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Objet: Proposition de RÈGLEMENT DU PARLEMENT EUROPÉEN ET DU CONSEIL modifiant le règlement (UE) 2017/1938 du Parlement européen et du Conseil concernant des mesures visant à garantir la sécurité de l'approvisionnement en gaz naturel et le règlement (CE) n° 715/2009 du Parlement européen et du Conseil concernant les conditions d'accès aux réseaux de transport de gaz naturel

Suite aux discussions tenues lors des dernières réunions du groupe de travail « énergie » et compte tenu des commentaires écrits soumis par les délégations, veuillez trouver ci-joint le compromis proposé par la Présidence (REV2).

Dans la version actuelle, le nouveau texte est en "***italique souligné en gras***" et les suppressions sont en "*~~**italique gras barré**~~*". Les autres marquages n'ont pas été modifiés par rapport au document 8202/22 (dans lequel le nouveau texte est en « **souligné en gras** » et les suppressions sont en « ~~**barrées**~~ » par rapport à la proposition de la Commission).

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) 2017/1938 ~~of the European Parliament and of the Council concerning measures to safeguard the security of gas supply~~ and Regulation (EC) n°715/2009 with regard to gas storage ~~of the European Parliament and of the Council on conditions for access to natural gas transmission networks~~

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to ~~Article 194(2) of 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,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) While short-term gas supply **disruptions** interruptions have occurred in the past, there are several factors which distinguish the current situation from previous security of **gas** supply crises. ~~The escalation of the armed conflict in Ukraine since February 2022 has led to unprecedented price increases. These~~ Those price increases are likely to fundamentally change the incentives to fill **underground gas** storage facilities in the Union. In the current geopolitical ~~context~~ situation, it cannot be excluded that further ~~supply~~ disruptions of gas supplies will take place can no longer be excluded. This ~~Such disruptions~~ could severely harm citizens and the economy of the Union, ~~as~~ because the Union is still, to a significant extent, dependent on external gas supplies which can be affected by the conflict.
- (2) The nature and consequences of ~~these recent~~ events are large-scale and Union-wide and therefore require a comprehensive response. The response should prioritise measures that can reinforce the security of **gas** supply at Union level, in particular **gas supplies** to protected ~~consumers~~ customers. It is therefore crucial that the Union acts in a coordinated manner to avoid potential risks resulting from ~~a possible gas supply interruption~~ disruption of the gas supply without prejudice to the Member States' right to choose between different energy sources and the general structure of their energy supply, act on its national energy policy, including security of supply measures, in line accordance with the Article 194 of the Treaty on the Functioning of the European Union (TFEU).
- (3) Gas storage contributes to security of supply by providing additional **gas** supply in ~~ease~~ of the event of strong demand or of supply disruptions, and well filled **underground** gas storage leads to secure- gas supplies. Since supply disruptions of pipeline gas may occur anytime, measures regarding the filling level of Union **underground** storage ~~sites~~ facilities ~~should have to~~ be introduced to ensure supply gas supplies for the winter of 2022/2023.

- (4) Regulation (EU) 2017/1938 of the European Parliament and of the Council¹ introduced solidarity mechanisms designed to address extreme situations in which gas supply ~~of to~~ protected customers, as an essential security need and a necessary priority, is at stake in a Member State. In the event of a Union emergency, an immediate response should ensure that Member States are able to provide enhanced protection to customers.
- (5) ~~The impact of the armed conflict at the borders of the Union has shown that the existing security of~~ gas supply rules are, ~~however,~~ not adapted to sudden major changes in the geopolitical ~~developments~~ situation, where gas supply shortages and price peaks may ~~not only~~ not only result ~~from~~ not only from the failure of infrastructure or extreme weather conditions, but also ~~for instance~~ from intentional major events and from longer lasting or sudden gas supply disruptions ~~interruptions~~. It is therefore necessary to address the sudden greatly increased risks resulting from the current changes in the geopolitical situation.
- (6) Based on the Commission's analysis of, inter alia, the ~~adequacy of~~ measures to secure gas supplies, ~~inter alia,~~ the EU union wide reinforced risk preparedness analysis carried out in February 2022 by the Commission and the Gas Coordination Group established by Regulation (EU) 2017/1938 (the "GCG"), ~~it is appropriate~~ that Member States should, in principle, ensure that the underground storage ~~infrastructures~~ facilities that are located in their territory and directly interconnected to a market area of the respective that Member State, unless they primarily serve as a source of gas supply for consumers in one or more other Member States are full to at least 90% of their capacity at Member State level by 1 November, with intermediary targets for each Member State in May, July, September and February of the ~~following~~ year thereafter. There are some Member States with significant storage capacity that would be disproportionately impacted by the obligation to reach the filling target for the storage facilities on their territory. In order to reflect this situation, the legal obligation to fill their storages pursuant to Article 6a should be reduced to a volume of 35% of their annual gas consumption in the past five years. This is without prejudice to the obligation of other Member States to contribute to the filling of their respective storages. Member States may should be able to decide, under conditions, to partially fulfill the 90% target by counting liquefied natural gas (LNG) stocks stored in LNG facilities. This is Those targets are necessary to ensure that

¹ 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).

European consumers are adequately protected against supply shortages. For 2022, a lower filling target of 80% and a reduced number of intermediary targets (August, September and October) ~~will~~ should apply, taking into account that ~~the~~ this Regulation will ~~only become applicable~~ enter into force after the start of the gas filling season and that Member States have limited time to implement ~~this Regulation~~ it.

- (7) A “filling trajectory” system shall should enable continuous monitoring throughout the filling season (~~from 1 April to 30 September~~). From ~~the year~~ 2023 onwards gas storage shall also should be specifically monitored ~~in~~ as from February (~~the ‘February control point’~~) to avoid the sudden withdrawal of gas from underground storage in the middle of the winter, which could cause security of supply challenges before the end of winter.
- (8) ~~The filling target and the~~ Each Member State with storage facilities will make a proposal for a filling trajectory can be adjusted by the Commission from 2023 onwards, by means of a delegated act, taking into account the annual ENTSOG simulations and the common analysis to be carried out by the regional risk groups defined for the storage facilities on its territory in Regulation (EU) 2017/1938. ~~an aggregated form~~. The decision of the Commission to set the “filling trajectories” will should be taken after ~~consultation~~ having taken into account the assessment of the ~~Gas Coordination Group~~ GCG. The “filling trajectory” of a Member State should be set in a manner that does not unduly distort the competitive position of storage facilities in that Member State in comparison with storage facilities in adjacent Member States.
- (8a) In order to determine the individual trajectory of each Member State based on the filling trajectory proposed by the Member States, implementing powers 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 Council².

² 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).

- (9) *The filling trajectory and the respective intermediate targets should be based on the average filling rate during the five preceding years. For countries for which the filling target is reduced to 35% of their consumption, the intermediate targets of the filling trajectory should be reduced accordingly.* Member States may not always be able to meet the filling targets on time due to technical issues such as problems related to the pipelines feeding the underground storage site-facilities or problems with the injection facilities. In such cases, ~~it is appropriate that~~ Member States should have the flexibility to meet the relevant target at a later stage. However, the filling target should be met as soon as technically possible and no later than ~~on the~~ 1 December of the year concerned in order to ensure the security of gas supply for the winter period.
- (10) ~~Moreover~~In addition, Member States may not be able to meet the filling targets or intermediary targets in the case of an EU-wide a regional or Union emergency, including where gas supply is insufficient pursuant to Article 11(1)(c) of Regulation (UE) 2017/1938, ~~that is~~ the Commission may declare at the request of one or two Member States having declared a national emergency in times of extreme scarcity the sense of gas: that this Regulation. Therefore, the filling targets, including the burden-sharing target, should not apply ~~where if~~, and for as long as, the Commission has declared a regional or Union or regional emergency pursuant to Article 12 of Regulation (EU) 2017/1938.
- (11) Competent authorities ~~shall~~ should continuously monitor the filling levels of the underground storage facilities in order to ensure that their national filling trajectories are met. The national filling trajectories should be ~~are set within defined considering~~ a bandwidth of ~~two~~ five percentage points. If the filling level of a given Member State is more than ~~2~~ five percentage points below ~~targets level~~ of the filling trajectory, the competent authorities ~~shall~~ should immediately take effective measures to increase the filling level. Member States ~~shall~~ should inform the Commission and the ~~Gas Coordination Group~~ GCG of such measures.

- (12) ~~The S~~ubstantial and sustained deviation by a Member State from the filling trajectories can jeopardise ~~reaching~~-adequate filling levels and the filling target, of storage-which are necessary to ensure security of gas supply in the Union, in a spirit of solidarity. In the case of such a substantial and sustained deviations, the Commission should ~~therefore~~ be empowered to take effective measures to avoid security of gas supply problems resulting from unfilled storages. When deciding upon ~~the adequate~~ such effective measures, the Commission ~~shall~~ should take into account the specific situation of the ~~respective~~-Member State concerned, such as the size of the underground storage facilities in relation to ~~the~~ domestic gas consumption or the importance of the underground storage facilities for security of gas supply in the region. As this Regulation will enter into force after the start of the storage filling season in 2022, any measures taken by the Commission to address deviations from the filling trajectory for the year 2022 should take into account the limited time for the implementation of this Regulation at national level. The Commission should ensure that the measures do not go beyond what is necessary to maintain security of gas supply, without putting disproportionate burden on Member States, gas market participants, storage system operators or ~~citizens~~ consumers.
- (13) Member States should take all necessary measures to ensure that the ~~mandatory~~-filling targets are met. Member States may should be able to choose to set a higher filling target. With a view to the ~~different various~~ regulatory regimes already in place in many Member States to support ~~storage~~-the filling of storage facilities, no specific instrument to meet the filling trajectory and reach the filling target ~~is~~-should be prescribed, ~~and~~ Member States should enjoy freedom to choose be able to decide which ~~the~~-instrument ~~which~~ is most appropriate in their national systems, provided the conditions in Article 6(b)(2) and (3) are ~~respected~~complied with. Member States should therefore have the possibility to decide on the freedom to choose which-market participant(s) to ~~oblige~~-be required to ensure the filling of the storage ~~facilities~~. They ~~can~~should also be able to decide whether regulatory means, such as measures to oblige capacity holders to free up unused capacity, which are possible under existing EU market rules, ~~may be~~ sufficient to meet the filling targets, or ~~if~~-whether financial incentives, ~~which might constitute State aid, are necessary.~~ or storage tariff rebates, which might constitute State aid, are necessary. In the case of a Member State imposing an obligation on gas suppliers which supply gas to protected customers on its respective territory to store gas in underground storage facilities, the amount of which gas stored should be determined on the basis based on

the amount of gas the natural gas undertaking supplied to those protected customers.

Member States should use coordinated instruments, such as platforms for the purchase of **liquefied natural gas (LNG)**, with other Member States **in order** to maximise the utilisation of LNG to fill storages **facilities**, and **should** reduce infrastructure and regulatory barriers to the shared use of LNG to fill storage **facilities**.

- (14) The Commission Communication ~~COM(2022) 108 final~~ of 8 March 2022, entitled ‘REPowerEU: Joint European Action for more affordable, secure and sustainable energy’ **has** clarified **in this respect** that Union law allows Member States to provide **State**-aid to suppliers under Article 107(3)(c) **TFEU of the Treaty on the Functioning of the European Union** in order to ensure **the** filling of storages **facilities**, for example in the form of guarantees (‘two-way contract for difference’).
- (15) Any measure taken **by Member States** to ensure the filling of **underground gas**-storage **facilities** should be necessary, clearly defined, transparent, proportionate, non-discriminatory and verifiable, and should not unduly distort competition or the effective functioning of the internal market in gas or endanger the security of gas supply of other Member States or of the Union. In particular, such measures ~~taken~~ should not lead to **the** strengthening **of** a dominant position, or **to** windfall gains for undertakings **that** controlling **underground** storage facilities or ~~having-have~~ booked, but not used, storage capacity.
- (16) The efficient use of the existing infrastructure, including cross-border transmission capacities, **underground** storage facilities and LNG facilities ~~are is~~ important **to factors in** ensuring security of **gas** supply in a spirit of solidarity. Open energy borders are key for security of **gas** supply, **also including** in times of gas **supply** disruptions at national, regional or Union level. Therefore, ~~any~~ measures taken to ensure the filling of **gas**-storage **facilities** should not block or restrict cross-border capacities allocated **in accordance with pursuant to the provisions of** of Commission Regulation (EU) 2017/459³.

³ **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).**

- (17) The storage obligation ~~will~~ **is likely to** impose financial burdens on the relevant actors in those Member States, which have relevant **underground** storage facilities in their territory, while the increase in the level of security of **gas** supply ~~will~~ **is intended to** benefit all Member States including those ~~that Member States, which~~ do not have **underground** storage facilities. To share ~~the burden,~~ in a spirit of solidarity, **the burden** of ensuring that **underground** storage facilities in the Union are sufficiently filled to ensure security of **gas** supply, Member States without **underground** storage facilities should comply with the obligation to use **underground** storage in other Member States. In ~~case~~ **the event that a Member State has there is** no interconnection with other Member States, or **if a Member State's** limited cross-border transmission capacity or other technical reasons make it impossible to use **underground** storage facilities in other Member States, ~~the that~~ obligation should be reduced accordingly.
- (18) ~~However,~~ Member States **without storage should, however, should** not be subject to such an obligation if they jointly develop an alternative burden sharing mechanism with one or more Member States with **underground** storage facilities. **Alternative burden sharing arrangements should provide for the use of storage volumes corresponding to at least 15% of the annual gas consumption in the last five years of those Member States. Also other existing equivalent security of gas supply measures should be taken into account when considering the burden sharing mechanism, like equivalent obligation of alternative fuel stocks such as oil and LNG including oil, when the conditions set out in this Regulation are met.** Such alternative mechanism ~~can~~ **could** take into consideration, ~~among others~~ **sinter alia**, already existing equivalent legal obligations to store alternative fuels. Member States should notify such alternative burden sharing mechanisms to the Commission and **demonstrate the technical limitations and the equivalence of the measures.**

- (19) The measures by which Member States without **underground** storage facilities share the burden of the storage obligation with Member States ~~with~~ **having underground** storage facilities may in turn have a financial impact on the relevant market actors. Member States without **underground** storage facilities ~~may~~ **should** therefore **be allowed to** provide financial incentives or compensation to market participants for the shortfall of revenues or for ~~the~~ costs ~~incurred by~~ obligations imposed on them which cannot be covered by revenue. If ~~the~~ **such** measures ~~is~~ **are** financed through a levy, that levy ~~shall~~ **should** not be allocated to cross-border interconnection points.
- (20) Effective monitoring and reporting is essential, ~~both~~ for the assessment of the nature and extent of the risks related to security of **gas** supply, as well as for the choice of the appropriate measures to counter such risks. Operators of **underground** storage facilities should report ~~the~~ filling levels to the ~~national~~ competent authorities on a monthly basis during the filling period. Owners and operators of **underground** storage facilities are also encouraged to encode regularly the capacity and the filling level for each storage ~~site~~ **facility** at a central reporting platform.
- (21) The ~~regulatory~~ **competent** authorities should play an important role in monitoring security of **gas** supply, ~~one of the tasks attributed to the regulators by the Internal Energy Market legislation,~~ and ensure a balance between security and the cost of the measures for consumers. ~~The Commission will~~ **The competent authorities of Member States or an entity designated by the Member State should** monitor the filling levels, **of the storage facilities in their territories** jointly with the ~~competent authorities of Member States~~ **Commission**.
- (22) The role of the ~~Gas Coordination Group~~ **GCG** should be reinforced, with an explicit mandate to monitor Member States' performance in the area of ~~gas~~ security of **gas** supply, and to develop best practices on that basis in that area. The Commission ~~shall~~ **should** therefore regularly report to the ~~Gas Coordination Group~~ **GCG**, which ~~shall support~~ **should assist** the Commission in monitoring the filling targets, and in ensuring that the filling targets are met.

- (23) ~~The Union considers that~~ The storage system sector is of high importance to the Union, its security of energy supplies and its other essential security interests. Accordingly, **underground** storage facilities are considered **to be** critical infrastructure within the meaning of Council Directive 2008/114/EC of 8 December 2008 on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection.⁴. The Member States should **are encouraged to** take into account the measures ~~under~~ **introduced by** this Regulation in their national energy and climate plans and **in** the progress reports adopted pursuant **to** Regulation 2018/1999- **of the European Parliament and of the Council**⁵.
- (24) ~~The Union considers that~~ Additional safeguards are necessary in the storage system network to avoid **any** threats to public order and public security in the Union and to the welfare of the citizens of the Union. Member States should ensure that each storage system operator, including such operators **themselves** controlled by transmission system operators, **and each storage system owner** is certified ~~under this Regulation~~ by the regulatory authority or another competent authority designated by the Member State, **in order** to ensure that the influence over storage system operators **storage system owner** does not put at risk the security of energy supply or any other essential security interest in the Union or any Member State. For the analysis of possible security of **gas** supply risks in other Member States, coordination between Member States in the security of **gas** supply assessment, is important and should not discriminate between market participants and should fully comply with the principles of a well-functioning internal market. In order to quickly alleviate the ~~danger-risk~~ of low **storage-filling** levels, ~~the-that~~ certification should be prioritised and carried out faster for larger storages **facilities** and storages **facilities** which have recently been filled at consistently low levels, so as to ensure that potential security of **gas** supply problems resulting from ~~the~~ control over such large storages **facilities** can be excluded. **To determine the group of storages which should be certified with priority due to unusually low filling levels in March 2021 and 2022, the average**

⁴ Council Directive 2008/114/EC of 8 December 2008 on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection (OJ L 345, 23.12.2008, p. 75).

⁵ 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).

storage filling level of the last 6 years of all EU underground storages on 31 March of [35%] should be considered.

- (25) Regulatory authorities should refuse ~~the~~ certification if a person who directly or indirectly controls or exercises any right over the storage system operator may put at risk the security of energy supply or any other essential security interest **at** Member State, regional or Union level. In **making** ~~that~~ assessment the regulatory authorities should take into account commercial relationships that could negatively affect the incentives and ability of the storage operator to fill the storage facility, as well as the international obligations of the Union and any other specific facts and circumstances of the case. To ensure the consistent application of those rules across the Union, **the observance of respect** for the international obligations of the Union and solidarity and energy security within the Union, the regulatory authorities should take into utmost account the Commission's opinion when they take decisions on certification, **including by amending their decision where appropriate, and properly adjust their decisions where relevant or required.** Where a regulatory authority refuses the certification, it should have the power to require any person to dispose of the shareholding or rights they have over the storage system operator and to set a time limit for such disposal, to order any other appropriate measure to ensure that that person or those persons cannot exercise any control or right over that storage system operator, and to decide on appropriate compensatory measures. Any measure taken in the certification decision to address security of **gas** supply risks or other essential security interests should be necessary, clearly defined, transparent, proportionate and non-discriminatory.

(25 a) This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union ('the Charter'). In particular, it respects the right not to be deprived of one's possessions, except in the public interest and in the cases and under the conditions provided for by law, subject to fair compensation being paid in good time for their loss as provided for in Article 17 of the Charter and the right to an effective judicial remedy and to a fair trial as provided for in Article 47 of the Charter.

- (26) If enterprises are due to purchase more gas when such gas is expensive, this could further drive up prices. Therefore this Regulation ~~is accompanied by the removal of~~ enables Member States to remove entry and exit tariffs for transmission and distribution capacity to and from storage, or to apply discounts up to 100% to both underground storage and LNG facilities making storage more attractive for market participants. Regulatory and competition authorities ~~should be~~ also encouraged to use their ~~competences-powers~~ to effectively exclude undue increases of storage tariffs.
- (27) In view of the current exceptional circumstances of the current situation and the uncertainties related to future changes in the geopolitical developmentssituation, Member States are encouraged to meet the filling targets as quickly as possible, and in any event no later than within the timeframes set out in this Regulation.
- (28) Considering the imminent danger for the security of gas supply ~~brought about by the current armed conflict~~, this Regulation should enter into force on the day after its publication ~~in the Official Journal~~. In order to ensure coherence with the Commission ~~Proposal COM/2021/804 final~~ for a Regulation of the European Parliament and of the Council on the internal markets for renewable and natural gases and for hydrogen ~~(recast)~~, this Regulation should ~~expire be repealed when only apply until a regulation on the internal markets for renewable and natural gases and for hydrogen, following the above mentioned Commission Proposal COM/2021/804 final, is adopted and enters into force, reflecting the amendments introduced by this Regulation, or by the end of on 31 December 2026 4 at the latest.~~
- (29) Regulations (EU) 2017/1938 and (EC) no 715/2009 should therefore be amended accordingly.

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) 2017/1938

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

(1) In Article 2, the following points are added:

“(27) ‘filling trajectory’ means several intermediary targets for each Member State as ~~listed~~ **defined pursuant to the procedure** in ~~Annex Ia and Ib~~ **Article 6a**;

(28) ‘filling target’ means a binding target for the filling level of **underground** storage facilities ~~for non-liquefied natural gas~~;

(29) ‘strategic ~~storage reserves~~’ means **underground storage or part of underground storage of non-liquefied natural gas purchased, managed and stored by transmission systems operators TSOs or an undertaking or entity designated by the Member States** which is subject to **prior notification or** public authority authorisation for release, ~~cannot be~~ **and generally released or sold to the market** but ~~only released in case of~~ **extraordinary market conditions such as extraordinary price spikes at the spot market or for technical and contractual reasons, major supply scarcity, a supply disruption or emergency declared pursuant to Article 11(1), point (c).**

(30) ‘strategie **balancing** stock’ means non-liquefied natural gas purchased, managed and stored **underground** by transmission system operators ~~exclusively~~ **or an entity designated by the Member State exclusively** for carrying out their functions as transmission system operators and for the purpose of security of supply. Gas stored as part of a strategic stock shall be dispatched **gas supply dispatched** only where required to keep the system in operation under secure and reliable conditions in line with Article 13 of Directive 2009/73/EC of the European Parliament and of the Council⁶ ~~of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC and with Articles 8 and 9 of Commission Regulation EU 312/2014⁷ or in case of a declared emergency under Article 11 and can~~ **which shall otherwise not be sold on wholesale gas markets;**

(31) ‘underground gas storage’ means a storage facility, as defined in point 9 of Article 2 of Directive 2009/73/EC, used for the stocking of natural gas and connected to a transmission or distribution system, excluding above ground spherical or pipe storages.

(2) The following Articles ~~6a to 6e~~ are inserted:

⁶ **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).**

⁷ **Commission Regulation (EU) 312/2014 of 26 March 2014 establishing a Network Code on Gas Balancing of Transmission Networks (OJ L 91, 27.3.2014, p. 15).**

Mandatory filling targets and filling trajectory

- (1) ~~*Each*~~ Member States shall ensure that the filling target set out in paragraph 2 for the aggregated capacity of all storage facilities in their territory is reached by 1 November each year. **underground storage facilities that are located in their territory and directly interconnected to a market area in their territory and for storage facilities which are listed in Annex 1a** -is met by 1 November each year.

~~*Except if already specified in Annex 1a, sStorage facilities that are located in the territory of a Member State and directly interconnected to a market area of the respectivethat Member State, but primarily serve as a source of gas supply for consumers in one or more other Member States, shall be excluded from this paragraph, being subject to the requirements of Article 6e.*~~

~~*Storage facilities that are used for third country party shall be excluded from this paragraph based on their average usage in the last five years. Where applicable, the average usage in the last five years of the storage capacity by a third country party shall be deducted from the national storage obligation of a Member State.*~~

- (2) ~~*Unless specific rules pursuant to letters (2a) to (2d) apply, For 2022,*~~ the filling target **for 2022** shall be set at 80% of the capacity of all storage facilities on the territory **and directly interconnected to a market area in their territory and for storage facilities listed in Annex 1a** of the respective Member States. ~~*Unless the Commission decides otherwise pursuant to paragraph 4, t*~~**The filling target shall be set at 90% for the following years.**

~~*(2a) Notwithstanding paragraph 2 and without prejudice to the obligations of other Member States to fill the respective storage facilities, the filling target of the Member States in which the storage facilities are located shall be limited to a volume corresponding to 35% of the average annual gas consumption of the last 5 years in the respective Member State.*~~

(2b) Notwithstanding paragraph 2 and without prejudice to the obligations of other Member States to fill the respective storage facilities, the filling target of Member States in which the storage facilities are located shall be reduced by the volume during the reference period 2016-2021 which was supplied to third countries if the average volume supplied was more than [15 TWh] per year during the gas storage withdrawal period (October – April).

(2c) For the storage facilities listed in Annex 1(a), the obligations relating to the filling target pursuant to paragraph 2 and the filling trajectory pursuant to paragraph 4 apply. The details of the respective obligation for each Member State will be determined in an bilateral agreement pursuant to Annex 1(a).

(2d4a) The filling target may be partially fulfilled by counting the LNG physically stored and available in the ~~plants~~-LNG facilities in Member States where at least one of the three all of the following conditions are met:

- i. The gas system includes a significant capacity of LNG storage, accounting is highly dependent on LNG, supplying annually for more than [4]% of the average national consumption of the last five years demand;
- ii. Aggregated withdrawal capacity in underground facilities is low in relation to overall storage capacity, making impossible to withdraw a volume of gas equivalent to 90% of underground storage capacity during the winter season;
- iii. The availability of the LNG counted is guaranteed by obligations to store in LNG tanks.
- iv. The relevant Member State has imposed an obligation on gas suppliers to store minimum volumes of gas in LNG facilities according to Article 6b(1)(a).

- (3) Member States shall take the necessary measures to fulfil **or to ensure the fulfilling of** the intermediary targets **are fulfilled** as **set out indicated** in Annex Ia and **paragraph 4** for each Member State. For 2022, intermediary targets shall only be set for August, September and October. As of 2023 Member States shall ensure that intermediary targets for February, May, July and September are **set and** fulfilled.
- (4) The Commission is empowered, after consultation of the **[No later than By XX for 2022 and by 30 September from 2023]**, each Member State with storage facilities **will shall** transmit to the Commission a draft filling trajectory, including **technical information, determining the filling trajectory** for the storage facilities **on its territory in an aggregated form. The filling trajectory and the respective intermediate targets shall be based on the average filling rate during the five preceding years. For countries for which the filling target is reduced to 35% of their consumption pursuant to paragraph 2(a), the intermediate targets of the filling trajectory shall be reduced accordingly. Based on the technical information provided by each Member State and taking into account the assessment of the Gas Coordination Group GCG, to the Commission shall** adopt a delegated act amending Annex I **implementing acts** to specify **set** the filling target and a **individual** filling trajectory from 2023 onwards, **of each Member State. Those implementing acts shall be adopted** in accordance with **the examination procedure referred to in Article 18b paragraph 2** 19. That delegated act shall be adopted no later than 31 December of the year preceding the year for which the new filling target is set. The filling target and filling trajectory set by the Commission shall **They shall** be based on an assessment of the general security of **gas** supply situation and the development of gas demand and supply in the Union and individual Member States, and set in a manner that ensures security of **gas** supply while **avoiding unnecessary burdens** for Member States, gas market participants, storage system operators or citizens **and does not unduly distorting competition between storage facilities located in adjacent Member States.**

- (5) Where a Member State cannot meet ~~the~~its filling target **due to specific technical characteristics of one or more storage facilities within its territory**, ~~due to specific technical characteristics of one or more storage facilities within its territory, such as exceptionally low injection rates~~ **by 1 November**, ~~that the~~ Member State shall be allowed to reach ~~the~~its filling target only ~~on~~ **no later than** ~~by~~ 1 December. The Member State shall inform the Commission before 1 November, providing reasons for the delay. **When, for technical reasons, or for lack of sufficient gas quantities on the market one or more underground storage facilities cannot be filled before 1 December, rendering reaching a filling target impossible, Member State shall inform Commission about replacement measures to be taken to maintain proper security of gas supply at a level as close as possible to the one ensured by the filling target level.**
- (6) The filling target shall not apply where, and for as long as, the Commission has declared a **regional or** Union ~~or regional~~-emergency pursuant to Article 12.
- (7) Competent authorities shall continuously monitor the filling trajectory each year and report regularly to the ~~Gas Coordination Group~~ **GCG**. If the filling level of a given Member State is more than 2 ~~[five]~~ percentage points below the level of the filling trajectory ~~pursuant to~~ **set out in Annex I paragraph 4**, the competent authorities shall, without delay, take effective measures to increase the filling level. Member States shall inform the Commission and the ~~Gas Coordination Group~~ **GCG** of the measures taken.
- (8) In ~~case the event~~ of substantial and sustained deviation **by a Member State** from the filling trajectories **compromising the achievement of the filling target or from the filling target**, the following measures shall be taken:
- (a) after consulting ~~on~~ **of** the ~~Gas Coordination Group~~ **GCG** and the Member States ~~in question~~ **concerned**, the Commission shall issue a **warning recommendation** to the Member State ~~or Member States concerned and recommend~~ **regarding** measures to be ~~immediately~~ **taken immediately**;

- (b) ~~if where~~ the deviation from the trajectory or the filling target is not significantly reduced within one month from the date of the ~~warning recommendation~~, the Commission shall, after consultation of the ~~Gas Coordination Group GCG~~ and the Member States ~~in question concerned~~, take a decision as a measure of last resort to ~~oblige-require~~ the Member State concerned to take measures that effectively remove the gap to the trajectory or the filling target, including where appropriate one or ~~several more~~ of the measures ~~listed under provided for in~~ Article 6b(1), or any other measure to ensure the mandatory filling target pursuant to this Article is reached;
- (c) ~~when in~~ deciding ~~upon the adequate which~~ measures to take pursuant to point (b), the Commission shall take into account the specific situation of the ~~respective~~ Member State or Member States concerned, such as the size of underground the storage facilities in relation to the domestic gas consumption, ~~or~~ the importance of the underground storage facilities for security of gas supply in the region and any existing LNG storage facilities. Any measures taken by the Commission to address deviations from the filling trajectory or the filling target for the year 2022 shall take into account the short timeframe for the implementation of this Article at national level which may have contributed to the deviation from the filling trajectory or the filling target for 2022;
- (d) The Commission shall ensure that the measures do not go beyond what is necessary to maintain security of gas supply, ~~without putting while not placing~~ disproportionate burden on Member States, gas market participants, storage system operators or ~~citizens~~ consumers.

Implementation of the filling target

- (1) Member States shall take all necessary measures, including financial incentives or compensation to market participants, to ensure that meet the mandatory filling targets set pursuant to Article 6(a) are reached. **To the extent that the measures listed in this article fall under the duties and powers of the regulatory authority, in accordance with to Article 41 of Directive 2009/73/EC concerning common rules for the internal market in natural gas, the regulatory authorities shall be responsible for taking those measures. These Those** measures may, in particular, include:
- (a) ~~imposing an obligation on~~ **requiring** gas suppliers to store minimum volumes of gas in storage facilities, **including underground storage facilities and/or LNG storage facilities, the volume of the respective obligation may be determined on the basis of the amount of the gas supplied by gas suppliers to protected customers;**
 - ~~(aa)~~ **imposing an obligation on gas undertaking suppliers who supply gas to protected customers on their territory to store gas in storage facilities, the amount of which may be determined on the basis on the amount of gas the natural gas undertaking supplies to protected customers;**
 - (b) ~~imposing an obligation on~~ **requiring** storage owners **system operator** to tender their capacities to market participants;
 - (c) ~~imposing an obligation on~~ **requiring a** transmission system operators **or a market area manager entities designed by the Member State** to purchase and manage strategic stocks **balancing stock** of gas exclusively for carrying out their functions as transmission system operators and **where necessary impose an obligation on other designated entity** for the purpose of security of gas supply in the case of an emergency;

- (d) using coordinated instruments, such as platforms for the purchase of LNG, with other Member States to maximise the utilisation of LNG and to reduce infrastructure and regulatory barriers to the shared use of LNG to fill **underground** storage facilities;
- (e) providing financial incentives for market participants **including storage system operator** or **providing** compensation **to market participants** for the potential shortfall of revenues, or for costs incurred **by them as a result of** ~~by~~ obligations on market participants **including storage system operator** which cannot be covered by revenues;
- (f) ~~adopting effective instruments to set obligation on~~ **requiring** storage capacity holders to use or release unused booked capacities **whereas the storage capacity holder not using the storage capacity shall be still obliged to pay the agreed price for the whole term of the storage contract**;
- (g) ~~adopting effective instruments for purchasing and managing of strategic storage not distorting the internal market by public or private entities such as mandatory reserves~~;
- (h) **appointment of a dedicated party who will be assigned the task to reach the filling target in case this will otherwise not be achieved**;
- (i) **discounts on the storage tariffs**;
- (j) **collecting the revenues needed to recover the capital and operational expenditures related to regulated storage facilities as storage tariffs and transmission tariffs collected only from exit points to final customers located within the same Member States, revenues collected through tariffs cannot be larger than the allowed revenues**;

- (2) The measures adopted **by the Member States** pursuant to this Article shall be limited to what is necessary to ~~achieve~~**meet** the filling targets, **and filling trajectories. They shall be** clearly defined, transparent, proportionate, non-discriminatory and verifiable. They shall not unduly distort competition or the effective functioning of the internal market in gas or endanger the security of gas supply of other Member States or of the Union.
- (3) Member States shall take all necessary measures to ensure the use of the existing infrastructure at national and regional level, for the benefit of security of **gas** supply in an efficient way. ~~Th~~**ese** measures shall under no circumstances block or restrict the use **across borders** of storage **facilities** or LNG facilities ~~across borders~~, and shall not limit cross-border transmission capacities allocated in accordance with ~~Commission~~ Regulation (EU) 2017/459.

Article 6c

Burden-sharing

- (1) Member States without **underground** storage facilities shall ensure that domestic market participants have **in place** arrangements with **underground** storage system operators ~~from~~**or other market participants in** Member States with storage facilities. ***Those arrangements shall provide for the use, by 1 November in place which ensure the use*** of storage volumes ***in those Member States by 1 November*** corresponding to at least 15% of the **average** annual gas consumption ***in the last five years*** of the Member State without **underground** storage facilities. ~~***These storage volumes used by the domestic market participants of a Member State without underground storage facilities shall have no function in terms of the compliance of a Member State with storage facilities with the filling target pursuant to Article 6a.***~~ Where cross-border transmission capacity or other technical limitations do not allow to fully use 15% of non-domestic storage volumes, only the technically possible volumes shall be stored outside the Member State without storage. ***In the event, that exceptional and justified technical limitations do not allow the above obligation to be met and the Member State has an obligation to store alternative fuels in place to replace gas, the above obligation may be exceptionally met by an equivalent obligation to store alternative fuels. The exceptional and justified***

technical limitations and the equivalence of the measure shall be demonstrated by the relevant Member State. ~~Member States with storage facilities may use the mechanism described in sentence 1 and 2 as a means to contribute to the filling level in accordance with Art. 6a (2).~~

- (2) By way of derogation from paragraph 1 **of this Article, a** Member States without **underground** storage facilities may ~~instead jointly~~ develop a burden-sharing mechanism with one or more Member States with **underground** storage facilities. The burden-sharing mechanism shall be based on the relevant data of the latest risk assessment pursuant to Article 7 and **shall** take into account **all of** the following parameters:
- (a) the cost ~~for~~ **of** financial support to ensure **for meeting the** filling targets, ~~without consideration disregarding of the~~ costs ~~for filling of of meeting~~ **any** strategic storage ~~reserves~~ obligations;
 - (b) the gas volumes needed to meet the demand of protected customers in accordance with Article 6(1);
 - (c) the technical limitations, such as the available **underground** storage capacity, technical cross-border capacity, **and** withdrawal rates.
- (3) The jointly developed mechanism shall be notified to the Commission at the latest **[one two months]** after the entry into force of this ~~Article~~ **Article. Regulation. In the absence of an agreement within [one month-that time limit], Member States without underground storage facilities shall demonstrate that storage capacity equivalent to the volume covered by the obligation they comply with the storage obligation laid down in paragraph 1 has been booked and notify to the Commission accordingly.**

(4) Member States without **underground** storage facilities may provide incentives or financial compensation to market participants for the shortfall of revenues or for costs incurred by ***them, as a result-because of*** obligations ***imposed-on-them under this Regulation*** which cannot be covered by revenue, ***in order*** to ensure the implementation of the obligation to store gas in other Member States pursuant to paragraph 1 or the implementation of the jointly developed mechanism ***pursuant referred to in*** paragraph 2. If the measure is financed through a levy, that levy shall not be allocated to cross-border interconnection points.

(5a) *By way of derogation from Notwithstanding paragraph 1, in case of storage facilities whose capacity is bigger than the annual gas consumption of the Member State where they are located, Member States without storage having access to those facilities have an obligation to ensure that storage volumes by 1 November correspond at least to their average usage of the storage capacity booked-at the respective cross-border point -in the last 5 years or to demonstrate that storage capacity equivalent to the volume covered by this obligation has been booked. The obligation shall be limited at 15% of the average annual gas consumption of the last 5 years in the respective Member State.*

(5b) *Unless otherwise Except if already specified in Annex Ia, in case of storage facilities located in one Member State, not covered by paragraph 5a but primarily serving as a source of gas supply for consumers in other and directly connected to the market area of another-Member States, the latter shall have an obligation to ensure that storage volumes by 1 November correspond at least to their [average usage of the storage capacity booked-at the respective cross-border point in the last 5 years]-or to demonstrate that storage capacity equivalent to the volume covered by this obligation has been booked.*

Monitoring and enforcement

- (1) Storage system operators shall report the filling level at each of the control points established in accordance with ~~set out in Annex Ia and Ib~~ **Article 6a(4)** to the competent authorities in the Member States **and, if applicable, an entity designated by the Member State** where they are located.
- (2) The competent authorities of the Member States **and, if applicable, the designated entity** shall monitor the filling levels of the **underground** storage facilities in their territories at the end of each month and report the results to the Commission without undue delay.
- (3) Based on the information provided by the competent authorities **and, if applicable, the designated entity** of the Member States, the Commission shall ~~regularly~~ report **regularly** to the ~~Gas Coordination Group~~ **GCG**.
- (4) The ~~Gas Coordination Group~~ **GCG** shall ~~support~~ **assist** the Commission in the monitoring of the filling targets and trajectories, and **shall** develop guidance to the Commission on adequate measures to ensure compliance in the ~~case where~~ **in the event that** Member States do not meet the targets of the filling trajectory or do not comply with the filling targets.
- (5) Member States shall take the necessary measures to ~~reach~~ **meet** the filling trajectory and the filling target and to enforce the storage obligations which are required to ~~reach~~ **meet** that trajectory and that target on market participants, including by imposing sufficiently deterrent sanctions and fines on ~~them~~ **those market participants**.
- (6) Member States shall inform the Commission without delay of the enforcement measures taken pursuant to this Regulation.

- (7) Where commercially sensitive information is to be exchanged, the Commission may convene meetings of the ~~Gas Coordination Group GCG in a format that are~~ restricted to Member States and the Commission.
- (8) The information exchanged shall be limited to that necessary ~~what is required~~ to monitor compliance with ~~the requirements of~~ this Regulation. The Commission, the regulatory authorities and the Member States shall preserve the confidentiality of commercially sensitive information received in the context of carrying out their obligation under this Regulation.²

Article 6e

Scope of application

~~The provisions of Articles 6a to 6d shall not apply to parts of LNG facilities used for storage.~~

- (3) ~~The Annexes are amended in accordance with the text set out in Annex I to this Regulation:~~
- (4) In Article 20, the following ~~point~~ paragraph is added:**

(4a) Articles 6a to 6d shall not apply to Cyprus, Malta and Ireland for as long as they are not directly interconnected to the gas interconnected system of any other Member States.

Article 18b

Committee procedure

- 1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council⁸.**
- 2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.**

Article 2

Amendments to Regulation (EC) No 715/2009

Regulation (EC) No 715/2009 of the European Parliament and of the Council⁹ is amended as follows:

- (1) The following Article ~~3a~~ is inserted:

⁸ **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).**

⁹ **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).**

Certification of storage system operators

- (1) Member States shall ensure that each storage system operator, including any storage system operators controlled by a transmission system operators, is certified by the regulatory ~~competent~~ regulatory authority under this Article, or another competent authority designated by the Member State concerned, pursuant to Article 3(2) of Regulation (EU) 2017/1938 of the European Parliament and of the Council¹⁰, in accordance with the procedure laid down in this Article. The obligation to certify storage system operators under this Article also applies to storage system operators controlled by transmission system operators which have already been certified under unbundling rules pursuant to Articles 9 to 11 of Directive 2009/73/EC.
- (2) ~~For~~ In respect of storage system operators operating underground storage facilities with capacities above 3.5 TWh and ~~which~~ where total storage facilities, regardless of number of operators 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, ~~the regulatory authority or the~~ the regulatory authority or the designated authority pursuant to paragraph 1 shall adopt a draft decision on the certification of storage system operators within ~~100~~ 150 working days from the date of entry into force of this Regulation or the receipt of a notification pursuant to paragraph 8. For all other storage system operators, a draft decision shall be adopted within 18 months from the date of entry into force of this Regulation or the receipt of a notification pursuant to paragraphs 7 or 8. In considering the risk to the security of energy supplies, ~~the regulatory authority or the~~ the regulatory authority or the designated authority pursuant to paragraph 1 shall take into account any security of gas supply risk at national, regional or Union-wide level as well as any mitigation of such risk, resulting, ~~for example~~ inter alia, from:

¹⁰ 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).

- (a) ownership, supply or other commercial relationships that could negatively affect the incentives and ability of the storage system operator to fill the storage facility;
 - (b) the rights and obligations of the Union with respect to a third country or third countries 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 issues of security of energy supply;
 - (c) the rights and obligations of the Member State or Member States concerned with respect to a third country or third countries arising under agreements concluded with them, insofar as they are in compliance with Union law; or
 - (d) any other specific facts and circumstances of the case
- (3) ~~The regulatory authority or the~~ **The regulatory authority or the designated** authority pursuant to paragraph 1 shall refuse the certification if it is demonstrated that a person ~~which~~ directly or indirectly controlings or exercisinges any right over the storage system operator within the meaning of Article 9 of Directive 2009/73/EC may put at risk the security of energy supply or the essential security interests of ~~any Member State or~~ the Union **or of any Member State**. ~~The regulatory authority or the designated~~ **The regulatory authority or the designated** authority pursuant to paragraph 1 may instead choose to ~~issue a grant the~~ certification **subject to** ~~with~~ conditions, which ensure **the sufficient mitigation of the** ~~that all~~ risks which may negatively influence the filling of the storages ~~as provided for under this Regulation are sufficiently mitigated~~, and provided that their workability can be fully ensured by effective implementation and monitoring. **Such conditions may include in particular requiring the storage system owner or storage system operator to transfer management of the storage system.**

- (4) Where ~~the regulatory authority, or the~~ *the regulatory authority or the* designated authority pursuant to paragraph 1 ~~comes to the conclusion~~ **concludes** that the security of **gas** supply risks cannot be removed by conditions pursuant to paragraph 3, *including by requiring the storage system owner or storage system operator to transfer management of the storage system,* and therefore refuses the certification, it shall:
- (a) require **the storage system owner or storage system operator or** any person or persons that it considers may put at risk the security of energy supply or the essential security interests of any Member State or the Union to ~~*transfer management of the storage system and in case of refusal*~~ dispose of the shareholding or rights they have over the storage system operator and to set a time limit for such disposal;
 - (b) order, where appropriate, interim measures, to ensure that such person or persons cannot exercise any control or right over that storage system operator until the ~~*transfer of management or*~~ disposal of the shareholding or rights; and
 - (c) decide on the appropriate compensatory measures *in accordance with national law.*
- (5) ~~The regulatory authority or the~~ designated *The regulatory authority or the* **designated** authority pursuant to paragraph 1 shall notify the draft decision to the Commission without delay, together with all ~~the~~ relevant information with respect to that decision. The Commission shall deliver ~~its~~ **an** opinion on the draft decision to the national regulatory authority or the designated authority pursuant to paragraph 1 within 50 working days. ~~The regulatory authority or the~~ *The regulatory authority or the* **the** designated authority pursuant to paragraph 1 shall take **the** utmost account of the Commission's opinion.

- (6) ~~The regulatory authority or the~~ ***The-regulatory authority or the*** designated authority pursuant to paragraph 1 shall adopt its decision on the certification of storage system operators no later than ~~25~~**50** working days a ***after its as-of*** receipt of the Commission's opinion.
- (7) Before a newly built **underground** storage facility is put into operation, the storage system operator shall be certified in accordance with paragraphs 1 to 6. The storage system operator shall notify ~~the regulatory authority or the~~ designated authority pursuant to paragraph 1 of its intention to put the storage facility into operation.
- (8) Storage system operators shall notify ~~to the regulatory authority or~~ ***the regulatory authority or*** the designated authority pursuant to paragraph 1 any planned transaction which would require a reassessment of their compliance with the certification requirements as set out in paragraphs 1, **2** and ~~23~~.
- (9) ~~The regulatory authority or~~ ***the regulatory authority or the*** designated authority pursuant to paragraph 1 shall monitor the continuing compliance of storage system operators with the requirements of paragraphs 1, **2** and ~~23~~. It shall open a certification procedure to ensure such compliance ***in any of the following circumstances:***
- (a) upon ***receipt of a*** notification by the storage system operator pursuant to paragraphs 7 or 8;
 - (b) on its own initiative where it has knowledge that a planned change in rights or influence over a storage system operator may lead to non-compliance with the requirements of paragraphs 1 and 2;
 - (c) upon a reasoned request from the Commission.

(10) Member States shall take all necessary measures to ensure the continued operation of the storage facilities on their respective territories. Those storage facilities may exit operations only **in case technical and safety requirements are not met or** following an assessment conducted ~~by the regulatory authority or the designated~~ **by the designated** authority pursuant to paragraph 1, taking into account an opinion of **ENTSO for Gas** ~~ENTSOG~~, which concludes that the exit does not weaken the security of gas supply at **Union or** national ~~or Union~~ level. Appropriate compensatory measures shall be taken, where appropriate, if exit of operations is not allowed.

~~(11) The Commission is empowered to adopt a delegated act setting out the details of the procedure to be followed for the application of this paragraph Article in accordance with Article 19.~~

~~(11a) The Commission may issue guidance on the application of this Article.~~

(12) ~~The provisions of~~ This Article shall not apply to parts of LNG facilities used for storage.

~~(13) The provisions of this Article 3a shall not apply to Cyprus, Malta, and Ireland for as long as they are not directly interconnected to the gas interconnected system of any other Member States.~~

(2) In Article 13, the following paragraph 3 is added:

‘3. ~~A Member States~~ **The regulatory authorities may apply a** discount of **up to** 100 % shall be applied to capacity-based transmission **and distribution** tariffs at entry points from and exit points to **underground** storage **and LNG** facilities, unless and to the extent **that** a storage facility which is connected to more than one transmission or distribution network is used to compete with an interconnection point. The Commission shall re-examine ~~this that~~ tariff discount 5 years after entry into force of ~~the~~ Regulation **(EU) xx/2022 (the new amending regulation)**. It shall assess whether the level of the reduction set out in this Article **remains is still** adequate in **light view** of the storage obligation pursuant to Article 6a of Regulation (EU) 2017/1938 **of the European Parliament and of the Council.**’

Article 3

Entry into force and repeal application

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

~~This Regulation~~ It shall apply until expire on the date on which the Regulation (EU) of the European Parliament and of the Council on the internal markets for renewable and natural gases and for hydrogen, based on the Commission's proposal of 15 December 2021, enters into force or by 31 December 2027 2026, whichever is the earliest.

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX I

The annexes to Regulation (EU) 2017/1938 are amended as follows:

(1) The following Annex Ia is inserted:

Annex Ia:

Shared responsibility for mandatory filling target and trajectory

With regard to the mandatory filling target and trajectory pursuant to Article 6a (1), the Republic of Austria and the Federal Republic of Germany share the responsibility concerning the storage facilities Haidach and 7Fields. The exact ratio and extent of this responsibility of both the Republic of Austria and the Federal Republic of Germany is subject to a bilateral agreement of these Member States.
