



Gas Regional Initiative - Region South-South East

MEMORANDUM OF UNDERSTANDING

CO-OPERATION AGREEMENT BETWEEN THE ENERGY

REGULATORS OF ERGEG'S SOUTH-SOUTH EAST (SSE)

REGIONAL GAS MARKET

09 June 2008



Gas Regional Initiative – Region South-South East

PREAMBLE

In signing this Memorandum of Understanding (MOU) the NRAs undertake to work together to progress the development of the regional internal market for gas as provided for in Directive 2003/55/EC and Regulation 1775/2005. This MOU will assist existing co-operation between regulators in the region and facilitate new ways of co-operation. NRAs undertake to work together to eliminate practical and technical barriers to trade within the region and they will endeavour to establish compatibility of market rules across the region. This MOU provides tools to solve problems arising from regulatory gaps, until these problems are resolved by other measures for example from the third package of the Commission.



Gas Regional Initiative – Region South-South East

MEMORANDUM OF UNDERSTANDING

This MOU is signed on the 9 June 2008 in Athens, Greece.

Between

Each of the NRAs of all the countries in the SSE region, namely:

- Austria
- Bulgaria
- Czech Republic
- Greece
- Italy
- Poland
- Romania
- Slovak Republic
- Slovenia

These NRAs all intend to act as follows:



Gas Regional Initiative – Region South-South East

PART 1 DEFINITIONS, OBJECTIVES AND SCOPE

1. Definitions

‘MOU’ means all provisions of this Memorandum of Understanding including the schedules, as from time to time amended by agreement between the NRAs in accordance with Article 9 of the MOU

‘The Directive’ means the Directive 2003/55/EC of the European Parliament and of the Council of 26th June 2003

The technical definitions of The Directive apply on this MOU

‘Gas Infrastructure’ means any gas pipeline, Interconnector or gas storage or LNG facility

‘NRAs’ means the regulatory authorities established by Member States according to Article 25 (1) of Directive 2003/55/EC in the SSE region

‘Region’ means the South-South East Region of the Gas Regional Initiatives which comprises the following jurisdictions: Austria, Bulgaria, Czech Republic, Greece, Italy, Poland, Romania, Slovak Republic and Slovenia

‘The Regulation’ means Regulation (EC) No 1775/2005 of the European Parliament and of the Council of 28 September 2005

“Respondent NRA” means the NRA to whom a request has been submitted under the MOU

“Requesting NRA” means the NRA submitting a request under the MOU



Gas Regional Initiative – Region South-South East

“RCC” means Regional Coordination Committee and comprises of the heads of the NRAs or their representatives.

2. Objectives of MOU

WHEREAS the objectives of this MOU, in particular having regard to the duty of cooperation referred to in Article 25 of the Directive and in Article 10 of The Regulation and the Guidelines annexed thereto, are -

- (1) to progress the development of the single market in accordance with the Directive and Regulation
- (2) to facilitate co-operation between the NRAs in the performance of their regulatory functions in so far as they relate to the technical and commercial operation of the gas networks and gas markets in the Region
- (3) to avoid duplication of activities by the NRAs being activities involving the regulation of gas networks and gas markets in the Region
- (4) to ensure, as far as practicable, compatibility and where possible harmonisation, between decisions made or other steps taken by the NRAs in so far as any part of those decisions or steps consists of, or relates to a determination of any issue of regulation relating to the gas networks and gas markets in the Region
- (5) to ensure the proper functioning of the internal gas market as a whole and to avoid undue discrimination between users, shippers and infrastructure operators in the region taking into account the specificities of national and regional markets.
- (6) to provide solutions to cross border issues through working in a co-operative manner and where agreement is not possible to seek consensus by mediation by the RCC



Gas Regional Initiative – Region South-South East

3. Scope of MOU

- (1) This MOU applies to the regulation of major infrastructure and changes thereto, which may have influence on the trading and / or transportation of gas in the adjacent markets.
- (2) NRAs will endeavour to provide timely information to other relevant NRAs and if necessary consult them on proposed regulation and decisions that could impact on adjacent markets
- (3) NRAs may contact each other on other issues as appropriate or desirable

PART 2 CO-ORDINATION, INFORMATION AND HARMONISATION

4. Regulatory Co-ordination

- (1) The NRAs shall consider whether there is an impact on the gas market in other countries in the Region when considering the arrangements for any interconnector or reviewing or making changes to the regulatory framework;
 - (2) Where a deciding NRA believes that the arrangements or regulatory framework might result in incompatible regulation for cross border flows then that NRA will:
 - a. Inform all relevant NRAs at the earliest opportunity;
 - b. Where appropriate consult with other directly affected NRAs in order to minimise obstacles to cross border flows
 - (3) Where a NRA believes that a deciding NRA may change or has made changes which adversely impacts or may adversely impact on their market they may inform the deciding party and the deciding NRA will use the rules in points 6 and 7 of this MOU.
 - (4) The NRAs acknowledge that responsibility for the regulation of the gas infrastructure (e.g. the technical operation and thereof) are the responsibility of the Member State within whose jurisdiction that part of the infrastructure lies.
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Gas Regional Initiative – Region South-South East

- (5) The deciding NRAs shall notify other concerned NRAs without undue delay upon receiving an Art. 22 of Directive 2003/55/EC application and of any planned investments affecting other countries.

5. Regulation of the Gas Market

- (1) The NRAs acknowledge that responsibility for the regulation of the gas market is the responsibility of the NRA within whose jurisdiction that part of the market lies
- (2) NRAs should consider the impact of the current regulatory framework and of any proposed changes to this framework on other markets in the Region
- (3) The NRAs shall seek to apply compatible regulatory frameworks where necessary to ensure compatibility and facilitate cross-border flows of gas and trade
- (4) The NRAs shall seek to harmonise the regulatory frameworks where practicable and necessary to ensure compatibility and facilitate cross-border flows of gas and trade.
- (5) Where the regulatory framework is agreed with ERGEG or GRI the NRAs shall so far as possible given any applicable national laws seek to implement this framework and to do so in a manner consistent with the other NRAs

6. Sharing of Information

- (1) Each NRA shall provide a contact point, including phone and email details. These contact points shall be responsible for all communication between NRAs in providing and receiving information.
- (2) Where the potential exists for a significant impact on another NRA or NRAs arising out of a decision then the NRA taking the decision should make best endeavours to inform any affected NRAs
- (3) Requests for information must be made in writing (for the avoidance of doubt, “writing” includes electronic mail). In cases of urgency, requests for information may in the first instance be made orally, and their responses given orally, provided that



Gas Regional Initiative – Region South-South East

- they are subsequently confirmed in writing.
- (4) In the case of information supplied pursuant to this MOU, the provisions of any enactment concerning the disclosure of information by the Respondent NRA shall also apply to the Requesting NRA. If requested by one NRA, the receiving NRA shall promise in writing to safeguard confidentiality and shall take appropriate measures to ensure the confidentiality of all such information.
 - (5) The Requesting NRA may ask that the request itself be considered of a confidential nature.
 - (6) Information should be released by NRA to the Requesting NRA wherever possible except in specific circumstances (for example where it could prejudice ongoing investigations or is contrary to national legislation). In such circumstances the relevant NRA should explain the reasons for its decision to the Requesting NRA.
 - (7) The NRAs hereby commit themselves to use the information solely for the purposes described in the Request.
 - (8) Should the Requesting NRA wish to use the shared information for any purpose other than the purposes expressed in the Request it must first obtain the written approval of the Respondent NRA.
 - (9) To achieve a maximum of coordination and a common understanding on issues of considerable regulatory interest the NRAs commit to a free exchange of experiences. For this purpose the NRAs will make available their finalized formal decisions on the following issues to the other NRAs:
 - a) capacity allocation mechanisms
 - b) long-term capacity contracts
 - c) measures to prevent capacity hoarding
 - d) Imposition of obligation to network extension
 - (10) Where formal decisions regarding cross border issues are made they should be shared in full text with an English summary.
 - (11) Any regulation issued by NRAs (e.g. price decisions, public notices, explanatory notes or recommendations) should also be published in English.
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Gas Regional Initiative – Region South-South East

- (12) All NRAs will strive to publish transmission grid codes/storage codes and market rules in English.

7. Consultation

- (1) Where the potential exists for an impact on another market or markets in Region arising out of a decision, then the NRA taking the decision shall allow adequate time for consultation if significant contributions can be expected. NRAs can abstain from consulting other NRAs if the consultation would lead to an infringement of statutory decision periods.
- (2) Where decisions are required in one or more jurisdictions, each NRA shall endeavour to conduct enquiries and arrive at decisions contemporaneously

8. Avoidance of Inconsistency of Action

- (1) Where regulatory action could be taken by one or more NRA in respect of the same subject matter, the NRAs shall liaise with each other and decide who is best placed to act (or if joint action is necessary).
- (2) Where one NRA is satisfied that the other NRA is performing functions in relation to any particular matter, the first NRA may forbear to perform any of its functions in relation to that same matter and shall inform the other NRA accordingly.
- (3) Either NRA may request the other to exercise forbearance in any particular case. The other NRA may accede to such request where it is satisfied that the requesting NRA is performing functions in relation to that matter.
- (4) Where one NRA has agreed to forbear to perform its functions in any particular matter, it may so inform any relevant third parties as it sees fit.



PART 3 OPERATION OF MOU

9. Term of MOU and Review

- (1) This MOU commences on the date of this MOU and will continue until the RCC decides that it wishes to terminate the MOU. Any NRA can terminate their membership to the MOU by written notice to the RCC.
- (2) The NRAs will review this MOU at the request of any NRA.

10. Dispute Resolution

In the event of a regional cross-border dispute that arises in relation to or from the application of the issues outlined in this MOU, the disputing NRAs may seek consultation or mediation of the RCC. Such advice may, upon mutual agreement, be published by the RCC.

11. Guidelines

Should questions arise regarding the application of this MOU or the functioning of the internal regional market where legislation or existing guidelines prove insufficient, the RCC may consider the compilation of provisional guidelines. These guidelines will, in principle, be communicated to the relevant organisations at the European level.

12. Variation

This MOU may be varied at any time by consent of all NRAs. Any variation agreed shall be in writing, shall be signed by all NRAs or by their authorised representatives and shall come into force on a date agreed by the NRAs.

13. Severability



Gas Regional Initiative – Region South-South East

Should, at a future date, the whole or any part of any provision of this MOU prove to be illegal, the other provisions of the MOU and the remainder of the provision in question shall remain.

14. Subsidiarity

This MOU is without prejudice to the statutory powers of the NRAs and to national legislation.

15. Legal Nature of this MOU

This MOU contains the NRAs' intent to facilitate their co-operation. However, no legal rights and obligations can be derived from this MOU.



Gas Regional Initiative – Region South-South East

IN WITNESS WHEREOF, this MOU has been executed in the manner hereinafter appearing on the date and year first herein written.

Walter Boltz

Mr. Alessandro Ortis
Autorità per l'energia elettrica e il gas
(Italy)

Mr. Walter Boltz
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