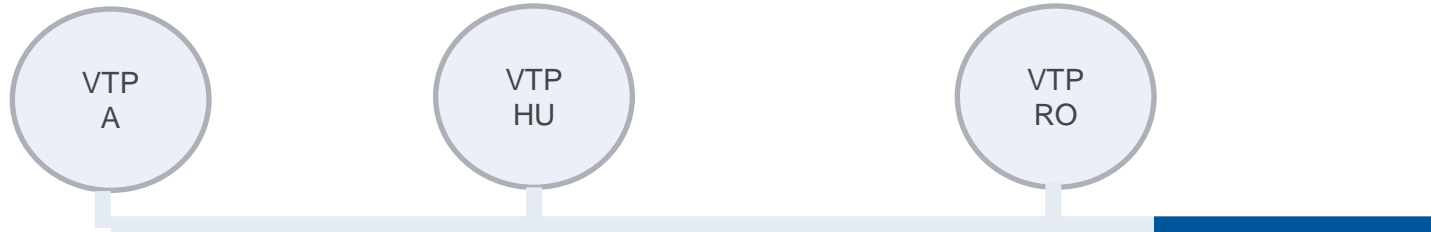


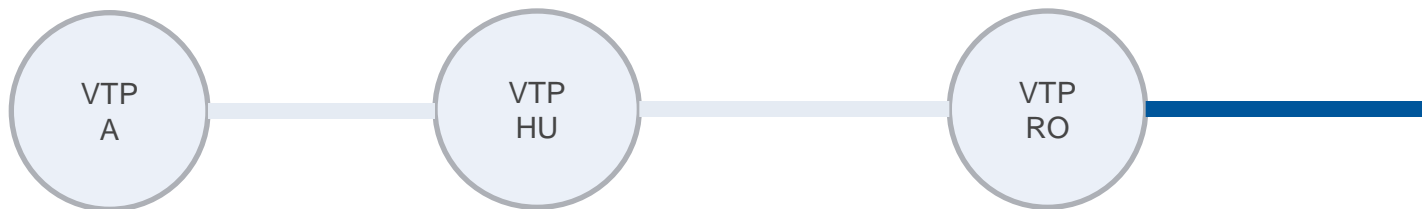


# **Interface Risks in Cross-border Gas Transport for E&P Projects**

- Larger hydrocarbons E&P projects require comprehensive risk mitigation
- In cross-border supply projects, interface risks and lack of consistent transportation terms are a major risk in gas logistics
- Recent E&P projects requiring / supporting development of new infrastructure have opted for uniform transportation terms
- E&P projects relying on cross-border transportation on existing infrastructure may not require uniform transportation terms, but
  - How much do EU transportation terms deviate from each other?
  - How can /should interface risks be allocated?
  - Consistency in gas transportation - what are 'must haves' / 'what are nice to haves'?



**Transportation on new exempted pipeline:** The same TSO transports gas across all jurisdictions. The transportation terms are the same in each jurisdiction. The tariff methodology is consistent for all exit points. The capacity is allocated in an open season. There are no congestion rents /auction premia. Entry capacity may have to be paid to access individual VTPs. There is one contract across all jurisdictions.



**Transportation on existing interconnected network:** Different TSOs transport gas across individual jurisdictions. The transportation terms are different in each jurisdiction. The tariff methodology is different for each jurisdiction. The capacity is allocated in individual or coordinated auctions. There may be congestion rents /auction premia. There are multiple contracts across all jurisdictions.

Third Energy Package  
+ EU Network Codes



Uniform Transportation  
Terms

- Impact of different governing laws
  - Contractual
  - Administrative
- Risks and costs emanating from contracting with different operators
  - Individual processes and proceedings (regulatory / litigation / arbitration) with likelihood of different outcomes
  - Multiple need for credit support

- Case study Black Sea Gas – transportation AT, HU, RO
- Difference in the following key terms:
  - Definition of capacity rights
  - Maintenance/outage regime
  - Differences in nomination regime
  - Different balancing and fuel gas regime
  - Diverging scope of capacity curtailment events
  - Operation of the use it or lose it principle
  - Tariff, tariff methodology and regulatory periods
  - Different change regime for contractual terms
- No interaction between different contracts in the jurisdictions-  
e.g. cross-default and termination

- Risk to be assumed by the party that can bear / mitigate it best
- Moving delivery point for gas supplies can mitigate risk
- Gas supply agreements can be used to mitigate transportation risks, but this comes at a cost
- Gas Directive exemption regime also applicable to expansion
- TEN Regulation / PCI status and NC on Incremental Capacity provides the possibility for an alternative exemption regime
  - Alignment of tariff methodology and tariff review period in an inter-ministerial / international agreement
  - Alignment of terms and conditions and joint process for revising terms and procedures that are cross-border under an inter-TSO agreement

- Discussion of cross-border issues tends to focus on capacity allocation and coordinated auctions
- Risk / bankability assessment also requires addressing differences in transportation terms
- There are significant differences in transportation terms; this creates significant risk / cost for new E&P and supply activities
- Current EU regulation will not lead to uniform transportation terms and tariff setting periods
- There are several options available to mitigate cross-border transportation risks without need for further EU regulation
- There is more flexibility for inter-TSO agreement on uniform terms as is commonly realised and utilised



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Michael Cieslarczyk has long-standing experience in energy contracts, infrastructure projects and in relation to the implications of banking, capital markets and exchange laws on the energy sector. He has also focused on energy and emissions trading activities as well as on supervisory laws for banking and financial services institutions active in energy and emissions trading. Michael is also heavily involved in the context of renewable energy projects.

He advises in relation to regulatory aspects and represents clients in proceedings in front of the competent supervisory authorities as well as in contentious proceedings.

Michael heads the German Finance & Projects group as well as the German Energy Team and - as EMEA Energy Sector Head - is also responsible for DLA Pipers' energy sector activities in the EMEA region. Since 2008, JUVE Commercial Law Firms has identified Michael as a leading lawyer in the area of energy law/regulation.



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Andreas is an energy, projects and finance practitioner qualified in England & Wales. He has both in-house and private practice experience.

His practice areas cover the entire energy value chain, including upstream oil and gas exploration, production, transportation and trading (both OTC and exchange); electricity generation projects from conventional and renewable energy sources; electricity transmission, distribution, trading (both OTC and exchange) and supply; and emission reduction projects and environmental securities, allowance and certificate trading as well as related regulatory advice.

ACC/ILO European Counsel of the Year 2013 (Regulatory) and is recommended in the Legal 500 for oil and gas work.

Andreas has been held several industry organisation and working group chairman roles, including as chair for the Gas Transportation Committee of the Association of International Petroleum Negotiators.