

Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (Text with EEA relevance)

CHAPTER I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject matter and scope

1 This Directive establishes common rules for the transmission, distribution, supply and storage of natural gas. It lays down the rules relating to the organisation and functioning of the natural gas sector, access to the market, the criteria and procedures applicable to the granting of authorisations for transmission, distribution, supply and storage of natural gas and the operation of systems.

2 The rules established by this Directive for natural gas, including LNG, shall also apply in a non-discriminatory way to biogas and gas from biomass or other types of gas in so far as such gases can technically and safely be injected into, and transported through, the natural gas system.

Article 2

Definitions

For the purposes of this Directive, the following definitions apply:

- (1) ‘natural gas undertaking’ means a natural or legal person carrying out at least one of the following functions: production, transmission, distribution, supply, purchase or storage of natural gas, including LNG, which is responsible for the commercial, technical and/or maintenance tasks related to those functions, but shall not include final customers;
- (2) ‘upstream pipeline network’ means any pipeline or network of pipelines operated and/or constructed as part of an oil or gas production project, or used to convey natural gas from one or more such projects to a processing plant or terminal or final coastal landing terminal;
- (3) ‘transmission’ means the transport of natural gas through a network, which mainly contains high-pressure pipelines, other than an upstream pipeline network and other than the part of high-pressure pipelines primarily used in the context of local distribution of natural gas, with a view to its delivery to customers, but not including supply;
- (4) ‘transmission system operator’ means a natural or legal person who carries out the function of transmission and is responsible for operating, ensuring the maintenance of, and, if necessary, developing the transmission system in a given area and, where applicable, its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the transport of gas;

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- (5) ‘distribution’ means the transport of natural gas through local or regional pipeline networks with a view to its delivery to customers, but not including supply;
- (6) ‘distribution system operator’ means a natural or legal person who carries out the function of distribution and is responsible for operating, ensuring the maintenance of, and, if necessary, developing the distribution system in a given area and, where applicable, its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the distribution of gas;
- (7) ‘supply’ means the sale, including resale, of natural gas, including LNG, to customers;
- (8) ‘supply undertaking’ means any natural or legal person who carries out the function of supply;
- (9) ‘storage facility’ means a facility used for the stocking of natural gas and owned and/or operated by a natural gas undertaking, including the part of LNG facilities used for storage but excluding the portion used for production operations, and excluding facilities reserved exclusively for transmission system operators in carrying out their functions;
- (10) ‘storage system operator’ means a natural or legal person who carries out the function of storage and is responsible for operating a storage facility;
- (11) ‘LNG facility’ means a terminal which is used for the liquefaction of natural gas or the importation, offloading, and re-gasification of LNG, and includes ancillary services and temporary storage necessary for the re-gasification process and subsequent delivery to the transmission system, but does not include any part of LNG terminals used for storage;
- (12) ‘LNG system operator’ means a natural or legal person who carries out the function of liquefaction of natural gas, or the importation, offloading, and re-gasification of LNG and is responsible for operating a LNG facility;
- (13) ‘system’ means any transmission networks, distribution networks, LNG facilities and/or storage facilities owned and/or operated by a natural gas undertaking, including linepack and its facilities supplying ancillary services and those of related undertakings necessary for providing access to transmission, distribution and LNG;
- (14) ‘ancillary services’ means all services necessary for access to and the operation of transmission networks, distribution networks, LNG facilities, and/or storage facilities, including load balancing, blending and injection of inert gases, but not including facilities reserved exclusively for transmission system operators carrying out their functions;
- (15) ‘linepack’ means the storage of gas by compression in gas transmission and distribution systems, but not including facilities reserved for transmission system operators carrying out their functions;
- (16) ‘interconnected system’ means a number of systems which are linked with each other;
- (17) [^{F1}‘interconnector’ means a transmission line which crosses or spans a border between Member States for the purpose of connecting the national transmission system of those Member States or a transmission line between a Member State and a third country up to the territory of the Member States or the territorial sea of that Member State;]
- (18) ‘direct line’ means a natural gas pipeline complementary to the interconnected system;

- (19) ‘integrated natural gas undertaking’ means a vertically or horizontally integrated undertaking;
- (20) ‘vertically integrated undertaking’ means a natural gas undertaking or a group of natural gas undertakings where the same person or the same persons are entitled, directly or indirectly, to exercise control, and where the undertaking or group of undertakings perform at least one of the functions of transmission, distribution, LNG or storage, and at least one of the functions of production or supply of natural gas;
- (21) ‘horizontally integrated undertaking’ means an undertaking performing at least one of the functions of production, transmission, distribution, supply or storage of natural gas, and a non-gas activity;
- (22) ‘related undertaking’ means an affiliated undertaking, within the meaning of Article 41 of Seventh Council Directive 83/349/EEC of 13 June 1983 based on the Article 44(2) (g)⁽¹⁾ of the Treaty on consolidated accounts⁽²⁾ and/or an associated undertaking, within the meaning of Article 33(1) of that Directive, and/or an undertaking which belong to the same shareholders;
- (23) ‘system user’ means a natural or legal person supplying to, or being supplied by, the system;
- (24) ‘customer’ means a wholesale or final customer of natural gas or a natural gas undertaking which purchases natural gas;
- (25) ‘household customer’ means a customer purchasing natural gas for his own household consumption;
- (26) ‘non-household customer’ means a customer purchasing natural gas which is not for his own household use;
- (27) ‘final customer’ means a customer purchasing natural gas for his own use;
- (28) ‘eligible customer’ means a customer who is free to purchase gas from the supplier of his choice, within the meaning of Article 37;
- (29) ‘wholesale customer’ means a natural or legal person other than a transmission system operator or distribution system operator who purchases natural gas for the purpose of resale inside or outside the system where he is established;
- (30) ‘long-term planning’ means the planning of supply and transport capacity of natural gas undertakings on a long-term basis with a view to meeting the demand for natural gas of the system, diversification of sources and securing supplies to customers;
- (31) ‘emergent market’ means a Member State in which the first commercial supply of its first long-term natural gas supply contract was made not more than 10 years earlier;
- (32) ‘security’ means both security of supply of natural gas and technical safety;
- (33) ‘new infrastructure’ means an infrastructure not completed by 4 August 2003;
- (34) ‘gas supply contract’ means a contract for the supply of natural gas, but does not include a gas derivative;
- (35) ‘gas derivative’ means a financial instrument specified in points 5, 6 or 7 of Section C of Annex I to Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments⁽³⁾, where that instrument relates to natural gas;

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- (36) ‘control’ means any rights, contracts or any other means which, either separately or in combination and having regard to the considerations of fact or law involved, confer the possibility of exercising decisive influence on an undertaking, in particular by:
- (a) ownership or the right to use all or part of the assets of an undertaking;
 - (b) rights or contracts which confer decisive influence on the composition, voting or decisions of the organs of an undertaking.

Textual Amendments

- F1** Substituted by [Directive \(EU\) 2019/692 of the European Parliament and of the Council of 17 April 2019 amending Directive 2009/73/EC concerning common rules for the internal market in natural gas](#) (Text with EEA relevance).

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- (1) The title of Directive 83/349/EEC has been adjusted to take account of the renumbering of the Articles of the Treaty establishing the European Community in accordance with Article 12 of the Treaty of Amsterdam; the original reference was to Article 54(3)(g).
- (2) [OJ L 193, 18.7.1983, p. 1.](#)
- (3) [OJ L 145, 30.4.2004, p. 1.](#)