



2024/1789

15.7.2024

**REGULATION (EU) 2024/1789 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of 13 June 2024**

**on the internal markets for renewable gas, natural gas and hydrogen, amending Regulations (EU) No 1227/2011, (EU) 2017/1938, (EU) 2019/942 and (EU) 2022/869 and Decision (EU) 2017/684 and repealing Regulation (EC) No 715/2009 (recast)**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

Having regard to the opinion of the Committee of the Regions <sup>(2)</sup>,

Acting in accordance with the ordinary legislative procedure <sup>(3)</sup>,

Whereas:

- (1) Regulation (EC) No 715/2009 of the European Parliament and of the Council <sup>(4)</sup> has been substantially amended several times. Since further amendments are to be made, that Regulation should be recast in the interests of clarity.
- (2) The internal market for natural gas, which has been progressively implemented since 1999, aims to deliver real choice for all consumers in the Union, be they citizens or businesses, new business opportunities and more cross-border trade, so as to achieve efficiency gains, competitive prices and higher standards of service, and to contribute to security of supply and sustainability.
- (3) By means of Regulation (EU) 2021/1119 of the European Parliament and of the Council <sup>(5)</sup>, the Union has committed to cutting greenhouse gas emissions. The internal market rules for gaseous fuels need to be aligned with that Regulation. In that context, the Union has set out how to update its energy markets, including as regards the decarbonisation of markets for gas, in the communications of the Commission of 8 July 2020 entitled 'Powering a climate-neutral economy: An EU Strategy for Energy System Integration' and 'A hydrogen strategy for a climate-neutral Europe' (the 'EU Hydrogen Strategy'), as well as in the European Parliament resolution of 10 July 2020 on a comprehensive European approach to energy storage <sup>(6)</sup>. This Regulation should contribute to achieving the Union's objective to cut greenhouse gas emissions at the same time as ensuring security of supply and the proper functioning of the internal markets for natural gas and hydrogen.

<sup>(1)</sup> OJ C 323, 26.8.2022, p. 101.

<sup>(2)</sup> OJ C 498, 30.12.2022, p. 83.

<sup>(3)</sup> Position of the European Parliament of 11 April 2024 (not yet published in the Official Journal) and decision of the Council of 21 May 2024.

<sup>(4)</sup> Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005 (OJ L 211, 14.8.2009, p. 36).

<sup>(5)</sup> Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

<sup>(6)</sup> European Parliament resolution of 10 July 2020 on a comprehensive European approach to energy storage (2019/2189(INI)) (OJ C 371, 15.9.2021, p. 58).

- (4) This Regulation complements related Union policy and legislative instruments, in particular those proposed pursuant to the communication of the Commission of 11 December 2019 entitled the ‘European Green Deal’, such as Regulations (EU) 2023/857 <sup>(7)</sup>, (EU) 2023/957 <sup>(8)</sup>, (EU) 2023/1805 <sup>(9)</sup> and (EU) 2023/2405 <sup>(10)</sup> of the European Parliament and of the Council and Directives (EU) 2023/959 <sup>(11)</sup>, (EU) 2023/1791 <sup>(12)</sup> and (EU) 2023/2413 <sup>(13)</sup> of the European Parliament and of the Council, which aim to incentivise the decarbonisation of the Union’s economy and ensure that it remains on a trajectory towards a climate-neutral Union by 2050, in accordance with Regulation (EU) 2021/1119. The main objective of this Regulation is to enable and facilitate such transition towards climate neutrality by ensuring the ramp-up of a market for hydrogen and an efficient market for natural gas.
- (5) This Regulation aims to facilitate the penetration of renewable gas and low-carbon gas and hydrogen into the energy system, enabling a shift away from fossil gas, and to allow renewable gas and low-carbon gas and hydrogen to play an important role in achieving the Union’s 2030 climate objectives and climate-neutrality by 2050. This Regulation also aims to set up a regulatory framework which enables and incentivises all market participants to shift away from fossil gas and plan their activities to avoid lock-in effects and aims to ensure a gradual and timely phase-out of fossil gas, in particular, in all relevant industrial sectors and for heating purposes.
- (6) The EU Hydrogen Strategy recognises that, as Member States have different potential for the production of renewable hydrogen, an open and competitive internal market with unhindered cross-border trade has significant benefits for competition, affordability and security of supply. Moreover, the EU Hydrogen Strategy stresses that moving towards a liquid market with commodity-based hydrogen trading would facilitate entry of new producers and be beneficial for deeper integration with other energy carriers and would create viable price signals for investment decisions and operational decisions. The rules laid down in this Regulation should thus facilitate the emergence of markets for hydrogen, commodity-based hydrogen trading and liquid trading hubs. Any undue barriers, including disproportionate tariffs at interconnection points, should be eliminated by Member States. While recognising the inherent differences, existing rules that enabled efficient commercial operations and trading developed for the markets for electricity and natural gas should also be considered for a market for hydrogen. While this Regulation lays down general principles applicable to the operation of the market for hydrogen, it is appropriate to take account of the stage of development of that market when applying those principles.
- (7) Supporting the coal and carbon-intensive regions in the phase-out of fossil fuels and phase-in of renewable energy is a key element of the just transition policy. That support has to be pursued consistently with the relevant legal framework, in particular the Just Transition Fund, established by Regulation (EU) 2021/1056 of the European Parliament and of the Council <sup>(14)</sup>, which allows funding of technologies for renewable energy. The Commission plays a key role in ensuring such support to national policies aimed at progressively reducing existing coal and other

<sup>(7)</sup> Regulation (EU) 2023/857 of the European Parliament and of the Council of 19 April 2023 amending Regulation (EU) 2018/842 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement, and Regulation (EU) 2018/1999 (OJ L 111, 26.4.2023, p. 1).

<sup>(8)</sup> Regulation (EU) 2023/957 of the European Parliament and of the Council of 10 May 2023 amending Regulation (EU) 2015/757 in order to provide for the inclusion of maritime transport activities in the EU Emissions Trading System and for the monitoring, reporting and verification of emissions of additional greenhouse gases and emissions from additional ship types (OJ L 130, 16.5.2023, p. 105).

<sup>(9)</sup> Regulation (EU) 2023/1805 of the European Parliament and of the Council of 13 September 2023 on the use of renewable and low-carbon fuels in maritime transport, and amending Directive 2009/16/EC (OJ L 234, 22.9.2023, p. 48).

<sup>(10)</sup> Regulation (EU) 2023/2405 of the European Parliament and of the Council of 18 October 2023 on ensuring a level playing field for sustainable air transport (ReFuelEU Aviation) (OJ L, 2023/2405, 31.10.2023, ELI: <http://data.europa.eu/eli/reg/2023/2405/oj>).

<sup>(11)</sup> Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system (OJ L 130, 16.5.2023, p. 134).

<sup>(12)</sup> Directive (EU) 2023/1791 of the European Parliament and of the Council of 13 September 2023 on energy efficiency and amending Regulation (EU) 2023/955 (OJ L 231, 20.9.2023, p. 1).

<sup>(13)</sup> Directive (EU) 2023/2413 of the European Parliament and of the Council of 18 October 2023 amending Directive (EU) 2018/2001, Regulation (EU) 2018/1999 and Directive 98/70/EC as regards the promotion of energy from renewable sources, and repealing Council Directive (EU) 2015/652 (OJ L, 2023/2413, 31.10.2023, ELI: <http://data.europa.eu/eli/dir/2023/2413/oj>).

<sup>(14)</sup> Regulation (EU) 2021/1056 of the European Parliament and of the Council of 24 June 2021 establishing the Just Transition Fund (OJ L 231, 30.6.2021, p. 1).

solid fossil fuel generation and mining capacity. That process requires funding to address the social and economic impact, including the reskilling of the workforce for the purpose of the clean energy transition of regions that undergo structural change. The support to coal and carbon-intensive regions will need to take into account the specific goals, scopes and criteria of each relevant Union funding programme. The Just Transition Fund does not provide for funding of technologies other than renewable energy.

- (8) Directive (EU) 2024/1788 of the European Parliament and of the Council<sup>(15)</sup> provides for the possibility of a combined system operator. The rules laid down in this Regulation do not therefore require modification of the organisation of national systems that are consistent with the relevant provisions of that Directive.
- (9) It is necessary to specify the criteria according to which tariffs for access to the network are determined, in order to ensure that they fully comply with the principle of non-discrimination and the needs of a properly functioning internal market, take fully into account the need for system integrity and reflect the actual costs incurred, insofar as such costs correspond to those of an efficient and structurally comparable network operator and are transparent, whilst including the appropriate return on investments, and enabling the integration of renewable gas and low-carbon gas. The rules on network access tariffs laid down in this Regulation are complemented by further rules on network access tariffs, in particular in the network codes and guidelines adopted pursuant to this Regulation, in Regulations (EU) 2022/869<sup>(16)</sup> and (EU) 2024/1787<sup>(17)</sup> of the European Parliament and of the Council and in Directive (EU) 2018/2001 of the European Parliament and of the Council<sup>(18)</sup> and Directive (EU) 2023/1791.
- (10) It is, in general, most efficient to finance infrastructure by means of revenue obtained from the users of that infrastructure and to avoid cross-subsidies. Moreover, cross-subsidies would, in the case of regulated assets, be incompatible with the general principle of cost-reflective tariffs. In exceptional cases, cross-subsidies could nonetheless bring societal benefits, in particular during earlier phases of network development where booked capacity is low compared to technical capacity and uncertainty as to when future capacity demand will materialise is significant. Cross-subsidies could therefore contribute to reasonable and predictable tariffs for early network users and de-risk investments made by network operators, thus contributing to an investment climate that supports the decarbonisation objectives of the Union. As an alternative to the expected higher network tariffs that would otherwise have to be charged to early hydrogen network users, it should be possible for hydrogen network operators to spread network development costs over time by allowing Member States to provide for the possibility that future users pay part of the initial costs, by way of an inter-temporal cost allocation. Such inter-temporal cost allocation and its underlying methodology and features should be approved by the regulatory authority. It should be possible for Member States to accompany such mechanism by measures to cover the financial risk of hydrogen network operators, such as a State guarantee, provided that they comply with Article 107 of the Treaty on the Functioning of the European Union (TFEU). Where the financing of networks through network access tariffs paid by network users is not viable, the regulatory authority should be able to allow financial transfers between separate regulated services from natural gas and hydrogen networks, subject to certain conditions. Costs associated with feasibility studies related to the repurposing of natural gas networks to hydrogen networks should not be considered to be cross-subsidies. Cross-subsidies should not be financed by network users in other Member States and it is thus appropriate to collect financing for cross-subsidies only from exit points to final customers within the same Member State. Moreover, as cross-subsidies are exceptional, it should be ensured that they are proportional, transparent, limited in time and established under regulatory supervision, subject to notification to the Commission and to the European Union Agency for the Cooperation of Energy Regulators (ACER) established by Regulation (EU) 2019/942 of the European Parliament and of the Council<sup>(19)</sup>.

<sup>(15)</sup> Directive (EU) 2024/1788 of the European Parliament and of the Council of 13 June 2024 on common rules for the internal markets for renewable gas, natural gas and hydrogen, amending Directive (EU) 2023/1791 and repealing Directive 2009/73/EC (OJ L, 2024/1788, 15.7.2024, ELI: <http://data.europa.eu/eli/dir/2024/1788/oj>).

<sup>(16)</sup> Regulation (EU) 2022/869 of the European Parliament and of the Council of 30 May 2022 on guidelines for trans-European energy infrastructure, amending Regulations (EC) No 715/2009, (EU) 2019/942 and (EU) 2019/943 and Directives 2009/73/EC and (EU) 2019/944, and repealing Regulation (EU) No 347/2013 (OJ L 152, 3.6.2022, p. 45).

<sup>(17)</sup> Regulation (EU) 2024/1787 of the European Parliament and of the Council of 13 June 2024 on the reduction of methane emissions in the energy sector and amending Regulation (EU) 2019/942 (OJ L, 2024/1787, 15.7.2024, ELI: <http://data.europa.eu/eli/reg/2024/1787/oj>).

<sup>(18)</sup> Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

<sup>(19)</sup> Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators (OJ L 158, 14.6.2019, p. 22).

- (11) The use of market-based arrangements, such as auctions, to determine tariffs is to comply with Directive (EU) 2024/1788 and Commission Regulation (EU) 2017/459 <sup>(20)</sup>.
- (12) A common minimum set of third-party access services is necessary to provide a common minimum standard of access in practice throughout the Union, to ensure that third-party access services are sufficiently compatible and to allow the benefits accruing from a properly functioning internal market for natural gas to be exploited.
- (13) Arrangements on third-party access should be based on the principles laid down in this Regulation. The organisation of entry-exit systems, which enable a free allocation of natural gas on the basis of firm capacity, was welcomed by the XXIV European Gas Regulatory Forum (Madrid Forum) in October 2013. Therefore a definition of entry-exit system should be introduced, which would help to achieve a level playing field for renewable gas and low-carbon gas connected to either the transmission or distribution level. Tariff setting for distribution system operators and hydrogen distribution network operators and the organisation of capacity allocation between the transmission and distribution levels for natural gas and hydrogen should be left to the regulatory authorities on the basis of the principles laid down in Directive (EU) 2024/1788.
- (14) Access to the entry-exit system should be generally based on firm capacity. Network operators should be required to cooperate in a way that maximises the offer of firm capacity, which in turn enables network users to freely allocate the natural gas entering or exiting on the basis of firm capacity to any entry or exit point in the same entry-exit system.
- (15) Member States should be able to establish full or partial regional integration where two or more adjacent entry-exit systems are merged. It should be possible for partial regional integration to encompass various balancing zones as an important step towards integrating fragmented markets for natural gas and improving the functioning of the internal market for natural gas.
- (16) Where regional market integration is undertaken, the transmission system operators concerned and regulatory authorities should address issues having a cross-border impact such as tariff structures, the balancing regime, capacities at remaining cross-border points, investment plans and the fulfilment of tasks of transmissions system operators and of regulatory authorities.
- (17) Conditional capacity should be offered only where network operators are not able to offer firm capacity. Network operators should define the conditions for conditional capacity on the basis of operational constraints in a transparent and clear manner. The regulatory authority should approve the conditions and ensure that the number of conditional capacity products is limited to avoid a fragmentation of the market for natural gas and to ensure compliance with the principle of providing efficient third-party access.
- (18) A sufficient level of cross-border natural gas interconnection capacity should be achieved and market integration fostered in order to complete the internal market for natural gas.
- (19) This Regulation aims to support the production of sustainable biomethane in the Union. In its staff working document of 18 May 2022 'Implementing the Repower EU Action Plan: Investment needs, hydrogen accelerator and achieving the bio-methane targets', accompanying the communication of the Commission of 18 May 2022 entitled 'REPower EU Plan' (the 'REPowerEU Plan'), the Commission proposed to increase significantly the production of sustainable biomethane in the Union up to 35 bcm per year by 2030.
- (20) The coordinated mapping for the deployment of biogas and biomethane serves as a tool for Member States to determine the contribution of biomethane to their estimated trajectories from 2021 to 2030, including the expected total gross final energy consumption and the total planned installed capacity, as provided for in their integrated national energy and climate plans. Where Member States have established national trajectories for biogas and biomethane, they should specify in their national energy and climate plans policies and measures for their development, such as adopting national strategies on sustainable biogas and biomethane or setting national targets of annual production or consumption of biomethane, either expressed in absolute volumes or as a percentage of the volume of natural gas consumed by customers connected to the natural gas network. In order to facilitate that, the

<sup>(20)</sup> Commission Regulation (EU) 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013 (OJ L 72, 17.3.2017, p. 1).

Commission has provided Member States with significant biomethane potential an analysis of their national potential, as well as suggestions how the potential could be best harnessed. Furthermore, pursuant to Article 25(2), point (b), of Directive (EU) 2018/2001, Member States may take into account for the transport sector targets referred to in Article 25(1) of that Directive biogas that is injected into the national gas transmission and distribution infrastructure.

- (21) Increased cooperation and coordination among transmission system operators and, where relevant, distribution system operators is required to create network codes for providing and managing effective and transparent access to the transmission networks across borders, and to ensure coordinated and sufficiently forward looking planning and sound technical evolution of the natural gas system in the Union, including the creation of interconnection capacities, with due regard to the environment. The network codes should be in line with framework guidelines, which are non-binding in nature and which are developed by ACER. ACER should have a role in reviewing, on the basis of facts, draft network codes, including their compliance with the framework guidelines, and it should be enabled to recommend them for adoption by the Commission. ACER should assess proposed amendments to the network codes and it should be enabled to recommend them for adoption by the Commission. Transmission system operators should operate their networks in accordance with those network codes.
- (22) In order to ensure optimal management of the natural gas transmission network in the Union, a European Network of Transmission System Operators for Gas (the 'ENTSO for Gas'), should be provided for. With the aim of ensuring a fair representation of small-size, non-interconnected or isolated Member States, in addition to natural gas transmission system operators, those natural gas system operators which benefit from a derogation from Article 60 of Directive (EU) 2024/1788 pursuant to Article 86 of that Directive, should be eligible to be members of the ENTSO for Gas. The Commission, when approving the statutes of the ENTSO for Gas, may seek to ensure an appropriate differentiation of membership rights reflecting the different status of the members. The tasks of the ENTSO for Gas should be carried out in accordance with Union competition rules which are applicable to the decisions of the ENTSO for Gas. The tasks of the ENTSO for Gas should be well defined and its working methods should ensure efficiency, transparency and the representative nature of the ENTSO for Gas. Where appropriate, network codes can be developed jointly by the ENTSO for Gas and the European Network of Network Operators for Hydrogen (ENNOH) with regard to cross-sectoral issues. The network codes prepared by the ENTSO for Gas are not intended to replace the necessary national technical rules applicable to non-cross-border issues. Given that more effective progress may be achieved through an approach at regional level, transmission system operators should set up regional structures within the overall cooperation structure, whilst ensuring that results at regional level are compatible with network codes and non-binding ten-year network development plans at Union level. Cooperation within such regional structures presupposes effective unbundling of network activities from production and supply activities. In the absence of such unbundling, regional cooperation between transmission system operators gives rise to a risk of anti-competitive conduct. Member States should promote cooperation and monitor the effectiveness of network operations at regional level. Cooperation at regional level should be compatible with progress towards a competitive and efficient internal markets for natural gas and hydrogen.
- (23) In order to ensure greater transparency regarding the development of the natural gas transmission network in the Union, the ENTSO for Gas should draw up, publish and regularly update a non-binding Union-wide ten-year network development plan for natural gas (the 'Union-wide network development plan for natural gas') on the basis of a joint scenario and the interlinked model. The Union-wide network development plan for natural gas should be developed following a transparent process involving meaningful public consultation, including involvement of independent scientific bodies, and it should be based on objective and scientific criteria. To that end, the European Scientific Advisory Board on Climate Change may provide input on the scenarios for the Union-wide network development plan for natural gas pursuant to Regulation (EU) 2022/869. Viable natural gas transmission networks and necessary regional interconnections, relevant from a commercial or security of supply point of view, should be included in that Union-wide network development plan for natural gas. The Union-wide network development plan for natural gas should promote the energy efficiency first principle and energy system integration and contribute to the prudent and rational use of natural resources and the achievement of the Union's climate and energy targets.
- (24) To enhance competition through a liquid wholesale market for natural gas, it is vital that natural gas can be traded independently of its location in the system. The only way to do this is to give network users the freedom to book

entry and exit capacity independently, thereby creating natural gas transport through zones instead of along contractual paths. To ensure the freedom of booking capacity independently at entry and exit points, tariffs set for one entry point should therefore not be related to the tariff set for one exit point but should instead be offered for those points separately and the tariff should not bundle the entry and exit charge in a single price.

- (25) While Commission Regulation (EU) No 312/2014<sup>(21)</sup> provides rules for setting up technical rules that build up a balancing regime, it leaves various design choices for each balancing regime that is applied in a specific entry-exit system. The combination of choices made lead to a specific balancing regime that is applicable in a specific entry-exit system, which are currently mostly reflecting Member States territories.
- (26) Network users should bear the responsibility of balancing their inputs against their off-takes with trading platforms established to better facilitate natural gas trade between network users. In order to ensure equal access to the market for renewable gas and low-carbon gas, the balancing zone should also cover, to the extent possible, the distribution system level. The virtual trading point should be used to exchange natural gas between balancing accounts of network users.
- (27) References to harmonised transport contracts in the context of non-discriminatory access to the network of transmission system operators do not mean that the terms and conditions of the transport contracts of a particular system operator in a Member State must be the same as those of another transmission system operator in that Member State or in another Member State, unless minimum requirements are set which must be met by all transport contracts.
- (28) Equal access to information on the physical status and efficiency of the system is necessary to enable all market participants to assess the overall demand and supply situation and to identify the reasons for movements in the wholesale price. That includes more precise information on supply and demand, network capacity, flows and maintenance, balancing and availability and usage of storage. The importance of that information for the functioning of the market requires alleviating existing limitations to publication for confidentiality reasons.
- (29) Confidentiality requirements for commercially sensitive information are, however, particularly relevant where data of a commercially strategic nature for the undertaking are concerned, where there is only a single user for a natural gas storage facility, or where data are concerned regarding exit points within a system or subsystem that is not connected to another transmission or distribution system but to a single industrial final customer, where the publication of such data would reveal confidential information as to the production process of that customer.
- (30) To enhance trust in the market, market participants need to be sure that those engaging in abusive behaviour can be subjected to effective, proportionate and dissuasive penalties. The competent authorities should be given the competence to investigate effectively allegations of market abuse. To that end, it is necessary that competent authorities have access to data that provides information on operational decisions made by supply undertakings. In the natural gas market, all those decisions are communicated to the system operators in the form of capacity reservations, nominations and realised flows. System operators should keep information in relation thereto available to and easily accessible by the competent authorities for a fixed period of time. The competent authorities should, furthermore, regularly monitor the compliance of the system operators with the rules.
- (31) Access to natural gas storage facilities and liquefied natural gas (LNG) facilities is insufficient in some Member States, and therefore the implementation of the existing rules needs to be improved as regards transparency and the objectives of REPowerEU Plan. Such improvement should take into account the potential and uptake of renewable gas and low-carbon gas for those facilities on the internal market.
- (32) Non-discriminatory and transparent balancing systems for natural gas, operated by transmission system operators, are important mechanisms, in particular for new entrants on the market which may have more difficulty balancing their overall sales portfolio than undertakings already established within a relevant market. It is therefore necessary to lay down rules to ensure that transmission system operators operate such mechanisms in a manner compatible with non-discriminatory, transparent and effective access conditions to the network.

<sup>(21)</sup> Commission Regulation (EU) No 312/2014 of 26 March 2014 establishing a Network Code on Gas Balancing of Transmission Networks (OJ L 91, 27.3.2014, p. 15).

- (33) Regulatory authorities should ensure compliance with this Regulation and the network codes and guidelines adopted pursuant thereto.
- (34) In the guidelines laid down in an annex, more detailed rules are established. Where appropriate, those rules should evolve over time, taking into account the differences of national natural gas systems and their development.
- (35) When proposing to amend the guidelines laid down in the annex, the Commission should ensure prior consultation of all relevant parties concerned by those guidelines, represented by the professional organisations, and of the Member States within the Madrid Forum.
- (36) The Member States and the competent national authorities should be required to provide, upon request, relevant information to the Commission. The request for the information should include the reasons why the information is necessary for the purposes of implementing this Regulation. Such information should be treated confidentially by the Commission.
- (37) This Regulation and the network codes and guidelines adopted pursuant thereto are without prejudice to the application of the Union competition rules.
- (38) Member States and the Energy Community Contracting Parties should closely cooperate on all matters concerning the development of an integrated natural gas trading region and should take no measures that endanger the further integration of natural gas markets or the security of supply of the Member States and the Contracting Parties.
- (39) The energy transition and the continuing integration of the market for natural gas requires further transparency with regard to the allowed or target revenue of the transmission system operator. A number of decisions related to natural gas networks are to be based on that information. For example, the transfer of transmission assets from a natural gas network operator to a hydrogen network operator or the implementation of an inter-transmission-system-operator compensation mechanism (ITC) require more transparency than currently exists. In addition, the assessments of tariff evolutions on the long term requires clarity on both natural gas demand and cost projections. Transparency with regard to allowed revenue is likely to facilitate cost projections. Regulatory authorities should, in particular, regularly provide information on the methodology used to calculate the revenue of transmission system operators, the value of their regulatory asset base and its depreciation over time, the value of operational expenditure, the cost of capital applied to transmission system operators and the incentives and premia applied, as well as the long-term evolution of transmission tariffs on the basis of the expected changes to the allowed or target revenue of transmission system operators and in natural gas demand. In order to ensure the proper coordination of the process of collecting and interpreting the data for the transparent and reproducible transmission system operator efficiency comparison study, ACER should liaise with the transmission system operators and ENTSO for Gas.
- (40) The expenditure of transmission system operators is predominantly fixed costs. Their business model and the current national regulatory frameworks rely on the assumption of a long-term utilisation of their networks entailing long depreciation periods: from 30 to 60 years. In the context of the energy transition, regulatory authorities should therefore be able to anticipate natural gas demand decrease to modify the regulatory arrangements in due time and prevent a situation where the cost recovery of transmission system operators through tariffs threatens the affordability of natural gas for consumers due to an increasing ratio of fixed costs to natural gas demand. Where necessary, the depreciation profile or remuneration of transmission assets could, for example, be modified.
- (41) The transparency of allowed or target revenue of transmission system operators should be increased to enable benchmarking and an assessment by network users. Transparency should also be increased to facilitate cross-border cooperation and the setting up of ITCs between transmission system operators either for regional integration or for the implementation of tariff discounts for renewable gas and low-carbon gas as laid down in this Regulation.
- (42) In order to exploit the most economic locations for the production of renewable gas and low-carbon gas, network users should benefit from discounts in capacity-based tariffs. Such discounts could include a discount for the injection from renewable gas and low-carbon gas production facilities, a discount for tariffs at entry points from and exit points to natural gas storage facilities, and a discount on the cross-border tariffs at interconnection points between Member States. Regulatory authorities should be able to decide not to apply the discounts to those tariffs under certain circumstances. In the case of a change of the value of non-cross border discounts, the regulatory authority should balance out the interest between network users and network operators taking into account stable

financial frameworks specifically designed for existing investments, in particular for renewable production facilities. Where possible, indicators or conditions for changing the discount should be provided sufficiently before any decision to change the discount is taken. That discount should not affect the general tariff setting methodology, but should be provided ex post on the relevant tariff. In order to benefit from the discount, network users should submit to the transmission system operator the required information on the basis of a sustainability certificate registered in the Union database referred to in Article 31a of Directive (EU) 2018/2001.

- (43) Revenue decreases from the application of discounts should be treated as general revenue decreases, for example from reduced capacity sales, and would need to be recovered via tariffs in a timely manner, for instance by an increase of the specific tariffs in accordance with the general rules laid down in this Regulation.
- (44) In order to increase efficiency in the natural gas distribution networks in the Union and to ensure close cooperation with transmission system operators and the ENTSO for Gas, as well as to increase efficiency in the hydrogen distribution networks in the Union and to ensure close cooperation with hydrogen transmission network operators and the ENNOH, a European entity for distribution system operators (the 'EU DSO entity') should be provided for. The EU DSO entity should also include natural gas distribution system operators and should be able to include hydrogen distribution network operators. The tasks of the EU DSO entity should be well defined and its working methods should ensure efficiency, transparency and representativeness among Union distribution system and hydrogen distribution network operators. The EU DSO entity should be free to establish its statutes and rules of procedure taking into account the differences between the natural gas, hydrogen and electricity sectors. The EU DSO entity should cooperate closely with the ENTSO for Gas and with the ENNOH on the preparation and implementation of the network codes, where applicable, and should work on providing guidance on the integration, inter alia, of distributed generation and other areas, which relate to the management of distribution networks.
- (45) Distribution system operators have an important role to play when it comes to the integration of renewable gas and low-carbon gas into the system, as for example about half of the biomethane production capacity is connected to the distribution grid. In order to facilitate the participation of such gas on the wholesale market, production facilities connected to the distribution grid in all Member States should have access to the virtual trading point. Furthermore, pursuant to this Regulation distribution system operators and transmission system operators should work together to enable reverse flows from the distribution to the transmission network or to ensure the integration of the distribution system through alternative means, equivalent in effect, to facilitate the market integration of renewable gas and low-carbon gas.
- (46) The mechanism for demand aggregation and the joint purchasing of natural gas, and the mechanism to support the market development of hydrogen can play a pivotal role in achieving the objectives of the Union's energy policy: market transparency, decarbonisation, diversification and security of supply.
- (47) The mechanism for demand aggregation and the joint purchasing of natural gas, and the mechanism to support the market development of hydrogen contribute to the unity of the Union's energy market by improving transparency, as well as ensuring visibility of demand for energy sources across Member States for suppliers concerned.
- (48) Demand aggregation for natural gas may enhance international outreach to natural gas suppliers, whether pipeline or LNG, that is essential to help achieve the objectives of the Union's energy policy and the unity of the Union's energy market. In particular, much stronger coordination with and among Member States as regards third countries by means of the mechanism for demand aggregation and the joint purchasing of natural gas, and the mechanism to support the market development of hydrogen would ensure a more effective use of the Union's collective weight.
- (49) Demand aggregation for natural gas can contribute to the Union's decarbonisation objectives by incorporating environmental standards in the aggregation of demand and the collection of offers. Launching the mechanism to support the market development of hydrogen may also help to achieve those objectives.
- (50) The mechanism for demand aggregation and the joint purchasing of natural gas established under this Regulation should include a number of steps, starting with natural gas undertakings or undertakings consuming natural gas established in the Union being enabled to aggregate their natural gas demand through a service provider, contracted by the Commission. That would allow natural gas suppliers to make offers on the basis of large, aggregated volumes,



instead of many smaller offers to purchasers approaching them individually. The service provider would then collect the supply offers and match them with the amounts of natural gas previously aggregated. The negotiation and conclusion of contracts for the purchase of natural gas following demand aggregation should be voluntary.

- (51) Demand aggregation is able to ensure more equal access for undertakings across Member States to new or additional natural gas sources and lead to competitive contractual conditions for the purchase of natural gas from Member States and third countries, to the benefit of final customers. Demand aggregation should continue to support also those undertakings that were previously purchasing natural gas only or mainly from a single supplier by helping them to obtain natural gas supplies from alternative natural gas suppliers or providers in advantageous conditions. Demand aggregation could improve the position of such undertakings on the global LNG markets.
- (52) The Commission should ensure that service providers organise their tasks as laid down in this Regulation taking into account the objectives of the mechanism and the specificities of natural gas. In particular, when allocating supply offers of natural gas among undertakings aggregating demand, the service providers should apply methods that would not discriminate between smaller and larger participants. For instance, the service providers should allocate supply offers of natural gas in proportion to the volumes that individual undertakings declared as demand. This might be relevant where supply does not sufficiently cover demand for natural gas in the Union energy market. The Commission should specify the relevant requirements applicable to the tasks of the service providers in the relevant tender specifications.
- (53) The Commission should contract the necessary services of service providers through the relevant procurement procedures under Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>(22)</sup> in order to implement the mechanisms established under this Regulation. In order to safeguard the essential security interests or the security of supply of the Union or of a Member State, the services should be procured from service providers established in the Union.
- (54) The process of aggregating demand for natural gas should be carried out by an appropriate service provider. The aggregation of demand and the purchasing of natural gas is a complex process, which needs to take into account various elements, which are not limited to prices, but also include volumes, delivery points and other parameters. Given the importance of the services relating to demand aggregation of natural gas and the mechanism to support the market development of hydrogen for transparency, diversification, decarbonisation, and the security of supply of the Union, in particular in the case of a deterioration of the security of supply situation, undertakings subject to Union restrictive measures adopted pursuant to Article 29 of the Treaty on European Union (TEU) or Article 215 TFEU, or directly or indirectly owned or controlled by, or acting on behalf or at the direction of any natural or legal person, entity or body subject to such Union restrictive measures, should be excluded from becoming a service provider for demand aggregation for natural gas or a service provider for the mechanism to support the market development of hydrogen. The Commission should specify the requirements applicable for the service providers in the tender specifications.
- (55) Industrial consumers which use natural gas intensively in their production processes, such as producers of fertilisers, steel, ceramic or glass, may also benefit from demand aggregation by enabling them to pool their demand, to contract natural gas and LNG supplies, and to structure them according to their specific needs. The process of organising the demand aggregation should have transparent rules on how to join it and should ensure its openness.
- (56) The mechanism for demand aggregation and the joint purchasing of natural gas, and the mechanism to support the market development of hydrogen should be open to undertakings established in the Union and, given the close alignment with the Union energy acquis and the internal energy market, undertakings established in the Energy Community Contracting Parties, provided that the necessary measures or arrangements are in place.

<sup>(22)</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

- (57) However, in order to phase out existing or avoid new dependencies of the Union on natural gas or hydrogen supplied by undertakings from third countries subject to Union restrictive measures, and to protect essential security interests, the mechanism for demand aggregation and the joint purchasing of natural gas, and the mechanism to support the market development of hydrogen should not be open to undertakings subject to Union restrictive measures adopted pursuant to Article 29 TEU or Article 215 TFEU, or directly or indirectly owned or controlled by, or acting on behalf or at the direction of, a natural or legal person, entity or body subject to such restrictive measures. Such undertakings should therefore be excluded from participating in both mechanisms, in particular as a supplier or buyer.
- (58) In order to effectively engage in the joint purchasing of natural gas and conclude natural gas agreements with suppliers, undertakings are able to create consortia or enter into other forms of cooperation with the purpose of jointly negotiating certain conditions of the purchase, such as volumes, delivery conditions of the purchase points and time, within the limits laid down in Union law. Undertakings engaging in joint purchasing should, however, ensure that the information directly or indirectly exchanged is limited to what is strictly necessary to achieve the objective pursued. The set-up and implementation of joint purchasing under this Regulation should be carried out in accordance with Union competition rules, in particular Articles 101 and 102 TFEU.
- (59) The protection of commercially sensitive information is of utmost importance when information is made available to the Commission, the Steering Board, coordination groups, expert groups or the service providers. The Commission should therefore apply effective instruments to protect that information against any unauthorised access and cybersecurity risks. Any personal data that might be processed as part of the mechanism for demand aggregation and the joint purchasing of natural gas, and the mechanism to support the market development of hydrogen should be processed in accordance with Regulations (EU) 2016/679<sup>(23)</sup> and (EU) 2018/1725<sup>(24)</sup> of the European Parliament and of the Council.
- (60) Russia's unprovoked and unjustified war against Ukraine since February 2022, supported by Belarus, and subsequent weaponised reductions of natural gas supplies and manipulation of the markets through intentional disruptions of natural gas flows have laid bare vulnerabilities and dependencies in the Union and its Member States, with the clear potential of a direct and serious impact on their essential security interests and security of energy supply. At the same time, alternative gas supply sources from the global LNG market grew only modestly in 2022 and 2023. Significant new LNG liquefaction capacity is set to come online only in the course of 2025. Therefore, global natural gas markets remain very tight and are expected to remain tight for a certain period of time, leading to a continued vulnerable situation for the Union and its Member States. Against that background, it is appropriate to take measures to address that continued vulnerability.
- (61) The mechanism for demand aggregation and the joint purchasing of natural gas is an important instrument to organise the diversification of natural gas supplies and phasing out of the dependency on Russian natural gas in many Member States, in line with the communication of the Commission of 8 March 2022 entitled 'REPowerEU: Joint European Action for more affordable, secure and sustainable energy' (the 'REPowerEU'). In order to protect the essential security interests of the Union or of a Member State, in the interests of safeguarding security of supply, and to allow the effective and swift phase out of natural gas dependence, natural gas supplies originating in, and LNG supplies from LNG facilities located in, the Russian Federation or Belarus should not be offered through the mechanism for demand aggregation and the joint purchasing of natural gas until 31 December 2025. After that date, the Commission should be able to decide to temporarily exclude natural gas supplies originating in, or LNG supplies from LNG facilities located in, the Russian Federation or Belarus for periods of up to one year, which may be renewed if justified, where that is necessary to protect the essential security interests or security of supply of the Union or of a Member State. Any such limitations should not unduly disrupt the proper functioning of the internal natural market for gas, and cross-border flows of natural gas between Member States, should not undermine the

<sup>(23)</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

<sup>(24)</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

security of supply of the Union or of a Member State, should respect the principle of energy solidarity, and should be taken in accordance with the rights and obligations of the Union or of the Member States with respect to third countries.

- (62) The Commission should take the appropriate available measures to ensure that the exclusion of natural gas or LNG supplies originating in, and LNG supplies from LNG facilities located in, the Russian Federation or Belarus from the mechanism for demand aggregation and the joint purchasing of natural gas is effective. In that regard, the Commission should request the relevant service provider to carry out the necessary verifications. Those verifications could take the form, inter alia, of a request from natural gas suppliers or producers participating in the mechanism for demand aggregation and the joint purchasing of natural gas to provide the relevant shipping documents when delivering the supplies, where technically feasible. Furthermore, participants in the mechanism for demand aggregation and the joint purchasing of natural gas should be requested to provide assurance on the compliance with their obligation not to offer or supply natural gas from, or LNG supplies from LNG facilities located in, the Russian Federation or Belarus, where applicable.
- (63) The Commission should be assisted by a Steering Board composed of representatives of Member States and the Commission with the aim of facilitating coordination and information exchange in relation to the demand aggregation of natural gas. The participation of Member States should be voluntary and depends in particular upon the agenda of the Steering Board's meetings.
- (64) Hydrogen is an energy carrier with different features than natural gas in terms of quality, transport means and demand patterns. There is also still a significant gap between the costs of renewable and low-carbon hydrogen production and the market price of less sustainable alternatives, which may require public intervention to provide incentives until such time that electrolysers and other related hydrogen technologies and inputs are sufficiently competitive.
- (65) Nevertheless, the Union has a strong renewable and low-carbon hydrogen production potential. In that regard, the initiative of the European Hydrogen Bank was launched by the Commission in March 2023. The European Hydrogen Bank describes a number of activities, by which the Commission facilitates the creation of a Union hydrogen market, enables supplies from reliable international partners, and gathers and disseminates information on the development of the Union hydrogen market and on funding for hydrogen projects. Those activities are carried out within the framework of the relevant existing legal instruments, such as Directive 2003/87/EC of the European Parliament and of the Council<sup>(25)</sup>. The voluntary tools applied to hydrogen in the framework of the European Hydrogen Bank, in particular the mechanism to support the market development of hydrogen, should focus on the acceleration of the scale-up of Union hydrogen production and market development, including by increasing the transparency of hydrogen demand, supply, flows and prices and playing a coordination role, connecting producers and consumers and facilitate blending with the existing financial instruments.
- (66) In the context of the work carried out under the European Hydrogen Bank, the Commission should be able to establish the mechanism to support the market development of hydrogen, with a focus on Union-based production. Given the characteristics of hydrogen and the hydrogen market, that mechanism should be established for a limited period in order to identify the most effective tools for the identification of the demand and supply of hydrogen in the Union and to explore the most optimal market and infrastructure arrangements.
- (67) Access to information for suppliers and off-takers in the context of the mechanism to support the market development of hydrogen should be subject to the consent of those undertakings and to compliance with Union competition law.
- (68) The Commission should itself be able to implement the mechanism to support the market development of hydrogen or should be able to do so through the relevant service providers. If the Commission decides to implement such a mechanism through a service provider, the provisions of this Regulation regarding the contracts with service providers, the criteria for selecting service providers, and the tasks of service providers should apply.

<sup>(25)</sup> Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

- (69) The mechanism to support the market development of hydrogen could consist of tools focused on transparency, market development visibility and voluntary demand assessment. That mechanism should be implemented under the European Hydrogen Bank. The European Hydrogen Bank should coordinate information on hydrogen supply, demand, flows and prices to strengthen confidence in the developing hydrogen market and to provide increased demand visibility for hydrogen producers and hydrogen off-takers. The mechanism to support the market development of hydrogen should take into account the maturity and liquidity of the hydrogen market as well as infrastructure availability.
- (70) If the Commission establishes a coordination group for matters related to the mechanism to support the market development of hydrogen, such a coordination group should be dedicated specifically to hydrogen.
- (71) The Union's efforts aiming to phase out existing, and avoid new, dependence on natural gas supplies from the Russian Federation and protect the essential security interests of the Union and of the Member States should also be reflected in the context of the mechanism to support the market development of hydrogen also in view of the weaponisation of energy supplies by Russian Federation as evidenced by the reduction of natural gas supplies and disruptions of natural gas flows. The Commission should therefore have the possibility to decide to restrict activities in respect of the assessment of offers as regards hydrogen supplies originating in the Russian Federation or Belarus within the mechanism to support the market development of hydrogen by means of an implementing decision. Such a decision should be taken only where necessary to protect the essential security interests of the Union and of the Member States and should be based on the same principles as those applicable to participation in the mechanism for demand aggregation and the joint purchasing of natural gas, but adapted to the activities carried out through the mechanism to support the market development of hydrogen. In particular, the timeline for adoption and prior assessment of such a decision should be adjusted to the planned launch of the operation of the mechanism.
- (72) Prior to the expiry of the mechanism to support the market development of hydrogen and not later than 31 December 2029, the Commission should submit a report to the European Parliament and to the Council assessing the performance of that mechanism and, in particular, its contribution to the development of the hydrogen market in the Union. On the basis of such an assessment, the Commission should be able to submit a legislative proposal to develop a mechanism for voluntary demand aggregation and the joint purchasing of hydrogen.
- (73) The integration of growing volumes of renewable gas and low-carbon gas in the Union natural gas system will change the quality of natural gas transported and consumed in the Union. To ensure unhindered cross-border flow of natural gas, maintain the interoperability of markets and enable market integration, it is necessary to increase the transparency of gas quality and of the costs of its management, provide for a harmonised approach on the roles and responsibilities of regulatory authorities and system operators and reinforce cross-border coordination. While ensuring a harmonised approach on gas quality for cross-border interconnection points, Member States' flexibility as regards the application of gas quality standards in their national natural gas systems should be maintained.
- (74) The blending of hydrogen into the natural gas system should be a last-resort solution, as it is less efficient compared to using hydrogen in its pure form and diminishes the value of hydrogen. It also affects the operation of natural gas infrastructure, end-user applications and the interoperability of cross-border systems. The production and use of hydrogen in its pure form and its transportation in the dedicated hydrogen system should therefore be prioritised. Best efforts should be made to avoid the use of hydrogen for applications with regard to which more energy-efficient alternatives exist. Member States' right to take the decision on whether to apply blending of hydrogen into their national natural gas systems should be preserved. At the same time, a harmonised approach on blending of hydrogen into the natural gas system in the form of a Union-wide allowed cap at cross-border interconnection points between Member States, where transmission system operators have to accept natural gas with a blended hydrogen level below the cap, would limit the risk of market segmentation. Adjacent transmission systems should remain free to agree on higher or lower hydrogen blending levels for cross-border interconnection points. When considering such agreements, Member States should consult other Member States that are likely to be affected by the measure and take into account the situation in those Member States.
- (75) A strong cross-border coordination and dispute settlement process between transmission system operators on gas quality, including on biomethane and hydrogen blends, is essential to facilitate efficient transport of natural gas

across natural gas systems within the Union and thereby to move towards greater internal market integration. Enhanced transparency requirements on gas quality parameters, including on gross calorific value, Wobbe Index and oxygen content, and hydrogen blends and their development over time combined with monitoring and reporting obligations should contribute to the proper functioning of an open and efficient internal market for natural gas.

- (76) Member States should remain able to use their original gas quality specifications where their regulatory authorities or ACER decide to maintain a cross-border restriction caused by differences in hydrogen blending levels or practices. The possibility of maintaining such cross-border restriction is particularly important in Member States with a single interconnection point or where natural gas volumes enter mainly through a single interconnection point. To ensure unhindered cross-border flows and preserve the integrity of the internal energy market, the regulatory authorities concerned and ACER, where relevant, should be empowered to restart the common dispute settlement process on a rolling basis, in order to reflect the developments that have occurred in markets for natural gas and technologies.
- (77) Interoperability and data exchange rules for the natural gas system that are laid down in Commission Regulation (EU) 2015/703<sup>(26)</sup> are essential, in particular with respect to interconnection agreements, including rules for flow control, measurement principles for natural gas quantity and quality, rules for the matching process and for the allocation of natural gas quantities, communication procedures in the case of exceptional circumstances; common set of units, gas quality, including rules on managing cross-border trade restrictions due to gas quality differences and due to differences in odourisation practices, short- and long-term gas quality monitoring and information provision; data exchange and reporting on gas quality; transparency, communication, information provision and cooperation among relevant market participants.
- (78) In order to ensure optimal management of the Union hydrogen network and to allow trading and supplying hydrogen across borders in the Union, the ENNOH should be established. The tasks of the ENNOH should be carried out in accordance with Union competition rules. The tasks of the ENNOH should be well defined and its working methods should ensure efficiency, transparency and the representative nature of the ENNOH. Where appropriate, network codes can be developed jointly by the ENTSO for Gas and the ENNOH on cross-sectoral issues.
- (79) In order to ensure that all Member States that are in the process of developing hydrogen transmission networks are represented in the ENNOH, they should, by way of a derogation from a general rule on ENNOH membership laid down in this Regulation, be able to nominate a hydrogen transmission network operator that benefits from a derogation from Article 68 of Directive (EU) 2024/1788 as a member of the ENNOH, provided that the operator is established in a Member State where no other hydrogen transmission network operator is a member of the ENNOH. Member States which do not yet have a dedicated hydrogen transmission network operator but which are planning to develop a hydrogen transmission network in accordance with their integrated national energy and climate plans, should be able to nominate an entity as associated partner within the ENNOH to be informed about the work undertaken by the ENNOH, and, as such, be able to attend assembly, board and committee meetings and participate in working groups, until their hydrogen network operators become members of the ENNOH. To that end, Member States can delegate the representative of a national association dedicated to hydrogen matters.
- (80) In order to ensure transparency regarding the development of the hydrogen network in the Union, the ENNOH should establish, publish and regularly update a non-binding Union-wide ten-year network development plan for hydrogen (the 'Union-wide network development plan for hydrogen') targeted at the needs of the developing hydrogen markets. Viable hydrogen transport networks and necessary interconnections, relevant from a commercial point of view, should be included in the Union-wide network development plan for hydrogen. The ENNOH should participate in the development of the energy system wide cost-benefit analysis – including the interlinked energy market and network model including electricity, natural gas and hydrogen transport infrastructure as well as storage, LNG and electrolyzers – the scenarios for the ten-year network development plans and the infrastructure gaps identification report as laid down in Articles 11, 12 and 13 of Regulation (EU) 2022/869 for the development of the Union lists of projects of common interest and projects of mutual interest. For that purpose, the ENNOH should closely cooperate with the European Network of Transmission System Operators for Electricity (the 'ENTSO for Electricity') and the ENTSO for Gas to facilitate energy system integration.

<sup>(26)</sup> Commission Regulation (EU) 2015/703 of 30 April 2015 establishing a network code on interoperability and data exchange rules (OJ L 113, 1.5.2015, p. 13).

- (81) To facilitate energy system integration, harness synergies and support overall system efficiency, the ENNOH, the ENTSO for Electricity and the ENTSO for Gas should cooperate closely in Union-level integrated network planning. That cooperation should cover the preparation of the joint scenarios for electricity, hydrogen and natural gas, the coordinated infrastructure gap reports, the consistent draft methodologies for energy system wide cost-benefit analysis and the integrated model pursuant to Articles 11, 12 and 13 of Regulation (EU) 2022/869. To make that cooperation efficient, the ENNOH, the ENTSO for Electricity and the ENTSO for Gas should set up common working groups preparing those deliverables. During the transitional period until 1 January 2027, the ENTSO for Gas should develop the 2026 Union-wide network development plan for hydrogen. To that end the ENTSO for Gas should fully involve hydrogen transmission network operators and the ENNOH as soon as the ENNOH is established. The 2026 Union-wide network development plan for hydrogen should consist of two separate chapters, one for hydrogen and one for natural gas. The ENNOH should develop the 2028 Union-wide network development plan for hydrogen in line with the Union-level integrated network planning pursuant to this Regulation.
- (82) All market participants have an interest in the tasks performed by the ENNOH. An effective consultation process is therefore essential. Overall, the ENNOH should seek, build on and integrate in its work experience with infrastructure planning, development and operation in cooperation with other relevant market participants and their associations.
- (83) Given that more effective progress could be achieved through an approach at regional level, hydrogen transmission network operators should set up regional structures within the overall cooperation structure, while ensuring that results at regional level are compatible with network codes and Union-wide network development plans for hydrogen. Member States should promote cooperation and monitor the effectiveness of the network at regional level.
- (84) Transparency requirements are necessary to ensure that trust in the emerging hydrogen markets in the Union can develop among market participants. Equal access to information on the physical status and functioning of the hydrogen system is necessary to enable all market participants to assess the overall demand and supply situation and to identify the reasons for market price developments. Information should be always disclosed in a meaningful, easily accessible and non-discriminatory manner.
- (85) The ENNOH should establish a central, web-based platform for making available all data relevant for market participants to obtain effective access to the hydrogen network.
- (86) The conditions for access to hydrogen networks in the early phase of market for hydrogen development should ensure efficient operation, non-discrimination and transparency for hydrogen network users while preserving sufficient flexibility for hydrogen network operators. Limiting the maximum duration of capacity contracts should reduce the risk of contractual congestion and capacity hoarding.
- (87) General conditions for granting third-party access to hydrogen storage facilities and hydrogen terminals should be laid down in this Regulation in order to ensure non-discriminatory access and transparency for hydrogen network users.
- (88) Hydrogen network operators should cooperate to develop network codes for the purpose of providing and managing transparent and non-discriminatory access to the hydrogen networks across borders and to ensure coordinated development of the hydrogen network in the Union, including the creation of interconnection capacities. The Commission should establish the first priority list for the identification of areas to be included in the development of hydrogen network codes one year after the establishment of the ENNOH as provided for in this Regulation. The network codes should be in line with framework guidelines developed by ACER. ACER should have a role in reviewing, on the basis of facts, draft network codes, including their compliance with the framework guidelines, and it should be enabled to recommend them for adoption by the Commission. ACER should assess proposed amendments to the network codes and it should be enabled to recommend them for adoption by the Commission. Hydrogen network operators should operate their hydrogen networks in accordance with those network codes.
- (89) The network codes prepared by the ENNOH are not intended to replace the necessary national rules for non-cross-border issues.
- (90) The quality of hydrogen transported and consumed in the Union can vary depending on its production technology and transport specificities. Therefore, a harmonised approach at Union level to hydrogen quality management at cross-border interconnectors should lead to the cross-border flow of hydrogen and to market integration.

- (91) Where the regulatory authority considers it to be necessary, hydrogen transmission network operators could become responsible for managing hydrogen quality in their networks, within the framework of applicable hydrogen quality standards, ensuring reliable and stable hydrogen quality for end-consumers.
- (92) A strong cross-border coordination and dispute settlement process between hydrogen transmission network operators is essential to facilitate the transport of hydrogen across hydrogen transmission networks within the Union and thereby to move towards greater internal market integration. Enhanced transparency requirements on hydrogen quality parameters and on their development over time combined with monitoring and reporting obligations should contribute to the proper functioning of an open and efficient internal market for hydrogen.
- (93) In order to amend non-essential elements of this Regulation or to supplement this Regulation in respect of non-essential elements of certain specific areas which are fundamental for market integration, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of providing guidelines setting out the details of the procedure to be followed by the transmission system operators or hydrogen transmission network operators, changing the discount levels to mitigate structural imbalances of revenue for transmission system operators, establishing the definition of the geographical area covered by each regional cooperation structure, taking into account existing regional cooperation structures, establishing network codes and guidelines for natural gas and hydrogen, amending guidelines laid down in an annex and setting guidelines as regards new natural gas and hydrogen infrastructure. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>(27)</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and their experts should systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (94) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers in accordance with Article 291 TFEU should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>(28)</sup>.
- (95) Network codes and guidelines should be applied to entry points from and exit points to third countries. Specific circumstances, including the existence of existing long-term contractual arrangements or legal difficulties in establishing a dispute resolution procedure with transmission network operators or natural gas suppliers established in third countries, may prevent an effective application in the short term. Where justified on the basis of objective reasons, regulatory authorities should be able to apply to the Commission for a derogation from the application of the network codes or guidelines, or specific provisions thereof, which cannot be implemented at entry points from and exit points to third countries. Such derogations should be limited in time, for the minimum necessary period to remove the existing obstacles for the application of the network codes or guidelines.
- (96) To ensure the efficient operation of the European hydrogen networks, hydrogen network operators should be responsible for the operation, maintenance and development of the hydrogen transport network in close cooperation with other hydrogen network operators as well as with other system operators their networks are connected with, including to facilitate energy system integration.
- (97) It is in the interest of the proper functioning of the internal market to have standards which have been harmonised at Union level. Once the reference to such a standard has been published in the Official Journal of the European Union, compliance with it should raise a presumption of conformity with the corresponding requirements laid down in the implementing measure adopted pursuant to this Regulation, although other means of demonstrating such conformity should be allowed. In line with Article 10 of Regulation (EU) No 1025/2012 of the European Parliament and of the Council<sup>(29)</sup>, the Commission can request European standardisation organisations to develop technical

<sup>(27)</sup> OJ L 123, 12.5.2016, p. 1.

<sup>(28)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

<sup>(29)</sup> Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council (OJ L 316, 14.11.2012, p. 12).

specifications, European standards and harmonised standards. One of the main roles of harmonised standards should be to help operators in applying the implementing measures adopted pursuant to this Regulation and Directive (EU) 2024/1788.

- (98) The current Union standardisation framework, which is based on Regulation (EU) No 1025/2012, represents the framework by default to elaborate standards that provide a presumption of conformity with the relevant requirements of this Regulation or set out in specific delegated or implementing acts adopted pursuant to this Regulation. European standards should be market-driven and should take into account the public interest, as well as the policy objectives that are clearly stated in the Commission's request to one or more European standardisation organisations to draft harmonised standards, within a set deadline and on the basis of consensus. However, in the absence of relevant references to harmonised standards, or where the standardisation process is blocked or there are delays in the establishment of appropriate harmonised standards, the Commission should be able to establish, by means of delegated or implementing acts, common specifications for the requirements of this Regulation, provided that in doing so it duly respects the role and functions of the European standardisation organisations. That option should be understood as an exceptional fallback solution to facilitate operators in applying relevant measures under delegated or implementing acts adopted pursuant to this Regulation and Directive (EU) 2024/1788. If a delay in establishing harmonised standards is due to the technical complexity of the standard concerned, that should be considered by the Commission before contemplating the establishment of common specifications.
- (99) In order to fully take into account the quality requirements of hydrogen end-users, technical specifications and standards for the quality of hydrogen in the hydrogen network should take into account already existing standards setting such end-user requirements, for example, the standard EN 17124.
- (100) Hydrogen transmission network operators should build sufficient cross-border capacity for the transport of hydrogen accommodating all economically reasonable and technically feasible demands for such capacity, thereby enabling market integration.
- (101) In view of the potential of hydrogen as an energy carrier and the possibility that Member States will engage in trade in hydrogen with third countries, it is necessary to clarify that the notification obligations in accordance with Decision (EU) 2017/684 of the European Parliament and of the Council <sup>(30)</sup> for intergovernmental agreements in the field of energy relating to natural gas also applies to intergovernmental agreements relating to hydrogen, including hydrogen compounds such as ammonia and liquid organic hydrogen carriers. That Decision should therefore be amended accordingly.
- (102) Investments in major new infrastructure should be strongly promoted while ensuring the proper functioning of the internal markets for natural gas and for hydrogen. In order to enhance the positive effect of exempted infrastructure projects on competition and security of supply, market interest during the project planning phase should be tested and congestion management rules should be implemented. Where infrastructure is located in the territory of more than one Member State, ACER should handle as a last resort the request for exemption in order to take better account of the cross-border implications of the exemption and to facilitate the administrative handling of that request. Moreover, given the exceptional risk profile of constructing those exempted new major infrastructure projects, it should be possible temporarily to grant full or partial derogations to undertakings with supply and production interests in respect of the unbundling rules for the projects concerned. The possibility of temporary derogations should apply, for security of supply reasons, in particular to new pipelines within the Union transporting natural gas from third countries into the Union. Exemptions and derogations granted pursuant to Directives 2003/55/EC <sup>(31)</sup> and 2009/73/EC <sup>(32)</sup> of the European Parliament and of the Council should continue to apply for the period for which they have been granted by the relevant exemption or derogation.
- (103) The escalation of the Russian military aggression against Ukraine since February 2022 has led to declining natural gas supplies from that country, and the resources from natural gas sales have been used to finance Russia's war at the Union's border. In particular, pipeline flows of natural gas from Russia through Belarus and the Nord Stream 1 pipeline have stopped and natural gas supplies through Ukraine have steadily decreased, seriously jeopardising the security of energy supply in the Union as a whole. Those weaponised reductions of natural gas supplies and manipulation of the markets through intentional disruptions of natural gas flows have laid bare vulnerabilities and

<sup>(30)</sup> Decision (EU) 2017/684 of the European Parliament and of the Council of 5 April 2017 on establishing an information exchange mechanism with regard to intergovernmental agreements and non-binding instruments between Member States and third countries in the field of energy, and repealing Decision No 994/2012/EU (OJ L 99, 12.4.2017, p. 1).

<sup>(31)</sup> Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC (OJ L 176, 15.7.2003, p. 57).

<sup>(32)</sup> Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (OJ L 211, 14.8.2009, p. 94).



dependencies in the Union and its Member States with the clear potential of a direct and serious impact on their essential international security interests. Past evidence has also shown that natural gas may be used to weaponise and manipulate energy markets, for instance by hoarding capacities in natural gas infrastructure, to the detriment of the Union's essential international security interests. In order to mitigate the impact of such events, both in the current context and for the future, Member States should exceptionally be able to take proportionate measures to limit temporarily up-front bidding for capacity by any single network user at entry points and at LNG terminals for deliveries from the Russian Federation and Belarus, where necessary to protect their essential security interests and those of the Union, taking into account also the need to ensure security of supply in the Union. It should be possible for such temporary measures to be renewed where justified. That possibility should apply only in respect of the Russian Federation and Belarus, with a view to enabling Member States to respond with adequate measures to any threat to their essential security interests and those of the Union arising from the situation, including by phasing out their dependence on Russian fossil fuels, inter alia by taking early action in line with the REPowerEU objectives. Any such limitations should not run counter to international obligations of the Union or the Member States and should be in accordance with Article XXI of the General Agreement on Tariffs and Trade. Before applying any such limitations, Member States should consult the Commission and, in so far as they are likely to be affected by the limitation, other Member States, the Energy Community Contracting Parties, the Contracting Parties to the Agreement on the European Economic Area, and the United Kingdom of Great Britain and Northern Ireland, and take into account the situation in those Member States and third countries, in particular in terms of security of supply. Member States should take due account of potential effects of their measure on other Member States and in particular respect the principle of energy solidarity, including with a view to ensuring security of supply, when assessing the appropriateness and scope of any envisaged limitation.

- (104) The European energy sector is undergoing a significant change towards a highly efficient decarbonised economy based on renewable energy sources, while ensuring security of supply and competitiveness. While cybersecurity in the electricity subsector is already advancing with a network code on cross-border electricity flow, sector-specific mandatory rules for the natural gas subsector are needed to ensure security of the Union energy system.
- (105) In reaction to the significant and Union-wide energy price increases evidenced in autumn 2021 and their negative impacts, the communication of the Commission of 13 October 2021 entitled 'Tackling rising energy prices: a toolbox for action and support' highlighted the importance of a proper functioning internal energy market and of a better coordination of security of supply across borders for the resilience against future shocks. On 20-21 October 2021, the European Council adopted conclusions inviting the Commission to swiftly consider measures that increase the resilience of the Union's energy system and the internal energy market, including measures which enhance security of supply. In response to Russia's invasion of Ukraine, the Commission on 8 March 2022 submitted REPowerEU in order to phase out the Union's dependence on Russian fossil fuels and to accelerate the clean energy transition. To contribute to a consistent and timely response to that crisis and possible new crises at Union level, specific rules to improve cooperation and resilience, in particular concerning solidarity rules, should be introduced in this Regulation and in Regulation (EU) 2017/1938 of the European Parliament and of the Council<sup>(33)</sup>. Regulation (EU) 2017/1938 should therefore be amended accordingly.
- (106) As demonstrated in the Union-wide simulations of 2017, 2021 and 2022, regional cooperation and solidarity measures are essential to ensure the resilience of the Union in the case of a serious deterioration of the supply situation. Solidarity measures applicable in the case of an emergency should ensure the supply of protected solidarity customers such as households across borders. Member States should adopt the necessary measures for the implementation of the provisions concerning the solidarity mechanism, including by the Member States concerned agreeing on technical, legal and financial arrangements. Member States should describe the details of those arrangements in their emergency plans. For Member States who have not agreed on bilateral agreements, the default rules of this Regulation should apply in order to ensure such effective solidarity.
- (107) Such solidarity measures may therefore give rise to an obligation for a Member State to pay compensation to those affected by its measures. To ensure that the compensation paid by the Member State requesting solidarity to the Member State providing solidarity is fair and reasonable, the regulatory authorities and ACER should have, as independent authorities, the power to audit the amount of compensation requested and paid and, if necessary,

<sup>(33)</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 (OJ L 280, 28.10.2017, p. 1).

request a rectification, in particular taking into account the level of indirect costs occurred due to the provision of solidarity on the basis of non-market-based measures. The newly established cooperation between indirectly connected Member States using market-based measures pursuant to this Regulation also helps to reduce potentially substantial costs that could arise when using more costly non-market-based measures.

- (108) Providing voluntary contributions of natural gas using market-based measures to indirectly connected Member States should be introduced in Regulation (EU) 2017/1938 in particular to avoid directly connected Member States having to use non-market-based measures where another non-directly connected Member State could provide natural gas volumes for solidarity by using market-based measures. The voluntary nature of the market-based measures and the resulting contribution of natural gas are without prejudice to the obligations of the Member States to assess and indicate in a timely manner whether and how market-based measures can provide the natural gas requested. Such a mechanism is intended to reduce the indirect and overall cost of solidarity, by avoiding the recourse to more costly non-market-based measures. Solidarity between indirectly connected Member States spreads to burden across more Member States and facilitates access of Member States without LNG facilities to global LNG supply.
- (109) The risk-based approach to assess the security of gas supply and the establishment of preventive and mitigation measures should include scenarios examining the impact of a decrease in natural gas demand through energy savings or energy efficiency measures, including in the Union-wide simulations of natural gas supply and infrastructure disruption scenarios pursuant to this Regulation. Examining energy savings and energy efficiency scenarios ensures that the Union-wide simulation, as well as the subsequent national and common risk assessments and preventive measures, are future-proof and compatible with the energy efficiency first principle and the Union objectives of climate neutrality laid down in Regulation (EU) 2021/1119, and that they contribute to phasing out the dependence of the Union on Russian fossil fuels. This Regulation also enables Member States to reduce the non-essential gas consumption of protected customers to facilitate more natural gas savings, in particular during a crisis.
- (110) The risks for the security of gas supply brought about by the Russian military aggression against Ukraine that justified the amendments to Regulation (EU) 2017/1938 introduced by Regulation (EU) 2022/1032 of the European Parliament and of the Council<sup>(34)</sup> persist today. In addition, supplementary risks should be considered such as further disruptions of critical infrastructures, following the acts of sabotage against the Nord Stream pipelines in September 2022 and the disruption of the Balticconnector pipeline in October 2023, and a deterioration of the geopolitical environment and threat landscape in supplying regions, for example with the crisis in the Middle East. Therefore, the report that the Commission is to submit by 28 February 2025 is to be accompanied, where necessary, by a legislative proposal to amend Regulation (EU) 2017/1938.
- (111) Certain provisions of this Regulation are building on the crisis measures introduced by Council Regulation (EU) 2022/2576<sup>(35)</sup> in reaction to the Russian war of aggression against Ukraine and the subsequent natural gas supply crisis. While Regulation (EU) 2022/2576 addressed an immediate and severe natural gas supply crisis, including by way of derogating from the existing permanent framework, this Regulation aims to transform some of the crisis measures into permanent features of the natural gas market. This concerns, in particular, the mechanism for demand aggregation and the joint purchasing of natural gas, measures to enhance the use of LNG facilities and natural gas storage, as well as additional solidarity measures in the event of a natural gas emergency. However, the implementation of those permanent features of the natural gas market requires time, inter alia due to the necessary tender procedures for the permanent mechanism for demand aggregation and the joint purchasing of natural gas, which will not be concluded before the end of 2024. In addition, the risks relating to natural gas supply are expected to last throughout 2024 in the Union. Therefore, in order to make sufficient allowance for the preparatory phase concerning those measures and with a view to avoiding an overlap with the measures introduced by Regulation (EU) 2022/2576, the relevant provisions of this Regulation should apply only from 1 January 2025. The provisions of this Regulation concerning the establishment and the selection of a service provider to perform tasks under the

<sup>(34)</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 (OJ L 173, 30.6.2022, p. 17).

<sup>(35)</sup> Council Regulation (EU) 2022/2576 of 19 December 2022 enhancing solidarity through better coordination of gas purchases, reliable price benchmarks and exchanges of gas across borders (OJ L 335, 29.12.2022, p. 1).

mechanism for demand aggregation and the joint purchasing of natural gas should apply from the date of entry into force of this Regulation, in order to ensure that the mechanism is operational from the date on which Regulation (EU) 2022/2576 expires.

- (112) Regulation (EU) No 1227/2011 of the European Parliament and of the Council <sup>(36)</sup> and Regulations (EU) 2019/942 and (EU) 2022/869 should therefore be amended accordingly.
- (113) Since the objective of this Regulation, namely the setting of fair rules for access conditions to natural gas transmission networks, storage and LNG facilities and of the measures with respect to the mechanism for demand aggregation and the joint purchasing of natural gas, and the mechanism to support the market development of hydrogen, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale or effects of such an action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

CHAPTER I  
SUBJECT MATTER, SCOPE AND DEFINITIONS

*Article 1*  
**Subject matter and scope**

This Regulation:

- (a) establishes non-discriminatory rules for access conditions to natural gas and hydrogen systems taking into account the special characteristics of national and regional markets, with a view to ensuring the proper functioning of the internal markets for natural gas and hydrogen and to contributing to the flexibility of the energy system; and
- (b) facilitates the emergence and operation of properly functioning and transparent markets for natural gas and hydrogen with a high level of security of supply and provides mechanisms by which to harmonise the network access rules for cross-border exchanges in natural gas and hydrogen.

The objectives referred to in the first paragraph shall include:

- (a) the setting of harmonised principles for tariffs, or the methodologies for underlying the calculation of tariffs, for access to the natural gas network excluding natural gas storage facilities,
- (b) the establishment of third-party access services and harmonised principles for capacity-allocation and congestion-management,
- (c) the establishment of transparency requirements, balancing rules and imbalance charges, and the facilitation of capacity trading.

This Regulation, with the exception of Article 34(5) thereof, shall apply only to the natural gas storage facilities and hydrogen storage facilities referred to in Article 33(3) or (4) or Article 37 of Directive (EU) 2024/1788.

The Member States may establish an entity or body set up in accordance with Directive (EU) 2024/1788, for the purpose of carrying out one or more functions typically attributed to the transmission system operator or hydrogen transmission network operator, which shall be subject to the requirements of this Regulation. That entity or body shall be subject to certification in accordance with Article 14 of this Regulation and shall be subject to designation pursuant to Article 71 of Directive (EU) 2024/1788.

<sup>(36)</sup> Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency (OJ L 326, 8.12.2011, p. 1).

*Article 2***Definitions**

1. For the purpose of this Regulation, the following definitions apply:
  - (1) 'regulatory asset base' means the network assets of a transmission system operator, distribution system operator, hydrogen transmission network operator and hydrogen distribution network operator used for the provision of regulated network services that are taken into account when calculating network-related service revenue;
  - (2) 'transmission' means transmission as defined in Article 2, point (17), of Directive (EU) 2024/1788;
  - (3) 'transport contract' means a contract which the transmission system operator or hydrogen network operator has concluded with a network user with a view to carrying out transport services for natural gas or hydrogen;
  - (4) 'capacity' means the maximum flow, expressed in normal cubic meters per time unit or in energy unit per time unit, to which the network user is entitled in accordance with the provisions of the transport contract;
  - (5) 'unused capacity' means firm capacity which a network user has acquired under a transport contract but which that user has not nominated by the deadline specified in the contract;
  - (6) 'congestion management' means management of the capacity portfolio of the transmission system operator with a view to optimal and maximum use of the technical capacity and the timely detection of future congestion and saturation points;
  - (7) 'secondary market' means the market of the capacity traded otherwise than on the primary market;
  - (8) 'nomination' means the reporting by the network user to the transmission system operator of the actual flow that the network user wishes to inject into or withdraw from the system, prior to such an injection or withdrawal;
  - (9) 're-nomination' means the reporting of a corrected nomination, subsequent to a nomination;
  - (10) 'system integrity' means any situation in which the pressure and the quality of the natural gas natural gas or hydrogen remain within the minimum and maximum limits, so that the transport of natural gas or hydrogen is guaranteed from a technical standpoint;
  - (11) 'balancing period' means the period within which the off-take of an amount of natural gas or hydrogen, expressed in units of energy, is to be offset by every network user by means of the injection of the same amount of natural gas or hydrogen in accordance with the network code;
  - (12) 'network user' means network user as defined in Article 2, point (60), of Directive (EU) 2024/1788;
  - (13) 'interruptible services' means services offered by the transmission system operator or, where applicable, the distribution system operator, or the hydrogen network operator in relation to interruptible capacity;
  - (14) 'interruptible capacity' means natural gas or hydrogen transmission capacity that may be interrupted by the transmission system operator or, where applicable, the distribution system operator, or the hydrogen network operator, in accordance with the conditions stipulated in the transport contract;
  - (15) 'long-term services' means services offered by the transmission system operator or, where applicable, the distribution system operator, or the hydrogen network operator with a duration of one year or more;
  - (16) 'short-term services' means services offered by the transmission system operator or, where applicable, the distribution system operator, or the or hydrogen network operator with a duration of less than one year;
  - (17) 'firm capacity' means natural gas and hydrogen transmission and distribution capacity contractually guaranteed as uninterruptible by the transmission system operator or, where applicable, the distribution system operator, or the hydrogen network operator;
  - (18) 'firm services' mean services offered by the transmission system operator or, where applicable, the distribution system operator, or the hydrogen network operator in relation to firm capacity;

- (19) 'technical capacity' means the maximum firm capacity that can be offered to the network users, taking account of system integrity and the operational requirements of the transmission system operator or, where applicable, the distribution system operator, or the hydrogen network operator;
- (20) 'contracted capacity' means capacity that has been allocated to a network user by means of a transport contract;
- (21) 'available capacity' means the part of the technical capacity that is not allocated and that is still available to the system at a particular moment;
- (22) 'contractual congestion' means a situation where the level of firm capacity demand exceeds the technical capacity;
- (23) 'primary market' means the market of the capacity traded directly by the transmission system operator or, where applicable, the distribution system operator, or the hydrogen transmission network operator;
- (24) 'physical congestion' means a situation where the level of demand for actual deliveries exceeds the technical capacity at a particular moment;
- (25) 'LNG facility capacity' means capacity at an LNG terminal for the liquefaction of natural gas or the importation, offloading, ancillary services, temporary storage and re-gasification of LNG;
- (26) 'space' means the volume of natural gas or hydrogen which a user of a storage facility is entitled to use for the storage of natural gas or hydrogen;
- (27) 'deliverability' means the rate at which the storage facility user is entitled to withdraw natural gas or hydrogen from the natural gas storage facility or hydrogen storage facility;
- (28) 'injectability' means the rate at which the storage facility user is entitled to inject natural gas or hydrogen into the natural gas storage facility or hydrogen storage facility;
- (29) 'storage capacity' means any combination of space, injectability and deliverability;
- (30) 'entry-exit system' means entry-exit system as defined in Article 2, point (57), of Directive (EU) 2024/1788;
- (31) 'balancing zone' means balancing zone as defined in Article 2, point (58), of Directive (EU) 2024/1788;
- (32) 'virtual trading point' means virtual trading point as defined in Article 2, point (59), of Directive (EU) 2024/1788;
- (33) 'entry point' means entry point as defined in Article 2, point (61), of Directive (EU) 2024/1788;
- (34) 'exit point' means exit point as defined in Article 2, point (62), of Directive (EU) 2024/1788;
- (35) 'conditional capacity' means firm capacity that entails transparent and predefined conditions for either providing access from and to the virtual trading point or limited allocability;
- (36) 'allocability' means the discretionary combination of any entry capacity with any exit capacity or vice versa;
- (37) 'allowed revenue' means the sum of transmission service revenue and non-transmission service revenue for the provision of services by the transmission system operator for a specific time period within a given regulatory period which such transmission system operator is entitled to obtain under a non-price cap regime and which is set in accordance with Article 78(7), point (a), of Directive (EU) 2024/1788;
- (38) 'target revenue' means the sum of expected transmission service revenue calculated in accordance with the principles set out in Article 17(1) and expected non-transmission service revenue for the provision of services by the transmission system operator for a specific time period within a given regulatory period under a price cap regime;
- (39) 'new infrastructure' means an infrastructure not completed by 4 August 2003;
- (40) 'natural gas' means natural gas as defined in Article 2, point (1), of Directive (EU) 2024/1788;

- (41) 'renewable gas' means renewable gas as defined in Article 2, point (2), of Directive (EU) 2024/1788;
- (42) 'natural gas system' means natural gas system as defined in Article 2, point (3), of Directive (EU) 2024/1788;
- (43) 'hydrogen system' means hydrogen system as defined in Article 2, point (4), of Directive (EU) 2024/1788;
- (44) 'hydrogen storage facility' means a hydrogen storage facility as defined in Article 2, point (5), of Directive (EU) 2024/1788;
- (45) 'hydrogen storage operator' means a hydrogen storage operator as defined in Article 2, point (6), of Directive (EU) 2024/1788;
- (46) 'hydrogen terminal' means hydrogen terminal as defined in Article 2, point (8), of Gas Directive (EU) 2024/1788;
- (47) 'hydrogen terminal operator' means hydrogen terminal operator as defined in Article 2, point (9), of Directive (EU) 2024/1788;
- (48) 'hydrogen quality' means hydrogen quality as defined in Article 2, point (10), of Directive (EU) 2024/1788;
- (49) 'low-carbon hydrogen' means low-carbon hydrogen as defined in Article 2, point (11), of Directive (EU) 2024/1788;
- (50) 'low-carbon gas' means low-carbon gas as defined in Article 2, point (12), of Directive (EU) 2024/1788;
- (51) 'transmission system operator' means transmission system operator as defined in Article 2, point (18), of Directive (EU) 2024/1788;
- (52) 'upstream pipeline network' means upstream pipeline network as defined in Article 2, point (16), of Directive (EU) 2024/1788;
- (53) 'distribution' means distribution as defined in Article 2, point (19), of Directive (EU) 2024/1788;
- (54) 'distribution system operator' means distribution system operator as defined in Article 2, point (20), of Directive (EU) 2024/1788;
- (55) 'hydrogen network' means hydrogen network as defined in Article 2, point (21), of Directive (EU) 2024/1788;
- (56) 'hydrogen transport' means hydrogen transport as defined in Article 2, point (22), of Directive (EU) 2024/1788;
- (57) 'hydrogen transmission network' means hydrogen transmission network as defined in Article 2, point (23), of Directive (EU) 2024/1788;
- (58) 'hydrogen distribution network' means hydrogen distribution network as defined in Article 2, point (24), of Directive (EU) 2024/1788;
- (59) 'hydrogen network operator' means hydrogen network operator as defined in Article 2, point (25), of Directive (EU) 2024/1788;
- (60) 'hydrogen transmission network operator' means hydrogen transmission network operator as defined in Article 2, point (26), of Directive (EU) 2024/1788;
- (61) 'hydrogen distribution network operator' means hydrogen distribution network operator as defined in Article 2, point (27), of Directive (EU) 2024/1788;
- (62) 'supply' means supply as defined in Article 2, point (28), of Directive (EU) 2024/1788;
- (63) 'natural gas storage facility' means natural gas storage facility as defined in Article 2, point (31), of Directive (EU) 2024/1788;
- (64) 'natural gas storage system operator' means natural gas storage system operator as defined in Article 2, point (32), of Directive (EU) 2024/1788;

- (65) 'LNG facility' means LNG facility as defined in Article 2, point (33), of Directive (EU) 2024/1788;
- (66) 'LNG system operator' means LNG system operator as defined in Article 2, point (34), of Directive (EU) 2024/1788;
- (67) 'system' means system as defined in Article 2, point (35), of Directive (EU) 2024/1788;
- (68) 'ancillary services' means ancillary services as defined in Article 2, point (36), of Directive (EU) 2024/1788;
- (69) 'interconnector' means interconnector as defined in Article 2, point (39), of Gas Directive (EU) 2024/1788;
- (70) 'hydrogen interconnector' means hydrogen interconnector as defined in Article 2, point (40), of Directive (EU) 2024/1788;
- (71) 'system user' means system user as defined in Article 2, point (46), of Directive (EU) 2024/1788;
- (72) 'customer' means customer as defined in Article 2, point (47), of Directive (EU) 2024/1788;
- (73) 'final customer' means final customer as defined in Article 2, point (50), of Directive (EU) 2024/1788;
- (74) 'wholesale customer' means wholesale customer as defined in Article 2, point (51), of Directive (EU) 2024/1788;
- (75) 'control' means control as defined in Article 2, point (55), of Directive (EU) 2024/1788;
- (76) 'long-term contract' means long-term contract as defined in Article 2, point (56), of Directive (EU) 2024/1788;
- (77) 'interconnection point' means interconnection point as defined in Article 2, point (63), of Directive (EU) 2024/1788;
- (78) 'virtual interconnection point' means virtual interconnection point as defined in Article 2, point (64), of Directive (EU) 2024/1788;
- (79) 'market participant' means market participant as defined in Article 2, point (65), of Directive (EU) 2024/1788;
- (80) 'interoperability' means interoperability as defined in Article 2, point (71), of Directive (EU) 2024/1788;
- (81) 'energy efficiency first' means energy efficiency first as defined in Article 2, point (18), of Regulation (EU) 2018/1999 of the European Parliament and of the Council <sup>(37)</sup>;
- (82) 'repurposing' means repurposing as defined in Article 2, point (18), of Regulation (EU) 2022/869;
- (83) 'vertically integrated undertaking' means vertically integrated undertaking as defined in Article 2, point (43), of Directive (EU) 2024/1788.

2. The definitions in paragraph 1, points (4) to (24), in relation to transmission apply by analogy in relation to storage and LNG facilities.

<sup>(37)</sup> Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1).

## CHAPTER II

## GENERAL RULES APPLICABLE TO THE NATURAL GAS SYSTEMS AND HYDROGEN SYSTEMS

## Section 1

**General rules for the organisation of the markets and infrastructure access***Article 3***General principles**

Member States, regulatory authorities designated pursuant to Article 76 of Directive (EU) 2024/1788 (the 'regulatory authorities'), operators of natural gas systems or hydrogen systems and delegated operators such as market area managers or booking platform operators shall ensure that markets for natural gas and hydrogen are operated in accordance with the following principles:

- (a) prices for natural gas and hydrogen shall be formed on the basis of demand and supply;
- (b) transmission system operators and distribution system operators, and hydrogen transmission network operators and hydrogen distribution network operators shall cooperate with each other to provide network users with the freedom to book entry and exit capacity independently; natural gas and, from 2033, hydrogen shall be transported by means of the entry-exit system, rather than contractual paths;
- (c) tariffs charged at the entry and exit points in the natural gas system and in the hydrogen system shall be structured in such a way as to contribute to market integration, enhancing security of supply and promoting the interconnection between natural gas networks and between hydrogen networks;
- (d) undertakings that are active in the same entry-exit system shall exchange natural gas and, from 2033, hydrogen at the virtual trading point; producers of renewable gas and low-carbon gas shall have equal access to the virtual trading point, irrespective of whether they are connected to the distribution system or transmission system; natural gas and, from 2033, hydrogen may be exchanged physically at entry points from or exit points to third countries;
- (e) network users shall be responsible for balancing their balancing portfolios in order to minimise the need for transmission system operators and hydrogen transmission network operators to undertake balancing actions;
- (f) balancing actions shall be performed on the basis of standardised products in accordance with the network code on balancing established pursuant to this Regulation and conducted on a trading platform or by means of balancing services in accordance with that network code;
- (g) market rules shall avoid actions which prevent price formation on the basis of demand and supply for natural gas and hydrogen;
- (h) market rules shall ensure a consumer-centred and energy efficient approach in the markets for natural gas and hydrogen;
- (i) market rules shall foster the emergence and functioning of liquid trading for natural gas and hydrogen, fostering price formation and price transparency;
- (j) market rules shall enable the decarbonisation of the natural gas systems and hydrogen systems, including by enabling the integration into the markets of natural gas and hydrogen from renewable energy sources and by providing incentives for energy savings and efficiency, demand reduction, demand flexibility and energy system integration and facilitating the achievement of the Union's climate and energy targets;
- (k) market rules shall deliver appropriate investment incentives, in particular for long-term investments in a decarbonised and sustainable natural gas system and hydrogen system, for energy storage, energy efficiency, demand reduction and demand response to meet market needs and system integration needs, and shall facilitate fair competition and security of supply, while implementing the energy efficiency first principle in avoiding investment incentives that lead to stranded assets;



- (l) rules on network planning shall, where appropriate, target the use of hydrogen for hard-to-decarbonise sectors, taking into account greenhouse gas abatement potential, encourage measures to reduce fossil gas demand, and contribute to the prudent and rational use of natural resources and the achievement of the Union's climate and energy targets;
- (m) barriers to cross-border natural gas and hydrogen flows, if existing, between entry-exit systems shall be removed;
- (n) market rules shall facilitate regional cooperation and integration.

#### Article 4

### Upscaling of renewable gas and low-carbon gas in coal and carbon-intensive regions

The Commission shall support and encourage the penetration of renewable gas and low-carbon gas, in particular hydrogen and biomethane, into the Union energy system, in particular in coal and carbon-intensive regions, with the aim of increasing the share of renewable gas in particular in industrial processes, district heating and energy storage and thereby accelerate the phase out of solid fossil fuels in industrial and district heating sectors. The Commission shall also support the conversion of fossil fuels to renewable and low-carbon hydrogen and biomethane, as well as the creation of a hydrogen-ready workforce.

#### Article 5

### Separation of regulatory asset bases

1. Where a transmission system operator, a distribution system operator or a hydrogen network operator provides regulated services for natural gas, hydrogen or electricity, it shall comply with the requirement for unbundling of accounts as laid down in Article 75 of Directive (EU) 2024/1788 and Article 56 of Directive (EU) 2019/944 of the European Parliament and of the Council<sup>(38)</sup> and it shall have a separate regulatory asset base for natural gas, hydrogen or electricity assets. That separate regulatory asset base shall ensure that:

- (a) service revenue obtained from the provision of specific regulated services can be used only to recover the capital and operational expenditure related to the assets included in the regulatory asset base on which the regulated services were provided;
- (b) when assets are transferred to a different regulatory asset base, their value is established, subject to an audit and approval by the regulatory authority and is such that cross-subsidies do not occur.

2. A Member State shall not allow financial transfers between regulated services that are separate within the meaning of paragraph 1.

3. Member States may allow hydrogen network operators to spread the recovery through network access tariffs of hydrogen network costs over time in order to ensure that future users duly contribute to initial hydrogen network development costs. Such an inter-temporal cost allocation and its underlying methodology shall be subject to approval by the regulatory authority. Member States may put in place measures, such as a State guarantee, to cover the financial risk of hydrogen network operators associated with the initial cost recovery gap arising from the application of inter-temporal cost allocation provided that such measures comply with Article 107 TFEU.

4. By way of derogation from paragraph 2, a Member State may allow financial transfers between regulated services that are separate within the meaning of paragraph 1, provided that the regulatory authority has established that the financing of networks through network access tariffs paid by its network users only is not viable. The regulatory authority shall consider in its assessment, inter alia, the value of projected financial transfers, the resulting cross-subsidisation between users of the respective networks and the cost-efficiency of those financial transfers.

The following conditions shall apply to a financial transfer within the meaning of this paragraph:

<sup>(38)</sup> Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (OJ L 158, 14.6.2019, p. 125).

- (a) all revenue needed for the financial transfer is collected as a dedicated charge;
  - (b) the dedicated charge is collected only from exit points to final customers located within the same Member States as the beneficiary of the financial transfer;
  - (c) the dedicated charge and financial transfer or the methodologies underlying their calculation are approved prior to their entry into force by the regulatory authority;
  - (d) the approved dedicated charge and financial transfer and the methodologies, where methodologies are approved, are published no later than thirty days before their date of implementation;
  - (e) the Commission and ACER have been notified by the Member State that it has allowed financial transfers.
5. The regulatory authority may approve a financial transfer and dedicated charge referred to in paragraph 4, provided that:
- (a) network access tariffs are charged to users of the regulatory asset base that benefits from a financial transfer;
  - (b) the sum of financial transfers and service revenue collected through network access tariffs is not larger than the allowed or target revenue;
  - (c) a financial transfer is approved for a limited period in time, and that period is no longer than one third of the remaining depreciation period of the infrastructure concerned.
6. By 5 August 2025, ACER shall issue recommendations to transmission system operators, distribution system operators, hydrogen network operators and regulatory authorities on the methodologies for setting the inter-temporal cost allocation.

ACER shall update the recommendations referred to in the first subparagraph at least every two years.

ACER may issue recommendations to transmission system operators, distribution system operators, hydrogen network operators and regulatory authorities on the methodologies for:

- (a) the determination of the value of the assets that are transferred to another regulatory asset base and the destination of any profits and losses that may occur as a result;
- (b) the calculation of the size and maximum duration of the financial transfer and dedicated charge;
- (c) the criteria to allocate contributions to the dedicated charge among final customers connected to the regulatory asset base.

#### *Article 6*

### **Third-party access services concerning transmission system operators**

1. Transmission system operators shall:
  - (a) offer capacity and services on a non-discriminatory basis to all network users;
  - (b) provide both firm and interruptible capacity; the price of interruptible capacity shall reflect the probability of interruption;
  - (c) offer to network users both long and short-term capacity.

As regards the first subparagraph, point (a), where a transmission system operator offers the same service to different customers, it shall do so under equivalent contractual terms and conditions, either using harmonised transport contracts or a common network code approved by the regulatory authority in accordance with the procedure laid down in Article 78 or 79 of Directive (EU) 2024/1788.

2. By 5 August 2025, the Commission shall:

- (a) carry out an evaluation of the impact on the natural gas system of a tariff regime whereby no tariffs will be charged for access to transmission systems at interconnection points between Member States, or at interconnection points with third countries whose systems connect two or more Member States; and
- (b) submit a report to the European Parliament and to the Council.

That report may, where appropriate, be accompanied by legislative proposals to address the obstacles identified in the evaluation.

3. Transport contracts signed with non-standard start dates or with a shorter duration than a standard annual transport contract shall not result in arbitrarily higher or lower tariffs that do not reflect the market value of the service, in accordance with the principles laid down in Article 17(1).

4. Where two or more interconnection points connect the same two adjacent entry-exit systems, the adjacent transmission system operators concerned shall offer the available capacities at the interconnection points at one virtual interconnection point. Any contracted capacity at the interconnection points, regardless of the date of its conclusion, shall be transferred to the virtual interconnection point.

A virtual interconnection point shall be established provided that the following conditions are met:

- (a) the total technical capacity at the virtual interconnection points is equal to or higher than the sum of the technical capacities at each of the interconnection points contributing to the virtual interconnection points;
- (b) the virtual interconnection point facilitates the economic and efficient use of the system including the rules laid down in Articles 10 and 11.

5. Where appropriate, third-party access services may be granted subject to appropriate guarantees from network users with respect to the creditworthiness of such users. Such guarantees shall not constitute undue market-entry barriers and shall be non-discriminatory, transparent and proportionate.

6. Transmission system operators shall, if necessary for the purpose of carrying out their functions including in relation to cross-border transmission, have access to the network of other transmission system operators.

7. Paragraphs 1 to 6 shall be without prejudice to the possibility for Member States to take proportionate measures to temporarily restrict natural gas supplies from the Russian Federation and Belarus, for a fixed term, which may be renewed if justified, by limiting up-front bidding for capacity by any single network user at entry points from the Russian Federation or Belarus, where that is necessary to protect their essential security interests and those of the Union, provided that such measures:

- (a) do not unduly disrupt the proper functioning of the internal market for natural gas and cross-border flows of natural gas between Member States, and do not undermine the security of supply of the Union or of a Member State;
- (b) respect the principle of energy solidarity;
- (c) are taken in accordance with the rights and obligations of the Union and of the Member States with respect to third countries.

Taking into account the need to ensure the security of supply of the Union, measures taken by Member States pursuant to the first subparagraph may aim to diversify natural gas supplies with a view to phasing out dependence on Russian natural gas, where it can be demonstrated that such measures are necessary to protect their essential security interests and those of the Union.

Before deciding on a measure as referred to in the first subparagraph, the Member State concerned shall consult the Commission and, in so far as they are likely to be affected by the measure concerned, other Member States, the Energy Community Contracting Parties, third countries that are Contracting Parties to the Agreement on the European Economic Area, and the United Kingdom of Great Britain and Northern Ireland. The Member State concerned shall take the utmost account of the situation in those Member States and third countries and any concerns raised in that respect by those Member States, third countries or the Commission.

*Article 7***Third-party access services concerning hydrogen network operators**

1. Hydrogen network operators shall offer their services on a non-discriminatory basis to all network users, subject to equivalent contractual terms and conditions for the same service. Hydrogen network operators shall publish contractual terms and tariffs charged for network access and, if applicable, balancing charges, on their website.
2. The maximum capacity of a hydrogen network shall be made available to market participants, taking into account system integrity and efficient and safe network operation.
3. The maximum duration for capacity contracts shall be 20 years for infrastructure completed before 1 January 2028 and 15 years for infrastructure completed on or after that date. Regulatory authorities shall have the right to impose shorter maximum durations if necessary to ensure hydrogen market functioning, to safeguard competition and to ensure future cross-border integration. When adopting a decision on the imposition of a shorter maximum duration, the regulatory authorities shall take into account, *inter alia*, commitment from network users to secure network financing, negative implications on planning and refinancing possibilities.
4. Hydrogen transmission network operators shall implement and publish non-discriminatory and transparent congestion-management procedures, which also facilitate cross-border exchanges in hydrogen on a non-discriminatory basis.
5. Hydrogen network operators shall regularly assess market demand for new investments, taking into account security of supply and the efficiency of the final hydrogen use.
6. From 1 January 2033, hydrogen networks shall be organised as entry-exit systems.
7. Member States may decide not to apply paragraph 6 of this Article to hydrogen networks that benefit from a derogation pursuant to Article 52 Directive (EU) 2024/1788 and are not connected to another hydrogen network.
8. From 1 January 2033, or where a Member State decides to apply regulated third-party access to hydrogen networks in accordance with Article 35 of Directive (EU) 2024/1788 before 1 January 2033, Article 17 of this Regulation shall apply to tariffs for access to hydrogen networks and the obligations on transmission system operators set out in Article 17(1), (2), (4) and (5) of this Regulation shall apply to hydrogen network operators. Articles 18 and 19 of this Regulation shall not apply to hydrogen networks. Those Articles shall apply only to natural gas networks.

Regulatory authorities shall consult regulatory authorities of directly connected Member States and relevant stakeholders before taking a decision on the methodology for setting hydrogen network access tariffs for the entry and exit points at cross-border interconnection points between those directly connected Member States, including for any virtual interconnection points. Regulatory authorities shall also submit the envisaged tariff methodology to ACER. By way of derogation from Article 17, the regulatory authorities may decide to charge no hydrogen network access tariffs or, when capacity is allocated via auctions, to set the reserve prices to zero.

When deciding on the methodology for setting hydrogen network access tariffs at an interconnection point between Member States, the regulatory authorities concerned shall apply the tariff principles referred to in Article 17(1), (2), (4) and (5) and shall take into account the outcome of the consultations referred to in the second subparagraph of this paragraph, in particular of the consultations of the regulatory authorities of directly connected Member States, and the impact of the chosen network access tariffs on cross-border trade and market functioning in the directly connected Member States.

The regulatory authorities of directly connected Member States may request ACER to provide a factual opinion on the methodology for setting the hydrogen network access tariffs or reserve prices for the entry and exit points at cross-border interconnection points between those Member States, in accordance with Article 6(5) of Regulation (EU) 2019/942. ACER shall inform the Commission accordingly, where relevant, in accordance with Article 6(6) of Regulation (EU) 2019/942. When providing a factual opinion, ACER shall carry out its assessment with due regard to the tariff principles referred to in Article 17(1) and (2) of this Regulation.

Further details required to implement this paragraph, in particular the procedure for cross-border consultation or requesting an opinion of ACER, shall be set in a network code established pursuant to Article 72(1).

9. From 1 January 2033, hydrogen transmission network operators shall comply with the requirements on transmission system operators pursuant to Articles 5, 10 and 13 when offering their services, and shall publish tariffs for each network point on an online platform operated by the European Network of Network Operators for Hydrogen (ENNOH). Until a network code on capacity allocation for hydrogen transmission networks has been adopted pursuant to Article 72(1), point (d) and has entered into force, such publication may occur via links to the publication of tariffs on websites of hydrogen transmission network operators.

#### Article 8

### **Third-party access services concerning natural gas storage facilities, hydrogen terminals, LNG facilities and hydrogen storage facilities**

1. LNG system operators, hydrogen terminal operators, hydrogen storage operators and natural gas storage system operators shall:

- (a) offer services on a non-discriminatory basis to all network users that accommodate market demand; in particular, where an LNG system operator, hydrogen terminal operator, hydrogen storage operator or natural gas storage system operator offers the same service to different customers, it shall do so under equivalent contractual terms and conditions;
- (b) offer services that are compatible with the use of the interconnected natural gas and hydrogen transport systems and facilitate access through cooperation with the transmission system operator or hydrogen network operator; and
- (c) make relevant information public, in particular data on the use and availability of services, in a time-frame compatible with reasonable commercial needs of users of LNG facilities, natural gas storage facilities, hydrogen terminals or hydrogen storage facilities, subject to the monitoring of such publication by the regulatory authority.

2. Each natural gas storage system operator and hydrogen storage operator shall:

- (a) provide both firm and interruptible third-party access services; the price of interruptible capacity shall reflect the probability of interruption;
- (b) offer to storage facility users both long and short-term services;
- (c) offer to storage facility users both bundled and unbundled services of storage capacity.

3. Each LNG system operator shall offer to LNG facility users both bundled and unbundled services within the LNG facility depending on the needs expressed by LNG facility users.

4. LNG and natural gas storage facility contracts and hydrogen storage facility and hydrogen terminal contracts shall not result in arbitrarily higher tariffs where they are signed:

- (a) outside a gas year with non-standard start dates; or
- (b) with a shorter duration than a standard contract on an annual basis.

5. Where appropriate, third-party access services may be granted subject to appropriate guarantees from network users with respect to the creditworthiness of such users. Such guarantees shall not constitute undue market-entry barriers and shall be non-discriminatory, transparent and proportionate.

6. Contractual limits on the required minimum size of LNG facility or hydrogen terminal capacity and natural gas or hydrogen storage capacity shall be justified on the basis of technical constraints and shall allow smaller storage users to obtain access to storage services.

7. Paragraphs 1 to 6 shall be without prejudice to the possibility for Member States to take proportionate measures to temporarily restrict LNG supplies from the Russian Federation and Belarus, for a fixed term, which may be renewed if justified, by limiting up-front bidding by any single network user or provision for LNG facility capacity to any single network user for deliveries from the Russian Federation or Belarus, where that is necessary to protect their essential security interests and those of the Union, provided that such measures:

- (a) do not unduly disrupt the proper functioning of the internal market for natural gas, and cross-border flows of natural gas between Member States, and do not undermine the security of supply of the Union or of a Member State;
- (b) respect the principle of energy solidarity;
- (c) are taken in accordance with the rights and obligations of the Union and of the Member States with respect to third countries.

Taking into account the need to ensure the security of supply of the Union, measures taken by Member States pursuant to the first subparagraph may aim to diversify LNG supplies with a view to phasing out dependence on Russian natural gas, where it can be demonstrated that such measures are necessary to protect their essential security interests and those of the Union.

Before deciding on a measure as referred to in the first subparagraph, the Member State concerned shall consult the Commission and, in so far as they are likely to be affected by the measure concerned, other Member States, the Energy Community Contracting Parties, third countries that are Contracting Parties to the Agreement on the European Economic Area, and the United Kingdom of Great Britain and Northern Ireland. The Member State concerned shall take the utmost account of the situation in those Member States and third countries, and any concerns raised in that respect by those Member States, third countries or the Commission.

#### *Article 9*

##### **Market-demand assessment for renewable gas and low-carbon gas by LNG system operators and natural gas storage system operators**

LNG system operators and natural gas storage system operators shall, at least every two years, assess market demand for new investments allowing the use of renewable gas and low-carbon gas, including hydrogen compounds, such as liquid ammonia and liquid organic hydrogen carriers, in the facilities. Those operators shall inform relevant regulatory authorities on the outcome of the market demand assessment. When planning new investments, LNG system operators and natural gas storage system operators shall assess market demand in view of facilitating the usage of renewable gas and low-carbon gas in their facilities and take into account security of supply. LNG system operators and natural gas storage system operators shall make publicly available any plans regarding new investments allowing the usage of renewable gas and low-carbon gas in their facilities.

#### *Article 10*

##### **Principles of capacity-allocation mechanisms and congestion-management procedures concerning transmission system operators**

1. The maximum capacity at all relevant points referred to in Article 33(3) shall be made available to market participants, taking into account system integrity and efficient network operation.
2. The transmission system operator shall implement and publish non-discriminatory and transparent capacity-allocation mechanisms, which shall:
  - (a) provide appropriate economic signals for the efficient and maximum use of technical capacity, facilitate investments in new infrastructure and in alternative demand-side solutions not requiring new infrastructure investments and facilitate cross-border exchanges in natural gas;
  - (b) be compatible with the market mechanisms including spot markets and trading hubs, while being flexible and capable of adapting to evolving market circumstances; and
  - (c) be compatible with the network access systems of the Member States.
3. The transmission system operator shall implement and publish non-discriminatory and transparent congestion-management procedures which facilitate cross-border exchanges in natural gas on a non-discriminatory basis and which shall be based on the following principles:
  - (a) in the event of contractual congestion, the transmission system operator shall offer unused capacity on the primary market at least on a day-ahead and interruptible basis; and

(b) network users may re-sell or sublet their unused contracted capacity on the secondary market.

As regards the first subparagraph, point (a), a Member State may require notification or information of the transmission system operator by network users.

4. Transmission system operators shall regularly assess market demand for new investments taking into account the joint scenario as developed for the ten-year network development plan pursuant to Article 55 of Directive (EU) 2024/1788 as well as security of supply.

#### Article 11

##### **Principles of capacity-allocation mechanisms and congestion-management procedures concerning natural gas storage facilities, hydrogen terminals, hydrogen storage facilities and LNG facilities**

1. The maximum capacity of a natural gas storage facility, LNG facility, hydrogen storage facility or hydrogen terminal shall be made available to market participants, taking into account system integrity and operation.

2. LNG system operators, hydrogen storage operators, hydrogen terminal operators and natural gas storage system operators shall implement and publish non-discriminatory and transparent capacity-allocation mechanisms which shall:

- (a) provide appropriate economic signals for the efficient and maximum use of capacity and facilitate investments in new infrastructure;
- (b) be compatible with the market mechanisms including spot markets and trading hubs, while being flexible and capable of adapting to evolving market circumstances; and
- (c) be compatible with the connected network access systems.

3. Contracts for LNG terminals, hydrogen terminals, hydrogen storage facilities and natural gas storage facilities shall include measures to prevent capacity-hoarding, by taking into account the following principles which are to apply in the case of contractual congestion:

- (a) the system operator shall offer unused capacity on the primary market without delay, and, for natural gas storage facilities, they shall offer such capacity at least on a day-ahead and interruptible basis;
- (b) users may resell their contracted capacity on the secondary market;
- (c) by 5 February 2026, LNG system operators, hydrogen terminal operators, hydrogen storage operators and natural gas storage system operators, individually or jointly with other such operators, shall ensure that a transparent and non-discriminatory booking platform for users of LNG facilities, hydrogen terminals, hydrogen storage facilities and natural gas storage facilities is available to allow such users to resell their contracted capacity on the secondary market pursuant to point (b).

#### Article 12

##### **Trading of capacity rights**

Each transmission system operator, natural gas storage system operator, LNG system operator, hydrogen transmission network operator, hydrogen terminal operator and hydrogen storage operator shall take reasonable steps to allow capacity rights to be freely tradable and to facilitate such trade in a transparent and non-discriminatory manner. Every such operator shall develop harmonised contracts and procedures for transport, LNG facilities, hydrogen terminals, natural gas storage facilities and hydrogen storage facilities on the primary market to facilitate secondary trade of capacity and shall recognise the transfer of primary capacity rights where notified by system users.

The harmonised contracts and procedures shall be notified to the regulatory authorities.

*Article 13***Balancing rules and imbalance charges**

1. Balancing rules shall be designed in a fair, non-discriminatory and transparent manner and shall be based on objective criteria. Balancing rules shall reflect genuine system needs taking into account the resources available to the transmission system operator. Balancing rules shall be market-based.
2. In order to enable network users to take timely corrective action, the transmission system operator shall provide sufficient, timely and reliable on-line based information on the balancing status of network users.

The information provided shall reflect the level of information available to the transmission system operator and the settlement period for which imbalance charges are calculated.

No charge shall be levied for the provision of information pursuant to this paragraph.

3. Imbalance charges shall be cost-reflective to the extent possible, whilst providing appropriate incentives on network users to balance their input and off-take of natural gas. They shall avoid cross-subsidisation between network users and shall not hamper the entry of new entrants on the market.

Any calculation methodology for imbalance charges as well as the final values shall be made public by the regulatory authorities or the transmission system operator, as appropriate.

4. Member States shall ensure that transmission system operators endeavour to harmonise balancing regimes and streamline structures and levels of balancing charges in order to facilitate natural gas trade carried out at the virtual trading point.

*Article 14***Certification of transmission system operators and hydrogen transmission network operators**

1. The Commission shall examine any notification of a decision on the certification of a transmission system operator or a hydrogen transmission network operator as laid down in Article 71(6) of Directive (EU) 2024/1788 as soon as it is received. Within 50 working days of the date of receipt of such a notification, the Commission shall issue its opinion to the relevant regulatory authority with regard to its compatibility with Article 71(2) or Article 72 as well as with Article 60 of Directive (EU) 2024/1788 for transmission system operators or Article 68 of that Directive for hydrogen transmission network operators, as applicable.

When preparing its opinion referred to in the first subparagraph, the Commission may request ACER to provide its opinion on the regulatory authority's decision. In such a case, the 50-working day period referred to in the first subparagraph shall be extended by a further 50 working days.

In the absence of a Commission opinion within the periods referred to in the first and second subparagraphs, the Commission shall be considered not to have any objections against the regulatory authority's decision.

2. Within a period of 50 working days of receipt of a Commission opinion pursuant to paragraph 1, the regulatory authority shall adopt its final decision regarding the certification of the transmission system operator or hydrogen transmission network operator, taking the utmost account of that opinion. The regulatory authority's decision and the Commission's opinion shall be published together.
3. At any time during the procedure regulatory authorities or the Commission may request from a transmission system operator, a hydrogen transmission network operator or an undertaking performing any of the functions of production or supply any information relevant to the fulfilment of their tasks under this Article.
4. Regulatory authorities and the Commission shall preserve the confidentiality of commercially sensitive information.
5. The Commission is empowered to adopt delegated acts in accordance with Article 80 to supplement this Regulation by providing guidelines setting out the details of the procedure to be followed for the application of paragraphs 1 and 2 of this Article.
6. Where the Commission has received notification of the certification of a transmission system operator under Article 60(9) of Directive (EU) 2024/1788, the Commission shall take a decision relating to certification. The regulatory authority shall comply with the Commission decision.



*Article 15***Certification of natural gas storage system operators**

1. Member States shall ensure that each natural gas storage system operator, including any natural gas storage system operator controlled by a transmission system operator, is certified in accordance with the procedure laid down in this Article, either by the regulatory authority or by a competent authority designated by the Member State concerned pursuant to Article 3(2) of Regulation (EU) 2017/1938 (in either case referred to as the 'certifying authority').

This Article also applies to natural gas storage system operators controlled by transmission system operators which are certified pursuant to Directive 2009/73/EC or (EU) 2024/1788.

2. By 1 February 2023 or within 150 working days of the date of receipt of a notification pursuant to paragraph 9, the certifying authority shall issue a draft certification decision in respect of natural gas storage system operators that operate underground natural gas storage facilities with a capacity of over 3,5 TWh where, regardless of the number of natural gas storage system operators, total natural gas storage facilities were filled on 31 March 2021 and on 31 March 2022 at a level which, on average, was less than 30 % of their maximum capacity.

With respect to natural gas storage system operators as referred to in the first subparagraph, the certifying authority shall make its best efforts to issue a draft certification decision by 1 November 2022.

With respect to natural gas storage system operators other than those referred to in the first subparagraph, the certifying authority shall issue a draft certification decision by 2 January 2024 or within 18 months of the date of receipt of a notification pursuant to paragraph 8 or 9.

3. When considering the risk to the security of energy supply in the Union, the certifying authority shall take into account any security of natural gas supply risk at Union, national or regional level as well as any mitigation of such risk, resulting, *inter alia*, from:

- (a) ownership, supply or other commercial relationships that could negatively affect the incentives and the ability of the natural gas storage system operator to fill the underground natural gas storage facility;
- (b) the rights and obligations of the Union with respect to a third country arising under international law, including any agreement concluded with one or more third countries to which the Union is a party and which addresses the issue of the security of energy supply;
- (c) the rights and obligations of the Member States concerned with respect to a third country arising under agreements concluded by the Member States concerned with one or more third countries, in so far as those agreements comply with Union law; or
- (d) any other specific facts and circumstances of the case.

4. If the certifying authority concludes that a person who directly or indirectly controls, or exercises any right over, the natural gas storage system operator could endanger the security of energy supply or the essential security interests of the Union or of any Member State, the certifying authority shall refuse the certification. Alternatively, the certifying authority may issue a certification decision subject to conditions to ensure the sufficient mitigation of the risks which could negatively influence the filling of the underground natural gas storage facilities, provided that the practicability of the conditions can be fully ensured by effective implementation and monitoring. Such conditions may include, in particular, a requirement that the natural gas storage system owner or natural gas storage system operator transfer management of the natural gas storage system.

5. Where the certifying authority concludes that the natural gas supply risks cannot be mitigated by conditions pursuant to paragraph 4, including by requiring the natural gas storage system owner or natural gas storage system operator to transfer management of the natural gas storage system, and therefore refuses the certification, it shall:

- (a) require the natural gas storage system owner or natural gas storage system operator or any person that it considers could endanger the security of energy supply or the essential security interests of the Union or of any Member State to dispose of the shareholding or rights they have over the natural gas storage system ownership or natural gas storage system operator ownership, and set a time limit for such disposal;
- (b) order, where appropriate, interim measures, to ensure that such a person is not able to exercise any control or right over that natural gas storage system owner or natural gas storage system operator until the disposal of the shareholding or rights; and

(c) provide for appropriate compensatory measures in accordance with national law.

6. The certifying authority shall notify the Commission of its draft certification decision without delay, together with all relevant information.

The Commission shall issue an opinion on the draft certification decision to the certifying authority within 25 working days of such notification. The certifying authority shall take the utmost account of the Commission's opinion.

7. The certifying authority shall issue the certification decision within 25 working days of receipt of the Commission's opinion.

8. Before a newly built underground natural gas storage facility is put into operation, the natural gas storage system operator shall be certified in accordance with paragraphs 1 to 7. The natural gas storage system operator shall notify the certifying authority of its intention to put the natural gas storage facility into operation.

9. Natural gas storage system operators shall notify the relevant certifying authority of any planned transaction which would require a reassessment of their compliance with the certification requirements set out in paragraphs 1 to 4.

10. Certifying authorities shall continuously monitor natural gas storage system operators as regards compliance with the certification requirements set out in paragraphs 1 to 4. They shall reopen a certification procedure to reassess compliance in any of the following circumstances:

- (a) upon receipt of a notification by the natural gas storage system operator pursuant to paragraph 8 or 9;
- (b) on their own initiative where they have knowledge that a planned change to rights or to influence over a natural gas storage system operator could lead to non-compliance with the requirements of paragraphs 1, 2 and 3;
- (c) upon the reasoned request of the Commission.

11. Member States shall take all necessary measures to ensure the continuous operation of the underground natural gas storage facilities on their respective territories. Those underground natural gas storage facilities may cease operations only where technical and safety requirements are not met or where the certifying authority concludes, after conducting an assessment and having taken into account the opinion of the European Network of Transmission System Operators for Gas (the 'ENTSO for Gas'), that such a cessation would not weaken the security of natural gas supply at Union or national level.

Appropriate compensatory measures shall be taken, where appropriate, if cessation of operations is not allowed.

12. The Commission may issue guidance relating to the application of this Article.

13. This Article shall not apply to parts of LNG facilities that are used for storage.

#### Article 16

#### **Cooperation of transmission system operators**

1. Transmission system operators shall cooperate with other transmission system and infrastructure operators in coordinating the maintenance of their respective networks in order to minimise any disruption of transmission services to network users and transmission system operators in other areas.

2. Transmission system operators shall cooperate with each other as well as with other infrastructure operators in order to maximise technical capacity within the entry-exit system and minimise energy consumption to operate the natural gas system to the extent possible.

## Section 2

**Network access**

## Article 17

**Tariffs for access to networks**

1. Tariffs, or the methodologies used to calculate them, applied by the transmission system operators and approved by the regulatory authorities pursuant to Article 78(7) of Directive (EU) 2024/1788, as well as tariffs published pursuant to Article 31(1) of that Directive, shall be transparent, take into account the need for system integrity and its improvement and reflect the actual costs incurred, insofar as such costs correspond to those of an efficient and structurally comparable network operator and are transparent, whilst including an appropriate return on investments. Tariffs, or the methodologies used to calculate them, shall be applied in a non-discriminatory manner.

Tariffs may also be determined through market-based arrangements, such as auctions, provided that such arrangements and the revenue arising therefrom are approved by the regulatory authority.

Tariffs, or the methodologies used to calculate them, shall facilitate efficient natural gas trade and competition, while at the same time avoiding cross-subsidies between network users and providing incentives for investment and maintaining or creating interoperability for transmission networks.

Tariffs for network users shall be non-discriminatory and shall be set separately for every entry point into or exit point out of the transmission system. Cost-allocation mechanisms and rate setting methodology regarding entry points and exit points shall be approved by the regulatory authorities. Regulatory authorities shall ensure that network tariffs shall not be calculated on the basis of contract paths.

2. Tariffs for network access shall neither restrict market liquidity nor distort trade across borders of different transmission systems. Where, notwithstanding Article 78(7) of Directive (EU) 2024/1788, differences in tariff structures would hamper trade across transmission systems, transmission system operators shall, in close cooperation with the relevant national authorities, actively pursue convergence of tariff structures and charging principles.

3. Until 31 December 2025, the regulatory authority may apply a discount of up to 100 % to capacity-based transmission and distribution tariffs at entry points from, and exit points to, underground natural gas storage facilities and at entry points from LNG facilities, unless and to the extent that such a storage facility which is connected to more than one transmission or distribution network is used to compete with an interconnection point.

From 1 January 2026, the regulatory authority may apply a discount of up to 100 % to capacity-based transmission and distribution tariffs at entry points from, and exit points to, underground natural gas storage facilities and at entry points from LNG facilities for the purpose of increasing security of supply. The regulatory authority shall re-examine that tariff discount and its contribution to the security of supply during every regulatory period, in the framework of the periodic consultation carried out pursuant to the network code adopted pursuant to Article 71(2), first subparagraph, point (d).

4. Regulatory authorities may merge adjacent entry-exit systems with a view to enabling full or partial regional integration where tariffs may be abolished at the interconnection points between the entry-exit systems concerned. Following the public consultations conducted by the regulatory authorities or by the transmission system operators, the regulatory authorities may approve a common tariff and an effective compensation mechanism between transmission system operators for the redistribution of costs arising from the abolition of interconnection points.

5. Member States with more than one interconnected entry-exit system, or more than one network operator within one entry-exit system, may implement a uniform network tariff with the aim of creating a level playing field for network users, provided that a network plan has been approved and a compensation mechanism between the network operators is implemented.

## Article 18

**Tariff discounts for renewable gas and low-carbon gas**

1. When setting tariffs, a discount for renewable gas and low-carbon gas shall be applied to:

- (a) entry points from renewable gas and low-carbon gas production facilities;
- (b) capacity-based transmission tariffs at entry points from and exit points to natural gas storage facilities, unless such a storage facility is connected to more than one transmission or distribution network and is used to compete with an interconnection point.

The discount pursuant to the first subparagraph, point (a), shall be set at 100 % with regard to the relevant capacity-based tariffs for the purpose of scaling-up the injection of renewable gas and a discount of 75 % to low-carbon gas.

The discount pursuant to the first subparagraph, point (b), shall be set at 100 % in the Member States where the renewable gas or low-carbon gas was first injected into the system.

2. Details on the discounts granted in accordance with paragraph 1 of this Article may be laid down in the network code on tariff structures as referred to in Article 71(2), first subparagraph, point (d).

3. By 5 August 2029 and every five years thereafter, the Commission shall re-examine the level of the discounts laid down in paragraphs 1 and 4. The Commission shall issue a report providing an overview of the implementation of the discounts and assess whether the level of those discounts is still adequate in view of the latest market developments. The Commission shall be empowered to adopt delegated acts in accordance with Article 80 to amend this Regulation by changing the level of the discounts laid down in paragraphs 1 and 4 of this Article.

4. From 5 August 2025, network users shall obtain a discount of 100 % on the capacity-based tariff from the transmission system operator at interconnection points between Member States, for renewable gas and 75 % for low-carbon gas, after providing the transmission system operator concerned with a proof of sustainability, on the basis of a valid sustainability certificate obtained for renewable gas pursuant to Articles 29 and 30 of Directive (EU) 2018/2001 and registered in the Union database referred to in Article 31a of that Directive, and for low-carbon gas on the basis of a valid certificate obtained pursuant to Article 9 of Directive (EU) 2024/1788.

With regard to the discounts referred to in the first subparagraph:

- (a) transmission system operators shall be required to provide the discount only for the shortest possible route in terms of border crossings between the location of where the specific proof of sustainability declaration, on the basis of a certificate referred to in the first subparagraph, was first recorded in the Union database and where it has been cancelled as considered consumed, provided that any potential auction premium is not covered by the discount;
- (b) transmission system operators shall provide the relevant regulatory authority with information on actual and expected volumes of renewable gas and low-carbon gas and the effect of applying the tariff discount on their revenue and regulatory authorities shall monitor and assess the impact of the discount on tariff stability;
- (c) once the revenue of a transmission system operator from those specific tariffs is reduced by 10 % as a result of applying the discount, the affected and all neighbouring transmission system operators shall negotiate an inter-transmission-system-operator compensation mechanism;
- (d) further details required to implement the discount for renewable gas and low-carbon gas, such as the calculation of the eligible capacity for which the discount applies and the required processes, shall be set in a network code established pursuant to Article 71.

The transmission system operators concerned shall agree on an inter-transmission-system-operator compensation mechanism within three years of their revenue from specific tariffs being reduced by 10 % as referred to in the second subparagraph, point (c), of this paragraph. Where, within that period, no agreement is reached, the relevant regulatory authorities shall decide jointly on an appropriate inter-transmission-system-operator compensation mechanism within two further years. In the absence of an agreement among the regulatory authorities, Article 6 of Regulation (EU) 2019/942 shall apply. Where the regulatory authorities are not able to reach an agreement within two years, or upon their joint request, ACER shall adopt an individual decision, in accordance with Article 6(10) of Regulation (EU) 2019/942.

5. By way of derogation from paragraphs 1 and 4 of this Article, regulatory authorities may decide not to apply discounts or to lay down discounts lower than those laid down in paragraphs 1 and 4 of this Article, provided that such a derogation is in line with the general tariff principles as set out in Article 17 and in particular the principle of cost-reflectiveness, where one of the following criteria is met:

- (a) the derogation is necessary for the efficient operation of the transmission system, to ensure a stable financial framework for existing investments or to avoid undue cross-subsidies, distortion to cross-border trade or an ineffective inter-transmission-system-operator compensation mechanism;
- (b) the application of discounts laid down in paragraphs 1 and 4 is not necessary due to the degree of advancement of the roll-out of renewable gas and low-carbon gas in the Member State concerned or the existence of alternative support mechanisms for scaling-up the use of renewable gas or low-carbon gas.

#### Article 19

### Revenue of transmission system operators

1. From 5 August 2025, the relevant regulatory authority shall ensure the transparency of the methodologies, parameters and values used to determine allowed or target revenue of transmission system operators. The regulatory authority shall publish the information referred to in Annex I, or shall require the publication by the relevant transmission system operator subject to the protection of data considered by the relevant regulatory authority to be commercially sensitive. That information shall be made available in a freely accessible, downloadable and read-only format and, to the extent possible, in one or more commonly understood languages.
2. The costs of the transmission system operator shall be subject to an efficiency comparison between transmission system operators. ACER shall carry out that efficiency comparison. By 5 August 2027 and every four years thereafter, ACER shall publish a study comparing the efficiency of transmission system operators' costs, subject to the protection of data considered by ACER to be commercially sensitive. The relevant regulatory authorities and the transmission system operators shall provide ACER with all the data necessary for that comparison. When periodically setting the allowed or target revenue of transmission system operators, the relevant regulatory authorities shall take into account such comparison and national circumstances.
3. The relevant regulatory authorities shall assess the long-term evolution of transmission tariffs on the basis of the expected changes to their allowed or target revenue and in natural gas demand within the relevant regulatory period, and, where available until 2050. To conduct that assessment, the regulatory authority shall include the information about the strategy described in the integrated national energy and climate plan of the Member State concerned and the scenarios underpinning the ten-year network development plan as developed in accordance with Article 55 of Directive (EU) 2024/1788.

#### Section 3

### Transmission, natural gas storage, LNG and hydrogen terminal system operation

#### Article 20

### Firm capacity for renewable gas and low-carbon gas to the transmission system

1. Transmission system operators shall ensure firm capacity for the access of production facilities of renewable gas and low-carbon gas connected to their grid. To that end, transmission system operators shall, in cooperation with the distribution system operators, develop procedures and arrangements, including investments, to ensure reverse flow from the distribution network to the transmission network. Major investments shall be reflected in the ten-year network development plan pursuant to Article 55(2), point (a), of Directive (EU) 2024/1788.
2. Paragraph 1 shall be without prejudice to the possibility for transmission system operators to develop alternatives to reverse-flow investments, such as smart grid solutions or connection to other network operators including the direct connection of production facilities of renewable gas and low-carbon gas to the transmission network. Firm capacity access may be limited to offering capacities subject to operational limitations, in order to ensure infrastructure safety and economic efficiency. The regulatory authority shall be responsible for reviewing and approving the transmission system operators' conditions for conditional capacity and shall ensure that any limitations in firm capacity or operational limitations are introduced by transmission system operators on the basis of transparent and non-discriminatory procedures and do not create undue barriers to market entry. Where the production facility bears the costs related to ensuring firm capacity, no limitation shall apply.

*Article 21***Cross-border coordination with regard to gas quality in the natural gas system**

1. Transmission system operators shall cooperate to avoid restrictions to cross-border flows due to gas quality differences at interconnection points between Member States. When so cooperating, transmission system operators shall take into account the characteristics of installations of final natural gas customers.

This Article shall not apply to hydrogen blends where the hydrogen content blended into the natural gas system exceeds 2 % by volume.

2. Member States shall ensure that diverging technical specifications, including gas quality parameters such as oxygen content and hydrogen blending in the natural gas system, are not used to restrict cross-border natural gas flows. In addition, Member States shall ensure that hydrogen blends in the natural gas system are aligned with the technical specifications acceptable to customers.

3. Where a restriction to cross-border flows due to gas quality differences cannot be avoided by the transmission system operators concerned in their standard operations, they shall inform the regulatory authorities concerned without delay. The information shall include a description and the reasons justifying any measures already taken by the transmission system operators.

4. The regulatory authorities concerned shall jointly agree, within six months of receipt of the information referred to in paragraph 3, whether to recognise the restriction.

5. As regards restrictions to cross-border flows caused by differences in hydrogen blending in the natural gas system and that are recognised pursuant to paragraph 4, transmission system operators shall accept natural gas flows with a hydrogen content at interconnection points between Member States in the natural gas system subject to paragraphs 6 to 13, and after completion of the procedure laid down therein.

6. Where the regulatory authorities concerned recognise the restriction pursuant to paragraph 4, they shall request the transmission system operators concerned to perform, within 12 months of the recognition of the restriction as referred to in that paragraph, the following actions in sequence:

- (a) to cooperate and develop technically feasible options, without changing the gas quality specifications, which may include flow commitments and natural gas treatment, in order to remove the recognised restriction taking into account information provided by final customers directly connected to the natural gas system of the transmission system operator concerned or any other stakeholder that could be affected by that procedure;
- (b) jointly to carry out a cost-benefit analysis on the technically feasible options to define economically efficient solutions which shall specify the breakdown of costs and benefits among the categories of affected parties;
- (c) to produce an estimate of the implementation time for each potential option;
- (d) to conduct a public consultation, in particular of final customers affected that are connected to the natural gas system, on identified feasible solutions and take into consideration the results of that consultation;
- (e) to submit a joint proposal, on the basis of the cost-benefit analysis and results of the public consultation, for a solution removing the recognised restriction, including the timeframe for its implementation, to their regulatory authorities concerned for approval and to the other competent national authorities of each Member State concerned for information.

7. Where the transmission system operators concerned do not reach an agreement to submit a joint proposal pursuant to paragraph 6, point (e), each transmission system operator shall inform its regulatory authority without delay.

8. The regulatory authorities concerned shall take a joint coordinated decision to remove the recognised restriction, taking into account the cost-benefit analysis carried out by the transmission system operators concerned and the results of the public consultation conducted pursuant to paragraph 6, point (d), of this Article within six months of receipt of the information referred to in paragraph 7 of this Article in accordance with Article 6(10) of Regulation (EU) 2019/942.

9. By way of derogation from paragraph 8 of this Article, for restrictions to cross-border flows caused by differences in hydrogen blending in the natural gas system, the regulatory authorities concerned may jointly declare that no further action is to be pursued to remove such restrictions. The joint coordinated decision shall be taken within six months of receipt of the information referred to in paragraph 7 of this Article in accordance with Article 6(10) of Regulation (EU) 2019/942 and shall take into account the cost-benefit analysis and the results of the public consultation conducted pursuant to paragraph 6, point (d), of this Article. The regulatory authorities concerned shall review a decision to maintain the recognised restriction pursuant to this paragraph every four years.

10. The joint coordinated decision of the regulatory authorities concerned referred to in paragraph 8 shall include a decision on the allocation of the investment costs to be borne by each transmission system operator for implementing the agreed solution, as well as their inclusion in the allowed or target revenue of transmission system operators, taking into account the economic, social and environmental costs and benefits of the solution in the Member States concerned and its consequences for tariffs.

11. ACER may issue recommendations to the regulatory authorities on the details of such cost allocation decisions as referred to in paragraph 10.

12. Where the regulatory authorities concerned cannot reach an agreement as referred to in paragraph 4 of this Article, ACER shall decide on the restriction in accordance with Article 6(10) of Regulation (EU) 2019/942. Where ACER recognises the restriction, it shall request the transmission system operators concerned to perform, within 12 months, the actions referred to in paragraph 6 of this Article in sequence.

13. Where the regulatory authorities concerned cannot take a joint coordinated decision as referred to in paragraphs 8 and 10 of this Article, ACER shall decide on the solution to remove the recognised restriction and on the allocation of the investment costs to be borne by each transmission system operator for implementing the agreed solution or stating that no further action is to be pursued pursuant to paragraph 9 of this Article, in accordance with Article 6(10) of Regulation (EU) 2019/942. A decision to maintain the recognised restriction pursuant to this paragraph shall be reviewed every four years by ACER.

14. Further details required to implement this Article, including details on the cost-benefit analysis, shall be laid down in a network code established pursuant to Article 71(2).

#### Article 22

### **Presumption of conformity of practices with harmonised standards for natural gas**

Practices which are in conformity with harmonised standards, or parts thereof, the references of which have been published in the Official Journal of the European Union shall be presumed to be in conformity with the requirements laid down in implementing acts adopted pursuant to Article 71(2), first subparagraph, point (a).

#### Article 23

### **Common specifications for biomethane**

1. The Commission may adopt implementing acts establishing common specifications for facilitating the cost-effective integration of large volumes of biomethane in the existing natural gas system, including at cross-border interconnection points, or may establish those specifications in a network code pursuant to Article 71(2), first subparagraph, point (a), where:

- (a) those requirements are not covered by harmonised standards, or parts thereof, the references of which have been published in the Official Journal of the European Union;
- (b) the Commission has requested, pursuant to Article 10(1) of Regulation (EU) No 1025/2012, one or more European standardisation organisations to draft a harmonised standard for those requirements and at least one of the following conditions has been fulfilled:
  - (i) the request of the Commission has not been accepted by any of the European standardisation organisations;
  - (ii) the Commission observes undue delays in the adoption of the requested harmonised standards;
  - (iii) a European standardisation organisation has delivered a standard that does not entirely correspond with the request of the Commission; or

- (c) the Commission has decided in accordance with the procedure referred to in Article 11(5) of Regulation (EU) No 1025/2012 to maintain with restriction or to withdraw the references to the harmonised standards, or parts thereof, by which those requirements are covered.

The implementing acts referred to in the first subparagraph of this paragraph shall be adopted in accordance with the examination procedure referred to in Article 81(3).

2. In the early preparation of the draft implementing act establishing the common specifications referred to in paragraph 1, the Commission shall gather the views of relevant bodies or expert groups established under relevant sectorial Union law, and shall duly consult all relevant stakeholders. On the basis of that consultation, the Commission shall prepare the draft implementing act.

3. Practices which are in conformity with common specifications, or parts thereof, shall be presumed to be in conformity with the requirements laid down in the implementing acts adopted pursuant to Article 71(2), first subparagraph, point (a), to the extent that those requirements are covered by such common specifications or parts thereof.

4. Where a harmonised standard is adopted by a European standardisation organisation and proposed to the Commission for the purpose of publishing its reference in the Official Journal of the European Union, the Commission shall assess the harmonised standard in accordance with Regulation (EU) No 1025/2012. When the reference of a harmonised standard is published in the Official Journal of the European Union, the Commission shall repeal implementing acts referred to in paragraph 1 of this Article, or parts thereof which cover the same requirements referred to in paragraph 1 of this Article.

5. In setting the common specifications pursuant to this Article, the Commission shall take the utmost account of the safety requirements necessary for the safe operation of the natural gas system, in particular of the safe operation of the natural gas storage facilities across the Union.

#### Article 24

### European network of transmission system operators for gas

All transmission system operators shall cooperate at Union level through the ENTSO for Gas, in order to promote the completion and proper functioning of the internal market for natural gas and cross-border trade and to ensure the optimal management, coordinated operation and sound technical evolution of the natural gas transmission network.

#### Article 25

### Organisation of the ENTSO for Gas

1. The ENTSO for Gas shall, on their own initiative or upon a reasoned request of the Commission or ACER, publish and submit to the Commission and to ACER any draft amendment to the statutes, list of members or rules of procedure, including the rules of procedure on the consultation of other stakeholders, of the ENTSO for Gas.

2. Within four months of receipt of the documents referred to in paragraph 1, ACER shall, after formally consulting the organisations representing all stakeholders, in particular the system users including customers, provide an opinion to the Commission on the draft amendment to the statutes, list of members and rules of procedure of the ENTSO for Gas.

3. The Commission shall issue an opinion on the draft amendment to the statutes, list of members and rules of procedure of the ENTSO for Gas, taking into account ACER's opinion referred to in paragraph 2, within three months of the date of receipt of that opinion.

4. Within three months of receipt of the Commission's favourable opinion, the ENTSO for Gas shall adopt and publish the revised statutes, list of members and rules of procedure of the ENTSO for Gas.

#### Article 26

### Tasks of the ENTSO for Gas

1. The ENTSO for Gas shall elaborate network codes in the areas referred to in Article 71(1) and (2) upon a request addressed to it by the Commission in accordance with Article 71(9).



The network code referred to in Article 71(2), first subparagraph, point (d), shall be developed jointly with the ENNOH.

2. The ENTSO for Gas may elaborate network codes in the areas set out in Article 71(1) and (2) with a view to achieving the objectives set out in Article 24, where those network codes do not relate to areas covered by a request addressed to it by the Commission. Those network codes shall be submitted to ACER for an opinion. That opinion shall be duly taken into account by the ENTSO for Gas.

3. The ENTSO for Gas shall adopt:

- (a) common network operation tools to ensure the coordination of network operation in normal and emergency conditions, including a common incidents classification scale, and research plans;
- (b) a non-binding Union-wide ten-year network development plan for natural gas referred to in Article 32 (the 'Union-wide network development plan for natural gas'), including a European supply adequacy outlook, every two years;
- (c) recommendations relating to the coordination of technical cooperation between Union and third-country transmission system operators;
- (d) recommendations to transmission system operators on their technical cooperation with distribution system operators and hydrogen network operators;
- (e) an annual work programme;
- (f) an annual report;
- (g) annual summer and winter supply outlooks;
- (h) a gas quality monitoring report by 1 January 2025 and every two years thereafter, including developments of gas quality parameters, developments of the level and volume of hydrogen blended into the natural gas system, forecasts for the expected development of gas quality parameters and of the volume of hydrogen blended into the natural gas system, the impact of blending hydrogen on cross-border flows as well as information on cases related to differences in gas quality specifications or in specifications of blending levels and how such cases were settled, with a view to meeting the quality requirements of different end-use applications;
- (i) an annual report including the quantity of renewable gas and low-carbon gas injected into the natural gas network.

The gas quality monitoring report referred to in the first subparagraph, point (h) shall also cover the development for the areas listed in that point, as far as relevant for the distribution network, on the basis of information provided by the European entity for distribution system operators (the 'EU DSO entity') established pursuant to Article 52(1) of Regulation (EU) 2019/943 of the European Parliament and of the Council <sup>(39)</sup>.

4. The European supply adequacy outlook referred to in paragraph 3, point (b), shall cover the overall adequacy of the natural gas system to supply current and planned demands for natural gas for the next five-year period as well as for the period between five and 10 years from the date of that outlook. The European supply adequacy outlook shall build on national supply outlooks prepared by each individual transmission system operator. The European supply adequacy outlook shall specifically provide for monitoring of progress on the annual production of sustainable biomethane.

Where both the European supply adequacy outlook and the final updated integrated national energy and climate plans show that the annual production is not sufficiently progressing or that the natural gas consumption is not sufficiently decreasing in view of the available potential, the Commission may issue recommendations to the Member States, if necessary to achieve the objectives of the Energy Union, pursuant to Article 34 of Regulation (EU) 2018/1999.

<sup>(39)</sup> Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (OJ L 158, 14.6.2019, p. 54).

The Union-wide network development plan for natural gas shall include the modelling of the integrated network, including hydrogen networks, scenario development, a European supply adequacy outlook and an assessment of the resilience of the system. That plan shall promote the energy efficiency first principle and energy system integration.

5. The annual work programme referred to in paragraph 3, point (e), shall contain a list and description of the network codes to be prepared, a plan on the coordination of the operation of the network, and a list of research and development activities, to be realised in the course of that year, and an indicative calendar.
6. The network codes shall be developed for cross-border network issues and market integration issues and shall be without prejudice to the Member States' right to establish national network codes which do not affect cross-border trade.
7. The ENTSO for Gas shall monitor and analyse the implementation of the network codes and the guidelines adopted by the Commission in accordance with Article 71(13) or Article 74, and their effect on the harmonisation of applicable rules aimed at facilitating market integration. The ENTSO for Gas shall report its findings to ACER and shall include the results of the analysis in the annual report referred to in paragraph 3, point (f), of this Article.
8. The ENTSO for Gas shall make available all information required by ACER to fulfil its tasks under Article 27(1).
9. ACER shall review national ten-year network development plans to assess their consistency with the Union-wide network development plan for natural gas. If ACER identifies inconsistencies between a national ten-year network development plan and the Union-wide network development plan for natural gas, it shall recommend amending the national ten-year network development plan or the Union-wide network development plan for natural gas as appropriate. If such national ten-year network development plan is elaborated in accordance with Article 55 of Directive (EU) 2024/1788, ACER shall recommend that the relevant regulatory authority amend the national ten-year network development plan in accordance with Article 55(5) of that Directive and inform the Commission thereof.
10. Upon request of the Commission, the ENTSO for Gas shall give its views to the Commission on the adoption of the guidelines as laid down in Article 74.
11. The ENTSO for Gas shall cooperate with the European Network of Transmission System Operators for Electricity (the 'ENTSO for Electricity') and with the ENNOH.

#### Article 27

#### **ACER's monitoring of the ENTSO for Gas**

1. ACER shall monitor the execution of the tasks of the ENTSO for Gas referred to in Article 26(1), (2) and (3) and report its findings to the Commission.

ACER shall monitor the implementation by the ENTSO for Gas of network codes elaborated pursuant to Article 26(2) and network codes which have been developed in accordance with Article 71(1) to (12) but which have not been adopted by the Commission pursuant to Article 71(13). Where the ENTSO for Gas has failed to implement such network codes, ACER shall request the ENTSO for Gas to provide a duly reasoned explanation as to why it has failed to do so. ACER shall inform the Commission of that explanation and provide its opinion thereon.

ACER shall monitor and analyse the implementation of the network codes and the guidelines adopted by the Commission as laid down in Articles 70, 71, 73 and 74, and their effect on the harmonisation of applicable rules aimed at facilitating market and energy system integration as well as on non-discrimination, effective competition and the proper functioning of the market, and report to the Commission.

2. The ENTSO for Gas shall submit the draft Union-wide network development plan for natural gas, the draft annual work programme, including the information regarding the consultation process, and the other documents referred to in Article 26(3), to ACER for its opinion.

Within two months of the date of receipt, ACER shall provide a duly reasoned opinion as well as recommendations to the ENTSO for Gas and to the Commission where it considers that the draft annual work programme or the draft Union-wide network development plan for natural gas submitted by the ENTSO for Gas does not contribute to non-discrimination, effective competition, the proper functioning of the market or a sufficient level of cross-border interconnection open to third-party access. The ENTSO for Gas shall duly take into account ACER's opinion and recommendations.

*Article 28***Regulatory authorities**

When carrying out their duties and exercising their powers under this Regulation, the regulatory authorities shall ensure compliance with this Regulation, the network codes and the guidelines adopted pursuant to Articles 70 to 74.

Where appropriate, they shall cooperate with each other, with the Commission and ACER pursuant to Chapter V of Directive (EU) 2024/1788.

*Article 29***Consultations by the ENTSO for Gas**

1. While preparing the network codes, the draft Union-wide network development plan for natural gas and the annual work programme referred to in Article 26(1), (2) and (3), the ENTSO for Gas shall conduct an extensive public consultation process, at an early stage and in an open and transparent manner, involving all relevant market participants, and, in particular, the organisations representing all stakeholders, in accordance with the rules of procedure referred to in Article 25(1). That consultation shall also involve regulatory authorities and other national authorities, supply and production undertakings, network users including customers, distribution system operators, including relevant industry associations, technical bodies and stakeholder platforms. The ENTSO for Gas shall publish drafts of the network codes, the Union-wide network development plan for natural gas and the annual work programme for comments by the stakeholders and provide sufficient time for them to participate in the consultation process effectively. The aim of that consultation is to identify the views and proposals of the relevant stakeholders during the decision-making process.

2. All documents and minutes of meetings related to the consultations referred to in paragraph 1 shall be made public.

3. Before adopting the annual work programme and the network codes referred to in Article 26(1), (2) and (3), the ENTSO for Gas shall indicate how the observations received during the consultation have been taken into consideration. It shall provide reasons where observations have not been taken into account.

*Article 30***Costs of the ENTSO for Gas**

The costs related to the activities of the ENTSO for Gas referred to in Articles 24, 25, 26, 70 and 71 of this Regulation, and in Article 11 of Regulation (EU) 2022/869, shall be borne by the transmission system operators and shall be taken into account in the calculation of tariffs. Regulatory authorities shall approve those costs provided that they are reasonable and appropriate.

*Article 31***Regional cooperation of transmission system operators**

1. Transmission system operators shall establish regional cooperation within the ENTSO for Gas to contribute to the tasks referred to in Article 26(1), (2) and (3).

2. Transmission system operators shall promote operational arrangements in order to ensure the optimum management of the network and shall promote the development of energy exchanges, the coordinated allocation of cross-border capacity through non-discriminatory market-based solutions, paying due attention to the specific merits of implicit auctions for short-term allocations and the integration of balancing mechanisms.

3. For the purposes of achieving the objectives set out in paragraphs 1 and 2 of this Article, the Commission is empowered to adopt delegated acts in accordance with Article 80 to supplement this Regulation by establishing the definition of the geographical area covered by each regional cooperation structure, taking into account existing regional cooperation structures. Each Member State shall be allowed to promote cooperation in more than one geographical area.

For the purpose of drawing up the delegated acts referred to in the first subparagraph, the Commission shall consult ACER and the ENTSO for Gas.

*Article 32***Union-wide network development plan for natural gas**

The ENTSO for Gas shall adopt and publish the Union-wide network development plan for natural gas every two years. The Union-wide network development plan for natural gas shall include the modelling of the integrated network, scenario development, a European supply adequacy outlook and an assessment of the resilience of the system, including infrastructure to be decommissioned.

The Union-wide network development plan for natural gas shall, in particular:

- (a) build on national investment plans and Chapter IV of Regulation (EU) 2022/869;
- (b) regarding cross-border interconnections, also build on the reasonable needs of different network users and integrate long-term commitments from investors as referred to in Article 55(7) of Directive (EU) 2024/1788; and
- (c) identify investment gaps, in particular with respect to cross-border capacities.

With regard to the second paragraph, point (c), a review of barriers to the increase of cross-border capacity of the network arising from different approval procedures or practices may be annexed to the Union-wide network development plan for natural gas.

*Article 33***Transparency requirements concerning transmission system operators**

1. The transmission system operator shall make public detailed information regarding the capacity and services it offers and the relevant conditions applied, together with the technical information necessary for network users to obtain effective network access.
2. In order to ensure transparent, objective and non-discriminatory tariffs and facilitate efficient utilisation of the natural gas network, transmission system operators or relevant regulatory authorities shall publish reasonably and sufficiently detailed information on tariff derivation, methodology and structure.
3. For the services provided, each transmission system operator shall make public information on technical, contracted and available capacities on a numerical basis for all relevant points including entry and exit points on a regular and rolling basis and in a user-friendly and standardised manner in accordance with the guidelines laid down in Annex I.
4. The relevant points of a transmission system on which the information is to be made public shall be approved by the competent authorities after consultation with network users.
5. The transmission system operator shall always disclose the information required by this Regulation in a meaningful, quantifiably clear, easily accessible and non-discriminatory manner.
6. The transmission system operator shall make public ex ante and ex post supply and demand information, on the basis of nominations and allocations, forecasts and realised flows in and out of the system. The regulatory authority shall ensure that all such information is made public. The level of detail of the information that is made public shall reflect the information available to the transmission system operator.

The transmission system operator shall make public measures taken as well as costs incurred and revenue generated to balance the system.

The market participants concerned shall provide the transmission system operator with the data referred to in this Article.

7. The transmission system operators shall make public detailed information regarding the quality of natural gas transported in their networks, which might affect network users, pursuant to Articles 16 and 17 of Regulation (EU) 2015/703.

*Article 34***Transparency requirements concerning natural gas storage facilities, hydrogen storage facilities, LNG facilities and hydrogen terminals**

1. LNG system operators, natural gas storage system operators, hydrogen terminal operators and hydrogen storage operators shall make public detailed information regarding all services they offer and the relevant conditions applied, together with the technical information necessary for users of LNG facility, natural gas storage facility, hydrogen storage facility and hydrogen terminal to obtain effective access to the LNG facilities, natural gas storage facilities, hydrogen storage facilities and hydrogen terminals. Regulatory authorities may request those operators to make public any additional relevant information for system users.
2. LNG system operators shall provide user-friendly instruments for calculating tariffs for the services available.
3. For the services provided, LNG system operators, natural gas storage system operators, hydrogen terminal operators and hydrogen storage operators shall make public information on contracted and available LNG facility, natural gas storage facility, hydrogen storage facility and hydrogen terminal capacities on a numerical basis on a regular and rolling basis and in a user-friendly standardised manner.
4. LNG system operators, natural gas storage system operators, hydrogen terminal operators and hydrogen storage operators shall disclose the information required by this Regulation in a meaningful, quantifiably clear, easily accessible and non-discriminatory manner.
5. LNG system operators, natural gas storage system operators, hydrogen terminal operators and hydrogen storage operators shall make public the amount of natural gas or hydrogen in each LNG facility, natural gas storage facility, hydrogen storage facility and hydrogen terminal, or group of storage facilities if that corresponds to the way in which the access is offered to system users, inflows and outflows, and the available LNG facility, natural gas storage facility, hydrogen storage facility and hydrogen terminal capacities, including for those facilities exempted from third-party access. That information shall also be communicated to the transmission system operator or to the hydrogen network operator for hydrogen storage and terminals, which shall make it public on an aggregated level per system or subsystem defined by the relevant points. The information shall be updated at least daily.

Where a natural gas or hydrogen storage facility user is the only user of a natural gas storage facility or hydrogen storage facility, the natural gas or hydrogen storage system user may submit to the regulatory authority a reasoned request for confidential treatment of the data referred to in the first subparagraph. Where the regulatory authority comes to the conclusion that such a request is justified, taking into account, in particular, the need to balance the interest of legitimate protection of business secrets, the disclosure of which would negatively affect the overall commercial strategy of the storage user, with the objective of creating competitive internal markets for natural gas and hydrogen, it may allow the natural gas storage system operator or hydrogen storage operator not to make public the data referred to in the first subparagraph, for a duration of up to one year.

The second subparagraph shall apply without prejudice to the obligations referred to in the first subparagraph, unless the aggregated data are identical to the individual natural gas or hydrogen storage system data for which the regulatory authority has approved non-publication.

6. In order to ensure transparent, objective and non-discriminatory tariffs and facilitate efficient utilisation of the infrastructures, the LNG system operators, natural gas storage system operators, hydrogen terminal operators and hydrogen storage operators or relevant regulatory authorities shall make public sufficiently detailed information on tariff derivation, the methodologies and the structure of tariffs for infrastructure under regulated third-party access. LNG facilities that have been granted an exemption, pursuant to Article 78 of this Regulation, Article 22 of Directive 2003/55/EC and Article 36 of Directive 2009/73/EC, and natural gas storage system operators under the negotiated third-party access regime shall make public tariffs for infrastructure in order to ensure a sufficient degree of transparency.

LNG system operators and natural gas storage system operators shall each publish in a transparent, continuous and user-friendly manner the information required pursuant to this Article on a single European platform that shall be maintained by those operators.

*Article 35***Record keeping by system operators**

Transmission system operators, natural gas storage system operators and LNG system operators shall keep at the disposal of the national authorities, including the regulatory authorities and the national competition authorities, and the Commission, all information referred to in Articles 33 and 34 and in point 3 of Annex I for a period of five years.

*Section 4***Distribution system operation***Article 36***Firm capacity for renewable gas and low-carbon gas to the distribution system**

1. Distribution system operators shall ensure firm capacity for the access of the production facilities of renewable gas and low-carbon gas connected to their grid. To that end, distribution system operators shall in cooperation among themselves and with the transmission system operators, develop procedures and arrangements, including investments, to ensure reverse flow from the distribution network to the transmission network. Major investments in the natural gas transmission network resulting from the need for additional capacities in the distribution network shall be reflected in the ten-year network development plan in accordance with Article 55(2), point (a), of Directive (EU) 2024/1788.

2. Paragraph 1 shall be without prejudice to the possibility for distribution system operators to develop alternatives to reverse-flow investments, such as smart grid solutions or connection to other network operators. Firm capacity access may be limited to offering capacities subject to operational limitations, in order to ensure infrastructure safety and economic efficiency. The regulatory authority shall ensure that any limitations in firm capacity or operational limitations are introduced by distribution system operators on the basis of transparent and non-discriminatory procedures and do not create undue barriers to market entry. Where the production facility bears the costs related to ensuring firm capacity, no limitation shall apply.

*Article 37***Cooperation between distribution system operators and transmission system operators**

Distribution system operators shall cooperate with other distribution system operators and transmission system operators to coordinate the maintenance, system development, new connections, decommissioning and the operation of the system to ensure system integrity, with a view to maximising capacity and minimising the use of fuel gas.

*Article 38***Transparency requirements concerning distribution system operators**

Where distribution system operators are responsible for gas quality management in their networks, they shall make public detailed information regarding the quality of natural gas transported in their networks, which might affect network users, pursuant to Articles 16 and 17 of Regulation (EU) 2015/703.

*Article 39***European entity for distribution system operators**

Distribution system operators operating a natural gas system shall and hydrogen distribution network operators operating a hydrogen network may cooperate at Union level through the EU DSO entity, in order to promote the completion and proper functioning of the internal market for natural gas, cooperate in the development of the hydrogen market and promote optimal management and a coordinated operation of distribution and transmission systems.

Registered members may participate in the EU DSO entity directly or be represented by a national association designated by a Member State or by a Union-level association.

The costs related to the activities of the EU DSO entity shall be borne by the distribution system operators and hydrogen distribution network operators that are registered members and shall be taken into account in the calculation of tariffs. Regulatory authorities shall approve costs provided that they are reasonable and proportionate and provide reasons where they are not approved.

#### Article 40

##### **Changes to the principal rules and procedures for the EU DSO entity**

1. The principal rules and procedures for the EU DSO entity pursuant to Article 54 of Regulation (EU) 2019/943 shall also apply to distribution system operators operating a natural gas system and hydrogen distribution network operators.
2. The Strategic Advisory Group referred to in Article 54(2), point (f), of Regulation (EU) 2019/943 shall also consist of representatives of associations representing European distribution system operators operating a natural gas system or European hydrogen distribution network operators.
3. By 5 August 2025, the EU DSO entity shall submit to the Commission and to ACER draft updated statutes, including a code of conduct, a list of registered members, draft updated rules of procedure, including rules of procedure on the consultation with the ENTSO for Electricity, the ENTSO for Gas and other stakeholders, and draft updated financing rules.

The draft updated rules of procedure of the EU DSO entity shall ensure fair and balanced representation of all participating distribution system operators, including those owning or operating natural gas systems, and of hydrogen distribution network operators.

4. Within four months of receipt of the documents submitted pursuant to paragraph 3, ACER shall provide the Commission with its opinion, after consulting organisations representing all stakeholders, in particular distribution system users, including customers.
5. Within three months of receipt of ACER's opinion, the Commission shall issue an opinion on the documents submitted pursuant to paragraph 3, taking into account ACER's opinion referred to in paragraph 4.
6. Within three months of receipt of the Commission's positive opinion, the distribution system operators shall adopt and publish the EU DSO's updated statutes, rules of procedure and financing rules.
7. The documents referred to in paragraph 3 shall be submitted to the Commission and to ACER where there are changes thereto or upon the reasoned request of either of them. The Commission and ACER may issue an opinion in accordance with the process laid down in paragraphs 3, 4 and 5.

#### Article 41

##### **Additional tasks of the EU DSO entity**

1. The EU DSO entity shall exercise the tasks listed in Article 55(1), points (a) to (e), of Regulation (EU) 2019/943 and undertake the activities listed in Article 55(2), points (c), (d) and (e), of that Regulation also as regards distribution systems for natural gas or hydrogen distribution networks.
2. In addition to the tasks listed in Article 55(1) of Regulation (EU) 2019/943, the EU DSO entity shall participate in the development of network codes which are relevant to the operation and planning of distribution grids and the coordinated operation of the transmission networks and distribution networks pursuant to this Regulation and contribute to mitigating fugitive methane emissions from the natural gas system.

When participating in the development of new network codes pursuant to Article 71 of this Regulation, the EU DSO entity shall comply with the consultation requirements as laid down in Article 56 of Regulation (EU) 2019/943.

3. In addition to the activities listed in Article 55(2) of Regulation (EU) 2019/943, the EU DSO entity shall:
  - (a) cooperate with the ENTSO for Gas and the ENNOH on the monitoring of the implementation of the network codes and guidelines adopted pursuant to this Regulation which are relevant to the operation and planning of distribution grids for natural gas and hydrogen and the coordinated operation of the transmission networks and distribution networks and the hydrogen transmission networks and distribution networks;

- (b) cooperate with the ENTSO for Gas and the ENNOH and adopt best practices on the coordinated operation and planning of transmission and distribution systems and hydrogen transmission and distribution networks including issues such as the exchange of data between operators and the coordination of distributed energy resources;
- (c) work on identifying best practices for the implementation of the results of the assessments pursuant to Article 23(1b) of Directive (EU) 2018/2001 and Article 25 of Directive (EU) 2023/1791 and for the cooperation between operators of electricity distribution systems, of natural gas distribution systems, of hydrogen distribution networks and of district heating and cooling systems including for the purpose of the assessment pursuant to Article 24(8) of Directive (EU) 2018/2001, including recommendations for the appropriate placement of electrolysers with a view to ensuring the use of waste heat in district heating network.
4. The EU DSO entity shall provide input to the ENTSO for Gas for its reporting on gas quality, with regard to the distribution systems where distribution system operators are responsible for gas quality management, as referred to in Article 26(3).
5. The EU DSO entity shall provide input to the ENNOH for the hydrogen quality monitoring report to be adopted pursuant to Article 59(1), point (j), of this Regulation with regard to the hydrogen distribution networks where hydrogen distribution network operators are responsible for hydrogen quality management pursuant to Article 50 of Directive (EU) 2024/1788.

## Section 5

### **Demand aggregation and the joint purchasing of natural gas, and mechanism to support the market development of hydrogen**

#### *Article 42*

#### **Mechanism for demand aggregation and the joint purchasing of natural gas**

The Commission shall establish a mechanism for voluntary demand aggregation and the joint purchasing of natural gas pursuant to Articles 43 to 49.

#### *Article 43*

#### **Contract with a service provider**

1. By way of derogation from Article 176 of Regulation (EU, Euratom) 2018/1046, the Commission may contract the necessary services of an entity or entities established in the Union through the relevant procurement procedures under Regulation (EU, Euratom) 2018/1046, in order to implement the objective laid down in Article 42 of this Regulation.
2. Where the Commission selects a service provider, it shall do so on the basis of criteria that safeguard the integrity of the internal market, that ensure competition and security of supply, and that comply with Article 44. The Commission shall specify the requirements applicable to the service provider in the relevant tender specifications.

#### *Article 44*

#### **Criteria for selecting the service provider**

1. The service provider shall be selected by the Commission among entities complying with the following eligibility criteria:
- (a) the service provider shall be established and have its operational seat in the territory of a Member State;
- (b) the service provider and its subcontractors shall not be:
- (i) subject to Union restrictive measures adopted pursuant to Article 29 TEU or Article 215 TFEU, consisting of a prohibition to make available or transfer funds or economic resources or to provide financing or financial assistance to them directly or indirectly, or of an asset freeze; or



(ii) directly or indirectly owned or controlled by, or acting on behalf or at the direction of natural or legal persons, entities or bodies subject to such Union restrictive measures.

2. Without prejudice to other due diligence obligations, contractual obligations between the Commission and the service providers shall be put in place to ensure that the service provider when carrying out its tasks under Article 45 does not make any funds or economic resources available, directly or indirectly, to or for the benefit of natural or legal persons, entities or bodies:

- (a) subject to Union restrictive measures adopted pursuant to Article 29 TEU or Article 215 TFEU, consisting of a prohibition to make available or transfer funds or economic resources or to provide financing or financial assistance to them directly or indirectly, or of an asset freeze; or
- (b) directly or indirectly owned or controlled by, or acting on behalf or at the direction of natural or legal persons, entities or bodies subject to such Union restrictive measures.

3. The service provider shall not be part of a vertically integrated undertaking, except for an entity unbundled in accordance with Chapter IX of Directive (EU) 2024/1788.

#### Article 45

#### **Tasks of the service provider**

1. The service provider shall organise the tasks of demand aggregation and the joint purchasing of natural gas. In particular, but not exclusively, the service provider may implement the following elements:

- (a) assessment and aggregation of demand of natural gas undertakings and undertakings consuming natural gas;
- (b) collection of offers from natural gas suppliers or producers in order to match such offers with the aggregated demand;
- (c) allocation of supply offers to participants in demand aggregation, taking into account a proportionate distribution between smaller and larger participants depending on the volumes of demand submitted;
- (d) provide any related ancillary services, including services to facilitate the conclusion of contracts for the purchase of natural gas.

#### Article 46

#### **Participation in the mechanism for demand aggregation and the joint purchasing of natural gas**

1. Participation in the mechanism for demand aggregation and the joint purchasing of natural gas shall be open to natural gas undertakings and undertakings consuming natural gas established in the Union on a non-discriminatory basis. Such undertakings shall be precluded from participating as suppliers, producers and purchasers, if they are:

- (a) subject to Union restrictive measures adopted pursuant to Article 29 TEU or Article 215 TFEU, consisting of a prohibition to make available or transfer funds or economic resources or to provide financing or financial assistance to them directly or indirectly, or of an asset freeze; or
- (b) directly or indirectly owned or controlled by, or acting on behalf or at the direction of natural or legal persons, entities or bodies subject to such Union restrictive measures.

2. Contractual obligations shall be put in place to ensure that no funds or economic resources are made available, directly or indirectly, to or for the benefit of natural or legal persons, entities or bodies, which are:

- (a) subject to Union restrictive measures adopted pursuant to Article 29 TEU or Article 215 TFEU, consisting of a prohibition to make available or transfer funds or economic resources or to provide financing or financial assistance to them directly or indirectly, or of an asset freeze; or
  - (b) directly or indirectly owned or controlled by, or acting on behalf or at the direction of natural or legal persons, entities or bodies subject to such Union restrictive measures.
3. Natural gas undertakings and undertakings consuming natural gas established in the Energy Community Contracting Parties may participate in the mechanism for demand aggregation and the joint purchasing of natural gas provided that the necessary measures or arrangements are in place to allow their participation in the mechanism for demand aggregation and the joint purchasing of natural gas pursuant to this Section.
4. Natural gas undertakings and undertakings consuming natural gas participating in demand aggregation may, on a transparent basis, coordinate elements of the conditions of the purchase contract or use joint purchase contracts in order to achieve better conditions with their suppliers, provided that they comply with Union law, including Union competition law, in particular Articles 101 and 102 TFEU.
5. Participants in the mechanism for demand aggregation and the joint purchasing of natural gas shall report to the Commission or the relevant service provider, as appropriate, the following elements of the concluded contracts:
- (a) volume;
  - (b) counterparts;
  - (c) duration.
6. Participants in the mechanism for demand aggregation and the joint purchasing of natural gas may report to the Commission or the relevant service provider, as appropriate, if matching and tendering did not result in the conclusion of a supply contract.
7. The recipient of the information reported under paragraphs 5 and 6 shall ensure that access to confidential information is strictly limited to the service provider and to Commission services for whom it is absolutely necessary to have the information available. Such information shall be handled with due confidentiality.

#### *Article 47*

### **Temporary limitation of participation in the mechanism for demand aggregation and the joint purchasing of natural gas**

1. In order to protect the essential security interests of the Union and of its Member States, and in the interest of safeguarding security of supply, natural gas supplies originating in, and LNG supplies from LNG facilities located in, the Russian Federation or Belarus shall not be offered through the mechanism for demand aggregation and the joint purchasing of natural gas until 31 December 2025.
2. The exclusion referred to in paragraph 1 shall apply to all LNG supplies originating in any LNG facility located in the Russian Federation or Belarus and natural gas supplies entering the Member States or Energy Community Contracting Parties through the following entry points:
  - (a) Greifswald;
  - (b) Lubmin II;
  - (c) Imatra;
  - (d) Narva;
  - (e) Värskä;
  - (f) Luhamaa;

- (g) Šakiai;
- (h) Kotlovka;
- (i) Kondratki;
- (j) Wysokoje;
- (k) Tietierowka;
- (l) Mozyr;
- (m) Kobryń;
- (n) Sudzha (RU)/(UA);
- (o) Belgorod (RU)/(UA);
- (p) Valuyki (RU)/(UA);
- (q) Serebryanka (RU)/(UA);
- (r) Pisarevka (RU)/(UA);
- (s) Sokhranovka (RU)/(UA);
- (t) Prokhorovka (RU)/(UA);
- (u) Platovo (RU)/(UA);
- (v) Strandzha 2 (BG)/Malkoclar (TR).

*Article 48*

**Possibility to limit the participation in the mechanism for demand aggregation and the joint purchasing of natural gas**

1. From 1 January 2026, the Commission may decide, by means of an implementing act, to temporarily exclude natural gas originating in, or LNG supplies from LNG facilities located in, the Russian Federation or Belarus from the participation in the mechanism for demand aggregation and the joint purchasing of natural gas, where that is necessary to protect the essential security interests or the security of supply of the Union or of a Member State, provided that such measures:

- (a) do not unduly disrupt the proper functioning of the internal market for natural gas and cross-border flows of natural gas between Member States, and do not undermine the security of supply of the Union or of a Member State;
- (b) respect the principle of energy solidarity;
- (c) are taken in accordance with the rights and obligations of the Union or of the Member States with respect to third countries.

2. Sufficiently in advance of the first tendering round in 2026, the Commission shall assess whether all the conditions laid down in paragraph 1 are met with the view to deciding on any measures referred to therein. Any such decision shall be valid for a period of up to one year and may be renewed if justified.

The Commission shall continuously assess whether the conditions laid down in paragraph 1 are met and shall keep the European Parliament and the Council duly informed about its assessments, including the assessment referred to in the first subparagraph of this paragraph.

3. Taking into account the need to ensure the security of supply of the Union, the measures taken by the Commission pursuant to paragraph 1 may be aimed at diversifying natural gas or LNG supplies with a view to reducing dependence on Russian natural gas, where it can be demonstrated that such measures are necessary to protect the essential security interests of the Union and of the Member States.

4. Decisions referred to in paragraph 1 shall contain a list of:

(a) all entry points from the Russian Federation or Belarus or other third countries serving as transit countries which shall not be used to deliver natural gas supplies subject to demand aggregation and joint purchasing; and

(b) all LNG facilities located in the Russian Federation or Belarus.

Natural gas suppliers or producers participating in the mechanism for demand aggregation and joint purchasing of natural gas shall provide assurance on the compliance with Article 47 and the decisions adopted pursuant to paragraph 1 of this Article.

5. The Commission shall take appropriate measures to ensure the effective application of this Article and of Article 47 and may require from natural gas suppliers or producers participating in the mechanism for demand aggregation and the joint purchasing of natural gas all the necessary information to assist it in that task, including the submission to the purchasers of the relevant shipping documents when delivering the natural gas supplies, where technically feasible.

#### *Article 49*

### **Steering Board**

1. In order to facilitate coordination and information exchange in relation to the mechanism for demand aggregation and the joint purchasing of natural gas, the Commission shall be assisted by a Steering Board.

2. The Steering Board shall be composed of representatives of Member States and one representative of the Commission. The participation of Member States shall be voluntary and depends in particular upon the agenda of the Steering Board's meetings. The representatives of the Energy Community Contracting Parties may participate in the Steering Board upon invitation of the Commission on all matters of mutual concern. The Commission shall chair the Steering Board.

#### *Article 50*

### **Guarantees**

Member States, in respect of participants established in their territories, or other relevant stakeholders may provide liquidity support, including guarantees, to participants in the mechanism for demand aggregation and the joint purchasing of natural gas, in accordance with State aid rules where applicable, in particular where the competent authority of the relevant Member State has declared one of the crisis levels referred to in Article 11(1) of Regulation (EU) 2017/1938.

#### *Article 51*

### **Reporting**

The Commission shall regularly report to the Steering Board and submit an annual report to the European Parliament and to the Council on the functioning of the mechanism for demand aggregation and the joint purchasing of natural gas.

The information provided in the report shall include at least:

(a) information on the number of natural gas undertakings and volumes of natural gas participating in the mechanism for demand aggregation and the joint purchasing of natural gas;

(b) information on the number of contracts concluded and the resulting volumes of natural gas respectively contracted and delivered to the Union;

- (c) a description of the applicable rules in tendering rounds to participants in demand aggregation and natural gas suppliers or producers;
- (d) an overview of the overall cost of the mechanism for demand aggregation and the joint purchasing of natural gas, including the expenses incurred for the service provider;
- (e) any major development of the functioning of the mechanism for demand aggregation and the joint purchasing of natural gas.

#### Article 52

### **Mechanism to support the market development of hydrogen**

1. The Commission may establish a mechanism to support the market development of hydrogen including the elements specified in paragraph 2 to be implemented under the activities of the European Hydrogen Bank. That voluntary mechanism may be in place until 31 December 2029.
2. The Commission may contract the relevant service provider, applying by analogy the procedure set out in Articles 43 and 44, for the implementation, in particular, but not exclusively, of the following elements:
  - (a) collection and processing of market data on, for instance, availability of infrastructure or development of hydrogen flows and prices, to increase the transparency of the market development of hydrogen;
  - (b) collection and assessment of demand from off-takers;
  - (c) collection of offers for hydrogen from suppliers;
  - (d) access to relevant and necessary information collected pursuant to this paragraph to suppliers and off-takers, subject to their consent and pursuant to Union competition rules.
3. In order to contribute to the decarbonisation objectives laid down in this Regulation, Member States may ensure liquidity support, including guarantees, for hydrogen under the activities of the European Hydrogen Bank and in accordance with State aid rules where applicable.
4. Coordination and information exchange in relation to the mechanism referred to in paragraph 1 may be facilitated by the relevant coordination group separate from expert groups dedicated to natural gas.

In the case of hydrogen, such coordination group shall be established and it shall carry out its activities under those of the European Hydrogen Bank.

5. Prior to the expiry of the mechanism referred to in paragraph 1, the Commission shall submit a report to the European Parliament and to the Council assessing the performance of that mechanism. In particular, the Commission shall assess the contribution of that mechanism to the development of the hydrogen market in the Union.

Where appropriate, that assessment may be accompanied by a legislative proposal to develop a mechanism for voluntary demand aggregation and the joint purchasing of hydrogen.

#### Article 53

### **Participation in the mechanism to support the market development of hydrogen**

1. Participation in the mechanism to support the market development of hydrogen shall be open to hydrogen undertakings and undertakings consuming hydrogen established in the Union on a non-discriminatory basis. Such undertakings shall be precluded from participating as suppliers and off-takers if they are:
  - (a) subject to Union restrictive measures adopted pursuant to Article 29 TEU or Article 215 TFEU, consisting of a prohibition to make available or transfer funds or economic resources or to provide financing or financial assistance to them directly or indirectly, or of an asset freeze; or

- (b) directly or indirectly owned or controlled by, or acting on behalf or at the direction of natural or legal persons, entities or bodies subject to such Union restrictive measures.
2. Contractual obligations shall be put in place to ensure that no funds or economic resources are made available, directly or indirectly, to or for the benefit of natural or legal persons, entities or bodies which are:
- (a) subject to Union restrictive measures adopted pursuant to Article 29 TEU or Article 215 TFEU, consisting of a prohibition to make available or transfer funds or economic resources or to provide financing or financial assistance to them directly or indirectly, or of an asset freeze; or
  - (b) directly or indirectly owned or controlled by, or acting on behalf or at the direction of natural or legal persons, entities or bodies subject to such Union restrictive measures.
3. Hydrogen undertakings and undertakings consuming hydrogen established in the Energy Community Contracting Parties may participate in the mechanism to support the market development of hydrogen provided that the necessary measures or arrangements are in place to allow their participation in the mechanism to support the market development of hydrogen pursuant to this Article and to Articles 52 and 54.

#### Article 54

##### **Possibility to limit the participation in the mechanism to support the market development of hydrogen**

1. The Commission may decide, by means of an implementing act, to temporarily exclude offers of hydrogen supplies originating in the Russian Federation or Belarus from being collected through the mechanism to support the market development of hydrogen, where necessary to protect the essential security interests or the security of supply of the Union or of a Member State, provided that such measures:
- (a) do not unduly disrupt the proper functioning of the internal market for hydrogen and do not undermine the security of supply of the Union or of a Member State;
  - (b) respect the principle of energy solidarity;
  - (c) are taken in accordance with the rights and obligations of the Union or of the Member States with respect to third countries.
2. Sufficiently in advance of the first collection of offers, the Commission shall assess whether all the conditions laid down in paragraph 1 are met with the view to deciding on any measures referred to therein. Any such decision shall be valid for a period of up to one year and may be renewed if justified.
- The Commission shall continuously assess whether the conditions laid down in paragraph 1 are met and shall keep the European Parliament and the Council duly informed about its assessments, including the assessment referred to in the first subparagraph of this paragraph.
3. The Commission shall take appropriate measures to ensure the effective application of this Article.

#### CHAPTER III

##### **RULES APPLICABLE TO THE HYDROGEN NETWORKS**

#### Article 55

##### **Cross-border coordination with regard to hydrogen quality**

1. Hydrogen transmission network operators shall cooperate to avoid restrictions to cross-border flows of hydrogen due to hydrogen quality differences in order to meet the quality requirements of different end-use applications in line with the applicable hydrogen quality standards.

2. Where a restriction to cross-border flows due to hydrogen quality differences cannot be avoided by the hydrogen transmission network operators concerned in their standard operations, they shall inform the regulatory authorities concerned without delay. The information shall include a description and the reasons justifying any measures already taken by the hydrogen transmission network operators.

3. The regulatory authorities concerned shall jointly agree, within six months of receipt of the information referred to in paragraph 2, whether to recognise the restriction.

4. Where the regulatory authorities concerned recognise the restriction pursuant to paragraph 3, they shall request the hydrogen transmission network operators concerned to perform, within 12 months of the recognition of the restriction as referred to in that paragraph, the following actions in sequence:

(a) to cooperate and develop technically feasible options in order to remove the recognised restriction;

(b) jointly to carry out a cost-benefit analysis on the technically feasible options to define economically efficient solutions which shall specify the breakdown of costs and benefits among the categories of affected parties;

(c) to produce an estimate of the implementation time for each potential option;

(d) to conduct a public consultation on identified feasible solutions and take into consideration the results of that consultation;

(e) to submit a joint proposal, on the basis of the cost-benefit analysis and results of the public consultation, for a solution removing the recognised restriction, including the timeframe for its implementation, to their regulatory authorities concerned for approval and to the other competent national authorities of each Member State concerned for information.

5. Where the hydrogen transmission network operators concerned do not reach an agreement to submit a joint proposal pursuant to paragraph 4, point (e), each hydrogen transmission network operator shall inform its regulatory authority without delay.

6. The regulatory authorities concerned shall take a joint coordinated decision to remove the recognised restriction, taking into account the cost-benefit analysis carried out by the hydrogen transmission network operators concerned and the results of the public consultation conducted pursuant to paragraph 4, point (d), of this Article within six months of receipt of the information referred to in paragraph 5 of this Article, in accordance with Article 6(10) of Regulation (EU) 2019/942.

7. The joint coordinated decision of the regulatory authorities concerned referred to in paragraph 6 shall include a decision on the allocation of the investment costs to be borne by each hydrogen transmission network operator for implementing the agreed solution, as well as their inclusion in tariffs after 1 January 2033, taking into account the economic, social and environmental costs and benefits of the solution in the Member States concerned.

8. ACER may issue recommendations to the regulatory authorities on the details of such cost allocation decisions as referred to in paragraph 7.

9. Where the regulatory authorities concerned cannot reach an agreement as referred to in paragraph 3 of this Article, ACER shall decide on the restriction, in accordance with Article 6(10) of Regulation (EU) 2019/942. Where ACER recognises the restriction, it shall request the hydrogen transmission network operators concerned to perform, within 12 months, the actions referred to in paragraph 4 of this Article in sequence.

10. Where the regulatory authorities concerned cannot take a joint coordinated decision as referred to in paragraphs 6 and 7 of this Article, ACER shall decide on the solution to remove the recognised restriction and on the allocation of the investment costs to be borne by each hydrogen transmission network operator for implementing the agreed solution, in accordance with Article 6(10) of Regulation (EU) 2019/942.

11. Further details required to implement this Article, including details on a common binding hydrogen quality specification for cross-border hydrogen interconnectors, cost benefit analysis for removing cross-border flow restrictions due to hydrogen quality differences, interoperability rules for cross-border hydrogen infrastructure, including addressing interconnection agreements, units, data exchange, communication and information provision among relevant market participants, shall be laid down in a network code established pursuant to Article 72(1), point (b).

*Article 56***Cooperation between hydrogen distribution network operators and hydrogen transmission network operators**

Hydrogen distribution network operators shall cooperate with other hydrogen distribution network operators and hydrogen transmission network operators to coordinate the maintenance, hydrogen network development, new connections, decommissioning and the operation of the hydrogen system to ensure hydrogen system integrity, with a view to maximising capacity and minimising the energy consumption to operate the hydrogen system.

*Article 57***European Network of Network Operators for Hydrogen**

1. Hydrogen transmission network operators shall cooperate at Union level through the ENNOH, in order to promote the development and proper functioning of the internal market for hydrogen and cross-border trade and to ensure the optimal management, coordinated operation and sound technical evolution of the European hydrogen transmission network.
2. The ENNOH shall cooperate closely with the ENTSO for Electricity and the ENTSO for Gas on identifying synergies and on fostering system integration across energy carriers in order to facilitate overall energy system efficiency.
3. The ENNOH shall consist of hydrogen transmission network operators certified pursuant to Article 71 of Directive (EU) 2024/1788.

Hydrogen transmission network operators shall be eligible to become a member of the ENNOH from the start of the certification procedure conducted by the regulatory authority, subject to:

- (a) subsequent positive certification in accordance with Article 14 of this Regulation and Article 71 of Directive (EU) 2024/1788 conducted within 24 months of becoming a member of the ENNOH; and
- (b) at least developing hydrogen infrastructure projects with a final investment decision within four years of becoming a member of the ENNOH.

If the final certification decision referred to in the second subparagraph, point (a), has not been taken within 24 months of becoming a member of the ENNOH or if the final investment decision referred to in the second subparagraph, point (b), has not been taken within four years of becoming a member of the ENNOH, the ENNOH membership of the hydrogen transmission network operator shall expire.

4. By way of derogation from paragraph 3 of this Article, a hydrogen transmission network operator that benefits from a derogation from Article 68 of Directive (EU) 2024/1788 shall be eligible to become a member of the ENNOH, provided that the operator is established in a Member State where no other hydrogen transmission network operator is a member of the ENNOH pursuant to paragraph 3 of this Article. Member States may nominate such a hydrogen transmission network operator and shall submit any such nomination to the ENNOH, the Commission and ACER. Member States may revoke such a nomination at any time. Where the hydrogen transmission network operator has not taken a final investment decision with regard to a hydrogen infrastructure project within four years of becoming a member of the ENNOH, that operator's membership of the ENNOH shall expire.
5. Member States which have not designated a hydrogen transmission network operator, but which plan to develop a hydrogen transmission network in accordance with their integrated national energy and climate plans, may nominate an entity as associated partner within the ENNOH. The Member State concerned shall submit a nomination pursuant to this paragraph to the ENNOH, the Commission and ACER. The Member State concerned may revoke such a nomination at any time. That nomination shall expire when a hydrogen transmission network operator established in the Member State concerned becomes a member of the ENNOH.
6. When performing its functions under Union law, the ENNOH shall act with a view to establishing a properly functioning and integrated internal market for hydrogen and shall contribute to the efficient and sustainable achievement of the objectives laid down in the policy framework for climate and energy, in particular by contributing to the efficient integration of hydrogen produced from renewable energy sources and to increases in energy efficiency while maintaining hydrogen system security. The ENNOH shall have adequate human and financial resources to carry out its duties.
7. By 1 September 2024, the hydrogen transmission network operators shall submit to the Commission and to ACER the draft statutes, a list of members and draft rules of procedure, including the rules of procedure on the consultation of stakeholders, of the ENNOH to be established.



8. The hydrogen transmission network operators shall submit to the Commission and to ACER any draft amendments to the statutes, list of members or rules of procedure of the ENNOH.
9. Within four months of receipt of the drafts referred to in paragraph 7 and the draft amendments to the statutes, list of members or rules of procedure referred to in paragraph 8, ACER shall, after consulting the organisations representing all stakeholders, in particular the hydrogen system users, including customers, provide an opinion to the Commission on those drafts or draft amendments to the statutes, list of members or rules of procedure.
10. The Commission shall issue an opinion on the drafts and draft amendments to the statutes, list of members or rules of procedure, taking into account ACER's opinion referred to in paragraph 9, within three months of the date of receipt of that opinion.
11. Within three months of receipt of the Commission's favourable opinion, the hydrogen transmission network operators shall adopt and publish the statutes, list of members and rules of procedure of the ENNOH.
12. The documents referred to in paragraph 7 shall be submitted to the Commission and ACER where there are changes thereto or upon the reasoned request of the Commission or ACER. The Commission and ACER shall issue their opinions in accordance with paragraphs 9, 10 and 11.

#### *Article 58*

#### **Transition to the ENNOH**

Until the ENNOH is established, the ENTSO for Gas shall be responsible for the development of Union-wide network development plans for natural gas and hydrogen referred to in Articles 32 and 60. When carrying out that task, the ENTSO for Gas shall ensure the effective consultation and inclusion of all market participants, including hydrogen market participants.

#### *Article 59*

#### **Tasks of the ENNOH**

1. The ENNOH shall have the following tasks:
  - (a) develop network codes in the areas listed in Article 72 with a view to achieving the objectives set out in Article 57;
  - (b) develop jointly with the ENTSO for Gas the network codes referred to in Article 72(1), point (f);
  - (c) adopt and publish, every two years, a non-binding Union-wide ten-year network development plan for hydrogen referred to in Article 60 (the 'Union-wide network development plan for hydrogen'), including a European supply adequacy outlook;
  - (d) cooperate with the ENTSO for Electricity, the ENTSO for Gas and the EU DSO entity;
  - (e) develop recommendations to hydrogen transmission network operators on their technical cooperation with hydrogen distribution network operators and with transmission system operators and distribution system operators in the Union;
  - (f) develop recommendations relating to the coordination of technical cooperation between Union and third-country hydrogen network operators;
  - (g) adopt an annual work programme;
  - (h) adopt an annual report;
  - (i) adopt an annual outlook for the hydrogen supply covering Member States where hydrogen is used in electricity generation;

- (j) adopt a hydrogen quality monitoring report by 15 May 2026 and every two years thereafter, including developments and forecasts for the expected developments of hydrogen quality parameters, as well as information on cases related to differences in hydrogen quality specifications and how such cases were settled;
  - (k) promote cybersecurity and data protection in cooperation with relevant authorities and regulated entities;
  - (l) develop and promote best practices in the detection, monitoring and reduction of hydrogen leaks.
2. The ENNOH shall monitor and analyse the implementation of the network codes and the guidelines adopted by the Commission in accordance with Articles 72, 73 and 74, and their effect on the harmonisation of applicable rules aimed at facilitating hydrogen market development and integration. The ENNOH shall report its findings to ACER and shall include the results of the analysis in the annual report referred to in paragraph 1, point (h), of this Article.
3. The ENNOH shall publish the minutes of its assembly meetings, board meetings and committee meetings and provide the public with regular information on its decision-making and activities.
4. The annual work programme referred to in paragraph 1, point (g), shall contain a list and description of the network codes to be prepared, a plan on the coordination of the operation of the hydrogen network, a list of research and development activities, to be realised in the course of that year, and an indicative calendar.
5. The ENNOH shall provide ACER with the information ACER requires to fulfil its tasks pursuant to Article 64. In order to enable the ENNOH to meet that requirement, hydrogen transmission network operators shall provide the ENNOH with the requested information.
6. Upon request of the Commission, the ENNOH shall give its views to the Commission on the adoption of the guidelines as laid down in Article 74.

#### Article 60

### Union-wide network development plan for hydrogen

1. The Union-wide network development plan for hydrogen shall include the modelling of the integrated hydrogen network, scenario development, a European supply adequacy outlook and an assessment of the resilience of the system.

The Union-wide network development plan for hydrogen shall, in particular:

- (a) build on the national hydrogen transmission network development plans as laid down in Article 55 of Directive (EU) 2024/1788 and Chapter IV of Regulation (EU) 2022/869;
- (b) regarding cross-border interconnections, also build on the reasonable needs of different network users and integrate long-term commitments from investors as referred to in Article 55(7) of Directive (EU) 2024/1788; and
- (c) identify investment gaps, in particular with respect to the necessary cross-border capacities, to implement the priority corridors for hydrogen and electrolyzers as referred to in point 3 of Annex I to Regulation (EU) 2022/869.

With regard to the second subparagraph, point (c), a review of barriers to the increase of cross-border capacity of the network arising from different approval procedures or practices may be annexed to the Union-wide network development plan for hydrogen. Such a review may be accompanied, where appropriate, by a comprehensive plan to remove such barriers and accelerate the implementation of the priority corridors for hydrogen and electrolyzers.

2. ACER shall provide an opinion on the national hydrogen transmission network development plans where relevant to assess their consistency with the Union-wide network development plan for hydrogen. If ACER identifies inconsistencies between a national hydrogen transmission network development plan and the Union-wide network development plan for hydrogen, it shall recommend amending the national hydrogen transmission network development plan or the Union-wide network development plan for hydrogen as appropriate.

3. When developing the Union-wide network development plan for hydrogen, the ENNOH shall cooperate with the ENTSO for Electricity and with the ENTSO for Gas, in particular on the development of the energy system wide cost-benefit analysis and the interlinked energy market and network model including electricity, natural gas and hydrogen transport infrastructure as well as natural gas storage, hydrogen storage, LNG and hydrogen terminals and electrolyzers referred to in Article 11 of Regulation (EU) 2022/869, the scenarios for the ten-year network development plans referred to in Article 12 of that Regulation and the infrastructure gaps identification referred to in Article 13 of that Regulation.

#### Article 61

### Union-level integrated network planning

1. During the transitional period until 1 January 2027, the ENTSO for Gas shall develop the 2026 Union-wide network development plan for hydrogen, with the full involvement of hydrogen transmission network operators and together with the ENNOH as soon as it is established. The 2026 Union-wide network development plan for hydrogen shall consist of two separate chapters, one for hydrogen and one for natural gas. The ENTSO for Gas shall without delay transfer to the ENNOH all the information, including data and analyses it collected during the preparation of the Union-wide network development plans for hydrogen by 1 January 2027.

2. The ENNOH shall develop the 2028 Union-wide network development plan for hydrogen pursuant to this Article and Article 60.

3. The ENNOH shall cooperate closely with the ENTSO for Electricity and the ENTSO for Gas to develop integrated Union-wide network development plans pursuant to Articles 32 and 60 of this Regulation and to Article 30 of Regulation (EU) 2019/943 respectively. That cooperation shall include in particular the following:

- (a) the ENNOH, together with the ENTSO for Electricity and the ENTSO for Gas, shall develop a single set of joint scenarios for the ten-year network development plans pursuant to Article 12 of Regulation (EU) 2022/869;
- (b) the ENNOH, the ENTSO for Electricity and the ENTSO for Gas, working together, shall each develop coordinated infrastructure gaps reports within the framework of the Union-wide ten-year network development plans pursuant to Article 13 of Regulation (EU) 2022/869;
- (c) within six months of approval of the joint scenarios report pursuant to Article 12(6) of Regulation (EU) 2022/869 and every two years thereafter, the ENNOH shall publish the infrastructure gaps reports developed within the framework of the Union-wide ten-year network development plans;
- (d) the ENNOH shall draft a single sector draft methodology for an energy system wide hydrogen cost-benefit analysis and a consistent and progressively integrated model together with the ENTSO for Electricity and the ENTSO for Gas pursuant to Article 11 of Regulation (EU) 2022/869, which shall be consistent with the methodologies developed both by the ENTSO for Electricity and the ENTSO for Gas pursuant to Article 11 of Regulation (EU) 2022/869 and shall provide transparency with regard to the most cost-efficient solutions across energy carriers, including non-infrastructure-based solutions;
- (e) the methodologies referred to in point (d) of this paragraph shall be applied for the preparation of each subsequent Union-wide network development plan for hydrogen developed by the ENNOH pursuant to Article 60 of this Regulation;
- (f) the ENNOH shall develop the joint scenarios, infrastructure gaps reports, the single sector draft methodology and the integrated model in accordance with Articles 11, 12 and 13 of Regulation (EU) 2022/869;
- (g) where decisions need to be made to ensure system efficiency as defined in Article 2, point (4), of Directive (EU) 2023/1791 across energy-carriers the Commission shall ensure that the ENTSO for Electricity, the ENTSO for Gas and the ENNOH cooperate closely;
- (h) the ENNOH, the ENTSO for Electricity and the ENTSO for Gas shall cooperate in an efficient, inclusive and transparent manner, they shall facilitate taking decisions by consensus and they shall develop the necessary working arrangements for the purpose of enabling such cooperation and ensuring their fair representation.

The ENNOH, together with the ENTSO for Electricity and the ENTSO for Gas, may establish working groups to fulfil its obligations pursuant to the first subparagraph, points (a), (b) and (d) and shall ensure fair and equal representation of the hydrogen, electricity and gas sectors in the working groups.

*Article 62***Costs of the ENNOH**

The costs related to the execution of tasks of the ENNOH referred to in Article 59 shall be borne by the hydrogen transmission network operators and shall be taken into account in the calculation of tariffs. Regulatory authorities shall approve those costs provided that they are reasonable and appropriate.

*Article 63***Consultations by the ENNOH**

1. While preparing the proposals pursuant to the tasks referred to in Article 59, the ENNOH shall conduct an extensive public consultation process, at an early stage and in an open and transparent manner, involving all relevant market participants, and, in particular, the organisations representing all stakeholders, in accordance with the rules of procedure referred to in Article 57. The consultation process shall accommodate stakeholder comments before the final adoption of the proposal, with the aim of identifying the views and proposals of all relevant stakeholders during the decision-making process. That consultation shall also involve regulatory authorities and other national authorities, producers, network users including customers, technical bodies and stakeholder platforms.
2. All documents and minutes of meetings related to the consultations referred to in paragraph 1 shall be made public.
3. Before adopting the proposals referred to in Article 59, the ENNOH shall indicate how the observations received during the consultation have been taken into consideration. It shall provide reasons where observations have not been taken into account.

*Article 64***ACER's monitoring of the ENNOH**

1. ACER shall monitor the execution of the tasks of the ENNOH referred to in Article 59 and report its findings to the Commission.
2. ACER shall monitor the implementation by the ENNOH of network codes and guidelines adopted by the Commission as laid down in Articles 72, 73 and 74. Where the ENNOH has failed to implement such network codes or guidelines, ACER shall request the ENNOH to provide a duly reasoned explanation as to why it has failed to do so. ACER shall inform the Commission of that explanation and provide its opinion thereon.
3. The ENNOH shall submit the draft Union-wide network development plan for hydrogen, the draft annual work programme, including the information regarding the consultation process, and the other documents referred to in Article 59 to ACER for its opinion.

Within two months of the date of receipt, ACER shall provide a duly reasoned opinion as well as recommendations to the ENNOH and to the Commission where it considers that the draft annual work programme or the draft Union-wide network development plan for hydrogen submitted by the ENNOH does not contribute to non-discrimination, effective competition, the proper functioning of the market or a sufficient level of cross-border interconnection. The ENNOH shall duly take into account ACER's opinion and recommendations.

*Article 65***Regional cooperation of hydrogen transmission network operators**

1. Hydrogen transmission network operators shall establish regional cooperation within the ENNOH to contribute to the tasks referred to in Article 59.
2. Hydrogen transmission network operators shall promote operational arrangements in order to ensure the optimum management of the network and shall ensure interoperability of the interconnected Union hydrogen system for facilitating commercial and operational cooperation between adjacent hydrogen transmission network operators.

*Article 66***Transparency requirements concerning hydrogen network operators**

1. The hydrogen network operator shall make public detailed information regarding the services it offers and the relevant conditions applied, together with the technical information necessary for hydrogen network users to obtain effective network access.
2. In order to ensure transparent, objective and non-discriminatory tariffs and facilitate efficient utilisation of the hydrogen network, from 1 January 2031 hydrogen network operators or relevant regulatory authorities shall publish complete information on tariff derivation, methodology and structure.
3. The hydrogen network operators shall make public detailed information regarding the quality of hydrogen transported in their networks, which might affect network users.
4. The relevant points of a hydrogen network on which the information is to be made public shall be approved by the competent authorities after consultation with hydrogen network users.
5. The hydrogen network operators shall always disclose the information required by this Regulation in a meaningful, quantifiably clear, easily accessible and non-discriminatory manner.
6. The hydrogen network operators shall make public ex ante and ex post supply and demand information, including a periodic forecast and the recorded information. The regulatory authority shall ensure that all such information is made public. The level of detail of the information that is made public shall reflect the information available to the hydrogen network operator.
7. The market participants concerned shall provide the hydrogen network operator with the data referred to in this Article.
8. Further details required to implement the transparency requirements for hydrogen network operators, including further details on the content, frequency and form of information provision by hydrogen network operators, shall be laid down in a network code established in accordance with Article 72(2).

*Article 67***Record keeping in the hydrogen system**

Hydrogen network operators, hydrogen storage operators and hydrogen terminal operators shall keep at the disposal of the national authorities, including the regulatory authorities and the national competition authorities, and the Commission, all information referred to in Articles 34 and 66 and in point 4 of Annex I for a period of five years.

*Article 68***Presumption of conformity of practices with harmonised standards for hydrogen**

Practices which are in conformity with harmonised standards, or parts thereof, the references of which have been published in the Official Journal of the European Union shall be presumed to be in conformity with the requirements laid down in delegated acts adopted pursuant to Article 72(1), point (b).

*Article 69***Common specifications for hydrogen**

1. The Commission may lay down common specifications in a network code pursuant to Article 72(1), point (b), of this Regulation or may adopt implementing acts establishing common specifications for the requirements laid down in Article 50 of Directive (EU) 2024/1788, where:
  - (a) those requirements are not covered by harmonised standards, or parts thereof, the references of which have been published in the Official Journal of the European Union;

- (b) the Commission has requested, pursuant to Article 10(1) of Regulation (EU) No 1025/2012, one or more European standardisation organisation to draft a harmonised standard for those requirements and at least one of the following conditions has been fulfilled:
- (i) the request of the Commission has not been accepted by any of the European standardisation organisations;
  - (ii) the Commission observes undue delays in the adoption of the requested harmonised standards;
  - (iii) a European standardisation organisation has delivered a standard that does not entirely correspond with the request of the Commission; or
- (c) the Commission has decided in accordance with the procedure referred to in Article 11(5) of Regulation (EU) No 1025/2012 to maintain with restriction or to withdraw the references to the harmonised standards, or parts thereof, by which those requirements are covered.

The implementing acts referred to in the first subparagraph of this paragraph shall be adopted in accordance with the examination procedure referred to in Article 81(3).

2. In the early preparation of the draft implementing act establishing the common specifications referred to in paragraph 1, the Commission shall gather the views of relevant bodies or expert groups established under relevant sectorial Union law, and shall duly consult all relevant stakeholders. On the basis of that consultation, the Commission shall prepare the draft implementing act.

3. Practices which are in conformity with common specifications, or parts thereof, shall be presumed to be in conformity with the requirements laid down in the delegated acts adopted pursuant to Article 72(1), point (b), to the extent that those requirements are covered by such common specifications or parts thereof.

4. Where a harmonised standard is adopted by a European standardisation organisation and proposed to the Commission for the purpose of publishing its reference in the Official Journal of the European Union, the Commission shall assess the harmonised standard in accordance with Regulation (EU) No 1025/2012. When the reference of a harmonised standard is published in the Official Journal of the European Union, the Commission shall repeal implementing acts referred to in paragraph 1 of this Article, or parts thereof which cover the same requirements referred to in paragraph 1 of this Article.

#### CHAPTER IV

#### NETWORK CODES AND GUIDELINES

##### *Article 70*

#### **Adoption of network codes and guidelines**

1. The Commission may, subject to the empowerments laid down in Articles 71 to 74, adopt delegated or implementing acts. Such acts may either be adopted as network codes on the basis of text proposals developed by the ENTSO for Gas or the ENNOH, or, where so provided for in the priority list established pursuant to Article 71(3), by the EU DSO entity, where relevant in cooperation with the ENTSO for Gas, the ENNOH and ACER, pursuant to the procedure laid down in Articles 71, 72 and 73, or as guidelines pursuant to the procedure laid down in Article 74.
2. The network codes and guidelines shall:
- (a) provide the minimum degree of harmonisation required to achieve the objectives of this Regulation;
  - (b) take into account regional specificities, where appropriate;
  - (c) not go beyond what is necessary for the purposes of point (a); and
  - (d) apply to all interconnection points within the Union and entry points from and exit points to third countries from 5 August 2026.
3. Until 5 February 2026, regulatory authorities may submit a request to the Commission for a derogation from the application of the network codes and guidelines referred to in paragraph 1 at entry points from and exit points to third countries pursuant to paragraph 2, point (d). The request for a derogation shall be submitted simultaneously to the Commission and to ACER. Within three months of the date of receipt of the request for a derogation ACER shall provide a reasoned opinion to the Commission.

The Commission shall adopt a decision on the request for a derogation, taking into account ACER's reasoned opinion and after assessing whether the regulatory authority has:

- (a) demonstrated that a network code or guideline, or specific element of those acts, cannot be effectively implemented at entry points from and exit points to third countries; in the case of interconnection points with third countries which have the obligation to adapt to the Union energy acquis, including this Regulation, pursuant to an agreement concluded between the Union and those third countries, but where application or implementation has not been completed, the request for a derogation shall specify which provisions of this Regulation have not been effectively applied or implemented in the third country concerned or which technical rules or lack of technical rules in the third country impede the application of the specific provisions of the relevant network code or guideline;
- (b) explained which measures were taken to alleviate the obstacles to the application of the specific provisions of the relevant network code or guideline;
- (c) demonstrated that the derogation is not detrimental to the proper functioning of the internal market for natural gas, or to the security of supply of the Union or of a Member State.

The derogation shall be limited to the specific provisions that cannot be effectively implemented and shall be granted for a limited period of time.

#### *Article 71*

#### **Establishment of network codes for natural gas**

1. The Commission is empowered to adopt delegated acts in accordance with Article 80 to supplement this Regulation by establishing network codes in the following areas:

- (a) network security and reliability rules including rules for operational network security as well as reliability rules ensuring the quality of service of the network;
- (b) network connection rules including rules on the connection of renewable gas and low-carbon gas production facilities, and procedures for connection requests;
- (c) operational procedures in an emergency including system defence plans, restoration plans, market interactions, information exchange and communication tools and facilities;
- (d) rules for trading related to technical and operational provision of network access services and system balancing;
- (e) energy efficiency of natural gas networks and components as well as energy efficiency with regard to network planning and investments enabling the most energy efficient solution from a system perspective;
- (f) cybersecurity aspects of cross-border natural gas flows, including rules on common minimum requirements, planning, monitoring, reporting and crisis management.

2. The Commission may adopt implementing acts establishing network codes in the following areas:

- (a) interoperability rules for the natural gas system, implementing Article 21 of this Regulation and Articles 10, 39 and 44 of Directive (EU) 2024/1788, including addressing interconnection agreements, rules on flow control and measurement principles for the quantity of natural gas and gas quality, allocation and matching rules, common sets of units, data exchange, gas quality, including rules on managing cross-border restrictions due to gas quality differences or due to differences in odourisation practices or due to differences in the volume of hydrogen blended in the natural gas system, cost-benefit analyses for removing cross-border flow restrictions, Wobbe Index classification, mitigating measures, minimum acceptance levels for gas quality parameters relevant for ensuring the unhindered cross-border flow of biomethane, for example oxygen content, short- and long-term gas quality monitoring, information provision and cooperation among relevant market participants, reporting on gas quality, transparency, communication procedures including in the case of exceptional circumstances;

- (b) capacity-allocation and congestion-management rules implementing Articles 8 to 11 of this Regulation and Article 31 of Directive (EU) 2024/1788, including rules on cooperation on maintenance procedures and capacity calculation affecting capacity allocation, the standardisation of capacity products and units including bundling, the allocation methodology including auction algorithms, sequence and procedure for existing, incremental, firm and interruptible capacity, capacity booking platforms, oversubscription and buy back schemes, short and long-term use-it-or-lose-it schemes or any other congestion-management scheme that prevents the hoarding of capacity;
- (c) balancing rules including network-related rules on nomination procedures, rules for imbalance charges, settlement processes associated with the daily imbalance charge and rules for operational balancing between transmission system operators' systems implementing Articles 8 to 11 of this Regulation and Article 39(5) of Directive (EU) 2024/1788;
- (d) rules on harmonised transmission tariff structures implementing Articles 17 and 18 of this Regulation and Article 78(7) of Directive (EU) 2024/1788, including rules on the application of a reference price methodology, the associated consultation and publication requirements including for the allowed or target revenue as well as the calculation of reserve prices for standard capacity products, discounts for LNG terminal and storage, procedures for the implementation of providing a discount for renewable gas and low-carbon gas, including common principles for inter-transmission-system-operator compensation mechanisms pursuant to Article 17(4) and Article 18 of this Regulation, where appropriate;
- (e) rules for determining the value of transferred assets and the dedicated charge.

The implementing acts referred to in the first subparagraph of this paragraph shall be adopted in accordance with the examination procedure referred to in Article 81(3).

3. The Commission shall, after consulting ACER, the ENTSO for Gas, the ENNOH, the EU DSO entity and other relevant stakeholders, establish, every three years, a priority list, identifying the areas set out in paragraphs 1 and 2 to be included in the development of network codes.

If the subject matter of the network code is directly related to the operation of the distribution system and not primarily relevant to the transmission system, the Commission may require the EU DSO entity, in cooperation with the ENTSO for Gas, to convene a drafting committee and submit a proposal for a network code to ACER.

4. The Commission shall request ACER to submit to it, within a reasonable period not exceeding six months of receipt of the Commission's request, non-binding framework guidelines setting out clear and objective principles for the development of network codes relating to the areas identified in the priority list. The request of the Commission may include conditions which the framework guidelines shall address. Those framework guidelines shall contribute to market integration, non-discrimination, effective competition, and the proper functioning of the market. Upon the reasoned request of ACER, the Commission may extend the period for submitting the framework guidelines.

5. ACER shall consult the ENTSO for Gas, the ENNOH, the EU DSO entity, and other relevant stakeholders with regard to the framework guidelines, for a period of no less than two months, in an open and transparent manner.

6. ACER shall submit framework guidelines to the Commission where requested to do so under paragraph 4.

7. If the Commission considers that the framework guidelines do not contribute to market integration, non-discrimination, effective competition and the proper functioning of the market, it may request ACER to review the framework guidelines within a reasonable period and resubmit it to the Commission.

8. If ACER fails to submit or resubmit framework guidelines within the period set by the Commission under paragraph 4 or 7, the Commission shall develop the framework guidelines concerned.

9. The Commission shall request the ENTSO for Gas or, where provided for in the priority list referred to in paragraph 3, the EU DSO entity in cooperation with the ENTSO for Gas, to submit to ACER, within a reasonable period not exceeding 12 months of receipt of the Commission's request, a proposal for a network code in accordance with the relevant framework guidelines.



10. The ENTSO for Gas, or where provided for in the priority list referred to in paragraph 3 the EU DSO entity, in cooperation with the ENTSO for Gas, shall convene a drafting committee to assist it in the network code development process. The drafting committee shall consist of representatives of ACER, the ENTSO for Gas, the ENNOH, where appropriate the EU DSO entity, and a limited number of the main affected stakeholders. The ENTSO for Gas or where provided for in the priority list referred to in paragraph 3 the EU DSO entity, in cooperation with the ENTSO for Gas, shall develop proposals for network codes in the areas referred to in paragraphs 1 and 2 where so requested by the Commission pursuant to paragraph 9.

11. ACER shall revise the proposal for a network code to ensure that it complies with the relevant framework guidelines and contributes to market integration, non-discrimination, effective competition and the proper functioning of the market, and shall submit the revised network code to the Commission within six months of receipt of the proposal. In the proposal submitted to the Commission, ACER shall take into account the views provided by all involved parties during the drafting of the proposal for a network code led by the ENTSO for Gas or the EU DSO entity and shall consult the relevant stakeholders on the revised version of the proposal for a network code to be submitted to the Commission.

12. Where the ENTSO for Gas or the EU DSO entity have failed to develop a network code within the period set by the Commission pursuant to paragraph 9, the Commission may request ACER to prepare a draft network code on the basis of the relevant framework guidelines. ACER may launch a further consultation for the purpose of preparing a draft network code pursuant to this paragraph. ACER shall submit a draft network code prepared pursuant to this paragraph to the Commission and may recommend that it be adopted.

13. Where the ENTSO for Gas or the EU DSO entity have failed to develop a network code, or ACER has failed to develop a draft network code as referred to in paragraph 12, the Commission may adopt, on its own initiative, or upon the proposal of ACER under paragraph 11, one or more network codes in the areas listed in paragraphs 1 and 2.

14. Where the Commission proposes to adopt a network code on its own initiative as referred to in paragraph 13, the Commission shall consult ACER, the ENTSO for Gas and all relevant stakeholders with regard to the draft network code for a period of no less than two months.

15. This Article shall be without prejudice to the Commission's right to adopt and amend the guidelines as laid down in Article 74. It shall be without prejudice to the possibility for the ENTSO for Gas to develop non-binding guidance in the areas set out in paragraphs 1 and 2 of this Article where such guidance does not relate to areas covered by a request addressed to the ENTSO for Gas by the Commission. The ENTSO for Gas shall submit any such guidance to ACER for an opinion and shall duly take that opinion into account.

#### Article 72

### Establishment of network codes for hydrogen

1. The Commission is empowered to adopt delegated acts in accordance with Article 80 to supplement this Regulation by establishing network codes in the following areas:

- (a) energy efficiency regarding hydrogen networks and components as well as energy efficiency with regard to network planning and investments enabling the most energy efficient solution from a system perspective;
- (b) interoperability rules for the hydrogen network, including addressing interconnection agreements, units, data exchange, transparency, communication, information provision and cooperation among relevant market participants as well as hydrogen quality, including common specifications at interconnection points and standardisation, odourisation, cost benefit analyses for removing cross-border flow restrictions due to hydrogen quality differences and reporting on hydrogen quality;
- (c) rules for the system of financial compensation for cross-border hydrogen infrastructure referred to in Article 59 of Directive (EU) 2024/1788;
- (d) capacity-allocation and congestion-management rules, including rules on cooperation on maintenance procedures and capacity calculation affecting capacity allocation, the standardisation of capacity products and units including bundling, the allocation methodology including auction algorithms, sequence and procedure for existing, incremental, firm and interruptible capacity, capacity booking platforms, oversubscription and buy back schemes, short and long-term use-it-or-lose-it schemes or any other congestion-management scheme that prevents the hoarding of capacity;

- (e) rules regarding harmonised tariff structures for hydrogen network access, including for tariffs at interconnection points as referred to in Article 7(8), rules on the application of a reference price methodology, the associated consultation and publication requirements including for the allowed or target revenue, as well as the calculation of reserve prices for standard capacity products and allowed revenue;
- (f) rules for determining the value of transferred assets and the dedicated charge;
- (g) rules for determining the inter-temporal cost allocation;
- (h) balancing rules including network-related rules on nomination procedure, rules for imbalance charges and rules for operational balancing between hydrogen network operators' networks, imbalance charges, settlement processes associated with the daily imbalance charge and operational balancing between hydrogen network operators' networks;
- (i) cybersecurity aspects of cross-border hydrogen flows, including rules on common minimum requirements, planning, monitoring, reporting and crisis management.

2. The Commission may adopt implementing acts establishing network codes in the area of transparency rules implementing Article 66, including further details on the content, frequency and form of information provision by hydrogen network operators and implementing point 4 of Annex I, including details on the format and content of the information necessary for network users for effective access to the network, information to be published at relevant points, and details on time schedules.

The implementing acts referred to in the first subparagraph of this paragraph shall be adopted in accordance with the advisory procedure referred to in Article 81(2).

3. The Commission shall, after consulting ACER, the ENNOH and, where relevant, the ENTSO for Gas or the EU DSO entity, as well as other relevant stakeholders, establish, every three years, a priority list, identifying the areas set out in paragraphs 1 and 2 of this Article to be included in the development of network codes. The Commission shall establish the first priority list for the development of hydrogen network codes within one year of the establishment of the ENNOH as provided for in Article 57.

4. The Commission shall request ACER to submit to it, within a reasonable period not exceeding six months of receipt of the Commission's request, non-binding framework guidelines setting out clear and objective principles for the development of network codes relating to the areas identified in the priority list. The request of the Commission may include conditions which the framework guidelines shall address. Those framework guidelines shall contribute to market integration, non-discrimination, effective competition, and the proper functioning of the market. Upon the reasoned request of ACER, the Commission may extend the period for submitting the framework guidelines.

5. ACER shall consult the ENNOH and, where relevant, the ENTSO for Gas, as well as other relevant stakeholders with regard to the framework guidelines, for a period of no less than two months, in an open and transparent manner.

6. ACER shall submit framework guidelines to the Commission where requested to do so under paragraph 4.

7. If the Commission considers that the framework guidelines do not contribute to market integration, non-discrimination, effective competition and the proper functioning of the market, it may request ACER to review the framework guidelines within a reasonable period and resubmit it to the Commission.

8. If ACER fails to submit or resubmit framework guidelines within the period set by the Commission under paragraph 4 or 7, the Commission shall develop the framework guidelines concerned.

9. The Commission shall request the ENNOH to submit to ACER, within a reasonable period not exceeding 12 months of receipt of the Commission's request, a proposal for a network code in accordance with the relevant framework guidelines.

10. The ENNOH shall convene a drafting committee to assist it in the network code development process. The drafting committee shall consist of representatives of ACER, the ENTSO for Gas, the ENTSO for Electricity and, where appropriate, the EU DSO entity, and a limited number of the main affected stakeholders. The ENNOH shall develop proposals for network codes in the areas referred to in paragraphs 1 and 2 where so requested by the Commission pursuant to paragraph 9.

11. ACER shall revise the proposal for a network code to ensure that it complies with the relevant framework guidelines and contributes to market integration, non-discrimination, effective competition and the proper functioning of the market and shall submit the revised network code to the Commission within six months of receipt of the proposal. In the proposal submitted to the Commission, ACER shall take into account the views provided by all involved parties during the drafting of the proposal for a network code led by the ENNOH and shall consult the relevant stakeholders on the revised version of the proposal for a network code to be submitted to the Commission.

12. Where the ENNOH has failed to develop a network code within the period set by the Commission pursuant to paragraph 9, the Commission may request ACER to prepare a draft network code on the basis of the relevant framework guidelines. ACER may launch a further consultation for the purpose of preparing a draft network code pursuant to this paragraph. ACER shall submit a draft network code prepared pursuant to this paragraph to the Commission and may recommend that it be adopted.

13. Where the ENNOH has failed to develop a network code, or ACER has failed to develop a draft network code as referred to in paragraph 12, the Commission may adopt, on its own initiative, or upon the proposal of ACER pursuant to paragraph 11, one or more network codes in the areas listed in paragraphs 1 and 2.

14. Where the Commission proposes to adopt a network code on its own initiative as referred to in paragraph 13, it shall consult ACER, the ENNOH, the ENTSO for Gas and all relevant stakeholders with regard to the draft network code for a period of no less than two months.

15. This Article shall be without prejudice to the Commission's right to adopt and amend the guidelines as laid down in Article 74. It shall be without prejudice to the possibility for the ENNOH to develop non-binding guidance in the areas set out in paragraphs 1 and 2 of this Article where such guidance does not relate to areas covered by a request addressed to the ENNOH by the Commission. The ENNOH shall submit any such guidance to ACER for an opinion and shall duly take that opinion into account.

#### *Article 73*

### **Amendments to network codes**

1. The Commission is empowered to amend the network codes within the areas listed in Article 71(1) and (2) and in Article 72(1) and (2) in accordance with the relevant procedure set out in those Articles.

2. Persons who are likely to have an interest in any network code adopted pursuant to Articles 70, 71, 72 and this Article, including the ENTSO for Gas, the ENNOH, the EU DSO entity, regulatory authorities, transmission system operators, distribution system operators, system users and consumers, may propose draft amendments to that network code to ACER. ACER may also propose amendments on its own initiative.

3. ACER may make reasoned proposals to the Commission for amendments, explaining how such proposals are consistent with the objectives of the network codes set out in Article 70 of this Regulation. Where it considers a proposal for an amendment to be admissible and where it proposes amendments on its own initiative, ACER shall consult all relevant stakeholders in accordance with Article 14 of Regulation (EU) 2019/942.

#### *Article 74*

### **Guidelines**

1. The Commission is empowered to adopt binding guidelines in the areas listed in this Article.

2. The Commission is empowered to adopt guidelines in the areas where such acts could also be developed under the network code procedure pursuant to Articles 71 and 72. Those guidelines shall be adopted in the form of delegated or implementing acts, depending on the relevant empowerment provided for in this Regulation.

3. The Commission is empowered to adopt delegated acts in accordance with Article 80 to supplement this Regulation by establishing guidelines in the following areas:

(a) details of third-party access services, including the character, duration and other requirements of those services, in accordance with Articles 6, 7 and 8;

(b) details of the principles underlying capacity-allocation mechanisms and on the application of congestion-management procedures in the event of contractual congestion, in accordance with Articles 10 and 11;

- (c) details of the provision of information, definition of the technical information necessary for network users to obtain effective access to the system and the definition of all relevant points for transparency requirements, including the information to be published at all relevant points and the time schedule for the publication of that information, in accordance with Articles 33 and 34;
  - (d) details of tariff methodology related to cross-border trade of natural gas, in accordance with Articles 17 and 18.
4. The Commission is empowered to adopt delegated acts in accordance with Article 80 in order to amend the guidelines laid down in Annex I, with a view to specifying:
- (a) the details of the information to be published on the methodology used to set the regulated revenue of the transmission system operator, in accordance with Articles 33 and 34;
  - (b) the details of the principles of capacity-allocation mechanisms and congestion-management procedures implementing Articles 10 and 11;
  - (c) the details of the technical information necessary for network users to obtain effective access to the natural gas system implementing Article 33(1);
  - (d) the details of the definition of all relevant points, the information to be published and the schedule for transparency requirements implementing Article 33;
  - (e) the details of the format and content of technical information on network access to be published by hydrogen network operators implementing Article 66.
5. When amending guidelines, the Commission shall consult:
- (a) ACER, the ENTSO for Gas and the EU DSO entity and, where relevant, other stakeholders for guidelines that concern natural gas;
  - (b) ACER, the ENNOH and the EU DSO entity and, where relevant, other stakeholders for guidelines that concern hydrogen.

#### *Article 75*

### **Right of Member States to provide for more detailed measures**

This Regulation shall be without prejudice to the rights of Member States to maintain or introduce measures that contain more detailed provisions than those set out in this Regulation, in the guidelines referred to in Article 74 or in the network codes referred to in Articles 70 to 73, provided that those measures comply with Union law.

#### *Article 76*

### **Provision of information and confidentiality**

1. Member States and regulatory authorities shall, upon request, provide the Commission with the information necessary for the purposes of enforcing this Regulation, including the guidelines and the network codes adopted pursuant to this Regulation.
2. The Commission shall set a reasonable time limit within which the information is to be provided, taking into account the complexity and urgency of the information required.
3. If the Member State or the regulatory authority concerned does not provide the information within the time limit set by the Commission, the Commission may request all the information necessary for the purpose of enforcing this Regulation directly from the undertakings concerned.

When sending a request for information to an undertaking, the Commission shall, at the same time, forward a copy of the request to the Member State or the regulatory authority concerned of the Member State in whose territory the seat of the undertaking is situated.

4. In its request for information, the Commission shall state the legal basis of the request, the time limit within which the information is to be provided, the purpose of the request, and the penalties provided for in Article 77(2) for supplying incorrect, incomplete or misleading information.

5. The owners of the undertakings or their representatives and, in the case of legal persons, the natural persons authorised to represent the undertaking by law or by their instrument of incorporation, shall supply the information requested. Where lawyers are authorised to supply the information on behalf of their client, the client shall remain fully responsible in the event that the information supplied is incomplete, incorrect or misleading.

6. Where an undertaking does not provide the information requested within the time limit set by the Commission or supplies incomplete information, the Commission may by decision require the information to be provided. That decision shall specify what information is required and set a reasonable time limit within which it is to be supplied. It shall indicate the penalties provided for in Article 77(2). It shall also indicate the right to have the decision reviewed by the Court of Justice of the European Union.

The Commission shall, at the same time, send a copy of its decision to the Member State where the person is resident or the seat of the undertaking is situated or the regulatory authority of that Member State.

7. The information referred to in paragraphs 1 and 2 shall be used only for the purposes of enforcing this Regulation.

The Commission shall not disclose information acquired pursuant to this Regulation where that information is covered by the obligation of professional secrecy.

#### *Article 77*

#### **Penalties**

1. Member States shall lay down the rules on penalties applicable to infringements of this Regulation, the network codes and guidelines adopted pursuant to Articles 70 to 74 and the guidelines laid down in Annex I and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall, without delay, notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.

2. The Commission may, by decision, impose on undertakings fines not exceeding 1 % of the total turnover in the preceding business year where, intentionally or negligently, those undertakings supply incorrect, incomplete or misleading information in response to a request for information made pursuant to Article 76(4) or fail to supply information within the time-limit set in a decision adopted pursuant to Article 76(6), first subparagraph. When setting the amount of a fine, the Commission shall take into account the gravity of the undertaking's failure to comply with the network codes and guidelines adopted pursuant to Articles 70 to 74 and the guidelines laid down in Annex I.

3. The penalties provided for pursuant to paragraph 1 and any decisions taken pursuant to paragraph 2 shall not be of a criminal law nature.

#### CHAPTER V

#### **FINAL PROVISIONS**

#### *Article 78*

#### **New natural gas and hydrogen infrastructure**

1. Major new natural gas infrastructure, namely interconnectors, LNG facilities and natural gas storage facilities, may, upon request, be exempted, for a set period, from the application of provisions of this Regulation, except from Article 34(5) and (6), and from the application of Article 31(1), Article 32, Article 33, Article 60, Article 78(7) and (9) and Article 79(1) of Directive (EU) 2024/1788.

Major new hydrogen infrastructure, namely interconnectors, hydrogen terminals and underground hydrogen storage facilities, may, upon request, be exempted, for a set period, from the application of provisions of this Regulation, except from Article 34(5) and (6), and from the application of Articles 35, 36, 37 and 68 of Directive (EU) 2024/1788.

Any such exemption shall be subject to all of the following conditions:

(a) the investment enhances competition in natural gas supply or hydrogen supply and enhance security of supply;

- (b) the investment contributes to decarbonisation and the achievement of the Union's climate and energy targets and was decided by applying the energy efficiency first principle;
- (c) the level of risk attached to the investment is such that the investment would not take place unless an exemption is granted;
- (d) the infrastructure is owned by a natural or legal person which is separate at least in terms of its legal form from the system operators in whose systems that infrastructure will be built;
- (e) charges are levied on users of that infrastructure;
- (f) the exemption is not detrimental to competition in the relevant markets which are likely to be affected by the investment, to the proper functioning of the internal integrated market for natural gas or hydrogen, to the proper functioning of the regulated systems concerned, to decarbonisation or to the security of supply of the Union;
- (g) the infrastructure has not received Union financial assistance for works under Regulation (EU) 2021/1153 of the European Parliament and of the Council<sup>(40)</sup>.

The conditions referred to in the third subparagraph shall be assessed taking into account the principle of energy solidarity. Competent national authorities shall take into account the situation in other affected Member States and balance possible negative effects with the beneficial effects on its territory.

2. The exemption referred to in paragraph 1 shall also apply to significant increases of capacity in existing infrastructure and to modifications of such infrastructure which enable the development of new sources of renewable gas and low-carbon gas supply.
3. The regulatory authority may, on a case-by-case basis, decide on the exemption referred to in paragraphs 1 and 2.

Before the adoption of the decision on the exemption, the regulatory authority, or, where appropriate, another competent authority of the Member State concerned, shall consult:

- (a) the regulatory authorities of the Member States the markets of which are likely to be affected by the new infrastructure; and
- (b) the relevant authorities of the third countries, where the infrastructure concerned is connected with the Union network under the jurisdiction of a Member State, and originates from or ends in one or more third countries.

Where the third-country authorities consulted do not respond to the consultation within a reasonable period or by a set deadline not exceeding three months, the regulatory authority concerned may adopt the necessary decision.

4. Where the infrastructure concerned is located in the territory of more than one Member State, ACER may submit an advisory opinion to the regulatory authorities of the Member States concerned within two months of the date on which the request for exemption was received by the last of those regulatory authorities. Such an advisory opinion may be used as a basis for the decision of the regulatory authorities.

Where all the regulatory authorities concerned agree on the request for exemption within six months of the date on which it was received by the last of the regulatory authorities, they shall inform ACER of their decision. Where the infrastructure concerned is a transmission line between a Member State and a third country, the regulatory authority, or, where appropriate, another competent authority of the Member State where the first interconnection point with the Member States' network is located, may consult before the adoption of the decision on the exemption the relevant authority of that third country with a view to ensuring, as regards the infrastructure concerned, that this Regulation is applied consistently in the territory and, where applicable, in the territorial sea of that Member State. Where the third-country authority consulted does not respond to the consultation within a reasonable period or by a set deadline not exceeding three months, the regulatory authority concerned may adopt the necessary decision.

<sup>(40)</sup> Regulation (EU) 2021/1153 of the European Parliament and of the Council of 7 July 2021 establishing the Connecting Europe Facility and repealing Regulations (EU) No 1316/2013 and (EU) No 283/2014 (OJ L 249, 14.7.2021, p. 38).

ACER shall exercise, in accordance with Article 10 of Regulation (EU) 2019/942, the tasks conferred on the regulatory authorities of the Member States pursuant to this Article:

- (a) where all regulatory authorities concerned have not been able to reach an agreement within a period of six months of the date on which the request for exemption was received by the last of those regulatory authorities; or
- (b) upon a joint request from the regulatory authorities concerned.

All regulatory authorities concerned may, jointly, request that the period referred to in the third subparagraph, point (a), is extended by up to three months.

5. Before adopting a decision, ACER shall consult the relevant regulatory authorities and the applicants.
6. An exemption may cover all or part of the capacity of the new infrastructure or of the existing infrastructure with significantly increased capacity.

In deciding to grant an exemption, consideration shall be given, on a case-by-case basis, to the need to impose conditions regarding the duration of the exemption and non-discriminatory access to the infrastructure. In deciding on those conditions, account shall be taken, in particular, of the additional capacity to be built or the modification of existing capacity, the projected period of the project and national circumstances.

Before granting an exemption, the regulatory authority shall decide upon the rules and mechanisms for management and allocation of capacity. The rules shall require that all potential users of the infrastructure are invited to indicate their interest in contracting capacity before capacity allocation in the new infrastructure, including for own use, takes place. The regulatory authority shall require congestion management rules to include the obligation to offer unused capacity on the market, and shall require users of the infrastructure to be entitled to trade their contracted capacities on the secondary market. In its assessment of the criteria referred to in paragraph 1, points (a), (c) and (f), the regulatory authority shall take into account the results of that capacity allocation procedure.

The exemption decision, including any conditions referred to in the second subparagraph, shall be duly reasoned and published.

7. When analysing whether a major new infrastructure is expected to enhance security of supply pursuant to paragraph 1, point (a), of this Article, the competent authority shall consider to what extent the new infrastructure is expected to improve Member States' compliance with their obligations under Regulation (EU) 2017/1938, both at regional and national level.

8. Where an authority other than the regulatory authority is competent to adopt exemption decisions, Member States may provide that their regulatory authority or ACER, as the case may be, is to submit an opinion on the request for an exemption to that competent authority in the Member State concerned, before the adoption of the formal exemption decision. That opinion shall be published together with the decision.

9. The competent authority shall transmit to the Commission, without delay, a copy of every request for exemption following receipt. The competent authority shall notify, without delay, the Commission of the exemption decision together with all the relevant information. That information may be submitted to the Commission in aggregate form, enabling the Commission to assess the exemption decision and shall contain, in particular:

- (a) the detailed reasons on the basis of which the regulatory authority, or Member State, granted or refused the exemption together with a reference to the relevant point or points of paragraph 1 setting out the conditions on which that decision is based, including the financial information justifying the need for the exemption;
- (b) the analysis undertaken of the effect on competition and the proper functioning of the internal market resulting from the granting of the exemption;
- (c) the reasons for the duration of the exemption and the share of the total capacity of the infrastructure for which the exemption is granted;
- (d) where the exemption relates to an interconnector, the result of the consultation with the regulatory authorities concerned;
- (e) the contribution of the infrastructure to the diversification of supply.

10. Within 50 working days of the day following that of receipt of the notification under paragraph 9, the Commission may adopt a decision requesting the notifying bodies to amend or withdraw the decision to grant an exemption. Before adopting the decision on the exemption, the Commission may seek an opinion of the European Scientific Advisory Board on Climate Change established under Article 10a of Regulation (EC) No 401/2009 of the European Parliament and of the Council <sup>(41)</sup> as to whether the exemption contributes to achieving the Union's climate and energy targets. That period may be extended by an additional 50 working days where further information is requested by the Commission. The additional period shall begin on the day following receipt of the complete information. The initial period may also be extended by consent of both the Commission and the notifying bodies.

Where the requested information is not provided within the period set out in the request, the notification shall be considered to be withdrawn unless, before the expiry of that period, either the period has been extended with the consent of both the Commission and the regulatory authority, or the regulatory authority, in a duly reasoned statement, has informed the Commission that it considers the notification to be complete.

The regulatory authority shall comply with the Commission decision to amend or withdraw the exemption decision within a period of one month and shall inform the Commission accordingly.

The Commission shall preserve the confidentiality of commercially sensitive information.

Where the Commission approves an exemption decision, that approval shall lose its effect:

- (a) after two years from its adoption where the construction of the infrastructure has not yet started;
- (b) after five years from its adoption where the infrastructure has not become operational within that period, unless the Commission decides that any delay is due to major obstacles beyond the control of the person to whom the exemption has been granted.

11. The Commission is empowered to adopt delegated acts in accordance with Article 80 in order to supplement this Regulation by setting guidelines for the application of the conditions laid down in paragraph 1 of this Article and for the procedure to be followed for the application of paragraphs 3, 6, 8 and 9 of this Article.

#### *Article 79*

### **Derogations**

This Regulation shall not apply to natural gas transmission systems situated in Member States for the duration of derogations granted pursuant to Article 86 of Directive (EU) 2024/1788.

#### *Article 80*

### **Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 14(5), Article 18(3), Article 31(3), Article 71(1), Article 72(1), Article 74(3) and (4) and Article 78(11) shall be conferred on the Commission for an indeterminate period of time from 4 August 2024.
3. The delegation of power referred to in Article 14(5), Article 18(3), Article 31(3), Article 71(1), Article 72(1), Article 74(3) and (4) and Article 78(11) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of power specified in that decision. It shall take effect on the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

<sup>(41)</sup> Regulation (EC) No 401/2009 of the European Parliament and of the Council of 23 April 2009 on the European Environment Agency and the European Environment Information and Observation Network (OJ L 126, 21.5.2009, p. 13).



6. A delegated act adopted pursuant to Article 14(5), Article 18(3), Article 31(3), Article 71(1), Article 72(1), Article 74(3) or (4) or Article 78(11) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

#### Article 81

##### **Committee procedure**

1. The Commission shall be assisted by the committee established by Article 91 of Directive (EU) 2024/1788. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

#### Article 82

##### **Review and reporting**

1. By 31 December 2030, the Commission shall review this Regulation and shall submit a report to the European Parliament and to the Council, accompanied, where appropriate, by legislative proposals.
2. By 5 August 2029, the Commission may prepare a report assessing how to enable stronger system integration and harness further synergies across the hydrogen, electricity and natural gas sectors, including assessing the possibility of enhanced cooperation between, or integration of, the ENTSO for Electricity, the ENTSO for Gas and the ENNOH. That report shall be accompanied, where appropriate, by legislative proposals.

#### Article 83

##### **Amendments to Regulation (EU) No 1227/2011**

Regulation (EU) No 1227/2011 is amended as follows:

- (1) in Article 2, point (1)(b) and points (4) and (5), Article 3(3) and (4), point (c), Article 4(1) and Article 8(5), the term 'electricity or natural gas' is replaced by the term 'electricity, hydrogen or natural gas';
- (2) in Article 6(2), points (a) and (b), the term 'electricity and gas markets' is replaced by the term 'electricity, hydrogen and natural gas markets'.

#### Article 84

##### **Amendments to Regulation (EU) 2017/1938**

Regulation (EU) 2017/1938 is amended as follows:

- (1) Article 1 is replaced by the following:

*'Article 1*

##### **Subject matter**

This Regulation establishes provisions aiming to safeguard the security of gas supply in the Union by ensuring the proper and continuous functioning of the internal market for gas by allowing for exceptional measures to be implemented when the market can no longer deliver the gas supplies required, including solidarity measure of a last resort, and by providing for the clear definition and attribution of responsibilities among natural gas undertakings, the Member States and the Union regarding both preventive action and the reaction to concrete disruptions of gas supply. This Regulation also establishes transparent mechanisms concerning, in a spirit of solidarity, the coordination of planning for, and response to, emergencies at national, regional and Union level.;

(2) Article 2 is amended as follows:

(a) point (1) is deleted;

(b) the following point is added:

‘(32) “gas” means natural gas as defined in Article 2, point (1), of Directive (EU) 2024/1788 (\*).

(\*) Directive (EU) 2024/1788 of the European Parliament and of the Council of 13 June 2024 on common rules for the internal markets in renewable gas, natural gas and hydrogen, amending Directive (EU) 2023/1791 and repealing Directive 2009/73/EC (OJ L, 2024/1788, 15.7.2024, ELI: <http://data.europa.eu/eli/dir/2024/1788/oj>).’;

(3) Article 7 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. By 1 November 2026, ENTSOG shall carry out a Union-wide simulation of gas supply and infrastructure disruption scenarios, including scenarios of a prolonged disruption of a single supply source. The simulation shall include the identification and assessment of emergency gas supply corridors and shall also identify which Member States can address identified risks, including in relation to gas storage and LNG as well as scenarios examining the impact of a decrease in gas demand through energy savings or energy efficiency measures. The gas supply and infrastructure disruption scenarios and the methodology for the simulation shall be defined by ENTSOG in cooperation with the GCG. ENTSOG shall ensure an appropriate level of transparency and access to the modelling assumptions used in its scenarios. The Union-wide simulation of gas supply and infrastructure disruption scenarios shall be repeated every four years until circumstances warrant more frequent updates.’;

(b) in paragraph 4, point (e) is replaced by the following:

‘(e) taking into account risks relating to the control of infrastructure relevant to the security of gas supply to the extent that they may involve, inter alia, risks of underinvestment, undermining diversification, misuse of existing infrastructure, including hoarding of storage capacities, or an infringement of Union law’;

(4) Article 8 is amended as follows:

(a) paragraph 1 is deleted;

(b) in paragraph 3, the third subparagraph is replaced by the following:

‘The regional chapters shall contain appropriate and effective cross-border measures, including in relation to gas storage and LNG, subject to agreement between the Member States implementing the measures from the same or different risk groups affected by the measure on the basis of the simulation referred to in Article 7(1) and the common risk assessment.’;

(5) the following article is inserted:

‘Article 8a

#### **Measures on cybersecurity**

1. When establishing the preventive action plans and the emergency plans, the Member States shall consider the appropriate measures related to cybersecurity.

2. The Commission is empowered to adopt delegated acts in accordance with Article 19 to supplement this Regulation by establishing gas sector-specific rules for the cybersecurity aspects of cross-border gas flows, including rules on common minimum requirements, planning, monitoring, reporting and crisis management.

3. For the purpose of drafting the delegated acts referred to in paragraph 2 of this Article, the Commission shall work closely with the Agency, the European Union Agency for Cybersecurity (ENISA), ENTSOG and a limited number of main stakeholders concerned, as well as entities with existing competences in cybersecurity, within their own mandate, such as Security Operation Centres (SOCs) relevant for regulated entities, and computer security incident response teams (CSIRTs), as referred to in Article 10 of Directive (EU) 2022/2555 of the European Parliament and of the Council (\*).

(\*) Directive (EU) 2022/2555 of the European Parliament and of the Council of 14 December 2022 on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) No 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148 (NIS 2 Directive)(OJ L 333, 27.12.2022, p. 80).;

(6) Article 9, paragraph 1 is amended as follows:

(a) point (e) is replaced by the following:

‘(e) other preventive measures designed to address the risks identified in the risk assessment such as those relating to the need to enhance interconnections between neighbouring Member States, to further improve energy efficiency, to prevent capacity hoarding, to reduce gas demand and the possibility to diversify gas routes and sources of gas supply and the regional utilisation of existing storage and LNG capacities, if appropriate, in order to maintain gas supply to all customers as far as possible;’;

(b) the following point is added:

‘(l) information on measures related to cybersecurity, as referred to in Article 8a.’;

(7) in Article 11, the following paragraph is inserted:

‘7a. By way of derogation from Article 6(1), (2) and (3), Article 6b(1), third subparagraph, point (a), Article 6c(2), second subparagraph, point (b), and Article 10(1), point (l), Member States may, exceptionally, decide to take temporary measures to reduce the non-essential gas consumption of protected customers, in particular when one of the crisis levels pursuant to paragraph 1 of this Article or a regional or Union emergency pursuant to Article 12 is declared. Such temporary measures shall be limited to non-essential gas consumption and shall take into account the following elements:

(a) the impact of a disruption on supply chains that are critical for society;

(b) the possible negative impacts in other Member States, in particular on supply chains of downstream sectors that are critical for society;

(c) the potential long-lasting damage to industrial installations;

(d) the possibilities for reducing consumption and substituting products in the Union.

Such exceptional measures may be taken only after an assessment is carried out by the competent authorities with regard to the conditions to determine such non-essential volumes of gas.

As a result of measures referred to in the first subparagraph of this paragraph, the reduction of non-essential gas consumption of vulnerable customers, as defined by Member States in accordance with Article 26 of Directive (EU) 2024/1788, shall be avoided.’;

(8) in Article 12(6), the second subparagraph is replaced by the following:

‘Within three days of notification of the Commission request, the Member State or the competent authority shall modify its action and notify the Commission thereof, or shall inform the Commission of the reasons for which it disagrees with the request. In the latter case, the Commission may, within three days of being informed, amend or

withdraw its request or convene the Member State or the competent authority and, where the Commission considers it to be necessary, the GCG in order to consider the issue. The Commission shall set out its detailed reasons for requesting any modification to the action. The Member State or the competent authority shall modify its action or take action in order to ensure compliance with paragraph 5 as far as technically and safely possible for the integrity of the gas system. The Member State or the competent authority shall inform the Commission of the measures adopted.’;

(9) Article 13 is amended as follows:

(a) paragraphs 3, 4 and 5 are replaced by the following:

‘3. A solidarity measure shall be taken as a last resort and shall apply provided that the requesting Member State has:

(a) declared an emergency under Article 11;

(b) not been able to cover the deficit in gas supply to its solidarity protected customers despite the application of the measure referred to in Article 11(3) or, where a Member State has taken temporary measures to reduce the non-essential gas consumption of protected customers in accordance with Article 11(7a), the essential volumes of gas consumption to its solidarity protected customers;

(c) exhausted all market-based measures (voluntary measures), all non-market-based measures (mandatory measures) and other measures contained in its emergency plan;

(d) notified an explicit request to the Commission and to the competent authorities of all Member States with which it is connected either directly or pursuant to paragraph 2 via a third country, accompanied by a description of the implemented measures referred to in point (c) of this paragraph.

3a. The Member States which are obliged to provide solidarity pursuant to paragraph 1 shall be entitled to deduct from the solidarity offer the supplies to its solidarity protected customers or, where a Member State has taken temporary measures to reduce the non-essential gas consumption of protected customers in accordance with Article 11(7a), the supplies of the essential volumes of consumption of gas to its solidarity protected customers.

4. The Member States that receive a request for a solidarity measure shall make offers on the basis of voluntary demand-side measures as much as and for as long as possible, before resorting to non-market-based measures.

Where market-based measures prove to be insufficient for the Member State providing solidarity to cover the deficit in gas supply to solidarity protected customers in the requesting Member State, the Member State providing solidarity may introduce non-market-based measures in order to comply with the obligations laid down in paragraphs 1 and 2.

5. If there is more than one Member State that could provide solidarity to a requesting Member State, the requesting Member State shall, after consulting all Member States required to provide solidarity, seek the most advantageous offer on the basis of costs, speed of delivery, reliability and diversification of gas supplies. Where the available market-based offers prove not to be sufficient to cover the deficit in gas supply to the solidarity protected customers in the requesting Member State or, where the requesting Member State has taken temporary measures to reduce the non-essential gas consumption of protected customers in accordance with Article 11(7a), the deficit in gas supply of the essential volumes of gas consumption to its solidarity protected customers, the Member States required to provide solidarity shall be obliged to activate non-market-based measures.’;

(b) paragraph 8 is amended as follows:

(i) in the first subparagraph, the introductory wording is replaced by the following:

‘Solidarity under this Regulation shall be provided on the basis of compensation. The Member State requesting solidarity shall promptly pay, or ensure prompt payment of, fair compensation to the Member State providing solidarity.

Where two Member States have agreed on the necessary technical and legal arrangements pursuant to paragraph 10 (solidarity agreement), such fair compensation shall cover at least:’;

(ii) the second and the third subparagraphs are replaced by the following:

'Fair compensation pursuant to the first and second subparagraphs shall include, inter alia, all reasonable costs that the Member State providing solidarity incurs from an obligation to pay compensation by virtue of fundamental rights guaranteed by Union law and by virtue of the applicable international obligations when implementing this Article and further reasonable costs incurred from payment of compensation pursuant to national compensation rules.

Member States shall adopt the necessary measures, in particular the technical, legal and financial arrangements pursuant to paragraph 10, to implement the first, second and third subparagraphs of this paragraph. Such measures may provide for the practical arrangements of prompt payment.';

(c) the following paragraphs are inserted:

'8a. Where two Member States have not agreed on the necessary technical, legal and financial arrangements pursuant to paragraph 10 by means of a solidarity agreement, the delivery of gas pursuant to the obligation laid down in paragraph 1 in the event of an emergency shall be subject to the conditions set out in this paragraph.

The compensation for the solidarity measure shall not exceed reasonable costs. Unless both the Member State requesting solidarity and the Member State providing solidarity agree otherwise, the compensation shall include:

- (a) the price for gas in the Member State providing solidarity;
- (b) the storage and transport costs;
- (c) litigation costs for related judicial or arbitration proceedings involving the Member State providing solidarity;
- (d) other indirect costs that are not covered by the price for gas, such as the reimbursement of financial or other damages resulting from enforced firm load shedding of customers related to the provision of solidarity.

Unless the Member State requesting solidarity and the Member State providing solidarity agree on another price, the price for the gas supplied to the Member State requesting solidarity shall correspond to the day-ahead market price in the Member State providing solidarity the day preceding the request for solidarity or the corresponding day-ahead market price at the closest accessible exchange, at the closest accessible virtual trading point, or at an agreed hub over the day preceding the request for solidarity. Compensation for the gas volumes delivered in the context of a solidarity request shall be paid directly by the Member State requesting solidarity to the Member State providing solidarity or the entity both Member States indicate in their response to the solidarity request and the confirmation of receipt and of the volume to be taken.

The Member State to which the request for a solidarity measure is addressed shall provide the solidarity measure as soon as possible and no later than the indicated delivery time for the request. A Member State may refuse to provide solidarity to a Member State requesting solidarity provided that the requested Member State demonstrates that:

- (a) it does not have enough gas for the volumes to be supplied to the solidarity protected customers; or
- (b) it does not have sufficient interconnection capacity available, as set out in Article 13(7), or gas flows are restricted through a third country.

Such refusal shall be strictly limited to the volumes of gas affected by one or both of the limitations referred to in the fourth subparagraph.

In addition to the default rules provided for in this paragraph, Member States may agree on technical arrangements and on the coordination of the provision of solidarity. This paragraph shall be without prejudice to existing arrangements for the safe and reliable operation of the gas system.

8b. Where two Member States have not agreed on the necessary technical, legal and financial arrangements pursuant to paragraph 10 by means of a solidarity agreement, the Member State requesting the application of the solidarity measures shall issue a solidarity request to another Member State, indicating at least the following information:

- (a) the contact details of the competent authority of the Member State;
- (b) where relevant, the contact details of the relevant transmission system operators of the Member State;
- (c) where relevant, the contact details of the third party acting on behalf of the Member State;
- (d) the delivery period including timing of the first possible delivery and the anticipated duration of deliveries;
- (e) the delivery and interconnection points;
- (f) the gas volume in kWh for each interconnection point;
- (g) the gas quality.

The solidarity request shall be sent simultaneously to Member States potentially being able to provide solidarity measures, to the Commission and to the crisis managers designated pursuant to Article 10(1), point (g).

The Member States receiving a solidarity request shall send a response that indicates the contact details referred to in the first subparagraph, points (a), (b) and (c), and the volume and quality that can be supplied to the interconnection points at the time requested as referred to in the first subparagraph, points (d) to (g). If the volume that can be supplied by voluntary measures is insufficient, the response shall indicate the volume resulting from possible curtailment, from the release of strategic stocks or from the application of other measures.

Solidarity requests shall be submitted at least 48 hours before the indicated delivery time for gas.

The response to solidarity requests shall be effective within 18 hours. The confirmation of the volume to be taken by the Member State requesting solidarity shall be effective within six hours of receipt of the solidarity offer and at least 24 hours before the indicated delivery time for gas. The request may be submitted for a period of one day or several days, and the response shall match the requested duration. Where there are several Member States providing solidarity and bilateral solidarity arrangements are in place with one or several of them, those arrangements shall prevail between the Member States having agreed bilaterally. The default rules provided for in this paragraph shall only be applicable in relation to the other Member States providing solidarity.

The Commission may facilitate the implementation of solidarity, in particular by means of a template accessible on a secured online platform to enable real-time transmission of requests and offers.

8c. Where a solidarity measure has been provided in accordance with paragraphs 1 and 2, the final amount of the fair compensation that has been paid by the requesting Member State shall be subject to ex post control by the national regulatory authorities of the providing Member State and the requesting Member State, within three months of the end of the emergency.

Where the national regulatory authorities have not reached an agreement on the calculation of the final amount of the fair compensation, they shall inform the relevant competent authorities, the Commission and the Agency without delay. In that case, or upon a joint request from the national regulatory authorities, the Agency shall calculate the appropriate level of the fair compensation for the indirect costs occurred as a result of the provision of solidarity and provide a factual opinion within three months of the date of referral to the Agency. Before providing such factual opinion, the Agency shall consult the national regulatory authorities and the relevant competent authorities.

The three-month period referred to in the second subparagraph may be extended by an additional period of two months where further information is requested by the Agency. That additional period shall begin on the day following receipt of the complete information. The requesting Member State shall be consulted and give its opinion on the conclusion of the ex post control. Following the consultation with the requesting Member State, the authority which exercises that ex post control is entitled to require a rectification of the amount of the compensation, taking into account the opinion of the requesting Member State. The conclusions of that ex post control shall be transmitted to the Commission, which shall take them into consideration in its report on the emergency pursuant to Article 14(3).;

(d) paragraphs 10 and 11 are replaced by the following:

'10. The Member States shall adopt the necessary measures to ensure that gas is supplied to solidarity protected customers in the requesting Member State in accordance with paragraphs 1 and 2 and shall make their best endeavours to agree on technical, legal and financial arrangements. Such technical, legal and financial arrangements shall be agreed among the Member States which are directly connected or, in accordance with paragraph 2, connected via a third country, and shall be described in their respective emergency plans. Such arrangements may cover, among others, the following elements:

- (a) the operational safety of networks;
- (b) gas prices to be applied and the methodology for their setting, taking into account the impact on the functioning of the market;
- (c) the use of interconnections, including bi-directional capacity and underground gas storage;
- (d) gas volumes or the methodology for their setting;
- (e) categories of costs that will have to be covered by a fair and prompt compensation, that may include damages for curtailed industry;
- (f) an indication of the method how the fair compensation could be calculated.

The financial arrangement agreed between Member States before solidarity is requested shall contain provisions that allow for the calculation of the fair compensation of at least all relevant and reasonable costs incurred when providing solidarity and an undertaking that such compensation will be paid.

Any compensation mechanism shall provide incentives to participate in market-based solutions such as auctions and demand response mechanisms. It shall not create perverse incentives, including in financial terms, for market participants to postpone their action until non-market-based measures are applied. All compensation mechanisms or at least their summary shall be included in the emergency plans.

Where new and significant reasonable costs to be included in the fair compensation arise, as a result of judicial proceedings pursuant to paragraph 8, second subparagraph, point (c), after concluding the ex post control, the providing Member State shall inform immediately the requesting Member State. The national regulatory authorities and, where relevant, the Agency shall carry out a new ex post control pursuant to paragraph 8c. The outcome of that new ex post control is without prejudice to the obligation of a providing Member State to compensate damages to customers under national law and their right to receive a fair compensation.

11. For as long as a Member State can cover the gas consumption for its solidarity protected customers from its own production, it shall not be considered to be necessary to conclude technical, legal and financial arrangements with Member States with which it is directly connected or, in accordance with paragraph 2, via a third country, for the purpose of receiving solidarity. This shall not affect the obligation of the relevant Member State to provide solidarity to other Member States pursuant to this Article.;

(e) paragraphs 12, 13 and 14 are deleted;

(f) paragraph 15 is replaced by the following:

'15. The obligations laid down in paragraphs 1 and 2 of this Article shall cease to apply immediately after the declaration of the end of an emergency or when the Commission concludes, in accordance with Article 11(8), first subparagraph, that the declaration of an emergency is not or is no longer justified.;

(10) the following article is inserted:

*Article 13a*

**Cooperation between indirectly connected Member States using market-based measures (voluntary measures)**

1. Without prejudice to the principle of energy solidarity, this Article shall apply when Member States which are indirectly connected via another Member State and have received a request for voluntary contribution pursuant to paragraph 2 of this Article contribute to provide the requested gas volumes pursuant to Article 13(1) or (2), using voluntary measures as referred to in Article 13(3), point (c).

2. The Member State requesting solidarity under Article 13 may send a request for a voluntary contribution on the basis of market-based measures simultaneously to one or more other, indirectly connected Member States to seek the most advantageous offer or combination of offers, on the basis of the cost, speed of delivery, reliability and diversification of gas supplies pursuant to Article 13(4).

Requests pursuant to the first subparagraph of this Article shall be submitted to the indirectly connected Member States potentially being able to provide gas volumes on the basis of voluntary measures, to the Commission and to the crisis managers designated pursuant to Article 10(1), point (g), at least 48 hours before the indicated delivery time for gas. Those requests shall include at least the information referred to in Article 13(8b), first subparagraph.

Member States that receive the request pursuant to the first subparagraph of this Article shall respond to the requesting Member State, and inform the Commission and the crisis managers designated pursuant to Article 10(1), point (g), within 18 hours, indicating whether they can make an offer for gas volumes on the basis of voluntary measures. The response shall include at least the information referred to in Article 13(8a). Member States may respond by indicating their inability to contribute using market-based measures.

3. When the sum of the gas volumes resulting from the offers pursuant to Article 13(1) and (2) and offers pursuant to this Article do not reach the required volumes, offers pursuant to this Article shall be automatically selected.

When the sum of the gas volumes resulting from the offers pursuant to Article 13(1) and (2) and offers pursuant to this Article exceed the required volumes, offers pursuant to this Article shall be taken into account in the process of selecting offers pursuant to Article 13(4), and the requesting Member State shall, after consulting all involved Member States, seek the most advantageous offer, or a combination of offers amongst offers pursuant to Article 13 or this Article, on the basis of cost, speed of delivery, reliability and diversification. Where contributions under this Article are selected by the requesting Member States, the request pursuant to Article 13(1) and (2) shall be reduced accordingly.

The requesting Member State shall inform the Member States concerned which volumes it has selected within six hours of receipt of the offer and at least 24 hours before the indicated delivery time of gas.

4. Where an indirectly connected Member State provides a voluntary contribution on the basis of market-based measures to the requesting Member State pursuant to paragraphs 1 and 2 of this Article, fair compensation shall not exceed reasonable costs and may include the costs referred to in Article 13(8a), second subparagraph. The final amount of fair compensation shall be subject to the ex post control mechanism described in Article 13(8c).

5. The transmission system operators of the Member States concerned shall cooperate and exchange information using the ReCo System for Gas established by ENTSOG pursuant to Article 3(6), in order to identify the available interconnection capacities within six hours of a request of a Member State or the Commission. ENTSOG shall inform the Commission and the competent authorities of the Member States concerned accordingly.’;

(11) in Article 14(3), the first subparagraph is replaced by the following:

‘After an emergency, the competent authority referred to in paragraph 1 shall, as soon as possible and at the latest six weeks after the end of the emergency, provide the Commission with a detailed assessment of the emergency and the effectiveness of the measures implemented, including an assessment of the economic impact of the emergency, the impact on the electricity sector and the assistance provided to or received from, the Union and its Member States.



Where relevant, that assessment shall include a detailed description of the circumstances that led to activating the mechanism referred to in Article 13 and the conditions under which the missing gas supplies were received, including the price and financial compensation paid, and, where relevant, the reasons why the solidarity offers were not accepted or gas was not supplied. Such assessment shall be made available to the GCG and shall be reflected in the updates of the preventive action plans and the emergency plans.;

(12) in Article 17a, the following paragraph is added:

‘2. The report that is to be submitted by the Commission by 28 February 2025 shall also include a general assessment of the application of Articles 6a to 6d, Article 7(1) and (4), point (g), Article 13, Article 13a, Article 16(3), Article 17a, Article 18a, Article 20(4), and Annexes Ia and Ib. The report shall be accompanied, where appropriate, by a legislative proposal to amend this Regulation.’;

(13) Article 19 is amended as follows:

(a) in paragraph 2, the following sentence is inserted after the first sentence:

‘The power to adopt delegated acts referred to in Article 8a(2) shall be conferred on the Commission for a period of five years from 4 August 2024.’;

(b) in paragraph 3, the first sentence is replaced by the following:

‘3. The delegation of power referred to in Article 3(8), Article 7(5), Article 8(5) and Article 8a(2) may be revoked at any time by the European Parliament or by the Council.’;

(c) in paragraph 6, the first sentence is replaced by the following:

‘6. A delegated act adopted pursuant to Article 3(8), Article 7(5), Article 8(5) or Article 8a(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object.’;

(14) Annex VI is amended as follows:

(a) in Section 5, first subparagraph, point (a), second subparagraph, the following indent is inserted after the second indent ‘measures to diversify gas routes and sources of supply.’:

‘— measures to prevent capacity hoarding.’;

(b) in Section 11.3, first subparagraph, point (a), second subparagraph, the following indent is inserted after the second indent ‘measures to diversify gas routes and sources of supply.’:

‘— measures to prevent capacity hoarding.’;

#### Article 85

#### Amendments to Regulation (EU) 2019/942

Regulation (EU) 2019/942 is amended as follows:

(1) in Article 2, point (a) is replaced by the following:

‘(a) issue opinions and recommendations addressed to transmission system operators, the ENTSO for Electricity, the ENTSO for Gas, the European Network of Network Operators for Hydrogen (ENNOH), the EU DSO entity, regional coordination centres, nominated electricity market operators, and entities established by transmission system operators for natural gas, LNG system operators, natural gas storage system operators or hydrogen storage operators or hydrogen network operators.’;

(2) in Article 3(2), the first subparagraph is replaced by the following:

‘At ACER’s request, the regulatory authorities, the ENTSO for Electricity, the ENTSO for Gas, the ENNOH, the regional coordination centres, the EU DSO entity, the transmission system operators for natural gas, hydrogen network operators, the nominated electricity market operators, and entities established by transmission system operators for natural gas, LNG system operators, natural gas storage system operators or hydrogen storage operators or hydrogen terminal operators shall provide to ACER the information in the same level of detail necessary for the purpose of carrying out ACER’s tasks under this Regulation, unless ACER has already requested and received such information.’;

(3) Article 4 is amended as follows:

(a) paragraphs 1, 2 and 3 are replaced by the following:

‘1. ACER shall provide an opinion to the Commission on the draft statutes, list of members and draft rules of procedure of the ENTSO for Electricity in accordance with Article 29(2) of Regulation (EU) 2019/943 and on those of the ENTSO for Gas in accordance with Article 25(2) of Regulation (EU) 2024/1789 of the European Parliament and of the Council (\*) and on those of the ENNOH in accordance with Article 57(9) of Regulation (EU) 2024/1789 and on those of the EU DSO entity in accordance with Article 53(3) of Regulation (EU) 2019/943 and Article 40(4) of Regulation (EU) 2024/1789.

2. ACER shall monitor the execution of the tasks of the ENTSO for Electricity in accordance with Article 32 of Regulation (EU) 2019/943, of the ENTSO for Gas in accordance with Article 27 of Regulation (EU) 2024/1789 and of the ENNOH in accordance with Article 64 of Regulation (EU) 2024/1789 and of the EU DSO entity as set out in Article 55 of Regulation (EU) 2019/943 and Article 41 of Regulation (EU) 2024/1789.

3. ACER may provide an opinion:

(a) to the ENTSO for Electricity in accordance with Article 30(1), point (a), of Regulation (EU) 2019/943, to the ENTSO for Gas in accordance with Article 26(2) of Regulation (EU) 2024/1789 and to the ENNOH in accordance with Article 59(1) of that Regulation on the network codes;

(b) to the ENTSO for Electricity in accordance with Article 32(2) of Regulation (EU) 2019/943, to the ENTSO for Gas in accordance with the Article 26(2) of Regulation (EU) 2024/1789 and to the ENNOH in accordance with Article 60(2) of Regulation (EU) 2024/1789 on the draft Union-wide network development plan and on other relevant documents referred to in Article 30(1) of Regulation (EU) 2019/943 and Article 26(3) and Article 59(1) of Regulation (EU) 2024/1789, taking into account the objectives of non-discrimination, effective competition and the proper and secure functioning of the internal markets for electricity, hydrogen and natural gas;

(c) to the EU DSO entity on the draft annual work programme and other relevant documents referred to in Article 55(2) of Regulation (EU) 2019/943 and Article 41(3) of Regulation (EU) 2024/1789, taking into account the objectives of non-discrimination, effective competition and the proper and secure functioning of the internal market for electricity, hydrogen and natural gas.

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(\*) Regulation (EU) 2024/1789 of the European Parliament and of the Council of 13 June 2024 on the internal markets for renewable gas, natural gas and hydrogen, amending Regulations (EU) No 1227/2011, (EU) 2017/1938, (EU) 2019/942 and (EU) 2022/869 and Decision (EU) 2017/684 and repealing Regulation (EC) No 715/2009 (OJ L, 2024/1789, 15.7.2024, ELI: <http://data.europa.eu/eli/reg/2024/1789/oj>);

(b) paragraphs 6, 7 and 8 are replaced by the following:

‘6. The relevant regulatory authorities shall coordinate in order to jointly identify whether there is non-compliance of the ENTSO for Electricity, the ENTSO for Gas, the ENNOH, the EU DSO entity or regional coordination centres with their obligations under Union law, and shall take appropriate action in accordance with Article 59(1), point (c), and Article 62(1), point (f), of Directive (EU) 2019/944 or with Article 78(1), point (e), of Directive (EU) 2024/1788 of the European Parliament and of the Council (\*\*).

At the request of one or more regulatory authorities or at its own initiative, ACER shall issue a reasoned opinion as well as a recommendation to the ENTSO for Electricity, the ENTSO for Gas, the ENNOH, the EU DSO entity or the regional coordination centres with regard to compliance with their obligations.

7. Where a reasoned opinion of ACER identifies a case of potential non-compliance of the ENTSO for Electricity, the ENTSO for Gas, the ENNOH, the EU DSO entity or a regional coordination centre with their respective obligations, the regulatory authorities concerned shall unanimously take coordinated decisions establishing whether there is non-compliance with the relevant obligations and, where applicable, determining the measures to be taken by the ENTSO for Electricity, the ENTSO for Gas, the ENNOH, the EU DSO entity or the regional coordination centre to remedy that non-compliance. Where the regulatory authorities fail to take such coordinated decisions unanimously within four months of the date of receipt of ACER's reasoned opinion, the matter shall be referred to ACER for a decision pursuant to Article 6(10).

8. Where the non-compliance by the ENTSO for Electricity, the ENTSO for Gas, the ENNOH, the EU DSO entity or a regional coordination centre that was identified pursuant to paragraph 6 or 7 of this Article has not been remedied within three months, or where the regulatory authority in the Member State in which the entity has its seat has not taken action to ensure compliance, ACER shall issue a recommendation to the regulatory authority to take action in accordance with Article 59(1), point (c), and Article 62(1), point (f), of Directive (EU) 2019/944 or with Article 78(1), point (f), of Directive (EU) 2024/1788, in order to ensure that the ENTSO for Electricity, the ENTSO for Gas, the ENNOH, the EU DSO entity or the regional coordination centre comply with their obligations, and shall inform the Commission.

(\*\*) Directive (EU) 2024/1788 of the European Parliament and of the Council of 13 June 2024 on common rules for the internal markets in renewable gas, natural gas and hydrogen, amending Directive (EU) 2023/1791 and repealing Directive 2009/73/EC (OJ L, 2024/1788, 15.7.2024, ELI: <http://data.europa.eu/eli/dir/2024/1788/oj>);

(4) Article 5(1) is replaced by the following:

‘1. ACER shall participate in the development of network codes in accordance with Article 59 of Regulation (EU) 2019/943 and Articles 71 and 72 of Regulation (EU) 2024/1789 and of guidelines in accordance with Article 61(6) of Regulation (EU) 2019/943 and Article 74(5) of Regulation (EU) 2024/1789. It shall in particular:

- (a) submit non-binding framework guidelines to the Commission where it is requested to do so under Article 59(4) of Regulation (EU) 2019/943 or Article 71(4) or Article 72(4) of Regulation (EU) 2024/1789. ACER shall review the framework guidelines and re-submit them to the Commission where requested to do so under Article 59(7) of Regulation (EU) 2019/943 or Article 71(7) or Article 72(7) of Regulation (EU) 2024/1789;
- (b) revise the network code in accordance with Article 59(11) of Regulation (EU) 2019/943 or Article 71(11) or Article 72(11) of Regulation (EU) 2024/1789. In its revision, ACER shall take account of the views provided by the parties involved during the drafting of that revised network code led by the ENTSO for Electricity, the ENTSO for Gas, the ENNOH or the EU DSO entity, and shall consult the relevant stakeholders on the version to be submitted to the Commission. To that end, ACER may use the drafting committee established under the network codes where appropriate. ACER shall report to the Commission on the outcome of the consultations. Subsequently, ACER shall submit the revised network code to the Commission in accordance with Article 59(11) of Regulation (EU) 2019/943 or Article 71(11) or Article 72(11) of Regulation (EU) 2024/1789. Where the ENTSO for Electricity, the ENTSO for Gas, the ENNOH or the EU DSO entity have failed to develop a network code, ACER shall prepare and submit a draft network code to the Commission where it is requested to do so under Article 59(12) of Regulation (EU) 2019/943 or Article 71(12) or Article 72(12) of Regulation (EU) 2024/1789;
- (c) provide a duly reasoned opinion to the Commission, in accordance with Article 32(1) of Regulation (EU) 2019/943 or Article 27(1) or Article 64(2) of Regulation (EU) 2024/1789, where the ENTSO for Electricity, the ENTSO for Gas, the ENNOH or the EU DSO entity has failed to implement a network code elaborated under Article 30(1), point (a), of Regulation (EU) 2019/943 or Article 26(1) or Article 59(1), point (a), of Regulation (EU) 2024/1789 or a network code which has been established in accordance with Article 59(3) to (12) of Regulation (EU) 2019/943 or Article 71(3) to (12) or Article 72(3) to (12) of Regulation (EU) 2024/1789 but which has not been adopted by the Commission under Article 59(13) of Regulation (EU) 2019/943 or under Article 71(13) or Article 72(13) of Regulation (EU) 2024/1789;
- (d) monitor and analyse the implementation of the network codes adopted by the Commission in accordance with Article 59 of Regulation (EU) 2019/943 and Articles 71 and 72 of Regulation (EU) 2024/1789 and the guidelines adopted in accordance with Article 61 of Regulation (EU) 2019/943 and Article 74 of Regulation (EU) 2024/1789, and their effect on the harmonisation of applicable rules aimed at facilitating market integration as well as on non-discrimination, effective competition and the proper functioning of the market, and report to the Commission.’;

(5) Article 6 is amended as follows:

(a) paragraph 3 is replaced by the following:

'3. By 5 July 2022, and every four years thereafter the Commission shall submit a report to the European Parliament and the Council on the independence of regulatory authorities pursuant to Article 57(7) of Directive (EU) 2019/944 and Article 76(6) of Directive (EU) 2024/1788.;

(b) paragraph 5 is replaced by the following:

'5. ACER shall provide a factual opinion at the request of one or more regulatory authorities or of the Commission, on whether a decision taken by a regulatory authority complies with the network codes and guidelines referred to in Regulation (EU) 2019/943, Regulation (EU) 2024/1789, Directive (EU) 2019/944 or Directive (EU) 2024/1788, with other relevant provisions of those regulations or directives, or with Article 13 of Regulation (EU) 2017/1938.;

(c) the following paragraphs are inserted:

'9a. ACER shall issue recommendations to transmission system operators, distribution system operators, hydrogen network operators and regulatory authorities, with regard to the methodologies for setting the inter-temporal cost allocation pursuant to Article 5(6), first subparagraph, of Regulation (EU) 2024/1789.

ACER may issue recommendations to transmission system operators, distribution system operators, hydrogen network operators and regulatory authorities, with regard to the regulatory asset bases pursuant to Article 5(6), third subparagraph, of Regulation (EU) 2024/1789.

9b. ACER may issue recommendations to regulatory authorities on the allocation of costs of solutions for restrictions to cross-border flows due to differences in gas quality pursuant to Article 21(11) of Regulation (EU) 2024/1789.

9c. ACER may issue recommendations to regulatory authorities on the allocation of costs of solutions for restrictions to cross-border flows due to differences in hydrogen quality pursuant to Article 55(8) of Regulation (EU) 2024/1789.

9d. ACER shall publish monitoring reports on congestion at interconnection points pursuant to point 2.2.1(2) of Annex I to Regulation (EU) 2024/1789.;

(d) paragraph 10 is amended as follows:

(i) the first subparagraph is replaced by the following:

'ACER shall be competent to adopt individual decisions on regulatory issues having effects on cross-border trade or cross-border system security which require a joint decision by at least two regulatory authorities, where such competences have been conferred on the regulatory authorities under one of the following legal acts:

(a) a legislative act of the Union adopted under the ordinary legislative procedure;

(b) network codes and guidelines referred to in Articles 59 to 61 of Regulation (EU) 2019/943 adopted before 4 July 2019 and subsequent revisions of those network codes and guidelines;

(c) network codes and guidelines referred to in Articles 59 to 61 of Regulation (EU) 2019/943 adopted as implementing acts pursuant to Article 5 of Regulation (EU) No 182/2011;

(d) guidelines pursuant to Annex I to Regulation (EU) 2024/1789; or

(e) network codes and guidelines referred to in Articles 71 to 74 of Regulation (EU) 2024/1789.;

(ii) in the second subparagraph, point (a) is replaced by the following:

‘(a) where the competent regulatory authorities have not been able to reach an agreement within six months of referral of the case to the last of those regulatory authorities, or within four months with regard to cases under Article 4(7) of this Regulation or under Article 59(1), point (c), or Article 62(1), point (f), of Directive (EU) 2019/944 or Article 78(1), point (f), of Directive (EU) 2024/1788;’

(iii) the third and fourth subparagraphs are replaced by the following:

‘The competent regulatory authorities may jointly request that the period referred to in point (a) of the second subparagraph of this paragraph be extended by a period of up to six months, except with regard to cases under Article 4(7) of this Regulation or under Article 59(1), point (c), or Article 62(1), point (f), of Directive (EU) 2019/944 or Article 78(1), point (f), of Directive (EU) 2024/1788.’

Where the competences to decide on cross-border issues referred to in the first subparagraph of this paragraph have been conferred on the regulatory authorities in new network codes or guidelines referred to in Articles 59 to 61 of Regulation (EU) 2019/943 adopted as delegated acts after 4 July 2019, ACER shall only be competent on a voluntary basis pursuant to point (b) of the second subparagraph of this paragraph, upon a request from at least 60 % of the competent regulatory authorities. Where only two regulatory authorities are involved, either one may refer the case to ACER.’;

(e) in paragraph 12, point (a) is replaced by the following:

‘(a) shall issue a decision within six months of the date of referral, or within four months thereof with regard to cases pursuant to Article 4(7) of this Regulation or Article (59)(1), point (c), or Article 62(1), point (f), of Directive (EU) 2019/944 or Article 78(1), point (f), of Directive (EU) 2024/1788; and’;

(6) Article 14(1) is replaced by the following:

‘1. In carrying out its tasks, in particular in the process of developing framework guidelines in accordance with Article 59 of Regulation (EU) 2019/943 or Articles 71 and 72 of Regulation (EU) 2024/1789, and in the process of proposing amendments of network codes under Article 60 of Regulation (EU) 2019/943 or Article 73 of Regulation (EU) 2024/1789. ACER shall, extensively consult at an early stage market participants, transmission system operators, hydrogen transmission network operators, consumers, end-users and, where relevant, competition authorities, without prejudice to their respective competence, in an open and transparent manner, in particular when its tasks concern transmission system operators and hydrogen transmission network operators.’;

(7) Article 15 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. ACER, in close cooperation with the Commission, the Member States and the relevant national authorities, including the regulatory authorities, and without prejudice to the competences of competition authorities, shall monitor the wholesale and retail markets in electricity and natural gas, in particular the levels and the formation of retail and wholesale prices, in order to facilitate that relevant authorities can identify possible anti-competitive, unfair or untransparent behaviour by market operators, and with regard to compliance with the consumer rights laid down in Directive (EU) 2019/944 and Directive (EU) 2024/1788, the impact of market developments on household customers, access to the networks including access of electricity produced from renewable energy sources, the progress made with regard to interconnectors, potential barriers to cross-border trade, including the impact of blending hydrogen into the natural gas system and barriers to the cross-border flow of biomethane, regulatory barriers for new entrants on the market and smaller market participants, including citizen energy communities and renewable energy communities, State interventions preventing prices from reflecting actual scarcity, such as those set out in Article 10(4) of Regulation (EU) 2019/943, the performance of the Member States in the area of security of supply of electricity on the basis of the results of the European resource adequacy assessment as referred to in Article 23 of that Regulation, taking into account, in particular, the ex post evaluation referred to in Article 17 of Regulation (EU) 2019/941.’

ACER, in close cooperation with the Commission, the Member States and the relevant national authorities, including the regulatory authorities, and without prejudice to the competences of competition authorities, shall monitor the hydrogen markets, in particular the impact of market developments on hydrogen customers, access to the hydrogen network, including access to the network of hydrogen produced from renewable energy sources, the progress made with regard to interconnectors and potential barriers to cross-border trade.’;

(b) paragraph 2 is replaced by the following:

‘2. ACER shall publish annually a report on the results of the monitoring referred to in paragraph 1. In that report, it shall identify any barriers to the completion of the internal markets for electricity, natural gas and hydrogen.’;

(c) the following paragraphs are added:

‘6. ACER shall publish studies comparing the efficiency of Union transmission system operators’ costs pursuant to Article 19(2) of Regulation (EU) 2024/1789.

7. ACER shall submit opinions providing a harmonised format for the publication of technical information on access to hydrogen transmission networks and publish a monitoring report on congestion at interconnection points pursuant to the guidelines laid down in Annex I to Regulation (EU) 2024/1789.’.

#### Article 86

#### Amendments to Regulation (EU) 2022/869

Regulation (EU) 2022/869 is amended as follows:

(1) Articles 11, 12 and 13 are replaced by the following:

‘Article 11

#### **Energy system wide cost-benefit analysis**

1. The ENTSO for Electricity and the European Network of Network Operators for Hydrogen (ENNOH) referred to in Article 57 of Regulation (EU) 2024/1789 of the European Parliament and of the Council (\*) shall draft consistent single sector draft methodologies, including the energy network and market model referred to in paragraph 10 of this Article, for a harmonised energy system-wide cost-benefit analysis at Union level for projects on the Union list falling under the energy infrastructure categories set out in point (1)(a), (b), (d) and (f) and point (3) of Annex II to this Regulation.

The methodologies referred to in the first subparagraph of this paragraph shall be drawn up in line with the principles laid down in Annex V, shall be based on common assumptions allowing for project comparison, and shall be consistent with the Union’s 2030 targets for energy and climate and its 2050 climate neutrality objective, as well as with the rules and indicators set out in Annex IV.

The methodologies referred to in the first subparagraph of this paragraph shall be applied for the preparation of each subsequent Union-wide ten-year network development plans developed by the ENTSO for Electricity pursuant to Article 30 of Regulation (EU) 2019/943 or the ENNOH pursuant to Article 60 of Regulation (EU) 2024/1789.

By 24 April 2023, the ENTSO for Electricity shall publish and submit to Member States, the Commission and the Agency its consistent single sector draft methodology after gathering input from the relevant stakeholders during the consultation process referred to in paragraph 2 of this Article. Any methodology for an energy system-wide hydrogen cost-benefit analysis developed by the ENTSO for Gas by 1 September 2024 shall be approved in accordance with process laid down in this Article. By 1 December 2025, the ENNOH shall publish and submit to Member States, the Commission and the Agency its consistent single sector draft methodology after gathering input from the relevant stakeholders during the consultation procedure pursuant to Article 61(3), point (d), of Regulation (EU) 2024/1789.

2. Prior to submitting their respective draft methodologies to the Member States, the Commission and the Agency in accordance with paragraph 1, the ENTSO for Electricity and the ENNOH shall publish preliminary draft methodologies and conduct an extensive consultation process and seek recommendations from Member States and, at least, the organisations representing all relevant stakeholders, including the European entity for distribution system operators established pursuant to Article 52(1) of Regulation (EU) 2019/943 (the "EU DSO entity"), associations involved in electricity, natural gas and hydrogen markets, heating and cooling, carbon capture and storage and carbon capture and utilisation stakeholders, independent aggregators, demand-response operators, organisations involved in energy efficiency solutions, energy consumer associations, civil society representatives and, where it is considered to be appropriate, the national regulatory authorities and other national authorities.

Within three months of publication of the preliminary draft methodologies under the first subparagraph, any stakeholder referred to in that subparagraph may submit a recommendation.

The European Scientific Advisory Board on Climate Change established under Article 10a of Regulation (EC) No 401/2009 of the European Parliament and of the Council (\*\*) may, on its own initiative, submit an opinion to the draft methodologies.

Where applicable, Member States, and stakeholders referred to in the first subparagraph shall submit and make publicly available their recommendations and the European Scientific Advisory Board on Climate Change shall submit and make publicly available its opinion to the Agency and, as applicable, to the ENTSO for Electricity or the ENNOH.

The consultation process shall be open, timely and transparent. The ENTSO for Electricity and the ENNOH shall prepare and make public a report on the consultation process.

The ENTSO for Electricity and the ENNOH shall provide reasons where they have not, or have only partly, taken into account the recommendations from Member States or the stakeholders, as well as from national authorities, or the opinion of the European Scientific Advisory Board on Climate Change.

3. Within three months of receipt of the draft methodologies together with the input received in the consultation process and the report on the consultation, the Agency shall provide an opinion to the ENTSO for Electricity and the ENNOH. The Agency shall notify its opinion to the ENTSO for Electricity, the ENNOH, the Member States, and the Commission and publish it on its website.

4. Within three months of receipt of the draft methodologies, Member States may deliver their opinions to the ENTSO for Electricity and the ENNOH and the Commission. To facilitate the consultation, the Commission may organise specific meetings of the Groups to discuss the draft methodologies.

5. Within three months of receipt of the opinions of the Agency and Member States, as referred to in paragraphs 3 and 4, the ENTSO for Electricity and the ENNOH shall amend their respective methodologies to fully take into account the opinions of the Agency and the Member States and submit them together with the opinion of the Agency to the Commission for its approval. The Commission shall issue its decision within three months of submission of the methodologies by the ENTSO for Electricity, the ENTSO for Gas and the ENNOH, respectively.

6. Within two weeks of the approval by the Commission in accordance with paragraph 5, the ENTSO for Electricity and the ENNOH shall publish their respective methodologies on their websites. They shall publish the corresponding input data and other relevant network, load flow and market data in a sufficiently accurate form subject to restrictions under national law and relevant confidentiality agreements. The Commission and the Agency shall ensure the confidential treatment of the data received by them and by any party that carries out analytical work on the basis of those data on their behalf.

7. The methodologies shall be updated and improved regularly following the procedure described in paragraphs 1 to 6. In particular, they shall be amended after submission of the energy network and market model referred to in paragraph 10. The Agency, on its own initiative, or upon a duly reasoned request by national regulatory authorities or stakeholders, and after formally consulting the organisations representing all relevant stakeholders referred to in paragraph 2, first subparagraph, and the Commission, may request such updates and improvements, providing reasons and a timetable. The Agency shall publish the requests by national regulatory authorities or stakeholders and all relevant non-commercially sensitive documents leading to a request from the Agency for an update or improvement.

8. For projects falling under the energy infrastructure categories set out in point (1)(c) and (e) and in points (2), (4) and (5) of Annex II, the Commission shall ensure the development of methodologies for a harmonised energy system-wide cost-benefit analysis at Union level. Those methodologies shall be compatible in terms of benefits and costs with the methodologies developed by the ENTSO for Electricity and the ENNOH. The Agency, with the support of national regulatory authorities, shall promote the consistency of those methodologies with the methodologies elaborated by ENTSO for Electricity and the ENNOH. The methodologies shall be developed in a transparent manner, including extensive consultation of Member States and of all relevant stakeholders.

9. Every three years, the Agency shall establish and publish a set of indicators and corresponding reference values for the comparison of unit investment costs for comparable projects of the energy infrastructure categories included in Annex II. Project promoters shall provide the requested data to the national regulatory authorities and to the Agency.

The Agency shall publish the first indicators for the infrastructure categories set out in points (1), (2) and (3) of Annex II, by 24 April 2023, to the extent that data is available to calculate robust indicators and reference values. Those reference values may be used by the ENTSO for Electricity and the ENNOH for the cost-benefit analyses carried out for subsequent Union-wide ten-year network development plans.

The Agency shall publish the first indicators for the energy infrastructure categories set out in points (4) and (5) of Annex II, by 24 April 2025.

10. By 31 October 2025, following an extensive consultation process of stakeholders referred to in paragraph 2, first subparagraph, the ENTSO for Electricity, ENTSO for Gas, and the ENNOH shall jointly submit to the Commission and the Agency a consistent and progressively integrated model that will provide consistency between single sector methodologies on the basis of common assumptions including electricity, natural gas and hydrogen transmission infrastructure as well as natural gas storage facilities, liquefied natural gas and electrolysers, covering the energy infrastructure priority corridors and areas set out in Annex I drawn up in line with the principles laid down in Annex V.

11. The model referred to in paragraph 10 shall cover at least the relevant sectors' interlinkages at all stages of infrastructure planning, specifically scenarios, technologies and spatial resolution, infrastructure gaps identification in particular with respect to cross-border capacities, and projects assessment.

12. After approval of the model referred to in paragraph 10 by the Commission in accordance with the procedure set out in paragraphs 1 to 5, it shall be included in the methodologies referred to in paragraph 1, that shall be amended accordingly.

13. At least every five years, starting from its approval in accordance with paragraph 10, and more frequently where necessary, the model and the consistent single sector cost-benefit methodologies shall be updated in accordance with the procedure referred to in paragraph 7.

14. Until 1 January 2027, this Article applies subject to the transitional provisions set out in Article 61 of Regulation (EU) 2024/1789.

#### Article 12

##### **Scenarios for the ten-year network development plans**

1. By 24 January 2023, the Agency, after conducting an extensive consultation process involving the Commission, the Member States, the ENTSO for Electricity, the ENTSO for Gas, the EU DSO entity and at least the organisations representing associations involved in electricity, natural gas and hydrogen markets, heating and cooling, carbon capture and storage and carbon capture and utilisation stakeholders, independent aggregators, demand-response operators, organisations involved in energy efficiency solutions, energy consumer associations and civil society representatives, shall publish the framework guidelines for the joint scenarios to be developed by the ENTSO for Electricity, the ENTSO for Gas and the ENNOH. Those framework guidelines shall be regularly updated as found necessary. The consultation process for any update of the framework guidelines shall also involve the ENNOH.

The framework guidelines referred to in the first subparagraph shall establish criteria for a transparent, non-discriminatory and robust development of scenarios taking into account best practices in the field of infrastructures assessment and network development planning. The framework guidelines shall also aim to ensure that the underlying ENTSO for Electricity, ENTSO for Gas and ENNOH scenarios are fully in line with the energy efficiency first principle and with the Union's 2030 targets for energy and climate and its 2050 climate neutrality objective and shall take into account the latest available Commission scenarios, as well as, when relevant, the national energy and climate plans.

The European Scientific Advisory Board on Climate Change may, on its own initiative, provide input on how to ensure compliance of scenarios with the Union's 2030 targets for energy and climate and its 2050 climate neutrality objective. The Agency shall take duly into account that input in the framework guidelines referred to in the first subparagraph.

The Agency shall provide reasons where it has not, or has only partly, taken into account the recommendations from Member States, stakeholders and the European Scientific Advisory Board on Climate Change.



2. The ENTSO for Electricity, the ENTSO for Gas and the ENNOH shall follow the Agency's framework guidelines when developing the joint scenarios to be used for the Union-wide ten-year network development plans.

The joint scenarios shall also include a long-term perspective until 2050 and include intermediary steps as appropriate.

3. The ENTSO for Electricity, the ENTSO for Gas and the ENNOH shall invite the organisations representing all relevant stakeholders, including the EU DSO entity, associations involved in electricity, natural gas and hydrogen markets, heating and cooling, carbon capture and storage and carbon capture and utilisation stakeholders, independent aggregators, demand-response operators, organisations involved in energy efficiency solutions, energy consumer associations, civil society representatives, to participate in the scenarios development process, in particular on key elements such as assumptions and how they are reflected in the scenarios data.

4. The ENTSO for Electricity, the ENTSO for Gas and the ENNOH shall publish and submit the draft joint scenarios report to the Agency, the Member States and the Commission for their opinion.

The European Scientific Advisory Board on Climate Change may, on its own initiative, provide an opinion on the joint scenarios report.

5. Within three months of receipt of the draft joint scenarios report together with the input received in the consultation process and a report on how it was taken into account, the Agency shall submit its opinion on compliance of the scenarios with the framework guidelines referred to in paragraph 1, first subparagraph, including possible recommendations for amendments, to the ENTSO for Electricity, the ENTSO for Gas, the ENNOH, Member States and the Commission.

Within the same time limit, the European Scientific Advisory Board on Climate Change may, on its own initiative, provide an opinion on the compatibility of scenarios with the Union's 2030 targets for energy and climate and its 2050 climate neutrality objective.

6. Within three months of receipt of the opinion referred to in paragraph 5, the Commission, taking into account the opinions of the Agency and Member States, shall approve the draft joint scenarios report or request the ENTSO for Electricity, the ENTSO for Gas and the ENNOH to amend it.

The ENTSO for Electricity, the ENTSO for Gas and the ENNOH shall provide reasons explaining how any request for amendments from the Commission has been addressed.

In the event the Commission does not approve the joint scenarios report, it shall provide a reasoned opinion to the ENTSO for Electricity, the ENTSO for Gas and the ENNOH.

7. Within two weeks of the approval of the joint scenarios report in accordance with paragraph 6, the ENTSO for Electricity, the ENTSO for Gas and the ENNOH shall publish it on their websites. They shall also publish the corresponding input and output data in a sufficiently clear and accurate form for a third party to reproduce the results, taking due account of the national law and relevant confidentiality agreements and sensitive information.

8. Until 1 January 2027, this Article applies subject to the transitional provisions set out in Article 61 of Regulation (EU) 2024/1789.

#### Article 13

#### **Infrastructure gaps identification**

1. Within six months of approval of the joint scenarios report pursuant to Article 12(6) and every two years thereafter, the ENTSO for Electricity, the ENTSO for Gas and the ENNOH shall publish the infrastructure gaps reports developed within the framework of the Union-wide ten-year network development plans.

When assessing the infrastructure gaps the ENTSO for Electricity, the ENTSO for Gas and the ENNOH shall base their analysis on the scenarios established under Article 12, implement the energy efficiency first principle and consider with priority all relevant alternatives to new infrastructure. When considering new infrastructures solutions, the infrastructures gaps assessment shall take into account all relevant costs, including network reinforcements.

The infrastructures gaps assessment shall, in particular, focus on those infrastructure gaps potentially affecting the fulfilment of the Union's 2030 climate and energy targets and its 2050 climate neutrality objective.

Prior to publishing their respective reports, the ENTSO for Electricity, the ENTSO for Gas and the ENNOH shall conduct an extensive consultation process involving all relevant stakeholders, including the EU DSO entity, associations involved in electricity, natural gas and hydrogen markets, heating and cooling, carbon capture and storage and carbon capture and utilisation stakeholders, independent aggregators, demand-response operators, organisations involved in energy efficiency solutions and, energy consumer associations, civil society representatives, the Agency and all the Member States' representatives that are part of the relevant energy infrastructure priority corridors that are set out in Annex I.

2. The ENTSO for Electricity, the ENTSO for Gas and the ENNOH shall submit their respective draft infrastructure gaps report to the Agency and the Commission and Member States for their opinion.

3. Within three months of receipt of the infrastructure gaps report together with the input received in the consultation process and a report on how it was taken into account, the Agency shall submit its opinion to the ENTSO for Electricity, the ENTSO for Gas or the ENNOH, the Commission and Member States and make it publicly available.

4. Within three months of receipt of the Agency's opinion referred to in paragraph 3, the Commission shall, taking the Agency's opinion into account and with input from the Member States, draft its opinion and submit it to the ENTSO for Electricity, the ENTSO for Gas or the ENNOH.

5. The ENTSO for Electricity, the ENTSO for Gas and the ENNOH shall adapt their infrastructure gaps reports taking due account of the Agency's opinion and in line with the Commission's and the Member States' opinions and make them publicly available.

6. Until 1 January 2027, this Article applies subject to the transitional provisions set out in Article 61 of Regulation (EU) 2024/1789.

(\*) Regulation (EU) 2024/1789 of the European Parliament and of the Council of 13 June 2024 on the internal markets for renewable gas, natural gas and hydrogen, amending Regulations (EU) No 1227/2011, (EU) 2017/1938, (EU) 2019/942 and (EU) 2022/869 and Decision (EU) 2017/684 and repealing Regulation (EC) No 715/2009 (OJ L, 2024/1789, 15.7.2024, ELI: <http://data.europa.eu/eli/reg/2024/1789/oj>).

(\*\*) Regulation (EC) No 401/2009 of the European Parliament and of the Council of 23 April 2009 on the European Environment Agency and the European Environment Information and Observation Network (OJ L 126, 21.5.2009, p. 13).;

(2) in Article 31, the following paragraph is added:

'5. In the Annexes to this Regulation, any reference to "ENTSO for Gas" shall be understood to mean "the ENTSO for Gas and the ENNOH" for the purpose of the transitional provisions pursuant to Article 61 of Regulation (EU) 2024/1789. From 1 January 2027, any reference to "ENTSO for Gas" shall be understood to mean "the ENNOH".'

#### Article 87

#### **Amendment to Decision (EU) 2017/684**

The notification obligations for intergovernmental agreements in the field of energy relating to natural gas as laid down in Decision (EU) 2017/684 shall be construed as including intergovernmental agreements relating to hydrogen, including hydrogen compounds such as ammonia and liquid organic hydrogen carriers.

#### Article 88

#### **Repeal**

Regulation (EC) No 715/2009 is repealed. References made to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex III to this Regulation.

*Article 89***Entry into force**

1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

It shall apply from 5 February 2025.

2. By way of derogation from paragraph 1 of this Article:

(a) Article 11(3), point (b), Article 34(6) and Article 84 shall apply from 1 January 2025;

(b) Section 5 shall apply from 1 January 2025, except Articles 42, 43, 44, 52, 53 and 54, which shall apply from 4 August 2024.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 June 2024.

*For the European Parliament*

*The President*

R. METSOLA

*For the Council*

*The President*

H. LAHBIB

## ANNEX I

**Guidelines**

1. Information to be published on the methodology used to set the regulated revenue of the transmission system operator

The information referred to in points 1 to 5 shall be published before the tariff period by the regulatory authority or the transmission system operator as decided by the regulatory authority.

That information shall be provided separately for transmission activities where the transmission system operator is part of a larger commercial entity or holding.

1. The entity responsible for calculating, setting and approving the different components of the methodology.
2. A description of the methodology, including at least a description of:
  - (a) the overall methodology, such as revenue-cap, hybrid, cost-plus or tariff benchmarking;
  - (b) the methodology to set the regulatory asset base (RAB), including:
    - (i) methodology to determine the initial (opening) value of the assets as applied at the start of the relevant regulatory period and when incorporating new assets to the RAB;
    - (ii) methodology to re-evaluate assets;
    - (iii) explanations of the evolution of the value of the assets;
    - (iv) treatment of decommissioned assets;
    - (v) depreciation methodology applied to the RAB, including any changes applied to the values.
  - (c) the methodology to set the cost of capital;
  - (d) the methodology to determine the total expenditure (TOTEX) or, if applicable, operational expenditure (OPEX) and capital expenditure (CAPEX);
  - (e) the methodology to determine the efficiency of the cost, if applicable;
  - (f) the methodology applied to set the inflation;
  - (g) the methodology to determine premia and incentives, if applicable;
  - (h) non-controllable costs;
  - (i) services provided within the company holding, if applicable.
3. The values of the parameters used in the methodology:
  - (a) the detailed values of the parameters that are part of the cost of equity and cost of debt or weighted average cost of capital expressed in percentages;
  - (b) depreciation periods in years applicable separately to pipelines and compressors;
  - (c) changes to the depreciation period or in the acceleration of the depreciation applied to assets;
  - (d) efficiency targets in percentages;

- (e) inflation indices;
  - (f) premia and incentives.
4. The values of costs and expenditure that are used for setting the allowed or target revenue in euro and in the local currency of:
- (a) the RAB per asset type detailed per year until its full depreciation, including:
    - (i) the investments added to the RAB, per asset type;
    - (ii) the depreciation per asset type until the full depreciation of the assets;
  - (b) the cost of capital including the cost of equity and the cost of debt;
  - (c) operational expenditure;
  - (d) premia and incentives detailed separately per item.
5. Financial indicators to be provided for the transmission system operator. In the event of the transmission system operator being part of a larger holding or undertaking, those values shall be provided separately for the transmission system operator, including:
- (a) earnings before interest, taxes, depreciation and amortisation (EBITDA);
  - (b) earnings before interest and taxes (EBIT);
  - (c) return on assets I (ROA) =  $EBITDA / RAB$ ;
  - (d) return on assets II (ROA) =  $EBIT / RAB$ ;
  - (e) return on equity (ROE) =  $Profit / Equity$ :
    - (i) return on capital employed (RoCE);
    - (ii) leverage ratio;
    - (iii) net debt / (Net debt + Equity);
    - (iv) net debt / EBITDA.

The regulatory authority or the transmission system operator shall provide a simplified tariff model including the disaggregated parameters and values of the methodology and allowing to replicate the calculation of the allowed or target revenue of the transmission system operator.

6. Transmission system operators shall maintain and make available to the regulatory authority upon request a daily log of the actual maintenance and flow disruptions that have occurred. Information shall also be made available on request to consumers affected by any disruption.
2. Principles of capacity-allocation mechanisms and congestion-management procedures concerning transmission system operators and their application in the event of contractual congestion
- 2.1. Principles of capacity-allocation mechanisms and congestion-management procedures concerning transmission system operators
1. Capacity-allocation mechanisms and congestion-management procedures shall facilitate the development of competition and liquid trading of capacity and shall be compatible with market mechanisms including spot markets and trading hubs. They shall be flexible and capable of adapting to evolving market circumstances.
  2. Those mechanisms and procedures shall take into account the integrity of the system concerned as well as security of supply.

3. Those mechanisms and procedures shall neither hamper the entry of new market participants nor create undue barriers to market entry. They shall not prevent market participants, including new entrants on the market and companies with a small market share, from competing effectively.
4. Those mechanisms and procedures shall provide appropriate economic signals for efficient and maximum use of technical capacity and facilitate investment in new infrastructure.
5. Network users shall be advised about the type of circumstance that could affect the availability of contracted capacity. Information on interruption shall reflect the level of information available to the transmission system operator.
6. Should difficulties in meeting contractual delivery obligations arise due to system integrity reasons, transmission system operators shall notify network users and seek a non-discriminatory solution without delay.

Transmission system operators shall consult network users regarding procedures prior to their implementation and agree them with the regulatory authority.

## 2.2. Congestion management procedures in the event of contractual congestion

### 2.2.1. General provisions

1. This point shall apply to interconnection points between adjacent entry-exit systems, irrespective of whether they are physical or virtual, between two or more Member States or within the same Member State in so far as the points are subject to booking procedures by users. This point may also apply to entry points from and exit points to third countries, subject to the decision of the relevant regulatory authority. Exit points to end-consumers and distribution networks, entry points from LNG terminals and production facilities, and entry-exit points from and to natural gas storage facilities are not subject to this point.
2. On the basis of the information published by the transmission system operators pursuant to point 3 of this Annex and, where appropriate, validated by regulatory authorities, ACER shall publish a monitoring report on congestion at interconnection points with respect to firm capacity products sold in the preceding year, taking into consideration to the extent possible capacity trading on the secondary market and the use of interruptible capacity.

The monitoring report shall be published every two years. ACER shall publish additional reports, upon a substantiated request from the Commission, no more frequently than once per year.

3. Any additional capacity made available through the application of one of the congestion-management procedures as provided for in points 2.2.2 to 2.2.5 shall be offered by the relevant transmission system operators in the regular allocation process.

### 2.2.2. Capacity increase through oversubscription and buy-back scheme

1. Transmission system operators shall propose and, after approval by the regulatory authority, implement an incentive-based oversubscription and buy-back scheme in order to offer additional capacity on a firm basis. Before implementation, the regulatory authority shall consult the regulatory authorities of adjacent Member States and take account of the adjacent regulatory authorities' opinions. Additional capacity refers to the firm capacity offered in addition to the technical capacity of an interconnection point calculated pursuant to Article 6(1).
2. The oversubscription and buy-back scheme shall provide transmission system operators with an incentive to make available additional capacity, taking account of the technical conditions, such as the calorific value, temperature and expected consumption, of the relevant entry-exit system and the capacities in adjacent networks. Transmission system operators shall apply a dynamic approach with regard to the recalculation of the technical or additional capacity of the entry-exit system.
3. The oversubscription and buy-back scheme shall be based on an incentive regime reflecting the risks of transmission system operators in offering additional capacity. That scheme shall be structured in such a way that revenue from selling additional capacity and costs arising from the buy-back scheme or measures pursuant to point 6 are shared between the transmission system operators and the network users. Regulatory authorities shall decide on the distribution of revenue and costs between the transmission system operator and the network user.

4. For the purpose of determining transmission system operators' revenue, technical capacity, in particular surrendered capacity as well as, where relevant, capacity arising from the application of firm day-ahead use-it-or-lose-it and long-term use-it-or-lose-it mechanisms, shall be considered to be allocated prior to any additional capacity.
5. In determining the additional capacity, the transmission system operator shall take into account statistical scenarios for the likely amount of physically unused capacity at any given time at interconnection points. It shall also take into account a risk profile for offering additional capacity which does not lead to excessive buy-back obligation. The oversubscription and buy-back scheme shall also estimate the likelihood and the costs of buying back capacity on the market and reflect this in the amount of additional capacity to be made available.
6. Where necessary to maintain system integrity, transmission system operators shall apply a market-based buy-back procedure in which network users can offer capacity. Network users shall be informed about the applicable buy-back procedure. The application of a buy-back procedure is without prejudice to the applicable emergency measures.
7. Transmission system operators shall, before applying a buy-back procedure, verify whether alternative technical and commercial measures can maintain system integrity in a more cost-efficient manner.
8. When proposing the oversubscription and buy-back scheme the transmission system operator shall provide all relevant data, estimates, and models to the regulatory authority in order for the latter to assess the scheme. The transmission system operator shall regularly report to the regulatory authority on the functioning of the scheme and, upon request of the regulatory authority, provide all relevant data. The regulatory authority may request the transmission system operator to revise the scheme.

#### 2.2.3. Firm day-ahead use-it-or-lose-it mechanism

1. Regulatory authorities shall require transmission system operators to apply at least the rules laid down in point 3 per network user at interconnection points with respect to altering the initial nomination if, on the basis of the yearly monitoring report of ACER referred to in point 2.2.1(2), it is shown that at interconnection points demand exceeded offer, at the reserve price when auctions are used, in the course of capacity allocation procedures in the year covered by the monitoring report for products for use in either that year or in one of the subsequent two years:
  - (a) for at least three firm capacity products with a duration of one month;
  - (b) for at least two firm capacity products with a duration of one quarter;
  - (c) for at least one firm capacity product with a duration of one year or more; or
  - (d) where for at least six months no firm capacity product with a duration of one month or more has been offered.
2. If, on the basis of the yearly monitoring report of ACER referred to in point 2.2.1(2), it is shown that a situation as described in point 1 is unlikely to reoccur in the following three years, for example as a result of capacity becoming available from physical expansion of the network or termination of long-term contracts, the relevant regulatory authorities may decide to terminate the firm day-ahead use-it-or-lose-it mechanism.
3. Firm renomination is permitted up to 90 % and down to 10 % of the contracted capacity by the network user at the interconnection point. However, if the nomination exceeds 80 % of the contracted capacity, half of the non-nominated volume may be renominated upwards. If the nomination does not exceed 20 % of the contracted capacity, half of the nominated volume may be renominated downwards. The application of this point is without prejudice to the applicable emergency measures.
4. The original holder of the contracted capacity may renominate the restricted part of its contracted firm capacity on an interruptible basis.

5. Point 3 shall not apply to network users – persons or undertakings and the undertakings they control within the meaning of Article 3 of Council Regulation (EC) No 139/2004<sup>(1)</sup> – holding less than 10 % of the average technical capacity in the preceding year at the interconnection point.
6. On interconnection points where a firm day-ahead use-it-or-lose-it mechanism in accordance with point 3 is applied, an evaluation of the relationship with the oversubscription and buy-back scheme pursuant to point 2.2.2 shall be carried out by the regulatory authority, which may result in a decision by the regulatory authority not to apply point 2.2.2 at those interconnection points. Such a decision shall be notified, without delay, to ACER and to the Commission.
7. A regulatory authority may decide to implement a firm day-ahead use-it-or-lose-it mechanism pursuant to point 3 on an interconnection point. Before adopting its decision, the regulatory authority shall consult with the regulatory authorities of adjacent Member States. When adopting its decision, the regulatory authority shall take account of the adjacent regulatory authorities' opinions.

#### 2.2.4. Surrender of contracted capacity

Transmission system operators shall accept any surrender of firm capacity which is contracted by the network user at an interconnection point, with the exception of capacity products with a duration of a day and shorter period. The network user shall retain its rights and obligations under the capacity contract until the capacity is reallocated by the transmission system operator and to the extent the capacity is not reallocated by the transmission system operator. Surrendered capacity shall be considered to be reallocated only after all the available capacity has been allocated. The transmission system operator shall notify the network user without delay of any reallocation of its surrendered capacity. Specific terms and conditions for surrendering capacity, in particular where several network users surrender their capacity, shall be approved by the regulatory authority.

#### 2.2.5. Long-term use-it-or-lose-it mechanism

1. Regulatory authorities shall require transmission system operators to partially or fully withdraw systematically underutilised contracted capacity on an interconnection point by a network user where that user has not sold or offered under reasonable conditions its unused capacity and where other network users request firm capacity. Contracted capacity is considered to be systematically underutilised in particular where:
    - (a) the network user uses less than on average 80 % of its contracted capacity both from 1 April until 30 September and from 1 October until 31 March with an effective contract duration of more than one year for which no proper reasons could be provided; or
    - (b) the network user systematically nominates close to 100 % of its contracted capacity and renominates downwards with a view to circumventing the rules laid down in point 2.2.3(3).
  2. The application of a firm day-ahead use-it-or-lose-it mechanism shall not be considered to be justification to prevent the application of point 1.
  3. Withdrawal shall result in the network user losing its contracted capacity partially or completely for a given period or for the remaining effective contractual term. The network user shall retain its rights and obligations under the capacity contract until the capacity is reallocated by the transmission system operator and to the extent the capacity is not reallocated by the transmission system operator.
  4. Transmission system operators shall regularly provide regulatory authorities with all the data necessary to monitor the extent to which contracted capacities with effective contract duration of more than one year or recurring quarters covering at least two years are used.
3. Definition of the technical information necessary for network users to obtain effective access to the natural gas system, the definition of all relevant points for transparency requirements and the information to be published at all relevant points and the time schedule according to which that information shall be published.
    - 3.1. Definition of the technical information necessary for network users to obtain effective access to the system

<sup>(1)</sup> Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).



### 3.1.1. Form of publication

1. Transmission system operators shall provide all information referred to in point 3.1.2 and points 3.3(1) to 3.3(5) in the following manner:
  - (a) on a website accessible to the public, free of charge and without any need to register or otherwise sign on with the transmission system operator;
  - (b) on a regular/rolling basis; the frequency shall be according to the changes that take place and the duration of the service;
  - (c) in a user-friendly manner;
  - (d) in a meaningful, quantifiably clear, easily accessible and non-discriminatory manner;
  - (e) in a downloadable format that has been agreed between transmission system operators and the regulatory authorities – on the basis of an opinion on a harmonised format that shall be provided by ACER – and that allows for quantitative and comparative analyses;
  - (f) in consistent units, in particular kWh (with a combustion reference temperature of 298,15 K) shall be the unit for energy content and m<sup>3</sup> (at 273,15 K and 1,01325 bar) shall be the unit for volume. The constant conversion factor to energy content shall be provided. In addition to the format above, publication in other units is also possible;
  - (g) in the official languages of the Member State and in English;
  - (h) all data shall be made available on one Union-wide central platform, established by ENTSOG on a cost-efficient basis.
2. Transmission system operators shall provide details on actual changes to all information referred to in point 3.1.2 and points 3.3(1) to 3.3(5) in a timely manner as soon as available to them.

### 3.1.2. Content of publication

1. Transmission system operators shall publish at least the following information about their systems and services:
  - (a) a detailed and comprehensive description of the different services offered and the corresponding charges levied;
  - (b) the different types of transport contracts available for these services;
  - (c) the network code and/or the standard conditions outlining the rights and responsibilities of all network users including:
    - (i) harmonised transport contracts and other relevant documents;
    - (ii) if relevant for access to the system, for all relevant points as defined in point 3.2, a specification of relevant gas quality parameters, including at least the gross calorific value, Wobbe index and oxygen content, and the liability or costs of conversion for network users where gas is outside those specifications;
    - (iii) if relevant for access to the system, for all relevant points information on pressure requirements;
    - (iv) the procedure in the event of an interruption of interruptible capacity, including, where applicable, the timing, extent, and ranking of individual interruptions, for example pro rata or first-come-last-interrupted;
  - (d) the harmonised procedures applied when using the transmission system, including the definition of key terms;
  - (e) provisions on capacity allocation, congestion management and anti-hoarding and reutilisation procedures;

- (f) the rules applicable for capacity trade on the secondary market vis-à-vis the transmission system operator;
- (g) rules on balancing and methodology for the calculation of imbalance charges;
- (h) if applicable, the flexibility and tolerance levels included in transport and other services without separate charge, as well as any flexibility offered in addition to that and the corresponding charges;
- (i) a detailed description of the natural gas system of the transmission system operator and its relevant points of interconnection as defined in point 3.2 as well as the names of the operators of the interconnected systems or facilities;
- (j) the rules applicable for connection to the natural gas system operated by the transmission system operator;
- (k) information on emergency mechanisms, as far as it is the responsibility of the transmission system operator, such as measures that can lead to the disconnection of customer groups and other general liability rules that apply to the transmission system operator;
- (l) procedures agreed upon by transmission system operators at interconnection points, of relevance for access of network users to the transmission systems concerned, relating to interoperability of the network, agreed procedures on nomination and matching procedures and other agreed procedures that lay down provisions in relation to gas flow allocations and balancing, including the methods used;
- (m) transmission system operators shall publish a detailed and comprehensive description of the methodology and process, including information on the parameters employed and the key assumptions, used to calculate the technical capacity.

### 3.2. Definition of all relevant points for transparency requirements

#### 1. Relevant points shall include at least:

- (a) all entry and exit points to and from a transmission network operated by a transmission system operator, with the exception of exit points connected to a single final customer, and with the exception of entry points linked directly to a production facility of a single producer that is located within the Union;
- (b) all entry and exit points connecting balancing zones of transmission system operators;
- (c) all points connecting the network of a transmission system operator with an LNG terminal, physical natural gas hubs, storage and production facilities, unless these production facilities are exempted under point (a);
- (d) all points connecting the network of a given transmission system operator to infrastructure necessary for providing ancillary services.

#### 2. Information for single final customers and for production facilities, that is excluded from the definition of relevant points as described under point 3.2(1)(a), shall be published in aggregate format, at least per balancing zone. For the purpose of application of this Annex, the aggregation of single final customers and of production facilities, excluded from the definition of relevant points as described under point 3.2(1)(a), shall be considered to be one relevant point.

#### 3. Where points between two or more transmission operators are managed solely by the transmission operators concerned, with no contractual or operational involvement of system users, or where points connect a transmission system to a distribution system and there is no contractual congestion at those points, transmission system operators shall be exempted for those points from the obligation to publish the requirements under point 3.3. The regulatory authority may require the transmission system operators to publish the requirements under point 3.3 for groups or all of the exempted points. In such case, the information, if available to the transmission system operator, shall be published in an aggregated form at a meaningful level, at least per balancing zone. For the purpose of application of this Annex, this aggregation of these points shall be considered to be one relevant point.

3.3. Information to be published at all relevant points and the time schedule according to which that information shall be published

1. At all relevant points, transmission system operators shall publish the information as listed in the second subparagraph, points (a) to (g), for all services and ancillary services provided, in particular information on blending, ballasting and conversion. That information shall be published on a numerical basis, in hourly or daily periods, equal to the smallest reference period for capacity booking and renomination and the smallest settlement period for which imbalance charges are calculated. If the smallest reference period is different from a daily period, information as listed in the second subparagraph, points (a) to (g), shall be made available also for the daily period.

The following information and its updates shall be published as soon as available to the system operator (in near real time):

- (a) the technical capacity for flows in both directions;
  - (b) the total contracted firm and interruptible capacity in both directions;
  - (c) the nominations and re-nominations in both directions;
  - (d) the available firm and interruptible capacity in both directions;
  - (e) actual physical flows;
  - (f) planned and actual interruption of interruptible capacity;
  - (g) planned and unplanned interruptions to firm services as well as the information on restoration of the firm services, in particular, maintenance of the system and the likely duration of any interruption due to maintenance; planned interruptions shall be published at least 42 days in advance;
  - (h) occurrence of unsuccessful, legally valid requests for firm capacity products with a duration of one month or longer including the number and volume of the unsuccessful requests;
  - (i) in the case of auctions, where and when firm capacity products with a duration of one month or longer have cleared at prices higher than the reserve price;
  - (j) where and when no firm capacity product with a duration of one month or longer has been offered in the regular allocation process;
  - (k) total capacity made available through the application of the congestion-management procedures laid down in points 2.2.2 to 2.2.5 per applied congestion-management procedure.
2. At all relevant points, the information referred to in points 3.3(1)(a), (b) and (d) shall be published at least 24 months in advance.
  3. At all relevant points, transmission system operators shall publish historical information on the requirements of points 3.3(1)(a) to (g) for the past five years on a rolling basis.
  4. Transmission system operators shall publish measured values of the gross calorific value, the Wobbe index, the hydrogen content blended in the natural gas system, methane content and oxygen content at all relevant points, on a daily basis. Preliminary figures shall be published at the latest three days following the respective gas day. Final figures shall be published within three months after the end of the respective month.
  5. For all relevant points, transmission system operators shall publish available capacities, booked and technical capacities, on an annual basis over all years where capacity is contracted plus 1 year, and at least for the next 10 years. That information shall be updated at least every month or more frequently, if new information becomes available. The publication shall reflect the period for which capacity is offered to the market.

3.4. Information to be published as regards the transmission system and the time schedule according to which this information shall be published

1. Transmission system operators shall ensure the publication on a daily basis and updated every day the aggregated amounts of capacities offered, and contracted on the secondary market, that is sold from one network user to another network user where the information is available to the transmission system operator. That information shall include the following specifications:
  - (a) interconnection point where the capacity is sold;
  - (b) type of capacity, that is entry, exit, firm, interruptible;
  - (c) quantity and duration of the capacity usage rights;
  - (d) type of sale, for example transfer or assignment;
  - (e) the total number of trades or transfers;
  - (f) any other conditions known to the transmission system operator as referred to in point 3.3.

In so far such information is provided by a third party, transmission system operators shall be exempted from this provision.

2. Transmission system operators shall publish harmonised conditions under which capacity transactions, for example transfers and assignments, will be accepted by them. Those conditions must at least include:
  - (a) a description of standardised products which can be sold on the secondary market;
  - (b) lead time for the implementation/acceptation/registration of secondary trades; in the case of delay the reasons have to be published;
  - (c) the notification to the transmission system operator by the seller or the third party as referred to in point 3.4 (1) about name of seller and buyer and capacity specifications as outlined in point 3.4(1).

In so far as such information is provided by a third party, transmission system operators shall be exempted from that provision.

3. Regarding the balancing service of its system, each transmission system operator shall provide to each network user, for each balancing period, its specific preliminary imbalance volumes and cost data per individual network user, at the latest one month after the end of the balancing period. Final data of customers supplied according to standardised load profiles may be provided up to 14 months later. In so far as such information is provided by a third party, transmission system operators shall be exempted from that provision. The provision of that information shall respect confidentiality of commercially sensitive information.
4. Where flexibility services, other than tolerances, are offered for third party access, transmission system operators shall publish daily forecasts on a day-ahead basis of the maximum amount of flexibility, the booked level of flexibility and the availability of flexibility for the market for the next gas day. The transmission system operator shall also publish *ex post* information on the aggregate utilisation of every flexibility service at the end of each gas day. If the regulatory authority is satisfied that such information could give room to potential abuse by network users, it may decide to exempt the transmission system operator from that obligation.
5. Transmission system operators shall publish, per balancing zone, the amount of gas in the transmission system at the start of each gas day and the forecast of the amount of natural gas in the transmission system at the end of each gas day. The forecast amount of natural gas for the end of the gas day shall be updated on an hourly basis throughout the gas day. If imbalance charges are calculated on an hourly basis, the transmission system operator shall publish the amount of gas in the transmission system on an hourly basis. Alternatively, transmission system operators shall publish, per balancing zone, the aggregate imbalance position of all users at the start of each balancing period and the forecast of the aggregated imbalance position of all users at the end of each gas day. If the regulatory authority is satisfied that such information could give room to potential abuse by network users, it may decide to exempt the transmission system operator from that obligation.

6. Transmission system operators shall provide user-friendly instruments for calculating tariffs.

7. Transmission system operators shall keep at the disposal of the relevant national authorities, for at least five years, effective records of all capacity contracts and all other relevant information in relation to calculating and providing access to available capacities, in particular individual nominations and interruptions. Transmission system operators must keep documentation of all relevant information under points 3.3(4) and (5) for at least five years and make them available to the regulatory authority upon request. Both parties shall respect commercial confidentiality.
  8. Transmission system operators shall publish at least annually, by a predetermined deadline, all planned maintenance periods that might affect network users' rights from transport contracts and corresponding operational information with adequate advance notice. That shall include the publication of any changes to planned maintenance periods and notification of unplanned maintenance in a prompt and non-discriminatory manner, as soon as that information becomes available to the transmission system operator. During maintenance periods, transmission system operators shall publish regularly updated information on the details of and expected duration and effect of the maintenance.
4. Format and content of the publication of technical information on network access by hydrogen network operators and information to be published at all relevant points and time schedule
    - 4.1. Format of the publication of technical information on network access
      1. Hydrogen network operators shall provide all information necessary for network users to obtain effective access to the network referred to in points 4.2 and 4.3 in the following manner:
        - (a) on a website accessible to the public, free of charge and without any need to register or otherwise sign on with the hydrogen network operator;
        - (b) on a regular/rolling basis; the frequency shall be according to the changes that take place and the duration of the service;
        - (c) in a user-friendly manner;
        - (d) in a clear, quantifiable, easily accessible and non-discriminatory manner;
        - (e) in a downloadable format that has been agreed between hydrogen network operators and the regulatory authorities – on the basis of an opinion on a harmonised format that shall be provided by ACER – and that allows for quantitative analyses;
        - (f) in consistent units, in particular kWh shall be the unit for energy content and m<sup>3</sup> shall be the unit for volume; the constant conversion factor to energy content shall be provided; in addition, publication in other units is also possible;
        - (g) in the official languages of the Member State and in English;
        - (h) all data shall be made available from 1 October 2026 on one Union-wide central platform, established by the ENNOH on a cost-efficient basis.
      2. Hydrogen network operators shall provide details on actual changes to all information referred to in points 4.2 and 4.3 in a timely manner as soon as available to them.
    - 4.2. Content of the publication of technical information on network access
      1. Hydrogen network operators shall publish at least the following information about their systems and services:
        - (a) a detailed and comprehensive description of the different services offered and their charges;
        - (b) the different types of transport contracts available for those services;
        - (c) the network codes and/or the standard conditions outlining the rights and responsibilities of all network users including:

- (i) harmonised transport contracts and other relevant documents;
  - (ii) if relevant for access to the network, for all relevant points, a specification of relevant hydrogen quality parameters and the liability or costs of conversion for network users where hydrogen is outside those specifications;
  - (iii) if relevant for access to the system, for all relevant points information on pressure requirements;
- (d) the harmonised procedures applied when using the hydrogen network, including the definition of key terms;
- (e) if applicable, the flexibility and tolerance levels included in transport and other services without separate charge, as well as any flexibility offered in addition thereto and the corresponding charges;
- (f) a detailed description of the hydrogen network of the hydrogen network operator and its relevant points of interconnection as defined in point 2 as well as the names of the operators of the interconnected networks or facilities;
- (g) the rules applicable for connection to the network operated by the hydrogen network operator;
- (h) information on emergency mechanisms, as far as it is the responsibility of the hydrogen network operator, such as measures that can lead to the disconnection of customers groups and other general liability rules that apply to the hydrogen network operator;
- (i) procedures agreed upon by hydrogen network operators at interconnection points, of relevance for access of network users to the hydrogen network concerned, relating to interoperability of the network.

2. Relevant points shall include at least:

- (a) all entry and exit points to and from a hydrogen network operated by a hydrogen network operator, with the exception of exit points connected to a single final customer, and with the exception of entry points linked directly to a production facility of a single producer that is located within the Union;
- (b) all entry and exit points connecting the networks of hydrogen network operators;
- (c) all points connecting the network of a hydrogen network operator with an LNG terminal, hydrogen terminals, physical natural gas hubs, storage and production facilities, unless those production facilities are exempted under point (a);
- (d) all points connecting the network of a particular hydrogen network operator to infrastructure necessary for providing ancillary services.

3. Information for single final customers and for production facilities, that is excluded from the definition of relevant points as described under point 2(a) shall be published in aggregate format and shall be considered as a single relevant point.

4.3. Information to be published at all relevant points and time schedule

1. At all relevant points, hydrogen network operators shall publish the information as listed in the second subparagraph, points (a) to (g), for all services on a numerical basis, in hourly or daily periods.

The following information and its updates shall be published in near real time:

- (a) the technical capacity for flows in both directions;
- (b) the total contracted capacity in both directions;
- (c) the nominations and re-nominations in both directions;
- (d) the available capacity in both directions;

- (e) actual physical flows;
  - (f) planned and actual interruption of capacity;
  - (g) planned and unplanned interruptions to services; planned interruptions shall be published at least 42 days in advance.
2. At all relevant points, the information referred to in points 1(a), (b) and (d) shall be published for a period of at least 24 months ahead.
  3. At all relevant points, hydrogen network operators shall publish historical information on the requirements of points 1(a) to (f) for the past five years on a rolling basis.
  4. Hydrogen network operators shall publish measured values of the hydrogen purity and contaminants at all relevant points, on a daily basis. Preliminary figures shall be published at the latest within three days. Final figures shall be published within three months after the end of the respective month.
  5. Further details required to implement points 4.1, 4.2 and 4.3, for example details on the format and content of the information necessary for network users for effective access to the network, information to be published at relevant points and details on time schedules, shall be set in a network code established pursuant to Article 70.
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## ANNEX II

**Repealed Regulation with list of the successive amendments thereto**

Regulation (EC) No 715/2009 of the European Parliament and of the Council (OJ L 211, 14.8.2009, p. 36)	
Commission Decision 2010/685/EU (OJ L 293, 11.11.2010, p. 67)	
Commission Decision 2012/490/EU (OJ L 231, 28.8.2012, p. 16)	
Regulation (EU) No 347/2013 of the European Parliament and of the Council (OJ L 115, 25.4.2013, p. 39)	(Only Article 22)
Commission Decision (EU) 2015/715 (OJ L 114, 5.5.2015, p. 9)	
Regulation (EU) 2018/1999 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1)	(Only Article 50)
Regulation (EU) 2022/869 of the European Parliament and of the Council (OJ L 152, 3.6.2022, p. 45)	(Only Article 25)
Regulation (EU) 2022/1032 of the European Parliament and of the Council (OJ L 173, 30.6.2022, p. 17)	(Only Article 2)



## ANNEX III

## Correlation table

Regulation (EC) No 715/2009	This Regulation
Article 1, first paragraph, introductory wording	Article 1, first paragraph, introductory wording
Article 1, first paragraph, point (a)	Article 1, first paragraph, point (a)
Article 1, first paragraph, point (b)	—
Article 1, first paragraph, point (c)	Article 1, first paragraph, point (b)
Article 1, second, third and fourth paragraphs	Article 1, second, third and fourth paragraphs
Article 2(1), introductory wording	Article 2(1), introductory wording
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Article 2(1), point (26)	Article 2(1), point (27)
Article 2(1), point (27)	Article 2(1), point (28)
Article 2(1), point (28)	Article 2(1), point (29)

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—	Articles 3, 4 and 5
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—	Article 26(3), first subparagraph, points (d), (h) and (i)
—	Article 26(3), second subparagraph
Article 8(4)	Article 26(4), first subparagraph
—	Article 26(4), second and third subparagraphs
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