

## Transparency sought over the proposed measures to combat the energy supply crisis

Energy Traders Europe welcome the opportunity to comment on the consulted Act to Combat the Energy Supply Crisis. We appreciate the extensive explanatory memorandum which accompanies the draft, yet we use this opportunity to clarify some outstanding points that are not clear to us and can have considerable impact on the gas market.

### Key messages

1. Market-based approach to storage filling should be the preferred approach to encourage the desired level of stocks. Storage obligations should only be treated as a last resort and should not be imposed on companies which do not supply end customers in the Netherlands. If deemed necessary, clarity is needed over who is expected to hold the obligation to fill the storages and the size of this obligation at least a year in advance.
2. Bearing in mind the significance of TTF for the gas market and the solidarity principle, the Act should make it clear that no security of supply-associated costs would be charged at interconnection points, including with third countries.
3. It is unclear which emergency measures could be invoked under what circumstances, which creates uncertainty and discourages market activity. In addition, gas export ban should not be invoked particularly at times of a crisis, as this may weaken the resilience of the broader EU gas infrastructure.

Amendments to the Energy Act (art. 5.1) envisage a national filling target level (new art. 2.69 paragraph 1). By amending the Mining Act (art. 5.2), a designated entity will be tasked with filling gas storages to the national filling target level (new paragraph 82(3)(a)) in case market parties have not done so sufficiently. By an amendment of the Energy Act the Minister can also impose obligations on natural gas companies and large end consumers to fill gas storages (new art. 2.69 (2)). We believe that storage obligations

have detrimental impact on market dynamics and liquidity and therefore, in our view, **the Act should make it clear that the above-mentioned obligation is a last resort that could only be imposed on entities engaged in supplying end customers in the Netherlands.**

In addition, since we understand that the obligation has already been imposed on an entity by the Ministry, we would appreciate **confirmation that no filling obligation would be imposed on other stakeholders**, particularly gas trading entities. Limited clarity over prospective obligations to fill the storages would have an even higher negative impact on the Dutch gas market.

We would also like to stress the **need for clarity when it comes to application of a levy** to finance the costs arising from administered storage filling. Art. 3.9 states that the levy can be charged at exits from the transmission system, both exits to end users and exits to certified interconnectors, whereas the addition to the Energy Act (art. 2.70) mentions "exit points other than a gas interconnector". Considering the importance of the Dutch gas hub, we would appreciate a **clear indication that the security of supply-related levy would not be charged at interconnection points** (be it with other Member States or with third countries) **or at exit points to storage**. Experience with a similar levy charged at exits from the German transmission system over the past years has shown how distortive such measure could be, hence clarity on this point is of utmost importance. We also note that the article 3.9 specifies how the obligatory filling costs will be levied, but there is no indication how the designated entities will be compensated.

As an **alternative to the proposed storage obligations**, we suggest using market-based measures, such as an open tender procedure (if need be, combined with subsidies), as was done in 2022 to incentivize filling the Bergermeer storage, as the current obligation does not incentivize market parties to hold capacity in storages. During such auctions market participants could voluntarily offer individual commitments to inject into storage and retain the gas for a given period, ensuring that filling targets are met. This would also help preserve the attractiveness of the TTF, reassuring shippers that interventions to the market are truly treated as a last resort measure.

We further note that **expropriation of gas as an emergency measure** has been explicitly mentioned under Art. 2.7 of the Act in question. We would therefore like to

confirm that such measure could only be invoked when the Netherlands is requested to provide solidarity gas to another Member State.

Finally, while we recognize that the possible interventions listed in the draft are intended to tackle a gas crisis only, the implied possibility of imposing a **gas export ban** (art. 2.6d) goes against the spirit of solidarity and regional approach to security of supply. Considering that the Security of Supply Regulation builds extensively on regional cooperation and joint crisis response, we do not believe such measure can help addressing any form of a crisis without aggravating the situation for the entire region.

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