

Annex A: Definitions for Part II 'Common provisions'

¹ 'Agricultural products' means products listed in Annex I to the Treaty, with the exception of fishery and aquaculture products covered by Regulation (EC) No. 104/2000;

² 'Processing of agricultural products' means any operation on an agricultural product resulting in a product which is also an agricultural product, except on-farm activities necessary for preparing an animal or plant product for the first sale;

³ 'Marketing of agricultural products' means holding or display with a view to sale, offering for sale, delivery or any other manner of placing on the market, except the first sale by a primary producer to resellers or processors and any activity preparing a product for such first sale; a sale by a primary producer to final consumers shall be considered as marketing if it takes place in separate premises reserved for that purpose.

Annex B: Guidance to Part III 'SME declaration'

1. Legal basis

Commission Recommendation 2003/361/EC as published in the Official Journal of the European Union L 124, p. 36 of 20 May 2003 is the sole authentic basis for determining the conditions regarding qualification as an SME.

2. Definition of SME

Micro enterprises are defined as enterprises which

- employ fewer than 10 persons and
- have an annual turnover or annual balance sheet total that does not exceed EUR 2 million.

Small enterprises are defined as enterprises which

- employ fewer than 50 persons and
- have an annual turnover or annual balance sheet total that does not exceed EUR 10 million.

Medium-sized enterprises are enterprises which

- employ fewer than 250 persons and
- have either an annual turnover not exceeding EUR 50 million, or an annual balance sheet total not exceeding EUR 43 million.

The data are relating to the **last approved accounting period (= reference period)** and are calculated on an annual basis. They are taken into account from the date of closure of the accounts. In the case of newly-established enterprises whose accounts have not yet been approved, the data to apply shall be derived from a bona fide estimate made in the course of the financial year.

Where, at the date of closure of the accounts, an enterprise finds that, on an annual basis, it has exceeded or fallen below the headcount or financial ceilings stated above, this will not result in the loss or acquisition of the status of medium-sized, small or microenterprise unless those ceilings are exceeded over two consecutive accounting periods.

The **staff headcount** corresponds to the number of annual work units (AWU), i.e. the number of persons who worked full-time within the enterprise in question or on its behalf during the entire reference year under consideration. The work of persons who have not worked the full year, the work of those who have worked part-time, regardless of duration, and the work of seasonal workers are counted as fractions of AWU. The staff consists of employees, persons working for the enterprise being subordinated to it and deemed to be employees under national law, owner-managers, as well as partners engaging in a regular activity in the enterprise and benefiting from financial advantages from the enterprise. Apprentices or students engaged in vocational training with an apprenticeship or vocational training contract are not included as staff. The duration of maternity or parental leaves is not counted.

The **annual turnover** is determined by calculating the income that your organisation received during the year in question from its ordinary activities, e.g. the sale of products and the provision of services falling within its.

Any sales rebates, value added tax and other taxes directly linked to the turnover have to be deducted from it. The **balance sheet total** refers to the value of your company's main assets.

An **enterprise cannot be considered an SME** if 25 % or more of the capital or voting rights are directly or indirectly controlled, jointly or individually, by one or more public bodies, except the public investors mentioned under point 3 below.

This definition must not be used to justify artificial corporate architecture aimed at by-passing the definition.

3. Types of enterprise

The definition of an SME distinguishes three types of enterprise, according to their relationship with other enterprises in terms of holdings of capital or voting rights or the right to exercise a dominant influence.

Linked enterprise (LE)

This type corresponds to the economic situation of enterprises which form a group through the direct or indirect control of the majority of the voting rights (including through agreements or, in certain cases, through natural persons as shareholders), or through the ability to exercise a dominant influence on an enterprise.

The applicant enterprise is linked to another enterprise if:

- it is required to draw up consolidated accounts or is included by consolidation in the accounts of an enterprise which is required to draw up such consolidated accounts; or
- it holds more than 50% of the shareholders' or members' voting rights in another enterprise and/or another holds more than 50% in the applicant enterprise; or
- it has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise and/or another has such rights in the applicant enterprise; or
- it has the right to exercise a dominant influence over another enterprise pursuant a contract entered into with that enterprise or to a provision in its memorandum or articles of association and/or another enterprise has the right to exercise such influence over the applicant enterprise; or
- it, as a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders' or members' voting rights and/or another enterprise has such control over the applicant enterprise's shareholders'/members' voting rights.

Enterprises having any of the relationships described above through one or more other enterprises are also considered to be linked.

Enterprises which have one or other of such relationships through a natural person or group of natural persons acting jointly are also considered linked enterprises if they engage in their activity or in part of their activity in the same relevant market or in adjacent markets (i.e. markets situated directly upstream or downstream).

Partner enterprise (PE)

This type represents the situation of enterprises which establish major financial partnerships with other enterprises, without the one exercising effective direct or indirect control over the other.

The applicant enterprise is a partner of another enterprise if:

- it holds capital or voting rights equal to or greater than 25% in the other enterprise, or the other enterprise holds capital or voting rights equal to or greater than 25% in the applicant enterprise, and
- the enterprises are not linked enterprises within the meaning defined above, which means, among other things, that the voting rights of one in the other do not exceed 50%, and
- the applicant enterprise does not draw up consolidated accounts which include the other enterprise by consolidation, and is not included by consolidation in the accounts of the other enterprise or of an enterprise linked to it.

Autonomous enterprise (AE)

This is by far the most common type of enterprise. It applies to all enterprises which are not one of the two other types of enterprise (partner or linked).

An applicant enterprise is autonomous if it:

- does not have a holding of 25% or more in any other enterprise, and
- is not 25% or more owned by any enterprise or public body or jointly by several linked enterprises or public bodies, apart from some exceptions, and
- does not draw up consolidated accounts and is not included in the accounts of an enterprise which draws up consolidated accounts and is thus not a linked enterprise.

An enterprise may continue being considered as autonomous when this 25% threshold is reached or exceeded, if that percentage is held by the following categories of investors (provided that those are not linked with the applicant enterprise):

- a. public investment corporations, venture capital companies, individuals or groups of individuals with a regular venture capital investment activity who invest equity capital in unquoted businesses ("business angels"), provided the total investment of those business angels in the same enterprise is less than EUR 1 250 000,
- b. universities or non-profit research centres,
- c. institutional investors, including regional development funds,
- d. autonomous local authorities with an annual budget of less than EUR 10 million and less than 5000 inhabitants.

4. Assessment chart for SMEs

The chart on the next page provides the basis for assessment whether the applicant enterprise qualifies as an SME.

The applicant has to check itself whether its enterprise fulfills all criteria of an SME.

In case the enterprise is an **autonomous enterprise** it only has to complete its own data (Staff headcount/ Annual turnover/Balance sheet total) in Part III of this GBER declaration. Further data does not have to be provided.

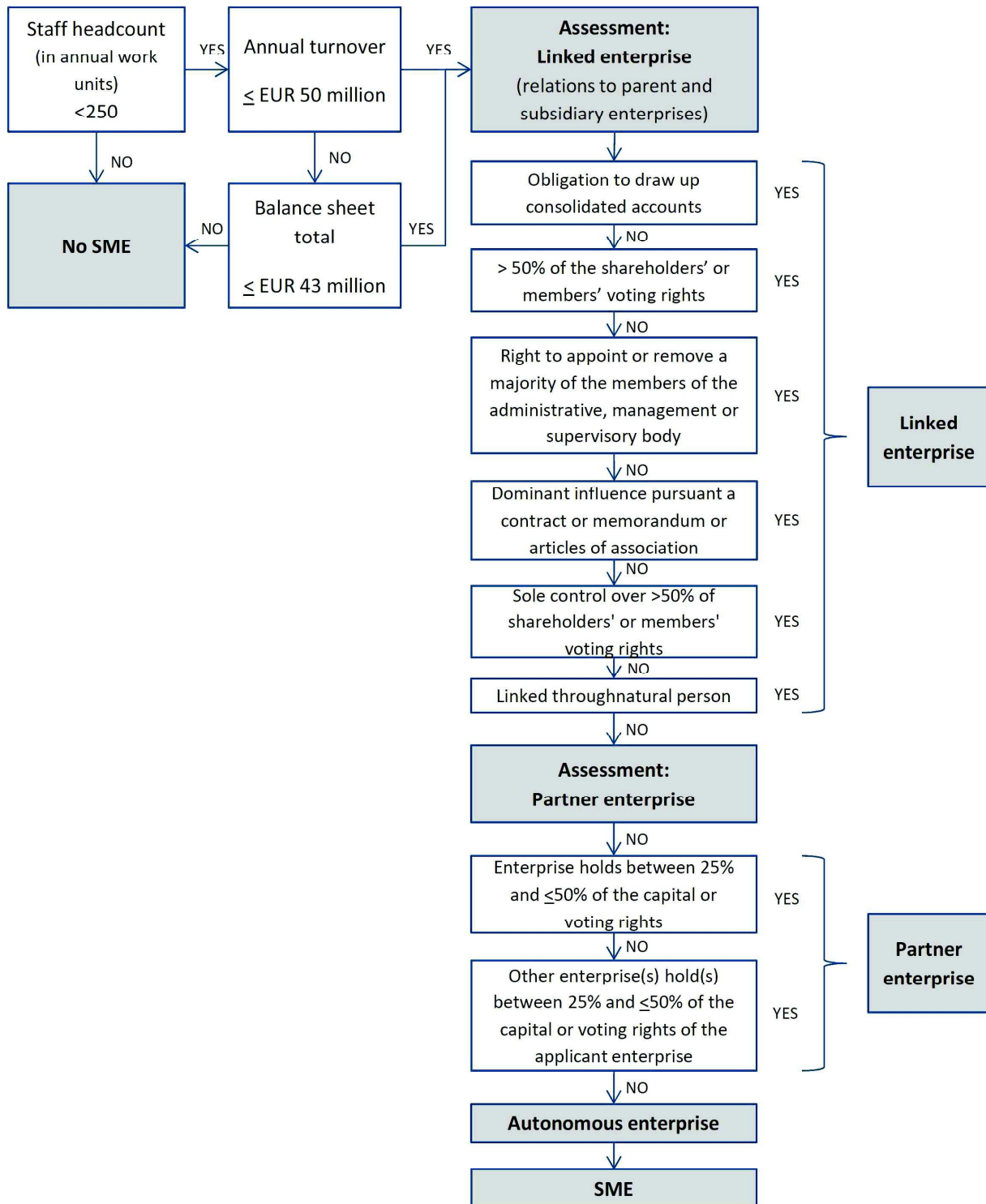
In case the enterprise is non an autonomous enterprise, further relations to other (upstream and downstream) enterprises have to be considered. Depending on the type of these relations, the applicant can be a partner and/or linked enterprise.

In case the enterprise is a **linked enterprise**, all enterprises linked to the applicant enterprise, as well as all partner enterprises of these linked enterprises have to be considered.

In case the enterprise is a **partner enterprise**, all enterprises being linked to the partner enterprises have to be considered.

You have to go through the assessment chart for each direct relation your (the applicant enterprise) has with other enterprises.

Assessment chart for SMEs



NOTE! Please also consider the detailed guidance when going through this assessment chart.

5. Calculation in case of linked enterprises and/or partner enterprises

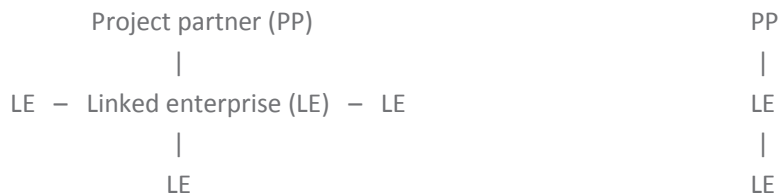
In case your enterprise draws up consolidated accounts or is included by consolidation in the consolidated accounts of another enterprise its financial data is included in the financial data of its partner or linked enterprise(s).

You have to complete one calculation sheet for each of your linked enterprise(s) and/or partner enterprise(s).

Calculation sheet for linked enterprises

In case you are linked to another enterprise, you have to provide 100% of the data for that linked enterprise as well as of any possible linked enterprise of that linked enterprise, situated immediately upstream or downstream from it.

Potential constellations:



In addition, you have to provide the data of any possible partner enterprise of that linked enterprise, situated immediately upstream or downstream from it. Furthermore, you have to enter the amount of holding of the partner enterprise. The amount of holding is determined by the capital or voting rights, whichever is higher. In case of cross holdings, the higher amount of holding is to be entered.

Potential constellations:

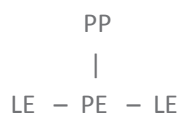


In case any consolidated account is drawn up, the data of this consolidated account has to be provided in the calculation sheet.

Calculation sheet for partner enterprises

In case your enterprise is a partner enterprise you have to provide 100% of the data for that partner enterprise as well as of any possible enterprise linked to that partner enterprise.

Potential constellations:



Furthermore, you have to enter the amount of holding (in %) of the partner enterprise. The amount of holding is determined by the capital or voting rights, whichever is higher. In case of cross holdings, the higher

amount of holding is to be entered. The amount of holding is then applied to the raw data entered in the previous boxes and the results of this proportional calculation are displayed in the grey boxes.

In case any consolidated account is drawn up, the data of this consolidated account has to be provided in the calculation sheet.

Annex C: Definitions for Part IV 'Specific provisions'

- ⁴ 'employment directly created by an investment project' means employment concerning the activity to which the investment relates, including employment created following an increase in the utilisation rate of the capacity created by the investment;
- ⁵ 'tangible assets' means assets consisting of land, buildings and plant, machinery and equipment;
- ⁶ 'intangible assets' means assets that do not have a physical or financial embodiment such as patents, licences, know-how or other intellectual property;
- ⁷ 'organisational cooperation' means the development of joint business strategies or management structures, the provision of common services or services to facilitate cooperation, coordinated activities such as research or marketing, the support of networks and clusters, the improvement of accessibility and communication, the use of joint instruments to encourage entrepreneurship and trade with SMEs;
- ⁸ 'advisory services linked to cooperation' means consulting, assistance and training for the exchange of knowledge and experiences and for improvement of cooperation;
- ⁹ 'support services linked to cooperation' means the provision of office space, websites, data banks, libraries, market research, handbooks, working and model documents;
- ¹⁰ 'fundamental research' means experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundations of phenomena and observable facts, without any direct commercial application or use in view;
- ¹¹ 'industrial research' means the planned research or critical investigation aimed at the acquisition of new knowledge and skills for developing new products, processes or services or for bringing about a significant improvement in existing products, processes or services. It comprises the creation of components parts of complex systems, and may include the construction of prototypes in a laboratory environment or in an environment with simulated interfaces to existing systems as well as of pilot lines, when necessary for the industrial research and notably for generic technology validation;
- ¹² 'experimental development' means acquiring, combining, shaping and using existing scientific, technological, business and other relevant knowledge and skills with the aim of developing new or improved products, processes or services. This may also include, for example, activities aiming at the conceptual definition, planning and documentation of new products, processes or services;
- Experimental development may comprise prototyping, demonstrating, piloting, testing and validation of new or improved products, processes or services in environments representative of real life operating conditions where the primary objective is to make further technical improvements on products, processes or services that are not substantially set. This may include the development of a commercially usable prototype or pilot which is necessarily the final commercial product and which is too expensive to produce for it to be used only for demonstration and validation purposes. Experimental development does not include routine or periodic changes made to existing products, production lines, manufacturing processes, services and other operations in progress, even if those changes may represent improvements;
- ¹³ 'feasibility study' means the evaluation and analysis of the potential of a project, which aims at supporting the process of decision-making by objectively and rationally uncovering its strengths and weaknesses, opportunities and threats, as well as identifying the resources required to carry it through and ultimately its prospects for success;
- ¹⁴ 'personnel costs' means the costs of researchers, technicians and other supporting staff to the extent employed on the relevant project or activity;

- ¹⁵ 'arm's length' means that the conditions of the transaction between the contracting parties do not differ from those which would be stipulated between independent enterprises and contain no element of collusion. Any transaction that results from an open, transparent and non-discriminatory procedure is considered as meeting the arm's length principle;
- ¹⁶ 'research infrastructure' means facilities, resources and related services that are used by the scientific community to conduct research in their respective fields and covers scientific equipment or sets of instruments, knowledgebased resources such as collections, archives or structured scientific information, enabling information and communication technology-based infrastructures such as grid, computing, software and communication, or any other entity of a unique nature essential to conduct research. Such infrastructures may be 'single-sited' or 'distributed' (an organised network of resources) in accordance with Article 2(a) of Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC) (1);
- ¹⁷ 'innovation clusters' means structures or organised groups of independent parties (such as innovative start-ups, small, medium and large enterprises, as well as research and knowledge dissemination organisations, non-forprofit organisations and other related economic actors) designed to stimulate innovative activity through promotion, sharing of facilities and exchange of knowledge and expertise and by contributing effectively to knowledge transfer, networking, information dissemination and collaboration among the undertakings and other organisations in the cluster;
- ¹⁸ 'secondment' means temporary employment of staff by a beneficiary with the right for the staff to return to the previous employer;
- ¹⁹ 'highly qualified personnel' means staff having a tertiary education degree and at least 5 years of relevant professional experience which may also include doctoral training;
- ²⁰ 'innovation advisory services' means consultancy, assistance and training in the fields of knowledge transfer, acquisition, protection and exploitation of intangible assets, use of standards and regulations embedding them;
- ²¹ 'innovation support services' means the provision of office space, data banks, libraries, market research, laboratories, quality labelling, testing and certification for the purpose of developing more effective products, processes or services;
- ²² 'organisational innovation' means the implementation of a new organisational method in an undertaking's business practices, workplace organisation or external relations, excluding changes that are based on organisational methods already in use in the undertaking, changes in management strategy, mergers and acquisitions, ceasing to use a process, simple capital replacement or extension, changes resulting purely from changes in factor prices, customisation, localisation, regular, seasonal and other cyclical changes and trading of new or significantly improved products;
- ²³ 'process innovation' means the implementation of a new or significantly improved production or delivery method (including significant changes in techniques, equipment or software), excluding minor changes or improvements, increases in production or service capabilities through the addition of manufacturing or logistical systems which are very similar to those already in use, ceasing to use a process, simple capital replacement or extension, changes resulting purely from changes in factor prices, customisation, localisation, regular, seasonal and other cyclical changes and trading of new or significantly improved products;
- ²⁴ 'environmental protection' means any action designed to remedy or prevent damage to physical surroundings or natural resources by a beneficiary's own activities, to reduce risk of such damage or to lead to a more efficient use of natural resources, including energy-saving measures and the use of renewable sources of energy;

²⁵ 'Union standard' means:

(a) a mandatory Union standard setting the levels to be attained in environmental terms by individual undertakings;

or

(b) the obligation under Directive 2010/75/EU of the European Parliament and of the Council (1) to use the best available techniques (BAT) and ensure that emission levels of pollutants are not higher than they would be when applying BAT; for the cases where emission levels associated with the BAT have been defined in implementing acts adopted under Directive 2010/75/EU, those levels will be applicable for the purpose of this Regulation; where those levels are expressed as a range, the limit where the BAT is first achieved will be applicable;

²⁶ 'energy efficiency' means an amount of saved energy determined by measuring and/or estimating consumption before and after implementation of an energy-efficiency improvement measure, whilst ensuring normalisation for external conditions that affect energy consumption;

²⁷ 'high-efficiency cogeneration' means cogeneration which satisfies the definition of high efficiency cogeneration as set out in Article 2(34) of Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1.);

²⁸ 'cogeneration' or combined heat and power (CHP) means the simultaneous generation in one process of thermal energy and electrical and/or mechanical energy;

²⁹ 'energy from renewable energy sources' means energy produced by plants using only renewable energy sources, as well as the share in terms of calorific value of energy produced from renewable energy sources in hybrid plants which also use conventional energy sources. It includes renewable electricity used for filling storage systems, but excludes electricity produced as a result of storage systems;

³⁰ 'renewable energy sources' means the following renewable non-fossil energy sources: wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases;

³¹ 'biofuel' means liquid or gaseous fuel for transport produced from biomass;

³² 'sustainable biofuel' means a biofuel fulfilling the sustainability criteria set out in Article 17 of Directive 2009/28/EC;

³³ 'food based biofuel' means a biofuel produced from cereal and other starch rich crops, sugars and oil crops as defined in the Commission's Proposal for a Directive of the European Parliament and of the Council amending Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Directive 2009/28/EC on the promotion of the use of energy from renewable sources (COM (2012) 595, 17.10.2012)

³⁴ 'contaminated site' means a site where there is a confirmed presence, caused by man, of hazardous substances of such a level that they pose a significant risk to human health or the environment taking into account current and approved future use of the land;

³⁵ 'polluter pays principle' or 'PPP' means that the costs of measures to deal with pollution should be borne by the polluter who causes the pollution;

³⁶ 'pollution' means the damage caused by a polluter directly or indirectly damaging the environment, or by creating conditions leading to such damage to physical surroundings or natural resources;

³⁷ 'energy efficient district heating and cooling' means a district heating and cooling system which satisfies the definition of efficient district heating and cooling system set out in Article 2(41) and (42) of Directive 2012/27/EU.

The definition includes the heating/cooling production plants and the network (including related facilities) necessary to distribute the heat/cooling from the production units to the customer premises;

³⁸ 'polluter' means someone who directly or indirectly damages the environment or who creates conditions leading to such damage.

- ³⁹ 're-use' means any operation by which products or components that are not waste are used again for the same purpose for which they were conceived;
- ⁴⁰ 'preparing for re-use' means checking, cleaning or repairing recovery operations, by which products or components of products that have become waste are prepared so that they can be re-used without any other pre-processing;
- ⁴¹ 'recycling' means any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes. It includes the reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations;
- ⁴² 'state of the art' means a process in which the re-use of a waste product to manufacture an end product is economically profitable normal practice. Where appropriate, the concept of state of the art must be interpreted from a Union technological and internal market perspective;
- ⁴³ 'energy infrastructure' means any physical equipment or facility which is located within the Union or linking the Union to one or more third countries and falling under the following categories:
- (a) concerning electricity:
- (i) infrastructure for transmission, as defined in Article 2(3) by Directive 2009/72/EC of 13 July 2009 concerning common rules for internal market in electricity (OJ L 211, 14.8.2009, p. 55.);
 - (ii) infrastructure for distribution, as defined in Article 2(5) by Directive 2009/72/EC;
 - (iii) electricity storage, defined as facilities used for storing electricity on a permanent or temporary basis in above-ground or underground infrastructure or geological sites, provided they are directly connected to high-voltage transmission lines designed for a voltage of 110 kV or more;
 - (iv) any equipment or installation essential for the systems defined in points (i) to (iii) to operate safely, securely and efficiently, including protection, monitoring and control systems at all voltage levels and substations; and
 - (v) smart grids, defined as any equipment, line, cable or installation, both at transmission and low and medium voltage distribution level, aiming at two-way digital communication, real-time or close to realtime, interactive and intelligent monitoring and management of electricity generation, transmission, distribution and consumption within an electricity network in view of developing a network efficiently integrating the behaviour and actions of all users connected to it — generators, consumers and those that do both — in order to ensure an economically efficient, sustainable electricity system with low losses and high quality and security of supply and safety;
- (b) concerning gas:
- (i) transmission and distribution pipelines for the transport of natural gas and bio gas that form part of a network, excluding high-pressure pipelines used for upstream distribution of natural gas;
 - (ii) underground storage facilities connected to the high-pressure gas pipelines mentioned in point (i);
 - (iii) reception, storage and regasification or decompression facilities for liquefied natural gas ('LNG') or compressed natural gas ('CNG'); and
 - (iv) any equipment or installation essential for the system to operate safely, securely and efficiently or to enable bi-directional capacity, including compressor stations;
- (c) concerning oil:
- (i) pipelines used to transport crude oil;
 - (ii) pumping stations and storage facilities necessary for the operation of crude oil pipelines; and
 - (iii) any equipment or installation essential for the system in question to operate properly, securely and efficiently, including protection, monitoring and control systems and reverse-flow devices;
- (d) concerning CO₂: networks of pipelines, including associated booster stations, for the transport of CO₂ to storage sites, with the aim to inject the CO₂ in suitable underground geological formations for permanent storage;

⁴⁴ 'internal energy market legislation' includes Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity, Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas (OJ L 211, 14.8.2009, p. 94), Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators (OJ L 211, 14.8.2009, p. 1); Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges (OJ L 211, 14.8.2009, p. 15) and Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks (OJ L 211, 14.8.2009, p. 36) or any subsequent legislation replacing these acts in full or in part;