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COMMISSION REGULATION (EU) 2015/1222

of 24 July 2015

establishing a guideline on capacity allocation and congestion management

(Text with EEA relevance)

TITLE I

GENERAL PROVISIONS

JOINT NEMO-TSO DISCLAIMER

The NEMOs and TSOs' contribution to this draft aims to propose wording which fully reflects the joint NEMOs and TSOs position on the MCO governance reform (Option 3), namely on:

- Definitions of MCO, Joint Decision Making Body and congestion income distributor (Art.2.28, 2.29, 2.30)
- NEMOs designation and revocation of the designation (Article 4)
- Adoption of Terms and Conditions and Methodologies: application of qualified majority voting and related modalities (Art. 7)
- MCO Governance principles: NEW proposal for Art.14
- Removal of Art.15 on "The entities performing the MCO operational tasks"
- MCO Organisation: NEW proposal for Art.16
- Annual work programme: NEW proposal for Art.17
- MCO tasks: NEW proposal for Art. 18
- NEMO tasks: NEW proposal for Art.19
- TSOs sharing the congestion income - Article 20
- Costs for MCO function – Article 22
- Clearing and Settlement: amended proposal for Art. 55.2 and Art. 55.4.
- NEMO Balance responsibility: amended proposal for Art.56

This version of the document contains the joint NEMOs-TSOs proposal for an Option 3 and several proposals regarding Algorithm, references to the MCO function assets and responsibilities

(Article 41, Article 46, Art. 47, Art. 49, Art. 50, Art. 51, Art. 52, Art. 53, Art. 58). We elaborated the essential points as much as possible within the limited timeframe available.

For any other aspect of the revision, for which no common TSOs and NEMOs proposal is provided, please refer to the individual contributions from stakeholders already submitted during the consultation process.

Additional changes have been added in the following articles in order to address the concerns of ACER/NRAs wrt accountability, assignment of tasks to entities and NRAs enforcement: Art. 4, Art. 14, Art. 16, Art. 63. NEMOs and TSOs provided several suggestions and clarifications about the Transit Shipping issue, all are kept in the comments (Art. 18, 22, 55).

Article 1. Article 1.

Subject matter and scope

This Regulation lays down detailed guidelines on market coupling in the day-ahead and intraday markets, including the requirements for the establishment of common methodologies for determining the volumes of cross-zonal capacity available between bidding zones, criteria to assess efficiency and a review process for defining bidding zones.

This Regulation shall apply to all nominated electricity market operators and all transmission systems and interconnections in the Union, regulatory authorities, ACER, the ENTSO for Electricity, third parties to whom responsibilities have been delegated or assigned and other market participants. This Regulation shall not apply to the transmission systems on islands which are not connected with other transmission systems via interconnections.

In Member States where more than one transmission system operator exists, this Regulation shall apply to all transmission system operators within that Member State. Where a transmission system operator does not have a function relevant to one or more obligations under this Regulation, Member States may provide that the responsibility for complying with those obligations is assigned to one or more different, specific transmission system operators.

The Union single day-ahead and intraday coupling may be opened to market operators and TSOs operating in Switzerland on the condition that the national law in that country implements the main provisions of Union electricity market legislation and that there is an intergovernmental agreement on electricity cooperation between the Union and Switzerland.

Subject to the conditions in paragraph 0 above being fulfilled, participation by Switzerland in day-ahead coupling and single intraday coupling shall be decided by the Commission based on an opinion given by ACER. The rights and responsibilities of Swiss NEMOs and TSOs joining single day-ahead coupling shall be consistent with the rights and responsibilities of NEMOs and TSOs operating in the Union to allow a smooth functioning of the single day-ahead and single intraday coupling systems implemented at Union level and a level-playing field for all stakeholders.

Article 2. Article 2

Definitions

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Commented [RL1]: NEMOs-TSOs disclaimer: Please note that the subject of some of the below definitions are not related to MCO governance. Therefore, NEMOs & TSOs refrain from proposing any amendments to such definitions. This must not be interpreted by ACER to mean that NEMOs & TSOs agree with and accept the wording of these definitions.

For the purposes of this Regulation, the definitions in Article 2 of Regulation (EU) 2019/943, Article 2 of Commission Regulation (EU) No 543/2013, Article 2 of Commission Regulation (EU) No 2017/1485, Article 2 of Commission Regulation (EU) No 2017/2195 and Article 2 of Directive 2009/72/EC of the European Parliament and of the Council (4) shall apply.

In addition, the following definitions shall apply:

1. 'individual grid model' means a data set describing power system characteristics (generation, load and grid topology) and related rules to change these characteristics during capacity calculation, prepared by the responsible TSOs, to be merged with other individual grid model components in order to create the common grid model;
2. 'common grid model' means a Union-wide data set agreed between various TSOs describing the main characteristic of the power system (generation, loads and grid topology) and rules for changing these characteristics during the capacity calculation process;
3. 'scenario' means the forecasted status of the power system for a given time-frame;
4. 'net position' means the netted sum of electricity exports and imports for each market time unit for a bidding zone;
5. 'allocation constraints' means the constraints to be respected during capacity allocation to maintain the transmission system within operational security limits and have not been translated into cross-zonal capacity or that are needed to increase the efficiency of capacity allocation;
6. 'operational security limits' means the acceptable operating boundaries for secure grid operation such as thermal limits, voltage limits, short-circuit current limits, frequency and dynamic stability limits;
7. 'coordinated net transmission capacity approach' means the capacity calculation method based on the principle of assessing and defining ex ante a maximum energy exchange between adjacent bidding zones;
8. 'flow-based approach' means a capacity calculation method in which energy exchanges between bidding zones are limited by power transfer distribution factors and available margins on critical network elements;
9. 'contingency' means the identified and possible or already occurred fault of an element, including not only the transmission system elements, but also significant grid users and distribution network elements if relevant for the transmission system operational security;
10. 'RCC' means regional coordination centre in accordance with Article 2(6~~93~~) of Regulation (EU) 2019/943;
11. 'generation shift key' means a method of translating a net position change of a given bidding zone into estimated specific injection increases or decreases in the common grid model;
12. 'remedial action' means any measure applied by a TSO or several TSOs, manually or automatically, in order to maintain operational security;
13. 'reliability margin' means the reduction of cross-zonal capacity to cover the uncertainties within capacity calculation;
14. 'market time' means central European summer time or central European time, whichever is in effect;

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- 15.15A 'market time unit' means the shortest time interval for which the market price is established, which shall be at least as short as imbalance settlement period.
16. 'congestion income' means the revenues received as a result of cross zonal capacity allocation;
17. 'market congestion' means a situation in which the economic surplus for single day-ahead or intraday coupling has been limited by cross-zonal capacity or allocation constraints;
18. 'physical congestion' means any network situation where forecasted or realised power flows violate the thermal limits of the elements of the grid and voltage stability or the angle stability limits of the power system;
19. 'matching' means the trading mode through which sell orders are assigned to appropriate buy orders to ensure the maximisation of economic surplus for single day-ahead or intraday coupling;
20. 'order' means an intention to purchase or sell energy or capacity expressed by a market participant subject to specified execution conditions;
21. 'matched orders' means all buy and sell orders matched by the SDAC and intraday auction algorithm or the continuous trading algorithm;
22. 'shared order book' means a module in the continuous intraday coupling system collecting all matchable orders from the NEMOs participating in single intraday coupling and performing continuous matching of those orders;
23. 'trade' means one or more matched orders;
24. 'single day-ahead coupling (SDAC)' means a market mechanism in the day-ahead timeframe based on an implicit auction.;
25. 'single intraday coupling (SIDC)' means a market mechanism in the intraday timeframe based on continuous trading and complemented by a number of intraday auctions based on an implicit auction.
26. 'implicit auction' means the auctioning process, which simultaneously matches orders from NEMO trading hubs and allocates cross-zonal capacities.
27. 'continuous trading' means a continuous process of simultaneous matching of orders from NEMO trading hubs and allocation of available cross-zonal capacity in the SIDC.
- ~~28. 'market coupling operator (MCO)' means the entity or entities with the task of performing the single day-ahead and intraday coupling for all NEMO trading hubs and simultaneously allocating cross-zonal capacities;~~
- 28 'Market Coupling Operator (MCO) function' means the set of tasks assigned to NEMOs and/or TSOs to ensure the performance of the single day-ahead and intraday coupling for all NEMO trading hubs and simultaneously allocating cross-zonal capacity.
- 29.(NEW) 'Joint NEMO-TSO Decision Making Body' means the joint decision making body between NEMOs and TSOs established in accordance with Article 14(1);
- 30.30B. 'congestion income distribution' means the task of distributing the congestion income to TSOs in accordance with the methodology developed in accordance with Article 73;
- 31.30C. 'passporting' means offering NEMO trading service with delivery in other Member States;

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32. 'clearing price' means the price determined by matching the highest accepted selling order and the lowest accepted buying order in the electricity market;
33. 'scheduled exchange' means an electricity transfer scheduled between scheduling areas, for each market time unit and for a given direction;
- 34.32A "NEMO trading hub" means a virtual trading point collecting all orders received by a NEMO with delivery in a specific scheduling area;
- 35.32B "NEMO trading hub net position" means the netted sum of electricity exports and imports for each market time unit for a NEMO trading hub;
- 36.32C "clearing" means the task of determining the financial position of each market participant in relation to the accepted orders and the financial net position of each counterparty;
- 37.32D "settlement" means the task of transferring financial positions between counterparties;
38. 'day-ahead time-frame' means the time-frame of the electricity market from the SDAC gate opening time until the SDAC gate closure time, where, for each market time unit, products are traded the day prior to delivery;
39. 'day-ahead firmness deadline' means the point in time after which cross-zonal capacity becomes firm;
- 40.35A 'SDAC gate opening time' means the point in time when market participants can start submitting orders for the SDAC;
41. 'day-ahead market gate closure time' means the point in time from when market participants can no longer submit orders for the SDAC;
42. 'intraday time-frame' means the time-frame of the electricity market after continuous trading opening time and before continuous trading closure time, where for each market time unit, products are traded prior to the delivery of the traded products;
43. 'intraday cross-zonal gate opening time' means the earliest point in time when cross-zonal capacity between bidding zones starts being available for capacity allocation in the SIDC for a given market time unit and a given bidding zone border;
44. 'intraday cross-zonal gate closure time' means the final point in time when cross-zonal capacity between bidding zones stops being available for capacity allocation in the SIDC for a given market time unit and a given bidding zone border;
- 45.39A 'continuous trading opening time' means the earliest point in time when the continuous trading starts matching orders for a given market time unit and a given bidding zone;
- 46.39B 'continuous trading closure time' means the latest point in time when the continuous trading stops matching orders for a given market time unit and a given bidding zone;
- 47.39C 'intraday auction gate opening time' means the point in time when market participants can start submitting orders for a given intraday auction and a given market time unit;
- 48.39D 'intraday auction gate closure time' means the point in time when market participants can no longer submit orders for a given intraday auction and a given market time unit;
49. 'capacity management module' means a system containing up-to-date information on available cross-zonal capacity for the purpose of allocating intra-day cross-zonal capacity;

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50. 'central counter party' means the entity or entities with the task of entering into contracts with each NEMO, by novation of the contracts resulting from the matching process, and providing clearing and settlement; [delete for option 1, only needed for option 2]
- 51.42A "counterparty" means the other party in any transaction concluded in the single day-ahead and intraday market;
52. 'firmness' means a guarantee that cross-zonal capacity rights will remain unchanged and that a compensation is paid if they are nevertheless changed;
53. 'force majeure' means any unforeseeable or unusual event or situation beyond the reasonable control of a TSO, and not due to a fault of the TSO, which cannot be avoided or overcome with reasonable foresight and diligence, which cannot be solved by measures which are from a technical, financial or economic point of view reasonably possible for the TSO, which has actually happened and is objectively verifiable, and which makes it impossible for the TSO to fulfil, temporarily or permanently, its obligations in accordance with this Regulation;
54. 'economic surplus for the single day-ahead or intraday coupling' means the sum of (i) the supplier surplus for the single day-ahead or intraday coupling for the relevant time period, (ii) the consumer surplus for the single day-ahead or intraday coupling, (iii) the congestion income and (iv) other related costs and benefits where these increase economic efficiency for the relevant time period, supplier and consumer surplus being the difference between the accepted orders and the clearing price per energy unit multiplied by the volume of energy of the orders.

Article 3. Article 3

Objectives of capacity allocation and congestion management cooperation

This Regulation aims at:

- (a) promoting effective competition in the generation, trading and supply of electricity;
- (b) ensuring optimal use of the transmission infrastructure;
- (c) ensuring operational security;
- (d) optimising the calculation and allocation of cross-zonal capacity;
- (e) ensuring fair and non-discriminatory treatment of TSOs, NEMOs, ACER, regulatory authorities and market participants;
- (f) ensuring and enhancing the transparency and reliability of information;
- (g) contributing to the efficient long-term operation and development of the electricity transmission system and electricity sector in the Union;
- (h) respecting the need for a fair and orderly market and fair and orderly price formation;
- (i) creating a level playing field for NEMOs;
- (i) providing non-discriminatory access to cross-zonal capacity.

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NEMOs designation and revocation of the designation

1. In each Member State electrically connected to a bidding zone in another Member State, the competent authority of that Member State shall ensure that one or more NEMOs are designated or are granted a passport to perform the single day-ahead and/or intraday coupling. For that purpose, domestic and non-domestic market operators may be invited to apply to be designated as a NEMO or to be granted a passport.
2. Each NEMO shall act as market operator in the markets where it is designated or granted a passport.
3. Except where 0 applies, the competent authority of a Member State shall allow applications for designation and passporting at least annually. If not indicated differently by the relevant competent authority, the designation is not subject to expiration.
4. Where a bidding zone consists of territories of more than one Member State, the competent authorities of these Member States shall ensure that one or more NEMOs are designated or are granted a passport to perform the single day-ahead and/or intraday coupling in this bidding zone.
5. The competent authority of a Member State shall assign the tasks referred to in Article 1/Article 19 to the service provider for last resort NEMO referred to in Article 1/Article 1 for the time necessary to designate or grant a passport to a NEMO pursuant to Article 5 in each of the following cases:
 - (a) no markets operators apply to be designated as a NEMO or to be granted a passport in the Member State;
 - (b) all of the NEMOs active in the Member State cease to perform the tasks referred to in Article 1/Article 19 or declare financial default;
 - (c) the designations of all of the NEMOs active in the Member State are revoked in accordance with paragraph 0;
6. Unless otherwise provided by Member States, regulatory authorities shall be the designating or passporting authority, responsible for NEMO designation, monitoring of compliance with the designation criteria and, in the case of national legal monopolies, the approval of NEMO fees or the methodology to calculate NEMO fees. Member States may provide that authorities other than the regulatory authorities be the designating authority. In these circumstances Member States shall ensure that the designating authority has the same rights and obligations as the regulatory authorities in order to effectively carry out its tasks.
7. The designating authority shall assess whether NEMO candidates meet the criteria set out in Article 6. Those criteria shall apply regardless of whether one or more NEMOs are appointed. When deciding upon NEMO designations, any discrimination between applicants, notably between non-domestic and domestic applicants, shall be avoided. If the designating authority is not the regulatory authority, the regulatory authority shall give an opinion on the extent to which the applicant for designation meets the designation criteria laid down in Article 6. NEMO designations shall only be refused where the designation criteria in Article 6 are not met or in accordance with 0.
8. A NEMO designated in one Member State shall have the right to offer day-ahead and intraday trading services with delivery in another Member State. The trading rules in the latter Member State shall apply without the need for designation as a NEMO in that Member State. The designating authorities shall monitor all NEMOs performing single day-ahead and/or intra-day coupling within their Member State. **Article 19 of Regulation (EC) No 714/2009** the designating authorities shall ensure

compliance with this Regulation by all NEMOs performing single day-ahead and/or intra-day coupling within their Member State, regardless of where the NEMOs were designated. The authorities in charge of NEMO designation, monitoring and enforcement shall exchange all information necessary for an efficient supervision of NEMO activities.

A designated NEMO must notify the competent authority of another Member State if it proposes to perform single day-ahead or intraday coupling in that Member State two months before commencing operation.

~~10.9.~~ By way of exception to paragraph 0 of this Article, the competent authority of a Member State may refuse the trading services by a NEMO designated in another Member State if:

- (a) a national legal monopoly for day-ahead and intraday trading services exists in the Member State or bidding zone of the Member State where delivery takes place in accordance with 0; or
- (b) the Member State where delivery takes place can establish that there are technical obstacles to delivery into that Member State of electricity purchased on day-ahead and intraday markets using NEMOs designated in another Member State linked to the need to ensure the objectives of this Regulation are met while maintaining operational security; or
- (c) the trading rules in the Member State of delivery are not compatible with the delivery into that Member State of electricity purchased on the basis of day-ahead and intraday trading services provided by a NEMO designated in another Member State; or
- (d) the NEMO is a national legal monopoly in accordance with Article 5 in the Member State where it is designated.

~~11.10.~~ In case of a decision to refuse day-ahead and/or intraday trading services with delivery in another Member State, the competent authority of the Member State of delivery shall notify its decision to the NEMO and to the designating authority of the Member State where the NEMO is designated, as well as to ACER and the Commission. The refusal shall be duly justified. In the cases set out in subparagraphs 13(e) and 13(f), the decision to refuse trading services with delivery in another Member State shall also set out how and by when the technical obstacles to trading can be overcome or the domestic trading rules can be made compatible with trading services with delivery in another Member State. The competent authority of the Member State refusing the trading services shall investigate the decision and publish an opinion on how to remove the obstacles to the trading services or how to make the trading services and the trading rules compatible.

~~12.11.~~ The Member State where the NEMO has been designated shall ensure that designation is revoked if the NEMO fails to maintain compliance with the criteria in Article 6 and is not able to restore compliance within six months of being notified of such failure by the designating authority. If the regulatory authority is not responsible for designation and monitoring, they shall be consulted on the revocation. The designating authority shall also notify the designating or competent authority of the other Member States in which that NEMO is active of its failure to maintain compliance at the same time it notifies the NEMO.

~~13.12.~~ If a designating authority of a Member State finds that a NEMO active but not designated in its country fails to maintain compliance with the criteria in Article 6 with respect to its activities in this country, it must notify the NEMO of its non-compliance. If the NEMO does not restore compliance within three months of being notified, the designating authority can suspend the right to offer intraday and day-ahead trading services in this Member State until such time as the NEMO restores compliance. The designating authority shall notify the designating authority of the Member State in which the NEMO is designated, ACER and the Commission.

~~14.13.~~ The competent authority shall inform ACER of the designation and revocation of NEMOs. ACER shall maintain a list of designated and passporting NEMOs, their status and where they operate on its website.

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Article 4 (Option 3)

NEMOs designation and revocation of the designation

In each Member State electrically connected to a bidding zone in another Member State, the competent authority of that Member State shall ensure that one or more NEMOs are designated or are granted a passport to perform the single ~~day-ahead-day-ahead~~ and/or intraday coupling. For that purpose, domestic and non-domestic market operators may be invited to apply to be designated as a NEMO or to be granted a passport.

Each NEMO shall act as market operator in the markets where it is designated or granted a passport.

Except where 0 applies, the competent authority of a Member State shall allow applications for designation and passporting at least annually. If not indicated differently by the relevant competent authority, the designation is not subject to expiration.

Where a bidding zone consists of territories of more than one Member State, the competent authorities of these Member States shall ensure that one or more NEMOs are designated or are granted a passport to perform the single ~~day-ahead-day-ahead~~ and/or intraday coupling in this bidding zone.

~~The competent authority of a Member State shall assign the tasks referred to in Article 1/Article 19 to the last resort service provider for last resort NEMO referred to in Article 1/Article 1 for the time necessary to designate or grant a passport to a NEMO pursuant to Article 5 in each of the following cases:~~

- ~~(a) no markets operators apply to be designated as a NEMO or to be granted a passport in the Member State;~~
- ~~(b) all of the NEMOs active in the Member State cease to perform the tasks referred to in Article 1/Article 19 or declare financial default;~~
- ~~(c) the designations of all of the NEMOs active in the Member State are revoked in accordance with paragraph 0;~~

Unless otherwise provided by Member States, regulatory authorities shall be the designating or passporting authority, responsible for NEMO designation, monitoring of compliance with the designation criteria ~~as well as compliance with any task assigned under this Regulation~~ and, in the case of national legal monopolies, the approval of NEMO fees or the methodology to calculate NEMO fees. Member States may provide that authorities other than the regulatory authorities be the designating authority. In these circumstances Member States shall ensure that the designating authority has the same rights and obligations as the regulatory authorities in order to effectively carry out its tasks.

The designating authority shall assess whether NEMO candidates meet the criteria set out in Article 6. Those criteria shall apply regardless of whether one or more NEMOs are appointed. When deciding upon NEMO designations, any discrimination between applicants, notably between non-domestic and domestic applicants, shall be avoided. If the designating authority is not the regulatory authority, the regulatory authority shall give an opinion on the extent to which the applicant for designation meets the designation criteria laid down in Article 6. NEMO designations shall only be refused where the designation criteria in Article 6 are not met or in accordance with 0.

A NEMO designated in one Member State shall have the right to offer day-ahead and intraday trading services with delivery in another Member State. The trading rules in the latter Member State shall apply without the need for designation as a NEMO in that Member State. The designating authorities shall

Commented [RL3]: NEMOs and TSOs disclaimer: NEMOs and TSOs believe such concept of "last resort NEMO" is poorly defined in the consultation and no proper justification has been proposed for its introduction.

NEMOs will provide their detailed feedback and explanations in dedicated document (NEMO Committee's feedback to ACER proposal on CACM amendment: critical aspects and counterproposals).

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monitor all NEMOs performing single day-ahead and/or intra-day coupling within their Member State. **Article 19 of Regulation (EC) No 714/2009** the designating authorities shall ensure compliance with this Regulation by all NEMOs performing single day-ahead and/or intra-day coupling within their Member State, regardless of where the NEMOs were designated. The authorities in charge of NEMO designation, monitoring and enforcement shall exchange all information necessary for an efficient supervision of NEMO activities.

A designated NEMO must notify the competent authority of another Member State if it proposes to perform single day-ahead or intraday coupling in that Member State two months before commencing operation.

By way of exception to paragraph 0 of this Article, the competent authority of a Member State may refuse the trading services by a NEMO designated in another Member State if:

~~(a)~~(d) a national legal monopoly for day-ahead and intraday trading services exists in the Member State or bidding zone of the Member State where delivery takes place in accordance with 0; or

~~(b)~~(e) the Member State where delivery takes place can establish that there are technical obstacles to delivery into that Member State of electricity purchased on day-ahead and intraday markets using NEMOs designated in another Member State linked to the need to ensure the objectives of this Regulation are met while maintaining operational security; or

~~(c)~~(f) the trading rules in the Member State of delivery are not compatible with the delivery into that Member State of electricity purchased on the basis of day-ahead and intraday trading services provided by a NEMO designated in another Member State; or

~~(d)~~(g) the NEMO is a national legal monopoly in accordance with Article 5 in the Member State where it is designated.

In case of a decision to refuse day-ahead and/or intraday trading services with delivery in another Member State, the competent authority of the Member State of delivery shall notify its decision to the NEMO and to the designating authority of the Member State where the NEMO is designated, as well as to ACER and the Commission. The refusal shall be duly justified. In the cases set out in subparagraphs (e) and (f), the decision to refuse trading services with delivery in another Member State shall also set out how and by when the technical obstacles to trading can be overcome or the domestic trading rules can be made compatible with trading services with delivery in another Member State. The competent authority of the Member State refusing the trading services shall investigate the decision and publish an opinion on how to remove the obstacles to the trading services or how to make the trading services and the trading rules compatible.

The Member State where the NEMO has been designated shall ensure that designation is revoked if the NEMO fails to maintain compliance with the criteria in Article 6 and is not able to restore compliance within six months of being notified of such failure by the designating authority. If the regulatory authority is not responsible for designation and monitoring, they shall be consulted on the revocation. The designating authority shall also notify the designating or competent authority of the other Member States in which that NEMO is active of its failure to maintain compliance at the same time it notifies the NEMO.

If a designating authority of a Member State finds that a NEMO active but not designated in its country fails to maintain compliance with the criteria in Article 6 with respect to its activities in this country, it must notify the NEMO of its non-compliance. If the NEMO does not restore compliance within three months of being notified, the designating authority can suspend the right to offer intraday and day-ahead trading services in this Member State until such time as the NEMO restores compliance. The designating authority shall notify the designating authority of the Member State in which the NEMO is designated, ACER and the Commission.

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The competent authority shall inform ACER of the designation and revocation of NEMOs. ACER shall maintain a list of designated and passporting NEMOs, their status and where they operate on its website.

Each and every designated NEMO shall participate in the joint NEMO-TSO decision making body, is jointly represented before the European Institutions, ACER and NRAs, and is jointly responsible through the NEMOs decision making body (NEMO) as further developed in the MCO function Organisation.

~~Article 5. — Article 4A (Option 1)~~

~~**Service of Last resort NEMO's service provider**~~

~~The function of last resort service provider shall be assigned to an entity selected through competitive tender or according to the procedure set out in the plan referred to in Article 18.~~

~~The procedure referred to in paragraph 1 shall indicate the date when the last resort service is available to all Member States that may request it.~~

~~Costs borne by the last resort service provider for performing the tasks referred to in Article 22 are recovered through a regulated mechanism as determined by the regulatory authority.~~

~~Article 6. — Article 4A (Option 2)~~

~~**Service of Last resort NEMO's service provider**~~

~~The function of last resort service provider shall be assigned to the MCO in accordance with the procedure set out in the plan referred to in Article 20.~~

~~The procedure referred to in paragraph 1 shall indicate the date when the last resort service is available to all Member States that may request it.~~

~~Costs borne by the MCO for providing the Member States with the last resort NEMO's service are recovered through a regulated mechanism as determined by those the competent regulatory authorities.~~

Commented [MF4]: Remove and introduce
1. Definition
2. Assignment of task to entity
3. Procedures for performing tasks

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~~Article 7. Article 5. — Article 5~~

NEMOs designation in case of a national legal monopoly for trading services

If a national legal monopoly for day-ahead and intraday trading services which excludes the designation of more than one NEMO already exists in a Member State or Member State's bidding zone at the time

name.

of the entry into force of this Regulation, the Member State concerned must notify the Commission within two months after entry into force of this regulation and may refuse the designation of more than one NEMO per bidding zone.

If there are several applicants to be designated as the only NEMO, the Member State concerned shall designate the applicant which best meets the criteria listed in Article 6. If a Member State refuses the designation of more than one NEMO per bidding zone, the competent national authority shall fix or approve the NEMO fees for trading in the day-ahead and intraday markets, sufficiently in advance of their entry into force, or specify the methodologies used to calculate them.

In accordance with 0, the Member State concerned may also refuse cross-border trading services offered by a NEMO designated in another Member State; however, the protection of existing power exchanges in that Member State from economic disadvantages through competition is not a valid reason for refusal.

For the purposes of this regulation, a national legal monopoly is deemed to exist where national law expressly provides that no more than one entity within a Member State or Member State bidding zone can carry out day-ahead and intraday trading services.

~~Article 8.~~ Article 6. Article 6

NEMO designation criteria

An applicant shall only be designated as a NEMO if it complies with all of the following requirements:

- (a) it has contracted or contracts adequate resources for common, coordinated and compliant operation of single day-ahead and/or intraday coupling, including the resources necessary to fulfil the NEMO functions, financial resources, the necessary information technology, technical infrastructure and operational procedures or it shall provide proof that it is able to make these resources available within a reasonable preparatory period before taking up its tasks in accordance with Article 1/Article 19;
- (b) it shall be able to ensure that market participants have open access to information regarding the NEMO tasks in accordance with Article 1/Article 19;
- (c) it shall be cost-efficient with respect to single day-ahead and intraday coupling and shall in its internal accounting keep separate accounts for MCO functions and other activities in order to prevent cross-subsidisation;
- (d) it shall have an adequate level of business separation from other market participants;
- (e) if designated as a national legal monopoly for day-ahead and intraday trading services in a Member State, it shall not use the fees in Article 5 to finance its day-ahead or intraday activities in a Member State other than the one where these fees are collected;
- (f) it shall be able to treat all market participants in a non-discriminatory way;
- (g) it shall have appropriate market surveillance arrangements in place;
- (h) it shall have in place appropriate transparency and confidentiality agreements with market participants and the TSOs;
- (i) it shall be able to provide the necessary clearing and settlement services in accordance with relevant requirements;

(j) it shall be able to put in place the necessary communication systems and routines for coordinating with the TSOs of the Member State.

The designation criteria set out in paragraph 0 shall be applied in such a way that competition between NEMOs is organised in a fair and non-discriminatory manner.

~~Article 9.~~ Article 7. Article 9

Adoption of terms and conditions or methodologies

TSOs and NEMOs shall develop the terms and conditions or methodologies required by this Regulation and submit them for approval to ACER or the competent regulatory authorities within the respective deadlines set out in this Regulation. In exceptional circumstances, notably in cases where a deadline cannot be met due to circumstances external to the sphere of TSOs or NEMOs, the deadlines for terms and conditions or methodologies may be prolonged by ACER in procedures pursuant to paragraph 0, jointly by all competent regulatory authorities in procedures pursuant to paragraph 0, and by the competent regulatory authority in procedures pursuant to paragraph 0.

Where a proposal for terms and conditions or methodologies pursuant to this Regulation needs to be developed and agreed by more than one TSO or NEMO, the participating TSOs and NEMOs shall closely cooperate. TSOs, with the assistance of the ENTSO for Electricity, and all NEMOs shall regularly inform the competent regulatory authorities and ACER about the progress of developing those terms and conditions or methodologies.

Where TSOs or NEMOs deciding on proposals for terms and conditions or methodologies listed in paragraph 0 are not able to reach an agreement, they shall decide by qualified majority voting. The qualified majority shall be reached within each of the respective voting classes of TSOs and NEMOs. A qualified majority for proposals listed in paragraph 0 shall require the following majority:

- (a) TSOs or NEMOs representing at least 55 % of the Member States; and
- (b) TSOs or NEMOs representing Member States comprising at least 65 % of the population of the Union.

A blocking minority for decisions on proposals for terms and conditions or methodologies listed in paragraph 0 shall include ~~TSOs or NEMOs~~ representing in full at least four Member States or four individual NEMOs, failing of which the qualified majority shall be deemed attained.

For TSO decisions on proposals for terms and conditions or methodologies listed in paragraph 0, one vote shall be attributed per Member State. If there is more than one TSO in the territory of a Member State, the Member State shall allocate the voting powers among the TSOs.

For NEMOs deciding on proposals for terms and conditions or methodologies listed in paragraph 0, one vote shall be attributed per Member State. Each NEMO shall have a number of votes equal to the number of Member States where it is designated or is granted a passport. ~~If more than one NEMO is designated in or is granted a passport~~ ~~for in~~ the territory of a Member State, ~~the Member State shall allocate~~ the voting powers are distributed among the NEMOs, ~~taking into account based on their~~ respective volume of transacted electricity of those NEMOs and that it is either designated or is ~~passporting~~ ~~in~~ that particular Member State in the preceding financial year in SDAC or SIDC separately or jointly where appropriate.

~~For joint NEMO and TSO decisions in accordance with paragraph 6, 50 % of the vote shall be attributed to NEMOs and 50 % of the vote shall be attributed to TSOs. If there is more than one TSO in the territory~~

Commented [RL6]: NEMOs and TSOs do not understand how it would work under the current proposal – e.g how the representation of Member states would be counted in MNAs. NEMOs and TSOs propose to discuss the article in detail in one of the future meetings.

General preliminary remarks :

- 1) The OMV shall apply for all decisions, not only TCMs.
- 2) NEMOs and TSOs do not understand the concept of blocking minority – why the number 3 ?
- 3) How to apply the representation of 4 Member states?
- 4) How to apply the mechanism to the 3 voting classes?

Commented [MF7]: UNDER REVIEW Proposal from NEMOs have 3 NEMOs/TSOs representing at least 4 MSs (in stead of just referring to 4 memberstates)

Commented [MF8]: Include explicit TSO and NEMOs

Move to four TSOs/NEMOs ?

Add 45% and 35% as a blocking minority %

Commented [MF9]: Should we move this back to original text if we have a separate text below?

Commented [MF10]: Original text -> include in full -> explain

Commented [MF11]: UNDER REVIEW : include a direct rule to distribute the votes among NEMOs active in a member state and remove the need to have separate decisions yearly (for NEMOs)

Commented [MF12]: NP EMCO: Suggestion to also include part of a vote based on designation or passport separate from traded volume.

Commented [MF13]: Include proposal for inclusion in the vote distribution a passport/designation

Commented [MF14]: We propose to discuss whether 70/30 fixed vote distribution to be proposed here.

~~of a Member State, the Member State shall allocate the voting powers among the TSOs. If more than one NEMO is designated in the territory of a Member State or is granted a passport, the Member State shall allocate the voting powers are distributed among the NEMOs, taking into account based on their respective volume of transacted electricity of those NEMOs in that particular Member State in the preceding financial year in SDAC or SIDC separately or jointly where appropriate.~~

Where TSOs and NEMOs deciding jointly on proposals for terms and conditions or methodologies listed in paragraph 7 are not able to reach an agreement, they shall decide by qualified majority voting. The qualified majority shall be reached within the voting class joining all TSOs and all NEMOs. A qualified majority for proposals listed in paragraph 0 shall require the following majority:

(c) TSOs and NEMOs representing at least 55 % of the Member States; and

(d) TSOs and NEMOs representing Member States comprising at least 65 % of the population of the Union.

A blocking minority for decisions on proposals for terms and conditions or methodologies listed in paragraph 0 shall include at least 8 individual TSOs or NEMOs, failing of which the qualified majority shall be deemed attained.

The vote representing each Member State shall be allocated 50% to the TSOs in the territory of the respective Member State and 50% to the NEMOs designated or passporting of the respective Member State. If there is more than one TSO or NEMO in the territory of a Member State the allocation of voting powers among the respective TSOs or NEMOs shall be done in accordance with paragraph 2, fourth and fifth subparagraph.

~~Except for Article 43(1), Article 44, Article 56(1), Article 63 and Article 74(1),~~ Where TSOs deciding on proposals for terms and conditions or methodologies listed in paragraph 0 are not able to reach an agreement and where the regions concerned are composed of more than five Member States, they shall decide by qualified majority voting. The qualified majority shall be reached within each of the respective voting classes of TSOs and NEMOs. A qualified majority for proposals for terms and conditions or methodologies listed in paragraph 0 shall require the following majority:

~~(a)~~(e) TSOs representing at least 72 % of the Member States concerned; and

~~(b)~~(f) TSOs representing Member States comprising at least 65 % of the population of the concerned region.

A blocking minority for decisions on proposals for terms and conditions or methodologies listed in paragraph 0 shall include at least the minimum number of TSOs representing more than 35 % of the population of the participating Member States, plus TSOs representing at least one additional Member State concerned, failing of which the qualified majority shall be deemed attained.

TSOs deciding on proposals for terms and conditions or methodologies listed in paragraph 0 in relation to regions composed of five Member States or less shall decide by consensus.

For TSO decisions on proposals for terms and conditions or methodologies listed in paragraph 0, one vote shall be attributed per Member State. If there is more than one TSO in the territory of a Member State, the Member State shall allocate the voting powers among the TSOs.

~~NEMOs deciding on proposals for terms and conditions or methodologies listed in paragraph 7 shall decide by consensus.~~

If TSOs or NEMOs fail to submit an initial or amended proposal for terms and conditions or methodologies to the competent regulatory authorities or ACER in accordance with paragraphs 0, 0 and 0 within the deadlines set out in this Regulation, they shall provide the competent regulatory authorities

Commented [MF15]: Under consideration based on TSO/NEMO simulations

Commented [MF16]: For discussion : isn't this what is the process in case TSOs and/or NEMOs fail to agree (or get a QMV) on a proposal? Do we need additional fallback in addition? The final part of the first sentence also refers to 'prevented an agreement'

and ACER with the relevant drafts of the proposals for the terms and conditions or methodologies, and explain what has prevented an agreement. ACER, all competent regulatory authorities jointly, or the competent regulatory authority shall take the appropriate steps for the adoption of the required terms and conditions or methodologies in accordance with paragraphs 0, 0 and 0 respectively, for instance by requesting amendments or revising and completing the drafts pursuant to this paragraph, including where no drafts have been submitted, and approve them.

Each regulatory authority or where applicable ACER, as the case may be, shall approve the terms and conditions or methodologies used to calculate or set out the single day-ahead and intraday coupling developed by TSOs, NEMOs or TSOs and NEMOs. They shall be responsible for approving the terms and conditions or methodologies referred to in paragraphs 0, 0 and 0. Before approving the terms and conditions or methodologies, ACER or the competent regulatory authorities shall revise the proposals where necessary, after consulting the respective TSOs, NEMOs or TSOs and NEMOs, in order to ensure that they are in line with the purpose of this Regulation and contribute to market integration, non-discrimination, effective competition and the proper functioning of the market.

The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by ACER:

- ~~(a)~~(g) the MCO plan in accordance with 0;
- ~~(b)~~(h) the methodology on the publication of information in accordance with 0;
- ~~(c)~~(i) the capacity calculation regions in accordance with 0;
- ~~(d)~~(j) the proposal for a harmonised capacity calculation methodology in accordance with 0;
- ~~(e)~~(k) the day-ahead timings and procedures in accordance with 0;
- ~~(f)~~(l) the intraday timings and procedures in accordance with 0;
- ~~(g)~~(m) the algorithm methodology in accordance with 0;
- ~~(h)~~(n) products that can be accommodated in the single day-ahead and intraday coupling process in accordance with 0;
- ~~(i)~~(o) the maximum and minimum prices in accordance with 0;
- ~~(j)~~(p) the common methodologies for the calculation of scheduled exchanges in accordance with 0;
- ~~(k)~~(q) the methodology on requirements for clearing and settlement in spot electricity markets in accordance with 0/0;
- ~~(l)~~(r) the congestion income distribution methodology in accordance with 0/0;
- ~~(m)~~(s) the MCO eligible costs methodology in accordance with 0/0;

The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by all regulatory authorities of the concerned region:

- ~~(a)~~(t) the common capacity calculation methodology in accordance with 0;

Commented [A17]: Only applicable in Option 1 (multiple entities)

The following terms and conditions or methodologies and any amendments thereof shall be subject to individual approval by each regulatory authority or other competent authority of the Member States concerned:

~~(a)~~(u) where applicable, NEMO designation and revocation or suspension of designation in accordance with 0,0 and 0;

~~(b)~~(v) if applicable, the fees or the methodologies used to calculate the fees of NEMOs relating to trading in the day-ahead and intraday markets in accordance with 0;

~~(e)~~(w) proposals of individual TSOs for a review of the bidding zone configuration in accordance with Article 59(c);

~~(d)~~(x) capacity allocation and congestion management costs in accordance with **Articles 75 to 79**;

The proposal for terms and conditions or methodologies shall include:

~~(a)~~(y) a timescale for their implementation, with clear implementation deadlines;

~~(b)~~(z) an implementation plan with clear implementation tasks, milestones and deliverables;

~~(e)~~(aa) assignment of individual responsibilities to the entity or entities responsible for the implementation for the tasks pursuant to point b); and

~~(d)~~(bb) a description of their expected impact on each of the objectives of this Regulation.

Proposals for terms and conditions or methodologies subject to the approval by several regulatory authorities in accordance with paragraph 0 shall be submitted to ACER within 1 week of their submission to regulatory authorities.

Proposals for terms and conditions or methodologies subject to the approval by one regulatory authority in accordance with paragraph 0 may be submitted to ACER within 1 month of their submission at the discretion of the regulatory authority while they shall be submitted upon ACER's request for information purposes in accordance with Article 3(2) of the Regulation (EU) 2019/942 if ACER considers the proposal to have a cross-border impact. Upon request by the competent regulatory authorities, ACER shall issue an opinion within 3 months on the proposals for terms and conditions or methodologies.

9a. The entity or entities jointly responsible for the implementation shall provide to the regulatory authorities and ACER the following information regarding the implementation

~~(a)~~(cc) regular updates on the implementation plan;

~~(b)~~(dd) the information on the implementation progress with regard to individual and joint implementation steps, milestones and deliverables;

~~(e)~~(ee) without undue delay, the possible risks of implementation delay and possible mitigation options;

~~(d)~~(ff) the entity responsible for delays in implementation tasks, milestones and deliverables with individual responsibilities; and

~~(e)~~(gg) the contribution of the entity or the entities jointly responsible to the failure to meet the implementation tasks, milestones and deliverables with joint responsibilities.

~~Article 7.~~ *Article 9 (Option 3)*

Commented [RL18]: NEMOs and TSOs drafted a proposal that fixes issues in ACER's original draft.

1. TSOs and NEMOs shall develop the terms and conditions or methodologies required by this Regulation and submit them for approval to ACER or the competent regulatory authorities within the respective deadlines set out in this Regulation. In exceptional circumstances, notably in cases where a deadline cannot be met due to circumstances external to the sphere of TSOs or NEMOs, the deadlines for terms and conditions or methodologies may be prolonged by ACER in procedures pursuant to paragraph 0, jointly by all competent regulatory authorities in procedures pursuant to paragraph 0, and by the competent regulatory authority in procedures pursuant to paragraph 0.

Where a proposal for terms and conditions or methodologies pursuant to this Regulation needs to be developed and agreed by more than one TSO or NEMO, the participating TSOs and NEMOs shall closely cooperate. TSOs, with the assistance of the ENTSO for Electricity, and all NEMOs shall regularly inform the competent regulatory authorities and ACER about the progress of developing those terms and conditions or methodologies.

~~3.2.~~ Where TSOs and NEMOs deciding on proposals for terms and conditions or methodologies listed in paragraph 0 are not able to reach an agreement, they shall decide by qualified majority voting. A qualified majority for proposals listed in paragraph 0 shall require the following majority:

- a) TSOs and NEMOs representing at least 55 % of the Member States; and
- b) TSOs and NEMOs representing Member States comprising at least 65 % of the population of the Union.

When decisions on proposals for terms and conditions or methodologies listed in paragraph 0 are approved by qualified majority voting, the following shall apply:

- a) for TSO, one vote shall be attributed per Member State. If there is more than one TSO in the territory of a Member State, the Member State shall allocate the voting powers among the TSOs.
- b) for NEMOs, one vote shall be attributed per Member State. Each NEMO shall have a number of votes equal to the number of Member States where it is designated or is granted a passport. If more than one NEMO is designated in or is passporting in the territory of a Member State, the voting powers are distributed among the NEMOs, based on the respective volume of transacted electricity of those NEMOs and that it is either designated or is passporting in that particular Member State in the preceding financial year in SDAC or SIDC separately or jointly where appropriate.
- c) A blocking minority for decisions on proposals for terms and conditions or methodologies listed in paragraph 7 shall include TSOs representing at least four Member States or four individual NEMOs, failing of which the qualified majority shall be deemed attained..

~~4.3.~~ Where TSOs deciding on proposals

1. for pan-European terms and conditions or methodologies listed in paragraph 7, 8 and 9 are not able to reach an agreement, they shall decide by qualified majority voting. A qualified majority for proposals listed in paragraph 7 shall require the following majority:

- a) TSOs ~~and NEMOs~~ representing at least 55 % of the Member States; and
- b) TSOs ~~and NEMOs~~ representing Member States comprising at least 65 % of the population of the Union.

name.

2. for regional terms and conditions or methodologies listed in paragraph 0 are not able to reach an agreement and where the regions concerned are composed of more than five Member States, they shall decide by qualified majority voting.. A qualified majority for proposals for terms and conditions or methodologies listed in paragraphs 7, 0 and 9 shall require the following majority:
 - a) TSOs representing at least 72 % of the Member States concerned; and
 - b) TSOs representing Member States comprising at least 65 % of the population of the concerned region.

A blocking minority for decisions on proposals for terms and conditions or methodologies listed in paragraph 0 shall include at least the minimum number of TSOs representing more than 35 % of the population of the participating Member States, plus TSOs representing at least one additional Member State concerned, failing of which the qualified majority shall be deemed attained.

TSOs deciding on proposals for terms and conditions or methodologies listed in paragraph 0 in relation to regions composed of five Member States or less shall decide by consensus.

For TSO decisions on proposals for terms and conditions or methodologies listed in paragraph 0, one vote shall be attributed per Member State. If there is more than one TSO in the territory of a Member State, the Member State shall allocate the voting powers among the TSOs.

5.4. Where NEMOs deciding on proposals for terms and conditions or methodologies listed in paragraph 8 are not able to reach consensus, they shall decide by qualified majority voting. A qualified majority for proposals for terms and conditions or methodologies listed in paragraph 8 shall require the majority of 75% of all NEMOs.

6.5. If TSOs or NEMOs fail to submit an initial or amended proposal for terms and conditions or methodologies to the competent regulatory authorities or ACER in accordance with paragraphs 0, 0 and 0 within the deadlines set out in this Regulation, they shall provide the competent regulatory authorities and ACER with the relevant drafts of the proposals for the terms and conditions or methodologies, and explain what has prevented an agreement. ACER, all competent regulatory authorities jointly, or the competent regulatory authority shall take the appropriate steps for the adoption of the required terms and conditions or methodologies in accordance with paragraphs 0, 0 and 0 respectively, for instance by requesting amendments or revising and completing the drafts pursuant to this paragraph, including where no drafts have been submitted, and approve them.

7.6. Each regulatory authority or where applicable ACER, as the case may be, shall approve the terms and conditions or methodologies used to calculate or set out the single day-ahead and intraday coupling developed by TSOs, NEMOs or TSOs and NEMOs. They shall be responsible for approving the terms and conditions or methodologies referred to in paragraphs 0, 0 and 0. Before approving the terms and conditions or methodologies, ACER or the competent regulatory authorities shall revise the proposals where necessary, after consulting the respective TSOs, NEMOs or TSOs and NEMOs, in order to ensure that they are in line with the purpose of this Regulation and contribute to market integration, non-discrimination, effective competition and the proper functioning of the market.

The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by ACER:

- (a) the MCO plan in accordance with 0;
- (b) the methodology on the publication of information in accordance with 0;
- (c) the capacity calculation regions in accordance with 0;

Commented [MF19]: For discussion : isn't this what is the process in case TSOs and/or NEMOs fail to agree (or get a QMV) on a proposal? Do we need additional fallback in addition? The final part of the first sentence also refers to 'prevented an agreement'

Commented [A20]: Only applicable in Option 1 (multiple entities)

- (d) the proposal for a harmonised capacity calculation methodology in accordance with 0;
- (e) the day-ahead timings and procedures in accordance with 0;
- (f) the intraday timings and procedures in accordance with 0;
- (g) the algorithm methodology in accordance with 0;
- (h) products that can be accommodated in the single day-ahead and intraday coupling process in accordance with 0;
- (i) the maximum and minimum prices in accordance with 0;
- (j) the common methodologies for the calculation of scheduled exchanges in accordance with 0;
- (k) the methodology on requirements for clearing and settlement in spot electricity markets in accordance with 0/0;
- (l) the congestion income distribution methodology in accordance with 0/0;
- (m) the MCO eligible costs methodology in accordance with 0/0;

The proposals for the following terms and conditions or methodologies and any amendments thereof shall be subject to approval by all regulatory authorities of the concerned region:

~~(a)~~(n) the common capacity calculation methodology in accordance with 0;

The following terms and conditions or methodologies and any amendments thereof shall be subject to individual approval by each regulatory authority or other competent authority of the Member States concerned:

~~(a)~~(o) where applicable, NEMO designation and revocation or suspension of designation in accordance with 0,0 and 0;

~~(b)~~(p) if applicable, the fees or the methodologies used to calculate the fees of NEMOs relating to trading in the day-ahead and intraday markets in accordance with 0;

~~(e)~~(q) proposals of individual TSOs for a review of the bidding zone configuration in accordance with Article 59(c);

~~(d)~~(r) capacity allocation and congestion management costs in accordance with **Articles 75 to 79**;

The proposal for terms and conditions or methodologies shall include:

~~(a)~~(s) a timescale for their implementation, with clear implementation deadlines;

~~(b)~~(t) an implementation plan with clear implementation tasks, milestones and deliverables;

~~(e)~~(u) assignment of individual responsibilities to the entity or entities responsible for the implementation for the tasks pursuant to point b); and

~~(d)~~(v) a description of their expected impact on each of the objectives of this Regulation.

Proposals for terms and conditions or methodologies subject to the approval by several regulatory authorities in accordance with paragraph 0 shall be submitted to ACER within 1 week of their submission to regulatory authorities.

Proposals for terms and conditions or methodologies subject to the approval by one regulatory authority in accordance with paragraph 0 may be submitted to ACER within 1 month of their submission at the discretion of the regulatory authority while they shall be submitted upon ACER's request for information purposes in accordance with Article 3(2) of the Regulation (EU) 2019/942 if ACER considers the proposal to have a cross-border impact. Upon request by the competent regulatory authorities, ACER shall issue an opinion within 3 months on the proposals for terms and conditions or methodologies.

9a. The entity or entities jointly responsible for the implementation shall provide to the regulatory authorities and ACER the following information regarding the implementation

~~(a)~~(w) regular updates on the implementation plan;

~~(b)~~(x) the information on the implementation progress with regard to individual and joint implementation steps, milestones and deliverables;

~~(c)~~(y) without undue delay, the possible risks of implementation delay and possible mitigation options;

~~(d)~~(z) the entity responsible for delays in implementation tasks, milestones and deliverables with individual responsibilities; and

~~(e)~~(aa) the contribution of the entity or the entities jointly responsible to the failure to meet the implementation tasks, milestones and deliverables with joint responsibilities.

~~Article 10.~~Article 8. Article 10

~~Day to day management of the single day ahead and intraday coupling~~

~~TSOs and NEMOs shall jointly organise the day to day management of the single day ahead and intraday coupling. They shall meet regularly to discuss and decide on day to day operational issues. TSOs and NEMOs shall invite ACER and the Commission as observers to these meetings and shall publish summary minutes of the meetings.~~

~~Article 11.~~Article 9. Article 11

~~Stakeholder involvement~~

~~ACER, in close cooperation with ENTSO for Electricity, shall organise stakeholder involvement regarding single day-ahead and intraday coupling and other aspects of the implementation of this Regulation. This shall include regular meetings with stakeholders to identify problems and propose improvements notably related to the single day-ahead and intraday coupling. This shall not replace the stakeholder consultations in accordance with Article 10.~~

~~All NEMOs and all TSOs shall establish a permanent forum to involve stakeholders and market participants in all single day-ahead and intraday coupling issues having direct impact on them. This shall not replace the stakeholder consultations in accordance with Article 10.~~

Commented [MF21]: Move article to JDMB (A16) and

Commented [MF22]: E-control/LG: Moved to Article 13 (Article 16 A) OPEN/FOR DISCUSSION: ACER representative only in the Joint All-TSO-All-NEMO Decision Making body (Article 13 (3)) or additionally also in the Joint MCO entities decision making body (Article 13 (4)) ? should an ACER representative also be included in Option 2?

Commented [MF23]: OPEN/FOR DISCUSSION, ref : comments to art 36F

-a possible solution is the creation of a subgroup of MESC, as per ESC ToR, specific for Algo T&P and products. Would not entail changes to art.11.

Another possibility is a creation of art.11 (2), stating all NEMOs (and all TSOs ?) shall organise stakeholder involvement specifically citing Article 49, 52 and 53.

Commented [MF24]: Proposal by ACER on suggestion by DUR.

~~Article 12~~Article 10 ~~Article 12~~

Consultation

TSOs and NEMOs responsible for submitting proposals for terms and conditions or methodologies or their amendments in accordance with this Regulation shall consult stakeholders, including the relevant authorities of each Member State, on the draft proposals for terms and conditions or methodologies where explicitly set out in this Regulation.

The consultation shall last for a period of not less than one month, except for the draft proposals pursuant to points Article 7(g) to Article 7(s) of 0 that shall be consulted for a period of not less than two months.

The proposals pursuant to all the points of 0 shall be subject to public consultation at European level.

The proposals pursuant to all the points of 0 shall be subject to public consultation at the concerned regional level.

The proposals pursuant to all the points of 0 shall be subject to public consultation in each concerned Member State.

The entities responsible for the proposal for terms and conditions or methodologies shall duly consider the views of stakeholders resulting from the consultations undertaken in accordance with paragraph 0, prior to its submission for regulatory approval if required in accordance with Article 7 or prior to publication in all other cases. In all cases, a clear and robust justification for including or not the views resulting from the consultation shall be developed in the submission and published in a timely manner before or simultaneously with the publication of the proposal for terms and conditions or methodologies.

~~Article 13~~Article 11 ~~Article 13~~

Confidentiality obligations

Any confidential information received, exchanged or transmitted pursuant to this Regulation shall be subject to the conditions of professional secrecy laid down in paragraphs 0, 0 and 0.

The obligation of professional secrecy shall apply to any person subject to the provisions of this Regulation.

Confidential information received by the persons referred to in paragraph 0 in the course of their duties may not be divulged to any other person or authority, without prejudice to cases covered by national law, the other provisions of this Regulation or other relevant Union legislation.

Without prejudice to cases covered by national law, regulatory authorities, bodies or persons which receive confidential information pursuant to this Regulation may use it only for the purpose of the performance of their functions under this Regulation.

~~Article 14~~Article 12 ~~Article 13A~~

Publication of information

All NEMOs and all TSOs shall propose, review and where necessary amend a proposal for a methodology on the publication of information.

All entities referred to in 0 shall provide TSOs with all the relevant information to fulfil their obligations laid down in paragraph 0.

Commented [MF25]: Action : need to review input from consultation and improve article

All entities referred to in 0 shall ensure that information in paragraph 0 is published at a time and in a format that does not create an actual or potential competitive advantage or disadvantage to any individual or companies.

The methodology referred to in paragraph 0 shall include at least the requirements to publish the following information:

(a) by all NEMOs and all TSOs as soon as it becomes available the most up-to-date version of the following documents, related to all algorithms used to fulfil the requirements of Chapters 4 to 6, to the public:

- i. A full up-to-date description of the algorithms, detailing the functionalities that are currently in use,
- ii. market coupling procedures to perform the MCO functions in accordance with Article 7,
- iii. fallback procedures set out in Article 44,
- iv. backup procedures set out in Article 36(3),
- v. requirements set out in 0;
- vi. a description of future foreseen amendments of points (i) to (v), including a timescale for implementation.

Commented [A26]: Or 3B ?

Commented [A27]: To be merged into a single point

(b) by each RCC as soon as it becomes available the most up-to-date information related to the capacity calculation process on:

- i. capacity calculation inputs pursuant to Article xx;
- ii. cross zonal Capacity calculation outputs pursuant to Article 30A;

(c) [...] by each TSO as soon as it becomes available the most up-to-date information related to:

- i. [...]

(d) by each NEMO as soon as it becomes available the most up-to-date information related to:

- i. After the orders are matched, at least the status of execution of orders and prices per trade produced by each SDAC and SIDC algorithm
- ii. the information on aggregated executed volumes and prices from SDAC and SIDC in an easily accessible format for at least 5 years.
- iii. [...]

Each RCC, NEMO and TSO shall publish the information pursuant to paragraph 0 in a commonly agreed harmonised format at least through the information transparency platform established pursuant to Article 3 of Regulation (EU) No 543/2013. No later than four months after the entry into force of this Regulation, ENTSO-E shall update the manual of procedures as referred to Article 5 of Regulation (EU) No 543/2013 and submit it to ACER for its opinion, which ACER shall provide within two months.

~~Article 15~~ ~~Article 13~~ Article 13B

Delegation of tasks

A TSO or NEMO may delegate all or part of any task referred to in Article 1/~~Article 18~~ Article 19 and 0)/0) to one or more third parties seated in a ~~M~~member State in the case the third party can carry out the respective function at least as effectively as the delegating entity.

Prior to the delegation, the third party concerned shall have clearly demonstrated to the delegating party its ability to meet each of the obligations of this Regulation and shall have agreed to be subject to the regulatory oversight of the competent regulatory authority.

The relevant regulatory authority shall ensure regulatory oversight of the delegated entity in respect of the delegated tasks and obligations. The delegating entity shall remain responsible for ensuring compliance with the obligations under this Regulation, including ensuring access to contracts and to any other information necessary for monitoring by the regulatory authority.

In the event that all or part of any task specified in this Regulation is delegated to a third party, the delegating party shall ensure that suitable confidentiality agreements in accordance with the confidentiality obligations of the delegating party have been put in place prior to delegation.

The delegating entity shall not be allowed to charge any fees to the third party in relation to the task that is delegated.

TITLE II

ORGANISATION OF MARKET COUPLING AND OF CAPACITY CALCULATION

CHAPTER 1

MCO ORGANISATION

~~Article 16~~ ~~Article 14~~ Article 3A (~~Option 1~~)

MCO governance principles

All NEMOs and all TSOs shall jointly organise the management of the integrated single day-ahead and intraday coupling ~~are jointly responsible for the MCO tasks referred to in Article 21.1.~~

All NEMOs and all TSOs shall establish a joint decision-making body for decisions concerning:

(a) ~~the detailed rules and requirements on the MCO tasks pursuant to 0 needed for the implementation the respective TCMs pursuant to this regulation.~~

Commented [MF28]: Text proposal to discuss: 'All NEMOs and all TSOs shall jointly organise the management of the integrated day-ahead and intraday markets' to prevent a contradiction with joint vs individual responsibilities of the entity or entities performing MCO tasks and NRA possibility to enforce the entities directly.

Commented [MF29]: To be checked further whether it to be more specific: rules and requirements here are the more detailed procedures following from the TCMs.

~~(b) the assignment of the MCO tasks referred to in Article 18(b) to Article 18(n) in accordance with the principles referred to in Article 15 and the procedure referred to in Article 16(e);~~

~~(a) the MCO tasks referred to in Article 21.1(a) and Article 21.1(b)~~

Option 1:

~~(b) the assignment of the MCO tasks referred to in Article 21.1) Article 21.1(e) to Article 21.1(j) to one or more entities in accordance with the principles referred to in Article 17 and the procedure referred to in Article 18.1(e);~~

~~(c) the assignment of the MCO tasks referred to in Article 21.1(k) to a single entity or entities in accordance with the procedure referred to in Article 18.1(f);~~

~~(d) the assignment of the MCO tasks referred to in Article 21.1(l) to a single entity in accordance with the methodology referred to in Article 64;~~

~~(e) the selection of the last resort NEMO's service provider in accordance with the principles referred to in Article 5 and the procedure referred to in Article 18.1(g).~~

Option 2:

~~7~~The joint NEMO-TSO decision-making body shall:

~~(c) organise the management of the single day-ahead and intraday coupling and decide on related issues;~~

~~(a)(d) decide take decisions pursuant to this Article with the qualified majority decision making process from in accordance with Article 9.2;~~

~~(e) apply accounting unbundling to the activities needed to perform the MCO tasks referred to pursuant to paragraph (a) Article 21.1(a) and Article 21.1(b) in accordance with the methodology referred to in 0; and~~

~~(f) meet regularly and invite a limited representation of the Commission, ACER and regulatory authorities as observers to its meetings and shall publish summary minutes of the meetings within one month after the meeting.~~

~~In the event that more entities are assigned the MCO tasks referred to in Article 21.1(e) to Article 21.1(j), those entities shall establish a joint decision-making body for taking decisions concerning the MCO daily operation in accordance with the procedures referred to in Article 18.1(b).~~

Cooperation between ~~all NEMOs and~~ all NEMOs and all TSOs shall be strictly limited to what is necessary for the efficient and secure design, implementation and operation of single day-ahead and intraday coupling. The joint performance of MCO tasks shall be based on the principle of non-discrimination and the governance arrangements pursuant to Article 16(c) shall ensure that no NEMO or TSO can benefit from unjustified economic advantages through participation in ~~in~~ the joint NEMO-TSO decision-making bodies ~~body~~.

All regulatory authorities and ACER shall monitor the MCO's performance and assess its effectiveness and efficiency in accordance with Article 63.

Article 14 Article 3A (Option 3)

Commented [MF30]: Deadline included

Commented [MF31]: Suggest to remove this paragraph as this body is now part of the JDMB

MCO governance principles

1. NEMOs and/or TSOs are responsible and accountable for the MCO tasks as further described in following paragraphs of this art. 14. All regulatory authorities and ACER shall monitor the MCO function's performance and assess its effectiveness and efficiency in accordance with Article 63. All regulatory authorities shall assess whether the MCO tasks, that have been carried out jointly by NEMOs and/or TSOs, have been complied with, indicating the corrective measures to be taken in case of non-compliance. Following such an assessment by all regulatory authorities, each regulatory authority may take enforcement action at national level pursuant to its national legislation, in a coordinated manner.

2. All NEMOs and all TSOs are jointly responsible and accountable for the MCO function tasks referred to in Article 18(1) letters (a), (h) and (j). Decision concerning such MCO function tasks shall be taken by the Joint Decision-Making Body (JDMB) pursuant to the qualified majority voting described under art 7(2). The Joint Decision-Making Body shall:

(a) organise the management of the MCO function tasks referred to in Article 18(1) letters (a), (h) and (j) and decide on related issues;

(b) meet regularly and invite a limited representation of the Commission, ACER and regulatory authorities as observers to its meetings and shall publish summary minutes of the meetings within one month after the meeting

(c) consult with any interested and relevant pan-European industry associations of market participants and duly consider their views prior to making any decisions.

3. All TSOs are jointly responsible and accountable for the MCO function tasks referred to in Article 18 (m). Decision concerning the management of such MCO function tasks shall be taken by all TSOs within the TSOs decision making body (TDMB) pursuant to the qualified majority voting described under art 7(3). Where so agreed within a Member state, the relevant TSOs are individually responsible for the MCO function task referred to art. 18 (k), unless differently provided in the relevant regulation of the Member State.

4. All NEMOs are jointly responsible and accountable for the MCO function tasks referred to in Article 18(1) letters from (b) to (g) as well as letters (i) and (l). Decision concerning the management of such MCO function tasks shall be taken by all NEMOs within the NEMOs decision making body (NDMB) pursuant to the qualified majority voting described under art 7(4). Each NEMO is individually responsible for the MCO function task referred to in Article 18(1) letter (k).

5. With respect to the MCO function tasks described in art. 14. (1), (2), (3), NEMOs and TSOs shall apply accounting unbundling in accordance with the methodology referred to in Article 22.2.

6. Cooperation between all NEMOs and all TSOs shall be strictly limited to what is necessary for the efficient and secure design, implementation and operation of single day-ahead and intraday coupling. The joint performance of MCO function tasks shall be based on the principle of non-discrimination and the governance arrangements pursuant to Article 16(c) shall ensure that no NEMO or TSO can benefit from unjustified economic advantages through participation in the joint NEMO-TSO decision-making body.

~~Article 17, Article 15, Article 3BB (Option 1)~~

The entities performing Assignment of the MCO operational tasks

Option 1:

All NEMOs and all TSOs shall comply with the following principles when assigning the MCO tasks pursuant to 0 to the respective entities:

(a) the MCO tasks referred to in Article 18(b) to Article 18(i) (operational tasks incl backup) shall collectively be assigned to one or more single legal entities in accordance with the procedure referred to in Article 16(e);

(b) the MCO tasks referred to in Article 18(j) (fallback) shall be assigned to a one single legal entities in accordance with the procedure referred to in Article 16(e) unless the procedures pursuant to 0 (DA T&P) includes different regional fallback procedures pursuant to 0 in which case the tasks may be assigned to a single entity per region;

(c) the MCO tasks referred to in Article 18(k) and Article 18(l) (C&S to NEMOs and collecting CI) shall collectively be assigned to a single legal entity in accordance the procedure referred to in Article 16(e)

(d) the MCO task referred to in Article 18(m) (CI distribution) shall be assigned to a single legal entity in accordance with the procedure referred to in Article 16(e);

(e) the MCO task referred to in Article 18(n) (NoLR) shall be assigned to a single legal entity in accordance with the procedure referred to in Article 16(e).

The entities performing the MCO tasks referred to in Article 18(b)–Article 21.1(e) to Article 18(i)–Article 21.1(j) shall be assigned to one or more entities legally unbundled from a NEMO designated in accordance with Article 4.

In the event that all the MCO tasks referred to in Article 18(b)–Article 21.1(e) to Article 21.1(j)–Article 18(i) are assigned to a single legal entity, such entity shall be selected through a competitive tender, fulfil the technical requirements and provide adequate backup, in accordance with the plan procedure referred to in Article 16(f)–Article 18.

In the event that all the MCO tasks referred to in Article 18(b)–Article 21.1(e) to Article 21.1(j)–Article 18(i) are assigned to more than one legal entities, each legal entity shall perform all these tasks on a rotational basis, either as the Default Coordinator or as one of the Backup Coordinators, in accordance with the rules of procedure referred to in Article 16(f) and the procedures referred to in Article 52.3(b) in accordance to the plan referred to in Article 18.

In the event that all the MCO tasks referred to in Article 18(b) to Article 18(n) (all MCO tasks) are assigned to a single legal entity, such entity shall either be selected through a competitive tender or shall be a company owned by all NEMOs and all TSOs.

Option 2:

All NEMOs and all TSOs shall comply with the following principles when assigning the MCO tasks pursuant to 0 to the respective entities:

(f) the MCO tasks referred to in Article 18(b) to Article 18(n) (all MCO tasks) shall collectively be assigned to one single legal entities in accordance with the procedure referred to in Article 16(e);

(g) the MCO tasks referred to in Article 18(j) (fallback) may be assigned to a different legal entity different from the single legal entity referred to in subparagraph (a) in accordance with the procedure

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Commented [MF32]: Not sure where this should refer to

Commented [LS33]: We might leave to NEMOs and TSOs to decide whether it is more convenient to establish a completely new company or it is preferable to select an existing one.

referred to in Article 16(e). If the procedures pursuant to 0 (DA T&P) includes different regional fallback procedures pursuant to 0 the tasks may be assigned to different legal entities per respective region;

(h) the MCO task referred to in Article 18(m) (CI distribution) may be assigned to a different legal entity different from the single legal entity referred to in subparagraph (a) and in accordance with the procedure referred to in Article 16(e);

The single legal entity performing the MCO tasks referred to in Article 18(b) to Article 18(n) shall be legally unbundled from a NEMO and a TSO and shall either be selected through a competitive tender or shall be a company owned by all NEMOs and all TSOs.

O1+O2: common text

By ~~six~~ [XX] months after the approval of the ~~plan proposal~~ pursuant to 0, the joint decision-making body referred to in 0 shall designate the entity or entities entrusted with the performance of the MCO tasks referred to in 0 ~~Article 21.1(e) to Article 21.1(j)~~.

The entity or entities to which the MCO tasks are assigned to under this article shall have a legal form referred to in Annex II to Directive (EU) 2017/1132 of the European Parliament and of the Council and have their seat in a Member State of the Union ~~and shall fulfil the technical requirements set out in the plan referred to in Article 18.1(e)~~.

In performing their tasks under Union law, the entities performing the tasks referred to in Article 18(b) to Article 18(n) shall act independently of individual national interests and independently of the interests of NEMOs and TSOs.

Where MCO tasks and obligations are assigned to an entity ~~legally unbundled~~ separate from a NEMO or TSO, references to MCO in this Regulation shall be understood as referring to the assigned entity. The relevant regulatory authority shall ensure regulatory oversight of the assigned entity in respect of the assigned tasks and obligations.

Article 15 Article 3BB (Option 3)

NEMOs and TSOs propose to delete Art. 15 altogether because assignment of MCO tasks is already done through Art. 14.

Article 18 Article 16 Article 3C (Option 1)

MCO ~~Plan~~ Organisation

All NEMOs and all TSOs shall ~~develop, review and where necessary amend submit to all regulatory authorities and ACER a plan~~ the MCO organisation plan that sets out how to assign and perform the tasks described in 0 ~~the Article 24~~ in accordance with the principles referred to in Article 14 and Article 15. The ~~plan~~ MCO organisation shall include a detailed description of the following elements:

(a) the organisational, financial and operational arrangements necessary to ensure the efficient and reliable functioning of the MCO;

name.

Commented [MF34]: Explanation: ACER understand from EC that MS also refers to those under EEA (as CACM is 'with EEA relevance'). No explicit inclusion needed

Commented [LM(35): Proposal ?

Commented [MF36]: Martin wants to get rid of 'plan' because it does sound bidding enough.

(b) the rules of procedure of the Joint Decision Making Body referred to in 0 MCO for the implementation of the task referred to in Article 14(a) ~~Article Article 21.1(a)~~ and Article 21.1(b) and for the daily operation of tasks referred to in Article 21.1(c) to Article 21.1(j);

Commented [MF37]: check

(c) the governance arrangements describing the cooperation and involvement of all NEMOs and all TSOs in the decisions and operation of the MCO in accordance with the principles set out in Article 14;

(d) a description of the arrangements concerning the liability of NEMOs and TSOs for the performance of the MCO;

(e) the procedures for assigning the tasks referred to in Article 14(b) to one or more single legal entities including the technical requirements that those entity or entities shall fulfil ;

(f) the rules of procedure for the single legal entity or entities performing the tasks referred to in Article 14(b).

~~option 1~~

~~Option 2~~

~~No later than 30 September of each year, all NEMOs and all TSOs shall provide a draft annual work programme for the subsequent year to all regulatory authorities and ACER that describes the projects aiming at implementing the task referred to in Article 21.1(a). For each project, the document shall indicate the scope, the interdependency with the other projects, the priority level assigned, the requested investments including research and development activities, the expected benefits, the budget, the timeline for implementation, and the expected changes of terms and conditions or methodologies impacted by the project.~~

~~ACER may provide an opinion on the draft annual work programme referred to in paragraph 2 taking into account the objectives of non discrimination, effective competition and the efficient and secure functioning of the internal markets for electricity.~~

Article 16 Article 3C (Option 3)

MCO function Organisation

1. All NEMOs and all TSOs shall develop, review and where necessary amend the term, conditions and methodology on the MCO **function** organisation referred to in Article 7.7.(a) that sets out how to assign and perform the tasks described in 0 in accordance with the principles referred to in Article 14 and Article 15. The MCO **function** organisation shall include a detailed description of the following elements:

(a) the organisational, financial and operational arrangements necessary to ensure the efficient and reliable performance of the MCO **function** tasks;

(b) **a description of the implementation of the tasks** referred to in Article 14.1, 14.2 and 14.3. **Article 14(a);**

(c) the governance arrangements describing the cooperation and involvement of NEMOs and/or TSOs in the decisions and the operation of each MCO **function** task in accordance with the principles set out in Article 14;

(d) a description of the arrangements concerning the **accountability and responsibility** of each NEMO and/or TSO for the performance of the MCO **function tasks**;

Article 19. — Article 3A (Option 2)

MCO governance principles

~~All NEMOs and all TSOs shall designate a single entity which shall perform all the MCO tasks referred to in Article 24.~~

~~The MCO entity pursuant to paragraph 1 shall be a company owned by all NEMOs and all TSOs.~~

~~All NEMOs and all TSOs shall propose, review and where necessary amend the establishment plan of the MCO entity. The proposal shall at least include the following elements:~~

~~(a) the organisational, financial and operational arrangements necessary to ensure the efficient and reliable functioning of the MCO;~~

~~(b) an implementation plan for the entry into operation of the MCO;~~

~~(c) the statutes and rules of procedure of the MCO;~~

~~(d) the governance arrangements describing the cooperation and involvement of all NEMOs and all TSOs in the decisions and operation of the MCO;~~

~~(e) a description of the arrangements concerning the liability of the MCO;~~

~~(f) the Member State where the prospective seat of the MCO is located.~~

~~MCO shall have a legal form referred to in Annex II to Directive (EU) 2017/1132 of the European Parliament and of the Council.~~

~~In performing their tasks under Union law, MCO entity shall act independently of individual national interests and independently of the interests of NEMOs and TSOs.~~

~~The proposal pursuant to paragraph 3 shall limit cooperation between all NEMOs and all TSOs to what is strictly necessary for the efficient and reliable operation of the MCO. No NEMO or TSO shall be able to benefit from unjustified economic advantages through its participation in the governance of the MCO.~~

Article 20. Article 17. — Article 3C (Option 2)

Annual work programme

No later than 30 September of each year, the **Joint Decision Making Body** referred to in 0 MCO shall provide a draft annual work programme for the subsequent year to all regulatory authorities and ACER that describes the projects aiming at implementing the task referred to in Article 14(a) and Article 18(b) ~~Article 24.1(a)~~. For each project, the document shall indicate the scope, the interdependency with the other projects, the priority level assigned, the requested investments including research and development activities, the expected benefits, the budget, the timeline for implementation, and the expected changes of terms and conditions or methodologies impacted by the project.

Commented [MF38]: change

name.

ACER may provide an opinion on the draft annual work programme referred to in paragraph 1 taking into account the objectives of non-discrimination, effective competition and the efficient and secure functioning of the internal markets for electricity.

Article 17 Article 3C (Option 3)

Annual work programme

1. No later than 30 September of each year, the Joint Decision Making Body shall provide a draft annual work programme for the subsequent year to all regulatory authorities and ACER that describes the projects aiming at implementing the task referred to in Article 14(a). For each project, the document shall indicate the scope, the interdependency with the other projects, the priority level assigned, the requested investments including research and development activities, the expected benefits, the budget, the timeline for implementation, and the expected changes of terms and conditions or methodologies impacted by the project.

ACER may provide an opinion on the draft annual work programme referred to in paragraph 1 taking into account the objectives of non-discrimination, effective competition and the efficient and secure functioning of the internal markets for electricity.

CHAPTER 2

MCO TASKS AND RESPONSIBILITIES

~~*Article 21. Article 3B (Option 1)*~~

~~**MCO tasks**~~

~~The MCO shall be responsible for the following tasks:~~

- ~~(a) Developing and maintaining the algorithms, systems and procedures for single day ahead and intraday coupling in accordance with Title IV, Chapter 1;~~
- ~~(b) Assessing the impact of products and algorithm functionalities on the algorithms' performance in accordance with the methodology referred to in Article 51;~~
- ~~(c) Receiving, validating and processing input data on cross zonal capacity calculation outputs provided by RCCs in accordance with Article 54, Article 56, and Article 58;~~
- ~~(d) Receiving, validating and processing input data on orders provided by each NEMO in accordance with **Article 22.1(b)**;~~

~~(e) — Operating the single day-ahead and single intraday coupling by using the respective algorithms referred to in Article 51.1;~~

~~(f) — Validating and sending single day-ahead and intraday coupling results to NEMOs and TSOs in accordance with Articles 48 and 60;~~

~~(g) — Publishing the single day-ahead and intraday coupling results in accordance with Articles 39 and 52;~~

~~(h) — Calculating scheduled exchanges between NEMO trading hubs for each market time unit resulting from single day-ahead coupling and single intraday coupling in accordance with Article 60 and notifying relevant NEMOs and TSOs of the agreed scheduled exchanges;~~

~~(i) — Performing the co-optimised allocation process pursuant to Article 40 of Regulation (EU) 2017/2195;~~

~~(j) — Performing the backup procedures in the event of incidents in the single day-ahead coupling process or in the single intraday coupling process in accordance with Article 52;~~

~~(k) — Performing the fallback procedures in the event that the single day-ahead coupling process is unable to produce results in accordance with Article 52;~~

~~(l) — Sharing the congestion income in accordance with the methodology in accordance with Article 64.~~

~~On the basis of a proposal by the Commission or a Member State, the Committee established in accordance with Article 68 of Directive (EU) 2019/944 shall issue an opinion on the assignment of new tasks to the MCO. Where that Committee issues a favourable opinion on the assignment of these tasks, the MCO shall carry out those tasks on the basis of a proposal developed jointly by all NEMOs and all TSOs and approved by ACER in accordance with the procedure set out in Article 9.~~

~~The tasks referred to in the paragraph 1 shall be subject to the cost sharing and regulated cost recovery provisions in accordance with Article 28 of this Regulation.~~

Article 22. — Article 7 (Option 1)

-NEMO tasks

Each NEMO shall be responsible for the following tasks:

~~(a) — Receiving orders from market participants;~~

~~(b) — Anonymising orders received pursuant to paragraph a) and sending them to the MCO;~~

~~(c) — Validating the results received from the MCO as final and taking responsibility for them in accordance with Articles 48 and 60;~~

~~(d) — Accepting and rejecting orders in accordance with the single day-ahead and intraday coupling results;~~

~~(e) — Informing the market participants on the results of their orders in accordance with Articles 48 and 60;~~

name.

~~(f) — Clearing and settling the contracts resulting from the trades according to relevant participant agreements and regulations in accordance with Article 61.1 and Article 61.3;~~

~~(g) — Providing commercial trade schedules to TSOs in accordance with Article 62.2 and Article 62.3;~~

~~(h) — Clearing and settling the exchange of energy resulting from single day ahead day ahead and intraday coupling in accordance with Article 68(3);~~

~~(i) — Collecting congestion income resulting from single day ahead day ahead and intraday coupling and transferring it to the congestion income distributor in accordance with Article 64.4 and Article 64.5;~~

Article 23. — Article 8 (Option 1)

TSOs' and RCCs' tasks related to single day ahead and intraday coupling

~~In Member States electrically connected to another Member State all TSOs shall participate in the single day ahead and intraday coupling.~~

~~Each TSO shall be responsible for the following tasks:~~

~~(a) — provide the relevant RCC with all inputs needed to perform the capacity calculation, including the allocation constraints;~~

~~(b) — validate the results of the regional capacity calculation for its bidding zone borders or critical network elements, in accordance with Article 42.1;~~

~~(c) — send its capacity validation and allocation constraints to the relevant regional coordination centre and to the other TSOs of the relevant capacity calculation regions, in accordance with Article 42.2;~~

~~(d) — verify that the day ahead coupling results referred to in Article 54 and the intraday coupling results referred to in Article 56 and Article 58 have been calculated in accordance with the validated cross-zonal capacity and the allocation constraints;~~

~~(e) — respect the results from day ahead and intraday coupling calculated in accordance with Article 54, Article 56 and Article 58;~~

~~Each RCC shall be responsible for the following tasks:~~

~~(a) — performing capacity calculation in cooperation with the relevant TSOs in accordance with the methodology established by TSOs pursuant to Article 34;~~

~~(b) — providing the relevant TSOs with cross-zonal capacities to be validated in accordance with Article 42;~~

~~(c) — sending the validated cross-zonal capacities and allocation constraints to the MCO in accordance with Articles 46 and 58;~~

Article 24. Article 18. — Article 3B (Option 2)

MCO tasks

name.

The MCO shall be responsible for the following tasks:

- (a) Developing and maintaining the algorithms, ~~products and~~ systems ~~and procedures~~ for single day-ahead and intraday coupling ~~and assessing the impact of products and algorithm functionalities on the algorithms' performance~~ in accordance with ~~Title IV, Chapter 1, Assessing the impact of products and algorithm functionalities on the algorithms' performance in accordance with the methodology referred to in Article 51;~~
- (b) Receiving, validating and processing input data on cross zonal capacity and allocation constraints provided by RCCs in accordance with Article 48, Article 50, and Article 52;
- (c) Receiving, validating and processing input data on orders provided by NEMOs in accordance with **Article 19(b)**;
- (d) Operating the single day-ahead and single intraday coupling by using the respective algorithms referred to in 0;
- (e) Validating and sending single day-ahead and intraday coupling results to NEMOs and TSOs in accordance with **Articles 48 and 60**;
- (f) Publishing the single day-ahead and intraday coupling results in accordance with **Articles 39 and 52**;
- (g) Calculating scheduled exchanges between NEMO trading hubs for each market time unit resulting from single day-ahead coupling and single intraday coupling in accordance with Article 54 and notifying relevant NEMOs and TSOs of the agreed scheduled exchanges;
- (h) Performing the co-optimised allocation process pursuant to Article 41 of the Regulation (EU) 2017/2195;
- (i) Performing the backup procedures in the event of incidents in the single day-ahead coupling process or in the single intraday coupling process in accordance with Article 46;
- (j) Performing the fallback procedures in the event that the single day-ahead coupling process is unable to produce results in accordance with Article 46;
- ~~(j)(k)~~ Acting as a central counterparty to each NEMO ~~the exchange of energy between NEMO trading hubs with regard to the financial rights and obligations arising from these energy exchanges in accordance with 0 and 0;~~
- ~~(l)~~ ~~Collecting congestion income resulting from single day-ahead and intraday coupling and transferring it to the congestion income distributor in accordance with Article 64.4 and Article 64.5;~~
- ~~(k)(m)~~ ~~Sharing the congestion income in accordance with the methodology~~ in accordance with Article 58;
- ~~(n)~~ ~~Ensuring the continuity of single day-ahead or intraday coupling in the event of exit of one or more NEMOs in accordance with~~ ~~Establish the service of last resort NEMO's service in accordance with Article 1;~~

On the basis of a proposal by the Commission or a Member State, the Committee established in accordance with Article 68 of Directive (EU) 2019/944 shall issue an opinion on the assignment of new tasks to the MCO. Where that Committee issues a favourable opinion on the assignment of these tasks, the MCO shall carry out those tasks on the basis of a proposal developed jointly by all NEMOs and all TSOs and approved by ACER in accordance with the procedure set out in Article 7.

Commented [A39]: This is the reference in Option 1

Commented [A40]: Should balance responsibility cross border energy exchanges not not also be here

Commented [MF41]: [In case we propose to remove article 5/6 because they are now included as MCO task where should the task refer to: backup/fallback or a new TCM?

The tasks referred to in the paragraph 0 shall be subject to the cost sharing and regulated cost recovery provisions in accordance with Article 24 of this Regulation.

Article 18 Article 3B (Option 3)

MCO function tasks

1. The MCO function shall consist of the following tasks:

(a) Developing and maintaining the algorithms, systems, procedures and the contractual arrangements required for the establishment, amendment and operation of the for single day-ahead and intraday coupling and assessing the impact of products and algorithm functionalities on the algorithms' performance in accordance with Title IV, Chapter 1. ~~Assessing the impact of products and algorithm functionalities on the algorithms' performance in accordance with the methodology referred to in Article 54;~~

Commented [A42]: This is the reference in Option 1

(b) Receiving, validating and processing input data on cross zonal capacity and allocation constraints provided by RCCs in accordance with Article 48, Article 50, and Article 52;

(c) Receiving, validating and processing input data on orders provided by NEMOs in accordance with Article 19(b);

(d) Operating the single day-ahead and single intraday coupling by using the respective algorithms referred to in 0;

(e) Validating and sending single day-ahead and intraday coupling results to NEMOs and TSOs in accordance with Articles 48 and 60;

(f) Publishing the single day-ahead and intraday coupling results in accordance with Articles 39 and 52;

(g) Calculating scheduled exchanges between NEMO trading hubs for each market time unit resulting from single day-ahead coupling and single intraday coupling in accordance with Article 54 and notifying relevant NEMOs and TSOs of the agreed scheduled exchanges;

(h) Performing the co-optimised allocation process pursuant to Article 41 of the Regulation (EU) 2017/2195;

(i) Performing the backup procedures in the event of incidents in the single day-ahead coupling process or in the single intraday coupling process in accordance with Article 46;

(j) Performing the fallback procedures in the event that the single day-ahead coupling process is unable to produce results in accordance with Article 46;

~~(k) Performing the exchange of energy between NEMO trading hubs with regard to the financial rights and obligations arising from these energy exchanges in accordance with 0 and 0;~~

~~(l) Calculating and collecting congestion income resulting from single day-ahead and intraday coupling and transferring it to the congestion income distributor in accordance with Article 64.4 and Article 64.5;~~

~~(m) Sharing the congestion income in accordance with the methodology in accordance with Article 58; Proposing terms and conditions or methodologies in accordance with Art. 7.~~

Commented [RL43]: NEMOs and TSOs comment related to **Transit Shipping** : This is the basis for the NEMO2NEMO model. In other words, this is the task to perform C&S allocated in principle to each NEMO (it could also be a TSO) for any exchange between two NEMOs arising from SDAC or SIDC regardless if they are at the source / origin of the exchange. It is a MCO task because it is an essential postcoupling task that each NEMO has to perform, otherwise other NEMOs will be impacted. Since it is a MCO task, there must be regulated cost recovery. See paragraph 3 of this article.

(1)(n) ~~Ensuring the continuity of single day-ahead or intraday coupling in the event of exit of one or more NEMOs in accordance with~~ Establish the service of last resort NEMO's service in accordance with Article 1;

2. On the basis of a proposal by the Commission or a Member State, the Committee established in accordance with Article 68 of Directive (EU) 2019/944 shall issue an opinion on the assignment of new MCO function tasks. Where that Committee issues a favourable opinion on the assignment of these tasks, these tasks will be carried out on the basis of a proposal developed jointly by all NEMOs and all TSOs and approved by ACER in accordance with the procedure set out in Article 7.

3. The tasks referred to in the paragraph 0 shall be subject to the cost sharing and regulated cost recovery provisions in accordance with Article 24 of this Regulation.

Commented [MF44]: In case we propose to remove article 5/6 because they are now included as MCO task where should the task refer to: backup/fallback or a new TCM?

Commented [RL45]: NEMOs and TSOs propose to delete this paragraph, see reasoning in art. 4.

Commented [RL46]: NEMOs and TSOs comment related to **Transit Shipping** : Subject to regulated cost recovery provisions.

~~Article 25~~ Article 19. Article 7 (Option 2)

NEMO tasks

Each NEMO shall be responsible for the following tasks:

- (a) Receiving orders from market participants;
- (b) Anonymising orders received pursuant to paragraph (a) and sending them to the MCO;
- (c) Validating the results received from the MCO as final and taking responsibility for them in accordance with Articles 48 and 60;
- (d) Accepting and rejecting orders in accordance with the single day-ahead and intraday coupling results;
- (e) Informing the market participants on the results of their orders in accordance with Articles 48 and 60;
- (f) Clearing and settling of the contracts resulting from the trades according to relevant participant agreements and regulations in accordance with 0;
- (g) Providing commercial trade schedules to TSOs in accordance with 0 and 0;

Article 19 Article 7 (Option 3)

NEMO tasks

2. Each NEMO shall be responsible for the following tasks:

- (a) Receiving orders from market participants;
- (b) Anonymising orders received pursuant to paragraph (a) and sending them to the MCO function asset;
- (c) Validating the results received from the MCO function asset as final and taking responsibility for them in accordance with Articles 48 and 60;

- (d) Accepting and rejecting orders in accordance with the single day-ahead and intraday coupling results;
- (e) Informing the market participants on the results of their orders in accordance with **Articles 48 and 60**;
- (f) Clearing and settling of the contracts resulting from the trades according to relevant participant agreements and regulations in accordance with 0.
- (g) Providing commercial trade schedules to TSOs in accordance with 0 and 0;
- (h) **The MCO function task referred to in Article 18(1) letter (k).**

2. All NEMOs are jointly responsible for the MCO function tasks listed in art. 18, letters b) to (g) as well as letters (i) and (l)

3. Jointly with TSOs, NEMOs are responsible for the performance of the MCO **function** tasks listed in art. 18, letter (h) and (j).

~~Article 26~~ ~~Article 20~~ **Article 8 (Option 2)**

TSOs' and RCCs' tasks related to single day-ahead and intraday coupling

In Member States electrically connected to another Member State all TSOs shall participate in the single day-ahead and intraday coupling.

Each TSO shall be responsible for the following tasks:

- (a) provide the relevant RCC with all inputs needed to perform the capacity calculation, including the allocation constraints;
- (b) validate the results of the regional capacity calculation for its bidding zone borders or critical network elements, in accordance with 0;
- (c) send its capacity validation and allocation constraints to the relevant regional coordination centre and to the other TSOs of the relevant capacity calculation regions, in accordance with 0;
- (d) verify that the day-ahead coupling results referred to in Article 48 and the intraday coupling results referred to in Article 50 and Article 52 have been calculated in accordance with the validated cross-zonal capacity and the allocation constraints;
- (e) respect the results from day-ahead and intraday coupling calculated in accordance with Article 48, Article 50 and Article 52;

Each RCC shall be responsible for the following tasks:

- ~~(a)~~(f) performing capacity calculation in cooperation with the relevant TSOs in accordance with the methodology established by TSOs pursuant to Article 28;
- ~~(b)~~(g) providing the relevant TSOs with cross zonal capacities to be validated in accordance with Article 36;
- ~~(e)~~(h) sending the validated cross zonal capacities and allocation constraints to the MCO in accordance with **Articles 46 and 58**,

Commented [MF47]: Article 23 and 26 are identical (for option 1 and 2) -> propose to delete 26 -> article not inherently different for the two governance options.

TSOs' and RCCs' tasks related to single day-ahead and intraday coupling

1. TSOs' and RCCs' tasks related to single day-ahead and intraday coupling

In Member States electrically connected to another Member State all TSOs shall participate in the single day-ahead and intraday coupling.

Each TSO shall be responsible for the following tasks:

- (a) provide the relevant RCC with all inputs needed to perform the capacity calculation, including the allocation constraints;
- (b) validate the results of the regional capacity calculation for its bidding zone borders or critical network elements, in accordance with 0;
- (c) send its capacity validation and allocation constraints to the relevant regional coordination centre and to the other TSOs of the relevant capacity calculation regions, in accordance with 0;
- (d) verify that the day-ahead coupling results referred to in Article 48 and the intraday coupling results referred to in Article 50 and Article 52 have been calculated in accordance with the validated cross-zonal capacity and the allocation constraints;
- (e) respect the results from day-ahead and intraday coupling calculated in accordance with Article 48, Article 50 and Article 52;

All TSOs shall be responsible for sharing the congestion income in accordance with Article 58;

Each RCC shall be responsible for the following tasks:

- ~~(a)~~(f) performing capacity calculation in cooperation with the relevant TSOs in accordance with the methodology established by TSOs pursuant to Article 28;
- ~~(b)~~(g) providing the relevant TSOs with cross zonal capacities to be validated in accordance with Article 36;
- ~~(e)~~(h) sending the validated cross zonal capacities and allocation constraints to the MCO in accordance with **Articles 46 and 58,**

CHAPTER 3

COSTS

~~Article 27.~~ *Article 21.* *Article 75 (Option 1)*

TSO costs

Costs relating to the obligations imposed on TSOs in accordance with Article 1, including the costs specified in Article 22, shall be assessed by the competent regulatory authorities. Costs assessed as reasonable, efficient and proportionate shall be recovered in a timely manner through network tariffs or other appropriate mechanisms as determined by the competent regulatory authorities.

~~Article 28.~~ *Article 22.* *Article 75A (Option 1)*

MCO costs

All NEMOs and all TSOs shall develop, review and where necessary amend a methodology for determining, sharing and recovering the MCO eligible costs. The proposal shall include at least the following elements:

- (a) the design of the MCO accounting system, including the detailed list of cost categories relating to the obligations imposed on MCO in accordance with Article 1;
- (b) the rules for identifying the common costs resulting from MCO tasks impacting all Member States and third countries participating in the single day-ahead and intraday coupling;
- (c) the rules for identifying the regional costs resulting from MCO tasks impacting Member States and third countries in a certain region participating in the single day-ahead and intraday coupling;
- (d) the rules for identifying the national costs resulting from MCO tasks impacting that Member State or third country participating in the single day-ahead and intraday coupling;
- (e) the criteria for determining the amount of eligible costs;
- (f) the rules for determining the national share of common costs and regional costs to be allocated to each NEMO and each TSO in accordance with the principles referred to in paragraph 0 and 0;
- (g) the criteria for measuring cost-efficiency;
- (h) appropriate measures to ensure MCO costs efficiency, including incentive schemes so that the cost recovery is dependent on the performance.

By 30 June of each year, all NEMOs and all TSOs shall provide a yearly report to the regulatory authorities and ACER in which the costs of performing the tasks specified in Article 1 for the previous year are submitted are explained in detail in accordance with the methodology referred to in paragraph 0. This report shall be published by ACER.

All data and information necessary for the efficiency assessment of the costs submitted in the report referred to in paragraph 0 shall be made available to the regulatory authorities and ACER.

Within 2 months following the receipt of the report referred to in paragraph 0, if no regulatory authority disagrees, MCO costs shall be considered as approved. The regulatory authorities shall consult and closely cooperate and coordinate with each other in order to assess that MCO costs comply with the methodology referred to in paragraph 0.

Where one or more regulatory authorities disagree within the period referred to in paragraph 0, or upon their joint request, ACER shall adopt a decision concerning the assessment of the MCO costs whereby eligible costs for the respective year are determined.

Common costs referred to in paragraph (b) shall be shared among Member States and third countries participating in the single day-ahead and intraday coupling. To calculate the amount to be paid by each Member State and, if applicable, third countries, one eighth of the common cost shall be divided equally between each Member State and third country, five eighths shall be divided between each Member State and third country proportionally to their consumption, and two eighths shall be divided between Member State and third country proportionally to the volume traded in the Member State or third country.

Commented [MF48]: Add reference to SDAC and SIDC different volumes?

Regional costs referred to in paragraph 1(c) shall be shared among Member States and third countries participating in the regional projects. To calculate the amount to be paid by each Member State and, if applicable, third countries, one eighth of the common cost shall be divided equally between each Member State and third country, five eighths shall be divided between each Member State and third country proportionally to their consumption, and two eighths shall be divided between Member State and third country proportionally to the volume traded in the Member State or third country.

Commented [MF49]: Add reference to SDAC and SIDC different volumes

Costs relating to the obligations imposed on MCO in accordance with Article 1 shall be recovered in a timely manner through network tariffs, regulated NEMO fees, or other appropriate mechanisms as determined by the competent regulatory authorities.

Article 22 Article 75A (Option 3)

MCO function costs

1. All NEMOs and all TSOs shall develop, review and where necessary amend a methodology for determining, sharing and recovering the MCO function eligible costs. The proposal shall include at least the following elements:

- (a) the design of the MCO function accounting system, including the detailed list of cost categories relating to the obligations imposed on MCO function performance in accordance with Article 1;
- (b) the rules for identifying the common costs resulting from MCO function tasks impacting all Member States and third countries participating in the single day-ahead and intraday coupling;
- (c) the rules for identifying the regional costs resulting from MCO function tasks impacting Member States and third countries in a certain region participating in the single day-ahead and intraday coupling;
- (d) the rules for identifying the national costs resulting from MCO function tasks impacting that Member State or third country participating in the single day-ahead and intraday coupling;
- (e) the criteria for determining the amount of eligible costs;

Commented [RL50]: NEMOs and TSOs comment related to **Transit Shipping** : Indeed, this must cover the MCO task of acting as counterparty... i.e. C&S in the NEMO2NEMO model. Since this task is allocated to each NEMO (it could also be a TSO), it should be a national cost.

- (f) the rules for determining the national share of common costs and regional costs to be allocated to each NEMO and each TSO in accordance with the principles referred to in paragraph 0 and 0;
- (g) the criteria for measuring cost-efficiency;
- (h) appropriate measures to ensure MCO **function** costs efficiency, including incentive schemes so that the cost recovery is dependent on the performance.

2. By 30 June of each year, all NEMOs and all TSOs shall provide a yearly report to the regulatory authorities and ACER in which the costs of performing the tasks specified in Article 1 for the previous year are submitted are explained in detail in accordance with the methodology referred to in paragraph 0. This report shall be published by ACER.

3. All data and information necessary for the efficiency assessment of the costs submitted in the report referred to in paragraph 0 shall be made available to the regulatory authorities and ACER.

4. Within 2 months following the receipt of the report referred to in paragraph 0, if no regulatory authority disagrees, MCO **function** costs shall be considered as approved. The regulatory authorities shall consult and closely cooperate and coordinate with each other in order to assess that MCO **function** costs comply with the methodology referred to in paragraph 0.

5. Where one or more regulatory authorities disagree within the period referred to in paragraph 0, or upon their joint request, ACER shall adopt a decision concerning the assessment of the MCO costs whereby eligible costs for the respective year are determined.

6. Common costs referred to in paragraph (b) shall be shared among Member States and third countries participating in the single day-ahead and intraday coupling. To calculate the amount to be paid by each Member State and, if applicable, third countries, one eighth of the common cost shall be divided equally between each Member State and third country, five eighths shall be divided between each Member State and third country proportionally to their consumption, and two eighths shall be divided between Member State and third country proportionally to the volume traded in the Member State or third country.

7. Regional costs referred to in paragraph 1(c) shall be shared among Member States and third countries participating in the regional projects. To calculate the amount to be paid by each Member State and, if applicable, third countries, one eighth of the common cost shall be divided equally between each Member State and third country, five eighths shall be divided between each Member State and third country proportionally to their consumption, and two eighths shall be divided between Member State and third country proportionally to the volume traded in the Member State or third country.

8. Costs relating to the obligations imposed on MCO **function performance** in accordance with Article 1 shall be recovered in a timely manner through network tariffs, regulated NEMO fees, or other appropriate mechanisms as determined by the competent regulatory authorities.

~~Article 29.~~ Article 23. ~~Article 75 (Option 2)~~

TSO costs

Costs relating to the obligations imposed on TSOs in accordance with Article 20, including the costs specified in Article 23, shall be assessed by the competent regulatory authorities. Costs assessed as reasonable, efficient and proportionate shall be recovered in a timely manner through network tariffs or other appropriate mechanisms as determined by the competent regulatory authorities.

Commented [MF51]: Add reference to SDAC and SIDC different volumes?

Commented [MF52]: Add reference to SDAC and SIDC different volumes

Commented [RL53]: NEMOs and TSOs comment related to **Transit Shipping** : Indeed, this must cover the MCO task of acting as counterparty... i.e. C&S in the NEMO2NEMO model

MCO costs

All NEMOs and all TSOs shall develop, review and where necessary amend a proposal for a methodology for determining and recovering the MCO eligible costs. The proposal shall include at least the following elements:

- (a) the design of the MCO accounting system, including the detailed list of cost categories relating to the obligations imposed on MCO in accordance with Article 18;
- (b) the rules for determining the amount of eligible costs;
- (c) the criteria for measuring cost-efficiency;
- (d) the rules for determining the MCO fees, in accordance with the principle referred to in paragraphs 0 and 0;
- (e) appropriate measures to ensure MCO costs efficiency, including incentive schemes so that the cost recovery is dependent on the performance.

By 30 June of each year, the MCO shall provide a yearly report to the regulatory authorities and ACER in which the costs of performing the tasks specified in Article 18 for the previous year are submitted and explained in detail in accordance with the methodology referred to in paragraph 0. This report shall be published by ACER.

All data and information necessary for the efficiency assessment of the costs submitted in accordance with paragraph 0 shall be made available to NRAs and ACER.

Within 2 months following the receipt of the report referred to in paragraph 0, if no regulatory authority disagrees, MCO costs shall be considered as approved. The regulatory authorities shall consult and closely cooperate and coordinate with each other in order to assess that MCO costs comply with the methodology referred to in paragraph 0.

Where one or more regulatory authorities disagree within the period referred to in paragraph 0, or upon joint request of all regulatory authorities, ACER shall adopt a decision concerning the assessment of the MCO costs whereby eligible costs for the respective year are determined.

Costs relating to the obligations imposed on the MCO in accordance with Article 18 shall be recovered through regulated MCO fees applied to NEMOs and TSOs participating in the single day-ahead coupling and single intraday coupling. MCO fees shall be recovered by NEMOs and TSOs in a timely manner through network tariffs, regulated NEMO fees, or other appropriate mechanisms as determined by the competent regulatory authorities.

The MCO fee shall be determined with reference to each Member State or third country where a NEMO or a TSO is actively participating in the single day-ahead coupling and single intraday coupling.

When determining the MCO fees, the MCO shall ensure that the MCO costs are shared among Member States and third countries participating in the single day-ahead and intraday coupling in a way that one eighth of the MCO costs shall be divided equally between each Member State and third country, five eighths shall be divided between each Member State and third country proportionally to their consumption, and two eighths shall be divided between Member State and third country proportionally to the volume traded in the Member State or third country. The share of MCO costs allocated to each

Commented [MF54]: Add reference SDAC and SIDC different volumes

Member State of third country is equal to the sum of MCO fees paid by the TSOs and NEMOs active in that Member State or third country.

TITLE III

CAPACITY CALCULATION

CHAPTER 1

GENERAL REQUIREMENTS

Article 31, Article 25, Article 15

Capacity calculation regions

All TSOs shall jointly develop, review and propose amendments where necessary the determination of capacity calculation regions.

The determination referred to in paragraph 0 shall define the bidding zone borders attributed to TSOs who are members of each capacity calculation region. The following requirements shall be met:

- (a) capacity calculation regions shall be determined in a way to maximise the overall economic efficiency of capacity calculation, capacity allocation and regional operational security coordination in all time frames;
- (b) each bidding zone border, or two separate bidding zone borders if applicable, through which interconnection between two bidding zones exists, shall be assigned to one capacity calculation region, except for bidding zone borders which consist of only HVDC interconnectors connecting two synchronous areas or capacity calculation regions that may be assigned to more than one capacity calculation region;
- (c) each capacity calculation region shall include at least those TSOs which operate interconnectors and those TSOs operating the networks with connected end consumers on both sides of the interconnectors on the bidding zone borders attributed to the respective capacity calculation region and are responsible pursuant to 0. If a bidding zone border is assigned to more than one capacity calculation region, the respective TSOs shall only be included in the capacity calculation region in which its internal network elements with connected end consumers are taken into account. In case interconnectors belong to TSOs without any connected end consumers they shall be part of both related capacity calculation regions.

Any changes to the bidding zone configuration after a decision to amend the bidding zone configuration, in accordance with Article 14(8) of Regulation 2019/943, shall lead to an amendment of the determination referred to in paragraph 0.

~~Article 32~~~~Article 26~~ Article 15A

General capacity calculation provisions

All TSOs shall calculate cross-zonal capacity for at least the following time-frames:

- (a) day-ahead, for the day-ahead market;
- (b) intraday, for the intraday market.

For the day-ahead market time-frame, individual values for cross-zonal capacity for each day-ahead market time unit shall be calculated. For the intraday market time-frame, individual values for cross-zonal capacity for each remaining intraday market time unit shall be calculated.

The capacity calculation process shall be organised as follows:

~~(a)~~(c) each TSO shall provide the capacity calculation inputs to the regional coordination centre;

~~(b)~~(d) each regional coordination centre shall perform the capacity calculation process;

~~(e)~~(e) each regional coordination centre shall perform the coordinated validation of capacity calculation outputs and shall send them to each TSO for individual validation;

~~(d)~~(f) each TSO shall perform the individual validation of the capacity calculation outputs in coordination with the relevant regional coordination centre; and

~~(e)~~(g) each regional coordination centre shall provide the validated capacity calculation outputs to the market coupling operator.

The capacity calculation process shall be based on the two-days ahead, day-ahead and intraday common grid models built in accordance with Article 64(1) of Regulation 2017/1485.

All regional coordination centres and TSOs of each capacity calculation region shall review the quality of data submitted within the capacity calculation every second year as part of the biennial report on capacity calculation and allocation produced in accordance with Article 61.

~~Article 33~~~~Article 27~~ Article 20

Capacity calculation approach

For the day-ahead market time-frame and intraday market time-frame the approach used in the common capacity calculation methodologies shall be a flow-based approach, except where the requirement under paragraph 0 is met.

All TSOs in each capacity calculation region may jointly request the competent regulatory authorities, as part of the proposal pursuant to 0, to apply the coordinated net transmission capacity approach in the concerned capacity calculation region if the TSOs concerned ~~are~~ able to demonstrate that flows on each bidding zone border assigned to this capacity calculation region are not significantly impacted by exchanges on other bidding zone borders within or outside this capacity calculation region.

To enable market participants to adapt to any change in the capacity calculation approach, the RCC(s) in coordination with the TSOs concerned shall test the new approach alongside the existing approach and involve market participants for at least six months before implementing a proposal for the change of their capacity calculation approach.

CHAPTER 2

CAPACITY CALCULATION METHODOLOGIES

~~Article 34.~~ ~~Article 28.~~ ~~Article 21~~

Capacity calculation methodology

All TSOs in each capacity calculation region shall jointly develop, review and, where necessary, amend at least every 5 years, the methodology for a common coordinated capacity calculation within the respective region.

The methodology determined in accordance with paragraph 0 shall include at least the following items for each capacity calculation time-frame:

- (a) methodologies for the calculation of the inputs to capacity calculation, which shall include the following :
- i. a methodology for determining the reliability margin in accordance with Article 29;
 - ii. the methodologies for determining critical network elements, operational security limits and contingencies relevant for capacity calculation in accordance with Article 30;
 - iii. the methodology for determining the allocation constraints that may be applied in accordance with Article 31
 - iv. the methodology for determining the generation and load shift keys in accordance with Article 32;
 - v. the methodology for determining remedial actions to be considered in capacity calculation in accordance with Article 33.
- (b) a detailed description of the capacity calculation approach which shall include the following:
- i. a mathematical description of the applied capacity calculation approach with different capacity calculation inputs;
 - ii. rules for avoiding undue discrimination between internal and cross-zonal exchanges to comply with Article 16(8) of the Regulation 2019/943 taking into account principles set in Article 14(1) of the Regulation 2019/943. ;
 - iii. rules for taking into account, where appropriate, previously allocated cross-zonal capacity;
 - iv. rules on the adjustment of power flows on critical network elements or of cross-zonal capacity due to remedial actions in accordance with Article 33;
 - v. for the flow-based approach, a mathematical description of the calculation of power transfer distribution factors and of the calculation of available margins on critical network elements;

vi. for the coordinated net transmission capacity approach, the rules for calculating cross-zonal capacity, including the rules for efficiently sharing the power flow capabilities of critical network elements among different bidding zone borders;

(c) a methodology for the validation of cross-zonal capacity in accordance with Article 36.

The capacity calculation methodology shall include the principles to comply with the minimum capacity target set at the minimum level of available capacity for cross-zonal trade pursuant to Article 16(8) of Regulation 2019/943 as modified according to the action plans pursuant to Article 15 of Regulation 2019/943 or the derogations granted by the regulatory authorities pursuant to Article 16(9) of Regulation 2019/943.

For the day-ahead market time-frame, the capacity calculation shall be based on the latest available information. The information update for the day-ahead market time-frame shall not start before 15:00 market time two days before the day of delivery.

All TSOs in each capacity calculation region shall ensure that cross-zonal capacity is recalculated within the intraday market time-frame based on the latest available information. After the continuous trading gate opening time, a recalculation shall be performed at least before every intraday implicit auction. The capacity calculation output from the recalculation linked to the intraday implicit auction shall be directly provided to the intraday auction and then offered to the continuous trading. Further regionally coordinated recalculations not linked to specific intraday implicit auctions are allowed, provided that the capacity calculation output are directly sent to the continuous trading once available.

The capacity calculation methodology shall include a fallback procedure for the case where the initial capacity calculation does not lead to any results.

Each TSO of a capacity calculation region shall, as far as possible, use harmonised capacity calculation inputs.

Using the latest available information, each TSO shall regularly and at least once a year review and update:

~~(a)~~(d) the operational security limits, critical network elements and contingencies used for capacity calculation referred to in Article 30;

~~(b)~~(e) the level of the allocation constraints identified according to the methodology referred to in Article 31;

~~(c)~~(f) the probability distribution of the deviations between expected power flows at the time of capacity calculation and realised power flows in real time used for calculation of reliability margins referred to in Article 29;

~~(d)~~(g) the remedial actions taken into account in capacity calculation referred to in Article 33;

~~(e)~~(h) the application of the methodologies for determining generation and load shift keys referred to in Article 32.

By 31 December 2025 all TSOs shall develop and submit to ACER a proposal for a harmonised capacity calculation methodology which shall in particular provide one harmonised capacity calculation methodology for the flow-based approach and one for the coordinated net transmission capacity approach. No later than one year after approval of the proposal for a harmonised capacity calculation methodology all TSOs in each capacity calculation region shall submit a proposal in accordance with

paragraph 1 that is in line with the harmonised capacity calculation methodology. The proposal in accordance with paragraph 0 may allow for specific solutions subject to an efficiency assessment.

~~Article 35.~~Article 29. ~~Article 22~~

Reliability margin methodology

The common capacity calculation methodology shall include a methodology to determine the reliability margin. The methodology to determine the reliability margin shall consist of two steps. First, each TSO shall estimate the probability distribution of deviations between the expected power flows at the time of the capacity calculation and realised power flows in real time. Second, the reliability margin shall be calculated by deriving a value from the probability distribution.

The methodology to determine the reliability margin shall set out the principles for calculating the probability distribution of the deviations between the expected power flows at the time of the capacity calculation and realised power flows in real time, and specify the uncertainties to be taken into account in the calculation. To determine those uncertainties, the methodology shall in particular take into account:

- (a) unintended deviations of physical electricity flows within a market time unit caused by the adjustment of electricity flows within and between control areas, to maintain a constant frequency;
- (b) uncertainties which affect capacity calculation and which could occur between the capacity calculation time-frame and real time, for the market time unit being considered; and
- (c) inaccuracies in modelling and calculation approach which affect capacity calculation.

In the methodology to determine the reliability margin, all TSO of the capacity calculation region shall also set out common harmonised principles for deriving the reliability margin from the probability distribution.

On the basis of the methodology adopted in accordance with paragraph 0, each TSO shall determine the reliability margin respecting the operational security limits and taking into account uncertainties between the capacity calculation time-frame and real time, and the remedial actions available after capacity calculation.

Article 22(5) OPTION 1

For each capacity calculation time-frame, each TSO concerned shall determine the reliability margin for each critical network element independent of the specific capacity calculation approach adopted within the capacity calculation region.

Article 22(5) OPTION 2

5. For each capacity calculation time-frame, each TSO concerned shall determine the reliability margin for critical network elements, where the flow-based approach is applied, and for cross-zonal capacity, where the coordinated net transmission capacity approach is applied.

~~Article 36.~~Article 30. ~~Article 23~~

Methodologies for critical network elements, contingencies and operational security limits

name.

The common capacity calculation methodology shall include a methodology to define the critical network elements to be considered while determining the cross-zonal capacity.

The methodology to define the critical network elements shall ensure that network congestion problems are addressed in accordance with Article 16(1) of Regulation 2019/943.

Each TSO shall respect the operational security limits for each critical network element established for the operational security analysis pursuant to Article 25 of Regulation 2017/1485.

Each TSO shall define the contingency list according to Article 33(1) of Regulation 2017/1485 and taking into account the criteria for the identification of the external contingencies included in the methodology developed pursuant to Article 75 of Regulation 2017/1485.

~~Article 37.~~Article 31. ~~Article 24~~

Allocation constraints

Each TSOs may include in the proposal pursuant to 0 to the following allocation constraints:

- (a) constraints that are needed to maintain the transmission system within operational security limits and that cannot be transformed efficiently into maximum flows on critical network elements; or
- (b) constraints intended to increase the economic surplus for single day-ahead or intraday coupling.

Each TSO proposing to use allocation constraints pursuant to paragraph (a) shall justify their necessity within the common capacity calculation methodology, by complementing it with a cost-benefit analysis. Such an analysis shall prove that allocation constraints are the economically most efficient measure among all alternatives to address related operational security issues. This analysis shall be repeated every three years and submitted to regulatory authorities of the concerned capacity calculation region which shall decide whether allocation constraints can continue to apply.

For common capacity calculation methodologies already approved at the entry into force of this Regulation, if not yet submitted after 31 December 2020, the first edition of the cost benefit analysis pursuant to paragraph 0 shall be submitted to the regulatory authorities by 31 December 2023.

~~Article 38.~~Article 32. ~~Article 25~~

Generation and load shift keys methodology

The common capacity calculation methodology shall include a methodology to determine generation and load shift keys for each bidding zone and market time unit.

The generation and load shift keys shall represent the best forecast of the relation of a change in the net position of a bidding zone to a specific change of generation or load in the common grid model. That forecast shall notably take into account the information included in the common grid model used for the specific capacity calculation process.

~~Article 39.~~Article 33. ~~Article 26~~

Methodology for remedial actions in capacity calculation

Each TSO within each capacity calculation region shall individually define all available remedial actions that are expected to be available in real time and to be taken into account in capacity calculation to meet the objectives of this Regulation. Load shedding shall not be taken into account in the capacity calculation pursuant to Article 16(3) of Regulation 2019/943.

Each regional coordination centre within each capacity calculation region shall coordinate with each TSO in that region the use of remedial actions to be taken into account in capacity calculation and their actual application in the subsequent regional operational security coordination.

All available remedial actions determined pursuant to paragraph 0 shall be considered in the validation of the cross-zonal capacity calculation outputs according to Article 35 and Article 36.

CHAPTER 3

CAPACITY CALCULATION PROCESS

Article 40, Article 34, Article 28

Regional calculation of cross-zonal capacity

For each capacity calculation time-frame, each TSO shall provide the regional coordination centres in the capacity calculation region with the following inputs: operational security limits, critical network elements and contingencies, generation and load shift keys, remedial actions, reliability margins, allocation constraints and previously allocated cross-zonal capacity.

Each regional coordination centre shall perform the coordinated capacity calculation applying the inputs pursuant to paragraph 0 by using the common grid model created for each scenario in accordance with Article 70(1) of the Regulation (EU) 2017/1485.

When calculating cross-zonal capacity, each regional coordination centre shall:

- (a) use generation and load shift keys to calculate the impact of changes in bidding zone net positions and of flows on direct current lines;
- (b) ignore those internal critical network elements that are not significantly influenced by the changes in bidding zone net positions according to the methodology set out in Article 30; and,
- (c) ensure that all sets of bidding zone net positions and flows on direct current lines not exceeding cross-zonal capacity comply with reliability margins and operational security limits in accordance with Article 28(a)i) and Article 28(a)ii), and take into account previously allocated cross-zonal capacity in accordance with Article 28(b)iii);

Each regional coordination centre shall apply the sharing rules established in accordance with Article 28(b)vi).

Each regional coordination centre shall respect the mathematical description of the applied capacity calculation approach established in accordance with Article 28(b)i).

Article 28(6) & (7) OPTION 1

Each regional coordination centre, for each capacity calculation region applying the flow-based approach, and for each critical network element (with contingencies), shall:

~~(a)~~(d) use operational security limits to calculate the maximum flows on critical network elements;

~~(b)~~(c) use common grid model to optimize the remedial actions taken into account in capacity calculation in accordance with Article 33;

~~(e)~~(f) use common grid model, generation and load shift keys and optimized remedial actions from point (e) to calculate power transfer distribution factors;

~~(d)~~(g) use common grid model and optimized remedial actions from point (e) to calculate flows on critical network elements (with contingencies);

~~(e)~~(h) use power transfer distribution factors from point (f) to perform following calculations:

- i. adjust flows from point (g) by assuming no cross-zonal power exchanges within the capacity calculation region;
- ii. calculate flows resulting from previously allocated cross-zonal capacity within the capacity calculation region;
- iii. calculate flows resulting from cross-zonal exchanges outside the capacity calculation region as assumed in the common grid model;

~~(f)~~(i) calculate the available margins which shall equal the maximum flows from point (d) reduced by reliability margin, and flows from point (h)i) and (h)ii); and

~~(g)~~(j) increase the available margins from point (i) such that the sum of the adjusted available margin and the flows from point (h)ii) and (h)iii) is at least equal to the minimum capacity target pursuant to 0.

Each regional coordination centre, for each capacity calculation region applying the coordinated net transmission capacity approach, shall:

~~(a)~~(k) apply all steps from paragraph 0;

~~(b)~~(l) calculate cross-zonal capacities, as maximum power exchanges, such that the flows resulting from these exchanges do not exceed the adjusted available margin on any critical network element (with contingencies) as calculated pursuant to point (j);

~~(e)~~(m) during the calculation under the point (l), regional coordination centre shall apply the rules set out in accordance with Article 28(b)vi) for efficiently sharing the power flow capabilities of critical network elements among different bidding zone borders.

Where a capacity calculation region applying a coordinated net transmission capacity approach intends to shift to a flow based approach, the provisions of this paragraph don't apply and the capacity calculation process is run according to the capacity calculation methodology already in place at the entry into force of this regulation, provided that all the TSOs of the capacity calculation region submit a proposal for flow based pursuant to **paragraph 0** by 24 months after the entry into force of this regulation.

Article 28(6) & (7) OPTION 2

6. Each regional coordination centre, for each capacity calculation region applying the flow-based approach shall:

- (a) use data on operational security limits to calculate the maximum flows on critical network elements;
- (b) use the common grid model, generation shift keys and contingencies to calculate the power transfer distribution factors;
- (c) use power transfer distribution factors to calculate the flows resulting from previously allocated cross-zonal capacity in the capacity calculation region;
- (d) calculate flows on critical network elements for each scenario (taking into account contingencies), and adjust them by assuming no cross-zonal power exchanges within the capacity calculation region, applying the rules for avoiding undue discrimination between internal and cross-zonal power exchanges established in accordance with Article 28(b)ii);
- (e) calculate the available margins on critical network elements, taking into account contingencies, which shall equal the maximum flows reduced by adjusted flows referred to in point (d), reliability margins, and flows resulting from previously allocated cross-zonal capacity;
- (f) adjust the available margins on critical network elements or power transfer distribution factors using available remedial actions to be considered in capacity calculation in accordance with Article 32.
- (g) adjust the available margins on critical network elements to comply with the minimum capacity target pursuant to 0.

Each regional coordination centre, for each capacity calculation region applying the coordinated net transmission capacity approach, shall:

- ~~(a)~~(h) use the common grid model, generation and load shift keys, and critical network elements with contingencies to calculate maximum power exchange on bidding zone borders, which shall equal the maximum calculated exchange between two bidding zones on either side of the bidding zone border respecting operational security limits;
- ~~(b)~~(i) adjust the maximum power exchange from point (h) optimising the remedial actions taken into account in capacity calculation in accordance with Article 33;
- ~~(c)~~(j) adjust the maximum power exchange such that it complies with the minimum capacity target pursuant to 0;
- ~~(d)~~(k) during this calculation, regional coordination centre shall apply the rules set out in accordance with Article Article 28(b)vi) for efficiently sharing the power flow capabilities of critical network elements among different bidding zone borders;
- ~~(e)~~(l) calculate cross-zonal capacity, which shall be equal to maximum power exchange adjusted for the reliability margin and previously allocated cross-zonal capacity.

Article 28(9-12) – continued common amendments

During the capacity calculation process, each regional coordination centre shall cooperate with the neighbouring regional coordination centres.

At the end of the capacity calculation process, each regional coordination centre shall set the following capacity calculation outputs:

- ~~(a)~~(m) flow-based parameters for each bidding zone within the capacity calculation region, if applying the flow-based approach; or

~~(b)(n)~~ available transmission capacity values for each bidding zone border within the capacity calculation region, if applying the coordinated net transmission capacity approach; and

~~(e)(o)~~ allocation constraints.

Where a coordinated net transmission capacity approach is applied, all TSOs in the capacity calculation region shall agree on a rule for splitting the cross-zonal capacity between the different bidding zone borders. The rule shall be included in the common capacity calculation methodology developed according to Article 28.

Flows calculated pursuant to paragraphs 6(d) and 7 based on common grid model shall be calculated by applying the alternating current load flow, at least for the full network topology without contingencies. The direct current load flow may be applied in case of data implausibility.

~~Article 41, Article 35, Article 29~~

Coordinated validation of cross-zonal capacity

During the coordinated validation of cross zonal capacity, the regional coordination centre and each TSO of the respective CCR shall analyse in a coordinated manner whether the usage in the allocation process of the capacity calculation outputs computed pursuant to Article 34 could violate operational security limits, and whether there are sufficient available remedial actions to avoid such violations.

In case the available remedial actions are not sufficient to allow the usage of capacity calculation outputs under the operational security limits, regional coordination centre may adjust capacity calculation outputs in accordance with Article 16(3) of Regulation 2019/943.

Each regional coordination centre shall send the adjusted cross-zonal capacity outputs to each TSOs of the capacity calculation region for individual validation.

~~Article 42, Article 36, Article 30~~

Individual validation of cross-zonal capacity

Each TSO shall validate the cross-zonal capacity outputs provided pursuant to 0 for its bidding zone borders or critical network elements for reason of operational security and may only reduce these coordinated values in accordance with Article 42(2) of Regulation 2019/943.

Each TSO shall send its validated cross-zonal capacity outputs to the relevant regional coordination centres and to the other TSOs of the relevant capacity calculation regions.

Each regional coordinate centre shall compute the final cross-zonal capacity outputs taking into account the outcome of the individual validation by each TSO.

~~Article 43, Article 37, Article 30A~~

Delivery of cross-zonal capacity

Each regional coordination centre shall provide the validated cross-zonal capacity calculation outputs for the purposes of allocating capacity in accordance with Articles 46 and 58.

~~Article 44~~~~Article 38.~~ Article 30B

Reports about validation

Each regional coordination centre shall, every three months, report all reductions made during the coordinated and individual validation of cross-zonal capacity in accordance with Article 35 and Article 36 to all regulatory authorities of the capacity calculation region and to ACER. The report shall be published, shall include the location and amount of any reduction in cross-zonal capacity outputs, shall specify whether the reduction comes from coordinated or individual validation (in the latter case specifying the TSOs requesting the validation) and shall give reasons for the reductions.

TITLE IV

MARKET COUPLING

CHAPTER 1

MARKET COUPLING DEVELOPMENT

SECTION 1

GENERAL REQUIREMENTS

~~Article 45~~~~Article 39.~~ Article 36

General provisions

All TSOs and all NEMOs shall jointly develop, maintain and operate the integrated day-ahead and intraday markets in accordance with Articles 7, 8, 10, 16 and 17 of Regulation (EU) 2019/943. These markets shall be operated through:

- (a) SDAC for the day-ahead timeframe; and
- (b) SIDC for the intraday timeframe, consisting of:
 - i. intraday continuous trading,
 - ii. intraday auctions.

~~Article 46~~~~Article 40.~~ Article 36A

Pricing of cross-zonal capacity

The price of available day-ahead and intraday cross-zonal capacity allocated through an implicit auction shall reflect market congestion and shall be equal to the difference between the corresponding day-ahead and intraday prices at which the orders are settled in the relevant bidding zones.

In continuous trading, the available cross-zonal capacity shall be allocated at a zero price on a first come first serve basis.

No charges, such as imbalance fees or additional fees, shall be applied to cross-zonal capacity in addition to the pricing in accordance with paragraph 0 and 0.

~~Article 47.~~ ~~Article 41.~~ Article 36AA

Algorithm objectives

The SDAC algorithm shall:

(a) **Aim to** reach the objective of an optimum solution in terms of maximization of the economic surplus while complying at least with the following constraints and requirements;

(b) respect the following constraints:

- i. cross-zonal capacity calculation outputs; and
- ii. constraints on orders in accordance with SDAC products.

(c) respect the following principles listed in a decreasing order of priority to allow arbitrage in case of conflicts to respect two or more principles:

~~i. use the uniform pricing principle,~~

~~a. allowing paradoxically rejected orders; or~~

~~b. allowing minimal use of uplifts required to make market participants whole while avoiding losses;~~

~~ii. i. provide an efficient price signal to market participants;~~

~~iii. ii. is scalable, meaning that the performance of the algorithm is not endangering the normal operation of SDAC while being able to accommodate an increased number of orders, legally binding functionalities, new SDAC products and geographical extensions of SDAC according to the definitions provided in the Algorithm Methodology; and~~

~~iii. is repeatable, according to the definitions provided in the Algorithm Methodology, meaning that the price coupling algorithm produces identical results when using two identical sets of inputs.~~

(d) Uses the pricing mechanism described in the Algorithm Methodology ~~one of the following pricing mechanism:~~

~~i. uniform pricing mechanism when maximizing the economic surplus~~

Commented [RL55]: NEMOs-TSOs note: This requirement from old CACM is fundamental to retain flexibility of implementation. Removing it means requesting application of non-linear pricing, without any knowledge of the consequences of that and the trade off cost-benefit of that.

Commented [RL56]: NEMOs-TSOs note: This is so wide and generic that provides no ground for application in legal terms. NEMOs and TSOs propose removing this letter.

Commented [MF57]: NEMOs : Existing definitions in algo methodology are fit for purpose.

Commented [TK58]: Algo methodology scalability definition is the following (Annex 1, whereas 23) : "This means that they must be able to accommodate an enlargement of the SDAC and SIDC to new bidding zones (and new NEMOs), as well as the increased usage of the products and the implementation of the algorithm requirements". I do not see any major difference besides the "legally-binding functionalities" that can give us a lever to remove certain purely commercial functionalities that could be detrimental to the coupling operation.

Commented [TK59]: I do not see any significant difference between this definition and the one of the algo methodology (Annex 1, whereas 21) : "the SDAC algorithm must be repeatable, which means that it must consistently produce the same results during a repeated execution with identical inputs." However, NEMOs add provision on the definition of repeatability in the methodology on the conditions in which the algo should be run.

Commented [RL60]: NEMOs-TSOs note: The practical definitions of scalability and repeatability should be provided in the Algo Methodology, as they could improve with the Algorithm. Mentioning here the AM should provide stronger legal basis.

- ~~a. allowing paradoxically rejected orders; and~~
- ~~b. not allowing paradoxically accepted orders; or~~
- ii. ~~non uniform pricing mechanism when maximizing the economic surplus~~
 - ~~a. allowing paradoxically rejected orders;~~
 - ~~b. allowing paradoxically accepted orders when required; and~~
 - a.c. ~~allowing minimal use of uplifts for self financing the losses of market participants of paradoxically accepted orders.~~

The continuous trading algorithm shall determine which orders to select for matching such that it:

- ~~(a)~~(c) aims at maximising economic surplus per trade, where necessary by allocating cross zonal capacity to orders for which it is feasible to match in accordance with the price and time of submission;
- ~~(b)~~(f) respects the cross-zonal capacity and allocation constraints provided in accordance with 0;
- ~~(e)~~(g) respects the requirements for the delivery of results set out in **Article 60**;
- ~~(d)~~(h) is repeatable, meaning that the continuous trading algorithm produces identical results when using two identical sets of inputs; and
- ~~(e)~~(i) is scalable, meaning that the performance of the algorithm is not endangering the normal operation of the markets while being able to accommodate an increased number of orders, legally binding functionalities, new market products and geographical extensions.

The Intraday auction algorithm shall:

- ~~(a)~~(j) reach the objective of an optimum solution in terms of maximization of the economic surplus while complying at least with the following constraints and requirements;
- ~~(b)~~(k) respect the following constraints:
 - i. cross-zonal capacity calculation outputs; and
 - ii. constraints on orders in accordance with SDAC products
- ~~(e)~~(l) respect the following requirements:
 - i. use the uniform price principle,
 - a. allowing paradoxically rejected orders; or
 - b. allowing minimal use of uplifts required to make market participants whole while avoiding losses;
 - ii. provide an efficient price signal to market participants
 - iii. is scalable, meaning that the performance of the algorithm is not endangering the normal operation of SIDC while being able to accommodate an increased number of orders, legally binding functionalities, SIDC products and geographical extensions of SIDC; and

Commented [TK61]: Definition to be added ?

Commented [RL62]: NEMOs-TSOs note: The original version of CACM included implicitly a requirement on Linear pricing, which originally was considered trivial and ultimately came out being considered potentially restrictive of better options. It should be avoided repeating the same mistake simply added further options. The requirements as listed here could later on come out being once more counterproductive (there are many options of non-linear pricing, better to avoid any limitation since now) or poorly defined in legal terms (see proposed letter iv). As said for scalability and repeatability, the definition of pricing rule should be left to the Algorithm methodology, in order to allow the needed flexibility in deciding if/when to shift from one to another and how to qualify the specific constraints it entails. The reference to AM should be mentioned here in order to strengthened the legal basis.

Commented [TK63]: Replicate Article 36AA(1), once agreed.

Commented [RL64]: NEMOs-TSOs note: The same changes as proposed for SDAC shall apply here as well.

iv. is repeatable, meaning that the price coupling algorithm produces identical results when using two identical sets of inputs.

~~Article 48~~~~Article 42.~~ Article 36AAA

Firmness of intraday and day-ahead capacity

The cross-zonal capacity calculation outputs provided by the RCCs to the MCO for allocation via implicit auctions, in accordance with Article 48 and Article 52, shall be firm at the time of their publication to the market participants.

Cross-zonal intraday capacity outputs provided by the RCCs to the MCO for allocation via continuous trade, in accordance with Article 50 shall be firm as soon as it is allocated.

SECTION 2

TERMS AND CONDITIONS OR METHODOLOGIES ON ALGORITHM DEVELOPMENT

~~Article 49~~~~Article 43.~~ Article 36B

Day-ahead and intraday products accommodated

All NEMOs and all TSOs shall develop, review and, where necessary, amend, ~~proposals for the day-ahead and intraday~~ products that can be ~~accommodated-considered~~ by the SDAC algorithm, the continuous trading algorithm and the intraday auction algorithm. The ~~day-ahead and intraday~~ products ~~accommodated-considered~~ shall be:

- (a) aligned with the objectives of this Regulation as defined in Article 3;
- (b) efficient and based on economic principles; and
- (c) covering one market time unit and multiple market time units.

The proposals in accordance with paragraph 0 shall include for each product a definition of essential parameter(s) which specifies its nature.

-Each NEMO shall ensure that orders resulting from the ~~day-ahead and intraday se~~-products submitted to the algorithms developed in accordance with Article 45:

~~(a)~~(d) are expressed in euros;

~~(b)~~(e) make reference to the market time unit for orders submitted to the SDAC algorithm and the intraday auction algorithm;

~~(c)~~(f) make reference to the market time and market time unit for orders submitted to continuous trading algorithm.

Commented [MF65]: Introduce intraday & day-ahead products,

Make sure what core of products description (also similar products with similar features) ->

Commented [MF66]: UNDER REVIEW : change to All NEMO proposal as products come from NEMOs. Relevant aspects are taken into account in algo methodology which is TSO/NEMO joint proposal.

~~Article 50, Article 44.~~ Article 36C

Harmonised technical price limits

All NEMOs ~~and all TSOs~~ shall jointly develop, review and, where necessary, amend the harmonised technical price limits on maximum and minimum clearing and bidding prices to be applied in all bidding zones which participate in the SDAC and the SIDC.

Commented [MF67]: UNDER REVIEW : change price limits as All NEMO proposal: seems also in line with Article 10(2) of ER where only NEMOs are referred to

The harmonised technical price limits shall:

- (a) not restrict free price formation in accordance with Article 3 (a) and (b) of Regulation 2019/943; and
- (b) take into account the maximum value of lost load.

The methodology shall include a transparent mechanism to adjust automatically the harmonised technical price limits to bidding and clearing prices in the event that the set limits are insufficient to guarantee the provisions of paragraph 0. The adjusted higher harmonised technical price limits shall remain applicable until further increases under that mechanism are required.

~~Article 51, Article 45.~~ Article 37

Algorithm methodology

All NEMOs and all TSOs shall jointly develop, review and, where necessary, amend the algorithm methodology for the SDAC algorithm, the continuous trading matching algorithm and the intraday auction algorithm.

No later than two years after the approval of the proposal in accordance with paragraph 0, all TSOs and all NEMOs shall review the operation of the algorithms and submit the report to ACER. If requested by ACER, the review shall then be repeated every second year.

The algorithm methodology, pursuant to paragraph 0, shall include at least:

- (a) a detailed list of supported functionalities and their implementation status or timeline for implementation in the case of future functionalities;
- (b) a detailed list and description of indicators and processes for monitoring the development, operation of the algorithm and the fulfilment of the objectives, in accordance with Article 41;
- (c) A description of the operation of the algorithms and their modifications;
- (d) Details on the cross-zonal capacity calculation outputs to be respected;
- (e) Publications and reporting on paragraphs 3(a), (b) and (c); and

(f) Rules and procedures needed for the determination of the annual work programme, in accordance with Article 16/Article 17;

(g) Rules and procedures needed for the determination of the existing or future products pursuant to article 49 which can be accommodated by the algorithms including the principles to determine day-ahead and intraday products which cannot be accommodated in order to ensure the proper functioning of the algorithm within the set deadlines.

The algorithms, pursuant to paragraph 0, shall be able to accommodate orders resulting from the products ~~developed~~ pursuant to Article 43.

Commented [MF68]: UNDER REVIEW Include in order to ensure that algorithm methodology determines products that can be accommodated by the algorithm jointly by TSOs and NEMOs

SECTION 3

TERMS AND CONDITIONS OR METHODOLOGIES ON MARKET COUPLING OPERATION

~~Article 52~~ ~~Article 46.~~ Article 36E

Day-ahead timings and procedures

Day-ahead timings and procedures

1. All NEMOs and all TSOs shall jointly develop, review and, where necessary, amend the day-ahead timings and procedures.
2. The day-ahead timings and procedures referred to in paragraph 0 shall include at least the following timings:
 - (a) SDAC gate opening time;
 - (b) SDAC deadline for delivery of cross-zonal capacity calculation outputs to the MCO;
 - (c) SDAC gate closure time, which shall be 12:00 market time day-ahead, unless a different and duly justified time is fundamental for proper functioning of the SDAC;
 - (d) SDAC deadline for provision of received orders from NEMOs to MCO;
 - (e) SDAC deadline for delivery of results under normal operation;
 - (f) SDAC deadline for delivery of results under back-up operation;
 - (g) SDAC deadline for delivery of results under fallback operation;
 - (h) SDAC deadline for delivery of scheduled exchanges calculation results; and
 - (i) Other timings needed for the determination of receiving input data and for providing results and for the determination of the processes in accordance with paragraph 0.
3. The day-ahead timings and procedures referred to in paragraph 0 shall include at least the following procedures:
 - (a) operational procedures under normal operation;

(b) back-up procedures in the event that the MCO is unable to deliver part or all of the results of the SDAC algorithm by the SDAC deadline for delivery results under normal operation pursuant to paragraph 8(e); and

(c) fallback procedures in the event that the MCO is unable to deliver part or all of the results of the SDAC algorithm by the SDAC deadline for delivery results under back-up operation pursuant to paragraph 8(f).

4. The fallback procedures referred to in paragraph 8(l) above can take into account regional differences if properly justified and assessed by all NEMOs and all TSOs.

5. The day-ahead timings and procedures referred to in paragraph 0 shall include a proposed designation of an entity or entities assigned with the task performing the fallback procedures, pursuant to Article 18(j). day-ahead

6. In cases where there is a risk that the MCO is unable to deliver part or all of the results within the SDAC deadline for delivery of results under normal operation, the MCO shall notify all NEMOs and all TSOs as soon as the risk is identified. All NEMOs shall immediately publish a notice to market participants that back-up or fallback procedures may be applied.

7. The SDAC gate opening time shall provide the market participants with sufficient time for order submission to the NEMOs and shall be set at least one hour before the SDAC gate closure time. The SDAC gate opening time shall be the latest point in time at which all NEMOs start accepting order submissions. This does not prevent individual NEMOs from having an earlier SDAC gate opening time.

8. Between the SDAC gate opening time and the SDAC gate closure time the NEMOs shall not organise trading outside of the SDAC with day-ahead products considered by the algorithm pursuant to 0. This shall also apply to day-ahead products which have one or more of the essential parameters defined pursuant to 0.

Commented [MF69]: UNDER REVIEW: Propose not to include a hard deadline in order to give room for the actual designation of the entity or entities performing the fallback.

Commented [LM(70)]: NEMOs can have earlier SDAC GOT if they want to. The defined one is the latest point in time for which all NEMOs need to start

Article 46 Article 36E (Option 3)

Day-ahead timings and procedures

All NEMOs and all TSOs shall jointly develop, review and, where necessary, amend the day-ahead timings and procedures.

The day-ahead timings and procedures referred to in paragraph 0 shall include at least the following timings:

- (a) SDAC gate opening time;
- (b) SDAC deadline for delivery of cross-zonal capacity calculation outputs to the MCO **function asset**;
- (c) SDAC gate closure time, which shall be 12:00 market time day-ahead, unless a different and duly justified time is fundamental for proper functioning of the SDAC;
- (d) SDAC deadline for provision of received orders from NEMOs to MCO **function asset**;
- (e) SDAC deadline for delivery of results under normal operation;
- (f) SDAC deadline for delivery of results under back-up operation;
- (g) SDAC deadline for delivery of results under fallback operation;

- (h) SDAC deadline for delivery of scheduled exchanges calculation results; and
- (i) Other timings needed for the determination of receiving input data and for providing results and for the determination of the processes in accordance with paragraph 0.

The day-ahead timings and procedures referred to in paragraph 0 shall include at least the following procedures:

- (~~a~~)(j) operational procedures under normal operation;
- (~~b~~)(k) back-up procedures in the event that the MCO NEMOs are unable to deliver part or all of the results of the SDAC algorithm by the SDAC deadline for delivery results under normal operation pursuant to paragraph (e); and
- (~~c~~)(l) fallback procedures in the event that the MCO function asset is unable to deliver part or all of the results of the SDAC algorithm by the SDAC deadline for delivery results under back-up operation pursuant to paragraph (f).

The fallback procedures referred to in paragraph (l) above can take into account regional differences if properly justified and assessed by ~~all NEMOs and~~ all TSOs.

The day-ahead timings and procedures referred to in paragraph 0 shall include a proposed designation of an entity or entities assigned with the tasked with performing the fallback procedures, pursuant to ~~Article 21.1(k)/Article 18(j). By six months after the approval of the day-ahead day-ahead timings and procedures, all NEMOs and TSOs shall jointly designate that entity.~~

In cases where there is a risk that the MCO is unable to deliver part or all of the results within the SDAC deadline for delivery of results under normal operation, the MCO shall notify all NEMOs and all TSOs as soon as the risk is identified. All NEMOs shall immediately publish a notice to market participants that back-up or fallback procedures may be applied.

The SDAC gate opening time shall provide the market participants with sufficient time for order submission to the NEMOs and shall be set at least one hour before the SDAC gate closure time. The SDAC gate opening time shall be the latest point in time at which all NEMOs start accepting order submissions. This does not prevent individual NEMOs from having an earlier SDAC gate opening time.

Between the SDAC gate opening time and the SDAC gate closure time the NEMOs shall not organise trading outside of the SDAC with day-ahead products considered by the algorithm pursuant to 0 outside of the SDAC. This shall also apply to day-ahead products which have one or more of the essential parameters defined pursuant to 0.

~~Article 53, Article 47.~~ Article 36F

Intraday timings and procedures

1. All NEMOs and all TSOs shall jointly develop, review and, where necessary, amend the intraday timings and procedures.
2. The intraday timings and procedures referred to in paragraph 1 shall include at least the following timings:
 - (a) continuous trading opening times;
 - (b) continuous trading closure times;

Commented [MF71]: UNDER REVIEW: Propose not to include a hard deadline in order to give room for the actual designation of the entity or entities performing the fallback.

Commented [LM72]: NEMOs can have earlier SDAC GOT if they want to. The defined one is the latest point in time for which all NEMOs need to start

- (c) intraday auction gate opening times;
- (d) intraday auction deadlines for delivery of cross-zonal capacity calculation outputs to the MCO;
- (e) intraday auction gate closure times;
- (f) intraday cross-zonal gate opening times;
- (g) intraday cross-zonal gate closure times;
- (h) timings for delivery of results from intraday auctions and continuous trading;
- (i) SIDC deadlines for delivery of scheduled exchanges calculation results; and
- (j) Other timings needed for the determination of receiving input data and for providing results and for the determination of the processes in accordance with paragraph 0.

3. The intraday timings and procedures referred to in paragraph 0 shall include at least the following procedures:

- (a) operational procedures determining the functioning and co-existence of the continuous trading and the intraday auctions, including their interactions;
- (b) back-up procedures for intraday auctions; and
- (c) non-discriminatory rules that allow for transition from intraday auctions to continuous trading.

4. The continuous trading closure time and the intraday cross-zonal gate closure time shall be, at the earliest, one hour before the start of the relevant intraday market time unit. It shall be set in such a way that they:

- (a) maximise market participants' opportunities for adjusting their balances by trading in the intraday market time-frame as close as possible to real time;
- (b) provide TSOs and market participants with sufficient time for their scheduling and balancing processes in relation to network and operational security; and
- (c) ensure fair and effective competition between NEMOs, in particular those operating in the same bidding zone.

5. The proposal pursuant to paragraph 0 shall establish:

- (a) for each bidding zone, the continuous trading opening time and the continuous trading closure time relative to each intraday market time unit.
- (b) for each bidding zone border, the intraday cross-zonal gate opening time and the intraday cross-zonal gate closure time relative to each intraday market time unit.

6. The intraday auction gate opening time shall provide the market participants with sufficient time for orders submission to the NEMOs and shall be set at least 30 minutes before the intraday auction gate closure time.

7. In order to accommodate intraday auctions, the cross-zonal capacity allocation within the continuous trading for a given market time unit shall be suspended for a limited time period to prevent parallel cross-zonal capacity allocation in the continuous trading and intraday auctions.

8. The timings of intraday auctions shall minimise, to the degree possible, the suspension of continuous trading, as referred to in paragraph 0.

9. The continuous trading for a given market time unit and a given bidding zone shall start at the latest at the continuous trading opening time of the relevant bidding zone and shall be allowed until the continuous trading closure time of that bidding zone, with the exception of the continuous trading suspension, pursuant to paragraph 0.

10. The continuous trading for a given market time unit across a given bidding zone border shall start at the latest at the intraday cross-zonal gate opening time of the relevant bidding zone borders and shall be allowed until the intraday cross-zonal gate closure time of that bidding zone border with the exception of the interruptions pursuant to paragraph 0.

11. Between the continuous trading opening time and continuous trading closure time, each NEMOs shall submit all orders received from the market participants for a given market time unit immediately to the shared order book for matching.

12. The NEMOs shall not organise trading outside the SIDC after the day-ahead gate opening time with intraday products considered by the algorithm pursuant to 0 and 0. This shall also apply to intraday products which have one or more of the essential parameters defined pursuant to 0.

13. Orders matched in continuous trading and intraday auctions shall be considered firm.

Article 47 Article 36F (Option 3)

Intraday timings and procedures

All NEMOs and all TSOs shall jointly develop, review and, where necessary, amend the intraday timings and procedures.

The intraday timings and procedures referred to in paragraph 1 shall include at least the following timings:

- (a) continuous trading opening times;
- (b) continuous trading closure times;
- (c) intraday auction gate opening times;
- (d) intraday auction deadlines for delivery of cross-zonal capacity calculation outputs to the MCO **function asset**;
- (e) intraday auction gate closure times;
- (f) intraday cross-zonal gate opening times;
- (g) intraday cross-zonal gate closure times;
- (h) timings for delivery of results from intraday auctions and continuous trading;
- (i) SIDC deadlines for delivery of scheduled exchanges calculation results; and
- (j) Other timings needed for the determination of receiving input data and for providing results and for the determination of the processes in accordance with paragraph 0.

The intraday timings and procedures referred to in paragraph 0 shall include at least the following procedures:

~~(a)~~(k) operational procedures determining the functioning and co-existence of the continuous trading and the intraday auctions, including their interactions;

~~(b)~~(l) back-up procedures for intraday auctions; and

~~(e)~~(m) non-discriminatory rules that allow for transition from intraday auctions to continuous trading.

The continuous trading closure time and the intraday cross-zonal gate closure time shall be, at the earliest, one hour before the start of the relevant intraday market time unit. It shall be set in such a way that they:

~~(a)~~(n) maximise market participants' opportunities for adjusting their balances by trading in the intraday market time-frame as close as possible to real time;

~~(b)~~(o) provide TSOs and market participants with sufficient time for their scheduling and balancing processes in relation to network and operational security; and

~~(e)~~(p) ensure fair and effective competition between NEMOs, in particular those operating in the same bidding zone.

The proposal pursuant to paragraph 0 shall establish:

~~(a)~~(q) for each bidding zone, the continuous trading opening time and the continuous trading closure time relative to each intraday market time unit.

~~(b)~~(r) for each bidding zone border, the intraday cross-zonal gate opening time and the intraday cross-zonal gate closure time relative to each intraday market time unit.

The intraday auction gate opening time shall provide the market participants with sufficient time for orders submission to the NEMOs and shall be set at least 30 minutes before the intraday auction gate closure time.

In order to accommodate intraday auctions, the cross-zonal capacity allocation within the continuous trading for a given market time unit shall be suspended for a limited time period to prevent parallel cross-zonal capacity allocation in the continuous trading and intraday auctions.

The timings of intraday auctions shall minimise, to the degree possible, the suspension of continuous trading, as referred to in paragraph 0.

The continuous trading for a given market time unit and a given bidding zone shall start at the latest at the continuous trading opening time of the relevant bidding zone and shall be allowed until the continuous trading closure time of that bidding zone, with the exception of the continuous trading suspension, pursuant to paragraph 0.

The continuous trading for a given market time unit across a given bidding zone border shall start at the latest at the intraday cross-zonal gate opening time of the relevant bidding zone borders and shall be allowed until the intraday cross-zonal gate closure time of that bidding zone border with the exception of the interruptions pursuant to paragraph 0.

Between the continuous trading opening time and continuous trading closure time, each NEMOs shall submit all orders received from the market participants for a given market time unit immediately to the shared order book for matching.

~~During the SIDC, the NEMOs shall not organise trading outside the SIDC after the day-ahead gate opening time with intraday products considered by the algorithm pursuant to 0 and 0 outside of the SIDC. This shall also apply to intraday products which have one or more of the essential parameters defined pursuant to 0.~~

Orders matched in continuous trading and intraday auctions shall be considered firm.

CHAPTER 2

SINGLE DAY-AHEAD COUPLING

~~Article 54, Article 48, Article 39~~

Inputs in the SDAC algorithm

In order to produce results, the SDAC algorithm shall use the following inputs:

- (a) validated cross-zonal capacity calculation outputs, in accordance with Article 30; and
- (b) orders submitted in accordance with Article 43.

Each RCC shall ensure that the cross-zonal capacity calculation outputs shall be provided to the MCO, in accordance with Article 46.8(b).

If an RCC is unable to provide the cross-zonal capacity calculation outputs one hour prior to the SDAC gate closure time, that RCC shall notify the MCO and the relevant NEMOs and TSOs. The MCO shall immediately publish a notice for market participants. In such cases, cross-zonal capacity calculation outputs shall be provided by the RCC to the MCO no later than 30 minutes before the SDAC gate closure time.

Market participants shall submit all orders to the relevant NEMOs between the SDAC gate opening time and the SDAC gate closure time, in accordance with Article 43 and Article 46.

Each NEMO shall submit orders received in accordance with paragraph 0 to the MCO anonymised and no later than the SDAC deadline for provision of received orders from NEMOs to MCO, in accordance with Article 46.8(c).

Orders matched in the SDAC shall be considered firm.

~~Article 55, Article 49, Article 39A~~

Results of the price coupling algorithm

name.

1. The SDAC algorithm shall use the inputs provided in accordance with Article 48 and produce at least the following results simultaneously for each market time unit:
 - (a) a clearing price for each bidding zone and market time unit in EUR/MWh, in accordance with Article 36AA(1)(b);
 - (b) a net position for each bidding zone, scheduling area and NEMO trading hub for each market time unit;
 - (c) the information which enables the execution status of orders to be determined; and
 - (d) flows on bidding zone borders or interconnectors which are modelled as optimisation variables in the SDAC algorithm.
2. The MCO shall ensure the accuracy and efficiency of results produced by the SDAC algorithm.
3. Each TSO shall verify that the results of the SDAC algorithm are consistent with cross-zonal capacity calculation outputs, in accordance with Article 36.
4. No later than by the time specified in the Day-ahead timing and procedures as set out in Article 36E(h), the MCO shall deliver the SDAC results:
 - (a) to all TSOs, all RCCs and all NEMOs, for the results specified in paragraph 6(a), 6(b) and 6(d);
 - (b) to all NEMOs, for the results specified in paragraph 6(c).
5. Each NEMO shall verify that the results of the SDAC algorithm referred to in paragraph 1(c) have been calculated in accordance with the orders.
6. Each NEMO shall inform the market participants on the execution status of their orders without unjustifiable delay.

Article 49 Article 39A (Option 3)

Results of the price coupling algorithm

The SDAC algorithm shall use the inputs provided in accordance with Article 48 and produce at least the following results simultaneously for each market time unit:

- (a) a clearing price for each bidding zone and market time unit in EUR/MWh, in accordance with Article 36AA(1)(b);
- (b) a net position for each bidding zone, scheduling area and NEMO trading hub for each market time unit;
- (c) the information which enables the execution status of orders to be determined; and
- (d) flows on bidding zone borders or interconnectors which are modelled as optimisation variables in the SDAC algorithm.

The ~~MCO~~ NEMOs shall ensure the accuracy and efficiency of results produced by the SDAC algorithm.

Each TSO shall verify that the results of the SDAC algorithm are consistent with cross-zonal capacity calculation outputs, in accordance with Article 36.

No later than by the time specified in the Day-ahead timing and procedures as set out in **Article 36E(h)**, the **MCO NEMOs** shall deliver the SDAC results:

~~(a)~~(c) to all TSOs, all RCCs and all NEMOs, for the results specified in paragraph (a), (b) and (d);

~~(b)~~(f) to all NEMOs, for the results specified in paragraph (c).

Each NEMO shall verify that the results of the SDAC algorithm referred to in paragraph 1(c) have been calculated in accordance with the orders.

Each NEMO shall inform the market participants on the execution status of their orders without unjustifiable delay.

CHAPTER 3

SINGLE INTRADAY COUPLING

SECTION 1

CONTINUOUS TRADING

~~Article 56.~~ *Article 50.* ~~Article 58~~

Provision of input data

1. In order to produce results, the continuous trading algorithm shall use the following inputs:
 - (a) validated cross-zonal capacity calculation outputs, in accordance with Article 36; and
 - (b) orders submitted in accordance with Article 43.
2. Each RCC shall ensure that the cross-zonal capacity calculation outputs are provided to the MCO no later than 15 minutes before the intraday cross-zonal gate opening time.
3. Each TSO requiring reduction to cross-zonal capacity calculation outputs, due to operational changes on the transmission system, shall notify the relevant RCC. The RCC shall then provide the MCO with the updated cross zonal capacity calculation outputs.
4. If any RCC is unable to comply with paragraph 0, that RCC shall notify the MCO, which shall publish a notice to all market participants without unjustifiable delay.

5. Market participants shall submit all orders to the relevant NEMOs between the continuous trading opening time and the continuous trading closure time, in accordance with Article 47 and Article 43.
6. Each NEMO shall submit orders received in accordance with paragraph 0 to the MCO anonymised and without delay.
7. Orders matched in the continuous trading shall be considered firm.

Article 50 Article 58 (Option 3)

Provision of input data

In order to produce results, the continuous trading algorithm shall use the following inputs:

- (a) validated cross-zonal capacity calculation outputs, in accordance with Article 36; and
- (b) orders submitted in accordance with Article 43.

Each RCC shall ensure that the cross-zonal capacity calculation outputs are provided to the MCO **function asset** no later than 15 minutes before the intraday cross-zonal gate opening time.

Each TSO requiring reduction to cross-zonal capacity calculation outputs, due to operational changes on the transmission system, shall notify the relevant RCC. The RCC shall then provide the MCO **function asset** with the updated cross zonal capacity calculation outputs.

If any RCC is unable to comply with paragraph 0, that RCC shall notify the MCO **function asset**, which shall publish a notice to all market participants without unjustifiable delay.

Market participants shall submit all orders to the relevant NEMOs between the continuous trading opening time and the continuous trading closure time, in accordance with Article 47 and Article 43.

Each NEMO shall submit orders received in accordance with paragraph 0 to the MCO **function asset** anonymised and without delay.

Orders matched in the continuous trading shall be considered firm.

~~Article 57~~-Article 51, Article 58A

Results of the continuous trading matching algorithm

1. The MCO shall use the inputs provided in accordance with Article 50 and ensure that the continuous trading matching algorithm produces at least the following results:
 - (a) the execution status of orders and prices per trade;
 - (b) a net position for each bidding zone, scheduling area and NEMO trading hub for each market time unit.
2. The MCO shall ensure the accuracy and efficiency of results produced by the continuous trading matching algorithm.

3. All TSOs shall verify that the results of the continuous trading matching algorithm are consistent with the cross-zonal capacity calculation outputs in accordance with 0.
4. The MCO shall deliver the continuous trading matching algorithm results:
 - (a) to all NEMOs, for results on the execution status per trade specified in paragraph 7(a);
 - (b) to all TSOs for results on the single net positions specified in paragraph 7(b).
5. If, in accordance with paragraph 7(c), the MCO, for reasons outside its responsibility, is unable to deliver these continuous trading matching algorithm results, it shall notify all NEMOs.
6. If, in accordance with paragraph 7(d), the MCO, for reasons outside its responsibility, is unable to deliver these continuous trading matching algorithm results, it shall notify all TSOs and all NEMOs as soon as reasonably practicable. All NEMOs shall notify the market participants concerned.
7. All NEMOs shall send, without undue delay, the necessary information to market participants to ensure that the actions specified in Article 1/ Article 55 and Article 1/**Article 58** can be undertaken.

Article 51 Article 58A (Option 3)

Results of the continuous trading matching algorithm

The ~~MCO~~ NEMOs shall use the inputs provided in accordance with Article 50 and ensure that the continuous trading matching algorithm produces at least the following results:

- (a) the execution status of orders and prices per trade;
- (b) a net position for each bidding zone, scheduling area and NEMO trading hub for each market time unit.

The ~~MCO~~ NEMOs shall ensure the accuracy and efficiency of results produced by the continuous trading matching algorithm.

All TSOs shall verify that the results of the continuous trading matching algorithm are consistent with the cross-zonal capacity calculation outputs in accordance with 0.

The ~~MCO~~ NEMOs shall deliver the continuous trading matching algorithm results:

- ~~(a)~~(c) to all NEMOs, for results on the execution status per trade specified in paragraph (a);
- ~~(b)~~(d) to all TSOs for results on the single net positions specified in paragraph (b).

If, in accordance with paragraph (c), the ~~MCO~~ NEMOs for reasons outside its responsibility, is unable to deliver these continuous trading matching algorithm results, it shall notify all NEMOs.

If, in accordance with paragraph (d), the ~~MCO~~ NEMOs, for reasons outside its responsibility, is unable to deliver these continuous trading matching algorithm results, it shall notify all TSOs and all NEMOs as soon as reasonably practicable. All NEMOs shall notify the market participants concerned.

All NEMOs shall send, without undue delay, the necessary information to market participants to ensure that the actions specified in Article 1/ Article 55 and Article 1/**Article 58** can be undertaken.

SECTION 2

INTRADAY AUCTIONS

~~Article 58~~ Article 52 ~~Article 63B~~

In order to produce results, the intraday auction algorithm shall use the following inputs:

- (a) validated cross-zonal capacity calculation outputs, in accordance with Article 36; and
- (b) orders submitted in accordance with Article 43.

Each RCC shall ensure that the cross-zonal capacity calculation outputs shall be provided to the MCO in accordance with Article 47.13(d).

Market participants shall submit all orders to the relevant NEMOs between the intraday auction gate opening time and the intraday auction gate closure time, in accordance with Article 47 and Article 43.

Each NEMO shall submit orders received in accordance with paragraph 0 to the MCO anonymised and no later than the intraday auction deadline for provision of received orders from NEMOs to MCO, in accordance with Article 47.13(d).

Article 52 Article 63B (Option 3)

Provision of input data

In order to produce results, the intraday auction algorithm shall use the following inputs:

- ~~(a)~~(c) validated cross-zonal capacity calculation outputs, in accordance with Article 36; and
- ~~(b)~~(d) orders submitted in accordance with Article 43.

Each RCC shall ensure that the cross-zonal capacity calculation outputs shall be provided to the MCO **function asset**, in accordance with Article 47.13(d).

Market participants shall submit all orders to the relevant NEMOs between the intraday auction gate opening time and the intraday auction gate closure time, in accordance with Article 47 and Article 43.

Each NEMO shall submit orders received in accordance with paragraph 0 to the MCO **function asset** anonymised and no later than the intraday auction deadline for provision of received orders from NEMOs to MCO, in accordance with Article 47.13(d).

Orders matched in the intraday auction shall be considered firm.

~~Article 59~~ Article 53. Article 63F

1. The intraday auction algorithm shall use the inputs provided in accordance with Article 52 and produce at least the following results simultaneously for each market time unit:
 - (a) a clearing price for each bidding zone and market time unit in EUR/MWh, in accordance with Article 36AA(1)(b);
 - (b) a net position for each bidding zone, scheduling area and NEMO trading hub for each market time unit;
 - (c) information which enables the execution status of orders to be determined; and
 - (d) flows on bidding zone borders or interconnectors which are modelled as optimisation variables in the intraday auction algorithm.
2. The MCO shall ensure the accuracy and efficiency of results produced by the intraday auction algorithm.
3. Each TSO shall verify that the results of the intraday auction algorithm are consistent with cross-zonal capacity calculation outputs, in accordance with Article 36.
4. No later than by the time specified in the intraday timing and procedures as set out in Article 47.13(h), the MCO shall deliver the intraday auction results:
 - (a) to all TSOs, all RCCs and all NEMOs, for the results specified in paragraph 6(a), 6(b) and 6(d);
 - (b) to all NEMOs, for the results specified in paragraph 6(c).
5. Each NEMO shall verify that the results of the intraday auction algorithm referred to in paragraph 6(c) have been calculated in accordance with the orders.
6. Each NEMO shall inform the market participants on the execution status of their orders without unjustifiable delay.

Article 53 Article 63F (Option 3)

Results of the intraday auction algorithm

The intraday auction algorithm shall use the inputs provided in accordance with Article 52 and produce at least the following results simultaneously for each market time unit:

- (a) a clearing price for each bidding zone and market time unit in EUR/MWh, in accordance with Article 36AA(1)(b);
- (b) a net position for each bidding zone, scheduling area and NEMO trading hub for each market time unit;
- (c) information which enables the execution status of orders to be determined; and
- (d) flows on bidding zone borders or interconnectors which are modelled as optimisation variables in the intraday auction algorithm.

name.

The ~~MCO~~ NEMOs shall ensure the accuracy and efficiency of results produced by the intraday auction algorithm.

Each TSO shall verify that the results of the intraday auction algorithm are consistent with cross-zonal capacity calculation outputs, in accordance with Article 36.

No later than by the time specified in the intraday timing and procedures as set out in Article 47.13(h), the ~~MCO~~ NEMOs shall deliver the intraday auction results:

~~(a)(c)~~ to all TSOs and all RCCs and all NEMOs, for the results specified in paragraph (a), (b) and (d);

~~(b)(f) to all NEMOs, for the results specified in paragraph (c).~~

Each NEMO shall verify that the results of the intraday auction algorithm referred to in paragraph (c) have been calculated in accordance with the orders.

Each NEMO shall inform the market participants on the execution status of their orders without unjustifiable delay.

CHAPTER 4

POST COUPLING

Article 60. Article 54. Article 67A

Methodology for calculating scheduled exchanges resulting from single day-ahead coupling and single intraday coupling

All NEMOs and all TSOs shall jointly develop, review and, where necessary, amend the methodology for calculating scheduled exchanges resulting from SDAC and SIDC.

The methodology shall describe the calculation and shall list the information which shall be used by the MCO/Each NEMO established in accordance with Article 14/Article 1 to calculate scheduled exchanges for the SDAC and SIDC.

The calculation in the methodology pursuant to paragraph 0 shall:

- (a) use as an input:
 - i. the output of the single day-ahead algorithm pursuant to Article 49.6(b) and Article 49.6(d) for calculating scheduled exchanges resulting from SDAC;
 - ii. the output of the intraday auction algorithm pursuant to Article 53.6(b) and Article 53.6(d) for calculating scheduled exchanges resulting from intraday auctions; and
 - iii. the output of the continuous trading algorithm pursuant to Article 51.7(b) for calculating scheduled exchanges resulting from continuous trading;

- (b) define as output the scheduled exchanges between NEMO trading hubs, between scheduling areas and on the bidding zone borders for each market time unit;
- (c) ensure that for each market time unit across all bidding zones, taking into account, where appropriate, allocation constraints, there are no deviations between the sum of energy transferred out of all surplus bidding zones and the sum of energy transferred into all deficit bidding zones;
- (d) ensure that for each market time unit electricity exports and electricity imports between bidding zones equal each other, with any deviations resulting only from considerations of allocation constraints, where appropriate.

The MCO/each NEMO shall notify the results of the calculation of scheduled exchanges from SDAC by the time determined in the procedures pursuant to Article 46.8(h).

The MCO/each NEMO shall notify the results of the calculation of scheduled exchanges from SIDC calculation by the time determined in the procedures pursuant to Article 47.13(i).

~~Article 61. — Article 68 (Option 1)~~

~~Clearing and settlement~~

~~Each NEMO shall act as the counterparty to market participants for all their trades with regard to the financial rights and obligations arising from the trades on its NEMO trading hub. Each NEMO shall ensure clearing and settlement of all matched orders in a timely manner.~~

~~Each NEMO shall maintain anonymity between market participants.~~

~~Each NEMO shall act as counterparties to each other for the exchange of energy between NEMO trading hubs with regard to the financial rights and obligations arising from these energy exchanges.~~

~~All NEMOs and all TSOs shall jointly develop, review and, where necessary, amend the methodology on requirements for clearing and settlement in day-ahead and intraday electricity markets. This methodology shall be based on the recommendations for counter parties issued by the Committee on Payment and Settlement Systems and the International Organisation of Securities Commissions.~~

~~Each NEMO shall not be allowed to charge to other NEMOs fees for recovering clearing and settlement costs.~~

~~Article 62. — Article 68A (Option 1)~~

~~NEMO balance responsibility~~

~~Each NEMO shall bear balance responsibility for all energy exchanges of their NEMO trading hubs in accordance with national terms and conditions for balancing. For this purpose, each NEMO shall become balance responsible party in each scheduling area where they operate a NEMO trading hub.~~

~~Each NEMO shall provide to each TSO for each scheduling area separately its position as the sum of:~~

Commented [MF73]: UNDER REVIEW : propose not to involve TSOs in this as it relates to requirements between NEMOs and MCO.

Commented [MF74]: UNDER REVIEW: we propose that CACM at least defines the principles for these minimum requirements for clearing and settlement between NEMOs? Would this be an OK way forward for NEMOs?

~~(a) — external commercial trade schedules arising from exchanges of energy between NEMO trading hubs; and~~

~~(b) — internal commercial trade schedules arising from trades between the NEMO trading hub and its market participants and between NEMO trading hubs.~~

Such trade schedules shall be based on :

~~(a) — NEMO trading hub net positions produced in accordance with Article 55.1(b), and 59(1)(b) and Article 59.1(b);~~

~~(b) — scheduled exchanges calculated in accordance with Article 60.~~

~~Article 63. — Article 72 (Option 1)~~

Firmness in the event of *force majeure* or emergency situations

~~In the event of *force majeure* or an emergency situation referred to in Article 16(2) of Regulation (EC) No 2019/943, where the TSO must act in an expeditious manner and redispatching or countertrading is not possible, each TSO shall have the right to curtail allocated cross-zonal capacity. In all cases, curtailment shall be undertaken in a coordinated manner following liaison with the respective RCC.~~

~~A TSO which invokes *force majeure* or an emergency situation shall publish a notice explaining the nature of the *force majeure* or the emergency situation and its probable duration. This notice shall be made available to the market participants concerned by each NEMO. If capacity is allocated explicitly to market participants, the TSO invoking *force majeure* or an emergency situation shall send notice directly to contractual parties holding cross-zonal capacity for the relevant market time frame.~~

~~If allocated capacity is curtailed because of *force majeure* or an emergency situation invoked by a TSO, the TSO shall reimburse or provide compensation for the period of *force majeure* or the emergency situation, in accordance with the following requirements:~~

~~(a) — if there is implicit allocation, each NEMO shall not be subject to financial damage or financial benefit arising from any imbalance created by such curtailment;~~

~~(b) — in the event of *force majeure*, if capacity is allocated via explicit allocation, market participants shall be entitled to reimbursement of the price paid for the capacity during the explicit allocation process;~~

~~(c) — in an emergency situation, if capacity is allocated via explicit allocation, market participants shall be entitled to compensation equal to the price difference of relevant markets between the bidding zones concerned in the relevant time frame; or~~

~~(d) — in an emergency situation, if capacity is allocated via explicit allocation but the bidding zone price is not calculated in at least one of the two relevant bidding zones in the relevant time frame, market participants shall be entitled to reimbursement of the price paid for capacity during the explicit allocation process.~~

~~The TSO invoking *force majeure* or an emergency situation shall limit the consequences and duration of the *force majeure* situation or emergency situation.~~

~~Where a Member State has so provided, upon request by the TSO concerned the national regulatory authority shall assess whether an event qualifies as *force majeure*.~~

~~Article 64. — Article 73 (Option 1)~~

~~Congestion income distribution~~

~~All TSOs shall develop, review and, where necessary, amend the methodology for sharing congestion income.~~

~~The methodology developed in accordance with paragraph 1 shall:~~

- ~~(a) facilitate the efficient long-term operation and development of the electricity transmission system and the efficient operation of the electricity market of the Union;~~
- ~~(b) comply with the general principles of congestion management provided for in Article 19 of Regulation (EU) No 2019/943;~~
- ~~(c) allow for reasonable financial planning;~~
- ~~(d) be compatible across time-frames;~~
- ~~(e) establish arrangements to share congestion income deriving from transmission assets owned by parties other than TSOs;~~
- ~~(f) include the proposed designation of the entity becoming the congestion income distributor~~

~~By six months after the approval of the methodology pursuant to paragraph 1, the joint decision-making body referred to in Article 16.2 shall designate the congestion income distributor.~~

~~Each NEMO shall collect congestion incomes arising from the single day-ahead coupling specified in Article 54 to Article 55 and from the single intraday coupling specified in Article 56 to Article 57 and Article 58 and Article 59.~~

~~Each NEMO shall ensure that collected congestion incomes are transferred to the congestion income distributor no later than two weeks after the date of settlement.~~

~~The congestion income distributor shall distribute congestion incomes to the TSOs as soon as reasonably practicable and no later than one week after the congestion incomes have been transferred to it.~~

~~Article 65. Article 55. Article 68 (Option 2)~~

~~Clearing and settlement~~

~~Each NEMO shall act as the counterparty to market participants for all their trades with regard to the financial rights and obligations arising from the trades. Each NEMO shall ensure clearing and settlement of all matched orders in a timely manner.~~

~~Each NEMO shall maintain anonymity between market participants.~~

~~The MCO shall act as the central counterparty to each NEMO for the exchange of energy between NEMO trading hubs with regard to the financial rights and obligations arising from these energy exchanges.~~

Commented [MF75]: UNDER REVIEW :
=TSOs+NEMOs
to be discussed whether this should be TSOs only and whether 6 months is clear as this is an existing methodology.

Commented [A76]: Shall we be more specific with references

All NEMOs and all TSOs shall jointly develop, review and, where necessary, amend the methodology on requirements for clearing and settlement in ~~day-ahead-day-ahead~~ and intraday electricity markets. This methodology shall be based on the recommendations for counter parties issued by the Committee on Payment and Settlement Systems and the International Organisation of Securities Commissions.

The MCO shall not be allowed to charge NEMOs with fees for recovering clearing and settlement costs.

Article 55 Article 68 (Option 3)

Clearing and settlement

1. Each NEMO or their delegated third parties shall act as the counterparty to market participants for all their trades with regard to the financial rights and obligations arising from the trades. Each NEMO shall ensure clearing and settlement of all matched orders in a timely manner.

Each NEMO shall maintain anonymity between market participants.

Each NEMO or TSO, where so agreed or foreseen by national regulation, or their delegated third parties shall act as the counterparty to each NEMO, TSO or their delegated third parties for the exchange of energy between NEMO trading hubs with regard to the financial rights and obligations arising from these energy exchanges. Clearing and settlement arrangements shall contain the high-level contractual principles jointly agreed upon by NEMOs in cooperation with their delegated third parties and submitted for approval to ACER;

All NEMOs and all TSOs shall jointly develop, review and, where necessary, amend the methodology on requirements for clearing and settlement in day-ahead and intraday electricity markets. This methodology shall be based on the recommendations for counter parties issued by the Committee on Payment and Settlement Systems and the International Organisation of Securities Commissions.

The NEMOs or their delegated third parties shall not be allowed to charge other NEMOs or their delegated third parties with fees for recovering clearing and settlement costs.

Commented [RL77]: NEMOs-TSOs disclaimer: Please note that the subject of this paragraph is not related to MCO governance. Therefore, NEMOs & TSOs refrain from proposing any amendments in this respect. This must not be interpreted by ACER to mean that NEMOs & TSOs agree with and accept this proposal by ACER.

Commented [RL78]: NEMOs and TSOs comment related to **Transit Shipping** : ...since each NEMO shall have regulated cost recovery at national level for its C&S costs

~~Article 66~~Article 56. Article 68A (Option 2)

NEMO and MCO balance responsibility

The market coupling operator shall bear balance responsibility for all energy exchanges between NEMO trading hubs. For this purpose, the market coupling operator shall become balance responsible party in each relevant scheduling area.

Each NEMO shall bear balance responsibility for all energy exchanges of their NEMO trading hubs in accordance with national terms and conditions for balancing. For this purpose, each NEMO shall become balance responsible party in each scheduling area where they operate a NEMO trading hub.

The market coupling operator shall provide to each TSO for each scheduling area separately its position equal to the sum of:

(a) external commercial trade schedules arising from exchanges of energy between NEMO trading hubs; and

name.

(b) the internal commercial trade schedules arising from exchange of energy between the market coupling operator and the NEMO trading hub.

Each NEMO shall provide to each TSO for each scheduling area separately internal commercial trade schedules between:

~~(a)~~(c) the market coupling operator and the NEMO trading hub; and

~~(b)~~(d) the NEMO trading hub and its market participants.

Such trade schedules shall be based on :

~~(a)~~(e) NEMO trading hub net positions produced in accordance with Article 49.6(b), Article 51.7(b) and Article 53.6(b);

~~(b)~~(f) scheduled exchanges calculated in accordance with Article 54.

Article 56 Article 68A (Option 3)

NEMO balance responsibility

Each NEMO **or their delegated third parties** shall bear balance responsibility for all energy exchanges of their NEMO trading hubs **in each scheduling area where they operate** in accordance with national terms and conditions for balancing.

The entity responsible for the task set out in Art. 18. (1) k shall bear balance responsibility for all energy exchanges between NEMO trading hubs.

NEMOs shall provide to TSOs for each scheduling area separately their commercial trade schedules arising from exchanges of energy between NEMO trading hubs.

Each Party responsible for clearing and settlement shall provide to entity responsible for registration of commercial trade schedules for each scheduling area separately between:

~~(a)~~(g) its NEMO trading hub and other NEMO trading hubs; and

~~(b)~~(h) its NEMO trading hub and its market participants.

Such trade schedules shall be based on:

~~(a)~~(i) NEMO trading hub net positions produced in accordance with Article 49.6(b), Article 51.7(b) and Article 53.6(b);

~~(b)~~(j) scheduled exchanges calculated in accordance with **Article 54**.

Article 67, Article 57, Article 72 (Option 2)

Firmness in the event of *force majeure* or emergency situations

74 **Error! Unknown document property**

name.

In the event of *force majeure* or an emergency situation referred to in Article 16(2) of Regulation (EC) No 2019/943, where the TSO must act in an expeditious manner and redispatching or countertrading is not possible, each TSO shall have the right to curtail allocated cross-zonal capacity. In all cases, curtailment shall be undertaken in a coordinated manner following liaison with the respective RCC.

A TSO which invokes *force majeure* or an emergency situation shall publish a notice explaining the nature of the *force majeure* or the emergency situation and its probable duration. This notice shall be made available to the market participants concerned by each NEMO. If capacity is allocated explicitly to market participants, the TSO invoking *force majeure* or an emergency situation shall send notice directly to contractual parties holding cross-zonal capacity for the relevant market time-frame.

If allocated capacity is curtailed because of force majeure or an emergency situation invoked by a TSO, the TSO shall reimburse or provide compensation for the period of force majeure or the emergency situation, in accordance with the following requirements:

- (a) if there is implicit allocation, the MCO nor each NEMO shall be subject to financial damage or financial benefit arising from any imbalance created by such curtailment;
- (b) in the event of force majeure, if capacity is allocated via explicit allocation, market participants shall be entitled to reimbursement of the price paid for the capacity during the explicit allocation process;
- (c) in an emergency situation, if capacity is allocated via explicit allocation, market participants shall be entitled to compensation equal to the price difference of relevant markets between the bidding zones concerned in the relevant time-frame; or
- (d) in an emergency situation, if capacity is allocated via explicit allocation but the bidding zone price is not calculated in at least one of the two relevant bidding zones in the relevant time-frame, market participants shall be entitled to reimbursement of the price paid for capacity during the explicit allocation process.

The TSO invoking force majeure or an emergency situation shall limit the consequences and duration of the force majeure situation or emergency situation.

Where a Member State has so provided, upon request by the TSO concerned the national regulatory authority shall assess whether an event qualifies as force majeure.

~~Article 68, Article 58, Article 73 (Option 2)~~

All TSOs shall develop, review and, where necessary, amend the methodology for sharing congestion income.

The methodology developed in accordance with paragraph 0 shall:

- (a) facilitate the efficient long-term operation and development of the electricity transmission system and the efficient operation of the electricity market of the Union;
- (b) comply with the general principles of congestion management provided for in Article 19 of Regulation (EU) No 2019/943;
- (c) allow for reasonable financial planning;
- (d) be compatible across time-frames;
- (e) establish arrangements to share congestion income deriving from transmission assets owned by parties other than TSOs.

The MCO shall collect congestion incomes arising from the single day-ahead coupling specified in Article 48 to Article 49 and from the single intraday coupling specified in Article 50 to Article 51 and Article 52 and Article 53.

The MCO shall distribute congestion incomes to TSOs as soon as reasonably practicable and no later than one week after the congestion incomes have been collected pursuant to paragraph 0.

Article 58 Article 73 (Option 3)

Congestion income distribution

All TSOs shall develop, review and, where necessary, amend the methodology for sharing congestion income.

The methodology developed in accordance with paragraph 0 shall:

~~(a)~~(f) facilitate the efficient long-term operation and development of the electricity transmission system and the efficient operation of the electricity market of the Union;

~~(b)~~(g) comply with the general principles of congestion management provided for in Article 19 of Regulation (EU) No 2019/943;

~~(c)~~(h) allow for reasonable financial planning;

~~(d)~~(i) be compatible across time-frames;

~~(e)~~(j) establish arrangements to share congestion income deriving from transmission assets owned by parties other than TSOs.

The MCO shall collect congestion incomes arising from the single day-ahead coupling specified in Article 48 to Article 49 and from the single intraday coupling specified in Article 50 to Article 51 and Article 52 and Article 53.

~~The MCO~~ All TSOs shall distribute congestion incomes to TSOs as soon as reasonably practicable and no later than one week after the congestion incomes have been collected pursuant to paragraph 0.

TITLE V

BIDDING ZONE REVIEW PROCESS

~~Article 69.~~Article 59. Article 32

Reviewing existing bidding zone configurations

A review of an existing bidding zone configuration may be launched by:

(a) ACER, one or several regulatory authorities, pursuant to the evidences in the technical report on structural congestions and other major physical congestions between and within bidding zones issued by ENTSO for Electricity according to 0;

name.

(b) TSOs of a capacity calculation region, together with all concerned TSOs whose control areas, including interconnectors, are within the geographic area in which the bidding zone configuration shall be assessed, subject to the approval of competent regulatory authorities;

(c) one single Member State, the regulatory authority or the TSO(s) with the approval of the competent regulatory authority, for the bidding zone(s) inside the Member State, if the bidding zone configuration has negligible impact on the TSOs' control areas of neighbouring Member States, including interconnectors, and the review of bidding zone configuration is necessary to improve economic efficiency, to maximise cross-zonal trading opportunities, or to maintain operational security;

(d) Member States or their designated competent authorities, according to paragraph 0.

When structural congestion is identified in the technical report issued by ENTSO for Electricity according to 0 or by one or more TSOs in their control areas in a report approved by the competent regulatory authority at national level, the affected Member States or their designated competent authorities, in cooperation with their TSOs, shall, as prescribed by Article 14(7) of Regulation 2019/943, within six months after the receipt of the report identifying the structural congestions, decide either to establish national or multinational action plans pursuant to Article 15 of Regulation 2019/943 or review and amend the bidding zone configuration

If a review is launched in accordance with paragraph (a), (b) or (d), the following conditions shall apply:

~~(a)~~(c) the entity launching the review shall specify the geographic area consisting of bidding zones and bidding zones borders in which the bidding zone configuration shall be assessed;

~~(b)~~(f) the participating TSO(s) shall be the TSO(s) in which the bidding zone configuration shall be assessed;

~~(e)~~(g) the relevant TSOs, regulatory authorities and Member States are the, TSOs, regulatory authorities and Member States that are within any of the capacity calculation regions of which the bidding zones borders referred to in a) are part of.

If a review is launched in accordance with paragraph (c), the following conditions shall apply:

~~(a)~~(h) the geographic area in which bidding zone configuration is assessed shall be limited to the control area of the TSO(s), including interconnectors, of the Member State where the review is launched;

~~(b)~~(i) the TSO(s) of the Member State shall be the only TSO(s) participating and relevant in the review;

~~(e)~~(j) the competent regulatory authority and the competent Member State shall be the only regulatory authority and Member States participating and relevant in the review; and

~~(d)~~(k) the entity launching the review, shall give all TSOs and regulatory authorities that are in the neighbouring Member States mutually agreed prior notice of the launch of the review; the entity launching the review shall in particular provide a justification of the negligible impact of the bidding zone configuration in neighbouring Member States.

When launching the review or approving its launch, pursuant to paragraph 0, ACER, regulatory authorities, Member States or their designated competent authorities may provide guidance on how to identify the alternative bidding zone configurations to be considered. The participating TSOs shall take into duly account the guidance when identifying alternative bidding zone configurations.

The review process shall consist of two steps.

~~(a)~~(l) In the first step:

- i. the participating TSOs shall develop a proposal for the methodology and assumptions to be used for the specific bidding zone review. Such a proposal shall take into duly account the methodology and assumptions developed according to Article 14(5) of Regulation 2019/943.
- ii. the participating TSOs shall develop a proposal for the alternative bidding zone configurations to be considered for the review.
- iii. the proposals on methodology and assumptions and alternative bidding zone configurations shall be submitted to the relevant regulatory authorities, no later than three months after the launch of the review;
- iv. the relevant regulatory authorities shall take a unanimous decision within three months from the receipt by the regulatory authorities, or, where applicable, by the last relevant regulatory authority;
- v. where the regulatory authorities have not been able to reach agreement within the period referred to in paragraph 6(a)(iv), or upon their joint request, ACER shall, within additional three months, adopt a decision on the methodology and assumptions and the alternative bidding zone configurations to be considered.

~~(b)~~(m) In the second step, the participating TSOs shall:

- i. assess and compare the current bidding zone configuration and each alternative bidding zone configuration using the criteria specified in Article 60;
- ii. hold a consultation in accordance with Article 10 on at least the outcome of the bidding zone review and the draft proposal to maintain or amend the bidding zone configuration referred to in paragraph 6(b)(iv) compared to the existing bidding zone configuration, including timescales for implementation; other Member States, Energy Community Contracting Parties or other third countries sharing the same synchronous area with any relevant Member State may also submit comments during the consultation process.
- iii. hold a workshop regarding the aspects consulted in point (ii); and
- iv. submit a joint proposal to maintain or amend the bidding zone configuration to the relevant Member States or their designated competent authorities, and to the authorities, and to the relevant TSOs for information only, within 12 months after the approval of the proposal on methodology assumptions and alternative bidding zone configurations pursuant to paragraph 4(a)(iv) or 4(a)(v);.

On receiving the joint proposal to maintain or to amend the bidding zone configuration in accordance with paragraph 6(b)(iv), the relevant Member States or their designated competent authorities shall within six months reach an agreement on the proposal to maintain or amend the bidding zone configuration. The decision shall be reasoned and shall be notified to the Commission and ACER. In the event that the relevant Member States fail to reach a unanimous decision within six months, they shall immediately notify the Commission. As a measure of last resort, the Commission after consulting ACER, shall adopt a decision whether to amend or maintain the bidding zone configuration within six months after receipt of such a notification.

Member States or their designated competent authorities and the Commission shall consult relevant stakeholders before adopting a decision under paragraph 0. Other Member States may submit comments

to the relevant Member States, who should take account of those comments when reaching their decision.

Any decision adopted by relevant Member States or by their designated competent authorities or by the Commission pursuant to paragraph 0 shall specify the date of implementation of any changes to the bidding zone configuration. That implementation date shall balance the need for expeditiousness with practical considerations, including forward trade of electricity. The decision may establish appropriate transitional arrangements.

NEMOs or market participants shall, if requested by TSOs, provide the participating TSOs with information to enable them to assess bidding zone configurations. This information shall be shared only between the participating TSOs for the sole purpose of assessing bidding zone configurations.

The initiative for the review of the bidding zones configuration, the methodology the assumptions, and the relevant input data used for the bidding zone review, the alternative bidding zone configurations, the results of the simulations and the proposal to the relevant Member States or to their designated competent authorities shall be published by the participating TSOs.

Article 70. Article 60. Article 33

Criteria for reviewing bidding zone configurations

The configuration of bidding zones in the Union shall be designed in such a way as to maximise economic efficiency and to maximise cross-zonal trading opportunities in accordance with Article 14(1) of Regulation (EU) 2019/943, while maintaining security of supply.

The configuration of the bidding zones shall be assessed on the basis of its ability to create a reliable market environment, including for flexible generation and load capacity, which is crucial to avoiding grid bottlenecks, balancing electricity demand and supply, securing the long-term security of investments in generation and network infrastructure.

A bidding zone review pursuant to Article 59 shall at least consider the following criteria:

- (a) in respect of network security:
 - i. the ability of bidding zone configurations to ensure operational security, including how the market outcome deals with congestions without the need for applying economically inefficient remedial actions, and security of supply;
 - ii. the degree of uncertainty in cross-zonal capacity calculation.
- (b) in respect of overall market efficiency:
 - i. any increase or decrease in economic efficiency arising from the change, comprising both the change in economic surplus resulting from the market outcome and the change in the cost of applying remedial actions to ensure that the market outcome is feasible;
 - ii. market efficiency, including, at least market liquidity, market concentration and market power, , price signals for building infrastructure and the accuracy and robustness of price signals;
 - iii. transaction and transition costs, including the cost of amending existing contractual obligations incurred by market participants, NEMOs and TSOs;
 - iv. the cost of building new infrastructure which may relieve existing congestion;

- v. any adverse effects of internal transactions on other bidding zones to enable the maximisation of cross-zonal capacity in line with Article 16 of Regulation (EU) 2019/943;
 - vi. the impact on the operation and efficiency of the balancing mechanisms and imbalance settlement processes.
- (c) in respect of the stability and robustness of bidding zones:
- i. the need for bidding zones to be sufficiently stable and robust over time, while considering infrastructure development projects pursuant to paragraph 0;
 - ii. the need for each generation and load unit to belong to only one bidding zone for each market time unit;
 - iii. the location and frequency of congestion, if structural congestion influences the delimitation of bidding zones, taking into account investments, pursuant to paragraph 0, which may relieve existing congestion.

A bidding zone review in accordance with Article 59 shall include scenarios which take due account of tangible progress on infrastructure development projects that are expected to be realised within the three years starting from the year following the year in which the decision to launch the review was taken.

TITLE VI

REPORTING AND IMPLEMENTATION MONITORING

CHAPTER 1

REPORTING

Article 71. Article 61. Article 31

Biennial report on capacity calculation and allocation

By 31 December 2023 each regional coordination centre shall draft a report on capacity calculation. ENTSO for Electricity shall draft a report on capacity allocation, compile all the reports provided by the regional coordination centres and submit it to ACER.

At the request of ACER, in every second subsequent year the report referred to in paragraph 0 shall be drafted, compiled and submitted to ACER,

For each bidding zone, bidding zone border and capacity calculation region, the report on capacity calculation and allocation shall contain at least:

- (a) the capacity calculation approach used;
- (b) statistical indicators on reliability margins;

name.

- (c) statistical indicators of cross-zonal capacity, including allocation constraints where appropriate for each capacity calculation time-frame;
- (d) quality indicators for the information used for the capacity calculation;
- (e) where appropriate, proposed measures to improve capacity calculation;
- (f) for regions where the coordinated net transmission capacity approach is applied, an analysis of whether the conditions specified in [Article 20\(7\)](#) are still fulfilled;
- (g) indicators for assessing and following in the longer term the efficiency of single day-ahead and intraday coupling, including the merging of capacity calculation regions in accordance with [Article 15\(3\)](#) where relevant;
- (h) recommendations for further development of single day-ahead and intraday coupling, including further harmonisation of methodologies, processes and governance arrangements.

After consulting ACER, regional coordination centres and ENTSO-E shall jointly agree on the statistical and quality indicators for the report. ACER may require the amendment of those indicators, prior to the agreement by the regional coordination centres and TSOs or during their application.

ACER shall decide whether to publish all or part of the biennial report.

~~Article 72.~~~~Article 62.~~ *Article 34*

Regular reporting on current bidding zone configuration by ENTSO for Electricity

Every three years, the ENTSO for Electricity shall issue a technical report on the structural congestions and other major physical congestions between and within bidding zones observed in the current bidding zone configuration, pursuant to Article 14(2) of Regulation (EU) 2019/943. Based on the technical report of ENTSO-E and the report on the results of the monitoring the wholesale markets in electricity, pursuant to Article 15(1) of Regulation (EU) 2019/942, ACER shall assess the efficiency of current bidding zone configuration.

Article 34.2(a) - OPTION 1/2

The technical report referred to in paragraph 0 shall include at least:

- (a) a list of structural physical congestions and other major physical congestions that occur with significant frequency, including locations and frequency of such congestions; [OPTIONAL addition: for the sole purpose of this report, a frequency of occurrence of at least two percent shall be used (without prejudging the definition of structural physical congestions)].
- (b) an analysis of the expected evolution of physical congestions resulting from investment in networks or from significant changes in generation or in consumption patterns, in the following three years;
- (c) a flow decomposition analysis aiming to identify the bidding zones originating the exchanges impacting the structurally congested network elements, pursuant to the applicable coordinated redispatching and countertrading methodologies;
- (d) an assessment of whether the cross-zonal trade capacity reached the linear trajectory pursuant to the action plans pursuant to Article 15 of Regulation (EU) 2019/943 or the minimum capacity pursuant to Article 16(8) of the same Regulation;

name.

(e) data on volumes and costs of remedial actions associated to all network congestions and firmness costs; .

Each TSO shall provide data and analysis to allow the technical report on current bidding zone configuration to be produced in a timely manner.

ENTSO for Electricity shall submit to ACER the technical report on structural congestions of the current bidding zone configuration, pursuant to paragraph 0 every third year by 30th September . By the same deadline each TSO with identified structural congestions shall submit the report to the competent regulatory authority and to the competent Member State or its designated competent authority.

The technical report on current bidding zone configuration shall cover the last three full calendar years preceding the year on which it is submitted.

Without prejudice to the confidentiality obligations provided for in Article 11, ENTSO for Electricity shall make the technical report available to the public.

CHAPTER 2

IMPLEMENTATION MONITORING

Article 73. Article 63. Article 82

Monitoring of the implementation of single day-ahead and intraday coupling

The MCO **function** shall be monitored by regulatory authorities. ACER shall contribute to the monitoring where adequate. The regulatory authorities responsible for monitoring the MCO **function** shall fully cooperate and shall provide access to information for ACER in order to ensure proper monitoring of single day-ahead and intraday coupling in accordance with Article 61 of Directive (EU) 2019/944 **and a coordinated approach**. Monitoring of the implementation of single day-ahead and intraday coupling by ENTSO for Electricity in accordance with Article 31(1) of Regulation (EU) 2019/943 shall in particular cover the following matters:

- (a) progress and potential problems with the implementation of single day-ahead and intraday coupling, including the choice of different available options in each country;
- (b) preparing the report on capacity calculation and allocation in accordance with **Article 31(1)**;
- (c) the efficiency of current bidding zone configuration in coordination with ACER in accordance with Article 62;
- (d) the effectiveness of the operation of the price coupling algorithm and of the continuous trading matching algorithm in cooperation with NEMOs in accordance with Article 45 and Article 37**(6)**;
- (e) the effectiveness of the criterion concerning the estimation of the value of lost load, in accordance with **Articles 41(1) and 54(1)**; and

name.

ENTSO for Electricity shall submit a monitoring plan which includes the reports to be prepared and any updates in accordance with paragraph 0, to ACER for an opinion by six months after entry into force of this Regulation.

ACER, in cooperation with ENTSO for Electricity, shall draw up by six months after the entry into force of this Regulation a list of the relevant information to be communicated by ENTSO for Electricity to ACER in accordance with Articles 30(5) of Regulation (EU) 2019/943. The list of relevant information may be subject to updates. ENTSO for Electricity shall maintain a comprehensive, standardised format, digital data archive of the information required by ACER.

Each TSOs shall submit to ENTSO for Electricity the information required to perform the tasks in accordance with paragraphs 0 and 0.

Each NEMO, market participants and relevant delegated entities regarding single day-ahead and intraday coupling shall, at the joint request of ACER and the ENTSO for Electricity, submit to the ENTSO for Electricity the information required for monitoring in accordance with paragraph 0 and 0, except for information already obtained by the regulatory authorities, ACER or the ENTSO for Electricity in the context of their respective implementation monitoring tasks.

TITLE VII

TRANSITIONAL AND FINAL PROVISIONS

Article 74. Article 64. Article 83

Transitional provisions

From the date of entry into force of this regulation until the implementation of intraday auctions pursuant to **Article 52, Article 63** of the repealed Commission Regulation (EU) 2015/1222 shall apply. When intraday auctions are implemented on the relevant borders the complementary regional auctions shall cease to exist.

Article 75. Article 65. Article 84

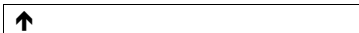
Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall apply:

- (a) from [6] months after entry into force of this Regulation for Article 12, Article 16/Article 17,
- (b) from [one year] after entry into force of this Regulation for Article 22/Article 24, Article 43, Article 44, Article 45, Article 46, Article 47, Article 1/Article 55 **36D**,

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ANNEX

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