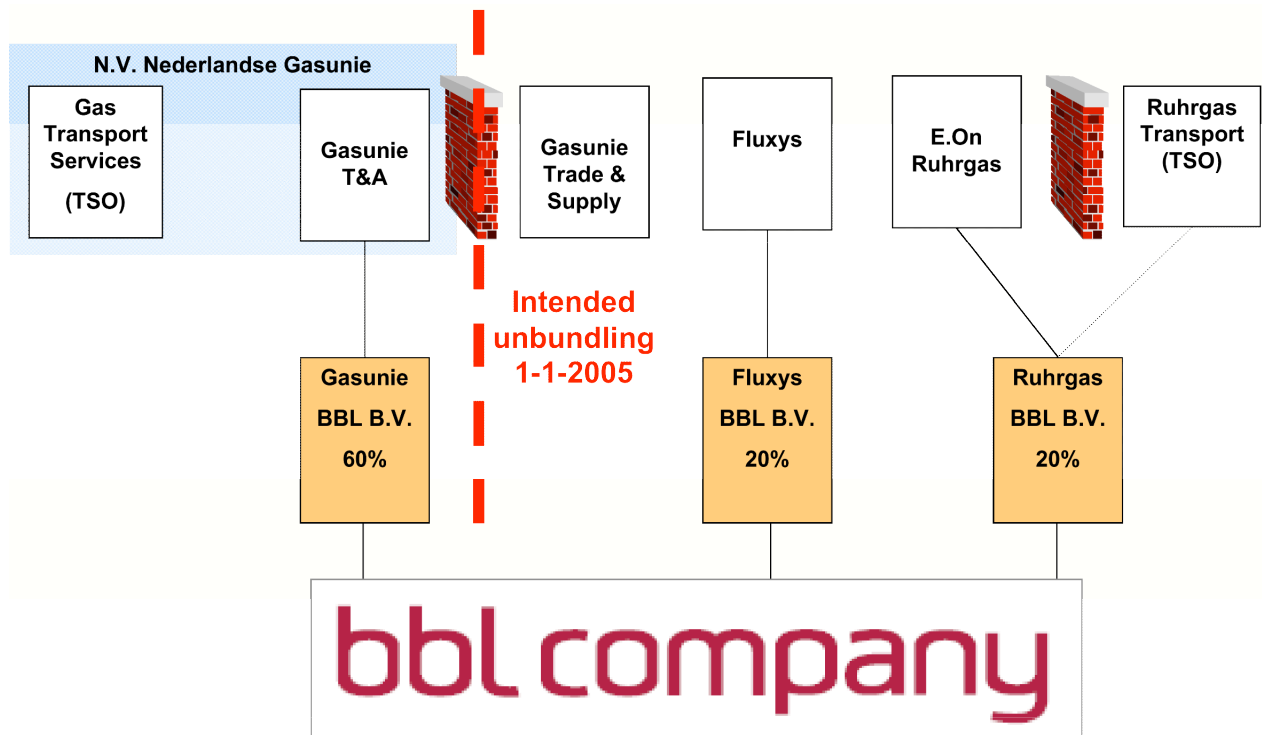


**New information and errata to the BBL application for an exemption**

**Gasunie unbundling**

On 1 November 2004 Gasunie's shareholders announced agreement of their intention to restructure the activities of N.V. Nederlandse Gasunie. The transmission system operator (Gas Transport Services) was established in July 2004, in conformity with the requirements of the Second EU Gas Directive (a legal unbundling). Further to this, the Gasunie shareholders have expressed their intention to separate fully the transmission company, also in terms of ownership. This means that Gasunie Technology & Assets, the system operator (Gas Transport Services B.V.) and the shareholding in the BBL are planned to be separated in terms of ownership from the trading activities (Gasunie Trade&Supply), and will be fully owned by the Dutch State. Gasunie Trade&Supply as a separate company will retain the same shareholders as at present; i.e. the Dutch State, Shell and Exxon. These changes are intended to take place as of 1 January 2005, but implementation may not be completed until July 2005.

This information updates part C of the application document (BBL 04.A.083). A new schematic overview of the Company structure based on the proposed unbundling of Gasunie is included below:



More information on the proposal for unbundling is contained in a letter from the Dutch Minister of Economic Affairs to the Dutch Parliament. An English translation of that letter is included here:

To  
The Chairman of the Second  
Chamber  
Binnenhof 4  
2513 AA 's-GRAVENHAGE  
The Netherlands

Date	Your reference	Our reference	Appendices
1 November 2004		E/EP/4068735	

Subject

Reorganisation of 'Gasgebouw': proposal to split Gasunie and the State's takeover of the gas transport company

On behalf of the Minister of Finance, I hereby inform you that I have reached an outline agreement with Shell and ExxonMobil regarding the proposed reorganisation of the transport activities of NV Nederlandse Gasunie ("Gasunie"). As a result of the envisaged reorganisation, the transport company and the trade company of Gasunie will be legally fully dispersed. The State will takeover the interest of Shell and ExxonMobil (each currently has a 25% interest) in the transport company of Gasunie and acquire the full interest in the transport company. The transport company includes the transmission system operator of the national gas transport network. The transaction costs incurred amount to EUR 2.78 billion after the relevant taxes and levies. I announce the takeover of the interest in both oil companies provided for in the agreement pursuant to article 34, paragraph 5 of the Governments Accounts Act 2001.

After the implementation of the envisaged reorganisation, the transport company of Gasunie will no longer form a part of the cooperation between the State, Shell and ExxonMobil as it existed since 1963 in the field of production, transport and the sale of Dutch natural gas (the 'Gasgebouw'). The cooperation in the 'Gasgebouw' will for the rest and for the time being remain unchanged, including the existing relationships with Maatschap Groningen and the current economic and power structures in Gasunie that will be transferred to the trade company. From the moment of this proposed reorganisation, the Gasunie transport company will operate entirely independently of the interests in production, trade and supply.

I am happy that I have now reached an outline agreement together with the private parties in the 'Gasgebouw' regarding the split and independence of Gasunie's transport and trade company. To this end, Gasunie will be split. I also support this for the regional energy companies.

I will further explain a number of aspects here.

*The desirability of the independence of the transport network*

I have expressed my support within the scope of the policy objectives on numerous occasions in letters and in debate to realise a fully independent transmission network, independent from market parties that are directly or indirectly involved in the production, trade or supply of natural gas. The Second Chamber has also earlier supported an independent transmission network in support of the motion Ten Hoopen (Parliamentary documents II 2002/03, 28 600, XIII, no. 26), and the objective to lay the shareholding of the national gas transport company with the State. In discussing the proposed changes

in the Electricity Act 1998 and the Gas Act relating to the implementation [of the EU Directive] and the tightening of the regulatory supervision of transmission system operations (“I&I Act”), I have remarked that I propose a situation comparable with TenneT. I also point to my earlier letters of 11 June 2003 and 15 October 2003 regarding the reorganisation of the ‘Gasgebouw’ (Parliamentary documents II 2002/03, 28109, no. 4 or parliamentary documents II 2003/04, 28109, no. 5). As I indicated earlier, negotiations were the right way to achieve this result (Parliamentary documents II 2003/04, 29372, no. 10, pages 35 and 46).

*Talks in the scope of the ‘Gasgebouw’*

The talks regarding the reorganisation of the ‘Gasgebouw’ were discontinued last year, as I mentioned in my letter dated 15 October 2003. Gasunie and its shareholders made important efforts to satisfy the requirements of the I&I Act that took effect on 14 July 2004. The I&I Act led to the establishment of Gas Transport Services BV, “GTS” and the appointment by Gasunie of GTS as transmission system operator of the national gas transport network. Both oil companies recently indicated that they were prepared to investigate with me whether and, if yes, how the discontinued talks regarding the reorganisation of the ‘Gasgebouw’ could be continued. On this basis, the State, Shell and ExxonMobil have conducted exploratory talks to see if this could be useful. It became apparent that parties could agree on the first step. To this end, an important cause was identified. In the aforementioned letter of 15 October

2003, I indicated that the cause for the discontinuation of the talks principally lay in a lack of certainty regarding the development of terms and conditions for transport in Europe and the Netherlands. Meanwhile, greater clarity and convergence in European regulatory practice and in the related insights of the parties concerned has been created. This was partly the result of the I&I Act.

*The split of Gasunie and the formation of the independent transport company*

From 1 January 2005, the State will acquire the full interest in the transport company of Gasunie. According to expectations, this will be realised in the middle of 2005 with retrospective effect. The State will then hold full accountability and will be responsible for the risks related to the management of the transport company.

The basic principle underlying the recently reached outline agreement is a reorganisation of Gasunie where the trade and transport activities of Gasunie are split and separate companies are created. Immediately after this split, the share of Shell and ExxonMobil in the transport company will be terminated. The State will then hold the full interest in the transport company, i.e. the interest that Energie Beheer Nederland BV (“EBN”, 100% property of the State) holds in the transport company, is placed directly in the hands of the State.

The transport company will principally be formed by the current Gasunie Technology & Assets “T&A”, including the subsidiary, in this case the transmission system operator of the national gas transport network, GTS. Via this split, the contracts closed with Gasunie transport company will be transferred in their entirety to the independent transport company. The trade company will be formed by the current Gasunie Trade & Supply, “T&S”. Nothing will therefore change for its customers.

The transport company, of which the State will become the full owner, will notably comprise the following parts:

- all transport assets of Gasunie, including the entire high-pressure pipeline network and the regional pipeline networks, the associated installations and the LNG installation on the Maasvlakte;
- the national transmission system operator, Gas Transport Services BV;
- Gasunie Engineering and Gasunie Research;

- the share (of 60%) of Gasunie in the new pipeline to be laid between the Netherlands and the United Kingdom, the Balgzand-Bacton pipeline (BBL);
- the relevant contracts that belong to the transport company of Gasunie including that for the performance of the transport services and for quality conversion;
- other property such as the head office of Gasunie in Groningen and the trade name of Gasunie.

According to current insights, the proposed reorganisation will lead to a transfer of business in the sense of articles 7:662 et seq. of the Dutch Civil Code.

As a consequence hereof, Gasunie personnel who are currently working for the transport company or the national transmission system operator will remain at the transport company. Gasunie personnel who currently work for the trade company of Gasunie will remain at the trade company. Moreover, provisions are made so that Gasunie personnel who work for Gasunie Corporate (relates to a number of staff employees in particular) will pursuant to the statutory regulation referred to earlier, be partly transferred to the transport company and partly to the trade company. The transport company will remain in Groningen. The relocation of the trade company from Groningen is not under discussion. As regards the staff, the changes will mean no more than the fact that they will be accommodated in one of the companies to be formed. As regards the precise consequences of the now proposed reorganisation for the staff of Gasunie, consultations will soon be started with the management of Gasunie. Of course, they will also subsequently involve the representative advisory board.

Parties in the 'Gasgebouw' again realize that considerable effort is demanded from Gasunie and its personnel. An appeal to them in the procedure that led to the establishment of a transmission system operator of the national gas transport network appeared not be in vain. This establishment was a significant achievement considering the limited time and complexity of this operation. For Gasunie, the full split that is now advocated means a legal establishment of the existing business relationship between the transport and trade company, a relationship that for the personnel is no longer complicated by requirements for internal compliance and firewalls. One may expect two companies to be born out of this process, where it is once again pleasurable to work.

#### *Modifications to the 'Gasgebouw' agreements*

Modifications to the 'Gasgebouw' agreements as a consequence of the proposed reorganisation relates, in particular, to the Cooperation Agreement (*Overeenkomst van Samenwerking*) between EBN, Shell, Exxon and NAM, which was approved by the Minister of Economic Affairs in 1963, and the Gronings Natural Gas Surplus Returns Distribution Agreement (*Overeenkomst Meeropbrengstverdeling Gronings Aardgas*) (85/15 - 95/5) of 1975 between the State, EBN, Shell, Exxon and NAM (MOR Agreement). Moreover, any other agreements that are required to implement the proposed reorganisation, to take transitional provisions and to continue existing relationships between the relevant parties in the 'Gasgebouw' after the proposed reorganisation.

For an explanation to the Cooperation Agreement and the MOR Agreement, please refer to the letter with appendices regarding the reorganisation of the 'Gasgebouw', 19 November 2001 (Parliamentary documents II 2001/02, 28109, no.1). As regards the proposed changes to the Cooperation Agreement and the MOR Agreement, I would like to make the following remarks.

The objective of the Cooperation Agreement was the coordination of extraction, transport and sales of natural gas. This is achieved as the parties undertake to work together in close cooperation in the field of extraction, transport and the sale of natural gas extracted from the "Groningen" concession and in the field of transport and the sale of natural gas elsewhere in the Netherlands. The Cooperation Agreement was a condition for NAM to acquire the "Groningen" concession in 1963 (see Parliamentary documents

II 1961/62, 6767, no. 1 (Nota de Pous) and 2; Parliamentary documents II 1962/63, 6900, no. 14, 16, 19; Parliamentary documents II 1962/63, Official Reports 4016-4022).

With the now envisaged reorganisation in which the State acquires the full interest in the transport company, the ratio behind the requirements of coordination and cooperation in the field of transport lapses. Transport will also no longer form a part of the Cooperation Agreement.

Cooperation in the 'Gasgebouw' remains entirely unchanged in so far as this does not relate to transportation, in this case the transport company of Gasunie, but it does change where it relates to the trade company and close cooperation in the field of extraction and sales.

This is important for the small field policy. The *governance* of Gasunie will in the event of a split pass to the trade company so that the current economic and power structures in Gasunie and the existing relationships with the Maatschap Groningen will pass to the trade company.

The proposed reorganisation of the transport tasks does not have any adverse effect on the implementation of the public tasks of the national transmission system operator, GTS. Particularly for the small field policy and for the tasks in the scope of the supply guarantee resolution.

As a result of the proposed reorganisation, the revenues from transport (that will be accommodated in the privatised transport company with the State as sole shareholder) will for this reason no longer form a part of the MOR Agreement. (For the MOR Agreement, see Parliamentary documents II 1974/75, 13109, no. 1 and Parliamentary documents II 1974/75, 13122, no. 1-2, pages 89-90). The MOR Agreement will be changed with an eye on this.

The current MOR-CDS issue, which was referred to in the first letter on the 'Gasgebouw' (Parliamentary documents II 2001/02, 28109, no. 1), belongs in the past because of the implementation of the envisaged reorganisation. In the scope of the CDS (Commodity Service System), separate rates are increasingly created as regards the sales prices of Gasunie for gas and for services (transport, capacity) sold with it instead of the old all-in rates for gas (including the services sold with them). Various income flows are created *mutatis mutandis* for Gasunie, which are not referred to as such in the MOR Agreement. As regards the question about whether - for the current structure of the 'Gasgebouw', the Cooperation Agreement and the MOR Agreement - income from these services, associated with the gas supply, or payments flowing from the MOR Agreement should be payable, a difference of opinion has existed for some time between on the one hand the State and on the other hand Shell, Esso and NAM. This difference of opinion between the parties regarding the application of the MOR Agreement with respect to the income from services that are separately charged for by Gasunie for the sale of natural gas to its customers under the CDS price system will end as a part of the proposed reorganisation.

The changed MOR Agreement will record that the payment flowing from the MOR Agreement is calculated over the gas income of the trade company including the income from the services that are sold with the natural gas, but with the deduction of the transport costs incurred by the trade company. This deduction is the consequence of the fact that the income from transport is no longer included in the MOR Agreement.

#### *Outline agreement*

The outline agreement must of course be further worked out in the time to come. The agreement is laid down in an outline agreement that has a number of suspensive or resolute conditions, such as the agreement regarding the final detailed reorganisation agreements and approvals of the hereto appointed authority to which must be reported or with which agreement must be reached. As a consequence of the *confirmatory due diligence* agreement, research following the earlier *due diligence* research will be undertaken.

The required approvals from the tax office will have to be obtained to acquire guarantees in advance for the parties regarding the tax consequences associated with the dispersal. In the unlikely event that material, financial or other problems arise during the processing, parties will to the best of their ability endeavour to find solutions to this in line with the outline agreement entered into.

*Effects on the budget*

As a result of the outline agreement, the necessary changes will be made in the budget.

The point of departure for the proposed transaction for the State is that the income will according to expectations be in balance with the situation without transaction. The amount associated with the reorganisation is based on the extra income for the State from this company through the increase in its interest in the transport activities. For the determination of the income of the transport company, it is assumed that the transport rates will develop based on the internationally accepted methodology of determination of the Regulatory Asset Base and that rates will develop slowly but steadily to the cost-plus level in so far as this has not yet been reached. To this end, DTe presently already uses the rule pursuant to the prevailing DTe gas guideline of 10 June 2004 (art. 22) where for the determination of the indicative rates of GTS the link for the regulation in a broader, international connection, may not be lost and where it must be directive with respect to the rate level within the scope of development in the EU so that no artificial transfer of gas flows can occur in the EU transport market at the expense of the Dutch consumers ("Jepma-effect").

In addition, the transport company will as indicated no longer be a part of the 'Gasgebouw' and of the Cooperation Agreement, and the revenues from the transport company will no longer form a part of the MOR Agreement. This leads to a reduction in income with respect to the situation where the payments flowing from the MOR Agreement with respect to transport revenues remain applicable. Conversely, the MOR Agreement regarding the revenues from all the other services sold with the natural gas, particularly capacity, has now been secured. In this way, the abovementioned MOR-CDS issue is solved adequately.

*Further developments in the long term: privatisation and reorganisation*

With the envisaged reorganisation, the State acquires a full share in the transport company. If the regulation and supervision prove themselves, I do not exclude the fact that in time the State's share in the transport company of Gasunie may again be sold off in the first instance via a minority privatisation. Parties that are directly or indirectly active in the production, trade or supply of natural gas will be excluded.

Finally, the proposal that I have explained in this letter must first be well implemented by the parties before they take any subsequent steps in the reorganisation of the 'Gasgebouw'. It remains the intention to develop the 'Gasgebouw' in the direction as described in my letters regarding the reorganisation of the 'Gasgebouw' (Parliamentary documents II 2002/03, 28109, no. 4 or Parliamentary documents II 2003/04, 28109, no. 5).

(sgd) Mr G. Zalm  
Acting Minister of Economic Affairs

## List of errata

1. The DTI has recently published revised Standard Licence Conditions for Interconnectors. Paragraph 1.9. of the application document (BBL.04.A.083) refers to the previous licence conditions. This application seeks for conditions 10 and 11 of the revised licence conditions not to be in effect, in accordance with condition 12.
2. Paragraph 2.2, of the application document has a footnote in which the relevant licence conditions are referred to. This should read as follows:

UK: reference is made to Condition 12 of the Licence Conditions and the relevant conditions mentioned there:

- a. Condition 12(2)(a) of the Licence Conditions and Para 3(b)(i) of Part IV of Schedule 2 under Regulation 6 of the Applications Regulations.
  - b. Condition 12(2)(b) of the Licence Conditions and Para 3(b)(ii) of Part IV of Schedule 2 under Regulation 6 of the Applications Regulations.
  - c. Condition 12(2)(c) of the Licence Conditions and Para 3(c)(i) of Part IV of Schedule 2 under Regulation 6 of the Applications Regulations.
  - d. Condition 12(2)(d) of the Licence Conditions and Para 3(c)(ii) of Part IV of Schedule 2 under Regulation 6 of the Applications Regulations.
  - e. Condition 12(2)(f) of the Licence Conditions and Para 3(b)(iii) of Part IV of Schedule 2 under Regulation 6 of the Applications Regulations.
3. Paragraph 2.3 of the application document refers to Annex E. This should be Annex D.+
  4. Paragraph 2.3 of the application document lists the documents that have been submitted. A document was omitted in this list and should be included: letter from GtS to Ofgem dated 22 May 2003 (confidential).
  5. The ABN AMRO letter listed in paragraph 2.3 and dated 23 December 2003 regarding the risk assessment was addressed to GtS not GTS.
  6. Paragraph 3.61 and 3.62 should be numbered 3.1 and 3.2 respectively.
  7. Annex A to the application document is numbered 2.21-2.25 and 3. These paragraphs should be numbered 1 to 6 respectively.
  8. Paragraph 2.21 (to be numbered 1) of Annex A refers to the project as the Bacton Balgzand Line. This should be Balgzand Bacton Line.