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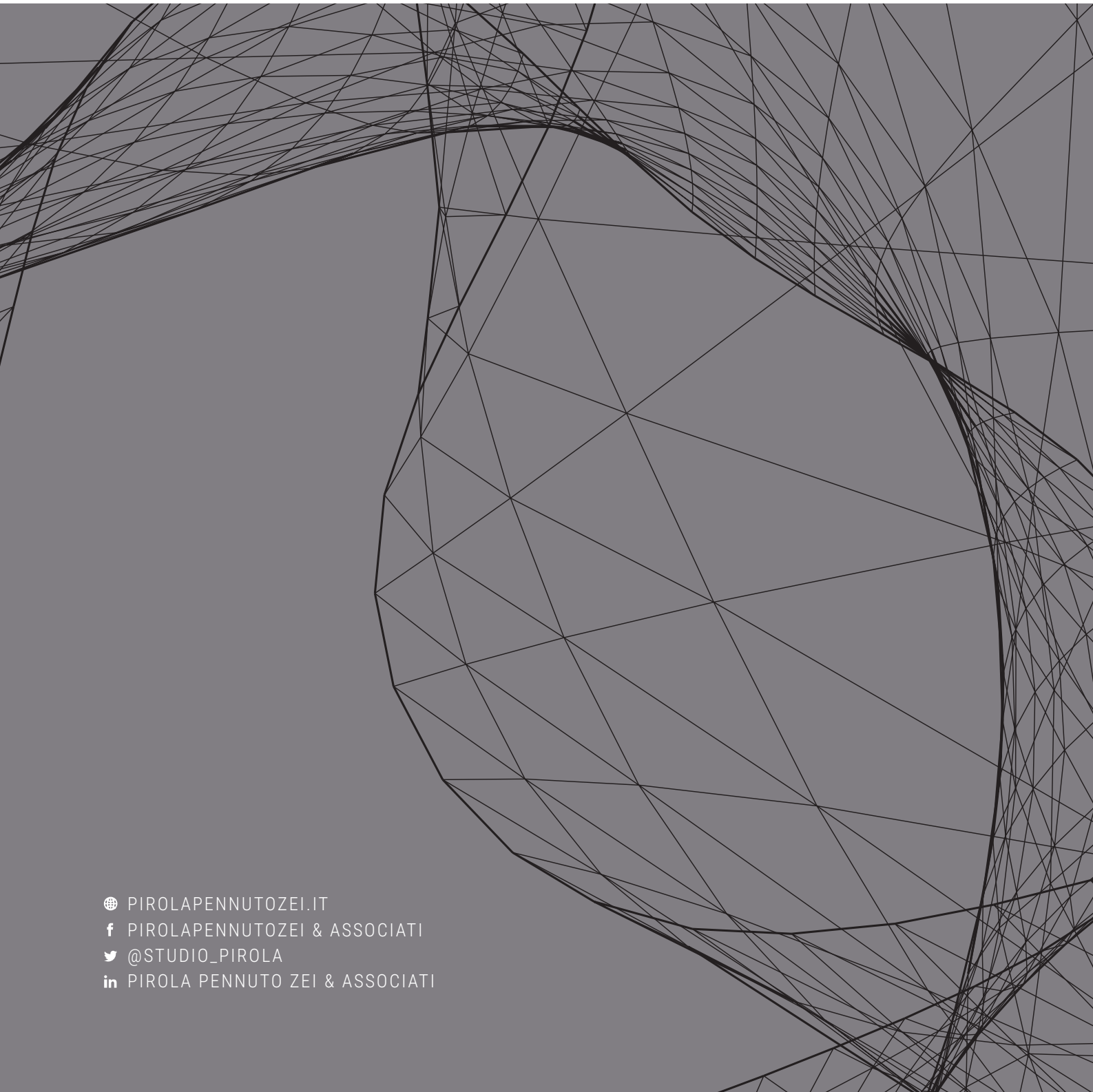
CUSTOMS AND EXCISE DUTIES

NEWSLETTER/APRIL-JUNE 2019



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Customs

LEGISLATION

1.1

Regulation (EU) 2019/474 of the European Parliament and of the Council of 19 March 2019 amending Regulation (EU) 952/2013 laying down the Union Customs Code

With document 39494/RU dated 15 April 2019, the Central Customs Directorate of Legislation and Procedures advised that Regulation (EU) 2019/474 of 19 March 2019 amending Regulation (EU) 952/2013 laying down the Union Customs Code (UCC) had been published in the Official Journal of the European Union series L 83 of 25 March 2019.

Unless specifically stated, the provisions contained in the Regulation entered into force on 14 April 2019.

The following articles of the UCC have been amended:

- Art. 4(1): as from 1 January 2020, the municipality of Campione d'Italia and the Italian waters of Lake Lugano are included in the customs territory of the Union, from which until now they had been excluded. From that date indicated, EU customs legislation will also apply in these territories, although they will still be excluded from the common system of value added tax;
- First subparagraph of art. 34(9): relative to BTI and BOI, this subparagraph now provides that the holder of a BTI or BOI decision may rely on that decision for a maximum of six months from the revocation of the decision, provided that the revocation is due to the fact that the decision does not conform with customs legislation or that the conditions laid down for the adoption of the decision have not been, or are no longer, fulfilled;
- Art. 124(1)(i)(h): temporary storage is now included as one of the customs formalities for which Union legislation provides for the extinction of a customs debt in cases where non-compliance did not have a significant impact on the correct operation of the temporary storage or of the customs procedure concerned and that there was no attempt at deception. For purposes of extinguishing customs debt, temporary storage should be treated as a customs procedure;
- Art. 129(2): when goods for which an entry summary declaration has been lodged are not brought into the customs territory of the Union, the customs authorities shall invalidate that declaration upon application by the declarant or after 200 days have elapsed since the declaration was lodged, rather than within 200 days, as previously provided, given that this is the period within which the goods are to be brought into the customs territory of the Union;

- Art. 139(5): where non-Union goods presented to customs are not covered by an entry summary declaration, economic operators are to lodge such a declaration immediately, or, if permitted by the customs authorities shall instead lodge a customs declaration or temporary storage declaration in place of that entry summary declaration. Where, in such circumstances, a customs declaration or a temporary storage declaration is lodged, the declaration shall contain, at least, the particulars necessary for the entry summary declaration;
- Art. 146(2): where the customs authorities are required to invalidate a temporary storage declaration because the goods have not been presented to customs, the customs authorities shall invalidate that declaration upon application by the declarant or after 30 days have elapsed since the declaration was lodged, rather than within 30 days, given that this is the period within which the goods must be presented at the customs office;
- New art. 260a, entitled "*Goods repaired or altered under international agreements*": this article provides for total relief from import duties for goods repaired or modified under the outward processing procedure in a country or territory with which the European Union has concluded an international agreement providing for such relief. This exemption does not apply to the import of repaired or modified products made from equivalent goods or of substitute products under standard agreements;
- Art. 272(2): where an exit summary declaration is to be invalidated because the goods have not left the customs territory of the Union, the declaration shall be invalidated by the customs office upon application by the declarant or after 150 days have elapsed since the declaration was lodged, rather than within 150 days, as previously provided, given that this is the period within which the goods must be brought out of the customs territory of the Union;
- Art. 275(2): where a re-export notification is to be invalidated because the goods are not taken out of the customs territory of the Union, the notification shall be invalidated by the customs office upon application by the declarant or after 150 days have elapsed since the notification was lodged, rather than within 150 days, as previously provided, given that this is the period within which the goods must be brought out of the customs territory of the Union.

1.2

Note no. 7423/RI of 11 June 2019 - Law no. 37 of 3 May 2019, entitled "*Provisions for the fulfilment of obligations deriving from Italy's membership of the European Union - European Law 2018*"

With this Note, the Customs Agency advised that Law No. 37 of 3 May 2019, entitled "*Provisions for the fulfilment of obligations deriving from Italy's membership of the European Union - European Law 2018*",

was published in the Official Gazette General Series - No. 109 of 11 May 2019 and came into force on 26 May 2019. The Agency focuses on arts. 1, 11 and 12 of the Law.

Art. 1 contains amendments to the rules on the recognition of professional qualifications, as set out in Legislative Decree 206/2007, required under the infringement procedure 2018/2175 initiated by the European Commission against the Italian Government. The notion of "*legally established*" EU citizen has been modified by deleting the requirement of residence in the Member State. The changes have also affected the procedure for issuing the European professional card and the compensatory measures that may be required for the recognition of the professional qualification.

Art. 11 deals with the VAT rules applicable to transport and forwarding services in connection with international trade, and lays down the conditions required for the application of the system of non-taxability of such services by art. 9(1)(2) and (4) Presidential Decree 633/1972. Should they relate to imported goods, such services are to be treated as non-taxable, provided that their value at the time of importation has been included in the taxable amount for VAT purposes. In the 2018/4000 infringement procedure, the European Commission alleged that these Italian provisions were incompatible with arts. 86 and 144 of Directive 2006/112/EC. For the purposes of applying the non-taxability of VAT to the services in question, in its previous wording, art. 9 required the inclusion of fees in the taxable amount and the application of VAT to customs at the time of importation. The EU Commission found that this was in conflict with EU law insofar as Italian legislation required not only the inclusion of the relevant value in the taxable amount but also the application of VAT at the time of importation. In order to address this complaint, art. 9(1)(2) and (4) of Presidential Decree 633/72 has been amended to replace the reference to '*tax liability' with 'inclusion in the taxable amount*'.

Art. 11 also amended art. 9(1)(4-*bis*) Presidential Decree 633/1972, from which the reference to '*small consignments of a non-commercial nature and to consignments of negligible value*' was deleted. Prior to the amendment, this provision established that VAT was not applicable to ancillary services relating to "*small shipments of a non-commercial nature and shipments of negligible value under Council Directives 2006/79/EC of 5 October 2006, and 2009/132/EC of 19 October 2009*", provided however that the related compensation was included in the tax base as per art. 69 Presidential Decree 633/1972, even if the taxable amount had not in fact been taxed. However, in the opinion of the European Commission, the non-taxability of VAT only on ancillary services relating to small consignments of a non-commercial nature and imports of negligible value was contrary to EU law, particularly to arts. 86 and 144 Directive 2006/112/EC. To remedy this, the reference to small consignments of a non-commercial nature and to those of negligible value has been removed.

Art. 12 amends art. 84 Presidential Decree 43/1973 TULD (*Testo Unico delle Leggi Doganali* - Consolidated Customs Act) on the limitation of customs duties, with particular reference to customs debts incurred due to criminal actions. The new art. 84(1) TULD provides that the terms for the service of customs duty collection notices are governed by the provisions of the European Union referred to in art. 103 UCC. Art. 103(1) UCC - by analogy with that set out in art. 221(3) Regulation (EEC) No 2913/92 - provides that no customs duty collection notice may be served on the debtor after the expiry of a period of three years from the date on which the customs duty debt was incurred. The paragraphs (3) and (4) of art. 103 provide for the suspension of forfeiture terms.

Of particular importance is the new wording of paragraph (2) of art. 84 TULD, concerning the time limit for the service of a customs debt collection should a criminal offence have been committed. Art. 103(2) of the UCC amends the previous art. 221(4) of Regulation (EEC) No 2913/92 by providing that, in the event of a criminal offence, the three-year period for notifying the taxpayer of the customs debt is extended from a minimum of five years to a maximum of ten years, depending on the national law. The EU has thus given the member states more leeway in setting the time within which customs debt collection notices are to be served in the event of a criminal offence. In the initial application of EU legislation, prior to the necessary legislative amendment, Circular no. 8/D set the time limit for such service at five years. The new paragraph (2) of art. 84 TULD, has now established that the time limit is instead seven years, should a criminal offence have been committed.

As clarified in Circular No 8/D, the change in the limitation period for customs debts when criminal offences have been committed is no longer subject to the "*notitia criminis*" having been sent within three years from the date on which the debt was incurred. The Court of Cassation (Tax Section, Decision 24513/2018) has stated that both of the following requirements must be met in order to extend the limitation of three years relative to tax debts: "*a) that a document exists which contains information as to the criminal offence, even if not issued by the State authorities; b) such a document is admitted or issued by the Court or by officers of the Judicial Police*". In the same decision, the Court also reaffirmed that the extension of the three-year period in the presence of criminal offences, also operates in cases where the debtor was not the perpetrator.

Finally, the new art. 84(3) TULD states that the general rules governing the limitation period for customs debts apply to all such debts arising from 1 May 2016, the date on which the UCC came into force.

Therefore, should a criminal offence have been committed in relation to customs debts arising after 1 May 2016, the taxpayer must be served notice of the tax debt within a period of seven years.

GUIDANCE

2.1

Note 40131/RU of 9 April 2019 - setting six-monthly interest rate for deferred payment of customs duties (period from 13-01-2019 to 12-07-2019)

In Note no. 40131/RU of 9 April 2019, published on 12 April 2019, the Customs Agency announced that a Ministerial Decree had been published in the Official Gazette of 2 November 2018. The Ministry of Economy and Finance, after consultations with the Bank of Italy pursuant to art. 79 TULD (Testo Unico delle Leggi Doganali - Consolidated Customs Act) set the interest rate for payment of customs duties deferred beyond thirty days at 0.213% per annum, for the period from 13 January 2019 to 12 July 2019. As already provided in Note 39641/RU of 5/4/2016 and in Circular 8/D of 19/4/2016, the interest rate referred to in art. 79 TULD is applied exclusively to payment concessions for domestic taxation and, in application of art. 86 of the law, is increased by 4 percentage points only for delayed payments under domestic taxation.

2.2

Note no. 43290 of 16 April 2019 - embarkation of supplies and equipment on board with the presentation of a memorandum. Art. 76(1)(b) of Council Regulation (EEC) No 2913/92 of 12 October 1992

On 16 April 2019, the Customs Agency issued Note 43290/RU, providing clarifications in relation to its previous Note 8769/RU of 14 March 2019, as to the modus operandi that the Agency intends to follow for the management of the authorizations issued by local offices on the basis of art. 76(1)(b) of EEC Regulation 2913/92, relating to the embarkation of supplies and equipment using a boarding memorandum and the presentation of a summary supplementary declaration. The Agency intends to reclassify these authorisations, including them with simplified declaration authorisations as per art. 166(2) UCC. In this way, economic operators in the sector can continue using this simplified procedure in the transitional period, i.e. until the computer system is upgraded, in application of art. 16(2) of Delegated Regulation (EU) 2016/341, which allows customs authorities that have issued an authorisation for the regular use of a simplified declaration pursuant to art. 166(2) of Regulation (EU) No 952/2013, to accept a commercial or administrative document as a simplified declaration.

2.3

Note No 42621/RU of 30 April 2019 – "*Fast corridor*" running from the National Logistics Platform and/or Rail Logistics Information System, to transport containers from the disembarkation point to the place designated and/or approved by the Customs Authority at a destination logistics node - new framework regulations

The Customs Agency, in Note 42621/RU of 30 April 2019, announced that it has published the new framework regulations concerning controlled "*Fast Corridors*", running from the National Logistics Platform (PLN) and/or Rail Logistics Information System (SILF). These are to be used for the transportation of containers from the disembarkation point to the place designated and/or approved by the Customs Authority at a destination logistics node. The UCC has passed legislation on the introduction of goods into the EU customs territory, their presentation to customs authorities and the regulation of temporary storage, including the conditions and methods for moving goods between different temporary storage facilities. Under the new rules, third-party goods brought into the EU customs territory are presented to customs immediately upon arrival at the designated customs office and, after being declared for temporary storage at the place of arrival, are taken over by the authorised storage-keeper of the temporary storage facility and then transferred, in accordance with art. 148 UCC, to the temporary storage facility at the intended destination.

The digital monitoring of the vehicles on which the goods are transported via the Fast Corridors is an efficient method of control through which the customs authorities can avoid a high risk of fraud and ensure security. The Customs Agency has therefore decided to provide detailed instructions for the activation and management of corridors controlled by PLN and SILF and for the transport of containers from the temporary storage facility at the disembarkation point to the temporary storage facility warehouse at a destination logistics node, without the need for further customs formalities related to the transit procedure. Under the new regulations, in order to obtain authorisation to operate in the Fast Corridors sector, temporary warehouse operators must be granted AEOC status. However, the Customs Agency has decided that given the need to ensure the continuity of activities, until the end of 2019, it will be possible to operate without.

CASE LAW

3.1

Decision of the Court of Cassation 19233 of 20 April 2019 - import VAT evasion

In its decision no. 19233, issued on 20 April 2019, the Court of Cassation has established that evasion of VAT on imports is still a criminal offence when the amount unpaid exceeds Euro 49,993.03. This is considered to be a continuous offence, which ends only when the activity aimed at the illicit circulation of goods within Italy without the payment of the tax ceases. This type of offence is punished jointly with fine and imprisonment.

The Court, rejecting the defendant's appeal, found that evasion of VAT on imported goods is not an instantaneous offence, but a continuous one, and each successive transfer within Italy extends the illegal effect until such time as the tax obligation is fulfilled.

3.2

Court of Cassation Decision No 13384 of 17 May 2019 - import duties and VAT on royalties

In Decision no. 13384 of 17 May 2019, the Court of Cassation, on the one hand, identified further indicators, which, if present, indicate that licence fees must be taxed by customs, and on the other, reiterated that VAT on royalties paid by the importer/licensee by means of reverse charge cannot be claimed again by the customs administration.

In this case, a company had imported goods without declaring the licence fees at the time of import, claiming that these were not a condition of sale and should therefore not be included in the customs value of the goods.

The Customs Office adjusted the customs value and the importer was notified of a tax claim for higher duties as royalties were included in the taxable base, for higher VAT on the higher duties and for higher import VAT on licence fees.

With regard to duties, the Court of Cassation found that it is necessary to ascertain whether in effect it was a condition of sale, i.e. proof that the foreign supplier - or a person linked to the supplier - has the

right and the power to require the buyer to pay royalties, with the consequence that the vendor would not be willing to sell the goods without payment of the licence fee. Where the licensor is a party other than the non-EU seller, it must be verified whether the former exercises control over the supplier, such that the import of the goods is subject to the payment of licence fees to the licensor. This link can be either explicit, when the transaction is expressly subject to the payment of royalties, or implicit, when the relationship of subordination is apparent from the content of the contractual clauses. In this case, the Court confirmed the tax claim, construing the licensor's control over the foreign producer from the provisions of the licence agreement. These included the controlling power of the licensor over all phases of production, including the right to visit the manufacturing plants and to demand that production be ceased if the products do not correspond to the approved prototypes, the power to prohibit the sale of products to certain wholesalers without the licensor's specific consent and, finally, the prohibition on the unauthorised production of competitors' products without the consent of the licensor or the conclusion of new agreements with competitors.

With regard to VAT, on the other hand, the Court of Cassation reiterated that internal VAT and import VAT are the same tax and that the reverse charge mechanism is essentially a method of payment of the tax, with the consequent illegitimacy of the demand for the payment of import VAT on royalties.

The Court stated that "*the VAT resulting from importation (...) constitutes an internal tax which cannot be integrated into duties, even if they both originate from the importation of goods into the Union and into the economic system of the Member States in order that the reverse charge mechanism can apply*".

The payment of VAT on royalties by way of reverse charge eliminates the corresponding tax claim, but not that relating to VAT on higher duties, due following the inclusion of license fees in the customs value of the goods.

Excise duties and consumption

GUIDANCE

1.1

Digitisation of excise duties - Note no. 40649 of 16 April 2019 - Re.Te. Project - Integration of operating instructions and extension of new controls in training and real environment

The transition from keeping paper versions of obligatory loading and unloading registers as per Legislative Decree 504/1995 (TUA) to keeping those registers in digital format ("*full digital*") requires a gradual implementation process, as is set out in the project Re.Te. (Digital Registers). With Re.Te., the accounting data, which must already be transmitted electronically (Directorial Determination No. 25499/UD of 26 September 2008), is "*reused*" to populate the digital register located on the Agency's IT system and replaces to all intents and purposes the paper registers.

The Customs Agency, with Note 40649/RU of 16 April 2019, following up on Note 46136 of 15 May 2018, provides a series of additions to the previous operating instructions. Specific instruction is provided for the register of individual consignments received and sent under suspension of excise duty as per art. 7(1)(c) Ministerial Decree 153/2001, i.e. the loading and unloading register kept by authorized warehouse-keepers in the field of alcohol and alcoholic beverages, with the exception of wine and fermented beverages other than wine and beer. This register is managed through the assignment of a combination code (eg. G040), such as a P register, for which no unit of measure or initial quantity is required. The only product codes entered in the register are *CPA W200 - Vino Tranquillo and W300 - Vino spumante.*

In addition, the transfer from the paper to digital registers, as per art. 3(b) and (c), can be carried out over several days, depending on the size and complexity of the operation. To this end, ALCODA has been adjusted with new controls for Re.Te., which were extended in the training environment on 6 May 2019 and which became operational on 10 July 2019.

1.2

Note No 46242 of 17 April 2019 - Digitisation of the simplified accompanying document - e-DAS project - Operational instructions for testing in a training/validation environment

With note no. 46242 of 17 April 2019, the Customs Agency provided the operating instructions for the testing of the e-DAS project relating to the digitization of the Simplified Accompanying Document ("*DAS*"), in implementation of art. 1(1)(b) Legislative Decree 262/2006. This article provides that the accompanying document, required for the movement of products subject to excise duty or other indirect taxation, be presented exclusively in digital form.

The e-DAS project has been developed to combat tax evasion, prevent fraud, make the fight against illegality in the energy products sector more effective, as well as to strengthen the control over related tax obligations.

With this Note, the Customs Agency announced that the new application is available in a training/validation environment as from 20 May 2019 for a reasonable period, in order to test its implementation by the operators.

In this first phase of the project, it is foreseen that e-DAS will only be used in relation to the circulation of energy products at the national level.

1.3

Resolution No 1/D of 10 May 2019 - Energy products. A commercial warehouse used purely for storage under the tax warehousing system. Obligation to provide a security. Criteria for determining the amount

With Resolution No. 1/D of 10 May 2019, the Customs Agency provided some clarifications on the obligation to provide a security deposit for tax warehousing used just for storage of energy products.

The tax warehouse is a legally uniform category, even if its character can differ depending on the activity carried out on site, i.e. manufacture, transformation, processing and/or storage of excise goods. Each authorised warehouse-keeper is required to comply with the obligations and prescriptions laid down in art. 5(3) Legislative Decree 504/1995 (TUA), not revealing the ownership of the products held or the nature of the commercial service provided by the operator. The authorised warehouse-keeper is obliged to provide a security deposit for the storage, to protect the Customs Agency both for any shortage of the product held in storage and for the non-payment of tax on products released for consumption and related obligations.

The legislation provides that the security deposit must be for an amount equivalent to 10% of the tax due on the maximum quantity of product that can be held at the site based on the capacity of the tanks. The security deposit is to be increased whenever there is a change in circumstances which requires an increase of 10% or more in the security provided, for example a change in the authorised storage capacity or an increase in taxation rates. The security amount can also be adjusted down if there is a similar decrease. In such a case, the authorised warehouse-keeper is to submit a specific request explaining the reasons for the recalculation of the amount of the security.

Finally, with regard to the "*over-threshold*" facilities, where the authorised warehouse-keeper only provides a service of holding and storing other parties' products, the operation of the facility is conditioned by the instructions of the depositor. Therefore, in the event of the termination of the storage contract and the resulting shutdown of the plant, the security deposit may be recalculated by applying the basic rule (10% of tax due on the maximum quantity of product that can be held at the site based on the capacity of the tanks).

1.4
Note 33442 of 10 June 2019 - Cost reduction applied to gas oil and LPG used as heating fuel in plants located in certain geographical areas

The Council of the European Union, by Decision (EU) 2019/814, authorised Italy to apply, in determined geographical areas, reduced rates of taxation on gas oil and liquid petroleum gas used for heating purposes.
The aid in question was granted in order to alleviate the high heating costs incurred in areas affected by particularly harsh weather conditions or geographically disadvantaged by the difficulty of obtaining fuel. These include municipalities falling within climate zones E and F as defined in Presidential Decree No 412/1993, municipalities in Sardinia and the smaller islands, i.e. all the Italian islands with the exception of Sicily.

1.5
Updates

On 1 April 2019, the Customs Agency announced that it had updated its FAQs related to excise duties on

electricity, alcohol and energy products. The FAQs mentioned are available on the website of the Customs Agency.
The tables applicable to digital communications relating to products subject to excise duty have also been updated. For example, on 11 April 2019, the Customs Agency communicated that Table TA20 "*Table of alcoholic products*" had been updated, while on the table for the digitalisation of excise duties TA13 "*Table of energy products*" was revised on 24 April 2019.
Before communicating any movements, operators are requested to verify the consistency of the reference date of the movement with the "*Start of Validity*" and "*End of Validity*" dates of the product codes, in order to avoid error codes.

1.6
2nd quarter 2019 - Diesel fuel benefits for use by road transport - software availability - Note no. 52335/RU of 26 June 2019

In Note 52335, dated 26 June 2019, the Customs Agency provided updates in relation to requests for refunds of excise duty on diesel fuel used in road haulage, for the second quarter of 2019. Those entitled to this benefit are indicated in the new art. 24-*ter* Legislative Decree 504/1995 (TUA), and the Offices responsible for processing such requests were identified in Circular of 20 June 2000, no. 125/D.
Pursuant to art. 24-*ter* TUA, this tax benefit is equivalent to Euro 214.18 per thousand litres of product, in relation to consumption between 1 April and 30 April 2019. If the refund is requested by way of compensation, it may be used from the 61st day following the filing of the declaration by including it in the payment form F24 with a tax code 6740. The refund application may be filed on paper or electronically and be made as a substitute declaration of affidavit no later than 31 July 2019. Claims arising from consumption in the fourth quarter of 2018 may be used in compensation by 31 December 2020, date on which the deadline for the submission of the refund applications of surpluses not used in compensation, to be submitted by 30 June 2021.

Regulatory Authority for Energy, Networks and Environment (ARERA)

RESOLUTIONS

1.1

Criteria for tariff regulation for the transmission service and measurement of natural gas for the fifth regulatory period (2020-2023)
Resolution of 28 March 2019 - 114/2019/R/gas

By Resolution 114/2019/R/gas, ARERA adopted the criteria for tariff regulation for the natural gas transmission and metering service (RTTG) valid for the period 2020-2023 (fifth regulatory period, 5PRT), which will begin on 1 January 2020, following the procedure initiated by Resolution 82/2017/R/gas of 23 February 2017.

By adopting this Resolution, the Authority puts into effect Regulation (EU) 2017/460 of 16 March 2017 establishing a network code on harmonised transmission tariff structures for gas (TAR Code). This follows the policy of implementing European legislation which is subject to extensive public consultation and which has led to a careful balancing of the interests between the different users of the system. In doing so, it takes into account, *inter alia*, the findings of the ACER Report "*Analysis of the Consultation Document on the Gas Transmission Tariff Structure for Italy*" issued, as per the TAR Code, with the final guidelines on reference price methodology and cost allocation criteria submitted for consultation with DCO 512/2018/R/gas.

The Authority reformed the criteria for allocating natural gas transportation costs by adopting the "*Capacity-Weighted Distance*" (CWD) method, which is the TAR Code reference method.

The details of the new tariff regulation are set out in Attachments A and B to the Resolution.

ARERA has also made an amendment to the TIWACC, providing that the value of the βasset parameter, as defined in paragraph 1.1 of the TIWACC, relating to the natural gas transmission service for the period 2020-2023 be fixed at 0.364, thus updating Tables 3 and 4 of the TIWACC for the period up to 2021.

1.2

Determination of definitive reference tariffs for the year 2018, in addition to the reference tariffs approved by resolution of the Authority 98/2019/R/gas

Resolution of 9 April 2019 - 127/2019/R/gas

In this Resolution ARERA approved various final reference tariffs for the year 2018, which, due to a material error, had not been published in Resolution 98/2019/R/gas. Details of these tariffs are set out in Table 1 to the Resolution.

1.3

Determination of provisional reference tariffs for gas distribution and metering services, for the year 2019

Resolution of 9 April 2019 - 128/2019/R/gas

ARERA approved the provisional reference tariffs for gas distribution and metering services for 2019, based on the provisions of art. 3(2) RTDG (Regulation on tariffs for gas distribution and metering services), taking into account the requests for the correction of data submitted by 15 February 2019. Of note:

- the values of the 2019 provisional reference tariffs for approved natural gas distribution and metering services are those set out in Table 2 and Table 2a attached to the Resolution;
- the administrative allowance, provided for in art. 4(5) RTDG, is to apply to the companies listed in Table 3 attached to the Resolution.

1.4

Restatement of the amounts of two-monthly advance offsetting relative to the natural gas distribution service for 2019

Resolution of 9 April 2019 - 130/2019/R/gas

In this Resolution ARERA restates the value of the two-monthly advance offsetting amount relative to the natural gas distribution service, referred to in art. 45 RTDG, for 2019, previously approved by resolution 667/2018/R/gas. This restatement was adopted following acceptance of the adjustment requests submitted by the companies Atac Civitanova S.p.a., Isera S.r.l. and the Municipality of Sona and following acceptance of the tariff restatement requests submitted by the companies Ireti S.p.a., Novareti S.p.a., Centria S.r.l., 2i Reti gas S.p.a. and Seab S.p.a.

1.5

Transitional provisions for the calculation and provision of the annual withdrawal relative to the application of the settlement gas framework for the thermal year 2019 – 2020

Resolution of 9 April 2019 - 132/2019/R/gas

This Resolution sets out the transitional provisions governing the transmission by the distribution companies to the SII (*Sistema Informativo Integrato* - Integrated Information System) of the information needed to calculate, using the simplified method, the parameters relating to the annual withdrawal for the thermal year 2019-2020. Rather than applying the criteria set out in art. 4 TISG, and requiring an exchange of information between SII and operators as per TISG, for the purposes of calculating the CAPdR 2019parameter, for the thermal year 2019 - 2020, the procedure set out in Attachment A to the Resolution is to be used.

1.6

Observations relative to the refund amount for the holders of credit lines and concessions for the natural gas distribution service, in the Municipalities of Atem Napoli 1 - City of Naples and Coastal Plant

Resolution of 16 April 2019 - 145/2019/R/gas

The Authority published its observations relative to the Refund Values for the municipalities of Atem Napoli 1 - City of Naples and Coastal Plant, which fall within the simplified regime as per Law 124/17, transmitted by means of the simplified VIR-RAB digital platform on 20 March 2019. The Refund Values are calculated pursuant to art. 28(1) of Attachment A to Resolution 905/2017/R/GAS.

1.7

Reform of the capacity allocation processes at the exit and redelivery points of the transmission network

Resolution of 16 April 2019 - 147/2019/R/gas

With this Resolution, ARERA has reformed the process of allocating transmission network exit points that supply distribution networks (city-gates), as from 1 October 2020.
The process is simplified in that the capacity need no longer be requested by the UdB (Utente di Bilanciamento – Users of the Balancing service). Instead the allocation is completed automatically once the "*correspondence report*" is certified with the SII Central Register. This correspondence report defines,

for each PdR (*punto di riconsegna* – redelivery point) in the distribution company's distribution contract, to which UdB the withdrawals are to be linked.

The quantities delivered are determined solely on the basis of the characteristics of the PdRs on the distribution company's network: annual consumption, withdrawals and metering frequency.

This Resolution, which follows Consultation documents nos. 114/2018/R/gas and 512/2018/R/gas, provides for:

- the definition of the maximum conventional withdrawal of a PdR, which:
  - o for those redelivery points with daily metering, coincides with the peak consumption figure for the year,
  - o for redelivery points which do not have daily metering, is the maximum value of the conventional profile;
- the definition of conventional capacity of the withdrawal point, equivalent to the maximum conventional withdrawal multiplied by a re-proportioning coefficient "*z*", which takes into account the contemporaneity of consumption and converts the value "*consumption*" into "*capacity*";
- capacity allocated to a UdB, which is the sum of the conventional capacities of the redelivery points served.

The new mechanism also changes the current procedures for the assignment and transfer of capacity when the supply of a final customer connected to the distribution network is substituted (switching) and charges for exceeding capacity are eliminated.

The reform is essential for the development of the retail market, as it removes the distortions benefiting the dominant positions at the local level. It covers transport costs according to the withdrawal characteristics of each customer, thus placing all users in the same condition *vis-à-vis* transport costs to be incurred in the supply to a new customer, thus removing obstacles to contestability by the final customers.

Further implementation aspects of the reform will be established by the Authority at a later stage, following a period of experimentation to be carried out by Snam Rete Gas by 28 February 2020. These further aspects include the climatic conditions of reference for the calculation of the maximum conventional withdrawal and the methods for calculating the re-proportioning coefficient z.

More details on the changes made can be found in the text of the Resolution.

1.8

New provisions for the preparation of provisional balance sheets and publication of the new Consolidated Act for the regulation of the physical and economic items of the natural gas balancing service (TISG)

Resolution of 16 April 2019 - 148/2019/R/gas

In implementation of the new provisions governing the provisional balance sheet and management of the commercial relations chain within the SII, this Resolution approves the new "*Consolidated Act for the regulation of the physical and economic items of the natural gas balancing service*" (TISG), which replaces the text approved by Resolution No. 72/2018/R/gas. The new text, as replaced by this Resolution, is set out in attachment A. It will enter into force on 1 January 2020, apart from arts. 7 and 5(3) and 27(1), which take effect from the beginning of 2019, and art. 27(2) that will take effect as from December 2019.

1.9

Approval of the costs incurred by Gestore dei mercati energetici S.p.a. (GME) in relation to the monitoring of the wholesale gas market, for 2018

Resolution of 16 April 2019 - 151/2019/R/gas

Pursuant to art. 10.3b TIMMIG (*Testo integrato del monitoraggio del mercato all'ingrosso del gas natural* - Consolidated text governing the monitoring of the wholesale natural gas market), ARERA approved the final costs incurred by GME in 2018 for monitoring the wholesale natural gas market.

1.10

Update, for the month of May 2019, of the economic conditions for the supply of gas other than natural gas, as a result of the variation of the raw material supply costs

Resolution of 16 April 2019 - 152/2019/R/gas

This Resolution provides an update for the month of May 2019, of the economic conditions for the supply of gases other than natural gas, as a result of the variation in the costs of raw materials.
The Authority has fixed, for the month of May 2019, the value of the QEPROPMC element, referred to in art. 23 TIVG (*Testo integrato delle attività di vendita al dettaglio di gas naturale e gas diversi da gas naturale distribuiti a mezzo di reti urbane* - Integrated text of the retail activities for natural gas and gas other than natural gas distributed by urban networks) to 7.795318 euro/GJ, which corresponds to 0.780077 euro/m3 for LPG supplies with a reference calorific value of 0.100070 GJ/m3 (0.050240 GJ/kg).

1.11

Approval of a proposal to update the storage code of the company Stogit S.p.a. and definition of the incentive parameters for the provision of storage services in the thermal year 2019/2020

Resolution of 16 April 2019 - 153/2019/R/gas

In this Resolution, ARERA approved a proposal to update the Storage Code, in order to improve the methods of providing short-term services, as per the proposal to update the Code sent by Stogit by way of communication of 8 April 2019, which is set out in Attachment A to the Resolution. It was also decided to implement the provisions of Resolution 612/2018/R/gas.

ARERA confirmed that the testing phase of the incentive system, which was begun under Resolution 614/2018/R/gas, is also to apply to thermal year 2019/2020, to ensure maximum availability and flexibility of services provided to users by Stogit, and to acquire further elements by which to verify the correct association of incentives with these services.

1.12

Definition of the updating process of the correspondence report between the users of the balancing service and the distribution network redelivery points

Resolution of 16 April 2019 - 155/2019/R/gas

This Resolution governs the process of updating the correspondence report between the UdB and the distribution network redelivery points in the SII (*Sistema Informativo Integrato* - Integrated Information System).

The Authority defines the operating procedures necessary to update, in the SII system, the correspondence report between the UdB and the PdRs within a Distribution Company's contract.

This Resolution (which follows Consultation Documents 570/2016/R/gas, 544/2017/R/com, 590/2017/R/gas and 114/2018/R/gas) provides that:

- the effective date for the process of updating the correspondence report between UdB and the PdRs is the first day of the month (as is the case currently relative to the switching process), except in cases of activation or deactivation of a PdR during the month;
- the request to update the correspondence report is to be sent by the distribution company to the SII by the 10th day of the month preceding the effective date;
- the UdB may dissociate itself from a PdR for which a correspondence report exists and may confirm - or not confirm - a correspondence report proposed by the delivery company via the SII;

- in relation to each request by the UdB to be associated with a PdR, the SII is to verify that the total conventional transmission capacity resulting from such association does not exceed the capacity limit which the UdB is permitted, on the basis of the guarantees provided. In a subsequent resolution, the Authority will set out the detailed provisions governing such verification;
- temporarily, until a resolution setting out the details of the verification process on the capacity limit referred to above has been passed, SII and the Balancing Manager are to define the automated information exchanges required to allow the SII to verify that the UdB can be associated with a given PdR;
- in the absence of a valid correspondence report, the SII is to provide information on the PdR to the Balancing Manager, as well as to other transmission companies, in order to activate the default transmission service from the first day of the following month, or from the effective date of activation of the PdR, in the case of new activation;
- upon activation of the default transmission service due to the absence of a correspondence report, similar provisions are applied to those provided for in cases of early termination of a transmission contract. If the distribution company does not identify a new UdB, the distribution contract is to be terminated for lack of access requirements and the SII is to activate last resort services.

With reference to the methods of updating the correspondence report between the UdB and PdR, the Resolution provides for:

- an initial phase of data input relative to the UdB linked to the PdR, which has no effect on settlement activities, to be carried out during October 2019;
- the experimental application, with no effect on settlement activities, of the provisions to update the correspondence report between UdB and the PdR, to be carried out during November 2019;
- the final application of the provisions to update the correspondence report between UdB and the PdR, to be carried out in December 2019. This does have effect on settlement activities as from 1 January 2020.

The changes made *vis-à-vis* the activation of last resort services (following the activation of a temporary provider of the default transmission service due to the absence of a correspondence report) are applicable from 1 January 2020.

Further details on the provisions and on the changes made can be found in the text of this Resolution.

1.13

Criteria for regulating the conditions, including economic conditions, for access to and supply of services offered through LNG storage facilities and provisions for accounting separation for LNG small-scale services. Amendments and additions to Authority Resolution 137/2016/R/com – TIUC

Resolution of 7 May 2019 - 168/2019/R/gas

This Resolution defines the criteria for regulating the conditions, including economic conditions, for access to and supply of services offered through liquefied natural gas (LNG) storage facilities and the provisions on accounting separation for small-scale LNG services (SSLNG), in application of the regulatory provisions set out in arts. 9 and 10 Legislative Decree 257/2016.

This Resolution, which follows Consultation Document 590/2018/R/gas, provides the following:

- with regard to the scope of the regulatory functions, the provisions of the Resolution apply to :

(a) regasification terminals offering, in addition to the regasification service, SSLNG services;

(b) LNG storage facilities, which are considered strategic (pursuant to art. 9 Legislative Decree 257/2016), connected to the natural gas transmission network and equipped with plants used for the regasification process and to the feed into the natural gas transmission network. This effectively excludes those facilities which are only potentially connected to the transmission network, until such time as the connection to the transmission network is actually made, as well as facilities connected to the distribution networks. Facilities connected to the transmission network exclusively for the purpose of feeding boil-off gas into the network are excluded from the application of Resolution, and therefore are not equipped with plants used in the regasification process;

- with reference to the accounting separation of SSLNG services:

  (a) the content of the regasification activity referred to in art. 4.14 TIUC (T*esto integrato unbundling contabile* - Integrated text accounting unbundling) is to be reviewed with the aim of including the regasification services provided by the LNG facilities referred to in art. 9 Legislative Decree 257/2016;

  (b) the introduction (within the regasification activity referred to in art. 4.14 TIUC) of:

  i. a new section in which to allocate costs relating to regasification carried out by the LNG storage facilities as per art. 9 Legislative Decree 257/2016;

  ii. a new section in which to allocate the share of investment and operating costs common to the activities of regasification and SSLNG services which are attributable to the latter, in accordance with the tariff related provisions;

(c) that SSLNG services, being carried out at arm's length, are to be considered as 'other activities', as per art. 4.29 TIUC;
(d) that changes are to be made to the TIUC to define the accounting separation of SSLNG services as from the beginning of the fifth LNG regulatory period (2020);

- with reference to the regulation of access to infrastructure that performs both regasification and SSLNG services:
  (a) that the provisions of the TIRG – (*Testo Integrato in materia di adozione di garanzie di libero accesso al servizio di Rigassificazione del Gnl* - Integrated text on the adoption of guarantees of free access to the liquefied natural gas regasification service) are to be applied for the purposes of regulating the conditions of access to the regasification service provided by the LNG storage and regasification facilities;
  (b) in the case of capacity dedicated to SSLNG services additional to regasification capacity, that access to SSLNG services is granted on the basis of procedures defined independently by the infrastructure manager. Revenue generated through the provision of such services should contribute to the costs for the use of the section of the plant shared by the regasification and SSLNG services;
  (c) in the case of SSLNG services that use part of the regasification capacity (competing capacity), that the users of SSNLG services participate in the delivery of LNG to the terminal, as per the allocation procedures defined by the Authority in the TIRG;
  (d) that it is confirmed that SSLNG services are additional to regasification services, which continues to have priority over SSLNG services;
- with reference to the tariff regulation criteria:
  (a) the provisions of the RTRG (*Regolazione delle Tariffe per il servizio di Rigassificazione di Gnl* - Regulation of tariffs for the LNG regasification service) also apply to LNG storage and regasification facilities. In this regard, SSLNG services are additional to the LNG regasification service;
  (b) for existing regasification terminals, a common cost recognition criterion in line with the so-called "*incremental costs*" proposal are to apply. According to this criterion only capital and operational costs directly related to the provision of SSLNG services are allocated to SSLNG services;
  (c) the coverage of the costs common to regasification and SSLNG services attributable to SSLNG services are to be based on the two distinct methods of managing the capacity for the provision of SSLNG services (dedicated or competing capacity);
    i. in the case of dedicated capacity additional to that authorised for regasification, a portion of

the revenues from the provision of SSLNG services will contribute to reducing the revenue for the regasification service for the purposes of covering the common costs, thereby also reducing the costs borne by the system in the event of the application of the revenue correction factor;
ii. in the event of SSLNG capacity competing with regasification capacity, in relation to the delivery of LNG to the terminal, users of SSNLG services shall bear the cost of access to the infrastructure for the competing procedures referred to in the TIRG, as remuneration for the share of common costs;

- with regard to revenue coverage mechanisms:
  (a) the provisions regarding the revenue coverage factor remain valid with reference to the regasification terminals that are entitled to such coverage under the RTRG, and that also offer SSLNG services;
  (b) with reference to the capacity made available for the regasification service, a specific revenue coverage mechanism is introduced that allows the operator of LNG facilities connected to the transmission network (as defined by art. 9 of Legislative Decree no. 257/2016) to partially cover recognised costs during the start-up period of the activity, and is to be capped at the level of the guarantee provided for existing regasification terminals;
  (c) the procedures for applying this mechanism are governed by the regulation of the LNG regasification service currently being defined for the fifth LNG regulation period.

Resolution 168/2019/R/gas also:

- specifies that any provisions regarding the safety of the natural gas system that may be issued by the Ministry of Economic Development relative to SSLNG services that use part of the regasification capacity, are not affected;
- provides that the validity of the regulatory criteria begins from the fifth LNG regulatory period starting in 2020.

1.14

Report to the Minister of Economic Development and the Prefect of Salerno on possible initiatives against Metagas S.r.l. regarding safety in the management of gas distribution services in the municipality of Laviano

Resolution of 14 May 2019 - 182/2019/E/gas

Further to Notice 345/2018, this Resolution requests that the appropriate public bodies intervene to

supervise the proper management of the service in the Municipality of Laviano by the company Metagas S.r.l. The public bodies referred to, inter alia, are: the Prefect of Salerno, to provide evaluations relative to serious public safety concerns pursuant to art. 54 TUEL (*Testo Unico Enti Locali* - Consolidated Local Entity Act); the Minister of Economic Development, to provide evaluations on the activation of the procedure referred to in art. 137 TUEL, in the event of inactivity of local authorities involving non-compliance with the obligations arising from membership of the European Union).

1.15

Approval of the revenues recognized and determination of the tariffs for the services of transmission and metering of natural gas, for the year 2020

Resolution of 28 May 2019 - 201/2019/R/gas

With this Resolution, the Authority approved the proposals of revenues and determines the tariffs for the services of transmission and metering of natural gas for the year 2020, and – inter alia – decided:

1. to approve the revenue proposals for the transmission and metering service referred to in art. 33 RTTG for 2020, presented by the companies Consorzio della Media Valtellina per il Trasporto del Gas, Energie Rete Gas S.p.a., GP Infrastrutture Trasporto S.r.l., Infrastrutture Trasporto Gas S.p.a., Metanodotto Alpino S.r.l., Netenergy Service S.r.l., Retragas S.r.l., SGI S.p.a. and Snam Rete Gas S.p.a., which complied with the criteria set out in RTTG;
2. in relation to the points of entry and exit of the network of gas pipelines listed in Table 1 attached to the Resolution, to determine the tariffs referred to in Title IV and Title V of RTTG as reported in Table 2, also attached to the Resolution;
3. to conduct an in-depth investigation to evaluate requests for recognition of specific cost items of a recurring nature relating to 2018, which are greater than those for 2017, for the companies SGI S.p.a. and Snam Rete Gas S.p.a.;
4. to instruct the Authority's Infrastructure, Energy and Unbundling Department, in collaboration with the Wholesale Markets and Environmental Sustainability management, to investigate the position put forth by Snam Rete Gas S.p.a. in relation to the reorganisation of the metering activity at the level of the transmission network and the modernisation of the relative metering systems, while at the same time assessing the application made in relation to the methods of recognising GNC's costs;
5. to re-establish, pursuant to art. 33.6 RTTG, the reference revenues RT and RM relating to 2019 on the basis of the final balance sheet data, as well as the related revenue variations $\Delta RT2019\ CONS$ e $\Delta RM2019\ CONS$, as proposed by the transport companies;
6. to amend RTTG in order to change the name of the variable unit fee CV referred to in art. 17 to 'CVU';

7. to determine the relevant parameters for the publication by the largest transmission company of the information referred to in art. 30(1)(b) of the TAR Code, as set out in Table 3, attached to the Resolution.

Further details are set out in the text of the Resolution.

1.16

Update, for the month of June 2019, of the economic conditions for the supply of gas other than natural gas, as a result of the variation of the raw material supply costs

Resolution of 28 May 2019 - 204/2019/R/gas

This Resolution provides an update for the month of June 2019, of the economic conditions for the supply of gases other than natural gas, as a result of the variation in the costs of raw materials.
The Authority has fixed, for the month of June 2019, the value of the QEPROPMC element, referred to in art. 23 TIVG to 8.078784 euro/GJ, which corresponds to 0.808444 euro/m3 for LPG supplies with a reference calorific value of 0.100070 GJ/m3 (0.050240 GJ/kg).

1.17

Provisions for the supply of the resources necessary for the operation of the gas system

Resolution of 28 May 2019 - 208/2019/R/gas

This Resolution approves procurement regulations by the Balance Responsible Party (BRP) for consumption, network losses, changes in linepack and gas not accounted for. It provides numerous and substantial amendments to the TIB (*Testo Integrato del Bilanciamento* - Consolidated Balancing Act), including in relation to the BRP neutrality mechanisms, as well as the introduction of a new performance indicator, the details of which can be found in the text of this Resolution, as well as in the text of the TIB amended by the Resolution.

1.18

Imposition of administrative fines and adoption of prescriptive measures for breaches of security, continuity, information obligations and access to the natural gas distribution service

Resolution of 4 June 2019 - 213/2019/S/gas

This Resolution provides for the imposition of administrative fines and the adoption of prescriptive

measures for breaches of safety, continuity, information obligations and access to the gas distribution service against Metagas S.r.l.

1.19

Approval of the costs incurred by the largest transmission company in relation to the wholesale gas market monitoring activity carried out in 2018 and of the cost estimate for the year 2019. Amendments and additions to the Authority Resolution 137/2016/R/com – TIUC

Resolution of 4 June 2019 - 223/2019/R/gas

With this Resolution:

- the final costs incurred by the largest transmission company during 2018 for its monitoring of the wholesale natural gas market are approved in accordance with art. 7(3) TIMMIG;
- the estimated costs of monitoring the wholesale natural gas market in 2019 are approved;
- the accounting unbundling regulation contained in the TIUC is updated to include a section covering the monitoring of the wholesale natural gas market.

Further details are set out in the text of the Resolution.

1.20

Decision coordinated with the Maltese Regulatory Authority pursuant to Regulation (EU) No 347/2013 on the allocation of investment costs for the common interest project 5.19 (Melita TransGas (MTG) Pipeline)

Resolution of 4 June 2019 - 225/2019/R/eel

ARERA, in coordination with the Maltese Regulatory Authority, passed this Resolution on the investment request for the Melita TransGas Pipeline common interest project, the costs of which are entirely allocated to the Maltese system.

In particular, the Authority has decided:

a. to approve the document "ARERA and REWS agreement on the investment request by Melita TransGas Co. Ltd for the MTG pipeline (PCI 5.19) and on the allocation of the investment costs", set out in Attachment A to the Resolution;

b. to provide, in agreement with REWS, that no costs of the MTG pipeline, as defined in Section 1 of Annex A above, shall be allocated to the Italian system.

1.21

Partial appeal against Judgment 881/2019 by the Lombardy Regional Administrative Court, Section Two, cancelling the Authority's Decisions 573/2013/R/gas and 367/2014/R/gas

Resolution of 11 June 2019 - 227/2019/R/gas

On 18 April 2019, sentence 881/2019 was published, by which the Regional Administrative Court for Lombardy, Milan, Section Two, partially annulled the Authority's resolutions of 12 December 2013, 573/2013/R/gas and 24 July 2014, 367/2014/R/gas. The Authority considers that the decision can be challenged as it is based on an erroneous interpretation of the relevant factual and legal elements, and the conditions exist to appeal the unfavourable aspects of that decision. Therefore, in this Resolution, the Authority decided to appeal part of decision of 18 April 2019 of the Lombardy Regional Administrative Court, Milan, Section II.

1.22

Approval of the application criteria of the cost-benefit analysis of development on the natural gas transmission network

Resolution of 11 June 2019 - 230/2019/R/gas

This Resolution approves the proposal for the application of the cost-benefit analysis methodology for the development of the natural gas transmission network, put forward by the largest transmission company pursuant to art. 8(4) Resolution No. 468/2018/R/gas.

The Resolution is in line with Authority's policies, to adopt a methodology by which firstly an assessment can be made as to the consistency of the choices of infrastructure development identified by the operators with the criteria of cost-effectiveness and efficiency of investments, and then those projects that can bring the greatest benefit to the system can be identified.

This Resolution implements the provisions of Resolution 468/2018/R/gas, by which the Authority approved the minimum requirements for the preparation of plans for the development of the natural gas transmission network (Plans), in relation to both the completeness and transparency of information and the cost-benefit analysis methodology. The application criteria for the cost-benefit analysis, approved by the Authority, guarantee a uniform application of the minimum requirements in the Plans, which must be submitted by the transmission companies by 31 July 2019.
This Resolution also approves the application criteria proposal presented by SNAM Rete Gas S.p.A., the

major transmission company which, in addition to the minimum requirements, provides that transmission operators consider:

a. certain *categories of additional benefits,* additional to those set out as *Minimum Requirements,* provided that for each intervention analysed a separate valuation of the summary economic performance indicators of the *Minimum Requirements* is supplied;
b. certain indicators which, although not relevant for the purposes of the economic analysis of the *Minimum Requirements,* can be considered by the transmission company in order to provide a precise qualification of the social welfare of transmission to the final customers.

Given the importance of the testing phase of the application of the cost-benefit analysis methodology, in this Resolution the Authority also pointed out that the appropriateness and effectiveness of the *Application Criteria* ought to be assessed after their first application in the 2019 and 2020 Plans. In this way, any requirement to revise the *Minimum Requirements* and/or the *Application Criteria* can be identified.

Further details are set out in the text of the Resolution.

1.23

Provisions on the definition of reserve prices for the allocation of regasification capacity

Resolution of 11 June 2019 - 234/2019/R/gas

This Resolution governs the management of the procedures to allocate regasification capacity, with reference to the definition and publication of the reserve price. In particular, ARERA has decided to:

a. update the parameters to define the reserve price in the regasification capacity allocation procedures, referred to in art. 7 TIRG, as set out in Attachment A to this Resolution, which replaces Attachment A to Resolution 186/2018/R/gas;
b. establish 14 June 2019 to be the deadline, referred to in art. 7.5 TIRG, for the conferral of procedures for periods equal to or greater than the thermal year, that take place in July 2019;
c. communicate this Resolution to the companies OLT Offshore GNL Toscana and GNL Italia S.p.a., with a prohibition to disclose the contents of Attachment A, except as necessary to comply with the provisions of art. 7.5 TIRG.

1.24

Update of regulations relative to access to the national gas pipeline network, pursuant to Commission Regulation (EU) 2017/459 of 16 March 2017

Resolution of 18 June 2019 - 245/2019/R/gas

With this Resolution, ARERA has made some initial functional changes to harmonise the timing of the national procedure for the construction of new capacity at the entry points of the national transmission network with those defined by European Regulation 2017/459. These modifications are necessary to ensure coordinated development of the national transport network.

ARERA decided, inter alia, to:

1. update the existing provisions on incremental capacity creation to bring them into line with European provisions, and in particular to clarify that:
    a. following the entry into force of Regulation 2017/459, requests for access to the national transmission network at interconnection points (already in existence or to be implemented) with EU countries, also submitted by exempt persons, are subject to the rules of European procedure;
    b. the provisions of Resolution ARG/gas 2/10 are to continue to apply to requests for access to the national transmission network at interconnection points (already existing or to be built) with non-EU countries, as well for regasification exempt terminals or those to be built under third party access regimes;
2. replace art. 7(1) of Resolution ARG/gas 2/10 with the words 'within eight months of the date referred to in art. 6.7', where applicable, by 'within twelve months of the start of the yearly capacity auctions referred to in art. 11 Regulation 2017/459';
3. replace the words 'three months' in art. 7(2) of Resolution ARG/gas 2/10 with the words 'seven months';
4. in art. 7(3) of Resolution ARG/gas 2/10, replace the words '30 days after the deadline referred to in paragraph 6.7' with 'five months after the start of the annual capacity auction referred to in art. 11 of Regulation 2017/459' and the words '90 days after the deadline referred to in paragraph 6.7' with 'seven months after the start of the yearly capacity auction referred to in art. 11 Regulation 2017/459';
5. repeal art. 6(1), (2) and (7) Resolution ARG/gas 2/10;

6. provide that for the purposes of determining the capacity that can be allocated pursuant to art. 7, the largest transmission company is to consider all requests received from the parties referred to in point 1(b), received by the end of the fourth month following the date of commencement of the annual capacity auction referred to in art. 11 Regulation 2017/459, even if submitted by a party not holding an exemption or priority access rights;
7. based on a proposal to optimise the procedures put forward by the largest transmission undertaking and in light of the comments received during the consultation on the amendments to the network code used to transpose this Regulation, provide, in a future Consolidated Act, that the rules governing access to the natural gas transmission service be further harmonised;
8. provide that, within three working days of receipt of a request for the creation of new capacity under Regulation 2017/459, the largest transmission company is to forward such request, together with all relevant information, to the Authority;
9. provide that the largest transmission company submits for the approval of the Authority, together with the proposal referred to in the next point, a proposal on how to cover the costs of technical studies by those who submit the request for the implementation of incremental capacity. The proposal is to include criteria to determine the amount that those requesting incremental capacity implementation will be required to pay, based on the investment required. To this end, the largest transmission company is to publish on its website non-exhaustive examples of estimated costs of these technical studies;
10. provide that the largest transmission company is to prepare, after consultation, a proposal to update its network code in order to implement this Resolution, taking into account the provisions of the previous paragraph;
11. provide that the largest transmission company, is to submit any proposal relating to the setting of fees to cover administrative costs, together with the proposals referred to in points 9 and 10 above, to the Authority for approval.

1.25

Updates to the economic conditions for the supply of natural gas for consumer protection relative to the third quarter 2019.

Resolution of 25 June 2019 - 264/2019/R/gas

This Resolution provides updates, for the quarter from 1 July 2018 to 30 September 2018, of the economic conditions for the supply of natural gas under the consumer protection legislation.

The Authority has resolved that:

- for the component relating to the costs of supply of natural gas to wholesale markets the values of the PFOR,t element and the CMEM,t, component referred to in Article 6 of TIVG are those set out in Table 1 attached to the Resolution;
- the value of the QTVt element referred to in Article 8 of TIVG is equal to 0.008978 euro/GJ.

1.26

Update, for the month of July 2019, of the economic conditions for the supply of gas other than natural gas, as a result of the variation of the raw material supply costs

Resolution of 25 June 2019 - 265/2019/R/gas

This Resolution provides an update for the month of July 2019, of the economic conditions for the supply of gases other than natural gas, as a result of the variation in the costs of raw materials.
The Authority has fixed, for the month of July 2019, the value of the QEPROPMC element, referred to in art. 23 TIVG to 6.996458 euro/GJ, which corresponds to 0.700136 euro/m3 for LPG supplies with a reference calorific value of 0.100070 GJ/m3 (0.050240 GJ/kg).

1.27

Approval of the proposed agreement between the Gestore dei mercati energetici and Snam Rete Gas, for the implementation of the provisions of the Resolution 208/2019/R/gas

Resolution of 25 June 2019 - 266/2019/R/gas

This Resolution approves the proposal for an agreement (attached as Attachment A to the Resolution) between Gestore dei mercati energetici and Snam Rete Gas for the management of the gas markets. The Resolution integrates provisions on supply by Snam Rete Gas, within the spot market, of the quantities to be covered: consumption, network losses, changes in linepack and gas not accounted for.
A copy of the proposed agreement can be found on the Authority's website.

1.28

Approval of the market test procedure proposed by TAP AG

Resolution of 25 June 2019 - 267/2019/R/gas

The resolution approves jointly with the regulators of Albania and Greece (ERE and RAE) the procedures for the 2019 market test proposed by TAP AG.

ARERA resolved to approve the "*Guidelines for the 2019 Market Test of Trans Adriatic Pipeline*" presented by TAP AG by letter dated 14 June 2019 (Annex B), as expressed in the joint decision with the regulators of Albania and Greece, respectively ERE and RAE (Annex A). Both Annexes, following the publication of the Market Test Guidelines on the website of TAP AG, are published and available on the website of ARERA.

1.29

Provisions relating to the process of making the gas sector technical data relating to redelivery points, metering data, and modifications to the communication standards available in the Integrated Information System (SII)

Resolution of 25 June 2019 - 271/2019/R/gas

This Resolution contains provisions relating to the process of making the gas sector technical data relating to redelivery points, metering data, and modifications to the communication standards available in the Integrated Information System.

The Authority thus completes the regulation, in the gas sector, of the process of making technical and personal data relative to the redelivery points and metering data available to SII, and at the same time changing the communication standards. The Resolution pursues the objective of rationalizing the information flows currently defined by the "Operating Instructions" for the gas sector concerning:

- the technical and personal data of the metering group;
- readings, including those taken during technical and commercial operations (thus extending the centralisation of this data within the SII).

The expansion of the centralisation also allows the SII to determine the annual levy parameter (CAPdR) as part of settlement activities.

With reference to the timing and methods of implementation, the Resolution requires:

- the SII Manager to publish, by 9 August 2019, the "*Technical Specifications*" relating to the following:
  a. method by which to make available the following: technical/personal, measurement data upon the replacement of the meter, technical data of the metering group modified following further technical interventions;
  b. method for the provision of periodic measurement data collected in accordance with TIVG, auto-reading validation results, metering data collected during switching or transfer, and the technical performance as a result of which the metering data is expected to be collected;
  c. method by which corrections to the such metering data is made available.

These systems will come into operation, acquiring official value, with the data made available from 1 February 2020;

- in order to allow the management of any critical issues that may arise in the transition to the use of the new methods, the distribution companies may (in addition, and not as an alternative to the use of the new official methods) make the data available in the manner currently used until 30 April 2020;
- by 31 March 2020, the distribution companies must send to the SII Manager (according to procedures defined by the latter) the information flows transmitted to users in the event of technical interventions on the metering group carried out in the period between at least 1 June 2019 and 31 January 2020. This is to allow the SII to use the measurements to calculate the CAPdR 2020 parameter for the redelivery points subject to such interventions.

In the absence of the minimum metering data necessary for the calculation of the CAPdR 2020, the SII may require distribution companies to provide information flows to users following technical interventions on the metering group for a period prior to 1 June 2019 pending the entry into operation of the new flows. Starting from 1 September 2019, the distribution companies will make available, within the cloud-based platform of the SII, the measures taken during the changeover, as well as the self-readings, according to the methods currently defined in the "Operating Instructions" for the gas sector (necessary updates being included in the Resolution).

Pirola
Pennuto
Zei
& Associati
studio di consulenza
tributaria e legale

Via Vittor Pisani, 20
20124 Milano

T. +39.02.669951
F. +39.02.6691800

info@studiopirola.com
www.pirolapennutozei.it

CUSTOMS NEWSLETTER | APRIL - JUNE 2019

LEGISLATION, MINISTERIAL GUIDANCE AND CASE LAW AT 30 JUNE 2019.
THIS NEWSLETTER IS INTENDED AS A SUMMARY OF KEY TAX DEVELOPMENTS AND HIGHLIGHTS MATTERS OF GENERAL INTEREST, AND THEREFORE SHOULD NOT BE USED AS A BASIS FOR DECISION-MAKING.
FOR FURTHER DETAILS AND INFORMATION, PLEASE CONTACT YOUR RELATED PARTNER OR SEND AN EMAIL TO UFFICIOSTUDI@STUDIOPIROLA.COM