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ACER Public Consultation on Forward Risk Hedging Products & Harmonisation of Long Term Capacity Allocation rules

Evaluation of responses and final ACER "wish-list" for further harmonisation of auction rules for Long-Term Transmission Rights

5 February 2013

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1 Introduction

On 29 August 2012, the Agency for the Cooperation of Energy Regulators (Agency) launched a public consultation on Forward Risk Hedging Products & Harmonisation of Long Term Capacity Allocation rules.

This consultation was held in the context of the Electricity Regional Initiative and the effort towards the implementation of the Target Model for the long-term timeframe. To that end, the cross-regional roadmap issued on long term transmission rights included four areas of work: harmonisation of long term allocation rules, of allocation platforms, and of the nomination process, and possible implementation of FTR.

This document deals with these four areas of work and aims at facilitating improvement and harmonisation of the platforms, products, allocation and nomination rules.
Indeed, the public consultation should help ENTSO-E to draft the common set of allocation rules (requested by end Q2 2013, to enter in force in 2014 after NRAs' approval) by identifying common features at European level, versus local specificities. The consultation also attempts to determine which forward risk-hedging products (PTR, FTR options / obligations, CfDs, or other products) are best suited to be implemented in Europe.

The public consultation ended on 28 October 2012. 28 responses were received.

The replies illustrate the differences between the continental models and the Nordic electricity market model.

In most of Europe, TSOs or interconnector operators offer the physically available transmission capacity to the market in advance via explicit auctions, in the form of transmission rights, over different time horizons (e.g. yearly, monthly). This allows capacity rights holders to schedule (nominate) cross-border electricity exchanges. Capacity rights are mostly tradable rights. If capacity holders do not nominate their right, they are entitled to compensation equal to the market spread (UIOSI). This is comparable to financial transmission rights as options, which entitle holders to claim on the price differential between two zones.

Forward energy products in the Nordic market are predominantly products with financial settlement against the so-called system price, which means that the forward contract is a price hedge while the physical delivery is through the day-ahead spot market. Hedging against congestion risk is done through CfDs, which refer to the price difference between a bidding area and the system price. Unlike PTRs and FTRs issued by TSOs, CfDs are offered by market players. Furthermore, in the Nordic market, there are no long-term transmission capacity allocations, but all the capacity is made available in the day-ahead implicit auctions.

This difference has bearing on the preferences regarding hedging instruments and sets the context for the Nordic replies.

2 Responses per question

2.1. Forward risk-hedging products

1. Are there other products or options which are not considered in this document that would be worth investigating?

No other product is needed according to all responding participants except two associations which propose to introduce a hybrid product such as to combine two contracts for difference (CfDs).

One market participant and one EU association propose to start a pilot project in Sweden, where TSOs could issue CfDs.

2. What will be the importance of the long-term Target Model and specifically the design of the forward market and the structure of long-term hedging products once the Day-Ahead and Intraday Target Models are implemented? Do you think your interest and demand for long-term hedging products will change (either increase or decrease) with the implementation of the Day-Ahead and Intraday Target Models? More specifically, what is your interest in cross-border/zone hedging?

For several participants, there is an increased interest for long-term products with the implementation of Day-Ahead and Intraday target models. Several arguments are proposed:

- Due to a better price convergence, the costs of hedging will decrease but not the interest in hedging. The rare situations of divergence explain this interest.
- Due to more stable price and smaller spreads, there will be more competition all over Europe and increasing trades, which involves an increased need for hedging products.

Moreover, demand for transmission rights and stable price difference will be a signal to TSOs and generators for new investments.

The interest for hedging products will not decrease as far as, according to three actors, structural differences from one country to another generate price differences, or because energy is mainly traded on forward markets.

For others, there will not be any change as far as other parameters are more influential than the implementation of the DA and ID target models.

In the opinion of one market player, there will be a diminution for hedging need with Market Coupling after removal of “artificial transmission restriction (PTR)”.

3. Would long-term hedging markets need to evolve (e.g. in terms of structure, products, liquidity, harmonisation, etc.) due to the implementation of: 1) the day-ahead market coupling, 2) day-ahead flow-based capacity calculation and 3) occasional redefinition of zones? If so, please describe how these changes would influence your hedging needs and strategy. If no evolution seems necessary, please elaborate why. Can you think of any striking change not considered here?

For four participants, the long-term hedging market has to evolve independently from the implementation of MC, Flow-Based or redefinitions of zones. It should evolve to increase liquidity, and it should evolve with all major projects affecting the market design or to follow the increasing cross-border trade (IEM but also RES).

Market Coupling:
Seven participants believe that the implementation of Market Coupling will not imply a need of changing hedging markets. Four participants think the problem has to be considered the other way round: the Day-Ahead market should be well designed before any evolution of the Long-Term market is foreseen. They also call for both designs to be flexible.

Flow-Based:
Ten participants think long-term hedging markets do not need to evolve with the implementation of Flow-Based Market Coupling. On the contrary, four actors think there could be an interplay or at least would like to assess the interaction between Flow-Based and hedging products.

Zone redefinition:
Redefinition of zones will have a strong impact on hedging markets, and on all timeframe markets, which should imply a cost-benefit analysis. For another association the real problem is not zone redefinition, but lack of capacity that should be dealt with through new investments.

Several actors think TSOs should not change zones because of the negative impact on hedging, peculiarly in the case of zone splitting. In addition, increasing the number of zones would induce additional need for cross-border hedging.

On the contrary, five participants consider that zone merging will have a positive impact on hedging markets.

Whatever is their position on the impact of zone redefinition, two actors want to remind that each time it is happening, a zone redefinition should involve the introduction of a product between the zones where there is none, keeping in mind harmonization of products. Moreover, the changes should not be too frequent to guarantee market stability according to many participants.

Two EU associations call for consistency between short-term and long-term market zones.

4. What is for you the most suitable Long-Term Target Model (combination of energy forwards and transmission products) that would enable efficient and effective long term hedging? What would be the prerequisites (with respect to the e.g. regulatory, financial, technical, operational framework) to enable this market design in Europe? Which criteria would you use to assess the best market design to hedge long-term positions in the market (e.g. operability, implementation costs, liquidity, efficiency…)?

One actor thinks that the long-term target model presented in the Florence Forum is adapted to market needs, even if maturity between power and transmission long-term products should be aligned or consistent. The common design of power and transmission products market is well considered by four actors, because the lack of liquidity on an energy forward market can be coped with by adapted transmission rights. Nevertheless, one EU association insists on the fact that the evolution in long-term hedging products is only one step in the definition of the forward target model. For one market participant Guidelines and Codes should support only market based solutions that provides liquid and transparent conditions for all market players. This participant also claims that the current aim to force TSOs to issue PTRs or FTRs is based on physical market thinking and neglects the fact that financial markets are more efficient, and that this is also supported by EMIR and the goals of EU internal market.

Concerning the transmission products, participants express general expectations, in addition to their preference for one solution or another. Several actors require market participants to be consulted for any change in market design or more peculiarly each time a change from PTR to FTR is studied. Several participants asked for harmonized transmission products all around Europe or at least for common set of rules for borders with FTR and PTR with UIOSI. One actor is more specific, requiring harmonization of operational requirements, level of firmness and financial guarantee arrangements. Another one shares the view that a high degree of harmonization would be positive, but points out this would take a lot of time to be achieved.

Moreover, four actors remind that some regional specificities have to be taken into account (structure of DC merchant interconnectors).

As far as firmness is concerned, four actors clearly request FTRs and PTRs to be firm. Moreover, five actors agree on the issued capacity being limited to the physically available one.

Several participants wish transmission rights to be exchangeable on a secondary market. Two of them precise this should be made available through a European-wide platform for primary and secondary trading of transmission rights.

Opinion on hedging products:
Several actors share a good opinion of PTRs. Three of them precise that, where PTRs exist, UIOSI mechanism should be introduced, and another says PTRs are not qualified as financial instrument under MiFID.

Several actors have also a positive opinion of FTR Options. Nevertheless, two of them want FTR to be further assessed. Some respondents see merit on FTRs (indifferently options or obligations) over PTRs for simplicity and efficiency reasons.

On the issue of FTR obligations four actors express a rather negative opinion: for one of them the industry could propose it by itself but the TSOs should not, the three others fear obligations may be too constraining.

A certain number of actors do not include CfD in their conception of what should be an adapted market design. Two of them express their reluctance to generalize this model: one does not believe it could be profitable, and another believes it can only be efficient in Nordic Markets and would cause extra costs if implemented in other parts of Europe. Nevertheless several participants have a positive opinion of CfDs when it already exists or where a system price exists and wish this model to be extended to the rest of Europe. Two actors ask for further investigation about CfDs emitted by TSOs.

Criteria to assess market design:
Liquidity is seen as a relevant criterion to assess the forward market target model, and more precisely to choose between PTR or FTR. For two actors, liquidity in the secondary market is peculiarly relevant, and for four participants, factors that may lead to a good level of liquidity are also relevant criteria (harmonization of rules, simplicity of operations, cost-efficient and reliable process and transparent market design to allow confidence). For one actor, the preference for FTRs is accurate only for borders with DA implicit auctions and for another only if there are liquid markets on both sides.

Regulatory issues:
For several actors, the evolution and the application of the European financial regulation (MiFID) is quite an important issue. For three of them, this evolution should not create additional costs to market participants. For another, in the case of introduction of FTRs, an exemption from MIFID 2 would be needed for the platform issuing the rights; otherwise there would be an increase of its costs reported to interconnection users.
The question of already issued rights in the case of zones' redefinition should be dealt with from a regulatory perspective (see other remarks on zone redefinition in question 3/).
Firmness cost is another important issue. In the opinion of one stakeholder, TSOs revenues should be secured in case of curtailments (see other remarks on firmness in question 4/).
The issue of the repartition of the congestion rent in Flow-Based should be thought through to make it possible for TSOs to finance PTR+UIOSI or FTR options.
Hub-to-hub trade of FTRs may be complex and should be further studied. Financial products could be an alternative.
For one market participant, all regulatory restrictions that hamper efficient use of existing mechanisms should be removed in priority.

5. What techniques of market manipulation or "gaming" could be associated with the various markets for hedging products? What measures could in your view help prevent such behaviour?

Several contributors consider there is no gaming possibility in the case of ATC Market Coupling with PTR UIOSI or the equivalent FTR.

Nevertheless, others think PTR, without stringent conditions for the application of the UIOSI, may hold the risk that capacity is kept out of the market.

One actor expresses the opinion that an analysis could be carried out to make sure there is no impact of nominating PTRs on market coupling results in the case of Flow-Based calculation.

Two participants think gaming possibilities will be reduced by the increase of liquidity.

For one actor, PTR and FTR may structurally be source of gaming problems since there are only in limited quantity (in opposition to CfD). Quite on the same line, four actors think that establishing a competitive integrated spot markets of a certain size, which creates a credible reference price, being a basis for hedging through liquid forward power contracts will reduce the possibilities of gaming and the need for secondary products such as PTRs, FTRs and CfDs.

For several actors, monitoring by NRAs and transparency from the TSOs about the capacity calculation are key to avoid "gaming".

A majority of actors express their confidence that legal instruments available for NRAs and ACER (REMIT, MAR, MIFID and EMIR) are sufficient legal instruments.

One EU association reminds penalties defined in the rules and that are possible to amend with NRAs' support are a key instrument.

2.2. Harmonisation of long-term (forward) capacity allocation rules

Wish-list

6. Would you like to change, add or delete points in this wish-list? If so, please indicate why and how.

Several respondents do not see any necessary change in the wish-list.

However, other respondents suggest modifications.

- **In the Background section**, two EU associations ask the wish-list specifies that the European set of rules should enter into force starting with the yearly allocation for 2014.
- **In the General/Scope section**, some request for having PTRs or FTRs on all European borders.
- **In the General/Format section,** one EU association thinks that specificities should not be incorporate in auction rules; otherwise the rules will become too long and the approval procedure more complex.
- **In the General/Auction rules section,** one EU association is in favour of intensifying the coordination regarding Auction Rules development and keeping the actual process (TSOs draft and amend auction rules and regulators approve them or require modifications)
- **In section II/Firmness of held capacity**, one EU association emphasises that in case of curtailment, capacity holders will be compensated on the basis of the market spread. Another one would like the harmonised set of rules to define when held capacity becomes fully firm and which firmness applies.
- **In section II/Fall-back,** one EU association is in favour of the possibility of day-ahead explicit auctions. Another one believes that the inclusion in the auction rules of such procedures for day-ahead market depends on the options to be chosen for auction rules harmonization and that the fall-back procedure for long-term is less critical because of less timing constraints.
- **In section III/Entitlement**, it is not clear why there need to be requirements placed on market participants to trade in secondary capacity. One market participant thinks that the TSO should auction Financial Transmission Rights (FTR) or Contracts for Differences (CfD).
- **In section III/Secondary trading,** three respondents believe that the organization of secondary trading is neither a task for TSOs nor for the auction office. One actor

highlights that secondary trading should allow secondary trading across the Notice Board.

- **In section VI/Resale,** the sentence "unless this is proven not to be necessary" should be deleted.
- **In section VII/Nomination agents,** one respondent indicates that the delegation of nomination tasks to another entity may require major adjustments in TSO's IT systems and processes.
- **In section IX/Valuation of reductions in held capacities**, some see caps as an intermediate solution and one asks for a harmonised method. Three actors think that it is not clear on how capacity holders should be compensated in terms of curtailment and that compensation regime may depend on type of interconnector (sub-sea or land-based, merchant or regulated). One respondent promotes full firmness.
- **In section IX/Payment deposit,** two contributors wish that different types of collaterals should be included and indicate that covering 1/12th of the total amount should be generally sufficient.
- **In section IX/Recovery payment,** one EU association is against a decrease of the amount of required collaterals. In another one's point of view, financial security requirements should not act as a barrier to entry to any market participant and the compensation should be different between merchant or regulated interconnectors and for sub-sea or land based cables.
- **In section X/Duration and Amendment of auction rules,** one respondent wonders whether one single document approval by only some regulators would be possible.

One contributor underlines that the consistency with other European network codes especially CACM and Balancing is needed.

7. Which aspects of auction rules would be most valuable to be harmonised? Can you provide some concrete examples (what, when, where) of how this could help your commercial operation (e.g. lowering the transaction costs)?

The platform, the products, the auctions timing, the financial guarantees and the firmness rules are the aspects of auctions rules which are the most valuable to be harmonised. Indeed, six respondents advocate for the harmonization of the platform. Several respondents promote a harmonised product definition. Seven contributors are in favour of the harmonization of auctions timing. Some would like to harmonise the financial guarantees. And for seven respondents firmness rules should be harmonised.

Some ask for a harmonised secondary market rules. Two respondents prioritize also the harmonization of the fall back procedure, financial guarantees and the definition of force majeure. One indicates that it is important to harmonised the access rules, billing, scheduling and pricing model.
For two contributors, all the relevant aspects of the auction rules should be harmonised. However, others consider that certain areas of the rules are being developed through the European network code process and they would require further assessment at a later date.

Six Nordic respondents stress on the fact that the effects on the power derivatives markets must be evaluated when considering what elements can be harmonised.
One contributor considers that the rules will be governed by the laws of the member state where the allocation platform is registered is not acceptable. This respondent also underlines that it should be specified who is responsible for underwriting the provision of firmness.

8. Which elements of auction rules have regional, country specific aspects, which should not be harmonised?

In general, respondents are in favour of a strong harmonisation. Actually six contributors do not see any regional specific aspects. One EU association supports the list of harmonisation proposed in the wish-list. Five other contributors are not opposed to few specific aspects although some indicate that any local specificity should be duly justified.

However, some respondents consider possible different transition periods.

Some respondents suggest regional or country specific aspects. For example, one EU association considers that island systems could be specific. At this stage it is not possible to harmonise everything due to the different regimes in the Member States. Indeed, for two contributors, differences in terms of model (merchant vs socialised) and type of interconnector (AC vs DC or sub-seas vs land-based) should be considered, notably because firmness and compensation arrangements may need to be different depending on the interconnector types. Moreover, one stakeholder indicates that as long as market rules are harmonised this should be fine but if they are not there may be additional areas of access rules that cannot be harmonised. This actor explains that payment deposit could not be harmonised.

Another actor emphasises that FTRs do not suit the Nordic market structure, and would most probably have a negative effect on the well-functioning Nordic derivatives market. According to two respondents auctions should be avoided. One market participant highlights that once liquid derivatives market exists, rules with regard to long term products should not be regulated by Network Codes.

9. Which aspects should be harmonised in binding codes?

In general, the respondents agree on including, in a harmonised way, the main aspects in the Network Code for Forward Capacity Allocation. For two contributors all aspects should be harmonised in the codes without any exemptions. Several actors ask that the auction rules should be part of the Network Code for Forward Allocation. Some agree on harmonising in a binding code capacity calculation and products. One market participant would like that the allocation of forward rights and the obligation to issue those rights between all bidding zones to become binding.

Several participants detail what they really want to see in binding codes. For example, two actors are in favour of dealing in the code with the firmness and the secondary market. Two associations would like to integrate also payment deposit. In addition, one wishes the network code to include the type of transmission rights, the definition of force majeure as well as the fall back procedure and one wants access and prequalification rules to be included in the Network Code. Moreover, according to one respondent, secondary markets, level of collateralisation, admission procedures and ratio of different timeframes should be harmonised in binding codes.

For three contributors a high-level harmonisation should be possible but details might be difficult to harmonise. One association points out also difficulties for harmonisation in particular on auction timings and products.

10. If you are to trade from the Iberian Peninsula to the Nordic region and there existed PTRs with UIOSI, FTR Options or Obligations and CfDs in different regions – what obstacles, if any, would you face? How would you deal with them?

Several respondents express difficulties and obstacles to participate to far markets because of a lack of harmonization of rules and products (impossible to fully hedge a position between two non-adjacent countries). For instance, one respondent indicates that there are obstacles where a network user is only permitted to use a PTR on one side of a border and a FTR on the other side and so there is a need for robust risk management systems to manage complexity.

Some market players explain how they could face obstacle. Some could use two separate local hedges (contracts with customer and generator are hedged separately). Nordic contributors express their solution: sell the physical power in the Nordic region, and buy physical power in Portugal in order to sell it there. Two other respondents detail two alternatives to overcome obstacles: the Spanish generator sells its generation in the Spanish market and buys a Nordic system price contract as well as a CfD for Sweden 4 or the Spanish supplier buys transmission rights between all relevant bidding zones.

One contributor indicates that PTRs with UIOSI and FTRs as options can coexist at different borders but CfDs are more complex and raise operational risk. One respondent believes that the need for separate transmission rights vanishes with liquid markets. According to one participant, larger price zones would reduce the necessity for FTRs and PTRs significantly as larger bidding zones themselves add to liquidity, increased competition on the wholesale markets and ensure hedging possibilities for market participants.

Capacity calculation and allocation method

11. Would allocating the products at the same time represent an improvement for market players? Why? Where, if not everywhere, and under which conditions?

Many respondents do not see the need for allocating the product at the same time.

Three contributors indicate that it does not represent a relevant improvement but rather barriers for smaller market players. Two actors suggest two or three different gate closure. For another contributor simultaneous allocations may decrease transparency and prevent flexibility. One respondent explains that a different timing of the allocation process is a sub-optimisation because first allocations will involve constraints for the following allocations. Two contributors think that simultaneous allocations may raise issues on liquidity and also on volatility. However, three respondents believe that a certain harmonization of auction timing would be useful for long term cross-border capacity auctions related to a specific timeframe to take place at close range.

On the other hand, five respondents are in favour of allocating the products at the same time. For some market participants cross-border capacity should be allocated all at once at the same time for all borders in Europe and it is not necessary to split the amount of “yearly” capacity over two auctions. In addition, another one advocates a local consultation to validate this evolution.

Moreover, three contributors ask for having the calendar far in advance.

12. How important is it that capacity calculation for the long-term timeframe is compatible and/or consistent with the short-term capacity calculation and that capacity is interdependent and optimised across different borders?

Almost all respondents emphasise the importance of consistency between capacity calculation for long-term and short-term timeframes.

Eight contributors consider that compatibility of capacity calculation methods across various timeframes is important to ensure that maximum capacity is being allocated to the market. Five market players underline the importance of a compatible and well-estimated capacity for having a relevant economic signal. Some respondents ask for an optimized and interdependent capacity calculation for long term and short term timeframe. One indicates that compatibility is an essential point in view of firmness of capacity.

A majority of respondents ask for a maximal capacity allocated for long-term and one for no capacity reservation for D-1, intraday and balancing markets. On the contrary Nordic contributors would like to increase available capacity for the day-ahead and intraday markets.

Several actors advocate a transparent process and an improvement of information to market parties.

Three respondents support the NTC method as the default method for forward capacity calculation. Indeed tests demonstrate that flow-based is not an appropriate method for forward.

One EU association indicates that the compatibility of the capacity calculation for different timeframe is guaranteed by CACM network code and that only a few specificities may be addressed in FCA network code.

Products

13. Please indicate the importance of availability of different hedging products with respect to their delivery period (e.g. multi-year, year, semester, season) for efficient hedging against price differential between bidding zones. What do you think of multiple-year products in particular?

Many respondents are in favor of TSOs issuing long-term transmission rights on a multiyear basis. They indicate that it would allow increasing cross-border competition, in particular in the forward market, while providing for more stability and risk hedging possibilities for generators to invest. Duration could be aligned with forward energy products, which are usually up to three years. Four participants also propose to auction yearly products but more in advance.

On the other hand, one participant indicates that duration longer than three years could hamper competition and some mention the importance of the rules to split capacities between timeframes in such a case. One respondent is not opposed to multiyear products, but stresses that longer-term products would increase TSOs' risk exposure, which may require specific compensation to ensure revenue adequacy.

In general, respondents favor to have a variety of products (including yearly, seasonal, monthly and possibly weekly or daily products), which could evolve based on market needs, and some claim for more frequent auctions.

A few contestants also wish that products could evolve based on market needs, which could be achieved by CfDs, possibly with the addition of TRs.

14. What would be your preferred splitting of available interconnection capacity between the different timeframes of forward hedging products? Which criteria should drive the splitting between timeframes of forward hedging products?

While a few contributors agree on a more balanced splitting of capacities between timeframes, possibly depending on local specificities, a majority of respondents are in favor of allocating the maximum available capacity to the longer-term auctions, or at least to the yearly auction. Two actors express views on the splitting rules, one requesting that yearly and multiannual products to represent at least two third of the capacity, another that no transmission capacity be reserved for D-1, ID or balancing. A few also stress on the importance of having a liquid secondary market: without a liquid secondary market, it might be worthier keeping some capacities for shorter-term timeframes.

15. While products with planned unavailability cannot be standardised and harmonised throughout Europe, they enable TSOs to offer more long-term capacity on average than standardised and harmonised products would allow. Do you think these products should be kept in the future and, if so, how could they be improved?

Apart from a few market participants who advocate for more standardization of products, a majority of respondents agree on having products with planned unavailability, insofar as they allow to offer more long-term capacity, they are kept to a minimum and unavailability periods are known in advance or accurately forecast.

In case of allowing products with planned unavailability, one association also asks for having some “pure” base load products and one market participant would like TSOs to make sure they plan maintenance when the value of the capacity is low.

16. Products for specific hours reflect market participants’ needs. What should drive the decision to implement such products? How should the available capacity be split between such products and base load ones in the long-term timeframe?

Most respondents are promoting the offering of standard and, as much as possible, base load products. Amongst them, some do not see the need for these specific products or think secondary trading could give the opportunity for market participants to slice and resell products fitting market needs. One contributor also prefers standardization, but with base and peak products in line with energy products. Finally, another one proposes to allow market participants to decide by their bids on the split on capacity between the products, via a well-defined auction optimization process.

Secondary markets

17. Should this possibility be investigated and why (please provide pros and cons)? In case you favour this possibility, how should this buyback be organised?

A majority of market participants insist on firmness of transmission rights issued by TSOs and wish buyback possibility to be investigated. One respondent also agrees on assessing this option, as long as it is ensured that interconnectors are kept cost neutral.

Most of them consider that, in case a capacity reduction is required, TSOs should either buy back capacity if TR owners accept to resell their rights, or give lower capacity to the day-ahead stage, but paying all TR owners selling their rights to the day-ahead at the price differential (UIOSI as usual). Buyback could enable TSOs to pay a fair price for the reduction while revealing the value of capacity for the market. Some insist on the transparency of the rules applicable to TSOs: they propose for instance that TSOs proceed to a transparent auction to buy back transmission rights.

On the other hand, two respondents wonder what benefit buyback could provide. One of them stresses on security of supply and warns on risk of manipulation and increased costs, ultimately borne by the consumers. In addition, TSOs would have to act as traders, inducing higher operational costs for them.

Nomination

18. With the potential evolution from PTRs with UIOSI to FTR options, does the removal of the nomination process constitute a problem for you? If so, why and on which borders, if not on all of them?

Most respondents consider that nominations are useful in case of transmission rights at least between illiquid markets and some explain that nominations allow for additional flexibility and increasing reliability in cross-border trading. In addition, a few notice that nominations may be compulsory, in Member States such as Italy, to prove the sourcing of green energy. Last, for one contributor, the removal of the nomination process could have a direct impact on its business model.

On the other hand, two respondents do not see any particular issues linked to the removal of the nomination process.

19. How could the potential evolution from PTRs with UIOSI to FTRs on border(s) you are active impact your current long-term hedging strategy?

Several participants refer to previous answers regarding the question.

However, a few of them indicate that evolving from PTRs with UIOSI to FTRs would have a limited or no impact on their long-term hedging strategy, as long as options are considered. One market participant, in particular, notes that FTR obligations would change significantly its hedging strategy.

Nonetheless, another one considers that FTRs do not provide a similar hedge insofar as they are sensitive to price limits on organized markets. In addition, it obliges market participants to use spot markets and has implications in terms of fiscal regulation application (e.g. VAT), depending on national regimes.

20. If nomination possibility exists only on some borders (in case of wide FTRs implementation), is it worth for TSOs to work on harmonising the nomination rules and procedures? If so, should this harmonisation consider both the contractual and technical side? How important is such harmonisation for your commercial operation? Which aspects are the most crucial to be harmonised?

Market participants supporting and anticipating the introduction of FTR options instead of PTRs with UIOSI mostly consider that the harmonization of nomination procedures is not essential as nominations will remain only temporarily. One EU association also mentions that nomination harmonization could be challenging and wonders whether this should be a priority, which is also questioned by other participants. In addition, a few contestants do not consider harmonization of nomination procedures very useful, as it could be costly for the TSOs and market participants not willing to go through these procedures can resell automatically their rights to the day-ahead stage thanks to the UIOSI.

On the other hand, several companies or associations ask for more harmonization both on the contractual and technical sides.

Auction Platforms

21. Looking at the current features offered by the different auction platforms (e.g. CASC.EU, CAO, individual TSO systems) and financial market platforms in Europe, what are the main advantages and weaknesses of each of them?

Having a single auction platform in Europe is desired by many respondents, some considering in particular that having a single platform would foster harmonization in terms of rules and IT systems. According to one association, different platforms are also justified today by the fact that rules are different.

However, two respondents do not think having a single platform is needed.

In general, there is no strong view on advantages and weaknesses of existing platforms. Some consider CASC.EU and CAO as efficient platforms, whereas two market participants seem to prefer CASC.EU.

One contributor deems that detailed analysis and specifications are required to build a European platform.

Lastly, one association thinks that PXs should allocate FTRs and another one considers that TSOs' involvement should be avoided.

22. How do you think the single auction platform required by the CACM Framework Guidelines should be established and organised?

- How do you see the management of a transitional phase from regional platforms to the single EU platform?
- Should current regional platforms merge via a voluntary process or should a procurement procedure be organised at European Union level (and by whom)?
- Should the Network Code on Forward Markets define a deadline for the establishment of the single European platform? If so, what would be a desirable and realistic date?

Contributions from market players do not allow to identify clear issues linked to the transition from regional platforms to the single EU platform. Nonetheless, several respondents propose to have a stepwise approach for the establishment or the extension of the platform.

As regards the selection process, most of the contestants envisage a voluntary approach, although one considers a procurement process is more relevant. Two actors mention that TSOs should lead the process and others ask NRAs to incentivize TSOs to implement it.

In order to choose the platform, two market participants insist on its robustness whereas other contributors propose a consultation or voting process amongst market participants.

Several respondents suggest that the goal and the process to have a EU platform are described in the Network Code on Forward Capacity Allocation, which could envisage the EC to act in case the voluntary approach does not achieve.

Finally, with regard to implementation deadline, three target dates are proposed by market parties: 2014, 2015, date of the implementation of price coupling. On the other hand, two respondents consider that no deadline should be indicated.

3 Conclusion

Main conclusions:

For most market participants a well-functioning market of forward risk hedging products is very important as it allows them to hedge in efficient way their positions across borders. This possibility fosters cross-border competition and supports the objective to achieving an open and efficient internal market.

The issues of main concern are the evaluation of the best instruments for market participants to hedge risks across borders, liquidity of the markets and the allocation of capacity to different time frames. There seems to be a need of the market for multi-year products. Furthermore, a well-functioning secondary market and the need for one auction platform are important. Also the stability of zones was an issue. There is a strong need for harmonization and standardization. The role of TSOs with respect to issuing these long-term products as well as firmness of the products was also tackled. Furthermore, the replies demonstrate also very well the differences between the Nordic electricity market model and the continental models regarding preferences for forward risk-hedging products.

Forward risk-hedging products:

There was no clear consensus amongst stakeholders on forward risk-hedging products preferences. Overall, there was a preference for having transmission rights, apart from the Nordic region, where respondents expressed the preference to continue with the existing arrangements.

Regarding the type of the transmission rights, several respondents supported PTRs. An important pre-condition to implementation of FTRs is implementation of market coupling. Most respondents also shared a positive opinion on FTRs Options recognising their benefits in terms of simplicity in use and easing complexities in cross-border trades. Furthermore, some respondents indicated that FTRs implementation would further tackle some issues like green certificates and guarantees of origin; according to some contributors, FTRs also qualify as financial instruments under MiFID. Regulators share the concern that if this were the case this could have negative impact on the liquidity of these products, as financial markets would make them less attractive. Regulators have been in discussion with the competent European institutions to make them aware of those concerns, and they advocate that suitable arrangements should be found in order for transmission rights not to fall under the scope of MiFID II. At the same time if transmission rights would not fall under the scope of MiFID II they would still fall under the scope of REMIT and hence there should be no regulatory gap.

Nevertheless, a few respondents expressed a negative opinion for FTR Obligations as being too constraining. FTR obligations are similar to CfDs but are issued by a TSO.

Finally, several respondents, primarily from the Nordic region shared a positive opinion on CfDs. CfDs can act as complements to PTRs or FTRs especially in continental Europe. Regarding the opportunity for introducing CfDs throughout Europe, the creation of reference system prices could facilitate their implementation.

ACER will conduct an analysis to ensure that the existence of specific hedging systems for different parts of Europe does not create any barrier towards the achievement of the Internal Electricity Market or that there are no unjustified costs for market participants. Moreover, TRs impact on the liquidity of both forward and day ahead markets and benefits with FTRs compared to PTRs may be assessed.

Harmonisation of long-term (forward) capacity allocation rules

Wish-list:

Overall, there was a general support for the proposed wish-list, with a few clarifications needed in some instances. Several issues raised, should be clearly addressed in the Network Code, these include as a minimum the following: firmness, approval and amendment procedures, application of UIOSI or payout of capacity products and definition of force majeure (please see ANNEX for the updated wish list).

Products:

There was a broad request from the respondents to introduce longer-term products such as multi-year products. Several respondents consider the introduction of longer-term products beneficial for increasing cross-border competition and providing better risk hedging for generators to invest.
ACER concludes it would be valuable to undertake a cost benefit study on the impact of introducing longer-term products.

Buyback:

Similarly, the majority of respondents expressed a broad support for introducing buyback possibilities for the TSOs when capacity reduction is required. Buyback could enable TSOs to pay a fair price for the reduction while revealing the value of capacity for the market. Some respondents warn on risk of manipulation and increased costs; a solution could be to set price caps (possibly based on the auction price) for buyback. In that instance, the transparency of the rules applicable to TSOs is important and capacity holders should be free to participate and sell back their capacities to the TSOs.
ACER concludes it would be valuable to undertake a study on the possibility to introduce buyback.

Auction platform

Regarding the development of the auction platform, there is a broad support that this should be a voluntary process but with a deadline and a mechanism in place to ensure that there will be a single auction platform at the end.

Prioritisation

According to the responses to the public consultation, NRAs propose the following priorities: harmonisation of allocation rules, development of the single auction platform, choice of forward hedging products and nomination.

Next steps

Reminder of the cross-regional roadmap

The cross-regional roadmap on long term transmission rights includes four areas of work to implement the Target Model: harmonisation of long term allocation rules, of allocation platforms, and of the nomination process, and possible implementation of FTR.

The allocation rules should be the priority of these ambitious targets. According to the cross-regional roadmap ENTSO-E have to draft the common set of rules by Q2 2013, in close cooperation with stakeholders and to submit them to NRAs for approval by mid-2013 in order to enter in force in 2014.

Besides, the related decision on whether to merge the existing platforms is expected by mid-2013 in the cross-regional roadmap, while according to the CACM framework guidelines regional platforms may operate as a transitional arrangement. ENTSO-E shall define criteria required to establish the single auction platform.

Planning for allocation rules and the auction platform

NRAs understand that the deadlines set in the cross-regional roadmap are very tight, as the project has already experienced delays. Therefore, NRAs propose to follow a two-steps approach:

- 2013:
  - Based on the wish-list and within the scope of existing auction rules, TSOs elaborate LT auction rules for the LT auctions in 2014;
  - TSOs define criteria to establish the single auction platform.
- 2014:
  - Based on the wish list TSOs elaborate a European common set of LT auction rules. This set of rules should apply to all LT auctions for 2015 onwards;
  - TSOs establish the single auction platform.

Complementary studies

Following contributors' requests, ACER understands that it is worth to assess TRs impact on the liquidity of both forward and day ahead markets and benefits with FTRs compared to PTRs. Furthermore, ACER will conduct an analysis to ensure that the existence of specific hedging systems for different parts of Europe does not create any barrier towards the achievement of the Internal Electricity Market or that there are no unjustified costs for market participants.

ACER concludes it would also be valuable to undertake

- a cost benefit study on the impact of introducing longer-term products,
- a study to introduce buyback possibilities.

Annex 1 - ACER

The Agency for the Cooperation of Energy Regulators (Agency) is a European Union body established in 2010. The Agency's mission is to assist National Regulatory Authorities in exercising, at the Community level, the regulatory tasks that they perform in the Member States and, where necessary, to coordinate their action. The work of the Agency is structured around the working bodies, composed of the Agency staff members and staff members of the National Regulatory Authorities. These working bodies deal with different topics, according to their members' fields of expertise.

Annex 2 - List of Respondents

No	Organisation	Type
1	AIGET	Association
2	Assoelettrica	Association
3	BDEW	Association
4	BritNed	Interconnector operator
5	CAO	Allocation Platform
6	Danksenergi	Association
7	EAI	Association
8	EDF	Producer/supplier
9	Edison	Producer/supplier
10	EFET	Association
11	ENEA Trading	Trader
12	Energi Norge	Association
13	ENTSO-E	Association
14	EON	Producer/supplier
15	Eurelectric	Association
16	FEI	Association
17	Fortum	Producer/supplier
18	GDF SUEZ	Producer/supplier
19	Iberdrola	Producer/supplier
20	JP Morgan	Trader
21	Moyle	Interconnector operator
22	OE Sweden	Association
23	Österreichs Energie	Association
24	SSE	Producer/supplier
25	Statkraft	Producer/supplier
26	Swedenergy	Association
27	Swissenergy	Association
28	Vattenfall	Producer/supplier

Annex 3 - ACER "wish-list" for further harmonisation of auction rules for Long-Term Transmission Rights

Background

This wish-list is the result of:

- a benchmarking exercise of existing auction rules in Europe which aimed at identifying the best practices;
- a comparison of existing auction rules with the requirements set in the CACM Framework Guidelines.

The outcome of this work is a list of requirements, which the single European set of rules to come into force by 2014 should comply with.

As agreed in the cross-regional roadmap, these requirements follow the structure of the HAR implemented in the Central-West and Central-South regions and Switzerland, as this is the first multi-regional set of auction rules and the most in line with the CACM Framework Guidelines.

General

- **Scope**

Point 4.1 of the CACM Framework Guidelines states that "The CACM Network Code(s) shall also foresee a harmonised set of rules for borders where PTRs with UIOSI are applied and a harmonised set of rules for borders where FTRs are applied. The CACM Network Code(s) shall require that the TSOs provide a single platform (single point of contact) for the allocation of long-term transmission rights (PTR and FTR) at European level. As a transitional arrangement, regional platforms may operate, as long as this does not hamper the improvement and harmonisation of allocation rules".
The "European Rules for Long Term Capacity Allocation" (hereinafter referred to as "European LT Rules") to be developed are mainly aimed at setting harmonised rules for annual and monthly transmission right auctions, but they could also apply to multiannual, quarterly, seasonal or weekly products where relevant.
TSOs should consider the introduction of longer-term products. A first detailed feedback on the feasibility and pros and cons should be given to NRA by end 2013.
The allocated products covered within those rules could be either PTRs with UIOSI or FTRs option. The rules might also describe an auction mechanism in the day-ahead timeframe either in case no market-coupling is implemented yet or as a fallback solution.

The "European LT Rules" shall be governed by and construed in accordance with the laws of the Member State where the allocation platform is registered as well as by EU law. In case different platforms operate long-term transmission right auctions, the structure may be different but should contain the same features.

The “European LT Rules” shall be implemented on all borders where PTRs or FTRs option are/will be implemented, i.e. at least on the borders of the Central-West, Central South, Central East, France-UK-Ireland and South-West regions, plus the Denmark - Germany interconnections and the interconnections between Hungary, Romania, Bulgaria and Greece and other Members States.

- **Format of Auction Rules**

Border/country specific annexes should be avoided. In cases where there are different rules for various borders these rules should be stated in the specific section of the main document and justified.

- **Level of Harmonisation**

In case rules for different regions/borders are not in line, they shall be harmonised as much as possible in order to ensure that only elements of minor importance are subject to differences and key elements allow for the same conditions for market participants across Europe: e.g. deadlines for information sent to market players, roles, tasks, processes, timing for contesting the allocation result etc., must be harmonised.

- **Auction rules**

It must be clearly stated that the harmonised set of rules are the unique document dealing with long-term transmission rights allocation. TSOs are in charge of drafting and amending them while NRAs acting in a coordinated way with the support of the Agency have the power to approve them or require modifications.

- **Transparency**

The auction rules must describe which information (e.g. list of anonymized bids, resold PTRs etc) should be publicly available, where and according to which deadlines of publication.

- **Entry into force and consequences**

The European set of rules should enter into force in 2014.

Section II

- **Definitions**

Definitions shall be harmonised. In particular definitions of terms such as “Force Majeure” must be harmonised and in line with the Capacity Allocation and Congestion Management Network Codes. Moreover, a clear distinction with “Emergency situation” must be set.

- **Firmness of held capacity**

TSOs should consider the introduction of buyback possibilities in order to reduce TSOs risk exposure in case of curtailment. To prevent manipulation and increased costs a solution could be to set price caps. A first detailed feedback on the feasibility and pros and cons should be given to NRA by end 2013.

In line with the CACM Framework Guidelines, the European set of rules should not discriminate between long-term products when curtailing. Capacity holders shall be compensated for any curtailment except in case of force majeure.

- **Firmness of exchange programs**

According to the CACM Framework Guidelines, the capacity is firm for market participants. It is also stated that after the nomination deadline, the physical firmness is the preferred approach. The harmonised set of rules should define when held capacity, whether PTRs or FTRs option, becomes fully firm and which firmness applies.

- **Fallback**

Where NRAs agree so, explicit auctions may constitute a fallback solution in case market coupling cannot take place as usual. Shadow auctions described in HAR constitute an example. Where applied, this fallback solution should be harmonised.

Section III

- **Entitlement**

There must be a single process with the same requirements to get participants entitled to participate in the Auctions and/or in the Secondary Market. This process must be described and published.

The process must also describe the requirements for market participants only interested in secondary market (transfer) or in fallback mode (explicit auctions in day-ahead). Requirements must be adapted if necessary.

- **Secondary trading**

The concept of Notice Board within CAO rules (allowing for market parties to express and publish their interest to buy or sell capacity rights) could be extended to other regions as a mean to facilitate transfer between market participants.

- **Suspension and withdrawal of the entitlement**

There must be only one procedure for suspension and for withdrawal. In the same way, consequences of suspension or withdrawal must be harmonised.

Section IV

- **Fallback mode of yearly and monthly auctions**

It is important to harmonise existing fallback mechanisms already in place when auctions cannot take place under standard conditions.

It is also important that a fallback solution exists for the secondary trading.

Section V

- **Contestation period**

A contestation period should be included in the harmonised set of rules in order to allow market participants to check auction results.

Section VI

- **Resale**

The harmonised set of rules must implement all existing resale possibilities to facilitate secondary trading, such as the possibility for a market player to sell back at a monthly auction all or part of its yearly product.

Section VII

- **Nomination agents**

The possibility for a capacity holder to delegate the nomination task to another entity must be part of the harmonised set of rules unless nomination rules provide sufficient flexibility.

Section VIII

- **Characteristics of unused Programming Authorisations**

In line with the CACM Framework Guidelines, PTRs should be defined as options and subject to UIOSI. Once market coupling is implemented, in case of resale at the day-ahead stage, compensation should be at the day-ahead price differential (possibly after deduction of losses).

Section IX

- **Valuation of Reductions in Held Capacities and of Cancellation of an Auction after the end of the Contestation Period**

The CACM Framework Guidelines state that, except in the case of Force Majeure, capacity holders shall be compensated for any curtailment. Compensation shall generally be equal to the price difference between the concerned zones in the relevant time frame. As a derogation to the general compensation rule, caps could be introduced under the condition TSOs apply a harmonized approach to design and calculate caps. TSOs should aim at a harmonised approach to design and calculate these caps. Specific caps might be foreseen in case of DC subsea cable and/or merchant lines.

Until the introduction of market coupling, alternative compensation arrangements may apply as a transitional measure.

Finally, in case of an auction cancellation after the end of the contestation period, a compensation scheme such as the one described in HAR must be implemented.

- **Issuance of invoice and self-billing**

The self-billing principle as described in article 9.03 of the Harmonised Auction Rules appears as an improvement for market participants and therefore it should be included in the harmonised set of rules.

- **Payment deposit**

The concept of payment deposits is in place in some regions, but the way to compute the credit limit may differ such as taking into account taxes or UIOSI payment. A single way to compute this value must be described.

- **Recovery of payments**

According to market players' complaints, the current system in place within HAR may be detrimental when buying yearly products, due to the requirements for bank account deposits. For instance, for buying the yearly product, the harmonised set of rules should either require $1/12^{th}$ of the total amount or a bank guarantee of the $2/12^{th}$ total amount
In parallel to this change, a dedicated bank account becomes a necessity to participate in auctions. Therefore the concept of "promise of PTRs" currently in place in CAO is no longer needed.

Alternative guarantees and harmonization might be proposed by TSOs to facilitate market players' participation.

Section X

- **Liability**

One single description of TSOs, auction platform and market participant's liabilities must be set in the European LT rules.

- **Duration and Amendment of Auction Rules**

A single process to amend the harmonised set of rules must be described. However, this process might distinguish between amendments on core issues, i.e. impacting all borders and on extension purpose, i.e. implementation of the rules to new border/region.

ACER

Agency for the Cooperation of Energy Regulators

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