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REFERENTIE ACM	ACM/19/35922
ONZE REFERENTIE	REC-N 19-063, REC-N 19-064
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BETREFT Derogatie-aanvraag voor operationele veiligheid overeenkomstig artikel 16(9) van de Verordening (EU) 2019/943

Geachte mevrouw Bijlenga,

Hierbij ontvangt u een aanvraag voor derogatie overeenkomstig artikel 16, negende lid, van de Verordening (EU) 2019/943 van het Europees parlement en de Raad van 5 juni 2019 betreffende de interne markt voor elektriciteit (hierna: Verordening (EU) 2019/943). De derogatie is noodzakelijk om de operationele veiligheid te handhaven met inachtneming van de verplichting zoals opgelegd aan de transmissiesysteembeheerders overeenkomstig artikel 16, achtste lid, van de Verordening (EU) 2019/943 om voor het beschikbaar stellen van capaciteiten voor zone-overschrijdende handel, een marge van 70% voor minimumcapaciteit te hantieren. Deze derogatie-aanvraag is opgesteld in goed overleg met ACM en bestaat uit twee aparte aanvragen:

- Een derogatie voor lusstromen, uitvalssituaties en de benodigde operationele implementatietermijn.
- Een derogatie voor een transitieperiode in het geval van een actieplan.

Overeenkomstig artikel 16, negende lid, van de Verordening (EU) 2019/943, dient ACM de regulerende instanties van de andere lidstaten die deel uitmaken van de betrokken capaciteitsberekeningsregio's (CORE-regio) te raadplegen voordat een derogatie kan worden verleend.

U wordt verzocht na raadpleging van de relevante regulerende instanties deze derogatie te verlenen krachtens artikel 16, negende lid, van de Verordening (EU) 2019/943. Wij vertrouwen erop u hiermee voldoende te hebben geïnformeerd en zijn uiteraard desgewenst bereid om de aanvraag nader toe te lichten.

Hoogachtend,
 TenneT TSO B.V.

[REDACTED]
 Senior Manager Regulation NL

Request of TenneT TSO B.V. for a derogation
from the minimum level of capacity to be
made available for cross-zonal trade

in accordance with Article 16(9) of Regulation (EU)
2019/943 of the European Parliament and of the Council of
5 June 2019 on the internal market for electricity (recast)

31 October 2019

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THE DUTCH TRANSMISSION SYSTEM OPERATOR TENNET TSO B.V. TAKING INTO ACCOUNT THE FOLLOWING,

Whereas

- (1) Article 16(8) of the Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast), hereinafter the “Regulation 2019/943”, prescribes that TSOs shall not limit the volume of interconnection capacity to be made available to market participants as a means of solving congestion inside their own bidding zone, or as a means of managing flows resulting from transactions internal to bidding zones. The same article also defines that this requirement shall be considered to be complied with if a minimum level of available capacity for cross-zonal trade is reached. For borders using a flow-based approach, this level (hereinafter referred to as the “70% requirement”) is set to 70% of the capacity respecting operational security limits of internal and cross-zonal critical network elements taking into account contingencies (hereinafter referred to as “CNECs”). Transitory measures, such as action plans pursuant to Article 15 of the Regulation 2019/943 or derogations pursuant to Article 16(9) of the same regulation, allow a step-wise approach for reaching this minimum capacity ultimately by 31 December 2025.
- (2) Article 16(9) of Regulation 2019/943 prescribes that upon request of transmission system operators in a capacity calculation region, the relevant regulatory authorities may grant a derogation from the 70% requirement on foreseeable grounds where necessary for maintaining operational security. The derogation shall be granted for no more than one year at a time, or, provided that the extent of the derogation decreases significantly after the first year, up to a maximum of two years. The extent of such a derogation shall be strictly limited to what is necessary to maintain operational security and shall avoid discrimination between internal and cross-zonal exchanges.
- (3) Article 16(4) of Regulation 2019/943 prescribes that counter-trading and redispatch, including cross-border redispatch, shall be used to reach the 70% requirement. However, this article stipulates that the application of cross-border measures is subject to the implementation of a redispatching and counter-trading cost sharing methodology. This methodology is not yet implemented in the capacity calculation regions in which TenneT TSO B.V. (hereinafter referred to as "TenneT") is a represented member.
- (4) The Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on Capacity Allocation and Congestion Management (hereinafter referred to as the “CACM Regulation”) and the Commission Regulation (EU) 2017/1485 of 2 August 2017 establishing a guideline on electricity transmission system operation (hereinafter referred to as the “SOGL Regulation”) require TSOs to deliver some methodologies which are key to managing the flows in the electricity grid via coordinated capacity calculation and coordinated application of remedial actions. These key methodologies are:
 - a. The Day-Ahead Capacity Calculation Methodology for the Core Capacity Calculation Region as referred to in Article 21 of the CACM Regulation (hereinafter referred to as “Core DA CCM”);
 - b. The operational security coordination methodology as referred to in Article 76 of the SOGL Regulation (hereinafter referred to as “SOGL 76 methodology”);
 - c. The coordinated redispatching and countertrading methodology as referred to in Article 35 of the CACM Regulation (hereinafter referred to as “CACM 35 methodology”); and

- d. The redispatching and countertrading cost sharing methodology as referred to in Article 74 of the CACM Regulation (hereinafter referred to as “CACM 74 methodology”).

Acknowledging that all the key methodologies from the CACM Regulation and SOGL regulation are not yet implemented, TenneT cannot rely on these methodologies in order to implement the 70% requirement per 1 January 2020 on a structural basis.

- (5) The rationale and objectives of this derogation have been studied and discussed between TenneT, the Dutch national regulatory Authority for Consumers and Markets (hereinafter "ACM"), and the Dutch State. In order to be compliant with the Regulation 2019/943, TenneT decided to apply for a derogation from the 70% requirement on the basis of three foreseeable grounds.
- (6) The first foreseeable ground to request a derogation is an externality, being that loop flows on Dutch CNECs cannot be contained to an acceptable level, which contributes in creating an operational security risk if the 70% requirement would be directly applied per 1 January 2020:
 - a. From Article 16(8) of Regulation 2019/943 it can be understood that the maximum acceptable level of loop flows is defined as the amount of loop flows which, together with the reliability margins and the internal flows, uses 30% of capacity of a CNEC respecting their operational security limits.
 - b. Historical analyses of data from the period January 2017 until July 2019 have shown that the average level of loop flows on Dutch presolved CNECs is usually above 30% of the total power flow and can amount up to almost full capacity usage on specific hours, which is exceeding the level that would allow meeting the requirements set in Article 16(8) of the Regulation 2019/943.
 - c. Loop flows created in neighbouring bidding zones are a consequence of their grid topology in combination with a sub-optimal generation and load distribution which cannot be expected to be contained by using the redispatching potential available in the Netherlands. Phase Shifting Transformers located at the North-Eastern border of the Netherlands can help partially limiting the loop flows, but even an optimised utilisation of these transformers is not expected to be sufficient to contain the level of loop flows historically observed.
 - d. Considering the possibility for Member States to implement an action plan in accordance with Article 15 of the Regulation 2019/943 and the fact that a structural congestion report has been handed in to the German State, TenneT expects that identified structural congestions in neighboring bidding zones will not disappear on short term. Consequently, loop flows are expected to remain above an acceptable level according to Article 16(8) of Regulation 2019/943, at least for the duration of this derogation.
- (7) The second foreseeable ground to request a derogation is the possible lack of redispatching potential to allow TenneT to follow the 70% requirement without endangering operational security when the grid is in an outage situation:
 - a. Considering the grid investment plan in the Netherlands includes upgrades of existing corridors, situations of long duration outages are expected to occur with a certain frequency and are, as such, considered as foreseeable.
 - b. These grid investments are required to keep the grid fit for purpose considering the future energy mix as a result of set climate goals (e.g. Klimaatakkoord, dd. 28 June 2019) and to increase capacity available for cross-zonal trade while avoiding an increase of congestions on CNECs in the future.

- c. In an outage situation, the grid capacity is reduced and internal flows on the remaining critical network elements increase compared to the grid situation where the outage is not present.
 - d. It can occur that the available internal redispatching potential is insufficient to meet the 70% requirement while coping with the increased level of internal flows.
 - e. The fact that the SOGL 76 methodology and CACM 35 methodology are not yet in place prevents TenneT to structurally rely on cross-border remedial actions. Especially in situations with (locally) limited domestic redispatch potential, cross-border remedial actions can provide efficient measures to maintain operational security. Existing bilateral redispatching contracts do not enable a structural use due to the manual procedures involved and the limited visibility on the future availability of redispatching potential.
 - f. Requests for derogation due to outage situations are expected to become less frequent thanks to the implementation of the methodologies listed in the previous paragraph which will give more structural redispatching possibilities.
- (8) The third foreseeable ground to request a derogation is the operational security risk introduced by the development of new tools and processes. The minimum capacity available for cross-zonal trade as set by the 70% requirement or a linear trajectory in accordance with Article 15(2) of Regulation 2019/943 in case of an established and implemented action plan, would have to be applied by the development of new processes and tools to offer higher capacities for cross-zonal trade to the market in combination with the introduction of new tools and processes enabling the implementation of this request for derogation:
- a. The implementation of the minimum capacity available for cross-zonal trade should lead to more capacity given to the market which is expected to require a more extensive application of remedial actions, in accordance with Article 16(4) of Regulation 2019/943. The operational experience for processes with an extensive application of remedial actions is currently limited.
 - b. This request for derogation, which applies a methodological approach as detailed in Article 3, leads to the need to develop additional tools to correctly account for the effect of the loop flows above an acceptable level in accordance with Article 4. The application of a linear trajectory in case of an established action plan in accordance with Article 15 of Regulation 2019/943, leads to the need to enhance these tools to correctly determine the minimum capacity available for cross-zonal trade per CNEC including time to acquire sufficient experience and stabilize the tools to ensure the quality and stability of the results, which in turn are needed to ensure operational security.
 - c. In general, the overall effect on capacities offered to the market and on the extent of application of remedial actions can be assessed only when the situation in all countries having an influence on each other's grid is known. As of 1st January 2020, action plans pursuant to Article 15 of Regulation 2019/943 and derogations pursuant to Article 16(9) of Regulation 2019/943 may be applied by different Member States. The application of these measures and/or their extent is currently unknown by TenneT. Therefore TenneT is not in a position to ensure that its grid operators will have the relevant and required experience to ensure operational security as of 1st January 2020.
 - d. While the development of these new tools is ongoing at the time of the submission of this request for derogation, the short time between the publication of Regulation 2019/943 and the entry into force of the 70% requirement, together with:

- i. the discussions related to the interpretation of the Regulation 2019/943 at national, regional and European level;
- ii. the discussion related to the requirements of a structural congestion report at national level;
- iii. the study performed by TenneT on request of the ACM on the extent in which the 70% requirement is met for the capacity made available for cross-zonal trade in the day-ahead market

did not allow TenneT to anticipate much on the development of these tools. An additional period of 3 months is required to develop, stabilize and acquire experience with the tools and as such secure the quality and stability of the results, which in turn is needed to maintain operational security.

To mitigate the identified operational security risk, TenneT requests a transition period to acquire the required experience on the processes and to complete the implementation and testing of the tools to ensure the quality and stability of the processes and results. During this period, a so-called parallel run approach shall be applied, as described in Article 6.

- (9) This request for derogation is compliant with the Regulation 2019/943, more specifically Article 16(9), since:
- a. The grounds to request a derogation are foreseeable, as developed in paragraph 4 to 8.
 - b. The derogation is required to maintain operational security as set out in paragraph 4 to 8.
 - c. The extent of the derogation is strictly limited to what is necessary:
 - i. Acknowledging the limitations by the absence of the CACM and SOGL methodologies listed in paragraph 4, the redispatch potential structurally available to TenneT will be used to solve congestions in the day-ahead timeframe after the day-ahead market coupling took place. Only if the operational security cannot be maintained (amongst others due to a lack of redispatch potential), the capacity for cross-zonal trade set in the capacity calculation process is reduced.
 - ii. The methodological approach described in Article 3 allows taking assumptions as late as possible in the capacity calculation process, that is, with the most accurate information related to the grid situation. This approach reduces the extent of the derogation compared to an approach where fixed values would have been defined and included directly in the derogation. The methodological approach avoids under- or overestimating the actual need for a derogation. Indeed, a fixed value approach would lead to unnecessary security margins considering the variety of situations to be covered, the intrinsic uncertainty of grid operation and the lack of visibility on the intentions of neighbouring Member States regarding their approach for implementing Article 16 of Regulation 2019/943, and possibly Article 15 of the same regulation. Given the fact that loop flows follow a variable pattern by nature, the inefficiency of a fixed value approach would be significant and structural.
 - d. The derogation avoids undue discrimination between internal and cross-zonal exchanges: the methodological approach as described in Article 3 ensures that, even in presence of loop flows above an acceptable threshold, the accepted level of internal flows accounted for in the capacity calculation is reduced in order to avoid discrimination between internal and cross-zonal exchanges in case the minimum capacity available for cross-zonal trade is

below the level as set by the 70% requirement or as set by a linear trajectory in accordance with Article 15(2) of Regulation 2019/943 in case of an established and implemented action plan.

SUBMITS THE FOLLOWING REQUEST FOR DEROGATION FROM THE IMPLEMENTATION OF THE MINIMUM LEVEL OF CAPACITY TO BE MADE AVAILABLE FOR CROSS-ZONAL TRADE FOR APPROVAL TO THE AUTHORITY FOR CONSUMERS AND MARKETS

Article 1. Subject matter and scope

- (1) This request for derogation is a request of TenneT to derogate from the implementation of the minimum capacity available for cross-zonal trade as established in Article 16(8) and in accordance with Article 16(9) of the Regulation 2019/943.
- (2) This request for derogation is based on three different reasons to deviate from the 70% requirement: (i) loop flows above an acceptable level, as detailed in Article 4 and justified in paragraph 6 of the whereas section, (ii) outages, as detailed in Article 5 and justified in paragraph 7 of the whereas section and (iii) new processes and tools, as detailed in Article 6 and justified in paragraph 8 of the whereas section.
- (3) The minimum capacity available for cross-zonal trade as defined by this request for derogation will be implemented for as long as operational security limits can be respected. In case this derogation shall coincide with an established and implemented action plan, the Dutch State shall ensure that, in accordance with Article 15(2) of Regulation 2019/943, without prejudice to derogations granted under Article 16(9) of Regulation 2019/943, the cross-zonal trade capacity is increased on an annual basis until the minimum capacity provided for in Article 16(8) of Regulation 2019/943 is reached. Deviations will be reported to ACM on a monthly basis along with a justification why the deviation was required in order to respect operational security limits.
- (4) This request for derogation is subject to approval by ACM in accordance with Article 16(9) of the Regulation 2019/943.

Article 2. Definitions and interpretation

- (1) For the purpose of this request for derogation, the terms used in this document shall have the meaning of the definitions included in Article 2 of the Regulation 2019/943, Article 2 of the CACM Regulation, Article 2 of the Core DA CCM and the Central-Western Europe (hereinafter referred to as “CWE”) Flow-Based Market Coupling Approval Package.
- (2) In this derogation request, unless the context requires otherwise:
 - a. the singular indicates the plural and vice versa;
 - b. the table of contents, headings and examples are inserted for convenience only and do not affect the interpretation of this derogation request;
 - c. any reference to legislation, regulations, directive, order, instrument, code or any other enactment shall include any modification, extension or re-enactment of it then in force.

Article 3. Methodological approach for derogation

- (1) The approach used in this request for derogation defines principles and calculation rules including, where needed, mathematical formulas. These principles and calculation rules are

applied to the day-ahead capacity calculation process as applied in the CWE coordination area.

- (2) More specifically, the methodological derogation takes the common grid models (24 in total, 1 for each hour) delivered as part of the CWE day-ahead capacity calculation process as basis and applies the following principles:
 - a. During the qualification phase, the loop flows are calculated and the resulting minimum capacity available for cross-zonal trade is applied to the Dutch CNECs as per the calculation rules explained in Article 4. For the avoidance of doubt, if the loop flows are below the acceptable level defined in paragraph 2 of Article 4, the minimum capacity remains equal to the 70% requirement or a lower capacity as defined by a linear trajectory in case of an established and implemented action plan in accordance with Article 15 of Regulation 2019/943.
 - b. During the verification phase, operational security limits are assessed. This implies the detection of congestion and the relieve of congestion through the application of remedial actions, non-costly and costly. For this reason, the capacity domain used during the verification phase shall include the application of a derogation on loop flows pursuant to Article 4.
 - c. As long as operational security limits of the transmission system can be respected, the minimum capacity resulting from the qualification phase is provided to the day-ahead market. If operational security limits of the transmission system cannot be respected, the available capacity for cross-zonal trade is reduced to a level that respects these operational security limits.

Article 4. Loop flows

- (1) The application of a derogation for loop flows above an acceptable level entails the following steps:
 - a. Step 1: define the acceptable level of loop flows LF_{accept} per CNEC, as further detailed in paragraph 2.
 - b. Step 2: calculate the loop flows LF_{calc} per CNEC, as further detailed in paragraph 3.
 - c. Step 3: define the minimum capacity for cross-zonal trade taking into account the results of the previous steps, as further detailed in paragraphs 4 to 6.
- (2) Article 16(8) of Regulation 2019/943 prescribes that the total amount of 30% can be used for the reliability margins, loop flows and internal flows on each critical network element. This derogation defines the acceptable level of loop flows (LF_{accept}) for the different types of critical network elements as follows:
 - a. Cross-border critical network elements: the acceptable level of loop flows is equal to the difference between 30% of the capacity of a CNEC respecting their operational security limits and the corresponding reliability margins of these CNECs.
 - b. Internal critical network elements: in order to avoid discrimination between internal and loop flows, it is considered that the acceptable level of loop flows is equal to half of the difference between 30% of the capacity of a CNEC respecting their operational security limits and the corresponding reliability margins of these CNECs.
- (3) The loop flows LF_{calc} are calculated in the day-ahead capacity calculation process as follows:

- a. The common grid model enriched with the coordinated application of preventive remedial actions as established during the qualification phase shall be used.
- b. The zero-balanced grid model is obtained by shifting the CWE net positions of the common grid model to zero:

$$F_{0,CWE} = F_{ref} - \mathbf{PTDF}_{CWE} \overline{NP}_{ref,CWE}$$

With:

- i. $F_{0,CWE}^1$: flow derived from a zero-balanced common grid model, to approximate a situation without any commercial exchange between bidding zones within the CWE region.
 - ii. F_{ref} : flow per CNEC in the CGM.
 - iii. $PTDF_{CWE}$: power transfer distribution factor matrix for all bidding zones in the CWE region and all CNECs.
 - iv. $NP_{ref,CWE}$: CWE net positions per bidding zone in the CWE region included in the CGM.
- c. Apply flow decomposition to derive the loop flows and internal flows on each CNEC using Full Line Decomposition (FLD) method²
 - d. For a given CNEC, LF_{calc} is equal to the sum of loop flows computed following paragraph c, divided by the maximum capacity of that CNEC according to their operational security limits.
- (4) For a given CNEC, the total minimum capacity available for cross-zonal trade is then equal to:

$$\text{minimum Capacity} = 70\% - \max(0; LF_{calc} - LF_{accept})$$

Where 70% may be lowered in line with a defined linear trajectory in case of an established and implemented action plan in accordance with Article 15(2) of Regulation 2019/943, or in case of a granted derogation³ on the basis of insufficient time available to establish and implement an action plan.

- (5) The minimum capacity for cross-zonal trade to be made available for commercial exchanges inside the CWE coordination area (MCCC), results from the minimum capacity as defined in previous paragraph reduced by cross-zonal flows assumed to result from commercial exchanges outside the CWE coordination area (MNCC) following the method as defined in Article 17(4) of the Core DA CCM within the context of the CWE coordination area.
- (6) As a result of this derogation, the minimum capacity for cross-zonal trade on each CNEC shall not be below 20% of the maximum capacity of that CNEC according to their operational security limits.

¹ As the capacity available for cross-zonal trade is calculated in $F_{0,CWE}$, loop flows should be defined as a share of $F_{0,CWE}$.

² A detailed explanation of the FLD method is published in "[CIGRE Science & Engineering, issue 9 \(CSE 009\)](#)"

³ This derogation request is provided as a separate document

Article 5. Outages

- (1) In principle, even when one or several critical network elements are in outage, TenneT shall aim to apply the same minimum capacity available for cross-zonal trade as defined pursuant to Article 4, by using if needed non-costly and costly remedial actions.
- (2) In case operational security limits cannot be respected when one or several critical network elements are in planned outage, the available capacity for cross-zonal trade of critical network elements is reduced to the level that respects these operational security limits. In case of a reduction, this will be reported to ACM along with a justification in accordance with Article 1(3).

Article 6. New processes and tools

- (1) A parallel run will be set up for the day-ahead capacity calculation process in CWE, which means that:
 - a. TenneT will develop and execute new processes and utilise local tools for the calculation of the minimum capacity for cross-zonal trade on its CNECs in accordance with this request for derogation and the 70% requirement or a lower value as defined by a linear trajectory in case of an established action plan in accordance with Article 15 of Regulation 2019/943.
 - b. TenneT will train their operators in order to ensure that sufficient experience with the new processes and tools is acquired to ensure operational security.
 - c. The capacity calculation process is run on the basis of a dataset of TenneT, combined with the datasets provided by the other TSOs in CWE:
 - i. For those TSOs that would also apply a parallel run, the dataset specific for the parallel run will be used. This allows, via the parallel run, to test the combined effect of the implementation of the minimum capacity requirements.
 - ii. For those TSOs that do not apply a parallel run, the dataset provided to the operational day-ahead flow-based process in CWE will be used.
- (2) The progress on the implementation process as well as the results of the capacity calculation process of the parallel run will be reported by TenneT to the ACM on a monthly basis during the parallel run.
- (3) During the parallel run, TenneT will continue to apply the currently approved methodology and practices in the CWE region to the operational day-ahead capacity calculation process in CWE. For the avoidance of doubt, the current methodology in the CWE region includes the application of a minimum capacity for cross-zonal trade on each CNEC within the CWE region equal to 20% of the maximum capacity according to the operational security limits.

Article 7. Extent and duration of the derogation

- (1) This request for derogation is applicable to all Dutch CNECs participating to the CWE day-ahead capacity calculation process.
- (2) The derogation regarding loop flows in accordance with Article 4 and regarding outages in accordance with Article 5 is requested for one year. However, since these concerns are

reoccurring, this request may be resubmitted at the end of the first derogation period. The derogation regarding the parallel run in accordance with Article 6 is requested for 3 months.

- (3) This derogation will apply, as of its approval by ACM, starting from 1 January 2020.

Article 8. Language

- (1) The reference language for this derogation request shall be English.

Article 9. Confidentiality

- (1) The information provided by TenneT to ACM for this derogation request does not have to be treated as confidential unless stated or agreed otherwise.

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in accordance with Article 16(9) of Regulation (EU)
2019/943 of the European Parliament and of the Council of
5 June 2019 on the internal market for electricity (recast)

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THE DUTCH TRANSMISSION SYSTEM OPERATOR TENNET TSO B.V. TAKING INTO ACCOUNT THE FOLLOWING,

Whereas

- (1) Article 16(8) of the Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast), hereinafter the “Regulation 2019/943”, prescribes that TSOs shall not limit the volume of interconnection capacity to be made available to market participants as a means of solving congestion inside their own bidding zone, or as a means of managing flows resulting from transactions internal to bidding zones. The same article also defines that this requirement shall be considered to be complied with if a minimum level of available capacity for cross-zonal trade is reached. For borders using a flow-based approach, this level (hereinafter referred to as the “70% requirement”) is set to 70% of the capacity respecting operational security limits of internal and cross-zonal critical network elements taking into account contingencies (hereinafter referred to as “CNECs”). Transitory measures, such as action plans pursuant to Article 15 of the Regulation 2019/943 or derogations pursuant to Article 16(9) of the same regulation, allow a step-wise approach for reaching this minimum capacity ultimately by 31 December 2025.
- (2) Article 16(9) of Regulation 2019/943 prescribes that upon request of transmission system operators in a capacity calculation region, the relevant regulatory authorities may grant a derogation from the 70% requirement on foreseeable grounds where necessary for maintaining operational security. The derogation shall be granted for no more than one year at a time, or, provided that the extent of the derogation decreases significantly after the first year, up to a maximum of two years. The extent of such a derogation shall be strictly limited to what is necessary to maintain operational security and shall avoid discrimination between internal and cross-zonal exchanges.
- (3) Article 16(4) of Regulation 2019/943 prescribes that counter-trading and redispatch, including cross-border redispatch, shall be used to reach the 70% requirement. However, this article stipulates that the application of cross-border measures is subject to the implementation of a redispatching and counter-trading cost sharing methodology. This methodology is not yet implemented in the capacity calculation regions in which TenneT TSO B.V. (hereinafter referred to as "TenneT") is a represented member.
- (4) The Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on Capacity Allocation and Congestion Management (hereinafter referred to as the “CACM Regulation”) and the Commission Regulation (EU) 2017/1485 of 2 August 2017 establishing a guideline on electricity transmission system operation (hereinafter referred to as the “SOGL Regulation”) require TSOs to deliver some methodologies which are key to managing the flows in the electricity grid via coordinated capacity calculation and coordinated application of remedial actions. These key methodologies are:
 - a. The Day-Ahead Capacity Calculation Methodology for the Core Capacity Calculation Region as referred to in Article 21 of the CACM Regulation (hereinafter referred to as “Core DA CCM”);
 - b. The operational security coordination methodology as referred to in Article 76 of the SOGL Regulation (hereinafter referred to as “SOGL 76 methodology”);
 - c. The coordinated redispatching and countertrading methodology as referred to in Article 35 of the CACM Regulation (hereinafter referred to as “CACM 35 methodology”); and

- d. The redispatching and countertrading cost sharing methodology as referred to in Article 74 of the CACM Regulation (hereinafter referred to as “CACM 74 methodology”).

Acknowledging that all the key methodologies from the CACM Regulation and SOGL regulation are not yet implemented, TenneT cannot rely on these methodologies in order to implement the 70% requirement per 1 January 2020 on a structural basis.

- (5) The rationale and objectives of this derogation have been studied and discussed between TenneT, the Dutch national regulatory Authority for Consumers and Markets (hereinafter "ACM"), and the Dutch State.
- (6) TenneT has investigated for the period January 2017 until July 2019 the extent in which the 70% requirement is met for the capacity made available by TenneT for cross-zonal trade in the day-ahead market. Based on these findings it became clear that the 70% requirement was not reached to a large extent, also when a possible derogation for loopflows would be taken into account. On the basis of this investigation, TenneT has identified structural congestions in the Dutch transmission network in the context of applying the minimum capacity in accordance with Article 16(8) of Regulation 2019/943. TenneT has shared the outcome of this analysis in a report (hereinafter, "structural congestion report"). which has been submitted for approval to ACM in accordance with Article 14(7) of Regulation 2019/943.
- (7) In order to be compliant with the Regulation 2019/943, TenneT decided to apply for a derogation from the 70% requirement on the basis of the foreseeable ground that in case of approval of the submitted structural congestion report and a possible subsequent decision by the Dutch State to establish an action plan in accordance with Article 15 of the Regulation 2019/943, insufficient time is available to implement this action plan before 1 January 2020 for the following reasons:
 - a. The short time between the publication of Regulation 2019/943 and the entry into force of the 70% requirement, together with:
 1. the discussions related to the interpretation of the Regulation 2019/943 at national, regional and European level;
 2. the discussion related to the requirements of a structural congestion report at national level;
 3. the study performed by TenneT on request of the ACM on the extent in which the 70% requirement is met for the capacity made available for cross-zonal trade in the day-ahead market
 4. The time needed to develop an action plan including a linear trajectory
 5. The time required for the development of new tools and automated processes to correctly determine the minimum capacity available for cross-zonal trade according to the linear trajectory defined by an established action plandoes not allow sufficient time to have a possible action plan implemented by 1 January 2020.
 - b. Additional studies by TenneT are required on the future grid situation in order to provide the Dutch State with enough information to make an informed decision on the required actions in order to reach the 70% requirement by 31 December 2025.
 - c. In general, the possible decision by the Dutch State to establish an action plan in accordance with Article 15 of the Regulation 2019/943 would lead to the undesired

situation of entry into force of the 70% requirement before the action plan is established ultimately six months after the identification of structural congestions in accordance with Article 15(7) of Regulation 2019/943.

- (8) This request for derogation is compliant with the Regulation 2019/943, more specifically Article 16(9), since:
- a. The grounds to request a derogation are foreseeable, as set out in paragraph 6 and 7.
 - b. The derogation is required to maintain operational security as set out in paragraph 7.
 - c. The extent of the derogation is strictly limited to what is necessary as set out in Article 4(2).

SUBMITS THE FOLLOWING REQUEST FOR DEROGATION FROM THE IMPLEMENTATION OF THE MINIMUM LEVEL OF CAPACITY TO BE MADE AVAILABLE FOR CROSS-ZONAL TRADE FOR APPROVAL TO THE AUTHORITY FOR CONSUMERS AND MARKETS

Article 1. Subject matter and scope

- (1) This request for derogation is a request of TenneT to derogate from the implementation of the minimum capacity available for cross-zonal trade as established in Article 16(8) and in accordance with Article 16(9) of the Regulation 2019/943.
- (2) This request for derogation is based on additional time needed for the implementation of a possible action plan as detailed in Article 3 and justified in paragraph 7 of the whereas section.
- (3) This request for derogation is subject to approval by ACM in accordance with Article 16(9) of the Regulation 2019/943.

Article 2. Definitions and interpretation

- (1) For the purpose of this request for derogation, the terms used in this document shall have the meaning of the definitions included in Article 2 of the Regulation 2019/943, Article 2 of the CACM Regulation, Article 2 of the Core DA CCM and the Central-Western Europe (hereinafter referred to as “CWE”) Flow-Based Market Coupling Approval Package.
- (2) In this derogation request, unless the context requires otherwise:
 - a. the singular indicates the plural and vice versa;
 - b. the table of contents, headings and examples are inserted for convenience only and do not affect the interpretation of this derogation request;
 - c. any reference to legislation, regulations, directive, order, instrument, code or any other enactment shall include any modification, extension or re-enactment of it then in force.

Article 3. Possible action plan

- (1) A transition period will be applied in case the Dutch State decides to establish an action plan in accordance with Article 15 of Regulation 2019/943.
- (2) During this transition period, TenneT will continue to apply the current approved methodology and practices in the CWE coordination area to the operational day-ahead capacity calculation process in CWE. For the avoidance of doubt, the current methodology in the CWE region includes the application of a minimum capacity for cross-zonal trade on each CNEC within the CWE region equal to 20% of the maximum capacity according to the operational security limits.

Article 4. Extent and duration of the derogation

- (1) This request for derogation is applicable to all Dutch CNECs participating to the CWE day-ahead capacity calculation process.

- (2) The derogation is requested for the period starting from 1 January 2020 until the implementation date in accordance with Article 14(10) of Regulation 2019/943 as defined by the establishment of an action plan.
- (3) This derogation will apply, as of its approval by ACM, starting from 1 January 2020.

Article 5. Language

- (1) The reference language for this derogation request shall be English.

Article 6. Confidentiality

- (1) The information provided by TenneT to ACM for this derogation request does not have to be treated as confidential unless stated or agreed otherwise.