EURELECTRIC proposals for amendments to Directive 2005/89/EC on measures to safeguard security of electricity supply and infrastructure investment

July 2016

EURELECTRIC is the voice of the electricity industry in Europe.

We speak for more than 3,500 companies in power generation, distribution, and supply.

We Stand For:

***Carbon-neutral electricity** by 2050*

We have committed to making Europe's electricity cleaner. To deliver, we need to make use of **all low-carbon technologies**: more renewables, but also clean coal and gas, and nuclear. Efficient electric technologies in **transport and buildings**, combined with the development of smart grids and a major push in **energy efficiency** play a key role in reducing fossil fuel consumption and making our electricity more sustainable.

***Competitive** electricity for our customers*

We support well-functioning, distortion-free **energy and carbon markets as** the best way to produce electricity and reduce emissions cost-efficiently. Integrated EU-wide electricity and gas markets are also crucial to offer our customers the **full benefits of liberalisation**: they ensure the best use of generation resources, improve **security of supply**, allow full EU-wide competition, and increase **customer choice**.

***Continent-wide** electricity through a coherent European approach*

Europe's energy and climate challenges can only be solved by **European – or even global – policies,** not incoherent national measures. Such policies should complement, not contradict each other: coherent and integrated approaches reduce costs. This will encourage **effective investment to** ensure a sustainable and reliable electricity supply for Europe's businesses and consumers.

EURELECTRIC. Electricity for Europe.

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Market Committee
WG Wholesale Market Design

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KEY MESSAGES

- EURELECTRIC is committed to the objective of an integrated European electricity market design in which the low-carbon transition is delivered cost-effectively.

- In response to past submissions and papers, the European Commission invited EURELECTRIC to propose modifications to the electricity Security of Supply Directive (SoSD). This paper aims at submitting such amendment proposals with the idea to underpin the overarching objectives of the Security of Supply Directive and deliver quantifiable benefits to European electricity consumers.

- EURELECTRIC amendment proposals to the SoSD are carefully worded, taking a holistic point of view to the entire electricity system and attempting in particular to align the security of supply, market integration and decarbonisation objectives. This holistic approach contrasts with the current, narrow approach of today's SoSD text, which had been developed at a time when economic, political and environmental conditions were very different. The new Security of Supply regulation would benefit from such a holistic approach.

- To address these 'missing' elements and deficiencies, EURELECTRIC does not propose a radical recasting of the Directive but rather suggests targeted amendments in the following areas :
    - The decarbonisation agenda, and in particular the EU's energy and climate objectives, together with the resulting paradigm shift that transforms the European generation fleet (including demand/flexible participation), must be appropriately recognised.

    - EURELECTRIC believes that energy, flexibility and capacity are all needed and should therefore be properly valued in a future proof-proof wholesale market design.

    - The electricity market design should ensure that wholesale prices adequately reflect scarcity situations in order to deliver efficient short and long-term price signals.

    - Adequacy assessments and the criteria used for carrying them out, including requirements on Member States to define quantitative adequacy and security targets, should ideally be harmonised at regional level.

    - Governance arrangements detailing the roles and responsibilities of the various stakeholders in preparing regional adequacy assessments must be also delineated and clarified.

    - Following transparent regional adequacy assessments, well-designed, technology-neutral, market-based capacity mechanisms, which accommodate and contractually protect cross-border participation, may be introduced to provide sufficient incentives for attracting and keeping adequate levels of reliable capacity.

- Notwithstanding the importance of robust security of supply; cost efficiency and the impact on consumers must also be considered. In particular, an efficient use and a cost-efficient expansion of interconnections and networks are key.

- A legislative methodology which prescribes the use of transparent, objective regional adequacy assessments to identify the need for technology-neutral, market-based capacity mechanisms accommodating cross-border participation, effectively relegates the need for specific tendering to an instrument of last resort.

- Whereas contracts signed before the Energy and Environmental State aid Guidelines (EEAG) must be respected in order to avoid negative impact on resulting investment decisions, EURELECTRIC would welcome transitional measures by Member States to adapt in a reasonable timeframe existing mechanisms towards a design compatible with the EEAG, and to move to a sustainable framework favouring regional procurement.

- Guidance on how to manage situations of simultaneous scarcity in various areas is needed. The key principles should be legally covered by the SoSD and the operational rules should be mandated in the network code on emergency & restoration, complemented where needed by intergovernmental agreements.

- Last but not least, it is crucial to highlight the interdependence between electricity and gas security of supply. As part of the Gas Security of Supply Package, EURELECTRIC advocates that any gas-fired power plant identified as key for electricity security of supply should be considered as a privileged customer regarding the risk of load-shedding deriving from an emergency situation in gas. Such customers should not be interrupted before all non-protected customers

1. To ensure security of supply, the energy market must be improved

The internal electricity market (IEM) must be completed. The third energy package and the integration of European wholesale markets across all timeframes through network codes is the cornerstone of a future-proof electricity market design.

Significant progress in this direction has been achieved with the development of day-ahead market coupling, but a fully integrated internal energy market is yet to be reached. Further progress is in particular needed to develop cross-border intraday and balancing markets and ensure that the system remains balanced as the share of renewables continues to grow.

Customers in Europe are used to be served with electricity. They consider it natural to have at any moment power for their business or residential needs. Most customers assume that electricity is and will always be present but are not aware that serving the last needed MW has a very significant investment cost for only a limited number of hours. The capacity provider (generation, demand response or storage) serving the last MW should in theory earn all its investment back during these "only" few hours of dispatch[1].

Undistorted energy prices reflecting market fundamentals (including scarcity) are an important ingredient of the electricity market design and should therefore trigger optimal dispatch and signal the economic need for investment or divestments. However, in the current environment where large amounts of subsidised generation together with other market interventions distort price formation, the electricity system indeed lacks signals both for short-term operations and longer term system adequacy and decarbonisation. The market environment has indeed become increasingly volatile and the risk exposure of investors has therefore increased. Price caps[2] and other market interventions hindering the appearance of scarcity prices should therefore be removed or at least be harmonised to reflect the actual value of the loss of load, which is in most cases higher than the price caps in place in wholesale markets.

EURELECTRIC believes that energy, flexibility and capacity are all needed and should therefore be properly valued in a future-proof wholesale market design.

These three elements of market design should not be seen as opposing each other, but rather as interplaying elements of a more efficient market design to ensure continued security of supply. Indeed, capacity markets are by no means an alternative to a well-functioning and well-designed energy market. Where found necessary, properly designed capacity markets, developed in line with the objective of the internal electricity market, can be an integral part of a future market design. For instance, well-designed capacity markets and scarcity prices are not mutually exclusive. Indeed, capacity mechanisms, in the form of well-designed centralised or decentralised capacity markets, turn part of the volatile and uncertain scarcity prices into a steadier signal ensuring that the firm capacity needed to meet a certain level of system adequacy is available. Together with well-functioning energy markets, they deliver price signals that encourage sufficient capacity to stay in the system or else attract investments for necessary capacity to be built.

[1] As an example on the generation side, assuming that such an hour would happen only once a year (which is even not certain at all, it could only happen once every 10 years!), this unit would then need to earn its (annuity) investment costs back in hour, this would lead to costs of magnitude of 100000€/MWh which is hardly acceptable. This would also highlight the need and profitability of additional demand response and cross-border imports.

[2] Existing price caps in the market, even in cases where their value is considered high in some EU markets (3000 €/MWh, although it might be as low as 180 €/MWh) are still hiding the effective value of lost load (VOLL). VOLL is also often set at different level by customer, different by region/Member State and also different depending on the moment scarcity occurs (e.g. day or night).

Member States, who are responsible for security of supply, thus have to realise that "supplying at all times" is not economically possible, and thus some quality levels for security of supply have to be defined.

Last but not least, an efficient use and a cost-efficient expansion of interconnections and networks are indispensable to complete the internal market with a growing share of renewables. The projects of common interests (PCIs), selected on the basis of the ten year network development plan (TYNDP), is a good approach for a consistent development of new infrastructures. For Europe, it would be an unjustified cost to add capacity in all markets that are short in capacity, when neighbouring markets have excess capacity that interconnectors can appropriately deliver to the market that is short. This also calls for the use of regional adequacy assessments, complementing national ones. Additionally, the transition to a truly integrated internal electricity market will be more efficient if the electricity system is optimised on a regional and ultimately European basis (e.g. TSOs acting as "one"). Existing TSO coordination initiatives such as the RSCs (regional service coordinators) where several TSOs bring essential real-time grid data together for common analysis and decision-making processes are steps in the right direction, allowing for a better grid supervision of real-time energy flows and a better anticipation of the impacts of short-term events. Ultimately, a step-wise integration at regional level of system operation and planning tasks relevant to cross-border trade needs to happen.

2. Detailed amendment proposals

Taking all those elements into account, we suggest amending the scope of the Directive (article 1) as follows:

Article 1 – Scope

Original Directive text	**EURELECTRIC's proposal**
1. This Directive establishes measures aimed at safeguarding security of electricity supply so as to ensure the proper functioning of the internal market for electricity and to ensure: a. an adequate level of generation capacity; b. an adequate balance between supply and demand; and c. An appropriate level of interconnection between Member States for the development of the internal market. **2.** It establishes a framework within which Member States are to define transparent, stable and non-discriminatory policies on security of electricity supply compatible with the requirements of a competitive internal market	**1.** This Directive establishes measures aimed at safeguarding security of electricity supply so as to ensure the proper functioning of the internal market for electricity and to ensure: a. an adequate level of capacity ***in the short and in the long term;*** b. An adequate balance between supply and demand ***on a regional level and eventually on an European level within the quality requirements as deemed necessary by the different member states; and*** c. An appropriate level of interconnection between Member States ***and non-EU countries which are well connected to the European power grid for security of supply and*** the development of the internal market

	2. It establishes a framework within which Member States are to define transparent, stable and non-discriminatory policies on security of electricity supply compatible with the requirements of a competitive internal market a. ***Following appropriate regional adequacy assessments, Member States may introduce well-designed market-based capacity mechanisms to give sufficient incentives for keeping and attracting an adequate amount of reliable capacity (generation, demand response and storage) into the market. Those capacity mechanisms shall be market-based, technology-neutral, open to new and existing assets and allow cross-border participation, and ideally a common sourcing at regional level. The capacity product shall be based on availability.*** b. ***No prohibitions or limitations can be imposed without adequate compensation on capacity providers [market players] to enter or to leave the market when their analysis of the economic conditions leads to such decisions.***

In article 2, we believe it is necessary to precise again the quality requirements as deemed necessary by the different Member States. As explained above, a balance at “all times” might require very significant investmentsand involve important costs for society. Appropriate interconnections with non-EU countries which are very well interconnected to the European power grid should also be taken into consideration when assessing the balance between supply and demand.

Article 2 – Definitions

Original Directive text	EURELECTRIC's proposal
For the purposes of this Directive, the definitions contained in Article 2 of Directive 2003/54/EC shall apply. In addition, the following definitions shall apply:	For the purposes of this Directive, the definitions contained in Article 2 of Directive 2003/54/EC shall apply. In addition, the following definitions shall apply:
(a) 'regulatory authority' means the regulatory authorities in Member States, as designated in accordance with Article 23 of Directive 2003/54/EC;	(a) 'regulatory authority' means the regulatory authorities in Member States, as designated in accordance with Article 23 of Directive 2003/54/EC,
(b) 'security of electricity supply' means the ability of an electricity system to supply final customers with electricity, as provided for under this Directive;	(b) 'security of electricity supply' means the ability of an electricity system to supply final customers with electricity, as provided for under this Directive;
(c) 'operational network security' means the continuous operation of the transmission and, where appropriate, the distribution network under foreseeable circumstances;	(c) 'operational network security' means the continuous operation of the transmission and, where appropriate, the distribution network under foreseeable circumstances;
(d) 'balance between supply and demand' means the satisfaction of foreseeable demands of consumers to use electricity without the need to enforce measures to reduce consumption.	(d) 'balance between supply and demand' means the satisfaction of foreseeable demands of consumers to use electricity ***within the quality requirements as deemed necessary by the different Member States*** without the need to enforce non-voluntary curtailment measures

These "requirements" as deemed necessary by the various Member States might be expressed in different ways or statements, like the "Loss of Load Expectation" or the "Expected Unserved Energy"[3]. These metrics should be:

- Harmonised at regional level as using the same metrics will allow for a straightforward comparison of targets in different countries;
- Homogeneous and transparent to let the market understand the outcome.

[3] These notions have already been described in the detail in our EURELECTRIC paper "A reference model for European capacity markets"

Article 3 paragraph 1 – General provisions

The first paragraph of the General Provisions in Article 3 also needs updating.

Original Directive text	EURELECTRIC's proposal
1. Member States shall ***ensure a high level of security of electricity supply by taking the necessary measures to facilitate a stable investment climate and by defining the roles and responsibilities of competent authorities, including regulatory authorities where relevant, and all relevant market actors and publishing information thereon. The relevant market actors include, inter alia, transmission and distribution system operators, electricity generators, suppliers and final customers.***	1. Member States shall ***be free to define system adequacy targets using metrics harmonised at regional level in order to ensure a predefined and cost-efficient level of security of electricity. They will therefore take the necessary market based measures to keep and attract adequate amount of reliable capacity on a regional scale (and ultimately European scale); and by defining the roles and responsibilities of competent authorities, including regulatory authorities where relevant, and all relevant market actors and publishing information thereon. The relevant stakeholders include, inter alia, transmission and distribution system operators, electricity generators, storage, suppliers, aggregators, and final customers via their demand side participation.***

Article 3 paragraph 1 mentions a "high" level of security of supply. This as such is not well enough defined and there should rather be an efficient and determined level referring at the required quality level. As already stated above, it is also clear that Member States have to coordinate this required quality level and understand that cross-border cooperation is essential to reach this goal at the lowest cost for society.

It is also very relevant to stress that any measure taken by Member States should be market-based, whether in energy or in capacity markets.

Article 3 paragraph 2 – General provisions

The second paragraph of article 3 lists a number of points to be taken into account when referring to the "measures" mentionned in the previous paragraph.

The existing list of points remains valid, nevertheless we propose additional points to be taken into account.

Furthermore, the existing point f) should further be completed: the need to ensure sufficient transmission capacity and an adequate amount of reliable capacity (generation, demand response and storage) for stable operation at least at regional - and eventually at EU scale.

Original Directive text	EURELECTRIC's proposal
In implementing the measures referred to in paragraph 1, Member States shall take account of: (a) the importance of ensuring continuity of electricity supplies;	In implementing the measures referred to in paragraph 1, Member States shall take account of: (a) the importance of ensuring continuity of electricity supplies;
(b) the importance of a transparent and stable regulatory framework;	(b) the importance of a transparent and stable regulatory framework;
(c) the internal market and the possibilities for cross-border cooperation in relation to security of electricity supply;	(c) the internal market and the possibilities for cross-border cooperation in relation to security of electricity supply;
(d) the need for regular maintenance and, where necessary, renewal of the transmission and distribution networks to maintain the performance of the network;	(d) the need for regular maintenance and, where necessary, renewal of the transmission and distribution networks to maintain the performance of the network;
(e) the importance of ensuring proper implementation of Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market (1) and Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004 on the promotion of cogeneration based on a useful heat demand in the internal energy market (2), insofar as their provisions are related to security of electricity supply;	(e) the importance of ensuring proper implementation of Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market (1) and Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004 on the promotion of cogeneration based on a useful heat demand in the internal energy market (2), insofar as their provisions are related to security of electricity supply;
(f) the need to ensure sufficient transmission and generation reserve capacity for stable operation;	(f) the need to ensure sufficient transmission ***capacity and adequate amount of reliable capacity (generation, demand response and storage) for stable operation on at least regional scale and eventually on a EU wide scale***
	(g) the required quality level (as already mentioned in the suggested update of paragraph 1)
	(h) the cross-border cooperation and participation (as already mentioned in the suggested update of paragraph 1)
	(i) the development of grid capacity, based on the PCI directive and ENTSOE's network development plans, and further based on sound CBA for each investment option as provided in the PCI

	(j) the level across countries of energy taxes, levies and tariffs, as these may affect the dispatch of generation units, and thus the efficient market outcome ***(k) ensuring that no retroactive measures are taken on existing market arrangements*** ***(l) the importance of long term investment signals and a stable regulatory framework for security of supply within the market design***

Article 3 paragraph 4 – General provisions

Paragraph 4 of this article also needs updating to ensure that capacity mechanisms are well-designed and have a regional perspective to ensure security of supply in a cost-efficient way. In particular, it should be made clear that regional adequacy assessment and cross-border participation should also include neighbouring countries very well interconnected to the internal energy market, such as European Economic Area and possibly Energy Community countries.

Original Directive text	EURELECTRIC's proposal
Member States shall ensure that any measures adopted in accordance with this Directive are non-discriminatory and allow for cross-border participation with the aim of reducing costs for the system and do not place an unreasonable burden on the market actors, including market entrants, companies with small market shares Member States shall also take into account, before their adoption, the impact of the measures on the cost of electricity to final customers, including the cost of energy not supplied due to mandatory (non-voluntary) interruptions in case of scarcity in the system if such measures were needed to keep the system stable.	***Member States shall ensure that any measures adopted in accordance with this Directive are market-based, non-discriminatory, technology neutral, open to new and existing capacity providers, open to generation, demand side response, storage. Capacity mechanisms should have a regional perspective to make efficient use of interconnections, thus requiring cross-border participation in the capacity market. Regional adequacy assessments and cross border participation into capacity mechanisms should also involve non-EU countries which are highly interlinked and have large interconnection capacities, such as European Economic Area and possibly Energy Community countries.***

Article 3 paragraph 5 – General provisions

With regards to paragraph 5, we propose the following changes to align the requirements with the new PCI directive and the network codes and guidelines:

Original Directive text	EURELECTRIC's proposal
In ensuring an appropriate level of interconnection between Member States, as referred to in Article 1(1)(c), special consideration shall be given: (a)each Member State's specific geographical situation; (b)maintaining a reasonable balance between the costs of building new interconnectors and the benefit to ***final customers***; and (c)ensuring that existing interconnectors are used as efficiently as possible.	In ensuring an appropriate level of interconnection between Member States, as referred to in Article 1(1)(c), special consideration shall be given: (a)each Member State's specific geographical situation; (b)maintaining a reasonable balance between the costs of building new interconnectors and the benefit to ***society according to an appropriate evaluation and comparison of alternatives subject to CBA analysis under the PCI package;*** and (c) ensuring that existing interconnectors are used as efficiently as possible ***as provided by the principles of cross-border regulation 2009/714 and also the guidelines for capacity allocation and congestion management (2015/1222), forward allocation and electricity balancing.***

2.1. Well-designed market-based capacity mechanisms can complement the energy only market to ensure security of supply in a cost-efficient way

The new regulation should make clear that well-designed market-based capacity mechanisms are the best solution to ensure security of supply in a market-based way. The directive should lay the groundwork on how well-designed market-based capacity mechanisms should be implemented whenever they become necessary.

Moreover, the directive should recall the capacity market criteria introduced in the Guidelines on State aid for environmental protection and energy 2014-2020, including that:

- Capacity mechanisms have to be market-based as a basic convergence feature.
- All capacities contributing to security of supply (generation, demand response and storage) must be eligible for the capacity mechanisms.

We suggest that these principles are outlined in the introductory text of the directive.

Proposal for the recitals of the new security of supply regulation

The introductory text of the new security of supply regulation should make clear not only that well-designed market-based capacity mechanisms relate to security of supply but also that other policy objectives should be established in a stable and predictable manner so that they don't hinder long-term system adequacy.

Original Directive text	EURELECTRIC's proposal
NEW	***Well-designed market-based capacity mechanisms value firm capacity and deliver robust and reliable price signals that incentivise necessary capacity to stay in the system or else attract necessary investments. Such mechanisms will ensure that the capacity strictly needed for system adequacy is delivered up to the required adequacy level as defined in the amended article 1§2b.***

The introductory text of the revised directive should make reference to the need for regional adequacy assessments.

Original Directive text	EURELECTRIC's proposal
NEW	***A regional approach to security of supply should be developed to supplement national adequacy assessments. Capacity adequacy should be analysed on a regional basis, based on a homogeneous, transparent and contestable methodology developed by expert groups involving all relevant stakeholders. These assessments should include firm capacity provided by all assets on the supply side and the demand side (e.g. generation, demand response and storage) that can contribute to security of supply both within and across the borders of each Member State. These assessments should also include an analysis of the economic situation of those assets in the short and long term and a coordinated analysis of solutions.***

2.2. Cross-border participation is already mentioned in article 4.3 but urgently needs clarification

Article 4 paragraph 3 – Operational network security

Article 4, first and second paragraphs, needs updating to take into account the network codes on operational security. However, this is a rather administrative update.

EURELECTRIC wishes to highlight that the third paragraph of article 4 needs most updates.

Original Directive text	EURELECTRIC's proposal
3. In taking the measures referred to in Article 24 of Directive 2003/54/EC and in Article 6 of Regulation (EC) No 1228/2003, ***Member States shall not discriminate between cross-border contracts and national contracts.***	***3. Considering the measures referred to in Article 24 of Directive 2003/54/EC and in Article 6 of Regulation (EC) No 1228/2003, and in the event of force majeure or an emergency situation referred to in Article 16(2) of Regulation (EC) No 714/2009, where the TSO shall act in an expeditious manner and redispatching or countertrading is not possible, each Member State and TSO should refrain from taking measures hindering the execution of contracts.***

It is clear for EURELECTRIC that a first effort should focus on updating this paragraph in line with the third package. However, it is worth noticing that the content of article 24 of 2003/54/EC and article 6 of 1228/2003 has remained unchanged in the concerned sections of the third package.

The most problematic part is however the end of the paragraph, i.e.: "Member States shall not discriminate between cross-border contracts and national contracts". It is rather unclear to "which" kind of contracts this paragraph alludes to. When considering the context in which this paragraph was written (2005), one might assume that capacity mechanisms were not yet under development. In the current situation however, we see that capacity mechanisms are being implemented, and one of the requirements under the State Aid guidelines is that capacity mechanisms should also be open to cross-border participation.

Capacity mechanisms, like energy contracts, are often implemented as contracts and should therefore fall under this article. However, the current wording should be clarified to ensure that Member States and TSOs do not take measures that hinder the execution of capacity contracts.

A capacity mechanism based on an availability model only ensures the availability of resources, while the actual dispatch of capacities as well as the energy flows between countries are determined by the energy market rules (e.g. energy flows should be directed towards the country where the value (€/MWh) is the highest). We see some potential conflicts between the "contract logic" based on the capacity contracted in another country and the "economic logic" which sets the direction of energy flows in real time.

In real time, the economic principle should prevail. However, in those cases where both markets are in a scarcity situation, respecting capacity contracts could lead to load curtailment in a country where capacity has been contracted through a capacity mechanism. This is likely to require ex-ante intergovernmental agreements to manage the simultaneous scarcity situations and to define in real-time the energy flows in order to allow the execution of capacity contracts.

We therefore suggest the following change to this directive, that should be further developed in the secondary legislation of the third package, in particular including the network codes and guidelines:

- Well-designed market-based capacity mechanisms must be compatible with the Target Model (TM). The basis of the TM is that cross-border energy flows are determined by the price differential between neighbouring markets within the EU internal energy market. Therefore, cross-border capacity contracts should not force energy flows that are contrary to such energy price differentials. This calls for a removal of price caps or at least a harmonisation of their level to reflect the VOLL and reduce distortions in the execution of contracts in real time.[4] Such changes should be implemented in the CACM and balancing guidelines.

- Independently from the mechanisms proposed to address potential security of supply issues, EURELECTRIC is concerned that the legal and operational framework for managing simultaneous scarcity situations in real-time is not clear enough and considers that this will need to be resolved at a political and operational level to ensure confidence in cross-border participation. The security of supply drective and the Network Code on Emergency and Restoration are the appropriate tools to ensure the enforcement of cross-border participation: i.e. ensure the availability of contracted cross-border capacity by any given country, in the case where two or more bordering countries are both in an emergency situation and where there is thus scarcity in exporting capacity between those countries.

- Such a legal and operational framework is likely to be complemented by intergovernmental agreements to manage the simultaneous scarcity situations and to define in real-time the energy flows.

- Ultimately, establishing regional capacity mechanisms – with a common capacity sourcing – would increase cost-efficiency by making the process of agreeing procedures during simultaneous scarcity events easier and standardised across a region. We would welcome harmonised guidelines to be developed at European level to pursue and facilitate future convergence having market integration in mind.

[4] Let's assume that a country A implements a capacity mechanism and that a country B doesn't. The tricky part is that, when there are simultaneous scarcity events, if wholesale price caps are not removed or at least harmonized, prices can be distorted. Market prices should reach scarcity levels (or price caps, if they exist). Maybe the price cap in B is higher than in A, so this would mean power actually flowing from A to B, despite the capacity being contracted in B to participate in A through cross-border participation.

Article 4 paragraph 4 – Operational network security

Article 4 paragraph 4 would need to be adapted on the same basis.

Original Directive text	EURELECTRIC's proposal
Member States shall ensure that curtailment of supply in emergency situations shall be based on predefined criteria relating to the management of imbalances by transmission system operators. Any safeguard measures shall be taken in close consultation with other relevant transmission system operators, respecting relevant bilateral agreements, including agreements on the exchange of information.	Member States shall ensure that curtailment of supply in emergency situations shall be based on predefined criteria relating to the management of imbalances by transmission system operators. Any safeguard measures shall be taken in close consultation with other relevant transmission system operators, respecting relevant bilateral agreements ***with regard to contracted capacity,*** including agreements on the exchange of information.

2.3. Targeted tenders for new capacity should only be a last resort if embedded in a regional assessment and when all market tools (EOM + well-design capacity mechanism) do not deliver

With regards to article 5, paragraph 2, we believe that the implementation of targeted tenders for new capacity should only be brought as a last resort mechanism in very specific cases (e.g. to solve local network congestion issues) after all market tools to keep sufficient capacity, demand response and storage in the system have been exhausted. Indeed, discretionary tenders would otherwise create a complete unsecure investment climate as they imply a support for capacity only for a specific plant entering the market, which is the starting point of a slippery slope. Market actors will not invest anymore, neither in new capacities nor in the modernisation of existing ones, if they expect tenders for new capacity to be put in place at a later stage.

Therefore, the subparagraph (f) of the second paragraph should be changed as follow:

Article 5 paragraph 2 – Maintaining balance between supply and demand

Original Directive text	EURELECTRIC's proposal
(f) tendering procedures or any procedure equivalent in terms of transparency and non-discrimination in accordance with Article 7(1) of Directive 2003/54/EC.	(f) targeted tendering procedures for capacity or any procedure equivalent in terms of transparency and non-discrimination in accordance with Article 7(1) of Directive 2003/54/EC ***only when all market based measures, including capacity markets free of any form of explicit or implicit price cap, have failed to attract needed capacity for the adequacy of the system up the set quality levels.***

EURELECTRIC pursues in all its activities the application of the following sustainable development values:

Economic Development

- Growth, added-value, efficiency

Environmental Leadership

- Commitment, innovation, pro-activeness

Social Responsibility

- Transparency, ethics, accountability

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