

Consultation Paper
Revision of Regulation (EU) No
994/2010 concerning measures to
safeguard security of gas supply
and repealing Council Directive
2004/67/EC

2 April 2015

Eurogas Response to EC 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

Introducing our response to this consultation, Eurogas wishes to recall

- The full and correct implementation of internal market legislation, of the current Regulation on Gas Security (994/2014), and other relevant legislation necessary for a well-functioning market, including EU competition law, should be enforced.
- Approaches should be avoided that risk undermining market confidence, and the current contract-based energy system. The risk in introducing even temporary non-market based instruments is that this would delay proper development of the market.
- There is scope at regional level for bringing markets closer together, and this objective should be pursued, in a way consistent with the objectives of the European internal market. Competition should foster solidarity within the framework of EU integration. The EU has an important role in maintaining relations with supply and transit countries. Further infrastructure development, especially cross-border interconnections, is a prerequisite.
- Eurogas supports the proposal to introduce a framework for electricity supply security.

Questions

- 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)?**

While in many respects, the N-1 rule is still fit for purpose, areas for improvement have been identified. Particularly there is need to address the poor implementation of N-1 in some Member States, a problem identified in recent analyses, and to clarify implementation requirements where necessary. There is also need to ensure a coordinated, but distinct approach from the supply standard.

994/2010 requires that the responsibility for covering the infrastructure standard N-1 lies with the TSOs (Article 6.1), acting with the Competent Authority and the supply standard in line with Article 8 is for suppliers to fulfil meeting the requirements of the Competent Authority. The roles and responsibilities have to remain distinct, and it is the responsibility of the Competent Authority in line with the requirements of the Preventive Action Plan to ensure global compliance.

A national approach should be maintained but on a sound, coordinated basis with neighbouring Member States. Improving the definition of the infrastructure standard would ensure a basis for a more harmonised approach, making this coordination across borders easier. Within this overall framework, specific suggestions to improve the standard are

- Some infrastructure capacity is used entirely for transit, transporting export flows, and so its role in meeting the standard has to be carefully assessed.
- The infrastructure capacity available for reverse flows should be factored in.
- If a regional approach is to be developed to N-1 (see below), this may have a bearing on the national N-1 standard. A first step is to agree which infrastructure is included in the scope of N-1 regionally, taking into account and resolving on a market basis any physical constraints on its eventual availability.

Eurogas also supports the introduction of an approach to establish a broader regional picture, similar to the ENTSOG Winter Outlook/DG ENER's stress tests. An additional N-1 criterion could be set at a relevant zone level.

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

Eurogas favours such an approach alongside an indicator on the infrastructure of each Member State. A regional factor could be introduced into the conclusions, as mentioned in the answer to 1. A regional winter outlook could provide additional feedback on remaining infrastructure bottlenecks.

Annex IV of 994/2010 remains a good basis for determining regional groupings. But Member States and stakeholders should be involved in relevant discussions. Moreover, the definition of regions is a complex question, and it should be considered that the relevance of the definition may be affected by the nature of any crisis (cold spell, geopolitical, accidents etc.).

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?

This is a question requiring evidence based responses from companies. Eurogas, however, would like to make the general point that the most efficient commercial products should be offered by TSOs to the market. Notably virtual reverse flow ("wheeling") is often a cost effective way to meet market needs and therefore as mentioned below, decisions should be taken on a cost-efficient basis, and should not reduce availability of TSO products asked for by users.

4. As concerns exemptions from the reverse flow obligation¹:
a. Should these provisions be clarified and/or strengthened?

- Reverse flows not only help to meet supply security objectives but can boost market opportunities. Deciding where they are needed should be done on a case-by-case basis

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

in the light of cost-benefit analyses; technical neutrality and economic efficiency principles should drive decisions and reverse flow projects should be benchmarked against alternative solutions. However, assessments of the benefits of bi-directional capacity should not focus too much on the receiving country only, but evaluate wider market benefits.

- Provisions on exemptions should not be strengthened, but perhaps the consideration of the N-1 standard should be linked to assessment of exemptions more closely.
- The Regulation could require more rigorous periodic reviews of exceptions to assess how markets are changing and what the impact on the reverse flow case is. If there are fundamental market changes, an additional check can be run.

b. Should the relevant authority analyse the benefits of reverse flows along the whole transportation corridor?

- Art. 6.2. of the Gas Directive 2009/73 requires cooperation between TSOs and NRAs. This cooperation should also concern decisions on reverse flows.

c. Should affected Member States even beyond the immediate borders be involved in the assessment?

This must be decided on a case-by-case basis, but cooperation should in principle not be limited to immediate neighbouring Member States and should also include, when appropriate the Contracting Parties of the Energy Community.

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?

See 4. Article 9.4 provides for review of the exemption but in the framework of risk analysis. This has to be enforced, and perhaps made more specific, in terms of reevaluation in changing market circumstances.

6. Are the Risk Assessments and Preventive Action Plans in the current format satisfactory means for identifying and preparing for supply risks? 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 implementation issues identified in connection with Risk Assessments and Preventive Action Plans, point to the current format being unsatisfactory or at least difficult for Member States to understand each other, and causes difficulties too for stakeholders concerned. Implementation of the current provisions needs to be improved. Also, to enhance transparency, the plans should be available in English at the same time as in the national language.

It is important that Risk Assessments and Preventive Action Plans are consistent and coherent. Eurogas considers that there is scope for a more harmonised approach, at least for

some elements of the scenarios, to facilitate a coordinated approach. Therefore there could be benefits in having a template to assist and guide Member States in preparing their plans.

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

Eurogas supports the need for strengthened regional cooperation.

If there is a greater transparency of national plans, and neighbours know each other's situations better, this will go a long way to improving cooperation.

- 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?**

Better procedural rules may help, but these should be developed at regional level. Otherwise the exercise risks becoming too bureaucratic. English should be the common language for better understanding, alignment of definitions, etc.

- 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.**

The response to Question 1 is relevant. Clarity of distinct supplier responsibilities has to be observed, while the Competent Authority, ensures global coherence of approach with N-1. At national level, it may be appropriate for Member States with limited diversification to take realistic account of possible gas supplies from other markets.

Member States should be transparent about their definition of protected customers and the measures they envisage to protect supply to them. Eurogas has considered whether a more harmonised approach is required to the definition of protected customers, but considers that as uses of gas are different in different Member States, it should remain a national responsibility to determine this definition within the current framework but implications of different approaches in neighbouring Member States should be clear and possible problems anticipated.

The approach to the supply standard also has to be viewed in the context of more liquid markets today and in the future. More prescriptive measures are to be avoided, as they could send the wrong signals to market-driven solutions.

Provided that the market is functioning, a results oriented approach should be sufficient, rather than an over-prescriptive approach, the rigidity of which could have negative effects, also on more regional cooperation. Where a market is not functioning satisfactorily, alternative interim measures may have to be considered to share up the results oriented approach, but tools have to be tailored to specific circumstances and not distort the market unduly.

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.

Member States' situations vary, and Eurogas cannot say if the scenarios are valid for all Member States. ENTSOG's assessments should be a basis for further consideration of this issue. Any review needs to find a balance between technically relevant considerations and standards of supply which can reasonably be expected from suppliers in a competitive market.

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.

In theory a higher standard could increase security of supply, but there is a risk this could lead to inefficient and disproportionately costly Preventative Action Plans, and inhibiting other efficient responses to problems. Very low probable-risk standards, introducing excessively stringent constraints, may in the end be damaging to gas markets and consumers. Also, increased standards could give misleading signals about the generally high level of gas security, damaging its competitiveness with other fuels.

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.

The results-oriented approach should be maintained, as mentioned in the response to Q. 9. A more prescriptive approach could unduly distort the market.

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?

The intent of this question is not fully understood. The current legislation should be enforced, where necessary and the national legal frameworks should be clear to all market participants. Verification of measures (understood as monitoring), should not be so

burdensome as to have an impact on trade and liquidity and intervene in trader/supplier relationships. The monitoring process should be transparent, and proportionate, and involve stakeholders in a practical way. The activities of Competent Authorities should be designed to support market functioning. NRAs' monitoring of market functioning is also important.

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.

- Equal treatment should be maintained and therefore small undertakings should not be exonerated.

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.

As the supply standard is binding in line with Art. 8.1 of 994/2010, it is part of the regular activities of companies supplying gas to protected customers. It is not clear how much more of a “going concern” it could be. There is no justification for tightening obligations as it is already a stringent enough requirement.

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?

This answer will depend on what constitutes “normal market conditions”. In a well-functioning liquid, well-connected, and flexible market, companies should be able to rely on this market even in case of supply disruptions to meet the standards. The gas price will also be an important indicator to align supply and demand in the event of supply disruptions. This will be more difficult in Member States not benefiting from a well-functioning market, especially if an underlying cause is a lack of cross-border connections. Therefore it is important to address ways that will improve market functioning.

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?

It is more difficult to monitor security in a hub-based world, as supply will depend on a mix of contracts driven by the market. However, effective implementation of the Balancing Code to be implemented in October should incentivise market participants to keep their supply positions in balance, and meet their portfolio requirements efficiently. Furthermore transactions on the hubs are an indicator of liquidity, and therefore of the robustness of a market at least in well-functioning circumstances. The reactions of traded markets to prevailing supply conditions are in themselves a good indicator of confidence in the market to deliver.

The wording in (a) is somewhat unclear. If this, in addition, is a question about monitoring of long term contracts and relevant to Article 13.6b, then Eurogas considers that, as more liquid markets develop and the share of long-term contracts grows less

significant or is more and more used in hub trading, there is less justification in insisting on their reporting.

Eurogas also takes this opportunity to recall its position on the proposal to explore ways of allowing contractual information to be available on an aggregated basis. Any attempt to set-up a common database should not lead to a quasi-control mechanism, reducing the possibility for companies to negotiate their contracts. Confidential information should remain protected in accordance with Article 4 of Decision 994/2012.

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

It is not clear what this means. Monitoring facilitates preparedness, and the current framework already provides significant monitoring opportunities.

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?

There is no justification for introducing new monitoring systems based on incentives/sanctions. A well-designed balancing system plays this role, within normal market conditions. The benefits of the “lost-load” approach introduced in the UK have yet to be demonstrated in practice, and there is a risk that it could lead to unnecessarily high costs of balancing supply and demand in an emergency.

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)?

This is a question for companies, but Eurogas would like to make the general comment that the term supplier of last resort (SOLR) carries different meanings in different Member States. In some Member States the TSO is SOLR if there are market supply difficulties while in others the SOLR is determined by market mechanisms. The term “default supplier” is sometimes used interchangeably and confusingly. An underlying assumption here seems to be that the normal market is no longer functioning so the first SOLR category applies. If, however, the TSO is designated as a SOLR, it must be well understood that it is not a market-actor in the same way as a supplier is, but in a specified situation the TSO can use market resources. Predefined circumstances have to be clear to determine the entry into force of this role. The TSO should use a market-based process to obtain the necessary volumes and capacity to meet responsibilities and financing should be decided in advance. As mentioned above, all definitions and responsibilities have to be clear.

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?

It is essential to build a regional approach to security of supply, but it is premature to think of moving to regional standard obligations only, in particular a regional definition of "protected customer". Even if there is a regional consensus on the definition of protected customer, there should still be a national legal framework.

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.

Companies are best placed to report on experiences. Eurogas's views on strategic storage are set out in the answer to 24, and diversification obligations in the answer to 22.

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?

LNG should be available on the global traded market and can therefore contribute to improving diversification, flexibility and medium and longer term security of supply, addressing tightening supply conditions, as well as an emergency situation. The volumes available and price will be determined in a global market.

More generally, access conditions to terminals have to be in line with the needs of a well-functioning market and infrastructure should be in place to ensure that gas delivered to terminals will be able to benefit directly or indirectly neighbouring including land-locked Member States.

– In addressing the issue of an LNG strategy, the global market context has to be respected. Interventions in LNG trade would distort the market, could be inefficient and very costly.

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

As mentioned, the role of LNG will depend on its availability in the market circumstances.

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?**

There is no need to differentiate between mature and non-mature markets, by introducing an approach based on broad categories. Adequate interconnections will be a consideration in either case. Supply standards have to be appropriate for the markets they apply to.

If, however, non-mature means small, this is not a justification for introducing different supply standards. Instead, it would be more appropriate to find tailored solutions to merge markets such as are set out in ACER's GTM, with the ultimate aim of improving regional coordination and solidarity.

If non-mature means a non-functioning market, see answer to 16.

- 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)?**

National markets should determine if diversification obligations need to be introduced, and what they could be. National authorities in Member States which are highly dependent on a single supplier could introduce discretionary requirements on diversification as an interim measure until a robust market is in place offering more choice of suppliers, but this should not be over-prescriptive as responsible companies will opt for diversified supplies.

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?

Eurogas considers that regional solutions can in the first place be fostered by better implementation of existing legislation, the Third Package, the current 994/2010 Regulation, and the infrastructure package to connect markets better and improve cooperation, supported by better coordination among TSOs and NRAs.

Over and above that Eurogas supports ACER's approach in the GTM to link national markets more closely, through cost-effective analyses to deliver tailored solutions and arrived at in consultation with stakeholders.

Eurogas has suggested a number of necessary improvements.

Some specific suggestions to improve market functioning

1. Removal of barriers to entry to enable the development of competitive markets and increase resilience to security of supply challenges.

Examples:

- failure to transpose the EU Gas Directive requirements in national legislation;
- language restrictions to participation in the wholesale market;
- balancing market not aligned with EU rules and balancing costs that do not reflect market value;
- licensing restrictions (such as the requirement to set up a local office to obtain a licence).

Significant progress could be achieved by focussing on the implementation of the existing EU legislation (Third package and EU Codes); enforcement should therefore be a priority for the Commission and ACER.

2. Effective third party access to network

Examples:

- limitations to access capacity at key interconnection points (for example only monthly products offered by some TSOs ;
- inconsistent regulatory approaches on the two sides of the same interconnection point;
- Capacity at some IPs is expensive relative to hub price spreads.

Most East European TSOs have no clear plans on how to solve these issues also by adopting EU rules (CAM rules) which would enable coordinated auctions of bundled products at interconnection points (Polish, Bulgarian, Greek and Romanian TSOs have to address this): enforcement of CAM and resolving the issues related to the transit pipelines blocked by intergovernmental agreements should be a priority for the Commission and ACER. Also, some fundamental issues on the transportation model and capacity use still remain to be addressed paving the way for further EU-wide harmonisation and supporting security of supply.

Eurogas meanwhile has asked for a one-off capacity reset option, alternatively a measure to minimize risk of unacceptably high tariff fluctuation.

3. Improving connectivity across the region

Examples:

- physical reverse flow capability still limited at some interconnection points in the region (Italy export; RO-BL and BL-GR).

Identification of the key investment needs across the region and prioritisation of projects should be a priority for the Commission and ACER: streamlining the EU Projects of Common Interest Process and getting TSOs commitment to investment plans.

4. Effective access to LNG terminals, also on short term basis

Improved market implementation, supported by the necessary cross-border infrastructure and coupled with a regional, cooperative approach offers the most efficient ways forward to enhance supply security. Eurogas considers that the best way to realise the principle of commercially based solidarity is to develop liquid markets at national and/or regional level, with well-functioning hubs and commerce-driven cross-border flows of gas. Solidarity can be achieved, and as far as possible should be achieved, through market mechanisms, provided that market-driven cross-border infrastructure and the supportive cooperation strengthened by a shared commercial understanding are in place.

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.

Eurogas considers that organising any such mechanisms across Member States would raise very complex issues. It is not clear what the features of such a reserve would be, how it would function or be governed or paid for. It is not clear how a suggestion to pool a minimal part of existing capacity stocks, perhaps under the IEA, would work or if it could be compatible with the aim to have a functioning EU market. A better functioning market will contribute to the availability of physical reserves in market areas, and hub products offering virtual reserves backed up with possibilities of physical deliveries on an integrated basis could be considered, but there would need to be confidence in eventual physical availability of the gas, and a prerequisite of this would be its availability across borders.

Eurogas has never supported strategic storage at an EU policy level as this could be cost inefficient and cause problems for the commercial storage market. Eurogas recognises that some Member States may wish to consider measures such as "monitoring" level (a level is set below which stocks should not fall) strategic back-up stocks, or Public Service Obligations (PSO) obligations. Any such solutions should be transparent, proportionate, seek to avoid market distortions, and be responsive to market structure and developments. Proper stakeholder consultation on such measures will help to ensure this. With regard to wider issues on the functioning of the storage market, Eurogas draws attention to the input to CEER's Consultation in December 2014 (attached).

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?

When the market is functioning well, Eurogas does not see a need for joint gas or LNG purchasing arrangements, even on a voluntary basis. At the very least it should be considered if this would be compatible with a competitive liquid market (Eurogas was observer in the Caspian Development Cooperation discussions, when clarity was never established on this point). The impact on customers also needs to be addressed, if competing suppliers are not competing for supplies upstream.

More diversified supplies and access to liquid markets will strengthen more effectively the negotiating position of those companies still highly dependent on single source imports. It is better to have more suppliers than fewer buyers.

The reasoning why joint purchases may be justified or advantageous in an emergency is not evident.

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)?

See the answer to b. Joint purchasing is inappropriate at EU level, and should not be a regional approach either.

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.

See below

- they can only be used when it is demonstrated that **the market is not able to meet supply requirements**. (Wording in original statement is loose)
- they can only be used at a national level if no solutions for shared use of storage resources with other Member States is possible. (No delete. There will be other flexible solutions not only storage, if the market is functioning)
- it should be ensured that the measure is open to participation of suppliers from other countries. (Yes)
- the capacities should be acquired on a non-discriminatory basis (tender) and should take into account available cross-border sources of flexibility and delivery potential. The extent of reliance on cross-border tools has to be carefully addressed and double-counting avoided. (Yes)
- the TSO(s) may be the best placed entity to acquire such means given its control over the system, overview of the flows and independence. But see answer to 18 for caveats.

The general approach in current 994/2010 should be maintained on the conditions for introducing non-market based measures.

- 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?**

The principles of approach in 994/2010 and the distinction between market-based measures set out in Annex II and III should be maintained.

Eurogas supports the use of non-market based measures only when the market is no longer functioning. When market functioning is weak, improvements should be introduced to improve it rather than resort to non-market measures. In circumstances where non-market-based measures are introduced, these should be temporary, monitored to see the extent to which they distort the market and are contrary to customers' interests, and regulated.

The current lists are adequate.

- 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.**

See answer to 19.

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

The definition should not be changed but a better coordinated approach and more transparency across Member States should be ensured to narrow down the approaches in the Member States, especially at regional level. Furthermore, in discussing commercially driven solidarity agreements, more transparency on the definition of protected customers would help to reflect cost-distributions in the event of shared solutions.

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

See answer to 19

- 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.)?**

As physical separation, preventing gas consumption, is probably not possible, gas use by non-protected customers in an emergency will in practical terms depend on national legal frameworks and their good-will.

- 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";**

Eurogas supports the active encouragement of companies with the engagement of Member States to agree upfront bilateral or multilateral crisis measures, which should also address compensation for adverse consequences. This will also be an important tool in improving cooperation at regional level and will underpin solidarity. Cooperation between TSOs and market partners is essential as this will help deliver the most efficient solutions.

An obligation at this stage may not be appropriate, and agreements should not be so rigid that they exclude flexibility in dealing with the eventual crisis (as distinct from scenarios).

- 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)?**

Art. 10(4) of 994/2010 already requires that cross-border access to infrastructure is maintained as far as technically and safely possible in the event of an emergency. The Plans cannot introduce any measure "unduly restricting the flows across borders".

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

See a.

- 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.**

- a. Should mandatory regional emergency plans complement the national emergency plans or replace 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)?**

a) Art. 10 of 994/2010 already envisages the possibility to develop joint Energy Plans. A first objective, however, has to be to improve the quantity and quality of national plans, and also their transparency as a basis of better bilateral and multi-lateral cooperation. Then regional emergency plans on the basis of voluntary cooperation may develop.

The above mentioned agreements on crisis measures will also be an important part of a joint Emergency Plan.

b) A template for regional emergency plans may provide useful guidance and contribute to more harmonised, transparent approaches.

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.

The current approach to triggering the declarations of different crises levels, set out in Art. 10(3) and 11 should be maintained.

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?

No. This could exacerbate the consequences described in 11. There is no need to change the Annex III list.

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?

If a Member State is faced with a genuine emergency situation, an ex-ante appeal mechanism may not be appropriate or pragmatic, and there may also be governance considerations, whether the Commission could override a national decision of this sort. There should, however, be ex-post controls to check that a Member State has not declared an emergency and invoked non-market mechanisms prematurely.

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.

The current roles and responsibilities are clear enough. In a regional emergency ENTSOG with the support of involved TSOs should have the necessary information to enable it/them to advise and act as necessary to mitigate the problems. The role of ENTSOG and the practical cooperation among TSOs during an emergency could be set out more concretely. Also communications with system users have to be ensured. Exchanges of information within the Gas Coordination Group should be organised.

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

As long as the market is functioning (even if there may be some impacts from another European region), there should be no need for rules.

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?

This can be considered in the context of the planned Code on Emergency Measures.

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?

Although the Commission already has the right to significant information, it would be appropriate for them to have access to better information on flows, but rather than establish new tools or more reporting procedures, the Commission should work closely with ENTSOG. ENTSOG, however, needs to work to enhance its transparency platform to provide necessary real-time information to all stakeholders.

Members States should be encouraged to cooperate with the Commission to help them formulate the appropriate actions and advice.

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

This sounds an unnecessary bureaucratic layer. Regional coordination has a sound basis in the current framework. It can be improved in a variety of other ways (see above).

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?

The Commission should work effectively with Member States in the Gas Coordination Group to deliver coordinated efficient results. A separate emergency body would confuse the organisation.

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?

This would be a practical step, and in the event of problems an alert system has to be in place for TSOs in the first place to ready their responses.