OGP (The International Association of Oil and Gas Producers) welcomes the opportunity to provide input to ERGEG's consultation on the implementation of the third energy package.

OGP has actively participated in the work to develop and promote the simplification and transparency of the European gas market. The participants of the European Gas Value Chain have, since the Madrid Forum initiated EASEE-gas in 2002, created more than 14 Common Business Practices covering all the 11 prioritised areas suggested by the EU Commission in the preparation for the 3rd Gas Directive.

We believe ERGEG should refer to and build upon the important experience already in place in prioritising and developing network codes and business practices for the Gas Value Chain.

OGP supports the creation of a European Regulatory Agency with the main competence of the Agency being be to facilitate decisions on matters affecting two or more Member States. Furthermore, the proposed new Agency needs to ensure that it encourages an attractive investment climate and minimises bureaucracy.

The role of the regulator should be focused on and restricted to

- setting boundary conditions for the development of codes
- consulting with gas market stakeholders with regard to process and outcomes prior to the approval and implementation of the codes

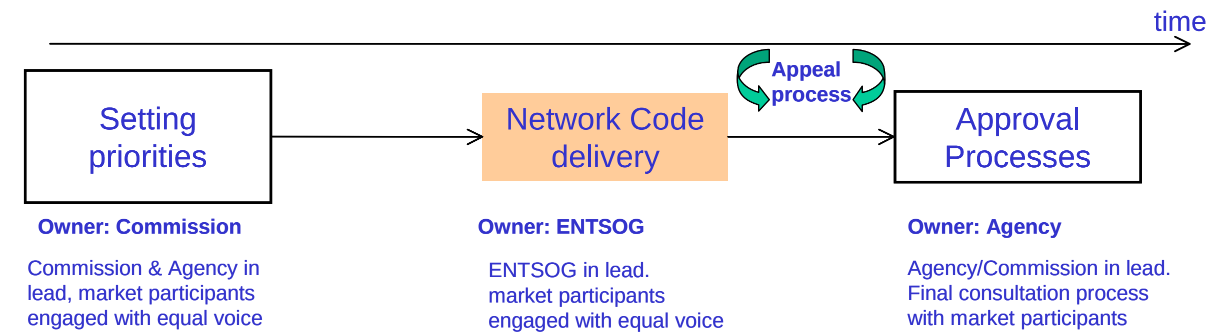
For OGP the important aspects of the consultation process are:

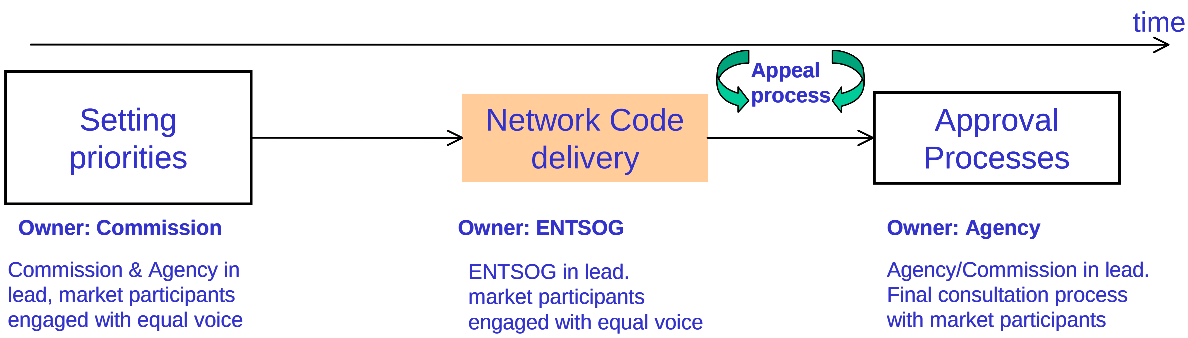
- On matters that affect market participants, those market participants should have an equal voice with the TSOs. Market participants must have relevant influence in the initial process of proposing and prioritising the framework guidelines and network codes to be developed.
- Market participants should have the right to decide whether to participate (with dedicated resources if appropriate) in the developing of network codes.
- Codes should be developed, amended and approved using input from all internal gas market participants through established bodies and mechanisms (such as industry associations). All market participants should have an equal voice in this process. Industry associations have the ability to call upon front line operational experts from member companies to provide input into the code development process.
- A transparent appeals process that can be used in the event that a regulators findings are challenged should be implemented.

Response to individual questions

Please comment on the Consultation Arrangements proposed in this paper (see Appendix 1 Annex 2) as a basis for the interim period and for later decision by the Agency as its own process.

We understand the overall process as the following:





In all the main steps of the process, interaction between market participants and public entities (such as EU Commission, Agency (and ERGEG in the interim period), and ENTSO-g) is relevant and necessary. The process of consultation presented in ERGEG's proposal does not satisfy this need. A consultation process as suggested leaves market participants with insufficient influence in the setting of priorities and places no obligation on the regulator to incorporate the views of the market participants. In addition, the concept of framework guidelines appears to have been recently introduced and further discussion is required between the regulators and all the market participants to clarify the scope of any guideline setting process.

Market participants, represented by their industry associations, should be present in the initial process. The proposed priorities should be a joint product of this initial process. Firm implementation of network codes in the marketplace requires early involvement by market participants.

For the second stage, developing network codes, we would stress the importance of building upon the experience made over 6 years of operation of EASEE-gas. We are pleased to see that

GTE+, in the initial work of in setting up a network code development process, has incorporated this experience in their proposal. A process where industry participants are invited to engage in the development of network codes (also with the opportunity of allocating dedicated resources when appropriate) will secure high quality output and more likely acceptance of products when codes are finalised. The market participants must have an equal voice in the finalising of the output. The Agency should only have the right to intervene and make final a decision when it has not been possible for the industry to reach a common position within a defined period of time.

Generally, we believe there is a need to distinguish between areas covered by an ERGEG consultation and areas that should be covered by an alternative approach. The development of network codes requires a different approach from the areas that historically have been covered by ERGEG's consultations. The development of network codes is characterised by significant input from industry experts. Furthermore, the involvement of industry experts' throughout the development phase secures a higher quality of product and reduces the risk for extra iterative steps that will prolong the development phase. This approach would allow the different market participants to select in which areas and to what extent to engage, recognising the fact that not all network code issues would have the same significance for all participants.

Finally, a transparent appeal process is essential in order to avoid unnecessary investment risk for the market participants and to secure participants' confidence to the process.

Could the fora (i.e Florence, Madrid, London) be further enhanced to allow stakeholders to make an effective contribution to the development of the single European energy market? How could this be done in a practical way?

Based on experience of the relevant fora (Madrid and Maribor) we do not believe they can satisfy the requirements for work on framework guidelines or the development of network codes. The fora should continue to play an important role in discussing relevant issues for the gas market, being suitable for presenting suggested areas for prioritisation and for raising relevant areas of concern.

*Could focused **'ad hoc panels'** of interested expert stakeholders assist the Agency in the development of regulatory policies? Should they be linked (though without full representation) to the **Florence, Madrid, and the new London Fora** to avoid the proliferation of consultation structures, ensure the effective delivery of stakeholder views and proper representation? Or should the ad hoc panels be organised independently of the fora in close cooperation with energy consumer and network user representatives?*

OGP supports ERGEG's proposal to consider using dedicated panels of expert stakeholders in the development of regulatory policies.

However, we would like to emphasise that policy makers should make policies and decide what needs to be regulated, while the regulators should develop the regulations and monitor implementation. Therefore, we believe the term "Regulatory Policies" is contradictory.

Furthermore, it is necessary to underline that the use of advisory panels would require fully transparent processes and the inclusion of all market participants, through their relevant industry associations. To ensure consistent views across the value chain we believe industry associations rather than individual issue experts should be the parties represented on such panels.

We believe such a dialogue would increase the quality of the suggested framework changes and speed up the implementation process, thereby aiding the implementation of a single European gas market. Furthermore, the use of ad hoc panels also could be used in preparing input to a priority list, both with respect to framework guidelines and network codes.

The natural link to fora such as the Madrid, Maribor, Florence and London would be to use them as arenas where final proposals can be presented.

*Are proposed measures to ensure the **proper public accountability** of the Agency broadly adequate?*

OGP supports the Agency and the role as described.

We would like to emphasis that the Agency should not engage in <u>developing</u> network codes for the gas value chain. The executive responsibility for this belongs to the future ENTSO-g. The Agency should be accountable for ensuring the implementation of the codes and monitor their usage.

The role of the regulator should be focused on and restricted to

- setting boundary conditions for the development of codes
- consulting gas market stakeholders on the satisfaction with the process and the outcomes prior to the approval and implementation of the codes

Furthermore, the introduction of a pan-European regulatory institution will require the roles and responsibilities of the Agency and National Regulators to be clearly defined.

What do you consider to be the key elements for the successful establishment of the Agency? What are the most important issues relating to the NRAs and their role within the Agency?

OGP applauds the principle of streamlining interfaces (between regulatory bodies) and reducing regulation.

The main competence of the Agency should be to facilitate decisions on matters affecting two or more Member States.

The proposed new Agency needs to ensure that it encourages an attractive investment climate and minimises bureaucracy.

The Agency Boards should include independent industry experts.

Are the proposed priorities for the codes and technical areas the right ones? If not, what should the priorities be?

The Agency and market participants' representatives (e.g. industry associations) speaking with equal voice should be responsible for producing a list of prioritised areas

We would like to draw attention to the 14 Common Business Practices [CBP] developed by EASEE-gas in the period 2002 to 2008. These CBPs cover the areas presented as priorities by the European Commission and are examples of network codes ENTSO-g typically will develop in the future.

Do you agree with our proposed approach grouping the technical areas into codes (see Appendix 2)? If so, what could the groupings be?

We refer to our position on the above question. Furthermore, we also would like to emphasise that the urgent need to simplify and streamline business processes between the stakeholders should be the driving force in setting a priority list of network codes, thus promoting the single European gas market.

Which aspects of market design or network operation should be fully harmonised across the Union through the first set of codes?

We refer to our position on the above questions. The proposal for prioritisation should be an output from a joint effort by the Agency and market participants speaking with equal voice.

Annex 1 of Appendix 2 we describe the content of each area mentioned in the Commission's initial proposals. Do you think the description is complete? If not, what aspects should be elaborated within the areas?

The guidelines from the Commission form a good starting point.

Are the mechanisms and observations outlined above – notably in relation to the interaction between the Agency and the ENTSOs (and CEER and GTEplus/ENTSO-E) adequate? Are there changes that should be considered for their improvement?

The outline presented in the ERGEG documents is merely an indicative list of activities for further discussions. Hence, they are more descriptions of what areas to cover than details describing how the relationship will work in practice.

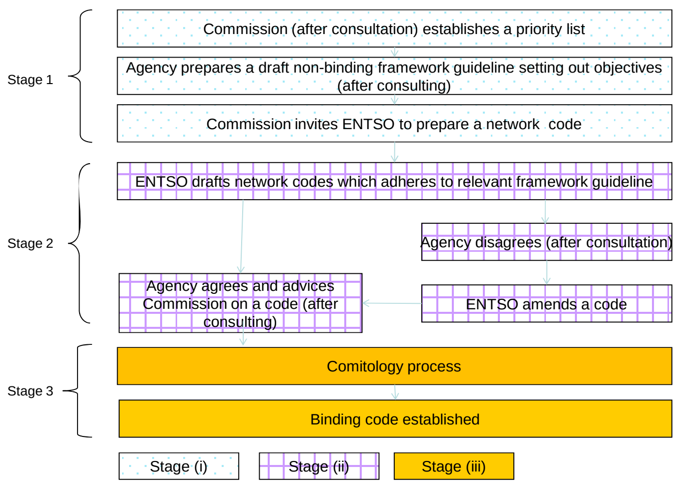
Are the proposals in paragraph 69 to ensure the regional level involvement of stakeholders adequate? If not, how could they be further improved?

It is important that regional suboptimal solutions do not preclude common pan-European solutions. The three regional initiatives have demonstrated different approaches and states of maturity on these issues, therefore we are reluctant to support a regional focus in consulting with stakeholders. Our view is that the industry associations are the best means of representing the market participants. By focusing on engagement at European level, the individual industry associations would ensure a common view across their European membership, which should strengthen the possibility of faster implementation of network codes and framework guidelines. Equally important is the ability for the industry associations to give early warning of areas upon which views are divided.

How do you envisage the Regional Initiatives operating after the entry into force of the 3rd package legislation? Will their role become less important, given the development of network codes at EU level?

The regional initiatives will play an important role, particularly as an area for handling implementation issues that are especially relevant for a limit number of Member States and reflecting geographically specific problems. Also, since individual regions are at different stages in implementing business practices, it would be easier to assist implementation of network codes when a limited number of participants are involved and these participants are facing the same issues.

The Agency's role will be particularly important at a regional level in guiding relevant NRA's in handling relevant cross border disputes.



In conclusion, we would like to thank ERGEG for the opportunity to take part in this consultation and we trust that the OGP responses set out above provide a constructive contribution.

Yours,

Bjorn W. Melaa

OGP Gas Work Group - Chairman

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About OGP. The International Association of Oil and Gas Producers (OGP) is the single association representing companies and associations engaged in the exploration and production of oil and natural gas both at global and at EU level, with offices in London and Brussels.

At EU level, OGP represents members who are active in Europe. OGP Europe participates in the Berlin Fossil Fuels Forum as well as the Madrid European Gas Regulator Forum and it is the prime interlocutor for energy policy, environmental and other issues related to this industry.

Globally, OGP membership accounts for more than half of the world's oil output and about one third of global gas production. OGP fosters cooperation in the area of health, safety and the environment, operations and engineering, and represents the industry before international organisations, such as the UN, IMO and the World Bank, as well as regional seas conventions, such as OSPAR, where it has observer status."