

**AGREEMENT ON APPROVAL BY THE REGULATORY  
AUTHORITIES OF  
GREAT BRITAIN (GB) AND FRANCE (FR)**

**OF**

**THE GB AND FR TSOs' PROPOSAL FOR THE  
GB - FR BORDER SPECIFIC ANNEX  
TO THE HARMONISED ALLOCATION RULES**

**06 November 2020**

## I. Introduction and legal context

This document elaborates on an agreement of the Regulatory Authorities of the GB-FR Bidding Zone Border (GB-FR BZB), made on 06 November 2020, on the GB-FR TSOs' proposed amendments to the GB-FR Border Specific Annex<sup>1</sup> (GB-FR BSA) to the Harmonised Allocation Rules<sup>2</sup> (HAR). The updated GB-FR BSA was submitted to the relevant Regulatory Authorities on 22 June 2020 in accordance with Article 51 of the Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation (Regulation 2016/1719).

This agreement of the Regulatory Authorities of the GB-FR BZB shall provide evidence that the decision on the GB-FR BSA does not need to be adopted by the Agency for Cooperation of Energy Regulators (ACER) pursuant to Article 4(10) of Regulation 2016/1719. This agreement is intended to constitute the basis on which the Regulatory Authorities of the GB-FR BZB will each subsequently make national decisions pursuant to Article 4(9) of Regulation 2016/1719 to approve the updated GB-FR BSA proposal.

The legal provisions relevant to the submission and approval of the GB-FR BSA, and the Regulatory Authorities' agreement on the GB-FR BSA, can be found in Articles 3, 4, 51 and 52 of Regulation 2016/1719. They are set out below for reference.

### **Article 3 of Regulation 2016/1719:**

#### Objectives of forward capacity allocation

*This Regulation aims at:*

- (a) promoting effective long-term cross-zonal trade with long-term cross-zonal hedging opportunities for market participants;*
- (b) optimising the calculation and allocation of long-term cross-zonal capacity;*
- (c) providing non-discriminatory access to long-term cross-zonal capacity;*
- (d) ensuring fair and non-discriminatory treatment of TSOs, the Agency, regulatory authorities and market participants;*
- (e) respecting the need for a fair and orderly forward capacity allocation and orderly price formation;*
- (f) ensuring and enhancing the transparency and reliability of information on forward capacity allocation;*
- (g) contributing to the efficient long-term operation and development of the electricity transmission system and electricity sector in the Union.*

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<sup>1</sup> The GB-FR BSA contains Bidding Zone Border specific requirements as described in Articles 51(1) and 52(3) of Regulation 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation.

<sup>2</sup> See ACER's decision of 29 October 2019 on the recent amendments to the HAR here:

[https://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Individual%20decisions/ACER%20Decision%2014-2019%20on%20the%20TSOs%20proposal%20for%20HAR%20amendment.pdf](https://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Individual%20decisions/ACER%20Decision%2014-2019%20on%20the%20TSOs%20proposal%20for%20HAR%20amendment.pdf)

See the Annex 1 (the amended HAR) here:

[https://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/ANNEXESTOTHEDECISIONOFTHEAGENCYFORTHECOOPERATIO4/Annex%20I\\_HAR%20amendment%20decision.pdf#search=Annex%20I%20%E2%80%93%20Harmonised%20Allocation%20Rules%20for%20long%2Dterm%20transmission%20rights](https://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/ANNEXESTOTHEDECISIONOFTHEAGENCYFORTHECOOPERATIO4/Annex%20I_HAR%20amendment%20decision.pdf#search=Annex%20I%20%E2%80%93%20Harmonised%20Allocation%20Rules%20for%20long%2Dterm%20transmission%20rights)

## **Article 4 of Regulation 2016/1719:**

### Adoption of terms and conditions or methodologies

1. TSOs shall develop the terms and conditions or methodologies required by this Regulation and submit them for approval to the competent regulatory authorities within the respective deadlines set out in this Regulation. Where a proposal for terms and conditions or methodologies pursuant to this Regulation needs to be developed and agreed by more than one TSO, the participating TSOs shall closely cooperate. TSOs, with the assistance of ENTSO for Electricity, shall regularly inform the competent regulatory authorities and the Agency about the progress of the development of these terms and conditions or methodologies.
2. (...)
3. (...)
4. (...)
5. Each regulatory authority shall be responsible for approving the terms and conditions or methodologies referred to in paragraphs 6 and 7.
6. (...)
7. The proposals for the following terms and conditions or methodologies shall be subject to approval by all regulatory authorities of the concerned region:  
(...)  
(e) the regional requirements of the harmonised allocation rules pursuant to Article 52, including the regional compensation rules pursuant to Article 55.
8. The proposal for terms and conditions or methodologies shall include a proposed timescale for their implementation and a description of their expected impact on the objectives of this Regulation. Proposals on terms and conditions or methodologies subject to the approval by several or all regulatory authorities shall be submitted to the Agency at the same time that they are submitted to regulatory authorities. Upon request by the competent regulatory authorities, the Agency shall issue an opinion within three months on the proposals for terms and conditions or methodologies.
9. Where the approval of the terms and conditions or methodologies requires a decision by more than one regulatory authority, the competent regulatory authorities shall consult and closely cooperate and coordinate with each other in order reach an agreement. Where applicable, the competent regulatory authorities shall take into account the opinion of the Agency. Regulatory authorities shall take decisions concerning the submitted terms and conditions or methodologies in accordance with paragraphs 6 and 7 within six months following the receipt of the terms and conditions or methodologies by the regulatory authority or, where applicable, by the last regulatory authority concerned.
10. (...)
11. (...)
12. (...)
13. TSOs responsible for establishing the terms and conditions or methodologies in accordance with this Regulation shall publish them on the internet after approval by the competent regulatory authorities or, if no such approval is required, after their establishment, except where such information is considered as confidential in accordance with Article 7.

## **Article 51 of Regulation 2016/1719:**

### Introduction of harmonised allocation rules

1. *Within six months after the entry into force of this Regulation, all TSOs shall jointly develop a proposal for harmonised allocation rules for long-term transmission rights pursuant to Article 52(2). The proposal shall be subject to consultation in accordance with Article 6. This proposal shall include regional and bidding zone border specific requirements if developed by the TSOs of each capacity calculation region pursuant to Article 52(3).*
2. *Once the regional requirements have entered into force, they shall prevail over the general requirements defined in the harmonised allocation rules. In case the general requirements of the harmonised allocation rules are amended and submitted to all regulatory authorities' approval, the regional requirements shall also be submitted to regulatory authorities' approval of the concerned capacity calculation region.*

## **Article 52 of Regulation 2016/1719:**

### Requirements for the harmonised allocation rules

1. *The requirements for the harmonised allocation rules for long-term transmission rights shall cover physical transmission rights, FTRs — options and FTRs — obligations. TSOs shall consider and duly take into account specificities related to the different types of products.*
2. *The harmonised allocation rules for long-term transmission rights shall follow the principles of non-discrimination and transparency and at least contain the following general requirements:*
  - (a) *harmonised definitions and scope of applications;*
  - (b) *a contractual framework between the single allocation platform and the market participants including provisions on the applicable law, the applicable language, confidentiality, dispute resolution, liability and force majeure;*
  - (c) *harmonised UIOSI provisions in case of physical transmission rights pursuant to Article 32;*
  - (d) *a description of the types of long-term transmission rights which are offered, including the remuneration principles pursuant to Article 35;*
  - (e) *principle description of the applicable nomination rules pursuant to Article 36;*
  - (f) *harmonised provisions on eligibility and entitlement, suspension and renewal and costs of participation pursuant to Article 37;*
  - (g) *a description of the forward capacity allocation process including at least provisions on auction specification, submission of bids, publication of auction results, contestation period and fallback procedures pursuant to Articles 37, 38, 39, 42, 43 and 44;*
  - (h) *harmonised provisions on financial requirements and settlement pursuant to Article 41;*
  - (i) *harmonised provisions for the return of long-term transmission rights pursuant to Article 43;*
  - (j) *harmonised provisions for notification of transfer of long-term transmission rights pursuant to Article 44;*
  - (k) *provisions on firmness and compensation rules pursuant to Article 53 and Article 55;*
  - (l) *harmonised provisions concerning netting policies and financial collaterals for FTRs — obligations, where applicable.*
3. *The harmonised allocation rules may also contain regional or bidding zone border specific requirements in particular for, but without limitation to:*

- (a) *the description of the type of long-term transmission rights which are offered on each bidding zone border within the capacity calculation region pursuant to Article 31;*
- (b) *the type of long-term transmission rights remuneration regime to be applied on each bidding zone border within the capacity calculation region according to the allocation in the day-ahead time frame pursuant to Article 35;*
- (c) *the implementation of alternative coordinated regional fallback solutions pursuant to Article 42;*
- (d) *the regional compensation rules defining regional firmness regimes pursuant to Article 55.*

## **II. The GB-FR TSOs proposal**

The proposed amendments to the GB-FR BSA were consulted on by the GB-FR TSOs for one month from 23 March 2020 to 23 April 2020, in line with Articles 6 and 51 of Regulation 2016/1719.<sup>3</sup> The GB-FR BSA submission was received by the last Regulatory Authority on 22 June 2020.

The proposal includes timescales for its implementation (Section 2), in line with Articles 4(8) and 4(13) of Regulation 2016/1719. The GB-FR BSA constitutes an Annex to the HAR elaborated and approved in accordance with Article 51 of Regulation 2016/1719.

Article 4(9) of Regulation 2016/1719, requires the Regulatory Authorities of the GB-FR BZB to consult, closely cooperate and coordinate with each other in order to reach an agreement, and make a decision within six months following receipt of submission by the last Regulatory Authority concerned. A decision is therefore required by each relevant Regulatory Authority by 22 December 2020.

The GB-FR BSA has been revised in order to take into account the amendments made to the HAR<sup>4</sup> as well as enhance overall clarity of the document for the benefit of the market participants. TSOs accounted for HAR updates in Articles 48 and 59 by providing reassurance in Sections 3 and 9 that in an event of a failure of market coupling, market participants would be remunerated and compensated according to HAR provisions. Moreover, the definition of the Mid Channel Day Ahead Market Spread was updated in order to account for a rare, but possible, situation where, despite the correct operation of market coupling, there exists a possibility of presence of two GB prices due to the different rounding procedures. Additionally, provisions for cancelled Implicit Daily Auction were erased from the definition as the updated HAR accounts for such a situation in Article 48(1)(c). Subsequently, in Sections 3, 9 and 12, explanation of compensation that accounts for the line losses was simplified. Other minor amendments to enhance the clarity of the document included an insertion of “relevant” before “Allocation Platform” throughout the document, unification of usage of “Title” across the document and incorporation of headings of articles from HAR and the text “of the Allocation Rules” when there is a reference to the HAR.

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<sup>3</sup> The consultation can be found on the website of IFA and ElecLink interconnectors:

<http://ifa1interconnector.com/notices/consultation/>  
<http://www.eleclink.co.uk/os-public-consultation.php>

<sup>4</sup> See ACER’s decision of 29 October 2019 on the recent amendments to the HAR here:

[https://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Individual%20decisions/ACER%20Decision%2014-2019%20on%20the%20TSOs%20proposal%20for%20HAR%20amendment.pdf](https://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Individual%20decisions/ACER%20Decision%2014-2019%20on%20the%20TSOs%20proposal%20for%20HAR%20amendment.pdf)

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### **III. GB and FR Regulatory Authorities' position**

Based on the proposal, and on the additional clarifications provided by the TSOs, the GB and FR Regulatory Authorities have reached the agreement that the proposed GB-FR BSA is consistent with the objectives of Regulation 2016/1719.

The Regulatory Authorities of the GB-FR BZB welcomed the changes to the Mid Channel Day Ahead Market Spread definition (Section 1), additional clarifications in Sections 3, 9 and 12 as well as other changes described in the above section of this agreement. The Regulatory Authorities believe that proposed changes make the BSA clearer and provide further reassurance for the market participants on what principles of remuneration are applied. The Regulatory Authorities of the GB-FR BZB agree to approve these amendments.

However, the Regulatory Authorities of the GB and FR note that the English language version of the methodology submitted by the TSOs consist of some minor omissions, not related to the legal substance of the amendments. These are stylistic mistakes that should be revised for the benefit of the market participants. These are: a minor spelling mistake ("Force Majure" is used instead of "Force Majeure" in Section 12.2); a minor punctuation mistake (a missing full stop at the end of the last sentence in Section 3.2); and an instance of a lack of explanation of an abbreviation (the term "PTRs" should be explained as Physical Transmission Rights in Section 1.2). Therefore, the TSOs are requested to address aforementioned issues as part of the publication of the approved methodology.

### **IV. Conclusions**

The Regulatory Authorities of GB and FR have assessed, consulted and closely cooperated and coordinated to reach the agreement that the updated GB-FR BSA meets the requirements of Regulation 2016/1719 and as such should be approved.

The relevant Regulatory Authorities of GB and FR must therefore make their decision on the basis of this agreement in accordance with the six months deadline as set out in Regulation 2016/1719 by 22 December 2020. Following the relevant decisions by the Regulatory Authorities of GB-FR BZB, the GB-FR TSOs will be required to publish the updated GB-FR BSA on the internet in line with Article 4(13) of Regulation 2016/1719 and must meet the implementation deadline required by Section 2 of the GB-FR BSA.