

**Proposals for Amendments to the Regulation
of the European Parliament and of the Council
concerning measures to safeguard security of gas supply
and repealing Directive 2004/67/EC
(document COM(2009) 363 final/ 2009/0108 (COD)
published on 16 July 2009)**

Amendment 1

Recital 8

Text proposed by the Commission

Amendment

The failure of the largest single gas infrastructure **or gas supply source**, the so-called N-1 principle, **is** a realistic scenario. **Using** the failure of such infrastructure **or supply source as a benchmark of what Member States should be able to compensate is a valid starting point for ensuring their security of gas supply.**

The failure of the largest single gas infrastructure, the so-called N-1 principle, **may well be** a realistic scenario. **The failure of such infrastructure is one of the scenario analyses that may help in evaluating a Member State's security of supply.**

Justification

Despite the draft Regulation defining infrastructure and supply indicators in specifically dedicated Articles (Article 6 / Annex I and Article 7 respectively), there are still cross references and links between the proposed indicators. This leads to confusion and for this reason the draft Regulation should be amended to clearly distinguish between both types of indicators.

The risk and impact assessment shall include running various scenarios of exceptionally high demand and/or supply disruption, taking into account all relevant national and regional circumstances.

Amendment 2

Recital 9

Text proposed by the Commission

Amendment

Sufficient gas infrastructure within a Member State and across the Community is essential for tackling supply interruptions. **Common** minimum criteria on security of gas supply should ensure a level playing field for security of gas supply and should create significant incentives to build the necessary infrastructure and to improve the level of preparedness in case of crisis. Demand side measures such as fuel switching may have a valuable role to play in ensuring energy security where they can be applied quickly and reduce demand appreciably

Sufficient gas infrastructure within a Member State and across the Community is essential for tackling supply interruptions. **Risk and impact assessments based on a common methodology should ensure an effective and efficient implementation of** minimum criteria on security of gas supply **and** a level playing field for security of gas supply **while taking into account national or regional specificities** and should create significant incentives to build the necessary infrastructure and to improve the level of preparedness in case of

to react to a supply disruption.

crisis. Demand side measures such as fuel switching may have a valuable role to play in ensuring energy security where they can be applied quickly and reduce **gas** demand appreciably to react to a supply disruption.

Justification

Rather than setting up mandatory European standards at this stage, the Regulation should focus more on the requirement for Member States to carry out a thorough risk and impact assessment and analyse their situation on the basis of a sound common methodology.

The risk and impact assessment shall be carried out by each Member State in accordance with the common methodology, whilst allowing the Member State to take into account particular national circumstances and specificities where appropriate. The results shall be reflected in preventive action and emergency plans. These plans should be subject to review to ensure their appropriateness. Similar plans could also be prepared at the regional level.

The suggested approach could finally pave the way for exploring a more prescriptive approach based on binding common European minimum standards for security of supply provided they would be based on a sound impact assessment, lead to proportionate measures which would be feasible from a technical and economical point of view and preserve the necessary leeway to take into account national and/or regional specificities.

Amendment 3

Recital 12

Text proposed by the Commission

This Regulation should enable natural gas undertakings and customers to rely on market mechanisms for as long as possible when coping with disruptions. It should also provide for emergency mechanisms to be used when markets are no longer able to deal adequately with a gas supply disruption. Even in an Emergency, market based instruments should be given priority to mitigate the effects of the supply disruption.

Amendment

This Regulation should enable natural gas undertakings and customers to rely on market mechanisms for as long as possible when coping with disruptions. It should also provide for emergency mechanisms to be used when markets **alone** are no longer able to deal adequately with a gas supply disruption. Even in an Emergency, market based instruments should be given priority to mitigate the effects of the supply disruption.

Justification

During the first two crisis stages, the market is fully expected to solve the problem, but during a real crisis/emergency, when market mechanisms alone are insufficient to cope with the crisis, the Member States should be involved. Market based mechanisms and non-market based mechanisms may operate alongside each other in the Emergency phase.

Amendment 4

Recital 14

Text proposed by the Commission

The completion of the internal gas market and effective competition within that market offer the Community the highest level of security of supply for all Member States, provided that the market is allowed to work fully in case of disruption of supply affecting a part of the Community, whatever the cause of the disruption. To this end, a comprehensive and effective common approach to security of supply is required, particularly through transparent and non-discriminatory policies compatible with the **requirements** of the market, avoiding market distortions and undermining of market responses to disruptions.

Amendment

The completion of the internal gas market and effective competition within that market offers the Community the highest level of security of supply for all Member States, provided that the market is allowed to work fully in case of disruption of supply affecting a part of the Community, whatever the cause of the disruption. To this end, a comprehensive and effective common approach to security of supply is required, particularly through transparent and non-discriminatory policies compatible with the **functioning** of the **internal** market, avoiding market distortions and **the** undermining of market responses to disruptions.

Justification

The amendment clarifies that policies should be compatible with the functioning of the internal market instead of with the 'requirements' of the market.

Amendment 5

Recital 15

Text proposed by the Commission

The precise definition of the roles and responsibilities of **all** natural gas undertakings and Competent Authorities is therefore crucial in maintaining the well-functioning of the internal market, particularly in supply disruptions and crisis situations.

Amendment

The precise definition of the roles and responsibilities of natural gas undertakings and Competent Authorities is therefore crucial **to avoid conflicting competences and** in maintaining the well-functioning of the internal market, particularly in supply disruptions and crisis situations.

Justification

The three-level-approach defined in the 2004 Directive to ensure security of supply (I: companies; II: Member States; III: the Commission), is no longer clearly reflected in the draft Regulation. This principle should be reinstated in the draft Regulation, also to avoid conflicting competences.

Amendment 6

Recital 16

Text proposed by the Commission

Amendment

Sufficiently harmonised security of supply standards covering at least the situation that occurred in January 2009, taking into account the difference between Member States, should be defined, without imposing unreasonable and disproportionate burdens on natural gas undertakings including new entrants and small undertakings.

Justification

Rather than setting up mandatory European standards at this stage, the Regulation should focus more on the requirement for Member States to carry out a thorough risk and impact assessment and analyse their situation on the basis of a sound common methodology.

The risk and impact assessment shall be carried out by each Member State in accordance with the common methodology, whilst allowing the Member State to take into account particular national circumstances and specificities where appropriate. The results shall be reflected in preventive action and emergency plans. These plans should be subject to review to ensure their appropriateness. Similar plans could also be prepared at the regional level.

The suggested approach could finally pave the way for exploring a more prescriptive approach based on binding common European minimum standards for security of supply provided they would be based on a sound impact assessment, lead to proportionate measures which would be feasible from a technical and economical point of view and preserve the necessary leeway to take into account national and/or regional specificities.

Amendment 7

Recital 18

Text proposed by the Commission

Amendment

It is important that gas supply is maintained, ***particularly as regards household customers, as well as other protected customers such as schools and hospitals***, in cases in which the market cannot continue to supply them. It is essential that the measures to be taken during a crisis are defined in advance of any crisis.

It is important that gas supply ***to protected customers*** is maintained, in cases in which the market ***alone*** cannot continue to supply them. It is essential that the measures to be taken during a crisis are defined in advance of any crisis.

Justification

While household customers certainly require protection, a possible extension of

the category of protected customers at EU level is a highly complex and sensitive topic requiring sound impact assessments. Moreover, extending the scope of protected consumers should remain a national prerogative since its appropriateness and adequacy should be assessed in light of national circumstances, notably the structure of the energy mix and the importance of gas in this mix. Therefore, the draft Regulation should not extend mandatory EU protection beyond households.

Amendment 8

Recital 22

Text proposed by the Commission

(22) In order to ensure the highest level of preparedness in case of supply disruption, Emergency Plans should be established by **all natural gas undertakings together with the Competent Authorities**. Such plans should be mutually consistent. Their content should follow best practices among existing plans and should define clear roles and responsibilities for all concerned natural gas undertakings and Competent Authorities. Joint emergency plans at regional level, should be established where possible and necessary.

Amendment

(22) In order to ensure the highest level of preparedness in case of supply disruption, Emergency Plans should be established by **the Competent Authorities, after consultation of the natural gas undertakings**. Such plans should be mutually consistent. Their content should follow best practices among existing plans and should define clear roles and responsibilities for all concerned natural gas undertakings and Competent Authorities. Joint emergency plans at regional level, should be established where possible and necessary.

Justification

The three-level-approach defined in the 2004 Directive to ensure security of supply (I: companies; II: Member States; III: the Commission), is no longer clearly reflected in the draft Regulation. This principle should be reinstated in the draft Regulation. Competent Authorities are responsible for establishing the plans but shall consult natural gas undertakings.

Amendment 9

Recital 23

Text proposed by the Commission

(23) To strengthen the solidarity between Member States in the case of a Community Emergency and in particular to support Member States which are exposed to less favourable geographical or geological conditions, Member States should devise **specific** measures to exercise solidarity, **including** measures such as commercial agreements **between natural gas undertakings, compensation mechanisms,** increased gas exports or increased releases from storages. Solidarity

Amendment

(23) To strengthen the solidarity between Member States in the case of a Community Emergency and in particular to support Member States which are exposed to less favourable geographical or geological conditions, Member States should devise measures to exercise solidarity. **Natural gas undertakings should devise** measures such as commercial agreements, **which may comprise** increased gas exports or increased releases from storages. **It is**

measures may be particularly appropriate between Member States for which the Commission recommends the establishment of joint preventive actions plans or emergency plans at regional level.

important to encourage the conclusion of prior arrangements between natural gas undertakings. Natural gas undertakings should always be compensated in a fair and equitable manner for any measures they are asked to take in preparation of an emergency situation. Obligations for solidarity measures should be limited to household customers.

Solidarity measures may be particularly appropriate between Member States for which the Commission recommends the establishment of joint preventive actions plans or emergency plans at regional level.

Justification

The three-level-approach defined in the 2004 Directive to ensure security of supply (I: companies; II: Member States; III: the Commission), is no longer clearly reflected in the draft Regulation. This principle should be reinstated in the draft Regulation.

**Amendment 10
Recital 29**

Text proposed by the Commission

Amendment

This Regulation aims at empowering natural gas undertakings and Competent Authorities of the Member States to ensure that the internal gas market works effectively for as long as possible in the case of a supply disruption, prior to measures being taken by Competent Authorities to address the situation in which the market can no longer deliver the required gas supplies. Such exceptional measures should be fully compliant with Community rules and should be notified to the Commission.

This Regulation aims at empowering natural gas undertakings and Competent Authorities of the Member States to ensure that the internal gas market works effectively for as long as possible in the case of a supply disruption, prior to measures being taken by Competent Authorities to address the situation in which the market **alone** can no longer deliver the required gas supplies. Such exceptional measures should be fully compliant with Community rules and should be notified to the Commission **and the Gas Coordination Group**.

Justification

During the first two crisis stages, the market is fully expected to solve the problem, but during a real crisis/emergency, when market mechanisms alone are insufficient to cope with the crisis, the Member States should be involved. Market based mechanisms and non-market based mechanisms may operate alongside each other in the Emergency phase.

As an expert Body composed of different stakeholders (gas industry representatives, ENTSO-G, the relevant customers, the national competent authorities and ACER), the Gas Coordination Group (GCG) seems to be the best forum for discussion, sharing of experiences, as well as formal consultations and coordination with interested parties.

Therefore, the GCG should facilitate the coordination of the measures relating to security of supply. To that extent the GCG should be routinely consulted by the Commission, in accordance with the provisions of this Regulation.

Amendment 11
Recital 30

Text proposed by the Commission

Amendment

Since gas supplies from third countries are central to the security of gas supply of the Community, the Commission should coordinate the actions with regard to third countries, working with producer and transit countries on arrangements to handle crisis situations and to ensure a stable gas flow to the Community. The Commission should be entitled to deploy a task force to monitor gas flows in crisis situations within and, in consultation with the third countries involved, outside the Community and, where a crisis arises due to difficulties in a third country, to assume a mediation and facilitation role.

Since gas supplies from third countries are central to the security of gas supply of the Community, **in the event of a Community Emergency** the Commission, **after consultation of the Gas Coordination Group**, should coordinate the actions with regard to third countries, working with producer and transit countries on arrangements to handle crisis situations and to ensure a stable gas flow to the Community. The Commission, **after consultation of the Gas Coordination Group**, should be entitled to deploy a task force to monitor gas flows in crisis situations within and, in consultation with the third countries involved, outside the Community and, where a crisis arises due to difficulties in a third country, to assume a mediation and facilitation role.

Justification

As an expert Body composed of different stakeholders (gas industry representatives, ENTSO-G, the relevant customers, the national competent authorities and ACER), the Gas Coordination Group (GCG) seems to be the best forum for discussion, sharing of experiences, as well as formal consultations and coordination with interested parties.

Therefore, the GCG should facilitate the coordination of the measures relating to security of supply. To that extent the GCG should be routinely consulted by the Commission in accordance with the provisions of this Regulation.

Amendment 13

Article 1

Text proposed by the Commission

This Regulation establishes measures aimed at safeguarding the security of gas supply so as to ensure the proper and continuous functioning of the internal market for gas by providing for a clear definition and attribution of responsibilities and for a coordination of the response at the level of the Member States and the Community regarding both preventive action and the reaction to concrete disruptions of supply.

Amendment

This Regulation establishes measures aimed at safeguarding the security of gas supply so as to ensure the proper and continuous functioning of the internal market for gas by providing for a clear definition and attribution of responsibilities and for a coordination of the response at the level of **natural gas undertakings**, the Member States and the Community regarding both preventive action and the reaction to concrete disruptions of supply.

Justification

The three-level-approach defined in the 2004 Directive to ensure security of supply (I: companies; II: Member States; III: the Commission), is no longer clearly reflected in the draft Regulation. This principle should be reinstated in the draft Regulation.

Amendment 14

Article 2

Definitions

Text proposed by the Commission

(1) "protected customers" means all household customers already connected to a gas distribution network, **and, if the Member State concerned so decides, can also include small and medium-sized enterprises, schools and hospitals provided that they are already connected to a gas distribution network;**

Amendment

"protected customers" means all household customers already connected to a gas distribution network;

Justification

While household customers certainly require protection, a possible extension of the category of protected customers at EU level is a highly complex and sensitive topic requiring sound impact assessments. Moreover, extending the scope of protected consumers should remain a national prerogative since its appropriateness and adequacy should be assessed in light of national circumstances, notably the structure of the energy mix and the importance of gas in this mix. Therefore, the draft Regulation should not extend mandatory EU protection beyond households.

Amendment 15
Article 3
Responsibility for security of gas supply

Text proposed by the Commission

Amendment

1. Security of gas supply is a task of the natural gas undertakings, Competent Authorities of the Member States, **the industrial gas customers**, and the Commission within their respective areas of responsibility. **It** requires a high degree of cooperation between them.

1. Security of gas supply is **first of all** a task of the natural gas undertakings. Competent Authorities of the Member States and the Commission **should support the natural gas undertakings** within their respective areas of responsibility. **This** requires a high degree of cooperation between them.

Justification

The three-level-approach defined in the 2004 Directive to ensure security of supply (I: companies; II: Member States; III: the Commission), is no longer clearly reflected in the draft Regulation. This principle should be reinstated in the draft Regulation.

Amendment 16
Article 3
Responsibility for security of gas supply

Text proposed by the Commission

Amendment

2. Each Member State shall designate a Competent Authority responsible for the implementation of the security of gas supply measures **provided in** this Regulation. The measures shall include the biennial risk assessment, the establishment of the Preventive Action Plans, the establishment of the Emergency Plan, and the continuous monitoring of security of gas supply at national level. Competent Authorities shall cooperate with each other to prevent a supply disruption and to limit damages in case it occurs.

2. Each Member State shall designate a Competent Authority responsible for the implementation of the security of gas supply measures **in line with the provisions of** this Regulation. The measures shall include the biennial risk **and impact** assessment, the establishment of the Preventive Action Plans, the establishment of the Emergency Plan, and the continuous monitoring of security of gas supply at national level. Competent Authorities shall cooperate with each other to prevent a supply disruption and to limit damages in case it occurs.

Justification

Rather than setting up mandatory European standards at this stage, the future Regulation should focus more on the requirement for Member States to carry out a thorough risk and impact assessment and analyse their situation on the basis of a sound common methodology.

The risk and impact assessment shall be carried out by each Member State in accordance with the common methodology, whilst allowing the Member State to take into account particular national circumstances and specificities where appropriate. The results shall be reflected in preventive action and emergency

plans. These plans should be subject to review to ensure their appropriateness. Similar plans could also be prepared at the regional level.

Amendment 17

Article 3

Responsibility for security of gas supply

Text proposed by the Commission

Amendment

5. The measures to ensure the security of supply shall be clearly defined, transparent, proportionate, non-discriminatory, verifiable, and shall not unduly distort competition and the effective functioning of the internal market.

5. The measures to ensure the security of supply shall be **based on the risk and impact assessment carried out according to Article 8**, clearly defined, transparent, proportionate, non-discriminatory, verifiable, and shall not unduly distort competition and the effective functioning of the internal market.

Justification

Rather than setting up mandatory European standards at this stage, the future Regulation should focus more on the requirement for Member States to carry out a thorough risk and impact assessment and analyse their situation on the basis of a sound common methodology.

The risk and impact assessment shall be carried out by each Member State in accordance with the common methodology, whilst allowing the Member State to take into account particular national circumstances and specificities where appropriate. The results shall be reflected in preventive action and emergency plans. These plans should be subject to review to ensure their appropriateness. Similar plans could also be prepared at the regional level.

Amendment 18

Article 4

Establishment of preventive action plan and emergency plan

Text proposed by the Commission

Amendment

1. By [31 March 2011; 12 months from entry into force] at the latest, the Competent Authority, after consultation of the natural gas undertakings, of the relevant organisations representing the interests of household and industrial customers and of the regulatory authority, where it is not the Competent Authority, shall establish:

- (a) A Preventive Action Plan containing the measures needed to mitigate the risks identified; and
- (b) An Emergency Plan containing the measures to be taken to mitigate

1. By [31 March 2011; 12 months from entry into force] at the latest, **on the basis of the risk and impact assessment carried out according to Article 8**, the Competent Authority, after consultation of the natural gas undertakings, of the relevant organisations representing the interests of household and industrial customers and of the regulatory authority, where it is not the Competent Authority, shall establish:

- (a) A Preventive Action Plan containing the measures needed to mitigate the risks identified;

- the impact of a gas supply disruption. and
- (b) An Emergency Plan containing the measures to be taken to mitigate the impact of a gas supply disruption.

Justification

Rather than setting up mandatory European standards at this stage, the future Regulation should focus more on the requirement for Member States to carry out a thorough risk and impact assessment and analyse their situation on the basis of a sound common methodology.

The risk and impact assessment shall be carried out by each Member State in accordance with the common methodology, whilst allowing the Member State to take into account particular national circumstances and specificities where appropriate. The results shall be reflected in preventive action and emergency plans. These plans should be subject to review to ensure their appropriateness. Similar plans could also be prepared at the regional level.

Amendment 19

Article 4

Establishment of preventive action plan and emergency plan

Text proposed by the Commission

Amendment

2. Before adopting those Plans the Competent Authorities shall exchange information and consult each other **and** the Commission to ensure that their Plans and measures are mutually consistent at the appropriate regional level. These consultations shall cover, as a minimum, interconnections, cross-border supplies, storage across borders and the physical capacity to transport gas in both directions.

2. Before adopting those Plans the Competent Authorities shall exchange information and consult each other, the Commission **and the Gas Coordination Group** to ensure that their Plans and measures are mutually consistent at the appropriate regional level. These consultations shall cover, as a minimum, interconnections, cross-border supplies, storage across borders and the physical capacity to transport gas in both directions.

Justification

As an expert Body composed of different stakeholders (gas industry representatives, ENTSO-G, the relevant customers, the national competent authorities and ACER), the Gas Coordination Group (GCG) seems to be the best forum for discussion, sharing of experiences, as well as formal consultations and coordination with interested parties.

Therefore, the GCG should facilitate the coordination of the measures relating to security of supply. To that extent the GCG should be routinely consulted, in accordance with the provisions of this Regulation.

Amendment 20

Article 4.

Establishment of preventive action plan and emergency plan

Text proposed by the Commission

Amendment

3. During the process mentioned in paragraph 2 the Commission may recommend at which regional level the exchange of information and consultations shall take place. The Commission, after consultation of **the European Network of Transmission System Operators for Gas ("ENTSO-G") and the Agency for the Cooperation of Energy Regulators ("ACER")**, may also recommend the establishment of a joint Plan at regional level.

3. During the process mentioned in paragraph 2 the Commission **after consultation with the Gas Coordination Group** may recommend at which regional level the exchange of information and consultations shall take place. The Commission, after consultation of **the Gas Coordination Group** may also recommend the establishment of a joint Plan at regional level.

Justification

As an expert Body composed of different stakeholders (gas industry representatives, ENTSO-G, the relevant customers, the national competent authorities and ACER), the Gas Coordination Group (GCG) seems to be the best forum for discussion, sharing of experiences, as well as formal consultations and coordination with interested parties.

Therefore, the GCG should facilitate the coordination of the measures relating to security of supply. To that extent the GCG should be routinely consulted, in accordance with the provisions of this Regulation.

Amendment 21

Article 4

Establishment of preventive action plan and emergency plan

Text proposed by the Commission

Amendment

4a. (NEW) The joint Plan at regional level established according to paragraph 3 or 4 may be developed by the Competent Authorities concerned after consultation of the regional interests within the Gas Coordination Group.

Justification

Defining the regional boundaries best suited to address security of supply concerns will not be straightforward. The location and the level of interconnection between Member States are not static, nor do energy markets always mirror political borders. It should therefore be explored to what extent these regions could be best defined by the GCG after consultation with the gas industry. The process for establishing a joint Plan at regional level should be clarified.

Amendment 22

Article 4

Establishment of preventive action plan and emergency plan

Text proposed by the Commission

Amendment

5. The Competent Authority shall publish its Plans, including amended versions according to paragraph 6, and notify them to the Commission without delay.

5. The Competent Authority shall publish **a non confidential version of** its Plans, including amended versions according to paragraph 6, and notify them to the Commission **and the Gas Coordination Group** without delay.

Justification

The public versions of the preventive action plan and the emergency plan shall not contain any confidential information. The communication of confidential information may seriously undermine the implementation of contracts, lead to market distortions and even be prejudicial to security of supply (notably as regards the necessity to preserve the bargaining power of EU gas suppliers in their negotiations with external producers).

As an expert Body composed of different stakeholders (gas industry representatives, ENTSO-G, the relevant customers, the national competent authorities and ACER), the Gas Coordination Group (GCG) seems to be the best forum for discussion, sharing of experiences, as well as formal consultations and coordination with interested parties.

Therefore, the GCG should facilitate the coordination of the measures relating to security of supply. To that extent the GCG should be routinely consulted, in accordance with the provisions of this Regulation.

Amendment 23

Article 4

Establishment of preventive action plan and emergency plan

Text proposed by the Commission

Amendment

6. Within six months after the notification of the Plans by the Competent Authorities, the Commission shall assess the Plans of all Member States. The Commission shall consult **ENTSO-G, ACER**, the Gas Coordination Group and other concerned stakeholders on those plans. Where the Commission considers that a Plan is not effective to mitigate the risks as identified in the risk assessment or inconsistent with the risk scenarios or the Plans of other Member States, or that it does not comply with the provisions of this Regulation or other provisions of Community law, it shall require the revision of the Plan.

6. Within six months after the notification of the Plans by the Competent Authorities, the Commission shall assess the Plans of all Member States. The Commission shall consult the Gas Coordination Group and other concerned stakeholders on those plans. Where the Commission, **after duly taking into account the opinion of the Gas Coordination Group**, considers that a Plan is not effective to mitigate the risks as identified in the risk **and impact** assessment or inconsistent with the risk scenarios or the Plans of other Member States, or that it does not comply with the provisions of this Regulation or other

Within 2 months from notification of the Commission's request, the Competent Authority concerned shall amend its Plan and notify the amended Plan to the

Commission or shall set out to the Commission why it does not agree with the request. In that case, the Commission may amend or withdraw its request.

If within 2 months the Commission decides not to amend or withdraw its request, the Competent Authority shall comply with the Commission's request within 3 months after notification of the Commission's decision.

provisions of Community law, it shall require the revision of the Plan.

Within 2 months from notification of the Commission's request, the Competent Authority concerned shall amend its Plan and notify the amended Plan to the Commission and the **Gas**

Coordination Group or shall set out to the Commission why it does not agree with the request. In that case, the Commission may amend or withdraw its request.

If within 2 months, **after consultation of the Gas Coordination Group**, the Commission decides not to amend or withdraw its request, the Competent Authority shall comply with the Commission's request within 3 months after notification of the Commission's decision.

Justification

As an expert Body composed of different stakeholders (gas industry representatives, ENTSO-G, the relevant customers, the national competent authorities and ACER), the Gas Coordination Group (GCG) seems to be the best forum for discussion, sharing of experiences, as well as formal consultations and coordination with interested parties. ENTSO-G and ACER are members of the Gas Coordination Group and therefore do not need to be mentioned separately.

Therefore, the GCG should facilitate the coordination of the measures relating to security of supply. To that extent the GCG should be routinely consulted, in accordance with the provisions of this Regulation.

Amendment 24

Article 5

Content of the preventive action plan

Text proposed by the Commission

1. The Preventive Action Plan shall contain:

(a) the measures to **fulfill the infrastructure and supply standards, as laid down in Articles 6 and 7**; these measures shall include at least the **planning** to meet **the N-1 standard**, volumes and capacities needed to supply the protected customers in the defined high demand periods, the demand side measures and obligations imposed on natural gas undertakings and other relevant bodies;

Amendment

1. The Preventive Action Plan shall contain:

(a) the measures **to ensure security of gas supply**, these measures shall include at least **information on the plans** to meet volumes and capacities **that according to the risk and impact assessment are** needed to supply the protected customers in the defined high demand periods, the demand side measures and obligations imposed on natural gas undertakings and other relevant bodies;

(b) the risk assessment as laid down in Article 8; **(b) the results of the risk and impact** assessment as laid down in Article 8;

(c) the preventive measures to address the risks identified;

(d) information on the relevant Public Service Obligations.

Justification

Rather than setting up mandatory European standards at this stage, the future Regulation should focus more on the requirement for Member States to carry out a thorough risk and impact assessment and analyse their situation on the basis of a sound common methodology.

The risk and impact assessment shall be carried out by each Member State in accordance with the common methodology, whilst allowing the Member State to take into account particular national circumstances and specificities where appropriate. The results shall be reflected in preventive action and emergency plans. These plans should be subject to review to ensure their appropriateness. Similar plans could also be prepared at the regional level.

Amendment 25

Article 5

Content of the preventive action plan

Text proposed by the Commission

Amendment

2. The Preventive Action Plan, **in particular the actions to meet the infrastructure standard as laid down in Article 6**, shall be **based on and** consistent with the ten year network development plan to be elaborated by the ENTSO-G

2. The Preventive Action shall be consistent with the ten year network development plan to be elaborated by the ENTSO-G

Justification

Rather than setting up mandatory European standards at this stage, the future Regulation should focus more on the requirement for Member States to carry out a thorough risk and impact assessment and analyse their situation on the basis of a sound common methodology.

The risk and impact assessment shall be carried out by each Member State in accordance with the common methodology, whilst allowing the Member State to take into account particular national circumstances and specificities where appropriate. The results shall be reflected in preventive action and emergency plans. These plans should be subject to review to ensure their appropriateness. Similar plans could also be prepared at the regional level.

Amendment 26
Article 5
Content of the preventive action plan

Text proposed by the Commission

Amendment

3. The Preventive Action Plan shall take into account economic effectiveness, effects on the functioning of the internal energy market and environmental impact.

3. The Preventive Action Plan shall take into account economic effectiveness, effects on the functioning of the internal energy market and environmental impact. **It shall not place unreasonable and disproportionate burdens on market participants.**

Justification

In line with the principles of a liberalised gas market and the principles underlying any risk and impact assessment, the preventive action plan shall not place unreasonable and disproportionate burdens on market participants.

Amendment 27
Article 6
Infrastructure Indicator

Text proposed by the Commission

Amendment

1. By [31 March 2014; 3 years after entry into force] at the latest, the Competent Authority shall ensure that in the event of a disruption of the largest gas supply infrastructure, the remaining infrastructure (N-1) has the capacity to deliver the necessary volume of gas to satisfy total gas demand of the calculated area during a period of sixty days of exceptionally high gas demand during the coldest period statistically occurring every twenty years.

1. In carrying out the infrastructure component of the risk and impact assessment defined in article 8, the Competent Authority shall use a common methodology, including the calculation of the N-1 indicator, as defined in this Article and Annex 1.

Further amendments may follow depending on outcome of technical work on Annex 1.

Justification

Rather than setting up mandatory European standards at this stage, the future Regulation should focus more on the requirement for Member States to carry out a thorough risk and impact assessment and analyse their situation on the basis of a sound common methodology.

The risk and impact assessment shall be carried out by each Member State in accordance with the common methodology, whilst allowing the Member State to take into account particular national circumstances and specificities where appropriate. The results shall be reflected in preventive action and emergency plans. These plans should be subject to review to ensure their appropriateness. Similar plans could also be prepared at the regional level.

The suggested approach could finally pave the way for exploring a more prescriptive approach based on binding common European minimum standards for security of supply provided they would be based on a sound impact assessment, lead to proportionate measures which would be feasible from a technical and economical point of view and preserve the necessary leeway to take into account national and/or regional specificities.

Amendment 28
Article 6
Infrastructure Indicator

Text proposed by the Commission

Amendment

2. Following the recommendation of the Commission referred to in Article 4(3) or in situation referred to in Article 4(4), the **obligation** set out in paragraph 1 may be **fulfilled** at the regional level. The N-1 **standard** shall **also be considered to be fulfilled where** the Competent Authority **demonstrates** in the Preventive Action Plan referred to in Article 5 that a supply disruption may be sufficiently and timely compensated for by demand side measures.

2. Following the recommendation of the Commission referred to in Article 4(3) or in **the** situation referred to in Article 4(4), the **calculation** set out in paragraph 1 may be **carried out** at the regional level. **In its calculation of the N-1 indicator, the Competent Authority** shall be allowed to demonstrate in the Preventive Action Plan referred to in Article 5 that a supply disruption may be sufficiently and timely compensated for by **specific measures, including** demand side measures.

Justification

Rather than setting up mandatory European standards at this stage, the future Regulation should focus more on the requirement for Member States to carry out a thorough risk and impact assessment and analyse their situation on the basis of a sound common methodology.

The risk and impact assessment shall be carried out by each Member State in accordance with the common methodology, whilst allowing the Member State to take into account particular national circumstances and specificities where appropriate. The results shall be reflected in preventive action and emergency plans. These plans should be subject to review to ensure their appropriateness. Similar plans could also be prepared at the regional level.

Amendment 29
Article 6
Infrastructure Indicator

Text proposed by the Commission

Amendment

3. The methodology for calculating the N-1 **standard** as provided in Annex I shall be used. **It should take into consideration the network configuration and actual gas flows as well as the presence of production and storage capacities.**

3. The methodology for calculating the N-1 **indicator** as provided in Annex I shall be used. The calculated area as referred to in Annex I **shall be defined by the Competent Authority after consultation with the relevant natural gas undertakings and** shall

The calculated area as referred to in Annex I shall be extended to the appropriate regional level, where necessary.

Justification

Rather than setting up mandatory European standards at this stage, the future Regulation should focus more on the requirement for Member States to carry out a thorough risk and impact assessment and analyse their situation on the basis of a sound common methodology.

The risk and impact assessment shall be carried out by each Member State in accordance with the common methodology, whilst allowing the Member State to take into account particular national circumstances and specificities where appropriate. The results shall be reflected in preventive action and emergency plans. These plans should be subject to review to ensure their appropriateness. Similar plans could also be prepared at the regional level.

Amendment 30
Article 6
Infrastructure Indicator

Text proposed by the Commission

4. Each Competent Authority shall report to the Commission **without delay any non-compliance with the N-1 standard.**

Amendment

4. Each Competent Authority shall, **after consultation of the relevant natural gas undertakings,** report to the Commission **the results of its calculation of the N-1 indicator in accordance with Article 13.**

Justification

The three-level-approach defined in the 2004 Directive to ensure security of supply (I: companies; II: Member States; III: the Commission), is no longer clearly reflected in the draft Regulation. This principle should be reinstated in the draft Regulation.

Rather than setting up mandatory European standards at this stage, the future Regulation should focus more on the requirement for Member States to carry out a thorough risk and impact assessment and analyse their situation on the basis of a sound common methodology.

The risk and impact assessment shall be carried out by each Member State in accordance with the common methodology, whilst allowing the Member State to take into account particular national circumstances and specificities where appropriate. The results shall be reflected in preventive action and emergency plans. These plans should be subject to review to ensure their appropriateness. Similar plans could also be prepared at the regional level.

Amendment 31
Article 6
Infrastructure Indicator

Text proposed by the Commission

Amendment

5. The transmission system operators shall enable **permanent** physical capacity to transport gas in both directions on **all** interconnections **within two years from the entry into force of this Regulation, except in cases where at the request of a Competent Authority, the Commission decides that** the addition of a bi-directional flow capacity would **not** enhance **the** security of supply **of any Member State. Such decision may be reviewed if circumstances change. The level of the bi-directional flow capacity shall be reached in a cost efficient way and at least take into account the capacity required to meet the supply standard set in Article 7.** Within that **two** year period, the gas transmission system operator shall adapt the functioning of the transmission system as a whole so as to enable bi-directional gas flows.

5. If necessary according to the risk and impact assessment carried out according to Article 8, taking into account technical feasibility and an economic assessment of the costs and benefits to the market, the transmission system operators shall, **within three years from the entry into force of this Regulation,** enable **necessary** physical capacity to transport gas in both directions on **those** interconnections **where** the addition of a bi-directional flow capacity would enhance security of supply, **in particular during an Emergency.** Within that **three** year period, the gas transmission system operator shall, **in accordance with the risk and impact assessment carried out according to Article 8, taking into account technical feasibility and an economic assessment of the costs and benefits to the market,** adapt the functioning of the transmission system as a whole so as to enable bi-directional gas flows.

Justification

Rather than setting up mandatory European standards at this stage, the future Regulation should focus more on the requirement for Member States to carry out a thorough risk and impact assessment and analyse their situation on the basis of a sound common methodology.

The risk and impact assessment shall be carried out by each Member State in accordance with the common methodology, whilst allowing the Member State to take into account particular national circumstances and specificities where appropriate. The results shall be reflected in preventive action and emergency plans. These plans should be subject to review to ensure their appropriateness. Similar plans could also be prepared at the regional level.

Imposing necessary physical capacity to transport gas in both directions on all interconnections should not be required without first assessing whether it is technically and/or economically possible or appropriate in individual circumstances. The derogation process foreseen in the draft Regulation goes in the right direction but does not provide for a sufficiently clarified framework.

Amendment 33
Article 6.7

Text proposed by the Commission

7. National Regulatory Authorities shall take into account **the costs of fulfilling the N-1 standard and the costs of enabling the permanent physical capacity to transport gas in both directions in their approval of tariffs in line with Article 41(8) of Directive [...]/...EC]. In the case of costs incurred in** more than one Member State, the national regulatory authorities of all Member States concerned shall jointly decide on cost allocation. Article 8(1) of Regulation (EC) No .../... shall apply.

Amendment

7. National Regulatory Authorities shall take into account **efficiently incurred costs related to measures imposed as a result of this regulation**. In the case **of investments that affect more than one Member State**, the national regulatory authorities of all Member States concerned shall jointly decide on cost allocation **of efficiently incurred costs in one or more Member States**. Article 8(1) of Regulation (EC) No .../... shall apply.

Justification

For some Member States, the Regulation may lead to significant investment needs in new capacities, generating significant costs and strongly impacting gas prices for final customers.

Moreover, in the case of a regional approach, the draft Regulation does not clearly state how the issue of cost allocations for regional based investment should be addressed within the regulatory framework.

Amendment 34
Article 7
Supply Indicator

Text proposed by the Commission

1. The Competent Authority shall take the measures to ensure the gas supply to the protected customers of the Member State in the case of:

- a) extremely cold temperatures during a seven days peak period statistically occurring once every twenty years; and
- b) any period of **sixty** days of exceptionally high gas demand during the coldest weather periods statistically occurring every twenty years.

Amendment

1. **In carrying out the risk and impact assessment defined in article 8**, the Competent Authority shall **use a common methodology, which shall include the following indicators for the supply of gas to** the protected customers of the Member State:

- a) **supplies in case of** extremely cold **average** temperatures during a seven days period statistically occurring once every twenty years; and
- b) **supplies in case of** any period of **thirty** days of exceptionally high gas demand during the coldest weather periods statistically occurring every twenty years.

Justification

The longest crisis experienced lasted approximately two weeks. The proposed period of sixty days is much longer than that. In the absence of a sound economic assessment of the cost and benefits to the market of such longer period of sixty days, a shorter period of thirty days should be used in the regulation. The reference period should not be longer than what is required, in order to avoid disproportionate costs for customers and hampering the competitiveness of gas as a low carbon fuel. In the last approximately 40 years since the large infrastructure for transmission of natural gas to Europe was built, the only major supply interruption lasted 13 days. Bearing this in mind, a period of thirty days for the supply indicator would be more than sufficient to cover all eventualities and would bring down costs significantly. A thirty day period also seems long enough to restore gas supplies or implement additional measures, such as supplies via reverse flows.

Rather than setting up mandatory European standards at this stage, the future Regulation should focus more on the requirement for Member States to carry out a thorough risk and impact assessment and analyse their situation on the basis of a sound common methodology.

The risk and impact assessment shall be carried out by each Member State in accordance with the common methodology, whilst allowing the Member State to take into account particular national circumstances and specificities where appropriate. The results shall be reflected in preventive action and emergency plans. These plans should be subject to review to ensure their appropriateness. Similar plans could also be prepared at the regional level.

The suggested approach could finally pave the way for exploring a more prescriptive approach based on binding common European minimum standards for security of supply provided they would be based on a sound impact assessment, lead to proportionate measures which would be feasible from a technical and economical point of view and preserve the necessary leeway to take into account national and/or regional specificities.

Amendment 35
Article 7
Supply Indicator

Text proposed by the Commission

Amendment

2. The Competent Authority shall **take the measures to ensure** the gas supply to the protected customers **for the period of sixty days also in the event of an Emergency as defined in Article 9(2). The Competent Authority shall endeavour to maintain the supply for the protected customers as long as necessary.**

2. **In the event of an Emergency as defined in Article 9(2), the** Competent Authority shall **work with natural gas undertakings to prioritize** the gas supply to the protected customers. **Supply to the protected customers shall be maintained as long as possible.**

Justification

The proposed Article 7.2 requires the Competent Authority to take measures to ensure gas supplies to protected customers for the period of sixty days of

exceptionally high gas demand during the coldest weather period statistically occurring every twenty years, also in the event of an Emergency. Such a provision might lead to an obligation which could be very difficult or very costly for companies to fulfil, in particular if the category of protected customers would not be limited to household customers. This might lead to increased gas prices for final customers.

Amendment 36
Article 7
Supply Indicator

Text proposed by the Commission

Amendment

3. The obligations imposed on natural gas undertakings for the fulfillment of the supply standard as laid down in paragraph 1 and 2, shall be non-discriminatory and shall not impose an undue burden on market entrants and small undertakings.

Justification

Rather than setting up mandatory European standards at this stage, the future Regulation should focus more on the requirement for Member States to carry out a thorough risk and impact assessment and analyse their situation on the basis of a sound common methodology.

The risk and impact assessment shall be carried out by each Member State in accordance with the common methodology, whilst allowing the Member State to take into account particular national circumstances and specificities where appropriate. The results shall be reflected in preventive action and emergency plans. These plans should be subject to review to ensure their appropriateness. Similar plans could also be prepared at the regional level.

The suggested approach could finally pave the way for exploring a more prescriptive approach based on binding common European minimum standards for security of supply provided they would be based on a sound impact assessment, lead to proportionate measures which would be feasible from a technical and economical point of view and preserve the necessary leeway to take into account national and/or regional specificities.

Amendment 37
Article 7
Supply Indicator

Text proposed by the Commission

Amendment

4. The Competent **Authority** shall **allow** the natural gas undertakings to meet these **criteria** on a regional or Community level and shall not **require** that these **standards are met based on infrastructure located only** within **its** territory.

4. The Competent **Authorities** shall **be allowed to calculate** these **indicators** on a regional or Community level and **they** shall not **be required to calculate** these **indicators only** within **their** territory.

Justification

Rather than setting up mandatory European standards at this stage, the future Regulation should focus more on the requirement for Member States to carry out a thorough risk and impact assessment and analyse their situation on the basis of a sound common methodology.

The risk and impact assessment shall be carried out by each Member State in accordance with the common methodology, whilst allowing the Member State to take into account particular national circumstances and specificities where appropriate. The results shall be reflected in preventive action and emergency plans. These plans should be subject to review to ensure their appropriateness. Similar plans could also be prepared at the regional level.

Amendment 39

Article 8

Risk and Impact Assessment

Text proposed by the Commission

Amendment

1. By [30 September 2010; 6 months after entry into force] each Competent Authority shall fully assess the risks affecting the security of gas supply in its Member State by:

a) using the standards specified in Articles 6 and 7;

b) taking into account all relevant national and regional circumstances;

c) running various scenarios of exceptionally high demand and supply disruption, such as failure of main transmission infrastructures, storages, LNG terminals, and disruption of supplies from third country **suppliers**;

d) identifying the interaction and correlation of risks with other Member States.

1. By [30 March 2011; 12 months after entry into force] each Competent Authority shall undertake a risk and impact assessment that shall be the basis for

a) the establishment of the risk profile of its Member State, taking into account all relevant national and regional circumstances,

b) the establishment of the Preventive Action Plan of the Member State.

c) the establishment of the Emergency Plan of the Member State.

The Risk and Impact Assessment shall include running various scenarios of exceptionally high demand and/or supply disruption, such as failure of main transmission infrastructures, storages, LNG terminals, and disruption of supplies from third country **producers**. **Account should be taken of the** interaction and correlation of risks with other Member States.

The risk and impact assessment shall, amongst other things, be based upon the indicators as laid down in articles 6(1) and 7(1) of

this Regulation. The risk and impact assessment shall take into account technical feasibility and an economic assessment of the costs and benefits to the market. This should in particular be the case prior to any potential extension at national level of the scope of protected consumers, beyond households.

Art. 8(1)bis new: Following the recommendation of the Commission referred to in Article 4(3) or in the situation referred to in Article 4(4), the obligations set out in this article may be fulfilled at the regional level.

Justification

Rather than setting up mandatory European standards at this stage, the future Regulation should focus more on the requirement for Member States to carry out a thorough risk and impact assessment and analyse their situation on the basis of a sound common methodology.

The risk and impact assessment shall be carried out by each Member State in accordance with the common methodology, whilst allowing the Member State to take into account particular national circumstances and specificities where appropriate. The results shall be reflected in preventive action and emergency plans. These plans should be subject to review to ensure their appropriateness. Similar plans could also be prepared at the regional level.

The suggested approach could finally pave the way for exploring a more prescriptive approach based on binding common European minimum standards for security of supply provided they would be based on a sound impact assessment, lead to proportionate measures which would be feasible from a technical and economical point of view and preserve the necessary leeway to take into account national and/or regional specificities.

**Amendment 40
Article 8
Risk and Impact Assessment**

Text proposed by the Commission

Amendment

2. The natural gas undertakings, the relevant organisations representing the interests of household and industrial customers and the regulatory authority, where it is not the Competent Authority, shall cooperate and provide all necessary information for the risk assessment.

2. The natural gas undertakings, the relevant organisations representing the interests of household and industrial customers and the regulatory authority, where it is not the Competent Authority, shall cooperate and provide all necessary information for the risk **and impact** assessment.

Justification

Rather than setting up mandatory European standards at this stage, the future Regulation should focus more on the requirement for Member States to carry out a thorough risk and impact assessment and analyse their situation on the basis of a sound common methodology.

Amendment 41
Article 8
Risk and Impact Assessment

Text proposed by the Commission

Amendment

3. The risk assessment shall be repeated every two years before 30 September of that year.

3. The risk **and impact** assessment shall be repeated every two years before 30 September of that year.

Justification

Rather than setting up mandatory European standards at this stage, the future Regulation should focus more on the requirement for Member States to carry out a thorough risk and impact assessment and analyse their situation on the basis of a sound common methodology.

Amendment 42
Article 9
Emergency plan and crisis levels

Text proposed by the Commission

Amendment

1. The Emergency Plan shall:
 (1) Build upon the crisis levels according to paragraph 2;
 (2) Define the role and responsibilities of **the natural gas undertakings and of the industrial customers**, and their interaction with the Competent Authority and where appropriate with the regulatory authority;
 (3) Define the role and responsibilities of the Competent Authority;
 (4) Establish detailed procedures to be followed for each crisis level, including the corresponding schemes on information flows;
 (5) Designate a crisis manager or team and define its role;
 (6) Identify the contribution of the market based measures listed in Annex II for coping with the situation in the Alert level and mitigating the situation in the Emergency level;
 (7) Identify the contribution of the non-

1. The Emergency Plan shall:
(1) Build upon the crisis levels according to paragraph 2;
(2) Define the role and responsibilities of **all market participants**, and their interaction with the Competent Authority and where appropriate with the regulatory authority;
(3) Define the role and responsibilities of the Competent Authority;
(4) Establish detailed procedures to be followed for each crisis level, including the corresponding schemes on information flows;
(5) Designate a crisis manager or team and define its role;
(6) Identify the contribution of the market based measures listed in Annex II for coping with the situation in the Alert level and mitigating **as much and as long as possible** the situation in the Emergency level;
(7) Identify the contribution of the non-market based measures planned or to be implemented for the Emergency

market based measures planned or to be implemented for the Emergency level listed in Annex III and assess the degree to which the use of non-market based measures is necessary to cope with the crisis, assess their effects and define the procedures to implement them;

(8) Describe the mechanisms used **to cooperate** with other Member States for each crisis level;

(9) Detail the reporting obligations imposed on the natural gas undertakings in the Alert and Emergency level;

(10) **A list of predefined actions to make gas available in the case of an Emergency, including the compensation mechanisms and commercial agreements between the parties involved in such actions. Such actions may involve cross-border agreements between Member States and/or natural gas undertakings.**

level listed in Annex III and assess the degree to which the use of non-market based measures is necessary to cope with the crisis, assess their effects and define the procedures to implement them;

(8) Describe the mechanisms used and the roles of markets participants in the cooperation with other Member States for each crisis level;

(9) Detail the reporting obligations imposed on the natural gas undertakings in the Alert and Emergency level;

(10) Specify a list of predefined actions - defined in close cooperation with the market participants - to make gas available in the case of an Emergency,

Justification

The three-level-approach defined in the 2004 Directive to ensure security of supply (I: companies; II: Member States; III: the Commission), is no longer clearly reflected in the draft Regulation. This principle should be reinstated in the draft Regulation.

During the first two crisis stages, the market is fully expected to solve the problem, but during a real crisis/emergency, when market mechanisms alone are insufficient to cope with the crisis, the Member States should be involved. Market based mechanisms and non-market based mechanisms may operate alongside each other in the Emergency phase.

Amendment 43

Article 9. 2

Text proposed by the Commission

2. The three main crisis levels shall be as follows:

(1) Early warning level (Early Warning): **when there is concrete, serious and reliable information, possibly triggered by an Early Warning Mechanism, that an event may occur which will deteriorate the supply conditions;**

(2) Alert level (Alert): **when** a supply disruption or exceptionally high

Amendment

2. The three main crisis levels shall be as follows:

(1) Early warning level (Early Warning): concrete, serious and reliable information **suggests that supply conditions could deteriorate in the near term. The market is expected to solve the problem without the intervention of the Competent Authority;**

demand occurs **but the market is still able** to resolve the situation without the intervention of the Competent Authority;

(3) Emergency level (Emergency): when an exceptionally high demand **occurs or when there is a disruption of the supply through or from the largest infrastructure or source** and there is a **credible risk** that **the supply standard to the protected customers can no longer be met with market based instruments alone**.

(2) Alert level (Alert): a supply disruption or an exceptionally high demand occurs, **but its scale does not yet warrant the declaration of an Emergency under (3) below. The market is expected** to resolve the problem without the intervention of the Competent Authority;

(3) Emergency level (Emergency): when **a supply disruption or** an exceptionally high demand occurs and there is **evidence** that **market based mechanisms alone can no longer ensure supplies to protected customers. The Competent Authority is required to intervene within the framework of the Emergency Plan. Market based mechanisms and non-market based mechanisms may operate alongside each other in this phase**.

Justification

Each stage should be explained in detail and clearly distinguished one from the other to avoid any confusion in the event of an emergency.

The three-level-approach defined in the 2004 Directive to ensure security of supply (I: companies; II: Member States; III: the Commission), is no longer clearly reflected in the draft Regulation. This principle should be reinstated in the draft Regulation.

During the first two crisis stages, the market is fully expected to solve the problem, but during a real crisis/emergency, when market mechanisms alone are insufficient to cope with the crisis, the Member States should be involved. Market based mechanisms and non-market based mechanisms may operate alongside each other in the Emergency phase.

Amendment 44

Article 9

Emergency plan and crisis levels

Text proposed by the Commission

3. The Emergency Plan shall ensure that cross-border access to the storage facilities is maintained also in case of emergency. The Emergency Plan shall not introduce any measure unduly restricting the flow of gas across the borders.

Amendment

The Member States and the Competent Authorities in the Emergency Plan shall ensure that cross-border access to contracted capacities in storage facilities is maintained for the contracting parties also in case of Emergency. The Member States and the Competent Authorities shall not introduce any measure unduly

restricting the flow of contracted volumes of gas across the borders.

Justification

A clear allocation of responsibilities between the different stakeholders is needed. This is especially critical in very severe emergency periods where several Member States are affected and where market based mechanisms alone are no longer sufficient to resolve the situation. Commercial contracts should be respected also in case of emergency.

Amendment 45

Article 9

Emergency plan and crisis levels

Text proposed by the Commission

4. The Competent Authority shall immediately inform the Commission and provide **it** with all the necessary information when it declares any of the crisis levels. In the event of an emergency which may result in a call for assistance from the EU and its Member States the Competent Authority of the Member State concerned shall without delay notify the Commission's Civil Protection Monitoring and Information Centre.

Amendment

4. The Competent Authority shall immediately inform the Commission **and the Gas Coordination Group** and provide **them** with all the necessary information when it declares any of the crisis levels. In the event of an **Emergency** which may result in a call for assistance from the EU and its Member States the Competent Authority of the Member State concerned shall without delay notify the Commission's Civil Protection Monitoring and Information Centre.

Justification

As an expert Body composed of different stakeholders (gas industry representatives, ENTSO-G, the relevant customers, the national competent authorities and ACER), the Gas Coordination Group (GCG) seems to be the best forum for discussion, sharing of experiences, as well as formal consultations and coordination with interested parties.

Therefore, the GCG should facilitate the coordination of the measures relating to security of supply. To that extent the GCG should be routinely consulted in accordance with the provisions of this Regulation.

Amendment 46

Article 9

Emergency plan and crisis levels

Text proposed by the Commission

6. The Commission shall verify within **one week** whether the declaration of an Emergency is justified and whether it does not impose an undue burden on the natural gas undertakings and on the functioning of the internal market. The Commission may, in particular, ask the Competent Authority to modify measures imposing an undue burden on natural gas undertakings and to lift its declaration of Emergency if the Commission considers it not or no longer justified.

Amendment

6. The Commission shall verify within **four days at the latest** whether the declaration of an Emergency is justified and whether it does not impose an undue burden on the natural gas undertakings and on the functioning of the internal market. **The Commission may seek the advice of the Gas Coordination Group in this matter.** The Commission may, in particular, ask the Competent Authority to modify measures imposing an undue burden on natural gas undertakings and to lift its declaration of Emergency if the Commission considers it not or no longer justified.

Justification

The proposed Article 9.6 gives the Commission one week to verify whether the declaration of an Emergency is justified and whether it does not impose an undue burden on the natural gas undertakings and on the functioning of the internal market. In case of a crisis, one week may be too long.

As an expert Body composed of different stakeholders (gas industry representatives, ENTSO-G, the relevant customers, the national competent authorities and ACER), the Gas Coordination Group (GCG) seems to be the best forum for discussion, sharing of experiences, as well as formal consultations and coordination with interested parties.

Therefore, the GCG should facilitate the coordination of the measures relating to security of supply. To that extent the GCG may be consulted by the Commission when reviewing the declaration of Emergency.

Amendment 47

New article 9.7

Text proposed by the Commission

Amendment

7. (NEW) Measures imposed in case of Emergency, including at the regional or Community level, shall ensure fair and equitable compensation of natural gas undertakings concerned by these measures.

Justification

Fair and equitable compensation of natural gas undertakings concerned by measures imposed in case of Emergency is in line with the market-based, non-discriminatory approach on which the draft Regulation is based.

Amendment 48
Article 10
Community emergency responses

Text proposed by the Commission

1. The Commission may declare a Community Emergency at the request of one Competent Authority or when the Community loses more than **10%** of its daily gas import from third countries as **calculated** by ENTSO-G. It shall declare a Community Emergency where more than **one** Competent Authority **has** declared Emergency following the verification in accordance with Article 9(6). It may declare a Community Emergency for specifically affected geographical regions comprising more than one Member State.

Amendment

1. The Commission, **after consultation of the Gas Coordination Group**, may declare a Community Emergency at the request of **at least two** Competent Authorities **in the affected region** or when the Community loses more than **20%** of its daily gas import from third countries as **compared to planned import volumes as estimated** by ENTSO-G. **After consultation of the Gas Coordination Group**, it shall declare a Community Emergency where more than two Competent Authorities have declared Emergency following the verification in accordance with Article 9(6). It may declare a Community Emergency for specifically affected geographical regions comprising more than one Member State.

Justification.

As an expert Body composed of different stakeholders (gas industry representatives, ENTSO-G, the relevant customers, the national competent authorities and ACER), the Gas Coordination Group (GCG) seems to be the best forum for discussion, sharing of experiences, as well as formal consultations and coordination with interested parties.

Therefore, the GCG should facilitate the coordination of the measures relating to security of supply. To that extent the GCG should be routinely consulted in accordance with the provisions of this Regulation. The declaration of Community Emergency should be an exceptional measure and therefore the conditions to be fulfilled before such Emergency can be declared should be strict.

Amendment 49
Article 10
Community emergency responses

Text proposed by the Commission

2. The Commission shall convene the Gas Coordination Group as soon as it declares Community Emergency.

Amendment

2. The Commission shall convene the Gas Coordination Group as soon as it declares **a** Community Emergency.

Amendment 50
Article 10

Text proposed by the Commission

3. In a Community Emergency, the Commission shall coordinate the actions of the Competent Authorities. In particular the Commission shall ensure the exchange of information, ensure the consistency and effectiveness of the actions at Member State and regional level in relation to the Community level, and shall coordinate the actions with regard to third countries. The Commission may convene a crisis management group composed in particular of representatives of the industry and the Member States concerned by the Emergency.

Amendment

3. In a Community Emergency, the Commission shall coordinate the actions of the Competent Authorities **after consultation with the Gas Coordination Group**. In particular the Commission shall ensure the exchange of information, ensure the consistency and effectiveness of the actions at Member State and regional level in relation to the Community level, and shall coordinate the actions with regard to third countries. The Commission may convene a crisis management group composed in particular of representatives of the industry and the Member States concerned by the Emergency.

Justification

As an expert Body composed of different stakeholders (gas industry representatives, ENTSO-G, the relevant customers, the national competent authorities and ACER), the Gas Coordination Group (GCG) seems to be the best forum for discussion, sharing of experiences, as well as formal consultations and coordination with interested parties.

Therefore, the GCG should facilitate the coordination of the measures relating to security of supply. To that extent the GCG should be routinely consulted in accordance with the provisions of this Regulation.

Amendment 51
Article 10

Text proposed by the Commission

4. When the Commission considers that in a Community Emergency, an action taken by a Competent Authority **or natural gas undertakings** is inappropriate to deal with the Emergency, or that it seriously endangers the situation in another Member State, the Commission shall require the Competent Authority **or natural gas undertaking** to change its action.

Amendment

4. When the Commission considers that in a Community Emergency, an action taken by a Competent Authority is inappropriate to deal with the Emergency, or that it seriously endangers the situation in another Member State, the Commission, **after duly taking into account the opinion of the Gas Coordination Group**, shall require the Competent Authority to change its action.

Justification

As an expert Body composed of different stakeholders (gas industry representatives, ENTSO-G, the relevant customers, the national competent

authorities and ACER), the Gas Coordination Group (GCG) seems to be the best forum for discussion, sharing of experiences, as well as formal consultations and coordination with interested parties.

Therefore, the GCG should facilitate the coordination of the measures relating to security of supply. To that extent the GCG should be routinely consulted by the Commission in accordance with the provisions of the Regulation.

In the case of an Emergency situation, the Commission should not have the power to directly require gas undertakings to change their actions as stated in Article 10.4 (1). Indeed, from the text of the draft Regulation it is clear that:

- the competent authority designated by each Member State shall be responsible for the implementation of the emergency measures provided in the draft Regulation; and
- the preventive action and emergency plans shall contain actions to be taken by, amongst others, natural gas undertakings.

Natural gas undertakings will be in direct relationship with national competent authorities and therefore should not receive instructions directly from the Commission because these instructions may not be in line with the actions the undertakings are expected to take in the context of the applicable national plans. Therefore to avoid any conflict of duties and responsibilities and to ensure a clear legal framework, the reference to gas undertakings in Article 10.4 (1) should be deleted.

Amendment 52

Article 10

Community emergency responses

Text proposed by the Commission

Amendment

5. The Competent Authority *or natural gas undertakings* shall not introduce any measure **restricting the flow of gas within the internal market at any time.**

5. The Member States and the Competent Authorities shall not introduce any measure **unduly restricting** the flow **of contracted volumes** of gas **across the borders.**

Justification

A clear allocation of responsibilities between the different stakeholders is needed. This is especially critical in very severe emergency periods where several Member States are affected and where market based mechanisms alone are no longer sufficient to resolve the situation

This amendment also ensures consistency between Article 10.5 and Article 9.3 of the proposed Regulation. Commercial contracts should be respected also in case of Community emergency.

Amendment 53
Article 10
Community emergency responses

Text proposed by the Commission

Amendment

6. In a Community Emergency, the Member States shall ensure that cross-border access to **the** storage facilities is maintained and shall not introduce any legal provisions which unduly restrict the flows of gas to the affected markets.

6. *In a Community Emergency, the Member States shall ensure that cross-border access to **contracted capacities in** storage facilities is maintained and shall not introduce any legal provisions which unduly restrict the flows of **contracted volumes of** gas to the affected markets.*

Justification

A clear allocation of responsibilities between the different stakeholders is needed. This is especially critical in very severe emergency periods where several Member States are affected and where market based mechanisms alone are no longer sufficient to resolve the situation. Commercial contracts should be respected also in case of Community emergency.

Amendment 54
Article 10
Community emergency responses

Text proposed by the Commission

Amendment

The Commission shall establish a permanent reserve list for a monitoring task force consisting of industry experts and representatives of the Commission. This monitoring task force may be deployed when necessary and shall monitor and report on the gas flows within and outside the Community, in cooperation with the **supplying** and transiting countries.

7. The Commission, **after duly taking into account the opinion of the Gas Coordination Group**, shall establish a permanent reserve list for a monitoring task force consisting of industry experts and representatives of the Commission. This monitoring task force may be deployed when necessary and shall monitor and report on the gas flows within and outside the Community, in cooperation with the **producing** and transiting countries.

Justification

As an expert Body composed of different stakeholders (gas industry representatives, ENTSO-G, the relevant customers, the national competent authorities and ACER), the Gas Coordination Group (GCG) seems to be the best forum for discussion, sharing of experiences, as well as formal consultations and coordination with interested parties.

Therefore, the GCG should facilitate the coordination of the measures relating to security of supply. To that extent the GCG should be routinely consulted by the Commission in accordance with the provisions of this Regulation.

Amendment 55
Article 11
Gas Coordination Group

Text proposed by the Commission

Amendment

2. The Gas Coordination Group shall **assist** the Commission in particular on issues related to:

- (a) security of gas supply, at any time and more especially in times of Emergency;
- (b) all information relevant for security of gas supply at national, regional and Community levels;
- (c) best practices and possible guidelines to all the parties concerned;
- (d) the level of security of supply, benchmarks and assessment methodologies;
- (e) national, regional and Community scenarios and testing the levels of preparedness;
- (f) coordination of measures to deal with Emergency within the Community, Energy Community Treaty Countries and with third Countries;
- (g) implementation of the Plans;
- (h) assistance needed by the most affected Member States.

2. In accordance with the provisions of this Regulation, the Gas Coordination Group shall **closely cooperate with** the Commission in particular on issues related to:

- (a)** security of gas supply, at any time and more especially in times of Emergency;
- (b)** all information relevant for security of gas supply at national, regional and Community levels;
- (c)** best practices and possible guidelines to all the parties concerned;
- (d)** the level of security of supply, benchmarks and **risk and impact** assessment methodologies;
- (e)** national, regional and Community scenarios and testing the levels of preparedness;
- (f)** coordination of measures to deal with Emergency within the Community, Energy Community Treaty Countries and with third Countries;
- (g) review and** implementation of the Plans;
- (h)** assistance needed by the most affected Member States.

The Commission shall convene the Gas Coordination Group on a regular basis.

The Commission shall convene the Gas Coordination Group on a regular basis.

Justification

As an expert Body composed of different stakeholders (gas industry representatives, ENTSO-G, the relevant customers, the national competent authorities and ACER), the Gas Coordination Group (GCG) seems to be the best forum for discussion, sharing of experiences, as well as formal consultations and coordination with interested parties.

Therefore, the GCG should facilitate the coordination of the measures relating to security of supply. To that extent the GCG should be routinely consulted in accordance with the provisions of this Regulation.

Amendment 56
Article 11
Gas Coordination Group

Text proposed by the Commission

Amendment

4. (NEW) Regional sub-groups of the Gas Coordination Group may be established involving members from the region concerned. The work of the regional sub-groups shall be monitored by the Gas Coordination Group.

Justification

In order to achieve the regional goals set out in the proposed Regulation, it is essential that all of the institutions involved as well as natural gas undertakings consider how they will effectively work together and cooperate. For example, the efficiency of the GCG might be strengthened by allowing the possibility to create specific sub-groups addressing security of supply issues at regional level.

Amendment 57
Article 11

Text proposed by the Commission

Amendment

5. (NEW) All information submitted to the Gas Coordination Group in application of this Regulation shall be submitted in a non-confidential version only.

Justification

Taking into account the membership of the Gas Coordination Group, the communication of confidential information may seriously harm the commercial interests of undertakings, undermine the implementation of contracts, lead to market distortions and even be prejudicial to security of supply (notably as regards the necessity to preserve the bargaining power of EU gas suppliers in their negotiations with external producers).

Amendment 58
Article 12
Information Exchange

Text proposed by the Commission

Amendment

1. The Competent Authority during the Emergency shall have in particular the following information available on a daily basis:

- (a) daily gas demand and supply forecasts for the following

1. The Competent Authority during the Emergency shall have in particular the following information available, on a daily basis:

- (a) daily gas demand and supply forecasts for the following

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| <p>three days;</p> <p>(b) hourly flow of gas at all cross-border entry and exit points as well as all points connecting a production facility to the network, storage, LNG in mcm/d;</p> <p>(c) period, expressed in days, during which it is possible to ensure gas supply to the protected customers</p> | <p>three days;</p> <p>(b) hourly flow of gas at all cross-border entry and exit points as well as all points connecting the transmission network to a production facility, storage facility or LNG terminal</p> <p>(c) period, expressed in days, during which it is expected that gas supply to the protected customers can be ensured.</p> |
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Justification

The amendment clarifies the proposed Article 12(1)(b) It also amends the proposed Article 12(1)(c) so as to ensure that it is in line with market realities, where in practice only best estimates will be available.

Amendment 59
Article 12
Information Exchange

Text proposed by the Commission

Amendment

5. After an Emergency, the Competent Authority shall without delay provide to the Commission a detailed assessment of the Emergency and the effectiveness of the implemented measures, including the assessment of economic impact of the Emergency, the impact of the fuel switching on the levels of the emissions, the impact on the electricity sector and the assistance provided to and/or received from the Community and its Member States.

5. After an Emergency, the Competent Authority shall without delay provide to the Commission a detailed assessment of the Emergency and the effectiveness of the implemented measures, including the assessment of economic impact of the Emergency, the impact of the fuel switching on the levels of the emissions, the impact on the electricity sector and the assistance provided to and/or received from the Community and its Member States. **The Commission shall analyze the assessments of the Member States and present its results in an aggregated format to the Gas Coordination Group.**

Justification

As an expert Body composed of different stakeholders (gas industry representatives, ENTSO-G, the relevant customers, the national competent authorities and ACER), the Gas Coordination Group (GCG) seems to be the best forum for discussion, sharing of experiences, as well as formal consultations and coordination with interested parties.

Therefore, the GCG should facilitate the coordination of the measures relating to security of supply. To that extent the GCG should be routinely consulted in accordance with the provisions of this Regulation.

Amendment 60
Article 12
Information Exchange

Text proposed by the Commission

Amendment

6. By [30 September 2010; 6 months after entry into force] at the latest in order to allow the Commission to assess the situation of the security of supply at Community level:

a) Member States shall submit to the Commission the existing inter-governmental agreements concluded with third countries which have an impact on the development of gas infrastructures and supplies; **before concluding new intergovernmental agreements, the Member States shall inform the Commission to assess their compliance with the internal market legislation;**

b) **Natural gas undertakings** shall notify the Commission of the following details of the contracts concluded with **suppliers** from third countries:

- Contract duration and **extension provisions;**
- **Contracted** volumes in total, on an annual basis **and the average volume per month;**
- **Flexibility of contracted volumes, including provisions related to take-or-pay obligations.**
- Contracted delivery points.

6. By [30 September 2010; 6 months after entry into force] at the latest in order to allow the Commission to assess the situation of the security of supply at Community level:

a) Member States shall submit to the Commission the existing inter-governmental agreements concluded with third countries which have an impact on the development of gas infrastructures and supplies;

b) **Competent authorities** shall notify the Commission of the following details of the contracts **of the natural gas undertakings within their territory** concluded with **producers** from third countries in **an aggregated format:**

- Contract duration;
- Contracted volumes available, on an annual and monthly basis and the average volume per month ;
- Contracted delivery points.

Justification

The draft regulation requires information that appears to be unnecessary to ensure security of supply and would instead raise very serious confidentiality issues. Therefore, the amendment focuses on the information which is useful for reaching the objectives of the Regulation.

Amendment 61
Article 12
Information Exchange

Text proposed by the Commission

Amendment

7. (NEW) After the termination of their term of office in the Commission or in the Competent Authority, any person given access to commercially sensitive information in application of this regulation shall have no professional position or

responsibility, interest or business relationship, directly or indirectly, with any undertaking active in the energy sector or any part of it or its controlling shareholders for a period to be determined by the Member States and the Commission.

Justification

Insofar as confidential information would need to be notified to the Commission or to the national Competent Authority, strict rules applying to their staff should be set up. For staff which has been exposed to this information, ex post cooling off periods can be used to ensure confidentiality.

Amendment 62

Article 13

Monitoring and reporting of security of gas supply

Text proposed by the Commission

Amendment

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| <p>1. In addition to the monitoring and reporting obligations provided for in Article 5 of the Gas Directive the Competent Authority shall publish and forward to the Commission a report by 31 July each year containing the following data: (a) calculation of N-1 indicator and data necessary for such calculation, progress made in investments needed to cope with N-1, country specific difficulties encountered in the implementation new alternative solutions;</p> <p>(b) annual amounts, durations and supply country covered by gas supply import contracts;</p> <p>(c) maximal interconnection capacity of each entry and exit points to and from the gas systems;</p> <p>(d) the main elements of the relevant intergovernmental agreements concluded with third countries.</p> <p>2. The Competent Authorities and the Commission shall ensure the confidentiality of commercially sensitive information.</p> | <p>1. In addition to the monitoring and reporting obligations provided for in Article 5 of the Gas Directive the Competent Authority shall forward to the Commission a report by 31 July each year containing the following data:</p> <p>(a) calculation of N-1 indicator and data necessary for such calculation,⁷</p> <p>(b) on an aggregated basis, annual amounts, durations and supply country covered by gas supply import contracts;</p> <p>(c) maximal interconnection capacity of each entry and exit points to and from the gas systems;</p> <p>(d) the main elements of the relevant intergovernmental agreements concluded with third countries.</p> <p>2. The Competent Authorities and the Commission shall at all times ensure the confidentiality of commercially sensitive information submitted to them in application of this Regulation.</p> |
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Justification

The communication of confidential information may seriously harm the commercial interests of undertakings, undermine the implementation of contracts, lead to market distortions and even be prejudicial to security of supply (notably as regards the necessity to preserve the bargaining power of EU gas suppliers in their negotiations with external producers).

Amendment 63

Article 14: Monitoring

Text proposed by the Commission

Amendment

By [...] the Commission, having assessed the notified Plans and after consulting the Gas Coordination Group, shall draw conclusions as to possible means to enhance security of supply at Community level and shall report to the European Parliament and the Council on the implementation of this Regulation. The report shall include, where appropriate, recommendations for improvement of this Regulation.

By [...] the Commission, having assessed the notified Plans and after consulting the Gas Coordination Group, shall draw conclusions as to possible means to enhance security of supply at Community level and shall report to the European Parliament and the Council on the implementation of this Regulation. The report shall include, where appropriate, recommendations for improvement of this Regulation. ***The Commission may, on the basis of the Risk and Impact Assessments and resulting Plans of all Member States, establish a work programme to assess the need for and feasibility of binding common minimum standards for security of supply.***

Justification

Rather than setting up mandatory European standards at this stage, the future Regulation should focus more on the requirement for Member States to carry out a thorough risk and impact assessment and analyse their situation on the basis of a sound common methodology.

The risk and impact assessment shall be carried out by each Member State in accordance with the common methodology, whilst allowing the Member State to take into account particular national circumstances and specificities where appropriate. The results shall be reflected in preventive action and emergency plans. These plans should be subject to review to ensure their appropriateness. Similar plans could also be prepared at the regional level.

The suggested approach could finally pave the way for exploring a more prescriptive approach based on binding common European minimum standards for security of supply provided they would be based on a sound impact assessment, lead to proportionate measures which would be feasible from a technical and economical point of view and preserve the necessary leeway to take into account national and/or regional specificities.