Public consultation on the Capacity Allocation Mechanisms Network Code: achievements and the way forward

Fields marked with * are mandatory.

A Introduction

With gas markets being impacted by a global pandemic (2020) and a European energy crisis (2022), the resilience of the current market rules (also known as “network codes”) has been tested. Although they have ensured a proper market functioning (see ACER’s Market Monitoring Reports and Congestions Reports), lessons have yet to be learnt to further enhance market resilience.

The European gas market must also be ready to align with the latest policy and technological developments, guaranteeing the Green Deal’s decarbonisation targets can be met.

Against this background, the latest European Gas Regulatory Forum has emphasised the importance of having gas market rules which can adequately reflect this evolution, and therefore prompted for the revision of the capacity allocation mechanisms network code (CAM NC).

As part of ACER’s review of the Network Code for Capacity Allocation Mechanisms (‘CAM NC’), ACER is assessing the achievements of CAM NC and scoping the areas of improvement.

ACER invites stakeholders to actively participate in its review by providing feedback on the scoping of the areas of improvement as well as making reasoned proposals on further areas of improvements that could be considered for eventually amending the CAM NC.

The ACER CAM NC scoping document (‘scoping document’) contains ACER’s review of the market rules regulating gas transmission capacity allocation in Europe and proposes a scoping of areas of improvements based on ACER’s work on CAM. It serves as the main consultation document to which the questions in this survey refer.

Please send your response to the questions by 5 January 2024, 12:00 noon (CET).

We invite stakeholders to bring forward concrete and succinct reasonings. Overly lengthy responses may not be processed.

The survey was corrected on 17 November for missing questions.

The stakeholder responses will be published on the Agency’s website. If you include commercially sensitive information in your reply, please mark the parts of your answer that are confidential as well as provide a non-confidential version for publication purposes.

Please confirm that you have read the Data Protection Notice.
B General information

1 Name and Surname: 

2 Email

3 Company: 

4 Country:
- AT - Austria
- BE - Belgium
- BG - Bulgaria
- HR - Croatia
- CY - Cyprus
- CZ - Czechia
- DK - Denmark
- EE - Estonia
- FI - Finland
- FR - France
- DE - Germany
- EL - Greece
- HU - Hungary
- IE - Ireland
- IT - Italy
- LV - Latvia
- LT - Lithuania
- LU - Luxembourg
- MT - Malta
- NL - Netherlands
- PL - Poland
- PT - Portugal
- RO - Romania
- SK - Slovak Republic
- SI - Slovenia
- ES - Spain
- SE - Sweden

5 Please specify if other:
6 Business field:
- TSO
- DSO
- Shipper/trader
- Association
- Other

7 Please specify if other:

C Consultation documents

Download ACER's Scoping document

Download the cover note to the scoping document

The following questions are organised per chapter and article of the CAM NC, first depicting ACER's review included in the scoping document, a question on how you assess the need for a change in the article, and a question inviting you to elaborate your answer with specific elements.

D CAM NC Preamble

<table>
<thead>
<tr>
<th>Policy paper reference</th>
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</table>
| ACER Special Report on addressing congestion in North-West European gas markets | • To maximise technical capacity as well as (bundled) firm capacity (cf. p. 15-17)  
• A further strengthening of coordination between neighbouring system operators and regulatory authorities is needed, for instance, by harmonising calculation methodologies (cf. p. 16) | yes |
| N/A | Clear recital or New article on CAM principles  
• The core principles of capacity allocation mechanism must be explicitly defined in the NC. Allocation capacity mechanisms must guarantee the well-functioning of the internal market (GTM, guarantee the gas flows, not bottlenecks, bundled offer, cascading principle, market-based allocation, etc.) | yes |

8 Do you agree with ACER's review of the CAM NC Preamble and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

- Strongly agree
9 Please elaborate on why do you agree or disagree with ACER’s review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

E CAM NC, Chapter I,
General provisions (Articles 1-3)

10 Do you agree with ACER’s review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

An amendment may further improve the market functioning and better capacity allocation

- Strongly agree
- Agree
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11 Please elaborate on why do you agree or disagree with ACER’s review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?
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**CAM NC**

**Article 3 – Definitions* (1/2)**

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<tr>
<td>ACER Special Report on addressing congestion in North-West European gas markets</td>
<td>• “Introduce the concept of ‘technical capacity’, which refers to the (non-static) maximum-flow capacity at a (virtual) interconnection point considering the network that is optimised for a most likely flow scenario, as opposed to ‘firm technical capacity’, which is the capacity that can be guaranteed in all flow scenarios. Both indicators shall be reported and updated by TSOs regularly” (p. 17)</td>
<td>yes*</td>
</tr>
<tr>
<td>FUNC 01/2020 “Greater Flexibility to book firm capacity at IPs” - Issue Solution and Issue Solutions Supporting Note</td>
<td>• Realignment of auction calendar dates to span July-June</td>
<td>yes</td>
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* Alignment with definitions provided by hydrogen and decarbonised gas markets package

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**CAM NC**

**Article 3 – Definitions* (2/2)**

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| N/A | Review definition of implicit allocation (alignment with the key principles, in particular bundling) (CAM TF)  
- “Implicit allocation method” means a capacity allocation method where, possibly by means of an auction, both transmission capacity > on both sides of the border < and a corresponding quantity of gas are allocated at the same time; (Article 3(5) of CAM NC, with textual clarification) | yes |

* Alignment with definitions provided by hydrogen and decarbonised gas markets package

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14 Do you agree with ACER’s review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

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G CAM NC, Chapter III
Allocation of firm capacity products (Articles 8-18)
Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

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### Additional booking opportunities

- Any Q firm capacity available after ACAs will be auctioned in subsequent UPAs.
- Proposed regularity: weekly, on Thursdays (subject to change according to flexibility proposal).
- Once proposed via UPA, a product can no longer be proposed via ACA again (ACER and ENTSOG have diverging views on the implementation).

**Area of improvement**

- yes

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<tr>
<td>FUNC 01/2020 “Greater flexibility to book firm capacity at IPs” – Issue Solution and Issue Solutions Supporting Note</td>
<td>• Move the closing of the first WD bidding round (“WD24”) earlier in the day (11h30 D → 21h D-1 UTC winter/time)</td>
<td>yes</td>
</tr>
</tbody>
</table>

* 40 Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

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H CAM NC, Chapter IV
Bundling of capacity at interconnection points (Articles 19-21)
**Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?**

An amendment may further improve the market functioning and better capacity allocation

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**50** Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

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- Strongly agree
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**51** Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?
### CAM NC

**Article 21 – Bundling in case of existing transport contracts**

<table>
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<th>Nature of proposal in the policy paper</th>
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</thead>
<tbody>
<tr>
<td>ACER's comments on the Capacity Conversion Model created by ENTSOG pursuant to Article 21(3) of the NC CAM</td>
<td>• “ENTSOE does not provide for a harmonized conversion model. According to Article 21(3), NC CAM foresees that ENTSOG provides for a harmonized conversion model. The NC does not aim for the application of all potentially existing “conversion methods”, which are designed individually by each TSO. The NC foresees that ENTSOG will coordinate across TSOs and propose a model that fits with the general principles of the NC CAM to offer “transparent and efficient allocation of capacity.” (p. 3)”</td>
<td>maybe</td>
</tr>
<tr>
<td></td>
<td>• “The Agency recommends that the same conversion model applies at least per entry-exit zone border, should several Interconnection Points connect the respective entry-exit zones.” (p. 3)</td>
<td></td>
</tr>
</tbody>
</table>

* Hydrogen and decarbonised gas markets package might clarify it already

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**52 Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?**

An amendment may further improve the market functioning and better capacity allocation

- [ ] Strongly agree
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**I CAM NC, Chapter V**

**Incremental capacity process (Articles 22-31)**
**CAM NC**

**Article 22 – Economic test**

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<tbody>
<tr>
<td>/</td>
<td>/</td>
<td>no</td>
</tr>
<tr>
<td>N/A</td>
<td>The chapter on incremental capacity should be deleted from the NC. Triggering (cross-border) investments in light of climate neutrality objectives could be considered contradicting and experience with incremental processes in the past showed little relevance against cumbersome procedures.</td>
<td>maybe</td>
</tr>
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</table>

- Hydrogen and decarbonised gas markets package must fix legal basis
- **JUDGMENT OF THE GENERAL COURT** 16 March 2022 (T-316/16 Joined Cases T-614/19 and T-704/19)

**54 Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?**

An amendment may further improve the market functioning and better capacity allocation

- [ ] Strongly agree
- [ ] Agree
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**55 Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?**
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- Hydrogen and decarbonised gas markets package must fix legal basis
- JUDGMENT OF THE GENERAL COURT, 16 March 2022, T-604/19 and T-704/19

60. An amendment may further improve the market functioning and better capacity allocation

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| 2nd Monitoring Update on Incremental Capacity Projects - 2021 | Frequency of process  
  • “As far as the existing incremental process is concerned, the process is burdensome for TSOs and NRAs and, given the limited expectations on the future gas consumption, NRAs question whether the obligation to repeat the incremental-capacity cycle every 2 years for all gas interconnection points remains meaningful.” (p. 12)  

Administrative fees  
• “Within the current rules, NRAs may, in line with Article 26(11) of the CAM NC, approve the charging of a fee to network users that wish to express non-binding interest. Such fee shall reflect the administrative costs of the process and could help to attract more robust expressions of non-binding interest that have a better chance of being converted into binding capacity bookings or lead to a closure of the incremental process in the earliest stage of the demand assessment.” (p. 12) | maybe |

N/A | The chapter on incremental capacity should be deleted from the NC. Triggering cross-border investments in light of climate neutrality objectives could be considered contradicting and experience with incremental processes in the past showed little relevance against cumbersome procedures. | maybe |

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J CAM NC, Chapter VI
Interruptible capacity (Articles 32-36)
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- Disagree
- Strongly disagree

• 79 Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?
80 Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

81 Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?
82 Do you agree with ACER’s review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

An amendment may further improve the market functioning and better capacity allocation

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

83 Please elaborate on why do you agree or disagree with ACER’s review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

K CAM NC, Chapter VII
Capacity booking platforms (Article 37)
<table>
<thead>
<tr>
<th>Policy paper reference</th>
<th>Nature of proposal in the policy paper</th>
<th>Area of improvement</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACER Decision 10-2019 on the Selection of a Capacity Booking Platform for the Mallnow and GCP Gas Interconnection Point (Corrigendum)</td>
<td>• Review the future involvement of ACER in the selection process</td>
<td>maybe</td>
</tr>
<tr>
<td>N/A</td>
<td>Efficiency of the process • proposal: reassess/redraft the rules for deciding on an auction platform (Art. 37) to avoid repeating procedures in a relatively short timeframe (e.g. by extending the validity time of the platform decision to avoid additional red-tape or require a reassessment on a needs/request basis)</td>
<td>maybe</td>
</tr>
</tbody>
</table>

**84** Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes= amendment identified, maybe= amendment may improve market, no= no change envisioned)?

- [ ] Strongly agree
- [ ] Agree
- [ ] Neutral
- [ ] Disagree
- [ ] Strongly disagree

**85** Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

L CAM NC, Chapter VIII
Final provisions (Articles 37A-40)
86 Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

87 Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?
88 Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

An amendment may further improve the market functioning and better capacity allocation

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

89 Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?
90 This article concerns legal procedural matters; please write down any comments you may have on this article?

91 This article concerns legal procedural matters; please write down any comments you may have on this article?

### Article 39 – Repeal

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### Article 40 – Entry into force

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M Other comments or suggestions
Do you have any other comments or suggestions?

N Responses are published in full, safe for the contact person information; please confirm that your version does not contain confidential information

- 93 I understand my response will be published and
  - I confirm that my response does not contain confidential information
  - I confirm that my response contains confidential information, properly marked as such, and a non-confidential version of my answer is included

Thank you!