Position Paper on the European Commission's Review of the EU Gas Market Design

April 2022

Executive Summary

1. The Russian invasion of Ukraine has initiated discussions on the overall EU's energy strategy, demonstrating the need to accelerate decarbonisation efforts, especially the deployment of renewables such as renewable and low-carbon gases, including hydrogen. In the transition phase, natural gas will keep playing an important bridging role, as it is deeply established in many Member States.
2. Clear definitions for the different types of renewable and low-carbon gases, including hydrogen - e.g. grid-connected electrolytic hydrogen -, are required. A definition for renewable hydrogen is currently missing and should be inserted in the EU framework.
3. The methodology to certify the greenhouse gas emission savings of low-carbon gases should be clarified asap in an annex to the Gas Directive and links with the mass balancing system avoided, as physical tracking of molecules is technically impossible.
4. Tariff rebates for renewable and low-carbon gases should in principle be supported provided that sufficient safeguards in terms of transparency, fairness of the cost-allocation system, non-distortion of market signals are inserted. Additional incentives, targeting the uptake of these gases, should be included in the proposals.
5. Blending of renewable and low-carbon gases provides for a cost-efficient, swift first step to energy system decarbonisation. The requirement for transmission system operators to accept cross-border flows of gases with a hydrogen content of up to 5% by volume strikes the right balance between support to hydrogen deployment and technical limitations.
6. Whilst the need for flexibility through temporary exemptions should be acknowledged during the first phase of hydrogen infrastructure development, strict regulatory principles will then have to be respected:
    - Vertical unbundling: strict ownership unbundling rules, i.e. the effective separation of network operators from activities of production, supply and storage, should be enshrined into law.
    - Cross-subsidisation: in general, strict separation of different regulated asset bases should be the norm between the hydrogen and gas networks and public support / grants could be envisaged at early stages of hydrogen network development.
    - Third-party access (TPA): regulated TPA should be introduced for hydrogen networks and hydrogen storages, and negotiated TPA for hydrogen terminals under specific circumstances.
7. Natural gas provisions should generally be upheld as they contribute to the creation of liquid markets. Whilst long-term contracts (LTCs) for renewable and low-carbon gases should be promoted, the ban on LTCs of unabated fossil gas beyond 2049 is in line with the overall EU's objective to reach climate neutrality in 2050.
8. LNG plays an increasingly important role in the EU energy mix as it helps to further diversify gas supplies and enhance competition. Measures increasing transparency will generally contribute to improving the efficiency of the system.

9. Gas storages are paramount to ensuring security of supply and providing flexibility to the overall system. Whilst discussions on storages are evolving quickly in light of the current geopolitical situation, the following points focus exclusively on the review of the Security of Gas Supply Regulation, as proposed by the European Commission on 15 December:
    - It should be left to the Member States to determine the entity that manages the purchase of strategic stocks, for instance market areas managers (for instance THE in Germany). In case TSOs are the chosen entities, it should be explicitly stated that the strategic stock can be used by TSOs exclusively to carry out their functions, i.e. safeguard transport network system stability, and not for the superordinate purpose of security of supply.
    - Joint procurement of strategic gas stocks by TSOs should be supported insofar that it remains a voluntary act and that stocks are used only for system stability purposes.
    - Member States should be required to put in place the necessary measures to ensure security of supply and to demonstrate their choice in their national risk assessments. They should remain free to decide whether and in which form storage facilities should be used as there is no 'one size fits all' solution.

Introduction

The Russian invasion of Ukraine has initiated discussions on the overall EU's energy strategy, demonstrating the urgency to both accelerate decarbonisation efforts, especially through the deployment of renewables such as renewable and low-carbon gases, and to diversify gas imports to reduce dependencies and ensure the European industry's and citizens' security of supply.

In the transition phase, natural gas will keep playing an important bridging role, as it is deeply established in many Member States. Natural gas reduces emissions significantly by replacing oil, hard coal and lignite and providing flexibility to a system with an increasing share of fluctuating renewables. At the same time, all efforts should be made to deploy renewable and low-carbon gases such as hydrogen or biogas / biomethane on a large scale and facilitate the roll-out of technologies such as carbon capture, utilisation and storage (CCUS), as they will:

- support the decarbonisation of the power, mobility, heating and cooling and energy-intensive industrial sectors through sector coupling, in line with the European Green Deal's objectives;
- create 600,000 to 850,000 direct jobs plus over a million indirect jobs by 2050;
- save society up to €217 billion annually across the energy system by 2050 through the use of gas and its infrastructure;
- contribute to further diversify EU's gas supply and ensure security of supply.

There is currently no comprehensive regulatory framework for these new gases, whilst this is a prerequisite for their successful market ramp-up. We therefore welcome the publication by the European Commission of the 'Hydrogen and Decarbonised Gas Market' legislative package on 15 December 2021, which aims to facilitate their integration in the energy system through a review of the EU Gas Market Design, i.e:

- The review of the Gas Directive;
- The review of the Gas Regulation, including amendments to the Security of Supply Regulation;

To enable a cost-effective transition to low-carbon and renewable gases while ensuring security of supply, the following points should be taken into consideration. These points, which are based on our longstanding experience as a key gas market player, take into account the current geopolitical situation. However, as this situation evolves quickly, not all the consequences of the crisis can be foreseen at the date of publication of this position paper.

1. Integrating renewable and low-carbon gases, including hydrogen, in our energy system

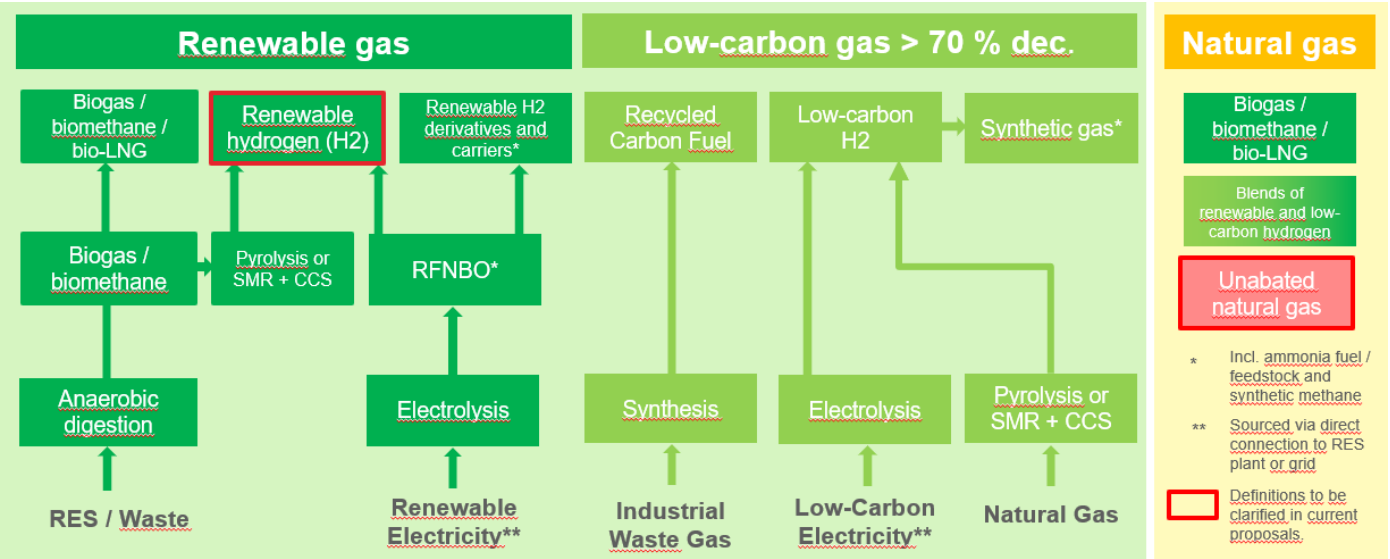
The liberalisation of European gas markets has widely been recognised as a major success, leading to liquid markets. We therefore welcome the general mirroring of natural gas rules for renewable and low-carbon gases. However, more needs to be done to better define and create a certification framework for renewable and low-carbon gases.

a. Definitions and certification of renewable and low-carbon gases

i. Definitions

Clear definitions for the different types of renewable and low-carbon gases, including hydrogen, are required in order to properly integrate them into the EU policy and regulatory framework. As such, we welcome the introduction in Article 2 of the Gas Directive of dedicated definitions for renewable gas, low-carbon hydrogen, low-carbon gas and low-carbon fuels.

Overview of Gases Based on Current EU Legislative Proposals



We regret that no dedicated definition for renewable hydrogen was introduced, neither in the review of the Gas Directive nor in the review of the Renewable Energy Directive (RED III). This creates loopholes in the renewable hydrogen framework as for instance, it is unclear whether renewable hydrogen produced from the reforming of biomethane / biogas combined with CCS would qualify as renewable while coming from renewable sources and being carbon negative. Both the Gas Directive and the RED III proposals should be amended to include the following definition: *'renewable hydrogen means renewable fuels of non-biological origin as defined in Article 2, point (36) of Directive (EU) 2018/2001 as well as any other type of hydrogen, the energy content of which is derived from renewable sources and which meets a greenhouse gas emission reduction threshold of 70%'*. This definition covers, among others, grid-connected electrolytic hydrogen (renewable hydrogen produced from electrolysers connected to the grid).

With regard to 'hydrogen storage facilities', the new definition shall be limited to large underground storage facilities such as a porous rock, aquifer or salt cavern storage sites. The definition should clearly exclude small hydrogen storage applications (e.g. in tanks or pipes) as well as storage related to transmission services in order to avoid an overlap in business activities.

The definition of 'hydrogen terminals' presents serious shortcomings as the qualification of an installation into a 'hydrogen terminal' would depend on whether liquid hydrogen or liquid ammonia will be transformed into gaseous hydrogen and whether they will subsequently be injected into the hydrogen grid, without any indication as to when the injection should take place. As a result, it would be difficult to assess which installations would fall under this definition. The definition of 'hydrogen terminals' should be clarified / simplified and the reference to liquid ammonia be deleted, as it could prove very difficult to assess whether and when ammonia is cracked into hydrogen.

Finally, whilst we support the rationale behind the proposed changes to the 'natural gas' definition, it should be made explicit that biomethane is a renewable energy source, as defined by the RED, and that hydrogen blended in the natural gas grid would also fall under this definition. A clearer distinction between renewable and low-carbon gases on one side and fossil gas on the other side should be introduced. Consistency of the 'natural gas' definition should also be ensured throughout the EU legislative framework.

ii. Certification

Clear definitions must be complemented by a sound and pragmatic certification system for renewable and low-carbon gases, including grid-connected electrolytic hydrogen. In order to facilitate the ramp-up of the hydrogen market, the EU legislative framework should ensure on the one hand that renewable and low-carbon sources are used to produce renewable and low-carbon hydrogen and on the other hand that obligations to develop additional renewables are placed on Member States rather than on a project-by-project basis.

Article 8, para 1 of the Gas Directive provides for the certification of renewable gases to be tackled in accordance with articles 29 and 30 of the RED, which lay out the sustainability and greenhouse gas emissions saving criteria for biofuels, bioliquids and biomass fuels.

Para 2 of the same article requires fuels and hydrogen to meet a target of -70% of ghg emissions to qualify as low-carbon. Whilst we in principle support the threshold, uncertainty remains on both the default value and calculation methodology to be used and which, according to the Gas Directive, should be defined via delegated act by 31 December 2024 (para 5). This methodology is crucial to the development of a market for low-carbon gases,

especially considering that it would apply to imports too in order to ensure a level playing field with domestically produced gases. The methodology should therefore be defined asap, directly in an annex to the Gas Directive, and could refer to the ISO 14067:2018 or ISO 14064-1:2018 standards.

Certification of low-carbon gases is also linked to the mass balancing system (para 2) and the Union Database (para 10), which raises concerns as molecules cannot be tracked physically, especially in case of blending. The tracking system for renewable and low-carbon gases, including hydrogen and bio-LNG, should not be based on physical flows as it would prevent the creation of a liquid gas Guarantee of Origin and certificate market (Book & Claim system), critical to increase the value of these gases.

b. Access of renewable and low-carbon gases to natural gas infrastructure

i. Incentives for the uptake of new gases, including tariffs discounts

The European Commission proposes to introduce tariff discounts for renewable and low-carbon gases in article 16 of the Gas Regulation:

- A 75% discount for entry capacity tariffs.
- A 75% discount for gas storage entry/exit capacity tariffs in the Member State where the renewable and low-carbon gas was first injected to.
- A 100% discount on the regulated gas transmission tariff at all interconnection points and LNG terminal entry points, after providing the respective TSO with a proof of sustainability.

We would in principle support the introduction of tariff discounts for renewable and low-carbon gases, provided that the following conditions are met:

- Full transparency and clarity on which actors will bear the costs of the discounts is ensured;
- A fair and transparent cost-allocation system is put in place;
- Market signals are not distorted;
- A certain level of harmonisation of discounts is ensured at EU level but Member States retain some flexibility.

The implementation of a 100% discount on the transmission tariff at interconnection points (IPs) could prove particularly difficult. It could create artificial congestion situations at IPs and distort the level playing field between injection of gases in EU countries and injection at the border with a third country, the first situation triggering a 75% tariff rebate and the second a 100% rebate. It also raises concerns with regard to the redistribution of costs: the implementation of an inter-transmission system operator compensation mechanism (ITC) would enable one TSO to be compensated by another one whilst benefitting from the production of renewable and low-carbon gases. Finally, it will be extremely difficult to provide a proof of sustainability at each IPs since this would require the implementation of a mass balancing system (physical tracking), which is technically not possible in a gas grid. All these issues have to be kept in mind when discussing this tariff discount.

More generally, additional incentives should be implemented to support the roll-out of renewable and low-carbon gases, including grid-connected electrolytic hydrogen, e.g. tax discounts or compensation through a surcharge / levy paid by all users of the grid. The proposal for LNG and storage operators to assess market demand for new investment allowing

the use of renewable and low carbon gases in the facilities (article 8 – Gas Regulation) appears sensible in that regard. However, the notion of 'market demand' should be further defined and both LNG and storage system operators should remain free to decide whether they will repurpose their facilities to renewable and low-carbon gases. The roles and responsibilities of storage system operators (SSOs) under the different regulatory regimes should also be further clarified and a level playing field between all actors ensured. Additional costs for non-regulated SSOs in the framework of this provision shall be borne by the transmission system and taken into account in the calculation of network tariffs.

ii. Gas quality and blending

Blending of renewable and low-carbon gases provides for a cost-efficient, swift first step to energy system decarbonisation, even though it leads to additional technical constraints and costs.

We therefore support the proposed obligation for transmission system operators (TSOs) to accept cross-border flows of gases with a hydrogen content of up to 5% by volume from 1 October 2025 (Article 20 of the Gas Regulation), provided the TSOs have the technical capability to continuously monitor the hydrogen blending level. Member States should retain the right to implement higher levels of blending at national level, where relevant.

To cope with hydrogen blending, storage system operators have to technically upgrade their storage facilities, which creates additional costs. These additional costs, as well as any incurred commercial losses, shall be borne by the transmission system and taken into account in the calculation of network tariffs.

To safely transport new gases and facilitate cross-border trade:

- Gas quality standards should be harmonised at EU level, taking into account renewable and low-carbon gases, especially hydrogen, and be developed by an independent technical expert group comprised not only of network but also market operators (e.g. based on the model of the 'Prime Movers Group').
- A general harmonisation of rules on information provision and publication of the European Committee for Standardisation's (CEN) quality parameters should be envisaged.
- Network operators should be made responsible for ensuring efficient gas quality management and for providing greater visibility and transparency on costs for gas quality management.

The third point is well acknowledged in articles 35 and 40 of the Gas Directive and in article 30 of the Gas Regulation. However we would have appreciated a higher degree of harmonisation as regards the application of gas quality standards.

c. Dedicated hydrogen infrastructure

i. Key regulatory principles

The natural gas infrastructure can be repurposed at relatively low-cost for transportation and storage of hydrogen compared to new-built facilities. As such, gas network operators should be able to transform their transport and distribution networks into dedicated hydrogen networks.

Key regulatory principles must be put in place to keep regulating these natural monopolies: vertical unbundling, horizontal unbundling and cross-subsidisation, third-party access (TPA) rules. To ensure regulatory certainty, these regulatory principles should ideally be applied to both existing and future private hydrogen infrastructures, as of the moment of their introduction. However, a certain degree of flexibility through temporary exceptions should be acknowledged during the first phase of hydrogen infrastructure development. All exemptions and derogations proposed in the Gas Directive and Regulation should be described in a concrete and detailed way and accompanied by a clear phasing-out plan and schedule.

a. Vertical unbundling

The effective separation of network operators from activities of production, supply and storage, i.e. vertical unbundling, is fundamental. Strict unbundling rules should be applied:

- The same company should not be allowed to control both the hydrogen network and hydrogen production, storage or supply interests.
- The construction, ownership and operation of power-to-gas and hydrogen storage installations should always be provided for by the market to ensure against a suboptimal use of such assets, thereby avoiding market distortions.

As such, we strongly welcome that the principle of legal and organizational unbundling is enshrined in articles 62 and 54 of the Gas Directive.

However, we also acknowledge the need to support and facilitate hydrogen deployment, especially during the first phase of market ramp-up. As a result, we do not oppose the proposed exemptions and derogations to vertical unbundling rules, summarised below, provided that they will not lead to market disruptions and remain cost-efficient:

- Until the end of 2030, for existing hydrogen networks (article 47 – Gas Directive) and integrated hydrogen network operators unbundled in accordance with the rules on independent transmission operators (ITOs, article 62§4 – Gas Directive).
- For independent hydrogen network operator unbundled in accordance with the rules on independent system operators (ISOs, article 62§3 – Gas Directive).
- For geographically confined, industrial or commercial area (article 48 – the Gas Directive).

b. Horizontal unbundling and cross-subsidisation

As for vertical unbundling, strict horizontal unbundling rules should be applied. The European Commission largely subscribes to this principle by introducing legal unbundling for hydrogen networks in article 63 of the Gas Directive: a hydrogen network operator shall be independent at least in terms of its legal form when it is part of an undertaking active in transmission or distribution of natural gas or electricity.

For fairness reasons, it is also important that hydrogen transport customers pay for the costs that arise from the construction and/or operation of a hydrogen transport network and that no costs are passed on to the natural gas network charges (no cross-subsidisation). In line with this, articles 64 and 69 of the Gas Directive stipulate that the accounts of hydrogen system operators should be kept separate, in order to avoid cross-subsidisation.

To enable the construction of a dedicated hydrogen infrastructure, public support / grants should be granted at early stages of hydrogen market ramp-up with comparatively high infrastructure costs. Rights of land use, private easements as well as (other) public permits

that have been granted for the construction and operation of natural gas networks should also remain valid once the networks are repurposed to hydrogen, in order to limit the administrative burden and reduce the permitting times.

If this is not sufficient for the hydrogen infrastructure to be built, cross-subsidisation could exceptionally be allowed, under strict conditions and regulatory oversight.

c. Third-party access

With the emergence of dedicated hydrogen infrastructures, third-party access (TPA) rules should be clarified.

As proposed in article 31 of the Gas Directive, hydrogen transport networks should be subject to regulated TPA. Member States could however decide to apply negotiated TPA until the end of 2025. Any later date would risk hampering hydrogen market development.

We also support the clarification in article 6 of the Gas Regulation of the type of TPA services that should be offered by hydrogen network operators:

- Non-discriminatory TPA should be ensured and contract terms and tariffs published on the website of hydrogen network operators;
- As of 31 December 2030, hydrogen networks shall be organised as entry-exit systems. The same tariff provisions as for natural gas should apply to hydrogen, i.e. regulated entry/exit tariffs with NRAs approving tariffs or tariff methodologies in advance.
- A network code on capacity allocation for hydrogen networks will ultimately have to be published.

The provision limiting the duration of capacity contracts for hydrogen is concerning. Long-term capacity contracts are needed for investment certainty and limiting the duration of those contracts to any duration below 20 years would hinder hydrogen deployment during the first phase of market ramp-up. As such, the following should be envisaged:

- The maximum duration for capacity contracts should be set at 20 years for infrastructure completed before 2035.
- The maximum duration for capacity contracts should be set at 15 years for infrastructure completed after 2035.
- A 'use-it-or-lose-it' (UIOLI) system should be implemented in order to mitigate the capacity hoarding risk.

With regard to hydrogen storages, the Gas Directive states in article 33 that hydrogen storages should be subject to regulated TPA. The proposed regulated approach is justified to trigger the necessary investments and give operators a stable regulatory environment. However, exemptions could also be envisaged during the transition period, until 2030: negotiated TPA could be applied to storages located in geographically confined areas, on the model of article 48 of the Gas Directive, or for small storage installations. We also support the non-discriminatory principle related to TPA services and the requirement for storage operators to provide both firm and interruptible capacity and both long-term and short term capacity (article 7 of the Gas Regulation).

Finally, the proposal for negotiated TPA in hydrogen terminals should be upheld, provided that the shortcomings linked to the 'hydrogen terminal' definition are tackled and the reference to liquid ammonia deleted.

ii. Network planning and creation of a Hydrogen Network Organisation

To foster hydrogen network planning and in line with article 52 of the Gas Directive, we support the development of hydrogen network development plans as it will ensure that the construction of hydrogen system is based on realistic and forward-looking demand projection. We however voice concerns towards the fact that no distinction is being made between the hydrogen transmission and distribution networks. This would increase the overall costs faced by distribution system operators, who in return might decide to stop their operations, which would be detrimental to the creation of a hydrogen infrastructure at all levels.

It should also be made clear in article 51 of the Directive that gas network operators are required to identify in their network development plans not only which facilities will be decommissioned but also if they will then be re-purposed for the transport of hydrogen.

Whilst the creation of a European Network of Network Operators for Hydrogen (ENNOH) might ensure predictability over the construction and operation of a hydrogen infrastructure in the future, its launch in the mid-2020s appears to be premature. Instead, the European Network of Transmission System Operators for Gas (ENTSOG) should be made responsible for undertaking the tasks foreseen for the ENNOH, i.e. adopting ten-year network development plans (TYNDPs) for hydrogen or developing network codes. Clear unbundling of hydrogen-related and natural-gas related activities should be foreseen within ENTSOG, to make sure that the different interests are kept separate.

Swift cooperation and collaboration between the different network operators for gas, electricity and hydrogen is critical to ensure system integration and efficiency. The possibility for all network development plans to be based on a joint scenario (article 5 of the Gas Regulation) goes in this direction. The development of a single TYNDP at national level, covering all infrastructures and all energy carriers (article 51 of the Gas Directive), also appears to be a cost-efficient approach but might, here again, be premature.

iii. Network codes

We welcome the adoption of network codes for hydrogen, as laid out in article 54 of the Gas Regulation. Detailed rules on the following elements are indeed required:

- Energy efficiency regarding hydrogen networks and components;
- Interoperability of hydrogen networks and hydrogen quality, including standardisation;
- A system of financial compensation for cross-border hydrogen infrastructure;
- Capacity-allocation and congestion-management;
- Harmonised tariff structures for hydrogen network access;
- Balancing.

With regard to rules on harmonised tariff structures for hydrogen, regional approaches should be fully taken into account in order to enable the development of hydrogen clusters. The natural gas transmission tariff system could be used as a blueprint as it has proven to be effective and functional and the hydrogen market area borders can be extended beyond national territories. For example, an area consisting of parts of the Netherlands and northwestern Germany, including North-Rhine Westphalia, could be a reasonable layout for a hydrogen market area to ensure a rapid market ramp-up with sufficient liquidity. This approach can also apply to smaller hydrogen clusters e.g. Moselle region (France, Luxembourg, Germany). This would facilitate the development of a hydrogen market and could even improve cost allocation.

2. Promoting and strengthening the gas market rules

a. Natural gas provisions

i. Long-term contracts

The recent surge in energy prices has highlighted the importance of long-term contracts (LTCs) to increase the resilience of the EU energy system, provided that they comply with the EU's competition rules.

In order to make sure that LTCs do not present an obstacle to the integration of renewable and low-carbon gases, article 27 of the Gas Directive prevents the duration of contracts for the supply of unabated fossil gas to run beyond 2049.

We generally support this proposal from the European Commission, as it is in line with the overall EU's objective to reach climate neutrality in 2050. However, we raise concerns towards the fact that no definition for 'unabated fossil gas' is provided in this Directive. Additionally, any earlier date than 2049 should be rejected as it could endanger the supply of natural gas in Europe, needed in the transition period to provide baseload power and mitigate the intermittency of renewable energy.

Finally, a derogation could be envisaged for LTCs of unabated fossil gas that aim at producing renewable or low-carbon gases, for instance via pyrolysis or steam methane reforming combined with carbon capture and storage (SMR + CCS).

ii. Tariffs

The current gas market rules are functioning well and as such, natural gas access tariffs should generally be upheld. We would however suggest to introduce an access tariff discount for gas storages of 100% in order to reward the flexibility and the cost savings they bring to the system.

iii. Transmission lines with third-countries

The general provisions on the operation of transmission lines with third-countries (article 81 of the Gas Directive) have not been modified, which we welcome as they were already updated in 2019. We generally warn against frequent changes in the legislative framework as any instability endangers the proper functioning of the internal market.

b. LNG provisions

LNG plays a growing importance in the EU energy mix as it helps to further connect the European gas market with the global gas market and to further diversify gas supplies and competition. LNG does not only complement the existing natural gas supply, but is also a bridging fuel in the energy transition considering its low-carbon and high-energy content compared to any other hydrocarbons.

In order to develop and reach its full potential, a fair policy and regulatory framework should be set for LNG. Whilst the same provisions as for natural gas should generally apply, measures to increase transparency and facilitate access to available capacities at LNG terminals should be envisaged to further improve the functioning of the market.

We therefore welcome that the review of the Gas Regulation increases the overall transparency of the system by requiring LNG system operators to:

- Ensure non-discriminatory TPA as well as both bundled and unbundled services (article 7).
- Ensure transparent and non-discriminatory booking platform for LNG facility users to re-sell their contracted capacity on the secondary market (article 10), provided that it will have no material negative impact on shippers. Whilst the 'use it or lose it' principle will continue to apply, shippers should remain free to publish their available capacity on the platform.
- Publish their tariffs on a single European platform, to be set-up within 18 months from entry into force of the Regulation (article 31).
- Provide user-friendly instruments for calculating tariffs (article 31).

The introduction of a 100% discount to the access tariff should also be envisaged for LNG terminals, in order to fully reward the flexibility and the cost savings that they bring to the system. This follows the same logic as for gas storages.

Global competitiveness should always be kept in mind when discussing LNG: the right balance should be striked between increasing the transparency of the EU system and remaining flexible and attractive on global markets. European-wide solutions could for instance be envisaged to make sure that the UK, an important market and entry port for LNG, is covered.

Finally, we want to highlight that a general discussion on carbon credits would deserve to be held at EU level. This discussion should for instance reflect on the need for carbon credits to be additional, on the development on the global scene of high-quality schemes such as the Gold Standard and on the possible elaboration of an EU legislation on the issue.

3. Ensuring security of supply

The gas sector is paramount to ensuring security of supply and providing flexibility to the overall system through the balancing of intermittent power generation. Whilst discussions on storages are evolving quickly in light of the current geopolitical situation, the following points focus exclusively on the review of the Security of Gas Supply Regulation, as proposed by the European Commission on 15 December.

a. The role of gas storages

Article 2 defines strategic stocks as gas purchased, managed and stored by TSOs exclusively for carrying out their functions as TSO and for the purpose of security of supply. Gas stored as part of a strategic stock shall be dispatched only when required to keep system in operation and can otherwise not be sold on the market. This is an important clarification that follows a strict application of the vertical unbundling rules and should be generally supported. However, TSOs should not be the only ones allowed to buy strategic stocks. It should be left to the Member States to determine the entity that manages the purchase of strategic stocks, for instance market areas managers (for instance THE in Germany). In case TSOs are the chosen entities, it should be explicitly stated that the strategic stock can be used excusively for carrying out their functions, i.e. safeguard transport network system stability, and not for the superordinate purpose of security of supply. TSOs are not responsible for security of supply, but only for transport system stability. As a result, the words 'security of supply' should therefore be replaced by 'transport network system stability' in sentence 1 of the definition of the strategic stocks.

The measures proposed require Member States to explicitly make storages part of their security of supply risk assessments at regional level. Storage has to be considered in EU-wide simulation of disruption scenarios (article 7) and in preventive action plans as well as emergency plans (article 8). The fact that gas storage facilities are to play a more prominent role in securing supply in future is logical and consequent in view of the great importance of storage facilities in meeting demand. We have seen that for example, in Germany, storage facilities contribute up to 60 % to covering peak demand.

Article 7b describes the approach to a more efficient and joint use of infrastructures and gas storages. Member states shall enable the cross border exchange of gas and cross border access to storage and LNG (Art 7 b 1)

According to the European Commission's proposal, common risk assessments shall include an analysis of the adequacy of storage facilities available in the region and on the functioning of storage capacities and their contribution to security of supply. The analysis shall compare the role of gas storages with alternative measures such as investments in energy efficiency and renewables (article 7.b.2).

When the risk assessment shows a supply risk at regional level that cannot otherwise be addressed, Member States should consider one of the following storage-based measures after consultation in the risk group (article 7.b.3):

a. Obliging gas storage users to store a minimum volume of gas in underground storage
b. Tendering, auctioning or equivalent mechanisms which incentivise bookings of storage capacities under which the potential shortfalls in costs are covered
c. Obliging TSO to purchase and manage strategic stocks of gas

d. Integration of storage in TSO network in case it would otherwise stop operations, if such stop of operations would put at risk the secure and reliable functioning of the transmission system

We support the proposal to the extent that the options listed there, in which way gas storage facilities are to be given more weight in security of supply, are not made binding on the Member States. Whilst Member States should be required to put in place the necessary measures, in line with the EU framework, to ensure security of supplyand to demonstrate their choice in their national risk assessments, they should be free to determine whether and in which form the storage facilities are to be used for a tailor-made security concept ("… shall consider …). In Germany, for example, the above mentioned option b. "Auctioning of tailor-made Long-Term-Options" is applied. If such auctioning is properly designed and dimensioned, it can cover the supply risks adequately and cost-efficiently. In our view, it should be left to the Member States to decide whether and which measure they use to ensure their security of supply. This flexibility allows solutions that take into account the individual circumstances in a state and in a group of states with regard to the existing gas market and infrastructure, including storage facilities and transport connections within the state and to neighbouring states. In contrast, an obligation to use storage facilities to improve security of supply could lead to avoidable additional costs.

According to the headline of Art. 7 b, an 'Efficient and joint use of infrastructures and gas storage' is required. We suggest changing the headline to 'Consideration of an efficient and joint use of infrastructures and gas storage', as no obligation to introduce storage-based instruments is introduced on EU level.

A measure discussed in the light of the energy price development and tight gas storage levels at the end of 2021 is a joint procurement for strategic stocks (article 7.d). Member states may set up joined procurement of strategic stocks by TSOs to ensure security of supply. If this joint procurement complies with EU law and competition law – and this is explicitly emphasised in the proposal – then, in our view, there are no fundamental concerns about such a procurement, that is solely intended to ensure security of supply. But as already mentioned above, the strategic stock should not contribute to the security of supply, but to the stability of the transport network system. Here, too, the words 'security of supply' should be replaced by 'transport network system stability'.

Finally, as a more general statement, it has to be taken into account that an expanded role of gas storage and the creation of strategic stocks for ensuring transport network stability can lead to a de facto reduction of the available storage capacities for market-based use in individual regions or member states. In specific cases, this may lead to a need for storage expansion, which may take a long time to realize.

b. Cybersecurity

New security of supply issues, linked to the digitalisation of our economies, should be taken into account. We therefore welcome the introduction in article 8 of some measures on cybersecurity. This addresses the significantly increased risk of cyberattacks, which can undoubtedly pose a threat to the security of gas supply and to the resilience of critical gas infrastructures.

c. Solidarity rules

Finally, the proposal contains some clarifications on the solidarity rules (article 13). Member States are only obliged to supply gas to a requesting Member State, when this Member State has declared emergency and exhausted all market and non-market measures (article 13.3). When market-based measures of a Member State required to provide solidarity do not cover the deficit in gas supply of the requesting Member State, the supporting Member State shall be obliged to activate non-market measures (article 13.5). These clarifications were necessary in order to clearly answer much-discussed questions that had arisen with the entry into force of the regulation.

About Fortum and Uniper

Fortum and Uniper form a European energy group committed to enabling a successful transition to carbon neutrality for everyone. Our 50 gigawatts of power generating capacity, substantial gas import and storage operations, and our global energy trading business enable us to provide Europe and other regions with a reliable supply of low-carbon energy. We are already Europe's third largest producer of CO2-free electricity, and our growth businesses focus on clean power, low-carbon energy, and the infrastructure for tomorrow's hydrogen economy. In addition, we design solutions that help companies and cities reduce their environmental footprint. Our 20,000 professionals and operations in 40 countries give us the skills, resources, and reach to empower energy evolution toward a cleaner world. fortum.com; uniper.energy