**Responses to Draft CAM Network Code** **Consultation**

***Consultation Response Sheet***

Please complete the fields below and send via email using the subject, “Response to the CAM NC consultation” to [**info@entsog.eu**](mailto:info@entsog.eu) by 3 August 2011.

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# Comments:

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| **Question 1:** Do you consider that the level of detail in the draft NC is appropriate for an EU Regulation? |
| Overall, we consider that ENTSOG has achieved the correct level of detail in the CAM NC. However, as implied in answers to other questions, detail should not be confused with content. In particular:   * The use of an auction process as a primary allocation process is to be supported. However, its benefits will be limited compared to its application if it is not linked to an investment trigger level obligation on TSOs; * The auction process itself should be based on a multi-round approach. The single round design in the CAM NC will lend itself to inefficient bidding behaviour, especially in combination with a pro-rata approach. We do not believe this would aid price discovery; * The allocation of capacity can’t be separated from the issue of tariffs. The two go hand-in-hand and it would therefore have been more appropriate had the CAM NC and Tariff NCs been developed together; and * The CAM NC appears to have been written with adjacent TSOs in mind. However, the interconnection points between Great Britain, Europe and Ireland are of a merchant nature. It is not immediately obvious if ENTSOG envisages the same rules being capable of application at both types of interconnection point.   Clearly, the above comments go beyond issues that are under ENTSOG’s direct control. We merely offer them as observations that could form part of future discussions with regulators.  That said, we are supportive of ENTSOG’s decision to exclude any reference to the so-called ‘sunset clause’ with respect to existing capacity contracts is correct. Such a move is still open to legal debate and it is wise not to include it for that reason. |

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| **Question 2:** Should this NC set out detailed rules? If so, do you consider that where changes are necessary, they should be made through the change process foreseen in the Third Package, or (if legally possible) through a separate procedure where modifications can be made following stakeholderrequest and discussion? |
| We support the change process foreseen in Article 7 of Regulation No 715/2009 whereby interested parties can propose amendments to the Agency, and such amendments are proposed to the Commission following full stakeholder consultation. It is essential that changes are only adopted after full and careful consideration of their impact on the EU internal gas market. |

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| **Question 3:** In your view, is it credible that principles and details of CAM mechanisms could be separately identified? What elements of this (or other) code(s) might be considered for a “lighter” change process and how might such changes be made binding? |
| Yes. Technical details such as IT communication standards do not need to be specified in the Code. It is sufficient that such elements should be “fit for purpose”, namely ensuring the smooth functioning of capacity allocation procedures. Such elements can be subject to a lighter change process, for example subject to the approval of the Agency as part of a Handbook |

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| **Question 4:** How do you consider that a process to review the handbook, and to modify it where necessary, should be designed? |
| We support the handbook approach whereby this document is referenced in the CAM NC as being ‘ancillary’ to make it binding on market participants but the details and the change process being separate to that used for the Code itself. ACER could approve the handbook as being “fit for purpose” to ensure the smooth running of the CAM, but without specifying what approach should be taken. Stakeholders would value the opportunity to make representations to ACER if they believed the Handbook did not meet the above objective of ensuring the smooth running of CAM. |

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| **Question 5:** Do you agree with the NC proposal for long term auctions of quarterly products? If not, please explain your proposed alternative and the rationale for this. |
| We support such an approach. It has proved workable elsewhere, namely in Great Britain; a significant number of system users responding to this consultation will be familiar working with the GB arrangements. While we are conscious of the potential restrictions of a one-size-fits-all approach, we do not see why such an approach could not work as part of CAM NC. We disagree with concerns based on the argument that the use of long term auctions quarterly products will lead to an inability to book long-term capacity and create uncertainty over acquiring capacity. Quarterly strips can be purchased consecutively to create a long-term booking. ‘Concerns’ over acquiring capacity to do this would remain with the auctioning of annual products as there would be no guarantee of success in such auctions.  That said, there is no reason why a quarterly product-based approach and the availability of an actual annual product should be seen as mutually exclusive, albeit with the important proviso is that the annual product should not have any semblance of priority allocation. Indeed, a flexible approach is normally to be welcomed - although in this case, careful consideration would need to be given to issues such as relative reserve price setting to ensure that capacity was not being withheld from the market or that normal auction outcomes were not being distorted - as it would:   * Provide greater commercial comfort for system users who are either unfamiliar with a quarterly based approach or concerned at the lack of CAM NC coordination arrangements with respect to successive quarterly bookings; and * Allow those shippers who wish to profile their capacity bookings to match their portfolio demand requirements to do so. This would lead not only to more efficient capacity bookings but also more effective system utilisation |

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| **Question 6:** Do you consider that the auction design set out in the draft NC includes sufficient measures to allow system users to purchase the long-term capacity they want? If not, how could the measures be improved, while remaining consistent with the FG and keeping the complexity of the auction design to a manageable level? |
| The role of auctions should be two-fold:   1. As an effective means of allocating existing capacity; and 2. To provide the most efficient and non-discriminatory means of signalling the need for additional grid investment.   Notwithstanding our belief that a multi-round rather than single auction process is preferable, the auction design as set out in the CAM NC is a more effective – when compared to the current situation – means of allocating **existing** capacity on a long-term basis. However a specific weakness with the proposals is the lack of an obvious link with a monopoly network’s investment incentives.  From our experience of auctions elsewhere, such a mechanism also allows shippers to indicate demand over and above capacity levels initially offered. Combined with an appropriately designed ‘user commitment’, TSOs can invest to provide additional or incremental capacity. |

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| **Question 7:** Do you consider that the within-day auction proposal set out in the draft NC could be improved from a user perspective? If so, what improvements would you suggest? |
| We are in favour of auctions for all capacity products. It is not clear why auctions might be okay in some cases and a ‘First Come, First Serve’ approach is appropriate in others.  The proposal as set out in the CAM NC appear a simple enough means of ensuring that all capacity is made available in a clear, transparent and non-discriminatory manner. |

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| **Question 8:** The draft NC proposes that TSOs will implement all auction systems at all Interconnection Points (IPs). However, if no purchases of capacity are made in within-day or day ahead auctions at a particular IP over a certain period of time, do you consider that it would be appropriate to suspend these auctions for some time, in order to reduce operational costs? |
| In principle, we are in favour of reducing costs wherever possible. Clearly, holding auctions in these circumstances will generate additional costs but we remain of the view that it would be appropriate to carry on with them because:   * In the early stages of CAM NC implementation it provides certainty for market participants. * It is not clear how a TSO could foresee a continued lack of market interest in capacity at a certain point, especially if the capacity in question is within-day. * Such a power for monopoly network owners could be a way of effectively withholding capacity from the market.   While there will be a cost attached to continuing with auctions, we would imagine that such costs would be relatively minor, especially when set against the difficulties that suspension of the auctions might cause for parties booking at multiple IPs. |

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| **Question 9:** Do you consider that the auction algorithms set out in the draft NC are appropriate for the Standard Capacity Products to which they are proposed to apply? If not, what modifications would you suggest? |
| Our concern is that the auction algorithms do not allow for or envisage multi-round auctions. Our strong preference would be for algorithms that:   * supported such a process for long term bookings of quarterly and monthly-based products; and * have pre-defined price steps to allow a system user to adjust its bids on the basis of the latest available information.   We do not support the inclusion of a pro-rata mechanism in the algorithm. The concern is that as shippers might not receive the capacity for which they had bid, there may be an incentive for strategic bidding behaviour which in any case must be avoided. |

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| **Question 10:** Do you believe that any of the potential alternatives described would be more suitable? In particular, do you consider that a Pay-As-Bid methodology would be more appropriate than uniform price, particularly for auctions of shorter duration products? |
| We have strong preference for a cleared price auction mechanism. Such a view remains the case regardless of the duration of the capacity product. |

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| **Question 11:** Under an open-bid algorithm (whether uniform price or pay as bid), do you consider that ten bids per user is a sufficient number? |
| Yes. |

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| **Question 12:** Do you consider that mechanisms supporting value discovery should form part of the NC? If so, which mechanisms do you believe would be most effective? |
| The CAM NC should certainly not include mechanisms or provisions that inhibit price discovery. In that regard, we would advocate that the CAM NC provides shippers with as much flexibility in relation to:   * Placing and amending bids, such that true demand and price discovery can take place. A recognition that many shippers will need and want to book capacity at several points – it is therefore essential that the auction rules do not impose our allow a restrictive regime that allow an early close out of auctions at some points.   The best means of achieving the above is through a multi-round auction. |

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| **Question 13:** In your view, how could a split of bundled capacity between existing holders of unbundled capacity best be arranged? |
| We share the general industry concern with the proposed introduction of the mandatory use of bundled capacity products. While we welcome their development as a further tool to help integrate markets, their use should not be mandated.  It is for that reason that we are unable to describe how such a split could be arranged – we can see only difficulties. |

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| **Question 14:** In your view, what effect would mandatory bundling have on network users? Please provide supporting evidence, if available. |
| ENTSOG will be aware of the arguments that have been made against the mandatory use of bundled capacity products, namely:   * The difficulties of renegotiating some existing contracts, leading to the possibility that the mandatory use might not be a uniform requirement across all market participants. * The need for parties to a contract to assume all of the costs, bureaucracy and liabilities associated with a requirement to be active in both markets rather than one. In particular, we have in mind trading licence and network codes.   These concerns remain valid. However, in terms of a practical effect of a mandatory use of bundled capacity, we would point to a reduction in customer choice, along with an impact on existing contracts and business structures for very little benefit in relation to increased market efficiency. |

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| **Question 15:** Do you consider that the approach to bundled capacity set out in the NC is appropriate, within the constraints of the FG? |
| Given that the ultimate legality of the mandatory nature of the approach is still open to question, we would have a preference for such related references to be deleted until such time as this question has been answered. . |

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| **Question 16:** Do you consider that the process set out in the draft NC for determining the sequence of interruptions is appropriate? If not, what system would you prefer? |
| As TSOs incur no capacity investment costs in providing interruptible capacity, logically it should attract a zero reserve price in any primary allocation mechanism. The market should then be left to place a subsequent value on the capacity.  As such, when TSO’s subsequently interrupt, they should do so on the basis of what might be termed an ‘equitability algorithm’ to ensure a non-discriminatory approach to curtailing gas flows. We would not support interruptions based on a ‘First Come, First Serve’ basis as this could lead to capacity hoarding. |

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| **Question 17:** ENTSOG would welcome feedback, observations and suggestions related to this section of the supporting document and to Annex 2. Do you consider that ENTSOG has correctly identified the key tariff issues in these sections? |
| ENTSOG has not correctly identified the tariff issues as it does not take into account incentives for investments.  Regulation (EC) 715/2009 on conditions for access to the natural gas transmission networks, Article 13: Tariffs for access to networks, stipulates that tariffs, or the methodologies used to calculate them, shall avoid cross-subsidies between network users and provide incentives for investment.  Under 7 (6) of the NC, it states that auctions revenues exceeding the allowed revenue shall be used for different aims, which has the potential to create cross-subsidies between different users and does not incentivise investment. The issue of cross subsidisation and incentives for investment could be resolved through a mechanism for triggering incremental capacity, whether included within the NC or progressed alongside it.  We agree that ENTSOG is right to have identified that the profiling of capacity purchases may lead to lead to a mismatch in recovered revenues and allowed revenues. However, such a possibility can readily be addressed via an appropriately designed tariff regime. |

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| **Question 18:** What is your view of the process that ENTSOG has followed in order to produce the draft NC? Would you recommend that ENTSOG use a similar process to develop future NCs? What approaches would you suggest to enable ENTSOG to improve the process? |
| ENTSOG is to be supported for the extensive and proactive approach it has taken to involve and consult with as many system users as possible, either on a bilateral basis or as part of trade association groupings. It has not been an easy task, especially with the degree of policy uncertainty between the Commission and ACER; we do not have any substantial criticisms to make, possibly only suggestions to build on an essentially sound consultation framework.  First, an earlier and more extensive involvement of the Commission, ACER and national regulators. It is important that ENTSOG and market participants are given a clear and relatively detailed policy steer as to what is expected or what is not likely to be acceptable. As an example, the relationship between the Codes and the Gas Target Model work is unclear to many market participants, possibly to some NRAs as well – this uncertainty has not helped development of the Code.  Second, given the constraints inherent in a twelve month deadline, we appreciate that the use of trade associations can seem a relatively efficient way to gather industry’s views. However, as we are sure ENTSOG will appreciate, there should be a readiness to treat any trade association’s views as being supported by all its members with a degree of caution; more emphasis should be placed on the bilateral discussions with stakeholders. |

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| **Question 19:** ENTSOG is developing a new website and would welcome stakeholder views on how to make it as useful as possible. What are your views about the current ENTSOG website, [www.entsog.eu](file:///C:\Documents%20and%20Settings\maria\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Low\Content.IE5\VYR5GE1D\www.entsog.eu), and what could be improved? |
| We appreciate the efforts made to date to create main source of information on market development and transparency. In our view the development of the website is in its early stages of identifying the main issues and providing a relatively static level of information flow.  The website is proving a useful tool to keep up with the significant amount of work being done and appears to function well. |

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| **Do you have any other comments or observations you would like to make?** |
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