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Monitoring update on incremental capacity projects and virtual interconnection points

Supplementary Report to CAM IMR of 2016

July 2020

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Executive summary

- (1) In this Report, the European Union Agency for the Cooperation of Energy Regulators (“the Agency”) summarises its findings about the first applications of the incremental-capacity process that ran from July 2017 to July 2019 and gives an update on the implementation of Virtual Interconnection Points (“VIP”).
- (2) Both incremental capacity and VIPs are elements of the Network Code on Capacity Allocation Mechanisms¹ (“CAM NC”) that contribute to more efficient and better integrated gas markets in Europe. The incremental capacity process facilitates the efficient development of the cross-border gas network in response to robust market demand, whereas VIPs make it easier for market players to move gas between markets by optimising the commercial capacity offer at a single virtual border point instead of allocating cross-border capacity per physical IP on that border.
- (3) This monitoring exercise is timely as incremental capacity had not been addressed in the Agency’s Implementation Monitoring Report (IMR) on the CAM NC, published in 2016², as incremental capacity became only part of the CAM NC in its recast of March 2017. Also the deadline for establishing VIPs elapsed after the publication of the IMR. Since the monitoring exercise indicates that experiences are still limited, this Report aims to be facts-oriented.

Incremental capacity

- (4) The incremental-capacity process is a market-based approach to the expansion of gas-transport capacity, allowing the users of the capacity to underpin the investment in projects that increase cross-border capacity. It has a non-binding stage, in which potential demand is assessed, and a binding stage, in which the project promoters test the economic viability of the project by requesting binding capacity commitments for several years from network users through a transparent and non-discriminatory auction. This approach is different from fully regulated investments, in which the investment cost is socialised among all network users, and from the more rare exemption-based investment, which allows to underpin an investment with long-term capacity commitments fully or partially outside of the standard EU regulatory framework. The incremental process thus contributes to the efficient, market-based development of the EU gas network.
- (5) The Agency finds that in the incremental-capacity cycle 2017-2019:
 - Few of the 55 non-binding-demand assessments for interconnection capacity between market areas led to the initiation of an incremental-capacity project;
 - NRAs took 14 decisions on TSOs’ requests to approve their project proposals, covering 7 incremental-capacity projects. The Agency, in its role as residual decision-maker, took 2 decisions;
 - 4 projects received coordinated approvals to test the market in an incremental auction. 1 project was rejected. 2 projects did not receive coordinated decisions at the national level within the prescribed time limit and the cases were referred to the Agency. The Agency approved 1 project to proceed to the binding stage and concluded on the rejection of the other project;
 - All 5 incremental-capacity projects that proceeded to the binding stage failed the economic test, meaning the initial non-binding expressions of interest did not convert sufficiently in binding capacity contracts to underpin the investment, closing the incremental process.
- (6) Table 1 lists the incremental projects that requested regulatory approval, the regulatory decision to approve or reject the project and the outcome of the economic test. A geographical depiction of the

¹ 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. OJ L 72, 17.3.2017, p. 1–28.

² ACER, 2016. Implementation Monitoring Report on the Capacity Allocation Mechanisms Network Code, 1st edition.

projects and the web links to the respective NRA and ACER decisions can be found in Annexes I and II, respectively.

- (7) The negative economic tests were the result of lack of any booking in the incremental auctions for the Germany-Austria and the Germany-Netherlands projects. Also the Hungary-Austria project did not attract firm capacity commitments in the incremental auction held on 6 July 2020. In the case of the Hungary-Slovakia-Austria project, network users exercised a right to withdraw their initial commitments and the final economic test was not passed. Also an additional incremental auction for only the Hungary-Slovakia part did not attract sufficient commitments to pass the economic test.³
- (8) The preliminary lessons learnt, are:
- Few projects completed some or all stages of the incremental process, indicating low market interest in new gas transmission capacity;
 - There has been no conversion of non-binding demand indications into firm capacity commitments, indicating that from the market perspective existing capacity addresses current and future needs. In the current gas market, and in view of the climate and energy policy objectives, it is important to base incremental projects on robust demand indications to ensure the overall efficiency of the incremental process.
 - Given these outcomes, the question could be raised if the obligation to repeat the incremental-capacity cycle every 2 years for all interconnection points remains meaningful.

Virtual Interconnection Points

- (9) Virtualisation of physical Interconnection Points aims to facilitate cross-zonal trading by aggregating interconnection capacity between two market areas and offer it at a single VIP, further simplifying the commercial entry-exit model. The CAM NC required the establishment of VIPs between EU Member States, where they maximise capacity and increase market efficiency, no later than 1st November 2018. On interconnection points between EU MSs and Energy Community Contracting Parties, the application is voluntary.
- (10) As of May 2020, the Agency finds that:
- 16 VIPs have been established. 11 VIPs connect the German GASPOOL (GPL) and NetConnect Germany (NCG) market areas with neighbouring countries. 1 domestic VIP connects the GPL and NCG markets inside Germany. The remaining 4 VIPs are on the Iberian peninsula (2), one connecting the French and Spanish markets and another one connecting the Portuguese and Spanish balancing areas, and (2) connecting the French-BeLux and BeLux-Netherlands markets;
 - About two thirds of the VIPs implemented a “dual model”, whereby contracts existing prior to virtualisation remain at the physical IPs and only new capacity allocations occur at the VIP. The remaining VIPs follow the “all-in” model, where already existing contracts and future capacity allocations both take place at the VIP.
- (11) 9 VIPs were established after the deadline foreseen in Article 19(9) of the CAM NC. The cited reason for the delayed implementation was the uncertainty about how to deal with existing capacity contracts.
- (12) A full overview of the implemented VIPs and a geographical depiction can be found in Annexes III and IV, respectively. Due to the delayed implementation, it is too early to draw lessons on how VIPs impacted the EU gas markets and if they are effectively facilitating cross-zonal trading.

³ As part of the 2019-2021 incremental cycle, a new Hungary-Slovakia incremental project received regulatory approval to organise an incremental auction on 6 July 2020. However, it also did not attract any capacity booking in that auction.

1. Introduction

- (13) In this Report, the Agency summarises its findings about the first applications of the incremental-capacity process that ran from July 2017 to July 2019 (Section 2) and gives an update on the implementation of VIPs (Section 3).
- (14) This update Report supplements the 1st CAM IMR⁴ that was published in 2016. The monitoring of the incremental-capacity process and the implementation of VIPs is timely as incremental capacity was introduced in the amended CAM NC of 2017 and the deadline for implementing VIPs was 1st November 2018, both after the publication of the CAM IMR.

2. Incremental capacity

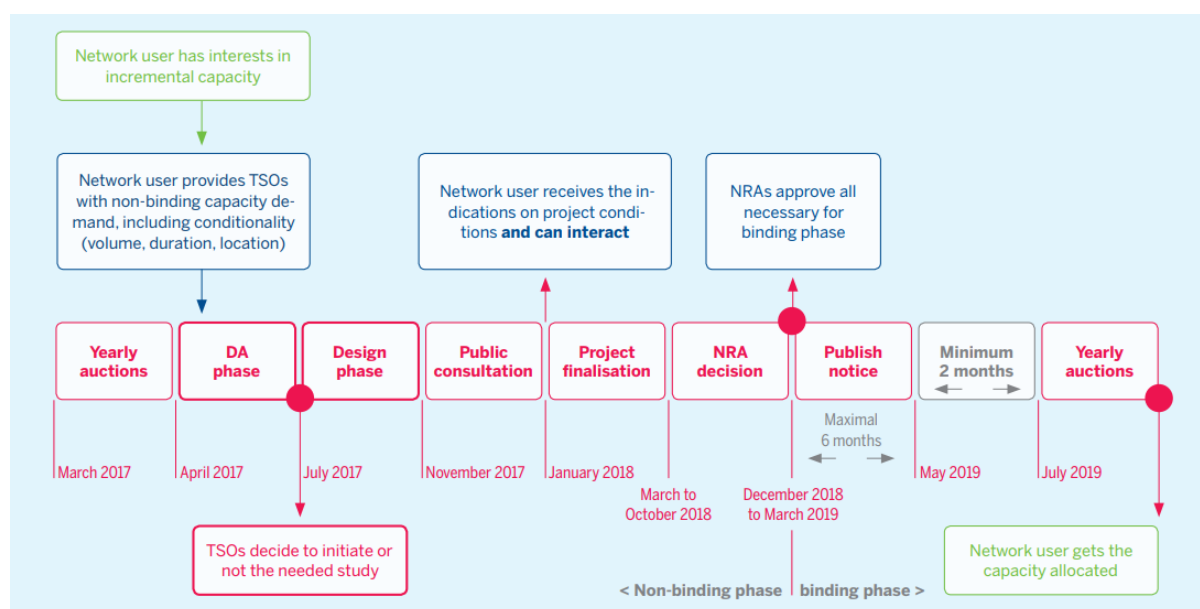
- (15) The incremental-capacity process is a market-based approach to the expansion of gas-transport capacity, allowing the users of the capacity to underpin the investment. It has a non-binding stage, in which potential demand is assessed, and, after regulatory approval, a binding stage, in which the project promoters test the economic viability of the project by requesting binding commitments from potential users of the capacity in a CAM-auction. Only when the revenues from those commitments sufficiently cover the estimated costs, the economic test is passed and TSOs may proceed with the incremental investment.
- (16) This approach stands apart from fully regulated⁵ investment, in which the investment cost is socialised among all network users and recovered via tariffs, and from the rarely used exemption⁶-based investment, which allows to underpin the investment with long-term commitments from users of the concerned capacity fully or partially outside of the standard EU regulatory framework.
- (17) TSOs drive the incremental process, as depicted in Figure 1, whereas NRAs have a formal decision-taking role in between the non-binding and binding stages.
- (18) This Section reports the main facts and figures about the first cycle according to the different stages of the incremental-capacity process, namely the non-binding stage, the regulatory approval to proceed to the binding stage, and the binding stage.

⁴ Cf footnote 2.

⁵ ACER monitors the implementation of the Ten-Year Network Development Plans (TYNDP) and the progress of Projects of Common Interest (PCIs).

⁶ Article 36 of Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC. The overview of exemption decisions is available at https://ec.europa.eu/energy/topics/markets-and-consumers/wholesale-market/access-infrastructure-and-exemptions_en?redir=1 (last accessed June 2020).

Figure 1. Incremental-capacity process in the view of TSOs, as depicted in ENTSOG's Ten-Year Network Development Plan 2018 Infrastructure Report.



Non-binding stage: demand assessment and TSO project design

- (19) The non-binding stage of the incremental-capacity process kicks off every odd year with an assessment of demand indications after the annual auction of yearly capacity in July as laid out in Article 26 of the CAM NC. Demand indications can also be collected in an even year as long as the full incremental process closes before the next odd-year cycle starts. When TSOs conclude that demand indications are sufficiently exceeding available capacity, they may initiate technical studies and carry out a public consultation in line with Article 27 of the CAM NC in order to prepare a proposal with the parameters for carrying out the economic test, including the conditions under which TSOs would like to request binding capacity commitments in the annual incremental auction.
- (20) In line with Article 26(4) of the CAM NC, ENTSOG publishes the demand assessment reports (DARs). For the 2017 and 2018 demand assessments, ENTSOG published 154 DARs on its website, covering all interconnection points of at least one entry-exit system border. TSOs used the template made available by ENTSOG, which harmonises how TSOs report on the demand assessments, and provided English versions to ENTSOG (sometimes in addition to the version in the native language).
- (21) The Agency finds ENTSOG's publication of the DARs meets the legal requirement of Article 26(2)-(4) of the CAM NC, yet the reporting could be improved in terms of transparency. ENTSOG groups the DARs per country and per TSO. This leads to many duplicate DARs on ENTSOG's website. For instance, a DAR on a particular border will have one or more (in case of a translation) versions for each of the involved countries/TSOs. ENTSOG did publish a summary of the 2017 DARs that unfortunately does not contain all DARs that have been published.
- (22) The Agency recommends ENTSOG to become a central point of information by keeping a record of DARs per unique border, avoiding duplication per country/TSO, and to report on the conclusion about the demand indications and whether the process is closed or continued. This record should be updated every year to have a transparent overview of which incremental processes are alive and in what stage of the process they are. Additionally, ENTSOG could keep track of the technical studies, consultations and project proposals prepared for regulatory approval, facilitating its own monitoring activities. The Agency positively notes that an improved summary record is present for the demand assessments of July 2019. The summary, however, still departs from grouping by country and does not apply a consistent naming of borders. It refers for instance to "AT-CZ" under

Austria and “CZ-AT” under Czech Republic.⁷ Furthermore, the summary list does not contain the link to the actual DAR.

- (23) After analysing the published DARs, and discarding duplications, the Agency distinguishes between 55 DARs⁸ covering 52 borders. The difference is explained by 2 DARs discussing updated demand indications received later in 2017 for the HU-SK and AT-SK borders (commonly known as HU-SK-AT project), and 1 DAR covering the HU-SI border that was repeated in 2018 after insufficient demand was noted in the 2017 DAR. At 13 borders there were positive demand indications spurring the concerned TSOs to initiate technical studies.
- (24) Based on information received from NRAs, the Agency finds that for 7 of the 13 borders, the involved TSOs drafted and submitted joint project proposals for NRA approval to proceed to the binding stage of the incremental-capacity process in 2018 or 2019 incremental auctions. This means that at 6 borders eventually no incremental project was proposed for the binding stage.⁹

NRA approval to proceed to binding stage

- (25) Before TSOs can request binding capacity commitments from network users, the concerned NRAs must approve, in coordinated and motivated decisions, the joint TSO proposal for the project.
- (26) The joint TSO proposal must include the elements laid out in Article 28(1) of the CAM NC, namely (a) the capacity levels offered, (b) the terms and conditions of participation in the auction and of the capacity contracts, (c) the timeline and risk analysis for project implementation, (d) the economic parameters of the economic test (and further requirements defined in Articles 22-25 of the CAM NC), (e) whether an extended timeline applies, (f) whether an alternative allocation mechanism (“AAM”) in the sense of Article 30 of the CAM NC applies, and (g) whether a fixed-price approach applies.
- (27) Article 28(2) of the CAM NC requires NRAs to take coordinated decisions on the TSO proposal, taking into account detrimental effects on competition or the effective functioning of the internal gas market within six months of receipt of the proposal.
- (28) In the 2017-2019 cycle, NRAs decided on 7 projects involving 12 TSOs, leading to 14 NRA decisions. In two instances, where NRAs did not reach coordinated decisions within six months, the Agency had to decide on the cross-border issues.¹⁰ The links to the national decisions, in which the full details can be found, are listed in Annex II.
- (29) Table 1 gives an overview of the 7 projects, highlighting the market areas and the IP name (for existing IPs) and the NRA coordinated decisions. 1 project covers two borders (Hungary-Slovakia and Slovakia-Austria) and requested approval for the use of an AAM. The project covering the Hungary-Slovakia border was proposed upon request of market participants as a follow-up of the Hungary-Slovakia-Austria project once that project reached a negative economic test and its process was closed.

⁷ A simple naming convention market area names following alphabetic ordering, or ENT SOG could give a project code to each unique incremental process, e.g. INC-17-001 and so on.

⁸ Listed here per country/market code: AT-CZ, AT-HU, AT-IT, AT-NCG, AT(T)-NCG, AT-SI, AT-SK, AT-SK(2), BBL-NL, BBL-UK, BE(L)-FR(L), BE(L)-NL(L), BE-FR, BE-GPL, BE-IUK, BE-NCG, BE-NL, BG-GR, CH-NCG, CZ-GPL, CZ-NCG, CZ-PL, CZ-SK, DK-GPL, DK-NCG, ES-FR, ES-PT, FR-NCG, GPL-NCG, GPL-NL, GPL-NO, GPL-PL, GPL-PL/Y, GPL-RU, GR-IT, HR-HU, HR-SI, HU-RO, HU-SI, HU-SI(2018), HU-SK, HU-SK(2), HU-SRB, HU-UA, IE-UK(GB), IE-UK(NI), IT-MT, IT-SI, IUK-UK, LT-PL, LV-LT, NCG-NL, NCG-NO, NCG-PL, UK(NI)-UK(GB).

⁹ The 6 borders where the incremental process closed despite obtaining a positive conclusion about the demand indications are AT-CZ (the ongoing BACI project could meet the identified demand), AT-SI (stopped in coordination with TSOs and NRAs), GR-IT (stopped), HR-SI (stopped in coordination with TSOs and NRAs), HU-SI (no agreement on technical characteristics), HU-SRB (no steps taken after the DAR).

¹⁰ The Agency assumed competence for the issues under Article 8 of the now repealed Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators, and under Article 6(10) of the currently applicable Regulation (EU) of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators (recast).

Table 1: Overview of the incremental capacity projects that requested NRA approval

Incremental-capacity project From > To	NRA decisions (to proceed to binding stage)	Status
Germany(NCG) > Austria (Überacker 2 / Überacker SUDAL)	DE-AT: approval	Closed (negative economic test)
Russian Federation > Germany(GPL) (Greifswald and Lubmin II)	DE: rejection (Entry from third country, exit side not CAM relevant)	Closed (no NRA approval to proceed to binding stage)
Germany(GPL) > Netherlands (new IP <i>Knock</i> , near Emden)	DE-NL: approval	Closed (negative economic test)
Poland > Germany(GPL) (GCP Gaz-System ONTRAS)	PL-DE: no coordinated decisions ACER: rejection	Closed (no NRA approval to proceed to binding stage)
Hungary > Austria (Mosonmagyaróvár)	HU-AT: no coordinated decisions ACER: approval	Closed (negative economic test)
Hungary > Slovakia > Austria (Balassagyarmat (HU) / Velké Zlievce (SK) and Baumgarten*)	HU-SK-AT: approval (AAM)	Closed (negative economic test)
Hungary > Slovakia (Balassagyarmat (HU) / Velké Zlievce (SK))	HU-SK: approval	Closed (negative economic test)

*Bundling of increased capacity at Baumgarten (existing capacity at AT side) with new capacity at Balassagyarmat (HU) / Velké Zlievce (SK) in view of the AAM

(30) Based on information received from the concerned NRAs, the Agency notes that:

- The TSO proposals were complete upon submission. Only in the case of the Polish submission, the proposal was completed upon NRA request. In other word, the proposals covered the Points (a) to (g) of Article 28(1) of the CAM NC;
- 3 projects were approved in coordinated decisions without modification (Germany(NCG)>Austria, Hungary>Slovakia>Austria and Hungary>Slovakia).¹¹
- 2 projects were approved with modifications (Germany(GPL)>Netherlands and Hungary>Austria).¹² For both projects, the modifications concerned the parameters of the economic test (see the respective decisions for the modifications and motivations). In the case of Hungary>Austria, the NRAs had not reached coordinated decisions with the Austrian NRA approving the proposal without modifications, whereas the Hungarian NRA did not approve the project (see the original decisions for the respective motivations). The Agency eventually approved the proposal with modifications in its Decision 5/2019 (“HUAT Decision”)¹³;
- 2 projects did not receive approval to proceed to the binding stage. In the case of the Poland>Germany (GPL) project, the NRAs agreed on the substance of the TSO proposal and that the binding stage should be completed in 2019. However, the lack of a joint

¹¹ In practice, TSOs and NRAs coordinated before the final submission so that any modifications are already internalised.

¹² While the German NRA and the Agency included the necessary modifications in the respective motivated approval decisions, the Dutch NRA requested a modified submission of the TSOs' project proposal that was subsequently approved as the Dutch NRA was of the opinion that it was not possible to modify directly TSOs' project proposal.

¹³ Decision of the Agency for the Cooperation of Energy Regulators of 9 April 2019 on the incremental capacity project proposal for the Mosonmagyaróvár interconnection point.

On 9 October 2019, the Hungarian NRA brought action against the Agency before the General Court of the European Union seeking the annulment of the HUAT Decision (Case T-684/19) and on 15 October 2019, the Hungarian TSO also brought action against the Agency before the General Court of the European Union (Case T-704/19) seeking the annulment of the HUAT Decision, or, in the alternative, the annulment of the Decision taken by ACER's Board of Appeal. At the time of writing this Report, both appeal proceedings were pending before the General Court of the European Union.

booking platform to organise the incremental auction made it impossible to meet that condition. In absence¹⁴ of coordinated decisions within the six months deadline, the Agency had to take the decision, ruling the TSO request to proceed to the binding stage inadmissible¹⁵ as the proposal was missing the essential element of an auction platform for it to be executed. In the case of the Russian Federation>Germany (GPL) project, the German NRA ruled that there were obstacles preventing the project to proceed to the binding stage.¹⁶

- As part of their coordinated approval decisions, the NRAs of Austria, Hungary and Slovakia approved the AAM of the project involving their respective borders as it met the conditions of Article 30 of the CAM NC: it involved more than two entry-exit zones, requested bids exceeding 1 year and the allocation prioritised bids that combined the HU>SK and SK>AT capacity products in a transparent way.

Binding stage: incremental auction and economic test

- (31) All 5 projects that were approved to proceed to the binding stage did not receive sufficient commitments from users and the economic tests were not passed, effectively terminating these projects and closing the respective incremental processes. The collectively offered capacity in the incremental auctions represented 20 to 30 GWh/h¹⁷ of additional capacity, none of which will be developed.
- (32) Given these outcomes, the question could be raised if the obligation to repeat the incremental capacity cycle every 2 years for all interconnection points remains meaningful.
- (33) The lack of sufficient conversion of non-binding demand expressions into actual capacity contracts may hint that no additional capacity is needed for market reasons and that network users in today's gas market may have insufficient incentives to express their true interest. In the current EU gas markets, contractual and physical congestion are at low levels¹⁸ and network users are replacing expiring long-term contracts with shorter term ones. It may be that network users do not anticipate problems with obtaining capacity in view of supply side changes (e.g. when decisions about developing supply sources are reversed) or in view of the current and anticipated EU climate and energy policies. Network users may also find that the economic conditions¹⁹ under which the capacity is offered in the incremental auction do not meet their business needs. These conditions are not known in the non-binding stage. While all or some of the above elements may play a role in capacity-commitment decisions, the presently available data is insufficient to analyse these hypotheses and draw firm conclusions.
- (34) Nevertheless, TSOs face the challenge of validating the demand indications as much as possible before engaging further in the incremental-capacity cycle. NRAs could also play a role in this validation as it is already happening in some countries on a voluntary basis. However, overall experience remains limited due to the low number of DARs with positive demand indications.

¹⁴ The German NRA issued a conditional positive decision, whereas the Polish NRA did not issue a decision because it could not insert the condition of completion of the process in July 2019.

¹⁵ The *de facto* rejection by the Agency confirmed the NRA positions in substance and was also according to the expectations of the TSOs that the incremental process had to be concluded by July 2019, which was not feasible.

¹⁶ In the opinion of the German NRA, the conditions for approval were not met. The offer levels submitted could not be approved and there were obstacles to the project that the regulatory authority had to take account of (inter alia detrimental effects on the internal gas market as well as effects of the market merger in Germany).

¹⁷ Some projects proposed a smaller and a larger offer level; in such case, the largest offer level that passes the economic test shall be developed.

¹⁸ 7th ACER Report on congestion in EU gas markets and how it is managed, https://acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/7th%20ACER%20Report%20on%20congestion%20in%20the%20EU%20gas%20markets%20and%20how%20it%20is%20managed.pdf

¹⁹ The f-factor which sets the share of the project cost to be covered directly from incremental bookings and the mandatory minimum premium may make the price of the capacity non-competitive to other options available to network users.

- (35) As part of the validation, NRAs and TSOs could refer to reported congestion at existing IPs. When cross-checking the projects at existing IPs that proceeded to the binding stage with information about recent congestion in EU gas markets, the Agency notes that only the IP “Überacker 2 / Überacker SUDAL” has been persistently identified as contractually²⁰ congested over the period 2016 to 2019, and interruptible capacity contracts at this IP were at several instances effectively interrupted (indicating occasional physical congestion). For the other projects at existing IPs, such contractual or physical congestion does not appear to be present (see Table 2). In addition to the Congestion Report, the Agency’s Market Monitoring Report or monitoring activities concerning Projects of Common Interest and the EU-wide Ten-Year Network Development Plan include information on market and infrastructure developments.

Table 2: Congestion status of the 4 projects that had an incremental auction for binding capacity contracts

Incremental-capacity project	Congestion status (source: ACER Congestion Reports)	Effective interruption of interruptible capacity (2016-2019) (source: ENT SOG TP)
Germany(NCG) > Austria (Überacker 2 / Überacker SUDAL)	Congested 2015, 2016, 2017, 2018, 2019	Yes
Germany(GPL) > Netherlands (new IP <i>Knock</i> , near Emden)	<i>New IP</i>	<i>New IP</i>
Hungary > Slovakia > Austria (Balassagyarmat (HU) / Velké Zliefce (SK) and Baumgarten)	HU>SK: <i>Non-CMP relevant</i> SK>AT: formally congested 2017, 2018, 2019	HU>SK: <i>non-CMP relevant</i> SK>AT: no
Hungary Slovakia (Balassagyarmat (HU) / Velké Zliefce (SK))	<i>Non-CMP relevant</i>	<i>Non-CMP relevant</i>

3. Implementation of VIPs

- (36) Virtualisation of physical IPs aims to facilitate cross-zonal trading by aggregating interconnection capacity between two market areas and offer it at a single VIP, further simplifying the commercial entry-exit model for market players. The CAM NC required the establishment of VIPs, where they maximise total capacity and increase market efficiency, no later than 1st November 2018.
- (37) In 2016, the Agency anticipated the creation of 12 possible VIPs in the EU gas markets in addition to the then already existing VIPs between Spain and Portugal, France and Spain and Poland and Germany (GPL).
- (38) 4 out of those 12 have not been established, whereas 5 VIPs have been created that were not anticipated in the 1st CAM IMR (see Table 3). The Agency notes here that the CAM IMR of 2016 did not look at L-gas markets and that the EU gas markets have evolved significantly since 2016, e.g. France merged into 1 market area.
- (39) 17 out of 32 VIP sides apply a dual model, in which capacity contracts in force prior to the virtualisation remain at the physical IPs (for nomination purposes) and new capacity allocations happen at the VIP. 12 VIP sides apply the all-in model, in which all existing capacity contracts and future capacity allocations occur at the VIP. Of the 3 remaining IP sides, 2 concern a single physical IP operated by a single TSO and 1 concerns a border with a third country (Switzerland) where the CAM NC is not applicable.
- (40) 9 VIPs have been established after 1st November 2018. NRAs cited the legal uncertainty about existing contracts as the reason for the delayed implementation. All 9 of these VIPs apply the dual model except for 2 VIP sides covering the BeLux market, for which the all-in model applies. The legal uncertainty stems from different interpretations of Article 19(9) of the CAM NC on the

²⁰ Contractual congestion means that demand for firm capacity contracts at the reserve price exceeds the available capacity.

implications for existing contracts at the physical IPs involved in the VIP. Some TSOs and NRAs are of the view that contracts in force prior to the virtualisation have to remain at the physical IPs (e.g. for nomination of flows) (dual model), whereas other TSOs and NRAs are of the view that also existing contracts have to be transferred to the VIP (all-in model). The issue was raised at the joint ACER-ENTSOG FUNC Platform where implementation issues with Network Codes can be notified. The European Commission's view is that Article 19(9) concerns both already allocated capacity and future capacity allocations.²¹ The FUNC solution acknowledges the different models and recommends to clarify the CAM NC to the extent that there is still uncertainty for the stakeholders after the establishment of the dual model.²²

- (41) Annex III gives the full overview of the implementation of VIPs in EU gas markets, and Annex IV depicts the implemented VIPs on a map, which shows that in line with its pivotal position for gas flows in Europe and its multitude of TSOs, Germany is the centre of established VIPs.

Table 3. Comparison of implemented VIPs and VIPs anticipated in the Agency's CAM IMR 2016

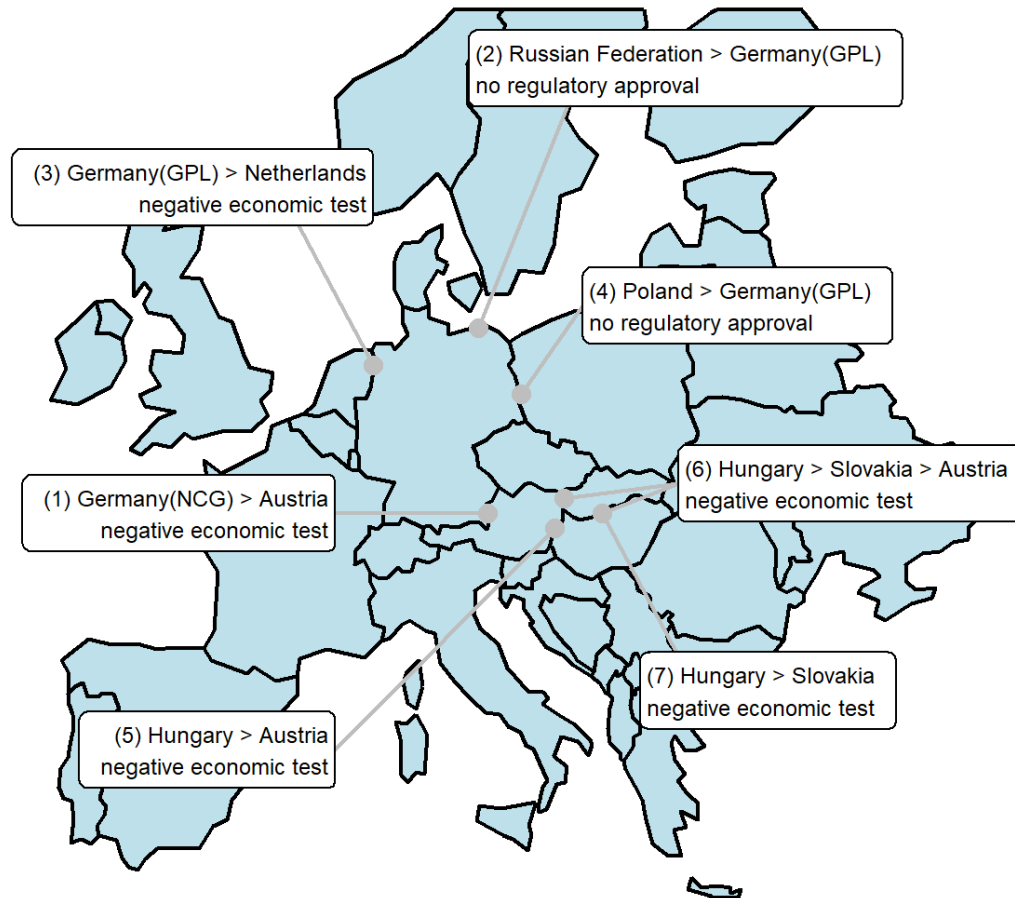
Market Areas	Anticipated in 2016	Implemented (as of May 2020)
ES - PT	Existing	Yes
FR - ES	Existing	Yes
BeLux - FR	Yes	Yes
GPL - PL	Existing	Yes
NL - BeLux	Yes	Yes
NL - NCG (H)	Yes	Yes
NL - NCG (L)	/	Yes
NL - GPL (H)	Yes	Yes
NL - GPL (L)	/	Yes
NCG (H) - GPL (H)	Yes	<i>Not implemented (abandoned in view of upcoming market merger)</i>
NCG (L) - GPL (L)	/	Yes
BeLux - NCG	Yes	Yes (IP Remich excluded)
CZ - NCG	Yes	Yes
CZ - GPL	Yes	Yes
NCG - AT	Yes	Yes (German side only)
FR - NCG	No	Yes (German side only)
NCG - CH	No	Yes
AT - SK	Yes	<i>Not implemented</i>
BG - RO	Yes	<i>Not implemented</i>
GPL - PL (2)	Yes	<i>Not implemented</i>
Notes:		
- The possible VIP "GPL – PL (2)" would have covered the existing VIP between GPL and the Polish transmission system, and the physical IP Mallnow between the GPL market area and the Transit Gas Pipeline System [TGPS]; it would have required a merger of the two entry-exit zones in Poland, which did not happen.		

²¹ [https://www.acer.europa.eu/en/Gas/Framework%20guidelines_and_network%20codes/Documents/CAP0854-18_EC%20letter%20on%20VIPs%20\(002\).pdf](https://www.acer.europa.eu/en/Gas/Framework%20guidelines_and_network%20codes/Documents/CAP0854-18_EC%20letter%20on%20VIPs%20(002).pdf)

²²

https://www.acer.europa.eu/en/Gas/Framework%20guidelines_and_network%20codes/Documents/func_vip_issue_acer_entso_g_joint_note.pdf

Annex I: Map depicting incremental-capacity projects that requested regulatory approval



Annex II: web links to the NRA decisions on incremental-capacity projects

Nr	Incremental-capacity project	Web link
1	Germany(NCG) > Austria (Überackern 2 / Überackern SUDAL)	AT: https://www.e-control.at/documents/1785851/1811582/V+NKO+G+02_18+%28V+INC+G+01_18%29+Bescheid+GCA+final_200418.pdf/166f326f-8c14-ae2d-d43b-384fec242d6c?t=1525271717227 DE: https://www.bundesnetzagentur.de/DE/Service-Funktionen/Beschlusskammern/1_GZ/BK9-GZ/2017/BK9-17-0001/BK9-17-0001_Beschluss_englisch.html?nn=864794
2	Russian Federation > Germany(GPL) (Greifswald and Lubmin II)	DE: https://www.bundesnetzagentur.de/DE/Service-Funktionen/Beschlusskammern/1_GZ/BK9-GZ/2018/BK9-18-002/BK9-18-0002_Beschluss_englisch.html?nn=864794
3	Germany(GPL) > Netherlands (new IP Knock, near Emden)	DE: https://www.bundesnetzagentur.de/DE/Service-Funktionen/Beschlusskammern/1_GZ/BK9-GZ/2019/2019_bis0999/BK9-19-001/BK9-19-0001_Beschluss_englisch.html?nn=864794 NL: https://www.acm.nl/sites/default/files/documents/goedkeuring-projectvoorstel-gts-incrementele-capaciteit-2017-2019-04-29.pdf
4	Poland > Germany(GPL) (GCP Gaz-System ONTRAS)	ACER: https://acer.europa.eu/Official_documents/Acts_of_the_Agency/Individual%20decisions/ACER%20Decision%2013-2019%20on%20the%20incremental%20capacity%20project%20DE-PL.pdf DE: https://www.bundesnetzagentur.de/DE/Service-Funktionen/Beschlusskammern/1_GZ/BK9-GZ/2018/BK9-18-001/BK9-18-0001_Beschluss_englisch.html?nn=864794 PL: <i>no formal decision</i>
5	Hungary > Austria (Mosonmagyaróvár)	ACER: https://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Individual%20decisions/ACER%20Decision%2005-2019%20on%20HUAT.pdf AT: https://www.e-control.at/documents/1785851/1811582/20180503+V+INC+G+02_18+Bescheid+GCA+MOSON_270418.pdf/7c000ff8-7f56-cbc7-8d02-17495ebae104?t=1525356156163 HU: http://www.mekh.hu/download/0/28/60000/10490_2018.pdf
6	Hungary > Slovakia > Austria (Balassagyarmat (HU) / Velké Zlievce (SK) and Baumgarten)	AT: https://www.e-control.at/documents/1785851/1811582/V+NKO+G+06-18+Bescheid+GCA+HUSKAT_260718.zip/ed3e9c57-70b2-9985-5d73-570b011db4d9?t=1532617536208 HU: http://www.mekh.hu/download/4/73/60000/9134.zip SK: http://www.urso.gov.sk:8088/CISRES/Agenda.nsf/0/048C3C4120E00820C12582D7002838BF/\$FILE/0001_2018_P-EU.pdf
7	Hungary > Slovakia (Balassagyarmat (HU) / Velké Zlievce (SK))	HU: http://www.mekh.hu/download/3/55/a0000/H1185.zip SK: http://www.urso.gov.sk:8088/CISRES/Agenda.nsf/0/7A9AF46BD17FBDE6C12583EC00370370/\$FILE/0002_2019_P-EU.pdf

Annex III: Overview of implemented Virtual Interconnection Points (as of May 2020)

NRA1	NRA2	Name of VIP	Involved TSOs and physical IPs forming the VIP	Implementation date	Implemented model	Short description of model, if not all-in	Name of VIP	Involved TSOs and physical IPs forming the VIP	Implementation date	Implemented model	Short description of model, if not all-in
ES	PT	VIP IBERICO	TSO: ENAGAS IPs: Tuy, Campomaior.	01/03/2014	All-In		VIP IBERICO	TSO: REN IPs: Campo Maior IP and Valença do Minho IP	01/07/2012	All-In	
FR	ES	VIP PIRINEOS	TSO: Teréga	01/10/2014	All-In		VIP PIRINEOS	TSO: ENAGAS IP: Irún, Larrau.	01/03/2014	All-In	
BeLux	FR	VIRTUALYS	TSO: FLUXYS BELGIUM IPs: Alveringem, Blaregnies Troll and Blaregnies Segeo	01/12/2017	All-In		VIRTUALYS	TSO: GRT GAZ IPs: Alveringem and Taisnières H	01/12/2017	All-In	
GPL	PL	GCP GAZ-SYSTEM/ ONTRAS	TSO: Ontras IPs: Kamminke, Lasów, Gubin	01/04/2016	All-In		GCP GAZ-SYSTEM/ ONTRAS	TSO: GAZ-SYSTEM IP: Lasów, Lasów Rewers, Kamminke, Gubin	01/04/2016	All-In	
NL	BeLux	VIP BENE	TSOs: GTS IPs: s-Gravenvoeren, Zelzate, Zandvliet	01/04/2020	Other	Existing contracts stay on the IPs, with an opt-in possibility	VIP ZTP TTF	TSO: FLUXYS BELGIUM	01/04/2020	All-In	
NL	NCG (H)	VIP-TTF-NCG-H	TSOs: GTS IPs: Bocholtz TENP, Oude Stanzijl, Bocholtz-Vetschau	01/04/2020	Other	Existing contracts stay on the IPs, with an opt-in possibility	VIP TTF-NCG-H	IPs (TSO): Bocholtz (Fluxys TENP), Bocholtz (OGE), Oude Stanzijl (OGE), Bocholtz-Vetschau (TG)	01/04/2020	Other	Capacity booked before the VIP implementation has to be nominated at the respective IPs further on
NL	NCG (L)	VIP-TTF-NCG-L	TSOs: GTS IPs: Zevenaar, Winterswijk, Tegelen, Haanrade	01/04/2020	Other	Existing contracts stay on the IPs, with an opt-in possibility	VIP TTF-NCG-L	IPs (TSO): Elten (OGE), Vreden (OGE), Tegelen (OGE), Haanrade (TG), Zevenaar (TG)	01/04/2020	Other	Capacity booked before the VIP implementation has to be nominated at the respective IPs further on
NL	GPL (H)	VIP-TTF-GASPOOL-H	TSOs: GTS IPs: Oude Stanzijl	01/04/2020	Other	Existing contracts stay on the IPs, with an opt-in possibility	VIP TTF-GASPOOL-H	IPs (TSO): Oude Stanzijl H (GUD), Bunde (GASCADE)	01/04/2020	Other	Capacity booked before the VIP implementation has to be nominated at the respective IPs further on
NL	GPL (L)	VIP-TTF-GASPOOL-L	TSOs: GTS IPs: Oude Stanzijl	01/04/2020	Other	Existing contracts stay on the IPs, with an opt-in possibility	VIP TTF-GASPOOL-L	IPs (TSO): Oude Stanzijl L (GUD), Oude Stanzijl (GTG)	01/04/2020	Other	Capacity booked before the VIP implementation has to be nominated at the respective IPs further on
NCG (L)	GPL (L)	VIP GASPOOL-NCG L	IPs (TSO): Zone GUD L [Drohne, Emsbüren, Nordlohne], Ahlten, Steinbrink (OGE)	01/11/2018	All-In	No existing contracts at the time of implementation	VIP GASPOOL-NCG L	IPs (TSO): Zone OGE L [Drohne, Emsbüren, Nordlohne] (GUD), Steinbrink Ahlten (nowega)	01/11/2018	All-In	No existing contracts at the time of implementation
BeLux	NCG	VIP EYNATTEN	TSO: FLUXYS BELGIUM (Eynatten 2)	01/07/2019	All-In		VIP Belgium-NCG	IPs (TSO): OGE (Eynatten-Raeren), Thyssengas (Lichtenbusch), Fluxys TENP (Eynatten)	01/07/2019	Other	Capacity booked before the VIP implementation has to be nominated at the respective IPs further on
CZ	NCG	VIP Waidhaus - NCG	TSO: NET4GAS	01/03/2019	Other		VIP Waidhaus - NCG	IPs (TSO): Waidhaus (OGE), Waidhaus (GRTgaz D)	01/03/2019	Other	Capacity booked before the VIP implementation has to be nominated at the respective IPs further on

CZ	GPL	VIP Brandov - GASPOOL	TSO: NET4GAS	01/11/2018	Other		VIP Brandov - GASPOOL	IPs (TSO): Obernhau II (Gascade), Deutschneudorf (Ontras), Brandov-OPAL (OGT) From OGT only interruptible capacities are brought into the VIP (firm capacities at IP Brandov-OPAL are exempted from the application of CAM NC)	01/11/2018	Other	Capacity booked before the VIP implementation has to be nominated at the respective IPs further on
NCG	AT	VIP NCG Oberkappel	IPs (TSO): Oberkappel (GRTgaz Deutschland), Oberkappel (Open Grid Europe)	01/03/2019	Other	Capacity booked before the VIP implementation has to be nominated at the respective IPs further on	<i>Oberkappel</i>			<i>Not applicable</i>	<i>Remains a physical IP</i>
FR	NCG	<i>Obergailbach</i>			<i>Not applicable</i>	<i>Remains a physical IP</i>	VIP France-Germany	IPs (TSO): Medelsheim (OGE), Medelsheim (GRTgaz D)	01/03/2019	Other	Capacity booked before the VIP implementation has to be nominated at the respective IPs further on
NCG	CH	VIP Germany-CH	IPs (TSO): Wallbach (Fluys TENP), Wallbach (OGE)	01/07/2019	Other	Capacity booked before the VIP implementation has to be nominated at the respective IPs further on					<i>3^d country, not CAM relevant</i>

Comments from NRAs:

AT: On the Austrian side at the IP Oberkappel there is no need to implement a VIP: there is already a single interconnection point (Oberkappel) and a single TSO (Gas Connect Austria) offering all capacity and handling network users' nominations.

CZ: Existing physical interconnection points remained in effect with regard to existing contracts, entered into prior to the implementation of the VIP concept, where transmission system users continue to nominate gas transmission within the limits of their contracted capacity until the expiration of the contract term. Transmission system users who wished to transfer their existing contracts, originally entered into for specific physical interconnection points, to the VIP model were/are make the switch to the VIP. The transfer involves the entire contract, where all terms and conditions will be preserved, including the price, volumes, and duration of the contract term. In contrast, transferring capacity from a VIP to a physical interconnection point is not possible. Likewise, it is not possible to switch contracts entered into for a VIP to the original physical interconnection point.

From the point of view of ERU, all technical capacities were to be transferred to the VIP in order to comply with CAM NC. But the legally secure inclusion of the capacities already contracted on the basis of applicable legislative framework was only possible on a voluntary basis. Therefore, it was decided to implement the dual model under which no restrictions or limitations were applied towards system users.

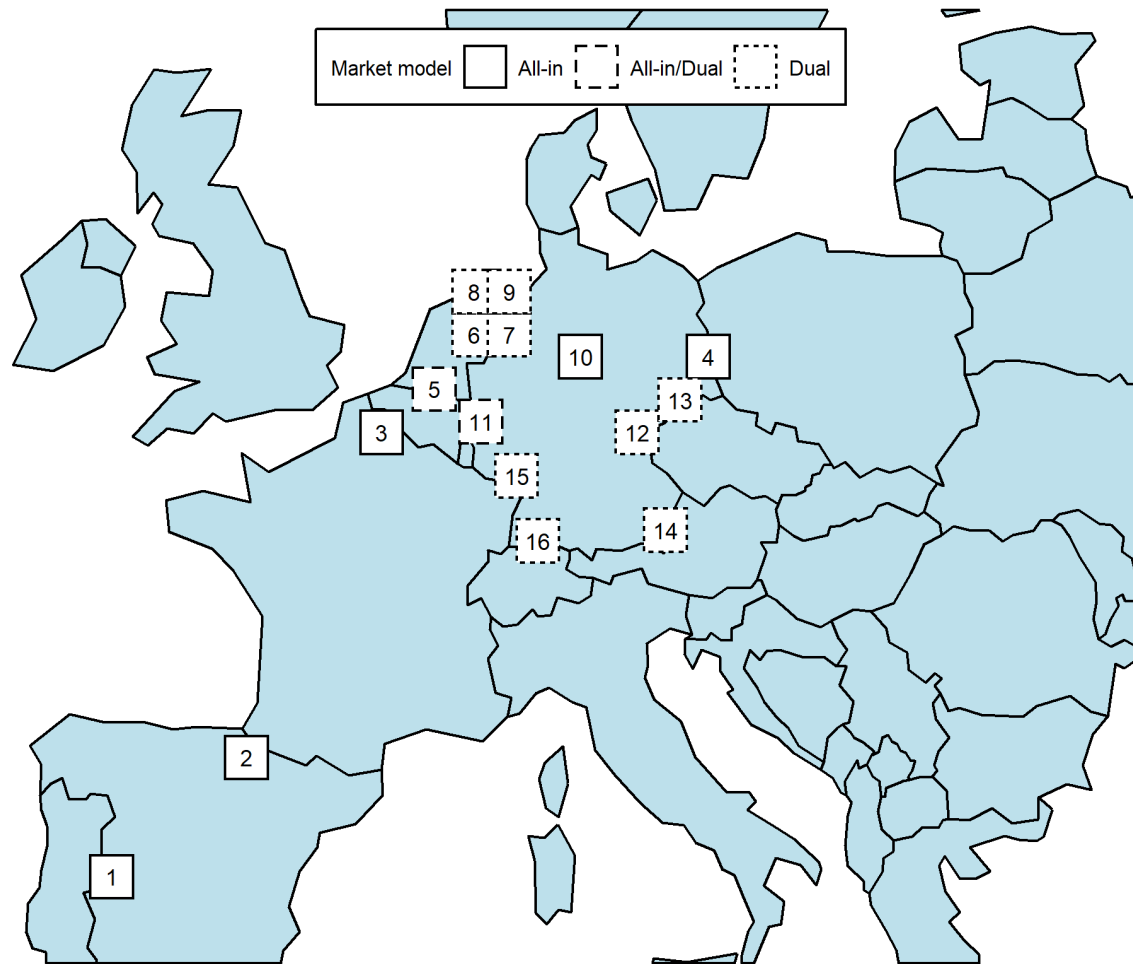
DE: From the point of view of the BNetzA, all technical capacities were to be transferred to the VIP. However, the legally secure inclusion of the capacities already contracted on the basis of current law is probably only possible on a voluntary basis. The dual model of TSOs represents a minimum level of legal implementation.

FR: The virtualization only regards the German side of the IP (i.e the Medelsheim point) as the VIP gathers the capacities marketed by OGE and GRTgaz Deutschland. The French side of the IP (Obergailbach) remains a physical IP.

NL: The dual model was implemented as legal difficulties were foreseen when obligating existing contracts to move to VIP.

LU: According to Article 2(3) of the CAM NC, the regulation shall not apply to interconnection point Remich between Germany and Luxembourg as Luxembourg holds a derogation according to Article 49 of Directive 2009/73/EC. As a consequence, the concerned TSOs have chosen to exclude the interconnection point Remich from the participation in the VIP between BelLux and NCG.

Annex IV: Map depicting the Virtual Interconnection Points (as of May 2020)



(1) ES – PT, (2) FR – ES, (3) BeLux – FR, (4) GPL – PL, (5) NL – BeLux, (6) NL - NCG (H), (7) NL - NCG (L), (8) NL - GPL (H), (9) NL - GPL (L), (10) NCG (L) - GPL (L), (11) BeLux – NCG, (12) CZ – NCG, (13) CZ – GPL, (14) NCG – AT (only NCG side virtualised), (15) FR – NCG (only NCG side virtualised), (16) NCG – CH (Swiss side not subject to CAM).



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