

General economic policy, industrial policy

## **IEA CCS Regulatory Network Meeting 9. - 10. May 2012 in Paris**

# **Transposing the EU Storage Directive in German Law**

Almut Fischer, German Ministry for Economics and Technology

[www.bmwi.de](http://www.bmwi.de)

## Overview of presentation

- ▶ Current Status of Legislative Process
- ▶ History of German CCS Legislation
- ▶ Are there any Options for Compromise left ?

## Current Status of Legislative Process

- ▶ Official Draft of **German Govt. in April 2011**
- ▶ The **Bundestag/Parliament passed the Draft Law in July 7, 2011.**
- ▶ The Draft Law was scheduled for approval by the **Bundesrat/Federal Assembly (Assembly of the German States) in September 2011.** Bundesrat did not consent.
- ▶ Government applied for a Conciliation Procedure – first meeting on 8th November 2011 (Conciliation committee consists of 16 high level representatives of the states, 16 representatives of the Bundestag).
- ▶ End of December 2011 an Informal Working Group was put into place by Conciliation Committee

## Results of Informal Working Group so far

- ▶ One meeting of Informal Working Group end of January 2012
- ▶ No evident result so far; however the states are informally contacting each other on options for a compromise.
- ▶ With upcoming elections in states of Schleswig-Holstein and Northrhine-Westfalia last Sunday and following Sunday coming up: stand still in conciliation procedure.
- ▶ We expect the conciliation process/the negotiations to resume after state elections in those two states.

## History of the draft law on CCS: Why did we have to restrict our law so substantially?

- ▶ Draft Law of 2009 envisaged full scale commercial deployment of CCS.
- ▶ However, Germany faced a lack of public acceptance in potential storage regions (Schleswig-Holstein and Brandenburg): public concerned about risks of leakage, pollution of drinking water, long term safety etc. whereas land owners feared infringement of property rights.
- ▶ Due to difficulties the German Government Parties decided to postpone the draft law **to next legislative period**.
- ▶ New draft was limited to the demonstration of CCS. To that end the scope of applicability was substantially diminished.
  - ▶ Storage Amount 8 Mio. Tonnes CO<sub>2</sub> nationwide, 3 Mio. Tonnes CO<sub>2</sub> per storage site.
  - ▶ Time Limit for storage application
  - ▶ States clause: states can decide for themselves whether they want CCS by being able to exclude territory from the demonstration of CCS if based on reasonable grounds.

## Instruments of 2011 Draft in comparison to 2009 Draft

- ▶ **Scope of applicability diminished**
  - ▶ Storage amount restricted
  - ▶ Application for storage permit restricted
- ▶ **Highest precautionary standard**
  - ▶ Signal for public: Safety and environmental standards raised as far as possible whereas restrictions as to amount and time
- ▶ States' Clause – the Opt Out possibility
- ▶ Rights of property owners enhanced
- ▶ Obligatory knowledge sharing
- ▶ Financial security also for the aftercare of the storage site (3 % of saved emission trading allowances)

## Are there any Options for Compromise after disapproval of Federal Assembly?

- ▶ The opinions of the 16 States on CCS differ enormously. Dividing line not politically or geographically.
- ▶ German CCS Law is already very restrictive, that leaves little room for compromise. With current law only three medium size demonstration projects could be realized.
- ▶ We have been discussing smaller amendments to the draft:
  - ▶ Discretionary transfer of responsibility
  - ▶ Extension of time period until transfer of responsibility
  - ▶ Maybe considerable for : Lower the financial risk of the involved state

## Options for Compromise (2)

- ▶ It has been proposed to restrict the Law to Emissions from Gas fired power stations by further restricting the storage amount per storage site
- ▶ Also: Proposals to restrict the Law to Emissions from Industrial Processes
  - ▶ restriction to emissions from industry in our view not compatible with the Directive (third party access to storage and pipelines, Art. 21 Directive 2009/31/EC).
- ▶ Discussion about possible solutions continuing.