

1st ACER Board of Regulators meeting

Tuesday, 4 May 2010, from 14.00 to 18.00 (CET)

Wednesday, 5 May 2010, from 09.00 to 16.00 (CET)

Diamant Conference Centre, bd Auguste Reyers 80, 1030 Brussels

MINUTES

Participants 4th May 2010

Member State	Name ¹	Member State	Name
Austria (E-Control)	M: Walter Boltz (BoR Vice chair) A: Dietmar Preinstorfer O: Edith Hofer	Latvia (PUC)	M: Valentina Andrejeva O: Lija Makare
Belgium (CREG)	M: François Possemiers A: Koen Locquet	Lithuania (NCC)	A: Vygantas Vaitkus
Bulgaria (SEWRC)	M: Angel Semerdjiev	Luxemburg (ILR)	M: Camille Hierzig
Cyprus (CERA)	M: Georgios Shammass	Malta (MRA)	M: Reuben Balzan A: Anthony Rizzo
Czech Republic (ERO)	M: Blahoslav Nemeček A: Antonin Panak	Netherlands (Energiekamer)	Proxy (J. Kindler/A. Groebel)
Denmark (DERA)	M: Finn Dehlbæk	Poland (URE)	M: Marek Woszczyk O: Kamila Kloc-Evison
Estonia (ECA)	A: Kylli Haab O: Airi Asperk	Portugal (ERSE)	M: Vitor Santos A: José Braz
Finland (EMV)	M: Asta Sihvonen-Punkka	Romania (ANRE)	M: Petru Luficiu O: Adriana Baz O: Lusine Caracasian
France (CRE)	M: Philippe de Ladoucette A: Philippe Raillon	Slovaquie (RONI)	A: Nataša Hudcovičova
Germany (BNetzA)	M: Johannes Kindler A: Annegret Groebel O: Nadia Horstmann	Slovenia (AGEN-RS)	M: Marko Senčar
Greece (RAE)	A: George Koutzoukos	Spain (CNE)	M: Maria Teresa Costa Campi A: José Sierra
Hungary (HEO)	M: Zoltán Matos	Sweden (EI)	M: Yvonne Fredriksson A: Karin Widegren
Ireland (CER)	M: Michael Tutty	United Kingdom (Ofgem)	M: John Mogg (BoR Chair) A: Martin Crouch O: Michela Beltracchi
Italy (AEEG)	M: Alessandro Ortis A: Carlo Crea O: Aurora Rossodivita		
Observers	Name	Observers	Name
European representatives	Commission Heinz Hilbrecht Lukas Repa Tom Vanden Borre	Secretariat	Fay Geitona Una Shortall

¹ M: Member – A: Alternate – O: Observer

Participants on Wednesday 5th May

Member States	Name ²	Member States	Name
Austria (E-Control)	M: Walter Boltz (BoR Vice chair)	Latvia (PUC)	M: Valentina Andrejeva
Belgium (CREG)	A: Koen Locquet	Lithuania (NCC)	Proxy (V. Andrejeva)
Bulgaria (SEWRC)	M: Angel Semerdjiev	Luxemburg (ILR)	M: Camille Hierzig
Cyprus (CERA)	M: Georgios Shammass	Malta (MRA)	Proxy (A. Ortis)
Czech Republic (ERO)	M: Blahoslav Nemeček	Netherlands (Energiekamer)	Proxy (J. Kindler)
Denmark (DERA)	M: Finn Dehlbæk	Poland (URE)	M: Marek Woszczyk O: Kamila Kloc-Evison
Estonia (ECA)	A : Kylli Haab	Portugal (ERSE)	M: Vítor Santos
Finland (EMV)	M : Asta Sihvonen-Punkka	Romania (ANRE)	M: Petru Luficiu
France (CRE)	M: Philippe de Ladoucette	Slovaquie (RONI)	A: Nataša Hudcovičova
Germany (BNetzA)	M: Johannes Kindler	Slovenia (AGEN-RS)	M: Marko Senčar
Greece (RAE)	A: George Koutzoukos	Spain (CNE)	A: José Sierra
Hungary (HEO)	M : Zoltán Matos	Sweden (EI)	M: Yvonne Fredriksson
Ireland (CER)	M: Michael Tutty	United Kingdom (Ofgem)	M: John Mogg (BoR Chair) A: Martin Crouch
Italy (AEEG)	M: Alessandro Ortis		

Observers	Name	Observers	Name
European Commission representatives	Heinz Hilbrecht Lukas Repa	Secretariat	Fay Geitona Una Shortall

Main Conclusions from the meeting:

1. *The Board of Regulators (BoR) discussed and approved the BoR rules of procedure (RoP). These will be made publicly available.*
2. *The BoR agreed the selection process and then elected the BoR Chair (Lord Mogg) and Vice Chair (Mr. Walter Boltz).*
3. *The BoR agreed the selection process, interviewed the candidates for ACER Director and selected their preferred candidate (Mr. Alberto Pototschnig) for submission to the ACER Administrative Board.*

Pending election of Chair of BoR, Lord Mogg chaired the meeting, initially, as chair of ERGEG. Ms Geitona, CEER Secretary General, acted as Secretary to the meeting and was assisted by Ms Una Shortall (CEER Secretariat).

² M: Member – A: Alternate – O: Observer

1. Approval of the agenda

BoR Decision agreed: (D 1)

The agenda of the inaugural ACER Board of Regulators meeting was approved.

2. Board of Regulators Rules of Procedure

The ACER BoR rules of procedure (RoP) were circulated for approval. Several minor modifications were discussed.

BoR Decision agreed: (D 2)

The Rules of Procedure were approved unanimously subject to some minor modifications. In line with Article 14 (4) of the ACER Regulation 713/2009, the RoP of the BoR will be published. For now, they will be placed on the European Energy Regulators website www.energy-regulators.eu.

3. Process for the appointment of the BoR Chair/Vice chair

The Members discussed the process for the appointment of the Board of Regulators' Chair and Vice Chair.

BoR Decision agreed: (D 3)

The process for the appointment of the chair and vice chair was agreed.

4. Process for the selection of the Director

The members discussed the process for the selection of the ACER Director (including interviewing each candidate for the Director post and deciding on the favourability or otherwise of the 3 candidates).

In respect of the interviews, a set of questions was prepared in advance and will be put to each of the candidates during a 45 minute interview by the full BoR with each of the candidates in turn, with 5 minutes for candidates to present themselves and 25 minutes on the questions. The BoR Members can also ask follow-up questions. Following a general discussion on the performance of the candidates, the voting for the Director will take place.

In respect of the deliberation process, two stages are foreseen: a pre-selection vote to rank the candidates' favourability, followed by a second vote based on the 3/4 majority principle, as stipulated in the ACER Regulation. Those candidates who reach the threshold of 21 or more would be formally confirmed as being in the "favourable" category. The candidates reaching the minimum 21 votes or more would be ranked according to the number of preference votes given to them by delegations. This will determine the ranking of "favourable" in the list of candidates sent to the Administrative Board.

It was underlined that the BoR's emphasis should be on the regulatory aspects and technical knowledge of each candidate to identify the candidates experience, skills and ability. The BoR Chair would inform the Chair of the Administrative Board (AB) by letter of the outcome of the BoR selection process and the opinion reached.

The BoR members discussed the basis for their evaluation of each candidate against the specific demands of the Agency and the post of its Director.

The members noted that the Director would be formally appointed only after his appearance before the European Parliament (provisionally scheduled for 31 May). Until then, the successful candidate chosen by the Administrative Board would be the “designated” Director.

BoR Decision agreed: (D 4)

The process for the interviews and the selection of the Director was agreed.

5. Election of the BoR Chair and the Vice Chair

In respect of the BoR chair, the only candidate was Lord Mogg. In respect of the BoR vice chair, there were three candidates.

Based on the process agreed under point 3 above, the members proceeded to the vote on the BoR chair and vice chair.

Lord Mogg was unanimously appointed Chair of ACER’s Board of Regulators (BoR).

In respect of the vice chair, Mr. Walter Boltz was elected having received the necessary 2/3 majority.

BoR Decision agreed: (D 5)

Lord Mogg was appointed Chair and Mr. Boltz Vice Chair of ACER’s Board of Regulators (BoR). The term of office for the Chair and the Vice Chair is two and a half years and is renewable.

6. Update on the setting up of the Agency including contacts with Slovenia on the host country agreement

The European Commission reported on ongoing efforts to set up the Agency at its permanent offices in Ljubljana. Steps were underway to put in place the host country agreement. Recruitment of staff and members of the Board of Appeals is underway.

7. Reimbursement rules

The Commission informed the BoR members of the reimbursement rules for BoR members.

8. Agency Staff policy and budget

The Commission reported that a draft staff policy plan and budget (for 2010 and 2011) had been prepared by the Commission given that the Administrative and Board of Regulators had not yet been constituted.

9. Work programme of the Agency

Mr. Boltz updated the European Commission representatives present at the BoR on the regulators' views regarding the 2011 work programme, also within the context of the CEER's 2011 work programme.

10. Next Meetings

The next BoR meeting will take place in Florence on Thursday 10th June from 11.00 – 13.00 hours.

11. Interview of candidates

The candidates were interviewed by the BoR in the presence of the European Commission representatives.

12. Discussion on the candidates interviewed

The members held a brief discussion on each candidate after each interview, followed by an overall discussion after the interviews were concluded. The Members assessed each candidate individually to decide whether each should receive a favourable opinion on the basis of the agreed process. Independently of the opinion of the BoR, the AB would interview the candidates and appoint the most appropriate.

13. Voting for the Agency Director

In a two stage process, the Members were asked to vote on the favourability of each candidate (from the Commission's shortlist). During the second round, the Members selected a preferred (first ranking) candidate.

BoR Decision agreed: (D 6)

- (1) In accordance with the procedures previously agreed by the BoR, two candidates received a favourable opinion and one an unfavourable opinion. Mr Alberto Pototschnig was ranked first and selected as the favoured candidate for submission to the Administrative Board.
- (2) This decision would be communicated to the AB by the BoR chair.