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WK 4075/2025 INIT

LIMITE

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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on Energy
Subject:	Gas storage Regulation: FR comments

Delegations will find in the annex the FR comments on the Gas storage Regulation.

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LIMITE

Commentaires des autorités françaises sur la version REV2 du projet de règlement modifiant le règlement (UE) 2017/1938 en ce qui concerne le rôle du stockage de gaz dans la sécurité de l'approvisionnement en gaz avant la saison hivernale

Un impératif du projet de règlement est de réduire les possibilités pour les acteurs de marché de profiter de l'obligation européenne de stockage de gaz naturel. Cela passe par l'introduction d'un niveau d'incertitude significatif sur les éventuelles interventions publiques.

La proposition d'ajouter une marge de flexibilité de 5 points est une première étape qui mérite d'être saluée. Une marge de flexibilité de 10 points semblerait toutefois plus adaptée, au regard de la baisse de la consommation de gaz naturel observée depuis la crise gazière de 2021-2023.

Il n'est en revanche pas possible d'être certain qu'une telle flexibilité soit suffisante pour empêcher des acteurs de marchés d'anticiper les interventions des Etats membres pour assurer le respect de l'obligation européenne de stockage, et surtout pour empêcher des acteurs de marché de tenter des stratégies visant à contraindre des Etats membres à mener de telles interventions. Il convient donc de prévoir une soupape de sécurité, pouvant être activée dans l'éventualité où certains Etats membres se retrouveraient confrontés à des stratégies d'acteurs de marché susceptibles de les contraindre à intervenir, avec des coûts potentiellement déraisonnables par rapport à l'apport en termes de sécurité d'approvisionnement.

Une telle soupape de sécurité consisterait en l'ajout d'une possibilité d'accroître la marge de flexibilité, si le contexte le requiert, par un texte plus simple à prendre qu'un règlement européen, un acte délégué étant proposé. Une telle soupape de sécurité serait susceptible de dissuader certains acteurs de marché de chercher à profiter de façon excessive de l'obligation de stockage dans une situation de marché tendu, l'Union européenne gardant en effet la possibilité de traiter une situation de « squeeze » par un accroissement de la tolérance de remplissage.

Il est par ailleurs important de conserver une entrée en vigueur de ces flexibilités le lendemain de la publication du règlement, comme prévue à l'article 2 de la REV2. Une telle entrée en vigueur dès 2025 est en effet susceptible de favoriser une réduction du différentiel des prix à terme entre l'été 2025 et l'hiver 2025-2026, et ainsi favoriser la reconstitution de stocks par les fournisseurs de gaz naturel.

La publication des différentes versions du projet de règlement sur le site internet du Conseil européen est à saluer. Cette publication permet en effet de recueillir les avis des acteurs gaziers sur ces documents.

Traduction de courtoisie

One of the imperatives of the proposal for a regulation is to reduce the opportunities for market players to game the European storage obligation for profit. This means introducing a significant level of uncertainty about possible public intervention.

The proposal to add a 5-point flexibility margin is a welcome first step. However, a flexibility margin of 10 points would seem more appropriate, given the decrease in natural gas consumption observed since the gas crisis of 2021-2023.

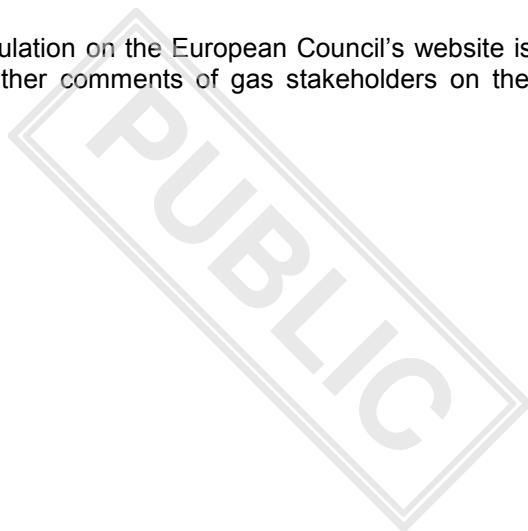
Nevertheless, it is not possible to be certain that such flexibility is sufficient to prevent market players from anticipating interventions by Member States to ensure compliance with the European storage obligation, and above all to prevent market players from attempting strategies aimed at cornering Member States to carry out such interventions. Provision should therefore be made for a safety valve that could be activated in the event of certain Member States being confronted with strategies by market players likely to force them to intervene, with potentially unreasonable costs in proportion to the benefit for security of supply.

Such a safety valve would consist of adding the possibility of increasing the flexibility margin, if the context so requires, by means of a text that is simpler to adopt than a European regulation, a delegated act being proposed. Such a safety valve could dissuade certain market players from taking excessive advantage of the European storage obligation in a tight market environment, as the European Union would retain the option of dealing with a squeeze by increasing the flexibility margin.

It is also important to keep the entry into force of these flexibilities on the day following the publication of the regulation, as provided for in Article 2 of REV2. Implementing these flexibilities from 2025 is likely to reduce

the forward price differential between summer 2025 and winter 2025-2026, and thus foster the rebuilding of stocks by gas suppliers.

Publication of the different versions of the proposal for a regulation on the European Council's website is a welcome initiative. This publication makes it possible to gather comments of gas stakeholders on these documents.



ANNEX

2025/0051 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

Amending Regulation (EU)2017/1938 as regards the role of gas storage for securing gas supplies ahead of the winter season

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Regulation (EU) 2022/1032 of the Parliament and of the Council¹ was adopted in reaction to the gas-supply crisis and unprecedented price increases caused by ~~the escalation of the Russian military aggression~~ **Russia's war of aggression** against Ukraine since February 2022, impelling the Union to act in a coordinated and comprehensive manner to avoid potential risks resulting from further gas-supply disruptions.
- (2) Regulation (EU) 2022/1032 amended Regulation (EU) 2017/1938 by introducing a temporary legal framework for measures regarding the filling level of underground storage facilities to strengthen the security of gas supply in the Union, in particular gas supplies to protected customers.

¹ Regulation (EU) 2022/1032 of the European Parliament and of the Council of 29 June 2022 amending Regulations (EU) 2017/1938 and (EC) No 715/2009 with regard to gas storage (OJ L 173, 30.6.2022, p. 17, ELI: <http://data.europa.eu/eli/reg/2022/1032/oj>).

- (3) Gas-storage facilities provide for 30% of the Union's gas consumption during the winter months, and well-filled underground gas-storage facilities contribute substantially to the security of gas supply by providing additional gas in the event of high demand or supply disruptions.
- (4) The laying down of a mandatory target to ensure that gas-storage facilities are 90% full by 1 November (filling target), with a series of intermediate targets for each Member State in February, May, July and September of the year thereafter (filling trajectory), proved to be fundamental amidst the energy crisis sparked by the weaponisation of Russian gas supplies and invasion of Ukraine in both: (i) weathering the gas-supply shortages; and (ii) reducing market uncertainties and price volatility.
- (5) Despite the substantial improvement of the gas market situation compared to 2022-2023 period, the European gas market remains tight. More intense competition for global LNG supplies can increase Member States exposure to price volatility. The gas price development during the 2024/2025 winter may confirm the trend. In such situation, the role of gas storages remains paramount. Predictable filling trajectories increase transparency and prevent market distortion.
- (6) Pursuant to Regulation (EU) 2017/1938 the obligation of the Member States to follow an annual filling trajectory and to ensure that the filling target is achieved by 1 November of each year expires on 31 December 2025.
- (7) At the same time, the overall framework to meet this 1 November target **must** **should** be flexible enough during the filling season to allow a swift reaction to constantly changing market conditions and in particular to take advantage of the best purchasing conditions.
- (8) The purpose of intermediary filling targets, agreed upon each year by the Member States, is to ensure that the mandatory 1 November target is met. However, these targets are indicative and should allow for storage filling in such a way that there is sufficient flexibility available for market participants throughout the year in accordance with Recommendation XXX.

- (9) Commission's assessment of the current energy-security framework has confirmed the positive impact of the storage-filling requirements on the security of gas supply and those positive effects should be preserved beyond 2025.
- (10) It is therefore necessary to extend by two years the relevant gas storage filling provisions that provide predictability and transparency as to the utilisation of gas-storage facilities across the Union.
- (11) Regulation (EU) 2017/1938 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

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

In Article 2, the point (27) is replaced by the following:

'(27) "filling trajectory" means a series of indicative intermediate targets for the underground gas storage facilities of each Member State as listed in Annex Ia for 2022 and, for the following years, set in accordance with Article 6a:

Article 6a, is amended as follows :

(a) the first subparagraph of paragraph 1 is replaced by the following:

1. Subject to paragraphs 2 to 55a, Member States shall meet the following filling targets for the aggregated capacity of all underground gas storage facilities that are located on their territory and directly interconnected to a market area in their territory and for storage facilities listed in Annex Ib at any point in time between 1 October and 1 December by 1 November each year:

Paragraph 5a is added:

1. **Notwithstanding paragraph 1 and without prejudice to the obligation of other Member States to fill the underground gas storage facilities concerned, Member States may decide to deviate, following consultations with the European Commission, by a flexibility margin up to ten percentage points, from the filling target set out in paragraph 1 point b for each Member State if market conditions are unfavourable for filling underground gas storage facilities.**
2. **The Commission is empowered to adopt delegated acts in accordance with Article 19 to amend this Regulation by increasing this flexibility margin, in particular if market conditions are unfavourable for filling underground gas storage facilities.**
3. **Member States may decide to deviate by up to one percentage point and ninety-four hundredth below the volume set out in paragraph 2 if market conditions are unfavourable for filling underground gas storage facilities. Member States shall inform the Commission and provide justification immediately.**
4. **Notwithstanding paragraph 1 and without prejudice to the obligation of other Member States to fill the underground gas storage facilities concerned, Member States may decide to deviate, following consultations with the European Commission, by up to five percentage points from the filling target set out in paragraph 1 point b for each Member State, if:**
 - **their national gas production exceeds their average annual consumption over the preceding two years; or**
 - **specific technical characteristics of an underground storage facility located on their territory require a slow injection rate causing an exceptionally long injection period of more than 115 days,**

(b) paragraph 6 is replaced by the following:

6. **In order to achieve the filling target, Member States shall strive to follow the filling trajectory as set out in Annex Ia, take the necessary measures to meet the intermediate targets or to ensure that they are met as follows:**

- (a) for 2022: as set out in Annex Ia; and
(b) from 2023: in accordance with paragraph 7.

(c) paragraph 8 is replaced by the following:

8. The competent authority of each Member State shall take all necessary measures in accordance with Article 6b to meet the filling target. Where, in any given year, a Member State does not ~~is not able to~~ meet its filling target, its competent authority shall take effective measures to minimize the impact on security of supply of the EU and the Member States considering the price impact on the gas market. The Member States shall inform the Commission and the GCG without delay, and at the latest by 1 December, providing reasons for the failure to meet the filling target and on the measures taken. ~~by 1 November due to the specific technical characteristics of one or more underground gas storage facilities within its territory, such as exceptionally low injection rates, it shall be allowed to meet it by 1 December. The Member State shall inform the Commission by 1 November, providing reasons for the delay.~~

(d) paragraph 10 is replaced by the following:

10. The competent authority of each Member State ~~may take all necessary measures in accordance with Article 6b to meet the filling trajectory, including such as the introduction of binding intermediate targets at national level. They~~ shall continuously monitor ~~compliance~~ alignment with the filling trajectory and shall report regularly to the GCG. ~~If the filling level of a given Member State is more than five percentage points below the level of the filling trajectory, the competent authority shall, without delay, take effective measures to increase it. Member States shall inform the Commission and the GCG of the measures taken.~~

(e) paragraph 11 is replaced by the following:

11. In the event of a substantial and sustained deviation by a Member State from the filling trajectory, ~~which compromises~~ compromising the meeting achievement of the filling target, or in the event of a deviation from the filling target, the Commission ~~shall~~ may, after consulting the GCG and the Member States concerned, issue a recommendation to that Member State or to the other Member States concerned. regarding measures to be taken immediately to remedy the deviation or to minimize the impact on the security of supply.

~~Where the deviation is not significantly reduced within one month of receipt of the Commission's recommendation, the Commission shall, after consulting the GCG and the Member State concerned, take a decision as a measure of last resort to require the Member State concerned to take measures that effectively remedy the deviation, including, where appropriate, one or more of the measures provided for in Article 6b(1), or any other measure to ensure that the filling target pursuant to this Article is met.~~

~~In deciding which measures to take pursuant to the second subparagraph, the Commission shall take into account the specific situation of the Member States concerned, such as the size of the underground gas storage facilities in relation to the domestic gas consumption, the importance of the underground gas storage facilities for the 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 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.~~

~~The Commission shall ensure that the measures taken pursuant to this paragraph do not:~~

- ~~7. go beyond what is necessary to safeguard the security of gas supply;~~
- ~~8. place a disproportionate burden on Member States, gas market participants, storage system operators or customers.~~

Article 6b, paragraph 2 is amended as follows:

2. The measures taken by the Member States pursuant to paragraph 1 shall be limited to what is necessary to meet the filling trajectories and filling targets. ~~They~~ All measures taken pursuant to article 6a(8) and 6a(10) shall be clearly defined, transparent, proportionate, non-discriminatory and verifiable. They shall not unduly distort competition or the proper functioning of the internal market in gas or endanger the security of gas supply of other Member States or of the Union. Member States shall inform the Commission and the GCG of those measures.

Article 6d is amended as follows:

(a) Paragraph 2 is deleted

~~2. — The competent authority and, if applicable, the designated entity of each Member State shall monitor the filling levels of the underground gas storage facilities on their territory at the end of each month and report the results to the Commission without undue delay.~~

~~The Commission may, where appropriate, invite the European Union Agency for the Cooperation of Energy Regulators (ACER) to assist with such monitoring.~~

(b) Paragraph 4 is amended as follows:

4. The GCG shall assist the Commission in the monitoring of the filling trajectories and the filling targets, and shall develop guidance for the Commission on adequate measures to ensure compliance better alignment in the event that Member States deviate from the filling trajectories compromising the achievement of the filling target, or to minimize the impact on security of supply if they do not meet the filling targets.

(c) Paragraph 5 is amended as follows:

Member States shall take the necessary measures to meet the filling trajectories and the filling targets and to enforce upon market participants the storage obligations which are required to meet the filling target, including by imposing sufficiently deterrent sanctions and fines on those market participants.

Article 19 is amended as follows:

(a) Paragraph 2 is replaced by the following:

2. The power to adopt delegated acts referred to in Article 3(8), Article 7(5) and Article 8(5) shall be conferred on the Commission for a period of five years from 1 November 2017. The power to adopt delegated acts referred to in Article 8a(2) shall be conferred on the Commission for a period of five years from 4 August 2024. The power to adopt delegated acts referred to in Article 6a(1) shall be conferred on the Commission for a period up to 31 December 2027. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

(b) Paragraph 3 is replaced by the following:

3. The delegation of power referred to in Article 3(8), Article 6a(1), Article 7(5), Article 8(5) and Article 8a(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

(c) Paragraph 6 is replaced by the following:

6. A delegated act adopted pursuant to Article 3(8), Article 6a(1), Article 7(5), Article 8(5) or Article 8a(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

In Article 22 ~~of Regulation (EU) of Regulation (EU) 2017/1938~~, the fourth paragraph is replaced by the following:

“Article 2, points (27) to (31), Articles 6a to 6d, Article 16(3), Article 17a, Article 18a, Article 20(4), and Annexes Ia and Ib shall apply until 31 December 2027.”

Article 2

Entry into force

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

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
