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Opinion

Title **Guidelines on Inter transmission System Operator
Compensation and tariff harmonisation in Electricity
Resubmission (draft version of 12 August 2009)**

Lead DG **DG TREN**

1) Impact Assessment Board Opinion

(A) Context

Regulation 1228/2003 establishes the principle of compensating transmission systems operators for costs incurred as a result of hosting cross-border flows of electricity on their networks (art.3). Since the adoption of the Regulation, compensation mechanisms have been agreed on a voluntary basis but these agreements have been short term in nature, difficult to negotiate and limited in their coverage. It is unclear whether a successor arrangement will be established when the current one expires at end-2009. Against this background, the Commission agreed with stakeholders in 2007 to propose a set of binding guidelines to be approved following comitology procedures as foreseen by art. 8 of the Regulation. According to the Regulation, such guidelines should also set out rules leading to a progressive harmonisation of the principles underlying the setting of charges applied to producers and consumers under national tariff systems. While in 2005 national regulators already agreed on a draft set of guidelines on transmission tariffication, these have only been implemented on a voluntary basis so far.

(B) Positive aspects

The report has addressed several recommendations of the first opinion. The nature of the problems is clearer, the argument for EU action strengthened, the analysis of policy options and impacts expanded and deepened. Clearer explanations and greater background information have made the revised report more accessible to the non-expert reader.

(C) Main recommendations for improvements

The recommendations below are listed in order of descending importance. Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

General recommendation: While the report has improved, there remain areas

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where further clarification is necessary. The report should further clarify the magnitude of the problems addressed and strengthen the case for EU solutions by referring to the disadvantages of the current arrangements. It should clarify the range of policy options, which has been expanded in line with the Board's previous recommendations, and further improve the analysis of their impacts.

(1) Further specify the magnitude of the problems addressed. On the basis of more extensive background information, the revised report provides a clearer explanation of the problems addressed. The magnitude of these problems, however, could still be better specified by highlighting the limitations of the current arrangements and their impact on the present and future efficiency of the European transmission system. In this context, the report should also give an idea of the extent to which inter-transmission system operator compensations are expected to increase as a result of the development of the single market. These clarifications would help to substantiate the claims that a compensation mechanism is an important element in the development of the single market (see, for instance, first paragraph § 2.4.1 and fifth in § 6.1.1) and that the absence of binding guidelines on tariff harmonisation may undermine investment decisions in the internal market (fourth paragraph in § 4.2). Finally, the report should clarify if the main reason for tariff harmonisation is to avoid cuts in G-charges which would provide (unfair) competitive advantages to generators (third paragraph §2.3), or to avoid the possibility of increases in G-charges by some TSOs (last paragraph § 2.3.1).

(2) Strengthen the argument for EU action. While the report has been improved compared to the previous draft, the argument for EU action rests on either legal grounds (see, for instance, first paragraph § 2.3) or on the possibility of negative developments in the future (see, for instance, the bullets at the end of § 2.2). The argument should be further strengthened by providing some examples of the actual disadvantages of current and past voluntary arrangements. The application of the principle of subsidiarity should also be explicitly referred to when analyzing option (5) for tariff harmonization (see p. 27 and 38).

(3) Clarify the expanded range of policy options. The revised report has widened the range and deepened the analysis of policy options. However, it would be useful to explain more explicitly why Ramsey pricing may be economically more efficient than other pricing mechanisms (§ 4.2). Finally, building upon the discussion on the assessment of costs at the European or national level (p.34), the report should explicitly set out, and more comprehensively analyze, the options discussed at the end of § 6.1.3 for "assessing the value of infrastructure used".

(4) Further improve the analysis of impacts. The revised report provides a deeper and more evidence-based analysis of impacts. It should, however, either explicitly analyse the impacts of broadening the range of allowable tariffs (option 3.b in § 4.2) or dismiss the option outright. Stability should also be explicitly discussed when comparing options in § 6.1.2. Finally, the report should discuss the impact of the proposed methods for tariff harmonisation in terms of the need for locational signals to take into account the wider interconnected European system (second bullet § 2.4.2).

(D) Procedure and presentation

While the revised report is more accessible to the non-expert reader, it would still benefit from annexes providing an illustration of the current structure of tariffs and a short

presentation of the pros and cons of various pricing principles for the use of (electricity) network infrastructures.

More specifically, the inclusion of Figure 1 (p.10) is useful but deserves a fuller explanation (and could be moved to an annex). For clarity, it would be useful to explain earlier in the text why charges cannot be transaction based (or refer to the explanation provided in § 2.2 whenever needed – for instance in the sixth and seventh paragraphs of § 2.1). The last paragraph of § 1.4 should refer to the minimum standards of public consultations. The link in footnote 4 does not appear to be correct.

Finally, the text of the executive summary should be reviewed to reflect the revision of the main text.

2) IAB scrutiny process

Reference number	Comitology item
Author DG	TREN
External expertise used	No
Date of Board Meeting	Written procedure
Date of adoption of Opinion	06 SEP. 2009 The present opinion concerns a resubmitted draft IA report. The first opinion was issued on 17 July 2009.