



7th ETRC 2017 SUMMIT

ENERGY TRADING REGULATIONS & COMPLIANCE



Presentation: REFIT Programme: Fitness check of reporting and planning obligations in the EU energy acquisition

Francisco Gonçalves
Regulatory Affairs Advisor
Gazprom Marketing & Trading Ltd

www.etrsummit.com

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REFIT Programme: Fitness check of reporting and planning obligations in the EU energy acquis

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So what is REFIT?



The REFIT Platform brings together the Commission, national authorities and other stakeholders in regular meetings to improve existing EU legislation.

What REFIT is

REFIT is part of the Commission's better regulation agenda. It makes sure that EU laws deliver their intended benefits for citizens {b businesses) and societ while removing ed tape and lowering costs) It also aims to make U laws simpler nd easier to understand.

REFIT led to the Commission proposal for a Regulation on the Governance of the Energy Union

- Sounds promising, right?

In line with the **Commission's strong commitment to Better Regulation**, the proposal will result in significant reduction of administrative burden for the Member States, the Commission and other EU Institutions. Current planning and reporting requirements (for both the Commission and Member States) in the energy and climate fields provide benefits in terms of detailed information on specific policy areas and support the implementation of sectorial legislation. Nevertheless, they are found in a wide range of separate pieces of

Regulators have good reasons to impose reporting requirements

- Regulators all have the same concerns...

1. Ensuring market participants behave (→ insider information; abuse of dominant position)
2. General statistical purposes (→ Governments and Regulators need to know)
3. Security of supply (→ Ministries concerned about gas in storage or supply sources)
4. Prevent conflicts of interest (→ unbundling of accounts)
5. Price monitoring at retail level
6. Regulator's fee

...but do we really need 28 different reporting obligations and licensing requirements?

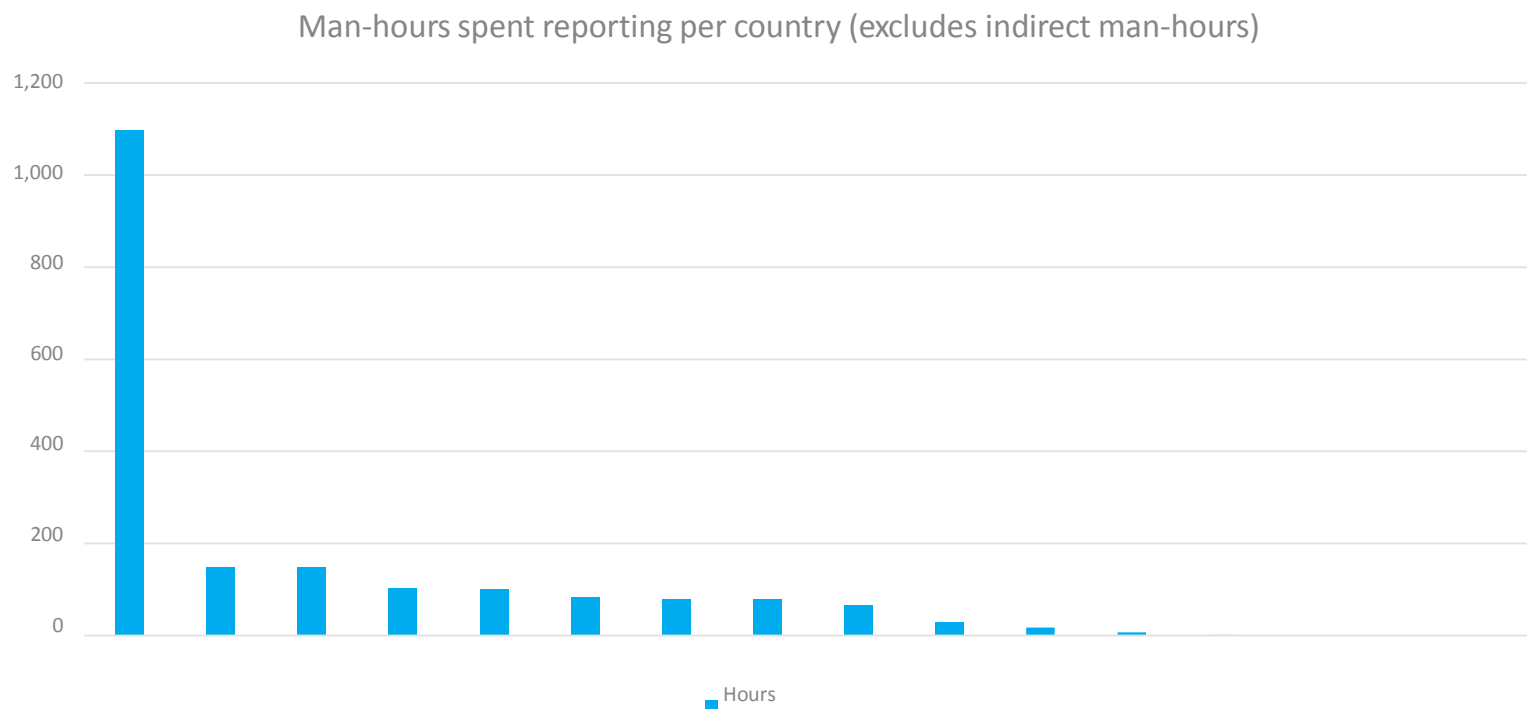
But are regulators using the data they already have to its fullest?

- Examples of unnecessary reporting
 1. REMIT data – do we really need to report this again?
 2. General statistical purposes – how much of gathered data is being used to its fullest? (→REMIT)
 3. Security of supply (REMIT data will tell you where gas is entering from and Storage operators could do reporting)
 4. Unbundling – how many vertically integrated undertakings are there?
 5. Price monitoring at retail level – do wholesale traders need to comply?
 6. Regulator's fee – if based on volumes sold → use REMIT
- The **Better Regulation** should target the inefficiencies of national regulatory burden imposed on shippers, including reporting obligations and licensing requirements

Risks of a fragmented and complex compliance framework

- Expensive
 - Time (reports involve multiple numbers of people)
 - Money → set up systems or translations
- Complexity = Operational Risk = Trouble
 - Fragmented information on how to comply
 - Are we keeping the eye on the ball in less active markets?
- Market Barrier: risks and costs of burdensome regulatory regime negatively
 - impacts smaller players,
 - less active players and
 - discourages market entry

The improvements could start by addressing the regulatory reporting burden across different Member States

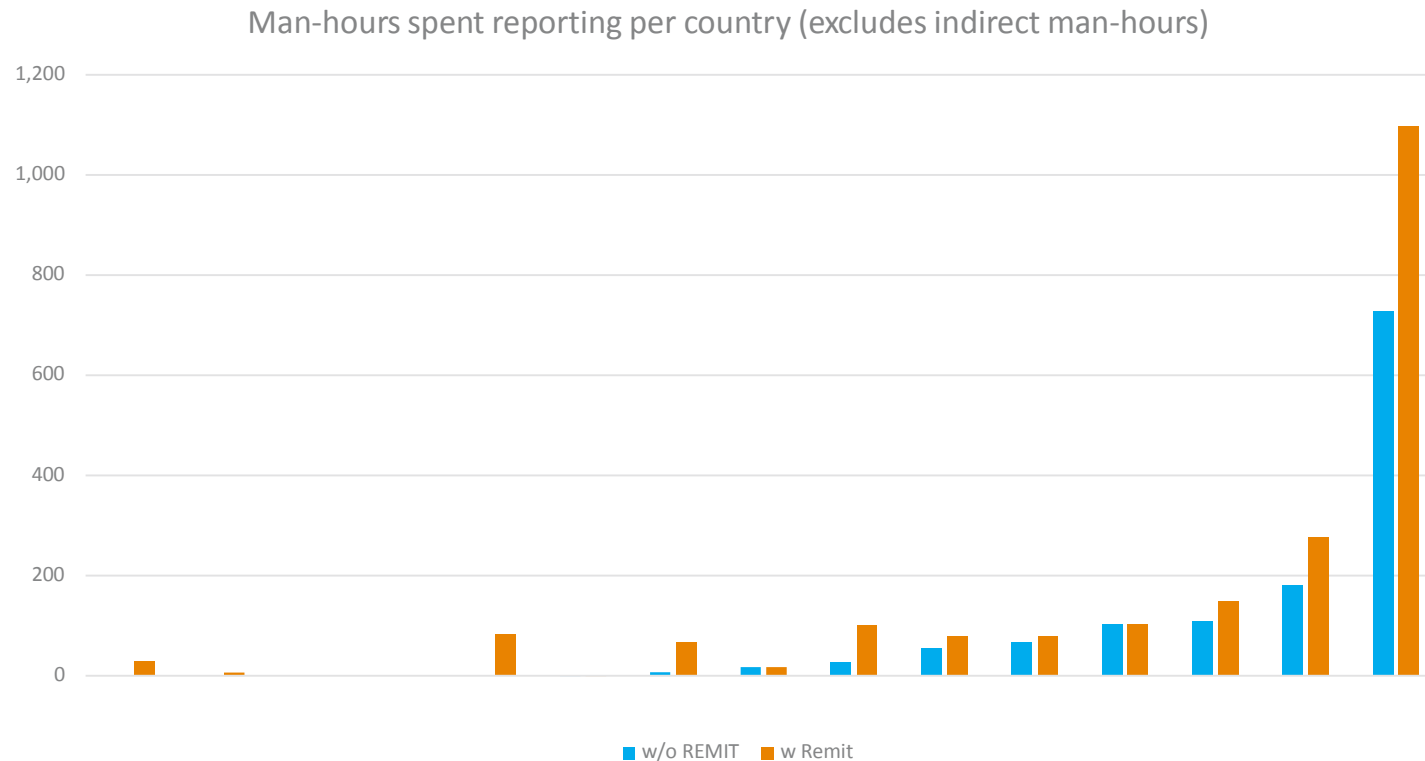


- Total man-hours: ~2080/year
- There is a strong negative link between liquidity and reporting obligations

The EU should set itself clear short-term and long-term objectives that can be pursued in parallel

1. Short Term Goal: Make meeting REMIT obligations more efficient
 - a) Ensure NRAs use REMIT
 - b) Ensure NRAs reduce reporting obligations already covered by REMIT
 - c) Ensure REMIT information is shared within NRAs and among government entities
2. Mid Term Goal: Reduce reporting as much as possible in other areas or made as efficient as possible
3. Long Term Goal: EU Solution, apply EU best practices and expanding REMIT-style (EU-wide, automated and centralized) data gathering to other obligations across Europe, where
 1. these obligations are absolutely necessary,
 2. there are similarities across countries and
 3. synergies can be found

1. Addressing REMIT double reporting (1)



- Total man-hours without REMIT double reporting: ~1290/year

1. Addressing REMIT double reporting (2)

- REMIT's impending appearance was known since as late as 2010, yet:
 - NRAs and Ministries have not planned to reduce double reporting
 - One NRA did not know whether they would have access to REMIT data
 - Some NRAs did not know there is double reporting despite having a REMIT department, because one division is responsible for REMIT and another for the national reporting
 - REMIT-like data may be requested by non-NRA government entities, despite NRA already having such data
- When asked about double-reporting almost all NRAs (and ACER) give the same answer:
 - REMIT regulation Recital 17: *"The collection of data by the Agency is without prejudice to the right of national authorities to collect **additional** data for national purposes"*
 - NRAs are confusing "additional" with "the same"

Synonyms for additional

adj extra, supplementary

☐ Common ☐ Informal  

added

new

affixed

on the side

padding

further

other

appended

option

perk

increased

supplementary

more

over-and-above

spare

1. Addressing REMIT double reporting (3)

■ Example: Spanish Circular 4/2008

CIRCULAR 4/2008 vs. REMIT ANEXO 1. FORMULARIO SOBRE PRECIOS DE APROVISIONAMIENTO DE GNL INTRODUCIDO EN ESPAÑA POR PLANTA REGASIFICADORA.	
Compra del gas natural	Covered by REMIT?
Lugar	YES
- Punto de compra	YES
- Nombre	YES
Suministrador	YES
Cantidad (MWh)	YES
Precio (€)	YES
Fecha (DD/MM/YYYY)	YES
Puerto de carga del gas	
Puerto	
País	
Fecha (DD/MM/YYYY)	
Transporte marítimo	
Incoterm	
Coste transporte marítimo	
Entrada del GNL a España	
Puerto	YES
Fecha (DD/MM/YYYY)	YES
Cantidad	YES
Precio	YES
Duración del contrato	
Inicio del contrato (DD/MM/YYYY)	YES
Duración	YES

CIRCULAR 4/2008 vs. REMIT ANEXO 2. FORMULARIO SOBRE PRECIOS DE APROVISIONAMIENTO DE GN INTRODUCIDO EN ESPAÑA POR CONEXIÓN INTERNACIONAL (GASODUCTO).	
Compra del gas natural	Covered by REMIT?
Lugar	YES
- Punto de compra	YES
- Nombre	YES
Suministrador	YES
Cantidad (MWh)	YES
Precio (€)	YES
Fecha (DD/MM/YYYY)	YES
Transporte por gasoducto	
Países de tránsito	?
Coste de transporte por gasoducto (€)	.
Entrada del GN a España	
Interconexión	YES
Fecha inicio (DD/MM/YYYY)	YES
Fecha fin (DD/MM/YYYY)	YES
Cantidad	YES
Precio	YES
Duración del contrato	
Inicio del contrato (DD/MM/YYYY)	YES
Duración	YES

Most other questions can be triangulated

The inefficiencies do not end with REMIT

2. Making reporting more efficient in all areas

- Volumetric and price data is covered by REMIT, but some countries require:
 - Emails to be sent every month providing contact information
 - Frequent shareholder information even if there has been no change
 - Number of employees
 - Financial accounts
 - Retail data
 - Accounting methodologies

The inefficiencies do not end with REMIT

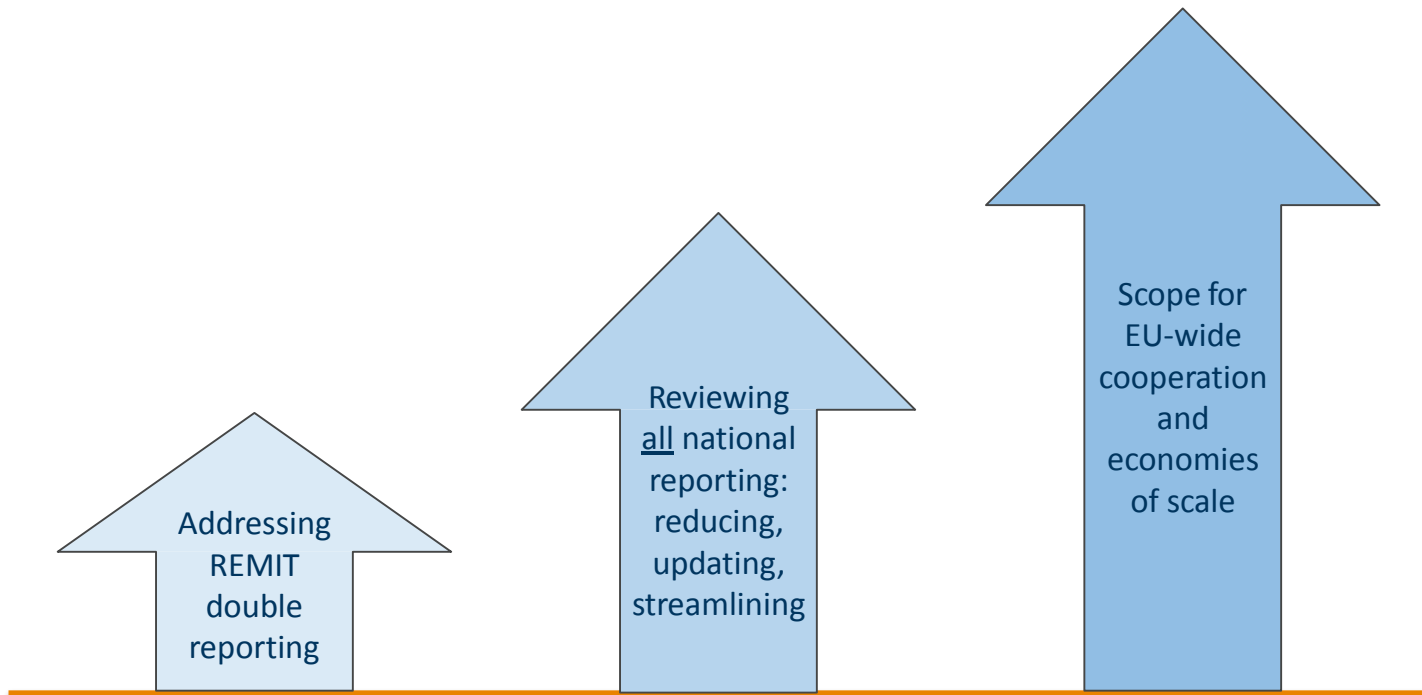
2. Making reporting more efficient in all areas (national solution)

- Content: Reporting obligations in the EU are different for every country, varying from light, to burdensome, out-of-date, unnecessary, inefficient and a barrier to market entry
- Scope: Wholesalers often have to report retail activities and vice versa
- Authorities: Similar or exactly the same obligations are reported to different government entities because they are not sharing information
- Medium:
 - Some NRAs/Ministries provide spreadsheets to fill-in that are protected, in native language, cannot be copy-pasted (and google translated) and can take days to complete when it should take only a few hours. Reporting often requires more than one person to input data, but these people may not know the native language
 - Other: accessing electronic platforms; out-of-date website & instructions; requires translation into local language of financial accounts; obligation to use certified national lawyers
- Set-up: Getting ready to report can be problematic, requiring frequent trips to the consulate, accessing different portals, a new national ID, powers of attorney
- Usefulness: there seems to be a lot of legacy reporting, but how useful is it?

3. We should be ambitious in fixing this, and the solution isn't that complex (European solution)

- What is needed is a major 'sit-down' by regulators and ministries where they ask themselves:
 1. **Purpose:** Why do we do have this obligation? Do (still) we use the data?
 2. **Scope:** are we targeting the right market participants? (e.g. retail v. wholesale)
 3. **Data gathering methods:** is there a more efficient way to gather this information? (→ look at other countries); economies of scale? Automatic reporting? Triangulating data? Best-practice?
- The EU Commission needs to start identifying burdensome and inefficient reporting
- obligations as a barrier to new market entrants or smaller market players
- The EU should do what it does best: simplify, harmonise and provide economies of scale;

REMIT is the obvious low hanging fruit, but the push for a comprehensive and holistic review should begin now because it takes longer to accomplish



3. We should be ambitious in fixing this, and the solution isn't that complex

Problem	What Member States can do?	What the EU can do?
Double reporting with REMIT	Consider reporting obligations legally met Ensure authorities can access REMIT data either directly or through information sharing	Ensure all interested authorities (not just NRAs) can access REMIT data whilst respecting confidentiality
Legacy reporting	Review origins and purpose of reporting Do this for all national authorities	Provide harmonised rules /standards for national authorities on market monitoring
Different authorities are asking similar data	Ensure authorities are <u>sharing</u> information and coordinating with each other	The EU could propose the following law: "no authority is authorized to request information it (or other authorities of the same country) already possess"
Financial reporting of non-national market participants	Do NRAs need them? Why? Accept financial accounts info provided to tax authorities of company's EU country of residence Is this related to preventing x-subsidies between transmission and supply? Should this not be applied to vertically integrated companies only?	If necessary, can there be a harmonised, streamlined way to report this information? EU could oblige MS to acceptance financial account standards (& reporting) of other EU countries standards (+English version/translated?)

3. We should be ambitious in fixing this, and the solution isn't that complex

Problem	What Member States can do?	What the EU can do?
Accessibility to information	Update websites, update instructions and guidelines, provide English spreadsheet that are not protected	The EU should design and implement minimum quality standards for NRAs and ministries (this is not just related to reporting, but the quality of a website can be a market barrier)
Can data be accessed in an easier way?	In certain countries, wholesale traders do not have reporting obligations because the TSOs, market operators, storage operators and exchanges do that for them	Could aid in the harmonisation and streamlining of additional data
Retail v wholesale	Create two separate licensed activities	Oblige MS to separate the two
Up to date obligations/ legacy reporting	Frequent Review	Oblige frequent review a not just for NRAs but ministries
NRAs do not know how to access REMIT data	NRAs can learn to do so	ACER can train NRA's, ministries to access REMIT data

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