

# Public consultation on the ENTSO-E proposals for technical specifications for cross-border participation in capacity mechanisms

Fields marked with \* are mandatory.

## Public Consultation

### ENTSO-E proposals for technical specifications for cross-border participation in capacity mechanisms

This consultation is addressed to all interested stakeholders.

Stakeholders are invited to fill out this online survey by **9 August 2020, 23:59 hrs (CEST)**.

For questions, please contact ACER at: [ACER-ELE-2020-014@acer.europa.eu](mailto:ACER-ELE-2020-014@acer.europa.eu)

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## Consultation objective and background

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This consultation aims to gather stakeholder views on the proposed technical specifications for cross-border participation in capacity mechanisms.

On 3 July 2020, the European Network of Transmission System Operators for Electricity (ENTSO-E) submitted to ACER their proposals for technical specifications for cross-border participation in capacity mechanisms pursuant to Article 26(11) of Regulation (EU) 2019/943, and consisting of:

- a methodology for calculating the maximum entry capacity for cross-border participation;
- a methodology for sharing the revenues;
- common rules for the carrying out of availability checks;
- common rules for determining when a non-availability payment is due;
- terms of operation of the ENTSO-E registry; and
- common rules for identifying capacity eligible to participate in the capacity mechanism.

According to Article 26(11), ACER shall approve these proposals based on the procedure set out in Article 27 of Regulation (EU) 2019/943, amending them where required. In order to inform its assessment and if required, identify areas for amendment, ACER invites all interested third parties to submit their views on the proposals by responding to this online survey during a consultation period of 4 weeks.

Following this consultation, ACER will consider stakeholder feedback and expects to take a decision on the proposals, including potential amendments, within the next three months as required by Article 27 of Regulation (EU) 2019/943, i.e. by 5 October 2020.

### Related documents

- ENTSO-E, Cross-border participation in capacity mechanisms: Proposed methodologies, common rules and terms of operation in accordance with Article 26 of the Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast), version of 3 July 2020

([https://www.acer.europa.eu/Official\\_documents/Public\\_consultations/PC\\_2020\\_E\\_12/200703%20Single%20document%20for%20XB%20CM%20methodologies.pdf](https://www.acer.europa.eu/Official_documents/Public_consultations/PC_2020_E_12/200703%20Single%20document%20for%20XB%20CM%20methodologies.pdf))

- ENTSO-E proposed methodologies, common rules and terms of reference related to cross-border participation in capacity mechanisms: Explanatory document, version of 3 July 2020 ([https://www.acer.europa.eu/Official\\_documents/Public\\_consultations/PC\\_2020\\_E\\_12/200703%20Explanatory%20document%20for%20XB%20CM%20methodologies.pdf](https://www.acer.europa.eu/Official_documents/Public_consultations/PC_2020_E_12/200703%20Explanatory%20document%20for%20XB%20CM%20methodologies.pdf))
- ENTSO-E, Public consultation on draft methodologies and common rules for cross-border participation in capacity mechanisms: Response to public consultation comments received during the consultation held from 31 January to 13 March 2020, version of 3 July 2020 ([https://www.acer.europa.eu/Official\\_documents/Public\\_consultations/PC\\_2020\\_E\\_12/200703%20Response%20to%20public%20consultation%20on%20XB%20CM%20methodologies.pdf](https://www.acer.europa.eu/Official_documents/Public_consultations/PC_2020_E_12/200703%20Response%20to%20public%20consultation%20on%20XB%20CM%20methodologies.pdf))
- Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators (recast) (<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32019R0942>)
- Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast) (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019R0943>)
- ACER Guidance Note on Consultations ([https://www.acer.europa.eu/Official\\_documents/Other%20documents/Guidance%20Note%20on%20Consultations%20by%20ACER.pdf](https://www.acer.europa.eu/Official_documents/Other%20documents/Guidance%20Note%20on%20Consultations%20by%20ACER.pdf))
- ACER Rules of Procedure (AB Decision No 19/2019) ([https://www.acer.europa.eu/en/The\\_agency/Organisation/Administrative\\_Board/Administrative%20Board%20Decision/Decision%20No%2019%20-%202019%20-%20Rules%20of%20Procedure%20of%20the%20Agency.pdf](https://www.acer.europa.eu/en/The_agency/Organisation/Administrative_Board/Administrative%20Board%20Decision/Decision%20No%2019%20-%202019%20-%20Rules%20of%20Procedure%20of%20the%20Agency.pdf))

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## Privacy and confidentiality

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ACER will publish all non-confidential responses, including the names of the respondents, unless they should be considered as confidential, and it will process personal data of the respondents in accordance with Regulation (EU) 2018/1725 (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R1725>) of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, taking into account that this processing is necessary for performing ACER's consultation task. For more details on how the contributions and the personal data of the respondents will be dealt with, please see ACER's Guidance Note on Consultations ([https://www.acer.europa.eu/Official\\_documents/Other%20documents/Guidance%20Note%20on%20Consultations%20by%20ACER.pdf](https://www.acer.europa.eu/Official_documents/Other%20documents/Guidance%20Note%20on%20Consultations%20by%20ACER.pdf)) and the specific privacy statement attached to this consultation.

Article 7(4) of ACER's Rules of Procedure (RoP) (<https://s-intranet/Drive/Departments/Electricity/ED%20Deliverables/Decision%20No%2019%20-%202019%20-%20Rules%20of%20Procedure%20of%20the%20Agency.pdf#search=rules%20of%20procedures>) requires that a party participating in an ACER public consultation explicitly indicates whether its submission contains confidential information.

**\*Is your submission to this consultation confidential?**

- YES  
 NO

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## Consultation questions

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ACER seeks the opinion of stakeholders with respect to the following elements of the ENTSO-E proposal.

### **Methodology for calculating the maximum entry capacity**

1. Do you agree with the proposed methodology for calculating the maximum entry capacity for cross-border participation? If not, please explain which elements of the methodology should be changed or otherwise improved.

ENGIE welcomes the clarifications and numerical examples based on the last ERAA exercise, as provided in the explanatory document. However, we insist that the distributions underlying the central values used as maximum entry capacities are made available to help Member States and CM operators to take informed decisions.

#### Quantification of the foreign capacity contribution

As illustrated by ENTSO-E in the explanatory document, estimates of the maximum entry capacity could be obtained as a sub-product of adequacy assessments, which are required to determine the demand curve of capacity markets. These assessments should take into account the expected availability of interconnections and reflect the likely concurrence of system stress between adjacent countries.

In practice, ENGIE believes that more information should be provided regarding these estimates. Concretely, Figure 1 illustrates the risk of setting the maximum entry capacity as the average of imports during scarcity hours, without considering the distribution of the import:

- First, adequacy being related to extreme and rare events, the determination of the maximum entry capacity is related to the risk aversion of the local authorities with respect to extreme events (scarcity). At the end, consumers that are financing (directly or indirectly) a capacity market should get the right level of adequacy (in other words, "their money back") and the authorities might want to take more informed decisions on the foreign capacity contributions they could rely upon. Depending on the distribution of the imports during stress events, the use of the average value might be deemed too risky by the local authorities.

- Second and directly related, the average value of imports could reflect a wide variety of scenarios (cfr probabilistic nature of the adequacy assessments), ranging from a situation of net importer to a situation of net exporter. The situation on each border could even be more extreme and not necessarily correlated with the global country position. A blind use of average values for each border is therefore extremely risky.

- Finally, ENGIE would advocate that the methodology has to provide relevant information on the distribution of flows during stress events on each border (average, minimum, maximum, percentiles p50/p5/p95/..., etc.), the correlations of the cross-border flows between them and with the overall country position, etc.

Remark: The exchange balance mentioned on Figure 1 below should in practice be split further by border, which is not an issue.

ENGIE believes that only a complete set of indicators (= beyond average values) could yield a proper and consistent determination of maximum entry capacity on all borders by the Competent Authority (as designated in the local capacity market rules).

As exemplified in the explanatory note, the likelihoods of single scarcity (which gives an indication of the probability of saturated transmission capacities and therefore of the scarcity of these assets), the likelihoods of concurrent system stresses (during which transmission capacities do not have a contribution) and the likelihoods of no scarcity are all important metrics that should be provided next to the maximum entry capacities. Concretely, these elements correspond to describing the cumulative distribution functions of the energy flows on interconnections.

[Figure 1: Exchange balance during scarcity - see companion document]

Link to the ERAA methodology, RCCs recommendation and national studies

ENGIE does not understand the following statement in Art. 10(8) of the revised proposal of ENTSO-E: "This calibration shall happen by adding or removing capacities in the considered bidding zone until its target reliability standard

is met". This sounds like ENTSO-E or TSOs would be taking decisions on the presence of firm capacity contributing to security of supply, which are in reality in the scope of activities of market players for existing assets (e.g. mothballing, decommissioning, lifetime extension or reconversion) as well as for new investments (e.g. capacity additions).

ENGIE would therefore like ACER to get clarifications on this aspect: decisions around asset management are clearly and certainly not in the scope of system operators. If needed, resources adequacy assessments should reflect the lack (or excess) of firm capacity in a proper way and provide appropriate sensitivities on the supply and demand sides if needed (including sensitivities based on economic viability or on regulatory framework). If assumptions are taken on the development of firm capacity, their impact should be properly assessed and documented.

## 2. Should the methodology allow for calculating capacity contributions from Member States with no direct network connection with the Member State applying the capacity mechanism?

Cross-border participation of capacity from Member States with no direct network connection would reinforce the requirement to assess a priori the capacity eligible to foreign participation in a sound framework (see Question 7). The foreign capacity in these Member States should be first identified as being able to contribute effectively to security of supply in the Member State applying the capacity mechanism (i.e. being eligible at a certain capacity level) before being contracted.

ENGIE therefore reproduces below (see Question 7) its answer to the ENTSO-E consultation, which was incorrectly waived by ENTSO-E as "out of scope". This question around eligibility of foreign capacity touches a fundamental aspect for ensuring a proper cross-border participation.

In practice, ENGIE believes that the priority should be set on enabling cross-border participation from Member States with direct network connection. The inclusion of Member States with no direct network connection could then follow at a later stage and provided that robust eligibility criteria are set up for these foreign participations. Of course, this integration aspect would be eased in case regional capacity mechanisms would emerge to help cope with the energy transition to a low-carbon economy.

## Methodology for sharing the revenues from the allocation of entry capacity

### 3. Do you agree with the proposed methodology for sharing the revenues from allocating entry capacity? If not, please explain which elements of the methodology should be changed or otherwise improved.

ENGIE has strong reservations and would advise ACER to consider the elements below.

The proposal for remuneration of scarce resource does not describe clearly what is meant by "when transmission capacity is deemed the scarce resource" (or similar texts); it leaves room for interpretation. The expected level of concurring system stress events between MS (see Art.12(5)) is not a correct nor sufficient indicator for scarcity of Transmission Capacities (=TCs).

From an economic perspective, only the scarce resources should be remunerated. The TC is the scarce resource only if the flow by cross-border (XB) capacity is equal to the maximum TC (see Art.6(3a)); the TC is thus not the scarce resource if some TC is still available but there is no capacity available abroad to deliver the energy (which is the case during concurring system stress). Once determined, the Maximum Entry Capacity (=MEC) reflects this expected level of foreign capacity available to contribute to security of supply via the concerned border; the assessment of resource scarcity should only be performed again if the MEC determination resulted in a level equal to the commercially available capacity (cfr Regulation (EU)2019/943 Art.16 for the general principles on capacity allocation). As shown in ENTSO-E examples, the right indicator for scarcity of TC should be based on the probability of single scarcity (= when TC is expected to be fully saturated by capacity available in the neighbouring countries); this indicator could help assess the share of revenues from the allocation of entry capacity that could be allocated to owners of TCs.

In case of implicit allocation, the proposed estimation of the total revenue considered for sharing is based on the positive difference of marginal prices (Art.13(1a)). The underlying assumption is a uniform pricing for capacity auction, which is not the case for decentralized capacity markets and not present in all capacity mechanisms (approved or discussed, e.g. strategic reserves). Although ENGIE pleads for a uniform pricing in centralized capacity markets, the proposal does not cope with the variety of clearing principles - it is not fit for purposes. If a pay-as-bid principle is applied, all capacities could earn different capacity revenues, foreign capacities could earn more or less than capacities located in the 'home' country, 'congestion revenues' would be impossible to assess and the proposal creates a money flow towards ICs with money not existing in the underlying framework!

In case of explicit allocation, the fundamentals underlying the initial MEC computations should be kept in mind. As this MEC represents the expected contribution of foreign capacity in times of system stress, the explicit allocation should reflect this analysis and not be based on a biased supply-demand balance: a 'scarcity rent' for TCs cannot be created if the scarce resource is actually the foreign capacity! ENGIE therefore pleads for a sound framework for eligibility of foreign capacity participation (see Q7).

The proposed sharing methodology is overly complex and does not reflect the fundamentals of the energy markets. This sharing methodology should not be related to the expected level or the probability of concurring system stresses (Art. 12.5, see above) nor to the past investments on the considered border (Art. 12.7). There is no reason why all the revenues should not be shared according to the same rules as the congestion rent obtained on the short-term energy markets.

The same approach should hold in case of the two adjacent markets having a capacity mechanism in place or only one of them. The only motivation for a differentiated approach is linked to the perception that local funding could benefit foreign people - this "selfish" approach contradicts the European project.

ENGIE would support a more integrated and consistent European approach to the

sharing issue. All revenues arising from congestion rents (on the energy or capacity markets) should be used for the same purpose of reinforcing somehow the XB IC capacities for the benefits of all EU consumers.

ENGIE strongly disagrees with ENTSO-E response on this issue (page 38). Firstly, if there is a scarcity revenue allocated to the TC, it can only be related to the limitations induced by this TC in allowing the foreign capacity to actually contribute to security of supply. As it relates to the same fundamentals (expected congestions), it is fully comparable to congestions on energy markets. Secondly, Regulation (EU)2019/943 states in Art.26(9) that the revenues allocated to TCs are always to be used as determined in Art. 19(2): this supports the existence of the same underlying fundamentals and does not prevent the sharing to be performed as for congestion incomes.

Finally, the revenues not allocated to the owners of TCs should be allocated to the capacity mechanism operator and not to the "TSO of the Member State organizing the Capacity Mechanism".

### **Common rules for the carrying out of availability checks**

4. Do you agree with the proposed common rules for the carrying out of availability checks? If not, please explain which elements of the proposed rules should be changed or otherwise improved.

ENGIE has strong reservations on several elements proposed by ENTSO-E in the methodology.

As reminded in the proposed methodology (page 5), the Electricity Market Design Regulation explicitly mentions in Art.26(11c) that the methodology should include "common rules for the carrying out of availability checks". Therefore ENGIE strongly disagree with the response provided by ENTSO-E in the companion document (page 58): the promotion of harmonized rules to carry out availability checks across European CRMs is clearly in the scope of this methodology. In addition, ENGIE emphasizes that Art.22(5) of this Regulation specifies that "Member States that apply capacity mechanisms on 4 July 2019 shall adapt their mechanisms to comply with Chapter 4 [Resource Adequacy] without prejudice to commitments or contracts concluded by 31 December 2019.". Such adaptation of approved capacity mechanisms could also include a review of the availability checks. ENGIE would therefore support ACER in promoting a more integrated and consistent European approach to the issue of availability checks. As explained below, this is crucial for enabling cross-border participation in capacity mechanisms in a sound way.

ENGIE would also like to stress that (i) the proposals seem to be very generator focussed but we presume that the methodology has to cater for DSR as well (as CRMs have to cater for DSR) and (ii) where a capacity provider consists of an aggregation of geographically separate providers, it would need to be ensured that authorities can verify that constituent parts are not allocated repeatedly in into separate capacity mechanisms.

Definition of non-availability volume in case of multiple commitments  
As pointed out by ENTSO-E (Art.23(2) ), "availability checks to the same CMU can be applied differently and result in a different amount of capacity considered available for each capacity mechanism in which the CMU is contracted".

Given that the observation above, ENGIE would like to stress that the availability commitments of a CMU across capacity markets might also be based on different approaches and thus not directly comparable across capacity mechanisms. Therefore the "sum of availability commitment", the "sum of all availability commitments of the CMU in that hour", or any similar sums in Section 4 might therefore be ill-defined (as "a sum of apples and pears"). Consequently the ratio between the "availability commitment for the capacity mechanism considered" and the "sum of all availability commitments of the CMU in that hour" might be questionable as well. Etc.

This is exactly the reasons why common rules to carry out availability checks should be set up and promoted across capacity mechanisms. Otherwise the same installed capacity could lead to (even substantially) different levels of capacity considered available while - in practice - this installed capacity is obviously yielding only a single level of capacity available for delivering energy on the markets. In turn, an inconsistent approach for availability checks would void the validity of the approach currently proposed by ENTSO-E in Art. 23.

ENGIE believes that the case of multiple commitments of available capacity should be handled "ex-ante" in the capacity market design rules, via the introduction of an appropriate derating for foreign capacities. This case should not be handled "ex-post" as this would endanger security of supply and the fundamental motivation of capacity mechanisms. In addition, the situation where a capacity holder is located in an energy-only zone and is committing availability to foreign capacity markets is not handled properly: in this situation, the energy delivered by this available capacity might nevertheless be fully absorbed by the "energy-only zone" (i.e. no actual contribution to the foreign capacity markets) while the proposed formula could nevertheless yield to

an absence of non-availability volume for the foreign capacity markets (i.e. no penalty). This creates a clear distortion between capacity contract holders (depending on whether they are located in an energy-only market zone). In other words, the proposal of ENTSO-E is not fully adapted to the European situation with a patchwork of market designs (energy-only markets in some zones, complemented by capacity mechanisms in other zones).

These issues further motivate the proposal of ENGIE to introduce explicitly a foreign capacity derating and to use it further for verifying the capacity commitments.

## Common rules for determining when a non-availability payment is due

5. Do you agree with the proposed common rules for determining when a non-availability payment is due? If not, please explain which elements of the proposed rules should be changed or otherwise improved.

Non-availability payments

Regarding the application of non-availability payments (Art. 23), ENGIE believes that

- planned unavailabilities should not be penalized if agreed upon with the system operators;
- one needs to think about how penalties are apportioned across borders when penalty rates are different;
- stop-loss limits have to be applied to non-availability payments on a monthly/yearly basis so as to keep the incentive for capacity provider to fulfill their availability commitments over the full obligation period;
- the proposed escalation of penalties in case of non-availability could lead to arbitrary situations that could hamper participation in the capacity mechanisms;
- contract termination fees are not in the scope of this methodology;

A clear procedure should be put in place in case of disagreements regarding non-availability checks and payments, but the need for an escalation procedure has not been identified and a fortiori addressed in the corresponding methodologies (what is the respective roles of involved TSOs and NRAs). In case of disagreements between TSOs and/or NRAs, one should clarify the escalation procedure (see e.g. some of the EBGL methodologies).

## Terms of the operation of the ENTSO-E registry

6. Do you agree with the proposed terms of the operation of the ENTSO-E registry? If not, please explain which elements of the proposed terms should be changed or otherwise improved.

ENGIE acknowledges that the new proposal is now more balanced and tries to accommodate several comments made in the previous consultation made by ENTSO-E. Like any operational process, the practical implementation of the principles will be key to get a cost-efficient and result-oriented operation of the registry.

Interactions between registry and other databases (REMIT, national capacity registries, ...) will be key to avoid the need for multiple submissions of the same data to different databases as this would lead to increased workload, a risk of inconsistent data and - ultimately - additional costs to be borne by the consumers.

## Common rules for identifying capacity eligible to participate in the capacity mechanism

7. Do you agree with the proposed common rules for identifying capacity eligible to participate in the capacity mechanism? If not, please explain which elements of the proposed rules should be changed or otherwise improved.

ENGIE believes that additional elements must be added in the methodology. Although ENTSO-E acknowledges that capacity market operator should take appropriate measures with respect to capacity located in foreign MS (see responses of ENTSO-E to ENGIE, pages 67/70/71), the proposal does not bring any relevant element regarding the eligible share of foreign capacity. ENGIE would advise ACER to consider the elements below. Contrary to the response of ENTSO-E (see page 54) our proposal does not preclude participation of foreign capacity nor multiple. It provides an ex-ante approach to the issue of multiple commitments identified by ENTSO-E and is based on the ERAA outcome. The basic principle would stay the same: all capacity holders should be able to participate, but only up to their expected ability to effectively contribute to solving the adequacy issue in the "home country". This latter aspect is crucial for both local and foreign capacity contributions to a capacity mechanism.

Eligible foreign capacity should be expected to effectively contribute to security of supply

We believe that a proper in-depth analysis of adequacy assessments (+ dedicated sensitivity analysis) is needed to define the eligible foreign capacity, i.e. the foreign capacity that can provide the same technical performance than the local capacity.

As requested by Regulation (EU)2019/943 Art 26(11), ENTSO-E will have to set-up the common rules to identify this eligible foreign capacity. This definition of eligible foreign capacity is often overlooked in the discussions on cross-border participation.

The aim is to define which (part or share of the) foreign capacity is expected to contribute to the export margin of the neighbouring countries and to deliver effectively an incremental security of supply during system stress. This eligibility criteria does not create any undue discrimination between foreign capacities: it is similar to the treatment of local intermittent RES generation (derated based on their effective/expected contribution to adequacy in the country). The foreign capacity should be contracted in the local capacity market only if it could contribute to the export margin in critical situations. Otherwise, this foreign capacity would actually be remunerated for a service that it cannot offer in practice.

This eligibility criteria is required to avoid an artificial mismatch between the maximum entry capacity (MEC) on a border and the foreign capacity that would like to participate to the home capacity market (see also Q3). The MEC reflects both the technical availability of interconnections (IC) and the available capacity margin in neighboring countries in order to respond to a country's needs. The MEC will generally be lower than the commercial capacity because the scarce resource during stress events is often the foreign capacity. If most of foreign capacity was eligible, it would imply a.o. that : (i) the MEC should (always) have been set equal to the commercial capacity and (ii) the scarce resource would (always) be the IC. This would probably contradict the outcome of ERAA/NRAA during system stress.

[Given the limitation to 5000 character for this answer, the simplified reasoning with two countries - similar to the one provided to ENTSO-E - is provided at the end of Q9.]

Concretely, one could compute a derating factor per technology class for foreign capacity (similar approach than for local capacity) that considers the expected contribution to the export margin. From a modelling perspective, it amounts to determine which assets' class (and to which level) actually increase their contribution to the security of supply in case of increase of the peak demand in the contracting country. Even if this approach would probably imply that peak technologies have a higher chance to be selected than baseload ones, it remains technology-neutral.

Of course, foreign capacity contracted in the CRM will be subject to respecting

their availability obligations, which will require concrete rules for the control. However, ENGIE is convinced that availability control can be done in the framework of existing availability publications made by market parties and already collected by neighboring TSOs. Similarly, in case of a delivery model, data on injection level to the grid are most probably accessible by TSOs. ENGIE strives for a correct but pragmatic approach for those controls with the cooperation of the concerned TSOs. For instance, market participants could be obliged to offer their capacity on the local energy markets, which allows an easier availability check of the concerned capacities. Of course, in some cases (like DSR), the capacity provider may not be able to participate in local markets because they are not set up for them and one should then rely on more elaborated checks.

## General provisions and other comments

8. Do you agree with the general provisions of the ENTSO-E proposals (Title 1)? If not, please specify which provisions should be changed or otherwise improved, and explain why.

### Implementation Period

The proposed Art.4 does not provide enough visibility on the expected timeline for enabling cross-border participation with a consistent approach. On the contrary, it gives the impression to redefine the timelines of entry into force mentioned in the Electricity Market Design Regulation.

Regarding the first condition, the Electricity Market Design Regulation specifies in Art.26(15) that the Registry must be set up and operated by 5 July 2021. This is a clear deadline for implementing a specific aspect of the proposed methodology.

Regarding the second condition, recently approved capacity mechanisms are either exempted from cross-border participation (e.g. strategic reserves in Belgium) or are subject to commitments/obligations by Member States towards the European Commission (in the context of the state aid approval process). So the capacity mechanism operators should already be subject to strong commitments and clear deadlines for implementation. In addition, the tasks of transmission system operators where the foreign capacity is located are clearly described in Art.26(10) of the Electricity Market Design Regulation and should be performed accordingly. The argument related to the need for bilateral agreements cannot be used to always plead for additional delays in implementing cross-border participation.

Regarding the third condition, the current formulation aims at avoiding some form of retroactivity, but it is far too imprecise. Indeed, the existence of multi-year capacity contracts (> 10 years) in some capacity mechanisms imply that Delivery Periods beyond 2030 could already be engaged under another legal, regulatory or contractual framework. This condition would therefore prevent any concrete implementation in the short term.

Concretely, ENGIE would like ACER to define a clear date for entry into force in practice of the current proposal. Although ENGIE acknowledges that enabling cross-border participation in capacity mechanisms is challenging, we suggest that ACER enforces the practical application of this framework methodology for cross-border participation two or three years after the date of approval and that, in the meantime, a clear timeline for concrete milestones is communicated to all stakeholders.

9. Do you have any other comments on the ENTSO-E proposals that we should take into account in our assessment?

The documents under consultation should have been further proof-read to avoid any confusion or misunderstanding. For instance, article numbering is incorrect in some references (see e.g. proposed Art.17(2) ) or some words/verbs are missing (see e.g. proposed Art.31(4)) making the sentences difficult to understand.

ENGIE believes that further consistency and overall simplicity should be achieved across all methodologies. Otherwise, there exists a risk to set up methodologies that will not deliver on the main purpose of capacity mechanisms (contributing to ensure security of supply at the level desired by the authorities and in a cost-effective way). This is the reason why ENGIE is eager to contribute to the discussions around capacity mechanisms (incl. cross-border participation), to bring its technical expertise in the debate and to propose credible alternatives when deemed useful.

Additional elements for Q7

Let us focus on the (simplified) situation with two countries illustrated on Figure 2. Obviously, we assume that enough capacity is available across region and that during stress events a capacity margin is available for export from a country (B) to another country (A) in order to ensure security of supply of this country (A), up to a certain level. The key question is to identify somehow the capacity that is likely to contribute effectively to the security of supply in the neighbouring country ("effet de foisonnement"/pooling effect).

Obviously, if both countries had a capacity market in place, a large part of the capacity in each country would be contracted in the local capacity market and the non-contracted capacity in one country (B) could then participate to the capacity market in the other country (A). Of course, some capacity could decide to participate to both capacity markets, but this case could raise additional issues in case of common scarcity situations and is not considered here.

Indeed, the detailed rules of the capacity markets should avoid that the availability of the same capacity is double-counted in the supply-demand balance of the region during stress events.

In the case where only one country (A) has a capacity market, one should also avoid to remunerate a foreign capacity that cannot contribute effectively to the security of supply in the contracting country. In practice, the dispatch of power plants is decided by the short-term energy markets and it reflects somehow a merit order based on production costs. Therefore, baseload units available in country B are likely to contribute most likely to the local demand in B. On the contrary, during stress events, peak units available in country B are likely to be part of the export margin to country A. In order to establish more precisely which capacity (technology) in country B could be available and could actually contribute to the export margin in scarce situations, one should re-use the computations of the interconnector deratings for consistency purposes. For instance, one could increase slightly the demand in country A and check how the generation of various technologies in both countries A and B is modified. This discrimination between foreign capacity is needed to ensure effectively the security of supply in the country A - only the capacity in country B that is expected to participate effectively to the export margin identified in the (regional) adequacy assessments should be eligible.

[Figure 2 Concept of eligible capacity providers - - see companion document]

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