Council of the European Union

Brussels, 28 November 2023
(OR. en)

16136/23

Interinstitutional File: 2023/0443(NLE)

ENER 648
ENV 1403
COMPET 1192
TRANS 546
CONSOM 437
IND 637
ECOFIN 1296
FISC 276

PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	28 November 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 761 final
Subject:	Proposal for a COUNCIL REGULATION amending Regulation (EU) 2022/2578 as regards the prolongation of its period of application

Delegations will find attached document COM(2023) 761 final.

Encl.: COM(2023) 761 final

EUROPEAN
COMMISSION

Brussels, 28.11.2023
COM(2023) 761 final

2023/0443 (NLE)

Proposal for a

COUNCIL REGULATION

amending Regulation (EU) 2022/2578 as regards the prolongation of its period of application

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

1.1. Reasons for and objectives of the proposal

Since Russia's unprovoked and unjustified full-scale invasion of Ukraine, supplies of gas to the EU by Russia have been disrupted as a deliberate attempt to use energy as a political weapon. Russia has been for many years the main gas supplier of the EU. Historically, the EU relied on Russia for more than 40% of its gas supplies. The supply of gas has continuously decreased since February 2022. The pipeline flows of gas from Russia was less than 10% of the EU's gas imports in the first half of 2023.

The supply shock caused by Russia had significant impacts on gas price level in the EU. While prices over the previous decade had moved within a band of EUR 5MWh to EUR 35MWh and averaged around EUR 20/MWh, gas prices spiked above EUR 300/MWh in August 2022 at the peak of the crisis and reached levels which were 1000% higher than the average prices seen before in the Union. The highest price levels were reached in one week - 5 consecutive trading days - from 22 to 26 August 2022, when the prices had been consistently above EUR 250/MWh and diverged from the LNG reference price by more than EUR 50/MWh. Since the peak of the crisis, prices have significantly fallen and ranged between EUR 40/MWh and EUR 50/MWh in early Autumn 2023. However, they remain more than twice as high as pre-crisis.

Extreme price spikes are highly damaging for the European economy. Gas is widely used by many sectors in the EU economy from SMEs to large industry, in particular gas intensive industries such as ceramics, glass, fertilisers, pulp and paper and chemicals. Moreover, high prices have contagion effects on electricity prices and contribute to increase the overall inflation.

Against this background, the Council adopted on 19 December 2022 the emergency Council Regulation (EU) 2022/2578 to establish a gas market correction mechanism ('MCM') to protect Union citizens and the economy against excessively high prices.

The Regulation will cease to apply on 31 January 2024. This proposal seeks to prolong by one year the period of application of the provisions of Regulation (EU) 2022/2578 in view of the persisting risks for energy supplies, and therefore prices, in the Union.

1.1.1. The main elements of Regulation (EU) 2022/2578

Council Regulation (EU) 2022/2578 of 22 December 2022 sets up a temporary market correction mechanism ('MCM') for orders placed for trading derivatives linked to the EU's virtual trading points ('VTPs') with maturities between month-ahead and year-ahead.

The MCM is activated when a market correction event occurs, that is, when the front-month TTF derivative settlement price exceeds EUR 180/MWh and is EUR 35 higher than the reference price (reflecting global LNG price trends) for three working days. The MCM has not been activated so far as TTF prices have remained below the triggering thresholds since the entry into force of Council Regulation (EU) 2022/2578.

Upon the occurrence of a market correction event, the MCM Regulation sets a dynamic bidding limit, according to which market operators should not accept and market participants should not submit orders for derivatives with prices of EUR 35/MWh above the reference

price published by ACER on the previous day. The MCM is automatically deactivated after 20 working days if the dynamic bidding limit is at EUR 180/MWh for three consecutive days.

Pursuant to Article 6 of the Regulation, the dynamic bidding limit can be suspended immediately and at any time if it leads to serious market disturbances, affecting the security of supply and intra-Union flows of gas or the proper functioning of the energy derivatives markets.

1.1.2. The current situation: severe difficulties and risks for the EU's security of gas supply persist

The Union's response under REPowerEU and following initiatives, including the measures set out in Regulation (EU) 2022/2578, prepared the EU to a degraded security of gas supplies situation. If not prolonged, the Regulation will cease to apply on 31 January 2024.

However, as of the date of adoption of this proposal, severe difficulties in gas supplies to the Union persist.

Due to the significant decrease in Russian pipeline gas imports over the past year, availability of gas supplies to the Union is considerably reduced compared to pre-crisis. With the current pipeline gas import levels, the Union is expected to receive approximately 20 bcm of Russian pipeline imports in 2023, if these unreliable imports are not disrupted altogether. This would be approximately 110 bcm less than in 2021.

Global gas markets remain very tight and are expected to remain as such for some time. As noted by the IEA,[1] global LNG supply grew only modestly in 2022 (4%) and in 2023 (3%) because of "*limited liquefaction capacity additions, outages at major export facilities and declining feed gas supply at LNG plants fed by ageing fields*". Significant new LNG liquefaction capacity globally (especially in the US and Qatar) is set to come online only as of 2025 but "*market balances remain precarious in the immediate future*".[2]

This situation is still having negative consequences on gas prices which, despite being much lower than the peak experienced in summer 2022, remain higher than pre-crisis with inevitable repercussions on the EU citizens' purchasing power and the competitiveness of European businesses.

Large market volatility is also a consequence of the market tightness and represents an additional risk for the EU economy. Summer and Autumn 2023 saw a number of episodes of significant volatility when prices increased by more than 50% in few weeks. This shows that gas markets are still fragile and may have large reactions to any unexpected and sudden shock to supply and demand, as was the case following the strike in Australian LNG facilities, the Middle East crisis and the disruption of the Balticconnector.

A number of risks can, if they materialise, fuel the fear of scarcity which, given the fragility of the market due to its tightness, may trigger large reactions with serious repercussions on prices. These risks include a rebound in Asian liquefied natural gas (LNG) demand that

[1] IEA: Medium-Term Gas Report 2023
[2] IEA: World Energy Outlook 2023

reduces the availability of gas on the global gas market,[3] extreme weather conditions potentially affecting hydropower storage or nuclear production[4] which would require higher recourse to gas-fired power generation, and further possible gas supply disruptions, including a complete halt of gas imports from Russia or a disruption of existing critical gas infrastructure.

Armed conflicts of high intensity are now hitting several of the key EU supply regions, in addition to Ukraine (Azerbaijan, Middle East) and this is deteriorating the threat landscape.

Recent examples illustrate the likelihood and relevance of the risks related to the disruption of critical gas infrastructure. In September 2022, the NordStream 1 pipeline was damaged by acts of sabotage to such a degree that it currently cannot transport any gas and will not be able to do so in the foreseeable future. In October 2023, the Balticconnector, an important pipeline connecting Finland to Estonia, was disrupted. As a result of the Balticconnector disruption, Finland is now no longer able to meet the N-1 criterion as part of the infrastructure standard defined in Article 5 of Regulation (EU) 2017/1938. The N-1 criterion ensures that Member States take measures so that in case of a disruption of the single largest gas infrastructure, they still have the technical capacity to satisfy their total demand during a peak day. As a result of the Balticconnector disruption, on 27 October 2023 Finland raised its crisis level pursuant to Article 11 of Regulation (EU) 2017/1938 from "early warning" to "alert", which is the last crisis level before an emergency. This new infrastructure incident illustrates the likelihood and relevance of the risks related to new disruptions of critical gas infrastructure.

It should be also noted that the significant reduction in demand for natural gas (-18% between August 2022 and August 2023) is contributing to preserve the gas balance in the EU. This reduction is a result of economic factors (e.g. high prices) and administrative measures adopted by Member States pursuant to Regulation 2022/1369 and its prolongation Regulation (EU) 2023/706 on coordinated gas demand reduction. A possible increase in demand, due to a rebound in the gas use in the residential, commercial and industrial sectors[5] or in case the administrative measures aimed at reducing demand were not prolonged further, represents an additional risk that, given the current tight market conditions, could undermine the EU's security of gas supply.

In a number of subsequent reports of December 2022, February, July and October 2023, the International Energy Agency (IEA) has consistently been highlighting the lingering risks for the EU security of gas supply and warning against complacency in the light of the improvement of the situation compared to the peak of the crisis in summer 2022. According to the report of October 2023, "*global gas supply is set to remain tight in 2023"* and *"[b]elow-average LNG liquefaction capacity additions are expected to prolong tight supply conditions into 2024"*. In its February report, the IEA noted that *"the global balance is subject to an unusually wide range of uncertainties and exogenous risk factors. This includes the possibility of complete cessation of Russian piped gas deliveries to the European Union, as well as a recovery of China's LNG imports in line with the country's long-term LNG*

[3] IEA noted that "*Global gas demand is expected to return to moderate growth in 2024, primarily driven by Asia Pacific and the Middle East*" and that the Asian-Pacific demand is expected "*to expand by 20% by 2026 compared with 2022*", see Medium-Term Gas Report 2023.

[4] Domestic shortfalls in hydro and nuclear power, due to climatic conditions and other availability factors, exacerbated the stress on gas market pushing prices further up in summer 2022. The production gap in hydro and nuclear generation in 2022 was approximately 60 TWh and 120 TWh, respectively, compared with 2021.

contracts and a potential lower availability of LNG supply". It developed stress scenarios with a halt to Russian gas supplies, LNG supplies remaining tight and weather-related demand increases, which could result in a potential supply-demand gap of 40 bcm in the EU. In its report of July 2023, the IEA highlighted that "*risks and uncertainties remain ahead of the 2023/24 Northern Hemisphere winter*" and "*full storage sites are no guarantee against winter volatility and the risk of renewed market tensions*".[5]

In addition, the European Network of Transmission System Operators (ENTSOG) published its yearly Winter Supply Outlook with a summer overview, in line with Article 8 of Regulation (EC) 715/2009. ENTSOG concluded that although the general security of supply situation in the EU has significantly improved, additional measures may be needed in case of a full Russian supply disruption. In addition, careful management of the storages throughout the winter of 2023-2024 is needed, as a 46% filling level is likely needed at the beginning of the injection season to achieve the 90% storage target set out by Regulation (EU) 2022/1032.[3]

The Union's response under REPowerEU and following initiatives, including the measure set out in Regulation (EU) 2022/2578, contributed to improve the situation. Should the relevant Union measures cease to apply, this would risk altering the stabilised but fragile situation the Union has achieved and could deteriorate the EU resilience to unfavourable events.

In light of these persisting severe difficulties and risks for the EU's security of gas supply and gas prices, and not to alter the current fragile balance, it is necessary and urgent to prolong Regulation (EU) 2022/2578. Hence, this Proposal seeks to prolong by one year the period of application of Regulation 2022/2578.

1.1.3. Reasons for prolonging the Regulation's provisions in the current situation

The different provisions of Regulation (EU) 2022/2578, which the current proposal seeks to prolong, are necessary to address the above-mentioned severe difficulties and risks for the EU's security of gas supply and gas prices.

In March 2023, ACER and ESMA carried out an assessment of the MCM impact since its coming into force and concluded that the MCM has not been activated and no negative effects on energy (and financially-related) markets had arisen until that point in time. The Commission extended the analysis to assess the market developments in more recent months, and founded that the MCM has never been activated and identified no negative effects since the MCM Regulation entered into force.

The MCM prevents prices to reach excessively high levels, compared to the international prices, on gas derivative markets, and therefore it limits the negative impact of high prices on the EU citizens' purchasing power and the competitiveness of European businesses.

- **Consistency with existing policy provisions in the policy area**

On 23 March 2022, the European Commission presented a Communication entitled 'Security of supply and affordable energy prices: Options for immediate measures and preparing for next winter' (COM(2022) 138 final), where it outlined the objective of ensuring the supply of gas at reasonable cost for next winter and beyond. The Communication referred to capping or modulating the gas price through regulatory means as an option that may be considered to

[5] IEA, "Global Security Review 2023". In early November 2023, the EU gas inventories reached a record high at above 99% capacity.

mitigate a sharp rise in energy prices. In October 2022, on the backdrop of an escalating crisis, the European Commission issued a Communication reaffirming the need to addresss high energy prices with targeted and coordinated measures. In its Communication, the Commission proposed to put in place a mechanism to limit prices via the main European gas exchange, the TTF, to be triggered when necessary. Regulation 2022/2578 implements the proposal set out by the Commission in its Communications.

The objectives and principles of 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 are not endangered by the market corrcetion mechanism and by this proposal to prolong its validity. Regulation 2022/2578 ensures that, in the event of a regional or Union emergency, the market correction mechanism does not unduly restrict the flow of gas within the internal market endangering the Union's security of gas supply.

Regulation (EU) 2022/2578, and this proposal for prolongation, forms part of a group of measures to address the current energy crisis which the Council has adopted over the past months. In particular, Regulation 2022/2578 is closely linked to Council Regulation (EU) 2022/1369 and consistent with its objectives. It ensures notably that the Commission can suspend the market correction mechanim if it negatively affects the progress made in implementing the gas savings target pursuant to Article 3 of Council Regulation (EU) 2022/1369, or if it leads to an overall increase in gas consumption, on the basis of data on gas consumption and demand reduction received from Member States pursuant to Article 8 of Council Regulation (EU) 2022/1369).

Regular and effective monitoring and reporting are essential for the assessment of progress made by the Member States in the implementation of the voluntary and mandatory demand-reduction measures. In order to do so, and in addition to the monitoring and reporting measures foreseen in Council Regulation (EU) 2022/1369, at the latest two weeks after the market correction event, Member States need to notify to the Commission which measures they have taken to reduce gas and electricity consumption in reaction to the market correction event, unless the Commission has adopted a suspension decision. The demand reduction across the Union is an expression of the principle of solidarity enshrined in the Treaty.

Furthermore, Regulation (EU) 2022/2578 is complementary to the objectives of introducing the intra-day volatility management mechanism to address short term market volatility as set out in Chapter III – Section 1 of Regulation 2022/2576. The intra-day volatility mechanism is an instrument to limit extreme changes within a day and is not sufficient to address problems of excessively high prices as those occurred in summer 2022.

Moreover, Regulation 2022/2578 and the current proposal are consistent with the European Green Deal objectives, in particular with ensuring a secure and affordable EU energy supply by providing a mechanism that will mitigate the effects of extremely high gas prices on EU consumers and its Member States, while – at the same time – being designed in such a way as to not structurally lower the prices which, if passed on to final consumers, may lead to more gas consumption.

- **Consistency with other Union policies**

Regulation 2022/2578 and this proposal for prolongation is compatible with other Union policies, notably the rules on the internal market policy, including with regard to competition rules. Regulation 2022/2578 does not unduly interfere with the principles of competition law. In particular, the market correction mechanism is designed in a way to limit the intervention

to situations of excessive prices, in which the TTF index no longer provides an adequate proxy for prices which accurately reflect market dynamics in Europe.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The legal basis for this instrument is Article 122(1) of the Treaty on the Functioning of the European Union ('TFEU'). The conditions for the application of this provision require that the measure is "appropriate to the economic situation", which is in particular the case if "severe difficulties in the supply of certain products" exist. The measures must also be taken in a "spirit of solidarity", and, according to the case law, they must be temporary and proportionate.

The current persisting shortage of gas supplies, together with the price volatility caused by the fragile balance in global gas markets, constitutes a severe difficulty in the supply of an energy product pursuant to Article 122 TFEU. As highlighted above in paragraph 1 ("Reasons for and objectives of the proposal"), severe difficulties and risks for the EU security of gas supply persist.

Should the measures set out in Regulation 2022/2578 cease to apply, Member States would no longer have a tool to directly address episodes of excessively high prices caused by such difficulties and risks.

As explained in paragraph 1 ("Reasons for and objectives of the proposal"), the provisions of the Regulation are necessary and proportionate to address the severe difficulties and the potential risks for prices that could arise because of the current fragile balance in the EU gas system.

In order to avoid a fragmented action, which could divide the integrated EU gas market, a common action is needed in a spirit of solidarity. Moreover, the MCM strengthens the Union's solidarity by avoiding excessively high gas prices, which are unsustainable even for short periods of time for many Member States. The MCM can help ensure that gas supply undertakings from all Member States are able to purchase gas at reasonable prices in a spirit of solidarity.

Moreover, common safeguards, which may be more needed in Member States without supply alternatives than in Member States with more alternatives, ensure a coordinated approach as an expression of energy solidarity.

It is therefore justified to base the proposed instrument on Article 122(1) TFEU.

• Subsidiarity (for non-exclusive competence)

The provisions of the Regulation and the proposed prolongation are fully in line with the subsidiarity principle.

Because of the integrated nature of gas and financial markets, action at Union level is the most effective way to address the problem of Union-wide price peaks.

- **Proportionality**

The provisions of the Regulation and their proposed prolongation comply with the proportionality principle. The measure is proportional to the dimension and nature of the problems defined and the achievement of the set objectives.

Bidding limits are a common feature in traded markets to address problem with the price formation mechanisms potentially leading to harmful effects for consumers. Such mechanism exists, for example, in EU electricity markets (see e.g. Article 10 of Regulation (EU) 2019/943), and can also be found in markets outside the Union, such as in the US.

Moreover, the mechanism is not meant to intervene into the normal interplay of demand and supply or to "cap" ordinary price setting. It may only be triggered under very exceptional circumstances when the price increases at the TTF are unrelated to the evolution of international prices, momentarily putting its suitability as a reference price into doubt. The market correction mechanism will only be triggered under exceptional circumstances for a strictly limited time.

The bidding limit will be immediately deactivated when these exceptional circumstances cease to persist. In addition, the market correction mechanism is accompanied by a comprehensive set of safeguards, which allow for the suspension of the mechanism, if unintended market disturbances occur, negatively affecting security of supply and intra-EU flows, as well as the orderly functioning of derivatives markets.

Therefore, the market correction mechanism does not go beyond what is necessary for attaining the policy objective pursued and is proportionate of achieving the objective of mitigating the impact of abnormally high gas prices. The prolongation by one year is necessary due to the persistent nature of the severe difficulties for energy supply and the resulting risks for prices and security of supply which are expected to continue at least during the whole of 2024, as more structural changes of the market conditions are only expected in the course of 2025.

- **Choice of the instrument**

Taking into account the dimension of the energy crisis and the scale of its social, economic and financial impact, the provisions that the current proposal seeks to prolong are contained in a Regulation, which is of general scope and directly and immediately applicable. The prolongation of the period of application of these provisions should, therefore, also be done through the adoption of a Regulation.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Stakeholder consultations**

Due to the urgency to prepare the proposal for prolongation of the Regulation so that it can be adopted on time by the Council, a stakeholder consultation could not be carried out.

However, the Commission services assessed whether any negative effects had arisen since the MCM entry into force.

In line with the requirements of Article 8 of Regulation 2022/2578, in their 'Effects Assessment' reports published on 1 March 2023, ACER [6] and ESMA [7] analysed a number of indicators to assess the MCM impact since its coming into force. These indicators cover several areas from security of supply and intra-EU flow to financial markets and stability. ACER and ESMA concluded that the MCM had not been activated and no negative effects had arisen until the publication of their report.

Building on the indicators set out by ACER and ESMA in their March reports, the Commission extended the analysis to assess the market developments in more recent months. The MCM has never been activated and no negative effects have been identified since the MCM entered into force..

The outcome of the Commission's assessment was presented to Member States' representants at the Council Energy Working Party on 5 October 2023.

- **Fundamental rights**

The market correction mechanism is temporary and it is activated only when certain conditions are met. These conditions in turn reflect a situation that is harmful for the Union's economy and its energy security and that therefore should be addressed. Moreover, the market correction mechanism features solid safeguards that would prevent any issue related to fundamental rights from arising. It enshrines a deactivation mechanism that will end it if its operation is no longer justified by the situation on the natural gas market. And even if the conditions justifying the activation of the market correction mechanism subsist, the regulation provides for the possibility to suspend the mechanism upon the occurrence of unintended market disturbances. The Commission is obliged to adopt such suspension decisions in case unintended market disturbances occur. Therefore, the market correction mechanism is proportional and duly justified, in that it is not more impactful than necessary on fundamental rights such as the freedom to conduct business in light of the effect that inaction would have on the Union economy and its energy security.

4. BUDGETARY IMPLICATIONS

The budgetary impact on the EU budget associated to this proposal concerns the human resources of the European Commission's Directorate-General (DG) for Energy. This unprecedented mechanism entails tasks – including the monitoring of the functioning of commodity markets and their impact on security of supply – that are not usually part of the Commission's role. Due to the level of responsibility linked to such task it is paramount to ensure an adequate accompaniment by the Commission services, allocating a reinforced role to DG Energy, namely on financial and market monitoring and assessment (6 FTE). Support from ACER in monitoring, activating and suspending the market correction mechanism will be crucial for its efficient implementation. The budgetary impact on the EU budget associated to this proposal, therefore, also concerns the human resources and other administrative expenditures of ACER (6 FTE).

6 https://acer.europa.eu/Publications/ACER_FinalReport_MCM.pdf

7 https://www.esma.europa.eu/sites/default/files/library/ESMA70-446-794_MCM_Effects_Assessement_Report.pdf

This proposal does not require any budgetary resources additional to those already allocated in the context of the adoption of Regulation (EU) 2022/2578 (and set out in the financial statement accompanying Regulation (EU) 2022/2578).

5. OTHER ELEMENTS

- **Detailed explanation of the specific provisions of the proposal**

The changes proposed are targeted and limited in scope to prolong by one year the period of application of the provisions of Regulation 2022/2578.

In Article 12, the period of application of the Regulation is proposed to be changed and extended until 31 January 2025.

2023/0443 (NLE)

Proposal for a

COUNCIL REGULATION

amending Regulation (EU) 2022/2578 as regards the prolongation of its period of application

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 122(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Council Regulation (EU) 2022/2578[1] sets up a temporary market correction mechanism ('MCM') for orders placed for trading derivatives linked to the Union's virtual trading points ('VTPs') with maturities between month-ahead and year-ahead. The MCM therefore applies to any commodity derivative, traded on a regulated market, the underlying of which is a transaction in gas in any VTP in the Union.

(2) The MCM is to be activated where a market correction event occurs, that is, when the front-month Title Transfer Facility ('TTF') derivative settlement price, as published by ICE Endex B.V., exceeds EUR 180/MWh and is EUR 35 higher than the reference price for three working days. Upon the occurrence of a market correction event, Regulation (EU) 2022/2578 sets a dynamic bidding limit, according to which market operators should not accept and market participants should not submit orders for derivatives with prices of EUR 35/MWh above the reference price published by the Agency for the Cooperation of Energy Regulators (ACER)[2] on the previous day.

(3) In their effects assessment reports published on 1 March 2023 in accordance with Article 8 of Regulation (EU) 2022/2578, ACER and the European Securities and Markets Authority (ESMA) [3] analysed a number of indicators to assess the impact of the MCM since the entry into force of that Regulation. ACER and ESMA concluded that the MCM had not been activated and no negative effects on security of supply and intra-Union flow to financial markets and stability had arisen until the publication of their respective report.

(4) Building on the indicators analysed by ACER and ESMA in their reports of 1 March 2023, the Commission extended the analysis to assess the market developments in more recent months. No negative effects have been identified since Regulation (EU) 2022/2578 entered into force and the MCM has never been activated.

---

[1] Council Regulation (EU) 2022/2578 of 22 December 2022 establishing a market correction mechanism to protect Union citizens and the economy against excessively high prices (OJ L 335, 29.12.2022, p. 45, ELI: http://data.europa.eu/eli/reg/2022/2578/oj).

[2] https://acer.europa.eu/Publications/ACER_FinalReport_MCM.pdf

[3] https://www.esma.europa.eu/sites/default/files/library/ESMA70-446-794_MCM_Effects_Assessement_Report.pdf

(5) However, severe difficulties persist for the Union's security of energy supply. The global situation on the gas market remains very tight. Gas prices are still considerably higher than pre-crisis with inevitable consequences on Union citizens' purchasing power and the competitiveness of Union businesses.

(6) Market volatility is also a consequence of the market tightness resulting from geopolitical risks, and represents an additional risk for the Union economy. The episodes of pronounced price volatility observed in summer and early autumn 2023, when prices increased by more than 50% in a few weeks, show that markets are still fragile and remain vulnerable to even relatively small shocks on demand and supply, as evidenced by price movements following recent events such as the strike in Australian liquefied natural gas (LNG) facilities, or the disruption of the Balticconnector. The ongoing crisis in the Middle East constitutes an additional significant geopolitical risk with potential impact on prices and gas supply.

(7) Global gas markets are currently very tight and are expected to remain tight for a certain time. Global LNG supply grew only modestly in the past two years because of limited liquefaction capacity additions, outages at major export facilities and declining feedgas supply at LNG plants. Significant new LNG liquefaction capacity is set to come online only in the course of 2025. Hence, market balances remain precarious in the immediate future.

(8) Furthermore, due to the significant decrease in Russian pipeline gas imports over the past year, availability of gas supplies to the Union is considerably reduced compared to the pre-crisis situation. With the current level of gas imports, the Union is expected to receive approximately 20 bcm of Russian pipeline gas in 2023, approximately 110 bcm less than in 2021. Therefore, a serious risk remains that gas shortages will occur in the Union in the short term. In view of the current tight market conditions, prices may spike again on the back of unpredictable events and sudden shocks such as a rebound in Asian LNG demand that could reduce the availability of gas on the global gas market; extreme weather conditions potentially affecting hydropower storage or nuclear production which would require higher recourse to gas-fired power generation; and further possible gas supply disruptions, including a complete halt of gas imports from Russia, and further disruptions of critical infrastructures, after the acts of sabotage against the NordStream 1 pipeline in September 2022 and the disruption of the Balticconnector pipeline in October 2023.

(9) Persistent severe difficulties expose the entire Union to risks of energy shortage and high energy prices. The level of gas prices could impact negatively the Union's economic situation, industrial competitiveness and citizens' purchasing power.

(10) Under these conditions, notably in a situation of several geopolitical risks with potential impact on gas prices, the fear of scarcity may trigger large reactions which can have serious repercussions on prices. Given the current tight supply and demand balance, even moderate disruption to the supply of gas could have a dramatic impact on the gas prices and could cause serious and lasting harm to the economy and to the citizens of the Union.

(11) At the peak of the crisis, the Union adopted a strong and coordinated response to protect its citizens and its economy against excessive prices and to make sure that gas flows to all consumers in need across borders, also in situations of gas scarcity. The

Union's response under the REPowerEU Plan[4] and subsequent initiatives, including the measures set out in Regulation (EU) 2022/2578, contributed to improve the situation. Should those measures cease to apply, this would risk altering the stabilised but fragile situation the Union has achieved and would deteriorate the resilience to possible future events and sudden shocks, such as those mentioned above.

(12) Since the Union is a single market and the TTF is commonly seen as the 'standard' pricing proxy on Union gas markets, high gas prices for the derivatives linked to TTF would have severe consequences in all Member States, although possibly to degrees depending on the Member State. Derivatives linked to all other VTPs in the Union should also remain included in the prolongation of Regulation (EU) 2022/2578 so as to avoid possible shifts of trade to derivatives linked to other VTPs which may lead to distortions on the Union energy or financial markets. The MCM strengthens the Union's solidarity by avoiding excessively high gas prices, which are unsustainable even for short periods of time for many Member States. The MCM can help ensure that gas supply undertakings from all Member States are able to purchase gas at reasonable prices in a spirit of solidarity.

(13) The prolongation of the period of application of Regulation (EU) 2022/2578 constitutes an emergency measure in response to persistent severe difficulties in the supply of energy which entail a risk of imminent crisis and require that the measure set out in that Regulation, which contributes to keep prices in check, continues to apply

(14) Taking into account the fact that Regulation (EU) 2022/2578 will cease to apply on 31 January 2024, the prolongation of its period of application constitutes an emergency measure in a spirit of solidarity between Member States, which aims to respond to persistent severe difficulties in the supply of energy. Such difficulties also entail a risk of imminent crisis and excessively high prices especially if events such as the ones described above were to materialise.

(15) A prolongation of the period of application of Regulation (EU) 2022/2578 is also consistent with the REPowerEU Plan, which aims to protect Union citizens and economy against excessive prices and energy supply shortages.

(16) This Regulation should enter into force on 1 February 2024 in order to ensure a continuous protection against excessively high prices throughout the 2023/2024 winter season.

(17) The extended provisions should be temporary and should remain in force until the end of January 2025. The prolongation by one year is necessary and proportionate due to the persistent nature of the severe difficulties and the additional risks described above, and the uncertainty of the current situation.

(18) Since the objective of this Regulation cannot be sufficiently achieved by the Member States, but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(19) Regulation (EU) 2022/2578 should therefore be amended accordingly,

---

[4] Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, REPowerEU Plan, COM(2022) 230 final, 18.5.2022.

HAS ADOPTED THIS REGULATION:

Article 1

Amendment to Regulation (EU) 2022/2578

In Article 12(1) of Regulation (EU) 2022/2578, the second sentence is replaced by the following:

‘It shall apply until 31 January 2025.’.

Article 2

Entry into force and application

This Regulation shall enter into force on 1 February 2024.

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

Done at Brussels,

For the Council
The President