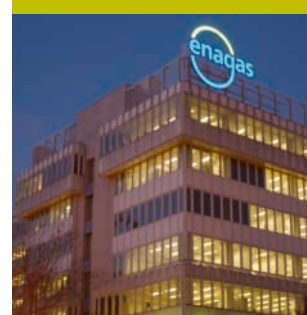




# Corporate Governance and Governing Bodies



## Corporate Governance and Governing Bodies

Enagas began its life as an independent and quoted company on 26 June 2002, with a clear commitment to complying with the principles of and recommendations for good corporate governance.

Reflecting international consensus on the matter, the Enagas system of Corporate Governance was built on the foundations of transparency, independence and defence of the Shareholder.

The Report on Corporate Governance of quoted companies published in February 1998 and known as the "Olivencia Code" was Enagas's starting point for all aspects of the Company's Governing Body, along with the commitment to continue adapting its Corporate Governance regulation to any new recommendations and/or legislation that might be passed.

The listing of the Company on the stock exchanges, as a result of the Initial Public Offer (IPO), led, on the one hand, to the restructuring of the Board of Directors in order to reflect the changes in the shareholding structure and, on the other, to the implementation of the governing principles, then in force, contained in the Report on Corporate Governance of quoted companies (Olivencia Code), primarily through:

- The approval of the Rules of Procedure for the Organisation and Operation of the Board of Directors.

- The approval of an Internal Code of Conduct with regard to Securities Markets, pursuant to the terms of Royal Decree 629/1993, of 3 May, on the rules of procedure in said markets and compulsory registers.
- The constitution of the Audit and Compliance Committee and the Appointments and Remuneration Committee.
- The incorporation into the Board of three Controlling Directors to represent the new Shareholders.
- The incorporation into the Board of six Independent Directors.

However, Enagas's commitment to Corporate Governance did not stop there, for it has also established the objective of adapting itself to any new recommendations that might arise on the subject.

That is why Enagas paid special attention to the Report for the Promotion of Transparency and Security in the Markets and in Listed Companies, published on 8 January 2003 and known as the "Aldama Report", verifying that many of the recommendations contained therein had already been put in practice. At the same time, the necessary measures are being taken to substantially introduce other recommendations found in said Report.

Below is information on the degree of Enagas's compliance with the measures proposed in the Aldama Report.

## Information and Transparency

Enagas has published and sent the National Securities Market Commission (CNMV) information on the shareholding structure, the rules of procedure for the organisation and operation of the Board, its offices and its relations with the controlling Shareholders.

The criteria for conflicts of interest and for relations with significant Shareholders are also public.

This new era has also witnessed the launching of the Enagas web page ([www.enagas.es](http://www.enagas.es)), where, in addition to information on the gas system itself, much of the company information recommended by the aforementioned Aldama Report is also available.

Finally, this report on Corporate Governance is, in itself, the product of compliance with one of the recommendations in the Aldama Report, and it reflects the degree of Enagas's commitment to its Shareholders and the market with regard to this area.

## General Shareholders' Meeting

Enagas's first General Meeting as a listed company was held on 25 April 2003.

It was Enagas's unequivocal wish to follow the Aldama Report's recommendations in the preparation and organisation of this General Meeting.

Thus, the Meeting was called with the legally required announcements (published in the Official Bulletin of the Spanish Registry of Companies and in two widely circulated

newspapers in the province of the registered office), with well over the fifteen days of advance notice established in the Corporations Act, and the announcement was run a second time in the press eight days before it was held.

In addition to the call itself, and acting on new recommendation contained in the Aldama Report, the full content of the proposals to be submitted for consideration by the General Meeting, along with a justification and explanation thereof, was also made available to Shareholders.

Enagas employed all possible technical and human means to guarantee a high degree of participation, not just by significant and institutional Shareholders, but also by small Shareholders.

## Board of Directors

The Governance of Enagas, with regard to those aspects not expressly reserved for the General Meeting, is carried out by the Board of Directors and its Committees.

Enagas's active commitment to the adaptation of the operation and organisation of its Board of Directors stands out, and, thanks to the different actions carried out in recent months, it can be said that its degree of compliance with the CNMV's recommendations and those contained in the Olivencia and Aldama Reports is comparable to that of the largest listed companies. Of course, Enagas does not believe its work is over; on the contrary, it remains steadfast in its commitment to actively adapt itself to any future trends or rules that might arise.



### **Current Composition of the Board of Directors**

#### **Chairman:**

- Antonio González-Adalid García-Zozaya (Controlling Director proposed by Gas Natural SDG S.A.)

#### **Board Members:**

- Antonio Brufau Niubó (Controlling Director proposed by Gas Natural SDG S.A.)
- Ramón Blanco Balín (Controlling Director proposed by Gas Natural SDG S.A.)
- Luis Javier Navarro Vigil (Controlling Director proposed by BP Energía S.A.)
- Atalaya Inversiones, S.R.L., represented by Carlos Egea Krauel (Controlling Director proposed by Atalaya Inversiones, S.R.L.)
- Bancaja, represented by Julio de Miguel Aynat (Controlling Director proposed by Bancaja)
- Juan Badosa Pagés (Independent Director)
- Rafael Villaseca Marco (Independent Director)
- Robert Malpas (Independent Director)
- Dionisio Martínez Martínez (Independent Director)
- José Riva Francos (Independent Director)
- José Manuel Fernández Norniella (Independent Director)

#### **Secretary of the Board:**

- Luis Pérez de Ayala Becerril

#### **Under Secretary:**

- Beatriz Martínez- Falero García

### **Rules of Procedure for the Organisation and Operation of the Board of Directors**

The Rules of Procedure for the Organisation and Operation of the Board of Directors were approved in the Board's session of 9 July 2002.

The Rules of Procedure are designed to regulate the Board of Directors, and to this end they set forth the principles for its organisation and operation, the governing rules for its legal and statutory activity and its system of supervision and control.

Once approved by the Board of Directors, following the recommendations of the Olivencia Code, the Rules of Procedure were communicated, by personalised letter, to all Board Members and Senior Executives, whose signed copies, in which they confirm that they received them and are aware of the obligations to which they are bound, were deposited with the Secretaryship of the Board.

The basic content of the Board's Rules of Procedure addresses the following aspects, among others:

#### **a) Chairman, Secretary and Members:**

**Chairman of the Board:** No special requirement is established for access to the office of Chairman or Vice Chairman. The Chairman of the Board is also the Company's chief executive officer. Nevertheless, in keeping with the 5th Recommendation of the Olivencia Code, the Board of Administration has a long list of powers that may not be delegated. Moreover, for those decisions that are delegated to the Chairman,

the reports and proposals of the Audit and Compliance Committee, as well as the Appointments and Remuneration Committee, must necessarily be taken into account, and thus it is possible to speak of a high degree of compliance with this recommendation.

**Secretary of the Board of Directors:** The Secretary will be appointed by the Chairman and will be responsible for the formal and material legality of the Board's actions and ensuring that its proceedings and rules of governance are respected and regularly reviewed.

In implementation of the 6th Recommendation of the Olivencia Code, the office of Secretary coincides with that of Legal Advisor (Article 2), a person who, as an attorney, is responsible for ensuring the Board's independence and its capacity to safeguard the legality of its actions. On this point, there is also a high degree of compliance.

**Director-Members:** The Board of Directors is made up of 12 members:

The individuals appointed as Directors should, in addition to meeting the legal and statutory requirements for the position, have a recognised standing and the appropriate personal skills and experience to discharge their duties.

The Board's Rules of Procedure establish three categories of Directors: Executive Directors (with executive competencies and pertaining to the Company's senior management, not to exceed three in number), Controlling Directors (proposed by those holding significant and stable



stakes in the Company's capital, the appointment going to individuals with executive functions), and Independent Directors (those not included in the aforementioned categories).

In compliance with the Recommendations of the Olivencia Code and the Aldama Report, the Enagas Board of Directors is composed of 6 Controlling Directors, one of whom is also the Executive Chairman, and 6 Independent Directors, such that there is a proportional relationship between significant and minority Shareholders.

The following individuals may not be proposed for or appointed as Independent Directors: those who currently have significant ties to Shareholders, as well as those who hold, or have held in the last two years, Senior Executive positions in the Company; direct family members of those who are, or have been in the last two years, Executive Officers or Senior Execu-

tives in the Company; those who have directly or indirectly made or received payments to or from the Company that might compromise their independence; and, in general, any individual who maintains any relation with the company's ordinary management or who, for professional or commercial reasons, is bound to the Company's Executive Officers or other Senior Executives.

#### **b) Obligations of the Directors**

The Board's Rules of Procedure include the obligations of fair administration, non-competition, abstention from conflicts of interest, non-utilisation of the company for personal profit or the profit of third parties, and those obligations of confidentiality to which the directors are subject.

The 16th and 17th Recommendations of the Olivencia Code, as well as the principles set forth in the Aldama Report with regard to the obligations of Directors to act in good faith and with due diligence, to abstain in cases of conflict of interest and to ensure the transparency and control of transactions with significant Shareholders, were also incorporated into the Board's Rules of Procedure, and Enagas complies with them scrupulously so as to prevent the exchange of classified information, attain maximum levels of objectivity in the Board's deliberations and achieve a parity of treatment among all Shareholders.

Article 16 of the Rules of Procedure for the Organisation and Operation of the Board of Directors, approved in the Board's session of 9 July 2002, establishes the obliga-



tion of Directors to act in good faith, stating that, in those matters in which there might arise a conflict of interest, the Director shall abstain from intervening if he is personally affected, including in those matters that affect members of his family or a company not forming a part of the Enagas Group with which he has ties through the holding of an executive position, membership in the administrative body or the possession of a significant stake in its capital.

Moreover, Article 17 establishes the obligation of Directors to ensure the confidentiality of the information to which they have access while exercising their positions, even after resigning from them.

The prohibitions on using non-public information about the Company for private ends and on using Company assets to obtain pecuniary benefits are set out in Article 19.

Transactions with any significant Shareholder are formally reserved for approval by the Board, and, in any case, the authorisation or refusal of this latter must be preceded by a report from the Appointments and Remuneration Committee assessing said operation from the point of view of market conditions.

### **c) Board Meetings**

The Board will meet at least once every two months, according to Article 9 of the Rules of Procedure of the Board and Article 38 of the Company Bylaws.

Notwithstanding the above, meetings have thus far habitually been held on a monthly basis. Thus, the Enagas Board of Directors

met almost every month in 2002, so that the Directors could supervise and actively participate in the Company's management as directly as possible.

Ordinary sessions are called by the Chairman, the Secretary or the Under Secretary, by order of the Chairman, one week prior to the date the session will be held, so that the Directors are informed sufficiently in advance.

### **d) Remuneration of the Directors**

The remuneration of the Directors is regulated by Article 35 of the Company Bylaws and Article 22 of the Rules of Procedure of the Board, in keeping with the 15th Recommendation of the Olivencia Code.

The sums earned in Fiscal 2002 by members of the Company's Board of Directors came to 1,160,000 euros, including those stemming from sitting on both the Board and Committees, as well as the amounts corresponding to professional relations and other direct responsibilities Board members might have had at different executive levels.

The Company Bylaws, in addition to travel allowances, provide for other forms of remunerating Directors, such as: profit sharing, stocks or stock options. Nevertheless, in 2002 none of these remunerative schemes was used.

All information on remuneration in Fiscal 2000, 2001 and the first quarter of 2002 was included in the IPO Prospectus sent to the CNMV, while all of the data for Fiscal 2002 can be found in this Report.

### e) Board Committees

Article 39 of the Company Bylaws and Article 29 of the Rules of Procedure of the Board provide for the constitution, within the Board of Directors, of an Executive Committee, an Audit and Compliance Committee and an Appointments and Remuneration Committee.

The Board of Directors, meeting on 9 July 2002, created an Audit and Compliance Committee and an Appointments and Remuneration Committee.

Greater efficiency and transparency in the exercise of powers and discharge of duties attributed to the Board of Directors justify its creation of the aforementioned Committees, which are assigned decision-making powers for matters whose immediacy or relevancy makes their referral to Board sessions unavoidable.

Both Committees are intended not just to facilitate decision-making with regard to certain issues through prior studies, but also to reinforce the guarantees of objectivity with which the Board should address certain questions.

The Rules of Procedure of the Board state that these Committees shall meet at least four times a year.

Both the Audit and Compliance Committee and the Appointments and Remuneration Committees met on a quarterly basis, and they functioned quite well, taking decisions on questions of great importance to the Company, such as, among others, the approval of the new organisational structure or the monitoring of the Rule on Internal Audits.

The functions and composition of each of these Committees is described below.

#### • Audit and Compliance Committee

**Chairman:** Luis Javier Navarro Vigil.

**Board Members:** Juan Badosa Pagés, Robert Malpas. Bancaja, represented by Julio de Miguel Aynat.

The Committee is responsible for conducting studies and making proposals to the Board, primarily with regard to the following: (a) the appointment or replacement of external auditors for approval by the General Meeting, as well as their salaries; (b) monitoring the development of the annual audit; (c) research of any internal aspects related to the auditing activity; (d) monitoring the performance of the internal financial control system; and (e) reviewing the information on Company activities and results periodically drawn up in compliance with current legislation on the stock exchange.

Specifically, the Audit Committee reviewed the annual accounts for Fiscal 2002, prior to the formulation by the Board of Directors, and recommended that they be signed to the rest of the Board.

The Audit and Compliance Committee includes no Executive Directors, in order to safeguard the transparency and objectivity of its decisions.

#### • Appointments and Remuneration Committee

**Chairman:** Antonio Brufau Niubó.

**Board Members:** Rafael Villaseca Marco, Dionisio Martínez Martínez.



The Committee is responsible for conducting studies and making proposals to the Board, among other things, with regard to the following: (a) the criteria for the remuneration of Company Directors; (b) the general policy for the remuneration of Enagas Executives; (c) guidelines on the appointment, selection, career path, promotion and dismissal of senior Executives; (d) review of the structure of the Board of Directors, the criteria that informs the statutory renewal of Directors and the incorporation of new members; and (e) informing the Board of any transactions that entail or might entail conflicts of interest.

The Appointments and Remuneration Committee, which, among other things, reports on conflicts of interest, is primarily composed of independent directors.

#### **f) Relations Between the Board of Directors and Shareholders**

In compliance with the terms of the Rules of Procedure of the Board, and following the 19th and 20th Recommendations of the Olivencia Code, the Enagas Board has specific duties with regard to the communication of relevant Company events to the Securities Exchange.

Enagas has created an Investor Relations Department to facilitate communication between the company and Shareholders. Through this Department, the Company refers all relevant information to the CNMV and to the Governing Companies of the Madrid, Barcelona, Bilbao and Valencia Stock Exchanges, the Dutch Stock Exchanges and the SEC in the United States in equal conditions.



Moreover, all of the relations and transactions between Enagas and its significant Shareholders are formally reserved for approval by the Board of Directors. In addition, the Audit and Compliance Committee recently entrusted the external auditors with the preparation of an annual report reflecting all of the transactions made each fiscal year between Enagas and its significant Shareholders.

### **Internal Code of Conduct**

In its session of 9 July 2002, the Board of Directors approved an Internal Code of Conduct, containing, among other things, rules on the confidentiality of certain information, the operations of those comprised in its scope, the treasury stock policy, the communication of relevant events and conflicts of interest.

The Internal Code of Conduct applies to the following individuals:

- Members of the Board of Directors.
- Members of the Management Committee.
- General Managers and, where applicable, members of the Boards of Directors and Management Committees of subsidiary or partially-owned companies whose management is controlled by Enagas.
- In general, all those individuals who have access to classified or confidential Company information.

The main obligations to which those individuals subject to the Internal Code of Conduct are bound are as follows:

- To safeguard any classified information to which they have access, abstaining from making any transactions with the securities to which said information refers, as well as from communicating or recommending certain actions to third parties based on said information, all whether directly or indirectly for their own profit or for the profit of third parties.
- To inform the Board Secretaryship of any direct or indirect transaction or operation with Enagas stock, as well as of any portfolio management contracts that are signed, and to abstain from carrying out said operations during the periods in which they have access to confidential information that might effect the value of the stock.

Specific operations carried out by portfolio managers according to their own exclusive criteria need not be communicated to the Board Secretaryship, provided the affected party has not intervened therein.

- To inform the Board Secretaryship of the possible existence of any conflict of interest with the company as a result of family relations, personal property or any other cause, and to abstain from taking any decisions that might be affected by the possible conflict of interests.

The Internal Code of Conduct was communicated to all those individuals subject to compliance with it. Each affected party sent a signed copy thereof to the Board Secretaryship, which is responsible for maintaining an updated list of the people



subject to it at any given time, as well as for processing the notices it should receive concerning transactions with Enagas stock and any existing possible conflicts of interest.

### **Rules of Procedure of the General Shareholders' Meeting**

In compliance with the Aldama Report recommendation, a proposed resolution was incorporated into the Agenda for the first General Meeting of Enagas Shareholders, to be held in April 2003, for the approval of Rules of Procedure of the Meeting, containing the bases and criteria for the call and development of its sessions.

### **Main Transactions with Significant Shareholders and Other Related Parties**

Enagas made the relations and operations it maintains with Gas Natural, Repsol YPF and La Caixa public in its IPO Prospectus, available on the Enagas web page ([www.enagas.es](http://www.enagas.es)), and it has kept the CNMV informed of them at all times.

Below is a summary of the main contractual and financial relations between Enagas and the individuals or legal entities related to the Company, including its significant Shareholders (namely, those whose stakes exceed 5 percent of the share capital), members of

the Board and those companies that exert joint control over any of its significant Shareholders.

#### **a) Relations with Gas Natural and Its Affiliates**

##### **Concerning the Purchase and Sale of Gas for the Regulated Market**

- Gas purchase contract for supply to the tariff market between Enagas and Gas Natural Aproveccionamientos S.A. and SAGANE, by virtue of which both companies, affiliates of Gas Natural, supply Enagas with the gas it needs (both natural gas and LNG) to supply tariff consumers. Said contract is the only one Enagas has subscribed for the purchase of gas; in 2002, 111,652,889,000 KWh were purchased at a total cost of 1.332 billion euros.
- Gas sale contract between Enagas and the Gas Natural Group distributors, necessary for the latter to attend to the supply of the tariff market. Said sale is made at the regulation sale price, based on the average cost of the raw material.

In 2002, revenue from the sale of gas to Gas Natural Group distributors came to 1.339 billion euros, comprising 96.57% of all sales.

##### **Concerning the Provision of TPA Services (Third-Party Access to the Network)**

- Enagas has subscribed multiple regasification, transport and storage contracts with Gas Natural Comercializadora S.A. The con-

tractual conditions are those generally established for all marketers, said conditions being objective, transparent and non-discriminatory for all, and the economic scheme governing them responds to the official tolls and fees.

The global turnover for all of these contracts in Fiscal 2002 came to 78 million euros, 68.48% of the total TPA turnover.

##### **Purchase and Sale of Assets**

Enagas has sold assets to Gas Natural (optic fibres, a satellite plant and three mobile calibration units) for a global sum of 5.8 million euros.

##### **Other Contracts for Property Leasing and Services**

The main leasing, supply and service contracts between Gas Natural SDG and Enagas in 2002 were as follows:

- Lease of minimum safety stocks and strategic reserves, under which Gas Natural leases Enagas the quantities of gas it needs for these purposes.
- Contract by which Desarrollo del Cable, S.A. leases Enagas the fibre optic cable it requires to sufficiently meet its communication needs and its needs for the remote control and command of its gas pipeline network.
- Service contract by which Enagas provides maintenance services for all of the fibre optic cables belonging to Desarrollo del Cable S.A., as well as gas pipeline maintenance services to different Gas Natural SDG affiliates.



- Contract for the supply of electricity to Enagas's regasification plants by Gas Natural Comercializadora.

Gas Natural billed Enagas 27.6 million euros for the aforementioned contracts in 2002. In turn, Enagas billed Gas Natural 10.2 million euros.

### **Contracts in Force Until the Enagas IPO**

Prior to the IPO, there existed contracts for the provision of computer and corporate services for which Enagas paid, up to the month of June, the sum of 10.48 million euros. There was also a credit line open between Enagas and Gas Natural SDG S.A. until said IPO, on which Enagas paid a total of 15.7 million euros as interest.

#### **b) Relations with BP España S.A. and Its Affiliates**

Enagas has subscribed various contracts for access to its regasification, transport and storage facilities with BP España, S.A. The contractual conditions are those generally established for all marketers, said conditions being objective, transparent and non-discriminatory for all, and the economic scheme governing them responds to the official tolls and fees.

The global turnover for all of these contracts in Fiscal 2002 came to 16.2 million euros, 14.26% of the total TPA turnover.

#### **c) Relations with REPSOL YPF and Its Affiliates**

- TPA contracts for the provision of Regasification and Transport services between

Enagas and Repsol YPF. These contracts generated no turnover in Fiscal 2002, since the project has not yet been put into operation.

- Contracts for the leasing of property and services (Gaviota underground storage facility) and for the provision of engineering services (through the Association of Economic Interest— AIE— set up between REPSOL YPF and Enagas). REPSOL YPF billed Enagas the sum of 29.8 million euros for this.
- In turn, Enagas billed the AIE 2.2 million euros for the assignment of personnel.

#### **d) Relations with Caixa d'Estalvis i Pensions de Barcelona (La Caixa)**

- Enagas has various financing contracts with La Caixa:
  - Agreement for credit on current account between Enagas and La Caixa for the sum of 50 million euros, signed in July 2001, with a term of two years, the sum of 42.3 million euros having been drawn to date.
  - Bridge loan for the amount of 1 billion euros between Enagas and various financial institutions, among them, La Caixa, with a share of 199 million euros, signed on 20 June 2002, with a term of one year, in order to replace the credit line that had been open between Enagas and Gas Natural SDG S.A. until the IPO.
  - Guaranty Lines and Loans to Personnel.

The interest paid on all of these financial contracts over 2002 came to 5 million euros.

- Contracts to rent vehicles and computer equipment have also been signed with Caixa Renting, and the instalments paid on them in 2002 came to 649,000 euros.

### **Conclusion**

In conclusion, Enagas, after just ten months of life as a quoted company and only recently listed on the Ibex 35, complies with the majority of the recommendations included in the Olivencia and Aldama Reports, as well as with the latest legislation

enacted by the Law on Reform Measures for the Financial Sector. In just a few short months, it has positioned itself on a level with large companies that have much more experience in this selective index. Nonetheless, the adaptive process is not over yet, for Enagas is firmly committed to adapting itself to all new recommendations and/or legislation, committed to the ongoing improvement of its Corporate Governance policy and the goals of transparency, objectivity and defence of the Shareholder.