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## COVER NOTE

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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

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Delegations will find attached document COM(2023) 547 final.

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COM(2023) 547 final

## **REPORT FROM THE COMMISSION TO THE COUNCIL**

**on the main findings of the review of Council Regulation (EU) 2022/2576 of 19 December 2022, in view of the general situation of the gas supply to the Union.**

## EXECUTIVE SUMMARY

### *Better coordination of gas purchases (Chapter II)*

Pursuant to the Regulation, the Commission designed and launched, with the assistance of a service provider, the joint purchasing mechanism, entitled **AggregateEU** with the following results as of 14 July 2023:

	First round April/May 2023	Second round June/July 2023	Cumulative results
<i>Status</i>	<i>Closed</i>	<i>Closed</i>	<i>[Ongoing]</i>
Subscriptions (total)	120	154	-
Demand aggregated	11.6 billion cubic metres (bcm)	15.9 bcm	27.5 bcm
Supply bids	18.7 bcm	15.2 bcm	33.9 bcm
Demand matched	10.9 bcm	12 bcm	22.9 bcm

The Commission also implemented accompanying measures mandated by the Regulation including on transparency and information exchange, governance of the EU Energy Platform and mandatory use of AggregateEU.

The Commission believes that the EU Energy Platform contributed to the Union's diversification effort and storage filling ahead of the 2023-2024 heating season. AggregateEU provided additional opportunity for European buyers to procure gas from reliable suppliers at competitive prices as well as market transparency on demand and supply, whilst contributing to decreasing volatility of markets.

The fact that the total volumes aggregated during the two first rounds alone doubled mandatory demand aggregation, showed that market players considered the joint purchasing mechanism to be very useful in the crisis context.

### *Measures to enhance the use of LNG facilities, gas storage facilities and pipelines (Chapter II – Section 3)*

The Regulation contains provisions to enhance transparency and facilitate secondary trade in LNG and gas storage capacities, enabling the efficient use of LNG and storage facilities as well as pipelines (e.g. due to congestion). Increased transparency provided a more comprehensive overview of the LNG and storage markets in the EU, as well as a more efficient use of these infrastructures.

### *Measures to prevent excessive gas prices and excessive intra-day volatility in energy derivatives markets (Chapter III)*

On trading, the Regulation includes a measure to manage excess volatility in gas and

electricity derivatives markets, while preserving the price formation processes. The temporary intra-day price spike collar, a volatility management mechanism, aimed at avoiding excessive price volatility and prevent extreme price spikes in prices on energy derivative market, protecting EU energy operators from large intra-day upward price movements and helping them secure their energy supply in the medium term.

Since its adoption, markets developments did not require its triggering to prevent extreme price spikes. In this context, further monitoring of energy commodity markets is needed to determine whether a temporary prolongation of the intra-day volatility management mechanisms (IVM) is needed, given the existence of uncertainties in those markets following an energy crisis and also in light of the tightness of global markets, as seen in the summer of 2023.

#### *Measures for the case of a gas emergency (Chapter IV)*

The Regulation temporarily complemented the Gas Security of Supply Regulation<sup>1</sup>, notably by making the solidarity mechanism applicable by default in absence of bilateral agreements, as well as by extending the solidarity mechanism to liquefied natural gas (LNG) and critical gas volumes (CGV) for electricity. In addition, a provision was added to facilitate demand reduction by protected customers, as well as a provision to safeguard cross-border flows.

In December 2022, the Commission carried out a joint solidarity ‘dry run’ exercise with EU Member States and the European Network of Transmission System Operators (ENTSOG), which tested the emergency rules and procedures, as well as the solidarity mechanism.

The Commission concludes that the concepts set out in this chapter have proven to be useful concepts in the context of mitigating gas crisis and for ongoing or future demand reduction efforts.

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<sup>1</sup> Regulation (EU) 2017/1938 of the European Parliament and of the Council of 25 October 2017 concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2010

## Introduction

In response to the global energy market disruptions caused by Russia's invasion of Ukraine, the European Union (EU) adopted the REPowerEU Plan to save energy, produce clean energy and diversify its energy supplies with a view to increase Europe's strategic resilience and make it less dependent on Russian gas imports.

In April 2022, at the behest of the European Council, the Commission launched the EU Energy Platform under the REPowerEU Plan, with three objectives: (1) demand aggregation and the joint purchasing of gas, (2) the most efficient use of existing infrastructure, (3) international outreach.

Since the start of the war, the situation in the gas market has progressively deteriorated. Russia's weaponisation of gas supply to Europe tightened the market and led to a dramatic increase in gas prices. The wholesale price in 2022 was on average over five times higher than its pre-crisis level, even spiking above EUR 300/MWh at the height of the crisis in summer 2022<sup>2</sup>.

This is why, on 19 December 2022, the Council adopted emergency Council Regulation (EU) 2022/2576 to enhance solidarity through better coordination of gas purchases, reliable price benchmarks and exchanges of gas across borders (the Regulation).

This Regulation provides a temporary legal basis for:

- better coordination of gas purchases (Chapter II),
- measures to prevent excessive gas prices and excessive intra-day volatility in energy derivatives markets (Chapter III),
- measures for the case of a gas emergency (Chapter IV).

Article 30 of the Regulation states that *'by 1 October 2023, the Commission shall carry out a review of this Regulation in view of the general situation of the gas supply to the Union and shall present a report on the main findings of that review to the Council. The Commission may, based on that report, propose to prolong the validity of this Regulation.'*

In accordance with the above, this report describes how the Commission has implemented the Regulation and gives an overview of the main findings and resulting conclusions about the Regulation's provisions.

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<sup>2</sup> This holds true for both TTF (Title Transfer Facility) futures (front-month) or TTF spot (day-ahead).

## **REVIEW OF CHAPTER II (BETTER COORDINATION OF GAS PURCHASES)**

The Commission has implemented the coordination of gas purchases (i) by establishing a mechanism to report gas contracts and tenders in order to make the gas markets more transparent, and (ii) by organising demand aggregation, tendering, matching and establishing a mechanism for joint purchasing of gas (the joint purchasing mechanism). In the report, the Commission presents the results and data available on 14 July 2023, covering the tenders and contracts notified until that date as well as the results of the first two demand aggregation and tendering rounds of the joint purchasing mechanism organised with the support of AggregateEU<sup>3</sup>.

The coordination of gas demand aggregation and tendering will continue until the Regulation expires.

### **Review of Section 1 – Coordination of gas purchases in the Union (Articles 3 and 4)**

#### **1. Transparency and information exchange (Article 3 of the Regulation)**

The energy crisis exposed the EU's dependency on Russian fossil fuels and the detrimental impact of the lack of coordinated action by EU Member States faced with Russia's weaponisation of gas supply, which led to high prices and a security of supply crisis. To lower the EU's dependency on Russian natural gas supplies and bring prices down, better coordination of gas purchases from external suppliers was considered crucial. Article 3 of the Regulation<sup>4</sup> therefore aims to ensure better coordination of gas purchases in the EU and energy solidarity among EU Member States. This should be achieved by giving the Commission an overview of upcoming tenders or contracts for the sale and purchase of gas. To this end, natural gas companies or companies that use gas are required to send notifications to the Commission of any upcoming tenders or contracts whose volume exceeds 5 TWh/year.

As per Article 3(2) of the Regulation, if the Commission considers that further coordination with regards to the tenders or the contracts is needed (for example if tenders or contracts may adversely affect market functioning, security of supply, or solidarity or could benefit the joint purchasing mechanism), the Commission may issue recommendations to such companies after informing the EU Energy Platform ad hoc Steering Board.

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<sup>3</sup> AggregateEU is the demand aggregation and joint purchasing mechanism operated by Prisma, the service provider under the EU Energy Platform, in accordance with Council Regulation 2022/2576.

<sup>4</sup> Article 3 provides that: '1. For the sole purpose of better coordination, natural gas undertakings or undertakings consuming gas established in the Union or authorities of Member States, which intend to launch a tender to purchase gas or open the negotiations with natural gas producers or suppliers from third countries on the purchase of gas, of a volume above 5 TWh/year, shall inform the Commission and where applicable the Member State in which those undertakings are established of the conclusion of a gas supply contract or a memorandum of understanding or the launch of a tender to purchase gas'.

### Statistics on Article 3 notifications and recommendations

<i>On 14 July 2023</i>	Number	Volume for deliveries in 2023 (terawatt hours (TWh))	Volume for deliveries in 2024 (TWh)	Volume for deliveries in 2025 (TWh)
Notifications received, resulting in:	22	89.2	189.6	197.9
recommendations issued	2	11.05	25.5	25.5
no recommendation needed	20	78.15	164.1	172.4
pending assessment	0	0	0	0

The Commission arranged for multiple equally acceptable and secured channels for securely submitting the notifications, envisaged in Article 3 of the Regulation. This allowed to address companies' concerns about security and confidentiality, whilst informing EU Member States in compliance with confidentiality requirements.

Main findings: Overall, the Commission considers that the implementation of Article 3 led to greater transparency of planned tenders and contracts for the sale and purchase of gas insofar as it provided the Commission with a better view of upcoming tenders.

The only notifications that triggered recommendations under Article 3 of the Regulation were notifications of companies planning to launch a tender. A number of challenges were encountered with the implementation of the Regulation: certain commercial arrangements were notified after the fact, and companies were reluctant to share commercially sensitive information. Parts of the industry also questioned the Regulation's interpretation, notably on the timing of notifications during ongoing negotiations.

The Commission cannot accurately assess how many notifications were not submitted despite falling under the requirements of Article 3. This is because access to datasets on signed commercial arrangements is either restricted or incomplete.

Conclusion: The principle of an obligation to notify tenders or contracts for the sale and purchase of gas has become a new way of increasing transparency and preventing outbidding. Notifications of contracts have proved more problematic because the pre-contractual stage is a very sensitive one for companies.

The provision has proven easier to implement for notifications of tenders in advance as opposed to contracts. Also, considering AggregateEU operates through tenders, recommendations issued by the Commission appear to be more relevant when addressed to companies planning tenders that could go through AggregateEU.

Another lesson learned is that broader access for the Commission to a wider dataset on signed commercial arrangements (through aggregated and anonymised data) should, in turn, lead to better enforcement of the obligation to notify contracts and tenders, and more thorough assessment of the impact of individual tenders or contracts.

## 2. *Ad hoc* Steering Board (Article 4 of the Regulation)

The Commission established an *ad hoc* Steering Board by Commission Decision of 13 January 2023 (C(2023)407 final<sup>5</sup>). The *ad hoc* Steering Board adopted its Rules of Procedures on 16 February 2023 and had held six meetings by 14 July 2023.

The *ad hoc* Steering Board is chaired by Executive Vice-President Maroš Šefčovič and its members are high-level representatives appointed by Member State authorities. The Secretariat of the Energy Community participates as an observer and Energy Community Contracting Parties participate in meetings on matters of mutual concern on invitation.

The *ad hoc* Steering Board was established to facilitate the coordination of the joint purchasing mechanism, in particular demand aggregation. The Commission is also required to consult the *ad hoc* Steering Board on its draft recommendations pursuant to Article 3(2), and to inform it of the effect of the participation of the companies in question in the joint purchasing mechanism.

Main findings: The Commission considers that the *ad hoc* Steering Board fully performed its task of facilitating the coordination of the joint purchasing mechanism at national level, including demand aggregation. Members and observers of the *ad hoc* Steering Board played an instrumental role in maintaining strong and continued political support for the EU Energy Platform, promoting the joint purchasing mechanism, and giving information to their respective national institutions and the companies concerned. National roundtables organised by the members of the *ad hoc* Steering Board were instrumental in mobilising the demand side and coordinating the participation of gas- and energy-intensive industries. They have also actively engaged with national financial institutions (national promotional banks and export credit agencies) to look into how to obtain and secure guarantees for buyers who are not sufficiently creditworthy.

Members and observers of the *ad hoc* Steering Board regularly discussed all key aspects of the EU Energy Platform, shared best practices, and provided valuable feedback on matters related to the implementation of the joint purchasing mechanism. EU Member States also discussed the application of the Regulation, in particular mandatory demand aggregation.

*Ad hoc* Steering Board members were also consulted on draft recommendations issued with regard to Article 3 of the Regulation (see previous section above for more details). However, the feedback received was rather limited and only applied to a limited number of recommendations.

Conclusion: The operation of the *ad hoc* Steering Board was instrumental for the successful implementation of the joint purchasing mechanism. It ensured stronger buy-in by EU Member States and the broad participation of industry.

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<sup>5</sup> The Commission Decision can be consulted at: [EUR-Lex - 32023D0208\(02\) - EN - EUR-Lex \(europa.eu\)](#).



## **Review of Section 2 – Demand aggregation and joint purchasing (Articles 5 to 11 of the Regulation)**

### **3. Demand aggregation and joint purchasing (Articles 5 to 8 of the Regulation)**

#### ***i. AggregateEU: selecting the service provider***

The Commission designed and implemented the joint purchasing mechanism with the help of PRISMA European Capacity Platform GmbH, selected as a service provider in accordance with the Regulation.

Main findings: The Commission considers that the provisions of the Regulation on the selection and contracting of the service provider enabled the appointment of a qualified service provider to design, develop, operate and maintain AggregateEU.

Under the guidance of, and through continuous cooperation with, the Commission acting as contracting authority, PRISMA launched AggregateEU in time for the filling of EU storage in preparation for the 2023/2024 heating season.

In under 3 months, PRISMA designed, developed and rolled out – by leveraging existing capabilities and tools for pipeline capacity allocation – the joint purchasing mechanism in line with the provisions of the tender specification and the objectives of the Regulation. The Regulation did not explicitly indicate how to implement the joint purchasing mechanism, but the Commission and PRISMA took care of the following aspects so far:

- They set up the AggregateEU mechanism based on the Commission's design and under its guidance.
- They registered participants on the PRISMA platform in line with industry standards and processed the subscription to AggregateEU, in line with the exclusion criteria set out in Articles 8 and 9 of the Regulation. By 14 July 2023, over 150 companies were registered on AggregateEU.
- They organised rounds of demand aggregation where companies could set their demands out in detail, including all the information required on volumes, timing and delivery points - see table under point iii (AggregateEU: initial results).
- They collected a supply of bids from sellers and matched the most competitive bids with aggregated demand, allocating bids *pro rata* in case of under-supply - see table under point iii (AggregateEU: initial results).
- They collected information on the negotiation status and contracting of matched positions between buyers and sellers.

To bring the operation of AggregateEU into line with business practices and standards, and to ensure industry's broad acceptance of it, the mechanism has been developed in close cooperation with industry and stakeholders represented in the Industry Advisory Group. This informal expert group, made up of 27 EU companies and 11 observers experienced in trading gas on global markets, was the main forum for industry to get involved, and it proved to be very useful in bringing an industrial perspective to the discussions of the services to be developed under AggregateEU.

PRISMA's involvement, managing one of Europe's leading gas capacity trading platforms, played a significant part in ensuring the credibility of the joint purchasing mechanism and getting the trust and confidence of industrial actors in the process, especially regarding the protection of commercial secrets.

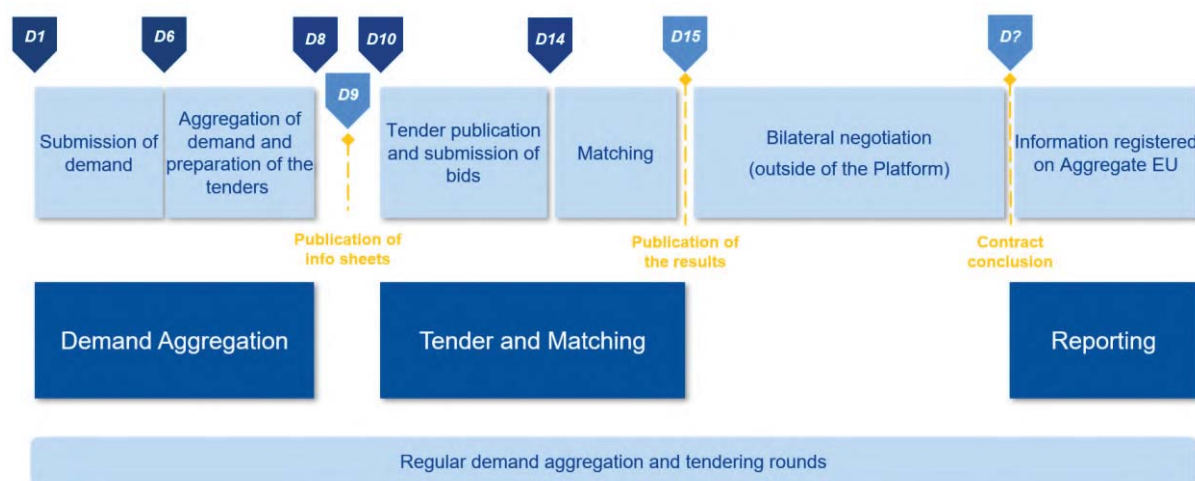
*Conclusion:* The service provider's support was instrumental for the Commission's successful implementation of the joint purchasing mechanism in an adequate timeframe.

However, when looking at the implementation of the service from the perspective of the Regulation, it would have made more sense for its provisions on the selection criteria to have prioritised the description of the services over the IT tool's technical requirements.

## ii. *Designing AggregateEU*

The main aim of the design of AggregateEU was to enable the aggregation of demand, the organisation of tendering round vis a vis international gas suppliers, and the matching of demand with suppliers' bids.

The Commission and the service provider implemented AggregateEU by organising tendering rounds, each of which followed the steps below:



*Main findings:* During the period assessed, larger companies were generally more willing than smaller ones to participate in AggregateEU. A total of over 150 companies of various sizes and from across the supply chain have subscribed to AggregateEU so far.

Participants appreciated the degree of flexibility provided by AggregateEU and its seemingly non-disruptive effect on market mechanisms. In particular, they appreciated the types of products available (delivery to national balancing points or liquefied natural gas (LNG) terminals) and the monthly profile and delivery dates.

The option to offer and then withdraw demand, and the possibility of engaging in negotiations with matched counterparts on terms other than those submitted on AggregateEU were also appreciated by some participants. Conversely, other market players and some national authorities requested that AggregateEU enable more binding demand from buyers and offers from suppliers instead of its current voluntary nature.

After the first tendering round, some participants requested adaptations to better fit their consumption patterns. The regulatory framework's flexibility and design enabled the Commission to partially address these requests and further improve the functioning of AggregateEU by modifying and updating features between tendering rounds. For example, in response to requests from some energy-intensive industry participants, the latest delivery dates in the second tendering round were extended to 20 months, i.e. until March 2025.

However, the lack of a strong legal basis for the reporting of contracts by participants resulted in overall limited feedback about contracts being concluded.

Finally, the geographical limitation for participation in AggregateEU on the buyer side was problematic for certain large corporate organisations relying on subsidiaries incorporated in the United Kingdom, Switzerland or the European Economic Area.

**Conclusion:** Overall, as confirmed by the good level of participation of buyers and sellers in the joint purchasing mechanism and the results of the first two rounds, participants were mostly appreciative of AggregateEU's design, of the services it offered and of the Commission's and the service provider's responsiveness to their requests. Most EU Member States also expressed their appreciation at the EU Energy Platform *ad hoc* Steering Board meeting, as did industry in various exchanges (including at Industry Advisory Group meetings).

Reporting by participants on the results of the negotiation and contracting stages could have been more detailed. This would have most likely helped to better measure the effectiveness and success of AggregateEU.

### ***iii. AggregateEU: Initial results***

By 14 July 2023, the Commission had launched two tendering rounds with the following results:

	First round April/May 2023	Second round June/July 2023	<b>Cumulative results</b>
<i>Status</i>	<i>Closed</i>	<i>Closed</i>	-
Subscriptions (total)	120	154	154
Demand aggregated	11.6 billion cubic metres (bcm)	15.9 bcm	27.5 bcm
Supply bids	18.7 bcm	15.2 bcm	33.9 bcm
Demand matched	10.9 bcm	12 bcm	22.9 bcm

Further tendering rounds are expected to be launched by the end of 2023.

**Main findings:** In accordance with Article 8 of the Regulation, the participation in the joint purchasing mechanism through AggregateEU on the buyer side was available to companies established in the EU and the Energy Community Contracting Parties. Participation on the seller side was open to all companies. For both buyers and sellers, companies linked to the

Russian Federation or subject to EU restrictive measures adopted in light of Russia's actions in Ukraine were excluded.

A total of 154 companies were subscribed to AggregateEU on 14 July 2023. This number includes companies established in the EU and companies established in the Energy Community Contracting Parties, notably from Ukraine, Moldova and Serbia, which showed significant interest in AggregateEU and were active and well represented in the tendering rounds. Most companies were gas and trading companies. However, industrial end users were also represented.

The results of the first two tendering rounds alone, which aggregated 27.5 bcm of demand, exceeded mandatory demand aggregation laid down in the Regulation (13.5 bcm).

Suppliers have also actively engaged with 33.9 bcm offered in the first two rounds, resulting in a significant oversupply.

The joint purchasing mechanism aimed to create new market and business opportunities for buyers and suppliers in Europe. In the crisis context, it has provided market players with a tool of finding and entering into contractual relations with potentially new counterparts, and of procuring gas on competitive conditions regardless of their size and consumption patterns.

Feedback on the joint purchasing mechanism is still open. There are indications from some EU Member States and market players that the joint purchasing mechanism contributed to strengthening the security of supply, and that in a few instances it may have contributed to keeping prices down and help reduced market volatility. The joint purchasing mechanism also seems to have contributed to increasing market transparency (through offer and price discovery). However, some EU Member States and market players have been more cautious regarding the value added of the mechanism.

The joint purchasing mechanism was designed to particularly benefit gas-intensive industries and smaller end users, enabling them to secure gas supplies at competitive prices by dealing directly with producers and exporters operating on the wholesale and LNG markets.

A few buyers have reported that the joint purchasing mechanism helped lower their gas prices under their existing contracts concluded outside AggregateEU. Several contracts have also been concluded as a result of the matching done on AggregateEU. This is proof that suppliers' offers on AggregateEU were price-competitive. At the same time, some industry players have indicated that price quotes received were above or equal to the market price and that no new sources of supply were attracted compared to those already known to participants.

***Conclusion:*** AggregateEU triggered interest from many market participants, as attested by the aggregated and offered volumes. The first two tendering rounds were organised between April and July 2023, when the situation on the market stabilised compared to summer 2022. The fact that the total volumes aggregated during the first two rounds alone doubled mandatory demand aggregation showed that market players considered the demand aggregation for gas to be very useful in the crisis context. This is an indication that market actors may be interested in having a similar mechanism operated on a voluntary basis.

#### 4. Financial aspects (Article 8(3) of the Regulation)

In accordance with Article 8(3) of the Regulation, the Commission assessed the need for liquidity support, including guarantees, for AggregateEU participants, and organised outreach activities in a bid to secure such support. The activities focused on (i) defining the needs of all concerned and the financial products to best serve these needs and (ii) creating a network of public financial institutions willing to provide such products.

For example, guarantees in the form of a standard letter of credit, mainly serve the needs of smaller gas companies in enabling them to address creditworthiness issues, and of energy-intensive companies, which had no prior experience of operating on the global gas market and had no established relations with suppliers. Guarantees play an important role in ensuring that all companies engaging on AggregateEU, regardless of their profiles and the areas they operate in, can get the most out of joint purchasing mechanism.

The outreach organised at political and expert level consisted of numerous multilateral and bilateral meetings and calls on specific topics organised with European financial institutions, national promotional banks and institutions and their various associations, such as the European Long-Term Investors Association and the Berne Union, as well as discussions on specific topics at workshops and meetings of regional groups in the EU Member States.

EU Energy Platform *ad hoc* Steering Board members played an important role by helping the Commission to assess the needs for guarantees of the European companies established on their territories that were active on AggregateEU, and helping in outreaching to national financial institutions.

The network was composed as follows.

<i>On 14 July 2023</i>	Number	Names
Public financial institutions	8	-
International financial institutions	1	European Bank for Reconstruction and Development <sup>6</sup>
National promotional banks	3	BGK (Poland) Finnvera (Finland) Instituto de Crédito Oficial (Spain)
Export credit agencies	4	Eksfin (Norway) Exim Banca Românească (Romania) Exim Banca Slovakia (Slovakia) SACE (Italy)

This way, AggregateEU was able to provide information about the financial products available to the parties concerned based on the Commission's assessment.

Main findings: The network provided good geographical coverage, thanks especially to the involvement of the European Bank for Reconstruction and Development and Eksfin able to provide guarantees for natural gas for companies established in many countries. Some public financial institutions were unable to provide guarantees on account of their decarbonisation

<sup>6</sup> The list of EBRD's countries of operations can be consulted at <https://www.ebrd.com/where-we-are.html>.

mandates, and/or suggested creating a sovereign Commission or European Investment Bank guarantee. Some also said there was a lack of interest from buyers.

*Conclusion:* It would be worthwhile considering how further efforts to provide tailored, affordable financial support<sup>7</sup> in the form of guarantees and other instruments can be envisaged. This could ensure more active participation of smaller gas companies and energy-intensive industry in the joint purchasing mechanism, as these should be the main beneficiaries of the EU Energy Platform.

## **5. Natural gas supplies excluded from joint purchasing (Article 9 of the Regulation)**

The Commission implemented Article 9 of the Regulation by requiring the companies active on AggregateEU to sign a Declaration of Honour<sup>8</sup> on their compliance with the exclusion of natural gas originating from the Russian Federation.

*Main findings:* Participants asked questions about the definition of ownership and control<sup>9</sup>. The Commission also had some technical and practical limitations in assessing the origin of natural gas matched on AggregateEU. The Commission and PRISMA ensured compliance through the Declaration of Honour and complementary checks when necessary (such as checking counterparties and LNG tracking).

*Conclusion:* The Commission will continue to do its utmost to check gas origins and monitor the exclusion of natural gas from the Russian Federation – using the Declaration of Honour and, when necessary, through further checks.

## **6. Mandatory use of AggregateEU (Article 10 of the Regulation)**

Based on the information available on 14 July 2023, 19 EU Member States are believed to have fulfilled their demand aggregation obligations under Article 10(2) of the Regulation. For many of them, the demand aggregated in the first two rounds alone exceeded by two, or even more, times their mandatory demand aggregation volumes.

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<sup>7</sup> When financial support, be it in the form of guarantees or other, constitutes State aid, it will be subject to State aid control pursuant to articles 107 and 108 TFEU.

<sup>8</sup> The relevant template can be consulted at <https://aggregateeu.prisma-capacity.eu/support/solutions/articles/36000429400-how-to-fill-out-the-declaration-of-honor->.

<sup>9</sup> Article 8 (Participation in the demand aggregation and joint purchasing) states that:

'1. Participation in the demand aggregation and joint purchasing shall be open and transparent to all natural gas undertakings and undertakings consuming gas established in the Union regardless of the volume requested. Natural gas undertakings and undertakings consuming gas shall be precluded from participating as suppliers, producers and purchasers in demand aggregation and joint purchasing, if they are:

(a) targeted by Union restrictive measures adopted pursuant to Article 215 TFEU, in particular Union restrictive measures adopted in view of Russia's actions destabilising the situation in Ukraine, or in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine;

(b) directly or indirectly owned or controlled by, or acting on behalf or at the direction of natural or legal persons, entities or bodies targeted by such Union restrictive measures; or

(c) directly or indirectly owned or controlled by, or acting on behalf or at the direction of the Russian Federation or its Government or by any Russian natural or legal person or entity or body established in Russia.'



Main findings: Given the novelty of the joint purchasing mechanism, the demand aggregation obligation was a good way of mobilising demand in some EU Member States.

Some EU Member States, not having the adequate monitoring and enforcement tools, had to rely exclusively on the Commission's assessment, which could only be indicative in nature.

Conclusion: Mandatory demand aggregation helped to mobilise demand in some EU Member States. In others, a strong interest in participating in AggregateEU led to the aggregation of significant volumes, well above mandatory levels.

Effective enforcement of the provision may have required a clearer obligation to be placed on EU Member States to take appropriate actions, such as adopting binding instruments to ensure compliance with the required demand aggregation level while taking into account the need to avoid putting an unnecessary administrative burden, notably on Member States with limited gas consumption.

## **7. Gas purchasing consortium (Article 11 of the Regulation)**

Article 11 of the Regulation provides that companies may '*coordinate elements of the conditions of the purchase contract*' in line with competition rules.

No gas purchasing consortium was created, possibly because of the complexity involved and the time constraints created by the necessity of launching the joint purchasing mechanism before the start of the gas filling season.

Instead, in consultation with national authorities and market players, the Commission decided to put forward two models of cooperation, the 'agent-on-behalf<sup>10</sup>' model and the 'central buyer<sup>11</sup>' model, to facilitate the participation of European companies in the joint purchasing mechanism.

These two models could be particularly useful for companies that cannot reach the volume threshold when submitting their demand, do not have expertise in negotiating gas purchase contracts on the global market (e.g. the energy-intensive industry), or do not have the necessary liquefied natural gas (LNG) regasification or storage capacities.

On 14 July 2023, 16 companies interested in providing services as agent-on-behalf, and 11 interested in providing them as central buyer, were listed on AggregateEU.

The Regulation states that '*the pass-through of lower prices would be an important indicator for the success of joint purchasing, as it is crucial for consumers*'. The Commission therefore asked the companies offering central buyer services to charge their customers for the services they offer but pass on the costs of the commodity itself.

Main findings: Article 11 of the Regulation was conceived as a supporting tool during an emergency and was sufficient for the Commission to facilitate the process of creating

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<sup>10</sup> Whereby buyers would get another company to act as an agent providing services (for example, the reservation of a slot on an LNG terminal).

<sup>11</sup> Whereby several buyers would ask another company to act on their behalf as a buyer and purchase gas for them.

consortia (although none were created) and developing other company cooperation models in compliance with EU competition rules. Company cooperation can provide an opportunity for smaller and inexperienced companies to more effectively and to greater advantage pool their demands, access global gas markets, including suppliers of LNG, and secure supplies at competitive prices. This tallies with the limited feedback received from a few industrial players suggesting that these cooperation models could very well have increased their participation on AggregateEU.

However, because of the limited experience to date it is not possible to draw any broad conclusions on the full application of these models.

Conclusion: In a crisis context, the Commission believes that all existing cooperation models mentioned above could present viable options. This has been supported by some industrial actors pointing to the fact that these cooperation models could help increase the benefits of the joint purchasing mechanism. However, outside the context of an emergency situation, it is the normal functioning of the European gas market, driven by competition, which should determine whether and how companies may want to cooperate for the purchase of gas and within the limits of the EU competition rules.



### **Review of Section 3 – Measures to enhance the use of LNG facilities, gas storage facilities and pipelines (Articles 12 to 14 of the Regulation)**

The Regulation contains provisions to enhance transparency and facilitate secondary trade in LNG and gas storage capacities. The arrangements to make it more transparent are similar to those for transporting natural gas using pipelines and they make a significant contribution to optimising the use of LNG and storage capacities in the EU.

#### **8. Secondary capacity booking platform for LNG facility users and gas storage facility users (Article 12 of the Regulation)**

*Main findings:* Secondary capacity booking platforms have been established by individual storage and LNG operators and are now up and running. Gas Infrastructure Europe (GIE) has a repository of links to secondary capacity booking platforms offered by infrastructure operators.

Secondary booking enables more effective allocation of capacities not used on primary markets. Additional transparency in this area enables market participants to find options more easily for capacity use across infrastructure in the EU market, in particular if high volumes of LNG are being imported into the EU.

*Conclusion:* Similar provisions have been included under Article 10 of the revised Gas Regulation (Regulation (EC) No 2009/715) (Hydrogen and Decarbonised Gas Markets Package) proposed in December 2021 by the Commission and currently under negotiation by the co-legislators.

#### **9. Transparency platforms for LNG facilities and gas storage facilities (Article 13 of the Regulation)**

*Main findings:* GIE operates two main platforms covering all EU Member States as well as the United Kingdom and Ukraine: the Aggregated Gas Storage Inventory (AGSI) for gas storage and the Aggregated LNG Storage Inventory (ALSI) for LNG.

Following the entry into force of the Regulation, new components were added to these platforms, including information on services offered and the conditions that apply to those services, contracted and available storage and LNG facility capacities, tariffs, etc. The platforms currently cover almost all EU large-scale LNG terminals (with only 5 LNG system operators not on the platforms) and 98% of EU storage facilities (with only 3 storage system operators not on the platforms).

Greater transparency makes for a better and more comprehensive overview of the LNG and storage markets in the EU. It also results in more efficient use of these infrastructures. Greater transparency on the EU LNG market also creates potential to attract additional suppliers.

*Conclusion:* Similar provisions have been included under Article 31 of the revised Gas Regulation 2009/715 (Hydrogen and Decarbonised Gas Markets Package) proposed in December 2021 by the Commission and currently under negotiation by the co-legislators.

## **10. More effective use of transmission capacities (Article 14 of the Regulation)**

Article 14 of the Regulation aims to improve the use of transportation capacities in view of changes in the direction of gas flows in the EU. The existing Congestion Management Procedures Guidelines set out ‘use-it-or-lose-it’ (UIOLI) procedures. However, those procedures apply only to congested interconnection points and were designed for the very short term or the very long term.

Article 14 envisages applying UIOLI procedures to all interconnection points, whether or not they are congested. There are two basic possibilities for applying Article 14: (i) by implementing a new monthly UIOLI procedure set out in the Regulation, or (ii) by extending existing UIOLI procedures to all interconnectors, not only congested ones.

*Main findings:* No EU Member States opted for the new monthly UIOLI procedure, opting instead for the procedures envisaged in the Congestion Management Procedures Guidelines, as allowed by the Regulation.

*Conclusions:* The impact of the application of Article 14 to gas transmission will be assessed using the parameter of transmission capacities booked by means of UIOLI procedures by the end of 2024 at the latest. This will make it possible to determine how often UIOLI procedures have been implemented and how useful they have been.

## REVIEW OF CHAPTER III (MEASURES TO PREVENT EXCESSIVE GAS PRICES AND EXCESSIVE INTRA-DAY VOLATILITY IN ENERGY DERIVATIVES MARKETS)

### Review of Section 1 – Gas solidarity for electricity supply, essential industries and protected customers (Articles 15 to 22)

#### 1. Temporary intra-day tool for managing excess volatility in energy derivatives markets (Articles 15 to 17 of the Regulation)

Articles 15 to 17 of the Regulation require trading venues on which energy-related derivatives (derivatives whose underlying asset is gas or electricity) are traded to set up temporary intra-day volatility management mechanisms (IVMs). This measure aims to shield market participants from acute levels of volatility in such markets, by requiring that the mechanisms set up by the trading venues prevent high price movements within a trading day.

To cater for the diversity of instruments traded and the various levels of liquidity of energy derivatives markets, the Regulation only sets out basic parameters for the functioning of IVMs, and requires that they be adapted to the characteristics of each contract and trading venue. The Regulation also allows IVMs to be implemented by trading venues by integrating them into existing circuit breakers instead of creating an additional mechanism.

On 30 June 2023, and in accordance with the mandate given to it in Article 17 of the Regulation, the European Securities and Markets Authority (ESMA) published a report documenting potential divergences in the implementation of IVMs by trading venues and evaluating the measure's effectiveness<sup>12</sup>.

*Main findings:* In its report, ESMA notes that the IVMs implemented generally seemed adequately calibrated, with the caveat of the assessment's having been done at a time when there was no evidence of protracted volatility episodes affecting trading in energy commodity derivatives. The measures set out in Articles 15 to 17 of the Regulation applied to 17 trading<sup>13</sup> venues. ESMA's findings refer to some diversity in how trading venues implemented IVMs, due to the characteristics of each trading venue and contract. The divergences related in particular to:

- the choice of the 'reference price', the low level of liquidity of some contracts on some trading venues, with the result that they used prices on other venues as a proxy for defining the reference price;

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<sup>12</sup> The report can be consulted at: [https://www.esma.europa.eu/sites/default/files/2023-06/ESMA70-156-6509\\_Final\\_Report\\_Intra-day\\_Volatility\\_Management\\_Mechanism.pdf](https://www.esma.europa.eu/sites/default/files/2023-06/ESMA70-156-6509_Final_Report_Intra-day_Volatility_Management_Mechanism.pdf).

<sup>13</sup> Capman AD (Belgium), 42 Financial Services (Czechia), European Energy Exchange (Germany – both the regulated market and the organised trading facility), MEFF Power (Spain), CIMD SV SA (Spain), *Tradition Espana* (Spain), Griffin Markets Europe (France), TPICAP EU (France), *Tradition Paris* (France), Hellenic Energy Exchange (Greece), Hungarian Derivative Energy Exchange (Hungary), Marx Spectron Europe (Ireland), *Borsa Italiana* SPA – IDEM (Italy), ICE Endex Markets BV (the Netherlands), Nasdaq Oslo ASA (Norway) and OMIP – *Polo Portugues* SGMR SA (Portugal).

- the frequency of renewal of the reference price and price boundaries, with low liquidity leading to longer intervals between such renewals;
- the breadth of the ‘price corridor’, with large boundaries ill-suited to illiquid contracts.

Overall, ESMA’s assessment is that these divergences can be justified and that the IVM has been appropriately implemented by trading venues. However, ESMA also points out that the IVM is unsuited to illiquid contracts, for which the difficulties implementing it seem to outweigh any potential benefit. ESMA reports that only one trading venue has had its IVMs triggered since their implementation and that this was most likely because of erroneous orders. Given the limited volatility of markets for energy-related derivatives over this period, it seems that the IVMs were adequately calibrated by trading venues.

On the mechanism’s efficiency, ESMA notes that, given the absence of evidence of protracted volatility episodes affecting energy commodity derivatives during the period in question<sup>14</sup>, it has ‘*a limited basis to provide an assessment of the effectiveness of the IVM, neither on potential positive nor negative effects*’. In any event, it considers that episodes of high volatility in 2022 were linked to stress affecting fundamentals of the gas and electricity market, and to Russia’s weaponisation of natural gas supplies to Europe, rather than by a form of disorderly trading that the IVM – and circuit breakers in general – are designed to solve.

Lastly, ESMA notes that the IVM’s compatibility with existing obligations regarding circuit breakers, as well as its implementation by several trading venues by adapting existing circuit breakers, indicate that its objective could be achieved under existing provisions of the Market in Financial Instruments Directive (MiFID), and that the objective to be achieved did not warrant the creation of a second layer of circuit breakers.

ESMA’s report is based on data collected for the period between February and May 2023, a period characterised by a decrease in gas market volatility to extremely low levels. However, episodes of significant intra-day volatility on financial gas markets, in particular in the Title Transfer Facility, have been observed in the summer, first in early June and then again in August, often with price variations of over 10% in the same day (reaching 20% or more on a few occasions).

This suggests that, while the gas balance has significantly improved since 2022 and the EU has been able to successfully replace a large amount of gas previously supplied by Russia, there still remain elements of fragility in the energy markets. Risks such as, for example, a complete and sudden cessation of the remaining Russian gas imports, infrastructure incidents, unfavourable weather conditions or a significant increase in gas demand globally may unsettle markets and potentially trigger episodes of excessively high intra-day volatility. Significant volatility may also emerge as a consequence of market players reacting to news about potential supply shortages (even when such shortages do not eventually materialise).

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<sup>14</sup> The underlying information was collected in two iterations between February and May 2023.

In the aftermath of an energy crisis, where a return to the previous status quo in energy supply is not an immediate possibility, and with the EU dependent on LNG supplies, it is critical to ensure the stability of the energy financial markets, by avoiding excessive volatility in prices. It is currently uncertain whether volatility episodes (which increased during the summer of 2023) will reappear in the coming months. ESMA notes that, due to the lack of protracted volatility during the period under scrutiny, it had a limited basis to provide an assessment of the effectiveness of the IVM in terms of either its potential positive, or its negative, effects.

**Conclusion:** The intra-day volatility mechanism may help to limit dramatic price fluctuations and smoothen price patterns in highly volatile markets. It may also have an indirect market disciplinary effect.

Nevertheless, ESMA did not find grounds to make the IVM a permanent feature of the EU legal framework, although its assessment was carried out during a period of lack of protracted volatility. ESMA considers that the appropriate implementation and application of the existing circuit breakers under MiFID II, considering the lessons learnt from using the IVM, could achieve the objective of limiting excessive intra-day price volatility without introducing a second layer of circuit breakers in the form of IVMs. The recent political agreement on the review of MiFID/Market in Financial Instruments Regulation should also be considered. Further monitoring of the energy commodity markets and the impact of the IVM in the next few months may be beneficial for Member States in order to take a more informed view on the need for a temporary prolongation of the IVM. Going forward, as noted by the European Securities and Markets Authority<sup>15</sup>, the tense situation in the gas market gives rise to specific risks and vulnerabilities in the markets for gas-related derivatives, which could '*amplify market moves*' and '*price pressure on derivatives*'. The analysis of these risks '*requires further work to address data gaps and data fragmentation*'. The Commission will keep Member States informed of the work on this topic.

## **2. LNG price assessment and benchmark (Articles 18 to 22 of the Regulation)**

Article 18 of the Regulation requires the Agency for Cooperation of Energy Regulators (ACER) to produce and publish every day:

- an LNG price assessment, starting no later than 13 January 2023; and
- a daily LNG benchmark as of 31 March 2023.

The LNG price assessment and benchmark were enacted to bring much needed transparency to the market. Indeed, the absence of a reliable indicator of the price at which the EU Member States were purchasing LNG on international markets reportedly led to their competing to secure gas supplies during last year's crisis. This may subsequently have played a significant part in putting upward pressure on prices. From the start, this was intended as a permanent measure to be included at the earliest opportunity in the Regulation on Wholesale

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<sup>15</sup> European Securities and Markets Authority, 'TRV Risk Analysis: EU natural gas derivatives markets: risks and trends', 12 May 2023.

Energy Market Integrity and Transparency (REMIT), as it was considered necessary in the context of a structural change in the importance of LNG for the EU gas supply, triggered by the weaponisation of Russian pipeline gas. However, the 2022 energy crisis showed how urgently was needed a transparency tool that would reflect objectively the price at which LNG cargos were arriving in Europe. In this context, the measure was included in the Regulation, with a clear indication that it would be included as a permanent measure in REMIT (as evidenced by Recital 57 of the Regulation).

*Main findings:* Since its implementation, the LNG price assessment has provided the market with greater transparency, based on mandatory objective reporting and reflecting international gas prices. Since its publication, the prices of benchmarks of natural gas in the EU (the Title Transfer Facility) have progressively fallen into line with the LNG price assessment. To ensure it remains reliable and objective, the Regulation has given ACER specific powers for collecting and processing the required market data. ACER now regularly publishes the following price assessments:

- Northwest Europe;
- South Europe; and
- EU LNG price.

The LNG benchmark further strengthened this transparency by providing a spread of the EU LNG price to the month-ahead Title Transfer Facility settlement price, the most used futures contract in the EU and widely acknowledged as the most representative proxy for EU gas prices.

With the effective price at which LNG enters the EU made more transparent, market players in EU Member States are better informed of market prices and EU Member States can coordinate themselves better in securing LNG supplies in a spirit of solidarity, thereby avoiding undue pressure being put on the market.

On 14 March 2023, the Commission adopted a proposal to amend the Regulation on Wholesale Energy Market Integrity and Transparency (REMIT). The proposal includes both the LNG price assessment and benchmark. However, the final adoption and entry into force of the revised REMIT is expected to occur after the current Regulation expires.

*Conclusion:* The Commission believes it would be very important that the relevant adopted measures on a temporary basis are extended to maintain the increased transparency of LNG import pricing, and to preserve a level playing field between EU Member States in a spirit of solidarity, whilst also supporting Member States in ensuring a stable supply to meet the EU's energy needs. This is why similar permanent measures are included in the REMIT proposal.



## REVIEW OF CHAPTER IV (MEASURES FOR THE CASE OF A GAS EMERGENCY)

### 1. Default solidarity rules (Articles 23 and 26 to 28 of the Regulation)

To further strengthen solidarity measures<sup>16</sup> in case of a severe gas supply shortage and to remedy the lack of bilateral solidarity agreements between EU Member States, the Regulation sets default solidarity rules applicable in the absence of bilateral agreements. The default solidarity rules extend the solidarity obligation to critical gas volumes needed to ensure the electricity system's adequacy, thereby preventing an electricity crisis. EU Member States with LNG facilities would now also be required to provide solidarity.

The default rules are based on the principle that solidarity should be provided against fair compensation, with a maximum compensation consisting of:

1. the price of gas;
2. storage and transportation costs;
3. litigation costs of judicial procedures for the EU Member State providing the gas; and
4. indirect costs not reflected in the price of gas, e.g. compensation for the curtailment of industry, limited to 100% of the price of gas.

The default solidarity rules also address a gap in the solidarity provisions of the Gas Security of Supply Regulation, namely that requesting EU Member States do not have to prioritise offers based on market-based measures first. The Regulation also temporarily extended solidarity protection to critical gas volumes for the security of electricity supply, and temporarily extended the solidarity obligation to EU Member States with LNG facilities.

The solidarity mechanism is only applied in a severe emergency, so it cannot be tested in reality. However, Chapter IV has been simulated via the 'dry run exercise' as outlined in the following section. Furthermore, a questionnaire has been circulated in May 2023 to the Gas Coordination Group<sup>17</sup>.

#### *Main findings: results from the 'Dry run' exercise*

To test roles and responsibilities in an EU-wide gas emergency, as well as to test the solidarity provisions adopted under the Gas Security of Supply Regulation and the Regulation, the Commission conducted a joint '**dry run**' exercise with EU Member States, transmission system operators and the European Network of Transmission System Operators for Gas (ENTSOG) in December 2022.

Overall, the exercise confirmed the preparedness of EU Member States, the Commission and ENTSOG for a gas emergency, and the Gas Security of Supply Regulation and the

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<sup>16</sup> Initially provided by Article 13 of Regulation (EU) 2017/1938, setting out 'solidarity' mechanisms applicable as a last resort in a severe gas emergency and governed by bilateral solidarity agreements between EU Member States.

<sup>17</sup> The Gas Coordination Group is a standing advisory group, coordinating security of supply measures, especially during crises. See: [Register of Commission expert groups and other similar entities \(europa.eu\)](https://ec.europa.eu/europa.eu).

Regulation constitute an adequate framework for an emergency response, in particular in the case of solidarity requests. However, several points requiring follow-up were also identified:

- Solidarity provisions were recognised during the exercise as essential for security of supply if established in advance. But only a limited number of bilateral agreements have been signed so far (7 out of 40). The complexity of deciding what constitutes fair compensation between EU Member States was considered a barrier to requesting and providing solidarity if not established in advance.
- It was identified that there is no legal basis for requesting solidarity via pipeline to a neighbouring EU Member State not directly connected. This possibility is not explicitly mentioned in the Gas Security of Supply Regulation, but that regulation does contain provisions for when two EU Member States are connected via a third country.
- In case an EU Member State receives two solidarity requests, the procedure for allocating and prioritising was considered unclear. If the market does not make it possible to satisfy both requests, there are several options: *pro rata* allocation, allocation on the basis of the order in which the requests were received (first come first served), or allocation depending on the amount received as compensation.
- Several EU Member States believed complications would arise from the changed solidarity request submission time to at least 72 hours before the indicated delivery time, agreed in the Regulation. Participants expressed the wish that a 24-hour period would be applicable for solidarity provided by means of pipelines, while 72 hours could still be relevant for solidarity provided by means of LNG.
- The legal basis for requesting and receiving LNG solidarity requires further clarification, including contractual issues related to diverting cargos and compensating third parties, the availability of vessels, the possible mismatch of volumes between the solidarity request and the volumes in the vessel in question, and ways of guaranteeing payments.

Conclusion: The Commission's conclusions are the following.

- The concept of default solidarity rules, in the absence of bilateral agreements, should be made permanent. This would make the EU's security of supply architecture complete on a permanent basis, while discharging EU Member States of the obligation to sign bilateral agreements.
- Given the new energy landscape in the EU, with LNG having become the main supply source of gas, the extension of solidarity to LNG is crucial for security of supply. In the Regulation the same provisions apply to pipeline gas and LNG, but this no longer reflects reality. The provisions would therefore benefit from being adapted to take into consideration the specificity of the LNG market.
- Critical gas volumes are designed to ensure the adequacy of the electricity system so that the gas crisis does not spread to the electricity system. Alternative ways of doing this to those proposed in the Regulation could be explored.



## **2. Non-essential consumption of protected customers (Article 24 of the Regulation)**

Article 2 of the Gas Security of Supply Regulation defines protected customers as household consumers connected to the distribution network. EU Member States may also decide to add the following consumers to their protected customers, provided they do not jointly represent more than 20% of total annual gas consumption:

1. small and medium-sized enterprises connected to the distribution grid;
2. essential social services;
3. district heating installations.

Member States are required to put stringent measures in place to ensure supply to these protected customers and to prevent disconnections, even during a gas emergency.

However, during the energy crisis of 2022, and after the adoption of the Council Regulation (EU) 2022/1369 of 5 August 2022 on coordinated demand-reduction measures for gas, the importance of all sectors' voluntary demand reduction increased.

Therefore, Article 24 of the Regulation introduced the possibility for EU Member States to take measures to reduce non-essential consumption of protected customers, provided that these customers do not qualify as vulnerable consumers as defined in Article 3(3) of Directive 2009/73/EC on common rules for the internal market in natural gas.

*Main findings:* On 12 May 2023, the Commission circulated a questionnaire to members of the Gas Coordination Group, asking them for feedback on, among other things, the provisions related to non-essential consumption of protected customers and on additional safeguards to ensure cross-border gas flows. The results were:

- several EU Member States indicated that they considered this more flexible approach to the concept of protected customers beneficial, as it could, for example, free up volumes for critical industries with relatively little impact on households (by slightly reducing the thermostat for example);
- some EU Member States indicated that this provision was difficult to apply in practice, because it is challenging to monitor non-essential consumption of protected customers on a non-annual basis.

*Conclusion:* The Commission concludes that the concept of non-essential consumption of protected customers is a useful concept in the context of ongoing or future demand reduction efforts.

## **3. Safeguards for cross-border gas flows (Article 25 of the Regulation)**

Article 12(5)a of the Gas Security of Supply Regulation states that EU Member States must not unduly restrict cross-border gas flows. However, the procedure for this may take up to a week to be concluded, with the result that, in the midst of a crisis, cross-border flows may be unduly halted.

This is why Article 25 of the Regulation introduced additional safeguards to ensure cross-border gas flows, allowing the Commission to oblige the EU Member State in question to modify its actions with immediate effect.

Main findings: An emergency as defined in Article 12 of Regulation (EU) 2017/1938 has never been declared, and the provision has therefore not been tested. In the questionnaire mentioned above, the members of the Gas Coordination Group were nevertheless invited to give their views on the matter. Their responses can be categorised as follows.

	Consider Article 25 positively	Article 12(5) should already be respected	Not in favour of new safeguards
Frequency	10/18 (55%)	3/18 (17%)	5/18 (28%)
Argumentation	<ul style="list-style-type: none"> <li>• Respondents appreciated the added certainty.</li> <li>• Solidarity is crucial during a crisis.</li> </ul>	<ul style="list-style-type: none"> <li>• Article 12(5) considered to be already legally binding.</li> <li>• Article 12(5) should be respected, even without additional safeguards.</li> </ul>	<ul style="list-style-type: none"> <li>• Concerned about the possibility of maintaining the provisions indefinitely.</li> <li>• EU Member States should be able to defend their position.</li> </ul>

The answers to this questionnaire are a signal that most respondents consider safeguards for cross-border gas flows useful, either because they see the usefulness of the new provisions of Article 25 of the Regulation, or because they believe that Article 12(5) of the Gas Security of Supply Regulation should already be respected at all times.

Conclusion: The Commission concludes that it is important to seek to keep safeguards for cross-border gas flows, as well as a shorter procedure, to endeavour to guarantee cross-border flows during a crisis.

## CONCLUSION

### General situation of the gas supply to the Union

Since the outbreak of the Russian invasion of Ukraine, Europe has achieved an unprecedented energy shift. Keeping the EU's gas market well supplied despite the loss of large amounts of the share of flows from Russia (- 70 billion cubic metres (bcm) in 2022) has been possible, thanks to increased supplies of LNG (+ 50 bcm in 2022), to pipeline imports from non-Russian partners, and to gas demand reduction (- 58 bcm in 2022) which has facilitated this year's historically high storage filling, meeting the 90% requirement set by the Storage Regulation already in August.<sup>18</sup>

This shift was made possible by the successful implementation of measures by the EU and its Member States in all key areas of energy policy, including the EU Energy Platform, storage filling policy at EU level, gas demand reduction, the reduction of electricity peak demand, faster deployment of renewables, and targeted infrastructure upgrades (+25 bcm of new LNG regasification capacity).

The gas balance situation has improved compared to 2022, when gas prices rose to unprecedented levels above EUR 300/MWh. However, the war is not over and gas prices still remain higher and more volatile than pre-summer 2021 when Russia started weaponising the gas sector. With the continued positive impact of 2022 policy measures related to the EU Energy Platform, demand reduction extended to March 2024 and storage filling targets reached, the outlook for the coming winter is more positive overall than it was for winter 2022/2023. That said, significant risks for the security of gas supply to the EU remain, such as: a complete and sudden cessation of Russian imports, infrastructure incidents, unfavourable weather conditions, increasing gas demand in Europe or elsewhere creating rivalry for LNG cargos, greater use of gas to generate electricity as a result of droughts or unplanned nuclear outages. These are all risk factors that may, especially if they were to occur at the same time, tighten the markets and put pressure on prices again.

In addition, the positive outlook for winter 2023/2024 is subject to preserving the energy balance achieved last year thanks to the efforts of, and the policy measures put in place by, EU Member States. A deterioration in the gas balance, if accompanied by some of the risks mentioned above, could undermine the EU's security of supply. Continued vigilance and close monitoring of the market is therefore required. The EU also needs to be prepared for worst-case scenarios.

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<sup>18</sup> Regulation (EU) 2022/1032 of the European Parliament and of the Council of 29 June 2022 amending Regulations (EU) 2017/1938 and (EC) No 715/2009 with regard to gas storage (Text with EEA relevance).

### **Opinion of the Commission on prolonging the Regulation**

Based on the main findings from the first months of implementing the Regulation, as set out in this report, the Commission believes that its provisions have played an important role in contributing to stabilising the gas market and ensuring an adequate supply of gas to the EU, and that the Regulation is an important part of the EU's gas security of supply tool kit.

Given the persisting risks mentioned above, the market players' interest, and potential for benefits of the joint purchasing and solidarity mechanism, the Commission is considering whether to propose prolonging some or all measures of the Regulation and how some of the measures in it could be integrated in a more structural way.

To this end, the revised Gas Regulation (Regulation (EC) No 2009/715) (the Hydrogen and Decarbonised Gas Markets Package) has been identified as a suitable legal act for integrating certain aspects of the joint purchasing mechanism and the solidarity mechanism (based on the findings and lessons learned in applying the Regulation). The co-legislators are currently engaging on this respect.