Accompanying Document

for the

Incremental Proposal

Table of Contents

I. Introduction

1. Background

This document, entitled "Accompanying Document for the Incremental Proposal", includes a Report on the Stakeholder Support Process ('SSP') and accompanies the Incremental Proposal documents (INC0223-14 and INC0224-14) submitted to the Agency for Cooperation of Energy Regulators (ACER) on 31 December 2014.

The Incremental Proposal constitutes two draft legal documents: (1) an amendment to Commission Regulation (EU) No 984/2013 of 14 October 2013 ('CAM NC') on principles linked to the offer and allocation of incremental capacity and (2) a chapter of the Network Code on Harmonised Transmission Tariff Structures for Gas ('TAR NC') on issues related to the economic viability of incremental capacity projects and related tariffing principles. Where not stated differently throughout this document, the term 'Incremental Proposal' shall be understood as the combination of these two documents.

The Incremental Proposal has been prepared by ENTSOG, an organisation currently comprising 44 transmission system operators from 26 European countries, in line with its duties under Articles 6 and 7 of the Regulation and following the receipt of the Invitation Letters dated 19 December 2013 sent by the European Commission ('EC') to draft an amendment on incremental and new capacity to the Network Code on Capacity Allocation Mechanisms and to draft a Network Code on Tariff Structures in Gas Transmission Networks. ENTSOG was furthermore requested to draft the Incremental Proposal in line with the ACER Guidance to ENTSOG on the development of amendment proposals to the Network Code on Capacity Allocation Mechanisms on the matter of incremental and new capacity ('ACER Guidance') and the relevant sections of the Framework Guidelines on rules regarding harmonised transmission tariff structures for gas ('FG'), both issued by ACER on 29 November 2013.

This document shall not be construed as part of the Incremental Proposal, nor should it be considered to give rise to any specific right or obligation whatsoever to ENTSOG or any of its members as to any stakeholders.

The purpose of this document is to set out the results of the SSP and clarify the chosen policy approaches, decided upon by ENTSOG, in relation to significant topics in the Incremental Proposal. It follows on from the Analysis of Decisions document released for the SSP which

explained the refinements made to the Initial Draft Incremental Proposal further to the public consultation thereon held between 30 May and 30 July 2014.

2. Scope and structure of document

ENTSOG has sought to develop the Incremental Proposal in line with the ACER Guidance and the FG. Wherever the ACER Guidance or the FG leaves room for ENTSOG to exercise discretion, ENTSOG endeavoured to favour European harmonisation, rather than specific solutions on national and/or regional level. This document therefore aims at presenting the rationale for ENTSOGs interpretation of certain topics within the ACER Guidance and the FG in favour of European harmonisation.

The document furthermore serves as an analysis of the feedback provided by stakeholders in the SSP for the Incremental Proposal and provides reasoning and justification for revisions of the Refined Draft Incremental Proposal since the SSP.

3. Relationship to other Regulations

Due to the nature of the Incremental Proposal being a combination of two draft legal documents, interactions between these two documents and to other regulations have to be taken into account when applying its provisions.

The most crucial interaction is certainly the one between the amendment of CAM NC and the drafting of the TAR NC. The process of offering and testing the economic viability of incremental proposal has been designed in a consistent manner and the relevant sections of the process have established in the two legal documents in the most meaningful way. For this reason, the process as such can only be applied efficiently if the relevant provisions in CAM NC and the relevant chapter of TAR NC are used in combination. Since the amendment of CAM NC and the drafting of TAR NC are two separate processes within EC, it is crucial that ACER and EC are ensuring that the two processes will run in parallel and that no ‘time gap’ between the applications arises.

II. Incremental Capacity Process

In the section which follows, ENTSOG presents the rationale for its interpretation of certain topics within the ACER Guidance and the FG. The topics are as follows:

- Demand assessment for incremental capacity;
- Design phase for incremental capacity projects;
- Auctioning of incremental capacity;
- Open Season Procedures;
- Economic Test for incremental capacity;
- Tariff issues related to incremental capacity.

For each of these topics, this document provides reasoning and justification for decisions taken in the following structure:

A. Summary of ACER Guidance and FG requirements;

B. Summary of feedback provided by stakeholders in public consultation and SSP;

C. Explanation of policy decision taken by ENTSOG.

ENTSOG is thankful for the high level of stakeholder involvement throughout the process of drafting the incremental proposal. With a launch meeting, 5 stakeholder joint working sessions, a consultation, a refinement phase and stakeholder support phase (SSP), supported by numerous preparation meetings, the process has been one of intense joint cooperation. Without the, sometimes strongly, contrasting stakeholder views ENTSOG could not have organized the debates that have enabled the full assessment of all options. The quality of the incremental proposal has greatly benefitted from the high engagement of stakeholders. In the end, the ENTSOG incremental proposal aims to find the middle ground between the all involved parties by striking a fair balance between their interest. However, the contrasting stakeholder views make it impossible to find a compromise that suits everyone. As a result ENTSOG concludes support for the incremental proposal among stakeholders, but no unanimity.

1. Demand assessment for incremental capacity

A. Summary of ACER Guidance and FG requirements

The ACER Guidance defines under point (b) principles for 'when to offer incremental capacity' to network users. It requests that the Incremental Proposal shall, "*as a minimum requirement, require a formal offer of incremental [or new] capacity, where there is likely to be significant unsatisfied demand for capacity"*. In addition to this general requirement, the ACER Guidance also provides three clear criteria that, if met, should individually lead to the offer of incremental capacity. The three criteria are:

- In case the ENTSOG TYNDP identifies a physical capacity gas in the sense that an area is undersupplied in a reasonable peak demand scenario and incremental [and new] capacity at the IP in question would be able to close the gap; or a national NDP identifies a concrete and sustained physical transport requirement.
- No yearly capacity product based on existing capacity will be on offer (as the yearly product is fully booked) in the year when incremental capacity could be offered first and in the three subsequent years (capacity set aside for the short term is considered not offered). In the case of several IPs between two entry-exit systems the requirement refers to all IPs between these entry-exit systems taken together.
- Network users indicate in a non-binding manner to TSOs their need for and their willingness to underwrite incremental or new capacity for a sustained number of years and this transport need leads to physical constraints after exhausting all other mechanisms to maximise the availability of existing capacity.

With regards to the non-binding demand indications of network users, the ACER Guidance furthermore requires ENTSOG to define minimum information required in this process and to set a specific time window for when to submit them.

B. Summary of feedback provided by stakeholders in SSP

The SSP showed that the majority of stakeholders agrees two the process leading to the offer of incremental capacity as proposed by ENTSOG in the Refined Draft Incremental Proposal and some compliment on the increased level of flexibility that such a two-route process provides. Those stakeholders that are supporting this section of the Incremental

Proposal partially have stressed that any fees that would potentially be charged by TSOs for the submission of non-binding demand indications should be subject to the determined ex-ante and be subject to the approval of the relevant NRA. Furthermore, the expression of a "sustained number of years" in the requirements for non-binding demand indications was judged to be unclear and further explanation and clarification was requested from these stakeholders.

Another stakeholder mentioned in the SSP that while supporting the demand assessment procedure in principle, the demand assessment should be conducted on a yearly basis instead of a bi-annual basis. In addition to this, TSOs should also endeavour to respond to all received non-binding indications as soon as possible.

C. Explanation of policy decision by ENTSOG

With the objective to define a harmonised European process for assessing the demand for incremental capacity that can subsequently lead to co-ordinated projects across the Union, ENTSOG has developed a standard demand assessment phase for incremental capacity. The standard demand assessment for incremental capacity shall be conducted by all TSOs and shall lead to the publication of a demand assessment report by at latest 16 weeks after the start of the annual yearly capacity auction in all even numbered years. The basis for the standard demand assessment shall be the criteria provided by ACER in the ACER Guidance, meaning that the demand assessment report should contain a conclusion on whether and to which extent the individual criterion are met.

ENTSOG understands the concerns raised by some stakeholders with regards to possible delays of projects due to the bi-annual frequency of the standard demand assessment. For this reason, the Incremental Proposal also provides the possibility for network users to request incremental capacity at any time via non-binding demand indications. TSOs shall respond to all received non-binding demand indications within maximum 8 weeks by providing an assessment on whether or not the indicated demand is sufficient to allow an incremental capacity project solely dedicated to this indicated demand. In order to enable network users to still proceed their request in case the conditions for the offer of incremental capacity are not met, TSO may offer to conduct dedicated technical studies for the specific network user and charge the costs related to such studies to the network user requesting the project. These fees should be regulatory approved and reimbursed after allocation of the resulting incremental capacity.

Thus, the Incremental Proposal provides two approaches that should be suitable for all incremental capacity demands of network users. The standard demand assessment makes sure that the demand of all network users is aggregated before conducting technical studies in order to allow an efficient process while at the same time providing the highest chances to being able to meet the demand indicated with viable incremental capacity projects. Next to this, network users that identify a demand for a very large amount of incremental capacity for a sustained number of years are not required to wait for the aggregation of the demand in the demand assessment report. The sustained number of years is a broad indicator of the likelihood of economic viability of the project. Since this is likely to differ considerably from project to project it is not further specified in the incremental proposal. It is important to highlight that the process of indicating a demand next to the standard demand assessment will be treated exactly the same as a project arising from the demand assessment, meaning that it is fully transparent and accessible to all interested parties throughout the design and the offer of the capacity. The difference between the two approaches is simply the initiation of the project.

2. Design phase for incremental capacity projects

A. Summary of ACER Guidance and FG requirements

The ACER guidance specifies that the CAM NC amendment shall: *"[…] require TSOs and NRAs to closely co-operate and co-ordinate across borders in order to enable offers of incremental or new capacity as bundled products according to the existing NC CAM. The CAM NC amendment should outline the overall process and which coordination results should be reached at what stage."*

The Guidance also highlights a number of elements where agreement should be reached between TSOs and NRAs on the following issues:

- Co-ordinated timelines for the project;
- How delays in the provision of capacity are dealt with contractually;
- How effects of delays on other systems can be mitigated;
- The capacity volumes and characteristics of bundled yearly products for which demand can be tested;

- The common procedure to be used for securing network users' binding commitments, taking into account the selection criteria defined in section 2.e) and 2.f);
- The way in which the requirements for triggering the investment decision in each regulatory system can be combined in a single economic test, and when the test would be satisfied;
- Simultaneous or common information provision and a co-ordinated or single point of contact for network users.

The CAM amendment shall also define whether additional (and if so which) specific coordination requirements need to be fulfilled in the situation where an investment project spans across more than one interconnection point.

B. Summary of feedback provided by stakeholders in SSP

A clear majority of stakeholders agrees fully or partially to the proposals made in Article 20c of the amendment proposal to CAM NC, covering the process of the design phase for incremental capacity projects.

Nonetheless, some stakeholders highlight the provisions on the notices (design phase notice and allocation notice) are not detailed enough and that the lead-times foreseen are not sufficient to allow network users to understand the specifics of an incremental project before the capacity is actually offered. It is stressed that detailed information on the tariff methodology used for the calculation of indicative reference prices needs to be included in the design phase notice and the allocation notice and that such a notices should be published for every project, regardless of whether an open season procedure is applied or not. Furthermore, information on the responsibilities of the parties throughout the process could be enhanced. Regarding the allocation notice, same stakeholders indicate that the foreseen lead-time for the publication of at least 1 month before the annual yearly auction should be increased to at least two or three months.

One stakeholder stressed that a time period for the consultation of the f-factor should be foreseen in the Incremental Proposal in order to allow network users to provide feedback on the level of the f-factor for a given incremental project.

Another stakeholder requested that the code should allow for some flexibility for commissioning of incremental capacity during the gas year by allowing bookings to start within the gas year, to ensure an optimal and efficient development of the infrastructure. Although the standard products defined by the CAM NC allows for long-term bookings via yearly products (Oct-Oct) only, this doesn't mean that incremental capacity cannot be offered at a later point in time for other durations. If the incremental capacity is commissioned, in consultation with network users, at another date than 1 October than the period until 1 October cannot be offered as an yearly product. This part of the incremental capacity can be offered closer to the commissioning date as a standard quarterly and/or monthly product. What needs to be taken into account is that revenues from such "incremental" quarterly/monthly products is not taken into account when applying the economic test, since the economic test is applied to the commitments received for yearly incremental capacity products a number of years before the commissioning date. When the commissioning date is determined together or upon request of network users, there is a level of certainty that this specific part of the incremental capacity will be booked in the future via monthly or quarterly products. Therefore it could be considered to include the NPV of these monthly or quarterly bookings in the f-factor and thus bringing its value within the economic test.

C. Explanation of policy decision taken by ENTSOG

Based on the market request for clear lists of deliverables for TSO in an incremental project, ENTSOG has established a process that includes two separate notices to be published for each incremental capacity project, regardless of whether the capacity is allocation via an open season procedure or via the default auction procedure.

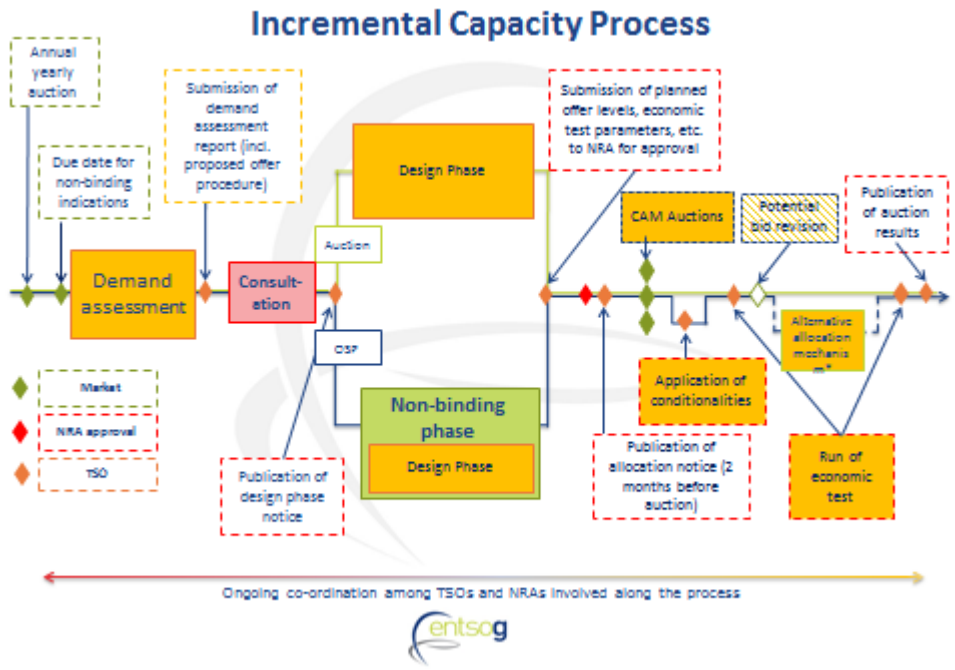
The first notice in a project will be a design phase notice that includes all relevant information on the framework for the prospective incremental capacity project and is published before the actual technical design is conducted. The parameters of this notice are based on the demand assessment report and the feedback provided by stakeholders in the public consultation of this report.

The second notice to be published is an allocation notice that includes all relevant final parameters of the respective incremental capacity project as approved by the relevant NRAs. It is defined to be published no later than one month before the annual yearly capacity auction in which the incremental capacity is offered.

To accommodate stakeholder concerns, ENTSOG has extended the lead-time for the publication of the allocation notice to two months. Also fixed price tariff methodology has been included to the items on the design phase notice (including consultation) and allocation notice.

Furthermore, ENTSOG has tried to shorten the incremental capacity offer process where possible in order to be able to provide incremental capacity as soon as possible after a request.

A graphical illustration of the process can be found below:



3. Auctioning of incremental capacity

A. Summary of ACER Guidance and FG requirements

The ACER Guidance clearly states that incremental capacity should be integrated into the annual yearly CAM NC auctions as a default. ENTSOG was therefore requested to: *"develop, test and consult a detailed amendment to the NC CAM's allocation procedure for existing capacity, keeping the integrity of the ascending clock algorithm. The amendment should enable the integrated offer, testing, and allocation of bundled new*

and incremental capacity to take place together with existing unsold yearly capacity. The same service for the same period will have the same value for network users if acquired at the same time."

Furthermore, ENTSOG was requested to take into account the following principles when designing the allocation procedure:

- *offer and allocate bundled incremental and new capacity in a cost effective, non-discriminatory, transparent procedure that enables taking into account willingness-to pay, on the booking platform that promotes competition;*
- *ensure efficient allocation of existing capacity, irrespective of the outcome of the economic test for the incremental and new capacity under consideration;*
- *the possibility to accommodate different reserve prices if a tariff adjustment is justified;*
- *the possibility to test network users' differentiated willingness to pay for more than one level of incremental and new capacity in an auction, e.g. no increment (allocate existing capacity only because the economic test is not passed), small increment (allocate incremental and existing capacity), large increment, very large increment, etc….*

ENTSOG should furthermore consider the possibility for network users to revise their bids if the economic test fails for incremental and new capacity and focus in its proposal on providing a recommended technical approach of integrated bidding for existing and incremental capacity (drawing on the model of parallel bidding ladders).

B. Summary of feedback provided by stakeholders in SSP

The public consultation of the initial draft Incremental Proposal already proved that the concept of auctioning different offer levels for incremental capacity in parallel to each other in order to assess the optimal level of capacity is supported by a clear majority of the stakeholders. The auction simulation game ENTSOG has organised was appreciated as a practical way to address abstract questions. Support for the auction concept was reaffirmed in the SSP process.

However, many stakeholders indicated their disagreement to the proposed provision that defines the parallel offer of incremental capacity offer levels in the annual yearly auction as a default also in open season procedures. They stressed that the standard CAM auction should not be used in open season procedures, but a more flexible approach should be allowed. For this reason they indicated not to support this section.

In addition to this, one stakeholder raises concerns on the foreseen principles for repeating an auction for incremental capacity in case of non-optimal outcomes, fearing that network users who gained capacity in the initial auction could end up without capacity after the repeated auction.

C. Explanation of policy decision taken by ENTSOG

With regards to the concept of parallel bidding ladders ENTSOG has maintained that that a parallel auctioning of different offer levels for incremental capacity in the annual yearly capacity auction is the most efficient way to allocate incremental capacity. The Incremental Proposal therefore foresees parallel auctioning of different offer levels according to the concept of parallel bidding ladders that was initiated in the ACER Guidance.

Regarding bid revision ENTSOG has considered a bid revision principle and tested it together with stakeholders in the Stakeholder Joint Working Sessions for the Incremental Proposal. The conclusion of ENTSOG is that an actual revision of a bid is not the most suitable procedure as this would affect the principle of the ascending clock algorithm as defined in CAM NC. However, the same effect could be reached by repeating an auction if specific criteria are met, thus allowing network users to place different bids for the same capacity again. The Incremental Proposal therefore foresees that in case the highest offer level with a positive economic test outcome cleared at a premium, the next higher offer levels with an initially negative economic test outcome would be auctioned again. This principle should be repeated as long as the condition for a repeated auction is met.

The use of the annual yearly capacity action in open season procedures is included in the following point as its application is not a matter of the auction concept as such.

4. Open Season Procedures

A. Summary of ACER Guidance and FG requirements

The ACER Guidance under point (f) stipulates that Open Season Procedures should be limited to cases where the likely capacity demand either:

i. extends across more than two market areas, or

ii. requires an investment project of such size and complexity (e.g. where the investment decision for incremental and new capacity is predicated on associated simultaneous investment decisions in respect of related projects) that the CAM auction procedure could appear not to be a robust approach.

ENTSOG is requested to elaborate on provision (ii) in terms of when this is the case.

The decision whether the criteria are met and an open season can be used is subject to NRAs approval. The terms of the open season and in particular the design of the binding commitment phase of the open season should be approved by all NRAs affected. The terms should comply with the following principles, in addition to the coordination and information provision requirements in 2.c) and 2.d):

- It should offer non-discriminatory opportunities to make commitments for capacity products.

- The capacity expansion should aim at satisfying all commitments, as far as this is overall efficient and economically feasible; where satisfying all commitments would not be economically feasible, or not efficient in the broader geographical context, an allocation rule based on willingness-to-pay should be used in priority. This may lead to using an algorithm modelled on the CAM auction algorithm, for example as described in section e).

- Pro-rating is the only other fall-back allocation rule that should be allowed in order to arrive at an efficient investment size that maximises the degree to which user requests are fulfilled. Its usage should be conditional on the demonstration that the (sole) use of willingness-to-pay would be impractical (e.g. pro-rata needed in combination with willingness-to-pay when demand curves are used or when flat bookings are obtained from network users which cannot be economically met simultaneously). For binding commitments in any open season

procedure, all relevant provisions of the NC CAM on capacity products should hold, particularly with respect to capacity product design, bundling and the capacity set aside for short term allocation. Only the following deviations from the NC CAM are admissible:

- Network user commitments for capacity can be obtained for 15 years as of the capacity becoming useable. Beyond that, commitments for an additional period of up to 5 years can be obtained. The requirement of additional commitments has to be shown to and assessed by the concerned NRAs.
- If existing capacity is still available at an IP for the years for which binding bids for new capacity are invited, these capacity products can be included in the offer of incremental and new capacity.
- Conditional commitments, for instance across a number of years requested, including or excluding bids at other IPs, or for a minimum amount of capacity required (fill-or-kill) can be obtained in open season procedures.

B. Summary of feedback provided by stakeholders in SSP

Most stakeholders highlight strong disagreement to the foreseen allocation process for incremental capacity in an open season procedure. In specific, the stakeholders are of the opinion that an auction that is based on a willingness to pay principle per year is not a suitable tool to efficiently test the market demand for incremental capacity in an open season procedure. It is suggested not to define a default process for the allocation of capacity in an open season procedure, but to leave it up to the relevant NRAs and TSOs to agree on a principle on a case by case basis.

Besides this, it is stressed that the booking horizon for incremental capacity in an open season procedure should be set consistently with the TPA exemption timescales as approved by NRAs.

One stakeholder raises the opinion that the scope for the application on open season procedures is too wide and that the principle is defined in such a flexible way, that TSOs and NRAs could retroactively change rules in order to make an economic test pass. This

stakeholder suggests to define a central role for ACER as a decision body in case of cross-border processes in order to avoid the possibility individual NRAs blocking processes .

C. Explanation of policy decision taken by ENTSOG

ENTSOG fully understands the concerns of stakeholders on the default use of the annual yearly capacity auction to allocate incremental capacity in an open season procedure. Given that size or complexity making that "the CAM auction procedure could appear not to be a robust approach" is the main criteria for the application of an open season procedure, it seems illogical to nonetheless use the CAM auction in the first place and only to allow a deviation once it has been proven that the auction did not succeed.

Nonetheless, the ACER Guidance requires clearly that an auction that is based on an willingness to pay principle as the standard CAM auction must be the default in an open season procedure and that an alternative may only be used if the default does not result in a positive economic test. Due to this restriction, the annual yearly auction is proposed as procedure for the allocation of incremental capacity.

In order to be in line with the ACER Guidance, ENTSOG has kept the default annual yearly capacity auction for open season procedures in the Incremental Proposal. However, ENTSOG urges ACER and the EC to reassess whether the effect of this provision is really wanted and regarded to be beneficial for an increased level of competition between network users.

The current proposal is the result of a compromise with ACER developed during the ENTSOG process, within the range of acceptable solutions compliant with the Guidance. Yet ENTSOG does agree with stakeholders that a better solution would have been to have open season procedures sitting properly alongside auctions and not as a deviation from a default rule, especially if such a default rule is established as not being fit for purpose on beforehand for instance through a consultation. We strongly recommends to ACER to consider a more flexible formulation for the respective paragraphs and include it in its consultation for further stakeholder feedback.

A more flexible formulation could be achieved by giving NRAs the option upfront select an alternative allocation mechanism to be used in open season procedures after substantiating reasons why a CAM auction would not be a robust approach.

5. Economic Test for incremental capacity

A. Summary of ACER Guidance and FG requirements

Point 3.5 of the Tariff FG provides the framework for the design of the economic test to assess the economic viability of an incremental capacity project. It provides a formula that compares the present value of binding network user commitments for incremental capacity with a predefined share of the present value of the increase of the allowed or target revenue for a TSO associated with the incremental capacity.

The parameter setting the before mentioned share is to be defined as f-factor and its level shall be set by the NRA based on the following criteria:

- *Duration of network users' commitment period compared to the economic life of the asset; (The longer the commitment period relative to the asset life is, the more can be underwritten by investors, which may justify a higher "f" parameter);*
- *Capacity set aside for short term bookings, which is at least 10% according to the Network Code on Capacity Allocation Mechanisms; (This may result in a lower "f" parameter, considering that the 10% or part of it will be booked only short term.);*
- *Positive externalities which may justify a lower "f" (e.g. improvement of competition, improvement of security of supply, investment useful for other points in the network and not just the one where it creates capacity).*

The FG furthermore requires that TSOs involved in a single incremental capacity project shall combine their economic requirements into a single economic test for which an aggregated f-factor shall be agreed by the involved NRAs. The level of this f-factor could be reduced by a redistribution of revenues from the incremental capacity between the involved TSOs.

B. Summary of feedback provided by stakeholders in SSP

Most stakeholders support at least partially the articles of the TAR NC dealing with the economic test principles. Some stakeholders however stress that the f-factor is of such a high relevance, that it should be consulted among stakeholders before the NRA takes a final decision. Furthermore, it is suggested to provide a more detailed economic test formula in order to harmonise the approach all over Europe.

C. Explanation of policy decision taken by ENTSOG

The economic test principles as proposed by ENTSOG in the Refined Draft Incremental Proposal aim at giving a flexible tool to TSOs to assess the economic viability of an incremental capacity project as a basis for an investment decision to be taken.

The economic test formula as provided in the FG is regarded to be an appropriate mechanism to make this calculation. A more detailed formula would include the risk of posing a barrier to a specific incremental capacity project due to unnecessary parameters that need to be taken into account. Furthermore, the economic test principles for each project shall be subject to the approval of the relevant NRA.

6. Tariff issues related to incremental capacity

A. Summary of ACER Guidance and FG requirements

The principle of tariff adjustments for incremental capacity is foreseen in the TAR FG. It is limited to cases in which the allocation of all incremental capacity at the reserve price would in theory not allow a positive economic test and should be subject to NRA approval. Any tariff adjustment should only be allowed if it preserves the financial integrity of the economic test, avoids cross subsidies between network users, is compatible with the cost allocation methodology and avoids fragmentation of reserve prices at the same interconnection point.

The mechanism to be used as a default is defined to be a mandatory minimum premium on top of the reserve price for the bundled capacity product. ENTSOG is asked to consider alternative mechanisms to this default, provided that these alternatives are in line with the mentioned requirements.

B. Summary of feedback provided by stakeholders in SSP

Stakeholder call for a fixed price options, many state that for incremental capacity fixed should be the default instead of floating. Not knowing the payable price will make it hard for shippers to make an informed decision on whether incremental capacity is actually needed. On the

opposite, a fixed price are considers by some shippers as an incentive for the long-term bookings, which are needed to underpin the investments in incremental capacity.

C. Explanation of policy decision taken by ENTSOG

ENTSOG concludes that the decision on whether a tariff adjustment for incremental capacity is required can only be based on an estimation based on relevant assumptions of the reference price for incremental capacity, as the actual tariff is unknown at the time of the calculation of the economic test. Fixed tariffs for incremental capacity would enhance the value of the economic test considerably, and as a result clarify whether there is a need for tariff adjustment for incremental capacity.

In case a tariff adjustment is necessary based on the economic test parameters, a mandatory minimum premium on top of the bundled reserve price is regarded by ENTSOG to be the most appropriate solution. The mandatory minimum premium is a specific means to a specific end. Therefore the default auction premium split shall not be automatically applied and the mandatory minimum premium shall be fully awarded to the TSO that has a need for it.

The height of the mandatory minimum premium shall be such that it allows for a passing of the economic test with the revenues generated by the allocation of all offered capacity in the first auction in which the incremental capacity is on offer. National regulatory authorities may choose to also apply the mandatory minimum premium in subsequent auctions when the incremental capacity that initially remained unsold is offered or when incremental capacity is offered that was set aside according to short term reservation quotas defined in the NC CAM.

In cases where NRAs expect future contracting of the incremental capacity to be too uncertain to guarantee this revenue by socialisation via the f-factor, a mandatory minimum premium can be seen as a mitigation against future under-recovery, and thereby protecting captive customers against this risk. In the incremental proposal, ENTSOG prescribed for this to be achieved via a number of options. However, as the result is more important than the procedure, the incremental proposal leaves the decision on the most appropriate arrangement to the TSOs and NRAs involved.

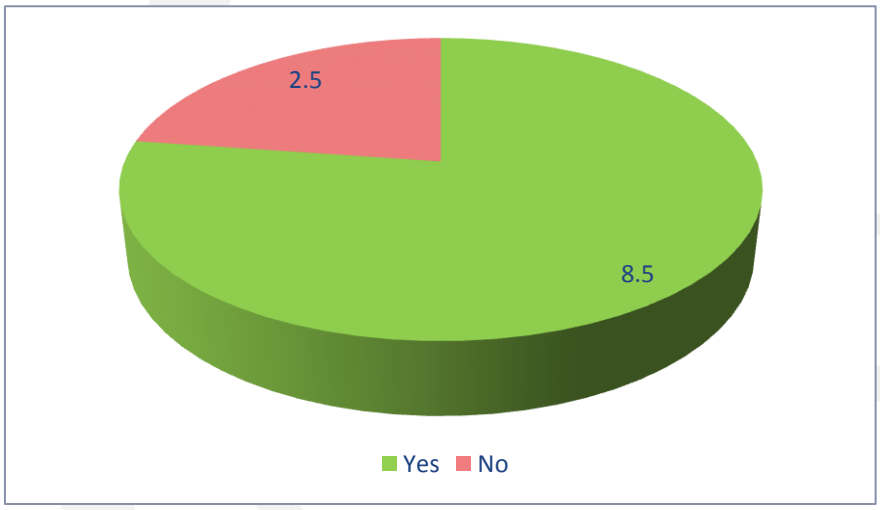
As a guarantee to the network users, ENTSOG states that in case such under-recovery does not materialise, the resulting excess revenues should be returned to the network users. To ensure this the transmission system operators have to monitor the extent of the occurrence of such under- recovery.

To keep the economic test a credible basis for investment, certainty on the value of user commitments is necessary. Once the incremental capacity is allocated, the user commitment should be solid. Should for any reason, due to European or national arrangements, a contract for incremental capacity be cancelled, than the minimum mandatory premium stays always payable.

ENTSOG defined the mandatory minimum premium to be the only mechanism used for the adjustment of tariffs for incremental capacity.

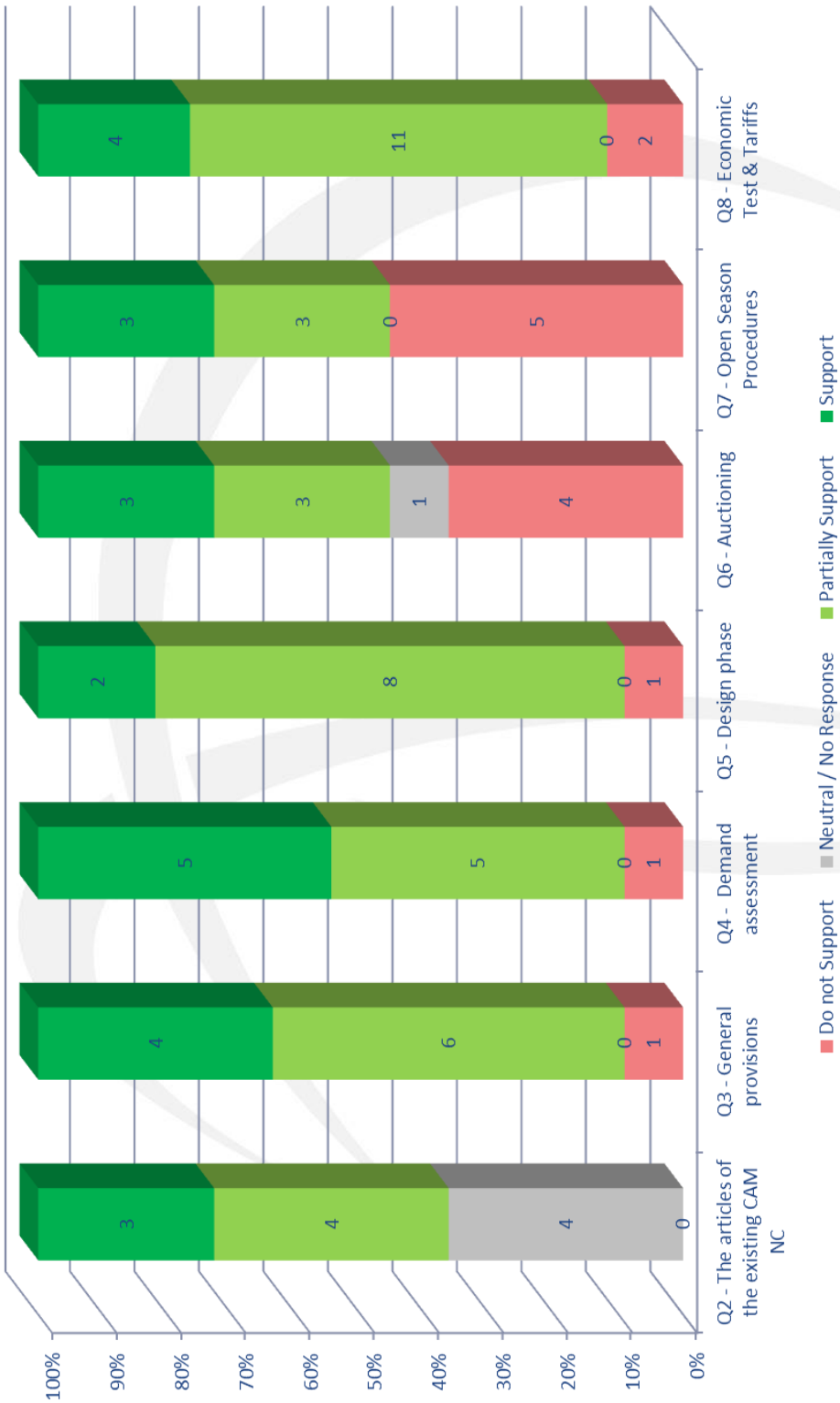
III. Stakeholder Support Process

Question 1: Do you consider that the Incremental Proposal development process carried out by ENTSOG was appropriate, given the regulatory framework provided? In particular, was the level of stakeholder engagement appropriate?



All stakeholders participating in the SSP concluded that the ENTSOG process itself was appropriate. The “No” responses cited that major concerns from their sides had not been properly addressed due to hampering by the regulatory framework of which the Guidance and FG were explicitly mentioned. These “No” responses came from the three most outspoken stakeholders in the process who all would have liked to discussed much further reaching options, albeit in rather diverging directions.

Overall, ENTSOG notes stakeholder satisfaction with the way it conducted the incremental proposal development process, taking stakeholder input into account and bridging differences, where possible between all involved parties.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Q2 - The articles of the existing CAM NC
Q3 - General provisions
Q4 - Demand assessment
Q5 - Design phase
Q6 - Auctioning
Q7 - Open Season Procedures
Q8 - Economic Test & Tariffs
Do not Support
Neutral / No Response
Partially Support
Support
3
4
4
0
4
6
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IV. List of SSP-induced technical changes (in comparison to the SSP version*)

Nr.	article	Change	reason
1	Art. 20 (b) 4	In case of 20 (b) 3b, fees may be charged after ex ante NRA approval of fee	Stakeholder request
2	Art. 20 (b) 9	Include: (e) where a fixed price approach is followed, the elements IND an RP described in TAR NC art. 42.1	To embed the fixed price option
3	Art. 20 (c) 3	Include: (g) in case a fixed price approach is followed, the elements described in TAR NC art. 42.1	To embed the fixed price option
4	Art. 20(c) 5	Increased lead time for Allocation Notice to 60 days	Stakeholder request
5	Art. 20 (e) 1	Add: "Where open season procedures are selected as a result of article 20a(3)a, the national regulatory authorities shall align the length of the additional period for which binding commitments can be obtained with exemption of the impacted infrastructure".	Stakeholder request
6	Art. 47.6	Reasonable doubts replaced by reference to 47.1	Legal: more precise and ensures consistent
7	Art. 47.6	"May" replaced by "shall"	Legal: avoid duplication as optionality is already included in (d): "any other measure"
8	Art. 47.6	"under-recovery of the increase in allowed revenues or target revenues associated with the incremental capacity" replaced by "under-recovery associated with the incremental capacity as described in Article 47.6"	Replaced by reference to ensure consistency
9	TAR NC 47.6.b	Replace: a specific account separate from the regulatory account With: a sub-account of the regulatory account	To be fully consistent with TAR NC art. 37.3
10	TAR NC 47.7	Move the last sentence before the points (a) – (d) to after to reflect the chronological order of events and renumber the paragraph as 47.7 in order to include a reference to 47.6	To increase readability and understanding
11	TAR NC 47.7	Replace: applicable cost allocation methodology With: cost allocation methodology applied	To be fully consistent with TAR NC wordings
12	Art. 20 (c) 3a	Replace: at least one offer level that is reflecting the expected demand for incremental capacity With: all offer levels, reflecting the range of expected demand for incremental capacity	Stakeholder request (clarify which offer levels the NRA approves)