participants. A discussion followed.

After clarifying that the proposal also applies to new interconnection points, Mr. Konoplyanik and Mr. Stern asked why, according to the statements made by Mr. Wiekens on capacity allocation, it would be possible at all to return to the default procedure of auctions if a decision in favor of open seasons was already taken. Mr. Wiekens said this option is needed because the anticipation of market needs is not a straight forward process. It might therefore not be possible to adequately assess all criteria at the start of the process. Depending on the complexity of the project (as compared to the initial assessment) a return to auctions should remain an option. Mr. Dickel said that Open Seasons work very well in the US since many years and that this should be an example for Europe which, in his view, tends towards overly centralized planning tools. Mr. Esnault emphasized that this was not about central planning but about analyzing the needs of the market and assessing how these could be best met. Mr. Barnes intervened by emphasizing the significance of the non-binding phase and urged not to underestimate its value as it is the non-binding phase in which an interactive discussion between shippers and TSOs takes place to find out how much additional capacity is likely to be needed.

Ms. Zhur asked Mr. Wiekens why auctions are favored over open seasons. Mr. Wiekens said that in case of auctions all network users have the same level of information and access to capacity. According to Mr. Wiekens, it is feared that open seasons would not lead to the same level playing field. Mr. Esnault added that most stakeholders supported auctions for incremental and new capacity. Mr. Barnes stated that EFET was certainly against the default rule. He also added that the criteria in the ACER guidelines on capacity allocation seem to apply to open seasons. Mr. Konoplyanik argued that projects can hardly be financed on auctions but need a more predictable framework. Mr. Dickel came back to the US example and explained that in the US it is TSOs who design open seasons and asked why this is done by the regulators and not by TSOs in Europe. Mr. Boltz answered that regulators engaged in the process as TSO coordination in Europe did not function properly. The EU needs to coordinate between 28 Member States which is a major difference compared to the US. On the auction vs. open season issue, Mr. Boltz said he does not believe open seasons provide more signals to build capacity than auctions.

Mr. Konoplyanik then introduced the proposal from the Russian side on coordinated open seasons for mega projects by reiterating that the Russian side is keen on jointly developing a procedure with the EU that allows for the realization of mega projects such as South Stream within the framework of the 3rd package and without an exemption (given that several unpleasant experiences were made with exemptions).

Mr. Barnes then presented the key issues to be addressed according to the Russian side. The document was circulated to all participants. Mr. Barnes said this proposal was thought through for very big projects and represents a subset of the open season option in the form of the proposed



additional article 20(h) in ENTSOG's proposal presented earlier. The key issues according to the Russian side are extracted as follows:

1. Conditions to implement provisions of this article instead of default procedure:
a. Crossing of at least one area and at least two IPs (thus involvement of at least three areas)
b. Size of the project is comparatively big compared to the size of the area to be crossed
c. Automatic implementation of the provisions of this article when its criteria are met
d. Correlation of Art.20(h) with other chapters of this Regulation (CAM Incremental Amendment) and with NC HTTS
2. Project-based approach for duration of pay-back period of the project as a precondition for its financeability
a. Use of project financing principles as a precondition for using combined set of rules established by this Art.20(h)
b. Deviation from area-based approach (default procedure) and use of project-based approach for the duration of pay-back period for the project
c. Return to area-based approach for duration of the rest (post-pay-back-period) of the project life-cycle
3. Cross-border unitization (ring-fencing) through the whole transportation route
4. ITSO for the new unitized (ring-fenced) project
a. Principles of organization of new ITSO by the TSOs of the areas where the new transportation route (project) is located
b. Area of responsibility of the new ITSO to cover only and exclusively new transportation route (project) till the end of its pay-back period
c. Liquidation of the ITSO after pay-back period of new capacity (new transportation route) is over
d. Transfer of rights and obligations of the liquidated ITSO to the TSOs of the corresponding market areas
5. Economic test:
a. Booking procedure for new capacity (to exclude contractual mismatch)
b. project tariff as a swing parameter to make economic test positive
c. fixed/indexed (predictable) tariff through the duration of pay-back period
d. NPV as criteria for economic test (willingness-to-pay to be measured by NPV for the purposes of the projects under this article)
6. No cost socialization
7. Short-term quota reservation to be guaranteed by the regulators and/or public authorities from public funds not from project funds/finance
8. Costs/revenue reallocation within the unitized (ring-fenced) project by ITSO

Mr. Boltz noted that the work on the CAM NC amendment is now lead by ENTSOG. Irrespective of this fact, WS2 can discuss some of the tabled proposals. Mr. Boltz, however, noted that the issues would first need to be evaluated. An ad-hoc response on whether the individual proposals are acceptable was not possible at this meeting.

Mr. Esnault appreciated that the Russian side provided a comprehensive document with all proposals and noted that a good part of the mentioned aspects could be dealt with by Art. 36 (exemption). A number of issues were briefly commented on by Mr. Esnault such as e.g. the creation of an ad-hoc TSO which according to Mr. Esnault was out of scope of the work on CAM and the pay back concept

which needed to be further clarified. Also the issue of auctions was raised once more. In this context, the Russian side expressed concern over the fact that a shipper wishing to book capacity for a short period could block an entire process for a long term project. Mr. Konoplyanik added that the perception is that this is a discriminatory approach as unequal parties should not be treated equally. Mr. Benoit reiterated once again that the exemption mechanism was especially created to avoid any unfair treatment of this sort. On the short term quota, Mr. Konoplyanik said that the Russian side is not against the short-term quota per se but against paying for it by the shipper who would like and will be ready to reserve/book not yet existing capacity but will not have guarantees that he will receive it in full due to this quota, i.e. against paying for the additional capacity which could not be used by the one who pays for it.

Mr. Ingwersen from ENTSOG wrapped up the discussion by stating that the task was to create a standard, transparent procedure which could be applied to the vast majority of projects and investments. According to Mr. Ingwersen, it is extremely difficult to fit mega-projects such as South Stream into a standardized framework given that they have special requirements which are out of the general norm. It is therefore unlikely that standard legal texts such as Network Codes will include exceptional situation and projects. Mr. Ingwersen further stated that some aspects may still be taken on board, however, not all wishes tabled by the Russian side could probably be fulfilled.

Mr. Konoplyanik asked how to proceed further with the proposed draft Art.20(h) by the Russian side aimed at establishing standard regulatory financeable procedure with no exemptions for such projects and Mr. Ingwersen replied that the dialogue should be kept alive and compromises will be necessary.

4. Concluding remarks/Follow up proposals by Co-Chairmen

It was decided to hold the next meeting on 26 January 2015 in Vienna. Until then a work program including the topics to be discussed in 2015 will be developed.

For the EU side:


W. Boltz

For the Russian side:


A. Konoplyanik

Vienna, 23 January 2015

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AGENDA

Time	Items	Presenters
Morning Session 10:30 – 12:00	5. Greetings / Opening remarks by Co-Chairmen	W.Boltz, A.Konoplyanik
	6. TYNDP - planned infrastructure in Central and Eastern Europe	ENTSOG
Lunch 12:00-12:45		
Afternoon Session 12:45 – 16:30	7. Russian proposal on Coordinated Open Seasons for Mega-Projects (CAM Amendment) <ul style="list-style-type: none"> • presentation of the proposal by the Russian side • reaction by EU side • discussion 	A.Barnes / A. Konoplyanik ENTSOG tbd Regulators tbd
	8. Concluding remarks/Follow up proposals by Co-Chairmen	W.Boltz, A.Konoplyanik