

changes compared to existing Regulation 984/2013 [unchanged articles are hidden]			"no change" means ACER does not propose changes to ENTSOG's draft "red text" means ACER changes to ENTSOG's draft	Name & type of responding company / organisation Respondent's name and contact details		
COMMISSION REGULATION (EU) No 984/2013 as of 14 October 2013	Proposed amendment as part of the Incremental Proposal (ENTSOG's proposal as of 26 December 2014)	Concrete suggestions for changes to the ENTSOG's proposal common CAM TF position (as of 21 January 2015)	Justification/reasoning for changes suggested by ACER	Do you support ACER's proposals (yes/no per Article)?	Please provide your reasoning	Please provide your wording proposals
A 1.2	CHAPTER I GENERAL PROVISIONS Article 2 Scope	CHAPTER I GENERAL PROVISIONS Article 2 Scope	CHAPTER I GENERAL PROVISIONS Article 2 Scope			
	2. This Regulation shall apply to all technical and interruptible capacity at interconnection points as well as to additional capacity in the meaning of point 2.1.1 of Annex I of Regulation (EC) No 715/2009. This Regulation shall not apply to interconnection points between Member States where one of these Member States holds a derogation on the basis of Article 49 of Directive 2009/73/EC.	2. This Regulation shall apply to all technical and interruptible capacity at interconnection points as well as to additional capacity in the meaning of point 2.1.1 of Annex I of Regulation (EC) No 715/2009 and to incremental capacity.	no change			
	3. Articles 8(1) to (7) Articles 11 to 18 19(2) and 21 to 27 shall not apply to new technical capacity to be allocated by means of open allocation procedures for new technical capacity such as open season procedures apart from capacity which remains unsold after it has been initially offered by means of such procedures.	3. In case an alternative allocation rule in open season procedures according to Articles 20(2) to (4) is applied Article 19(2) and 27 shall not be applicable to the offer levels unless decided otherwise by the relevant national regulatory authorities.	no change			
A 1.3	Article 3 Definitions	Article 3 Definitions	Article 3 Definitions			
	For the purposes of this Regulation the definitions in Article 2 of Regulation (EC) No 715/2009 and Article 2 Directive 2009/73/EC shall apply. In addition the following definitions shall apply:	For the purposes of this Regulation the definitions in Article 2 of Regulation (EC) No 715/2009 Article 3 of Regulation (EU) No XXX/201X (TAR NC) and Article 2 Directive 2009/73/EC shall apply. In addition the following definitions shall apply:	no change			
	(19) "economic test" means a test applied to assess the economic viability of incremental capacity projects;					
	(20) "incremental capacity" means a possible future increase in technical capacity that may be offered based on investment or long-term capacity optimisation and subsequently allocated subject to the positive outcome of an economic test in the following cases: (a) at existing interconnection points (b) by establishing a new interconnection point (c) as physical reverse flow capacity at an interconnection point which has not been offered before;	(20) "incremental capacity" means a possible future increase in technical capacity or possible future new capacity created where none currently exists that may be offered based on investment or long-term capacity optimisation and subsequently allocated subject to the positive outcome of an economic test in the following cases: (a) at existing interconnection points (b) by establishing a new interconnection point or points (c) as physical reverse flow capacity at an interconnection point or points which has not been offered before; Capacity created via non-market based procedures and for which the final investment decision has been taken without prior commitments from network users is not considered incremental capacity, but has to be offered and allocated as available standard capacity products as described in this Regulation.	(20) "incremental capacity" means a possible future increase in technical capacity or possible future new capacity created where none currently exists that may be offered based on investment or long-term capacity optimisation and subsequently allocated subject to the positive outcome of an economic test in the following cases: (a) at existing interconnection points (b) by establishing a new interconnection point or points (c) as physical reverse flow capacity at an interconnection point or points which has not been offered before;	This addition clarifies that this definition also captures new capacity at one or more new IP(s) with a new TSO with no existing technical capacity.	Yes	
	(21) "offer level" means where yearly standard capacity products for incremental capacity are offered at an interconnection point the sum of available capacity and the respective level of incremental capacity offered for each of the yearly standard capacity products at the interconnection point;	(21) "offer level" means: where yearly standard capacity products for incremental capacity are offered at an interconnection point the sum of available capacity and the respective level of incremental capacity offered for each of the yearly standard capacity products at the interconnection point;		A clarification is added to make sure that capacity created via non-market based or partially market based procedures (e.g. non-market based PCI TYNDP central planning...) is to be treated as "available capacity" (existing capacity). In these cases where the final investment decision has been taken without prior commitments from network users capacity shall be offered and allocated via standard capacity products in auctions.	Yes	
	(22) "open season procedure" means a process to assess the market demand for incremental capacity that includes a non-binding phase in which network users express and quantify their demand for incremental capacity and a binding market test phase in which binding commitments for contracting capacity are requested from network users by one or more transmission system operators.		no change	The deleted text is not necessary for this definition. It seems redundant because the second half of the definition refers to the yearly standard capacity product at the IP.	No	Offer level should only refer to cases where incremental capacity is offered. Otherwise a transparency requirements with regards to incremental would be valid for all auctions. By taking out the reference to incremental capacity the term offer level becomes applicable for all auctions. ENTSOG sees no justification for this
A 1.8	CHAPTER II ALLOCATION OF FIRM CAPACITY Article 8 Allocation methodology	CHAPTER III ALLOCATION OF FIRM CAPACITY Article 8 Allocation methodology	CHAPTER I I ALLOCATION OF FIRM CAPACITY Article 8 Allocation methodology			
	1. Auctions shall be used for the allocation of capacity at interconnection points.	1. Auctions shall be used for the allocation of capacity at interconnection points, unless provided otherwise in this Regulation.	1. Auctions shall be used for the allocation of capacity at interconnection points unless provided otherwise under Article 20(f).	Specific reference is provided.	No	ACER changes would apply CAM auctions to everything but incremental capacity in Open Seasons. This ends non-application foreseen in the original CAM for a number of cases (e.g. IPs with third countries IPs to member states with a derogation IPs with an

<p>2. At all interconnection points the same auction design shall apply. The relevant auction processes shall start simultaneously for all concerned interconnection points. Each auction process relating to a single standard capacity product shall allocate capacity independently of every other auction process except where subject to the agreement of the directly involved transmission system operators and the approval of relevant national regulatory authorities competing capacity is allocated.</p>	<p>2. At a l interconnection points the same auction design shall apply. The relevant auction processes shall start simultaneously for all concerned interconnection points. Each auction process relating to a single standard capacity product shall allocate capacity independently of every other auction process except where subject to the agreement of the directly involved transmission system operators and the approval of relevant national regulatory authorities competing capacity is allocated; or</p> <p>(a) subject to the agreement of the directly involved transmission system operators and the co-ordinated approval of relevant national regulatory authorities competing capacity is allocated; or</p> <p>(b) incremental capacity is allocated in the annual yearly capacity auction;</p>	<p>no change</p>			
<p>8. In the case of new capacity an amount at least equal to 10 % of the technical capacity at each interconnection point shall be set aside and offered no earlier than the annual quarterly capacity auction as provided for in Article 12 held in accordance with the auction calendar during the gas year preceding the start of the relevant gas year.</p>	<p>8. In the case of incremental capacity an amount at least equal to 0 % of the incremental capacity at each interconnection point shall be set aside and offered no earlier than the annual quarterly capacity auction as provided for in Article 12 held in accordance with the auction calendar during the gas year preceding the start of the relevant gas year.</p>	<p>no change</p>			
<p>A 1.11</p>	<p>Article 11 Annual yearly capacity auctions</p>	<p>Article 11 Annual yearly capacity auctions</p>	<p>Article 11 Annual yearly capacity auctions</p>		
<p>3. The auction process shall offer capacity for no longer than the upcoming 15 years.</p>	<p>3. The auction process shall offer capacity for no longer than the upcoming 15 years, unless provided otherwise in this Regulation.</p>	<p>no change</p>			
<p>6. The capacity to be offered during the annual yearly capacity auction shall be equal to:</p> <p>A – B – C – D</p>	<p>6. The capacity to be offered during the annual yearly capacity auction shall be equal to:</p> <p>A – B – C – D – E – F</p>	<p>no change</p>			
<p>Where:</p> <p>A is the transmission system operator's technical capacity for each of the standard capacity products;</p> <p>B for annual yearly auctions offering capacity for the next five years is the amount of technical capacity (A) set aside in accordance with Article 8(7)(b); for annual yearly auction or capacity beyond the first five years is the amount of technical capacity (A) set aside in accordance with Article 8(7);</p> <p>C is the previously sold technical capacity adjusted by the capacity which is re-offered in accordance with applicable congestion management procedures;</p> <p>D is additional capacity for such year if any.</p>	<p>Where:</p> <p>A is the transmission system operator's technical capacity for each of the standard capacity products;</p> <p>B for annual yearly auctions offering capacity for the next five years is the amount of technical capacity (A) set aside in accordance with Article 8(7)(b); for annual yearly auctions for capacity beyond the first five years is the amount of technical capacity (A) set aside in accordance with Article 8(7);</p> <p>C is the previously sold technical capacity adjusted by the capacity which is re-offered in accordance with applicable congestion management procedures;</p> <p>D is additional capacity for such year if any;</p> <p>E is the incremental capacity for such year included in a respective offer level if any;</p> <p>F is the amount of incremental capacity (E) if any set aside in accordance with Article 8(8) and 8(9).</p>	<p>no change</p>			
<p>9. One month before the auction starts transmission system operators shall notify network users about the amount of technical capacity to be offered for each year for the upcoming annual yearly capacity auction. In addition the transmission system operators shall notify network users whether any additional capacity may be made available.</p>	<p>9. One month before the auction starts transmission system operators shall notify network users about the amounts of capacity to be offered for each year for the upcoming annual yearly capacity auction. In addition the transmission system operators shall notify network users whether any additional capacity may be made available.</p>	<p>no change</p>			
<p>10. The allocation results of the auction shall be published as soon as reasonably possible and no later than the next business day after the closing of the bidding round simultaneously to individual network users participating in the respective auction.</p>	<p>10. The allocation results of the auction shall be made available as soon as reasonably possible and no later than the next business day after the closing of the bidding round simultaneously to individual network users participating in the respective auction.</p> <p>In case of incremental capacity the binding commitments of network users for contracting capacity and the results of the economic test including whether the conditions for a repeated auction according to Article 20d(3) are met shall be made available no later than the next business day after the closing of the bidding round simultaneously to individual network users participating in the respective auction.</p>	<p>10. The allocation results of the auction shall be made available as soon as reasonably possible and no later than the next business day after the closing of the bidding round simultaneously to individual network users participating in the respective auction.</p> <p>In case of incremental capacity the binding commitments of network users for contracting capacity and the results of the economic tests including whether the conditions for a repeated auction according to Article 20d(3) are met shall be made available no later than the next business day after the closing of the bidding round simultaneously to individual network users participating in the respective auction.</p>	<p>Plural "(s)" is added so users are informed of the results of all the relevant offer levels and economic tests so they know which of their bids were successful.</p>		
<p>A 1.17</p>	<p>Article 17 Ascending Clock auction algorithm</p>	<p>Article 17 Ascending Clock auction algorithm</p>	<p>Article 17 Ascending Clock auction algorithm</p>		
<p>3. A bid shall specify:</p> <p>a) the identity of the network user applying;</p> <p>b) the concerned interconnection point and direction of the flow;</p> <p>c) the standard capacity product for which the capacity is applied for;</p> <p>d) per price-step the amount of capacity for the respective standard capacity;</p> <p>e) product applied for</p>	<p>3. A bid shall specify at least:</p> <p>(a) the identity of the network user applying;</p> <p>(b) the concerned interconnection point and direction of the flow;</p> <p>(c) the standard capacity product for which the capacity is applied for;</p> <p>(d) per price-step the amount of capacity for the respective standard capacity;</p> <p>(e) product applied for;</p> <p>(f) in case incremental capacity is offered the concerned offer level.</p>	<p>no change</p>			
<p>20. All network users who have placed valid volume bids at the clearing price are allocated the capacity according to their volume bids at the clearing price. Successful network users shall pay the clearing price of the specific auction which may be a fixed or a variable price as set out in Article 26(2) and any other possible charges applicable at the time when the capacity allocated to them can be used.</p>	<p>20. All network users who have placed valid volume bids at the clearing price are allocated the capacity according to their volume bids at the clearing price.</p> <p>Where incremental capacity is allocated the allocation of incremental capacity shall be subject to the outcome of the economic test according to Article 4 (2) and Article 43(3) of Regulation (EU) No XXX/201X (TAR NC) and any necessary subsequent approval processes.</p> <p>Successful network users shall pay the clearing price of the specific auction which may be a fixed or a variable price as set out in Article 26(2) and any other possible charges applicable at the time when the capacity allocated to them can be used.</p>	<p>no change</p>			

	21. Following every closed auction the final auction result including the aggregation of allocated capacities and the clearing price shall be published. Successful network users shall be informed about the amount of capacities they are allocated. Individual information shall be communicated only to concerned parties.	no change			
A 1.20a	CHAPTER IVa OFFER OF INCREMENTAL CAPACITY Article 20a General provisions	CHAPTER IV a OFFER OF INCREMENTAL CAPACITY Article 20a General provisions			
	1. Transmission system operators shall co-operate in the processes of assessing market demand for incremental capacity and of conducting technical studies for incremental capacity projects for their joint interconnection points. a) The concerned TSOs on both sides of an entry-exit system border shall in particular co-operate to produce a common demand assessment report per entry-exit zone border. b) ENTSG shall coordinate the process by providing a harmonised structure or template for the demand assessment reports, ensuring the timely completion of the reports according to Article 20b(5) as well as collecting and publishing the reports jointly on ENTSG's website in addition to the TSO's individual publications on their websites.	1. Transmission system operators shall co-operate in the processes of assessing market demand for incremental capacity and of conducting technical studies for incremental capacity projects for their joint interconnection points. a) The concerned TSOs on both sides of an entry-exit system border shall in particular co-operate to produce a common demand assessment report per entry-exit zone border. b) ENTSG shall coordinate the process by providing a harmonised structure or template for the demand assessment reports, ensuring the timely completion of the reports according to Article 20b(5) as well as collecting and publishing the reports jointly on ENTSG's website in addition to the TSO's individual publications on their websites.	ACER doubts that the general framework of TSO cooperation is sufficient to ensure cross-border coordination of decision-making on demand assessment and technical studies. Every entry/exit zone border shall have a common demand report for one border between two adjacent zones. ENTSG shall have a coordination role for the structure and publication for a 1 demand reports and offer one spot where network users can find all the demand reports. This Article merges in paragraph 8 of ENTSG's draft.	No	a.) ACER proposal requires TSOs of an entry exit system to conduct a joint demand assessment. ENTSG opinion is that there should be a) The concerned transmission system operators on both sides of a more flexibility. In some cases a demand assessment could e.g. be interconnection point shall in particular co-operate to produce a conducted jointly by TSOs of several entry exit systems. In other common demand assessment report preferably per entry-exit cases it would make sense that TSOs of one entry exit system border. When demand assessment reports are not produced on a conduct separate demand assessments (e.g. if they have competing entry-exit zone border the involved TSOs explain why this is projects). A harmonised template would enable effective appropriate comparison and integration of DARs on TSO/TSO level to a higher b) ENTSG shall provide an harmonised structure or template for aggregation level. the demand assessment reports as well as collect them and publish b) ENTSG cannot ensure that DARs are submitted in time. them jointly on ENTSG website in addition to the TSOs individual It is not ENTSGs role but each single NRAs are tasked of ensuring publications on their websites. compliance with NCs.
	2. Incremental capacity shall be offered as standard yearly capacity products in the annual yearly capacity auction unless otherwise provided in this Regulation and any in combination with available capacity for the respective standard capacity products.	2. Incremental capacity shall be offered as standard yearly capacity products in the annual yearly capacity auction unless otherwise provided in this Regulation and any in combination with available capacity for the respective standard capacity products.	Specific reference is provided.	Yes	
A 1.20a	3. Open season procedures shall be conducted for incremental capacity if at least one of the following conditions is met for at least one of the involved transmission system operators: (a) when the incremental capacity project involves more than two entry-exit systems or is connected to or impacted by exempted infrastructure according to Article 36 of Directive 2009/73/EC or Article 22 of Directive 2003/55/EC; (b) when conditional binding commitments of network users for contracting capacity according to Article 20e(2) are envisaged; (c) when the required offer levels cannot be efficiently derived from the demand assessment report according to Articles 20b(5) to (8); (d) when the time horizon of 15 years for binding commitment of network users for contracting capacity provided in the auction procedures as set out in Article 11 is assumed not to be sufficient for a positive economic test at the reserve price.	3. Open season procedures can be conducted for incremental capacity if at least one of the following conditions is met for at least one of the involved transmission system operators: (a) when the incremental capacity project involves more than two entry-exit systems or an interconnector; (b) when the incremental capacity project is connected to or impacted by exempted infrastructure according to Article 36 of Directive 2009/73/EC or Article 22 of Directive 2003/55/EC; no change (d) when the required offer levels cannot be effectively derived from the demand assessment report according to Articles 20b(5) to (8); no change	ACER proposes that the obligation to conduct an OS if one of the criteria is fulfilled is removed. The OS is rather consider as an option. Interconnector projects may also entail complexities that may require OS. disaggregated condition a)	No Yes Yes	The incremental proposal foresees a mechanistic approach that prescribes an open season when one of the conditions is met on at least one of the sides of the P. ACER changes it into a choice of the TSO ("can" instead of "shall"). Because ACER and ENTSG jointly decided that NRA approval of the demand assessment is not necessary the necessity arose for such a mechanistic approach to "can" should be "shall" one side of an IP this automatically triggers the use of Open Seasons the specific incremental project including the other side of that IP. Therefore this change is not consistent with the INTC process and could lead to disalignments.
A 1.20a	4. Based on the information submitted by the transmission system operators involved in an incremental capacity project the relevant national regulatory authorities shall issue coordinated decisions on the parameters of a single economic test to assess the economic viability of the incremental capacity project according to Article 45 of Regulation (EU) No XXX/201X (TAR NC).	no change			
A 1.20a	5. Transmission system operators and national regulatory authorities shall publish respective points of contact for incremental capacity projects.	Transmission system operators and the relevant national regulatory authorities shall publish respective points of contact for incremental capacity projects at the publication of the demand assessment report and update this information on a regular basis throughout the project.	Clarification needed on when contacts are to be published and that those have to be updated.	Yes	
	6. The national regulatory authorities involved in an incremental capacity project shall co-ordinate their decision-making throughout the process to ensure consistent approaches for all transmission system operators involved in an incremental capacity project.	no change			

	Where national regulatory authorities cannot find agreement on the joint capacity allocation procedure and/or on the required parameters for an incremental capacity project in the agreed timeframes they shall submit a request to the Agency for decision as set out in Article 8(1)(b) of Regulation (EC) 713/2009.	Where national regulatory authorities cannot find agreement on an alternative joint capacity allocation procedure according to Article 20(1)(2) to (4) in the agreed timeframes, but no later than within 3 months after the closure of the Ascending Clock yearly auction, and/or on the required parameters for an incremental capacity project in the agreed timeframes they shall submit a request to the Agency for decision as set out in Article 8(1)(b) of Regulation (EC) 713/2009.	The ACER proposal clarifies reference to alternative CAMs as the alternative a location in OS is only introduced later in the text. In addition ACER specifies the timeframes.	No	as the procedure is already rather complex upfront transparency and predictability should be enhanced where possible therefore the alternative allocation mechanism should be public upfront
A 1. 20b	Article 20b Process of demand assessment for incremental capacity 1. Transmission system operators shall enable network users to indicate their demand for incremental capacity by submitting non-binding demand indications for incremental capacity.	Article 20b Process of demand assessment for incremental capacity 1. Transmission system operators shall enable network users to indicate their request for incremental capacity by submitting non-binding demand indications for incremental capacity.	linguistic review	No	For consistency the term indication should be used instead of request (or otherwise request should be used throughout the entire document). Non-binding demand indication is a term introduced in the ACER Guidance on incremental
A 1. 20b	2. Non-binding demand indications shall contain at least the following information: (a) the two or more adjacent entry-exit systems between which demand for incremental capacity is expressed and the requested direction; (b) the gas year(s) for which a demand for incremental capacity is expressed; (c) the amount of capacity demanded between the respective entry-exit systems; (d) information on non-binding demand indications which were or will be submitted to any other transmission system operator in case such indications are linked to each other such as demand for capacities forming a transport route or are at least partially mutually exclusive.	no change (d) information on non-binding demand indications which were or will be submitted to any other transmission system operator in case such indications are linked to each other such as demand for capacities at several related interconnection points. It is g - p - are at least partially mutually exclusive (e) if applicable, information on the potential for further conditional demand indications	Simplifying the text and remove "transport route" (which has transit connotation) Other conditionality (such as duration volumes ...) if applicable is indicated.	No No	Either/or requests are lost if 'mutually exclusive' is taken out ACER change makes it non-exhaustive while ENTSOG proposal had an exhaustive approach in line with the incremental proposal.
A 1. 20b	3. Transmission system operators shall respond to received non-binding demand indications within 8 weeks after their receipt. The response shall provide at least the following: (a) whether the demand indicated can be considered by the transmission system operator in the context of an incremental capacity project that has already been initiated; or (b) whether the demand indicated is sufficient to consider the initiation of an incremental capacity project to cover this demand; or (c) in which demand assessment report according to paragraph 5 the indicated demand will be taken into account provided that the demand indicated cannot be considered under (a) or (b).	3. Transmission system operators shall respond to received non-binding demand indications within 8 weeks after their receipt. The response shall provide at least the following: no change	linguistic review	Yes	
A 1. 20b	4. In case of a situation described in paragraph 3(b) a transmission system operator may charge fees for activities resulting out of the submission of non-binding demand indications. If a fee is applied it shall be approved by the relevant national regulatory authority. Such fees shall be reimbursed to the respective network user if the economic test for at least one offer level that includes incremental capacity at the respective interconnection point is positive.	4. In case of a situation described in paragraph 3(b) a transmission system operator may charge fees for activities resulting out of from the submission of non-binding demand indications. If a fee is applied it shall be approved by the relevant national regulatory authority and published on the TSO website. Such fees shall be reimbursed to the respective network user if the economic test for at least one offer level that includes incremental capacity at the respective interconnection point is positive.	linguistic review	Yes	
A 1. 20b	5. Transmission system operators shall publish a demand assessment report at least in English within 6 weeks after the start of the annual yearly capacity auction in all even-numbered years in which the prospective demand for incremental capacity of all network users is evaluated.	5. Transmission system operators shall publish a common demand assessment report at least in English within 6 weeks after of the start of the annual yearly capacity auction held in an even-numbered years in . The report shall evaluate the prospective demand for incremental capacity of all network users is evaluated according to paragraph 6.	linguistic review with clear reference & alignment with previous Article 20(a) (1)	Yes	
A 1. 20b	6. The demand assessment report shall take into account the following criteria: (a) whether the Community-wide Ten Year Network Development Plan identifies a physical capacity gap in the sense that a specific region is undersupplied in a reasonable peak scenario and offering incremental capacity at the interconnection point in question could close the gap; or a national network development plan identifies a concrete and sustained physical transport requirement;	6. The demand assessment report shall take into account the following criteria: (a) whether the Community-wide Ten Year Network Development Plan identifies a physical capacity gap in the sense that whereby (i) a specific region is undersupplied in a reasonable peak scenario and offering incremental capacity at the interconnection point in question could close the gap; or (ii) a national network development plan identifies a concrete and sustained physical transport requirement;	linguistic review	No	ACER simplifies the article but overlooks that point (ii) (the national Network Development Plan) is not a sub-group of the TYNDP criteria. Therefore it should be (b). Concept is identical to the ACER Guidance on incremental capacity.

A 1.20b	(b) whether no yearly standard capacity product linking two adjacent entry-exit systems is available in the annual yearly capacity auction for the year in which incremental capacity could be offered for the first time and in the three subsequent years because all the capacity has been contracted;	no change			
	(c) whether network users submitted non-binding demand indications no later than 8 weeks after the start of the annual yearly capacity auction in the year of the publication of the respective demand assessment report requesting incremental capacity for a sustained number of years and a) other economically efficient means for increasing the availability of capacity between the two respective entry-exit systems or along the relevant transport route are exhausted.	(c) whether network users submitted non-binding demand indications no later than 8 weeks after the start of the annual yearly capacity auction held in the year of the publication of the respective demand assessment report whereby these indications request incremental capacity for a sustained number of years and all other economically efficient means for increasing maximizing the availability of existing capacity between the two respective entry-exit systems or along the relevant transport route are exhausted.	Linguistic review and clarification / alignment with Gas Regulation & ACER Guidance paper on incremental capacity	Yes	
	7. The demand assessment report shall include at least the following: (a) the non-binding demand indications received until no later than 8 weeks after the start of the annual yearly capacity auction in the year of the publication of the respective demand assessment report; (b) for the common interconnection points with each adjacent entry-exit system an assessment of the expected amount and duration of demand for incremental capacity; (c) a conclusion on whether for which interconnection points and for which expected demand level technical studies for incremental capacity projects will be conducted;	7. The demand assessment report shall include at least the following: (a) the non-binding aggregated demand indications received until no later than 8 weeks after the start of the annual yearly capacity auction in the year of the publication of the respective demand assessment report; (b) for the common interconnection points with each adjacent entry-exit system or interconnectors an assessment of the expected amount and duration of demand for incremental capacity; no change (d) a conclusion on what fees, if any, will be introduced, according to paragraph 4.	"Aggregated" is added to clarify that commercially sensitive information is protected. Interconnectors are included to cover those cases	Yes Yes	
	(d) a conclusion on whether the conditions as set out in Article 20a(3) are met and an open season procedure should be initiated.	(e) a conclusion on whether the conditions as set out in Article 20a(3) are met and the binding part of an open season procedure could be initiated.	In case fees are introduced those indicated in the demand assessment report as well. Non-binding commitments have been already collected and presented in the demand assessment report. It is redundant to start a complete OS with a non-binding phase which would delay the project.	No No	ACER use the equipment to publish whether fees will be charged to non-binding demand indications. However, the incremental proposal fees only in an option to charge fees to projects conducted outside of the DAR. n.a. The DAR stated whether an Open Season procedure will be applied. ACER change states to start right away with the binding phase. This is not possible as the project has not been designed. The key original text characteristic of an Open Season procedure is that TSO and network users jointly develop the parameters of the project via the non
A 1.20b	8. In entry-exit systems with more than one transmission system operator the demand assessment report shall be developed jointly for capacity demand to and from the same adjacent entry-exit system and published jointly by the involved transmission system operators that are active at least at one interconnection point.	The demand assessment report shall be developed jointly for capacity demand to and from the same adjacent entry-exit system and published jointly by the involved transmission system operators that are active at least at one interconnection point.	Deleted as already reflected in Article 20a(1).	No	The incremental proposal exempts TSOs inside entry-exit systems but without IPs from DAR publication requirement unless they are include this exemption into article 20(a)1 involved.
A 1.20b	9. No later than 12 weeks after the publication of the demand assessment report the relevant transmission system operators or the relevant national regulatory authorities shall organise a joint public consultation to ensure the appropriate degree of cross-border co-ordination on the outcome of demand assessment reports referring to a specific potential incremental capacity project. The consultation shall cover at least the following elements: (a) the conclusions taken in the respective demand assessment reports according to paragraph 7(c) leading to offer levels for bundled capacity products at an interconnection point; (b) the conclusion on whether an open season procedure shall be applied for the potential incremental capacity project according to paragraph 7(d). (c) prospective timelines of the potential incremental capacity project; (d) general rules and conditions for network users to participate in the potential incremental capacity project;	9. No later than 12 weeks after the publication of the demand assessment report the relevant transmission system operators shall shall organise a joint public consultation no longer than 2 months to ensure the appropriate degree of cross-border co-ordination on the outcome of demand assessment reports referring to a specific potential incremental capacity project. The consultation shall cover at least the following elements: (a) the conclusions taken in the respective demand assessment reports according to paragraphs 7(c), (d) and (e) leading to offer levels for bundled capacity products at an interconnection point; (b) the conclusion on whether the binding part of an open season procedure shall be applied for the potential incremental capacity project according to paragraph 7(d). no change (d) general rules and conditions for network users to participate in the potential incremental capacity project, concerning contracts for the incremental capacity project	To organise the consultation should only be a TSO obligation as NRAs have the right to consult anyways. The consultation should not be longer than 2 months to allow for sufficient time in the subsequent design phase	No	Risk of overlapping processes (TSO obligation NRA right). Better to clarify that there will be just one consultation organised either by the TSO or the NRA also to avoid doubling of timing.
A 1.20c	Article 20c Design phase for incremental capacity	Article 20c Design phase for incremental capacity	Specific reference is provided. Alignment with 7(e)	No No	a) ACERs change is a reference to 20(b)7d which lists the point on fees (see comment above) as mandatory items for consultation. This point should not be in the DAR anyway (as explained above). Should not be the binding phase (see comment on 20(b)7e). "shall" is needed instead of "could" (see comment on 20(a)3). Reference original text not clear (to original text or ACER changed text?).
	(e) in case a fixed price approach is followed for the incremental capacity project the elements IND and RP described in Article 42(1)(b) of Regulation (EU) No XXX/201X (TAR NF)	no change f) the potential need for conditional demand indications (g) non-binding demand indications (beyond the demand assessment report), if the demand indicated is sufficient to a low the initiation of an incremental capacity project according to Article 20b(3)(b).	Linguistic review as "participate in the project" may mislead stakeholders. In case conditionality is requested it should be covered by the Public Consultation. moved from Article 20(c)1)	Yes No No	If conditionalities are included it would be more relevant to consult on the way how conditional bids are accommodated since the extent of their existence has already been shown in the DAR. Furthermore f) how conditional bids are handled by the allocation mechanism ACER change states to start right away with the binding phase. This is not possible as the project has not been designed. The key original text characteristic of an Open Season procedure is that TSO and network users jointly develop the parameters of the project via the non-binding phase which would delay the project. n.a. The DAR stated whether an Open Season procedure will be applied. ACER change states to start right away with the binding phase. This is not possible as the project has not been designed. The key original text characteristic of an Open Season procedure is that TSO and network users jointly develop the parameters of the project via the non-binding phase which would delay the project. n.a. The incremental proposal exempts TSOs inside entry-exit systems but without IPs from DAR publication requirement unless they are include this exemption into article 20(a)1 involved.

	<p>1. Transmission system operators active at the respective interconnection point shall conduct technical studies for incremental capacity projects in order to design co-ordinated offer levels for incremental capacity (design phase) based on the demand assessment reports according to Articles 20b(5) to (8) or based on non-binding demand indicators. If the demand indicated is sufficient to allow the initiation of an incremental capacity project according to Article 20b(3)(b).</p> <p>In the process of designing co-ordinated offer levels the transmission system operators shall take into account the results of the consultation foreseen by Article 20b(9).</p>	<p>1. Transmission system operators active at the respective interconnection point shall conduct technical studies for incremental capacity projects in order to design co-ordinated offer levels for incremental capacity (design phase) based on the demand assessment reports according to Articles 20b(5) to (8) or based on non-binding demand indicators. If the demand indicated is sufficient to allow the initiation of an incremental capacity project according to Article 20b(3)(b).</p> <p>In the process of designing co-ordinated offer levels the transmission system operators shall closely cooperate with the involved NRAs and coordinate across borders in order to enable offers of incremental capacity as bundled products. The design of co-ordinated offer levels shall take into account the results of the consultation foreseen by Article 20b(9).</p>	<p>Moved to Article 20(b)(9) because non-binding indications should not be a lowered in the design phase because it is too late in the process. Those indications can still be introduced into the consultation described in art. 20(b).</p> <p>The revision proposed is in line with ACER Guidance (see page 4 paragraph c).</p>	<p>No</p> <p>No</p>	<p>There seems to be a misunderstanding of the intention. The 'stand-alone' projects are meant to initiate technical studies outside of the DAR in order to allow INC projects at any time and not to be bound original text to the 2 year sequence. This was a compromise agreement between ENTSO and stakeholders.</p> <p>seems superfluous as CAM NC bundling requirements would apply anyway</p>
	<p>2. Transmission system operators involved in an incremental capacity project shall publish a design phase notice at least in English taking into account the responses to the consultation according to Article 20b(9) covering at least the elements set out in Articles 20b(9)(a) to (d).</p>	<p>no change</p>			
A 1. 20c	<p>3. Following the finalisation of technical studies for an incremental capacity project the involved transmission system operators shall submit the following as a proposal for co-ordinated approvals to the relevant national regulatory authorities:</p> <p>(a) a offer levels reflecting the range of expected demand for incremental capacity at the relevant interconnection points as identified in the demand assessment reports according to Article 20b(5) and as result of the consultation held according to Article 20b(9) or indicated via non-binding demand indications.</p> <p>(b) prospective timelines of the incremental capacity project according to the results of the consultation held according to Article 20b(9) including possible changes thereto and consistent policies to mitigate effects of delays;</p> <p>(c) the parameters defined in Article 46(1) of Regulation (EU) No XXX/201X (TAR NC);</p> <p>(d) in case of open season procedures whether an extended time horizon for incremental capacity offer of up to 20 years is applied for the incremental capacity according to Article 20e(1);</p> <p>(e) in case of open season procedures whether and which conditions between binding commitments of network users for contracting capacity are allowed according to Article 20e(2);</p>	<p>no change</p>	<p>alignment with 20(c)(1) & 20(b)(9)</p>	<p>No</p> <p>Yes</p> <p>Yes</p>	<p>The deleted part of the sentence covered 'stand-alone' projects and should therefore remain and clarified by a reference to the relevant keep the original text and add: "as described in article 20(b) b". article</p> <p>This is to protect consumers of undue costs.</p> <p>linguistic review</p>
A 1. 20c	<p>(f) in case of open season procedures which alternative allocation rule shall be allowed for the allocation of the incremental capacity according to Articles 20f(2) to (4);</p> <p>(g) in case a fixed price approach is followed for the incremental capacity project the elements described in Article 42(1)(b) of Regulation (EU) No XXX/201X (TAR NC).</p>	<p>no change</p>	<p>Proposal to delete the point. Alternative CAM should not be decided already before the default allocation mechanism (ascending clock auction) was at least tested once to avoid behaviors that would circumvent the success of the default allocation. The process to define the alternative CAM in OS is provided in Article 20(a)(6) and 20f(3) & (4) ACER invites stakeholders to evaluate this point.</p>	<p>No</p>	<p>The alternative allocation rule should be agreed and published before the allocation starts</p>
A 1. 20d	<p>4. The relevant national regulatory authorities shall publish co-ordinated decisions on the parameters defined in paragraph 3 including justifications for the decision at least in English and within six months from the date on which the proposal defined in paragraph 3 was received by the last of those regulatory authorities.</p>	<p>no change</p>	<p>ACER specified the maximum time frame for the NRA decision to be taken. 6 months are considered by ACER & NRAs to be sufficient.</p>	<p>No</p>	<p>This seems to be rather long. It would effectively mean that an incremental project would last at least 2 years</p>
A 1. 20c	<p>5. Upon the publication of the decisions of the relevant national regulatory authorities according to paragraph 4 and no later than two month before the offer of incremental capacity in the annual yearly capacity auction the transmission system operators shall publish jointly an allocation notice at least in English including the following minimum information:</p> <p>(a) the parameters defined in paragraph 3 as approved by the national regulatory authorities;</p> <p>(b) drafts of the legally binding agreements related to the capacity offered.</p>	<p>no change</p>	<p>"Information" is more suitable here</p>	<p>Yes</p>	
A 1. 20d	<p>Article 20d Auctioning of incremental capacity</p> <p>1. In case of the allocation of incremental capacity the involved transmission system operators shall offer the incremental capacity together with the respective available capacity in the annual yearly capacity auction as bundled products to the extent possible in accordance with Article 19 and subject to the short-term reservation in accordance with Article 8(8) and 8(9).</p>	<p>Article 20d Auctioning of incremental capacity</p> <p>1. The involved transmission system operators shall offer the incremental capacity together with the respective available capacity in the annual yearly capacity auction as bundled products to the extent possible in accordance with Article 19 and subject to the short-term reservation in accordance with Article 8(8) and 8(9).</p>	<p>Redundant text is deleted.</p>	<p>Yes</p>	

A 1. 20f	2. The offer of yearly standard capacity products for the respective offer levels shall be conducted in parallel and independently to each other in accordance with Article 17	no change			
A 1. 20d	3. In case the auction for the offer level representing the highest level of incremental capacity resulting in a positive economic test outcome closes with an auction premium for at least one yearly standard capacity product for which incremental capacity is on offer a new auction shall start offering all yearly standard capacity products for at least the next higher offer level if any in order to give network users the possibility to obtain capacity at a higher offer level.	<p>3. In case the auction for the offer level representing the highest level closes with an auction premium for at least one yearly standard capacity product for which incremental capacity is on offer a new auction shall start offering all yearly standard capacity products for at least the next higher offer level if any in order to give network users the possibility to obtain capacity at a higher offer level.</p> <p>3. In order to minimise potential auction premia and to achieve a positive economic test outcome for the highest possible offer level, one-time bid revision may be allowed only if:</p> <p>(a) there were at least two offer levels set by the transmission system operators before the start of the initial yearly auctions;</p> <p>(b) at least one offer level was unsuccessful, i.e. did not result in a positive economic test; and</p> <p>(c) the next smaller offer level of the lowest unsuccessful offer level resulted in a positive economic test, and cleared with an auction premium for at least one yearly standard capacity product.</p> <p>The bid revision is done via a new auction that will be run on the lowest unsuccessful offer level, offering all yearly standard capacity products for bidding once more.</p>	Textual clarifications to reflect the following (common) understanding (no major change on the content): Since for all possible offer levels designed by the TSOs the respective auctions will run in parallel (according to paragraph 2) bidders cannot predict for which offer level the auction will close with premium. Therefore a new auction (for a bid revision) may (OPTIONAL) be run on the (previously) unsuccessful offer level one more time.	No	ACER changed the continuous approach (which was supported by the stakeholders in our consultation) to an one-time approach and original text the specification on which offer level should be revised is missing.
A 1. 20d	4. If the new auction according to paragraph 3 does not result in a positive economic test outcome the allocation results of the preceding auction representing the highest level of incremental capacity resulting in a positive economic test outcome will prevail according to Articles 17(20) and 17(21).				
A 1. 20e	<p><u>Article 20e</u> Principles of open season procedures</p> <p>1. In case open season procedures are applied binding commitments of network users for contracting capacity can be obtained for 15 years after the commissioning of the incremental capacity. Subject to co-ordinated approvals of the relevant national regulatory authorities binding commitments of network users for contracting capacity for an additional period of up to 5 years may be obtained. Where open season procedures are selected as a result of Article 20a(3)(a) the national regulatory authorities shall align the length of the additional period for which binding commitments can be obtained with the period for which the exemption applies.</p>	<p><u>Article 20e</u> Principles of open season procedures</p> <p>1. In case open season procedures are applied binding commitments of network users for contracting capacity can be obtained for up to 15 years after the commissioning of the incremental capacity. Subject to co-ordinated approvals of the relevant national regulatory authorities binding commitments of network users for contracting capacity for an additional period of up to 5 years may be obtained.</p> <p>20a(3)(a) the national regulatory authorities shall align the length of the additional period for which binding commitments can be obtained with the period for which the exemption applies.</p>	<p>"Up to" is in alignment with NC CAM and the ACER Guidance Paper on Incremental Capacity.</p> <p>The last sentence is unclear and may create misalignment with the time periods allowed the ACER Guidance Paper.</p>	No	ACER strikes out alignment of booking horizon to exempted add: "but no longer than 20 years." Infrastructure involved because it may lead to unclarity and contradiction to the general limitation to the booking horizon. ENTSOE suggest that it is beneficial to keep the alignment to exempted infrastructure but to repeat here that it is maximised by the lowest time period of 20 years.
A 1. 20e	2. Binding conditional commitments for contracting capacity meaning that the allocation of a given yearly standard capacity product is subject to the fulfillment of a specified condition may be submitted by network users in open season procedures. Whether and which conditions between binding commitments of network users for contracting capacity are allowed in an open season procedure is subject to co-ordinated decisions of the relevant national regulatory authorities.	2. Binding conditional commitments for contracting capacity meaning whereby the allocation of a given yearly standard capacity product is subject to the fulfillment of a specified condition may be submitted by network users in open season procedures. Whether and which conditions between binding commitments of network users for contracting capacity are allowed in an open season procedure is subject to co-ordinated decisions of the relevant national regulatory authorities.	Simplifying the text	Neutral	
A 1. 20e	The conditions between binding commitments of network users for contracting capacity may include commitments across a number of different yearly standard capacity products at an interconnection point commitments linking or excluding commitments at other interconnection points or commitments conditional to the allocation of a specific or minimum amount of capacity.	The conditions between binding commitments of network users for contracting capacity may include but are not limited to :	It's important to identify the three main examples of conditions – duration multiple IPs and volume – but there could be other conditions valid for an OSP and subject to NRA approval.	Neutral	
A 1. 20e	3. The national regulatory authorities involved in the open season procedure shall co-operate to ensure that the open season procedure is transparent and non-discriminatory.	3. Open season procedures shall be transparent and non-discriminatory. The transmission system operators and national regulatory authorities involved in the open season procedure shall co-operate to ensure this.	Revised text including TSO responsibility	Yes	
A 1. 20e	4. Open season procedures shall aim at satisfying all expressed capacity demand provided that the economic test outcome is positive at this offer level taking also into consideration capacity amounts set aside for short-term reservation in accordance with Article 8(8) and 8(9).	no change			
A 1. 20f	<p><u>Article 20f</u> Allocation of incremental capacity in open season procedures</p>	<p><u>Art 20f</u> Allocation of incremental capacity in open season procedures</p>			

	1. In the binding phase of the open season procedure network users express their demand for incremental capacity by submitting binding commitments for contracting capacity in the annual yearly capacity auction according to Article 20d. Network users may submit conditions between binding commitments for contracting capacity in accordance with Article 20e(2).	no change	ENTSOG took note of the diverging views on this point. ACER invites stakeholders to evaluate this point once again and clearly reason their view.	
A 1. 20f	2. In cases where the offer of incremental capacity in an open season procedure leads to a negative economic test outcome while not all capacity demand expressed by network users according to paragraph 1 is met an alternative allocation rule to the one used in the auction procedure for yearly capacity products may be used.	2. In cases where the auctioning offer of incremental capacity in an open season procedure leads to a negative economic test outcome while not all capacity demand expressed by network users according to paragraph 1 is met an alternative allocation rule to the one used in the auction procedure for yearly capacity products may be used.	Offer has a too broad meaning. Economic test outcomes can only be known after a regular auction was run. Only if that one has failed an alternative allocation method can be used. The alternative allocation shall not be made known by network users in advance (i.e. before the incremental auction) in order to avoid gaming to arrive to an alternative allocation method.	Yes
	3. The principles of the alternative allocation rule according to paragraph 2 shall be submitted by the involved transmission system operators to the relevant national regulatory authorities for co-ordinated approvals before the offer of incremental capacity in accordance with Articles 20c(3)(f) and 20c(4). The principles of the alternative allocation mechanism shall furthermore be published according to Article 20c(5).	3. The proposed principles of the alternative allocation rule according to paragraph 2 shall be submitted by the involved transmission system operators to the relevant national regulatory authorities for co-ordinated approvals before the offer of incremental capacity in accordance with Articles 20c(3)(f) and 20c(4). The principles of the alternative allocation mechanism shall furthermore be published according to Article 20c(5) only after the default location according to Article 20(d) has failed as described in Article 20(f) (2) and at least 1 month before the alternative allocation mechanism is applied.	Cf. comment above. Alternative principles may be proposed by the TSOs to the NRAs for approval. Only if the auction has failed the new (agreed) GAM can be revealed to the network users. To allow sufficient time to adapt to the new allocation mechanism one month notice is suggested.	No
A 1. 20f	4. The alternative allocation mechanism according to paragraph 2 shall consider the higher contribution of long term capacity binding commitments for the economic viability of the incremental capacity project.	4. The alternative allocation mechanism according to paragraph 2 shall consider the higher contribution of long term capacity binding commitments for the economic viability of the incremental capacity project. shall consider the higher contribution of long term capacity binding commitments for the economic viability of the incremental capacity project which is to be decided by concerned national regulatory authorities, shall be non-discriminatory and independent of bid sizes and shall consider at least the following options: pro-rating; priority granted to the commitments with the higher unit present value or longer booking duration. If booking duration is prioritised, national regulatory authorities may consider higher levels of capacity to be set aside according to Article 8 (8) – (9).	ENTSOG's proposal is not in line with ACER Guidance on incremental and subsequent interventions of ACER in the ENTSOG workshops / consultations in 2014. Long-term binding commitments should not a priori be prioritised.	No

as the procedure is already rather complex upfront transparency and predictability should be enhanced where possible therefore the alternative allocation mechanism should be public upfront

ENTSOG doesn't consider it very productive to simply restate the old ACER position again for which there was no support at a 1 by any market party. At this stage it is needed to explore common ground original text represents an imperfect compromise which ENTSOG was willing to defend as a compromise in which all parties can find at least elements that they can support.