

## Consultation Responses

‘Public Consultation of ENTSOG Incremental Proposal’  
30 May 2014 – 30 July 2014

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<b>Articles 1-3 of CAM NC – Subject matter, Scope and Definitions</b>	
1. Do you agree with the additional definitions proposed in Article 3 (CAM NC)? If not, please elaborate.	
No	
Elaboration:	
<p>EDF has some concerns about the proposed definition of “Open Season Procedures” which does not foresee a compulsory phase of non-binding expressions of interest.</p> <p>Regarding Open season procedures (OSP), ERGEG’s Guidelines for Good Practice on OSP (GGPOS) published in May 2007 specify that open seasons are a two-step process which allows (i) to efficiently consult the market demand and (ii) to allocate capacity on a transparent and non-discriminatory basis. In that respect, the first phase of OSP should consist in a proper assessment of the market’s needs, i.e. how much capacity the market is ready to bid for and under what terms (price, contract duration, firmness etc).Therefore, the GGPOS notably foresee non-binding bids on the basis of the open season notice.</p> <p>EDF believes that this non-binding phase is of paramount importance since it creates an iterative dialogue with the involved TSOs in order to properly assess market demand. Consequently, we wonder if it would be possible to rephrase the sentence in this way: OS is a process (...) that should include a phase for the submission of non-binding expression of interest (...).</p>	
<b>Articles 4-20 and 21-28 of CAM NC</b>	
2. Do you agree with the proposed amendments and changes to Articles 4-20 and 21 to 28 (CAM NC)? If not, please elaborate.	
Elaboration:	
<b>Article 20a of CAM NC: Co-ordination requirements</b>	
3. Do you agree with the level of co-ordination between TSOs and NRAs involved in an incremental or new capacity project as foreseen in Article 20a (CAM NC)? If not, please elaborate.	
Yes	

Elaboration:
EDF agrees with the coordination need between involved TSOs and NARs and the idea of a single economic test. However, for a given capacity project, we believe that a reasonable level of coherence of chosen parameters on both side of the border should be achieved.
4. Do you agree with the auction default and the alternative open season procedure as defined in Article 20a (5) (CAM NC)? If not, please elaborate.
No
Elaboration:
EDF considers that both auction and open season procedures have positive aspects. However, EDF does not agree with setting auctions as a default rule whereas OSP would only be left as an alternative. We would prefer to leave both options open on the same level. Should auctions remain the default rule, EDF considers that ENTSOG's proposal provides sufficient flexibility to enable the use of OSP. We deem this possibility of paramount importance especially where more than two TSOs are involved in the incremental/new capacity project.
5. Do you have any additional remarks to the provisions in Article 20a (CAM NC)?
Yes
Elaboration:
EDF would like to see more specifications about the level of cooperation and coordination between TSOs and NRAs especially on the kind of information that will be required. We believe that the document should consider, at least, some minimum compulsory requirements to be given by the TSOs before the investment such as the estimation of costs for each TSO, the distribution of profits, the environmental externalities, the penalties if deadlines are not met, etc.
<b>Article 20b of CAM NC: Information provision</b>
6. Do you agree with ENTSOG's proposal of a demand assessment to be the basis for conducting technical studies and subsequently designing offer levels? If no, please elaborate.
Yes
Elaboration:
7. Do you agree with the scope of information to be provided to the NRA and to be published by TSOs involved in an incremental or new capacity process as foreseen in article 20b(2) (CAM NC)? If not, please elaborate.
No
Elaboration:
EDF considers that additional information could be included especially those related to (i) investments costs and (ii) level of the guarantees and financial commitments required to enter in an OSP. Moreover, we believe that choice between an auction mechanism and OSP should be done with the involvement of all interested stakeholders.
8. Do you agree with the lead-time foreseen for the publication of information relevant to an incremental or new capacity project and especially the economic test as described in article 20b (3) (CAM NC)? If not, please elaborate.
No
Elaboration:

One month as a minimum lead time for the publication seems to be insufficient, especially if the amount of information to process is significant. We suggest to foreseen a minimum lead time of two months.
9. Are there any other issues that you wish to address regarding information provision as foreseen in article 20b? If yes, please elaborate.
No
Elaboration:
<b>Article 20c of CAM NC: When to offer</b>
10. Do you agree with the conditions that shall lead to the offer of incremental and new capacity as defined in Article 20c (1), (6), and (7) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
EDF agrees with this proposal which is aligned with ACER's Guidelines
11. Do you agree that the due date approach is preferable to the time window approach as foreseen in article 20c (3) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
12. Are there any other issues that you wish to address regarding conditions of when to offer incremental and new capacity as foreseen in article 20c (CAM NC)? If so, please elaborate.
Yes
Elaboration:
EDF considers that the frequency of demand assessment should be increased. Thus this assessment should be done "at least every year" and not "every other year" as foreseen by the draft proposal. We also deem valuable to have clear indications of deadlines on the demand assessment once the process has been triggered and the submission of indications to NRAs for approval. Finally charging fees for activities incurred from the submission of non-binding demand indications should be determined ex-ante and subject to NRA's approval.
<b>Article 20d of CAM NC: Auction mechanisms</b>
13. Do you agree with the concept of parallel bidding ladders to auction incremental and new capacity as foreseen in article 20d (CAM NC)? If not, please elaborate.
Yes
Elaboration:
EDF considers that parallel bidding ladders is a clear and efficient way to identify the willingness-to-pay of shippers for each level of incremental or new capacity
14. Do you agree with ENTSOG's opinion that repeating the identified bidding ladder(s) represents the clearest way to allow for bid revision as foreseen in article 20d (3) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
15. Do you prefer option 1 (a continuous approach for bid revision as proposed by ENTSOG in article 20d (3) (4)) or 2 (an approach according to which bid revision is only applied once)? Please elaborate.

Elaboration:
Both approaches have their advantages and their downsides. The continuous approach (option 1) gives the possibility to shippers to know better the different levels of demand for each step of price. The final result with this approach will give a better idea of the WTP of each shipper than the option 2. However the second option is simple and less burdensome.
16. Are there any other issues that you wish to address regarding auction mechanisms as foreseen in article 20d? (CAM NC) If yes, please elaborate.
No
Elaboration:
<b>Articles 20e, 20f, 20g of CAM NC: Open season procedures</b>
17. Do you agree with the provisions that shall lead to conducting an Open Season Procedure instead of auctions for incremental and new capacity as foreseen in article 20e (2) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
EDF believes that OSP are more flexible and are more relevant to trigger an investment for some specific cases. Therefore OSP should not only be an alternative to the auction mechanism as mentioned previously.
18. Do you see any other conditional capacity commitments in Open Season Procedures than the issues raised in the Draft Incremental Proposal article 20f (3) (CAM NC)? If yes, please elaborate.
Yes
Elaboration:
Conditionality on commitments at other IPs needs to be possible not only in the booking phase, but also on completion: indeed in case the goal is to develop new capacity along a route, if the realization of capacity at one IP is delayed, shippers who have booked capacity should not be bound to pay part of the overall capacity costs if they will not be able to transport gas along the entire route. Consequently, TSOs taking part to an Open Season should align the timing of completion of the IPs involved. However, even if this is not the case, shippers should start to pay only when the capacity is available on all the IPs included in the Procedure.
19. Do you agree that the proposed Open Season Procedures notice contains sufficient information as foreseen in 20f (8) (CAM NC)? If not, please elaborate.
No
Elaboration:
We believe that there should be two notices: one related to the non-binding phase and another one, more detailed, related to the bidding phase. The latter 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.
20. Do you agree with the default allocation rule foreseen for Open Season Procedures, being willingness to pay per unit and year as foreseen in article 20g (3) and the alternative allocation rule subject to NRA approval as foreseen in article 20g (4) (CAM NC)? If not, please elaborate.
No
Elaboration:
"The default allocation may give a transparent marginal price per unit of capacity but it may also favour

<p>shippers booking short term over shippers booking long term. In addition, Open seasons will be used for more complex projects where flexibility is needed with a case by case approach. Therefore we believe that:</p> <ul style="list-style-type: none"> <li>- 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</li> <li>- In any case, conditional commitments expressed by participants must be guaranteed, so that they have the same amount of capacity along the whole transmission route"</li> </ul>
<p>21. Are there any other issues that you wish to address regarding Open Season Procedures as foreseen in article 20e, article 20f and article 20g (CAM NC)? If yes, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>EDF wants to highlight the fact that OSP may also be compatible for some strategic investments that perhaps will not pass the economic test but that are mandatory for security of supply at the European level.</p>
<p><b>Articles 42-45 of TAR NC: Economic test principles</b></p>
<p>22. Do you agree with the structure of the economic test in the Incremental Proposal as foreseen in article 42 (TAR NC)? If not, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>However, EDF considers that regulated revenues must cover all the investment costs, which means that all the considered costs should be included in the Regulated asset base (RAB).</p>
<p>23. Do you agree with the factors that shall be taken into account when defining the f-factor as foreseen in article 43 (TAR NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p>EDF considers that the f-factors must not only take into account positive externalities but also negative ones (that are not specified in the draft amendment). Nonetheless, the problem to quantify externalities still remains. Furthermore, for a given project, for given capacity project, EDF is of the opinion that the individual f-factors on both sides of the border need to be set within a defined range. Please refer to Q25 for more details.</p>
<p>24. Do you agree with the structure of the recovery mechanisms for the share of 1-f as foreseen in article 43 (2) (TAR NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p>EDF would like to highlight that Article 43.4 is too vague when mentioning the possible cancellation of initial bookings "for any reason". We would suggest to narrow it down or better specify the reasons for cancellation.</p>
<p>25. Do you agree with the way the single economic test is aggregated as foreseen in article 44 (TAR NC)? If not please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>"However, EDF believes that the f-factors for the underlying individual tests run on both sides of the border have to be consistent ex-ante. Indeed, a significant difference of f-factors may lead to:</p> <p>(1) Potential cross-subsidies between TSOs ;</p>

<p>(2) A different risk exposure for network users on both sides of the border since there would be a different socialization of the share of regulated revenues that is not covered by upfront commitment;</p> <p>(3) Potential higher tariff increases where the f factor is lower;</p> <p>(4) A risk of “hold-up” by the capture of revenues from one TSO by another. This idea is critical since it has a direct effect on the prices of TSOs and final consumers ;</p> <p>(5) A problem to compare the real present value of the investment for each TSO.</p> <p>Therefore, for given capacity project, EDF is of the opinion that the individual f-factors need to be set within a defined range."</p>
<p>26. Do you agree with the three approaches for a potential redistribution of revenues as described in article 44 (4) (TAR NC)? If not, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p> <p>But in approach 4.b a percentage of a maximum level of redistribution of revenues should be specified to avoid any undesirable attitudes. According to articles 20.a and 20.b, the level of information required must be specified. Besides, we believe that revenue redistribution should not lead to undue cross-subsidies. Therefore we insist on the critical role of NRAs to chose the appropriate redistribution if any.</p>
<p>27. Are there any other issues that you wish to address regarding economic test as foreseen in articles 42-45 (TAR NC)? If yes, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p><b>Article 46 of TAR NC: Tariff principles</b></p>
<p>28. Do you agree with the default mechanism foreseen to adjust tariffs if required as covered in article 46 (TAR NC)? If not, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p> <p>The minimum premium for users participating to incremental process seems to strike a right balance between protecting long term booking users from tariff increases through investment and having a reasonable impact on willingness for long term commitment. However, we are not in favour of ad hoc mechanisms to be applied in order to pass the economic test. Parameters should be set ex ante and their adjustments should be subject to a careful assessment of the impacts.</p>
<p>29. Do you agree that in order to raise the level of commitment a downward tariff adjustment rewarding long-term booking can be included as foreseen in article 46 (TAR NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p> <p>EDF believes that this mechanism introduces discrimination for users with existing capacity.</p>
<p>30. Do you agree with including a possibility to adjust depreciation rates as a mechanism to avoid socialisation of costs as foreseen in article 46 (TAR NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p> <p>If the possibility is included, shippers should also be allowed to review their commitments after the adjustment if they do not agree with the new depreciation rate.</p>

31. How do different tariff options impact on the markets' willingness to commit long term in order to pass the economic test? Please elaborate.
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 option could be valuable. However, in case of floating tariff we think that the Buffer mechanism we have suggested so far helps in order to limit the interval of variations of the price on the years. Indeed it caps the payable price in future years based on a combination of the reserve price and premium at the time of the auction (where a premium applies), so that as the reserve price increases the premium is reduced to absorb the tariff increase which will be paid by users.
32. Are there any other issues that you wish to address regarding tariff related issues as foreseen in article 46 (TAR NC)? If yes, please elaborate.
No
Elaboration:
<b>General questions</b>
33. Do you consider that the level of detail in the Draft Incremental Proposal is appropriate for EU legislation? If not, please elaborate.
Yes
Elaboration:
However EDF would have expected more specifications or details regarding level of information required according to art. 20b): level of estimated costs, distribution of profits, level of the f-factor, etc.
34. After reviewing and/or replying to the topic-related questions in Chapter 5 of this supporting document, do you find that there are other material issues that ENTSG should consider as it develops the Incremental Proposal? If so please elaborate.
No
Elaboration:
35. Do you find that this supporting document for the public consultation was 'respondent-friendly' in terms of its readability, style, etc.? If not, please explain how ENTSG could improve future consultation documents.
Yes
Elaboration:
The document is 'respondent-friendly' and well structured. However we regret that the questionnaire only enables to participants to answer by yes or no. We would have welcome a "yes but with refinements" tick box in order to provide a more accurate feedback.



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<b>Articles 1-3 of CAM NC – Subject matter, Scope and Definitions</b>	
1. Do you agree with the additional definitions proposed in Article 3 (CAM NC)? If not, please elaborate.	
No	
Elaboration:	
We have some doubts concerning the definition of Open Season. In particular, we don't completely agree with the possibility to have only a binding phase, as the definition seems to allow, that would reduce an Open Season to a simple allocation mechanism, so removing its main value, that is to create an iterative dialogue with the TSOs to assess the market demand. Consequently, we wonder if it would be possible to rephrase the sentence in this way: Open Season is a process (...) that should include a phase for the submission of non binding expression of interest (...).	
<b>Articles 4-20 and 21-28 of CAM NC</b>	
2. Do you agree with the proposed amendments and changes to Articles 4-20 and 21 to 28 (CAM NC)? If not, please elaborate.	
No	
Elaboration:	
Not completely. Please, see the following answers.	
<b>Article 20a of CAM NC: Co-ordination requirements</b>	
3. Do you agree with the level of co-ordination between TSOs and NRAs involved in an incremental or new capacity project as foreseen in Article 20a (CAM NC)? If not, please elaborate.	
Yes	
Elaboration:	
We note that art. 20a (4) establishes that TSOs shall take into account comments of concerned network users when setting the offer levels. We wonder if it means that a consultation is arranged at this stage, as – in our opinion - it should be the case.	
4. Do you agree with the auction default and the alternative open season procedure as defined in Article 20a (5) (CAM NC)? If not, please elaborate.	

No
<b>Elaboration:</b>
We don't think that a default rule concerning the allocation mechanism should be foreseen in at EU legislation level. Both the instruments can be valuable, if properly assessed. Moreover, we think that also the application of auctions should be carefully evaluated. (For example, when using integrated auctions, it is crucial to know in detail the lead time of the investment, to avoid the risk of allocating an amount of capacity that will be delayed and consequently not available at the moment it was supposed to be, when it was allocated). However, we understand that it is ACER's intention to limit the use of Open Seasons and, in such a context, we think that ENTSOG's formulation is flexible enough to guarantee the application of Open Season when it is the case.
<b>5. Do you have any additional remarks to the provisions in Article 20a (CAM NC)?</b>
Yes
<b>Elaboration:</b>
Even if art.201 (1) establishes a clear commitment for coordination and cooperation on TSOs and NRAs, we think that the article should decline more in details what this means, by providing at least some examples of the actions that these subjects should undertake together. We also think that a strong coordination should take place when setting the individual f factor (see answer to Question 25).
<b>Article 20b of CAM NC: Information provision</b>
<b>6. Do you agree with ENTSOG's proposal of a demand assessment to be the basis for conducting technical studies and subsequently designing offer levels? If no, please elaborate.</b>
Yes
<b>Elaboration:</b>
<b>7. Do you agree with the scope of information to be provided to the NRA and to be published by TSOs involved in an incremental or new capacity process as foreseen in article 20b(2) (CAM NC)? If not, please elaborate.</b>
No
<b>Elaboration:</b>
"We think that other elements should be sent by TSO to NRAs for approval and communicated to shippers well in advance, at least: <ul style="list-style-type: none"> <li>- the investment costs and the assumptions on which these are based along with the methodology for determining any resulting tariffs, reserve prices or incremental bid prices. This will enable NRAs and network users to compare the efficiency of TSOs' unit investment costs either side of the border and challenge any significant differential, which may indicate undue discrimination.</li> <li>- The level of the guarantees and, more in general, the financial commitments required to enter into an Open Season process. These aspects are crucial in order to make possible for the potential participants an assessment of the risks, with the aim to decide if and how much capacity they can book.</li> <li>- Moreover, we would prefer that the choice between an Open season and an auction would be done with the involvement of network users.</li> </ul> Concerning this aspect, we would like to recall that, one of the reasons to adopt an open season is the possibility to have conditional bidding from the participants. Also for this reasons, it would be appropriate to consult the users before sending the final assessment to the NRAs"
<b>8. Do you agree with the lead-time foreseen for the publication of information relevant to an incremental or</b>

new capacity project and especially the economic test as described in article 20b (3) (CAM NC)? If not, please elaborate.
No
Elaboration:
One month as a minimum lead time for the publication seems to be insufficient, especially if the amount of information to process is significant. We suggest to foreseen a minimum lead time of two months. Moreover, concerning Open Season, we don't understand why the lead time refers to beginning of the binding phase. Does it mean that no or few information would be provided before the start of the non binding phase? We don't think that an approach would be appropriate to stimulate the participation to an Open Season procedure.
9. Are there any other issues that you wish to address regarding information provision as foreseen in article 20b? If yes, please elaborate.
Yes
Elaboration:
We think that more information should be provided to NRAs in order to prepare the Notice(s) that will be made available to potential participants, especially in the case of Open Seasons. For more details about the structure of the Notice, please, see our answer to Question 19
<b>Article 20c of CAM NC: When to offer</b>
10. Do you agree with the conditions that shall lead to the offer of incremental and new capacity as defined in Article 20c (1), (6), and (7) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
11. Do you agree that the due date approach is preferable to the time window approach as foreseen in article 20c (3) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
However, the key point to consider is the frequency of the assessment. As explained in the next answer, we call for a year assessment. To this respect, even a time window approach could work.
12. Are there any other issues that you wish to address regarding conditions of when to offer incremental and new capacity as foreseen in article 20c (CAM NC)? If so, please elaborate.
Yes
Elaboration:
"There are two points that should be addressed: <ul style="list-style-type: none"> <li>• The frequency of the demand assessment</li> <li>• The duration of the entire process</li> </ul> Both the aspects are important to allow shippers to decide when sending non-binding requirements. Concerning the first point, our opinion is that the frequency should be increased. Indeed, an interval of two years seems to be too long and we don't see any contraindication in setting the frequency on a yearly basis. Consequently, the period between two subsequent due dates should not exceed 12 month (instead of 24). Concerning the second point, it would be desirable to have an indication of the length of the process. If this is not possible, at least the duration of some of the steps should be fixed, like a) by when TSOs should make the

demand assessment, once the process has been triggered, and b) by when TSOs shall submit the indications (i.e offer levels, allocation mechanism and parameters of the economic test) to NRAs for approval, once the technical study has been completed.

Moreover, we call for a more clear formulation of art. 20c (c), related to the submission of shipper's non-binding demand indications. The current formulation would lend itself to different interpretations, with the risks that the requests are not taken into considerations. For example, the "sustained 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" are not clear. Finally, we think that NRAs should be strictly involved in the process of selecting (and eventually rejecting) the market requests that will launch the process of "when to offer" incremental and new capacity. For this reasons we suggest a yearly report by TSOs to NRAs listing all the non binding requests received by shippers plus a very preliminary view on how to address it (rejected or not)."

**Article 20d of CAM NC: Auction mechanisms**

13. Do you agree with the concept of parallel bidding ladders to auction incremental and new capacity as foreseen in article 20d (CAM NC)? If not, please elaborate.

Yes

**Elaboration:**

"It seems that the implementation of parallel bidding ladders would allow network users to have a clearer idea of the amount of incremental capacity they are bidding for and that could eventually be allocated, based on the result of the economic test. However, there is still one point that it's not clear to us, concerning the potential delay in the availability of the incremental capacity.

According to ENTSOG's model, incremental capacity will be allocated in advance, together with the existing one, taking into consideration the lead time for the realization of the investment. We wonder what would happen if the incremental capacity - already allocated with the existing one - was delayed, for example for authorization reasons. Considering that it won't be possible to distinguish the portion of the new and existent capacity that has been allocated to each single shipper, how the reduction will be managed? Thus, in order to avoid this situation, we think that:

- The lead time of the investments should be properly estimated, on a case by case base and taking into consideration the authorization process that, in most cases, is the main obstacle to the realization of the investment.
- There might be a merit, at least in some cases, in allocating separately the existing and incremental capacity. Open Season seems to be the instrument best suited to this kind of situation."

14. Do you agree with ENTSOG's opinion that repeating the identified bidding ladder(s) represents the clearest way to allow for bid revision as foreseen in article 20d (3) (CAM NC)? If not, please elaborate.

Yes

**Elaboration:**

If bid revisions were introduced, the mechanism developed by ENTSOG is a valuable solution because it has the merit to not reopen the previous auctions and so it doesn't overcomplicate the entire process. However, even if it is peculiar that incremental capacity is sold with a premium, meaning it is "scarce since the beginning" we wonder if bid revision is strictly necessary. Indeed, one could accept the results of the market test, without trying to force the mechanism towards a solution that, in theory is more efficient but, in practice, would introduce a certain amount of risks among participants. (It may happen that bidders already selected in the previous auctions wouldn't be allocated with any capacity in the one that has been repeated).

15. Do you prefer option 1 (a continuous approach for bid revision as proposed by ENTSOG in article 20d (3) (4)) or 2 (an approach according to which bid revision is only applied once)? Please elaborate.
2) an approach according to which bid revision is only applied once?
Elaboration:
In case of bid revisions, we would prefer the second solution in order not to overcomplicate the process. However we don't have, so far, a clear idea on the impacts coming from the repetition of the process: a test phase could be arranged to explore them.
16. Are there any other issues that you wish to address regarding auction mechanisms as foreseen in article 20d? (CAM NC) If yes, please elaborate.
No
Elaboration:
<b>Articles 20e, 20f, 20g of CAM NC: Open season procedures</b>
17. Do you agree with the provisions that shall lead to conducting an Open Season Procedure instead of auctions for incremental and new capacity as foreseen in article 20e (2) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
"However we would like to call attention to the next aspect. Among the circumstances that would suggest the use of Open Seasons, the following is envisaged: "when the project for incremental or new capacity (...) is linked to or impacted by the realization of an exempted infrastructure according to Article 36 of Directive 2009/73/EC" We understand that this example occurs when developing new/incremental capacity in systems that are physically interconnected with an exempted infrastructure. If this is the case, we don't have any objections. On the contrary, we wouldn't be in favor of the inclusion, among the examples, of projects that have to organize a market test in order to ask for an exemption, according to art. 36 of the Gas Directive. Indeed we have some doubts that the procedure described in the Incremental Proposal could fit also for these projects, because the Gas Directive envisages a precise pattern that seems to be a different one. More in detail, Article 36 of Directive 2009/73/EC establishes that, before a market test is conducted, NRAs shall decide upon the rules and mechanisms for management and allocation of capacity. If we consider the standard procedures that have been followed so far, in accordance with the Directive, it has resulted in the following temporal steps: 1) Approval by the relevant NRAs of the Guidelines for the organizations of the market test (often subject to market consultation) 2) Elaboration of one or more detailed Notices by Project Sponsors, on the basis of the Guidelines approved by NRAs. The Network Code doesn't foreseen the first step, but basically requires the publication of Notices by TSOs elaborated on their own, subject to each NRA's approval. Main differences come from the fact that, following the procedure foreseen by the Directive : - A common (over national) regulatory discipline is set ex ante - The discipline may foresee ad hoc requirements, considering that the results of the market test should help NRAs in assessing if the five criteria of art. 36 are met; On the opposite, Open Seasons recently developed by TSOs in a regulated context (ie Open Seasons for developing reverse flow capacity) have been developed more in line with ENTSOG's proposals. We understand that setting an ex ante and ad hoc regulatory framework may not always be necessary for

<p>regulated process (or may be too complex to become a standard procedure ) but at the same time, the Process foreseen by the Directive can't be derogated. For this reasons we suggest to not consider the case of projects that are going to ask an exemption from the list of examples of art. 20(2) of the Cam Network Code."</p>
<p>18. Do you see any other conditional capacity commitments in Open Season Procedures than the issues raised in the Draft Incremental Proposal article 20f (3) (CAM NC)? If yes, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p> <p>We think that Conditionality should not only be guaranteed in the Booking Phase (for example to ensure the same level of capacity at different IPs), but should also be ensured ex post, in relation with the moment when the new capacity starts to be available, in order not to leave any completion and delay risk on network users. Indeed, when an Open Season has the goal to develop new capacity along a route and consequently the capacity is allocated at different IPs, if the realization of capacity at one IP was delayed, shippers would have to pay for that capacity even if they are not be able to transport gas along the entire route. Consequently, TSOs taking part to an Open Season should trying to align the timing of entering onto operation of the IPs involved. However, even if this is not the case, shippers should start to pay only when the capacity is available on all the IPs included in the Procedure. Finally, we remark that, on our prospective, the completion risk is one the most effective risk that discourage the participation of shippers on long term projects.</p>
<p>19. Do you agree that the proposed Open Season Procedures notice contains sufficient information as foreseen in 20f (8) (CAM NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p> <p>"First of all we think that, typically being an Open Season a two steps procedure, more than a Notice should be provided along the entire process. Ideally, a first Notice should be related to the non-binding phase and should include the description of the entire procedure and of the main criteria that will be applied. A second Notice should be specifically related to the Bidding Phase and it should include very detailed information some of which (ie the indicative tariffs) may require the knowledge of the results of the first phase. Both the Notices must be approved by NRAs and should be made available by TSOs pretty in advance of each phase. It could also be the case that the second one is sent only to the participants of the non-binding phase, as a common practice in many Open Seasons. Consequently, we considered the minimum information requirements foreseen in article 20f (8) as the ones to be included in the First Notice. Moreover, we suggest to add the followings:</p> <ul style="list-style-type: none"> <li>- the requirements of the subjects that can take part in the procedure;</li> <li>- Project technical description (including an estimation of the Capex and Opex) and indicative timeframe;</li> <li>- Fees to attend the procedure, if any.</li> <li>- Status of the project</li> <li>- Point of contact in case clarifications are needed</li> </ul> <p>Finally, we think that there could be a merit to explore the interest of the market toward some elements of the project configuration (for example the kind of products to offer, that could be characterized by a different time horizon, as well as the realization of additional entry/exit points along the route etc). In our opinion, one of the added values of Open Seasons is building an open and productive dialogue between shippers and TSOs that, at the end, will have an impact on the success of the Procedure itself.</p>

Concerning the Bidding Notice, it is worth underlying that the information it includes are crucial for assessing participants' decisions to commit capacity for a long time period. Consequently, it should be as exhaustive as possible, in order to make possible for shippers to make their own risk assessment. In particular, it should include, among other things, detailed information on:

- Tariff methodology to be applied, with an estimation of the indicative tariff and all the voices that could affect its trend on the time (i.e. the way the mechanism to recover the allowed revenues of the TSOs will impact the price at IPs)
- The level of guarantee to be provided.
- Any financial commitment foreseen by the procedure such as "bid bonds" and penalties for the participants to the Booking Phase;
- 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 )."

20. Do you agree with the default allocation rule foreseen for Open Season Procedures, being willingness to pay per unit and year as foreseen in article 20g (3) and the alternative allocation rule subject to NRA approval as foreseen in article 20g (4) (CAM NC)? If not, please elaborate.

No

Elaboration:

"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. In our opinion, any mechanisms that disincentive long term bookings should be carefully evaluated, when setting an Open Season, in order not to undermine the investments. 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.

As a general principle, we do think that yearly auctions may be a difficult instrument to use for long term bookings of new capacity, because over a long-term horizon is difficult for users to identify the appropriate size of the premium, which can hardly be based over commodity price differentials, as in the case of short-term capacity. Commitment in new long term transmission capacity is usually triggered by the need to secure the transport of long term supplies and not by trading opportunities, as it is often the case, when booking short term. Based on the considerations above, Edison thinks that:

- in order to keep Open Seasons a flexible instrument to develop new capacity, the appropriate allocation rule should be developed case by case by NRAs and TSOs, and so we discourage the introduction of a default rule for the new capacity in the Network Code, especially if based on a short term view, as the ascending clock mechanism
- whatever the allocation rule is, it is important to safeguard conditional commitments expressed by participants in order to lead network users to have the same amount of capacity along the whole transmission route. Indeed, shippers book long term mainly to accommodate long term supplies, and consequently, allocations that are not consistent on the years make little sense."

21. Are there any other issues that you wish to address regarding Open Season Procedures as foreseen in article 20e, article 20f and article 20g (CAM NC)? If yes, please elaborate.

Yes

Elaboration:



<p>"Coming from our recent experiences in attending Open Seasons, the most critical issues that discourage long term commitments are:</p> <ul style="list-style-type: none"> <li>• Completion Risk: in case of delayed realization of capacity at some points, shippers who have booked capacity may have to pay part of the overall capacity costs even if they will not be able to transport gas along the route.</li> <li>• No Visibility: concerning: i) regulatory framework and potential reserve price on allocation procedure ii) next occasion to book capacity on the routes.</li> <li>• Capacity Price Risk: uncertainties on final auction price and its evolution on the period."</li> </ul>
<p><b>Articles 42-45 of TAR NC: Economic test principles</b></p>
<p>22. Do you agree with the structure of the economic test in the Incremental Proposal as foreseen in article 42 (TAR NC)? If not, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>23. Do you agree with the factors that shall be taken into account when defining the f-factor as foreseen in article 43 (TAR NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p>24. Do you agree with the structure of the recovery mechanisms for the share of 1-f as foreseen in article 43 (2) (TAR NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p> <p>We don't agree on the formulation of art. 43.4 that establishes that "if the initial booking or parts of booking are for any reasons cancelled", than the lack of revenues shall be guaranteed by future capacity bookings of the incremental or new capacity. We think that the reasons that can bring to booking cancellations should be explored and finally, better specified. The term "for any reasons" is too general and doesn't offer sufficient guarantees, especially for those shippers booking long terms, that the tariff won't change dramatically in the future (for example due to the decision of a shipper to exit from the procedure, after having booked capacity). In other words, this article opens the door to the risks of tariff fluctuation that may discourage long term bookings, and, finally, the investments. Finally, we call for a high level of coordination between the involved NRAs when setting the recovery mechanism, in order to avoid possible discrimination between users of different countries.</p>
<p>25. Do you agree with the way the single economic test is aggregated as foreseen in article 44 (TAR NC)? If not please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p> <p>However, we would like to underline that, even when setting the individual f factor on a national basis, a certain level of coordination between NRAs and between TSOs is needed, in particular, NRAs should jointly and carefully evaluate the impacts (in terms of cross subsidization, increase of tariffs etc) on network users from having individual f factors that are very different.</p>
<p>26. Do you agree with the three approaches for a potential redistribution of revenues as described in article</p>



44 (4) (TAR NC)? If not, please elaborate.
Yes
Elaboration:
27. Are there any other issues that you wish to address regarding economic test as foreseen in articles 42-45 (TAR NC)? If yes, please elaborate.
Yes
Elaboration:
We would like to recall the fact that investments in interconnection capacity should be efficiently incurred. Thus, when assessing the parameters of the economic tests, NRAs should carefully evaluate the costs that are on the basis of the increased revenues of TSOs.
<b>Article 46 of TAR NC: Tariff principles</b>
28. Do you agree with the default mechanism foreseen to adjust tariffs if required as covered in article 46 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
Among the mechanism proposed by ENTSOG, the mechanism that foresees the minimum premium for shippers asking new/incremental capacity seems to be the one creating less distortions. However, we are very skeptical about the usage of hoc mechanisms to be applied in order to pass the economic test: prices should be set according to ex ante economic principles, like cost reflectivity, and in the case they need to be adjusted, NRAs should evaluate very carefully the implication on the whole system (for example if the prices are “artificially” decreased, there should be a clear evaluation on how to recover part of the allowed revenues of the TSOs).
29. Do you agree that in order to raise the level of commitment a downward tariff adjustment rewarding long-term booking can be included as foreseen in article 46 (TAR NC)? If not, please elaborate.
No
Elaboration:
The mechanism introduces a sort of discrimination for users with existing capacity.
30. Do you agree with including a possibility to adjust depreciation rates as a mechanism to avoid socialisation of costs as foreseen in article 46 (TAR NC)? If not, please elaborate.
No
Elaboration:
We think that the mechanism is too specific to be included in a Network Code and should be assessed at national level.
31. How do different tariff options impact on the markets’ willingness to commit long term in order to pass the economic test? Please elaborate.
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 would help, 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, discourages the investment. However, in case of floating tariff we think that the “Buffer mechanism” we have suggested so far helps in order to limit the interval of

<p>variations of the price on the years . Indeed it caps the payable price in future years based on a combination of the reserve price and premium at the time of the auction (where a premium applies), so that as the reserve price increases the premium is reduced to absorb the tariff increase which will be paid by users. In our opinion, the “Buffer principle” provides a suitable answer to the context of incremental capacity, but other mechanisms, such as a fixed price guaranteed by a risk premium have merit too and we encourage a further discussion on this issue.</p>
<p>32. Are there any other issues that you wish to address regarding tariff related issues as foreseen in article 46 (TAR NC)? If yes, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p><b>General questions</b></p>
<p>33. Do you consider that the level of detail in the Draft Incremental Proposal is appropriate for EU legislation? If not, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>However, we think that the wording used in some articles should be clarified (see answer to question 12).</p>
<p>34. After reviewing and/or replying to the topic-related questions in Chapter 5 of this supporting document, do you find that there are other material issues that ENTSOG should consider as it develops the Incremental Proposal? If so please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p>35. Do you find that this supporting document for the public consultation was ‘respondent-friendly’ in terms of its readability, style, etc.? If not, please explain how ENTSOG could improve future consultation documents.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>As usual, ENTSOG has developed the consultation process fruitfully. The documentation provided has been exhaustive and the meetings has been arranged frequently and properly. As a suggestion for next consultations, it could be helpful to have a Draft of the Network Code including the revisions, in order to make the reading easier.</p>

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<b>Articles 1-3 of CAM NC – Subject matter, Scope and Definitions</b>	
1. Do you agree with the additional definitions proposed in Article 3 (CAM NC)? If not, please elaborate.	
No	
Elaboration:	
<p>In our opinion the definition of the "Bidding ladder" should be completed and explained with more detail Without reading the supporting document there are loads of doubts about the content of the bidding ladder and its functioning in the auction. So it is also necessary to explain in the NC how the auction process works with the "Bidding ladder" in order to avoid any type of doubt about the process. On the other hand, we do also have doubts about the reserve price and the premiums used for the auctions. In the initial phase of an auction where there is an incremental capacity, how is the reserve price calculated? We also believe that more information about this should be completed in the NC.</p>	
<b>Articles 4-20 and 21-28 of CAM NC</b>	
2. Do you agree with the proposed amendments and changes to Articles 4-20 and 21 to 28 (CAM NC)? If not, please elaborate.	
No	
Elaboration:	
<p>The article 17.20 explains that in case incremental capacity is allocated, in combination with available existing capacity, and in case new capacity is allocated, the allocation capacity shall be subject to the outcome of the economic test according to Article 42 of Regulation N° XXX/201X and necessary subsequent approval processes. In relation with the economic test, we do support the idea that all information needed to calculate tariffs and the minimum levels required for a positive economic test should be known. In this sense from our point of view transparency is a key factor for network users as they need to have a well-known, clear, predictable ( tariffs forward curve) and easily reproducible methodology. On the other hand, regarding to article 8 the NC establishes that an amount of 80% of the technical existing capacity will be offered in annual capacity auctions and in case of incremental and new capacity an amount of 90% will be auctioned in annual capacity products. In this sense, we believe that it will be better to apply a progressive allocation of long term products instead of allocating 90% of new or incremental capacity in annual capacity products. It will be more flexible to auctioned 90% of new or incremental capacity in annual capacity products</p>	

for the first 5 years, 80% for the next 5 years, 70% for years 10 to 15. Definetily we support the idea of having as much flexible tools as possible.
<b>Article 20a of CAM NC: Co-ordination requirements</b>
3. Do you agree with the level of co-ordination between TSOs and NRAs involved in an incremental or new capacity project as foreseen in Article 20a (CAM NC)? If not, please elaborate.
Yes
Elaboration:
Regarding to potential new investment, shippers involvement should be ensured during all the decision process and not limit their participation to the auction or to the Open Season.
4. Do you agree with the auction default and the alternative open season procedure as defined in Article 20a (5) (CAM NC)? If not, please elaborate.
No
Elaboration:
In our opinion both Open Seasons and auctions have merit if they are designed well. However we do not support the idea that one method should be used as default. Firstly we believe that investments in new capacity should take into account if this new capacity (new IP) will be competent enough and if it will be aggregated with other IPs in a virtual point, so capacity of other IPs will not be distorted due to this new capacity. On the other hand, we also believe that network users should be involved in the decision of doing an Open Season or an auction because final decision could be change if different opinions and points of view are taken into account.
5. Do you have any additional remarks to the provisions in Article 20a (CAM NC)?
No
Elaboration:
<b>Article 20b of CAM NC: Information provision</b>
6. Do you agree with ENTSOG's proposal of a demand assessment to be the basis for conducting technical studies and subsequently designing offer levels? If no, please elaborate.
Yes
Elaboration:
From our point of view demand is the basis for conducting technical studies because investments are done in order to respond to a real need. However, in some cases other externalities are taken into account such us security supply, strategic reasons for the country and so on. When this happens it has to be well-known, clear and quantify its effects in the reserve price. Evenmore, when this externalities are considered it has to be defined which quantity is going to be supported by the network users and which quantity is going to be supported by the members states. In conclusion, structure and components of the economic test have to be clear and well-known for all network users.
7. Do you agree with the scope of information to be provided to the NRA and to be published by TSOs involved in an incremental or new capacity process as foreseen in article 20b(2) (CAM NC)? If not, please elaborate.
No
Elaboration:
In our opinion as we have said above, the parameters of the economic test should be well-known, clear,

<p>predictable and easily reproducible.</p> <p>Furthermore, these information provision should be in a user friendly manner with the aim to allow a easy analysis of them, and avoiding any type of misunderstanding. Also regarding to the type of information provision we think that other elements should be published:</p> <ul style="list-style-type: none"> <li>- Investment costs and the assumptions on which these are based along with methodology for determining any resulting tariffs, reserve prices or incremental bid prices. This will enable NRAs and network users to compare the efficiency of TSOs' unit investment costs either side of the border and challenge any significant differential, which may indicate undue discrimination.</li> <li>- The level of guarantees and in general the financial commitments required to enter into an Open Season process. These aspects are crucial in order to make possible for the potential participants an assessment of the risks, with the aim to decide if and how much capacity they can book. Moreover, we would prefer that the choice between an Open Season and an auction would be done with the involvement of network users.</li> </ul>
<p>8. Do you agree with the lead-time foreseen for the publication of information relevant to an incremental or new capacity project and especially the economic test as described in article 20b (3) (CAM NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p> <p>The proposal establishes one month before the annual yearly capacity auction or beginning of the bidding phase of the open season procedure for publishing the parameters approved by the national regulatory authority. However, from our point of view this is not sufficient for processing the amount of information. We estimate that a period of 3 months should be enough. Evenmore, regarding to the Open Season procedure, we do not understand why the lead time refers to the beginning of the bidding phase. So, what information is going to be available before the non bidding phase? We do not understand why network users are just involved at the end of the process when they are going to be the main users of the capacity.</p>
<p>9. Are there any other issues that you wish to address regarding information provision as foreseen in article 20b? If yes, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p><b>Article 20c of CAM NC: When to offer</b></p>
<p>10. Do you agree with the conditions that shall lead to the offer of incremental and new capacity as defined in Article 20c (1), (6), and (7) (CAM NC)? If not, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>11. Do you agree that the due date approach is preferable to the time window approach as foreseen in article 20c (3) (CAM NC)? If not, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>12. Are there any other issues that you wish to address regarding conditions of when to offer incremental and new capacity as foreseen in article 20c (CAM NC)? If so, please elaborate.</p>

Yes
Elaboration:
The article 20c (4) establishes that TSOs may charge fees for activities resulting out of the submission of non-bidding demand indications and that this fees shall be reimbursed to the network users if the economic test is positive. We believe that TSOs should not charge for this as it is part of their business and they should be interested in doing without any economical incentive.
<b>Article 20d of CAM NC: Auction mechanisms</b>
13. Do you agree with the concept of parallel bidding ladders to auction incremental and new capacity as foreseen in article 20d (CAM NC)? If not, please elaborate.
Yes
Elaboration:
As mentioned in question 1, in our opinion the definition and the explanation of parallel bidding ladder is not clear at all and there all many doubts about the auction process. From our point of view the NC should be better explained and include more detail about the parallel bidding ladders.
14. Do you agree with ENTSOG's opinion that repeating the identified bidding ladder(s) represents the clearest way to allow for bid revision as foreseen in article 20d (3) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
YES and NO We do not have a clear view about if it is necessary to reopen the auction and it could be possible to sell the incremental capacity in one process without bid revision. Anyway when bid revision applies it should be clear what conditions apply to network users. Such us possibilities to modify offers
15. Do you prefer option 1 (a continuous approach for bid revision as proposed by ENTSOG in article 20d (3) (4)) or 2 (an approach according to which bid revision is only applied once)? Please elaborate.
1) a continuous approach for bid revision as proposed by ENTSOG in article 20d (3) (4);
Elaboration:
In case bid revision applies, from our point of view a continuous approach for bid revision as proposed in article 20d (3) and (4) is better for reflecting market needs and also for assuring efficiency in new investments. If bid revisions only applies once, it could happen that shippers interests are not fully covered or contrary to this situation investments exceed shippers demand.
16. Are there any other issues that you wish to address regarding auction mechanisms as foreseen in article 20d? (CAM NC) If yes, please elaborate.
Yes
Elaboration:
Once again, we believe that more information, better explanation and more transparency is needed in the NC, it is important to ensure there are no doubts in the auction process or in the Open Season procedure.
<b>Articles 20e, 20f, 20g of CAM NC: Open season procedures</b>
17. Do you agree with the provisions that shall lead to conducting an Open Season Procedure instead of auctions for incremental and new capacity as foreseen in article 20e (2) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
18. Do you see any other conditional capacity commitments in Open Season Procedures than the issues

raised in the Draft Incremental Proposal article 20f (3) (CAM NC)? If yes, please elaborate.
No
Elaboration:
19. Do you agree that the proposed Open Season Procedures notice contains sufficient information as foreseen in 20f (8) (CAM NC)? If not, please elaborate.
No
Elaboration:
In our opinion the open season procedure should include and take into account; <ul style="list-style-type: none"> <li>- Tariffs visibility because it is needed before any type of process.</li> <li>- Time line should be clear and delays should suppose penalties for TSOs. Network users book capacity ex ante so there are commercial risks they are assuming and consequently possible delays in the construction have to be penalised</li> <li>- Before the beginning of the process, all information about costs, grants, middlesteps, ....should be published</li> <li>- The minimum threshold for the positive result of the process should know and it should be well justified with sufficient detail to understand the calculations</li> </ul> <p>In conclusion, we believe that network users need to have more information about the new or incremental capacity, the investment costs, externalities taken into account and in general as much information and transparency as possible.</p>
20. Do you agree with the default allocation rule foreseen for Open Season Procedures, being willingness to pay per unit and year as foreseen in article 20g (3) and the alternative allocation rule subject to NRA approval as foreseen in article 20g (4) (CAM NC)? If not, please elaborate.
No
Elaboration:
We have some doubts that the willingness to pay per year principle could meet the requirements of long term bookings, that are typical of Open Seasons. Moreover, we think that, in order to keep Open Seasons a flexible instrument to develop new capacity, the appropriate allocation rule should be developed case by case by NRA and TSOs. However, whatever the allocation rule is, it is important to safeguard conditional commitments expressed by participants
21. Are there any other issues that you wish to address regarding Open Season Procedures as foreseen in article 20e, article 20f and article 20g (CAM NC)? If yes, please elaborate.
No
Elaboration:
<b>Articles 42-45 of TAR NC: Economic test principles</b>
22. Do you agree with the structure of the economic test in the Incremental Proposal as foreseen in article 42 (TAR NC)? If not, please elaborate.
No
Elaboration:
We believe that the economic test should also take into account the following issues: <ul style="list-style-type: none"> <li>- Deemed investment costs based on efficient investment cost</li> <li>- Transparency: At the beginning of the process, network users</li> </ul>

<p>should have a full understanding of how the f parameter, the deemed investment cost and the monetised value of any considered externality have been calculated. So, TSO/NRA should provide all needed information in a user friendly manner, allowing an easy understanding of all considered assumptions - Network users involvement: it should be ensured, before approving final process and after that, through a public consultation process. It is important to know users comments to the NRA/ TSO proposal with the aim to avoid any type of distortion.</p>
<p>23. Do you agree with the factors that shall be taken into account when defining the f-factor as foreseen in article 43 (TAR NC)? If not, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>24. Do you agree with the structure of the recovery mechanisms for the share of 1-f as foreseen in article 43 (2) (TAR NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p>Before the beginning of the process, the share of the present value ("threshold") needed to get with the aim to have a positive result in the economy test should be sufficiently and clearly detailed. Furthermore, in our view above mentioned threshold should be determined by the national regulatory authorities, ensuring a minimum level of capacity offered in the short term. In this sense, we propose that capacity could be offered in "lots" distinguishing different "lots" of capacity offers by periods. In the same way the approval process have to be clear, ex-ante, considering all variants depending on the result and without allowing process to be opened after TSOs or NRAs decision. Finally, regarding to the mechanism for recovering the share 1-f, it is important the coordination between the involved NRAs when setting the recovery mechanism, in order to avoid possible discrimination between users of different countries. Also if the share 1-f has a big value due to externalities that are being taken into account, TSOs and NRAs have to justify how this share is going to be recovered in the future.</p>
<p>25. Do you agree with the way the single economic test is aggregated as foreseen in article 44 (TAR NC)? If not please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>26. Do you agree with the three approaches for a potential redistribution of revenues as described in article 44 (4) (TAR NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p>We believe this aspect should be discussed at NRAs and TSOs before the auction or the Open Season procedure take place.</p>
<p>27. Are there any other issues that you wish to address regarding economic test as foreseen in articles 42-45 (TAR NC)? If yes, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>As we have said above, we believe that is very important that investment costs in interconnections are</p>



<p>efficiently incurred and they are not artificially increased. This issues is specially important because it can hinder the success of the project. TSOs should provide details of the investments linked to the incremental capacity ( Km, diameter pipelines,compressor station,etc) and their costs to allow network users to objectively check if TSO incurred costs are efficient. In this sense it is also important to control that initial costs are maintained during the process, just to ensure they are not "duplicated" and the end. Also ACER should provide a benchmarking of investment costs among EU TSOs and NRAs should also provide information on average investment costs of their respective TSO. Finally when significant desviation in costs ( for example over 20%), a motivation should be provided by TSOs.</p>
<p><b>Article 46 of TAR NC: Tariff principles</b></p>
<p>28. Do you agree with the default mechanism foreseen to adjust tariffs if required as covered in article 46 (TAR NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p>We believe that methodology to set tariffs should be established before being required to make binding bids so all players should be able to replicate the model. We agree with the default mechanism foreseen to adjust tariffs if when an adjustment is needed network users have enough information for replicating the model and calculating tariffs taking into account those adjustments. However, in any case, the introduction of ad hoc mechanisms to adjust the economic test, in order to be passed, should be carefully evaluated.</p>
<p>29. Do you agree that in order to raise the level of commitment a downward tariff adjustment rewarding long-term booking can be included as foreseen in article 46 (TAR NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p>From our point of view, a downward tariff adjustment introduces a sort of discrimination for users with existing capacity. So we agree with this option only if it applies to all users how have capacity in that IP.</p>
<p>30. Do you agree with including a possibility to adjust depreciation rates as a mechanism to avoid socialisation of costs as foreseen in article 46 (TAR NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p>The mechanism is too specific to be included in a Network Code and shoul be assesed at national level. However in any case, depreciation rates and the economic life of the asset have to be coherent between them.</p>
<p>31. How do different tariff options impact on the markets' willingness to commit long term in order to pass the economic test? Please elaborate.</p>
<p>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 fix tariff would help. In our view, the range of fixed options should be limited to "Fixed price plus indexation". We believe this is the unique actually fix structure and incentives the long term bookings.Futhermore, we consider that it fits better with the principle that the recovery should be based on capacity - charges.</p>
<p>32. Are there any other issues that you wish to address regarding tariff related issues as foreseen in article 46 (TAR NC)? If yes, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>

General questions
33. Do you consider that the level of detail in the Draft Incremental Proposal is appropriate for EU legislation? If not, please elaborate.
No
Elaboration:
As we have mentioned in loads of answers of this public consultation, we believe that the detail level included in the NC is not enough and there are loads of doubts about the process used for allocating incremental or new capacity (bidding ladder and reserve prices) , the variables considered in the economic test, the information needed for calculating tariffs and minimum levels required for a positive economic test. All this information should be clear and well-known for all network users. Definetly, we consider that more information and detail should be included in the Network Codes regarding to new and incremental capacity.
34. After reviewing and/or replying to the topic-related questions in Chapter 5 of this supporting document, do you find that there are other material issues that ENTSOG should consider as it develops the Incremental Proposal? If so please elaborate.
No
Elaboration:
35. Do you find that this supporting document for the public consultation was 'respondent-friendly' in terms of its readability, style, etc.? If not, please explain how ENTSOG could improve future consultation documents.
Yes
Elaboration:

<b>Respondent:</b>	<b>Enel Spa</b>
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<b>Articles 1-3 of CAM NC – Subject matter, Scope and Definitions</b>	
1. Do you agree with the additional definitions proposed in Article 3 (CAM NC)? If not, please elaborate.	
Yes	
Elaboration:	
<b>Articles 4-20 and 21-28 of CAM NC</b>	
2. Do you agree with the proposed amendments and changes to Articles 4-20 and 21 to 28 (CAM NC)? If not, please elaborate.	
Elaboration:	
<b>Article 20a of CAM NC: Co-ordination requirements</b>	
3. Do you agree with the level of co-ordination between TSOs and NRAs involved in an incremental or new capacity project as foreseen in Article 20a (CAM NC)? If not, please elaborate.	
Yes	
Elaboration:	
4. Do you agree with the auction default and the alternative open season procedure as defined in Article 20a (5) (CAM NC)? If not, please elaborate.	
No	
Elaboration:	
In general terms Enel believes that there are no good reasons why auctions should be the default option across Europe with Open Season being the alternative. However, given that we understand that it is ACER's intention to limit the use of OS, we think that ENTSOG's formulation is flexible enough to guarantee the application of OS when it is the case.	
5. Do you have any additional remarks to the provisions in Article 20a (CAM NC)?	

Elaboration:
<b>Article 20b of CAM NC: Information provision</b>
6. Do you agree with ENTSOG's proposal of a demand assessment to be the basis for conducting technical studies and subsequently designing offer levels? If no, please elaborate.
Yes
Elaboration:
7. Do you agree with the scope of information to be provided to the NRA and to be published by TSOs involved in an incremental or new capacity process as foreseen in article 20b(2) (CAM NC)? If not, please elaborate.
No
Elaboration:
Enel thinks that before the start of an incremental or new capacity process, TSOs should sent to NRAs for approval and communicate to network users also the expected investment costs (and the resulting tariffs, reserve prices or incremental bid prices) and the financial commitments (e.g. the guarantees) required to enter into an Open Season process. This information is fundamental for the participants to decide if and how much capacity they shall book.
8. Do you agree with the lead-time foreseen for the publication of information relevant to an incremental or new capacity project and especially the economic test as described in article 20b (3) (CAM NC)? If not, please elaborate.
No
Elaboration:
Enel thinks that one month as a minimum lead time for the publication is too short. We suggest to extend it to a minimum of 2 months. Furthermore, the same lead time should be provided also before the start of the non-binding phase, not only before the binding phase as envisaged in article 20b(3), in order to stimulate the participation to an OS procedure.
9. Are there any other issues that you wish to address regarding information provision as foreseen in article 20b? If yes, please elaborate.
No
Elaboration:
<b>Article 20c of CAM NC: When to offer</b>
10. Do you agree with the conditions that shall lead to the offer of incremental and new capacity as defined in Article 20c (1), (6), and (7) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
11. Do you agree that the due date approach is preferable to the time window approach as foreseen in article 20c (3) (CAM NC)? If not, please elaborate.
Yes
Elaboration:

12. Are there any other issues that you wish to address regarding conditions of when to offer incremental and new capacity as foreseen in article 20c (CAM NC)? If so, please elaborate.
Yes
Elaboration:
Enel suggests to increase the frequency of the demand assessment to no more than 12 months (instead of 24), in order to timely assess the needs for new or incremental capacity.
<b>Article 20d of CAM NC: Auction mechanisms</b>
13. Do you agree with the concept of parallel bidding ladders to auction incremental and new capacity as foreseen in article 20d (CAM NC)? If not, please elaborate.
Yes
Elaboration:
14. Do you agree with ENTSOG's opinion that repeating the identified bidding ladder(s) represents the clearest way to allow for bid revision as foreseen in article 20d (3) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
15. Do you prefer option 1 (a continuous approach for bid revision as proposed by ENTSOG in article 20d (3) (4)) or 2 (an approach according to which bid revision is only applied once)? Please elaborate.
Elaboration:
16. Are there any other issues that you wish to address regarding auction mechanisms as foreseen in article 20d? (CAM NC) If yes, please elaborate.
No
Elaboration:
<b>Articles 20e, 20f, 20g of CAM NC: Open season procedures</b>
17. Do you agree with the provisions that shall lead to conducting an Open Season Procedure instead of auctions for incremental and new capacity as foreseen in article 20e (2) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
18. Do you see any other conditional capacity commitments in Open Season Procedures than the issues raised in the Draft Incremental Proposal article 20f (3) (CAM NC)? If yes, please elaborate.
No
Elaboration:
19. Do you agree that the proposed Open Season Procedures notice contains sufficient information as foreseen in 20f (8) (CAM NC)? If not, please elaborate.
Yes

Elaboration:
YES, but we underline the importance to provide investment costs and financial information also in the notice, as stated in Question 7 regarding the start of a process for new or incremental capacity allocation.
20. Do you agree with the default allocation rule foreseen for Open Season Procedures, being willingness to pay per unit and year as foreseen in article 20g (3) and the alternative allocation rule subject to NRA approval as foreseen in article 20g (4) (CAM NC)? If not, please elaborate.
No
Elaboration:
We think that one of the advantages of Open Seasons is its flexibility as an instrument to develop new capacity. Therefore we do not support the willingness to pay per year principle and we think that the appropriate allocation rule should be developed case by case (by NRAs and TSOs). In any case it is important to safeguard conditional commitments expressed by participants.
21. Are there any other issues that you wish to address regarding Open Season Procedures as foreseen in article 20e, article 20f and article 20g (CAM NC)? If yes, please elaborate.
No
Elaboration:
<b>Articles 42-45 of TAR NC: Economic test principles</b>
22. Do you agree with the structure of the economic test in the Incremental Proposal as foreseen in article 42 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
23. Do you agree with the factors that shall be taken into account when defining the f-factor as foreseen in article 43 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
24. Do you agree with the structure of the recovery mechanisms for the share of 1-f as foreseen in article 43 (2) (TAR NC)? If not, please elaborate.
Yes
Elaboration:
We suggest that in case of underrecovery the NC envisages that the best way to charge users is through a tariff variable component paid by all users and defined with adequate advance. This methodology can guarantee the recovery of TSO costs and can limit discriminations and impacts on retail markets for network users.
25. Do you agree with the way the single economic test is aggregated as foreseen in article 44 (TAR NC)? If not please elaborate.
Yes
Elaboration:
26. Do you agree with the three approaches for a potential redistribution of revenues as described in article

44 (4) (TAR NC)? If not, please elaborate.
Elaboration:
27. Are there any other issues that you wish to address regarding economic test as foreseen in articles 42-45 (TAR NC)? If yes, please elaborate.
Yes
Elaboration:
We think that it is important to address also the issue of the expected vs. actual investment costs. In case of cost increase (in comparison with expected values), at least, we think that it is important to give clear evidence from TSOs that their costs in interconnections are efficiently incurred. Furthermore we suggest that a “risk-sharing” mechanism between TSOs and the system should be envisaged, as a way to not attribute only to network users the costs/responsibilities of under/over sizing of new infrastructures (e.g. if the new pipelines were under-utilized).
<b>Article 46 of TAR NC: Tariff principles</b>
28. Do you agree with the default mechanism foreseen to adjust tariffs if required as covered in article 46 (TAR NC)? If not, please elaborate.
Elaboration:
29. Do you agree that in order to raise the level of commitment a downward tariff adjustment rewarding long-term booking can be included as foreseen in article 46 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
Actually we think that a discounted tariff for long term booking should be the default rule, in order to value the high risk that network users will take booking long term capacity (and considering, of course, the lower risks of cost underecovery for TSOs and the system). More in general, we think that it is important to keep a principle according to which tariffs for long term products should be lower than the ones for short term products. Furthermore, we think that a fixed tariff approach (as envisaged in art. 41 of the TAR NC draft consultation) should be adopted as a preferred rule, in order to reduce uncertainty on buyers.
30. Do you agree with including a possibility to adjust depreciation rates as a mechanism to avoid socialisation of costs as foreseen in article 46 (TAR NC)? If not, please elaborate.
Elaboration:
31. How do different tariff options impact on the markets’ willingness to commit long term in order to pass the economic test? Please elaborate.
32. Are there any other issues that you wish to address regarding tariff related issues as foreseen in article 46 (TAR NC)? If yes, please elaborate.
Elaboration:

<b>General questions</b>
33. Do you consider that the level of detail in the Draft Incremental Proposal is appropriate for EU legislation? If not, please elaborate.
Yes
Elaboration:
34. After reviewing and/or replying to the topic-related questions in Chapter 5 of this supporting document, do you find that there are other material issues that ENTSOG should consider as it develops the Incremental Proposal? If so please elaborate.
No
Elaboration:
35. Do you find that this supporting document for the public consultation was 'respondent-friendly' in terms of its readability, style, etc.? If not, please explain how ENTSOG could improve future consultation documents.
Yes
Elaboration:





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<b>Articles 1-3 of CAM NC – Subject matter, Scope and Definitions</b>	
1. Do you agree with the additional definitions proposed in Article 3 (CAM NC)? If not, please elaborate.	
Elaboration:	
<b>Articles 4-20 and 21-28 of CAM NC</b>	
2. Do you agree with the proposed amendments and changes to Articles 4-20 and 21 to 28 (CAM NC)? If not, please elaborate.	
Elaboration:	
<b>Article 20a of CAM NC: Co-ordination requirements</b>	
3. Do you agree with the level of co-ordination between TSOs and NRAs involved in an incremental or new capacity project as foreseen in Article 20a (CAM NC)? If not, please elaborate.	
Elaboration:	
4. Do you agree with the auction default and the alternative open season procedure as defined in Article 20a (5) (CAM NC)? If not, please elaborate.	
Elaboration:	
5. Do you have any additional remarks to the provisions in Article 20a (CAM NC)?	
Elaboration:	
<b>Article 20b of CAM NC: Information provision</b>	

6. Do you agree with ENTSOG's proposal of a demand assessment to be the basis for conducting technical studies and subsequently designing offer levels? If no, please elaborate.
Elaboration:
7. Do you agree with the scope of information to be provided to the NRA and to be published by TSOs involved in an incremental or new capacity process as foreseen in article 20b(2) (CAM NC)? If not, please elaborate.
Elaboration:
8. Do you agree with the lead-time foreseen for the publication of information relevant to an incremental or new capacity project and especially the economic test as described in article 20b (3) (CAM NC)? If not, please elaborate.
Elaboration:
9. Are there any other issues that you wish to address regarding information provision as foreseen in article 20b? If yes, please elaborate.
Elaboration:
<b>Article 20c of CAM NC: When to offer</b>
10. Do you agree with the conditions that shall lead to the offer of incremental and new capacity as defined in Article 20c (1), (6), and (7) (CAM NC)? If not, please elaborate.
Elaboration:
11. Do you agree that the due date approach is preferable to the time window approach as foreseen in article 20c (3) (CAM NC)? If not, please elaborate.
Elaboration:
12. Are there any other issues that you wish to address regarding conditions of when to offer incremental and new capacity as foreseen in article 20c (CAM NC)? If so, please elaborate.
Elaboration:
<b>Article 20d of CAM NC: Auction mechanisms</b>
13. Do you agree with the concept of parallel bidding ladders to auction incremental and new capacity as foreseen in article 20d (CAM NC)? If not, please elaborate.

Elaboration:
14. Do you agree with ENTSOG's opinion that repeating the identified bidding ladder(s) represents the clearest way to allow for bid revision as foreseen in article 20d (3) (CAM NC)? If not, please elaborate.
Elaboration:
15. Do you prefer option 1 (a continuous approach for bid revision as proposed by ENTSOG in article 20d (3) (4)) or 2 (an approach according to which bid revision is only applied once)? Please elaborate.
Elaboration:
16. Are there any other issues that you wish to address regarding auction mechanisms as foreseen in article 20d? (CAM NC) If yes, please elaborate.
Elaboration:
<b>Articles 20e, 20f, 20g of CAM NC: Open season procedures</b>
17. Do you agree with the provisions that shall lead to conducting an Open Season Procedure instead of auctions for incremental and new capacity as foreseen in article 20e (2) (CAM NC)? If not, please elaborate.
Elaboration:
18. Do you see any other conditional capacity commitments in Open Season Procedures than the issues raised in the Draft Incremental Proposal article 20f (3) (CAM NC)? If yes, please elaborate.
Elaboration:
19. Do you agree that the proposed Open Season Procedures notice contains sufficient information as foreseen in 20f (8) (CAM NC)? If not, please elaborate.
Elaboration:
20. Do you agree with the default allocation rule foreseen for Open Season Procedures, being willingness to pay per unit and year as foreseen in article 20g (3) and the alternative allocation rule subject to NRA approval as foreseen in article 20g (4) (CAM NC)? If not, please elaborate.
Elaboration:
21. Are there any other issues that you wish to address regarding Open Season Procedures as foreseen in article 20e, article 20f and article 20g (CAM NC)? If yes, please elaborate.

Elaboration:
<b>Articles 42-45 of TAR NC: Economic test principles</b>
22. Do you agree with the structure of the economic test in the Incremental Proposal as foreseen in article 42 (TAR NC)? If not, please elaborate.
Elaboration:
23. Do you agree with the factors that shall be taken into account when defining the f-factor as foreseen in article 43 (TAR NC)? If not, please elaborate.
Elaboration:
24. Do you agree with the structure of the recovery mechanisms for the share of 1-f as foreseen in article 43 (2) (TAR NC)? If not, please elaborate.
Elaboration:
25. Do you agree with the way the single economic test is aggregated as foreseen in article 44 (TAR NC)? If not please elaborate.
Elaboration:
26. Do you agree with the three approaches for a potential redistribution of revenues as described in article 44 (4) (TAR NC)? If not, please elaborate.
Elaboration:
27. Are there any other issues that you wish to address regarding economic test as foreseen in articles 42-45 (TAR NC)? If yes, please elaborate.
Elaboration:
<b>Article 46 of TAR NC: Tariff principles</b>
28. Do you agree with the default mechanism foreseen to adjust tariffs if required as covered in article 46 (TAR NC)? If not, please elaborate.
Elaboration:
29. Do you agree that in order to raise the level of commitment a downward tariff adjustment rewarding long-term booking can be included as foreseen in article 46 (TAR NC)? If not, please elaborate.

Elaboration:
30. Do you agree with including a possibility to adjust depreciation rates as a mechanism to avoid socialisation of costs as foreseen in article 46 (TAR NC)? If not, please elaborate.
Elaboration:
31. How do different tariff options impact on the markets' willingness to commit long term in order to pass the economic test? Please elaborate.
When users assess the possibility to commit on a long-term basis, they need overall visibility and transparency on the price of the capacity for the entire duration of the commitment period in order to build their business case. In a pure "floating tariff" world, this visibility would not be guaranteed. Therefore, we recommend in particular with regard to the tariffication of incremental and new capacity, to introduce the possibility of alternative options to mitigate possible changes of tariffs at the time of use of the capacity: the proposed options of a premium working as a "buffer" for future increase in tariffs or of a tariff plus a risk premium to keep it fixed should thus be considered as valuable alternatives to support users' willingness to commit to long-term bookings.
32. Are there any other issues that you wish to address regarding tariff related issues as foreseen in article 46 (TAR NC)? If yes, please elaborate.
Elaboration:
<b>General questions</b>
33. Do you consider that the level of detail in the Draft Incremental Proposal is appropriate for EU legislation? If not, please elaborate.
Elaboration:
34. After reviewing and/or replying to the topic-related questions in Chapter 5 of this supporting document, do you find that there are other material issues that ENTSOG should consider as it develops the Incremental Proposal? If so please elaborate.
Yes
Elaboration:
For The Netherlands we don't expect a substantial expansion of the interconnection capacity in the coming years. Therefore this network code on incremental capacity is not as important to us, compared to other network codes. This is the reason we don't respond to all the questions in this consultation, but only answer some questions. The comment below, we have also given in the ENTSOG consultation on the Tariffs NC. Energie-Nederland supports the joint statement of the associations EFET, Eurelectric, Eurogas and OGP to the Madrid Forum (May 2014) for a 'one-off capacity reset option'. We think if this reset-option is well applied this a) will result in better use of existing capacity instead of building incremental capacity and b) will make substantial incremental capacity in The Netherlands superfluous.

Explanation: We have seen considerable changes in EU gas regulations: liberalisation, unbundling of TSOs, CMP NC and CMP. The TAR NC could also bring about fundamental changes to tariff setting, with a focus towards more short terms products (and favourable conditions for these products). As such there is a real risk that network users with long-term contracts are disadvantaged due to these new rules. We think the mitigating measures will be insufficient and we therefore propose to have an open-minded discussion to resolve this situation.

We propose to investigate the integration of an 'one-off reset option' to allow network users to surrender existing capacity they hold at IPs prior to the date the TAR NC applies. Questions to be answered are:

- How can the reset clause be integrated in the TAR NC?
- To which points should it apply and are exceptions from the possibility of reset justified?
- What are the implications for other (cross-border) entry and exit points?
- What are the advantages of freeing up capacity for other users (i.e. more bundled capacity for new entrants which will lead to increased competition and/or more optimised flows between market areas and postponing the need for new incremental capacity,...).

Such a 'one-off reset option' will help ease in the code with less burdens for long-term shippers in particular. We think there is little reason to think that it will destabilize the market or make tariffs more volatile. Provided the 'one-off reset option' is triggered prior to the TAR NC applying and that sufficient notice is given before resetting, the bookings will be adapted to the level of physical flows, and should then be stable (the reset option is a one time option). So TSOs can take account of any surrendered capacity in future tariffs and potentially smearing any significant tariff changes over a two years period, as per the mitigating measures.

35. Do you find that this supporting document for the public consultation was 'respondent-friendly' in terms of its readability, style, etc.? If not, please explain how ENTSOG could improve future consultation documents.

Elaboration:

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<b>Articles 1-3 of CAM NC – Subject matter, Scope and Definitions</b>	
1. Do you agree with the additional definitions proposed in Article 3 (CAM NC)? If not, please elaborate.	
Yes	
Elaboration:	
<b>Articles 4-20 and 21-28 of CAM NC</b>	
2. Do you agree with the proposed amendments and changes to Articles 4-20 and 21 to 28 (CAM NC)? If not, please elaborate.	
No	
Elaboration:	
Art. 17 (3) f) should refer to the relevant bidding ladder.	
Art. 17(20) "any other possible charges" should be limited e.g. any further relevant charges applicable	
<b>Article 20a of CAM NC: Co-ordination requirements</b>	
3. Do you agree with the level of co-ordination between TSOs and NRAs involved in an incremental or new capacity project as foreseen in Article 20a (CAM NC)? If not, please elaborate.	
Yes	
Elaboration:	
However, transparency to and inclusion of stakeholders should be emphasised more. It should be clear to network users that the coordination is taking place and they should also have the opportunity to play a role in ensuring its effectiveness and success.	
4. Do you agree with the auction default and the alternative open season procedure as defined in Article 20a (5) (CAM NC)? If not, please elaborate.	
Yes	
Elaboration:	
NRAs should be more explicitly encouraged to take stakeholder views into account and make transparent to the market their reasoning behind any decision.	
5. Do you have any additional remarks to the provisions in Article 20a (CAM NC)?	

No
Elaboration:
<b>Article 20b of CAM NC: Information provision</b>
6. Do you agree with ENTSOG's proposal of a demand assessment to be the basis for conducting technical studies and subsequently designing offer levels? If no, please elaborate.
Yes
Elaboration:
7. Do you agree with the scope of information to be provided to the NRA and to be published by TSOs involved in an incremental or new capacity process as foreseen in article 20b(2) (CAM NC)? If not, please elaborate.
No
Elaboration:
It is not entirely clear that the information is the assessment and recommendation of the TSOs which the NRAs will approve or not – so, it should be clarified that the information is intended or recommended, and not final at this stage of provision to the NRA. In theory it appears this submission may constitute a form of application to conduct an open season. Also we would expect NRAs to want to be able to do due diligence of the calculations and modelling behind the submission, and thus require more data to be presented to them by the TSO.
8. Do you agree with the lead-time foreseen for the publication of information relevant to an incremental or new capacity project and especially the economic test as described in article 20b (3) (CAM NC)? If not, please elaborate.
No
Elaboration:
A period longer than one month would always be preferred in order to assess the commercial opportunity and portfolio impact. If shippers have been aware of the process early (e.g. have submitted demand information or requests for incremental capacity) and therefore the potential for an offer, but not its detail, is well known to industry, then the notice period does not need to be increased by much (e.g. from 4 to 6 weeks).
9. Are there any other issues that you wish to address regarding information provision as foreseen in article 20b? If yes, please elaborate.
Yes
Elaboration:
Network users would like to know that the potential investment to which they are being asked to contribute has been assessed reasonably and that it will be efficient. Therefore, they would need greater transparency on modelling, assumptions and parameters used by TSOs and the provision of project detail as understood at the time.
<b>Article 20c of CAM NC: When to offer</b>
10. Do you agree with the conditions that shall lead to the offer of incremental and new capacity as defined in Article 20c (1), (6), and (7) (CAM NC)? If not, please elaborate.
Yes



Elaboration:
11. Do you agree that the due date approach is preferable to the time window approach as foreseen in article 20c (3) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
12. Are there any other issues that you wish to address regarding conditions of when to offer incremental and new capacity as foreseen in article 20c (CAM NC)? If so, please elaborate.
Yes
Elaboration:
It should be made clearer that assessment fees will be charged by TSOs only to the users who requested capacity and that the fees will not be smeared across all network users.
<b>Article 20d of CAM NC: Auction mechanisms</b>
13. Do you agree with the concept of parallel bidding ladders to auction incremental and new capacity as foreseen in article 20d (CAM NC)? If not, please elaborate.
Yes
Elaboration:
14. Do you agree with ENTSOG's opinion that repeating the identified bidding ladder(s) represents the clearest way to allow for bid revision as foreseen in article 20d (3) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
15. Do you prefer option 1 (a continuous approach for bid revision as proposed by ENTSOG in article 20d (3) (4)) or 2 (an approach according to which bid revision is only applied once)? Please elaborate.
1) a continuous approach for bid revision as proposed by ENTSOG in article 20d (3) (4);
Elaboration:
16. Are there any other issues that you wish to address regarding auction mechanisms as foreseen in article 20d? (CAM NC) If yes, please elaborate.
Yes
Elaboration:
The nature of the annual auctions being separate means that bidders can/will look at each auction year separately and evaluate it in line with their own economics, portfolios and strategies. Therefore demand and price could vary significantly between years, rather than providing a firm and continuous level of long-term commitment.
<b>Articles 20e, 20f, 20g of CAM NC: Open season procedures</b>
17. Do you agree with the provisions that shall lead to conducting an Open Season Procedure instead of auctions for incremental and new capacity as foreseen in article 20e (2) (CAM NC)? If not, please elaborate.
Yes
Elaboration:

18. Do you see any other conditional capacity commitments in Open Season Procedures than the issues raised in the Draft Incremental Proposal article 20f (3) (CAM NC)? If yes, please elaborate.
No
Elaboration:
19. Do you agree that the proposed Open Season Procedures notice contains sufficient information as foreseen in 20f (8) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
20. Do you agree with the default allocation rule foreseen for Open Season Procedures, being willingness to pay per unit and year as foreseen in article 20g (3) and the alternative allocation rule subject to NRA approval as foreseen in article 20g (4) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
21. Are there any other issues that you wish to address regarding Open Season Procedures as foreseen in article 20e, article 20f and article 20g (CAM NC)? If yes, please elaborate.
No
Elaboration:
<b>Articles 42-45 of TAR NC: Economic test principles</b>
22. Do you agree with the structure of the economic test in the Incremental Proposal as foreseen in article 42 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
23. Do you agree with the factors that shall be taken into account when defining the f-factor as foreseen in article 43 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
24. Do you agree with the structure of the recovery mechanisms for the share of 1-f as foreseen in article 43 (2) (TAR NC)? If not, please elaborate.
No
Elaboration:
We do not agree that other network users should pay for unrecovered costs of incremental/new capacity when bookings in the future are insufficient to recover the costs. Any alternative recovery mechanism devised by NRAs or Member States as outlined should take into account stakeholder views and be transparent.
25. Do you agree with the way the single economic test is aggregated as foreseen in article 44 (TAR NC)? If

not please elaborate.
Yes
Elaboration:
26. Do you agree with the three approaches for a potential redistribution of revenues as described in article 44 (4) (TAR NC)? If not, please elaborate.
No
Elaboration:
<p>Simultaneous or ex-post redistribution of revenues in order to meet the economic test appears to be a dangerous approach. The numbers should not be fixed in order to make the project viable.</p> <p>Any such approaches need to be carefully assessed and the market should be made aware of the changes that are made. Binding commitments will have been made on the basis of the outline understanding of the economic test and process ahead of time.</p> <p>Changes to it in order to make a project viable may be grounds for players to wish to withdraw their commitments (e.g. it becomes apparent that the project is not really viable and other solutions may be more efficient). Cross-border revenue adjustments may well be problematic based on jurisdictional issues.</p>
27. Are there any other issues that you wish to address regarding economic test as foreseen in articles 42-45 (TAR NC)? If yes, please elaborate.
No
Elaboration:
<b>Article 46 of TAR NC: Tariff principles</b>
28. Do you agree with the default mechanism foreseen to adjust tariffs if required as covered in article 46 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
29. Do you agree that in order to raise the level of commitment a downward tariff adjustment rewarding long-term booking can be included as foreseen in article 46 (TAR NC)? If not, please elaborate.
No
Elaboration:
<p>Long-term booking is not efficient for some types of player, such as smaller players, new entrants and generators facing future intermittency and uncertainty in their operations due to the provision of back up to renewable generation. Therefore such an approach would lead to distortion and cross-subsidy.</p>
30. Do you agree with including a possibility to adjust depreciation rates as a mechanism to avoid socialisation of costs as foreseen in article 46 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
<p>However the process must be transparent to the market and any benefits from such an adjustment must be shared among network users.</p>
31. How do different tariff options impact on the markets' willingness to commit long term in order to pass the economic test? Please elaborate.

Network users prefer fixed or fixed real tariffs (i.e. fixed + inflation) in order to have certainty if they are asked to buy long-term. Floating tariffs, where users pay an unknown amount for capacity they have committed to, carry a high level of risk and further encourage only short-term booking.
32. Are there any other issues that you wish to address regarding tariff related issues as foreseen in article 46 (TAR NC)? If yes, please elaborate.
No
Elaboration:
<b>General questions</b>
33. Do you consider that the level of detail in the Draft Incremental Proposal is appropriate for EU legislation? If not, please elaborate.
Yes
Elaboration:
34. After reviewing and/or replying to the topic-related questions in Chapter 5 of this supporting document, do you find that there are other material issues that ENTSOG should consider as it develops the Incremental Proposal? If so please elaborate.
No
Elaboration:
35. Do you find that this supporting document for the public consultation was 'respondent-friendly' in terms of its readability, style, etc.? If not, please explain how ENTSOG could improve future consultation documents.
Yes
Elaboration:

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<b>Articles 1-3 of CAM NC – Subject matter, Scope and Definitions</b>	
1. Do you agree with the additional definitions proposed in Article 3 (CAM NC)? If not, please elaborate.	
No	
Elaboration:	
<p>The definition of bidding ladder remains very confusing and partly misleading. In our mind the bidding ladder rather than being a combination of capacity products, it is the sequence of price steps relevant for each offer level against which bids for capacity quantity are submitted by network users. The number of products, i.e. the duration of the overall booking, is de facto irrelevant for the definition of bidding ladder. The definition of economic test could be improved by simply saying that it is the assessment of the economic viability of incremental and new capacity projects. The text of the code would then clarify how the test actually works. The definition of open season is probably unnecessary as it is a way to market capacity that works as described in the text of the code. Alternatively, it could be defined with reference to the relevant article.</p>	
<b>Articles 4-20 and 21-28 of CAM NC</b>	
2. Do you agree with the proposed amendments and changes to Articles 4-20 and 21 to 28 (CAM NC)? If not, please elaborate.	
No	
Elaboration:	
<p>We have identified a number of imprecisions/repetitions in article 11.6. In this respect we would suggest repealing the wording “if any” where it appears in the text with the understanding that any of the elements of the formula could be in principle be equal to 0. Article 11.8 has been modified by the repeal of the word “technical” in the first sentence. Such wording may in principle be ok provided that the second sentence is removed. Also, ENTSOG should note that the one month notice period may not necessarily be aligned with the timing for the publication of the reserve prices being discussed within the Tariff network code forum. It is not clear why in article 11.10 the word “published” in the first sentence has been replaced with “be made available”. More in general, we struggle to understand the meaning of the article which probably meant to differentiate between publication requirements in auctions versus open seasons rather than between existing and incremental/new capacity.</p>	
<b>Article 20a of CAM NC: Co-ordination requirements</b>	

3. Do you agree with the level of co-ordination between TSOs and NRAs involved in an incremental or new capacity project as foreseen in Article 20a (CAM NC)? If not, please elaborate.
No
Elaboration:
Article 20a.4 refers to the obligation for TSOs to take into account comments of concerned network users but it is not really clear how and in what respect. To add clarity, the dialogue with network users should be better defined and structured. In general, the text seems very vague in its efforts to clarify what the results of the coordination should be. Wording like “shall aim” provide no legal certainty whatsoever. The article should be rewritten as to indicate the clear list of mandatory deliverables of the coordination, the process leading to those deliverables, as well as the consequences of not delivering on those deliverables. In doing so, special attention should be granted to the definition of single offer timeframes and commissioning timeframes. This is particularly true in the case of projects triggered or linked to the development of an upstream field where the identification of the start date should be managed with sufficient flexibility and surely with the direct involvement of network users as part of a coordination mechanism.
4. Do you agree with the auction default and the alternative open season procedure as defined in Article 20a (5) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
We agree with the idea of having a default option, provided that the criteria and the process to deviate from it are made sufficiently clear.
5. Do you have any additional remarks to the provisions in Article 20a (CAM NC)?
No
Elaboration:
<b>Article 20b of CAM NC: Information provision</b>
6. Do you agree with ENTSOG’s proposal of a demand assessment to be the basis for conducting technical studies and subsequently designing offer levels? If no, please elaborate.
No
Elaboration:
The demand assessment is a reasonable starting point such assessment should be done on a yearly basis.
7. Do you agree with the scope of information to be provided to the NRA and to be published by TSOs involved in an incremental or new capacity process as foreseen in article 20b(2) (CAM NC)? If not, please elaborate.
No
Elaboration:
Article 20.b.2(d) is worded in an imprecise manner. It should be clear that the TSO should provide a justification of the choice of auction versus open season on the basis of the relevant criteria. The choice should be subject to a public consultation.
8. Do you agree with the lead-time foreseen for the publication of information relevant to an incremental or new capacity project and especially the economic test as described in article 20b (3) (CAM NC)? If not, please elaborate.
No

<b>Elaboration:</b>
We have two main concerns with the processes as they are described in the amendment proposal and in the supporting documentation: (1) the processes do not seem to contemplate time for a public consultation while the definition of the f element, if nothing else, due to the broad implications it may have on all network users, cannot be defined disregarding the opinion of all market players; (2) the 1 month period for the publication of the final offer before the auction or the beginning of the binding phase of an open season is too short and seems to ignore the discussions held in the context of the Tariff code.
9. Are there any other issues that you wish to address regarding information provision as foreseen in article 20b? If yes, please elaborate.
Yes
<b>Elaboration:</b>
The information on the timing of the realisation of the infrastructure should contemplate the possibility to define a funneling mechanism for the identification of the commissioning date. Alternatively a coordination mechanism for an optimal and efficient development of the infrastructure should be established.
<b>Article 20c of CAM NC: When to offer</b>
10. Do you agree with the conditions that shall lead to the offer of incremental and new capacity as defined in Article 20c (1), (6), and (7) (CAM NC)? If not, please elaborate.
Yes
<b>Elaboration:</b>
In general we support the wording proposed however we would prefer to have the needs assessment at least once a year.
11. Do you agree that the due date approach is preferable to the time window approach as foreseen in article 20c (3) (CAM NC)? If not, please elaborate.
Yes
<b>Elaboration:</b>
We do agree with the principle however the period between two subsequent due dates shall not exceed 12 months coherently with the indication provided above whereby an assessment of needs should be performed at least once a year.
12. Are there any other issues that you wish to address regarding conditions of when to offer incremental and new capacity as foreseen in article 20c (CAM NC)? If so, please elaborate.
No
<b>Elaboration:</b>
<b>Article 20d of CAM NC: Auction mechanisms</b>
13. Do you agree with the concept of parallel bidding ladders to auction incremental and new capacity as foreseen in article 20d (CAM NC)? If not, please elaborate.
Yes
<b>Elaboration:</b>
14. Do you agree with ENTSOG's opinion that repeating the identified bidding ladder(s) represents the

clearest way to allow for bid revision as foreseen in article 20d (3) (CAM NC)? If not, please elaborate.
No
Elaboration:
We struggle to understand the need for a further auction round in case of premium as the next higher offer level must have been available already in the previous round but we accept that this could work as a second best option. Differently, a more flexible approach to the use of the economic test would allow avoiding suboptimal outcomes without the need to re-run identical auction rounds. The ceiling to be passed during an economic test is based on estimates and a too strict observation of such ceiling would be blind to the inherent contingency that such estimates may hide. Therefore, the object of the article should rather be a case where the economic test is not passed by a margin than on bidding ladders closing at a premium.
15. Do you prefer option 1 (a continuous approach for bid revision as proposed by ENTSOG in article 20d (3) (4)) or 2 (an approach according to which bid revision is only applied once)? Please elaborate.
Elaboration:
Please see answer 14. In case the bid revision idea is maintained, we would prefer a continuous approach as described in 20d(3).
16. Are there any other issues that you wish to address regarding auction mechanisms as foreseen in article 20d? (CAM NC) If yes, please elaborate.
No
Elaboration:
<b>Articles 20e, 20f, 20g of CAM NC: Open season procedures</b>
17. Do you agree with the provisions that shall lead to conducting an Open Season Procedure instead of auctions for incremental and new capacity as foreseen in article 20e (2) (CAM NC)? If not, please elaborate.
No
Elaboration:
While the criteria seem sufficiently clear, it remains vague when and how the choice to go for an open season is made. Also, the text does not make the use of open seasons automatic when the criteria are met, which makes the fact that such choice is made without the involvement of network users even more worrisome.
18. Do you see any other conditional capacity commitments in Open Season Procedures than the issues raised in the Draft Incremental Proposal article 20f (3) (CAM NC)? If yes, please elaborate.
No
Elaboration:
19. Do you agree that the proposed Open Season Procedures notice contains sufficient information as foreseen in 20f (8) (CAM NC)? If not, please elaborate.
No
Elaboration:
The list should include the procedures and the timeframe for identifying the commissioning date of the new/incremental capacity.
20. Do you agree with the default allocation rule foreseen for Open Season Procedures, being willingness to pay per unit and year as foreseen in article 20g (3) and the alternative allocation rule subject to NRA approval



as foreseen in article 20g (4) (CAM NC)? If not, please elaborate.
No
Elaboration:
Investment in incremental and new capacity is fundamentally supported by long term bookings. At the same time capacity for short term booking is reserved as per the existing clauses of the CAM code. For these reasons the sole approach should be one that gives preference to those bookings that maximize the net present value.
21. Are there any other issues that you wish to address regarding Open Season Procedures as foreseen in article 20e, article 20f and article 20g (CAM NC)? If yes, please elaborate.
No
Elaboration:
<b>Articles 42-45 of TAR NC: Economic test principles</b>
22. Do you agree with the structure of the economic test in the Incremental Proposal as foreseen in article 42 (TAR NC)? If not, please elaborate.
No
Elaboration:
Two main concerns exists with respect to the way the economic test is defined: (1) 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 realized part of this contingency normally turns into actual cost and more rarely in actual saving. For this reason it would be wise to define the f factor as a band rather than a single value. This would also avoid the need to run additional bidding rounds as the band would allow a "pass" in a broader range of booking combinations. (2) Defining the f factor has implications on the tariffs 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.
23. Do you agree with the factors that shall be taken into account when defining the f-factor as foreseen in article 43 (TAR NC)? If not, please elaborate.
No
Elaboration:
Please see answer 22.
24. Do you agree with the structure of the recovery mechanisms for the share of 1-f as foreseen in article 43 (2) (TAR NC)? If not, please elaborate.
Yes
Elaboration:
The article identifies the correct elements. However one should bear in mind that none of those aspects can be made the object of an exact science, hence it is important to take into account the comments made in answer 22.
25. Do you agree with the way the single economic test is aggregated as foreseen in article 44 (TAR NC)? If not please elaborate.
Yes

<b>Elaboration:</b>
As long as full transparency on the underlying mechanism is maintained we support the proposed wording. Hence, an obligation for TSOs to explain how a potential revenue redistribution mechanism functions should be added to the incremental proposal.
<b>26. Do you agree with the three approaches for a potential redistribution of revenues as described in article 44 (4) (TAR NC)? If not, please elaborate.</b>
Yes
<b>Elaboration:</b>
Please see answer 25.
<b>27. Are there any other issues that you wish to address regarding economic test as foreseen in articles 42-45 (TAR NC)? If yes, please elaborate.</b>
Yes
<b>Elaboration:</b>
The complete lack of consideration for network users' opinion in the formulation of the economic test is definitely an important concern and we advise ENTSOG to include an opportunity for a formal consultation at least in the definition of the f factor.
<b>Article 46 of TAR NC: Tariff principles</b>
<b>28. Do you agree with the default mechanism foreseen to adjust tariffs if required as covered in article 46 (TAR NC)? If not, please elaborate.</b>
No
<b>Elaboration:</b>
We believe this question refers to article 46.3. If so it is important to note that case b seems to be a subcase of case a and hence could easily be repealed. In addition case c should be addressed in the process of defining the f factor and it could therefore also be repealed from the list.
<b>29. Do you agree that in order to raise the level of commitment a downward tariff adjustment rewarding long-term booking can be included as foreseen in article 46 (TAR NC)? If not, please elaborate.</b>
Yes
<b>Elaboration:</b>
Yes, we believe such a solution would make sense but note that it would only be credible in the context of fixed or at least partially fixed tariff. Consistent with this approach to incentivise long-term bookings, the default allocation rule should give priority to long-term bookings that maximize the net present value (please refer to the answer to question 20). We note that the question states that a downward tariff adjustment is foreseen in article 46 of the draft TAR NC, but this is not really the case.
<b>30. Do you agree with including a possibility to adjust depreciation rates as a mechanism to avoid socialisation of costs as foreseen in article 46 (TAR NC)? If not, please elaborate.</b>
Yes
<b>Elaboration:</b>
Although we prefer the solution above, this alternative may prove acceptable as long as a change in depreciation at a later stage does not undermine the incentive for long term booking.
<b>31. How do different tariff options impact on the markets' willingness to commit long term in order to pass the economic test? Please elaborate.</b>

Notably, there are two aspects that contribute to the subscription of long-term booking: (1) The visibility over the tariff evolution and even better the stability of the tariff level; (2) The economic equivalence, if not the convenience, of long-term booking towards short term bookings.
32. Are there any other issues that you wish to address regarding tariff related issues as foreseen in article 46 (TAR NC)? If yes, please elaborate.
No
Elaboration:
<b>General questions</b>
33. Do you consider that the level of detail in the Draft Incremental Proposal is appropriate for EU legislation? If not, please elaborate.
Yes
Elaboration:
In general we believe the proposal is sufficiently detailed, however a number of processes, as indicated in several answers, could be better described adding better indication of timing of different steps and be improved by contemplating more consultation opportunities.
34. After reviewing and/or replying to the topic-related questions in Chapter 5 of this supporting document, do you find that there are other material issues that ENTSOG should consider as it develops the Incremental Proposal? If so please elaborate.
Yes
Elaboration:
PLEASE FIND HERE AN ADDITIONAL COMMENT THAT DOES NOT FIT ANY QUESTION: the amendment to article 2 risks being misleading where it states that the code shall apply to incremental and new capacity when identified and allocated via market based procedures in that it seems to say that if the incremental and new capacity needs are identified via the TYNDP, a non-market based procedure, then the code would not be relevant. If so, this would be in contradiction with the rules on when to offer incremental and new capacity. Confusion would be eliminated by simply eliminating the word "identified" from the second paragraph of article 2.2.
35. Do you find that this supporting document for the public consultation was 'respondent-friendly' in terms of its readability, style, etc.? If not, please explain how ENTSOG could improve future consultation documents.
Yes
Elaboration:
In general the supporting document is a good tool to support the preparation of the response.

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<b>Articles 1-3 of CAM NC – Subject matter, Scope and Definitions</b>	
1. Do you agree with the additional definitions proposed in Article 3 (CAM NC)? If not, please elaborate.	
No	
Elaboration:	
<p>We have some doubts concerning the definition of Open Season (OS). In particular, we do not completely agree with the possibility to have only a binding phase, as the definition seems to allow it. That would reduce an Open Season to a simple allocation mechanism, thus removing its main value, which is to create an iterative dialogue with the TSOs to assess the market demand. Indeed, we believe that the first phase of OS should consist in a proper assessment of the market's needs, i.e. how much capacity the market is ready to bid for and under what terms (price, contract duration, firmness etc). Consequently, we would like to rephrase the sentence as follows: OS is a process (...) that should include a phase for the submission of non binding expression of interest (...).</p>	
<b>Articles 4-20 and 21-28 of CAM NC</b>	
2. Do you agree with the proposed amendments and changes to Articles 4-20 and 21 to 28 (CAM NC)? If not, please elaborate.	
Yes	
Elaboration:	
<p>Regarding Article 8 (2) we wish to allude to the fact that an increasing number of parallel auction processes and parallel bidding ladders can lead to a complex auction procedure which must be still manageable for the network user. Therefore we think that the number of parallel bidding ladders should be set properly, considering a limited (but significant) number of offer scenarios.</p>	
<b>Article 20a of CAM NC: Co-ordination requirements</b>	
3. Do you agree with the level of co-ordination between TSOs and NRAs involved in an incremental or new capacity project as foreseen in Article 20a (CAM NC)? If not, please elaborate.	
Yes	
Elaboration:	
<p>However, for a given capacity project, we believe that an appropriate consistency of chosen parameters on both side of the border should be achieved.</p>	

4. Do you agree with the auction default and the alternative open season procedure as defined in Article 20a (5) (CAM NC)? If not, please elaborate.
No
Elaboration:
As already remarked 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. Hence EURELECTRIC is not in favor of adopting new EU legislation which makes one option mandatory in all EU member states. However, we understand that it is ACER's intention to limit the use of OS and, in such a context, we think that ENTSOG's formulation is flexible enough to guarantee the application of OS when it is the case.
5. Do you have any additional remarks to the provisions in Article 20a (CAM NC)?
Yes
Elaboration:
Regarding art. 20a(2) we would like to emphasize that for bundling the capacity it is crucial that network users do have unhampered market access. In some markets, network users do have to fulfill strict registration obligations which can lead towards a situation that only already registered market participants can buy these bundled capacities. We would also like the Network Code to set some minimum compulsory requirements to be given by the TSOs before the investment such as the estimation of costs for each TSO, the distribution of profits, the environmental externalities, the penalties if deadlines are not met, etc.
<b>Article 20b of CAM NC: Information provision</b>
6. Do you agree with ENTSOG's proposal of a demand assessment to be the basis for conducting technical studies and subsequently designing offer levels? If no, please elaborate.
Yes
Elaboration:
7. Do you agree with the scope of information to be provided to the NRA and to be published by TSOs involved in an incremental or new capacity process as foreseen in article 20b(2) (CAM NC)? If not, please elaborate.
No
Elaboration:
We think that other elements should be sent by TSOs to NRAs for approval and communicated to shippers well in advance, at least:
<ul style="list-style-type: none"> <li>- the investment costs and the assumptions on which these are based along with the methodology for determining any resulting tariffs, reserve prices or incremental bid prices. This will enable NRAs and network users to compare the efficiency of TSOs' unit investment costs either side of the border and challenge any significant differential, which may indicate undue discrimination.</li> <li>- The level of the guarantees and, more in general, the financial commitments required to enter into an Open Season process. These aspects are crucial in order to make possible for the potential participants an assessment of the risks, with the aim to decide if and how much capacity they can book.</li> <li>- Moreover, we would prefer that the choice between an Open Season and an auction to be done with the involvement of network users.</li> </ul>
Concerning this aspect, we would like to recall that, one of the reasons to adopt an Open Season is the possibility to have conditional biddings from the participants. Also for this reasons, it would be appropriate to

consult the users before sending the final assessment to the NRAs
8. Do you agree with the lead-time foreseen for the publication of information relevant to an incremental or new capacity project and especially the economic test as described in article 20b (3) (CAM NC)? If not, please elaborate.
No
Elaboration:
One month as a minimum lead time for the publication seems to be insufficient, especially if the amount of information to process is significant. We suggest foreseeing a minimum lead time of two months. Moreover, concerning Open Season, we do not understand why the lead time refers to the beginning of the binding phase. Does it mean that no or few information would be provided before the start of the non binding phase? We do not think that such an approach would be appropriate to stimulate the participation to an OS procedure.
9. Are there any other issues that you wish to address regarding information provision as foreseen in article 20b? If yes, please elaborate.
No
Elaboration:
<b>Article 20c of CAM NC: When to offer</b>
10. Do you agree with the conditions that shall lead to the offer of incremental and new capacity as defined in Article 20c (1), (6), and (7) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
11. Do you agree that the due date approach is preferable to the time window approach as foreseen in article 20c (3) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
12. Are there any other issues that you wish to address regarding conditions of when to offer incremental and new capacity as foreseen in article 20c (CAM NC)? If so, please elaborate.
Yes
Elaboration:
EURELECTRIC thinks that the frequency of the demand assessment should be increased. Indeed, an interval of two years seems to be too long and we don't see any contraindication in setting the frequency on a yearly basis. Consequently, the period between two subsequent due date should not exceed 12 month (instead of 24). Moreover, it would be desirable to have an indication of the deadlines by which TSOs should make:
- the demand assessment, once the process has been triggered, and
- the submission of indications to NRAs for approval (i.e offer levels, allocation mechanism and parameters of the economic test), once the technical study has been completed.
Another point is related to non binding demand indications that may be sent by users to TSOs. We think that the current formulation would lead itself to different interpretations, with the risks that the requests are not taken into considerations. For example, the "sustained number of years" the requests should be related to, or

<p>the fact that “all other economic efficient means for increasing the availability of capacity are exhausted” are not clear. Moreover, we think that NRAs should be involved in the process of selecting (and eventually rejecting) the market requests that will launch the process of “when to offer” incremental and new capacity. Finally, as regards TSOs charging fees for activities resulting out of the submission of non-binding demand indications, these should be determined ex-ante, subject to NRA approval and included in the notice referred to in Article 20f.8.</p>
<p><b>Article 20d of CAM NC: Auction mechanisms</b></p>
<p>13. Do you agree with the concept of parallel bidding ladders to auction incremental and new capacity as foreseen in article 20d (CAM NC)? If not, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>But, please, see also our remark to question 2 regarding the number of parallel bidding ladders.</p>
<p>14. Do you agree with ENTSOG’s opinion that repeating the identified bidding ladder(s) represents the clearest way to allow for bid revision as foreseen in article 20d (3) (CAM NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p>We understand that ENTSOG’s proposal has the merit not to reopen the previous auctions thus avoiding an over-complication of the entire process. However, even if it is peculiar that incremental capacity is sold with a premium, meaning it is “scarce since the beginning” we wonder if bid revision is strictly necessary. Indeed, one could accept the results of the market test, without trying to force the mechanism towards a solution that, in theory is more efficient but, in practice, would introduce a certain amount of risks among participants. (It may happen that bidders already selected in the previous auctions would not be allocated with any capacity in the one that has been repeated).</p>
<p>15. Do you prefer option 1 (a continuous approach for bid revision as proposed by ENTSOG in article 20d (3) (4)) or 2 (an approach according to which bid revision is only applied once)? Please elaborate.</p>
<p>2) an approach according to which bid revision is only applied once?</p>
<p>Elaboration:</p>
<p>In case of bid revision, EURELECTRIC would prefer the second solution in order not to overcomplicate the process.</p>
<p>16. Are there any other issues that you wish to address regarding auction mechanisms as foreseen in article 20d? (CAM NC) If yes, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p><b>Articles 20e, 20f, 20g of CAM NC: Open season procedures</b></p>
<p>17. Do you agree with the provisions that shall lead to conducting an Open Season Procedure instead of auctions for incremental and new capacity as foreseen in article 20e (2) (CAM NC)? If not, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>18. Do you see any other conditional capacity commitments in Open Season Procedures than the issues raised in the Draft Incremental Proposal article 20f (3) (CAM NC)? If yes, please elaborate.</p>

No
Elaboration:
19. Do you agree that the proposed Open Season Procedures notice contains sufficient information as foreseen in 20f (8) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
20. Do you agree with the default allocation rule foreseen for Open Season Procedures, being willingness to pay per unit and year as foreseen in article 20g (3) and the alternative allocation rule subject to NRA approval as foreseen in article 20g (4) (CAM NC)? If not, please elaborate.
No
Elaboration:
We have some doubts that the willingness to pay per year principle could meet the requirements of long term bookings, that are typical of Open Seasons. Moreover, we think that, in order to keep Open Seasons a flexible instrument to develop new capacity, the appropriate allocation rule should be developed case by case by NRAs and TSOs. However, whatever the allocation rule is, it is important to safeguard conditional commitments expressed by participants.
21. Are there any other issues that you wish to address regarding Open Season Procedures as foreseen in article 20e, article 20f and article 20g (CAM NC)? If yes, please elaborate.
No
Elaboration:
<b>Articles 42-45 of TAR NC: Economic test principles</b>
22. Do you agree with the structure of the economic test in the Incremental Proposal as foreseen in article 42 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
23. Do you agree with the factors that shall be taken into account when defining the f-factor as foreseen in article 43 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
However, the f-factors should not only take into account positive externalities but also negative ones (that are not specified in the draft amendment). Nonetheless, the problem to quantify externalities still remains. Furthermore, for a given project there needs to be some consistency between the individual f-factors on both sides of the border.
24. Do you agree with the structure of the recovery mechanisms for the share of 1-f as foreseen in article 43 (2) (TAR NC)? If not, please elaborate.
Yes
Elaboration:
But see also our answer to question 27. We agree with the structure of the recovery mechanism because it



<p>recognizes the possibility that the future capacity commitments do not cover the regulated revenues of the TSOs. However Eurelectric would like to point out, that the envisaged recovery mechanism has limitations especially in case of a decreasing number of network users. A detailed design of the recovery mechanism will show if it is appropriate for the market needs or not.</p> <p>Moreover, EURELECTRIC call for a high level of coordination between the involved NRAs when setting the recovery mechanism, in order to avoid possible discrimination between users of different countries.</p>
<p>25. Do you agree with the way the single economic test is aggregated as foreseen in article 44 (TAR NC)? If not please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p> <p>However, EURELECTRIC believes that the f-factors for the underlying individual tests run on both sides of the border have to be consistent ex-ante. Indeed a significant difference of f-factors may lead to (i) undue cross-subsidies between TSOs; (ii) different risk exposure of network users (different socialization of regulated revenues of the not covered by upfront commitments) and (iii) potential higher tariff increases where the f-factor is lower.</p>
<p>26. Do you agree with the three approaches for a potential redistribution of revenues as described in article 44 (4) (TAR NC)? If not, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p> <p>However, we recommend that this aspect is discussed in details at NRAs and TSOs level.</p>
<p>27. Are there any other issues that you wish to address regarding economic test as foreseen in articles 42-45 (TAR NC)? If yes, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p> <p>As already stated in the past, EURELECTRIC wishes to recall that one of the main barriers that might prevent efficient investments in interconnection capacity is the artificial increase of investment costs. This issue can hinder the success of both auctions and open seasons. Consequently, we think that a strong prerequisite to guarantee the recovery of the revenues is the clear evidence from TSOs that their costs in interconnections are efficiently incurred.</p>
<p><b>Article 46 of TAR NC: Tariff principles</b></p>
<p>28. Do you agree with the default mechanism foreseen to adjust tariffs if required as covered in article 46 (TAR NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p> <p>It is not clear if the tariff adjustments would be applied before the economic test is run or after. Any ex post adjustment would undermine severely participant's behaviors concerning the reserve price and is unacceptable. However, the introduction of ex ante ad hoc mechanisms to adjust the economic test, in order to be passed, should be carefully evaluated</p>
<p>29. Do you agree that in order to raise the level of commitment a downward tariff adjustment rewarding long-term booking can be included as foreseen in article 46 (TAR NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>

The mechanism introduces discrimination for users with existing capacity
30. Do you agree with including a possibility to adjust depreciation rates as a mechanism to avoid socialisation of costs as foreseen in article 46 (TAR NC)? If not, please elaborate.
No
Elaboration:
We think that the mechanism is too specific to be included in a Network Code and should be assessed at national level.
31. How do different tariff options impact on the markets' willingness to commit long term in order to pass the economic test? Please elaborate.
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 fixed tariff option is welcome and could be developed in such a way as to avoid any material discrimination resulting from there being a single recovery mechanism. EURELECTRIC can also accept a payable price being a combination of the reserve price, which floats, and a premium (if any), which is fixed. Moreover we still believe there is merit to include some ex-ante restrictions surrounding the extent to which the reserve price is able to vary year on year, so as to give some degree of assurance, or predictability, to network users booking long term capacity. These could take the form of escalation factors, ranges of allowable price changes or get-out clauses. Alternatively, consideration could be given to mechanisms capping the payable price in future years based on a combination of the reserve price and premium at the time of the auction (where a premium applies), so that as the reserve price increases the premium is reduced to absorb the tariff increase which will be paid by users, but where the reserve price falls the premium is maintained
32. Are there any other issues that you wish to address regarding tariff related issues as foreseen in article 46 (TAR NC)? If yes, please elaborate.
No
Elaboration:
<b>General questions</b>
33. Do you consider that the level of detail in the Draft Incremental Proposal is appropriate for EU legislation? If not, please elaborate.
Yes
Elaboration:
However, we think that the wording used in some articles should be clarified (see answer to question 12).
34. After reviewing and/or replying to the topic-related questions in Chapter 5 of this supporting document, do you find that there are other material issues that ENTSG should consider as it develops the Incremental Proposal? If so please elaborate.
No
Elaboration:
35. Do you find that this supporting document for the public consultation was 'respondent-friendly' in terms of its readability, style, etc.? If not, please explain how ENTSG could improve future consultation documents.
Yes

**Elaboration:**

As usual, ENTSG has developed the consultation process fruitfully. The documentation provided has been exhaustive and the meetings has been arranged frequently and properly. As a suggestion for next consultations, it could be helpful to have a Draft of the Network Code including the revisions, in order to make the reading easier. However we regret that the questionnaire only enables to participants to answer by yes or no. We would have welcome a “yes but with refinements” tick box in order to provide a more accurate feedback.

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<b>Articles 1-3 of CAM NC – Subject matter, Scope and Definitions</b>	
1. Do you agree with the additional definitions proposed in Article 3 (CAM NC)? If not, please elaborate.	
No	
Elaboration:	
Eurogas does not agree with the proposed definition of Open Season, as it seems that it restricts the procedure only to a binding phase. If our interpretation is correct. This approach would reduce the Open Season to a pure and simple allocation mechanism, removing its main positive characteristics, notably the positive development of a regular dialogue with the TSOs to assess market demand. Eurogas therefore suggests to including in the definition of the Open Season the possibility of a phase for the submission of non-binding expressions of interest.	
<b>Articles 4-20 and 21-28 of CAM NC</b>	
2. Do you agree with the proposed amendments and changes to Articles 4-20 and 21 to 28 (CAM NC)? If not, please elaborate.	
No	
Elaboration:	
Specific comments are provided in the answers to following questions, but Eurogas would like to raise a concern that setting aside quotas or capacities for short term auctions resulting in a lower F-factor increases the risk of stranded capacities.	
<b>Article 20a of CAM NC: Co-ordination requirements</b>	
3. Do you agree with the level of co-ordination between TSOs and NRAs involved in an incremental or new capacity project as foreseen in Article 20a (CAM NC)? If not, please elaborate.	
No	
Elaboration:	
Eurogas welcomes an increasing co-ordination between TSOs and NRAs as a prerequisite for a successful outcome of mechanisms to allocate incremental and new capacity at IP's. Nevertheless, we would like to see some further elaboration of these requirements. With regard to Article 20a (3) we would welcome the coordination between TSO's/NRAs not only on the harmonisation of the capacity level on offer, but also harmonisation of the bundled product on offer on the IP. Article 20a(4), states that concerned network users'	

<p>comments will be taken into account by TSOs when setting the level of offers, but Eurogas finds this too weak and we recommend to include an explicit requirement that a consultation is formally organized at this stage to collect comments.</p>
<p>4. Do you agree with the auction default and the alternative open season procedure as defined in Article 20a (5) (CAM NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p>As explained in the past, EUROGAS is convinced that both mechanisms (Open Season according to the improved procedure (see 1) and integrated auctions) have merit, depending on the different situations. Therefore, we disagree with an approach making one of these mechanisms (i.e. the auction) mandatory in all Member States through a default rule. A more discretionary approach is favoured.</p>
<p>5. Do you have any additional remarks to the provisions in Article 20a (CAM NC)?</p>
<p>No</p>
<p>Elaboration:</p>
<p><b>Article 20b of CAM NC: Information provision</b></p>
<p>6. Do you agree with ENTSG's proposal of a demand assessment to be the basis for conducting technical studies and subsequently designing offer levels? If no, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>7. Do you agree with the scope of information to be provided to the NRA and to be published by TSOs involved in an incremental or new capacity process as foreseen in article 20b(2) (CAM NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p>Eurogas thinks that ENTSG's proposal lacks some important information that should be sent for approval by TSOs to NRAs and that should also be communicated to network users well in advance of the start of the allocation process. This information should include at least:</p> <ul style="list-style-type: none"> <li>a) The investment costs and the assumptions on which these are based,</li> <li>b) The methodology to calculate the resulting tariffs, reserve prices or incremental bid prices. è - Only if they have this information, will NRAs and users interested in booking the incremental and new capacity have all the elements to compare the efficiency of TSOs' unit investment costs at each side of the border and be able to assess if there are any relevant differentials that could lead to undue discrimination.</li> <li>c) The level of the guarantees and obligations for market parties and TSOs and, more generally, the financial commitments required to enter into an Open Season process. è - Transparency and 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.</li> </ul> <p>Users should also be involved in the choice between the auction and the Open Season to determine the most appropriate mechanism to be adopted according to the project.</p>
<p>8. Do you agree with the lead-time foreseen for the publication of information relevant to an incremental or new capacity project and especially the economic test as described in article 20b (3) (CAM NC)? If not, please</p>

elaborate.
No
Elaboration:
We think that one month as minimum lead-time for the publication of information relevant to the project (and in particular on the economic test) is too narrow a window. The lead-time should be longer, to allow interested network users enough time to process all the data: GGPOS on Open Season could be taken as a reference on this point, as they suggest a minimum 3-months period to elaborate and send non-binding offers. An additional comment concerns the lead-time foreseen for the Open Season process that seems to refer to the start of the binding phase. If this means that no (or even only a little) information is provided before the non-binding phase, Eurogas is concerned that network users will not be stimulated to participate in the Open Season since its first phases do not offer them sufficient information to consider further commitments in the binding phase. Again, suggestions in the GGPOS could be taken as a reference on this aspect.
9. Are there any other issues that you wish to address regarding information provision as foreseen in article 20b? If yes, please elaborate.
No
Elaboration:
It should be clear that, as stated in the GGPOS (art. 4.1.2), participants will be provided by TSOs and a project's sponsors with as much information as possible. See also our response to Question 19 for more details on the information that should be part of the Notice.
<b>Article 20c of CAM NC: When to offer</b>
10. Do you agree with the conditions that shall lead to the offer of incremental and new capacity as defined in Article 20c (1), (6), and (7) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
11. Do you agree that the due date approach is preferable to the time window approach as foreseen in article 20c (3) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
Nevertheless, the key point for users is the frequency of assessments and this should take place on a yearly basis.
12. Are there any other issues that you wish to address regarding conditions of when to offer incremental and new capacity as foreseen in article 20c (CAM NC)? If so, please elaborate.
Yes
Elaboration:
Eurogas considers that , the demand assessment should be more frequent than ENTOSOG proposes. . A time interval of two years seems too long and we do not see any evident downside in setting a yearly based assessment. Therefore, we suggest potentially to reduce the period between two subsequent due dates by specifying that an assessment should take place at least every 2 years, but that it will be accompanied with a continuous monitoring of the triggers. In any case, it should be clarified that a full demand assessment should be carried out whenever it is appropriate and not at random intervals.

<p>Furthermore, Eurogas would recommend further specifications on the following deadlines:</p> <ul style="list-style-type: none"> <li>- The deadline for the TSO to deliver the demand assessment, once the process has been triggered.</li> <li>- The deadline for the TSO to submit to the NRAs the indications that have to be approved (i.e. offer levels, allocation mechanism and parameters of the economic test), once the technical study has been completed.</li> </ul> <p>In this way, users participating in the process will have a clearer indication on the duration of the entire process.</p> <p>We are also concerned that the current wording of the condition based on the presentation of non-binding users' demand indications leaves too much room for discretionary interpretation (with the risk that the condition is not met). For example, how would a "sustained number of years" for the requests to be considered be defined? How would it be verified if "all other economic efficient means for increasing availability of capacity are exhausted"? In order to avoid such uncertainty, we think that NRAs should be informed by the TSO, through a yearly report, of all requests for incremental and new capacity received, in order to participate in the decision if the conditions to offer new and incremental capacity are there.</p>
<p><b>Article 20d of CAM NC: Auction mechanisms</b></p>
<p>13. Do you agree with the concept of parallel bidding ladders to auction incremental and new capacity as foreseen in article 20d (CAM NC)? If not, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>Parallel bidding ladders are a good solution as they allow network users to get a clear picture of the amount of incremental capacity they are bidding for. Nevertheless, it is unclear what will happen if the lead time to make the incremental capacity available is not respected and there are delays for various reasons (authorization process longer than expected, etc.). How will incremental capacity be distinguished from existing capacity, if the two were allocated together during the auction? How will the reduction be applied? In such cases, when external factors such as authorization processes or other reasons could be an obstacle to meeting the lead time to realize the capacity, there is merit in using an Open Season, as it allows the possibility to allocate incremental and new capacity separately from the existing capacity.</p>
<p>14. Do you agree with ENTSG's opinion that repeating the identified bidding ladder(s) represents the clearest way to allow for bid revision as foreseen in article 20d (3) (CAM NC)? If not, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>The mechanism looks very complex, and it is not clear how it would work out in practice. As in principle users will bid in the repeated bidding ladder as they did in the first, within Eurogas this approach is widely regarded as a further complication to the process. 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.</p>
<p>15. Do you prefer option 1 (a continuous approach for bid revision as proposed by ENTSG in article 20d (3) (4)) or 2 (an approach according to which bid revision is only applied once)? Please elaborate.</p>
<p>2) an approach according to which bid revision is only applied once?</p>
<p>Elaboration:</p>
<p>In case of bid revision, the second solution seems easier to follow and is thus preferable.</p>
<p>16. Are there any other issues that you wish to address regarding auction mechanisms as foreseen in article 20d? (CAM NC) If yes, please elaborate.</p>
<p>No</p>

Elaboration:
<b>Articles 20e, 20f, 20g of CAM NC: Open season procedures</b>
17. Do you agree with the provisions that shall lead to conducting an Open Season Procedure instead of auctions for incremental and new capacity as foreseen in article 20e (2) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
However, we think that the following example “when the project for incremental or new capacity (...) is linked to or impacted by the realization of an exempted infrastructure according to Article 36 of Directive 2009/73/EC” should not be mentioned. In fact, Directive 2009/73/EC describes a different procedure for exempted projects and it does not fit in all aspects with the process foreseen by the Amendment to the CAM Code: for instance, the draft code only foresees the publication of Notices by the TSOs, subject to NRAs’ approval, which is different from the requirement in the Directive of having Guidelines for the organization of the market test approved by the relevant NRAs. The code should be consistent with the Directive.
18. Do you see any other conditional capacity commitments in Open Season Procedures than the issues raised in the Draft Incremental Proposal article 20f (3) (CAM NC)? If yes, please elaborate.
Yes
Elaboration:
Conditionality should not only be guaranteed in the booking phase, but should also be ensured in relation to the time of availability and entering into operation of capacity, in order not to leave any completion and delay risk carried by network users.
19. Do you agree that the proposed Open Season Procedures notice contains sufficient information as foreseen in 20f (8) (CAM NC)? If not, please elaborate.
No
Elaboration:
As the Open Season is a two-steps procedure, as set out in the ERGEG GGPOS, and supported by Eurogas (see 1), we think that it should be clear that information is provided through more than one Notice during the various phases of the process. A first Notice should be issued during the non-binding phase and should provide a full and detailed description of the project and the criteria to be applied for the allocation of the capacity. A second Notice should then be issued before the binding phase, including more detailed information (i.e. the indicative tariffs). Both Notices should be approved by NRAs and provided sufficiently in advance of the related phases. Eurogas suggests that the minimum information requirements of article 20f(8) could be enclosed in the first Notice, with the addition of the following information: - Conditions required to participate in the Open Season procedure, - A technical description of the project (e.g. estimation of CAPEX and OPEX) and an indicative timeframe for realization, - Attendance fees, if any. The second Notice (Bidding Notice) will be a crucial document for users to decide about participating in the Open Season process and committing on a long term basis. It should include: - The indicative tariff and a model of the tariff methodology used by the TSO to calculate it, in order for users to be able to estimate how the tariff could evolve; - The level of financial guarantees that have to be provided by participants;



<p>- Any financial commitment required (e.g. “bid bonds” and penalties for participants in the booking phase);</p> <p>- Parties’ (TSOs and users) liabilities in the period between the signature of the contract and the availability of capacity (e.g. penalties in case of contract cancellation by the user, or by other parties in case of delay in the entering into operation of capacity, etc.).</p>
<p>20. Do you agree with the default allocation rule foreseen for Open Season Procedures, being willingness to pay per unit and year as foreseen in article 20g (3) and the alternative allocation rule subject to NRA approval as foreseen in article 20g (4) (CAM NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p>We are not convinced that the principle of “willingness to pay per year” could reflect the requirements and assumptions used for long-term bookings, which are typically the basis of an Open Season procedure. 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. A TSO should be able to provide at least two scenarios for expansion (small/large) with corresponding indicative tariffs. 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. The Open Season should be seen as a flexible tool to develop new capacity required by more complex projects and therefore an approach that develops an allocation rule on a case by case basis could be preferable. In any case, whichever the allocation rule is, the most important aspect for network users participating in the procedure is to have conditional commitments expressed by users safeguarded.</p>
<p>21. Are there any other issues that you wish to address regarding Open Season Procedures as foreseen in article 20e, article 20f and article 20g (CAM NC)? If yes, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p><b>Articles 42-45 of TAR NC: Economic test principles</b></p>
<p>22. Do you agree with the structure of the economic test in the Incremental Proposal as foreseen in article 42 (TAR NC)? If not, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>23. Do you agree with the factors that shall be taken into account when defining the f-factor as foreseen in article 43 (TAR NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p>Eurogas mainly agrees with the proposed factors, but it is for consideration whether the NC TAR should also mention in addition the need to limit the risk of stranded capacities. This concern is linked with our approach reflected in the responses to the tariffs code. The need for TSOs to recover revenues related to stranded capacities could unfairly raise the tariffs of other points in the TSOs’ networks, generating higher costs for users who have already booked existing capacity. A low f-factor would therefore imply the need for non-transitional mitigating measures and fixed tariffs and could lead to a vicious cycle of under-recovery and increasing tariffs. Consistency between the f-factors applied at both sides of an IP should also be ensured by NRAs to limit undue cross-subsidies. A possible solution could be setting a common range within which the f-factors can move.</p>

24. Do you agree with the structure of the recovery mechanisms for the share of 1-f as foreseen in article 43 (2) (TAR NC)? If not, please elaborate.
No
Elaboration:
Article 43 (4) puts all the risks on network users, and removes all financial responsibility from TSOs regarding already engaged costs in case of a project failure. We recall the importance of ensuring a high degree of coordination between relevant NRAs when setting the recovery mechanism.
25. Do you agree with the way the single economic test is aggregated as foreseen in article 44 (TAR NC)? If not please elaborate.
Yes
Elaboration:
26. Do you agree with the three approaches for a potential redistribution of revenues as described in article 44 (4) (TAR NC)? If not, please elaborate.
No
Elaboration:
Redistribution of revenue will limit the risk of a tariff rise for existing shippers in any market area. It is not clear in ENTSOG's proposal how this redistribution of revenue fits in the revenue recovery scheme of each TSOs, and therefore how it can have an impact on the tariff structure.
27. Are there any other issues that you wish to address regarding economic test as foreseen in articles 42-45 (TAR NC)? If yes, please elaborate.
Elaboration:
Cost is one of the main drivers of decisions to book long-term capacity: thus, a high capacity cost generated by inefficient investment decisions can hinder the successful outcome of both integrated auctions and open seasons. For this reasons, it is important that TSOs provide evidence that costs for additional interconnection capacity are efficiently incurred.
<b>Article 46 of TAR NC: Tariff principles</b>
28. Do you agree with the default mechanism foreseen to adjust tariffs if required as covered in article 46 (TAR NC)? If not, please elaborate.
No
Elaboration:
The text is unclear on this proposal. In particular, it is not well explained if the application of a premium on top of the reserve price to be paid by users booking incremental and new capacity will be communicated to users before the bidding phase of the auction. This is very important, as users will express in the auction their maximum willingness to pay for the incremental and new capacity and no subsequent adjustment should be allowed on a discretionary basis to achieve a positive economic test. In any case, we think that if the reference price does not mean the economic test is passed, no further adjustments should be used, either before and (even worse) after the auction, as it signals that market interest for new and incremental capacity at cost-reflective prices is not sufficient to justify the investment. Adjustments to incremental capacity prices to ensure a project passes the economic test would be unwelcome, if they impact on prices at other entry/exit points: for example, if prices of incremental capacity

are lowered to make this capacity more attractive, under-recovery will have to be recovered through an increase of tariffs at other points.
29. Do you agree that in order to raise the level of commitment a downward tariff adjustment rewarding long-term booking can be included as foreseen in article 46 (TAR NC)? If not, please elaborate.
No
Elaboration:
We consider such an approach discriminatory for users holding existing capacity on the interconnection point.
30. Do you agree with including a possibility to adjust depreciation rates as a mechanism to avoid socialisation of costs as foreseen in article 46 (TAR NC)? If not, please elaborate.
No
Elaboration:
Eurogas considers this is out of the scope of the TAR NC, although as is mentioned in the response to Q. 51 in the tariffs consultation the rate of depreciation of assets can be relevant to some particular cases.
31. How do different tariff options impact on the markets' willingness to commit long term in order to pass the economic test? Please elaborate.
When users assess the possibility to commit on a long-term basis, they need overall visibility and transparency on the price of the capacity for the entire duration of the commitment period in order to build their business case. In a pure "floating tariff" world, this visibility would not be guaranteed. Therefore, Eurogas recommends in particular with regard to the tariffication of incremental and new capacity, to introduce the possibility of alternative options to mitigate possible changes of tariffs at the time of use of the capacity: the proposed options of a premium working as a "buffer" for future increase in tariffs or of a tariff plus a risk premium to keep it fixed should thus be considered as valuable alternatives to support users' willingness to commit to long-term bookings. Currently these options to mitigate changes in tariffs are described in the draft TAR NC as an option for TSOs to offer to network users. However, as demonstrated above, in order to facilitate long-term (incremental/new) capacity bookings this option should always be available for network users and as such a right for customers rather than an option for TSOs.
32. Are there any other issues that you wish to address regarding tariff related issues as foreseen in article 46 (TAR NC)? If yes, please elaborate.
No
Elaboration:
<b>General questions</b>
33. Do you consider that the level of detail in the Draft Incremental Proposal is appropriate for EU legislation? If not, please elaborate.
Yes
Elaboration:
Although the wording of some articles should be better clarified, as proposed in our response.
34. After reviewing and/or replying to the topic-related questions in Chapter 5 of this supporting document, do you find that there are other material issues that ENTSG should consider as it develops the Incremental Proposal? If so please elaborate.

No
Elaboration:
35. Do you find that this supporting document for the public consultation was 'respondent-friendly' in terms of its readability, style, etc.? If not, please explain how ENTSOG could improve future consultation documents.
Yes
Elaboration:

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<b>Articles 1-3 of CAM NC – Subject matter, Scope and Definitions</b>	
1. Do you agree with the additional definitions proposed in Article 3 (CAM NC)? If not, please elaborate.	
No	
Elaboration:	
<p>Article 3 (19): The definition of a ‘bidding ladder’ remains very confusing and partly misleading. In our understanding, rather than a combination of capacity products, the ‘bidding ladder’ is the sequence of price steps relevant for each offer level, against which bids for quantities of capacity are submitted by network users. The number of products, i.e. the duration of the overall booking, is, de facto, irrelevant for the definition of a ‘bidding ladder’.</p> <p>Article 3 (20): The definition of an ‘economic test’ could be improved by simply saying that it is the assessment of the economic viability of incremental and new capacity projects. The text of the Network Code would then clarify how the test actually works.</p> <p>Article 3 (24): The definition of an ‘open season procedure’ is probably unnecessary, as it is a way to market capacity that works as described in the text of the Network Code. Alternatively, it could be defined with reference to the relevant article.</p>	
<b>Articles 4-20 and 21-28 of CAM NC</b>	
2. Do you agree with the proposed amendments and changes to Articles 4-20 and 21 to 28 (CAM NC)? If not, please elaborate.	
No	
Elaboration:	
<p>We agree with the proposed amendments, except for the following:</p> <p>Article 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 or new 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, capacity requested 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</p>	

recognised by the drafting in Article 43 (2) of the proposed Tariff Network Code, it would be simpler to delete the requirement for quotas for new or incremental capacity.

Article 11 (8): One month is a minimum advance notification period for shippers to be able to prepare their bidding strategies and gain the necessary internal approvals. The larger the potential commitments, the more time commercial companies will 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. It is important to note that, based on the drafting of Article 27 of the Tariff Network Code, shippers will not know the applicable prices for capacity in the annual auctions 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. Whilst Article 46 of the draft Tariff Network Code attempts to remedy this defect by requiring publication of prices for 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 17 (20): The article 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 Tariff Network Code, the use of a variable price 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 or new capacity. The solution is to allow a greater degree of predictability for tariffs for new or 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.

**Article 20a of CAM NC: Co-ordination requirements**

3. Do you agree with the level of co-ordination between TSOs and NRAs involved in an incremental or new capacity project as foreseen in Article 20a (CAM NC)? If not, please elaborate.

No

Elaboration:

In principle, we agree with the level of co-ordination foreseen in Article 20a. In particular, we welcome Article 20a (4), as requiring TSOs to take into account comments of concerned network users would enhance the quality of the scoping phase.

Article 20a (3): We suggest strengthening the language in Article 20a (3), in line with item 2c of the ACER Guidance on amendments to the CAM Network Code, which requires that '[I]n the course of this co-ordination, agreement should at least be reached on[...]'. We would recommend replacing '[...]transmission system operators shall aim at delivering offer levels[...]]' with '[...]transmission system operators shall deliver offer levels [...]]'.

Special attention should be granted to the definition of 'single offer timeframes' and 'commissioning timeframes'. This is particularly true in the case of projects triggered or linked to the development of an upstream field, where the identification of the start date should be managed with sufficient flexibility, and surely with the direct involvement of network users.

4. Do you agree with the auction default and the alternative open season procedure as defined in Article 20a (5) (CAM NC)? If not, please elaborate.

Yes

Elaboration:
5. Do you have any additional remarks to the provisions in Article 20a (CAM NC)?
Yes
Elaboration:
Article 20a (6): We support the drafting of this article, but have reservations about the drafting of Article 44 of the Tariff Network Code. Article 44 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 and national regulatory authorities or Member States 'may agree on mechanisms for redistribution'. This is potentially too weak, as it could enable national regulatory authorities or Member States to prevent investment that furthers the internal gas market. Therefore, we propose that Article 44 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.
<b>Article 20b of CAM NC: Information provision</b>
6. Do you agree with ENTSOG's proposal of a demand assessment to be the basis for conducting technical studies and subsequently designing offer levels? If no, please elaborate.
No
Elaboration:
Article 20b (1): The demand assessment is a reasonable starting point. However, there should be a requirement for such an assessment to be carried out on a yearly basis.
7. Do you agree with the scope of information to be provided to the NRA and to be published by TSOs involved in an incremental or new capacity process as foreseen in article 20b(2) (CAM NC)? If not, please elaborate.
No
Elaboration:
Article 20b (2)(d): The wording of article 20b (2)(d) is imprecise. It should be made clear that TSOs have to provide a justification for choosing an auction or an open season on the basis of the relevant criteria, in consultation with the industry.
8. Do you agree with the lead-time foreseen for the publication of information relevant to an incremental or new capacity project and especially the economic test as described in article 20b (3) (CAM NC)? If not, please elaborate.
No
Elaboration:
Article 20b (3): One month is a short notice period for shippers to be notified of the parameters of the auction or open season for incremental or new capacity. The wording of this Article should be strengthened, so that TSOs have a 'best endeavours' requirement to publish at least 2 months before the auction or the binding open season phase. The processes do 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.
9. Are there any other issues that you wish to address regarding information provision as foreseen in article 20b? If yes, please elaborate.

Yes
<b>Elaboration:</b>
Article 20b: 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.
<b>Article 20c of CAM NC: When to offer</b>
10. Do you agree with the conditions that shall lead to the offer of incremental and new capacity as defined in Article 20c (1), (6), and (7) (CAM NC)? If not, please elaborate.
No
<b>Elaboration:</b>
Article 20c (6): This paragraph should be strengthened, so that TSOs are required to assess expected demand for incremental and new capacity more frequently than every other year on a reasonable endeavours basis.
11. Do you agree that the due date approach is preferable to the time window approach as foreseen in article 20c (3) (CAM NC)? If not, please elaborate.
No
<b>Elaboration:</b>
Article 20c (3): Whilst we recognise the organisational challenges for TSOs associated with developing offers of new or incremental capacity, TSOs should endeavour to respond to any requests from shippers for capacity in a timely manner. Therefore, this article should be strengthened by requiring TSOs to consider all capacity requests in good faith on a reasonable endeavours basis, irrespective of due dates for non-binding indications.
12. Are there any other issues that you wish to address regarding conditions of when to offer incremental and new capacity as foreseen in article 20c (CAM NC)? If so, please elaborate.
Yes
<b>Elaboration:</b>
Article 20c (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, this paragraph is too loosely drafted. 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.
<b>Article 20d of CAM NC: Auction mechanisms</b>
13. Do you agree with the concept of parallel bidding ladders to auction incremental and new capacity as foreseen in article 20d (CAM NC)? If not, please elaborate.
No
<b>Elaboration:</b>
Article 20d: Further clarification is required. The definition of a 'bidding ladder' remains very confusing and partly misleading. In our understanding, rather than a combination of capacity products, the 'bidding ladder' is the sequence of price steps relevant for each offer level, against which bids for quantities of capacity are submitted by network users. The number of products, i.e. the duration of the overall booking, is, de facto, irrelevant for the definition of a 'bidding ladder'.
14. Do you agree with ENTSOG's opinion that repeating the identified bidding ladder(s) represents the



clearest way to allow for bid revision as foreseen in article 20d (3) (CAM NC)? If not, please elaborate.
No
Elaboration:
Article 20d (3): A more flexible approach to the use of the economic test would help to avoid suboptimal outcomes without the need to re-run identical auction rounds. The ceiling to be passed during an economic test is based on estimates of the costs and projections of future tariffs; too strict an observation of such a ceiling would be blind to the inherent contingencies and uncertainties that such estimates and projections may include. Therefore, the object of the Article should be a case where the economic test is not passed by a margin, rather than a case where bidding ladders close at a premium.
15. Do you prefer option 1 (a continuous approach for bid revision as proposed by ENTSOG in article 20d (3) (4)) or 2 (an approach according to which bid revision is only applied once)? Please elaborate.
1) a continuous approach for bid revision as proposed by ENTSOG in article 20d (3) (4);
Elaboration:
A continuous approach for bid revision offers much more flexibility in addressing cases of suboptimal auction outcomes.
16. Are there any other issues that you wish to address regarding auction mechanisms as foreseen in article 20d? (CAM NC) If yes, please elaborate.
Yes
Elaboration:
Article 20d (1): 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 or new 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, capacity requested 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 by the drafting in Article 43 (2) of the proposed Tariff Network Code, it would be simpler to delete the requirement for quotas for new or incremental capacity.
<b>Articles 20e, 20f, 20g of CAM NC: Open season procedures</b>
17. Do you agree with the provisions that shall lead to conducting an Open Season Procedure instead of auctions for incremental and new capacity as foreseen in article 20e (2) (CAM NC)? If not, please elaborate.
No
Elaboration:
Article 20e: It is clear that national regulators have a role in approving the use of an open season process in place of auctions for the allocation of incremental or new capacity. However, we are concerned that there is no mechanism to deal with the possible situation where the different regulators involved in a project which crosses a number of jurisdictions cannot agree on the use of an open season approach. This could enable one regulator or Member State to frustrate the integration of the internal energy market. We, therefore, believe this Article should be strengthened so that ACER or the EU Commission have a role in adjudicating where agreement cannot be reached between different regulators. The test should be whether a proposed approach (auctions or open seasons) is more likely to result in capacity being made available to the market. The economic test will ensure that such investment is economically efficient. Furthermore, it is not clear how and when TSOs will choose the open season procedure instead of auctions.

The text does not make the use of open seasons automatic when the criteria are met, which is even more worrisome in view of the fact that such a choice is made without the involvement of network users.
18. Do you see any other conditional capacity commitments in Open Season Procedures than the issues raised in the Draft Incremental Proposal article 20f (3) (CAM NC)? If yes, please elaborate.
No
Elaboration:
19. Do you agree that the proposed Open Season Procedures notice contains sufficient information as foreseen in 20f (8) (CAM NC)? If not, please elaborate.
No
Elaboration:
The list should include the procedures and the timeframe for identifying the commissioning date of the new/incremental capacity. A closer look at the list set out in the Guidelines of Good Practice on Open Season Procedures (GGPOS), May 2007, pp. 11-14, would also be helpful.
20. Do you agree with the default allocation rule foreseen for Open Season Procedures, being willingness to pay per unit and year as foreseen in article 20g (3) and the alternative allocation rule subject to NRA approval as foreseen in article 20g (4) (CAM NC)? If not, please elaborate.
No
Elaboration:
Article 20g (1): It is not clear why shippers would pay auction premia for new capacity, given that a properly functioning mechanism would ensure that supply and demand for new or incremental capacity match. The purpose of auction premia is to enable capacity to be allocated to those who value it the most in a situation where the quantity of capacity available is fixed. This is not the case where new or incremental capacity is being offered to the market as the quantity of capacity can be varied so long as shippers are prepared to pay the regulated cost of that capacity.
Article 20g (3): We do not agree with the default rule and believe that this paragraph should be deleted. As we have demonstrated during the Stakeholder Workshops, the default rule raises the possibility that an investment project could fail as a result of one shipper paying more for capacity in one year and thereby, frustrating a shipper bidding for capacity over several years. If the shipper which books capacity for only one year does not book enough to meet the economic test, and the other shipper withdraws because he cannot secure capacity over the range of years that he needs, the risk is that no capacity will be built, due to a defective allocation mechanism.
Article 20g (4) recognises this risk and goes some way to address the problem. However, it is a second best solution, because there is still the risk that regulators will authorise an open season based on the default rule, and then have to change the parameters of an open season after the binding phase and the first run of the economic test have taken place. This creates unnecessary uncertainty for shippers as it means changing the rules of the game mid-way through the open season process. Given that the weaknesses of the default rule have been clearly foreseen, it would be better to delete Article 20g (3). We note that ACER have not given a reasonable explanation of their insistence on the default rule, or of the reason why they have changed their position compared to the wording of their original guidance.
21. Are there any other issues that you wish to address regarding Open Season Procedures as foreseen in article 20e, article 20f and article 20g (CAM NC)? If yes, please elaborate.
Yes

<b>Elaboration:</b>
Article 20f (5) 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 or new 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, capacity requested 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 by the drafting in Article 43 (2) of the proposed Tariff Network Code, it would be simpler to delete the requirement for quotas for new or incremental capacity.
<b>Articles 42-45 of TAR NC: Economic test principles</b>
22. Do you agree with the structure of the economic test in the Incremental Proposal as foreseen in article 42 (TAR NC)? If not, please elaborate.
No
<b>Elaboration:</b>
Article 42: Three main concerns exist 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 ENTSG 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.
23. Do you agree with the factors that shall be taken into account when defining the f-factor as foreseen in article 43 (TAR NC)? If not, please elaborate.
No
<b>Elaboration:</b>
Article 43: 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 new or incremental capacity is economically efficient.
24. Do you agree with the structure of the recovery mechanisms for the share of 1-f as foreseen in article 43 (2) (TAR NC)? If not, please elaborate.

No
Elaboration:
<p>Article 43 (2) (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 new or 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 Tariff Network Code.</p> <p>Article 43 (3): 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 Tariff Network Code which enable the TSOs to recover their revenue.</p> <p>Article 43 (4): Article 43 (4) 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.</p>
25. Do you agree with the way the single economic test is aggregated as foreseen in article 44 (TAR NC)? If not please elaborate.
No
Elaboration:
<p>Article 44: Whilst we support the concept, we have reservations about the drafting of Article 44 of the Tariff Network Code. Article 44 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 operators and national regulatory authorities or Member States 'may agree on mechanisms for redistribution'. This is potentially too weak, as it could enable national regulatory authorities or Member States to prevent investment that furthers the internal gas market. Therefore we propose that Article 44 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.</p> <p>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.</p>
26. Do you agree with the three approaches for a potential redistribution of revenues as described in article 44 (4) (TAR NC)? If not, please elaborate.
Yes
Elaboration:
27. Are there any other issues that you wish to address regarding economic test as foreseen in articles 42-45 (TAR NC)? If yes, please elaborate.
Yes
Elaboration:
Article 45: We support the intention of this article, but we do not see how it will work in practice with

regards to the estimated projection of indicative reference prices used in the economic test (Article 45 (1)(c)). It is highly questionable how reliable such projections 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 46 of TAR NC: Tariff principles**

28. Do you agree with the default mechanism foreseen to adjust tariffs if required as covered in article 46 (TAR NC)? If not, please elaborate.

No

**Elaboration:**

Article 46: It is important to note that, based on the drafting of Article 27 of the Tariff Network Code, shippers will not know the applicable prices for capacity in the annual auctions 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. Whilst Article 46 of the draft Tariff Network Code attempts to remedy this defect by requiring publication of prices for 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. Given uncertainties about future system usage and booking behaviour the assumptions referred to in this article will be of little value.

29. Do you agree that in order to raise the level of commitment a downward tariff adjustment rewarding long-term booking can be included as foreseen in article 46 (TAR NC)? If not, please elaborate.

No

**Elaboration:**

Article 46 (4): 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.

Please read this in conjunction with our comment to question 28: It is important to note that, based on the drafting of Article 27 of the Tariff Network Code, shippers will not know the applicable prices for capacity in the annual auctions 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. Whilst Article 46 of the draft Tariff Network Code attempts to remedy this defect by requiring publication of prices for 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. Given uncertainties about future system usage and booking behaviour the assumptions referred to in this article will be of little value.

30. Do you agree with including a possibility to adjust depreciation rates as a mechanism to avoid socialisation of costs as foreseen in article 46 (TAR NC)? If not, please elaborate.

No
<b>Elaboration:</b>
Please read this in conjunction with our comment to question 28: It is important to note that, based on the drafting of Article 27 of the Tariff Network Code, shippers will not know the applicable prices for capacity in the annual auctions 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. Whilst Article 46 of the draft Tariff Network Code attempts to remedy this defect by requiring publication of prices for 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. Given uncertainties about future system usage and booking behaviour the assumptions referred to in this article will be of little value.
<b>31. How do different tariff options impact on the markets’ willingness to commit long term in order to pass the economic test? Please elaborate.</b>
We would encourage the adopting of a harmonised fixed tariff approach for incremental and new 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 or new capacity. The solution is to allow a greater degree of predictability for tariffs for new or 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 NC TAR should, therefore, create the obligation on TSOs to provide for an option to fix the payable price for the duration of the (existing/incremental/new) capacity booking. An additional and related obstacle to making long-term commitments is the anticipation of stranded new or incremental capacities, which may result from an f-factor that is set too low, or from other mechanisms to socialise the costs of investment.
<b>32. Are there any other issues that you wish to address regarding tariff related issues as foreseen in article 46 (TAR NC)? If yes, please elaborate.</b>
No
<b>Elaboration:</b>
<b>General questions</b>
<b>33. Do you consider that the level of detail in the Draft Incremental Proposal is appropriate for EU legislation? If not, please elaborate.</b>
Yes
<b>Elaboration:</b>
<b>34. After reviewing and/or replying to the topic-related questions in Chapter 5 of this supporting document, do you find that there are other material issues that ENTSG should consider as it develops the Incremental Proposal? If so please elaborate.</b>
Yes

<b>Elaboration:</b>
We would like to use this opportunity to draw attention to another critical issue, which should be addressed in the context of the EU rules on capacity allocation: the consistency of capacity products. As we have elaborated on a number of occasions, the consistency of capacity products is a pre-requisite for the effective bundling of cross-border capacity and for efficient secondary capacity trading. To avoid the potential locking-in of a wide range of contractual differences or inconsistencies for bundled products, we would encourage Regulators, TSOs and the Commission to cooperate in addressing this issue through a respective amendment to the CAM NC.
<b>35. Do you find that this supporting document for the public consultation was 'respondent-friendly' in terms of its readability, style, etc.? If not, please explain how ENTSOG could improve future consultation documents.</b>
No
<b>Elaboration:</b>
We appreciate the efforts of ENTSOG to involve stakeholders on a continuous basis and to produce high quality supporting documents. However, the use of closed questions and avoiding questions on certain contentious issues (such as question 43 (4)), risk undermining the effectiveness of the consultation process.



<b>Respondent:</b>	<b>Europex</b>
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<b>General Response</b>	
<p>- Europex has followed the ENTSOG consultation process on the initial draft Proposal for Incremental and New Capacity (Incremental Proposal) and appreciates the possibility to contribute and to provide ENTSOG with its views.</p> <p>- Being a non-profit association of European Energy Exchanges, Europex currently has 21 members. It represents the interests of exchange based wholesale electricity, gas and environmental trading venues with regard to developments of the European regulatory framework for wholesale energy trading. Europex reaches out to all involved stakeholders to promote the further development of exchange based commodity trading and is contributing to discussions and initiatives on European level.</p> <p>- Europex is interested in an open and active dialogue with ENTSOG and is best placed to provide ENTSOG with support and know-how on matters of exchanges trading for commodities and gas and other related matters.</p> <p>- As for the ongoing consultation on the Incremental Proposal, Europex perceives and values the open and transparent way the process was conducted so far and appreciates the possibility for a well-structured stakeholder involvement.</p> <p>- In particular the organization and preparation of the Stakeholders Joint Working Sessions that enabled stakeholders and interested parties to follow the work of ENTSOG was perceived as beneficial. The meeting schedule, the web-stream of events and the detailed and thorough prepared supporting materials and presentations that are publicly available have contributed to a better understanding of the ongoing works and discussions.</p> <p>- In principle Europex supports processes and efforts that contribute to the fostering of a European energy market and the availability of transportation - and interconnection capacity on market based principles, where this is needed.</p>	



– When giving consideration to the available materials and the consultation questionnaire at hand Europex has decided not to answer the current consultation questions, since the Proposal on Incremental and New Capacity is considered to fall predominantly within the ambit of other stakeholders (TSOs, Regulators etc.) and does not directly concern trading in commodities and commodity products. In case that within the further process additional changes to the Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems (NC CAM) or other proposals / changes might be considered impacting on commodity trading, Europex will seek an active role and address such topics.

– Europex is continuing to monitor the development of the Proposal for Incremental and New Capacity with interest and is keen on offering ENTSOG support in case questions related to - or impacting on exchange trading of energy commodities and - products may arise.

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<b>Articles 1-3 of CAM NC – Subject matter, Scope and Definitions</b>	
1. Do you agree with the additional definitions proposed in Article 3 (CAM NC)? If not, please elaborate.	
Yes	
Elaboration:	
<b>Articles 4-20 and 21-28 of CAM NC</b>	
2. Do you agree with the proposed amendments and changes to Articles 4-20 and 21 to 28 (CAM NC)? If not, please elaborate.	
Yes	
Elaboration:	
<b>Article 20a of CAM NC: Co-ordination requirements</b>	
3. Do you agree with the level of co-ordination between TSOs and NRAs involved in an incremental or new capacity project as foreseen in Article 20a (CAM NC)? If not, please elaborate.	
Yes	
Elaboration:	
4. Do you agree with the auction default and the alternative open season procedure as defined in Article 20a (5) (CAM NC)? If not, please elaborate.	
Yes	
Elaboration:	
5. Do you have any additional remarks to the provisions in Article 20a (CAM NC)?	
No	
Elaboration:	
<b>Article 20b of CAM NC: Information provision</b>	

6. Do you agree with ENTSOG's proposal of a demand assessment to be the basis for conducting technical studies and subsequently designing offer levels? If no, please elaborate.
Yes
Elaboration:
7. Do you agree with the scope of information to be provided to the NRA and to be published by TSOs involved in an incremental or new capacity process as foreseen in article 20b(2) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
8. Do you agree with the lead-time foreseen for the publication of information relevant to an incremental or new capacity project and especially the economic test as described in article 20b (3) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
9. Are there any other issues that you wish to address regarding information provision as foreseen in article 20b? If yes, please elaborate.
No
Elaboration:
<b>Article 20c of CAM NC: When to offer</b>
10. Do you agree with the conditions that shall lead to the offer of incremental and new capacity as defined in Article 20c (1), (6), and (7) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
11. Do you agree that the due date approach is preferable to the time window approach as foreseen in article 20c (3) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
12. Are there any other issues that you wish to address regarding conditions of when to offer incremental and new capacity as foreseen in article 20c (CAM NC)? If so, please elaborate.
Yes
Elaboration:
<b>Article 20d of CAM NC: Auction mechanisms</b>
13. Do you agree with the concept of parallel bidding ladders to auction incremental and new capacity as foreseen in article 20d (CAM NC)? If not, please elaborate.
Yes

Elaboration:
14. Do you agree with ENTSOG's opinion that repeating the identified bidding ladder(s) represents the clearest way to allow for bid revision as foreseen in article 20d (3) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
15. Do you prefer option 1 (a continuous approach for bid revision as proposed by ENTSOG in article 20d (3) (4)) or 2 (an approach according to which bid revision is only applied once)? Please elaborate.
Elaboration:
16. Are there any other issues that you wish to address regarding auction mechanisms as foreseen in article 20d? (CAM NC) If yes, please elaborate.
No
Elaboration:
<b>Articles 20e, 20f, 20g of CAM NC: Open season procedures</b>
17. Do you agree with the provisions that shall lead to conducting an Open Season Procedure instead of auctions for incremental and new capacity as foreseen in article 20e (2) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
18. Do you see any other conditional capacity commitments in Open Season Procedures than the issues raised in the Draft Incremental Proposal article 20f (3) (CAM NC)? If yes, please elaborate.
Yes
Elaboration:
19. Do you agree that the proposed Open Season Procedures notice contains sufficient information as foreseen in 20f (8) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
20. Do you agree with the default allocation rule foreseen for Open Season Procedures, being willingness to pay per unit and year as foreseen in article 20g (3) and the alternative allocation rule subject to NRA approval as foreseen in article 20g (4) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
21. Are there any other issues that you wish to address regarding Open Season Procedures as foreseen in article 20e, article 20f and article 20g (CAM NC)? If yes, please elaborate.
No

Elaboration:
<b>Articles 42-45 of TAR NC: Economic test principles</b>
22. Do you agree with the structure of the economic test in the Incremental Proposal as foreseen in article 42 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
The economic test is of huge relevance in order to provide signals which can trigger market-based infrastructure investments. It's essential that the part of the investments not backed by shippers' commitments is guaranteed and recovered by other means (future bookings of the incremental/new capacity, tariffs paid at any other point(s) and any other financing through appropriate payment guarantee mechanisms established by NRAs or Member States, so called "regulatory contract").
23. Do you agree with the factors that shall be taken into account when defining the f-factor as foreseen in article 43 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
The economic test is of huge relevance in order to provide signals which can trigger market-based infrastructure investments. It's essential that the part of the investments not backed by shippers' commitments is guaranteed and recovered by other means (future bookings of the incremental/new capacity, tariffs paid at any other point(s) and any other financing through appropriate payment guarantee mechanisms established by NRAs or Member States, so called "regulatory contract").
24. Do you agree with the structure of the recovery mechanisms for the share of 1-f as foreseen in article 43 (2) (TAR NC)? If not, please elaborate.
Yes
Elaboration:
The economic test is of huge relevance in order to provide signals which can trigger market-based infrastructure investments. It's essential that the part of the investments not backed by shippers' commitments is guaranteed and recovered by other means (future bookings of the incremental/new capacity, tariffs paid at any other point(s) and any other financing through appropriate payment guarantee mechanisms established by NRAs or Member States, so called "regulatory contract").
25. Do you agree with the way the single economic test is aggregated as foreseen in article 44 (TAR NC)? If not please elaborate.
Yes
Elaboration:
26. Do you agree with the three approaches for a potential redistribution of revenues as described in article 44 (4) (TAR NC)? If not, please elaborate.
Yes
Elaboration:
27. Are there any other issues that you wish to address regarding economic test as foreseen in articles 42-45 (TAR NC)? If yes, please elaborate.

No
Elaboration:
<b>Article 46 of TAR NC: Tariff principles</b>
28. Do you agree with the default mechanism foreseen to adjust tariffs if required as covered in article 46 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
29. Do you agree that in order to raise the level of commitment a downward tariff adjustment rewarding long-term booking can be included as foreseen in article 46 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
30. Do you agree with including a possibility to adjust depreciation rates as a mechanism to avoid socialisation of costs as foreseen in article 46 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
31. How do different tariff options impact on the markets' willingness to commit long term in order to pass the economic test? Please elaborate.
32. Are there any other issues that you wish to address regarding tariff related issues as foreseen in article 46 (TAR NC)? If yes, please elaborate.
No
Elaboration:
<b>General questions</b>
33. Do you consider that the level of detail in the Draft Incremental Proposal is appropriate for EU legislation? If not, please elaborate.
Yes
Elaboration:
34. After reviewing and/or replying to the topic-related questions in Chapter 5 of this supporting document, do you find that there are other material issues that ENTSOG should consider as it develops the Incremental Proposal? If so please elaborate.
No
Elaboration:
35. Do you find that this supporting document for the public consultation was 'respondent-friendly' in terms of its readability, style, etc.? If not, please explain how ENTSOG could improve future consultation documents.

Yes
Elaboration:



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<b>Articles 1-3 of CAM NC – Subject matter, Scope and Definitions</b>	
1. Do you agree with the additional definitions proposed in Article 3 (CAM NC)? If not, please elaborate.	
No	
Elaboration:	
No. We consider that physical reserve capacity at an existing interconnection point should be treated as incremental capacity and not as new capacity.	
<b>Articles 4-20 and 21-28 of CAM NC</b>	
2. Do you agree with the proposed amendments and changes to Articles 4-20 and 21 to 28 (CAM NC)? If not, please elaborate.	
Yes	
Elaboration:	
<b>Article 20a of CAM NC: Co-ordination requirements</b>	
3. Do you agree with the level of co-ordination between TSOs and NRAs involved in an incremental or new capacity project as foreseen in Article 20a (CAM NC)? If not, please elaborate.	
Yes	
Elaboration:	
Yes. We would like to highlight the importance of taking into account comments from concerned network users.	
4. Do you agree with the auction default and the alternative open season procedure as defined in Article 20a (5) (CAM NC)? If not, please elaborate.	
Yes	
Elaboration:	
5. Do you have any additional remarks to the provisions in Article 20a (CAM NC)?	
No	
Elaboration:	



<b>Article 20b of CAM NC: Information provision</b>
6. Do you agree with ENTSOG's proposal of a demand assessment to be the basis for conducting technical studies and subsequently designing offer levels? If no, please elaborate.
No
Elaboration:
No, the demand is not the only driver to increase the capacity at interconnection points. Additional drivers such as market conditions, security of supply and market integration criteria should be included
7. Do you agree with the scope of information to be provided to the NRA and to be published by TSOs involved in an incremental or new capacity process as foreseen in article 20b(2) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
8. Do you agree with the lead-time foreseen for the publication of information relevant to an incremental or new capacity project and especially the economic test as described in article 20b (3) (CAM NC)? If not, please elaborate.
No
Elaboration:
One month is not enough.
9. Are there any other issues that you wish to address regarding information provision as foreseen in article 20b? If yes, please elaborate.
Yes
Elaboration:
The information should be in the same "Format" in all countries. The NRA should guarantee that the TSO's inform in time.
<b>Article 20c of CAM NC: When to offer</b>
10. Do you agree with the conditions that shall lead to the offer of incremental and new capacity as defined in Article 20c (1), (6), and (7) (CAM NC)? If not, please elaborate.
Elaboration:
20c 1.(a) The offer of incremental or new capacity should be designed to "close the gap" (could close the gap). 20c 1.(b) It should be enough in case no yearly standard capacity product is available in the annual yearly capacity auction for the year in which the incremental or new capacity could be offered. To require in the three subsequent years could be unreasonable as we expect market players to book capacity on a short term basis. In addition we consider that to require 100% of the yearly capacity product to be sold out might be too strict and a more flexible approach should be considered (lowering the threshold).
11. Do you agree that the due date approach is preferable to the time window approach as foreseen in article 20c (3) (CAM NC)? If not, please elaborate.
Elaboration:

12. Are there any other issues that you wish to address regarding conditions of when to offer incremental and new capacity as foreseen in article 20c (CAM NC)? If so, please elaborate.
Elaboration:
Regarding 20c (4), we consider that the TSO should not charge any fee for activities resulting out of the submission of non-binding demand indications as it can act as a barrier for infrastructure development. According to the Directive TSOs are in charge of developing the transmission system in a given area and, where applicable, its interconnections with other systems. Therefore, any test related to market interest should be considered to be included in its reward and no extra fee should be required.
<b>Article 20d of CAM NC: Auction mechanisms</b>
13. Do you agree with the concept of parallel bidding ladders to auction incremental and new capacity as foreseen in article 20d (CAM NC)? If not, please elaborate.
Elaboration:
14. Do you agree with ENTOSOG's opinion that repeating the identified bidding ladder(s) represents the clearest way to allow for bid revision as foreseen in article 20d (3) (CAM NC)? If not, please elaborate.
Elaboration:
15. Do you prefer option 1 (a continuous approach for bid revision as proposed by ENTOSOG in article 20d (3) (4)) or 2 (an approach according to which bid revision is only applied once)? Please elaborate.
1) a continuous approach for bid revision as proposed by ENTOSOG in article 20d (3) (4);
Elaboration:
Continuous
16. Are there any other issues that you wish to address regarding auction mechanisms as foreseen in article 20d? (CAM NC) If yes, please elaborate.
Elaboration:
<b>Articles 20e, 20f, 20g of CAM NC: Open season procedures</b>
17. Do you agree with the provisions that shall lead to conducting an Open Season Procedure instead of auctions for incremental and new capacity as foreseen in article 20e (2) (CAM NC)? If not, please elaborate.
Elaboration:
18. Do you see any other conditional capacity commitments in Open Season Procedures than the issues raised in the Draft Incremental Proposal article 20f (3) (CAM NC)? If yes, please elaborate.
Yes
Elaboration:
Yes, conditional commitments are necessary for complex projects.
19. Do you agree that the proposed Open Season Procedures notice contains sufficient information as

foreseen in 20f (8) (CAM NC)? If not, please elaborate.
No
Elaboration:
The economic test parameters should be made public to network users. TSOs should publish the relevant information in their website and a warning email should be sent to contact the relevant stakeholders.
20. Do you agree with the default allocation rule foreseen for Open Season Procedures, being willingness to pay per unit and year as foreseen in article 20g (3) and the alternative allocation rule subject to NRA approval as foreseen in article 20g (4) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
Yes but long term capacity commitments shall be always be considered in any case
21. Are there any other issues that you wish to address regarding Open Season Procedures as foreseen in article 20e, article 20f and article 20g (CAM NC)? If yes, please elaborate.
Elaboration:
20f (1) Capacity commitments for 15 years is too high. No more than 10 years should be required.
<b>Articles 42-45 of TAR NC: Economic test principles</b>
22. Do you agree with the structure of the economic test in the Incremental Proposal as foreseen in article 42 (TAR NC)? If not, please elaborate.
No
Elaboration:
NO. There is a lack of clarity regarding the economic test. In addition, the economic test should be harmonized even though the parameters could be set on a case by case basis. The launch documentation contained formulas on how the economic test works but they have not been included in this ENTSO G proposal. We propose to include them in the final version. In this regard it is important that de discount rate is the same and equal to the reg WACC to calculate the Present Value of network User Commitments and the Present Value of network User Commitments.
23. Do you agree with the factors that shall be taken into account when defining the f-factor as foreseen in article 43 (TAR NC)? If not, please elaborate.
Elaboration:
24. Do you agree with the structure of the recovery mechanisms for the share of 1-f as foreseen in article 43 (2) (TAR NC)? If not, please elaborate.
Elaboration:
25. Do you agree with the way the single economic test is aggregated as foreseen in article 44 (TAR NC)? If not please elaborate.
Elaboration:

26. Do you agree with the three approaches for a potential redistribution of revenues as described in article 44 (4) (TAR NC)? If not, please elaborate.
No
Elaboration:
No. We consider tht the agreement on a redistribution of revenues should always be made ex-post. Therefore, we consider that 44.4 (a) is not a valid approach.
27. Are there any other issues that you wish to address regarding economic test as foreseen in articles 42-45 (TAR NC)? If yes, please elaborate.
Elaboration:
"Regarding article 45, publication requirements: We have already commented on this issue in previous consultations and cannot stress enough that TSOs should be required to publish details of their investment costs and the assumptions on which these are based. Investment costs have a high impact on the outcome of the economic test. If investment costs are not efficient or are artificially high the success of open season will be threaten. Investment costs which are not efficient or which are artificially high constitute a barrier and are detrimental for competition. It should also be noted that the number of assets associated to an incremental capacity project is limited and it can be ring-fenced, therefore it is easy to monitor. Moreover, it should be acknowledged that network users who acquired binding commitments for the long term have the right to check whether the investment costs are efficiently incurred. Therefore, we would like to keep insisting that having complete transparency and justification for predicted investment costs is a prerequisite. There must be clear evidence from the TSOs that their costs are efficiently incurred. Therefore TSOs should publish at least: o details of each of the investments linked to the incremental capacity (km, diameter of pipelines, power of compressor station, etc.) and their costs."
<b>Article 46 of TAR NC: Tariff principles</b>
28. Do you agree with the default mechanism foreseen to adjust tariffs if required as covered in article 46 (TAR NC)? If not, please elaborate.
Elaboration:
29. Do you agree that in order to raise the level of commitment a downward tariff adjustment rewarding long-term booking can be included as foreseen in article 46 (TAR NC)? If not, please elaborate.
Elaboration:
30. Do you agree with including a possibility to adjust depreciation rates as a mechanism to avoid socialisation of costs as foreseen in article 46 (TAR NC)? If not, please elaborate.
Elaboration:
31. How do different tariff options impact on the markets' willingness to commit long term in order to pass

the economic test? Please elaborate.
32. Are there any other issues that you wish to address regarding tariff related issues as foreseen in article 46 (TAR NC)? If yes, please elaborate.
Elaboration:
<b>General questions</b>
33. Do you consider that the level of detail in the Draft Incremental Proposal is appropriate for EU legislation? If not, please elaborate.
Elaboration:
34. After reviewing and/or replying to the topic-related questions in Chapter 5 of this supporting document, do you find that there are other material issues that ENTOSOG should consider as it develops the Incremental Proposal? If so please elaborate.
Elaboration:
35. Do you find that this supporting document for the public consultation was 'respondent-friendly' in terms of its readability, style, etc.? If not, please explain how ENTOSOG could improve future consultation documents.
Elaboration:

<b>Respondent:</b>	<b>GAZPROM EXPORT / GAZPROM MARKETING &amp; TRADING</b>
<b>Contact Details</b>	
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<b>Articles 1-3 of CAM NC – Subject matter, Scope and Definitions</b>	
1. Do you agree with the additional definitions proposed in Article 3 (CAM NC)? If not, please elaborate.	
No	
Elaboration:	
We have the following comments:	
<p><b>Article 1 “Subject matter”:</b></p> <p>We propose to redraft the sentence related to “standardized capacity allocation mechanism” so that both the auction process and the open season approach have an equal legal weight.</p> <p>Instead of “The standardised capacity allocation mechanism shall include an auction procedure for relevant interconnection points within the Union and the standard cross-border capacity products to be offered and allocated” we propose to write it as the following (additional text marked with Bold Italics): “The standardised capacity allocation mechanism shall include an auction procedure for relevant interconnection points within the Union and the standard cross-border capacity products to be offered and allocated, <b><i>as well as open season procedure within the Union and at its external borders based on evaluation of market demand for the capacity where relevant (such as the creation of new interconnection points and new transportation routes across a number of market areas).</i></b>”</p>	
<p><b>Article 3(15), 3(23) &amp; 3(24): Definitions 15 - “standard capacity product”, 23 - “offer level” &amp; 24 - “open season”</b></p> <p>It is important to note that, in an open season process, the aim is to enable project developers to match the capacity that will be offered to the demand from shippers. Shippers’ demand will in turn be driven by their upstream or downstream requirements e.g. how much production they expect to have and therefore how much gas they will wish to transport to market. This makes the approach very different from the allocation of existing capacity using auctions, where the aim is to match demand to supply e.g. reduce to demand for capacity until demand for capacity matches the capacity available by use of the price mechanism.</p>	
<b>Articles 4-20 and 21-28 of CAM NC</b>	

2. Do you agree with the proposed amendments and changes to Articles 4-20 and 21 to 28 (CAM NC)? If not, please elaborate.

No

Elaboration:

No. We agree with all amendments except the following:

**Article 8 (8)**

These articles are written on the assumption as if incremental/new capacity (capacity that does not exist yet and is yet to be designed, financed, and constructed) is the same as already existing capacity (which has already been designed, financed, constructed, and is being used). This is a misguided perception which has led the drafters of the ACER Guidance (and then the drafters of ENTSOG Incremental Proposal) to base these articles on invalid economic considerations.

We do not believe it is necessary to have quotas of capacity set aside for the annual quarterly capacity auctions, given that the quantity of incremental or new capacity that is offered is variable, and can therefore 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, capacity requested will be allocated. Furthermore the implementation of Congestion Management Procedures prevents hoarding or market foreclosure as a result of long term booking. Furthermore inclusion of such quotas directly impacts the functioning of the economic test by effectively decreasing the f factor. Whilst this issue has been partially recognized by the drafting in Article 43 (2) of the proposed Tariff Network Code, it would be simpler to delete the requirement for quotas for new or incremental capacity, as proposed in the Stakeholder Joint Workshops

**Article 8 (9).**

In case such quotas, as mentioned in Article 8 (8), nevertheless, will be left in the Amended CAM NC to become a law, the existing text in the Article 8 (9) MUST be accompanied by the following clause/paragraph (the particular wording of which can be further refined later) clearly indicating the source of financing for such quota in addition to shippers bookings. Our proposal is based on economically justified concept that there are no rights without corresponding obligations. If the legislator/regulator/authority demands the availability of the quota, such a legislator/regulator/authority should provide the source of financing/securitization of such quota which is within his legally justified capabilities. Such sources of financing/securitization might be considered, in our view, as the funds of the financial institutions which are under control of the EU, like, inter alia, EIB and/or EBRD (see also our respond under this Question to the point "Comments on Articles of the Tariff Network Code which apply to Incremental Capacity, Article 43 (2) (b)" below).

The new text which is proposed to be added to the existing wording of the article 8 (9) is presented in bold:

"...National regulatory authorities shall in particular consider setting aside higher shares of capacity with a shorter duration to avoid foreclosure of downstream supply markets.

**The source of financing and/or securitization of the above mentioned share of capacity for a shorter duration shall be provided by the national and/or EU regulatory authorities from public financial sources of the EU."**

**Article 11 (8)**

One month is a minimum advance notification period for shippers to be able to prepare their bidding

strategies, and gain the necessary internal approvals. The larger the potential commitments, the more time commercial companies will 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.

It is important to note that, based on the drafting of Article 27 of the Tariff Network Code, shippers will not know the applicable prices for capacity in the annual auctions 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. Whilst Article 46 of the draft Tariff Network Code attempts to remedy this defect by requiring publication of prices for 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 11 (10)**

The article states that the allocation results of the auction shall “be made available” instead of “be published”. It is not clear what the difference is for the TSO between these two processes and the reason for such wording.

**Article 17 (20)**

The article 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 Tariff Network Code, the use of a variable price 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 or new capacity. The solution is to allow a greater degree of predictability for tariffs for new or incremental capacity such as fixed, fixed with indexation, fixed within a certain band, etc. Such ideas have not been adequately developed during the recent Stakeholder Workshops.

**Article 20a (6)**

We support the drafting of this Article but have reservations about the drafting of Article 44 of the Tariff Network Code. Article 44 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 operators and national regulatory authorities or Member States may agree on mechanisms for redistribution”. (Emphasis added.) This is potentially too weak, as it could enable national regulatory authorities or Member States to prevent investment that furthers the internal gas market. Therefore we propose that Article 44 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.

**Article 20b (3)**

One month is a short notice period for shippers to be notified of the parameters of the auction or open season for incremental or new capacity. The wording of this Article should be strengthened so that TSOs have a best endeavours requirement to publish at least 2 months before the auction or binding open season



phase.

**Article 20c (3)**

Whilst we recognize the organizational challenges for TSOs associated with developing offers of new or incremental capacity, TSOs should endeavour to respond to any requests from shippers for capacity in a timely manner. Therefore this Article should be strengthened by requiring TSOs to consider all capacity requests in good faith on a reasonable endeavours basis, irrespective of due dates for non binding indications.

**Article 20c (4)**

Whilst we recognize 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, this paragraph is too loosely drafted. 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 TSOs Allowed Revenue. Otherwise there is a risk that TSOs will be able to charge shippers twice for the same activity.

**Article 20c (6)**

Following our comments for Article 20c (3) above, this paragraph should be strengthened so that TSOs are required to assess expected demand for incremental and new capacity more frequently than every other year on a reasonable endeavours basis.

**Article 20d (1)**

Please see our comments on Article 8 (8) above.

**Article 20e**

It is clear that national regulators have a role in approving the use of an open season process in place of auctions for the allocation of incremental or new capacity. However we are concerned that there is no mechanism to deal with the possible situation where the different regulators involved in a project which crosses a number of jurisdictions cannot agree on the use of an open season approach. This could enable one regulator or Member State to frustrate the integration of the internal energy market. We therefore believe this Article should be strengthened so that ACER of the EU Commission have a role in adjudicating where agreement cannot be agreed between different regulators. The test should be whether a proposed approach (auctions or open seasons) is more likely to result in capacity being made available to the market. The economic test will ensure that such investment is economically efficient.

Such a proposed approach (the role of ACER and/or the EU Commission) is especially valid in the case (that) of a major new transportation route (large new cross-border capacity with a number of new interconnection points). We intend to propose such an approach in addition to that already in the draft - see our response to Question 21 below. In such case the best effective way, in our view, will be an approach with the modified open season procedure ("project-based approach") aimed at ring-fencing (unitization) of the cross-border transportation route into a new independent TSO (establishing a new project with a single project-based TSO, at least for the period till the end of pay-back period for such project). This would be instead of the cooperation between adjacent TSOs under the "system-based approach" when the individual sections of the new transportation route are to be considered as the parts of the corresponding national transmission

systems. The latter approach is more suited to projects in combination with the existing capacities, or yet to be developed “incremental” capacities which are relatively small capacity additions compared to the capacity of the whole transmission system of the corresponding market area at the existing interconnection points. The former (unitization) approach is more suited to yet to be developed “new” capacities, and especially their extreme cases – i.e. relatively big/large capacity additions (compared to the capacity of the whole transmission system of the corresponding market area) at the new interconnection points) across several entry exit zones. Under such an approach the decisive role could be transferred from national NRAs to ACER or the Commission (as we have proposed to discuss at a number of SJWS). In addition the wording of Article 20 (e) 2 should be strengthened so open seasons “shall” (not “may”) be conducted in the circumstances specified in the draft.

**Article 20f (5)**

Please see our comments on Article 8 (8) above.

**Article 20g (1)**

It is not clear why shippers would pay auction premia for new capacity, given that a properly functioning mechanism would supply and demand for new or incremental capacity to match. The purpose of auction premia is to enable capacity to be allocated to those who value it most in a situation where the quantity of capacity available is fixed. This is not the case where new or incremental capacity is being offered to the market as the quantity of capacity can be varied so long as shippers are prepared to pay the regulated cost of that capacity.

**Article 20g (3)**

We do not agree with the default rule and believe that this paragraph should be deleted. As we have demonstrated during the Stakeholder Workshops, the default rule raises the possibility that an investment project could fail as a result of one shipper paying more for capacity in one year and thereby frustrating a shipper bidding for capacity over several years. If the shipper which books capacity for only one year does not book enough to meet the economic test, and the other shipper withdraws because it cannot secure capacity over the range of years that it needs, the risk is that no capacity will be built due to a defective allocation mechanism. Article 20g (4) recognizes this risk and goes some way to address the problem. However it is a second best solution because there is still the risk that regulators will authorize an open season based on the default rule, and then have to change the parameters of an open season after the binding phase and first run of the economic test has taken place. This creates unnecessary uncertainty for shippers as it means changing the rules of the game mid way through the open season process. Given the weaknesses of the default rule have been clearly foreseen it would be better to delete Article 20g (3). We note that ACER has not given a reasonable explanation of their insistence on the default rule, or of the reason why they have changed from the wording of their original guidance.

**Comments on Articles of the Tariff Network Code which apply to Incremental Capacity.**

**Article 43 (2) (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 at some point be required to pay the difference

between revenues raised via capacity bookings, and the allowed revenue associated with new or incremental capacity. For this reason any externalities should be explained and justified, and explanation as to how any shortfall in associated allowed revenues will be covered in future. This is particularly important given the proposals in the Tariff Network Code for floating tariffs.

We consider that the best way to balance the externalities, which are the result of EU requirements (e.g. security of supply), and the need to ensure financeability of new projects, is to securitize such externalities via financial guarantees from EU-controlled financial institutions, such as European Investment Bank (EIB) and European Bank for Reconstruction and Development (EBRD). (See also our response to this question under Article 8 (9) of the Amended CAM NC above). The potential “cost of externalities” may be prohibitive for the development of such new projects as they are not driven by market demand, and therefore may not receive financial backing from shippers.

**Article 43 (3)**

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 Tariff Network Code which enable the TSOs to recover their revenue. However there is a clear link with our comments about the need for NRAs to identify how externalities will be financed in our comment on Article on 43 (2) (b) above.

**Article 44**

Whilst we support the concept, we have reservations about the drafting of Article 44 of the Tariff Network Code. Article 44 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 operators and national regulatory authorities or Member States *may* agree on mechanisms for redistribution”. (**Emphasis added.**) This is potentially too weak, as it could enable national regulatory authorities or Member States to prevent investment that furthers the internal gas market. Therefore we propose that Article 44 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.

**Article 45.**

We support the intention of this article but do not see how it will work in practice with regards to the estimated projection of indicative reference prices used in the economic test. (Article 45 (1) (c)). It is highly questionable how reliable such projections 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.

**Article 46.**

It is important to note that, based on the drafting of Article 27 of the Tariff Network Code, shippers will not know the applicable prices for capacity in the annual auctions 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. Whilst Article 46 of the draft Tariff

<p>Network Code attempts to remedy this defect by requiring publication of prices for 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. Given uncertainties about future system usage and booking behaviour the assumptions referred to in this article will be of little value.</p>
<p><b>Article 20a of CAM NC: Co-ordination requirements</b></p>
<p>3. Do you agree with the level of co-ordination between TSOs and NRAs involved in an incremental or new capacity project as foreseen in Article 20a (CAM NC)? If not, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p><b>Article 20a (6)</b> We support the drafting of this Article but have reservations about the drafting of Article 44 of the Tariff Network Code. Article 44 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 operators and national regulatory authorities or Member States <i>may</i> agree on mechanisms for redistribution”. <b>(Emphasis added.)</b> This is potentially too weak, as it could enable national regulatory authorities or Member States to prevent investment that furthers the internal gas market. Therefore we propose that Article 44 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.</p>
<p>4. Do you agree with the auction default and the alternative open season procedure as defined in Article 20a (5) (CAM NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p>As mentioned above (see our comment to Question 2 under <b>Article 20g(3)</b> above), we do not agree with the default rule. Our view is that selection of the auction as a default option for development of incremental/new capacity does not present the best effective way of development such capacity and leads to additional transaction costs in case of new capacity when the open season procedure. The use of auctions as default may also mean that an open season procedure is used when the default option has failed to work effectively, increasing transaction costs for shippers. We have presented this view at several meetings and discussion in various for a dating back to 2010 including the SJWS, the CEER / ACER Blueprint discussions and in Workstream 2 “Internal Markets” of the Russia-EU Gas Advisory Council</p>
<p>5. Do you have any additional remarks to the provisions in Article 20a (CAM NC)?</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>Article 20a (6) We support the drafting of this Article but have reservations about the drafting of Article 44 of the Tariff Network Code. Article 44 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</p>

<p>operators and national regulatory authorities or Member States <b>may</b> agree on mechanisms for redistribution”. <b>(Emphasis added.)</b> This is potentially too weak, as it could enable national regulatory authorities or Member States to prevent investment that furthers the internal gas market. Therefore we propose that Article 44 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.</p>
<p><b>Article 20b of CAM NC: Information provision</b></p>
<p>6. Do you agree with ENTSOG’s proposal of a demand assessment to be the basis for conducting technical studies and subsequently designing offer levels? If no, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p>The demand assessment should be carried out on a yearly basis. Furthermore, the words “demand assessment” can be interpreted differently. If they are interpreted in a way that this means “assessment of demand of potential shippers/market players for the capacity to be built” – we agree. If, on top of this, that will mean also “non-economic” demands for the capacity, than we can agree with this only with the clear explanation as to who will pay for this a way which does not prevent the development of new capacity.</p>
<p>7. Do you agree with the scope of information to be provided to the NRA and to be published by TSOs involved in an incremental or new capacity process as foreseen in article 20b(2) (CAM NC)? If not, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>8. Do you agree with the lead-time foreseen for the publication of information relevant to an incremental or new capacity project and especially the economic test as described in article 20b (3) (CAM NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p>One month is a short notice period for shippers to be notified of the parameters of the auction or open season for incremental or new capacity. The wording of this Article should be strengthened so that TSOs have a best endeavours requirement to publish at least 2 months before the auction or binding open season phase.</p>
<p>9. Are there any other issues that you wish to address regarding information provision as foreseen in article 20b? If yes, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p><b>Article 20c of CAM NC: When to offer</b></p>
<p>10. Do you agree with the conditions that shall lead to the offer of incremental and new capacity as defined in Article 20c (1), (6), and (7) (CAM NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p>In conjunction with our comments on Article 20c (3), this paragraph should be strengthened so that TSOs are</p>

be required to assess expected demand for incremental and new capacity more frequently than every other year on a reasonable endeavours basis.
11. Do you agree that the due date approach is preferable to the time window approach as foreseen in article 20c (3) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
However, whilst we recognize the organizational challenges for TSOs associated with developing offers of new or incremental capacity, TSOs should endeavour to respond to any requests from shippers for capacity in a timely manner. Therefore this Article should be strengthened by requiring TSOs to consider all capacity requests in good faith on a reasonable endeavours basis, irrespective of due dates for non binding indications.
12. Are there any other issues that you wish to address regarding conditions of when to offer incremental and new capacity as foreseen in article 20c (CAM NC)? If so, please elaborate.
Yes
Elaboration:
Whilst we recognize 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, this paragraphs is too loosely drafted. 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 TSOs Allowed Revenue. Otherwise there is a risk that TSOs will be able to charge shippers twice for the same activity.
<b>Article 20d of CAM NC: Auction mechanisms</b>
13. Do you agree with the concept of parallel bidding ladders to auction incremental and new capacity as foreseen in article 20d (CAM NC)? If not, please elaborate.
Yes
Elaboration:
However, please see our comments on Article 8 (8) above.
14. Do you agree with ENTSOG's opinion that repeating the identified bidding ladder(s) represents the clearest way to allow for bid revision as foreseen in article 20d (3) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
15. Do you prefer option 1 (a continuous approach for bid revision as proposed by ENTSOG in article 20d (3) (4)) or 2 (an approach according to which bid revision is only applied once)? Please elaborate.
1) a continuous approach for bid revision as proposed by ENTSOG in article 20d (3) (4);
Elaboration:
Option 1
16. Are there any other issues that you wish to address regarding auction mechanisms as foreseen in article 20d? (CAM NC) If yes, please elaborate.
Yes
Elaboration:
For Article 20 (d) (1) please see our comments on Article 8 (8).
<b>Articles 20e, 20f, 20g of CAM NC: Open season procedures</b>

17. Do you agree with the provisions that shall lead to conducting an Open Season Procedure instead of auctions for incremental and new capacity as foreseen in article 20e (2) (CAM NC)? If not, please elaborate.
No
Elaboration:
<p>This article needs to be strengthened. Instead of “Open season procedures <b>MAY</b> be conducted in particular under the following circumstances: ...” it should be written as “Open season procedures <b>SHALL</b> be conducted in particular under the following circumstances: ...”.</p> <p>This will ensure that the difference between the two approaches is clearly established, and ensure that open season are used when most appropriate, avoiding the prospect of a failed procedure and increased transaction costs as highlighted in our response to Question 4.</p> <p>It is clear that national regulators have a role in approving the use of an open season process in place of auctions for the allocation of incremental or new capacity. However we are concerned that there is no mechanism to deal with the possible situation where the different regulators involved in a project which crosses a number of jurisdictions cannot agree on the use of an open season approach. This could enable one regulator or Member State to frustrate the integration of the internal energy market. We therefore believe this Article should be strengthened so that ACER of the EU Commission have a role in adjudicating where agreement cannot be agreed between different regulators. The test should be whether a proposed approach (auctions or open seasons) is more likely to result in capacity being made available to the market. The economic test will ensure that such investment is economically efficient.</p> <p>Such a proposed approach (the role of ACER and/or the EU Commission) is especially valid in the case (that) of a major new transportation route (large new cross-border capacity with a number of new interconnection points). We intend to propose such an approach in addition to those in the draft code - see also our response to Question 21 below. In such case the best effective way, in our view, will be an approach with the modified open season procedure (“project-based approach”) aimed at ring-fencing (unitization) of the cross-border transportation route into a new independent TSO (establishing a new project with a single project-based TSO, at least for the period till the end of pay-back period for such project). This would be instead of the cooperation between adjacent TSOs under the “system-based approach” when the individual sections of the new transportation route are to be considered as the parts of the corresponding national transmission systems. The latter approach is more suited to projects in combination with the existing capacities, or yet to be developed “incremental” capacities which are relatively small capacity additions compared to the capacity of the whole transmission system of the corresponding market area at the existing interconnection points. The former (unitization) approach is more suited to yet to be developed “new” capacities, and especially their extreme cases – i.e. relatively big/large capacity additions (compared to the capacity of the whole transmission system of the corresponding market area) at the new interconnection points) across several entry exit zones. Under such approach the decisive role could be transferred from national NRAs to ACER or the Commission (as we have proposed to discuss at a number of SJWS).</p>
18. Do you see any other conditional capacity commitments in Open Season Procedures than the issues raised in the Draft Incremental Proposal article 20f (3) (CAM NC)? If yes, please elaborate.
Yes
Elaboration:
<p>We propose to change the text of the Article 20f(3): (i) to add the words “fixed or”, (ii) to substitute “can” by “shall”:</p> <p>Instead of “Conditional commitments, such as commitments across a number of years, commitments linking</p>



or excluding commitments at other interconnection points or commitments conditional to the allocation of a **minimum** amount of capacity **can** be obtained in open season procedures subject to the approvals of the relevant national regulatory authorities” we propose to write: “Conditional commitments, such as commitments across a number of years, commitments linking or excluding commitments at other interconnection points or commitments conditional to the allocation of a **fixed or minimum** amount of capacity **shall** be obtained in open season procedures subject to the approvals of the relevant national regulatory authorities.”

19. Do you agree that the proposed Open Season Procedures notice contains sufficient information as foreseen in 20f (8) (CAM NC)? If not, please elaborate.

No

Elaboration:

Article 20f (8)(e) says:

“(e) the allocation rules that will be applied in case the capacity demand expressed in the binding phase of the open season cannot be fully met;”

We do not agree in principle with the formula that under Open Season (if constructed/organized adequately, in line with our proposals that we have been presenting during all the events mentioned above since January 2010) there might happen such cases when “...capacity demand expressed in the binding phase ... cannot be fully met”.

In our view all market demand for capacity SHALL be met within Open Season on the financeable and project-based basis, if the Open Season is properly designed. This is the key difference between system-based auction and project-based Open Season. We have explained this at the various SJWS. (For more information please see our presentations for the SJWS).

Market demand for the capacity of the market players (potential shippers) which can be accompanied by the non-market-demand for the capacity of the NRAs and other EU authorities (in which case they shall provide their financial guarantees for their requested additional capacity) should be evaluated on a cumulative basis using an NPV-based approach during economic test. The NPV approach uses a discount approach to value future years booking, so that near term bookings carry more weight than distant bookings, which helps prevent foreclosure by large players. The use of an iterative approach ensures that the size of the project is best matched to potential demand for capacity. The NPV approach is consistent with sound regulatory principles since it ensures that those who contribute most to the financial underpinning of the investment, are allocated the capacity they require. The approach has a long and well tested history in other fully functional and liberalized markets such as the US and Canada.

The principle is that there shall be no “free riders”, those are not ready to take corresponding share of risks and costs for development of new capacity.

20. Do you agree with the default allocation rule foreseen for Open Season Procedures, being willingness to pay per unit and year as foreseen in article 20g (3) and the alternative allocation rule subject to NRA approval as foreseen in article 20g (4) (CAM NC)? If not, please elaborate.

No

Elaboration:

Article 20g (3)

We do not agree with the default rule and believe that this paragraph should be deleted. As we have demonstrated during the Stakeholder Workshops, the default rule raises the possibility that an investment project could fail as a result of one shipper paying more for capacity in one year and thereby frustrating a



shipper bidding for capacity over several years. If the shipper which books capacity for only one year does not book enough to meet the economic test, and the other shipper withdraws because it cannot secure capacity over the range of years that it needs, the risk is that no capacity will be built due to a defective allocation mechanism. Article 20g (4) recognizes this risk and goes some way to address the problem. However it is a second best solution because there is still the risk that regulators will authorize an open season based on the default rule, and then have to change the parameters of an open season after the binding phase and first run of the economic test has taken place. This creates unnecessary uncertainty for shippers as it means changing the rules of the game mid way through the open season process. Given the weaknesses of the default rule have been clearly foreseen it would be better to delete Article 20g (3). We note that ACER have not given a reasonable explanation of their insistence on the default rule, or of the reason why they have changed from the wording of their original guidance.

We do agree that the alternative allocation rule which “shall consider the higher contribution of long term capacity commitments for the economic viability of the incremental or new capacity project” if the latter being understood as the NPV-based approached as we have proposed and argued for during SJWSs (in line with our presentations made there)

21. Are there any other issues that you wish to address regarding Open Season Procedures as foreseen in article 20e, article 20f and article 20g (CAM NC)? If yes, please elaborate.

Yes

Elaboration:

**On the Open Season procedure as a whole (Article 20e, 20f, 20g):**

Yes. The draft code may not be sufficient to enable very large and complex new pipeline projects to pass the economic test. As noted above the proposal for floating tariffs makes it unattractive for shippers to make the long term bookings necessary to pass the economic test, because of the way tariffs could vary. Similarly, if the proposed project is very large compared to the system it goes through, any revenue shortfall on the new investment would have a disproportionately large affect on the tariffs at the rest of the points in the system. This would make it difficult for other shippers in the system to be content with anything other than a very high f-factor to ensure the new investment was fully underwritten by shippers’ capacity bookings.

The use of fixed tariffs for the new investment (which could be fixed in real terms or indexed to the cost of the project to cover any project cost overruns – the basic principle of tariffication is that then value of the tariff present cost of the service provided with reasonable rate of return) is one way to help address the concerns described above. An alternative approach would be to treat any large project that crossed a number of market zones as a standalone TSO (non-discrimination principle means that the risks and costs of one project yet to be developed shall not be placed on the shoulders of the users of the other, including already developed projects, and vice versa). This would have the benefit of ring fencing the costs of the new investment from the systems through which it went, thereby protecting both the shippers of the new pipeline and the shippers in the existing systems, from revenue under recovery issues caused by other shippers. For example, if the new investment cost more than expected, only the shippers in the new pipeline would bear these costs, thus protecting the shippers in the existing system. Or, if there is a revenue under recovery in the existing system, only the shippers in the existing system see their tariffs change.

Establishing a separate TSO will not harm the functioning of the internal gas market as all Third Energy Package rules and European Network Codes will still be observed. Capacity will be sold in advance (before construction starts) through the Open Season Procedure and will thus define the volume of new capacity and configuration of the new transportation route ensuring that the project is best able to meet demand for

capacity from the outset. When this new capacity is built it will be managed in line with both Capacity Allocation Mechanism and Congestion Management Procedures, and the rules of the Balancing Network Code will be implemented, as will rules regarding capacity tariffs within this new transportation route which is proposed to be isolated until the end of its pay-back period from the rest of transmission system of the given market area. The difference between having a separate TSO and creating new capacity within the existing TSOs is that there will be new Interconnection Points between the new TSO and existing TSOs, rather than new or expanded IPs between existing TSOs. There is no a priori reason why a TSO crossing several countries cannot be established so long as Member States and NRAs can agree how to regulate it. It is no different in principle from having more than one TSO or market zone within a country.

Detailed explanation of our arguments in favour of such approach for the extreme cases of new capacity (mega-projects, cross-border transportation routes with multiple new IPs, especially when such project is relatively large compared to the size of the market area it is to cross) was multiply presented in our presentations during SJWSs and Russia-EU Gas Advisory Council/Informal Consultations events, like:

- (1) Prime Movers' comments on draft CAM amendment for Incremental Capacity. - <http://www.konoplyanik.ru/speeches/140624-Konoplyanik-Barnes-ENTSOG-Incremental-proposal-6%20JSWS-final.pdf>
- (2) Prime Movers' vision on intermediate results of ENTSOG "Incremental Proposal" (why justified concerns of long-term shippers / promoters of new capacity are not yet taken into account?). - <http://www.konoplyanik.ru/speeches/140408-Konoplyanik-Barnes-ENTSOG-Incremental-proposal-5-JSWS.pdf>
- (3) Draft RF/GG vision of "Coordinated Open Season" for "New Capacity" within ENTSOG "Incremental Proposal". - [http://www.konoplyanik.ru/speeches/140226-Konoplyanik-Barnes-ENTSOG\\_Incremental\\_propo.pdf](http://www.konoplyanik.ru/speeches/140226-Konoplyanik-Barnes-ENTSOG_Incremental_propo.pdf)
- (4) Remarks on ENTSOG Preliminary View on Incremental Proposal as of 14.01.2014 within the framework of Acer Guidance to ENTSOG as of 29.11.2013. - [http://www.konoplyanik.ru/speeches/Remarks\\_on\\_ENTSOG\\_Preliminary\\_View.pdf](http://www.konoplyanik.ru/speeches/Remarks_on_ENTSOG_Preliminary_View.pdf)
- (5) Comments on ACER Guidance & ENTSOG Project Plan (Remarks for ENTSOG Incremental Proposal Kick-off Meeting). - <http://www.konoplyanik.ru/speeches/140114-Konoplyanik-WS2-ENTSOG%20kickoff%20meeting.pdf>
- (6) New Capacity Case Study - Progress, Status Update and Key Issues. - [http://www.konoplyanik.ru/speeches/130910-WS2-1\\_Case-Study-final.pdf](http://www.konoplyanik.ru/speeches/130910-WS2-1_Case-Study-final.pdf)

Based on these considerations, and further to preliminary agreement, and further to the "terms of reference" for ENTSOG on Open season Procedure provided in ACER Guidance, we intend to provide a draft Article(s) (in addition to existing articles 20e, 20f, 20g on Open Season) which will refer to a special Open season case for the extreme cases – new capacity mega-projects such as new cross-border transportation routes with multiple new IPs, relatively large in comparison with the market areas that they will be crossing. This new Article(s) will incorporate the alternative concept of open Season procedure based on:

- project ring-fencing,
- new independent cross-border TSO for the whole project,
- non-floating predictable tariffs for at least pay-back period of the project,
- such tariffs as a swing parameter in economic test to make it positive under any configuration of the project

<p>if based on market test,</p> <ul style="list-style-type: none"> <li>- financial responsibility of the national/supranational authorities for the additional requests for the capacity for short-term needs,</li> <li>- (at least partial) transfer of control over such TSO/project to supra-national level (to ACER/EU Commission),</li> <li>- etc. (see our above mentioned presentations)</li> </ul>
<p><b>Articles 42-45 of TAR NC: Economic test principles</b></p>
<p>22. Do you agree with the structure of the economic test in the Incremental Proposal as foreseen in article 42 (TAR NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p>With regards to large new projects and the use of open seasons, it is not clear how quotas and other potential EU policy requirements will be funded. This creates a risk of increased and varying tariffs in the future for the shippers who make commitments to book capacity. As noted elsewhere in our response, it is not clear how meaningful the economic test can be when it is based on projections of future tariffs, which look many years into the future, and which can be impacted by the capacity bookings of other system users.</p>
<p>23. Do you agree with the factors that shall be taken into account when defining the f-factor as foreseen in article 43 (TAR NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p><b>Article 43 (2) (b).</b></p> <p>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 at some point be required to pay the difference between revenues raised via capacity bookings, and the allowed revenue associated with new or incremental capacity. For this reason any externalities should be explained and justified, and explanation as to how any shortfall in associated allowed revenues will be covered in future. This is particularly important given the proposals in the Tariff Network Code for floating tariffs.</p> <p>We do consider that the best way to balance the externalities which are the result of EU requirements (e.g. security of supply), and the need to ensure financeability of new projects, is to securitize such externalities via financial guarantees from EU-controlled financial institutions, such as European Investment Bank (EIB) and European Bank for Reconstruction and Development (EBRD). (See also our response to this question under Article 8 (9) of the Amended CAM NC above). The potential “cost of externalities” may be prohibitive for the development of such new projects as they are not driven by market demand, and therefore may not receive financial backing from shippers.</p>
<p><b>Article 43 (3)</b></p> <p>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 Tariff Network Code which enable the TSOs to recover their revenue.</p>
<p>24. Do you agree with the structure of the recovery mechanisms for the share of 1-f as foreseen in article 43 (2) (TAR NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p>See response to Q23 above.</p>

25. Do you agree with the way the single economic test is aggregated as foreseen in article 44 (TAR NC)? If not please elaborate.
No
Elaboration:
<p>Whilst we support the concept, we have reservations about the drafting of Article 44 of the Tariff Network Code. Article 44 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 operators and national regulatory authorities or Member States may agree on mechanisms for redistribution”. (Emphasis added.) This is potentially too weak, as it could enable national regulatory authorities or Member States to prevent investment that furthers the internal gas market. Therefore we propose that Article 44 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.</p>
26. Do you agree with the three approaches for a potential redistribution of revenues as described in article 44 (4) (TAR NC)? If not, please elaborate.
Yes
Elaboration:
27. Are there any other issues that you wish to address regarding economic test as foreseen in articles 42-45 (TAR NC)? If yes, please elaborate.
Yes
Elaboration:
<p><b>Article 45.</b></p> <p>We support the intention of this article but do not see how it will work in practice with regards to the estimated projection of indicative reference prices used in the economic test. (Article 45 (1) (c). It is highly questionable how reliable such projections 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.</p>
<b>Article 46 of TAR NC: Tariff principles</b>
28. Do you agree with the default mechanism foreseen to adjust tariffs if required as covered in article 46 (TAR NC)? If not, please elaborate.
No
Elaboration:
<p>It is important to note that, based on the drafting of Article 27 of the Tariff Network Code, shippers will not know the applicable prices for capacity in the annual auctions 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. Whilst Article 46 of the draft Tariff Network Code attempts to remedy this defect by requiring publication of prices for 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. Given uncertainties about future system usage and booking behaviour the assumptions referred to in this</p>

article will be of little value.
29. Do you agree that in order to raise the level of commitment a downward tariff adjustment rewarding long-term booking can be included as foreseen in article 46 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
But see our response to Q28 with regard to floating tariffs.
30. Do you agree with including a possibility to adjust depreciation rates as a mechanism to avoid socialisation of costs as foreseen in article 46 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
But see our response to Q28 with regards to floating tariffs.
31. How do different tariff options impact on the markets' willingness to commit long term in order to pass the economic test? Please elaborate.
We would encourage the adopting of a harmonised fixed tariff approach for incremental and new 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 or new capacity. The solution is to allow a greater degree of predictability for tariffs for new or 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 NC TAR should, therefore, create the obligation on TSOs to provide for an option to fix the payable price for the duration of the (incremental/new) capacity booking.
32. Are there any other issues that you wish to address regarding tariff related issues as foreseen in article 46 (TAR NC)? If yes, please elaborate.
No
Elaboration:
<b>General questions</b>
33. Do you consider that the level of detail in the Draft Incremental Proposal is appropriate for EU legislation? If not, please elaborate.
Yes
Elaboration:
34. After reviewing and/or replying to the topic-related questions in Chapter 5 of this supporting document, do you find that there are other material issues that ENTSO should consider as it develops the Incremental Proposal? If so please elaborate.
No
Elaboration:
35. Do you find that this supporting document for the public consultation was 'respondent-friendly' in terms

of its readability, style, etc.? If not, please explain how ENTSOG could improve future consultation documents.

No

Elaboration:

The supporting document was helpful. However the method of consultation response is inadequate as the on line form restricts how respondents can comment on the draft code by only allowing responses to the questions asked, forces the use of binary yes / no answers which can give a misleading impression, and limits the length of any individual question response.

<b>Respondent:</b>	<b>GDF Suez Energy Europe</b>
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<b>Articles 1-3 of CAM NC – Subject matter, Scope and Definitions</b>	
1. Do you agree with the additional definitions proposed in Article 3 (CAM NC)? If not, please elaborate.	
No	
Elaboration:	
<p>GDF Suez does not agree with the proposed definition of Open Season, as it seems that it restricts the procedure only to a binding phase. If our interpretation is correct, this approach would reduce the Open Season to a pure and simple allocation mechanism, removing its main positive characteristics, notably the positive development of a regular dialogue with the TSOs to assess market demand.</p> <p>GDF Suez therefore suggests to include in the definition of the Open Season the possibility of a phase for the submission of non-binding expressions of interest.</p>	
<b>Articles 4-20 and 21-28 of CAM NC</b>	
2. Do you agree with the proposed amendments and changes to Articles 4-20 and 21 to 28 (CAM NC)? If not, please elaborate.	
No	
Elaboration:	
<p>Article 8 (8) We do not believe it is necessary to have quotas of capacity set aside for the annual quarterly capacity auctions, given that the quantity of incremental or new capacity that is offered is variable, and can therefore 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, capacity requested will be allocated. Furthermore the implementation of Congestion Management Procedures prevents hoarding or market foreclosure as a result of long-term booking. Furthermore, inclusion of such quotas directly impacts the functioning of the economic test by effectively increasing the F-factor. Whilst this issue has been partially recognised by the drafting in Article 43 (2) of the proposed Tariff Network Code, it would be simpler to delete the requirement for quotas for new or incremental capacity.</p>	
<b>Article 20a of CAM NC: Co-ordination requirements</b>	
3. Do you agree with the level of co-ordination between TSOs and NRAs involved in an incremental or new capacity project as foreseen in Article 20a (CAM NC)? If not, please elaborate.	
No	



<b>Elaboration:</b>
GDF Suez welcomes an increasing co-ordination between TSOs and NRAs as a prerequisite for a successful outcome of mechanisms to allocate incremental and new capacity at IP's. Nevertheless, we would like to see some further elaboration of these requirements. With regard to Article 20a (3) we would welcome the coordination between TSO's/NRAs not only on the harmonisation of the capacity level on offer, but also harmonisation of the bundled product on offer on the IP. Article 20a(4), states that concerned network users' comments will be taken into account by TSOs when setting the level of offers, but GDF Suez finds this too weak and we recommend to include an explicit requirement that a consultation is formally organized at this stage to collect comments.
<b>4. Do you agree with the auction default and the alternative open season procedure as defined in Article 20a (5) (CAM NC)? If not, please elaborate.</b>
No
<b>Elaboration:</b>
GDF Suez is convinced that both mechanisms (Open Season according to the improved procedure (see 1) and integrated auctions) have merit, depending on the different situations. Therefore, we disagree with an approach making one of these mechanisms (i.e. the auction) mandatory in all Member States through a default rule. A more discretionary approach is favoured.
<b>5. Do you have any additional remarks to the provisions in Article 20a (CAM NC)?</b>
No
<b>Elaboration:</b>
<b>Article 20b of CAM NC: Information provision</b>
<b>6. Do you agree with ENTSOG's proposal of a demand assessment to be the basis for conducting technical studies and subsequently designing offer levels? If no, please elaborate.</b>
Yes
<b>Elaboration:</b>
<b>7. Do you agree with the scope of information to be provided to the NRA and to be published by TSOs involved in an incremental or new capacity process as foreseen in article 20b(2) (CAM NC)? If not, please elaborate.</b>
No
<b>Elaboration:</b>
GDF Suez thinks that ENTSOG's proposal lacks some important information that should be sent for approval by TSOs to NRAs and that should also be communicated to network users well in advance of the start of the allocation process. This information should include at least:
a) The investment costs and the assumptions on which these are based,
b) The methodology to calculate the resulting tariffs, reserve prices or incremental bid prices.
--> Only if they have this information, will NRAs and users interested in booking the incremental and new capacity have all the elements to compare the efficiency of TSOs' unit investment costs at each side of the border and be able to assess if there are any relevant differentials that could lead to undue discrimination.
c) The level of the guarantees and obligations for market parties and TSOs and, more generally, the financial commitments required to enter into an Open Season process.



<p>--&gt; Transparency and 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. Users should also be involved in the choice between the auction and the Open Season to determine the most appropriate mechanism to be adopted according to the project.</p>
<p>8. Do you agree with the lead-time foreseen for the publication of information relevant to an incremental or new capacity project and especially the economic test as described in article 20b (3) (CAM NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p>We think that one month as minimum lead-time for the publication of information relevant to the project (and in particular on the economic test) is too narrow a window. The lead-time should be longer, to allow interested network users enough time to process all the data: GGPOS on Open Season could be taken as a reference on this point, as they suggest a minimum 3-months period to elaborate and send non-binding offers.</p> <p>An additional comment concerns the lead-time foreseen for the Open Season process that seems to refer to the start of the binding phase. If this means that no (or even only a little) information is provided before the non-binding phase, GDF Suez is concerned that network users will not be stimulated to participate in the Open Season since its first phases do not offer them sufficient information to consider further commitments in the binding phase. Again, suggestions in the GGPOS could be taken as a reference on this aspect.</p>
<p>9. Are there any other issues that you wish to address regarding information provision as foreseen in article 20b? If yes, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p><b>Article 20c of CAM NC: When to offer</b></p>
<p>10. Do you agree with the conditions that shall lead to the offer of incremental and new capacity as defined in Article 20c (1), (6), and (7) (CAM NC)? If not, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>11. Do you agree that the due date approach is preferable to the time window approach as foreseen in article 20c (3) (CAM NC)? If not, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>Nevertheless, the key point for users is the frequency of assessments and this should take place on a yearly basis.</p>
<p>12. Are there any other issues that you wish to address regarding conditions of when to offer incremental and new capacity as foreseen in article 20c (CAM NC)? If so, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>GDF Suez considers that the demand assessment should be more frequent than ENTSG proposes. A time interval of two years seems too long and we do not see any evident downside in setting a yearly based</p>

assessment. Therefore, we suggest potentially to reduce the period between two subsequent due dates by specifying that an assessment should take place at least every 2 years, but that it will be accompanied with a continuous monitoring of the triggers. In any case, it should be clarified that a full demand assessment should be carried out whenever it is appropriate and not at random intervals.

Furthermore, GDF Suez would recommend further specifications on the following deadlines:

- The deadline for the TSO to deliver the demand assessment, once the process has been triggered,
  - The deadline for the TSO to submit to the NRAs the indications that have to be approved (i.e. offer levels, allocation mechanism and parameters of the economic test), once the technical study has been completed.
- In this way, users participating in the process will have a clearer indication on the duration of the entire process.

We are also concerned that the current wording of the condition based on the presentation of non-binding users' demand indications leaves too much room for discretionary interpretation (with the risk that the condition is not met). For example, how would a "sustained number of years" for the requests to be considered be defined? How would it be verified if "all other economic efficient means for increasing availability of capacity are exhausted"? In order to avoid such uncertainty, we think that NRAs should be informed by the TSO, through a yearly report, of all requests for incremental and new capacity received, in order to participate in the decision if the conditions to offer new and incremental capacity are there.

#### Article 20d of CAM NC: Auction mechanisms

13. Do you agree with the concept of parallel bidding ladders to auction incremental and new capacity as foreseen in article 20d (CAM NC)? If not, please elaborate.

Yes

Elaboration:

Parallel bidding ladders are a good solution as they allow network users to get a clear picture of the amount of incremental capacity they are bidding for. Nevertheless, it is unclear what will happen if the lead time to make the incremental capacity available is not respected and there are delays for various reasons (authorization process longer than expected, etc). How will incremental capacity be distinguished from existing capacity, if the two were allocated together during the auction? How will the reduction be applied? In such cases, when external factors such as authorization processes or other reasons could be an obstacle to meeting the lead time to realize the capacity, there is merit in using an Open Season, as it allows the possibility to allocate incremental and new capacity separately from the existing capacity.

14. Do you agree with ENTISOG's opinion that repeating the identified bidding ladder(s) represents the clearest way to allow for bid revision as foreseen in article 20d (3) (CAM NC)? If not, please elaborate.

No

Elaboration:

As in principle users will bid in the repeated bidding ladder as they did in the first, this approach is widely regarded as a further, unnecessary complication to the process. Furthermore, the way it is designed (open to the participation of users that did not bid in the previous auction) could probably imply the risk that users who have obtained capacity in the previous auction may not be allocated any capacity.

15. Do you prefer option 1 (a continuous approach for bid revision as proposed by ENTISOG in article 20d (3) (4)) or 2 (an approach according to which bid revision is only applied once)? Please elaborate.

Elaboration:

In case of bid revision, the second solution seems easier to follow and is thus preferable.

16. Are there any other issues that you wish to address regarding auction mechanisms as foreseen in article 20d? (CAM NC) If yes, please elaborate.
No
Elaboration:
<b>Articles 20e, 20f, 20g of CAM NC: Open season procedures</b>
17. Do you agree with the provisions that shall lead to conducting an Open Season Procedure instead of auctions for incremental and new capacity as foreseen in article 20e (2) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
18. Do you see any other conditional capacity commitments in Open Season Procedures than the issues raised in the Draft Incremental Proposal article 20f (3) (CAM NC)? If yes, please elaborate.
Yes
Elaboration:
Conditionality should not only be guaranteed in the booking phase, but should also be ensured in relation to the time of availability and entering into operation of capacity, in order not to leave any completion and delay risk carried by network users.
19. Do you agree that the proposed Open Season Procedures notice contains sufficient information as foreseen in 20f (8) (CAM NC)? If not, please elaborate.
No
Elaboration:
As the Open Season is a two-steps procedure, as set out in the ERGEG GGPOS, we think that it should be clear that information is provided through more than one Notice during the various phases of the process. A first Notice should be issued during the non-binding phase and should provide a full and detailed description of the project and the criteria to be applied for the allocation of the capacity. A second Notice should then be issued before the binding phase, including more detailed information (i.e. the indicative tariffs). Both Notices should be approved by NRAs and provided sufficiently in advance of the related phases. GDF Suez suggests that the minimum information requirements of article 20f(8) should be enclosed in the first Notice, with the addition of the following information:
<ul style="list-style-type: none"> <li>- Conditions required to participate in the Open Season procedure,</li> <li>- A technical description of the project (e.g. estimation of CAPEX and OPEX) and an indicative timeframe for realization,</li> <li>- Attendance fees, if any.</li> </ul>
The second Notice (Bidding Notice) will be a crucial document for users to decide about participating in the Open Season process and committing on a long term basis. It should include:
<ul style="list-style-type: none"> <li>- The indicative tariff and a model of the tariff methodology used by the TSO to calculate it, in order for users to be able to estimate how the tariff could evolve;</li> <li>- The level of financial guarantees that have to be provided by participants;</li> <li>- Any financial commitment required (.g. "bid bonds" and penalties for participants in the booking phase);</li> <li>- Parties' (TSOs and users) liabilities in the period between the signature of the contract and the availability of capacity (e.g. penalties in case of contract cancellation by the user, or by other parties in case of delay in the entering into operation of capacity, etc).</li> </ul>

20. Do you agree with the default allocation rule foreseen for Open Season Procedures, being willingness to pay per unit and year as foreseen in article 20g (3) and the alternative allocation rule subject to NRA approval as foreseen in article 20g (4) (CAM NC)? If not, please elaborate.
No
Elaboration:
<p>We are not convinced that the principle of “willingness to pay per year” could reflect the requirements and assumptions used for long-term bookings, which are typically the basis of an Open Season procedure. 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. A TSO should be able to provide at least two scenarios for expansion (small/large) with corresponding indicative tariffs. 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. The Open Season should be seen as a flexible tool to develop new capacity required by more complex projects and therefore an approach that develops an allocation rule on a case by case basis could be preferable.</p> <p>In any case, whichever the allocation rule is, the most important aspect for network users participating in the procedure is to have conditional commitments expressed by users safeguarded.</p>
21. Are there any other issues that you wish to address regarding Open Season Procedures as foreseen in article 20e, article 20f and article 20g (CAM NC)? If yes, please elaborate.
No
Elaboration:
<b>Articles 42-45 of TAR NC: Economic test principles</b>
22. Do you agree with the structure of the economic test in the Incremental Proposal as foreseen in article 42 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
23. Do you agree with the factors that shall be taken into account when defining the f-factor as foreseen in article 43 (TAR NC)? If not, please elaborate.
No
Elaboration:
<p>GDF SUEZ mainly agrees with the proposed factors, but it is for consideration whether the NC TAR should also explicitly mention an additional important factor, which is the need to limit the risk of stranded capacities. The need for TSOs to recover revenues related to stranded capacities could unfairly raise the tariffs of other points in the TSOs’ networks, generating higher costs for users who have already booked existing capacity. A low f-factor would therefore imply the need for non-transitional mitigating measures and fixed tariffs and could lead to a vicious cycle of under-recovery and increasing tariffs.</p> <p>Consistency between the f-factors applied at both sides of an IP should also be ensured by NRAs to limit undue cross-subsidies. A possible solution could be setting a common range within which the f-factors can move.</p>
24. Do you agree with the structure of the recovery mechanisms for the share of 1-f as foreseen in article 43 (2) (TAR NC)? If not, please elaborate.
No

<b>Elaboration:</b>
Article 43 (4) puts all the risks on network users, and removes all financial responsibility from TSOs regarding already engaged costs in case of a project failure. We recall the importance of ensuring a high degree of coordination between relevant NRAs when setting the recovery mechanism.
<b>25. Do you agree with the way the single economic test is aggregated as foreseen in article 44 (TAR NC)? If not please elaborate.</b>
Yes
<b>Elaboration:</b>
<b>26. Do you agree with the three approaches for a potential redistribution of revenues as described in article 44 (4) (TAR NC)? If not, please elaborate.</b>
No
<b>Elaboration:</b>
Redistribution of revenue shall limit the risk of a tariff rise for existing shippers in any market area. It is not clear in ENTOSOG's proposal how this redistribution of revenue fits in the revenue recovery scheme of each TSOs, and therefore how it can have an impact on the tariff structure. If, and only if, it is a process independent of the tariff structure then this aspect is for discussion at TSOs and NRAs level.
<b>27. Are there any other issues that you wish to address regarding economic test as foreseen in articles 42-45 (TAR NC)? If yes, please elaborate.</b>
Yes
<b>Elaboration:</b>
Cost is one of the main drivers of decisions to book long-term capacity: thus, a high capacity cost generated by inefficient investment decisions can hinder the successful outcome of both integrated auctions and open seasons. For this reasons, it is important that TSOs provide evidence that costs for additional interconnection capacity are efficiently incurred.
<b>Article 46 of TAR NC: Tariff principles</b>
<b>28. Do you agree with the default mechanism foreseen to adjust tariffs if required as covered in article 46 (TAR NC)? If not, please elaborate.</b>
No
<b>Elaboration:</b>
The text is unclear on this proposal. In particular, it is not well explained if the application of a premium on top of the reserve price to be paid by users booking incremental and new capacity will be communicated to users before the bidding phase of the auction. This is very important, as users will express in the auction their maximum willingness to pay for the incremental and new capacity and no subsequent adjustment should be allowed on a discretionary basis to achieve a positive economic test. In any case, we think that if the reference price does not mean the economic test is passed, no further adjustments should be used, either before and (even worse) after the auction, as it signals that market interest for new and incremental capacity at cost-reflective prices is not sufficient to justify the investment. Adjustments to incremental capacity prices to ensure a project passes the economic test would be unwelcome, if they impact on prices at other entry/exit points: for example, if prices of incremental capacity are lowered to make this capacity more attractive, under-recovery will have to be recovered through an

increase of tariffs at other points.
29. Do you agree that in order to raise the level of commitment a downward tariff adjustment rewarding long-term booking can be included as foreseen in article 46 (TAR NC)? If not, please elaborate.
No
Elaboration:
GDF SUEZ considers such an approach discriminatory for users holding existing capacity on the interconnection point.
30. Do you agree with including a possibility to adjust depreciation rates as a mechanism to avoid socialisation of costs as foreseen in article 46 (TAR NC)? If not, please elaborate.
No
Elaboration:
GDF SUEZ considers this is out of the scope of the TAR NC.
31. How do different tariff options impact on the markets' willingness to commit long term in order to pass the economic test? Please elaborate.
When users assess the possibility to commit on a long-term basis, they need overall visibility and transparency on the price of the capacity for the entire duration of the commitment period in order to build their business case. In a pure "floating tariff" world, this visibility would not be guaranteed. Therefore, GDF SUEZ recommends in particular with regard to the tariffication of incremental and new capacity, to introduce the possibility of alternative options to mitigate possible changes of tariffs at the time of use of the capacity: the proposed options of a premium working as a "buffer" for future increase in tariffs or of a tariff plus a risk premium to keep it fixed should thus be considered as valuable alternatives to support users' willingness to commit to long-term bookings. Currently these options to mitigate changes in tariffs are described in the draft TAR NC as an option for TSOs to offer to network users. However, as demonstrated above, in order to facilitate long-term (incremental/new) capacity bookings this option should always be available for network users and as such a right for customers rather than an option for TSOs.
32. Are there any other issues that you wish to address regarding tariff related issues as foreseen in article 46 (TAR NC)? If yes, please elaborate.
No
Elaboration:
<b>General questions</b>
33. Do you consider that the level of detail in the Draft Incremental Proposal is appropriate for EU legislation? If not, please elaborate.
Yes
Elaboration:
Although the wording of some articles should be better clarified, as proposed in our response.
34. After reviewing and/or replying to the topic-related questions in Chapter 5 of this supporting document, do you find that there are other material issues that ENTSG should consider as it develops the Incremental Proposal? If so please elaborate.
No
Elaboration:

35. Do you find that this supporting document for the public consultation was 'respondent-friendly' in terms of its readability, style, etc.? If not, please explain how ENTSOG could improve future consultation documents.

Yes

Elaboration:

<b>Respondent:</b>	<b>GDF SUEZ Infrastructures</b>
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<b>Articles 1-3 of CAM NC – Subject matter, Scope and Definitions</b>	
1. Do you agree with the additional definitions proposed in Article 3 (CAM NC)? If not, please elaborate.	
Yes	
Elaboration:	
<b>Articles 4-20 and 21-28 of CAM NC</b>	
2. Do you agree with the proposed amendments and changes to Articles 4-20 and 21 to 28 (CAM NC)? If not, please elaborate.	
Elaboration:	
<b>Article 20a of CAM NC: Co-ordination requirements</b>	
3. Do you agree with the level of co-ordination between TSOs and NRAs involved in an incremental or new capacity project as foreseen in Article 20a (CAM NC)? If not, please elaborate.	
Yes	
Elaboration:	
4. Do you agree with the auction default and the alternative open season procedure as defined in Article 20a (5) (CAM NC)? If not, please elaborate.	
Yes	
Elaboration:	
5. Do you have any additional remarks to the provisions in Article 20a (CAM NC)?	
No	
Elaboration:	
<b>Article 20b of CAM NC: Information provision</b>	



6. Do you agree with ENTSOG's proposal of a demand assessment to be the basis for conducting technical studies and subsequently designing offer levels? If no, please elaborate.
Yes
Elaboration:
7. Do you agree with the scope of information to be provided to the NRA and to be published by TSOs involved in an incremental or new capacity process as foreseen in article 20b(2) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
8. Do you agree with the lead-time foreseen for the publication of information relevant to an incremental or new capacity project and especially the economic test as described in article 20b (3) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
9. Are there any other issues that you wish to address regarding information provision as foreseen in article 20b? If yes, please elaborate.
No
Elaboration:
<b>Article 20c of CAM NC: When to offer</b>
10. Do you agree with the conditions that shall lead to the offer of incremental and new capacity as defined in Article 20c (1), (6), and (7) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
We agree with the conditions, but we strongly believe that all conditions should be simultaneously met in order to offer incremental or new capacity: investments should be duly justified before deciding on increasing or creating capacity in a bad overall economic context; this context is even worsened for gas, due to European and national policies, which, currently, are not giving the right positive signals for gas on the medium and long terms.
11. Do you agree that the due date approach is preferable to the time window approach as foreseen in article 20c (3) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
The due date approach provides more possibilities. It gives, in particular, the possibility to new entrants to get their request satisfied.
12. Are there any other issues that you wish to address regarding conditions of when to offer incremental and new capacity as foreseen in article 20c (CAM NC)? If so, please elaborate.
No
Elaboration:

<b>Article 20d of CAM NC: Auction mechanisms</b>
13. Do you agree with the concept of parallel bidding ladders to auction incremental and new capacity as foreseen in article 20d (CAM NC)? If not, please elaborate.
Yes
Elaboration:
14. Do you agree with ENTSOG's opinion that repeating the identified bidding ladder(s) represents the clearest way to allow for bid revision as foreseen in article 20d (3) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
15. Do you prefer option 1 (a continuous approach for bid revision as proposed by ENTSOG in article 20d (3) (4)) or 2 (an approach according to which bid revision is only applied once)? Please elaborate.
Elaboration:
No preference at this stage.
16. Are there any other issues that you wish to address regarding auction mechanisms as foreseen in article 20d? (CAM NC) If yes, please elaborate.
Yes
Elaboration:
It is essential to optimize the number of bids in order to rationalize the costs.
<b>Articles 20e, 20f, 20g of CAM NC: Open season procedures</b>
17. Do you agree with the provisions that shall lead to conducting an Open Season Procedure instead of auctions for incremental and new capacity as foreseen in article 20e (2) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
It is driven by pragmatism.
18. Do you see any other conditional capacity commitments in Open Season Procedures than the issues raised in the Draft Incremental Proposal article 20f (3) (CAM NC)? If yes, please elaborate.
No
Elaboration:
Conditional capacity commitments can be essential for the completion of investments.
19. Do you agree that the proposed Open Season Procedures notice contains sufficient information as foreseen in 20f (8) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
20. Do you agree with the default allocation rule foreseen for Open Season Procedures, being willingness to pay per unit and year as foreseen in article 20g (3) and the alternative allocation rule subject to NRA approval as foreseen in article 20g (4) (CAM NC)? If not, please elaborate.
Yes

Elaboration:
21. Are there any other issues that you wish to address regarding Open Season Procedures as foreseen in article 20e, article 20f and article 20g (CAM NC)? If yes, please elaborate.
No
Elaboration:
<b>Articles 42-45 of TAR NC: Economic test principles</b>
22. Do you agree with the structure of the economic test in the Incremental Proposal as foreseen in article 42 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
23. Do you agree with the factors that shall be taken into account when defining the f-factor as foreseen in article 43 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
Yes, but it is essential to ensure consistency and coherence of treatment between the provisions of the incremental/new capacity inserted in the CAM NC and the TAR NC, and the rules and criteria set in the Infrastructure Package.
24. Do you agree with the structure of the recovery mechanisms for the share of 1-f as foreseen in article 43 (2) (TAR NC)? If not, please elaborate.
Yes
Elaboration:
Yes, but we are of the opinion that most investments should be market driven. In very specific cases (such as security of supply reasons), we admit that non market based investments can be developed, especially in Eastern countries which are not well connected to the rest of Europe. As a consequence, the f factor should be high in most cases (near 1).
25. Do you agree with the way the single economic test is aggregated as foreseen in article 44 (TAR NC)? If not please elaborate.
Yes
Elaboration:
We agree with the concept of a single economic test, but the TSOs (and the NRAs, of course) should agree first with the potential redistribution of revenues; if they agree, then the redistribution should be assessed ex ante.
26. Do you agree with the three approaches for a potential redistribution of revenues as described in article 44 (4) (TAR NC)? If not, please elaborate.
No
Elaboration:
The first approach (ex ante) seems the clearest and fairest to implement.
27. Are there any other issues that you wish to address regarding economic test as foreseen in articles 42-45 (TAR NC)? If yes, please elaborate.

No
Elaboration:
<b>Article 46 of TAR NC: Tariff principles</b>
28. Do you agree with the default mechanism foreseen to adjust tariffs if required as covered in article 46 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
29. Do you agree that in order to raise the level of commitment a downward tariff adjustment rewarding long-term booking can be included as foreseen in article 46 (TAR NC)? If not, please elaborate.
Elaboration:
30. Do you agree with including a possibility to adjust depreciation rates as a mechanism to avoid socialisation of costs as foreseen in article 46 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
Yes, but this should be carefully implemented, so as to avoid reducing the competitiveness of gas.
31. How do different tariff options impact on the markets' willingness to commit long term in order to pass the economic test? Please elaborate.
32. Are there any other issues that you wish to address regarding tariff related issues as foreseen in article 46 (TAR NC)? If yes, please elaborate.
No
Elaboration:
<b>General questions</b>
33. Do you consider that the level of detail in the Draft Incremental Proposal is appropriate for EU legislation? If not, please elaborate.
Yes
Elaboration:
34. After reviewing and/or replying to the topic-related questions in Chapter 5 of this supporting document, do you find that there are other material issues that ENTSOG should consider as it develops the Incremental Proposal? If so please elaborate.
No
Elaboration:
Apart from the comments made throughout the questions 1 to 33, we have nothing else to add.
35. Do you find that this supporting document for the public consultation was 'respondent-friendly' in terms of its readability, style, etc.? If not, please explain how ENTSOG could improve future consultation documents.

Yes
<b>Elaboration:</b>
Yes, it is very "respondent friendly", thank you! (but there are some problems to access to this site "survey monkey")



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<b>Articles 1-3 of CAM NC – Subject matter, Scope and Definitions</b>	
1. Do you agree with the additional definitions proposed in Article 3 (CAM NC)? If not, please elaborate.	
Yes	
Elaboration:	
<b>Articles 4-20 and 21-28 of CAM NC</b>	
2. Do you agree with the proposed amendments and changes to Articles 4-20 and 21 to 28 (CAM NC)? If not, please elaborate.	
No	
Elaboration:	
<p>"No, some general remarks.</p> <p><b>Incentives for Investment and Interoperability and efficient gas trade &amp; competition</b></p> <ul style="list-style-type: none"> <li>• Ample transport capacity is a prerequisite for an efficient IEM, leading to more security of supply and increasing competition;</li> <li>• Investments as such should be realized by the TSO before any transport can take place. The TSO is responsible for having sufficient capacity available for network users. The efficient costs will be reimbursed by the network users (entries and exits). The revenues should be used by the TSO to renew the infrastructure when required;</li> <li>• IFIEC Europe states that a system with Open Seasons is not in line with this principle. To put it in other words: <ul style="list-style-type: none"> <li>o Investments should be uncoupled from investors, in many cases being an incumbent, a market dominating party with 'deep pockets', having an interest in maintaining market dominance for a long period, hence blocking the market development;</li> <li>o Investments should be paid by network users based on capacity use, hence, market access should be related to the right to market use;</li> <li>o Ample short term capacity should be available for (also new) network users for short term gas market opportunities and hence improvement of the functioning of the IEM;</li> </ul> </li> </ul>	

<p><b>Transparency</b></p> <p><b>Actual &amp; Efficient costs</b></p> <ul style="list-style-type: none"> <li>The Single Economic Test is in our view a minor issue, as the TSO always has a guarantee with regard to reimbursement of his efficient costs. The Economic test is too much focused on long term User Commitments finally leading to more dependence on incumbents.</li> <li>The starting point for incentivizing new transport capacity is always scarcity of available transport capacity. This scarcity should be tackled through the tariff (allocation) route or auctions, but not via the Open Season system.</li> </ul> <p><b>Non-discrimination and cross-subsidization</b></p> <ul style="list-style-type: none"> <li>Erecting a separate 'Multi Member States' TSO for realizing a dedicated large cross border project to make the project financeable will lead to higher dependence, lower security of supply and lower competition. IFIEC Europe strongly opposes such options."</li> </ul>
<p><b>Article 20a of CAM NC: Co-ordination requirements</b></p> <p>3. Do you agree with the level of co-ordination between TSOs and NRAs involved in an incremental or new capacity project as foreseen in Article 20a (CAM NC)? If not, please elaborate.</p> <p>Yes</p> <p>Elaboration:</p>
<p>4. Do you agree with the auction default and the alternative open season procedure as defined in Article 20a (5) (CAM NC)? If not, please elaborate.</p> <p>Yes</p> <p>Elaboration:</p>
<p>5. Do you have any additional remarks to the provisions in Article 20a (CAM NC)?</p> <p>No</p> <p>Elaboration:</p>
<p><b>Article 20b of CAM NC: Information provision</b></p> <p>6. Do you agree with ENTSOG's proposal of a demand assessment to be the basis for conducting technical studies and subsequently designing offer levels? If no, please elaborate.</p> <p>Yes</p> <p>Elaboration:</p>
<p>7. Do you agree with the scope of information to be provided to the NRA and to be published by TSOs involved in an incremental or new capacity process as foreseen in article 20b(2) (CAM NC)? If not, please elaborate.</p> <p>Yes</p> <p>Elaboration:</p> <p>"Yes, however, see our general remarks and criteria related to Open Seasons.</p>
<p><b>Incentives for Investment and Interoperability and efficient gas trade &amp; competition</b></p> <ul style="list-style-type: none"> <li>Ample transport capacity is a prerequisite for an efficient IEM, leading to more security of supply and</li> </ul>

increasing competition;

- Investments as such should be realized by the TSO before any transport can take place. The TSO is responsible for having sufficient capacity available for network users. The efficient costs will be reimbursed by the network users (entries and exits). The revenues should be used by the TSO to renew the infrastructure when required;
- IFIEC Europe states that a system with Open Seasons is not in line with this principle. To put it in other words:
  - o Investments should be uncoupled from investors, in many cases being an incumbent, a market dominating party with 'deep pockets', having an interest in maintaining market dominance for a long period, hence blocking the market development;
  - o Investments should be paid by network users based on capacity use, hence, market access should be related to the right to market use;
  - o Ample short term capacity should be available for (also new) network users for short term gas market opportunities and hence improvement of the functioning of the IEM;

#### Transparency

##### Actual & Efficient costs

- The Single Economic Test is in our view a minor issue, as the TSO always has a guarantee with regard to reimbursement of his efficient costs. The Economic test is too much focused on long term User Commitments finally leading to more dependence on incumbents.
- The starting point for incentivizing new transport capacity is always scarcity of available transport capacity. This scarcity should be tackled through the tariff (allocation) route or auctions, but not via the Open Season system.

##### Non-discrimination and cross-subsidization

- Erecting a separate 'Multi Member States' TSO for realizing a dedicated large cross border project to make the project financeable will lead to higher dependence, lower security of supply and lower competition. IFIEC Europe strongly opposes such options."

8. Do you agree with the lead-time foreseen for the publication of information relevant to an incremental or new capacity project and especially the economic test as described in article 20b (3) (CAM NC)? If not, please elaborate.

Elaboration:

9. Are there any other issues that you wish to address regarding information provision as foreseen in article 20b? If yes, please elaborate.

No

Elaboration:

##### Article 20c of CAM NC: When to offer

10. Do you agree with the conditions that shall lead to the offer of incremental and new capacity as defined in Article 20c (1), (6), and (7) (CAM NC)? If not, please elaborate.

Yes



Elaboration:
11. Do you agree that the due date approach is preferable to the time window approach as foreseen in article 20c (3) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
12. Are there any other issues that you wish to address regarding conditions of when to offer incremental and new capacity as foreseen in article 20c (CAM NC)? If so, please elaborate.
Yes
Elaboration:
Transparency is an important condition that seems to be missing here.
<b>Article 20d of CAM NC: Auction mechanisms</b>
13. Do you agree with the concept of parallel bidding ladders to auction incremental and new capacity as foreseen in article 20d (CAM NC)? If not, please elaborate.
Yes
Elaboration:
14. Do you agree with ENTSOG's opinion that repeating the identified bidding ladder(s) represents the clearest way to allow for bid revision as foreseen in article 20d (3) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
15. Do you prefer option 1 (a continuous approach for bid revision as proposed by ENTSOG in article 20d (3) (4)) or 2 (an approach according to which bid revision is only applied once)? Please elaborate.
2) an approach according to which bid revision is only applied once?
Elaboration:
Option 2): more transparency and less room for manipulation and market distortion.
16. Are there any other issues that you wish to address regarding auction mechanisms as foreseen in article 20d? (CAM NC) If yes, please elaborate.
No
Elaboration:
<b>Articles 20e, 20f, 20g of CAM NC: Open season procedures</b>
17. Do you agree with the provisions that shall lead to conducting an Open Season Procedure instead of auctions for incremental and new capacity as foreseen in article 20e (2) (CAM NC)? If not, please elaborate.
No
Elaboration:
18. Do you see any other conditional capacity commitments in Open Season Procedures than the issues raised in the Draft Incremental Proposal article 20f (3) (CAM NC)? If yes, please elaborate.
Yes

<b>Elaboration:</b>
<p>"Yes, however, see our general remarks and criteria related to Open Seasons.</p> <p><b>Incentives for Investment and Interoperability and efficient gas trade &amp; competition</b></p> <ul style="list-style-type: none"> <li>• Ample transport capacity is a prerequisite for an efficient IEM, leading to more security of supply and increasing competition;</li> <li>• Investments as such should be realized by the TSO before any transport can take place. The TSO is responsible for having sufficient capacity available for network users. The efficient costs will be reimbursed by the network users (entries and exits). The revenues should be used by the TSO to renew the infrastructure when required;</li> <li>• IFIEC Europe states that a system with Open Seasons is not in line with this principle. To put it in other words: <ul style="list-style-type: none"> <li>o Investments should be uncoupled from investors, in many cases being an incumbent, a market dominating party with 'deep pockets', having an interest in maintaining market dominance for a long period, hence blocking the market development;</li> <li>o Investments should be paid by network users based on capacity use, hence, market access should be related to the right to market use;</li> <li>o Ample short term capacity should be available for (also new) network users for short term gas market opportunities and hence improvement of the functioning of the IEM;</li> </ul> </li> </ul> <p><b>Transparency</b></p> <p><b>Actual &amp; Efficient costs</b></p> <ul style="list-style-type: none"> <li>• The Single Economic Test is in our view a minor issue, as the TSO always has a guarantee with regard to reimbursement of his efficient costs. The Economic test is too much focused on long term User Commitments finally leading to more dependence on incumbents.</li> <li>• The starting point for incentivizing new transport capacity is always scarcity of available transport capacity. This scarcity should be tackled through the tariff (allocation) route or auctions, but not via the Open Season system.</li> </ul> <p><b>Non-discrimination and cross-subsidization</b></p> <ul style="list-style-type: none"> <li>• Erecting a separate 'Multi Member States' TSO for realizing a dedicated large cross border project to make the project financeable will lead to higher dependence, lower security of supply and lower competition. IFIEC Europe strongly opposes such options." </li></ul>
19. Do you agree that the proposed Open Season Procedures notice contains sufficient information as foreseen in 20f (8) (CAM NC)? If not, please elaborate.
<b>Elaboration:</b>
20. Do you agree with the default allocation rule foreseen for Open Season Procedures, being willingness to pay per unit and year as foreseen in article 20g (3) and the alternative allocation rule subject to NRA approval as foreseen in article 20g (4) (CAM NC)? If not, please elaborate.
No
<b>Elaboration:</b>
No, this rule prerogatives the position of incumbents.

21. Are there any other issues that you wish to address regarding Open Season Procedures as foreseen in article 20e, article 20f and article 20g (CAM NC)? If yes, please elaborate.
Yes
Elaboration:
<p><b>Incentives for Investment and Interoperability and efficient gas trade &amp; competition</b></p> <ul style="list-style-type: none"> <li>• Ample transport capacity is a prerequisite for an efficient IEM, leading to more security of supply and increasing competition;</li> <li>• Investments as such should be realized by the TSO before any transport can take place. The TSO is responsible for having sufficient capacity available for network users. The efficient costs will be reimbursed by the network users (entries and exits). The revenues should be used by the TSO to renew the infrastructure when required;</li> <li>• IFIEC Europe states that a system with Open Seasons is not in line with this principle. To put it in other words: <ul style="list-style-type: none"> <li>o Investments should be uncoupled from investors, in many cases being an incumbent, a market dominating party with 'deep pockets', having an interest in maintaining market dominance for a long period, hence blocking the market development;</li> <li>o Investments should be paid by network users based on capacity use, hence, market access should be related to the right to market use;</li> <li>o Ample short term capacity should be available for (also new) network users for short term gas market opportunities and hence improvement of the functioning of the IEM;</li> </ul> </li> </ul> <p><b>Transparency</b></p> <p><b>Actual &amp; Efficient costs</b></p> <ul style="list-style-type: none"> <li>• The Single Economic Test is in our view a minor issue, as the TSO always has a guarantee with regard to reimbursement of his efficient costs. The Economic test is too much focused on long term User Commitments finally leading to more dependence on incumbents.</li> <li>• The starting point for incentivizing new transport capacity is always scarcity of available transport capacity. This scarcity should be tackled through the tariff (allocation) route or auctions, but not via the Open Season system.</li> </ul> <p><b>Non-discrimination and cross-subsidization</b></p> <ul style="list-style-type: none"> <li>• Erecting a separate 'Multi Member States' TSO for realizing a dedicated large cross border project to make the project financeable will lead to higher dependence, lower security of supply and lower competition. IFIEC Europe strongly opposes such options."</li> </ul>
<b>Articles 42-45 of TAR NC: Economic test principles</b>
22. Do you agree with the structure of the economic test in the Incremental Proposal as foreseen in article 42 (TAR NC)? If not, please elaborate.
No
Elaboration:
"No, the structure of an economic test prerogatives the position of incumbents. The Economic test is too much focused on long term User Commitments leading to more dependence on incumbents."
23. Do you agree with the factors that shall be taken into account when defining the f-factor as foreseen in article 43 (TAR NC)? If not, please elaborate.

No
Elaboration:
24. Do you agree with the structure of the recovery mechanisms for the share of 1-f as foreseen in article 43 (2) (TAR NC)? If not, please elaborate.
Yes
Elaboration:
Yes. These elements should get more relevance.
25. Do you agree with the way the single economic test is aggregated as foreseen in article 44 (TAR NC)? If not please elaborate.
Elaboration:
26. Do you agree with the three approaches for a potential redistribution of revenues as described in article 44 (4) (TAR NC)? If not, please elaborate.
No
Elaboration:
No, 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.
27. Are there any other issues that you wish to address regarding economic test as foreseen in articles 42-45 (TAR NC)? If yes, please elaborate.
Yes
Elaboration:
The economic test should be interpreted as an indicator instead of a threshold.
<b>Article 46 of TAR NC: Tariff principles</b>
28. Do you agree with the default mechanism foreseen to adjust tariffs if required as covered in article 46 (TAR NC)? If not, please elaborate.
No
Elaboration:
"No, see general comments. <b>Incentives for Investment and Interoperability and efficient gas trade &amp; competition</b>
<ul style="list-style-type: none"> <li>• Ample transport capacity is a prerequisite for an efficient IEM, leading to more security of supply and increasing competition;</li> <li>• Investments as such should be realized by the TSO before any transport can take place. The TSO is responsible for having sufficient capacity available for network users. The efficient costs will be reimbursed by the network users (entries and exits). The revenues should be used by the TSO to renew the infrastructure when required;</li> <li>• IFIEC Europe states that a system with Open Seasons is not in line with this principle. To put it in other words: <ul style="list-style-type: none"> <li>o Investments should be uncoupled from investors, in many cases being an incumbent, a market dominating party with 'deep pockets', having an interest in maintaining market dominance</li> </ul> </li> </ul>

<p>for a long period, hence blocking the market development;</p> <ul style="list-style-type: none"> <li>o Investments should be paid by network users based on capacity use, hence, market access should be related to the right to market use;</li> <li>o Ample short term capacity should be available for (also new) network users for short term gas market opportunities and hence improvement of the functioning of the IEM;</li> </ul>
<p><b>Transparency</b></p> <p><b>Actual &amp; Efficient costs</b></p> <ul style="list-style-type: none"> <li>• The Single Economic Test is in our view a minor issue, as the TSO always has a guarantee with regard to reimbursement of his efficient costs. The Economic test is too much focused on long term User Commitments finally leading to more dependence on incumbents.</li> <li>• The starting point for incentivizing new transport capacity is always scarcity of available transport capacity. This scarcity should be tackled through the tariff (allocation) route or auctions, but not via the Open Season system.</li> </ul> <p><b>Non-discrimination and cross-subsidization</b></p> <ul style="list-style-type: none"> <li>• Erecting a separate 'Multi Member States' TSO for realizing a dedicated large cross border project to make the project financeable will lead to higher dependence, lower security of supply and lower competition. IFIEC Europe strongly opposes such options."</li> </ul>
<p>29. Do you agree that in order to raise the level of commitment a downward tariff adjustment rewarding long-term booking can be included as foreseen in article 46 (TAR NC)? If not, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>As long as it is one yearly contract, and not more than one year, we agree.</p>
<p>30. Do you agree with including a possibility to adjust depreciation rates as a mechanism to avoid socialisation of costs as foreseen in article 46 (TAR NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p>No. we agree with the principle, but safeguards that at the end of the depreciation period the RAB-value will be zero, is not addressed. The safeguards should prevent end users paying more than once for the same (depreciated!) pipe.</p>
<p>31. How do different tariff options impact on the markets' willingness to commit long term in order to pass the economic test? Please elaborate.</p>
<p>32. Are there any other issues that you wish to address regarding tariff related issues as foreseen in article 46 (TAR NC)? If yes, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>Safeguards that at the end of the depreciation period the RAB-value will be zero, is not addressed. The safeguards should prevent end users paying more than once for the same (depreciated!) pipe.</p>
<p><b>General questions</b></p>
<p>33. Do you consider that the level of detail in the Draft Incremental Proposal is appropriate for EU legislation? If not, please elaborate.</p>

Elaboration:
34. After reviewing and/or replying to the topic-related questions in Chapter 5 of this supporting document, do you find that there are other material issues that ENTSOG should consider as it develops the Incremental Proposal? If so please elaborate.
Elaboration:
35. Do you find that this supporting document for the public consultation was 'respondent-friendly' in terms of its readability, style, etc.? If not, please explain how ENTSOG could improve future consultation documents.
Elaboration:



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<b>Articles 1-3 of CAM NC – Subject matter, Scope and Definitions</b>	
1. Do you agree with the additional definitions proposed in Article 3 (CAM NC)? If not, please elaborate.	
Elaboration:	
<b>Articles 4-20 and 21-28 of CAM NC</b>	
2. Do you agree with the proposed amendments and changes to Articles 4-20 and 21 to 28 (CAM NC)? If not, please elaborate.	
Elaboration:	
<b>Article 20a of CAM NC: Co-ordination requirements</b>	
3. Do you agree with the level of co-ordination between TSOs and NRAs involved in an incremental or new capacity project as foreseen in Article 20a (CAM NC)? If not, please elaborate.	
Elaboration:	
4. Do you agree with the auction default and the alternative open season procedure as defined in Article 20a (5) (CAM NC)? If not, please elaborate.	
Elaboration:	
5. Do you have any additional remarks to the provisions in Article 20a (CAM NC)?	
Elaboration:	
<b>Article 20b of CAM NC: Information provision</b>	

6. Do you agree with ENTSOG's proposal of a demand assessment to be the basis for conducting technical studies and subsequently designing offer levels? If no, please elaborate.
Elaboration:
7. Do you agree with the scope of information to be provided to the NRA and to be published by TSOs involved in an incremental or new capacity process as foreseen in article 20b(2) (CAM NC)? If not, please elaborate.
Elaboration:
8. Do you agree with the lead-time foreseen for the publication of information relevant to an incremental or new capacity project and especially the economic test as described in article 20b (3) (CAM NC)? If not, please elaborate.
Elaboration:
9. Are there any other issues that you wish to address regarding information provision as foreseen in article 20b? If yes, please elaborate.
Elaboration:
<b>Article 20c of CAM NC: When to offer</b>
10. Do you agree with the conditions that shall lead to the offer of incremental and new capacity as defined in Article 20c (1), (6), and (7) (CAM NC)? If not, please elaborate.
Elaboration:
11. Do you agree that the due date approach is preferable to the time window approach as foreseen in article 20c (3) (CAM NC)? If not, please elaborate.
Elaboration:
12. Are there any other issues that you wish to address regarding conditions of when to offer incremental and new capacity as foreseen in article 20c (CAM NC)? If so, please elaborate.
Elaboration:
<b>Article 20d of CAM NC: Auction mechanisms</b>
13. Do you agree with the concept of parallel bidding ladders to auction incremental and new capacity as foreseen in article 20d (CAM NC)? If not, please elaborate.



Elaboration:
14. Do you agree with ENTOSOG's opinion that repeating the identified bidding ladder(s) represents the clearest way to allow for bid revision as foreseen in article 20d (3) (CAM NC)? If not, please elaborate.
Elaboration:
15. Do you prefer option 1 (a continuous approach for bid revision as proposed by ENTOSOG in article 20d (3) (4)) or 2 (an approach according to which bid revision is only applied once)? Please elaborate.
Elaboration:
16. Are there any other issues that you wish to address regarding auction mechanisms as foreseen in article 20d? (CAM NC) If yes, please elaborate.
Elaboration:
<b>Articles 20e, 20f, 20g of CAM NC: Open season procedures</b>
17. Do you agree with the provisions that shall lead to conducting an Open Season Procedure instead of auctions for incremental and new capacity as foreseen in article 20e (2) (CAM NC)? If not, please elaborate.
Elaboration:
18. Do you see any other conditional capacity commitments in Open Season Procedures than the issues raised in the Draft Incremental Proposal article 20f (3) (CAM NC)? If yes, please elaborate.
Elaboration:
19. Do you agree that the proposed Open Season Procedures notice contains sufficient information as foreseen in 20f (8) (CAM NC)? If not, please elaborate.
Elaboration:
20. Do you agree with the default allocation rule foreseen for Open Season Procedures, being willingness to pay per unit and year as foreseen in article 20g (3) and the alternative allocation rule subject to NRA approval as foreseen in article 20g (4) (CAM NC)? If not, please elaborate.
Elaboration:
21. Are there any other issues that you wish to address regarding Open Season Procedures as foreseen in article 20e, article 20f and article 20g (CAM NC)? If yes, please elaborate.

Elaboration:
<b>Articles 42-45 of TAR NC: Economic test principles</b>
22. Do you agree with the structure of the economic test in the Incremental Proposal as foreseen in article 42 (TAR NC)? If not, please elaborate.
No
Elaboration:
<p>Article 42 related to the economic test is too vague. The Launch Documentation and the presentations delivered by ENTSOG during the SJWS included more information, and the formulas, about the economic test that is missing in the draft incremental proposal. Besides, ENTSOG incremental proposal related to the economic test is less detailed than the TAR FG. We urge ENTSOG to include that details, otherwise the economic test principles would not be sufficient clear for stakeholders and easily manipulate by TSOs/NRAs. Find below the proposal to be included in the final CAM NC amendments which has been taken from ENTSOG's Launch Documentation:</p> <p><i>"To sum up all network user commitments, the present value will be used to:</i></p> $PVUC = \sum_{\text{network user}} \sum_{\text{time=n}}^{\text{horizon}} \frac{UC_{\text{network user/time}}}{(1+d)^{\text{time}}}$ <p>Beside the individual network user commitments (quantity and auction premium), which will be identified during the auction, the following parameters have to be defined prior to the economic test:</p> <ul style="list-style-type: none"> <li>a) regulated tariff<sub>time</sub>: estimation of regulated tariff at time of capacity usage,</li> <li>b) n: release year, where the incremental capacity will be made available to the network users,</li> <li>c) horizon: last year, for which capacity will be offered during the economic test (depending on allocation methodology; in auction max. year +15, in open season max. year +25),</li> <li>d) d: discount rate to value future cash flows, here assumed to be equal to regWACC.</li> </ul> <p>The TSO will propose these parameters in a duly justified way. The NRA will approve the proposal and justification of the TSO of all these needed parameters prior the economic test. All needed parameters and their justification will be published at least 1 month ahead of the economic test.</p> <p>[...]</p> <p>In order to assess the overall regulatory costs of the project the present value of regulated revenues from the investments shall be set. All parameters of regulated revenues induced by incremental or new capacity will be determined and duly justified by the TSO:</p> $PVAR = PVRR = \sum_{\text{time=0}}^{\text{economic lifetime}} \frac{RAB_{\text{time}} \times RoR_{\text{time}} + Dep_{\text{time}} + OPEX_{\text{time}}}{(1+d)^{\text{time}}}$ <p>The parameters to calculate the annual increment of regulated revenues are as following:</p> <ul style="list-style-type: none"> <li>a) RAB<sub>time</sub>: it is the deemed investment costs of the project which is to be included in the regulated asset base (RAB). Therefore this is the increase of the RAB compared to the situation before the investment,</li> <li>b) RoR<sub>time</sub>: the regulated rate of return is the Cost of Capital in the respective year including any auction premium, as agreed by the concerned NRA and TSO,</li> </ul>

<p>c) Deptime: Depreciation of investment induced by the incremental or new capacity in the respective year agreed with the regulator, d) OPEXtime: all operational expenditures induced by the incremental or new capacity in the respective year, e) economic lifetime: expected lifetime corresponding to the last year of economic usage”</p>
<p>23. Do you agree with the factors that shall be taken into account when defining the f-factor as foreseen in article 43 (TAR NC)? If not, please elaborate.</p>
<p>Elaboration:</p>
<p>24. Do you agree with the structure of the recovery mechanisms for the share of 1-f as foreseen in article 43 (2) (TAR NC)? If not, please elaborate.</p>
<p>Elaboration:</p>
<p>25. Do you agree with the way the single economic test is aggregated as foreseen in article 44 (TAR NC)? If not please elaborate.</p>
<p>Elaboration:</p>
<p>26. Do you agree with the three approaches for a potential redistribution of revenues as described in article 44 (4) (TAR NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p> <p>We consider that the ex-post agreement should be the only possibility for a potential redistribution of revenues.</p> <p>The economic test should be performed independently at each side of the border taking into account binding commitments by network users. Then, if the economic test is passed on both sides of the border, the investment will be triggered and each system will bear its own costs. If the economic test is not passed at one side of the border, a cost sharing discussion might start.</p> <p>We consider that option 1 “Ex-ante agreement between NRAs and TSOs” will open the cost sharing discussion at a very early stage without knowing if the market is willing to pay for the investment and if binding shipper commitments allow each system to bear its own costs.</p> <p>Besides, the cost sharing discussion will open the debate about revenues schemes and allowed costs in each system. In this case, it will be inevitably necessary to carry on a CBA in order to identify the benefits for the system that might have to pay the investment in the other side of the IP. Neither TSOs nor NRAs will agree on a costs sharing if there are not proved benefits for their system. Thus, TSOs will need to carry on a CBA to assess the benefits of the project in the adjacent country. This will imply long discussions between TSOs and NRAs which might delay the triggering of investments, and thus, market integration, which is the ultimately objective of the NCs.</p> <p>As regards option 3 “Integrated agreement between NRAs and TSOs in an OSP”, we believes that in all cases where the economic test is passed on one side IP but not at the other; thus, it won’t be credible for ENTSG to just propose that OSPs will be the default option to trigger investments and we will never use the incremental CAM process.</p>

Having said this, we believe that the default option should be that the economic test is performed individually by each TSO taking into account binding commitments by network users and if passed at each side of the border, investments will be triggered and each system will bear its own costs; thus, <u>only option 2 should be included in the final version of the CAM NC amendments.</u>
27. Are there any other issues that you wish to address regarding economic test as foreseen in articles 42-45 (TAR NC)? If yes, please elaborate.
Elaboration:
<b>Article 46 of TAR NC: Tariff principles</b>
28. Do you agree with the default mechanism foreseen to adjust tariffs if required as covered in article 46 (TAR NC)? If not, please elaborate.
Elaboration:
29. Do you agree that in order to raise the level of commitment a downward tariff adjustment rewarding long-term booking can be included as foreseen in article 46 (TAR NC)? If not, please elaborate.
Elaboration:
30. Do you agree with including a possibility to adjust depreciation rates as a mechanism to avoid socialisation of costs as foreseen in article 46 (TAR NC)? If not, please elaborate.
Elaboration:
31. How do different tariff options impact on the markets' willingness to commit long term in order to pass the economic test? Please elaborate.
32. Are there any other issues that you wish to address regarding tariff related issues as foreseen in article 46 (TAR NC)? If yes, please elaborate.
Elaboration:
<b>General questions</b>
33. Do you consider that the level of detail in the Draft Incremental Proposal is appropriate for EU legislation? If not, please elaborate.
Elaboration:
34. After reviewing and/or replying to the topic-related questions in Chapter 5 of this supporting document, do you find that there are other material issues that ENTSG should consider as it develops the Incremental Proposal? If so please elaborate.

Elaboration:
35. Do you find that this supporting document for the public consultation was 'respondent-friendly' in terms of its readability, style, etc.? If not, please explain how ENTSOG could improve future consultation documents.
Elaboration:

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<b>Articles 1-3 of CAM NC – Subject matter, Scope and Definitions</b>	
1. Do you agree with the additional definitions proposed in Article 3 (CAM NC)? If not, please elaborate.	
Yes	
Elaboration:	
<b>Articles 4-20 and 21-28 of CAM NC</b>	
2. Do you agree with the proposed amendments and changes to Articles 4-20 and 21 to 28 (CAM NC)? If not, please elaborate.	
Yes	
Elaboration:	
<b>Article 20a of CAM NC: Co-ordination requirements</b>	
3. Do you agree with the level of co-ordination between TSOs and NRAs involved in an incremental or new capacity project as foreseen in Article 20a (CAM NC)? If not, please elaborate.	

No
Elaboration:
A better involvement of stakeholders (e.g. consumers, third operators) should be designed.
4. Do you agree with the auction default and the alternative open season procedure as defined in Article 20a (5) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
5. Do you have any additional remarks to the provisions in Article 20a (CAM NC)?
No
Elaboration:
<b>Article 20b of CAM NC: Information provision</b>
6. Do you agree with ENTSOG's proposal of a demand assessment to be the basis for conducting technical studies and subsequently designing offer levels? If no, please elaborate.
Yes
Elaboration:
7. Do you agree with the scope of information to be provided to the NRA and to be published by TSOs involved in an incremental or new capacity process as foreseen in article 20b(2) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
8. Do you agree with the lead-time foreseen for the publication of information relevant to an incremental or new capacity project and especially the economic test as described in article 20b (3) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
9. Are there any other issues that you wish to address regarding information provision as foreseen in article 20b? If yes, please elaborate.
No
Elaboration:
<b>Article 20c of CAM NC: When to offer</b>
10. Do you agree with the conditions that shall lead to the offer of incremental and new capacity as defined in Article 20c (1), (6), and (7) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
11. Do you agree that the due date approach is preferable to the time window approach as foreseen in article

20c (3) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
12. Are there any other issues that you wish to address regarding conditions of when to offer incremental and new capacity as foreseen in article 20c (CAM NC)? If so, please elaborate.
No
Elaboration:
<b>Article 20d of CAM NC: Auction mechanisms</b>
13. Do you agree with the concept of parallel bidding ladders to auction incremental and new capacity as foreseen in article 20d (CAM NC)? If not, please elaborate.
Yes
Elaboration:
14. Do you agree with ENTOSOG's opinion that repeating the identified bidding ladder(s) represents the clearest way to allow for bid revision as foreseen in article 20d (3) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
15. Do you prefer option 1 (a continuous approach for bid revision as proposed by ENTOSOG in article 20d (3) (4)) or 2 (an approach according to which bid revision is only applied once)? Please elaborate.
1) a continuous approach for bid revision as proposed by ENTOSOG in article 20d (3) (4);
Elaboration:
16. Are there any other issues that you wish to address regarding auction mechanisms as foreseen in article 20d? (CAM NC) If yes, please elaborate.
No
Elaboration:
<b>Articles 20e, 20f, 20g of CAM NC: Open season procedures</b>
17. Do you agree with the provisions that shall lead to conducting an Open Season Procedure instead of auctions for incremental and new capacity as foreseen in article 20e (2) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
18. Do you see any other conditional capacity commitments in Open Season Procedures than the issues raised in the Draft Incremental Proposal article 20f (3) (CAM NC)? If yes, please elaborate.
Yes
Elaboration:
Certain facilities of both storage and LNG gasification have been integrated into national systems with insufficient economic feasibility (at Member state level). Larger interconnection infrastructure would

increase accesible market size and improve the energy securty.
19. Do you agree that the proposed Open Season Procedures notice contains sufficient information as foreseen in 20f (8) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
20. Do you agree with the default allocation rule foreseen for Open Season Procedures, being willingness to pay per unit and year as foreseen in article 20g (3) and the alternative allocation rule subject to NRA approval as foreseen in article 20g (4) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
21. Are there any other issues that you wish to address regarding Open Season Procedures as foreseen in article 20e, article 20f and article 20g (CAM NC)? If yes, please elaborate.
No
Elaboration:
<b>Articles 42-45 of TAR NC: Economic test principles</b>
22. Do you agree with the structure of the economic test in the Incremental Proposal as foreseen in article 42 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
23. Do you agree with the factors that shall be taken into account when defining the f-factor as foreseen in article 43 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
24. Do you agree with the structure of the recovery mechanisms for the share of 1-f as foreseen in article 43 (2) (TAR NC)? If not, please elaborate.
Yes
Elaboration:
25. Do you agree with the way the single economic test is aggregated as foreseen in article 44 (TAR NC)? If not please elaborate.
Yes
Elaboration:
26. Do you agree with the three approaches for a potential redistribution of revenues as described in article 44 (4) (TAR NC)? If not, please elaborate.
No
Elaboration:



At EU level there should be a benchmarking process of recognized costs (and consequently access tariffs too) for similar facilities and basic infrastructures.
27. Are there any other issues that you wish to address regarding economic test as foreseen in articles 42-45 (TAR NC)? If yes, please elaborate.
No
Elaboration:
<b>Article 46 of TAR NC: Tariff principles</b>
28. Do you agree with the default mechanism foreseen to adjust tariffs if required as covered in article 46 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
29. Do you agree that in order to raise the level of commitment a downward tariff adjustment rewarding long-term booking can be included as foreseen in article 46 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
30. Do you agree with including a possibility to adjust depreciation rates as a mechanism to avoid socialisation of costs as foreseen in article 46 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
31. How do different tariff options impact on the markets' willingness to commit long term in order to pass the economic test? Please elaborate.
Flat rates may create a disincentive for efficiency. There must be a reasonable balance between fixed and variable compounds in the tariffs with the aim to create incentives for efficient operation in the short term and reasonable return on investment in the long term.
32. Are there any other issues that you wish to address regarding tariff related issues as foreseen in article 46 (TAR NC)? If yes, please elaborate.
No
Elaboration:
<b>General questions</b>
33. Do you consider that the level of detail in the Draft Incremental Proposal is appropriate for EU legislation? If not, please elaborate.
Yes
Elaboration:
34. After reviewing and/or replying to the topic-related questions in Chapter 5 of this supporting document, do you find that there are other material issues that ENTSOG should consider as it develops the Incremental Proposal? If so please elaborate.

No
Elaboration:
35. Do you find that this supporting document for the public consultation was 'respondent-friendly' in terms of its readability, style, etc.? If not, please explain how ENTSOG could improve future consultation documents.
Yes
Elaboration:



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<b>Articles 1-3 of CAM NC – Subject matter, Scope and Definitions</b>	
1. Do you agree with the additional definitions proposed in Article 3 (CAM NC)? If not, please elaborate.	
No	
Elaboration:	
<p>The definition of bidding ladder remains very confusing and partly misleading. In our mind the bidding ladder rather than being a combination of capacity products, it is rather the sequence of price steps relevant for each offer level against which bids for capacity quantity are submitted by network users. The number of products, i.e. the duration of the overall booking, is de facto irrelevant for the definition of bidding ladder. The definition of economic test could be improved by simply saying that it is the assessment of the economic viability of incremental and new capacity projects. The text of the code would then clarify how the test actually works.</p> <p>The definition of open season is probably unnecessary as it is a way to market capacity that works as described in the text of the code. Alternatively, it could be defined with reference to the relevant article.</p>	
<b>Articles 4-20 and 21-28 of CAM NC</b>	
2. Do you agree with the proposed amendments and changes to Articles 4-20 and 21 to 28 (CAM NC)? If not, please elaborate.	
No	
Elaboration:	
<p>We have identified a number of imprecisions/repetitions in article 11.6. In this respect we would suggest repealing the wording “if any” where it appears in the text with the understanding that any of the elements of the formula could be in principle be equal to 0.</p> <p>Article 11.8 has been modified by the repeal of the word “technical” in the first sentence. Such wording may in principle be ok provided that the second sentence is removed. Also, ENTSOG should note that the on month notice period may not necessarily be aligned with the timing for the publication of reserve prices being discussed within the Tariff network code forum.</p> <p>It is not clear why in article 11.10 the word “published” in the first sentence has been replaced with “be made available”. More in general, we struggle to understand the meaning of the article which probably meant to differentiate between publication requirements in auction versus open seasons rather than between existing</p>	

<p>and incremental/new capacity.</p> <p>Article 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 Tariff Network Code, the use of a variable price 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 or new capacity.</p>
<p><b>Article 20a of CAM NC: Co-ordination requirements</b></p>
<p>3. Do you agree with the level of co-ordination between TSOs and NRAs involved in an incremental or new capacity project as foreseen in Article 20a (CAM NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p>Article 20a.4 refers to the obligation for TSOs to take into account comments of concerned network users but it is not really clear about the how and in what respect. To add clarity dialogue with network users should be better defined and structured.</p> <p>In general, the text seems very vague in its efforts to clarify what the results of the coordination should be. Wording like “shall aim” provide no legal certainty. The article should be rewritten as to indicate the clear list of mandatory deliverables of the coordination, the process leading to those deliverables, as well as the consequences of not delivering.</p> <p>In doing so, special attention should be granted to the definition of single offer timeframes and commissioning timeframes. This is particularly true in the case of projects triggered or linked to the development of an upstream field where the identification of the start date should be managed with sufficient flexibility and surely with the direct involvement of network users in order to guarantee the optimal and efficient development of the infrastructure.</p>
<p>4. Do you agree with the auction default and the alternative open season procedure as defined in Article 20a (5) (CAM NC)? If not, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>We agree with the idea of having a default option provided that the criteria and the process to deviate from it are made sufficiently clear.</p>
<p>5. Do you have any additional remarks to the provisions in Article 20a (CAM NC)?</p>
<p>No</p>
<p>Elaboration:</p>
<p>We have reservations about the drafting of Article 44 of the Tariff Network Code.</p> <p>Article 44 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 potentially too weak, as it could enable national regulatory authorities or Member States to prevent investment that furthers the internal gas market.</p> <p>Therefore article 44 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.</p>
<p><b>Article 20b of CAM NC: Information provision</b></p>
<p>6. Do you agree with ENTSOG’s proposal of a demand assessment to be the basis for conducting technical</p>

studies and subsequently designing offer levels? If no, please elaborate.
No
Elaboration:
The demand assessment is a reasonable starting point however the requirement for such assessment should be for it to be done on a yearly basis.
7. Do you agree with the scope of information to be provided to the NRA and to be published by TSOs involved in an incremental or new capacity process as foreseen in article 20b(2) (CAM NC)? If not, please elaborate.
No
Elaboration:
Article 20.b.2(d) is worded in an imprecise manner. It should be clear that the TSO should provide a justification of the choice of auction versus open season on the basis of the relevant criteria.
8. Do you agree with the lead-time foreseen for the publication of information relevant to an incremental or new capacity project and especially the economic test as described in article 20b (3) (CAM NC)? If not, please elaborate.
No
Elaboration:
We have two main concerns with the processes as they are described in the amendment proposal and in the supporting documentation: - the processes do not seem to contemplate time for a public consultation at least with respect of the definition of the f factor. The broad implications this may have on all network users is such that the f factor cannot be defined disregarding the opinion of all market players; - the 1 month period for the publication of the final offer before the auction or the beginning of the binding phase of an open season is too short and seems to ignore the discussions held in the context of the Tariff code
9. Are there any other issues that you wish to address regarding information provision as foreseen in article 20b? If yes, please elaborate.
No
Elaboration:
The information on the timing of the realisation of the infrastructure should contemplate the possibility to define a funneling mechanism for the identification of the commissioning date. Alternatively a coordination mechanism, set to ensure an optimal and efficient development of the infrastructure, should be established.
<b>Article 20c of CAM NC: When to offer</b>
10. Do you agree with the conditions that shall lead to the offer of incremental and new capacity as defined in Article 20c (1), (6), and (7) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
In general we support the wording proposed however we would prefer to have the needs assessment at least once a year.
11. Do you agree that the due date approach is preferable to the time window approach as foreseen in article 20c (3) (CAM NC)? If not, please elaborate.
Yes

Elaboration:
We do agree with the principle however the period between two subsequent due dates shall not exceed 12 months coherently with the indication provided above whereby an assessment of needs should be performed at least once a year.
12. Are there any other issues that you wish to address regarding conditions of when to offer incremental and new capacity as foreseen in article 20c (CAM NC)? If so, please elaborate.
Yes
Elaboration:
Whilst we recognize the role that frameworks 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, this paragraphs is too loosely drafted. It must also be made clear that the related fees should be subject to regulatory consultation and approval, and can only be charged for activities that are not already covered by a TSOs Allowed Revenue.
<b>Article 20d of CAM NC: Auction mechanisms</b>
13. Do you agree with the concept of parallel bidding ladders to auction incremental and new capacity as foreseen in article 20d (CAM NC)? If not, please elaborate.
Yes
Elaboration:
14. Do you agree with ENTSOG's opinion that repeating the identified bidding ladder(s) represents the clearest way to allow for bid revision as foreseen in article 20d (3) (CAM NC)? If not, please elaborate.
No
Elaboration:
We struggle to understand the need for a further auction round in case of premium as the next higher offer level must have been available already in the previous round but we accept that this may work as a second best option. Differently, a more flexible approach to the use of the economic test would allow avoiding suboptimal outcomes without the need to re-run identical auction rounds. The ceiling to be passed during an economic test is based on estimates and a too strict observation of such ceiling would be blind to the inherent contingency that such estimates may hide. Therefore, the object of the article should rather be a case where the economic test is not passed by a margin rather than on bidding ladders closing at a premium.
15. Do you prefer option 1 (a continuous approach for bid revision as proposed by ENTSOG in article 20d (3) (4)) or 2 (an approach according to which bid revision is only applied once)? Please elaborate.
1) a continuous approach for bid revision as proposed by ENTSOG in article 20d (3) (4);
Elaboration:
Please see answer 14. Should the bid revision idea be maintained than we would prefer a continuous approach as described in 20d(3).
16. Are there any other issues that you wish to address regarding auction mechanisms as foreseen in article 20d? (CAM NC) If yes, please elaborate.
No
Elaboration:

<b>Articles 20e, 20f, 20g of CAM NC: Open season procedures</b>
17. Do you agree with the provisions that shall lead to conducting an Open Season Procedure instead of auctions for incremental and new capacity as foreseen in article 20e (2) (CAM NC)? If not, please elaborate.
No
Elaboration:
While the criteria seem sufficiently clear, it remains untold when and how the choice to go for an open season is performed. Also, the text does not make the use of open seasons automatic when the criteria are met and this makes the fact that such choice is made without the involvement of network users even more worrisome.
18. Do you see any other conditional capacity commitments in Open Season Procedures than the issues raised in the Draft Incremental Proposal article 20f (3) (CAM NC)? If yes, please elaborate.
No
Elaboration:
19. Do you agree that the proposed Open Season Procedures notice contains sufficient information as foreseen in 20f (8) (CAM NC)? If not, please elaborate.
No
Elaboration:
The list should include the procedures and the timeframe for identifying the commissioning date of the new/incremental capacity. Alternatively a coordination mechanism involving both TSOs and users should supervise the development schedule of the infrastructure to ensure an optimal and efficient outcome.
20. Do you agree with the default allocation rule foreseen for Open Season Procedures, being willingness to pay per unit and year as foreseen in article 20g (3) and the alternative allocation rule subject to NRA approval as foreseen in article 20g (4) (CAM NC)? If not, please elaborate.
No
Elaboration:
Investment in incremental and new capacity is fundamentally supported by long term bookings. At the same time capacity for short term booking is reserved as per the existing clauses of the CAM code. For these reasons the sole approach to be used should be one that gives preference to those bookings that maximize the net present value. This is further justified by the fact that such approach would favor molecules over capacity, reducing the risk of stranded assets and contributing better to security of supply.
21. Are there any other issues that you wish to address regarding Open Season Procedures as foreseen in article 20e, article 20f and article 20g (CAM NC)? If yes, please elaborate.
No
Elaboration:
<b>Articles 42-45 of TAR NC: Economic test principles</b>
22. Do you agree with the structure of the economic test in the Incremental Proposal as foreseen in article 42 (TAR NC)? If not, please elaborate.
No
Elaboration:

<p>"Two main concerns exists with respect to the way the economic test is defined:</p> <ul style="list-style-type: none"> <li>- 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 realized 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 a single value. This would also avoid the need to run additional bidding rounds as the band would allow a "pass" in a broader range of booking combinations.</li> <li>- 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."</li> </ul>
<p>23. Do you agree with the factors that shall be taken into account when defining the f-factor as foreseen in article 43 (TAR NC)? If not, please elaborate.</p>
<p>No</p>
<p>Elaboration:</p>
<p>Please see answer 22.</p>
<p>24. Do you agree with the structure of the recovery mechanisms for the share of 1-f as foreseen in article 43 (2) (TAR NC)? If not, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>The article identifies the correct elements however one should bear in mind that none of those aspects can me made the object of an exact science, hence it is important to taken into account the reflections share in answer 22.</p>
<p>25. Do you agree with the way the single economic test is aggregated as foreseen in article 44 (TAR NC)? If not please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>As long as full transparency on the underlying mechanism is maintained. An obligation for TSOs to explain how a potential revenue redistribution mechanism functions should be added to the incremental proposal.</p>
<p>26. Do you agree with the three approaches for a potential redistribution of revenues as described in article 44 (4) (TAR NC)? If not, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>Please see answer 25.</p>
<p>27. Are there any other issues that you wish to address regarding economic test as foreseen in articles 42-45 (TAR NC)? If yes, please elaborate.</p>
<p>Yes</p>
<p>Elaboration:</p>
<p>The complete lack of consideration for network users' opinion in the formulation of the economic test is definitely an important source of concern and we advise ENTSOG to include an opportunity for a formal consultation at least in the definition of the f factor.</p>
<p><b>Article 46 of TAR NC: Tariff principles</b></p>



28. Do you agree with the default mechanism foreseen to adjust tariffs if required as covered in article 46 (TAR NC)? If not, please elaborate.
No
Elaboration:
We believe this question refers to article 46.3. If so, it is important to note that case b seems to be a subcase of a and hence could easily be repealed, while case c should be addressed in the process of defining the f factor and it could therefore also be repealed from the list.
29. Do you agree that in order to raise the level of commitment a downward tariff adjustment rewarding long-term booking can be included as foreseen in article 46 (TAR NC)? If not, please elaborate.
Yes
Elaboration:
Coherently it would be appropriate to give precedence to the highest contribution to the net present value in case demand > offer for any level of capacity offer. Notably, such a solution would make sense and it would be credible only in the context of fixed or at least partially fixed tariff.
30. Do you agree with including a possibility to adjust depreciation rates as a mechanism to avoid socialisation of costs as foreseen in article 46 (TAR NC)? If not, please elaborate.
No
Elaboration:
This alternative may prove acceptable as long as a change in depreciation at a later than booking stage is accompanied by the right of the shippers to modify their booking levels, or for fixed tariff the right of the shippers to see also their tariff adjusted accordingly in case of reduction.
31. How do different tariff options impact on the markets' willingness to commit long term in order to pass the economic test? Please elaborate.
"Notably, there are two aspects that contribute to the subscription of long-term booking: - The visibility over the tariff evolution and, even better, the stability of the tariff level - The economic equivalence, if not the convenience, of long-term booking towards short term bookings"
32. Are there any other issues that you wish to address regarding tariff related issues as foreseen in article 46 (TAR NC)? If yes, please elaborate.
No
Elaboration:
<b>General questions</b>
33. Do you consider that the level of detail in the Draft Incremental Proposal is appropriate for EU legislation? If not, please elaborate.
Yes
Elaboration:
In general we believe the proposal is sufficiently detailed, however a number of processes, as indicated in several answers, could be better described adding better indication of timing of different steps and be improved by contemplating more consultation opportunities.
34. After reviewing and/or replying to the topic-related questions in Chapter 5 of this supporting document, do you find that there are other material issues that ENTSOG should consider as it develops the Incremental

Proposal? If so please elaborate.
Yes
Elaboration:
PLEASE FIND HERE AN ADDITIONAL COMMENT THAT DOES NOT FIT ANY QUESTION. The amendment to article 2 risks being misleading where it states that the code shall apply to incremental and new capacity when identified and allocated via market based procedures in that it seems to say that if the incremental and new capacity needs are identified via the TYNDP, a non-market based procedure, then the code would not be relevant. If so, this would be in contradiction with the rules on when to offer incremental and new capacity. Confusion would be eliminated by simply eliminating the word “identified” from the second paragraph of article 2.2.
35. Do you find that this supporting document for the public consultation was ‘respondent-friendly’ in terms of its readability, style, etc.? If not, please explain how ENTSOG could improve future consultation documents.
Yes
Elaboration:
In general the supporting document is a good tool to support the preparation of the response.

<b>Respondent:</b>	<b>The International Association of Oil &amp; Gas Producers (OGP)</b>
<b>Contact Details</b>	
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<b>Articles 1-3 of CAM NC – Subject matter, Scope and Definitions</b>	
1. Do you agree with the additional definitions proposed in Article 3 (CAM NC)? If not, please elaborate.	
No	
Elaboration:	
<p>The definition of bidding ladder remains very confusing and partly misleading. In our mind the bidding ladder rather than being a combination of capacity products, it is the sequence of price steps relevant for each offer level against which bids for capacity quantity are submitted by network users. The number of products, i.e. the duration of the overall booking, is de facto irrelevant for the definition of bidding ladder. The definition of economic test could be improved by simply saying that it is the assessment of the economic viability of incremental and new capacity projects. The text of the code would then clarify how the test actually works. The definition of open season is probably unnecessary as it is a way to market capacity that works as described in the text of the code. Alternatively, it could be defined with reference to the relevant article.</p>	
<b>Articles 4-20 and 21-28 of CAM NC</b>	
2. Do you agree with the proposed amendments and changes to Articles 4-20 and 21 to 28 (CAM NC)? If not, please elaborate.	
No	
Elaboration:	
<p>We have identified a number of imprecisions/repetitions in article 11.6. In this respect we would suggest repealing the wording “if any” where it appears in the text with the understanding that any of the elements of the formula could be in principle be equal to 0. Article 11.8 has been modified by the repeal of the word “technical” in the first sentence. Such wording may in principle be ok provided that the second sentence is removed. Also, ENTSOG should note that the one month notice period may not necessarily be aligned with the timing for the publication of the reserve prices being discussed within the Tariff network code forum. It is not clear why in article 11.10 the word “published” in the first sentence has been replaced with “be made available”. More in general, we struggle to understand the meaning of the article which probably meant to differentiate between publication requirements in auctions versus open seasons rather than between</p>	

existing and incremental/new capacity.
<b>Article 20a of CAM NC: Co-ordination requirements</b>
3. Do you agree with the level of co-ordination between TSOs and NRAs involved in an incremental or new capacity project as foreseen in Article 20a (CAM NC)? If not, please elaborate.
No
Elaboration:
Article 20a.4 refers to the obligation for TSOs to take into account comments of concerned network users but it is not really clear how and in what respect. To add clarity, the dialogue with network users should be better defined and structured. In general, the text seems very vague in its efforts to clarify what the results of the coordination should be. Wording like “shall aim” provide no legal certainty whatsoever. The article should be rewritten as to indicate the clear list of mandatory deliverables of the coordination, the process leading to those deliverables, as well as the consequences of not delivering on those deliverables. In doing so, special attention should be granted to the definition of single offer timeframes and commissioning timeframes. This is particularly true in the case of projects triggered or linked to the development of an upstream field where the identification of the start date should be managed with sufficient flexibility and surely with the direct involvement of network users as part of a coordination mechanism.
4. Do you agree with the auction default and the alternative open season procedure as defined in Article 20a (5) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
We agree with the idea of having a default option, provided that the criteria and the process to deviate from it are made sufficiently clear.
5. Do you have any additional remarks to the provisions in Article 20a (CAM NC)?
No
Elaboration:
<b>Article 20b of CAM NC: Information provision</b>
6. Do you agree with ENTSOG’s proposal of a demand assessment to be the basis for conducting technical studies and subsequently designing offer levels? If no, please elaborate.
No
Elaboration:
The demand assessment is a reasonable starting point such assessment should be done on a yearly basis.
7. Do you agree with the scope of information to be provided to the NRA and to be published by TSOs involved in an incremental or new capacity process as foreseen in article 20b(2) (CAM NC)? If not, please elaborate.
No
Elaboration:
Article 20.b.2(d) is worded in an imprecise manner. It should be clear that the TSO should provide a justification of the choice of auction versus open season on the basis of the relevant criteria. The choice should be subject to a public consultation.

8. Do you agree with the lead-time foreseen for the publication of information relevant to an incremental or new capacity project and especially the economic test as described in article 20b (3) (CAM NC)? If not, please elaborate.
No
Elaboration:
We have two main concerns with the processes as they are described in the amendment proposal and in the supporting documentation: - the processes do not seem to contemplate time for a public consultation while the definition of the f element, if nothing else, due to the broad implications it may have on all network users, cannot be defined disregarding the opinion of all market players - the 1 month period for the publication of the final offer before the auction or the beginning of the binding phase of an open season is too short and seems to ignore the discussions held in the context of the Tariff code
9. Are there any other issues that you wish to address regarding information provision as foreseen in article 20b? If yes, please elaborate.
Yes
Elaboration:
The information on the timing of the realisation of the infrastructure should contemplate the possibility to define a funneling mechanism for the identification of the commissioning date. Alternatively a coordination mechanism for an optimal and efficient development of the infrastructure should be established.
<b>Article 20c of CAM NC: When to offer</b>
10. Do you agree with the conditions that shall lead to the offer of incremental and new capacity as defined in Article 20c (1), (6), and (7) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
In general we support the wording proposed however we would prefer to have the needs assessment at least once a year.
11. Do you agree that the due date approach is preferable to the time window approach as foreseen in article 20c (3) (CAM NC)? If not, please elaborate.
Yes
Elaboration:
We do agree with the principle however the period between two subsequent due dates shall not exceed 12 months coherently with the indication provided above whereby an assessment of needs should be performed at least once a year.
12. Are there any other issues that you wish to address regarding conditions of when to offer incremental and new capacity as foreseen in article 20c (CAM NC)? If so, please elaborate.
No
Elaboration:
<b>Article 20d of CAM NC: Auction mechanisms</b>
13. Do you agree with the concept of parallel bidding ladders to auction incremental and new capacity as foreseen in article 20d (CAM NC)? If not, please elaborate.

Yes
Elaboration:
14. Do you agree with ENTSOG's opinion that repeating the identified bidding ladder(s) represents the clearest way to allow for bid revision as foreseen in article 20d (3) (CAM NC)? If not, please elaborate.
No
Elaboration:
<p>We struggle to understand the need for a further auction round in case of premium as the next higher offer level must have been available already in the previous round but we accept that this could work as a second best option.</p> <p>Differently, a more flexible approach to the use of the economic test would allow avoiding suboptimal outcomes without the need to re-run identical auction rounds. The ceiling to be passed during an economic test is based on estimates and a too strict observation of such ceiling would be blind to the inherent contingency that such estimates may hide. Therefore, the object of the article should rather be a case where the economic test is not passed by a margin than on bidding ladders closing at a premium.</p>
15. Do you prefer option 1 (a continuous approach for bid revision as proposed by ENTSOG in article 20d (3) (4)) or 2 (an approach according to which bid revision is only applied once)? Please elaborate.
Elaboration:
Please see answer 14. In case the bid revision idea is maintained, we would prefer a continuous approach as described in 20d(3).
16. Are there any other issues that you wish to address regarding auction mechanisms as foreseen in article 20d? (CAM NC) If yes, please elaborate.
No
Elaboration:
<b>Articles 20e, 20f, 20g of CAM NC: Open season procedures</b>
17. Do you agree with the provisions that shall lead to conducting an Open Season Procedure instead of auctions for incremental and new capacity as foreseen in article 20e (2) (CAM NC)? If not, please elaborate.
No
Elaboration:
While the criteria seem sufficiently clear, it remains vague when and how the choice to go for an open season is made. Also, the text does not make the use of open seasons automatic when the criteria are met, which makes the fact that such choice is made without the involvement of network users even more worrisome.
18. Do you see any other conditional capacity commitments in Open Season Procedures than the issues raised in the Draft Incremental Proposal article 20f (3) (CAM NC)? If yes, please elaborate.
No
Elaboration:
19. Do you agree that the proposed Open Season Procedures notice contains sufficient information as foreseen in 20f (8) (CAM NC)? If not, please elaborate.
No

Elaboration:
The list should include the procedures and the timeframe for identifying the commissioning date of the new/incremental capacity.
20. Do you agree with the default allocation rule foreseen for Open Season Procedures, being willingness to pay per unit and year as foreseen in article 20g (3) and the alternative allocation rule subject to NRA approval as foreseen in article 20g (4) (CAM NC)? If not, please elaborate.
No
Elaboration:
Investment in incremental and new capacity is fundamentally supported by long term bookings. At the same time capacity for short term booking is reserved as per the existing clauses of the CAM code. For these reasons the sole approach should be one that gives preference to those bookings that maximize the net present value.
21. Are there any other issues that you wish to address regarding Open Season Procedures as foreseen in article 20e, article 20f and article 20g (CAM NC)? If yes, please elaborate.
No
Elaboration:
<b>Articles 42-45 of TAR NC: Economic test principles</b>
22. Do you agree with the structure of the economic test in the Incremental Proposal as foreseen in article 42 (TAR NC)? If not, please elaborate.
No
Elaboration:
"Two main concerns exists with respect to the way the economic test is defined: - 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 realized part of this contingency normally turns into actual cost and more rarely in actual saving. For this reason it would be wise to define the f factor as a band rather than a single value. This would also avoid the need to run additional bidding rounds as the band would allow a "pass" in a broader range of booking combinations. - Defining the f factor has implications on the tariffs 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."
23. Do you agree with the factors that shall be taken into account when defining the f-factor as foreseen in article 43 (TAR NC)? If not, please elaborate.
No
Elaboration:
Please see answer 22.
24. Do you agree with the structure of the recovery mechanisms for the share of 1-f as foreseen in article 43 (2) (TAR NC)? If not, please elaborate.
Yes
Elaboration:

The article identifies the correct elements. However one should bear in mind that none of those aspects can be made the object of an exact science, hence it is important to take into account the comments made in answer 22.
25. Do you agree with the way the single economic test is aggregated as foreseen in article 44 (TAR NC)? If not please elaborate.
Yes
Elaboration:
As long as full transparency on the underlying mechanism is maintained we support the proposed wording. Hence, an obligation for TSOs to explain how a potential revenue redistribution mechanism functions should be added to the incremental proposal.
26. Do you agree with the three approaches for a potential redistribution of revenues as described in article 44 (4) (TAR NC)? If not, please elaborate.
Yes
Elaboration:
Please see answer 25.
27. Are there any other issues that you wish to address regarding economic test as foreseen in articles 42-45 (TAR NC)? If yes, please elaborate.
Yes
Elaboration:
The complete lack of consideration for network users' opinion in the formulation of the economic test is definitely an important concern and we advise ENTSOG to include an opportunity for a formal consultation at least in the definition of the f factor.
<b>Article 46 of TAR NC: Tariff principles</b>
28. Do you agree with the default mechanism foreseen to adjust tariffs if required as covered in article 46 (TAR NC)? If not, please elaborate.
No
Elaboration:
We believe this question refers to article 46.3. If so it is important to note that case b seems to be a subcase of case and hence could easily be repealed. In addition case c should be addressed in the process of defining the f factor and it could therefore also be repealed from the list.
29. Do you agree that in order to raise the level of commitment a downward tariff adjustment rewarding long-term booking can be included as foreseen in article 46 (TAR NC)? If not, please elaborate.
No
Elaboration:
Yes, we believe such a solution would make sense but note that it would only be credible in the context of fixed or at least partially fixed tariff. Consistent with this approach to incentivise long-term bookings, the default allocation rule should give priority to long-term bookings that maximize the net present value (please refer to the answer to question 20). We note that the question states that a downward tariff adjustment is foreseen in article 46 of the draft TAR NC, but this is not really the case.
30. Do you agree with including a possibility to adjust depreciation rates as a mechanism to avoid socialisation of costs as foreseen in article 46 (TAR NC)? If not, please elaborate.
Yes



Elaboration:
Although we prefer the solution above, this alternative may prove acceptable as long as a change in depreciation at a later stage does not undermine the incentive for long term booking.
31. How do different tariff options impact on the markets' willingness to commit long term in order to pass the economic test? Please elaborate.
Notably, there are two aspects that contribute to the subscription of long-term booking: - The visibility over the tariff evolution and even better the stability of the tariff level - The economic equivalence, if not the convenience, of long-term booking towards short term bookings
32. Are there any other issues that you wish to address regarding tariff related issues as foreseen in article 46 (TAR NC)? If yes, please elaborate.
No
Elaboration:
<b>General questions</b>
33. Do you consider that the level of detail in the Draft Incremental Proposal is appropriate for EU legislation? If not, please elaborate.
Yes
Elaboration:
In general we believe the proposal is sufficiently detailed, however a number of processes, as indicated in several answers, could be better described adding better indication of timing of different steps and be improved by contemplating more consultation opportunities.
34. After reviewing and/or replying to the topic-related questions in Chapter 5 of this supporting document, do you find that there are other material issues that ENTSOG should consider as it develops the Incremental Proposal? If so please elaborate.
Yes
Elaboration:
PLEASE FIND HERE AN ADDITIONAL COMMENT THAT DOES NOT FIT ANY QUESTION: the amendment to article 2 risks being misleading where it states that the code shall apply to incremental and new capacity when identified and allocated via market based procedures in that it seems to say that if the incremental and new capacity needs are identified via the TYNDP, a non-market based procedure, then the code would not be relevant. If so, this would be in contradiction with the rules on when to offer incremental and new capacity. Confusion would be eliminated by simply eliminating the word "identified" form the second paragraph of article 2.2.
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Yes
Elaboration:
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