

European Commission's consultation on the German electricity market reform plan

EDF Response

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July 6th, 2021

EDF welcomes this EC consultation. In fact, this consultation process on the various market reform plans as foreseen by the Electricity Regulation in order for Member States to justify the persistence of adequacy resources issues appears to be an informative and valuable exercise as it provides a quite comprehensive and general overview of the reforms carried out or intended at national level by the Member States. In this perspective, the English courtesy translation is appreciated.

EDF acknowledges that the German authorities do not foresee any adequacy issue by 2030, and justify the introduction of the strategic reserve as a means to avoid loss of load during extreme events, as described in its Risk Preparedness plan (see page 9 of the original consultation document, paragraphs 2 and 3). EDF wonders in this context whether this mechanism implemented by the German authorities may qualify as a capacity mechanism indeed (cf. the definition provided in the Electricity Regulation – *'capacity mechanism' means a temporary measure to ensure the achievement of the necessary level of resource adequacy by remunerating resources for their availability, excluding measures relating to ancillary services or congestion management*), and therefore calls the European Commission to clarify whether the requirements set out in the Electricity Regulation for capacity mechanisms only do apply in this particular case.

In any case, EDF considers that a Member State is legitimate to implement specific mechanisms aimed at achieving national targets, for example on security of supply or on the development of a specific technology that contributes to the climate neutrality, as long as these mechanisms comply with the sectoral regulatory framework and the State Aid framework. This means that the mechanisms are proportionate to the objective and do not distort price signals. This condition may not be met by German strategic reserves, as:

- The German authorities do not detail any metrics to qualify the national objective that justifies the measure and do not describe how the volumes to be contracted (and corresponding costs) are suited to this objective.
- As concluded by the Staff Working Document published by the European Commission in 2017 after its Sector Inquiry on capacity mechanisms, strategic reserves may be considered as a capacity withholding and may effectively distort the functioning of the market, in particular when the contracted capacities, which are considered "out of the market" during their strategic reserve contract integrate the market after the termination of their contract. There is insufficient clarity, by German authorities, whether this risk may materialize or not.

EDF acknowledges the market reform plan presented by the German authorities. However, some key dimensions seem to be missing or incomplete. In particular:

- Germany applies a 6-hour rule to determine whether subsidies to RES generation are to be maintained in case of negative prices. As highlighted in the "Retrospective evaluation support study on the EU Guidelines on State aid for environmental protection and energy applicable in 2014-2020 and the provisions applicable to aid for environmental protection and energy of the

Commission Regulation (EU) 651/2014”, this rule proves to have a significant effect on price formation and leads to inefficient signals during a growing number of hours. Also, it does not comply with the principles (124)(c) of the EEAG 2014/C 200/01. EDF considers therefore that the market reform plan should include a commitment to revise this rule and apply effective incentives for RES generation not to offer at negative prices and as a consequence not to run at negative prices for any period.

- German TSOs refuse to apply countertrading at Southern borders to manage congestions. Instead they rely only on a selected set of redispatching actions (incl. an undue discrimination between national and foreign bids) and activate frequently the network reserves. This practice is contrary to the principles that network reserves are a last resort measures to be used only after all market-based measures including countertrading are exhausted. At least this is the way they were described in the document submitted by German authorities when requesting the State Aid approval for this scheme, and this is also what is erroneously claimed in response 3 of the questionnaire detailed in Annex 1 of the market reform plan (see page 43 of the consultation document). EDF considers that this refusal by German TSOs to apply countertrading measures at Southern borders is discriminatory and inefficient. Even more while German TSOs do countertrade on a daily basis on the DkW/DE border. It leads to misleading price signals, and proves to be costly for German consumers, as the sizing of network reserves (+ Special Network Related reserves contracted in 2019) by German TSOs does not account for the countertrading potential on Southern borders. Considering that German TSOs have an adequate solution for countertrading on the DkW/DE border, implementing a similar solution on the Southern borders does not require complex developments and could be implemented as soon as 2021.

bdew

Energie. Wasser. Leben.

Berlin, 6th July 2021

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Position Paper

Consultation on Germany's electricity market reform plan

The German Association of Energy and Water Industries (BDEW) and its regional organisations represent over 1,900 companies. The membership comprises both privately and publicly owned companies at the local, regional and national level. They account for around 90 percent of the electricity production, over 60 percent of local and district heating supply, 90 percent of natural gas, over 90 percent of energy networks and 80 percent of drinking water extraction as well as around a third of wastewater disposal in Germany.

BDEW welcomes the opportunity to comment on the German market reform plan and appreciates the European Commission's transparent approach in that matter. The actions proposed in the plan are entirely endorsed by BDEW. Their implementation will be commented in detail in the following.

1 Wholesale Market

1.1 Extension of international trade

BDEW fully supports the further integration of the wholesale energy market and the expansion of crossborder trading in Europe. The German action plan, which was developed to ensure a linear trajectory towards the 70% criterion by 2025 has been applied since 2020. BDEW welcomes all the identified measures in the action plan to maintain the current configuration of the bidding zone while ensuring the 70% criterion. With the implementation of the criterion, European wide trading can be further developed and extended, leading to a cost-efficient power supply for all parties.

2 Balancing market

2.1 Implementation of the European target model

Over the last years a lot of changes were implemented in the balancing market on a national level. To ensure a well-functioning of the market it is important that no further interventions will be applied and that the market is given the possibility to further develop in a stable regulatory environment.

With the introduction of MARI and PICASSO, the target model for the balancing market will be almost fully implemented. BDEW welcomes the harmonisation of the balancing markets at a European level and welcomes the role of the German electricity sector with ca. 60 highly diversified prequalified BSPs and on the demand side and German TSOs hosting the platforms. According to the accession road maps of the TSOS a lot of member states make use of a derogation from the implementation date. BDEW points out that a fully harmonised European market will only develop if a large share of member states joins the platform.

For all BSPs it is important that they are involved in the process of implementation. Hence, a strong cooperation between TSOs and BSPs is needed as well as an early provision of the testing environment.

It is crucial to not only put a focus on the balancing market, but to further develop and strengthen the Intraday market on the European level, so trading and therefore self-balancing until real time can be ensured across borders.

2.2 Increase in competition in the balancing markets

The balancing market has been changed a lot during the last years, making it more and more complicated to participate as a BSP. After the implementation of the target model, the market urgently needs time to settle down and should not be stressed by further changes. Only in this way and with a stable regulatory framework an efficient European market for balancing energy can be developed, and a good environment is created for potential BSPs to enter the market.

3 Demand-side Response

3.1 Implementation of the directive (EU) 2019/944 with regard to energy storages

BDEW would like to ensure that active customers are not subject to disproportionate, discriminatory technical or administrative requirements, including procedures and charges as well as network charges that are not cost-reflective. Hence, BDEW fully supports the requirement for energy storages not to be charged twice. It is essential that regulations aim at avoiding a “double charge” for energy storages and that they are easy to implement. The recent amendment of § 61 EEG 2021 (EEG surcharge in cases with energy storage facilities) build a good basis for that.

3.2 Transposition of the directive (EU) 2019/944 by adapting § 41d EnWG with regard to flexible end consumers and provision of services

BDEW is in favour of the creation of a legal basis for demand side response. Therefore, the EnWG was revised to be in line with the electricity regulation allowing for flexible consumers to provide flexibility services, which is fully supported.

3.3 Smart Meter Rollout

BDEW welcomes the Smart Meter Rollout, as smart meters are the key for the future use of flexible demand. The provision of flexibility should be voluntary and can be incentivised by a clear communication on the network state and a reasonable remuneration.

4 Retail

4.1 Reduction of the “EEG-Umlage“ financed by the federal budget

BDEW fully supports the reduction of the EEG-Umlage, as it will lead to lower prices and therefore to a relief for end consumers. The fuel emissions trading act has been developed so that the investment in RES can be cross financed with its revenues.

4.2 Implementation of the requirements of the directive (EU)2019/944 with regard to dynamic contracts electricity tariffs

The EnWG was revised to be in line with the electricity regulation allowing for dynamic electricity tariff contracts. However, BDEW was not in favour of creating dynamic electricity tariff contracts as end consumers should not be exposed to price volatility on the wholesale market. Due to the low proportion of the wholesale and retail price components in Germany, little benefit is to be expected from dynamic electricity tariffs. Dynamic electricity tariffs will be relevant in the long term for customers who can offer a corresponding load-shifting potential.

5 Interconnectors and Congestion Management

5.1 Introduction Redispatching 2.0

With the implementation of Redispatching 2.0 the potential for generation and storage systems is enlarged to participate in redispatching measures as systems with an installed capacity of 100kW and above are now included in the process. BDEW fully supports the further development of the cost-approach for the remuneration of redispatching measures and appreciates the optimised selection decisions occurring for TSOs/DSOs.

BDEW was significantly involved in the processes prior to the implementation of Redispatching 2.0 to develop the legal framework and processes for the accomplishment of the measures. After the implementation in October 2021 the market should be given sufficient time to put all the steps into process.

With the introduction of the Redispatching 2.0 smaller flexibilities are integrated. In addition, §14c was included in the EnWG novel to create a legal framework for DSOs to procure market based flexibility and therefore also integrate loads in congestion management.

5.2 Network development measures

BDEW fully supports all network development measures taken and pleads for an acceleration of the grid expansion. The regulatory framework shall allow the necessary investments in the networks to be carried out in a manner allowing those investments to ensure the viability of the networks. Only if the necessary investments in infrastructure are enabled, the security of supply can be ensured at efficient costs.

However, in the view of BDEW, the level of security of supply also depends on assumptions with regard to future developments. In the light of the nuclear phase-out, which will be completed in 2022, and the coal phase-out, which is still essentially imminent, the measures taken by the German government to improve the market structure at least do not allow a firm conclusion that security of supply will be sufficiently guaranteed in the future.

5.3 Implementation of Measures taken by the Bidding zone action plan

The German action plan, which was developed to ensure a linear trajectory towards the 70% criterion by 2025, handed in 2020, has been applied since then. BDEW welcomes all the identified measures in the action plan to maintain the current configuration of the bidding zone while ensuring the 70% criterion. Some of them have already been implemented and will be implemented successively until 2025. The steps to be taken, include more investment in infrastructure, improvement of processes and a strengthening of regional cooperation. The applicability and market impact of the 70% criterion should be assessed over the next years.

Germany should be given time to focus on these measures until 2025. BDEW does not see any additional measures to be taken. In the meantime, the bidding zone reviews should only be used for clarification purposes. Hence, the configuration of the bidding zone should be maintained at least until the measures are evaluated in 2025.

Contributions to Public Consultation of German Market Reform Plan

Thank you for the possibility to comment the Implementation plan for Germany under Article 20 of the Internal Electricity Market Regulation (BMVO) ('Market Reform Plan') as published at https://ec.europa.eu/energy/sites/default/files/de_market_reform_plan_en_machine_translation.pdf.

We would like to comment this plan of the German Federal Ministry of Economic Affairs and Energy as follows:

1 Capacity Reserve

The Federal Ministry of Economic Affairs and Energy presents the capacity reserve and the reasons for its introduction. Contrary to the demands of the EU DG COMP, however, in practice it is not open to all technologies, since several requirements only allow power plants to participate. Security of supply, especially by including industrial loads, can in many cases be ensured in a CO₂-neutral manner and at lower overall costs (investment and operation) than by building and / or maintaining fossil-fuel power plants.

On April 7, 2017, EU competition commissioner Margrethe Vestager expressed state aid doubts about the capacity reserve in the first version. The EU Commission had warned that the Capacity Reserve Regulation (KapResV) and any prerequisites for participation must be designed in a non-discriminatory manner for all technologies in question. This was one of the reasons for the delay in the regulation. However, the conditions still make it impossible for industrial loads to participate in a tender. The TSO's prerequisites for participation provide that the bidder must report the quarter-hourly consumption planned for the following day by 12:00 noon at the latest. Subsequent changes to the report are not permitted. In addition, the deviation between the work requested and the work actually performed must not be more than 5% during a quarter-hour interval. This timetable forecast and accuracy is unrealistic for industrial loads and therefore still excludes them.

2 Demand-side Response

2.1 Dedicated product for industrial demand-side response

The incentives for demand-side response should arise on the electricity market through corresponding price signals. However, these price signals have not been sufficiently available in the past because flexibility has so far been achieved almost entirely from medium and peak load power plants and pumped storage facilities. Increasing demands for additional capacity mechanisms for new gas-fired power plants raise doubts that the necessary price signals will emerge in the future. A new capacity market for gas-fired power plants alone should therefore be avoided; the demand-side response potential should be used beforehand.

In addition, although industrial consumers can reduce their load within an intraday trading interval of 15 minutes, many industrial plants often need hours to restart due to set-up times. A dedicated product for interruptible loads is therefore still required, even after the current regulation expires in mid-2022.

2.2 False incentives in network tariffs

The Federal Ministry of Economics presents reduced network charges for commercial and industrial consumers as positive. In reality, however, this regulation prevents demand to be more flexible. Section 19 (2) sentences 1 and 2 of the Electricity Network Charges Regulation (StromNEV) describes that companies need to pay less network charges only if they have continuous electricity consumption of more than 7,000 hours per year. For this reason, these companies do not adapt their electricity consumption to the availability of renewable energies or invest in flexibility, but in a inflexible base load consumption. It is therefore imperative that this rule be abolished.

3 Interconnectors and Congestion Management

With the implementation of Redispatch 2.0 the potential for generation and storage systems is enlarged to participate in redispatch measures as systems with an installed capacity of 100 kW and above are now included in the process. After the implementation in October 2021 the market should be given sufficient time to put all the steps into process. Nevertheless, the Redispatch 2.0 reform does not make it possible to integrate flexibility on the load side or to develop further flexibility, as the Federal Government rightfully recognizes in their market reform plan. We regret that the current regulatory framework does not provide an incentive for a timely and foresighted investment in flexibilities the German system is in high need of in order efficiently manage the energy transition.

We would be happy if you could consider our comment in your evaluation.

In addition to the below issues regarding the Market Reform Plan, we would like to make a suggestion for optimizing the procurement of redispatch in Germany. The Market Reform Plan acknowledges on page 33 that redispatch is accounting for large volumes being traded in Germany.

The common website of the German TSOs ([Netztransparenz > EnWG > Redispatch](#)) specifically lists the volumes traded for “strombedingter Redispatch” (Grund der Maßnahme) by German TSOs on an electricity exchange (“Börse”), We understand from the attached letter from the German TSOs that they exclusively use the EPEX intraday market for trading these redispatch volumes.

When we asked German TSOs why they are not using a tendering process to select in a transparent way the power exchange services for trading these redispatch volumes, they responded that there is no legal obligation for them to conduct a tendering process for power exchange services in respect of these volumes.

Competing power exchanges charge different fees for the trading services they offer to their customers.

We would assume that the total cost for exchange-traded redispatch in Germany could be reduced if German TSOs conducted a public and transparent tender process before procuring future power

exchange services. The same applies for power exchange services required by German TSOs in relation to volumes traded in connection to grid losses and the renewables management under the EEG.

Maybe the Federal Government could consider our suggestion.

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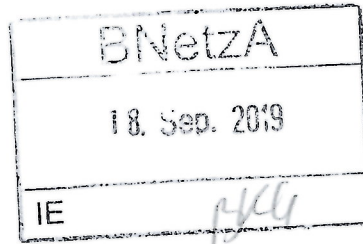
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IHRE ANFRAGE BEZÜGLICH BÖRSLICHER HANDELSAKTIVITÄTEN UND REDISPATCH

Sehr geehrter Herr Hollmann,

die Redispatch-Veröffentlichung auf netztransparenz.de wurde Anfang Mai 2019 dahingehend umgestellt, dass nun auch Börsengeschäfte im Rahmen von Redispatch und Countertrade in der Veröffentlichung enthalten sind.

Sie haben uns in Ihrer Email vom 13. August 2019 gebeten, die Fragen von EFET bzgl. Börsenhandel im Rahmen von Redispatch zu beantworten und insbesondere zu erläutern, welchen Hintergrund diejenigen Maßnahmen haben, die als "betroffene Anlage" "Börse" ausweisen und für die als "Grund der Maßnahme" weder "Spannungsbedingter Redispatch" noch "Strombedingter Countertrade D/DK1" ausgewiesen ist.

Wir möchten bei dieser Gelegenheit auf die Hintergründe zum „Börsenausgleich von strombedingtem Redispatch“ eingehen; die Beantwortung der Fragen der EFET finden Sie im angehängten Dokument.

Neben dem energetischen Ausgleich von Netzreserveprobstarts kommt Börsenhandel zum Ausgleich von strombedingtem Redispatch dann zum Einsatz, wenn entsprechend den bei ÜNB vorliegenden Informationen, insbesondere der Kraftwerkseinsatzpläne gemäß BNetzA-Festlegung BK6-13-200, kein geeignetes Redispatchpotential zur Kompensation einer engpasswirksamen Redispatchmaßnahme mehr zur Verfügung steht. Der Börsenhandel dient dabei im Wesentlichen dem Ausgleich des Redispatch-Bilanzkreises, um eine Beeinträchtigung der Systembilanz zu vermeiden. Bei welchen Kraftwerken diese Energiemengen reduziert bzw. erzeugt werden, ist bei Börsenhandel den ÜNB nicht bekannt. Es besteht somit die Gefahr, dass der energetische Ausgleich über die Börse nur bedingt

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engpassentlastend wirkt. Würde allerdings in solchen Fällen auf den börslichen Ausgleich verzichtet, hätte dies einen Regelleistungseinsatz zur Folge, dessen engpassentlastende Wirkung vom Grundsatz her gleichermaßen unbekannt wäre. Somit wird durch den Ausgleich an der Börse verhindert, dass ein Systembilanzproblem aus einer Redispatchmaßnahme resultiert.

Der energetische Ausgleich von strombedingtem Redispatch an der Börse kommt insbesondere auf Grund von fehlendem *negativen* Redispatchpotential vor und wird angewendet, um die engpassentlastende hochgefahrere Leistung systembilanzneutral auszugleichen. Unserer Beobachtung nach treten solche Situationen insbesondere bei niedrigen Börsenpreisen – z.B. an Wochenenden sowie an windstarken Tagen auf. Den uns vorliegenden Daten zufolge sind in solchen Fällen in der Regel nur die Mindestleistung der Anlagen sowie Regelleistungs- und Besicherungsscheiben gemeldet. Letztere dürfen für Redispatch nur im Ausnahmefall herangezogen werden. Absenkpotentiale im Ausland werden selbstverständlich in den jeweiligen Einsatzentscheidungen berücksichtigt. Geeignete engpassrichtige Absenkpotentiale im Ausland (z.B. in Dänemark) liegen jedoch nur sehr begrenzt vor. Der „Hauptengpass“ in den angefragten Zeitbereichen liegt auf den Leitungen nach Österreich, und ein zusätzlicher Bedarf besteht aufgrund von Amtshilfemaßnahmen für APG. Hierfür werden teilweise Redispatchabsenkpotentiale in der Größenordnung von mehreren GW benötigt.

Abschließend möchten wir unsere Sorge über die den ÜNB gemeldeten Nichtverfügbarkeiten des negativem Redispatchpotentials Ausdruck verleihen. Diese überrascht, zumal zu beobachten ist, dass diese Mengen am Intraday-Markt problemlos gehandelt werden konnten. Nach Auftreten der Ereignisse haben wir bereits weitere Untersuchungen begonnen, die noch andauern. Gerne können wir uns zu einem späteren Zeitpunkt dazu mit Ihnen austauschen, auch um mögliche Abhilfemaßnahmen zu erörtern.

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Anhang

Beantwortung der Fragen der EFET durch die deutschen ÜNB.

Transparenz:

- *Über welche „Börse“ werden die Mengen glatt gestellt?*
 - EPEX Spot
- *Warum wird die Börse genutzt? Was ist der Benchmark für die Entscheidung?*
 - Die Redispatch-Veröffentlichung auf netztransparenz.de beinhaltet verschiedene Engpassmanagement-Maßnahmenarten, in deren Zusammenhang Börsengeschäfte getätigt werden:
 - Countertrade: Diese Maßnahmenart verschiebt die Erzeugung zwischen zwei Marktgebieten, wobei es bezüglich der Engpassentlastung unerheblich ist, wo genau im jeweiligen Marktgebiet die Leistungsanpassung erfolgt. Die Strommengen werden daher diskriminierungsfrei an der Börse beschafft. Neben Countertrades zur Entlastung konkreter Engpässe werden zunehmend umfangreiche Countertrade-Maßnahmen benötigt, um die zugesagte Mindestkapazität an der deutsch-dänischen Grenze sicherzustellen. Sämtliche Countertrade-Maßnahmen sind in der Veröffentlichung explizit als Countertrade gekennzeichnet.
 - Bei Redispatch zur Spannungshaltung wird der energetische Ausgleich grundsätzlich diskriminierungsfrei über die Börse gehandelt. Diese Maßnahmen sind im „Grund der Maßnahme“ als „Spannungsbedingter Redispatch“ ebenfalls eindeutig identifizierbar.
 - Daneben gibt es noch Börsengeschäfte im Rahmen von „Strombedingtem Redispatch“.
 - Strombedingter Redispatch wird über die Börse ausgeglichen, wenn entsprechend den vorliegenden Informationen, insbesondere den Kraftwerkseinsatzplänen, kein geeignetes Redispatchpotential mehr zur Verfügung steht. Ohne die Börsengeschäfte kann in diesem Fall der Redispatch-Bilanzkreis nicht

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ausgeglichen werden. Ausführlichere Erläuterung zu diesem Sachverhalt siehe oben.

- Ein Teil der als „strombedingter Redispatch“ veröffentlichten Börsengeschäfte sind Ausgleichsmaßnahmen für Netzreserveprobestarts. Auch hier ist der Grund für den Börsenhandel die Diskriminierungsfreiheit.
 - Teilweise wird auch der Ausgleich von Rampen, die im Rahmen von redispatchbedingten Leistungsanpassungen von Kraftwerken entstehen, diskriminierungsfrei an der Börse beschafft, da ein Ausgleich dieser geringen, sich viertelstündlich ändernden Mengen, über konkrete Kraftwerke kaum möglich ist. Die andernfalls verbleibenden Energiemengen hätten einen unausgeglichenen Redispatch-Bilanzkreis und somit einen Regel-leistungsabruf zur Folge.
- *Welches Marktsegment wird genutzt?*
 - *alles im Intraday-Handel?* Ja, nur Intraday-Handel
 - *gibt es noch weitere Möglichkeiten, z.B. OTC-Handel gegen einen bestimmten Counterpart?* Bei Countertrades, spannungsbedingtem Redispatch und Ausgleich von Netzreserveprobestarts erfolgt der Ausgleich generell über die Börse. Zum Ausgleich des Redispatch-Bilanzkreises wird die Börse wie oben erläutert dann verwendet, wenn alle anderen Ausgleichs-Möglichkeiten bereits ausgeschöpft sind.
 - *In welchen Fällen wirkt ein Börsengeschäft auf den Engpass?*
 - Wenn die Einspeiseerhöhung bzw. –reduktion, die sich hinter dem Angebot an der Börse verbirgt, entsprechend der Netzstruktur auf der richtigen Seite des Engpasses liegt, wirkt das Börsengeschäft engpassentlastend.
 - *Zuordnung der Aktivitäten zur Mengenneutralität wird nicht veröffentlicht.*
 - Die ÜNB veröffentlichen ihre Maßnahmen nach dem Anweiserprinzip. Da es sich um ÜNB-übergreifende Maßnahmen handelt, erfolgt keine Zuordnung der Aktivitäten.

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Marktbeeinflussung:

- **Markt/Preiseffekt durch relevante Handelsmengen**
 - am 21.07. wurden an der EPEX Spot ca. 7 GW in den Produkten 10-11 bis 17-18 gehandelt (siehe Auszug).
 - die seitens Netzbetreibern gehandelten veröffentlichten Mengen zu dem Zeitpunkt: 2,3 GW (Marktanteil > 30%)

Für die konkrete Situation am 21.07.2019 konnte durch den Börsenhandel aufgrund fehlenden Absenkpentials die Engpassentlastung für die deutsch-österreichische Grenze dennoch erreicht werden. Signifikante Preisbewegungen sind für den fraglichen Zeitbereich nicht zu erkennen.

- **Klärung REMIT-Relevanz**

Basis für die Beurteilung der REMIT-Relevanz bei den zuständigen ÜNB bilden die Rechtsvorschriften gemäß Art. 2 und 4 der Verordnung (EU) Nr. 1227/2011.

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