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# CUSTOMS AND EXCISE DUTIES

NEWSLETTER/JULY-SEPTEMBER 2021



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# Customs

## LEGISLATION

### 1.1

#### **Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (recast)**

Regulation (EU) 2021/821, published in the Official Journal of the EU L126 of 11 June 2021, in force since 9 September 2021, has introduced several new rules governing dual-use items, understood as tangible and intangible goods, including software, technologies and related services, which have a predominantly civilian use, but can also be employed for military purposes. The Regulation (i) extends the controls to a wider range of emerging dual-use technologies, including computer surveillance items, as well as brokering and technical assistance services; (ii) provides for new specific authorisations for intra-group transfers of software and technology and for encryption; (iii) gives Member States greater powers to introduce prohibitions and authorisations which are also extended to items not listed as dual-use, under the “catch all” clause; (iv) provides for greater coordination between Member States and the Commission for the effective enforcement of controls across the EU; (v) extends the status of “exporter”, extending it to cover travellers carrying dual goods in their personal luggage; and (vi) strengthens the guidance to be given to exporters, in particular to small and medium-sized enterprises (SMEs), and awareness-raising activities to promote responsible practices, leaving the assessment of applicability to individual states.

### 1.2

#### **Commission Implementing Regulation (EU) 2021/1728 of 29 September 2021**

Commission Implementing Regulation No. 2021/1728, published in the Official Journal of the EU on 30 September 2021, amends Implementing Regulation (EU) 2021/442 and Implementing Regulation (EU) 2021/521 laying down specific provisions relating to the mechanism making certain products subject to the production of an export authorisation. On 30 January 2021, the Commission adopted Implementing Regulation (EU) 2021/111 making the exportation of COVID-19 vaccines as well as active substances, including master and working cell banks, used to manufacture these vaccines, subject to the production of an export authorisation. The Commission adopted Implementing Regulation (EU) 2021/442 making



## LEGISLATION

the exportation of those products subject to an export authorisation until 30 June 2021, pursuant to art. 6 Regulation (EU) 2015/479.

On 24 March 2021, the Commission adopted Implementing Regulation (EU) 2021/521 introducing, as an additional factor when considering granting an export authorisation, the need to assess whether such authorisation poses a threat to the security of supply within the Union of the goods covered by Regulation (EU) 2021/442. This vaccination campaign is however still ongoing and uncertainties remain, in particular with the emergence of new variants of the COVID-19 virus. There is therefore a continuing need for transparency of export deliveries and Union supplies. Therefore measures introduced by Implementing Regulation (EU) 2021/442 and Implementing Regulation (EU) 2021/521 should continue to apply until 31 December 2021.

## GUIDANCE

### 2.1

#### **Directorial Determinations no. 219776 and no. 219778 of 30 June 2021 - published on 1 July 2021**

With its Determinations no. 219776 and no. 219778 of 30 June 2021, the Customs Agency has provided further clarifications in relation to the e-commerce package. The monthly declaration relating to the importation of goods carried out in the reference month, as per art. 70.1(2) Presidential Decree 633/1972, is to be transmitted in electronic format by the obliged person using the special programme for the declaration and payment of import VAT through the computer system of the Customs and Monopolies Agency. No prior customs authorisation is required to use of the special programme, but in accordance with EU provisions, authorisation to defer the payment of the VAT collected must first be requested from the pertinent Customs Office, provided that authorisation to set up a comprehensive guarantee and the related provision of a security has been approved, unless exemption is granted.

### 2.2

#### **Circular No. 24 of 28 June 2021 - Registered Exporter System (REX): postponement of the start of phase 2 of the Trader Portal - published on 1 July 2021**

In Circular no. 24/D dated 28 June 2021, the Customs Agency extended the start of phase 2 of the REX Trader Portal to between the end of the first quarter and the beginning of the second quarter of 2022. Therefore, until further measures are issued, there are two methods in which exporters can register in the REX (Registered Exporter System): through the Trader Portal, which has been active since 25 January 2021, or using a hard copy application to be submitted to Customs, as was previously the case. Operators exporting to preferential countries for which registration in REX is required must therefore choose one of the two methods to acquire the status of registered exporter and will thus be able to issue the declaration of preferential origin on the invoice, which is essential to take advantage of the duty preference in the country of destination of the goods.

## 2.3

### **Communiqué of 8 July 2021 regarding the half-yearly fixing of the interest rate for the deferred payment of customs duties (from 01/7/2021 to 31/12/2021). Ministry of Economy and Finance Decree of 03/12/2004 and subsequent amendments and additions**

In Communiqué dated 8 July 2021, the Customs Agency advised that, in application of the provisions of the Decree of the Ministry of Economy and Finance of 3/12/2004 as subsequently amended, on 15 June 2021 the 6 months Euribor rate, available on the official website of the European Central Bank, was negative: -0.522, with a maturity of 6 months. Therefore, the rate applicable to deferred payments granted from 1 July 2021 to 31 December 2021 is 0.1% - a more favourable rate than that of 0.165% provided for in art. 79 TULD (Consolidated Customs Act).

## 2.4

### **Circular No 31 of 28 July 2021 – Procedures for the issue of EUR1 movement certificates – update**

With Circular no. 31/D of 28 July 2021, the Customs Agency provided clarifications as to the procedures for issuing EUR1 movement certificates. Given the positive results of the experimental EUR1 “full digital” procedure applicable to export operations from Italy to Switzerland, Circular No. 16/D of 30 April 2021 abolishes, as from 1 May 2021, of the possibility of using the EUR1 certificate of origin on forms pre-printed by the Customs Office. However, the Circular does confirm that due to the continuing COVID-19 pandemic the use of the pre-printing method for EUR1, EURMED and A.TR certificates relating to export operations other than those indicated above can continue until 31 July 2021. Due to the extension of the state of emergency until 31 December 2021, the use of the pre-printing procedure for EUR1, EURMED and A.TR certificates for exports to third countries other than Switzerland has been further extended until 31 December 2021.

## 2.5

### **Directorial Determination no. 288978 of 6 August 2021 - protection of intellectual property rights**

Given the need to fight trade in counterfeit goods that increase the risks to public health, safety and violates intellectual property rights causing considerable harm to the holders of those rights and to the national economic system, on 6 August 2021 the Customs Agency issued Directorial Determination no. 288978/RU. This Determination stressed the importance of providing all the information necessary to

set up an efficient risk analysis, making the activity carried out by the Customs Agency faster and more efficient. Compliance with the provisions in question is a parameter for assessing the level of compliance of economic operators holding AEOs.

## 2.6

### **Note no. 16787 of 11 August 2021 - authentication on the Customs Agency portal using SPID digital identity for professional use**

The Customs Agency announced, in Note no. 16787 of 11 August 2021, that from 3 August 2021 the SPID (*Sistema Pubblico di Identità Digitale* - Public Digital Identity System) digital identity for professional use can also be employed as authentication to access the portal of the Customs and Monopolies Agency. Increasing the number of access channels to the digital services of the Customs Agency as well as the methods of authentication of users through the professional SPID follows the publication of "Guidelines for the issuance of digital identities for professional use" by AgID (*Agenzia per l'Italia Digitale* - Agency for Digital Italy) issued pursuant to art. 71 of the CAD (*Codice dell'Amministrazione digitale* - Digital Administration Code) with AgID Determination no. 318/2019. Access through digital authentication is essential to use the many restricted access services available to businesses and professionals: from the customs area for those engaged in international trade, to excise duties on energy, alcohol and tobacco, to gaming, to OPERA (*Operazioni di Pagamento e Rendicontazione Automatica* - Payment Operations and Automatic Reporting) on the PagoPA circuit, for the payment of customs duties, excise duties and balances of public gaming concessionaires as well as for the submission of INTRASTAT declarations.

## 2.7

### **Determinations nos. 304789 and 304143 of 18 August 2021 - application of the COVID-19 Green Certifications provisions**

The Customs Agency has provided some clarification on the subject of Covid-19 Green Certifications, in its Determinations nos. 304789 and 304143 of 18 August 2021. The new art. 9-*bis* inserted into Decree-Law 52/2021, provides that access to a series of services and activities, in the geographical areas falling within "white zones" and in the other areas where those activities are permitted, are subject to the possession of one of the Covid-19 Green Certifications. Pursuant to art. 9-*bis*(4) the owners or managers of the services and activities identified in paragraph 1 are required to ensure compliance with the requirement set out in the legislation. This requirement complements that contained in art. 13(2)

of Prime Ministerial Decree of 17 June 2021, which requires, inter alia, public officials in the exercise of their duties, to ascertain possession of the Certificate. Included in the services and activities subject to conditional access are the provision of food by any establishment for indoor consumption at table, as well as gambling, betting, bingo and casino halls. Consequently, the Customs Agency has announced that in the course of ordinary customs control activities carried out in various capacities, officials may also carry out such controls. Included in the services and activities with conditional access, art. 9-bis(1) Decree-Law 52/2021 identifies, by way of example, the provision of food by any establishment for indoor consumption at table. Therefore, also in this case, during ordinary inspection activities with respect to the holders of a tax licence, pursuant to art. 29(2) Legislative Decree 504/1995, the inspecting officers may also verify the compliance with the obligation concerning Covid-19 Green Certifications.

## 2.8

### **Ministerial Decree of 10 August 2021 - six-monthly interest rate**

The Ministerial Decree of 10 August 2021 was published in the Official Gazette no. 202 of 24 August 2021, in which the Ministry of Economy and Finance set the interest rates for deferred payment of customs duties for the period 13 July 2021 - 12 January 2022. The Ministry, having consulted the Bank of Italy, set that interest rate, for the period from 13 July 2021 to 12 January 2021, at 0.165%.

## 2.9

### **Notice of 9 September 2021 - authorisation to provide comprehensive guarantee or individual guarantee - templates for bank guarantees**

In a Notice dated 9 September 2021 the Customs Agency announced that, in order to standardise practices and forms, thus facilitating the activities of economic operators and customs offices, the texts of bank guarantees shared with ABI – the Italian Banking Association - have been published on the Customs Agency portal. In the global guarantee forms, the guaranteed amount (referring to the obligations that have arisen, or also to possible future obligations) is not further broken down into each of the underlying regimes/transactions to which it refers. Bank guarantees will be accepted both in hard copy and in file format transmitted by way of certified e-mail. In the latter case, the guarantees must be digitally signed by the guaranteeing bank in compliance with the provisions of art. 35 of the Digital Administration Code, without the requirement of notarization. The new bank guarantee templates, both individual or global, are published on the Agency website: *Attività > Dogane > Pagamenti > Garanzie*.

## 2.10

### **Release of the new database of EU Court of Justice rulings on tariff classification**

The Customs Agency has announced that the new database of the EU Court of Justice rulings on tariff classification has been released and can be consulted at the following path on the Agency website: *Home > Dogane > Tariffa e classificazione delle merci > Sentenze Corte di Giustizia*. Rulings issued by the Court of Justice of the European Community which have a particular impact on the exact identification of the Combined Nomenclature code for certain goods of complex classification, as well as for the correct application of the general regulations concerning the validity and issue of Binding Tariff Information, are consultable.

## 2.11

### **Principle of law No. 13 of 29 September 2021 issued by the Revenue Agency - importation - deduction of VAT paid at customs**

The Italian Revenue Agency issued Principle of Law No. 13 on 29 September 2021, providing clarification on the deduction of VAT paid at customs. The right to deduct VAT paid at customs may be exercised in the year in which the taxpayer, having come into possession of the accounting document, records it in their accounts, making it part of the periodic payment for the month or quarter of the relevant period. For the purposes of registration obligations and the exercise of the right to deduct VAT, customs invoices are, therefore, subject to the same rules as purchase invoices, and, as a result the clarifications made in Circular No. 1/E of 17 January 2018 apply also to them. Hence, the date from which the time for the exercise of the right to a deduction begins coincides with the moment in which the transferee/buyer fulfils the two conditions set out in the provision, namely i) substantive (i.e. the tax becomes chargeable) and ii) formal (i.e. the possession of a valid invoice and/or customs invoice).

# Excise duties and consumption

## GUIDANCE

### 1.1

#### **Circular 27 of 12 July 2021 no. 46819/RU - Authorised laboratories. Updating rules governing technical coordination for the verification of tax related electricity metering systems**

In this Circular, the Agency began by restating that:

- the rules for the technical coordination of operations to verify electricity metering systems in accordance with the guide CEI 13-71 (*Comitato Elettrotecnico Italiano* - Italian Electrotechnical Committee) were set out in Circular 23/D of 29 December 2015 and subsequent additions. These rules govern the controls required for the issue and retention of authorisations for laboratories to carry out tests on individual components and full electricity metering systems used for tax purposes;
- in application of Circular 2/D of 19 February 2020, since 1 January 2021 laboratories may only send verification certificates electronically through the Agency's platform

In light of the above, the Agency considers it necessary to update the technical coordination rules.

The controls to be carried out on laboratories as part of the authorisation procedure are summarised in the annex to this Circular. In addition to the accreditation (issued by Accredia in accordance with UNI EN 17020 or UNI EN 17025), the controls may also be carried out directly by the Agency, at the private expense of the laboratories and on unbiased market conditions vis-à-vis those already carried out for accreditation. In the latter case, the laboratory must be ISO 9001 certified.

The Agency clarified that the technical and fiscal controls carried out as part of the authorisation process must be supplemented by further controls of:

- the requirements to be met by the laboratory for the management of electronic certificates; and
- the subjective requirements of the legal representative and the laboratory.

On the first point, the Agency states that the legal representative of each laboratory must be registered with the Customs Agency electronic service for the sending of computerised tax control certificates and that authorised laboratories must have an electronic system for the creation, sending and storing of certificates.

As regards the latter requirements, the Agency clarifies that subjective controls must be carried out on the legal representative pursuant to art. 23(6) and (9) of the Consolidated Law Concerning Taxes on

Production and Consumption (i.e. in relation to tax, financial and bankruptcy offences, for which the penalty is imprisonment or for which bankruptcy proceedings are in progress or have been finalised in the last five years, as well as for persons who have committed serious and repeated violations of the provisions governing excise duty, value added tax and customs duties). Instead controls must be carried out pursuant to art. 23(11) of the Consolidated Law on the shareholders and/or directors, including *de facto* directors, of the company operating the laboratory.

## 1.2

### **Determination 23 July 2021 no. 264785/RU – Criteria by which to identify of the Customs Office responsible for carrying out certain activities relating to obliged vendors, in the field of excise duty on electricity and natural gas**

This Determination establishes the criteria by which to identify the Customs Office responsible for carrying out, in the field of excise duty on electricity and natural gas, the following functions and activities relating to obliged vendors:

- a) the issuing of the nationally valid authorisation and identification code;
- b) the establishment and management of the security guaranteeing the excise duty due with respect to supplies made within the country; and
- c) the assessment of tax based on the annual declaration, verification of payments, issuing of payment notices and related penalty notices, management of disputes, activation of the compulsory collection procedure and keeping of accounts.

For the purposes of the Determination, the country is divided into the following areas:

- one “ordinary area”, made up of all the areas within the Ordinary Administrative Regions;
- six “special areas”, four of which relate to each of the Special Administrative Regions (Sicily, Sardinia, Valle d’Aosta, Friuli-Venezia Giulia) and two referring to the Autonomous Provinces (Trento and Bolzano).

The rules are then established by which to identify the Customs Office responsible for carrying out the above listed functions and activities. In relation to the functions and activities indicated in points a) and b), the appropriate Customs Office is that with jurisdiction over the area in which the registered office of the seller is located.

With regard to the functions and activities referred to in letter c):

- where the head office of the obliged vendor is located in an Ordinary Administrative Region, the functions and activities shall be carried out



- a) for supplies carried out in the “ordinary area”, by the Customs Office which has jurisdiction over the place where that head office is located;
- b) for supplies carried out in the “special areas”, by the Customs Office which has jurisdiction over the territory of the capital of the Special Administrative Region or Autonomous Province where the product has been supplied;
- where the registered office of the obliged vendor is located in the territory of a Special Administrative Region or in an Autonomous Province the functions and activities are carried out:
- c) for supplies made both in the “ordinary area” and in the “special area” in which the said registered office is located, by the Office which has territorial jurisdiction over that office;
- d) for supplies carried out in the “special areas” other than that on which the registered office is situated, by the Customs Office which has jurisdiction over the territory of the capital of the Special Administrative Region or of the Autonomous Province where the product has been supplied.

In addition, the Agency provides that in order to carry out the functions and activities referred to in paragraph c) above, the competent customs office must keep two separate accounts, one for supplies made in the “special area” in which it is located and one for those relating to the “ordinary area”.

Finally, the Agency specified that, with reference to the annual declarations relating to the tax years prior to 2022, the responsibility for the exercise of the functions and activities referred to in paragraph c) remains with to the Customs Offices according to the distribution criterion in force until 31 December 2021. The Determination shall apply as from 1 January 2022.

### 1.3

#### **Circular 29 of 23 July 2021 no. 264788/RU - New rules for tax payments and accounting in the field of excise duty on electricity and natural gas**

In order to simplify the obligations of sellers in the natural gas and electricity sector, as from 1 January 2022 instalment payments and any balance due will no longer have to be broken down by provincial supply areas. Pursuant to Determination 23 July 2021 no. 264785/RU the current system of payments will be replaced by a system based on division of the country into regional supply areas made up as follows: 1) an ordinary area, made up of all the areas within the Ordinary Administrative Regions; and 2) six special areas, four of which relate to each of the Special Administrative Regions (Sicily, Sardinia, Valle d'Aosta, Friuli-Venezia Giulia) and two referring to the Autonomous Provinces (Trento and Bolzano),

The new system will be less onerous for obliged parties in the following way:

- the payments will be divided into no more than seven items, instead of the potentially large number of items due to concurrent supplies made in different provinces around the country;
- the requirement for credit or debit balances as numerous as the number of provinces in which the seller operates will be removed, as a result of the submission of the annual declaration;
- the requirement to file applications for the transfer of the credit to be able to use the credit accrued in one or more provinces to cover a debt existing in different provinces will be eliminated. By filing an annual declaration under the new system, the seller will accrue a single debt or a single credit for supplies made in all the Ordinary Administrative Regions and, similarly, for supplies made in each of the six special areas.

With reference to the methods of managing the excise duty in the two tax sectors here concerned, the Agency pointed out that art. 3 of Directorial Determination 264785/RU 23 July 2021 set out the criteria by which to identify the Customs Office responsible for the following: issuing authorisations; establishing and managing the security guaranteeing the excise duty due with respect to supplies made within the country; assessing of tax based on the annual declaration, verifying payments, issuing of payment notices and related penalty notices, managing disputes, activating compulsory collection procedure and keeping of accounts.

The Customs Office with jurisdiction over the area in which the registered office of the obliged vendor is located continues to have responsibility for the issuing the authorisation, the identification code, and determining and managing of the security. It should be noted, vis-à-vis the identification code, that the company codes/excise codes held by obliged vendors who are already in operation on 1 January 2022 do not need to be renewed or replaced.

With regard to the assessment of the tax debt, verification of payments, issuance of payment notices and imposition of penalties, as well as management of disputes, the Determination provides for a differentiation depending on whether the registered office of the seller is located in an Ordinary Administrative Region or in a Region with special statute or autonomous province. To assist with the identification of the applicable Customs Office, the Agency set out some examples in the Circular.

**Example 1:** Obligated vendor with registered office in Milan supplying to: Como, L'Aquila, Potenza, Perugia, Palermo, Syracuse and Agrigento.

The Agency states that the Customs Office of Milan will have to register the payment of excise duty due by the obliged vendor for electricity or natural gas supplied in the ordinary area. The person liable for payment with the F24 excise tax payment form must use the provincial code "MI". The Palermo Customs Office, which acts as the accounting office for the Autonomous Region of Sicily, will account for excise

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duty payments due from the obliged vendor for electricity or natural gas supplied within the special area of the Autonomous Region of Sicily; in this case, the obliged party for payment with the F24 excise tax payment form must use the provincial code "PA".

**Example 2:** Obligated party with registered office in Gorizia supplying to: Gorizia, Trieste, Ancona, Florence. For this case, the Customs Office of Gorizia will have to account for the payments of the excise duty due by the obliged vendor by keeping two separate accounts: one for the accounting of the total excise duty paid for invoices issued in the special area of the Autonomous Region of Friuli Venezia Giulia; the person liable for payment with the F24 excise payment form must use the provincial code "GO". The other set of accounting records is for the excise duty due for invoices issued in the ordinary area; in this regard, the person liable for payment with the F24 excise payment form must use the conventional code "RM".

**Example 3:** Obligated party with registered office in Catania supplying to: Catania, Syracuse, Sassari, Trento and Bari.

Here the Catania Customs Office must account for the payments of the excise duty owed by the obliged vendor by keeping two separate accounts: one for the accounting of the total excise duty paid for invoices issued in the special area of the Autonomous Region of Sicily; in this regard, the person liable for payment with the F24 excise payment form must use the provincial code "CT". The second set is for excise duty due for invoices issued in the ordinary area; in this regard, the person liable for payment with the F24 excise payment form must use the conventional code "RM". The Cagliari customs office, which acts as the accounting office for the Autonomous Region of Sardinia, will account for the excise duty payments due by the seller for electricity or natural gas invoiced in the special area of the Autonomous Region of Sardinia; in this regard, the person liable for payment with the F24 excise tax form must use the provincial code "CA". The Trento Customs Office, which acts as the Accounting Office for the Autonomous Province of Trento, will account for the excise duty payments due from the obliged vendor for electricity or natural gas invoiced in the special area of the Autonomous Province of Trento; in this regard, the obliged party for payment with the F24 excise payment form must use the provincial code "TN".

Finally, the Agency clarified that the payment and balance of excise duty resulting from the declaration for the tax year 2021 will be determined according to the current criterion. Therefore, the payment of any debit adjustment will have to bear the initials of the province of supply; otherwise, any credit adjustment and the advance payments for 2022 will have to be included in the "accounting by area".

In order to manage these changes, amendments to the annual declarations are planned for 2021.

## 1.4

### **Circular 30 of 28 July 2021 No 270185/RU - Extension of INFOIL to commercial warehouses of energy products subject to excise duty with a minimum capacity of 3,000 cubic metres**

In this Circular the Agency recalls that art. 1(1075) Law 178/2020 amended art. 10(1) of Decree Law 124/2019, so that operators of commercial storage facilities referred to in art. 25(1) Legislative Decree 504/1995 (TUA), with a minimum capacity of 3,000 cubic metres are now required to obtain a computerised system for the management of the holding and handling of petrol and diesel used as fuel. Such computerised system must have the characteristics and functions established by the implementation provisions of the INFOIL system.

The Agency also points out that the timeframes and procedures for fulfilling that obligation have also been extended to commercial storage facilities for energy products with a minimum total capacity of 3,000 cubic metres by Directorial Determination 270116 RU of 27 July 2021. These had previously been applied to tax storage facilities pursuant to art. 23(3) and (4) of TUA, by Director's Determination no. 266728/RU of 31 July 2020. Operators of these storage facilities are required to comply with the same procedural requirements set out in art. 2 of the above-mentioned Determination. The deadlines are, however, relative to 31 December 2021, the date on which the new obligation comes into force.

Therefore, operators of commercial storage facilities for energy products subject to excise duty, with a minimum total storage capacity of 3,000 cubic metres, are required, within 90 days prior to 31 December 2021, to submit a technical report to the appropriate customs office describing the adaptation plan to bring their cistern equipment into compliance with the INFOIL system.

The Agency clarified that in the adaptation plan must include the following, should this information not already have been made available to the local Customs Office:

- a) the updated plan of the plant, with indication of the specific intended use of each tank;
- b) a description of the instruments installed for the purposes of checking finished products entering and leaving the storage facility;
- c) the procedures implemented, where necessary, to bring the layout of the storage facility into compliance with the provisions of art. 1(1), (2) and (3) of Determination 266728/RU and the relevant implementation times.

Within a period of 30 days prior to the date on which the obligation comes into force (i.e. by 1 December 2021), the Customs Office with jurisdiction over the facility may prescribe any changes to be made to the adaptation plan, taking into account the operation of the installation and the results of any experiments carried out on the operation of the telemetering equipment installed by the operator. In addition, the Customs Office, in consultation with the operator, must draw up specific plant specifications, in accordance with the provisions of art. 2(4) and (5) of Determination 266728/RU.

Finally, the Agency confirms that the other provisions implementing the INFOIL system already cited for tax warehouses for the storage of energy products with a minimum capacity of 3,000 cubic metres remain unaffected, insofar as they are applicable.

## 1.5

**Circular 33 of 13 August 2021 No. 300429/RU - Use of subsidised fuels for the operation of ambulances. Point 13, Table A Legislative Decree 504/95. Request for quarterly tax voucher issue. Compilation of journey sheets**

In this Circular, the Customs Agency provides instructions on the completion of ambulance journey sheets, as per the Minister of Finance Decree of 31 December 1993, adopted in implementation of point 13 of Table A annexed to Legislative Decree No 504/95.

The Agency first recalled that included in the data to be reported in the compilation of the journey sheets are the personal details of the patient and that, with the Circular no. 15/D of 30 October 2015, it was considered sufficient to indicate the year of birth and gender of the person transported. The Agency does not consider that the systematic collection and storage of data, by which the person being transported can be identified, albeit indirectly, to be indispensable.

Therefore, the Agency has updated the manner in which the journey sheets are filled in so as to ensure compliance with the principles governing the processing of personal data while maintaining the effectiveness of controls. Thus, instead of the year of birth and gender of the sick or injured person being noted in the journey sheets or in the computer printout, as is currently the case, indication is to be made of the registration number and the date of the rescue/emergency card relating to the ambulance transport, kept at the public or private health facility (private hospital, nursing home, etc.) receiving the person concerned.

In cases where the assistance and first aid involves the use of ambulances to transfer sick or injured people to destinations other than the above-mentioned health facilities, similarly to the provisions governing "empty journeys", the organisation eligible for the subsidy will ensure that it certifies, at its own

responsibility, that the service has been carried out, by means of a specific annotation on the journey sheet.

## 1.6

### **Circular 35 of 27 September 2021 No. 357334/RU - Digital submission of monthly NG and EE data provided by distributors and invoiced by sellers. Operational clarifications**

The Agency has collected, in this Circular, the answers to the questions received from operators following the open hearing of 28 July 2021 regarding the fulfilment of the obligation of distributors and sellers of the respective sectors to submit data on natural gas and electricity digitally, as per art. 12 Decree-Law 124/2019 and by Directorial Determinations of 22 December 2020 No. 476905 (determination EE) and No. 476906 (determination NG). Below are a selection of responses.

The Agency first confirms that the initial transmission of data must be made by the obliged parties by 1 October 2021, in relation to the period January 2021 - July 2021 and a transaction log must be sent separately for each of the seven months of the period.

With regard to monthly reporting, each POD/PDR served by the vendor must be counted only once in the appropriate "number of users" box, even though the same POD/PDR may fall into more than one consumption bracket or be put to mixed use. Therefore, the sum of all the "number of users" boxes for the different uses must be equal to the total number of PODs/PDRs served by the vendor in that month. In order to avoid double counting of POD/PDRs the Agency clarified the rules that must be applied.

In the event of mixed use or consumption at a POD/PDR falling into more than one consumption bracket, the total quantities invoiced in the month shall be divided between the different uses and consumption brackets to which they have been ascribed on the invoice, and the relevant quantity boxes shall be filled in accordingly.

The Agency then clarified that, if no invoices are issued to a user (POD/PDR) in the month of reference, this must still be counted in the vendor's "number of users", indicating zero as the quantity invoiced in the month.

The communication, to be sent by the first day of the third month following the month to which it refers, is due from all vendors who have an active excise code, even in cases when they have not issued any invoices in the reference month. In the case of cessation of activity, the communication is no longer due from the month following that in which the excise code is discontinued by the local Customs Office.

Monthly reporting by the distributor must refer to the total quantities (concrete physical flows of material/

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energy) delivered to each user from the first to the last day of the reference month, as recorded by the meters installed in the PDR/PODs or estimated by the distributor. Therefore, for the purposes of the distributor's declaration, the date on which the distributor issues the invoice to the users is not relevant. On the other hand, the quantities to be reported by vendors in the reference month are those resulting from the sum of all invoices, including adjustment or rectification invoices, issued to end users, from the first to the last day of the month to which the declaration refers.

The Agency also clarifies that only distributors and vendors are obliged to send the EE and NG declaration. Operators producing EE for their own use (e.g. cogeneration plants, photovoltaic plants for own use, etc.) are excluded from the obligation. This does not remove the requirement to file an annual consumption declaration. Also excluded from the reporting obligation are those who purchase natural gas for their own use from EU countries or from third countries, using pipeline networks or infrastructures for transporting the product, those who purchase natural gas in cylinders or other containers from other EU countries or from third countries and those who extract natural gas for their own use within Italy.

It was also clarified that the monthly report of a NG/EE vendor relates to the total quantities invoiced within the country, on all the PDR/PODs of the final consumers served by the vendor and that, therefore, unlike the annual declaration, neither the provinces nor the municipalities where the invoiced PODs/PDRs are located must be indicated.

In addition, in the monthly EE declaration, the total quantities invoiced in the month for a particular use should be reported as a single figure, without separation between own use and commercial use.

## CASE LAW

### 2.1

**Court of Justice of the European Union – Decision C-341/20 of 16 September 2021 – Failure of a Member State to fulfil obligations – Art. 258 TFEU – Directive 2003/96/EC – Taxation of energy products and electricity – Art. 14(1)(c) – Exemption of energy products used as fuel for navigation in European Union waters – Exemption granted only to private pleasure craft constituting the subject-matter of a chartering agreement**

The Court of Justice of the EU, in its Decision C-341/20 of 16 September 2021, putting to an end the infringement proceedings initiated by the EU Commission against Italy, affirmed the principle that the exemption from excise duty for fuel used for navigation in EU marine waters concerns only vessels that are used by the end user for genuine commercial purposes.

On 24 July 2020, the EU Commission, bringing an action against the Italian Republic for failure to fulfil obligations under art. 258 TFEU, claimed that Italy had infringed Directive 2003/96, as the latter was granting an exemption from excise duty for fuel used in private pleasure craft, subject of a chartering contract, irrespective of the manner in which those craft were used by the charterers. In the Commission's view, the exemption must be excluded where the end user utilises the craft for leisure purposes.

For the EU Court, the exemption is linked to the fuel being used for navigation in EU waters for commercial purposes, i.e. where a boat directly provides a supply of services (e.g. transport) for consideration. If the end-use purposes are not commercial, the exemption must be refused and "the fact that the chartering of a boat constitutes a commercial activity for the charterer is irrelevant to the tax exemption in question".

It should be noted, however, that the Italian case law had already followed the interpretation given by the European Court. In decision no. 23226/2020 the Supreme Court affirmed *"the following principle of law: on the subject of exemption from excise duty for the use of fuel for navigation, art. 2(1)(a) Legislative Decree 171/2005, limiting itself to providing that 'the pleasure craft is used for commercial purposes: a) when it is the subject of leasing or chartering contracts', must be disapplied because it is contrary to art. 14(1)(c) Council Directive 2003/96/EC. It is instead necessary to establish, with the burden of proof resting on the person claiming the exemption, that the navigation by the user involves the provision of services for consideration"*.

The question now arises as to the prompt modification of Italian legislation to bring it into compliance with the principle imposed by the decision, and the resolution of past matters.



# Regulatory Authority for Energy, Networks and Environment (ARERA)

## Resolutions

### 1.1

**Provisions on the decommissioning of traditional metering units in implementation of the directives for the commissioning of gas smart meters. Amendments to the RTDG ("Regulation of tariffs for gas distribution and metering services for the regulatory period")**

***Resolution of 6 July 2021 – 287/2021/R/gas***

This Resolution amends art. 57(1) RTDG, in order to standardise the criteria for the decommissioning of the traditional meters replaced in application of the Directives for the commissioning of gas metering groups, set out in Resolution 631/2013/R/gas, as subsequently amended.

ARERA has made the following changes:

1. Paragraph 57.1 of the RTDG is replaced by the following paragraph:  
"57.1 For the purposes of updating the existing stock of invested capital, the decommissioning of metering units carried out in application of the provisions of the Directives for the commissioning of gas metering units, regardless of the class to which the decommissioned metering unit belongs, are conventionally deducted from the stratification of the historical gross values starting from the values of the gross fixed assets relating to the oldest assets."
2. The provisions of paragraph 57.1 of the RTDG, as amended by paragraph 1.1 of this Resolution, shall apply to decommissioning of traditional meters carried out:
  - a) from the year 2019, with respect to decommissioning of traditional meters classed less than or equal to G6;
  - b) starting from the year 2020, with reference to the decommissioning of traditional meters classed higher than G6.

## 1.2

**Initiation of proceedings to comply with Decisions 4308/21 and 4465/21 of the Council of State, Sixth Chamber, against Edison Stoccaggio S.p.A. concerning the recognition of incremental operating costs and the determination of the degree of efficiency of the San Potito and Cotignola site.**

***Resolution of 6 July 2021 – 288/2021/R/gas***

This Resolution initiates the process required to comply with the Decisions 4308/2021 and 4465/2021 of the Council of State, Sec. VI, against Edison Stoccaggio S.p.A. concerning the recognition of incremental operating costs and the determination of the degree of efficiency of the San Potito and Cotignola site.

In order to comply with Decision 4308/2021, by initiating the procedure for the redetermination of Edison Stoccaggio's tariffs for 2012, 2013 and 2014, and with Decision 4465/2021, by initiating the redefinition of the criteria for measuring the degree of efficiency of the San Potito and Cotignola site, to recognise Edison Stoccaggio's revenues as from 2015, the Agency passed this Resolution to initiate the compliance proceedings and to identify the manager of the Infrastructure, Unbundling and Certification Department as the person responsible for this procedure. It was also decided to suspend, pending the conclusion of the relevant proceedings, the preliminary activities relating to the procedure for the approval of the tariff proposal for the year 2022 submitted by Edison Stoccaggio S.p.A., on the assumption that proceedings will be concluded by 30 November 2021.

## 1.3

**Public procedures to identify suppliers of last resort and default suppliers as from 1 October 2021**

***Resolution of 6 July 2021 – 290/2021/R/gas***

This Resolution regulates the competition procedures to identify suppliers of last resort and natural gas default suppliers as from 1 October 2021 and updates the rules for the provision of those services.

1. ARERA has approved the document entitled "*Criteria and methods for the identification of suppliers of last resort and natural gas default suppliers for the 8 end users of natural gas for the thermal years 2021-2023*", attached to the Resolution as Annex A, the full text of which can be consulted on the ARERA website.
2. The following amendments are to be made to the 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 sale of natural gas and gas other than natural gas distributed through urban networks), with effect from 1 October 2021.

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- a. in art. 1(1.1), the definition of "Resolution 283/2020/R/gas" shall be replaced by the following definition  
"- resolution 290/2021/R/gas is resolution 290/2021/R/gas of 6 July 2021";
- b. in art. 31(31.1), (31.3), (31.5) first paragraph and (31.5)(b) the words "283/2020/R/gas" are replaced by the words "xx/2021/R/gas";
- c. in art. 31 *bis*, the subparagraphs 31 *bis*.3 and 31 *bis*.4 are replaced by the following subparagraphs:  
"31 *bis*.3 - Each FUI (*Fornitore di ultima istanza* - Supplier of last resort) shall apply to the final customers referred to in paragraph 30.1(a) the economic conditions defined on the basis of the following formula:

$$FUI = C_{FUI} + q\beta$$

where:

- $C_{FUI}$  are: (i) up to 31 December 2022, the economic conditions provided for the protection service, (ii) from 1 January 2023, the economic conditions referred to in paragraph 31 *bis*.4, point ii;
- $q$  is the percentage share, increasing over time and differentiated for each type of customer entitled to the FUI, whose values are indicated in Table 13;
- $\beta$  is the parameter offered by the FUI in competitive procedures for the purpose of awarding the service.

31 *bis*.4 - The conditions referred to in subsection 31 *bis*.3 are defined:

- i. for the period from 1 October 2021 to 31 December 2022:
  - a) taking into account for final customers other than domestic customers referred to in subparagraph 2.3(a) the level of the QVD (*Quota Vendita al Dettaglio* - Retail marketing component) applied to final customers referred to in subparagraph 2.3(b);
  - b) by including the  $INA_{UI}$  charge, set at a level of 0.6000 €/GJ, with respect to the final customers referred to in subparagraph 2.3(c);
- ii. including, for the period 1 January 2023 - 30 September 2023:
  - a) the unitary components referred to in paragraph 5.1 letters (a), (b), (c) and (d), defined by the Authority by 31 December 2022 in continuity with the provisions for the protection service in arts. 6, 6 *bis*, 7 and 8;
  - b) the distribution, measurement and related marketing tariffs, including charges, as defined by the Authority pursuant to the RTDG;
  - c) the  $INA_{UI}$  fee, referred to in letter b) of point i. above, in the cases provided for therein";

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- d. Art. 33, subparagraphs 33.2 and 33.2a are replaced by the following subparagraphs:
- “33.2 Each FDD (*Servizio di default distribuzione* - Default supplier) shall apply:
- a) the economic conditions defined on the basis of the following formula: SdD (*Servizio di default* - Default service) = C<sub>SdD</sub> + qγ to the final customers referred to in paragraph 30.1(b)(i) where:
    - C<sub>SdD</sub> are: (i) until 31 December 2022, the economic conditions provided for the protection service, (ii) from 1 January 2023, the economic conditions referred to in paragraph 33.2a;
    - q is the percentage share, increasing over time, whose values are indicated in Table 14;
    - γ is the parameter offered by the FDD during competitive procedures for the purpose of awarding the service;
  - b) the economic conditions provided for the service of last resort to the customers referred to in paragraph 30.1(b)(ii).
- 33.2bis The conditions referred to in sub-paragraph 33.2 are defined:
- i) for the period 1 October 2021 to 31 December 2022 taking into account the level of the QVD component applied to final customers other than domestic customers referred to in paragraph 2.3(a);
  - ii) for the period 1 January 2023 to 30 September 2023 including:
    - a) the unitary components referred to in subparagraphs (a), (b), (c) and (d) of paragraph 5.1, defined by the Authority by 31 December 2022 in continuity with the provisions for the protection service in arts. 6, 6a, 7 and 8;
    - b) distribution, metering and related marketing tariffs, including charges, as defined by the Authority pursuant to the RTDG.”;
- e) in Article 39, paragraph 39.3, the words “Resolution 283/2020/R/gas” shall be replaced by the words “Resolution 290/2021/R/gas”.
3. the following provisions relating to the service of last resort for customers connected to the transmission network:
- 3.1 In cases where a final customer referred to in paragraph 30.1(a), of the TIVG is connected to a transmission network, the request for activation of the service of last resort supply shall be submitted, in the manner provided for in this article:
- a) by the transmission company to the FUI in the cases referred to in paragraph 31.2(a), (b) and (c) of the TIVG;
  - b) by the final customer to the FUI in the cases referred to in paragraph 31.2(d) of the TIVG.

3.2 In order to make the activation of the service of last resort effective from the first day of the month following the month in which the request was submitted, the activation request referred to in paragraph 3.1 must

- a. be received by the FUI by the eighth working day of each month following day 10 or, in the cases referred to in paragraph 31.5 of the TIVG, by the day of receipt of the notice referred to in the same paragraph by the FUI;
- b. contain, the data referred to in paragraph 8.1 of Annex B to Resolution 77/2018/R/com;
- c. take place by way of certified e-mail or through a communication channel that provides appropriate electronic documentation certifying the sending and delivery and using electronic formats recognized by the most popular data processing software and that allow the immediate usability of the transferred data.

3.3 By the 10th (ten) day of the month in which the request for activation referred to in paragraph 3.1(a) is submitted, the operator who has previously supplied the end customer for whom the request for activation of the service is submitted is obliged to communicate to the transportation company that is to formulate the request for activation of the service, the following data, with reference to the redelivery points connected to the transportation network

- a) the information referred to in paragraph 13.3 (a4) to (a11), of Resolution 138/04;
- b) the maximum daily contractual withdrawal, if any
- c) the code of the redelivery point on the transmission network
- d) the measurement pressure, if different from that corresponding to the low pressure
- e) the presence of a volume converter;
- f) the volume correction coefficient, if any, in case of absence of a volume converter;
- g) the declaration attesting to the absence of requests for suspension due to arrears for the redelivery points attributable to the customers referred to in paragraph 30.1 (a1) of the TIVG.

3.4 For the purposes of the procedures for taking over the transportation capacities from the FUI, the same provisions set out in art. 31 of the TIVG shall apply, where applicable.

4. The activation of the SULs (*Servizi di Ultima Istanza* - Service of last resort) identified through public procedures as of 1 October 2021.

4.1 In order to guarantee the seamless supply as from 1 October 2021 to customers who were previously supplied within the ambit of services of last resort, as well as the activation of the services for the month of October 2021, the SII (Sistema Informativo Integrato - Integrated Information System) shall notify:

## RESOLUTIONS

- a. by the end of the working day following the publication of the FUI rankings referred to in paragraph 6.6 and the FDD rankings referred to in paragraph 10.5 of Annex A to this Resolution, to the distribution companies, the list of redelivery points supplied:
    - i. by the FUI, in the month of September 2021 for which one of the cases of Cessation of the last resort supply service referred to in article 31ter of the TIVG has not occurred, with effect from 1 October 2021;
    - ii. by FDD, in September 2021 for which one of the events of Termination of Service of Last Resort referred to in art. 35 of the TIVG has not occurred, with effect from 1 October 2021;
  - b. by 24 September 2021 to:
    - i. the new FUIs awarded the service from 1 October 2021, the data referred to in paragraph 8.1 of Annex B of Resolution 77/2018/R/com, for each withdrawal area, with reference to:
      1. each redelivery point supplied in the month of the communication for which one of the cases of Cessation of the last resort supply service referred to in art. 31ter of the TIVG has not occurred, with effect from 1 October 2021, with separate evidence, for each point, of the date of activation of the last resort supply for the purposes of calculating the conditions referred to in paragraph 31bis.3, of the applicable TIVG;
      2. the redelivery points for which the service of last resort supply will be activated as of 1 October 2021 pursuant to art. 7 of Annex B of Resolution 77/2018/R/com;
    - ii. the new FDDs awarded the service from 1 October 2021, the data referred to in paragraph 8.1 of Annex B of Resolution 77/2018/R/com with reference to:
      1. each redelivery point supplied in the month of the communication for which one of the cases of Termination of Default Service referred to in art. 35 of the TIVG has not occurred, with effect from 1 October 2021, with separate evidence, for each point, of the date of activation of the default service and any application of the INAU fee for the purposes of calculating the applicable economic conditions;
      2. the redelivery points for which the default service will be activated as of 1 October 2021 pursuant to art. 7 of Annex B of Resolution 77/2018/R/com;
    - iii. to distribution companies, the same information as in points i., 2) and ii., 2) above.
- 4.2 The incoming FUIs and FDDs selected for the provision of services of last resort from 1 October 2021 shall apply respectively:

## RESOLUTIONS

- a. the conditions referred to in subsection 31a.3 of the TIVG taking into account, for the calculation of the first period of provision referred to in that subsection, the information referred to in subsection 4.1(b)(i).(1);
  - b. the conditions set out in Paragraph 33.2 of the TIVG taking into account the information referred to in Paragraph 4.1(b)(ii)(1).4.3
- 4.3 By the working day following the publication of the rankings referred to in paragraph 6.6 of Annex A to this Resolution, the outgoing FUIs responsible for the provision of the service until 30 September 2021 shall communicate to the transportation company the list of redelivery points served on the transportation network as FUIs in September 2021 for which one of the cases of Cessation of the service of last resort referred to in article 31 *ter* of the TIVG has not occurred, with effect from 1 October 2021.
- 4.4 By 30 September 2021, the transmission company shall communicate, by means of certified e-mail and by way of derogation from the network code, to the new awardees responsible for the provision of the service of last resort from 1 October 2021 the information referred to in paragraph 3.2, letter b. in the manner referred to in paragraph 3.2, letter c., with reference to the redelivery points referred to in paragraph 30.,1 letter a) of the TIVG on the transmission network for which:
- a. one of the cases of Cessation of the service of last resort supply referred to in art. 31 *ter* of the TIVG has not occurred, with effect from 1 October 2021, with separate evidence, for each point, of the date of activation of the last resort supply for the purposes of calculating the conditions referred to in paragraph 31 *bis*.3 of the applicable TIVG
  - b. the requirements for the activation of the FUI are met as from 1 October 2021.
- 4.5 Where the public procedures referred to in paragraph 30.3(a) of the TIVG do not identify a FUI, for one or more withdrawal areas, the notices provided for in this article in favour of the newly awarded FUIs shall be addressed to the newly awarded FDD in the corresponding withdrawal areas.

### 1.4

#### **Determination of premiums and penalties relating to safety recovery of the natural gas distribution service for the year 2017 for a distribution company**

#### ***Resolution of 13 July 2021 – 302/2021/R/gas***

The Resolution sets out the premiums and penalties, for the year 2017, relating to the safety recoveries

## RESOLUTIONS

of the natural gas distribution service for a company suspended by Resolution 567/2020/R/gas of 22 December 2020.

ARERA determined the premiums for the year 2017, as set out in Tables 2 and 3 attached to the Resolution, forming an integral part thereof, and which can be consulted on the Authority's website, and to instruct the *Cassa per i Servizi Energetici e Ambientali* (Energy and Environmental Services Fund) to pay from the Gas Service Quality Account, the premiums set out in Table 4 attached to this Resolution, by the end of the month following the month in which the Resolution was published.

### 1.5

#### **Approval of the proposed amendment to the regasification code prepared by GNL Italia S.p.A.**

##### ***Resolution of 20 July 2021 – 313/2021/R/gas***

This Resolution approves the proposal to update the regasification code of GNL Italia, which implements the provisions concerning the extension of the capacity offering period for multi-year periods, the rules on the release of capacity and the application of the “use it or lose it” (UIOLI) rules set out in the TIRG.

ARERA approved, to the extent of its powers, the proposal to update the regasification code submitted by GNL Italia, in the version transmitted in a communication dated 14 June 2021 and attached to the Resolution under Annex A, the text of which can be consulted on the Authority's website.

### 1.6

#### **Determination of the reference tariffs for gas distribution and metering services for the distribution company 1615-Sidigas S.p.A., for the locality 10194-Flumeri Area Industriale, years 2014 and 2015, and for the locality 10426-Montefredane loc. Arcella, year 2017**

##### ***Resolution of 27 July 2021 – 320/2021/R/gas***

The Resolution conclusively determines the reference tariffs for the years 2014, 2015 and 2017 for two locations of the company SIDIGAS SPA belatedly surveyed in the territorial registry, as shown in Tables 1 to 3 attached to and forming part of the Resolution.



## 1.7

**Update, for the month of August 2021, of the economic conditions for the supply of gas other than natural gas, following the change in the element covering raw material supply costs**

***Resolution of 27 July 2021 – 322/2021/R/gas***

This Resolution provides an update for the month of August 2021, of the economic conditions for the supply of gas other than natural gas, as a result of the variation in the costs of raw materials.

The Authority has fixed, for the month of August 2021, the value of the QEPROPMC element, referred to in Art. 23 TIVG to 10.024392 euro/GJ, which corresponds to 1.003141 euro/m<sup>3</sup> for LPG supplies with a reference calorific value of 0.100070 GJ/m<sup>3</sup> (0.050240 GJ/kg).

## 1.8

**Provisions on annual capacity booking at entry points of the national transmission network interconnected with foreign countries, other than points interconnected with EU countries and Switzerland**

***Resolution of 27 July 2021 – 324/2021/R/gas***

This Resolution updates the annual capacity booking procedures for points interconnected with foreign countries, other than points interconnected with countries belonging to the European Union and with Switzerland, i.e. Mazara del Vallo and Gela.

ARERA has decided to

1. update the procedures for allocating annual capacity for points interconnected with foreign countries, other than points interconnected with countries belonging to the European Union and with Switzerland;
2. therefore amend art. 9bis.2 of Resolution 137/02 as follows:
  - the words “of the European Commission No 984/2013 of 14 October 2013” shall be replaced with “(EU) 2017/459 of the Commission of 16 March 2017 repealing Regulation 984/2013”;
  - after the full stop “.” the following words shall be added “For the Mazara del Vallo and Gela points only, the transmission company shall allocate the existing capacity available for the annual type continuous transport service, even if the thermal year has started, according to the temporal order of requests through methods and criteria detailed in the network code.”
3. in order to define a complete regulatory framework on annual capacity booking before the start of the Thermal Year 2021/2022, instruct the major transmission company to submit to the Authority a proposed update to its network code that incorporates, in the terms set out in the explanatory memorandum, the provisions of this Resolution by 15 September 2021. Such proposal is to be made available for consultation by users for a period of no less than 10 working days.

## 1.9

### **Determination of business revenues for storage service for the year 2022**

#### ***Resolution of 3 August 2021 – 346/2021/R/gas***

This Resolution approves the revenue proposals of storage service for the year 2022, submitted by Ital Gas Storage S.p.A. (IGS) and Stogit S.p.A. (Stogit) pursuant to the RTSG (*Regolazione Tariffaria per il Servizio di Stoccaggio del Gas Naturale* - Regulation of tariffs for natural gas storage services).

ARERA resolved to:

1. approve the revenue proposals of storage service for the year 2022 submitted by Ital Gas Storage S.p.A. and Stogit S.p.A. as well as the RS reference revenues as shown in Table 1 attached to the Resolution;
2. issue to the Energy and Environmental Services Fund and to the storage companies, pursuant to art. 14 of the RTSG 5PRS, the authorisation for the disbursement of the amounts due for the revenue coverage factor or the payment of any amounts due for 2020;
3. instruct the Director of the Infrastructure Unbundling and Certification Department to study the efficiency, effectiveness and usefulness of the investments in the development of storage capacity and services as planned by Stogit S.p.A.

## 1.10

### **Initiation of proceedings for the intra-period review of efficiency recovery levels of natural gas storage companies for the fifth regulatory period 2020-2025**

#### ***Resolution of 3 August 2021 – 347/2021/R/gas***

The procedure to revise the criteria for determining the X-factor for the natural gas storage service, required for the purposes of tariff updates for the years 2023-2025, was initiated by this Resolution.

## 1.11

### **Provisions on reference tariffs for gas distribution and metering services, for the years 2018 to 2021**

#### ***Resolution of 3 August 2021 – 350/2021/R/gas***

This Resolution approves the definitive reference tariffs for gas distribution and metering services for the years 2018-2020 and the provisional reference tariffs for the year 2021, taking into account the requests for tariff redetermination submitted by 25 distribution companies.

## 1.12

**Approval of Terminale GNL Adriatico S.r.l.'s proposed amendment to its regasification code containing provisions on access to the regasification service for that share of capacity not subject to exemption**  
***Resolution of 3 August 2021 – 355/2021/R/gas***

Under this Resolution, the proposal to update the regasification code of the company Terminale GNL Adriatico was approved. The changes include the procedure for allocating non-exempt capacity, pursuant to the Decree of 8 July 2021, and the implementation of Resolutions 576/2020/R/gas and 190/2021/R/gas containing provisions relating to the regulation of capacity release and the application of the so-called “use it or lose it” clause.

## 1.13

**Update, for the month of September 2021, of the economic conditions for the supply of gas other than natural gas, following the change in the element covering raw material supply costs**  
***Resolution of 30 August 2021 – 367/2021/R/gas***

This Resolution provides an update for the month of September 2021, of the economic conditions for the supply of gas other than natural gas, as a result of the variation in the costs of raw materials.

The Authority has fixed, for the month of September 2021, the value of the QEPROPMC element, referred to in Art. 23 TIVG to 10.617094 euro/GJ, which corresponds to 1.062453 euro/m<sup>3</sup> for LPG supplies with a reference calorific value of 0.100070 GJ/m<sup>3</sup> (0.050240 GJ/kg).

## 1.14

**Approval of three inspections of natural gas distribution companies, relating to safety recovery, with reference to 2019**  
***Resolution of 14 September 2021 – 377/2021/E/gas***

This Resolution concerns the approval of the programme of inspections of natural gas distribution companies, relating to safety recovery, with reference to data for the year 2019.

ARERA decided to

1. approve 3 (three) inspections of 3 natural gas distribution companies in the area of safety recovery, to be carried out by 31 March 2022, in accordance with the procedures set out in the document “Inspections of natural gas distribution companies, relating to safety recovery, with reference to data for the year 2019: purpose and procedures” attached to and forming part of the Resolution (Annex A);

## RESOLUTIONS

2. provide that the individual inspections, as referred to in point 1, shall be carried out jointly or severally, by staff of the Authority and military personnel of the Special Goods and Services Unit of the *Guardia di Finanza* within the framework of the Memorandum of Understanding, with prior notice of at least three days being given to the operator concerned. The notice is to indicate the date and time at which the inspection is to be carried out.

### 1.15

**Update, for the month of October 2021, of the economic conditions for the supply of gas other than natural gas, following the change in the element covering raw material supply costs**

***Resolution of 28 September 2021 – 397/2021/R/gas***

This Resolution provides an update for the month of October 2021, of the economic conditions for the supply of gas other than natural gas, as a result of the variation in the costs of raw materials.

The Authority has fixed, for the month of October 2021, the value of the QEPROPMC element, referred to in Art. 23 TIVG to 10.874791 euro/GJ, which corresponds to 1.088240 euro/m<sup>3</sup> for LPG supplies with a reference calorific value of 0.100070 GJ/m<sup>3</sup> (0.050240 GJ/kg).

### 1.16

**Updates to the economic conditions for the supply of natural gas under consumer protection legislation relative to the fourth quarter 2022. Changes to the TIVG**

***Resolution of 28 September 2021 – 401/2021/R/gas***

This Resolution updates, for the third quarter 2021, the economic conditions for the supply of natural gas under consumer protection legislation and amends the TIVG.

ARERA:

1. updated the component relating to the costs of natural gas supply on wholesale markets by providing the values of the  $P_{FOR,t}$  element and the  $C_{MEM,t}$  component, as per art. 6 TIVG, for the quarter 1 October - 31 December 2020. These are set out in Table 1 attached to the Resolution.
2. provided that, with effect from 1 October 2021, Table 5 of the TIVG is to be replaced by the following Table

**Table no. 5 Elemento QTt**

Application period	euro/GJ
From 1 January 2021 to 31 March 2021	1.108410
From 1 April 2021 30 September 2021	1.086756
From 1 October	1.418777

3. Provisions relative to the UG3 and UG3T components  
 With effect from 1 October 2021, the values of the elements of the mandatory tariff component for distribution and metering services UG3, referred to in paragraph 42.3(h) of RTDG, are set out in Table 2 attached to this Resolution.  
 As of 1 October 2021, the value of the additional transport tariff component UG3T, referred to in paragraph 36.1(e) of RTTG, is set out in Table 3, annexed attached to this Resolution.

## 1.17

### **Approval of a proposal to update the Network Code of Snam Rete Gas S.p.A. vis-à-vis annual capacity allocations at entry points of the national transportation network interconnected with foreign countries, other than interconnection points with EU countries and with Switzerland**

#### ***Resolution of 30 September 2021 – 408/2021/R/gas***

This Resolution approves a proposal to update the Network Code of Snam Rete Gas S.p.A. vis-à-vis annual capacity allocations at entry points of the national transportation network interconnected with foreign countries, other than interconnection points with EU countries and Switzerland.

ARERA approved, to the extent of its powers, the proposal to update the Network Code, sent by Snam Rete Gas S.p.A. by communication of 23 September 2021, attached to the Resolution (Annex A). It also decided to instruct the major transportation company to define and publish on the latter's website the procedures to make the allocation mechanism under this Resolution effective as of 1 October 2021. For this purpose it was decided that any daily capacity allocations relating to the month of October 2021 for which there was no excess demand shall be valued at the annual tariff, provided that it is within the limits of the annual capacity quota subscribed in the first time-window for the allocation request on a FCFS basis.

## 1.18

### **Provisions concerning the regulation of the default transport service with regard to regional transport networks**

#### ***Resolution of 30 September 2021 – 409/2021/R/gas***

This Resolution defines the rules relating to the provision of the default transport service on regional networks following the failure of the competitive procedures to identify transitional providers.

ARERA has resolved

1. to establish, with reference to the balancing service and in relation to gas withdrawals on the regional transmission networks, that if for a given thermal year, the largest transmission company has decided to continue with the direct supply of the SdDT (Servizio di default trasporto - Default transport service), without identifying the FTT (Fornitori transitori del servizio di default sulle reti di trasporto - Transitional providers of the default service on transport networks):
  - a. that company, together with the communication required by its Network Code (Chapter 5, paragraph 10.2), expresses its willingness to perform the service of balancing user in relation to gas withdrawals on the regional transmission networks if the UdB (Utente di Bilanciamento - User of the Balancing service) responsible for such withdrawals cannot be identified according to the conditions set out in letter c. below;
  - b. in this case, each regional transportation company may communicate to Snam Rete Gas, within the deadlines defined by Snam Rete Gas, in any case not less than 2 (two) working days from the publication referred to in letter a. above, its willingness to use, with reference to the redelivery points connected to its transportation network, the availability of Snam Rete Gas to perform the service of balancing manager in relation to gas withdrawals on the regional transportation networks;
  - c. the regulation provided for the FTT, referred to in Section 5 of Resolution 249/2012/R/gas, applies to the service provided by Snam Rete Gas pursuant to letter a., with the exception of:
    - i. the economic conditions applicable to customers;
    - ii. the mechanism for covering the risk of non-payment, for which the regulation provided for the SdDT in Sections 2, 3 and 4 of Resolution 249/2012/R/gas applies;
2. to provide that, for the 2021-2022 thermal year, Snam Rete Gas shall publish the availability referred to in point 1(a) within 2 (two) days of the issue of this Resolution.

## CUSTOMS NEWSLETTER | JULY - SEPTEMBER 2021

LEGISLATION, MINISTERIAL GUIDANCE AND CASE LAW AT 30 SEPTEMBER 2021.  
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](mailto:UFFICIOSTUDI@STUDIOPIROLA.COM)