

**OPINION No 10/2024**  
**OF THE EUROPEAN UNION AGENCY**  
**FOR THE COOPERATION OF ENERGY REGULATORS**

**of 19 December 2024**

**on ENNOH's statutory documents**

THE EUROPEAN UNION AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

Having regard to Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators<sup>1</sup>, and, in particular, Article 4(1) thereof,

Having regard to Regulation (EU) 2024/1789 of the European Parliament and of the Council of 13 June 2024 on the internal markets for renewable gas, natural gas and hydrogen<sup>2</sup> and, in particular, Article 57(9) thereof,

Having regard to the favourable opinion of ACER's Board of Regulators of 18 December 2024, delivered pursuant to Article 22(5)(a) of Regulation (EU) 2019/942,

Whereas:

**1. INTRODUCTION**

- (1) The new Union law on the internal markets for renewable gas, natural gas and hydrogen, adopted in June 2024 through Directive (EU) 2024/1788 and Regulation (EU) 2024/1789, introduces a regulatory framework for the EU hydrogen market. Article 57(1) of Regulation (EU) 2024/1789 requires that (future) hydrogen transmission network operators ('HTNOs') cooperate at Union level through the

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<sup>1</sup> OJ L 158, 14.6.2019, p. 22.

<sup>2</sup> OJ L, 2024/1789, 15.7.2024.

European Network of Network Operators for Hydrogen ('ENNOH') to promote the development and proper functioning of the internal market for hydrogen and cross-border trade, and to ensure the optimal management, coordinated operation and sound technical evolution of the European hydrogen transmission network.

- (2) As an independent entity safeguarding the common Union interest, ENNOH has been entrusted with a variety of tasks which are listed in Article 59 of Regulation (EU) 2024/1789. When performing these tasks, ENNOH must work towards establishing a properly functioning and integrated internal market for hydrogen, and must also contribute to the efficient and sustainable achievement of the climate and energy objectives, in particular by contributing to the efficient integration of hydrogen produced from renewable energy sources and to increases in energy efficiency while maintaining hydrogen system security.<sup>3</sup> ENNOH's working methods should ensure efficiency, transparency and its representative nature.<sup>4</sup> ENNOH must also cooperate closely with other European associations of transmission system operators for electricity and gas (ENTSO-E, ENTSO-G) and distribution system operators (EU DSO Entity), in particular to harness synergies, foster energy system integration and support overall system efficiency.<sup>5</sup>
- (3) Article 57 of Regulation (EU) 2024/1789 requires that by 1 September 2024, HTNOs submit to the European Commission ('the Commission') and to ACER the draft statutes of ENNOH, a list of members and draft rules of procedure, including the rules of procedure on the consultation of stakeholders. ACER has four months to issue an opinion on these documents to the Commission. In this period, ACER must consult the organisations representing all stakeholders, particularly the hydrogen system users, including customers. Following the receipt of ACER's opinion, the Commission has three months to issue its own opinion to the HTNOs, considering ACER's opinion. The HTNOs adopt and publish ENNOH's statutory documents only if the Commission's opinion is favourable.
- (4) This Opinion is issued following the receipt of ENNOH's draft statutory documents on 30 August 2024.
- (5) On 23 September 2024, ACER launched a public consultation on ENNOH's draft statutory documents, inviting all interested parties to submit their comments by 21 October 2024. ACER sought views specifically from organisations representing all stakeholders, in particular the system users, including customers. ACER received 13 responses which were considered in preparing this Opinion. These responses are published on ACER's [consultation website](#), and summarised in the Evaluation Report annexed to this Opinion.

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<sup>3</sup> Article 57(6) of Regulation (EU) 2024/1789.

<sup>4</sup> Recital (78) of Regulation (EU) 2024/1789.

<sup>5</sup> In particular, Articles 57(2) and 59(1)(d) as well as Recitals (44) and (80) of Regulation (EU) 2024/1789.

- (6) On 19 November 2024, a proposed draft of the present opinion was submitted to ACER's Gas Working Group for consultation in accordance with Article 24(2) of Regulation (EU) 2019/942.
- (7) On 4 December 2024, ACER's Gas Working Group provided its advice, endorsing the draft opinion.
- (8) On 18 December 2024, ACER's Board of Regulators issued a favourable opinion pursuant to Article 22(5)(a) of Regulation (EU) 2019/942.

## **2. SUMMARY OF THE STATUTORY DOCUMENTS**

- (9) ENNOH's draft statutory documents consist of four documents:
  - (a) Articles of Association ('AoA')
  - (b) Rules of Procedure ('RoP')
  - (c) Rules of Procedure for the Consultation of Stakeholders ('RoP CS')
  - (d) List of Members
- (10) The Articles of Association are the governing statutes of ENNOH, which will be incorporated under the Belgian law as an international non-profit association (Association Internationale Sans But Lucratif, AISBL). The statutes define ENNOH's purpose and activities (Chapter 2), membership categories (Chapter 3), composition, powers and tasks of ENNOH's bodies (Chapter 4), key managerial positions and ENNOH's structure based on working groups (Chapter 5) as well as financial aspects (Chapter 6).
- (11) The Rules of Procedure define practical and technical matters and procedures in ENNOH's governance (Chapter 2) and set out processes for developing ENNOH's deliverables (Chapter 3). The governance chapter includes procedures related to membership (Title II), ENNOH's bodies, key positions and working groups (Titles III-VII), regional cooperation and cooperation with third countries (Title VIII), internal and external communication (Title IX) and financing the budget (Title X).
- (12) The Rules of Procedure for the Consultation of Stakeholders describe ENNOH's consultation process (Chapter 3) and the related practical and technical aspects of stakeholder engagement.
- (13) The List of Members includes all entities that prepared and agreed upon the draft statutory documents and are initial, potential founding members of ENNOH. The list distinguishes between full members (36 entities) and associated partners (1 entity). No entities are listed as observers.

### **3. ASSESSMENT OF THE STATUTORY DOCUMENTS**

#### **3.1. General comments**

- (14) In its assessment, ACER focused specifically on how the draft statutory documents address the requirements for the establishment and operation of ENNOH, as outlined in Regulation (EU) 2024/1789. Overall, ACER considers that these requirements have been correctly incorporated, except for certain specific aspects discussed in section 3.2.
- (15) ACER has also made efforts to ensure consistency, where possible and appropriate, with its previous opinions on the statutory documents of ENTSO-G, ENTSO-E and EU DSO Entity.<sup>6</sup>
- (16) Section 3.2 includes several recommendations for improving the draft statutory documents. For ease of reference, these recommendations are summarised in section 3.3.

#### **3.2. Remarks on specific aspects of the statutory documents**

##### **3.2.1. ENNOH's purpose and activities**

- (17) ENNOH's objectives are defined in Article 57 of Regulation (EU) 2024/1789. Article 57(1) sets out three key objectives, because the HTNOs are required, through ENNOH, to *'cooperate at Union level'* in order to *'promote the development and proper functioning of the internal market for hydrogen and cross-border trade'* and *'to ensure the optimal management, coordinated operation and sound technical evolution of the European hydrogen transmission network'*.
- (18) Article 57(6) imposes additional, climate-related objectives, requiring ENNOH, while performing its functions under Union law, to *'contribute to the efficient and sustainable achievement of the objectives laid down in the policy framework for climate and energy'*. Specifically, ENNOH is tasked with supporting *'the efficient integration of hydrogen produced from renewable energy sources'* and enhancing *'energy efficiency while maintaining hydrogen system security'*.
- (19) ENNOH's climate-related objectives are particularly important considering that sector decarbonisation is one of the general principles underlying the organisation of the natural gas and hydrogen market, as set out in Article 3 of Regulation (EU) 2024/1789. These principles require that network planning prioritises hydrogen use in hard-to-decarbonise sectors, considers greenhouse gas abatement potential, encourages reduced fossil gas demand, and aligns with the EU's climate and energy goals.<sup>7</sup> The

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<sup>6</sup> ACER's opinions concerning ENTSO-G: Opinions 02/2011 and 06/2014; ENTSO-E: Opinions 01/2011 and 02/2023; EU DSO Entity: Opinion 05/2020. All opinions are available on [ACER's website](#).

<sup>7</sup> Article 3(l) of Regulation (EU) 2024/1789.

Regulation also requires market rules to enable decarbonisation of the natural gas and (grey) hydrogen systems by facilitating the integration of renewable energy sources, promoting energy savings and efficiency, reducing and making demand more flexible, enhancing energy system integration, and contributing to the achievement of EU climate and energy targets.<sup>8</sup> Finally, market rules must also incentivise long-term investments in a sustainable, decarbonised gas and hydrogen system, energy storage, efficiency, demand reduction, and response, while emphasising the ‘energy efficiency first’ principle to prevent investments that could lead to stranded assets.<sup>9</sup>

- (20) Article 4(1) of the draft Articles of Association defines ENNOH’s purpose and mirrors the wording of Article 57(1) of Regulation (EU) 2024/1789 but omits the obligation to support climate objectives. This inconsistency with Regulation (EU) 2024/1789 may unintentionally narrow ENNOH’s activity scope, as its activities are shaped by its stated purpose in Article 4(1).<sup>10</sup> Also stakeholders in ACER’s public consultation highlighted the need to align ENNOH’s purpose and activities with the EU’s decarbonisation and sustainability goals, emphasising the priority of renewable hydrogen and its use in hard-to-decarbonise sectors.<sup>11</sup>
- (21) To avoid any doubt and eliminate the risk that ENNOH might overlook climate-related objectives in carrying out its functions, ACER recommends explicitly adding these objectives to ENNOH’s purpose defined in Article 4(1) of the draft Articles of Association, alongside the existing ones. Additionally, to ensure that the climate-related objectives are also properly considered by ENNOH when developing the technical rules, ACER provides recommendations for the composition of the drafting committees, detailed in section 3.2.6.4 of this Opinion.

### 3.2.2. Membership in ENNOH

- (22) The draft Articles of Association foresee three membership categories in ENNOH: members (including founding members), associated partners and observers.

#### 3.2.2.1. *ENNOH’s members*

- (23) Only EU HTNOs as defined in Directive (EU) 2024/1788 may become members of ENNOH.<sup>12</sup> Article 1(26) of this Directive defines HTNO broadly, as a ‘*natural or legal person that is responsible for operating, ensuring the maintenance of and, if necessary, developing a hydrogen transmission network in a given area and, where applicable, its interconnections with other hydrogen networks, and for ensuring the long-term ability of the network to meet reasonable demands for hydrogen transport.*’

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<sup>8</sup> Article 3(j) of Regulation (EU) 2024/1789.

<sup>9</sup> Article 3(k) of Regulation (EU) 2024/1789.

<sup>10</sup> See Articles 4(2), 4(10), 18(2), 18(4) and 51(2) of the AoA as well as Articles 23(1) and 25(1) of the RoP.

<sup>11</sup> See Evaluation Report.

<sup>12</sup> Article 6(1) of the AoA read together with Articles 1(26) and 1(14) of the AoA.

- (24) ACER notes that Article 57(3) of Regulation (EU) 2024/1789 clearly mandates that ENNOH must be composed of HTNOs certified according to Article 71 of Directive (EU) 2024/1788. This certification requirement is implied in the draft statutory documents through references in the Rules of Procedure to ‘*certification procedure by the regulatory authority*’<sup>13</sup> and to ‘*membership criteria set forth in the Regulation*’<sup>14</sup> as well as the stipulation in the Articles of Association that ENNOH’s member registry includes documentation confirming the certification process.<sup>15</sup> However, to avoid any ambiguity, ACER recommends to use clearer language by explicitly stating in Article 6(1) of the draft Articles of Association that ENNOH members must be certified under Article 71 of Directive (EU) 2024/1788.
- (25) ACER also recommends clarifying in the statutory documents that, by way of derogation from Article 57(3) of Regulation (EU) 2024/1789, an HTNO derogated from Article 68 of Directive (EU) 2024/1788 concerning the unbundling requirement is also eligible to become ENNOH’s member, subject to conditions specified in Article 57(4) of the Regulation.

#### 3.2.2.2. *Certification of founding members*

- (26) According to Article 57(3) of Regulation (EU) 2024/1789, ENNOH shall consist of HTNOs certified pursuant to Article 71 of Directive (EU) 2024/1788. HTNOs are eligible to become ENNOH’s members from the start of the certification procedure conducted by the regulatory authority. This eligibility is subject to two conditions: HTNOs must be certified within 24 months and begin developing hydrogen infrastructure projects with a final investment decision within four years of joining ENNOH.
- (27) Member States are required to transpose Directive (EU) 2024/1788, including Article 71 on certification, into their national legal systems within a two-year period, i.e. by 5 August 2026.<sup>16</sup> This involves drafting and implementing legislation that specifies the certification procedure for HTNOs and confers the necessary powers on regulatory authorities to conduct the certification process. Without these national provisions, regulatory authorities lack the competence to start the certification procedure.
- (28) As the Regulation does not explicitly define what constitutes the ‘*start of the certification procedure*’, Article 2(3) of the draft Rules of Procedure clarifies that, for founding members, it is to be assumed that the certification procedure has started based on a copy of the HTNO request sent to the relevant competent national authority to initiate the certification procedure or, alternatively, by presenting a copy of the relevant decision of the competent national authority.

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<sup>13</sup> Article 2(3) of the RoP.

<sup>14</sup> Article 2(1) of the RoP read together with Article 1(4) of the RoP and Article 1(33) of the AoA.

<sup>15</sup> Article 6(2) of the AoA.

<sup>16</sup> Article 94 of Directive (EU) 2024/1788.

- (29) ACER acknowledges that the difference in timing between the requirements for establishing ENNOH and the transposition of Directive (EU) 2024/1788 at national level has created a significant challenge for an effective and smooth functioning of ENNOH during this initial period. To date, ACER is not aware of any Member State having already transposed the Directive, whilst only one HTNO has already been certified in a Member State, but not yet under Article 71 of the Directive.<sup>17</sup>
- (30) The presumption set forth in proposed Article 2(3) of the draft Rules of Procedure aims to offer a practical solution to support the timely establishment of ENNOH. The rationale behind this presumption is to enable ENNOH to commence its operations and work on its deliverables promptly, without being constrained by the two-year period provided to the Member States for transposing the Directive's certification provisions into their national laws.<sup>18</sup> This approach aims to address a key challenge created by the EU legislation: the successful establishment of ENNOH is contingent on the timely and committed transposition of the provisions on certification by the Member States.
- (31) However, the proposed solution is not obvious in light of the wording of Article 57(3) of Regulation (EU) 2024/1789 for a number of reasons.
- (32) Firstly, admitting founding members to ENNOH based on this presumption, rather than on the formal initiation of the certification procedure by the competent regulatory authority under national law, would undermine the legal basis for ENNOH's establishment and cast doubt on the legitimacy of its first deliverables. This may result in challenges regarding the credibility and acceptance of ENNOH's work, as stakeholders may question whether the association's establishment was legal in the first place.
- (33) Secondly, the practical viability of this presumption largely depends on how the regulatory authority responds to the HTNO's request to initiate the certification procedure. Since the regulatory authority may not yet have the legal competence to process such requests before the Directive is transposed into national law, it is likely that these requests would be deemed inadmissible. This concern is further supported by feedback from several regulatory authorities, which ACER gathered in preparing this opinion.
- (34) Thirdly, the proposed solution contains the risk that the founding members may lose their membership if they have not yet been certified within a period of two years following their submission and start of ENNOH membership. This risk is not

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<sup>17</sup> On 22 February 2024, the Belgian regulatory authority CREG certified NV Fluxys Hydrogen as HTNO ([Beslissing \(B\)2725](#)).

insignificant, given that Member States have until 5 August 2026 to transpose the Directive. Whilst Article 2(3) of the draft Rules of Procedure would allow ENNOH to be established and start its activities in a meaningful way, at the same time it does contain the risk that it may only postpone the concerns of an effective and smooth functioning of ENNOH to August 2026.

- (35) An alternative pragmatic approach which would be fully compatible with the Directive would consist in a partial but expedient transposition of the Directive, focused on the missing national rules on the HTNO certification. Whilst it would remove the above-mentioned legal concerns, ACER understands however that the initiative for such solution does not lie with ENNOH and its members.
- (36) In this context, as the transposition of the Directive - whether full or partial - may proceed at varying speeds across Member States, there is a risk that not all future HTNOs will be certified and eligible to join ENNOH from its inception. This could lead to an uneven regional representation within ENNOH during the preparation of its initial deliverables, potentially compromising the representative nature of ENNOH's working methods, as intended by the EU legislator.<sup>19</sup>
- (37) Should this risk materialise, ACER recommends that ENNOH members mitigate it by liaising, as far as possible, with prospective members who are unable to join yet but are expected to do so in the future. Whilst such collaboration would, strictly speaking, take place outside the provisions of the statutory documents, it would nonetheless be fully compatible with ENNOH's mission. This mission – to promote the development and proper functioning of the internal market for hydrogen and cross-border trade and to ensure the optimal management, coordinated operation and sound technical evolution of the European hydrogen network – would indeed be best achieved by proactively involving prospective members in preparing ENNOH's initial deliverables and taking into account all hydrogen interests.
- (38) ACER further notes that Member States, under Article 57(5) of Regulation (EU) 2024/1789, have an option to nominate an entity as an associated partner within ENNOH. This option, when combined with the earlier recommendation, would facilitate the formal inclusion of prospective members in the development of ENNOH's initial deliverables, by providing them with a well-defined and structured role until their HTNO certification is completed.

#### *3.2.2.3. Admission of new members and membership transfers*

- (39) Article 7 of the draft Articles of Association states that ENNOH is established by founding members and that the General Assembly decides on the admission of new members. Notably, the General Assembly has the discretion to reject a membership

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<sup>19</sup> See Recital (78) of Regulation (EU) 2024/1789.



application, provided that its decision is justified. However, the specific criteria for rejecting an application are not outlined in the statutory documents.

- (40) Likewise, Article 8 of the draft Articles of Association stipulates that the General Assembly decides on a request for membership transfer to an entity fulfilling ENNOH's membership criteria. The General Assembly takes a decision upon the recommendation of the Board, but Article 8 does not outline any criteria for determining whether such a transfer should be approved or denied.
- (41) ACER has concerns over the discretionary powers granted to the General Assembly in admitting new members or deciding on transfers, particularly the possibility of rejecting an EU HTNO for reasons other than failing to meet the membership eligibility criteria outlined in Article 57 of Regulation (EU) 2024/1789. This discretion not only places new members at a disadvantage compared to founding members, but it may also conflict with Article 57(1) of the Regulation, which mandates all HTNOs to cooperate at the Union level through ENNOH. Membership in ENNOH is not optional but a legal obligation for EU HTNOs upon meeting the eligibility criteria, and therefore, they should have an inherent right to be admitted. As such, Articles 7 and 8 of the draft Articles of Association may hinder EU HTNOs from fulfilling their obligation under Article 57(1) of Regulation (EU) 2024/1789.
- (42) To eliminate this risk, ACER recommends that the decision of the General Assembly on the admission of new members and membership transfers is limited to verifying that the candidate members are EU HTNOs in the meaning of the Directive and have commenced the certification procedure in one of the Member States. If these conditions are met, the General Assembly should admit the new members or allow transfers without further discretion.

#### 3.2.2.4. *ENNOH's observers*

- (43) Article 14 of the draft Articles of Association provides that ENNOH may have observers. Observer status can be granted to an EU HTNO that has been derogated from certain requirements of Directive (EU) 2024/1788 by its Member State.<sup>20</sup> Additionally, observer status can be also granted to entities functioning as HTNOs in non-EU countries that are either parties to the Treaty establishing the Energy Community ('EnC Contracting Parties')<sup>21</sup> or to the Convention establishing the European Free Trade Association ('EFTA').<sup>22</sup>
- (44) As observers, network operators can participate in ENNOH's activities, albeit with certain restrictions. According to Article 14(3) of the draft Articles of Association, they may attend the General Assembly meetings, however with no voting rights, and

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<sup>20</sup> Derogations under Articles 51, 52 and 68 of Directive (EU) 2024/788.

<sup>21</sup> The Energy Community has nine Contracting Parties: Albania, Bosnia and Herzegovina, Kosovo, North Macedonia, Georgia, Moldova, Montenegro, Serbia and Ukraine.

<sup>22</sup> EFTA consists of Iceland, Liechtenstein, Norway and Switzerland.

may also participate in ENNOH's working groups, to the extent granted by the Board.<sup>23</sup>

- (45) As such, the category of observers broadens HTNO cooperation beyond the Union level, as stipulated by Regulation (EU) 2024/1789, to include entities from a wide and diverse group of countries that, in some cases, do not even apply the EU energy *acquis* at all.
- (46) It is important to stress that ENNOH's primary role is to deliver on EU mandates and promote EU objectives. Accordingly, ACER sees value in granting observer status to entities from countries with cooperation agreements with the EU, particularly from those that have already transposed or are in the process of transposing the Third Energy Package, as these countries are also likely to transpose the new EU legal framework for hydrogen in the future. However, for the same reason, ACER believes that countries that neither apply nor plan to adopt and apply the relevant EU energy *acquis* should not be permitted to participate in ENNOH's operations or to contribute to its deliverables through observers.
- (47) Finally, ACER notes that the observer status is not the only way for ENNOH to cooperate with network operators from third countries. This is precisely the purpose of bilateral agreements between ENNOH and these third-country operators, as outlined in Article 26 of the draft Rules of Procedure.<sup>24</sup> These agreements enable the exchange of necessary information and coordination of actions, without granting access to ENNOH's internal structures. Additionally, ENNOH's stakeholder consultations aim to incorporate input from all the relevant parties, including third-country regulatory authorities and market participants, when developing its deliverables.
- (48) Considering the above, ACER recommends limiting observer status to undertakings acting as HTNOs from third countries that are either EnC Contracting Parties or parties to the Agreement on the European Economic Area ('EEA').
- (49) A stakeholder in ACER's consultation suggested that observer status should be available not only to (designated) HTNOs from third countries but also to network operators nominated by these countries to develop hydrogen networks, even if they lack formal HTNO designation due to the absence of related EU Directive transposition.<sup>25</sup>
- (50) ACER notes that while Article 14(1) of the draft Articles of Association ('*undertaking [...] acting as an HTNO*') allows for some interpretation regarding the necessity of formal HTNO designation for observer status, this requirement could be inferred from paragraph (4) of this Article, which mandates that for observers, ENNOH's register

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<sup>23</sup> Article 14(3) of the AoA.

<sup>24</sup> For discussion on bilateral agreements, see section 3.2.6.3.

<sup>25</sup> See Evaluation Report, section 5.

includes proof of HTNO qualification. ACER agrees with the stakeholder's view that clarifying this aspect is important. Excluding network operators from the EnC Contracting Parties or the EEA countries developing joint hydrogen projects with EU HTNOs could not only undermine the effective adoption of the EU energy *acquis* by these countries but would also hinder the development of a Union-wide hydrogen network, impeding EU energy system decarbonisation. ACER thus recommends clarifying in Articles 14(1) and 14(4) of the draft Articles of Association that observer status should also be open to entities from the EnC Contracting Parties or EEA countries nominated by their countries to develop and operate hydrogen networks, provided they can show proof of such nomination, even if not yet formally designated as HTNOs. Extending observer status to not-yet-certified network entities would require the implementation of a clearer and stricter framework governing their access to ENNOH's information and structures, and formulating limitations and conditions to safeguard sensitive data and maintain the security of ENNOH's operations. The related recommendations concerning confidentiality provisions are outlined in section 3.2.7 of this Opinion.

### 3.2.3. Balance of powers in ENNOH

- (51) It is essential that the organisational structure of ENNOH guarantees fair and balanced representation for all participating HTNOs, with ENNOH's working methods reinforcing this representative nature.<sup>26</sup> However, this must be balanced with the specific dynamics of the emerging hydrogen sector, where Member States and EU regions are progressing at different speeds with varying levels of interest in hydrogen. In this context, where many HTNOs have yet to be established, first movers must be appropriately incentivised and rewarded for their investments and activities.
- (52) ACER considers that, overall, this trade-off is well reflected in the draft statutory documents and acknowledges the efforts of the network operators involved in negotiating this compromise. The key solutions addressing this trade-off pertain to voting in the General Assembly, the composition of the Board, and the establishment of the Review Committee, which are discussed in the following sections.

#### *3.2.3.1. Voting in the General Assembly*

- (53) ENNOH's General Assembly voting system is based on that of ENTSO-G, with some modifications.<sup>27</sup> The voting rights are divided into two parts. In the first part, each Member State represented in ENNOH is granted equal voting weight. In the second part, the voting weight is allocated to each Member State represented in ENNOH in proportion to its population relative to the total population of all Member States represented in ENNOH. These two components together form the composite voting rights, with each part accounting for 50% of the total voting weight.

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<sup>26</sup> Recital (78) of Regulation (EU) 2024/1789.

<sup>27</sup> Article 24 of the AoA.

- (54) ACER particularly supports the introduction of the grid significance factor ('GSF') from 2030 onwards. As ACER understands, the GSF will adjust the voting weights in the second part of voting rights, aiming to place greater emphasis on actual investments and activities in the hydrogen sector as the market develops. The adjustment will cap the votes of Member States with populations exceeding 10 % of the EU total, pooling the excess votes and reallocating them based on the GSF criteria, thereby ensuring a fairer distribution of voting power aligned with grid significance.<sup>28</sup> At the same time, the GSF is not expected to significantly alter the overall calculation of the voting rights, as it only applies to the excess votes of certain Member States. According to 2024 data, this accounts for 17,76% of the second part of voting rights, translating to just 8,88% of the total composite voting rights.
- (55) ACER recognises the importance of keeping certain aspects of the GSF outside the statutory documents. As long as the balanced representation within ENNOH and the rationale behind the GSF are not fundamentally affected, ACER has no objections to the General Assembly conducting annual calculations of voting weights or exercising discretion to amend the GSF or delay its implementation as needed. ACER views this flexibility as both appropriate and essential, ensuring the rules can be more readily adjusted to accommodate the evolving needs of the hydrogen sector as it continues to develop.

#### *3.2.3.2. Composition of the Board*

- (56) The Board election process is another key area of the ENNOH statutes where the effort to balance fair representation and reward first movers becomes evident.
- (57) On the one hand, the Board election follows a three-step process, incorporating pre-assigned seats to reward Member States investing in hydrogen:
- (a) In the first step, one seat is allocated to a Member State with the longest regulated hydrogen transmission network.
  - (b) In the second step, four seats are allocated to the four frontrunner Member States (one each) with the longest regulated hydrogen transmission network per capita. The Member State with a seat allocated in the first step may not receive an additional frontrunner seat, even if it qualifies for it.
  - (c) In the third step, a regular election is held to select the remaining Board members, up to the total number of available seats in the election process. The frontrunner Member States are excluded from the regular election, while the Member State

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<sup>28</sup> Article 13 of the RoP. GSF is based on a 50/50 split between (1) kilometres of regulated hydrogen transmission pipelines (operational or at least having a final investment decision with regulatory approval) and (2) volume of hydrogen transported in the regulated hydrogen transmission network per year. After 2040, GSF will be only based on the volume of hydrogen transported in the regulated transmission network per year, if this change is confirmed by the General Assembly through a qualified majority vote.

with a seat allocated in the first step may receive only one additional seat in this step, with a maximum of two seats on the Board.

- (58) On the other hand, in electing the Board, the General Assembly is required to consider the balanced representation of the HTNOs. The criterion in the Articles of Association, reiterated in the Rules of Procedure, obliges the General Assembly to place strong emphasis on achieving an equitable and reasonable regional balance among members when selecting the President, Vice Presidents and Board members, as well as ensure a fair and reasonable representation of HTNOs from smaller Member States.<sup>29</sup>
- (59) Considering the above trade-off, ACER notes that Article 29 of the draft Articles of Association allows for the election of up to 17 Board members, making ENNOH's Board a relatively large body.<sup>30</sup> If all 36 entities from the draft List of Members become founding members of ENNOH, it is expected that all 17 available Board seats will be filled, indicating a competitive selection process where nearly half of the members (17 out of 36) secure a seat on the Board, with at least 12 seats allocated through the general election. ACER also notes that the principle of regional balance aims to impose a constraint on the three-step system, mandating that the allocation of seats in the first and second steps does not lead to regions obtaining more seats than what is justified by an equitable and reasonable regional distribution.<sup>31</sup>
- (60) However, while the three-step election process designed to reward first movers is clearly outlined in the statutory documents, the specific impact of the regional balance principle on the election and voting mechanism remains unclear. To enhance transparency, ACER recommends elaborating on this aspect either within the statutory documents themselves or, at a minimum, in a guidance document accessible to stakeholders as needed. If the latter approach is taken, the guidance document and any subsequent revisions should be reported to ACER and the Commission upon adoption.
- (61) ACER also finds it reasonable that the four seats allocated to the frontrunner Member States are time-limited and will expire with the introduction of the GSF, which will then reward these states through the reallocation of votes in the General Assembly.<sup>32</sup> However, this contrasts with the (implicit) permanency of the seat granted to the Member State with the longest network, raising concerns whether this approach is justified. While ACER acknowledges that the size of the investment costs and the uncertainty surrounding the future evolution of the hydrogen market may be a consideration to grant a longer duration of the guaranteed seat commensurate with these factors, it remains at the same time doubtful that such seat should be guaranteed

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<sup>29</sup> Article 29(2) of the AoA and Article 17(1) of the RoP.

<sup>30</sup> Comparing with the Board of ENTSO-E (maximum 12 members) and ENTSO-G (maximum 13 members).

<sup>31</sup> Article 17(1)(c) of the RoP.

<sup>32</sup> Article 17(1)(b) of the RoP in joint reading with Article 31(2) of the AoA and Article 13(3) of the RoP.

on a permanent basis. ACER therefore recommends to explicitly provide for a future revision of this rule as well.

#### 3.2.3.3. *Review Committee*

- (62) Finally, ACER supports the establishment of the Review Committee,<sup>33</sup> as it provides individual HTNO members with the opportunity to request a revision of Board decisions that affect their interests. This mechanism thus further helps to ensure fair and balanced representation for all participating HTNOs.

#### 3.2.4. Diversity and gender balance

- (63) The only criterion for selecting Board members is to ensure balanced (geographical and economic) representation among HTNO members.<sup>34</sup> No specific selection criteria are outlined for appointing other senior or managerial roles within ENNOH, such as Directors, Head of Departments, Head of Units, or Team Leaders.<sup>35</sup>

- (64) As was the case in its opinions on the statutory documents of other European associations,<sup>36</sup> ACER would welcome the inclusion of diversity and gender balance criteria in both the election of ENNOH's Board members and, where possible, the appointment of senior roles. This would align with the regulatory objectives set forth in both European<sup>37</sup> and Belgian legislation, under which law ENNOH would be established.<sup>38</sup>

#### 3.2.5. Amendments to the statutory documents

- (65) The process outlined in Regulation (EU) 2024/1789 for the adoption of statutory documents also applies to their subsequent amendments.<sup>39</sup> Accordingly, HTNOs must submit proposed amendments to ACER and the Commission for their respective opinions. ACER is required to provide its opinion to the Commission within four months, after which the Commission must issue its opinion to the HTNOs, taking into account ACER's opinion. Notably, Article 57(11) of the Regulation specifies that HTNOs may only adopt amendments if the Commission provides a favourable opinion.

- (66) ENNOH's draft statutes further specify this procedure, which equally applies to amendments to the Articles of Association (Article 47 of the AoA) and to the Rules

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<sup>33</sup> Article 39 of the AoA and Article 15 of the RoP.

<sup>34</sup> Article 29(2) of the AoA and Article 17(1) of the RoP.

<sup>35</sup> Articles 18, 19 and 20 of the RoP.

<sup>36</sup> EU DSO Entity (ACER Opinion 05/2020) and ENTSO-E (ACER Opinion 02/2023). ACER's opinions are available on [ACER's website](#).

<sup>37</sup> Directive (EU) 2022/2381 on improving the gender balance among directors of listed companies and related measures, OJ L 315, 7.12.2022, p. 44.

<sup>38</sup> Article 2 of Belgian federal law of 28 July 2011, Moniteur Belge, 14 September 2011.

<sup>39</sup> Article 57 of Regulation (EU) 2024/1789, paragraphs (9) to (12).

of Procedure (Article 50 of the AoA). In both cases, the statutes provide that if ENNOH does not receive the Commission's opinion on the proposed amendments within seven months of submission to the Commission and ACER, ENNOH must assume that the Commission has no objections and proceed with the approval of the amendments.

- (67) While ACER recognises that the presumption of the Commission's favourable opinion is intended to promote efficiency and prevent delays, this presumption is not in line with Article 57(11) of Regulation (EU) 2024/1789. The Regulation clearly mandates that the Commission's explicit favourable opinion is a prerequisite for the adoption of amendments. Therefore, ACER recommends replacing this presumption with a requirement to obtain a favourable opinion from the Commission.

### 3.2.6. Gaps in regulatory oversight

- (68) Regulation (EU) 2024/1789 requires that any changes to ENNOH's statutory documents must be submitted to both ACER and the Commission for their opinions.<sup>40</sup> However, the draft statutory documents only partially reflect this requirement, which could lead to unintended gaps in regulatory oversight. The concerns relate to the following areas:

#### 3.2.6.1. *Changes to the List of Members*

- (69) Since the List of Members is considered part of the statutory documents, any changes to it must also be reviewed by ACER and the Commission.<sup>41</sup>
- (70) However, the draft statutory documents do not clearly outline the process for amending the List of Members, nor whether ACER and the Commission are involved. The draft Articles of Association only state that the General Assembly takes decisions or actions that result in changes to the List of Members, such as the admission of new members,<sup>42</sup> transfer of membership,<sup>43</sup> exclusion of members,<sup>44</sup> or managing resignations,<sup>45</sup> which, in an extreme case, can lead to the dissolution of ENNOH due to the lack of members.<sup>46</sup> This leaves these processes outside the statutory framework, creating uncertainty. This is particularly concerning because the statutes explicitly detail the procedure for amending the Articles of Association<sup>47</sup> and the Rules of Procedure,<sup>48</sup> but they remain silent on how the List of Members should be updated. To ensure proper regulatory oversight of ENNOH's membership, as required by the

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<sup>40</sup> Article 57(12) in joint reading with Article 57(7) of Regulation (EU) 2024/1789.

<sup>41</sup> Footnote 36.

<sup>42</sup> Article 7(1) of the AoA and Article 2(2) of the RoP.

<sup>43</sup> Article 8(1) of the AoA.

<sup>44</sup> Article 10(1) of the AoA and Article 4(1) of the RoP.

<sup>45</sup> Article 9 of the AoA and Article 3(3) of the RoP.

<sup>46</sup> Article 48 in joint reading with Article 5(2) of the AoA. See also section 3.2.6.2.

<sup>47</sup> Article 47 of the AoA.

<sup>48</sup> Article 50 of the AoA.

Regulation, ACER recommends clarifying in the statutory documents that changes to the List of Members, such as admission, transfer, resignation and exclusion, must be submitted to both ACER and the Commission. Since changes may become more frequent with the establishment of new HTNOs in the coming years, it might be practical to implement a system that maintains oversight while reducing administrative burden. To avoid frequent requests for opinions on individual changes to the List of Members, ENNOH could use a standardised template to submit, once or twice a year, all the proposed changes to the List of Members that occurred over a specified period (e.g. six or twelve months). In these cases, a shorter timeframe for the adoption of ACER's opinion could also be considered.

#### 3.2.6.2. *Dissolution of ENNOH*

- (71) Article 48 of the draft Articles of Association outlines that the dissolution of ENNOH can only occur through a proposal by the Board and must be approved by the General Assembly, requiring a special majority vote and a quorum of two-thirds, and that the General Assembly determines the method of its dissolution and liquidation.
- (72) ACER highlights that the establishment and existence of ENNOH is mandated by Regulation (EU) 2024/1789, as the EU legislator deems it essential to have a European entity for the HTNOs to ensure optimal management of the EU hydrogen network and to allow trading and supplying hydrogen across EU borders. To ensure adequate regulatory oversight, as required by the Regulation, ACER recommends that the statutory documents explicitly state that any decision by the General Assembly to dissolve the association must first receive ACER's and the Commission's opinion, and that such a decision cannot proceed unless the Commission's opinion is favourable.

#### 3.2.6.3. *Bilateral agreements with third-country hydrogen network operators*

- (73) Article 26 of the draft Rules of Procedure allows ENNOH to conclude bilateral agreements to collaborate with hydrogen network operators from third countries that do not qualify for observer status. These bilateral agreements are concluded by the Board, after receiving unanimous approval from all members, including directly affected associated partners.
- (74) The draft Rules of Procedure provide limited details on these bilateral agreements. Article 26 only specifies that they are meant to enable information exchange and coordinated actions. While the provision ensures that this collaboration will not grant third-country operators access to ENNOH's structures or information exclusive to ENNOH members, it remains unclear what specific information this refers to or how it relates to information classified as confidential or non-public.
- (75) Since associated partners and observers have access to all ENNOH's structures, it seems that only a small amount of information would be truly restricted to ENNOH's members. This implies that most of the information available within ENNOH could potentially be shared with third-country operators through these bilateral agreements, which could materially impact ENNOH's operations.



- (76) Given the vague and open-ended language in Article 26, ENNOH’s bilateral agreements with third-country operators should be regulated within the statutory documents. ACER recommends that these agreements be recognised as part of ENNOH’s essential functions and subject to prior review by ACER and the Commission, particularly concerning the information shared with third-country operators.

*3.2.6.4. Drafting committee(s)*

- (77) Article 72(10) of Regulation (EU) 2024/1789 requires ENNOH to convene a drafting committee to support the development of network codes. This committee must include representatives from ACER, ENTSO-G, ENTSO-E, and, where appropriate, the EU DSO Entity, along with a limited number of key affected stakeholders.
- (78) Article 33(5) of the draft Rules of Procedure aims to implement the requirement set out in Article 72(10) of the Regulation, specifying that each network code should have its own drafting committee. However, Article 33 does not explain how these committees will be set up or how they will operate. It only states that their composition will be determined through a ‘transparent and objective process’ using ‘inclusive selection criteria’, and that rejected candidates will be provided with reasons for their rejection. Additionally, the article foresees that ENNOH will publish the rules governing the operation and formation of the drafting committees when each network code development process is launched.
- (79) The EU legislator’s intent to include stakeholders in the drafting committee highlights the critical importance of their engagement in the technical rule-making process. This approach is recognised as the most effective way to enhance the technical and operational robustness of network codes while aligning them with market needs and technological progress. In this context, ACER supports proposals received in the consultation to involve a broad range of market stakeholders, such as shippers, producers, suppliers, and trading operators, in ENNOH’s network code development.<sup>49</sup> ACER agrees with the stakeholders that this is essential for promoting transparency and fostering innovation. ACER therefore recommends that ENNOH incorporates a diverse stakeholder group within the drafting committees to best align network codes with current market realities and technological developments.
- (80) Moreover, to ensure that ENNOH’s climate-related objectives<sup>50</sup> are effectively embedded in the draft network codes, ACER recommends that ENNOH includes independent climate expert bodies, such as the European Scientific Advisory Board on Climate Change (‘ESABCC’),<sup>51</sup> in the drafting committees. Their involvement would provide ENNOH with impartial strategic advice during the rule development

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<sup>49</sup> See Evaluation Report, section 8, point (c).

<sup>50</sup> See section 3.2.1 of this Opinion.

<sup>51</sup> <https://climate-advisory-board.europa.eu/>.

process, ensuring alignment with EU energy and climate goals as well as the broader interests of European society.

- (81) The role of the drafting committees in ENNOH's network code development process is also unclear. Article 26(6) of the draft Rules of Procedure refers to '*advice*', implying that the drafting committees serve primarily as advisory or consultative bodies, while the working groups carry out the actual drafting. The level or frequency of interaction between the working groups and the drafting committees is not specified either.
- (82) Considering that a drafting committee is a new formal body required by the Regulation, it would be appropriate to set out rules for its composition, establishment, and operation already in the Rules of Procedure. In particular, ACER recommends that the Rules of Procedure clarify when and how these committees are convened, the documentation they will access, and their involvement at different stages of the network code development process, up to the submission of the code to ACER. Furthermore, the Rules of Procedure should explicitly define the relationship between the drafting committees and the working groups, whose respective roles need to be more clearly articulated.

### 3.2.7. Confidentiality provisions

- (83) Article 36 of the draft Rules of Procedure establishes ENNOH's obligation, along with its members, associated partners, and observers, to maintain the confidentiality of sensitive information. It outlines the definition of confidential information, identifies exceptions to non-disclosure, and ensures compliance with Directive (EU) 2024/1788 and Regulation (EU) 2024/1789 on the confidentiality of commercially sensitive information.
- (84) ACER notes that Regulation (EU) 2024/1789 mandates ENNOH to provide ACER with the information necessary for effective monitoring.<sup>52</sup> To this end, ACER recommends clarifying that Article 36 of the draft Rules of Procedure should not restrict ENNOH from disclosing information, including confidential information, when requested by ACER in line with the Regulation. ENNOH should also indicate the level of confidentiality of any shared information to enable ACER to protect it appropriately. A similar clarification should be made for any information ENNOH provides at the request of the Commission.
- (85) ACER notes that observers, which are hydrogen network operators from non-EU countries, have the right to attend General Assembly meetings and take part in working groups to the extent granted by the Board.<sup>53</sup> In light of ACER's recommendation to extend observer status to hydrogen network developers and

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<sup>52</sup> Article 59(5) in joint reading with Article 64 of Regulation (EU) 2024/1789.

<sup>53</sup> Article 14(3) of the AoA.

operators not yet certified but nominated by their respective countries,<sup>54</sup> it is crucial to strengthen the confidentiality framework for observers within the statutory documents. ACER advises incorporating specific provisions in Article 36 of the draft Rules of Procedure to manage observers' access to information. These provisions should delineate the types of information accessible to observers and set clear, stringent criteria for their participation in the General Assembly and working groups, ensuring that no information that could compromise EU interests is disclosed. Implementing such measures would enhance trust in ENNOH's operations by safeguarding the integrity and security of EU strategic information and supporting collaboration with third-country network operators in a controlled and secure environment.

- (86) Finally, considering stakeholder comments,<sup>55</sup> ACER also recommends adding in Article 36 of the draft Rules of Procedure that its provisions do not hinder the application of the relevant transparency requirements, such as those concerning hydrogen network operators.<sup>56</sup>

### 3.2.8. Stakeholder engagement and consultations

#### *3.2.8.1. Level of detail and clarity in the rules*

- (87) Article 63 of Regulation (EU) 2024/1789 requires ENNOH to conduct an extensive public consultation process when preparing its deliverables. The process must start early, be open and transparent, and include all relevant market participants, particularly stakeholder organisations, in line with the rules of procedure for the consultation of stakeholders. Stakeholder input must be considered before finalising the proposals, aiming to capture the views and suggestions of all relevant parties during decision-making. The consultation should also involve regulatory and other national authorities, producers, network users (including customers), technical bodies, and stakeholder platforms.
- (88) The draft Rules of Procedure for the Consultation of Stakeholders ('RoP CS') broadly reflect these principles.<sup>57</sup> However, stakeholders in ACER's consultation noted that the draft RoP CS lack sufficient detail and precision, potentially compromising transparency and causing confusion. ACER concurs with these concerns and recommends ENNOH to further elaborate on their stakeholder engagement and consultation processes, providing clarification as needed and taking into account the suggestions summarised under section 8, point a) of the Evaluation Report annexed to this Opinion.<sup>58</sup>

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<sup>54</sup> See section 3.2.2.4, concerning observers.

<sup>55</sup> See Evaluation Report, section 11.

<sup>56</sup> Article 66 of Regulation (EU) 2024/1789.

<sup>57</sup> Article 2, paras (1) and (2), of the RoP CS.

<sup>58</sup> For reference, stakeholders' responses are published in their entirety on ACER's consultation page.

**3.2.8.2. Minimum consultation period**

- (89) Regulation (EU) 2024/1789 does not set a specific minimum consultation period for ENNOH’s consultations. ACER believes that the two-month period outlined in Article 9(14) of the draft RoP CS strikes an effective balance between timely delivery of ENNOH’s outputs and meaningful stakeholder engagement.
- (90) However, ACER considers that consultations shorter than one month should be exceptional. In such instances, stakeholders should be given ample advance notice, and the reasons for shortening the consultation period should be clearly communicated to all stakeholders and ACER. ACER recommends explicitly including this provision in Article 9(14) of the draft RoP CS.
- (91) ACER also notes a discrepancy between the general two-month minimum consultation period in Article 9(14) of the draft RoP CS and the one-month period stated in Article 32(3) of the draft Rules of Procedure concerning the consultation on the draft Annual Work Programme (‘AWP’). Considering the significance of the AWP in providing stakeholders visibility into ENNOH’s planned deliverables and processes, ACER recommends extending the AWP consultation period to a minimum of two months. ACER also recommends clarifying in Article 32(3) of the draft Rules of Procedure that the AWP consultation should occur before submission for ACER’s opinion, enabling ENNOH to incorporate stakeholder feedback into the version of the AWP submitted to ACER.

**3.3. Summary of ACER’s recommendations**

- (92) For quick reference, the table below lists all recommendations from section 3.2, along with the corresponding provisions in the draft statutory documents to which they relate.

Section	Recommendation	Provision(s)
3.2.1	Add climate-related objectives to ENNOH’s purpose.	Art. 4(1) AoA
3.2.2.1	Explicitly state that ENNOH members must be certified under Article 71 of Directive (EU) 2024/1788. Clarify that HTNOs derogated from the unbundling requirement under Article 68 of Directive (EU) 2024/1788 are also eligible to become ENNOH’s members, subject to conditions specified in Article 57(4) of Regulation (EU) 2024/1789.	Art. 6(1) AoA
3.2.2.2	Reconsider the presumption of the start of the certification process for founding members. (To address potential uneven regional representation resulting from a limited number of certified HTNOs at ENNOH’s inception, its members should collaborate during the preparation of the initial deliverables as far as possible with prospective members who are not yet able to join.)	Art. 2(3) RoP N/A



(38)	Remove the General Assembly's discretion to reject new members, including via transfers, who meet the eligibility criteria.	Art. 7 AoA Art. 8 AoA Art. 2 RoP
3.2.2.4	Amend the eligibility criteria for observers by replacing the reference to the EFTA Agreement with the EEA Agreement. Clarify that observer status should also be open to undertakings from the EnC Contracting Parties or EEA countries nominated by their countries to develop and operate hydrogen networks, provided they can show proof of such nomination, even if not formally designated as HTNOs.	Art. 14(1) AoA Art. 14(1) AoA Art. 14(4) AoA
3.2.3.2	Further elaborate how the regional balance principle applies to the Board's election processes either within the statutory documents or, at a minimum, in a guidance document accessible to stakeholders as needed.  Include a revision clause concerning the permanency of the pre-assigned seat for the country with the longest network.	Art. 17 RoP  Art. 29 AoA
3.2.4	Include diversity and gender balance criteria in the election of ENNOH's Board members and, where possible, the appointment of senior roles.	Art. 17 AoA (Art. 18-20 AoA)
3.2.5	For adopting the amendments to the statutory documents, replace the presumption of the Commission's favourable opinion with a requirement to obtain it.	Art. 47 AoA Art. 50 AoA
3.2.6.1	Explicitly require that any changes to the List of Members are subject to prior opinions of ACER and the Commission. A simplified approach to processing such requests could be considered.	Art. 47 AoA
3.2.6.2	Explicitly state that any decision by the General Assembly to dissolve ENNOH must first receive ACER's and the Commission's opinion, and that such a decision cannot proceed unless the Commission's opinion is favourable.	Art. 48 AoA
3.2.6.3	Explicitly require that bilateral agreements between ENNOH and third-country operators are subject to prior opinions of ACER and the Commission, before they are concluded.	Art. 26 RoP
3.2.6.4	Incorporate a diverse market stakeholder group within the drafting committees to best align network codes with current market realities and technological developments.  Engage independent climate expert bodies, such as ESABCC, in the drafting committees to ensure that ENNOH's climate objectives are effectively incorporated into the network codes.  Include in the Rules of Procedure concrete provisions for determining the composition, establishment, and operation of the drafting committees, and clearly set out their role in the network code development process.	Art. 33 RoP

3.2.7	<p>Clarify that ENNOH should not be restricted from disclosing information, including confidential information, to ACER, and should indicate confidentiality levels for protection. This clarification should also apply to information provided at the Commission’s request.</p> <p>Add specific provisions to manage observers’ access to information, detailing the types of information they can access and set clear and strict criteria for their participation in ENNOH’s structures.</p> <p>Clarify that Article 36 does not impede transparency requirements.</p>	Art. 36 RoP
3.2.8.1	<p>Further elaborate on ENNOH’s stakeholder engagement and consultation processes, clarifying as needed and considering comments and suggestions from section 8, point a) of the Evaluation Report annexed to this Opinion.</p>	RoP CS
3.2.8.2	<p>Explicitly state that consultations shorter than one month should be exceptional, with advance notice and reasons communicated to stakeholders and ACER.</p> <p>Extend the AWP consultation period to a minimum of two months and clarify that it should precede submission for ACER’s opinion to incorporate stakeholder feedback.</p>	<p>Art. 9(14) RoP CS</p> <p>Art. 32(3) RoP</p>

**HAS ADOPTED THIS OPINION:**

1. ACER considers the draft statutory documents of ENNOH to be broadly in line with the requirements of Regulation (EU) 2024/1789 and Directive (EU) 2024/1788, except for the points raised in this opinion.
2. Beyond assessing compliance, this opinion offers recommendations for improving the draft statutory documents and identifies key areas that require close attention from HTNOs.

This Opinion is addressed to the European Commission.

Done at Ljubljana, on 19 December 2024.

**- SIGNED -**

*For the Agency  
 The Director*

C. ZINGLERSEN