

## II

(Acts whose publication is not obligatory)

## COUNCIL

## COUNCIL DIRECTIVE

of 31 May 1991

on the transit of natural gas through grids

(91/296/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

In cooperation with the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas it is necessary to adopt measures with the aim of progressively establishing the internal market during the period ending 31 December 1992; whereas successive European Councils have recognized the need for a single internal market and, particularly in Rhodes, the need for a single energy market;

Whereas completion of the internal market in energy in general, and more particularly in the natural gas sector, requires the development of a Community energy strategy that will be equal to the challenges of:

- security of supply,
- environmental protection;

Whereas there must be greater integration of the European energy market if the single internal market is to be achieved; whereas natural gas is an essential component of the Community's energy balance;

<sup>(1)</sup> OJ No C 247, 28. 9. 1989, p. 6 and OJ No C 268, 24. 10. 1990, p. 9.

<sup>(2)</sup> OJ No C 231, 17. 9. 1990, p. 72 and OJ No C 129, 20. 5. 1991.

<sup>(3)</sup> OJ No C 75, 26. 3. 1990, p. 20.

Whereas greater reliance on natural gas is desirable as part of diversification of energy sources;

Whereas the completion of the internal market for energy, more particularly in the natural gas sector, will take into account the objective of economic and social cohesion;

Whereas the objective of the internal natural gas market is to ensure greater profitability, compatibility with the environment and security of supplies by free trade, without unacceptable restrictions on competition; whereas the specific characteristics of the natural gas sector must be taken into account if the pursuit of this objective is to be successful;

Whereas in completing the internal market in natural gas, consideration should be given not only to comparable features in the Member States but equally to sometimes significant differences;

Whereas trade in natural gas between the high-pressure gas transmission grids of European countries is increasing from year to year and has implications in terms of investment; whereas the Community's security of natural gas supply could be improved and costs reduced by operating the interconnections required for such trade;

Whereas the exchange of natural gas between high-pressure gas transmission grids is being conducted on such a scale that the transactions requested and their consequences should be systematically known to the Commission;

Whereas it is possible and desirable to increase natural gas transfers between grids and also take account of the imperatives of security and quality of natural gas supply;

whereas studies show that greater natural gas transfers between grids can minimize the cost of investment ;

Whereas in the future additional interconnections between several Member States will need to be made to allow adequate supplies ;

Whereas increased natural gas transfers between grids would also encourage cooperation between natural gas transmission companies to find ways of improving natural gas transmission equipment ; whereas such improvements will also cut costs ;

Whereas there are still obstacles to increased trade in natural gas between grids ; whereas, provided that they are not due to the nature of the technology used or of the grids themselves, such obstacles can be reduced by making the transit of natural gas through grids compulsory and introducing an appropriate system for monitoring compliance with this obligation ;

Whereas this obligation and monitoring system concern the transit of natural gas involved in trade which is in the Community interest, namely transit through high-pressure grids ;

Whereas the financial, technical and legal conditions of such transit must, as a general rule, be worked out directly between the grids concerned ;

Whereas the conditions of transit should be fair and should not bring about, directly or indirectly, conditions contrary to Community competition rules ;

Whereas, in order to facilitate the conclusion of transit contracts, the Commission is providing for a conciliation procedure to be set up under which submission will be compulsory at the request of one of the parties, without the result of that procedure producing a legally binding effect ;

Whereas it is necessary to approximate the provisions adopted by the Member States which affect the transit of natural gas ;

Whereas the establishment of an internal natural gas market will stimulate the gradual dynamic integration of national natural gas grids ; whereas in this context special infrastructure measures would help to accelerate the linking-up of outlying areas and islands in the Community to the overall interconnected grid ;

Whereas the interconnection of European grids extends over a geographical territory which does not coincide with the Community's frontiers : whereas there is an obvious advantage in seeking cooperation with third countries involved in the interconnected European grid,

HAS ADOPTED THIS DIRECTIVE :

#### *Article 1*

Member States shall take the measures necessary to facilitate transit of natural gas between high-pressure transmission grids in accordance with the conditions laid down in this Directive.

#### *Article 2*

1. Every transaction for the transport of natural gas under the following conditions shall constitute transit of natural gas between grids, for the purpose of this Directive, without prejudice to any special agreements concluded between the Community and third countries :

- (a) transmission is carried out by the entity or entities responsible in each Member State for high-pressure natural gas grids, with the exception of distribution grids, in a Member State's territory which contribute to the efficient operation of European high-pressure interconnections ;
- (b) the grid of origin or final destination is situated in the Community ;
- (c) this transport involves the crossing of at least one intra-Community frontier.

2. The high-pressure natural gas transmission grids and the entities responsible for them in the Member States, which are listed in the Annex, shall be covered by this Directive. This list shall be updated by the Commission, after consultation with the Member State concerned, whenever necessary within the context of the objectives of this Directive and in particular taking into account paragraph 1 (a).

#### *Article 3*

1. Contracts involving transit of natural gas between grids shall be negotiated between the entities responsible for those grids and for the quality of service provided and, where appropriate, with the entities responsible in the Member States for importing and exporting natural gas.

2. The conditions of transit shall, pursuant to the rules of the Treaty, be non-discriminatory and fair for all parties concerned, shall not include unfair clauses or unjustified restrictions and not endanger security of supply nor quality of service, in particular taking full account of the utilization of reserve production and storage capacity and the most efficient operation of existing systems.

3. Member States shall taken the measures necessary to ensure that the entities under their jurisdiction referred to in the Annex act without delay to :

- notify the Commission and the national authorities concerned of any request for transit;
- open negotiations on the conditions of the natural gas transit requested;
- inform the Commission and the national authorities concerned of the conclusion of a transit contract;
- inform the Commission and the national authorities concerned of the reasons for the failure of the negotiations to result in the conclusion of a contract within twelve months following communication of the request.

4. Each of the entities concerned may request that the conditions of transit be subject to conciliation by a body, set up and chaired by the Commission on which the entities responsible for grids in the Community are represented.

#### *Article 4*

If the reasons for the absence of agreement on a request for transit appear unjustified or insufficient, the Commission, acting on a complaint from the requesting body or

on its own initiative, shall implement the procedures provided for by Community law.

#### *Article 5*

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 1 January 1992. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

#### *Article 6*

This Directive is addressed to the Member States.

Done at Brussels, 31 May 1991.

*For the Council*

*The President*

A. BODRY

## ANNEX

## List of entities and high-pressure gas transmission grids

Member State	Entity	Grid
Federal Republic of Germany	Bayerngas GmbH	} Grid supplying end distributors (municipal authorities, etc.) and major end users
	BEB Erdgas und Erdöl GmbH	
	Deutsche Erdgas Transport GmbH	
	Energieversorgung Weser Ems AG (EWE)	
	Erdgas Verkaufs-Gesellschaft mbH	
	Ferngas Nordbayern GmbH	
	Ferngas Salzgitter GmbH	
	Gas-Union GmbH	
	Mobil Oil AG	
	Ruhrgas AG	
	Saar Ferngas AG	
	Thyssengas GmbH	
	Vereinigte Elektrizitätswerke Westfalen AG (VEW)	
	Westfälische Ferngas AG	
	Energieversorgung Mittelrhein	
	EWAG, Nürnberg	
	Erdgas Schwaben GmbH	
	Erdgas Südbayern GmbH	
	GEW Köln	
	Gasversorgung Süddeutschland	
Gasversorgung Südhannover/Nordhessen		
Hamburger Gaswerke		
Landesgasversorgung Niedersachsen		
Main-Gaswerke AG		
Schleswig AG		
Südhessische Gas und Wasser AG		
Technische Werke der Stadt Stuttgart AG		
Thüga AG		
GASAG, Berlin		
Belgium	Distrigaz SA	Public grid
Denmark	Dansk Naturgas A/S	} Grid supplying end distributors (municipal authorities, etc.) and major end-users
Spain	Empresa Nacional de Gas SA (ENAGAS)	
	Catalana de Gas	
	Gas De Euskadi	
Greece	DEPA	} Grid supplying end distributors (municipal authorities, etc.) and major end-users
Luxembourg	SOTEG	
Netherlands	NV Nederlandse Gasunie	
Italy	Snam SpA	} Public grid
France	Gaz de France	
	SNGSO	
	Compagnie française du méthane (CEFEM)	
United Kingdom	British Gas	} High-pressure gas grid
Ireland	Irish Gas Board	