

**ANNUAL ACTIVITY REPORT OF 2012 OF THE  
AGENCY FOR COOPERATION OF ENERGY  
REGULATORS**

LJUBLJANA, JUNE 2013

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# FOREWORD BY DIRECTOR

To be completed

## INTRODUCTION

# INTRODUCTION TO THE AGENCY

## Mission

Regulation (EC) No 713/2009 established the European Agency for the Cooperation of Energy Regulators, assigning it a key role in the process for completing the Internal Energy Market (IEM) for electricity and natural gas. The Agency became officially operational on 3 March 2011, at the same time as the Third Package of Legislative Measures on Energy (hereafter referred to as the 'Third Package') entered into force. The Agency has its seat in Ljubljana, Slovenia.

The mission of the Agency, as defined in Regulation (EC) No 713/2009, is to assist the National Regulatory Authorities for energy (NRAs) in exercising, at European Union (EU) level, the regulatory tasks performed in the Member States and, where necessary, to coordinate their actions.

The Agency was therefore established to fill the regulatory gap at EU level (beyond and across national borders) and to contribute towards the effective functioning of the IEM in electricity and natural gas.

In this respect the Agency:

- complements and coordinates the work of NRAs;
- participates in the establishment of the cross-border market and network rules, and in the planning for the development of the European networks;
- takes, under certain conditions, individual binding decisions on terms and conditions for access to and operational security of cross border infrastructure and on exemption requests;
- gives advice on electricity- and natural gas-related issues to other European institutions, upon their demand or on its own initiative;
- monitors the internal markets in electricity and natural gas and reports on its findings.

The range and nature of tasks assigned to the Agency have been further extended by Regulation (EU) No 1227/2011 on wholesale energy market integrity and transparency

(REMIT). REMIT introduces a sector-specific framework for the monitoring of wholesale energy markets, so as to detect and deter market abuse.

In this framework, the Agency is responsible for collecting and analysing data on wholesale energy market transactions and other relevant data to identify possible instances of market manipulation, attempted market manipulation or insider trading. Following its initial assessment, the Agency should notify the concerned NRA(s) when there is ground to believe that abusive behaviour has occurred.

The new activities to be performed by the Agency under REMIT are important in promoting market integrity and transparency, which are essential for well-functioning energy markets and for promoting the confidence of market participants and final consumers. They are also complex, because they deal with complex traded products and markets, and delicate because monitoring should be conducted in a vigilant manner, but without unduly interfering with the operation of energy markets.

Finally, the new Regulation (EU) No 347/2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC (the "TEN-E Regulation") introduces a new and enhanced regulatory framework for the development of EU energy infrastructure, centred on the identification of Projects of Common Interest (PCIs). PCIs will benefit from a streamlined permitting procedure and regulatory framework and, possibly, financial support. Although the Agency is already involved in the process of European energy network planning, through its opinions on the TYNDPs, the new Regulation assigns important new tasks to it in the enhanced infrastructure development framework. In particular, the Agency will be responsible for:

- assisting the NRAs in assessing criteria, costs and benefits, and the cross border relevance of PCIs within a region and in presenting such an assessment to the Regional Groups;
- providing opinions (within three months) on the draft regional (electricity and gas) PCI lists and on the consistent application of the criteria and the cost-benefit analysis across regions;
- providing opinions to the Commission and the Member States on the methodologies for a harmonised energy system-wide CBA at Union-wide level proposed by the ENTSOs;
- monitoring the implementation of PCIs;
- taking decisions on the investment requests of PCI promoters, including cross-border cost allocation, upon specific conditions;

- facilitating the sharing of good practices and providing recommendations on incentives and a common methodology to evaluate the higher risks of investments in electricity and gas transmission.

The new activities performed under TEN-E Regulation are aimed at promoting the efficient and timely development of energy networks in priority corridors and areas.

## Organisation

The Agency comprises four bodies:

- the Administrative Board;
- the Board of Regulators;
- the Director;
- the Board of Appeal.

The Administrative Board (AB) is composed of nine members, each of them having an alternate, five of whom are appointed by the Council of the EU, two by the European Commission and two by the European Parliament, and is charged with the administrative governance of the Agency. The AB is responsible for ensuring that the Agency carries out its mission and performs the tasks assigned to it.

The AB's specific responsibilities include the formal appointment of the other bodies of the Agency, the adoption of the budget and of the Implementing Rules required for the functioning of the Agency and the formal adoption of the Agency's work programme approved the Board of Regulators and after consulting the Commission.

The AB typically meets on a quarterly basis. On 13 March 2012 Messrs Piotr Woźniak and Razvan Nicolescu were reappointed as AB Chair and Vice-Chair, respectively, for a further period of 2 years.

The Board of Regulators (BoR) consists of senior representatives of the NRAs, one for each Member State, and one non-voting representative of the European Commission. Each NRA also nominates an alternate. The BoR plays an important role with regard to the regulatory tasks of the Agency, such as approving the Work Programme proposed by the Director.

Similarly, the Agency's acts under the Third Package and the opinion on the regional PCI lists under the TEN-E Regulation are subject to the favourable opinion of the BoR before their adoption and publication by the Director. In addition, the BoR, within its field of competence, can provide guidance to the Director.

The BoR also provides an opinion to the Administrative Board on the candidate to be appointed as Director, and is consulted by the European Commission on the proposal of the members of the Board of Appeal.

The BoR usually meets on a monthly basis. In November 2012 Lord Mogg and Mr Walter Boltz were reappointed as BoR Chair and Vice-Chair, respectively, for a further period of 2 ½ years.

The Director is responsible for representing the Agency and is in charge of its management.

More specifically, the Director is responsible for:

- preparing the work of the AB;
- adopting and publishing the opinions, recommendations, decisions and, in general, the acts of the Agency. In the case of the opinions, recommendations and decisions which the Agency delivers under the Third Package and the opinions of the regional PCI lists, the favourable opinion of the BoR is required before their adoption;
- implementing the Agency's annual work programme, under the guidance of the BoR and under the administrative control of the AB;
- taking the necessary measures, notably as regards adopting internal administrative instructions and publishing notices, to ensure the functioning of the Agency;
- preparing, every year, a draft work programme of the Agency for the following year, for submission to the BoR, the European Parliament and the European Commission, by 30 June of that year;
- drawing up the Agency's preliminary draft budget and implementing the Agency's budget;
- preparing, each year, a draft annual report with an independent section on the regulatory activities of the Agency and a section on financial and administrative matters.

Mr Alberto Pototschnig was appointed as the first Director of the Agency and took office

on 16 September 2010. His term of office is five years.

The Board of Appeal (BoA) is part of the Agency, but is independent of its administrative and regulatory structure. The BoA is responsible for considering appeals, lodged by any natural or legal person, including NRAs, against an individual decision taken by the Agency. The decisions of the BoA may themselves be subject to appeal before the Court of Justice of the European Union.

The six members and six alternates of the BoA were appointed by the AB on 22 September 2011 for a term of office of five years, renewable. Members and alternates of the BoA were selected from among current and former senior staff of NRAs or other national or EU institutions with relevant experience in the energy sector, upon a proposal from the Commission following the publication of a call for interest.

The first meeting of the BoA took place on 1 December 2011, at which it appointed its Chair and Vice-Chair - Prof. Pippo Ranci Ortigosa and Prof. Herbert Ungerer, respectively - and adopted its rules of procedure. The BoA did not meet in 2012.

Since 1 October 2012 the Agency's staff is organised in five departments: the Director's Office, the Electricity Department, the Gas Department, the Market Monitoring Department and the Administration Department.

## **Main Institutional Engagements in 2012**

- The first ACER Annual conference "Making the Internal Energy Market a Reality – Which Role for ACER?" took place on 14 March in Ljubljana. More than 200 participants attended.
- The Director, the Chair and the Vice-Chair of the BoR and staff members participated in the Madrid Forum meetings on 22-23 March and 2-3 October.
- The Director and the Chairs of the AB and BoR attended the World Forum of Energy Regulation in Quebec City on 14-16 May.
- The Director, the Chair and the Vice-Chair of the BoR and staff members participated in the Florence Forum meetings on 22-23 May and on 20-21 November.
- The Director and the BoR Chair made a presentation of the Agency's 2013 work programme outline in front of the ITRE Committee of the European Parliament on 31 May and an ITRE Committee delegation visited ACER on 30-31 August.

- The Director met with Commissioner Oettinger on 27 June.
- A meeting with ElCom, the National Electricity Regulatory Authority of Switzerland took place on 12 July in Geneva.
- The first visit of the Court of Auditors took place on 16-20 March 2012.
- The first visit of the Internal Audit Service took place on 6-11 January 2012.

## **PART I. POLICY ACHIEVEMENTS OF THE YEAR**

This section provides a report of the Agency's regulatory activities in 2012 in fulfilling its mission under Regulation (EC) No 713/2009 and the other provisions of the Third Package. It also reports on the activities for the implementation of REMIT, which entered into force on 28 December 2011, and for the early implementation of the TEN-E Regulation.

This is the independent section referred to in Article 15(4) of Regulation (EC) No 713/2009, approved by the BoR. It is structured as follows:

- Statement of the BoR Chair;
- Chapter 1 illustrates the Agency's activities in 2012 which are related to the development of framework guidelines and network codes;
- Chapter 2 illustrates the Agency's activities in 2012 which related to the Regional Initiatives;
- Chapter 3 illustrates the Agency's activities in 2012 related to other tasks of the ENTSOs;
- Chapter 4 illustrates the involvement of stakeholders and the engagement of NRAs in the Agency's activities.
- Chapter 5 provides an assessment of the results obtained by the Agency in 2012 with respect to its Work Programme of the same year.

## Statement of the Chair of the Board of Regulators, Lord Mogg



Throughout this year we have continued and intensified our efforts and commitment to deliver the core European rules that will form the basis of an effective European internal energy market in 2014. We have also undertaken substantial preparatory work for establishing the foundations for the future monitoring of the transparency of wholesale markets under REMIT and to work “as if” the TEN-E Regulation were adopted.

The European Council has highlighted the importance of meeting the 2014 deadline for the completion of the Union’s internal energy market. Delivery of the Framework Guidelines and Network codes are at the heart of this challenging obligation and the Agency has devoted most of its resources to their achievement.

A. This challenge during 2012 has indeed been enormous. In its preparatory work leading to adoption of the network codes the Agency has marked some significant results:

The reasoned opinions on the electricity network code on Requirements for Generators; the network code on electricity Capacity Allocation and Congestion Management; the Framework Guidelines on Electricity Balancing and on Interoperability; the data exchange rules for European Gas Transmission Networks, the consultation on the Framework Guidelines on Harmonised Gas Tariff Structures and the Opinion and Recommendation to the Commission on the Capacity Allocation for European Gas Transmission Networks network code. It is worth noting the important role played by ACER’s Regional Initiatives to the early implementation of some of these network codes by their practical application.

B. Regulatory cooperation between the National regulatory Authorities and the Agency is of particular importance given the increasing integration of energy markets which reinforces the need for regulatory scrutiny at both national and European level in a co-ordinated way. The growing volumes of the Agency’s and NRAs’ activities require continuous information exchange between them on each area of work and on issues of common interest. To meet these increased demands, in 2012, two more Agency’s Working Groups (AWGs) have been established: the Market Integrity and Transparency WG (AMIT) undertook preparatory work on REMIT; and the Implementation, Monitoring

and Procedures WG (AIMPWG) which assists the Agency in fulfilling its monitoring tasks under the Regulation as well as developing the appropriate processes.

C. These Working Groups form the backbone of the Agency's work and on all these areas national regulatory authorities (NRAs) make a major and essential contribution through their active participation in these Groups.

D. The Agency has also been asked to take on a key role in the policy relating to wholesale energy markets monitoring under REMIT Regulation. Its prohibitions for market manipulation, attempted market manipulation and insider trading took effect immediately (as from its entry into force in 28 December 2011). The work during the first implementation stage, which started upon the entry into force of REMIT, has allowed us to ensure that the Agency is ready to shift to the operational stage, after the adoption by the European Commission of the Implementing Acts. All the tasks undertaken in 2012 (2nd edition of the ACER guidance on the application of REMIT definitions, the ACER decision on the registration format, and ACER Recommendations on the record of transactions) have been the result of intense preparations under the newly established AMIT Working Group.

As the European Council has recently confirmed, an interconnected energy network is an important element in the completion of the European single market. Thus the preparatory work on the new TEN-E Regulation (recently adopted) involved intense preparations by NRAs and the Agency in the process for the selection of projects of common interest (PCI) and participation in the meetings of the regional groups. The NRAs and the Agency have cooperated from the earliest stages to ensure consistency by developing a common basis for the project assessments upon which the initial NRA opinions on PCI candidates were based. In parallel, over the last year, the Agency adopted its opinion on the TYNDP for electricity prepared by ENTSO-E and provided its opinion on the ENTSO-E and ENTSG annual summer and winter outlooks.

In 2012 ACER, in cooperation with CEER published the first joint monitoring report. It reported progress towards the Internal Energy Market with detailed findings on the obstacles it faced and identified what more needs to be done to complete the Internal Energy Market.

We are committed to continue our work in 2013. We have an even more ambitious Work Programme, where its successful completion will be crucial for the completion of the Internal Energy Market that will ensure a level playing field in the wholesale markets

through effective monitoring, and address the challenge of ensuring adequate investment in energy infrastructure. The Agency must continue to play its full role in delivering a fully operational Internal Energy Market. That goal involves all of us: the Agency, the ENTSOs and the Commission, Member States and the European Parliament as well as all stakeholders.

A huge vote of thanks must go to each and every one of the hundreds of people involved in the remarkable programme of work; to the still limited number of the Agency staff, to the NRAs' experts involved in the Working Groups and to Alberto Pototschnig, the Director. Congratulations for all your achievement.

Lord Mogg, Chair of the Board of Regulators

## **1. FRAMEWORK GUIDELINES AND NETWORK CODES**

The Third Package envisages the development and adoption of energy network and market rules, directly applicable and binding across the EU. These rules are included in network codes which are made legally binding via the Regulatory Procedure with Scrutiny (the "Comitology process")<sup>1</sup>. Network codes are drafted by ENTSO-E (for electricity) and ENTSG (for gas) on the basis of the principles and criteria defined by the Agency in framework guidelines.

The areas in which framework guidelines and network codes for electricity and gas may be adopted are listed in Article 8(6) of Regulation (EC) No 714/2009 and in Article 8(6) of Regulation (EC) No 715/2009, respectively. Those areas include: (i) network security and reliability (ii) network connection, (iii) third-party access, (iv) data exchange and settlement, (v) interoperability, (vi) operational procedures in an emergency, (vii) capacity-allocation and congestion-management, (viii) trading with regard to technical and operational provision of network access services and system balancing, (ix) transparency, (x) balancing, including network-related reserve power (electricity), (xi)

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<sup>1</sup> Regulation on implementing powers (Regulation EU no 182/2011 repealing Decision 1999/468/EC)

harmonised transmission tariff structures, and (xii) energy efficiency regarding electricity and gas networks.

The process for the development and adoption of network codes includes:

- the annual identification by the European Commission of the priority areas for the development of network codes. This activity is supported by a Planning Group (which brings together the European Commission, the Agency, ENTSO-E and ENTSG), which prepares and regularly updates a three-year activity plan relating to framework guidelines and network codes (hereafter referred to as the 'three-year plan'), and involves a public consultation of stakeholders;
- on the basis of the annual priority list, the development by the Agency of the (non-binding) framework guidelines following invitations issued by the European Commission. In developing the framework guidelines the Agency widely consults stakeholders through public consultations and workshops. Once adopted, the framework guidelines are submitted to the European Commission, which may request the Agency to review them. Once finalised, the framework guidelines are published on the Agency's website;
- the development of the network codes by ENTSO-E or ENTSG and their submission to the Agency. The network codes are developed following invitations issued by the European Commission and according to the principles, criteria and objectives defined in the corresponding framework guidelines. In developing the network codes, the ENTSGs consult stakeholders through public consultations and workshops<sup>2</sup>;
  - the evaluation of the network codes by the Agency to assess their compliance with the principles, objectives and criteria defined in the corresponding framework guidelines. During the evaluation phase, the Agency often invites stakeholders to present their views either through workshops organised by the Agency or on a bilateral basis. The results of the Agency's evaluation are presented in reasoned opinions directed at ENTSO-E or ENTSG. On the basis of the Agency's reasoned opinions, the ENTSGs may decide to amend the network codes;
- the submission of the network codes for adoption by the Agency to the European

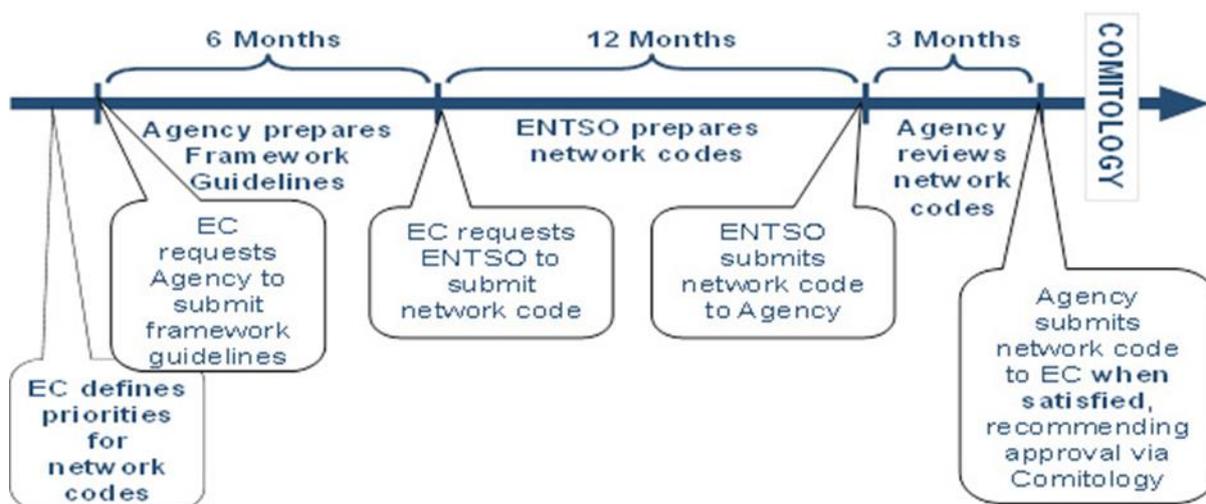
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<sup>2</sup> The Agency is closely involved in the network code development process. Before the network codes are formally submitted, the Agency also provides early feedback on the drafts, as well as typically an informal preliminary opinion, which enables ENTSO-E or ENTSG to become aware at an early stage of any concern that the Agency may have and to modify the network codes accordingly ahead of their submission

Commission, once the Agency is satisfied that they comply with the principles and criteria defined in the corresponding framework guidelines;

- the adoption of the network codes by the European Commission through the Comitology process.

This procedure, and its timeline, can be summarised as presented below:



## 1.1. ELECTRICITY FRAMEWORK GUIDELINES AND NETWORK CODES

### FRAMEWORK GUIDELINES

#### Framework Guidelines on Electricity Balancing

The Framework Guidelines on Electricity Balancing aim to provide a policy framework for establishing market-based, objective, fair, transparent and non-discriminatory rules for balancing. They provide clear definitions, roles and responsibilities of different entities in the balancing market, including intermittent generation and demand-side resources, the framework for the procurement and exchanges of balancing reserves and balancing energy and the framework for imbalance settlement and access to interconnection capacities for balancing. These rules should promote the integration of diverse national balancing arrangements into a single European balancing market.

The development of Framework Guidelines on Electricity Balancing was first included in

the Agency's Work Programme for 2011. However, the definition of an appropriate approach to the integration of electricity balancing markets proved more challenging than expected, due to significant differences in existing national balancing market arrangements. Hence, the completion of the Framework Guidelines on Electricity Balancing was included in the Agency's Work Programme for 2012.

In January 2012, the Agency received the invitation from the European Commission to deliver the Framework Guidelines on Electricity Balancing by 18 July 2012. This deadline has been extended for two months to enable a preparation of good quality Initial Impact Assessment and to take into account the outcome of the impact assessment study commissioned by the European Commission. The final Framework Guidelines on Electricity Balancing were delivered to the European Commission on 18 September 2012.

The Framework Guidelines on Electricity Balancing are one of the most complex framework guidelines that the Agency has delivered to date. They provide clear framework and targets for harmonization and integration of European balancing market. As balancing market is expected to grow in significance with increasing penetration of intermittent renewable energy sources, a well-functioning and fully integrated balancing market will enable significant cost savings in electricity sector and thus contribute to lower end-user prices in Europe. This has been shown by the Initial Impact Assessment and the impact assessment study commissioned by the European Commission. Finally, the Framework Guidelines on Electricity Balancing were received positively from stakeholders as an ambitious, challenging, but adequate framework for establishing the European electricity balancing market.

In December 2012, the European Commission invited ENTSO-E to submit, by 1<sup>st</sup> January 2014, a Network Code on Electricity Balancing, which must be in line with the Framework Guidelines on Electricity Balancing.

#### **Published documents**

- Public Consultation on the draft Framework Guidelines on Electricity Balancing  
[http://www.acer.europa.eu/Official\\_documents/Public\\_consultations/Closed%20public%20consultations/Pages/DFGEB-2012-E-004-FG-on-Electricity-Balancing.aspx](http://www.acer.europa.eu/Official_documents/Public_consultations/Closed%20public%20consultations/Pages/DFGEB-2012-E-004-FG-on-Electricity-Balancing.aspx)
- Presentation of the draft Framework Guidelines on Electricity Balancing  
[http://www.acer.europa.eu/Media/Events/Presentation\\_of\\_the\\_Draft\\_FG\\_on\\_Electricity\\_Balancing/default.aspx](http://www.acer.europa.eu/Media/Events/Presentation_of_the_Draft_FG_on_Electricity_Balancing/default.aspx)
- Final Framework Guidelines on Electricity Balancing  
[http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Framework](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Framework)

## **Framework Guidelines on Third Party Access**

The Agency's Work Programme for 2012 also envisaged the scoping and development of Framework Guidelines on Third Party Access. However, as indicated in the updated three-year plan<sup>3</sup>, the scoping phase of these framework guidelines, and thus their development, was postponed to the future following the Florence Forum's feedbacks that the planning for 2012 already included too many network code projects to be dealt with in parallel.

## **NETWORK CODES**

### **Network Code(s) pursuant the Framework Guidelines on Electricity Grid Connections**

The objective of the Framework Guidelines on Electricity Grid Connections and associated network codes is to develop a harmonised electricity grid connection regime that will support optimal system operation, essential to the completion of the internal electricity market.

The Agency published its Framework Guidelines on Electricity Grid Connections on 20 July 2011.

Following the invitation from the European Commission on 29 June 2012, on 13 July 2012, ENTSO-E submitted to the Agency, the first of the three planned network codes pursuant the Framework Guidelines on Electricity Grid Connections: the Network Code for Requirements for Grid Connection Applicable to All Generators, accompanied by supporting documents.

On 3 September 2012, the Agency organised a public workshop to hear and gather

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<sup>3</sup> [http://ec.europa.eu/energy/gas\\_electricity/codes/codes\\_en.htm](http://ec.europa.eu/energy/gas_electricity/codes/codes_en.htm)

stakeholders' views on (i) the changes made by ENTSO-E to the Network Code following its public consultation and the justification provided, (ii) how and where the Network Code meets or deviates from the Framework Guidelines.

On 13 October 2012, the Agency provided its Opinion on the Network Code. The Opinion, while acknowledging that the Network Code would help facilitate achieving the targets of the European Union on renewable energy sources and distributed generation penetration, as well as market integration and while ensuring security of supply, recognised that there was room for improvement in some specific areas of the Network Code in order to bring it into line with the Framework Guidelines. Those areas concerned:

- significance test to identify "significant grid users";
- justification of the significant deviations from existing standards and requirements;
- national scrutiny of the Network Code's requirements to be implemented at the national level;
- recovery of costs incurred by TSOs and DSOs.

In its Opinion, the Agency asserted that its specific concerns could be addressed within a few months without reopening the overall structure of the Network Code. This implied that the revised Network Code and/or supporting documents could be resubmitted to the Agency in early 2013.

ENTSO-E resubmitted an amended Network Code on 8 March 2013.

#### **Published documents**

- Workshop on the Network Code for the Requirements for Grid Connection Applicable to all Generators  
<http://www.acer.europa.eu/Media/Events/RfG%20NC%20Workshop/default.aspx?InstanceID=1>
- Opinion on the Network Code for the Requirements for Grid Connection Applicable to all Generators  
[http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Opinions/Opinions/ACER%20Opinion%2008-2012.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2008-2012.pdf)

### **Network Code(s) pursuant the Framework Guidelines on Capacity Allocation and Congestion Management for Electricity**

The Framework Guidelines on Capacity Allocation and Congestion Management (CACM) for Electricity and the respective network codes aim at providing a legal framework and

requirements for Transmission System Operators and Power Exchanges on how to operate the integrated electricity market in the long-term, day-ahead and intraday timeframe.

The Agency adopted its Framework Guidelines on CACM on 29 July 2011. Following the adoption of these Framework Guidelines, the European Commission invited ENTSO-E, by letter of 16 September 2011, to start the drafting of a Network Code, covering optimal and coordinated use of transmission network capacity, day-ahead capacity allocation and intraday capacity allocation, and to submit it to the Agency by the end of September 2012.

On 27 September 2012, ENTSO-E submitted to the Agency the Network Code on CACM, accompanied by a supporting document. During the preparation of its Opinion, the Agency invited the stakeholders to present their views on the Network Code. Some of the concerns addressed by the stakeholders have been taken into account in the Opinion, which the Agency issued on 19 December 2012.

The Opinion, while acknowledging that the Network Code would help facilitate market integration, as well as non-discrimination, effective competition and the efficient functioning of the market, concluded that in some specific areas the submitted Network Code was not in line with the Framework Guidelines. Those areas concerned entry into force, capacity calculation, redispatching and countertrading arrangements, regulatory approval procedures, assessment of bidding zones, intraday regional auctions, definition of common timetable for the day-ahead market, compensation in case of force majeure and emergency situations, cost recovery, objectives of the Network Code, as well as consultation and transparency. In its Opinion, the Agency invited ENTSO-E to address the specific concerns expressed in the Opinion and to resubmit an amended Network Code to the Agency.

Following the Agency's Opinion, ENTSO-E informed the Agency that it was not going to take advantage of the possibility of resubmitting the Network Code. Therefore, on 14 March 2013, the Agency issued a (qualified) Recommendation to the European Commission to introduce amendments to the Network Code aimed at addressing the concerns raised in the Opinion and to adopt the Network Code after complementing it with the guidelines on governance of the day-ahead and intraday market coupling.

#### Published documents

- Opinion on the Network Code on Capacity Allocation and Congestion Management for Electricity (CACM)  
[http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Opinions/Opinions/ACER%20Opinion%2010-2012.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2010-2012.pdf)

## 1.2. GAS FRAMEWORK GUIDELINES AND NETWORK CODES

### FRAMEWORK GUIDELINES

#### Framework Guidelines on Rules regarding Harmonised Transmission Tariff Structures

Choice for consumers and competitive pricing are the key objectives of the Third Package. The Framework Guidelines on harmonised tariff structures are designed to facilitate market integration and increase consumer welfare.

After the preparatory stage initiated by ERGEG in 2010, early in 2012 the Agency finalised the scoping phase for these Framework Guidelines. A public consultation on the scope of the Framework Guidelines took place from 8 February to 26 March 2012, along with a stakeholder workshop in Ljubljana on 20 February 2012.

The European Commission invited the Agency, by a letter of 29 June 2012, to develop, within a time frame of 6 months, Framework Guidelines on Rules regarding Harmonised Transmission Tariffs Structures, accompanied by an impact assessment. As part of this process, a public consultation was held from 5 September until 5 November 2012, along with a stakeholders' workshop organised on 18 September 2012 in Ljubljana and bilateral meetings with key stakeholder organisations.

Due to the complexity of the tariff issues and the need for further analysis, the Agency requested the extension of the deadline to 31 March 2013, to which the European Commission agreed. On 15 March 2013 the European Commission requested the Agency

to extend the scope of the Framework Guidelines to include provisions on the harmonisation of cost allocation methodologies. It is expected that the Framework Guidelines will be submitted by the Agency in November 2013.

#### **Published documents**

- Public consultation on the Scope and main policy options for Framework Guidelines on Harmonised transmission tariff structures  
[http://acernet.acer.europa.eu/portal/page/portal/ACER\\_HOME/Stakeholder\\_involvement/Public\\_consultatations/Closed\\_Public\\_Consultations/PC-06](http://acernet.acer.europa.eu/portal/page/portal/ACER_HOME/Stakeholder_involvement/Public_consultatations/Closed_Public_Consultations/PC-06)
- Public Consultation on draft Framework Guidelines on rules regarding harmonised transmission tariff structures for gas  
[http://www.acer.europa.eu/Official\\_documents/Public\\_consultations/Closed%20public%20consultations/PC-07\\_Draft\\_FGs\\_on\\_Interoperability\\_and\\_Data%20Exchange%20Rules/default.aspx](http://www.acer.europa.eu/Official_documents/Public_consultations/Closed%20public%20consultations/PC-07_Draft_FGs_on_Interoperability_and_Data%20Exchange%20Rules/default.aspx)

### **Framework Guidelines on Interoperability and Data Exchange Rules**

Operational, technical, communications and business interoperability is a prerequisite for the well-functioning and the integration of energy markets. The absence of such common interoperability rules in the European Union can constitute an obstacle to the creation of an integrated, competitive internal European gas market. Such rules can ensure that users of two or more transmission systems do not face technical, operational, communication or business-related barriers and get the same services as if the relevant networks were operated by a single efficient entity.

Data exchange rules are closely linked to interoperability rules. By addressing specifically the harmonisation of communication formats among market participants, data exchange rules are set out to streamline practices and facilitate technical, operational or business related communications.

The European Commission invited the Agency, by a letter of 31 January 2012, to develop, within 6 months, Framework Guidelines on Interoperability and Data Exchange rules, accompanied by an impact assessment. As part of this process, a public consultation was held from 16 March to 16 May 2012. During the consultation period, a stakeholder workshop was organised on 23 April 2012 in Ljubljana and bilateral meetings with key

stakeholder organisations were held. The final ACER Framework Guidelines on Interoperability and Data Exchange rules were submitted to the European Commission on 26 July 2012. The impact assessment accompanying the Framework Guidelines was submitted to the European Commission on 17 October 2012.

ENTSOG is currently working on a Network Code. ENTSOG has been invited by the European Commission to deliver the Network Code on Interoperability and Data Exchange Rules by 11 September 2013.

#### **Published documents**

- Public consultation on Interoperability and Data Exchange Rules:  
[http://www.acer.europa.eu/Official\\_documents/Public\\_consultations/Closed%20public%20consultations/PC-07\\_Draft\\_FGs\\_on\\_Interoperability\\_and\\_Data%20Exchange%20Rules/default.aspx](http://www.acer.europa.eu/Official_documents/Public_consultations/Closed%20public%20consultations/PC-07_Draft_FGs_on_Interoperability_and_Data%20Exchange%20Rules/default.aspx)
- Framework Guidelines on Interoperability and Data Exchange Rules published on 26 July 2012:  
[http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Framework\\_Guidelines/Related%20documents/FG%20on%20Interoperability%20and%20Data%20Exchange%20Rules%20for%20European%20Gas%20Transmission%20Networks.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Framework_Guidelines/Related%20documents/FG%20on%20Interoperability%20and%20Data%20Exchange%20Rules%20for%20European%20Gas%20Transmission%20Networks.pdf)
- Initial Impact Assessment accompanying the Framework Guidelines published on 17 October 2012  
[http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Framework\\_Guidelines/Related%20documents/Initial%20Impact%20Assessment%20\(IIA\)\\_ENTSOG.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Framework_Guidelines/Related%20documents/Initial%20Impact%20Assessment%20(IIA)_ENTSOG.pdf)

## **NETWORK CODES**

### **Network Code on Capacity Allocation Mechanisms**

The main objective of the Framework Guideline and the associated Network Code on Capacity Allocation Mechanisms is to promote and define harmonised capacity allocation mechanisms, using auction procedures and a set of standardised bundled cross border capacity products at interconnection points. These measures aim to facilitate gas transport and gas trading across the EU and thus support market integration.

The Framework Guidelines on Capacity Allocation Mechanisms were finalised and formally adopted by the Agency on 3 August 2011. ENTSOG had been developing the Network Code on Capacity Allocation Mechanisms in parallel to the development of the Framework Guidelines during 2011 and consequently submitted a Network Code to the Agency on 6 March 2012.

On 5 June 2012 the Agency issued its reasoned Opinion which acknowledged the high level of conformity of the Network Code with the Framework Guidelines, but identified the following 11 issues for improvement:

1. Definitions
2. Application to New Technical Capacity
3. Standard Contracts
4. TSO Cooperation
5. Capacity Breakdown
6. Sale of Unbundled Firm Capacity
7. Amendment of Existing Capacity Contracts
8. Interruptible Capacity
9. Tariffs
10. Incentive Regimes
11. Interim Period

Following the Agency's Opinion, ENTSOG revised the Network Code, consulted stakeholders and resubmitted an amended Network Code to the Agency on 17 September 2012. The amended Network Code addressed the Agency's concerns expressed in the Opinion in seven of the eleven areas, while maintained the original approach with respect to the remaining four areas (namely capacity breakdown and its application to new capacity, sale of unbundled firm capacity, tariffs, and implementation period). After a public workshop of 19 September 2012, the Agency adopted a (qualified) Recommendation which was submitted to the European Commission pursuant Article 5 of Regulation (EC) No 713/2009 on 4 October 2012. Following clarifications from the Commission on the legal basis for the adoption of qualified recommendations by the Agency, the (qualified) Recommendation on the Network Code on Capacity Allocation Mechanisms was adopted again on 9 November 2012.

This Network Code was adopted in April 2013 and is expected to enter into force in August 2013.

### **Published documents**

- Reasoned Opinion No 04/2012 on the Network Code on Capacity Allocation Mechanisms (5 June 2012):  
[http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Opinions/Opinions/ACER%20Opinion%2004-2012.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2004-2012.pdf)
- Reasoning behind the Opinion on the Network Code on Capacity Allocation Mechanisms (5 June 2012):  
[http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Opinions/Opinions/ACER%20Opinion%2004-2012%20Reasoning.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2004-2012%20Reasoning.pdf)
- Consultancy Study on Auction Design for capacity allocation in gas transmission systems (5 June 2012):  
[http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Opinions/Opinions/ACER%20Reasoned%20Opinion%2004-2012%20Consultants%20Study%20Final%20Report.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Reasoned%20Opinion%2004-2012%20Consultants%20Study%20Final%20Report.pdf)
- Recommendation No 02/2012 on the Network Code on Capacity Allocation Mechanisms (4 October 2012):  
[http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Recommendations/ACER%20Recommendation%2002-2012.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Recommendations/ACER%20Recommendation%2002-2012.pdf)
- Recommendation No 04/2012 the Network Code on Capacity Allocation Mechanisms (9 November 2012):  
[http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Recommendations/ACER%20Recommendation%2004-2012.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Recommendations/ACER%20Recommendation%2004-2012.pdf)

### **Network Code on Gas Balancing of Transmission Networks**

The term 'balancing' refers to a specific service offered by TSOs, namely that of allowing transmission network users to take out less or more gas than they have injected into the system over a given period of time. Balancing also includes auxiliary services (like injection or withdrawal of gas into/from storage), which a TSO may buy in order to keep the system within its safe operational limits.

Based on the Agency's Framework Guidelines on Gas Balancing, published on 11 October 2011, and following the Commission's invitation of 4 November 2011, ENTSOG started the network code development in December 2011 in close cooperation with the Agency and with the involvement of the stakeholders.

The first draft of the Network Code was published by ENTSOG on 13 April 2012 for public consultation. The Agency provided its view on this first draft on 14 June 2012. Before the end of the network code process, in a letter of 2 October 2012, the Agency reviewed the draft Network Code and informed ENTSOG of the points of concern regarding the compliance of the Network Code with the Framework Guidelines.

ENTSOG formally submitted the Network Code on Gas Balancing to the Agency and the Commission on 26 October 2012. In the following three months the Agency assessed the Network Code. This assessment led to the Agency adopting a reasoned Opinion on 25 January 2013. The Commission is planning to start the Comitology process in July 2013.

#### **Published documents**

- Reasoned Opinion on the Network Code on Gas Balancing (25.01.2013):  
[http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Opinions/Opinions/ACER%20Opinion%2001-2013.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2001-2013.pdf)

## **2. REGIONAL INITIATIVES**

Since its formal launch in March 2011, the Agency has been responsible for the coordination of the Regional Initiatives (RIs), formerly run by ERGEG, under which common visions - Target Models - were elaborated. The Agency has given renewed emphasis to the RI process in an effort to promote the early implementation of some of the most critical provisions contained in network codes for the integration of the electricity and gas markets and meet the target of completing the IEM by 2014 set by the European Council in February 2011.

The Agency is promoting a more project-oriented and pan-European approach to the RI work. This new approach is emerging notably with the development of cross-regional roadmaps, both in electricity (Electricity Regional Initiative – ERI) and gas (Gas Regional Initiative – GRI), as a way to guarantee that RIs will deliver progress towards the IEM by

complementing the formal process of the development of framework guidelines and network codes.

The second edition of the Agency's Regional Initiatives Status Review Report<sup>4</sup>, covering progress and challenges faced by the RI process during 2012, was published in February 2013. This report is meant to serve as a transparency tool for all stakeholders and energy consumers, allowing them to follow developments in the integration of energy markets at regional level as a step towards the completion of the IEM.

The Agency also reports on the latest developments in the RI process on a quarterly basis, through the online publication of RI Quarterly Reports for ERI<sup>5</sup> and GRI<sup>6</sup>.

## 2.1. ELECTRICITY REGIONAL INITIATIVES

In electricity, the common vision has been transposed into four cross-regional roadmaps<sup>7</sup>, which were endorsed by the Florence Forum in December 2011. The Agency's Regional Initiatives Status Review Report highlights, *inter alia*, that

- the European Price Coupling project experienced some delay, but the 2014 deadline is can still be met: in spite of the obstacles, the launch of the North-West Europe/Price Coupling of Regions project in November 2013 and its fast extension to neighbouring regions should turn this challenge into a success;
- a major delay has occurred in the North-West Europe Intraday project, but a pilot solution is to be delivered in 2013 following the selection of the IT platform by Power Exchanges (PXs). Once the platform is selected, TSOs and PXs should push

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<sup>4</sup> Available on the Agency website: [http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Publication/ACER%20Regional%20Initiatives%20Status%20Review%20Report%202012.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/ACER%20Regional%20Initiatives%20Status%20Review%20Report%202012.pdf)

<sup>5</sup> Available in the Agency website: [http://www.acer.europa.eu/Official\\_documents/Publications/Pages/Publication.aspx](http://www.acer.europa.eu/Official_documents/Publications/Pages/Publication.aspx)

<sup>6</sup> Available in the Agency website: [http://www.acer.europa.eu/Official\\_documents/Publications/Pages/Publication.aspx](http://www.acer.europa.eu/Official_documents/Publications/Pages/Publication.aspx)

<sup>7</sup> Available on the Agency website: [http://www.acer.europa.eu/Electricity/Regional\\_initiatives/Cross\\_Regional\\_Roadmaps/Page/Cross-Regional-Roadmaps.aspx](http://www.acer.europa.eu/Electricity/Regional_initiatives/Cross_Regional_Roadmaps/Page/Cross-Regional-Roadmaps.aspx)

ahead with implementation, involving market participants;

- the process for the implementation of harmonised allocation rules for long-term rights is on track: a “wish-list” is being finalised and its implementation prepared. In parallel to the on-going extension of CASC.EU, a regional platform dedicated to the allocation of transmission rights, the integration of the current bilaterally managed borders to existing platforms is also progressing;
- the implementation of the flow-based method has been postponed due to operational difficulties and the loop-flow issue, but progress is now expected following positive developments on loop flows within the CEE region at the end of 2012<sup>8</sup>.

## 2.2. GAS REGIONAL INITIATIVES

The first cross-regional, project-oriented roadmap for the gas sector was developed during 2012, aiming at the early implementation of the provisions of the Network Code on Capacity Allocation Mechanisms (CAM NC). The CAM roadmap is composed of several pilot projects and platforms aiming at the early implementation of coordinated, market-based allocation of bundled cross-border capacity products, in line with the Network Code provisions. The elaboration of this roadmap is an achievement that was made possible through the close cooperation of the Agency and ENTSOG with the Transmission System Operators and NRAs from 12 EU Member States.

The roadmap was endorsed by the ENTSOG Board and by the Agency Board of Regulators and published in early 2013. With respect to the GRI, the second edition of the Regional Initiatives Status Review Report highlights the relevance of the aforementioned CAM roadmap and takes stock of the main achievements made in each of the gas regions in different areas. It also includes recommendations and guidance for future work, suggesting cross-regional work for the early implementation of other Network Codes.

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<sup>8</sup> This is the agreement between the German TSO 50Hertz and the Polish TSO PSE-O on a pilot project of the “virtual phase shifting transformer”, which aims at limiting unplanned cross border flows between both countries.

Such work shall be carried out in the future within the frame of the GRI, which will remain, at the same time, a forum for the achievement of tangible results in specific projects on different areas, such as market integration, security of supply and hub development, in line with the regional Work Plans 2011-2014. In parallel, the Agency considers that the GRI will continue to serve the purpose of information exchange, emulation of good practices among regulators and operators, and learning from the experience in regional projects.

### **3. WORK RELATED TO THE ACTIVITIES OF ENTSOS**

#### **3.1. WORK RELATED TO THE ACTIVITIES OF ENTSO-E**

##### **ENTSO-E Annual Report 2011**

On 4 June 2012 the Agency issued its Opinion<sup>9</sup> on ENTSO-E's Annual Report 2011 "Completing the Internal Electricity Market by 2014: The Challenges for Europe's Transmission System".

The Agency found that in general ENTSO-E's Annual Report 2011 provided a good overview of ENTSO-E's work and activities in 2011, in a well-structured and comprehensible way. The Agency identified a number of important considerations in this report, of which it emphasised the creation of ENTSO-E's day-ahead and intraday monitoring groups (to increase cross-regional coordination and ensure the further extension of day-ahead price coupling and continuous intraday trading to other regions) and the commitment of ENTSO-E to improve its performance in stakeholder engagement.

The Agency however also noted that the Annual Report 2011 did not deal, or dealt only

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<sup>9</sup> Opinion no 03-2012, available at: [http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Opinions/Opinions/ACER%20Opinion%2003-2012%20on%20the%20ENTSO-E%20Annual%20Report%202011.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2003-2012%20on%20the%20ENTSO-E%20Annual%20Report%202011.pdf)

marginally, with other relevant issues, such as:

- the cooperation between ENTSO-E and the ENTSOG was not addressed at all;
- the coordination of technical cooperation between the Community and third-country TSOs was only mentioned with regard to the development of a process for including projects from third parties (i.e. developers who are not ENTSO-E members) in the TYNDP;
- no update was provided on the trial parallel interconnection between Turkey and the continental European system that started in September 2010 and was subject to four ENTSO-E announcements during 2011;
- no information was provided about the current status of the TSO's migration of system planning data exchanges (although the TSOs had committed to finalising this migration by December 2011).

In its Opinion the Agency suggested that these issues are adequately covered in the next annual report to avoid uncertainties and doubts about ENTSO-E's activities. Those issues were

## **ENTSO-E Ten-Year Network Development Plan 2012**

On 6 July 2012, ENTSO-E submitted to the Agency its Ten-Year Network Development Plan (TYNDP) 2012. On 5 September 2012 the Agency issued its Opinion<sup>10</sup> on ENTSO-E's TYNDP 2012.

The Agency welcomed substantial improvements introduced in the 2012 TYNDP compared to the pilot 2010 TYNDP. In particular, the Agency noted the development of a EU2020 scenario supported by a top-down approach. The Agency also welcomed ENTSO-E's efforts to develop a unified methodology to assess socio-economic benefits of increased transfer capacities through the introduction and application of an economic valuation approach, based on market studies. In addition, the 2012 TYNDP introduces a multi-criteria analysis derived from market and grid studies performed under a common pan-European framework. In the context of the Energy Infrastructure Package, this is a first

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<sup>10</sup> Opinion No. 06/2012, available at:  
[http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Opinions/Opinions/ACER%20Opinion%2006-2012.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2006-2012.pdf)

step towards a cost-benefit analysis methodology. The developed clustering methodology provides an overview of projects and highlights the interdependence between investments addressing the same functional needs.

The Agency also provided specific recommendations for improvement of subsequent TYNDPs:

- with respect to the process, the main improvements are expected in the fields of stakeholder involvement, consultation process and treatment of third-party projects;
- regarding the methodological aspects, the main improvements are expected in the multi-criteria assessment, the cost-benefit analysis, the clustering methodology, the development of scenarios, the presentation of sensitivity of market study results with respect to the scenarios, the identification of cross-border investment gaps and the transmission adequacy approach.

### **ENTSO-E Summer Outlook Report 2012 and Winter Review 2011/2012**

On 11 June 2012 ENTSO-E submitted to the Agency the Summer Outlook Report 2012 and Winter Review 2011/2012, on which the Agency delivered its Opinion<sup>11</sup> on 8 October 2012.

In its Opinion, the Agency positively noted that:

- the results in the Summer Outlook Report (SOR) are useful for identifying adequacy risks for each country in specific periods of the year;
- ENTSO-E introduced adequacy regional analyses as an important addition to the long-standing national assessments;
- ENTSO-E improved the description of the SOR methodology and expanded the SOR questionnaire;
- ENTSO-E introduced an overnight downward adequacy analysis.

The Agency appreciated that, over the years, the use of the deterministic approach led to

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<sup>11</sup> Opinion No. 07/2012, available at: [http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Opinions/Opinions/ACER%20Opinion%2007-2012.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2007-2012.pdf)

a consolidated methodology across Europe. It however called ENTSO-E to enrich this deterministic approach further by giving greater attention to the probability of occurrence of the supply/demand forecast conditions and of occurrence of the adequacy risks.

The Agency also made proposals for improvements of the SOR, including:

- the development of regional analyses particularly focussing on groups of neighbouring countries which may simultaneously require imports from abroad;
- the presentation of the remaining capacity indicator in relative terms (percentage of the peak load), in order to facilitate comparability across countries;
- the possible extension of the overnight downward adequacy analysis to other periods during spring or autumn;
- the collection and publication of quantitative information as an element of the winter review.

### **Inter-Transmission System operator Compensation mechanism**

Part A of the Annex to Commission Regulation (EU) No 838/2010<sup>12</sup> provides that the current Inter-Transmission System Operator Compensation (ITC) mechanism shall compensate the cost of hosting cross-border flows of electricity through an ITC fund established by ENTSO-E consisting of two components aimed at covering the costs of making infrastructure available and the costs of incurred transmission losses, respectively. The Agency's main responsibilities envisaged by Regulation (EU) No 838/2010 are related to the monitoring of the ITC mechanism and to the proposal for the annual cross-border infrastructure compensation sum.

During 2012 the monitoring of the implementation of the ITC mechanism and management of the ITC fund focused on reviewing:

- the general compliance of the implementation of the ITC mechanism in 2011 with the Regulation;
- the approach for adjusting the level of transits used in the ITC mechanism for the cross-border capacity which is allocated in a manner incompatible with Point 2 of the guidelines on congestion management set out in Annex I to Regulation (EC) No

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<sup>12</sup> Commission Regulation (EU) no. 838/2010 of September 2010 on laying down guidelines relating to the inter-transmission system operator compensation mechanism and a common regulatory approach to transmission charging

714/2009;

- the treatment of voluntary third country ITC Parties;
- the criteria for the valuation of losses at national level.

The review process was mainly based on:

- the ITC Clearing and Settlement Multi-Year Agreement (“the ITC Agreement”);
- relevant data and written explanations from ENTSO-E and the ITC Data Administrator;
- the NRAs criteria for valuating transmission losses for the purpose of calculating the losses compensation amount in ITC.

The Report on the implementation of the ITC mechanism and the management of the ITC fund in 2011<sup>13</sup> was submitted to the European Commission only in September 2012, due to a settlement revision conducted by ENTSO-E which ended in August 2012.

The report pointed out that implementation of the ITC mechanism and the management of the ITC fund in 2011 were generally in line with the requirements set out in the Regulation. However, it also noted that there is scope for strengthening the quality assurance process and the participation by the ITC Parties.

## 3.2. WORK RELATED TO THE ACTIVITIES OF ENTSOG

### ENTSOG 2013 Annual Work Programme

ENTSOG submitted its 2013 Annual Work Programme to the Agency for its opinion on 9 November 2012 and the supporting documentation from the consultation process on 19 November 2012. The Agency adopted and published its Opinion<sup>14</sup> on 12 December 2012.

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<sup>13</sup> Report available at:  
[http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Publication/ITC%20monitoring%20report%202011.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/ITC%20monitoring%20report%202011.pdf)

<sup>14</sup> Opinion No 09/2012, available at :  
[http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Opinions/Opinions/ACER%20Opinion%2009-2012.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2009-2012.pdf)

In its opinion, the Agency recognised the consistency of the Work Programme with ENTSOG's tasks as described in Article 8 of Regulation (EC) No 715/2009, the 2013 Work Programme of the Agency and the joint Commission/ACER/ENTSOG three-year work plan, the ambitious character of the Programme and the alignment of its priorities with the targets for the IEM. ENTSOG was found to still be in the process of building up its internal resource base in order to meet the challenges defined in the draft 2013 Work Programme.

The Agency encouraged ENTSOG to consider a more structured coverage of all the required tasks under Article 8(3) of Regulation (EC) No 715/2009, including a more proactive position regarding the development of common network operation tools and an incidents classification scale, allowing for the provision of timely input and proper coordination with the development of network codes. The Agency advised on essential work aspects, such as indicators, procedures and assessment reporting, already in the primary draft of the documents and in coordination with the relevant monitoring and reporting activities of the Agency.

The Agency acknowledged ENTSOG's positive effort for the establishment of an anticipatory approach to the development of network codes, as demonstrated during 2012, whereby potentially divergent views on key issues are extensively and constructively consulted in order to arrive at acceptable solutions with key stakeholders before adopting the codes under ENTSOG's internal procedures. The Agency believes that this approach should be regarded as good practice and adopted in other areas of work where stakeholders are involved.

Regarding other aspects of the involvement of stakeholders, the Agency encouraged ENTSOG to involve distribution system operators in system development, in particular when they play a system operator role. The Agency appreciated ENTSOG's effort to involve upstream operators and gas suppliers in its deliberations, and encouraged further dialogue with all segments of the gas industry.

## Summer and Winter Supply Outlooks

ENTSOG published the annual Winter Supply Outlook 2011-2012 on 14 December 2011. The Agency's Opinion<sup>15</sup> on ENTSOG's Winter Supply Outlook 2011-2012 was published on 4 June 2012.

In 2012, the Agency also provided an Opinion<sup>16</sup>, on 5 September 2012, on the Summer Supply Outlook 2012, which was published by ENTSOG on 24 May 2012. Later during the year, ENTSOG developed its Annual Winter Supply Outlook for 2012-2013 and published it on 8 November 2012. The Agency's Opinion<sup>17</sup> was adopted on 15 February 2013. Given the schedule for the preparation and the release of the seasonal Outlooks by ENTSOG in 2012, one of the Agency's views expressed in its opinions is the need to have earlier timing for the Outlook's publication with respect to the start of the season, which would provide greater added value in terms of perspective on supply and demand trends during a forthcoming season, as well as potential "warnings" in case specific events are triggered.

Among other key findings and recommendations provided by the Agency were the appropriateness of the enlargement of the geographic scope of the Outlooks, which now cover EU-27 (less Cyprus and Malta) plus Croatia, Serbia, the former Yugoslav Republic of Macedonia, and exports to Turkey and the Kaliningrad Region of the Russian Federation. The Agency recommended that ENTSOG also considers the inclusion of the Ukraine, one of the contracting parties of the Energy Community, in view of the impact which changes of gas flow patterns in this country may have on Eastern EU countries.

Regarding the Outlooks' methodology and tools, the Agency welcomed the fact that these are the same as the ones used for the on-going TYNDP process. At the same time, the

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<sup>15</sup> Opinion No 03/2013, available at:

[http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Opinions/Opinions/ACER%20Opinion%2003-2013.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2003-2013.pdf)

<sup>16</sup> Opinion No 05/2012, available at:

[http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Opinions/Opinions/ACER%20Opinion%2005-2012.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2005-2012.pdf)

<sup>17</sup> Opinion No 03/2013, available at:

[http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Opinions/Opinions/ACER%20Opinion%2003-2013.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2003-2013.pdf)

Agency invited ENTSOG to complement its analyses of the robustness of the gas infrastructure by incorporating supply-side analyses directly in the Outlook, providing better analyses of actual patterns of supply and inter-seasonal comparisons and supply trends analyses, and considering the analyses of possible realistic supply variations and disruption.

## **Annual Report 2011**

ENTSOG published its Annual Report for 2011 rather late in 2012, and for this reason the Agency's Opinion<sup>18</sup> was adopted on 25 January 2013. In its opinion, the Agency recommended to ENTSOG to consider an earlier publishing date for its Annual Reports, preferably during the first half of the year following the reporting period.

The Agency found that the 2011 ENTSOG Annual Report is consistent with ENTSOG's tasks as described in Article 8 of Regulation (EC) No 715/2009, provides adequate reporting format for the tasks performed by ENTSOG in 2011, and covers ENTSOG's priorities during the reporting year, which are generally in line with the targets for the IEM. The Annual Report covers part of the so-called "interim period" (December 2009 – March 2011) which includes tasks related to both the completion of ENTSOG's establishment and the delivery on certain projects as outlined in ENTSOG's 2011 Annual Work Programme.

The Agency's opinion highlights ENTSOG's commitment to improving transparency, involving stakeholders and taking their views into account, expanding ENTSOG's resource base and striving to assure complete coverage of all work areas and deliverables expected from ENTSOG in the framework of the Third Package. Nevertheless, the Agency noted that the Report does not contain reference to work in all areas referred to in Article 8(3) of Regulation (EC) No 715/2009, and encouraged ENTSOG to provide in future reports a more complete review of its activities.

The Agency also encouraged ENTSOG to consider highlighting in the Annual Report the execution of critical tasks and deliverables in juxtaposition to ENTSOG's Annual Work Programme, so that the actual performance can be compared to initial schedules and

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<sup>18</sup> Opinion No 04/2013, available at:  
[http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Opinions/Opinions/ACER%20Opinion%2004-2013.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2004-2013.pdf)

resource assignments.

## **Other TSO-related work Community-wide ten-year network development plan (TYNDP) 2013-2022 and gas regional investment plans opinion**

The Agency followed the ENTSOG's TYNDP 2013-2022 development process and actively participated in all Stakeholder Joint Working Sessions, discussing demand and supply scenarios, input data, methodology, network modelling, and other key aspects of the development of TYNDP methodology and the assurance of its consistency. The TYNDP for gas is currently undergoing a public consultation. The Agency is expected to provide a (reasoned) opinion on the TYNDP after its publishing later in 2013.

Six gas GRIPs were published by TSOs in the course of late 2011 and 2012. The Agency reviewed the GRIPs and, in view of the feedback received from the Gas Regional Initiatives, prepared the Agency's opinion on GRIPs (including recommendations to ENTSOG and, via ENTSOG, to TSOs), with the objective of assisting the enhancement of the next editions of GRIPs in 2014. The formal adoption of the Opinion<sup>19</sup> took place in March 2013.

## **4. MONITORING THE INTERNAL ENERGY MARKET (IEM MONITORING)**

According to Article 11 of Regulation (EC) No 713/2009, the Agency is responsible for monitoring the internal market for electricity and natural gas, with special reference to retail prices, access to networks (including network access of electricity produced from renewable sources) and compliance with consumer rights as laid down in the Third Package. This activity has to be carried out in close cooperation with the European

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<sup>19</sup> Opinion No 09/2013, available at: [http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Opinions/Opinions/ACER%20Opinion%2009-2013.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2009-2013.pdf)

Commission, NRAs and other relevant organisations, and without prejudice to the competences of competition authorities.

The objective of the Agency's market monitoring activities is to assess how energy markets work and how they can perform more efficiently, thus making energy more affordable in the interest of European energy consumers. The Agency presents its results, on an annual basis, in its Market Monitoring Report.

## **Main activities in 2012**

In 2012, the Agency - in cooperation with the Council of European Energy Regulators (CEER) - performed its IEM monitoring focusing on the areas specified in the legislation. In addition to this, the presence of potential barriers to the completion of the IEM was also investigated.

For its 2012 Market Monitoring Report (covering the year 2011), the Agency used a number of monitoring indicators and relied on a variety of data sources. For retail markets and consumer issues, the Agency benefited from sources such as Eurostat, previous studies of the European Commission, online retail price comparison tools, CEER's National Indicators database and individual NRA contributions as needed. For wholesale market integration, monitoring data were gathered through Platts, the ERI and the GRI, Eurostat, IEA/OECD, ENTSO-E and ENTSG, and the CEER database on National Indicators. In late 2012, the Agency secured access to the Energy Markets Observation System (EMOS), a database built by the European Commission, which hosts data relevant to a number of energy sectors, and which will add to the 2013 data source pool.

On 29 November 2012, the first joint ACER-CEER IEM Market Monitoring Report was presented in Brussels and made available on the Agency's website.

For electricity, the report showed, *inter alia*, that spot market price convergence across the European electricity market has increased as a result of the implementation of market coupling, which is part of the European Electricity Target Model. For gas, price convergence has been increasing, although differences remained between different areas of the EU and congestion was identified, even if only at contractual level, at a significant number of interconnection points throughout the EU and at its borders. Further, the report pointed at wide differences in the retail prices of electricity and natural gas between countries, and called for stronger efforts towards energy market integration to deliver tangible benefits to consumer.

In this context, the Report identified a number of barriers towards energy market integration, such as unplanned electricity flows, partly resulting from the growing penetration of electricity from renewable sources and remaining bottlenecks throughout the European electricity network, or unclear cross-border gas transmission tariffs (whose basic computation principles are currently in the process of being partially harmonised through a Network Code), as well as contractual and seasonal congestion and the lack of a unified approach with respect to gas capacity allocation.

## **5. WHOLESALE ENERGY MARKET MONITORING (REMIT)**

Regulation (EU) No 1227/2011 on Wholesale Energy Market Integrity and Transparency (REMIT), which entered into force on 28 December 2011, significantly expanded the mission of the Agency, by assigning new responsibilities in the area of wholesale market monitoring. Such activities are very different from the monitoring of the internal market which the Agency has been performing pursuant to Regulation (EC) No 713/2009 and require the Agency to acquire new IT infrastructure and software to collect data from market participants at EU level, new monitoring tools and specialised expertise.

The activities of the Agency with respect to REMIT are going to be performed in two stages:

- (i) The implementation stage, in which the Agency puts in place the IT tools and the procedures - including on data exchange with NRAs and other authorities, at national and EU level, with which the Agency cooperates - for effectively monitoring wholesale energy markets. This stage started with the entry into force of REMIT on 28 December 2011. As the adoption of the Implementing Acts is expected to take place in the second half of 2013, the development stage needs to be completed by early 2014<sup>20</sup>.
- (ii) The operational stage, in which the Agency will be responsible for actively monitoring trading in wholesale energy markets. As indicated above, this stage will start in early 2014.

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<sup>20</sup> The new monitoring framework introduced by REMIT, and the corresponding reporting obligations for market participants, will apply from 6 months after the adoption of the Implementing Acts.

During 2012 the Agency progressed in the implementation stage, with its activities focussing on:

- the determination, in cooperation with NRAs, of the format according to which information in national registries of market participants will be transmitted to the Agency. A proposal was subject to public consultation from 18 April to 21 May 2012 and the Decision<sup>21</sup> on the format was adopted on 26 June 2012;
- the formulation of recommendations to the Commission on the records of transactions, including orders to trade, which the Agency considers as necessary to effectively and efficiently monitor wholesale energy markets. Draft Recommendations were subject to public consultation from 21 June to 31 July 2012 and the final Recommendations<sup>22</sup> were adopted on 23 October 2012. They were submitted to the European Commission shortly afterwards;
- issuing, on 28 September 2012, the second edition of the non-binding Guidance<sup>23</sup> on the application of the definitions listed in Article 2 of REMIT, including those of inside information, market manipulation and attempt to manipulate the market;

The Agency also published a Q&A paper on REMIT and answered numerous questions submitted by market participants through the Agency's REMIT mailbox. The Agency furthermore communicated with the public on all REMIT matters and organised several workshops.

The stakeholder involvement and the intensive dialogue with market experts were also promoted, including through the establishment of three expert groups.

With the adoption of REMIT, during 2012 the Agency needed to adapt its IT infrastructure accordingly in order to prepare for the new tasks assigned to it, including gathering, reviewing and sharing data from wholesale energy markets. With the entry into force of REMIT, the Agency made available through its website a platform for the notification of delayed disclosure of inside information and for the reporting of suspicious transactions to

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<sup>21</sup> Available at: [http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Pages/Director%27s-decision.aspx](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Pages/Director%27s-decision.aspx).

<sup>22</sup> Available at: <http://www.acer.europa.eu/remit/Pages/Recommendations-on-REMIT-Records-of-transactions.aspx>.

<sup>23</sup> Available at: [http://www.acer.europa.eu/remit/Pages/ACER\\_guidance.aspx](http://www.acer.europa.eu/remit/Pages/ACER_guidance.aspx). The first edition of the guidance was adopted on 20 December 2011.

enable market participants and persons professionally arranging transactions to fulfil their respective obligations.

The effective implementation of market monitoring under REMIT requires the deployment of IT infrastructure capable of handling large volumes of data and specialist software for automated data analysis purposes. The Agency therefore launched the following IT procurement procedures:

- for Web application development services and IT consultancy services for the implementation of the Agency's REMIT Information System (ARIS) (Tender 1, divided into two lots);
- for IT infrastructure hosting services (Tender 2);
- for the Market monitoring system for ARIS (Tender 3).

The table below illustrates the procedures for the three tenders.

|                                   | Tender 1                               |                      | Tender 2   | Tender 3   |
|-----------------------------------|--|----------------------|------------|------------|
|                                   | Lot 1<br>Software<br>development       | Lot 2<br>Consultancy |            |            |
| Contract Notice published on OJEU | 14.06.2012                             | 14.06.2012           | 14.06.2012 | 28.08.2012 |
| Bids received                     | 10                                     | 6                    | 4          | 4          |
| Award Decision                    | 8.10.2012                              | No award             | 15.11.2012 | 20.11.2012 |
| Contract signed                   | 24.10.2012<br>25.10.2012<br>11.11.2012 | --                   | 31.01.2013 | 11.12.2012 |

## 6. SUPPORT TO THE COMMISSION IN THE INFRASTRUCTURE AREA

The TEN-E Regulation has come into force on 15 May 2013 and the first PCI list is expected to be adopted by the end of the year. However, some preparatory work already started in 2012, based on the invitation of the European Commission of 16 July 2012.

Therefore, since July 2012 the Agency was significantly involved in the early implementation process and carried out the following activities:

- the development of a dedicated area on the Agency's website with NRAs and Agency's contacts comprising all electricity and gas corridors;
- the development of checklists (online tool) for facilitating common bases for developing the initial NRA opinions on PCI candidates. This ensured transparency and full access to the information and assessments provided by NRAs to all other NRAs, and the establishment of a cooperative on-line protected information and project databases accessible remotely by all NRAs;

- the development of formats for the NRAs opinions and the checking of consistency on the responses to the checklists. In this way the Agency supported the NRAs in the development of the informal opinions regarding the PCI candidates.

The Agency also participated in most Regional Groups meetings.

The cooperative effort of NRAs, coordinated by the Agency, in the infrastructure area led to the provision of preliminary opinions on PCI candidates, which were submitted to the TEN-E electricity and gas Regional Groups in January 2013.

## **7. COOPERATION AND COMMUNICATION WITH THE NRAs**

The main statutory objective of the Agency is to support the cooperation of NRAs at EU level and to coordinate their action whenever necessary. This role complements the new mandate of NRAs under the Third Package, and in particular their duty to promote a competitive, secure and environmentally sustainable internal energy and effective market opening<sup>24</sup>.

The Agency thus provides an integrated framework within which NRAs cooperate. This framework is intended to facilitate the uniform application of the legislation regarding the internal energy market throughout the EU and thereby increase market integration.

More recently, REMIT and the TEN-E Regulation have expanded the area of cooperation of the Agency and NRAs. REMIT stresses the complementarity of monitoring at national and European level; it assigns a leading role in market monitoring to the Agency, while reserving to NRAs (and other competent authorities) the investigation and enforcement powers. The TEN-E Regulation also requires a close cooperation between the Agency and NRAs, as the latter are tasked with providing opinions on the PCI candidates, while the Agency has to provide an opinion on the consistent application of the PCI selection criteria

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<sup>24</sup> *Cfr.* Article 36 of Directive 2009/72/EC and Article 40 of Directive 2009/73/EC.

and on the CBA across regions. Such consistency is best achieved through a coherent approach across the regions, which the Agency can promote. Moreover, NRAs are expected to share best practices in providing incentives for higher-risk projects through the Agency.

In this context, NRAs actively participate in the activities of the Agency in different ways, including:

- in the BoR, where each NRAs is represented by one senior member;
- in the Agency's Working Groups, which bring together NRAs' experts and Agency's staff.

### **Agency Working Groups (AWGs)**

Much of the work of the Agency is dealt with in the Agency's Working Groups (AWGs). The main role of the AWGs is:

- to provide input to the Director for the preparation of opinions, recommendations, decisions and of other relevant documents;
- to support the Director and the Agency staff on other tasks, such as reviewing and analysing stakeholders' submissions during a consultation process, opinion building and interaction with external parties;
- to provide information to the BoR on the issues relevant to the Director's proposals to facilitate the BoR in adopting its formal opinion or in providing guidance to the Director pursuant to Article 15(1) of Regulation (EC) No 713/2009.

During the first year of the Agency's operation two AWGs, the Agency's Electricity and Gas WGs were operating. Both were established on 1 March 2011. On 31 January 2012, two new AWGs were created:

- the Market Integrity and Transparency WG (AMITWG), which is tasked with assisting the Director in the preparatory work for the implementation of REMIT;
- the Implementation, Monitoring and Procedures WG (AIMPWG), which is tasked with assisting the Director in the area monitoring and in developing appropriate processes and procedures.

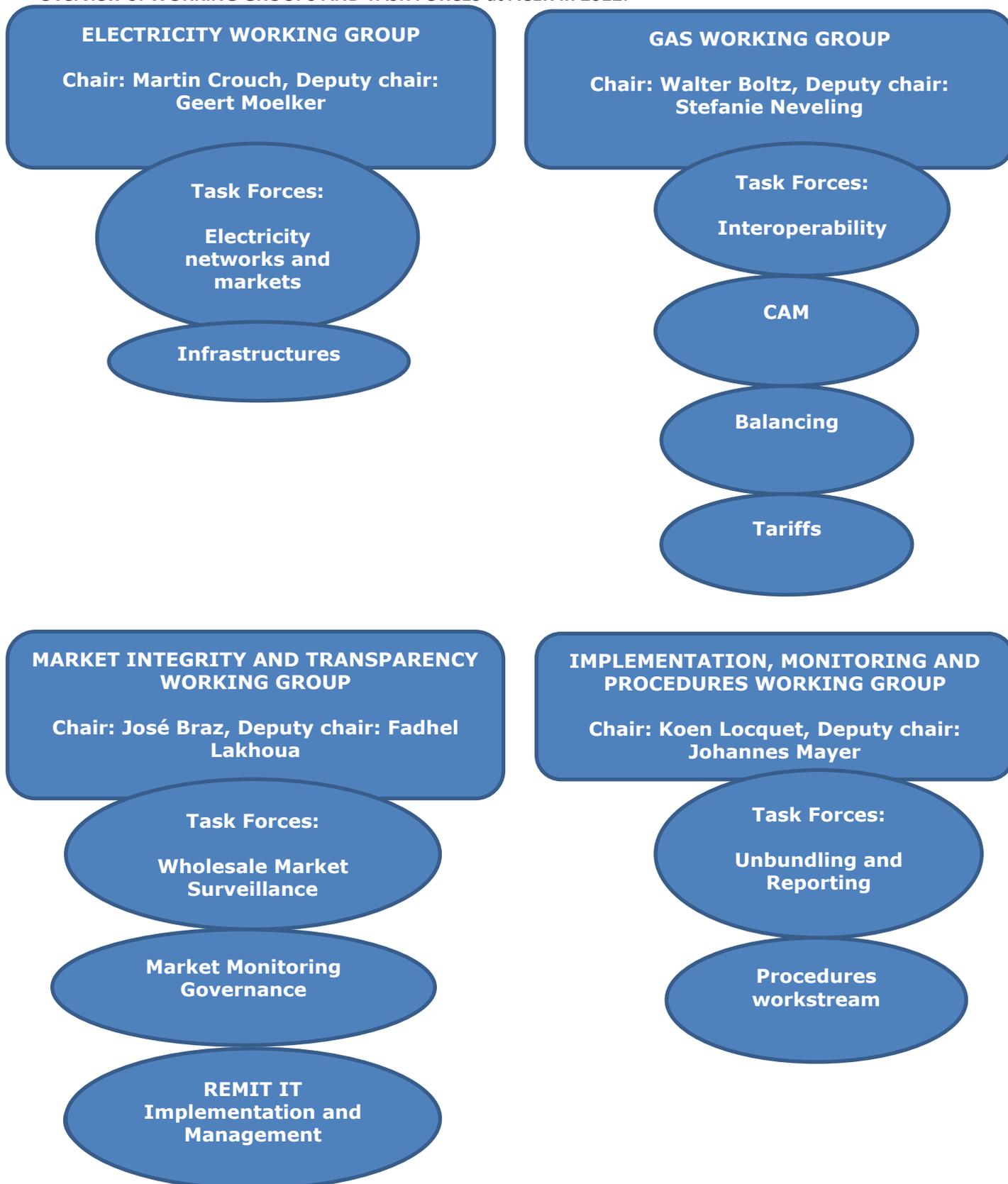
The AWGs bring together the Agency's staff and NRAs' experts, who have a comprehensive understanding of developments in their own energy markets.

The AWGs' objectives, deliverables and milestones are steered by the Director in consultation with the AWG chairs.

The AWGs also include several Task Forces (TFs) to support the work in specific areas. The AWGs typically meet on a monthly basis.

The Table below illustrates the structure of the AWGs and their TFs in 2012.

**Overview of WORKING GROUPS AND TASK FORCES at ACER in 2012:**



## 8. COOPERATION AND COMMUNICATION WITH THE STAKEHOLDERS

In carrying out its tasks, the Agency consults extensively, in an open and transparent manner and at an early stage, with market participants, TSOs, consumers and, where relevant, competition authorities. In 2012, the Agency used different formats for consulting and engaging stakeholders, including:

- public consultations;
- workshops and seminars;
- establishment of expert groups.

### Public Consultations

While preparing the framework guidelines, the Agency is required formally to consult the ENTSO-E and ENTSOG, as well as other relevant stakeholders, during a period of no less than two months, in an open and transparent manner.

Additionally, the Agency also carries out public consultations on the implementation of REMIT and in the context of the RIs.

The Agency's website is the main channel of communication with stakeholders. Public consultations are carried out online. When a public consultation is launched, stakeholders receive an email alert via the ACER Newsletter.

All supporting documents and questionnaires are published online, together with the invitation to participate in the consultation. The Agency also creates dedicated email addresses to facilitate stakeholders' participation in the consultation. Responses to consultations are also published on the Agency's website.

Ten public consultations were run by the Agency in 2012. The following Table presents the topics and the dates of these public consultations.

| TITLE   | START DATE   | END DATE   |
|---|--------------|------------|
| 1.Framework Guidelines on Electricity Grid Connection | 3 March 2012 | 2 May 2012 |

|  |                  |                   |
|--|------------------|-------------------|
| 2.Framework Guidelines for Gas Capacity Allocation Mechanisms Management                                     | 3 March 2012     | 2 May 2012        |
| 3.REMIT Registration Format  | 18 April 2012    | 21 May 2012       |
| 4.Records of transactions  | 21 June 2012     | 6 August 2012     |
| 5.Transparency in Gas Markets  | 31 July 2012     | 31 August 2012    |
| 6.The Draft Guidance Note on Consultation  | 3 August 2012    | 30 September 2012 |
| 7.Forward Risk Hedging Products & Harmonisation of Long Term Capacity Allocation rules                       | 26 August 2012   | 28 October 2012   |
| 8.Draft Framework Guidelines on rules regarding harmonised transmission tariff structures for gas            | 5 September 2012 | 5 November 2012   |
| 9.Assessment of the Annual Cross-Border Infrastructure Compensation Sum                                      | 16 October 2012  | 14 November 2012  |
| 10.Recommendations to the European Commission as regards the records of wholesale energy market transactions | 21 June 2012     | 31 July 2012      |

## Workshops

The Agency also promotes the involvement of stakeholders in its activities through workshops. Workshops are organised typically in conjunction with public consultations or as important initial steps in the development of framework guidelines. In this latter role, they are organised during the scoping phase and they represent an opportunity for the Agency to present its views on the main policy options under consideration, as well as for the Agency to collect, at an early stage, opinions from stakeholders on essential topics.

The Agency organises most of its workshops in its headquarters in Ljubljana. Whenever possible, workshops are web-streamed with the aim of involving as many participants as possible.

Nine workshops were organised by the Agency in 2012. The following Table presents the topics, the level of attendance and the dates of these workshops.

| Workshop   | No of registrations | Web streaming | Date              |
|--|---------------------|---------------|-------------------|
| 1.Harmonised Gas Transmission Tariff Structures                                      | 41                  | No            | 20 February 2012  |
| 2.Interoperability Rules for European Gas Transmission Networks                      | 23                  | No            | 23 April 2012     |
| 3.REMIT Registration Format  | 45                  | No            | 4 May 2012        |
| 4.REMIT Records of Transactions and 2d edition of ACER Guidance                      | 86                  | No            | 19 July 2012      |
| 5.The Network Code for Requirements for Grid Connection applicable to all Generators | 57                  | Yes           | 3 September 2012  |
| 6.Transparency in Gas Markets  | 47                  | Yes           | 13 September 2012 |
| 7.Framework Guidelines on Harmonized Transmission Tariff Structures                  | 84                  | No            | 18 September 2012 |
| 8.Gas Network Code amendments / ACER opinion on Capacity Allocation Mechanisms       | 65                  | No            | 19 September 2012 |
| 9.The assessment of the annual cross-border infrastructure compensation sum          | 42                  | No            | 25 October 2012   |

## Expert Groups

The Agency benefits greatly from the expertise of stakeholders through ad-hoc expert groups, which are set up and consulted by the Agency on specific and technical issues. Their members are experts from a variety of stakeholders, such as energy companies, energy consumers and academia.

The mandate, composition and activities of the expert groups are published on the Agency's website. Each expert group is established following a call for applications, which is published on the Agency's website and announced via the ACER Newsletter.

The Agency selects the experts to be included in each group on the basis of the applications received and with the aim of having a wide range of competences and

expertise.

Two ad-hoc expert groups were established by the Agency in 2012. The following Table presents the characteristics of these expert groups.

| Expert Group  | Mandate   | Date of creation                  | Number of meetings in 2012 |
|---|---|-----------------------------------|----------------------------|
| 1.Ad hoc Expert Group on Harmonised Gas Tariff Structures               | Provide expert support to ACER during the development of the Framework Guideline on Harmonised Gas Tariff Structures. | 17 February 2012<br>(Open letter) | 5 Meetings and 1 Telco     |
| 2.Ad hoc group of experts on gas interoperability (its mandate expired) | Provide expert support to ACER during the development of the Framework Guideline on gas interoperability              | 28 September 2011 (Open letter)   | 2 Meetings                 |

## Website and Newsletter

In 2012 a new website for the Agency was launched. It offers more user-friendly features, including the display of news, upcoming events and document search. Furthermore, it provides an enhanced workspace for the Agency workshops and public consultations.

One of the Agency’s most useful communication tools is its Newsletter. It is used by the Agency’s press office to inform stakeholders and interested parties of official documents and reports published on the Agency’s website, as well as workshops and conferences organised by the Agency. By the end of 2012, some 1800 stakeholders have subscribed to the Agency’s Newsletter, which represents a 30% increase from the previous year.

## The Agency in the media

As a public institution, the Agency is committed to transparency and openness. The media

are an excellent channel to explain the Agency’s work both to European citizens in general and to energy stakeholders in particular. News, articles and interviews on the Agency were published widely in the European media, by the news agencies and specialised publications on energy markets. The Agency also keeps excellent relations with the Slovenian media.

### The Annual conference

The Agency’s 1<sup>st</sup> Annual Conference ‘Making the internal energy market a reality – which role for ACER?’ took place on 14 March 2012 at the Ljubljana Castle and attracted more than 200 participants. Speakers included high level representatives from EU institutions, as well as from the energy sector, including market players. The host country was represented by the State secretary dr. Igor Šalamun, Slovenian Ministry for Infrastructure and Spatial Planning. Commissioner Oettinger contributed with a video message.

## 9. OVERVIEW OF THE RESULTS OF THE REGULATORY ACTIVITIES IN 2012

| DELIVERABLES   | WORK PROGRAMME<br>2012 KPIS  | DELIVERY IN 2012   |
|--|--|--|
| <b>ELECTRICITY</b>                                   |  |  |
| <b>Framework Guidelines on Electricity Balancing</b> | Expected Public consultation: January 2012<br><br>Expected Final FG: June 2012 | Public consultation in April-June 2012*<br><br>Final FG published in September 2012*<br><br>* EC granted additional 2 months to the Agency to prepare better quality Initial Impact Assessment |



| <b>NATURAL GAS</b>   |  |   |
|--|--|---|
| <b>Framework Guideline on Interoperability of gas systems</b>                | <p>Expected start date: September 2011</p> <p>Expected public consultation period: December 2011 – February 2012</p> <p>Expected Completion date: April 2012</p> | <p>Start date: September 2011<br/>EC invitation letter: January 2012</p> <p>Public consultation in March - May 2012*</p> <p>Final FG (on Interoperability and Data Exchange rules) published in July 2012*</p> <p>*Given the technical nature of this framework guideline data collection underpinning the chosen policy options required more time</p> |
| <b>Framework Guidelines on the Rules for Trading</b>                         | <p>Expected start date: Q1/2 2012</p> <p>Expected public consultation period: Q2/3 2012</p> <p>Expected completion date: Q3/4 2012</p>                           | <p>*Not started in 2012. In the EC – ACER - ENTSOG 3-year work plan, the FG on rules for trading were postponed</p>   |
| <b>Framework Guidelines on Data Exchange and Settlement rules</b>            | <p>Expected start date: Q1/2 2012</p> <p>Expected public consultation period: Q2/3 2012</p> <p>Expected completion date: Q3/4 2012</p>                           | <p>*Data Exchange rules included in FG on Interoperability. In the EC – ACER - ENTSOG 3-year work plan, FG on Settlement rules were postponed</p>   |
| <b>Reasoned opinion on the Network Code on Capacity Allocation Mechanism</b> | <p>Expected start date: Q1/2 2012</p> <p>Expected public consultation period: Q1/2 2012</p> <p>Expected completion date: Q2 2012</p>                             | <p>Network Code received on 6 March 2012</p> <p>No public consultation for the RO took place</p> <p>Reasoned opinion published on 5 June 2012</p> <p>Final Recommendation</p>   |

|  |   |   |
|--|---|---|
|  |   | published on 9 November 2012  |
| <b>Reasoned opinion on the Network Code on Balancing Rules</b>   | <p>Expected start date: Q4 2012</p> <p>Expected public consultation period: Q4 2012/Q1 2013</p> <p>Expected completion date: Q4 2012/Q1 2013</p>  | <p>Start date: Q4 2012</p> <p>No public consultation for RO</p> <p>Reasoned opinion published on 25 January 2013</p> <p>Recommendation published on 25 March 2013</p>   |
| <b>CROSS-SECTOR ISSUES</b>   |   |   |
| <p><b>Annual report on the results of monitoring of the internal electricity and natural gas market</b></p> <p>(including, in particular the retail prices of electricity and natural gas, access to the network including access of electricity produced from renewable energy sources, and compliance with the consumer rights laid down in Directive 2009/72/EC and Directive 2009/73/EC)</p> | <p>Monitoring Report:</p> <ul style="list-style-type: none"> <li>- Expected start date: April 2012</li> <li>- Expected completion date: September 2012</li> <li>- ACER indicators and database included in the report</li> <li>- Data from all regulators included in the report</li> </ul> | <p>Start date: April 2012</p> <p>Report approved, finalised and published on website in November 2012</p> <p>ACER indicators and ACER/CEER database used in the report</p> <p>Data from regulators used in the report</p> |
| <b>Report with a status review of the Regional Initiatives</b>   | <p>Expected start date: September 2012</p> <p>Expected completion date: December 2012</p>   | *Report published in February 2013  |
| <b>Opinion on ENTSO-E and ENTSO-G Work Programmes</b>  | Within 2 months from the day of receipt, opinion on ENTSO-E and ENTSO-G work programmes to the  | ENTSOG Work Programme received on 9 November 2012, the opinion published on 12  |

|  |  |   |
|--|--|---|
|  | European Commission  | December 2012<br><br>ENTSO-E Work Programme received on 29 November 2012, the opinion delivered on 28 January 2013  |
| <p><b><u>Opinion on ENTSO-E relevant documents:</u></b></p> <p><b>Opinion to ENTSO-E on draft Community-wide network development plan</b></p> <p><b>Opinion/recommendations to ENTSO-E, EP, Council and EC, where draft Community-wide TYNDP do not contribute to IEM objectives/principles</b></p> <p><b>Recommendations to TSOs, NRAs or other competent bodies based on monitoring the implementation of Community-wide Network Development Plan and investigation of reasons for inconsistencies with the national/regional Ten-Year Network development Plans</b></p> <p><b>Opinion on common network operation tools including a common incidents classification scale, and research plans</b></p> <p><b>Opinion to annual summer and winter generation adequacy outlooks</b></p> <p><b>Opinion on recommendations relating to the coordination of technical cooperation between Community and third-country transmission system operators</b></p> | <p>For the opinion to ENTSO-E on draft Community-wide network development plan, within 2 months</p> <p>For the opinion to ENTSO-E on common network operation tools including a common incidents classification scale, and research plans, by end of 2012</p> <p>For the opinion to annual summer and winter generation adequacy outlooks, within 2 months of submission by ENTSO-E.</p> <p>For the Opinion to ENTSO-E on recommendations relating to the coordination of technical cooperation between Community and third-country transmission</p> | <p>The ENTSO-E draft Community-wide network development plan received on 11 July 2012</p> <p>Opinion issued on 5 September 2012</p> <p>No opinion since no ENTSO-E documents in 2012</p> <p>No opinion since no ENTSO-E documents in 2012 till end November 2012</p> <p>ENTSO-E summer and winter generation adequacy outlooks received on 11 June 2012.*Opinion on Summer Outlook published on 8 October 2012</p> <p>No opinion since no ENTSO-E documents in 2012</p> |

|   |  |   |
|---|--|---|
|   | system operators, by end of 2012.  |   |
| <p><b><u>Opinion on ENTSOG relevant documents:</u></b></p> <p><b>Regional investment plans will complete the Community wide network development plan, complementary opinion could be necessary</b></p> <p><b>Opinion to NRA on consistency of national Ten-Year Network Development Plan (TYNDP) with Community-wide TYNDP, at request</b></p> <p><b>Opinion/recommendations to ENTSOG, EP, Council and EC, where draft Community-wide TYNDP do not contribute to IEM objectives/principles</b></p> <p><b>Recommendations to TSOs, NRAs or other competent bodies based on monitoring the implementation of Community-wide Network Development Plan and investigation of reasons for inconsistencies</b></p> <p><b>Recommendation to EC on common network operation tools including a common incidents classification scale, and research plans</b></p> <p><b>Opinion to annual summer and winter supply outlooks</b></p> | <p>For the report to EC on common network operation tools including a common incidents classification scale, and research plans, by end of 2012. For the Recommendation to EC on common network operation tools including a common incidents classification scale, and research plans by end of 2012, if not done in 2011.</p> | <p>*All 6 GRIPs reviewed and opinion published in March 2013</p> <p>*No incompliance reported by NRAs National TYNDPs . Development plans collected and shared by ACER in 2013</p> <p>TYNDP opinion published in 2011. Next one planned for 2013</p> <p>Monitoring of implementation of EU wide TYNDP 2011-20 based on ENTSOG assessment, which was not available in 2012</p> <p>Not provided since no network operation tools developed by ENTSOG</p> <p>The Winter Supply Outlook received on 14 December 2011. Opinion</p> |

|  |   |   |
|--|---|---|
| <p><b>Report to EC on recommendations relating to the coordination of technical cooperation between Community and third-country transmission system operators.</b></p> | <p>generation adequacy outlooks, within 2 months of submission by ENTSOG.</p>   | <p>published on 4 June 2012<br/>Summer Supply Outlook received on 24 May 2012. Opinion published on 5 September 2012</p> <p>Not published by ENTSOG</p> |
| <p><b>Proposals to the European Commission on cost allocation methodologies and other aspects related to energy infrastructure</b></p>                                 | <p>Consistently with the timeline adopted by the Commission for the Comitology Guidelines</p>   | <p>TEN-E Regulation published in April 2013<br/>Foreseen for 2013/2014</p>  |
| <p><b>Opinion on decisions of national regulatory authorities on TSO certification</b></p>   | <p>Within two months of the day of receipt of such request from the Commission</p>  | <p>No opinion requested by the Commission</p>   |
| <p><b>Activities related to REMIT</b></p>  |   |   |
| <p><b>Development of monitoring methodologies and procedures</b></p>   | <ul style="list-style-type: none"> <li>- Expected start date: July 2012</li> <li>- Expected completion date: December 2012</li> </ul> | <p>No development in absence of clarity on implementing acts on data collection as a basis for monitoring activities</p>                                |
| <p><b>Contribution to the preparation of the delegated act, upon request from the Commission</b></p>   | <p>Upon request</p>   | <p>No contribution requested by the Commission</p>  |
| <p><b>Decision on the format according to which information in national registries is transmitted to the Agency</b></p>  | <p>Within six months of the entry into force of REMIT</p> <p>Activity expected to be started upon entry into force of REMIT</p>       | <p>Published on 26 June 2012</p>  |
| <p><b>Recommendation to the Commission on the records of transactions which it considers necessary to effectively and efficiently monitor wholesale</b></p>            | <p>Expected start date: January 2012</p> <p>Expected public</p>   |   |

|  |  |  |
|--|--|--|
| energy markets   | consultation period:<br>March - April 2012<br><br>Expected completion date:<br>July 2012 | *Published on 23 October 2012 to take into account ESMA's draft regulatory technical standards on derivatives reporting under EMIR from 27 September 2012 and the public consultation from DG ENER on the Implementation of a Data and Transaction reporting Framework for Wholesale Energy Markets from 14 September 2012 |
| <b>Guidance on the application of the definitions listed in Article 2 of REMIT</b>   | AS required  | 2 <sup>nd</sup> edition of Guidance published 28 September 2012  |
| <b>Mechanisms for information sharing with national regulatory authorities, the competent financial authorities of the Member States, competition authorities of the Member States, ESMA and other relevant authorities.</b> | As required  | Not required as the Commission's implementing acts were yet unclear  |

\*Instances when the Agency was unable to deliver by the set deadlines, shadowed when not complied with the deadlines

## **PART II. GOVERNANCE, MANAGEMENT AND INTERNAL CONTROL SYSTEMS**

### **1. Management Board**

The Agency's Administrative Board is charged with the administrative governance of the Agency and with ensuring that the Agency carries out its mission and performs the tasks assigned to it. In 2012 the Administrative Board met four times (13 March, 20 June, 5 September and 5 December) in Ljubljana and adopted 26 decisions and 1 opinion. Two written procedures took place.

## **Administrative Board decisions:**

- 1 Appointment of the new member and alternate, 9 January 2012\*\*
- 2 Appointment of the new member and alternate, 17 February 2012\*\*
- 3 Appointment of the new alternate, 3 February 2012\*\*
- 4 Estimate of revenue and expenditure of the Agency for the 2013 Financial Year, 13 March 2012
- 5 Decision concerning the terms and conditions for internal investigations in relations to the prevention of fraud, corruption and any illegal activity detrimental to the Union's interest, 13 March 2012
- 6 Decision on staff training, 13 March 2012
- 7 Decision on temporary occupation of management posts, 13 March 2012
- 8 Decision on the MSPP 2013-2015, 13 March 2012
- 9 Decision (new) on the estimate of revenue and expenditure of the Agency for the 2013 Financial Year, 30 March 2012\*
- 10 Decision on the adoption of Internal Control Standards (repealing decision AB no 08/2011), 20 June 2012
- 11 Decision establishing the policy and procedure for the reclassification of temporary agents, 20 June 2012
- 12 Decision establishing the policy and procedure for the reclassification of contract agents, 20 June 2012
- 13 Decision on the appointment of the new BoR member, 22 June 2012\*\*
- 14 Decision on the appointment of the new BoR member, 22 June 2012\*\*
- 15 Decision on the appointment of the new BoR alternate, 3 July 2012\*\*
- 16 Decision on the appointment of the new BoR alternate, 4 July 2012\*\*
- 17 Decision on the appointment of the new BoR alternate, 16 July 2012\*\*
- 18 Decision on the appointment of the new BoR alternate, 20 July 2012\*\*
- 19 Decision on the Implementing rules of the ACER Financial Regulation, 5 September 2012
- 20 Decision on the appointment of the new BoR member, 19 September 2012\*\*
- 21 Decision on teleworking at ACER, 9 October 2012\*
- 22 Decision on the appointment of the new BoR alternate, 23 November 2012\*\*
- 23 Decision on the Outside Activities and Assignments, 5 December 2012
- 24 Decision on the Permission to the Director to engage in academic cooperation with the FSR in 2013, 5 December 2012
- 25 Decision on appointing 2 members as reporting officers for the assessment of the annual performance of the Director, 5 December 2012
- 26 Decision on the Adoption of the 2013 Budget, 19 December 2012 \*

**Opinion:**

1 Opinion on final accounts, 20 June 2012

\*Adopted by written procedure

\*\* Decision delegated by the Administrative Board to the Chairman via Decision AB 05bis/2010 of 21 September 2010

## 2. Financial reporting

The Agency is reporting its financial activity both on a cash and on an accrual basis. Budgetary accounts are presented in Sections 2.3.1 (Revenue) and 2.3.2 (Expenditure), whereas the financial statements, presented on an accrual basis, can be found in Annex II.

### 2.1.Revenue

The approved budget for the Agency for the financial year 2012 amounted to €7,241,850. In addition to appropriations for that year, an amount of €830,837.65 was carried forward from the financial year 2011 to honour the outstanding payments related to the 2011 commitments, estimated by the Agency at that point in time. Of the amount carried forward, €590,143.87 was consumed by the end of the financial year 2012, with the difference to be returned to the European Commission during the financial year 2013.

The Revenue Outturn Statement presents on a cash basis the actual amounts cashed as income and the amount of cash consumed to honour the payment of commitments as well the amounts of unutilised and cancelled appropriations.

## Budgetary outturn account

|  | 1 January - 31<br>December<br>2012<br>€ | 8 March - 31<br>December 2011<br>€ |
|--|---|------------------------------------|
| <b>INCOME</b>  |   |                                    |
| Commission subsidy   | 7,241,850.00                            | 4,371,199.15                       |
| EFTA contribution  | 0.00                                    | 119,000.00                         |
| Other income – assigned revenue  | 4,039.98                                | 0.00                               |
| <b>TOTAL INCOME</b>  | <b>7,245,889.98</b>                     | <b>4,490,199.15</b>                |
| <b>EXPENSES</b>  |   |                                    |
| <b>Expenditure related to employees of the agency -Title I</b>                       |   |                                    |
| Payments   | 4,150,059.22                            | 1,915,262.83                       |
| Carry-forwards   | 219,014.05                              | 192,258.32                         |
| <b>Agency's building and associated expenses - Title II</b>                          |   |                                    |
| Payments   | 447,374.60                              | 207,570.77                         |
| Carry-forwards   | 1,651,902.63                            | 301,738.77                         |
| <b>Operational expenditure - Title III</b>   |   |                                    |
| Payments   | 244,352.51                              | 258,730.87                         |
| Carry-forwards   | 80,492.72                               | 336,840.56                         |
| <b>TOTAL EXPENSES</b>  | <b>6,793,195.73</b>                     | <b>3,212,402.12</b>                |
| Total appropriations not utilised  | 452,694.25                              | 1,277,797.03                       |
| <b>BUDGETARY OUTTURN BEFORE SPECIAL ITEMS</b>  | <b>452,694.25</b>                       | <b>1,277,797.03</b>                |
| Cancelled carryovers   | 240,693.78                              | 292,288.63                         |
| Correction from data migration   | 0.00                                    | 2,146.27                           |
| Exchange rate differences  | (781.92)                                | (807.05)                           |
| <b>BUDGETARY OUTTURN</b>   | <b>692,606.11</b>                       | <b>1,571,424.88</b>                |
| Interest generated by the end of the financial year to be returned to the Commission | 6,829.63                                | 10711.93                           |
| <b>Total to be returned to the Commission</b>  | <b>699,435.74</b>                       | <b>1,582,136.81</b>                |

## 2.2. Expenditure

The implementation of the 2012 budget reached a level equal to 93.75%, with unused appropriations of €452,694.25. Approximately 20% of these unused appropriations have been cancelled as no decision has been reached in relation to the annual salary adjustment.

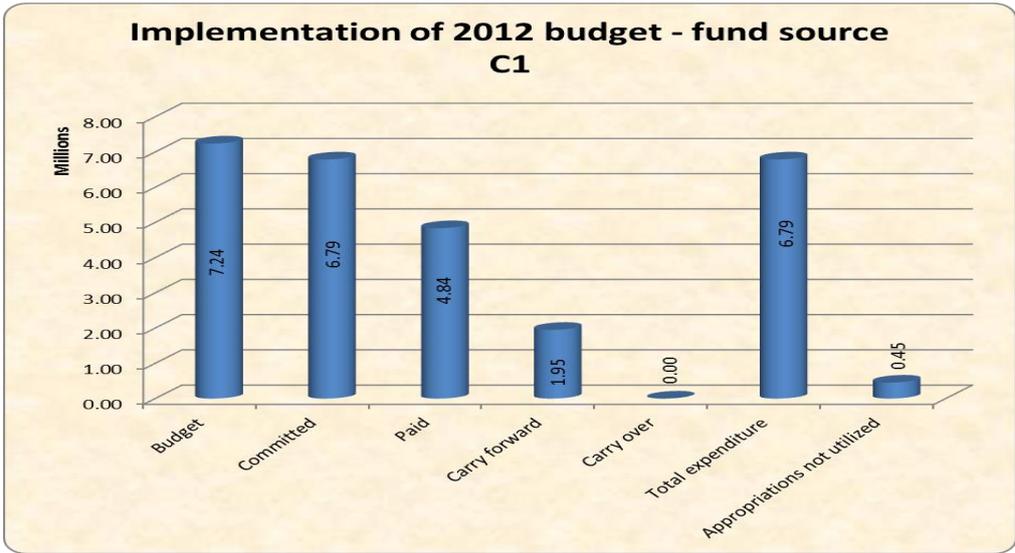
In order to support the successful achievement of the Agencies objectives for the financial year 2012 a number of 20 budgetary transfers were made during the year, ensuring a better allocation and distribution of funds.

On top of the annual subsidy an amount of €4,039.98 has been recognised under the fund source IC4 as assigned revenue stemming from recovered overpaid amounts.

The following tables present the implementation of the appropriations for the period between 1 January 2012 and 31 December 2012:

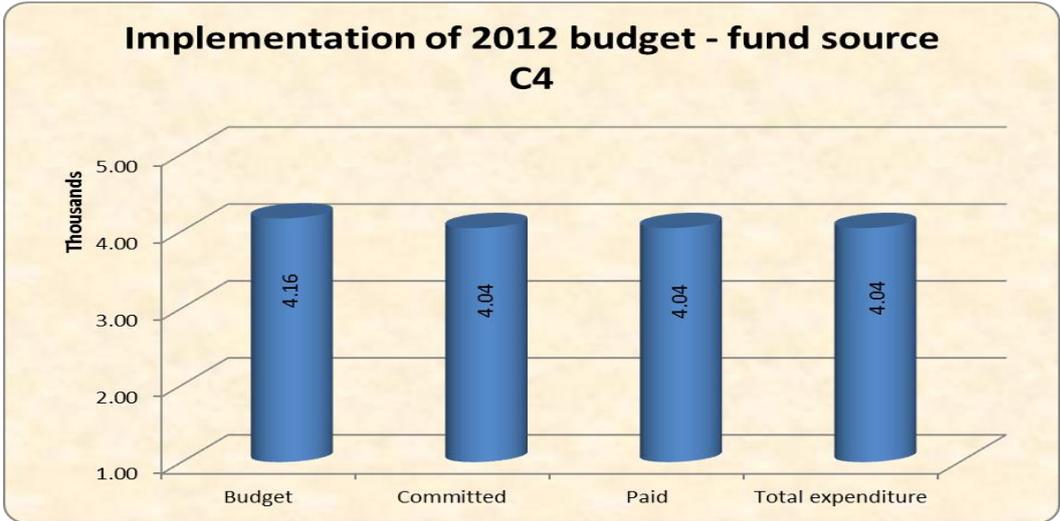
### Implementation of current year budget – fund source C1

| Title Chapter  | Heading  | Appropriation (1)   | Committed (2)       | % Committed   | Paid (3)            | % Paid        | Balance Commitment (1-2) | Balance Payment (2-3) |
|----------------|--|---------------------|---------------------|---------------|---------------------|---------------|--------------------------|-----------------------|
| <b>TITLE 1</b> | <b>Expenditure relating to staff and resources</b>     |                     |                     |               |                     |               |                          |                       |
| CHAPTER 11     | Staff in active employment                             | 4,493,250.00        | 4,137,028.85        | 92.07%        | 3,964,979.13        | 88.24%        | 356,221.15               | 172,049.72            |
| CHAPTER 12     | Missions and duty travel                               | 231,307.00          | 199,307.00          | 86.17%        | 163,098.00          | 70.51%        | 32,000.00                | 36,209.00             |
| CHAPTER 13     | Socio-medical infrastructure                           | 23,500.00           | 13,968.39           | 59.44%        | 4,365.57            | 18.58%        | 9,531.61                 | 9,602.82              |
| CHAPTER 14     | Social services  | 17,300.00           | 16,287.11           | 94.15%        | 15,134.60           | 87.48%        | 1,012.89                 | 1,152.51              |
|                | <b>TOTAL TITLE 1</b>                                   | <b>4,765,357.00</b> | <b>4,366,591.35</b> | <b>91.63%</b> | <b>4,147,577.30</b> | <b>87.04%</b> | <b>398,765.65</b>        | <b>219,014.05</b>     |
| <b>TITLE 2</b> | <b>Agency's building and associated costs</b>          |                     |                     |               |                     |               |                          |                       |
| CHAPTER 20     | Agency's premises costs                                | 27,091.30           | 26,592.44           | 98.16%        | 24,493.27           | 90.41%        | 498.86                   | 2,099.17              |
| CHAPTER 21     | Data processing  | 1,505,818.70        | 1,503,573.58        | 99.85%        | 100,067.89          | 6.65%         | 2,245.12                 | 1,403,505.69          |
| CHAPTER 22     | Movable property and associated costs                  | 149,500.00          | 149,498.72          | 100.00%       | 77,365.38           | 51.75%        | 1.28                     | 72,133.34             |
| CHAPTER 23     | Current administrative expenditure                     | 314,858.00          | 314,680.65          | 99.94%        | 180,356.62          | 57.28%        | 177.35                   | 134,324.03            |
| CHAPTER 24     | Computer infrastructure, telecommunication and postage | 105,100.00          | 104,931.84          | 99.84%        | 65,091.44           | 61.93%        | 168.16                   | 39,840.40             |
|                | <b>TOTAL TITLE 2</b>                                   | <b>2,102,368.00</b> | <b>2,099,277.23</b> | <b>99.85%</b> | <b>447,374.60</b>   | <b>21.28%</b> | <b>3,090.77</b>          | <b>1,651,902.63</b>   |
| <b>TITLE 3</b> | <b>Operational expenditure</b>                         |                     |                     |               |                     |               |                          |                       |
| CHAPTER 30     | Representation expenses                                | 21,191.00           | 12,000.00           | 56.63%        | 6,138.75            | 28.97%        | 9,191.00                 | 5,861.25              |
| CHAPTER 31     | Operational missions                                   | 145,739.00          | 145,739.00          | 100.00%       | 141,780.92          | 97.28%        | 0.00                     | 3,958.08              |
| CHAPTER 32     | Stakeholder involvement, public relations and website  | 187,000.00          | 145,548.17          | 77.83%        | 81,720.28           | 43.70%        | 41,451.83                | 63,827.89             |
| CHAPTER 33     | Translations   | 15,000.00           | 15,000.00           | 100.00%       | 13,154.50           | 87.70%        | 0.00                     | 1,845.50              |
| CHAPTER 34     | Professional indemnity                                 | 5,195.00            | 5,000.00            | 96.25%        | 0.00                | 0.00%         | 195.00                   | 5,000.00              |
|                | <b>TOTAL TITLE 3</b>                                   | <b>374,125.00</b>   | <b>323,287.17</b>   | <b>86.41%</b> | <b>242,794.45</b>   | <b>64.90%</b> | <b>50,837.83</b>         | <b>80,492.72</b>      |
|                | <b>GRAND TOTAL BUDGET 2012</b>                         | <b>7,241,850.00</b> | <b>6,789,155.75</b> | <b>93.75%</b> | <b>4,837,746.35</b> | <b>66.80%</b> | <b>452,694.25</b>        | <b>1,951,409.40</b>   |



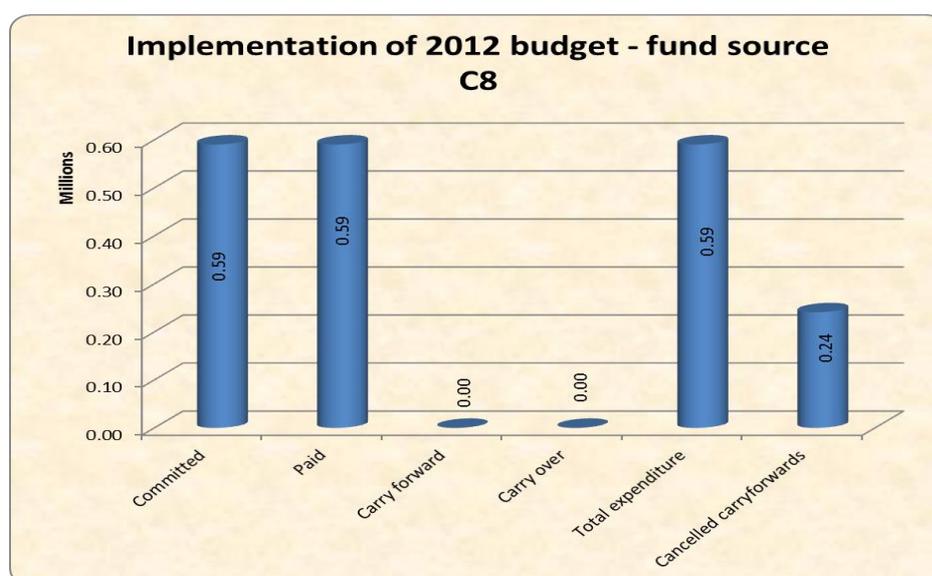
### Implementation of 2012 assigned revenue – fund source C4

| Title   | Heading   | Assigned revenue | Commitments     | Commitment execution | Payments        | Payment execution |
|---------|---|------------------|-----------------|----------------------|-----------------|-------------------|
| TITLE 1 | EXPENDITURE RELATING TO EMPLOYEES OF THE AGENCY | 2,481.92         | 2,481.92        | 100.00%              | 2,481.92        | 100.00%           |
| TITLE 3 | OPERATIONAL EXPENDITURE                         | 1,558.06         | 1,558.06        | 100.00%              | 1,558.06        | 100.00%           |
|         | <b>TOTAL</b>                                    | <b>4,039.98</b>  | <b>4,039.98</b> | <b>100.00%</b>       | <b>4,039.98</b> | <b>100.00%</b>    |



## Implementation of budget carried forward from year 2011 – fund source C8

| Title Chapter  | Heading   | Appropriation (1) | Committed (2)     | % Committed   | Paid (3)          | % Paid        | Balance Commitment (1-2) |
|----------------|---|-------------------|-------------------|---------------|-------------------|---------------|--------------------------|
| <b>TITLE 1</b> | <b>Expenditure related to employees of the agency</b>         |                   |                   |               |                   |               |                          |
| CHAPTER 11     | Staff in active employment                                    | 175,122.10        | 63,087.62         | 36.02%        | 63,087.62         | 36.02%        | 112,034.48               |
| CHAPTER 12     | Missions and duty travel                                      | 8,407.61          | 7,118.51          | 84.67%        | 7,118.51          | 84.67%        | 1,289.10                 |
| CHAPTER 13     | Socio-medical infrastructure                                  | 8,141.37          | 8,107.45          | 99.58%        | 8,107.45          | 99.58%        | 33.92                    |
| CHAPTER 14     | Social services   | 587.24            | 520.38            | 88.61%        | 520.38            | 88.61%        | 66.86                    |
|                | <b>TOTAL TITLE 1</b>  | <b>192,258.32</b> | <b>78,833.96</b>  | <b>41.00%</b> | <b>78,833.96</b>  | <b>41.00%</b> | <b>113,424.36</b>        |
| <b>TITLE 2</b> | <b>Agency's building and associated costs</b>                 |                   |                   |               |                   |               |                          |
| CHAPTER 20     | Agency premises costs   | 28,556.52         | 27,047.71         | 94.72%        | 27,047.71         | 94.72%        | 1,508.81                 |
| CHAPTER 21     | Data processing   | 73,755.91         | 73,750.46         | 99.99%        | 73,750.46         | 99.99%        | 5.45                     |
| CHAPTER 22     | Movable property and associated costs                         | 15,131.88         | 13,523.08         | 89.37%        | 13,523.08         | 89.37%        | 1,608.80                 |
| CHAPTER 23     | Current administrative expenditure                            | 265,580.35        | 185,431.06        | 69.82%        | 185,431.06        | 69.82%        | 80,149.29                |
| CHAPTER 24     | Postal charges, telecommunication and computer infrastructure | 94,745.22         | 71,728.33         | 75.71%        | 71,728.33         | 75.71%        | 23,016.89                |
|                | <b>TOTAL TITLE 2</b>  | <b>477,769.88</b> | <b>371,480.64</b> | <b>77.75%</b> | <b>371,480.64</b> | <b>77.75%</b> | <b>106,289.24</b>        |
| <b>TITLE 3</b> | <b>Operational expenditure</b>                                |                   |                   |               |                   |               |                          |
| CHAPTER 30     | Representation expenses                                       | 12,596.14         | 7,747.41          | 61.51%        | 7,747.41          | 61.51%        | 4,848.73                 |
| CHAPTER 31     | Operational missions  | 35,758.58         | 21,984.10         | 61.48%        | 21,984.10         | 61.48%        | 13,774.48                |
| CHAPTER 32     | Stakeholder involvement, public relations and website         | 112,454.73        | 110,097.76        | 97.90%        | 110,097.76        | 97.90%        | 2,356.97                 |
|                | <b>TOTAL TITLE 3</b>  | <b>160,809.45</b> | <b>139,829.27</b> | <b>86.95%</b> | <b>139,829.27</b> | <b>86.95%</b> | <b>20,980.18</b>         |
|                | <b>GRAND TOTAL</b>  | <b>830,837.65</b> | <b>590,143.87</b> | <b>71.03%</b> | <b>590,143.87</b> | <b>71.03%</b> | <b>240,693.78</b>        |



## 2.3 Risk Management

The Agency followed a comprehensive set of processes to monitor and report on its Work Programme and developments related to its human and financial resources. Both management and staff in key functions were involved in the planning, risk assessment, monitoring and reporting, to ensure the alignment of activities and a common understanding of the Agency's objectives.

Key performance indicators for major activities were identified, allowing the monitoring of progress and the updating of the objectives in case of significant changes and new risks during implementation.

The Agency's reporting structures ensured that management was aware and followed closely the achievement of the objectives. These included: regular management meetings, development and updating of reporting tools and overviews of achievement of results, and regular reporting on operational and key administrative activities. Working Groups also met in order to support the planning, implementation and decision-making in key areas of operation.

Within this framework, the Agency's management considered the existing risk in several ways, including regular discussions at management meetings and through the development and regular update of the Risk Register and action plans and the implementation of concrete actions to mitigate identified risks.

The Agency's annual risk assessment exercise for 2012 covered its operational, legal and administrative areas of activity. The aim of the Risk Register is to identify possible risks, assess their likelihood and impact on the achievement of the Agency's objectives, and determine the Agency's response to eliminate or mitigate the potential negative effects.

As a result of the exercise, management identified five main risks considered to be both likely and with a potential significant impact over the Agency activities:

1. Collaboration with the NRAs and their resources contributing to the main deliverables of the Agency.
2. The effectiveness of the mechanism for information collection and sharing with regards to REMIT implementation, whereas information has to be collected effectively and must also be accurate, comparable and reliable.

3. Possible delays in the delivery of Opinion on Network Codes on Capacity Allocation Mechanisms in gas, due to external factors, which may affect the timely adoption of the Network Code. This, in turn, may delay the process of the completion of the European internal gas market.

4. Shortage of staff in HR section resulting in delayed recruitment procedures, and thus in delays in the completion of the establishment plan.

5. The impact of the expected selection of the new Agency's office premises (after the expiry, in January 2013, of the rent-free period on the current premises) and of the removal to the new premises.

All the above risks were successfully managed. In particular, those under sub 1, 3 and 4 were prevented by, respectively, actions to improve cooperation with NRAs, greater coordination with the European Commission and ENTSO-G in the development of the Network Code on Capacity Allocation Mechanisms (which was finally adopted in early 2013) and assigning more resources to the HR function within the Agency.

Risks under sub 2 and 5 were mitigated by, respectively, developing effective data reporting procedures which minimise the burden on market participants and ensuring that the Agency can remain in its temporary premises for an additional period of time.

## **2.4 Internal Control Standards**

The Agency's Internal Control system has been established by Administrative Board Decision AB n° 08/2011 on the Adoption of Internal Control Standards, in compliance with Commission Regulation (EC, Euratom) No 2343/2002 of 23 December 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities.

Following a subsequent review of the system and assessment of the controls already in place, it was further revised by Administrative Board Decision AB n° 10/2012 as of 20 June 2012, and repealing Decision AB n° 08/2011.

With this Decision the Administrative Board adopted the 16 Internal Control Standards, which apply to all administrative processes of the Agency.

The responsibility for the adoption of detailed implementing rules and procedures, related to the implementation of the Internal Control Standards, remains with the Director.

The information provided below describes the state of play of the functioning of the entire Internal Control System of the Agency, an overview of the priorities set for the reporting period and the implementation of those priorities, description of key controls put in place, and an overall evaluation on the effectiveness of the implementation of the specific rules and procedures.

## **2.5 Compliance with Internal Control Standards**

The Internal Control Standards adopted by Administrative Board Decision AB n° 10/2012, may be structured around 6 major 'building blocks':

1. Mission and Values
2. Human Resources
3. Planning and Risk Management Process
4. Operations and Control Activities
5. Information and Financial Reporting
6. Evaluation and Audit

In 2012 the Agency made substantial progress in further completing its internal control system through the setting up of internal instructions and relevant procedures, thus ensuring compliance with the requirements of the Internal Control Standards.

The detailed action plan (a framework overview of the 16 Internal Control Standards and respective requirements), as developed in 2011, was followed and constantly updated with the progress made, in order to assist the timely and proper implementation of the planned specific actions.

The results achieved in ensuring compliance with the requirements of the Internal Control Standards are summarised below by major area (building block)<sup>25</sup>:

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<sup>25</sup> A detailed overview of the entire IC system is presented in the document "ACER Internal Control Framework - Internal Control Standards for Effective Management, baseline Requirements and Action Plan", Dec 2012

## **Building Block 1: Mission and Values**

The following standards are covered under this building block:

### **ICS 1: Mission**

### **ICS 2: Ethical and Organisational Values**

The Agency took appropriate measures to foster its mission and values throughout the organisation. It managed to put in place all relevant controls in order to ensure full compliance with the requirements of these two standards. The specific actions undertaken include:

- The Agency's mission statement, as defined by its founding Regulation, was published and communicated to the public and all staff via a number of communication tools – the Agency website, Intranet, published in key internal documents, explained at induction trainings and lunch time seminars.
- The Agency put procedures in place to ensure that all staff is aware of relevant ethical and organisational values, in particular ethical conduct, and avoidance of conflicts of interest, fraud prevention and reporting irregularities. The European Code of Good Administrative Behaviour is used and communicated to all staff upon taking-up duties, Guidelines on Preventing and Managing Potential or Actual Conflicts of Interest in the Agency were adopted, relevant training on professional ethics and staff conduct rules was provided to all staff. A number of complementary measures facilitate the proper implementation of the ICS requirements.

## **Building Block 2: Human Resources**

The following standards are covered under this building block:

### **ICS 3: Staff Allocation and Mobility**

### **ICS 4: Staff Evaluation and Development**

Along with the successful recruitment and continuous development of its core staff in line with the establishment plan, the Agency achieved substantial progress in introducing internal rules and procedures, ensuring that staff recruitment is based on the Agency's needs, priorities and objectives, whereas candidates with relevant skills and extensive

expertise are attracted and recruited through fair and transparent selection procedures, strictly observing the principles of equal treatment, while ensuring broad geographical balance (20 nationalities by 31 December 2012).

In 2012 a new Market Monitoring Department was established and the recruitment process to fulfill the open positions in this Department was launched.

The Agency always aims to ensure that all the requirements of the internal control standards in the area of human resources are effectively met, also in line with its growing structure and enhanced responsibilities. In particular:

- Staff Regulations (SR) and Conditions of Employment of Other Servants of the European Communities (CEOS) are applied by the Agency in the recruitment and administration of all staff. Relevant implementing rules and internal guidelines in the area of staff allocation and mobility were adopted and are strictly followed.
- A number of measures support staff development and mobility, including the adoption of rules on teleworking, provisions on engagement of staff in outside activities and the Agency's accession to the Inter-agency Job Market (IAJM).

The Agency introduced procedures to ensure that staff skills are further developed through relevant training and support, and that staff performance and achievements are evaluated against individual annual objectives.

- In 2012 the Agency carried out the first annual appraisal exercise, following the European Commission standards.
- The rules for reclassification of temporary agents and contract agents were adopted, based on the relevant implementing rules of the European Commission. This measure further facilitates the development and recognition of staff efforts based on individual performance, personal merit and aptitude.
- Detailed rules on staff training were adopted. A total number of training days (89) devoted to learning and development activities provided staff with enhanced opportunity for professional and personal development.

### **Building Block 3: Planning and Risk Management Process**

The following standards are covered under this building block:

#### **ICS 5: Objectives and Performance Indicators**

## **ICS 6: Risk Management Process**

In 2012 the Agency continued to improve the tools and set of processes used to monitor and report on its Annual Work Programme and developments related to its human and financial resources. Both Management and staff in key functions are involved in the planning, risk assessment, monitoring and reporting to assure alignment of activities and common understanding of objectives. The following key controls are in place:

- The Agency's Annual Work Programme (AWP) defines clear objectives, formulated in a way to ensure that achievements are easily monitored and assessed. The AWP clearly outlines the activities that contribute to the achievement of objectives and aligns those with the resources available, taking into consideration the Agency's increased role and responsibilities.
- Key performance indicators (KPIs) for major activities were developed to ensure that progress is effectively monitored and objectives are updated.
- The Agency has put efficient reporting structures in place in order to ensure that management is aware and follows closely the achievement of objectives. Regular reporting of the relevant KPIs is ensured. KPIs are further reviewed and their effectiveness measured accordingly.
- Risk is considered by the Agency management in several ways, mainly through the annual risk assessment exercise and the development and maintenance of a Risk Register, but also through the regular monitoring and reporting of the identified risks. An action plan with concrete measures and responsibilities is defined and observed in order to ensure activities run as planned and contribute to the implementation of the AWP objectives.

While the Agency is committed to further improve and strengthen controls in both planning and risk management, it considers itself fully compliant with the minimum requirements of the two standards.

## **Building Block 4: Operations and Control Activities**

The following standards are covered under this building block:

**ICS 7: Operational Structure****ICS 8: Processes and Procedures****ICS 9: Management Supervision****ICS 10: Business Continuity****ICS 11: Document Management**

The Agency has put in place an effective structure that supports efficient decision making and clearly allocate responsibilities and delegation of authorities. Further to what was achieved in 2011, a number of new processes and procedures were developed and introduced.

Regular reporting on KPIs was ensured internally, as well as to the Agency's bodies and the European Commission. Detailed action plans have been developed in response to the recommendations provided by the internal and external auditors and their implementation was monitored closely during the year. Management supervision was effectively ensured across all levels of activity.

Delegations are clearly defined. Delegation manual, recording all financial and signatories' delegations, is in place to ensure segregation of duties, clear responsibilities and delegation of authority.

The Agency IT systems are covered by a set of procedures and policies. The IT Steering Committee was established in order to align the development of IT infrastructure with the Agency's business needs. The Agency will continue to develop and strengthen its IT systems, considering the relevant provisions on security, in order to ensure IT systems clearly support the achievement of objectives.

A number of procedures to ensure the continuity of key operational activities and back-up for critical staff were introduced.

Document management was considered as a priority area for 2012. A Records Repository tool was developed and introduced, defining rules for registration, improving records management and safeguarding the Agency documents.

The Agency aims to invest further efforts in the following specific actions to ensure full

compliance with the minimum requirements of the above standards:

- A Business Continuity Plan and Security Policy will be put in place to define crisis response and recovery scenarios in cases of major disruptions to its activities and comply with security requirements.
- A procedure for document management, including provisions on registration, filing, archival, access rights and retention periods, was developed and will be adopted in the course of 2013.

## **Building Block 5: Information and Financial Reporting**

The following standards are covered under this building block:

### **ICS 12: Information and Communication**

### **ICS 13: Accounting and Financial Reporting**

In 2012 the Agency strengthened its internal communication tools in order to ensure that management and staff members are appropriately informed of decisions that concern their work assignments and environment. In this respect, the Intranet was further enhanced and regularly updated, regular staff meetings taken place to ensure exchange of information and discussion on key aspects of the Agency internal environment and key operational objectives.

The new Agency web-page was developed and launched, An Agency newsletter was developed and the public was regularly informed of forthcoming activities and key Agency decisions. External Communication Guidelines were adopted by the Administrative Board.

In 2013 the Agency will focus on further defining and introducing its internal and external communication policies, promoting even greater transparency of the Agency's decisions and acts, more efficient communication and interaction with the Agency stakeholders and the public. A number of internal communication activities will also be introduced in order to facilitate interaction among the Agency departments and to ensure improved exchange of information.

In the area of accounting and financial reporting the Agency managed to effectively

introduce and document its key accounting procedures and controls, which ensure effective financial management and accountability.

## **Building Block 6: Evaluation and Audit**

The following standards are covered under this building block:

**ICS 14: Evaluation of Activities**

**ICS 15: Assessment of Internal Control Systems**

**ICS 16: Internal Audit Capability**

The Agency does not have an Internal Audit Capability (IAC). Due to its size and the scope of its activities, this function is more effectively performed by externally engaged consultants and the Internal Audit Service of the European Commission.

An assessment of the internal control system in place was performed by external consultant at the beginning of 2012. The assessment aimed to follow up on the progress made in 2011 and focused on the implementation of the priority standards set, as well as the overall progress made towards compliance with the standards.

Further to the work performed by the external consultant, management evaluates the effectiveness of the Internal Control System currently in place based on the results of regular ex-post financial controls, as well as on the regular reporting of progress and results achieved.

A Strategy, Coordination and Compliance Advisor function was established within the Director's to facilitate the assessment and evaluation of the internal control system and to promote compliance with its requirements.

The first audit engagement carried out by the Internal Audit Service also took place in February 2012. A full risk assessment of the Agency and limited review of the internal control standards system were performed. The results and the recommendations from the audit are described in the current report.

## **2.6 Effectiveness of Internal Control Standards**

In 2012 the Agency concentrated its efforts further to develop and strengthen its Internal Control System in order to ensure full compliance with the requirements of the Internal Control Standards. More specifically, it focused on the following priority areas:

### **Further develop Staff Training and Development policies and procedures**

A number of key controls were effectively introduced and implemented. Decisions on Staff Training were adopted, providing staff with a number of development opportunities. A Learning and Development Framework will be developed in the course of 2013 to complement the strategic direction and long-term vision for development of the Agency's human resources, based on the needs deriving from the Agency's mission and strategic objectives.

### **Develop, introduce and regularly update Business Continuity Plan for critical business processes and application**

Although efforts were made to ensure the continuity of the Agency's key operational and administrative activities, as well as back-up for key staff, a Business Continuity Plan for critical business processes and applications is planned to be put in place in 2013, incorporating the significant responsibilities of the Agency under REMIT.

### **Introduce a comprehensive Document management policy and set-up relevant document management tools in order to ensure the Agency's documents are secure, effectively managed and comply with relevant provisions**

The Records Repository tool and a document management policy were developed in the course of 2012, ensuring improved management of the Agency documents, enhancing their security and traceability through the life-cycle records. The document management policy is expected to be adopted in 2013.

**Further develop and strengthen the Key Performance Indicators, both for operational and administrative areas; develop and introduce planning and monitoring tools to support better management supervision and effective decision making.**

Key performance indicators (KPIs) for major activities were improved in 2012, allowing progress to be monitored and objectives to be updated by taking account of significant changes during the implementation. The Agency focused on further development of its KPIs – both quantitative and qualitative – in order to cover all aspects of the Agency activities in its administrative and operational areas, thus providing management with improved supervision and decision-making tools.

**Reorganise its financial circuits in order to centralise its financial tasks, thus ensuring better management of its financial resources**

The newly established financial cell became fully operational as of 1 July 2012. Financial transactions and their processing in the ABAC system are fully centralised within its responsibility. This aimed to facilitate and accumulate the Agency's financial knowledge in order to ensure improved financial management, legality and regularity of financial transactions and compliance with the applicable rules.

The centralisation of the financial tasks led to increased efficiency and improvement in the budget management and performance of transactions.

**Define and introduce a policy and procedures for the management of sensitive functions**

The Policy and procedure for management of sensitive functions was adopted in 2012. Sensitive functions within the Agency will be re-assessed at least every five years or any time a major change in the Agency's structure and responsibilities occurs.

Further to ensuring compliance in priority areas, the Agency aims to effectively implement, maintain and improve all introduced controls over time, in order to ensure the internal control system in place, provide reasonable assurance regarding the achievement of the objectives set.

# **PART III. BUILDING BLOCKS TOWARDS THE DECLARATION OF ASSURANCE**

## **1. Assessment by management**

In 2012 the Agency managed to complement and further strengthen its existing tools and procedures to better manage, control and monitor the achievement of strategic objectives, planned activities and key milestones, as well as the efficient use of human and financial resources.

Considering the major progress of the Agency in organisation, management and supervision, in planning, monitoring and reporting, in risk assessment and efficiency of the control procedures, it might be concluded that the control environment in place is working as intended and provides reasonable assurance that risks are identified and adequately controlled.

The introduced ex-ante controls have provided reasonable assurance on the legality and regularity of activities. They cover the entire system of ex-ante controls and checks performed on:

- operational and financial activities;
- established workflows of financial transactions and strengthening of the financial management;
- management supervision performed through regular overview of the implementation of the AWP activities and achievement of objectives, including assessment of risks involved and definition of preventive measures, where necessary.

The ex-ante controls were complemented by the performance of specific ex-post checks and controls.

Specific planning and monitoring tools have been developed to inform and support effective management decision making processes.

Based on the results achieved in 2012, and the assurance received by the performed external and internal audits, considering the major developments in the Agency's tasks

and responsibilities, operational structure and required resources, it might be concluded that the current control system provides reasonable assurance to the Authorising Officer and Authorising Officers by Delegation in their areas of responsibility.

This conclusion also assumes the need for the Agency to continue the development of its internal control environment, to strengthen the existing controls (considering the cost-effectiveness of the controls implemented and their added value against the additional costs for the Agency) in order to achieve and maintain full compliance with the requirements of the 16 Internal Control Standards, and achievement of objectives in its Annual Work Programme.

## 2. Data protection

Following the appointment of the Data Protection Officer (DPO) on 19 December 2011<sup>26</sup>, the Director appointed on 7 March 2012 also a Deputy Data Protection Officer for a period of three years<sup>27</sup>. The Deputy Data Protection Officer will assist the DPO in carrying out its duties and to ensure continuity of the DPO function.

Pursuant to Article 27 of Regulation (EC) No 45/2001<sup>28</sup>, two notifications were made in 2012 to the European Data Protection Supervisor (EDPS). The notifications related to the procedure for the recruitment of Temporary Agents and Contract Agents<sup>29</sup> and the procedure for the selection of Seconded National Experts<sup>30</sup>. In addition, following the EDPS's Opinion on the Agency's notification for prior checking concerning the Probationary Reports and the notification concerning Staff appraisals<sup>31</sup>, submitted in October 2011, clarifications<sup>31</sup> and further information on the follow-up of the Opinion were submitted to the EDPS.

In 2012, DPO related requests were mainly coming from Permanent Representations/embassies or related national bodies, asking for personal data from Agency staff members.

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<sup>26</sup> Director Decision 2011-28 of 19 December 2011.

<sup>27</sup> Director Decision 2012-013 of 7 March 2012.

<sup>28</sup> OJ L8, 12.01.2001, p.1.

<sup>29</sup> Case 2012-1012.

<sup>30</sup> Case 2012-1013.

<sup>31</sup> Case 2011-0953.

## 3. Results from audits during the reporting year

### Audits - European Court of Auditors (ECA)

The audit mission of the European Court of Auditors (ECA) was carried out in March 2013. It covered the financial implementation and the audit on the Agency's accounts for the first full operational year since the achievement of its official existence. The Agency was granted its financial autonomy on 8 March 2011. Therefore the audit of the 2012 financial year encompassed the period 1 January to 31 December 2012 with the comparison figures being for the period 8 March to 31 December 2011. The Report of ECA for the financial year 2012 is expected to be published at the end of 2013.

ECA provided its final opinion<sup>32</sup> on the reliability of the Agency's accounts and the legality and the regularity of the transactions underlying the accounts for 2011. This opinion provides that the Agency's Annual Accounts<sup>33</sup> present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year. The ECA concluded that the transactions underlying the annual accounts of the Agency for the financial year ended 31 December 2011 are legal and regular in all material respects.

The audit opinion of ECA provides additional assurance to the Authorising officer's statement of assurance.

In its Report on the annual accounts of ACER for the financial year 2011 ECA made three comments, mainly in the area of budget implementation, recruitment procedures and use of seconded national experts (SNEs), which however do not call the Court's opinion into questions. The Agency provided an action plan for the implementation of the recommendations made, which was accepted by the Court. All recommendations and specific actions have been effectively implemented to date.

### 3.2 Audits Internal Audit Service (IAS)

In 2012 the Agency also received the first audit visit of the Internal Audit Service (IAS). An overall risk assessment and limited review of the Internal Control Standards (ICS)

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<sup>32</sup> Report on the annual accounts of the European Agency for Cooperation of Energy Regulators for the financial year 2011 together with the Agency's replies, p.5, *OJ C 388*, 15.12.2012

<sup>33</sup> The Final Annual Accounts were drawn up on 19 June 2012 and received by the Court on 2 July 2012.

were performed. As a result of the IAS mission, the following main reports were produced:

1. IAS Strategic Audit Plan (SAP) 2013-2015<sup>34</sup>
2. Report on the limited review of the Internal Control Standards<sup>35</sup>

## **Overview of the IAS reports and action plan implementation**

### **ACER Strategic Audit Plan (SAP) 2013-2015**

The Strategic Audit Plan, produced following the results of the conducted risk assessment exercise, described the audit strategy established by the IAS for the period of 2013-2015 with regard to the Agency activities. The prospective audit topics to be covered in the coming three years include:

- A. Budget execution and procurement.
- B. IT governance (in the context of preparedness for REMIT).
- C. Planning, budgeting and monitoring.
- D. Development of framework guidelines and opinion on network codes.
- E. Follow-up on the recommendations reported as implemented.

The Agency was invited to present an action plan and specific actions for sub-processes requiring further action towards improved controls. The proposed plan was accepted and its implementation will be audited by the IAS according to the defined audit plan.

The first IAS audit under the Strategic Audit Plan will be carried out in the course of 2013. The audit topics will be adjusted by the IAS depending on the results of the risk assessment updates on an annual basis.

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<sup>34</sup> IAS Strategic Audit Plan 2013-2015 for ACER, 2 May 2012.

<sup>35</sup> Final Report on the Limited review of the implementation of Internal Control Standards, 22 May 2012.

## **Report on the limited review of the Internal Control Standards (ICS)**

The final report produced on the performed review of the implementation of the Internal Control Standards aimed to provide the Director and the Administrative Board with an independent assessment on the adequacy of the design and effectiveness of the implementation of the Agency's ICS. Based on the results of the limited review, and given the recent set-up of the Agency, the IAS came up with five observations resulting in seven recommendations, two of them rated 'Very Important' and five as 'Important'. Observations were formulated in the following areas:

- A. Mission and values
- B. Human resources
- C. Planning and risk management
- D. Operational and control activities
- E. Information and financial reporting

The Agency subsequently developed an action plan with proposed actions to adequately implement the recommendations of the IAS. The action plan was approved by the IAS and the follow-up on its implementation has been regularly reported by the Agency. All of the actions were implemented and submitted for review, with six of the recommendations accepted and closed as completed by the IAS and one action under review at the date of preparation of this report.

## **Audits Internal Audit Capability (IAC)**

No Internal Audit Capability is planned to be established within the Agency structure for the time being. It has been decided that, given its size and activities, the Agency does not require a full-time Internal Auditor. Internal audit will more effectively be performed by experts from other Agencies on the basis of a Service Level Agreement and by the Internal Audit Service of the European Commission.

## **Follow up of reservations and action plans for audits from previous years**

Not applicable. No reservations have been made in the previous Activity Report.

Action plans submitted to ECA and IAS following audit visits in 2012 were implemented without delays.

## **Follow up of observations from the discharge authority**

In its Report<sup>36</sup> the ECA made three comments, mainly in the area of budget implementation, recruitment procedures and use of seconded national experts (SNEs), which however do not call the Court's opinion into questions. The Agency subsequently provided an action plan for the implementation of the recommendations made, which were accepted by the Court. All recommendations and specific actions have been effectively addressed.

## **Assurance received from other AO in cases of crossed sub-delegations**

Not applicable.

## **Reservations**

No reservations are to be made in the current Annual Activity Report.

## **Conclusions**

Not applicable.

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<sup>36</sup> Report on the annual accounts of the European Agency for Cooperation of Energy Regulators for the financial year 2011 together with the Agency's replies, p.5, *OJ C 388* , 15.12.2012

## **PART IV. DECLARATION OF ASSURANCE**

I, the undersigned, Director of the Agency for the Cooperation of Energy Regulators,

In my capacity as authorising officer,

Declare that the information contained in this report gives a true and fair view.

State that I have reasonable assurance that the resources assigned to the activities described in this report have been used for their intended purpose and in accordance with the principles of sound financial management, and that the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions.

This reasonable assurance is based on my own judgement and on the information at my disposal, such as the results of the self-assessment, ex-post controls, the work of the internal audit capability, the observations of the Internal Audit Service and the lessons learnt from the reports of the Court of Auditors for years prior to the year of this declaration.

Confirm that I am not aware of anything not reported here which could harm the interests of the agency.

Ljubljana, 13 June 2013

.....(signature)

Alberto Pototschnig

# ANNEXES

## Annex I. Core business statistics

State of Play of Framework guidelines and network codes in 2012:



### Framework Guidelines: Electricity

| Title                            | Public Consult. | Issued     | NC Submitted    | ACER RO/QR/Recomm/QR |
|----------------------------------|-----------------|------------|-----------------|----------------------|
| Grid Connections                 | Mar-May 2011    | 20.07.2011 | RfG 13.07.2012  | RO 13.10.2012        |
| Capacity Alloc. and Cong. Manag. | Apr-Jun 2011    | 29.07.2011 | CACM 27.09.2012 | RO 19.12.2012        |
| System Operations                | Jul-Sep 2011    | 2.12.2011  |                 |                      |
| Balancing                        | Apr-Jun 2012    | 18.09.2012 |                 |                      |



### Framework Guidelines: Gas

| Title                                 | Public Consult. | Issued     | NC Submitted | ACER RO/Recomm/QR           |
|---------------------------------------|-----------------|------------|--------------|-----------------------------|
| Capacity Allocation Mechanisms        | Mar-May 2011    | 03.08.2011 | 06.03.2012   | RO 05.06.2012               |
|                                       |                 |            | 17.09.2012   | QR 04.10.2012<br>09.11.2012 |
| Balancing                             | Apr-Jun 2011    | 18.10.2011 | 26.10.2012   |                             |
| Interop. and Data Exch. Rules         | Mar-May 2012    | 26.07.2012 |              |                             |
| Harmonised Transmission Tariffs Rules | Sep-Nov 2012    |            |              |                             |

REMIT Regulatory Deliverables in 2012:



## REMIT: Regulatory Deliverables

| Document  | Legal basis | Public Consult. | Issued      |
|---|-------------|-----------------|-------------|
| ACER Guidance on the application of REMIT definitions – 1 <sup>st</sup> Edition | 16(1)       | n/a             | 20 Dec 2011 |
| ACER Decision on the Format for the Registration of Market Participants         | 9(3)        | Apr-May 2012    | 26 Jun 2012 |
| Guidance on the application of REMIT definitions – 2 <sup>nd</sup> Edition      | 16(1)       | n/a             | 28 Sep 2012 |
| Recommendations to the Commission on the Records of Transactions                | 7(3)        | Jun-Aug 2012    | 23 Oct 2012 |

## Annex II. Statistics on financial management

### Annual Accounts and Financial Reports

The following financial statements have been drawn up for the financial year 2012:

| <b>Economic Outturn Account</b>                |   |   |
|--|---|---|
|  | <b>1 January -<br/>31<br/>December<br/>2012</b> | <b>8 March - 31<br/>December<br/>2011</b> |
|  | <b>€</b>  | <b>€</b>                                  |
| <i>for the year ending 31 December 2012</i>    |   |   |
| <b>REVENUE</b>                                 |   |   |
| European Commission subsidy                    | 6,549,243.89                                    | 4,362,607.98                              |
| Other operating revenue                        | 71.09   | 38,290.07                                 |
| <b>TOTAL OPERATING REVENUE</b>                 | <b>6,549,314.98</b>                             | <b>4,400,898.05</b>                       |
| <b>ADMINISTRATIVE AND OPERATIONAL EXPENSES</b> |   |   |
| Staff expenses                                 | 3,767,277.39                                    | 1,887,289.29                              |
| Fixed asset related expenses                   | 163,348.70                                      | 112,674.20                                |

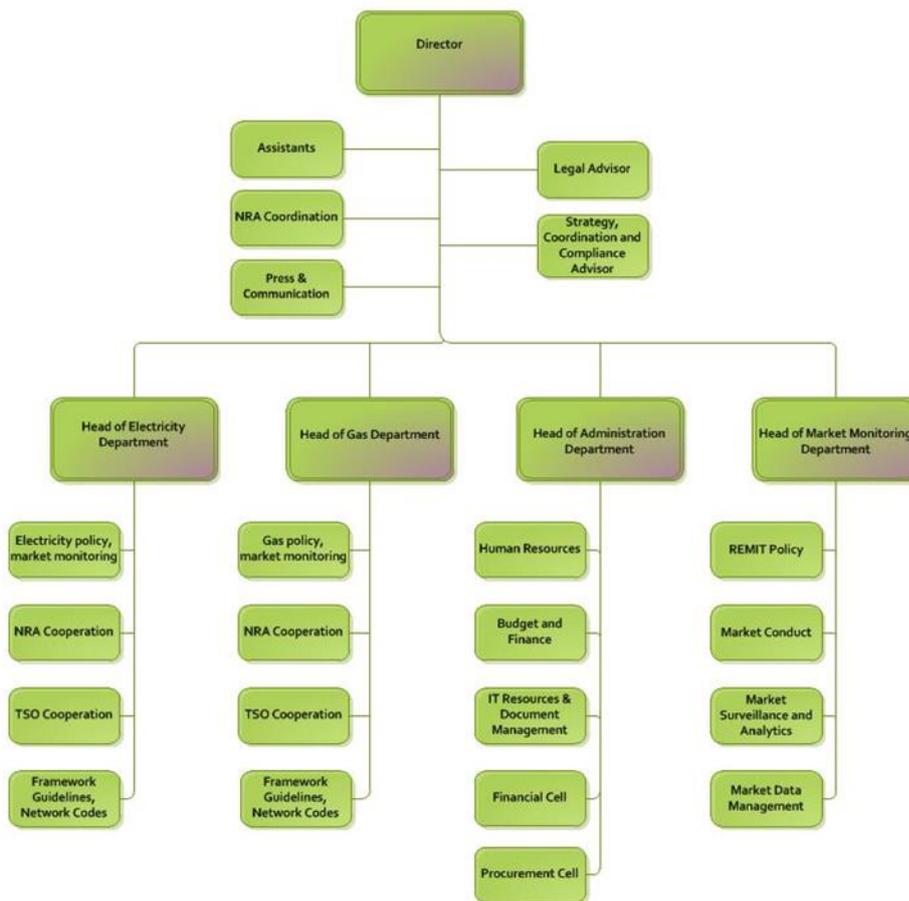
|  |   |   |
|--|---|---|
| Other administrative expenses                        | 963,066.20                                  | 1,029,584.75                              |
| Operational expenses                                 | 447,366.67                                  | 444,356.83                                |
| <b>TOTAL ADMINISTRATIVE AND OPERATIONAL EXPENSES</b> | <b>5,341,058.96</b>                         | <b>3,473,905.07</b>                       |
| <b>SURPLUS/(DEFICIT) FROM OPERATING ACTIVITIES</b>   | <b>1,208,256.02</b>                         | <b>926,992.98</b>                         |
| <b>FINANCIAL OPERATIONS</b>                          |   |   |
| Financial operations expenses                        | 300.00                                      | 62.15                                     |
| <b>SURPLUS/ (DEFICIT) FROM FINANCIAL ACTIVITIES</b>  | <b>(300.00)</b>                             | <b>(62.15)</b>                            |
| <b>ECONOMIC RESULT OF THE YEAR</b>                   | <b>1,207,956.02</b>                         | <b>926,930.83</b>                         |
| <b>Balance Sheet</b>                                 |   |   |
|  | <b>1 January -<br/>31 December<br/>2012</b> | <b>8 March - 31<br/>December<br/>2011</b> |
| <i>as of 31 December 2012</i>                        | €   | €   |
| <b>NON-CURRENT ASSETS</b>                            |   |   |
| <b>Intangible fixed assets</b>                       | <b>20,402.97</b>                            | <b>28,191.70</b>                          |
| <b>Tangible fixed assets</b>                         | <b>401,064.16</b>                           | <b>459,311.32</b>                         |
| Plant and equipment                                  | 1,710.22                                    | 456.56                                    |
| Computer hardware                                    | 307,927.38                                  | 416,282.16                                |
| Furniture and vehicles                               | 44,269.10                                   | 41,182.25                                 |
| Other fixtures and fittings                          | 47,157.46                                   | 1,390.35                                  |
| <b>TOTAL NON-CURRENT ASSETS</b>                      | <b>421,467.13</b>                           | <b>487,503.02</b>                         |
| <b>CURRENT ASSETS</b>                                |   |   |
| <b>Short-term receivables</b>                        | <b>58,186.25</b>                            | <b>41,015.09</b>                          |
| Current receivables                                  | 553.50                                      | 207.43                                    |
| Sundry receivables                                   | 15,900.52                                   | 23,495.52                                 |
| Prepaid expenses and accrued income                  | 41,732.23                                   | 17,312.14                                 |
| <b>Cash and cash equivalents</b>                     | <b>4,215,005.25</b>                         | <b>2,387,634.18</b>                       |
| <b>TOTAL CURRENT ASSETS</b>                          | <b>4,273,191.50</b>                         | <b>2,428,649.27</b>                       |
| <b>TOTAL CURRENT AND NON-CURRENT ASSETS</b>          | <b>4,694,658.63</b>                         | <b>2,916,152.29</b>                       |
| <b>EQUITY AND LIABILITIES</b>                        |   |   |
| <b>EQUITY</b>  |   |   |
| Accumulated surplus/(deficit)                        | 926,930.83                                  | 0.00                                      |
| Economic result of the year                          | 1,207,956.02                                | 926,930.83                                |
| <b>TOTAL EQUITY</b>                                  | <b>2,134,886.85</b>                         | <b>926,930.83</b>                         |
| <b>CURRENT LIABILITIES</b>                           |   |   |
| <b>Accounts payable</b>                              | <b>2,559,771.78</b>                         | <b>1,989,221.46</b>                       |
| Current payables                                     | 8,948.77                                    | 5,667.92                                  |

|   |   |   |                         |
|---|---|---|-------------------------|
| Accrued expenses and deferred income                                | 269,250.46                                  | 401,416.73                                |                         |
| Accounts payable with consolidated entities                         | 2,281,572.55                                | 1,582,136.81                              |                         |
| <b>TOTAL CURRENT LIABILITIES</b>                                    | <b>2,559,771.78</b>                         | <b>1,989,221.46</b>                       |                         |
| <b>TOTAL EQUITY AND LIABILITIES</b>                                 | <b>4,694,658.63</b>                         | <b>2,916,152.29</b>                       |                         |
| <b>Cash Flow Statement</b>  |   |   |                         |
|   | <b>1 January -<br/>31 December<br/>2012</b> | <b>8 March - 31<br/>December<br/>2011</b> |                         |
|   | <b>€</b>                                    | <b>€</b>                                  |                         |
| <b>Surplus/(deficit) from operating activities</b>                  | <b>1,208,256.02</b>                         | <b>926,992.98</b>                         |                         |
| <b>Cash Flows from Operating Activities</b>                         |   |   |                         |
| <u>Adjustments</u>  |   |   |                         |
| Amortization (intangible fixed assets)                              | 8,388.73                                    | 5,333.55                                  |                         |
| Depreciation (tangible fixed assets)                                | 154,019.05                                  | 110,939.42                                |                         |
| Amount written off (tangible fixed assets)                          | 940.92                                      |   |                         |
| (Increase)/decrease in Short term Receivables                       | (17,171.16)                                 | 0.00                                      |                         |
| Increase / (decrease) in Other liabilities                          | (132,166.27)                                | 0.00                                      |                         |
| Increase/(decrease) in Current payables                             | 3,280.85                                    | 0.00                                      |                         |
| Increase/(decrease) in Liabilities related to consolidated entities | 699,435.74                                  | 0.00                                      |                         |
| <b>Net Cash Flow from Operating Activities</b>                      | <b>1,924,983.88</b>                         | <b>1,043,265.95</b>                       |                         |
| <b>Cash Flows from Investing Activities</b>                         |   |   |                         |
| Purchase of tangible and intangible fixed assets                    | (97,312.81)                                 | (603,775.99)                              |                         |
| <b>Net Cash Flow from Investing Activities</b>                      | <b>(97,312.81)</b>                          | <b>(603,775.99)</b>                       |                         |
| <b>Financing Activities</b>   |   |   |                         |
| Financial operations revenues/expenses                              | (300.00)                                    | (62.15)                                   |                         |
| <b>Net Cash Flow from Financing Activities</b>                      | <b>(300.00)</b>                             | <b>(62.15)</b>                            |                         |
| <b>Net increase/(decrease) in cash and cash equivalents</b>         | <b>1,827,371.07</b>                         | <b>2,387,634.18</b>                       |                         |
| Cash and cash equivalents at the beginning of the period            | 2,387,634.18                                | 0.00                                      |                         |
| <b>Cash and cash equivalents at the end of the period</b>           | <b>4,215,005.25</b>                         | <b>2,387,634.18</b>                       |                         |
| <b>Statement of Changes in Net Assets</b>                           |   |   |                         |
| <i>as at 31 December 2012</i>                                       |   |   |                         |
| <b>Net Assets</b>   | <b>Opening balance</b>                      | <b>Economic result of the year</b>        | <b>Total Net Assets</b> |
|   | <b>€</b>                                    | <b>€</b>                                  | <b>€</b>                |
| <b>Balance as of 1 January 2012</b>                                 | 926,930.83                                  | 0.00                                      | 926,930.83              |

|                                       |                   |                     |                     |
|---------------------------------------|-------------------|---------------------|---------------------|
| Economic result of the year           | 0.00              | 1,207,956.02        | 1,207,956.02        |
| <b>Balance as of 31 December 2012</b> | <b>926,930.83</b> | <b>1,207,956.02</b> | <b>2,134,886.85</b> |

## Annex III. Organisational chart

The organisational chart of the Agency is presented below.



In 2012, the Agency continued with the recruitment of the technical staff especially for the newly established Market Monitoring Department. By 31 December 2012, 58 members of staff were recruited, out of which there were 43 temporary agents (TAs), 4 contract agents (CAs) and 11 Seconded National Experts (SNEs).

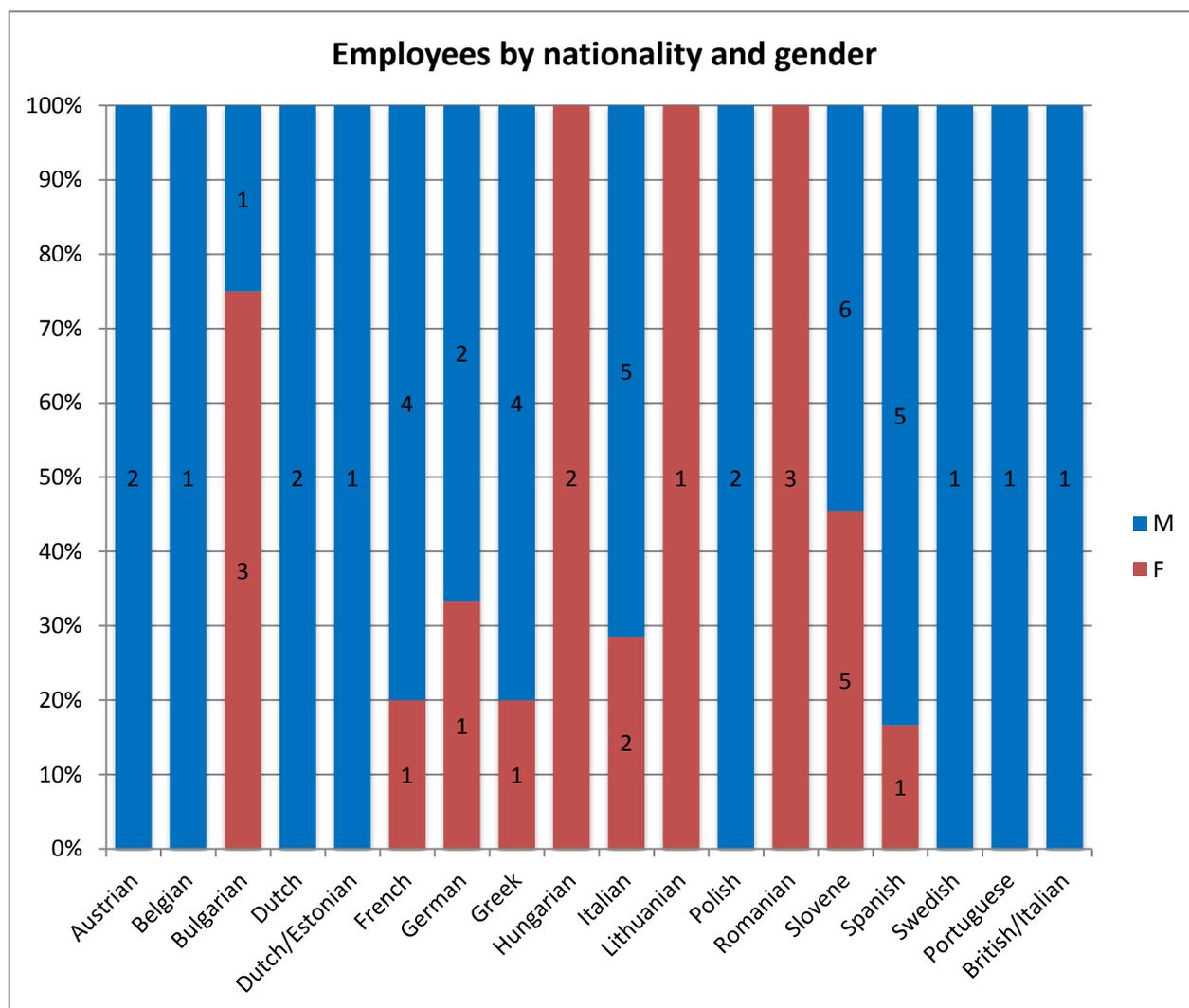
## Annex IV. Establishment plan

| Function group and grade | 2012                           |                 |                         |                 | 2013                           |                 |
|--------------------------|--------------------------------|-----------------|-------------------------|-----------------|--------------------------------|-----------------|
|                          | Authorised under the EU Budget |                 | Filled as of 31/12/2012 |                 | Authorised under the EU Budget |                 |
|                          | Permanent posts                | Temporary Posts | Permanent posts         | Temporary Posts | Permanent Posts                | Temporary Posts |
| AD 16                    | 0                              | 0               | 0                       | 0               | 0                              | 0               |
| AD 15                    | 0                              | 0               | 0                       | 0               | 0                              | 0               |
| AD 14                    | 0                              | 1               | 0                       | 1               | 0                              | 1               |
| AD 13                    | 0                              | 0               | 0                       | 0               | 0                              | 0               |
| AD 12                    | 0                              | 0               | 0                       | 0               | 0                              | 0               |
| AD 11                    | 0                              | 4               | 0                       | 4               | 0                              | 4               |
| AD 10                    | 0                              | 0               | 0                       | 0               | 0                              | 0               |
| AD 9                     | 0                              | 2               | 0                       | 2               | 0                              | 2               |
| AD 8                     | 0                              | 6               | 0                       | 6*              | 0                              | 6               |
| AD 7                     | 0                              | 4               | 0                       | 4               | 0                              | 6               |
| AD 6                     | 0                              | 2               | 0                       | 2               | 0                              | 4               |
| AD 5                     | 0                              | 11              | 0                       | 11              | 0                              | 11              |
| <b>AD total</b>          | <b>0</b>                       | <b>30</b>       | <b>0</b>                | <b>30</b>       | <b>0</b>                       | <b>34</b>       |
| AST 11                   | 0                              | 0               | 0                       | 0               | 0                              | 0               |
| AST 10                   | 0                              | 0               | 0                       | 0               | 0                              | 0               |
| AST 9                    | 0                              | 0               | 0                       | 0               | 0                              | 0               |
| AST 8                    | 0                              | 0               | 0                       | 0               | 0                              | 0               |
| AST 7                    | 0                              | 0               | 0                       | 0               | 0                              | 0               |
| AST 6                    | 0                              | 0               | 0                       | 0               | 0                              | 0               |
| AST 5                    | 0                              | 1               | 0                       | 1               | 0                              | 1               |
| AST 4                    | 0                              | 0               | 0                       | 0               | 0                              | 0               |
| AST 3                    | 0                              | 12              | 0                       | 12              | 0                              | 14              |
| AST 2                    | 0                              | 0               | 0                       | 0               | 0                              | 0               |
| AST 1                    | 0                              | 0               | 0                       | 0               | 0                              | 0               |
| <b>AST total</b>         | <b>0</b>                       | <b>13</b>       | <b>0</b>                | <b>13</b>       | <b>0</b>                       | <b>15</b>       |
| <b>GRAND TOTAL</b>       | <b>43</b>                      |                 | <b>43</b>               |                 | <b>49</b>                      |                 |

\*One offer letter (AD8) sent out and accepted, with a starting date confirmed.

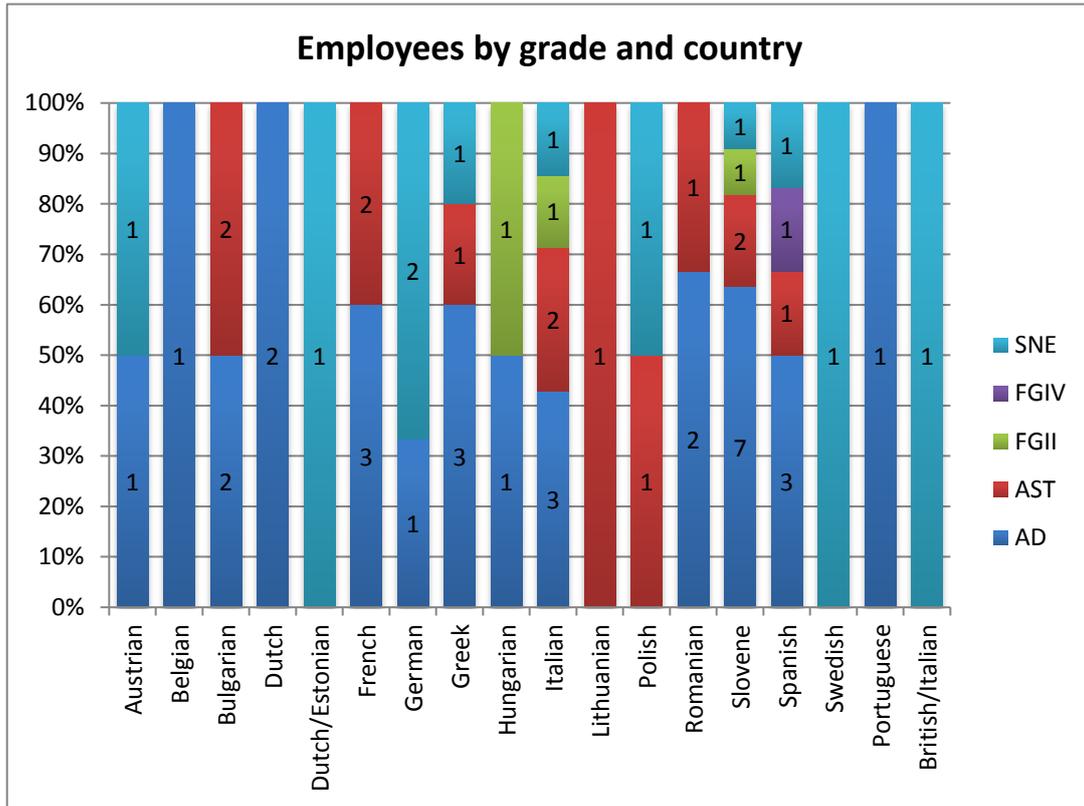
## Geographical balance

On 31 December 2012, ACER employed 47 staff members and had 11 SNEs of different geographical origin. Staff and SNEs are coming from 18 different EU countries (in order of number of employees): Slovenia, Italy, Spain, France, Greece, Bulgaria, Romania, Germany, the Netherlands, Austria, Hungary, Lithuania, Portugal, Sweden, Estonia, Poland, Belgium and the United Kingdom.



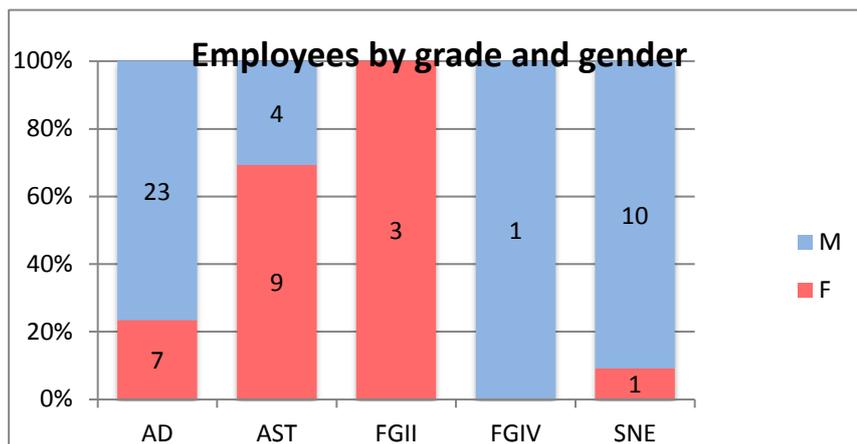
The table and the graph below present an overview of the Agency's staff by country of origin and grade as of 31 December 2012, including those for whom offer letters have been sent and offers accepted and SNE whose secondment was agreed with the seconding institutions.

|                    | AD        | AST       | FGII     | FGIV     | SNE       | Grand total |
|--------------------|-----------|-----------|----------|----------|-----------|-------------|
| Austrian           | 1         |           |          |          | 1         | 2           |
| Belgian            | 1         |           |          |          |           | 1           |
| Bulgarian          | 2         | 2         |          |          |           | 4           |
| Dutch              | 2         |           |          |          |           | 2           |
| Dutch/Estonian     |           |           |          |          | 1         | 1           |
| French             | 3         | 2         |          |          |           | 5           |
| German             | 1         |           |          |          | 2         | 3           |
| Greek              | 3         | 1         |          |          | 1         | 5           |
| Hungarian          | 1         |           | 1        |          |           | 2           |
| Italian            | 3         | 2         | 1        |          | 1         | 7           |
| Lithuanian         |           | 1         |          |          |           | 1           |
| Polish             |           | 1         |          |          | 1         | 2           |
| Romanian           | 2         | 1         |          |          |           | 3           |
| Slovene            | 7         | 2         | 1        |          | 1         | 11          |
| Spanish            | 3         | 1         |          | 1        | 1         | 6           |
| Swedish            |           |           |          |          | 1         | 1           |
| Portuguese         | 1         |           |          |          |           | 1           |
| British/Italian    |           |           |          |          | 1         | 1           |
| <b>Grand total</b> | <b>30</b> | <b>13</b> | <b>3</b> | <b>1</b> | <b>11</b> | <b>58</b>   |



### Gender balance

In accordance with Article 1d of the Staff Regulations and Articles 12(1) and 82(1) of the CEOS, ACER applies an equal opportunities policy for its staff, adopting measures and taking actions to promote equal opportunities for men and women. The graph below presents an overview of the Agency's staff by grade and gender as of 31 December 2012, including those for whom offer letters have been sent and offers accepted and SNE whose secondment was agreed with the seconding institutions.



## Annex V. State of play of implementing rules adopted by the Agency consistent with its staff policy

ACER's objective is to adopt all the implementing rules consistent with its Staff Policy. The launch of the first procedures of adoption took place in the beginning of 2011 and continued in 2012. The table below gives a provisional roadmap for the adoption of the Implementing Rules:

| <b>STAFF REGULATIONS</b>   | <b>DECISION</b>     | <b>YEAR OF ADOPTION</b>                               |
|--|---------------------|---|
| Art. 1 V§4 - Definition of the handicap  | C(2004)1318 69-2004 | Adopted by analogy in 2011:<br>Decision AB n° 09/2011 |
| Art. 42bis – Parental leave  | C(2010)7572         | Adopted by analogy in 2011:<br>Decision AB n° 09/2011 |
| Art. 42ter – Special leave in case of serious illness of a family member   | C(2010)7494         | Adopted by analogy in 2011:<br>Decision AB n° 09/2011 |
| Art. 59, 60 and Art. 16, 59, 60 and 91 du RAA - Vademecum for sick leave   | C(2004)1597 92-2004 | Adopted by analogy in 2011:<br>Decision AB n° 09/2011 |
| Art. 67 and Art.1§2 d) of Annex VII – Household Allowance  | C(2004)1364 51-2004 | Adopted by analogy in 2011:<br>Decision AB n° 09/2011 |
| Art. 2 §4 of the Annex VII – Allowances for persons considered as dependent children   | C(2004)1364 50-2004 | Adopted by analogy in 2011:<br>Decision AB n° 09/2011 |
| Art. 3 of the Annex VII – School Allowance   | C(2004)1313 53-2004 | Adopted by analogy in 2011:<br>Decision AB n° 09/2011 |
| Art. 7§3 of the Annex VII – Place of Origin  | C(2004)1364 57-2004 | Adopted by analogy in 2011:<br>Decision AB n° 09/2011 |
| Art. 8 of the Annex VII – Refund of travel expenses to place of origin   | C(2004)1588 56-2004 | Adopted by analogy in 2011:<br>Decision AB n° 09/2011 |
| Article 4 of Annex VIII concerning the taking into account, for purposes of calculating pension rights, of periods of activity previously completed by staff | C(2004)1364 61-2004 | Adopted by analogy in 2011:<br>Decision AB n° 09/2011 |
| Articles 11 and 12 of Annex VIII to the Staff Regulations on transferring pension rights   | C(2011)1278         | Adopted by analogy in 2011:<br>Decision AB n° 09/2011 |
| Article 26 of Annex XIII to the Staff Regulations on transferring pension  | C(2004)1588 62-2004 | Adopted by analogy in 2011:<br>Decision AB n° 09/2011 |

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|--|----------------------|--|
| rights – transitional provisions   |                      |  |
| Article 22 (4) of Annex XIII to the Staff Regulations                                  | C(2004)1588 59-2004  | Adopted by analogy in 2011: Decision AB n° 09/2011             |
| Articles 67 and 68 of the Staff Regulations and Articles 1, 2 and 3 of Annex VII       | C(2004)1364 52-2004  | Adopted by analogy in 2011: Decision AB n° 09/2011             |
| Transitional measures required by the revision of the Staff Regulations and CEOS       | C(2004)1613 88-2004  | Adopted by analogy in 2011: Decision AB n° 09/2011             |
| Art. 2§3 of Annex IX (cf. Art. 30 of the same annex) – Disciplinary procedure          | C(2004)1588 86-2004  | Adopted in 2013: Decision AB n° 02/2013                        |
| Art. 29, 30, 31 and 32 of Staff Regulations and Art. 15 of CEOS – Entry grade and step | C(2004) 1313 55-2004 | Adopted in 2011: Decision AB n° 12/2011                        |
| Art. 71 and Art. 11 to 13a Annex VII – Missions Guide                                  | C(2008)6125          | Adopted by analogy in 2011: Decision AB n° 09/2011             |
| Art. 39 of CEOS – Early retirement (temporary agents)                                  | C(2004)1588 63-2004  | Planned for 2013   |
| Art. 55bis Annex IVbis – Part Time   | C(2010)7573          | Adopted by analogy in 2011: Decision AB n° 09/2011             |
| Art. 55ter – Job sharing   | C(2004)1314 67-2004  | Not applicable since ACER has not foreseen any shared posts.   |
| Art. 15 – Outside Activities   | C(2004)1597 85-2004  | Adopted in 2012: Decision AB n° 23/2012                        |
| Art. 40 – Leave on personal grounds  | C(2004)1597 82-2004  | Adopted by analogy in 2011: Decision AB n° 09/2011             |
| Art. 51 – Underperformance   | C(2004)1597 87-2004  | Not applicable since no officials are forecasted to join ACER. |
| Art. 57 and 58 – Vademecum of leaves   | C(2010)7495          | Adopted by analogy in 2011: Decision AB n° 09/2011             |
| Art. 2, 4, 5, 7 and 29 – Middle Management   | C(2004)1597 73-2004  | Adopted in 2011: Decision AB n° 24/2011                        |
| Art. 7§2 – Interim for management posts  | C(2004)1597 83-2004  | Adopted in 2012: Decision AB n° 07/2012                        |
| Art. 9 – Staff Committee   | Decision of 23/12/97 | Adopted in 2011: Decision AB n° 27/2011                        |
| Art. 12 bis – Moral or Sexual Harassment   | C(2006) 1624/3       | Adopted in 2013: Decision AB n° 01/2013                        |

|   |  |   |
|---|--|---|
| Art. 24 bis – Training  | IA 839/94 (no decision of the Commission)  | Adopted in 2012: Decision AB n° 06/2012   |
| Art. 43 – Evaluation  | DGE du 23/12/2004 / C(2008) 3026/ Decision concerning the appraisal for the director | Adopted in 2011: Decision AB n° 25/2011 (staff)<br>Adopted in 2011: Decision AB n° 26/2011 (Director) |
| Art. 45 – Promotion or reclassification   | DGE du 23/12/2004 / C(2008) 3028   | Adopted in 2012: Decision AB n° 11/2012 (temporary agents)  |
| Art. 45bis – Certification  | C(2005)1940 51-2005 / C(2007) 5694   | Not applicable since no officials are forecasted to join ACER.  |
| Art. 10§3 of Annex XIII – Attestation   | C(2006) 5788   | Not applicable since no officials are forecasted to join ACER.  |
| Art. 8 and Art. 12 of CEOS – New policies in terms of recruitment of temporary agents |  | Adopted in 2011: Decision AB n° 10/2011   |
| Art. 79§2 and Art. 82 of CEOS – contract agents (Recruitment)                         | C(2004)1313 49-2004  | Adopted in 2011: Decision AB n° 11/2011   |
| Art. 87 § 1 of CEOS – Evaluation of contract agents                                   | Decision similar to that for the temporary agents                                    | Adopted in 2011: Decision AB n° 25/2011   |
| Art. 5 of SR and Art.10 of CEOS – Types of employment of temporary agents             | Model of decision to be established  | Planned for 2013  |
| Art. 80§3 of CEOS – Job Descriptions of contract agents                               | Model of decision to be established  | Planned for 2013  |
| Art. 87§3 of CEOS – Reclassification of contract agents                               | Model of decision to be established  | Adopted in 2012: Decision AB n° 12/2012 (contract agents)   |
| Teleworking   | C(2009)10224   | Adopted in 2012: Decision AB n° 21/2012   |