Workshop on the Ukrainian customs warehouse regime

18 May 2021
10:00 – 12.00 hrs CET
# Workshop programme

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<th>Time</th>
<th>Session</th>
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<tbody>
<tr>
<td>10.00 – 10.10 CET</td>
<td><strong>Welcome &amp; Opening Remarks</strong></td>
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<td></td>
<td><em>Jan Haizmann, Chairman of the EFET Legal Committee &amp; Sonia Auguscik, Secretary of the EFET Working Group for Gas Trading Documentation for Ukraine</em></td>
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<tr>
<td>10.10 – 11.00 CET</td>
<td><strong>Guidance for traders interested in the customs warehouse regime</strong></td>
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<tr>
<td></td>
<td>• Introduction to the customs warehouse regime</td>
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<td></td>
<td>• How to become a client of the customs warehouse</td>
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<td></td>
<td>• Operational details (customs declaration, withdrawal, injection, delivery-acceptance)</td>
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<td>• Case studies for foreign traders</td>
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<tr>
<td></td>
<td><em>Representatives of the Storage System Operator of Ukraine - JSC „UKTRANSGAZ“:</em></td>
</tr>
<tr>
<td></td>
<td>• Agneta Kutselim, Director of the Department of Commercial Activity</td>
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<td>• Andrii Holiak, Department of Commercial Activity</td>
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<td>• Olena Melnyk, Department of Commercial Activity</td>
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## Workshop programme

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<th>Time</th>
<th>Event</th>
<th>Speaker/Chairmen</th>
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<tr>
<td>11.00 – 11.30 CET</td>
<td><strong>Introduction to the EFET Ukrainian Customs Warehouse Storage Appendix</strong></td>
<td><em>Inna Antipova, Director at ENGIE Ukraine, Member of the EFET Working Group for Gas Trading Documentation for Ukraine</em></td>
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<tr>
<td>11.30 – 12.00 CET</td>
<td><strong>Q&amp;A, take-away messages and conclusions</strong></td>
<td><em>Moderated by Jan Haizmann, Chairman of the EFET Legal Committee &amp; Sonia Auguscik, Secretary of the EFET Working Group for Gas Trading Documentation for Ukraine</em></td>
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</table>
Housekeeping rules

To help keep background noise to a minimum, make sure you mute your microphone when you are not speaking.

Please use the chat function to ask your questions.

Our workshop is being recorded.

Follow-up email after the workshop will include the meeting materials (slides).
We build trust in power and gas markets across Europe, so that they may underpin a sustainable and secure energy supply and enable the transition to a carbon neutral economy.

We do this by:

- Working to improve the functionality and design of European gas, electricity and associated markets for the benefit of the overall economy, society and especially end consumers.
- Developing and maintaining standard wholesale supply contracts and standardising related transaction and business processes.
- Facilitating debate amongst TSOs, regulators, policy makers, traders and others in the value chain about the future of the European energy market.

The European Federation of Energy Traders (EFET) promotes competition, transparency and open access in the European energy sector.

We represent more than 100 member companies active in over 27 European countries.
EFET Working Group for Gas Trading
Documentation for Ukraine

Recommended Clauses (Version 1.0/February 2020):
amendments to the EFET General Agreement for trading between any UA and non-UA party

EFET Ukrainian Border Appendix (Version 1.0/February 2020):
for trading at the Ukrainian border, to be annexed to the EFET General Agreement

EFET Ukrainian Customs Warehouse Storage Appendix (Version 1.0/May 2021):
for trades concluded in the customs warehouse regime, to be annexed to the EFET General Agreement

Guidance Notes to Ukrainian Gas Trading Documentation (Version 3.0/May 2021):
covering the Ukrainian Border Appendix, the Ukrainian Customs Warehouse Storage Appendix and the Recommended Clauses
Ukrainian Customs Warehouse Regime

What is the customs warehouse regime? Is it for non-Ukrainian residents?

How to become a client of the customs warehouse?

What is the “short-haul” service? How can I use it?

Periodic customs declaration? Additional customs declaration? What is IM 74 / EK 11?

How to use SSO I-Platform? Is the platform available in English?
Guidance for traders interested in the customs warehouse regime

Representatives of the Storage System Operator of Ukraine - JSC „UKTRANSGAZ”:

• Agneta Kutselim, Director of the Department of Commercial Activity
• Andrii Holiak, Department of Commercial Activity
• Olena Melnyk, Department of Commercial Activity
The specified customs regime – "customs warehouse" allows Clients to store natural gas in the 10 underground gas storage facilities of Ukraine.

“Customs warehouse” – gas storage for 1095 days without taxes and customs duties with trading option on domestic and external markets.

Total capacity: **30,9 bcm**
Basic services we offer to clients

- **Storage (Injection, Withdrawal)**
  - 12 Underground gas storages
  - 30,950 billion cubic meters of total capacity

- **“Customs Warehouse”**
  - Gas storage for 1095 days without taxes and customs duties payment
  - Trading option on domestic and external markets

- **“Customs Warehouse”** + **“Short-haul”**
  - Increasing liquidity and competitiveness of the storage services
“Short-haul” – is a special service, which allows for discounted transmission between dedicated interconnection points with adjacent countries. UA Network Code specifies short-haul as “capacity with restrictions”.

“Customs warehouse” regime is open for “short-haul” service (Gas storage for 1095 days without taxes and customs duties).
Legal regulation of customs warehouse

- **The customs regime of the customs warehouse** and the conditions for placing gas volumes are established in accordance with the articles of **Chapter 20 of the Customs Code of Ukraine**.

- **The storage period** in the customs warehouse is **1095 days** determined by Article 125 of the Customs Code of Ukraine **without taxes and customs duties payments**.

- **The transfer of ownership** of natural gas volumes is defined by **Article 128 of the Customs Code of Ukraine**.

- The procedure and list of documents specified for customs declarations are regulated in accordance with the **Order of the Ministry of Finance of Ukraine dated 30.05.2012 № 629 “On customs formalities on pipeline transport and power lines“**.

- **The customs regime of re-export**, which regulates the export of gas from the customs warehouse outside the customs territory of Ukraine, is established in accordance with the articles of **Chapter 16 of the Customs Code of Ukraine**.

- Resident companies in Ukraine may change the customs regime of gas volumes placed in the customs warehouse, that is to carry out "**customs clearance** of imports**, by paying VAT in accordance with the articles of **Chapter 13 of the Customs Code of Ukraine**.
How to become a Client of the «Customs warehouse»

1. **STORAGE AGREEMENT**
   - Enter into Agreement on natural gas storage (injection/withdrawal)

2. **INFORMATION PLATFORM**
   - Sign up in the SSO I-Platform

3. **CAPACITY BOOKING**
   - Order services: working volume and injection/withdrawal capacity

4. **PAYMENT FOR CAPACITY**
   - Pay for the booked capacity

   **SERVICE AGREEMENT FOR DECLARATION**
   - Enter into Service Agreement for declaration of natural gas transported across the customs border of Ukraine

   **TRANSPORTATION AGREEMENT**
   - Enter into Transportation Agreement with the GTS Operator

English version of Information Platform is available
Types of CWR declarations

**INTENTION**

**Periodic customs declaration (IM 74)**
Is the intention of the customer of storage services to place a certain amount of natural gas in the CW for a certain period from 1 day to 180 days.

**Periodic customs declaration (EK 11)**
**Re-export**
Is the intention of the customer of storage services to re-export a certain amount of natural gas from the customs territory of Ukraine, in particular the CW within a certain period from 1 day to 180 days.

**EVIDENCE**

**Additional customs declaration (IM 74)**
Is evidence of the actual volume of natural gas placed in the customs warehouse with a storage period of up to 1095 days and the possibility of customer storage services in part transfer of volumes to other entities.

**Additional customs declaration (EK 11)**
**Re-export**
Is evidence of the actual amount of natural gas re-exported from the customs territory of Ukraine.
Customs warehouse injection

Chronology of CW injection
(in terms of monthly representation)

- Submission of PCD (IM 74); receiving an invoice; payment for the invoice from 1 to 180 days
- Submission of the application for ACD (IM 74)
- Client fulfills payment of the invoice within a day

The SSO of Ukraine declines nominations/renominations in case of failure to fulfill the payment for working volume and injection capacity (Chapter I, Section IX of the Gas Storage Facilities Code)
Customs warehouse withdrawal

Chronology of CW withdrawal
(in terms of monthly representation)

Submission of PCD (ЕK 11) re-export;
receiving an invoice;
payment for the invoice

from 1 to 180 days

Submission of the application for ACD (ЕK 11) re-export

Withdrawal declaration issuance

Client fulfills payment of the invoice within a day

The SSO of Ukraine declines nominations/renominations in case of failure to fulfill the payment for working volume and withdrawal capacity (Chapter I, Section IX of the Gas Storage Facilities Code)
Customs warehouse working principles

1. Submission of application for declaring the gas volume placed in CW or for re-export purposes (IM 74, EK11)

2. Issuing transit customs Declaration (TP 81) from TSO

3. According to the terms of issued PCD (IM 74) the gas can be injected in CW from 1 to 180 days

4. Whether physical injection of gas to CW takes place the ACD (IM 74) shall be issued. Such an ACD shall be issued till 15-th of current month with respect to the period of injection of prior month. The ACD shall correspond with the previously issued PCD (IM 74)

5. Customs clearance (IM 40) – the procedure of changing the customs regime of CW gas for the purposes of domestic consumers by means of VAT payment

6. According to the terms of issued PCD (EK 11) the gas can be withdrawn from CW from 1 to 180 days

7. Whether physical withdrawal of gas from CW takes place the ACD (EK 11) shall be issued. Such an ACD shall be issued till 15-th of current month with respect to the period of withdrawal of prior month. The ACD shall correspond with the previously issued PCD (EK 11)

Shelf-life: max. 1095 days

According to the Article 125 of the Customs Code of Ukraine
THANK YOU

front-office@utg.ua

 cw@utg.ua
 stock-sso@utg.ua
 back-sso@utg.ua

Please follow the QR code in order to get acquainted with the brief presentation on How to become a Customer
CUSTOMS WAREHOUSE: CASE STUDY

Non-resident – Resident:
Title transfer
Customs clearance of gas by Resident (import)

Non-resident – Non-resident:
Title transfer
Re-export of natural gas stock from UA
Case study: Non-resident – Resident Title transfer

Definitions:

Non-resident-A: CWR client of the SSO of Ukraine with gas balance of 1,5 mcm as at 01.06.2021, which was injected in March 2021 according to ACD (IM 74 ДР) dtd. 15.04.2021.

Resident-B: CWR client of the SSO of Ukraine to whom the gas is transferred.

Purpose: Non-resident-A decides to sell 0,5 mcm of its natural gas stock to Resident-B on 10th of November 2021 at 14:00 by Kyiv time.
## Case study: Non-resident – Resident Title transfer

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<th>Parties</th>
<th>Algorithm</th>
<th>Visualization</th>
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<tr>
<td>1.</td>
<td>Non-Resident A</td>
<td><strong>Cabinet of Customer:</strong> check on their storage service provision (absence of debts, bookings of required monthly capacity working volume, etc.)</td>
<td></td>
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<tr>
<td></td>
<td>Resident B</td>
<td></td>
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<tr>
<td>2.</td>
<td>Non-Resident A</td>
<td><strong>Protocol of natural gas delivery and acceptance in UGS:</strong> fill in the Protocol (or GTA report in the EFET UA CWS Appendix definition), indicating: full names of the counter-parties, desired volume of 0,5 mcm to transfer and ACD (IM 74 ДР) details (No. and date). It is recommended to forward draft of Protocol to SSO for pre-verification 24 hours prior the transfer.</td>
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<td>3.</td>
<td>Non-Resident A</td>
<td>Provide SSO via e-mail (<a href="mailto:stock-sso@utg.ua">stock-sso@utg.ua</a>) with the scan-copy of the signed Protocol at 12 o’clock or earlier (the hard copies of the signed Protocols shall be forwarded to the SSO premises accordingly).</td>
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<tr>
<td></td>
<td>Resident B</td>
<td></td>
<td></td>
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<td>4.</td>
<td>Non-Resident A</td>
<td>Submit trade notifications in I-platform of the SSO at 14:00 or earlier (consider the period of approval of TN is up to 2 hours). Please use the Manual Submission of trade notifications in the I-Platform of SSO.</td>
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<tr>
<td></td>
<td>Resident B</td>
<td></td>
<td></td>
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<tr>
<td>5.</td>
<td>SSO of Ukraine</td>
<td>SSO approves TNs. Parties see the updated gas balance in their Customer’s cabinets and following Reports on consignments with updated data of SSO.</td>
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</tbody>
</table>
Case study: Non-resident – Resident
Customs clearance of gas by Resident (import)

Definitions:
Resident-B

Purpose:
Resident-B decides to perform customs clearance of CWR natural gas stock of 0.5 mcm on 15th of November.

1. Resident-B sends signed Protocol to cw@utg.ua and applies for the gas ownership reference. The SSO of Ukraine sends the gas ownership reference.

2. Resident-B provides customs broker (energy profile) with set of required documents for the purpose of customs clearance of natural gas (i.e. the gas ownership reference, copy of ACD (IM 74 ДР), Protocol of delivery-acceptance).

3. After Resident-B performs all the customs payments, he creates a request for the customs regime change by submission of customs clearance (IM 40 declaration) in I-platform of SSO:
Case study: Non-resident – Non-resident
Title transfer

Definitions:

**Non-resident-A**
CWR client of the SSO of Ukraine with gas balance of 1,5 mcm as at 01.12.2021, which was injected in March 2021 according to ACD (IM 74 ДР) dtd. 15.04.2021.

**Non-Resident-C**
CWR client of the SSO of Ukraine to whom the gas is transferred.

**Purpose:** Non-resident-A decides to sell 0,7 mcm of its natural gas stock to Non-resident-C, CWR client, on 5th of December 2021 at 14 o'clock by Kyiv time.
## Case study: Non-resident Non-resident Title transfer

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<th>Algorithm</th>
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<tbody>
<tr>
<td>1.</td>
<td>Non-Resident A Non-Resident C</td>
<td>Cabinet of Customer: check on their storage service provision (absence of debts, bookings of required monthly capacity working volume, etc.)</td>
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<td>2.</td>
<td>Non-Resident A</td>
<td>Protocol of natural gas delivery and acceptance in UGS: fill in the Protocol (or GTA report in the EFET UA CWS Appendix definition), indicating: full names of the counter-parties, desired volume of 0.5 mcm to transfer and ACD (IM 74 ДР) details (No. and date). It is recommended to forward draft of Protocol to SSO for pre-verification 24 hours prior the transfer.</td>
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<td>3.</td>
<td>Non-Resident A Non-Resident C</td>
<td>Provide SSO via e-mail (<a href="mailto:stock-sso@utg.ua">stock-sso@utg.ua</a>) with the scan-copy of the signed Protocol at 12 o’clock or earlier (the hard copies of the signed Protocols shall be forwarded to the SSO premises accordingly).</td>
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<td>SSO approves TNs. Parties see the updated gas balance in their Customer’s cabinets and following Reports on consignments with updated data of SSO.</td>
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Case study: Non-resident-Non-resident
Re-export of natural gas stock from UA CWR

Definitions:

Non-Resident-A

Purpose:

Non-resident-A decides to re-export 0.8 mcm of its natural gas stock to EU in January 2022.

1. Submit the application for re-export PCD (EK 11) in i-Platform of SSO according to Manual Submitting application for customs declaration for desired period of 31 days in January 2022 (or more).

2. After obtaining of the PCD, Non-resident-A performs all the necessary nominations for withdrawal from UGS and transportation to the UA border (coming with TSO transit declaration TP 81).

3. Non-resident-A and SSO shall sign the Protocol of natural gas delivery-acceptance during withdrawal from the gas storage facilities (customs warehouse) for the exact withdrawn volume (approx. 0.8 mcm).

4. Non-resident-A applies for ACD (ЕК 11 ДР) re-export from 10th till 15th of February 2022 via I-Platform of SSO.

5. SSO issues ACD by 15th of February.

6. Non-resident-A finds the updated gas balance in their Customer’s cabinets and Reports on consignments.
Case study: Non-resident-Non-resident
Re-export of natural gas stock from UA CWR
THANK YOU

front-office@utg.ua

cw@utg.ua
stock-sso@utg.ua
back-sso@utg.ua

Please follow the QR code in order to get acquainted with the brief presentation on Customs warehouse MANUAL
When to use the EFET Ukrainian Customs Warehouse Storage Appendix?

Do you need to have a previously agreed and executed EFET General Agreement?

Do you need a warranty as to the status of the natural gas placed in the customs warehouse regime?

What are the primary obligations of the Seller and the Buyer? What are your scheduling obligations?

What is the Gas Transfer and Acceptance Report (GTA Report)? Do you need to execute the Commercial Report?
Introduction to the EFET Ukrainian Customs Warehouse Storage Appendix

Inna Antipova, Director at ENGIE Ukraine, Member of the EFET Working Group for Gas Trading Documentation for Ukraine
When to use the EFET Ukrainian Customs Warehouse Storage Appendix?

- The gas is brought from abroad (i.e. of non-UA origin)
- The gas is placed in the customs warehouse regime (gas storage facilities of JSC “UKRTRANSGAZ”)
- At least one Party is a non-UA entity
- EFET General Agreement (GA) signed between the Parties
- EFET GA is under German law or English law
Clause 4. Conclusion and Confirming of Transactions

- Bilingual (English version prevails by default)
- Transactions only in writing (electronically or exchanged via email)
  - Required for the customs clearance
- Validation of CWS Transaction from SSO is required
  - If not validated by SSO – release from obligations, no remedies and return of pre-payment (if any) within 10 business days
  - If not validated due to a failure to schedule – standard EFET remedies
Clause 5. Warranty as to the Status of the Natural Gas Placed in CWR

The gas was properly placed into storage in the customs warehouse regime.

Customs formalities were duly performed.

Period of its storage - 1095 calendar days.

Why so important?
Clause 6. Primary Obligations

**SELLER**

- to ensure that the contracts with SSO are valid and effective (storage and customs declaration services)
- to provide the Buyer with the effective customs declaration (optionally)
- to transfer and schedule (trade notifications)
- to inform the Buyer about short-haul (if any)

**Buyer**

- to ensure that the contracts with SSO are valid and effective (storage and customs declaration services)
- to accept the transfer and schedule respectively (matching)
- to make a pre-payment (if any)
Clause 7. Delivery, Measurement, Transportation and Risk

- Transfer of the risk of loss and title to - immediately after validation by SSO
- Incoterms – FCA/DAP (required for UA customs formalities)
Clause 8. Reports (GTA Reports)

- Execution of GTA Report is part of scheduling obligations
- A draft may be forwarded to SSO for review (standard practice, but not mandatory)
- Conversion from MWh to m³ (GCV)
- Signed GTA Report should be sent (electronically) to SSO on or before submission of the trade notifications
- Originals also required (also to SSO) – within 5 business days
Clause 8. Reports (Commercial Reports)

- Template is attached to the CWS Appendix
- Bilateral
- Standard information (supply period, quantity, price, value)
- Quantity – both in MWh and $m^3$
- Conversion MWh to $m^3$ as per GTA report
- Price – both in EUR/MWh and EUR/$m^3$
Clause 9. Notices and Communication

- Exchange of any contractual documentation via email should be expressly agreed by the Parties
- Deemed receipt rule:
  - Absence of “not delivered” message or “out-of-office” reply
  - if sent before 5p.m. – on the same business day
  - if sent after 5p.m. – next business day
- All communications in English
Elections in the Ukrainian CWS Appendix

Clause 8. Reports

- Which Party is responsible for sending the reports?
  - If 2 non-UA parties – it is usually the Buyer who needs the reports for further operations
  - If 1 non-UA party – it is usually the UA Party

- If the Parties want to exchange draft GTA
  - If the Parties are willing to check draft GTAs with the SSO

Why/when to tick?
Elections in the Ukrainian CWS Appendix

Clause 9. Notices and Communication

- Exchange via email

Why/when to tick?

→ If the Parties are willing to exchange the documents (contract, invoices reports) via email with the specific receipt rules
Specific elections in the Individual Contract

Placement in CWR

☑ If the Seller does **not** give the warranty and representation regarding **compliance with the customs formalities**

☑ If the **date of placement in CWR** is mentioned and the copy of declaration is attached to IC

☑ If the gas is under **short haul regime**

**Why/when to tick?**

→ Only if the Buyer expressly accepts absence of such representations from the Seller

→ To make sure that the period of 1095 calendar days has not expired yet

→ Copy of the declaration may be required for further import/sale transactions

→ If the Buyer accepts that the gas may be used under short haul tariff only for transportation from CWS back to the UA border
EFET documentation – downloadable for free & usable by all
Q&A, take-away messages and conclusions

Moderated by Jan Haizmann, Chairman of the EFET Legal Committee & Sonia Auguscik, Secretary of the EFET Working Group for Gas Trading Documentation for Ukraine