

Refined Draft Incremental Proposal All Responses to SSP Consultation

7 November 2014 – 21 November 2014

Question 1: Do you consider that the Incremental Proposal development process carried out by ENTSOG was appropriate, given the regulatory framework provided? In particular, was the level of stakeholder engagement appropriate? If there is room for improvement, please inform us about possible suggestions for improvement.						
No. of respondents	11	Yes	8.5	No	2.5	No Response
EDF	Yes					
Edison spa	Yes	We definitely support the way ENTSOG has organized the entire process, ensuring a full involvement of the stakeholders, through workshops, Stakeholders Joint Working Sessions and Prime Movers' meetings. Last but not least, we consider the webcast service a valuable instrument to incentivize the participation of all the interested parties.				
Eurelectric	Yes	In our opinion the process carried out for developing the incremental capacity proposal was appropriate. ENTSOG has consulted stakeholders twice and arranged a lot of meetings giving the possibility to engage in fruitful discussions with all interested parties. Now It is crucial that ENTSOG takes due account of stakeholders' feedback.				
EUROGAS	Yes	ENTSOG assured full involvement of stakeholders through workshops, Stakeholders Joint Working Sessions and Prime Movers' meetings. The provision of a good quality webcast service confirmed to be a useful tool to incentivize the participation of all stakeholders, even when budget constraints are present.				
European Federation of Energy Traders (EFET)	Yes	On balance, the level of stakeholder engagement has been appropriate. We appreciate the efforts of ENTSOG to involve stakeholders on a continuous basis and to produce high quality supporting documents, explaining the reasoning behind ENTSOG's decisions. In addition to these documents, however, a marked-up version comparing the initial incremental capacity draft with the refined proposal would have been helpful. In terms of content, we welcome and support the fact that ENTSOG have included a fixed price option for the payable price for incremental capacity (Art. 17(20)). It is disappointing that ACER closed down further discussion of solutions allowing for greater degree of predictability for tariffs for incremental capacity, such as fixed tariffs, fixed tariffs with indexation, fixed tariffs within a certain band, etc. To reiterate, floating tariffs for incremental capacity would require shippers to make open-ended financial commitments with no visibility whatsoever on the tariff for the newly developed capacity, for which they are taking development risk. This risks undermining the efficiency of the incremental capacity process.				
Gas	Yes					

**Infrastructure
Europe (GIE)**

Gazprom Export

Yes/No

(1) The answer is both “Yes” and “No” because the problem in answering this question refers to its formulation. One should divide the first part related to the question whether “the PROCESS CARRIED OUT BY ENTSOG was appropriate” (which deserves a definitely “Yes” answer) from the second part which refers to the “REGULATORY FRAMEWORK PROVIDED” (means - by ACER in its Guidance) (which deserves a definite “No” answer). From my view, ENTSOG tried to do a proper job within improper “regulatory framework” which has placed ENTSOG in the situation that they can – by definition – just minimize the negative effects of the wrong “regulatory framework”. The major defect (imperfection) of the “regulatory framework” for ENTSOG drafting process was the basic economically & financially wrong idea incorporated in the ACER Guidance which stated that it is an auction which is always the default procedure for development of incremental and new capacity. This economically incorrect and unjustified provision in the ACER’s terms of reference for ENTSOG’s drafting process make it impossible for ENTSOG (according to its multiple statements during drafting process) to deviate from such “binding” for them, though economically incorrect, drafting guidelines (regulatory framework) provided by ACER.

(2) The process was well organized by ENTSOG, though, as it happened (and, unfortunately, been understood only at the late stage of the drafting process), the resulting procedure was predetermined not to be best effective due to wrong economic substance/perceptions of the terms of reference (ACER Guidance). This is not the fault of ENTSOG, but their misfortune.

(3) There is still a room for improvement despite the fact that the current draft does not adequately cover/mitigate the risks for producers of gas who supply their gas into the EU market area/territory and are required by pure economic logic to book the new/incremental capacity in the quantities adequate/equal to their (long)-term supply obligations to exclude so-called “contractual mismatch”. Supply obligations are, in turn, predetermined by their upstream investment programmes organized mostly on “project financing” principles. This, in turn, means that the pay-back of debt financing is a must not only for the producers but for lending organisations (financial institutions) which provide gas producers with adequate finance for their CAPEX. That is how most of upstream (and all large infrastructure) projects are developed now. This is why it is necessary to have this in mind while discussing the best effective ways of improving the available text and on the understanding that it is impractical to propose to rewrite the Incremental Proposal since what need to be rewritten first – is ACER Guidance. So our proposal to improve the text of Incremental Proposal is of structural character. As was proposed more than once during the ENTSOG drafting process, we again propose to include in this text additional Art. 20(h) on the Open Season Procedure (OSP) which will be fully separated from the auction-based “default procedure” after the decision whether to go through OSP path or auction path is taken and

approved by corresponding NRA(s). In the current draft OSP procedure is infiltrated by the provisions natural for auctions and in-natural (totally foreign) for OSP, which makes OSP non-workable. This creates major risks and uncertainties for major producers since put at risk pay-back of their upfront upstream CAPEX. And it is mostly major foreign producers who are the key gas suppliers to the EU. So such investment-unfriendly & unclear procedure of developing new & incremental capacity will de-stimulate them from aiming their gas to the EU market. Which, in turn, might lead to repetition of NABUCCO story – the procedure for project development & operation is in place, but no shipping contracts are available to book the new capacity and to pay-back for its development/financing.

If Art.20(h) is added into Refined Incremental Capacity NC, its procedure will present a balanced regulatory solution (which can be further clarified/polished in details/wording) that will enable NRA, TSO, potential shippers, financiers to adequately evaluate risks and uncertainties of the new capacity development & operation process on the “proper OSP” basis separated from the auction procedure since the latter is an improper one for developing new infrastructure capacity.

Overall conclusion: Art.20(h) should be added to the text of Draft Refined Incremental Proposal:

Article 20 (h)

Additional Open Season Procedures for very large cross border projects

1. The requirements of this Article shall apply for new or incremental capacity where the following conditions are met :
 - a. The value of the investment is very large compared to the regulated value of the TSOs through whose territory the project passes.
 - b. The project connects at least three entry exit zones
2. Capacity will be allocated by open season procedures according to Article 20f and 20g except that capacity will be allocated according to the Net Present Value of the bids for capacity of network users. Capacity will be allocated to the network user whose bid has the highest Net Present Value until either all the capacity is allocated or until all network users bids are satisfied. Article 20g (3) will not apply.
3. Network users will be able to book capacity for a period sufficient for the project investment costs to be recovered. The investment costs will include a regulated return on the project. The maximum period for which network user can book capacity will be no more than 25 years.
4. A new TSO will be established whose responsibilities will be to operate the new project in line with the requirements of EU Directive 2009/73 and Regulation 715/2009.
5. The new TSO will be regulated as a single TSO by the NRAs whose territory it crosses. The relevant NRAs will agree a single regulatory framework for the TSO e.g. a single price control, allowed revenue, regulated asset base etc.

		<p>6. The TSO and its regulatory framework will be treated as financially independent from other TSOs in the same entry exit zone. When setting the regulatory framework for the TSO, NRAs will apply project financing principles.</p> <p>7. Where the requirement of Article 8 (8) leads to the failure of the economic test or under-recovery of revenues by the TSO, the requirement of Article 8 (8) will be financially guaranteed by a third party to be determined by the NRA or Member State. For the avoidance of doubt the third party will not be the TSO or its shareholders or network users of the TSO.</p> <p>8. Once the investment costs for the project have been recovered, the TSO for the project may be terminated, and the project assets assigned to the TSOs in the entry exit zones through which the project passes.</p>
Gazprom Marketing & Trading	No	<p>The ENTSOG process itself was appropriate. Unfortunately discussion on key issues, such as the use of fixed tariffs for incremental capacity, was hampered by ACER's repeated assertions that topics which had been decided in the Framework Guidelines should not be discussed. Given the complex interactions of the different network codes, such an approach assumes that all issues have been fully covered prior to the Stakeholder Workshop Process. We do not believe this to be the case, and it became clear during the workshops that not all issues had been fully considered by all stakeholders.</p> <p>The responses below should be read in conjunction with our response of 30th July 2014 to the consultation on the previous draft of the proposed amendment.</p>
GDF SUEZ Infrastructures	Yes	
IFIEC	No	<p>In IFIECs opinion major concerns from stakeholders have not been properly addressed. What IFIEC members need is a proper functioning and competitive Internal Energy Market (IEM) and open access to those markets. In many EU Member States, the existing situation is still dominated by incumbent parties, acting as monopolists, blocking the development of an IEM. The European Commission has adopted a European Treaty and Regulation (EC) No. 715/2009 to set non-discriminatory rules for third party access (TPA) and freedom to choose an energy supplier. Moreover, a sufficient level of cross-border gas interconnection capacity should be achieved by identify investment gaps, notably with respect to cross-border capacities, in order to complete the internal market in natural gas. Looking at the proposals presented by ENTSOG, IFIEC Europe concludes that these proposals will not contribute to market integration, enhancement of security of supply, promotion of competition and cross border trade, ensuring non-discriminatory and cost reflective transmission tariffs, and avoiding cross-subsidisation between network users. The proposals should be aligned to article 13 of Regulation (EC) No. 715/2009, however they do not contribute to the goal of harmonization, nor do they establish a proper functioning and competitive Internal Energy Market and proper access to that market. The choices made by ENTSOG, leading to the draft proposals are politically instead of visionary, where a vision should have led to a structure and effective instruments enhancing the IEM</p>

		development and Third Party Access for all. IFIEC Europe concludes that the draft proposals will not only codify the existing – monopolistic - structures and practices, but even create possibilities for individual Member States to worsen the practices from the standpoint of end users, leading to fragmentation instead of harmonization.
IOGP (International Association of Oil and Gas Producers)	Yes	The process for stakeholder engagement carried out by ENTSOG has been tested with the earlier network codes and is appropriate. In the development of the Incremental Proposal, we believe that ENTSOG has to a large extent taken stakeholder input into account and has tried to bridge differences where the positions of ACER, TSOs and stakeholders were not aligned. We do see a problem with respect to the interface with the TAR NC as that code favors short-term capacity products and thereby is undermining the investment climate.

Question 2: Please indicate your support for section 1: The articles of the existing CAM NC (Articles 1-20 & 21-28 of CAM NC)?									
No. of respondents	11	Support	3	Partially Support	4	Do not Support	0	Neutral /No Response	4
EDF	Support	Article 3.b.22 EDF welcomes ENTSOG's decision to prescribe a non-binding phase as a mandatory step of an open season procedure (OSP).							
Edison spa	Neutral /No Response	It is not clear if the purpose of the question is asking for a general support concerning the whole document. If this is the case, please, consider the following answers for details.							
Eurelectric	Neutral /No Response	For details, see the next questions.							
EUROGAS	Neutral /No Response	It is unclear if the question is asking for general support to the entire Amendment Proposal. See the following questions for further details.							
European Federation of Energy Traders (EFET)	Partially Support	Article 3 We welcome the revised definitions of an 'economic test' (Art. 3(19)) and an 'open season procedure' (Art. 3(22)). We also agree with the deletion of the definition of a 'bidding ladder', which, in our opinion, was confusing and partially misleading. However, Article 8(8) With respect to Art. 8(8), we do not think that it is necessary to have quotas of capacity set aside for the annual quarterly capacity auctions, given that the quantity of incremental capacity that is offered is variable and therefore, can meet the legitimate needs of shippers. All shippers are able to participate in the auctions and/or open seasons, and, subject to the economic test being passed, the requested capacity will be allocated. Furthermore, the implementation of Congestion Management Procedures prevents hoarding or market foreclosure as a result of long-term booking. The inclusion of such quotas also impacts directly the functioning of the economic test by effectively increasing the f-factor. Whilst this issue has been partially recognised in the drafting of Article 44(1)(a) of the proposed TAR Network Code, it would be							

simpler to delete the requirement for quotas for incremental capacity. Article 11(8) In relation to Art. 11(8), one month should be a minimum advance notification period for TSOs to inform network users about the amount of capacity to be offered for each year for the upcoming annual yearly capacity auctions. A minimum of one month is required for shippers to be able to prepare their bidding strategies and to gain the necessary internal approvals. The larger the potential commitments, the more time commercial companies would require to gain such approvals. Therefore, the text should state that one month is a minimum, and that TSOs should use at least 'reasonable endeavours' to give more notice. Furthermore, we recognise the improvements made to Art. 27 of the draft TAR Network Code, in particular the new Art. 27(2), which requires at least the publication of indicative prices prior to the annual yearly capacity auctions. If indicative prices are the best ENTSOG can offer for now, however, the TAR Network Code should also include a 'best endeavours' obligation on TSOs to publish final reserve prices which closely equate the previously published indicative prices. Despite these improvements, however, it would still be difficult for shippers to make informed decisions about how much incremental capacity to bid for, which would undermine the functioning of the economic test. Whilst Article 47(1) of the draft TAR Network Code attempts to remedy this deficiency by requiring publication of reference prices for incremental capacity based on 'relevant assumptions', it is highly questionable how reliable such published prices will be, as they rely on assumptions about capacity bookings and systems usage several years into the future. For example, the first year of capacity to be allocated will be at least 3 to 5 years after the date of the allocating capacity auction. Without ring-fencing the financial contribution provided by those shippers taking the long-term commitments that allow incremental capacity to become available - by means of fixed tariff - the risk is that the function of the f factor is ignored and made null. In a situation where in the year when the new capacity becomes available bookings at other points in the system decrease, the actual contribution to the marginal costs to deliver the incremental capacity would go beyond the level required by the f-factor, potentially to a point where the economic test would have not been passed.

Article 17(20) Art. 17(20) states that 'successful network users shall pay the clearing price of the specific auction, which may be a fixed or variable price.' Whilst the drafting is correct within the context of the CAM Network Code and the proposed TAR Network Code, the use of a variable price will undermine the functioning of the economic test (see above). We support ENTSOG's inclusion of fixed prices for incremental capacity. Variable prices would require shippers to sign an open-ended financial commitment for capacity bookings over several years, a number of years in advance of the date when the payable price will become certain. This increases the commercial risk for shippers and therefore, will inhibit bidding for incremental capacity. The solution is to allow a greater degree of predictability for tariffs for incremental capacity, such as fixed, fixed with indexation, fixed within a certain band tariffs, etc. If fixed tariffs were

		not included in the proposal, we would not have been able to support this section.
Gas Infrastructure Europe (GIE)	Support	
Gazprom Export	Partially Support	<p>I disagree in principle with the very concept of the “short-term incremental capacity reservation quota (10% or more)” – Art.8.8-8.9, UNTIL/UNLESS:</p> <p>(i) it is clearly stated that this would not be the shippers who have booked for 100% of the capacity but who will receive instead only 90% of the booked capacity, which means that it is them (the shippers) who will be obliged to pay for this quota reserved for their competitors, and</p> <p>(ii) there is a clear and definite explanation who and from which sources will pay for this quota . Our conceptual proposal was that if it is the NRA(s)/ACER/Commission who requires such quota to be available AS A “public good” in the interest of the whole EU – then this quota need be financed from EU (controlled) financial sources, such as EBRD, EIB, etc.</p> <p>See our previous responses/presentations at ENTOSOG Incremental Proposal JSWSs.</p>
Gazprom Marketing & Trading	Partially Support	<p>We support the improved drafting of the definitions in Article 3.</p> <p>However we still have concerns about Article 8 (8), Article 8 (9), Article 11 (8), Article 17 (20) as detailed in our previous response. We welcome ENTOSOG’s inclusion of a fixed price tariff option in the Tariff NC, as we do not believe the Incremental Process can work with a floating tariff approach.</p>
GDF SUEZ Infrastructures	Support	
IFIEC	Neutral /No Response	
IOGP (International Association of Oil and Gas Producers)	Partially Support	<p>"We welcome that ENTOSOG has to a large extent taken stakeholders comments into account in the refined Incremental Proposal. However, further improvements remain possible on at least the following topics:</p> <ul style="list-style-type: none"> • Timing of the publication of overall capacity on offer: it would be better to provide 60-days notice to allow network users sufficient time to take decisions with respect to their long-term booking strategies and to achieve alignment with the TAR NC tariff publication requirements; • When the development of incremental capacity is linked to a project with an exemption under Article 36 of Directive 2009/73/EC, the maximum booking duration should be aligned with the duration of the related exemption; • Timing of incremental capacity usage: the code should allow for some flexibility for commissioning of incremental capacity during the gas year, and allow bookings to start within the gas year, to ensure an optimal and efficient development of the infrastructure."

Question 3: Please indicate your support for section 2: General provisions (Art. 20a of CAM NC)

No. of respondents	11	Support	4	Partially Support	6	Do not Support	1	Neutral /No Response	0
EDF	Partially Support	Article 20.a.3 EDF considers that both auction and open season procedures have positive aspects. Thus, both options should be left on the same level. Therefore, we believe that the code should provide sufficient flexibility to enable the use of OSP. This requirement is not met since the application of OSP is bound to a list of specific circumstances.							
Edison spa	Partially Support	(3) Open season procedures shall be conducted for incremental capacity if at least one of the following conditions is met for at least one of the involved transmission system operators (...) We don't agree with a such formulation that, compared to the one proposed during the consultation, makes OS more difficult to apply because the application is linked to a list of specific circumstances that, by nature, can't be inclusive of all the situations potentially requiring an Open Seasons instead of an auction. As already said, we don't think that a default rule concerning the allocation mechanism should be foreseen at EU legislation level. Both the instruments – auction and open seasons can be valuable, if properly assessed and, as already written in our previous response, we think that also the application of auctions should be carefully evaluated.							
Eurelectric	Partially Support	In our detailed response to ENTSG's consultation, we emphasised the importance of having clear evidence from TSOs that their costs in interconnections are efficiently incurred. This does not seem to have been taken into account in the refined draft, neither in the general provisions nor in the other articles. Moreover, as already mentioned in the past, EURELECTRIC believes that both Open Seasons and auctions have merit if designed well. We see no good reasons why one method should be used exclusively across Europe. The election between auctions or Open Seasons should be made on a case by case basis.							
EUROGAS	Partially Support	As Eurogas has already remarked in past responses, both Open Seasons and auctions have merit to be applied if well designed. However, the impression we get from the text is that the occasions to use Open Season are further narrowed with respect to the previous draft, provided that they are linked to specific circumstances. On the contrary, we think that there should be no default rule on allocation mechanisms at EU level.							
European Federation of Energy Traders (EFET)	Support	We welcome the amendments to Art. 20a, in particular the incorporation of Art. 20a(6), which gives mandate to ACER to adjudicate when a decision on the joint capacity allocation procedure and/or on the required parameters for an incremental capacity project cannot be reached among the national regulatory authorities concerned. Furthermore, the new Art. 20a(2) and Art. 20a(3) also make it clearer when open season procedures will be applied instead of auctions.							
Gas Infrastructure Europe (GIE)	Support								
Gazprom Export	Partially Support	Further work is required to make OSP work effectively, especially for very large incremental capacity projects where the risks of improper regulatory decisions are							

		<p>the highest (for the payback of the CAPEX made to develop such new capacity). Major element of the proposed improvement: after decision on OSP is taken by the corresponding NRA(s) – there should be a “Chinese wall” in further procedures between OSP and auction (which is proposed/still stays as “default procedure” in revised Draft Incremental Proposal). This would mean that no further interactions between OSP and auction mechanisms (esp. in tariff calculations) should take place. This is why, from our view, OSP will be further more effectively implemented in its full integrity if based on draft Art.20(h) proposal which aims to create such a “Chinese wall” by implementing the ring-fencing principle for cross-border transportation projects of developing new capacity.</p> <p>For further details please see our response to Question 21 in the Consultation Response of 30th July 2014 and our proposals for Art. 20(h) as presented at meetings at 22nd September 2014 (21st Informal consultations/14th Workstream 2 “Internal markets” Russia-EU Gas Advisory Council meeting) and 23rd September 2014 (ENTSOG 7th Refinement SJWS).</p> <p>Art.20(h) should be added to the text of Draft Refined Incremental Proposal.</p>
Gazprom Marketing & Trading	Partially Support	We support the changes that have been made. However we believe that further work is required to make the open season process work for very large incremental projects. For further details please see our response to Question 21 in the consultation response of 30th July 2014 and our proposals for an Article 20 (h) as presented at meetings in September 2014.
GDF SUEZ Infrastructures	Support	
IFIEC	Do not Support	In IFIECs view, ACER should be involved right from the start. The different treatment of PCIs from different NRAs clearly showed that those kinds of processes need a European kind of supervisor overlooking the whole process.
IOGP (International Association of Oil and Gas Producers)	Support	We support the changes that have been made to provide a set of clear criteria for applying the open season procedure. We recommend ENTSOG to consider the further refinements mentioned in the response to section 1.

Question 4: Please indicate your support for section 3: Demand assessment for incremental capacity (Art. 20b of CAM NC)

No. of respondents	11	Support	5	Partially Support	5	Do not Support	1	Neutral /No Response	0
EDF		Support							
Edison spa		Support							
Eurelectric		Partially Support							

		<p>number of years” the requests should be related to, or the fact that “all other economic efficient means for increasing the availability of capacity are exhausted” mean. We call for a clearer explanation of these circumstances, because we understand that in the case the requirements are not met, the non-binding requests may not be taken into consideration in the report.</p>
EUROGAS	Partially Support	<p>"The text makes reference to the application of charging fees for activities resulting out of the submission of non-binding demand indications. In our opinion, these charges should be determined ex-ante and subject to NRA approval. Currently, the Amendment doesn't foresees the involvement of NRAs in fixing the fees. The text still introduces some requirements to be met by the non-binding requests to be taken into consideration. Some of these conditions are still unclear: for instance,</p> <ul style="list-style-type: none"> - which period is considered a “sustained number of years”? - when “all other economic efficient means for increasing the availability of capacity can be considered exhausted”? <p>We call for a more clear explanation of these circumstances."</p>
European Federation of Energy Traders (EFET)	Partially Support	<p>There should be a requirement for demand assessments to be carried out on an yearly basis, as opposed to the current requirement for demand assessments to take place only in even-numbered years (Art. 20b(5)). Furthermore, whilst we recognise the organisational challenges for TSOs associated with the development of offers of incremental capacity, TSOs should be required to consider all capacity requests in good faith on a ‘reasonable endeavours’ basis, irrespective of due dates for non-binding indications. TSOs should also endeavour to respond to any requests from shippers for capacity in a timely manner. The current draft requires TSOs to respond to non-binding demand indications within 8 weeks of receiving them (Art. 20b(3)). We would urge TSOs to respond as quickly as possible, and to use the two-month deadline as a maximum, not as a target deadline. With respect to Art. 20b(4), whilst we recognise the role that payments, such as Preliminary Works Agreements, can play in enabling TSOs to conduct project scoping and planning work where the outcome of such work is uncertain, it must be made clear that such fees are subject to regulatory consultation and approval, and can only be charged for activities that are not already covered by a TSO’s Allowed Revenue. Otherwise, there is a risk that TSOs will be able to charge shippers twice for the same activity.</p>
Gas Infrastructure Europe (GIE)	Support	
Gazprom Export	Partially Support	<p>It seems that “demand assessment procedure” still looks as a very “centrally planned” top-bottom one. It seems that it still demands a number of intermediary steps (like prior inclusion in 10YNDP) to trigger development of new capacity when/while in case of new development which is justified by potential shipper’s demand for new capacity and its readiness to pay for it, such lengthy procedures are unnecessary. Maybe it seems necessary when both OSP and auctions are mixed together (as is now in the Draft Refined Incremental Proposal due to ACER</p>

		<p>Guidance formula of “default option”). But if OSP is separated by “Chines wall” from auction-based procedure after NRA will take their positive decision on OSP, the latter can go directly and straightforwardly and much quicker through OSP-based demand-assessment procedure according to the rules of Art.20(h), in addition to lengthy procedure of Art.20(b) which will be left for auction-based procedures development of (mostly small and at single IPs) new capacity.</p> <p>The fees for TSOs as per Art.20(b)(4) must be subject to regulatory approval (maybe, in some formula-based manner).</p> <p>Art.20(h) should be added to the text of Draft Refined Incremental Proposal.</p>
Gazprom Marketing & Trading	Partially Support	<p>In addition to the current drafting we believe a demand assessment should be carried out on a yearly basis.</p> <p>In addition payments such as Preliminary Works Agreements must be subject to regulatory approval.</p>
GDF SUEZ Infrastructures	Support	
IFIEC	So not Support	<p>In IFIECs view transparency is missing. All information regarding the non-binding demand indications for incremental capacity should be instantly published on the ENTSOG transparency website: https://transparency.entsog.eu</p>
IOGP (International Association of Oil and Gas Producers)	Support	<p>We welcome the changes to the demand assessment that process that provide flexibility over the standard bi-annual capacity planning process.</p>

Question 5: Please indicate your support for section 4: Design phase for incremental capacity (Art. 20c of CAM NC)									
No. of respondents	11	Support	2	Partially Support	8	Do not Support	1	Neutral /No Response	0
EDF	Partially Support	<p>Article 20(c)(2) EDF considers that the draft code does not provide a clear schedule as regards the publication of the “design phase notice” which according to should be between the end of the consultation phase and the start of the design phase for both auction and open season procedures. Article 20(c)(5) As underlined during the consultation, we believe that the notice should include detailed information on the tariff methodology that will be applied, the level of guarantee to be provided, any financial commitment and the responsibilities of both parties, i.e. shippers and TSOs.</p>							
Edison spa	Partially Support	<p>(2)Transmission system operators involved in an incremental capacity project shall publish a design phase notice at least in English taking into account the responses to the consultation according to Article 20b(9) covering at least the elements set out in Articles 20b(9)(a) to (d) It’s not clear to us when the notice should be published and for what purpose. According to the graph showed on page 16/33 of the Report about the Analysis of Decisions, it seems that the publication is done</p>							

	<p>only in case of an Open Season and just before the non binding phase. However in the Amendment Proposal the description of the non binding phase is missing. (5) Upon the publication of the decisions of the relevant national regulatory authorities (...) no later than one month before the offer of incremental capacity in the annual yearly capacity auction, the TSOs shall publish jointly an allocation notice at least in English including the following minimum information: (a) the parameters defined in paragraph 3 as approved by the NRAs (b) drafts of the legally binding agreements related to the capacity offered. As underlined during the consultation, we think that more elements should be provided - as a minimum - in the notice, i.e. the responsibilities of both parties (users and TSOs) with reference to the period between the signature of the contract and the availability of the capacity (i.e. penalties in case of the users 'resolution of the contract but also in case of delays in making the capacity available by TSOs).</p>
<p>Eurelectric</p>	<p>Partially Support (5) publication of the notice. One month as a minimum lead time for the publication seems insufficient, especially if the amount of information to process is significant. We still suggest foreseeing a minimum lead time of two months. Moreover, we think that the Notice should include, as a minimum other elements ,i.e information on investment costs, externalities taken into account and - in general - as much information and transparency as possible.</p>
<p>EUROGAS</p>	<p>Partially Support As Eurogas stated in the response to the previous consultation, one month as a minimum lead time for the publication of the Open Season notice seems too short, especially if the amount of information to be processed by network users to take their business decisions is significant. We repeat our preference for the approach of the "GGPOS on Open Season", which suggest a minimum 3-months period to elaborate and send non-binding offers. A key missing aspect in the notice refers to the responsibilities of both parties (users and TSOs) with reference to the period between the signature of the contract and the availability of the capacity (i.e. penalties in case of the users 'resolution of the contract, but also in case of delays in making the capacity available by TSOs). The provision of these elements, as well as information on financial commitments required to take part in the Open Season, should be mandatory, as the advance knowledge of these aspects is key to allow potential participants in the allocation process to assess all the risks, with the aim of deciding if they can book capacity and how much.</p>
<p>European Federation of Energy Traders (EFET)</p>	<p>Partially Support TSOs should be subject to provisions on 'best endeavours' to publish the parameters of the auction or open season for incremental capacity at least 2 months before the auction or the binding open season phase. The design phase for incremental capacity does not seem to contemplate time for a public consultation, while the definition of the f element, at the very least, cannot be defined disregarding the views of market players, due to the broad implications it may have on all network users. The harmonisation of TSOs' schedules in relation to incremental capacity projects is currently not required. Clear requirements for the alignment of schedules should be incorporated in the design phase for incremental capacity provisions of the incremental capacity proposal (Art. 20c).</p>

		Information on the timing of realisation of new infrastructure should include the possibility for coordination of commissioning dates of both the commissioned infrastructure and related downstream/ upstream infrastructure. Without an incentive to optimise the development costs that will be incurred by TSOs during the development phase, a formal coordination mechanism between the upstream and the downstream system, as well as the shippers making the long-term commitment, allowing the incremental capacity to become operational, becomes an essential part of an efficient development mechanism.
Gas Infrastructure Europe (GIE)	Support	
Gazprom Export	Partially Support	Acc. to Art. 20(c)(3)(e)-(f) potential shipper will not receive 100% guarantees that he will be allocated in full the amount of capacity that he would be ready to book. This is critical and too risky for the external producers which will need to invest upfront in their upstream producing capacities as well as in transportation capacities to bring their gas to the EU border. Thus lack of guarantees that the producer will receive full amount of new capacity that he needs to pay-back his CAPEX (like in Nordstream/OPAL case: CAPEX are made but are not allowed to be paid-back) may/will prevent him to make his booking of new capacity and to look for alternative markets. Art.20(h) should be added to the text of Draft Refined Incremental Proposal.
Gazprom Marketing & Trading	Partially Support	We believe the one month notice in Article 20(e)5 is insufficient time for network users to fully consider the legally binding documents ahead of the annual capacity auction.
GDF SUEZ Infrastructures	Support	
IFIEC	Do not Support	In IFIECs view transparency is missing. All information should be published on the ENTOSOG transparency website: https://transparency.entsog.eu
IOGP (International Association of Oil and Gas Producers)	Partially Support	We support the clarification of the design phase including the publication requirements but the period for publication of the final parameters only 1 month before the binding offers are to be made is too short. It does not give network users sufficient time to decide on making long-term booking commitments and it is not aligned with the TAR NC publication requirements.

Question 6: Please indicate your support for section 5: Auctioning of incremental capacity (Art. 20d of CAM NC)									
No. of respondents	11	Support	3	Partially Support	3	Do not Support	4	Neutral /No Response	1
EDF	Do not Support	EDF does not support the annual yearly capacity auction as the default mechanism rule for open seasons (please refer to comments on section 6).							
Edison spa	Do not Support	(1) In case of the allocation of incremental capacity, the involved transmission system operators shall offer the incremental capacity together with the respective available capacity in the annual yearly capacity auction We do not support the							

		annual yearly capacity auction as the default mechanism rule for open seasons.
Eurelectric	Do not Support	The annual yearly capacity auction should not be the default rule for allocating incremental capacity, but the choice should be made on a case by case basis. As for bid revision, we fear that repeating several times the bids could overcomplicate the process.
EUROGAS	Do not Support	The annual yearly capacity auction should not be the default rule for allocating incremental capacity, but the choice should be made case by case, especially when the allocation takes place within an Open Season Procedure. Concerning bid revision, as explained during the previous consultation, we fear that repeating several times the bids could overcomplicate the process. Furthermore, there is some concern that the way it is designed (open to the participation of users that did not bid in the previous auction) could mean that users who have obtained capacity in the previous auction may not finally be allocated any capacity.
European Federation of Energy Traders (EFET)	Partially Support	Whilst the text appears to be clearer than the previous version, there remain concerns among some of our members about inconsistencies or conflicts that would arise in its practical implementation. It will therefore be important to work through the implications of this new text with market participants, so that the wording can be further improved before submission to Comitology.
Gas Infrastructure Europe (GIE)	Support	
Gazprom Export	Partially Support	<p>I do not believe that the auction mechanism – as a matter of principle - is appropriate for capacity development while open season process is available. From my view, the whole ACER concept to use auction as “default option/procedure” for new/incremental capacity development is a counter-productive and counter-economic proposal/idea/framework. I have strong respect for ENTSOG that it has been trying to do impossible – to develop proper procedure based on counter-economic concept. I understand that the whole idea of those who develop ACER Guidance was to require ENTSOG to happily marry two conflicting intentions: to develop a centrally-planned/controlled, on the one hand, and short-term-driven, on the other hand, mechanism of capacity development. This means a perception that no more new capacity is needed and only few small additions of incremental capacities here and there at individual IPs will be needed.</p> <p>Such approach excluded the need for longer-term and capital-intensive new capacity developments. This is why the need for financeable procedure for such projects was just ignored by ACER.</p> <p>To cover this artificially constructed gap, Art.20(h) should be added to the text of Draft Refined Incremental Proposal.</p>
Gazprom Marketing & Trading	Partially Support	We do not believe that the auction mechanism is appropriate for capacity developed using the open season process.
GDF SUEZ Infrastructures	Support	

IFIEC	Neutral / No Respons	
IOGP (International Association of Oil and Gas Producers)	Support	We support the continuous approach for bid revision that allows the outcome of the auction to be the highest offer level with a positive economic test.

Question 7: Please indicate your support for section 6: Open Season Procedures (Art. 20e + Art. 20f of CAM NC)									
No. of respondents	11	Support	3	Partially Support	3	Do not Support	5	Neutral /No Response	0
EDF	Do not Support	Article 20(f)(1) EDF does not support the provision stating that network users in OSP express their demand for incremental capacity by submitting commitments in the annual yearly capacity auction since OS are run to test long term commitments (we doubt that the willingness to pay per year principle could meet the requirements of long term bookings). We believe that it should be left to NRAs and TSOs to develop and decide the appropriate allocation rule on a case-by-case basis, which means that there should be no default rule in the Network Code							
Edison spa	Do not Support	We have serious doubts that the willingness to pay per year principle could meet the requirements of long term bookings, that are typical of Open Seasons. Furthermore, we wish to underline that long term booking have the advantage to allow TSOs to optimize the calculation of the tariff. Indeed, when calculating the (indicative) tariff, TSOs have to make assumptions on the usage of the capacity on the future, meaning that, the more the capacity is booked long term, the more reliable the calculation of the tariff is. Consequently, mechanisms to incentive LT bookings should be supported rather than discouraged, in the context of Incremental Capacity. For any other details, please refer to our answer to the consultation.							
Eurelectric	Do not Support	We have some doubts that the willingness to pay per year principle could meet the requirements of long term bookings, which are typical of Open Seasons. Moreover, we think that in order to keep Open Seasons flexible enough to develop new capacity, the appropriate allocation rule should be developed on a case by case basis by NRAs and TSOs.							
EUROGAS	Do not Support	Eurogas does not support the application of the “willingness to pay per year principle” to the long term capacity bookings that are typical of Open Season Procedures. The overall objective of an Open Season should be to provide every participant with the capacity they should be willing to book against the (fixed) indicated tariff. In the current allocation rule there is a high risk for users of not having their demand satisfied for the entire duration of the period they are interested in.							
European	Support	Art. 20e should be consistent with the approved by regulators TPA exemption							

Federation of Energy Traders (EFET)		timescale, i.e. recognising that for TPA-exempt infrastructure capacity bookings of up to 25 years should be allowed.
Gas Infrastructure Europe (GIE)	Support	
Gazprom Export	Partially Support	We believe the open season procedure could be improved using our suggestions for an open season procedure for large and complex projects, as detailed in our previous responses, and in particular our proposed drafting for an Article 20 (h) as presented earlier this year. OSP should be distinguished from the auction procedure after the decision on OSP is taken by the corresponding NRA(s), best – in a manner presented in Art.20(h). Art.20(h) should be added to the text of Draft Refined Incremental Proposal (DRIP) – either instead or in addition to existing text of DRIP.
Gazprom Marketing & Trading	Partially Support	We believe the open season procedure could be improved using our suggestions for an open season procedure for large and complex projects, as detailed in our previous responses, and in particular our proposed drafting for an Article 20 (h) as presented earlier this year.
GDF SUEZ Infrastructures	Support	
IFIEC	Do not Support	In IFIECs view the rules around Open Seasons are designed in a way that makes Open Seasons possible, even in the presence of non-supportive circumstances. If the economic test for example fails, the rules are just changed to make it work. IFIEC is missing ACER as an element of coordination. Everything is dedicated to the national NRAs, although it is a cross boarder issue. IFIEC proposes to give ACER a clear role in the NC when it comes to Open Seasons.
IOGP (International Association of Oil and Gas Producers)	Partially Support	We support Article 20e but we object to using the standard annual yearly capacity auction to allocate capacity as proposed in Article 20f. The only reason for having 2 allocation processes (auctions and open seasons) is that auctions do not work for certain projects.

Question 8: Please indicate your support for section 7: Economic Test principles and Tariff principles (Art. 43-47 of TAR NC)

No. of respondents	15	Support	3	Partially Support	10	Do not Support	2	Neutral /No Response	0
E.ON Global Commodities SE, on behalf of the E.ON Group	Partially Support	Our preference is for the payable price for bundled capacity products at IPs to be set on a fixed price basis, but giving TSOs the option to offer fixed prices as an alternative to purely floating prices is welcome. However, as regards new and incremental capacity, a harmonised fixed tariff approach should be mandatory so as to encourage longer term commitments by network users. Based on the current drafting of Article 27 of the TAR NC, shippers will not know the applicable prices for							

		capacity in any annual auctions for new and incremental capacity until after the auction has taken place. This makes it highly unlikely that shippers will be able to make informed decisions about how much capacity to bid for, and thereby will undermine the functioning of the economic test.
EDF	Partially Support	EDF believes that willingness to commit is strongly linked with the tariff structure and options. The more transparent and predictable the tariff options are, the more shippers are incentivized to commit for long term investments. Indeed, shippers need a degree of certainty or predictability to commit to for the several years of capacity required to pass economic test. Therefore we believe that a fixed tariff should be fully applicable for Incremental Capacity as a default rule.
EDF Trading	Partially Support	EDF Trading believes that a fixed price mechanism should always be offered by TSOs when marketing incremental capacity. Without this, we do not believe market participants will commit to a sufficient level of long-term bookings to trigger investment in incremental capacity.
Edison spa	Partially Support	We don't support floating prices for incremental capacity: Long term commitments are definitely favored by a reasonable level of certainty on the evolution of the tariff in the future. To this respect, a fix tariff may be the solution, even if also the recovery mechanism should be assessed in order to consider the overall impact on the tariff evolution. It is a matter of fact that a floating tariff over a long period, without any limitation known ex ante of the value that the tariff can assume, prevents long term bookings and, consequently, discourage the investments. We appreciate that an option for fix prices is introduced but we would encourage to have it as a default rule for incremental capacity rather than an option.
Eurelectric	Partially Support	Fix/Floating Long term commitments are definitely favoured by a reasonable level of certainty on the evolution of the tariff in the future. To this respect, a fixed tariff option is welcome. EURELECTRIC can also accept a payable price being a combination of the reserve price, which floats, and a premium (if any), which is fixed. The new formulation leaves the door open to a fixed solution, but we would encourage a fixed price as "default rule" for Incremental capacity
EUROGAS	Do not Support	Eurogas welcomes the introduction in the NC TAR of a fixed payable price option, whose application could extend to incremental capacity. Nevertheless, we think that in order for network users to be stimulated to book long term, certainty over the future evolution of tariffs should be ensured and thus the offer of a fixed payable price should be mandatory for incremental capacity.
European Federation of Energy Traders (EFET)	Partially Support	We welcome the fact that ENTSOG have included a fixed price option in the refined incremental capacity proposal. This is essential for making the incremental process work. We would encourage the adopting of a harmonised fixed tariffs approach for incremental capacity, as opposed to floating tariffs, as fixed tariffs could encourage longer-term commitments by network users. The use of floating tariffs will undermine the functioning of the economic test. Shippers will be required to sign an open-ended financial commitment for capacity bookings over several years, a number of years in advance of the date when the payable price will become

certain. This increases the commercial risk for shippers and therefore, will inhibit bidding for incremental capacity. The solution is to allow a greater degree of predictability for tariffs for incremental capacity, such as fixed, fixed with indexation, fixed within a certain band tariffs, etc. Such ideas have not been given sufficient consideration during the recent Stakeholder Workshops and have (so far) resulted in only an 'option' for TSOs to provide network users with the choice for a fixed tariff. The draft TAR Network Code should, therefore, create the obligation on TSOs to fix the payable price for the duration of the incremental capacity booking. An additional and related obstacle to making long-term commitments is the anticipation of stranded incremental capacities, which may result from an f-factor that is set too low, or from other mechanisms to socialise the costs of investment.

Article 43 We have three main concerns with respect to the way the economic test is defined: First, defining the f-factor as one figure entails giving the cost estimate underlying the economic test a significance that it does not have and it cannot have. Any credible cost estimate entails a contingency element that cannot be ignored. When complex projects are realised, normally part of this contingency turns into actual costs and more rarely in actual savings. For this reason, it would be wise to define the f-factor as a band, rather than as a single value. This would also help to avoid the need to run additional bidding rounds, as the band would allow a 'pass' in a broader range of booking combinations. Second, defining the f-factor has implication on the tariff paid by the overall pool of network users of the relevant entry/exit system. Therefore, any decision in this regard shall not be taken without first running a public consultation. The risks of creating an unbalanced situation by setting the wrong f-factor is too high for such a decision to be taken without the market having a say. Lastly, there is lack of clarity regarding the economic test. The principle should be harmonised, while the parameters should be fixed on a case by case basis. The launch documentation contained formulae on how the economic test works, but they have not been included in this ENTSOG proposal. We propose to include them in the final version. Where the discount rate is different from the WACC (weighted average cost of capital), this has to be fully justified and approved by the regulator, subject to industry consultation.

Article 44 Defining the f-factor has implication on the tariff paid by the overall pool of network users of the relevant entry/exit system. Therefore, a balanced approach is needed and the f-factor should be set in full consultation with the industry. We would like to highlight that too low an f-factor creates the risk of stranded capacities that are to be paid by the community of shippers, and that may hamper cross-border trade by rising IP tariffs. We should also caution against setting too high an f-factor, because this may make it difficult to pass the economic test even when investment in incremental capacity is economically efficient.

Article 44(1)(b) Whilst we agree that it is important that externalities be taken into account when setting the f-factor (e.g. security of supply), it remains the case that shippers will be required, at some point, to pay the difference between revenues raised via capacity bookings and the allowed revenue associated with incremental capacity. For this reason, any

externalities should be explained and justified. It is also important to explain how any shortfall in associated allowed revenues will be covered. This is particularly important, given the proposals for floating tariffs in the TAR Network Code. Article 44(2): Whilst we fully support the concept that TSOs should be able to recover their allowed revenues and earn the approved regulated return on their investments, this article appears redundant, given the other articles in the TAR Network Code which enable the TSOs to recover their revenue. Article 44(3): Article 44(3) puts all the risk on network users and removes all financial responsibility from TSOs regarding already engaged costs in case of a project failure. There should be a stronger financial incentive for TSOs to complete their project successfully. If not, this would be an incentive for TSOs to minimise the cost of projects that would be on the limit of the economic test, to get shippers involved, in order to get a chance to get additional revenues, as there is no risk for TSOs in case the budget is insufficient to complete the project. Article 45: Whilst we support the concept, we have reservations about the drafting of Article 45 of the TAR Network Code. Article 45 allows for different TSOs to have a combined economic test, and for redistribution of revenues between TSOs in the event that the economic test is not passed for one TSO in an investment involving two or more TSOs. This is to be welcomed. However, the drafting only says that transmission system operators 'may submit to the relevant national regulatory authorities for coordinated approvals the mechanisms for a redistribution of revenues from incremental capacity' (Art. 45(4)). This is potentially too weak and could prevent the realisation of investment that could further the internal gas market. Therefore, we propose that Article 45 should be strengthened to require the relevant parties to use 'best endeavours' to agree, with the possibility of adjudication by ACER or the EU Commission in the event of continued failure to agree. It is not clear how this mechanism would impact revenue recovery of each involved TSO. This mechanism should not lead to a higher risk of tariff increases for shippers because of an investment project supported only by neighbouring TSOs. Article 46: We support the intention of this article, but we do not see how it will work in practice with regards to the estimated reference prices for the time horizon of the initial offer of incremental capacity (Article 46(1)(a)). It is highly questionable how reliable such estimates will be as they rely on assumptions about capacity bookings and systems usage several years into the future. For example, the first year of capacity to be allocated will be at least 3 to 5 years after the date of the allocating capacity auction. Given uncertainties about future system usage and booking behaviour, the projections referred to in this article will be of little value. In addition, TSOs should be required to publish details of their investment costs and the assumptions on which these are based, and network users should be invited to comment on these estimates. Investment costs are of particular relevance for the outcome of the economic test, and if they are inefficient or kept artificially high, they could jeopardise the success of an open seasons, to the detriment of competition. Article 47: The revised Art. 27 of the draft TAR Network Code requires the

publication at least of indicative prices prior to the auctions. If indicative prices are the best ENTSOG can offer for now, the TAR Network Code, however, should at least include a 'best endeavour' obligation on TSOs to publish final reserve prices which closely equate to previously published indicative prices. Despite these improvements, however, it would still be difficult for shippers to make informed decisions about how much incremental capacity to bid for, which would undermine the functioning of the economic test. Whilst Article 47(1) of the draft TAR Network Code attempts to remedy this deficiency by requiring publication of reference prices for incremental capacity based on 'relevant assumptions', it is highly questionable how reliable such published prices will be, as they rely on assumptions about capacity bookings and systems usage several years into the future. For example, the first year of capacity to be allocated will be at least 3 to 5 years after the date of the allocating capacity auction. Article 47(6)(c): TSOs and NRAs need to consult on this approach, if they decide to adopt it. Some limits must be introduced, as this article opens the way for subsidisation of projects by other users, and its relation with the f-factor is not clear. This mechanism should not be another risk weighing on global tariff levels.

**Gas
Infrastructure
Europe (GIE)**

Support

GasTerra BV

**Partially
Support**

GasTerra considers price certainty crucial for network users' commitments for new and incremental capacity. As such, an obligation on TSO's to provide a fixing option of the payable price of new and incremental capacity is crucial to lock-in long-term capacity commitments. Such an option is provided (but not as a right for network users), but we wonder how such a fixed payable price would relate to the "reference price estimate" referred to under Art 46.1.a? We would strongly suggest reconciling the two as it will give network users price certainty for the capacity commitments they enter into. GasTerra could thus fully support this chapter if an option to fix the payable price for capacity would be provided.

Gazprom Export

**Partially
Support**

I do NOT like the concept of floating tariffs for infrastructure capacity development since it is counter-economic for long-term CAPEX.

I do NOT like also the concept of F-factor in long-term CAPEX if/when decision on appropriate value of F-factor to trigger CAPEX is taken by external authority (NRA) which is not involved in development of this capacity and its decision is obligatory for the TSO (who "shall invest" acc. to Art.13.2 Third Directive), shippers (especially if such shippers are gas producers who guarantee by their capacity bookings for TSO its pay-back of its infrastructure CAPEX), financial institutions (the lenders within "project financing" mechanisms of developing new capital-intensive infrastructure capacity).

We have proposed totally different "economic test" procedure under "proper" OSP: based on market demand for new capacity and formal criteria (more than 2 market areas are crossed /"entry-exit zones are involved" - Art. 20(a)(3)(a)), transportation route is defined, new independent TSO is organized as a JV of the TSOs of the

		<p>corresponding market areas, configuration of new capacity is defined in such a way that all the shipper will receive in full their capacity requested on a binding basis. While booked volumes are known, capacity and thus CAPEX of the whole project is defined by ENTSG, then the balancing parameter for implementation of the project is calculated tariff for at least investment plus pay-back period for this project. When shippers agree to such tariffs, they became legally binding for them. Then TSO can raise external finance backed by booked capacity by the shippers and project economics (pure economics) and not by the order of NRA backed by whatsoever considerations that might not be financeable in the given circumstances and will lead to the use of externalities, etc. which, in turn, can create macroeconomic problems in the countries involved. We have discussed all this intensively at ENTSG SJWSs in the course of 2014.</p> <p>In order to overcome the deficiencies of the proposed procedure (resulted from ACER Guidance's framework), Art.20(h) should be added to the text of Draft Refined Incremental Proposal.</p>
Gazprom Marketing & Trading	Partially Support	<p>We welcome ENTSG's inclusion of a fixed price option in the Tariff NC, as, without such an option we do not believe network users will be able to make the long term bookings necessary to pass the economic test.</p> <p>We remain concerned about the inclusion of quotas when used in conjunction with open seasons, as it is not clear how such investments in un-booked capacity will be funded.</p> <p>Any externalities included in the calculation of the x factor need to be fully justified. Those that are the result of EU requirements (e.g. security of supply) should be securitized by financial guarantees from EU institutions such as the European Investment Bank or the European Bank for Reconstruction and Development.</p> <p>We remain concerned that the drafting in Article 45 (4) is too weak regarding a revenue redistribution mechanism and therefore less capacity will be made available.</p>
GDF SUEZ Infrastructures	Support	<p>Given the uncertainty relating to gas demand in the medium and long term, it would be appropriate to set a high number for the f factor. The reason is that launching investments in incremental capacity for the sake of positive externalities could turn out to be dangerous for infrastructure operators. Positive externalities should be dealt with in the infrastructure Package, via subsidies given to projects which are not market based.</p>
IFIEC	Do not Support	<p>The proposal will codify the existing – monopolistic - structures and practices, and possibly even create possibilities for individual Member States to worsen the practices from the standpoint of end users, leading to fragmentation instead of harmonization. In IFIECs opinion it is inconsistent to contemplate Open Seasons for some projects (where conditional bidding will be necessary from a stakeholder perspective) and capacity allocation via independent CAM ascending auctions. The economic test is critical to allow the market to signal new capacity requirements. More investment will be needed to achieve a properly functioning market and public money (for example Connecting Europe Facility) will be insufficient to</p>

		<p>achieve this. Thus market based investments will have to be triggered by proper market incentives. However, setting the f-factor appropriately will be vital. The f-factor characterizes the risk distributions inherent in the overall regulatory framework. It is therefore disappointing to see that ENTSOG continues to use the network code to define a completely risk-free incremental investment framework for TSOs. We notice that TSOs are in a privileged position; they often enjoy index linking of the un-depreciated component of their Regulatory Asset Bases together with a rate of return that includes a substantial risk premium. It seems to us that we are being asked many times over to pay for the same assets. It is fine if TSOs want a risk-free return but if this is the case then we expect NRAs to address this issue as a matter of urgency so that the risk premium and indexation of regulatory asset bases are removed so that transportation fees can be substantially reduced.</p>
<p>IOGP (International Association of Oil and Gas Producers)</p>	<p>Partially Support</p>	<p>We believe it is important to add in the TAR NC that a decision on the formulation of the economic test and the f-factor can only be taken after first running a public consultation considering the f-factor has implications on the future tariffs paid by all network users.</p>
<p>SEDIGAS</p>	<p>Partially Support</p>	<p>Sedigas considers that an adjustment of the yearly rate of depreciation for the incremental capacity deals with revenues and not with tariffs so it is completely out of scope of both the incremental proposal and the NC TAR one.</p>
<p>VNG – Verbundnetz Gas AG</p>	<p>Support</p>	