



EUROPEAN
COMMISSION

Brussels, 20.3.2023
COM(2023) 174 final

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

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Over the past year, 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 were less than 10% of the EU's gas imports in January 2023. Twelve Member States have activated the first or second crisis level pursuant to the common EU classification, as foreseen by the Gas Security of Supply Regulation (EU) 2017/1938. This supply shock has already had significant impacts on the price level and volatility of gas and electricity, on inflation, on the overall EU financial and macroeconomic stability, and on all citizens.

In the meantime, while the EU has actively diversified supply sources to compensate for the strong decrease of Russian gas imports, there is a realistic prospect of a full and protracted disruption of the remaining gas from Russia at any moment. The EU must be prepared for it and take pre-emptive actions to mitigate the impacts of possible major supply disruptions. A great majority of EU citizens (84%) agree that the EU should reduce its dependency on Russian sources of energy as soon as possible. In addition, 81% say that they have taken action to reduce their own energy consumption ⁽¹⁾.

For this reason, the Commission proposed on 20 July 2022 a Council Regulation on coordinated demand reduction measures for gas, which was ultimately adopted by Council on 5 August 2022 as Regulation (EU) 2022/1369. In recent months, Member States have worked diligently and have adopted measures aiming to reduce their respective gas demand by 15%, as foreseen by the aforementioned regulation. This has resulted in effective gas demand reductions across the EU by 19% between August 2022 and January 2023.

Despite the demand reduction achieved and diversification of supply, severe difficulties persist in the supply of energy, which can affect the competitiveness of the EU and the economic general situation. The risks include a possible rebound of LNG demand in Asia which can reduce the availability of gas on the global market, weather conditions which can affect hydropower storage and nuclear production and require a higher recourse to gas-fired power generation and some further gas supply disruptions, which can affect the filling of underground gas storage facilities required for a safer winter 2023-2024. Furthermore, contrary to the preceding filling season the 2023 storage filling season cannot count on the 60 bcm of Russian pipeline gas that was still imported into the EU in 2022.

In its report of 12 December 2022, the International Energy Agency estimates that a shortage of gas in 2023 could occur, unless the measures already undertaken in the Union are supplemented by additional actions to replace or save gas. In addition, the Commission prepared an accompanying report on the review of Regulation (EU) 2022/1369 following its Article 9 analysing the demand reduction achieved, the risks and possible scenarios of supply

¹ <https://europa.eu/eurobarometer/surveys/detail/2872>

and shortage until the end of the next winter². The findings of the report showed that a continued demand reduction of 15% until the end of March 2024 is necessary to ensure that Member States can comply with the storage target of 90% set out by Regulation (EU) 2022/1032, and to ensure the supply and demand adequacy for the winter 2023/24 which is imperative for security of gas supply. Without continued demand reduction, gas storages would be depleted at the end of the winter 2023-2024, leading to possible gas shortage and disruptions.

The report based on Article 9 furthermore shows that only a prolongation of 12 months ensures sufficient storage filling over the summer. Scenarios with shorter demand reduction periods would be insufficient to ensure security of supply at the end of winter 2023-2024. In contrast, an extension for a reduction period from August to March would leave insufficient time to fill storages at the appropriate 90% level, and lead to serious security-of-supply difficulties towards the end of next winter. Cold weather alone would almost fully deplete storages by 31 March 2024. Alternatively, an extension from April to October would see storages almost completely depleted by 31 March 2024, even without cold temperatures and without any of the other downside risks materialising that are further analysed in the accompanying Commission Staff Working Document. In other words, extensions shorter than 12 months may lead to panic buys, European actors outbidding each other, high prices and possible shortages.

The longer period of 12 months from 1 April 2023 to 31 March 2024 would reduce the possibility of price spikes and therefore limit the cost of gas purchases for Member States for the same volumes. Furthermore, an extension with a 12-month reduction period provides more flexibility to cater for the different characteristics between Member States. Whereas some Member States find it easier to reduce demand in summer (frontloading), others find it easier to reduce demand in winter (backloading). A shorter reduction period would not allow for this flexibility. In addition, a 12-month reduction period would allow flexibility between sectors: since residential demand is low in summer, an extension from April to October would put the burden disproportionately on industry and the less flexible power sector, which is dependent on the availability of alternative power sources.

Therefore, considering the risks regarding the Russian supply, the weather conditions and the global gas market developments in 2023, it is necessary to prolong a demand reduction of the same amplitude after the expiration of the period of the Regulation (EU) 2022/1369, and before the beginning of the filling season, as well as the necessity to continue this reduction over a 12-month period until 31 March 2024.

Apart from ensuring security of supply, demand reduction would ease the economic difficulties by reducing the price volatility and ease pressure on a tight gas market. While the worst economic impacts have so far been averted in 2022, global gas markets remain very constrained in 2023. Gas prices have reached historical highs in 2022 with a maximum price over 320 €/MWh on 26 August and they are now below 45 €/MWh. However, gas prices are still at a level twice as high as the historical norm.

The same spirit of solidarity which has prevailed in the adoption and application of Regulation (EU) 2022/1369 should continue. The legal framework for security of gas supply set by Regulation (EU) 2017/1938 remains insufficient to address long-lasting disruptions, which could lead to uncoordinated actions by Member States, threatening to endanger security of

² Report from the Commission to the Council on the review of Regulation (EU) 2022/1369 (COM(2023) 173) and accompanying Commission Staff Working Document (SWD (2023) 63)

supply in neighbouring Member States and to place an additional burden on the Union's industry, consumers, and functioning of the internal market. While some Member States are more exposed to the disruptions than others, any gas supply difficulties or shortages would cause harm to the economies of all Member States. As set out in the Communication "Save Gas for a Safe Winter" of 20 July 2022, it is cheaper for citizens and industry of all Member States, in a spirit of solidarity, to continue reducing demand in a proportionate and demonstrably manageable manner rather than face uncoordinated curtailments later. The reduction would continue the current one, and not be cumulative. It would represent a continued reduction of 15% for the period from 1 April 2023 to 31 March 2024 compared to a reference period from 1 April 2017 to 31 March 2022, and therefore be identical and proportionate to the reduction foreseen by the current Regulation. This reduction would amount to 60 bcm that will not be consumed in the period from 1 April 2023 to 31 March 2024.

In the informal Energy Council on 27 February 2023, the EU energy ministers discussed the preparation for the next winter and beyond. This discussion highlighted the broad understanding of major persisting risks on gas supply related to Russia and the global LNG market, with possibly a lower quantity of available gas due to the post-COVID recovery of the Asian economy. Moreover, threats on critical gas infrastructure for the EU supply cannot be ignored.

Therefore, the proposed Regulation extends Regulation (EU) 2022/1369 to 31 March 2024 and provides for an extended reduction period from 1 April 2023 to 31 March 2024, to ensure that demand reduction continues during the storage filling season in the summer of 2023 and during the winter 2023-2024. The demand reduction period and the reference period are adjusted accordingly, as well as the dates in Article 5(5) regarding the excess storage filling and the review date of Article 9, to ensure consistency with the prolonged time period.

The monitoring and reporting obligation of the gas consumption to assess the demand reduction achieved of Article 8(1) has been increased from once every two months to every month, given the need to have up to date figures in order to take an effective decision of proposing to declare a Union alert. In addition, given that there is insufficiently granular data available at EU level to determine how the demand reduction was achieved, it is proposed to include in the reporting a breakdown of the gas consumption per sector. This should help understand the nature of the achieved demand reduction, i.e. whether demand reductions are savings, substitution or demand destruction and would allow to make more targeted recommendations in light of maintaining the EU's industry's competitiveness on a global stage.

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

The proposed instrument sets out temporary, proportionate and extraordinary measures. It complements existing relevant EU initiatives and legislation, which ensures that citizens can benefit from secure gas supplies and that customers are protected against major supply disruptions.

It flows logically from existing initiatives, such as the "REPowerEU", the proposal for a "Hydrogen and Gas Market Decarbonisation Package" and the "Save Gas for a Safe Winter" initiative. The proposed initiative is fully complementary to the EU legislation on security of gas supply, which already established a comprehensive set of rules to better protect citizens and companies against supply interruptions. Regulation (EU) 2017/1938 introduced, inter alia, emergency plans whereby Member States are required to prepare for different crisis levels and plan for measures that can be taken in the event of a national alert. It also supplements Council Regulation (EU) 2022/2576 enhancing solidarity through better coordination of gas purchases,

exchanges of gas across borders and reliable price benchmarks. Solidarity mechanisms are in place, ensuring that Member States cooperate across borders to ensure that energy is provided to those customers in a region who need it most, in case of supply disruptions.

Following the unjustified and unprovoked Russian invasion of Ukraine, the EU has set out the REPowerEU Plan with the aim to end the EU's dependence on Russian fossil fuels, as soon as possible and at the latest by 2027. To achieve this, the REPowerEU Plan sets out measures related to energy savings and energy efficiency and proposes an accelerated rollout of clean energy to replace fossil fuels in homes, industry and power generation. In this context, the proposed initiative builds on the tools the EU already has at its disposal and is fully consistent with the goals set out in REPowerEU.

Regulation (EU) 2022/1032 introduced storage obligations in response to the Russian invasion of Ukraine, in which supply shortages and price peaks can result not only from the failure of infrastructure or extreme weather conditions, but also from geopolitical changes, leading to longer lasting or sudden supply disruptions. The storage filling obligations in Regulation (EU) 2022/1032 contribute to safeguarding security of gas supply for the winter of 2022–2023 and the following winter periods.

The “Save Gas for a Safe Winter” Communication adopted on 20 July 2022 sets out the tools that the EU already has available for a coordinated demand reduction, and what else needs to be done, so that the EU is ready for full or partial disruptions. The proposed initiative responds to the increased risks resulting from Russia’s war against Ukraine and is fully complementary to the existing security of supply rules. It prolongs the rules of the Regulation (EU) 2022/1369 for coordinated demand reductions and prolongs the provisions for declaring a Union alert. Indeed, while there is already the possibility for the Commission to declare an emergency at Union level, the possibility to declare an alert at Union level should also be prolonged. The current situation shows that such an alert may be useful to ensure that all Member States take the necessary preventive measures to avoid an energy emergency.

This proposal for extending the current Regulation (EU) 2022/1369, enabling coordinated crisis preparation by introducing better coordination rules for demand reductions and by creating the possibility to introduce Union-wide mandatory gas demand reductions, is therefore complementary to existing provisions and the recent initiatives in the energy sector, safeguarding the security of gas supply and ensuring coordination between demand reduction measures across the EU.

- **Consistency with other Union policies**

The proposal is an extraordinary measure, to be applied for a limited time that is consistent with a broader set of initiatives to enhance the Union’s energy resilience and to prepare for possible emergency situations, as the proposal extends the current Regulation (EU) 2022/1369 to 31 March 2024. The proposal is also fully compatible with competition and market rules, as functioning cross-border energy markets are key to ensure security of supply in a situation of supply shortages. Appropriate rules in the proposal ensure that national measures do not hamper competition or compromise the integrity of the internal market. Providing for more coordinated demand reductions is also in line with the Commission’s Green Deal targets.

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 current and on-going shortage of gas supplies constitutes a severe difficulty in the supply of an energy product pursuant to Article 122 TFEU. The EU has not yet completely replaced Russian gas supply and currently relies on Russian gas for less than 10% of the pipeline imports. A complete halt of those imports would lead to insufficient storage levels in November and to a complete depletion of the EU storages during the winter season therefore exposing the EU to severe risks for security of supply. Furthermore, the current exceptionally high prices, twice as high as historical, underline the need for urgent action to further reduce gas prices in Europe and preserve the global competitiveness of the EU economy. Therefore, EU leaders and the Commission have identified the urgent need for continued measures for more coordinated and immediate action, in order to be better prepared for possible further gas disruptions in the course of the year. The measures to be continued under the instrument for a limited period of time allow all Member States to prepare for possible further supply shortages in a coordinated manner, in a spirit of solidarity. A time-limited extension of, as well as targeted amendments to, the measures taken under Regulation (EU) 2022/1369 will also allow the EU and Member States to assess the effect of these measures and to propose and adopt permanent amendments to the ordinary legal framework for security of gas supply as set out in Regulation (EU) 2017/1938. It is therefore justified to base the proposed instrument on Article 122(1) TFEU.

- **Subsidiarity (for non-exclusive competence)**

The measures planned to be continued under the present initiative are fully in line with the subsidiarity principle. Because of the scale and the significant effect of further cuts in gas supply on the part of Russia, there is a need for EU level action. A continued coordinated approach through Union-wide demand reduction, in the spirit of solidarity, is necessary to minimise the risk of potential major disruptions during the winter months when gas consumption will be higher and where Member States will need to partly rely on the gas stored during the injection season.

Given the unprecedented nature of the gas supply crisis and its transboundary effects, as well as the level of integration of the EU internal energy market, action at Union level continues to be warranted as Member States alone cannot sufficiently effectively address the risk of serious economic difficulties resulting from price hikes or significant supply disruptions in a coordinated manner. Only continued EU action motivated by a spirit of solidarity between Member States can ensure that supply disruptions do not lead to lasting harm for citizens and the economy.

By reason of its scale and effects, the measure can be better achieved at Union level, hence the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union.

- **Proportionality**

The initiative complies with the proportionality principle. It falls within the scope of Article 122(1) TFEU. The policy intervention is proportional to the dimension and nature of the problems defined and the achievement of the set objectives.

In view of the unprecedented geopolitical situation and the significant threat for citizens and the EU economy, there is a clear need for continued coordinated action. Hence, the proposal does not go beyond what is necessary to achieve the objectives laid down in the current instrument. The measures proposed to be continued are considered proportionate and build to the extent possible on existing approaches, such as the existing crisis levels and emergency plans established in accordance with Regulation (EU) 2017/1938.

This proposal sets the final result to be achieved, in the form of a process for setting a legally binding energy reduction obligation for Member States, while giving Member States full autonomy in choosing the most effective means to meet such obligation according to their national specificities and the measures already foreseen in the national emergency plans.

- **Choice of the instrument**

Taking into account the dimension of the energy crisis and the scale of its social, economic and financial impact, the Commission deems suitable to act by way of a regulation which is of general scope and directly and immediately applicable. This would result in a swift, uniform and Union-wide cooperation mechanism.

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

- **Stakeholder consultations**

Due to the politically sensitive nature of the proposal and urgency to prepare the proposal so that it can be adopted on time by the Council, a stakeholder consultation could not be carried out. However, the matter has been discussed with the Gas Coordination Group, which includes representatives of Member States and European associations representing suppliers, infrastructure operators, traders and the main consumers of gas. The members of the Gas Coordination Group during its meeting of 16 February have voiced their understanding of the importance of a continued demand reduction as a particularly cost-effective measure to preserve and strengthen security of supply. In addition, the point has been raised during the informal Energy Council meeting on 27 February 2023, where Member States confirmed the importance of adequate preparedness in view of the next winter 2023/24 and the important role of gas demand reduction in this context.

- **Fundamental rights**

No negative impact has been identified on fundamental rights. The measures under this instrument will not affect the rights of customers who are categorised as protected under Regulation (EU) 2017/1938, including all household customers. The instrument will enable to reduce the risks associated with gas shortage that would otherwise have major implications on the economy and society.

4. BUDGETARY IMPLICATIONS

This proposal does not require additional resources from the EU budget.

5. SUMMARY OF CHANGES INTRODUCED

Building on the findings of the Article 9 report, the changes proposed are targeted and limited in scope to prolong demand reduction after the expiration of the period of the Regulation (EU) 2022/1369 until the end of the next winter:

In Article 2, the reference period against which the reduction is measured is proposed to be changed from 1 August 2017 to 31 March 2022 in Regulation (EU) 2022/1369, to 1 April 2017 to 31 March 2022.

In Article 3, the period of 1 August to 2022 to 31 March 2023 for Member States to reduce their gas consumption on a voluntary basis is replaced by the period 1 April 2023 to 31 March 2024.

In Article 5, the period of 1 August to 2022 to 31 March 2023 for Member States to reduce their gas consumption on a mandatory basis in a Union alert declared by the Council upon proposal of the Commission is replaced by the period 1 April 2023 to 31 March 2024.

In Article 8, the bimonthly reporting of the demand reduction achieved is replaced by a monthly reporting of demand reduction of the electricity and heat generation, the industry and the households and services, according to existing Eurostat definitions and conventions.

In Articles 9 and 10 the date of the review by the Commission and the period of application of the Regulation are adapted respectively to extend until 31 March 2024. The existing provisions of Article 5 acknowledging specific national circumstances in case of mandatory demand reduction in a Union alert continue to apply. This holds in particular as regards the exemptions for Member States not directly interconnected to a gas interconnected system, the possibility to take into account gas consumed as feedstock in the reference period, the possibility to reduce the reduction in case of low export capacity already at maximum use, and finally in case of risk of an electricity crisis, including when the electricity system is desynchronised from a third country.

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⁽³⁾ 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 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.
- (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 August 2022 to 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

³ COUNCIL REGULATION (EU) 2022/1369 of 5 August 2022 on coordinated demand-reduction measures for gas (OJ L 206, 8.8.2022, p. 1).

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 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 prevent 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, 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, 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.
- (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 report from the Commission to the Council. The report analyses different scenarios, with and without an extension of demand-reduction efforts under the Regulation, 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 their respective 1 May target with 43 bcm stored at 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 winter.
- (10) While Member States can decide which measures are more appropriate to ensure meeting the storage targets, this cannot be achieved without demand reduction measures. Indeed, the report concludes that there would be insufficient gas volumes in the market to meet the obligation in all Member States. 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. 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) This 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.
- (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 and/or the market conditions impacting security of supply and 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.
- (17) Pursuant to Article 8 of Regulation (EU) 2022/1369, Member States are to report on the demand reduction achieved to the Commission 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, Member States should report their gas consumption to assess the demand reduction achieved every month. In order to better target the measures to reduce demand, the monitoring of gas consumption 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 conventions established in Regulation (EC) 1099/2008 on energy statistics.
- (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 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 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.
- (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.

(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 every month and not later than by the 15th day of the following month. Member States shall include in their reporting a breakdown of gas demand reduction per sector, including gas demand for the following sectors:

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

For the purpose of this paragraph, the definitions and 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 ‘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

Information Note on Proposal for a Council regulation amending Regulation (EU) 2022/1369 - on coordinated demand-reduction measures for gas, to prolong the demand-reduction period for demand-reduction measures for gas and reinforcing the reporting and monitoring of their implementation.

1. Proposal

Due to the urgent need to extend the application of the temporary provisions in EU regulation 2022/1369 on coordinated demand-reduction measures for gas which were introduced on foot of disruptions to gas supplies to the EU from Russia, the negotiations on the European Commission's proposal were expedited, have concluded and this regulation has already entered into force.

COUNCIL REGULATION (EU) 2023/706 of 30 March 2023 amending Regulation (EU) 2022/1369 as regards prolonging the demand-reduction period for demand-reduction measures for gas and reinforcing the reporting and monitoring of their implementation, was published in the Official Journal of the European Union on 31 March 2023 and entered into force on 1 April 2023

EU Regulation 2023/706 provides for an extension of the coordinated demand-reduction measures for gas in Regulation 2022/1369, to help ensure security of gas supply for the end of the winter of 2023-2024.

In recent months, Member States have adopted measures to reduce their 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.

However, severe difficulties persist for the security of energy supply. 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.

The supply of gas from Russia was further reduced with the sabotage of the Nordstream pipelines in September 2022.

Risks have been identified for next Winter which include a cold Winter, sabotage, and potential greater competition for LNG with Asia's economy recovering.

Halting the demand- reduction measures would result in changes to the stable but fragile situation which the Union has achieved so far and would undermine the ability to meet gas storage filling target of 90% for next Winter and its resilience in responding to likely future developments, such as the complete halt of Russian imports.

Therefore, there was an urgent need to prolong the demand reduction regulation that helped to prevent the exposure of the Union to gas shortage and high price volatility.

In accordance with the requirements of Council Regulation (EU) 2022/1369, the Commission carried out a review of that Regulation and its results were summarised in a report presented by the Commission to the Council. The Commission reported that only in the event of a one year extension with a continued 15 % demand reduction from April 2023 to March 2024, would storage levels meet the 1 November 2023 90 % storage target.

On 20 March 2023 the European Commission issued a Proposal for Council regulation amending Regulation (EU) 2022/1369 as regards prolonging the demand-reduction period for demand-reduction measures for gas and reinforcing the reporting and monitoring of their implementation.

The proposal was agreed by a Council of Energy Ministers on 28/03/2023 and approved by written procedure on 30/03/2023. The Regulation came into force on 01/04/2023, one day after its publication in the *Official Journal of the European Union* on 31/3/2023. It shall apply for a period of one year from its entry into force.

2. Date of Commission proposal

20 March 2023

3. Number of Commission proposal

COM (2023) 174 final

4. Number of Council proposal

2023/0087 (NLE)

5. Dealt with in Brussels by

Transport, Telecommunications and Energy Council.

6. Department with primary responsibility

Department of the Environment, Climate and Communications

7. Other Departments involved

The regulation retains the requirement that was in EU regulation 2022/1369, to provide for prioritisation of demand reduction measures for industrial and commercial consumers. Therefore, the Department of the Environment, Climate and Communications (lead Government Department) will continue to consult with D/Enterprise, Trade and Employment and other relevant Departments on the implementation of the Regulation.

8. Background to, short summary and aim of the proposal

By continuing the demand reduction requirements for a further year this Regulation is intended to help ensure European gas storages are full leading into winter 2023/2024 and support Member States who are more exposed to Russian gas supplies.

The changes proposed are targeted and limited in scope to prolong demand reduction after the expiration of the period of the Regulation (EU) 2022/1369 until the end of the next winter:

In Article 2, the reference period against which the reduction is measured is proposed to be changed from 1 August 2017 to 31 March 2022 in Regulation (EU) 2022/1369, to 1 April 2017 to 31 March 2022.

In Article 3, the period of 1 August to 2022 to 31 March 2023 for Member States to reduce their gas consumption on a voluntary basis is replaced by the period 1 April 2023 to 31 March 2024.

In Article 5, the period of 1 August to 2022 to 31 March 2023 for Member States to reduce their gas consumption on a mandatory basis in a Union alert declared by the Council upon proposal of the Commission is replaced by the period 1 April 2023 to 31 March 2024.

In Article 8, the bimonthly reporting of the demand reduction achieved is replaced by a monthly reporting of demand reduction of the electricity and heat generation, the industry and the households and services, according to existing Eurostat definitions and conventions.

In Articles 9 and 10 the date of the review by the Commission and the period of application of the Regulation are adapted respectively to extend until 31 March 2024.

9. Legal basis of the proposal

The legal basis for this instrument is Article 122(1) of the Treaty on the Functioning of the European Union ('TFEU'). Article 122(1) of the Treaty on the Functioning of the European Union 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. The risk of inadequate gas supplies in the EU for Winter 2023/2024 constitutes such a situation.

10. Voting Method

Qualified Majority Voting, but only in the European Council.

11. Role of the EP

The European Parliament played no role in approving this Regulation. Under Article 122(1) of the Treaty on the Functioning of the European Union ('TFEU'), the Regulation was approved by a TTE/Written procedure without the regulation being submitted to, or approved by, the European Parliament.

12. Category of proposal

As with EU regulation 2022/1369, Ireland has a derogation from mandatory gas demand-reduction. However, Ireland is still required to use its best efforts to reduce our national gas consumption between 1 April 2023 and 31 March 2024 at least by 15%.

13. Implications for Ireland & Ireland's Initial View

Ireland fully supported the objective of the Regulation to ensure security of supply for EU Member States this winter.

As with EU regulation 2022/1369, Ireland has a derogation from the mandatory demand reduction as it is not directly interconnected to a gas system of any other Member State.

However, the requirement of the regulation that Member States use their best endeavours to put in place a voluntary reduction of natural gas demand by 15% from 1 April 2023 and 31 March 2024, applies to Ireland.

14. Impact on the public

The intention of this regulation is to reduce demand where possible in order to enhance the EU's gas security of supply.

There is no change to existing EU law requirements for existing protected customers which include domestic users and essential social services.

15. Have any consultations with Stakeholders taken place or are there any plans to do so?

Due to the politically sensitive nature of the proposal and urgency to prepare the proposal so that it can be adopted on time by the Council, a stakeholder consultation could not be carried out. However, the matter has been discussed with the Gas Coordination Group, which includes representatives of Member States and European associations representing suppliers, infrastructure operators, traders and the main consumers of gas. The members of the Gas Coordination Group during its meeting of 16 February have voiced their understanding of the importance of a continued demand reduction as a particularly cost-effective measure to preserve and strengthen security of supply. In addition, the point has been raised during the informal Energy Council meeting on 27 February 2023, where Member States confirmed the importance of adequate preparedness in view of the next winter 2023/24 and the important role of gas demand reduction in this context.

Given the extension of the gas demand regulation to March 2024, it will be necessary to further engage with national stakeholders to plan for and implement voluntary gas demand reduction measures for this upcoming period.

16. Are there any subsidiarity issues for Ireland?

No subsidiary issues have been identified for Ireland.

17. Anticipated negotiating period

Due to the urgent need to extend the gas demand reduction provisions of EU regulation 2022/1369 for a further year, to help ensure the EU has sufficient gas supplies, the negotiations on the European Commission's proposal were expedited, have concluded and this regulation is already law.

18. Proposed implementation date

The Regulation came into force on 1 April 2023. It shall apply for a period of one year from its entry into force.

19. Consequences for national legislation

Article 288 of the Treaty on the Functioning of the European Union specifies that a regulation shall have general application and shall be binding in its entirety and directly applicable in all Member States.

As Ireland has a derogation from the mandatory demand reduction, no additional enabling legislation has been identified at this time in relation to voluntary demand-reduction.

20. Method of Transposition into Irish law

If required, it is anticipated that any implementing legislation required would be via secondary legislation under the European Communities Act 1972.

21. Anticipated Transposition date

N/A, as this is an EU regulation.

22. Consequences for the EU budget in Euros annually

This Regulation does not require additional resources from the EU budget.

23. Contact name, telephone number and e-mail address of official in Department with primary responsibility

Noel Regan, Principal Officer, Wholesale Electricity and Gas Policy Division
Department of the Environment, Climate and Communications
29-31 Adelaide Road, Dublin, D02 X285
E: Noel.Regan@decc.gov.ie

18 April 2023