

## CWE Explicit Auction Rules

### Final review by Regulators

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## 1. Introduction

The present document is a common position from CWE regulators (BNetzA, CRE, CREG, ILR and NMA) regarding the CWE Auction Rules submitted by the TSOs CegeDel, Elia, EnBW TNG, transpower, RTE, RWE TSO and TenneT end July 2009.

### 1.1. National regulatory authorities' competencies

#### 1.1.1. EC law

This coordinated review of the cross-border capacity allocation rules is done according to the competencies of regulators derived from EC law.

According to Article 23(1) of Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC (hereinafter referred to as "Directive 2003/54/EC"), National Regulatory Authorities (hereinafter "NRAs") are responsible for ensuring non-discrimination, effective competition and the efficient functioning of the market, monitoring in particular the rules on the management and allocation of interconnection capacity, in conjunction with the regulatory authority or authorities of those Member States with which interconnection exists.

In addition, according to Article 9 of Regulation (EC) No 1228/2003 of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity (hereinafter referred to as "Regulation 1228/2003"), NRAs, when carrying out their responsibilities, shall ensure compliance with this Regulation and the Congestion Management Guidelines. Where appropriate to fulfil the aims of this Regulation they shall cooperate with each other and with the Commission.

Finally, point 3.2 of Commission Decision of 9 November 2006 amending the Annex to Regulation 1228/2003 on conditions for access to the network for cross-border exchanges in electricity (hereinafter referred to as "Congestion Management Guidelines") states that a common coordinated congestion management method and procedure for the allocation of capacity to the market at least yearly, monthly and day-ahead shall be applied between countries in the Central-West region (Benelux, Germany and France), and that the relevant TSOs shall propose the method which shall be subject to review by the relevant Regulatory Authorities.

#### 1.1.2. National laws

This coordinated review at the regional level represents the common view of the five national regulators involved in the region. It does not entail any approval or refusal of the cross-border allocation rules, and neither can it be used to counter or re-interpret any approval or refusal decision taken by regulators according to national law. Similarly, this coordinated review can by no means substitute any national decision taken by regulators according to national law.

The powers of the national regulators with respect to the cross-border capacity allocation rules can be summarised as follows:

**Belgium:** According to Article 180.2 and 183.2 of the Belgian Royal Decree of 19 December 2002 establishing a technical regulation for the management of and access to the electricity transmission grid, Elia has to notify congestion management methods and cross-border capacity allocation rules to CREG for approbation. Elia notified to CREG the CWE Auction Rules at the end of July 2009. CREG's formal decision was taken on 3 September 2009.

**France:** According to Article 30 of the third amendment of 30 October 2008 to the contract of 27 November 1958, giving concession to RTE EDF Transport SA of the public electricity transmission grid, consistent with the Decree n°2006-1731 of 23 December 2006 approving the standard specifications for the public electricity transmission grid concession, RTE has to submit to CRE for approval the rules for the allocation of cross-border capacities. RTE notified to CRE the CWE Auction Rules on 27 July 2009. CRE formal decision was taken on 3 September 2009.

**Netherlands:** At 19 December 2008 the NMa received a proposal of the Dutch system operators to amend the Dutch Grid Code. The proposal aims to bring the Grid Code in accordance with the draft CWE Explicit Auction Rules. The NMa plans to take a formal decision on the proposal on the 21<sup>st</sup> of September 2009.

**Germany:** According to point 1.10 of the Congestion Management Guidelines BNetzA regularly evaluates the congestion management methods. This evaluation includes also an analysis of the allocation rules. More in particular, according to § 32 Abs.1 Nr. 4 Anreizregulierungsverordnung (ARegV) and § 11 Abs. 2 S. 2 and 4 ARegV in the framework of the incentive based regulation a ruling of regulation practise is given by BNetzA including an analysis of the auction rules of the interconnectors as well.

## **1.2. History of the harmonisation process of auction rules in the Central-West region**

Harmonisation and improvements of explicit auctions in the Central-West region was the first priority topic of CWE regulators' action plan, published on 12 February 2007: *"The Regional Co-ordination Committee considers a harmonisation and improvement, among the entire Central-West region, of the rules for auctioning cross-border transmission capacity an important step towards regional market integration. The market participants stressed the importance of having firmness of capacity in order to be able to lock in the transmission price when competing across borders. They also requested for an exact and common definition of Force Majeure. An efficient and practical way to achieve harmonised auction rules could be the establishment of one single auction platform for the region."*

At this stage and up to now, the explicit auctions in the Central-West region were held under three different sets of rules:

- rules at the Dutch interconnections with Belgium and Germany (TSO auction B.V. rules),
- rules at the French-Belgian interconnection (IFB rules) and
- rules at the French-German interconnections (IFD rules).

These rules dealt with allocation of long-term capacities at all borders within CWE region, and with allocation of day-ahead capacities at the German borders with France and The Netherlands.<sup>1</sup>

Moreover, three auction platforms operated the explicit auctions for the allocation of cross-border capacities:

- the TSO auction B.V. platform on the Dutch interconnections with Belgium and Germany,
- a RTE platform on the French-Belgian interconnection and for capacities from France to Germany and
- a RWE platform for capacities from Germany to France.

Upon request of regulators, TSOs presented on 20 April 2007 the proposed main principles of the long-term explicit auction rules. However, TSOs' proposal was judged insufficient both by market parties and regulators. It was reminded that harmonising auction rules within the CWE region was important for strengthening market confidence. It was agreed that at least all topics which do not directly concern IT-systems should be fully harmonised and improved by 1 January 2008.

To accelerate proceedings, regulators proposed to circulate a document describing and comparing the general principles applied within each set of auction rules in place in the Central-West region. This document was complemented with regulators' first view on the way each item mentioned should be harmonised. A public consultation, launched in May 2007, invited stakeholders to give their opinion, for each particular item, on how these three sets of rules should be harmonised. Stakeholders were also invited to add any missing items. In addition, an ad-hoc technical workshop was organised by regulators on 22 May 2007, involving TSOs and main representatives of stakeholders, in order to discuss the way of harmonising the three sets of auction rules.

In December 2007, TSOs of the CWE region announced their agreement on establishing a joint cross-border services company, named CASC-CWE (Capacity Allocation Service Company for Central Western Europe). CASC-CWE would be a service company which, on behalf of the TSOs involved, would act as a single point to implement and operate services related to the auctioning of cross-border capacity within the CWE region.

In February 2008, TSOs of the Central-West region organised a "CWE User's Forum" with market players and regulators. TSOs aimed to introduce the CASC-CWE company, to share with users their vision on long-term auction harmonisation in the CWE region and to interact with market players on a number of points concerning the functioning of these auctions.

In June 2008, TSOs of the Central-West region proposed a single set of rules to regulators. The planning proposed by TSOs was the following:

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<sup>1</sup> Since November 2006, Belgian borders with France and The Netherlands have been managed at the day-ahead stage by implicit auctions (TriLateral Coupling).

- End of September 2008: first round of yearly auctions held by TSO auction B.V. under the TSO auction B.V. rules;
- November/December 2008: other yearly auctions held by CASC-CWE under the current rules (IFB, IFG and TSO auction B.V. rules);
- Spring 2009: application of the single set of rules and of the full functionalities of CASC-CWE.

In July 2008, regulators communicated to TSOs their observations about TSOs' proposal and asked them to reconsider their proposal taking into account these observations. In October 2008, TSOs provided some answers to regulators' observations.

All these documents were submitted to public consultation during fall 2008. After this consultation, intensive discussions were held between TSOs and regulators.

In April 2009, the TSOs presented a new version of the TSO auction rules to the regulators. The regulators carefully examined the new version of the TSO auction rules and, early May, sent their remaining questions and comments. Several discussions between TSOs and regulators were afterwards held.

Following the comments and discussions TSOs submitted a final version of the CWE Auction Rules to regulators end of July 2009. This version is the one reviewed by regulators in the present document.

### **1.3. ERGEG position on firmness of nominated capacities**

In December 2007, a dispute occurred concerning the IFD rules. Following the discussion on the German-French border, the European Commission requested ERGEG to work on the issue of firmness of capacities and find a solution that could be applied at all European interconnections.

In its position paper published in July 2008<sup>2</sup>, ERGEG concluded that exchange programmes should be firm. Apart from cases of Force Majeure, TSOs should not reduce exchange programmes: this is "physical firmness", identified by ERGEG as the preferred solution. In the absence of physical firmness, the "financial firmness" of exchange programmes must be guaranteed. This means that TSOs may reduce exchange programmes, but must compensate interconnection users so that they incur no financial loss; this means that the compensation must be based on the price differential between the energy markets across which the disadvantaged interconnection users of the planned cross-border exchange are balancing their positions. ERGEG noted that financial firmness was applicable in the context of explicit auctions, and that its feasibility in the context of implicit auctions was yet to be proven.

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See [http://www.energy-regulators.eu/portal/page/portal/EER\\_HOME/EER\\_PUBLICATIONS/CEER\\_ERGEG\\_PAPERS/Electricity/2008/E08-EFG-29-05\\_FirmnessTransmissionCapacity\\_2008-07-15.pdf](http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_ERGEG_PAPERS/Electricity/2008/E08-EFG-29-05_FirmnessTransmissionCapacity_2008-07-15.pdf).

In the CWE region, all regulators asked jointly to TSOs to comply with the position of ERGEG, thus to apply either physical or financial firmness to nominated capacities at the borders within CWE region.

## 2. Legal context for cross-border capacity allocation and utilisation

### 2.1. Directive 2003/54/EC

Article 9(e) of Directive 2003/54/EC states that TSOs have to ensure non-discrimination as between system users or classes of system users, particularly in favour of its related undertakings.

Article 20(1) of Directive 2003/54/EC particularly insists on non-discriminatory access to transmission grid, stating that Member States shall ensure the implementation of a system of third party access to the transmission and distribution systems based on published tariffs, applicable to all eligible customers and applied objectively and without discrimination between system users.

Article 20(2) of Directive 2003/54/EC provides that the TSO may refuse access where it lacks the necessary capacity.

### 2.2. Regulation 1228/2003

CWE region regulators recall that in compliance with Article 249 of the Treaty establishing the European Community, Regulation 1228/2003 has general application, is binding in its entirety and directly applicable in all Member States.

Article 5(2) of Regulation 1228/2003 states: «*The safety, operational and planning standards used by transmission system operators shall be made public. The information published shall include a general scheme for the calculation of the total transfer capacity and the transmission reliability margin based upon the electrical and physical features of the network. Such schemes shall be subject to the approval of the regulatory authorities*».

Article 6(1) states that network congestion problems shall be addressed with non-discriminatory market based solutions which give efficient economic signals to the market participants and TSOs involved. In addition, this article states that network congestion problems shall preferentially be solved with non transaction based methods, i.e. methods that do not involve a selection between the contracts of individual market participants

Article 6(2) of Regulation 1228/2003 further provides that transaction curtailment procedures shall only be used in emergency situations where the TSO must act in an expeditious manner and redispatching or countertrading is not possible, and that except in cases of 'force-majeure', market participants who have been allocated capacity shall be compensated for any curtailment.

Article 6(3) states that the maximum capacity of the interconnections and/or the transmission networks affecting cross-border flows shall be made available to market participants, complying with safety standards of secure network operation

Article 6(4) deals with the deadline for nomination and reallocation of unused capacities. It states that market participants inform the transmission system operators concerned a

reasonable time ahead of the relevant operational period whether they intend to use allocated capacity. Any allocated capacity that will not be used shall be reattributed to the market, in an open, transparent and non-discriminatory manner.

Article 6(5) of Regulation 1228/2003 provides that as far as technically possible, TSOs net the capacity requirements of any power flows in opposite direction over the congested interconnection line in order to use this line to its maximum capacity.

### **2.3. Congestion Management Guidelines**

The Commission Decision of 9 November 2006, taken in application of Article 8(4) of Regulation 1228/2003, replaced the Annex of Regulation 1228/2003. It came into force on 1 December 2006 and it has established new guidelines on the management and allocation of available transfer capacity of interconnections between national systems.

The main provisions of the Congestion Management Guidelines, relevant for the present review, are quoted in Annex A.

## **3. CWE Regulators' position**

### **3.1. Review of the main features of TSOs' proposal**

Regulators welcome the considerable efforts done by TSOs for harmonising auction rules within the CWE region from the three different sets of rules currently in force, as mentioned in part 1.2 of the present document.

The main new features of the harmonised auction rules, compared with the three former sets of rules, are:

- Single interface: the three former interfaces for the allocation of capacities and related services is replaced by a single interface for all borders within the region;
- Implementation of use-it-or-sell-it (UIOSI) at the time of nomination: Long-term capacity which is not nominated is automatically sold through daily (implicit or explicit) auctions. This mechanism allows for using long-term capacities as financial hedging instruments;
- Liability: CASC bears a contractual liability towards the participants, whereas TSOs can only be held liable in tort towards the participants. Even in the case of gross negligence, the liability both contractual and in tort of parties towards each other is limited to direct damages only, as well as the TSOs liability in tort. Except in cases of gross negligence, the liability of a party both contractual and in tort, or of a TSO in tort, is limited to € 250.000 per Party per incident. Without prejudice to the maximum of € 250.000 per Party per incident, in case several participants claim to have suffered damages due to the same incident, a TSO's or CASC's liability is limited to € 2.500.000. These provisions do not apply to the cancellation of an auction after the end of the deadlines for contestation and to the reduction in held capacities or in exchange programmes.

- Firmness of nominated capacities: At the Dutch-German border in both directions, and at the French-German border in the direction Germany to France, exchange programmes (i.e. nominated capacities) may be reduced by the TSOs not only in case of Force Majeure but also for “reasons linked to the safety of the power system”. In such cases, compensation for participants whose exchange programs have been reduced is determined by the price spread of the relevant day-ahead, intraday or balancing markets (depending on the time when reduction was announced), thus providing financial firmness of nominated capacities since the cap on the compensation will be deleted before the go-live of the CWE rules.
- Financial guarantees: The bank guarantee is replaced by a business account credited with the amounts necessary for each auction (except for the annual auction, for which market participants have to provide only 1/6th of the amount before the auction);
- Harmonisation of the definition of Force Majeure;
- Harmonisation and clarification of the conditions for suspending or withdrawing the entitlement of a participant;
- Clarification of compensation scheme for resale of PTRs that are curtailed or that can not be operated because of the cancellation of the auction;
- Pro rata applied for yearly and monthly allocated capacities in case of curtailments;
- Transfers and resales free of charge;
- Possibility to cancel transfers and resales;
- Publication of aggregated bid curves;
- Clearer separation between allocation rules and nomination contracts;
- Number of bids per participant limited to 20 instead of 10.

### **3.2. Opinion of CWE Regulators on TSOs’ proposal**

CWE regulators welcome TSOs’ proposal for CWE Auction Rules.

In particular, regarding the two main subjects which were intensively discussed with TSOs, regulators have the following observations:

- Regarding the liabilities of TSOs and CASC, regulators take note that it is clearly indicated in TSOs’ proposal for CWE Auction Rules that the Joint Auction Office acts on behalf of the TSOs and that the latter remains liable in tort towards the participants, whereas CASC bears a contractual liability. Concerning the limitation of liability, regulators appreciate that:
  - o The limitation of liability does not apply to the cancellation of an auction after the end of the deadlines for contestation and to the reduction in held capacities or in exchange programmes, which are the main damages that a participant can suffer.

- The limitation of liability is reciprocal between all parties: market participants, TSOs, CASC.
- The limitation of liability excludes cases of gross negligence, properly defined in the CWE Auction Rules as an act or omission in disregard of due care to a severe degree. In such cases, the liability remains limited to direct damages only but is not capped.
- Regarding the firmness of nominated capacities at German borders: an agreement was reached this summer to implement financial firmness without cap on the compensation. Regulators appreciate that TSOs' proposal for CWE Auction Rules is compliant with ERGEG position referred to in section 1.3, since financial firmness of nominated capacities, in the framework of explicit auctions, is considered acceptable by ERGEG. However, regulators note that according to the Dutch Grid Code (Article 5.6.11.7), it is not allowed to change nominated capacities at Dutch borders. This applies to the Dutch TSO as well as to market participants and essentially means that nominated capacities are physically firm. So the scheme on financial compensation in the event of reduction of exchange programmes has no relevance for the Dutch side of the German-Dutch border.

However, regulators request the following modification in TSOs' proposal before its implementation:

- In Article 4.01c, the deletion of the cap on the financial amount available for compensation.
- In Article 2.02, the address where CASC is located should be indicated. Indeed, in Article 5.08, the Commercial Court in whose jurisdiction the Joint Auction Office is domiciled is mentioned, but the address of CASC is indicated nowhere in the rules.

### **3.3. Items that need improvements or further discussions**

Forthcoming discussions regarding the CWE Auction Rules at the regional level after the implementation of the currently proposed set of harmonised Auction rules will include in particular:

- *Improvements of the features of the secondary market:* Transfers of long-term capacity rights are merely done by capacity holders in the region, although market participants claim their need for such mechanism. Regulators invite TSOs and CASC to improve the functioning of the transfer mechanism in order to satisfy market participants' needs and to improve the efficiency of the capacity market. A possible improvement would be the creation of a dedicated platform allowing for transfers of capacity rights.
- *CWE Auction rules revision modalities:* Regulators invite TSOs to determine clear, precise and public modalities for each revision of the CWE Auction Rules. Such modalities should include consultation of market participants at a regional level and a report towards regulators on the results of the consultation.

At specific borders within the CWE region, the following improvements are requested jointly by the Regulators:

- *Compensation for curtailments of allocated capacities at the Belgian-French border:* As already communicated to Elia and RTE, CREG and CRE reiterate their request for a compensation scheme for curtailments of allocated capacities based on the market spread between Belgian and French markets. Such compensation scheme should be implemented in the next version of the Rules, foreseen for the 1<sup>st</sup> of April 2010 at the latest.
- *Compensation for curtailments of allocated capacities at the Belgian-Dutch border:* NMA and CREG consider a similar request concerning the Belgian-Dutch border.

## Annex on relevant legal framework from the Congestion management guidelines

### “1. GENERAL PROVISIONS

[...]

1.7. When defining appropriate network areas in and between which congestion management is to apply, TSOs shall be guided by the principles of cost-effectiveness and minimisation of negative impacts on the Internal Electricity Market. Specifically, TSOs may not limit interconnection capacity in order to solve congestion inside their own control area, except for the above mentioned reasons and reasons of operational security [1]. If such a situation occurs, this shall be described and transparently presented to all the users by the TSOs. Such a situation may be tolerated only until a long-term solution is found. The methodology and projects for achieving the long-term solution shall be described and transparently presented to all the users by the TSOs.

[...]

1.10. The national Regulatory Authorities shall regularly evaluate the congestion management methods, paying particular attention to compliance with the principles and rules established in the present Regulation and Guidelines and with the terms and conditions set by the Regulatory Authorities themselves under these principles and rules. Such evaluation shall include consultation of all market players and dedicated studies.

### 2. CONGESTION MANAGEMENT METHODS

2.1. Congestion management methods shall be market-based in order to facilitate efficient cross-border trade. For this purpose, capacity shall be allocated only by means of explicit (capacity) or implicit (capacity and energy) auctions. Both methods may coexist on the same interconnection. For intra-day trade continuous trading may be used.

2.2. Depending on competition conditions, the congestion management mechanisms may need to allow for both long- and short-term transmission capacity allocation.

2.3. Each capacity allocation procedure shall allocate a prescribed fraction of the available interconnection capacity plus any remaining capacity not previously allocated and any capacity released by capacity holders from previous allocations.

2.4. TSOs shall optimise the degree to which capacity is firm, taking into account the obligations and rights of the TSOs involved and the obligations and rights of market participants, in order to facilitate effective and efficient competition. A reasonable fraction of capacity may be offered to the market at a reduced degree of firmness, but the exact conditions for transport over cross-border lines shall at all times be made known to market participants.

2.5. The access rights for long- and medium-term allocations shall be firm transmission capacity rights. They shall be subject to the use-it-or-lose-it or use-it-or-sell-it principles at the time of nomination.

2.6. TSOs shall define an appropriate structure for the allocation of capacity between different timeframes. This may include an option for reserving a minimum percentage of interconnection capacity for daily or intra-daily allocation. This allocation structure shall be subject to review by the respective Regulatory Authorities. In drawing up their proposals, the TSOs shall take into account:

(a) the characteristics of the markets,

(b) the operational conditions, such as the implications of netting firmly declared schedules,

(c) the level of harmonisation of the percentages and timeframes adopted for the different capacity allocation mechanisms in place.

2.7 Capacity allocation may not discriminate between market participants that wish to use their rights to make use of bilateral supply contracts or to bid into power exchanges. The highest value bids, whether implicit or explicit in a given timeframe, shall be successful.

[...]

2.10. *In principle, all potential market participants shall be permitted to participate in the allocation process without restriction. To avoid creating or aggravating problems related to the potential use of dominant position of any market player, the relevant Regulatory and/or Competition Authorities, where appropriate, may impose restrictions in general or on an individual company on account of market dominance.*

2.11. *Market participants shall firmly nominate their use of the capacity to the TSOs by a defined deadline for each timeframe. The deadline shall be set such that TSOs are able to reassign unused capacity for reallocation in the next relevant timeframe – including intra-day sessions.*

2.12. *Capacity shall be freely tradable on a secondary basis, provided that the TSO is informed sufficiently in advance. Where a TSO refuses any secondary trade (transaction), this must be clearly and transparently communicated and explained to all the market participants by that TSO and notified to the Regulatory Authority.*

2.13. *The financial consequences of failure to honour obligations associated with the allocation of capacity shall be attributed to those who are responsible for such a failure. Where market participants fail to use the capacity that they have committed to use, or, in the case of explicitly auctioned capacity, fail to trade on a secondary basis or give the capacity back in due time, they shall lose the rights to such capacity and pay a cost-reflective charge. Any cost-reflective charges for the non-use of capacity shall be justified and proportionate. Likewise, if a TSO does not fulfil its obligation, it shall be liable to compensate the market participant for the loss of capacity rights. No consequential losses shall be taken into account for this purpose. The key concepts and methods for the determination of liabilities that accrue upon failure to honour obligations shall be set out in advance in respect of the financial consequences, and shall be subject to review by the relevant national Regulatory Authority or Authorities.*

[...]

### 3. COORDINATION

[...]

3.2. *A common coordinated congestion management method and procedure for the allocation of capacity to the market at least yearly, monthly and day-ahead shall be applied by not later than 1 January 2007 between countries in the following regions:*

- (a) *Northern Europe (i.e. Denmark, Sweden, Finland, Germany and Poland),*
- (b) *North-West Europe (i.e. Benelux, Germany and France),*
- (c) *Italy (i.e. Italy, France, Germany, Austria, Slovenia and Greece),*
- (d) *Central Eastern Europe (i.e. Germany, Poland, Czech Republic, Slovakia, Hungary, Austria and Slovenia),*
- (e) *South-West Europe (i.e. Spain, Portugal and France),*
- (f) *UK, Ireland and France,*
- (g) *Baltic states (i.e. Estonia, Latvia and Lithuania).*

*At an interconnection involving countries belonging to more than one region, the congestion management method applied may differ in order to ensure the compatibility with the methods applied in the other regions to which these countries belong. In this case, the relevant TSOs shall propose the method which shall be subject to review by the relevant Regulatory Authorities.*

[...]

3.4 *Compatible congestion management procedures shall be defined in all these seven regions with a view to forming a truly integrated Internal Electricity Market. Market parties shall not be confronted with incompatible regional systems.*

3.5 *With a view to promoting fair and efficient competition and cross-border trade, coordination between TSOs within the regions set out in 3.2. above shall include all the steps from capacity calculation and optimisation of*

allocation to secure operation of the network, with clear assignments of responsibility. Such coordination shall include, in particular:

- (a) Use of a common transmission model dealing efficiently with interdependent physical loop-flows and having regard to discrepancies between physical and commercial flows,
- (b) Allocation and nomination of capacity to deal efficiently with interdependent physical loop-flows,
- (c) Identical obligations on capacity holders to provide information on their intended use of the capacity, i.e. nomination of capacity (for explicit auctions),
- (d) Identical timeframes and closing times,
- (e) Identical structure for the allocation of capacity among different timeframes (e.g. 1 day, 3 hours, 1 week, etc.) and in terms of blocks of capacity sold (amount of power in MW, MWh, etc.),
- (f) Consistent contractual framework with market participants,
- (g) Verification of flows to comply with the network security requirements for operational planning and for real-time operation,
- (h) Accounting and settlement of congestion management actions.

[...]

#### 4. TIMETABLE FOR MARKET OPERATIONS

4.1. The allocation of the available transmission capacity shall take place sufficiently in advance. Prior to each allocation, the involved TSOs shall jointly publish the capacity to be allocated, taking into account where appropriate the capacity released from any firm transmission rights and, where relevant, associated netted nominations, along with any time periods during which the capacity will be reduced or not available (for the purpose of maintenance, for example).

4.2. Having full regard to network security, the nomination of transmission rights shall take place sufficiently in advance, before the day-ahead sessions of all the relevant organised markets and before the publication of the capacity to be allocated under the day-ahead or intra-day allocation mechanism. Nominations of transmission rights in the opposite direction shall be netted in order to make efficient use of the interconnection.

[...]

#### 5. TRANSPARENCY

5.1. TSOs shall publish all relevant data related to network availability, network access and network use, including a report on where and why congestion exists, the methods applied for managing the congestion and the plans for its future management.

5.2 TSOs shall publish a general description of the congestion management method applied under different circumstances for maximising the capacity available to the market, and a general scheme for the calculation of the interconnection capacity for the different timeframes, based upon the electrical and physical realities of the network. Such a scheme shall be subject to review by the Regulatory Authorities of the Member States concerned. 5.3. The congestion management and capacity allocation procedures in use, together with the times and procedures for applying for capacity, a description of the products offered and the obligations and rights of both the TSOs and the party obtaining the capacity, including the liabilities that accrue upon failure to honour obligations, shall be described in detail and made transparently available to all potential network users by TSOs.

[...]

5.5. TSOs shall publish all relevant data concerning cross-border trade on the basis of the best possible forecast. In order to fulfil this obligation the market participants concerned shall provide the TSOs with the relevant data. The way in which such information is published shall be subject to review by Regulatory Authorities. TSOs shall publish at least:

- (a) annually: information on the long-term evolution of the transmission infrastructure and its impact on cross-border transmission capacity;
- (b) monthly: month- and year-ahead forecasts of the transmission capacity available to the market, taking into account all relevant information available to the TSO at the time of the forecast calculation (e.g. impact of

summer and winter seasons on the capacity of lines, maintenance on the grid, availability of production units, etc.);

(c) weekly: week-ahead forecasts of the transmission capacity available to the market, taking into account all relevant information available to the TSOs at the time of calculation of the forecast, such as the weather forecast, planned maintenance works of the grid, availability of production units, etc.;

(d) daily: day-ahead and intra-day transmission capacity available to the market for each market time unit, taking into account all netted day-ahead nominations, day-ahead production schedules, demand forecasts and planned maintenance works of the grid;

(e) total capacity already allocated, by market time unit, and all relevant conditions under which this capacity may be used (e.g. auction clearing price, obligations on how to use the capacity, etc.), so as to identify any remaining capacity;

(f) allocated capacity as soon as possible after each allocation, as well as an indication of prices paid;

(g) total capacity used, by market time unit, immediately after nomination;

(h) as closely as possible to real time: aggregated realised commercial and physical flows, by market time unit, including a description of the effects of any corrective actions taken by the TSOs (such as curtailment) for solving network or system problems;

(i) ex-ante information on planned outages and ex-post information for the previous day on planned and unplanned outages of generation units larger than 100 MW.

5.6. All relevant information shall be available for the market in due time for the negotiation of all transactions (such as the time of negotiation of annual supply contracts for industrial customers or the time when bids have to be sent into organised markets).

5.7. The TSO shall publish the relevant information on forecast demand and on generation according to the timeframes referred to in 5.5 and 5.6. The TSO shall also publish the relevant information necessary for the cross-border balancing market.

5.8. When forecasts are published, the ex post realised values for the forecast information shall also be published in the time period following that to which the forecast applies or at the latest on the following day (D+1).

5.9. All information published by the TSOs shall be made freely available in an easily accessible form. All data shall also be accessible through adequate and standardised means of information exchange, to be defined in close cooperation with market parties. The data shall include information on past time periods with a minimum of two years, so that new market entrants may also have access to such data.

[...]"

## 6. USE OF CONGESTION INCOME

[...]

6.3 The congestion income shall be shared among the TSOs involved according to criteria agreed between the TSOs involved and reviewed by the respective Regulatory Authorities.

[...]"