



Regulation 1775/2005 – Draft explanatory notes on Congestion Management Procedures

Walter BOLTZ

Chairman ERGEG Gas Focus Group & CEER Gas Working Group

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General

- ERGEG welcomes DG TREN's draft explanatory notes as a useful clarification of legal provisions for capacity allocation
- Availability of transport capacities remains a key requirement for the development of a competitive internal market in natural gas
 - A significant share of transport pipelines is currently contractually congested – DG COMP's Energy Sector Inquiry Report identifies congestion as a significant barrier for competition and liquid trade
 - effective gas-to-gas competition is hindered, where competitors and new market entrants lack appropriate third party access (TPA) on a non-discriminatory basis
 - This is likewise the case if TPA is refused or transport capacities are not made available to a sufficient extent in order to allow for reasonable supply of customers
- Availability of transport capacities remains a key requirement for security of supply

Requirements – 1

1. Existing capacities have to be used efficiently up to the maximum physically available capacity
 - efficient use of existing capacities is a crucial aspect of non-discriminatory access to networks
 - constant non-use of contracted capacities which are not made available to third parties results in market foreclosure

2. Congestion has to be addressed by the TSO

- Physical congestion suggests inadequate investment policy
- Contractual congestion suggests anti-competitive practice of market participants

SHORT TERM CONGESTION

- has to be met by appropriate congestion management mechanisms (transparent 2ndary markets, UIOLI)
- obligation to free up unused capacities applies to TSOs and system users likewise → corresponding obligation of users has to be included in the Standard Transportation Contracts

Requirements – 2

LONG TERM CONGESTION

- Capacity offer has to meet market demand → Directive 2003/55/EC obliges TSOs to meet reasonable demand
- in case existing congestion management mechanisms do not remain sufficient to ensure that all reasonable demands can be met the congestion has to be sorted out by the TSO by adding new capacity, i.e. by undertaking investments
- open season prior to any investment (new and existing pipelines) has to be obligatory in order to verify that the capacity demand resulting can be judged to be economically viable
- It can be assumed that properly unbundled TSOs by acting solely in the interests of a network operator have an economic interest to invest provided the investment is economically viable
 - if verified by an open season the additional capacity demand can be judged to be economically viable

Requirements – 3

3. Full compliance with transparency provisions of the Gas Regulation is a key requirement for non-discriminatory CMP
4. Securing new investments through binding transportation contracts is too much emphasised in the notes
 - The existence of a regulated system as such would normally facilitate investment by reducing the investment risk through guaranteed pay back of cost-reflective regulated tariffs
 - Such binding commitments may e.g. not be required to ensure investments
 - NRs clearly have a role in facilitating investments via a stable regulatory framework and proper incentives
 - However the TSO has the responsibility to meet capacity demand → it is not appropriate to suggest the existence of extra incentives as a *conditio sine qua non* for the compliance with a legal obligation

Requirements – 3

5. Regulation has to be applicable to all capacity contracts

- **Art 5 clearly states that CMP are applicable to existing contracts unless they would specifically infringe existing provisions**
- **Existing provisions that infringe the application of non discriminatory CMP should also be reviewed in the light of their compatibility with competition law**
- **Regulation does not repeat the “exemption” of article 32.1 of Directive 2003/55/EC**
- **The regulatory framework should generally leave no room for by-passing rTPA rules**
- **This is especially important as many upstream pipelines are owned by downstream incumbents**

Harmonised implementation necessary

- In order to allow for efficient application there is a clear need for consistent implementation of the requirements on CMP across all Member States including for pipes that cross borders
- This calls for effective inter-TSO and inter-regulatory cooperation
 - Calculation of available capacities on a cross-border basis rather than for single pipelines and based on Common Capacity Calculation Principles is needed
 - Verification of available capacities on a cross-border basis rather than for single pipelines → optimised use of existing capacities by taking into account alternative transport routes and upstream capacities
 - TSOs shall facilitate the efficient use of existing capacities by offering interruptible services accompanied by measures facilitating the purchase of substitutes in case of interruption
 - eg TSO acting as a platform for flexibility products (eg storage) in case of interruption

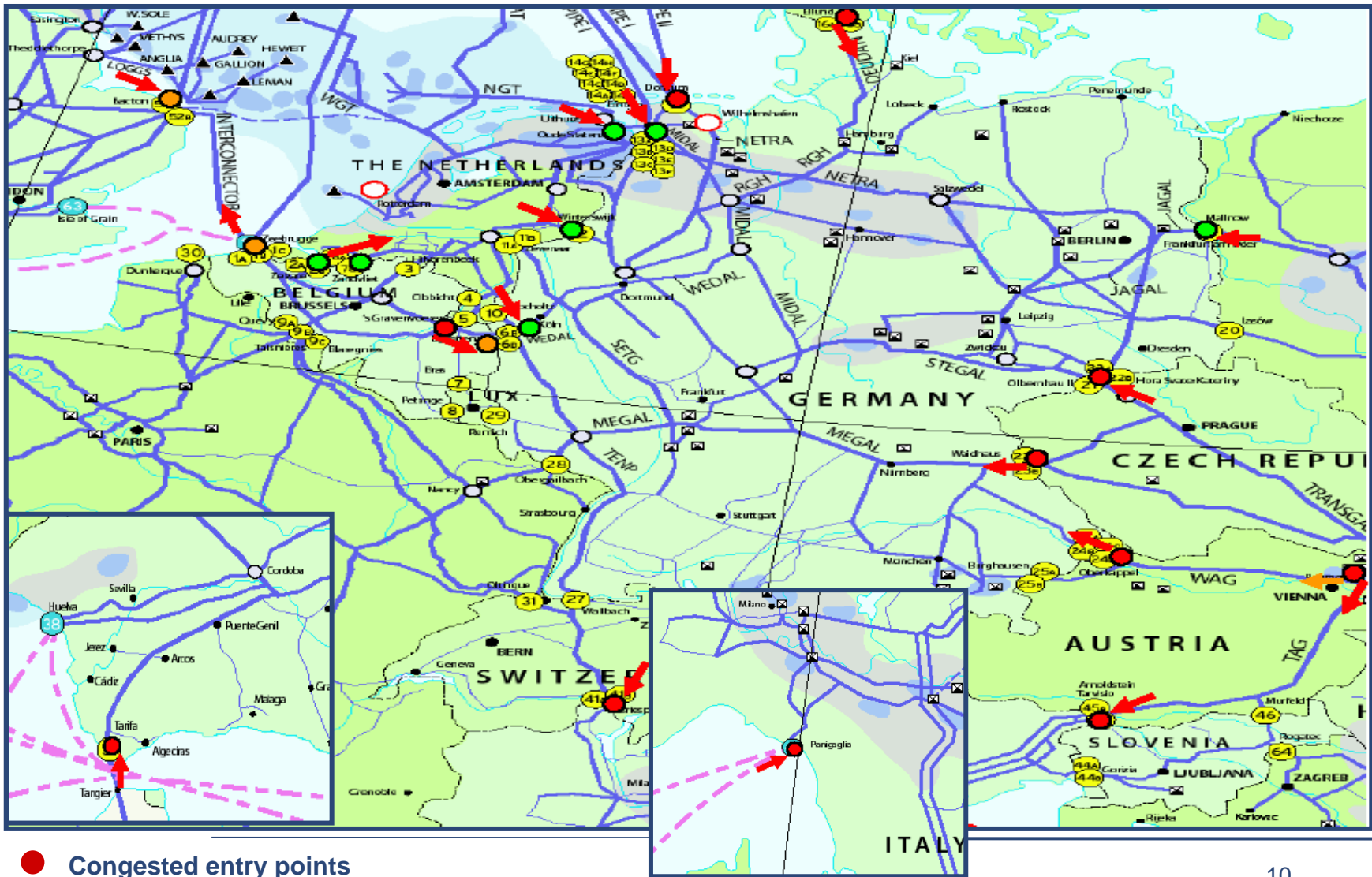
Harmonised implementation necessary

- Long term capacity planning on a cross-border basis rather than for single pipelines → efficient assessment of need for capacity expansion has to take into account the demand of up- and downstream supply markets
- TSOs shall undertake open seasons on a regular basis in order to identify the market demand
 - demand should be checked by the regulatory authorities of the markets connected to/affected by the pipeline system concerned (based on national demand forecasts) in order to identify the real market demand
 - TSOs have to expand their system according to the results of the open season; alternatively a third party could undertake the investment

Congestion & pipeline shareholder structure

- For a significant number of congested pipelines where no/not sufficient expansion is planned > 51% of the pipeline shares are owned by a downstream supplier
 - > 51% owned by one or more shareholders – maximum 2; each min 25%);
 - For the majority of pipelines concerned > 89% of the pipeline shares are owned by a downstream supplier (=incumbent with a dominant market position)

EU pipelines - current status of congestion



EU pipelines - current status of congestion – Details 1

Location	from	to	TSO	Congestion Management	Current congestion	planned capacity expansion to meet congestion
Bacton	Belgium	UK	IUK	secondary market UIOLI interruptible	no firm capacity available contractually (esp at times secondary market does not work effectively) and physically congested B: problem of feeding the interconnector	UK import capacity: + 23bcm (20% of Uk demand) in December2006; still capacity available - not all of expanded capacity sold yet additional +1.5bc considered
Zeebrugge IZT (domestic transportation)	UK	Belgium	Fluxys	secondary market UIOLI interruptible	no firm capacity available contractually and physically congested	UK import capacity: + 23bcm (20% of Uk demand) in December2006; still capacity available - not all of expanded capacity sold yet additional +1.5bc considered
Zeebrugge IZT (transit & access to Zeebrugge hub)	UK	Belgium	Distrigas & C°		contractual congestion	n.n.
Emden No-NL	Norway	Netherlands	GTS		contractual and physical congestion	expansion in 2009 (completed until 2012) - open season will evaluate market demand
Oude Statenzijl	Germany	Netherlands	GTS	secondary market interruptible UIOLI	contractual and physical congestion	expansion in 2009 (completed until 2012) - open season will evaluate market demand
Eynatten (domestic transport)	Germany	Belgium	Fluxys	secondary market (not effective in practice because of Fluxys "matching rule") interruptible UIOLI	contractual congestion	Capacity increase currently discussed (foreseen by 2010-2012)
Eynatten (transit)	Germany	Belgium	Distrigas & C°		contractual congestion	Capacity increase currently discussed (foreseen by 2010-2012)



Note: results according to the best knowledge and information available to NRs; category „congested“ classifies systems where no significant amount (approx. 0-5%, acc. to information available to NRs) of firm capacity is available to the market; referring to peak time periods excl. short term available intra-year capacities

EU pipelines - current status of congestion – Details 2

Location	from	to	TSO	Congestion Management	Current congestion	planned capacity expansion to meet congestion
Dornum	Norway	Germany	NETRA	ERT: secondary market (optionally organised by ERT) BEB: secondary market (bulletin board), UIOLI Statoil: secondary market, UIOLI in case of capacity constraint Hydro: no information published	ERT: 05/06 - 01/09 no firm capacity available BEB: no EntryPoint Dornum Statoil: 05/06 - 02/09 available firm capacity < 1% Hydro: no information about the capacity	no information about capacity expansion
Ellund	Denmark	Germany	DEUDAN	BEB: secondary market (bulletin board), UIOLI ERT: secondary market (optionally organised by ERT) Dangas: UIOLI	BEB: 05/06 - 10/06 available firm capacity < 10%, BEB: 10/06 - 01/07 available firm capacity < 1% ERT: 05/06 - 01/09 no firm capacity available Dangas: no information published by the internet	no information about capacity expansion
Frankfurt/Oder	Poland	Germany	JAGAL	no information published	no information about the capacity situation published	no information about capacity expansion
Frankfurt/Oder	Poland	Germany	EuRoPolGaz S.A.	no secondary market no UIOLI	<2% available	Usage of first line in year 2005: 24,95 BCM, will increase in year 2006 to 31,64 BCM - (98 % of possibilities - 32,3 BCM). A second line is planned that could extend the transmission possibilities to 65,7 BCM.
St. Kateriny/ Sayda	Czech R.	Germany	STEGAL	no information published	no information about the capacity situation published	no information about capacity expansion
Waidhaus	Czech R.	Germany	MEGAL	ERT: secondary market (optionally organised by ERT) GdF: secondary market (bulletin board), UIOLI	ERT: 05/06 - 01/09 no firm capacity available GdF: 05/06 - 08/09 available firm capacity < 1%	no information about capacity expansion



Note: results according to the best knowledge and information available to NRs; category „congested“ classifies systems where no significant amount (approx. 0-5%, acc. to information available to NRs) of firm capacity is available to the market; referring to peak time periods excl. short term available intra-year capacities

EU pipelines - current status of congestion – Details 3

Location	from	to	TSO	Congestion Management	Current congestion	planned capacity expansion to meet congestion
Oberkappel	Austria	Germany	MEGAL	ERT: secondary market (optionally organised by ERT) GdF: secondary market (bulletin board), UIOLI	ERT: 05/06 - 01/09 no firm capacity available GdF: 05/06 - 08/09 available firm capacity < 1%	no information about capacity expansion
Baumgarten	Austria	Slovakia	BOG	no secondary market, interruptible UIOLI	contractual congestion	expansion in 2011 of 1.420.000 m³/h
Arnoldstein Tarvisio	Austria	Italy	TAG	secondary market (bulletin board) interruptible UIOLI (IT: order of priorities)	contractual and physical congestion available capacity 0%	expansion of + 6.5 bcm/a in 2006 far behind demand [AT +35% by 2010, IT: +10 bcm by 2010]
Panigaglia	LNG	Italy	GNL Italia SpA	secondary market UIOLI order of priorities (IT)	contractual and physical congestion	No expansion
Passo Gries	Switzerland	Italy	Transitgas	secondary market UIOLI order of priorities (IT)	contractual and physical congestion available capacity 0%	No expansion
Tarifa	Morocco	Spain	ENAGAS	Provision of bails for capacity reservation UIOLI (for both, bail and capacity)		Not expansion forecasts Most of the capacity used at present for supplying the regulated market.
Winterswijk	Netherlands	Germany	GTS		contractual and physical congestion	expansion in 2009 (completed until 2012) - open season will evaluate market demand



Note: results according to the best knowledge and information available to NRs; category „congested“ classifies systems where no significant amount (approx. 0-5%, acc. to information available to NRs) of firm capacity is available to the market; referring to peak time periods excl. short term available intra-year capacities

EU pipelines - current status of congestion – Details 4

Location	from	to	TSO	Congestion Management	Current congestion	planned capacity expansion to meet congestion
Bocholtz	Netherlands	Germany	TENP	ERT: Secondary Marketing available (optionally organised by ERT) ENI: no information published	ERT: 05/06 - 01/09 no firm capacity available ENI: no information published	no information about capacity expansion
Bocholtz	Netherlands	Germany	GTS	Backhaul	contractual congestion	expansion in 2009 (completed until 2012) - open season will evaluate market demand
s'Gravenvoeren, Obbicht, Zandvliet, Hilvarenbeek (domestic transportation)	Netherlands	Belgium	Fluxys	secondary market (not effective in practice because of Fluxys "matching rule") interruptible UIOLI	contractual congestion	n.n.
s'Gravenvoeren	Netherlands	Belgium			contractual congestion	expansion in 2009 (completed until 2012) - open season will evaluate market demand
Zelzate	Netherlands	Belgium	Fluxys / GTS			expansion in 2009 (completed until 2012) - open season will evaluate market demand
Zandvliet	Netherlands	Belgium	GTS		no congestion in Belgium, but contractual congestion in the Netherlands	GTS plans expansion Fluxys plans no expansion



Note: results according to the best knowledge and information available to NRs; category „congested“ classifies systems where no significant amount (approx. 0-5%, acc. to information available to NRs) of firm capacity is available to the market; referring to peak time periods excl. short term available intra-year capacities