

Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2009/0108(COD) Procedure completed
Measures to safeguard security of gas supply Repealing Directive 2004/67/EC Repealed by	2002/0220(CNS) 2016/0030(COD)
Subject 3.60.03 Gas, electricity, natural gas, biogas 3.60.10 Security of energy supply 3.60.15 Cooperation and agreements for energy	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	ITRE Industry, Research and Energy		16/09/2009
		PPE VIDAL-QUADRAS Alejo	
		Shadow rapporteur	
		S&D SWOBODA Hannes	
		ALDE VĂLEAN Adina-Ioana	
		Verts/ALE TURMES Claude	
		ECR SZYMAŃSKI Konrad	
		EFD PROVERA Fiorello	
	Committee for opinion	Rapporteur for opinion	Appointed
AFET Foreign Affairs		21/10/2009	
	PPE SARYUSZ-WOLSKI Jacek		
ECON Economic and Monetary Affairs			
ENVI Environment, Public Health and Food Safety		15/09/2009	
	PPE SONIK Bogusław		
IMCO Internal Market and Consumer Protection		28/09/2009	
	PPE KALNIETE Sandra		
Council of the European Union	Council configuration Transport, Telecommunications and Energy	Meeting 2983	Date 07/12/2009
European Commission	Commission DG Energy	Commissioner OETTINGER Günther	

Key events			
14/09/2009	Committee referral announced in Parliament, 1st reading		
07/12/2009	Debate in Council	2983	Summary
18/03/2010	Vote in committee, 1st reading		Summary
	Committee report tabled for plenary, 1st		

29/03/2010	reading	A7-0112/2010	
21/09/2010	Results of vote in Parliament		
21/09/2010	Debate in Parliament		
21/09/2010	Decision by Parliament, 1st reading	T7-0322/2010	Summary
11/10/2010	Act adopted by Council after Parliament's 1st reading		
20/10/2010	Final act signed		
20/10/2010	End of procedure in Parliament		
12/11/2010	Final act published in Official Journal		

Technical information

Procedure reference	2009/0108(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Repealing Directive 2004/67/EC 2002/0220(CNS) Repealed by 2016/0030(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 194-p2
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	ITRE/7/00727

Documentation gateway

Legislative proposal		COM(2009)0363	16/07/2009	EC	Summary
Document attached to the procedure		SEC(2009)0977	16/07/2009	EC	Summary
Document attached to the procedure		SEC(2009)0978	16/07/2009	EC	Summary
Document attached to the procedure		SEC(2009)0979	16/07/2009	EC	
Document attached to the procedure		SEC(2009)0980	16/07/2009	EC	
Committee draft report		PE430.654	12/11/2009	EP	
Committee opinion	IMCO	PE428.268	02/12/2009	EP	
Amendments tabled in committee		PE438.187	19/01/2010	EP	
Amendments tabled in committee		PE438.231	20/01/2010	EP	
Amendments tabled in committee		PE438.242	20/01/2010	EP	
Economic and Social Committee: opinion, report		CES0106/2010	20/01/2010	ESC	
Committee opinion	ENVI	PE430.260	27/01/2010	EP	
Committee opinion	AFET	PE430.670	02/02/2010	EP	

Committee opinion	ECON	PE430.714	22/02/2010	EP	
Committee report tabled for plenary, 1st reading/single reading		A7-0112/2010	29/03/2010	EP	
Text adopted by Parliament, 1st reading/single reading		T7-0322/2010	21/09/2010	EP	Summary
Commission response to text adopted in plenary		SP(2010)7193	13/10/2010	EC	
Draft final act		00030/2010/LEX	20/10/2010	CSL	
Follow-up document		SWD(2014)0325	16/10/2014	EC	Summary

Additional information

National parliaments	IPEX
European Commission	EUR-Lex

Final act

[Regulation 2010/994](#)
[OJ L 295 12.11.2010, p. 0001](#) Summary

Measures to safeguard security of gas supply

PURPOSE: to establish measures aimed at safeguarding the security of gas supply, and repealing Directive 2004/67/EC.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: [Council Directive 2004/67/EC](#) established a legal framework at Community level to safeguard security of natural gas supply and to contribute to the proper functioning of the internal gas market in the case of supply disruptions. However, under the current measures, Member States still enjoy a large margin of discretion as to the choice of measures. Where the security of supply of a Member State is threatened, there is a clear risk that measures developed unilaterally by that Member State may jeopardise the proper functioning of the internal gas market. Recent experience has demonstrated the reality of that risk.

To allow the internal gas market to function even in the face of a shortage of supply, it is therefore necessary to provide for a more coordinated response to supply crises, both concerning preventive action and the reaction to concrete disruptions of supply. In response to the Russian-Ukrainian gas crisis in January 2009 causing an unprecedented disruption of gas supplies to the Community via Ukraine, the European Council and the European Parliament have called for an accelerated revision of the existing Directive.

IMPACT ASSESSMENT: the impact assessment has considered five policy options: 1) no new Community action; 2) better enforcement of Directive 2004/67/EC; 3) voluntary approach by industry; 4) a revised directive; 5) a new regulation.

With regard to options 1 and 2, the Commission concluded that the existing Directive is insufficient given the growing import dependence and increased supply and transit risks in third countries as well as, increasing gas flows and the development of the internal gas market within the Community. With regard to option 3, a major disadvantage of a voluntary approach is that participation of all players in a consistent manner cannot be guaranteed. Moreover, the extra capacity to ensure security of supply is not necessarily provided by market forces. With regard to options 4 and 5 (choice of legal instrument) the Commission considers that a Regulation is a more appropriate instrument than a Directive for the following main reasons: (i) a Regulation is directly applicable to the competent authorities in the Member States, to natural gas undertakings and to customers; (ii) it does not require lengthy transposition; it ensures clarity and coherence of standards and obligations across the Community and it defines directly the involvement of Community institutions.

CONTENT: the proposed Regulation on security of gas supply would provide a common indicator to define a serious gas supply disruption. This is known as N-1, i.e. the shutdown of a major supply infrastructure or equivalent (e.g. import pipeline or production facility). It would require all Member States to have a competent authority that would be responsible for monitoring gas supply developments, assessing risks to supplies, establishing preventive action plans and setting up emergency plans. It would also oblige Member States to collaborate closely in a crisis, including through a strengthened Gas Coordination Group and through shared access to reliable supply information and data.

The main objective of the proposal is to increase the security of gas supply by creating the incentives to invest in necessary interconnections to meet the N-1 indicator, as well as the reverse flows.

The Regulation places primary emphasis on the role of the internal gas market to ensure the security of gas supply. It states that 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. The Regulation allows the recourse to non-market based measures decided by the competent authority only as the last resort in emergency situations when all market based measures are exhausted and the natural gas undertakings are no longer able to deal with a supply disruption. The Commission is also given a stronger role to ensure that the internal market works for as long as possible and that measures decided at national level are compatible with this principle.

The proposed Regulation would improve the framework for investment in new cross-border interconnections, new import corridors, reverse flows capacities and storages, supported also by the European Economic Recovery Plan. It confirms the greater interdependence of gas supplies within a single European gas market, and provides a sound basis for the EU to defend its interests more effectively in its relations with external gas suppliers. Those interconnections are at the same time necessary for the proper functioning of the internal gas market.

The following points should be noted:

- solidarity measures: 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 in order to effectively manage any eventual major gas supply disruption;
- establishment of Preventive Action Plan and Emergency Plan: by 31 March 2011 at the latest, 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 the impact of a gas supply disruption;
- infrastructure standard: by 31 March 2014, 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 20 years;
- Community emergency responses: 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. The Commission shall convene the Gas Coordination Group as soon as it declares Community Emergency.

BUDGETARY IMPLICATIONS: the proposal will have a limited impact on the Community budget, covering the costs of meetings of the Gas Coordination Group and the costs of the monitoring task force which can be deployed to monitor the gas flows within and outside the Community. Missions outside the Community in moments of crisis may draw on funds from the Instrument for Stability.

Measures to safeguard security of gas supply

This Commission Staff Working Paper accompanies the proposal for a Regulation concerning measures to safeguard security of gas supply and repealing Directive 2004/67/EC. It provides an assessment of the January 2009 gas supply disruption to the EU.

To recall: from 6-20 January 2009, gas flows were interrupted from Russia to the EU via Ukraine. A majority of Member States were affected directly and indirectly. Although the disruption was a commercial matter between Gazprom of Russia and Naftogaz of Ukraine, the EU was in regular contact with both parties before the onset of the disruption and throughout the event and was instrumental in the agreement on creating an international monitoring mission as well as facilitating negotiations on an agreement for gas supplies into the EU to resume.

This paper considers how the crisis developed and why existing provisions were not enough to avoid major disruptions to EU gas supplies in January 2009. It considers what the EU can learn from these events in order to make the framework more resilient and effective in responding to gas supply threats, both in an emergency situation and over the medium to longer term.

This paper also responds to a specific request from the European Parliament and from four individual MEP's for an analysis of the Russia-Ukraine gas crisis including the lessons learned.

Main conclusions: the Commission's concerns that the EU energy security strategy must be strengthened are therefore completely vindicated.

The crisis highlighted weaknesses in each stage of the gas supply security approach at EU level:

- the early warning mechanisms at national and EU level are inadequate. Early warning mechanisms within the EU as well as with supplier and transit countries should be strengthened or put in place. They should be underpinned by appropriate bilateral and multilateral agreements with the EU's gas supplier and transit countries, including energy provisions, building where possible on the relevant existing frameworks and provisions, such as within the WTO and Energy Charter;
- emergency planning needs to be made more consistent and coherent among Member States, with common standards and coordinated responses;
- the new internal energy market legislation should be implemented as quickly as possible in order to address weaknesses in market functioning which undermine security of supply and limit the ability of the market to deal with supply threats and disruptions;
- greater transparency and easier access to market information is necessary in order to assess the supply situation wisely and taken necessary preventive and remedial action;
- the lack of interconnections and the physical isolation, in energy terms, of some Member States, proved to be a real impediment to dealing with a supply crisis.

The crisis also confirmed the importance of certain principles of EU energy policy which deserve to be strengthened:

- as far as possible, the market should be able to manage risks and crisis situations. However, this requires the regulatory framework to be adequately robust. There also has to be room for political intervention should this be necessary;
- a national energy supply crisis quickly becomes a European issue; conversely, European intervention can work more effectively than individual national reactions and ensure security of gas supply across the EU;
- political solidarity in the EU is vital both in domestic responses, to ensure that the market can work properly, and in dealing with external partners;
- the importance of demand side management as an important energy security tool, as it was conspicuously absent from most reactions. Any emergency response must also focus on ways of reducing energy demand and diverting demand towards other low-carbon fuels and technologies. This also has to be fully incorporated into any longer term strategy on energy supply security;
- effective and transparent coordination at the EU levels at the political, commercial, regulatory, and network level is key to resolving a crisis with EU implications.

The crisis also served as a wake-up call to policy makers to strengthen their energy strategies:

- growing dependence on gas for electricity and domestic heating, with limited options for fuel-switching, further increases the risk that a gas supply crisis will have a deeply damaging economic impact;
- likewise, the dependence of parts of the EU on a single supplier or a single source is a major concern to consumers across the EU and calls for new efforts to increase supply diversification in supplier, supply route and supply source.

The crisis also confirmed the benefits of EU collaboration and confirmed the importance of having emergency plans and measures in place at a national level, the need to improve the Community dimension and the added value of a coherent EU approach to the EU's external energy security.

The document concludes that the disruption of supplies affected a large number of Member States and the ad-hoc measures facilitated at a Community level did help to mitigate somewhat the major economic impact the dispute had on some EU Member States. Clearly there is a need to formalise these arrangements and ensure that the Community is better placed to face such situations in the future.

Measures to safeguard security of gas supply

In order to strengthen the security of gas supply in the internal market, [Council Directive 2004/67/EC](#) concerning measures to safeguard security of natural gas supplies was adopted.

The Directive provides that the Commission shall present an evaluation report on the implementation of the Directive by Member States, which is the purpose of this Commission Staff Working Document.

Transposition: most of the Member States have transposed the security of gas supply provisions of the Directive as part of their internal gas market legislation.

Differences in the security of gas supply roles of market players: Member States have defined the roles for their market players in a different way, which has created distortion for security of gas supply in European internal gas markets.

Security of supply standards: Member States have set very heterogeneous security of supply standards and in some Member States the definition of standards has not been made. These differences may create a barrier to the solidarity mechanism and to the finalisation of the internal gas market.

Security of gas supply instruments: the balance of various instruments is essential to enhancing the security of gas supply. The most frequent measures are gas storage, long term contracts, flexibility of production and imports and diversifications of gas supply. The general conclusion is that the level playing field within the EU has not been reached in terms of security of gas supply instruments.

National emergency measures: the two-step approach used by Member States has created a delay in full transposition of this provision and means that the Commission could only assess national emergency measures of 18 Member States. In any event, most of the Member States have defined their national emergency measures in a systematic way creating the national emergency plans. In these plans they also included prevention mechanisms, nominal level of gas market operation and different pre-emergency and emergency levels defined by disruption volume and by the economic impact.

Monitoring and reporting: Member States' reporting obligations are set out in two gas Directives. Member States have not prepared their annual internal market report in a proper way and much of the mandated information is not included in those reports. Therefore, the Commission had to prepare additional questionnaires and data tables to fulfil its monitoring obligation, which created an additional administrative burden. Moreover, the obligation concerning what to monitor is not sufficient to assess either the current long-term and short-term, or any future security of supply situation of the EU and the effectiveness of the mitigation tools. In addition, reporting obligations are limited in frequency and scope and only three Member States provided complete reporting. Greater transparency is therefore needed.

Measures to safeguard security of gas supply

The Council held a policy debate on the proposed regulation, on the basis of a questionnaire prepared by the Presidency, and following a presentation by the Commissioner for Energy, Mr Piebalgs.

In principle, the general approach of the Commission's proposal was well received. Ministers highlighted, however, certain points of concern regarding specific aspects of the draft regulation.

Many ministers stressed, in particular, the need to clarify further the roles and responsibilities of the market actors, the Member States and the Commission, in line with the subsidiarity principle. For ensuring gas supply, the hierarchy going from gas undertakings, Member States, to the regional and the EU level was underlined. Crisis management should be based on an in-depth risk analysis, and there must be a balance between solidarity, the market's responsibilities and Member States' responsibility for their own gas supply.

A majority of ministers welcomed the Commission's proposal of mandatory infrastructure and supply standards, while asking for increased flexibility in order to take account of national circumstances and specificities. The implementation of the standards should be based on a cost-benefit analysis, with due priority given to market-based instruments. Regional and bilateral cooperation has been strongly supported in the debate, but more details will be needed, in particular regarding the breakdown of costs.

A clear-cut definition of protected customers was esteemed necessary, allowing nevertheless for sufficient flexibility to take national or regional circumstances into account, including financial issues. Several delegations also asked for this definition to be based on a cost-benefit analysis.

The incoming Spanish Presidency announced its intention of reaching a political agreement on the Commission's proposal before the end of June 2010.

Measures to safeguard security of gas supply

The Committee on Industry, Research and Energy adopted the report drawn up by Alejo Vidal-Quadras (EPP, ES) on the proposal for a regulation of the European Parliament and of the Council concerning measures to safeguard security of gas supply and repealing Directive 2004/67/EC. It recommended that the European Parliament's position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure) should be to amend the Commission proposal as follows:

Three level approach: the committee states that roles and responsibilities should be established in such a way as to ensure that a three-level approach is respected which would first involve the relevant undertakings and industry, then Member States at national or regional level, and then the Union. In the event of a supply disruption, market players should be given sufficient opportunity to respond to the situation by market-based measures such as those listed in Annex II. If the reactions of market players are not adequate, Member States and their Competent Authorities should take measures such as those listed in Annex III to remove or mitigate the effects of the supply disruption. Only if these measures are inadequate should measures be taken at regional or Union level to remove or mitigate the effects of the supply disruption. Regional solutions should be preferred to Union action as far as possible.

Subject-matter: Members stressed that the proposal must establish exceptional measures to be implemented when the market can no longer deliver the required gas supplies, as well as measures aimed at safeguarding the security of gas supply by ensuring the proper and continuous functioning of the internal market for gas.

Competent authority: the definition of competent authority is amended to show that the tasks of the latter include ensuring the security of gas supply as well as enforcing and implementing the measures and Plans set out in the Regulation.

Responsibility for security of gas supply: Members inserted an amendment stating that the Commission together with the Competent Authority shall ensure that no clauses having the effect of a destination clause exist in contracts for natural gas concluded between Member States or their natural gas undertakings and third countries. This is without prejudice to the competences of competition authorities. They note that contracts concerning gas supplies from third countries should not contain provisions violating EU internal market rules, notably restrictions to re-export or clauses that have the same effect as destination clauses.

Long-term security of supply measures: Members stress the importance of diversification throughout the text. A new clause is inserted stating that one year after entry into force of the legislation, the Commission shall, as an element in the development of a long-term supply strategy, present a report on instruments and measures to increase the diversification of gas supply sources for the Union and the routes of supply into the Union. The report shall include proposals to the different Member States concerning activities and measures in order to enhance security of gas supply, including an assessment of the role of LNG installations and an overview of storage capacities for gas in different Member States. In addition, the report shall make an assessment of existing regional cooperation and include recommendations for improvement in the joint preventive and emergency action plans. Any regional cooperation for the purpose of the implementation of the Regulation shall be conducted by the Competent Authorities of the Member States, involving the natural gas undertakings, the regulatory authorities and the industrial consumers and in close cooperation with the Commission. Such regional cooperation shall promote, and must not conflict with, general principles of European solidarity.

Lastly the Union shall work together with supply and transit third countries to share best practices in energy efficiency, for example in the framework of existing energy cooperation agreements such as the Energy Charter Treaty.

Establishment of Preventive Action Plan and Emergency Plan: a new clause states that where the regulatory authority is not the Competent Authority, it shall be formally involved in the processes of establishing the Preventive Action Plan and the Emergency Plan. The Competent Authority shall take utmost account of the assessments made by the regulatory authority insofar as they refer to network-related regulatory issues in particular concerning the development of the impact assessment regarding the fulfilment of infrastructure standards with regard to future approval of tariffs and consistency with network development plans.

Where Member States have existing public service obligations that relate to security of supply, the Competent Authorities shall publish them not later than 2 months after the entry into force of the Regulation and update as necessary, following adoption of their Preventive and Emergency Plans.

Furthermore, Members add that the Competent Authority shall review the Preventive Action Plan and the Emergency Plan every two years on the basis of altered assessments of the risks affecting the security of gas supply.

Content of the Preventive Action Plan: where the Member State so decides on the basis of the risk assessment, the Plan must contain a description of obligations to supply relevant customers, that are connected to the gas distribution network and that deliver important public services such as schools and hospitals. Those obligations must not affect their ability to supply the protected customers in the event of a crisis. These additional obligations must not conflict with the principles of European or regional solidarity towards countries with supply problems. The Plan must also contain the mechanisms used for cooperation with other Member States for preparing regional preventive action plans.

The committee specifies that, in addition, the Preventive Action Plan shall be based on, and consistent with, the ten-year network development plan to be drawn up by the ENTSO-G, and the actions to meet the infrastructure standard shall be binding on system operators.

The Plan must be based primarily on market measures, and take into account the economic impact and effectiveness and efficiency of the measures adopted, their effects on the functioning of the internal energy market, the impact on consumers, the environmental impact and relevant international situations and developments, particularly in major supply and transit countries.

Lastly, Members state that the Commission shall develop an EU preventive action plan building on all national and regional plans, identifying possible crisis scenarios and the most efficient measures to mitigate such crisis in order to guarantee efficient coordination of actions during a Union emergency.

Infrastructure standard: in the event of a disruption of the largest gas supply infrastructure, the remaining infrastructure (N-1) should have the technical capacity to satisfy total daily gas demand of the calculated area during a day of exceptionally high gas demand statistically occurring once every twenty years. The Commission proposal had specified a period of sixty days of exceptionally high gas demand during the coldest period statistically occurring every twenty years. The report adds the following:

- the lack of access to the integrated EU gas network and the dependence on one single third country gas supplier shall be considered as non-compliance with the N-1 standard;
- within two years from the entry into force of the Regulation, the transmission system operators and owners shall enable permanent physical capacity to transport gas in both directions on all interconnections, other than for those connecting EU production facilities, to LNG facilities or interconnection points with distribution networks. The level of the bi-directional flow capacity shall be reached in a

cost efficient way, with aspects that are not strictly economic, such as security of supply and contribution to the internal market, being taken into account as part of the assessment and at least take into account the capacity required to meet the supply standard set in the text;

- Competent Authorities may request the Commission to issue a decision to exempt a specific interconnection from the obligation of bi-directional flow. The Commission may grant the exemption, if enabling bi-directional flow capacity would not significantly enhance the security of supply of any of the Member States concerned, or if the investment costs significantly outweigh the prospective benefits to security of supply in any of those Member States. The Commission shall take utmost account of the results of the risk assessment carried out by the Competent Authority. Such decisions may be reviewed if circumstances change;
- National Regulatory Authorities shall introduce appropriate incentives and take into account the efficiently incurred 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 or their methodologies in a transparent and detailed manner;
- with regard to costs incurred in more than one Member State or in one Member State for the benefit of other Member States, the Commission may propose appropriate EU instruments for the financing of interconnections. Such decisions shall be taken on a case-by-case basis, taking into account notably the lack of financial viability of the interconnection and the clear added value in terms of the security of gas supply for one or more of the Member States concerned.

Supply standard: there must be measures to ensure the gas supply to the protected customers in the case of a) extreme temperatures during a seven days peak period statistically occurring once every twenty years; and b) any period of forty five days (rather than sixty days) of exceptionally high gas demand during the coldest weather periods statistically occurring every twenty years. Members note that the longest crisis experienced lasted approximately two weeks.

Members add that the production facilities required to maintain supplies (such as power stations, refineries, gas storage facilities) shall be enabled to operate with as little hindrance as possible in order to guarantee supplies of natural gas, electricity and heat. The prescribed limit values may be exceeded to an extent to be determined. Modification of the conditions imposed by water legislation shall be permitted to an extent to be determined. In this context, dangers to the environment shall be avoided.

Risk assessment: a new clause states that the Commission shall fully assess the risks to the security of gas supply at Union level and adopt and publish a report to be presented to the Competent Authorities, the Gas Coordination Group, ACER, ENTSO-G and to the European Parliament.

Members add that in the risk assessment, the Member States may lay down, on the basis of a technical and economic analysis, obligations to supply customers, other than protected customers, that are already connected to the gas distribution network and that deliver important public services such as schools and hospitals. Those obligations must not affect their ability to supply the protected customers in the event of a crisis and must not conflict with the principles of European or regional solidarity towards countries with supply problems.

Following the recommendation of the Commission, the risk assessment shall also be carried out at regional level.

Emergency plans: the national and regional Emergency Plans must define the role and responsibilities of all relevant market participants, taking account of the different extents to which they are affected in the event of gas supply disruptions and not solely the natural gas undertakings and of the industrial customers.

The report adds that the Commission shall develop a Union Emergency Plan identifying possible inconsistencies between national and regional plans as well as possible coordination measures to be taken by the Commission during a Union emergency. It shall also describe the mechanisms used to activate mediation with third countries.

At the Early Warning Level and the Alert Level, the committee specifies that the market is expected to solve the problem without the intervention of the Competent Authority. The report defines the Emergency level as a supply disruption or an exceptionally high demand where 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. The Emergency Plan shall also identify the necessary measures and actions to be taken to mitigate the impact of a gas supply disruption on the supply of electricity generated from gas and district heating to protected customers.

Where the Commission is notified by the Competent Authority that an early warning level has been declared in a Member State or where a threat of disruption of gas supplies might have a clear geopolitical dimension, the Union, represented at the highest level, shall take appropriate diplomatic actions having regard to the special role given by the Lisbon Treaty to the Vice-President/ High Representative.

The Commission shall verify within three days (rather than one week as specified by the Commission) whether the declaration of an Emergency fulfils the criteria indicated.

The report adds the following:

- if the Competent Authority of the Member State in Emergency decides exceptionally to take measures not provided for in the Plans, the Commission shall verify whether it is justified, and may seek the advice of the Gas Coordination Group on 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;
- non-market based measures imposed on natural gas undertakings in the event of an emergency, including at regional or Union levels, shall ensure fair and equitable compensation in favour of the natural gas undertakings affected by such measures?
- the Emergency Plan shall be updated every two years on the basis of the results of the risk assessment.

Community emergency responses: the report states that the Commission may declare a Union Emergency at the request of one Competent Authority. It shall declare a Union Emergency where more than one Competent Authority has declared Emergency following verification in accordance with the text or where the Union loses more than 20% of its daily gas import from third countries as calculated by ENTSO-G (rather than 10% as proposed by the Commission.) It shall declare a Union Emergency for specifically affected geographical regions, defined in accordance with the provisions in the text comprising more than one Member State where one Competent Authority from the concerned region has declared an emergency or where the affected geographical region loses more than 10% of its daily gas import from third countries as calculated by ENTSO-G.

Gas Coordination Group: Members stress the need to involve the Gas Coordination Group throughout the text. In order to achieve solidarity at regional level, the Gas Coordination Group shall create specific sub-groups addressing security of supply issues at regional level.

Information exchange: the Commission shall analyse the assessments of the Competent Authorities on Emergency and inform the Member States, the European Parliament and the Gas Coordination Group of its results in aggregated form.

Monitoring and reporting of security of gas supply: the committee deleted from the obligation to report data on progress made in investments needed to cope with N-1, country specific difficulties encountered in the implementation new alternative solutions. It stated that 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).

A new clause is inserted specifying that the Commission shall establish a system of continuous monitoring of and reporting on security of gas supply, which shall include the following measures: (a) preparation of annual reports concerning observance of the rules governing the internal market in the energy sector, notably as regards transparency and compliance with EU competition law by third-country companies, especially main suppliers, together with all of their subsidiaries; (b) assessment of the impact of vertically integrated energy companies from third countries on the internal market and implementation of the principle of reciprocity; c) application of appropriate measures designed to prevent uncontrolled investment by state-owned foreign companies in the Union's energy sector, in particular the gas and electricity transmission networks; (d) monitoring of contracts for natural gas concluded between Member States and third countries as regards their conformity with EU internal market rules. The Commission shall enforce the abolition of any clauses having the effect of a destination clause in so far as they are prohibited by EU law.

Monitoring by the European Commission: the Commission shall carry out continuous monitoring and reporting of security of gas supply measures, including monitoring of contracts for gas supply concluded between Member States and third countries, in order to ensure that comply with the rules of the EU internal market, security of supply and competition law.

The committee adds that in order to enable Member States lacking infrastructure to reach N-1 standard, the Commission shall monitor the achievements on market interconnectivity and, after consulting the Gas Coordination Group, propose possible instruments to improve the market.

Lastly, a new clause states that the EU institutions shall give particular priority to the Nabucco gas pipeline project as regards its political profile and financing.

Amendments to Annex: the report makes amendments to Annex I with regard to calculation of the N-1 indicator and of the N1 formula, giving supply side and demand side definitions for each. It also makes some amendments to Annex II and inserts a new Annex IIIa on regional cooperation.

Measures to safeguard security of gas supply

The European Parliament adopted by 601 votes to 27, with 23 abstentions, a legislative resolution concerning measures to safeguard security of gas supply and repealing Directive 2004/67/EC.

It adopted its position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure). The amendments adopted in plenary are the result of a compromise reached between the European Parliament and the Council. They amend the Commission's position as follows:

Subject matter: the amended text states that the Regulation establishes provisions aimed at safeguarding the security of gas supply by ensuring the proper and continuous functioning of the internal market in natural gas, by allowing for exceptional measures to be implemented when the market can no longer deliver the required gas supplies.

This Regulation also provides transparent mechanisms, in a spirit of solidarity, for the coordination of planning for, and response to, an emergency at Member State, regional and Union levels.

Protected customers: this definition covers all household customers connected to a gas distribution network and, in addition, where the Member State concerned so decides, may also include: (a) small and medium-sized enterprises, provided that they are connected to a gas distribution network, and essential social services, provided that they are connected to a gas distribution or transmission network, and provided that all these additional customers do not represent more than 20% of the final use of gas; and/or (b) district heating installations to the extent that they deliver heating to household customers and to the customers referred to in point (a) provided that these installations are not able to switch to other fuels and are connected to a gas distribution or transmission network.

Responsibility for security of gas supply: the text stipulates that the security of gas supply is a shared responsibility of natural gas undertakings, Member States, notably through their Competent Authorities, and the Commission, within their respective areas of activities and competence. Such shared responsibility requires a high degree of cooperation between them.

As soon as possible and no later than 12 months following the entry into force of the Regulation, each Member State shall designate a Competent Authority that ensures the implementation of the measures provided for in this Regulation.

Establishment of a Preventive Action Plan and an Emergency Plan: before adopting a Preventive Action Plan and an Emergency Plan at national level, the Competent Authorities shall exchange their draft Plans and consult each other at the appropriate regional level. They should consult the Commission, with a view to ensuring that their draft Plans and measures are not inconsistent with the Preventive Action Plan and the Emergency Plan of another Member State and that they comply with this Regulation and with other provisions of Union law. Such consultation shall be carried out in particular between neighbouring Member States, notably between isolated systems forming gas islands and their neighbouring Member States.

The Competent Authorities concerned may decide to establish joint Preventive Action Plans and joint Emergency Plans at regional level, in addition to the Plans established at national level. In the case of joint Plans, the Competent Authorities concerned shall endeavour, where appropriate, to conclude agreements in order to implement regional cooperation.

When establishing and implementing the Preventive Action Plan and the Emergency Plan at national and/or regional level, the Competent Authority shall take due account of the safe operation of the gas system at all times and address and set out in those Plans the technical constraints affecting the operation of the network, including the technical and safety reasons which may lead to the reduction of flows in the

event of an emergency.

No later than two years following the entry into force of the Regulation, the Preventive Action Plans and Emergency Plans, including, where applicable, joint Plans, shall be adopted and made public. Such Plans shall be notified to the Commission without delay. The Commission shall inform the Gas Coordination Group. Competent Authorities shall ensure the regular monitoring of the implementation of such Plans.

Content of the national and joint Preventive Action Plans: the national and joint Preventive Action Plans shall contain: (a) the results of the risk assessment; (b) the measures, volumes, capacities and the timing needed to fulfil the infrastructure and supply standards, including where applicable, the extent to which demand-side measures can sufficiently compensate, in a timely manner, for a supply disruption; (c) obligations imposed on natural gas undertakings and other relevant bodies, including for the safe operation of the gas system; (d) the other preventive measures, such as those relating to the need to enhance interconnections between neighbouring Member States and the possibility to diversify gas routes and sources of supply, if appropriate, to address the risks identified in order to maintain gas supply to all customers as far as possible; (e) the mechanisms to be used for cooperation with other Member States for preparing and implementing joint Preventive Action Plans and joint Emergency Plans; (f) information on existing and future interconnections, including those providing access to the gas network of the Union, cross-border flows, cross-border access to storage facilities and the physical capacity to transport gas in both directions ("bi-directional capacity"), in particular in the event of an emergency; (g) information on all public service obligations that relate to security of gas supply.

The national and joint Preventive Action Plans shall be based primarily on market measures, and shall take into account the economic impact, effectiveness and efficiency of the measures, the effects on the functioning of the internal energy market and the impact on the environment and on consumers, and shall not put an undue burden on natural gas undertakings, nor negatively impact on the functioning of the internal market in gas.

Infrastructure standard: the amended text provides that Member States or, where a Member State so provides, the Competent Authority shall ensure that the necessary measures are taken so that by four years after entry into force of this Regulation at the latest, in the event of a disruption of the single largest gas infrastructure, the capacity of the remaining infrastructure, determined according to the N-1 formula as , is able to satisfy total gas demand of the calculated area during a day of exceptionally high gas demand occurring with a statistical probability of once in 20 years.

By three years following the entry into force of the Regulation, the transmission system operators shall adapt the functioning of the transmission systems in part or as a whole so as to enable physical gas flows in both directions on cross-border interconnections.

Luxembourg, Slovenia and Sweden shall, by way of exception, not be bound by, but shall endeavour to meet, the obligation on infrastructure standards, while ensuring the gas supplies to protected customers.

Procedure for enabling bi-directional capacity or seeking exemption: for each cross-border interconnection between Member States, transmission system operators shall, not later than 15 months after the entry into force of this Regulation, submit to their Member States or, where Member States so provide, their Competent Authorities or their regulatory authorities, after consulting with all other transmission system operators concerned: (a) a proposal for bi-directional capacity concerning the reverse direction ("reverse flow capacity"); or (b) a request for an exemption from the obligation to enable bi-directional capacity.

The proposal for reverse flow capacity or the request for exemptions shall be based on an assessment of market demand, projections for demand and supply, technical feasibility, the costs of reverse flow capacity, including the consequent reinforcement of the transmission system, and the benefits for security of supply.

The authority concerned receiving the proposal or exemption request shall notify the authorities concerned of the other Member States that could, according to the risk assessment, benefit from reverse flow capacity and the Commission of the proposal or the exemption request without delay. That authority concerned shall give those authorities concerned and the Commission the possibility to issue an opinion within a period of four months following receipt of that notification.

Supply standard: the Competent Authority shall require the natural gas undertakings, that it identifies, to take measures to ensure gas supply to the protected customers of the Member State in the following cases: (a) extreme temperatures during a seven-day peak period occurring with a statistical probability of once in 20 years; (b) any period of at least 30 days of exceptionally high gas demand, occurring with a statistical probability of once in 20 years; and (c) for a period of at least 30 days in case of the disruption of the single largest gas infrastructure under average winter conditions.

Emergency Plans and Crisis Levels: the national and joint Emergency Plans shall inter alia: (a) define the role and responsibilities of natural gas undertakings and of industrial gas customers including relevant electricity producers, taking account of the different extents to which they are affected in the event of gas supply disruptions , and their interaction with the Competent Authorities and where appropriate with the national regulatory authorities at each of the crisis levels; (c) define the role and responsibilities of the Competent Authorities and of the other bodies to which tasks have been delegated at each of the crisis levels; (d) ensure that natural gas undertakings and industrial gas customers are given sufficient opportunity to respond at each crisis level; (e) identify, if appropriate, the measures and actions to be taken to mitigate the potential impact of a gas supply disruption on district heating and the supply of electricity generated from gas; (f) establish detailed procedures and measures to be followed for each crisis level.

The three main crisis levels shall be as follows:

- early warning level (early warning): when there is concrete, serious and reliable information that an event may occur which is likely to result in significant deterioration of the supply situation and is likely to lead to the alert or the emergency level being triggered; the early warning level may be activated by an early warning mechanism;
- alert level (alert): when a supply disruption or exceptionally high gas demand occurs which results in significant deterioration of the supply situation, but the market is still able to manage that disruption or demand without the need to resort to non-market measures;
- emergency level (emergency): in the event of exceptionally high gas demand, significant supply disruption or other significant deterioration of the supply situation and in the event that all relevant market measures have been implemented but the supply of gas is insufficient to meet the remaining gas demand so that non-market measures have to be additionally introduced with a view, in particular, to safeguarding supplies of gas to protected customers.

The national and joint Emergency Plans shall ensure that cross-border access to infrastructure in accordance with Regulation (EC) No 715/2009 is maintained as far as technically and safely possible in the event of an emergency. The Plans shall not introduce any measure unduly restricting the flow of gas across borders.

When the Competent Authority declares any of the crisis levels, it shall immediately inform the Commission and provide it with all the necessary information, in particular with information on the action it intends to take. In the event of an emergency which may result in a call for assistance from the Union 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.

The Member States and, in particular, the Competent Authorities shall ensure that: (a) no measures are introduced which unduly restrict the flow of gas within the internal market at any time; (b) no measures are introduced that are likely to endanger seriously the gas supply situation in another Member State; and (c) cross-border access to infrastructure in accordance with Regulation (EC) No 715/2009 is maintained as far as technically and safely possible, in accordance with the Emergency Plan.

The national and joint Emergency Plans shall be updated every two years, unless circumstances warrant more frequent updates, and shall reflect the updated risk assessment.

Union and regional emergency responses: at the request of a Competent Authority that has declared an emergency, the Commission may declare a Union emergency or a regional emergency for a specifically affected geographical region. At the request of at least two Competent Authorities that have declared an emergency, the Commission shall declare, as appropriate, a Union or regional emergency. In all cases, the Commission, using the means of communication most appropriate to the situation, shall gather the views of, and take due account of all the relevant information provided by, the other Competent Authorities. When it assesses that the underlying basis for the Union or regional emergency no longer justifies a declaration of emergency, the Commission shall declare an end to the Union or regional emergency. In all cases, the Commission shall give its reasons and inform the Council of its decision.

In a Union or regional emergency, the Commission shall coordinate the action of the Competent Authorities, taking full account of relevant information from, and the results of, the consultation of the Gas Coordination Group.

Monitoring by the Commission: the Commission shall carry out continuous monitoring of, and reporting on, security of gas supply measures. By four years following the entry into force of the Regulation at the latest the Commission, on the basis of the report and after consulting the Gas Coordination Group shall:

- draw conclusions as to possible means to enhance security of supply at Union level, assess the feasibility of carrying out risk assessments and establishing Preventive Action Plans and Emergency Plans at Union level and report to the European Parliament and the Council on the implementation of this Regulation, including inter alia the progress made on market interconnectivity; and
- report to the European Parliament and the Council on the overall consistency of Member States' Preventive Action Plans and Emergency Plans as well as their contribution to solidarity and preparedness from a Union perspective.

Derogation: the Regulation shall not apply to Malta and Cyprus for as long as no gas is supplied on their respective territories.

Measures to safeguard security of gas supply

PURPOSE: to safeguard the security of gas supply in the Union.

LEGISLATIVE ACT: Regulation (EU) No 994/2010 of the European Parliament and of the Council concerning measures to safeguard security of gas supply and repealing Council Directive 2004/67/EC

CONTENT: the Council has adopted a Regulation concerning measures to safeguard security of gas supply, following an agreement at first reading with the European Parliament. The aim of the Regulation is to establish measures for safeguarding the security of gas supply by i) ensuring the proper and continuous functioning of the internal natural gas market, ii) permitting the introduction of exceptional measures when the market can no longer provide the necessary gas supplies, and iii) providing for a clear definition and allocation of responsibilities between the gas supplying companies, the Member States and the Union.

The Regulation also provides transparent mechanisms, in a spirit of solidarity, for the coordination of planning for, and response to, an emergency at Member State, regional and Union levels.

Responsibility for security of gas supply: the Regulation stipulates that the security of gas supply is a shared responsibility of natural gas undertakings, Member States, notably through their Competent Authorities, and the Commission, within their respective areas of activities and competence. Such shared responsibility requires a high degree of cooperation between them. As soon as possible and no later than 3 December 2011, each Member State shall designate a Competent Authority that ensures the implementation of the measures provided for in this Regulation.

Establishment of a Preventive Action Plan and an Emergency Plan: the Competent Authority of each Member State, after consulting the natural gas undertakings, the relevant organisations representing the interests of household and industrial gas customers and the national regulatory authority, where it is not the Competent Authority, shall establish at national level:

- a Preventive Action Plan containing the measures needed to remove or mitigate the risks identified, in accordance with the risk assessment undertaken pursuant to the Regulation; and
- an Emergency Plan containing the measures to be taken to remove or mitigate the impact of a gas supply disruption.

Before adopting a Preventive Action Plan and an Emergency Plan at national level, the Competent Authorities shall exchange their draft Preventive Action Plans and Emergency Plans and consult each other at the appropriate regional level. They shall consult the Commission, with a view to ensuring that their draft Plans and measures are not inconsistent with the Preventive Action Plan and the Emergency Plan of another Member State and that they comply with this Regulation.

The national and joint emergency plans will be defined in terms of three main crisis levels:

- early warning level (early warning): when there is concrete, serious and reliable information that an event may occur which is likely to result in significant deterioration of the supply situation and is likely to lead to the alert or the emergency level being triggered; the early warning level may be activated by an early warning mechanism;
- alert level (alert): when a supply disruption or exceptionally high gas demand occurs which results in significant deterioration of the supply situation, but the market is still able to manage that disruption or demand without the need to resort to non-market measures;

- emergency level (emergency): in the event of exceptionally high gas demand, significant supply disruption or other significant deterioration of the supply situation and in the event that all relevant market measures have been implemented but the supply of gas is insufficient to meet the remaining gas demand so that non-market measures have to be additionally introduced with a view, in particular, to safeguarding supplies of gas to protected customers.

Risk assessment: by 3 December 2011, each Competent Authority shall make a full assessment, on the basis of the following common elements, of the risks affecting the security of gas supply in its Member State.

Infrastructure standard: by 3 December 2014 at the latest, the Competent Authority shall ensure that the necessary measures are taken in the event of a disruption of the single largest gas infrastructure, the capacity of the remaining infrastructure, determined according to the N-1 formula, is able to satisfy total gas demand of the calculated area during a day of exceptionally high gas demand occurring with a statistical probability of once in 20 years.

Supply standard: the Competent Authority shall require the natural gas undertakings, that it identifies, to take measures to ensure gas supply to the protected customers of the Member State in the following cases: a) extreme temperatures during a 7-day peak period occurring with a statistical probability of once in 20 years; b) any period of at least 30 days of exceptionally high gas demand, occurring with a statistical probability of once in 20 years; and c) for a period of at least 30 days in case of the disruption of the single largest gas infrastructure under average winter conditions.

Union and regional emergency responses: at the request of a Competent Authority that has declared an emergency, the Commission may declare a Union emergency or a regional emergency for a specifically affected geographical region.

In a Union or regional emergency, the Commission shall coordinate the action of the Competent Authorities, taking full account of relevant information from, and the results of, the consultation of the Gas Coordination Group.

Monitoring by the Commission: the Commission shall carry out continuous monitoring of, and reporting on, security of gas supply measures and present reports on the subject. By 3 December 2014 at the latest, the Commission must submit a report to the European Parliament and to the Council on the overall consistency of Member States' Preventive Action Plans and Emergency Plans as well as their contribution to solidarity and preparedness from a Union perspective.

ENTRY INTO FORCE: 02/12/2010.

Measures to safeguard security of gas supply

This Commission Staff Working Document reports on the implementation of Regulation (EU) 994/2010 and its contribution to solidarity and preparedness for gas disruptions in the EU.

To recall, Regulation (EU) 994/2010 aims to ensure that each Member State puts in place appropriate tools to prepare for and to manage the effects of a gas shortage caused by either a supply disruption or exceptionally high demand.

The present report is aimed at feeding into the wider discussion on upcoming improvements to the security of supply framework announced in the European Energy Security Strategy.

The main findings as regards the implementation and the assessment of these elements are as follows:

The supply standard and protected customers: as regards the definition of protected customers, some Member States have explained to have technical difficulties in distinguishing protected from non-protected customers which led them to include a broader group (i.e. all customers connected to the distribution grid) to the protected customers. Very often basic information to verify the fulfilment of the supply standard is missing. Member States have pointed to difficulties in interpreting the supply standard as one of the reasons for the missing information. One of the main weaknesses in the implementation of Regulation 994/2010 is that it has failed to bring about a clear system in which the supply standard is monitored and enforced in a systematic manner. As a result thereof, it appears that customers remain unequally protected across the EU.

The infrastructure standard including the N-1 rule and the obligation to install bi-directional capacity: the Commission services are of the view that the N-1 infrastructure standard is a crucial indicator to test whether the entry capacities into a gas transmission system are sufficiently balanced and are not overly-concentrated on a single trunk pipeline or underground gas storage facility. Member States have effectively made use of the N-1 standard in their Risk Assessments to examine the resilience of their network in various disruption scenarios. The N-1 standard is only one factor in testing accurately the resilience of a gas system.

As regards bi-directional capacity, the report noted that the share of bi-directional cross-border interconnection points within the EU has increased from only one-quarter (24%) in 2009 to almost half (40%) of all points by 2014. This means that the gas flows via almost every second interconnection point between Member States can physically be turned around.

The Risk Assessment, Preventive Action Plan and Emergency Plan: the Risk Assessments and Plans have no doubt had a positive impact on security of supply. However, weaknesses have been identified. The Risk Assessments and Plans have remained nationally focussed only and that the co-ordination between Member States has overall been poor. In their Preventive Action Plans and Emergency Plans, Member States must pay attention to the cross-border impact of their policies and factor in the impact of neighbouring countries' measures.

The notification of intergovernmental agreements (IGAs) and details of commercial agreements: the Commission carries out a detailed compliance check of the IGAs with the EU acquis and follows up in the form of letters to the concerned Member States.

As concerns the requirement to submit long-term commercial supply contracts, it has to be noted that the importance of such contracts for the gas market has overall decreased in the last years. Often the information provided on the long-term contracts has given just a broad overview. In many vulnerable Member States without supply diversification and gas hubs, long-term contracts remain an important element for security of supply. It should therefore be considered to introduce a more flexible and focused reporting obligation for long-term contracts.

Responsibilities and coordination in case of an emergency: emergency management represents another basic pillar of security of supply beside prevention. The Commission is tasked to monitor the security of supply situation on Union level. It has five days at its disposal to verify whether a declaration of emergency is justified and whether the measures do not breach the relevant principles and they follow closely the

actions listed in the Emergency Plan.

Upon the request of several Competent Authorities that face a gas crisis simultaneously, the Commission can declare a Union emergency or a regional emergency for a specifically affected geographical area.

Since the entry into force of the Regulation the national crisis levels have been declared on the occasion of two events.

Lastly, the report concludes that Regulation 994/2010 has been instrumental in putting in place the basic building blocks of gas supply security on national level and thus improving the resilience of Member States in a gas crisis. However, there is scope to strengthen the EU's preparedness and capacity to respond effectively to gas supply crises further.