Internal market in natural gas: pipelines to and from third countries

2017/0294(COD) - 04/04/2019 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 465 votes to 95 with 68 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council amending Directive 2009/73/EC concerning common rules for the internal market in natural gas.

Parliament's position adopted at first reading following the ordinary legislative procedure amends the Commission proposal as follows:

Application of Union legislation to pipelines from third countries

The overall objective of the proposed amendment to Directive 2009/73 / EC on gas is to ensure that the rules governing the EU's internal gas market apply to gas transmission lines between a Member State and a third country, up to the territory or territorial waters of the Member State. In so doing, it establishes consistency of the legal framework within the Union while avoiding distortion of competition in the internal energy market in the Union and negative impacts on the security of supply.

New infrastructure

The proposed amendment to the Directive provides for the possibility of granting exemptions for existing pipelines provided that the exemption is not detrimental to competition in the relevant markets which are likely to be affected by investment, to the effective functioning of the internal market in natural gas, the efficient functioning of the regulated systems concerned, or to security of supply of natural gas in the Union.

Before the adoption of the decision on the exemption, the national regulatory authority, shall consult:

- the national regulatory authorities of the Member States the markets of which are likely to be affected by the new infrastructure; and

- the relevant authorities of the third countries, where the infrastructure in question is connected with the Union network under the jurisdiction of a Member State, and originates from or ends in one or more third countries.

Where the third-country authorities consulted do not respond to the consultation within a reasonable time frame or within a set deadline not exceeding three months, the national regulatory authority concerned may adopt the necessary decision.

Technical agreements concerning the operation of transport pipelines

Transmission system operators will be free to conclude technical agreements with transmission system operators or other entities in third countries on issues concerning the operation and interconnection of transmission systems, provided that the content of such agreements is compatible with Union law.

Technical agreements regarding the operation of transmission lines between transmission system operators or other entities should remain in force provided that they comply with Union law and the relevant decisions of the national regulatory authority.

Derogations for transmission lines to and from third countries

In respect of gas transmission lines between a Member State and a third country completed before the date of entry into force of the amending Directive, the Member State where the first connection point of such a transmission line with a Member State's network is located may decide to derogate from certain provisions of the Directive for the sections of such gas transmission line located in its territory and territorial sea, for objective reasons such as to enable the recovery of the investment made or for reasons of security of supply.

The derogation should not be prejudicial to competition, the efficient functioning of the internal market for natural gas or the security of supply in the Union and should be limited in time up to 20 years based on objective justification, renewable if justified and may be subject to conditions.

Empowerment procedure

Where a Member State intends to enter into negotiations with a third country in order to amend, extend, adapt, renew or conclude an agreement on the operation of a transmission line with a third country concerning matters falling, entirely or partly, within the scope of this Directive, it shall notify the Commission of its intention.

The Commission shall authorise the Member State concerned to enter into formal negotiations with a third country for the part which may affect Union common rules unless it considers that the opening of such negotiations would:

- be in conflict with Union law other than the incompatibilities arising from the allocation of competence between the Union and the Member States;

- be detrimental to the functioning of the internal market in natural gas, competition or security of supply in a Member State or in the Union;

- undermine the objectives of pending negotiations of intergovernmental agreements by the Union with a third country;

- be discriminatory.

Within 90 days of receipt of the, the Commission shall adopt a decision authorising or refusing to authorise a Member State to enter into negotiations in order to amend, extend, adapt, renew or conclude an agreement with a third country. In the event that the Commission refuses authorisation, it shall inform the Member State concerned accordingly and shall give the reasons therefor.