

**52<sup>nd</sup> ACER Board of Regulators Meeting**  
**Wednesday, 18 November 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)	A : Dietmar Preinstorfer O: Vera Gusenbauer	Italy (AEEGSI)	M: Guido Bortoni O: Ilaria Galimberti
Belgium (CREG)	M: Marie-Pierre Fauconnier A: Koen Locquet O: Geert Van Hauwermeiren	Latvia (PUC)	O: Lija Makare
Bulgaria (EWRC)	O: Svelta Todorova	Lithuania (NCC)	Excused
Croatia (HERA)	M: Tomislav Jureković A: Sonja Tomašić-Škevin O: Nataša Mihajlović	Luxemburg (ILR)	M: Camille Hierzig
Cyprus (CERA)	M: Andreas Poullikkas A: Alkis Philippou	Malta ( REWS)	O: Marjohn Abela O: Phyllis Micallef
Czech Republic (ERO)	A: Martina Krcova O: Martin Sik	Netherlands (ACM)	A: Remko Bos O: Maarten Klijn
Denmark (DERA)	A: Mads Lyndrup	Poland (URE)	A: Malgorzata Kozak
Estonia (ECA)	A: Külli Haab	Portugal (ERSE)	O: Vitor Marques
Finland (EV)	M: Simo Nurmi	Romania (ANRE)	A: Lusine Caracasian
France (CRE)	A: Hélène Gassin O: Amélie Gravier O: Sabine Hinz	Slovakia (RONI)	Excused
Germany (BNetzA)	A: Annegret Groebel	Slovenia (AGEN-RS)	O: Tomaz Lah
Greece (RAE)	M: Michael Thomadakis	Spain (CNMC)	M: Fernando Hernández O: Gema Rico
Hungary (HEA)	O: Kriztian Toth	Sweden (Ei)	M: Anne Vadasz Nilson
Ireland (CER)	A: Laura Brien	United Kingdom (Ofgem)	M: John Mogg (BoR Chair) A: Frances Warburton O: Sarah Bradbury

ACER	Alberto Pototschnig, Fay Geitona, Andrew White
European Commission	Klaus-Dieter Borchardt, Oliver Koch, Zsuzsanna Széles
CEER	Natalie McCoy

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

**Main conclusions from the meeting:**

1. *The agenda was approved with the following changes: Item 4.3 (legal analysis on capacity booking platforms) was withdrawn from the agenda and item 6.3 (ACER Recommendation on CBCA) was tabled for discussion rather than for a BoR Opinion.*
2. *The EC updated the BoR on the follow up and next steps of the new Energy Market design Initiative consultation (which received approximately 320 responses). The EC's Impact Assessment is expected to be submitted to the Impact Assessment Board in June. The winter package is expected for adoption by the EC on 10 February. The EC has re-launched the Electricity Coordination Group. The EC Vice President Maroš Šefčovič presented today the report on the State of the Energy Union.*
3. *The EC informed the BoR on the intraday project, specifically with regard to recent requests on the expansion of the geographical scope of the project beyond the NWE region. The EC is in the process of defining an appropriate accession process for interested PXs. The EC has already written to the XBID platform to initiate this.*
4. *The BoR received an update from the Director on recent developments, including recent publications and events including the 2017 WP outline presentation to stakeholders on 5 November.*
5. *It is understood that the reconciliation process for the EU budget 2016 in the Budgetary Conciliation Committee between the EP and the Council provided additional staff and the corresponding appropriations for ACER.*
6. *The BoR discussed the work resulting from the Summit. The Chair reported that the work is being carried out through the ad-hoc Process Group (to which members or alternates and the Director participate) and on the specific strands of work to be completed around February/March next year. Members/Alternates interested in contributing to specific strands of work are encouraged to contact the relevant co-chairs directly. The BoR Secretary updated on administrative improvements being introduced (including the annotated agenda for BoR meetings, the rolling agenda for the 2016 BoR meetings, the outcomes of the BoR and AWGs meetings to be available in a shared platform on the website as of December; and the possibility for a common editing tool which is being introduced).*
7. *The BoR provided its favourable opinion by consensus (of the members present or represented) on the draft ACER Opinion on the ENTSOG Work Programme for 2016.*
8. *The BoR received an update on REMIT implementation. The reporting of market data to ACER started on 7 October. More than 1 million records of transactions, including orders to trade, per day are reported to the Agency from 33 (out of 37) third party Registered Reporting Mechanisms on behalf of 1,476 market participants.*
9. *The BoR discussed the draft MoU for administrative arrangements between ACER and NRAs for market monitoring under REMIT. The Case Management Tool will be the default communication channel except for derogations allowed in exceptional cases - in those cases in which national legislation explicitly prohibits its use, and subject to the assessment that this legislation prevails on the REMIT implementing provisions. Therefore, NRAs were also invited to inform ACER where national legal impediments exist for the application of the tool. It was recognised that a sub-set of the security policy requirements could be applied for access to the CMT (and which could be specified in the MoU). The aim is to endorse and formalise the MoU at the December BoR.*
10. *The BoR took note of the appointment of Mr Biagio De Filpo (AEEGSI) as the new as the new co-chair of the WMS TF.*

<p>11. The BoR received a report on the launch event of the new Infrastructure Forum, which took place in Copenhagen on 9-10 November and was extremely successful. The next Forum is foreseen to take place in June and the EC intends to turn this into a “working Forum” and discuss also individual issues (e.g. CBCA).</p>
<p>12. The BoR received a report on the adoption of the 2nd Union list of PCIs in gas and electricity and its publication on 18 November. The BoR discussed the next steps for the preparation of an ACER Recommendation for improvements in the PCI selection process envisaged for December, early January. This will be timely as the EC has also started looking at lessons learned and the experience gained from the selection of the previous PCI lists.</p>
<p>13. The BoR endorsed the conclusions document of the scoping exercise on the harmonisation of electricity transmission tariffs structures. The work on establishing a common set of transmission tariff principles will commence in early 2016 in order to build a common understanding and facilitate the sharing of best practices.</p>
<p>14. The BoR members took note of the final edition of the joint ACER-CEER Market Monitoring Report and the launch event for its presentation on 30 November in Brussels. A discussion has already started on the indicators for the next MMR. We shall also discuss improvements in the process for the preparation of the report for the next year’s edition.</p>
<p>15. The approach to the CBCA Recommendation was discussed and many members indicated their preference for the possibility of compensation only of the net negative impacts in hosting Member States. The Director will consider their input and may table a new proposal for the BoR opinion.</p>
<p>16. The BoR received an update on the work by the AIMP WG including the lessons learned paper on the peer reviews process which is being prepared by the PWS and ongoing work on several legal questions regarding CACM Guidelines implementation.</p>

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

**1. Opening**

The Chair welcomed the new representatives from Malta, Mr Marjohn Abela, from Cyprus, Mr Andreas Poullikkas and Alkis Philippou, and Ms Todorova from Bulgaria.

1.1. Approval of the agenda

BoR Decision agreed: (D 1)

*The agenda was approved with the withdrawal of item 4.3 (legal analysis on capacity booking platforms) and item 6.3 (ACER Recommendation on CBCA) was tabled for discussion rather than for a BoR Opinion.*

With regard to the item 6.3 the Chair urged the parties to get together and try to reach agreement. Mr Preinstorfer suggested that we have a short discussion on the process and open issues to facilitate that the document is submitted to the BoR for its next meeting.

## 1.2. Approval of the minutes of the 51<sup>st</sup> BoR meeting

BoR Decision agreed: (D 2)

*The 51<sup>st</sup> BoR minutes were approved.*

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

### 2.1. Update on recent developments

#### **EC Updates**

Mr Borchardt provided an update on the EC's ongoing initiatives. In response to the new energy market design consultation, the EC has received more than 320 replies. The EC is pleased to have received such a good qualitative as well as quantitative outcome of their consultation. The EC is in the process of assessing the responses. The EC is preparing their Impact Assessment on their proposals by June next year. On the winter package and gas SoS Regulation the EC launched a public consultation with a small number of responses. The EC tried to take a cautious approach in gas SoS not least as the SoS is the prerogative of the Member States. Nevertheless, the EC tries to have a regional approach with regard to SoS and this is the backbone of their proposals. It is expected that the legislative proposal on the gas SoS will be adopted on 10<sup>th</sup> February. The strategy on LNG and Storage will also be part of the winter package to be adopted by 10 February. The EU should make more use of the LNG market which is not only a SoS issue but indeed has a commercial side and reflects an opportunity for the markets.

#### **ACER update**

The Director provided an update on recent developments in ACER's work. On third countries' participation in ACER, the Director has sent NVE the draft MoU between NVE and the Agency regarding NVE's participation in (all four) Agency Working Groups and the REMIT Coordination Group (as observers); similarly, he also sent EICom the draft MoU between EICom and the Agency regarding EICom's participation in the Agency's Electricity Working Group. EICom has provided their comments so this will soon be finalised.

The Director provided an update on 3 reports circulated to BoR members for comments in late October.

- The ACER-ENTSOG balancing network code implementation report, is the second ACER-ENTSOG report on the status of the implementation of the Balancing Network Code. All comments received were taken into account. The report was published on 09 November. ACER and ENTSOG organised a joint workshop on Gas Balancing on 17 November in Budapest to present the report.
- The ACER-ENTSOG CAM network code early implementation roadmap was published on 12 November.
- Regarding the ACER report on the progress made on voluntary capacity bundling at interconnection points by 1 January 2015, comments were received mainly about the letter to the EC accompanying the report and some on the report as well. The report was published on 5 November.

The Director reported that on 5th November ACER presented its draft outline of the Work Programme 2017 at a stakeholder workshop. 22 external stakeholders participated (including through web-stream). On the same day the draft outline and the presentation of the Work Programme 2017 were published on our website and stakeholders were asked to provide written inputs on their views by 27 November. It is intended that the preliminary

Work Programme for 2017 to be included in the Single Programming Document and be submitted for BoR endorsement in December. The EC has confirmed that this process is without prejudice to the usual Work Programme approval process (by 1 September).

On 14 October, ACER published the study on capacity booking platforms. The study analyses the current gas capacity booking platforms' compliance with the CAM network code.

The Director also indicated that in December he will present his plans to improve the structure and the process for the preparation of the next editions of the Market Monitoring Report.

On 16 October, ACER published its Recommendation on an incremental capacity amendment to the CAM network code. This followed the favourable opinion of the BoR at the October meeting.

On 19 October, ACER published the study on monitoring effects of the implementation of network codes. ACER commissioned CEPA to carry out the study. ACER is now working to implement these indicators. A much richer monitoring activity for next year is envisaged.

The Director informed the members that it is understood that the reconciliation process for the EU budget 2016 in the Budgetary Conciliation Committee between the European Parliament and the Council provided additional staff for ACER. Subject to confirmation, the Agency will be assigned 15 additional staff as of next year along with the related appropriations which amount approximately to EUR 325.000 compared to the Commission's Draft Budget. The Director thanked DG ENER for their support.

Lord Mogg congratulated the Director and underlined that this has been a joint effort by the Director and the 2 Boards.

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

#### **3.1. Summit follow up - next steps**

- Oral Report from the Chair on the work by the ad hoc Process Group

Lord Mogg reported on the discussions of the new *ad hoc* process group (PG) which follows the discussions on the BoR Summit on the basis of the paper by the Chair on next steps and follow up actions. It aims to allow further discussion based on the lessons learned, seek solutions and to develop detailed actions from a practical perspective under the main strands identified in the Chair's paper. Representation at the process group is at member- and alternate-level. Two main strands of work were identified:

Strand A, internal cooperative arrangements and issues of internal governance with 4 Axes. Axes 1 and 2 are scheduled to be completed by January or February 2016. This will be followed by work on Axes 3 and 4 to be completed by March.

For strand B, wider institutional issues: Independence and external communication of ACER's work and NRAs contributions, led by the BoR Chair, the work is to be completed by spring (March or April) next year. The Chair will present a more detailed outline of work in this area at the December process group.

The process group had a constructive discussion particularly on Axes 1 and 2 following the presentation by the co-leaders of each area of an indicative break-down of their proposed approach and some initial ideas. The key challenge for Axis 1 work is to define what happens in cases where there are conflicting views (whilst legitimately) through a clear process and thereby better prepare the discussion for the BoR and avoid deadlocks. Under the second Axis, (BoR Guidance to the Director), some initial ideas and questions were presented on possible areas where such guidance may be exercised, its format and the criteria against which the BoR would judge the need for such a guidance.

The co-chairs were invited to develop further their initial ideas on the basis of the initial orientation by the PG. The BoR Chair invited the colleagues who want to contribute to each of the strands and work streams to indicate their interest to the co-leaders. The co-chairs will report on progress to the process group at the next meeting in Ljubljana (on 15 December).

- Update on administrative improvements

Ms Geitona informed the members about administrative improvements being introduced to help improve the preparation of BoR work following the Summit debate and the members' suggestions. These include *inter alia*:

(1) The strict enforcement of the 1-week deadline for documents (with the exception of derogations authorised by the BoR Chair and updates/presentations by the Director and/or the AWG Chairs' to be circulated after the deadline).

(2) A new 'annotated agenda'/'meeting guide' (in the form of slides) prepared by the BoR Secretariat. This will be made available at every meeting (within the deadline of circulation of documents and an updated version, if necessary closer to the meeting). This was prepared and circulated for the first time at the November meeting. It provides a brief explanation of each item on the BoR agenda, the document(s) circulated under each item, including background information and expected next steps. Items which require a BoR decision (e.g. opinion, approval and endorsement) are shaded in red to allow them to be easily distinguished from items for information or discussion. The annotated agenda will not enter in detail into the substantive issues concerning the documents circulated as this is the role of the BoR rapporteur under each agenda item.

(3) A new 'rolling agenda' for all 2016 meetings showing when future deliverables are expected for discussion and decision at the BoR.

(4) A new shared folder for uploading the meeting conclusion summaries following each BoR, AWG and TF meetings on the basis of a common template. All AWG and BoR members and observers will have access to this shared folder. The purpose of the summaries of conclusions is to facilitate the quick transfer of information on the latest actions and developments between the BoR and the AWGs and between the AWGs in advance of the formal circulation of minutes and by no means to substitute those.

It is also envisaged that a common editing platform hosted on the ACER website will be introduced with an initial testing stage with the AGWG before wider rollout to other AWGs and TFs and the ACER is organising this work. This tool will be introduced for AWGs and TFs to work on the same document, stored on the ACER extranet.

Lord Mogg noted that the intention of this annotated agenda is to help BoR members identify more easily what will be discussed under each item, the documents available and, more crucially, to help them quickly understand what the purpose of the item is. He welcomed the work of the Secretariat on the administrative improvements which are being introduced and which aim to facilitate members' preparations for BoR meetings particularly those with fewer resources and allow them to contribute better to the discussions. The deadline for circulation of documents will be applied more and more stringently as it seems that this improves

significantly the operation of the BoR. The AWGs will, therefore, need to make sure that they deliver to the Director on time.

#### **4. Gas**

##### **4.1. Update on FGs, NCs and other work**

Mr Maes provided an update on the AGWG work. He notified the BoR that Mr David McCrone from Ofgem was appointed as Co-Chair of the Interoperability Task Force at the last AGWG.

The EC has sent to the Gas Committee the main meetings/steps that the EC envisages for the completion of the legislative projects in relation to the network code on tariffication structures in gas transmission and the amendment of the CAM network code. Mr Maes suggested that ACER is consulted on the EC's draft and the Impact Assessment as also announced at the last Madrid Forum.

Mr Maes also reported on the capacity bundling report which was submitted to consultation of the BoR members via the electronic procedure from 29 October to 2 November and published on 13 November 2015.

Regarding the CAM Roadmap, following the AGWG electronic procedure from 27 October to 3 November and the parallel consultation of the BoR members, the joint report with ENTSOG, was published on 13 November 2015. The joint balancing report, following the endorsement of the AGWG and consultation of the BoR members via the electronic procedure from 22 October to 29 October was published on 9 November 2015. For this early implementation report, information was collected via an online survey sent to all EU Member States. Prior to circulation, ACER and ENTSOG invited associations to propose important questions for the online survey. TSOs and NRAs cooperated to provide one joint answer to the survey for each Member State. 25 responses were received.

##### **4.2. ACER opinion on ENTSOG WP 2016**

The Director introduced the draft ACER opinion which was circulated to the BoR for its formal opinion. ENTSOG is required to present its annual work programme to the Agency which must provide its Opinion within two months.

Mr Maes informed the BoR that the Opinion was submitted for an AGWG online procedure which concluded on 3 November. This ensures that the document was ready to be submitted in time to the BoR. The draft ACER Opinion finds that the ENTSOG WP 2016 is in line with the Gas Regulation in terms of contributing to non-discrimination, effective competition and the efficient and secure functioning of the internal natural gas market. A couple of recommendations for improvements are also included. The ENTSOG WP is well balanced between the development, implementation and monitoring of NC and other important activities such as development of the TYNDP, regional investment plans and the summer and winter supply outlooks. The specific main areas of activity are welcomed.

The Director presented the key elements of the ACER Opinion. The Agency welcomes the improvement of the alignment of the planning of the TYNDP and of the PCI selection 2017. Accordingly, the calendar should be improved in the final Annual Work Programme 2016 so that the public consultation on the draft TYNDP and the consideration of the Agency's Opinion on it will take place in the second half of 2016, in order to allow ENTSOG to finalise

the TYNDP by December 2016. The Agency notes the importance of developing a consistent and interlinked ENTSO-E/ENTSO-G modelling approach and stresses that the deliverables should be fully compliant to the requirements of the TEN-E Regulation regarding the development of a model rather than a modelling approach.

BoR Decision agreed: (D 3)

*The BoR provided its favourable opinion by consensus (of the members present or represented) on the draft ACER Opinion on the ENTSO-G Work Programme for 2016.*

4.3. Legal analysis on capacity booking platforms and discussion of next steps.

This item was withdrawn from the agenda.

## **5. Market Integrity and Transparency**

5.1. Update on REMIT implementation

The Director provided an update on REMIT implementation. He noted that the main piece of good news is that ACER is receiving market transaction data. 27 million data items (transactions and orders to trade) have been reported so far to the Agency from 33 (out of 37) third party Registered Reporting Mechanisms for 1,476 market participants. The Director noted that there have been some problems issuing receipts for some reported trades, with some having to be sent manually. The Director stressed that even though the reporting and issuing of receipts is not yet totally smooth, we can still be pleased with how things are going given the scale of the project. He acknowledged the commitment and dedication of the colleagues in the Agency and thanked NRAs for their efforts and perseverance in getting to this stage. The Director pointed out that for the time being the focus of the Agency is on satisfying itself that the data being received reflects the trading that is actually taking place.

The Director also informed the BoR that the Agency has adopted a decision to grant access to ARIS to E-Control, the first NRA who has access. There are two more NRAs who are close to meeting the requirements for receiving access to data via ARIS.

Lord Mogg raised the topic of REMIT training courses organised by CEER and requested an update from Ms Groebel. Ms Groebel noted that participation is increasing and that the training sessions continue to be useful. She also noted that it will be useful to set up further courses. However, it was pointed out that we need to make sure that the training meets the needs of those signing up. Some attendees at the training are still relatively new to REMIT where others have been working in the area for longer and are more expert. Lord Mogg agreed that we need to provide training that meets both needs. He noted further, however, that in the short term 'beginner' sessions will continue to be needed on a regular basis as NRAs build up their expert knowledge base – whereas in future such sessions will only be needed infrequently to meet demand created by staff turnover.

5.2. MoU for administrative arrangements between ACER and NRAs for market monitoring under REMIT

The Director explained the context of the MoU and outlined the main issues for discussion. The MoU is in the context of sharing information and carrying out investigation in cases where potential REMIT beaches have been identified following the analysis of reported data.



A secure and efficient method of exchanging information for identifying and carrying out such cases must be put in place. The Agency is developing a Case Management Tool (CMT) for this purpose. The use of this tool is described and prescribed in the MoU. The Director explained that, from the Agency's perspective, this tool should be the default (unless not physically or legal possible). Without a common platform it will be extremely difficult to share information about cases among different NRAs which may be involved in different investigatory groups (each involving a different group of NRAs). The Director explained therefore, that making the CMT the 'preferred' channel – as proposed by the AMIT WG - is not appropriate. Not least because it would mean that the Agency would need to access (potentially) 28 systems without having a clear means of checking their security. The Director acknowledged that an exception to this general approach can be envisaged only where there are strict legal impediments. In which case, the affected NRAs need to specify what these are so that these can be addressed. The Director stressed that we should not lightly go down a road that leads to multiple tools.

### 5.3. Appointment of the new WMS TF co-chair

Ms Groebel noted that, following the departure of Ms Charlotte Roig-Ramos (CRE), the ACER MIT WG appointed Mr Biagio De Filpo (AEEGSI) as the new WMS TF Co-Chair. This Task Force will be co-chaired together with, Ms Alexandra Rohlje (BNetzA) who is currently replacing Mr Axel Biegert (BNetzA) during his parental leave.

## 6. Infrastructure Challenge

### 6.1. Report on the infrastructure forum

Mr Borchardt reported on the first Infrastructure Forum, which was held in Copenhagen on 9 and 10 November. He clarified that this first meeting was a launch event, with ministerial participation, not normal working sessions. Mr Borchardt explained there were three panel sessions dealing with 1) electricity infrastructure, 2) gas infrastructure and 3) regional cooperation in the infrastructure sphere. There was also a session on financing. Mr Borchardt noted that this new Forum will be attended by organisations such as the EIB, pension funds and other institutional and private investors to provide perspectives on barriers to investment in infrastructure. He also noted that the contributions of panellists were very good and discussions were very in depth. The event is available to view on the EC website. Mr Borchardt further explained that the event aimed to set the scene for what the Forum should deal with in future. It was confirmed that there is enough food for thought and discussion to warrant a standalone forum for infrastructure. The EC, therefore, plans to turn the Infrastructure Forum into a real working forum with conclusions on individual issues (as Florence Forum/ Madrid Forum etc.) to take place on an annual basis (normally in June) in Copenhagen.

It was explained that CBCA is likely to be one of the first point discussion at a future Infrastructure Forum.

### 6.2. Report on the outcome of the PCI selection for 2nd Union list and discussion of possible Agency Recommendation for improvements to the PCI selection process

The Director provided a report on the PCI selection process, noting that the Decision Making Body met to approve the draft lists on 3 November, following the adoption of the Agency's

opinions on 30 October. He noted that the Agency and the NRAs had work exceptionally hard to produce the Opinions within the required time frame, with only 3 week available for the development of the Agency opinion on the gas PCI list.

The Director noted that the last BoR discussed how concerns and comments should be raised; with some to be included in the opinion, some in a letter to the Commission, and others to be included in a formal Recommendation to be formulated at a later stage. He pointed out that many of the comments on this round of the process were included in a letter to the Commission. The Director stressed that he did not feel that the time available in this year's process had allowed for the Opinions to reach the quality that he deems the Agency should aim for. The Director also highlighted that a number of comments – those falling within the scope defined in the Regulation - remained in the Opinions. Finally, the Director noted that some elements of the initial draft Opinions were removed and will serve as the basis for the development of a formal Recommendation to the EC on how to improve the whole process in future rounds. It was reported that the two Agency Opinions were well received by the Member States.

The EC confirmed that the two lists have been adopted. Mr Borchardt agreed that the EC has to ensure that the next PCI selection round runs more smoothly and according to the process foreseen in the TEN-E Regulation. He confirmed that the EC will think about what improvements can be made within the scope of the Regulation.

### 6.3. ACER Recommendation on CBCA

*It was agreed that the ACER Recommendation on CBCA would be for discussion only, not for BoR opinion.*

The Director presented the draft CBCA Recommendation. He noted the issue of concern relates to the treatment of compensation for project host countries. The substantive concern relates to what such compensation should cover. When the previous CBCA Recommendation was issued in 2013, it was clearly stated that compensation should only be applicable where a host country is expected to receive negative net benefits, and should only cover the amount of the negative impact (so as to bring that party back to 'zero'). The Director explained that the Agency considers that the possibility of compensating 'beyond zero' may be justifiable in some cases to incentivise host countries to participate in cross-border projects from which they would not otherwise directly benefit, but from which there is a wider net benefit. He explained that this approach should also apply where the overall net benefits are significant but where a host country would only receive minimal net benefits. The Director reiterated that it is for NRAs to determine on CBCA in the first instance and that a decision would only come to the Agency where NRAs cannot agree. The Agency Recommendation on CBCA should accurately reflect what the Agency would do if called upon to make a decision on CBCA.

Many members indicated their preference for the possibility of compensation only of the net negative impacts in hosting Member States. They expressed their concerns over the possibility of compensation beyond net negative impact and the compensation where a party would receive minimal positive benefit in relation to significant overall benefits. They suggested removing this possibility which could be arbitrary, pre-empt the concerned NRAs discussions and provide a clear disincentive for an agreement to be reached amongst them.

*The Director will consider their input and may table a new proposal for the BoR opinion.*

## 7. Electricity

### 7.1. Update on FGs, NCs and other work

Mr Hernandez updated the BoR on the status of the Electricity network codes. He informed the BoR that the Forward Capacity Allocation and Demand Connection network codes were approved in Comitology during October and are now in the ratification process. He also informed members that the merged System Operation NC is expected to go to Comitology in the next month. Finally, he reminded members that the EC plans to consider the Electricity Balancing and Emergency and Restoration NCs alongside the Energy Market Design process.

#### - Update on CACM implementation

Mr Hernandez also updated the members on the first 'all NRAs' opinion to be taken under the CACM guideline. He explained that the NRAs received ENTSO-E's proposal for the Capacity Calculation Regions (CCRs) on 13 November.

Mr Hernandez reiterated that this is the first time NRAs will be required to provide an 'all NRAs' opinion. He explained that over the next months and years, regulators will be engaging with ENTSO-E and the PXs as they develop policy documents on the implementation of codes. NRAs are required to reach a decision within six months of receiving the ENTSO-E proposal. Work will be coordinate through the CACM Work stream. A first position paper from the AEWG will be tabled to the January BoR for discussion. Mr Hernandez indicated that the 'all NRA' opinion may include a request for amendments to ENTSO-E proposal. If a joint opinion cannot be reached, ACER will be required to make proposal to the BoR for its favourable opinion.

Mr Bos proposed that there should be something in the BoR for discussion on the process for such all NRA discussions. He also suggested that the AEWG reconsiders the number and scope of the TFs which exist. This was supported by Ms Brien. She suggested that CEER would also benefit from a restructure to have a (smaller number of) TF with specific implementation focus. She suggested that this would allow NRAs to better allocate resources on the areas of most significance.

Lord Mogg invited AWG Chairs to consider whether TFs under their WG would benefit from restructure in this respect.

#### - Update on Intraday

Mr Borchardt provided and update on the status of the intraday market coupling. He reminded members that all contracts have been signed with vendors and that the project is progressing. He noted that the XBID project is on the way to finalisation in 2017 (either spring or autumn). He also noted that there are requests to join the platform from PXs outside the initial project region - notably from the Czech Republic and Slovakia - with other request likely to follow.

Mr Borchardt explained that the EC has evaluated a proposed accession process and has written to the XBID platform on the topic. The EC has clearly stated that the accession procedure, if used, would fulfil the CACM requirements. It was clarified that initially the process would only allow for an observer status because there remains a risk that dealing with accession requests for full membership would at best delay the project but could stop the whole project by reopening issues that have been closed. A clear timeframe for full membership is clearly stipulated within the accession process. Mr Borchardt clarified that it is not only a passive role for those who want to accede. All preparatory work for full

membership can be done in advance, so that full membership in substance can be achieved as soon as envisaged in the accession process. Mr Borchardt noted that the EC is prepared to explain in more detail and lay down in a memorandum to the XBID platform and interested PXs to give clear and common understanding of the accession process and associated timelines.

## 7.2. Electricity Transmission Tariff Harmonisation: Outcome of scoping exercise

Mr Hernandez reported that Article(s) 8(6) of Regulation (EC) no 714/2009 lays down the general principle according to which electricity transmission tariffs should be harmonised. He also noted that Commission Decision 2014/713/EU EC identified rules on harmonised electricity transmission tariffs as a priority for 2015. On these bases, the Agency carried out scoping activity towards potential harmonisation of electricity transmission tariff structures.

A document setting out the conclusions of this work and the proposed next steps was submitted to the BoR for endorsement. Mr Hernandez explained that the Agency concluded that the need for Framework Guidelines and a subsequent network code is not evident and that existing policies are sufficient. He further explained that the conclusions paper set out that in early 2016 the Agency will commence work on establishing a common set of transmission tariff principles in order to build a common understanding and facilitate the sharing of best practices. He noted that it is proposed that the conclusions of this work will be fed into the market reform considerations but that it is recommended that the Agency keep this issue under review.

### BoR Decision agreed: (D 4)

*The BoR endorsed the conclusions document of the scoping exercise on the harmonisation of electricity transmission tariffs structures. The work on establishing a common set of transmission tariff principles will commence in early 2016 in order to build a common understanding and facilitate the sharing of best practices.*

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

### 8.1. Update on work by the AIMP WG

Mr Locquet updated the BoR on the work of the AIMP. Since the last BoR there have been two main areas of activity. The MMR TF and ACER held a workshop in Ljubljana on 17 and 18 November to discuss indicators for the next Joint Market Monitoring Report. Mr Locquet noted that the CEER CRM working group was invited to attend the next workshop.

In the PWS there is on-going work on a lessons learned paper from the peer review process. The PWS is liaising with ACER on how to proceed with drafting the lessons-learnt paper. ACER has invited NRAs to send proposals by the end of November on how to improve the peer review procedure document dated from 2013. Based on the comments, the work stream will draft a new proposal of the peer review procedure.

This work stream has also been looking at the compliance of booking platforms with the CAM NC with regards to cooperation to offer bundled capacity at interconnection points.

## 8.2. ACER-CEER Market Monitoring Report, final version

The final version of the joint Market Monitoring Report was circulated to the BoR for information and the members were invited to take note. The Director informed the BoR that the Report will be presented on 30 November at the ITRE Committee at 17.30 and the public launch event is planned on the same day at the CEER premises (14.00-16.30) preceded by a press briefing at 13.30.

The Director thanked those who have been involved and the huge work that is required to produce the report. He noted that this year the report is 387-page long. He suggested that in future a leaner document may be more appropriate but that serious thought will need to be given to how this can be achieved while retaining the value of the material in the report.

Mr Locquet noted that the process this year was much, much better and collaboration with the NRAs was much improved but that it was still difficult in some respects. The Director acknowledged the improvements but agreed that work is also needed to look into the process of producing the MMR.

### **AOB**

Ms Geitona noted that a revised calendar has been circulated and the changes included therein (including on the date for the November 2016 meeting and the change of the location of the April 2016 meeting). It also includes the next Process Group meetings.

### Outcome of the Electronic procedures for the BoR Opinion on the Agency's Opinions on the draft 2nd Union list of Projects of Common Interest (PCI) in Gas and Electricity

The BoR took note of the outcome of the Electronic procedures for the BoR Opinion on the Agency's Opinions on the draft 2nd Union list of Projects of Common Interest (PCI) in Gas and Electricity. The BoR's favourable opinion on the Agency's Opinions on the 2nd Union lists of PCIs in electricity and gas was provided on 30 October 2015.