



Ireland No. 2 (2005)

Agreement

relating to the Transmission of Natural Gas through a Second Pipeline
between the United Kingdom of Great Britain and Northern Ireland and
Ireland and through a Connection to the Isle of Man

Gormanstown, (Ireland), 24 September 2004

[The Agreement is not in force]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
October 2005*

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**AGREEMENT RELATING TO THE TRANSMISSION OF NATURAL GAS
THROUGH A SECOND PIPELINE BETWEEN THE UNITED KINGDOM OF
GREAT BRITAIN AND NORTHERN IRELAND AND IRELAND AND
THROUGH A CONNECTION TO THE ISLE OF MAN**

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**AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF IRELAND RELATING TO THE TRANSMISSION OF
NATURAL GAS BY A SECOND PIPELINE BETWEEN THE UNITED
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND
IRELAND AND THROUGH A CONNECTION TO THE ISLE OF MAN**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland,

Recalling the Agreement between the two Governments relating to the transmission of natural gas by pipeline between the United Kingdom of Great Britain and Northern Ireland and Ireland done on the 30th day of April, 1993¹;

Desiring to facilitate the construction and operation of a second Scotland/Ireland interconnector pipeline between Beattock near Moffat in Scotland and Gormanston in Ireland, together with a connection to the Isle of Man, for the transmission of natural gas;

Have agreed as follows:

ARTICLE 1

Definitions

In this Agreement unless the context otherwise requires:-

"Authorisation" or "Consent" includes any necessary licence (but not any necessary wayleave or easement);

"Commission" means the Irish Sea Interconnector Commission referred to in Article 15;

"Inspector" means any person authorised by either Government or a competent authority to carry out inspection activities relating to the design, construction (including fabrication and installation), operation and maintenance of any part of the Pipeline;

"Isle of Man Connection" means the connecting pipe from the junction with that part of the Pipeline on the sea bed of the territorial sea adjacent to the Isle of Man up to the pressure reduction system above the high water mark on the west coast of the Isle of Man;

¹ Treaty Series No. 73 (1993) Cm 2377

"Natural Gas" means any gas derived from natural strata (whether or not it has been subjected to any process or treatment);

"1993 Agreement" means the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland relating to the transmission of Natural Gas by Pipeline, done on the 30th day of April 1993;

"Operator" means the person referred to in Article 4 and authorised in accordance with Article 2 who organises or supervises the construction and operation of the Pipeline or any part thereof;

"Owner" means the person referred to in Article 3 and authorised in accordance with Article 2 who is entitled to possession of the Pipeline or any part thereof and includes where appropriate any person designated for the purposes of Article 13(1) in accordance with Article 17;

"pig trap" means the pressure vessel at the end of the Pipeline to facilitate the entry into or removal from the Pipeline of inspection and surveillance tools;

"Pipeline" means the pipe from the outlet flanges of the valves installed at the connection points to the Transco number 11 and number 12 national transmission system pipelines adjacent to the Transco Compressor Station at Beattock near Moffat in Scotland to the pig trap at the Bord Gais Eireann Shore Station at Gormanston, Co. Meath in Ireland and includes any part of the Pipeline and any apparatus, equipment or other thing which is ancillary to the Pipeline and which is between those flanges and that pig trap but does not include any part of any connecting pipe;

"Standard Cubic Metre", when applied to natural gas, shall mean that quantity of Natural Gas free of water vapour which at fifteen degrees Celsius and at an absolute pressure of one thousand and thirteen decimal two five millibars (1013.25 mbar) occupies the volume of one cubic metre; and

the singular includes the plural unless the context otherwise requires.

ARTICLE 2

Pipeline Authorisations and Consents

(1) Subject to paragraphs (2) and (3), neither Government shall object to the laying and operation of the Pipeline by the Operator along the route illustrated on the map at Annex 1 hereto.

(2) Each part of the Pipeline shall be laid within the limits of deviation which are permitted by the competent authority in whose jurisdiction that part of the Pipeline is laid.

(3) Each Government shall, in accordance with and subject to its laws, issue any necessary Authorisation or Consent with respect to the laying and operation of the Pipeline. A copy of such Authorisation or Consent shall be given by the Government issuing it to the other Government.

(4) Subject to paragraph (5), no Authorisation or Consent referred to in this Article shall be issued, revoked, altered, modified or reissued by one Government without prior consultation with the other.

(5) Any obligation arising under paragraph (4) of this Article shall not extend to the issue of any Authorisation or Consent prior to the entry into force of this Agreement in accordance with Article 19.

ARTICLE 3

Owner of the Pipeline

Any Owner or change of Owner of the Pipeline or any part thereof shall require the approval of the relevant Minister of Ireland, or other competent authority of Ireland, and that approval shall not, in relation to any part of the Pipeline, prejudice any legislative requirements for the consent of the Government in whose jurisdiction that part of the Pipeline lies.

ARTICLE 4

Operator of the Pipeline

(1) Any Operator or change of Operator of the Pipeline or any part thereof shall require the approval of the relevant Minister of Ireland, or other competent authority of Ireland, and that approval shall not, in relation to any part of the Pipeline, prejudice any legislative requirements for the consent of the Government in whose jurisdiction that part of the Pipeline lies.

(2) The Operator shall be subject to the legislative requirements of the United Kingdom of Great Britain and Northern Ireland in respect of that part of the Pipeline which is under the jurisdiction of the United Kingdom of Great Britain and Northern Ireland and shall maintain an appropriate place of business in the United Kingdom of Great Britain and Northern Ireland solely to satisfy those requirements.

ARTICLE 5

Safety

- (1) Each Government shall have the right to determine, in accordance with its own laws, the safety measures which are to govern the construction and operation of the part of the Pipeline under its jurisdiction.
- (2) Without prejudice to paragraph (1), the competent authorities of the two Governments shall consult one another with a view to ensuring that there are appropriate safety measures for the Pipeline and that the Pipeline is subject to uniform safety and construction standards.
- (3) The competent authorities of the two Governments shall consult one another from time to time in order to review the implementation of any of the arrangements made under paragraph (2) and shall keep the Commission informed of such consultations and of their outcome.
- (4) Subject to paragraph (5), the provisions of this Article shall also apply, so far as may be appropriate, to the Pipeline during the design, fabrication, installation and maintenance of the Pipeline.
- (5) Any obligation arising under paragraphs (2) to (4) of this Article shall not extend to any design, fabrication and installation completed prior to the entry into force of this Agreement in accordance with Article 19.

ARTICLE 6

Environmental Protection

- (1) Each Government undertakes to make every endeavour, in accordance with and subject to its laws, to ensure as far as is practicable that the laying and operation of the Pipeline shall not cause pollution to the marine, coastal or land environment, or damage to facilities onshore or offshore, amenities, vessels or fishing gear.
- (2) The competent authorities of both Governments shall consult one another on the manner in which the provisions of this Article are to be implemented including the manner of implementation to apply in an emergency.

ARTICLE 7

Inspections

- (1) Each Government shall take steps to ensure that safety or pollution Inspectors appointed by one Government have:

(a) access, in accordance with the procedures specified in paragraph (2), to the part of the Pipeline within the jurisdiction of the other, during the time of fabrication and laying of the Pipeline as well as subsequently; and

(b) access to all necessary information including all reports of inspections.

(2) Each Government affirms that it has sole responsibility for all inspections of the part of the Pipeline within its jurisdiction and of the operations carried out within its jurisdiction in relation to such part, and it is responsible for its own Inspectors. Following a request by an Inspector of one Government (the "Visiting Inspector") to the competent authorities of the other Government (the "Host Government") to visit part of the Pipeline under the jurisdiction of the Host Government, the Operator shall be required to give access to the Visiting Inspector and his equipment provided that he is accompanied by an Inspector appointed by the Host Government. The Operator shall also be required to procure the production to the Visiting Inspector of such information as he may require to satisfy himself that the fundamental interests of his Government in respect to safety or pollution prevention are met. The Host Government shall, in accordance with and subject to its laws, facilitate the task of the Visiting Inspector.

(3) Each Government shall ensure that if it is informed or it becomes apparent to it (whether by or through an Inspector or otherwise) that the safe operation of the Pipeline may be in doubt or that there may be a risk of damage to persons or property or of pollution arising from the Pipeline, this information will be communicated immediately to the Operator and immediately thereafter to an Inspector of the other Government.

(4) The competent authorities of the two Governments shall consult one another and agree practical measures for the implementation of paragraph (3) including the manner of implementation to apply in an emergency.

(5) Subject to paragraph (6), the provisions of this Article shall also apply, so far as may be appropriate, to the Pipeline during the design of the Pipeline.

(6) Paragraphs (1)(a) and (5) of this Article shall not apply to any fabrication, design or installation completed prior to the entry into force of this Agreement in accordance with Article 19.

ARTICLE 8

Security Arrangements

The competent authorities for security of each Government shall consult one another with a view to concluding such mutual arrangements in relation to the physical protection of the Pipeline as shall from time to time seem appropriate to them.

ARTICLE 9

Connections and Access to the Pipeline

- (1) The two Governments agree that the Pipeline is being constructed to satisfy the demand for Natural Gas in Ireland and that the Isle of Man Connection is being constructed to satisfy the demand for Natural Gas in the Isle of Man in accordance with Article 10.
- (2) The two Governments recognise the desirability of transporting as economically as possible and with due regard to technical compatibility Natural Gas discovered below the sea bed of the Irish Sea, and of avoiding the unnecessary proliferation of pipelines in that area.
- (3) The two Governments also recognise the desirability of access to the Pipeline for the transport of Natural Gas with due regard to the technical compatibility of such Natural Gas on fair commercial terms.
- (4) In furtherance of the aims in paragraphs (2) and (3) each Government, subject to Article 10, agrees to take such measures as may be available to it to assist persons wishing to connect pipes to the Pipeline or otherwise obtain access to it to make use of any spare capacity provided that any such connection or access shall not prejudice the efficient operation of the Pipeline or of the Isle of Man Connection for the purpose of satisfying the demand for Natural Gas in Ireland and, in accordance with Article 10, in the Isle of Man. The Government of the United Kingdom of Great Britain and Northern Ireland shall consult the Government of Ireland where it proposes to take any measure of the kind referred to in this paragraph.
- (5) Articles 5, 6, 7 and 8 shall apply to any pipe connected with the Pipeline pursuant to this Article, including the Isle of Man Connection, up to the first isolation valve on any such connecting pipe.

ARTICLE 10

Northern Ireland and the Isle of Man

- (1) Without prejudice to paragraph 2 of this Article, the Government of Ireland shall take such measures as may be available to it (including the introduction of proposed legislation) to ensure that nothing in this Agreement, or the construction and operation of the Pipeline, shall prejudice the rights of Northern Ireland under any option exercised under the provisions of Article 10(1) of the 1993 Agreement.
- (2) Recognising the option exercised on the 21st day of August 1996 under the terms of the 1993 Agreement whereby a capacity allocation of gas of 8.08 million standard cubic metres per day was made available to Northern Ireland at a pressure of 56 bar, the Government of Ireland shall take such measures as may be available to it

(including the introduction of proposed legislation) to ensure that the competent authorities in Northern Ireland (or a relevant authorised entity) shall have a further option exercisable in phases if necessary, and on fair commercial terms, up to the 31st day of December 2008. This further option shall be for such additional capacity allocations of gas as may bring the total capacity allocation provided under the 1993 Agreement and this Agreement to an amount up to but not in excess of 12 million standard cubic metres per day at a gas pressure of not less than 56 bar or such higher pressure as may be shown by the competent authorities in Northern Ireland (or a relevant authorised entity) to the Operator to be needed to meet Northern Ireland's reasonable market demands and having regard to the requirements of all gas consumers on the island of Ireland. The capacity shall be made available at the point of connection at Twynholme in Scotland of the connecting pipe to Northern Ireland. These additional capacity allocations shall be provided within a period of not less than three months nor more than thirty-six months of the option being exercised, depending on the additional infrastructure that may need to be put in place.

(3) The Government of Ireland shall take such measures as may be available to it (including the introduction of proposed legislation) to ensure that the competent authorities in the Isle of Man (or a relevant authorised entity) shall, on fair commercial terms, be able to secure, from the 30th day of September 2002 or the completion date of the Isle of Man Connection, whichever is the later, a capacity in the Pipeline to deliver up to 450,000 Standard Cubic Metres of Natural Gas per day, to be increased to a capacity of up to 1,350,000 Standard Cubic Metres of Natural Gas per day by the 1st day of October 2020 until the 30th day of September 2023 or until such later date and up to such a capacity as may be agreed on fair commercial terms, at a pressure of not less than 50 bar at the inlet point to the pressure reduction system above the high water mark on the west coast of the Isle of Man.

(4) The Government of Ireland shall take such measures as may be available to it (including the introduction of proposed legislation) to ensure that the Owner or Operator facilitates the transit of up to the quantity of Natural Gas referred to in paragraph (3) through the Pipeline into the Isle of Man Connection, on terms as if Council Directive 91/296/EEC and any other relevant EC gas transit legislation (as amended or replaced from time to time) applied to the Isle of Man and, where relevant, as if the competent authority of the Isle of Man were a designated entity as referred to in that Directive.

(5) The construction and operation of the Isle of Man Connection shall be in accordance with, and subject to, such fair terms and conditions as may be agreed from time to time between the competent authorities in the Isle of Man or, where relevant, authorised entity, and the Owner or Operator as appropriate.

ARTICLE 11

Economic Regulation of the Pipeline

- (1) Without prejudice to Articles 9 or 10, the two Governments and/or their competent authorities may enter into arrangements to provide for the economic regulation of services provided by means of the Pipeline.
- (2) Any arrangements entered into, pursuant to paragraph (1) of this Article, may include, but are not limited to, measures to ensure that:
 - (a) any tariffs for access to the Pipeline shall be transparent and non discriminatory;
 - (b) any terms and conditions for access to the Pipeline shall be transparent and non discriminatory;
 - (c) the Owner and Operator shall treat all users and potential users of the Pipeline in a non discriminatory manner.
 - (d) the two Governments and/or their competent authorities shall consult each other prior to the resolution of any dispute between the Owner or the Operator and any third party concerning access to the Pipeline;
- (3) Without prejudice to Article 15 the two Governments and/or their competent authorities may also make arrangements to enable them to meet regularly for the purpose of facilitating the regulation of the Pipeline.

ARTICLE 12

Co-operation in the Event of Disruption of Supply

The two Governments, recognising each other's legitimate interest in safeguarding supplies of Natural Gas to consumers and in maintaining system security and capability shall consult each other, at the earliest opportunity after the entry into force of this Agreement, in order to establish the framework for co-operation in the event of a serious disruption in Natural Gas supplies.

ARTICLE 13

Decommissioning

- (1) Each Government shall ensure that the decommissioning of the Pipeline, or any part thereof, shall be undertaken in compliance with the laws of the State within whose jurisdiction it is located.

(2) Each Government shall, on receipt of any proposal for the decommissioning of the Pipeline, or any part thereof, consult the other Government with a view to ensuring that possibilities for potential further economic use of the Pipeline are not neglected.

(3) Subject to paragraph (1), if no such potential further economic use is identified, the two Governments shall consult one another on the proposed arrangements for decommissioning and, if these are not uniform over the whole length of the Pipeline, each Government shall seek to procure, so far as is reasonably practicable, that the arrangements for the decommissioning of the part or parts of the Pipeline within its jurisdiction shall not prejudice alternative arrangements for the further use or decommissioning of the part or parts of the Pipeline within the jurisdiction of the other Government or of the use of the Isle of Man Connection.

(4) If either Government in relation to that part of the Pipeline within its jurisdiction considers the continued operation of that part of the Pipeline for technical, economic or other reasons not to be practicable, it shall consult with the other Government and shall seek to procure, so far as is reasonably practicable, for the other Government (or any person authorised by that Government) the right to take over on fair terms and conditions the operation of that part of the Pipeline which it considers necessary for the transmission of Natural Gas.

(5) Subject to paragraph (4), the Government or person that takes over the operation of such part of the Pipeline shall ensure the decommissioning or isolation, whether by the Owner or otherwise, of any part of the Pipeline which is no longer in use and which both Governments agree should be decommissioned or isolated.

ARTICLE 14

Exchange of Information

(1) Both Governments shall ensure a free flow of information between them about matters relating to the operation of the Pipeline and the current and projected utilisation of its capacity.

(2) Any information supplied by one Government to the other under paragraph (1) shall not be further disclosed by the receiving Government without the prior consent of the supplying Government.

ARTICLE 15

The Irish Sea Interconnector Commission

- (1) The Commission established by Article 14 of the 1993 Agreement shall facilitate the implementation of this Agreement.
- (2) The Commission shall, in accordance with Article 14 of the 1993 Agreement, consist of two joint Chairpersons and two joint secretaries. One Chairperson and one Secretary shall be nominated by each Government with substitutes as necessary. Any other person which either Government or either Chairperson considers should be present at any Commission meeting may attend such meeting. The functions of the Commission, which shall include that of considering matters referred to it by either or both of the Governments, and its procedures, shall be subject to such further arrangements which may be agreed by the two Governments from time to time. Meetings of the Commission shall be convened by the two Governments acting jointly. However, if either Government requests a meeting of the Commission, it shall be held as soon as reasonably practical thereafter and not later than the 21st day after receipt of that request unless otherwise agreed by the two Governments.
- (3) The Government of the Isle of Man may request the convening of meetings of the Commission on matters affecting its interests. A representative of the Government of the Isle of Man may be present at any meeting convened as a result of such a request.

ARTICLE 16

Settlement of Disputes

- (1) Any disputes about the interpretation or application of this Agreement shall be resolved through the Commission or, failing that, by negotiation between the two Governments.
- (2) If any dispute the subject of this Article cannot be resolved in the manner specified in paragraph (1) or by any other procedure agreed on by the two Governments, the dispute shall be submitted, at the request of either Government, to an Arbitral Tribunal composed as follows:-

Each Government shall designate one arbitrator, and the two arbitrators so designated shall elect a third, who shall be the Chairperson and who shall not be a national of, or habitually reside in, the United Kingdom of Great Britain and Northern Ireland or Ireland or a third State having a direct interest in the dispute. If either Government fails to designate an arbitrator within three months of a request to do so, either Government may request the President of the International Court of Justice to appoint an arbitrator. The same procedure shall apply if, within one month of the designation or appointment of the second arbitrator, the third arbitrator has not been elected. The Tribunal shall determine

its own procedure, save that all decisions shall be taken, in the absence of unanimity, by a majority vote of the members of the Tribunal. The decision of the Tribunal shall be final and binding upon the two Governments. Each Government shall bear its own costs and the two Governments shall share the costs of the Chairperson of the Tribunal.

(3) At any hearing of an Arbitral Tribunal established in accordance with paragraph (2) of this Article, where there arise issues for determination by that Arbitral Tribunal in respect of the interpretation or application of paragraphs (3), (4) and (5) of Article 10 of this Agreement, the Isle of Man shall have the right to make submissions to the Arbitral Tribunal on such issues independently of the two Governments.

ARTICLE 17

Jurisdiction

(1) Nothing in this Agreement shall be interpreted as affecting the jurisdiction which each State has under international law over the Continental Shelf which appertains to it. In particular, any part of the Pipeline located on the Continental Shelf appertaining to the United Kingdom of Great Britain and Northern Ireland shall be under the jurisdiction of the United Kingdom of Great Britain and Northern Ireland and any part of the Pipeline located on the Continental Shelf appertaining to Ireland shall be under the jurisdiction of Ireland.

(2) Nothing in this Agreement shall be interpreted as prejudicing or restricting the application of the laws of either State, or the exercise of jurisdiction by their Courts, in conformity with international law.

ARTICLE 18

Interpretation

(1) In recognition of the fact that part of the Pipeline will be laid on the sea-bed of the territorial sea adjacent to the Isle of Man and in order to ensure the proper functioning of this Agreement, each of the following terms used in the Articles referred to below with respect to the United Kingdom of Great Britain and Northern Ireland shall be construed to include its analogue in the Isle of Man:

- (a) "Government" as referred to in Articles 1-14;
- (b) "competent authority" as referred to in Articles 1, 2(2), 5(2), 5(3), 6(2), 7(2), 7(4), 8 and 11;
- (c) "laws" as referred to in Articles 2(3), 5(1), 6(1), 7(2), 13(1) and 17(2);

- (d) "legislative requirements" as referred to in Articles 3, 4(1) and 4(2);
- (e) "jurisdiction" as referred to in Articles 2(2), 3, 4(1), 4(2), 5(1), 7(1)(a), 7(2), 13(1), 13(3), 13(4) and 17(2).

(2) The two Governments acknowledge that this Agreement and any amendment hereto shall be construed in a manner consistent with their obligations under European Community Treaties.

ARTICLE 19

Entry into Force

Each Government shall notify the other in writing through the diplomatic channel of the completion of their respective requirements for entry into force of this Agreement. The Agreement shall enter into force on the date of the later of the two notifications. The two Governments may amend or terminate this Agreement at any time by agreement.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Agreement.

Done in two originals at Gormanstown, Co. Meath this 24th day of September 2004.

For the Government of the United
Kingdom of Great Britain and
Northern Ireland:

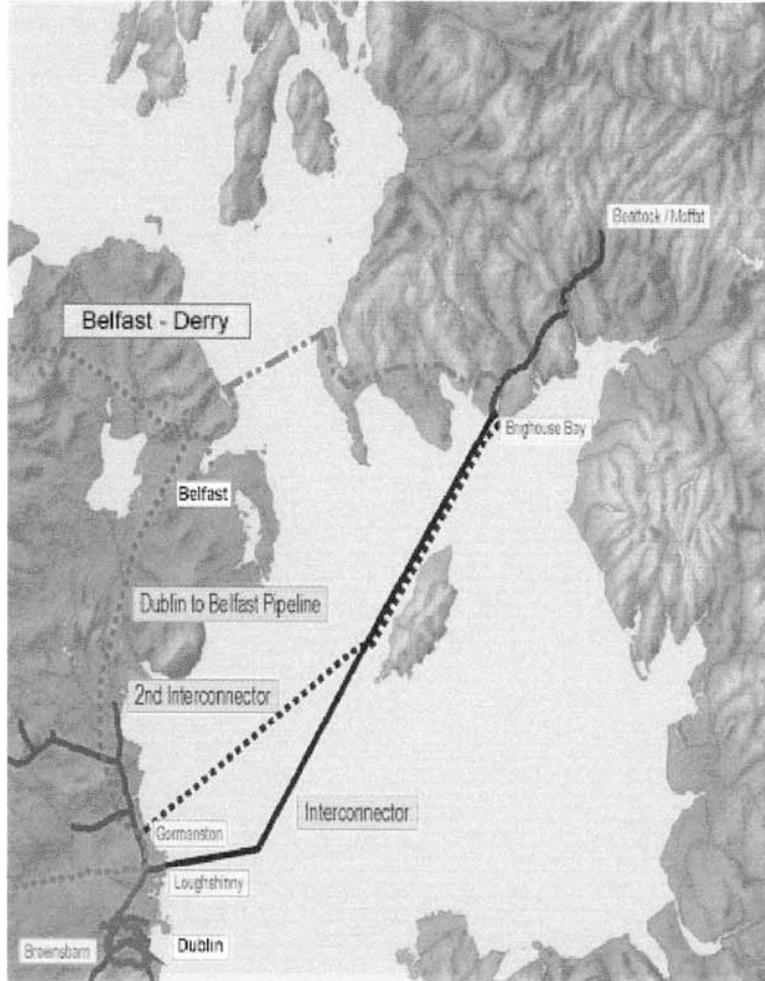
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ANNEX A

IC2 ROUTE





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