

Institut Luxembourgeois de Régulation - Règlement ILR/E20/48 du 8 octobre 2020 concernant les modalités d'expédition entre les différentes contreparties centrales et les différents agents de transfert pour les échanges d'énergie résultant du couplage unique intrajournalier dans toutes les zones de dépôt des offres de l'Union européenne - Secteur Électricité.

La Direction de l'Institut Luxembourgeois de Régulation,

Vu le règlement (UE) 2015/1222 de la Commission du 24 juillet 2015 établissant une ligne directrice relative à l'allocation de la capacité et à la gestion de la congestion, et notamment son article 68, paragraphe 6 ;

Considérant que les opérateurs désignés du marché de l'électricité (NEMO) de la zone de dépôt des offres DE/LU, les sociétés EPEX Spot SE et Nord Pool European Market Coupling Operator AS, participant au couplage unique intrajournalier, ont demandé, par courriers du 5 février 2020, aux autorités de régulation nationales concernées, dont l'Institut Luxembourgeois de Régulation au Luxembourg, de déterminer les modalités d'échange de transit dans le cadre du projet du couplage unique intrajournalier ;

Considérant que toutes les autorités de régulation nationales de l'Union européenne se sont mises d'accord lors du Energy Regulators' Forum du 15 septembre 2020 sur les modalités d'expédition visées à l'article 68, paragraphe 6, du règlement (UE) 2015/1222 précité ;

Arrête :

Art. 1^{er}.

Les modalités d'expédition entre différentes contreparties centrales et différents agents de transfert pour les échanges d'énergie résultant du couplage unique intrajournalier dans toutes les zones de dépôt des offres de l'Union européenne sont arrêtées dans le document intitulé "*Transit shipping arrangements for the exchange of energy and financial settlement resulting from the single intraday coupling in all European bidding zones, as agreed in a coordinated manner by all the European regulatory authorities in accordance with Article 68(6) of the Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management*", qui est annexé au présent règlement pour en faire partie intégrante.

Art. 2.

Le présent règlement sera publié au Journal officiel du Grand-Duché de Luxembourg et sur le site internet de l'Institut.

Pour l'Institut Luxembourgeois de Régulation,

La Direction,

Michèle Bram
Directrice adjointe

Camille Hierzig
Directeur adjoint

Luc Tapella
Directeur

Annexe : mentionnée

Annex

Transit shipping arrangements for the exchange of energy and financial settlement resulting from the single intraday coupling in all European bidding zones, as agreed in a coordinated manner by all the European regulatory authorities in accordance with Article 68(6) of the Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management

15 September 2020

Whereas:

1. All Nominated Electricity Market Operators (NEMOs) taking part in the Single Intraday Coupling (SIDC) have sent a letter to all National Regulatory Authorities (NRAs) where they request the NRAs to take a decision on the shipping solution for the SIDC project to be implemented in all bidding zones pursuant to Article 68(6) of the Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management (CACM Regulation).
2. The need for a transit shipping solution became pressing with the go-live of the second wave of SIDC in November 2019.
3. In Multi-NEMO Arrangements (MNA) areas, a temporary solution was established and EMCO AS and EPEX SPOT SE perform the task on a rotational basis of 3 months each, with the exception of Polish bidding zone, where only one of these NEMOs performs it, in order to ensure the continuation of the second wave of SIDC.
4. The temporary rotational solution will be, based on the instructions of the NRAs delivered to the SIDC project parties, in place at least until 19 November 2020.
5. All trades can be settled among all participating parties in the current SIDC shipping solution, and there is no discrimination regarding routes of the trade. However, due to technical constraints, not all trades can be settled directly between all participating NEMOs. For some trades, a shipping agent may act as a counter party between different central counter parties for the exchange of energy. Transit shipping is therefore a result of the design of the shipping module in the SIDC algorithm ("Shipping Module"), in which the financial settlement follows the physical path of shipping border by border and does not allow for direct source-to-sink shipping. Furthermore, the volume has to be nominated to each Transmission System Operator (TSO) along the route of the trade (physical shipping/settlement) even if Shipping Module submits the information directly to the TSOs.
6. The transit shipper has no revenue from these trades, as it is neither affiliated with the source nor with the sink NEMO or NEMO's central counter party of the trade.
7. The fact that the transit shipper is neither affiliated with the source nor with the sink NEMO or NEMO's central counter party of the trade increases the risk for the transit because it cannot decide to stop or cancel the trade. Mechanisms of decoupling have been put in place to mitigate the risk via procedures. Transit shippers do not receive revenue and so they cannot compensate the risk. The current shipping solution does not allocate the risk efficiently.
8. In accordance with Article 6(1)(i) and 7(1)(g) of CACM Regulation, each NEMO shall be able to provide the necessary clearing and settlement services and shall be responsible for acting as a central counter party for clearing and settlement of the exchange of energy or delegate the task in accordance with Article 81 of CACM Regulation. Alternatively, shipping agents may act as counter parties between different central counter parties for the exchange of energy according to Article 68(6) CACM Regulation.
9. Because of the current design of the Shipping Module, a transit shipping activity provided either by central counter parties or by shipping agents is needed as an interim measure, until an enduring solution to the problem has been established. In monopoly areas, as well as in competitive non-MNA areas (i.e. areas where only one competitive NEMO is active, like for instance Croatia and Slovenia), the transit shipping activity is performed only by the incumbent NEMO (either monopoly or competitive) or by TSOs acting as a shipping agent. On the contrary, in MNA areas the service needs to be assigned to one of the competitive NEMOs, since it cannot be performed simultaneously by both of them. In principle, the central counter parties or shipping agents are obliged to perform shipping within each bidding zone. Nevertheless, currently in MNA areas, there is a lack of a proper mechanism to appoint the transit shipper for the interim period, which should be solved by an enduring solution to be submitted by all NEMOs and shipping agents to NRAs for approval.
10. In this context, the NRAs have cooperated closely and in a coordinated manner in order to determine the transit shipping Arrangements in accordance with Article 68 of CACM Regulation. NEMOs and TSOs have been consulted by the NRAs in the process of making the arrangements.
11. It is crucial for the development and continuation of the SIDC in accordance with the principles in Article 3 of CACM Regulation that a solution is in place to avoid disruption of SIDC. To avoid such an eventuality, a continuation of the current rotational mechanism is necessary. However, this is a short-term solution to mitigate the risk of decoupling, and shall be replaced by an enduring solution as soon as possible. It is therefore necessary to explore options available for an enduring solution, and all TSOs and NEMOs in

the SIDC project shall in good faith contribute to a proposal for a satisfactory solution. The NRAs shall finally decide on what the enduring solution shall be, based on a cost benefit analysis, and with the aim of establishing a cost-efficient, robust and well-functioning framework for the SIDC in line with the objectives from article 3 of CACM Regulation.

Article 1

Subject matter and scope

1. These Arrangements concern shipping for the exchange of energy between all European bidding zones participating in the SIDC in accordance with Article 68 of CACM Regulation.
2. These Arrangements apply to all undertakings acting as transit shippers in the SIDC in any of the bidding zones of the EU.
3. All NEMOs and shipping agents in the SIDC shall contribute to the delivery of the enduring solution in coordination with all TSOs in line with Article 4 and Article 7 of these Arrangements.
4. These arrangements will not deal with cost recovery of transit shipping.

Article 2

Definitions

For the purpose of these Arrangements, the terms used shall have the meaning of the definitions included in Article 2 of CACM Regulation and Regulation (EU) 2019/943.

In addition, the following definitions shall apply:

1. **Transit shipping:** means the shipping of energy and related financial rights and obligations arising from trades through Delivery Areas along the allocation path produced by the Shipping Module in which neither source nor sink NEMOs are active. It is an integrated part of shipping.
2. **Transit shipper:** refers to the entity acting as central counter party and/or shipping agent performing the task of transit shipping in accordance with Article 3.

Article 3

Shipping

1. The shipping of energy exchanges resulting from the SIDC comprises of:
 - a) Physical shipping: physical energy delivery through nominations according to the outcome of the SIDC or by a designated suitable scheduling process between NEMOs or their associated central counter parties, TSOs and, where applicable, shipping agents; and
 - b) Financial shipping: financial settlement of trades as outcome of the SIDC between central counter parties or shipping agents.
2. Transit shipping consists of both physical and financial shipping between the bidding zones where the trade has originated and shall be delivered.

Article 4

Interim solution

1. The NEMOs active in MNA areas have performed transit shipping on a rotational basis or in case of Polish bidding zone only one of these NEMOs has performed transit shipping, since the expansion of the SIDC on the 19 November 2019. To ensure the continuation of the SIDC in its current form, the NEMOs active in MNA areas shall continue performing transit shipping in these areas according to a present set-up until the implementation of the enduring solution in line with Article 7.
2. The monopoly NEMOs, competitive NEMOs in non-MNA areas and TSOs acting as shipping agents shall continue performing transit shipping in non-MNA areas until the implementation of the enduring solution in line with Article 7.

*Article 5***Enduring solution**

1. An enduring solution shall be developed and implemented in line with Article 7 of these Arrangements, in order to ensure the effective continuation of the SIDC, taking into consideration the general objectives from Article 3 of CACM Regulation. In particular, the enduring solution shall contribute to economic efficiency, and the overall goal of CACM Regulation ensuring efficient energy markets for the benefit of consumers.
2. All NEMOs and shipping agents in the SIDC shall contribute to the delivery of the enduring in coordination with all TSOs in line with Article 7 of these Arrangements and must explore options that do not require transit shipping to be performed by a single NEMO in each bidding zone and ensure efficient risk allocation. These options will not consider the issue of cost recovery.
3. In particular, at least the following options shall be considered:
 - 1) Creation of a central counter party (CCP) providing shipping of energy exchanges resulting from the SIDC to all NEMOs.
 - 2) Creation of a mechanism allowing to manage separately the activities of hub-to-hub financial shipping and from the activity of physical shipping (e.g. through a change in the Shipping Module that disentangles the financial path from the physical path).
 - 3) Creation of a mechanism allowing to manage the activities of financial shipping in conjunction with the activity of physical shipping (e.g. by allowing each NEMO, or an entity delegated by the NEMO, to perform the physical shipping in all bidding zones).At least each of the solutions above shall be described in detail and an assessment on costs, benefits (including costs efficiency, technical complexity and robustness, fairness, scalability, etc.) and necessary time for implementation shall be provided in an explanatory document accompanying the proposal.
4. NRAs shall, as of the submission in accordance with Article 7 and based on the options and the assessment in Article 5 (2) of these Arrangements, decide in accordance with Article 68 (6) of CACM Regulation on what the enduring solution shall be.

*Article 6***National adoption of the shipping arrangements**

These Arrangements shall be decided by each relevant NRA as jointly agreed among all European NRAs, in accordance with Article 68 (6) of CACM Regulation.

*Article 7***Implementation**

1. All NEMOs and shipping agents in the SIDC shall submit, within 3 months of the publication of these Arrangements, a proposal for amendment to these Arrangements that shall contain the details and implementation timeline of the different options for enduring solutions, as required in Article 5.
2. NEMOs and TSOs acting as shipping agents shall continue performing the interim transit shipping activity until the implementation of the enduring solution. The implementation timeline of the enduring solution will be decided by all NRAs following the submission as referred to in Article 7 (1) of these Arrangements.

*Article 8***Language**

The reference language for these Arrangements shall be English. For the avoidance of doubt, where the NRAs need to translate these Arrangements into their national language(s) due to their respective national regulatory processes, in the event of inconsistency or discrepancy between the English version and any other linguistic version of these Arrangements, the English version shall prevail.

