

**UNESA COMMENTS TO ERGEG PUBLIC CONSULTATIONS ON:
COHERENCE AND CONVERGENCE REPORT
COMPLIANCE MONITORING REPORT**

The Spanish Electricity Association (UNESA) welcomes the ERGEG public consultations on “Coherence and Convergence Report” and “Compliance Monitoring Report” giving the opportunity to the stakeholders to express their concerns.

Regarding the SW European region, we would like to point out our concern on the following topics:

- Throughout the documents, there is no mention to the convenience of eliminating the discriminatory barrier that, in our opinion, arises with the prohibition to Spanish Market Agents to import electricity from France when their domestic market share exceeds 10%. This regulatory barrier introduces a significant distortion on the competition and precludes the proper development of the market through the interconnection. Although the Spanish Regulator has agreed that this rule does not lower the risk of potential exercise of market power, it still remains in force.

Besides, this limitation does not fulfil the COMMISSION DECISION of 9 November 2006 amending the Annex to Regulation (EC) No 1228/2003 on conditions for access to the network for cross-border exchanges in electricity, at least in the following provisions:

- 1.2. When there is no congestion, there shall be no restriction of access to the interconnection.
 - 3.1. Capacity allocation at an interconnection shall be coordinated and implemented using common allocation procedures by the TSOs involved.
 - 5.2. TSOs shall publish a general description of the congestion management method applied under different circumstances for maximising the capacity available to the market.
- The ORDER ITC/843/2007, of 28 of March, on conditions for the applicable regime for the accomplishment of intracommunity and international interchanges of electrical energy provide the mechanisms for the resolution of congestions of the interconnections in accordance to the European legislation. Among other provisions, this Order disposes the management of the cross-border congestion, between Spain and Portugal, based on an explicit and implicit auction mechanism. But actually, after one and half year, only implicit auctions resulting from the market splitting, have come into force.

In our opinion, the rules that govern the explicit auctions of the interconnection capacity between Spain and Portugal, have to be approved

urgently and this decision cannot be postponed due to the establishment of the common auction platform in the region supported by the regulators.

- Last but not least, it is necessary that market operators (Powernext and OMEL) agree a timetable for the development of the market coupling between MIBEL and France, according to the High Level Group conclusions in its last meeting on 30 September.