

**Gazprom Export (GPE) & Gazprom Marketing & Trading (GM&T) Response to ACER Consultation on CAM amendments (amended Commission Regulation (EU) No 984/2013 of 14 October 2013).**

Gazprom Export (“GPE”) and Gazprom Marketing & Trading (GM&T) welcome the opportunity to respond to the consultation on the proposed CAM amendments. GPE, GM&T and colleagues from Gazprom have been closely involved in the development both of the original CAM Network Code and, especially, the Incremental Amendments. Overall we believe the proposed amendments will enable network users to signal the need for additional capacity in a way that enables TSOs to invest and capacity to be allocated fairly to network users. In particular we welcome the changes made to Articles 20a, 20b, 20c and 20d as we believe they will be more workable in practice whilst still enabling fair, non discriminatory and transparent allocation of incremental capacity. Notwithstanding the fact that our detailed proposal for Coordinated Open Season Procedures for development of cross-border new transportation capacities, including from non-EU states (proposed Article 20(h)), was not included in ACER’s proposals, we note that some major principles, are included.

Our detailed comments are below:

**Article 1 – Subject matter.**

In our view, it would be practical to mention in this Article that standardised capacity allocation mechanisms in gas transmission systems include not only auction procedures but also the potential of alternative capacity allocation mechanism for incremental capacity. We propose the following additions to this article (marked up in bold italic in the text of the Article 1 below):

*“Article 1*

**Subject matter**

This Regulation establishes a Network Code setting up standardised capacity allocation mechanisms in gas transmission systems ***both for existing and incremental capacities***. The standardised capacity allocation mechanism ***for existing capacities*** shall include an auction procedure for relevant interconnection points within the Union and the standard capacity products to be offered and allocated; ***for incremental capacity it may also include alternative capacity allocation procedures***. This Regulation shall set out how adjacent transmission system operators cooperate in order to facilitate capacity sales, having regard to general commercial as well as technical rules related to capacity allocation mechanisms.”

**Article 2 – Scope.**

We support the proposed amendments to Article 2.

**Article 3 – Definitions.**

We support the proposed changes subject to the following comments.

We note the reference to the Economic Test in the Tariff Network Code (Art. 2 (19)), and also that the Tariff Network Code is still under development. We support the Economic Test Approach but we will need to see the final drafting to know if the Tariff Network Code still works in harmony with the proposed CAM amendments. We also support the availability of a fixed price option for tariffs for new capacity as we believe this is essential to enable shippers to make the necessary long term bookings to underpin investment in incremental capacity and ensure the Economic Test is passed.

In Article 3(20) the term “long-term capacity optimisation” needs to be clarified to ensure that, if capacity is made available as a result of such optimisation, that both existing and new capacity holders have firm capacity rights which are not prejudiced by such an optimisation process.

Also in Article 3 (20) it should be clarified that incremental capacity includes an increase in technical capacity or future new capacity made available on the EU side of a border between the EU and non EU states, where this is done in order to match increased capacity on the non EU side of the border. This will help secure gas supplies for the EU as it becomes increasingly dependent on imports from outside the EU.

In Article 3(22) we propose the addition of the following at the end of this definition: “**...after draft proposal of incremental capacity is made by relevant TSO based on non-binding phase results and following design phase**”.

“Proportionate measures” as used in Article 2 (5) should be defined to clarify how this interacts with Article 20d so that Article 2 (5) cannot be used as a means to undermine the intentions of Article 20d.

#### **Article 6 – Capacity calculation and maximisation.**

In order to ensure that the assumptions on which TSOs base their calculations for capacity maximisation (Article 6 (1a(1))) are as comprehensive as possible, we propose the following wording should be added (bold italic).

“...This in-depth analysis should take into account assumptions (***including, inter alia, expressed long-term market demand for capacity by network users***) made in the Union-wide ten-year network development plan pursuant to Article 8 of Regulation (EC) No 715/2009, national investment plans, relevant obligations under the applicable national laws and any relevant contractual obligations:...”

#### **Article 11 – Annual Yearly Capacity Auctions.**

We support the proposed amendments to Article 11. We welcome the change to the auction timetable to ensure that network users will know what reserve price they are paying ahead of the auction, rather than after it.

#### **Article 12 – Annual Quarterly Capacity Auctions.**

We support the proposed amendments to Article 12. We welcome the change to the auction timetable to ensure that network users will know what reserve price they are paying ahead of the auction, rather than after it.

**Article 13 – Rolling Monthly capacity auctions**

We disagree with the proposed amendment to Article 13. Bringing the monthly auction forward will substantially reduce shippers' visibility and is likely to result in a decrease in bookings of monthly products. Shortcomings and unintended outcomes of the new timetable strongly outweigh the expected benefits of having more time for running the monthly interruptible auctions, even though interruptible capacity is a useful product for shippers. ACER and ENTSOG should also note that monthly auctions lasting several days are a rare event, which could be avoided altogether by re-calibrating the size of the price step at points which are expected to be congested.

**Article 14 – Rolling day ahead capacity auctions.**

No comments on the proposed amendments.

**Article 17 – Ascending Clock auction algorithm.**

We note the dependence of the changes to paragraphs 20 and 21 on the drafting of the Tariff Network Code which is not yet finalized.

**Article 18 – Uniform Price auction algorithm.**

No comments.

**Article 19 – Bundled Capacity Products.**

No comments.

**Article 20a – Demand Assessment.**

GPE and GM&T support the proposed amendments subject to the following comments.

We welcome the approach of setting clear minimum timescales to which TSOs must adhere when assessing demand. We recognize TSOs' concerns that such demand assessment may prove overly costly if conducted every year, and therefore we believe that every 2 years is a good compromise. We welcome the option for TSOs to take account of indications of demand at other times, and would hope that customer focused TSOs would make use of this option as far as they are able. This is particularly important where large or complex infrastructure projects are proposed, or where incremental capacity is connected to upstream investments in third countries. A pragmatic approach by TSOs and regulators will ensure that investments in new supply routes to Europe can proceed in a timely and efficient manner. TSOs and network users have a mutual interest in that network users need capacity to sell gas, and TSOs need to sell capacity to network users to generate revenues. We hope that this context would lead to such a pragmatic approach where possible by both network users and TSOs.

We also welcome the specification of information required in demand indications and the market demand assessment report which should make the process of triggering incremental capacity run more smoothly.

Lastly we welcome the condition that any fees charged by TSOs for activities related to non binding demand indications should be approved by the regulator and reimbursed if the economic test is passed.

#### **Article 20b - Design Phase.**

GPE and GM&T support the proposed amendments subject to the following comments.

We welcome the approach of setting clear minimum timescales, requirements to cooperate with relevant other TSOs and regulators, and requirements for consultation to which TSOs must adhere when conducting the design phase. We also welcome the requirements placed upon regulators when making their decisions on proposed projects during the design phase. The design phase is crucial to ensuring that any projects are optimally sized and costed to minimize the risk that the allocation of incremental capacity is unsuccessful and thereby jeopardises the project's successful implementation.

GPE and GM&T do not support the condition (Article 20b.6, last paragraph) that, where regulators cannot agree on an alternative allocation mechanism for capacity (which was agreed upon and submitted to them by the relevant TSOs – see Article 20b.5, first paragraph), the auction mechanism shall be used. We have long argued, and ACER, ENTSOG and other stakeholders have recognised, that the auction mechanism is highly unlikely to work in cases where there are conditional bids and / or the proposed project connects more than two market areas. In light of this, mandating use of a mechanism that is highly likely to result in a failed allocation does not appear to be sensible. The use of auctions in such circumstances is even more risky for projects which are connected to upstream investments in third countries, where a coordinated and predictable approach for the development of EU capacity is needed to ensure the timely delivery of gas to Europe. Such an approach also makes it more likely that recalcitrant regulators will simply refuse to cooperate with their neighbouring regulators, an approach that has already been seen in the implementation of the Congestion Management Procedures.

#### **Article 20c – Auctioning of incremental capacity.**

GPE and GM&T support the proposed amendments.

#### **Article 20d – Principles for alternative capacity allocation mechanism.**

GPE and GM&T support the proposed amendments. We welcome the pragmatic approach taken which allows an alternative allocation mechanism to be used which can be appropriate to the project concerned, whilst still ensuring that such a mechanism must be approved by regulators and must be transparent and non discriminatory. We also welcome the ability to allocate capacity for a further 5 years when necessary, in addition to the 15 year standard time frame.

GPE and GM&T recognise regulators' concerns that the allocation mechanism should not be used in a way which unduly favours network users who wish to book large quantities of capacity (paragraph 4).

