

**ACER Recommendation No 02/2024 on CAM NC**

**CAM NC Recommendation:**

**Annex III – Evaluation of responses to the final public consultation ('proposals  
consultation') (26 September until 25 October 2024)**

## **Public Consultation**

**on**

**amending the network code on capacity allocation  
mechanisms in gas transmission systems**

**PC\_2024\_G\_09**

## **Evaluation Report**

**20 December 2024**

## 1. INTRODUCTION

### Background

The European Commission invites ACER to submit to the Commission by December 2024 reasoned proposals for amendments (the 'reasoned proposals') to the Capacity Allocation Mechanisms Network Code ('CAM NC'<sup>1</sup>). ACER will prepare its proposals in accordance with Article 73(3) of Regulation (EU) 2024/1789 and Article 14 of Regulation (EU) 2019/942.

Harmonised rules for capacity allocation were first introduced in 2013 focusing on the introduction of standard transmission capacity products (yearly, quarterly, monthly, day-ahead and within-day) to be allocated by auctions on joint booking platforms, bundling the capacity contracts at the border between neighbouring entry-exit systems. These rules were meant to support entry-exit systems and trading at virtual trading points, moving away from unharmonized rules along supply corridors as well as first-come first-served allocation.

In 2017, a first amendment process took place to introduce the incremental capacity process, which covers harmonised rules for shipper-led capacity development as a complement to the TSO-led development through the regular national and EU-wide network planning.

Ten years after their initial introduction, the rules for capacity allocation need to be brought in line with the evolving gas market. During this timeframe the Union went through a gas market crisis that transformed its use of the gas transmission system due to demand reduction, changing flow paths, and increased LNG imports offsetting reduced Russian pipeline supplies. In this context more focus has been given to the flexibility of the transmission system in view of ensuring security of supply. Freeing up capacity, bringing available capacity as soon as possible to the market, and maximising flow on critical supply routes are essential elements to incentivise an efficient use of the available capacity. Furthermore, the '[hydrogen and decarbonised gas market package](#)' calls for market rules that advance decarbonisation while facilitating security of supply and regional cooperation.

### What happened so far?

ACER had several interactions with stakeholders on the revision of the CAM NC:

- ACER conducted a [public consultation](#) from 14 November 2023 to 5 January 2024 inviting stakeholders to identify the topics that deserve being investigated towards improving the CAM NC rules ('scoping consultation'). On 12 December 2023, ACER also organised an [online workshop](#) on the same topic.
- ACER developed a policy paper on '[The revision of the network code on capacity allocation mechanisms in gas transmission systems](#)' that focuses on options to improve the network code. From 8 May 2024 until 14 June 2024, ACER conducted a [public consultation](#) inviting stakeholders to submit their practical proposals to improve the CAM NC as well as to provide their feedback on the paper. In addition, to further investigate these proposals, ACER organised a technical workshop (by invitation only) on 9 July 2024.

### ACER's conclusion on the early policy consultation

ACER concludes from its early consultation on the basis of its policy paper and the discussion held with stakeholders during the following workshop that:

- The rules for allocating capacity need to be flexible and more capable of adapting to evolving market circumstances;

---

<sup>1</sup> Commission Regulation (EU) 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013.

- The gas market crisis of 2022 showed that while the capacity allocation rules maintained the functioning of the market, the rules were not adaptable enough to deal with the greater market volatility and the evolution of how the grid was used to support new supply routes, in particular LNG, to maintain security of supply. In that context, it is important that the system is used efficiently and that the monitoring authorities have access to information that is essential when facing a gas market crisis;
- The EU energy and climate policies are driving a change of the gas market that will impact the composition of the gas system and how it will be used;
- Decarbonisation will require regular assessment of the gas transmission system in view of decommissioning or repurposing parts of the network; such changes will require coordination among transmission system operators and regulatory authorities, and consultation with concerned stakeholders in the region to ensure maximal access to the gas system even if capacity may be reduced in some part of it.

Having these justifications in mind, ACER proposed [draft amendments](#) to the CAM NC.

They introduce more transparency on how capacity is maximised commercially and what additional flows can be supported under volatile conditions as it is the case during a crisis:

- With respect to maximising the offer of firm capacity and the offer of interruptible capacity: improving the transparency of the capacity calculation and maximisation and improving the coordination and consultation requirements that are embedded in the capacity calculation process.

Second, they introduce more opportunities for obtaining capacities adjusted to different market needs, enabling shippers to efficiently use the system to help manage volatility and doing so, ensuring security of supply:

- With respect to improving the offering of capacity: making more efficient the allocation algorithms, to increase the number of opportunities to offer capacity to the market by introducing additional auctions enabling additional capacity sale opportunities for unsold firm capacity, and introducing an offer between the month-ahead and day-ahead products. A procedure for quick modification of specific CAM NC parameters is proposed to ensure time-efficient capacity allocation under evolving market conditions;
- With respect to improving the procedure for selecting a booking platform: extending the maximal applicability of decisions by regulatory authorities that appoint an operator, and foreseeing possible ACER guidelines on the selection criteria facilitating such selection process.

Third, the procedure for quick modification of specific details of capacity allocation rules ensures that the allocation mechanisms can be adjusted to varying market conditions while retaining harmonised rules at all interconnection points, which is to the benefit of the market.

Further changes are proposed on topics that were identified in ACER's scoping consultation as improvement areas, and after testing options in the policy consultation:

- With respect to improving the incremental capacity process: improving the robustness and efficiency of the process by increasing the credibility of non-binding capacity-demand expressions should the rules for incremental capacity be restored;
- With respect to improving the assessment before applying implicit allocation: clarifying the role of regulatory authorities in jointly assessing and deciding on the application of implicit allocation mechanisms;
- With respect to improving the scope of application: bringing the scope in line with the recast gas Regulation (formulation to be finalised by the EC legal services).

ACER did not include in its proposal the update of legal references and asks the Commission’s legal services to update these references when finalising the possible amendment.

ACER also established from its early consultation there a need to collect additional information from stakeholders on the options for ‘incremental capacity’ and on options for a ‘balance-of-the month’ auction. In particular, ACER requested information on:

- reasons to restore the rules on ‘incremental capacity’ while bringing them in line with the EU General Court’s [Judgment](#) on these rules;
- the necessity of having a dedicated price for ‘balance-of-the-month’ standard products.

### 1.1 Purpose and objectives

ACER ensures a continued dialogue with the stakeholders throughout its process to prepare reasoned proposals. Based on its evaluation of the inputs received, ACER has prepared reasoned proposals for amendments.

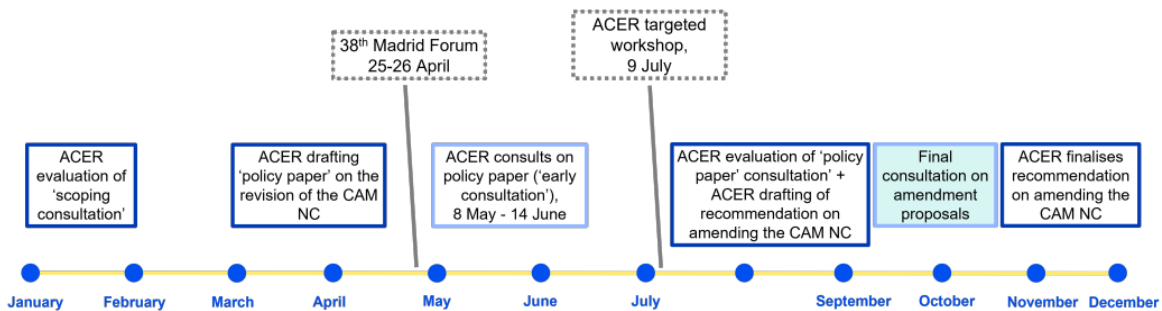
This consultation was a ‘final public consultation’ to ensure the proposed amendments effectively address market needs and deliver the expected improvements before finalising and submitting them to the European Commission by the end of the year.

The consultation invited stakeholders to submit their comments on ACER’s amendment proposal. In addition, in this final public consultation ACER also invited stakeholders to further comment on the necessity of rules on ‘Incremental capacity’ and on the importance of price for designing a ‘Balance-of-the-Month’ maturity.

### 1.2 Timeline

The public consultation was held between 26 September 2024 and 25 October 2024.

Figure 1. ACER’s process for preparing its recommendation on ‘reasoned amendments proposals for CAM NC’ (‘recommendation’)



After completing this ‘final public consultation’, ACER will submit its reasoned proposals for amendments to the European Commission by December 2024.

## 2. PROCESS

All responses were reviewed per consultation topic and question to identify key themes brought forward by the respondents. Respondents making similar comments and amendments were appropriately

grouped together retaining a representative formulation of the concerned comment. The complete individual comments remain accessible in the published individual responses.<sup>2</sup>

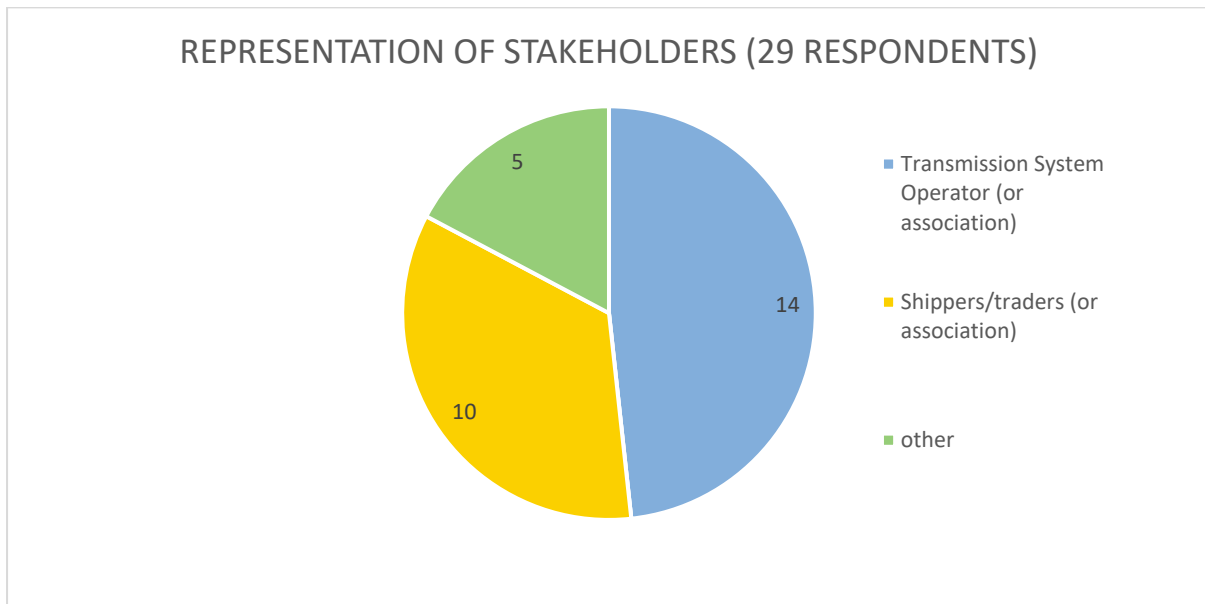
In this document, recast gas Regulation<sup>3</sup> and recast gas Directive<sup>4</sup> refer to Regulation (EU) 2024/1789 and Directive (EU) 2024/1788, respectively, as published in the Official Journal of 15 July 2024.

### 3. STAKEHOLDER ANSWERS

29 stakeholders responded to the public consultation. None of the respondents marked parts of their response as confidential.

Occasionally, individual organisations adhered to their association's response and amendment proposal.

The list of respondents is available in Annex I to this document.



Participants who marked 'other' as type of organisation/company indicated that their activity would be categorised as an Industry/Business association, Booking Platform or Energy exchange.

As overarching issues are touched in several CAM NC provisions, responses to one question contained in many instances comments related to areas of improvements in other articles. Such comments were moved in this report to the respective sections covering those provisions best in ACER's view.

One additional respondent submitted its response after the deadline and by email. This response is evaluated separately in section 3.18.3 as it deviates from the consultation.

<sup>2</sup> <https://www.acer.europa.eu/documents/public-consultations/pc2024g09-public-consultation-amending-network-code-capacity-allocation-mechanisms-gas-transmission-systems>.

<sup>3</sup> <https://eur-lex.europa.eu/eli/reg/2024/1789/oj>.

<sup>4</sup> <https://eur-lex.europa.eu/eli/dir/2024/1788/oj>.

### 3.1 Comment on options for ‘Incremental capacity’

Q1. Choose your preferred option: NO restoration, FULL restoration or PARTIAL restoration.

- **Option 1:** no restoration of the incremental process, meaning all provisions of Chapter V and all references to incremental would be removed from the code;
- **Option 2:** full restoration of the incremental process, meaning all provisions are retained, including ACER's proposed amendments to make the process more robust and efficient;
- **Option 3:** partial restoration of the incremental process, in particular retaining the demand assessment and design stages (Articles 26 and 27) while removing the provisions related to the binding stage.

Q2. Add a justification explaining, in the case of full or partial restoration, which of the incremental capacity provisions should be harmonised at EU level and why, or in the case of no restoration, why these provisions are not necessary to be included in the CAM NC.

Respondents' replies	ACER views	
<b>Q1. PREFERRED OPTION</b>		
<b>Preferred option:</b>	<b>Type of organisation / company</b>	<b>Total</b>
<b>Option 1 – NO restoration</b>	Transmission System Operator (or association)	3
	Shippers/traders and their associations (or association)	2
	Other	0
	<i>Total</i>	5
<b>Option 2 – FULL restoration</b>	Transmission System Operator (or association)	10
	Shippers/traders and their associations	3
	Other	1
	<i>Total</i>	14
<b>Option 3 – PARTIAL restoration</b>	Transmission System Operator (or association)	1
	Shippers/traders and their associations	2
	Other	1
	<i>Total</i>	4
<b>Grand Total</b>		<b>23</b>
ENTSOG and most TSOs favour a full restoration, whereas shippers/traders express a mixed view.		
<b>Q.2 JUSTIFICATION IN SUPPORT OF THE DIFFERENT OPTIONS</b>		
<p><b>Arguments for Option 1 - NO restoration:</b></p> <ul style="list-style-type: none"> <li>• A restoration of the incremental capacity paragraph is valued as unnecessary. There is a reduced demand in available long term capacity bookings. There is no additional capacity demand, and it is very unlikely that this will change. [BBL Company]</li> <li>• There is no added value on maintaining this Chapter. If at present, there are no congestion in</li> </ul>	<p>ACER emphasises that the obligation to assess demand for capacity is set by the Article 10(4) of the recast gas Regulation and Article 39(2) of the recast gas Directive sets the obligation to develop cross-border capacity accommodating all economically reasonable and technically feasible demands for capacity and taking into account security of gas supply. These obligations exist regardless of the inclusion of harmonised rules in an EU-wide network code.</p>	

Respondents' replies	ACER views
<p>the use of infrastructure, it is difficult to think on an increasing future interest for new gas capacities. [Enagás]<sup>5</sup></p> <ul style="list-style-type: none"> <li>The deletion without replacement would be the most sensible option because cost and benefit (or outcome) of the current process are out of proportion. [FNB Gas e.V.]<sup>6</sup></li> <li>OGMT supported Option (1) without comments. [OGMT]</li> </ul> <p><b>Arguments for Option 2 - FULL restoration:</b></p> <ul style="list-style-type: none"> <li>Incremental process should be fully restored, providing that there is a mechanism enhancing its time and cost efficiency. Proposed deposit, if implemented with changes as proposed by ENTSOG would improve the current process by reducing the administrative workload when there is no market demand. Existence of harmonised process is definitely a positive aspect, if the process is used where needed and not overly burdensome where it is not seriously required. [ENTSOG<sup>7</sup>, supported also by Gas Connect Austria, Gasunie Transport Services, GAZ-SYSTEM S.A., GRTgaz, Interconnector Ltd, REN Gasoductos, Teréga]</li> <li>The low number of successfully realised projects based on Chapter V, as cited by ACER, clearly demonstrates that network users are not willing to take long term capacity booking commitments anymore either under stable market circumstances or under more volatile market conditions. For this reason alone, the Incremental Chapter shall not be reinstated with the same content, i.e. adjustments must be made to it to make it more efficient and relevant to the changed market conditions. Additionally, the changing perception of natural gas and natural gas infrastructure (bridge fuel, no more EU funds for natural gas infrastructure) by the EU and how infrastructure was developed in the practice shall be also reflected upon in the text, beyond the already proposed energy-efficiency-first principle. If the EU institutions are assigning a less important role to these, and it is national authorities taking the leading role, their involvement in the development of the natural gas infrastructure shall</li> </ul>	<p>After reviewing the justifications for full, partial or no restoration of the incremental capacity provision, ACER finds that the arguments address mainly the design of incremental capacity rules and not why having EU-wide harmonised rules for deciding on incremental investment is justified.</p> <p><b>ACER collected this information to support the legal analysis by the European Commission on whether and to what extent rules on incremental capacity leading to investment may be included within the CAM NC in the aftermath of the <a href="#">Judgment</a> of the European Union General Court.</b></p> <p>Arguments in support of <b>not restoring</b> the rules governing the incremental capacity process focus on the lack of effectiveness of having such a process as interest in long term capacity has been low.</p> <p>Arguments in support of <b>fully restoring</b> these rules focus on how they could be modified while not providing justification for having EU-wide harmonised rules and why incremental capacity investment could not happen without such rules.</p> <p>Energy Traders Europe argued in support of <b>partially restoring</b> the rules governing the incremental capacity process to ensure a structured, harmonized process for evaluating and adjusting the level of interconnectedness in Europe, for instance, by the introduction of a common template for expressing non-binding interest.</p>

<sup>5</sup> In addition, Enagás states, in case of full restoration, to see ENTSOG answer.

<sup>6</sup> FBNGas adds If the market is in favour of a market driven process, the process should be fully restored, providing that there is a mechanism enhancing its time and cost efficiency. The proposed deposit (if implemented with changes as proposed by FNB Gas) would improve the current process by reducing administrative workload when there is no serious market demand. It is also essential to streamline the process. The introduction of a template created by ENTSOG for the transmission of non-biding demands, which must be used, is an indispensable adjustment.

<sup>7</sup> In the excel ENTSOG states that If Option 2 is not chosen, they would support complete deletion of the incremental process (Option 1). Option 3 in their view would be harmful for the market as it would create lack of certainty.



Respondents' replies	ACER views
<p>also be reflected upon properly, namely national regulatory authorities shall have the decisive authority in the incremental capacity processes. FGSZ also supports the FULL restoration with ENTSOG additions to improve the process, accompanied with a further addition to clarify the role of NRAs in the process (see the proposal under Article 28(2))<sup>8</sup>. [FGSZ]</p> <ul style="list-style-type: none"> <li>• Proxigas states that the modifications proposed by ACER, with the additional adjustments added by the association as per the Excel file<sup>9</sup>, seem to be the best way to balance the need to maintain the incremental capacity process, while improving its efficiency. [Proxigas]</li> <li>• EDF, Edison and National Gas Transmission (GB TSO) supported FULL restoration in favour of a shipper-led process: <ul style="list-style-type: none"> <li>▪ ACER's modification, along with additional adjustment introduced by EDF to article 26 (see excel)<sup>10</sup>, offer the optimal approach for balancing the need to preserve the incremental capacity process while enhancing its efficiency. [EDF]</li> <li>▪ The suggested revisions from ACER, complemented by Edison's adjustment in the excel document<sup>11</sup>, offer a constructive approach to enhance the incremental capacity process. This framework would help maintain the essential function of the process while streamlining its operation for improved efficiency. [Edison]</li> <li>▪ Whilst National Gas Transmission can support the full-restoration option, given the very limited results historically, we believe that demand for incremental capacity should be initiated by shippers via a defined process at the risk of the</li> </ul> </li> </ul>	

<sup>8</sup> FGSZ proposal in the excel regarding article 28 is to delete 'coordinated' in the reference to 'coordinated decisions' on the project proposal from the regulatory authorities and to delete the role of ACER when national regulatory authorities cannot reach an agreement. Regarding the preferred option, FGSZ also states in the survey response that if Option 2 (including the proposed amendments by ENTSOG and FGSZ) is not selected by ACER, their second-preferred choice is Option 3, also including suggested amendments.

<sup>9</sup> In addition to the cases proposes by ACER, Proxigas also proposes in the excel the reimbursement of the deposit once the market demand assessment report is published if the conclusion on whether to launch the incremental capacity is negative (Article 11.a).

<sup>10</sup> EDF in the excel proposes an on-demand model initiated by shipper's request or every 5 years (Article 26.1). It also proposes full reimbursement of the deposit to the respective network user once the market demand assessment report is published (no matter the outcome of the economic test or the bid in the binding stage in relation to the non-binding demand indication) (Article 26.11a - new).

<sup>11</sup> Edison also proposes a request-driven system for the incremental capacity process (when shipper can provide evidence of long-term sourcing of additional gas resources and after a survey from the TSO to collect interest from other shippers). It also defends a full reimbursement to the respective network user once the market demand assessment report is published.

Respondents' replies	ACER views
<p>customer that is managed collaboratively between involved parties. Any work undertaken in the process should have clearly defined costs and processes, the relevant NRA should have an active oversight role in both process and decision-making and that TSOs continue to co-ordinate together, as currently occurs. [National Gas Transmission (GB TSO)]</p> <p><b>Arguments for Option 3 - PARTIAL restoration:</b></p> <ul style="list-style-type: none"> <li>• In terms of Incremental Capacity, Energinet prefers a solution which is as simple and less administrative as possible. For the Danish system is unlikely to foresee a demand for incremental capacity in the coming years (as DK is already well supplied, demand is falling, and the amount of existing unused exit capacity is substantial. Hence, an approach that will not require unreasonable administrative efforts every second year from TSOs, where the process does not create much value, is preferred. [Energinet]<sup>12</sup></li> <li>• We support the notion of a partial restoration of the incremental process. We believe that it is necessary for the internal gas market to have a structured, harmonized process for evaluating and adjusting the level of interconnectedness in Europe. In this context we welcome the introduction of a common template for expressing non-binding interest, Regarding the adjustments proposed to the non-binding expression of interest, if there is plausible evidence that additional fees and deposits (as proposed under art. 26) support the credibility of bids during the non-binding phase, then this can be supported so long as the charges are proportionate and cost-reflective. [Energy Traders Europe]</li> <li>• The regulations concerning the Incremental Capacity Process in Chapter V have, from the German perspective, had no discernible impact or success in the desired sense. However, before considering their outright removal, at least an alternative should be contemplated as a placeholder. Nevertheless, there are some alterations we would like to introduce to increase efficiency which are clarified in the table in chapter</li> </ul>	

<sup>12</sup> Energinet adds in the survey response: 'Option 1 or 3 is preferred, where Option 3 is under the preconditions that some kind of safeguard against unreasonable user-requests is implemented (e.g., security provisions or fee for applications for new capacity as also suggested in the amendments by ACER).'

Respondents' replies	ACER views
V, Art. 26 (2) <sup>13</sup> and chapter V, Art. 26(11) <sup>14</sup> . [BDEW]	
<b>OTHER POINTS OF NOTE</b>	
<p>Having a structured and harmonized incremental capacity process is essential for shippers. However, we would ask ACER to consider a less complicated and time-consuming process for shippers and TSOs. Especially the bidding strategy has to be simpler. The determination of economic viability rules often seems to be quite complicated resulting in a non-realization of capacity expansions. [Uniper SE]</p>	<p>ACER finds the proposal not developed enough to be considered. ACER also does not understand the issue with the bidding strategy as the current process relies on the ascending clock auction algorithm to collect binding capacity bids. The economic test in essence compares the money raised through binding commitments and the costs of the project and ensures that incremental capacity projects are paid for by those network users demanding the capacity. The national regulatory authorities set the economic conditions for incremental process in a way that balances the protection of consumers and the interest of network users to have fair access conditions to incremental capacity.</p>

---

<sup>13</sup> Deletion Article 26(2) - No need for demand assessment reports if there is no non-binding demand indication. It creates only unnecessary administrative burden for TSOs. Demand assessment reports shall not be published if no non-binding demand indication was received by transmission system operators. [BDEW in the excel]

<sup>14</sup> Regarding Article 26(11) – The proposed changes do not define the scale of the studies which could lead to high fees levied by the TSOs. One possibility to limit these fees would be to cap the cost of studies at a reasonable level. [BDEW in the excel]

## 3.2 Comment on options for ‘balance of the Month’

Q1. Would you consider the ‘price’ of a balance-of-the-month capacity offer an essential element for the functioning of the market?

Respondents’ replies	ACER views	
<b>Q1. Preferred option</b>		
<b>Preferred option:</b>	<b>Type of organisation / company</b>	<b>Total</b>
<b>Option 1 – NO</b> (price of BoM is not an essential element for the functioning of the market)	Transmission System Operator (or association)	11
	Shippers/traders and their associations (or association)	2
	Other	
	<i>Total</i>	13
<b>Option 2 – YES</b> (price of BoM is an essential element for the functioning of the market)	Transmission System Operator (or association)	2
	Shippers/traders and their associations	6
	Other	1
	<i>Total</i>	9
<p>Out of the 22 respondents to this question, the majority (13) preferred option 1 (‘NO’), mainly TSOs, and 9 respondents preferred option 1 (‘YES’), mainly shippers/traders and their associations.</p>		
<b>Q.2 Please provide a detailed justification on why a dedicated price for the Balance-of-the-Month product would have a positive impact on the market. Please also explain why a targeted amendment would be justified.</b>		
<p><u>Justification why a dedicated price for the Balance-of-the-Month product would have a positive impact on the market:</u></p> <ul style="list-style-type: none"> <li>Applying the daily price would be not cost competitive. In fact, using the daily multiplier would result in being uncompetitive at the beginning of a given month and of little added value towards the end of the month. [Energy Traders Europe]</li> <li>Distinct pricing structure to accurately reflect dynamic value of the BOM product with a multiplier that captures unique rolling nature of BOM. [Proxigas, Edison, EDF]</li> <li>Multiplier needs to be set in a way that rewards longer term commitment, design a multiplier between the daily and monthly value. [RWE, EDF]</li> </ul> <p><u>Counterarguments:</u></p> <ul style="list-style-type: none"> <li>The ‘positive impact’ on the market seems to be insignificant. BoM products should align to the traded markets considering weekends and bank holidays (as per the trading calendar) – this would be Option 2 of the proposals. The price should be a sliding scale</li> </ul>	<p>ACER considered two different possibilities for implementing ‘balance of the month’: a ‘balance-of-the-month auction’ (of packaged daily products with a reducing number of days in the package as the auctions roll on) and a ‘balance-of-the-month product’.</p> <p>While shippers expressed a preference for a standard product, TSOs and national regulatory authorities expressed a preference for the balance-of-the-month auction (of a strip of daily capacity products) in view of having a more straightforward implementation process without the need to modify other Network codes (TAR NC) and at lower estimated implementation cost.</p> <p>ACER considers that the ‘balance-of-the-month auction’ succeeds in offering a new capacity of dynamic duration (through a packaging of daily products) at low implementation cost with the disadvantage that the price may not fully reflect the dynamic duration.</p> <p>ACER considers, provided the possibility of having a targeted amendment process to include the balance-of-the-month product in the <a href="#">TAR NC</a>, there would be benefit in the creation of a new standard product ‘balance of the month’ with a dedicated price, set in accordance with the dynamic duration of the product and the role the product could play in the market.</p>	

Respondents' replies	ACER views
<p>from monthly to daily tariff depending on number of days contracting, but in practice this is insignificant given the differential between these multipliers, e.g. the notional cost of buying DE capacity for a month of 30 days is equivalent of buying 27 days at daily tariff. There are less assets in the market that would benefit from the BoM product given the illiquidity in the market – assets such as LNG, storage and offtake could and should be booked as FCFS products given there should be no competition at these network points. [SEFE]</p> <ul style="list-style-type: none"> <li>• Crucial for shippers is certainty of the tariff, more than whether the tariff is high or low. Flexibility to deviate from pre-announced daily tariffs while offering BoM contributes to this. [BBLC]</li> <li>• The means to determine the price used in the balance of the month, for example if it's linked to premiums, is integral to the functioning of the market. A reserve price should apply to all auctions at IPs and we note that different countries have different approaches to the reserve price that ultimately gets used in auctions. For example, the GB capacity regime has a consistent reserve price (due to current multipliers of 1) across all capacity products, however, we recognise that this is not the case in EU regimes where multipliers increase the reserve price closer to the time of use. We do not believe that a new BoM product is necessary with its own reserve price. We consider that if a BoM auction is to be introduced, the daily reserve price would be adequate with a pay as bid auction design to ensure that capacity is allocated to a bidder(s) who values the capacity the most. We would also want to ensure there are no impediments in terms of capacity being made available with existing or new auctions. Additionally, implementation timeframes will need to be given consideration, especially if there is an amendment is required to another code, and IT system impacts will also need due consideration. [National Gas Transmission (GB TSO)]</li> </ul>	<p><b>ACER notes:</b></p> <ul style="list-style-type: none"> <li>• Shippers emphasise the price (in particular the multiplier) is an essential design element and the use of the daily multiplier might make the <b>balance-of-the-month auction (of a strip of daily capacity products)</b> not competitive at the start of a given month (when many days are included). While many implementations of a dedicated <b>balance-of-the-month multiplier</b> can be imagined, foremost, it should have a level that is <b>between the levels of the monthly capacity and daily capacity multipliers</b>.</li> <li>• With respect to the justification of a targeted amendment of the TAR NC, ACER finds respondents did not raise many arguments emphasising the urgency and importance of setting a dedicated price/multiplier for a balance-of-the-month product.</li> </ul> <p><b>ACER concludes that:</b></p> <ul style="list-style-type: none"> <li>• Without a dedicated price/multiplier, the balance-of-the-month auction of a package of daily products may not be appealing compared to other capacity products and therefore not effective in having a more dynamic capacity offering;</li> <li>• The actual competitive disadvantage may be small if multipliers for monthly and daily products are not too different;</li> <li>• The balance-of-the-month product is compatible with the current rules for capacity surrender;</li> <li>• The introduction of a balance-of the-month product has a higher implementation cost (IT development) and longer implementation time (amendment of TAR NC);</li> <li>• Stakeholders did not raise many arguments justifying a targeted amendment.</li> </ul> <p><b>Considering these elements, ACER recommends:</b></p> <ul style="list-style-type: none"> <li>• To foresee the introduction of a balance-of-the-month auction of a package of daily products;</li> <li>• To foresee the option to introduce in the future a balance-of-the-month product if further justification from market participants is provided that the above option would be ineffective;</li> <li>• To make the offer of this possible standard product conditional on first setting a dedicated price in the TAR NC that shall be based on a multiplier between the level of the monthly multiplier and the level of the daily multiplier.</li> </ul>

Respondents' replies	ACER views
<p><b>Other comments:</b></p> <ul style="list-style-type: none"> <li>• Teréga sees no justification for not applying a daily price to BoM.</li> <li>• Gas Connect Austria states that Implementing a 'balance-of-the-month product' would be more time-consuming and more costly.</li> <li>• GRTgaz states that in its market there is no difference between daily and monthly multiplier.</li> <li>• While Uniper answered 'No' to the question asked considering that the market is already functioning well, it later specifies that if a BoM should be implemented it should have a multiplier lower than the daily value.</li> <li>• Aware of the necessity of a targeted amendment of TAR NC (dedicated pricing) and the longer implementation time in the IT system. [Proxigas]</li> </ul>	<p>ACER notes that these comments emphasise considerations made by ACER in its previous <a href="#">Evaluation Report</a> on the policy consultation that a balance-of-the-month product would have the advantage a dedicated multiplier is set while requiring a longer implementation time due to the need to amend TAR NC accordingly.</p>

### 3.3 General comments on ACER's draft reasoned proposals for amendments

Respondents' replies	ACER views
<p><b>Coordination obligation in the case of planned reduction of capacity</b></p>	
<p>To ensure that not only capacity maximisation is conceptually considered, but also more explicitly any reductions in existing capacity either through decommissioning or conversion. Despite this in its spirit may be covered by the 'maximisation' requirements, Energinet finds this unclear with the potential risk of such changes not being made clear to network users and adjacent systems in advance and with the right to give input. As such, reductions in capacity may in fact be more important to neighbouring systems and users than providing a few more MWs of capacity through maximisation. Therefore, Energinet suggest that ACER considers more firm provisions on requirement for consultation or the like with adjacent systems and market on any considerations of reducing natural gas transmission capacity on longer term. This would enlarge transparency and provide a safeguard to one-sided decisions affecting also beyond system borders. To cater for this Energinet suggest adding a new article 7B for this requirement. [Energinet]</p>	<p>ACER considers planned reduction of capacity is a matter of capacity calculation and maximisation already covered under the provisions of Article 6 of the CAM NC. The case of planned reductions emphasises the need to have better transparency on capacity calculation through better information, more consultation and coordination, which are all covered by ACER's amendment proposal.</p> <p>ACER does not move forward Energinet's proposed new article dedicated to planned reduction of capacity and emphasises its amendment proposals to improve transparency of the capacity (re)calculation process apply also to cases of capacity reduction (within a context of overall capacity maximisation).</p> <p><b>ACER will make explicit the example of capacity reduction in its justification for improving and clarifying the coordination and consultation obligations of TSOs:</b></p> <p><b>Modified justification of Article 6 paragraph 1(a)(6):</b></p> <p>Additionally, ACER considers the EU energy and climate policies are driving a change of the gas market</p>

Respondents' replies	ACER views
	<p>that will impact the gas system assets and how the system will be used. In that context, ACER finds important that the system is used efficiently (maximised) and that this shall be monitored by the responsible entities, including regulatory authorities. The proposed changes ensure a more transparent capacity calculation that will facilitate monitoring. <b>In particular, the cases of decommissioning or conversion to transporting a different energy carrier require a capacity re-calculation that is coordinated between TSOs and NRAs and consulted with network users.</b></p>
<p><b>Proposal to allow FCFS instead of auctions for additional capacity allocation</b></p>	
<p>To provide more flexibility in the provisions of the network code as there are differences to the situation and needs of the different European transmission systems. In countries like Denmark where over-demand historically has been utmost seldom the idea of additional auctions is not necessarily expected to result in more capacity booked as auction periods (especially for yearly capacity) are very close to each other and hence not expected to attract new demand. Therefore, Energinet sees more flexibility as beneficial. This could be provided by allowing for capacity booking through 'First Come, First Served' (FCFS) mechanism after and between the initial auctions for the different products. This would allow users to book capacity when the demand arises. If required to protect the importance of the auction principle a 'set aside rule' could perhaps be introduced accordingly making only part of the capacity available FCFS. This approach will support the idea of a more dynamic approach to capacity sale and makes existing capacity more available to network users when demand arises. [Energinet]</p>	<p>ACER evaluated the proposal of FCFS in its <a href="#">Evaluation Report</a> on the policy consultation and concluded that: <i>'the CAM NC rules of 2013 (amended in 2017) deliberately introduced auctions to assign capacity based on willingness to pay and to move away from first come first served.'</i> <b>ACER considers that reintroducing FCFS for allocating capacity would be a step back and does not move forward this suggestion.</b></p>
<p><b>Allowing allocation beyond 15 years</b></p>	
<p>To facilitate long term use and security for existing assets through more flexibility in booking by considering the continuous legitimacy of the 15-year limitation on bookings. Energinet acknowledges some of the reasoning behind this rule but finds that it today does not have the same appeal. The limitation creates unnecessary barriers to capacity sale increasing the economic risk for both existing and any incremental capacity especially in systems where congestion is not foreseen. This risk will be factored into tariffs making assets even less attractive and hence supporting a possible downward spiral of use of the affected routes. Some of this risk could be mitigated by allowing longer term bookings. Energinet understands the arguments for the current limitation, but with market in some areas in decline the economic impact will risk pushing this trend even more. To ensure long-term security of</p>	<p>ACER evaluated the proposal of longer forward capacity allocation in its <a href="#">Evaluation Report</a> on the policy consultation and concluded that: <b>'ACER considers 15 years remains a reasonable horizon for selling forward capacity products. Regulatory authorities have the option to exceptionally extend the horizon with 5 additional years if an incremental project meets the conditions to apply an alternative allocation mechanism.'</b> ACER does not move forward the suggestion to sell capacity further ahead than 15 years as a default rule.</p>

Respondents' replies	ACER views
<p>supply as well as green transition we need long-term security also for the asset base. Allowing bookings more than 15 years out where the market finds this viable will be a way of supporting this.</p> <p>By keeping set aside rules to ensure that a reasonable part of the capacity is left for shorter term auctions will continuously protect competition despite easing the limitation on long-term booking. The proportion of capacity to be set aside could increase with how far forward capacity is auctioned. [Energinet]</p>	
<p><b>Compatibility with rules in Third countries</b></p>	
<p>All of our comments are subject to further internal analysis and engagement with stakeholders and customers. We will also continue to work with our neighbouring TSOs to support and protect cross-border flows and trade. However, any implementation of the changes proposed within this document within GB will be subject to agreement with our stakeholders and customers following analysis of the impact to systems, processes and costs, including our national ministry, and therefore our response does not necessarily indicate a final position on implementation. [National Gas Transmission (GB TSO)]</p>	<p>ACER takes note of the concerns of third countries in ensuring compatible market rules. CAM NC sets rules for EU Member States. <b>ACER's mandate concerns proposing amendments for the capacity allocation rules within the scope provided by the higher-level EU legislation.</b></p>
<p><b>Incremental capacity</b></p>	
<p>OGMT suggests removing the INC process from NC CAM. It has been demonstrated that INC does not result in capacity expansions due to unsuccessful economic tests in combination with unfavourable set-aside quotas. In the light of energy transition and overall lowering gas demand this pattern will remain. Nevertheless, additional capacity at network points or routes will be demanded (even exceeding TAC at such points), however only temporary (example: new supply fields peak for a few years, FSRUs only offloading for a few years). As a solution to satisfy additional capacity demand without triggering investment needs, we suggest an alternative process taking into account the following considerations:</p> <ul style="list-style-type: none"> <li>- As suggested by ACER. TSO shall regularly perform the re-calculation pursuant to modified Art 6(1)(4). A relevant input factor to this process should be network users' flow projections pursuant to modified Art 6 (1) to (6);</li> <li>- To facilitate efficient network use, TSOs must take all endeavours to optimize existing infrastructure where technically possible: increase firm capacity where it is demanded at the expense of firm capacity at network points where utilization is/will be low;</li> <li>- TSOs shall consider all efforts possible to possibly meet future capacity demands via instruments such as</li> </ul>	<p>ACER takes notes of OGMT's preference for removing the provisions relating to the incremental process from the CAM NC, as well as OGMT's support for measures that concur to capacity maximisation.</p> <p>However, <b>ACER considers the comments on the congestion management mechanisms to be out of scope</b> of the reasoned proposals for amendments to the CAM NC insofar as they concern provisions treated under the Guidelines on Congestion Management Procedures of Annex I to the recast gas Regulation.</p> <p>ACER takes note of the concept of cross-point surrender and invites OGMT to submit this idea into a revision process focused on the congestion management procedures once such a process is opened by the European Commission.</p>



Respondents' replies	ACER views
<p>relocation of usage rights, capacity shifts or CS modification in terms of flow directions;</p> <ul style="list-style-type: none"> <li>- TSOs shall apply a more efficient surrender mechanism at points where demand is expected to be high to-reallocate unused but contracted capacity rights at this particular network point, under the requirement to suspend set-aside quotas (i.e, set them to zero);</li> <li>- TSOs shall apply a 'cross-network point surrender mechanism' to move capacity from contracted but unused points to network points of expectedly high demand, under the requirement to set set-aside quotas to zero. The potential issue of surrendering capacity towards a different network point could be solved through offering the surrendered capacity as 'competing' capacity;</li> <li>- where such investment-neutral attempts to meet future demand are insufficient, TSOs shall launch tailormade OSPs. [OGMT]</li> </ul>	

## 3.4 Chapter I: General provisions

### 3.4.1 Article 2: Scope of application

Respondents' replies	ACER views
<b>On Article 2(1) application of CAM NC to points shared with third countries</b>	
<p>ENTSOG reasons that the amendments proposed to Article 2(1) allow for aspects of the NC to be switched off, subject to the decision of the relevant NRA following the procedural aspects of Article 70 of the Regulation (EU) 2024/1789. However, ACERs proposal in art 2.1 would mean that NRA can only request that derogation to the Commission until 5 February 2026.</p> <p>ENTSOG considers that to ensure the efficiency of gas flows into and out of the block, the regulatory framework for exit and entry points to third countries must be able to accommodate upstream arrangements at any time.</p> <p>NRAs should be able to consider how the network codes apply to these points, and, taking into account their duties and powers and the special nature of interconnectors, adapt arrangements as necessary.</p> <p>That is why ENTSOG is asking for that flexibility.</p> <p><i>'This Regulation shall apply to interconnection points. It may also apply <b>in whole or in part</b> to entry points from and exit points to third countries, subject to the decision <b>(at any time)</b> of the relevant national regulatory authority <b>following the procedure set out in Article 70(3) of the Regulation (EU) 2024/1789</b>. This Regulation shall not apply to exit points to end consumers and distribution networks, entry points from 'liquefied natural gas' (LNG) terminals and production facilities, and entry points from or exit points to storage facilities.'</i> [ENTSOG]</p> <p>FGSZ agrees with the additions of ENTSOG with a further addition proposal. NRAs should be given the freedom explicitly to apply CAM NC rules to non-interconnection points.</p> <p><i>'This Regulation shall apply to interconnection points. It may also apply <b>in whole or in part</b> to entry points from and exit points to third countries, subject to the decision <b>(at any time)</b> of the relevant national regulatory authority <b>following the procedure set out in Article 70(3) of the Regulation (EU) 2024/1789</b>. This Regulation shall not apply to exit points to end consumers and distribution networks, entry points from 'liquefied natural gas' (LNG) terminals and production facilities, and entry points from or exit points to storage facilities, <b>unless decided otherwise by the relevant national regulatory authority</b>.'</i> [FGSZ]</p>	<p>ACER repeats that it invites the legal services of the European Commission to finalise the formulation of the provision on the application of CAM NC to exit points to / entry points from third countries to ensure its full alignment with Article 70 of the recast gas Regulation.</p> <p><b>ACER finds unnecessary the addition of optionality for applying CAM NC to other types of network points as NRAs can refer or copy the CAM NC rules when adopting their respective national rules as explained already in the Evaluation Report on the policy consultation (p. 109).</b></p> <p><b>ACER retains its amendment proposal without modification.</b></p>

Respondents' replies	ACER views
<p>We believe that the current text as written offers sufficient detail and scope to ensure smooth cross-border trade and that the amendment to the text is not necessary and only adds potential complication. We support retaining the current version of this text which allows for the rules to apply to a third country IP should the non-EU NRA agree to it. [National Gas Transmission (GB TSO)]</p>	<p>As above.</p> <p>ACER reminds that the current text must necessarily be amended to bring it in line with higher-level legislation.</p>
<p><b>On Article 2(3) scope of technical capacity</b></p>	
<p>To explicitly state that conditional capacity also applies to natural gas network, ENTSOG proposes modifications to this article:</p> <p><i>'This Regulation shall apply to all technical and interruptible capacity at interconnection points as well as to additional capacity in the meaning of point 2.2.1 of Annex I of Regulation (EU) 2024/1789 to incremental capacity and to conditional capacity in the meaning of Art. 2. 1. Point 35 of Regulation (EU) 2024/1789. 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 86 of Directive (EU) 2024/1788.'</i></p> <p>ENTSOG would also propose to introduce new art 6.1. 'a) <b>The possibility of increasing the amount of technical capacity offered at a given interconnection point by offering conditional capacity could be taken into account by TSOs.'</b></p> <p>CAM NC should explicitly state that it is possible for TSOs to offer conditional capacity for all entry/exit points where there is no possibility of offering firm capacity. The definition of 'conditional capacity' provided in the Regulation (EU) 2024/1789 does not in any way limit the type of network points in which the capacity should be offered. Nevertheless, the wording of article 20 of the Regulation sets forth the rules only for the use of conditional capacity for renewable gas and low-carbon gas, without explicitly stating how it should be used in different types of points, what are the competences of NRA's etc. Therefore, it would be valuable to add clear statements in this regard in the NC CAM to avoid any misinterpretations. [ENTSOG]</p>	<p>ACER reminds that higher-level definitions in the recast gas Directive and recast gas Regulation (as other definitions in EU regulations and directives) apply to the CAM NC as per Article 3 of the CAM NC (legal references will be updated by the European Commission). In this case, 'conditional capacity' is defined by Article 2(35) of the recast gas Regulation as a subset of firm capacity, 'technical capacity' is defined in (19) of the same article as 'the maximum firm capacity [...]'. Therefore, <b>when CAM NC applies to all technical capacity, it necessarily already includes conditional capacity</b>, as also acknowledged through ACER's proposals for amendments to Article 6(5) for TSOs to publish information on firm, conditional (firm) and interruptible capacity levels.</p> <p>To avoid presenting conditional capacity as a form of capacity that is distinct from firm capacity (and technical capacity is the maximum firm capacity that can be made available to the market), <b>ACER does not include the proposed modification in its amendment proposals.</b></p>

### 3.4.2 Article 2(5) and Article 7A (new) on a joint decision process by regulatory authorities for introducing implicit allocation mechanisms

Respondents' replies	ACER views
<p><b>Article 2(5) and (new) Article 7A on clarifying NRAs' decision process, including coordination, for introducing implicit allocation mechanisms</b></p>	
<p>BBLC already has a well-functioning Implicit Allocation capacity selling method in place and notes that what ACER is proposing here only applies for new procedures. As a merchant TSO and interconnector, it is crucial for BBL Company's business case that its current Implicit Allocation model remains unchanged. BBLC's shippers appreciate highly the unbundled aspect of it since an ultimate nomination is largely driven by NBP-TTF spreads and not by volume requirements. Having unbundled capacity makes it for shippers highly efficient to only book capacity at the other side of the IP when economical justified. On top of this BBLC has already sold IA capacity for the coming years and changing rules would mean changing the level playing field among shippers. BBLC therefore urges that suggested changes to the IA regime are only applicable to new cases. [BBLC]</p>	<p>As the amendment proposal refers to the decision process to implement implicit allocation mechanisms, this amendment does not affect decisions that are already in place, legally sound and functioning. <b>ACER therefore does not observe a need for any modification suggested by this comment.</b></p>
<p>ENTSOG supports addition that ensures stronger cooperation between NRAs. However, the wording of amendment in Art 2.5 would suggest that the joint NRAs decision is needed only for diverging from the CAM NC rules while it is still possible to apply implicit allocation method by one NRA providing that CAM NC rules are kept. However, the amendment presented under art 7a states that joint NRAs decision is needed for the implementation of the implicit process itself. Those two rules are too strict in our view and limits independence of NRAs in a too high extent. Hence, we propose to consider our wording proposal:</p> <p><i>Where implicit capacity allocation methods are applied, <b>the relevant national regulatory authorityies may decide not to apply Article 8 to 37. From [entry into force], the assessment process for considering implementation of new implicit capacity allocation methods should include consultation and assessment with the relevant neighbouring national regulatory authorities.</b></i></p> <p>Furthermore ENTSOG proposes to delete the new article 7A.</p>	<p>ACER finds that two elements are mixed in ENTSOG's comment. Article 7A ensures proper coordination between NRAs when deciding to apply an implicit allocation mechanism following a joint assessment of the effects. <b>NRAs agree</b> that the unilateral application of implicit allocation at interconnection points reduces efficiency of capacity allocation, and <b>a joint decision ensures the appropriate level of harmonisation of capacity allocation rules is achieved.</b></p> <p>When the implicit allocation is applied, NRAs may decide jointly not to apply Articles 8 to 37 to ensure harmonisation of rules on either side of an interconnection point.</p> <p>ACER retains its proposal for introducing a new Article 7A and modifies the text to improve clarity based on the suggestions by EEX, Europex and Energy Traders Europe.</p> <p><b>Modified proposal for Article 7A.</b></p> <p><i><u>'Where <del>a</del> national regulatory <del>authority</del> <del>authorities</del> intends to apply an implicit allocation method at an interconnection point, <del>it</del> they shall assess, with the concerned transmission system operators, the potential impacts of applying such method on the efficiency of the capacity allocation at that interconnection point and on the functioning of the gas market in the region concerned, and consult <del>it</del> their assessment with the national regulatory authorities, transmission system operators and network users of that region. The national regulatory authorities at either side of the interconnection point shall jointly decide on the application of the implicit allocation method, having duly considered the results of the consultation. Where the national regulatory authorities cannot reach an agreement on the application of an</u></i></p>

Respondents' replies	ACER views
	<p><u><i>implicit capacity allocation method, Articles 8 to 37 shall continue to apply at the interconnection point.</i></u></p>
<p>The proposed amendment introduces two changes to the initial text regarding new Article 7A:</p> <p>Firstly, it ensures that all affected market participants are included in the consultation process. This change ensures transparency and inclusivity by ensuring that stakeholders who are directly impacted provide their input.</p> <p>Secondly, the amendment exempts implicit allocation mechanisms already applied and implemented prior to the entry into force of this Network Code from the new assessment and consultation process. This provision prevents the retroactive application of new regulatory requirements to existing mechanisms, thereby ensuring regulatory stability and legal certainty for market participants who have already invested in and adapted to the current framework.</p> <p><i>'Where a national regulatory authority intends to apply an implicit allocation method at an interconnection point, it shall assess the potential impacts of applying such method on the efficiency of the capacity allocation at that interconnection point and on the functioning of the gas market in the region concerned and consult its assessment with the national regulatory authorities of that region, <b>as well as with all affected market participants. Existing implicit allocation mechanisms that have been applied and implemented prior to the entry into force of this Network Code shall be deemed compliant and shall not be subject to this assessment and consultation process.</b> The national regulatory authorities at either side of the interconnection point shall jointly decide on the application of the implicit allocation method, having duly considered the results of the consultation. Where the national regulatory authorities cannot reach an agreement on the application of an implicit capacity allocation method, Articles 8 to 37 shall continue to apply at the interconnection point.'</i></p> <p>[EEX and Europex]</p> <p>Energy Traders Europe notes that a switch to implicit allocation can have material impact on business operations of different network users active on either side of the border. We therefore underline the need for the joint consultation performed by the adjacent NRAs to be open to network users and transmission system operators as well. In particular, we underline that both network users and the TSOs will likely have a better understanding of how the change could affect the value and availability of capacities in different timeframes</p>	<p>While ACER deems that NRAs consult relevant stakeholders as part of their decision processes, the <b>explicit reference to stakeholders may provide more confidence from the market and is included in a modified text proposal for Article 7A based on Energy Traders Europe's suggestion (above).</b></p> <p>Amended provisions only have effect in the future and implicit allocation mechanisms already in place would not be subject to this provision as no new decision needs to be taken. <b>ACER therefore does not observe a need for modification with respect to the application of this Article to new procedures for deciding on implicit allocation mechanisms.</b></p>

Respondents' replies	ACER views
<p>and will be able to highlight the associated opportunities and threats.</p> <p><i>'Where a national regulatory authority intends to apply an implicit allocation method at an interconnection point, it shall assess the potential impacts of applying such method on the efficiency of the capacity allocation at that interconnection point and on the functioning of the gas market in the region concerned, and consult its assessment with the national regulatory authorities, <b>transmission system operators and network users</b> of that region. The national regulatory authorities at either side of the interconnection point shall jointly decide on the application of the implicit allocation method, having duly considered the results of the consultation. Where the national regulatory authorities cannot reach an agreement on the application of an implicit capacity allocation method, Articles 8 to 37 shall continue to apply at the interconnection point.'</i></p> <p>[Energy Traders Europe]</p>	
<p>Enagás argues that IAM may negatively affect the harmonisation goal of CAM (same calendar, auctions date and algorithm, same price rules...). The added value for 'traditional' IPs or VIPs might be limited and could serve as a back door for not applying the CAM NC rules. Above all else, any cost of implementing IAM should be recognized as allowed revenue to the TSO.</p> <p>Besides all, Regulation EU 2019/942 states '<i>... some Member States or regions remain isolated or not sufficiently interconnected, in particular ... Member States located on the periphery of the Union. In its work, ACER should take account of the specific situation of those Member States or regions as appropriate</i>' such as the limited degree of interconnection of Iberian Peninsula.</p> <p>Even IAM is allowed in the actual CAM, we think the aim of the regulatory framework is the harmonisation and bundling of capacity offer. So, according to Article 7 of the Regulation EU 2019/942, Spain could encounter difficulties with the application of the network codes and guidelines referred needing in that case ACER's opinion.</p> <p>We think the joint decision ensures coordination and the fulfilment of CAM goals.</p> <p>[Enagás]</p>	<p>ACER takes note of the comment which supports the draft formulation included in the consultation document.</p>
<p>GAZ-SYSTEM welcomes the clear statement that national regulatory authorities (NRAs) decide jointly when implicit capacity allocation is applied.</p>	<p>ACER takes note of the comment which supports the draft formulation of Article 2(5) included in the consultation document.</p> <p><b>This comment does not request any action.</b></p>

Respondents' replies	ACER views
<p>Teréga supports the ENTSOG proposal (our preference).</p> <p>If the text proposed by ACER is kept, Teréga proposes no changes for Art 2(5). While it proposes the following change in the Article 7A:</p> <p><i>'Where a national regulatory authority intends to apply an implicit allocation method at an interconnection point, it shall assess the potential impacts of applying such method on the efficiency of the capacity allocation at that interconnection point and on the functioning of the gas market in the region concerned, and consult its assessment with the national regulatory authorities of that region. The national regulatory authorities at either side of the interconnection point shall jointly decide on the <b>simultaneous</b> application of the implicit allocation method, having duly considered the results of the consultation. <del>Where the national regulatory authorities cannot reach an agreement on the application of an implicit capacity allocation method, Articles 8 to 37 shall continue to apply at the interconnection point.'</del></i></p>	<p>ACER's understanding is that application of implicit allocation at interconnection points must be simultaneous; if not, the efficiency of capacity allocation would be reduced as exit and entry capacity would be assigned through different unrelated processes.</p> <p>ACER also finds necessary to include in Article 7A how to treat cases where NRAs have not yet agreed on an IAM.</p> <p><b>ACER does not move forward the comment.</b></p>

### 3.4.3 Article 3: Definitions

Respondents' replies	ACER views
<b>(2) Interconnection point, and (23) Virtual interconnection point</b>	
<p>BBLC and Energy Traders Europe propose to leave the definitions for interconnection point and virtual interconnection point in NC CAM as well.</p>	<p>With respect to 'interconnection point:' <i>'ACER signals that this element is defined now in Article 2(63) of recast gas Directive (and Article 2(77) of recast gas Regulation) and suggests its deletion from CAM NC or replacement with a direct reference to the higher-level legislation.'</i></p> <p>With respect to 'virtual interconnection point:' <i>'ACER signals that this element is defined now in Article 2(64) of recast gas Directive (and Article 2(1)(78) of recast gas Regulation) and suggests its deletion from CAM NC or replacement with a direct reference to the higher-level legislation.'</i></p> <p><b>ACER invites the Commission's legal services to ensure the legal clarity and consistent cross-referencing of definitions in lower-level network codes and guidelines.</b></p>
<b>(21) small price step</b>	
<p>In order to better reflect the market value of a given capacity product and to accelerate the allocation process we suggest deleting small price steps. [Gas Connect Austria]</p>	<p>ACER understands 'small price steps' help to achieve an efficient outcome of ascending clock auctions and <b>does not accept the proposal to delete the small price steps.</b></p>
<b>(26) (new) initial auction, and (27) (new) additional auction</b>	
<p>These new definitions will only have added value if it is made clear which initial auction is referred to as stated below to distinguish from additional auctions. [BBLC]</p> <p>Supported – we note that it may be prudent to revise the amendment text for consistent use. [Energy Traders Europe]</p> <p>The 'initial' concept may not be needed to clarify the text. Anyway, if introduced in the CAM NC to explicitly differentiate the 'ACA set of auctions' from the 'UPAs additional' ones, the proposed definition can also bring confusion. Indeed, quarterly and monthly products are offered several times with ACAs and for example, the second time for the second quarter won't be 'a first auction' or an 'initial offer' of the product, except in regard of the additional auctions. The issue is that initial and additional cannot be defined with a circular reference. We propose to define the initial auction with reference to the articles that define the process of the corresponding offers:</p>	<p>ACER agrees with stakeholders' comments that 'initial' may not be very clear. Definitions of initial auctions and additional auctions should support clarity of the CAM rules.</p> <p>ACER emphasises that a definition cannot be circular by referring to other articles in CAM NC as proposed by ENTSOG. ACER agrees that no definition is needed for 'initial auction' as the Annual yearly capacity auction, the Quarterly capacity auctions and the Monthly capacity auctions are fully defined in Articles 11 to 13, respectively.</p> <p><b>ACER modifies its proposal and withdraws the definition proposed for 'initial auction'.</b></p> <p><b><u>'26. 'initial auction' means the first auction or auctions used for the initial base offer of yearly, quarterly and monthly available firm capacity.'</u></b></p> <p><b><u>'2726. 'additional auction' means an auction used for the additional offer of yearly, quarterly, and monthly firm capacity products subsequent to the initial</u></b></p>



Respondents' replies	ACER views
<i>"initial auction' means the first auction or auctions as described in Articles 11, 12 and 13 used for the initial offer of yearly, quarterly and monthly available firm capacity.' [ENTSOG]</i>	<del><b><u>auction of the same products auctions held pursuant to Articles 11 to 13.'</u></b></del>

## 3.6 Chapter II: Principles of cooperation

### 3.6.1 Article 4: Coordination of maintenance

Respondents' replies	ACER views
<b>Principle of fairness in bearing the cost of such maintenance</b>	
<p>Orlen suggests revising Article 4 (on maintenance) to increase transparency for network users and improve efficiency of the function of the system.</p> <p>More transparency (and in result comparability) might encourage operators to perform maintenance works in an efficient manner and in consequence minimize the effects of failures and planned works. Firstly, there should be an obligation to submit reports (harmonized on the EU level) on completed works, their duration and frequency. Secondly, there should be an obligation to publish a predicted probability of infrastructure availability in the future.</p> <p>Article 4 should also include a provision that would establish a principle of fairness in bearing the cost of such maintenance.</p> <p>Such a revision would increase consistency of how networks are operated within the Union as many operators act in this way by offering discounts in events of reduced capacity while some do not. More detailed rules should be latter added to NC TAR in this regard. Reduced capacity can significantly impact the ability of shippers to utilize the transmission system as initially contracted. The cost of reduced capacity should not unfairly burden shippers as reduced capacity results from factors beyond their control. Including provisions for discounts in the event of reduced capacity is a way to allocate risk fairly between the transmission system operator and shippers. Shippers typically pay for transmission services based on the capacity they have reserved, and if that capacity is not available due to reasons beyond their control, it is reasonable to expect some form of compensation or discount. [Orlen]</p>	<p>ACER assessed this proposal in its <a href="#">Evaluation Report</a> on the policy consultation and concluded that: <i>'the principle of cooperation between TSOs at times of maintenance is already incorporated in the current Article 4 of the CAM NC. <b>Specific elements of cooperation fit best in the interconnection agreement, whereas liabilities should be dealt with through the transmission-use agreements between network user and TSO.'</b></i></p> <p><b>ACER concludes that the review of the catalogue of the main terms and conditions pursuant to the proposed amended Article 20 of the CAM NC may indirectly improve such issues which otherwise cannot be directly resolved within the CAM NC.</b></p>

### 3.6.2 Article 6: Capacity calculation and maximisation

Respondents' replies	ACER views
<b>6(1)(a)(3) reference to national decarbonisation trajectories and how they may affect technical capacity</b>	
<p>Amendments can be deleted. The latest energy and climate plans are already covered by existing regulations.</p> <p><i>'(3) this in-depth analysis shall take into account assumptions made in the Union-wide 10-year network</i></p>	<p>In light of the decarbonisation package and the expected changes in gas supply and consumption, ACER considers it beneficial to make explicit reference to the decarbonisation trajectories despite they might be covered through indirect references already. The</p>

Respondents' replies	ACER views
<p>development plan pursuant to Article 8 of Regulation (EC) No 715/2009, <del>appropriately considering information on national decarbonisation trajectories pursuant to the latest national energy and climate plans</del>, national investment plans, relevant obligations under the applicable national laws and any relevant contractual obligations;'</p> <p>[BDEW, FNB Gas]</p>	<p>Commission's legal services will ensure legal consistency is achieved.</p> <p><b>ACER rejects the proposed deletion of a reference to national decarbonisation trajectories.</b></p>
<p><b>6(1)(a)(4) reference to frequency of re-calculation</b></p>	
<p>Introducing a time-based re-calculation schedule, especially in the absence of significant technical upgrades like capacity expansions, offers limited benefits. When technical capacity is calculated transparently and accurately, there is no need for annual or more frequent re-calculations. Performing annual capacity re-calculations at interconnection points (IPs) without substantial network changes creates unnecessary burdens for Transmission System Operators (TSOs) and market participants, resulting in redundant outcomes.</p> <p>The core principle must guarantee that once a market participant secures firm capacity, it remains reliably available to the operator, without being affected by dynamic re-calculations. Furthermore, re-calculating technical capacity every two years could lead to adjustments in available capacity at IPs, causing unpredictable shifts in the value of the capacity held by shippers. This unpredictability would complicate accurate long-term capacity planning and evaluation. [EDF, Proxigas]</p> <p>While regular capacity re-calculations can serve a purpose, their value may be limited when the grid's technical infrastructure remains stable. When initial capacity calculations are performed with transparency and accuracy, frequent re-calculations could create additional administrative work for transmission system operators (TSOs) and market operators. It's important to maintain the reliability of firm capacity bookings for operators, and any re-calculation approach should be designed with this principle in mind. Additionally, biennial re-calculations that may lead to available technical capacity variations at IPs could make it more challenging for shippers to evaluate the actual value of capacity when taking part in auctions.</p> <p>Therefore, unless there are meaningful infrastructure changes, such as capacity expansions, systematic re-calculations create administrative burden without providing meaningful benefits. [Edison]</p> <p><i>(4) The relevant transmission system operators shall apply a dynamic approach to re-calculating technical capacity, where appropriate in conjunction with the</i></p>	<p>ACER agrees that structural changes in the gas system or in gas supply and demand are the primary trigger of capacity re-calculation, while information on those changes are collected through consultation of network users, including through the TYNDP process and the demand assessments.</p> <p>ACER believes a <b>2-year period</b> for reviewing the assumptions underlying the capacity calculation is making explicit and transparent an expected current practice. Pursuant to Article 6(1)(a)(3) of the CAM NC, the capacity calculation shall take into account assumptions made in the Union-wide 10-year network development plan, which is a 2-yearly process. By not reviewing these assumptions, TSOs are not complying with the current Article 6 of the CAM NC.</p> <p>ACER furthermore notes that a review of capacity calculation assumptions does not automatically lead to a full re-calculation. The review may simply confirm that assumptions are still valid.</p> <p><b>ACER modifies its proposal for Article 6(1)(a)(4) to clarify structural changes are the main trigger for capacity re-calculation while a 2-yearly review of assumptions is expected in alignment with existing requirements of the capacity calculation process.</b></p> <p><b>Modified text proposal for Article 6(1)(a)(4)</b></p> <p><i>'The relevant transmission system operators shall apply a dynamic approach to re-calculating technical capacity, where appropriate in conjunction with the dynamic calculation applied for additional capacity on the basis of point 2.2.2.2 of Annex I to <del>Regulation (EC) No 715/2009</del> Regulation EU 2024/1789, jointly identifying the appropriate frequency for re-calculation per interconnection point and having regard to the particular specificities thereof. Transmission system operators shall re-calculate capacity in line with <u>evolving market circumstances, such as changing demand or supply, and changes to the transmission system. The assumptions underlying the capacity calculation shall be reviewed at least every two years in line with Article 55 of Directive (EU) 2024/1788 and the demand assessment process pursuant to Article 10(4) of Regulation (EU) 2024/1789. Capacity shall be re-calculated in line with evolving</u></i></p>

Respondents' replies	ACER views
<p>dynamic calculation applied for additional capacity on the basis of point 2.2.2.2 of Annex I to Regulation (EC) No 715/2009 Regulation EU 2024/1789, jointly identifying the appropriate frequency for re-calculation per interconnection point and having regard to the particular specificities thereof. <del>Transmission system operators shall re-calculate capacity at least every two years in line with Article 55 of Directive (EU) 2024/1788 and the demand assessment process pursuant to Article 10(4) of Regulation (EU) 2024/1789.</del> <u>Transmission system operators shall re-calculate capacity when permanent changes to the network structure occur, as a result of the implementation of technical and technological changes. Capacity shall be re-calculated in line with evolving market circumstances such as changing demand or supply.</u></p> <p>[Edison, EDF, Proxigas]</p>	<p><u>market circumstances such as changing demand or supply.</u></p>
<p>Energy Traders Europe does not see a need to retain periodic re-calculations of technical capacities. We believe that the re-calculations should stem from structural changes to the gas network, so that the recurring process does not become unnecessarily cumbersome to the TSOs as the experience from the incremental process shows.</p>	<p>ACER notes the comment and concludes it requires no action.</p>
<p>GRTgaz wants to stress that the calculations are made in order to optimize and maximize the capacity. All necessary details are published in a comprehensible way.</p>	<p>ACER notes the comment and concludes it requires no action.</p>
<p>OGMT supports the ACER modification - please also refer to our justification on recital (11), according to which any re-calculation in consideration of market input can support in replacing the INC process.</p>	<p>ACER notes the comment and concludes it requires no action.</p>
<p>BBLC remarks that given its merchant operator characteristics, capacity maximation is not purely a technical mathematical exercise but is also triggered by cost efficiency and operational possibility KPI's.</p>	<p>ACER notes the comment and concludes it requires no action.</p>
<p>BDEW agrees with the amendments and noted in December 2023 that the capacity calculation is a very complex process with a lot of different input factors which have to be taken into consideration. It takes several months to arrive at reliable results. Therefore, a higher frequency than once a year seems to be impractical.</p>	<p>ACER notes the comment and concludes it requires no action.</p>
<p><b>6(1)(a)(6) and 6(3) referencing the consultation requirements</b></p>	
<p>ENTSOG does not support the amendment. It is hard to assess the scope that the consultation would cover and to which level of details they should go. The calculation processes run by TSOs are very complex and quite often cover information which are sensitive</p>	<p><b>ACER finds it reasonable and proportionate to require consultation of network users when assessing future gas flows</b> as these stakeholders are the best placed to inform TSOs about how they intend to use the network. ACER has knowledge of</p>

Respondents' replies	ACER views
<p>from security point of view. TSOs already have all data they need, as can NRAs. Also, what should be taken into consideration is the fact that shippers views will differ depending on the market situation while network characteristics and set up does not change that easily. One of the aims of the access model is to internalize by TSOs as much complexity as possible and provide market (shippers) with as much clarity as possible. It is not shipper's role or obligation to be able to do the capacity calculations. Therefore, introduction of such an obligation would be an additional administrative burden which will have no added value for the market and its functioning. [ENTSOG]</p> <p>BDEW generally agrees that an inquiry is to be supported and increases transparency without violating the rules of unbundling. Nevertheless, the scope of the consultation is hard to define. Therefore, no consultation on the technical capacity calculations is preferred.</p> <p><i>'(6) transmission system operators shall have regard to information that network users may provide with regard to expected future flows when re-calculating the technical capacity.'</i></p> <p><del><b><u>When assessing future gas flows for the purpose of re-calculating the technical capacity, transmission system operators shall consult network users.</u></b></del></p> <p>[BDEW]</p>	<p>several cases of changes to technical capacity that came as a surprise to concerned network users because there was no consultation, or network users were not aware of the consultation. Furthermore, TSOs can organise themselves and streamline their consultations by covering aspects of network planning and network use in one consultation effort. Network users signalled their interest and willingness to participate in this process. Future gas flows are an essential element to consider in the capacity calculation and maximisation process, in particular when re-calculation may concern a reduction of technical capacity.</p> <p><b>ACER retains its amendment proposal without modification.</b></p>
<p>Energinet proposes to include clearer/more explicit provision on consultations if capacity is reduced on longer term due to decommissioning or conversion to other energy carriers e.g., hydrogen. We fear this is not sufficiently covered or will be unclear when included under the capacity maximisation concept. Energinet suggest a new article 7B.</p> <p>Energinet suggests inserting a new article 7B to include more explicit consultation requirements on TSOs in case of decommissioning/repurposing of existing capacity affecting IPs (= capacity reduction). Alternatively art. 6.3 can be amended.</p> <p>The European gas system is set for major changes on the path to net zero, with some existing methane pipelines expected to be decommissioned or repurposed for alternative usage, such as hydrogen transport. If not properly managed, these changes could disrupt methane pipeline flows and threaten security of supply. It is essential to balance the reduction of capacity with the creation of opportunities for the future energy system. Therefore, it is necessary to establish a framework for managing a future characterized by declining methane consumption and a transition to hydrogen as a fuel in some Member States. This framework should support 'frontrunner'</p>	<p>ACER considers planned reduction of capacity is a matter of capacity calculation and maximisation already covered under the provisions of Article 6 of the CAM NC. The case of planned reductions emphasises the need to have better transparency on capacity calculation through better information, more consultation and coordination, which are all covered by ACER's amendment proposal.</p> <p>ACER does not move forward the proposed new article by Energinet and emphasises its amendment proposals to improve transparency of the capacity (re)calculation process apply also to cases of capacity reduction (within a context of overall capacity maximisation).</p> <p><b>ACER believes the importance of regional cooperation in cases of decommissioning or repurposing of parts of the gas system fits better in a recital to the CAM NC. ACER will make more explicit the example of capacity reduction in its justification for improving and clarifying the coordination and consultation obligations of TSOs:</b></p> <p><b>Modified justification</b></p>

Respondents' replies	ACER views
<p>initiatives while also mitigating adverse impacts on methane-related markets and ensuring the security of supply in neighbouring Member States. Hence, Energinet underlines the importance of including these considerations in the NC CAM revision process by requiring in-depth cooperation and consultation between Member States, TSOs and market participant across EU in projects altering both existing and future capacities in the network.</p> <p>The concept of capacity maximisation may in theory include reductions in capacity, but we do not find it very clear and hence suggest a more explicit requirement to consult other system operators, network users and stakeholders in this process before long-term reductions of capacity can be initiated.</p> <p>New Article 7B</p> <p><u>'Where a transmission system operator foresees changes to technical capacity due to plans on decommissioning or repurposing of existing (methane) infrastructure capacity resulting in cross-border implications these plans shall be subject to direct consultation with adjacent TSOs, NRAs and network users on the impact of these changes.'</u></p> <p>[Energinet]</p>	<p><i>'Additionally, ACER considers the EU energy and climate policies are driving a change of the gas market that will impact the gas system assets and how the system will be used. In that context, ACER finds important that the system is used efficiently (maximised) and that this shall be monitored by the responsible entities, including regulatory authorities. The proposed changes ensure a more transparent capacity calculation that will facilitate monitoring. <b>In particular, the cases of decommissioning or conversion to transporting a different energy carrier require a capacity re-calculation that is coordinated between TSOs and NRAs and consulted with network users.'</b></i></p>
<p>Understanding shipper behaviour, both realised as well as expected, is key for a merchant operator which BBLC is. [BBLC]</p>	<p>ACER notes the comment and concludes it requires no action.</p>
<p><b>6(5) and 6(6) on the essential information to be published</b></p>	
<p>In the view of the BDEW there is no need for a 'joint' method of calculation (Art. 6, 5(a)) as each firm is subjected to different circumstances. Although the template is a welcome addition, it should not be used to define or harmonize the calculation methods of the member states. The scope of the template should be determined in a joined effort of the TSOs and ACER.</p> <p>While providing explanations for published information increases transparency, the effort and additional work required from the TSOs is disproportionately high compared to the added value of these explanations.</p> <p><u>'5. Transmission system operators shall publish the following information on their respective websites:</u> <u>(a) <del>joint</del> method to calculate and maximise firm capacity pursuant paragraph (1)a;</u> <u>(b) methodology to calculate and maximise interruptible capacity pursuant to Article 32(3);</u> <u>(c) capacity calculation and maximisation process.'</u></p> <p>[...]</p>	<p>The joint method is an element of Article 6(1)(a) that is retained. Therefore, <b>the published method is the joint method pursuant to Article 6(1)(a) of the CAM NC</b>. Deletion of the word 'joint' may lead to confusion about the method that is referred to.</p> <p><b>ACER rejects the proposed deletion.</b></p>

Respondents' replies	ACER views
[BDEW]	
<p>Previous consultation round placed a lot of emphasis on the 'system integrity margin' which is not explicitly mentioned in the amended text and/or the explanation – while Energy Traders Europe understand that the facilitation of the margin from country to country is different, the market would still benefit from understanding the process. In this spirit, Energy Traders Europe also notes that the data disclosure under this article should also help network users understand and trace the probability of interruption as the operating conditions change, including:</p> <ul style="list-style-type: none"> <li>• How much firm and interruptible capacity has been sold at each entry point.</li> <li>• Expected demand at seasonal normal temperature.</li> <li>• Historical flow information (on supply by entry point and on demand), including information on historical interruption.</li> <li>• Information on grid constraints in-country that would limit the extent to which capacity at one entry point can be substituted by another.</li> <li>• Information on how curtailment is to be managed (e.g. pro-rata, last-in-first-out, other).</li> </ul> <p><u>'5. Transmission system operators shall publish the following information on their respective websites:</u> <u>(a) joint method to calculate and maximise firm capacity pursuant paragraph (1)a;</u> <u>(b) methodology to calculate and maximise interruptible capacity pursuant to Article 32(3);</u> <u>(c) capacity calculation and maximisation process.</u> <b><u>(d) approach to managing curtailment</u></b></p> <p><u>The published information pursuant to points (a) and (b) shall at least explain:</u> <u>(a) how the system integrity and efficient network operation impact the maximisation of capacity; and</u> <u>(b) how the levels of firm, conditional, and interruptible capacity products correspond to the maximisation of capacity while considering system integrity and efficient network operation.</u> <b><u>(c) expected changes to the probability of interruption under different conditions, such as expected demand, historical flows and historical interruptions.'</u></b></p> <p>[Energy Traders Europe]</p>	<p>ACER takes note of the suggested additions and believes the approach to curtailment fits under Article 35, which deals with the sequencing of interruptions.</p> <p>ACER understands the proposal to add a point (c) 'expected changes to the probability of interruption under different conditions, such as expected demand, historical flows and historical interruptions' and finds this one possible approach for TSOs to explain point (b) 'how the levels of firm, conditional, and interruptible capacity products correspond to the maximisation of capacity while considering system integrity and efficient network operation.'</p> <p>ACER could not conclude on a best practice based on the available information collected in the policy consultation and finds beneficial to leave some freedom to TSOs on how they explain point (b) of ACER's amendment proposal for Article 6(5). <b>ACER finds the elements proposed by Energy Traders Europe as a reasonable practice, which may be promoted in the template to be developed by ENTSOG pursuant to proposed new Article 6(7) of CAM NC.</b> Stakeholder consultation on the draft template is foreseen.</p> <p><b>ACER considers that information on the procedures for interrupting capacity shall be published pursuant to Point 3.1.2.1 of Annex I to the recast gas Regulation ('Transmission system operators shall publish at least the following information about their systems and services: [...]</b></p> <p><i>(l). procedures agreed upon by transmission system operators at interconnection points, of relevance for access of network users to the transmission systems concerned, relating to interoperability of the network, agreed procedures on nomination and matching procedures and other agreed procedures that lay down provisions in relation to gas flow allocations and balancing, including the methods used;').</i></p> <p>If network users experience shortcomings in the availability of this information, they should bring this to the attention of the concerned TSO and NRA.</p> <p><b>ACER retains its proposal without modification.</b></p>
<p>Since ENTSOG will be working on the template its scope should be decided there. It will be consulted with stakeholders and ACER, then it only makes sense to decide the scope of it there. ENTSOG is against</p>	<p>ACER welcomed ENTSOG's and TSOs' proposal in its <a href="#">Evaluation Report</a> on the policy consultation. That template will facilitate the publication of information</p>

Respondents' replies	ACER views
<p>harmonisation of calculation methods. Due to differences in systems topography, methodology and geographical set up - calculations differ along the countries. It would be very hard if not impossible to harmonize them. It could be even found counter-productive. Joint method should be understood as is till now - and proposed wording might be misleading.</p> <p>ENTSOG proposes:</p> <p><i>'5. 6 months after publication of ENTSOG template transmission system operators shall publish the following information on their respective websites:</i></p> <p><i>(a) <del>joint method methodology</del> to calculate and maximise firm capacity pursuant paragraph (1)a;</i></p> <p><i>(b) methodology to calculate and maximise interruptible capacity pursuant to Article 32(3);</i></p> <p><i>(c) capacity calculation and maximisation process.</i></p> <p><i>The published information pursuant to points (a) and (b) shall at least explain:</i></p> <p><i><del>(a) how the system integrity and efficient network operation impact the maximisation of capacity; and</del></i></p> <p><i><del>(b) how the levels of firm, conditional, and interruptible capacity products correspond to the maximisation of capacity while considering system integrity and efficient network operation.</del></i></p> <p><i>6. The information listed in paragraph (5), <del>together with a quantitative assessment of impacts that system integrity and efficient network operation may have on the technical capacity,</del> shall be also published on a publicly accessible Union-wide central platform, in accordance with the principles specified in point 3.3.1 of Annex I to Regulation (EU) 2024/1789.'</i></p> <p>[ENTSOG]</p>	<p>pursuant to the new paragraph (5) of Article 6 of the CAM NC.</p> <p>ACER's amendment proposal does not require harmonisation of the calculation methods. <b>The amendment proposal included in Article 6(5)-(7) provides the essential elements to be included in the published information.</b></p> <p>ACER concluded that transparency on the physical flow potential and the commercial technical capacity is beneficial for the market functioning and EU's better preparedness for handling a gas market crisis, providing the necessary information on how the system integrity affects the offer of capacity and what is the real potential to flow gas at key points in the gas system. ACER's justification for its amendment proposal reasons that: <i>'the EU energy and climate policies are driving a change of the gas market that will impact the gas system assets and how the system will be used. In that context, ACER finds important that the system is used efficiently (maximised) and that this shall be monitored by the responsible entities, including regulatory authorities. The proposed changes ensure a more transparent capacity calculation that will facilitate monitoring.'</i></p> <p>Changes involving decommissioning or repurposing of network assets may have significant regional impacts such as a downward re-calculation of technical capacity; coordination between TSOs and NRAs and consultation of network users in the region is necessary for the functioning of the market.</p> <p><b>ACER retains its proposal without modification.</b></p>
<p>The calculation and maximization of transmission capacity should enable the integration of new entry points into the gas system, or at the very least, ensure that such capacity mechanisms do not hinder their development. This is essential to enhancing gas supply security and fostering system resilience. Currently, transmission system operators (TSOs) allow connection to new entry points in a fragmented and uncoordinated manner. In many instances, these new entry points also address the needs of adjacent gas systems, making their effective operation reliant on the cooperation of adjacent TSOs.</p> <p>As such, it is critical to establish a flexible and coherent framework that provides clear guidelines for TSOs on how to facilitate access to the gas network for new entry points. We propose that each TSO be required to</p>	<p>The scope of the CAM NC does not include setting <b>rules for connecting to the network</b> and therefore this comment is <b>out of scope</b> of ACER's amendment proposals.</p> <p>With respect to the elements proposed for inclusion among the information to be published, gas demand scenarios and a description of the technical system are already covered by the requirement to publish the methodology; gas flows are already published on the EU-wide transparency platform.</p>



Respondents' replies	ACER views
<p>develop a standardized methodology for access for new entry points, involving also entry points for new LNG regasification facilities. This methodology should be subject to approval by the relevant national regulatory authority(-ies), potentially in alignment with guidelines issued by ACER.</p> <p>The proposed methodology must consider plausible and realistic gas demand scenarios, while avoiding over-dimensioning the system based on excessively conservative 'worst-case' assumptions. By doing so, the risk of suboptimal network expansion and unnecessary infrastructure investment is minimized, and so is the risk of a 'carbon lock-in' to inefficient infrastructure.</p> <p>Simultaneously, the framework will support the objectives of supply security and diversification of supply sources, ensuring transparent and equitable access to the gas network for all market participants.</p> <p><i>'5. Transmission system operators shall publish the following information on their respective websites:</i>  <i>(a) Joint method to calculate and maximize firm capacity pursuant to paragraph (1)a;</i>  <i>(b) Methodology to calculate and maximize interruptible capacity pursuant to Article 32(3);</i>  <i>(c) Capacity calculation and maximization process.</i>  <b><u>(d) The methodology for assessing the possibility to connect new entry points which shall be submitted to the relevant national regulatory authority(-ies) for approval.</u></b>  <i>The published information pursuant to points (a) and (b) shall at least explain:</i>  <i>(a) How the system integrity and efficient network operation impact the maximization of capacity; and</i>  <i>(b) How the levels of firm, conditional, and interruptible capacity products correspond to the maximization of capacity while considering system integrity and efficient network operation.</i>  <b><u>The published information pursuant to point (d) shall at least consider:</u></b>  <b><u>(a) Plausible gas demand scenarios;</u></b>  <b><u>(b) Gas flows based on capacity auction outcomes in the IPs; and</u></b>  <b><u>(c) Transparent technical system specifications.'</u></b></p> <p>[ELPEDISON]</p>	

### 3.7 Chapter III: Allocation of firm capacity products

Articles 9-10 did not have comments.

#### 3.7.1 Article 8: Allocation methodology

Respondents' replies	ACER views
<b>Article 8(3)A on the introduction of additional firm capacity auctions via UPA.</b>	
<p>BBLC considers <b>additional auctions should be optional</b> and not mandatory.</p>	<p>The introduction of <b>mandatory additional offer of firm capacity via UPA</b> to allocate unsold firm capacity is <b>largely supported</b> and is the <b>result of extensive consultations</b> these past 3 years. Allocation rules should be <b>applied at all IPs and at either side of borders</b>, optionality would not be consistent with this idea.</p> <p>While optionality could be designed as an opt-out mechanism by which national regulatory authorities should decide whether the additional auction would be implemented. ACER considers that the criteria of such decision would not be easily defined bringing a high level of discretion into the process and a risk of market fragmentation where several interconnection points along a supply corridor would have different rules for handling unsold firm capacity, limiting network users' bidding strategies.</p> <p><b>After having investigated the matter further, ACER retains its proposal without modification.</b></p>
<p>Energinet is in favour of additional auctions but believes it <b>should be an option</b> (not beneficial for all systems) and that choice should be left to use auctions of <b>FCFS</b>.</p> <p><i>'Yearly, quarterly, and monthly firm standard capacity products shall first be offered in initial auctions. Without prejudice to paragraphs 6 and 7, any firm capacity available after the initial auctions <b>may</b> be offered in additional auctions or as <b>First Come First Serve</b>.'</i></p>	<p>ACER evaluated the proposal of FCFS in its <a href="#">Evaluation Report</a> on the policy consultation and concluded that: <i>'the CAM NC rules of 2013 (amended in 2017) deliberately introduced auctions to assign capacity based on willingness to pay and to move away from first come first served. <b>ACER considers that reintroducing FCFS for allocating capacity would be a step back.</b></i></p>
<b>Article 8(6) to 8(8) on the capacity set-aside rule.</b>	
<p>ENTSOG (supported by FNB Gas and Teréga) suggests <b>removing the set-aside rule</b> (market is developed enough) or, alternatively, to include the % under the Adapt-to-market clause (Teréga proposal for modified text).</p> <p><i>'6. An amount at least equal to 20 %, <b>unless modified in accordance with Article 37A</b>, of the existing technical capacity at each interconnection point shall be set aside and offered in accordance with paragraph 7[...]</i></p> <p><i>7. Any capacity set aside pursuant to paragraph 6 shall be offered, subject to the following provisions: (a) an amount at least equal to 10 % <b>unless modified in accordance with Article 37A</b>, of the existing technical capacity at each interconnection point shall be offered no earlier than in the annual yearly capacity auction as provided for in Article 11 held in accordance</i></p>	<p>ACER proposes to retain the set-aside rule laid out in paragraphs 6 to 8: minimum % should continue to apply.</p> <p>It was decided to keep the current set-aside rules given the contradictory opinions expressed in the previous consultations and also given no real problem have been brought to ACER by stakeholders so far. ACER evaluated the possibility of modifying the set-aside rule of Article 8 and concluded in its <a href="#">Evaluation Report</a> on the policy consultation that: <i>'Given the positions expressed, ACER does not propose to amend the current set-aside rule, emphasising the possibility for TSOs to introduce higher set-aside shares and to affect product-specific set-aside shares with the current rule.'</i></p> <p>The possibility to reduce the level of the capacity to be set aside was not evaluated before.</p>

Respondents' replies	ACER views
<p><i>with the auction calendar during the fifth gas year preceding the start of the relevant gas year; and (b) a further amount at least equal to 10 % <b>unless modified in accordance with Article 37A</b>, of the existing technical capacity at each interconnection point shall first be 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.'</i> [Teréga]</p> <p>FGSZ proposes to <b>reduce the current 20% rule to 10%</b> and even proposes to remove the 10% set-aside for yearly capacity and <b>only keep the 10% for shorter-term products</b>:</p> <p><i>'6. An amount at least equal to 10 ±0 % of the existing technical capacity at each interconnection point shall be set aside and offered in accordance with paragraph 7. If the available capacity is less than the proportion of technical capacity to be set aside, the whole of any available capacity shall be set aside. This capacity shall be offered in accordance with point (b) of paragraph 7, while any remaining capacity set aside shall be offered in accordance with point (a) of paragraph 7.</i></p> <p><i>7. Any capacity set aside pursuant to paragraph 6 shall be offered, subject to the following <b>provisions</b>: <del>(a) an amount at least equal to 10 % of the existing technical capacity at each interconnection point shall be offered no earlier than in the annual yearly capacity auction as provided for in Article 11 held in accordance with the auction calendar during the fifth gas year preceding the start of the relevant gas year; and</del> <b>(b) a further amount</b> at least equal to 10 % of the existing technical capacity at each interconnection point shall first be 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.'</i></p>	<p><b>ENTSOG and Energy Traders Europe indicate that lower set-aside percentages could be considered. ACER notes this proposal is shared between transmission system operators and network users and believes that consideration could be given to lowering the minimum % or to introducing a provision allowing flexibility to lower the minimum % in the future.</b></p> <p>However, ACER considers the EU-wide minimum level of capacity to be set aside is an essential element of capacity allocation rules that does not meet the scope of the proposed parameter modification procedure of Article 37A. Not having had the time to carry out an in-depth analysis on the issue and seeing that the introduction of such flexibility provision for modification in the CAM NC could lead to complex processes, ACER does not propose an amendment at this stage.</p> <p>Nevertheless, ACER invites the Commission to consider further investigation on this point:</p> <ul style="list-style-type: none"> <li>• Requesting ACER to assess the effectiveness of the current minimum level of capacity to be set aside;</li> <li>• Requesting ACER to investigate the design of a procedure for modifying the minimum level and recommended proportions of capacity to be set aside for different capacity products.</li> </ul>
<p>Energy Traders Europe and OGMT consider lower % should be applied/possible. Also setting aside capacity can be detrimental/may not be applied to INC capacity, to surrendered capacity and is considered unduly blocking capacity from being accessible to the market.</p>	<p>The proposal by Energy Traders Europe to enable setting different set-aside percentages per interconnection point is already partially possible in the upward direction in accordance with Article 8(9) of the CAM NC (<i>'The exact proportion of capacity to be set aside pursuant to paragraphs 6 and 8 shall be subject to [...] approval by national regulatory authorities at each interconnection point.'</i>).</p>

Respondents' replies	ACER views
<p>An amendment proposal is provided by Energy Traders Europe (<i>potentially a separate paragraph number</i>):</p> <p><b><u>'Relevant national regulatory authorities may jointly decide to refrain from applying the set aside principles set out in paragraph 7 in duly justified cases if they identify that these rules:</u></b></p> <p><b><u>(a) negatively affect economic viability of incremental projects</u></b></p> <p><b><u>(b) reserve a disproportionately large share of capacity for shorter-term products at particularly large IPs</u></b></p> <p><b><u>(c) interfere with the ability to bundle the capacities available at the two sides of an IP</u></b></p> <p><b><u>(d) with respect to capacities surrendered by the previous holders'</u></b></p>	<p>With respect to the comment on surrender, ACER does not understand how surrender affects capacity set-aside. Capacity set-aside is calculated on technical capacity. When that capacity is released, it shall be considered 'available capacity'. Point 2.2.4 of Annex I of the recast gas Regulation (CMP Guidelines) requires: Surrendered capacity shall be considered to be reallocated only after all the available capacity has been allocated.</p> <p><b>ACER refers to its reply in the above point and does not move forward these stakeholder proposals at this stage.</b></p>

### 3.7.2 Article 11: Annual yearly capacity auctions

Respondents' replies	ACER views
<p><b>Article 11(3) on offer of yearly capacity products for no longer than the upcoming 15 years.</b></p>	
<p>Energinet proposes to <b>remove the 15-year maximum horizon</b> as it considers this rule unduly restricts access to capacity in the long term.</p> <p><i>'3. The <u>initial</u> auction process shall offer capacity at least for the upcoming 5 gas years <del>and for no longer than the upcoming 15 gas years for existing capacity. When offering incremental capacity, the offer levels may be offered in yearly capacity auctions for a maximum of 15 years after the start of operational use.</del></i></p>	<p>ACER evaluated the proposal of longer forward capacity allocation in its <a href="#">Evaluation Report</a> on the policy consultation and concluded that: <b>'ACER considers 15 years remains a reasonable horizon for selling forward capacity products. Regulatory authorities have the option to exceptionally extend the horizon with 5 additional years if an incremental project meets the conditions to apply an alternative allocation mechanism.'</b></p> <p><b>ACER does not move forward the suggestion.</b></p>
<p><b>Article 11(9) on Annual yearly capacity auction time</b></p>	
<p>ENTSOE suggests <b>including the yearly auction time into the Adapt-to-market clause.</b></p> <p><i>'9. <b>Unless modified in accordance with the process specified in Article 37A</b>, the bidding rounds of each initial auction shall take place between 8.00 UTC to 17.00 UTC (winter time) or 7.00 UTC to 16.00 UTC (daylight saving) on all relevant gas days. Bidding rounds shall be opened and closed within each gas day, as specified in Article 17(2).'</i></p>	<p>ACER expects very few benefits from changing the time window during which auctions are to be organised (which corresponds also to business hours and planning of personnel resources); the modification of the duration of the rounds will already enable more rounds to be organised within that window.</p> <p><b>ACER does not move forward the suggestion to enable the modification of auction times in accordance with the parameter modification procedure.</b></p>

### 3.7.3 Article 12: Annual quarterly capacity auctions

Respondents' replies	ACER views
<b>Article 12(1) on clarification of the number of quarterly capacity auctions</b>	
<p>Only National Gas Transmission (GB TSO) commented on the proposed amended paragraph, explaining it is confusing and unclear how four initial Q auctions can be organized (no amendment proposal provided).</p>	<p>ACER took note that the concept of 'initial auction' is confusing as for quarterly and monthly products, more than 1 'initial auction' is held.</p> <p><b>ACER withdraws its amendment proposal to introduce Article 3(26) on 'initial auction'</b> and removes all references to 'initial' in Articles 11 to 13.</p>
<b>Article 12(6) on reduction of the notification period for Q auctions to 1 week.</b>	
<p>OGMT considers <b>1 week is too short</b> in particular to agree on an auction strategy for Q products (as Q products can be purchased until the end of the gas year) and advocates for keeping the current 2-week notification time.</p>	<p>The proposed reduction in the notification period is consistent with the introduction of additional auctions for yearly capacity. Furthermore, the notification time is modifiable in accordance with the proposed parameter modification procedure.</p> <p>ACER considers that network users will have the opportunity to participate in the additional auction of yearly capacity (if any) or prepare their booking strategy for the quarterly capacity auction, for which the reserve price is known, and the offer level will be determined after the (additional) auction of yearly capacity.</p> <p><b>ACER retains its amendment proposal for the notification of capacity levels in the quarterly capacity auctions without modification.</b></p>
<b>Article 12(7) on Annual quarterly capacity auction time.</b>	
<p>ENTSOG suggests including the quarterly auction time in the Adapt-to-market clause.</p>	<p>ACER expects very few benefits from changing the time window during which auctions are to be organised (which corresponds also to business hours and planning of personnel resources); the modification of the duration of the rounds will already enable more rounds to be organised within that window.</p> <p><b>ACER does not move forward the suggestion to enable the modification of auction times in accordance with the parameter modification procedure.</b></p>

### 3.7.4 Article 13: Rolling monthly capacity auctions

Respondents' replies	ACER views
<b>Article 13(1) clarification of the number of initial auctions.</b>	
<p>National Gas Transmission (GB TSO) commented on the proposed deletion of the word 'rolling', suggesting it may be more appropriate to keep it (without providing justification).</p>	<p>As monthly products are proposed to no longer only be offered for the upcoming month only ('rolling') but to be offered up to 3 months in advance within a given quarter, the word 'rolling' is no longer appropriate.</p> <p><b>ACER finds the deletion of 'rolling' has little impact. ACER recommends using the same naming convention for the quarterly and monthly</b></p>

Respondents' replies	ACER views
	<p><b>capacity auctions of Articles 12 and 13, respectively, as the proposed amendments make them very similar.</b></p> <p><b>ACER retains its amendment proposal without modification.</b></p>
<b>Article 13(3) Upfront offer of monthly products within a quarter.</b>	
<p>BBLC is reluctant about this proposal and considers it will negatively impact quarterly capacity sales, which will be detrimental to TSOs.</p> <p>National Gas Transmission (GB TSO) believes there is a lack of clarity about this new auction setup and how it will work practically. They point at the impact on systems, the treatment of bank holidays, the possible conflicts between auctions and regrets the absence of visual representation of the new proposed auction calendar.</p>	<p>ACER notes this proposal has been consulted on many occasions and is addressing a need expressed by stakeholders to have opportunities to book further ahead monthly capacity products. ACER acknowledges that an example auction calendar may clarify how the organisation of auctions would look like. Such example is available in the material supporting the <a href="#">workshop of 27 June 2022</a> on the FUNC issue: how to ensure greater flexibility to book firm capacity at interconnection points.</p> <p><b>ACER retains its amendment proposal without modification.</b></p>
<p>Energinet and National Gas Transmission (GB TSO) indicate they struggle to understand the concept of 'initial' auctions for monthly products that will now be auctioned several times within a quarter. This can be confusing with respect to the additional auctions proposed.</p>	<p>ACER took note that the concept of 'initial auction' is confusing as for quarterly and monthly products, more than 1 'initial auction' is held.</p> <p><b>ACER withdraws its amendment proposal to introduce Article 3(26) on 'initial auction' and removes all references to 'initial' in Articles 11 to 13.</b></p>
<b>Article 13(7) monthly capacity auction time</b>	
<p>ENTSOG suggests including the monthly auction time into the Adapt-to-market clause.</p>	<p>ACER expects very few benefits from changing the time window during which auctions are to be organised (which corresponds also to business hours and planning of personnel resources); the modification of the duration of the rounds will already enable more rounds to be organised within that window.</p> <p><b>ACER does not move forward the suggestion to enable the modification of auction times in accordance with the parameter modification procedure.</b></p>

### 3.7.5 Article 13A: Additional auctions for yearly, quarterly and monthly capacity products

Respondents' replies	ACER views
<b>Article 13A on the introduction of additional auctions as mandatory</b>	
<p>BBLC and Energinet consider additional auctions <b>should be optional, not mandatory</b>, and Energinet even proposes FCFS.</p> <p>GAZ-SYSTEM expresses its opposition to introduction of additional auctions and <b>promotes deletion of the</b></p>	<p>See also the evaluation under 3.7.1.</p> <p>The introduction of <b>mandatory additional offer of firm capacity via UPA</b> to allocate unsold firm capacity is <b>largely supported</b> and is the <b>result of extensive consultations</b> these past 3 years. Allocation rules should be <b>applied at all IPs and at either side of</b></p>

Respondents' replies	ACER views
<p><b>whole article</b>, raising the following issues and considerations:</p> <ul style="list-style-type: none"> <li>• Additional expenditures for TSOs without guaranteed additional capacity sales: a proper CBA should be performed. Implementation costs should be recognized by NRAs and covered in tariffs.</li> <li>• Unsure if so many auctions for a given product will lead to more capacity sales.</li> <li>• Additional Y, Q, M UPAs + BoM Will add burden to allocation process and add complexity for shippers.</li> <li>• Such a volumes of auctions can lead to market manipulations.</li> <li>• Implemented changes should be notified long-enough.</li> </ul> <p>Interconnector and National Gas Transmission (GB TSO) express concern about the <b>implementation costs and additional complexity</b>. They suggest adding visual clarification and carrying out CBA during comitology process.</p>	<p><b>borders</b>, optionality would not be consistent with this idea.</p> <p>ACER acknowledges more auction opportunities raise complexity. However, ACER considers that shippers also handle the complexity of continuous trading in the commodities market for a large number of products. Furthermore, the request for having a more dynamic offering comes from the market to reduce the mismatch in timing between commodities trading and transmission auctions.</p> <p>In consideration of the expected complexity, ACER and ENTSOG explored several options under <a href="#">FUNC case 01/2020</a> to bring forward a solution which adds much less additional auction dates (once a week) than the original Energy Traders Europe (EFET) proposal (every day). ACER's amendment proposal builds on the ACER-ENTSOG issue solutions note of that case.</p> <p>While optionality could be designed as an opt-out mechanism by which national regulatory authorities should decide whether the additional auction would be implemented. ACER considers that the criteria of such decision would not be easily defined bringing a high level of discretion into the process and a risk of market fragmentation where several interconnection points along a supply corridor would have different rules for handling unsold firm capacity, limiting network users' cross-border bidding strategies.</p> <p><b>After having investigated the matter further, ACER retains its proposal without modification.</b></p>
<p>ENTSOG points at some issues with the proposed wording:</p> <ul style="list-style-type: none"> <li>• an inconsistency in the proposed wording ('closure of [...] firm capacity products'] and suggests replacing 'products' by 'auctions',</li> <li>• suggestion to being clearer that firm capacity will only be offered via additional auctions if remaining unsold volumes, and with respect to the set-aside rules.</li> </ul>	<p><b>ACER takes note of the identified issues by ENTSOG and modifies the amended text proposal accordingly.</b></p> <p><b>Modified proposal Article 13A(1):</b></p> <p><i>'1. After the closure of each <del>initial annual</del> <u>yearly capacity auction pursuant to Article 11, quarterly capacity auction pursuant to Article 12 and monthly capacity auction pursuant to Article 13, firm capacity products, and subject to capacity being available and considering capacity set-aside pursuant to Article 8(7), yearly, quarterly, and monthly firm capacity products shall be offered in subsequent additional auctions using the auction algorithm pursuant to Article 16(2A). Additional auctions can only be held until the day preceding the <del>start day of the product or until the capacities for an auction of firm capacity with a shorter duration are published</del> day on which the available capacities for an auction of firm capacity covering the same period with a shorter duration are published.'</u></i></p>

Respondents' replies	ACER views
<p>OGMT points that capacity conversion requests expressed during initial auctions should be completed by the time of publication of the additional auctions and also points at the need that capacity surrender is ensured/allowed for additional auctions.</p>	<p>ACER takes note of this operational comment which refers to the TSO administrative processes for conversion.</p> <p>ACER does not see a link between the organisation of additional auctions and the surrender of capacity. Any capacity surrendered pursuant to Point 2.2.4 of Annex I to the recast gas Regulation shall be offered to the market pursuant to the same point.</p>
<p><b>Article 13A(2) on additional auction frequency and date of the week.</b></p>	
<p>ENTSOG, GAZ-SYSTEM, PRISMA and Teréga point at the fact that, <b>in case the last day of the month is a Thursday</b>, a M additional UPA could take place on the same day as the first BoM auction: this case should be treated in the article: in this case the additional auction shall take place on the Wednesday (an amendment proposal is provided by PRISMA).</p>	<p>ACER notes that on the last day of the month, the month-ahead product can no longer be offered as the shorter-term day-ahead product is up for auction as well as the BoM auction. <b>ACER does not consider the raised example a date incompatibility as the monthly product should no longer be offered in line with the cascading of capacity products.</b> Furthermore, ACER considers giving reasonable time for network users to prepare their bidding for the shorter-term capacity products.</p> <p>ACER modifies accordingly its proposal ensuring additional auction are held up to the day preceding the publication of available capacities in the auction of firm capacity covering the same period with a shorter duration <b>to make clear that the additional auction of a capacity product shall not be organised on the auction day of firm capacity covering the same period with a shorter duration.</b></p> <p><b>ACER refers to its modified amendment proposal for Article 13A(1) above.</b></p>
<p><b>Article 13A(3) to (8) on additional capacity auction times.</b></p>	
<p>ENTSOG suggests <b>including the auction times into the adapt-to-market clause.</b></p> <p>GRTgaz also indicates <b>additional auctions for yearly and quarterly products could take place at the same time</b> (at 10:00/9:00 UTC) as these additional auctions will never take place on the same day (an amendment proposal is provided).</p> <p>Teréga goes even further than GRTgaz and suggests that <b>all Y, Q and M additional auctions could take place at the same hour of the day</b> (at 10:00/9:00 UTC).</p>	<p>ACER considers the UPA time-efficient and expects few benefits from changing the auction times.</p> <p><b>ACER does not move forward the suggestion to enable the modification of auction times in accordance with the parameter modification procedure.</b></p> <p>ACER finds beneficial to organise additional auctions early in the day and finds reasonable the proposal to organise additional auctions of yearly capacity and of quarterly capacity with the same timings considering they will not be organised on the same day.</p> <p><b>ACER modifies the timings in Article 13A(5) to (8):</b></p> <p><i><u>'5. The additional quarterly capacity auctions shall open at 10.00 UTC (winter time) or 09.00 UTC (daylight saving). Only the upcoming quarter shall be offered as an additional auction.</u></i></p> <p><i><u>6. A capacity bid for the quarterly capacity product for the additional capacity auctions shall be handled as</u></i></p>



Respondents' replies	ACER views
	<p><u>follows: submission, withdrawal or amendment from 10.00 UTC to 10.30 UTC (winter time) or 09.00 UTC to 09.30 UTC (daylight saving).</u></p> <p><u>7. The additional monthly capacity auctions shall open at 12.00 UTC (winter time) or 11.00 UTC (daylight saving). Only the upcoming month shall be offered as an additional auction.</u></p> <p><u>8. A capacity bid for the monthly capacity product for the additional capacity auctions shall be handled as follows: submission, withdrawal or amendment from 12.00 UTC to 12.30 UTC (winter time) or 11.00 UTC to 11.30 UTC (daylight saving).'</u></p>
<p><b>Article 13A(9) on Offered capacity formula</b></p>	
<p>BDEW, ENTSOG and GAZ-SYSTEM indicate the formula should also take into account the capacity volumes set-aside and proposes the following alternative formula: <math>A - B - C + D</math> (amendment proposals are provided).</p> <p><i>'9. The capacity to be offered in the additional capacity auctions shall be, for each auction, equal to:</i></p> <p><math>A - B - C + D</math></p> <p><i>Where:</i> <i>'A is the transmission system operator's technical capacity for each of the standard capacity products;</i> <i><b>B, for annual yearly auctions offering capacity for the next 5 years, is the amount of technical capacity (A) set aside in accordance with Article 8(7); for annual yearly auctions for capacity beyond the first 5 years, is the amount of technical capacity (A) set aside in accordance with Article 8(7);</b></i> <i>C is the previously sold technical capacity, adjusted by the capacity which is re-offered in accordance with applicable congestion management procedures;</i> <i>D is additional capacity, if any.'</i></p>	<p>ACER acknowledges that for the determination of available capacity in an additional auction, any capacity set-aside shall be treated pursuant to Article 8(7).</p> <p><b>ACER modifies its amendment proposal according to the suggestion provided by ENTSOG.</b></p> <p><b>Modified text proposal for paragraph 9:</b></p> <p><u>'The capacity to be offered in the additional capacity auctions shall be, for each auction, equal to:</u></p> <p><u><math>A - B - C + D</math></u></p> <p><u>Where:</u> <u>A is the transmission system operator's technical capacity for each of the standard capacity products;</u> <u><b>B is the amount of technical capacity (A) set aside in accordance with Article 8(7);</b></u> <u>C is the previously sold technical capacity, adjusted by the capacity which is re-offered in accordance with applicable congestion management procedures;</u> <u>D is additional capacity, if any.'</u></p>
<p><b>Article 13A(12) on publication of aggregated auction results</b></p>	
<p>Eni and Proxigas consider a deadline should be added for the publication of aggregated information on the auction results, no later than 30 min after the auction closure (an amendment proposal is provided).</p> <p><u>'12. Aggregated information on the additional auction results shall be published no later than 30 minutes after the auction closes.'</u></p>	<p>CAM NC provides that auction results shall be made available to individual network users participating in the auctions: <i>'no later than the next business day'</i> for yearly, quarterly and monthly capacity products.</p> <p>A 30-minute deadline is provided for in ACER's proposed amendment for publication of the auction results to the participants in the respective additional firm capacity auctions, which is aligned with the rule for</p>

Respondents' replies	ACER views
	<p>day-ahead and within-day capacity auction results (and for the proposed BoM).</p> <p>ACER notes that <b>no deadline exists today for the publication of aggregated information on the auction results</b> (neither for yearly, quarterly, monthly or day-ahead products). Only the within-day auctions require TSOs to publish aggregated results <i>'at least at the end of each day.'</i></p> <p><b>ACER does not move forward this suggestion in its amendment proposal.</b></p>
<p><b>Article 13A(13) on no capacity product can be offered via ACA once it has already been offered via UPA</b></p>	
<p>Teréga considers this paragraph should be deleted:</p> <ul style="list-style-type: none"> <li>○ It is redundant with the text in paragraphs 3, 5 and 7 (<i>'Only the upcoming [year/quarter/month] shall be offered as an additional auction'</i>) and is thus not necessary</li> <li>○ The rules for algorithms are laid down under Article 16, and should not be laid down here.</li> <li>○ Teréga disagrees with the underlying reason for such a rule, which it finds isn't backed by a market or technical point of view.</li> <li>○ Such rule may limit possibilities for changing auction processes in the future.</li> </ul>	<p>ACER takes note of Teréga's reasoning and agrees that proposed Article 13(13) is indeed redundant with the same outcome already provided for by means of paragraphs 3, 5 and 7 of the same Article.</p> <p><b>ACER modifies its amendment proposal and withdraws paragraph 13 of Article 13A.</b></p> <p><b><u>'13. Once a capacity product has been offered in an auction using the uniform price algorithm, it can no longer be offered through an ascending clock auction.'</u></b></p>

### 3.7.6 Article 13B: Rolling balance-of-the-month auctions of daily capacity products

ACER considers in this section comments on the proposed amendment of a 'balance-of-the-month auction' in which a package of daily products is offered. Comments regarding the design choice balance-of-the-month product vs auction are excluded as that discussion is covered under the 'Comments on options for balance of the month' in Section 3.1.2 above.

Respondents' replies	ACER views
<p><b>Article 13B title and (1) on introduction of auction of daily products over the balance-of-the-month horizon</b></p>	
<p>BBLC indicates it already allocates BoM capacity products via implicit allocation. <b>A new bundled BoM-like capacity allocation scheme shall not harm the already-existing scheme at BBL.</b> In particular, BBL considers a BoM should allocate capacity starting on D+2.</p> <p>Interconnector considers the proposed BoM does not fully align with the BoM commodity products</p> <p>National Gas Transmission (GB TSO) remains unsure how the new Balance of the Month amendments will work and seem to be complex in application. The new text provided lacks clarity on how weekends and bank</p>	<p>ACER sees no reason why the new BoM capacity allocated via CAM auctions would interfere with BoM capacity allocated via implicit allocation mechanisms.</p> <p>ACER sees no major issue having BoM capacity not been exactly designed as on the commodity markets. There could indeed be differences between the number of days included in a BoM commodity contract (which ACER understand may exclude bank holidays) and the number of days included in the BoM capacity contract. Such differences surely also exist with other existing capacity products.</p> <p>ACER notes auctions of day-ahead and within-day capacity products are organised without any effect of</p>

Respondents' replies	ACER views
<p>holidays are managed, whether there will or could be unintended interactions with the other additional auctions, and system impacts. Additionally, some of the timings proposed create tight timescales and would potentially raise questions over whether multiple unrelated processes can be run simultaneously within the systems. In order for National Gas Transmission to take a position on this proposal, more detail would be required within the text and a simplification of the auction product proposed, fully taking account of how this new auction product could work within the auction calendar.</p> <p>OGMT asks for more clarity on the BoM offer and how maintenance would affect it: will BoM be offered when TSOs know one or more days may not be provided on a firm basis?</p>	<p>weekends or bank holidays and sees no reason why that would be different for BoM auctions.</p> <p>ACER understands some IT development will be necessary to make the introduction of this auction possible. In terms of dealing with simultaneous auctions, this is already the case today on few days when network users may participate in auctions of Y, D and W capacities. Additional auctions have different timings than BoM and D auctions.</p> <p>ACER does not see a difference between BoM and a monthly product or a daily product and the treatment of maintenance.</p> <p>ACER takes note of these clarification questions and considers them addressed.</p>
<p><b>Article 13B(3) &amp; (4) on BoM auction setup</b></p>	
<p>Gas Connect Austria indicates it considers network users should not be able to surrender BoM capacity (given it is a strip of Daily products).</p>	<p>ACER notes that Point 2.2.4 of Annex I to the recast gas Regulation requires TSOs to accept any surrender of firm capacity contracted by a network user <i>'with the exception of capacity products with a duration of a day and shorter'</i>. In the 'BoM auction' option, the BoM sale allocates a strip of individual daily products to a network user.</p> <p><b>ACER takes note of the comment which does not request any action within CAM NC.</b></p> <p><b>ACER will signal this issue to the European Commission as a CMP related matter that necessitates further clarification.</b></p>
<p><b>Article 13B(5) &amp; (6) on BoM auction timing</b></p>	
<p>ENTSOG suggests including the balance-of-the-month auction time into the Adapt-to-market clause.</p>	<p>ACER considers the UPA time-efficient, and expects few benefits from changing the auction times.</p> <p><b>ACER does not move forward the suggestion to enable the modification of auction times in accordance with the parameter modification procedure.</b></p> <p><b>ACER notes that editorial improvement is possible and modifies its amendment proposal for Articles 13B(6).</b></p> <p><i><b><u>'A capacity bid for the balance-of-the-month capacity for the rolling balance-of-the-month auction of daily capacity products in a balance-of-the-month auction shall be handled as follows: submission, withdrawal or amendment from 14:30 UTC to 15:00 UTC (winter time) or 13:30 UTC to 14:00 UTC (daylight saving).'</u></b></i></p>
<p><b>Article 13B (8) on notification of offered BoM capacity.</b></p>	

Respondents' replies	ACER views
<p>Energy Traders Europe mentions some of its members would call for an <b>earlier notification of capacity volumes</b> to be offered.</p> <p>Eni and Proxigas request <b>notification of offered capacity volumes more in advance: at least 1 hour in advance</b> of the auction start (an amendment proposal is provided).</p>	<p>ACER notes the proposed phrasing, and setup is identical to that of the day-ahead capacity auction (i.e. no minimum delay is provided). ACER understands more time may be needed for network users to prepare the balance-of-the-month auction.</p> <p><b>ACER modifies its amendment proposal</b> and includes a placeholder of 1 hour which can be revised during the comitology. This proposal could be considered as well for the day-ahead auction should stakeholders deem that useful. Furthermore, the notification period is proposed to be included under the parameter modification procedure.</p> <p><b>Modified text for Article 13B(8):</b> <i><u>'At the time the latest [one hour] before the bidding round opens, transmission system operators shall notify network users about the amount of capacity to be offered for the upcoming rolling balance-of-the-month auctions of daily capacity products.'</u></i></p>
<p><b>Article 13B (9) &amp; (10) on publication of auction results</b></p>	
<p>Eni and Proxigas propose that a deadline (30 min) be added for the publication of aggregated information on auction results.</p> <p>National Gas Transmission (GB TSO) consider the 30 min deadline could be too tight for TSOs and asks more clarity on the modalities for publication of aggregated information on auction results.</p>	<p><b>See ACER's evaluation in section 3.7.5 on the same proposal.</b></p>

### 3.7.7 Article 14: Rolling day-ahead capacity auctions and Article 15: Within-day capacity auctions

Respondents' replies	ACER views
<p><b>Article 14 (5) &amp; (6) on auction bidding round timing (rolling day-ahead capacity auctions)</b></p>	
<p>ENTSOG suggests <b>including the auction time into the adapt-to-market clause.</b></p>	<p>ACER considers the UPA time-efficient and expects few benefits from changing the auction times.</p> <p><b>ACER does not move forward the suggestion to enable the modification of auction times in accordance with the parameter modification procedure.</b></p>
<p><b>Article 15 (2) &amp; (3) on auction bidding round timing (within-day capacity auctions)</b></p>	
<p>2 respondents [Eni, Proxigas] consider a <b>second bidding round should be organized in the free time</b> created by ACER's proposed anticipated closure of the first WD24 auction.</p>	<p>The proposal for including a <b>2<sup>nd</sup> auction bidding round for WD-24 has already been discarded in the <a href="#">Evaluation Report</a></b> on the policy consultation. The</p>

Respondents' replies	ACER views
	<p>spare time in the day can be used for system maintenances.</p> <p><b>ACER retains its amendment proposal without modification.</b></p>

### 3.7.8 Article 16: Auction algorithm, Articles 17: Ascending clock auction algorithm and Article 18: Uniform-price auction algorithm

Respondents' replies	ACER views
<b>Article 16 (2A) new on UPA for additional auctions (auction algorithms)</b>	
<p>Gas Connect Austria considers the starting price of the additional auction should be the clearing price of the initial auction for the corresponding product.</p>	<p>ACER evaluated the determination of the reserve price for additional auctions of firm capacity products in its <a href="#">Evaluation Report</a> on the policy consultation and concluded that: <i>'the regulated tariff should be retained as the default reserve price of all auction processes.'</i></p> <p><b>ACER retains its amendment proposal without modification.</b></p>
<p>National Gas Transmission (GB TSO) indicates using a different algorithm to auction a same product could add unnecessary complexity for systems.</p>	<p>ACER is aware that the use of different (but well-known) algorithms for the same product raises complexity. ACER consulted on applying UPA to all auctions of all products to have efficient and fast capacity allocation. Stakeholders expressed a preference for retaining ACA for the auctions that it is used for today. The switching of auction algorithms is included in the parameter modification procedure so that the algorithm can be aligned in the future should this be beneficial to the market.</p> <p><b>ACER takes note of the comment which does not request any action.</b></p>
<b>Article 16 (3A) &amp; (3B) on auction algorithms for interruptible capacity products</b>	
<p>FGSZ and Teréga advocate for using UPA for all interruptible capacity auctions, given the potentially tight time available for offering interruptible products – due to additional firm capacity auctions. FGSZ and Teréga propose that NRA could alternatively decide to keep ACA if no firm capacity is offered.</p> <p>FGSZ proposal: <i>'3A. Unless modified in accordance with Article 37A, for the capacity auctions of interruptible capacity of yearly, quarterly and monthly duration, a uniform price <del>an ascending clock</del> auction algorithm, with a single bidding round, with multiple bidding rounds, as provided for in Article 17, shall be applied in accordance with article 18. The national regulatory authority may decide to apply an ascending clock auction algorithm, with multiple bidding rounds, as</i></p>	<p>ACER consulted on having all interruptible capacity auctions run under the UPA algorithm and concluded that stakeholders are split on this proposal (<a href="#">Evaluation Report</a> on the policy consultation, p. 82): <i>'ACER proposes not to change the default rule. However, the choice for the auction algorithm to be applied for allocating a specific product will be among the adjustable parameters in order to ensure the algorithm shall be adapted to market circumstances and shippers' needs'.</i></p> <p><b>ACER retains its amendment proposal without modification.</b></p>

Respondents' replies	ACER views
<p><i>provided for in Article 17, if no firm capacity is offered at the relevant interconnection point.'</i></p>	
<p>BDEW indicates it does not understand why no BoM interruptible capacity is provided for.</p>	<p>ACER considers that a BoM auction of a strip of daily products allocates daily products. These daily products are re-offered in further BoM and D auctions, and the sale of the interruptible equivalent of the firm product with the same duration conflicts with the hierarchy of capacity products. <b>ACER considers the comment is clarified and no further action is requested.</b></p>
<p><b>Article 17(10) &amp; (11) on modification of price steps during the auction (Ascending clock auction algorithm)</b></p>	
<p>OGMT suggests bidding rounds should close earlier (15h instead of 17h) and price step adjustments should be published not later than 16h) for market participants to handle end-of-day trading procedures.</p> <p>Energy Traders Europe, Eni and Proxigas believe <b>the price step changes should take place earlier (18h)</b> and that information should come from the Booking Platforms.</p> <p>BDEW warns <b>end-of-day changes can be difficult to monitor</b> and should be transparent. The objective should be to allocate capacity and not risk auction cancellation.</p> <p>PRISMA indicates Booking Platforms will need <b>guidance on how amended price steps information shall be published</b> (public information on the auction page or ad-hoc communication to market participant active in the auction).</p> <p>Enagás, FNB Gas and OGMT disagree with introducing the possibility to modify the price step level during the auction.</p>	<p>ACER consulted stakeholders on the possibility to <b>modify price steps between auction rounds of an ascending clock auction</b> and concluded in its <a href="#">Evaluation Report</a> on the policy consultation '<i>to introduce the possibility for TSOs to jointly decide, at a given IP, to amend the level of price steps between auction rounds, once per auction day, as follows: After the last auction round of an auction day, the TSOs may jointly modify the price steps. The new price step will start applying as of the first round of the next auction day and shall be made public (publication via UMM and on the platform website and directly to the participating bidders) and by 20:00 UTC (winter time) or 19:00 UTC (daylight saving).</i>'</p> <p>ACER understands <b>market participants need to know about the possible price step modification</b> as early as possible, but also considers enough time is needed for TSOs to jointly assess and decide on the modification, and for the information to be published. ACER considers that:</p> <ul style="list-style-type: none"> <li>the modification of a price step during an auction is an exceptional event limited to occasions of tight and highly volatile gas markets;</li> <li>TSOs will not have to wait until the end of the auction day to make their assessment.</li> </ul> <p><b>ACER will modify its proposal and insert an earlier timing which could be revised during comitology.</b></p> <p>ACER takes note of PRISMA's request to have guidance on <b>how to communicate a change</b> of the price step to the market and will <b>modify its proposal accordingly</b>.</p> <p><b>Modified text proposal for Article 17(10):</b></p> <p><i><u>'Adjacent transmission system operators may jointly decide to amend the level of the large price step and the level of the small price step, following the end of the last auction round of an auction day. The new price</u></i></p>

Respondents' replies	ACER views
	<p><u>step level(s) shall be published <del>before 20.00 UTC (winter time) or 19.00 UTC (daylight saving)</del> of the same day within 30 minutes after the closure of the last auction round of that auction day. The transmission system operators, facilitated by the booking platform operator, shall publish the new price step level(s) via a market-wide communication pursuant to Article 4(1) of Regulation (EU) No 1227/2011 and on the platform website; it shall also communicate it directly and simultaneously to the network users who are still participating in the auction. The new price step level(s) shall apply starting from the first auction round of the following auction day.</u></p>
<p><b>Article 17(22) on ACA auction termination</b></p>	
<p>Eni and Proxigas consider the reference to 'ascending clock auctions' should be added proposal: '[...] of the next <u>ascending clock</u> auction for capacity of shorter maturity covering the same period [...].'</p>	<p>ACER considers the <b>analysis of Eni and Proxigas is not correct</b>, as the ACA termination rule also works for initial monthly auctions (under ACA) having to stop by the time the first day-ahead capacity product auction (under UPA) starts.</p> <p><b>ACER retains its proposed amendment without modification.</b></p>
<p><b>Article 18 on Uniform-price auction algorithm.</b></p>	
<p>Gas Connect Austria suggests moving from 'pay as clear' to 'pay as bid' for UPA auctions, arguing it would be a more cost-reflective option.</p>	<p>ACER rejects the proposal to move away from <b>pay as clear</b> and considers a same capacity product should be allocated at the same price, reflecting its scarcity value, to all network users at a given point in time.</p> <p><b>ACER does not move forward the suggestion in its amendment proposal.</b></p>

### 3.8 Chapter IV: Bundling of capacity at interconnection points

Respondents' replies	ACER views
<p><b>On Article 19 - Bundled capacity product</b></p>	
<p>Limiting possibility of transmission system operators to declare bundled capacity as available only on one side of the interconnection point during maintenance works: If transmission system operators allocate bundled capacity to network user, they should not be able to 'split' the capacities for the period of maintenance works as available on one side of the border and unavailable on the other. In particular both operators should be obliged to coordinate and declare maintenance on a corresponding scale and in a corresponding period. Otherwise, as a result of declaring maintenance only on one side of the</p>	<p>ACER takes into consideration the point made by Orlen but considers the comments better be addressed as part of the TSO transport contracts and TSO-TSO interconnection agreements and not to be included in this amendment process.</p> <p>ACER recommends network users raise these issues to the concerned TSOs and NRAs.</p> <p>Moreover, ACER notes that standardised clauses for dealing with maintenance could be included in the catalogue of the main terms and conditions in the</p>

Respondents' replies	ACER views
<p>interconnection point, a network user cannot utilize the product for which it is obliged to pay - allocation of risks between the transmission system operator and the network users is distorted by such practices. [Orlen]</p>	<p>transport contract; an update of this catalogue is proposed by the amendment of Article 20.</p> <p><b>ACER considers the comment partially out of scope and already addressed (indirectly) by ACER's proposed amendment of Article 20 of the CAM NC.</b></p>
<p><b>On Article 20 - Alignment of main terms and conditions for bundled capacity products</b></p>	
<p>BDEW disagree with the amended text and propose to remove the whole article, because it delivers no added value to the current situation:</p> <p>The proposal overlooks the fact that there are many differing national laws and systems in this regard. Balancing systems vary significantly. A word-for-word alignment to the lowest common denominator agreed upon can also lead to national deteriorations. For example, termination rights in Germany are well regulated. Harmonization to a minimum standard is neither desired nor advantageous overall. [BDEW]</p> <p>ENTSOG does not support the proposed amendment and states that it has delivered what was possible in the environment of varying degrees of government intervention in the market, usually through powers entrusted either to ministries or national regulatory authorities.</p> <p>Further alignment therefore requires changes in the governance of private law provisions, such as commercial and civil law provisions regulating the provision of services by one private entity to another.</p> <p>Many civil law regulations remain country specific. Therefore, a harmonization project would be a long and labour-intensive process dealing with the specificities of those different national legal systems. The whole harmonization project would be compromised when the content of transport contracts, even in just one country, is imposed by national laws.</p> <p>In the end, transport contracts are already harmonised at a high degree to reflect and respect the TSOs responsibilities and duties in providing their own services, also considering the above-mentioned legal limitations. [ENTSOG, FGSZ, FNB GAS, GRTgaz, Teréga]</p> <p>Energy Traders Europe argues: While alignment of main T&amp;Cs for transport contracts could be viewed as something positive, Energy Traders Europe notes that bundling will still refer to two different products and it is difficult to establish what benefit better alignment of the</p>	<p>ACER opinion 06/2018 on the template identified a need for further improvements to the template. <b>The repetition of this task will allow ENTSOG to review and update its template taking into account the most recent market conditions as well as ACER's remarks in the Opinion 06/2018.</b> ACER disagrees that this task implies a full harmonisation of contracts.</p> <p><i>'The Template's content should not be based on the lowest common denominator, but instead aim at promoting steps forward. In this respect, the Agency believes that, whenever appropriate, the Template should go beyond the suggestion of a minimum degree of harmonisation and put forward best practices and suggestions/ alternatives. The Agency encourages ENTSOG to arrive at suggestions of best practices by using the analysis of existing practices in its Report and, in consultation with the Agency, identifying those, which best suit or contribute to the goals of Regulations (EU) 2017/459 and (EC) 715/2009.'</i></p> <p>Moreover, ACER noted several comments touch on national terms and conditions, such as how maintenance is dealt with or the specific procedure for interrupting interruptible contracts.</p> <p>ACER expects TSOs continuously strive to reduce such issues where these are not due to fundamental differences in principles of national law or jurisprudence.</p> <p>In that respect, <b>the identification of a revised list of elements to be included in the terms and condition of the transport contracts would be beneficial to the market.</b></p> <p><b>ACER retains its amendment proposal without modification.</b></p>



Respondents' replies	ACER views
<p>main provisions can bring. Nonetheless, we do not suggest amendments to the text proposed.</p>	
<p><b>On Article 21(3) – Bundling in case of existing transport contracts.</b></p>	
<p>RWE states that that isolated instances exist of shippers continuing to hold and pay for unbundled firm entry/exit they have acquired (through primary or secondary allocation) whilst having to buy and pay for the same firm entry/exit capacity on a bundled basis. Ideally, shippers should be able to flag that they wish to convert firm entry/exit capacity offered as a part of a bundle in bids they place on capacity booking platforms. Once done, should they be successful the relevant TSO would then process the conversion, applying any auction premium to the unbundled capacity price.</p> <p>The CAM NC should explicitly state that shippers shall be entitled to credits for the cost of any firm capacity they have purchased (excluding any auction premium) as part of a bundle if they can demonstrate (ex- post) that they already have an unbundled firm capacity contract in place covering same period in question, regardless of when or how such unbundled contract was executed. [RWE]</p> <p>Edison proposes to extend to all capacities, including daily and within-day, the capacity conversion mechanism currently defined by Article 21 for annual, quarterly and monthly capacity. The current market conditions, which have changed consistently with regard to 2018, call for an extension of the mechanism for security of supply reasons: shippers with long term unbundled capacity might have interest in buying short term capacities on the other side of the IP to nominate gas, which would facilitate and increase cross border gas flows, but, given the current normative context, might not have the chance to do so, as they would have to pay for short term capacities twice. The current mechanism should be extended to all capacities products, to make shippers able to facilitate gas flows from on country to another even on a short-term basis, without having to pay for capacity twice. [Edison]</p>	<p>ACER evaluated the need to amend the rules on the conversion mechanism in its <a href="#">Evaluation Report</a> on the policy consultation and concluded that: <i>'the current conversion rule already foresees in Article 21(3) of CAM NC that:</i></p> <p><i>This [conversion] service shall be offered on a non-discriminatory basis and shall prevent additional charges from being applied to network users for capacity they already hold. In particular, payments for the part of the contracted bundled capacity which network users already hold as mismatched unbundled capacity shall be limited to a possible auction premium.'</i></p> <p>ACER notes that the bundling principle has been in force for 10 years and legacy unbundled capacities should become more and more rare.</p> <p>ACER notes that at the time of introducing the conversion mechanism the focus was on longer term products than day-ahead and within-day, also considering the financial impact of paying twice for the same capacity of monthly or longer duration is much larger than occasional mismatches of daily capacity products.</p> <p>ACER believes consideration could be given to include daily and within-day capacities under the conversion mechanism of Article 21(3) in view of the changed market dynamic and a greater focus on shorter term capacity products. However, not having had the time to carry out an analysis on this issue, ACER does not propose an amendment at this stage.</p> <p><b>Nevertheless, ACER invites the European Commission to consider further investigation on this point:</b></p> <ul style="list-style-type: none"> <li>• <b>Requesting ACER to assess the current practice with respect to the voluntary inclusion of daily and within-day capacities under the conversion mechanism;</b></li> <li>• <b>Requesting ACER to issue a Recommendation to national regulatory authorities on extending the national conversion mechanism to daily and/or within-day capacities.</b></li> </ul>

## 3.10 Chapter V: Incremental capacity

Respondents' replies	ACER views
<p>Articles 22-23-24-25-27-29-30-31 did not had comments</p>	
<p><b>On article 26(1) – Market demand assessment</b></p>	
<p>Energy Traders Europe supports the proposed amendment.</p> <p>EDF and Edison support the proposed amendment. Moreover, they propose an alternative approach to the incremental capacity process, moving away from the current biannual cycle and instead activating it based on a shipper's request. Triggering the process upon a shipper's request would ensure that it only begins when there is clear and concrete interest from the market. This way, market demand for incremental capacity could be addressed without having to wait for the next scheduled biannual process to start. In addition to adopting an on-demand model initiated by a shipper's or TSO's request, the existing schedule could be adjusted to a more flexible one—such as launching an incremental capacity process every five years. To ensure that requests are made only when genuinely needed, a submission fee could be introduced. This fee would serve as a mechanism to confirm the seriousness and authenticity of the demand.</p> <p><i>'1.Immediately after the start of the annual yearly capacity auction and <b>at least every 5 years, starting from 2025, in each odd-numbered year</b>, transmission system operators shall cooperate in the processes of assessing market demand for incremental capacity and of conducting technical studies for incremental capacity projects for their joint interconnection points. <del>The first demand assessment shall be conducted in 2017 as from the entry into force of this Regulation.</del> At a shipper's request, under the conditions of article 11 and 11, and provided that the shipper can provide evidence of long term sourcing of additional gas resources, TSOs shall launch a survey to collect interest from other shippers. If the results of the survey are deemed positive by the TSOs, they shall cooperate in the processes of assessing market demand for incremental capacity and of conducting technical studies for incremental capacity projects for their joint interconnection points.'</i> [EDISON, EDF]</p>	<p>ACER notes that the responses support the proposed amendment.</p> <p>ACER evaluated different options for launching the demand assessment process and concluded in its <a href="#">Evaluation Report</a> on the policy consultation that <b>in order to achieve a more efficient process, the frequency is subsidiary to raising the credibility of the non-binding demand indications expressed by network users</b>. ACER agrees that the effectiveness of the incremental process benefits most from raising credibility of demand expressions regardless of the frequency.</p> <p>ACER furthermore notes that there is support for retaining the current biennial frequency starting the assessment in odd years (which also allows to run a process in the even years). ACER additionally notes some support for a more shipper-led process; however, ACER acknowledges the issue of setting up a process for shippers to make known their interest in running a demand assessment and notes that the required process might not be very different from the current incremental process with a well-known timeline harmonised across the Union.</p> <p>Subject to the full or partial restoration of the incremental capacity provisions in the EU-wide network code, <b>ACER concludes that the biennial frequency of the demand assessment is retained, while keeping the proposed measures to raise the credibility of non-binding demand expressions and to improve the efficiency of the process.</b></p> <p>ACER retains its amendment proposal without modification.</p>
<p><b>On Article 26(2) – Market demand assessment</b></p>	
<p>BDEW proposes to delete paragraph 26(2) stating that there is no need for a demand assessment reports if there is no non-binding demand indication. It creates</p>	<p>As already stated in its <a href="#">Evaluation Report</a> on the policy consultation: '<i>ACER emphasises that <b>the obligation on TSOs to regularly assess market demand for</b></i></p>

Respondents' replies	ACER views
<p>only unnecessary administrative burden for TSOs. Demand assessment reports shall not be published if no non-binding demand indication was received by transmission system operators.</p> <p>ENTSOG (FGSZ, FNB GAS, GAZ-SYSTEM, GRTgaz, Teréga) adds a sentence to the proposed amendment to clarify that there is no need for a demand assessment report if there is no non-binding demand indication. It creates only unnecessary administrative burden for TSOs.</p>	<p><b><i>new capacity is embedded in Article 10(4) of the recast gas Regulation.</i></b> Market participants as well as regulatory authorities expect the outcome of that assessment to be reported on. ACER believes the publication of a demand assessment report with zero demand expressions is not a complicated task.</p> <p>ACER invites ENTSOG to facilitate TSOs administrative work through the template for collecting demand expressions as foreseen by new paragraph 9A of Article 26 and further improvements to the existing template for demand assessment reports.</p> <p><b>For these reasons, ACER does not move forward the suggested modification not to publish a final report in case zero non-binding demand indications were received.</b></p>
<p><b>On Article 26(11) – Market demand assessment fees for activities resulting from non-binding demand indications</b></p>	
<p>ENTSOG (FNB GAS and GRTgaz) supports the proposed amendment and welcomes the clarification that the administrative fee can also cover cost of studies.</p> <p>GAZ-SYSTEM welcomes the clarification that the administrative fee can also cover cost of studies. At the same time, GAZ-SYSTEM would like to propose a modification, namely deletion of the fees' level approval by the NRA. Alternatively, a similar mechanism as proposed in point 11a. could be considered.</p> <p>BDEW state that the proposed changes do not define the scale of the studies. This which could lead to high fees levied by the TSOs. One possibility to limit these fees would be to cap the cost of studies at a reasonable level.</p> <p>Energy Traders Europe asks for more clarity on how the introduction of a fee has supported the credibility of non-binding expression of interest.</p>	<p>ACER concluded in its <a href="#">Evaluation Report</a> on the policy consultation on maintaining the existing possibility for regulatory authorities to approve a fee that covers the costs of activities resulting from the submission of non-binding demand indications (as per Article 26(11) of CAM NC).</p> <p>ACER considers that the approval by the regulatory authority shall ensure that fees cover efficiently incurred costs of activities initiated on the basis of the non-binding demand indications.</p> <p><b>ACER modifies its amendment proposal accordingly:</b></p> <p><i>'A transmission system operator may charge fees for activities resulting from the submission of non-binding demand indications. Such fees shall reflect the <u>efficient administrative costs of the activities initiated by the transmission system operator on the basis of the <del>for submitting</del> submitted demand indications, including studies, and shall be subject to approval by the relevant national regulatory authority and published on the transmission system operator's 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.</u></i></p> <p>In response to Energy Traders Europe's comment, an assessment of the effect of fees and deposits to raise the credibility of non-binding demand indications should be included in ENTSOG's and ACER's implementation monitoring.</p>
<p><b>On Article 26(11A) – Market demand assessment deposit to confirm seriousness of a non-binding demand indication expressed by a network user</b></p>	
<p>BDEW states that the deposit practice is already practised in Germany and provides the details of the mechanism. FNB GAS proposes the same process.</p>	<p>ACER take stock of the proposal made by BDEW and FNG GAS on the deposit already implemented in Germany.</p>

Respondents' replies	ACER views
<p><i>'Unless otherwise provided for in national law or by the relevant national regulatory authority, a deposit shall be paid by the requesting company(-ies) to the transmission system operators concerned in the course of submitting non-binding demand indications pursuant to paragraphs 6 and 7. The amount of this deposit shall be EUR 20,000 per non-binding demand. It shall be paid on each side of the relevant entry-exit system in accordance with the following provisions:</i></p> <p><i>a) Invoicing is carried out by transmission system operators which are determined and published in advance;</i></p> <p><i>b) The term of payment shall be 14 calendar days;</i></p> <p><i>c) If payment is not received on time, the non-binding demand shall be deemed invalid.'</i> [BDEW, FNB GAS]</p> <p>EDF, Edison, Proxigas, Eni state that, while they acknowledge that introducing a deposit may encourage commitment from operators submitting bids, tying the reimbursement of the deposit solely to the success of the economic test risks turning it into an additional fee. Given the revised article on fees, which allows TSOs to recover the full costs of the incremental capacity process, it would be more appropriate to ensure that the deposit is automatically refunded, regardless of the outcome of the economic test. This approach would maintain the deposit as an effective deterrent while preventing operators from being burdened with unnecessary fees.</p> <p>ENTSOG, FGSZ, GAZ-SYSTEM, GRTgaz propose an alternative process to introduce a deposit:</p> <ul style="list-style-type: none"> <li>Transmission system operator should inform the relevant national regulatory authority about the intent to introduce a deposit and its proposed amount. National regulatory authority can: a) oppose introduction of the deposit, within 30 days of receiving the submission. In such case, transmission system operator cannot introduce the deposit. b) change the amount of deposit within 30 days of receiving the submission. In such case, transmission system operator is obliged to introduce deposit in an amount as stipulated by national regulatory authority, c) not take any action within 30 days of receiving the submission. In such case, transmission system operator can introduce deposit as submitted to national regulatory authority.</li> <li>Moreover, if the deposit is not paid in time by the relevant shipper, TSOs can disregard non-binding demand indication. [ENTSOG]</li> </ul> <p>Energy Traders Europe notes that the conditional refund of a deposit subject to treating the non-binding expression of interest as a minimum for the binding</p>	<p>As already stated in its <a href="#">Evaluation Report</a> on the policy consultation, <b>ACER reiterates that the deposit proposed through Article 26(11A) of the CAM NC shall be returned to shippers whose non-binding demand indication was confirmed with the placement of a matching bid in the binding phase and also in case the incremental process ends with a positive economic test at least for one offer level</b> (even if a shipper has not confirmed its non-binding demand expression).</p> <p>ACER clarifies that the deposit pursuant to <b>Article 26(11A)</b> is not connected to the financial health of shippers (such collaterals usually are included in a TSO's main terms and conditions).</p> <p><b>ACER finds reasonable:</b></p> <ul style="list-style-type: none"> <li><b>Energy Traders Europe proposal for proportionate reimbursement in case of downward adjusted bids and</b></li> <li><b>ENTSOG's proposal on how to treat unpaid deposits,</b></li> </ul> <p><b>and will modify its amendment proposal accordingly.</b></p> <p><b>ACER considers necessary that fees and deposits meant to raise credibility of non-binding demand indications for incremental capacity are approved by regulatory authorities and does not move forward ENTSOG's proposal on that aspect.</b></p> <p><b>Modified amendment proposal:</b></p> <p><u><i>'A transmission system operator may request a deposit from a network user submitting non-binding demand indication. Such a deposit shall be set in a non-discriminatory and proportionate manner, and shall be subject to approval by the relevant national regulatory authority and published on the transmission system operator's website including the modalities of payment.</i></u></p> <p><u><i>The deposit 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. The deposit shall be also reimbursed to the network user who submits a bid in the binding stage that is equal to or larger than the non-binding demand indication of that network user, regardless of the outcome of the economic test. <b>Partial reimbursement of the deposit shall be offered to the network user who submits a bid in the binding stage that is smaller than the non-binding demand indication of that network user and the economic test fails. The partial reimbursement shall be proportionate to the ratio of the bid in the binding stage and the non-binding</b></i></u></p>

Respondents' replies	ACER views
<p>phase may have a discouraging effect for network users – instead, the Code should at the very least introduce some proportionate refund for companies that need to readjust their strategies once the project enters a binding phase.</p> <p><i>'The deposit shall be also reimbursed to the network user who submits a bid in the binding stage that is equal to or larger than the non-binding demand indication of that network user, regardless of the outcome of the economic test. <b><u>Partial, proportionate reimbursement shall be offered to network users who need to downsize their bid in the binding phase and the economic test fails.</u></b> Reimbursement shall only take place once the economic test has been completed.'</i></p>	<p><b><u>demand indication. Reimbursement shall only take place once the economic test has been completed.</u></b></p> <p><b><u>Where a deposit is applicable, the transmission system operator may disregard non-binding demand indications for which the concerned network user has not paid the deposit in due time as specified in the terms and conditions as approved by the regulatory authority.</u></b></p> <p><i><u>By [12 months from entry into force], ENTSOG shall publish a guideline <del>to the transmission system operators and national regulatory authorities</del> on the appropriate value range for setting the deposit. Before publishing the guideline, ENTSOG shall submit it to ACER for an opinion. ACER may issue an opinion on the draft guideline, in which case ENTSOG shall duly take that opinion into account. ACER or ENTSOG may initiate an update of the guideline.'</u></i></p> <p><b>Example:</b></p> <p>Shipper A gives a non-binding demand indication of 100 capacity units and pays a deposit of 100 EUR.</p> <p>Situation 1: Shipper A makes a bid in the binding stage of 100 capacity units:</p> <ul style="list-style-type: none"> <li>Shipper A is reimbursed its full deposit of 100 EUR.</li> </ul> <p>Situation 2: Shipper A makes NO bid in the binding stage:</p> <ul style="list-style-type: none"> <li>The economic test fails, and shipper A does not get a reimbursement of its deposit.</li> <li>The economic test succeeds, and shipper A is reimbursed its full deposit of 100 EUR.</li> </ul> <p>Situation 3: Shipper A makes a lower bid of 80 capacity units (80% of the non-binding indication) in the binding stage:</p> <ul style="list-style-type: none"> <li>The economic test fails, and shipper A gets reimbursed 80 EUR (proportionally to its bid in the binding stage).</li> <li>The economic test succeeds, and shipper A is reimbursed its full deposit of 100 EUR.</li> </ul>
<p><b>Article 26(12(b)) – Market demand assessment criteria</b></p>	
<p>BDEW, FNB GAS consider that it would be more effective to focus on the booking situation in the requested period as a criterion for the demand assessment.</p>	<p>As already stated in its <a href="#">Evaluation Report</a> on the policy consultation, ACER notes that in light of the energy-efficiency-first principle and the Union's decarbonisation policies, the utilisation of capacity</p>

Respondents' replies	ACER views
	<p>shall be considered and not merely the available capacity offer.</p> <p><b>ACER keeps its amendment proposal unchanged.</b></p>
<p><b>Article 28 (2) – Regulatory approval</b></p>	
<p>Firstly, FGSZ agrees with the inclusion of the energy-efficiency-first principle. Secondly, we suggest reviewing the practice of natural gas infrastructure development since the entry into force of the Incremental Chapter in 2017 and further develop the text based on the conclusions of real-life experiences.</p> <p>FGSZ also claims that the final decision making on new infrastructure shall be handed to the national level and the cooperation of the relevant natural regulatory authorities. In case of no joint decision a project shall not be enforced to be implemented. It is recommended an adjustment of the incremental process to better align it with present circumstances (as it has been proven that the market was never ready to provide the necessary long term commitment during the bidding phase of the process at significant scale).</p>	<p>ACER notes that FGSZ's comment pertains to the Judgment by the EU General Court and ACER's involvement in cases of incremental investment.</p> <p>Subject to the full or partial restoration of the incremental capacity rules, <b>ACER emphasises that the provisions must be brought in line with the Judgment, and this may include removing ACER from the process.</b></p>
<p><b>Article 28 (3) – Regulatory approval</b></p>	
<p>BDEW propose to delete the paragraph: as the publication of the decision seems to be efficient and thus a joint notice can be discarded.</p> <p>FNB Gas propose make the publication conditional to the positive decision,</p>	<p>ACER takes note of BDEW's and FNB Gas' comments, however, does not consider changing the publication requirements. In cases where the regulatory decisions contain all the elements foreseen in Article 28(3), transmission system operators could simply comply by publishing a notice including these decisions.</p> <p><b>ACER does not move forward the suggestions by BDEW and FNB Gas.</b></p>

## 3.12 Chapter VI: Interruptible capacity

Articles 33-34-35-36 did not have comments.

Respondents' replies	ACER views
<b>Article 32(1) Allocation of interruptible services</b>	
<p>Gas Connect Austria suggests removing the conditions under which interruptible capacity can be offered. Gas Connect Austria additionally suggests using UPA for allocating all interruptible capacity products in order to speed up the allocation process.</p>	<p>ACER concluded on the basis of the public consultations that the market prefers to keep ACA for interruptible capacity. ACER included the possibility to modify the allocation algorithm following the procedure to adapt CAM parameters to market circumstances.</p> <p><b>ACER considers the suggestion is addressed by the proposed amendments.</b></p>
<p>According to the CAM NC, interruptible capacity is to be offered when firm capacity has not sold out, been allocated at a premium or offered, and a limit is set on the amount of interruptible capacity that is made available, consideration should be given to applying such a limit only to amount of yearly, quarterly and monthly interruptible capacity made available in the regular auctions. Interruptible day-ahead capacity and within day capacity could however be offered on an unlimited basis, as this would maximise the possibility of previously sold but unused firm and interruptible capacity being fully exploited. [RWE]</p>	<p>ACER emphasises that the amendment proposals do not introduce a rigid limit to the offer of interruptible capacity. The proposals require information on how the offer level has been determined, and that the offer level considers occurrence of physical congestion and price-formation.</p> <p>ACER takes note of the comment and considers no further action is needed.</p>
<b>Article 32(2) Allocation of interruptible services</b>	
<p>BDEW proposes to delete the proposed amendment as it limits possibility of capacity offer in e.g. the case of unlimited interruptible capacity when the offer is higher than forward flow or when the calculation methodology is based not only on the forward flow but also other maximisation methodology aspects.</p> <p><b>BDEW, ENTSOG and GAZ-SYSTEM propose to include it into Art. 32 (3) as in that article a reference is made to the calculation methodology of Art. 6.</b></p>	<p>ACER understands that at unidirectional interconnection points the interruptible 'virtual reverse flow' is necessarily connected to the flow in the forward direction. ACER agrees that its formulation of the amendment proposal comes short of expressing that it expects forward flows (firm capacity bookings) to be a (soft) floor for the offer and <b>finds the modified text proposal by Energy Traders Europe clear and supporting the improved functioning of the gas markets. ACER refers to its modified proposal for Article 32(3) below.</b></p>
<p>Energy Traders Europe strongly support the amendment highlighting the need to maximize virtual reverse flows, which is much in the spirit of our previous requests. Nonetheless, Energy Traders Europe notes that the principle should apply to all IPs where virtual reverse flow can be offered and that the level of forward flow should be the reference minimum (and not maximum) value governing the amount of capacity offered in the opposite direction as an interruptible product.</p> <p><i>'2. Transmission system operators shall offer a daily capacity product for interruptible capacity in both directions at interconnection points where the respective standard capacity product for firm capacity</i></p>	<p>ACER understands that at unidirectional interconnection points the interruptible 'virtual reverse flow' is necessarily connected to the flow in the forward direction. ACER agrees that the formulation of its amendment proposal comes short of expressing that it expects forward flows (firm capacity bookings) to be a floor for the offer and finds the modified text proposal by Energy Traders Europe clear and supporting the improved functioning of the gas markets.</p> <p>ACER proposes a clarification of the maximisation principle for offer of interruptible capacity at unidirectional points and at interconnection points where different levels of firm capacity are offered due</p>

Respondents' replies	ACER views
<p><i>was sold out day-ahead or was not offered. At unidirectional interconnection points where firm capacity is offered only in one direction, transmission system operators shall offer at least a daily product for interruptible capacity in the other direction <b><u>in volumes at least corresponding to the level of nominations in the forward flow direction.</u></b></i></p>	<p>to significantly different levels of technical capacity for the different directions. In those cases, interruptible capacity in the reverse flow direction should not be unduly restricted below the level of the forward flow nominations while considering system integrity. For instance, at an IP that has technical capacity in A-&gt;B direction (e.g. 1500 GWh/d) that is much higher than the technical capacity in B-&gt;A direction (e.g. 500 GWh/d), interruptible capacity in the (reverse flow) direction B-&gt;A should not be unduly restricted below the level of nominations in the forward flow direction A-&gt;B while taking into consideration system integrity.</p> <p><b>ACER agrees the amendment fits better in the amended paragraph 3 of Article 32 which includes the reference to maximisation of capacity.</b></p> <p><b>Modified proposal for Article 32(3):</b></p> <p><i>'If interruptible capacity is offered, this shall not be detrimental to the amount of firm capacity on offer. Transmission system operators shall not set aside capacity that can be offered as firm capacity in order to offer it as interruptible capacity. <u>The offer of interruptible capacity shall follow the principles of capacity maximisation, system integrity and efficient network operation, set out in Article 6(1).</u> <del>The</del> <b><u>Where there is physical capacity, the offer level shall duly consider occurrences of physical congestion at an interconnection point and the probability of interruption in the preceding 6 months before the concerned auction</u></b> and shall not distort the price-formation process. <b><u>At unidirectional interconnection points where firm capacity is offered only in one direction, the offer level for capacity in the other direction shall not be unduly restricted below the level of nominations in the forward flow direction while taking into consideration system integrity. This also applies to interconnection points where different levels of firm capacity are offered due to different levels of technical capacity for the different directions.</u></b></i></p>
<p>GRTgaz points out that on the reverse side, the level of capacity takes into account forward nominations + the operating margins necessary for the smooth running of the network. The installations have technical minimums that do not allow these levels of interruptible capacity to be achieved. GRTgaz will not be able to apply this article operationally. Let each TSO determine its own levels. So GRTgaz proposes not to add anything.</p> <p>Uniper states that Article 32 (2) should not be amended as proposed by ACER, but kept in the current wording of NC CAM. The amended wording of Art. 32 (2) is</p>	<p>ACER understands that at unidirectional interconnection points the interruptible 'virtual reverse flow' is necessarily connected to the flow in the forward direction. ACER agrees that the formulation of its amendment proposal comes short of expressing that it expects forward flows (firm capacity bookings) to be a floor for the offer and finds the modified text proposal by Energy Traders Europe clear and supporting the improved functioning of the gas markets.</p> <p><b>ACER refers to its modified amendment proposal for Article 32(3) above.</b></p>



Respondents' replies	ACER views
<p>leading to a restriction to offer interruptible capacities at least on German IPs as interruptible capacities can no longer be offered unlimited, but are capped by the forward flow nominations. That is why this wording does not follow the principle of maximising capacity, but the other way around.</p>	
<p><b>Article 32(3) Allocation of interruptible services</b></p>	
<p>BDEW states that ensuring the flexibility of TSOs to respond to rapidly changing market conditions is crucial. During the gas market crisis, rigid regulation within the CAM NC would have significantly hampered TSOs' ability to implement effective mitigation strategies. This demonstrates the importance of allowing TSOs the adaptability needed to manage emergency situations. Moreover, this new ruling does not take the weather conditions and the significant flow differences depending on the time of the year into consideration. The six-month advance requirement, as stated in the amended paragraph, appears impractical for addressing real-time market needs. However, when congestions situations occur, they must be limited in a way that pricing signals and price sensitivity are achieved.</p> <p>Energy Traders Europe note that with the additional transparency with reference to capacity availability and risks of interruption (as discussed under Art. 6(1)), we see no need for an artificial limit to the amount of interruptible capacity being auctioned. We believe that such artificial limit would be against the spirit of NC CAM.</p> <p>BDEW and Energy Traders Europe both propose to delete the last sentence of paragraph 3.</p> <p><i>'3. If interruptible capacity is offered, shall not be detrimental to the amount of firm capacity on offer. Transmission system operators shall not set aside capacity that can be offered as firm capacity in order to offer it as interruptible capacity. <u>The offer of interruptible capacity shall follow the principles of capacity maximisation, system integrity and efficient network operation, set out in Article 6(1). <del>The offer level shall duly consider occurrences of physical congestion at an interconnection point in the preceding 6 months before the concerned auction and shall not distort the price-formation process.</del></u></i></p> <p>ENTSOG proposes deletion of the last sentence: It limits flexibility of TSOs to react on the quickly changing market conditions. If such rule was included in the CAM NC during the gas crisis of 2022 - it would significantly endanger the mitigating actions that were taken back then by TSOs. Also, it does not take into consideration the weather conditions - while assessing based on this sentence the level of interruptible capacity for</p>	<p>ACER takes note of the reflections and emphasises the objective of the amendments is to align the market rules with the lessons from the 2022 gas market crisis.</p> <p>ACER concluded in its <a href="#">Evaluation Report</a> on PC_2024_G_09 that: <i>'Whenever TSOs offer unlimited interruptible capacity, they must explain how they have determined this offer level and what are the underlying conditions/assumptions. When those conditions are no longer met, for instance, under tight market conditions, TSO should consider limiting the offer of interruptible capacity to ensure price-based allocation of capacity can take place.'</i></p> <p>ACER does not see how the consideration of physical congestion would have prevented TSOs to react to the crisis. ACER notes that these considerations reflect FNB Gas's ideas on handling interruptible capacity at times of scarcity as presented in the Workshop of 9 July 2024. At this workshop, a dual approach was presented by which unlimited interruptible capacity would be offered, unless scarcity was observed and TSOs would offer a level of capacity to the market that reflects the market tightness and ensures that the price could effectively play its role in allocating capacity to parties willing to pay for the capacity right. ACER understands the 6-month period could be made longer or shorter. While there is thus no rigid limit to the offer level, it merely states that the offer must be a reflection of market conditions including the probability of interruption and ensure that price can play its role to allocate scarce capacity.</p> <p><b>ACER refers to its modified proposal for Article 32(3) above.</b></p>

Respondents' replies	ACER views
<p>upcoming months, e.g., in June - you take into considerations levels from spring and summer to assess offer for autumn and winter. Flows differ significantly depending of the time of the year.</p> <p><i>3 If interruptible capacity is offered, shall not be detrimental to the amount of firm capacity on offer. Transmission system operators shall not set aside capacity that can be offered as firm capacity in order to offer it as interruptible capacity. <u>The offer of interruptible capacity shall follow the principles of capacity maximisation, system integrity, and efficient network operation, set out in Article 6(1) as well as level of the forward flow. The offer level shall duly consider occurrences of physical congestion at an interconnection point in the preceding 6 months before the concerned auction and shall not distort the price formation process.</u></i></p>	
<p>Within GB we focus on firm capacity, with interruptible acting as an anti-hoarding mechanism, in line with its original intent. We believe the amended text and justification risks adding confusion to the generally established position on interruptible and its purpose. Too much capacity being released during the gas crisis appears to be inconsistent with the aims of these reforms, which seek to maximise capacity availability.</p> <p>[National Gas Transmission (GB TSO)]</p>	<p><b>ACER refers to its modified proposal for Article 32(3) above.</b></p> <p>ACER understands the concern and finds the two elements not exclusive: the offer of interruptible capacity should be maximised while at the same time considering the market conditions. The probability of interruption is significantly higher when there has been recurrent physical congestion under tight market conditions; the offer of unlimited capacity with very high probability of interruption does not allow price-based allocation mechanisms to play their role.</p>
<p><b>Article 32(5) Allocation of interruptible services</b></p>	
<p>BDEW strongly votes to keep and/or to implement the principle to offer unbundled interruptible capacities at IPs/VIPs for D-1, even if firm capacity is not sold out. With this instrument shippers with heritage contracts at the flange have the possibility to fulfil their contractual obligations. For traders, this point is crucial because it can be problematic, if not frequent, when auctions are protracted and then need to be cancelled unilaterally. In principle, the categories should be defined as firm-firm, firm-interruptible, interruptible-interruptible. Since this would represent a transition for the TSOs, the proposal might be better framed not as mandatory but as a mandatory evaluation.</p>	<p>ACER evaluated and concluded on this comment in its <a href="#">Evaluation Report</a> on the policy consultation.</p> <p>Interruptible capacity is offered as unbundled and under the conditions set by Article 32(1). Furthermore, the amendment proposals for Articles 8 to 18 aim to have a more dynamic and more efficient allocation of firm capacity.</p> <p><b>ACER does not move forward the suggestion in its amendment proposals.</b></p>
<p>FGSZ comments that: Due to the new auctions for yearly, quarterly and monthly firm capacity, the time remaining to run interruptible auctions is very limited. FGSZ proposes to reset the default auction algorithm to uniform price to take this into account, with the occasional exception of no firm capacity being offered.</p> <p><i>'5. To the extent interruptible capacity is offered, it shall be allocated via an auction process with the exception of within-day interruptible capacity. <u>The auction</u></i></p>	<p>ACER consulted stakeholders on this in its workshop of 9 July 2024 (see <a href="#">Evaluation Report</a> on the policy consultation) and concluded there was a preference to retain the ascending clock algorithm. Nevertheless, the possibility of changing the algorithm to the uniform price auction is foreseen following the procedure to modify CAM NC parameters to align them to market circumstances (proposed Article 37A).</p> <p><b>ACER considers the suggestion already addressed by its amendment proposals.</b></p>

Respondents' replies	ACER views
<p><i>algorithm shall be the one specified in Article 16-18 for the relevant auction. The national regulatory authority may decide to apply an ascending clock auction algorithm, with multiple bidding rounds, as provided for in Article 17, if no firm capacity is offered at the relevant interconnection point.'</i></p>	
<p>Teréga prefers UPA for Interruptible auctions (with a possible derogation for ACA in exceptional cases). See our answer on Article 16.3A.</p>	<p>ACER evaluated this suggestion in Section 3.6.8 above.</p>
<p><b>Article 32(10) Allocation of interruptible services</b></p>	
<p>Teréga supports ENTSOG answer and proposal. 'one week before' as the mandatory date for the publication of the interruptible auction does not allow any more to offer interruptible product after a last late UPA.</p> <p>Teréga proposes 'at least 1 hour' which allows to publish as soon as the conditions for offering interruptible capacity are reached and also allows to published at the latest just after the latest UPA.</p> <p><i>'10.If offered, interruptible capacity auctions shall be conducted in accordance with the same design principles and timescales as applied for firm capacity. The exact auction dates to be used for the interruptible capacity auctions shall be detailed within the auction calendar with the exception of within-day interruptible capacity. For the annual yearly, all annual quarterly and all rolling monthly capacity auctions, the transmission system operators shall notify network users about the amount of interruptible capacity to be offered <del>one week at least 1 hour</del>-before the auction starts. Where an auction of firm capacity has not closed on the scheduled start day for the interruptible auctions, the interruptible auctions shall open no later than the next business day after the closing of the respective auctions of firm capacity. <del>In such cases, any change in the offered amounts shall be notified at least 12 hours before the start of the respective interruptible capacity auction.</del>'</i></p>	<p><b>ACER agrees that the notification period must be aligned to the introduction of additional auctions of remaining firm capacity.</b> ACER finds 1 hour could be short and interruptible capacity auctions would be organised at least the day following the last additional auction of firm capacity, meaning that the market may expect information on the interruptible auction on the evening of the closure of the last additional auction. In practical terms, a notification period of <b>at least 12 hours</b> strikes a balance between enabling the allocation of firm capacity and giving sufficient time for market parties to prepare their participation in the interruptible auction. As the notification period may be modified in the future it is necessary to still keep the last sentence despite it also referring to 12 hours.</p> <p><b>ACER accepts to amend the notification period for interruptible capacity auctions and modifies the text for Article 32(10) as follows:</b></p> <p><i>'If offered, interruptible capacity auctions shall be conducted in accordance with the same design principles and timescales as applied for firm capacity. The exact auction dates to be used for the interruptible capacity auctions shall be detailed within the auction calendar with the exception of within-day interruptible capacity. For the annual yearly, all <del>annual</del> quarterly and all <del>rolling</del> monthly capacity auctions, the transmission system operators shall notify network users about the amount of interruptible capacity to be offered <del>one week</del> <b>12 hours</b> before the auction starts, <u>unless modified in accordance with the procedure specified in Article 37A.</u> Where an auction of firm capacity has not closed on the scheduled start day for the interruptible auctions, the interruptible auctions shall open no later than the next business day after the closing of the respective auctions of firm capacity. In such cases, any change in the offered amounts shall be notified at least 12 hours before the start of the respective interruptible capacity auction.'</i></p> <p><b>ACER includes the notification period of Article 32(10) among the parameters that can be modified through the parameter modification procedure of Article 37A.</b></p>

Respondents' replies	ACER views
<p>FGSZ agrees with and endorses the amendment proposal of ENTSOG with one amendment regarding the same design principles (yearly, quarterly and monthly interruptible auctions shall not necessarily follow ACA).</p> <p><del>'10. If offered, interruptible capacity auctions shall be conducted in accordance with the same design principles and timescales as applied for firm capacity. The exact auction dates to be used for the interruptible capacity auctions shall be detailed within the auction calendar with the exception of within-day interruptible capacity. For the annual yearly, all annual quarterly and all rolling monthly capacity auctions, the transmission system operators shall notify network users about the amount of interruptible capacity to be offered <b>one week at least 1 hour</b> before the auction starts. Where an auction of firm capacity has not closed on the scheduled start day for the interruptible auctions, the interruptible auctions shall open no later than the next business day after the closing of the respective auctions of firm capacity. <b>In such cases, any change in the offered amounts shall be notified at least 12 hours before the start of the respective interruptible capacity auction.</b>'</del></p> <p>[FGSZ]</p>	<p><b>ACER refers to its modified proposal for Article 32(10) above.</b></p>
<p>GAZ-SYSTEM comments: The principles and timescale of firm capacity are designed in the 2-steps process: first initial auctions (under ACA) than additional auctions (under UPA). To have clearly defined that interruptible capacity auctions are conducted only under ascending clock algorithm (ACA) without the following UPA auctions it should be clearly stated that they follow only design and timescales of initial auctions of firm capacity. 2) 'one week before' may lead to some mess in the publication dates since it stipulates the exact day. If UPA on Thursday results in full sell of firm capacity, then having at least 12 hours between the interruptible capacity offer and the auction start will enable TSOs to run interruptible auction on Friday. It is also important to mention that there is some time needed for TSO to adjust the offer of interruptible capacity after the firm capacity is sold out. Therefore, the interruptible capacity cannot be run the same day when the firm capacity auction. Nevertheless, one week is too long but 1 hour is too short. In our opinion at least 12 hours seems to give enough time for TSOs to adjust their systems and for network users to prepare their strategy for booking an interruptible product in auction.</p> <p><i>'10. If offered, interruptible capacity auctions shall be conducted in accordance with the same design principles and timescales as applied for <b>initial auctions of firm capacity</b>. The exact auction dates to be used for the interruptible capacity auctions shall be</i></p>	<p><b>ACER refers to its modified proposal for Article 32(10) above.</b></p>

Respondents' replies	ACER views
<p><i>detailed within the auction calendar with the exception of within-day interruptible capacity. For the annual yearly, all annual quarterly and all rolling monthly capacity auctions, the transmission system operators shall notify network users about the amount of interruptible capacity to be offered <del>one week at least</del> <b>12 hours</b> before the auction starts. Where an auction of firm capacity has not closed on the scheduled start day for the interruptible auctions, the interruptible auctions shall open no later than the next business day after the closing of the respective auctions of firm capacity. <del>In such cases, any change in the offered amounts shall be notified at least 12 hours before the start of the respective interruptible capacity auction.</del></i></p>	

**3.14 Chapter VII: Capacity booking platforms**

Respondents' replies	ACER views
<b>Article 37 – capacity booking platforms</b>	
<p>BDEW comments: The validity time of the ACER decision should be extended. However, the participating TSOs should always retain the option to deviate from the decision if they reach a bilateral agreement regarding the platform. In such instances, a switch of the platform should be possible at any time. ACER should continue to hold the decision-making role as a last resort.</p>	<p>ACER evaluated this comment in its <a href="#">Evaluation Report</a> on the policy consultation and concluded that <i>'the transmission system operators enter into a contractual relation with the designated booking platform and that any early termination clauses and termination fees are part of that contractual relation.'</i></p> <p><b>ACER does not move forward this suggestion as it concerns matters of private law.</b></p>
<p>FGSZ agrees with the issuance of a Guidance by ACER. When establishing the suggested selection criteria, utmost attention should be paid to the relevance of the criteria and requirements in order to avoid distortive and discriminatory selection, for example overweighting of existing number of customers, or references to non-existing regulatory requirements (e.g. bundling LNG terminal capacity with TSO capacity), or insufficiently detailed soft requirements.</p> <p>We propose that a public consultation process is included in ACER's process setting out the selection criteria in order to collect feedback on the adequacy of the Guidance.</p>	<p>ACER has <a href="#">rules of procedures</a> implementing the requirements stipulated in the ACER Regulation (EU) 2019/942, including rules on consultations.</p> <p><b>ACER considers the comment addressed.</b></p>

## 3.16 Chapter VIIA: Procedure for parameter modifications

Respondents' replies	ACER views
<b>Article 37A (new) – parameter modification process</b>	
<p>In principle, we are supportive of the need for greater flexibility. However, there are a number of questions this new article raises:</p> <ol style="list-style-type: none"> <li>1) Does this apply to Entry / Exit IPs with third countries or do these modifications only take effect at IPs with EU TSOs on both sides?</li> <li>2) Following from question one, what is the process for informing and engaging a non-EU TSO?</li> <li>3) How will parameter modifications that supersede sections of the CAM NC be documented so that all market participants are aware a rule has been modified be managed on an enduring basis without the risk of adding significant complexity to the auction calendar?</li> <li>4) How long will a modified parameter exist for? If indefinite, would this require a further parameter modification to return CAM NC to as written prior to original modification being activated?</li> <li>5) What happens if a TSO, either within the EU or a third country, on one side of an IP either seeks an exemption or is not able to initiate the change parameters prior to the modification becoming active, potentially due to system change requirements or costs, and therefore creating a two-tier auction system on a temporary or enduring basis?</li> </ol> <p>[National Gas Transmission (GB TSO)]</p>	<p>The geographical scope of CAM rules is defined by Article 2(1). The parameter modification procedure sets details of CAM rules in accordance with evolving market circumstances. Therefore, the scope of application of the modified parameters is the same as Article 2(1). A possibility for derogation to the application of CAM rules at points shared with third countries is foreseen under Article 70(3) of the recast gas Regulation.</p> <p>The process foresees consultation with all the relevant stakeholders. ACER deems non-EU TSOs sharing an exit point from / entry point to a Member State relevant stakeholders. Any modified parameter shall be subject of a market notice to all transmission system operators.</p> <p>Besides the publication of a market notice, ENTSOG shall publish the applicable parameters annually as an annex to the auction calendar. All market notices will be annexed as well.</p> <p><b>The modified parameter remains in place until a modified again following the process of Article 37A. ACER will modify the proposal in point (6) to make that clearer.</b></p> <p>The parameters that may be modified according to the parameter modification process are technical details that, based on information collected from the Booking Platforms, can be modified with limited IT development. Furthermore, the implementation cost and time is an element of ENTSOG's assessment/modification proposal. ACER notes that none of the parameter trigger something that does not yet exist at all. Additional auctions will exist and organising more or less of them within the space of the auction calendar shall not present technical challenges. Notification periods exist and modifying them will not present essential changes to the allocation of capacity. The duration of rounds of the ascending clock auction presents a non-essential element of capacity allocation.</p> <p>The modification of the auction algorithm is restricted to either one of the two existing and well-known algorithms.</p> <p><b>Modified text of Article 37A(6):</b> <i><u>'Any modification, if decided upon, shall apply to all interconnection points, entry points and exit points within the scope of application of this Regulation as of the first annual yearly capacity auction following the publication of the market notice pursuant to paragraph (5) point (a), unless specified differently in that notice. A modified parameter remains applicable until</u></i></p>

Respondents' replies	ACER views
	<p><b><u>modified again pursuant to this parameter modification process.</u></b></p>
<p>BDEW comments: It is critical to note that almost all relevant regulatory content can be changed without following the regular adjustment process for regulations. Generally, it is welcomed that changes can be introduced without modifying the CAM NC entirely and it would benefit in creating a more resilient capacity allocation. Nevertheless, this approach would result in stakeholders having no binding basis for their transactions.</p> <p>If Article 37A remains it is of utmost importance that ACER, NRA and ENTSOG decide jointly about any changes and sufficient preparation time for the stakeholders is provided.</p> <p>EDF comments: Modifying the parameters outlined by ACER in this article would create uncertainty among market participants, who place great importance on the stability of CAM NC rules. The existing CAM NC framework appears well-suited to accommodate various market conditions, making adjustments unnecessary in response to market volatility. The potential drawbacks of frequent rule changes and the resulting uncertainty could outweigh any benefits gained from increased flexibility.</p> <p>Additionally, the uncertain timeline for announcing modifications raises concerns. Changes could either be published too early (e.g., in year N-1 for auctions in July of year N), risking irrelevance due to shifting market conditions, or too late (e.g., in May of year N for auctions in July of year N), leaving operators insufficient time to adapt. This is why we suggest to oblige ENTSOG to publish the result of the consultation on the same day as the auction calendar.</p> <p>Edison comments: Adjusting the CAM NC parameters as suggested by ACER could disrupt the market stability that operators currently rely on. The existing CAM NC framework has proven adaptable to various market conditions, and modifying these established rules in response to market volatility may not be necessary.</p> <p>The timing of such modifications presents additional challenges. Changes announced too far in advance (like in year N-1 for year N auctions) might become irrelevant due to shifting market conditions, while late announcements (such as in May for July auctions) would leave operators insufficient time to adapt their strategies. The potential drawbacks of frequent rule changes and resulting market uncertainty could outweigh any flexibility benefits.</p> <p>Given these considerations, incorporating this new</p>	<p>ACER asserts that modified parameters are to stay within the stated ranges and modifications shall occur on the basis of evaluation considering implementation costs and timelines. This procedure delivers flexibility to adjust parameters and react to market conditions faster than through the full amendment process, while ensuring the appropriate degree of cross-border harmonisation of the rules, predictability of the parameter ranges, and stability by requiring assessment and consultation before modifying a parameter.</p> <p><b>ACER considers its amendment proposal includes the necessary safeguards to ensure sufficient levels of predictability, stability and harmonisation.</b></p>



Respondents' replies	ACER views
<p>article into the code may create unnecessary market disruption without offering substantive advantages.</p> <p>Proxigas believes it is essential to maintain stability and predictability in the methodology and calculations established in the CAM NC Any changes to parameters should be triggered only by exceptional events and be thoroughly justified in consultation with ACER and the market. In case changes are necessary, to minimize the impact of an uncertain timeline for announcing modifications, we propose that ENTSOG be required to publish the consultation results no later than the day the auction calendar is released.</p>	
<p>In principle, we support a proposal for improved efficiency for making changes to CAM rules where beneficial, so long as the rules around this contain clearly prescribed criteria, triggers, consultation (of all stakeholders) and a well-defined process.</p> <p>In particular, when considering important connections between the continent and third countries, it is important to consider impacts of instability via increased likelihood, or quickness, for changes to CAM rules or parameters. For example, there is a risk to third country connections if the rules can too easily be changed on the EU side of the border, whereas the governance rules on the non-EU side may not be as simplistic. This could lead to misaligned capacity allocation rules at either side of the cross-border connection, risking gas flows and Security of Supply - either (1) in the interim whilst the non-EU rules follow a modification process; or (2) where the EU-adopted rule changes are never picked up on the non-EU side due to less of an ability to change.</p> <p>This aligns with the risks flagged in our response to Article 2(1). To ensure the efficiency of gas flows into and out of the block, the regulatory framework for exit and entry points to third countries must be able to accommodate upstream arrangements at any time.</p> <p>[Interconnector]</p>	<p>ACER understands the concern of compatibility of rules at network points shared with third countries. <b>ACER's mandate is to make reasoned proposals for amending the CAM NC within the framework of the higher-level EU legislation.</b></p>
<p><b>Article 37A(1) parameters that can be modified in accordance with the parameter modification procedure</b></p>	
<p>Flexibility for changing of auction hours should be added. In case the scope is to be broaden to set-aside rule - it should be reflected in the text. (ENTSOG, FGSZ]</p> <p>Proposal to include point e):</p> <p><b><u>'e) the starting hours and duration of bidding rounds pursuant to Articles 11(9), 12(7), 13(7), 13a</u></b></p>	<p>ACER expects very few benefits from changing the time window during which auctions are to be organised (which corresponds also to business hours and planning of personnel resources); the modification of the duration of the rounds will already enable more rounds to be organised within that window. Furthermore, ACER considers the UPA time-efficient and does not propose to include the timing and duration of the single-round UPA algorithm among modifiable parameters.</p>

Respondents' replies	ACER views
<p><b><u>(3), 13a (4), 13a (5), 13a (6), 13a (7), 13a (8), 13b (5) and 13b(6),:</u></b> [ENTSOG, FGSZ]</p> <p>Teréga adds to ENTSOG's proposal corrections and missing points:</p> <ul style="list-style-type: none"> <li>- 14.6 and 14.5 should also be added to point e) (hours)</li> <li>- 32.10 should be added to point b) and the shorter period should be 1 hour</li> <li>- (f) with set aside % should be added.</li> </ul> <p><i>'1. The following parameters may be modified by ENTSOG in accordance with paragraphs (2) to (7).</i></p> <p><i>(a) the frequency of additional yearly, quarterly and monthly capacity auctions pursuant to Articles 11, 12, 13 and 13A.</i></p> <p><i>(b) the notification periods pursuant to Articles 11(8) , 12(6), 13(6) <b>and</b> , 13A(10) <b>and 32(10)</b> The modification shall result in a notification period of at least <b>one day hour</b> and no longer than one month.</i></p> <p><i>(c) the duration of the first bidding round, the subsequent bidding rounds as well as and the period between bidding rounds referred to in Article 17(2). The modification shall result in a duration between 30 minutes and 3 hours.</i></p> <p><i>(d) the algorithm to be used for the initial and additional auctions of yearly, quarterly and monthly capacity pursuant to Article 16(1) and for the auctions of interruptible capacity of yearly, quarterly and monthly duration pursuant to Article 16(3bis). The modification shall result in the application per capacity product of either an ascending clock auction as defined in Article 17 or a uniform price auction as defined in Article 18.</i></p> <p><b><i>(e) the starting hours and duration of bidding rounds pursuant to Articles 11(9), 12(7), 13(7), 13a (3), 13a (4), 13a (5), 13a (6), 13a (7), 13a (8), 13b (5) <b>and</b>, 13b(6), 14(5) and 14(6)</i></b></p> <p><b><i>(f) the set aside percentage of capacity pursuant to Articles 8(6) and 8(7)</i></b></p> <p><i>The modification of parameters under points (a) and (b) shall consider the hierarchy and duration of capacity products.'</i></p> <p>[Teréga]</p>	<p><b>ACER does not move forward the suggestion to enable the modification of auction times in accordance with the parameter modification procedure.</b></p> <p>ACER sees value in the proposal by Teréga for including the notification period for interruptible auctions in point (b) of Article 37A(1). However, ACER does retain the minimum notification period to be the day before the auction takes place (or 12 hours).</p> <p><b>ACER moves forward the proposal to add the notification period for auctions of interruptible capacity to point b of Article 37A(1).</b></p> <p><b>ACER adds the default day or days of the week to organise additional auctions to facilitate the work of setting up the auction calendar. ACER removes Articles 11, 12 and 13 as they do not concern additional auctions.</b></p> <p><b>Modified text of paragraph Article 37A(1)(a) and (b)</b> <b><u>'(a) the frequency and default day or days of the week of additional yearly, quarterly and monthly capacity auctions pursuant to Articles 11, 12, 13 and 13A.</u></b></p> <p><b><u>(b) the notification periods pursuant to Articles 11(8), 12(6), 13(6) <b>and</b>, 13A(10) <b>and 32(10)</b>. The modification shall result in a notification period of at least <b>one day 12 hours</b> and no longer than one month.'</u></b></p>
<p><b>Article 37A(5)</b></p>	

Respondents' replies	ACER views
<p>We propose adding another restriction to the timeline for potential adjustments to ensure the market has enough time to adjust to the changes announced.</p> <p>'5. <i>ENTSOG shall decide on the modification having duly considered the views of stakeholders and ACER. If ACER's opinion is not in favour of the proposal, ENTSOG shall not proceed with its implementation. In case ENTSOG does not receive ACER's opinion within [two] months after the submission, ENTSOG shall assume that ACER does not have any objections to the assessment and, where relevant, the proposal. Within four months following the start of the public consultation, <b>and not later than the date on which the auction calendar is published, ENTSOG shall publish:</b></i></p> <p>a) a market notice to all transmission system operators and capacity booking platform operators informing about its decision whether any of the parameters are to be modified;</p> <p>b) an evaluation of responses to the public consultation, including a clear and robust justification for including or not the views resulting from the consultation in its decision;</p> <p>c) ACER's opinion, if applicable.'</p> <p>[Energy Traders Europe, EDF, Proxigas]</p>	<p><b>ACER agrees that the modified text proposal for paragraph 5 of Article 37A on aligning the publication of modified parameters with the publication of the auction calendar adds additional stability and predictability and includes it in its proposals.</b></p> <p><b>Modified text for Article 37A(5):</b></p> <p><i>'<u>ENTSOG shall decide on the modification having duly considered the views of stakeholders and ACER. If ACER's opinion is not in favour of the proposal, ENTSOG shall not proceed with its implementation. In case ENTSOG does not receive ACER's opinion within [two] months after the submission, ENTSOG shall assume that ACER does not have any objections to the assessment and, where relevant, the proposal. Within four months following the start of the public consultation, <b>and not later than the date on which the auction calendar is published, ENTSOG shall publish:</b></u></i></p> <p>[...]</p>

### 3.17 Chapter VIII: Final provisions

Respondents' replies	ACER views
<p><b>Article 39A: transitional measures, and Article 40: entry into force</b></p>	
<p>There should be time given for TSOs to implement IT changes. We propose the transitional measure to give TSOs and other market-participants time for implementation of IT changes.</p> <p><i>'<u>The first publication of the auction calendar after [date of entry into force of the amending Regulation] shall include an additional calendar with the information on the auctions during the months of March until June of that year. <b>A transitional time period shall give enough time to the market participants to implement the IT changes.</b></u></i></p> <p>[BDEW]</p> <p>ENTSOG proposes to start additional auctions, BoM auction, WDA hours change from the new cycle of auctions (from the auction of yearly product) instead of introducing it from March.</p> <p><i>'<u>The first publication of the auction calendar after [date of entry into force of the amending Regulation] shall include an additional calendar with the information on</u></i></p>	<p><b>ACER agrees with BDEW's suggestion for adding a transition period for the changes requiring IT developments.</b></p> <p><b>ACER finds ENTSOG's proposed modification not necessary as the proposed amendments are small or will be subject to a transition measure aligned to the necessary IT development.</b></p> <p>ACER includes this as a transition measure in Article 39A.</p> <p><b>Modified text proposal for Article 39A:</b></p> <p><i>'1. <u>The first publication of the auction calendar after [date of entry into force of the amending Regulation] shall include an additional calendar with the information on the auctions during the months of March until June of that year.</u></i></p> <p><b><i>2. <u>The Articles 13A and 13B shall be applicable from [12-18* months] after entering into force.</u></i></b></p>

Respondents' replies	ACER views
<p><u><i>the auctions during the months of March until June of that year. <b>The auctions included in the additional calendar should be run following the previous rules, until the first auction of a yearly product.</b></i></u></p> <p>[ENTSOG]</p>	<p><u><i>* to be aligned with the annual yearly capacity auction pursuant to Article 11 in [2026].</i></u></p>
<p>ENTSOG comments that there should be time given for TSOs to implement IT changes. We propose the transitional measure to give TSOs time for implementation of IT changes.</p> <p><i>'This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.</i></p> <p><i>It shall apply as from entry into force, <b>except from articles 13A and 13B that should be applicable from 6 months after entering into force.</b></i></p> <p><i>This Regulation shall be binding in its entirety and directly applicable in all Member States.'</i></p> <p>Energinet proposes an implementation window of 12 months.</p> <p>GRTgaz asks at least 24 months to apply those modifications.</p>	<p>ACER agrees with the modifications proposing a transition period for the changes requiring IT developments.</p> <p><b>ACER includes this as a transitional measure in Article 39A, as above.</b></p>

**3.19 Other comments and suggestions**

Where appropriate ‘other comments’ have been included under the relevant provisions within this report.

**3.19.1 Other comments on ACER’s process on the revision of the Network Code**

Respondents’ replies	ACER views
<b>CLARITY ON THE VALUE OF THE ADDITIONAL AUCTIONS AND COST-BENEFIT-ANALYSIS</b>	
<ul style="list-style-type: none"> <li>• There appears to be a large number of new auctions, but this is difficult to quantify. There is a need for clarity on how these auctions will all fit together and their value to shippers and whether they are proposed to be bundled or unbundled. [National Gas Transmission (GB TSO)]</li> <li>• The answer to providing more options to contract capacity should not be limited to additional auctions when other options such as IAM or FCFS are available. The proposal put forward is highly inefficient and impractical with no cost/benefit analysis provided – can ACER provide details of how much it is going to cost to implement these changes and the expected revenue it will generate through additional bookings? SEFE expects little to no uptake in normal market conditions and are concerned that shippers will face higher costs through TSO tariffs as a result to recoup losses through implementation. [SEFE]</li> <li>• BDEW would prefer the development of a cost-benefit-analysis by ACER for the amendments of the CAM NC. [BDEW]</li> <li>• GAZ-SYSTEM comments that: The introduction of additional auctions can create expenditure growth for some TSOs without increasing the amount of sold transmission capacity. Additional auctions of firm yearly, quarterly and monthly capacity product together with Balance-of-the-month auctions can burden the capacity allocation process. Not all participants are aware of the complexity of the rules and how it can change the trading arrangements. Secondly, too many booking opportunities and the relations between them could lead to market manipulation.  The cost-benefit analysis is required to assess the real added value of the enormous changes to TSOs’ IT systems and booking platforms.  The reduction of physical bottlenecks could be solved by the development of transmission network than development of IT booking systems. Impacted stakeholders (ACER, booking platforms, market participants, TSOs) should know long in</li> </ul>	<p><b>ACER has organised a continuous dialogue gauging the benefits and costs of possible amendments from stakeholders’ collective expertise.</b></p> <p>As part of the early consultation, ACER gathered further information on cost estimates of the main proposals that impact IT systems from booking platforms GSA Platform, PRISMA and RBP as well as from a sample of TSOs (facilitated by ENTSOG and submitted bilaterally to ACER) regarding IT platform costs and back-end costs. ACER considers the inputs received as confidential due to their commercially sensitive nature. <b>The cost ranges showed some variation but are all reasonable with the order of magnitude below EUR 1 million. In terms of implementation time, 12 to 18 months seem reasonable for the larger developments</b> depending on the final specifications that can only be known at the time the code is amended. ACER concludes that none of the considered improvements leads to unacceptable costs compared to the expected benefits of a more dynamic capacity allocation considering <b>the size of the EU gas market lingers at EUR 150 billion in 2023 (based on EU gas consumption and average TTF spot prices).</b></p>

Respondents' replies	ACER views
<p>advance the expected changes to adapt to the proposed changes.</p> <p>It is necessary to have a firm commitment from NRAs that the cost resulting from implementing IT changes will be covered by tariff. In addition, it shall be analysed if implementation of a new, complicated system with so many auctions for the same product will lead to increase of capacity sale by the TSOs in comparison to the currently applied methods. [GAZ-SYSTEM]</p>	
<b>ARTICLE 37A – MODIFICATION OF PARAMETERS MIGHT CREATE MISALIGNED AUCTION SYSTEMS</b>	
<ul style="list-style-type: none"> <li>A number of articles could be affected by 37A and subsequently superseded by a parameter modification, but there's limited guidance beyond reference to an annex to the auction calendar on how this will be recorded or managed on an enduring basis to ensure no misunderstandings or inconsistencies occur or how third countries will be notified of a change. There could also be a scenario where a TSO is not able to implement the change and/or seeks an exemption, thereby creating misaligned auction systems, which has not been recognised in the text. [National Gas Transmission (GB TSO)]</li> <li>It is important to maintain stability and predictability in the methodology and calculations performed. <b>The possibilities of changing parameters should be triggered by exceptional events</b> and soundly justified in concertation with ACER and the market. In case of necessary changes, and in order to reduce the effect of an uncertain timeline for announcing modifications, EDF suggests setting <b>a limit for ENTSOG to publish the result of the consultation</b>, at the latest on the same day as the auction calendar. [EDF]</li> </ul>	<p><b>ACER addressed the concerns regarding the parameter modification procedure under section 3.15 Chapter VIIA: Procedure for parameter modification.</b></p>

### 3.19.2 Input on the survey's design

Respondents' replies	ACER views
<b>SUGGESTIONS FOR IMPROVEMENT</b>	
<p>XLS response: technical problem underlining the additions. They are in colour in their proposals [Teréga]</p>	<p>ACER acknowledges the limitations of the excel table. After testing different options for presenting the draft amendment proposals and collecting feedback on them, the excel table was chosen as a compromise of having flexible filtering options, clear line-by-line overview of old text, new text and justification, and weaker editing functionality.</p>

Respondents' replies	ACER views
The multiple-choice questions would benefit from an 'other' option. [National Gas Transmission (GB TSO)]	ACER takes note of this comment. ACER organised a continued stakeholder dialogue inviting open comments in preceding consultations, whereas this consultation was seeking more precise information on the presented options.
Most questions do not offer consideration for a balanced argument, e.g. they ask to choose between 2 options that are not the best solution to the problem. In fact, many questions are led rather than asked. On this particular topic we have spoken to many representatives from the industry, including shippers and TSOs, and we have continuously <b>heard negative feedback on the proposals contained within this consultation</b> . ACER does not seem to use this feedback to ask industry participants to explain in detail what practical solutions could provide significant benefit to market functioning. <b>Additional roundtables including market participants</b> , TSOs could help in providing details for practical solution additional to those presented in these consultations. [SEFE]	ACER organised two public consultations including two workshops, discussing the scope of amendments and the broad lines of possible improvements, <b>inviting stakeholders to submit concrete proposals</b> . ACER made a <b>comprehensive and thorough evaluation report</b> explaining why specific topics were included or dismissed in the continuation of the process.  In this final consultation, ACER invited comments on the draft amendments to ensure they have no unintended negative consequences, and comments on the topic of 'incremental capacity' (requesting justifications on why such rules must be harmonised within CAM NC) and on the topic of 'balance-of-the-month' (as this new maturity was the preferred option by stakeholders considering the limitations of other alternatives, <a href="#">Evaluation Report</a> on the policy consultation).
Energy Traders Europe supports the design of the final consultation round, which gives the opportunity to review and discuss the detailed text amendment proposals.	
GRTgaz suggest adding a column to stress if an article is modified or not.	
At the 'Balance of the Month' section, it would have been appropriate to include a choice field to poll whether stakeholders are supportive of the introduction of the BoM product at all, before going into details of how to introduce it and how its pricing should look like. (Similarly to the detailed options regarding the Incremental Chapter, where all options were put forward). Not asking this basic question is explicitly guiding stakeholders to the conclusion that BoM shall be introduced. [FGSZ Ltd]	The <a href="#">Evaluation Report</a> on the policy consultation already concluded that among the options to introduce a maturity between month-head and day-ahead, stakeholders preferred 'balance-of-the-month': <i>'ACER thus notices that respondents do express a preference for introducing a BoM-like product.'</i>

### 3.19.3 Comments provided outside of the consultation by Slovenský plynárenský priemysel

Respondents' replies	ACER views
<ul style="list-style-type: none"> <li>In auction procedure has emerged frequently a situation when initial interest exceeds offer of capacity, but at the end there are any allocation capacity taking place.</li> <li>Capacities across three borders are offered in separate auctions, which can lead to a problem when a network user is successful only for example in 2 out of the 3 auctions. This means that</li> </ul>	<ul style="list-style-type: none"> <li>ACER is aware of auctions occasionally concluding with an auction premium and unsold firm capacity. The introduction of additional auctions will ensure that this capacity can be offered again to the market.</li> <li>ACER acknowledges that capacities are offered per interconnection point, which requires network users to bid simultaneously in all capacity auctions</li> </ul>

Respondents' replies	ACER views
<p>the network user is required to pay for capacities they cannot use due to their lack of success in the third auction.</p> <ul style="list-style-type: none"> <li>• We suggest carrying out research, which aim would be to identify the most trading bases of selling gas according to member states of EU (e.g. calendar year, gas year), as well as to adjust the list of standard products to it. For example, the base dominated in our contracts is calendar year, therefore we are not able effectively buy transmission capacity (calendar year capacity is allocated to gas year). Our company solves this problem by buying extra capacities or short-term products.</li> <li>• There are situations we attend auction of within-day product instead of day-ahead one. Runtime within-day product is from 6 AM to 6 PM, which covers the whole gas day. However, within-day product is tradable from 6:30 PM to 3 AM following day, which causes human sources problems of gas control room. Taking into consideration that not many operators have 24/7 control room, we propose to improve auction time. For instance, auction can be divided into 2 separated auctions and each one would take place in different time (late afternoon/early morning).</li> </ul>	<p>covering the points along a corridor. The separate offering of capacity per interconnection point has been a design choice since the introduction of the CAM NC; the introduction of conditional bidding across parallel auctions would make the allocation process substantially more complex. ACER is not aware of major problems of network users to secure capacities.</p> <ul style="list-style-type: none"> <li>• The misalignment of commodity products and transmission products is known, but network users have not raised this as an issue.</li> <li>• ACER's proposal moves earlier the closure of the first within-day auction round that allocates all 24 remaining hours of the gas day. The earlier closure will give network users earlier certainty about their allocated capacities and creates a window with no ongoing auctions that platform operators could use for system maintenance.</li> </ul>



#### 4. CONCLUSION

ACER appreciates the feedback received through this ‘final public consultation’ and considers this evaluation of responses an essential part of its CAM NC revision process. This evaluation document explains how ACER takes into account the stakeholder views in its upcoming reasoned amendments proposals.

ACER gathered further information on cost estimates of the main proposals that impact IT systems from booking platforms GSA Platform, PRISMA and RBP as well as from a sample of TSOs (facilitated by ENTSOG and submitted bilaterally to ACER) regarding IT platform costs and back-end costs. ACER considers the inputs received as confidential due to their commercially sensitive nature. The cost ranges showed some variation but are all reasonable with the order of magnitude below EUR 1 million. In terms of implementation time, 12 to 18 months seem reasonable for the larger developments depending on the final specifications that can only be known at the time the code is amended. ACER concludes that none of the considered improvements leads to unacceptable costs compared to the expected benefits of a more dynamic capacity allocation considering the size of the EU gas market lingers at EUR 150 billion in 2023 (based on EU gas consumption and average TTF spot prices).

**With respect to the restoration of the incremental capacity provisions, ACER concludes the following:**

ACER provides below considerations in support of the legal analysis by the European Commission on whether and to what extent rules on incremental capacity leading to investment may be included within the CAM NC in the aftermath of the [Judgment](#) of the European Union General Court.

After reviewing the justifications for full, partial or no restoration of the incremental capacity provision, ACER finds that the arguments provided by stakeholders address mainly the design of incremental capacity rules and not the justification for having EU-wide harmonised rules for deciding on incremental investment.

- Arguments in support of **not restoring** the rules governing the incremental capacity process focus on the lack of effectiveness so far in leading to investment in interconnection capacity in the EU, as well as on the expected effectiveness of preserving such a process as interest in long term capacity has been low and is expected to remain low;
- Arguments in support of **fully restoring** these rules focus on how they could be modified while not providing justification for having EU-wide harmonised rules and why incremental capacity investment could not happen without such rules;
- Arguments in support of **partially restoring** the rules governing the incremental capacity process cite a need to ensure a structured, harmonized process for evaluating and adjusting the level of interconnectedness in Europe, for instance, by the introduction of a common template for expressing non-binding interest.

ACER notes that ENTSOG and most TSOs favour a full restoration, whereas shippers and traders express a mixed view between no restoration, partial restoration and full restoration.

Regulatory authorities supported no restoration or partial restoration, questioning the effectiveness of the incremental capacity process while recognising the benefits of coordination between TSOs in the demand assessment steps and while preparing a project.

**With respect to the role of price for designing a balance-of-the-month offer, ACER concludes the following:**

ACER notes that while shippers express a preference for introducing a **standard product for balance-of-the-month capacity**, TSOs and national regulatory authorities express a preference for the solution

that comprises a daily auction of a strip of daily capacities until the end of the month (**‘balance-of-the-month auction of daily capacity products’**) in view of having a more straightforward implementation process without the need to modify the Network code on harmonised tariff structured (TAR NC) and at lower estimated implementation cost

With respect to the role of price in designing a balance-of-the-month offer, ACER concludes the following:

- Shippers emphasise that the **multiplier element** in the price definition is an essential design element. The use of the **daily tariff multiplier** might make the **balance-of-the-month auction** (of a strip of daily capacity products) not competitive at the start of a given month, when many days are included. While many implementations of a dedicated **balance-of-the-month multiplier** can be imagined, foremost, it should have a level that is between the levels of the monthly capacity and daily capacity multipliers;
- With respect to the justification of a targeted amendment of the TAR NC, ACER finds respondents who identified the price as an essential element of a **balance-of-the-month capacity product** did not raise many arguments emphasising the urgency of setting a dedicated price and multiplier for a **balance-of-the-month product**. They indicate a willingness to wait, if necessary, for the introduction of the capacity product until a dedicated tariff multiplier and price has been set.

ACER emphasises that:

- Without a dedicated price/multiplier, the **balance-of-the-month auction of a package of daily products** may not be appealing compared to other capacity products and therefore not effective in having a more **dynamic capacity offering**. The actual competitive disadvantage may be small if multipliers for monthly and daily products are not too different;
- The alternative introduction of a **balance-of the-month product**, with a dedicated tariff multiplier, has a higher implementation cost (IT development) and longer implementation time (amendment of TAR NC);
- The offer of this possible standard product is conditional on first setting a **dedicated price** in the TAR NC that shall be based on a multiplier between the level of the monthly multiplier and the level of the daily multiplier;
- The **balance-of-the-month product** is compatible with the current rules for capacity surrender, whereas this is uncertain in the case of a strip of daily products.

Considering these elements, ACER recommends:

- To foresee the introduction of a **balance-of-the-month auction of a package of daily products**; and
- To foresee the option to introduce in the future a **balance-of-the-month product** if further justification from market participants is provided that the above option would be less effective

**ACER modifies its amendment proposals as follows:**

Article No	Evaluation, justification and modified proposal
1	No amendment proposed.
2	ACER repeats that it invites the legal services of the European Commission to finalise the formulation of this provision to ensure its full alignment with Article 70 of the recast gas Regulation.

	<p>ACER finds unnecessary the addition of optionality for applying CAM NC to other types of network points as NRAs can refer or copy the CAM NC rules when adopting their respective national rules as explained already in the Evaluation Report on the policy consultation (p. 109).</p> <p>To avoid presenting conditional capacity as a form of capacity that is distinct from firm capacity instead of it being a subset of firm capacity (and technical capacity is the maximum firm capacity that can be made available to the market), ACER does not include the proposed modification in its amendment proposals.</p> <p><b>Amendment proposal retained without modification.</b></p>
3	<p>ACER invites the Commission's legal services to ensure the legal clarity and consistent cross-referencing of definitions in lower-level network codes and guidelines.</p> <p>ACER rejects the proposal to delete 'small price steps' entirely from the code.</p> <p>ACER agrees that no definition is needed for 'initial auction' as the Annual yearly capacity auction, the Quarterly capacity auctions and the Monthly capacity auctions are fully defined in Articles 11 to 13, respectively.</p> <p><b>Amendment proposal withdrawn with respect to paragraph (26) and modified with respect to paragraph (27). Modifications applied accordingly to Articles 11 to 13.</b></p>
4	<p>ACER assessed in its Evaluation Report on the policy consultation and concluded that: <i>'the principle of cooperation between TSOs at times of maintenance is already incorporated in the current Article 4 of the CAM NC. Specific elements of cooperation fit best in the interconnection agreement, whereas liabilities should be dealt with through the transmission use agreements between network user and TSO.'</i> ACER concludes that the review of the catalogue of the main terms and conditions pursuant to the proposed amended Article 20 of the CAM NC may indirectly improve such issues which otherwise cannot be directly resolved within the CAM NC.</p> <p><b>No amendment proposed.</b></p>
5	<p><b>No amendment proposed.</b></p>
6	<p>ACER agrees that structural changes in the gas system or in gas supply and demand are the primary trigger of capacity re-calculation, while information on those changes is collected through consultation of network users, including through the TYNDP process and the demand assessments. ACER believes a 2-year period for reviewing the assumptions underlying the capacity calculation is making explicit and transparent an expected current practice. ACER furthermore notes that a review of capacity calculation assumptions does not automatically lead to a full re-calculation. The review may simply confirm that assumptions are still valid.</p> <p>ACER finds it reasonable and proportionate to require consultation of network users when assessing future gas flows as these stakeholders are the best placed to inform TSOs about how they intend to use the network. Future gas flows are an essential element to consider in the capacity calculation and maximisation process, in particular when re-calculation may concern a reduction of technical capacity.</p> <p>ACER considers planned reduction of capacity is a matter of capacity calculation and maximisation already covered under the provisions of Article 6 of the CAM NC. ACER does not move forward the proposed new article by Energinet but will make more explicit the example of capacity reduction in its justification for improving the coordination and consultation obligations of TSOs.</p> <p>The amendment proposal included in Article 6(5)-(7) provides the essential elements to be included in the published information.</p> <p>ACER reiterates that transparency on the physical flow potential and the commercial technical capacity is beneficial for the market functioning and EU's better preparedness for handling a gas market crisis, providing the necessary information on how the system integrity affects the offer of capacity and what is the real potential to flow gas at key points in the gas system.</p> <p><i>For all these reasons, rejects the proposals to discard ACER's proposed amendments.</i></p> <p><b>Amendment proposal modified with respect to paragraph (1)(a)(4).</b></p>

7	No amendment proposed.
7A	<p>Article 7A ensures proper coordination between NRAs when deciding to apply an implicit allocation mechanism following a joint assessment of the effects. NRAs agree that the unilateral application of implicit allocation at interconnection points reduces efficiency of capacity allocation and a joint decision ensures the appropriate level of harmonisation of capacity allocation rules is achieved. While ACER deems that NRAs consult relevant stakeholders as part of their normal decision processes, it modifies its proposal to include an explicit reference to consultation of stakeholders.</p> <p>Amendment proposal modified.</p>
7B	<p>ACER does not move forward the proposed new article by Energinet, consisting in inserting a new article 7B to include separate consultation requirements on TSOs in case of decommissioning/repurposing of existing capacity affecting IPs, and emphasises its amendment proposals for Article 6 to improve transparency of the capacity (re)calculation process apply also to cases of capacity reduction (within a context of overall capacity maximisation).</p> <p>ACER adds the case of capacity reduction to its justification for improving and clarifying the coordination and consultation obligations of TSOs included in the capacity calculation and maximisation principles pursuant to Article 6.</p> <p>Proposal for amendment not moved forward with modifications applied accordingly to Article 6.</p>
8	<p>The introduction of mandatory additional offer of firm capacity via UPA to allocate unsold firm capacity is largely supported and is the result of extensive consultations these past 3 years. Allocation rules should be applied at all IPs and at either side of borders, optionality would not be consistent with this idea. After having investigated the matter further, ACER retains its proposal for mandatory additional auctions included in Article 8(3)A without modification.</p> <p>ACER evaluated the proposal to re-introduce FCFS in its <a href="#">Evaluation Report</a> on the policy consultation and concluded that it would be a step back.</p> <p>ACER notes that paragraph (3A) is redundant as the hierarchy of capacity auctions is clear from Articles 11 to 15. The paragraph is withdrawn for this reason.</p> <p>ACER's Evaluation Report on the policy consultation concluded that there was no need to introduce higher set-aside shares. Transmission system operators and network users indicate that lower set-aside percentages could be considered. ACER believes consideration could be given to lowering the minimum percentage or introducing a provision allowing flexibility to lower the change the minimum percentage in the future. However, not having had the time to carry out an in-depth analysis in this stage of the process, ACER does not propose an amendment. Nevertheless, ACER invites the Commission to consider further investigation on this point: requesting ACER to assess the effectiveness of the current minimum level of capacity to be set aside; and requesting ACER to investigate the design of a procedure for modifying the minimum level and recommended proportions of capacity to be set aside for different capacity products.</p> <p>No amendment proposed at this stage. ACER invites the Commission to consider further investigation on the minimum level of capacity to be set aside.</p>
9	No amendment proposed.
10	No amendment proposed.
11	<p>ACER evaluated the proposal of longer forward capacity allocation in its <a href="#">Evaluation Report</a> on the policy consultation and concluded 15 years remains a reasonable horizon for selling forward capacity products.</p> <p>ACER expects very few benefits from changing the time window during which auctions are to be organised. ACER rejects the proposal to enable the modification of auction times in accordance with the parameter modification procedure.</p> <p>Amendment proposal retained without modification (modification was done to delete 'initial').</p>

12	<p>The proposed reduction in the notification period of quarterly capacity levels is consistent with the introduction of additional auctions for yearly capacity and the notification period is modifiable. ACER rejects the proposal to delete its amendment.</p> <p>ACER expects very few benefits from changing the time window during which auctions are to be organised. ACER rejects the proposal to enable the modification of auction times in accordance with the parameter modification procedure.</p> <p>Amendment proposal retained without modification (modification was done to delete 'initial').</p>
13	<p>ACER finds the deletion of 'rolling' in the title has little impact. ACER recommends using the same naming convention for the quarterly and monthly capacity auctions of Articles 12 and 13, respectively.</p> <p>ACER expects very few benefits from changing the time window during which auctions are to be organised. ACER rejects the proposal to enable the modification of auction times in accordance with the parameter modification procedure.</p> <p>Amendment proposal retained without modification (modification was done to delete 'initial').</p>
13A	<p>ACER takes note of the identified inconsistencies by ENTSOG and modifies the amendment proposal accordingly, replacing the word 'product' with the word 'auction' in first line of paragraph 1 and clarifying that firm capacity will only be offered via additional auctions if there are remaining unsold volumes, and with respect to the set-aside rules.</p> <p>ACER notes that on the last day of the month, the month-ahead product can no longer be offered as the shorter-term day-ahead product is up for auction as well as the BoM auction. ACER modifies its proposal for Article 13A(1) ensuring additional auction are held up to the day preceding the publication of available capacities in the auction of firm capacity covering the same period with a shorter duration to make clear that the additional auction of a capacity product shall not be organised on the auction day of firm capacity covering the same period with a shorter duration.</p> <p>ACER considers the UPA time-efficient and expects few benefits from changing the auction times, therefore, ACER does not move forward the suggestion to enable the modification of auction times. Moreover, ACER does not move forward the suggestion to align the auction timings for additional auctions of all products but considers they could be modified during comitology.</p> <p>ACER acknowledges that for the determination of available capacity in an additional auction, any capacity set-aside shall be treated pursuant to Article 8. ACER modifies its amendment proposal including the amount of technical capacity set aside in accordance with Article 8(7) in the formula of paragraph (9) to compute the capacity to be offered in the additional capacity auction.</p> <p>ACER notes that no deadline exists today for the publication of aggregated information on the auction results ACER does not have indications that aggregated information is not made available by booking platform operators in a reasonable timeframe and does not move forward the suggestion in its amendment proposal to set a deadline within CAM NC.</p> <p>ACER takes note of comments received and agrees that the proposed Article 13(13) is indeed redundant with the same outcome already provided for by means of paragraphs 3, 5 and 7 of the same Article. Therefore, ACER modifies its amendment proposal and withdraws paragraph 13 of Article 13A.</p> <p>Amendment proposal modified with respect to paragraphs (1) and (9) and withdrawal of paragraph (13).</p>
13B	<p>ACER notes that Point 2.2.4 of Annex I to the recast gas Regulation requires TSOs to accept any surrender of firm capacity contracted by a network user <i>'with the exception of capacity products with a duration of a day and shorter'</i>. In the 'BoM auction' option, the BoM sale allocates a strip of individual daily products to a network user. ACER will signal this issue to the European Commission as a CMP related matter that necessitates further clarification.</p> <p>ACER considers the UPA time-efficient and expects few benefits from changing the auction times. ACER does not move forward the suggestion to enable the modification of auction times of BoM</p>

	<p>auctions. ACER notes that editorial improvement is possible and modifies its amendment proposal for Articles 13B(6).</p> <p>ACER understands more time may be needed for network users to prepare the balance-of-the-month auction. ACER modifies its amendment proposal of Article 13B(8) and includes a placeholder of 1 hour which can be revised during the comitology. This proposal could be considered as well for the day-ahead auction should stakeholders deem that useful.</p> <p><b>Amendment proposal modified with respect to paragraphs (6) and (8).</b></p>
14	<p>ACER considers the UPA time-efficient and expects few benefits from changing the auction times. ACER does not move forward the suggestion to enable the modification of auction times.</p> <p><b>Amendment proposal for Article 14 retained without modification.</b></p>
15	<p>The proposal for including a 2<sup>nd</sup> auction bidding round for WD-24 has already been discarded in the <a href="#">Evaluation Report</a> on the policy consultation.</p> <p><b>Proposal for amendment rejected.</b></p>
16	<p>ACER evaluated the determination of the reserve price for additional auctions of firm capacity products in its <a href="#">Evaluation Report</a> on the policy consultation and concluded that: <i>'the regulated tariff should be retained as the default reserve price of all auction processes.'</i></p> <p>ACER consulted on having all interruptible capacity auctions run under the UPA algorithm and concluded that stakeholders are split on this proposal and does not propose to change the default rule. However, the choice for the auction algorithm to be applied for allocating a specific product will be among the adjustable parameters in order to ensure the algorithm shall be adapted to market circumstances and shippers' needs.</p> <p>ACER considers that a BoM auction of a strip of daily products allocates daily products. These daily products are re-offered in further BoM and D auctions, and eventually interruptible daily capacity is offered. The advance sale of interruptible daily capacities is deemed not to be a priority.</p> <p>ACER made editorial improvements to paragraph (2A).</p> <p><b>Amendment proposal modified with respect to Article 16(2A).</b></p>
17	<p>ACER understands market participants need to know about the possible price step modification as early as possible, but also considers enough time is needed for TSOs to jointly assess and decide on the modification, and for the information to be published. ACER will modify its proposal of Article 17(10) and insert an earlier timing which could be revised during comitology. ACER takes note of a booking platform (PRISMA) request to have guidance on how to communicate a change of the price step to the market and will modify its proposal of Article 17(10) accordingly.</p> <p><b>Amendment proposal modified with respect to Article 17(10).</b></p>
18	<p>ACER rejects the proposal to move away from pay as cleared and considers a same capacity product should be allocated at the same price, reflecting its scarcity value, to all network users at a given point in time.</p> <p><b>Proposal for amendment of Article 18 not moved forward.</b></p>
19	<p>ACER takes into consideration the point made by one respondent to <i>'limit possibility of transmission system operators to declare bundled capacity as available only on one side of the interconnection point during maintenance works'</i>, but considers the comments better be addressed as part of the TSO transport contracts and TSO-TSO interconnection agreements and not to be included in this amendment process. ACER recommends network users raise these issues to the concerned TSOs and NRAs. Moreover, ACER notes that standardised clauses for dealing with maintenance could be included in the catalogue of the main terms and conditions in the transport contract; an update of this catalogue is proposed by the amendment of Article 20.</p> <p><b>Proposal for amendment of Article 19 not moved forward.</b></p>
20	<p>The repetition of cataloguing main terms and conditions applicable to bundled contracts will allow ENTSOG to review and update its template taking into account the most recent market conditions as well as ACER's remarks in the Opinion 06/2018. ACER disagrees that this task implies a full</p>

	<p>harmonisation of contracts. Moreover, ACER noted several comments touch on national terms and conditions, such as how maintenance is dealt with or the specific procedure for interrupting interruptible contracts. ACER expects TSOs continuously strive to reduce such issues where these are not due to fundamental differences in principles of national law or jurisprudence.</p> <p>ACER retains its amendment proposal of Article 20 without modification.</p>
21	<p>ACER believes consideration could be given to include daily and within-day capacities under the conversion mechanism of Article 21(3) in view of the changed market dynamic and a greater focus on shorter term capacity products. However, the proposal has been brought forward in the final stages of the process not leaving the possibility to ACER to carry out an analysis on this issue, ACER does not propose an amendment at this stage. ACER invites the European Commission to consider further investigation on this point: requesting ACER to assess the current practice with respect to the voluntary inclusion of daily and within-day capacities under the conversion mechanism; and requesting ACER to issue a Recommendation to national regulatory authorities on extending the national conversion mechanism to daily and/or within-day capacities.</p> <p>No amendment proposed at this stage. ACER invites the Commission to consider further investigation on the possible extension of the conversion mechanism to daily and within-day capacities.</p>
22	No amendment proposed.
23	No amendment proposed.
24	No amendment proposed.
25	Amendment proposal retained without modification.
26	<p>ACER evaluated different options for launching the demand assessment process and concluded in its <a href="#">Evaluation Report</a> on the policy consultation that in order to achieve a more efficient process, the frequency is subsidiary to raising the credibility of the non-binding demand indications expressed by network users. ACER retains its amendment proposal of Article 26(1) without modification.</p> <p>As already stated in its <a href="#">Evaluation Report</a> on the policy consultation, ACER emphasises that the obligation on TSOs to regularly assess market demand for new capacity is embedded in Article 10(4) of the recast gas Regulation. Market participants as well as regulatory authorities expect the outcome of that assessment to be reported on. For these reasons, ACER does not move forward the suggested modification not to publish a final report in case zero non-binding demand indications were received.</p> <p>ACER considers that the approval by the regulatory authority shall ensure that fees cover efficiently incurred costs of activities initiated on the basis of the non-binding demand indications. ACER modifies its amendment proposal of Article 26(11) adding the word 'efficient' to the 'costs of the activities initiated by the transmission system operator'.</p> <p>As already stated in its <a href="#">Evaluation Report</a> on the policy consultation ACER reiterates that the deposit proposed through Article 26(11A) of the CAM NC shall be returned to shippers whose non-binding demand indication was confirmed with the placement of a matching bid in the binding phase and also in case the incremental process ends with a positive economic test at least for one offer level (even if a shipper has not confirmed its non-binding demand expression). ACER finds reasonable the proposal to include a proportionate reimbursement in case of downward adjusted bids and the proposal to disregard non-binding demand indication if the deposit is not paid in time by the relevant shipper. ACER will modify its proposal of Article 26(11A) accordingly.</p> <p>ACER considers necessary that fees and deposits meant to raise credibility of non-binding demand indications for incremental capacity are approved by regulatory authorities and does not move forward the different proposal made on that aspect.</p> <p>As already stated in its <a href="#">Evaluation Report</a> on the policy consultation ACER notes that in light of the energy-efficiency-first principle and the Union's decarbonisation policies, the utilisation of capacity shall be considered and not merely the available capacity offer. ACER keeps its amendment proposal for Article 26(12b) unchanged.</p> <p>Amendment proposal modified with respect to Article 26(11) and (11A).</p>

27	No amendment proposed.
28	Amendment proposal retained without modification.
29	No amendment proposed.
30	No amendment proposed.
31	Amendment proposal retained without modification.
32	<p>ACER concluded on the basis of the public consultations that the market prefers to keep ACA for interruptible capacity and rejects the proposal to apply UPA for all interruptible auctions. The auction algorithm may be modified in accordance with the parameter modification procedure.</p> <p>ACER emphasises that the objective of the proposed amendment of Article 32(3) is to align the market rules with the lessons from the 2022 gas market crisis. ACER concluded in its <a href="#">Evaluation Report</a> on PC_2024_G_09 that: <i>'Whenever TSOs offer unlimited interruptible capacity, they must explain how they have determined this offer level and what are the underlying conditions/assumptions. When those conditions are no longer met, for instance, under tight market conditions, TSO should consider limiting the offer of interruptible capacity to ensure price-based allocation of capacity can take place.'</i> While there is no rigid limit to the offer level in ACER's proposal, ACER modifies its proposal to make it simpler and focusing on the market conditions including the probability of interruption and ensure that price can play its role to allocate scarce capacity. ACER understands that at unidirectional interconnection points the interruptible 'virtual reverse flow' is necessarily connected to the flow in the forward direction while also system integrity must be accounted for. ACER modifies the amendment accordingly.</p> <p>ACER agrees that the notification period must be aligned to the introduction of additional auctions of remaining firm capacity. In practical terms, a notification period of at least 12 hours strikes a balance between enabling the allocation of firm capacity and giving sufficient time for market parties to prepare their participation in the interruptible auction. ACER accepts to amend the notification period for interruptible capacity auctions and modifies the text for Article 32(10) and includes it among the parameters that can be modified through the parameter modification procedure of Article 37A.</p> <p>Amendment proposal modified with respect to Article 32(3) and (10).</p>
33	No amendment proposed.
34	No amendment proposed.
35	No amendment proposed.
36	No amendment proposed.
37	<p>ACER evaluated in its <a href="#">Evaluation Report</a> on the policy consultation that transmission system operators enter into a contractual relation with the designated booking platform and that any early termination clauses and termination fees are part of that contractual relation. ACER does not move forward this suggestion to include that the participating TSOs should always retain the option to deviate from the decision if they reach a bilateral agreement regarding the platform as it concerns matters of private law.</p> <p>Amendment proposal of Article 37 retained without modification.</p>
37A	<p>ACER asserts that modified parameters are to stay within the stated ranges and modifications shall occur on the basis of evaluation considering implementation costs and timelines. This procedure delivers flexibility to adjust parameters and react to market conditions faster than through the full amendment process, while ensuring the appropriate degree of predictability, harmonisation and stability. ACER considers its amendment proposal includes the necessary safeguards to ensure sufficient levels of predictability, stability and harmonisation.</p>



	<p>ACER moves forward the proposal to add the notification period of 12 hours for auctions of interruptible capacity to point b of Article 37A(1) as it is consistent with the inclusion of the other notification periods. ACER expects very few benefits from changing the time window during which auctions are to be organised and rejects their inclusion in paragraph (1) due to lack of justification.</p> <p>ACER agrees with aligning the publication of any modified parameters at the latest with the yearly publication of the auction calendar and modifies point 5 of Article 37A accordingly.</p> <p>ACER clarifies in paragraph (6) that the modified parameter remains in place until a new modification happens following the process of Article 37A.</p> <p>Amendment proposal modified with respect to Article 37A(1), (5) and (6).</p>
38	No amendment proposed.
39	No amendment proposed.
39A	<p>ACER agrees with the modifications proposing a transition period for the changes requiring IT developments.</p> <p>Amendment proposal modified with respect to Article 39A(2).</p>
40	No amendment proposed.

## ANNEX I: LIST OF RESPONDENTS

No.	Organisation	Country of origin	Activity	Confidential
1.	BBL Company VOF (BBLC)	Netherlands	TSO and their associations	No
2.	BDEW - German Association of Energy and Water Industries	Germany	Other (national industry association)	No
3.	EDF	France	shippers/traders and their associations	No
4.	Edison SPA	Italy	shippers/traders and their associations	No
5.	ELPEDISON SA	Greece	Other (electricity and gas energy utility company)	No
6.	Enagás	Spain	TSO and their associations	No
7.	Energinet	Denmark	TSO and their associations	No
8.	Energy Traders Europe	European Union, for associations covering all EU	shippers/traders and their associations	No
9.	Eni S.p.A.	Italy	shippers/traders and their associations	No
10.	ENTSO	European Union, for associations covering all EU	TSO and their associations	No
11.	European Energy Exchange (EEX)	Germany	Other (Energy Exchanges)	No
12.	Europex	Belgium	Other (Energy Exchanges)	No
13.	FGSZ Natural Gas Transmission	Hungary	TSO and their associations	no
14.	FNB Gas e.V.	Germany	TSO and their associations	No
15.	Gas Connect Austria GmbH	Austria	TSO and their associations	No
16.	Gasunie Transport Services B.V.	Netherlands	TSO and their associations	No
17.	GRTgaz	France	TSO and their associations	No
18.	Interconnector Ltd	Belgium	TSO and their associations	No

No.	Organisation	Country of origin	Activity	Confidential
19.	National Gas Transmission	Great Britain	TSO and their associations	No
20.	OMV Gas Marketing & Trading GmbH (OGMT)	Austria	shippers/traders and their associations	No
21.	Operator Gazociągów Przesyłowych GAZ-SYSTEM S.A. (GAZ-SYSTEM)	Poland	TSO and their associations	No
22.	Orlen S.A.	Poland	shippers/traders and their associations	No
23.	PRISMA European Capacity Platform GmbH (PRISMA)	Germany	Other (Capacity Booking Platform)	No
24.	Proxigas	Italy	Other (national industry association)	No
25.	REN Gasodutos, SA	Portugal	TSO and their associations	No
26.	RWE Supply & Trading	Germany	shippers/traders and their associations	No
27.	SEFE Marketing & Trading (SEFE)	UK	shippers/traders and their associations	No
28.	Teréga	France	TSO and their associations	No
29.	Uniper Global Commodities SE (Uniper)	Germany	shippers/traders and their associations	No

Comments submitted outside of the consultation.

1.	Slovenský plynárenský priemysel, a.s.	Slovakia		No
----	---------------------------------------	----------	--	----