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From:	Permanent Representatives Committee (Part 1)
To:	Council
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Subject:	Proposal for a COUNCIL REGULATION amending Regulation (EU) 2022/1369 as regards prolonging the demand reduction period for reduction measures for gas and reinforcing the reporting and monitoring of their implementation - Political agreement

1. INTRODUCTION

1. At the Informal Energy Council on 27 February 2023, the EU energy ministers discussed the preparation for the winter 2023/2024 and beyond. They acknowledged the major persisting gas supply risks related to Russian gas and the global LNG market, with possibly a lower quantity of available gas due to the post-COVID recovery of the Asian economy.

2. On 20 March 2023, the Commission issued the proposal for a Council Regulation amending Regulation (EU) 2022/1369¹ as regards prolonging the demand reduction period for reduction measures for gas and reinforcing the reporting and monitoring of their implementation. This proposal is based on Article 122(1) of the Treaty on the Functioning of the European Union (TFEU) and stipulates prolonging Regulation (EU) 2022/1369 on measures to reduce gas demand by 15% for another twelve months.

2. STATE OF PLAY

1. The proposal was presented and discussed at a meeting of the Energy Working Party on 20 March.
2. The Presidency, having taken into account major concerns by the Member States, proposed the REV1 document as the basis for the exchange of views at the Coreper meeting on 22 March.
3. In view of achieving the political agreement, the Presidency has reviewed and carefully assessed all proposals by the Member States and presents now the revised text in the Annex to this note ahead of the TTE Energy Council on Tuesday 28 March.
4. Changes in the new recital 16a further clarify that Member States should reflect the limitations in demand reduction when reporting their breakdown of gas consumption per sector.

¹ Council Regulation (EU) 2022/1369 of 5 August 2022 on coordinated demand-reduction measures for gas

5. The change in Article 8 stipulates that the reporting on gas consumption is at least every two months, unless a Union alert is declared. If a Union alert is declared, the reporting has to be submitted on a monthly basis. The breakdown of energy consumption per sector remains voluntary, regardless of whether a Union alert is declared. This change is mirrored in the corresponding recital.
6. Some stylistic and legal adjustments were made in order to increase the overall coherence of the text.
7. New text is **bold underlined** deletions are ~~**bold strikethrough**~~. Other markings are from REV1.

3. **CONCLUSIONS**

1. In light of the above, the Council is invited to examine the Presidency compromise text as set out in the Annex to this Note, discuss any outstanding issues raised by the delegations, reach a political agreement on this Council Regulation and decide to authorise the use of written procedure in order to adopt this Regulation.

2023/0087 (NLE)

Proposal for a

COUNCIL REGULATION

amending Regulation (EU) 2022/1369 as regards prolonging the demand reduction period for reduction measures for gas and reinforcing the reporting and monitoring of their implementation

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) 2022/1369⁽¹⁾ aims at voluntarily and, if necessary, mandatorily reducing the Union's gas demand, facilitating the filling of storages and ensuring better preparation against any further supply disruptions. Regulation (EU) 2022/1369 was adopted on the basis of Article 122(1) of the Treaty on the Functioning of the European Union ('TFEU') in view of the imminent gas supply crisis caused by Russia's unprovoked and unjustified invasion of Ukraine in February 2022 and the need for the Union to react with temporary measures in a spirit of solidarity between Member States.

¹ **Council Regulation** ~~COUNCIL REGULATION~~ (EU) 2022/1369 of 5 August 2022 on coordinated demand-reduction measures for gas (OJ L 206, 8.8.2022, p. 1).

- (2) Pursuant to ~~Article 3~~ of Regulation (EU) 2022/1369, Member States were to use their best efforts to reduce their gas consumption by 15% from 1 August 2022 to 31 March 2023. In case the voluntary demand reduction measures should prove to be insufficient to address the risk of a serious supply shortage, the Council, on a proposal from the Commission, was empowered to declare a Union alert ~~pursuant to Article 4 of Regulation (EU) 2022/1369~~, which would trigger a mandatory demand reduction obligation. In recent months, Member States have worked diligently and have adopted measures aiming to reduce their respective gas demand by 15%, in a spirit of solidarity. That has already resulted in effective gas demand reductions across the Union of more than 15%, from August 2022 to January 2023.
- (3) However, severe difficulties persist for the security of energy supply. The global situation on the gas market has not improved since February 2022 and the Union continues to rely on certain volumes of Russian gas to meet its overall gas demand, in spite of the demand reduction achieved under Regulation (EU) 2022/1369. Energy demand curtailment to citizens of the Union has been avoided over the past year thanks to effective measures regarding storage refilling and demand reduction. However, 11 Member States are still declaring an early warning and one an alert level in accordance with Regulation (EU) 2017/1938. Therefore, since the gas prices are still exceptionally high and the global supply has not improved since August 2022 when ~~the~~ Regulation (EU) 2022/1369 was adopted, there is an urgency to prolong the measures that helped containing the crisis, especially continuing demand reduction. A halt of the demand reduction measures would introduce changes to the fragile stable situation the Union EU has achieved so far and would deteriorate the resilience to likely future developments such as a complete halt of Russian imports. It is therefore urgent to keep preventing the exposure of the Union to gas shortage and high price volatility.

- (4) Due to the significant decrease in Russian pipeline gas imports over the past year, the capacity of the Union to refill storage is currently considerably reduced, also compared to the situation in the summer of 2022. While the energy crisis started already last year, during 2022 the Union was able to import approximately 60 bcm of gas from Russia to fill storages, including transit via the NordStream 1 pipeline. **However**, ~~however~~, over the summer of 2022 Russia interrupted and eventually completely halted gas supplies through that pipeline, which in September 2022 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. With the current pipeline gas import levels, the Union will only receive a maximum of 20 bcm of Russian pipeline imports, if these unreliable imports are not disrupted altogether. Therefore, there is a serious risk that gas shortages occur in the Union during the forthcoming winter 2023 to 2024.
- (5) These severe difficulties are exacerbated by a number of additional risks and new ~~elements~~**factors**, including (i) a rebound in Asian LNG demand reducing the availability of gas on the global gas market, (ii) weather conditions which have recently further deteriorated, thus affecting the hydropower storage and nuclear production due to low water levels, (iii) new technical developments which increase the uncertainties ~~risks~~ as to the availability of existing nuclear production, and require higher recourse to gas-fired power generation, and (iv) further possible gas supply disruptions, including a complete halt of gas imports from Russia.
- (6) These persisting and new severe difficulties affect meeting the Union's gas demand, in particular the filling of underground storage facilities in a timely and efficient manner for the winter 2023-2024, as well as the adequacy between supply and demand during ~~this next~~ winter **2023-2024**.

- (7) In accordance with ~~Article 9 of Regulation (EU) 2022/1369~~, the Commission carried out a review of that Regulation, the results of which are summarised in ~~the a report from~~ the report presented by the Commission to the Council. The report analyses different scenarios, with and without an extension of demand-reduction efforts under ~~the Regulation (EU) 2022/1369~~, including a 7-month extension from April to October 2023, an 8-month extension from August 2023 to March 2024, and a 1-year extension from April 2023 to March 2024. The report concludes that without continued demand reduction, storage levels would only reach 69 bcm by the end of October 2023, significantly below the 90% (89.4 bcm) target for 1 November of Regulation (EU) 2017/1938 ~~as amended by Regulation (EU) 2022/1032~~ and that storage levels would be fully depleted by February 2024.
- (8) Regarding the different scenarios assessed in the report, in case of a 7-month extension from April to October 2023, storages would be sufficiently filled by the end of the summer 2023 (95 bcm by the end of October 2023, reaching the 90% target). However, because the gas demand, even in a normal winter, is twice as high as in summer, storages would be almost fully depleted by the end of next winter (9 bcm by the end of March 2024). This implies extremely serious security of supply concerns and makes it very difficult to fill storages sufficiently for the following winter. In case of an 8-month extension from August 2023 to March 2024, storages would be filled too slowly, reaching only 80 bcm by the end of October 2023, significantly below the target, and storage levels would drop to below 30% by the end of the coming winter (below 28 bcm), causing serious security of supply concerns and making it difficult to fill storages sufficiently for the following winter. Only in case of a 1-year extension with a continued 15% demand reduction from April 2023 to March 2024, storage levels could meet the 1 November 90% storage target and reach 89.4 bcm by 1 November 2023 and Member States ~~could~~ be on track **for a secured supply in the next winter 2023/2024** ~~for their respective 1 May target~~ with 43 bcm stored at ~~Union~~-EU level by the end of March 2024.

- (9) In view of this, the report concludes that a continued demand reduction of 15% over a 12-month period until the end of March 2024 is necessary in order to ensure that Member States can comply with the storage target of 90% set out in Regulation (EU) 2017/1938 ~~as amended by Regulation (EU) 2022/1032~~, which is imperative for security of gas supply, and to prevent any supply gap ~~next~~ **during** winter **2023/2024**.
- (10) While Member States **are able to** ~~can~~ decide which measures are more appropriate to ensure meeting the storage targets, this cannot be achieved without demand reduction measures. ~~Indeed, the~~ **The** report concludes that there ~~would be~~ **are** insufficient gas volumes in the market to meet the obligation in all Member States **and** ~~This means~~ that not all Member States are physically able to fill storages to adequate levels, resulting in severe difficulties for security of supply at the end of winter 2023-2024.
- (11) The report also indicates that a reduction in gas consumption proportionate to the one provided for in Regulation (EU) 2022/1369 is needed during the period from 1 April 2023 to 31 March 2024. The prolonged reduction needed would correspond to a reduction of 15% for the period from 1 April 2023 to March 2024 compared to a reference period from 1 April 2017 to 31 March 2022. The prolongation of the demand reduction measures and the extension of the reduction period would also provide flexibility to the market to contain the gas price volatility and prevent price spikes like those observed in 2022.

- (12) Given the current tight supply and demand balance, even a moderate disruption can have a dramatic impact on the gas market **and cause serious and lasting harm to the economy and to citizens**. The gas storage filling obligation applies unless a Union or regional emergency is declared in accordance with Regulation (EU) 2017/1938. Therefore, a sudden disruption of 10% of the gas pipeline imports to the Union would either impose drastic isolated measures by Member States to comply with their filling storage obligation or lead to declare a Union or regional emergency, unless the voluntary coordinated reduction of demand continues. Such prolonged coordinated demand reduction by all Member States in a spirit of solidarity is essential to the refilling of storage capacities, in an efficient way with minimum market disturbances, which remains imperative for security of gas supply ahead of the winter 2023-2024.
- (13) The extension constitutes an emergency measure in response to persisting and new severe difficulties in the supply of energy which entail a risk of imminent crisis and require to adapt the gas demand reduction period both in order to prolong the voluntary gas demand reduction, and in order to ensure the possibility to declare a Union alert and trigger the corresponding mandatory gas demand reduction after March 2023.
- (14) ~~The~~^{is} current crisis is exposing the entire Union to risks of energy shortage and high energy prices. Since the Union is a single market, a gas shortage in one Member State would have severe consequences in all the other Member States through physical supply shortage of gas, volatility of prices or disruption of industrial chains resulting from possible curtailments of specific industries in a Member State. Moreover, in a spirit of solidarity, all Member States can contribute to continue reducing the risks of energy shortage and contain the gas price volatility by ~~all~~-reducing their demand. The ~~potential~~-positive impact of this spirit of solidarity has even considerably increased over the past year with the development of new interconnection capacities towards the East and additional LNG import capacities which better connect Member States with LNG regasification facilities, physically or virtually. **Therefore, continued coordinated action through measures taken at Union level to reduce demand would benefit all Member States by decreasing the risk of a more substantial impact on their economies.**

- (15) The need to act is urgent as the season to fill storage starts in April 2023. Given the persisting and new severe difficulties described above, not prolonging the coordinated reduction of demand on time before the filling of storage would have immediate effects on the trajectories to fill storage, on and/or the market conditions impacting security of supply and on the volatility of prices.
- (16) Article 122(1) TFEU enables the Council to decide, on a proposal from the Commission and in a spirit of solidarity between Member States, upon the measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products, notably in the area of energy. In view of the above considerations, the current crisis in the supply of gas, an energy product, constitutes such a situation. Therefore, a temporary extension of, as well as targeted amendments to the measures taken under Regulation (EU) 2022/1369 are necessary to respond to the on-going situation in a spirit of solidarity between Member States. It is therefore justified to base the ~~proposed~~ instrument on Article 122(1) TFEU.

(16a) The existing provisions acknowledging specific national circumstances in case of mandatory demand reduction in a Union alert should continue to apply. Member States should remain able to temporarily limit the mandatory demand reduction where a Member State faces an electricity crisis, as referred to in Regulation (EU) 2019/941 of the European Parliament and of the Council. Such a scenario may include a limitation proportional to a very significant increased use of gas for power generation, required to significantly export significantly more electricity to a neighbouring Member State, due to exceptional circumstances such as low hydropower or nuclear availability in the Member State concerned, or in the neighbouring Member State to which significantly more electricity is exported. The limitation should not exceed the volume of gas corresponding to the aforementioned additional exports. Member States should take into account this limitation when reporting their breakdown of gas consumption per sector.

(16b) Member States introducing significant decarbonisation measures by switching from coal to gas in district heating should be able to deduct those gas volumes from their demand reduction obligation provided they are directly attributable to the switch from coal to gas.

(17) Pursuant to Article 8 of Regulation (EU) 2022/1369, Member States are to **should** report on the demand reduction achieved to the Commission **at least** every two months, no later than by the 15th day of the following month, via Eurostat. However, experience has shown that a two-month reporting period is insufficient to provide up to date figures in order to take an effective decision on proposing to declare a Union alert. Therefore, **In order to provide up to date figures,** Member States ~~should~~ **are encouraged to** report their gas consumption to assess the demand reduction achieved every month. **If a Union alert is declared, the reporting should be on a monthly basis.** In order to better target the measures to reduce demand **and improve** the monitoring of gas consumption, **Member States are encouraged to include** at Member States and Union level and the implementation of this Regulation ~~should rely on a reporting which includes~~ a breakdown of gas consumption for electricity and heat generation, households and services according to the definitions and **statistical** conventions established in Regulation (EC) 1099/2008 on energy statistics. **If a Union alert is declared, the information should be submitted on a monthly basis.**

(18) In accordance with Article 9 of Regulation (EU) 2022/1369, the Commission is to carry out a review on the basis of the findings of which, the Commission is entitled to propose to prolong the period of application of this Regulation. To account for the ~~now proposed~~ prolongation of the application of Regulation (EU) 2022/1369, a new review date should be set for 1 March 2024.

- (19) The extended and modified demand reduction measures should be temporary and remain into force until the end of ~~the next-winter~~ 2023/2024 season. On the basis of the new review to be carried out by 1 March 2024, the Commission should, if appropriate, be able to propose to prolong their period of application.
- (20) Regulation (EU) 2022/1369 should therefore apply until 31 March 2024. The amendments brought about to Regulation (EU) 2022/1369 should take effect by 1 April 2023 as this is necessary in order to ensure a continued demand reduction of 15% over a 12-month period from 1 April 2023 until the end of March 2024 and to enable economic operators, Member States and the Commission to take the necessary measures to achieve that objective.
- (20a) Since the objective of this amending 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 to achieve that objective.**
- (21) Regulation (EU) 2022/1369 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) 2022/1369

Regulation (EU) 2022/1369 is amended as follows:

(1) in Article 2, points (5) and (6) are replaced by the following:

- (a) ‘(5) ‘reference gas consumption’ means the volume of a Member State’s average gas consumption during the reference period; for Member States where gas consumption increased at least by 8 % in the period from 1 April 2021 to 31 March 2022 compared to the average gas consumption during the reference period, ‘reference gas consumption’ means only the volume of gas consumption in the period from 1 April 2021 to 31 March 2022;
- (b) ‘(6) ‘reference period’ means the period from 1 April 2017 to 31 March 2022’.

(2) Article 3 is replaced by the following:

Article 3

Voluntary demand reduction

Member States shall use their best efforts to reduce their gas consumption in the period from 1 April 2023 to 31 March 2024 at least by 15% compared to their average gas consumption in the period from 1 April 2017 to 31 March 2022 (‘voluntary demand reduction’). Articles 6, 7 and 8 shall apply to those voluntary demand reduction measures.

- (3) in Article 5, paragraph 2 is replaced by the following:
- ‘2. For the purpose of mandatory demand reduction, for as long as the Union alert is declared, gas consumption in each Member State over the period from 1 April 2023 to 31 March 2024 (‘reduction period’) shall be 15 % lower compared to its reference gas consumption. Any demand reductions achieved by Member States during the period before the Union alert was declared shall be taken into account for the purpose of the mandatory demand reduction.

(3a) in Article 5, the following paragraph is added:

6a. A Member State may adjust the reference gas consumption used for calculation of the mandatory demand-reduction target pursuant to paragraph 2 by the volume of increased gas consumption resulting from the switch from coal to gas used for district heating, if that increase is at least 8% in the period from 1 August 2023 to 31 March 2024 compared to the average gas consumption during the reference period and to the extent that this increase is directly attributable to the switch.

- (4) in Article 8, paragraph 1 is replaced by the following:

‘1. The competent authority of each Member State shall monitor the implementation of the demand reduction measures on its territory. Member States shall report on gas consumption (in terajoules, TJ) to the Commission **at least every two months** every ~~month~~ and not later than by the 15th day of the following month. **If a Union alert is declared according to Article 4(1), the reporting shall be submitted on a monthly basis.**

Member States **may** ~~shall~~ include in their reporting a breakdown of gas ~~demand reduction~~ **consumption** per sector, including gas ~~demand~~ **consumption** for the following sectors:

- (a) gas input for electricity and heat generation;
- (b) ~~final~~ gas energy consumption in industry;
- (c) ~~final energy~~ gas consumption in households and services.

~~**If a Union alert is declared according to Article 4(1), the information under the first subparagraph shall be submitted on a monthly basis.**~~

For the purpose of this paragraph, the definitions and statistical conventions established in Regulation (EC) 1099/2008 on energy statistics shall apply.

The GCG shall assist the Commission in the monitoring of the voluntary and mandatory demand reduction.”

- (5) in Article 9 the date ‘1 May 2023’ is replaced by ‘1 March 2024’;
- (6) in Article 10, the second paragraph is replaced by the following:

‘It shall apply until 31 March 2024’.

Article 2

Entry into force and application

This Regulation shall enter into force on 1 April 2023.

~~It shall apply until 31 March 2024.~~

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

Done at Brussels,

For the Council

The President
