

**44<sup>th</sup> ACER Board of Regulators Meeting**  
**Wednesday, 28 January 2015, 09.00-16.00**  
**CEER, Cours Saint-Michel 30a, 1040 Brussels**

**Public Minutes**

Member States	Name <sup>1</sup>	Member States	Name
Austria (E-Control)	M: Walter Boltz A: Dietmar Preinstorfer	Italy (AEEGSI)	M: Valeria Termini O: Ilaria Galimberti
Belgium (CREG)	M: Marie-Pierre Fauconnier A: Koen Locquet O: Geert Van Hauwermeiren	Latvia (PUC)	O: Lija Makare
Bulgaria (SEWRC)	Excused	Lithuania (NCC)	A: Vygantas Vaitkus
Croatia (HERA)	M: Tomislav Jureković A: Sonja Tomašić Škevin	Luxemburg (ILR)	M: Camille Hierzig
Cyprus (CERA)	M: Georgios Shammas	Malta (MRA)	A: Anthony Rizzo
Czech Republic (ERO)	A: Martina Krcova O: Martin Sik	Netherlands (ACM)	A: Remko Bos O: Elozona Ochu
Denmark (DERA)	O: Mads Lyndrup	Poland (URE)	A: Halina Bownik-Trymucha
Estonia (ECA)	A: Külli Haab	Portugal (ERSE)	A: Alexandre Santos
Finland (EV)	O: Timo Partanen	Romania (ANRE)	A: Lusine Caracasian
France (CRE)	A: Philippe Raillon O: Michel Thiollière O: Hélène Gassin	Slovakia (RONI)	Excused
Germany (BNetzA)	A: Annegret Groebel O: Daniel Müether	Slovenia (AGEN-RS)	Excused
Greece (RAE)	M: Michael Thomadakis O: Katerina Sardi	Spain (CNMC)	M: Fernando Hernández O: Gema Rico
Hungary (HEA)	A: Attila Nyikos	Sweden (Ei)	M: Anne Vadasz Nilsson
Ireland (CER)	M: Garrett Blaney	United Kingdom (Ofgem)	M: John Mogg (BoR Chair) A: Martin Crouch O: Mark Copley O: Feodora Von Franz

ACER	Alberto Pototschnig, Volker Zuleger, Fay Geitona, Sarah Bradbury
European Commission	Florian Ermacora, Zsuzsanna Széles, Sebastian Gras, Bartłomiej Gurba
CEER	Natalie McCoy, David Haldearn

<sup>1</sup> M: Member – A: Alternate – O: Observer

<b>Main conclusions from the meeting:</b>
1. <i>The BoR received an update from the EC and ACER on current activities.</i>
2. <i>The BoR discussed the forthcoming Energy Community/ECRB Analytical Paper under the overall reforms within the EnC currently being discussed.</i>
3. <i>The BoR approved (by consensus of the members present or represented) the Revision of the 2015 ACER WP.</i>
4. <i>The BoR recommended that the current chairs of the AGWG and AIMP WG, Mr Walter Boltz and Mr Koen Locquet, respectively are reappointed for a new term.</i>
5. <i>The BoR recommended Mr Fernando Hernández as the Chair of the AEWG.</i>
6. <u>The BoR received an update on the REMIT Implementing Acts, the REMIT Security Policy, and the newly established REMIT Coordination Group. The BoR also discussed Plan B options for addressing resources constraints for REMIT.</u>
7. <i>The BoR provided (by consensus of the members present or represented) the favourable opinion on the Agency's Opinion on the ENTSO-E TYNDP 2014.</i>
8. <i>The BoR received an update on the 2nd PCI Union list selection.</i>
9. <i>The BoR received an update on the work of the AIMP WG.</i>

## Part A: Items for discussion and/or decision

### 1 Opening

#### 1.1 Approval of the agenda

BoR Decision agreed: (D 1)

*The agenda was approved.*

#### 1.2 Approval of the minutes of the 43<sup>rd</sup> BoR meeting

BoR Decision agreed: (D 2)

*The 43<sup>rd</sup> BoR minutes were approved.*

### 2 Update from the Commission and the Director

#### 2.1 Update on recent developments

- EC

Mr Ermacora updated the BoR on recent and upcoming European Commission (EC) developments. On the 25 February 2015, the EC will adopt the Energy Union Communication. The internal energy market (IEM) is a key pillar of this policy document and energy and the Energy Union have been highlighted as key priorities by President Juncker.

The EC's 2015 Work Programme was adopted towards the end of last year which did not provide full details but only high level priorities.

On more concrete issues, he informed the members that the Commission is looking into a market design initiative for electricity and a policy Communication will be produced in the first half of this year regarding what might be needed to address challenges in the electricity market. In addition, the EC is working on the Gas Security of Supply Regulation review for which a consultation was issued on 15 January 2015 and which will be completed in the second half of this year.

He also updated on the recent split of unit B2 in DG Energy, operational since 1 January, between IEM issues (B2), for example Network Codes and policy initiatives on market design, and Security of Supply issues (B4) including issues in the context of the Ukraine-Russia crisis and follow up to the stress tests exercise which the EC had launched.

Mr Ermacora informed the members that the EC's ACER assessment under Article 16 of the ACER Regulation is on the agenda for the first half of 2015 and is expected for the second quarter. As provided in the ACER Regulation, one section will focus on the future role and tasks of the Agency.

#### - ACER

The Director provided an update on recent ACER developments. On the 13 January 2015, ACER published its first Implementation Monitoring Report on Gas Congestion Management Procedures (CMP). The ACER and ENTSO-E public consultation to create Stakeholder Committees on Network Codes closed on 23 January 2015. From 18 December 2014 to 9 January 2015, ACER invited third parties to send observations on the Lithuania-Poland Electricity Interconnection Project. The Agency continues to work on this Cross-Border Cost Allocation (CBCA) request which relates to the Lithuanian part of the electricity network. The Director is confident that the Agency will be able to deliver a Decision fairly quickly, even though not necessarily within the three month deadline due to the need to request further information.

A briefing with Members of European Parliament's (MEP) assistants was held on 27 January 2015 to present, together with CEER, the main issues for Energy Regulation and to introduce our two organisations. The session was introduced by Mr Buzek, also the president of the Industry, Transport, Research and Energy (ITRE) Committee, and organised by the European Energy Forum (EEF), with interventions from Oliver Koch of the Commission.

#### - Conflict of Interest policy

Lord Mogg gave the background. At the December BoR the draft policy was presented and some concerns were expressed by BoR members. The policy has been revised after an extensive exchange between Lord Mogg and the Director over the Christmas period. Subsequently, the revised policy was submitted to the BoR members for comments by 16 January. The part of the revised draft Policy which relates to the BoR has been endorsed by those who replied, even though some procedural concerns were raised. The following NRAs replied during the BoR electronic procedure: BNetzA, CRE, E-Control, ACM, EI, DERA, AEEGSI and OFGEM, raising concerns around proportionality, effectiveness and enforceability of the proposed rules for Seconded National Experts (SNEs) from a NRA perspective. The Hungarian Energy Agency (HEA) has responded positively to the policy.

The Director then submitted to the Administrative Board (AB) a revised policy for adoption through an electronic procedure by 31 January 2015. The Director acknowledged the

constructive approach and discussions with the Chair. He noted that during the European Parliament (EP) discharge procedure the previous day the first question raised to the Agencies was the reasons for the delay in the adoption of the Conflict of Interest (Col) policy.

A discussion was held.

Regarding the next steps, the Director informed that the policy will enter into force the day following the adoption of the decision. For 2015, the Declarations of Interests shall be submitted within three months of the entry into force of this Decision (so as of 1 May 2015). Following the adoption of the Policy and within one month, the BoR Chair will communicate the details and arrangements for its implementation through a revision of the Rules of Procedure (RoP) of the BoR.

The Chair concluded the discussion as follows: a short letter to the AB will be sent by the BoR Chair to reiterate that the key concerns remained on the rules on Seconded National Experts (SNEs) regarding the enforceability of such rules and their proportionality as well as the risk that such rules may discourage applicants for secondments at ACER - and especially in Ljubljana against a need to augment the ACER staff. He thought that such a letter would be timely and useful ahead of the end of the Administrative Board (AB) electronic procedure by 31 January 2015.

The Chair will shortly communicate the next steps and the details on the implementation of the Policy and the submission of the 2015 Col Declarations as well as on the necessary revision of the BoR RoP to reflect the Col policy once adopted.

## 2.2 ECRB Analytical Paper and envisaged changes in procedural Regulation

Mr Ermacora informed the BoR that the Energy Community (EnC) is going through certain important reforms as a result of which an analytical paper will be issued, including on the role of its institutions and the Energy Community Regulatory Board (ECRB). The envisaged changes in the procedural regulation of the ECRB were also circulated.

Mr Gurba (DG ENER, A3) reported on the High Level Reflection Group (HLRG) report on the EnC drafted by Mr Buzek and presented at the Ministerial Council in Kiev in September 2014. The EnC Secretariat in agreement with the EC, is preparing an analytical paper for a public consultation in February. The public consultation outcome and first assessment is scheduled for the March and June Permanent High Level Group meetings and, subsequently, the Ministerial Council in Tirana on October 2015, will discuss the next steps.

He explained that the ECRB is the Institution of the Energy Community established by Articles 58 to 62 of the EnC Treaty. It is composed of one representative of the NRA of each EnC Contracting Party. The EC represents the EU and acts as Vice-President. The ECRB essentially has an advisory role, unless empowered by the Ministerial Council to take "Measures". He then explained the main options for the forthcoming consultation and presented other improvements in effectiveness on the basis of the proposals of the Presidency and the Secretariat.

Mr Gurba clarified that the options were indeed proposals for discussions (and are explained in more detail in the analytical paper). It is a public consultation and thus the options need to be open without any preference expressed.

## Conclusion

*The Chair concluded that a small Group would need to analyse the public consultation paper (once available from the EC) and prepare a response for consideration at the February BoR meeting.*

## **3 ACER cross-sectoral activities**

### **3.1 Revision of the 2015 ACER WP**

The Director presented his proposal for the revised 2015 ACER Work Programme (WP). A note highlighted the main amendments as follows: the Agency has to deprioritise a number of the activities initially included in the 2015 Annual WP. In particular, some activities planned, especially with respect to tasks relating to the implementation of REMIT and, to a lesser extent, the TEN-E Regulation and the Network Code implementation monitoring process, have been postponed or reduced in scope. More specifically:

- In the area of Framework Guidelines and Network Codes: the bulk of the preparation for monitoring of the implementation of the adopted Network Codes has been postponed to later years; the follow-up on the scoping in the area of rules for trading is no longer foreseen in 2015;
- In the area of the Regional Initiatives: the publication of on-line progress reports on the activities of the Electricity Regional Initiative and the Gas Regional Initiative has been discontinued; the scope of the Agency's activities for coordinating and monitoring the early voluntary implementation of Network Codes before their rules become legally binding has been reduced;
- In the area of REMIT, the Agency is working to identify an approach to market monitoring which is compatible with the limited resources available. Correspondingly, the targets for the monitoring activities have been removed from the AWP, as well as a number of other tasks under REMIT have been deprioritised:
  - the establishment of appropriate mechanisms to access emission allowances data has been postponed;
  - the publication of parts of the trade information the Agency will collect under REMIT, has been postponed to later years;
  - the provision of commercially non-sensitive trade database for scientific purposes, has been postponed to later years;
  - the assessment of the operation and transparency of different categories of market places and ways of trading in the context of the annual REMIT report will not be performed in 2015;
  - the scope of the monitoring of trading activities in wholesale energy markets to detect and prevent trading based on inside information and market manipulation, in cooperation with NRAs, on the basis of data collected in connection with the REMIT implementing acts, will be reduced;
  - the cooperation and coordination with NRAs, European Securities and Markets Authority (ESMA), national financial market authorities and, if applicable, competition authorities, will only be developed to the limited extent allowed by the available resources.

Such deprioritisation is unfortunate as it leads to important activities being postponed; it is, however, unavoidable. Going forward, with REMIT entering into the operational stage and infrastructure monitoring gaining momentum, any further resource limitation may affect the ability of the Agency to detect and deter market abuse and to ensure that infrastructure

projects progress according to plans. In this way some of the key components of the Energy Union strategy may be jeopardised.

The Agency will also partly reduce the resources envisaged for Opinions and Recommendations on its own initiative and two deliverables emanating from “the Bridge” have also been postponed, namely: the Recommendation on specific mechanisms to further enhance the cooperation between NRAs and the effectiveness of the regulatory action at EU level; and, the Opinion on the regulatory oversight of mandatory and voluntary EU TSO bodies. The latter is very much dictated by the Capacity Allocation and Congestion Management (CACM) framework once this will be adopted and enters into force.

The Director also suggested that the deliverable, ‘Review and recommendations on national TYNDPs regarding their (in) consistency with the Community-wide TYNDP’ could be moved to 2016.

Mr Ermacora noted that all Institutions suffer from resource cuts. As we will be shortly starting the 2016 Budget Process, the EC hopes that perhaps under the priority given to the Energy Union (and the forthcoming EC Communication) some more resources to ACER might be justified. It is clear, however, that we need to be realistic; against this austerity background it is unlikely that ACER would be granted all the resources requested. In terms of the revision of the activities, the EC considers it essential that ACER continues on Third Package implementation and core activities. Furthermore, ACER’s role in the context of the TEN-E Regulation, including cost-benefit analysis (CBA) and CBCA coordination, is very important and should be retained. Against these resource constraints, he pointed to prudence in any further discussion regarding future tasks for ACER.

The Director also reported that he was asked by the AB to send a letter to the EC on the possibility of ACER to receive fees on CBCA allocation. Such requests are submitted without ACER being able to plan them. At the moment ACER has received two and they are indeed resource demanding despite the helpful support from NRAs (on this particular occasion from ERSE (PT), MRA (MT) and E-Control (AT)). The Director also reiterated that DG ENER has always been extremely supportive towards providing the resources to ACER even if the EC position has been different.

#### BoR Decision agreed: (D 3)

*The BoR approved (by consensus of the members present or represented) the revision of the 2015 ACER WP.*

### 3.2 BoR Recommendation to the Director on the ACER Working Group Chairs

The BoR Chair presented the BoR Recommendation on the Agency Gas (AGWG), Implementation, Monitoring and Procedures (AIMP WG) and Electricity (AEWG) Working Group Chairs. For the AGWG and AMIP WGs the BoR recommends that the current chairs, Mr Walter Boltz and Mr Koen Locquet, are appointed for a new term. For the AEWG, Mr Fernando Hernández was recommended as the Chair amongst three excellent candidates (Ms Christine Materazzi-Wagner, Ms Karin Widegren and Mr Mark Copley, who was also appointed as the Vice Chair for the CEER EWG). The Chair also expressed his hope that both Ms Materazzi-Wagner (E-Control) and Ms Widegren (EI) would continue to their valuable contribution to the works of the AEWG.

The Director thanked both Mr Crouch and Mr Moelker for their leadership and enormous contribution to the ACER EWG. He welcomed Mr Hernández and stated that he is pleased

to follow the Recommendation of the Board, noting that the work of his predecessors set very high standards.

Mr Hernández noted that he is pleased to continue the good work and count on the same team and good work as by the previous AEWG Chair.

Mr Crouch also thanked all the members who have contributed to the work of the AEWG. He considered the work of the AEWG as a collective effort from NRAs and ACER staff.

BoR Decision agreed: (D 4)

*The BoR recommended that the current chairs of the AGWG and AIMP WG, Mr Walter Boltz and Mr Koen Locquet respectively, are appointed for a new term of office.*

*The BoR recommended Mr Fernando Hernández as the new Chair of the AEWG.*

## **Market Monitoring**

### **4 Market Integrity and Transparency**

#### **4.1 Adopted REMIT Implementing Acts**

Mr Zuleger provided an update on the adopted REMIT Implementing Acts (IAs). A note summarising the legal consequences of the adoption and entry into force of the REMIT IAs, the Agency's activities since, and an implementation timeline were uploaded for information.

It was noted that the IAs were published on 18 December 2014, the day after adoption, and the successful effort of the team in the Agency to publish the IA-related documents much earlier than expected was commended. The Director also acknowledged the support of the Working Group in the development of these documents. He then presented the implementation timeline: the IAs were adopted on 17 December 2014, published the next day on 18 December 2014, and entered into force on 07 January 2015. The nine-month "countdown" for the application of the reporting obligation for standard contract transactions and orders and for transparency data was triggered; the other transaction and fundamental data will have to be reported six months later.

To comply with the entry into force of the IAs, the Agency launched its new REMIT Portal on 8 January 2015 which is a central point of entry for the Agency's REMIT Information System (ARIS) and is now live. The Agency also made available on the portal its supporting documents, namely, the Transaction Reporting User Manual (TRUM), the Manual of Procedures on transaction and fundamental data reporting (MoP), the Requirements for the Registration of Registered Reporting Mechanisms (RRM Requirements) and the first List of Organised Market Places, as required by the IAs themselves. The Agency will provide updates on supporting documents as required through its future REMIT Quarterly newsletter.

In order to allow reporting parties to start registering with the Agency as RRMs as soon as possible, the Agency already opened its RRM registration system, an ARIS application, through the REMIT portal on 8 January 2015. It is expected that the registration of RRM will take three months, as it involves the three registration phases of identification, attestation and testing, including the time it takes for the Agency to carry out its evaluation work. After the registration, the RRMs will be able to start submitting trade and fundamental data to the

Agency. The Agency will have to start data collection on 7 October 2015 for phase one and as of 7 April 2016 for phase two.

Since opening the registration tool there have already been a significant number of applications for registration by RRM, but all of them are still in the first registration phase. The next important milestone is that NRAs must have their national registration systems open for registration of Market Participants at the latest by 17 March 2015, i.e. three months following the adoption of the IAs.

Lord Mogg thanked Mr Zuleger and his team for their tireless efforts and readiness for the preparation of documentation as soon as the IAs were adopted. He suggested it might be useful to clarify to NRAs the forthcoming milestones through a simple note which summarises the key dates Mr Zuleger had outlined in his presentation.

#### 4.2 Plan B Options for REMIT Monitoring given the resource constraints

Lord Mogg introduced the topic and highlighted the documentation circulated shortly before the meeting in which the working group chairs had provided an assessment of options for Plan B for REMIT regarding the market surveillance strategy.

The Director briefly provided some background, stressing that the staff necessary to fully implement REMIT monitoring (plan A) had not materialised. At the moment in Ljubljana there are only three people who are engaged in Market Monitoring and, therefore, there is already a backlog.

Ms Groebel presented the table which assessed the pros and cons of the different Plan B options and some further options developed by the AMIT WG Chairs for the consideration of members to help the discussion. This assessment was undertaken bearing in mind that ACER as well as NRAs should fulfil their respective responsibilities as set out by REMIT, while at the same time aiming to overcome resource constraints of ACER and NRAs in the most cost effective way. She highlighted the importance of finding the best way forward for a Plan B and looking at pragmatic solutions for a transitory period.

A discussion was held in which some BoR members echoed the need for prioritization in REMIT activities and a balance between ACER monitoring and NRA analysis and enforcement.

Mr Ermacora reflected on the difference between what needs to be done and the resources available and that if MSs and EP were convinced on what ACER should do then so also should the budget be assigned to it. He expressed curiosity in what role an Impact Assessment played and what resources were envisaged. He emphasised the need to be pragmatic and perhaps consider what the minimum number of staff would be needed and how priorities could be set ahead of discussion the 2016 budget with the authorities.

The Director responded that this is what the process was trying to achieve. He noted there is a conceivable scenario where we do not monitor the market but rely on notifications of suspicious activity through whistle-blowers and a hotline, as FERC had done in the past. He stated he was happy to provide the case again: that the more staff available centrally for analysis, the fewer cases need to be taken forward for enforcement to NRAs.

Mr Zuleger stated appreciation for the discussion and support. He reminded members however that option B was rejected by NRAs initially and, therefore, this was the starting point. He stressed that of course the IT system will adjust alerts but that either ACER or

NRAs will have to analyse the results as no software is able to do this. He also wished to emphasise that obligations should not be confused with solutions. Option D is in any case an obligation to cooperate under the Regulation. Option D is, therefore, not an option as we have in any case the obligation to cooperate closely and this is why a presentation was given on the market surveillance solution but this did not receive comments and there was a lack of proper discussion in the TF, WG, and BoR. This is also the reason for creating a REMIT Coordination group in order to resolve such issues.

The Chair concluded the discussion inviting the AMIT Chairs to work with the Agency to come forward, as a matter of urgency, with a proposal for an operational solution. This does not necessarily have to tie in with the options presented but should seek to address some of the comments made in the discussion. All of the issues cannot be resolved by pouring resources into the Agency but a solution could be achieved in a regionalisation approach with appropriate safeguards and costs. We are not going to find the definitive nor ideal solution to the problem but need to disseminate what work the Agency is doing. He expressed some concerns over how ready NRAs are individually to deal with this, as was reflected in the two surveys previously circulated.

He invited the AMIT WGs and Mr Zuleger to outline what would be possible for the February BoR where some time would be allocated to the topic.

#### 4.3 New organisational arrangements for the implementation of REMIT

The Director introduced the topic regarding the move to a more operational phase of REMIT and the need to find an effective way of managing it. On 06 January 2015 he wrote to the BoR members to invite all NRAs to appoint a representative at the Coordination Group (CG) at senior level of the head of unit/department responsible for the implementation of REMIT by 21 January 2015. The CG will not deal with high-level strategic issues but will provide a forum for discussing implementation and operational issues and coordinating action. The first meeting of the CG is planned for Wednesday, 18 February 2015 at the Agency's premises in Ljubljana, and they will subsequently be held on a quarterly basis. The agenda for its first meeting was circulated along with the draft Terms of Reference (ToR). He felt that any anxieties about what the group will deal with, will quickly be cleared with the first meetings of the new group.

#### 4.4 REMIT Security Policy

The Director introduced the topic. An explanatory note and a draft decision for the REMIT Information Security Policy were uploaded for information. The Agency's REMIT Security Policy has to be put in place by the end of January 2015 in order to process RRM applications. Therefore, the draft Agency Decision which was presented for information is aimed at establishing a REMIT Security Policy for the Agency. This is without prejudice to the REMIT Security Policy applicable to data sharing which will be adopted after completion of the ongoing consultation with NRAs. The Agency has implemented its REMIT Information System (ARIS) to meet REMIT obligations on wholesale energy market data collection, market monitoring and data sharing. According to the requirements in Article 12 of REMIT, ARIS must be operationally reliable. In particular, the Agency must take all the necessary measures to prevent any misuse of, and unauthorised access to, the information maintained in ARIS. The policy is aimed at ensuring confidentiality, integrity and availability of REMIT information and underlying assets against threats, whether internal or external, deliberate or accidental. The document will be adopted soon, but before adoption the Agency wished to

seek the members' feedback as any security at national level will need to interface with the European level.

## **5 Post 2014 strategy**

### **5.1 Road and Bridge map**

Lord Mogg provided an update on the Bridge Map. The new format for monitoring progress on actions promised in the Bridge was presented and agreed at the November and December BoR meetings. Though this will now be presented quarterly, the first full update has been circulated for January after it being populated by the WGs. He presented that the main changes concern how the governance proposals are "unbundled" from the list of internal actions and are simply presented without a specific timing, state of play etc. There were no changes from AEWG or AGWG but some minor changes from the CEER Consumer and Retail Markets WG.

The other minor change which is reflected in the summary is that the ACER 2015 WP is being revised and thus some of the actions in the Bridge Map will need to be modified

## **Completion of the Internal Energy Market - Update on Framework Guidelines and Network Codes**

## **6 Electricity**

### **6.1 Oral update on the FGs and NCs**

Mr Crouch provided an update. The AEWG was held on 8 January 2015. Cristian Lanfranconi (AEEGSI) and Romain Benquey (CRE) were formally appointed as Co-Chairs of the new Joint Flexibility TaskForce (FTF). The first TF meeting will take place on 17 February. On Forward Capacity Allocation, comments to ENTSO-E's draft Harmonised Allocation Rules were discussed and endorsed. A letter to ENTSO-E was circulated under part B of the BoR agenda for information. A peer review request was also received from the Polish NRA.

He then provided an update on FGs and NCs also taking into account the planning group meeting. The CACM Guidelines received agreement before the end of last year, which was a great achievement for 2014, as was the early implementation work. On Requirements for Generators (RfG) NC, the EC shared a draft scheduled for committee for 4 February 2015 for a more concrete discussion. This would be next in the chain with Demand connection to follow as expected. The High Voltage Direct Current Connections (HDVC) NC will potentially follow this. The Forwards NC will then proceed, on which work is still ongoing. On the System Operation NCs work is ongoing and ENTSO-E is working through these. It was noted that they will move toward being Guidelines rather than NCs. Work is still ongoing on the Emergency and Restoration Code, with a target for Qualified Recommendation in March. This might be now at beginning of May, though this is still well in time for joining the queue for Comitology. There are a lot more to come this year and a long process to run through; the workload for ACER and NRAs, as well as TSOs should not be underestimated.

## 7 Gas

### 7.1 Oral update on FGs and NCs & other work

An update was provided by Mr Boltz on the basis of a presentation circulated. The AGWG met on 15 January 2015.

In terms of the latest developments on the Tariff NC, a second high-level trilateral meeting was held on 15 January 2015 and the discussion points were presented. There was high-level agreement between ACER, ENTSOG and the Commission on the main critical areas of contention between TAR NC and FG. Alignment is being sought through a series of meetings in January and February. ACER has to provide its reasoned opinion on the Code by 26 March 2015. There are some open issues, including how to price interruptible capacity. It was noted that some countries have major long-term legacy contracts.

Mr Boltz also presented some information on the EC consultant questionnaire to support the Impact Assessment being prepared. Policy options put forward in the course of the NC development work will be compared to a Business as Usual (BAU) scenario in which the current state of affairs is unchanged. A complete set of the necessary information on the BAU scenario and impacts thereof needed to underpin the choices made in the framework Guideline/NC. The deadline for responses is 30 January 2015. Mr Boltz invited NRAs to fill in the questionnaire (and encourage their TSO(s) to do so as well) and send it directly to the consultant (or to the TF chairs who are happy to forward it on).

With regard to the Capacity Allocation Mechanism (CAM) NC amendment on incremental capacity, the transmission letter and the relevant documents for the amendment to the CAM NC for incremental capacity were provided to ACER within the deadline (26 December 2014). According to Article 7(2) of Regulation (EC) No 715/2009, the Agency will consult again (proposed duration of 1 month) and make a reasoned proposal to Commission. The next steps were defined as follows:

- BoR orientation debate on 28 January 2015
- Public Consultation: end Jan – end Feb 2015
- Evaluation of responses & final amendment to AGWG by early March
- BoR opinion: 25 March 2015

He also provided the content overview according to ENTSOG highlighting that first time incremental capacity could be implemented.

On the joint submission of Oil & Gas UK and Gas Forum for an amendment to the NC CAM and NC BAL, the ACER response was provided on 3 October 2014 (requesting more detailed information) and on 5 December 2014 a hearing of the parties took place. ACER is conducting a public consultation for 3 weeks (lasting until 9 February). The overall duration of an ad-hoc procedure should not last more than three to four months from the moment of starting the procedure. It would be surprising if the proposal received a lot of support. In addition the CAM NC received extensive consultation and as the first code received a lot of attention; this issue, therefore, cannot have come as a surprise.

On Interoperability Network Code, on 4 November 2014 there was a favourable Gas Committee vote on “Commission Regulation establishing a Network Code on Interoperability and Data Exchange Rules”. A 3-month scrutiny period of Council of EU and EP started in mid-December; the formal Commission decision and publication in the Official Journal is expected in April 2015. This will apply from April 2016 it was suggested that TSOs should be pushed to enforce it.

On the Balancing Network Code, this will come into force this year (October), unless an exemption applies. Countries should look at implementation. We are trying to help those countries that require bigger changes through sharing some experiences and expertise. An important target is to have this implemented, though some TSOs have requested an exemption.

The Director also gave an update on the draft NC CAM amendment proposal on incremental capacity, ready to go out for Public Consultation after the BoR. He apologised for the late submission. As this is the first time we are going through a NC amendment process, the internal process is not yet standardised. The document is very detailed - an excel spreadsheet with around 1000 cells – but he wished to highlight it to the members and give an opportunity for feedback before publication planned for in the next few days.

Mr Ermacora also reported on to the invitation on the Gas Regional Initiative South South East (GRI SSE) meeting on 10 February 2015 which the EC is organising in coordination with ACER, where they shall be discussing the region's work plan for 2015-18. The meeting will be in Brussels and be chaired by Mr Borchardt. Mr Ermacora encouraged members to attend the workshop.

## 7.2 Published Gas Target Model update and report on the launch event

Mr Boltz also updated the BoR on the Gas Target Model (GTM) review and update and on the launch event. The document was published on 8 January 2015 with a press release and citizen's summary. The launch event took place on 16 January 2015 and was a half-day event followed by lunch where a printed version of the document was circulated. Overall the event was a success: it was well attended and the interventions all welcomed the document and its conclusions (even those who had previously expressed critique), and raised interesting points for discussion. He highlighted the effort devoted by those involved to produce the document and carry out the launch. At the end of January, a meeting with the EC to discuss implementation of the GTM review and update will be held. The GTM TF is to pick up work again and decide on pilot projects. On a number of fronts, work is taking place on implementation (such as in Germany and the Netherlands), which is a positive sign and it is encouraging to have this impetus for market integration.

## **8 Investment challenge: European Network Planning and infrastructure challenge**

### 8.1 Draft ACER Opinion on TYNDP 2014-2030

The Director presented the Ten-Year Network Development Plan (TYNDP) Opinion. On 31 October 2014 ENTSO-E submitted its draft TYNDP 2014 accompanied by six Regional Investment Plans and the draft ENTSO-E Scenario Outlook and Adequacy Forecast 2014-2030. He outlined that the Agency took into account in its review its monitoring of the regional cooperation of TSOs and its previous activities, including TYNDP 2012, the scenarios and Cost-Benefit Analysis (CBA) methodology used in the draft TYNDP and recommendation of use of TYNDPs for selection of projects of common interest (PCIs). It did not consider the storage projects as it awaits the ENTSO-E CBA guideline to identify specific benefits of storage projects.

The Agency considers the draft TYNDP 2014 contributes to the objectives of non-discrimination, effective competition and efficient and secure functioning of the internal market in electricity.

The Agency notes that the draft TYNDP 2014 includes the modelling of the integrated network and an assessment of the resilience of the system. Scenario development and a European generation adequacy outlook are part of the complementary draft Scenario Outlook and Adequacy Forecast 2014-2030. Furthermore, the draft TYNDP 2014 is to some extent based on a CBA.

TYNDPs, in the context of Regulation (EU) No 317/2013 which upgrades provisions for development of electricity transmission infrastructure in Europe, makes the TYNDPs an even more critical tool. Given this, the Agency reaffirms its expectation that ENTSO-E implement in a timely manner, the recommendations formulated in its previous Opinions.

The opinion provides some comments including positive comments on involvement of stakeholders and transparency but also makes some further suggestions for improvement.

BoR Decision agreed: (D 5)

*The BoR provided (by consensus of the members present or represented) the favourable opinion on the Agency's Opinion on the ENTSO-E TYNDP 2014.*

8.2 Update on 2nd PCI list

Mr Gras provided an update on the establishment of the 2<sup>nd</sup> project of common interest (PCI) list. Promoters had to submit their applications by November 2014. Projects included in the first Union-wide list of PCIs would not automatically be included in the second list and needed to reapply. The third cross-regional meetings were held on 22 and 26 January for gas and electricity and discussions focused on the assessment methodology developed by the Joint Research Centre (JRC) as well as the eligibility of some projects. During the meeting, the PCI candidates were presented, as well as a list of projects that might not be eligible with regard to the technical criteria set out in the TEN-E Regulation. As the information for possible non-eligibility was taken from the TYNDPs, project promoters were asked to confirm or provide additional information. The list of PCIs has been published on the website of the EC for public consultation until 31 March 2015. Additional information on the individual projects are published either on the websites of promoters or national Ministries.

The participants of the cross-regional group meetings discussed the methodology developed by JRC to simplify the assessment of the projects narrowing down the information from the TYNDP to key indicators. This will facilitate the assessment by regional group members to take a decision on the regional lists by making the exhaustive information more presentable. As these horizontal issues are decided, the cross-regional meetings will no longer take place and upcoming meetings in March, April and May will be organised at regional group level. Input from stakeholders on the regional list will be sought. Once the regional lists are adopted they will be given to ACER for an opinion in May (3 months). The Union-wide list will be adopted by the EC in October (scrutiny by EP and Council; 2 months) and enter into force early 2016.

Regarding South Stream, Mr Gras presented an adjusted timeline showing a one month delay without it as the ENTSOs need to recalculate the whole TYNDPs. As the electricity and gas selection processes will merge into the establishment of one Union-wide PCI list; this effects not just gas but also electricity.

He also presented a timetable for the smart grid projects of which there are only a few. A thematic group will work independently from the overall timetable and will then merge once the proposed list is ready. A first meeting on smart PCIs was held on 19 January 2015 where participants called for more input from the relevant NRAs into the process. Experience from the first list showed that smart grids PCIs did not receive the support regarding their inclusion in the tariffs that they had when projects were selected as PCIs. Therefore, the scrutiny process when deciding on the PCIs needs to be more detailed to ensure consistency between PCI selection and implementation.

Regulators provide a view regarding the simplified framework by JRC and pointed to limits for some key indicators. However there should be an improvement from the first to the second list to avoid MS agreeing on projects that will not be supported afterwards for various reasons. Regulators' input is sought and welcomed in this process.

## **9 Implementation, Monitoring and Procedures**

### **9.1 Progress on work**

Mr Locquet updated the BoR on implementation, monitoring and procedures. On Monday, a brainstorming session on the joint market monitoring report was held, including issues for 2016.

The request regarding the capacity reset clause is being considered, questioning whether the introduction of such a clause can be accepted in light of the implementation of NC as it could increase tariffs. A second request on arranging transactions under REMIT is also being considered. He also indicated that, for reasons of transparency, the input from the AIMP WG to other AWGs will be shared with the BoR when the deliverable from the other AWG will be presented to the BoR.

On the state of play of the two peer reviews that have been submitted to ACER, both ad-hoc working groups have been set up with technical experts. A first draft version will be produced from ACER in February for gas, then they will be ready to start; electricity we do not know the date yet.

The Chair highlighted the interesting discussion at CEER on confidentiality and the need to be consistent on the ACER policy on that.

## **10 Regional Integration**

### **10.1 Report on Intraday High Level Meeting**

Mr Crouch gave a brief update on the outcome of the high level meeting with the power exchanges convened by the EC on 26 January on the basis of a note circulated to the BoR members by Ofgem.

The Commission made it clear to the power exchanges that the process is not working and the situation needed to be addressed by the end of February, which was very much welcomed by those involved. It was raised that this could involve a further comfort letter for the project, if supported, and that the budget would be likely to change, highlighting that the project remains voluntary. It is hoped there will be a clear answer by the end of February which will be discussed in the next electricity working group.

The Director reflected that the circulated note was very helpful but implied very little progress and that the process had proved difficult to find solutions to the many occurring problems. He expressed a hope that the situation could indeed be brought to a solution as soon as possible.

**AOB**

Ms Geitona noted a minor change to the timing for the next BoR coordination meeting.