

Gas primer

a summary of the Gas position across Europe



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Introduction

As gas markets globally react to the current geo-political situation, Europe – traditionally heavily dependent on gas as both a heating fuel and for electricity generation – has responded. Governments across the continent have all taken mitigating measures to guarantee the security of supply for industrial and retail consumers.

The experts at Fieldfisher have taken a look at these different approaches, summarising them here in our first Fieldfisher Gas Primer – an at-a-glance guide to how Europe is approaching the challenge of a coming winter with a shortage of gas.

Our people come from a variety of different legal specialities, and showcase the breadth of expertise and experience we have in the fields of competition and markets, public and regulatory, environment, renewables and sustainability, corporate and energy and natural resources.

About Fieldfisher

Fieldfisher is a European law firm, with market-leading practices in energy, technology, financial services, and life sciences.

Our 1,700 people are spread across 25 offices in 11 countries, delivering seamless advice to clients across time zones and disciplines.

Our specialist lawyers offer a full-service practice with expertise in renewables and conventional power, transition energies including EVs and Hydrogen, mining, oil and gas and energy commodities. We also bring market-leading cross-sector capabilities at the nexus between energy and new technology.

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To find out more about the current gas situation across Europe, please email Christian Ward – christian.ward@fieldfisher.com





Germany is highly dependent on Russian natural gas. Cutbacks and temporary stoppages of supplies threaten the energy supply as despite high storage levels, regional supply gaps are possible due to the high energy consumption of German industry. Fluctuations in the power grid with supply outages are possible if gas-fired power plants go offline.

This is all the more true since Germany has largely abandoned nuclear power. In the event of such a shortage, the third stage of the German gas emergency plan comes into effect (the other two steps, which are mainly political in nature, are already in place).

1. Gas rationing for industrial consumers

Energy rationing in Germany can occur if shortages are predicted. Decisions on which companies will still receive energy, and which will not, are made by the Federal Network Agency ("Bundesnetzagentur") as the highest federal authority. A wide range of measures is possible, from restricting energy supply to cutting it off completely. Only the priority supply to private households and specific critical infrastructure, such as hospitals, is regulated by European law. The remaining energy is distributed by the decision of the Federal Network Agency. In this context, there is currently (as

of October 15 2022) a lack of a legally binding, detailed, and concrete action plan from the Federal Network Agency as to how gas would be distributed among German market participants in the event of a shortage. This situation would pose a strong threat to the existence of affected resident companies.

Since the beginning of October, the Federal Network Agency has been collecting data from companies with high gas consumption on an Internet platform ("Gas Safety Platform") to serve as a basis for decision-making in an emergency.

It may be necessary for companies to defend themselves against rationing measures in court, precisely so they can also later also assert liability and compensation claims against the state. This is done using appeals to the Düsseldorf Higher Regional Court, which has particular jurisdiction and can also be brought by way of summary proceedings, to prevent damage to one's own company as quickly as possible. It may already be advisable to prepare for summary proceedings now, as a flood of complaints against the rulings of the Federal Network Agency is to be expected, and rapid action is therefore required if the worst comes to the worst.

2. Energy policy measures by the German government: Gas price brake, VAT cuts, and skimming off windfall profits

To implement a gas price reduction (called “gas price brake” in German media) for the benefit of consumers and companies, the German government appointed a commission of experts, which presented an interim report for the first time on October 10, 2022, after only 16 days of deliberations. The gas price brake is to be implemented in a two-stage plan, thus relieving the consumer and avoiding company closures and insolvencies.

To ensure financial relief for those affected as quickly as possible, the Commission is proposing a two-stage approach: firstly, a one-off payment is to be made to consumers and small and medium-sized enterprises in December 2022, and secondly, a gas price brake is to take effect from March 1, 2023, to April 30, 2024.

It is also proposed to base the relief on gas consumption per kWh. Large industrial consumers (higher consumption than 1.5 million kWh/a), which have a regulated load profile measurement (RLM), are to be addressed in a separate relief instrument. This affects around 24,000-25,000 companies in Germany. Here, a one-off payment in December is omitted, and the gas price brake will come into effect as early as January 1, 2023. The quota is based on 70% at a procurement price of 7 ct/kWh. As of 15 October 2022, no further details are revealed, as the government is working on the needed legislation.

According to a concept presented on September 4 2022, the German government also plans to skim off so-called “windfall profits” from energy companies through

national levies. These windfall profits are due to the design of the European electricity market (“merit order”). According to this, the price of electricity is based on the most expensive power plant required for current electricity generation - currently gas-fired power plants. This has allowed other electricity producers (e.g., renewables, coal, or nuclear power) to make enormous profits because they had low production costs. The German government, therefore, saw the balance between opportunities and risks, which is vital for a social market economy, at risk. The levies generated from the windfall profits are then, in turn, used to relieve the burden on consumers by introducing an electricity price brake. How this instrument will be designed in detail is currently (as of October 15) open.

3. LNG and hydrogen terminals for Germany

To ease the gas market in the medium and long term, the German government is working flat out to create further alternatives to the Russian gas available - entirely in line with the German government's new hydrogen strategy. Green hydrogen technologies are of paramount importance for the future viability of Germany as an industrial location and in order to achieve greenhouse gas neutrality by 2045.

However, as this process will take some time, Germany is relying on imports of liquefied natural gas (LNG) as a transitional measure.

To this end, floating and land-based LNG terminals will be used at several German locations, which will also be converted to green hydrogen long-term in line with the German government's green hydrogen strategy. The first floating terminals are scheduled to operate before the end of winter 2022/23.

A Fieldfisher team led by Dennis Hillemann is supporting Tree Energy Solutions (TES), which is building a land-based terminal in Wilhelmshaven and will also operate a floating terminal at the turn of the year 2022/23. Since these terminals are also technically already 100 percent geared to the subsequent import of green hydrogen, TES will also make an essential contribution to the public interest in the future.



The global increase in gas prices has had a significant impact on natural gas supply contracts to large industrial consumers that has created a complicated treasury situation, and has forced them to reduce the production they had committed to. This unforeseeable situation has led to an urgent renegotiation of these contracts, and in some cases, the early termination of them.

1. Regulatory measures adopted by the Spanish Government to avoid the contagion effect on the price of electricity.

Additionally, the increase in natural gas prices has, inevitably, produced a knock-on impact on the wholesale price of electricity.

In response, the Spanish Government has approved different measures to mitigate the impact of high energy prices on final consumers. This has included the approval of Royal Decree-Law 10/2022, of May 13, which temporarily establishes a mechanism to adjust production costs in order to reduce of the price of electricity in the wholesale market. This mechanism has entered into force, with authorisation from the EU, on 15 June 2022 and is expected to last until 31 May 2023. This mechanism has been slightly corrected by Royal Decree-Law 17/2022 to include high-efficiency cogeneration facilities after renouncing the specific remuneration regime that they had been receiving in support of this technology by the regulations of the electricity sector.

The value of the adjustment is established as the difference between a reference price of gas, and the effective price of the spot market of natural gas on each day registered in the Iberian Gas Market (MIBGAS). The reference price of the gas established in the mechanism will be variable, starting at a value of €40/MWh during the first six months and increasing in successive monthly steps of €5/MWh until reaching a value of €70/MWh in the last month.

This adjustment mechanism, although it compensates the electricity generation facilities for the costs of natural gas while limiting the impact on the price of the electricity market, temporarily breaks the link between the price of the electricity market and the price of natural gas in those hours in which the marginal price has been marked by an installation of combined cycle (CCGT).

This effect is more pronounced the greater the difference between the spot market price of natural gas and the reference price of gas – a situation we have seen quite frequently in recent weeks. By way of illustration, the average price for delivery the next day (D+1) in the virtual balance point (PVB) – in June and July 2022 stood at €111.64/MWh, creating an average in August of €165.85/MWh, and registering a historic maximum in the MIBGAS market on 29 August 2022 of €240/MWh.

This increase in the price of the spot gas market has had a particular impact on cogeneration facilities (CHP) with the right to receive the specific remuneration regime regulated in Royal Decree 413/2014, of June 6. This regulates the activity of electricity production from renewable energy sources, cogeneration and waste, since the increase in their operating costs is not offset by an increase in the price of the electricity market, as it is not within the scope of application of the previously mentioned adjustment mechanism.

This differential treatment has led to a complaint procedure by the main cogeneration associations before the European Commission, and will lead to the claim before Spanish Government of damages generated during the time the mechanism has been in place (i.e., since June 15, 2022).

This price situation, alongside the implementation of the adjustment mechanism, has meant the production of more than half of the installed cogeneration capacity in Spain ceased in August. This increase in price and subsequent loss of competitiveness has not only negatively affected the most heat-intensive industrial sectors, but, has also meant a loss of global energy efficiency of the economy due to the increase in consumption of natural gas, since the electrical energy and thermal energy that is no longer produced by cogeneration is replaced by other technical solutions – combined cycles and gas boilers – which have an overall energy efficiency lower than that of cogeneration.

This has led to the approval of Royal Decree-Law 17/2022, of September 20, which allows cogeneration facilities to recover their operating costs, recover their usual production levels, reducing the consumption of natural gas and avoiding economic damage to the associated industries and employment.

2. Fiscal measures adopted to mitigate the increase in gas prices.

In addition to the measures mentioned above, a temporary and exceptional reduced rate of VAT (to 5%, the maximum allowed by EU regulation) has been applied to domestic energy supply, with special emphasis on vulnerable consumers and those in receipt of the social bonus. This will be in place until 31 December 2022.

In the same way, the VAT on natural gas supplies has been reduced to 5%. This reduction applies to all components of the gas bill.

3. Plan +SE

Finally, by Royal Decree-Law 18/2022, of 18 October, measures have been approved to reinforce the protection of domestic consumers in development of the "Plan + Security for your energy (+SE)". Basically, conditions of duration, resolution, penalties are established in gas supply contracts between a consumer and a trading company in the liberalized market.

The application of flexibility measures for supply contracts with industrial consumers is also extended until December 31, 2023, with the possibility of modifying the contracted daily flow at the exit or tanker loading points, with a maximum of three modifications during the period; the inclusion in a toll scale applied at the exit points that corresponds to a lower annual consumption and the ability to request the temporary suspension of the supply contract.



The Netherlands

Louis Bouchez

Partner, Amsterdam

+31 20 2252211

louis.bouchez@fieldfisher.com



Frans-Jozef Crousen

Partner, Amsterdam

+31 20 225 2212

frans-jozef.crousen@fieldfisher.com



Natural gas consumption in the Netherlands was 25% down in the first six months of 2022 compared to the first six months of 2021.

In particular, manufacturing and power plants used less natural gas. Moreover, the Netherlands imported 3% more and exported 20% less natural gas in the first half of 2022. The import of liquefied natural gas (LNG) increased by 57%. In addition, dependency of the Netherlands on Russian gas has halved from 16% to 8% in the first half year of 2022.

In order to tackle the international gas crisis, the Dutch government had two main objectives: to increase the gas storage capacity as much as possible, and substantially increase of the LNG import capacity, achieving both goals in the first week of September.

1. Storage

The Dutch government is making every effort to ensure that gas storage facilities are filled as much as possible. This is important for the security of supply during the coming winter, with a view to a possible further restriction or complete termination of the supply of Russian gas to Northwest Europe. According to the gas supply security update of early September 2022, the Dutch gas storages

are filled with an average of more than 80%. This means that the Netherlands has already reached the objective of at least 80% by September 2022. And as such the Netherlands has complied with Regulation (EU) 2022/1032 (Regulation (EU) 2022/1032 of the European Parliament and of the Council of 29 June 2022 amending Regulations (EU) 2017/1938 and (EC) No 715/2009 as regards gas storage), pursuant to which the Netherlands has had reach this level by 1 November 2022 at the latest.

Most EU member states have gas storage facilities on their territory. However, storage capacities in five countries, Germany, Italy, France, the Netherlands and Austria, make up two-thirds of the EU's total capacity. Therefore the fact that the Netherlands has already reached the required filling capacity of at least 80% is relevant.



2. LNG facility

As of 8 September 2022, the Netherlands has doubled its ability to import liquefied natural gas (LNG) from outside Europe by opening a floating factory in the Eemshaven in Groningen. Until now, LNG could only be converted back into 'normal' natural gas at the Gate Terminal - the existing terminal on Maasvlakte 2 in the Rotterdam area.

The new terminal consists of two large factory ships leased by Gasunie. These expand the Dutch capacity to take in LNG from 12 to 20 billion cubic meters. By also expanding the Gate Terminal, the total capacity in the Netherlands will be 24 billion cubic meters.

Not all the LNG that arrives at the Eemshaven stays in the Netherlands. Like the gas from Groningen, Norway and Russia, the converted LNG becomes part of the total gas stock, which is traded on the energy market. The gas also helps Germany and the Czech Republic, which has no ports of its own. To emphasise the importance of the floating LNG installation in Eemshaven, the Czech Republic sent its Prime Minister Petr Fiala to its official opening.

3. Less gas extraction

Although the Netherlands still has a very large reserve of natural gas in Groningen (the northern part of the country), the current government does not wish to increase the current low level of gas extraction. In fact, the government's policy is to stop the entire gas extraction from the Groningen field. Moreover, offshore gas production in the Netherlands was also lower than the previous year.

Although there are voices in the political arena as well as in the media to increase gas production in Groningen again, it is not expected that there will be a political majority for this. The main reason for this is the risk of more and bigger earthquakes. A risk that is ultimately too big, at least in the opinion of the majority of people in the Netherlands. Extraction over the last decades, the incidents that resulted

from them, and the lack of an appropriate remediation programme for damages suffered by local inhabitants are currently being investigated in a high-profile parliamentary inquiry.

It is expected that the extra capacity to convert LNG, together with the maximum filling of the storage capacity, will be enough to prevent a real gas shortage in the Netherlands this winter.



France

Anne-Laure-Hélène des Ylouses

Partner, Paris

+33 (0)6 12 88 96 63
alhdesyloses@fieldfisher.com



Emmanuel Paillard

Partner, Paris

+33 1 70 37 81 36
Emmanuel.paillard@fieldfisher.com



On September 5, 2022 French President Emmanuel Macron held a press conference on the energy situation in Europe.

He underlined that the share of Russian gas in Europe's consumption had fallen from 50% to 9% since the beginning of the year and that energy prices on the French market had increased fivefold in the same period.

Facing this crisis, the French President stated that his main objective was to ensure sufficient gas supply to meet France's energy needs. To achieve this, France has increased its gas storage (to 93% of storage capacity in early September) and is taking steps to accelerate the construction of a floating

LNG terminal for the import of liquefied natural gas off the coast of Le Havre (thus derogating from regular environmental procedural regulations).

In addition, the government is seeking to better plan for the future of French energy supply. Indeed, Law no. 2022-1158 on emergency measures for purchasing power provides for an annual gas filling trajectory and a minimum filling target for gas storage infrastructure to better control the management of natural gas stocks.

It is focusing on four current energy issues:

1. Support to low-income households and companies

Since November 2021, individuals and small co-ownerships (consuming less than 150 MWh/year) with a direct natural gas supply contract with Engie (of which the French State is the main shareholder) have benefited from a gas tariff shield. Indeed, from November 1 2021 to June 30 2022, prices of the regulated natural gas sales tariffs (TRVg) were frozen at their October 2021 level (including tax). This freeze of the regulated tariffs has been extended until December 31 2022.

In addition, since July 1 2022, the French State has allocated a subsidy to energy-intensive businesses in order to offset the extra costs of gas and electricity.

An energy voucher worth €100 to €200 will also be provided to low-income households by the end of 2022.



2. “MidCat” pipeline: gas pipeline between France and Spain

The project to build a gas pipeline between France and Spain (“MidCat” pipeline) is being put back on the table in the midst of the gas supply crisis.

This connection, which would allow Portugal and Spain to transport gas from the United States or Qatar to Eastern Europe via France, had been abandoned in 2019 because of environmental considerations as well as a lack of economic interest, particularly from France.

However, faced with the gas import crisis, several European countries, including Spain, Portugal and Germany, are advocating in favour of this infrastructure project. France, on the other hand, is still opposing the idea, arguing that there are already two existing gas pipelines between Spain and France (in Navarra and in the Basque Country) and that the MidCat project, intended to double this capacity, would merely be used at 53% of its capacity.

Still, Spanish Energy Minister Teresa Ribera, and French Energy Minister Agnès Pannier-Runacher took advantage of the Extraordinary Council of European Energy Ministers held on September 9 2022, to discuss the creation of a group of experts to determine the usefulness of this project for next winter (2023-2024).

3. Cancellation of gas supply contracts to industrial groups by Iberdrola

Iberdrola, a Spanish company specialising in the production, distribution and marketing of natural gas, announced in a letter to its French customers that it did not wish to automatically renew their contracts at the end of the initial contractual period. Instead, it invited them to change their gas supplier so as not have their supply interrupted at the end of the contractual term.

This decision stems from a lack of profitability for Iberdrola, which is facing much higher wholesale energy prices and is obliged to sell gas to its customers at a relatively low, contractually set, retail price. In addition, the company has already lost a high number of customers, who are changing their contracts to

French distributor Electricité de France (“EDF”, of which the French State is the main shareholder), whose retail prices are regulated by the French State in order to protect consumers.

4. Nuclear pressure

The French nuclear fleet is composed of 56 pressurised water reactors in operation, distributed among 18 plants operated by EDF. In 2021, it produced 360.7 TWh, corresponding to 69% of electricity production in mainland France.

This nuclear fleet is facing technical challenges that have led the supervisor of the Nuclear Safety Authority to request that EDF carry out the necessary reparation works, putting more plants under maintenance than was initially expected.

In order to facilitate the financing of the renewal of the nuclear fleet by EDF, which is facing financial difficulties, in early July the French government announced that it would nationalise the company by the autumn. The state plans to pay an approximate amount of 9.7 billion euros in a public takeover bid to acquire the 16% of EDF’s capital that it does not already own.



Belgium is dependent on gas imports for its gas needs.

From 2012 to 2020, the gas used in Belgium for

- distribution varied between 79,6 TWh and 97,9 TWh
- industrial customers varied between 41,2 TWh and 52,5 TWh
- electricity production varied between 39,7 TWh and 49,4 TWh

The gas is imported via pipelines. In addition thereof, Belgium has a large LNG terminal in the port of Zeebrugge. The LNG facility allows for more flexibility with regard to the supply of gas. Furthermore, Belgium is willing to strengthen the dialogue with Norway in order to ensure the security of supply.

1. Storage

At the beginning of October 2022, the gas storage capacity of Belgium was full. This equals approximately for 4 % of the annual gas consumption in Belgium. If the winter is not more severe than usual, Belgium expects to have an energy surplus.

The federal government does not expect the need to activate the emergency plan this winter. However, the federal government adopts a range of measures aiming at reducing the demand for energy and to support the most affected parties.

2. Consumption

a) Reduction of demand

The federal government calls on Belgians and companies for collective efforts in order to reduce the consumption of gas and electricity. The public authorities started to set a good example by reducing the temperature, the lighting and the use of air conditioning in the buildings and monuments of the federal authorities.

b) Support to fragile households and companies

The federal government extended the support measures for the population until March 31, 2023. These measures include:

- The VAT on gas being set up on 6 % instead of 21 % (since April 1, 2022 until March 31, 2023). Buildings equipped with a collective heating system (apartment buildings, hospitals, care homes etc) benefit from the

VAT on 6% for gas since July 1, 2022.

At the same time, it is opted for a flexible system for the excises on gas. The excises will lower when the price for gas exceeds 100 €/MWh.

- A financial contribution of 135 €/month for the gas bills of households. This measure is applicable for households having a variable contract or a fixed contract concluded/renewed after October 1, 2021. Households with a net taxable income above 62.000 € (for singles) or 125.000 € (for cohabitants) will have to reimburse between 35% and 55% of the financial contribution. The limit for the net taxable income increases with 3.700 € per dependent children.
- The target group for the social rates being increased.

The federal government also adopted measures to help self-employed persons and companies. Industry companies announced that they would need to reduce or even stop their production to limit their exposition to the current energy prices. These measures include:

- The possibility to defer the payment of social security contributions and tax
- A temporary 'energy' unemployment support
- A moratorium on bankruptcies due to actions from suppliers.

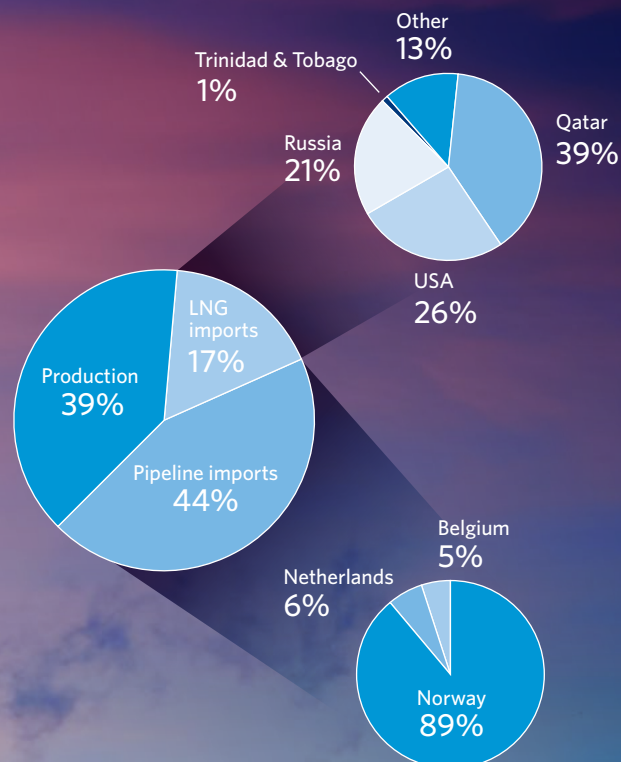
In the continuity of the decisions adopted at the EU level (Regulation 2022/1854) aiming at subjecting gas actors to a solidarity contribution, the Federal government will soon come with measures to meet the objectives of the regulation.

Great Britain

by Kathryn Porter
Consultant, Fieldfisher UK



Great Britain produces just under half of the gas it consumes (39% in 2021 and 48% in 2020), and imports a significant amount from Norway. This means that around 80% of the gas consumed in GB is produced in the North Sea, with most of the balance being imported in the form of LNG primarily from the USA and Qatar.



Sources of UK gas - 2021

Source: DUKES

Official UK Statistics (DUKES) are only published in July for the previous year, so these figures pre-date the war in Ukraine.

In the first half of 2022, domestic production increased by 26%, and Britain no longer buys any gas at all from Russia, which previously represented around 4% of the GB gas mix. The USA has been the largest supplier of LNG to GB in 2022 at 7.1 bcm in the first eight months of the year (compared with 3.9 bcm in the whole of 2021), followed by Qatar at 4.6 bcm. An additional 1 bcm has been contracted from Norway.

Gas prices in Britain have risen significantly in common with other European markets. The front month ICE NBP contract is trading 2.85 times higher than a year ago, however, this is down from the highs of late August when prices were eight times higher than a year ago.

High gas prices have had a knock-on impact on prices of electricity. Concerns over rapidly rising fuel poverty and inflation led the UK Government to implement new price controls on both gas and electricity.

Unlike other European markets, these controls have been implemented only at the retail level through subsidy schemes aimed at both businesses and households. Households will see their prices capped at unit levels set back in April for six months from October, while businesses are receiving similar levels of support. Further support (yet to be announced) being developed for households and industries seen as particularly vulnerable to high energy prices.

1. Energy (Oil and Gas) Profits Levy

Oil and gas producers in the UK pay higher taxes than other businesses. Instead of the usual 19% corporation tax, they pay the Ring Fence Corporation Tax ("RFCT") of 30% and the Supplementary Charge to Corporation Tax ("SCT") at a further 10%. However, certain losses and costs such as de-commissioning costs are tax-deductible.

In light of current high oil and gas prices, a windfall tax has been imposed on oil and gas producers. The Energy (Oil and Gas) Profits Levy Act 2022 received Royal Assent on 14 July 2022 and is a new tax on the profits of oil and gas companies operating in the UK and on the UK Continental Shelf. This levy applies in addition to the RFCT and SCT.

The key features of the levy, which lasts until 31 December 2025 are:

- An initial rate of 25% which takes the headline rate of taxation for oil and gas companies to 65%. The rate will be tapered down if prices revert to historic levels;
- It will apply to profits arising on or after 26 May 2022;
- There is a deduction of up to 80% available for qualifying expenditure which includes capital and leasing expenditure, and operating expenditure that improves oil or gas recovery or increases tariff receipts and is not routine repair and maintenance;
- No deductions for financing and de-commissioning costs;
- Losses generated under this levy can be surrendered to group companies for utilisation against their levy profits, however RFCT and SCT losses cannot be used to reduce levy profits;
- There are no adjustments for commodity hedges - these should follow the same treatment as for RFCT.

The levy is expected to raise £5 billion in its first year. The investment allowance means that companies can reduce their exposure under the levy by making investments that increase UK oil and gas production. This is an important measure since the UK Continental Shelf has become a more challenging and expensive region for oil and gas production as the easier to access fields have been depleted. This measure avoids further discouraging of exploration activity in the region.

2. Boosting domestic gas production

The Government has signalled its intention to boost domestic gas production both onshore and offshore. A new licencing round (the 33rd) was launched in early October 2022, with 898 blocks and part blocks available, with "Priority Area" blocks that should lead to fields producing more quickly.

Under normal conditions, the average time between discovery and first production is close to five years and falling, according to North Sea Transition Authority (NSTA) analysis. Earlier this year, leading operators were asked to supply details of their production and investment plans and to look at how they might go further and faster wherever possible. The application period will run until 14:00 hrs GMT on Thursday 12 January 2023.

In addition, the Government intends companies to explore the viability of shale gas extraction and has lifted the moratorium on shale drilling.

3. Increased storage through the re-opening of the Rough facility

Much has been made of the re-opening of the Rough gas storage facility in the North Sea. In its heyday, this depleted gas field provided 70% of the UK's gas storage capacity. It has been granted a licence to operate at 25% of its historic capacity during winter 2022/23 and 50% in winter 2023/24.

However, since closure, Centrica has extracted all of the cushion gas and a good proportion of the tail reserves from the reservoir. It has also not addressed the well integrity issues which were the reasons for its closure in 2016, although the reduced gas volumes have significantly lowered the reservoir pressure and hence the risk. However, in the absence of compressors on the production wells, the greatly reduced reservoir pressure significantly degrades the rate at which gas can be delivered from the facility.

At the current very low deliverability rates, Rough will make no impact on the GB gas market this winter, and its ability to contribute next winter in any significant way is open to question. Much depends on Centrica's plans for operating the facility, which have not been made public. This includes whether the cushion gas will be replaced (and how this would be funded), whether compressors will be installed on the production wells, how the well integrity risks will be managed, and whether the storage units will be attractive to the market. Unlike those of other European countries, the UK Government has not imposed any targets for gas storage.



Gas price disputes in Europe

Many companies depend on a reliable supply of natural gas for their production and require foreseeable prices.

Supply contracts are often concluded long-term and prices are linked to indices such as hub prices for gas or quotations for alternative fuels (e.g. oil or coal). These pricing mechanisms currently are under pressure due to a number of factors, such as globalization of the gas market via LNG combined with recent geopolitical developments, issues with gas storage, political decisions around the distribution and pricing of gas etc. Market trends in Europe to increase the portion of hub-based pricing in long-term supply agreements may be reconsidered in a situation where hub indices fluctuate drastically and other factors (such as LNG) send price signals to the gas market. Some of these circumstances have led, for instance, to recent declarations of the EU Commission considering that the TTF index, widely used as price fixing reference, should be replaced by a more reliable reference. Current conditions are therefore giving rise to an increased risk of disputes over gas pricing.

Many long-term contracts contain price review provisions to adapt to a changing environment and market conditions. In addition, hardship or force majeure principles may be applicable where circumstances change fundamentally and unexpectedly. Typically, contracts for the long-term supply of gas contain arbitration clauses and may also provide for other mechanisms of alternative dispute resolution (ADR), such as mediation or expert determination. In particular, where commercial negotiations are unsuccessful, for example as a consequence of drastic changes in the relevant market, their impact on pricing and/or the parties' opposing views on the implementation of any such changes into the contract, the resulting disputes require efficient and swift resolution.

In our experience, it is therefore crucial to develop a commercially and legally coherent strategy to approach price review negotiations from an early stage and to maintain it throughout a potential subsequent dispute. Fieldfisher has a core group of gas price review experts who have successfully conducted a large amount of arbitration and litigation in this field and are well acquainted with the particularities and intricacies of this kind of dispute. This group cooperates closely with the client's internal commercial and technical teams as well as external experts to establish and enforce the client's position through the contractually agreed dispute resolution method.

The experience of Fieldfisher's specialist lawyers extends beyond arbitration or litigation and also comprises representation in mediation and expert determination processes as well as other forms of ADR. Where interim relief is required to provisionally ensure supply or payment, we also assist clients and advise in relation to the enforcement or setting-aside of court judgments or arbitration awards.

The expert knowledge gained from our experience of resolving pricing disputes, as well as expertise in the energy sector generally, enables our team to provide valuable input when price review clauses or entire gas supply agreements are being negotiated. We can assist in drafting clauses to make supply agreements more flexible and responsive to changing conditions.



Philipp Duncker

Partner, Munich

+49 (0) 89 620 306 247
philipp.duncker@fieldfisher.com



Marily Paralika

Partner, Paris

+33 1 70 37 81 57
Marily.Paralika@fieldfisher.com



Richard Waugh

Partner, UK

+44 (0)330 460 6675
richard.waugh@fieldfisher.com

Fieldfisher Experts



Dennis Hillemann

Partner, Hamburg
+49 (0)160 5421508
dennis.hillemann@fieldfisher.com

Dennis Hillemann is a specialist in administrative law and a partner in administrative law (primarily administrative procedural law) in Fieldfisher's Hamburg office. He advises companies and the public sector on complex public law issues and disputes, and advises companies on energy law issues. In particular, Dennis also has significant experience in crisis situations advising companies from his previous role as a partner at KPMG and in his current role at Fieldfisher. He represents a large number of companies before public authorities in Germany and before German and European courts and drafts contracts with the public sector on behalf of clients. He also advises on subsidy law.

A Fieldfisher team led by Dennis Hillemann is supporting Tree Energy Solutions (TES), which is building a land-based terminal in Wilhelmshaven and will also operate a floating terminal at the turn of the year 2022/23. Since these terminals are also technically already 100 percent geared to the subsequent import of green hydrogen, TES will also make an essential contribution to the public interest in the future.



Anne-Laure-Hélène des Ylouses

Partner, Paris
+33 (0)6 12 88 96 63
alhdesylouses@fieldfisher.com

Anne-Laure-Hélène des Ylouses is a partner in the Competition and Regulation department in Paris. She notably advises clients in the energy, transport, digital, telecommunications and art markets. Her practice focuses on all aspects of EU and French competition law, distribution and consumer law, regulation and compliance matters. Anne-Laure-Hélène has significant experience in antitrust cases in relation to cartels, vertical matters, abuse of dominance, state aids, as well as merger control regimes. As a litigation lawyer, she represents her clients before French and EU competition authorities, before all courts having jurisdiction in competition law (including newly created international chambers), as well as in alternative dispute resolution procedures (mediation, conciliation, arbitration). Anne-Laure-Hélène also has in-depth expertise in handling litigation before sector-focused national regulation authorities such as the CRE/CORDIS (French Energy Regulatory Commission). Some of her clients include Total Carbon Neutrality Ventures Europe (formerly Total Energy Ventures Europe), Enedis (formerly ErDF), Infram Energy, ENI, GMOB (a JV between EDF PEI, AGI, SAFO and GENAK).



Emmanuel Paillard

Partner, Paris
+33 1 70 37 81 36
Emmanuel.paillard@fieldfisher.com

Emmanuel Paillard heads the Public Law department at the Paris office. He assists public and private clients in all areas of public law, construction law, urban planning, environmental law, public procurement and insurance, particularly in the context of major projects and in litigation. Some of his clients include Gaz'up, Primagaz, Proviridis and Endesa Energia.



Ramón Vázquez del Rey Villanueva

Partner, Madrid
ramon.vazquezdelrey@fieldfisher.es

Ramón is an attorney specialising in the Energy & Natural Resources, infrastructure, environmental, urban planning, public procurement, and administrative litigation sectors.

Ramon focuses on analysing permitting procedures and identifying regulatory, environmental, and urban planning risks, and also has experience in developing authorisation and financial processes in the implementation of renewable electricity generation (e.g. wind and photovoltaic, self-supply) and high-efficiency cogeneration facilities, as well as in sourcing supplies (water, gas, PPAs).

He has advised on the implementation of projects on government-owned, non-residential, and private land.



Louis Bouchez

Partner, Amsterdam
+31 20 2252211
louis.bouchez@fieldfisher.com

Louis is a corporate partner in Fieldfisher's Amsterdam office. He mainly works for overseas clients on inward Dutch investment, both foreign strategic buyers and financial investors, particularly in the (renewable) energy, technology and food sectors. He is a specialist in mid-market corporate finance transactions, including takeovers, mergers and acquisitions, joint ventures and private equity transactions as well as venture capital deals.

Apart from his transactional experience, he has a particular interest and experience in corporate governance, of both privately held companies and state-owned enterprises.

This experience is also based on having worked with the OECD in Paris between 2004 and 2006, where he focussed on corporate governance in Asia.



Frans-Jozef Crousen

Partner, Amsterdam
+31 20 225 2212
frans-jozef.crousen@fieldfisher.com

Frans-Jozef is a partner in the corporate team in Fieldfisher's Amsterdam office, which he co-founded in 2017. He is also co-managing partner of Fieldfisher Netherlands.

Franz-Josef works on corporate transactions, such as mergers and acquisitions, investments, management buy-outs, joint ventures and other forms of cooperation, representing sellers, buyers and investors, as well as target companies.

In the last decade, he has focused on the technology and renewable energy sectors working with start-ups, various types of investors, as well as large multinationals.



Kathryn Porter

Consultant, Fieldfisher UK

Kathryn Porter is an independent energy consultant with broad experience of the energy and finance sectors in both leadership and technical roles. She has specific expertise in the utilities, oil and gas sectors, with finance experience spanning equities and equity derivatives, debt capital markets, M&A, loans, and risk management.

Kathryn holds a Master's Degree in Physics from the University of Exeter and an MBA from London Business School. She is a Chartered Fellow of the Chartered Institute for Securities and Investments and is a member of the Institute of Directors. She is also a member of the Executive Council of the All Party Parliamentary Group for Energy Studies.

Kathryn is a Trustee of The Kids' Cookery School, a London-based charity focused on teaching cooking and nutrition skills to children, and a Trustee of the Royal Choral Society.



Paul Stockley

Partner, London
+44 (0)330 460 6425
Paul.Stockley@fieldfisher.com

Paul is an oil and gas corporate and commercial lawyer with over 20 years' experience advising on international and domestic energy transactions and projects.

His experience covers the full E&P cycle and includes licensing, concessions, production sharing contracts, joint ventures (including joint bidding agreements and joint operating agreements), development contracts, transportation, processing, marketing and sales as well as share/asset acquisitions and disposals (M&A) and farm-out transactions.

Paul has also worked on renewable energy projects, including wind farm, biomass and biofuels projects.



Andrés de la Quadra Salcedo

Partner, Madrid
+34 91 575 70 53
Andres.QuadraSalcedo@fieldfisher.es

Andrés is a civil and commercial litigation partner with an experience of more than 20 years, who has conducted judicial proceedings and arbitration proceedings both international and domestic of different kinds and before different Courts (International arbitration courts - ICC, IATA - and national arbitration courts - CIMA, Corte de Arbitraje de Madrid, ad hoc arbitrations-), mainly actions in contractual and extracontractual matters, corporate Law, R&W claims and other issues arising from M&A transactions, and unfair competition.

Most recently he has been advising industrial users of energy and cogeneration clients in contractual matters against suppliers, as well as litigation and arbitration relating to disputes between parties in the renewable generation sector.



Richard Waugh

Partner, Birmingham
+44 (0)330 460 6675
richard.waugh@fieldfisher.com

Richard is a partner in our dispute resolution group and specialises in resolving complex and high value disputes, often with an international focus.

In addition to litigation, Richard is a core member of our International Arbitration group and highly experienced in conducting international arbitrations under the major institutional rules including LCIA, ICC, SCC and UNCITRAL as well as ad hoc arbitrations.

Richard is an expert in resolving disputes for clients in the energy sector, including contractual issues and disputes involving infrastructure projects. He has particular expertise in gas pricing disputes, whether arising in relation to existing pricing mechanisms or the resolution of price review disputes under long-term supply contracts. Richard recently led a team of lawyers and experts in the successful resolution of a high value LCIA price review arbitration (worth billions of dollars over the remaining life of the contract) and is currently leading a team in a price review dispute involving parties across Europe, the CIS region and Asia. He has also recently acted in disputes involving parties in jurisdictions such as France, Germany, the Nordics, Singapore and the US.



David Haverbeke

Partner, Brussels
+32 2 742 70 13
david.haverbeke@fieldfisher.com

David is an energy and infrastructure lawyer with over 20 years' experience advising international and domestic clients on oil and gas, water, power, nuclear and renewable projects.

He has significant experience in providing strategic advice and assistance in the liberalisation of the energy markets, including drafting legal and regulatory frameworks in the electricity and gas markets and drafting regulated and negotiated contracts in LNG, natural gas and electricity markets (project development, transit, supply, and trading).

He has developed an extensive practice in advising and assisting clients in the Belgian and European electricity and gas sectors and acted in various EU member states on a wide range of commercial and regulatory matters including, energy contracts, construction and permitting issues, greenhouse gas emissions related mechanisms, financing and public procurement.

Finally, he has extensive experience in proceedings before commercial courts, the Belgian Council of State, the Constitutional Court, the European Court of Justice and various arbitration courts. His recent work includes acting as arbitrator (ICAC, CEPINA) in commercial disputes. He is also a visiting lecturer at the Centre for Energy Law at the University of Aberdeen.



Philipp Duncker

Partner, Munich
+49 (0) 89 620 306 247
philipp.duncker@fieldfisher.com

Philipp is a Partner in Fieldfisher's Munich office and advise on complex litigation, primarily before international arbitration courts.

The main focus of his work is on disputes, particularly in the energy sector and in connection with large, international infrastructure projects. He has successfully represented various clients in a number of arbitration proceedings in gas pricing disputes arising from long-term gas supply contracts, as well as in the area of complex infrastructure projects in the offshore wind industry or in the assertion of claims in the solar sector.

His experience includes arbitrations under the ICC, DIS, LCIA, VIAC, Swiss and UNCITRAL Rules as well as various ad-hoc proceedings. Philipp has also conducted disputes in many major arbitration venues around the world on contracts governed by different jurisdictions.



Marily Paralika

Partner, Paris
+33 1 70 37 81 57
Marily.Paralika@fieldfisher.com

Marily is a partner in charge of the international arbitration practice in Paris with 15 years' experience in International Arbitration.

She acts as counsel in international arbitration proceedings governed by the ICC, ICSID, LCIA, SCC arbitration rules, as well as ad hoc proceedings.

Marily has represented parties in the construction, engineering, energy and infrastructure sectors, both in commercial arbitrations and investor-state disputes, and assists with every step of the arbitral process, including pre-arbitral strategic advice.

She has handled arbitrations arising out of international commercial contracts, including long-term gas supply agreements and concession contracts, but also matters arising out of M&A and shareholders' agreements. She also acts as an arbitrator in international arbitration proceedings.

Marily is a member of the ICC International Court of Arbitration for Greece and a member of the ICC Commission on Arbitration and ADR.

She have authored numerous articles and publications in her field of expertise and is a regular speaker at conferences on international arbitration. She also teaches at the Faculty of Law of the University of Athens (Master of Civil Law and Energy).