Governing Shale Gas Development in the European Union: Principles, Practice and Insights

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Introduction

• Why bother with Europe? lags behind; different geological, economic, regulatory differences...

BUT

• Faces same challenges
• 4 principles of “shale governance” used to address them =
• Plenty of insights on offer
Background

- Like US, lots of internal variation;

- EU role: ensure secure energy supply and market; sets binding environmental regulation

- Regulatory framework under discussion (proposal due late 2013)

- 4 key principles applied to help govern shale

Source: Economist
1. Precautionary principle

• In conditions of uncertainty, decision-makers should act to prevent potentially serious or irreversible environmental harm;

• Prominently embedded and featured in EU shale-related legislation (ex: chemicals, water quality)
Precautionary Principle: 2-fold Rationale

Risk assessment
- Provide evidence-based analysis of environment, health and safety risks in this new area of policy;
  - Shale opponents: invoke to halt shale exploration

Reassurance
- ‘We’re proceeding with caution’; appropriate safeguards are in place
  - Can be used by proponents to win support;
  - Especially important in reluctant states
Precautionary Principle: Limits

- costs time and money
- ‘scientific assessment’ seldom neutral;
- inconsistently applied
- only as effective as its monitoring

KEY INSIGHT: apply with caution!
Useful as reassurance tool, but not panacea
2. Transparency

- Ensure policies, practices and policy-making are open and accessible to the public. Refers to:

  - *Substance* of shale-related policies EIA; REACH (chemicals)
    - currently debated: extend to all fracking operations/substances?

  - *Procedural*: how policies are made
    - register of lobbyists; complaint procedure;
Transparency: Rationale

• Better, and better-supported policies
  • increased public scrutiny and information flow = stronger accountability of industry and policymakers

• Shale specific: public disquiet, lack of transparency main concern (IEA’s Golden Rules)
Transparency: Limits

- inconsistent application = un-level, unpredictable playing field for firms;
- more ≠ better information
- conflict w/ other aims
  - Closed door negotiations allow for efficiency and necessary bargains

**KEY INSIGHT:** double-edged; very useful check, but needs to be managed carefully, not indiscriminately applied
3. Consultation

• Systematic interaction with civil society, experts, business

• Intensive consultation on shale:
  • EU discussion papers, stakeholder events; organised dialogues, on-line polls.

• Rationale 1:
  information-gathering
Rationale 2: Stakeholder buy-in

• Build support for [EU] policies and action

• ‘Inclusive governance’: bring all to table, including opponents

• Work at every level of governance; community input and benefit key
  • Ex: community benefit; engagement charters, share of production revenue; discounted energy bills
Limits on consultation and ‘buy-in’

- Consultation needs to be wide-spread and balanced;

- Perception key: ‘Buy-in’ or ‘bought-off’?

- Outputs of consultation require resources and monitoring;

**KEY INSIGHT**: tricky to get right, but critical for ensuring public is – and perceives itself to be – part of process
Environmental Sustainability

- integrating environmental concerns into all policies and ‘accelerating the transition to the low-carbon economy’

- EU rationale: concerns over climate and ‘fossil fuel lock in’; institutional legitimacy

But also relevant for US:
Rationale beyond Europe:

• helps address opposition within some states, especially those with history of stronger environmental regulations or a strong renewable sector;

• Particularly salient in densely populated or vulnerable areas;

• Focuses attention on ‘cleaner’ methods and technology

• More holistic assessment
Limits to sustainability

- As principle, rhetoric much more advanced than implementation;
- Ambiguous; invoked to make contrasting arguments;
- Merely provides ‘grist for opponents’ mill’?
- KEY INSIGHT: will need modification in US discourse, but embedding shale discussions in sustainability provides for more holistic, longer-term assessment.
Conclusion

Sum: presentation has suggested

- each principle includes strengths and limits; need to considered carefully;

- *modified* application to US possible, even desirable
3 closing themes

- Principles are political: invoked by different actors to serve interests
- Governance is more than principles: requires widespread support, coordination, implementation
- Given challenges, makes sense to gather insights and experience from home and further afield.

Thank you