



# ICLG

The International Comparative Legal Guide to:

## Oil & Gas Regulation 2014

**9th Edition**

A practical cross-border insight into oil and gas regulation work

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## General Chapters:

1	<b>Shale Gas – The Key to Unlocking Energy for the UK's Future?</b> – Martin Kudnig & Denva Poyntz, Ashurst LLP	1
2	<b>The Impact of Recent Shipping Reforms on the Offshore Oil and Gas Industry in Australia</b> – Shane Bosma, Ashurst Australia	9
3	<b>Recent Developments in North American Energy Policy</b> – John P. Cogan, Jr. & Elizabeth Molino, Cogan & Partners LLP	16
4	<b>East Africa – Realising the Potential</b> – Jubilee Easo & Joanna Kay, Andrews Kurth	19
5	<b>Recent Developments in Oil and Gas Regulation in the European Union</b> – Ana Stanič, E&A Law Limited	25
6	<b>Maximising Recovery: Has the UK Been Upping its Game?</b> – Kimberley Wood & Jenny Doak, Vinson & Elkins RLLP	31
7	<b>Environmental Implications of Decommissioning of Offshore Oil and Gas Installations</b> – Georgie Messent & Richard Cockburn, Bond Dickinson LLP	35
8	<b>Algeria: Oil and Gas Overview</b> – Amine Ghellal, Ghellal & Mekerba	43

## Country Question and Answer Chapters:

9	<b>Albania</b>	Zaka & Kosta Attorneys at Law: Av. Holta Ymeri	47
10	<b>Argentina</b>	Maciel, Norman & Asociados: Mariana Ardizzone & Justo Federico Norman	60
11	<b>Australia</b>	Ashurst Australia: Peter Vaughan & Graeme Gamble	68
12	<b>Austria</b>	Schoenherr: Christian Schmelz & Bernd Rajal	85
13	<b>Bolivia</b>	Criales, Urcullo & Antezana Abogados: Adrián Barrenechea B.	96
14	<b>Brazil</b>	Trench, Rossi e Watanabe Advogados: José Roberto Martins & Danielle Valois	107
15	<b>Bulgaria</b>	CMS Cameron McKenna: Kostadin Sirlishtov & Pavlin Stoyanoff	121
16	<b>Colombia</b>	Peña Mancero Abogados S.A.S.: Gabriela Mancero Bucheli & Milton Montoya	131
17	<b>Croatia</b>	Wahl Cesarec i partneri in cooperation with Schoenherr: Bernd Rajal & Petra Šantić	145
18	<b>Denmark</b>	Bruun & Hjejle: Nicolaj Kleist & Morten Ruben Brage	157
19	<b>France</b>	JeanetAssociés AARPI: Thierry Lauriol	166
20	<b>Gabon</b>	Project Lawyers: Jean-Pierre Bozec	185
21	<b>Germany</b>	Linklaters LLP: Kai Pritzsche & Sebastian Poochke	193
22	<b>Ghana</b>	Amarteifio & Co.: George Amissah Eshun	203
23	<b>Indonesia</b>	Ashurst LLP with Oentoeng Suria & Partners: Sean Prior & Avinash Panjabi	212
24	<b>Israel</b>	Agmon & Co., Rosenberg, Hacoen & Co.: Dan Hacoen & Eddie Ashkenazi	220
25	<b>Italy</b>	Legance – Avvocati Associati: Monica Colombera & Alfredo Fabbriatore	229
26	<b>Kazakhstan</b>	GRATA Law Firm: Yerbolat Yerkebulanov	239
27	<b>Malaysia</b>	Skrine: Faizah Jamaludin & Fariz Abdul Aziz	249
28	<b>Mexico</b>	Rodríguez Dávalos Asociados: Jesús Rodríguez Dávalos & Raúl Fernando Romero Fernández	259
29	<b>Namibia</b>	Koep & Partners: Irvin David Titus & Hugo Meyer van den Berg	268
30	<b>Netherlands</b>	Loyens & Loeff N.V.: Max W. F. Oosterhuis & Roland W. de Vlam	279
31	<b>Nigeria</b>	Bloomfield–Advocates & Solicitors: Kunle Obebe & Bimbo Agboade	289
32	<b>Norway</b>	Ernst & Young Advokatfirma AS: Jane Wesenberg	298
33	<b>Papua New Guinea</b>	Ashurst PNG: Richard Flynn & Graeme Gamble	306
34	<b>Peru</b>	García Sayán Abogados: Alberto Varillas & María Soledad Gastañeta	319
35	<b>Romania</b>	Pachiu & Associates: Laurentiu Pachiu & Cristina Dragos	326
36	<b>South Africa</b>	Bowman Gilfillan: Lizel Oberholzer	336
37	<b>Spain</b>	Uría Menéndez: Juan Ignacio González Ruiz & María José Descalzo Benito	345

Continued Overleaf →

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## Country Question and Answer Chapters:

38	<b>Tanzania</b>	A.S.K. Advocates: Amne Suedi Kagasheki	357
39	<b>Turkey</b>	Hergüner Bilgen Özeke Attorney Partnership: Ebru Ünal & Alper Koç	368
40	<b>Ukraine</b>	CMS Cameron McKenna: Vitaliy Radchenko & Inna Antipova	379
41	<b>UAE</b>	Ashurst LLP: Mhairi Main Garcia	390
42	<b>United Kingdom</b>	Ashurst LLP: Geoffrey Picton-Turbervill & Julia Derrick	401
43	<b>USA</b>	Cogan & Partners LLP: John P. Cogan, Jr. & Elizabeth Molino	420
44	<b>Venezuela</b>	DLA InterJuris Abogados, S.C.: Juan José Delgado & Gabriela Maldonado	432

## EDITORIAL

Welcome to the ninth edition of *The International Comparative Legal Guide to: Oil & Gas Regulation*.

This guide provides corporate counsel and international practitioners with a comprehensive worldwide legal analysis of the laws and regulations of the oil and gas sectors.

It is divided into two main sections:

Eight general chapters. These are designed to provide readers with a comprehensive overview of key issues affecting oil and gas regulation, particularly from the perspective of a multi-jurisdictional transaction.

Country question and answer chapters. These provide a broad overview of common issues in oil and gas regulation in 36 jurisdictions.

All chapters are written by leading energy lawyers and industry specialists and we are extremely grateful for their excellent contributions.

Special thanks are reserved for the contributing editor Geoffrey Picton-Turbervill, of Ashurst LLP, for his invaluable assistance.

Global Legal Group hopes that you find this guide practical and interesting.

*The International Comparative Legal Guide* series is also available online at [www.iclg.co.uk](http://www.iclg.co.uk).

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# Recent Developments in Oil and Gas Regulation in the European Union



E&amp;A Law Limited

Ana Stanič

## 1 Overview of the Natural Gas Sector

At 1,708 TWh, the EU's production of natural gas continued its long-term decline in 2012. It was down by 5 per cent from the year before. According to the European Commission ("EC"), the biggest producers of gas in 2011 were the Netherlands (57.85 Mtoe), Great Britain (40.76 Mtoe) and Denmark (10.89 Mtoe).

The EU's primary energy sources as set out in the EC's publication "Energy in figures of 2013" are set out in Table 1.

**Table 1 Production by Fuel**

Mtoe	Solid Fuels	Petroleum and products	Gases	Nuclear	Renewables	Waste, Non-renewable
EU-27	167.4	89.5	140.3	234.0	162.3	13.6
Share (%)	20.7%	11.1%	17.4%	29.0%	20.1%	1.7%

Gas imports into the EU decreased by 7 per cent in the fourth quarter of 2012 relative to the same period in 2011. Total import levels were 4,448 TWh in 2012, on a par with annual import levels recorded in the last few years. The continued economic crisis and the relatively high price of gas compared to coal are the key reasons for the fall in the consumption of gas and the consequential fall in imports.

The volumes of the EU's imports of primary energy sources as well as their respective shares of the total imports as of 2011 are set out in Table 2 below.

**Table 2 Imports by Fuel**

Mtoe	Solid Fuels	Petroleum and products	Gases	Renewables	Electricity
EU-27	144	898.6	351.82	6.7	27.2
Share (%)	10.1%	62.9%	24.6%	0.1%	1.9%

**Table 3 Final Energy Consumption by Fuel**

Mtoe	Solid Fuels	Petroleum and products	Gases	Solar	Biomass and renewables	Geothermal	Waste, Non-renewable	Electricity	Derived Heat
EU-27	48.8	444.6	241.1	1.7	74.1	1	5.2	238.0	48.9
Share (%)	4.40%	40.3%	21.8%	0.20%	6.70%	0.10%	0.50%	21.60%	4.40%

LNG imports began falling in the second quarter of 2011 and this trend continued in 2012 and early 2013. LNG deliveries to the EU continued to fall faster than consumption, registering a decrease of 31 per cent in 2012 relative to 2011. In 2012 the imports from Qatar, Nigeria and Algeria (the three largest exporters of LNG to the EU) were down by 35 per cent, 31 per cent and 18 per cent, respectively.

Despite the temporary fall in gas imports, the EC predicts that the EU's dependence on gas imports will rise to 89 per cent by 2035. These predictions have had a significant impact on the EU's energy policy (particularly towards Russia) and it is one of the main reasons why the TEN Regulation (discussed below) was adopted in April 2013.

Consumption of natural gas continued to decline in the EU in 2012, reaching the lowest level in a decade of 4,917 TWh. Gas lost its share in power generation to coal and renewables. The decrease in 2012 relative to 2010 consumption amounted to 14 per cent.

The shares of gas and other primary energy sources in final energy consumption in the EU are set out in Table 3 below. It should be noted that the energy mix varies widely across the 28 Member States ("MS") of the EU, having evolved over time as a result of differing geographical conditions (including availability and access to natural resources), national policy choices (including the decision to make use, or not, of nuclear power), changing financial incentives, progress in technologies, de-carbonisation requirements and the development of the internal market.

Shale gas production is seen as a possible game changer for gas in the EU. According to a study by Poyry Management Consulting and Cambridge Econometrics ("Poyry/Cambridge Study") published in November 2013, shale gas could reduce the EU's dependence on gas imports to between 62 per cent and 78 per cent from the otherwise predicted 89 per cent of demand in 2035 and significantly reduce the price of gas.

There are, however, very significant uncertainties surrounding shale gas development in the EU, not least concerning the amount of technically recoverable resources and production costs. The fact that the planning and environmental regulation for shale gas is still under development in the EU is another reason. Furthermore and importantly, there is strong environmental opposition to shale gas in the EU due to concerns over (i) water contamination, (ii) its effect on geological stability and the landscape, and (iii) the substantial

use of water resources for drilling operations. As the experience from some EU countries suggests, the environmental and planning difficulties are likely to be more significant in the EU compared to the US. By way of example, there is a complete ban on hydraulic fracturing in France at present.

According to the Poyry/Cambridge Study, the following are the key factors why the US shale gas boom is unlikely to be replicated in the EU:

- the more restrictive mineral ownership rights in Europe compared to the US means that owners of land have fewer incentives to lease land to shale developers;
- the significantly higher population density in the EU compared to the US restricts land availability for drilling (as well as potentially driving costs up); and
- Europeans are much less used to, or familiar with, (even conventional) drilling operations – and therefore potentially more suspicious towards shale gas.

The Poyry/Cambridge Study estimates the risked shale gas resources of EU28 at approximately 54 tcm (1,900 tcf). This represents roughly 40 per cent of the most recent estimates of the US Energy Information Administration for risked resources in place in the US (~130 tcm or 4,600 tcf).

## 2 Overview of the Oil Sector

Oil is still the EU's first source of energy (see Tables 2 and 3). In line with the global trend, oil's share in the EU's primary energy demand is expected by the International Energy Agency to decrease in the coming decades from 35 per cent in 2008 to 29 per cent in 2035. This could lead to a reduction in oil consumption in the EU from 606 Mtoe to 537 Mtoe (-11 per cent) over the same period.

Despite the fall in consumption and because of the continued decline in domestic production of oil in the EU (see Table 1), the EC anticipates a growing dependence on oil imports in the coming years, which is expected to reach 94 per cent by 2030.

## 3 Recent Developments in EU Law Concerning Oil and Gas

### 3.1 Basis for the EU's competence to legislate regarding oil and gas

Although the EU has legislated in the area of energy for many years, it was only with the entry into force of the EU Treaty of Lisbon in 2009 that it was accorded express legal competence to do so. Prior to the Treaty of Lisbon, EU energy legislation in the field of oil and gas had been adopted invoking the European Community's (as it was known then) competences in the areas of the common market and environment.

The EU Treaty of Lisbon, and specifically paragraph 1 of Article 194 of Treaty on the Functioning of the European Union ("TFEU"), accords "*in the context of the establishment and functioning of the internal market*" EU institutions competence to "*(a) ensure the functioning of the energy market; (b) ensure security of energy supply in the Union; (c) promote energy efficiency and energy saving and the development of new and renewable forms of energy; and (d) promote the interconnection of energy networks ...*".

It should be noted that paragraph 3 of Article 194 makes clear that the measures adopted by EU institutions in the exercise of the above-mentioned competences "*shall not affect a Member State's right to determine the conditions for exploiting its energy resources,*

*its choice between different energy sources and the general structure of its energy supply*", thereby preserving the sovereignty of each MS over its energy resources.

In addition, the EC argues that its exclusive competence in foreign direct investment enables it to adopt legislation concerning EU external energy policy. Under Article 3(1)(e) TFEU, EU institutions have been accorded exclusive competence in respect of common commercial policy. Reading this article in conjunction with Articles 206 and 207 TFEU, the EC argues that it now has exclusive competence in respect of foreign direct investment including in the field of oil and gas.

### 3.2 Recent developments in EU law concerning the exploration of oil and gas

The EC first proposed new legislation dealing with offshore oil and gas safety in October 2011 in response to the Deepwater Horizon disaster (which was discussed in last year's edition of this publication). Up to then, there was no EU legislation specifically on offshore oil and gas operations. According to the EC, the existing regulatory framework of EU MSs was fragmented and divergent which in turn meant that there was no adequate assurance that the risk of offshore accidents was minimised throughout the EU and that the most effective response would be deployed in a timely manner with clear responsibilities and liabilities for cost/damage clean-up in case of a spill.

Directive 2013/30/EU on the safety of offshore oil and gas operations came into force on 18 July 2013. Originally it was proposed that the legislation would take the form of a regulation which would have been directly applicable in the MSs and thus would have prescribed the same rules concerning safety throughout the EU. There was significant concern among the UK oil and gas industry in particular that the proposed regulation would not establish a "goal-setting" framework and would require unnecessary changes to be made to the sophisticated offshore oil and gas safety regime of the North Sea countries. In the end, the EC relented and the rules of offshore safety were adopted in the form of a directive, thereby giving MSs more discretion on how the objectives regarding safety are to be implemented and achieved.

The key objectives of the Directive are:

- to reduce as far as possible the occurrence of major accidents relating to offshore oil and gas operations;
- to establish minimum conditions for the safe exploration and production of oil and gas, thereby increasing protection of marine environments against pollution;
- to improve the response in the event of an incident; and
- where prevention is not achieved, ensure that clean-up and mitigation are carried out to limit the consequences.

Discussed in turn below are the key provisions of the Directive.

#### a. Minimum safety standards

The Directive sets out the broad principle that MSs shall require operators to ensure that all suitable measures are taken to prevent major accidents in offshore oil and gas operations. In particular, the Directive requires, *inter alia*, MSs to:

- assess the technical and financial capability of licensees at the time a licence is granted or transferred and, when doing so, to take into account the licensee's ability to cover potential liabilities arising from offshore oil and gas operations;
- ensure that the operator is approved by the licensing authority;
- require operators to ensure that all suitable measures are taken to prevent major accidents in offshore oil and gas operations;

- ensure that operators are not relieved of their duties under the Directive by the fact that actions or omissions leading or contributing to major accidents were carried out by contractors;
- require operators to ensure that offshore oil and gas operations are carried out on the basis of systematic risk management so that the residual risks of major accidents to persons, the environment and offshore installations are acceptable;
- ensure that operators and owners as appropriate establish schemes for independent verification, respond to, and take appropriate action based on the advice of the independent verifier and make such advice available to the competent national authority; and
- ensure that operators (or owners in relation to non-production installations) submit to the competent authority a number of documents detailed in Article 11 of the Directive, including a corporate major accident prevention policy, a safety and environmental management system applicable to the relevant installation, a report on major hazards, and an internal emergency response plan.

Requirements concerning the policies and reports that will need to be prepared by oil and gas companies carrying out offshore operations in the EU are set out in some detail in Articles 12 to 17, 19, 21 and 28 as well as in Annex I.

#### **b. Liability for environmental damage**

Article 7 of the Directive requires MSs to ensure that licensees are financially liable for the prevention and remediation of environmental damage pursuant to the provisions of Directive 2004/35 on environmental liability with regard to the prevention and remedying of environmental damage (the “ELD”) thereby making it clear that it is the licensee (rather than the operator or the contractors) who bears liability under the directive. The Directive extends the scope of the ELD to cover all the marine waters of MSs, rather than just the 12 nautical miles of territorial waters. This potentially exposes oil and gas companies to a greater level of liability for remediation costs arising from an incident such as Deepwater Horizon than was previously the case.

Importantly, the Directive does not purport to deal with the liability that licensees may bear for loss or damage suffered by third parties as a result of an offshore incident. It is expected that this is an issue that is likely to be covered by EU legislation in the near future.

#### **c. Appointment of a competent authority**

Article 8 of the Directive requires MSs to appoint a “competent authority” which will be responsible for assessing reports on major hazards and overseeing the operator’s compliance with the requirements of the Directive. In order to ensure that there is no conflict of interest, such authority must be independent of any functions relating to the economic development of offshore natural resources and licensing of offshore oil and gas operations.

The tasks and powers of such authority are set out in Articles 9 and 18 and include the power to “*prohibit the continued operation of any installation or any part thereof or any connected infrastructure where it is*” established “*that the requirements of this Directive are not being fulfilled or there are reasonable concerns about the safety of offshore oil and gas operations*”.

#### **d. Emergency response**

Pursuant to Article 28 of the Directive operators of offshore installations, or owners as appropriate, are required to prepare and submit internal emergency response plans to the competent authority. Such plans must take into account the risk assessments undertaken as part of the major hazards reporting, and include an analysis of the oil spill response effectiveness. The content of the internal emergency response plan is set out in paragraph 10 of Annex I.

Pursuant to Article 29, MSs are required to prepare external emergency plans in co-operation with operators which cover all offshore oil and gas installations or connected infrastructure within their jurisdiction and make them available to the EC and other MSs.

#### **e. Reporting of information**

The Directive requires operators and owners, as applicable, to report to the competent authority on relevant incidents and to make such information available to the public. Such reports must consider safety and the environment. A thorough review will need to be conducted at least every five years and the results must be notified to the competent authority.

In particular, operators must report on major hazards for installations before operations start and ensure that this information is updated over time when appropriate or as required by the competent authority.

MSs are, in turn, required pursuant to Article 25 to submit annual reports to the EC on offshore safety and environmental impact in accordance with Annex IX point 3.

#### **f. Impact on operations outside the EU**

Another important aspect of the Directive for offshore oil and gas companies is its extension of the application of high safety standards to outside the territory of the EU. European companies operating outside EU-regulated waters are required to ensure that their major accident prevention policies cover operations outside the EU and to report any major accidents they are involved in to their domicile country.

MSs now have two years in which to transpose the provisions of the Directive into their national laws. Importantly, existing offshore installations while caught by the scope of the Directive will have five years to comply with the new requirements.

Both operators and non-operator licensees should use this transposition period to give careful consideration as to how they will address the Directive’s implications given its wide application and novelties it introduces regarding safety.

At the same time, MSs will need to undertake a careful review of the relevant national laws to determine whether (i) any existing laws need to be amended to ensure compliance with the Directive, and (ii) any new rules need to be adopted. It should be noted that MSs “*do not have offshore oil and gas operations under their jurisdiction*” and “*landlocked countries with companies registered in their territories*” are only required to transpose the provisions of the Directive which relate to operations outside of the EU.

### **3.3 Recent developments in the EU concerning the internal market in gas**

The EU Council set 2014 as the deadline for the creation of the internal energy market in natural gas. No one expects that this goal is achievable anytime soon. The EC has, over the course of this year, taken steps it considers will bring the EU closer to achieving this goal.

#### **3.3.1 TEN Regulation**

The most important of these steps according to the EC was the adoption of Regulation 347/2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009 (known as the “TEN Regulation”).

The TEN Regulation entered into force in June of 2013. The Regulation identifies in Annex I twelve trans-European energy infrastructure priorities, including the following gas corridors: (i) the North-South Gas interconnection in Western Europe; (ii) the North-South Gas interconnection in Central and South East Europe;

(iii) the Southern Gas Corridor; and (iv) the Baltic Energy Market interconnection plan in gas. As discussed briefly below, the Regulation identifies oil priority corridors as well.

The aim of the Regulation is to improve cross-border interconnections in the EU and thereby contribute to the creation of the internal energy market of gas. It seeks to do so by identifying Projects of Common Interest ("PCI"), facilitating their timely implementation by streamlining, coordinating and accelerating the permit-granting process and setting out conditions for their eligibility for EU financial assistance.

The following gas infrastructure projects are listed in Annex II as eligible to become PCIs: (a) pipelines for the transport of natural gas and biogas that form part of a network which mainly contains high-pressure pipelines, excluding high-pressure pipelines used for upstream or local distribution of natural gas; (b) underground storage facilities connected to the above-mentioned high-pressure gas pipelines; (c) reception, storage and regasification or decompression facilities for LNG or compressed natural gas ("CNG"); and (d) any equipment or installation essential for the system to operate safely, securely and efficiently or to enable bi-directional capacity, including compressor stations.

The promoters of a project eligible for selection as a PCI are required to submit an application for selection as a PCI to the relevant regional group set up for each priority corridor. Pursuant to Section 2 of Annex III to the Regulation such application must include: (i) an assessment of the project with regard to the contribution to implementing the priorities set out in Annex I; (ii) an analysis of the fulfilment of the general criteria as per Article 4; (iii) for a project having reached a sufficient degree of maturity, a project-specific cost-benefit analysis in accordance with Articles 21 and 22 based on the methodologies developed by the European Network of Transmission System Operators for gas (known as "ENTSO-G") pursuant to Article 11; and (iv) any other relevant information for the evaluation of the project. For one of the above-listed gas infrastructure projects to become a PCI it must meet the general criteria set out in Article 4 of the Regulation. First, it must be necessary for the implementation of at least one of the twelve above-mentioned priority corridors. Second, its potential overall benefits must outweigh its costs. Third, it must meet one of the following criteria: (i) it must directly cross the border of two or more MSs; (ii) it must be located in one MS and have significant cross-border impact as set out in Annex IV to the Regulation; or (iii) it must cross the border of at least one MS and an European Economic Area country.

In addition, it must contribute significantly to at least one of: (i) market integration, inter-operability and system flexibility; (ii) security of supply; (iii) competition; and (iv) sustainability. In turn, the fulfilment of these criteria will be assessed as follows. In relation to market integration and inter-operability: by calculating the additional value of the project to the integration of market areas and price convergence, and to the overall flexibility of the system, including the capacity level offered for reverse flows under various scenarios. In respect of competition: on the basis of diversification, including the facilitation of access to indigenous sources of supply, taking into account, successively: diversification of sources; diversification of counterparts; diversification of routes; and the impact of new capacity on the Herfindahl-Hirschmann index ("HHI") calculated at capacity level for the area of analysis as defined in Annex V.10. In respect of security of supply: by calculating the additional value of the project to the short and long-term resilience of the EU's gas system and to enhancing the remaining flexibility of the system to cope with supply disruptions to MSs under various scenarios as well as the additional capacity provided by the project measured in relation to the infrastructure

standard (N-1 rule) at regional level in accordance with Article 6(3) of Regulation 994/2010. Finally, in respect of sustainability: by measuring the contribution of the project to reduce emissions, to support the back-up of renewable electricity generation or power-to-gas and biogas transportation, taking into account expected changes in climatic conditions. When drawing up a list of PCIs, due consideration must also be given to: (i) urgency of the project to meet the EU's energy policy targets of market integration, sustainability and security of supply; (ii) the number of MSs affected by the project; (iii) the contribution of each project to territorial cohesion; and (iv) complementarity with other projects.

Finally, eligible gas pipeline and LNG Terminal projects must meet the following additional requirements in order to become PCIs: (i) gas pipeline projects must concern investment in reverse flow capacity or increase the capability to transmit gas across the borders of MSs concerned by at least 10 per cent; and (ii) LNG Terminals must aim to supply directly or indirectly at least two MSs or fulfil the infrastructure standard (N-1 rule) at a regional level.

The following are the key benefits of being a PCI: (i) the right to a streamlined permitting process which must not exceed 3.5 years (this can be extended by a maximum of nine months); (ii) the right to be deemed of "public interest" from an energy policy perspective for the purposes of the EU Habitats Directive 92/43; and (iii) the right to apply for EU funding provided that: (a) the cost-benefit analysis shows significant positive externalities of the project; (b) the cross-border cost allocation decision has been issued; and (c) the project is commercially not viable according to the business plan. The EU has earmarked Euro 5.85 bln in funds for PCIs in the period from 2014 to 2020.

It should be noted that a gas infrastructure project that has been granted an exemption under Article 36 of Directive 2009/73/EC concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC cannot apply for EU funding under the TEN Regulation.

The first EU PCI List was published in October 2013. There are 248 projects on the list. The list will be prepared every two years.

As noted above the TEN Regulation also grants priority to oil supply connections in Central and Eastern Europe in order to improve interoperability of the oil pipeline network and consequently increase security of supply and reduce environmental risks. The following oil energy infrastructure projects are eligible to become PCIs: (a) pipelines used to transport crude oil; (b) pumping stations and storage facilities necessary for the operation of crude oil pipelines; and (c) any equipment or installation essential for the system in question to operate properly, securely and efficiently, including protection, monitoring and control systems and reverse-flow devices.

### 3.3.2 Other developments in EU law concerning gas

The other important legislative developments in 2013 concerned the harmonisation of rules for the flow of gas across the EU, thereby ensuring market integration and the application of the principles of non-discrimination, effective competition and efficient functioning of the market.

First, on 24 August 2012 the EC adopted rules to reduce congestion in European gas transmission pipelines by amending the existing rules as set out in the Annex to the Gas Regulation 715/2009 on conditions for access to the natural gas transmission networks and repealing Regulation 1775/2005. Since gas pipelines are not used efficiently in the EU, the new rules on congestion management have been adopted to make sure companies use their reserved capacity much more efficiently. Specifically, the Regulation provides that if a company does not make substantial use of the capacity it runs the risk of losing it (based on the "use it or lose it" principle) and having

it placed back on the market. Gas pipeline network operators are incentivised to sell extra capacity to the market above the technical capacity of the pipelines.

Second, Regulation 984/2013 establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems and supplementing Regulation 715/2009 on conditions for access to the natural gas transmission networks was adopted in October 2013.

The objective of this Regulation is to ensure more efficient allocation of the capacity on the interconnection points between Europe's transmission systems and thus to facilitate trade in gas and support the creation of efficient gas wholesale markets in the EU. It requires operators of the gas grid to apply harmonised auctions, thereby ensuring transparent and non-discriminatory third-party access. The auctions are to be held at the same time, under the same rules and selling the same products across the EU. Online-based booking platforms are to be established to support the allocation process. Moreover, products will be sold in a bundled manner, eliminating the risk of being stuck with capacity rights for just one side of a cross-border point. The Network Code will enter into force on 1 November 2015.

### 3.4 Recent developments in EU external energy policy

Last year saw the adoption of important legislation in the field of EU external energy policy.

First, on 25 October 2012 the EU adopted Decision 994/2012 establishing an information exchange mechanism with regard to intergovernmental agreements ("IGAs") between MSs and third countries in the field of energy.

Pursuant to this Decision MSs were required to submit all existing IGAs with non-EU countries which are in the field of energy to the EC for assessment of their compatibility with EU law by 17 February 2013. Provided commercial agreements are not appended to the IGAs they are not required to be submitted for assessment of compatibility, thereby preserving the confidentiality of these agreements.

Going forward all IGAs in the field of energy negotiated between MS and non-EU countries will have to be submitted to EC for assessment of their compatibility with EU law. At the time of writing this chapter the review of numerous agreements, including the construction of a controversial gas pipeline network known as South Stream, is still underway.

Should the EC find that the terms of an IGA are incompatible with EU law then it may bring infringement proceedings against the relevant MS should it fail to renegotiate the IGA to bring it in line with EU law. The EC has successfully brought claims before the European Court of Justice (as it was then known) against Sweden, Austria and Finland in 2009 for their failure to renegotiate bilateral investment treaties they had entered into with non-EU countries.

With respect to IGAs which a MS has entered into before it joined the EU, the MS's obligations are set out in Article 351 TFEU. In

particular, Article 351(1) TFEU provides that in such circumstances a MS must take steps to eliminate the incompatibility. This obligation, the Court of Justice of the EU has held in 2011 in case C-264/09 *Commission v. Slovakia*, "does not impose the obligation to achieve a specific result in the sense of requiring them, regardless of the legal consequences and political price, to eliminate the incompatibility". In other words, it would seem that in respect of a pre-accession IGA a MS will not be found to be in breach of EU law if it takes steps to renegotiate the incompatible IGA even if it does not then succeed in re-negotiating it.

Second, in December 2012 the EU adopted Regulation 1219/2012 establishing transitional arrangements for bilateral investment agreements between MSs and third countries. Similar to the obligations imposed on MSs under the above-mentioned Decision, this Regulation required MSs to submit all bilateral investment agreements ("IAs") and free trade agreements ("FTAs") to the EC for assessment of their compatibility with EU law by March 2013. Going forward, the Regulation provides that, as a general rule, it will be the EC and not the MSs that will enter into IAs and FTAs with non-EU countries. In September 2011 the EC was granted its first mandate to negotiate the agreement known as the Trans-Caspian Pipeline Agreement with Azerbaijan and Turkmenistan to build a gas pipeline between Azerbaijan and Turkmenistan, thereby bringing Turkmen gas to the EU bypassing Russia. As of the date of the publication of this chapter little progress has been made to finalise this agreement.

## 4 What Does 2014 Have in Store for Companies in Oil and Gas?

Next year will see the adoption of new EU energy acquis which will significantly impact on how oil and gas companies conduct their operations in the EU. First, intensive discussions on the 2030 framework for climate and energy policy will probably start after the new EU Parliament is elected in May 2014. The 20-20-20 targets regarding carbon dioxide emissions, efficiency and renewables are expected to be revisited. It is possible that new legislation could be adopted by next year. Second, it is possible but less likely that the EC will propose a Fourth Energy Package before the end of 2014 which would inter alia grant greater powers to the Agency for Cooperation of Energy Regulators to oversee the implementation of the internal energy market. Third, it is likely that revisions to the Accounting Directives (78/660/EEC and 83/349/EEC) will be adopted next year introducing new obligations for large oil and gas companies to report the payments they make to governments on a country-by-country basis as well as on a project-by-project basis.

In addition, there is no doubt that any steps adopted by the EC pursuant to the above-mentioned legislation concerning EU energy policy will further raise tensions with Russia, Algeria, and Libya to name just a few countries. Therefore, there is no doubt that for all involved in oil and gas, 2014 will be a year to watch.

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Ana has advised states and energy companies regarding maritime border disputes, straddling oil and gas reserves, concession agreements to construct large energy infrastructure, cross-border mergers and acquisitions, and host government agreements to construct pipelines. She is also an expert on EU energy law as well as competition and environmental law as it concerns the energy sector. She regularly acts as counsel in investment treaty and commercial arbitrations including under the Energy Charter Treaty. She has on a few occasions represented parties before the Court of Justice of the EU.

Ana has a LLM from Cambridge University, UK and a LLB and B. Commerce (Finance and Banking) from the University of New South Wales, Australia. Prior to private practice, Ana worked for the Slovenian Ministry of Economic Relations and Development and the Central Bank where she *inter alia* negotiated bilateral investment treaties and free trade agreements.

Ana is recommended as a leading lawyer in Energy and Energy Disputes by Legal 500 and Chambers and Partners. Besides English, Ana speaks Slovenian, Bosnian/Croat/Serbian, Italian and understands Russian and French.

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