

GIE answer to Commission consultation on the revision of Regulation (EU) No 994/2010¹

1 Who is GIE?

Gas Infrastructure Europe (GIE) is an association representing the sole interest of the infrastructure industry in the natural gas business such as Transmission System Operators, Storage System Operators and LNG Terminal Operators. GIE has currently 68 members in 25 European countries.

One of the objectives of GIE is to voice the views of its members vis-à-vis the European Commission, the regulators and other stakeholders. Its mission is to actively contribute to the construction of a single, sustainable and competitive gas market in Europe underpinned by a stable and predictable regulatory framework as well as by a sound investment climate.

This document follows the questions of the consultation document, where the questions are in italic and GIE's answers are in blue.

2 Answers to Commission consultation

PART I – PREVENTION

1. Infrastructure

a. The Infrastructure Standard N-1

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

The current N-1 rule and bi-directional flows have to be seen as “minimum technical standards” – rather than a guaranty covering all situations (cf. maximum withdrawal capacity for storages). A general “formula” is not considered as an appropriate tool to identify missing infrastructures. Therefore, the results of the modelling tool of ENTSOG - based on scenarios to be defined at EU or regional level - could provide a useful and complementary input to the current N-1 rule.

Where several infrastructure projects could solve a specific SoS critical situation, Cost Benefit Analysis should be run in order to select the most efficient solution.

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

¹ Consultation paper on the Revision of Regulation (EU) No 994/2010 concerning measures to safeguard security of gas supply and repealing Council Directive 2004/67/EC, for consultation from 15 January until 8 April 2015.

GIE believes that a regional / European approach is needed in order to assess the level of security of supply, primarily to check if cross-border infrastructures are missing. In such a case, a scenario based analysis (e.g. by the modelling tool of ENTSOG) may provide a complementary input to the N-1 assessment.

The identification of the relevant regions should be based on identification of common features and challenges of countries. This could be achieved by assessing the level of market integration, infrastructure needs, diversification of supply or exposure to supply disruptions.

b. Reverse Flows

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

Investments that have been done in order to allow additional reverse flows have obviously improved the security of gas supply to European consumers. However, a general “formula” is not considered as an appropriate tool to identify missing infrastructures that would allow additional reverse flows. A scenario based analysis at EU or regional level could help to identify missing infrastructures (cf. risk assessment / preventive action plan).

Where several infrastructure projects could solve a specific SoS critical situation, Cost Benefit Analysis should be run in order to select the most efficient solution – CBAs will also allow to define the right Cross-Border Cost Allocation (cf. regulation 347/2013 on guidelines for trans-European energy infrastructure). It should be noticed that in some cases, reverse flows are useless: for instance, it makes no sense to have this obligation for L-gas interconnection points.

4. As concerns exemptions from the reverse flow obligation²:

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

The revised regulation could more explicitly refer to Cost Benefit Analyses, as defined in Regulation 347/2013 on guidelines for trans-European energy infrastructure, in order to better ensure consistency of EU regulation.

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

The results of a scenario based analysis at EU or regional level, Supply Outlooks and the TYNDP of ENTSOG seem to be a suitable way to identify missing infrastructures (cf. risk assessment / preventive action plan).

Where several infrastructure projects could solve a specific SoS critical situation, Cost Benefit Analysis should be run in order to select the most efficient solution.

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

There is an obvious need for regional cooperation between the Competent Authorities and the concerned TSOs with that regard. The European Commission should be responsible for monitoring this cooperation, where needed.

5. Is the current review possibility - every two years, in the framework of the revised Risk Assessment - sufficient or should there be more regular checks whether market conditions justify an exemption?

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

GIE believes that the current review possibility is sufficient and could even be extended to a three year frequency. Such a frequency allows to assess thoroughly the impact of new infrastructures or new measures that have been implemented on the level of SoS. As the implementation of investments takes time, a higher frequency would not allow to capture the resulting positive externalities.

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

2. Improving Risk Assessments and harmonising Preventive Action Plans

6. Are the Risk Assessments and Preventive Action Plans in the current format satisfactory means for identifying and preparing for supply risks? What core elements could a possible template for the Risk Assessment and a Preventive Action Plan contain (e.g. concrete harmonised scenarios to be addressed, similar to the Energy Stress Tests, etc.)?

First of all, GIE would like to draw the attention of the European Commission on those specific situations, when gas supply is secured for protected customers, but could be missing for other customers, leading to an emergency situation. Risk Assessments and Preventive Action Plans should take into account existing gas infrastructures and the amount of gas available for final customers.

GIE believes that security of supply must be better addressed at a European level. However, GIE is of the opinion that there should not be a “one size fits all” approach, and that countries should be allowed to include some national specificities related to the way they want to ensure security of supply and to implement the corresponding rules. A template could simplify the approach between countries, but it may be difficult to implement as it would have to reflect the different structures of gas industry and gas consumption in the Member States. Guidelines should be preferred.

a) Risk Assessment could take into account:

- The summer and winter outlook published by ENTSOG with scenarios to be defined at EU level.
- The resilience assessment included in the TYNDP of ENTSOG with scenarios to be defined at EU level.
- The assessments included in the different Gas Regional Investment Plans, which should reflect relevant issues for each region, with additional scenarios to be defined at regional level.
- The interactions between gas and electricity markets (impact of a power disruption on gas flows / impact of a gas supply disruption on power production).

Moreover, the Risk Assessment should specify:

- The definition of protected customers and the corresponding daily consumption according to the various scenarios to be considered (average winter period, cold spell...)
- The daily consumption of other industrial customers according to the same scenarios,
- The amount of gas available (LNG, storage facilities, gas imports / interconnection points)

b) The Commission should be responsible for defining the scenarios at EU level and national authorities, for defining additional regional scenarios, where needed.

c) The national Preventive Action Plans shall be based primarily on market measures and take into account national & regional market characteristics (necessity to implement targeted measures). In

particular, actions should be taken to ensure that we have enough gas in infrastructure in order to face critical situations.

If risk assessments prove that market measures alone cannot mitigate all identified risks, non-market based measures may be used.

7. How can the existing cooperation obligation be improved?

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

Regional plans should not be mandatory, but a certain degree of coordination with neighbouring Member States is necessary. From that perspective, to rely on existing regional platforms could be useful.

The Commission shall be responsible for checking and monitoring the consistency of these national plans at regional and European levels.

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

GIE believes that each Member state should keep the responsibility and a certain level of discretion regarding how to handle its strategy related to security of supply (choice of supply sources, means..) according to specifics of each country.

Nevertheless, in case of a supply crisis in today's situation, vulnerable regions are dependent on a minimum level of cooperation with their neighbours. We believe that bilateral or regional agreements between Member States concerning Preventive Action Plans and the way to react in case of a crisis should be concluded before any critical situation occurs.

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

GIE supports the idea of alignment of timelines for Member States.

In addition, in order to facilitate cooperation between Member States and the consistency between the risk assessments, the preventive action plans and the emergency plans of neighbouring countries, a common template might be useful. The scenarios considered in the risk assessment should be submitted to the Commission, so they should set the basis for a European-wide assessment.

All documents should be prepared in English.

We believe that merging Risk Assessments and Preventive Action Plans would not be relevant, as it is easier to manage smaller documents. However, the content of those respective documents should not overlap each other.

3. The "Supply Standard" for protected customers

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

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

Overall, the supply standard should be set so that a minimum level of protection is harmonized for all Member States. GIE believes that the current option to prolong the relevant period of time in line with paragraph 2 of Article 8 of the Regulation should be maintained as there may be Member States that for various reasons see the 30-day period as too short. It is crucial to always bear in mind that the tools used by the undertakings required to meet the supply standard as chosen by the Competent Authority must ensure that gas is physically available for transportation in case of supply disruption or other emergency situation. GIE believes that we must optimize the use of existing gas infrastructures, in order to maximize the amount of gas available for final customers. For instance, and based on 2013/2014 comparison, it is obvious that market signals alone are not ensuring sufficient volumes of gas in storage facilities despite of the role of stored gas in crises (cf. supply interruption in 2009, stress tests in 2014). A modification of the supply standards going in this direction could be considered, conditional to a cost benefit analysis.

Tools related to gas infrastructure that are able to secure gas to protected customers are:

- Storage facilities, in so far as gas is stored,
- LNG terminals, in so far as LNG cargos are deliverable within a day and the LNG terminal tanks are filled,
- Import pipelines, in so far as there is enough flexibility for additional gas production / new gas production (cf. unconventional gas production in Europe)
- Connection of new biomethane facilities

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

GIE believes that the supply standards as defined in Article 8(1)a and 8(1)b of the Regulation could remain unchanged while maintaining the option of prolonging the relevant period of time. As regards the supply standard defined in article 8(1)c, GIE encourages the Commission to consider refreshing the possibility of increasing this supply standard, subject to a cost-benefit analysis, to better reflect real-life situations such as the disruption of the Ukrainian gas transit. In addition, GIE repeats that security of supply can only be ensured if gas suppliers, supplying protected customers, are responsible for ensuring that gas will be physically available for transportation to protected customers in case of a critical situation.

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

GIE is generally in favour of existing or even increased standards, in so far as this leads to additional gas being available in existing gas infrastructures close to centres of demand at the beginning of the winter period, subject to a cost-benefit analysis and also taking into account the costs and benefits for relevant neighbouring countries. Increased standards could help to improve the EU market resilience as a whole, if they have a positive impact on the storage / LNG terminal filling and do not penalize the neighbouring countries.

In order to avoid negative effects on the liquidity of the gas market, Member States should make sure that there is still enough flexibility tools available for the market (storage / LNG / interconnection capacities for additional gas imports).

3.2 Questions about implementation and enforcement of the Supply Standard

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

The result-oriented approach should be maintained, as a general principle. National authorities have the responsibility to monitor the effective implementation of the security of supply obligations, according to local specifics of the gas market.

However, when and where it is required according to the Risk Assessments, each Member state should have the right to implement prescriptive measures. Introduction of measures that are effectively possible to verify and check by National authorities is required.

Cooperation and coordination between National authorities are required in order to prevent potential issues (such as double counting of the same gas volume) to arise.

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

A more active role of the Competent Authorities will not solve the problem completely, but will address it at least partially.

GIE has no opinion on the way National Authorities should fulfil their obligations regarding their monitoring role.

The methodology for controlling the implementation of the supply standard could be included in the Preventive Action Plans.

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

All undertakings should be treated equally, in order to have fair competition between market players.

3.3 Questions about the measures used to meet the Supply Standard

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

Market-based measures should be preferred and it would be better if the supply standard could be met by the undertakings responsible as a “going concern” in the context of their regular, day-to-day supply activities. However, GIE believes that Competent Authorities should verify if companies responsible for supplying protected customers are fulfilling their obligations. In some critical situations, other measures are needed because the market alone cannot always guarantee security of supply (time necessary for having a LNG cargo arriving to terminal – time necessary to get a storage filled).

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

National authorities are responsible for enforcement and monitoring of the supply standards obligations in order to achieve the correct implementation of the regulation. Therefore, national authorities have to assess to what extent normal markets conditions can be relied upon by the undertakings responsible to ensure that they will meet the supply standards even in case of supply disruption.

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

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

Checking the ability of undertakings to supply protected customers in a hub-based gas market is extremely difficult and differs per gas market. For instance, the situation for hubs such as NBP or TTF - and hubs closely linked to NBP and TTF - is very different from other hubs.

GIE is of the opinion that market tools such as buying options of gas could be acceptable to cover supply obligations but they should be physically backed (corresponding tools / instruments such as "hub certificate of deliverability", have to be designed accordingly – with the support of hub operators – in order to transfer properly the obligation to have gas in the infrastructure for the duration of the options).

GIE believes that the relevant authority shall check the fulfilment of supply standards and make sure that gas will be physically available in an emergency. In order to do so, suppliers of protected customers have to notify their contracts to the authority. Checks could be developed in cooperation with hubs operators.

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

GIE believes that the relevant authority shall check the fulfilment of supply standards yearly. Therefore, suppliers of protected customers have to notify their contracts to the authority. Checks could be developed in cooperation with hubs operators. The concept of "hub certificate of deliverability" could be an idea to be developed further.

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

GIE is concerned that without ex ante checks and guarantees, there is a risk that gas undertakings will be short-term oriented and will not properly cover risks that materialise once every 20 years. Therefore, competent authorities should go on monitoring security of supply obligations. A system without ex ante checks and guarantees would need effective fines for not supplying protected customers set by the competent authority. In addition, the system described in box 1 has not yet proved to be efficient, as no significant crisis has occurred in the UK since its implementation.

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

GIE represents members from various markets and cannot answer for one specific market. In general, the suggested approach is likely to entail less involvement of the market players in the security of supply. The fundamental requirement to make a measure effective is the availability of gas resources, independently from the entity entrusted of their activation. The proposed role for transmission system operators has similarity with strategic storage requirement as TSOs or other “last resort suppliers” would also need available gas.

GIE is of the opinion that targeted measures are needed according to the characteristics of each country and that there is no “one size fits all” solution. Therefore, specific solutions can be justified. However, GIE also believes that infrastructure operators are responsible for infrastructure standards – because they operate the gas system - and that suppliers are responsible for supply standards, because they own the gas molecule.

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

GIE is of the opinion that that Member States should be encouraged to cooperate further with neighbouring countries when developing their national plans. If deemed necessary, Member States could decide whether some harmonisation of the supply standard could be instrumental for regional security of supply. It should be noted that besides supply standard for protected customers, the protection of vital industries should be part of the national plans.

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

GIE believes that one should be very careful when comparing various measures related to security of supply. The need for specific measures depends on local or regional circumstances. These circumstances include import dependency, seasonality of gas demand, structure of gas demand (household, industry, power generation etc.), size and characteristics of the existing storage facilities, etc...

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

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

GIE believes that LNG plays an important role in diversification of supply. For its role in emergency situations it should be noted that security of supply can only be ensured if gas is physically available and it may take up to a week to get LNG to an import terminal. If a gas market would depend on an LNG terminal for its security of supply in emergency situations, it could be useful to have additional measures, such as a guarantee that there will always be an LNG cargo available within a certain (short) time period. Obviously, Member States without LNG terminals need sufficient interconnection to benefit from security of supply provided by LNG terminals. This can be the main obstacle to distribution of LNG to countries mostly exposed to security of supply situations. In general, the decision to use a certain source of security of supply should be subject to a cost-benefit analysis.

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

GIE does not believe that destination clauses or transparency are main barriers for use of LNG, although it should be noted that varying requirements for gas quality could limit the possibilities to divert LNG cargoes from one destination to another.

A lack of LNG terminals in some regions or a lack of interconnection is an issue for markets areas without LNG terminals.

Currently, the price of LNG is a reason for relatively low use of LNG as a supply source. However, in case of a crisis, it is unlikely that the price will be a barrier for using LNG.

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

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

GIE believes that the dependence on a single (or limited) number of gas supply sources is a more relevant factor than the maturity of gas market for meeting the supply standard.

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

GIE believes that it is important to increase diversification for Member States. Diversification can be achieved on a regional level, although this requires sufficient interconnection capacities. A cost-benefit analysis should be done before any investment decision. Investment decisions should be supported by market demand as much as possible.

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

GIE believes that regional cooperation can be fostered through existing regional platforms. The reliance on a market-based solution will naturally develop in a regional dimension, as markets become more integrated. The promotion of a regional solution is linked to the development of the market.

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

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

GIE pointed out under question 20, that measures related to security of supply depend on regional circumstances, but all come down on securing the physical availability of gas in emergencies. Gas markets differ with regards to import dependency, seasonality of gas demand, structure of gas demand (household, industry, power generation etc.), size and characteristics of the existing storage facilities, etc.

Strategic storage on a regional or EU-wide level (pooling of strategic storages) is a possible solution among others (see in particular the GSE "tool box").

A prerequisite for the functioning of a virtual shared reserve is that underlying rules are effectively and clearly designed with a transparent, harmonized and stable mechanism developed at EU level. The mechanism should only be activated in case of a severe disruption of supply and in case market-based solutions do not work anymore. By doing so, market distortion is kept to a minimum.

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

GIE is of the opinion that for ensuring security of supply it is more important to have gas physically available.

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

GIE is of the opinion that for ensuring security of supply it is more important to have gas physically available. As a result of regional differences, the benefits arising from an EU wide solution should be identified before implementation.

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

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

Non-market-based measures should only apply if market liquidity is not any longer a solution to the gas shortage problems and there are no other market-based measures. GIE believes that the non-market measures can only be used if the market is not able to deliver a (physical) solution to the crisis supply disruptions. GIE is of the opinion that it is up to each MS to decide which tools to use, depending of the specificities of its country, although an overall EU guidance on the measures could be helpful to ensure a harmonised level of protection.

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

GIE would like to point out that gas suppliers, supplying protected customers, are responsible for ensuring that gas will be physically available for transportation to protected customers in case of a critical situation, as described in the article related to supply standards. GIE is of the opinion that it is the responsibility of each Member State to decide to use non market-based measures if they believe that market-based measures cannot alone ensure security of supply under certain circumstances. When non-market based measure are put in place, monitoring by the Competent Authority is necessary to ensure a stable framework and keep market distortion to a minimum.

PART II – MITIGATION

4. Protected Customers and Solidarity

27. Concerning the definition of protected customers:

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

GIE agrees that the Regulation should set a minimum scope for the definition of protected customers to ensure real protection of those customers who are the most vulnerable. However, the Regulation should continue to offer the option to expand the group of protected customers aiming at the introduction of an EU-guidance for protected customer definition.

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

The definition of protected customers should basically remain unchanged. However, given the potential spill-over effects of a gas crisis on the power market, GIE is of the opinion that in addition to the options of article 2(1)a and 2(1)b, Member States should have the option of having pivotal gas-fired power plants under the definition of protected customer as well, on the condition that gas-fired power plants have booked firm transmission contracts. It should also be specified who decides on which gas-fired power plant is pivotal. In addition, it could be considered whether the 20% limit specified in Article 2(1)a is sufficient in all cases.

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

GIE supports cooperation between neighbouring Member States (see question 19). GIE is not in favour of a regional definition of protected customers. Specific emergencies may affect various groups of Member States and country-specific circumstances require specific measures. Therefore GIE is of the opinion that the definition of the protected customer should be the responsibility of the Member States.

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

Interrupting non protected customers on distribution level is a matter of coordination between TSO and DSOs. In case of an emergency, DSOs are responsible for informing non protected customers in their network to stop consuming gas. GIE agrees that in real life, it could be rather difficult to disconnect some small customers from the distribution grid while keeping others, i.e. the protected customers, connected and supplied. DSOs may probably physically disconnect some or most large customers connected to their grid, but cannot realistically quickly cut off all non-protected customers in a case of emergency. The only immediately available tool that DSOs has is to request that the non-protected customers connected to the distribution grid stop consuming gas. This, however, seems difficult for example in situations where gas is necessary for heating systems during a cold spell or for ensuring that technology and equipment is not damaged. It should be noted that in practice there is more time needed to interrupt a non-protected customer connected to the DSO network than a non-protected customer that is connected to the TSO network.

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

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

There may be merit in Member States agreeing upfront crisis measures. GIE recommends Member States to do crisis simulations to find out which measures could work in crisis situations. However,

crises are inherently difficult to predict and not all situations can be anticipated. Therefore, responsible parties should have enough flexibility to act. In any case, those who benefit from security should pay for it.

As a general principle, it should be clear upfront how shippers are compensated when a non-market-based measure is used. For instance, how to deal with enforced storage withdrawal in case of an emergency (see annex III of the Regulation), gas belonging to the storage customer and not to the gas storage operator.

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

GIE is of the opinion that if properly designed solidarity mechanisms are in place, a prohibition for Member States to reduce its interconnection capacity in case protected customers on the other side of the border are still at risk is not needed.

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

Fortunately, the European gas markets have not seen too many crises. Therefore, GIE recommends Member States to do crisis simulations to find out which measures could work in crisis situations.

5. Emergency Plans

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

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

GIE believes that the development of regional emergency plans should be fostered but not be mandatory. Member States should be encouraged to cooperate further with neighbouring countries when developing their national plans. However, it may not be necessary to make regional emergency plans binding, but assess the possibility for Member States to establish agreements at bilateral level for emergency situations.

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

GIE is of the opinion that an obligation to include how emergency situations are managed at regional level in national Emergency Plans should be sufficient. The Commission should then monitor that this provision has been included in the Emergency Plans of the respective Member States.

6. Declaring an Emergency

a. National Emergencies

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

GIE does not agree that a threshold should be introduced since a crisis can take several forms that cannot always be anticipated and quantified. GIE believes that crisis exercises at national, regional and/or EU level could be a good way to identify potential improvements of the current mechanisms, as real emergencies rarely occur.

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

GIE is of the opinion that non-market based measures should remain limited to emergency situations. As long as the market is still able to manage a crisis, market-based measures shall be preferred to non-market based ones. By definition (of article 10(3)), the market is still able to manage a crisis in an alert situation. Annex III is a suitable toolbox for non-market based measures.

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

GIE is of the opinion that the declaration of national emergencies should not be subject to an appeal mechanism. Time management is crucial in case of a crisis and decisions should not be postponed through appeal mechanisms.

It may happen that competent authorities declare an emergency that does not prove to be an emergency later on. In these cases competent authorities should not fear to be criticised for doing so, if it was on good faith. When evaluating declarations of emergency ex post, the Commission's recommendation should not have a binding character. GIE believes that this can be done better on a national level, where most relevant and accurate information concerning national events is available. Nevertheless, the European Commission should actively ensure regional cooperation during emergencies.

b. Regional or EU-Wide Emergencies

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

GIE is of the opinion that the division of responsibilities currently envisaged by the Regulation seems appropriate, but there is room to better substantiate their role and coordination mechanisms in crisis situations.

GIE believes that TSOs within ENTSOG can play a specific role, via the Early Warning System, which can be activated very quickly. Coordination of this Early Warning System with GIE/ GSE/GLE is necessary. Information available on existing transparency platforms is crucial in case of an emergency.

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

Infrastructure operators have not experienced this kind of situation so it is difficult to answer this question at this stage.

In general, GIE believes that crisis exercises at regional and/ or EU level could be a good way to identify potential improvements of the current mechanisms, as real emergencies rarely occur.

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

GIE does not see the need for an additional regional or EU-wide "early warning" or "alert" level. The use of the ENTSOG Early Warning System, backed with GIE/GSE/GLE information, will enable to get

all relevant players be informed when a crisis starts. GIE wishes to underline the need to rely on the coordination of all actors, including Member States (as advocated by the EC in its stress test report) and the EC.

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

GIE believes that the Commission should rely on the ENTSOG Early Warning System and the information tools developed by ENTSOG, GSE and GLE (transparency platforms). Where needed, those tools could be improved (accuracy & reliability of data).

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

GIE is of the opinion that there is a need for regional cooperation in case of an emergency, but the implementation should be decided at national level. However, time management is crucial in such a situation and national decisions should not be delayed because of any obligation to coordinate the decision process at regional level. The coordinated review of national decisions should be ensured ex-post, without any binding character (see answer to question n° 33).

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

GIE believes that the Commission has a very important role in prevention of crises. By monitoring the implementation of for instance national preventive and emergency plans the Commission can ensure responsible parties are ready and will work together in an effective way in the event of a crisis.

Except during the 2009 winter, infrastructure operators have not experienced this kind of situation so far and therefore it is difficult to answer this question at that stage. Cold spells have been managed by agreements between TSOs in an effective way. In fact, there haven't been many crises so far reaching a critical point which required strong EU interventions. GIE believes that crisis exercises at regional and/or EU level could be a good way to identify potential improvements of the current mechanisms, as real emergencies rarely occur. Also the Early Warning System is an important tool to be developed further by the infrastructure operators within ENTSOG. At this stage, GIE has not identified a need to increase the Commission's powers.

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

Again, GIE believes that crisis exercises should be promoted. They are the most pragmatic way to identify the need for further alignment.