Publishing date: 13/01/2015

Document title: ACER CMP Implementation Monitoring Report 2014

We appreciate your feedback

Please click on the icon to take a 5' online survey and provide your feedback about this document

Share this document

ACER
Agency for the Cooperation of Energy Regulators

Implementation Monitoring Report on Congestion Management Procedures in 2014

First Edition
13 January 2015

ACER - Agency for the Cooperation of Energy Regulators
Trg Republike 3, 1000 Ljubljana, Slovenia

Mr David Merino
Tel. +386 (0)8 2053 417
Email: david.merino@acer.europa.eu

Contents

Note: All hyperlinks referred to in this document were correct and functioning at the time of publication.

1 Introduction

1.1 Purpose and scope of the report

(1) The first decision of the Commission relating to Guidelines and Network Codes was its decision on the Guidelines on Congestion Management Procedures (hereafter, the 'CMP Guidelines')[1]. Most provisions of these binding guidelines were applicable as of 1 October 2013 at Interconnection Points ('IPs') in the EU[2]. To support its harmonised implementation and application, the Commission published a Staff Working Document on "Guidance on best practices *for congestion management procedures* in natural gas transmission networks"[3], on 11 July 2014.

(2) This first implementation monitoring report of the Agency focuses on the formal implementation of each of the respective CMP provisions by Transmission System Operators (TSOs) and National Regulatory Authorities (NRAs), in particular the introduction of the congestion management mechanisms Oversubscription and Buy-Back (OS & BB), Firm day-ahead and Long-Term Use-It-Or-Lose-It (respectively, FDA UIOLI and LT UIOLI) and Capacity Surrender.

(3) The CMP Guidelines also address additional transparency requirements to TSOs and ENTSOG, the European Network of TSOs for Gas. Those provisions stipulate the publication of CMP related data on ENTSOG's Transparency Platform. The implementation of these is also touched upon in this report. The published CMP data underpins the Agency's annual Congestion monitoring report on contractual congestion at IP sides. The first report was published on 28 February 2014[4].

(4) The current report will not repeat the findings of the Congestion monitoring report. The latter already shed some light on the actual application of the diverse CMPs and on the situation of congestion in the European Union. The next review on the application of CMPs will be part of the next congestion report, planned for 2015, covering 2014 and Q1/2015.

(5) Both the Congestion monitoring report and the Implementation Monitoring report are obligatory tasks of the Agency. Where the Congestion report focuses on the question whether actual congestion has occurred at IPs, the Implementation Monitoring report focuses on the question whether the CMP provisions have been implemented, and what their effects have been.

---

[1] Commission Decision of 24 August 2012 on amending Annex I to Regulation (EC) No 715/2009 of the European Parliament and of the Council on conditions for access to the natural gas transmission networks (2012/490/EU), OJ L 213/16, 28.8.2012, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:231:0016:0020:en:PDF

[2] The 'eligible' IPs have been compiled by ENTSOG/ACER in the "List of Interconnection Points for the Expected or Possible Application of the Capacity Allocation Mechanism Network Code" (19 November 2013): http://www.entsog.eu/public/uploads/files/publications/CAM%20Network%20Code/2013/CAP368_131119_CAM%20NC%20IP%20list_for%20upload.pdf

[3] http://ec.europa.eu/energy/gas_electricity/codes/doc/20140711_guidance_congestion_management_ngtn.pdf

[4] ACER annual report on contractual congestion at interconnection points, Period covered: Q4/2013, 28.02.2014: http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/ACER%20Gas%20Contractual%20Congestion%20Report%202014.pdf

(6) While the legal basis for the Congestion monitoring report is provided in paragraph 2.2.1.2 of the CMP Guidelines, the obligation to report on implementation monitoring is stated in Article 9(1) of Regulation (EC) No 715/2009[5] (the 'Gas Regulation'). According to this article, the Agency shall monitor and analyse the implementation of the Network Codes and the Guidelines adopted by the Commission and their effect on the harmonisation of applicable rules aimed at facilitating market integration, as well as on non-discrimination, effective competition and the effective functioning of the market, and report to the Commission.

(7) Articles 8(8) and 8(9) of the Gas Regulation task ENTSOG to analyse and monitor the implementation of the network codes and Guidelines adopted by the Commission and to make available information to the Agency, facilitating the Agency's reporting tasks. Currently, ENTSOG is reviewing in a detailed fashion the CMP provisions with an aim to publish results in its upcoming annual report.

(8) The current implementation report shows the implementation status in the countries, forming an implementation baseline and sharing with the readers which design and policy measures were put in place around the implementation deadline of the CMP GL. Despite that the CMP measures had to be implemented as of 1 October 2013, some countries still have not completed this task yet.

(9) The report also shows whether the relevant stakeholders have cooperated while implementing these measures. At this stage the Agency is not in a position to present extensive findings on the effects on competition and market integration of these guidelines, given the short time span between their first implementation and this report. This work shall be followed up in future reports, after collecting sufficient experience with CMPs and their application. Potentially the effects on competition and market integration may be integrated in the Market monitoring report of the Agency. This report contains a first version of a set of indicators to evaluate the effects in future reports.

1.2 Gas capacity developments

(10) A shortened analysis of general gas capacity trends is presented in this report. This analysis relies on the Agency's Market Monitoring Report (MMR) 2014.

(11) Concerning capacity utilisation, contracted and utilised values were reasonably aligned in 2013. For different reasons, certain IPs had substantial differences between contractual values and actual utilisation. Based on the IPs considered in the MMR, the average contracted firm technical capacity was 91% of total technical capacity, while the average utilisation rate was 60%, and the peak monthly utilisation value was 77%. At times of seasonal peak demand, flows sometimes nearly reached technical capacity.

(12) A new trend in capacity contracting has emerged in recent years (and was confirmed in 2013), which demonstrated a shift away from new long-term contracts in favour of more

[5] Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005, OJ L211/36, 14.8.2009, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0036:0054:en:PDF

short-term capacity bookings. Data that confirm this trend can be seen in both the limited demand for long-term capacity revealed in the last annual capacity auctions at the PRISMA capacity booking platform[6], and the proportionally higher demand for short-term capacity products. The existence of surplus capacity at a significant number of IPs could also be a factor: market participants in many locations are aware that the risk of not obtaining capacity in the short term is relatively low.

(13) The Congestion monitoring report of the Agency indicated contractual congestion at one third of the relevant IP sides during Q4/2013. This outlook had a limited time span and was based on partially available data at ENTSOG's Transparency Platform. The congestion definition used in this report was the one provided by point 2.2.3(1) of the CMP GL. A deeper analysis was proposed by the Agency for the next Congestion monitoring report to understand better the nature of congestion. This would be feasible, given the longer time span to be analysed (1 year and a quarter) and under improved data quality provided by the TSOs under the new Transparency Platform.

1.3 Methodology applied for pilot implementation monitoring

(14) The current report relies mainly on direct data collection and case studies:

a. Data from the Agency's survey addressed to TSOs;

b. Updates and validation of the TSO data by NRAs, as well as direct inputs from NRAs to regulatory questions;

c. Case studies provided by ACER and the NRAs (on the implementation of the measures).

1.3.1 Data gathering through TSO survey

(15) In the absence of data and information that has to be provided by ENTSOG to the Agency pursuant to Article 8(8) and 8(9) of the Gas Regulation, the Agency initiated its own CMP implementation monitoring online survey on **17 December 2013**.

(16) Despite a general, high level agreement between the Agency and ENTSOG to cooperate on implementation monitoring, when it came to this particular monitoring exercise the two organisations failed to agree on the appropriate level of detail. Failing such an agreement, the Agency proceeded with its own, more detailed data collection.

(17) The Agency collected the data via an online survey tool. This tool combined questions for the Congestion monitoring report as well as for the Implementation monitoring report[7].

[6] for those IPs, where capacity was available

[7] The responses relating to actual congestion and application of CMPs were summarised already in the published Congestion monitoring report, while implementation questions and additional regulatory questions underwent a longer review by NRAs.

(18) 40 European TSOs[8] were covered by the survey. The TSOs provided their answers **by 11 February 2014**.

(19) Four TSOs from Member States with a derogation from the application of the Gas Regulation (Estonia, Finland, Latvia and Luxemburg) were not included in the analysis. Malta and Cyprus have no gas markets yet and for the same reason do not appear in the review. A few other TSOs[9] were not part of the online survey, due to missing contact details or absent ENTSOG membership at that time.

1.3.2 Data validation through NRA survey

(20) From 11 February until the end of March 2014, NRAs checked and commented the answers to the questions provided by their respective TSO(s) using the same online tool. Additionally, NRAs answered regulatory and process related questions concerning CMP GL implementation.

(21) Not least due to technical constraints of the custom-made online tool, some NRAs (and previously also TSOs) could only provide their feedback with sometimes significant delay. The Agency finally closed data collection in July 2014. The Hungarian, Romanian, Slovak and Slovene NRAs had not provided feedback even by that date. Some NRAs provided updates by November 2014.

1.3.3 Case studies

(22) The Agency also collected case studies on the implementation experience. The more general case studies on LT UIOLI are built into the third chapter of the report. Three detailed case studies on the application of FDA UIOLI and OS&BB at 3 selected IPs are added at the end of this report (Annex I).

[8] Gas Connect Austria (BOG), TAG, Fluxys Belgium, Bulgar Transgaz, NET4GAS, Energinet.dk, DESFA,GRT Gaz, TIGF, GRTgaz Deutschland GmbH, Gascade, Bayernets, Open Grid Europe, Thyssengas, Ontras, GTG Nord, Gasunie Deutschland, Nowega, jordgasTransport, terranets, Gasunie Ostseeanbindungsleitung, Fluxys TENP, NEL Gastransport, FGSZ, Plinacro, Gaslink, SNAM, AB Amber Grid, Gasunie Transport Services, GAZ-SYSTEM, REN – Gasodutos, Transgaz, Eustream, Plinovodi, Enagas, Swedegas, National Grid, Interconnector, Premier Transmission Ltd.

[9] e.g. BBL company (later reporting via NRA), BGE (NIRL), OPAL TSOs (OGT, LBTG…)

2 Summary of main results of the implementation monitoring of CMPs

2.1 Implementation Status of CMPs

(23) The main results regarding the implementation status of the CMPs from the TSO / NRA Survey and subsequent updates are summarised per Member State in the following Table 1.

(24) A more detailed analysis on the implementation of each CMP provision can be found further down in this chapter, while experiences can be checked in the summary of responses to the survey (Annex II).

(25) The table combines OS&BB and FDA UIOLI in one line, as countries opted either for one or the other option. Currently, only Austria and Germany have implemented the FDA UIOLI mechanism. The obligation to use FDA UIOLI for congested IPs, as identified in ACER's upcoming yearly Congestion monitoring reports, is foreseen from July 2016 on.

(26) The table shows that only nine Member States (MS) had implemented all CMP provisions on time. A further six MS were expected to fully implement them by October 1st 2014. Finally, seven MS have not implemented all provisions by that date: Spain, Italy, Bulgaria, Denmark, Hungary, Romania, Sweden as well as the Interconnectors with GB.

Table 1: Status of Implementation of CMP measures in the Member States

IMPLEMENTATION	MS / CMP	BE	CZ	DE	EL	FR	IE	PL	SI	SK	AT	UK	HR	LT	NL	PT	ES	IT	DK	BG	HU	RO	SE	ICs with GB
	OS&BB/FDA																							
	SURRENDER																							
	LT UIOLI																							

Note: SE points are not subject to bookings

Legend:

- timeley implementation
- implementation by 1.10.2014
- delayed / ongoing implementation

2.2 Actual Application of CMPs

(27) A distinction should be made between implementing a provision in the relevant national legal text, and actually applying it in practice.

(28) The actual application of CMPs during the fourth quarter of 2013 was already reported in detail in the Agency's first Congestion monitoring report (2014). Limited application is explained by incomplete CMP implementation, non-existence of contractual congestion at specific IPs, and incomplete or absent CMP data on ENTSOG's Transparency Platform (see Annex 4 in the Congestion monitoring report for further details).

(29) Table 2 below summarises the findings of the first Congestion monitoring report.[10] The table shows that the main application of the CMP provisions was through FDA UIOLI in Germany and Austria, followed by a limited application of OS and of Surrender in some Member States. From October until December 2013, no application of Buy-back or LT UIOLI was reported.

Table 2: CMP application by Member States in Q4/2013

	CMP	MS involved	Number of IP sides involved	Total number of instances
CMP application	OS	DE-**FR**, BE-**FR**, **SK**-AT	5	161
	BB	none	0	0
	FDA UIOLI	**AT, DE**	70	4895
	Surrender	SK-**AT**, NO-**DE**, AT-**SI**, **AT**-HU	4	106
	LT UIOLI	none	0	0
	Total	**AT, DE, FR, SK, SI**	**79**	**5162**

2.3 Design of implemented CMPs

(30) This section reviews the implementation of each article of the CMP Guidelines, based on the answers received to the survey. The focus is on the main design elements and regulatory choices, in particular regarding OS&BB, since the CMP Guidelines are most detailed on that measure.

2.3.1 Oversubscription and buy-back

(31) The OS&BB mechanism aims at offering to the network users firm capacity on top of the (dynamically) calculated technical capacity in order to remedy or prevent contractual congestion. Oversubscription occurs, when such additional firm capacity – offered as standard products of different runtimes - is actually contracted. For such a mechanism to work, an incentive regime as well as a risk assessment and a buy-back scheme are required, in case nominated flows cannot be physically realised and all alternative TSO measures have been exhausted.

(32) Table 3 shows both the standard capacity products on offer and those designed conceptually, but not yet offered to the users for which OS & BB is to be applied. The table indicates that only few Member States have additional offers for all existing standard

[10] The country abbreviation in bold refers to the IP side on which the CMP was reported to be applied in Q4/2013.

capacity products, which may develop over time and by collecting experience with the scheme. The Agency supports that dynamic calculation of technical capacity is exhausted before oversubscription is offered for products longer than a day's duration.

(33) The UK (excluding the interconnectors with GB) is the most advanced Member State in applying OS&BB (since 2002). On the other side of the spectrum are Bulgaria, Denmark, Hungary and Sweden, who have not developed the concept of OS&BB for a single capacity product, yet.

Table 3: OS&BB products, as offered or as concept (planned) in the Member States[11]

OSBB products/ MS	BE	BG	CZ	DK	EL	ES	FR	HR	HU	IE	IT	LT	NL	PL	PT	RO	SE	SI	SK	UK	ICs with GB
Yearly										Offer	Concept	Concept	Concept						Offer	Offer	
Quarterly							Concept				Concept	Concept	Concept						Offer	Offer	
Monthly					Offer		Offer			Offer	Concept	Concept	Offer						Offer	Offer	Offer
Daily	Offer		Offer		Offer	Concept	Offer	Concept			Concept	Concept	Offer	Offer	Concept	Concept		Concept	Offer	Offer	Concept
Within-day												Concept								Concept	

Legend: Concept; Offer

Note: ICs with GB: Monthly products: Premier, DA products: IUK, BBL

(34) The Agency took note that most OS & BB design elements required from the CMP Guidelines were taken up by the TSOs. Only a few TSOs among those who have timely implemented the guidelines deviated from the design elements provided (missing or unreported dynamic capacity recalculation: Bulgaria, Croatia, Denmark, France (for TIGF), Hungary, Ireland, Lithuania, Portugal, Romania, Sweden, Slovenia, Slovak Republic; no incentive regime applied: Czech Republic, Lithuania, Slovak Republic; ongoing work on incentives was noted for Poland, UK (BBL); allocation of additional (oversubscribed) capacity only after all other (additional firm) CMP capacity was allocated is not complied with in the Slovak Republic).

(35) Table 4 shows whether (and if so at which frequency) technical and additional capacity of the entry-exit system in the EU Member States is dynamically recalculated. More details are available in summary of responses (Annex II), which also highlights the plans of the countries that are not yet applying a dynamic recalculation. Countries not sharing information about their regimes were included in the last columns of the table.

(36) The Agency is of the view that dynamic recalculation of the technical capacity means that technical capacity is maximised at all times during the year and not just set based on the yearly flat minimum, but individual capacity levels are calculated for individual quarters or even months.

[11] Update on 19.11.14 by ACM: In NL, GTS has also offered and sold yearly OS&BB products (on the NL-BE border in Sept. 2014)

(37) The table shows TSOs' activity when it comes to dynamic recalculation of additional capacity. Overall, most dynamic recalculations are applied on daily products. Bulgaria, Croatia, Lithuania, Portugal, Slovenia and Slovakia apply no dynamic recalculation at all. For the Member States not reporting, the status is unknown.

Table 4: OS&BB dynamic capacity recalculation of additional firm capacity by Member States

Frequency of dynamic recalculation ('DR')	BE	BG	CZ	EL	ES	FR	HR	LT	NL	PL	PT	SI	SK	UK	ICs with GB	IT	DK	IE	HU	RO	SE
Monthly				●		●									●						
Daily	●		●		●				●	●				●	●						
Not applying DR		●					●	●			●	●	●								
Other																●					

Note: IUK: Daily frequency; Premier: Monthly frequency *not reporting*

(38) Most OS & BB schemes include an incentive regime. In future reports the efficiency of those regimes could be further investigated. Table 5 provides an overview on the status of incentive regime implementation, including non-reporting countries in the last columns of the table.

Table 5: Status of OS&BB incentive regime implementation by Member States

OS&BB design	BE	BG	CZ	EL	ES	FR	IE	IT	LT	NL	PL	PT	RO	SI	SK	UK	ICs with GB	DK	HU	HR	SE
Incentive regime in place or expected	●	●		●	●	●	●	●		●		●		●		●	●				
Not applying incentive regime			●						●		●		●		●						
NRA decision made on revenue and cost distribution	●		●		●	●	●			●						●	●				

Note: For BBL and IUK, the NRA decision and the details of the incentive regime is pending *not reporting*

(39) The Table indicates that in 11 Member States, an incentive regime is already in place or at least expected. For 7 of them, the NRA has already decided on the revenue and cost distribution between TSOs and network users. In 5 Member States, an incentive regime is not (yet) applied, meaning that implementation is lagging behind.

(40) Only 15 TSOs allocate additional capacity from OS & BB after all surrendered capacity and capacity derived from the application of FDA UIOLI & LT UIOLI (existing capacity) has been allocated, as required by the CMP Guidelines. The 12 Member States applying this provision

are Belgium, Croatia, Czech Republic, France, Greece, Italy, the Netherlands, Poland, Portugal, Spain, Slovenia, the United Kingdom.

(41) When determining the amount of additional capacity, only 13 TSOs applied statistical scenarios for the likely amount of unused physical capacity, a risk profile for the offering of additional capacity as well as likelihood and cost for buying back capacity on the market, in line with the CMP Guidelines Overall, 10 EU countries apply this provision, namely Belgium, Greece, Italy, the Netherlands, Poland, Portugal, Spain, Slovakia, Slovenia, United Kingdom.

(42) In most Member States where OS & BB is implemented, market based capacity buy-back procedures – mostly organised as auctions or capacity tenders – are envisaged, as shown in Table 6. The buyback procedure is yet unclear in the countries where implementation is ongoing (Denmark, Italy, Portugal and the interconnectors with GB, plus potentially those Member States who have not reported).

Table 6: BB design by Member States

BB design-role of auction	BE	CZ	DK	EL	ES	FR	HR	IE	IT	NL	PL	PT	SK	UK	ICs with GB	BG	HU	LT	RO	SE	SI
Market based / auction	•	•		•	•	•	•	•		•	•		•	•	•						
Unclear or not foreseen			•						•			•			•						

Note: Premier has market based regime. For IUK, BBL this is under develpment. not reporting

(43) Some national provisions prescribe specific elements, such as a cap on the maximum buy-back price, and/or a pro-rata curtailment of oversubscribed capacity when a buy-back is unsuccessful.

(44) All responding TSOs applying or planning to apply BB confirmed that alternative technical and commercial measures - pressure increases, flow commitments – could be taken in their country before the BB procedure is applied.

(45) Finally, Table 7 presents the frequency of TSO reports addressed to NRAs concerning the functioning of the OS & BB scheme. Various approaches were taken; with in general smaller Member States planning to do fewer reports. For at least 5 Member States, the frequency of the reporting needs still to be settled (potentially also for those Member States, who have not reported on that obligation in the survey).

Table 7: OSBB reporting by Member States

OSBB scheme- Reporting to the NRA/ MS	BE	ES	FR	LT	NL	HR	IE	ICs with GB [3]	EL	PL	SI	UK	SK [2]	BG [1]	CZ	IT	PT	DK	HU	RO	SE
Once a Y	Y	Y	Y	Y	Y																
Twice a Y (T) or Q						T	T	Q													
Upon NRA request (R)/ With other reporting (O)									R	R	O										
Continuously (on website)												•									
Under discussion								•						•	•	•	•				
Not specified													•								

Legend: Y- year, T- twice a year, Q- Quarter

Notes for the table:

1) SEWRC: Reporting will be specified in the Rules on CMP.

2) Not specified (rare application foreseen)

3) Quarterly for Premier Ltd, the other ICs under discussion

ongoing implementation

not reported

2.3.2 FDA UIOLI

(46) The application of the firm day-ahead use-it-or-lose-it mechanism involves a restriction of the possibility to modify (renominate) the initial nomination of those network users, who hold at least 10% of the average technical capacity at the IP (in the preceding year). This restriction only permits firm renominations up to 90% and down to 10% of the contracted capacity by a network user at the IP (instead of up to 100% and down to 0%).[12]

(47) The purpose of this restriction is to ensure, that if capacity is not fully used (meaning that initially it is not fully nominated the day before the flow), some firm capacity will always be made available to the market on a day-ahead basis.

(48) The FDA UIOLI mechanism has to be implemented and applied by 1 July 2016 at those IPs, where the Agency's yearly Congestion monitoring report shows, that contractual congestion still occurs (under the conditions of 2.2.3.1 of the CMP Guidelines are met), despite that OS&BB was applied. Upon NRA decision, FDA UIOLI can also be applied before that deadline, without having previously applied OS&BB. In that case, an assessment based on paragraph 2.2.3.6 is required.

[12] In the event that the initial nomination (a) exceeds 80% or (b) does not exceed 20% of the contracted capacity, half of the non-nominated volume may be re-nominated upwards in case a); and half of the nominated volume may be re-nominated downwards in case b). The restricted part of the contracted firm capacity can still be re-nominated on an interruptible basis by the original capacity holder.

(49) The survey reported that NRAs from 7 Member States, namely Austria, Belgium, Czech Republic, France, Germany, Italy and Spain, had investigated the relationship between FDA UIOLI and the OS & BB scheme.

(50) These NRA evaluations resulted in a decision on whether to keep or introduce FDA UIOLI. Only Germany and Austria opted for FDA UIOLI, while the other NRAs chose the OS&BB scheme. The reasons for choosing the FDA UIOLI over the OS&BB are described in chapter 7.3.2 of Annex II.

2.3.3 Surrender

(51) The surrender mechanism requires TSOs to accept any surrender of firm contracted capacity products with a runtime longer than a day from a network user. This CMP can be seen as an anonymous alternative to the use of the secondary capacity market for the purpose to dispose of unneeded booked capacity. The network user however retains its rights and obligations under the capacity contract until the capacity is reallocated by the TSO (and to the extent capacity is not reallocated). The reallocation has to be notified to the user without delay. The TSO can only reallocate surrendered capacity, if all available capacity has been allocated. The details of the mechanism require NRA approval.

(52) The NRAs have approved the terms and conditions for the surrender mechanism for 31 TSOs. The CMP approval process for both UK interconnectors was ongoing in July 2014. Three NRAs (Denmark, Hungary, Sweden) stated that the surrender mechanism is not implemented or not implemented yet (Bulgaria) in their countries. The remaining NRAs (Lithuania, Denmark, Slovakia, Slovenia and Romania) did not answer this specific question.

(53) Table 8 exhibits which firm capacity products can be surrendered in each Member State. The table shows that in Austria, Germany, Greece, Italy and Slovakia, all products can be surrendered. In the other Member States, not all firm standard (or still existent contracted non-standard) products with a duration longer than a day are covered by the surrender mechanism. Bulgaria, Czech Republic, Ireland, Portugal, Romania and Interconnectors with GB are not compliant, along with the non-reporting countries.

Table 8: Surrender products by Member States

Surrender products/ MS	AT	BE	DE	EL	ES	FR	HR	IT	LT	NL	PL	SI	SK	UK	BG	CZ	IE	PT	RO	ICs with GB	DK	HU	SE
Yearly	•	•	•	•	•	•	•	•	•	•	•	•	•	•			•	•	•	•			
Quarterly	•	•	•	•	•	•		•	•	•	•		•	•				•					
Monthly	•	•	•	•	•	•	•	•	•	•	•	•	•	•		•	•						
Other	•		•	•			•	•				•	•		•					•			

none

(54) 35 (of 40 surveyed) TSOs indicated that reallocation of surrendered capacity only takes place once the available capacity is fully allocated.

2.3.4 LT UIOLI

(55) The long-term Use-It-Or-Lose-It mechanism provides for the NRAs to require their TSOs to partially or fully withdraw systematically underutilised contracted capacity on an IP from a network user, if that user has not sold or offered its unused capacity on the secondary capacity market. Systematic underutilisation[13] is considered, when the network user – without proper justification - uses less than 80% on average of its contracted capacity (with an effective contract duration of more than one year) both from 1.4. – 30.9 and 1.10.-31.3. A withdrawal should take place only, when other network users request firm capacity. A withdrawal may result in the network user losing its capacity partially or completely for a given period of for the remaining contractual term.

(56) This mechanism requires monitoring of capacity utilisation at network user level. 15 TSOs (or their NRAs) confirmed that relevant data on network user's capacity utilisation is provided to the NRA in order to monitor and/or determine whether capacity is "hoarded" and whether it should be withdrawn. Three TSOs[14] differed; two of them stated that capacity is not contracted for a period beyond one year, thus there is no need for LT UIOLI.

(57) A specific situation exists for Austria. E-Control reported that LT UIOLI targets the balancing group[15] or the sub-accounts (for individual network users) of the balancing group, as the relevant entity for which a systematic underutilisation will be monitored[16].

(58) The frequency of relevant data submission to the NRA varied from "upon request" to "daily" and is summarised per Member State in Table 9. Monitoring of the actual LT UIOLI applications by NRAs and via implementation monitoring by the Agency will reveal whether a low frequency of data submission negatively impacts the efficiency of the measure and whether the timing of the reporting is sufficiently aligned with the (yearly) auction schedule.

[13] Systematic underutilisation is also considered, when a network user systematically nominated close to 100% of its capacity and renominated downwards with a view to circumvent losing the capacity

[14] Amber Grid (LT), BOG (AT), REN-Gasodutos (PT))

[15] Reference & definition: http://www.e-control.at/en/businesses/natural-gas/gas-market/balancing-groups

[16] The balancing group responsible party can nominate each sub-account separately and therefore the TSO can penalise the systematic underutilisation per network user. In case network users do not opt for sub accounts, a potential capacity withdrawal will be applied pro-rata to all members of the group.

Table 9: LT UIOLI reporting frequency TSO-NRA by Member States

LT UIOLI frequency of data submission/ MS	AT	BE	DE	EL	ES	FR	HR	IE	IT	NL[4]	PL[1]	SI	SK	UK[3]	ICs with GB[2]	BG	CZ	DK	HU	LT	PT	RO	SE
Upon request	•		•		•						•		•										
Once a year						•			•						•								
Twice a year							•	•		•		•		•	•								
Quaterly		•		•																			

Notes for the table: not reported to ACER

1) PL TSO is obliged to notify URE occurrence of factors being reason for withdrawal of capacity.

2) Once a year for IUK and BBL from October 2014. Data submission for Premier Ltd. is twice a year.

3) & 4) Reported Oct./Nov. 2014

(59) For Germany data reporting can already be prompted, but a more efficient system with automatic data delivery is under development by the German TSOs in collaboration with Bundesnetzagentur.

(60) In Bulgaria, the time intervals and content of the relevant information will be outlined in the Rules on CMP, which are currently being developed.

2.4 Combined implementation of OS & BB and FDA UIOLI

(61) The implementation of the CMP Guidelines, which left flexibility for Member States to either apply OS & BB or FDA UIOLI, has led to a situation where at a significant number of IPs both mechanisms are applied – OS & BB on one side of the IP, FDA UIOLI on the other side of the same IP.

(62) While OS&BB potentially offers additional capacity beyond the day-ahead, on the FDA UIOLI-side only day-ahead could be released. Bundled capacity offers would follow the lowest denominator (day-ahead). Bundling of OS&BB capacity beyond the day-ahead could be made, only if unbundled volumes are available on the FDA UIOLI side. Nevertheless, capacity mismatches may exist also in cases, where two OS&BB regimes border, given the different risks and network configurations. Table: 10 provides a breakdown of the number of IP sides per Member State, showing how many IP entries and exits are confronted with the same or the other CMP at the corresponding side of the IP.

(63) This overview also shows how the IP sides are distributed across the EU Member States and thereby reveals an almost even number of entries and exits for most countries.

(64) The table counts separately the reported IP sides, as part of the following types of IPs:

i. 72 in-country inter-TSO IP sides (interconnections between entry-exit zones within a Member state) – 21% of the 337 IP sides in total

ii. 224 cross-border IP sides within the EU – 67% of the total IP sides

iii. 41 cross-border IP sides with countries not applying CMP (either due to derogation or bordering with third countries) - 12% of the total IP sides.

(65) The countries listed in the table are ordered and grouped along dual criteria:

i. a decreasing total number of IP sides;

ii. whether same or different CMPs are applied at their borders.

Table: 10 Implementation of OS&BB and FDA UIOLI in the Member States (IP sides)[17]

MS	Number of IP sides																				
	In Country (EU)			Cross-border CMP countries (EU)												Cross-border non-CMP countries			Total number of IP sides		
				FDA X FDA			OS&BB X			FDA X OS&BB			Total								
	Entry	Exit	Sum	Entry	Exit	Sum	Entry	Exit	Sum	Entry	Exit	Sum	Entry	Exit	Sum	Entry	Exit	Sum	Entry	Exit	Sum
DE	31	33	64	5	10	15				25	27	52	30	37	67	16	14	30	77	84	161
AT				4	4	8				7	5	12	11	9	20				11	9	20
NL							2	6	8	9	12	21	11	18	29	2	0	2	13	18	31
BE							10	6	16	3	4	7	13	10	23	1	1	2	14	11	25
CZ							2	2	4	4	4	8	6	6	12				6	6	12
FR	1	2	3				3	4	7	1	0	1	4	4	8				5	6	11
PL	2	2	4				1	1	2	3	2	5	4	3	7				6	5	11
SK							1	1	2	2	3	5	3	4	7				3	4	7
DK							0	1	1	2	2	4	2	3	5				2	3	5
HU							2	2	4	1	0	1	3	2	5				3	2	5
IT							1	1	2	1	1	2	2	2	4	2	2	4	4	4	8
SI							1	2	3	1	0	1	2	2	4				2	2	4
UK - ICs							5	4	9				5	4	9				5	4	9
ES							3	2	5				3	2	5				3	2	5
BG							3	1	4				3	1	4				3	1	4
RO							1	3	4				1	3	4				1	3	4
HR							2	1	3				2	1	3				2	1	3
UK	1	0	1				1	1	2				1	1	2				2	1	3
IE							1	1	2				1	1	2				1	1	2
PT							1	1	2				1	1	2				1	1	2
EL							1	0	1				1	0	1	1	0	1	2	0	2
SE							1	0	1				1	0	1				1	0	1
LT																1	1	2	1	1	2
TOTAL	35	37	72	9	14	23	42	40	82	59	60	119	110	114	224	23	18	41	168	169	337

[17] Note: This list is based on ENTSOG CAM IP scope list published 19.11.2013. Therefore, later changes are not reflected. For example, PL does now have only 8 IP sides, due to the creation of a virtual Point of Interconnection (in-country, entry from Yamal).

For Spain, next to the bidirectional virtual IP (VIP ES<>PT), two bidirectional physical IPs with France (Larrau and Biriatou) have been considered in the study, which are now merged in one VIP (ES<>FR). The Spanish exit IP side of Larrau (at the IP to TIGF, France) is missing from the table (no data received).

(66) Germany and Austria are grouped on the top of the table, having together 54% of the total number of IP sides considered in the survey. These two countries are both applying FDA UIOLI on their common borders, but are exposed to a mixed CMP application at their other borders, where FDA UIOLI and OS & BB apply in parallel.

(67) The second group in this table is formed by the countries bordering Germany or Austria (having together 35% of the total number of IP sides), therefore being faced with (partially) mixed regimes of CMP implementation (i.e. OS & BB on one and FDA UIOLI on the other side of an IP).

(68) A third group of countries (with 10% of the total IP sides, including the interconnectors with the UK and 1 IP side with Turkey) identified in the table apply or should apply OS & BB on both sides of their borders (except for the IP with Turkey). Lithuania only has 2 IP sides (0.4% of the total) with countries holding a derogation from CMP implementation.

(69) Focusing on the non-derogated EU cross-border IP sides only, it appears that:

i. only at 23 IP sides[18] (10% of the cross-border CMP IP sides and 7% of the 337 IP sides of the survey) FDA UIOLI is applied at both cross-border sides (Austria and Germany),

ii. at 82 IP sides (37% of the cross-border CMP IP sides and 24% of the total of 337 IP sides), OS & BB is applied at both sides of a border, and

iii. **at 119 IP sides (53% of the cross-border CMP IP sides and 35% of the total)**, **different CMPs are applied** (i.e. OS & BB on one and FDA UIOLI on the other side).

iv. Austria, Czech Republic, Denmark, Germany, the Netherlands, Poland, Slovak Republic have more IP sides with different CMP implementation, than with the same CMP implemented on the both sides of the border.

(70) The challenge consists in making the two regimes work together smoothly. Given the limiting effects which the regimes have on each other if applied on the two sides of an IP, also in the light of the obligation entering into force later this year to maximise bundled cross-border capacity, it is not obvious that such a mixed regime leads to the best results. The Agency invites stakeholders' input on their experiences with mixed applications. In case such an application turns out to be suboptimal, the Agency may propose to amend the CMP guidelines in this respect.

(71) Further analysis will follow in the third chapter on the level of harmonisation. Challenges from the different implementation will require a follow-up.

[18] The uneven number (5) for the DE entries (compared to the AT exits (4)) is related to the fact, that for Überackern 2 (entry bayernets, ID: 21Z0000000001240) no corresponding exit on the AT side was reported. Similarly, the non-matching numbers for exits DE (10) to AT entries (4) is based on the fact, that some corresponding AT entries have not been reported [namely: KiefersfeldenbayernetsDE) > TIGAS (AT); KiefersfeldenOGE >TIGAS; RC Lindau/Leiblach terranets (DE) > Vorarlberger Erdgas (AT); Überackern 2 bayernets > GCA; VIP_KIEF_PFRON >TIGAS & EVA; Pfronten bayernets > EVA - Erdgasversorung Außerfern GmbH (AT)]

2.5 Implementation of CMP related transparency obligations

(72) The CMP Guidelines require certain information to be published on ENTSOG's Transparency Platform. The main TSO / NRA survey results, based on self-assessments, revealed the number of points where the data is published as requested by the legislation as well as the numbers for non-reporting points. For many points no data was provided.

(73) Only Lithuania, the Netherlands, Poland, Portugal and Spain fully reported on the status of all their IP sides, where data needs to be provided. Out of them, only Portugal and Spain are fully compliant with the transparency of CMP data publication.

(74) The below Table 11-15 show that out of 337 IP sides covered in the survey, TSOs reported publication of the CMP data on the Transparency Platform for more than half of the IP sides. For one third of the IP sides TSOs did not report the status to the Agency.

(75) The Agency has not doubled checked the status of the IP sides against the Transparency Platform, given the ongoing work on the new Platform. These will be thoroughly analysed and reported in the next Congestion monitoring report.

(76) The Agency also notes that the challenge with the CMP related transparency data is that those need to be regularly updated and to be consistent. In particular, on data consistency the Agency notes that for its analyses it needs the appropriate data on physical flows, technical capacity, bookings, etc. in order to assess them together with CMP data effectively.

Table 11-12: Status of Implementation per Member State and CMP related transparency data on IP sides[19]

Unsuccessful requests/ MS	AT	BE	BG	CZ	DE	DK	EL	ES	FR	HR	HU	IE	IT	LT	NL	PL	PT	RO	SE	SI	SK	UK	ICs with GB	Total
Compliant		24		10	116			5									2				7	9		173
Incompliant					7		2		9					2	31	11		1						63
Not assessed	20	1	4	2	38	5			2	3	5	2	8					3	1	4		1	2	101

Auction cleared higher than reserve price/ MS	AT	BE	BG	CZ	DE	DK	EL	ES	FR	HR	HU	IE	IT	LT	NL	PL	PT	RO	SE	SI	SK	UK	ICs with GB	Total
Compliant		24			116			5	1						31	11	2					8		198
Incompliant				10	7									2						4		1		24
Not assessed	20	1	4	2	38	5	2		10	3	5	2	8					4	1		7	1	2	115

[19] In some cases, no data was provided on unsuccessful request, because no unsuccessful requests in fact occurred. ENTSOG is working with TSOs on clarifying the distinction of "no data submission" and "no unsuccessful request occurred" on its Transparency Platform (by including a respective statement).

No firm product/ MS	AT	BE	BG	CZ	DE	DK	EL	ES	FR	HR	HU	IE	IT	LT	NL	PL	PT	RO	SE	SI	SK	UK	ICs with GB	Total
Compliant		24		10	116			5	9					2	31	11	2				7	9		226
Incompliant					7		2																	9
Not assessed	20	1	4	2	38	5			2	3	5	2	8					4	1	4		1	2	102

Total capacity made available via CMPs/ MS	AT	BE	BG	CZ	DE	DK	EL	ES	FR	HR	HU	IE	IT	LT	NL	PL	PT	RO	SE	SI	SK	UK	ICs with GB	Total
Compliant		24		10	89		2	5	9					2	31	11	2				7	9		201
Incompliant					36																			36
Not assessed	20	1	4	2	36	5			2	3	5	2	8					4	1	4		1	2	100

(77) The TSO self-assessments also reveal fully non-reporting countries to the ACER survey: Austria, Bulgaria, Croatia, Denmark, Hungary, Ireland, Italy, Sweden and UK-Interconnectors. For some of them the ongoing implementation may lead to a changing status. Table 13 lists the number of IP sides per country for which no reporting was delivered.

Table 13: Status of Implementation - number of unassessed IP sides in the survey[20]

Country/TP data	AT	BE	BG	CZ	DE	DK	EL	FR	HR	HU	IE	IT	RO	SE	SI	SK	UK	ICs with GB	Total
Unsuccessful requests	**20**	**1**	**4**	**2**	**38**	**5**	0	**2**	**3**	**5**	**2**	**8**	**3**	**1**	**4**	0	**1**	**2**	**101**
Auctions cleared higher than reserve price	**20**	**1**	**4**	**2**	**38**	**5**	**2**	**10**	**3**	**5**	**2**	**8**	**4**	**1**	0	**7**	**1**	**2**	**115**
No firm product offered	**20**	**1**	**4**	**2**	**38**	**5**	0	**2**	**3**	**5**	**2**	**8**	**4**	**1**	**4**	0	**1**	**2**	**102**
Capacity made avail. via CMPs	**20**	**1**	**4**	**2**	**36**	**5**	0	**2**	**3**	**5**	**2**	**8**	**4**	**1**	**4**	0	**1**	**2**	**100**

(78) Based on the survey data, the Agency emphasises that further efforts are needed to establish regular monthly reporting by the TSOs to the Transparency Platform. The case studies presented in this report reveal that improvement of data completeness and consistency along the fundamental indicators (and their units), like technical capacity and physical flows, is also an outstanding issue.

[20] 1 IP side for each BE and FR concern the IP Alveringen, which will only be operational in 2015 (and could therefore not be assessed).

CER (IE) clarified on 1.12.14, that there is no congestion in Ireland and therefore no unsuccessful requests occurred and no auctions cleared at prices higher than the reserve price.

3 Evaluation of effects of CMP implementation

(79) This chapter presents the effects of the implementation of the CMP Guidelines, to the extent that they can be assessed at the current stage. The short time that has elapsed since the application of these rules, the delays in their implementation and the limited application of the CMPs limit an in-depth analysis on effects. Future reports will take care of broader effects and aim to use indicators to capture the effects of these rules.

3.1 Harmonisation of applicable rules

(80) Based on Article 9(1) of the Gas Regulation the Agency shall monitor and analyse the effect of implementation, in particular "*their effect on the harmonisation of applicable rules aimed at facilitating market integration as well as on non-discrimination, effective competition and the effective functioning of the market*".

(81) The CMP Guidelines recitals require "*effective application"* and maximisation of available capacities in all adjacent entry-exit systems. The cooperation of neighbouring regulatory authorities and TSOs, using best practices and working on harmonised processes is a way to achieve this goal.

(82) The results of the ACER survey show that there is room for improvement to reach harmonised and effective CMP application. Improvements could be reached in particular by:

- gaining practical experience with the measures;
- reducing multiple interpretations of the CMP provisions;
- strengthening the cooperation between neighbouring NRAs and TSOs.

(83) At IP level, very few TSOs signalled in the survey that the implementation of CMPs is or was done in a harmonised way. The survey did not provide a definition on what harmonised way could mean and therefore various interpretations are possible. The recitals of the CMP Guidelines foresaw that, *in particular national regulatory authorities and transmission system operators should have regard to best practices and endeavour to harmonise processes for the implementation of these Guidelines*.

(84) Harmonisation is a mean to achieve effective application of rules, by *eliminating major differences and creating minimum requirements or standards*.[21]

(85) For example when detailed design of each CMP would not "fit" well with the neighbouring implementation, in particular relating to bundled capacities arrangements shall be figured out

[21] Hesselink, M. The Ideal of Codification and the Dynamics of Europeanisation: The Dutch Experience in the book by Vogenauer, S and Weatherill, S (ed). (2006). ''The Harmonization of European Contract Law Implications for European Private Laws, Business and Legal Practice''. Oxford and Portland, Oregon: Hart Publishing. Page 50

for the specific cases, like depicted in the Commission's Staff Working Paper on the CMP Guidelines.

(86) Summarising the results of the survey, this question on harmonisation captured limited attention, as for 63 IPs the reporting was incomplete. At more than half of the IP sides, mixed CMP regimes apply (i.e. FDA UIOLI on one side, OS&BB on the other). Only four inland IPs were reported where harmonisation was confirmed on the both sides of the IP using OS & BB[22]. For 44 cross-border IPs, one side reported non-harmonisation.

(87) For FDA UIOLI, 11 inland and 1 cross-border points were reported with harmonisation on both sides of the border (DE/AT), while for 3 cross-border FDA UIOLI IPs at least one party per IP/direction denied harmonisation. For 12 IPs, no reporting was provided from at least one party per flow direction. For the inland points, a harmonised application of CMP was achieved through national rules.

(88) Existence of harmonised application of capacity surrender and LT UIOLI is indicated in Table 14. The respondents did not provide answers for all points and CMPs.

Table 14 Surrender/ LT UIOLI: harmonised implementation with the neighbour

	Surrender		LT UIOLI	
	IP	IP sides	IP	IP sides
Harmonised	17	110	16	100
Not harmonised	40	102	38	95
Not reported	57	125	61	142
Total	114	337	115	337

(89) Still under a rigid count, only 3 cross-border IPs confirmed on both sides harmonisation for surrender and 1 cross-border IP did the same for LT UIOLI. The larger counts for harmonised IPs in the first and third column of the table originate from the inland points.

(90) On 40 (surrender), and 38 (LT UIOLI) IPs the survey reported misalignment at least by one party at the border, with 38 and 36 cross-border IPs involved. The higher number of IP sides in the table reflects the total of individual responses (per IP side), where harmonisation or non-harmonisation was claimed per side.

(91) The challenge remains to reach better harmonisation and cooperation at the cross-border points within the EU. The cooperation of regulators, provided for in Article 42 of the Gas Directive, shall take effect and be applied to improve the harmonisation of the measures required by the codes.

(92) Overall, the Agency considers that **harmonisation,** with the exception of a few reported cases **– in this case on the German-Austrian border -, hardly went beyond in-country IPs** for most CMP measures. Coordination is taking place, for instance, also through the

[22] The Agency is also aware of the ongoing implementation for the UK interconnectors done under regulatory coordination (Ofgem, ACM, CREG).

South Gas Regional Initiatives - France, Portugal and Spain), allowing NRAs, TSOs and stakeholders to align regulatory measures.

(93) Experiences with the application of rules could also trigger harmonisation later on and that may change the initial picture. Due to the level of harmonisation and the limited application reported by the survey, the **CMPs at this stage cannot unfold their full potential on the effective functioning and integration of markets**.

(94) Data reporting needs to improve in the future. The Agency is considering various measures, including **raising awareness of this problem** and putting more effort into data cleaning (resources permitting) and potentially sending back inconsistent data sheets to the respondents. Another review on CMP implementation is currently foreseen within the next two years in order to complete the assessment.

3.2 Effects of CMPs on market integration, competition, non-discrimination

(95) The implementation of the CMP rules has not been finished in 5 Member States and at the interconnectors between the continent and the UK, out of the 21 non-derogated Member States analysed in this report. For the reasons presented at the beginning of the chapter, competition and integration effects cannot be shown in the current report.

(96) A real evaluation of effects of CMPs on market integration and competition will be performed in future reports. The current report proposes a baseline assessment on how the market is currently functioning and aims to illustrate the potential CMP application effects on markets via case studies. Some indicators are developed in chapter 4 and a proper methodology is planned to be developed for future reports, not only in relation to CMP implementation monitoring but also in relation to the monitoring of the upcoming network codes.

(97) Harmonised implementation of the CMP provisions targets at the facilitation of market integration and contributes to the effective functioning of the market. Against diverse national regulatory frameworks, aligned congestion rules enhance gas to gas competition by connecting markets through the availability of additional cross-border capacity, which in turn can facilitate the reduction of price spreads between gas markets.

(98) The market effect of each CMP measure will be evaluated in a qualitative way in the following chapter with a view on possible competition and integration effects.

(99) The different nature and aim of the CMP measures are summarised in Table 13 below. The statements in the table (e.g. on effects) would apply in case of contractual congestion. Physical congestion cannot be resolved with the CMPs. In case of OS & BB, the buy-back would only be triggered if there is physical congestion in the network.

Table 15: Overview of CMP measures as currently implemented in member states

CMP	ACTOR	APPLICATION	DESIGN ELEMENTS	FINANCIAL CONSEQUENCES & RISKS SHARING	POTENTIAL EFFECT ON MARKET INTEGRATION
OS & BB	TSO offers additional capacity	Oversub-scription (OS): Firm capacity is offered in addition to the technical capacity. OS happens, when contracted capacity exceeds technical capacity. Buy-back (BB): at request of TSO, if additional physical flows cannot be realised	Technical capacity; Additional firm capacity to be offered requires: - Incentive scheme, - Risk assessment - BB scheme	OS: network user pays auction clearing price BB: TSO pays lowest buy-back price to network user (sometimes with a cap 1.25-1.5 as set by the respective NRA) OS & BB: costs and revenues shared between TSOs/network users (10-50% for TSOs; 50-90% for network users) Measures pre-empting buy-back (e.g. flow commitments) reduce TSO risks In case of unsuccessful BB, pro-rata curtailments for all network users	Additional firm capacity offered to the market (not offered otherwise), which offers additional flexibility and arbitrage possibilities to network users Developed mainly for DA & monthly products Offers options to new entrants not holding long-term capacity contracts
FDA UIOLI	TSO releases part of the initially non-nominated capacity of network users holding at least 10% of technical capacity	Applied on large network users: in counter-flow direction only in case of contractual congestion (in AT/DE regardless)	Technical capacity (network users' capacity shares), Initially contracted capacities and initial nominations, Restrictions on renomination	TSOs: No payment to restricted NUs, while selling released capacity which was already contracted; however, revenues are used for lowering general tariff level. Affected network users can still sell unused capacity DA to realise revenues or renominate the restricted part of the capacity on an interruptible basis. The interruption risk can be remedied e.g. by - buying DA / WD firm capacity - rely on title transactions or balancing	Releases additional DA capacity and creates trust in DA capacity availability (as capacity offer is guaranteed when not used by primary holder) Offers options to new entrants Other network users are enabled to buy part of the unused capacity and this disincentivises capacity hoarding

CMP	ACTOR	APPLICATION	DESIGN ELEMENTS	FINANCIAL CONSEQUENCES & RISKS SHARING	POTENTIAL EFFECT ON MARKET INTEGRATION
Surrender	Network users notifying the TSO of non-needed capacity for resale	Triggered at the request of the network user e.g. in case of failed secondary market deal or other reasons	National measures on the design: e.g. terms & conditions approved by NRA, if more than one network user surrenders capacity	Subject to national law: terms for compensation (regulated price or other) No risk for TSO	Occasional measure as (anonymous) alternative to secondary market Could lead to the offer of additional volumes & standard products at various sizes on the primary capacity market
LT UIOLI	TSO shall withdraw hoarded capacities upon the request of the NRA	Ex post: Punitive, on the hoarding network user	NRA decision imposing the measure Requires individual network user data analysis of unused capacity	Subject to national law User partially or completely loses capacity rights (or is subject to forced selling procedures), if capacity can be reallocated to others No risk for TSO	Occasional measure Large LT volumes could be reallocated to competing network users Stops and prevents capacity hoarding

(100) Due to the different nature of the CMPs, their impact may vary and future indicators shall reflect this difference. Depending on their use, the first three measures (OS & BB, FDA UIOLI and Surrender) may show measurable impact on competition and non-discrimination. The exceptional and rare application of LT UIOLI indicates only occasional market impact. However, the very existence of the latter measure may lead to network users not booking more capacity than needed.

(101) CMPs generally facilitate profiled /structured capacity bookings, reducing the aggregated long-term / 'flat' demand for capacity bookings, and thereby ensure that more capacity becomes available to new or competing network users.

3.2.1 Effects of OS & BB

(102) OS & BB is currently implemented / applied or foreseen for implementation in 20 Member States.

(103) 13 non-derogated EU countries have implemented OS&BB by 1 October 2014. The limited application of OS & BB implies a limited impact of these measures on the market integration

and on competition. The Agency also notes that the OS & BB has been offered for daily products in most countries, longer durations have been offered only in France, Greece, the Netherlands, Slovakia, the UK.

(104) Some of the countries opting for the OS & BB measure explained that their networks do not face contractual congestion or the occurrence of congestion is limited and hence the alternative, FDA UIOLI would not be optimal. The Polish regulator and TSOs have, for example, implemented the OS&BB procedures, but have not yet applied any of the CMP provisions on the IPs of Poland due to the absence of congestion so far. A similar answer was received from the Czech Republic, where no congestion is expected.

3.2.2 Effects of FDA UIOLI

(105) FDA UIOLI is currently implemented and applied at the respective IP sides of Germany (since 1 August 2011) and Austria (since 1 October 2013).

(106) BNetzA's assessment of the German experience is positive. According to BNetzA, the FDA UIOLI released congestion in the past three years and market participants trust that daily capacity will be made available for them.

(107) FDA UIOLI can be considered a comparably simple mechanism, which applies directly on large network users holding more than 10% of the technical capacity. It does not require a risk assessment for a buy-back scheme or an incentive regime, as OS & BB does.

(108) The major effects of the three year application of the FDA UIOLI are outlined by BNetzA, as follows:

- The measure contributed to the release of daily capacity (on a day-ahead basis). In the context of decreasing gas demand, network users also used this measure to restructure their portfolio.

- The mechanism contributed to the day-ahead market integration with the neighbours by an overall effective access to short-term transmission capacity (firm bundled DA capacity), as also described in the case studies in Annex I.

- Continuous and reliable availability of firm day-ahead capacity contributed to lower price spreads between Germany and other neighbouring liquid markets (such as the TTF), which are below transportation costs most of the year (indication of functioning DA market integration),

- Capacity hoarding is presumably not a successful strategy anymore (as competing market participants can access, use and make arbitrage with the unused capacity of initial ("hoarding") users), so incumbent capacity holders gave up their contracts which led to ample capacity availability also in the long term.

3.2.3 Effects of Capacity Surrender

(109) The surrender mechanism is currently implemented / applied or foreseen for implementation in 21 Member States. The following countries are behind implementation: Bulgaria, Denmark, Hungary, Romania and the United Kingdom (ongoing for interconnectors).

(110) In terms of application, surrender was triggered at 4 IP sides for Q4/2013, with most occurrences (88) at the Baumgarten entry to Austria. The other instances on the other three points were limited (18), as reported to the Agency.[23]

(111) Due to the limited application, the effects of surrender cannot be evaluated. The utilisation of surrender is an alternative option to secondary markets; it applies for example if there is no demand / liquidity on the secondary market. Capacity surrender can therefore be considered a last resort measure to try to dispose of the unneeded capacity. The chances to reallocate the offered volumes are low in case of no congestion, as TSOs first have to allocate their available capacity, before they reallocate surrendered capacity.

(112) Still, the surrender mechanism could in principle offer other network users occasional access to capacity, which is not needed by the original capacity holders anymore. Its impact on competition, due to its occasional nature and limited additional value over secondary markets[24], may be limited, except for countries with illiquid secondary markets.

(113) Liquid and organised secondary markets may decrease the number of surrenders, by attracting potential surrenders to be traded on the secondary market.

3.2.4 Effects of LT UIOLI

(114) LT UIOLI is currently implemented / applied or foreseen for implementation in 22 Member States, including Lithuania who applies voluntary implementation. The following countries are behind implementation: Bulgaria, Hungary, Romania and Sweden as well as the interconnectors with GB.

(115) The Agency is not aware of any cases where LT UIOLI has resulted in a withdrawal of capacity. Reasons for that are manifold:

- It requires a monitoring period of at least a year (so formally a withdrawal could not take place before 1.10.2014);
- absence of congestion at certain locations, for instance due to decreasing gas demand;
- proactive congestion management procedures encouraging the “use-it-or-sell-it” principle and facilitating the transfer of capacity via the secondary market;
- absence of hoarding behaviour;
- reasons for not using the capacity are deemed valid by NRAs;

[23] Details can be found in the Agency’s 1st Congestion monitoring report.

[24] One of the reasons not to use (public) Secondary Market, may be the fact that the surrendering network user will be kept anonymous.

- lack of sufficiently detailed national rules by the NRA, that facilitate the use of LT UIOLI procedures in some Member States (e.g. timely data submission from TSOs to NRAs, lack of defined automated processes).

(116) The following exemplary case study describes the LT UIOLI process applicable in Belgium.

Case study: LT UIOLI via secondary markets: Belgium

The LT UIOLI is described in the TSOs' Access Code for Transmission[25] approved by CREG (NRA). The aim of these measures is to help the network user sell subscribed, but unused capacity on the secondary market, before LT UIOLI applies. The TSO monitors the utilisation rate of the capacity (taking into account the volumes sold on the secondary market).

The TSO monitoring signals if a network user is not selling its unused capacity, and then the LT UIOLI procedure is triggered in six steps:

(i) Fluxys (TSO) informs CREG if congestion is observed, and provides CREG with information on the location (IP or end-user point); estimated duration; type of congestion (contractual/physical), impacted grid users; electronic register for monitoring capacity use and measures (taken or proposed) to solve the congestion.

(ii) Fluxys informs the impacted grid user(s) about the congestion and about capacity request(s) that therefore cannot be met. This information is also published. Fluxys asks the impacted grid user(s) to demonstrate in writing their intended use of capacity.

(iii) Grid users then are bound to trade these capacity rights on the platform for secondary capacity and no OTC trade for this capacity is allowed.

(iv) Within 10 business days from the TSO's request, impacted grid users must demonstrate in writing to Fluxys and CREG their intended use of the transmission services.

(v) CREG evaluates the reactions and determines whether the use of transmission services as communicated by users is deemed sufficient or not. Based on its assessment, CREG decides whether the unused capacity subscribed by the concerned users is partially or fully released to the market or not. CREG can also decide to cap the price of unused capacity offered on the secondary market (at the regulated tariff).

(vi) Finally, based on CREG's decision, the TSO publishes the part of the unused capacity released on the secondary market, if that has not been offered there before by the relevant user itself. Fluxys will publish all unused booked capacity released on the secondary platform, if not notified by the concerned users. If the released capacity is sold, it is reassigned to the new user. Otherwise it remains with the original user.

According to CREG, this procedure has not been initiated yet.

(117) Absent application, the effects of this specific CMP on integration and competition are difficult to measure. The Agency underlines that LT UIOLI may still have an impact on network users' behaviour by deterring anti-competitive behaviour ("capacity hoarding").

[25] http://www.fluxys.com/belgium/en/services/transmission_1/subscriptionwindow/~/media/files/services/transmission/entry%20exit%202012/documents/20120510_accesscodettransmission_en%20pdf.ashx

(118) The following case study for Spain may help to better understand LT UIOLI.

Spanish application of LT UILOLI:

The past application of a LT UIOLI mechanism in Spain affected transmission network and LNG terminals with underground storages.

The Spanish law 34/1998, approved on 7 October 1998, introduced third party access to the Spanish gas system. Detailed rules by the Royal Decree 949/2001 defined first-come-first served TPA mechanism for the gas infrastructure and foresaw losing the contracted capacity, in case of detected underutilization during the first year of the contract.

Between 2000 and 2002, lots of market participants entered the Spanish gas market, seeking capacity access to supply existing and new consumers, in particular CCGTs. The capacity requests exceeded offer. Requests were not only higher than the existing capacity, but higher than the need for the newly planned power plant projects.

The capacity demand surged high, as users could contract capacity for long term periods and fix the service starting date later in time. These contracting conditions encouraged market players to reserve capacity for its expected future sales and in some cases users overestimated the capacity needed, given the favourable conditions. In the end, some users kept unused capacity in the infrastructures, especially at LNG terminals, blocking the efficient use of those and impeding the access of other potential users.

Another Royal Decree 1434/2002 alleviated the situation, as follows:

-Introduced the obligation to set up a deposit when contracting capacity. The deposit was given back to the user after the first year of the contract utilization;

-Established the possibility for the user to lose, partially or fully, the contracted capacity (and the proportionate part of the deposit), if during the first six months of contract use the level of utilization was lower than the 80% of the contracted capacity.

This mechanism has been applied at many occasions - 7 times during the period from 2007 to 2014 (at the entry points of ENAGAS Larrau, Barcelona, Huelva, Cartagena, Tarifa, Almería y Badajoz) plus 2 times since 2008 at the Underground Storage Sites.

Benefits of the mechanism:

-It released, from 2007 to 2014, to the market 36,98 GWh/d of unused capacity and allowed new entrants to start their activity in Spain. It favoured quick market development, and benefitted especially industrial consumers, which contributed to economic growth;

-It may have discouraged users from over contracting capacity and promoted prudent demand estimations;

-It improved and optimised the use of infrastructures, and their utilization rates;

-Decreased operation and maintenance costs due to effective utilization level.

(119) This case study shows how LT UIOLI deters hoarding behaviour and indirectly encourages the use of secondary trading and the capacity surrender mechanism instead.

4 Outlook: Future indicators for measuring effectiveness of CMPs

(120) In order to assess the effectiveness in terms of market integration and competition of the CMP measures, the future edition(s) of the implementation report will use indicators. At this stage the Agency envisages that the indicators will assess whether:

i. Competition improved;

ii. Market integration and efficient use of the existing infrastructure has improved due to the measures applied.

(121) The indicators proposed involve two sets: basic (technical) parameters[26] or market performance indicators, the latter measuring the level of market integration and competition. The two sets of indicators can correlate with each other. The assessment of the basic parameters, which comes first in the analysis, could help to understand the market dynamics. As a second step, market effects should be evaluated and the correlations between basic and market performance indicators checked. The table below describes these two sets of proposed preliminary indicators, which will be further developed and consulted with stakeholders:

Basic input indicators			
Number	**Indicator**	**Units**	**Source**
1	Frequency of the separate application of the CMPs at IPs	number	ENTSOG Transparency Platform
2	Additional capacity volumes made available via each CMP at IPs	kWh/h	ENTSOG Transparency Platform
3	Number, volume and prices for secondary capacity capacity offers, requests and actual trades at congested IPs	number, KWh/h, €/MWh	PRISMA Secondary, other platforms, OTC
4	Physical flows and their development over time per IP	kWh/h	ENTSOG TP
5	(Contractual) capacity utilisation and its development over time per shipper and aggregated	%	TSOs/NRAs/ENTSOG TP
Effects on market integration			
Impacted by the above basic indicators	**Effects**	**Units**	**Source**
1,2,3,4,5	Spot gas price spreads between gas hubs taking into account costs of hub-to-hub transport (transport tariffs)	€/MWh	exchanges, brokers, OTC, (platforms)
1,2,(3)	Liquidity on spot (& future) wholesale gas markets at exchanges, VTPs, OTC (like, traded gas volumes, number of active traders and network users, churn rates,...)	MWh, number	exchanges, brokers, OTC, (platforms)
Effects on competition in the markets			
(1),2,3	New market entries [numbers & volumes, %]	number	national indicators

[26] Individual network user data may be replaced by common balancing group data, where applicable.

(122) Additionally, some indicators could be assessed on congested IPs to perform a case-by-case IP-level analysis.

(123) These indicators could not be applied for this implementation monitoring report, as:

1. The current report is a stocktaking one, with very recently completed, missing or ongoing implementation in a number of Member States.

2. The actual application of the CMP measures is rather limited and more experience shall be collected for meaningful analyses on potential effects on competition and market integration.

3. Data submission and data collection shall improve on the ENTSOG Transparency Platform and for future surveys launched by either ENTSOG or the Agency.

5 Main conclusions and recommendations of the Agency on CMPs

(124) In the light of the analysis performed in this report the Agency has come to the following conclusions and recommendations:

(a) No full implementation and limited application of CMPs so far

(125) While the majority of the Member States implemented the CMP GL, the Agency notes 6 implementations after the legal deadline. In 7 Member States, as well as for the Interconnectors with GB, implementation was still ongoing at the time of writing.

(126) Both the incomplete implementation and the absence of contractual congestion at the majority of the IPs explain why the actual application of CMPs in Europe was limited during Q4/2013 and to date (with the exception of frequent FDA UIOLI applications at DE and AT IP sides).

(127) The Agency urges prompt finalisation of CMP implementation by the current non-implementers to make sure that the procedures are ready in case of contractual congestion and allow preventing congestion from occurring.

(b) Dynamic re-calculation of technical and additional capacity to be improved

(128) The application of dynamic capacity re-calculation of additional (OS&BB) capacity was only confirmed by 8 Member States. This despite the fact that one of the key responsibilities of the TSOs is to maximise the offer of bookable capacity.

(129) The Agency is of the view that dynamic recalculation of the technical capacity means that technical capacity is maximised at all times during the year, and not just set upfront based on the yearly flat minimum technical capacity. The Agency promotes that individual capacity

levels are calculated for individual quarters or even months in line with the provisions of NC CAM and CMP GL.

(130) The Agency is of the view that dynamic calculation of technical capacity is to be exhausted before oversubscription could be offered for products of durations longer than a day. In this context, for the additional capacity offered via OS&BB, the dynamic re-calculations shall be done at a high frequency (daily or at least monthly), enabling to include the most recent information (such as short-term temperature forecasts, expected flows, gas qualities, etc.). The Agency is of the view that this will contribute to the maximisation of both technical and additional capacity offer.

(c) Largely mixed CMP application (OS & BB vs. FDA UIOLI) at one IP to be further investigated

(131) At more than half of the assessed cross-border IP sides, OS&BB is implemented on one side of the IP, while FDA UIOLI is applied on the other.

(132) Whether the ”mixed application” of CMPs in itself constitutes a severe barrier to an effective offer of additional capacity resolving or preventing contractual congestion at IPs could not be proven in the context of the current report. One of the case studies undertaken (Arnoldstein AT/IT) suggests that, although FDA UIOLI was implemented on one side while OS&BB was not yet applied on the other side, TSOs could manage to offer bundled capacity on a firm day ahead basis, remedying congestion and facilitating short-term market connection/integration.

(133) The Agency invites concerned NRAs to further investigate specific cases to deepen the understanding on the interaction of different CMPs applied at two sides of the same IP. NRAs are encouraged to bring forward to the Agency cases of potential negative consequences of CMPs not functioning well together for further discussion.

(d) Surrender products’ range to be enlarged by some MSs

(134) While the CMP GL require that all firm standard (or still existent contracted non-standard) products with a duration longer than a day are to be covered by the surrender mechanism, 8 countries and Interconnectors with GB are not yet compliant.

(135) The Agency requests the respective NRAs to inform the Agency when TSOs are aligned with regards to this requirement.

(e) LT UIOLI data reporting frequency to be reconsidered

(136) The reporting frequency of data submission necessary to effectively apply the LT UIOLI mechanism is still unknown in 8 Member States. For 5 other Member States reporting takes place only upon request and for 3 Member States (as well as planned for BBL & IUK) only once per year.

(137) The Agency considers that the low frequency of data reporting could negatively impact the efficiency of the measure and therefore requests the respective NRAs to reconsider the reporting frequency to ensure appropriate regulatory oversight of the effectiveness of the measure. As a preliminary indication, the Agency's deems appropriate a reporting to be done at least on a biannual basis, which is a practice currently followed by a minority of Member States.

(f) NRAs to facilitate better data reporting to the Agency and of their TSOs to ENTSOG TP

(138) Basic technical and CMP related transparency data at the ENTSOG TP needs to be regularly and timely updated by TSOs. The Agency urges NRAs to verify TSO data submission to the TP, as well as their reliability, quality and consistency to allow an effective data analysis by the Agency (e.g. for the upcoming Congestion Report). Additionally, the Agency may request support from the NRAs for continuous data checks, data cleaning and/or additional provision of missing data from TSOs, if necessary.

(139) Furthermore, data collection by the Agency from or via NRAs could further improve, in particular in terms of timely delivery, precision and comprehensiveness of the responses given by NRAs.

(g) Harmonisation of CMP application could be further improved

(140) The results of the ACER survey show that the harmonisation of CMP applications seems rather limited. The effectiveness of CMPs may improve in the future through further harmonisation and better coordination of the CMP applications. This requires a strengthening of the cooperation of neighbouring NRAs and TSOs, based on positive practical experiences and with the aim to reduce multiple interpretations of the CMP provisions.

Annex I:
Case Studies

6 Annex I: Case Studies

6.1 Case Study – Oberkappel (DE → AT)

Case study information sheet

Case study	IP name: **Oberkappel** EIC-code: 21Z000000000001G Direction: Germany (DE) → Austria (AT) TSOs: **OGE** (EXIT; DE) → **BOG**[27] (ENTRY; AT) NRAs: Bundesnetzagentur (DE) / E-Control (AT) CMPs: **FDA UIOLI** (EXIT; DE) / **FDA UIOLI** (ENTRY; AT) Max. tec. cap: **DE → AT**: 199.5 GWh/d[28] and AT → DE: 159.9 GWh/d[29] [Source: ENTSOG Gas Network Map 2014] Period analysed: 01.10.2013 – 31.03.2014
Case selection	Justification & methodology: • Exemplary case for FDA application on both side of a cross-border IP • Focus on **bundled capacity** products • Contractually (and occasional physically[30]) congested IP: at least 4 bundled monthly products (05-08/14) and several bundled day-ahead (DA) products exhibited an auction premium in GY 2013/14 at PRISMA • Analysis of the bundled DA product offer, demand and allocation and the comparison with booked firm capacity and flows shows → **Example for an effective FDA application**
Information sources	• ENTSOG Transparency Platform for: - technical capacity - booked firm capacity - physical flow data • PRISMA Platform (Auction Reports) for: - FDA capacity offer - FDA capacity allocated • ENTSOG's Natural Gas Network Map of June 2014 for: - fundamental data (IP sides, maximum technical capacity, TSOs) • E-Control and BNetzA feedback of 09.10.2014 & 30.10.2014

[27] Baumgarten-Oberkappel Gasleitungsgesellschaft m.b.H. („BOG") as TSO of the West-Austria pipeline („WAG") was merged into GAS CONNECT AUSTRIA GmbH („GCA") on 1 September 2014 [source: http://www.bog-gmbh.at/].

[28] The technical capacity of the WAG-System in Oberkappel is 477.8 GWh/d.

[29] The technical capacity of the WAG-System in Oberkappel is 371.1 GWh/d.

[30] Interruptions occurred outside the analysed period

Case description

IP profile

- Bidirectional IP with 8 IP sides connecting the German "Mittel-Europäische-Gasleitung", southern part (MEGAL BIS Pipeline) with the West-Austria-Gasleitung (WAG):
  - Exit GRTGaz Dtl. (DE) → Entry BOG[31] (AT)
  - **Exit OGE (DE) → Entry BOG (AT)**
  (Only the bundled FZK products of this single Exit-Entry pair are analysed in this case study.)
  - Exit BOG (AT) → Entry GRTGaz Dtl. (DE)
  - Exit BOG (AT) → Entry OGE (DE)

IP side	Technical capacity (GWh/h)[32]	Capacity booking level
Exit GRTGaz Dtl. (DE)	0.5	fully booked until 2014
Exit OGE (DE)	5.9	2.0–4.3 GW are booked until 2016; afterwards less than 1 GW booked until 2024[33]
Entry BOG (AT)	10.2	Fully booked until 2021; from 2022 bookings decline to 91%
Entry GRTGaz Dtl. (DE)	5.6	1.0-1.4 GW booked until 2022, up to 1.5 GW is available
Entry OGE (DE)	1	No capacity is booked LT
Exit BOG (AT)	15.4	Fully booked until 2021; from 2022 bookings decline to 95%

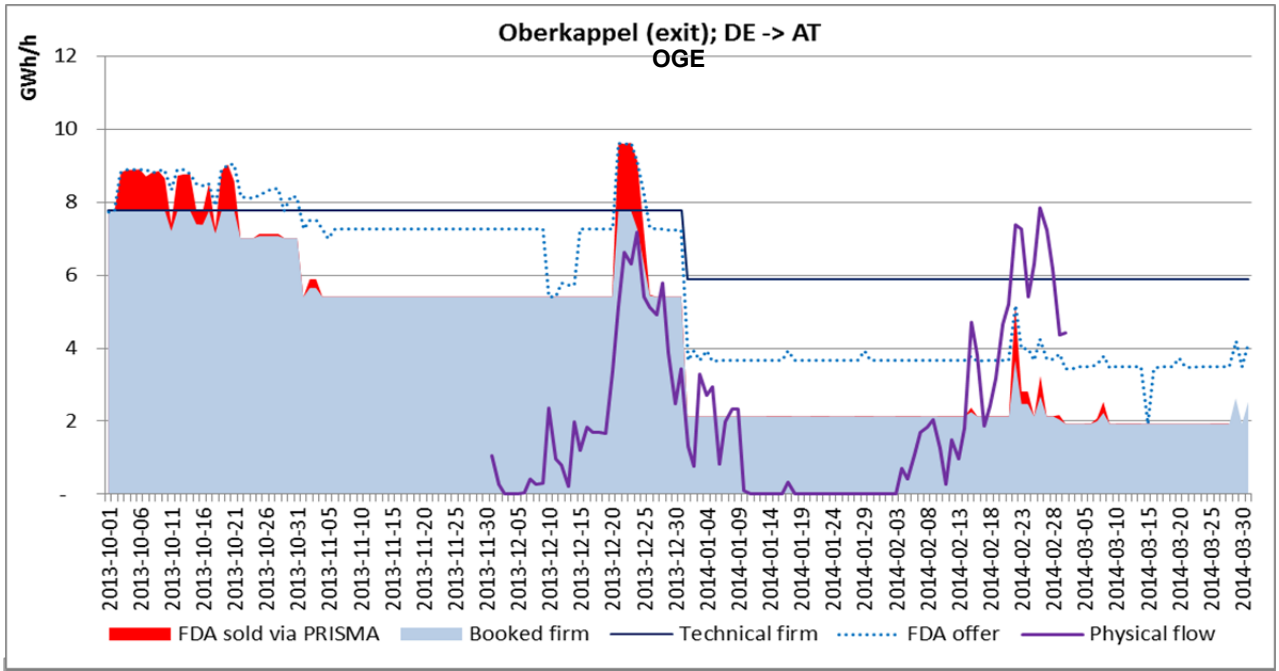
- As evident from the table above, there is a mismatch of technical capacity on the DE and the AT side of the IP. The sum of technical exit capacity on the DE side is only 63% of the respective AT entry capacity, in the counter-flow direction, the DE entry only has 43% of the AT exit capacity. In case of high demand for flows, the DE side would in both cases constitute the physical bottleneck. Interruptible capacity is offered and used to reduce the mismatch.
- The point Oberkappel displays a changing flow pattern, which is presumably mainly price-driven. Usage in direction DE->AT in winter periods is at times above technical firm capacity of DE single TSOs, due to very strong usage of interruptible capacity products (i.e. due to netting with the other TSO at the point or favourable pressure conditions upstream), but more often in AT->DE direction. Outside winter seasons the flow direction is often DE->AT. Therefore, the calculation of average usages would not be informative.

[31] Baumgarten-Oberkappel Gasleitungsgesellschaft m.b.H. („BOG") as TSO of the West-Austria Gasleitung („WAG") was merged into GAS CONNECT AUSTRIA GmbH („GCA") on 1 September 2014 [source: http://www.bog-gmbh.at/].

[32] FZK – freely allocable firm capacity

[33] PRISMA booking horizon for OGE is 3 years.

- Interruptible capacity in direction DE->AT is interrupted relatively frequently[34], due to pressure constraints in the Megal-System. Negotiations about a pressure service agreement are still on-going to increase technical capacity at the DE side and to prevent/reduce physical congestion (i.e. interruptions).[35]
- The following graph exhibits the technical capacity, firm capacity booking (on the OGE Exit) and the additional bundled day-head capacity offer, as well as sold DA capacity. Physical flow data for OGE (Exit) was not available for the full illustrated period and provided only on a provisional basis.
- The respective technical and booked capacity as well as flow data for the AT Entry side (BOG, now GCA, Entry) was not available on the Transparency Platform (status 6.10.14) for the period analysed due to unsolved problems of the relaunch of the ENTSOG Transparence Platform.



Explanation (methodology):

FDA sold via PRISMA – amount of capacity, above booked firm capacity, which was sold via PRISMA

FDA offer – amount of DA capacity, above booked firm capacity, which was offered on PRISMA

[34] Such interruptions took place for example in July 2013 and from Sept. 2014 onwards (i.e. outside the analysed period of this study), indicating physical congestion.

[35] The physical flow reached the technical capacity of 176 GWh/d at the exit DE (OGE+GRTgaz Dtl.) vs. 248 GWh/d at entry GCA, AT) on ~38 days: 2, 11-14, 21 and 15 April, on 1, 8, 15, 21 and 29 May, on 7-8, 13 and 21 June and on 4-25 October 2014. The physical flow exceeded the technical capacity at DE (exit) side on more than 50% of the days in Jan.-Oct. 2014.

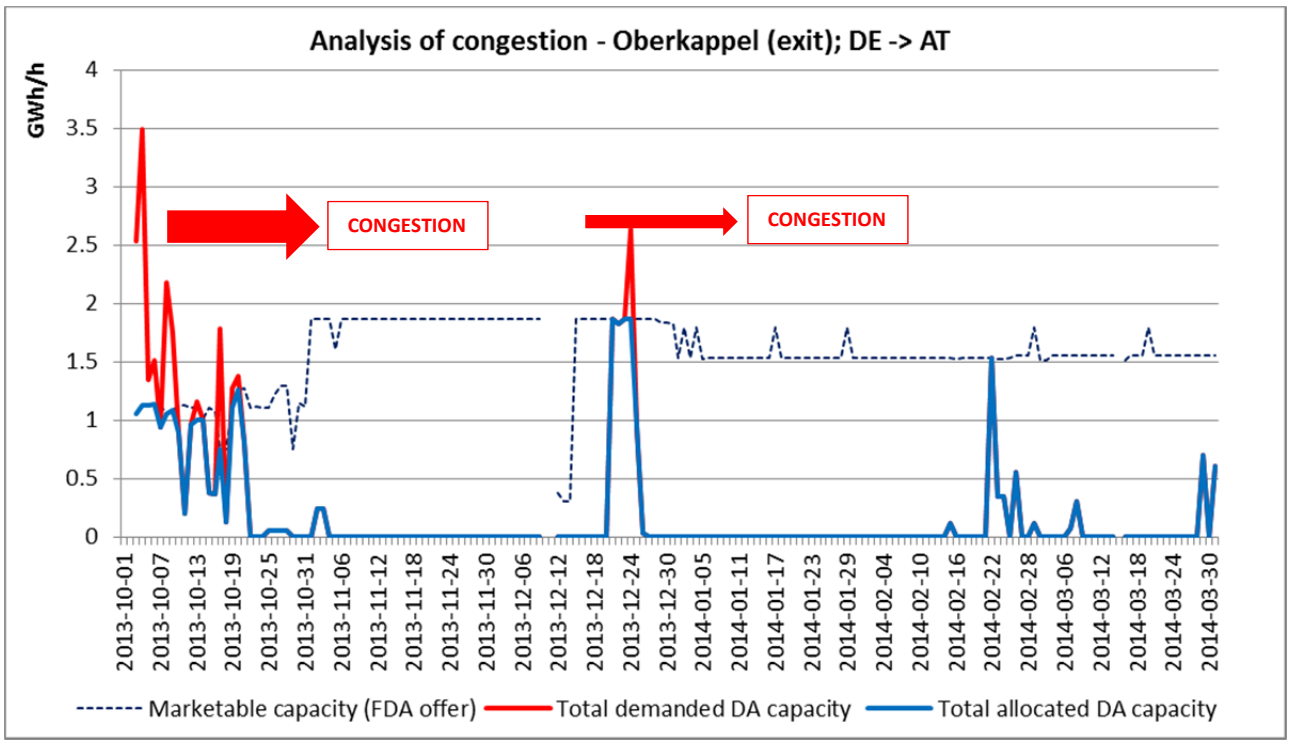
- FDA capacity was offered and sold even above the "baseline" (quarterly adjusted) technical firm capacity in October and December 2013.
- In the period Q4/2013 until Q1/2014, in total about 11% of the whole capacity marketed on a day-ahead basis was actually also demanded and booked by network users (range: 0 1.86 GWh/h).
- In December 2013 and in February 2014, a high physical flow close to or even above the calculated technical firm capacity was realised. Due to the set of capacity contracts (at Oberkappel and competing points) and the overall entry-exit system calculation, levels of capacity which is firm throughout the year ("technical capacity") where changing at the beginning of 2014. However, depending on the overall flow situation in the entry-exit system, flows above technical capacity are possible and actually occurred (e.g. due to netting of the flows of the other TSO at the point).
- According to the capacity auctions that took place on **PRISMA** during the Gas Year 2013/14 (data analysed until August 2014) on the chosen Exit-Entry-pair **no firm bundled standard yearly** products were offered (i.e. in March 2014).
- Additionally, **only Q4/14** of the possible four **quarterly** products was offered in the June 2014 auction without congestion for this product.
- For **four** of the **monthly** firm bundled products offered (i.e. for May, June, July and August), the auctions resulted in a surcharge, due to contractual congestion.
- One OTC transaction of GRTgaz Dtl. interruptible exit capacity (256 MW, runtime 2014-2015) and one OTC transaction of OGE firm exit capacity (62 MW, runtime 2014-2026) were reported on PRISMA (status 7 Oct 2014).
- OTC other than PRISMA: unknown.
- Main network users using the point on both sides: confidential

CMP

The firm day-ahead Use-It-Or-Lose-It (FDA) mechanism is implemented and applied on both sides of the IP. A harmonization of the CMPs at both sides of the border is therefore reached.

The offer of firm capacity might possibly be optimised by applying downward renomination restrictions on both sides of the IP.

The following graph shows how and to what extent additional bundled firm day-ahead capacity was offered and allocated in the period from 1 Oct 2013 to 30 June 2014. On some days, demand exceeded offer for that product, resulting in auction surcharges and contractual congestion (marked in red).



In the period depicted above (1.10.2013 – 31.03.2014), an aggregated amount of DA firm bundled capacity of 275 GWh/h (min. 0; max. 1.86 GWh/h; average 1.55 GWh/h per daily product) was offered on the PRISMA platform and an aggregated amount of DA firm bundled capacity of 30.3 GWh/h (min. 0; max. 1.86 GWh/h; average 0.17 GWh/h per daily product) was actually contracted by network users on PRISMA.

ACER's Case Analysis

The implementation of FDA UIOLI at this contractually congested IP allowed for an additional release of short term capacity throughout the period of Q4/2013 – Q1/2014 (see blue dotted line in the graph above). Such FDA capacity was requested by market participants, although not continuously. Demand for FDA occurred mainly in October 2013, but also on some days in December 2013 and February 2014, as well as at the end of March 2013 (see red line in the graph above).

The application of the same mechanism on both sides of the border allowed for a firm bundled DA capacity offer (in the range of 0 to 1.86 GWh/h) and therefore improved the connection of the DE / AT short-term gas markets.

Summary

This specific case, where on both sides of the IP the FDA UIOLI mechanism is implemented and applied since 1 October 2013, shows that FDA UIOLI seems generally to be a functioning and effective measure, which has been applied for more than a year by now. No obstacles that would hinder a further continued application have been reported so far.

Limits occurring in this specific example for the analysed period relate to the non-offer of firm DA bundled capacity in some instances (e.g. for the daily products due on 2.10.2013, 10./11.12.2013, 15.3.2014). TSOs claim IT problems for these instances of not offering capacity.

Looking at the immediate effects:

- In October and December 2013, network users accessed in sum about 20.8 GWh/h of DA firm bundled capacity for days, which had already been fully booked before (no available capacity) (those capacities are the ones which are marked in red and are above the technical capacity in the first graph above).
- Additional firm DA capacity, when demanded by network users, also coincided with higher physical flows in the short period analysed (at least in December 2013 flows were close to the technical capacity).
- TSOs/NRAs by agreeing on the implementation of the same CMP measure, have simultaneously decreased possible future implementation hurdles (e.g. also related to other Network Codes, such as Interoperability (→ 'lesser rule' for matching nominations)).
- With regard to gas market price spreads being potentially used by new network users of that IP, currently no network user-specific studies are available. However E-Control observed in the auctions that, demand for capacities in Oberkappel is higher for days with higher spreads between NCG and CEGH.

Looking at the future/expected effects:

- Daily gas market price spreads can be minimised due to the constant offer of some DA capacity volumes. (The example shows that in high-demand periods, as observed in December 2013 at that IP, up to 24% on top of the fully booked technical capacity could be offered as additional bundled firm DA capacity.)
- Whenever (spot) gas market signals (i.e. price spreads) are visible and taken up by network users to react upon, cross-border capacity utilization is optimized / maximized through the application of FDA UIOLI, thereby increasing market integration and liquidity.
- With increased gas market integration and liquidity at hubs - through fast and easy access to available cross-border capacity by network users – those network users / arbitrators / traders taking advantage of price spreads may benefit immediately and thereby facilitate price convergence between and liquidity at hubs.
- End users / gas consumers should generally benefit from these effects through an increase of competition at gas wholesale markets and consequently gas retail markets, which should lead to more choice among suppliers, lower prices and/or better services to the customers.

Looking at possible risks:

- Some network users generally have complained about FDA UIOLI restricting their renomination rights and thereby limiting their flexibility (although the restriction is quite limited in scope and only applies to those network users, who have booked at least 10% of the average technical capacity in the preceding year at the IP). For this specific IP, no such complaints have recently been received by NRAs.

6.2 Case Study – Arnoldstein/Tarvisio (AT → IT)

Case study information sheet

Case study	IP name: **Arnoldstein/Tarvisio** EIC-code: 21Z000000000004A Direction: Austria (AT) → Italy (IT) TSOs: **TAG GmbH** (EXIT; AT) → **SRG** (ENTRY; IT) NRAs: E-Control (AT) / AEEG (IT) CMPs: **FDA UIOLI** (EXIT; AT) / planned **OS&BB** (ENTRY; IT) Max. tec. cap: **AT → IT**: 1140.3 GWh/d and IT → AT: 191.89 GWh/d [Source: ENTSOG Gas Network Map 2014] Period analysed: 01.10.2013 – 30.03.2014
Case selection	Justification & methodology: • Exemplary case of a cross-border IP for FDA application on one side (AT) and (planned) OS&BB on the other side (IT) [36] • Contractually (and occasional physically[37]) congested IP & at least 13 day-ahead (DA) products exhibited an auction premium in GY 2013/14 at PRISMA • Analysis of the **bundled** FDA product offer, demand and allocation in conjunction with booked firm capacity and flows shows an → **Example for different CMP application at both sides of IP**
Information sources	• ENTSOG Transparency Platform for: - technical capacity - booked firm capacity - physical flow data • PRISMA Platform (Auction Reports) for: - FDA capacity offer - FDA capacity allocated • ENTSOG's Natural Gas Network Map of June 2014 for: - fundamental data (IP sides, maximum technical capacity, TSOs) • Feedback and comments from E-Control (14.10.14) and AEEG (20.10.2014)

[36] OS&BB is foreseen by the regulation, but it has not been yet implemented by the Italian TSO (Snam Rete Gas - SRG).

[37] AT → IT (Exit TAG, AT): Physical flow reached the technical capacity (1184 GWh/d) on 10 days: 29/11, 6/12, 10-12/12 and 16-20/12 2013. AT → IT (Entry SNAM, IT): The physical flow exceeded the technical capacity (1132 GWh/d) on a few days end of 2013.

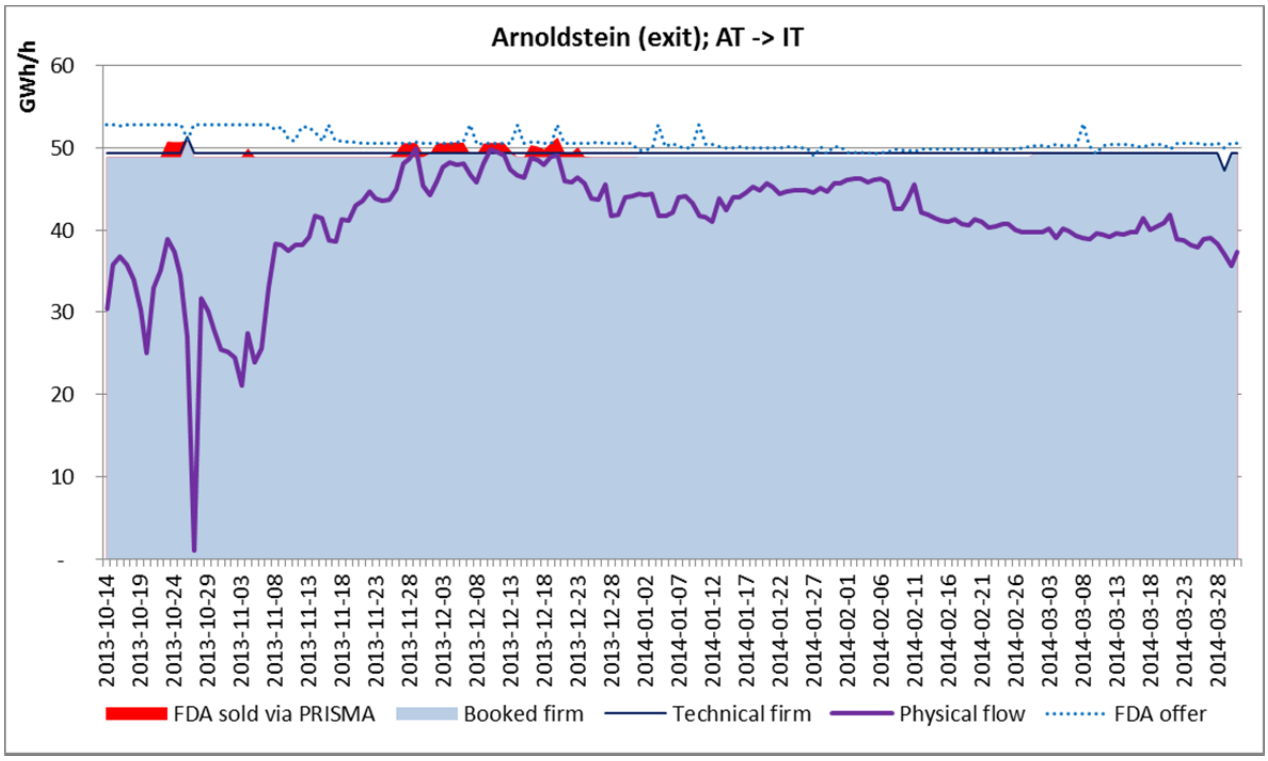
Case description

IP profile

The IP is part of the TAG pipeline, which comprises three parallel pipelines and the auxiliary equipment for each, including compressor stations. The nominal diameters (DN) of the pipelines are between 900 mm and 1,200 mm.

The 380 km TAG pipeline runs from Baumgarten (AT) to the IP Arnoldstein/Tarvisio on the border between Austria and Italy. It was built for transit purposes in 1974 for deliveries of Russian gas to Italy.

- **Bidirectional** IP with 4 IP sides:
  - Exit TAG (AT) → Entry Snam Rete Gas (IT)
  - Exit Snam Rete Gas (IT)→ Entry TAG (AT)
  (Note: only the bundled FZK products are analysed here)
- The technical capacity at the exit TAG (AT) is 49.34 GWh/h.
- The following graph exhibits the technical capacity, firm capacity booking, physical flow (at AT exit) and the offered additional firm day-head bundled capacity as well as the sold bundled FDA capacity.



Explanation (methodology):

FDA sold via PRISMA – amount of FDA capacity sold via PRISMA, in addition to already booked firm capacity

FDA offer – amount of FDA capacity offered on PRISMA, in addition to already booked firm capacity

- Throughout the period Q4/13 – Q1/14, the Austrian IP side (Arnoldstein Exit, AT) was nearly fully booked. Physical utilization reached the technical capacity limits several times at the end of November and in December 2013, and utilization remained high during the winter.
- According to the capacity auctions that took place on **PRISMA** during the Gas Year 2013/14 (data analysed until August 2014) on the Exit (AT) – Entry (IT) pair, **neither firm bundled standard yearly, nor quarterly, nor monthly** products had been offered.
- For **13 out** of all **DA** firm bundled products offered (i.e. for November and December 2013), the auctions resulted in a surcharge, indicating as well contractual congestion.
- In addition to DA bundled products, **firm unbundled** products had been offered at the Austrian side (Exit; TAG): 4 quarterly (i.e.Q4 2013 – Q3 2014), 11 monthly (i.e. November 2013 – September 2014) and several DA products.
- For **one** of the **monthly** firm **unbundled** products offered (i.e. January 2014) and **one** of the **quarterly** firm **unbundled** products offered (i.e. Q1 2014), the auctions resulted in a surcharge, indicating contractual congestion. For the other unbundled products offered, no congestion occurred (i.e. demand did not exceed offer).
- Only firm unbundled capacity was offered & traded at PRISMA Secondary as indicated in the screenshot below:

Proposal Type	Trading Procedure	Capacity amount	Network point	Direction	TSO	Runtime Start	Runtime End	Capacity category
Proposal to sell (Assignment)	Over the Counter (OTC)	25,000 kWh/h	Arnoldstein importazione (35718301)	Entry	SRG	01.10.2014 06:00	01.11.2014 06:00	firm
Proposal to sell (Assignment)	Over the Counter (OTC)	29,828 kWh/h	Arnoldstein importazione (35718301)	Entry	SRG	01.10.2014 06:00	01.10.2015 06:00	firm
Proposal to sell (Assignment)	Over the Counter (OTC)	151,180 kWh/h	Arnoldstein importazione (35718301)	Entry	SRG	01.10.2014 06:00	01.04.2015 06:00	firm
Proposal to sell (Assignment)	Over the Counter (OTC)	1,223 kWh/h	Arnoldstein importazione (35718301)	Entry	SRG	01.10.2014 06:00	01.10.2015 06:00	firm
Proposal to sell (Assignment)	Over the Counter (OTC)	96,209 kWh/h	Arnoldstein importazione (35718301)	Entry	SRG	01.10.2014 06:00	01.10.2015 06:00	firm
Proposal to sell (Assignment)	Over the Counter (OTC)	155 kWh/h	Arnoldstein importazione (35718301)	Entry	SRG	01.10.2014 06:00	01.04.2015 06:00	firm
Proposal to sell (Transfer of use)	Over the Counter (OTC)	26,688 kWh/h	Arnoldstein (21Z000000000004A|Arnoldstein|EXIT)	Exit	TAG GmbH	01.10.2014 06:00	01.10.2015 06:00	FZK
Proposal to sell (Transfer of use)	Over the Counter (OTC)	52,922 kWh/h	Arnoldstein (21Z000000000004A|Arnoldstein|EXIT)	Exit	TAG GmbH	01.10.2014 06:00	01.10.2018 06:00	FZK

- OTC: unknown.

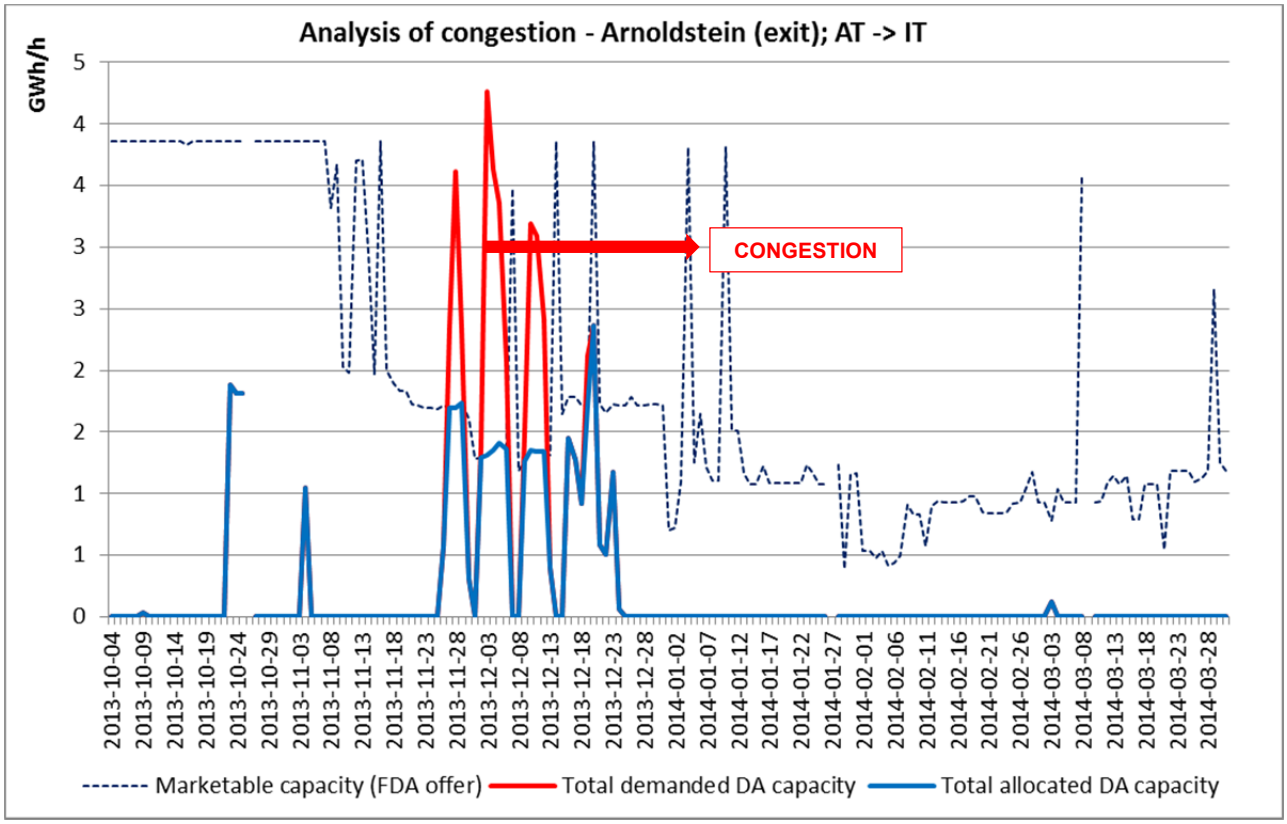
CMP

The firm day-ahead Use-It-Or-Lose-It (FDA) mechanism is implemented and applied only on one IP side (exit AT), while on the other side (entry IT), OS & BB will be implemented.

The previous and the following graph show how and to what extend **additional bundled** firm day-ahead capacity was offered and allocated in the period from 1 Oct 2013 to 30 March 2014.

On some days, demand exceeded offer for that product, resulting in auction surcharges, thus contractual congestion occurred for the FDA products (marked in red).

In the analysed period (Q4/13-Q1/14), an aggregated amount of FDA bundled capacity of 333.8 GWh/h (min. 0.39 GWh/h; max. 3.86 GWh/h; average 1.9 GWh/h per daily product) was offered on the PRISMA platform and an aggregated amount of FDA bundled capacity of 35.3 GWh/h (min. 0; max. 2.37 GWh/h; average 0.2 GWh/h per daily product) was actually contracted by network users on PRISMA.

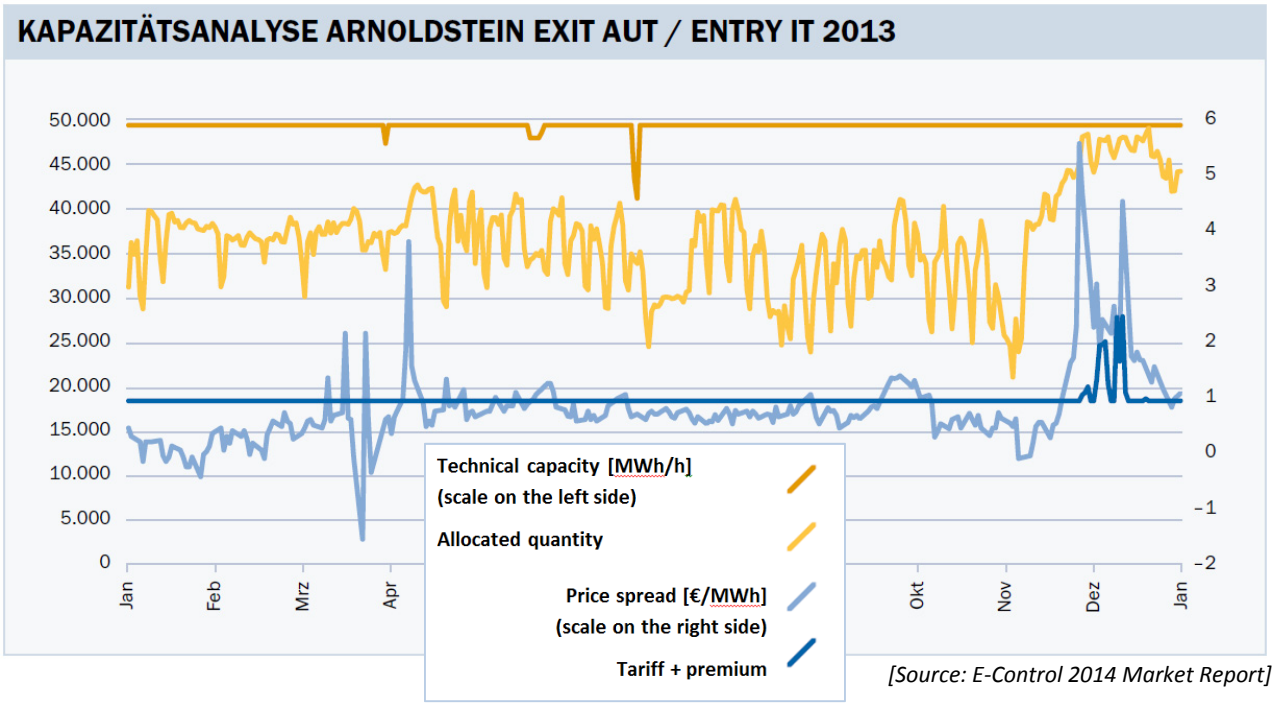


ACER's Case Analysis

The implementation of FDA UIOLI at this contractually congested IP (at the Austrian side) allowed for an additional release of bundled FDA capacity throughout the analysed period (see blue dotted line in the graphs above) on top of the nearly completely booked technical capacity level. Such FDA capacity was requested by market participants on several occasions, although not continuously throughout the period. Demand for FDA occurred mainly in November and December 2013 (as indicated by the red line in the graph above).

Despite the different CMPs to be applied on the two sides of IP's border (AT - FDA UIOLI; IT – planned implementation of OS&BB), firm bundled DA capacity (of up to 3.86 GWh/h) was offered, which improved the connection between the AT / IT short-term gas markets.

Such an improved market connection has been witnessed by E-Control and illustrated in its 2014 Market Report[38]. The existence of a (sufficient) gas price spread (exceeding transport costs) between the Italian and Austrian hubs has led to the occurrences of auction premia for FDA capacity and a higher utilization of the capacity (allocated quantities) at the IP Arnoldstein (AT → IT). At least for December 2013 this correlation is clearly visible in the illustration below.



[Source: E-Control 2014 Market Report]

Summary

Although FDA UIOLI is only applied on one side of the IP, still additional firm bundled FDA capacity was offered. The bundled offers were the outcome of TSO cooperation, and this allowed maximizing the bundled offer of capacity, at least on a FDA basis.

No specific obstacles were mentioned by the NRAs concerning this point.

The additional FDA offer level is quite fluctuating, and seems to rarely coincide with high demand at this point. The amount of FDA capacity released by the FDA UIOLI mechanism strongly depends on the initial nominations of the network users. If all network users nominate (close to) 100% of their contracted capacity, (almost) no FDA capacity can be offered. This was certainly the case end of November and December 2013 where physical utilisation reached the technical capacity limits several times. The other reason is that probably only one network user holds more than 10 % of the average technical capacity at the exit Arnoldstein, thus the FDA UIOLI mechanism applies only to this one network user. As a

[38] E-Control: MARKTBERICHT 2014 NATIONALER BERICHT AN DIE EUROPÄISCHE KOMMISSION (page 120); http://www.e-control.at/portal/page/portal/medienbibliothek/publikationen/dokumente/pdfs/EC_Marktbericht_19.09._ES_Sc.pdf

consequence, the FDA capacity offer is directly influenced by the nominations of that network user, leading to small FDA offers at high demand levels.

Looking at the immediate effects:

- Network users accessed in sum about 35.3 GWh/h of firm DA bundled capacity for days, which had already been (nearly) fully booked before mainly in December 2013 (those capacities are the ones which are marked in red and are above the technical capacity in the first graph above).
- Additional firm DA capacity, when demanded by network users, also coincided with higher physical flows in the short period analysed (at least in December 2013 flows were close to the technical capacity).

Looking at the future/expected effects:

- Daily gas market price spreads can be minimised due to the constant offer of at least some FDA capacity volumes.
- Whenever differences in (spot) gas market prices trigger arbitrage, cross-border capacity utilization increases and shall be optimised / maximised by the application of FDA UIOLI and/or OS&BB, leading to increased market integration and liquidity.
- With increased gas market integration and liquidity at hubs - through fast and easy access to crucial, but not necessarily large quantities of additional cross-border capacity available to network users – those network users / arbitrators / traders can arbitrate between markets and benefit of it immediately. The result of their action is price convergence between and liquidity at European hubs.
- End users / gas consumers should generally benefit from these effects in particular from competition at gas wholesale markets and consequently gas retail markets, which should lead to more choice among suppliers, lower prices and/or better services to the customers.

Looking at possible risks:

- For this specific IP, no complaints have recently been received by NRAs.
- In order to resolve the mismatches in CMP implementation and upcoming application, E-Control proposes to proceed according to the Commission Staff Working Document on Guidance on best practices for congestion management procedures in natural gas transmission networks [SWD(2014) 250]. This document proposes a pragmatic approach to ensure the compatibility of the FDA UIOLI and the OS&BB mechanisms. As long as bundled products are merely the outcome of a joint allocation of cross-border capacities with legally independent contracts and terms and conditions, no change is needed to the current CMP regimes. If single standard capacity contracts for bundled products will be introduced, further harmonization of CMPs at IPs will be required and undertaken.

6.3 Case Study – Mosonmagyarovar (AT → HU)

Case study information sheet

Case study	IP name: **Mosonmagyarovar** EIC-code: 21Z000000000003C Direction: Austria (AT) → Hungary (HU) TSOs: **GCA** (EXIT; AT) → **FGSZ** (ENTRY; HU) NRAs: E-Control (AT) / MEKH (HU) CMPs: **FDA UIOLI** (EXIT; AT) / planned **OS&BB** (ENTRY; HU) Max. tec. cap: AT → HU: 129.2 GWh/d [Source: ENTSOG Gas Network Map 2014] Period analysed: 01.04.2014 – 31.08.2014
Case selection	Justification & methodology: • Exemplary case of a cross-border IP for FDA application on one side (Exit; AT) and planned OS&BB on the other side (Entry; HU) • Physically highly utilised IP and interruptions of interruptible capacity indicated physical congestion[39] • No offer of bundled capacities yet (→ contractual congestion) • For unbundled capacity at the AT exit, contractually non-congested (according to the CMP Guidelines), however at least 3 day-ahead (DA) products exhibited an auction premium in GY 2013/14 at PRISMA • Analysis of the **unbundled** DA product offer, demand and allocation and the comparison with booked firm capacity and flows provides an → **Example for different CMP application at both sides of an IP**
Information sources	• ENTSOG Transparency Platform for: - technical capacity - booked firm capacity - physical flow data • PRISMA Platform (Auction Reports) for: - FDA capacity offer - FDA capacity allocated • ENTSOG's Natural Gas Network Map of June 2014 for: - fundamental data (IP sides, maximum technical capacity, TSOs) • E-Control and MEKH feedback of 14.10.2014 & 30.10.2014 (E-Control)

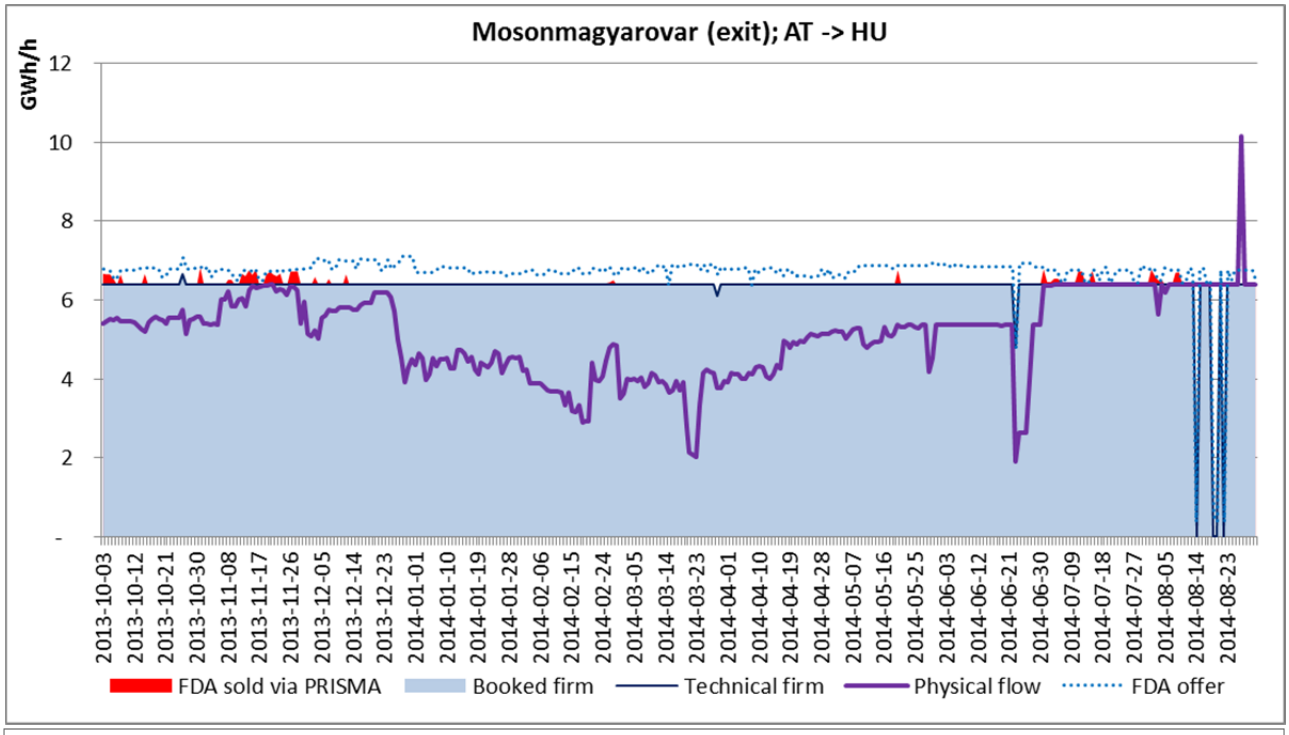
[39] AT→ HU, Exit GCA, AT: Physical flow reached the technical capacity (153 GWh/d) on ~117 days during Nov 13 – Oct 14: 15-21, 26-28 Nov. 2013 as well as on all days from 1 July 2014 to 15 October 2014.

Entry FGSZ, HU: The physical flow exceeded the technical capacity (~129 GWh/d) on ~ 50% of the days during that period; interruptible capacity was interrupted from June 2014 onwards

Case description

IP profile

- The IP is part of the 45km HAG pipeline which comprises a DN700 pipeline and auxiliary equipment and runs from Baumgarten to Mosonmagyarovar at the border with Hungary. It was built as a transit pipeline to supply Hungary from the West and was commissioned in 1996.
- **Unidirectional** IP with 2 IP sides:
  - Exit Gas Connect Austria (AT) → Entry FGSZ (HU)
  (Note: only the unbundled FZK are analysed here)
- The following graph exhibits the technical capacity, firm capacity booking, physical flow and the additional day-head capacity offer and sold DA capacity.



Explanation (methodology):

FDA sold via PRISMA– amount of capacity, in addition to previously booked firm capacity, which was sold via PRISMA

FDA offer – amount of capacity, in addition to previously booked firm capacity, which was offered on PRISMA

- According to the capacity auctions that took place on **PRISMA** and the Hungarian Information Platform (IP) during the Gas Year 2013/14 (data analysed until August 2014) **only unbundled** firm products were offered (at exit AT and entry HU)
- No bundled products have been offered on any platform yet; for the virtual reverse flow, only interruptible capacity was offered at the Austrian entry

- Among the **unbundled** firm products (EXIT; AT) offered on PRISMA during the Gas Year 2013/14 (data analysed until August 2014) two monthly products (for November and December 2013), four quarterly products (for 2014) and fifteen yearly products (for years: 2015-2029) were offered. For all of them, market demand did not exceed offer (no congestion).
- Should unbundled firm capacity demand (ENTRY, HU) be congested for a given service period, products meeting such demands (being yearly/monthly) are allocated via a capacity auction (type: pay as you bid) under the current Hungarian legislation. Over the period analyzed by the present case study, FGSZ (the Hungarian TSO) held 6 auctions: 1 yearly auction to allocate the firm product for the GY2014/2015 and 5 monthly ones to cover each month of the period examined. The result of a given auction is published on the TSO's website in a newsletter.
- For **three** of the **DA** firm unbundled products offered (i.e. two for July and one for August) auctioned on the AT Exit side, the auctions resulted in a surcharge. No congestion occurred for other products.
- From June 2014 to August 2014, a high physical flow close to or even above the calculated technical firm capacity occured. On the Hungarian side the seasonal availability of additional firm capacity (monthly and daily capacity) on top of the annual firm capacity allowed the flow. The high utilization rate could be due to the high commodity price spread between the Austrian and Hungarian natural gas markets, as well as network users' increased cross-border and storage activities in Hungary. The TSO estimated lower the firm technical capacity, then the actual parameters, like higher border pressure, higher GCV, higher consumption in the western Hungarian region (power plant and storage injection), would have allowed.
- In Austria, the physical flow did not exceed the technical capacity (see graph from ENTSOG's transparency platform below). On the Austrian side, a sharp increase in bookings and consequently nominations of interruptible exit capacity took place as of 1 July 2014 onwards.

- Secondary market contract offers per side/TSO:
  - in Hungary, the HAG (Hungarian unbundled entry capacity) is the most frequently traded capacity on the secondary market.
  - On the Austrian side, according to the network users, the long-term UIOLI acts as a strong incentive for them to offer unused capacity on the secondary market[40].
- Firm unbundled (**non-standardised**) secondary capacity products were offered & traded at PRISMA Secondary as indicated in the screenshot below:

Status	Proposal Type	Trading Procedure	Capacity amount	Network point	Direction	TSO	Runtime Start	Runtime End	Capacity category
Finished	Proposal to sell (Transfer of use)	Over the Counter (OTC)	1,000,000 kWh/h	Mosonmagyarovar AT->HU (21X-AT-B-A0A0A-K|21Z0000000000003C|EXIT)	Exit	GCA	16.09.2014 06:00	01.10.2014 06:00	FZK
Finished	Proposal to sell (Transfer of use)	Over the Counter (OTC)	200,000 kWh/h	Mosonmagyarovar AT->HU (21X-AT-B-A0A0A-K|21Z0000000000003C|EXIT)	Exit	GCA	11.09.2014 06:00	01.10.2014 06:00	FZK
Finished	Proposal to sell (Transfer of use)	Call for Orders (CFO)	300,000 kWh/h	Mosonmagyarovar AT->HU (21X-AT-B-A0A0A-K|21Z0000000000003C|EXIT)	Exit	GCA	21.08.2014 06:00	01.09.2014 06:00	FZK
Finished	Proposal to sell (Transfer of use)	Call for Orders (CFO)	700,000 kWh/h	Mosonmagyarovar AT->HU (21X-AT-B-A0A0A-K|21Z0000000000003C|EXIT)	Exit	GCA	15.08.2014 06:00	01.09.2014 06:00	FZK
Finished	Proposal to sell (Transfer of use)	Call for Orders (CFO)	150,000 kWh/h	Mosonmagyarovar AT->HU (21X-AT-B-A0A0A-K|21Z0000000000003C|EXIT)	Exit	GCA	22.07.2014 06:00	01.08.2014 06:00	FZK
Finished	Proposal to sell (Transfer of use)	Call for Orders (CFO)	615,450 kWh/h	Mosonmagyarovar AT->HU (21X-AT-B-A0A0A-K|21Z0000000000003C|EXIT)	Exit	GCA	02.07.2014 06:00	01.07.2016 06:00	FZK

- OTC: no further data was available.
- Main network users using the point on both sides: confidential.

CMP

The firm day-ahead (FDA) Use-It-Or-Lose-It mechanism is implemented and applied only on one IP side (exit AT), while on the other side (entry HU), OS & BB should be implemented.

The following graph shows how and to what extent additional FDA capacity was offered and allocated in the period from 1 April 2013 to 30 August 2014 at the AT Exit.

On some days, demand exceeded offer for that product, resulting in auction surcharges and contractual congestion (marked in red).

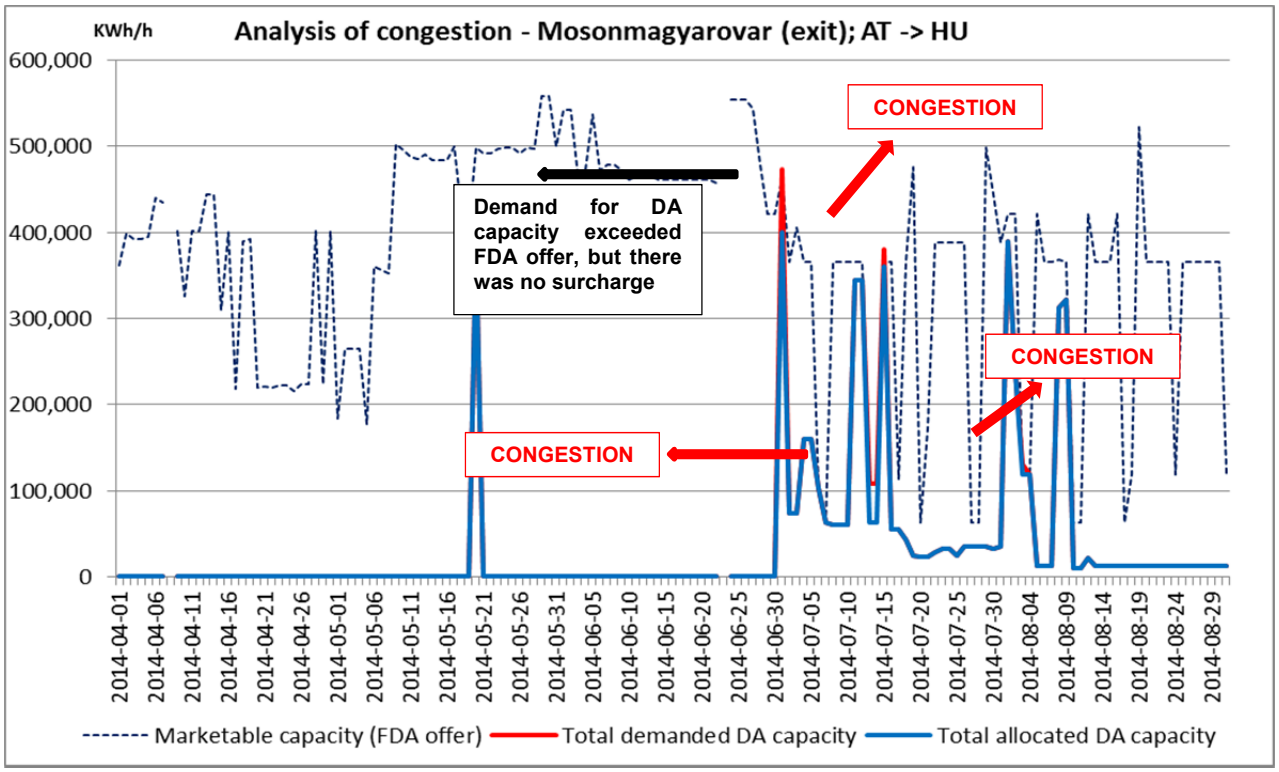
For the FDA product (due on 1 July 2014) demand for FDA capacity exceeded FDA offer, but there was no auction surcharge and the allocated volumes remained below the FDA offer. This specific case occurred due to the fact that some network users placed volume/price bids in conjunction with a specified minimum amount of capacity that should be at least allocated to them in case of a successful bid. If due to equal price bids a pro-rata allocation has to be applied, which would result in an allocated quantity below the specified minimum amount, the full bid for that product becomes void. Exactly this has happened in the case at hand, which led to the lower amount of allocated FDA capacity than originally offered.[41]

[40] Information provided by E-Control.

[41] See: Article 18 (3e) of the Commission Regulation No 984/2013 of 14 October 2013 establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission System and Supplementing Regulation (EC) No 715/2009 of the European Parliament and of the Council

(Currently, PRISMA and NRAs are discussing, whether possible other solutions allowing to show congestion in such cases should be implemented or not).

In the period depicted below, for AT Exit an aggregated amount of DA firm capacity of 56.3 GWh/h (min. 0.06 GWh/h; max. 0.56 GWh/h; average 0.37 GWh/h per daily product) was offered on the PRISMA platform and an aggregated amount of DA firm capacity of 5.12 GWh/h (min. 0; max. 0.4 GWh/h; average 0.03 GWh/h per daily product) was actually contracted by network users on PRISMA.



A technical study submitted by FGSZ to the Hungarian NRA pointed out the incompatibility of the two above-mentioned CMP mechanisms, which is further exacerbated by the technical capacity mismatch on the two sides of the Austrian-Hungarian IP (see Annex 1). This bottleneck can only be solved by significant investments in Hungary (new pipelines and compressors would be required at Városföld), which can be built within 3-4 years after the final investment decision.

FGSZ is planning to introduce the firm day-ahead use it or lose it mechanism by its official application deadline, i.e. 1 July 2016.

ACER's Case Analysis

The implementation of FDA UIOLI at the Austrian IP side allowed for an additional release of short term capacity (on top of the already fully booked technical capacity) throughout the period analysed (see blue dotted line in the graph above). Such FDA capacity was demanded by market participants on some days, in particular in July and early August 2014 (sees red lines in the graphs above). Also in October-December 2013, FDA capacity was demanded, although demand did not exceed the offer.

FDA UIOLI leads to a continuous offer of additional firm (although only unbundled) DA capacity at this fully booked IP side (AT exit).

According to the Hungarian NRA (MEKH), physical congestion on the Hungarian side is due to the high demand for commodity available at lower prices in Austria. Additionally interruptible capacity is efficiently allocated and used.

Regarding the implementation of OS & BB at the HU entry side, MEKH informed that implementation of this mechanism is under its scrutiny. The Hungarian TSO, FGSZ, has analysed the OS &BB method and didn't suggest its application. No decision has been taken, yet.

Standard FDA products are periodically offered and then booked and allocated on the HU entry side.

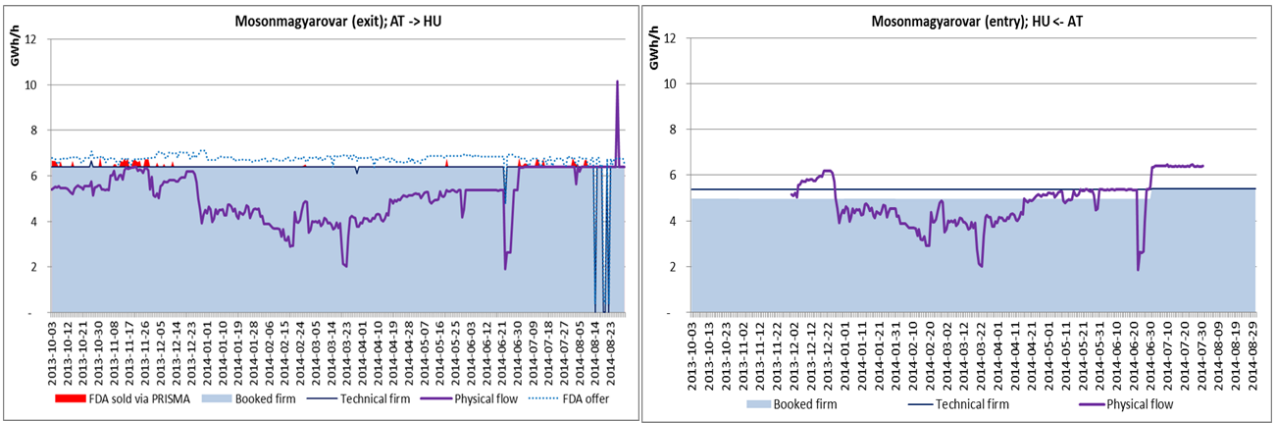
Among the main barriers to offer bundled firm products, at least on a DA basis, according to MEKH are the following:

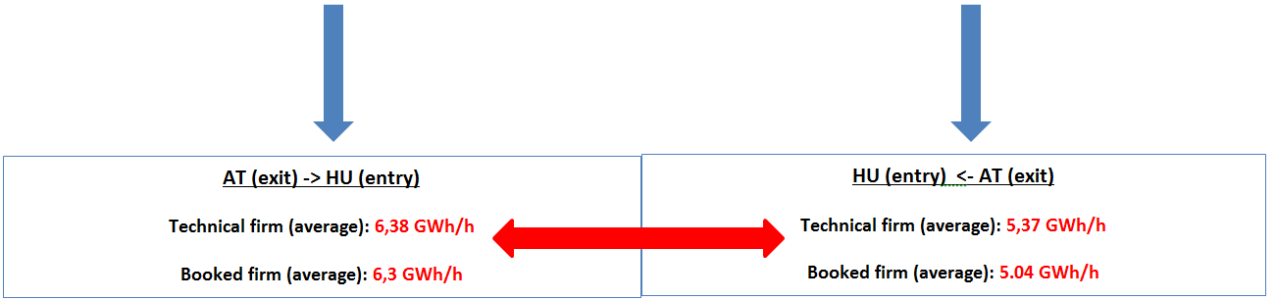
- the technical differences of the pipeline on the two sides;
- the mismatches in CMP mechanisms applied;
- the diversity of legislative requirements for trading licenses at the IP; etc.

In the following illustration, the mismatch of technical capacities on both sides of the border is illustrated. On FGSZ's side, the physical capacity available on a firm basis is highly dependent on western Hungarian consumption. FGSZ publishes the technical firm capacity, which can be guaranteed during the gas year. The capacity exceeding that technical firm capacity available under favorable hydraulic conditions is sold as interruptible capacity.

Another issue which is noticeable from this illustration is the fact that the physical flow - contrary to the Austrian side - exceeded the technical capacity on the Hungarian side. Reason for that is connected with the mismatch of technical capacities on both sides - the firm technical capacity, which can be allocated as a yearly firm capacity is lower than the technical capacity.

Furthermore, flat bookings are different at both sides of the IP (see illustration below) due to the fact that the capacities are allocated independently as unbundled capacities on each side of the IP.





Summary

Looking at the immediate effects:

- It is possible to book firm day-ahead capacity on both sides of the border, currently as unbundled capacity.

Looking at the future/expected effects:

- In order to resolve the mismatches in CMP mechanisms applied, E-Control proposes to proceed according to the Commission Staff Working Document on Guidance on best practices for congestion management procedures in natural gas transmission networks. This document proposes a pragmatic approach to ensure the compatibility of the FDA UIOLI and the OS & BB mechanisms, if that is selected.

Looking at other issues and possible risks:

According to E-Control, as a risk can be seen the fact that GCA might have to allocate capacity on two capacity platforms[42]. A workable solution needs to be found.

[42] On the FGSZ side, the Regional Booking Platform (joint capacity platform allocating the capacities of the Romanian-Hungarian IP from December 2014 and the Hungarian domestic capacities from 2015) would be able to allocate bundled firm day-ahead capacity products. On the other hand, E-Control highlighted that bundling of FDA capacity has been successfully applied at the Arnoldstein/Tarvisio IP in a similar situation, i.e. FDA UIOLI on Austrian exit side and OS&BB at Italian entry side. Up to now, E-Control has not been able to evaluate if it should permit GCA to allocate the exit capacity on the Regional Booking Platform. In any case, GCA is able to allocate bundled FDA capacity via PRISMA as of 1 April 2013.

Annex II: Summary of the responses received by the survey

7 Annex II: Summary of the responses received by the survey

7.1 General provisions (CMP GL paragraph 2.2.1 (3))

(141) ***Question: Is the additional capacity made available by CMP offered in the 'regular' allocation process?***

(142) 30 TSOs from 14 countries replied positively to that question.

Country/TSO	"Yes"	"No"	No answer /other
Austria	BOG, TAG, Gas Connect Austria		
Belgium	Fluxys		
Bulgaria		Bulgartransgaz	
Czech Republic	Net4gas		
Denmark			Energinet
France	GRT Gaz TIGF		
Germany	Bayernets, Fluxys Tenp, GRTgaz Deutschland, GASCADE Gasunie Deutschland, Gasunie Ostseean-bindungsleitung, GTG Nord, Jordgas, NEL, Nowega, Ontras, Open Grid Europe, Terranets, Thyssengas (DE)		
Greece	DESFA		
Hungary			FGSZ
Ireland			Gaslink[43]
Italy	SNAM[44]		
Lithuania		Ambergrid	
Netherlands	GTS		
Poland		Gaz-System[45]	
Portugal	REN		
Romania		Transgaz	
Slovakia	Eustream		
Slovenia	Plinovodi		
Spain	Enagas		
Sweden		Swedegas	
UK	National Grid, Interconnector Premier Transmission		
Croatia	Plinacro[46]		

[43] Yes, if contractual congestion will occur in the future (which is currently not the case).

[44] According to NRA deliberation, currently limited to unbundled products.

[45] The Polish NRA remarked that CMP rules have not yet set free any additional capacity. If it will be the case in the future, additional capacity is foreseen to be offered in the 'regular allocation process.

7.2 Oversubscription & Buy-back

7.2.1 OS & BB proposal - CMP GL paragraph 2.2.2 (1)

(143) ***Indication of the date for submitting the OS & BB proposal to the NRA***

(144) In 2013, 25 TSO submissions reached various NRAs. All the submissions were sent to NRAs before the legal deadline. The submission dates range between 01.01.2013 (for National Grid) to 30.09.2013 (for Eustream).

Country	TSO
Belgium	Fluxys Belgium
Czech Republic	NET4GAS
France	GRTgaz, TIGF[47]
Germany	Thyssengas, Terranets, Open Grid Europe, Ontras, Nowega, NEL, Jordgas, GTG Nord, GRTgaz Deutschland, Gasunie Ostseeanbindungsleitung, Gasunie Deutschland, GASCADE, Fluxys Tenp, Bayernets[48]
Greece	DESFA
Ireland	Gaslink
Lithuania	Amber Grid
Netherlands	Gasunie Transport Services[49]
Poland	GAZ-SYSTEM
Slovakia	Eustream
UK	National Grid

(145) A late submission was reported by a TSO to ACER (Premier Transport (UK) on 10.01.2014.

(146) The 3 Austrian TSOs (BOG, Gas Connect Austria and TAG) replied to E-Control's request to develop and propose an OS&BB scheme in May 2013 that they do not (yet) have a reliable data basis for computing a risk profile for offering additional capacity, as there has not been enough time to gather the requisite data since the entry/exit regime in Austria was introduced on 1 January 2013. Furthermore, they argued that the FDA UIOLI is applicable at all IPs as from 1 October 2013. Given the reactions received from the TSOs and based on item 6 of point 2.2.3 of Annex I to Regulation (EC) No 715/2009, E-Control decided not to introduce an oversubscription and buy-back scheme on 1 October 2013.

(147) 9 TSOs have not responded to this query, namely Bulgartransgaz (BG), Transgaz (RO), FGSZ (HU), Energinet (DK), Swedegas (SE), REN Gasodutos (PT), Plinacro (HR) and

[46] Yes, if set preconditions (according to the Network Rules of the transmission system as of 1.6.2014) are met.

[47] A clarification of the French NRA pointed out that TIGF also made its application on time, on 18.3.2013.

[48] BNetzA initiated the procedure to implement the CMP requirements on 11.04.2013. TSOs were requested to submit a joint proposal to implement the OS&BB mechanism by 1 July 2013. The joint proposal was submitted on 17 June 2013. In the end, it was decided by BNetzA that such regime is not implemented (see chapter 7.3.2 for the reasons).

[49] GTS reported 15.10.2013 as submission date. ACM corrected this by stating that the submission date was 2.07.2013.

Plinovodi (SI). TSOs from FI (Gasum), EE (EG Vorguteenus) and LU (CREOS) did not respond either, although these countries hold a derogation on the basis of Article 49 of Directive 2009/73/EC. Clarifications have been provided in some cases by NRAs as follows.

(148) **Ongoing implementation:**

(149) Italy: SNAM (IT) concluded the consultation of the OS&BB proposal in July 2013 and submitted the proposal to the NRA on 18.03.2014. The OS&BB shall be implemented through the amendment of the national code. SNAM's proposal is still under NRA evaluation, because the NRA asked for further integrations and clarifications by 31.07.2014.

(150) Spain: Although the expected date for Enagas (ES) submission was late 2013 - early 2014, Enagas is still developing the details of the procedure. The delay is due to discussions and negotiations with neighbouring countries, since the aim is to implement coordinated mechanisms on both sides of the borders. The TIGF and GRTGaz proposal is not referred, in principle, to the Spanish-French border. Spanish, French and Portuguese TSOs (ENAGAS, TIGF and REN) have not sent yet to the NRAs their proposal for a common methodology. After the publication of the guidance paper on congestion management procedures in gas by the EC, the unique procedure for the three countries should be developed by early 2015[50].

(151) Portugal: The CMP provisions were introduced in the Procedures Manual for the Access to the System's (SNGN) Infrastructures. The OS&BB proposal was submitted by REN (PT) in January 2014 to the NRA. This proposal was consulted until April 2014 and published in July 2014. Its application is expected by 1 October 2014. The CMP provisions were partly established in the Joint CAM/CMP for the PT/ES interconnections. The revision of the joint CAM/CMP for PT/ES interconnections occurred in January 2014.

(152) For IUK, a draft proposal was sent by IUK to Ofgem and CREG on 6 November 2012. Following public consultation, a formal proposal is expected in 2014.

(153) For BBL, Ofgem and ACM expect to receive BBL's proposal shortly[51].

(154) Croatia: the NRA has received the first draft of OS&BB proposal on 31 January 2014, a second draft on 4 March 2014 and a final proposal in May 2014 as part of the new Network Rules of the Transmission System.

(155) Netherlands: on 15 October 2013 a draft decision on the implementation of OSBB was taken, the final decision was published on 19 December 2013.

(156) Ireland: the NRA approved the OS&BB proposal on 30.9.2013.

(157) Bulgaria: The rules on implementing the oversubscription and buy-back (OS BB) schemes are in process of development and will be submitted to the Regulator till end of October 2014. It is foreseen for these rules to be developed and submitted for Regulator's approval

[50] Update from CNMC on 19 Nov. 2014

[51] In July, Ofgem has not seen formal proposals from BBL on how they plan to implement CMP. This work is currently being progressed as a priority but it is important to note that BBL is currently not contractually congested.

after the entry into force of the Rules on natural gas trading and after the implementation of the entry-exit tariff model.

(158) ***Has the TSO proposal been approved by the NRA? (please fill in expected date of approval in case it has not yet been approved)***

(159) 39 out of 40 TSOs respondents reported that the proposals made were approved by the respective NRAs. In Spain the proposal will be approved by the NRA once submitted by the TSOs.

(160) 3 TSOs also reported early approval dates from 2013.

(161) Despite the positive response to this question, the Austrian NRA reported that in the end OS&BB has not been implemented in Austria.

(162) In Bulgaria, the rules on implementing the oversubscription and buy-back (OS BB) schemes are in process of development as part of the Rules on CMP and will be submitted for approval by the Regulator with indicative deadline October 2014. The Regulator's approval is foreseen to take place till end of 2014.

(163) In France, the application of the OS&BB mechanisms at the IPs Taisnières H and Obergailbach was approved in CRE's deliberation of 27 June 2013. It was based on the risk analysis and implementation proposal submitted by the TSOs.

(164) As of July 2014, BBL and IUK are expected to submit its formal proposal for NRA approval soon. Ofgem and ACM/CREG have worked closely to coordinate implementation efforts and take account of neighbouring NRAs' opinions.

(165) ***Which firm products (in terms of duration) are concerned by the OS&BB mechanism?***

Capacity product duration	TSO (country)	
	As a concept	*As an actual offer*
Annual, quarterly, monthly, DA, WD	National Grid (UK), Amber Grid (LT)	
Annual, quarterly, monthly, DA	SNAM (IT); GTS (NL)[52]	Eustream (SK), National Grid (UK)
Annual, monthly		Gaslink (IE)
Quarterly, monthly, DA	GRT Gaz (FR)	
Monthly, DA		DESFA (EL), GTS (NL)[53], GRTGaz (FR)
Monthly		Premier Transmission (UK)
DA	Transgaz (RO), REN (PT), Plinovodi (SI), Net4Gas (CZ), Interconnector (UK), Gaz System (PL), Fluxys (BE), Plinacro (HR), BBL	Net4Gas (CZ), Gaz-System (PL), Fluxys (BE)
None	Swedegas (SE)	Amber Grid (LT), Enagas (ES), Interconnector (UK), BBL (UK)[54], Plinovodi (SI), REN (PT), Swedegas (SE)
Under discussion with adjacent TSOs	Enagas (ES)	Enagas (ES)
To be defined	Bulgartransgaz (BG)	Bulgartransgaz (BG)

(166) ***Questions to NRAs only:***

Have NRAs consulted the OS & BB scheme with the NRAs of the adjacent Member States before implementation? (if not, please fill in expected date)

Have the adjacent NRAs' opinions been taken into account in the decision, if not - why not? In which way has the NRA adapted its decision due to the adjacent NRAs' input?

(167) 9 NRAs reported that such coordination took or is taking place at the moment, namely: NRAs from Belgium, Croatia, Czech Rep., France (for both TSOs), Hungary, Poland, Spain, the Netherlands and the UK (for IUK and Premier) reported such coordination concerning OS&BB. 9 NRAs took (or are taking) into account the opinion of the adjacent NRA, namely Belgium, Croatia, France, Germany, Hungary (ongoing), Poland, Spain, the Netherlands and UK (for Premier and IUK, and BBL).

[52] In the (near) future GTS will also have the possibility to offer quarterly and yearly capacity through OS&BB.

[53] GTS also offers in the OS&BB yearly capacity at a limited number of IPs.

[54] Currently none. Pending formal submission and approval, IUK & BBL will offer firm DA products in the OS&BB mechanism.

(168) Italy will consult adjacent NRAs once the OS&BB scheme is complete. Bulgaria intends to do so by the end of 2014.

(169) In the case of France, Spain and Portugal, the principles of the OS&BB were developed within the framework of the South Gas Regional Initiative. Consequently the proposal should be common to adjacent TSOs. The details of the mechanism (e.g., the methodology to calculate the additional capacity, products affected by additional capacity, etc.) are still under development.

(170) The Portuguese NRA reported that the opinion of adjacent NRA has not been taken into account, as the consultation involving the neighbouring NRA takes place at a later stage. In fact the Joint CAM/CMP for the PT/ES interconnections, were the CMP provisions were partly implemented, was submitted to public consultation by December 2013. Both NRA's and TSO's are aligned and the procedures implemented were harmonized. Some CMP provisions were implemented later on the Manual for the Access to the System's (SNGN) Infrastructures. Not only those provisions are harmonized with the procedures applied in Spain, but also they were discussed bilaterally in the South GRI context.

(171) The Greek NRA has consulted its Bulgarian counterpart, but the Bulgarian NRA has never replied to this query (even 5 months after the requested deadline).

(172) The Irish NRA requested the opinions of adjacent NRAs (UK and Northern Irish NRAs) before finalising decisions; however no submissions or opinions were received from either adjacent NRA.

(173) The Czech, Swedish and UK regulators (for National Grid) claimed that this provision is not applicable in their case.

(174) The Polish NRA reported that conformity on the Polish-Czech IP for OS has to be reached by the TSO based on the obligation on the national code. On the Czech side no essential comments from Poland were noted. According to provision 20.3.6.12 TNC:' By June 2014 the TSO will take steps to conform with the relevant ISOs the procedures for determining the amount of capacity under the oversubscription mechanism so that the capacity offered under the oversubscription mechanism was offered jointly by the TSO and the ISO as bundled capacity.' The obligation concern reaching an agreement with all TSOs, regardless of existence FDA UIOLI or OS&BB on the other side of the border. Polish and Czech TSOs have harmonized rules for offering additional capacities. Unfortunately, Polish and German TSOs have a problem with bundling of products because of i.e. the differences between mechanisms of FDA UIOLI and OS&BB.

(175) In relation to France-Germany, BNetzA responded formally to the French regulator and the latter included the comments in the final deliberations.

(176) Ofgem (UK) has reported that they had CMP provisions applying nationally before and that no adjustment was necessary, thus not triggering the involvement of the neighbouring NRA.

(177) The Croatian NRA reported that the Hungarian NRA requested improvements on handling unsuccessful BB. This request has been taken into account in the final proposal by the TSO.

(178) The German NRA reported that only one NRA provided input to their public consultation, which input has been assessed and included in the reasoning of their decision.

(179) No further detail was received about the ways in which the decisions have been altered at the request of the adjacent NRA.

7.2.2 Dynamic recalculation of technical capacity - CMP GL paragraph 2.2.2 (2)

(180) ***Is a dynamic approach of recalculation of technical / additional capacity applied?***

Country	TSOs not applying a dynamic approach	TSOs applying a dynamic approach (frequency of recalculation)			No answer
		Daily	Monthly	Other	
Austria	TAG			BOG	
Belgium		Fluxys Belgium			
Bulgaria	Bulgartransgaz[55]				
Croatia	Plinacro				
Czech Republic		NET4GAS			
Denmark					Energinet
France			GRTgaz		TIGF
Germany	Thyssengas, terranets, Open Grid Europe, Ontras, Nowega, NEL, Jordgas, GTG Nord, GRTGaz Deutschland, Gasunie Ostseeanbindungsleitung, Gasunie Deutschland, GASCADE, Fluxys Tenp, Bayernets				
Greece			DESFA		
Hungary					FGSZ
Ireland		Gaslink			
Italy				Snam RG	
Lithuania	Amber Grid				
Netherlands		GTS			
Poland		GAZ-SYSTEM			
Portugal	REN				
Romania					Transgaz
Slovakia	Eurstream				
Slovenia	Plinovodi				
Spain		Enagas			
Sweden					Swedegas
UK		National Grid, Interconnector	Premier Ltd		

[55] Bulgartransgaz and SEWRC specified, that currently, hydraulic calculations with developed by the Operator modules are being carried out and there are plans to introduce hydraulic simulations software in the near future, which will greatly accelerate and refine the adjustment procedures and the implementation of a dynamic approach. A public tender has been announced for this purpose and the received tender offers are currently assessed. A dynamic approach for calculating technical and additional capacity is envisaged to be applied, taking into account the technical parameters, the expected demand and the capacity in the neighbouring networks.

7.2.3 Incentive regime - CMP GL paragraph 2.2.2 (3)

(181) ***Has an incentive regime been established? Have NRAs already decided on the distribution of revenues and costs between TSOs & network users?***

Country	Incentive regime in place or expected	No incentive regime	No answer	NRA decision on revenue & cost distribution already taken
Austria		TAG, BOG	Gas Connect Austria	yes[56]
Belgium	Fluxys Belgium			yes[57]
Bulgaria	Bulgartransgaz[58]			no
Croatia			Plinacro	no
Czech Republic		NET4GAS		yes
Denmark			Energinet	
France	GRTgaz		TIGF	yes
Germany		Thyssengas, terranets, OGE, Ontras, Nowega, NEL, jordgas, GTG Nord, GRT Gaz Dtl., Gasunie Ostsee-anbindungsleitung, Gasunie Dtl., GASCADE, Fluxys Tenp, Bayernets		no
Greece	DESFA			no
Hungary			FGSZ	no
Ireland	Gaslink			yes
Italy	Snam RG			no
Lithuania		Amber Grid		
Netherlands	GTS			yes
Poland		GAZ-SYSTEM[59]		planned[60]
Portugal	REN			no[61]
Romania		Transgaz		
Slovakia		Eustream		
Slovenia	Plinovodi			
Spain	Enagas			yes
Sweden			Swedegas	no
UK	Premier Ltd, IUK, National Grid	BBL[62]		Yes, but not for IUK[63] and BBL

[56] E-Control allows 90% of the net revenues to remain with the TSO if that is below 15% of the allowed revenue.

[57] CREG: 25 % of the net result shall be covered by the TSO and 75 % by the network users (through tariffs).

[58] SEWRC specified that an incentive regime reflecting the risks & their allocation will be included in the Rules on CMP.

[59] Answer provided by the Polish NRA.

[60] The Polish NRA further detailed its plans to calculate the net revenues in the TSO tariff resulting in the decrease costs of transmission services for network users.

[61] ERSE: There wasn't a decision regarding this matter because, at the time this questionnaire was answered, the CMP provisions proposal was going to be submitted to stakeholders consultation. However the TSO proposal did include incentives and rules for revenues/costs distribution (see point j on the next page). The established provisions in the Portuguese CMP resemble the rules applied by Enagas, facilitating an harmonized implementation on the interconnections PT/ES.

[62] Precise details of an incentive regime will be finalised during discussions of final proposal with BBL.

(182) ***Description of the incentive regimes by respondents:***

a. Spain: 10% of revenue or cost resulting from the OS&BB is covered unilaterally by the TSO (Enagas)

b. Belgium: 25%-75% - distribution key is applied between TSO and network users for all costs and revenues. Every year, the net result of all costs and revenues related to OS&BB is calculated. This net result can either be positive or negative. 25 % of the net result shall be covered by the TSO and 75 % by the network users (through tariffs). (Fluxys Belgium)

c. Ireland: The TSO will receive incremental revenue to reflect the level of additional risk being borne for releasing an amount of capacity in excess of its technical capacity at an entry point. If any additional revenues are earned over the allowed level in a year, then a 25%-75% sharing ratio between the TSO and the network users will apply. If there is any loss made on the incentive in a gas year, then the same 25%-75% sharing ratio is in place between the network users and the TSO, but with a limit on the TSO's exposure. (Gaslink)

d. Netherlands: Revenues from oversubscription capacity and costs for buy back will be shared 50/50 by the TSO and network users. (GTS)

e. France: 50% of the costs or revenues of the OS&BB are included in the regulatory account.

f. UK: IUK retain 25% of net OS revenue.

g. UK: National Grid has a target incentive with a risk / reward scheme (shared 50/50 with network users) within the allowed financial incentive target. National Grid's Baseline capacity is agreed and set in the licence. These baseline figures are fixed and offered to the market as obligated. They are in aggregate beyond the aggregate system total technical capacity. National Grid then also offers additional non obligated capacity if users demand it and the price offered is acceptable to National Grid using a risk / reward framework.

h. UK: The OS scheme is designed to incentivise the TSOs to make OS capacity available and provide a means of sharing the excess of the revenues received as a result of the allocation of OS Capacity over the costs of buy-backs between network users and the TSOs. The OS Revenues shall be shared between the network users and the TSOs on a 75:25 basis; the 75% share attributable to network users. Network users shall be allocated a proportion of the Network user's aggregate share pro-rata to their aggregate entry allocations at the relevant Entry Point. (Premier Transmission)

i. Slovenia: 75% of the costs in the BB mechanism are recognised as eligible ones (Plinovodi).

j. Portugal: Sales revenues of additional capacity revert by 10% to the TSO and 90% to the system users. Likewise, buy back costs are covered 10% by the TSO and 90% by system users. (REN).

[63] Pending formal submission and approval of IUK's proposal, a split of 25% to IUK and 75% to network users is under consideration.

7.2.4 Allocation of additional capacity - CMP GL paragraph 2.2.2 (4)

(183) ***Is additional capacity (i.e. from oversubscription & buy back) only allocated after, where relevant, all surrendered capacity and capacity derived from the application of FDA UIOLI & LT UIOLI had been allocated?***

(184) 16 TSOs (or their NRAs) gave a positive answer to this question: SNAM, REN, Premier Transmission, Plinovodi, National Grid, BBL, Net4Gas, Interconnector, GRTGaz, GAZ-SYSTEM, GTS, Fluxys Belgium, Enagas, DESFA, Plinacro, Gaslink.

(185) Transgaz (RO) has also reported non implementation, the reasons of which are unknown.

(186) Eustream is the only respondent with a "no" answer. The remainder set of the TSOs involved in this survey (Bulgartransgaz[64], Energinet, FGSZ, Gas Connect Austria, , Plinacro, Swedegas and TIGF) provided no answer at all.

7.2.5 Determination of amount of additional capacity - CMP GL paragraph 2.2.2 (5)

(187) ***Are statistical scenarios for the likely amount of unused capacity, a risk profile for the offering of additional capacity and cost estimations for buying back capacity taken into account when determining the amount of additional capacity?***

(188) 13 TSOs (or their NRAs) stated that risk profiles for offering additional capacity and cost estimations for buying back capacity were taken into account when determining additional capacity. These TSOs were the following: SNAM, REN, Premier, Plinovodi, National Grid, Interconnector, BBL[65], Gaz-System, GTS, Fluxys Belgium, Eustream, Enagas, DESFA.

(189) Plinacro reported that this measure will be taken into account after implementation.

(190) 3 TSOs have not implemented such regimes: Amber Grid, GRTGaz and Net4Gas. The French NRA defined specifically a 5% offer of additional capacity on quarterly, monthly and daily products at Taisnières H and Obergailbach, based on the risk analysis and scenarios for the use of capacity at these IPs. This percentage can change, based on a motivated request of the TSOs. A revised version of the risk analysis is to be submitted by the TSOs each year and may lead to reconsider this margin.

(191) Non-implementation was also reported by Transgaz from Romania. The reasons for lacking implementation were not explained.

(192) The Bulgarian NRA specified that in the Rules on CMP, to determine the amount of additional capacity it is foreseen to take into consideration the statistical scenarios, the risk profile and the cost estimations for buying back. Currently, analyses based on statistical information about the unused capacity are being carried out. (SEWRC)

[64] SEWRC: This basic principle set in the Regulation will be met in the Rules on CMP.

[65] Both NRAs (Ofgem & ACM) expect this to be the case.

7.2.6 Buy-back design - CMP GL paragraph 2.2.2 (6)

(193) ***If a buy-back procedure is already applied, please provide a short description of the design of the buy-back procedure including the determination of the buy-back price.***

(194) The following designs were reported to ACER:

a. The buy-back scheme is based on a "pay as bid" auction procedure, with pre-defined maximum unit-price, which is a function of the transportation tariffs. (DESFA)

b. BB will be based on auctions. Each network user bid will include the amount of capacity to be sold and the price, defined as a multiplier of the regulated tariff with a cap of 25% on top of the reference price, which will be fixed in cooperation with adjacent TSOs according to market's capacity price. (Enagas, CNMC)

c. In case of buyback, the TSO buys back the amount of capacity needed to remove congestion. The offer can be done by all users with firm capacity (up to their nomination): the lowest price is accepted first. If the buy-back is unsuccessful in removing congestion, then the nominations of users with overbooking capacity are curtailed pro-rata, proportionate to the level of their overbooking capacities. (Eustream)

d. The buy-back procedure has not yet been applied by Fluxys Belgium, as the Fluxys IPs are not contractually congested. Where necessary to maintain system integrity, TSO applies a market-based BB scheme in which users can offer firm transmission services. When the TSO buys back capacity, it initiates the following procedure: (i) informs the user(s) holding Firm Transmission Services on the respective IP, where BB is necessary; as well as it indicates to the user(s) the quantity, direction, period of the Transmission Services by sending a "Notification of BB" and this with a minimum BB lead time of next full hour + 4. (ii) The users are invited to enter Capacity BB Offers by offering to sell Firm Transmission Services back to the TSO, specifying the price and the quantity before the BB Closing Time; (iii) TSO classifies Capacity BB Offers received from the lowest to the highest price and limited to a Maximum Capacity BB Price; (iv) TSO informs users of the decision of the TSO of the Capacity BB: this BB Offer can be fully or partially accepted or entirely rejected. (v) The user will be credited for the Transmission Services bought back through the BB procedure. (vi) In case of insufficient BB Offers, the TSO can also revise the hourly Conformed Quantities on the IP by applying a Constraint on the IP. This Constraint shall be applied in priority to the Transmission Services with a duration of one day, namely to the services that were subscribed the day before. (Fluxys Belgium)

e. Where the TSO determines that there is a requirement to purchase capacity, the TSO shall issue a BB Invitation in accordance with the Code of Operations. After the period for submission of BB Offers, the TSO will prepare a list of BB Offers received either in response to the BB Invitation or via Advance Buyback Agreements. The TSO shall accept BB Offers and issue BB Notifications in accordance with the Code of Operations. (Gaslink)

f. BB will be implemented as i) a short notice BB auction and ii) Load Flow Commitments (LFC) on a monthly basis. For the BB auction the BB price will result from the auction. For the LFC the BB price will result from the tender for LFC. (GTS)

g. If the BB procedure is triggered, GRTGaz proposes in a first phase a maximum BB price equal to the average of the clearing prices of the quarterly, monthly and DA auction and weighted by the respective booked quantities observed in these auctions, and multiplied by 1.25, by the type of capacity (bundled or unbundled). This procedure is based on the willingness to pay of the network users. In case this voluntary market-based procedure is not sufficient to reduce the nominations, the TSO will resort to the following default rule: the TSO will buy-back from each network user holding firm capacities on the concerned point, firm capacities on the pro rata of the booked firm capacities, after interruption of the interruptible capacities at the concerned IPs at the above mentioned price without an increase of 25%. If the TSO does not offer DA products, the clearing price is equal to the regulated price of the concerned DA product.

h. A Buy-Back Auction is organised. Before the auction the TSO informs the user who reserved capacity at the given IP about the BB Auction and on the amount of the transmission capacity that will be requested in the auction by e-mail. The user who has reserved firm transmission capacity or Additional Firm Transmission Capacity at the given IP is entitled to offer transmission capacity or its part in the BB Auction. In the Buy-Back Auction the user indicates the amount of the transmission capacity, the contract from which the user wishes to offer this capacity and the requested price (CZK/MWh). The offered price may not exceed the amount of 1.5 multiple of the relevant daily regulated price for the transmission of gas. Few BB Auction are allowed: the first one starting at 8:00 p.m. on the day before the transmission and the last one at 3:00 a.m. on the day. Any other BB Auctions are conducted only if the total requested amount of transmission capacity has not been reached in previous BB Auctions, where the TSO would request only the missing amount of capacity. BB Auctions last 20 minutes; with an evaluation within 5 minutes. The received offers (“bids”) are ordered in ascending order according to their unit price. The bid recorded earlier takes precedence, when bids have the same unit price. After evaluating the bids, the TSO notifies by email all the Bidders of the results of the BB Auction of the Auction and publishes them. The reservation capacity is reduced and the price paid for it is according to the amount of the bid the user made in the BB Auction. If the TSO fails to buy back the necessary quantity in the BB Auction, the TSO will reduce reserved Additional Firm Transmission Capacity according to the Pro-Rata principle where the weight is a mutual ratio of the above reserved Additional Firm Transmission Capacity of individual users at the given IP. The price paid by the user is according to the reduced quantity. (Net4Gas)

i. For longer term durations, National Grid seeks to enter into an options/forwards contract with users. This is taken out in advance (at an agreed quantity (or quantities) / duration(s) / price(s), so if the need arises to purchase capacity back then contracts can be enacted with the counterparty. For DA and WD a prompt market is in place. National Grid will ask for bids to be placed on the prompt market by users who wish to offer back the capacity to National Grid. National Grid will chose the least cost option from the bid stack and users’ rights are reduced in accordance with the capacity purchased back by National Grid. (National Grid)

j. Where the TSO determines that there is a requirement to purchase capacity the relevant TSO shall issue a BB Invitation in accordance with the applicable Network

Code. After the period for submission of BB Offers, the TSOs will prepare a list of BB Offers received either in response to the BB Invitation or via Advance BB Agreements. The TSOs shall accept BB Offers and issue BB Notifications in accordance with their respective Network Code. (Premier Transmission)

k. The BB is organised via an auction procedure. The participation to the auction is open to any network user that holds firm capacity at the point concerned by the BB. The TSO informs the users involved about the launch of the BB procedure at least 30 minutes prior to the beginning of the auction: Network users involved and interested shall obtain a login and password to the TSO's internet platform. The identity of the auction participant is known exclusively to the TSO until the auction is not closed. The auction comprises one bidding round and lasts 30 minutes, however the bid of the auction participant may be revised or withdrawn at any time during the bidding round. The bid shall contain the identity of the auction participant, the entry/exit point for which the bid is placed, the capacity offered, which shall not exceed the firm capacity held by the auction participant, to the extent it is used in an approved nomination for the period concerned by the buyback procedure, the price. The bid of the auction participant shall be deemed binding, provided that it meets all the requirements. The maximum price at which capacity BB may be offered by the auction participant shall not exceed 1.5 of the fixed charge applicable to services for one gas day, as specified in the TSO's Tariff. The capacity BB will be made at the lowest price offered to the TSO. The TSO may accept the bid of the auction participant in part, as well. The final result of the auction shall be published 30 minutes after closing. In case, the TSO does not obtain sufficient capacity in the BB auction, the TSO using the appropriate discount rate set out in TSO's Tariff, shall reduce the capacity allocation in respect to firm capacity holders. This reduction will be prorated according to the hourly quantities of gas in the approved nominations for the period concerned by the reduction. The TSO reduces the approved nominations of the parties whose bid was accepted in the auction, or of those whose capacity was reduced pro rata and pays the compensations according to the rules. (Polish NRA for Gaz-System)

l. IUK & BBL reported that this scheme is not applicable to them, as a Buy-back procedure was not in place prior to the introduction of CMP.

m. REN (PT) has reported that their scheme is not yet reviewed by the NRA and thus not yet implemented.

n. SNAM (IT) proposal (under NRA evaluation) foresees to use the secondary market for BB purposes. To minimise the BB costs for the benefit of the overall system, the offers on secondary market are selected on the basis of their economic merit. Additional BB measures are under evaluation.

o. Plinacro's (HR) buy-back scheme is based on a "pay as bid" auction procedure, with pre-defined maximum unit-price (1,5 of tariff for daily capacity). The offer with the lower price will be accepted or if the price is equal then the FCFS principle is applied. (Plinacro and the Croatian NRA)

(195) ***Is there a national obligation for network users to participate in the buy-back procedure?***

(196) Out of those TSOs implementing BB provisions, the majority of them (16) responded that free market conditions apply and network users are not obliged to participate in BB procedures. (Amber Grid, Enagas, Eustream, Fluxys Belgium, Gaslink, GTS, Gaz-System, GRTGaz, Interconnector, BBL, Net4Gas, National Grid, Plinacro, Plinovodi, Premier,REN and SNAM). Only DESFA (EL) affirmed the existence of such an obligation.

7.2.7 Alternative measures - CMP GL paragraph 2.2.2 (7)

(197) ***Do TSOs verify, before applying a buy-back procedure, whether alternative technical and commercial measures (e.g. pressure increases, flow commitments) can maintain system integrity in a more cost-efficient manner?***

(198) 17 TSOs applying BB procedures would check the existence of such alternatives: SNAM, REN, Premier Transmission, Plinacro, Plinovodi, National Grid, Net4Gas, Interconnector, BBL[66], GRTGaz, Gaz- System, GTS, Gaslink, Fluxys Belgium, Eustream, Enagas and Amber Grid. IUK reported that on an interconnector there are fewer alternatives to BB. The Bulgarian NRA noted that it is envisaged in the Rules on CMP.

(199) Negative answers were not reported to the Agency.

[66] As an interconnector, there are few alternatives to applying the buy-back procedure on BBL & IUK. (Ofgem)

7.2.8 Data submission on OS & BB scheme - CMP GL paragraph 2.2.2 (8)

(200) ***When proposing the OS & BB scheme, did TSOs provide models and data to assess the scheme to the NRA?***

Country	Data provision to NRA	No data provision	No answer / other
Austria			TAG, BOG, Gas Connect Austria
Belgium	Fluxys Belgium		
Bulgaria			Bulgartransgaz[67]
Croatia		Plinacro	
Czech Republic		NET4GAS	
Denmark			Energinet
France	GRTgaz, TIGF[68]		
Germany	Thyssengas, terranets, Open Grid Europe, Ontras, Nowega, NEL, jordgas, GTG Nord, GRT Gaz Deutschland, Gasunie Ostsee-anbindungsleitung, Gasunie Dtl., GASCADE, Fluxys Tenp, Bayernets[69]		
Greece	DESFA		
Hungary			FGSZ
Ireland		Gaslink	
Italy		Snam RG[70]	
Lithuania		Amber Grid	
Netherlands	GTS		
Poland	GAZ-SYSTEM		
Portugal		REN	
Romania			Transgaz[71]
Slovakia	Eustream		
Slovenia		Plinovodi	
Spain	Enagas		
Sweden			Swedegas
UK	IUK, BBL, National Grid	Premier Ltd	

[67] The Bulgarian NRA envisages data & model provision to be part of the TSO proposal for CMP implementation Rules.

[68] TIGF provided a risk analysis in this framework.

[69] The group of all 17 German TSOs provided their common OS && BB concept on 17.06.2013 to Bundesnetzagentur for its assessment. Data has been provided by TSOs in their common statement submitted on 30.05.2013 to BNetzA and within the framework of the evaluation report on the auction mechanism according to BNetzA determnation "KARLA Gas" (Az. BK7-10-001), recognised in BNetzA's decision of 20th of Sept 2013, BK7-13-019.

[70] The Italian NRA asked the TSO to provide further data.

[71] Transgaz reported non-implementation.

(201) ***How do the TSOs (intend to) regularly report to the NRA on the functioning of the scheme? (Time intervals, content)***

(202) Various approaches have been revealed throughout the answers received to this question. At some occasions it is obvious that the regularity of the reporting has not been settled yet.

Frequency of reporting to the NRA	TSO (country)
Annually	Amber Grid (LT), Enagas (ES), Fluxys (BE), GTS (NL), GRTGaz and TIGF (FR)
Twice a year	Gaslink (IE), Plinacro (HR)
Quarterly	Interconnector (UK)
Regularly along with other reporting tasks	Plinovodi (SI)
Upon the request of the NRA	DESFA (EL), Gaz System (PL)
Continuously by website publication	National Grid (UK)
Under discussion	Net4Gas (CZ), Premier (UK), REN (PT) *[ongoing implementation]*, SNAM (IT), Bulgartransgaz (BG)[72]
Not specified	Eustream (SK) *[due to rare or potentially rare application of the mechanism]*, BBL *[to be determined]*, German TSOs[73]

[72] SEWRC: Time intervals and content of the information will be stated in the Rules on CMP, which are currently developed.

[73] A specific situation exists in Germany. As Bundesnetzagentur decided on 20.9.2013 http://www.bundesnetzagentur.de/cln_1911/DE/Service-Funktionen/Beschlusskammern/1BK-Geschaeftszeichen-Datenbank/BK7-GZ/2013/2013-001bis099/BK7-13-019/BK7-13-019_Beschluss_BKV.html?nn=361064
OS & BB will (currently) not be introduced by German TSOs. Therefore, (data) reports on the functioning of the OS & BB scheme are only required, once and if an OS & BB scheme is introduced, i.e. content and intervals of such a report would only be detailed in a respective application by TSOs for an approval procedure regarding a potential implementation of a detailed OS & BB concept.

7.3 Firm day-ahead UIOLI

7.3.1 Description of the FDA UIOLI mechanism

(203) According the CMP GL paragraph 2.2.3, the firm day-ahead use-it-or-lose-it mechanism is a CMP, which has to be applied at such IPs, where the Agency's report on congestion shows, that contractual congestion occurs (i.e. certain conditions are met).

(204) The application of this mechanism involves a restriction of the possibility to alter the initial nomination of those network users, who hold more than (or equal to) 10% of the average technical capacity at the IP (in the preceding year). This restriction only permits firm altering of initial nominations (i.e. firm re-nominations) up to 90% and down to 10% of the contracted capacity by a network user at the IP (instead of 100% and 0%).

(205) In the event that the initial nomination (a) exceeds 80% or (b) does not exceed 20% of the contracted capacity, half of the non-nominated volume may be re-nominated upwards in case a); and half of the nominated volume may be re-nominated downwards in case b). The restricted part of the contracted firm capacity can still be re-nominated on an interruptible basis by the original capacity holder.

(206) The purpose of this restriction is to ensure, that if capacity is not fully used (i.e. initially nominated the day before the flow), firm capacity will always be made available to the market on a day-ahead basis, allowing for an efficient hub-to-hub gas transport and gas market (price) convergence.

7.3.2 Relationship of FDA UIOLI with OS & BB (CMP GL paragraph 2.2.3 (6))

(207) ***Question to NRAs only: Has an evaluation of the relationship of FDA UIOLI with the OS & BB scheme been carried out by the NRA?***

(208) An evaluation of the relationship between the two measures has been carried out by the NRAs of the following countries: AT, ES, BE, FR[74], CZ, IT, DE[75].

(209) No evaluation has been carried out by the NRAs of the following countries:

- EL (for DESFA): ("*Although the OS & BB scheme has been included in the Greek Network Code since December 2013, the detailed impact assessment on its potential application has not been concluded.*")
- UK (for National Grid): UK has an existing oversubscription service in place with National Grid, which effectively removes contractual congestion.

[74] Question in CRE's consultation on CRE's proposal not to apply the FDA UIOLI at Obergailbach, GRT Gaz (FDA UIOLI already applied on the exit side in Germany). 15 out of 16 respondents were against FDA UIOLI at Obergailbach. CRE's decision was to apply OSBB.

[75] Reference to the German decision (DE), 20.9.2013: http://www.bundesnetzagentur.de/cln_1911/DE/Service-Funktionen/Beschlusskammern/1BK-Geschaeftszeichen-Datenbank/BK7-GZ/2013/2013-001bis099/BK7-13-019/BK7-13-019_Beschluss_BKV.html?nn=361064

- BG (for Bulgartransgaz): *An evaluation will be carried out after Bulgartransgaz's proposal*.
- HU, IE, PL, SE, HR, NL, PT, FR (for TIGF), UK (for BBL & IUK & Premier Transmission).

(210) ***Questions to NRAs only: Has this evaluation resulted in a decision not to apply the OS & BB scheme? When has the decision been notified to the Agency and Commission?***

(211) The evaluation has resulted in a decision not to apply the OS & BB scheme in Germany and Austria. The respective German[76] and Austrian decisions have been notified to the Agency and Commission.

(212) In Germany, the main reasons for not applying the OS & BB (as noted in the respective decision of Bundesnetzagentur[77], which was based on a consultation, the TSO's OS & BB concept and BNetzA's evaluation report of day-ahead auctions) were:

- Higher complexity for network users, if an OS & BB was introduced as an additional CMP on top of the FDA UIOLI;
- Concerns to withdraw the functioning FDA UIOLI mechanism (after having been only applied for 18 months), which efficiently contributes to congestion management;
- Already incurred high costs for TSOs on IT systems' changes (due to FDA UIOLI implementation), which do not justify a switch to OS & BB (leading to further IT costs);
- Capacity availability (sufficient offer and no significant demand for additional short-term capacities, rare occurrence of auction premia);
- Strengths of the implemented FDA UIOLI, such as the firm offer of DA capacity also for backhaul flows at unidirectional IPs, where no firm is offered in the backhaul direction at all, for example: NCG-exit to CZ, entries from FR, LU, CH. Only the restriction of re-nominations leads to a 'fixed' forward flow, enabling the offer of firm backhaul at the same level;
- In case of an unsuccessful buy-back, the concept stipulates a pro-rata downgrade of all (!) firm booked capacity into interruptible, which reduces trust in firm contracts (legitimate expectation) and is not practicable or market-oriented;
- Other elements of BNetzA's previous "KARLA" decision[78] (which introduced next to the FDA UIOLI also other elements, such as the same specific price for capacity (€/MWh) irrespective of the product's duration (i.e. no multipliers!) led to increased availability also of longer term capacity (BNetzA witnessed cancellations of long-term capacity contracts).

[76] Notified on 30.09.2013.

[77] Reference to the German decision (DE), ref. BK7-13-019 of 20.9.2013: http://www.bundesnetzagentur.de/DE/Service-Funktionen/Beschlusskammern/1BK-Geschaeftszeichen-Datenbank/BK7-GZ/2013/2013-001bis099/BK7-13-019_BKV/BK7-13-019_Beschluss_20.09.2013_bf.pdf?__blob=publicationFile&v=2

[78] Decision of Bundesnetzagentur of 24.02.2011, ref. BK7-10-001: http://beschlussdatenbank.bundesnetzagentur.de/index.php?lr=view_bk_overview&getfile=1&file=4347, amended on 31.10.12, ref. BK7-12-201:

(213) 8 NRAs replied negatively to this question (EL, BE, ES, NL, PL, FR, CZ, IT), while 6 NRAs (HU, UK (for NG, for Interconnector, BBL and for Premier Transmission), HR, IE, PT, SE) stated that this was not applicable. BG envisages carrying out such an evaluation until the end of 2014.

7.3.3 Implementation of FDA UIOLI (CMP GL paragraph 2.2.3 (7))

(214) ***For NRAs only: Has the NRA decided to implement the FDA UIOLI pursuant to 2.2.3 (3)?***

(215) The NRAs from Germany and Austria have decided to implement the FDA UIOLI mechanism.

(216) The following countries negated the question: EL[79], ES, HU, BE, NL, PL, FR, UK, HR, IT, SE.

(217) The Bulgarian NRA shall decide after considering the proposal.

(218) The Belgian NRA made this specific comment, by saying that Fluxys Belgium and CREG are convinced that OS&BB should always take precedence over measures that undermine network users' firm capacity rights such as Firm DA UIOLI. Some stakeholders strongly disagree with Firm DA UIOLI. Since the requested start of this product is 1 July 2016, Fluxys Belgium will not implement this as from 01/10/2013. Fluxys Belgium, in coordination with CREG, will assess this measure in due time. CREG and Fluxys suggest reconsidering the Firm DA UIOLI measure taking due consideration of the side effects, suggest not to implement it at all.

(219) The Portugese NRA clarified that the joint CAM/CMP for the PT/ES interconnections has already a provision that releases capacity after DA nominations. Until now on the PT/ES interconnections, since 2006 on the Portuguese side, there wasn't any contractual congestion.

(220) ***For NRAs only: If so, has a consultation with adjacent NRAs been carried out to implement firm day-ahead UIOLI before the decision was adopted?***

(221) BNetzA (DE) has carried out a consultation before the decision was adopted.

(222) E-Control (AT) has carried out a consultation in April 2012 before the decision to implement the FDA UIOLI was taken on 29 May 2012. At that time the CMP Annex was not yet adopted.

(223) ***For NRAs only: Have the adjacent NRA's opinions been taken into account in the decision?***

(224) NRAs from the following countries stated that they have taken adjacent NRA's opinions into account: DE, CZ, UK (for Interconnector, BBL and Premier Transmission), EL[80]. The NRAs from the following countries found the question non-applicable to their case: HU, PT, SE.

[79] *"Application of FDA UIOLI will be considered from 1 July 2016 as provided for in paragraph 2.2.1.4 of Annex I to the Regulation 715/2009. The Greek Network Code in its current version does not permit renominations so 2.2.3(3) is currently non-applicable. Further Greece's interconnection point with Bulgaria is heavily underutilised (only 82% of the technical capacity is currently booked under long term contracts)."*

[80] *"The proposal of DESFA on the CMP implementation was also forwarded by RAE to the Bulgarian Regulatory Authority (SEWRC) for their views on the 19th of September 2013. The proposal, as modified by RAE has been incorporated in the second amendment of the Greek Network Code completed in December 2013. To-date the adjacent NRA has not yet expressed an opinion on the proposal of the TSO."*

7.4 Surrender of Capacity

7.4.1 Description of the surrender mechanism

(225) The introduction of the surrender mechanism requires TSOs to accept any surrender of firm contracted capacity from a network user, with the exception of daily or within-day products. The network user however retains its rights and obligations under the capacity contract until the capacity is reallocated by the TSO (and to the extent capacity is not reallocated). The TSO can only reallocate surrendered capacity, if all available capacity has been allocated. Reallocations have to be notified to the network user without delay. The details of the mechanism require NRA approval.

(226) This CMP can be seen as an alternative to the use of the secondary capacity market for the purpose to dispose of unneeded booked capacity. One possible advantage of the surrender over the secondary market may be the fact, that any surrender will be anonymous.

7.4.2 Specifics of the Surrender Mechanism (CMP GL paragraph 2.2.4)

(227) ***For NRAs only: Have the specific terms and conditions for surrendering capacity (in particular for cases where several network users surrender their capacity) been approved by the NRA?***

For 31 TSOs (incl. 14 German TSOs), the NRAs have approved the terms and conditions for the surrender mechanism. Only one NRA (UK) has not approved them for the Interconnector & BBL[81]. The CMP approval process for the Interconnector is still ongoing. 3 NRAs (HU, SE, BG) stated that the surrender mechanism is not implemented. The remaining NRAs (LT, DK, SK, NL, SI, RO) did not answer this specific question.

(228) ***Which firm capacity products are covered by the surrender mechanism?***

Capacity Product Duration	Country
Yearly / Quarterly / Monthly / Other durations	DE (all TSOs), AT, EL, SK, IT
Yearly / Quarterly / Monthly	LT, ES, BE, NL, PL, UK (NG), FR (TIGF & GRT Gaz)
Yearly / Monthly / Other durations	HR, SI
Yearly / Quarterly	PT
Yearly / Monthly	IE
Yearly	RO, UK (Premier Transmission)
Monthly	CZ
Other durations (any duration of one day or more)	UK (Interconnector, BBL), BG (Bulgartrans-gaz envisages products of more than 1 day)
None	SE

[81] Not currently. Pending formal submission of BBL's & IUK's proposal, ACM/CREG and Ofgem will determine approval of BBL's/IUK's proposed terms and conditions for surrendering capacity.

(229) ***Does the surrender mechanism provide that reallocation of surrendered capacity takes place only once the available capacity is fully allocated?***

(230) 35 (of 40 surveyed) TSOs (incl. 14 German TSOs) confirmed that reallocation of surrendered capacity only takes place once the available capacity is fully allocated. Only Ambergrid (LT) negated the question, while the Bulgarian NRA envisages this provision to be in the Rules on CMP. The other TSOs/NRAs did not provide an answer to this question.

(231) ***Does the surrender mechanism provide that the concerned network users are informed of any reallocation without delay?***

(232) 36 (of 40) surveyed TSOs (incl. 14 German TSOs) answered this question with "Yes". The Bulgarian NRA envisages this provision to be part of the Rules on CMP. The other TSOs / NRAs did not answer this question.

7.5 Long-term UIOLI

7.5.1 Description of the LT UIOLI mechanism

(233) In the event of contractual congestion, this CMP provides for the NRAs to require their TSOs to partially or fully withdraw systematically underutilised contracted capacity on an IP by a network user, if that user has not sold or offered its unused capacity on the secondary capacity market.

(234) Systematic underutilisation is considered, when the network user uses less than 80% on average of its contracted capacity both from 1.4. – 30.9 and from 1.10.-31.3. with an effective contract duration of more than one year, for which no proper justification could be provided, or when a network user systematically nominated close to 100% of its capacity and renominated downwards with a view to circumvent losing the capacity.

(235) A withdrawal should take place only, when other network users request firm capacity and may result in the network user losing its capacity partially or completely for a given period of for the remaining contractual term.

7.5.2 Design of the mechanism (CMP GL paragraph 2.2.5)

(236) ***If LT UIOLI is designed or implemented, please provide a short description of the mechanism/procedure (if it is further detailed than in CMP GL paragraph 2.2.5 or deviating from the minimum requirements listed there).***

(237) 3 (out of 40 responding) TSOs stated that the LT UIOLI is not implemented:

- GTS [mechanism still under development with NRA],

- BOG [according to E-Control, due to the existence of balancing groups, which inhibits a clear identification of a network user underutilising its capacity][82],
- The Bulgarian NRA stated that the Rules on CMP are currently under development.

(238) For the Interconnector, BBL and National Grid (UK), the mechanism is – according to the NRAs - not yet implemented, but already designed in accordance with paragraph 2.2.5.

(239) In Italy, according to NRA (AEEGSI) deliberation 411/2013, LT UIOLI mechanism is applied to network users with contracted capacity of duration of more than one year and using it less than on average 80% (calculated on both semesters 1 April – 30 September and 1 October – 31 March). TSO shall make available an amount of the above capacity for allocation if no justification for underutilization could be provided. The withdrawal of capacity is applied when other network users unsuccessfully requested firm capacity and if network users retaining unused capacity contracts did not offer their capacity on the secondary market or they did not surrender it to the TSO. The criteria for calculating the amount of capacity withdrawn are set in the deliberation 411/2013.

(240) 28 TSOs (or their NRAs) have confirmed the implementation of this mechanism as described in paragraph 2.2.5, while some TSOs (e.g. Amber Grid, Eustream, Transgaz) stated that they are (slightly) deviating from those provisions (i.e. through additional rules). Lithuania for example details in the national code the procedures and deadlines for LT UIOLI as well as the information exchange. In the Slovak Republic additional measures include the obligation to report and approve for LT UIOLI application by NRA in order to avoid mismanagement.

(241) In Belgium, the LT UIOLI procedure is written down in the TSO's Access Code for Transmission approved by CREG. Proactive congestion management procedures encouraging the "use or sell" principle (the network user has the legal and contractual obligation to offer subscribed capacity he no longer uses/nominates on a market-based way on the secondary market) by both **actively monitoring the utilisation rate (taking into account the amount sold on the secondary market) of the network user's subscribed capacity and facilitating the transfer of capacity via the secondary market, must prevent starting LT UIOLI procedure**. If contractual congestion is observed and, based on the daily monitoring process of the capacity usage by the network users, the monitoring process shows that some network users are not applying the "use or sell principle", then the LT UIOLI procedure is started using a 6 step approach finally resulting in reallocating the non-used capacity. (CREG)

(242) In Spain, the TSO analyses utilisation according to 2.2.5 as in other countries. However, there is an additional detailed criterion for withdrawal introduced, according to what is stated in point 2.2.5 b), which makes reference to nominations and renominations: if on at least 60 days capacities are nominated above 80% and then renominated half of the initially nominated or less, capacity might be withdrawn. (CNMC)

[82] E-Control: The LT UIOLI is implemented in Austrian secondary legislation in Section 12 of the Gas Market Model Ordinance.

(243) In Slovenia (Plinovodi), in addition to the provisions in 2.2.5, contractual procedures are defined. In Poland, examples of possible justifications for underutilisation provided by the NRA are SoS, system failure on part of the TSO(s) or extraordinary event on the part of customer or force majeure.

(244) In Austria (BOG / TAG / Gas Connect Austria), although a monitoring of LT unused capacity is in place, withdrawal of capacity is difficult, since nominations are submitted by a balancing responsible party for a balancing portfolio (balancing group) and not by the network user. Therefore, any systematic underutilisation cannot be clearly allocated to a single network user. An amendment of the respective secondary legislation is currently ongoing in order to tackle the problem[83].

(245) A special situation exists in Portugal: even though the LT UIOLI measures are implemented, the mechanism is not applied, as capacity is only allocated up to one year (ahead).

7.5.3 Data submission for LT UIOLI (CMP GL paragraph 2.2.5(4))

(246) ***Is the relevant data per network user (contracted capacity & nominations for effective capacity contract durations of more than one year or recurring quarters covering at least two years) provided by the TSOs to the NRA regularly (and if so at which time interval)?***

(247) 15 TSOs (or their NRAs) confirmed that relevant data is provided to the NRA, while 3 TSOs (Amber Grid (LT), BOG (AT), REN-Gasodutos (PT)) negate this. Amber Grid stated that there was so far no contracted capacity for a period longer than one year, which eliminated the need for the LT UIOLI procedure. BOG referred to the reasoning provided above (balancing group) and REN-Gasodutos explained that LT UIOLI is not possible to apply until capacity products beyond one year are available. Currently, every new gas year, all technical capacity is bookable in Portugal.

(248) The frequency of data submission is varying from “upon request” up to “daily”:

Frequency of data submission	Country
Upon NRA request	PL[84], SK, AT, ES
Every year	NL, FR, UK *(IUK, BBL from Oct. 2014 on)*; IT
Twice per year	IE, SI, UK (Premier Transmission), HR
Every 3 months	EL, BE

[83] E-Control is currently consulting on a refinement of Section 12 of the Gas Market Model Ordinance. Section 12 will then target the balancing group (or sub-account) as the relevant entity for which a systematic underutilisation will be monitored. Further information:

http://www.e-control.at/portal/pls/portal/portal.kb_folderitems_xml.redirectToItem?pMasterthingId=2431403.

The refined provision shall enter into force on 1 October 2014.

[84] According to Gaz System TNC TSO is obliged to notify to NRA occurrence of the factors pointed in TNC (which derive from CMP) which might be a reason for withdrawal of capacity. (URE)

(249) 14 German TSOs indicated that this data submission is not (yet) implemented by stating that they developed in close cooperation with the German NRA a concept of the data to be delivered automatically, which will be implemented (although data can already be prompted, if required).

(250) In Bulgaria, the time intervals and content of the information will be stated in the Rules on CMP, which are currently developed.

7.6 Other comments from the general questionnaire

(251) ***Final comment box: (e.g. for short description of major obstacles (if any) encountered at this stage for the implementation of the CMP guidelines)***

(252) Amber Grid (LT): currently, there are no capacity shortages / congestion in Lithuania. All CMP provisions are reflected in the national Network Code (entry into force 1.3.2014). The OS & BB procedure will therefore only be agreed with the NRA, if necessary.

(253) German TSOs: "*Clarification to 2.2.1 question 2: By decision BK7-13-019 German NRA did not approve the concept, but decided not to apply OS/BB in Germany*."

(254) BOG & Gas Connect Austria: no legal obligation to answer implementation questions to ACER (only voluntary). It should not be a precedent for the future monitoring.

(255) Enagas (ESP): "*NC CAM & CMP do not have the same implementation deadlines. CMP implementation deserves more coordination between adjacent TSOs and NRAs, in particular in the case of bundled capacities*."

(256) Energinet.dk: only LT UIOLI has been implemented so far, as no contractual congestions are expected to occur. Danish NRA: waiting for EC's interpretative note on CMP. If CMP implementation is required, NRA / TSO will cooperate to implement the remaining provisions.

(257) Eustream (SK): "*ACER guidance came too late. IT development took quite a long time so it was impossible to change the things*."

(258) Fluxys (BE): CMPs should have been developed in NC process for a better harmonised / coordinated and less costly approach. Current CMP GL allow for more interpretation freedom. FDA UIOLI should be reconsidered, i.e. not implemented at all. Rather OS & BB should always take precedence.

(259) Gaslink (IRL): No obstacles in CMP implementation. Only ACER's online survey technicalities have been criticised.

(260) GRT Gaz (FR): Only physically congested or non-congested IPs were observed in France, therefore CMPs are unnecessary in such situations. The ACER survey shall not be a precedent for ENTSOG/ACER cooperative implementation monitoring.

(261) National Grid (UK): "*Vast majority of Regulation previously implemented within GB Network Code (National Grid). 1.) Entry CMP arrangements including OS & BB implemented 2003 for*

Entry points and for Exit points Oct 2012. 2.) Longer term products A,Q,M managed via options and forwards contracts. Short term products DA & WD managed by prompt market auctions. 3.) EUIP points relating to NGrid are not congested. 4.) Current Exit capacity surrender duration is annually. NG plan to introduce this to monthly from Nov15."

(262) Swedegas (SE), agreed by Swedish NRA: The Swedish side of the IP Dragör (connecting to DK) is not subject to booking procedures by users, so no CMP procedures are implemented.

(263) UK NRA (Ofgem) on Interconnector & BBL: "*Interpreting CMP guidelines for an interconnector, given its special circumstances and revenue model, posed challenges for Ofgem to oversee consistent implementation across all TSOs.*"

(264) BE NRA (CREG): CMP should promote the "use or sell" principle by introducing the legal obligation that:

1. A network user must offer the subscribed capacity he no longer uses/nominates, on a market based way (respecting the NC CAM rules) on the secondary market (using NC CAM platform).

2. The TSO must monitor the utilisation rate (taking into account the amount sold on the secondary market) of the network user's subscribed capacity.

(265) HR NRA (HERA) on PLINACRO: "*Insufficiency of data on contractual congestion in case of PLINACRO, due to quite recent opening of the wholesale market and recent introduction of the entry exit system.*"

7.7 CMP related transparency questions per interconnection point

7.7.1 Implementation dates - CMP GL paragraph 2.2.1(4)

(266) ***Implementation dates for CMP measures*** *(Indication of the date of (expected) formal implementation of each CMP measure per IP – summarized per Member State):*

Number of IP sides ∑ = 337	Date of (expected) formal implementation of each CMP measure	Concerned Member States or TSOs
OS & BB		
60	2013	BE, CZ, EL, FR, PL, SI, SK, UK
48	2014	ES, LT, NL, PL (Gaz-System (ISO)), Premier, IUK[85], BBL[86]
151	Blanks (due to non-application of OS&BB)	AT, DE
78	Blanks (no data)	[AT], [BE[87]], BG, CZ, [DE], DK, ES, FR, HR, HU, IE, IT, PT, RO, SE, UK
FDA UIOLI		
149	2013	AT, DE
2	2014	DE (Gascade)[88]
52	2016	CZ, DE[89], ES, LT, PL, SK, UK
63	blanks (OS&BB applied)	BE, EL, FR, NL, SI
71	Blanks (no data)	AT, [BE[AL]], BG, CZ, DE, DK, ES, FR, HR, HU, IE, IT, PT, RO, SE, UK
Surrender		
228	2013	AT, BE, CZ, DE, EL, ES, FR, PL, SI, SK, UK
46	2014	DE (Gascade)*, LT, NL, PL (Gaz-System ISO) , Premier, IUK**, BBL***
63	Blanks (no data)	AT, [BE[AL]], BG, CZ, DE, DK, FR, HR, HU, IE, IT, PT, RO, SE, UK
LT UIOLI		
205	2013	BE, CZ, DE, EL, ES, FR, PL, SI, SK
19	2014	DE (Gascade)*, PL (Gaz-System ISO), LT, Premier, UK (NG)[90], IUK**, BBL***
2	2016	DE (terranets bw)[91]
111	Blanks (no data)	AT, [BE[AL]], BG, CZ, DE, DK, FR, HR, HU, IE, IT, NL, PT, RO, SE, UK

[85] & ** Expected 30.09.14

[86] & *** Expected 30.11.14

[87] & [AL] Only concerning IP Alveringen (entry BE), which will only be operational in 2015.

[88] & * Only at the in-country inter-TSO IP Gernsheim

[89] GRTgaz Dtl. at 5 & terranets at 2 IP sides

[90] Expected by 1.10.14

[91] Only at in-country inter-TSO IP Lampertheim IV

7.7.2 OS & BB: Information about Buy-Back procedure - CMP GL paragraph 2.2.2 (6)

(267) ***Have network users been informed about the details of the applicable buy-back procedure?***

Response	Number of IP sides	Concerned Member States
Yes	104	BE, CZ, EL, ES, FR, NL, PL, PT, SK, UK
No	136	DE, LT
Blanks (no answer)	97	[AT], BE, BG, CZ, [DE], DK, FR, HR, HU, IE, IT, RO, SE, SI, UK

(268) ACER view:

(269) The fact that only for less than one third of the IP sides the details of the applicable buy-back procedure have been made known to the network users may be partly explained with the German and Austrian decision not to apply OS & BB. Some of the negative answers could mean that this information requirement has not been fulfilled. This should be further investigated by NRAs.

7.7.3 CMP data on Transparency Platform - CMP GL paragraph 3.3 (1) h-l

(270) ***Are unsuccessful requests for firm products (>= 1 month) published with number and volume on a monthly basis?***

Response	Number of IPs	Concerned Member States
Yes	173	BE, CZ, DE, ES, PT, SK, UK
No[92]	63	DE[93], EL, FR, LT, NL, PL, RO
Blanks (no answer)	101	AT, BE, BG, CZ, DE, DK, HR, HU, IE, IT, RO, SE, SI, UK

(271) ***Auctions: Is data on where and when firm products (>= 1month) cleared higher than at the reserve price published monthly?***

Response	Number of IPs	Concerned Member States
Yes	198	BE, DE, ES, FR, NL, PL, PT, UK
No	24	CZ, DE[94], LT, SI, UK
Blanks (no answer)	115	AT, BE, BG, CZ, DE, DK, EL, FR, HR, HU, IE, IT, RO, SE, SK, UK

[92] In some cases, no data was provided on unsuccessful request, because no unsuccessful requests in fact occurred. ENTSOG is working with TSOs on clarifying the distinction of "no data submission" and "no unsuccessful request occurred" on its Transparency Platform (by including a respective statement).

[93] Only Thyssengas exit IP sides

[94] Only Thyssengas IP sides

(272) ***Is data published on where and when no firm product (>= 1 month) were offered on a monthly basis?***

Response	No of IPs	Concerned Member States
Yes	226	BE, CZ, DE, ES, FR, LT, NL, PL, PT, SK, UK
No	9	EL, DE[95]
Blanks (no answer)	102	AT, BE, BG, CZ, DE, DK, FR, HR, HU, IE, IT, RO, SE, SI, UK

(273) ***Is the total capacity made available via CMPs in 2.2.2 - 5 per IP (and per CMP measure) published on a monthly basis?***

Response	No of IPs	Concerned Member States
Yes	201	BE, CZ, DE, EL, ES, FR, LT, NL, PL, PT, SK, UK
No	36	DE[96]
Blanks (no answer)	100	AT, BE, BG, CZ, DE, DK, FR, HR, HU, IE, IT, RO, SE, SI, UK

(274) ACER view:

(275) A more detailed review of CMP-related data availability on ENTSOG's Transparency platform as of February 2014 is provided in the Annex of the Agency's Congestion monitoring report[97]. That review demonstrates the absence, incompleteness or imprecision of CMP-related transparency data.

(276) The Agency remains in intensive discussions with ENTSOG about these transparency problems with the aim to resolve them by the end of 2014.

[95] Only Thyssengas IP sides

[96] Only Gasunie Dtl., jordgas, and Thyssengas exits

[97] ACER annual report on contractual congestion at interconnection points, Period covered: Q4/2013, 28.02.2014, page 49: http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/ACER%20Gas%20Contractual%20Congestion%20Report%202014.pdf

8 Annex III: List of abbreviations & country codes

Acronym	Definition
ACER	Agency for the Cooperation of Energy Regulators
CAM	Capacity Allocation Management (Gas)
CMP	Congestion Management Procedures (Gas)
E/E	Entry/exit
EC	European Commission
ENTSOG	European Network of Transmission System Operators for Gas
EU	European Union
FDA UIOLI	Firm Day-Ahead Use-It-Or-Lose-It
IP	Interconnection Point
LT UIOLI	Long-Term Use-It-or-Lose-It
NC	Network Code
NRA	National Regulatory Authority
OS & BB	Oversubscription and Buy Back
TSO	Transmission System Operator

Acronym	Country
AT	Austria
BE	Belgium
BG	Bulgaria
CZ	Czech Republic
DE	Germany
DK	Denmark
EE	Estonia
ES	Spain
FI	Finland
FR	France
EL	Greece
HR	Croatia
HU	Hungary

Acronym	Country
IT	Italy
IE	Ireland
LT	Lithuania
LV	Latvia
LU	Luxembourg
NL	Netherlands
PL	Poland
PT	Portugal
RO	Romania
SE	Sweden
SK	Slovakia
SI	Slovenia
UK	United Kingdom

Publishing date: 13/01/2015

Document title: ACER CMP Implementation Monitoring Report 2014

We appreciate your feedback

Please click on the icon to take a 5' online survey and provide your feedback about this document

Share this document