

(C) Main recommendations for improvements

(1) Better describe the context of the proposed actions and provide stronger evidence in support of the identified problem and drivers. The report should provide a much clearer description of how the gas sector works, in particular in relation to the physical and contractual aspects of gas transportation and delivery. The current description could be enhanced by including an example of how the system works in practice, clearly differentiating the roles of the various players in the value chain. The occurrence of supply shortages or other problems arising from contractual congestion should be supported by concrete evidence, e.g. in terms of complaints from new entrants, and the report should clearly describe the scale and extent of the problem, in economic and geographical terms.

(2) Develop a full baseline scenario. The report should clarify how the situation may evolve at interconnection points (IPs) in the future without further EU action. The impact of the Commission competition investigations and of the full implementation of the Third Package should also be explicitly taken into account. The improved baseline should then be used to compare with the other policy options that are presented later in the report, and as the basis of discussions regarding their relative effectiveness.

(3) Clarify basis for EU action. The report should better explain the legal basis in particular by clarifying procedures under the Third Energy Market Package for the establishment of Network Codes (NCs), the roles of the national regulatory authorities (ACER) and other entities and should make clear which procedure for establishing NCs this proposal falls under.

(4) Clarify the content of the options and provide a stronger justification for extending the application of the proposed measures to all IPs. Since the report makes clear that the implementation of new congestion management rules could mean operational costs for both Transmission System Operators (TSOs) and market players, in particular in Member States where contractual congestion does not seem to be a problem, and since some stakeholders expressed concern regarding harmonisation of the rules in the consultation phase, the report should provide a stronger justification for the extension of the rules to all IPs and should indicate how Member States' and other stakeholders' views have been taken into account in the formulation of the new rules.

(5) Present a better assessment of the impacts and comparison of the options. More concrete data should be provided for each of the impacts discussed, and where possible, quantitative economic data should be given. More information about the views of specific categories of stakeholders should be presented. The report should attempt to quantify the level of administrative burden using the EU Standard Cost model or, where this is not possible, a full explanation should be given. A clear comparison of all options using the criteria of effectiveness, efficiency and coherence should be provided, preferably using a scoring system and an overview table that is consistent with the conclusion for the preferred option package.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation

Technical terms should be explained as they are encountered in the text, and the language should be kept appropriate for the non-expert reader. A more operational evaluation arrangement should be indicated, including timing. The different views of stakeholders should be integrated throughout the report on all key points.

(E) IAB scrutiny process

Reference number	ENER/2011/011
External expertise used	No
Date of Board Meeting	Written procedure