



**Mechanism ensuring cost neutrality of
balancing measures of Gas
Transmission Operator GAZ-SYSTEM
S.A.**

*pursuant to the Commission Regulation (EU) No
312/2014 of 26 March 2014 establishing a Network
Code on Gas Balancing of Transmission Networks*

NOVEMBER 2018

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I. Introduction.

Commission Regulation (EU) No 312/2014 of 26 March 2014 establishing a Network Code on Gas Balancing of Transmission Networks (EU OJ L. of 2014 No. 91, p. 15 – hereinafter referred to as “Regulation”) came into force on 16 April 2014. The Regulation sets out the guidelines with respect to rules on transmission system balancing and settlements with Shippers in respect of their commercial imbalance.

The primary objective of the above-mentioned regulation is to accelerate the development of short-term wholesale gas markets and achieve closer integration of the EU gas market through ensuring the consistency of transmission system balancing rules across the member states of the European Union. This goal is to be achieved, among other things, through providing adequate incentives for network users to undertake actions with a view to balancing their commercial position through the use of standardised products available on trading platforms.

This document describes the mechanism which is aimed to ensure that the Gas Transmission Operator GAZ-SYSTEM S.A. (hereinafter “TSO”) neither gains nor loses as a result of its balancing actions. The document, however, does not define the method for the calculation of the marginal price or the settlement of charges due for Shippers’ imbalance, which were described in detail in the *“Report on the Interim Measures Planned for the Implementation by GAZ-SYSTEM S.A. in connection with the entry into force of Commission Regulation (EU) No 312/2014 of 26 March 2014 establishing a Network Code on Gas Balancing of Transmission Networks”* and the valid Transmission Network Code.

According to the provisions of the Regulation, the need to ensure the financial neutrality of the transmission system operator’s activities in this area is one of the crucial aspects of the balancing system.

According to Article 29 of the Regulation, the transmission system operator shall not gain or lose by the balancing actions. Accordingly, the TSO should pass any costs and revenues directly related to their balancing actions to Shippers.

The Regulation provides for the obligation to transfer costs and revenues directly related to the transmission system operator’s activity of balancing the transmission system to the neutrality charge for balancing (hereinafter “ONB”), referred to in Art. 30 (1) of the Regulation. The costs included in this charge are therefore not included in the base of justified costs which are the basis for the calculation of rates for the provision of gaseous fuel transmission services, and the revenues earned regulated by this charge are not included in the balance of the regulatory account referred to in Art. 3 (24), and Art. 19 and Art. 20 of the Commission Regulation (EU) 2017/460 of 16 March 2017 establishing a network code on harmonised transmission tariff structures for gas (EU OJ L 72 of 17 March 2017, p. 29).

The settlement of all costs and revenues directly related to the transmission system operator’s balancing activities under the ONB is aimed at ensuring full cost neutrality and preventing the system users being charged twice for costs related to the transmission system operator’s transmission system balancing activities.

This document presents the mechanism ensuring the neutrality of the balancing actions undertaken by the TSO which will apply as of 1 January 2019, 6.00 a.m. Due to the fact that pursuant to Art. 2 (2) of the Regulation, its provisions do not apply to emergency situations, such as the period of launching mandatory reserves of natural gas, then in the event of an

emergency state, the principle of ensuring financial neutrality of the TSO's balancing activities are specified in the Transmission Network Code.

Any terms used in this document should be construed in accordance with the definitions included in the Transmission Network Code, unless otherwise defined in this document.

II. Guidelines established by the Regulation concerning the principles of cost neutrality of the transmission system balancing actions undertaken by the Operator.

The Regulation contains a number of guidelines for the development of a balancing neutrality mechanism.

The key guidelines of the Regulation are, as follows:

- any costs and revenues arising from balancing actions should be passed to network users, including:
 - costs and revenues arising from daily imbalance settlements and within day charges;
 - costs and revenues arising from the balancing actions undertaken by the transmission system operator, unless the national regulatory authority considers those costs and revenues as incurred inefficiently in accordance with the applicable national rules;
 - other costs and revenues related to the balancing activity, unless the national regulatory authority considers these costs and revenues as incurred inefficiently pursuant to the applicable national rules.
- neutrality charges may be imposed on network users or on the transmission system operator, depending on the result (profit or loss) on the balancing activity:
 - if the result on balancing activity is positive (the transmission system operator generates a profit), the transmission system operator will be obliged to pay ONB to the system users;
 - if the result on balancing activity is negative (the transmission system operator generates a loss), the system users will be obliged to pay ONB to the transmission system operator.
- The ONB should be applied to the system user or the transmission system operator in line with the use by system users of:
 - relevant entry/exit points to/from the transmission network, or
 - transmission network.
- The ONB should be identified separately when invoiced to the network user or the transmission system operator and the invoice should be accompanied by sufficient supporting information (as appropriate for the adopted methodology of ensuring cost neutrality).
- The national regulatory authority shall assess whether the costs and revenues arising from the balancing actions undertaken under Art. 9 of the Regulation were incurred efficiently pursuant to the applicable national rules.
- The national regulatory authority shall set or approve and publish the methodology for the calculation of the ONB, including credit risk management rules.
- The national regulatory authority shall also have the right to set or approve and publish the methodology for the apportionment of the ONB amongst network users.

III. Description of the mechanism ensuring cost neutrality of the TSO's balancing measures

A mechanism ensuring cost neutrality of the balancing measures of Gas Transmission Operator GAZ-SYSTEM, which is consistent with the Regulation's guidelines, was implemented on 1 October 2015.

During the implementation of the mechanism ensuring the neutrality of the OSP's result on the balancing activity, the settlement cycle for the neutrality charge was subject to a gradual transition so as to achieve its target form in the gas year 2017/2018. This chapter presents details on the target form of the mechanism.

1. Assumptions on cost categories to be taken into account in the neutrality mechanism.

The system of ensuring cost neutrality for balancing in accordance with the Regulation (see Chapter II for more detailed description of the principles), includes the following categories of costs:

- costs and revenues of the TSO arising from daily imbalance charges and within day charges, i.e. from commercial imbalance charges from individual shippers;
- costs and revenues arising from the balancing actions undertaken by the TSO, i.e. in particular, costs and revenues from purchases/sales of gaseous fuel by the TSO, and in the case of the TSO's purchases of gaseous fuel from abroad – also costs incurred by the TSO in relation to fulfil the obligation to establish and maintain the mandatory reserve of natural gas, specified in the Act of 16 February 2007 on stocks of crude oil, petroleum products and natural gas, the principles of proceeding in circumstances of a threat to the fuel security of the State and disruption on the petroleum market (Journal of Laws of 2017, item 1210, as amended);
- other costs and revenues directly related to the transmission network balancing activity, including specifically:
 - transportation costs for gaseous fuel purchased for balancing purposes;
 - cost of access to trading platforms where TSO purchases/sells gaseous fuel for the purposes of physical balancing of the system;
 - transaction costs related to gaseous fuel trading transactions on a regulated market for the purposes of balancing actions;
 - financing costs in respect of transaction margins required for balancing purposes;
 - costs of maintaining the Balancing Market Platform;
 - costs of salaries of the employees engaged in the activities related to the balancing of the transmission system;
 - costs incurred by the TSO in relation to the shipper's failure to collect the receivables resulting from the balancing charges (including the amount of the receivables) as a result of the issue:
 - by the law enforcement authority, of the decision to discontinue the enforcement proceedings due to the fact that it was obvious that the enforcement against the Shipper would not result in a sum higher than the enforcement costs, or

- of a court decision to discontinue the bankruptcy proceedings against the shipper due to the fact that the assets remaining after excluding the shipper's property assets burdened with a mortgage, pledge, registered pledge, tax lien, or sea mortgage were insufficient to cover the costs of bankruptcy proceedings, or
 - of a court decision confirming the end of bankruptcy proceedings against the shipper, when after the shipper's performance of obligations set out in the creditors repayment plan, the court found the implementation of the repayment plan and remitted the shipper's debts arising before the day the bankruptcy was declared and not satisfied as a result of the creditors' repayment plan, or
 - of a court decision approving the arrangement concluded in the restructuring proceedings against the shipper, upon the validation of which proceedings to secure claims and enforcement proceedings against the shipper to satisfy the claims covered by the arrangement were cancelled by operation of law;
- o costs related to the depreciation of the TSO's assets designated for conducting balancing activities;
 - o such revenues as, in particular, revenues from shipper's failure to provide system services (ONOB), charges for failure to meet the nomination (ONWW), charges for failure to meet the transport forecast (ONP), and charges for non-compliance of operative data with billing data (OND).

The above costs which are not directly related to balancing shall not be included in the calculation of ONB while the costs partly related to balancing activity (e.g. cost of employee salaries) will be passed on to the extent that they reflect the actual costs incurred in connection with the transmission system balancing activity. The costs resulting from the shipper's failure to pay charges to the TSO shall be taken into account provided that the TSO duly meets the credit risk management's requirements.

2. Neutrality charge for balancing.

Balancing neutrality will be achieved using the ONB, which will be calculated as a product of the neutrality charge for balancing rate (hereinafter "SNF") and the quantity of gaseous fuel transferred by the shipper to be sent at the entry point to the transmission system and received by the shipper at the exit point from the transmission system on all days of the settlement period, however, excluding the quantities transferred and received at WPWE_{GG}, WPWY_{GG}, WPWE_{PPG}, WPWY_{PPG}, WPWE_{OTC}, WPWY_{OTC}, WPWE_{OSP}, WPWY_{OSP}, WPWY_{ZO}, and virtual points of the SGT (hereinafter virtual points).

The rate of the neutrality charge for balancing will be calculated separately for each balancing area on a monthly basis; the ONB will also be settled on a monthly basis.

The SNF for the "m" month shall be calculated according to the following formula:

$$SNF = \frac{K - P + Adjustment}{W}$$

the individual symbols shall have the following meaning:

SNF – neutrality charge for balancing rate [PLN/MWh]

K – costs referred to in item 1 above, incurred by the TSO in relation to the balancing activities, in accordance with the performance calculated for the “m” gas month [PLN]

P – revenues generated by the TSO in relation to the balancing activities, in accordance with the performance calculated for the “m” gas month [PLN]

Adjustment – a change in the amount of the difference between costs and revenues achieved in previous settlement periods, arising from the reasons indicated in Chapter IV [PLN]

W – the sum of gaseous fuel volume transmitted in the “m” gas month through the entry points to the transmission system and the exist points from the transmission system, excluding virtual points [MWh].

In accordance with the above formula, the calculation of the neutrality rate shall be based on the **costs incurred and revenues generated** by the TSO in connection with the balancing activity, according to the performance result calculated for a specific gas month and the amount of gaseous fuel transmitted in the same month through the entry/exit points to/from the transmission system, excluding virtual points. The neutrality charge rate shall be published:

- no later than by 27th day of “m+1” month and shall apply for “m” month;
- exact to the millionth of the zloty.

The calculation of the SNF will include:

- costs and revenues allocated directly to balancing areas and resulting directly from accounting records; and
- overhead (shared) costs which will be allocated to balancing areas according to an accounting key which reflects, in value terms, the TSO's activities undertaken with a view to balancing the individual balancing areas.

The ONB shall be calculated according to the following formula:

$$NCB = MOD(SNF) * (EP)$$

the individual symbols shall have the following meaning:

ONB – neutrality charge for balancing [PLN]

MOD(SNF) – the absolute value of the neutrality charge for balancing rate [PLN/MWh],

EP – the amount of gaseous fuel constituting the sum of the daily quantities of gaseous fuel in a given settlement period transferred by the shipper for transmission at the entry point to the transmission system and received by the shipper at the exit point from the transmission system, excluding amounts transferred and received at virtual points [MWh].

The TSO, in accordance with the provisions of the Regulation, shall publish relevant data concerning aggregate imbalance charges and aggregate ONB at least with the same frequency as the frequency at which shippers are invoiced for such charges but in any case, not less frequently than once a month.

If the SNF has a **positive value** for a gas month, the ONB shall be paid **by the shipper to the TSO**.

If the SNF has a **negative value** for a gas month, the ONB shall be paid **by the TSO to the shipper**.

EP and W values are accepted for ONB and SNF settlements exact to one thousandth of MWh.

If, for a gas month, the settlements arising from the balancing in relation to a given shipper only include the ONB and its value does not exceed one (1) PLN, it is assumed that the TSO will refrain from collecting the ONB from such a shipper.

IV. Mechanism for adjusting the amount of neutrality charge for balancing rate.

1. SNF adjustment mechanism:

The ONB rate is subject to adjustment in the case of:

- the adjustment of the costs and revenues arising from balancing activities or related to the balancing activity in the previous settlement cycles, if the President of the ERO considers those costs and revenues as incurred inefficiently in accordance with the applicable national rules (according to Article 29 section 2b and 2c of the Regulation);
- the necessity to adjust the costs/revenues for the previous settlement periods with a view to achieving the cost neutrality of the TSO.

2. Rules for taking into account the SNF adjustments

In the case of an adjustment for reasons described in item 1 above, the SNF shall be adjusted in the month following the month in which the discrepancy occurred or were disclosed, by taking into account the difference in costs or revenues in the calculation of the SNF rate in accordance with the formula set out in Chapter III.

The adjustments to the SNF shall apply in the period when the adjusted SNF will apply.

3. ONB adjustment mechanism

The ONB shall be adjusted in the case of an adjustment of the Commercial Transmission Report (of which the shipper is informed by the TSO within three working days from the date of the adjustment), which changes the amount of gaseous fuel constituting the basis for the EP determination, in accordance with the formula referred to in Chapter III. In such a case, the adjustment process is implemented in two stages. First, the calculated and collected ONB is adjusted. The ONB adjustment concerns such ONBs that have been calculated based on adjusted EPs. The above adjustment is settled between the TSO and individual shippers with EP value adopted for the ONB calculation affected by the amended Commercial Transmission Report. If the adjustment of the Commercial Transmission Report and the related ONB adjustment affect the amount of the costs and revenues of the TSO, it will be necessary to adjust the SNF in accordance with the provisions set out in item 1 above.

4. Rules for taking into account the ONB adjustments

If it is necessary to adjust the amount of the ONB in the case indicated in item 3 above, respectively the TSO or the Shipper is obliged to immediately adjust the previously issued invoice or to immediately issue an invoice including the value of the ONB adjustment.

V. Credit risk management rules.

The shipper shall establish a financial security for the TSO (hereinafter Financial Security) as set out in this document, in particular, to mitigate the risk of shipper's default in payment regarding any payment due for the imbalance charges and the ONB.

1. Establishment of Financial Security.

The rules for the shipper's establishment of the Financial Security for the TSO:

- they are aimed, in particular, to avoid losses of the TSO in the event of the shipper's failure to pay or late payment of charges related to the balancing activities;
- are on a transparent and equal treatment basis, proportionate to their purpose;
- take into account the history of cooperation of the TSO with the shipper;
- apply to all shippers.

A. Forms of Financial Security.

The Financial Security may be established by the shipper only in one of the following forms:

- a cash deposit on a bank account indicated by the TSO in the transmission contract, returned after settlement of the completed transmission service, including bank interest in the amount established for such an account during the deposit period, less the account maintenance costs and bank transfer costs;
- an irrevocable and unconditional bank or insurance guarantee payable on the TSO's first demand, issued respectively by bank or insurance company, with the current rating awarded by one of the following rating agencies: Moody's, Standard & Poor's or Fitch (required level no lower than Baa2 for Moody's Agency, BBB for Standard & Poor's Agency, BBB for Fitch Agency), which was accepted by the TSO;
- an irrevocable and unconditional surety, payable on the TSO's first demand and issued by a shipper's affiliate, with the current rating awarded by a rating agency (required level no lower than Baa2 for Moody's Agency, BBB for Standard & Poor's Agency, BBB for Fitch Agency) along with a shipper's declaration on submission to enforcement executed as a notarial deed, including the obligation to pay an amount up to the value specified in such declaration under the procedure set forth in Art. 777 of the Code of Civil Procedure (Journal of Laws of 2018, item 155, as amended, hereinafter: "CCP").
- a promissory note with a declaration on submission to enforcement executed as a notarial deed including the obligation to pay a sum of money up to the amount specified therein under Art. 777 CCP – the form of security available only to entities that for the last four years have continuously used capacity (contracted capacity) at physical entry or exit points and timely made payments of their obligations to the TSO.

B. Amount of Financial Security.

The Financial Security established by the shipper may not be lower for a given gas day than:

- a) 125% of the sum of:
 - shipper's unpaid obligations arising from invoices issued by the TSO for the shipper, less TSO's obligations towards the shipper arising from the Commercial Transmission Report, which have not been paid by the TSO; and
 - shipper's obligations arising from the amount of an imbalance charge, if any, determined based on the balance of mutual obligations of the TSO and the shipper for all gas days and CSRB values that have not yet been covered by

the balancing invoice;

or

- b) double charge for the transmission services provided determined on the basis of the capacity allocation (PP) of the given shipper;

whichever is greater.

The day of payment of amounts due from invoices issued by the TSO shall be the day on which the TSO's bank account will be credited with the funds.

The Financial Security is calculated for each gas day and is closely related to the level of imbalance in accordance with the principles set out in this document.

It is the shipper's obligation to calculate the amount of the Financial Security and keep it at the required level. The Financial Security shall be provided no later than five (5) working days before the TSO starts providing the transmission services.

C. Exemption from the obligation to establish a Financial Security

The shipper with a financial rating no lower than:

- Baa2 for the Moody's Agency; or
- BBB for the Standard & Poor's Agency; or
- BBB for the Fitch Agency

shall not be obliged to establish the Financial Security.

D. Rules for establishing Financial Security for balancing groups.

The financial security in the balancing of the entire balancing group shall be submitted by the shipper responsible for the commercial balancing of the entire balancing group (ZUP_{BG}).

When determining the amount of the Financial Security to be provided by the shipper participating in a balancing group (ZUP_{UG}), which is not the ZUP_{BG}, the obligations of such a ZUP_{UG} are taken into account only to the extent of ZUP_{UG}'s unpaid obligations arising from invoices issued by the TSO for such a ZUP_{UG}, less TSO's obligations towards the ZUP_{UG} arising from the Commercial Transmission Report, which have not been paid by the TSO.

In determining the amount of the Financial Security of the shipper responsible for the commercial balancing of the entire balancing group (ZUP_{BG}), obligations of such a ZUP_{BG} shall be taken into account in the scope of ZUP_{BG}'s unpaid obligations arising from the invoices issued by the TSO to the ZUP_{BG}, less TSO's obligations towards ZUP_{BG} arising from the Commercial Transmission Report, which have not been paid by the TSO, and the total value of obligations arising from the amount of the potential imbalance charge, determined on the basis of mutual obligations of the TSO and the shippers for all gas days and CSRB values, which have not yet been covered by the invoice for balancing all shippers who are participants of the balancing group (ZUP_{UG} and ZUP_{BG}) shall be taken into account in the balancing group.

Suspension of transmission services to the ZUP_{BG} in accordance with the provisions of item 3 below, results in the dissolution of the balancing group for whose commercial balancing the given ZUP_{BG} is responsible for. The solution referred to above is implemented from the gas day on which the provision of transmission services to the ZUP_{BG} is suspended. ZUP_{UGs}, which are participants in such a balancing group, are requested immediately, but no later than within one hour from suspension by the TSO of the provision of transmission services to the ZUP_{BG}, to

establish an appropriate Financial Security in accordance with the general principles set out in this par. V.1. within 48 (forty-eight) hours of sending such a request – under pain of suspending the provision of the transmission services. The aforementioned request is made via email or the information exchange system (SWI).

The forms of provision, conditions and rules for exemption from the obligation to provide Financial Security provided for in par. V.1.A, B, and C shall also apply to the provision of Financial Security for balancing groups.

2. Rules for the Financial Security amount verification.

The TSO shall verify the level of the Financial Security on a daily basis until 1:00 p.m. for the previous gas day. In the absence of the appropriate amount of the Financial Security, the TSO shall take action against the shipper, in accordance with the provisions of par. 3 below.

3. Effects of inappropriate amount of Financial Security.

If the amount of the Financial Security on the previous gas day is lower than the required amount, but higher than 50% of the required amount, the TSO, via email or the information exchange system (SWI), shall request the shipper to supplement the Financial Security by 1:00 p.m. on the gas day following the gas day on which the TSO requested that the Financial Security be supplemented. If the Financial Security is not supplemented by the shipper, the TSO shall suspend the provision of the transmission services to the shipper after 48 hours since the start of the gas day on which the shipper was to supplement the Financial Security.

If 1:00 p.m. of the gas day following the gas day, on which the TSO requested that the Financial Security be supplemented, falls on a day statutorily deemed as a non-working day or on a Saturday, the deadline for supplementing the Financial Security by the shipper shall be 1:00 p.m. on the next day, which is not a non-working day or a Saturday.

The Financial Security in the form of a cash deposit shall be deemed supplemented to the required amount upon crediting the TSO's bank account with the amount corresponding to the requested supplemented Financial Security.

If, however, the amount of the Financial Security on the previous gas day is lower than 50% of the required amount, the TSO after 48 hours from the beginning of the next gas day, shall suspend the provision of the transmission services to the shipper without requesting the Financial Security to be supplemented. The shipper shall be notified of the transmission service suspension via electronic mail or the information exchange system (SWI) upon the TSO's decision to suspend the provision of the services.

If the transmission service suspension day falls on a day statutorily deemed as a non-working day or on a Saturday, the transmission services shall be suspended upon the beginning of the gas day falling on the next day, which is not a non-working day or a Saturday.

Suspension of the transmission service provision shall prevent the Shipper from submitting and the TSO from rejecting a nomination.

If the shipper supplements the Financial Security, the transmission service shall be resumed by the TSO immediately after the gas day on which the Financial Security was supplemented. The method of determining the amount of the Financial Security shall be the same for all shippers, except in the case of determining the amount of the Financial Security within the balancing group.

During the suspension of the provision of transmission services, gaseous fuel shall continue to

be supplied to the shipper's recipients by the TSO, and the quantities of gaseous fuel collected by such recipients shall be allocated to such a shipper in accordance with the provisions of the TNC, in particular, to settle any payment due for the imbalance charges and the ONB. However, if the shipper informs the TSO of the cessation of gas supply, or three days elapse, which are not considered free from work or Saturday from the moment of suspension of transmission services, and the shipper not supplement the Financial Collateral to the required level in this period does, the shipper will cease gas supply, and the quantities collected by shipper's customers during the entire period of suspension of transmission services of such a shipper will be allocated to the emergency seller, in particular, to settle imbalance charges and the ONB.

4. Conditions for satisfying claims from Financial Security.

The TSO may use the Financial Security if the shipper delays payment for services provided by the TSO at least one (1) month after the payment deadline for providing such services, after TSO's notification sent to the shipper in writing informing of the intention to terminate the transmission contract and designate an additional fourteen-day deadline for payment of overdue and current receivables.

5. Conditions under which the Operator is entitled to terminate the transmission contract, or capacity allocation (PP), or ability allocation (PZ)

The TSO is entitled to terminate the transmission contract with a one-month notice in the event of non-renewal or failure to supplement to the full amount of the Financial Security, despite a written request to supplement it within the specified period of no less than fourteen (14) days.

The TSO may terminate the capacity allocation (PP) if, in respect of a given physical point, the shipper does not extend the validity or supplement the full amount of the Financial Security, despite a written request to supplement it within a specified period of not less than fourteen (14) days.

The TSO is entitled to terminate the ability allocation (PZ) for the points PWE_{OSD}/PWY_{OSD} , PWE_{OSM}/PWY_{OSM} , $WPWE_{GG}/WPWY_{GG}$ and $WPWE_{OTC}/WPWY_{OTC}$, and also $WPWE_{PPG}/WPWY_{PPG}$ in the event of non-renewal or failure to supplement to the full amount of the Financial Security by the shipper, despite a written request to supplement it within the specified period of no less than fourteen (14) days.

6. Validity period of the Financial Security

The period of validity of the Financial Security shall expire three (3) months after the period of the capacity allocation (PP) or the ability allocation (PZ).

In the case of long-term services provided for a period longer than one (1) year, the TSO accepts the submission of the Financial Security for a period no shorter than a gas year, subject to its renewal no later than fourteen (14) business days prior to its expiration. In the case of non-renewal of the Financial Security in the above time, the TSO shall request the shipper to renew the Financial Security. The Financial Security shall be renewed no later than 7 days before the expiry of the current Financial Security, under the pain of suspending the provision of the transmission services.

7. Rules for releasing the Financial Security.

The TSO shall release the Financial Security at the request of the shipper within fourteen (14) days from the delivery of the shipper's request to release the Financial Security submitted to

the TSO in writing. The release is effected by transferring an appropriate amount of money to the bank account specified in the request, together with interest due less bank account costs and transfer costs – in the case of the Financial Security in the form of a cash deposit – or by providing the shipper with a document establishing the Financial Security.