ICLG

The International Comparative Legal Guide to:

Oil & Gas Regulation 2018

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1 Overview of Natural Gas Sector

1.1 A brief outline of your jurisdiction's natural gas sector, including a general description of: natural gas reserves; natural gas production including the extent to which production is associated or non-associated natural gas; import and export of natural gas, including liquefied natural gas (LNG) liquefaction and export facilities, and/or receiving and re-gasification facilities ("LNG facilities"); natural gas pipeline transportation and distribution/transmission network; natural gas storage; and commodity sales and trading.

In 2015, gross inland consumption (production + imports – exports + storage variations) of natural gas in Austria amounted to 6.9 Mtoe. Only about 1.0 Mtoe thereof was covered by domestic production of natural gas (EU Commission, DG Energy, Energy datasheets: EU 28 countries, August 2017; https://ec.europa.eu/energy/en/data-analysis/country). Austria, therefore, is dependent on the import of natural gas, mainly from Russia, Norway and Germany. By formal decision of 23 September 2016, the NRA (E-Control) approved the Coordinated Network Development Plan 2016 (CNDP 2016). The CNDP 2017 provides for 16 new projects. One of the most important projects in Austria is "BACI": the Austrian and the Czech Transmission System Operators; Gas Connect Austria GmbH (GCA); and NET4GAS (project sponsors) plan to connect their pipeline systems and create additional transportation possibilities. The length of the planned pipeline is approximately 61 km (49 km on Austrian and 12 km on Czech territory) and is planned to cross the border near the village of Reintal. GCA and NET4GAS conducted feasibility studies in line with their joint TEN-E application. Current planned completion of the project is scheduled for the end of 2020. Another important infrastructure project is the "Entry Mosonmagyaróvár" project: the cross-border point Mosonmagyaróvár connects the markets of Austria and Hungary. The physical flow direction is currently going from Austria to Hungary. The project would ensure a reverse flow from Hungary to Austria. The project is at the moment in the conceptual phase and current planning is based on market indications. This project would be a potential connection to other projects for the establishment of a Southern Corridor. The most important benefit of the project would be the diversification of routes and supply sources.

By formal decision of 20 December 2017, the NRA (E-Control) approved the Coordinated Network Development Plan 2017 (CNDP 2017). According to the extension of the capacity by remedying capacity deficiency, the CNDP 2017 grants the continuation of already approved projects and approved projects with modifications. In addition, the CNDP 2017 provides a new project "Auersthal" to set up a new central inflation system according to the DIN and API standards. This system should guarantee two separately working systems for Gas Connect Austria GmbH and OMV Exploration & Produktion GmbH, which presently share one system. Two separately working systems will lead to more efficient and secure use of inflation systems.

The Austrian gas market is currently not linked with LNG terminals outside Austria. The importation of LNG gas is nevertheless an option as some Austrian companies, together with JV partners, plan to construct new LNG infrastructure in the Adriatic region and to build, or expand, the necessary transport capacity. In 2011, the initiators of the Gate terminal (an LNG terminal in Rotterdam) signed offtake contracts with several major European energy suppliers; among which was the Austrian supply company, EconGas.

The Central European Gas Hub (CEGH), a subsidiary of OMV Gas & Power GmbH, is one of the most important natural gas trading platforms in Central Europe. Russian natural gas is transferred from that point via the Austrian pipeline system to Europe. CEGH provides hub services such as title transfer services, wheeling services or gas auctions (e.g. within the context of gas release programmes). In 2016, the Parisian-based Powernext SA and CEGH signed an agreement to jointly develop the Austrian as well as the Central and Eastern European (CEE) gas markets. For that purpose, CEGH has terminated its co-operation with Wiener Boerse AG (Vienna Stock Exchange). However, the European Commodity and Clearing AG (ECC) will remain the clearing agent and clearing house.

Transit of natural gas is carried out via the TAG and WAG pipeline systems (which are the major transmission lines in Austria), the South East Gas Pipeline (SOL), the Hungarian-Austrian Gas Pipeline (HAG), the March-Baumgarten Pipeline (MAB) and the PENTAWest pipeline. The WAG pipeline system consists of a pipeline with a DIN800 interior diameter which is enhanced by a second DIN1200 parallel pipeline for approximately 140 km and its auxiliary equipment (metering and control stations, slide gate valve station, etc.). WAG runs from Baumgarten an der March on the Austrian-Slovak border, through Lower Austria and Upper Austria to Oberkappel on the border with Germany. WAG is operated by GCA (formerly OMV Gas GmbH). The TAG pipeline comprises three parallel pipelines and the auxiliary equipment for each, including compressor stations and exit/entry points. The nominal diameters (DN) of the pipelines are between 900 mm and 1,200 mm. TAG runs from Baumgarten an der March on the Austrian-Slovak border, through Lower Austria, Burgenland, Styria and Carinthia, and on to Arnoldstein on the border between Austria and Italy. TAG is owned and operated by Trans Austria Gasleitung GmbH which is a joint venture by the Italian TSO Snam and GCA. Both GCA and Trans Austria Gasleitung GmbH have been certified by E-Control as transmission system operators

under the ITO model. Distribution lines are operated by several regional and municipal Distribution System Operators (DSOs).

EconGas is the dominant supplier on the market for delivery of local re-distributors and on the wholesale supply market. Customers of EconGas are industrial customers with an annual natural gas consumption exceeding 500,000 cubic metres and power plants. Markets for supply of retail customers (customers with annual natural gas consumption of up to 500,000 cubic metres) are divided into several geographical areas, which are deemed identical to the distribution grids.

1.2 To what extent are your jurisdiction's energy requirements met using natural gas (including LNG)?

The Austrian energy supply is based on a balanced mix of energy sources. In the long run, the importance of fossil energy sources has been declining in favour of renewable energy sources. This trend is also true for gas consumption; however, it is slightly less distinct. While the share of gas (mixed gas and natural gas) in 2015 was 20.3 per cent of gross inland energy consumption, it slightly increased to 20.9 per cent in 2016 (Federal Ministry of Science, Research and Economics, Development, Data of the Energy Industry 2016). Nevertheless, the share of fossil energy sources in Austria's energy portfolio (imports, domestic production and storage) is still very high.

1.3 To what extent are your jurisdiction's natural gas requirements met through domestic natural gas production?

Domestic natural gas production is performed by OMV and RAG. Only about 2 per cent of gross domestic consumption may be covered by domestic production of natural gas (see question 1.1 above). In 2013, Austrian re-distributors imported gas quantities from Russia (*ca*. 82.2 per cent), other countries like Germany and Norway (17.8 per cent; Federal Ministry of Economy, Family and Youth, Energy Strategy 2015). In 2016, net imports amounted to 497.365 GWh of natural gas. In 2016, more than 80 per cent of all physical gas imports were re-exported. (www.e-control.at, Market Report 2017.)

1.4 To what extent is your jurisdiction's natural gas production exported (pipeline or LNG)?

In 2014, the production output amounted to 121 million cubic metres, whereas the OMV share of the volume was 80.8 per cent, while RAG's share amounted to 19.2 per cent. LNG is not exported from Austria (Federal Ministry of Science, Research and Economics, Energy Status 2016). There is no publicly available data on the share of gas which is exported from Austria to other countries.

2 Overview of Oil Sector

2.1 Please provide a brief outline of your jurisdiction's oil sector.

The two companies engaged in the exploration and production of oil in Austria are OMV and RAG. The only oil refinery in Austria is located in Schwechat and is operated by OMV.

Austria is considered a transit country for crude oil. There are two main oil pipelines crossing the Austrian territory. Via the Trans-Alpine Pipeline (Transalpine Ölleitung – TAL), oil is transported from the Port of Trieste to Austria. Close to the Italian-Austrian border, the Adriatic Sea-Vienna pipeline (Adria-Wien Pipeline – AWP) branches off and pumps the imported crude oil intended for the domestic market from Trieste directly to the refinery in Schwechat. In 2013, 19 per cent of the crude oil transported via the TAL was imported to the Austrian market; the remaining 81 per cent was transited through to Germany (75 per cent) and the Czech Republic (6 per cent). In addition to TAL and AWP, there are two more crude oil pipelines. The GSU ships domestically produced oil to the refinery, while via the AWP-Lannach pipeline, oil is shipped to the strategic depot in Lannach.

The TAL is currently owned by a consortium of eight oil companies, including OMV Refining & Marketing GmbH (25 per cent), Shell Austria GmbH (15 per cent), Shell Deutschland Oil GmbH (4 per cent), Philipps 66 GmbH (3 per cent), TOTAL SA (2 per cent), Exxon Mobil Central Europe Holding GmbH (6 per cent), Ruhr Oel (10.8 per cent), Eni Deutschland GmbH (10 per cent), BP (9 per cent), MERO s.a. (5 per cent) and C-Blue Limited (10 per cent). In Austria, the operator of the pipeline is the Transalpine Ölleitung in Österreich GmbH. The AWP is operated by the Adria-Wien Pipeline GmbH which is a 100 per cent subsidiary of OMV Refining & Marketing GmbH and Austria's largest oil stockholding company ELG (Erdöl-Lagergesellschaft GmbH), whose shareholders are OMV (55.6 per cent), BP Europa SE (23.1 per cent), Shell Austria (16.7 per cent) and Eni Austria (4.6 per cent). ELG operates about 40 depots throughout the country.

OMV's refinery in Schwechat is Austria's sole refinery, which supplies about 60 per cent of the domestic oil consumption. The construction of a pipeline linking MOLs refinery in Bratislava (Slovakia) with the OMV refinery in Schwechat has been planned for a long time already; however, due to heated debates on the Slovakian track it has been postponed several times. In December 2017, the Slovak Economy Ministry presented a statement about the status of the working activities and the further procedure to the Slovakian Government. The main issue of the debate between the Slovak Economy Ministry (in co-operation with BSP Bratislava – Schwechat Pipeline GmbH) and the capital city of Bratislava is still the decision about the so-called city corridor going through Bratislava as the best route. The capital city of Bratislava as well as the whole Bratislava region and interested civil organisations are against the route going under the city part of Petrzalka. In addition, a project to link the Druzhba crude pipeline system via Bratislava to Vienna is planned, but is heavily debated.

The main distribution terminal is located in the OMV storage facility at Lobau. The oil products are delivered from Lobau by rail, along the Danube or on the road.

2.2 To what extent are your jurisdiction's energy requirements met using oil?

As stated in question 2.1, oil and oil products still account for almost 40 per cent of the energy requirements of Austria. Total domestic oil consumption in 2013 amounted to 9.84 million tons, which is 3.1 per cent more than in the previous year. This figure includes consumption of petroleum products ranging from liquid gas to petrol, kerosene, gas oils, fuel oils, lubricants and bitumen (excluding petroleum products used for the petrochemical industry) (Eurostat). The remaining 89 per cent of processed oil stems from abroad. Crude oil imports in 2013 amounted to 7.83 million tons and the main suppliers were Kazakhstan and Nigeria. Libya was still the second-biggest importer of crude oil in 2010; however, due to the "Arab Spring", the imports declined to about one-third. Libyan production resumed at the end of 2011 and increased steadily in 2012.

2.3 To what extent are your jurisdiction's oil requirements met through domestic oil production?

In 2014, the total domestic oil production (including LNG) amounted

to 0.93 Mio tons. In total, approximately 7.7 per cent of the Austrian oil demand was covered by domestic crude oil production in 2011.

2.4 To what extent is your jurisdiction's oil production exported?

Crude oil produced in Austria is directly transported to OMV's oil refinery in Schwechat. Therefore, crude oil is not exported directly. However, petroleum products made of refined oil in the amount of 2.45 million tons are exported from Austria. Exact figures on which exact products are exported to which country are not available.

3 Development of Oil and Natural Gas

3.1 Outline broadly the legal/statutory and organisational framework for the exploration and production ("development") of oil and natural gas reserves including: principal legislation; in whom the State's mineral rights to oil and natural gas are vested; Government authority or authorities responsible for the regulation of oil and natural gas development; and current major initiatives or policies of the Government (if any) in relation to oil and natural gas development.

According to the Austrian federal system, exploration and production of oil and natural gas is regulated by the federal legislator in the Mineral Resource Act ("*Mineralrohstoffgesetz* – MinroG", Federal Law Gazette I 1999/184, as amended). This act is valid for Austria as a whole and does not only regulate the exploration and production of oil and natural gas, but also the search and exploration of geological structures which can be used as storage facilities. Additionally, the act contains provisions concerning the underground storage of natural gas without tanks and the purification of stored natural gas. An Environmental Impact Assessment (EIA) has to be conducted when the exploration of oil or natural gas exceeds 500,000 m³/d (reduced thresholds of 250,000 m³/d applying to exploration fields located in a special protected area). The EIA approval, issued under the EIA Act, replaces the approval under the MinroG.

On an administrative level, the competent authorities are the Federal Ministry of Science, Research and Economy and, in case an EIA is required, the Government of the State is concerned ("*Landesregierung*"). Applicants can introduce remedies against decisions of the Federal Ministry of Science, Research and Economy with the Constitutional and also the Administrative Court. The EIA decision, issued by the State Government, can be repealed with the Federal Administrative Court ("*Bundesverwaltungsgericht*") and thereafter with the Constitutional and Administrative Court.

3.2 How are the State's mineral rights to develop oil and natural gas reserves transferred to investors or companies ("participants") (e.g. licence, concession, service contract, contractual rights under Production Sharing Agreement?) and what is the legal status of those rights or interests under domestic law?

Oil and natural gas are considered federal State-owned mineral resources which are in possession of the Austrian Federal State (sec. 1 no. 10 MinroG). Therefore, the Austrian Federal State has the right to search, explore and produce oil and natural gas (sec. 68 para. 1 MinroG). The same is valid for the search of hydrocarbon-bearing geological structures which shall be used as storage for oil or natural gas. The Federal State is authorised to transfer the exercise of these rights to individuals or legal entities and also groups of persons based on commercial law, which dispose of necessary technical and financial means for the establishment and operation of such mining activities (sec. 69 para. 1 MinroG). The transfer of these rights is stipulated by contract governed by civil law. Therein general rights and obligations and also the consideration for the transfer of such rights, e.g. appropriate remuneration or interest payments for the used area, are determined. Such contracts will be concluded by the Federal Ministry of Science, Research and Economy in consultation with the Federal Minister of Finance. Civil courts are competent to adjust legal differences. The search, exploration of, and storage in non-hydrocarbon-bearing geological structures, which shall be used as storage for oil or natural gas, is bound on an approval of the competent authority. Such approval has to be granted to individuals, but also to legal persons and groups of persons based on commercial law. In contrast to the above, the transfer of the exercise of rights is not possible in order to prevent malpractice; however, the transfer of the approval is possible, but has to be notified to the authority.

3.3 If different authorisations are issued in respect of different stages of development (e.g., exploration appraisal or production arrangements), please specify those authorisations and briefly summarise the most important (standard) terms (such as term/duration, scope of rights, expenditure obligations).

The search, exploration and production of oil and natural gas and the search of geological structures which shall be used as storage depend on work plans. Work plans shall provide, e.g., information concerning the purpose, scope, mode and time of work and also safety measures and the names of the responsible persons.

See question 3.2 with regard to the search, exploration of and storage in non-hydrocarbon-bearing geological structures to be used as storage for oil or natural gas. The mining beneficiary has to notify the set-up of a mining establishment or an independent section of a mining establishment within the authority's correct period of time to the authority. According to sec. 119 para. 1 MinroG, an authorisation is required for the setting up or construction of mining facilities on the surface, in tunnels, mine shafts and the drilling of a drill hole and probes of more than 300m in depth, for the purpose of mining activities which start on the surface. A mining facility is defined as an artificial independent local object which is used for the search, production, purification in operational connection with the search and production of natural gas, and also the search and exploration of geological structures used for the underground storage of natural gas without tanks and the operational purification in connection with storage. An authorisation for a mining facility can only be granted, if: (i) it is constructed (set-up) on the property of the applicant, or on the property of another person with the owner's consent, or on the basis of a legally-binding decision of the authority (sec. 148 *et seq*. MinroG); (ii) according to the best available technology, avoidable emissions do not exist; (iii) on the basis of medical or other sciences which come into consideration, life or the health of persons is not endangered and no unreasonable disturbance of persons exists; (iv) it is not expected that the property of the applicant which is not committed to use will be endangered and that there will not be any damage of the environment and water; and (v) the operation of the mining facility does not produce any waste which can be avoided or is not justifiable according to the best available technology. Produced waste must be disposed of in proper form if it cannot be avoided or recycled economically. Additionally, public interests have to be taken into consideration. The authority has the power to impose obligations, terms and conditions and limitations in order to grant an authorisation. Generally, there is no operating approval required (see sec. 119 para. 8 MinroG).

3.4 To what extent, if any, does the State have an ownership interest, or seek to participate, in the development of oil and natural gas reserves (whether as a matter of law or policy)?

Generally, OMV and RAG carry out oil and natural gas development activities in Austria. Currently, the Austrian Federal State, namely the Austrian Industry Holding AG (*Osterreichische Industrie Holding AG* – OIAG), has a stake of 31.5 per cent in OMV. Different Austrian States have an indirect holding in the RAG. The States' interests have been reduced in recent years.

3.5 How does the State derive value from oil and natural gas development (e.g. royalty, share of production, taxes)?

As stated above (see question 3.2), the exercise of specific rights in connection with oil and natural gas development (production) is transferred by contract (sec. 69 para. 1 MinroG); this is done against payment of an appropriate consideration. Therefore, the contracting party has to pay:

(i) an area interest for the search for oil or natural gas and the search and exploration for hydrocarbon-bearing geological structures to be used as storage;

(ii) a field interest and production interest for the production including the right to acquire oil or natural gas; and

(iii) a storage interest for the storage of oil or natural gas in hydrocarbon-bearing geological structures.

Sec. 69 MinroG regulates the calculation of the production interest. Under certain conditions (economic reasons), a liberation from the area, field, production and storage interest is possible and is regulated in a special ordinance based on sec. 69 para. 1 MinroG.

3.6 Are there any restrictions on the export of production?

Austrian law does not provide special restrictions on the export of oil or natural gas production. In the event of a crisis, certain measures (including export restrictions) can be taken on the basis of the Energy Steering Act 2012 ("*Energielenkungsgesetz*", Federal Law Gazette 2013/41).

3.7 Are there any currency exchange restrictions, or restrictions on the transfer of funds derived from production out of the jurisdiction?

No specific currency exchange restrictions or restrictions on the transfer of funds derived from production out of the jurisdiction can be determined in Austrian law.

3.8 What restrictions (if any) apply to the transfer or disposal of oil and natural gas development rights or interests?

The transfer or disposal of specific oil or natural gas development rights (search, exploration and production of oil and natural gas and the search for hydrocarbon-bearing geological structures and storage therein) can only take place with the consent of the competent Federal Minister (see question 3.2). The authorisation to search and explore non-hydrocarbon-bearing geological structures, which shall be used as storage, as well as the storage therein, can be transferred by contract; it has to be notified and verified to the authority. The authority has to authorise the transfer of the storage right, if the acquirer disposes of necessary technical and financial means for the storage in such structures.

3.9 Are participants obliged to provide any security or guarantees in relation to oil and natural gas development?

According to sec. 69 para. 1 MinroG, participants are obliged to dispose of necessary technical and financial means for the establishment and operation of mining activities. Therefore, securities or guarantees in relation to oil and natural gas development are stipulated in civil contracts with the applicants. Existing contracts are not disclosed to the public. In case the development activities are linked to the operation of landfills, securities or guarantees for potential restoration of the landfill have to be provided to the competent authority.

3.10 Can rights to develop oil and natural gas reserves granted to a participant be pledged for security, or booked for accounting purposes under domestic law?

There are no special regulations in connection with the pledge for security or the booking for accounting purposes of rights to develop oil or natural gas under the Austrian law; such regulations may be stipulated in the civil contract with the competent Federal Minister.

3.11 In addition to those rights/authorisations required to explore for and produce oil and natural gas, what other principal Government authorisations are required to develop oil and natural gas reserves (e.g. environmental, occupational health and safety) and from whom are these authorisations to be obtained?

Apart from authorisations based on the Austrian Mineral Resource Act (see question 3.3), several other authorisations (of different authorities) may be required, depending on the specific project. Therefore authorisations, e.g. according to the Nature Conservation Act or Water Rights Act, may be required. If a specific project is subject to an Environmental Impact Assessment (EIA), the competent authority issues a single decision under the EIA Act, covering all necessary licences ("one-stop shop"); see question 3.1.

3.12 Is there any legislation or framework relating to the abandonment or decommissioning of physical structures used in oil and natural gas development? If so, what are the principal features/requirements of the legislation?

According to sec. 119 para. 14 MinroG, the abandonment of a mining facility has to be notified to the authority. This is not required if the abandonment of a mining facility has been indicated to the authority in connection with a closure plan. Such closure plan has to be authorised by the authority. The authority is empowered to prescribe safety measures.

3.13 Is there any legislation or framework relating to gas storage? If so, what are the principal features/requirements of the legislation?

The storage of natural gas is carried out by the Crude Oil Search Corporation ("*Rohoel Aufsuchungs AG* – RAG") and OMV Gas Storage GmbH. Natural gas is stored in hydrocarbon-bearing geological structures; the storage of natural gas in non-hydrocarbon-bearing geological structures is possible. According to sec. 97

of the GWG 2011, storage undertakings have to grant access to storage facilities to producers, natural gas traders and suppliers domiciled in the EU (parties entitled to storage access) under non-discriminatory and transparent conditions. The storage undertaking has to stipulate storage utilisation charges on a non-discriminatory basis. The principles on which the storage charge is calculated have to be published once a year and after every change thereof (sec. 99 para. 1 GWG 2011). The access to storage can be refused under certain conditions, e.g. if access is economically unreasonable, in the event of failure conditions or a lack of storage capacities. The party seeking access to storage can file an application with the regulatory authority (E-Control), if access to storage is refused. E-Control has to find whether the prerequisites for refusal of access apply (within one month). If the authority finds out that the right to storage access has been violated, access has to be granted immediately upon service of the decision.

4 Import / Export of Natural Gas (including LNG)

4.1 Outline any regulatory requirements, or specific terms, limitations or rules applying in respect of cross-border sales or deliveries of natural gas (including LNG).

The GWG 2011 provides for the setting up of a virtual trading point that can be used, *inter alia*, for cross-border trading. The virtual trading point is a notional point in a market area at which market participants can trade natural gas even without having the right to system access for the market area. Access to the virtual trading point shall be subject to the operational rules of the market area manager and the transmission system operators, in line with the market rules. The virtual trading point is not a physical entry or exit point, but enables natural gas buyers and sellers to purchase and sell natural gas without the need to book capacity. The operator of the virtual trading point as designated by the market area manager has to be independent, especially from the vertically integrated natural gas undertaking, in terms of its legal form, organisation and its decision-making power.

5 Import / Export of Oil

5.1 Outline any regulatory requirements, or specific terms, limitations or rules applying in respect of cross-border sales or deliveries of oil and oil products.

According to the Oil Stockholding Act ("*Erdölbevorratungsgesetz* – EBG"), oil importers have to report their import activities to the Federal Ministry of Science, Research and Economy (BMWFW). If petroleum from other EU Member States is brought into the geographical area of application for commercial purposes or by mail order, a declaration as specified in the EBG shall be lodged with the competent customs office (together with accompanying documents required by the Petroleum Excise Act ("*Mineralölsteuergesetz*")). The BMWFW is competent to verify the completeness and accuracy of the imported quantities of oil and oil products as registered by the importer. As of 1 April of each year until 31 March of the following year, oil importers have to keep an emergency reserve of 25 per cent of their net imports of the previous year in domestic stock.

The transport of fuel oils in main or reserve tanks of vehicles is not considered import or export in accordance with the EBG.

6 Transportation

6.1 Outline broadly the ownership, organisational and regulatory framework in relation to transportation pipelines and associated infrastructure (such as natural gas processing and storage facilities).

As regards ownership of transportation pipelines and storage facilities, see questions 1.1 and 3.2. Regulations on the operation of transportation pipelines and storage facilities for natural gas can be found in the GWG 2011. Under the former GWG, the Austrian transmission and distribution grid was divided into three control areas. Under the new GWG 2011, the transmission and distribution grid is divided in three market areas (East, Tyrol and Vorarlberg), within which a market area manager, a distribution area manager and a clearing and settlement agent are entrusted with providing system services. The market area manager shall be designated by the transmission network operators. The market area manager shall have, *inter alia*, the following responsibilities: (i) to ensure the establishment of non-discriminatory access to the virtual trading point; (ii) to manage the balance groups which are active in the market area; (iii) to coordinate system operations and the use of linepack, as well as the use of physical balancing energy together with the market area's distribution area manager, mainly via the virtual trading point; (iv) to establish a uniform methodology for the calculation and announcement of capacity at the entry/exit points of the market area's transmission network; (v) to organise the establishment and operation of the online platform for offering capacity; (vi) on the basis of a variety of load-flow scenarios and together with the transmission system operators and the distribution area manager, to draw up a common forecast of the capacity need and utilisation in the market area's transmission network over the next 10 years; (vii) to draw up a coordinated network development plan; (viii) to coordinate measures to overcome physical congestions with the distribution area manager, the system operators and storage system operators in the market area; and (ix) to coordinate the nomination procedure for the transmission system, including the exchange of nominations with the operator of the virtual trading point. Under the new GWG 2011, transit of natural gas is no longer outside the market area (control area), i.e. the pipe-in-pipe system has been abolished. In line with this, transit of natural gas is subject to the same regulations as transport for domestic supply. Network users have to be a member of a balance group or have to establish their own balance group. A balance group representative bears the responsibility for the balance group. He has the obligation to develop schedules and transfer them to the clearing and settlement agent and control area manager. Natural gas storage facilities are operated by RAG and GCA. Natural gas is stored in hydrocarbon-bearing geological structures. Storage undertakings are obliged to grant access to their storage facilities to parties entitled to storage access (producers, natural gas traders and suppliers domiciled in the European Union) at non-discriminatory and transparent conditions. Storage utilisation charges have to be stipulated on a non-discriminatory and cost-oriented basis. Access can be denied under certain conditions (sec. 97 para. 2 GWG 2011).

6.2 What governmental authorisations (including any applicable environmental authorisations) are required to construct and operate oil and natural gas transportation pipelines and associated infrastructure?

According to the law, the construction, expansion, fundamental changes and the operation of natural gas pipelines are generally

bound to an authorisation of the authority (see sec. 148 GWG 2011). The authority has power to examine life, health, real rights, technical (safety) and environmental aspects (sec. 135 GWG 2011). The competent authority must be notified of any completion or permanent shutdown. Generally, natural gas pipelines can be operated after this notification. Depending on the specific project, several other authorisations and approvals may be required (e.g. the Nature Conservation Act). If a specific project is subject to an EIA, the competent authority issues a single decision under the EIA Act, covering all necessary authorisations ("one-stop-shop"). The operation of a transport pipeline is subject to licensing (sec. 119 GWG). In general, the TSO has to comply with one of the unbundling models set out in the Gas Directive (OU, ISO, ITO or ITO+). Gas storage pipes and spherical gas storage tanks shall require a licence under the GWG 2011; gas storage facilities are subject to the approval requirements of the MinroG.

As regards the construction and operation of oil pipelines and associated infrastructure, the Pipeline Act ("*Rohrleitungsgesetz*") applies. According to sec. 3 of the Pipeline Act, as a general rule, the transportation of goods via a pipeline, as well as the construction and operation of a pipeline, is subject to a concession issued by the governor. In case the pipeline crosses more than one State or the national border, the Federal Minister of Research, Science and Economy is the competent authority. Furthermore, a permit for the construction and operation of the pipeline has to be obtained (sec. 17 Pipeline Act). Such permit is granted on the basis of a technical construction plan submitted by the project developer. In addition to the permit under the Pipeline Act, further regulatory permits (e.g. in accordance with the Water Act or Waste Management Act, etc.) may have to be obtained from the respective competent authorities.

6.3 In general, how does an entity obtain the necessary land (or other) rights to construct oil and natural gas transportation pipelines or associated infrastructure? Do Government authorities have any powers of compulsory acquisition to facilitate land access?

According to sec. 144 para. 1 GWG 2011, the authority shall authorise, upon application, the temporary utilisation of properties belonging to third parties, with a view to undertaking preliminary works in connection with the construction, extension or alteration of a natural gas pipeline system. The application shall state the nature and duration of the intended preliminary work with a work plan attached. The applicant is only legally entitled to obtain such a decision if the preliminary work begins within one year of the application being filed. The party authorised to carry out preliminary work has to duly compensate the owners of the properties concerned, any parties who have a right *in rem* in these properties (except mortgage creditors) and any parties who hold mining licences for any restrictions they had at the time when the permit was granted (see further sec. 144 para. 9 GWG 2011). Property owners and any other parties who have a right *in rem* in a property may be deprived of, or restricted in, these property rights, provided that this is required with a view to construct a pipeline (transmission or distribution line) and that it is in the public interest to do so. A public interest shall be deemed to exist if provision has been made for such natural gas pipeline facility in the long-term plan or the network development plan. In such a case, the regulatory authority (E-Control) shall confirm the existence of a public interest by official decision. Where a natural gas pipeline facility is not included in the long-term plan or network development plan, a public interest shall be deemed to exist if the construction of such facility is necessary to achieve the objectives of the GWG 2011. For natural gas line facilities of a pressure range up to, and including, 0.6 MPa, private land may be expropriated only if no public land is available in the area concerned or if the natural gas undertaking cannot, for economic reasons, be reasonably expected to use public land.

For the construction of oil pipelines, the Pipeline Act provides for the right of the project developer to access foreign land in order to conduct preliminary studies for the preparation of the project (sec. 7 para. 1 Pipeline Act). Furthermore, the authority shall, upon application by the project developer, pronounce the expropriation of a property, if the permanent positioning of the pipeline at a certain location is required either for technical reasons or for reasons of disproportional costs for an alternative routing of the pipeline. Expropriation may include easement rights or the transfer of the property to the project developer. However, the transfer of the property shall be a measure of last resort (sec. 27 Pipeline Act).

6.4 How is access to oil and natural gas transportation pipelines and associated infrastructure organised?

The system operator operating the system to which the customer wishes to be connected is obliged to grant non-discriminating access under approved GTC, as well as regulated tariffs (see in detail sec. 27 *et seq*. and sec. 58 *et seq*. GWG 2011). In the event that the application for access also concerns a natural gas line upstream of the relevant distribution system, the system operator is obliged to pass on promptly the application to the distribution area manager for further action.

For this purpose, the natural gas undertakings concerned shall enter into contracts under civil law for the benefit of the party entitled to system access. The line capacity currently used for the customer in the network up to the virtual trading point shall continue to be available to the customer in the event of a supplier switch or supply by several suppliers. In the latter case, the current supplier shall make available that part of the capacity currently used for the customer that is needed by the second supplier for the partial supply of the customer. Imbalance charges relating to customers with several suppliers shall be settled in the balance group to which the customer's metering point is assigned.

Unlike in the gas sector, access to oil pipelines is not regulated. Access to the central stockholding entity Erdöllager-Gesellschaft GmbH (CSE) is regulated under the Oil Stockholding Act. In accordance with sec. 8 para. 5 of the Oil Stockholding Act, the Federal Minister of Research, Science and Economy shall, by order, establish a tariff of maximum charges per 1,000 crude oil units for the assumption of stockholding obligations (currently the tariff amounts to EUR 50.20 ex. value-added tax). The CSE shall conclude stockholding contracts, in accordance with these charges and general terms and conditions, with any compulsory stockholder offering to assume stockholding obligations as required by the Oil Stockholding Act.

6.5 To what degree are oil and natural gas transportation pipelines integrated or interconnected, and how is co-operation between different transportation systems established and regulated?

The Austrian natural gas transportation network is disconnected and consists of three market areas. Transportation of natural gas between different control areas, e.g. from the Eastern part of Austria to Tyrol, is only possible by using foreign networks (e.g., via Germany). A market area manager is established for each of the market areas. For responsibilities of the market area manager, see question 6.1. The TSOs are obliged to co-operate with other system operators. For instance, they have to exchange information and data in order to set up a long-term network development plan. Moreover, system operators are obliged to conclude uniform interconnection point agreements with each other for all interconnection points

between their systems. Such interconnection point agreements at interconnection points shall be concluded in consultation with, and following, the specifications of the market area manager and the distribution area manager, as applicable. The same shall apply for interconnection point agreements with system operators in other countries and the operators of storage or production facilities.

As stated in question 2.1, there are two main pipelines crossing the Austrian territory: the TAL, via which oil is transited through from Italy to Germany and the Czech Republic; as well as the AWP which branches off the TAL and transports oil from the Austrian-Italian border to the refinery in Schwechat.

6.6 Outline any third-party access regime/rights in respect of oil and natural gas transportation and associated infrastructure. For example, can the regulator or a new customer wishing to transport oil or natural gas compel or require the operator/owner of an oil or natural gas transportation pipeline or associated infrastructure to grant capacity or expand its facilities in order to accommodate the new customer? If so, how are the costs (including costs of interconnection, capacity reservation or facility expansions) allocated?

As stated above, the system operator operating the system to which the customer wishes to be connected is obliged to grant non-discriminatory access under approved GTC and regulated tariffs. The regulatory authority (E-Control) can be appealed if the right of access is damaged. Access may be denied by the system operator under certain conditions, e.g. extraordinary system conditions, insufficient system capacity or insufficient interconnection of systems. The refusal has to be notified in writing (sec. 33 GWG 2011). Where system access for transports in the distribution system is refused due to lacking capacities, the party entitled to system access shall have the possibility to file an application for capacity expansion. The distribution area manager shall take due account of the capacity need indicated in such application when drawing up the long-term plan. Capacity expansion applications shall be approved if certain conditions are met. Costs deriving from capacity expansion are allocated to the users of the grids via the regulated transportation tariffs. The regulated tariffs are based on the allowed costs of the system operators (to be calculated in accordance with chapter 5 of the GWG 2011).

Unlike in the gas sector, access to oil pipelines is not regulated.

6.7 Are parties free to agree the terms upon which oil or natural gas is to be transported or are the terms (including costs/tariffs which may be charged) regulated?

GTC for access to the grid have to be approved *ex ante* by the regulatory authority, which also sets the tariffs for access to the domestic transport system. Tariffs are paid by the end-consumers ("postage stamp tariff"). The tariffs for transmission system operators shall be calculated by applying a methodology which is subject to approval by the regulatory authority (E-Control) by official decision, and must comply with the requisites of Article 13 Regulation (EC) No. 715/2009. Upon request of E-Control, the methodology shall be adjusted or redesigned. The tariffs resulting from the application of the approved methodology are enacted by the ordinance of the regulatory authority and are published on the internet.

Unlike in the gas sector, the terms for transportation of oil are not regulated. The parties are free to agree on such terms in contractual agreements.

7 Gas Transmission / Distribution

7.1 Outline broadly the ownership, organisational and regulatory framework in relation to the natural gas transmission/distribution network.

The existing Austrian transit pipelines are (at least partly) owned and operated by GCA, a subsidiary of OMV (51%) and the consortium consisting of Allianz and Snam S.p.A. (49%) (see question 14.1). Domestic transmission and distribution networks are owned and operated by GCA and Trans Austria Gasleitung GmbH as TSOs and various DSOs (see question 1.1). Domestic transmission and distribution networks are subject to regulated third-party access (TPA), which means that GTC are approved *ex ante* and tariffs are regulated.

7.2 What governmental authorisations (including any applicable environmental authorisations) are required to operate a distribution network?

A licence from the regulatory authority (E-Control) is required to operate a distribution network and has to be granted if certain licence conditions are fulfilled (e.g. third-party liability insurance). The authority may impose obligations and terms or grant the authorisation temporarily (sec. 43 GWG 2011). DSOs are required to appoint an individual as technical director in charge of managing and supervising the operation of the system before the initial operation. Additionally, the operator may appoint a managing director to carry out its function (compare sec. 46 GWG 2011). The managing director is accountable to the authority with regard to compliance with the provision of the GWG 2011. The DSO has to notify the appointment of these two persons to the authority.

7.3 How is access to the natural gas distribution network organised?

The DSO operating the system to which the customer wishes to be connected is obliged to grant non-discriminating access under approved GTC and regulated tariffs. DSOs are obliged to enter into private-law contracts with consumers on the connection to the natural gas distribution system and system utilisation under approved GTC within their distribution area (compare sections 27 and 58 GWG 2011).

7.4 Can the regulator require a distributor to grant capacity or expand its system in order to accommodate new customers?

Access to the distribution system may be denied by the DSO under certain conditions, as provided by the law. The regulatory authority (E-Control) can be appealed if the right of access is damaged. DSOs are obliged to enter into private law contracts with consumers on the connection to the natural gas distribution system and utilisation under the GTC within their distribution area (general obligation to connect). The system user's facility has principally to be connected to the system at a technically suitable point, with due regard to the economic interests of the system user. The general obligation to connect shall not apply if the operator of the distribution system cannot with any economic reasonability be expected to make an individual connection, considering the interests of all its customers.

If no agreement can be achieved on whether or not a systems operator is obliged to connect a consumer, the provincial governor will decide upon application of either party. Compare also question 6.6 to insufficient system capacity or insufficient interconnection.

7.5 What fees are charged for accessing the distribution network, and are these fees regulated?

According to sec. 72 GWG 2011, the following tariffs for the usage of the distribution networks apply:

(i) a system utilisation charge;
(ii) a system admission charge;
(iii) a system provision charge;
(iv) a metering charge; and
(v) supplementary service charges.

The regulatory authority (E-Control) shall set the distribution system charges listed above under (i), (iii), (iv) and (v), with the charges under (i), (iii) and (v) being fixed rates, by ordinance. For the charge under (iv), a ceiling shall be set. The tariffs for the transmission system charges listed under (i) to (iii) at the entry and exit points concerned shall be determined by applying a methodology to be approved by E-Control upon a proposal by the transmission system operators, and shall be enacted by ordinance.

7.6 Are there any restrictions or limitations in relation to acquiring an interest in a gas utility, or the transfer of assets forming part of the distribution network (whether directly or indirectly)?

There are no restrictions or limitations in relation to acquiring an interest in a natural gas utility, or the transfer of assets forming part of the distribution network.

8 Natural Gas Trading

8.1 Outline broadly the ownership, organisational and regulatory framework in relation to natural gas trading. Please include details of current major initiatives or policies of the Government or regulator (if any) relating to natural gas trading.

According to the GWG 2011, natural gas traders are natural or legal persons buying or selling natural gas without carrying out the function of transmission or distribution within or outside the system in which such a natural gas trader is established. Natural gas traders buying or selling natural gas for customers in the federal territory of Austria have to notify their activities to the regulatory authority (E-Control). The conclusion of natural gas supply contracts having a duration in excess of one year and involving the purchase of a quantity of natural gas in excess of 250 million normal cubic metres per year from the territory of the European Union or from third countries, as well as their duration and the quantity of natural gas they relate to, shall be notified to the regulatory authority (E-Control). Additionally, independent natural gas traders (applicants) have to register as balance group representatives who are to be responsible for and establish a balance group in at least one of three Austrian control areas (or may join an existing balance group). Therefore, contracts with the clearing and settlement centre and the control area manager have to be concluded. September 2013 amendments to GWG 2011 introduce administrative and criminal penalties for breaches of EU Regulation No. 1227/2011 (REMIT), which came into force on 28 December 2011 in Austria. REMIT prohibits insider trading and attempted or actual market manipulation in the wholesale energy markets. According to sec. 10a GWG 2011, market participants that are obliged to publish inside information in accordance with Article 4 of EU Regulation No. 1227/2011 are additionally obliged to inform E-Control simultaneously. The European Market Infrastructure Regulation (EU Regulation No. 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counter-parties (CCPs) and trade repositories (TRs) – EMIR) entered into force on 16 August 2012. If the energy trader exceeds the clearing threshold hereunder, the clearing obligation, the risk mitigation techniques and the reporting obligations must be fulfilled. Below the clearing threshold, only the reporting obligation and certain risk mitigation techniques are applicable. According to an ordinance on wholesale energy transaction data storage (Data Storage Ordinance ("*Energiegroßhandels-Transaktionsdaten-Aufbewahrungsverordnung*", Federal Law Gazette II 2012/337), energy traders are obliged to keep data of their transactions for five years. These data include the identity of the buyer/seller, the marketplace where the transaction was concluded, trading day and time of transaction, contract specifications, etc. This obligation applies for over-the-counter trading as well as for exchange trading. The data must, on demand, be provided to E-Control, to the Austrian Federal Competition Authority, and to the European Commission.

8.2 What range of natural gas commodities can be traded? For example, can only "bundled" products (i.e., the natural gas commodity and the distribution thereof) be traded?

The GWG 2011 provides for the establishment of a virtual trading point system. The virtual trading point is a notional point in a market area at which market participants can trade natural gas even without having the right to system access for the market area. The virtual trading point is not a physical entry or exit point, but enables natural gas buyers and sellers to purchase and sell natural gas without the need to book capacity, and therefore trading of unbundled products is possible; see also question 4.1.

9 Liquefied Natural Gas

9.1 Outline broadly the ownership, organisational and regulatory framework in relation to LNG facilities.

Currently, no LNG facility in Austria exists. Some Austrian companies plan to construct such terminal in the Adriatic region as part of a JV (see also question 1.1).

9.2 What governmental authorisations are required to construct and operate LNG facilities?

LNG is not regulated under the GWG 2011.

9.3 Is there any regulation of the price or terms of service in the LNG sector?

No, there is not.

9.4 Outline any third-party access regime/rights in respect of LNG facilities.

As there are no LNG facilities in Austria, the access to LNG terminals is not regulated.

10 Downstream Oil

10.1 Outline broadly the regulatory framework in relation to the downstream oil sector.

There is no specific regulatory framework for the downstream oil sector in Austria.

However, in 2009 the Austrian Government introduced a legislative measure which restricts the ability of retailers to set pump prices. In accordance with the legal requirements, fuel station operators have to set their maximum prices in the morning and may no longer increase the prices in the course of the day. As a result of the fast increase in fuel prices, the Federal Minister of Research, Science and Economy has launched an initiative for the regulation of fuel prices before major public holidays. Accordingly, operators of fuel stations are not allowed to increase or decrease their prices for a certain period of time (usually from midday on the day before the holiday until midnight of the Sunday following the holiday).

As regards the regulatory requirements for emergency reserves, the Oil Stockholding Act stipulates that importers of crude oil, petroleum products, biofuels or feedstocks directly used to produce biofuels shall hold 25 per cent of their imports as compulsory emergency reserves from 1 April of each year until 31 March the following year.

10.2 Outline broadly the ownership, organisation and regulatory framework in relation to oil trading.

Unlike in the gas sector, oil trading *per se* is not regulated. There are no licence or concession requirements for oil trading activities in Austria. Furthermore, there is no price regulation for oil products. Oil trading is carried out on a contractual basis.

11 Competition

11.1 Which governmental authority or authorities are responsible for the regulation of competition aspects, or anti-competitive practices, in the oil and natural gas sector?

On an administrative level, E-Control is competent for the regulation of the gas market. The competence of other authorities being responsible for competition aspects remains unaffected. The Federal Minister of Research, Science and Economy is the highest authority. The Federal Minister is also responsible for the regulation of the search, exploration and production of oil and natural gas (ordinances, notices). The competence of other authorities being responsible for competition aspects, such as the FCA, the Federal Cartel Attorney and the Cartel Court, remain unaffected.

11.2 To what criteria does the regulator have regard in determining whether conduct is anti-competitive?

The regulator must observe the criteria of the Austrian Anti-Trust Act ("*Kartellgesetz*", Federal Law Gazette I 2005/61, as amended), Arts. 101 and 102 TFEU and also that of the Gas Act and Energy Regulatory Authority Act.

11.3 What power or authority does the regulator have to preclude or take action in relation to anti-competitive practices?

According to the Energy Regulatory Authority Act ("*Energie-Control-Gesetz*" E-Control-G, Federal Law Gazette I 2010/110, as amended), one of the regulator's key tasks is to exercise market oversight. If the regulator identifies any competition violations, it has the power to instruct the respective market participant by way of official decision to act in compliance with the legal obligations. In the performance of these duties, the regulator has to seek to achieve agreement between the parties involved (see sec. 24 para. 2 E-ControlG).

11.4 Does the regulator (or any other Government authority) have the power to approve/disapprove mergers or other changes in control over businesses in the oil and natural gas sector, or proposed acquisitions of development assets, transportation or associated infrastructure or distribution assets? If so, what criteria and procedures are applied? How long does it typically take to obtain a decision approving or disapproving the transaction?

According to the Austrian Anti-Trust Act, intended mergers generally have to be notified to the FCA if the companies involved reached, in the last year before the merger, the following turnover:

(i) worldwide, more than EUR 300 million;

(ii) in Austria, more than EUR 30 million; and

(iii) worldwide, at least two companies each with more than EUR 5 million.

In 2017, the Austrian merger control was amended, introducing a transaction value test that extends the reach of Austrian merger control. Effective from 1 November 2017, the amendment introduces additional thresholds, even if the above-listed thresholds are not met. A transaction requires a pre-merger approval in case the following four cumulative conditions are fulfilled:

- combined turnover of the undertakings exceeds EUR 300 million worldwide;
- combined turnover of the undertakings exceeds EUR 15 million in Austria;
- the "value of consideration" for the transaction exceeds EUR 200 million; and
- the target has significant activities in Austria (local nexus).

The FCA and the Federal Cartel Attorney may, within a period of four weeks from notification, either clear a merger or request the Cartel Court to examine the intended merger. The Cartel Court has to decide within a period of five months from reception of the request. The court has to interdict the merger, if it expects that the merger will lead to the creation or strengthening of a dominant position.

12 Foreign Investment and International Obligations

12.1 Are there any special requirements or limitations on acquisitions of interests in the natural gas sector (whether development, transportation or associated infrastructure, distribution or other) by foreign companies?

According to the Foreign Trade Act ("*Außenwirtschaftsgesetz* – FTA"), acquisitions of (at least) 25 per cent, or of controlling interests in companies in specific industries, including in energy, by foreign investors (i.e. non-EEA and non-Swiss persons) require approval ("FTA approval") by Austria's Federal Minister of Science, Research and Economy ("*Bundesminister für Wissenschaft, Forschung und Wirtschaft* – BMWFW"). The FTA approval is a so-called *ex ante*

approval and applies in case of the acquisition of energy supply and network companies. It requires the foreign investor to file for approval prior to entering into a legally binding agreement regarding such acquisition. Any acquisition entered into without required approval is invalid and, if implemented, can be unwound. FTA approval is only required for direct investments by Foreign Investors. Therefore, as a general rule, indirect investments by Foreign Investors via EU/EEA or Swiss entities are not captured by the approval regime, since EU law would not allow such investment restrictions. Accordingly, if the acquiring entity is domiciled within the EEA/EU or Switzerland, no FTA approval is required even if the acquiring entity's (indirect) shareholder is a Foreign Investor (so-called indirect investment), unless such structure was implemented and used to circumvent the approval requirement. Indirect investments might trigger an *ex officio* review procedure which aims at suspicious circumvention structures. The review procedure can be initiated by the BMWFW in exceptional cases only. It requires (i) a reasonable suspicion that the investment structure was chosen in order to circumvent the FTA approval requirement, (ii) a reasonable suspicion that the circumvention results in a threat to certain public interests, such as public order and public security, and (iii) the absence of EU provisions conflicting with the application of the FTA approval requirement.

12.2 To what extent is regulatory policy in respect of the oil and natural gas sector influenced or affected by international treaties or other multinational arrangements?

The regulatory policy in respect of the oil and natural gas sector is especially influenced and affected by European Law, in particular by the TFEU.

13 Dispute Resolution

13.1 Provide a brief overview of compulsory dispute resolution procedures (statutory or otherwise) applying to the oil and natural gas sector (if any), including procedures applying in the context of disputes between the applicable Government authority/regulator and: participants in relation to oil and natural gas development; transportation pipeline and associated infrastructure owners or users in relation to the transportation, processing or storage of natural gas; downstream oil infrastructure owners or users; and distribution network owners or users in relation to the distribution/transmission of natural gas.

No compulsory dispute resolution procedures apply between the regulator and corporations in the oil or natural gas sector.

13.2 Is your jurisdiction a signatory to, and has it duly ratified into domestic legislation: the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards; and/or the Convention on the Settlement of Investment Disputes between States and Nationals of Other States ("ICSID")?

The New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards was ratified in 1961, and the Convention on the Settlement of Investment Disputes between States and Nationals of Other States was ratified in 1971.

13.3 Is there any special difficulty (whether as a matter of law or practice) in litigating, or seeking to enforce judgments or awards, against Government authorities or State organs (including any immunity)?

Generally, there is no special difficulty in litigating, or seeking to enforce judgments or awards, against Government authorities or State organs.

13.4 Have there been instances in the oil and natural gas sector when foreign corporations have successfully obtained judgments or awards against Government authorities or State organs pursuant to litigation before domestic courts?

Generally, there is no difference between Austrian and foreign corporations before the law.

14 Updates

14.1 Please provide, in no more than 300 words, a summary of any new cases, trends and developments in Oil and Gas Regulation Law in your jurisdiction.

As of 1 January 2017, there is a new methodology to be used for the calculation of system tariffs for gas TSOs (this is after four years of validating the preceding tariff calculation). The Gas System Charges Ordinance 2013 envisages new tariffs based on recommendations by TSOs and already contains the network code on rules regarding harmonised tariff structures for gas (TAR NC). First, the costs are based on the capacity-weighted distance (costs between the entry and exit point). These costs (entry-exit split) build the basis for the calculation system, "distance to the virtual trading point". Thereafter, fee groups are formed to enable calculability and foreseeability of fees for grid customers of the transmission system.

In 2017, E-Control published a draft of the amendment of the Gas Market Model Ordinance 2017. The amendment implements the regulatory regime set out in EU Regulation No. 2017/459, establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing EU Regulation No. 984/2013 (CAM Network Code). The amendment also contains a new provision implementing the capacity conversion service in Austria. Transmission system operators must offer network users holding mismatched unbundled firm entry or exit capacity at one side of an interconnection point a free capacity conversion service. This service applies to interconnection points where the network user had to buy bundled firm freely allocable entry or exit capacity, because the unbundled exit or entry capacity on the other side of the interconnection point offered by an adjacent transmission system operator was insufficient. The new provisions will enter into force on 15 September 2017 and 1 April 2018, respectively.

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- Corporate Recovery & Insolvency
- Corporate Tax
- Cybersecurity
- Data Protection
- Employment & Labour Law
- Enforcement of Foreign Judgments
- Environment & Climate Change Law
- Family Law
- Fintech
- Franchise
- Gambling
- Insurance & Reinsurance
- International Arbitration
- Lending & Secured Finance
- Litigation & Dispute Resolution
- Merger Control
- Mergers & Acquisitions
- Mining Law
- Oil & Gas Regulation
- Outsourcing
- Patents
- Pharmaceutical Advertising
- Private Client
- Private Equity
- Product Liability
- Project Finance
- Public Investment Funds
- Public Procurement
- Real Estate
- Securitisation
- Shipping Law
- Telecoms, Media & Internet
- Trade Marks
- Vertical Agreements and Dominant Firms

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