

**47<sup>th</sup> ACER Board of Regulators Meeting**  
**Wednesday, 6 May 2015, 09.00-16.00**  
**CEER, cours saint-Michel 30a, 1040 Brussels**

**Minutes final**

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: Marrie-Pierre Fauconnier A: Koen Locquet O: Geert Van Hauwermeiren	Latvia (PUC)	O: Lija Makare
Bulgaria (SEWRC)	Excused	Lithuania (NCC)	A: Vygantas Vaitkus
Croatia (HERA)	A: Sonja Tomašić Škevin	Luxemburg (ILR)	M: Camille Hierzig
Cyprus (CERA)	Excused	Malta (MRA)	A: Anthony Rizzo O: Marjohn Abela
Czech Republic (ERO)	A: Martina Krcova O: Martin Sik	Netherlands (ACM)	A: Remko Bos
Denmark (DERA)	M: Finn Dehlbaek	Poland (URE)	O: Malgorzata Kozak
Estonia (ECA)	O: Tiina Maldre	Portugal (ERSE)	A: Alexandre Silva Santos
Finland (EV)	M: Simo Nurmi	Romania (ANRE)	A: Lusine Caracasian
France (CRE)	O: Hélène Gassin O: Sabine Hinz	Slovakia (RONI)	Excused
Germany (BNetzA)	A: Annegret Groebel O: Daniel Müether	Slovenia (AGEN-RS)	Excused
Greece (RAE)	O: Ionna Mersinia	Spain (CNMC)	M: Fernando Hernández
Hungary (HEA)	A: Attila Nyikos	Sweden (Ei)	M: Anne Vadasz Nilsson
Ireland (CER)	M: Garrett Blaney	United Kingdom (Ofgem)	M: John Mogg (BoR Chair) O: Mark Copley

ACER	Alberto Pototschnig, Volker Zuleger, Fay Geitona
European Commission	Klaus-Dieter Borchardt, Stefan Moser, Oliver Koch, Zsuzsanna Széles, Marie-Christine Jalabert, Crisan Adina, Sebastian Gras
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 members received an update from the EC on recent initiatives following the Energy Union Communication, the revision of the SoS Regulation and the public consultation on the draft annual priority list for Framework Guidelines and network codes.</i>
2. <i>The BoR received an update on the ACER latest developments and publications.</i>
3. <i>The members discussed the section on regulatory activities of the draft Annual Activity report from ACER. Comments are to be submitted by next week.</i>
4. <i>The BoR received an update on the EP/ITRE ACER Contact Group meeting on 5 May. They received an update on the next steps of the Article 16 EC's assessment of the Director's performance and discussed the approach for the involvement of third countries to ACER including to the AWGs.</i>
5. <i>The BoR agreed by consensus (of the members present or represented) the appointments of Mr Tomislav Jureković as the member of the BoR review panel and Mr Remko Bos as the alternate to any of the three panel members.</i>
6. <i>The BoR received an update on intraday and GRI.</i>
7. <i>The BoR agreed by consensus (of the members present or represented) the appointment of Mr Walter Boltz as the vice chair of the ACER BoR for a new term of office taking effect as of 6 May 2015.</i>
8. <i>The BoR agreed by majority of the members present or represented (with disagreement of one member) the use of an electronic procedure for the provision of its opinion on the Director's proposal for an Agency Recommendation on the electricity balancing network code.</i>
9. <i>The BoR received an update on progress on electricity and gas network codes and overall work.</i>
10. <i>The BoR received an update on the draft ToR of the Stakeholders Committees on the electricity codes, the Electricity Balancing Stakeholder Group and the Flexibility TF.</i>
11. <i>The BoR took note of the ACER internal monitoring report on transmission charges paid by electricity producers.</i>
12. <i>The BoR received an update on the incremental capacity amendment proposal and on the preparation of the ACER Recommendation on tariffs Network Code.</i>
13. <i>The BoR received an update on the 2nd Congestion Report and the preparation of the ACER opinion on the NCC peer review.</i>
14. <i>The BoR received an update on current work by the AIMP WG.</i>
15. <i>The BoR received an update on REMIT IT security policy and compliance with ISO standard 27000, on the REMIT Coordination Group and split of tasks, and on the revision of the ACER Guidance on the timeline for registration of market participants.</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 46<sup>th</sup> BoR meeting

BoR Decision agreed: (D 2)

*The 46<sup>th</sup> BoR minutes were approved.*

**2. Update from the Commission and the Director**

2.1. Update on recent developments

- EC

**- Follow-up on Energy Union**

Mr Borchardt provided an update on the Energy Union Communication and the concrete steps to implement it. With regard to the revision of gas SoS Regulation, the EC has conducted a public consultation which received 107 replies. Mr Borchardt thanked CEER for their response which provided rich input to this discussion. The EC is now working on the impact assessment and hopes to finalise it over summer so that the EC adopts their proposal by the end of this year.

Another important initiative is the market design of retail and electricity wholesale markets. The Communications are envisaged to be adopted on 10 July. The electricity market design consultative communication will be launched for public consultation until around 10<sup>th</sup> September.

On electricity market design, the EC will address the broader issues including *inter alia* the integration of RES into the market and the need for flexibility markets (balancing markets, intraday market coupling). The regional approach is very prominent in the Energy Union Communication but at this stage the Commission is still developing its thinking. The intention is not to set up “a new geography” of the groups but to explore where instruments, such as capacity mechanisms, would benefit from a regional approach. Another issue to be addressed is the governance arrangements particularly regarding ENTSOs and ACER. ENTSO-E plans to develop different regional platforms to be used in different configurations. The EC considers to build on the current regional initiatives coordinated by ACER and to reinforce regional coordination; both ACER and NRAs have an important role to play. Mr Borchardt noted the need to avoid creating compartmentalised regions; therefore, the ultimate objective is to ensure the greatest convergence between regions. The “Bridge to 2025” provides valuable input to the EC’s thinking.

Whilst the emerging proposals will not constitute a “fourth” package nor a single act, existing pieces of legislation will be amended: the EC considers revisions of the RES Directive, revision of the Gas SoS Regulation; other proposals will be brought forward through the network codes, and inevitably some revisions of the third package will be needed.

Mr Borchardt introduced Mr Stefan Moser, Head of the newly established Unit in DG ENER on security of supply (B4). Mr Moser briefly introduced the Unit’s cross-cutting focus – electricity, gas and oil. For electricity, this is also linked to market design issues and a potential review of the existing electricity SoS Directive. This year, the focus will be on the gas SoS Regulation review, following the consultation which provided rich input. There are four broad areas of issues which the EC considers following the feedback from the public consultation: Enhanced cooperation (including regional cooperation: regional plans (voluntary or mandatory), introduction of templates, more effective assessment through a potentially reinforced role of the EC). On infrastructure, the N-1 infrastructure standard is

generally supported but is considered too optimistic and we need to better reflect reality; in this context the possibility of regional N-1 is also considered which also raises the issue how to set up the regions, and should there be a corridor approach; the EC is also considering the current reverse flow obligations. The third category relates to the supply standard and how to meet this while keeping interventions to the minimum; the fourth issue considered is protected customers, including *inter alia* their definition.

#### **- EC Annual Priority List**

Mr Borchardt informed the members on the preparation of the public consultation on the draft annual priority list for the development of network codes and guidelines for 2016 and beyond. The EC invited comments from the planning group on the draft public consultation paper ahead of the public consultation which will end around 21 July. The EC indeed commits to make significant progress in the electricity codes and to bring them to Comitology before the end of 2015. Still there is a scrutiny period of 3 months for the EP and the Council and thus some of the codes will be adopted in 2016.

The work on electricity codes is advancing well. Comitology votes are foreseen on RfG and HDVC before the summer break. The FCA vote is scheduled for the beginning of autumn. The 3 system operation codes, once merged, are foreseen to enter Comitology towards the end of 2015. The Balancing and the Restoration and Emergency codes are in a different basket, as they are linked to the electricity market design proposals and will be tackled in parallel with the discussions on the market design. On gas the only outstanding code is on tariffs and a high level meeting is scheduled for the next day. The Interoperability code was adopted and published on 30 April.

On a separate issue the EC updated on the MiFID II discussions and the implementing rules following ESMA's advice specifying the MiFID II exemptions.

#### **- ACER**

The Director reported that the ACER annual conference is now set for 09 July and is entitled 'An Energy Union for Consumers'. It will take place at the Brdo Conference Centre near Kranj.

The Director then presented the main documents released since the last meeting. On 28 April the first ACER's decision on the allocation of costs for the Lithuanian part of the Electricity interconnection between Lithuania and Poland (LitPol link) was released. The Agency received from ENTSO-E the Network Code on Emergency and Restoration, and on 1st April, we invited all interested stakeholders to express their views by 29 April. Since the last BoR, ACER published on 31 March its Opinion assessing the Network Code on Harmonised Transmission Tariff Structures for Gas.

As of 18 May a new OFGEM (cost free) secondee, Andrew White will start at the ACER Brussels liaison office.

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

#### **3.1. ACER annual activity report**

The Director presented the draft report. The annual report on the activities of the Agency shall contain an independent section, approved by the BoR concerning the regulatory activities of the Agency during the year considered. The section on regulatory activities is presented for a first discussion at this BoR and will be presented at the June BoR for

approval. It follows a new format of a table with each deliverable, its legal basis, the WP objective for 2014, targets and deadlines (indicative), performance indicators, risk assessment, and achievement against the target on the basis of traffic lights. Most of the deliverables are completed or are on track.

The Director invited comments and suggestions from members by next week at the latest to allow the finalisation of the report and its submission at the June BoR for approval.

### 3.2. Participation of third countries to ACER

Mr Borchardt presented the key elements of the EC's letter on the participation of third countries as regards Energy Community Contracting Parties in ACER. It mainly sets out how to apply the conditions of Article 31 of the ACER Regulation. The participation of individual ENC parties' NRAs as observers in the ACER BoR should remain subject to the green light from the Commission as to the country's compliance with the EU energy acquis. On the specific arrangements for the third country's involvement, an agreement between the NRA and ACER has to be concluded to allow for this participation on the procedural aspects, including financial contributions to be further discussed between the Commission, ACER and the Energy Community Secretariat in order to come to practical arrangements, laid down in an appropriate Memorandum of Understanding.

### 3.3. Update on the 2nd ACER Contact Group meeting

The ACER Director and Lord Mogg provided an update on the ACER CG meeting on 5 May. The meeting was extremely successful and MEPs displayed a keen interest in ACER's work including the operational challenges related to REMIT. There were 9 MEPs present and around 28 participants in total. The discussion covered progress on codes and the IEM including early implementation and REMIT including resources challenges and an update on Agency's preparations for market monitoring. The update included work as a result of the "Bridge to 2025" and linked to the Energy Union Communication as well as work undertaken by ACER on infrastructure. There are a series of initiatives undertaken by the EP including an oral question to be discussed at the EP Plenary on 21 May on ACER resources. ACER has been invited to the ITRE Committee on 16 June to present its Work Programme. The members were also interested to explore the level of involvement and participation of NRAs in ACER structures (BoR and AWGs).

### 3.4. EC assessment under Article 16 & next steps on the preparation of the BoR Opinion

Mr Borchardt reported on next steps on the Commission's assessment on the performance of the Director. The EC has finalised their report and yesterday launched their inter service consultation. The assessment of the Director is very positive. The EC expects the end of the inter service consultation on the EC Decision (assessment and proposal for the extension of the term of the Director) by mid-June.

Lord Mogg informed the members on the legal requirements: The Administrative Board, acting on a proposal from the Commission, after having consulted and given the utmost consideration to the assessment and the opinion of the Board of Regulators on that assessment and only in those cases where it can be justified by the duties and requirements of the Agency, may extend once the term of office of the Director by no more than three years. Subject to the EC's assessment to be delivered in time the BoR Chair plans the BoR opinion to be submitted for agreement at the BoR on 10 June.

### 3.5. Update on the organisation of the BoR Summit

Lord Mogg updated on the timing. The BoR summit will take place on 15 September in Ljubljana ahead of the BoR meeting on 16 September. This will discuss the new phase of NRAs cooperation in the context of an evolving ACER's role. The scope of the event will be discussed more fully in one of the forthcoming meetings but the Chair invited members to make suggestions on the issues to cover.

### 3.6. Col: Establishment of BoR review panel

Lord Mogg updated on the a letter from the Director to all BoR members, alternates, AWG chairs, vice chairs and TF conveners regarding the submission of Dols and CVs by 30th April to the BoR Secretary. The Board of Regulators must establish a review panel which will comprise the Chair, the Vice-Chair and a Member of the Board of Regulators to be appointed by the Board, with the Director of the Agency as observer and a legal expert of the Agency as secretary. The panel will be responsible for assessing the declarations of interest of all BoR members and alternates as well as of the AWG chairs, Vice Chairs and TFs conveners. Mr Tomislav Jureković was proposed to be the member of the BoR review panel along with the BoR Vice Chair and the Chair. As an alternate to any of these three panel members, when their Declaration of Interest is considered, Mr Remko Bos was proposed.

The first meeting of the BoR panel to review the Dols will be held in the margins of the BoR meeting in June after the public debrief.

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

*The BoR agreed by consensus (of the members present or represented) the appointments of Mr Tomislav Jureković as the member on the BoR review panel and Mr Remko Bos as the alternate to any of the three panel members.*

## **4. ERI and GRI update**

### 4.1. GRI update

The Director presented an update including on current work and the way forward for the GRI. This will be very much focused on continuing promoting the early implementation of CAM NC (in cooperation with ENTSOG), as well as the monitoring and facilitation of early implementation in other areas for NCs (balancing, interoperability and data exchange). The GRI will also support ongoing projects for market integration (implementation of the Gas Target Model) and provide assistance where needed. The extension of the GRI to new countries (e.g. advanced Contracting Parties of the Energy Community, Baltic States) is also being considered. Progress in South and SSE regions was also presented.

### 4.2. Intraday

Mr Borchardt provided an update. The XBID user group met on 28 April, the power exchanges declared their acceptance of the letter by the respective NRAs and their expectation of signing the contract for the development and testing of the XBID solution with DBAG this week (4-8 May). The letter to Project Parties was finalised and signed on 13 April by the relevant NRAs. The EC waits for the signature of the contract with the vendors and it

should happen at any moment. The EC has invited to a high level meeting the PXs on 19<sup>th</sup> May. The EC is keen on increasing the pressure to come forward with a timeline, rather than seeking at this stage a different approach. This will be the message to be conveyed on 19 May and at the next Florence Forum. We should now concentrate all efforts on pushing this project forward and accelerating the process. The PX merger is expected to have no impact on project.

### **Appointment of the BoR Vice Chair**

Fay Geitona reported that the call for nominations for the BoR Vice chair was launched on 21 April with closing day 30 April. Mr Boltz was the only candidate and thus the BoR was invited to indicate whether there is consensus for his appointment.

Mr Boltz thanked the members for their trust and support over the last years and displayed his keen interest to continue his contribution to ACER work.

#### BoR Decision agreed: (D 4)

*The BoR agreed by consensus (of the members present or represented) the appointment of Mr Walter Boltz as the vice chair of the ACER BoR for a new term of office taking effect as of 6 May 2015.*

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

### **5. Electricity**

#### 5.1. Oral update on the FGs and NCs

Mr Hernández provided an update on progress. With regard to the Emergency and Restoration Network Code, he stated that overall, the code seems compliant with the requirements of the ACER Framework Guidelines on Electricity System Operation. The call for comments to stakeholders was issued until 29 April. The AEWG considers a positive opinion and a recommendation to EC for its adoption, noting the areas for possible alignments with the rest of the SO codes that are currently being revised by EC. The next steps are the finalisation of the opinion at the AEWG meeting on 19 May 2015 and the Director's proposal for an ACER Opinion to be submitted to the June BoR meeting for its opinion.

Three Grid Connection NCs are currently handled in parallel in the Cross-Border Committee: The Requirements for Generators code moves towards voting by end June with some remaining improvements. The Demand Connection code is also progressing. The HVDC code was presented the first time to Member States on 29 April and it is likely to progress quickly.

#### 5.2. ACER Recommendation on electricity balancing network code

The Director presented his proposal for the draft Recommendation on the electricity balancing code and the annex (2) which provides the changes proposed to the code as submitted by ENTSO-E.

The Director's proposal reflects some substantive changes on the version circulated at the last AEWG. The AEWG has proposed changes to improve the clarity of the Network Code

and to improve its enforceability; to ensure the consistency of the Network Code with the Guidelines on Capacity Allocation and Congestion Management; to enhance specific elements of the Network Code with the objective to ensure the efficient integration and functioning of the electricity balancing market.

The additional changes from the Director were presented.

The Director gave credit to the large amount of work undertaken at the TF and AEWG level. On substance, he considers the balancing code as instrumental to the IEM. It, it is the Director's understanding that the technical issues were not discussed before and thus he is happy to ask the AEWG to look into these issues again as they will meet on 19 May. Subsequently, he would like to finalise his proposal and seek the opinion of the BoR through electronic procedure.

Mr Nyikos disagreed to the use of an electronic procedure.

#### BoR Decision agreed: (D 5)

*The BoR agreed by majority of the members present or represented (with disagreement of one NRA) the use of the electronic procedure for the provision of its opinion on the Director's proposal for an Agency Recommendation to the electricity balancing network code.*

### 5.3. ACER-ENTSO-E electricity balancing stakeholder group terms of reference

The Director presented the draft ToR. Following the invitation of the Florence Forum, ENTSO-E and ACER took the initiative to create a Balancing Stakeholder Group. This group will serve as a platform for relevant stakeholders to assist ACER and ENTSO-E and its members in achieving the objective of an integrated balancing market through early implementation of the Electricity Balancing code. This group will support the balancing pilot project for the voluntary implementation of the balancing code and a number of deliverables have been set out. ACER and ENTSO-E will co-chair the meetings. The group will meet on an as-needed basis but as a general rule, it will meet 4 to 6 times per year. The stakeholder group comprises of representatives from key European stakeholder organisations. The European Commission may choose to attend as observer. The composition of the stakeholder group will be up to 6 members from both ENTSO-E and ACER, and a maximum of 2 representatives per European stakeholder organisation to be nominated as members.

### 5.4. Terms of Reference for the European Network Code Stakeholder Committees

The Director presented the draft terms of reference for the European Network Code stakeholder Committees which are part of the consultation framework going forward. These relate to the implementation of adopted codes and not to the early implementation of pilot projects. ACER/ENTSO-E held a public consultation on the role of stakeholders in the implementation of network codes and related guidelines, and in particular on the establishment of European Network Code Stakeholder Committees, which ended on 23 January. The draft ToR propose the establishment of three European Stakeholder Committees (ESCs), one per family of codes (Market codes, Operational codes and Connection codes) with the aim to: monitor progress in the NCs implementation process; as well as the operation and functioning of the processes and arrangements established according to the NCs, at local, regional and pan-European level as an overarching structure of all network codes; serve as a platform to share general views on the NC implementation and to contribute to a more informed decision-making process. The Agency chairs all Committees, as a result of the overwhelming request by stakeholders (during the

consultation) and nominates the Chairperson of each subgroup. Members are nominated through a formal call for interest open to any interested association representing pan-European views or interests. Each association will be asked to designate a limited number of representatives; the number of representatives per association will be limited with the aim to keep the total number of members below 25. The European Commission will be invited to observe all meetings of the ESCs. ENTSO-E is the main provider of secretarial services. It will organise the meetings in close cooperation with the Chairpersons, and maintain the IT platform (on its website).

The Director clarified that the committees are part of the consultation framework going forward and have no decision making powers whatsoever. The Director clarified that participation in the Committees is restricted to European Organisations. The issue of NRA representation would come through the Agency.

Mr Koch explained the rationale to have a body which brings all stakeholders and not only TSOs and the specifications under the CACM Guidelines.

The Director will find a way to reflect the clear consultative role of the committees. In terms of who represents the Agency, he will report back to the next BoR.

#### 5.5. ACER internal monitoring report on transmission charges paid by electricity producers

Mr Hernández and the Director presented the report. The guidelines relating to the inter-transmission system operator compensation mechanism and a common regulatory approach to transmission charging require the Agency to monitor the appropriateness of the ranges of transmission charges (“G-charge”) paid by electricity producers. The Agency has prepared this internal monitoring report for year 2014 based on the data submitted by 29 NRAs. This year the internal monitoring report on G-charges extends the analysis beyond G-charges to the transmission charges paid by the producers related to the ancillary services and specific system losses. Similar to last year the objective of the monitoring report is focused on the review of transmission charges structure and, to some extent, on explanation of the impact of G-charges on system users in general. Furthermore, the outputs from the extended review will provide information on the structure of the additional transmission charges paid by the producers and a more comprehensive view of the total charges to be paid. The monitoring process is based on the information received from the questionnaire filled in by 29 NRAs and additional clarifications until 06 April 2015. 11 NRAs reported that a G-charge is applied in their jurisdictions in 2014.

The BoR took note of the report.

#### 5.6. ACER-CEER flexibility TF terms of reference

Mr Hernández presented the scope of the work and the plan until the end of the year. A survey is ready to be launched with the objective to have a final report by November. In the ACER’s “Bridge to 2025”, EU energy regulators committed to defining the concept of “flexible response” and developing an action plan for removing the various barriers to its development and to demand side response in particular. This work will explore the ways in which wholesale markets value flexible response, including potential interactions with capacity mechanisms and balancing markets. It will identify current barriers and investigate the necessary arrangements to facilitate demand response. The following working areas regarding the development of flexible response will be addressed in 2015: Bringing together

the work done by other TF and WG, and develop a definition of the concept of flexible response; explore the high level challenges linked to the need for flexibility; understand the current state of the European markets to enable flexible response; the existing market arrangement's ability to enable DSF participation on an equal basis with other types of flexibility; barriers for participation of DSF. The intention is to present a synthesis of the results from the questionnaire together with conclusions and recommendations to be submitted for approval in October/November 2015.

Lord Mogg noted that it would be sensible to share a document with colleagues to highlight the work undertaken also in the light of the deliverables included in the CEER and ACER WPs. The key point in his view is the timeframe given the EC will soon launch its electricity market design initiative (10 July) and thus we need to accelerate the work.

The Director was also concerned about the timeline which takes us to the end of the year. Lord Mogg reiterated the need for a map identifying the scope of the 'flexibility issue' which is now very urgent – the Commission's plan for its communication is 10 July. The initial task is to prepare the map which should cover the whole of the value chain. The purpose is to identify the areas where we need to consider whether action (regulatory or legislative) is needed to remove obstacles to the development of trade in flexibility. At this initial stage the task should not seek to resolve issues or answer questions – that will happen at the next stage when the identified issues are allocated to responsible ACER and CEER WGs.

He will discuss with the Director and the AEWG chair and vice chair as well as the TFs chairs on how best to take this work forward.

#### 5.7. Preparation of the next Florence Forum

Mr Borchardt presented the draft agenda which will include one and a half day discussions on the 4<sup>th</sup> and 5<sup>th</sup> June on: the IEM and implementation (codes, guidelines); early implementation projects and an update on third package transposition as Commissioner Arias Cañete has launched a new initiative on infringements; the electricity market design (integration of RES and market distortions), the flexibility challenge, an assessment of the electricity balancing code; system adequacy and capacity remuneration mechanisms; how to strengthen system operation on regional cooperation. The agenda does not incorporate all the technical details on codes but brings up the most strategic elements of the upcoming electricity market design initiative.

### 6. Gas

#### 6.1. Oral update on FGs and NCs & other work

Mr Boltz provided an update on current work. He presented progress on GTM. This includes the self-evaluation process by NRAs. ACER will include the metric calculation results (biannually) for each market in the Market Monitoring Report as soon as (REMIT) data is available (in October 2015 the market places data; in April 2016 the OTC data) probably first covered in MMR 2016. The NRAs should carry out a self-evaluation on the basis of the MMR, which is planned for the second half of 2015. ACER will summarise and evaluate the results of the self-evaluation and the proposed measures. The timeline is as follows: By June some volunteering NRAs will deliver examples for self-evaluation to be merged to a template for guidance. By 16 July the aim is for BoR to endorse the timeline and examples for self-evaluation, to get NRA commitment for assessments. In June/July a workshop will be organised for NRAs and TSOs to share the experience between projects and by the end of

2015 all NRAs will submit their self-evaluation reports, to be incorporated into one report. Mr Boltz invited the NRAs to support this project which involves resources and thus there needs to be a commitment by NRAs.

Regarding the CAM amendment proposals, the timing is to run in May/June a public consultation, and submit those to the June/July BoR for endorsement.

He then presented the issue of the booking platforms which is an issue not addressed in the code. Under Article 27 (1), TSOs shall apply the CAM code by offering capacity. An assessment needs to be undertaken on whether all three booking platforms are able to fulfil requirements according to Art. 27 (1) and (2) of the CAM code and ACER is assessing the coordination of booking platforms; after platforms have given detailed descriptions of their favoured cooperation models, ACER will provide an assessment on the cooperation models which need to be compliant with all legal requirements and invite four consultants. By the end of April, the platforms had to prepare detailed description of all cooperation models, which allows for assessment of compliance with EU legislation. A description of cooperation models at mixed IPs was received on 4<sup>th</sup> May. On 18 May a second workshop will take place in Vienna.

Mr Boltz also presented the main conclusions of the Madrid Forum.

## 6.2. Incremental amendment proposal

Mr Boltz provided an update on the main changes with the new process for incremental amendment proposals.

The CAM TF recommended simplifying the process as follows: All incremental capacity projects are run as open season procedures and the CAM auction will still be the default allocation mechanism. The consultation is moved back, so that it is run during (not before) the design phase so stakeholders can participate and be informed of the relevant details (e.g. project design, economic test, charging, terms of access). The option for ad hoc request from any given shipper to trigger a project outside the biennial process (in even years) is removed. If specific criteria are met, an alternative allocation rule can be designed and used at project level, subject to approval of the relevant NRAs. The next steps are for the next AGWG to hold a discussion on whether written public consultation or Open House workshop for stakeholders is needed (or both). The new text proposal should be agreed with ENTSOG and a public consultation and/or workshop is envisaged for May. In June, the AGWG endorsement is envisaged and the BoR endorsement of amendment is scheduled around July BoR. The intention is to have the proposals in Comitology for September – December.

## 6.3. Update on preparation of the ACER Recommendation on tariffs NC

Mr Boltz provided an update. There has been a lot of criticism that the draft code does not provide for adequate harmonisation. ENTSOG's General Assembly which was supposed to endorse on 22 April a version of the NC TAR for resubmission to ACER, has not done so, so far. ACER will, therefore, not yet come forward with a Recommendation to the EC. The EC has turned the September comitology meeting into another informal Member State meeting. Tomorrow another high level meeting is organised. Of the list of open issues, 4 issues are key:

1. Streamlining and reducing the optionality in the cost allocation methodologies and a clearer and structured approach to the selection of the appropriate method;
2. Integration of fixed price option for existing capacity based on fair risk sharing between TSO and market;
3. Differentiation of multipliers for different products and higher cap;
4. Coherent pricing of non-physical backhaul and interruptible capacity.

The aim of the trilateral meeting on 7 May is to find an agreement on these points that can be supported by EC, ACER and ENTSOG and addresses the concerns and interests of stakeholders as far as possible which would then allow the finalisation of the code and the ACER Qualified Recommendation in July. The EC informal meeting with MS is set for 16 June. It is envisaged to finalise the ACER Recommendation and submit it for a BoR opinion on 16 July.

#### 6.4. 2nd Congestion Report

The Director presented the results of ACER's first and preliminary results of the second Report on Contractual Congestion at interconnection points. The purpose of this report is to identify contractual congestion at Interconnection Points (IPs) in the European Union for the period 2014-2016. The Publication deadline is on 1 June 2015. The reviewed period is 2014 with an outlook of bookings for 2 years ahead (until 12/2016). The coverage is 272 IP sides (out of 305 from the current NC CAM IP scope list). The main results are as follows:

32 contractually congested IP sides and 6 bundles leading to ~ 16% contractually congested IP sides in the EU. About 16% of the considered 272 IP sides have been contractually congested in the monitored period (32 IP sides and 6 bundles (i.e. a bundled exit and entry in one direction of a physical or virtual IP). Although this is less congestion than indicated in last year's pilot report (118 (~33%) indications out of 352 eligible IP sides), comparison is difficult, as the scope of IPs has been substantially reduced. 13 of the identified IP sides had been already indicated as congested in the Agency's pilot congestion report. Physical congestion, indicated by actual interruptions of interruptible capacity, occurred at 3 of the contractually congested IP sides and at 2 of the contractually congested bundles, mostly for a limited period of time only. The largest source indicating contractual congestion (63% of congested IP sides) comes from the absence of firm products offered with a duration of at least one month for use either in 2014, 2015 or 2016. Auction premia for monthly products (21% of congested IP sides) and yearly products (16%) comparably less often indicated the "congestion status".

The timeline is that following the BoR orientation discussion, the report will be circulated electronically to the BoR members in mid-May to allow for the publication of the report on 1st June.

The Director invited comments by members within the next week to be sent to Mr Dennis Hesseling.

#### 6.5. Update on NCC peer review

Mr Locquet and the Director presented some slides on the state of play. The ACER Opinion (under Article 7(4) of the Agency Regulation) will be finalised and submitted for a formal opinion at the June BoR.

NCC amended its Tariff methodology on 13 October 2014 implementing an Entry-Exit system, under a revenue cap regime. NCC allocated costs following the matrix methodology and subsequent secondary steps, rescaling and equalisation. The amendment was criticised by stakeholders, in particular AB Amber Grid, the TSO. The amendment has an impact on the domestic-transit split. The capacity associated to the pipeline that connects Belarus to Kaliningrad, currently commercialised under a transit contract with Gazprom, which benefits from an exemption, until the contract ends, by December 2015. ACER is looking at how the costs are allocated (direct and indirect costs). An *ad hoc* peer review team was established and there have been 2 teleconferences with the LT Regulator. By the end of this week, an adapted text by ACER will be sent to the members of the *ad hoc* group and this will be discussed at the AIMP WG on 19 May.

## Market Monitoring

### 7. Market Integrity and Transparency

#### 7.1. REMIT update

Mr Zuleger gave a presentation on ARIS implementation and operation activities and market monitoring activities. As noted at the last BoR meeting, a launch of a call for NRA experts to contribute to the initial operation of the Agency's market monitoring, data collection and data sharing activities under REMIT to work jointly with the Agency's Market Monitoring Department will be launched during the following months. This initiative will complement the parallel discussions of a common market monitoring and market surveillance strategy under REMIT in the context of the REMIT Coordination Group.

Regarding the CEREMP update, over 802 market participants registered. Regarding NRAs type A, 23 out of 25 NRAs are using CEREMP; regarding NRAs type B, 3 out of 4 NRAs are connected to CEREMP.

On progress in RRM registration for data collection, ACER focuses on registration of Reporting Parties. Most of them are at the testing phase but ACER is facing difficulties, because of its limited resources, to deal with the unexpectedly large the number of applications exceeding 50. Regarding the timeline for data sharing solution, we started the testing and 2 NRAs have volunteered and are testing over the summer.

ACER also invited comments on the implementation of the market surveillance solution and presented the current status. Regarding the phase 1 release (launching 1 June 2015) this includes data gateways; customised SMARTS user interface for the energy sector; ACER's initial selection of alerts and reports; additional data validation tools and a new auction analyser module. Regarding phase 2 release (launching December 2015), this includes data gateways for transportation contracts and fundamental data (2nd phase reporting under the Implementing Acts); new Fundamental Data Viewer module and enhanced alerts and reports, including further bespoke reporting and training on Alice development language. A joint workshop from ACER and NASDAQ OMX to interested NRAs was held on 28 April 2015 and provided background information on sublicensing possibility. NRAs should provide a letter of intent to the Agency no later than 1 July 2015 and confirm their intent no later than two months prior to the start of sublicensing. The actual sublicensing with NASDAQ OMX is foreseen in two slots most likely in autumn 2015/spring 2016. The end date of each sublicense must align with the expiry of ACER's licencing contract.

On Market monitoring, policy documents under preparation include:

- Procedures and arrangements that PPATs should have in place;
- Paper on the Independence of Market Surveillance Teams by Experts;
- Guidance Note on the Procedures and Arrangements;
- The disclosure of inside information.

Mr Zuleger then presented an update of the cases under review by ACER.

## 7.2. IT security Policy

Ms Groebel presented the REMIT IT security framework which is linked to (item 7.3) on compliance with ISO standards. An umbrella document on the Agency's REMIT Information Security Policy was circulated along with a series of technical documents. The REMIT IT Security Policy was endorsed at the last AMIT WG meeting and complies with the Agency's REMIT Security Policy adopted by ACER Decision No 1/2015. The REMIT IT Security Policy will not require the EU classification of REMIT Information. NRAs' compliance with the REMIT IT Security Policy will be a prerequisite for the data sharing between the Agency and NRAs under Article 10 of REMIT. It is suggested that this will be done on the basis of a MoU between the Agency and each NRA which can be agreed with in a similar way to the MoU on data sharing.

The REMIT Information System (ARIS) is intended to meet REMIT obligations on wholesale energy market data collection, market monitoring and data sharing. Copying information and sharing it creates own risks to the security of the information and to the information itself. This Information Security Policy addresses REMIT information in any form and specifies adequate protection to the extent required by REMIT and its implementing acts. All processes, activities and assets implemented to enable the Agency to fulfil REMIT framework responsibilities are within the scope of this information security policy. The REMIT information security framework is defined with a set of policies. Basic principles and requirements laid down in each policy are applicable to collection, storing, processing and sharing of REMIT information and are binding on all organisations in scope. In each information security policy responsibilities are described. The basic principles are described therein, including *inter alia* that the Agency develops and manages the REMIT Information Security Management System that the Agency establishes a group of representatives of national regulatory authorities and other competent authorities included in sharing of ARIS data. The Agency shall include this group in ARIS ISMS development. The Board of Regulators is consulted on the REMIT Information Security Policy. She asked members to endorse the document.

*The BoR endorsed the REMIT IT security framework.*

## 7.3. Compliance with ISO standard 27000 Monitoring

Mr Groebel presented the Position Paper circulated on how to ensure that all NRAs comply with the REMIT IT security framework policy and, in particular, with the ISO standards. The IT security subgroup discussed different possibilities on how to establish a common set of activities aimed to enable sufficient and credible monitoring of NRAs' compliance with the ACER REMIT Information security policy, taking into consideration the inter-dependence of organisations sharing and/or receiving REMIT information; the ACER responsibilities to secure REMIT information; and the different levels of information security implemented at NRA level.

Amongst the options considered, external certification was excluded as it would take 2 years. The 2<sup>nd</sup> option was a peer review group to which NRAs would submit the information on how they comply with the standards. The position paper sets out the basics, composition of the group etc. The process needs to be discussed further and to give the opportunity for input to NRAs. The REMIT Coordination Group is to define the timeframe for the assessment of the compliance on the basis of defined implementation date.

Mr Zuleger noted that the discussions reflect a remarkable achievement of the IT Group. It establishes a “security community for REMIT purposes”. He is very pleased with the results we have achieved to date.

Mr Zuleger clarified that there is no certification needed. The use of standards (IT Security standards) does not require certification and there is no certification Authority. On the resources implications, he clarified that the documents on the IT security framework and the relevant specifications are available from the beginning of the year and have been prepared by the IT subgroup itself. He understands that perhaps for small NRAs these are difficult to assess and, in this context, reiterated the benefits of regional assessment centres.

The Director was impressed by the achievements of the Group and the creation of an “IT security community” which reflects a common interest.

Lord Mogg would like to come back to the point about the difficulty of small NRAs which he considered pretty important.

#### 7.4. REMIT Coordination Group and split of tasks

The draft Director’s Decision was presented along with an annex on split of tasks between the CMIT WG, AMIT WG and REMIT CG. Ms Groebel mentioned that she received 2 more comments from NRAs. Her suggestion is to annex the split of tasks to the Director’s Decision on the CG. She then presented the changes to the draft Director’s Decision: the Draft Decision has a new Article 5 on the procedures within the REMIT Coordination Group as follows: Any opinions, recommendations or decisions by the REMIT CG shall be reached in consensus of all participants, if possible. In cases where no consensus among the REMIT CG participants can be reached and where responsibilities of NRAs are affected, the respective opinions, recommendations or decisions need to be presented to the BoR. If the use of resources of an individual NRA is affected by a decision, approval of the respective NRA is needed.

The Director mentioned that the decision has extensively been discussed by the CG and can now be considered finalised. The final text of the draft Decision seems reasonable and the new Article 5 adds good rules on how to proceed. The split of tasks should not, however, be part of the Director Decision as it is more useful as a standalone document not least to allow the flexibility for amendments.

The BoR welcomed the draft Director’s Decision subject to the changes proposed as well as the split of tasks as presented.

#### 7.5. ACER guidance note on timeline for registration of market participants & cover note

Mr Zuleger presented the update of the 3rd edition of the ACER Guidance on the application of REMIT concerning the timeline for registration of market participants. The Agency considers an amendment which includes the correction of Chapter 4.6 of the ACER

Guidance on REMIT in order to comply with the timeline defined by the Commission Implementing Regulation. In line with Article 12(2), the reporting obligation will apply to market participants from 7 October 2015 and from 7 April 2016, according to the type of data to be reported to the Agency. For market participants entering into transactions on an Organized Market Place, the registration obligation takes effect, at the latest, prior to 7 October 2015. For all other market participants, the registration obligation takes effect, at the latest, prior to 7 April 2016 or prior to the first day they enter into transactions which are required to be reported to the Agency. Consequently, the Agency considers that any person who enters into a transaction which is required to be reported to the Agency from 7 October 2015 or 7 April 2016 without having submitted the registration form to the relevant NRA is in breach of Article 9 of REMIT. Market participants who have registered before 17 March 2015 (before the Agency published the list of market participants in the European register), shall update their registration form in Section 4 at the latest by 17 June 2015.

The BoR took note of the suggested changes on the ACER Guidance.

## **8. Infrastructure challenge**

### **8.1. Update on the process and preliminary results in the Unit Investment costs**

The Director presented the background for the preparation of this report. At the revised 2015 ACER WP, a deliverable was included reflecting that NRAs cooperating in the framework of the Agency shall establish and make publicly available a set of indicators and corresponding reference values for the comparison of unit investment costs for comparable projects of the gas and electricity infrastructure. Those reference values may be used by ENTSOs for the CBA carried out for the subsequent TYNDPs. This is a one off exercise.

The report is now being prepared and will be published, containing the established set of indicators and corresponding reference values for the comparison of unit investment costs for comparable projects of the infrastructure categories included in Annex II of Regulation (EU) 347/2013 for gas and electricity infrastructure. The set of indicators and corresponding reference values cover gas transmission pipelines, compressor stations, underground gas storage (UGS) and liquefied natural gas (LNG) reception, storage and regasification terminals. For electricity these are overhead lines and underground cables, substations, electricity highways and storage facilities. The report also provides a review of the legal basis, objectives, work methods and procedures used for developing the indicators and the corresponding values, as well as guidance intended to help better understand and use the indicators and the reference values. The report is the result of collaborative work carried out by NRAs cooperating in the framework of the Agency. The original information needed for the development of the indicators and the reference values was provided to the NRAs by infrastructure operators who actually carried out the investments. The report will be submitted at the BoR in June/July for information. We envisage the publication of EU UIC in July.

### **8.2. Update on 2nd PCI selection**

Ms Crisan from the Commission provided an update for the 2<sup>nd</sup> PCI list. The NRAs are closely involved in all the work by the Regional Groups. The RGs meetings took place again the last week of April to discuss the updated JRC methodology and the weighting factors. The next round of regional meetings will be held in June to work on the methodology and results. The EC hopes to be able to send the draft regional lists to ACER in July, whilst the

timing is still a bit unclear. For this second list, this is solely based to the TYNDPs for gas and electricity. The EC has asked NRAs to check the costs. For gas a new call has been launched by ENTSOG as there are several new projects.

Clarifications were asked since the NRAs' assessment is expected in June, the issue of sharing with NRAs the cost information received by project promoters (and any other data relevant to NRAs' assessment) is becoming urgent (these have not been received yet).

Ms Crisan noted that they expect the data by 13 May and those will be then submitted to NRAs. They envisage being able to send those on 15 May.

Ms Crisan mentioned that they are also interested in the quality of the data. The EC has cancelled the meetings in May and the overall aim is to allow enough time to make a good assessment. The EC has been transparent and has taken into consideration all comments on the JRC methodology. The JRC methodology has already been adjusted to take into account comments received, in particular the methodology has been simplified and made compliant with the TEN-E regulation. However, in accordance to the Regulation, the list needs to be adapted every 2 years so work cannot be postponed.

Mr Borchardt clarified that there is no overlapping between the PCI selection and the investment plan which relates to funding of the projects already selected against, separate eligibility criteria.

Mr Borchardt noted that the 2<sup>nd</sup> selection process reflects major improvements compared to the previous one and we need to recognise that, over time, we shall improve all instruments. For the time being we all need to join our efforts and work with that we have.

Lord Mogg noted that the concerns are constructive not least to raise awareness of the problems faced. He reminded that at the stage of the selection of the first list (despite the absence of a CBA methodology) regulators and ACER have been very helpful and an integral part in the process and have done their best to feed into the discussions at the Regional Groups. He expects the same commitment, whilst we need to recognise the problems.

The Director clarified that ACER has (in similar terms with the first PCI list) prepared checklists for electricity and gas to assist NRAs to undertake their assessment. This would need to be completed for each PCI by the relevant NRAs.

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

### **9.1. Oral update on IMP WG**

Mr Locquet provided an update on the legal questions being examined by the AIMP WG. They relate to the coordinated NRAs decision making processes (as envisaged by the CACM Guidelines), which can be delegated to ACER. The Group explores what is the legal status of decisions to be taken by NRA and their possible consequences. The legal advice will be reported to the BoR.

In parallel, the PWS and the AIMP WG has been also asked to comment on the methodology for monitoring the implementation of gas codes, within a very short deadline. The comments will be given on 24 May after the next meeting of the AIMP WG. The draft report prepared by the consultant CEPA on a possible methodology for NC assessment (for gas) was distributed to the AGWG members. In his view, the methodology would also be

relevant to the monitoring of implementation of the electricity codes, as although the report is dealing with the methodology for implementation of the gas codes, it raises some horizontal issues and he suggested seeking feedback from the AEWG as well.

## **10. Post 2014 strategy**

### **10.1. Bridge map update**

Fay Geitona presented the second of the quarterly reports on the Bridge map (the first was provided in January). This has been updated to reflect the latest developments, for example the Energy Union developments and the latest European Council Conclusions, the electricity market design initiative, work and actions updated from the WGs chairs whose feedback is incorporated, some relevant actions for consumers ACER undertook, the ACER conference, as well as the Bridge Anniversary event now set for 24 September. She thanked the WG chairs for their feedback in updating the Bridge Map.

### **AOB**

Ms Geitona drew attention to the revised calendar circulated with changes in June, July and September meetings.

Mr Nyikos thanked NRAs for their help in answering questions on system tariff components.