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## **DISCUSSION PAPER**

**Subject: Third package guidelines and codes**

This note addresses the development of framework guidelines and network codes for the implementation of the third internal energy market package (Third Package), including the interim period when the Agency is not yet operational. The topic was discussed in the Madrid forum 28.5.2009 and in the Florence forum 4.6.2009. This note summarises those discussions and introduces some further suggestions for consideration.

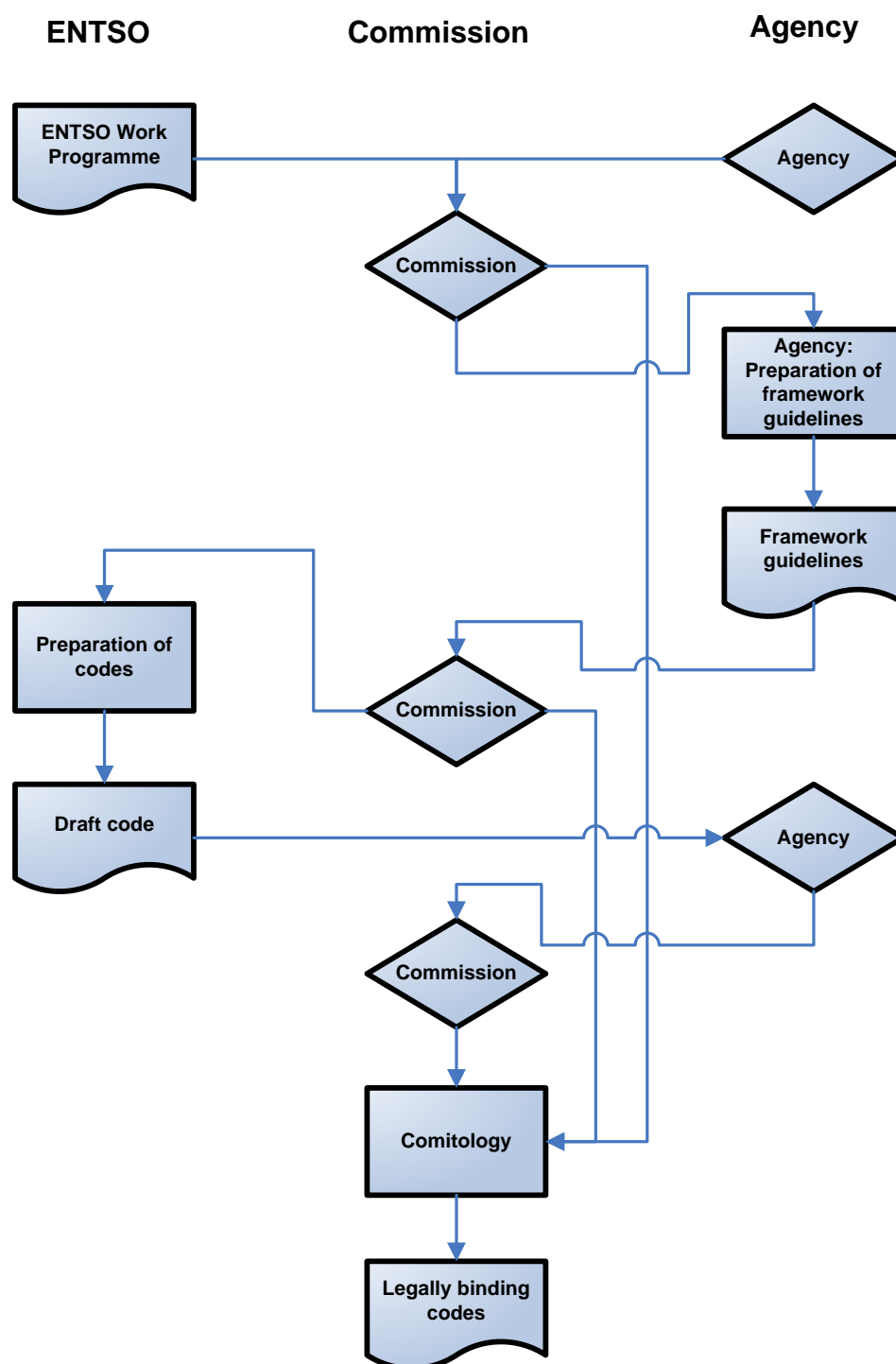
### **(1) Process of making framework guidelines and network codes**

The process of making framework guidelines and network codes is defined in Articles 6 and 8 in the Electricity and Gas Regulations. The overall process from the defining the priorities by the Commission to adopting the network codes in the comitology takes approximately 3 years (Picture 1). In spite of this long overall time period, the time foreseen for each operation is relatively tight.

The following list contains the areas in which framework guidelines and network codes can be prepared following Articles 6 and 8 in Electricity and Gas Regulations.

1. network security and reliability rules (in case of electricity: ) including rules for technical transmission reserve capacity for operational network security;
2. grid (electricity)/network (gas) connection rules;
3. third party access rules;
4. data exchange and settlement rules;
5. interoperability rules;
6. operational procedures in an emergency;
7. capacity allocation and congestion management rules;
8. rules for trading related to technical and operational provision of network access services and system balancing;
9. transparency rules;

10. balancing rules including network related reserve power rules (electricity)/including network-related rules on nominations procedures, rules for imbalance charges and rules for operational balancing between transmission system operators' systems (gas);
11. rules regarding harmonised transmission tariff structures (in case of electricity) including locational signals and inter-TSO compensation rules;
12. energy efficiency regarding electricity/gas networks



Picture 1: Process to develop Framework guidelines and codes (simplified)

(2) Legally binding guidelines

The Commission has the possibility to adopt legally binding guidelines on its own initiative following Article 18 in Electricity Regulation and Article 23 in Gas Regulation through a comitology process.

Areas of legally binding guidelines in Article 18 of Electricity Regulation are:

Article 18 (1): Inter TSO compensation guidelines

Article 18 (2): Tarif harmonisation guidelines

Article 18 (3): Guidelines specifying:

- (a) details relating to provision of information, in accordance with the principles set out in Article 15;
- (b) details of rules for the trading of electricity;
- (c) details of investment incentive rules for interconnector capacity including locational signals;
- (d) details of the areas listed in Article 8 (6)

Article 18 (4): Capacity allocation and congestion management guidelines

Article 18 (5): Safety and operational standards

Areas of legally binding guidelines in Article 23.1 of Gas Regulation are:

- (a) details of third-party access services, including the character, duration and other requirements of these services, in accordance with Article 14 and 15;
- (b) details of the principles underlying capacity allocation mechanisms and on the application of congestion management procedures in the event of contractual congestion, in accordance with Article 16 and 17;
- (c) details of the provision of information, definition of the technical information necessary for network users to gain effective access to the system and the definition of all relevant points for transparency requirements, including the information to be published at all relevant points and the time schedule for the publication of that information, in accordance with Article 18 and 19;
- (d) details of tariff methodology related to cross-border trade of natural gas, in accordance with Article 13;
- (e) details relating to the areas listed in Article 8(6)

For gas the topics under (a) to (c) also include guidelines for access to storage and LNG facilities. These are not considered in this note since they are not related to the work of ENTSO-G.

### (3) Possible architecture of codes and guidelines

For the framework guidelines, the form in which they are prepared can be relatively flexible as they are not directly binding legislation. It is, however, important that all framework guidelines contain certain core elements:

- An impact assessment that includes at least a clear problem definition and the policy options. Such impact assessment may not be complete since the final proposal for a network code is not known.
- Criteria, against which the network codes which will follow the framework guideline in question will be assessed.

The network codes, on the contrary, need to be more structured as they will be legally binding. There will be many network codes and the number of pages of the codes will be important. Also, the system how to update the codes needs to be well defined. The Commission also thinks that there is a need to agree at an early stage a tentative list of network codes to be prepared.

Legally binding guidelines, the third category of rules foreseen in the Regulations, need to be planned as well. It is important to decide at an early stage which rules would rather follow the route of legally binding guidelines instead of the route of framework guidelines and network codes. Legally binding guidelines will in particular be used for rules which are not appropriate for drafting by the TSOs.

One framework guideline could address one or several network codes depending on the area in question. In security and operational rules, one framework guideline could cover several codes, in market and investment rules there could be only one network code per guideline. A rough outline of a possible architecture of electricity and gas guidelines and codes is presented in the annex.

As codes and legally binding guidelines need to be passed through comitology, and thus for example be translated to all EU languages, it is important that they are reasonably concise. Explanatory parts and recommendations linked to codes and legally binding guidelines could remain largely outside the formal comitology process.

### (4) Priority and timetable for codes and guidelines

Although network codes do not necessarily lead to binding rules through comitology, it cannot be excluded that all the network codes will need to be made binding, to ensure that there is no conflict between network codes and national legislation. All network codes foreseen by Electricity and Gas Regulations can not be developed and made binding at the same time, thus a sufficient time span is needed to adopt all the necessary rules.

The Third Package gives a role to the Commission to identify priorities for framework guidelines and network codes, after consulting the Agency, ENTSOs and other stakeholders.

In Madrid and Florence it was agreed that the work will start from pilot projects, in order to learn how to make the process effective and efficient and to agree how to co-operate in practice.

In electricity, ERGEG has proposed three items on which ERGEG would prepare a framework guideline, namely 1) Security and reliability rules, 2) Grid connection and access rules and 3) Transparency rules. ENTSO-E has indicated that a network code for the wind generation connection would be a good candidate for a pilot. This code is in the scope of the grid connection and access rules framework guideline proposed by ERGEG.

In gas, ERGEG has proposed to work on a number of items on which ERGEG would prepare framework guidelines. ERGEG's priorities are 1) transparency, 2) harmonised tariff structures, 3) capacity allocation and congestion management as well as 4) balancing. GTE+ has identified capacity allocation and congestion management as a topic for which the first network code should be developed. Both have consulted stakeholders to reach this conclusion.

The Commission proposes that indeed for electricity the Grid connection and access framework guideline and wind connection network code would be chosen as a pilot for electricity, as discussed in Florence. For gas, in the Madrid forum of 28 and 29 May it was concluded to start with the framework guideline and the network code on capacity allocation.

<b>Electricity framework guidelines</b>	<b>Electricity codes</b>
<ul style="list-style-type: none"> <li>• Grid connection and access framework guideline (pilot)</li> <li>• System operation framework guideline</li> <li>• Transparency framework guideline</li> <li>• Wholesale market framework guideline</li> </ul>	<ul style="list-style-type: none"> <li>• Wind connection network code (pilot)</li> <li>• System operation network code (possibly several network codes under the same framework guideline)</li> <li>• Generation and load transparency network code</li> <li>• Capacity calculation network code</li> </ul>
<b>Gas framework guidelines</b>	<b>Gas codes</b>
<ul style="list-style-type: none"> <li>• Capacity allocation framework guideline (pilot)</li> <li>• Balancing framework guideline</li> <li>• Tariff structures framework guideline</li> <li>• Interoperability framework guideline</li> </ul>	<ul style="list-style-type: none"> <li>• Capacity allocation code (pilot)</li> <li>• Balancing Code</li> <li>• Code on harmonised tariff structures</li> <li>• Code on interoperability (in particular IT and communications)</li> </ul>

Table 1: Priority of the development of framework guidelines and codes

Shortly after the pilots, the work should start also on other framework guidelines and codes proposed. More than one guideline and network code should be under preparation in parallel. A tentative priority list for framework guidelines and codes to be developed is presented in the Table 1.

As announced in the Florence forum, the Commission will further elaborate the priorities for electricity and gas framework guidelines and network codes as well as for legally binding guidelines and will present its view in the next Florence and Madrid forums.

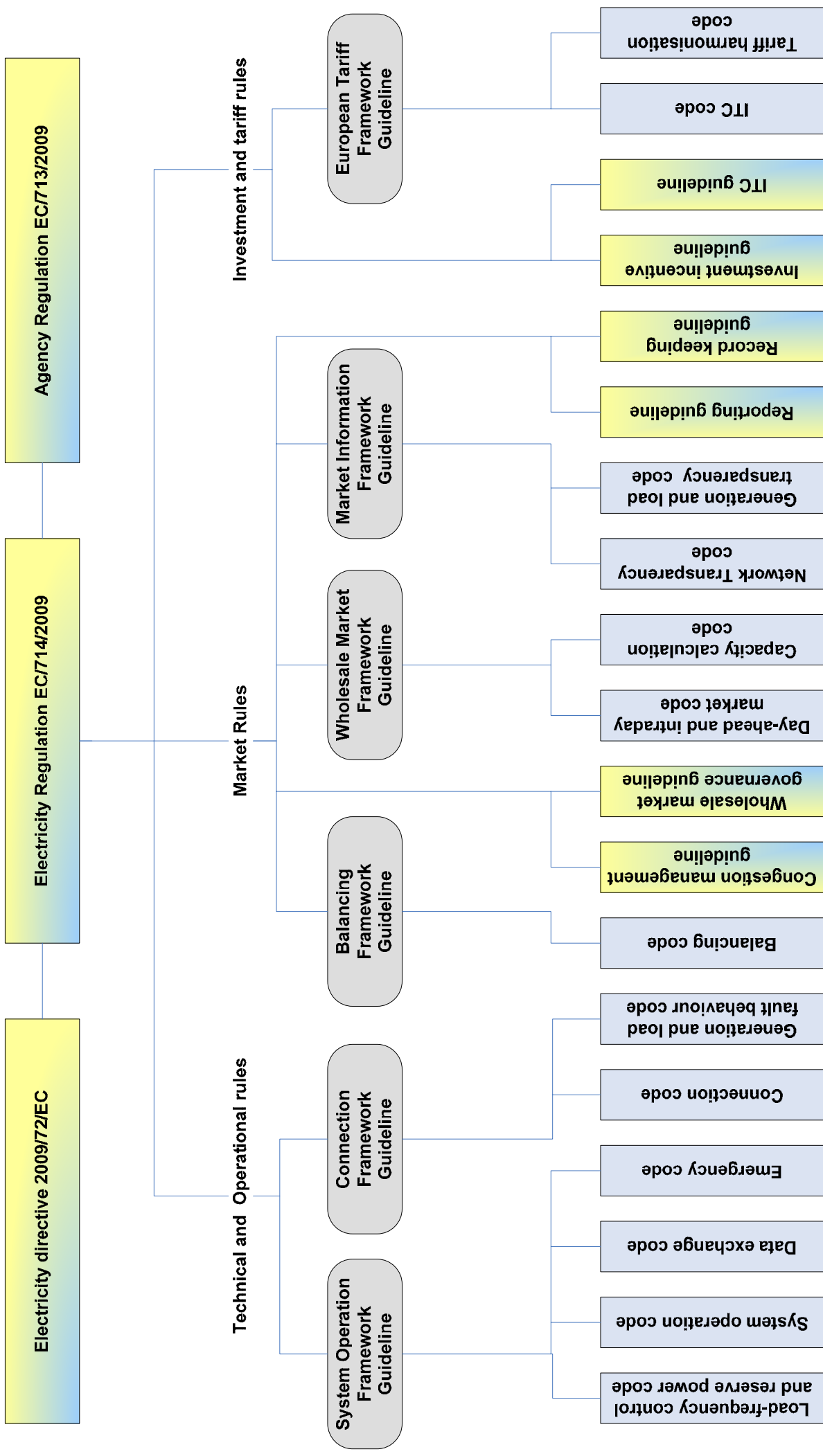
#### (5) Conclusions and Commission recommendations

There is a wide consensus that the work on the framework guidelines and network codes shall start already in the interim period. The work shall be based on the priorities identified by stakeholders. The Commission recommends all stakeholders to cooperate and follow the procedures as if the Third Package was already applicable. ERGEG should take the role of the Agency in the process, and the organisations that prepare the final ENTSOs foreseen by the Regulations should fulfil ENTSO's functions. All other stakeholders should be fully involved.

The network codes developed during the interim period cannot be made binding ahead of the date of applicability of the Third Package, the formal constitution of all relevant actors and the execution of the formal procedures set out in the Third Package. However, some rules can be proposed as amendments to the existing legally binding guidelines of Electricity and Gas Regulations, or as new legally binding guidelines foreseen by these Regulations. This is indeed the intention for the capacity allocation rules for gas.

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# European Electricity Rules



# European Gas Rules

