Supervising the development of PCIs – a shared responsibility

The need for a common strategy of supervising PCI development (including the contribution from the Regional Groups)

Further to the publication of the second list of PCIs on 18 November 2015 and in the run-up to the preparation of the third list set to be adopted at the end of 2017 it is of prime importance to adopt and communicate a strategy on the supervision of PCI implementation in order to consolidate and interlink the processes of monitoring implementation and selecting candidates for the regional lists and the Union list of PCIs.

This strategy should lead to a commonly agreed supervision of PCI development and thereby be a helpful ingredient to the implementation of the projects.

It is a process of shared responsibility between the Commission and the main stakeholders involved:

- Local project promoters (and their European associations, ENTSO-E and ENTSO-G)
- Regulatory authorities (and the Agency for the Cooperation of Energy Regulators, ACER)
- Permit granting authorities and other representatives of Member States

The Fora in which supervision has to take place are the Regional Groups as identified by the TEN-E Guidelines. Article 5(3) already provides for a mandate to do so. Regional Groups therefore will be asked to explicitly endorse this updated strategy in the upcoming meetings of February and March 2017. However, it must be noted that these Fora alone may not deliver the means to correct situations through which PCIs are seriously delayed or at risk for whatever reason this might be. In the concrete case the means and the involvement must be focussed on the exact causes of delay/difficulties and deployed by the stakeholders directly involved.

Objectives and expectations from the supervision process

The following objectives should be reached by way of a common supervision strategy:

- A faster implementation of PCIs sticking to the major milestones and dates communicated in the implementation plans required by Article 5(1) of the Guidelines.
- A thorough understanding among all parties involved that timely monitoring and supervision is a priority but cannot and shall not be ensured by the Commission alone. The role and responsibility of Regional Groups and their members in the active supervision of PCIs must be acknowledged.
- A close link between this process and the one of establishing a Union list, as the latter cannot function properly and lead to performant PCIs without the results and the

experience of the first[1].

- A commonly accepted approach (also going – where necessary – beyond what the Guidelines foresee) to address the needs of PCIs in difficulty, either on an individual level or on a cluster level.
- And finally, a better engagement of all parties involved each one <u>proactively</u> contributing to the process also meaning enhanced networking.

Reporting, progress monitoring, project data collection tools available

Reporting and monitoring of progress in PCI implementation will have to accompany the supervision process based on robust and verifiable facts. Where changes to initial project implementation plans and data are not communicated spontaneously (which currently is the rule) tools to collect data need to be in place and data collection needs to be accurate and timely without imposing an administrative burden on the relevant parties identified in Article 5 of the Guidelines.

The main institutions involved in this process are:

- ACER, through its obligation to draft a consolidated report (Article 5(5))

- The Commission (assisted by INEA), through its Transparency Platform (Article 18)

- The Competent Authorities through their yearly reporting obligation (Article 5(6))

- The ENTSOs at the time of establishing the TYNDPs (Annex III.2.3)

Addressees of reporting (as identified in the Guidelines):

- The Regional Groups and their Members (as identified in Article 5)
- The public at large (through the Transparency Platform of Article 18)

Tools available and their main features:

(1) ACER's annual consolidated report
Frequency: yearly
Timeline: data collected by 31 March, report published by 30 June
Collection of data: By survey sent to all promoters of PCIs on the list in force (except oil infrastructure)
Coverage: very detailed.

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[1] As recognised by the Infrastructure Forum 2016 which called on the Regional Groups to use information on project progress as an element in the PCI identification process
https://ec.europa.eu/energy/sites/ener/files/documents/Conclusions%20for%20distrib%20updated%20final.pdf

Distribution: public (consolidated version), detailed data transferred to Commission and INEA (if authorised by the project promoter).

(2) Reports by the Competent Authorities

Frequency: yearly

Timeline: not defined in the Guidelines

Collection of data: Based on the ACER survey and on individual research.

Coverage: Level of detail varies according to the progress of a PCI in the permit granting process, as reporting is limited to permit granting issues

Distribution: Regional Groups concerned

(3) Progress Watch

Frequency: Continuous

Timeline: Year round

Collection of data: ENER.B1, assisted by INEA. Data is drawn from ACER, Surveys (related to the implementation plans provided by project promoters), *ad-hoc* contacts with promoters and other stakeholders, mandatory reporting under grant agreements concluded with INEA, financial screening, other reports.

Coverage: The level of detail is limited to the main milestones and features of a PCI.

Distribution: Public part via the Transparency Platform. The full data set is used internally by the Commission and INEA for day-to-day project progress monitoring and reporting. The most topical information regarding PCI implementation, e.g. unexpected/urgent developments, shall be communicated to the respective Regional Groups on an *ad-hoc* basis.

This application should allow assessing if a project is at risk and provide an early warning system for the Commission.

Complementarity between these tools

The main complementarity lies in the frequency of update as well as in the type of data available. Whereas ACER reporting focusses on technical issues, the Progress Watch also encompasses data related to financing (grants, loans) by current programmes but also by programmes related to the previous programming period (TEN-E 2007-13, EEPR, ESIF 2007-13) The reports by the Competent Authorities focus on a single issue, namely the permit granting process.

Towards a shared and comprehensive database

However, even though the tools are predominantly complementary, there is space for improvements in the data collection to maximise coherency and minimise the burden for those that provide information. There is in particular a partial overlap between data requests for the updates of the Transparency Platform and the ACER annual monitoring report. A single-entry, comprehensive repository of data, which allows searching for information and access in a continuously updated manner, is intended to improve accuracy and eliminate the multiplication of data entry.

Such a database is currently being built by ACER. It will be first limited to gas infrastructure

(AEGIS) and be available in the course of the first quarter 2017. It will not be open to the public and access will be restricted to authorised entities only.

Efficient exploitation of these tools by Regional Groups and follow-up

The challenge associated with the supervision is to measure progress in the development of the PCIs and keep the Regional Groups regularly informed without overwhelming them with a plethora of data. Ways to address this challenge from the Commission side are:

- Regular contacts (at individual level) with Members of the Groups especially with project promoters
- Regular communication (also outside group meetings) on progress of PCIs at risk with indication of the proposed action to be taken
- Dedicate a part of Regional Group meetings to certain, recurrent issues related to progress as well as develop and present recommendations to solve problems in financing, permit granting, regulatory issues, concerns for civil society
- Keeping a register of issues and recommendations contained in the various reports for each Regional Group. This register – to be updated by the Commission at regular intervals – should list target dates for the completion of a recommendation or the closure of an issue.

Guidance about the tools available to Regional Groups

It has to be kept in mind that all tools have been developed with an overarching objective in mind: implementing the PCIs at the earliest and at the best conditions possible but also increasing their overall visibility to a wider public (e.g. Transparency Platform).

Whereas the annual consolidated report of ACER and the annual reports of the Competent Authorities are standard tools whose findings need to be discussed in Regional Group meetings, results from the progress watch will continue to be communicated on an *ad-hoc* basis, as soon as the follow-up identifies a concrete and substantial problem.

Shortfalls in developments of concrete PCIs: actions that could be taken by the Groups and/or selected Members

Once a concrete shortfall for a PCI or a cluster of PCIs has been detected, it needs to be brought to the attention of the Regional Group concerned and discussed especially with regard to its impact on other PCIs and existing infrastructure plans in the region/in the corridor.

Whereas the Group can give a recommendation on how to correct the situation, it is unlikely that this alone will be decisive for solving the problem. What is needed is a commonly agreed action plan with the involvement and the commitment of the directly affected stakeholders according to the problem identified.

The Group can then monitor the progress on the basis of regular reports to be provided by the Commission (based on the input from the affected project promoters), thereby taking up its

responsibility as identified in Article 5(3) of the Guidelines. In addition to the supervision task to be assumed by the Commission and the Regional Groups, there is the need for developing a governance structure for getting relevant PCIs back on track once they have encountered difficulties, each time adjusted to the nature of the underlying difficulties and the situation of the PCI.

Other means to address significant difficulties in implementation are identified in the Guidelines, namely:

a) a call for proposals to select a project promoter being able to build a project according to an agreed timeline (Article 5(7.d). Preceding steps are identified under points (a) to (c) with the responsible parties clearly identified;

b) the designation of a European Coordinator according to Article 6.

Whereas (a) above is the *ultima ratio* for a PCI running seriously behind schedule seems predominantly justified if the failure of a PCI would endanger infrastructure development on a corridor level, the designation of a European Coordinator can only be justified when it comes to resolving problems at a political level having a far-reaching impact for the whole region. However, for this the format of a high-level group (introduced to date for four regions) is proving an appropriate solution. This approach is also in line with the aspirations of the Energy Union with regard to enhanced regional cooperation and requires more commitment of the Member States.

Timeline

This updated strategy shall be communicated to the cross-regional groups at their meetings of February and March 2017.

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