

ENTSOG's Response to ACER Public Consultation on the Methodology for Implementation Monitoring and Evaluation of the Impact of the Gas Network Codes and Guidelines on the Internal Gas Market

In general terms, the CEPA report seems to be a good starting point for the discussions on how to establish and arrange a systematic and consistent approach to the monitoring of the network codes as required in Regulation 715. In its consultation response ENTSOG has provided both general as well as more specific comments to the CEPA report.

In order to comply with Regulation 715 and the intentions behind, ENTSOG is of the opinion that the cooperation between ACER and ENTSOG on monitoring Network Codes and Guidelines has to be further developed. Therefore, ENTSOG suggests that a formal cooperation between ACER and ENTSOG is established in order to develop the monitoring methodology actually to be applied for the Network Codes and Guidelines – based on the CEPA report, on the responses received during the consultation as well as other relevant input. The aim should be to identify and choose the most relevant criteria which will be necessary to evaluate the implementation and impact of the Network Codes and Guidelines in an efficient and meaningful way as well as to establish a process to ensure that the monitoring methodology and criteria will be updated to reflect the actual market situation also in the future. Furthermore the cooperation will help to avoid possible redundancies and inconsistencies in the process as well as ensure proper and efficient involvement of the stakeholders. It should be taken into account that the monitoring roles of ACER and ENTSOG have a similar scope, with some differences, and the formal cooperation should reflect this. ENTSOG is of course prepared to enter into such cooperation with a constructive and flexible approach.

Question 1	Family name, first name

Question 2	Email

Question 3	Name of organisation
European Network of Transmission System Operators for Gas, ENTSOG AISBL	

Question 4	Area of activity
Shipper or energy trading entity	
Interconnector	
Storage	
LNG	
Distribution	
Producer	
End-user	
Transmission system	X
Other	

Question 5	Please specify

Question 6	Do you consider the methodology well founded? If not, what should be improved? (Chapters 1-4)
<p>General points</p> <p>ENTSOG appreciates the undertaken efforts from ACER and CEPA in developing the substantiated study on "Implementation monitoring and evaluation of the impact of the gas network codes and guidelines on the internal market". In general terms the study appears to be well-grounded and structured and seems to contain quite a nuanced approach. The extensive literature review which has been conducted appears to deliver a robust basis for the analysis.</p>	

However, ENTSOG as one of the key participants in the development of the framework for the internal European gas market – the network codes - could potentially have provided substantial contributions to the design and evaluation of presented methodology through an early involvement in parallel with the actual involvement of other key institutions.

The scope of the monitoring and analysis of the implementation of Network Codes and Guidelines from ENTSOG point of view should include all the network codes which have already entered into force and at the same time should be more cautious on the Network Code on Tariffs ("TAR NC") and the amendment to the CAM NC on Incremental Capacity (Incremental Capacity), for which a stable text has not been reached yet.

Hence for TAR NC and Incremental Capacity ENTSOG provides only preliminary and general comments; the analysis of the proposed indicators for this NC and this amendment needs further discussion later on, once the approved versions of these documents will be available.

The described methodologies appear in general to be well founded for measuring market outcomes but the methodology assessing the impact of the network codes requires some revision. The assessment and comparison of the cost to the market of implementing the network codes and on-going compliance costs to the benefit to EU consumers from the specific network code measures has not been included.

The identified 'main objectives' should be assessed carefully as at some places – and in particular the objectives - seem in some cases to be mixed up with the instruments. For example cross-border entry-exit zones merger is an instrument while the objective is to achieve the integrated and competitive internal market. There seems also to be a need to differentiate between 'desired effects' and 'outcomes'. An increasing number of (new) shippers purchasing short-term capacity for example might be an outcome, while the desired effect of CAM NC in this case should be short-term liquidity. As already mentioned in the study it is difficult to map indicators to desired effects and to isolate the exact impact of particular measures. Therefore in order to achieve meaningful results most of the indicators will require additional analysis.

The report is mentioning that gas market outcomes are likely to be affected by a multitude of factors, not just the impact of network codes or guidelines. ENTSOG would like to strongly support this statement as the linkage between 'main objectives' and the proposed indicators are not always clear and the perceived correlations might be impacted by other factors and therefore the choice of indicators should be justified in more details.

Factors with potential impact could vary between the Member States, influenced by e.g. green politics applied on a national level, or have a completely exogenous nature, e.g. change in a geopolitical environment. Also the interpretation and the way of implementation of particular obligations from network codes or guidelines may impact the market development. These should be carefully assessed and taken into account in the implementation monitoring and impact evaluation.

Legal points

The methodology suggested by the CEPA report is aimed at selecting and evaluating the relevant indicators in order for ACER to perform its task as foreseen symmetrically under Article 9(1) of Regulation 715/2009 and Article 6(6) of Regulation 713/2009. Namely, it refers to the activity of monitoring and analysing the implementation of Network Codes and Guidelines *"and their effect on the harmonisation of the applicable rules aimed at facilitating the integration of the market, as well as on the non-discrimination, effective competition and the efficient functioning of the market"*. Such activity partially overlaps with the task entrusted to ENTSOG under Article 8(8) of Regulation 715/2009, with specific regard to *"their effect on the harmonisation of the applicable rules aimed at facilitating market integration"*. In fact, the results of ENTSOG analysis and monitoring shall be included in ENTSOG Annual

Report and be reported to ACER.

Evidently this implies a close cooperation between ACER and ENTSOG as regards the common activity and the compatibility of the outcomes thereto.

Such compatibility is to be established through a coordinated approach between ACER and ENTSOG, as already done with specific regard to the Reports on CMP Guidelines. This should represent a good starting point for further improvements in the terms of cooperation and interaction for the following Network Codes/Guidelines.

However, the unilateral establishment by ACER of the indicators affecting this common area of activity risks to critically jeopardize the good functioning of the coordinated approach in monitoring the implementation of the binding rules for the internal market which is evidently required under the Third Energy Package (see, particularly, the Articles above).

As a result, in fact, once the indicators for the same field of activity are set by ACER, the outcomes of the activity to be conducted by ENTSOG with the consultation with the stakeholders, occurring over at least two months' time, will be pre-empted and ACER's approach might, eventually, interfere with the legal obligation to be performed by ENTSOG. In fact, given the letter and the spirit of the provisions abovementioned, ENTSOG sees a risk of non-compliance with the allocation of roles provided by the law.

In the light of the foregoing, an early engagement of ENTSOG in the development of the indicators at stake would have been necessary in order to ensure full compliance with the legal requirements and the improvement of the cooperation in this (and other) activities between ACER and ENTSOG which is essential to a well- functioning internal gas market.

The abovementioned arguments, together with the further comments captured in the responses below might result in undermining the validity of the methodology itself and its legitimate applicability, whereas a close cooperation between the two bodies would ensure an efficient fulfilment of the respective tasks.

Question 7	Do you consider the network code indicators fit for purpose? (Please describe for which set of indicators you provide comments.) (Chapter 5)	
The proposed sets of indicators are complete		
The proposed sets of indicators are incomplete (please suggest indicators to be added)		
The proposed sets of indicators are overcomplete (please suggest indicators to be removed)		

Question 8	Please add any comments	
See question 10		

Question 9	Please add any comments and suggest indicators to be added
See question 10	

Question 10	Please add any comments and suggest indicators to be removed
<p>Question 7 seems not to be meaningful to answer in the proposed simplistic way. Therefore ENTSOG provides its response to questions 8, 9 and 10 in a combined form. The provided opinion includes some considerations, adjustment and removal proposals regarding the presented set of 22 recommended Network Code / Guidelines indicators short-listed in Chapter 7 as well as suggestions for new indicators for each Network Code / Guideline.</p> <p>With regard to the identified potential indicators stated in chapter 5 and 6, ENTSOG agrees that only the recommended short-list of parameters should be further considered to be included in the monitoring.</p> <p><u>CMP Guidelines:</u></p> <p>The main objectives as laid out in Chapter 5 for CMP Eliminate unfulfilled capacity demand (contractual congestion) at interconnection points (IPs) to enable efficient capacity utilisation, unless technical capacity is fully utilized and the maximisation the availability of firm capacity by reoffering already booked, but unused, capacity to the market reflect the purpose of the CMP guidelines in a good manner, from ENTSOG's perspective.</p> <p>With Regard to the three particular indicators ENTSOG would like to present its opinion on how effective they can contribute to monitor the achievement of the desired main objectives of the CMP guidelines.</p> <p>First of all, ENTSOG would like to state, that the three proposed indicators generally seem to be efficient in order to measure the achievement of the main objectives of the CMP guidelines.</p> <p>Additionally, ENTSOG would like to give some more detailed view on each indicator.</p> <ul style="list-style-type: none"> • CMP.1: Additional capacity volumes made available through each CMP <p>If the amount of unused capacity that is reoffered by the TSOs to the market at network points in order shall measure the effectiveness of CMP, analysis and overview of congested IPs would be also needed.</p> <ul style="list-style-type: none"> • CMP.2: Utilisation of contracted capacity at IPs per shipper <p>Concerning the capacity utilization per shipper ENTSOG would like to stress that the confidentiality of individual Shipper's data has to be taken into account.</p> <p>Moreover, if a Shipper holds entry and exit capacity at an IP and nominates both sides at the same time, the Shipper may transfer a netted nomination, which does not reflect the actual use of the booked capacity in both directions.</p> <ul style="list-style-type: none"> • CMP.3: Aggregate utilisation of contracted capacity at IPs (flows/booked capacity) <p>From ENTSOG's point of view the indicator needs to be adjusted in a way that not the flows but the nominations are compared with the booked capacity by a Shipper. Gas flows can differ from nominations as TSOs may use an OBA or are netting gas flows or even use alternative gas routes for transporting the gas for the purpose of an</p>	

efficient network operation.

Furthermore, if Shipper hold entry and exit capacity at an IP and nominates both sides at the same time, the Shippers may transfer a netted nomination, which does not reflect the actual use of the booked capacity in both directions.

Concerning the other potential indicators stated in chapter 5 to measure the desired effects of the guidelines, ENTSOG has the following more general comments.

To begin with, the increase of technical capacity is not a goal of the CMP guidelines, but the ease of congestion at network points. So ENTSOG wonders if the increase of technical capacity is the correct indicator to look at. Especially taken into account that the technical capacity at an IP can decrease over time, regardless the implementation of CMP (e.g. due to technical reasons in the network, like a pressure reduction or optimisation of capacity in response to a change in demand).

Additionally, ENTSOG would like to highlight that the desired effect 'coherent application of CMP' is not a goal of CMP Regulation. The CMP guidelines specifically allow the application of two different mechanisms at the sides of a network point.

Another aspect to mention is that certain measures are developed for specific products, like FDA UIOLI for additional daily capacity, the surrender for products with a runtime longer than a day and LT UIOLI is applied to capacity with a runtime of more than one year.

Last but not least, in order if congestion at one network point hinders market participants to enter a market area, it should be checked, whether the congestion in a long-term auction is continued in auctions with shorter product durations and/or whether the market area can be entered by other IPs and how the situation is at these IPs.

CAM NC:

ENTSOG fully supports the identified main objectives and desired effects of the CAM Code mentioned in Chapter 5. Regarding the six proposed indicators, ENTSOG would like to present its opinion regarding their effectiveness to contribute to monitor the achievement of the desired main objectives of CAM NC.

- **Indicator CAM.1: Increase in available average-day & peak-period technical capacity from prior year at each IP (% change year-on- year)**

ENTSOG would like to point out that it is not a main objective of CAM NC to increase technical capacity. Under the assumption that the capacity increase at an IP is a result of the CAM NC implementation, it might be an effective indicator for the functioning of CAM NC. However as the overall capacity in a network is scarce by definition, it might be optimal to increase the capacity offer at an IP by relocating it from another IP. In this case a decrease at some IPs might be necessary to optimize the overall capacity offer in the network. The indicator suggests a desired effect is to see technical capacity at IPs increase. Surely an efficient TSO needs to optimise their networks and this includes the need to reduce technical capacity (if possible) where it is not utilised. If gas demand continues to fall and policies favour alternative energy sources or indeed investment to source gas from alternative sources is subsidised, reducing demand for capacity elsewhere, the technical capacity will be optimised downward where it can.

- **Indicator CAM.2: Bundled capacity release in combination with indicator CAM.3: Share of total capacity sold as bundled on capacity booking platforms**

ENTSOG is of the opinion that the volumes of bundled capacity offered (indicator CAM.2) and the share of bundled

capacity sold (compared to total booked capacity at each IP) (indicator CAM.3) on capacity booking platforms (e.g. per product type, per IP/direction) are in combination efficient indicators to measure the desired outcome of an easier acquisition of (bundled) capacities at IPs.

- **Indicator CAM.4: Secondary market-traded bundled capacity and unbundled capacity (% of bundled capacity sold)**

The mentioned indicator CAM.4 might be used to measure the desired effect of CAM NC to enhance secondary trading of (bundled) capacity. For clarification, ENTSOG's understanding is that the total basis for the calculation of the % of bundled capacity sold is the total volume of unbundled and bundled sold (firm) capacity on the secondary market.

ENTSOG would suggest to add at least an indicator for the volume of bundled capacity offered on the secondary market (see indicator CAM.2) in order to see if the unused bundled capacity is offered on the secondary market.

Furthermore ENTSOG suggests using the secondary market evaluation also to measure the effectiveness of the availability of unused capacity for the market, which is an objective of CMP. The secondary market can be used as an alternative for Shippers to the surrender mechanism or to prevent losing the capacity due to LT UIOLI application.

- **Indicator CAM.5: "Contractual capacity utilisation at IPs" (booked/technical capacity) in combination with indicator CAM.6 "Physical capacity utilization at IPs" (flows/technical capacity)**

The two indicators are supported by ENTSOG as indicators of how the CAM NC has simplified the access to different markets by measuring to which extent the full cross-border capacity network capacity is booked to which extent the cross-border network capacity is utilised. However, the desired effect of eliminating unrealized cross-border trades and unused capacity due to mismatches in capacity allocation processes are not fully covered by these indicators. For clarification, ENTSOG's understanding of "flows" is referred to as "nominated flows" and not as "technical flows". In addition CAM.2 and CAM.3 can be taken into account to better reflect the desired effect measure.

BAL NC:

ENTSOG fully supports the identified main objectives and desired effects of the Balancing Network Code (NC BAL), namely the promotion of short term wholesale markets for gas and establishment of market-based balancing regimes for network users and transmission system operators. Since the NC BAL is less of a technical nature than other Network Codes, ENTSOG is of the opinion that it is more difficult to establish concrete indicators to assess to which degree these main objectives of NC BAL have been reached. Furthermore, the identified potential correlations between the BAL NC indicators and the high-level policy goal Indicators for Effective Competition (CO.1-CO.10) are evident and we concur with the assessment. We would also assume, that a correlation exists between the BAL NC indicators and the Indicators of Market Integration (MI.1-MI.6) as well as the Indicators of Non-Discrimination (ND.1 and ND.2), although the latter ones to a lesser degree.

- **BAL.1: TSO balancing through short-term standardised products vs. balancing services contracts**

ENTSOG supports this indicator proposed in the report since it provides a clear indication on the degree to which balancing by the TSO is being performed through standardised short-term products compared to non-standardised balancing services.

We understand that the criteria to identify balancing trades are chosen to create a common basis to compare the balancing trades done by shippers and TSOs and to separate non-balancing trades in non-unbundled markets. As

elaborated in the comment to indicator BAL.2 the conclusion time is neither mandatory nor exclusive.

We would also suggest the removal of the physical settlement requirement, as both the gas target model (1) and article 9 of the BAL NC prioritise the use of title products where and to the extent appropriate over any other available short term standardised products. Some physical effect is of course essential, but the initial trade with the TSO as a counterpart does not need to fulfil this requirement.

Regardless of the aforementioned criticism we think that this indicator gives an accurate assessment of a well-functioning short-term balancing market.

- **BAL.2: TSO share of total balancing**

ENTSOG agrees that establishing a residual balancing role for the TSO while leaving the primary balancing responsibility to the network users is one of the key principles of the NC BAL. However, ENTSOG does not believe that BAL.2 is the right indicator to assess this principle since its underlying assumptions do not allow such conclusions. In the report it is defined that the indicator is calculated by dividing the total quantity of gas traded by the TSO for balancing purposes though the total volume of all balancing trades. Balancing trades are defined as trades for which delivery takes place on a given gas day D with transaction concluded after 1PM on D-1 and physical settlement method. ENTSOG disagrees with the key assumption that all trades falling under this definition are solely done for balancing purposes but could be for many different reasons (e.g. portfolio optimisation, short term trade opportunities, etc.). Even when considering balancing actions performed by shippers it remains questionable to only include trades with physical settlements as shippers with opposite long/short positions can balance themselves without a net-physical effect. The use of this indicator as proposed in the report will lead to the consequence that systems with a very liquid short term wholesale market have in general a very low degree of TSO balancing and systems with an illiquid wholesale market have a very high degree – even if the absolute numbers are completely different.

Finally, ENTSOG would like to stress that opposite balancing actions of the TSO performed to counter within-day-imbances (buy and sell on the same gas day) and/or amounts needed for conversion (in market areas with separate physical high- and low-cal networks but a joint balancing for both qualities) should be separated from the TSO-share of balancing actions.

- **BAL.3: Physical linepack day-on-day changes**

ENTSOG understands that this indicator aims at assessing whether the overall system is in balance on a day-on-day principle. While we agree that an overall balanced system is desired, we are of the opinion that this proposed indicator is not the best one to assess whether this is the case. The reason for this is that linepack is not only influenced by the portfolio status of network users but to a very large extent by technical parameters that are fully independent from the activities of network users in a specific system. Such parameters are e.g. arrangements with neighbouring TSOs to optimise gas flows that are different from the nominated amounts of network users, the operation towards 'target linepack', seasonal influences or the preparation of the grid for a specific transport situation. It should also be considered that a high linepack change might often be the result of minimizing balancing actions by the TSO.

As an alternative, ENTSOG suggests to use aggregated portfolio data to assess whether network users contribute sufficiently to keeping the overall system in balance.

- **BAL.4: Balancing net neutrality analysis**

A financial neutrality of the TSO with regards to balancing is one of the key principles of NC BAL and therefore defined as a clear requirement in the Network Code. As it is a requirement, it is the role of national regulatory

authorities to ensure that neutrality charges are set in a way that the TSOs remain neutral in their balancing tasks and it is not an indicator for whether the NC BAL in principle works efficiently.

It is important to highlight that seasonal or year-to-year effects can influence the net neutrality and should not lead to a negative assessment. Furthermore, it is desired that the TSO has a sufficient level of financial flexibility in its neutrality arrangements in order to be able to act in times of high balancing needs. In addition to this, the proposed indicator only takes into account balancing sales and purchases by the TSO and imbalance cash outs of network users. By not taking into account other income and outcome positions related to balancing the indicator will not allow a conclusion on whether the overall neutrality of the balancing system is reached. This is especially valid for systems in which variant 2 for the provision of non-daily metered customer off take data is applied since this variant is based on the use of forecasts as final allocation data in order to reduce the financial risk of shippers supplying these customers. By nature, the forecasts lead to a residue imbalance which is neutralised in a reconciliation process which has to be taken into account when assessing the overall neutrality in such systems.

Incremental Capacity (CAM NC amendment):

ENTSOG agrees to the general objective of the Incremental Proposal as set out in the report, namely to establish a transparent, efficient, standardised and non-discriminatory processes, timelines and methods for capacity demand assessment and capacity allocation for incremental or new gas transmission capacity. However, ENTSOG would also like to point out that the Incremental Proposal as an amendment to NC CAM and a chapter of the TAR NC is still under development and not yet undergoing the comitology procedure. The provisions of the Incremental Proposal are still under discussion between TSOs, Regulators and market participants and have changed frequently over the last weeks and months. For this reason, ENTSOG is clearly of the opinion that it is too early to define concrete indicators to assess whether the main objective of the Incremental Proposal has been reached. The indicators proposed for Incremental Capacity relate to specific provisions of the proposed legal requirements which however are not yet clear. A clear example on where this causes a problem is the proposed indicator INC.1 (Incremental and new capacity offered through open season / auctions) which compares auction and Open Season Procedure (OSP) based incremental projects. While such a differentiation of procedures was proposed at the time when the report was drafted, the latest state of discussion reflects that all incremental capacity projects will be conducted via OSP and the differentiation is only on the allocation procedure. Since this case shows that designing concrete indicators for Incremental Capacity now is too early, we suggest describing the aims of the Incremental Proposal only on a higher-level and to leave out the indicators for the time being.

Despite this general remark, ENTSOG would also like to point out some concrete remarks to the proposed indicators for Incremental Capacity:

- **INC.1: Incremental and new capacity offered through open season / auctions**

As indicated above, the latest changes in the discussions on Incremental Capacity make this indicator as currently proposed useless since a differentiation into OSP and auction is not done. If the general principle of this indicator is to be kept, the indicator should compare how many incremental capacity projects end with a capacity allocation based on the normal CAM auction and how many with an alternative allocation mechanism. Nonetheless, ENTSOG also wants to highlight that such an indicator would not allow any conclusion on whether the incremental capacity procedure works efficiently in general. The choice between auction approach and alternative allocation procedure is based on the complexity of an individual project therefore a high degree of projects using an alternative allocation procedure would only indicate that more complex incremental capacity projects have been conducted. A high number of auction-based projects is from ENTSOGs point of view not a goal in itself and does not mean that it

is more efficient.

- **INC.2: Proportion of proposed incremental/new capacity projects that pass/fail the economic test**

ENTSOG strongly disagrees that this is a good indicator for whether the Incremental Capacity Proposal achieves its desired effects. Certainly it is desirable that incremental capacity projects are financially viable and have a fair chance of success. Nonetheless, the question whether an economic test passes or fails only depends on whether network users are willing to underwrite an investment under the framework given by the NRA and therefore does not indicate at all whether the process in general is efficient or not. Whether or not network users are willing to commit long term for an investment depends to a large extent also on factors that neither the TSO nor the NRA can influence. In addition to this it is likely that many economic tests will fail since it is natural for competing projects that only one or a small number will actually be commissioned. This would however not indicate that the process itself is not functioning.

- **INC.3: Range of f-factor values used in the calculation of the economic**

ENTSOG does not understand how this indicator could be used to conclude on the functioning of the incremental capacity process in general. The level of the f-factor basically defines the share of the investment costs that shall be covered by upfront network user commitments and the share that potentially could be socialised among all network users. The decision on this share depends most on the expected benefits of an investment for the own market compared to benefits in other markets. In that sense, an assessment on the levels of f-factors across Europe does not say anything about the functioning of the process. If the average f-factor is rather low, it would only mean that NRAs in principle allow for a higher degree of socialisation and a high average f-factor would mean the opposite.

TAR NC

ENTSOG finds it premature to establish the criteria for the TAR NC since the text has not yet reached a robust and stable level. ENTSOG considers that the monitoring methodology cannot be properly evaluated before the final TAR NC has been passed the Comitology process. Whether the proposed set of indicators is complete and suitable to assess the achievement of the desired effects of the Regulation is therefore too early to judge. With this in mind ENTSOG is only in the position to provide general and preliminary comments with respect to the identified TAR indicators.

On the one hand the proposed set of indicators appears to comprise a wide range of possible facts on which an assessment of effects stemming from the regulations might be based. On the other hand, the concrete objectives which are supposed to be assessed using certain indicators are not very well defined. The linkage between particular objective and the identified indicators to measure the achievement of this objective is missing.

The indicators TAR.1, TAR.2 and TAR.3 are based on the market survey, which is not obligatory to respond to. Therefore the risk occurs that only the stakeholders disagreeing with the current situation will raise their concerns. Hence, the overall picture could be biased. The study should consider how to avoid such a situation.

The level of assessment for every indicator should be considered carefully, taking into consideration that there are countries with more than one entry-exit zone and entry-exit zones with more than one TSO as well as that in the future there will be cross-border entry-exit zones.

- **TAR.1 – Stakeholder assessment of robustness of decision making and overall process associated with establishment of tariff methodology**

According to the report, the survey should be aimed at gauging stakeholder views on different aspects of the tariff methodology, identifying potential shortcomings in different countries. It is worth mentioning that this is also covered by the periodic public consultation process, which was included in the current drafting of the TAR NC to fulfil the requirements of TAR FG. According to those, all market participant will have an opportunity to express their views not only on the reference price methodology and the resulting reference prices but also on the commodity-based transmission tariffs, alternative transmission tariffs, non-transmission service tariffs, tariffs for storage facilities as well as the way how these all tariffs are set.

The overall process associated with the establishment of the tariff methodology is defined in the current draft TAR NC. As there are many stakeholders, representing different and often contrary interest, involved in that process such an indicator as stakeholder's assessment of robustness of decision making and overall process may not be seen as objective and suitable evaluative measure.

- **TAR.2 – Assessment of availability of all models and data to enable replication of actual tariffs**

The current drafting of the TAR NC foresees possibility to apply different reference price methodologies having different degree of complexities and levels of cost-reflectivity. In addition to this, the individual networks have different topologies and characteristics, some of which are very compound. Therefore, a full replication of a tariff model able to reproduce actual tariffs will be quite complex. In ENTSOGs view (and according to the TAR FG) the overall objective should be to enable network user to reasonably understand how individual transmission tariffs have been driven as well as to reasonably estimate their future development, rather than a full and complete replication of the tariffs. The current drafting of the TAR NC provides an obligation to publish all relevant inputs into the reference price methodology and additionally either provide a simplified tariff model or sensitivity analyses enabling network users to estimate the possible evolution of transmission tariffs in the following tariff periods. According to that the indicator should be adjusted to "Assessment of availability of data to enable a reasonable level of replication of actual tariffs".

- **TAR.4 – Pass/fail compliance with cost allocation test**

The cost allocation test is supposed to demonstrate the degree of cost-reflectivity of the cost allocation methodology. The higher the degree of cost-reflectiveness the higher is the complexity and the lower the ease of implementation and the conformability of the methodology for the market participants. The conformability or the ease of understanding of the cost allocation methodology for the network users is also a quite important aspect since promotes decision making process and decreases associated risk. Therefore the trade-off between degree of cost-reflectivity and conformability for network users should be taken into account.

- **TAR.5 – Revenue Reconciliation parameters and outcomes**

The report proposes this indicator in order to assess the ability of TSOs to recover allowed revenues without significant and/or persistent under- or over-recovery and without large and frequent tariff adjustments in a revenue cap regime.

The study should elaborate on how to assess the tariff stability and financial stability of the TSO under a price-cap regime.

- **TAR.6 – Multipliers applied by each TSO**

This indicator seems not to be suitable to assess the overall short-term and long-term balance as it aims to assess the divergence in the actual multiplier level for each product at either side of IP. The difference in the final price of the particular product at either side of the IP is much more affected by other factors such as the asset structure, topology and age of network different amount of allowed revenue as well as other elements such as reference

price methodology, secondary adjustments, seasonal factors etc.

Furthermore, measuring whether the multipliers are within the prescribed range of the TAR NC does not seem to be a meaningful indicator. The TAR NC rules do not require multiplier levels to be the same across an IP.

Also the multiplier levels itself does not reflect the degree of cross-subsidisation created by increased reference price that compensate for the decrease of multipliers and therefore is alone not suitable to assess the overall short-term and long-term balance for the systems concerned.

Hence, the assessment of the differences in multiplier level at different IP-sites seems to have limited indicative value. ENTSOG suggests to develop indicators which focus on the short-term long-term balance within a given entry-exit zone. For that purpose the evolution in booking structure of each particular TSO as well as level of cross-subsidisation between long-term and short-term network users could be used to assess the achievement of desired effects.

Question 11	Do you consider the high-level policy goal indicators fit for purpose? (Please describe for which set of indicators you provide comments.) (Chapter 6)	
The proposed sets of indicators are complete		
The proposed sets of indicators are incomplete (please suggest indicators to be added)		
The proposed sets of indicators are overcomplete (please suggest indicators to be removed)		X

Question 12	Please add any comments	

Question 13	Please add any comments and suggest indicators to be added

Question 14	Please add any comments and suggest indicators to be removed
-------------	--

ENTSOG agrees that an efficiently functioning wholesale market for gas is a desired objective and that, among others, it is characterised by a high level of market integration, efficient functioning of the market, effective competition and non-discrimination. ENTSOG therefore supports the chosen approach not only to analyse the development of the market in relation to the implementation of the Network Codes but also to assess the achievement of the high-level policy goals and therefore to distinguish between those two groups of indicators.

It is important to point out that such high-level goals as the ones identified in the report have a very broad meaning and that there is not necessarily a common understanding among all relevant parties of their exact meaning or implications. For this reason, concrete indicators to assess the degree to which the high-level goals have been reached have to be chosen carefully since they will naturally imply an interpretation or direction of understanding. ENTSOG is of the opinion that it is important to first of all have a clear agreement among the participants of the industry on which directions the markets should take, which to some extent is done in the work stream on the 2nd Gas Target Model. Though some of the indicators are also part of the discussions in this work stream, the report misses to make such a link sufficiently.

The report proposes the application of 22 concrete indicators to assess the achievement of the high-level goals. ENTSOG would like to make the general comment that many of the proposed indicators appear rather theoretical, and does not seem to take into account the broader circumstances of the market. This is especially the case for less developed markets in Europe for which most of the indicators will not be exercisable since they require extensive input data that is not available in such markets. ENTSOG's detailed analysis of the individual indicators in this section is as follows:

Effective Competition:

- **CO.1 Herfindahl–Hirschman Index (HHI) and CO.2 Residual Supply Index (RSI)**

These are approved statistical methods and the interpretation using results from different markets should provide a good measure on the state of market competition.

- **CO.3 Price-cost margin (PCM)**

In the markets where gas is traded more than once (markets with high churn rate) a measuring of mark-up over marginal costs for each supplier/producer seems to become quite complex and sometimes even impossible since this particular information is supposed to be commercially sensitive and not available of the market. In that sense CO.3 seems to be based on much more complex data requirements than CO.1 and CO.2 and as a result of using incomplete data – might lead to an interpretation bias. It should also be considered that different shippers have different price levels for procurement and thus generate different margins at a given market price. This effect is

multiplied by long supply chains.

- **CO.4 Gas demand**

We support the designation of this indicator as a basis for evaluating other indicators but recommend caution regarding the amounts of transit gas included in demand figures (for example gas transferred under transport-route restrictions).

- **CO.5 Participants**

The total number of market participants is a very strong indicator for a functioning market. The liquidity and “well-functioning” of the market is mirrored in the number of shippers registered and active at the relevant virtual trading point. Furthermore, the number of suppliers to end-consumers should also be taken into account as these are a direct mirror for the diversity of the consumer market. One of the signs of a liquid market is that competition doesn't stop at the wholesale market but is extended to the end-consumer.

Nonetheless, this indicator does not take into account the market share of every participant and should thus be assessed in combination with CO.1.

- **CO.6 Products traded**

Compared to the other criteria the number of products available to trade seems less significant and the gathering of comparable data sets regarding bilateral (non-clearing-house) trading will be difficult.

- **CO.7 Traded volumes**

Used in conjunction with the other indicators the traded volumes should provide a good indicator for market competition.

- **CO.8 Depth of market**

As this criterion is highly dependent on difficult to obtain data, the information gain might not be relevant enough. When resorting to indices gathered by third-parties (e.g. ICIS Heren), a bias-free interpretation seems questionable.

- **CO.9 Churn rate**

The churn rate is an approved and comprehensive indicator to measure a liquid market. The remarks on CO.4 and CO.7 remain valid to ensure comparability of the results from different markets. It has to be made sure, that the volumes used to calculate the ‘gross’ and ‘net’ churn rates are indeed comprised of the same definitions of demand and/or consumption. We also recommend recalculating the churn rate for every hub from basic data (CO.4 and CO.7) as published churn rates from different hubs might be based on different methodology and are therefore not comparable.

- **CO.10 Simulation models**

In general a model could be quite useful to forecast the way how the gas networks could be used in the upcoming years however, depending on which concrete simulations are performed, this indicator will remain – at least partly – a “black box”. Gas simulation models are highly dependent on the assumptions made and are already difficult when simulating constraint environments – using them to compare highly diverse markets leaves too much room for interpretation errors and bias from inherent assumptions. Thus these models should not be used alone for prescriptive values but as one of the means to understand where network developments are most required.

Market Functioning:

- **MF.1 Transaction costs**

Although MF.1 might be suited to be used for evaluating the effectiveness of the BAL NC we want to highlight the concerns voiced under “weaknesses”, which are the danger of subjective interpretation of both the questions and the given answers, the difficulties on retaining a consistent quality and scope when combining the answers, and a potentially low response rate which might lead to a certain bias in the responses. We therefore suggest evaluating this indicator by a qualified analyst using an objective and highly comparable scoring system. Furthermore, it should be specified what concrete types of costs are meant under transaction costs otherwise this is quite open for interpretation and could affect the robustness of the result.

- **MF.2 Value of congestion at each IP**

This indicator brings limited added-value compared to the marginal price spread as multiplying the spread by the capacity only provides an upper limit of what could be the gain. The selection of the most efficient investment requires to go beyond the use of past data; it will require the estimation of the congestion value change resulting from a given capacity increment. This exercise is particularly difficult in a market composed of many interconnected hubs. The simple ranking of congestion value cannot provide a meaningful ranking and would lead to sub-optimal spending.

- **MF.3 Potential net welfare gains from unused physical capacity and MF.4 Potential welfare loss from apparently inefficient flows at each IP**

In our opinion these proposed indicators will not provide a superior result but only a single one for each IP. Against the background of measuring a high-level policy goal of market functioning we cannot see how to draw a general valid conclusion. As the study of CEPA mentioned there are potentially several reasons for a particular gas flow situation at an IP and these reasons could be independent from other adjacent IP. In our opinion it is therefore not consistent to summarize all single results of each IP.

Furthermore the definition of “welfare” is not clear in the CEPA study. This will imply a wide field of possible interpretations. The mentioned calculation principles do not specify the link between unused capacity and the regarding price differential on the one hand and welfare gains/losses on the other hand.

According to our considerations mentioned above we would recommend not to apply these two indicators.

- **Proposal of an alternative indicator : end-consumer price index vs. wholesale market index**

As an alternative indicator we would propose a comparison of end-consumer price index vs. wholesale market index. This indicator could provide a measure of the competitiveness of a market. The more competitive the market the more dependency between the price indices, meaning falling wholesale market prices would lead to lower end-consumer prices. Furthermore one could compare to which extent changes of the wholesale prices are passed to end-consumers. In a competitive market e.g. rising prices would not pass completely to end-consumers since the consumer would tend to switch their supplier.

By applying this indicator, it is important to use the same database for all countries in order to avoid a distorted picture. For example the end-consumer prices must not include any taxes or duties. A sound data source for both end-consumer prices and wholesale market indices could be EUROSTAT.

Market Integration:

- **MI.1 Price convergence, MI.2 Price correlation and MI.3 Price volatility correlation**

Price convergence, correlation and volatility between gas hubs are important characteristics of market connectivity and liquid trades across borders. We want to emphasize the concerns raised in the study that external factors and/or constraints must be taken into account when interpreting the resulting figures.

- **MI.4 Contract prices vs. gas spot prices and MI.5 Oil-indexed vs. gas-on-gas pricing.**

The price formation criteria are important indicators for sufficient competition and liquidity in a wholesale market. These indicators are widely used in market studies and should also be a measure for the degree of implementation of the BAL NC. ENTSOG notes that probably not all information needed for those indicators will be available, as there should be a balance between the transparency requirements and the commercially sensitive information regarding the contractual aspects of gas sourcing.

- **MI.6 Number of supply sources**

The number of supply sources should be used in combination with the annual volume traded from the source – many small sources do not necessarily outweigh the dependence on one pivotal supplier. When defining supply sources transit routes and volumes should be taken into account, e.g. transit volumes through a market should not be counted as a source, while these volumes would count as a source for the target market.

Non-Discrimination:

- **ND.1 Quality of published data and ND.2 Barriers to entry**

Both indicators rely on surveys and ENTSOG doubts whether such surveys are able to provide comparable data given the different perceptions of possible market entry barriers or quality of published data. We therefore suggest evaluating these indicators by a qualified analyst using an objective and comparable scoring system to assess the market barriers/data qualities in equal measure.

Question 15

Do you agree with the performance evaluation of the indicators? If not, please suggest an alternative evaluation. (Chapter7)

CMP Guidelines:

With regard to the performance evaluation of the recommended indicators ENTSOG would like to present some comments on certain indicators.

From ENTSOG's understanding the proposed units should be adjusted as not the flows but the nominations should be compared with the booked capacity when applying the indicators **CMP.2 Utilisation of contracted capacity at IPs per shipper** and **CMP.3 Aggregate utilisation of contracted capacity at IPs**. Gas flows can differ from nominations as TSOs may use an OBA or are netting gas flows or even use alternative gas routes for transporting the gas for the purpose of an efficient network operation.

CAM NC:

ENTSOG would like to emphasize that some indicators work better in combination with each other as efficient

indicators.

BAL NC:

As highlighted in our response to question 7, ENTSOG would like to propose some improvements to the proposed indicators. Regarding **BAL.2 TSO share of total balancing** we suggest to re-think the definition of 'balancing trades' of network users. Regarding **BAL.3 Physical linepack day-on-day changes** we suggest using portfolio data instead of linepack data to assess the degree to which network users are keeping the system in balance given the clear interference with technical parameters in the operation of the system. Regarding **BAL.4 Balancing net neutrality analysis** we suggest extending the proposed scope to include all relevant neutrality cash flows.

Incremental Capacity (CAM NC amendment):

As highlighted in our response to question 7, ENTSOG is of the opinion that it is too early to define concrete indicators for assessing whether the incremental capacity process functions efficiently since the concrete functioning of the process is not yet clear. Furthermore, ENTSOG does not think that any of the three proposed indicators for INC allows a meaningful evaluation of the performance of the incremental capacity process.

TAR NC

As mentioned under Question 8 it seems premature to establish performance indicators without having a finalised text of TAR NC. In general, ENTSOG would like to raise the following points:

General comments **TAR.1-3** - Depending on the amount of respondents and 'type' of stakeholder provided their contribution, the proposed stakeholder survey should be 'calibrated' in order to ensure an overall clear and balanced picture.

TAR.1 – The proposed indicator does not appear to be constructive (as outlined in question 8). The report contains furthermore the suggestion that the process will be run annually so, that it reflects the stakeholder perception of the last methodology consultation in each country. However the decision-making process regarding the 'establishment of tariff methodology' as it is described in the current draft of TAR NC will not necessarily take place each year. Therefore the yearly assessment doesn't seem to bring any added value.

TAR.2 –The report proposes the stakeholder survey on data availability. According to the current draft of TAR NC the TSOs are obliged to publish all relevant input data in a standardised format and user-friendly manner, so that it will be publicly available on the internet. There is no obligation for network user to use this data. For that reasons it would be more reasonable and objective to access the availability of such data for the market rather than to ask market participants whether the data is available. The indicator should be assessed in two areas: 'whether the data is available for the market (published by TSO)' and 'whether the market participants are able to reasonably understand how the tariffs were calculated'.

The report should take into account that the current version of TAR NC meanwhile provides full transparency on all charges faced by network users associated with access to the European Transmission network.

TAR.4 – The cost allocation test assesses the difference between the revenue – cost-driver ratios for domestic and cross-border points. The respective statement under calculation principles in the report should be corrected.

The current draft of the TAR NC contains the obligation to publish the outcome of the cost allocation test as well as a justification, if needed. In that respect it is unclear why the values of the four measures used to derive the test are listed under the data requirements, when the result of the test is publicly available. Furthermore, an ACER assessment of the revenue and cost drivers used by the NRA in the calculation of the test does not seem to be

appropriate or needed.

TAR.5 –The report contains the statement that the data regarding revenue reconciliation parameters and outcomes should be publicly available but may not be easily accessible. ENTSOG would like to emphasize that according to the current draft of TAR NC the respective data shall be published in a standardised format in a user-friendly manner and in a clear, quantifiable, easily accessible way and on a non-discriminatory basis.

TAR. 6 – The report contains the statement that cross-border flow of gas is most likely to be distorted if multipliers either side of the IP are very different. ENTSOG does not support this statement. As mentioned in Question 8 the assessment of the differences in multiplier level at different IP-sites seems to have limited indicative value.

Question 16	Do you consider the data sources proposed by the consultancy study adequate? If not, please suggest alternative data sources. (Chapter7)
<p>ENTSOG agrees with the suggested data sources. ENTSOG agrees to discuss with ACER data sources to be used regarding their availability, feasibility and how all the market data will be processed/ treated.</p> <p><u>CMP Guidelines:</u></p> <p>Especially regarding the proposed set of indicators CMP.1 Additional capacity volumes made available through each CMP and CMP.3 Aggregate utilisation of contracted capacity at IPs the mentioned data sources for the indicators and seems to be the preferable ones.</p> <p>Concerning the proposed indicator CMP.2 Utilisation of contracted capacity at IPs per shipper the individual use of contracted capacity per Shipper can only be captured with data publication obligations under REMIT, which are confidential. Thus ENTOSG would like to stress that the confidentiality of this data needs to be kept.</p> <p><u>CAM NC:</u></p> <p>ENTSOG agrees with the suggested data sources for the basic data which are needed for the calculation of the indicators. For clarification, the indicated primary data sources do not provide the calculated units of the indicators (e.g. in %).</p> <p><u>BAL NC:</u></p> <p>In principle, ENTSOG agrees with the proposed data sources for the assessment of the NC BAL indicators. However, ENTSOG thinks that it is important to take caution when assessing TSO balancing data collected via REMIT since there is not guarantee for completeness from the perspective of this study and since REMIT data could also include TSO trades that did not serve a balancing purpose (e.g. for compressor gas). For this reason, ENTSOG is of the opinion that TSO-related data on balancing is primarily collected directly from TSOs.</p> <p><u>Incremental Proposal:</u></p> <p>As highlighted in our response to question 7, ENTSOG is of the opinion that it is too early to define concrete indicators for assessing whether the incremental capacity process functions efficiently since the concrete functioning of the process is not yet clear. ENTSOG agrees that data on incremental capacity projects should directly be collected from TSOs and NRAs given the specific nature of each project.</p>	

TAR NC:

In general the data sources suggested seem to be reasonable. However the collection of published by TSOs data for the indicators TAR.2 and TAR.3 from the stakeholder seems to be inefficient and should be reconsidered.

Indicators of Effective Competition and Market Integration:

Again we would like to emphasize caution, when interpreting data aggregated by REMIT as there is no guaranty of completeness from the perspective of this study (which is especially sensitive when deferring shares/percentages and comparing data from different markets). Furthermore there is a risk that market participants interpret definitions under REMIT differently with the effect of non-comparable datasets.

Indicators of Market-Functioning and Non-Discrimination:

Regarding the use of surveys we would like to highlight the concerns already voiced in the study. These are the danger of subjective interpretation of both the questions and the given answers, the difficulties on retaining a consistent quality and scope when combining the answers, and a potentially low response rate which might lead to a certain bias in the responses. We suggest evaluating the criteria by a qualified analyst using an objective and highly comparable scoring system.

Question 17	Do you find the proposed implementation timelines of the methodology feasible? If not, please suggest how it can be improved. (Chapter 8)
<p>The report stipulates that BAL NC should be implemented by October 2015. Yet, the BAL NC provides the possibility of an extended implementation time until October 2016 and the possibility of applying interim measures until 2019 subject to the approval of the responsible NRA. Many TSOs have indicated that they are planning to make use of these extensions. The full implementation of the BAL NC in all of Europe will therefore most likely not be completed before 2019. Since many of the indicators require data that is linked to a full application of the BAL NC provisions, it will not be possible to derive the effectiveness of the BAL NC from the results of these indicators. The same sequence of events is likely to occur for TAR NC and Incremental proposal for which it is not yet clear when exactly they are going to be applicable. Of course the assessing of the information for the indicators where the baseline scenario is needed should be established in the meantime.</p> <p>As described under Question 14 ENTSOG supports the chosen approach to distinguish between indicators assessing the development of the market in relation to the implementation of the Network Codes and indicators assessing the achievement of the high-level policy goals. However since there is some interference between different indicators (as put forward in Chapter 7) it could be problematic to calculate and analyse them starting at different points of time. For example Indicator MF.2, which assesses the value of congestion at each IP by using the price differential between hubs after taking account of transportation costs, is supposed to be implemented from Q4 2015 or Q1 2016. However the transportation costs will be affected by implementation of TAR NC which is supposed to be implemented not earlier than 2017.</p>	

Question 18	Do you consider the description of the indicators in the Annex clear and the execution of the indicators easy to understand? If not, please suggest how it can be improved. (Annex A) CAP, BAL, INC & TAR (only for general issues)
<p><u>CMP Guidelines:</u></p> <p>The proposed set of indicators is analysed with the purpose to see if the desired effect that additional capacity is offered by TSOs at IPs can be achieved. In general ENTSOG agrees with the description of the indicators as laid out in the annex. However, ENTSOG disagrees with some descriptions for the three chosen indicators. Regarding CMP.1 Additional capacity volumes made available through each CMP the granularity level does not fit for the measured additional capacity that is made available for all product runtimes. Concerning CMP.2 Utilisation of contracted capacity at IPs per shipper and CMP.3 Aggregate utilisation of contracted capacity at IPs ENTSOG recommends an adjustment of the used parameters for the comparison. However, in case Shippers hold entry and exit capacity at an IP and nominate both sides at the same time, the Shippers may transfer netted nominations, which do not reflect the actual use of the booked capacity in both directions.</p> <p>Furthermore ENTSOG would like to make sure that all data per Shipper is confidential and that no confidentially is breached when using the individual Shipper information. For all indicators the calculation principles need to be more elaborated.</p> <p>In general, from ENTSOG's point of view, in order to find out if congestion at a network point hinders market participants to enter a market area, it should also be checked, if the market area can be entered by other IPs and how is the situation at these IPs.</p> <p><u>CAM:</u></p> <p>See previous questions.</p> <p><u>BAL NC:</u></p> <p>Despite the fact the ENTSOG disagrees with parts of the indicators proposed for NC BAL, the description of the proposed indicators on NC BAL in the annex is reasonably clear. As mentioned before, ENTSOG is of the opinion that ACER should make use of different data when assessing the indicators BAL.2 (TSO share of total balancing) and BAL.3 (Physical linepack day-on-day changes). Regarding BAL.4 (Balancing net neutrality analysis) ENTSOG thinks that the indicator is not clearly described in the annex. It is not clear whether the report proposes only to take into account balancing sales and purchases of the TSO and long and short position cash outs of network users when calculating – thereby leaving all other balancing related income and outcome positions out. If this is not the intention, the text in the annex should be refined to clearly include these positions. If this is the intention, ENTSOG disagrees with the indicator as also highlighted in our response to question 7.</p> <p><u>Incremental Capacity (CAM NC amendment):</u></p> <p>As highlighted in our response to question 8, ENTSOG is of the opinion that it is too early to define concrete indicators for assessing whether the incremental capacity process functions efficiently since the concrete functioning of the process is not yet clear. Furthermore, ENTSOG does not think that any of the three proposed indicators for INC allows any evaluation on the performance of the incremental capacity process. For this reason, ENTSOG regards the description of the indicators in the annex as less relevant.</p>	

TAR NC:

As mentioned under Question 8 it seems premature to establish performance indicators without having a finalised text of TAR NC. In general the description of the indicators in the Annex seems to be clear and the execution of the indicators appears to be comprehensible. For some content corrections see Question 15.

Question 19

Overall, do you consider that the methodology would be suitable to meet the objectives of Article 9 of Regulation (EC) No 715/2009?

As a first crucial remark, the inconsistency between this methodology and the applicable provisions in Regulation 715/2009 has been already stressed in the response to question 6. In addition to the general legal concerns raised therein, the following remarks should be pointed out.

Scope of methodology:

The scope of the monitoring and analysis of the implementation of Network Codes and Guidelines is not consistent with the objectives and the rationale of the Third Energy Package. In particular it is at the same time incomplete as regards the Network Codes already entered in force or too extensive as regards those Network Codes which are still under development.

In fact, on one hand it does not encompass the Network Code on Interoperability and Data Exchange ("INT NC"), which also contains essential elements in terms of streamlining not only an efficient market, but an effective gas flow in Europe, which for sure will enhance the liquidity of the market, the competition in line with the objectives of the Third Energy Package. Whereas on the other hand it includes the Network Code on Tariffs ("TAR NC") and the amendment to the CAM NC on Incremental Capacity, for which a stable text has not been reached yet. In order to overcome such a paradox ENTSOG sees merit 1) in tackling the INT NC for the sake of the overall consistency of the analysis of the indicators, which should not distinguish between commercial codes and operational codes since all the network codes listed in article 8(6) of Regulation 715/2009 are aimed at pursuing the Internal Energy Market on an equal footing and 2) in waiting for having a full picture of the final TAR and INC provisions in order to take the real objectives of the TAR NC into consideration for determining the indicators aimed at monitoring and analysing its implementation.

Question 20

Are there any other views you would like to share with ACER in this context?

Indicator analysis:

As described under Question 14 ENTSOG supports the chosen approach to distinguish between indicators assessing the development of the market in relation to the implementation of the Network Codes and indicators assessing the achievement of the high-level policy goals. However it is very difficult to design indicators isolating the impact of Network Codes from other effects. Hence some of identified indicators are still subject to much interference that is also proven by the presented correlation between both groups of indicators analysed in Chapter 7.

For example the Table 5.7 identifies indicators measuring the coherent application of CMP. In such a case the monitored technical parameters are very closely linked to FGs excepting the "Increase in available average-day & peak-period firm capacity from prior year at each IP" which can be influenced by yearly climatic conditions and the "Overall contracted capacity utilisation" which depends on market situation (sudden change in supply prices) and factors such as security of supply.

Therefore it is extremely important that at the time point of the evaluation of indicators there is a common understanding regarding the identification of the drivers. Otherwise there is a risk to focus on implementation of Network Codes provisions when ignoring structural issues (e.g. regulated energy price, ban on export...), which have a much stronger influence.

Modelling:

The report recommends that ACER acquires a market modelling tool for the purpose of the monitoring. ENTSOG experience in modelling shows that the software part is never the main issue as rightly pointed in the report. The main challenges is establishing consensus and keep up-to-date the input dataset which has a huge influence on the results. There is also a risk of over-reliance on modelling when there is only one source of information for decision-maker.

While ENTSOs have the obligation to develop a joint electricity and gas market and network model under the TEN-E Regulation and that DG ENER is developing an energy model, we consider more efficient that ACER brings its knowledge to those initiatives rather than launching a new one. It would save resources, gather skills and finally ensure that the outcomes are consistent.