POSITION PAPER

energy traders europe

Methane Emissions Regulation should not restrict imports through premature application of penalties

The Methane Emissions Regulation[1] (MER) came into force in August 2024. It allows for the future limitation of imported natural gas with higher methane emissions through fines applied by Member States (MS)[2]. However, it introduces new obligations without a clear framework for compliance, where importers may face currently undefined levels of penalties. This lack of clarity is already impacting the willingness of companies to enter into forward contracts, which is unhelpful to energy security and would increase price volatility.

We urge Member States to ensure that no fines are imposed during a transitional period, until the industry has been given sufficient time to develop and implement the necessary compliance measures. This will safeguard energy supply security, prevent related price shocks, and allow companies to align with the MER's requirements without undue disruption.

Key messages

1. **Complex Reporting:** Reporting obligations include information that is not currently recorded and require changes to equipment, procedures and contractual arrangements to produce this and allow it to be passed to the reporting entity.

2. **Unclear Compliance Standards:** Details on how exporters to the EU will be judged to meet EU standards and the precise definition of what is to be reported are unlikely to be completed quickly, thereby raising uncertainty over what imports[3] may be compliant and what will be subject to unknown levels of penalty. The risk of different MS interpretations could also complicate reporting and reduce comparability.

3. **Hindrance to Contract Negotiations:** This uncertainty is preventing contracts being signed for EU imports in the medium-term as parties cannot agree how obligations and penalties should be assigned, counter to the aim of securing of future energy supplies.

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[1] Regulation (EU) 2024/1787 on the reduction of methane emissions in the energy sector
[2] MER addresses production and importation of all fossil fuels; this paper focuses on gas imports only.
[3] In 2023, EU imported 290bcm of gas against consumption of 330bcm (EC Quarterly Report for 2023)

Detailed comments

The following are some of the Member States' tasks relevant to the importation of natural gas:

- Designation of competent authorities with adequate powers and resources, who will cooperate with the Commission and third country authorities to ensure compliance.

- Setting and enforcement of rules on penalties applicable to infringements *(provided they do not endanger the security of energy supply)* and publishing information on penalties levied.

- Appointment of verifiers to assess conformity and accuracy of emissions reports.

- Collection and submission of information received from importers registered in that Member State (but in respect of these companies' imports throughout EU).

- Provision of expertise for consultation on Delegated and Implementing Acts.

The main challenges and concerns held by importers are as follows:

- Where imported gas (whether via pipeline or in form of LNG) has been obtained via a virtual trading point or it is sourced via assets (e,g. grids) where gas from multiple production facilities is commingled, the required information on the source of the gas or identity of the original producer is not known, and no contractual relationship exists between the importer and the producer in order to obtain that information.

- Rules are unclear as to who the importer is and to which competent authority they should report back to if they are established outside the EU.

- As of today, it is not known what exporting countries are considered MRV equivalent, how new countries will be evaluated, what is the timetable for evaluation of exporters, and how importers will know if they will be exposed to fines.

- MER contains a number of unclear or ambiguous definitions, e.g. who constitutes an importer, when is gas placed on the market as distinct from imported for own use or sold outside EU, how to allocate emissions between oil production and associated gas.

- It is not expected that Delegated and Implementing Acts can quickly provide the necessary clarity and certainty to enable companies to demonstrate compliance.

- Importers may have little political influence to require upstream producers in third countries to amend local legislation or to change existing procedures[4].

- The reporting described above represents the first obligation placed on importers in a progressive series that goes on to include demonstrating equivalence to EU methane emission rules (from 2027), calculating the methane intensity of produced gas (from 2028), and requiring production processes to reduce methane intensity (from 2030).

Impact on the market

In the meantime, the uncertainty over how to comply with increasing obligations against undefined standards, together with an unknown penalty regime, makes contracting for forward supplies difficult. Neither exporter nor importer is prepared to accept unknown penalties that might apply if gas sources cannot be identified or an exporting country is not considered to be MRV equivalent. This is preventing forward contracts from being struck for import into the EU. We are aware of at least two negotiations for long-term contracts that have been discontinued, because parties are unable to agree how penalties should be divided if information cannot be declared in a format acceptable to EU.

While the gas industry is actively working on potential solutions, reaching a global agreement is unlikely in the near term. Furthermore, the development and approval of Delegated and Implementing Acts and their passage through a legislative programme will take additional time, further delaying clarity. Nevertheless, the MER is in force and these obligations already apply to contracts concluded or renewed on or after 4 August 2024.

[4] Under art. 28.5(b), the third country must have in place, and exporters to the EU established in that country must apply, EU-equivalent MRV ensuring at least source- and site-level quantification and regular reporting as under art. 12 for crude oil and gas + independent third-party verification as under art. 8 & 9 + effective supervision and enforcement.

Request to Member States

Member States could help by clarifying early their approach to a penalty regime. The Regulation provides for Member States to have the power to impose penalties up to 20% of annual turnover in the preceding business year, providing they do not endanger the security of energy supply. For international energy companies, this represents a significant deterrent to importation of gas without certainty that they can demonstrate compliance. A high-penalty regime in any Member State will likely foreclose their market to larger importers and to supplier countries who are not yet judged to be MRV equivalent.

Conversely, if penalties were to not to be imposed for a transitional period, pending clear rules on how importers can demonstrate compliance, then this would have a less deterrent effect on signing longer term contracts for supply to the EU. This approach would help protect energy security while the industry adapts to the new requirements.

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