



Electricity generators,
interconnector owners and
operators, suppliers,
energywatch and other interested
parties

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value for all customers*

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12 July 2007

Dear Colleague,

Regulatory arrangements for new Dutch-GB Electricity Interconnector

On 5 September 2006, Ofgem¹ published a consultation document on the exemption application² submitted by BritNed Development Limited (BritNed) in relation to its proposed interconnector between GB and the Netherlands. In the consultation document (the "September consultation document")³, Ofgem set out its initial view that an exemption should be granted from requirements on the use of revenues and third party access⁴.

We have on 11 July 2007 issued an electricity interconnector licence to BritNed. We have also issued an Exemption Order stating that that SLCs 9, 10 and 11 of the interconnector licence and Article 6(6) of Regulation (EC) No 1228/2003 should not apply for a period of 25 years. Our decision to grant an exemption will be notified to the European Commission, which can request Ofgem to amend or withdraw its decision within two months following notification⁵.

This letter sets out the reasons for Ofgem's decision. It should be read in conjunction with the September consultation document.

Background

On 13 June 2006 BritNed applied to the Authority for an electricity interconnector licence and an exemption from the requirement to offer third party access, from having to obtain regulatory approval for its charging methodologies and from requirements relating to the use of interconnector revenues.

BritNed is proposing to build a high voltage DC electricity cable between the Isle of Grain in Great Britain and Maasvlakte in the Netherlands. The cable is expected to have a capacity of 1,000MW with the ability to flex up to 1,320MW for short periods of time. It has requested an exemption for 25 years from the start of operations.

¹ The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

² "Application for EU exemption" BritNed Development Ltd, 12 June 2006. www.ofgem.gov.uk

³ Consultation Document: Regulatory arrangement for the new Dutch-GB electricity interconnector, 163/06, 5 September 2006, www.ofgem.gov.uk

⁴ An exemption has been requested from the relevant sections of the Electricity Interconnector Licence: SLC 9, 10 and 11 and of Article 6(6) of Regulation (EC) No 1228/2003.

⁵ This period may be extended by one additional month where additional information is sought by the Commission. The veto procedure is detailed in Regulation (EC) No 1228/2003 regarding the conditions of access to the network for cross-border exchanges in electricity, as referred to in Article 7(5).

BritNed has indicated that it will operate purely as the infrastructure company. The capacity will be made available to the British and Dutch markets via a combination of 'implicit' exchange to exchange auctions and explicit limited duration physical capacity auctions. The maximum capacity contract length will be one year. BritNed has also indicated that it will institute an access regime which is not materially different to that required under a regulated Third Party Access (rTPA) regime and it has committed to be compliant with current and future iterations of the EC Congestion Management Guidelines⁶ (CMG).

BritNed is requesting an exemption "solely to ensure that the risk/reward balance remains aligned over the duration of the exemption". The exemption will allow investors to benefit from the upside of their investment (since, *inter alia*, the use of revenues will not be restricted) as well as bear the downside risk.

Ofgem's initial views

As indicated above, our initial view was that an exemption should be granted to BritNed. The September consultation document explained the grounds on which we considered that BritNed had met each of the relevant criteria for the exemption to be granted. Respondents were asked to comment on this assessment. They were also asked for views on: balancing arrangements on the interconnector, the proposed scope and duration of the exemption, and conditions for the exemption's revocation.

Respondents' views

Ofgem received six responses to the September consultation document. Responses were from British energy suppliers and National Grid. All responses have been published on Ofgem's website (www.ofgem.gov.uk) along with the September consultation document.

Five out of the six respondents offered support, or conditional support, for Ofgem's initial view that BritNed had met the criteria for an exemption to be granted. The respondent which did not agree that the criteria for an exemption had been met argued that it was not convinced that BritNed met condition (c)⁷. Ofgem has set out its final views on this issue, and other respondents' comments below.

Additional Information

In order to form our final views on the basis of the most accurate information, we have asked BritNed to provide us with all necessary updates of the project's financial information for the interconnector. Ofgem has also liaised with the Dutch Authorities on this exemption application.

Ofgem's final views

After giving due consideration to the responses received to the September consultation and other relevant information we continue to consider that an exemption should be granted. We note that this view is supported by the majority of respondents. Attached to this letter is the final exemption order granted by the Authority.

Ofgem continues to believe that the exemption criteria⁸ are met by BritNed for the reasons set out in the September consultation document. However, in view of the responses to our

⁶ Revised binding Guidelines on the management and allocation of available transfer capacity of interconnections between national systems were adopted by formal Decision of the European Commission in November 2006, as provided for under Regulation 1228/2003. These Guidelines reflect advice provided to the Commission by ERGEG, and they set out among other things guidelines for efficient and market based mechanisms to allocate cross border interconnector capacity.

⁷ Condition (c) states: "that the interconnector must be owned by a natural or legal person which is separate, at least in terms of its legal form, from the system operators into whose system the interconnector will be built".

⁸ See page 7 to 13 of the September Consultation Document 'Regulatory arrangements for the new Dutch-GB electricity interconnector' for a full overview of the criteria.

September consultation document it is worth expanding on the points raised and main issues.

We have set out our detailed views in four main sections below:

- Specific responses against the six exemption criteria,
- The specific issues arising from the trading arrangements in the Dutch and GB markets,
The terms and scope of the exemption, and
- The reasons for the request for an exemption from rTPA requirements.

1. Specific responses against the six exemption criteria

Condition (a) requires that the interconnector investment must enhance competition in electricity supply. Generally, respondents agreed that BritNed met this condition. One respondent indicated that while it agreed with Ofgem's assessment that the interconnector would increase competition, the degree to which competition is increased will be hampered by the differences between the trading arrangements in the Netherlands and GB. We consider the trading arrangements across the interconnector further in section 2 below, however, we note that condition (a) requires that the interconnector investment must enhance competition, but it is not required to do so to any specific level. Ofgem remains of the view that condition (a) is met.

There were no specific concerns raised on the applicability of condition (b).

One respondent, representing a UK energy supplier, had reservations with regard to condition (c). This respondent was concerned that TenneT (the Dutch system operator) owns APX Group (APX), who will operate the exchange. Since APX is in fact a separate legal entity to TenneT, Ofgem does not share these concerns. The Dutch Authorities have looked into the detail of TenneT's ownership structure and are satisfied that an exemption can be granted (subject to certain conditions which will ensure the on-going separation of the companies).

On the GB side, BritNed is a separate legal entity and has full financial separation from the GB system operator, National Grid Electricity Transmission plc⁹. Section 6 of the Electricity Act 1989 ensures that the holder of an electricity interconnector licence may not, at the same time, hold a transmission, distribution, generation or supply licence. Accordingly, Ofgem remains satisfied that condition (c) is met.

There were no specific concerns raised on the applicability of conditions (d) and (e).

With regard to condition (f) the majority of respondents agreed that the exemption would not be detrimental to competition. However, respondents raised concerns about the nature of the access arrangements, transparency, and the potential for reserve prices when buying capacity.

Regarding the access arrangements, some respondents requested additional information on the proposed trading arrangements. Respondents also argued that robust anti-hoarding arrangements should be in place and that where any capacity is made available, that

⁹ It should be noted that certain standard licence conditions of National Grid Electricity Transmission plc's (NGET) Electricity Transmission licence ensure the independence of the GB TSO. For example, standard condition B5 prevents NGET's transmission business from giving any cross subsidy to any other business, affiliate or related undertaking; standard condition B6 provides for financial ringfencing and provides that NGET shall not conduct any business or carry out any activity other than the transmission business (subject to certain narrow exceptions); standard condition B9 prevents NGET from providing security, guarantees or other financial support other than on an arms length basis, on normal commercial terms for a permitted purpose (subject to the Authorities consent). Standard conditions C4 to C7 set out the way in which NGET may charge for the use of the transmission system and connection to the transmission system. These conditions require NGET to meet certain relevant objectives: it must, inter alia, facilitate competition; and ensure that its charging methodologies result in charges which reflect the costs incurred by NGET in its transmission business (i.e. as opposed to its non-transmission business). NGET is also prevented from discriminating between users.

should be done on a transparent and non discriminatory basis. One respondent also noted that it should not be possible to roll over contracts, or offer 'grandfather' rights to capacity. Parties should be required to participate in the auction process with all other users.

One respondent did not agree that the access regime should include a reserve price or if it did, it should only be allowed to recover losses and that this should be made an explicit condition of granting the exemption.

In its application, BritNed gave assurances that:

- all capacity would be made available to market on a basis similar to rTPA (implicit and explicit auctions, short term contracts);
- the interconnector will be operated in a way that reflects the EC's guidance for Congestion Management on regulated interconnectors, and it will publish information to the market according to rules based on those implemented by the Anglo-French Interconnector (IFA), and therefore meet the requirements set out by the DTI and Ofgem¹⁰.

Although BritNed has not finalised how the trading arrangements for the interconnector will work, we accept that the commitments BritNed has made above should satisfy the concerns about information and anti-hoarding arrangements. In addition, BritNed has confirmed that the owner of capacity in one period will not receive preferential treatment in following periods.

We also note BritNed's commitment to consult widely on the access arrangements, including the appropriate split between the implicit and explicit auctions. We believe that this is an important mechanism to ensure that the access and trading arrangements that are implemented do not, in practice, negatively impact the functioning of the internal market.

BritNed has stated that it intends to set a reserve price for accessing its network, in compliance with the final EC CMGs, and that the methodology will be fully consulted upon before it is implemented. BritNed noted that it would expect the reserve price to cover any avoidable costs arising from the sale of capacity. If concerns are raised about the impact of reserve prices then we would need to consider whether this had a material impact on BritNed's assurances to operate an effective capacity allocation mechanism.

In addition, to BritNed's commitments, SLC 13 of BritNed's electricity interconnector licence places a number of requirements on BritNed in relation to the utilisation of capacity across the interconnector. These requirements include: the requirement to make the maximum capacity available, to implement and publish on its website open, transparent and non-discriminatory capacity allocation mechanisms and to develop procedures on the primary market to facilitate the secondary trade of capacity.

We are satisfied that given BritNed's commitments on the access arrangements, if applied as committed, the exemption would not be detrimental to competition, the effective functioning of the internal market, or the regulated systems to which the interconnector is connected. Therefore we believe that condition (f) has been satisfied.

Finally, should the actual regime vary significantly from these commitments (i.e. if we are concerned that the requirements of this condition are no longer met), Ofgem retains the ability to review and if necessary amend or revoke the exemption order.

¹⁰ "LNG facilities and interconnectors: EU legislation and regulatory regime: DTI/Ofgem final views", November 2003. www.ofgem.gov.uk

2. Trading arrangements

In our September consultation, we stated that there was a need to consider the proposed intra-day trading arrangements for the interconnector with respect to the differences in balancing periods between the internal electricity markets operating in Netherlands and GB. We expressed concern that such arrangements could impact the effective functioning of the interconnector particularly at times of tight supply margins. We noted that the same issue was being considered by the Electricity Regional Initiative (ERI)¹¹ in respect of the IFA interconnector and that any recommendations arising from those discussions would need to be taken into account by BritNed in respect of the operation of its interconnector.

One respondent commented on the differences between the Dutch and GB markets. Given its view of the greater volatility in the Dutch balancing market, this respondent proposed alternative arrangements whereby those exporting from GB would do so in quarter hour blocks and not half hour blocks.

The respondent also stated that another important requirement would be to ensure that BritNed allows within-day nominations and re-nominations with sufficient flexibility to allow BritNed users to manage the half-hourly and quarter-hourly balancing requirements of the GB and Dutch markets respectively.

It is important to reiterate our view that the potential issues with intra-day trading, although important, do not prevent the conditions for exemption from being fulfilled. We still believe that this is an important area for consideration and we will continue to work with the ERI to develop proposals to overcome these difficulties. Respondents' views will feed into these discussions. However, until such time as remedies are put in place, we note that, as with the interconnector between France and GB, in practice, the differences in balancing arrangements can be practically managed.

One respondent stated that the trading arrangements should be in line with the views of the European Federation of Energy Traders (EFET). As we have mentioned previously, given BritNed's commitments to arrangements that are aligned with EC CMGs, we are satisfied that the relevant conditions are met.

It is important to reiterate BritNed's commitment to engage with market participants on the detail of how the trading arrangements will work, including the appropriate split between the implicit and explicit auctions. Ofgem considers that this is an important commitment and one which will encourage market confidence in the trading arrangements.

One respondent assumed that National Grid and TenneT will be explicitly prohibited from participating in the proposed APX day ahead auction arrangements. This respondent also considered that the basis on which capacity should be allocated between different products should be explicitly stated, particularly when some capacity is to be made available to the Transmission System Operators (TSOs). In respect of the use of the capacity by the TSOs Ofgem considers that they should be treated the same as any other market participants. In addition, we note that BritNed currently meets conditions (c) and (d) in relation to the legal separation of the parties and the ring-fencing of infrastructure activities from the network activities of the TSO.

3. The terms and scope of the exemption

In the September document we considered the terms and scope of the exemption and stated that we were minded to grant the exemption for a period of 25 years. We also set out our views on situations in which the exemption may need to be withdrawn.

The Authority grants the exemption order based on information provided by BritNed in its application and further analysis undertaken by Ofgem. In the event that there is a material

¹¹ ERI was launched by the European Regulators Group for Electricity and Gas in February 2006.

change to the commitments that BritNed has provided in its application, or if there is any material change to the underlying data provided by BritNed, this would be grounds for the Authority to review and potentially revoke the exemption order (in the event that there is a material change in the degree to which the relevant tests are met).

One respondent said that the exemption seemed too long and that the exemption should be granted on a shorter-term basis and reviewed after a period of time. They also considered that the exemption would create an artificial incentive to delay other investment, and that Ofgem should remove the exemption if sufficient return is made by the end of the review period.

Since the September consultation document Ofgem has conducted further analysis of the finances underpinning BritNed's proposed 25 year exemption. We note that the note of DG Energy and Transport advises that an appropriate guideline on the duration is that the exemption should not be significantly longer than the period during which the project is expected to 'break even'.¹² The expected break even point is determined by capital expenditure, operating expenditure, expected earnings and the discount rate. Ofgem has analysed how the payback period changes according to variations in these factors. Revenue is difficult to predict under BritNed's business model. Given that the BritNed interconnector is not underpinned by any long term contracts, its earnings are a function of its utilisation under short-term contracts, which will be determined by the price differential between the GB and Dutch markets. This uncertainty supports the case for a higher discount rate than for projects with long term contracts. Our analysis supports the application by BritNed for an exemption for 25 years.

We do not agree with the respondent's assessment that the exemption would create an artificial incentive to delay other investment. We believe that if there are commercial opportunities signalled by higher than forecast returns this would create the incentive to invest rather than the converse. As noted earlier, should the basis on which this exemption has been granted change materially, the Authority has the ability to withdraw the exemption (i.e. in the event that there is a material change in the degree to which the relevant tests are met).

One respondent commented on the definition of the interconnector set out in the draft exemption order. They commented that granting the exemption based on defined capacity was somewhat restrictive, since the physical capacity of the interconnector can be increased for short periods above the normal continuous level to accommodate additional flows, provided that such increases are balanced by running the cables for periods of reduced capacity, necessary to cool the cables.

We agree that the exemption order should not be overly restrictive and should reflect the way in which the interconnector will operate in practice. The cable is expected to have a maximum capacity of 1,320MW which includes its ability to flex up to 1,320MW for short periods of time. Accordingly, and based on further discussions with BritNed, we believe that the capacity should be defined as follows:

(a) the maximum capacity of the interconnector in both directions as at the date that the interconnector commences commercial operation; or (b) a maximum capacity of 1320 MW in both directions, whichever shall be the less.

We have added the words "maximum" before "capacity"; and "in both directions" after "interconnector" (where it first appears) and "1320 MW", for clarity. This represents a change in drafting from the draft exemption order on which we consulted; but does not represent a substantive change to the capacity that will be covered by the exemption order.

¹² Note of DG energy and Transport on Directives 2003/54-55 and Regulation 1228/03 in the Electricity and Gas Internal Market: Exemptions from certain provisions of the third party access regime, 30 January, 2004.

For clarity, we have also added a definition of the term “commences commercial operation”. This term means the time when BritNed has been commissioned and is available for physical flow of electricity on the market through implicit and explicit auctions.

In conclusion, we believe that the scope, and duration of the exemption order that we set out in the September consultation document continue to be appropriate.

4. Exemption from rTPA

We have received further clarification from BritNed that has been substantiated by the Dutch Ministry for Economic Affairs in relation to the potential risks that BritNed wishes to ameliorate by operation under an exemption. This is particularly relevant to the third party access requirements under SLC 11 and to exemption condition (b) which requires that the level of risk attached to the investment is such that the investment would not take place unless an exemption is granted.

BritNed has committed to provide access to the interconnector using a blend of implicit auctions at the day-ahead stage and short-term explicit auctions of physical capacity rights. Although BritNed is not seeking to institute an access regime that is materially different to that contemplated by the Electricity Directive 2003/54/EC, BritNed has requested an exemption to ensure that any future method for releasing capacity for sale will be at BritNed’s discretion rather than that of either regulator. The reason for BritNed’s exemption request here is to reduce their exposure to potentially significant imbalance charges.

In the GB market, the Authority’s powers under SLC 11 and SLC 14, which gives the Authority the power to resolve disputes in relation to third party access in the manner which it considers reasonable, could enable the Authority to direct the way in which BritNed offers capacity to the market (e.g. via an implicit auction (which under the Dutch trading arrangements would be on a firm basis)).

The Dutch regulatory authorities have confirmed that in the Netherlands the access regime for interconnectors is set out in the Dutch Grid Code. The implementation of the Electricity Directive 2003/54/EC in the Dutch legislation allows the regulatory authorities to make specific choices on the access regime, for example regarding the minimum capacity to be offered in the different types of auctions.

BritNed has indicated that it is important for it to be exempt from these national access requirements because under the Dutch trading arrangements, any capacity sold on an implicit basis has firm access rights, and therefore the imbalance risk will remain with BritNed. The potential requirement to provide capacity on an implicit basis potentially increases BritNed’s exposure to imbalance risk without it having the choice whether to accept such risk or not. If BritNed is required to sell capacity on an implicit basis, a lack of liquidity in the Dutch intra-day market could expose BritNed to significant imbalance charges.

BritNed considers that this potential exposure to imbalance risk, without it having any choice in the matter, influences its business case. Therefore BritNed wants to be flexible in the choice to determine the capacity levels it allocates to the available auction mechanisms. By specifically determining the capacities offered on a day-ahead basis, the Dutch Grid Code doesn’t offer this flexibility.

Ofgem considers that the arguments set out by BritNed could increase the perceived risk of the investment and that the risk level is already considered to be high given other factors such as the decision not to have long term capacity contracts. The lack of liquidity in the intra-day Dutch market means that it may be difficult to “trade out” imbalance risks if BritNed is required to sell firm capacity through an implicit auction. Such imbalances may occur for example where there was an unforeseen reduction in capacity at the interconnector due to an outage.

Co-ordination with the Dutch Authorities

As discussed above, Ofgem has consulted closely with the relevant Dutch Authorities throughout this process. Initially this was with the Dutch energy regulator DTe and more recently with the Dutch Ministry of Economic Affairs, who under Dutch law take the final decision on the exemption application.

Ofgem's decision

We have on 11 July 2007 issued an electricity interconnector licence to BitNed. For the reasons set out in this letter we have also issued an Exemption Order stating that that SLCs 9, 10 and 11 of the interconnector licence and Article 6(6) of Regulation (EC) No 1228/2003 will not apply for a period of 25 years.

As noted above, the Authority grants the exemption order based on information provided by BritNed in its application and further analysis undertaken by Ofgem. In the event that there is a material change to the commitments that BritNed has provided in its application, or if there is any material change to the underlying data provided by BritNed, this would be grounds for the Authority to review and potentially revoke the exemption order (in the event that there is a material change in the degree to which the relevant tests are met).

For the avoidance of doubt, Ofgem's analysis has been carried out against the relevant criteria for granting an exemption from rTPA requirements and is specific to the application that Ofgem is considering. Our decision in relation to this application does not preclude or impact in any way on the operation of the Competition Act 1998 or the Enterprise Act 2002. Further, as the analysis contained in this document has been carried out in relation to a specific situation, the analysis may or may not necessarily be relevant to a consideration of any related issue that may arise, for example, under the Electricity Act 1989, the Competition Act 1998 or the Enterprise Act 2002.

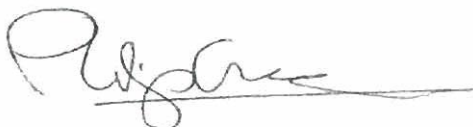
Way forward

Our decision to grant an exemption from requirements regarding use of revenues and third party access for BritNed will be notified to the European Commission, which can request Ofgem to amend or withdraw its decision within two months following notification.

Ofgem will continue to monitor BritNed's consultation process on the development of appropriate trading arrangements and the implementation of appropriate trading arrangements on the proposed interconnector.

Should you wish to discuss any aspect of it in more detail, please feel free to contact me or Andrew Wallace on 020 7901 7067.

Yours sincerely,



Philip Davies
Director, GB Markets

**ELECTRICITY ACT 1989: INTERCONNECTOR LICENCE
REGULATION (EC) No 1228/2003
EXEMPTION ORDER**

Pursuant to:

- (a) paragraph 2 of standard licence condition 12 of the Electricity Interconnector Licence (the "Licence") granted to BritNed Development Limited¹³ ("BritNed") under section 6(1)(e) of the Electricity Act 1989, such licence authorising BritNed to participate in the operation of a high voltage DC electricity interconnector between the Isle of Grain in Great Britain and Maasvlakte in the Netherlands; and
- (b) Article 7(1) of Regulation (EC) No 1228/2003 of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity (the "Regulation"),

the Gas and Electricity Markets Authority hereby issues to BritNed an exemption order:

- (i) providing that standard licence conditions 9, 10 and 11 of the Licence are suspended from operation, and
- (ii) exempting BritNed from the provisions of Article 6(6) of the Regulation in relation to the Interconnector,

subject to the terms and conditions in the attached Schedule.



Philip Davies

Authorised in that behalf by the
Gas and Electricity Markets Authority
11 July 2007

¹³ Registered in England No. 04251409. Registered Office: 1-3 Strand, London WC2N 5EH.

SCHEDULE

PERIOD, CONDITIONS, AND REVOCATION OF EXEMPTION ORDER

A. Interpretation and Definitions

In this exemption order:

"the Authority"	means the Gas and Electricity Markets Authority established by section 1(1) of the Utilities Act 2000, as amended from time to time
"the Act"	means the Electricity Act 1989, as amended from time to time
"BritNed"	means BritNed Development Limited (Registered No. 04251409; registered office 1-3 Strand, London WC2N 5EH), a company authorised by licence to participate in the operation of the Interconnector
"commences commercial operation"	means the time when BritNed has been commissioned and is available for physical flow of electricity on the market through implicit and explicit auctions;
"the Interconnector"	means the high voltage DC electricity interconnector between the Isle of Grain in Great Britain and Maasvlakte in the Netherlands, with respect to: (i) the maximum capacity of the interconnector in both directions as at the date that the interconnector commences commercial operation; or (ii) a maximum capacity of 1320 MW in both directions, whichever shall be the less
"the Licence"	means the Electricity Interconnector Licence granted to BritNed under section 6(1)(e) of the Act on 11 July 2007, such licence authorising BritNed to participate in the operation of a high voltage DC electricity interconnector between the Isle of Grain in Great Britain and Maasvlakte in the Netherlands
"the Regulation"	means Regulation (EC) No 1228/2003 of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity

B. Full description of the interconnector to which this exemption order relates

This exemption order relates to the high voltage DC electricity interconnector between the Isle of Grain in Great Britain and Maasvlakte in the Netherlands, with respect to (a) the maximum capacity of the interconnector in both directions as at the date that the interconnector commences

commercial operation; or (b) a maximum capacity of 1320 MW in both directions, whichever shall be the less.

C. Period

Subject to section E below, and pursuant to sub-paragraph 4(a) of standard licence condition 12 of the Licence and Article 7(4)(b)(ii) of the Regulation, this exemption order shall come into effect on the date that it is issued and will continue for a period of 25 years from the date that the Interconnector commences commercial operation.

D. Conditions

Pursuant to sub-paragraph 4(b) of standard licence condition 12 of the Licence, this exemption order is made subject to the following conditions:

1. The material provided by BritNed to the Authority in respect of this exemption order must be accurate in all material respects.
2. BritNed must notify the Authority within ten days after the date on which the Interconnector commences commercial operation.
3. Should any of the grounds for revocation arise under section E of this exemption order, the Authority may, with the consent of BritNed, amend this exemption order rather than revoke the exemption order.
4. The Authority may, with the consent of BritNed, amend this exemption order where the Authority has been requested to amend the decision to grant this exemption order by the European Commission (such request being made in accordance with Article 7(5) of the Regulation).
5. This exemption order is transferable where the Authority has given its written consent to such a transfer. For the avoidance of doubt, all of the conditions contained in this exemption order (as amended from time to time) continue unaffected in respect of any person to whom this exemption order may be transferred.

E. Revocation

Pursuant to paragraph 5 of standard licence condition 12 of the Licence and Article 7(4)(b)(ii) of the Regulation, this exemption order may be revoked in the following circumstances:

1. The Authority may revoke this exemption order where the European Commission has requested (in accordance with Article 7(5) of the Regulation) that the Authority withdraw the decision to grant this exemption order.
2. The Authority may revoke this exemption order where the European Commission has requested (in accordance with Article 7(5) of the Regulation) that the Authority amend the

decision to grant this exemption order and BritNed does not agree (under paragraph D4 above) that this exemption order be amended in the manner so requested by the European Commission.

3. The Authority may revoke this exemption order by giving a notice of revocation to BritNed not less than four months before the coming into force of the revocation where:
 - (a) in the Authority's reasonable opinion there is a material change in the degree to which the requirements of sub-paragraphs 6(a), (c), (d), (e) or (f) of standard licence condition 12 of the Licence or Article 7(1)(a), (c), (d), (e) or (f) of the Regulation are met with respect to the Interconnector as the result of any action or omission of BritNed;
 - (b) BritNed has a receiver (which expression shall include an administrative receiver within the meaning of section 251 of the Insolvency Act 1986 and/or an administrative receiver within the meaning of Article 215 literate 2 of the Bankruptcy Act of the Netherlands, as amended from time to time) of the whole or any material part of its assets or undertaking appointed;
 - (c) BritNed has entered administration under section 8 of and Schedule B1 to the Insolvency Act 1986 and/or has an administration order under Article 218 literate 2 of the Bankruptcy Act of the Netherlands, as amended from time to time, made in relation to it;
 - (d) BritNed is incorporated or has assets in a jurisdiction outside England and Wales and anything analogous to any of the events specified in sub-paragraphs (b) and (c) above occurs in relation to BritNed under the law of any such jurisdiction;
 - (e) BritNed is found to be in breach of any national or European competition laws, such breach relating to the Interconnector; or
 - (f) there is merger or acquisition in relation to or by BritNed that is, or is likely to be, detrimental to competition.