

Comments on ACER Guidance & ENTSOG Project Plan (Remarks for ENTSOG Incremental Proposal Kick-off Meeting)

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Russia-EU Informal Consultations on 3rd EU Energy Package**

**(Based on joint presentation to 8th GAC Meeting (Moscow,
19.11. 2013) of Walter Boltz & Andrey A. Konoplyanik,
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Russia-EU informal debate on COS (Background)

- **(Since Jan'2010)** *Russia-EU informal expert Consultations on 3rd EU Energy Package*, joined **(since Nov'2011)** with *Russia-EU Gas Advisory Council (GAC) Workstream 2 "Internal Market"* => **Coordinated Open Season (COS)** proposal, initially as universal procedure (based on market test) both for allocation of existing & dev't of Incremental & New Capacity
- Resulted in discussion on CEER/ACER work on Incremental Capacity since beginning 2013: **Incremental vs New & COS for New Capacity**
- Key question raised in this respect: what regulatory procedures are needed to develop **New** capacity (especially if originated from non-EU) **without** exemption from the 3rd EU Package if the market requires it:
 - **3rd Gas Directive, Art 13.2:** "Each transmission system operator **shall** build sufficient cross-border capacity to integrate European transmission infrastructure accommodating **all economically reasonable and technically feasible demands for capacity** and taking into account security of gas supply".
- **7th GAC Meeting (June'2013):** Decision to examine this question through a case study by small WG



Rationale & background for GAC Case Study on COS

- June'2012 (4th WS2 GAC meeting, Moscow): joint paper “Draft proposal on the procedure to meet market demand for gas transportation capacity based on EU-wide coordinated ‘Open Seasons’” (for GAC July meeting)
- Joint agreement: rules in Network Code CAM insufficient to accommodate large new pipeline projects =>
- GAC Established Case Study Task Force(EC, ENTSOG, CEER/ACER, RF/Gazprom Group repr's) to run test on what is needed for COS & in which way (based on earlier Consultations/WS2 joint results) => GOAL:
 - To develop jointly option/procedure best effective for **New** capacity (incl. of cross-border EU/non-EU character) => GAC as best effective format for this
 - Timely provision of Case Study results to ACER => to contribute to ongoing CAM NC amendment process



What done so far by Case Study Task Force (CSTF)

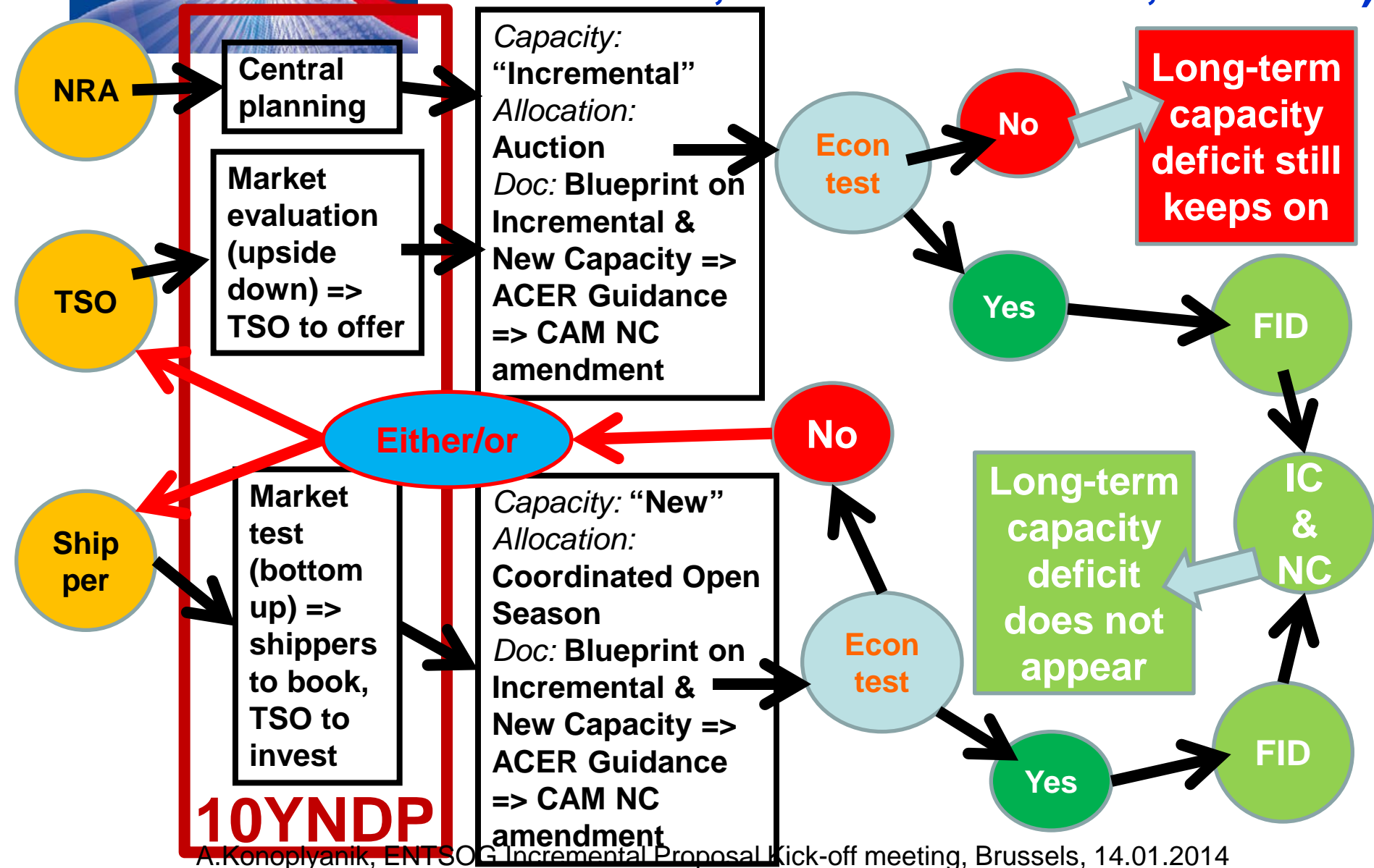
- 5 Telcos & 3 Workshops dedicated to Case Study (June-Oct'2013)
- Production of '**New Capacity Case Study – Open Season Procedure Strawman**' Paper (early Sept.);
- GAC WS2 meeting, SPB 10.09.13: Full-day discussion of key COS issues; preparation of RF/Gazprom input to ACER public consultation on Incremental (*and New*) Capacity/amendment CAM NC (*CEER Blueprint* amendment proposals)
- Updated Strawman Paper "**CEER Blueprint on Incremental and New Capacity: Proposal for Open Season Procedure**" sent to ACER 17.09 (also to be available from ENTSOG) => Discussion of first EU feedback (ACER Telco 07.11)
- ACER Guidance to ENTSOG (29.11) => not all proposals from Task Force are yet taken into consideration => to continue joint work with ENTSOG on New Capacity



Overview 'COS-Strawman' Paper

- Outlines proposal for COS procedure to enable **new** capacity demanded by the shipper across a chain of several E/E zones
- Describes 5 phases until final investment decision
 - Phase 1: identification of need for new capacity (*market test*)
 - Phase 2: preliminary open season phase (*market test*)
 - Phase 3: initial project scoping phase (*economic test*)
 - Phase 4: final open season phase (*economic test*)
 - Phase 5: final investment decision

How CAM NC and COS procedure can finally come together (based on joint presentation at 18th WS2, 10.09.13 / 8th GAC, 19.11.13)





Some key issues resulted from CSTF work (based on ist summary at WS2, 10.09.13 / 8th GAC, 19.11.13)

- 1 CAM NC auction for incremental vs. open season for new capacity
- 2 Shipper's NPV and/or other criteria in economic test
- 3 Up/down-sizing of project design – producer limitations
- 4 Capacity mismatch of two types (at individual IPs & between IPs through the route) & TSO's cross-border coordination
- 5 F-factor (cost coverage, socialization of costs, who decide, financeability)
- 6 10% quota regarding new capacity for future short-term trade (acc. to CAM NC approach) & its influence of financeability
- 7 Project promoter participation in financing & project management support (implementation of ownership unbundling principle); possibility for newly established (incl. cross-border) ITSO & its relations with companies affiliated with shippers prior to start of operation of new built capacity
- 8 Cross-border issues (coordination between corresponding TSOs at IPs through the route from zone to zone)/Coordinated Open Seasons
- 9 **Tariff issues for new capacity & financeability (floating tariffs vs their predictability, possibility for tariff ring-fencing through pay-back period)**



CAM NC amendment & draft NC HTTS: possible approach re New Capacity - correlation between two NCs (*)

	Existing Capacity	Incremental Capacity	New Capacity
Capacity allocation mechanism (<i>CAM NC + amendment</i>)	Auction	Auction	Coordinated Open Season
Tariff methodology (<i>draft NC HTTS</i>)	System-based	System-based	Project-based (project ring-fencing through pay-back period ?)

(*) CAM NC = Capacity Allocation Mechanism Network Code; NC HTTS = Draft Network Code on Harmonised Transmission Tariff Structures



ACER Guidelines for ENTSOG: key points raised by RF side in Telco 07.11 & are they clarified in final ACER paper? (1)

- 1) Distinction: market test vs economic test (p.2) => **NOT YET**
- 2) “Predefined level of binding network user commitments necessary to justify investment from financial perspective” (p.2, also 6) below): who to decide on financeability: market players or regulators? => **NOT YET**
- 3) Economic viability vs efficiency of execution of investment within regulatory regime (p.2) => **NOT YET**
- 4) Identification by ENTSOG of “physical capacity gap in... a reasonable peak demand scenario” in TYNDP (p.3) => **NOT YET**
- 5) “A failure to test market demand for incremental or new *capacity* (BCM = volume) ...is deemed to be in breach of TSO’s obligation to assess market demand for *investment* (CAPEX = value)” (p.4) => **NOT YET**
- 6) Approval by the NRA - *before an offer of IC or NC for binding commitment* - of the level of network users commitment that should be necessary to enable investment from economic perspective (p.5) (*F-factor: decision by NRA or by market participants: TSOs, shippers & financiers?*) => **NOT YET**



ACER Guidelines for ENTSOG: key points raised by RF side in Telco 07.11 & are they clarified in final ACER paper? (2)

7) Reference to applicable tariffs & methodology published by TSO (p.5,6) (*but financeability at risk if economic difference is not considered: system-based vs project-based tariffs, see above*) => **NOT YET**

8) “ENTSOG is requested to develop... amendment to CAM NC ...keeping the integrity of the ascending clock algorithm” both for incremental & new capacity (p.5) (*but: non-financeable for new capacity, contradicts to COS*) => **NOT YET**

9) Willingness-to-pay (p.5 + twice on p.6) (*vs readiness-to-pay: RTP = WTP X regulatory-created risk*) => **NOT YET**

10) Decision to use OS is subject to NRA approval (p.6 – twice: on criteria & on terms & design) (*means: market participants takes investment risk vs NRA takes decision?*) => **NOT YET**

11) “Capacity set aside for short term allocation” (p.7) (*short-term quota discriminates project promoters & destipulates financeability*) => **NOT YET**

12) (*To add section (g) on financeability requirements ?*) => **NOT YET**



Proposal for Further Joint Actions

- WS2 Co-Chairs working proposal for further actions: to concentrate on Case Study/CAM NC amendment (COS/New Capacity still open issues) => Case Study Task Force to be continued:
 - Workshop on **financeability** (NPV-test, WTP vs RTP, F-factor, system-based vs project-based tariffs, non-discriminatory booking of existing vs new capacity, etc.)
 - Workshop on **TSO cross-border coordination** (ITSO, ring-fencing of cross-border ITSO, ITSO vs project promoters/shippers, prevention of 2 types contractual mismatches, etc.)
- To organise joint workshops WS2-ENTSOG on above-mentioned open issues of NEW capacity to listen to voice of producers-suppliers to EU (incl. from non-EU)

Thank you for your attention

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