

## REGULATORY FRAMEWORK

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## 1) REGULATION OF THE GAS MARKET IN EUROPE

The legislative framework concerning LNG regasification was introduced at Community and national level with the implementation of Directive 98/30/EC of the European Parliament and the Council of 22 June 1998 (the "Gas Directive"), that set common rules for the internal natural gas market.

This Directive initiated the gradual liberalisation of the sector with the aim of creating a single European market for natural gas while ensuring a level playing field and the non-discriminatory treatment of system operators.

In June 2003, the European Parliament and the Council adopted Directive 03/55/EC (the "Second Gas Directive"), which also established common rules for the internal natural gas market, repealing the previous Directive 98/30/EC.

## 2) REGULATION OF THE GAS MARKET IN ITALY

The Gas Directive was implemented in Italy with Law No. 144 of 17 May 1999 ("Enabling Law") and Legislative Decree No. 164 of 23 May 2000 ("Letta Decree") on common rules for the internal natural gas market, pursuant to the aforementioned Law No. 144 of 17 May 1999.

The second Gas Directive, subsequently repealed by Directive 2009/73/EC ("Third Gas Directive") was transposed in the Italian legislation by Legislative Decree No. 93/11.

Such Legislative Decree set rules that define the methods and timelines for the liberalisation process outlined in that Gas Directive, identifying and defining the roles of the several links of the natural gas "chain", such as import, extraction, export, transport and dispatching, storage, regasification, distribution and sale.

Concerning regasification, the Legislative Decree also identified:

- the LNG plant;
- the regulations for importing LNG;
- the requirement for those responsible for LNG terminals - following the relevant Resolution of the Authority - to prepare a regasification code governing access to the regasification terminals (Article 24(5)).

In 2004, the Bill for the "Reform and Reorganisation of the Energy Sector" ("Marzano Decree") was approved. The Decree became law on 23 August 2004 (Law No. 239, entitled "Reform of the energy sector delegating powers to the Government for the reorganisation of the existing energy-related provisions"). These regulations apply to all areas related to energy, reorganising the entire sector.

### 3) RESOLUTIONS OF THE AUTHORITY FOR DRAWING UP THE REGASIFICATION CODE

#### 3.1) Resolution No. 120/01

Pending the establishment of a regulatory framework (which would include the above regasification codes), in Articles 14 and 15, sections 12 and 13 of Resolution No. 120/01 the Authority defined the transitional and partial regulation of the conditions for access to and provision of the service. The timeframe such regulation was in force, initially only for Thermal Year 2001 - 2002, was subsequently extended by the Regulatory Authority to Thermal Years 2002 - 2003 (Article 23 of Resolution No. 137/02), 2003 - 2004 (Resolution No. 113/03) and 2004 - 2005 (Resolution No. 141/04).

#### 3.2) New LNG terminals

Law No. 239/04 introduced the right, for parties that invest directly or indirectly in the construction of new regasification terminals, to request an exemption from the rules and regulations whereby the Ministry for Trade and Industry (now Ministry of Economic Development) grants access to third parties, for the new capacity, on a case by case basis, after receiving the Authority's opinion. This exemption, which also applies to major upgrades of existing infrastructure, is granted for at least 20 years and for a share of at least 80% of the new capacity.

With the decree published on 11 April 2006, the Ministry for Trade and Industry (now the Ministry of Economic Development) established the procedures for granting exemptions from the rules and regulations that provide the right of access to third parties.

In the decree published on 28 April 2006, the Ministry issued a policy that defines the methods used to access the National Network following the granting of the exemption and the criteria used to allocate the capacity that is not subject to exemption.

In Resolution No. 168/06, the Authority adopted urgent measures for the definition and allocation of transport capacity at Entry Points to the National Network, interconnected with the infrastructure for which an exemption has been granted.

#### 3.3) The Consultation Document of 14 July 2004

With the Consultation Document of 14 July 2004, the Regulatory Authority initiated a consultation process with interested parties on access to the LNG regasification service and the preparation of regasification codes, to define the measures set out in Article 24(5), of Legislative Decree No. 164/00.

#### 3.4) Resolution No. 167/05

With Resolution No. 167/05, the Authority defined the system of guarantees for access to the liquefied natural gas regasification service and the standards for the preparation of the regasification codes.

### 3.5) Resolution No. 178/05

With Resolution No. 178/05, the Authority defined the criteria to determine allowed revenues and rates relating to liquid natural gas regasification.

## 4) THE REGULATORY ENVIRONMENT

Below is a list of key documents that form the regulatory framework as concerns the preparation of the Regasification Code:

- Law No. 481 of 14 November 1995 - Rules for competition in and regulation of public utility services. Establishment of the regulatory authorities of public utility services;
- Directive No. 98/30/EC of the European Parliament and of the Council of 22 June 1998 concerning common rules for the internal natural gas market;
- Law No. 144 of 17 May 1999 - Investment measures, delegation to the Government to reform employment incentives and the regulations governing INAIL, as well as the provisions for the reform of social security institutions (Article 41);
- Legislative Decree No. 164 of 23 May 2000 implementing Directive No. 30/98/EC on common rules for the internal natural gas market, in accordance with Article 41 of Law No. 144 of 17 May 1999;
- Ministerial Decree of 27 March 2001 - Definition of criteria for granting authorisations to import natural gas produced in non-EU member states, under Article 3 of Legislative Decree No. 164 of 23 May 2000;
- Resolution No. 120/01 - Criteria for determining rates for natural gas transport and dispatch and for the use of LNG terminals;
- Resolution No. 193/01 - Provisions with regard to tariffs for natural gas transport and dispatch and for the use of LNG terminals, implementing the Authority's Resolution No. 120/01 of 30 May 2001;
- Resolution No. 91/02 - Regulations governing the right of allocation under Article 27(2), of Law No. 273 of 12 December 2002, for the construction of new liquefied natural gas terminals and the expansion of existing terminals;
- Resolution No. 137/02 - Adoption of guarantees for free access to the liquefied natural gas transport service and rules for the preparation of the Network Codes;
- Resolution No. 146/02 - Provisions on tariffs for natural gas transport and dispatch, implementing the Authority's Resolution No. 120/01 of 30 May 2001;
- Law No. 273 of 12 December 2002 - Measures to promote private initiatives and the development of competition;
- Resolution No. 90/03 - Amendment of the Authority's Resolution of 15 May 2002 No. 91/02 implementing Article 27(2), of Law No. 273 of 12 December 2002;
- Resolution No. 113/03 - Extension of the period set out in Articles 14 and 15(12 and 13), of the Authority's Resolution No. 120/01 of 30 May 2001 on LNG regasification;
- Resolution No. 119/03 - Transitional provisions on access to the natural gas transportation service at the entry point to the national gas pipeline network interconnected with the LNG Terminal located in Panigaglia (La Spezia);

- Resolution No. 120/04 - Adoption of a measure under Article 2(20)(D) of Law No. 481 of 14 November 1995 with regard to GNL Italia SpA and the initiation of a formal investigation on that company with the aim of adopting a measure under Article 2(20)(C) of Law No. 481 of 14 November 1995;
- Resolution No. 141/04 - Extension of the period set out in Articles 14 and 15(12 and 13) of the Authority's Resolution No. 120/01 of 30 May 2001 on LNG regasification;
- Resolution No. 142/04 - Extension of the period set out in point 1 of the Authority's Resolution No. 119/03 of 22 October 2003 on access to the natural gas transportation service at the entry point to the national gas pipeline network interconnected with the LNG terminal located in Panigaglia (La Spezia);
- Law No. 239 of 23 August 2004 - Reorganisation of the energy sector and authorisation for the Government to recast existing energy-related measures (in particular Article 1(17, 18 and 20));
- Resolution No. 184/04 - Approval of the general access and supply conditions to the LNG regasification service offered by GNL Italia S.p.A;
- Resolution No. 186/04 - Correction of a material error in the Authority's Resolution No. 184/04 of 20 October 2004;
- Resolution No. 204/04 - Commencement of a preliminary investigation on the management and use of the LNG regasification terminal located at Panigaglia (SP) and on the supply of LNG to the domestic gas market;
- Resolution No. 2/05 - Application of a penalty on GNL Italia SpA, under Article 2(20)(c) of Law No. 481 of 14 November 1995;
- Resolution No. 52/05 - Start of proceedings to prepare measures on rates for the use of LNG terminals for the second regulatory period;
- Resolution No. 134/05 - Extension of the period set out in point 1 of the Authority's Resolution No. 119/03 of 22 October 2003 on access to the natural gas transport service at the entry point to the national gas pipeline network interconnected with the LNG terminal located in Panigaglia (La Spezia);
- Resolution No. 167/05 - Adoption of guarantees for free access to the liquefied natural gas regasification service and rules for the preparation of the regasification codes;
- Resolution No. 178/05 - Criteria for determining the rates for the regasification service;
- Resolution No. 185/05 - General provisions on natural gas quality under Article 2(12)(g and h) of Law No. 481 of 14 November 1995;
- Resolution No. 197/05 - Determination of regasification service rates for the Thermal Year 2005 - 2006 for GNL Italia SpA, implementing the Authority's Resolution No. 178/05 of 4 August 2005;
- Decree of the Minister for Trade and Industry of 12 December 2005 - Update of environmental emergency procedures;
- Decree of the Minister for Trade and Industry of 11 April 2006 - Procedures for granting exemptions from third party access rights to new interconnections with European natural gas transportation networks and to new regasification terminals, and the expansion of existing terminals, as well as procedures to acknowledge priority allocation of new transport capacity created in Italy in relation to new interconnection infrastructures with non-European Union States;

- Decree of the Minister for Trade and Industry of 28 April 2006 – Methods to access the national gas pipeline network, following the granting of an exemption from third parties access rights to new interconnections with European natural gas transportation networks, to new regasification terminals and the expansion of existing terminals, and for the acknowledgement of priority allocation, as well as criteria according to which the Authority shall determine the procedures for allocating the residual share of capacity which is not subject to exemption or priority allocation;
- Resolution No. 168/06 – Urgent provisions for the definition and assignment of transport capacity at entry points to the national gas pipeline network interconnected with infrastructure which has been granted an exemption, and for the allocation of the residual capacity, pursuant to the Decree of the Minister for Trade and Industry of 28 April 2006;
- Decree of the Ministry for Economic Development of 18 December 2006 – 2006 Update of the "Emergency procedure in the event of adverse environmental conditions".
- Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal natural gas market, repealing Directive 2003/55/EC
- Regulation (EC) No. 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transport networks and repealing Regulation (EC) No. 1775/2005
- Legislative Decree No. 193 of 1 June 2011 – Common rules for the internal market in electricity, of natural gas and Community procedure to improve the transparency of prices to the final consumer of industrial gas and electricity
- Resolution No. 297/2012/R/gas – Provisions relating to the access to the natural gas transportation service at entry and exit points of the transport network interconnected with storage facilities or regasification terminals
- Decree of 25 February 2016 of the Minister of Economic Development – outlines the integrated storage and regasification service, designed to authorise industrial customers to procure LNG directly from abroad, implementing Article 14 of Decree-Law No. 1/2012.
- Resolution 312/2016/R/gas approves the Consolidated Balancing Text (TIB) implementing EU Regulation 312/2014
- Resolution 660/2017/R/gas – Reform of the regulation regarding the LNG regasification capacity allocation on the basis of market mechanisms (auctions)
- Annex A to Resolution 660/2017/R/gas – Consolidated regulation on the adoption of guarantees for free access to the liquefied natural gas regasification service (TIRG).