

## **Conclusions of the**

### **10<sup>th</sup> meeting of the European Gas Regulatory Forum**

**Madrid, 15-16 September 2005**

#### **I. General**

1. Participants at the tenth meeting of the European Gas Regulatory Forum, the Commission, the representative of the UK Presidency, Regulators, representatives of Member States of the EU and other EEA Member States, industry and consumers, stressed the need for consolidating rapid progress following the implementation of Directive 2003/55/EC on a broad range of issues relating to the creation and operation of a fully operational and integrated internal gas market. A representative of the regulatory authorities responsible for the gas sector of candidate countries participated in the meeting of the Madrid Forum. Within the context of the consumer-producer dialogue, a representative of the Russian company Gazprom also participated.
2. The Forum welcomed the work accomplished since previous meetings of the Madrid Forum, notably by the Commission, the Council of European Energy Regulators (CEER), GTE and EASEE-Gas. The Forum stressed the achievements of the work it had carried out and underlined the need to continue its efforts in Madrid. It thanked the CNE for its continued support in hosting the meeting which it offered to continue in the future. The Forum also welcomed the final adoption of the Regulation on conditions for access to the natural gas transmission networks and underlined the need for its full and unrestricted application from 1 July 2006. The agreement of the GGPSSO in March 2005 was also acknowledged by the Forum as a major step forward towards the objective of a functioning market for natural gas.

#### **II. Report on the functioning of the internal market for gas**

3. Forum participants presented their views on the functioning of the internal market for gas and provided valuable input for the Commission's report to be submitted to the Council and the European Parliament before the end of the year.
4. GIE and Eurogas emphasized the need to fully implement the existing legislation which contained all the necessary measures to deliver competition. GIE underlined the need for a stable legislative and regulatory framework, in order to promote a conducive investment climate, security of supply and efficiency. GLE also outlined work in progress on LNG issues highlighted in the 8<sup>th</sup> Madrid Forum. They announced a workshop in December 2005. Eurogas argued for the need to have in place practical procedures to facilitate the efficient application of regulation.
5. OGP stressed the potential of indigenous production for the security of European gas supply and the growing role of LNG linking European markets with other regional

markets. The importance of regulatory stability and predictability for the investment climate as well as the role of long-term supply contracts was underlined.

6. EFET, CEFIC, IFIEC and GEODE pointed out that the different stages of development and the incompatibility of rules and procedures in the markets create unacceptable risks for network users. Improvements such as daily balancing, larger entry-exit-zones, capacity release, better coordination between zones, and effective unbundling measures are considered indispensable. All network users called for reinforced transparency, since the current level of transparency constitutes an obstacle for the development of a competitive market.
7. EFET, IFIEC, CEFIC, Eurelectric and UNICE agreed that there is a strong need to accelerate the progress in developing a competitive European gas market, also for the sake of the competitiveness of the European manufacturing industry. Strict enforcement measures on the part of national authorities and the Commission were necessary. In particular, capacity in the transmission network needs to be made available to a wider range of network users. Market opening for natural gas needs to be speeded up in order to foster competition in the electricity market.
8. GEODE and CEDEC underlined the need for enough competitors to be active in the European market especially on the production and import level. They called on national competition authorities and the European Commission to ensure a competitive market structure. GEODE also emphasised the need for strict and accurate implementation of the existing legislative framework, where non-discriminatory and transparent third party access to the network is key. CEDEC insisted on economic incentives needed to guarantee investments in distribution networks to ensure long-term security of supply and quality of service.
9. The Commission pointed out that, on the basis of the report, it will examine what action needed to be taken by the Commission as a result. The Commission remains open with respect to further legislative measures, but attaches priority to the strict implementation of existing legislation in both the letter and the spirit. From the Commission's point of view, however, this does not exclude the improvement of the regulatory framework by means of measures introduced under the existing legislative framework.
10. The Commission drew attention to the fact that the Regulation on conditions for access to the gas transmission network has been finally adopted by the Council on 12 July 2005 and will enter into force on 1 July 2006. With a view to contributing to a real level playing field across the internal market and to fully exploiting the potential benefits emerging from the Regulation, the Commission announced that it will issue draft explanatory notes on the following topics addressed by the Regulation and present them to the Forum:
  - Capacity allocation mechanism
  - Congestion management rules
  - Transparency requirements
11. If necessary, the Commission may request advice from ERGEG with a view to amending existing guidelines on the subjects concerned and attached to the Regulation under the Comitology procedure, as laid down in the Regulation.

### **III. Sector inquiry**

12. Regulators and network users in particular welcomed the energy sector inquiry launched by the Commission in May 2005, of which the state of play was presented by the Commission. The inquiry is being undertaken in parallel with the preparation of the report to evaluate progress in creating an internal market under the gas directive. It addresses the indications of possible malfunctioning identified during the Forum's discussions. The Commission will present preliminary findings of the inquiry in autumn 2005.

### **IV. Road map towards a single competitive European Gas Market**

13. Regulators presented an introductory ERGEG paper on "A roadmap towards a single European Gas Market", which will be made available on the ERGEG website. The introductory paper highlighted, among other things, the crucial importance of hubs and hub-to-hub trading between regional markets for a competitive and open European natural gas market. The Commission, GIE, network users and Member States welcomed the ERGEG initiative. They noted especially the importance of hubs and look forward to the full consultation paper to be made available later this year.
14. The Forum encouraged interested parties to submit views to ERGEG in the upcoming consultation process and invited regulators to present the final version of the ERGEG roadmap to the Forum taking into account comments and views.

### **V. Access to storage and implementation of the Guidelines for Good TPA Practice for Storage Operators (GGPSSO)**

15. The Forum welcomed the report from the regulators on "Monitoring the implementation of the GGPSSO", which, despite the short time between the entry into force of the GGPSSO on 1<sup>st</sup> April 2005 and the start of the monitoring exercise, acknowledged the efforts of many storage operators to comply with the requirements of the GGPSSO. While recognising progress by most storage operators, the report identified a number of serious issues and deficits, in particular with respect to transparency requirements and secondary markets.
16. The Commission considered the benchmarking report to represent valuable input for the work on the progress report on the functioning of the internal market.
17. GSE representing storage operators highlighted that progress has been made, but acknowledged that several things remain to be done. GSE stressed the need for regular reports on the findings and outcome of the monitoring exercise undertaken by the relevant authorities with contribution from operators and storage users.
18. EFET, IFIEC, CEFIC, Eurelectric, GEODE, UNICE and CEDEC agreed with ERGEG that relevant national authorities should analyse the arrangements between SSOs and affiliated or integrated supply businesses to ensure that these arrangements are fully consistent with fair and non-discriminatory access to storage by third parties.

19. Most storage users underlined the need for significant further progress to be made in the implementation of the GGPSSO. They agreed that in particular, transparency requirements are not met in any satisfying manner and still hinder significant progress.
20. The Commission invited regulators and stakeholders to come forward with practical proposals on how to successfully overcome the problems identified in the regulator's draft report. The workshop organised by GSE in November 2005 may provide useful input in this respect.
21. The Forum welcomed the intention of the appropriate national authorities to continue monitoring effective and non-discriminatory access conditions to storage. The Forum also looks forward to the ERGEG report to the next Madrid Forum, which will take place after the 1<sup>st</sup> April 2006. In the light of the practical solutions identified by storage operators and storage users, the report may allow the Commission to draw sound conclusions on whether further measures will be required, in order to ensure non-discriminatory and efficient access to gas storage facilities in line with the requirements of the 2<sup>nd</sup> IGM directive.

## **VI. Balancing**

22. Gas balancing rules have a crucial role to play in underpinning the competitive market. Regulators presented an ERGEG discussion paper on "Gas Balancing" which is currently out for public consultation. ERGEG welcomed the draft views from stakeholders in the Madrid Forum as a part of its public consultation process and intends to publish a final version before the end of 2005 and will then develop more detailed guidelines for good practice in 2006 with a view to submitting them as formal advice to the European Commission.
23. EFET, CEFIC, Eurelectric, IFIEC, Eurogas and the Commission welcomed the ERGEG initiative, which they consider well-timed and necessary. They stressed the important role of balancing for a well functioning internal market for natural gas and the need for non-discriminatory, transparent and cost-reflective balancing regimes. Balancing charges should be based on market prices or should be cost-reflective to the extent possible whilst providing appropriate incentives on network users to balance their input and off-take of gas.
24. GTE raised concerns on four issues, which are ex-post trading of imbalances, linepack, the way to address cost neutrality, and feasibility and cost-benefit analysis of cross-border balancing zones. GTE pointed out that it would welcome the opportunity to debate those issues further with ERGEG, the Commission and the Madrid Forum stakeholders. The Madrid Forum noted that the offer of linepack flexibility to third parties needed further discussion. Most Madrid participants advocated harmonisation on daily balancing with the provision of within-day information to network users.
25. The Forum welcomed the GTE proposal to identify "convergence criteria" between the different balancing regimes.

## **VII. Interoperability**

26. The Forum welcomed the important work undertaken by EASEE-gas since the 8<sup>th</sup> and 9<sup>th</sup> Madrid Forum on technical interoperability issues including the Common Business Practices (CBP) on Gas Quality Harmonisation, Interconnection Agreements and Constraints Handling. The Forum acknowledged that these voluntary agreements represent a substantial contribution to the creation of a more efficient and effective European gas market and asked EASEE-gas to continue its work with a view to removing any obstacles for the free flow of gas related to interoperability problems. EASEE-gas reiterated the conclusions of the 8<sup>th</sup> Madrid Forum with respect to interoperability and invited participants in the Forum to implement the CBPs within their competences and in line with the implementation plan.
27. The Forum agreed that gas qualities must not represent an obstacle for the free flow of gas. It took note of the fact that the CBP on gas quality represent a recommendation that would not prevent national divergences, in particular for peripheral areas. The Forum welcomed the potential enhancement of competition entailed by the CBP on gas qualities. It also invited participants including Member States and relevant national authorities to analyse the consequences of the implementation of the CBP on gas qualities with a view to enabling EASEE-gas to present to the next Forum the challenges involved in reaching implementation.
28. The Forum also welcomed the presentation of the UK on the results of a study on gas quality issues that highlight the range of the problem in the UK. The Forum took also note of the intention of the regulators to get more involved in these interoperability issues, as they may represent genuine obstacles to a free flow of gas across the internal market.
29. Regulators announced their intention to include certain aspects related to gas qualities in the work on the roadmap, which will be part of the regulator's work programme in 2006. They also stressed that non-discriminatory access to conversion facilities is a key requirement to reduce barriers to the free flow of gas and asked the Commission to take a more prominent role.
30. Spain stressed that gas qualities should be as wide as possible in order to include all possible gas sources, especially LNG as a way to reinforce the SoS of the European Union. France supported the Easegas work and mentioned that it will submit its concerns to EASEE-gas prior to the next Forum. Furthermore France stressed that a cost-effective solution must be envisaged taking into account the domestic customer's perspective and safety. It was mentioned that also the treatment of LNG would be a cost-effective solution.
31. EFET underlined that all shippers have to be treated equally in terms of access to gas conversion facilities. EFET, IFIEC and CEFIC highlighted the need for sufficient transparency with respect to gas qualities.
32. IFIEC and CEFIC stressed the importance of the matter and acknowledged that their members could face investments and urged that no change in gas qualities should occur without timely announcement to cope with the adjustments needed and stressed that transparency is of key importance. They also expressed concern about the proposed limits for gas quality becoming potential targets, e.g. for CO<sub>2</sub>. The Forum took note of the concerns raised by some stakeholders including some Member States on the gas quality specifications and underlined the need for further work to be carried out with a view to

finding an appropriate solution to the outstanding problems. All participants in the Forum agreed that gas quality issues should not restrict the free trade of natural gas across the European market, recognised the importance of security of supply and technical safety, but stressed the need for a well founded cost benefit analysis.

33. GTE highlighted that the implementation of the gas quality CBP will allow TSOs making a better use of the existing capacity and it will also facilitate the decision taking process on investments in cross-border capacity. Therefore, GTE urges all stakeholders to focus now on the implementation issues with regard to this CBP.
34. The Forum invited the Commission to consider launching a study with the support of EASEE-gas aiming at establishing an inventory on all interoperability issues, in particular gas quality and providing a sound cost-benefit analysis with a view to resolving outstanding issues. The Forum called on the participants for active cooperation and stressed the need for involving all stakeholders.

#### **VIII. Transit and Entry-Exit systems**

35. GTE presented a report on transit. The Forum took note of the report and invited the Commission, regulators and all other stakeholders to report their views to the next Forum as a basis for a more in-depth discussion on how transit and regulated entry-exit systems could encourage competition and support a competitive market for natural gas.
36. The Commission pointed out that pursuant to Article 32 of Directive 2003/55/EC, transit contracts concluded before the entering into force of this Directive remain valid, while relevant provisions of the Regulation on conditions for access to the gas transmission network and the said Directive apply to those contracts, too.

#### **IX. The Way Forward**

37. In view of the number of important issues on the agenda of the Madrid Forum, the Forum agreed to convene the Forum twice in the coming year. While work on the issues discussed in the 10<sup>th</sup> Forum must continue, work on outstanding issues of the 8<sup>th</sup> Forum, such as the calculation of available capacities and on services requested from the market has to be resumed with a view to achieving progress in the next Forum.
38. EFET suggested that the Forum should help to enforce agreement with the industry such as the implementation of the GGPSSO and other action emerging from the conclusions of the Forum and to share EU security of supply issues.