

ACER scoping document for Rules for Trading

ENTSOG response to the ACER questionnaire

Since some of the questions are addressed to network users and not to transmission system operators ENTSOG can provide answers to questions that concern TSOs only.

Themes

- *Capacity products and terms and conditions of capacity contracts (limitations to free allocation and standardisation)*
- *Secondary capacity markets*
- *Virtual trading point (VTP) design/access, hub issues*
- *Transparency rules*
- *Licensing requirements for market participants other than TSOs*

Q1: Are the topics identified above the most relevant ones when it comes to Rules for Trading at EU level? Please specify which issue - if any - would merit further elaboration and rank the three most important problems.

Answer:

ENTSOG is of the opinion that open issues regarding the mentioned topics can be completely assigned to respective existing binding EU rules. In general, ENTSOG does not see a need for an additional network code and stresses that sufficient time for the implementation and evaluation of the network codes currently being implemented must be respected.

With regards to capacity products and terms and conditions of capacity contracts, a harmonization of firm capacity products is not favorable because it would cause a devaluation of conditionally firm capacities by labelling them interruptible. Since TSOs use conditionally firm products to prevent congestions and network users prefer the highest possible level of firmness ENTSOG suggests improved product descriptions by other means.

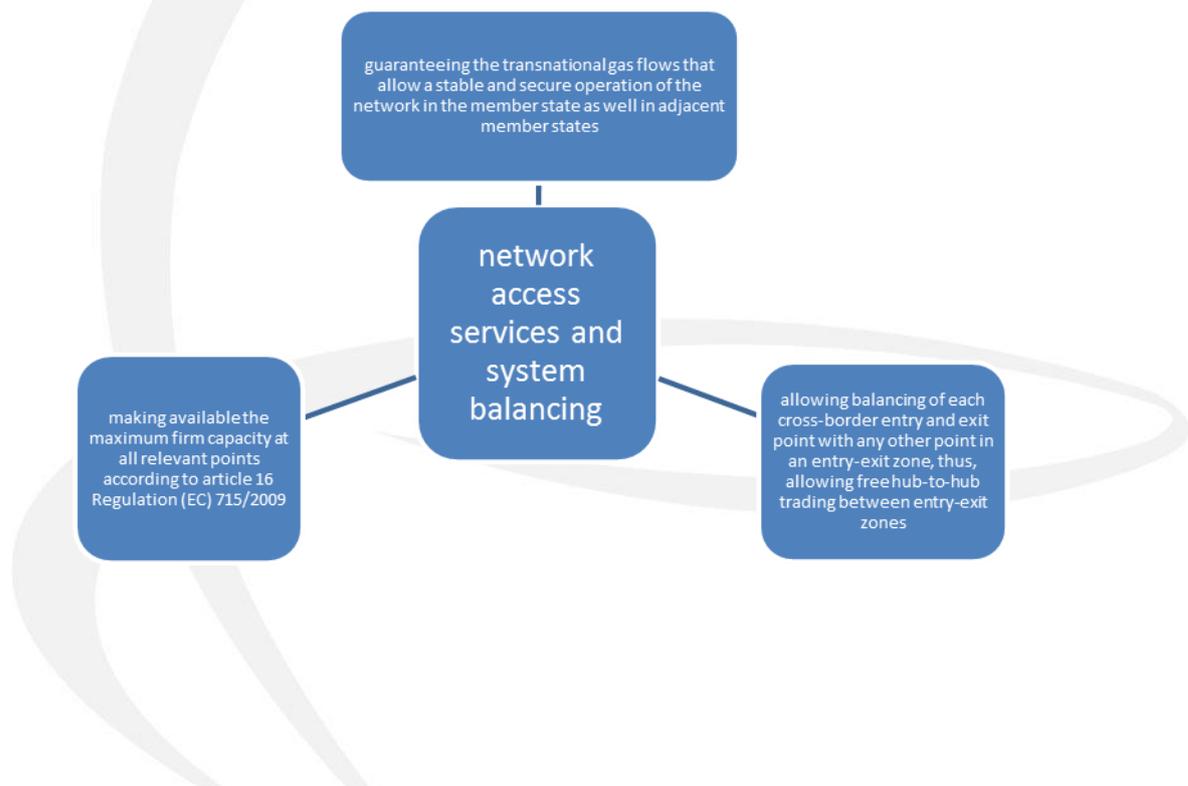
Topics of the secondary market should be dealt with within existing binding EU rules or alternatively through other means.

For certain entry-exit zones the most important problem is the high expectations towards free hub-to-hub gas trading in Europe because physics have been inadequately included in the abstract idea of a hub-to-hub gas target model.

The gas target model assumes that within an entry-exit zone all gas sources and sinks are

equivalent and can be balanced against each other in any way. In reality, however, in many member states large historical supply or transit routes exist. This is because most member states are – in contrast to the situation in the electricity sector – predominantly depending on gas imports. Where the respective pipelines are included in a larger entry-exit zone, the cross-border entry points (sources) and the cross-border exit points (sinks) cannot necessarily be balanced in any way against all other sources and sinks if they are not all together highly meshed by large interconnections within the zone. Without such interconnections in place, system integrity and stability depend on certain gas flows at certain points.

Taking into account the above mentioned historical development of the gas grids from the TSOs' point of view the technical and operational provisions of network access services and system balancing (= rules for trading, acc. Art. 8 para. 6 (h) of Reg. (EU) 715/2009) are within the tension triangle as illustrated here:



The more meshed an entry-exit system is or the smaller an entry-exit system is the fewer tensions arise between the three targets. Thus, in some member states the targets are compatible while in other member states – possibly reinforced by national law – they are contradictory.

It must be emphasized that it is no solution to guarantee transnational gas flows that allow a stable and secure operation of the network only by TSOs' balancing actions ("creation of capacity by local standardized product swaps") since the costs produced will easily exceed an economically efficient level (cmp. Point 2.5 of E10-GWG-67-04 Recommendations for CMP Guidelines, ERGEG 08.09.2010) and must be socialized in the entry-exit zone while the

advantage of the increased hub-to-hub gas flow will be in benefit of the adjacent entry-exit zone.

The topics “capacity products”, “transparency rules for capacities” and “secondary market” are the most relevant ones whereas the first two concern certain European entry-exit zones only. ENTSOG is of the opinion that the topics can be completely assigned to respective existing binding EU rules.

Theme: Capacity products and terms and conditions of capacity contracts

Q2: Do you agree that the key requirements for capacity products (besides its location, its direction and its duration) are as follows:

- *Firmness: unconditional firm / conditional firm (e. g. depending on temperatures) / interruptible*
- *Allocability: free allocability / restricted allocability to designated points / restricted to designated points but combined with interruptible free allocability to all points including VTP*
- *Tariff relations between different capacity products*

Please rank the most important aspects of capacity products for your business. If there are other aspects you find more important, please name them and explain why.

Answer: The most important aspect is to offer a maximum of firm capacity at every relevant point (article 16 Regulation (EC) 715/2009). When the level of firm capacity demand exceeds the maximum firm capacity, a contractual congestion occurs according to article 2 paragraph 21 Regulation (EC) 715/2009. Following these principles, many TSOs in Austria, Belgium, France, Germany and Poland include firm capacity with certain restrictions into their offer of the maximum firm capacity thereby successfully postponing the occurrence of contractual congestions and avoiding in those specific cases potentially inefficient high investments.

ENTSOG agrees that it is important for a/network user to know what usage conditions he agrees to upon entering a capacity contract. The conditions must be transparent, simple and comprehensible for the network users as well as for the TSOs.

Tariff relations between different firm capacity products are also very important for the acceptance of these products. Currently, this fact is not sufficiently described in the recent framework guideline for tariffs, where no discounts for firm products with usage restrictions (conditional firm, restricted allocation) are foreseen. The network code on tariff should permit a mixing of tariff for firm capacity products and tariff for interruptible products for those firm products that are interruptible under special conditions.

Q3: Do you think that certain user categories (e.g. power plants, household suppliers, traders, gas producers, storage users etc.) would have specific requirements/needs regarding capacity products? If so, which?

Answer: With regards to the intention of the internal market it should be always possible to balance the exits to all final customers in one entry-exit zone against trade notifications in this zone, i.e. independently from the physical entry points. This “free allocability”

guarantees that the final customers are free to purchase gas from the supplier of their choice, i.e. through the virtual trading point. For very large final customers (e. g. gas power plants) there may be exemptions due to technical reasons. Other users may live with specific products. For example with regard to the purpose of gas storages, capacities for storage users may depend on the temperature.

Q4: Do you have experience with different levels of product firmness and allocation restrictions (i.e. different capacity designs)? Please provide examples.

Answer: Having compared the different firm capacity products of its member TSOs ENTSOG has found the following classification:

1. Firmness depending on exceptional events like deviations from the historical gas flows at IPs or deviations of the statistical consumption behaviour of final customers.
2. Firmness depending on system wide conditions regarding gas flows which may be approximated via expected temperatures at certain measuring points
3. Firmness at certain entry/exit interconnection points depending on entry/exit nominations at certain related interconnection points or flows to exit zones (capacity includes possibility of trade notifications).
4. Firmness at certain entry/exit interconnection points depending on nominations at certain related entry/exit interconnection points or flows to exit zones (capacity excludes possibility of trade notifications)

ENTSOG notes that this product catalogue is comprehensible. If there is a strong need for additional capacities the efficiency of possible investments needs to be validated via the process of incremental/new capacity currently under implementation into NC CAM and NC TAR. If the reduction of the amount of different products, i.e. an ideal entry-exit zone can be reached in an efficient way by investments ENTSOG supposes that the respective investments will be identified via the process of incremental capacity currently under implementation into NC CAM and NC TAR. Via this process TSOs provide cost indications and organise the market test to establish if and what kind of capacity is demanded by the market.

Q5: Are different types of product features (in terms of firmness and freedom of allocation) barriers for cross-border trading? If yes, please provide an example of such barrier. If yes, do you think that a set of "standard capacity products" in terms of quality (e.g. firmness rules, allocability) enshrined in a network code would provide a solution? Do you believe that the benefit of implementing such a solution outweighs the costs? Could you provide examples of such solutions?

Answer: ENTSOG is of the opinion that the different types of product features are no barrier for cross-border trading, if the features are well understood by the network users. Actually these products are advantageous: In Germany, network users that simultaneously import and export gas on specific routes prefer the DZK product to the premium product allowing

the not necessary balancing of the exports against any entry point or trade notifications (=“freely allocable capacity, FZK”).

Q6: In your view, is the way capacity is allocated (primary market) or traded (secondary market) expected to create any problem or barrier to gas wholesale trading after the full implementation of the NC CAM? (Please differentiate in your answer between IPs covered by NC CAM and those outside its scope, i.e. LNG, storage)? If not, what outstanding barriers remain after NC CAM implementation? Please provide specific cases and examples, if possible.

Answer: ENTSG is of the opinion that the NC CAM will facilitate gas wholesale trading across the EU and currently does not expect remaining barriers after its implementation regarding the way capacity is allocated (primary market): harmonized allocation mechanisms for primary capacity, extended cooperation requirements for TSOs and the definition of a small set of standardized bundled cross border capacity products at interconnection points between entry-exit zones (being allocated via a single allocation procedure and being nominated on the basis of a single nomination) will make booking as well as usage of transport capacity easier and will thus lower (perceived) barriers to entry.

ENTSG would also like to highlight that network codes (potentially) having impact on gas wholesale trading are still either to be implemented (CAM Nov. 2015 and BAL at the earliest Oct. 2015), to be approved (Interoperability) or to be developed (TAR and INC). In ENTSG’s view it is necessary to allow sufficient time to evaluate the impact of these network codes once they are implemented instead of anticipating their effects and drawing conclusions from such anticipations which may eventually not materialize. In case of undesired remaining barriers an assessment of the problem must be made.

Q7: Do non-harmonised contract definitions or terms between neighbouring entry-exit zones limit cross border trade? If yes, please provide examples. Do you think that equal contractual definitions of product characteristics (in terms of firmness or freedom of allocation) can be achieved by compatible contract terms alone (product description along certain parameters) or can this only be achieved by a single standard contract established at EU level?

Answer: Compatible contract terms will not change the physics behind the different products. ENTSG does not believe that a single standard contract will remove the differences between the products that TSOs can offer in an efficient way.

Q7a: Considering the variety of private law regimes across EU, do you believe a standard contract established on EU level is feasible? If yes, do you believe that the benefit of such standard contract established on EU level outweighs the costs of its implementation?

Answer: Taking into account the regulation of CMP, NC CAM and NC BAL which harmonize the applicable rules to the extent necessary, it is not reasonable to implement further harmonization in a separate NC. By adopting CMP, NC CAM and NC BAL, EC agreed to a certain extent that national varieties are to be considered. It is not currently advisable to

eliminate such varieties by a new NC even before NC CAM and NC BAL are implemented. In addition, the implementation of a fully standardized contract would lead to major amendments of CMP, NC CAM and NC BAL accordingly as well as to contracts already being in preparation for implementation. Furthermore, any development of a new standard contract leads to new costly processes to be implemented by the TSO and network user that will not outweigh the benefit.

Q8: Have you experienced inefficiencies and risks which make it necessary to harmonize certain clauses in capacity contracts and/or contractual terms and conditions of different TSOs at EU level (given the variety of private law regimes applied across Europe)? If so, what are the inefficiencies and risks experienced that require harmonization and why?

N/A

Q9: Assuming everything else being equal (e.g. tariffs), do you prefer

a) firm products with limited allocability/locational restrictions (ex-ante information on conditions of use) or

b) interruptible products (with ex-post information on actual occurrence of interruptions)?

Answer: Although this is a question to transport customers ENTSOG wants to underline that during a gas crisis as seen 2009 and 2012 firm products at cross-border exit points guarantee a more secure gas supply for the adjacent member state because network users can behave according to the ex-ante available conditions of use. Interruptible capacities, on the contrary, will be interrupted at first level among the market based measures not even evoking a crisis level according to reg. (EU) 994/2010. Besides, a change of the firm cross-border capacity into interruptible capacity will reduce the technical capacity and may change the results of the infrastructure and supply standard calculation of the respective adjacent member state according to article 6 and 8 of reg. (EU) 994/2010.

Q10: Given the NC BAL implementation, which should foresee within-day obligations as an exception do within day standard capacity products (“rest-of-day capacity products”) create any barrier to trade?

N/A

Q11: Are there any differences in the legal framework/capacity contracts that undermine the concept of a bundled capacity product (treatment after allocation)? If yes, please describe the differences as well as the risk for market participants resulting from those. Please provide specific examples.

Answer: NC CAM specifies that a bundled capacity product contains separate contracts between network users and TSOs. Therefore, potential differences in the legal framework do not undermine the concept of a bundled capacity product. Each contract is to be treated under its legal framework. Differences of treatment resulting in particular from the

respective national implementation in accordance with CMP, NC CAM and NC BAL were known and accepted by ACER, EC and member states within the legislative process.

However, ENTSOG recognises the market's "need for full transparency of the differences in contractual terms and procedures at IPs where bundled capacity products are proposed" (EFET-slides on Scope of RfT, 24th Madrid Forum) and is willing to work on how to satisfy such needs (without seeing the necessity for a dedicated network code to do so).

Q12: Are there any other obstacles that hamper the use of capacity contracts across borders in the EU?

With regards to 'capacity products and terms and conditions of capacity contracts', ENTSOG is of the opinion, that some of the most important perceived barriers for the development of the internal gas market have been overcome - at least once the rules on CMP, CAM and BAL are fully implemented and working. The on-going work on Tariffs and Incremental Capacity will add further to the set of rules ensuring the internal gas market.

Q13: Do you think that a) binding EU rules, b) non-binding guidance or c) no rules at all (awaiting the implementation of existing NCs) address the above issues best? If needed, you can differentiate between different topics.

Answer: As stated above, ENTSOG is generally of the view that there is a need for an efficient, and therefore limited, set of EU rules. However, while being of the opinion that a standardization of capacity contracts would not be a reasonable option (rf. to Q7), ENTSOG notes that transparency will be important with regards to bundled capacity products and respective content of according capacity contracts at cross-border interconnection points (rf. to Q11).

Theme: Secondary capacity markets

Q14: Do you think that rules are needed in order to stimulate secondary trading in Europe (taking into account the facilitation of trading already in place nationally or at EU-level, including via joint booking platforms as demanded by NC CAM)?

N/A

Q15: Do you see the need for a fully anonymized secondary capacity market (including third-party clearing) or is a bilateral capacity transfer (with consistent information to the TSO) sufficient?

N/A

Q16: Do you see the need to harmonize the handling of secondary capacity transfers to the

primary market with reference to e.g. contract durations, handling, deadlines etc.?

N/A

Q17: Are there any rules hampering secondary trading of bundled capacity products? If yes, which ones and where? (Please provide specific cases, examples.)

N/A

Q18: What would be, in your view, the most efficient way of secondary trading of capacity: a) mandatory trading on a limited number of liquid secondary platforms as for primary capacity or b) keep the current regime as is (e.g. many options, venues, etc.)?

N/A

Q19: Would you support transparency rules for secondary trading and what should, in your view, those rules focus on (e.g. reporting on transactions, potentially incl. price)?

N/A

Q20: Do you think that a) binding EU rules, b) non-binding guidance or c) no rules at all (awaiting the implementation of existing NCs) address the above issues best? If needed, you can differentiate between different topics.

Answer: Topics of the secondary market should be dealt within the existing binding EU rules.

Theme: Virtual trading point design/access and hub issues

Q21: Are there any design elements of hubs which provide a barrier to cross-border trade (e.g. independence of the hub operator from traders)? If yes, which ones? Please provide specific cases, examples.

N/A

Q22: Are the fees (if any), the methods to calculate these fees, the general terms and conditions and/or contracts for service providers/intermediaries for transferring gas via trade notifications according to article 5 of the Balancing NC discriminatory and do they constitute a barrier to trade? If so, please state which of the elements above and which entry-exit systems are affected. Are there any other issues that create barriers to trade?

N/A

Q23: Do non-standardized formats represent a barrier for cross-border trading? If yes, do you see a need to establish a standardized data exchange format for trading of wholesale gas

products to be used as interface between all potential balancing and trading venues – including key inputs (e. g. trading parties, time, location of trade, trading volumes and price, etc.)-?

N/A

Q24: How could the establishment of organized market places at hubs trading platform (via VTPs) be facilitated and should the Agency foresee rules to facilitate it?

Answer: Consequent implementation of the trading with short term standardized products for system balancing according to reg. (EU) 312/2014 will facilitate trading platforms automatically.

Q25: Do you think that a) binding EU rules, b) non-binding guidance or c) no rules at all (awaiting the implementation of existing NCs) address the above issues best? If needed, you can differentiate between different topics.

N/A

Theme: Transparency rules

Q26: Do you think that contractual conditions of capacity services (incl. usage conditions) are transparent and clear enough and easy to access (taking into consideration the establishment of joint booking platforms such as PRISMA)? If not, please name the TSOs/platforms where this is not the case and evaluate it along any of these three parameters (i.e. not transparent, unclear or difficult to access).

Answer: ENTSOG notes that transparency will be important with regards to bundled capacity products and respective content of according capacity contracts at cross-border interconnection points (rf. to Q11).

Q27: Do you consider that the contractual conditions of capacity products with limited allocability (e.g. interruptible hub access, but firm cross-border flow) are transparent and clear enough? If not transparent and clear enough, what should be improved? (Please provide specific cases, examples.)

N/A

Q28: Do you have access to sufficient information on the condition(s) for interruption of a capacity service and/or its probability? If not, please specify where this is not the case.

N/A

Q29: Do you have sufficient information on the occurrence of the condition(s) for interruption and/or its probability? If not, please specify, where this is not the case.

N/A

Q30: Do you think that a) binding EU rules, b) non-binding guidance or c) no rules at all (awaiting the implementation of existing NCs) address the above issues best? If needed, you can differentiate between different topics.

Topics of the transparency of capacity usage should be dealt within existing binding EU rules.

Theme: Licensing requirements for market participants other than TSOs

Q31: Do you see a problem with regard to different licensing requirements in the EU? If yes, please name the Member State, explain the main issues and propose solutions (such as minimum requirements for licenses at EU level, etc.)

N/A

Q32: Do you think that a) binding EU rules, b) non-binding guidance or c) no rules at all (awaiting the implementation of existing NCs) address the above issues best?

N/A