



# **Третий энергопакет ЕС и формирование новых газотранспортных мощностей**

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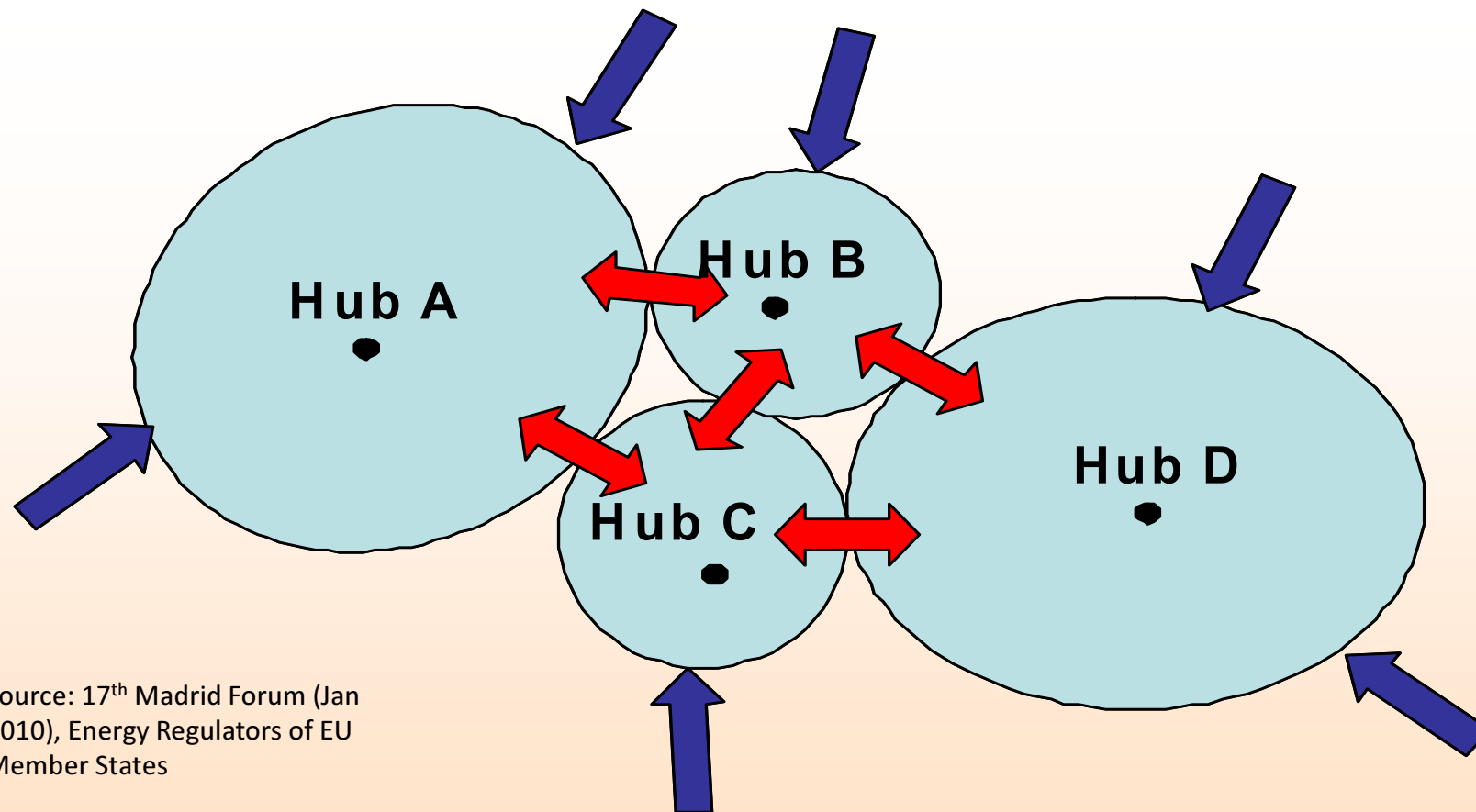
# **Third EU Energy Package & development of new gas transportation capacities**

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IX International Conference “**Russia-EU Energy Dialogue: Gas Aspect**”,  
Round Table 2 “Legal background of the EU gas market”,  
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# EU internal gas market architecture according to Third EU Energy Package (entry-exit zones with virtual trading points/hubs)



Source: 17<sup>th</sup> Madrid Forum (Jan 2010), Energy Regulators of EU Member States

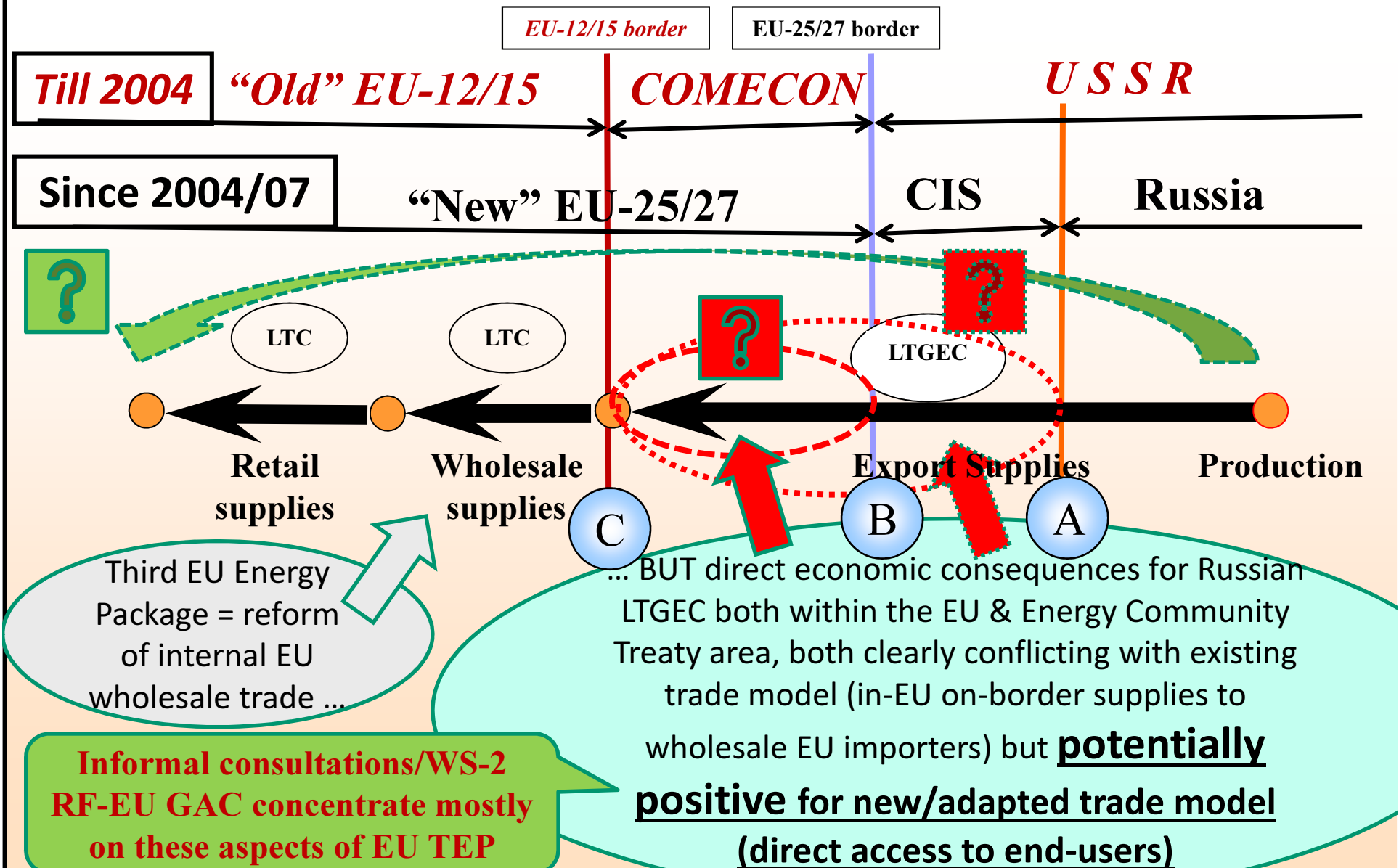


Pipelines-interconnectors between EU zones



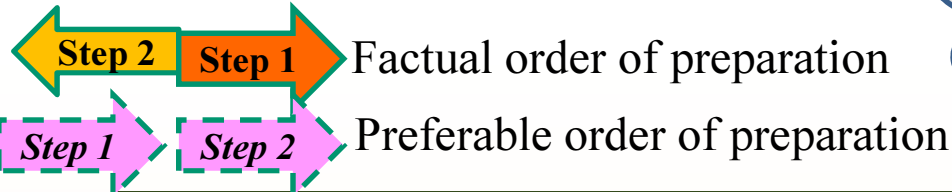
Supplies to the EU from non-EU

# Third EU Energy Package affects Russia-EU Gas supply chain: how to materialize potential benefits



# Third EU Energy Package in gas: development

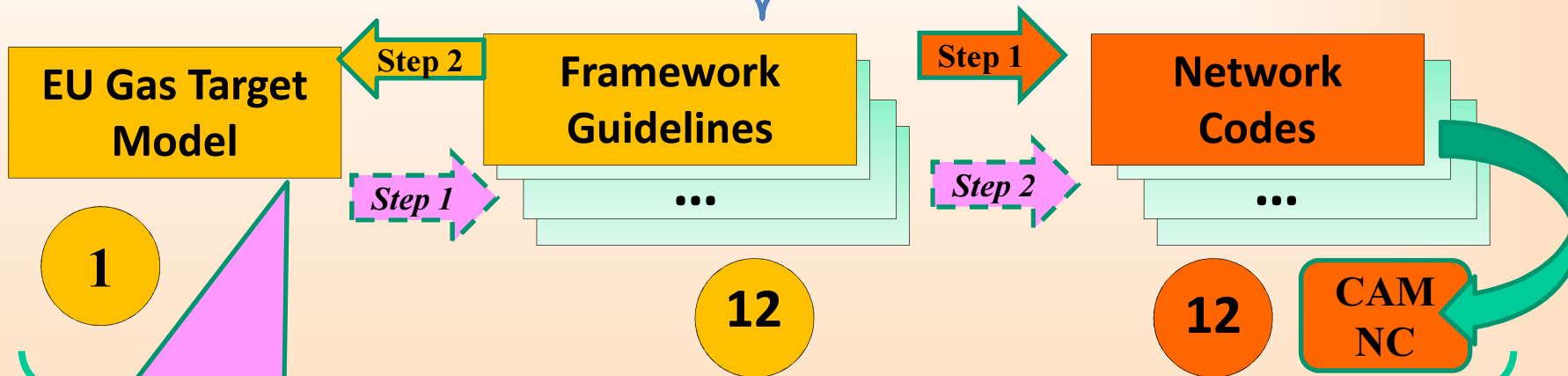
Announced Sept.2007, entered into force 03.09.2009, was to be transposed into national laws by 03.03.2011; as of today most of (not all) EU MS has transposed...



3<sup>rd</sup> EU Gas Directive 73/EC/09 (on common rules in gas)

Regulation 713/2009  
(ACER)

Regulation 715/2009  
(access to natural gas networks)



GTM preparation was initiated, inter alia, at first round of informal Russia-EU expert consultations on EUTEF (Jan'2010)

Work in progress – to be finished by end-2014? Still window of opportunities!!! Incl. for RE-EU energy cooperation!!!



## What is fundamental fault of current “default mechanism” in draft Busn. Rules for creation of new capacity

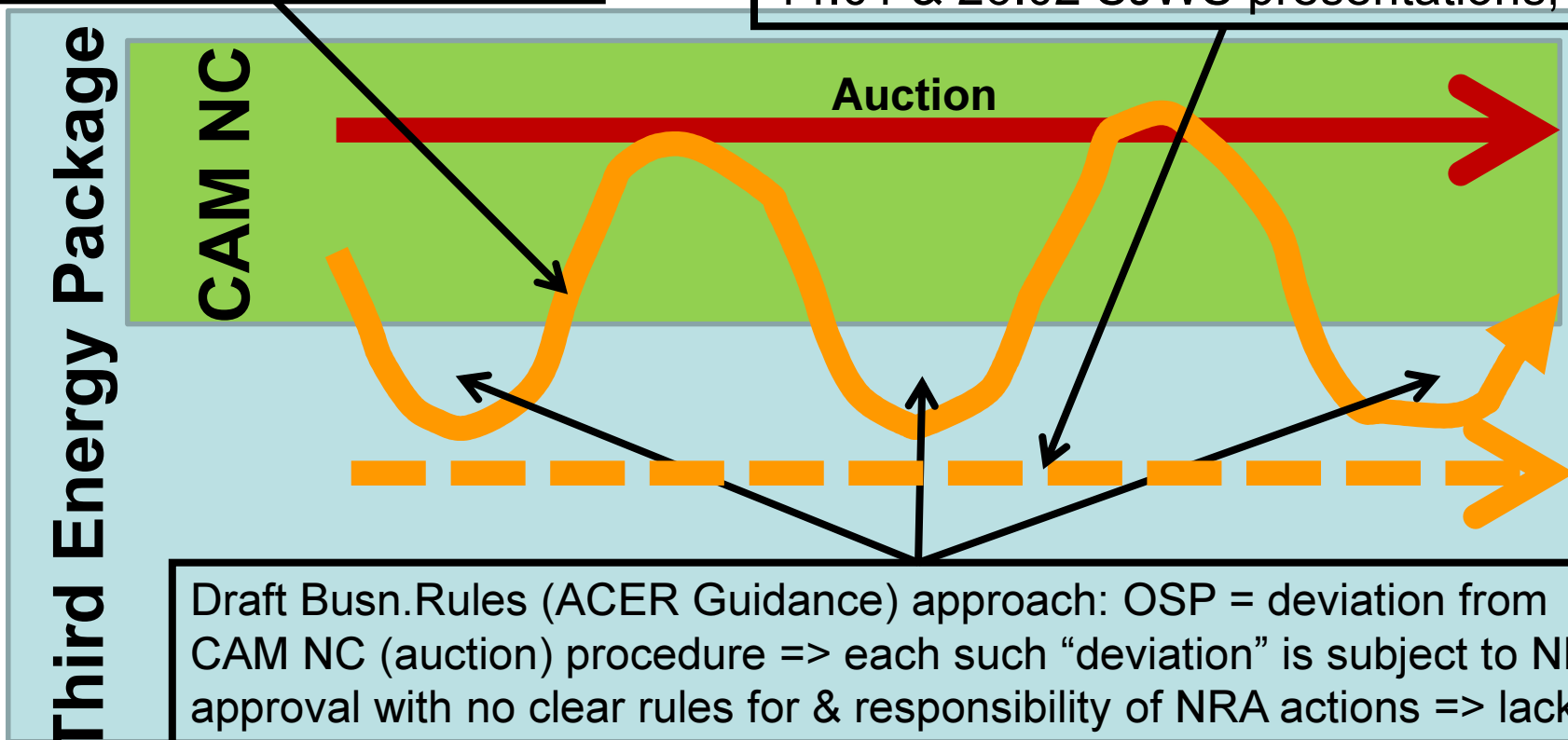
- “Auctions are the default mechanism for the allocation of incremental/new capacity” (Business Rules, art.III.1.5), but:
  - Incremental/new capacity = yet non-existing capacity,
  - To allocate non-existing capacity you should first create it, but CAM NC deals with existing capacity only => implementation of CAM NC rules to new capacity is economically incorrect in principle
  - To allocate (**trade**) existing capacity and to create (**invest** in development of) not yet existing capacity is not the same => **trade & investment** are NOT synonyms, but different types of economic activity => their mixture seems to be a systemic long-term default in EU (energy) legislation (the reason for Art.21/36 in 2<sup>nd</sup>/3<sup>rd</sup> Directives)
  - ACER intention to put “investment” into Procrustean bed of “trade” is counterproductive since considers the first just as occasional (from time to time) deviation from the latter => procedural faults in ACER Guidance reproduced in ENTSOG Busn.Rules, at least for new cap.



# Procedural risks & uncertainties of OSP in current draft Busn.Rules – results of wrong ACER concept

OSP (in its current vision by ACER => ENTSOG)

OSP (in Strawman proposal/17.09.2013; 14.01 & 26.02 SJWS presentations, etc.)



Draft Busn.Rules (ACER Guidance) approach: OSP = deviation from CAM NC (auction) procedure => each such “deviation” is subject to NRA approval with no clear rules for & responsibility of NRA actions => lack of transparency, perceived risks, seems as if OSP = exemptions route





## Creating new capacity in unbundled gas market: how “to minimize investment risks & uncertainties to tolerable level” (P.Lowe / GAC) for all parties in gas supply chain

|   | Bundled gas market  | Unbundled gas market  |
|---|---|---|
| Pricing mechanism                       | (1) Cost-plus, (2) Net-back replacement value                                       | (1) Net back replacement value (price indexation), (2) Spot/futures pricing   |
| Who takes investment risk               | End-users   | Shippers & TSOs   |
| Who manage capacity & commodity markets | VIC = in one face producer & supplier (commodity) & TSO (capacity)                  | Producers & traders (commodity) & TSO (capacity) => different parties in term commodity & capacity contracts                                |
| Comparative value of investment risks   | Bundling minimizes invest. risks in creating new capacity (no contractual mismatch) | Unbundling objectively (by definition) increases invest. risks due to potential mismanagement of two markets (risk of contractual mismatch) |

**Economic background of RF position & proposal: cross-border project-based ring-fencing, etc.**

**Demand for TSO coordination => cooperation => JV (between/within IPs) to provide for financeability of creation of new capacity**



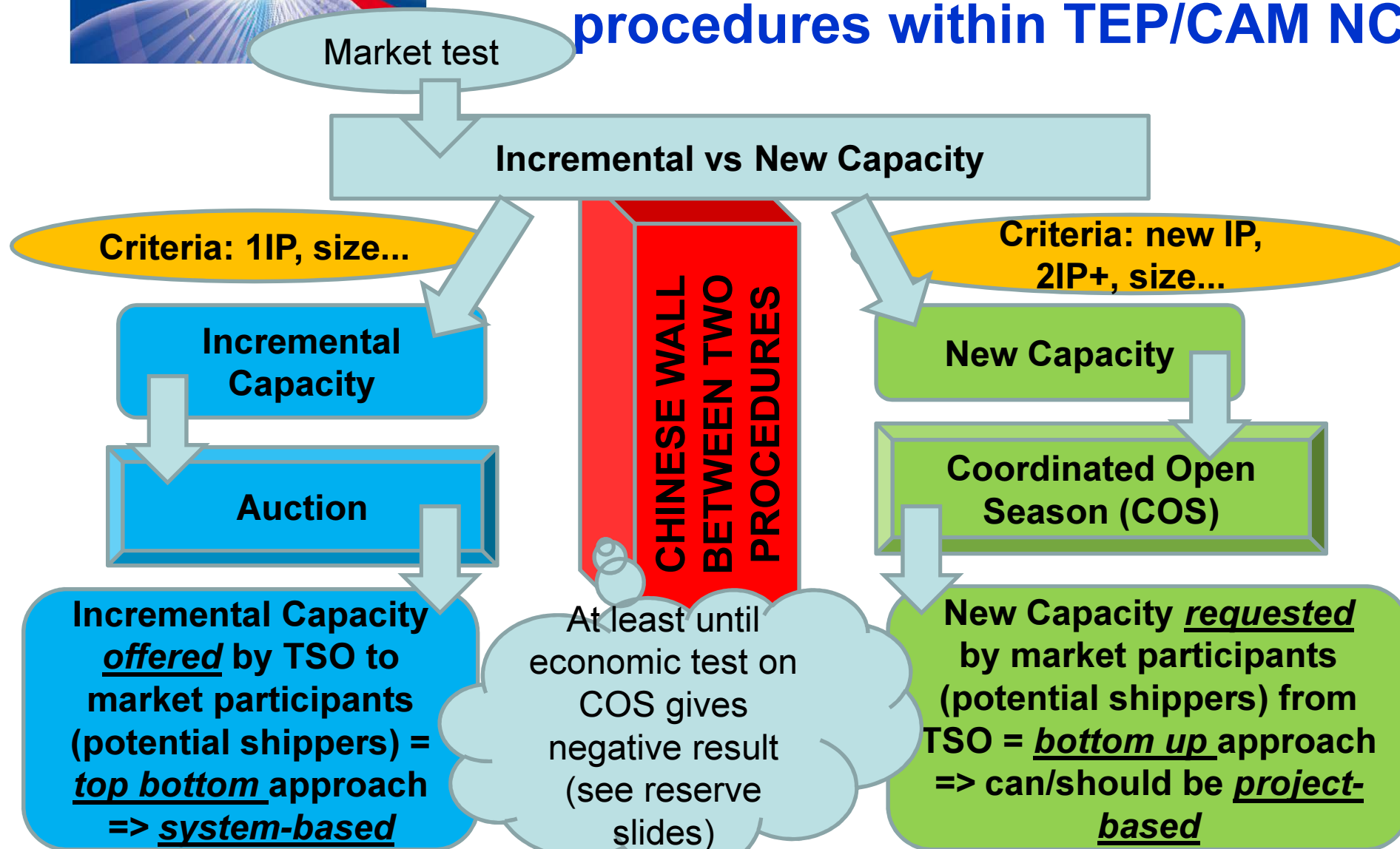
## Incremental Proposal & New Capacity: proposed correlation between CAM NC & NC HTTS

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

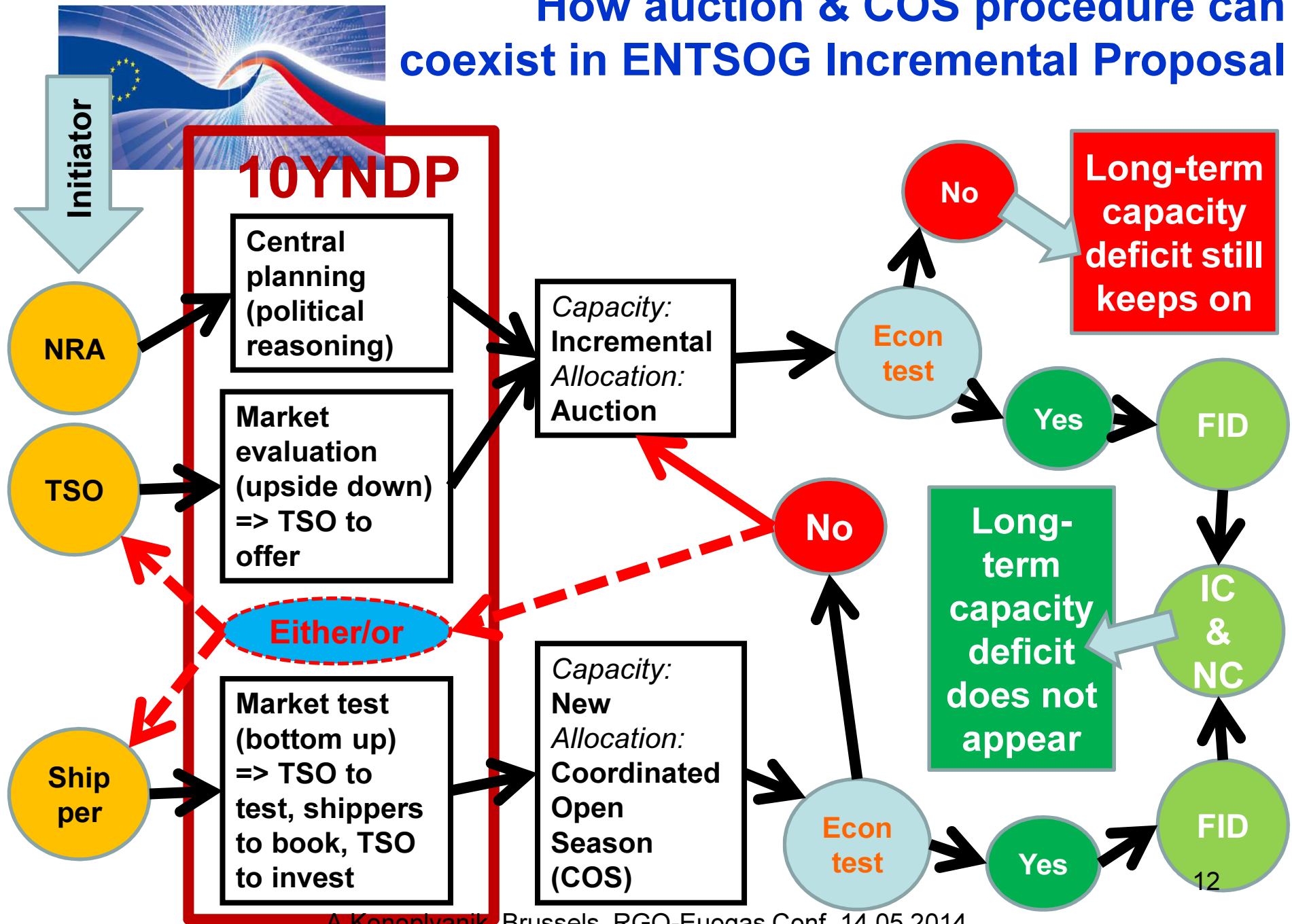
(\*) CAM NC = Capacity Allocation Mechanism Network Code; NC HTTS = Draft Network Code on Harmonised Transmission Tariff Structures



# Auction & Open Season are *two different economic models* => separate procedures within TEP/CAM NC

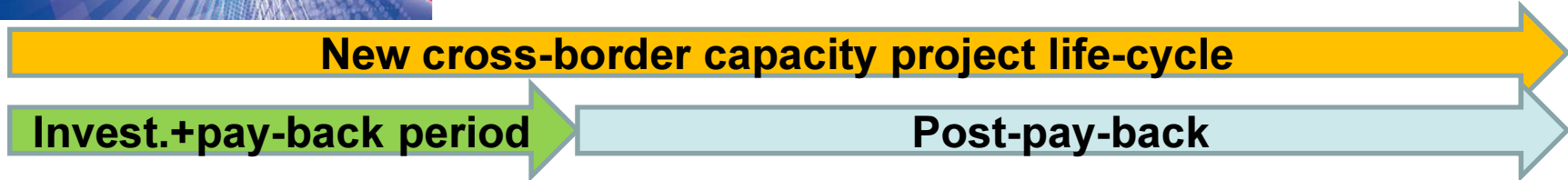


# How auction & COS procedure can coexist in ENTSOE Incremental Proposal





# Strawman “project-based” proposal for OSP – yet not considered



| OSP (Strawman-based proposal)   | CAM NC + draft NC HTTS   |
|---|--|
| <ul style="list-style-type: none"> <li>-Project-based approach through pay-back</li> <li>-Tariff as swing parameter in economic test</li> <li>-NPV as criteria for economic test</li> <li>-Fixed tariff through pay-back period</li> <li>-F-factor =100% (90% - shippers demand, 10% - NRA guarantees, securitized by EU fin. Inst.)</li> <li>-No cost socialization</li> <li>-Cross-border unitization, ITSO for unitized project, coordination within single project</li> <li>-Costs/revenues reallocation within project</li> <li>-No contractual mismatch...</li> </ul> | <ul style="list-style-type: none"> <li>-System-based approach</li> <li>-Volume as swing parameter</li> <li>-WTP as criteria</li> <li>-Floating tariff</li> <li>-F-factor established by NRA, flexible, less 100%</li> <li>-Huge cost socialization (1-F)</li> <li>-Cross-border coordination for existing &amp; not yet existing cap. -...between diff. market areas</li> <li>-Risk contractual mismatch...</li> </ul> |

Cross-border (“transportation route”) new capacity principle: until capacity is built & paid-back – OSP procedure based on project-based (not system-based) approach

# Draft solution for TSO coordination for new cross-border capacity within E-E EU zones: COS, ring-fencing, ITSO



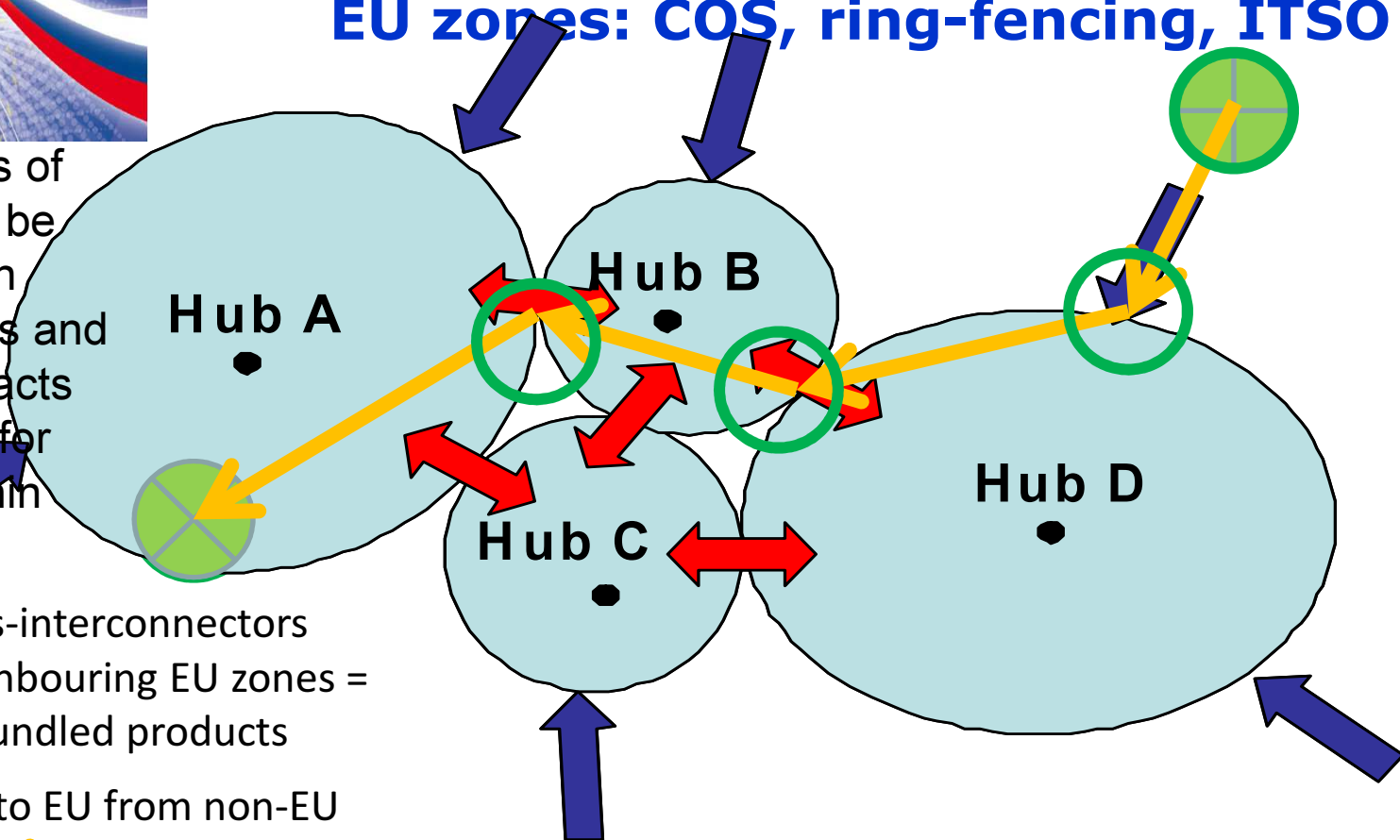
Parameters of new IPs/CBPs to be coordinated within chain of the zones and with supply contracts backing demand for new capacity within each zone

Pipelines-interconnectors between two neighbouring EU zones = single IPs with bundled products

Supplies to EU from non-EU

Non-EU producer  
Its EU customer

**New Capacity** = multiple IPs with bundled products to be balanced, cross-border coordination of TSOs to avoid two types of contractual mismatches:  
 (1) at each IP: between term supply & transportation contract, and  
 (2) at all IPs on the route from zone to zone: between bundled products at each IP







## Way forward

- To develop draft Business Rules for OSP for cross-border new capacity based on project-based approach (Strawman proposal)
- To test step-by-step applicability of both OSP procedures (comparative analysis in the form of business game/case study) based on:
  - Current version of ENTSOG draft Business rules (based on ACER Guidance)
  - Strawman proposal (17.09.2013, 14.01, 26.02, 08.04.2014)
- ENTSOG team with Prime Movers to organize such case study/business game as part of “Impact Assessment” requested by letter of DG ENERGY to ENTSOG (K.D.Borchardt, 19.12.2013)

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**Thank you for your attention**

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