



**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**

8th April 2015

Questions and answers

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)?*

Yes, we do believe that N-1 formula is appropriate for such a purpose although it would be convenient to clarify some issues about how calculate it, for instance the export capacity to be considered at the interconnections.

Nevertheless not only entry point should be considered, but also transmission capacity should be tested in order to guarantee that demand can be covered in case of disruption.

The isolated contribution of ENTSOG as the analyses carried out in Winter Outlook is not incompatible. Furthermore, the time horizon of the N-1 formula¹ is wider, detecting potential shortages and weakness in the medium and long term.

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

In general no, unless countries voluntarily consider it appropriate. For instance, in case that the implementation of a regional approach helped a neighbor country to fulfil with the N-1 formula and there would be enough interconnection capacity, allowing to stablish a balancing zone

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 Spain, all the connection with France and Portugal are reversible. In addition, more alternative routes should be promoted that provide security and diversification of supply, like for instance the "gas entry door" from the South to Central Europe increasing the level of interconnection Spain-France, reducing the effect of risk in the supply of the rest Europe.

¹ The formula N-1 is incorporated as a criterion of design in the Spanish Mandatory Planning of the sectors of electricity and gas.

4. As concerns exemptions from the reverse flow obligation²:

a. Should these provisions be clarified and/or strengthened?

We do not detect need to clarify and specify additional issues into current Procedure for enabling bi-directional capacity or seeking exemption (Article 7 of Regulation (UE) 994/2010)

In addition to the reserve flow, another aspect to consider is the capacity of interconnection.

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

The security of supply is one of the main criteria taken into account to select the Projects of Common Interest (PCI's), as well as the market integration, competition and sustainability referred to in Article 4 of Regulation on guidelines for trans-European energy infrastructure (Reg. 347/2013).

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

Yes, in accordance with the Regulation 347/2013

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?

Two years is a reasonable timeframe to demonstrate the exemption, before consolidated changes in the market conditions.

Nevertheless, in case of unexpected event / risk related to geopolitical situation or technical changes, specific stress tests could be requested by the European Commission and managed through the Gas Coordination Group.

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.)?

Yes, the current methodology allows to update the risks with new scenarios that appear continuously, for instance, adverse weather events (cold spell February 2012), updating the geostrategic context, evolving market circumstances and the role of gas in the energy mix.

² See notably Article 7(4) (a) of the Regulation.

In template the risk scenarios could be categorized in by two areas: Global/European and national of each Member State. The global/European scenarios could harmonize the same way as the Stress Test. Another issue to consider would also be to concrete the parameters to assess the scenarios as well as the effectiveness of measures to prevent and mitigate risk, in addition to those aimed to increase the strength of the system.

Furthermore, the time frame of the Risk Assessment and Preventive Action Plans could be fixed, being four years a reasonable horizon, due to the high grade of uncertainty in the variables that affect the supply and demand in long term, and the frequency of the biennial actualization.

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

- 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)?*

The paragraph 3, article 5 of the current Regulation, gives the possibility to establish joint plans in addition to the plans in a nation level.

We think that it is not necessary the obligation to establish joint plans, but it would be constructive to agree on risk chapter with influence among the neighbouring Member States, as well as its preventive strategy. In this regard, Spain and Portugal have fixed and coordinated the risk situations that influence on both countries.

- 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?*

The shippers are responsible for ensure the supply of the market, nonetheless, Spain has since years ago Mutual Assistance Agreements and Operating Agreements, in reference to the Regulation 715/2009. This regulation in its article 12, promotes the regional cooperation in order to improve the management and coordination of the interconnections under any situation.

In addition, for crisis situations, it may be convenient to establish voluntarily agreements between neighbouring countries located in vulnerable areas and which must be communicated to the Commission.

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?

It should be translate into a common language at least the sections with scope greater than the national level, setting enough time to reach the reference deadline of the different plans to the Commission.

It could be beneficial the integration of both the Preventive Action and Emergency plans, in order to encompass the necessary measures to eliminate or mitigate the risk, and the actions to tackle the possible disruption of the gas supply, avoiding cross-reference between both documents.

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.

Yes, also the Article 8(2) allows increasing supply standard supported by Risk Assessment.

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 believe that the failure of the main supply country, in average climatological conditions, should be included in the standard supply cases.

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.

The current standard is sufficiently demanding. An increase in the requirements should be supported in an objective, transparent and non-discriminatory manner; otherwise it might promote a reduction of liquidity, limiting both the competitive and the sustainability and a higher cost for the shipper.

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 choice should be a decision of the Competent Authorities.

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?*

Yes, the Spanish Competent Authority has an active role in the monitoring of supply standard through the control of abovementioned public service obligations imposed on undertakings.

The monitoring should not be an inconvenient, unless derived from it, the measures adopted by any competent authority could determine the proper functioning of the internal gas market.

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.*

Exceptions should not be made; each undertaking should be responsible and therefore comply with supply standard according to the customers of its portfolio.

Only shippers with a certain share of the supply may have a "diversification obligation" in case the overall gas supplies to the country from a single source surpass a certain threshold.

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.*

It is a minimum and necessary requirement for the activity. In the current Spanish legal framework (cf. Article 14 of the Royal Decree 1434/2002, of 27th December), the natural gas undertakings should be able to prove that they have capacity to ensure supply at all time and the demand of its customers, without supply disruption beyond extraordinary situations. In order to accomplish that, they should have the contracts or the guarantee from the gas supplier that could be used to cover the foreseen commercial activities, ensuring the supply diversification needed.

The implementation of the NC Balancing (cf. Regulation 312/2014) shall deliver incentives on the network users that balance their balancing portfolios efficiently. The network users shall be responsible to balance their balancing portfolios in order to minimise the need for transmission system operators to undertake balancing actions set out under this Regulation (Chapter II, article 4(1)).

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?*

According to a system of sanctions and penalties. In the Spanish case, in accordance with the stated on the Title VI of the Act 34/1998, of 7th October, on the Hydrocarbon Sector.

In addition, strategic stock allows to contribute to the fulfilment of the standard supply.

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?*

With a clear and precise procedure for execution the guarantees

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

The monitoring system could avoid future risk situations for the security of supply, but the guarantees for future supplies also depends on others elements outside this monitoring, consequently its amount is not fully linked to the same.

In Spain, Technical Manager of the Gas System (Enagás GTS) has, along with other functions³:

- i. To determine and control the level of guarantee of supply in the short- and mid- term.
- ii. To forecast the use of system facilities and gas reserves in the short- and mid- term, according to demand forecasts.

³ The functions of the Technical Manager of the Gas System defined in the Royal Decree-Law 6/2000 of June 23rd of Urgent Measures for the intensification of the competition in markets of goods and services, were updated in the Law 12/2007 of 2nd July, amending the Law on Hydrocarbons and then by the Royal Decree-Law 13/2012 of 30th March

- 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?*

The model described in Box 1 is used in emergency situations. This model contributes to improve the efficiency of price signal and transfer the risk to each one of the parts, although we think that a protected customer should not be interrupted, even if, then he will be compensated significantly.

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)?*

The transmission system operator does not have experience in the supply of gas, this function should exclusively rest with the shippers. The transmission system operator is entitled to make trade balancing actions and procure balancing services in order to meet the short term fluctuations in gas demand or supply, without playing the role of the last resource that could distort the market.

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?*

The regional approach is complicated in the supply standard for protected customers, when its definition and the volume of gas varies depending on each Member State, as well as the different grade of market liberalization in each of the states, and therefore divergence in the measures to reach the minimum standard of supply.

In the current regulation framework, the Competent Authority could promote agreements with others countries in order to seek cross-border solutions in emergency situations where supplies of protected customers are threatened.

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.*

The Spanish natural gas system has a foreign dependency of almost 100%. Due to that reason the system needs three lines of action intended to security of supply:

- Diversification of supply, limiting the share from the same country
- Saving and energy efficiency, with the dual aim of reducing external dependence and improving economic competitiveness
- Maintaining minimum strategic stock and measures for operation as obligation stock in winter (Winter Plan)
- Interruptible contracts

These measures have ensured the supply, promoting interconnections, boosting infrastructure and allowing complete liberalization of the market. Therefore, each country should be able to incorporate, maintain and dispose of these measures.

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?*

Spain has an extensive experience in the infrastructures and supply of LNG, proving a reliable and effective option for normal and emergency operation.

Highlight that during 2014, the Spanish gas system received gas from 11 different origins, which is a guarantee of energy supply in a dependent country and which has allowed it to become a logistics center LNG, registering more than 50% of recharges performed worldwide.

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

LNG market has evolved rapidly in recent years allowing a flexible, sustainable and easily relocatable supply, unlike the flows via pipeline, and with large number of importing countries.

To take advantage of potential LNG is adequate the improvement of the interconnection between countries.

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?*

No, it is likely to be very difficult to establish a clear differentiation of the maturity of markets; also it depends on other factors such as infrastructure development. Furthermore, it could encourage discriminatory situations.

- 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)?*

In Spain it has been a measure implemented many years ago and supported by the development of LNG plants, where gas from any source is able to be received.

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?*

It is difficult to find regional solutions when the maturity of markets is different, the grade of interconnection is limited and the national regulatory frameworks could be disparate in terms of cost.

It would only be possible if the regulation forces to establish agreements between countries, not in general.

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

In general it would not be easy the design and the establishment of a joint mechanism. Such mechanisms should be compatible with national requirements and may disturb the correct performance of the market due to the variation of price signals.

In the event that a coordinated gas reserve mechanism would be established, should be European and supervised by the EU, as well as have a uniform definition of protected customer at EU level.

Gas reserves and storage infrastructure for emergency situations should be established in function of economic and technical criteria, for example which be transportable from storage to the target point of consumption. The procedure for the activation, performance and funding should be clearly defined

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

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.

Yes, besides the competent authority can decide to include non-market based measures to guarantee an optimum protected level.

- they can only be used at a national level if no solutions for shared use of storage resources with other Member States is possible.

Yes, provided that the solutions market-based, including interconnection agreements, are not enough to solve the emergency

- it should be ensured that the measure is open to participation of suppliers from other countries.

Yes, in order to foster competitiveness and sustainability of the measure

- the capacities should be acquired on a non-discriminatory basis (tender) and should take into account cross-border sources of flexibility.

Yes

- 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.

Yes

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 current wording is sufficiently clear in this respect and is not necessary a further clarification.

Furthermore, the use of non-market-based measures should be restricted to the criteria and supervision of the Competent Authority.

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, it would be necessary to specify more accurately the definition of protected customers at EU level. In this way, discriminatory situations would be avoided.

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

Yes, in order to maximize the coverage of protected customers in the event that a national/European crisis was triggered and necessary collaboration and coordination with other states in the management of the crisis were necessary.

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

From our point of view, a regional definition of protected customers doesn't make sense due to we agree with a uniform definition at European level.

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.)?*

The regulatory framework of each country should promote that Transmission System Operators (TSOs) and Distribution System Operators (DSOs) have emergency plans for the security of supply. These plans should contain the procedure of communication and both technical and human resources to prepare a disruption where the supply to protected customers is maximized

In order to guarantee the effectiveness of such plans, simulation exercises should be performed regularly.

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";*

It is considered more appropriate that, if it would be necessary the use of bilateral crisis measures ex ante it should be established a clear and detailed model of execution of the measures.

- 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))?*

Competent authority and the Crisis Manage Group in each country should have capacity to decide the most adequate management for the interconnection points in crisis situation. The capacity should not be limited unless it has been previously agreed between neighboring countries.

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

Currently, we do not know other measures of solidarity that do not impact on performance of the market.

However, it would be good to establish crisis drills between countries neighboring to check the effectiveness of the solidarity measures.

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.*

Risk assessment identifies those risks in common with other member states. It would be advisable that the Risk assessment had a chapter coordinated with neighboring countries where the common risks are addressed. Therefore, emergency plans must include the mechanisms used to cooperate with other Member States at every level of crisis, such as agreements on interconnections.

We think the approach should be at European level, not being needed the definition of regions, which is not inconsistent with the coordination with neighboring countries to coordinate gas flows.

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

No, unless some countries voluntarily detect a clear advantage over national plans

- 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)?*

The templates could help to establish a clearer and more accurate manner to deal with risk and in that way strengthen transparency and allow

evaluating at European level the measures to reduce the impact of a supply disruption.

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, trying to obtain a common declaration of the different “states” at European level. However, the wide varieties of different risk situations which could take place, and the characteristic of the grid (mesh and supply) can make very difficult establish indicators to define the various operational states. After the initial assessment of the situation considering all the variables, the declaration of each of the crisis levels should be established on the basis of the measures required by the system to return to normal state operation.

32. *Should the right for Member States to intervene in markets though 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?*

We believe that the current division collected in the Regulation is appropriate, promoting market measures in the management of the situation as much as possible. Just in case the market is not able to provide the gas supply of the protected customers, the Competent Authority will activate non market based measures.

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*

The Competent Authority, in addition to dispose of all the information, must have the faculty for the declaration of national emergencies. In addition to, the Competent Authority should be coordinated with the Commission and implement the measures set for by the Commission in order to manage the emergency.

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 ENTSG or the Gas Coordination Group in a Union or regional emergency? Please substantiate your answer.*

Yes, the current allocation of responsibilities is adequate.

The functions and responsibilities of the competent authority are defined clearly, being one of them to take part in the “Gas Coordination Group”.

In that group, competent authority will provide the information included in the article 13 of the regulation and send to the Commission a detailed assessment in the case of the activation of an emergency. The assessment will reflect the effectiveness of the measures, the impact on the electricity sector and the assistance provided to, or received from, the Union and its Member States and will be reflected in the updates of the Preventive Action Plans and emergency plans.

With reference to the second question, we believe that it is not necessary ENTSOG have a specific role, although the Gas Coordination Group may require occasional support when deemed necessary its collaboration.

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

Yes, in emergency situation it would be convenient to establish clear rules in order to minimize the impact in the markets.

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?*

Initially is not detected the need to extend regionally and Pan European the levels of early alert and alert. The market is still able to solve the crisis by its own, and the declaration of either crisis level could determine the behavior of markets

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?*

It is reckon that it is not necessary, due to the Commission can obtain from the Competent Authorities all the information necessary and convenes the managers of Member States affected by the emergency, in addition to consulting the Gas Coordination Group.

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

The current wording of Article 11 of the Regulation is clear and precise, and we think it is not necessary to introduce additional obligations for the coordination of decisions at regional / EU level in emergency situations that exceed the national scope.

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, the current attributions of the Commission and the Gas Coordination Group are sufficient to address a crisis situation.

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, in accordance with Article 12 of Regulation 715.