

# Gas Regulation

In 30 jurisdictions worldwide

*Contributing editors*

**David Tennant and Torquil Law**



2015

GETTING THE  
DEAL THROUGH 

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*Contributing editors*

David Tennant and Torquil Law

Dentons UKMEA LLP

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# Preface

## Gas Regulation 2015

### Thirteenth edition

**Getting the Deal Through** is delighted to publish the thirteenth edition of *Gas Regulation*, which is available in print, as an e-book, via the GTDT iPad app, and online at [www.gettingthedealthrough.com](http://www.gettingthedealthrough.com).

**Getting the Deal Through** provides international expert analysis in key areas of law, practice and regulation for corporate counsel, cross-border legal practitioners, and company directors and officers.

Throughout this edition, and following the unique **Getting the Deal Through** format, the same key questions are answered by leading practitioners in each of the 30 jurisdictions featured. Our coverage this year includes new chapters on Hungary and Sweden.

**Getting the Deal Through** titles are published annually in print. Please ensure you are referring to the latest edition or to the online version at [www.gettingthedealthrough.com](http://www.gettingthedealthrough.com).

Every effort has been made to cover all matters of concern to readers. However, specific legal advice should always be sought from experienced local advisers.

**Getting the Deal Through** gratefully acknowledges the efforts of all the contributors to this volume, who were chosen for their recognised expertise. We also extend special thanks to David Tennant and Torquil Law of Dentons UKMEA LLP, the contributing editors, for their continued assistance with this volume.

GETTING THE  
DEAL THROUGH 

London  
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# Italy

Pietro Cavasola and Matteo Ciminelli

CMS Adonnino Ascoli & Cavasola Scamoni

## Description of domestic sector

### 1 Describe the domestic natural gas sector, including the natural gas production, liquefied natural gas (LNG) storage, pipeline transportation, distribution, commodity sales and trading segments and retail sales and usage.

Directive 2003/55/EC provided for the definitive opening of EU member states' gas markets to competition, and therefore helped Italy to create a true internal gas market. Regarding access to the market, a gradual approach has been adopted in opening the sector to competing companies. Measures have been put in place to protect users' interests and allow them to exercise the right to choose their gas supplier. The principles stated in Directive 2003/55 have been further developed by Directive 2009/73/EC, which repealed Directive 2003/55 and introduced new rules aimed at accomplishing a more effective unbundling of companies active in the transmission, storage and distribution of gas. The unbundling of companies involved in the energy sector is a key part of the Third Energy Package, a new set of regulations issued by EC bodies. It mainly means the effective legal and functional separation of network activities from supply and production activities to ensure competitiveness among companies in an open and free European market. Directive 2009/73 has finally been implemented in the Italian jurisdiction by means of Legislative Decree No. 93/2011, which sets out the general unbundling principles for undertakings operating in the Italian gas sector. In January 2012, following the implementation of the Third Energy Package, Snam SpA (the Italian natural gas infrastructure company operating the grid) was functionally separated from its parent company Eni (the Italian company that, prior to liberalisation, exercised a monopoly on gas production and distribution). Further, on 25 May 2012, the Italian Presidency of the Council of Ministers approved a Decree defining the unbundling of Snam's ownership from Eni. According to said Decree, Eni had to sell a relevant participation in Snam's corporate capital to Cassa Depositi e Prestiti, a company limited by shares under public control, with the government holding 70 per cent. The acquisition was completed on 15 October 2012. With specific regard to natural gas production, it should be noted that, notwithstanding good performances until the end of 2012, the production has reached the lowest level since 2004 (6,053,395,447 standard cubic metres in 2014).

Currently, about 118 oil and gas fields are being exploited in Italy, 69 of which are offshore. The gas produced is conveyed to specific central processing units, where it is made compliant with quality specifications for transportation and distribution. The most significant units for gas reprocessing are located in Casalborgorsetti, Ravenna Mare, Rubicone, Fano, Falconara, Pineto and Crotone. The Italian national gas system mainly relies on imports from abroad (more than 78 per cent is imported, and about 75 per cent of its gas comes from countries such as Algeria, Libya and Russia), conveyed to Italy using major international pipelines or shipped by gas tankers. Eni, through a number of subsidiaries operating along the chain of the gas industry, still plays a major role in gas import, transportation through Italian pipelines, gas storage and the management of gas terminals. Gas distribution and transportation are carried out through local pipeline grids usually connected to consumers' houses. This is a regulated activity performed under concession granted by the relevant local authority.

Conversely, the sale of gas is completely liberalised. Sales are currently carried out by a considerable number of firms (about 360), among

which the most relevant are Eni Gas&Power (Eni group) and Enel Gas (Enel group).

Finally, there are 10 gas storage fields in Italy. All fields are located in exhausted gas fields. According to the Ministry of Economic Development, in 2013 the national storage capacity was equal to 16,430 billion Sm<sup>3</sup>.

### 2 What percentage of the country's energy needs is met directly or indirectly with natural gas and LNG? What percentage of the country's natural gas needs is met through domestic production and imported production?

Notwithstanding the steady increase of renewable energies (up 16 per cent in 2013, according to the Italian Oil and Gas Producers Union), and compared with the average of the 27 EU member states, Italy still relies heavily on oil and gas sources due to the reduced production of coal and the country's lack of nuclear energy production. According to data provided by the Ministry of Economic Development, natural gas represents the second energy source in Italy (oil being the first), covering around 34.8 per cent of the national energy requirements. The trend of the past decade shows that Italy is very dependent on importing, especially natural gas due to the fast decline of domestic production of hydrocarbons.

## Government policy

### 3 What is the government's policy for the domestic natural gas sector and which bodies set it?

The activities that an operator may carry out in Italy with reference to hydrocarbons are defined by Italian law as prospecting, exploration and exploitation. All these activities may be carried out, provided that the Ministry of Economic Development has previously authorised the relevant operator. Prospecting and exploration permits may be granted to persons or entities having the necessary technical and financial capabilities. To be awarded a permit, another condition is that the applicant must commit to set up a suitable technical and administrative structure in Italy. To this end, the Ministry recently issued a new Directorial Decree, dated 22 March 2011, and implemented a regulation clarifying the meaning of 'technical and economic capability' of oil and gas operators, establishing that these latter must have corporate capital of €10 million or, alternatively, corporate capital of €120,000 plus a guarantee from a controlling company or from a bank. In addition, and for the purpose of assessing their technical requisites, operators wishing to obtain a permit must submit further documentation proving their technical capabilities (eg, details of the company and of its internal bodies and staff; a report on the main works carried out in the past three years either directly or, in the case of a newco, through a controlling company).

In general, exploitation may be carried out by means of concessions, which are granted by the Ministry to those operators that have found mineral resources during the exploration phase.

The main interests of the Ministry, as well as of the Italian Authority for Energy and Gas (the AEEG), are to foster competition and guarantee the stock of hydrocarbons necessary to meet the national energy requirements.

Regarding the regulation of unconventional gas, unfortunately, notwithstanding several years of research and prospection of the Italian underground, surveys have so far evidenced the complete absence of shale gas or tight gas in the Italian territory.

## Regulation of natural gas production

### 4 What is the ownership and organisational structure for production of natural gas (other than LNG)? How does the government derive value from natural gas production?

The state is the owner of gas reserves located in the Italian territory. Natural gas resources may be exploited by private operators on the basis of a specific concession issued by the Ministry of Economic Development (see question 3). Any operator awarded a concession must pay a land use rent each year for the whole duration of the concession, to be calculated on the acreage of the relevant concession field. Additionally, a royalty equal to 10 per cent is due to the state for an onshore production concession and 7 per cent for an offshore production concession. As some Italian regions have a special status, additional royalties may be applicable according to the region in which the reserve is located.

### 5 Describe the statutory and regulatory framework and any relevant authorisations applicable to natural gas exploration and production.

In principle, mining title permits are granted on the basis of an administrative proceeding whose steps are the following:

- prospecting and exploration permits may be granted to persons or entities having the necessary technical and financial capabilities – additionally, applicants must commit to set up a suitable technical and administrative structure in Italy;
- the application for a prospecting or exploration permit must be submitted to the Ministry of Economic Development along with the relevant work programme and other possible documents as the case may be – the Ministry, once the application is duly submitted, publishes it in the Italian Gazette for Hydrocarbons (this step being necessary to open up competition among other possible applicants, who will have three months starting from the date of the publication to submit their applications for the same geographic area);
- after the said three months from the publication of the application in the Italian Gazette for Hydrocarbons, the Ministry must request its technical committee to release an approval – the committee shall issue its approval, if any, within 60 days from the date of the Ministry's request;
- in most cases, an environmental impact assessment must be requested from the Ministry of Environment, which must issue its assessment within 90 days starting from the date it was notified. Approvals from other public bodies may be requested from time to time and depending on the area of the relevant application (namely, in cases where an application is made for the obtaining of a permit in Sicily, local authorities must release their approval; in cases where a request is submitted for an offshore permit, the Ministry of the Navy must release its approval); and
- once the approval of the Ministry of Environment has been released (as well as other relevant approvals), the Ministry of Economic Development may grant the permit to the applicant.

In 2010, following the oil spill in the Gulf of Mexico, the Italian government implemented measures (Legislative Decree No. 128/2010) aimed at protecting the environment and the ecosystem. Such measures prohibit gas offshore research and exploration within 12 miles from the boundaries of coastal and marine protected areas. The Decree also bans offshore research and exploration within 12 nautical miles from the outer perimeter of the above-mentioned protected areas. However, on 22 June 2012, the government adopted a Decree introducing new opportunities relating to the exploration, prospecting and production of hydrocarbons. In Decree No. 83/2012, it is provided that all the restrictive measures set out in Legislative Decree No. 128/2010 are inapplicable to those authorising procedures 'pending on the date of entry into force of D. Lgs. 128/2010'.

As a consequence, many companies are now entitled to resubmit applications that had been previously rejected or that had been subject to a significant reduction of their original layout. The new limit of '12 miles from the coastlines', beyond which it will be possible to carry out exploration, prospecting and production activities relating to oil and gas, will be applicable only to new authorising procedures. Such new limit has also been extended to gas hydrocarbons.

The maximum duration for this process should be 330 days from the date when the application is filed with the Ministry of Economic

Development. Such term is in most cases extended, however – mainly due to delays in the public bodies issuing their approvals.

While the Ministry of Economic Development is competent on the issuance of authorisations and concessions, the AEEG is the independent body that regulates, controls and monitors the gas sector and market in Italy. The AEEG's role and purpose is to protect the interests of users and consumers, promote competition and ensure efficient, cost-effective and profitable nationwide services with satisfactory quality levels. Its task includes the definition of a reliable and transparent tariff system combining the economic aims of gas operators with the public interest as well as protecting the environment and promoting an efficient use of energy resources. The authority also provides an advisory and reporting service to the government and parliament, and issues opinions and recommendations on matters concerning the gas and electricity markets. Additionally, the AEEG plays an active role in creating a standardised system of energy sector in compliance with the EU legislation and in implementing the integration of the Italian electricity and gas markets with the European market.

All AEEG decisions and regulations may be appealed, either to the ordinary administrative jurisdiction or by filing a complaint directly to the authority.

With respect to the regulation of unconventional gas, considering the fact that so far no shale gas or tight gas has been found in the Italian territory, no relevant regulation is in place in this regard.

Recently, in order to favour the exploitation of natural resources within the Italian national territory, foster the investments in hydrocarbons and achieve the supply targets as outlined in the National Energy Strategy Plan, the Italian legislator introduced a significant reform in the gas regulatory framework.

Indeed, by article 38 of what is known as the '*Sblocca Italia*' ('Unlock Italy') Decree No. 133/2014 converted into Law No. 164/2014 of 11 November 2014, the government has introduced the 'single mining title' for onshore gas exploration and production, in lieu of the exploration and the concession titles. The said decree specifies that all the operators holding an exploration permit or with an application pending at the date of publication of the reform (11 November 2014), have 90 days to choose whether to turn to the new 'single mining title' procedure by filing the relevant application with the competent Ministry of Economic Development or to stick to the currently standard procedural regime (ie, exploration permit and subsequent production concession). It is worth pointing out that according to the *Sblocca Italia* Decree, the new authorisation procedure shall be completed within 180 days from the date when the relevant operator has submitted its application, however, as at February 2015, the ministerial decrees implementing the *Sblocca Italia* Decree and setting out in detail the steps required for the release of the 'single mining title' have not yet been enacted.

### 6 Are participants required to provide security or any guarantees to be issued with a licence to explore for or to store gas?

As outlined in question 3, companies that apply for the award of a licence must provide financial guarantees in the form of corporate capital equal to or above €10 million, or corporate capital of €120,000 plus a guarantee from a controlling company or from a bank.

Also the newly introduced *Sblocca Italia* Decree sets out the general principle whereby any operator requesting the new 'single mining title' is required to provide adequate bank guarantees or suitable insurance policies in line with their work programme. In addition the operator shall also provide evidence that it has the financial capabilities to cover any costs deriving from potential environmental accidents.

## Regulation of natural gas pipeline transportation and storage

### 7 Describe in general the ownership of natural gas pipeline transportation, and storage infrastructure.

Legislative Decree No. 164/2000 introduced a right for the operators to have access to gas transport, storage and processing facilities located in the Italian territory. The Decree also granted the AEEG the power to set out the relevant tariffs and non-discriminatory criteria to allow new operators to use the national grid (the Grid Code). The gas transport grid, divided into the national and regional grids, is operated by a small number of companies. The main transport company, Snam SpA is the major operator in the sector and manages the national grid. The second is Società Gasdotti Italia SpA, which operates a number of regional networks.



**8 Describe the statutory and regulatory framework and any relevant authorisations applicable to the construction, ownership, operation and interconnection of natural gas transportation pipelines, and storage.**

New facilities for transportation and dispatching of natural gas that are intended to implement the national grid system are considered of public interest and, for this reason, are subject to prior Ministry of Economic Development authorisation. Usually, enterprises interested in this kind of business enter into specific agreements with national and local bodies. The activity of gas storage is operated on the basis of concessions granted to operators following public tender procedures.

**9 How does a company obtain the land rights to construct a natural gas transportation or storage facility?**

The Ministry of Economic Development, in accordance with the relevant local authorities and provided that the public interest is met, may grant private investors an authorisation to build up facilities for the purpose of implementing the national grid as well as for the purpose of covering national energy requirements.

Once the Ministry has declared the public interest and has issued the above authorisation, the relevant local authorities (municipalities and other local authorities, as the case may be) are entitled to expropriate the lands in order to allow the private investors to build up the authorised facilities. In such case, an indemnity is to be paid to the expropriated owners.

Recently, to develop the gas storage capacities and increase competitiveness among companies, the government issued Legislative Decree No. 130/2010, also known as the Storage Decree, with the purpose of increasing the number of storage facilities throughout the country. In accordance with such Decree, a new storage capacity of 4 billion cubic metres has been targeted.

**10 How is access to the natural gas transportation system and storage facilities arranged? How are tolls and tariffs established?**

The AEEG, through Resolution No. 137/02 and subsequent amendments (last revised on 28 July 2010, Resolution 116/10), set out the rules for free access to the transportation system, as well as guidelines for the implementation of the grid codes. On the basis of the principles contained in such Resolution, Snam SpA (the entity managing the national grid) has drafted its own grid code, which sets out transparent and non-discriminatory rules regulating access to and use of the transport service on its gas pipeline grid. With respect to gas storage, the government has recently extended the natural duration storage concession to 30 years. Further, storage concessions can be renewed once for a 10-year period.

The AEEG established tariffs for gas system users and for storage in such a way as to achieve a fair balance between the benefits to users and operators of gas terminals. In so doing, the AEEG aimed at guaranteeing a fair remuneration of the invested capital. Since 2001, the AEEG has been regulating the natural gas transport tariff system through Resolution No. 120/2001, as subsequently amended and implemented, which lays down the criteria for determining such tariffs. Companies that manage gas facilities set out tariffs according to the above-mentioned AEEG rules and subject to the supervision of the AEEG.

With specific reference to tariffs applicable to gas transport, the final resolution of the AEEG is ARG/gas No. 514/2013. This resolution contains provisions concerning general charges, and is aimed at making their application transparent as well as integrating charges within the scope of the regulation of tariffs for gas transport and dispatching services for the regulatory period from 2013 to 2017.

As regards tariffs applicable to gas storage, the AEEG issued a resolution (ARG/gas No. 106/2011) approving common fees due to storage companies for storage and metering services.

**11 Can customers, other natural gas suppliers or an authority require a pipeline or storage facilities owner or operator to expand its facilities to accommodate new customers? If so, who bears the costs of interconnection or expansion?**

Pursuant to article 8 of Legislative Decree 164/2000, companies carrying out activities relating to gas transportation have the obligation to allow the connection to their own grid to customers (as well as to any other entity)

upon request. Such companies, however, may refuse to provide a connection in the event that this is unfeasible either for technical or economic reasons. The AEEG is the competent authority for both regulating and supervising this phase of the gas industry (except for competition issues, which are supervised by the Italian antitrust authority (the IAA)). Capacity and access are regulated in grid codes that must be drafted in compliance with AEEG guidelines and that are subject to the approval of the AEEG. Snam SpA (the entity managing the national grid) drafted its own grid code, which contains provisions regulating the right of access. The AEEG may require operators to accommodate new customers.

**12 Describe any statutory and regulatory requirements applicable to the processing of natural gas to extract liquids and to prepare it for pipeline transportation.**

There is no specific regulation covering the processing of natural gas to extract liquids. However, the AEEG has a general power of supervision over the quantity and quality standard requirements that are set forth in the grid codes elaborated by the relevant transportation companies in accordance with the guidelines provided for by the AEEG.

**13 Describe the contractual regime for transportation and storage.**

Transportation agreements may provide either for continuous daily supplies of gas or for intermittent supplies based on actual requirements. Transport agreements are usually covered by bank guarantees whereby the purchaser secures the payment of transport tariffs.

Gas transport agreements often have a preliminary nature, and the transfer of property occurs at the moment of delivery of the gas. In addition, they include standard clauses such as the take-or-pay clause, whereby the purchaser commits either to take the whole quantity of gas set forth in the agreement or to take a minor quantity and pay an additional predetermined forfeit amount.

The AEEG influences the drafting of agreements of this nature by issuing the guidelines to be implemented in the relevant grid codes.

Storage is an activity that can be carried out only on the basis of a concession issued by the Ministry of Economic Development. This concession may be awarded exclusively to entities having specific technical and economic capabilities that provide the Ministry with a storage programme that meets the public interest.

**Regulation of natural gas distribution**

**14 Describe in general the ownership of natural gas distribution networks.**

In the past, the ownership structure of distribution grids was made up of a large variety of companies (private or controlled by municipalities). Notwithstanding the fact that the number of local gas distributors has recently decreased, the final distribution phase – from pipeline to consumers – is still characterised by strong fragmentation. There are about 250 gas distribution operators, the most important being Eni, which controls a market quota equal to 23 per cent, and Enel Gas Distribuzione (Enel group).

**15 Describe the statutory and regulatory structure and authorisations required to operate a distribution network. To what extent are gas distribution utilities subject to public service obligations?**

The distribution of natural gas is expressly defined as a public service. The service is entrusted exclusively through public tenders and for a maximum period of 12 years. The relationships between local authorities (the awarding entities) and distributors are regulated by specific service agreements, which are drafted in accordance with the guidelines provided for by the AEEG and approved by the Ministry of Economic Development.

Companies operating as gas distributors have an obligation to provide new customers with a connection to the grid, unless it is not technically or economically feasible. In the event that a distributor does not allow a new customer to connect to the grid, the AEEG may procure and force the distributor to comply with its obligation.

All the AEEG's decisions and regulations may be appealed, either to the ordinary administrative jurisdiction or by filing a complaint directly to the authority.



**16 How is access to the natural gas distribution grid organised? Describe any regulation of the prices for distribution services. In which circumstances can a rate or term of service be changed?**

Since 1 January 2003, Italy, as well as all other EU member states, has to ensure the implementation of a system of third-party access. After a transitional period the law stipulated that, starting from 1 July 2007, all customers are granted the right to have access to the transmission and distribution system and to LNG facilities on the basis of published tariffs.

The AEEG has recently updated the set of tariff rules concerning the activity of gas distribution to be applied from 1 January 2014 to 31 December 2019.

Such new rules provide for a significant reduction in the number of tariffs within the national territory and for a more cost-efficient management of the transmission distribution system.

**17 May the regulator require a distributor to expand its system to accommodate new customers? May the regulator require the distributor to limit service to existing customers so that new customers can be served?**

Pursuant to Italian law and EU regulations, distributors are obliged to connect customers to their grid upon request. Distributors may refuse to connect new customers only in specific cases that are mainly related to technical or economic matters. The AEEG acts as supervisor over this issue, and on 6 June 2006 promoted the adoption of distribution codes, which are supposed to contain specific guidelines for the realisation of an effective right of access to local grids.

The AEEG is, however, competent for the purpose of supervising non-discrimination and transparency issues and, in this regard, it may exercise its regulatory powers as well as impose sanctions.

**18 Describe the contractual regime in relation to natural gas distribution.**

Since gas has to be considered a commodity, gas distribution agreements (gas supply agreements) usually provide for the delivery of a given gas quantity at a specific point and for the restitution of a gas quantity (for calorific-equivalent content) to another specific point. As the distribution of natural gas is considered a public service, distributors are subject to an obligation to contract with customers upon request.

As already mentioned with respect to gas transportation agreements, gas distribution agreements may be deeply affected by the relevant code drafted in compliance with the AEEG guidelines. The general trend over the Italian gas market is to standardise contractual forms (not only with respect to the distribution phase).

### Regulation of natural gas sales and trading

**19 What is the ownership and organisational structure for the supply and trading of natural gas?**

The ownership of natural gas remains with the distributor as far as the point of delivery or sale is reached. The structure for supply and trading of natural gas is governed by direct negotiation of gas between distributors and customers. Since 2007, sale prices have been liberalised, and customers are free to choose distributors as well as to opt for the most cost-efficient solution, although it must be stressed that the AEEG sets out and periodically updates reference prices.

**20 To what extent are natural gas supply and trading activities subject to government oversight?**

All entities that intend to carry out gas sales to final customers must be previously authorised by the Ministry of Economic Development. The authorisation is issued provided that the applicant meets specific conditions (such as suitable technical and financial capabilities as well as a reliable gas traceability system).

Additionally, gas distributors must be equipped with an efficient system for modulating their supplies in accordance with customers' requirements (which depend on the season, the weather, the time, etc). The AEEG has a general task of supervision similar to that outlined with reference to transportation and distribution.

**21 How are physical and financial trades of natural gas typically completed?**

The way trades of natural gas are completed, from a contractual prospective, strongly depends on the fact that natural gas is a fungible good and transactions having fungible goods as their object usually give more relevance to delivery (than consent) and to bank guarantees (than to warranties provided for by the law). Agreements relating to the gas sector are using more and more standard forms, mainly because of the influence of the guidelines that the AEEG issues with reference to any phase of the gas industrial chain.

Financial trades may also be completed through the Natural Gas Market, introduced by the Italian Ministry of Economic Development with Ministerial Decree 18 March 2010. This is a platform where parties are authorised to carry out transactions and buy and sell 'spot' (namely, with a short deadline at the time of delivery). The gas exchange has been entrusted to the Manager of the Energy Markets, which plays the role of central counterparty by implementing transactions involving physical delivery of gas at the Virtual Trading Point.

**22 Must wholesale and retail buyers of natural gas purchase a bundled product from a single provider? If not, describe the range of services and products that customers can procure from competing providers.**

In principle, customers are free to choose the most cost-efficient solution on the basis of EU legislation as implemented in Italy, which provides for unbundling of gas companies. On the one hand, the existence of groups of companies offering the entire range of gas-related services affects the actual unbundling process; on the other, it simplifies customer-distributor relationships.

### Regulation of LNG

**23 What is the ownership and organisational structure for LNG, including liquefaction and export facilities, and receiving and regasification facilities?**

At present, there are only two LNG terminals in Italy: the first, set up in July 2001, is located in Panigaglia (La Spezia) and owned by GNL Italia SpA; the second, Terminale GNL Adriatico, which is located in Porto Levante (Rovigo), has been operative since May 2009 and is owned by a joint venture controlled by ExxonMobil (70.7 per cent), Qatar Petroleum (22 per cent) and Edison (7.3 per cent).

**24 Describe the regulatory framework and any relevant authorisations required to build and operate LNG facilities.**

An administrative authorisation (issued by the state through the Ministry of Economic Development) is required to build up LNG facilities. Since 2004, when this authorisation was approved with reference to infrastructures of national interest, a simplified procedure was set up that requires the joint participation of all interested authorities (from governmental bodies to local entities) in the procedure for the awarding of the authorisation to any applicant company.

**25 Describe any regulation of the prices and terms of service in the LNG sector.**

Tariffs for the regasification of LNG in the terminals located in Panigaglia and Porto Levante are issued by the AEEG on the basis of proposals formulated by the relevant operators. The tariff consists of a fixed amount plus a variable amount. The variable amount (calculated on the basis of the requested gas cubic metre quantity) is to be paid by the terminal's users for the service rendered on a continuous basis and a different (and lower) variable amount is to be paid for spot services. Under certain circumstances new investments may justify a discount on tariffs.

### Mergers and competition

**26 Which government body may prevent or punish anti-competitive or manipulative practices in the natural gas sector?**

Pursuant to Legislative Decree 164/2000, companies operating in the gas sector are subject to the national and European antitrust legislation applicable to any other company. The IAA is competent for the prevention and punishment of this kind of conduct.

**27 What substantive standards does that government body apply to determine whether conduct is anti-competitive or manipulative?**

Anti-competitive conduct is identified on the basis of ordinary antitrust standards (namely, business combination, prices pools, market dominance, etc). The IAA periodically carries out a market survey to assess the degree of liberalisation in the gas sector. Major importance is given to unbundling and to measures to be taken to discover cartels, as well as other kinds of anti-competitive agreements.

**28 What authority does the government body have to preclude or remedy anti-competitive or manipulative practices?**

The IAA may impose fines on companies in breach of antitrust law and prevent transactions that may affect the gas free market.

**29 Does any government body have authority to approve or disapprove mergers or other changes in control over businesses in the sector or acquisition of production, transportation or distribution assets?**

The IAA must be notified of envisaged agreements and mergers that may have anti-competitive effects.

Italian competition law requires prior notification of all mergers and acquisitions involving undertakings whose aggregate turnover in Italy exceeds €482 million and, in addition, when the aggregate turnover in Italy of the undertaking to be acquired exceeds €48 million.

Voluntary notification of agreements and requests for exemption from the prohibition on agreements restricting competition must contain the information and annexes that make it possible to appraise the contents of the agreement. In reaching a decision, the IAA assesses the following aspects:

- buying or selling prices;
- discounts or other trading conditions;
- the quantities of products to be manufactured or distributed or services to be offered;
- market access or outlets;
- investment;
- technical development or technological progress;
- the choice of markets or sources of supply; and
- the application of different terms for the supply of equivalent products and services.

Usually, IAA decisions are released within 30 days from the date of the relevant notification. This term may be extended, however, should further documentation be requested by the IAA.

**30 In the purchase of a regulated gas utility, are there any restrictions on the inclusion of the purchase cost in the price of services?**

Price of services have to be determined by competition, and where competition is not effectively possible, they have to be set out on a

non-discriminatory basis. As this issue affects the tariffs for the distribution of natural gas and also has an impact on the right of access of third parties to the market, the AEEG and the IAA are competent to impose sanctions and restrictions to ensure competition and transparency.

**31 Are there any restrictions on the acquisition of shares in gas utilities? Do any corporate governance regulations or rules regarding the transfer of assets apply to gas utilities?**

In principle, there are no restrictions on the acquisition of shares in gas utilities; however, as the services rendered in the gas sector chain qualify as public services, the acquiring company must guarantee that such public service is not discontinued.

**International**

**32 Are there any special requirements or limitations on foreign companies acquiring interests in any part of the natural gas sector?**

Foreign companies are entitled to acquire interests in the natural gas sector, provided that the country of origin complies with the reciprocity condition and that Italian national security is guaranteed.

**33 To what extent is regulatory policy affected by treaties or other multinational agreements?**

The regulatory framework is strongly affected by EU policies and regulation. With reference to imported gas, Italy has entered into several agreements, either of a political or contractual nature, with other countries (including Algeria, Libya and Russia) to ensure its energy requirements are met.

**34 What rules apply to cross-border sales or deliveries of natural gas?**

The activity of importing natural gas is subject to an authorisation released by the Ministry of Economic Development on the basis of non-discriminatory and objective criteria. Except for the tax regulation, the export is not subject to any specific permit or licence.

**Transactions between affiliates**

**35 What restrictions exist on transactions between a natural gas utility and its affiliates?**

In addition to the common restrictions provided for by the IAA, a supervision faculty and a power of imposing sanctions have been granted to the AEEG, which is responsible for the vigilance of the non-discriminatory principle (namely, groups of companies cannot practice more favourable price conditions in intra-group relations).

**36 Who enforces the affiliate restrictions and what are the sanctions for non-compliance?**

The competent authority (except for pure competition law controversies) is the AEEG.

**C/M/S/**

Law . Tax

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