

Questionnaire on the report on the Gas Security of Supply Regulation (EU) 2017/1938

Review report as per Article 17 of Regulation (EU) 2017/1938

The following list of questions is meant to receive feedback from Member States' and stakeholders' representatives of the Gas Coordination Group on the Article 17's report of Regulation (EU) 2017/1938 that is due by September 2023. While some of the questions may be of particular relevance only to Member States' representatives, we invite stakeholders to also express their views where they deem it relevant.

Article 17 of the aforementioned Regulation requires:

"The Commission, on the basis of the assessments referred to in Article 8(7) shall, by 1 September 2023, draw conclusions as to possible means to enhance the security of gas supply at Union level and submit a report to the European Parliament and to the Council on the application of this Regulation, including, where necessary, legislative proposals to amend this Regulation."

The questionnaire targets the parts of the Regulation identified by the Commission where reflection is considered appropriate, as well as questions allowing for reflection on the emergency Regulations of 2022 and its Chapter IV on measures in case of a gas emergency. In addition, the last question allows Member States to raise any other points that should be reflected in the report.

In order to facilitate a discussion in the Gas Coordination Group, as well as a timely publication of the report, we would kindly ask you to provide your input before **9 June 2023, 12.00h CET**.

Questions

Respondent identification

Please indicate below the Member State or organisation you are responding on behalf of.

EFET (European Federation of Energy Traders)

Security of Supply outlook for 2030-2040

In 2022, we have witnessed an unprecedented year, which has changed the security of supply outlook for the decades to come. In addition, the EU is:

- transitioning to a decarbonised energy system;
- diversifying away from Russian gas, with a higher share of LNG in natural gas' supply mix;
- technologies like biomethane will evolve over the years;

- the demand structure may look different in the future than it does today, and;
- the physical and cyber protection of gas infrastructure may become increasingly relevant.

At the same time, we need to ensure security of gas supply in the next few years, which will still be challenging.

Question 1: Considering the above, what are your views on where we will be in the next two decades in terms of security of gas supply and how should our security of supply architecture evolve over the years? If you have developed relevant dedicated national scenarios or outlooks for the future gas demand, supply and risk landscapes, please refer to those.

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EFET agrees that gas will continue to play a role in the EU energy mix in the coming decades and that it is an important source of flexibility underpinning the process of decarbonization. We must also recognise the role played by gas in underpinning security of electricity supply, especially with growing penetration of intermittent generation.

The current energy crisis has shown that the existing gas market framework is remarkably robust, but at the same time it has shown that strong integration and solidarity are more important than ever. However, barriers to trade gas freely between different parts of the EU still exist related to access terms and capacity availability, and not only physical interconnectedness. These need to be addressed.

There are also examples of where interventions have reinforced the dominant position of the former incumbents. Going forward, the EU must hold a common stance against crisis situations and recognise the regional effects, not only nationally.

Gas Coordination Group

Articles 3 and 4 of the Gas Security of Supply Regulation specify the responsibilities of the different actors in the field of security of gas supply, as well as the rules and procedures of the Gas Coordination Group.

Question 2: Considering the experience gained over the last years, in particular the challenging year 2022, what do you consider positive and should be maintained? Are there elements you would prefer to conduct differently?

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The information exchange and discussions held within the Gas Coordination Group (GCG) have helped coordinating actions throughout the crisis, and ENTSOG's central role in this process is greatly appreciated. Regular meetings of the GCG overall are a good place to discuss the different matters arising, and its framework should be retained in the future.

Further guidance would be beneficial in terms of assigning responsibility for supply security under art. 3, since some countries place a heavy burden onto market participants without recognition of the impacts on these companies' continued ability to operate. While it is clear that both private and public companies need to take the necessary steps to guarantee supply security, it is important to ensure that obligations and support are not structured in such a way as to remove competition and choice.

Question 3:

Do you consider the composition of the Gas Coordination Group appropriate? Would you suggest a different composition and for which purpose?

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We find the current composition of the Gas Coordination Group appropriate and we have appreciated more frequent meetings during crisis situations such as one that Europe is currently experiencing. Active participation from all the Member States could be further encouraged to ensure an open discussion and create opportunities to promote best practices in terms of ensuring supply security.

Question 4: Would articles 3 and 4 of the Regulation need more operational provisions?

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Additional provisions preventing the introduction of security of supply-related measures that result in market distortions would enable the EC to take appropriate action whenever such situations occur. Strong gas market integration is a long-standing aspiration of the EU and an important contributor to supply security, particularly in the current geopolitical environment. Increased transparency on SOS related TSOs' actions is also necessary.

Infrastructure standard and bi-directional capacities

The infrastructure standard (N-1), as outlined in Article 5 of the Gas Security of Supply Regulation, has helped to create adequate interconnection capacity between Member States, which in turn helped to diversify away from Russian gas in 2022. Paragraph 9 also exempts several Member from this standard. Paragraphs 4-7 ensure bidirectional capacities of all interconnections between Member States, unless justified according to a specific procedure.

Reminder: N-1 refers to the disruption of the single largest infrastructure and S-1 to the disruption of the single largest supply source.

Question 5: Does the changing context of the past years, with changing flow patterns, primarily in light of the rising prominence of LNG, mean that adaptations to the infrastructure standard are needed? Including regarding the bi-directional requirements and its exemptions?

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Current provisions of art. 5 cover a reasonable approach towards the adequacy of the infrastructure capacity, including cost-benefit analyses for any envisaged network expansions, reinforcements, or extension exemptions. Any project of this sort should be analysed on a case-by-case basis and we see no need for additional provisions at EU level in this context.

It may be prohibitively expensive to create bidirectional flows on pipelines where there is no commercial demand because the circumstances for their use are considered too unlikely. Yet TSOs could identify which interconnection points would be best suited to reverse flow, and have plans in place such that a speedy reversal can be implemented if circumstances arise. In the meantime, any opportunity to market backhaul capacity in the form of interruptible capacity should not be missed.

Question 6: Given (1) the changing supply structure to the EU (including a higher share of LNG), (2) the lessons learned of 2022 and (3) the changing risk landscape, should we incorporate an S-1 standard and /or develop an N-2, or even 3 standard ?

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EFET advises caution in terms of taking additional measures that could lead to severe overinvestment in gas infrastructure. Potential projects could be expensive, with costs transferred via network users onto end-customers. With gas consumption expected to fall in the medium term, overinvestment in the gas network for security of supply reasons can prove to be more damaging and costly than any temporary supply interruption that would be avoided. Demand-side flexibility has proved to be an extremely effective and economic response to addressing temporary shortfall. If further precautionary measures are to be considered by the Member States beyond the current framework - that has already proved to be robust - then forms of financing and recovery should be made explicit.

Supply standard

Article 6 of the Gas Security of Supply Regulation defines the legal requirement to impose a gas supply standard on natural gas undertakings, to ensure gas supply to protected customers, with pre-defined criteria.

Question 7: What are the challenges you have experienced in implementing and/or enforcing the gas supply standard? Would you have any suggestions to improve the supply standard and their enforcement in the future?

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Agreeing a definition of protected customers has taken a long time and further harmonization is still needed. Inconsistent approaches on these grounds can undermine the solidarity principles and negatively impact supply security.

We further note that while subpoint 6.5 explicitly encourages a regional approach to meeting the supply standard, it is not always respected by national legislation that tends to establish a clear preference for the use of national infrastructure and storage facilities.

Subpoint 6.6 stipulates that SofS-related obligations should not act to the disadvantage of commercial activities. Greater reinforcement of this point is needed, since some national obligations result in additional operational costs that are subject to no remuneration. In some instances, SofS-related provisions are established with no tangible link to protected consumption volumes and are even placed on companies that are not involved in supply activities at all.

Question 8: Are there specific challenges related to undertakings operating primarily outside your national territories?

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No comment.

Question 9: Article 24 of the (EU) 2022/2576 Regulation on solidarity rules allows Member States to reduce the non-essential consumption of protected customers. Would you consider this a provision that is useful to keep beyond the expiration of the temporary solidarity Regulation? Do you see scope for more harmonised definition of protected customers (whose consumption should be able to be monitored precisely)?

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Cooperation and coordination at a time of crisis are essential for supply security. In crisis situations arising from a supply shortage, demand cuts ultimately remain the only source of flexibility after all the alternative supply options have been exhausted. As such, we support coordinated measures that introduce gradual demand cuts while keeping the system operational, yet we also note that a large proportion of the demand drop over the course of last year was a response to rising gas prices on the market, proving that the market has worked properly.

Judging by the experience with agreeing on a definition of protected consumption to date, we do support greater harmonization in this respect. That said, we doubt that precise monitoring of some offtakes covered by such definition would be possible without making significant investment.

Risk assessments

Among others, Article 7, as well as Annex I, define the requirements and composition of the risk assessments and regional risk groups. During the current crisis, the process of carrying out the common risk assessments in the risk groups by Member States led to significant challenges. No Member State volunteered to lead certain regional groups. Feedback received by the Commission points to difficulties in administrative capacity to carry out the tasks laid out in the Regulation, as managing the challenging circumstances of the gas crisis was the priority.

Question 10: What are the main problems and challenges Member States faced when developing the Common Risk Assessments you have contributed to?

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No comment.

Question 11: Is a regional approach to assess risks, rather than an EU-wide, on top of the national one still appropriate?

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Although we don't have hands-on experience with the risk assessments run by the Member States, we would not consider the regional and EU-wide approaches to be mutually exclusive. Ultimately, any regional crisis affecting the EU gas market can become the shared concern of all the Member States and needs to be addressed as such. In any case, any form of intervention should only be considered after the market-based measures have been fully exhausted.

In case of favorable reply to 11

Question 12: Are the national risk assessments sufficiently addressing risks facing your Member State, and are these national risk assessments shared with neighbouring Member States?

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No comment.

Question 13: How do you think the regional risk groups and the process of the common risk assessments can be improved?

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No comment.

Question 14: Is a deletion or an update of the composition of the risk groups needed to adapt to the changing supply patterns and the recent infrastructure developments? What geographical criteria or composition would you consider more appropriate?

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No comment,

Preventive Action Plans and Emergency Plans

Articles 8, 9 and 10 of the Gas Security of Supply Regulation specify the requirements for the Preventive Action Plans and Emergency Plans. Preparing updated Preventive Action Plans and Emergency Plans is a legal requirement foreseen in Articles 9(11) and 10(2), and which is essential to ensure winter preparedness for the next winter. The draft plans need to be shared 5 months ahead of the deadline, according to Article 8(6). Besides being essential to ensure preparedness for the next winter, the Commission's assessment of the updated plans form the basis of the Commission's report due by 1 September, as outlined by Article 17.

Question 15: In case your plans have not been submitted yet, could you please share the draft Preventive Action Plans and Emergency Plans that you shared with your neighbouring Member States and inform the Commission when do you plan to notify your final plans to the Commission?

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No comment.

The Emergency Plans have recently required an update in light of the Demand Reduction Regulation, and both Preventive Action Plans and Emergency Plans are required to be updated by competent authorities as part of the regular four-year update foreseen in Articles 9(11) and 10(2):

Question 16: Given the recent experiences of Member States with updating the Preventive Action Plans and the Emergency Plans to a changing risk landscape, how can both the process as well as the substance of the plans be improved, e.g. via an updated template?

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The Regulation should state clearly that the NRA tasked with analysing the impact of any measure potentially affecting national and/or EU gas market (pursuant to Art 9.7 a, and b) should also consult market participants. This would encourage stakeholder engagement and help identify potentially unintended impacts on cross-border gas flows. Ensuring that updated plans are promptly made available on the websites of both the national competent authority and the Commission, in the national language and in English, is also important for wider stakeholder understanding and preparedness.

Question 17: What are the main difficulties you are encountering to test the plans? Which parts of the plans do you consider should be changed or which elements would you like to see reflected in the report?

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No comment.

Question 18: In particular, have the plans been tested according to Article 10(3) of the gas SoS Regulation? How can the tests be further improved (e.g. by including other energy sectors)?

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No comment.

Crisis levels

Articles 11 and 12 define the rules, procedures and responsibilities in different national crisis levels, as well as in a Union-wide or regional emergency. In 2022, we have seen 11 Member States declare early warning, and one Member State declare alert. In addition, the Gas Demand Reduction Regulation created the possibility to declare an EU alert level, which would trigger a mandatory 15% reduction of gas demand.

Question 19: As was highlighted by Member States during the solidarity test ('dry run' exercise) of December 2022, in contrast to an EU alert, the exact impact of declaring an EU emergency is comparatively undefined. Would you see a need to improve the current rules and procedures for national and EU-wide crisis levels, for example by clarifying the roles between different EU bodies and Member States?

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In any alert/emergency situation, division of responsibilities between the stakeholders involved should be transparent so that the impact on commercial arrangements can be clearly foreseen, and the chaos of a market shutdown is avoided. In any case, intervention should not precede market response, as this may only worsen the problem. The experience of last year has shown that markets react accordingly to price signals, which need to be retained as long as possible. Any attempt to cap or overwrite freely formed wholesale prices risks precipitating a disorderly market shutdown and undermines the confidence of global suppliers in EU gas markets. As the physical conditions deteriorate to a level at which voluntary demand reduction is insufficient, EFET encourages greater coordination in terms of delivering on the mandatory demand cuts. A single notification hub on the Commission website would be helpful.

Question 20: Would an EU emergency plan, similar to the national emergency plans with clearly defined roles, procedures and measures to be taken, be an improvement to the current architecture?

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As mentioned under question 11, we consider that an EU-level emergency plan could be a helpful addition but should not replace the establishment and implementation of national and regional emergency measures. Since a national crisis can escalate to a regional and then an EU-wide one, we would support establishing an overarching plan that would help countries and regions prepare for any measures that may need to be taken after a warning is issued in one Member State. While we recognize the challenge such a plan constitutes, it would be a useful exercise, much in the spirit of establishing an internal market for gas. It could possibly also help to prevent pre-emptive invocation of interventions, whenever the market is still functional and bringing about a supply-demand balance through voluntary actions.

Question 21: Would it be relevant to include, beyond the current Demand Reduction Regulation, a mechanism of EU alert that can be triggered before an EU emergency?

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Alerts and early warnings can support better coordination and can potentially benefit timely implementation of the emergency measures.

Question 22: Should such new EU alert mechanism be linked to demand reduction measures, with a reduction period and target tailored to the situation at hand, and/or to other measures and if yes which ones?

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An alert mechanism should be based on anticipated reductions of supplies, whether through production or transportation outages or through geopolitical interference.

Question 23: In an EU emergency, Article 25 of the (EU) 2022/2576 Regulation on solidarity rules allows the Commission to terminate undue restrictions of cross-border flows as competent authorities would now be required to modify its actions after the Commission's request, to comply with Article 12(5) of the Gas Security of Supply Regulation. Would this provision be relevant to be maintained in the security of supply architecture beyond the expiration date of the temporary Solidarity Regulation?

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EFET firmly believes that a well-integrated internal market for gas is the most economic and efficient way to provide supply security in all of the EU. We underline that the resilience of the gas market has already been evidenced over the course of 2022. It is therefore of paramount importance to ensure that any undue restriction to cross-border flow is addressed as soon as possible and measures that enable taking action on such distortions by the Commission should be part of the security of supply framework.

Solidarity agreements and Council Regulation (EU) 2022/2576

Since the Gas Security of Supply Regulation was adopted in 2017, Member States experts have worked diligently on trying to prepare bilateral solidarity agreements, which have often not resulted in endorsement at political level. Moreover, during the solidarity test ('dry run' exercise), conducted jointly by the Commission, Member States and TSOs in December 2022, the solidarity provisions of the Gas Security of Supply Regulation, as well as the by-then-agreed Solidarity Regulation were tested. Here, for example, the timing of providing solidarity (three days) that is outlined in Regulation (EU) 2022/2576 was deemed inadequate by Member States, as solidarity via pipeline would need to be provided quicker (within 24 hours was deemed more appropriate).

Question 24: Taking the outcomes of this dry run exercise into account, as well as your experience trying to conclude bilateral solidarity agreements, do you think the solidarity provisions are adequately covered by both the Gas Security of Supply Regulation and Council Regulation (EU) 2022/2576 providing default rules on procedures to activate and provide solidarity and on compensation? If not, what elements would you like to see improved? Please distinguish the procedure to activate and provide solidarity and the rules on compensation.

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No comment.

Question 25: Would you consider the extension of pipeline solidarity to LNG solidarity as a beneficial addition to ensure security of supply during an emergency? Do you see scope for improvements for instance for pipeline solidarity obligations not limited to neighbouring countries (two Member States linked via a non-EU country are bound by solidarity but not two Member States linked via a third Member State)?

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Bearing in mind the challenge the establishment of solidarity agreements has posed up to this point, we doubt that further extension of the number of required agreements would be realistically enforceable, even if desirable. Provision of additional gas from a third Member State can perhaps be more easily achievable through the intermediation of the MS transiting gas under the already established (although not yet implemented) framework for solidarity support.

In terms of LNG solidarity, we believe that market mechanisms are best placed to divert the cargoes to destinations where they are needed and valued most. This is why it is so important to ensure unrestricted formation of prices in all parts of the EU.

Question 26: Would you consider important to keep the extension of guarantee of supply to critical power plants and, if yes, would you recommend particular improvement to the Gas SoS Regulation and Solidarity Regulation in that respect?

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We believe that the works of the JRC have already helped identify critical gas fired plants that should be in scope of the regulation. The relevance of a given plant as “critical” should by default be verified under the periodic revision of the emergency plans and can build on the framework proposed by the JRC.

Information exchange

Article 14 of the Gas Security of Supply Regulation contains requirements on the exchange of information, both before and during the activation of an alert level. For example, Article 14(6) requires gas undertakings to report to the competent authority a list of details on gas supply contracts, which in turn should be notified to the Commission.

Question 27: Would you see a way to further operationalise Article 14 of the Regulation? For example, last year the Commission has set up an online template to collect data, e.g. based on Article 14(1) for Member States to report to the Commission, but this was not used in a standardised way. Would an improved standard template for data sharing help operationalise this task?

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EFET warns that disclosure of detailed contractual terms beyond what is absolutely necessary to assess Security of Supply creates additional risk of breach of commercial confidentiality, which is unwelcome to international market participants. The Commission should ensure that only essential information must be reported.

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Question 28: With which country / organisation and by which means would you see an enhanced international cooperation of the EU.

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Some voluntary cooperation with UK, Norway, Algeria, Switzerland could be considered. In any case the market mechanisms and free price formation have underpinned and supported timely and appropriate reaction to the sudden loss of supply. This further reinforces the conclusion that an integrated and competitive gas market of the EU should be seen as the best safeguard of supply security.

Question 29: Based on your experience with the implementation, enforcement and/or working under the provisions of the Gas Security of Supply Regulation, would you like to make a specific comment on the possible means to enhance the security of gas supply at Union level?

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Decisive actions need to be taken against practices that foreclose national markets, offer preferential treatment of some companies on SoS grounds, restrict the free cross-border flow of gas and ultimately

disincentivise investment in gas production. This particularly relates to:

- Poland – market foreclosing storage obligations established with clear preference for Polish storage facilities and for the benefit of the former incumbent;
- Bulgaria – obligations to store gas under Regulation (EU) 2022/1032 while offering liquidity support only to the former incumbent. Compensation mechanism for companies obliged to store gas has not been introduced;
- Romania – fixing a price for domestic gas production that discouraged investors in new fields that would otherwise have improved gas supply security in the region;
- Germany and Austria – establishing a levy to finance the build-up of a gas reserve that is now collected on all, including cross-border exits, affecting prices in all of Europe.

The context of renewable and low-carbon gases and their trading across borders also needs addressing.

The role of natural gas in supporting security of electricity supply and to the developing markets in renewable and low carbon gases cannot be ignored. The extent of this support and its value should also be considered when establishing any new framework.

Concerns about the MCM and its adverse impact on willingness to trade should also be recognised, allowing early phase-out.

End of the questionnaire.

Thank you for your participation!

Contact

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