

Matthew Baldwin, Deputy Director General, DG ENER
Christof Lessenich, Head of Unit, Internal Energy Market, DG ENER
Leon Delvaux, Deputy Director General, DG TRADE
Peter Sandler, Deputy Director General, DG TRADE

Amsterdam, 19 October 2023

Imposition of a tax on Russian gas imports and transit

Dear Mr. Baldwin, Dear Mr. Lessenich
Dear Mr. Sandler, Dear Mr. Delvaux

With this letter we would like to bring to your attention the recent sudden measure taken by the Bulgarian authorities to penalize gas imports and transit. Decree 184 appears intended to discourage imports to Bulgaria of gas produced in the Russian Federation, but the absence of a framework to demonstrate source of gas means that it could be applied more generally. As it refers also to transit, this raises concerns about barriers to trade, and how a tax on transit could reduce supply security in neighbouring countries downstream. We have requested that the Bulgarian government delay application of this “contribution” until a framework can be established for evidencing of gas source, and would request the European Commission also to support such a delay.

Gas is imported into Bulgaria from pipelines with commingled streams of gas from multiple sources. Where gas has been purchased anonymously from a trading hub or exchange, the source of gas is not disclosed. The design and implementation of a scheme to register and track the original country of production for traded gas does not exist anywhere in Europe. Even gas purchased directly from Gazprom may have been substituted en route, and contain molecules produced elsewhere than from the Russian Federation. It is therefore not possible for importers (nor for operators of transit pipelines) to declare unequivocally the source of gas, in the absence of a clear framework.

EFET has already engaged in discussions with other countries seeking to ban Russian gas and can comment that no effective schemes have been implemented elsewhere that could be adopted here.

Without such a scheme, Bulgaria risks that the contribution will be levied on legitimate, non-Russian gas. In such an instance, this “tax” will either be passed on to Bulgarian consumers or, if it cannot, then a proportion of imports will cease. Bulgarian consumers will be exposed to reduced supplies and increased cost of gas as the heating season ramps up. Where Bulgaria is a transit country, this will also endanger the supply security of its downstream neighbours, potentially exposing vulnerable consumers, in contravention of EU Regulation 2017/1938. **Overall, the question arises of whether the unilateral approach taken by the Bulgarian authorities is in line with the EU rules and whether it adheres to the principles of the internal gas market.** If the measure is proved to be easily challenged in court, it can only bring further damage going forward.

The Commission may also be concerned over how the sudden introduction of unconsulted legislation can contribute to price volatility in a tight market, as parties seek to understand precisely how it will be applied. Further consideration should also be given to the fact that the new measure may be in favour of the former Bulgarian incumbent, currently holding an exclusive right to use one of the available import routes.

For the time being, it would therefore be prudent to delay implementation of the tax at least until a working certification scheme is introduced to evidence the origin of imported gas. In the meantime, the burden of proof should be with the TSO to demonstrate that gas is of non-Russian origin before the contribution is required.

EFET has communicated this to the Bulgarian authorities and now seeks your help to avoid adverse effects at this time. We would be happy to discuss these concerns, with a view to enabling continued gas supplies while the implications of the legislation are further considered, and a suitable plan for implementation is developed.

On behalf of EFET TF CSEE-G,

A handwritten signature in black ink, appearing to read 'Doug Wood', is positioned below the text 'On behalf of EFET TF CSEE-G,'.

Doug Wood, Chairman of EFET Gas Committee