Details on Gazprom's commitments

The Commission's Statement of Objections set out three main competition concerns. Gazprom's commitments respond to these concerns. It has committed to observe the commitments for eight years.

1)   Enabling the free flow of gas in Central and Eastern Europe

The Commission has concerns that Gazprom imposed **territorial restrictions** in its supply agreements with wholesalers and some industrial customers in eight Member States (*Bulgaria, the Czech Republic, Estonia, Latvia, Lithuania, Poland, Hungary* and *Slovakia*). These restrictions prevent the free trade of gas within Central and Eastern Europe.

Gazprom has committed to remove **all contractual barriers to the free flow of gas** in Central and Eastern European gas markets. In addition, it has committed to **take active steps to enable their better integration**:

- *Remove market segmentation* -Gazprom will remove all direct and indirect contractual restrictions that prevent its customers from re-selling gas they have bought across borders, or make it economically less attractive for customers to do so. This means that in addition to removing restrictions on gas re-sale (e.g. export bans, destination clauses), Gazprom will remove all clauses which reduce its customers' business incentives to re-sell gas (e.g. where Gazprom would get a share of the profit from re-selling). Gazprom will also not to reintroduce such clauses in the future.

- *Facilitate market interconnections with Bulgaria* – The provisions in Gazprom's contracts on the monitoring and metering of gas in Bulgaria have isolated the Bulgarian gas market from the neighbouring EU gas markets. Gazprom has committed to make changes to the relevant contracts. This will put the Bulgarian operator of the gas transmission infrastructure in control of the cross-border flows of gas and facilitate interconnection agreements between Bulgaria and its EU neighbours, in particular with Greece.

- *Create opportunities for more gas flows to the Baltic States and Bulgaria* – If customers want to re-sell gas across borders, they need access to gas infrastructure in order to ship the gas. Bulgaria and the Baltic States currently lack access to such interconnections with their EU neighbours. Gazprom has committed to give relevant customers in Hungary, Poland and Slovakia the possibility to ask for delivery of all or part of their contracted gas to entry points into the Baltic States and Bulgaria. This would enable customers to seek new business opportunities in the Baltic States and Bulgaria, even before the connecting gas infrastructure becomes available. Gazprom would be allowed to charge a fixed and transparent service fee, in line with what it would typically charge for such services in the market.

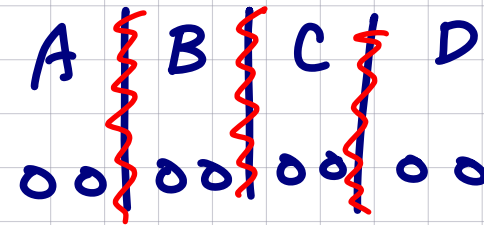**2)   Ensuring competitive gas prices in Central and Eastern Europe**

The Commission has been concerned that the territorial restrictions have allowed Gazprom to carve up the market, as a result of which it may have been able to pursue an **excessive pricing policy** in five Member States (*Bulgaria, Estonia, Latvia, Lithuania* and *Poland*).
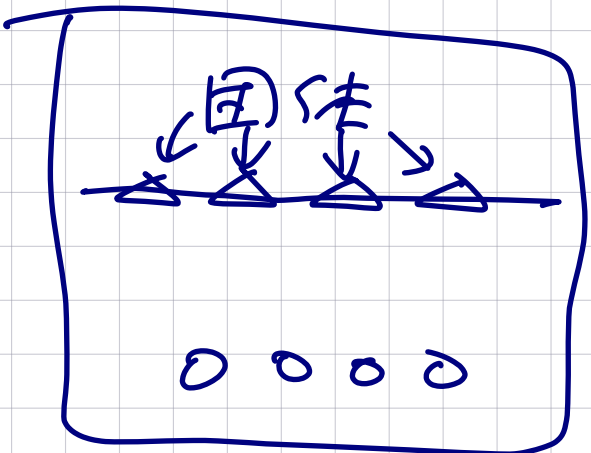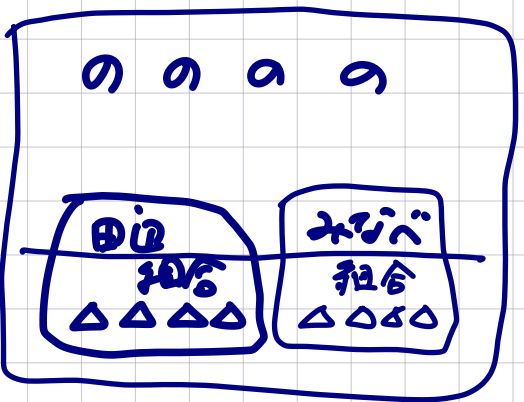
Gazprom has committed to introduce a number of important changes to its contractual price revision clauses to ensure **competitive gas prices** in these gas markets:

- *Gas prices linked to competitive benchmarks:*Gazprom will introduce competitive benchmarks, including Western European hub prices, into its price review clauses in contracts with customers in the five Member States. Price review clauses enable customers to request changes to their gas price. The commitments will give the customers an explicit contractual right to trigger a price review when the prices they pay diverge from competitive price benchmarks. This would ensure competitive gas prices in these regions in the future.

- *More frequent and efficient price reviews:*Gazprom will increase the frequency and speed of price revisions. For those contracts, for instance in the Baltic States, where price revision clauses do not currently exist, Gazprom will introduce clauses reflecting the above elements.
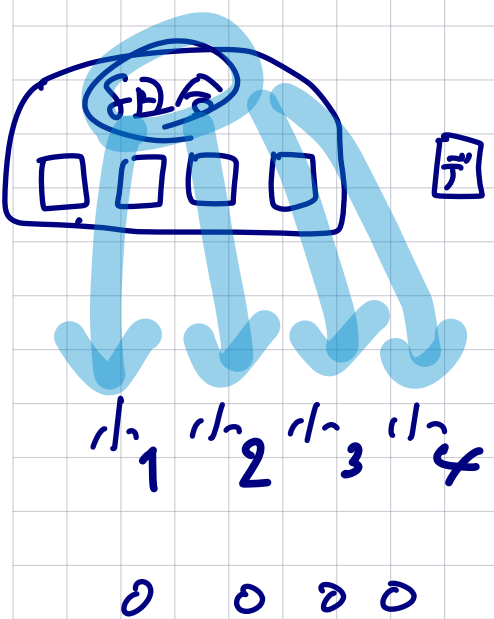
第八条　事業者団体は、次の各号のいずれかに該当する行為をしてはならない。

一　一定の取引分野における競争を実質的に制限すること。

二　第六条に規定する国際的協定又は国際的契約をすること。

三　一定の事業分野における現在又は将来の事業者の数を制限すること。
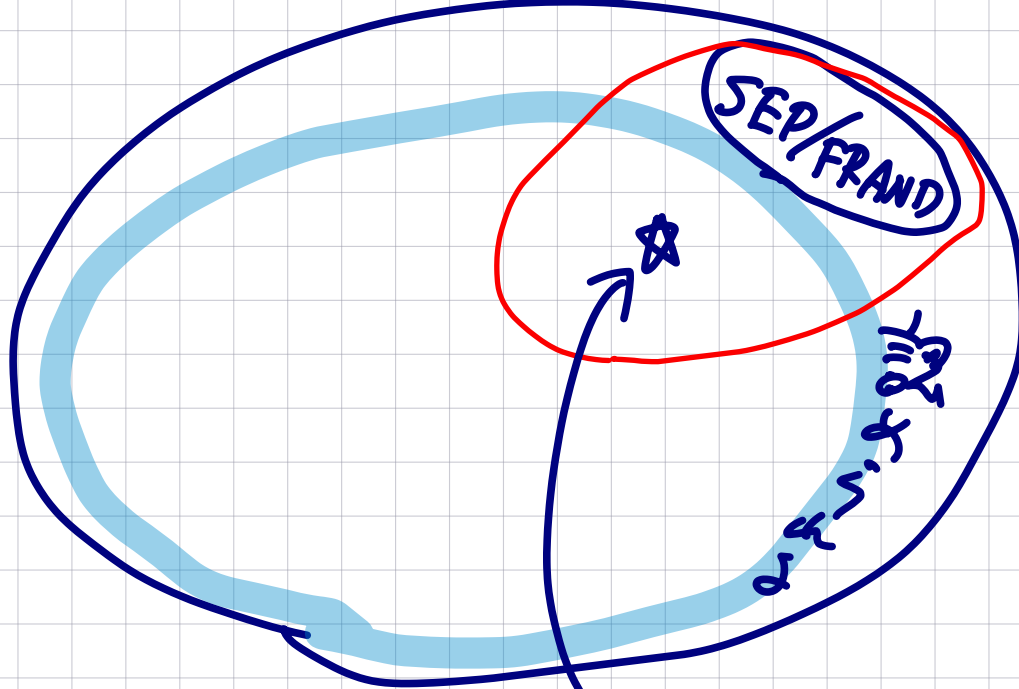
四　構成事業者（事業者団体の構成員である事業者をいう。以下同じ。）の機能又は活動を不当に制限すること。

五　事業者に不公正な取引方法に該当する行為をさせるようにすること。

また，技術に権利を有する者が，他の者にその技術を利用させないようにする行為及び利用できる範囲を限定する行為は，外形上，権利の行使とみられるが，これらの行為についても，実質的に権利の行使とは評価できない場合は，同じく独占禁止法の規定が適用される。すなわち，これら権利の行使とみられる行為であっても，行為の目的，態様，競争に与える影響の大きさも勘案した上で，事業者に創意工夫を発揮させ，技術の活用を図るという，知的財産制度の趣旨を逸脱し，又は同制度の目的に反すると認められる場合は，上記第 21 条に規定される「権利の行使と認められる行為」とは評価できず，独占禁止法が適用される[注6]。

反競争性

みられる

SEP/FRAND

認められる

正当な理由
（インセンティブ阻害）
が、ない。

SEP/FRAND事案でも、
FRAND以下の請求をしただけ
なら、「認められる」