

**AGREEMENT ON APPROVAL BY THE CHANNEL  
REGULATORY AUTHORITIES**

**OF**

**THE CHANNEL TSO PROPOSAL FOR THE**

**BRITNED BORDER SPECIFIC ANNEX  
TO THE HARMONISED ALLOCATION RULES  
GB – NL BORDER**

**AND**

**IFA BORDER SPECIFIC ANNEX  
TO THE HARMONISED ALLOCATION RULES  
GB – FR BORDER**

**25 September 2017**

## I. Introduction and legal context

This document elaborates an agreement of the Channel Regulatory Authorities, made on 25 September 2017, on the Channel TSO Proposals for the BritNed and IFA border specific annexes<sup>1</sup> to the Allocation Rules submitted in accordance with Article 51 of the Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a Guideline on Forward Capacity Allocation (Regulation 2016/1719).

This agreement of the Channel Regulatory Authorities shall provide evidence that a decision on the BritNed and IFA border specific annexes does not, at this stage, need to be adopted by the Agency for Cooperation of Energy Regulators (ACER) pursuant to Article 4(10) of Regulation 2016/1719. This agreement is intended to constitute the basis on which the Channel Regulatory Authorities will each subsequently make national decisions pursuant to Article 4(9) of Regulation 2016/1719 to approve the BritNed and/or IFA border specific annexes, submitted by TSOs in line with Article 51(1) of Regulation 2016/1719.

The legal provisions relevant to the submission and approval of the BritNed and IFA border specific annexes, and this Channel Regulatory Authority agreement on the BritNed and IFA border specific annexes, can be found in Articles 3, 4, 51 and 52 of Regulation 2016/1719. They are set out here for reference.

Article 3 of Regulation 2016/1719:

*This Regulation aims at:*

- (a) promoting effective long-term cross-zonal trade with long-term cross-zonal hedging opportunities for market participants;*
- (b) optimising the calculation and allocation of long-term cross-zonal capacity;*
- (c) providing non-discriminatory access to long-term cross-zonal capacity;*
- (d) ensuring fair and non-discriminatory treatment of TSOs, the Agency, regulatory authorities and market participants;*
- (e) respecting the need for a fair and orderly forward capacity allocation and orderly price formation;*
- (f) ensuring and enhancing the transparency and reliability of information on forward capacity allocation;*
- (g) contributing to the efficient long-term operation and development of the electricity transmission system and electricity sector in the Union.*

Article 4 of Regulation 2016/1719:

*Adoption of terms and conditions or methodologies*

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<sup>1</sup> The BritNed and IFA border specific annexes contain bidding zone border specific requirements as meant in Articles 51(1) and 52(3) of Regulation 2016/1719.

1. TSOs shall develop the terms and conditions or methodologies required by this Regulation and submit them for approval to the competent regulatory authorities within the respective deadlines set out in this Regulation. Where a proposal for terms and conditions or methodologies pursuant to this Regulation needs to be developed and agreed by more than one TSO, the participating TSOs shall closely cooperate. TSOs, with the assistance of ENTSO for Electricity, shall regularly inform the competent regulatory authorities and the Agency about the progress of the development of these terms and conditions or methodologies.
2. (...)
3. (...)
4. (...)
5. Each regulatory authority shall be responsible for approving the terms and conditions or methodologies referred to in paragraphs 6 and 7.
6. (...)
7. The proposals for the following terms and conditions or methodologies shall be subject to approval by all regulatory authorities of the concerned region:
  - (e) the regional requirements of the harmonised allocation rules pursuant to Article 52, including the regional compensation rules pursuant to Article 55.
8. The proposal for terms and conditions or methodologies shall include a proposed timescale for their implementation and a description of their expected impact on the objectives of this Regulation. Proposals on terms and conditions or methodologies subject to the approval by several or all regulatory authorities shall be submitted to the Agency at the same time that they are submitted to regulatory authorities. Upon request by the competent regulatory authorities, the Agency shall issue an opinion within three months on the proposals for terms and conditions or methodologies.
9. Where the approval of the terms and conditions or methodologies requires a decision by more than one regulatory authority, the competent regulatory authorities shall consult and closely cooperate and coordinate with each other in order reach an agreement. Where applicable, the competent regulatory authorities shall take into account the opinion of the Agency. Regulatory authorities shall take decisions concerning the submitted terms and conditions or methodologies in accordance with paragraphs 6 and 7 within six months following the receipt of the terms and conditions or methodologies by the regulatory authority or, where applicable, by the last regulatory authority concerned.
10. (...)
11. (...)
12. (...)
13. TSOs responsible for establishing the terms and conditions or methodologies in accordance with this Regulation shall publish them on the internet after approval by the competent regulatory authorities or, if no such approval is required, after their establishment, except where such information is considered as confidential in accordance with Article 7.

Article 51 of Regulation 2016/1719:

*Introduction of harmonised allocation rules*

1. *Within six months after the entry into force of this Regulation, all TSOs shall jointly develop a proposal for harmonised allocation rules for long-term transmission rights pursuant to Article 52(2). The proposal shall be subject to consultation in accordance with Article 6. This proposal shall include regional and bidding zone border specific requirements if developed by the TSOs of each capacity calculation region pursuant to Article 52(3).*
2. *Once the regional requirements have entered into force, they shall prevail over the general requirements defined in the harmonised allocation rules. In case the general requirements of the harmonised allocation rules are amended and submitted to all regulatory authorities' approval, the regional requirements shall also be submitted to regulatory authorities' approval of the concerned capacity calculation region.*

Article 52 of Regulation 2016/1719:

#### *Requirements for the harmonised allocation rules*

1. *The requirements for the harmonised allocation rules for long-term transmission rights shall cover physical transmission rights, FTRs — options and FTRs — obligations. TSOs shall consider and duly take into account specificities related to the different types of products.*
2. *The harmonised allocation rules for long-term transmission rights shall follow the principles of non-discrimination and transparency and at least contain the following general requirements:*
  - (a) *harmonised definitions and scope of applications;*
  - (b) *a contractual framework between the single allocation platform and the market participants including provisions on the applicable law, the applicable language, confidentiality, dispute resolution, liability and force majeure;*
  - (c) *harmonised UIOSI provisions in case of physical transmission rights pursuant to Article 32;*
  - (d) *a description of the types of long-term transmission rights which are offered, including the remuneration principles pursuant to Article 35;*
  - (e) *principle description of the applicable nomination rules pursuant to Article 36;*
  - (f) *harmonised provisions on eligibility and entitlement, suspension and renewal and costs of participation pursuant to Article 37;*
  - (g) *a description of the forward capacity allocation process including at least provisions on auction specification, submission of bids, publication of auction results, contestation period and fallback procedures pursuant to Articles 37, 38, 39, 42, 43 and 44;*
  - (h) *harmonised provisions on financial requirements and settlement pursuant to Article 41;*
  - (i) *harmonised provisions for the return of long-term transmission rights pursuant to Article 43;*
  - (j) *harmonised provisions for notification of transfer of long-term transmission rights pursuant to Article 44;*
  - (k) *provisions on firmness and compensation rules pursuant to Article 53 and Article 55;*
  - (l) *harmonised provisions concerning netting policies and financial collaterals for FTRs — obligations, where applicable.*
3. *The harmonised allocation rules may also contain regional or bidding zone border specific requirements in particular for, but without limitation to:*

- (a) *the description of the type of long-term transmission rights which are offered on each bidding zone border within the capacity calculation region pursuant to Article 31;*
- (b) *the type of long-term transmission rights remuneration regime to be applied on each bidding zone border within the capacity calculation region according to the allocation in the day-ahead time frame pursuant to Article 35;*
- (c) *the implementation of alternative coordinated regional fallback solutions pursuant to Article 42;*
- (d) *the regional compensation rules defining regional firmness regimes pursuant to Article 55.*

## **II. The Channel TSO proposal**

The proposals for the BritNed and IFA border specific annexes were consulted on by the Channel TSOs through ENTSO-E for one month from 16 January 2017 to 17 February 2017, in line with Article 51 and Article 6 of Regulation 2016/1719.<sup>2</sup> The BritNed border specific annex was received by the last Regulatory Authority on 18 April 2017. The IFA border specific annex, was received by the last Regulatory Authority on 14 April 2017.

The proposal includes proposed timescales for its implementation, in line with Article 4(8) of Regulation 2016/1719. 36. The CCR Channel Annex to HAR constitutes an Annex to the proposal of the HAR on EU level in accordance with Article 51 of Regulation 2016/1719. In the HAR a description of the expected impact on the objectives of the Regulation is provided. Therefore all Channel Regulatory Authorities deem the CCR Channel Annex to the HAR to fulfil the requirements of Art. 4 (8) of Regulation 2016/1719.

Article 4(9) of Regulation 2016/1719, requires Channel Regulatory Authorities to consult and closely cooperate and coordinate with each other in order to reach an agreement, and make decisions within six months following receipt of submissions by the last Regulatory Authority concerned. A decision is therefore required by each relevant Regulatory Authority by 18 October 2017 for the BritNed border specific annex and 14 October 2017 for the IFA border specific annex.

## **III. Channel Regulatory Authorities position**

Based on the proposals and on the additional clarifications provided by TSOs, the Channel Regulatory Authorities have reached the agreement that the proposed methodologies are fulfilling their objectives and complying with the functional and governance requirements of Regulation 2016/1719 and in particular comply with the principles of non-discrimination and transparency.

## **IV. Conclusions**

The Channel Regulatory Authorities have assessed, consulted and closely cooperated and coordinated to reach agreement that the proposals for the BritNed and IFA border specific annexes meet the requirements of Regulation 2016/1719 and as such can be approved by the relevant Channel Regulatory Authorities.

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<sup>2</sup> The public consultation held 16 January 2017 to 17 February 2017 is available on the ENTSO-e website: <https://consultations.entsoe.eu/markets/fca-har/>.

The relevant Channel Regulatory Authorities must therefore make their decision(s) on the basis of this agreement in accordance with the six months deadline as set out in Regulation 2016/1719 by 18 October 2017 with regard to the proposal for the BritNed border specific annex and 14 October 2017 with regard to the proposal for the IFA border specific annex. Following national decisions taken by the Channel Regulatory Authorities, Channel TSOs will be required to publish the BritNed and IFA border specific annexes on the internet in line with Article 4(13) of Regulation 2016/1719, and must meet the implementation deadlines required by Article 2(1) of the BritNed border specific annex and Section 2 of the IFA border specific annex.