

IE RESPONSE ON THE CONSULTATION PAPER ON THE REVISION OF REGULATION (EU) No 994/2010 CONCERNING MEASURES TO SAFEGUARD SECURITY OF GAS SUPPLY AND REPEALING COUNCIL DIRECTIVE 2004/67/EC

Overview

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PART I PREVENTION

1. Infrastructure

a. The Infrastructure Standard N-1

1. *Is the current N-1 rule fit to ensure a sufficient level of infrastructure for security of supply purposes or do you believe that an alternative measure replacing the N-1 standard should be investigated? (e.g. broader infrastructure adequacy assessment at regional or pan-European level similar to e.g. ENTSOG Winter Outlook)?*

The industrial energy consumers support the proposal to broaden the scope for the N-1 standard. We believe that the current rule should be investigated, since the result of this measurement method is too optimistic. It should become a part of risk estimation.

2. *Is a regional approach to N-1 needed? If so, in which cases would it be appropriate and how should regions be defined?*

Yes, we support the regional approach. It makes sense to apply the N-1 rule to areas, where infrastructure and markets are connected. ACER could play a role here by proposing regions. This should be consulted with the stakeholders.

b. Reverse Flows

3. *Do you believe that reverse flow is offered at all points where it is needed? If not, why (what are the main obstacles)? At what points could it increase supply security in a tangible manner?*

In Poland there are not enough interconnectors, especially from the western directions (and are too small). Expansion of interconnectors within the North-South corridor in the perspective of 2018, will partially eliminate this problem.

At the same time, all cross-border connections should provide a physical reverse flow.

4. As concerns *exemptions from the reverse flow obligation*¹:
- Should these provisions be clarified and/or strengthened?*
Yes, we support that proposal.
 - Should the relevant authority analyse the benefits of reverse flows along the whole transportation corridor?*
If it is possible to include them, yes.
 - Should affected Member States even beyond the immediate borders be involved in the assessment?*

5. *Is the current review possibility - every two years, in the framework of the revised Risk Assessment - sufficient or should there be more regular checks whether market conditions justify an exemption?*
We believe there should be no exemptions from the reverse flow. The frequency of review possibility is of secondary importance.

2. Improving Risk Assessments and harmonising Preventive Action Plans

6. *Are the Risk Assessments and Preventive Action Plans in the current format satisfactory means for identifying and preparing for supply risks?*

From the customers perspective the question is hard to answer, since this is still done on a national level with limited transparency. But we noticed, that market based voluntary demand side measures, as proposed in ANNEX II of the existing regulation, normally play no real role in the Preventive Action Plans of the member states, even not in the more developed markets, where it would be easy to implement.

What core elements could a possible template for the Risk Assessment and a Preventive Action Plan contain (e.g. concrete harmonised scenarios to be addressed, similar to the Energy Stress Tests, etc.)?

The Preventive Action Plans should be harmonised in a way, which makes them comparable and combinable. For example, the template must show how the different crisis levels (early warning level, alert level and emergency level) are defined in the different member states, with underlying numbers. For each crisis level the member states must show the measures (market or non market based) which are foreseen with their potentials and related costs. Further it is very important to have detailed information on processes and communication flows. Also the template should ask for information, how the balancing system works or does not work in crisis situations. The Draft Preventive action plan for enhancing security of supply of gas in the Greek National Natural Gas System (NNGS) is a good example².

7. *How can the existing cooperation obligation be improved?*

¹ See notably Article 7(4) (a) of the Regulation.

² http://www.rae.gr/site/file/system/docs/natural_gas/05112012_3

a. Do you think that regional plans for Risk Assessments and Preventive Action Plans should be obligatory in the EU or at least in certain regions? If you believe that regional plans should be introduced: how should the regions be defined (e.g. criteria, who should coordinate the process)?

Yes, we think that regional plan should be obligatory. A good starting point would be the gas regional initiatives. From the process side ENTSOG should be responsible on the process and technical level, ACER and CEER for the coordination.

b. Should – at least in vulnerable regions – an obligation to agree on how to share gas in case of a supply crisis with neighbours with whom a common supply infrastructure is shared be included in the plans?

It depends on how the problem of different definitions of protected customers is dealt with.

8. *Do you have proposals to simplify the administrative procedure for the Risk Assessments and Preventive Action Plans (and Emergency Plans), e.g. in terms of translation or alignment of the timelines? Should Risk Assessments, Preventive Action Plans (and, possibly, the Emergency Plans) be merged into one document and the procedural rules aligned respectively?*

In order to learn from best practices they should be additionally in English language and be published on a common platform. Yes, we support that Risk Assessments, Preventive Action Plans (and, possibly, the Emergency Plans) should be merged into one document and the procedural rules aligned respectively.

3. The "Supply Standard" for protected customers

3.1 Questions about the level of protection set by the current Supply Standard

9. *Do you think the current supply standard is defined and set appropriately with a view to ensuring that the objective of securing supplies to protected customers is met, taking into account sufficiently of differences in terms of vulnerability between Member States? Please substantiate your reply. In case you do not think that the supply standard is defined or set appropriately: what alternative design/tools could be envisaged to ensure the gas supply to protected customers? Please substantiate your reply.*

Independent from the question, if the current supply standard is set appropriately we trust the European Commission that the chosen supply standard is fulfilled in the most cost effective way. Demand side management by industrial consumers can play a role here.

10. *Do you think that the scenarios defined for the calculation of the standard in Article 8(1) (a) to (c) are still valid (for all Member States) or should they be modified? Please substantiate your reply.*

We think that there is a need at first to clarify, which member states fulfil the current standard with a harmonized definition of protected customers.

11. *Do you think that increased standards (e.g. manifested in longer and more severe disruption scenarios) would be beneficial or could ultimately jeopardize the security of supply in other Member States by reducing the liquidity in gas markets? Please substantiate your reply.*

Of course increased standards could raise the need for more measures and could potentially increase costs. As stated above it may be wise to wait for the results of other measures, e.g. the benefits of regional approaches, before adjusting the standards. From the industrial point of view, it is essential to ensure the continuity of supply, because regardless the season, the industry in general has a flat demand profile and consumes just about the same amount of gas throughout the whole year.

3.2 Questions about implementation and enforcement of the Supply Standard

12. *Do you think that the result-oriented approach should be maintained or should the supply standard become more prescriptive in how the implementation and enforcement should be carried out? Please substantiate your reply, taking into account the effects on prices, liquidity, competition and security of supply.*

We think that the supply standard should become more prescriptive in how the implementation and enforcement should be carried out. Again, the Draft Preventive action plan for enhancing security of supply of gas in the Greek National Natural Gas System (NNGS) is a good example³

13. *To what extent can a more active role of the Competent Authorities in the monitoring of the supply standard contribute to resolve the identified issues, notably should the Competent Authorities permanently verify that measures/means to meet the standard put forward by undertakings are appropriate? If so, how can this practically be realised, without unnecessarily limiting cross-border trades and liquidity?*

No response.

14. *Should all undertakings be treated equally or should for instance small undertakings be exonerated from the obligation to comply with the supply standard? Please substantiate your reply.*

No response.

3.3 Questions about the measures used to meet the Supply Standard

15. *Do you think the supply standard should be met by the undertakings responsible as a “going concern” in the context of their regular, day-to-day supply activities? Please substantiate your reply.*

We believe that a market with sufficient number of operators and suppliers would define the standards and relations within the gas market in a best way.

16. *To what extent can normal market conditions be relied upon by the undertakings responsible to ensure that they will meet the supply standard even in case of supply disruptions?*

No response.

³ http://www.rae.gr/site/file/system/docs/natural_gas/05112012_3

17. *How can the ability of undertakings to supply protected customers be checked in a "hub-based" gas world in practice, in particular:*

a. *To what extent can (long and/or short term) spot market contracts be checked in a "hub-based" gas world in practice?*

No response.

b. *How can a monitoring system avoid detrimental effects from disproportionate guarantees/certificates for future supplies?*

No response.

c. *Under what circumstances can a monitoring system based on incentives/sanctions (i.e. without ex ante checks and guarantees) such as described in Box 1 be effective? If so, what role should competent authorities have under this approach?*

We definitely would support such a system. At first the competent authorities would have to estimate the value of lost load for each industrial sector (e.g. Chemicals, Iron and Steel, ...). Based on the volumes and the industry specific price for the value of lost load and the potential need in an emergency situation the authorities can benchmark those costs against other SoS-measures like storages. If the demand side options are cheaper than the storage options, the TSOs could be authorized by the authorities to offer Demand Side Management Contracts based on the value of lost load to the industrial consumers. The big advantage of such contracts is that there are only – efficient (!) - costs generated, when there is a real shortage of gas and industrial consumers are taken off the network.

18. *In order to protect the level playing field on the market, it may be appropriate to entrust the transmission system operator with the role of supplier of last resort under certain predefined circumstances and in compliance with strict criteria. To what extent would such an approach be commendable in your home market (please indicate which market that is)?*

Germany:

For the German market we see no need for the TSOs to become suppliers of last resort. Germany meets all current supply standards, due to a functioning gas market and high storage capabilities. Furthermore Germany could strengthen the security of supply by establishing a market based system for demand side management. At the moment such a market based system is nonexistent. At the moment Germany is thinking about introducing storage obligations.

Netherlands:

In the Netherlands, the TSO has a last resort function: till a temperature of minus 17 degrees the TSO should always be able to deliver the demand for gas. At an even lower temperature, there is force majeure. In these circumstances the households are still the preferred consumers and industry will be delivered at a lower level.

In order to be able to deliver everyone till minus 17 degrees Celsius, coming from minus 9 degrees on, by law the TSO has some additional instruments such as the Groningen field flex, storage contracts and an LNG terminal near Rotterdam (a fairly small peak shaver; not GATE). The costs of these measures are in an arrangement which I would call 'Supplier of last resort', where the TSO becomes the supplier by law: from minus 9 degrees Celsius till minus 17, SoS is overruling the market under these circumstances.

In this system, market is not hindered for more than 350-360 days per year. Hence, SoS and Supplier of last resort measures costs are acceptably low.

19. *The current supply standard obligation under Article 8 and 2(1) of the Regulation is a national obligation. Is the current approach sufficiently open to cross-border solutions or could a "regional" approach to the supply standard for protected customers be considered in the Regulation?*

We think that a "regional" approach to the supply standard for protected customers should be considered. This could be also a promoter for larger balancing zones like advertised in the new Gas Target Model.

20. *Please provide your substantiated view relative to the various implementation forms of the supply standard currently in use throughout the EU today. Please indicate your experience with these measures (i.e. storage obligations, strategic stocks, diversification obligations) and consider factors such as overall costs, effectiveness, enforceability, impact on market, competition and prices and compatibility with other SoS measures.*

Example from Italy:

The OLT terminal (Offshore LNG Toscana) is a floating LNG regasification infrastructure connected to the Italian gas network since 2013. High LNG prices in 2013 and 2014 have made it uncompetitive on the Italian market and its 3.75 bcm/yr regasification capacity has remained practically unused in 2014.

The terminal received the status of strategic infrastructure from the Italian government and eventually became entitled to guaranteed revenue. It had to give away its 100% TPA exemption in return. From the terminal's point of view, an alternative would have been to displace the floating terminal to a more attractive location for LNG imports, which would also have left the new connection infrastructure between the terminal and the Italian transport network unused.

The CVfg surcharge has been set at 0.0614€/m³ on all natural gas imported on the Italian transport network since 1st of January in order to generate the funds necessary to cover the terminal's guaranteed revenue. That amount has been estimated at 45M€ for 2013-2014.

The surcharge will triple to 0.1749 €/m³ on 1st of April 2015. In addition, new projects being entitled to the strategic status and the revenue guarantee would also support the level of the surcharge. How the strategic infrastructure status was approved and how the revenue level was set is also not completely transparent and apparently gave rise to discussions between the Ministry and the regulator.

In 2014, Italy had 126bcm import capacity and imported 55 bcm of natural gas.

21. *Which role could LNG play in situations where the market cannot be relied upon to fulfil the supply standard:*

- a. *Can it play a role in effectively addressing an emergency situation? If so, in what form?*

There is an implication that somehow LNG is not part of the "market". However, it is part of the market even if LNG hardly enters Europe at the moment!! It's will become part of the market if prices are high or low. It certainly has a role to play in avoiding emergencies - in that it is a source of supply - either as base load and as short term flex through liquid stocks in tanks. However, in a short LNG market, we will compete with other markets - and it will be a case of who pays for the

molecules. But if we have reached an emergency (say on a European level) it's because there is no more LNG available - and demand will meet supply by reducing.

- b. *What are the main barriers for LNG to play such a role (e.g. destination clauses, transparency, price)?*

No response.

22. *The range of available measures to ensure the supply standard is much wider in mature markets than in non-mature markets, where further regulatory interventions may be required:*

- a. *Do you agree that there could be a need to differentiate between mature and non-mature markets for meeting the supply standard? If so, how should mature and non-mature markets be defined?*

The definitions could be aligned with the updated proposals from the Gas Target Model.

- b. *Do you think that an obligation of diversification for those Member States that are highly dependent on one single supplier should be considered and what would be an appropriate level of diversification (e.g. a percentage or a minimum number of sources)?*

At first we would need to know in which way such an obligation would be fulfilled and what the relating cost would be.

23. *How can regional solutions be fostered where they are more efficient than individual national solutions? Should legal measures (e.g. obligation to evaluate regional solutions) be considered? How should the costs of such regimes be shared?*

National or regional, the causer-pay-principle must always be maintained, meaning that only those customers bear the costs, who have the benefit.

24. *How could a coordinated gas reserve mechanism be designed:*

- a. *How could a mechanism that pools gas storage ("virtual" shared reserve) across Member States be designed? Please describe such mechanism in detail*

No response.

- b. *Is there a need for joint gas or LNG purchasing agreements between different gas companies? Do you see rather benefits or risk of such joint purchases in an emergency situation?*

In our view there cannot be a general answer to that. There may be regions where such LNG purchasing agreements could help. For us it is a question of cost efficiency. Such contracts as described in the paper do have their price, since it is an option, which could be pulled anytime. We think that demand side management from the industrial consumer side can be an extra building block. Using additional LNG or lowering industrial consumption for the benefit of the protected customers are different sides of the same coin. The advantage would be that the main costs for industrial demand side response only occur in the crisis situation itself, depending on the system design.

- c. *Should such mechanisms be regional or is there a case for an EU-wide mechanism? Who would be the actors in such systems and what would be their role (companies, Member States, EU)?*

We think it could be both. The general framework could be EU-wide, while the solutions could be regional. With the right legal framework and the and a system allowing for proper incentives, demand side possibilities from industrial consumers could be “exported” from country A to country B. For example industrial consumers from Country A, which has no gas crisis, could voluntarily lower their gas consumption to help neighbouring Country B, which has a gas crisis situation.

25. *Do you agree with the possible conditions for non-market-based measures listed below? Which conditions would you add or delete?*

- *they can only be used when it is demonstrated that gas traders are not able to provide the necessary supply standard.*
- *they can only be used at a national level if no solutions for shared use of storage resources with other Member States is possible*
- *it should be ensured that the measure is open to participation of suppliers from other countries.*
- *the capacities should be acquired on a non-discriminatory basis (tender) and should take into account cross-border sources of flexibility.*
- *the TSO(s) is most likely to be the best placed person to acquire such means given his control over the system, overview of the flows and independence.*
- *they can only be used when it is demonstrated that the full possibilities for voluntary demand side response from industrial side have been utilised.*

26. *Should the distinction between market-based and non-market-based measures be further clarified? Should the use of non-market-based measures be restricted, for instance by being made subject to the fulfilment of certain criteria and regulatory oversight?*

Yes, the clearer the definitions are, the easier it is for the member states to check and implement those measures. Non-market based measures should always be under regulatory oversight. It is essential for the industrial consumers to have transparency and clear responsibilities for situations where non-market-based measures are used.

Here is an example, why non-market-based measures need regulatory oversight. In a gas crisis situation an industrial consumer is informed by the TSO that he is not allowed to consume any gas at his exit. As a reaction the consumer will communicate a zero nomination to his supplier that he is not able to consume any gas. In this situation, the duty to deliver gas is detached from the original contract with the industrial consumer. Then it is in the hands of the supplier if he will inject the newly freed gas from the contract. Depending on the situation (is there a market, where the gas could be sold? Does the balancing system work?) he will sell the gas to the market, sell it to another market, store it or leave it at the border. In any case, the industrial consumer has the damage, the supplier the benefit and the TSO uncertainties if the gas will really enter the system. A voluntary demand side management system would avoid such problems.

PART II MITIGATION

4. Protected Customers and Solidarity

27. *Concerning the definition of protected customers:*

- a) *Do you believe that there is a need for a more harmonized definition of protected customers and their consumption? Please substantiate your answer.*

Yes, we definitely believe that. It is just a question of fairness that the definitions lead to the result that only those customers are protected, which really need protection. Differences in the definitions may lead to adverse consequences when it comes to solidarity between member states.

b) Should the definition of protected customers be stricter in order to avoid that single Member States declare almost all customers as protected?

Yes, see answer 27. a)

c) What do you think about a regional definition of protected customers (e.g. in closely interdependent areas)?

We think that the definition of protected customers should be the same all over Europe.

28. *In some 'meshed' distribution grids it is technically difficult to make a physical separation between protected and non-protected customers: What could be a solution to limit the protection to the actually protected customers (e.g. orders to non-protected DSO-connected customers not to consume gas, shielded by sanctions, etc.)?*

Before giving orders not to consume gas, the potential for demand side management based on incentives (e.g. value of lost load) should be tested.

29. *Do you see merits in laying down one or more of the following solidarity measures:*

a. an obligation on Member States to agree upfront on bilateral or multilateral crisis measures to deal with imminent disruptions of protected customers (e.g. sharing of costs, roles and responsibilities, etc.), in order to prevent alleged "free-riding";

Yes, we support an upfront agreement.

b. a prohibition for Member States to close their borders or reduce interconnection capacity in case protected customers on the other side of the border are still at risk (combined with efficient provisions against "free-riding" such as upfront agreements, see a))?

It depends on the fact, if there is also a risk for protected customers in the member state which wants to reduce the interconnection capacity. Therefore upfront agreements with clear rules are needed.

c. What other solidarity measures do you believe can improve levels of security of supply without unnecessarily impacting market functioning?

Cross boarder voluntary demand side management from industrial consumers.

5. Emergency Plans

30. *Do you agree that the development of emergency plans at regional level would be an appropriate way to ensure consistency and to enable preparation to react to common and correlated risks? How should the regions for security of gas supply be best defined? Please substantiate your reply.*

Yes, we agree to that.

a) Should mandatory regional emergency plans complement the national emergency plans or replace them?

They should complement them.

b) Do you think that a template for regional emergency plans would ensure that more detailed and relevant information is provided (e.g. similar to the template used in the recent Energy Stress Tests)?

Yes, we support the use of such a template.

6. Declaring an Emergency

a. National Emergencies

31. Do you agree with the introduction of a threshold based mechanism or more specific indicators to trigger the declaration of the different crisis levels? Please substantiate your answer.

Yes, we agree to that. If member states want to deal with a gas crisis in a coordinated manner, a basic alignment is needed.

32. Should the right for Member States to intervene in markets through non market-based measures be extended to alert-level situations or remain limited to emergency situations? Should the list of possible non market-based measures in Annex III of the Regulation be changed or clarified?

It should strictly remain limited to emergency situations.

33. Should the declaration of national emergencies be subject to an appeal mechanism, e.g. to the Commission? Should the Commission's recommendation on the national measure have a binding character?

Either yes or no, a more detailed description of the process would help us to make a stronger statement.

b. Regional or EU-Wide Emergencies

34. Is the current allocation of responsibilities and tasks among the Commission, Member States, TSOs and natural gas undertakings in a Union or regional emergency in the Regulation clear enough? Do you see a specific role for ENTSOG or the Gas Coordination Group in a Union or regional emergency? Please substantiate your answer.

ENTSOG could/should have the role of a coordinator on the technical and the process level. We support the proposal from ENTSOG for an early warning system.

35. Should clearer rules be introduced on the consequences of declaring regional emergency for those Member States where the market is still functioning?

Yes, clear rules should be introduced

36. The Regulation currently foresees the possibility to declare only an "emergency" at regional or Union level: Do you see a need for an additional regional/EU-wide "early warning" or "alert" level?

No response.

37. Should the Commission have more sophisticated information tools (e.g. a broader vision of actual gas flows in certain regions) and investigative powers in and before a regional /EU-wide emergency at its disposal in order to have the necessary information available to assess the cross-border effects of the national measures?

Yes, we support that proposal and suggest ourselves that the non confidential parts will be provided for all market participants.

38. *Should an obligation for the regional coordination of decisions in a regional /EU-wide emergency be created?*

Yes, we support that proposal.

39. *Are the Commission powers in case of a regional or EU-emergency sufficient or should they be increased in view of the experience with previous crises? Do we need a separate emergency body for the coordination at regional or European level?*

No response.

40. *Should the emergency procedures of different transmission system operators be aligned in order to ensure more effective and efficient response to cross-border emergencies?*

Yes, we think that this is definitely needed.