Cross-border CCS infrastructure in Norway, the UK and the Netherlands

Ingvild Ombudstvedt

1 Owner/lawyer, IOM Law

1. Introduction

In recent times, there have been several initiatives and projects focusing on cross-border infrastructure as a step in the direction of commercialisation of CO₂ capture, transport and storage (CCS). As CCS is not a commercial industry yet, looking into aspects that can drastically reduce costs and which further may help kick-start commercial markets is crucial. Having countries prohibiting storage within their territories or not having the geological capacity or characteristics, being able to export their CO₂ to other countries for storage will further enable CCS in countries that up till now have not been able to consider full chain activities at all.

Collaboration on infrastructure for transport and storage is endorsed in the European Union (EU) framework, through e.g. requirements for third party access to transport network and storage sites and mentioning of cross-border collaboration in CCS Directive. The European Commission Projects of Common Interest (PCI) is an example of policy instruments supporting cross-border collaboration. Although first and foremost a scheme to enable the development of key energy infrastructure projects, the European Commission (EC) has from 2017 included CCS projects on the list.

However, there are more aspects of relevance to a cross-border collaboration in the EU, and many other countries, than national or regional schemes and framework to support such activities. As dealt with by both the International Energy Agency (IEA), the author of this abstract and others previously, the London Protocol poses a hurdle for such activities. In previous studies and papers, alternative approaches to unlocking this hurdle has been identified and analysed.

In this paper, the goal is to take one step further, and present a case study based on two of the projects granted support under the PCI scheme.

2. Projects of common interest

Since 2013, the EU has operated a scheme to enable the development of key energy infrastructure projects - known as PCIs. This scheme is designed to optimise network development at the European level for the period up to 2020 and beyond, to implement the Energy Union, and to meet the EU's energy policy objectives of competitiveness, sustainability and security of energy supply. To be eligible, the scheme requires “a project must have a significant impact on energy markets and market integration in at least two EU countries, boost competition on energy markets and help the EU’s energy security by diversifying sources, and contribute to the EU’s climate and energy goals by integrating renewables.”
Every two years the EC announces the Union List of Projects of Common Interest (Union List) of PCI projects that can benefit from accelerated permitting procedures and improved regulatory conditions and may be eligible for financial support from the Connecting Europe Facility (CEF). For the first time since the PCIs scheme started, the 2017 list of proposed PCIs included ‘Cross-Border Carbon Dioxide Transportation Infrastructure’ – a thematic area focused on the development of CO2 transportation networks. Four CCS projects were included in the updated list on as published 23 November 2017.

3. “Cross-Border Transportation – A key to Unlock Full-Scale CCS”

In the paper “Cross-Border Transportation – A key to Unlock Full-Scale CCS”, access to storage hubs through cross-border transportation was emphasized as an important factor to commercialise CCS. Further, an analysis was made of the wording of the London Protocol Article 6, prohibiting export of CO2 for storage. Article 6 was amended in 2009, opening up for cross-border transportation of CO2 for storage. However, 29 ratifications are needed before the amendment enters into force. The process of ratification has proven to be slow and so far, only three countries have completed the process. In the mentioned paper, six alternative approaches to realise a cross-border CCS project, despite the existing prohibition, were examined. These alternatives are:

1. an interpretative resolution based on the general rule of interpretation;
2. resolving to provisionally apply the 2009 amendment;
3. subsequent agreement through an additional treaty (bilateral or multilateral);
4. modification of the operation of relevant aspects of the London Protocol as between two or more contracting parties;
5. suspension of the operation of relevant aspects of the London Protocol as between two or more contracting parties; and
6. conducting CCS through non-contracting parties.

As concluded in the paper, there is no “one size fits all”. There might be different options available depending on which countries conducting the export and import, and further if and how third-party countries are being affected and whether or not these third parties are parties to the London Protocol. One can imagine a large amount of potential solutions and constellations to address the hurdle, given that there are 50 contracting parties to the London Protocol.

4. Case study

In this paper, a case study based on two PCI projects will be presented, namely the projects “CO2 Cross Border Transport Connections” and “CO2 SAPLING (CO2 Shipping And PipeLine Infrastructure and North Sea ReGeneration)”. Both projects are involving stakeholders from Norway, the UK and the Netherlands, all of which have ratified the amendments to the London Protocol Article 6. One of these projects further has ties to the Norwegian full-scale project and the potential for realization of an European storage hub. Focusing on these two projects will allow for a more thorough analysis of fewer of the alternatives on the list above, totally excluding alternatives 1 and 6. Most of the solutions available for the countries in question, will comprise a combination of two or more alternatives, depending on the project and political leverage.

Also, this case study makes it possible to take inputs from stakeholders, including public authorities, into consideration. Having these three countries being so near each other geographically finally makes it possible to cluster and compare the analysis of the potential third-party reactions and interference.