

**60<sup>th</sup> ACER Board of Regulators Meeting**  
**Wednesday, 12 October 2016, 09.00-16.00**  
**CEER, cours Saint-Michel 30a, Brussels**

**Minutes (final)**

Member States	Name <sup>1</sup>	Member States	Name
Austria (E-Control)	M: Wolfgang Urbantschitsch A: Dietmar Preinstorfer	Italy (AEEGSI)	A: Clara Poletti O: Ilaria Galimberti
Belgium (CREG)	M: Marie-Pierre Fauconnier A: Koen Locquet O: Geert Van Hauwermeiren	Latvia (PUC)	O: Lija Makare
Bulgaria (EWRC)	O: Svetla Todorova	Lithuania (NCC)	O: Dalius Kontrimavičius
Croatia (HERA)	M: Tomislav Jureković A: Sonja Tomašić Škevin	Luxemburg (ILR)	M: Camille Hierzig
Cyprus (CERA)	A: Alkis Philippou	Malta ( REWS)	A: Phyllis Micallef
Czech Republic (ERO)	M: Martin Sik O: Kateřina Firlová	Netherlands (ACM)	A: Remko Bos O: Maarten Klijn
Denmark (DERA)	O: Henrik Gommesen	Poland (URE)	A: Małgorzata Kozak
Estonia (ECA)	A: Külli Haab	Portugal (ERSE)	M: Alexandre Santos A: Artur Trindade
Finland (EV)	M: Simo Nurmi	Romania (ANRE)	O: Florin Tobescu
France (CRE)	A: Helene Gassin O: Camille Hubac O: Amélie Gravier	Slovakia (RONI)	Excused
Germany (BNetzA)	A: Annegret Groebel O: Martin Mueller	Slovenia (AGEN-RS)	M: Bojan Kuzmic
Greece (RAE)	excused	Spain (CNMC)	M: Fernando Hernández O: Gema Rico
Hungary (HEA)	A: Attila Nyikos O: Adam Krinszki	Sweden (Ei)	M: Anne Vadasz Nilsson
Ireland (CER)	M: Garrett Blaney	United Kingdom (Ofgem)	M: John Mogg (BoR Chair) O: Mark Copley

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

ACER	Alberto Pototschnig, Christophe Gence Creux, Fay Geitona, Sean Hennity
European Commission	Klaus-Dieter Borchardt, Oliver Koch, Adriano Addis, Marie-Christine Jalabert
CEER	Andrew Ebrill

**MEETING CONCLUSIONS SUMMARY**

1. *The minutes from the 59th BoR meeting were approved, as was the agenda for the 60th meeting.*
2. *The Director provided an update on the recent work of the Agency and its recent publications. He informed the BoR about his appearance with the BoR Chair at the Energy Working Party (EWP) of the Council to update on ACER activities and budgetary challenges. An ACER Contact Group of the EP's ITRE committee will be also held on 12 October.*
3. *Mr Klaus-Dieter Borchardt provided an update on the ongoing work of the EC on the new energy market design proposals expected to be adopted on 7 December.*
4. *The Director presented the key findings and recommendations of the Market Monitoring Report and the 'consumer protection and empowerment' and 'retail markets' volumes to the BoR. He informed the BoR that a presentation of the report at the European Parliament ITRE Committee and a launch event are scheduled for 9 November. The publication is also planned for the same day. Some members raised concerns about recommendation 24 on the retail market chapter which relates to the recovery of costs from RES support schemes. Members were concerned about the proposed text. The Director will consider improvements on the text but he noted the need to convey clearly the message perhaps in a different form.*
5. *The BoR Chair informed the BoR of the proposal to organise a joint ACER and CEER conference that is currently being planned to discuss the key issues and regulatory challenges emerging from the new context set by the EC's proposals on the new energy market design. This event will be held on Monday 23 and 24 January 2017 in Brussels.*
6. *The Director presented the draft outline of the ACER Work Programme 2018. This focuses on implementation and adoption of the Network Codes, Gas Regional initiatives, REMIT and work related to the Guidelines for Trans-European Energy Infrastructure. On 17 October 2016 the draft outline will be presented at a workshop in Ljubljana. Members and the EC noted the importance of prioritising the key areas for 2018 (e.g. codes implementation, REMIT) against the limited resources available.*

7. *The Director provided a short update on the 34th ECRB meeting held in Athens on September 28th. The Chair encouraged the ENC to benefit from sharing the knowhow and information from EU Regulators themselves. The Director noted that the ACER involvement in the ENC is mainly based on what is required by the legislation and is not intended to duplicate any CEER activities.*
8. *Mr Trindade provided an update on the ongoing work of the AGWG. He informed the BoR that the Gas Committee gave their favourable opinion to the Network Code on Harmonised Transmission Tariff Structures for Gas; on the postponement of the discussion on the CAM amendment scheduled for 13 October and reported back the results from the call for evidence on the 'congestion indicators' included in the Guidelines on the CMP.*
9. *Mr Trindade and the EC reported on the conclusions of the last Madrid Forum held on 6/7 October which consisted of two key parts on the overall gas demand and strategy and on a more technical issues part, including on codes implementation. The (limited) implications of the new energy market design proposals on gas were also discussed.*
10. *The Director presented the 1st CAM implementation Monitoring Report which covers the information on the implementation status of the CAM network code and a first assessment of the CAM network code specific market monitoring indicators. Final BoR comments on the report can be submitted by 12 October and publication of the report is envisaged by mid-October. Some NRAs (AEEGSI, ACM, NCC and HERA) provided comments. The Director asked those to be submitted in a written form by 14 October.*
11. *The Director also presented the 1st report on the implementation on the Balancing Network code. It assesses the implementation of the national policies regarding gas balancing against the provisions of the EU Network Code on Gas Balancing of Transmission Network. Members made specific comments and additional comments are to be submitted by 14 October to the Director. In parallel, technical comments have been submitted during the AGWG online procedure. A key comment was the need to separate the issues related to the compliance with the code from the assessment of its effectiveness in respect of the overall functioning of the market. On the latter and the overall methodology for monitoring of the code used for the future reports, it was proposed to have a broader discussion with proper consultation of NRAs.*
12. *The ACER Opinion on the ENTSO-G 2017 Annual Work Programme was given the favourable opinion of the BoR (by consensus of the members present or represented).*
13. *Mr Locquet provided an update on the ongoing work of the AIMP WG and its Task Forces. In particular, he informed the BoR on the launch of the discussion (in November) on the process for the next MMR and the Legal Workshop with ACER – probably postponed to March 2017, to be held in Ljubljana.*
14. *The BoR discussed the the involvement of the BoR in the adoption process for the acts of the Agency on the basis of a note prepared by the PWS.*

15. *The BoR discussed the draft note requesting the EC to provide clarification on the relevant provisions with regard to the BoR involvement in the adoption of the Agency's acts (and reports) considered for adoption. The Chair will use this note as a basis for finalising his letter to the EC which will be circulated for a short round of comments to the PWS.*

16. *Mr Hernandez provided an update on the ongoing work of the AEWG and the EC updated on the latest progress on network codes discussions and adoption in Comitology. The System Operation Guidelines translations will be finalised within the next 2 months, following which the scrutiny procedure of the EP will start. The vote on the emergency and restoration code is planned for 23 October. The EC will launch the inter-service consultation on balancing guideline and probably have only 2 formal meetings of the cross border committee.*

17. *The Director presented to the BoR the draft Recommendation on cross border capacity calculation methodologies which has now been revised. It proposes three High-Level Principles that should be followed by TSOs when developing their CCMs. The BoR had an orientation discussion and there were diverging views with regard to the 2<sup>nd</sup> high level principle and the elimination of the 2<sup>nd</sup> option about the minimum level of allowance of the loop flows including on how much the proposed rules reflect reality. The Director indicated that each high level principle allows for derogation as long as these are justified. The discussion will be pursued at the next AEWG, following which the Recommendation will be finalised for submission to the November BoR for an opinion.*

18. *The Director presented the draft decision on all TSO's proposal on the CCRs. Following the first round of comments a revised version was circulated to NRAs and TSOs on 15 September for another round of discussions, which closed on 7 October. Mr Gence-Creux reported on the key feedback received. The BoR had an orientation debate. There was strong concerns by E-Control that the decision pre-empts the bidding zone review study and process and on the lack of the legal basis for the definition of new borders through the CCR decision. The Lithuanian NRA also opposed the draft decision. The Hungarian NRA supported the draft decision. Other members did not express their position. The EC noted they are keen on a stronger statement that the decision does not pre-empt the bidding zone review process. The ACER decision has to be issued by 17 November and, therefore, will be submitted to the November BoR for an opinion.*

19. *Mr Zuleger presented the latest update on ARIS implementation and operational and market monitoring activities. He saw major challenges principally due to resource constraints and procurement problems. The Chair concluded that the debate should continue at the next meeting based on a more detailed note. He will consider the framework for the debate after consulting the Director and the AMIT WG Chair. At the next extraordinary meeting of the AB, on 18 October, the problems will be brought to its attention with a view to considering its next steps more fully.*

20. *The AMIT WG Chair provided an update on the REMIT implementation in Member States (including on enforcement powers and resources).*

21. *The REMIT Market Monitoring Strategy will be presented at the forthcoming BoR meeting given the lack of time.*

22. *The Monitoring Report on 2015 ITC implementation was circulated for information. The BoR took note of the report.*

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

### 1. Opening

#### 1.1. Approval of the agenda

*BoR Decision agreed: (D 1)*

*The agenda was approved.*

#### 1.2. Approval of the minutes of the 59<sup>th</sup> BoR meeting

*BoR Decision agreed: (D 2)*

*The 59<sup>th</sup> BoR minutes were approved.*

### 2. Update from the Director

#### 2.1. Update on recent developments

##### - **ACER**

The Director reported that after the BoR meeting there will be a public debrief and an EP's ITRE ACER contact Group meeting. He also informed the BoR that the Administrative Board has scheduled an extraordinary meeting on 18 October on the appointment of the members of the Board of Appeal.

ACER invited stakeholders to discuss Market Monitoring findings on wholesale electricity and gas markets. The workshop was held on 21 September in Ljubljana and was successful; with around 50 attendees.

On 11 October a presentation at the Energy Council Working Party was made on ACER activities and budgetary challenges by the Director and the BoR Chair.

A presentation of the report at the EP ITRE Committee is scheduled on 9 November and a launch event in Brussels at 10.00-12.30 at the CEER premises.

The Agency published on 21 September the updated report on gas congestion management procedures and on 28 September its 2017 Work Programme.

##### - **EC**

Mr Borchardt reported on the preparations for the new energy market design proposals on Wednesday 7 December.

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

#### **3.1. Market Monitoring Report**

The Director presented the key finding/recommendations of the MMR and more specifically, of the retail markets volume, the consumer empowerment volume and the main report. He commented that the process has worked well and it will be worth drawing lessons from this year. Mr Locquet also reported that he is pleased with the new process implemented as well as with the good coordination and collaboration with the ACER team.

The BoR discussed in particular the Recommendation 24 the recovery of costs from RES support schemes which raised concerns. The Director will consider improvements on the text but he noted the need to convey clearly the message perhaps in a different form.

#### **3.2. Joint ACER-CEER event on the Winter Package**

The Chair informed the BoR about the planned ACER and CEER conference to discuss key issues and regulatory challenges emerging from the new context set by the European Commission's proposals on the new energy market design. The Chair noted that the purpose of the conference is to provide an opportunity to understand the EC proposals, listen to stakeholders, and present ongoing key work of energy regulators related to the new energy market design proposals. Joint positions will be developed in a longer time frame, where possible.

Mr Borchardt strongly welcomed the idea for a conference to be held early after the release of the EC proposals. He remarked the success of the "Bridge to 2025" in framing the discussion on those issues. It makes sense that European Regulators are first and set the tone before the interinstitutional debates starts. The EC will certainly be present at the event and will also provide logistical support.

#### **3.3. Single Programming Document – 2018 Work Programme Outline**

The Director presented the draft outline of the tasks the Agency plans to perform in 2018. The content of this draft outline will serve as the basis for the preparation of the 2018 AWP that the Director will submit to the European Commission, as part of the Single Programming Document (SPD), by 31 January 2017. This was discussed at a conference call with AWG Chairs. The key areas of work result from ACER's mandate. The outline will be presented next week, on 17 October, in a workshop to Ljubljana and input from stakeholders will be sought until 18 November. In November we expect to present a draft estimate of income and expenditure. In December the Programming document will be presented to the BoR which will also have the opportunity to comment on the budget.

The Director referred to the reference in page 1 of the draft outline where it is noted that the ability of the Agency to perform the activities which will be listed in the 2018 WP will depend on the actual subsidy to the Agency from the EU Budget, and therefore, the resources actually available to the Agency in 2018. These will not be defined until the EU Budget is adopted by the Budgetary Authority.

Mr Borchardt strongly supported the need to set priorities. In his view, this is not only linked to resources but to the overall strategic priorities for each year and it is absolutely vital. The implementation of codes and REMIT should be the focal point of ACER work and this should be clearly indicated in the outline. The areas of activities should be then aligned to the resources available.

The Chair suggested reflecting further on possible actions (including possible guidance) from the BoR on this issue.

### 3.4. Update on the ECRB Plenary meeting

The Director presented the key points from the 34th ECRB meeting, in Athens, on 28<sup>th</sup> September to which Mr Hesselting participated. The Secretariat will propose to the Ministerial meeting in October to have automatic reciprocity for network codes implementation. Regarding the ECRB Working Groups, several work streams have clear links to the Agency's work, in particular regarding the Market Monitoring Report (MMR). The representatives looked forward to the Agency's MMR 2017 covering also (under certain conditions) EnC contracting parties.

The Director also reported on the current discussion with the ENC Secretariat for participation of the ENC at the AWGs. For the contracting parties of the ENC, ACER will seek the assistance of the ENC Secretariat for the assessment of whether they are close to implement the EC acquis. The Director is confident that the MoU with the ENC Secretariat will be signed by the end of the year.

Ms Fauconnier, noted that the CEER GA adapted their international cooperation strategy. She would like to avoid any duplication of work and to ensure coherence.

The Chair encouraged the ENC to benefit from sharing the knowhow and information from EU Regulators themselves. The Director noted that the ACER involvement in the ENC is mainly based on what is required by the legislation and is not intended to duplicate any CEER activities.

## 4. Gas

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

Mr Trindade provided an update on the Gas Working Group's ongoing activities. The most recent AGWG meeting took place on 28 September. He informed the BoR that on 30 September, the Member States of the Gas Committee gave their favourable opinion to the network code on Harmonised Transmission Tariff Structures for Gas. Comments in reference to the translation of the code have been circulated to ensure that the final language versions meet all expectations. The vote on the CAM network code amendment is postponed to 13-14 October.

Ms Gassin sought some clarifications on the e-survey that ACER has commissioned to Kantor Management Consultants on barriers in wholesale gas markets in the European Union. This study having not been discussed in the AGWG, is it intended that the findings will be included in ACER's next edition of the MMR, even in case of de-priorisation?



The Director confirmed that this is the intention as well as including the results of the assessment of compliance with the GTM.

#### 4.2. Report on the Madrid Forum (6-7 October)

Mr Borchardt gave a short update on the Madrid Forum conclusions that was held on Thursday 6 and Friday 7 October. He acknowledged the success that nearly all of the gas network codes had gone through to implementation, with only one small amendment to the CAM Network Code pending. He stated that during the Madrid Forum he asked stakeholders to outline any concerns or need to reform the gas market design or future development. Unanimously across the board, stakeholders agreed there was no need to reform substantially the gas market design and the gas sector right now. But there will be some implications for gas following new developments in electricity market design on institutional issues (codes process will be revised for both electricity and gas). However, for other issues any possible revisions in the Gas Directive in the second quarter of 2017 will be subject to an impact assessment. On the work on making the CEN standard EN 16726 legally binding, the Commission announced not to pursue legally binding provisions on this matter at this stage. The Forum invited ENTSOG to finalise its assessment of the effects of the inclusion of the CEN Standard EN 16726 into the network code on Interoperability and Data Exchange Rules by the end of 2016. CEN will carry on the work on finding an agreement on a band for the Wobbe Index, elaborating on the possibility of regional bands, to be included in an updated CEN standard while ensuring the integrity of the existing standard and calls on market participants to be constructively engaged in this process. The Commission will reconsider further harmonisation activities in light of the outcome of the CEN revision work.

Mr Trindade stated that ACER and CEER made 7 presentations at the Forum. The main message was the regulatory stability in the gas sector. He recognised that network code implementation may take some time, but it is progressing well. There was consensus on the future role of gas.

The Chair acknowledged that the challenges that ENTSO-E face are tougher than those of ENTSOG. He also commented that over recent years, the Forum has become very useful and increasingly authoritative for undertaking such discussions.

#### 4.3. 1<sup>st</sup> CAM implementation Monitoring Report

The Director presented the key conclusions and recommendations of the report pursuant to Article 9(1) of the Gas Regulation. This report assesses the implementation status of the specific CAM network code provisions across the EU Member States, and also provides a first assessment of the network code CAM specific market monitoring indicators. It seems that the CAM code implementation is well on track on core requirements but full implementation is still outstanding. There is a good overall level of NC CAM implementation in the EU (on average 80%). The maximisation of firm capacity offers via “dynamic recalculation of technical capacity” shall be improved. The CAM code indicators show limited effects so far. The indicators do not, therefore, allow drawing definite conclusions on possible NC CAM effects and the effectiveness of its provisions. Lastly, the ENTSOG’s Transparency Platform transport data availability and quality must be improved.

The Director took note of the comments which he also asked to be sent in written form by 14 October so that he could consider them.

#### 4.4. 1st report on the implementation on the BAL Network Code

The Director presented the report which was also circulated in parallel to the AGWG for electronic procedure by 10 October. This report covers the implementation of the Balancing Network Code.

The Director presented the key conclusions from the draft report:

- Interpretations of the code do not take account its spirit which is to deliver functioning short term wholesale markets. Thus, the terminology of the code is not used consistently across the EU Member states. The varying interpretations lead to inconsistent national implementations.
- The implementation optionality was intended to reflect local constraints, but the options have triggered additional inconsistencies and delays. Major delays mainly apply to the countries opting for interim and transitory measures, with the exception of Poland.
- Full implementation is not yet achieved and will require further effort across EU. While the challenge is greater for countries that have not yet enabled short term markets, most countries could improve their regimes to achieve the best possible outcomes for network users.

The report recommends:

- Communication must be improved within countries. Stakeholders and regulators must regularly assess the progress made in implementing the Network Code.
- It is necessary to improve knowledge sharing and dialogue across EU. Best practices in creating liquid markets must be shared across.
- The Commission may consider taking enforcement actions in the coming years.

The members provided specific comments on the report and the methodology including the need to separate the issues related to the compliance with the code from the assessment of its effectiveness for the overall functioning of the market. On the latter and the overall methodology for monitoring of the code used for the future reports, it was proposed to have a broader discussion with proper consultation of NRAs.

The Director suggested that this code was different because of the optionality provided has to be assessed against the overall functioning of the gas market. To ensure transparency he asked for any further comments to be sent to him by Friday 14 October.

#### 4.5. ACER Opinion on the ENTSOG Annual Work Programme 2017

The Director presented the key points of the draft ACER opinion on ENTSOG Work Programme. These include the importance of ENTSOG's implementation of the Agency's recommendations regarding the Transparency Platform; the request to ENTSOG to coordinate its data and transparency-related work closer with the relevant areas of activity of the Agency, including data quality checks; the balance between the activities foreseen in the network codes area and other important activities; the ENTSOG spirit of cooperation with neighbouring countries, and that the participation of third countries as observers in ENTSOG is growing.

*The BoR provided its favourable opinion by consensus of the members present or represented.*

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

### **5.1. Update on work by the AIMP WG**

The AIMP Chair provided an update on the Working Group's ongoing activities. The latest AIMP WG meeting was held on 27 September. Mr Locquet informed the BoR of the 2017 MMR process which re-starts on 14/15 November. He also stated that the legal workshop with NRAs has been postponed to February/March time, depending on speaker confirmation.

The Director regretfully informed the BoR that due to resource constraints the Market Monitoring Report may be de-prioritised as an ACER task. The 2017 and 2018 MMR may have different shape to previous years and be less extensive if the appropriate resources are not provided.

### **5.2. PWS feedback on the request to the Commission (on the BoR acts considered for adoption) and the treatment of the reports**

Mr Locquet presented the PWS papers. On the issue of the reports, the PWS was invited to provide a report on the legal position on the treatment of reports in terms of requiring a BoR opinion. This conclusion was shared by all members.

The Director does not, therefore, share the conclusion of the note prepared by the PWS.

Mr Borchardt clarified that there is no need to attach the PWS position as this information is available to the EC from the meeting folders and in any case there will be an accompanying note from DG ENER to the legal service providing all the information.

Mr Borchardt expected to receive a legal opinion early next year. The Commission's legal service is now very busy with the Winter Package.

The Director reiterated the need for fruitful cooperation which goes beyond the legal requirements and this practice has been implemented vigorously over the last years (there have been extensive discussion and orientation debates even where those are not foreseen in the rules). However, the discussion was initiated by some BoR members who raised this legal issue.

The Chair will finalise the letter on the basis of the PWS note and circulate for a short round of comments to the PWS before sending it to the EC.

## **6. Electricity**

### **6.1. Update on NC implementation and other work**

Mr Hernandez gave a short update on the status of the Network Codes.

Mr Borchardt mentioned that the System Operation Guidelines translations are being finalised in all languages. He proposed that NRAs assist with the translations if necessary. Once the translations are finalised over the next two months the Guidelines will be sent to

the EP for scrutiny. The Emergency Restoration Code will be voted on, on 24-25 October. Mr Borchardt is hoping for a positive vote.

#### 6.2. ACER Recommendation on cross border capacity calculation methodologies.

Mr Gence-Creux presented the draft Recommendation. It sets out three High-Level Principles to apply to capacity calculation and cost sharing for re-dispatch and counter-trading – areas to be proposed and approved under the CACM and FCA regulations. The revised recommendation was circulated for discussion at the BoR and, in parallel, it would be discussed extensively at the next AEWG meeting. Despite some changes, in substance the high level principles remain the same. They might have far reaching impact on the market integration progress, including the real-time operation of the system, the way TSOs invest in the network. It may also give incentives to Member States to better coordinate their energy policy.

The BoR had an orientation discussion and there were diverging views with regard to the 2nd high level principle and the elimination of the 2nd option about the minimum level of allowance of the loop flows including on how much the proposed rules reflect reality. The Director indicated that each high level principle allows for derogations as long as these are justified. The discussion will be pursued at the next AEWG, following which the Recommendation will be finalised for submission to the November BoR for an opinion.

#### 6.3. ACER draft Decision on all TSOs proposal on the Capacity Calculation Regions

The Director presented the draft decision. He stated that this does not prejudice the process for bidding zone review and if that leads to a different configuration the ACER decision must also be reviewed. There are, however, some pressing problems that need to be addressed and we cannot stop the implementation of the network code.

Mr Gence-Creux presented the feedback received during the 2<sup>nd</sup> consultation on the draft decision.

- ENTSO-E want to clarify the possible impact of the merger of the Central West Europe (CWE) and the CEE regions on regional projects. The Director proposes to address this comment by clarifying in the decision that the existence of regional projects is compatible with the CACM Regulation which allows for flexibility. Ongoing regional projects should also help to speed up the development of the common methodology.
- E-Control raised the issue that the CCR process is not the right legal framework to decide the bidding zones borders. The Director disagrees. In his view, the bidding zone review process of the CACM Regulation has not been set as a prerequisite for the inclusion of a bidding zone border in the common proposal for CCRs; the bidding zone borders should be defined first in the common proposal for CCRs. E-Control asked that the bidding zone border between Germany/Luxembourg and Austria be removed. Mr Gence-Creux considered that there were strong arguments stated in the draft Opinion against that. The inclusion of the border in the CCR decision does in his view not preclude a more ambitious approach in the bidding zone review process. If its final outcome is different, then the Director would be fine to revise the CCR decision to make it consistent with the final outcome of the bidding process.

- Regarding the focus on historical data, the Director considers that it is taking into account recent and future developments, in this decision. In his view, installation of the phase shifter is a short term solution it will not solve the problem.

He stated that the final version of the draft decision will be submitted to the Director on Friday and following its review by the Director it will be made available to the AEWG possibly on 17 October.

The BoR had an orientation debate. There were strong concerns by E-Control that the decision pre-empts the bidding zone review study and process and on the lack of the legal basis for the definition of new borders through the CCR decision. Furthermore, E-Control objects to Annex III which does not take into account the recent network configuration.

The Lithuanian NRA also objected to the draft decision. The Hungarian NRA supported the draft decision. Other BoR members did not express a position.

The Director clarified that this decision will be without prejudice to the bidding zone review process. However, the decision has to define bidding zones at the moment. Capacity at some borders disappears, and we cannot wait until the bidding zone review process ends to address this issue.

The EC noted that a review of the bidding zones is currently ongoing, but this does not preclude the CCR decision to include existing and further border, as long as it is clearly stated that this is without prejudice to the outcome of the review.

The final version of the decision will be discussed by NRAs at the AEWG meeting of 20 October.

After the AEWG meeting, the final version will be sent to the BoR for a favourable opinion in November.

## **7. Market Integrity and Transparency**

### **7.1. REMIT implementation & operation**

Mr Zuleger provided a status update on REMIT implementation and operation.

He informed the BoR that all the core milestones to data collection have been met. The remaining REMIT implementation activities (dependent on the available budget) are:

- Collection of EMIR derivatives and emission allowances in 2017;
- Review of the XML schemas foreseen for 2017 to be implemented by early 2018;
- Sample transaction data requests for market participants from ARIS in order to verify completeness, accuracy and timeliness of data submission to the Agency: Depending on available budget, currently unlikely to be available before 2018;
- Publication of aggregated REMIT information for transparency reasons: Depending on available budget, currently unlikely to be available before 2018;
- Improvement of the market participant registration form and improvements of CEREMP: IT implementation postponed to 2018 for budgetary reasons.

Data collection is very stable and there has been no further inconsistencies observed in the data processing flow after the maintenance release at the end of December 2015. Market surveillance solution is a work in progress. Data sharing with NRAs is underway. There has been excellent cooperation with NRAs on data sharing and data quality with weekly phone calls to address remaining issues.

With regard to RRM, Mr Zuleger informed the BoR that there have been 107 approved and he updated the BoR on the pending applications. He noted that in the financial statement from the Commission, the envisaged number of RRM was 200. The system that we currently have is meant to handle the Commission's proposals, however we have 7 times the foreseen volume while we cannot upgrade due to budgetary constraints. There was the recommendation in the Annual Report to have fees for REMIT IT, but these have not yet been implemented and unlikely will be until at least 2020/21.

Currently there has been more than 1.1m records reported per day and 35.2m recorded in September. 8624 Market Participants for which data has been reported. In terms of market monitoring, in previous years, there have been 24 breaches in 2016. We are expecting to hit 60 breaches this year.

The Chair concluded that it was necessary to have a further debate over a longer period of time on the basis of well-prepared evidence and arguments. He will consider more fully the right framework to do so with the Director and the AMIT WG Chair. We need to present the correct arguments to the institutions and the AB. At the next extraordinary meeting of the AB, on 18 October, the problems will be brought to its attention with a view to considering its next steps more fully.

## 7.2. REMIT Market Monitoring Strategy

This item was postponed to the November meeting due to time restraints.

## **8. Infrastructure Challenge**

### 8.1. Monitoring report on 2015 ITC implementation

The BoR took note of the report. There were no comments.