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**2012 Work Programme
of the
Agency for the
Cooperation of Energy Regulators**

Director's Foreword

The Agency for the Cooperation of Energy Regulators (ACER) has been set up, pursuant to Regulation (EC) No 713/2009, as part of the new institutional framework introduced by the EU Third Energy Package to assist National Energy Regulatory Authorities (NRAs) to perform their duties at European Union level and to coordinate their actions whenever necessary.

The Agency became formally operational on March 3rd, 2011, at the same time as the Third Package entered into force. As expected, 2011 has proved to be a very challenging year for us at the Agency, but we managed to live up to the high expectations of the European institutions and of stakeholders in the energy sector, also thanks to the continuous support from the European Parliament and the very tangible cooperation and assistance from the European Commission and NRAs. I am very grateful to all these institutions, and their representatives, for the open and collaborative attitude they have maintained towards the Agency as well as to stakeholders for their invaluable input and contributions to the Agency's work.

From the very beginning of our formal existence, and while still recruiting our staff, we faced demanding deadlines, including for the development of the first Agency's Framework Guidelines. With the contribution of NRAs, who participate in the Agency's Working Groups, and thanks to the preparatory work of ERGEG, the Agency managed to advance according to its ambitious Work Programme, thus delivering three Framework Guidelines, two Opinions on ENTSOs' Articles of Associations and the Opinion on ENTSOG TYNDP within the first seven months of its formal operation. Work on other Framework Guidelines and on organising the monitoring activities continues vigorously.

By the end of 2011 ACER will have almost completed the recruitment of its staff according to the original establishment plan and will be ready to perform all its Third Package tasks, including energy sector monitoring and the assessment of network codes under preparation in accordance with the first Framework Guidelines already issued. In September 2011, the Agency's Board of Appeal was appointed, thus completing our institutional set-up.

During 2011, the Regional Initiatives, set up by ERGEG in 2006, have been given greater emphasis in promoting the completion of the Internal Energy Market and ACER assigned a leading coordination role in line with its mission. ACER is fully committed to continue to support regional cooperation as a means to further boost market integration towards the achievement of the 2014 Single Energy Market objective.

In 2012, ACER will face new challenges, as it will have to take on the additional roles and responsibilities assigned to it by the new Regulation on Energy Market Integrity and Transparency (REMIT). REMIT introduces a sector-specific framework for the monitoring of wholesale energy markets, with the objective of detecting and deterring market manipulation. In this framework ACER will be responsible for analysing wholesale markets and other relevant data to identify possible instances of market abuse and, after an initial assessment, notify the concerned NRA(s) when there is ground to believe that abusive behaviour has actually occurred. This is an important, complex and delicate task: important because market integrity and transparency are essential for well-functioning energy markets and for promoting the confidence of market participants and final consumers; complex, because it deals with complex traded products and

markets; delicate, because monitoring should be conducted in a vigilant manner, without however unduly interfering with the working of energy markets.

In the performance of our duties under REMIT – as, more generally, in our mission under Regulation (EC) No 713/2009 - we will cooperate with NRAs, which will be responsible for investigating suspected events. At present, national regimes for market monitoring vary widely between Member States and only a handful of NRAs monitor wholesale markets. Under REMIT this responsibility is primarily assigned to ACER, in recognition of the increasingly cross-border nature of wholesale energy market transactions. A consistent European approach to market monitoring would also avoid the risk of energy market transactions being relocated in those jurisdictions where monitoring is perceived as being less effective.

Therefore, in 2012, while continuing to perform our duties under the Third Package, we envisage that we will start developing the procedures, protocols and platforms for the acquisition of market participants' data (from national registries) and of wholesale market transactions. Beyond this stage, our activities will depend on the implementing acts to be adopted by the Commission and the availability of the further financial and human resources required for these additional tasks.

In summary, ACER is fully committed to the completion, by 2014, of a competitive, sustainable, secure, transparent Internal Energy Market and it is determined to continue in 2012 to make its contribution towards this common objective. The priority given in this Work Programme to the development of Framework Guidelines and network codes and to the implementation of REMIT reflects this key objective.

Alberto Pototschnig
Director

September 2011

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1. Introduction

The Agency for the Cooperation of Energy Regulators (ACER or the Agency) formally assumed its role and responsibilities on 3 March 2011, as part of the entry into force of the Third Legislative Package on Energy.

A month earlier, the European Council¹ adopted 2014 as the new target date for the completion of the Internal Energy Market (IEM) and 2015 as the date by which “energy islands” in Europe should be interconnected to the European gas and electricity networks. In its conclusions, the Council emphasised the importance, for achieving these ambitious targets, of the cooperation of ACER with the National Regulatory Authorities (NRAs) for energy, as well as with the transmission system operators - through the European Networks of Transmission System Operators (ENTSOs).

The Agency is ready to meet the challenge. At the time of becoming formally operational, the Agency only had a fraction of its staff complement; and yet, it managed immediately to become fully functional and to issue, the very same day, its first two consultation documents. This has been made possible by the significant preparatory work which the European Regulators’ Group for Electricity and Gas (ERGEG) had carried out over the previous eighteen months. The cooperation with NRAs is, indeed, the mainstay of the Agency’s role and activities, as and beyond what its name indicates. Not only does the Agency’s mission, as specified in Article 1 of Regulation (EC) No 713/2009, focuses on supporting NRAs in exercising at EU level their regulatory functions and on coordinating their action whenever necessary, but NRAs are represented in the Board of Regulators – one of the governing bodies of the Agency – and contribute to ACER’s Working Groups. Following the dissolution of ERGEG on July 1st, 2011, NRAs will continue to cooperate, institutionally, through ACER and, on a voluntary basis, through the Council of European Energy Regulators (CEER). While ACER’s mission can be interpreted as also fostering NRA cooperation beyond cross-border issues, at least in the near future the Agency will have to focus on those activities which are instrumental for achieving the completion of the IEM by 2014. ACER’s priorities for the next year have been defined against this key objective.

Therefore NRA cooperation through CEER will span those areas which lay outside ACER’s priorities. However, a consistent regulatory framework requires coordination of approaches in different areas and ACER and CEER will endeavour, working in parallel, to maintain close links in order to ensure such consistency in their respective areas of activities.

The present Work Programme is in line with the three-year joint Commission/ACER/ENTSOs work plan. By recognising the interlinked contributions of the different institutions and entities to the process to develop Framework Guidelines and Network Codes, as well as in other areas, established by the Third Energy Package, this common planning aims at coordinating their respective roles and activities to

¹ European Council of 4 February 2011.

maximise effectiveness of the joint action, shorten the delivery period and in parallel, provide stakeholders a clear and transparent outlook of activities.

2012 will be the first full year of formal operation by ACER. By the end of the year, the Agency will have issued all the Framework Guidelines which are essential for supporting the completion of the IEM. It will also have started to assess the first Network Codes developed by the ENTSOs to ensure their consistency with the Framework Guidelines.

By the end of 2012 the Agency will also have provided its opinion – and, if necessary, recommendations - on the first EU-wide Ten-Year Network Development Plans to be drafted by the ENTSO for Electricity (ENTSO-E) and the ENTSO for Gas (ENTSO-G) and submitted to the Agency.

Moreover, it is envisaged that, following the preparatory work in the second half of 2011, in 2012 the Agency will start exercising its monitoring functions according to Regulation (EC) No 713/2009. In this respect, it has to be noted that ACER's role in monitoring and market supervision will be greatly enhanced after the adoption by the European Parliament and the Council in September 2011 of the new Regulation on Energy Market Integrity and Transparency (REMIT), proposed by the Commission. REMIT introduces an energy sector-specific framework for wholesale market monitoring and for detecting and deterring market abuse. It calls on ACER, in cooperation with National Regulatory Authorities (NRAs), to monitor wholesale trades in electricity and gas. During 2012 ACER will start the process of implementing REMIT and getting ready to take on its monitoring functions.

Finally, according to Regulation (EC) No 713/2009, the Agency is called to intervene with decisions on a number of cross-border issues (e.g. terms and conditions for access to cross-border interconnections, exemptions from third-party access and unbundling requirements) when the involved NRAs fail to reach a common position or when they instead decide to invest the Agency with the decision. The Agency may also be required by the European Parliament, the Council or the Commission to provide opinions and recommendations in its areas of competence, including on TSO certification or on any follow-up actions as a result of the Energy Infrastructure Package. In all these cases it is difficult to envisage in advance the nature of the required activities and the exact scope and extent of the related effort. Moreover, the Agency's tasks are often part of a process involving other institutions or entities (e.g. the Commission, the ENTSOs) and therefore the exact timing of the Agency's contribution may depend of the way in which these other bodies will develop their own work. Furthermore, unexpected events may affect the energy sector (e.g. the recent natural disaster in Japan, initiating a reassessment of the nuclear energy strategy both on an EU level and in many Member States) and impact on scope and timing for the work of EU institutions, including ACER. The present Work Programme should therefore be read keeping in mind that the Agency may have to reallocate resources and priorities in the light of specific requests received by NRAs, the European Parliament, the Council and the Commission, in response to modified timelines in the work of other entities or as a result of unexpected events.

2. Overview of ACER's tasks

The following table provides a summary of the tasks assigned to ACER by Directive 2009/72/EC, Directive 2009/73/EC, Regulation (EC) No 713/2009, Regulation (EC) No 714/2009 and Regulation (EC) No 715/2009.

| ACER task | Type of action | Legal basis |
|---|----------------------------|---|
| Tasks regarding ENTSOs | | |
| 1. Provide opinion on draft statutes, list of members and draft rules of procedure of ENTSOs | Opinion | Article 6(1) Reg 713/2009; Article 5(2) Reg 714 & 715/2009 |
| 2. Monitor execution of tasks of ENTSOs | Monitoring | Article 6(2) Reg 713/2009; Article 9 Reg 714 & 715/2009 |
| 3. Provide opinion to ENTSOs on network codes, draft annual work programme, draft Community-wide network development plan and other relevant documents (e.g. annual summer and winter supply outlooks) | Opinion | Article 5(3) Reg 713/2009; Article 6(7), 8(2)+(3), 9(2) Reg 714 & 715/2009 |
| 4. Provide opinion to NRA on consistency of 10y-network development plan with Community-wide NDP | Opinion | Article 22(5) Dir 2009/72 & 73 |
| 5. Provide opinion/recommendations to ENTSO-E, ENTSG, EP, Council and EC, where draft annual work programme or draft Community-wide NDP do not contribute to internal energy market objectives/principles | Opinion, recommendation | Article 6(4) Reg 713/2009; Article 9(2) Reg 714 & 715/2009 |
| 6. Participate in development of network codes | – | Article 6(4) Reg 713/2009; Article 6 Reg 714 & 715/2009 |
| 7. Submit non-binding framework guideline to EC, consultation on framework guidelines; if necessary, review non-binding framework guideline and re-submit it to EC | Submit draft | Article 6(4) Reg 713/2009; Article 6(2)-(4) Reg 714 & 715/2009 |
| 8. Provide opinion to ENTSO-E or ENTSG on network code | Opinion | Article 6(4) Reg 713/2009; Article 6(7) Reg 714 & 715/2009 |

| ACER task | Type of action | Legal basis |
|--|----------------------------|---|
| 9. If necessary, submit network code to EC and recommend that it be adopted | Submit draft | Article 6(4) Reg 713/2009; Article 6(9)+(10), 7(1) Reg 714 & 715/2009 |
| 10. Prepare and submit draft network code to EC | | |
| 11. Propose amendments of network codes | | |
| 12. Provide duly reasoned opinion to EC, where ENTSO-E or ENTSOG has failed to implement network code | Opinion | Article 6(5) Reg 713/2009; Article 8(2), 9(1) Reg 714 & 715/2009 |
| 13. Monitor and analyse implementation of network codes and Guidelines, report to EC | Monitoring, report | Article 6 Reg 713/2009; Article 9 Reg 714 & 715/2009 |
| 14. Monitor progress as regards implementation of projects to create new interconnector capacity | Monitoring | Article 6(7) Reg 713/2009 |
| 15. Monitor implementation of Community-wide NDPs | Monitoring, recommendation | Article 6(8) Reg 713/2009; Article 8(11) Reg 714 & 715/2009 |
| 16. Investigate reasons for inconsistencies and make recommendations to TSOs, NRAs or other competent bodies | | |
| 17. Monitor regional cooperation of TSOs; take due account of outcome when formulating its opinions, recommendations and decisions | Monitoring | Article 6(9) Reg 713/2009; Article 12 Reg 714 & 715/2009 |
| 18. Approve compliance programmes of joint undertakings | Approval | Article 6(4) Dir 2009/72 & 73 |
| Tasks regarding NRAs | | |
| 19. Adopt individual decisions on technical issues as provided for in 3rd Package legislation | Decision | Article 7(1) Reg 713/2009 |
| 20. Recommendations for sharing good practices | Recommendation | Article 7(2) Reg 713/2009 |
| 21. Provide framework for NRAs' cooperation. Promote cooperation between NRAs and regulatory authorities at regional and EC level. | Recommendation | Article 7(3) Reg 713/2009; Article 6(2) Dir 2009/72 & 73 |

| ACER task | Type of action | Legal basis |
|---|----------------|--|
| Make recommendations on binding rules for cooperation to EC | | |
| 22. Provide opinion on whether a decision complies with Guidelines or other relevant provisions | Opinion | Article 7(4) Reg 713/2009; Article 39 Dir 2009/72; Article 43 Dir 2009/73 |
| 23. Recommendations on technical rules | Recommendation | Article 5 Dir 2009/72; Article 8 Dir 2009/73 |
| 24. Inform EC or MS concerned where NRA does not comply with opinion of Agency | Information | Article 7(5) Reg 713/2009 |
| 25. Deliver opinion when NRA encounters, in a specific case, difficulties with application of Guidelines | Opinion | Article 7(6) Reg 713/2009 |
| Tasks regarding terms and conditions for access to and operational security of cross-border infrastructure | | |
| 26. Decisions on cross-border infrastructure | Decision | Article 8(1)-(3), (5) Article 7(7) Reg 713/2009; Article 17 Reg 714/2009; Article 36 Dir 2009/73 |
| Other tasks | | |
| 27. Exemption decisions for new interconnectors; fees | Decision | Article 9(1) Reg 713/2009; Article 17(5) Reg 714/2009; Article 36(4) Dir 2009/73 |
| 28. Provide opinion on decisions of NRAs on certification; Possibly: additional powers (non-decision-making) | Opinion | Article 9(2) Reg 713/2009; Article 3(1) Reg 714 & 715/2009; Article 11(6) Dir 2009/72 & 73 |
| 29. Respond to consultation on guidelines | Opinion | Article 18(3) Reg 714/2009; Article 23(1) Reg 715/2009 |
| 30. Secretarial services to Board of Regulators | | Article 14(6) Reg 713/2009 |
| 31. Secretarial services to Administrative Board | | Article 12(3) Reg 713/2009 |
| Consultations and transparency | | |
| 32. Consult with market participants, TSOs, consumers, end-users, competition authorities | Consultation | Article 10(1), (3) Reg 713/2009 |
| 33. Give to the public and interested | Information | Article 10(2) Reg 713/2009 |

| ACER task | Type of action | Legal basis |
|---|----------------|---------------------------------|
| parties objective, reliable and easily accessible information | | |
| 34. Make public agenda, background documents and minutes of meetings of AB, BoR and BoA | Publication | Article 10(4) Reg 713/2009 |
| Monitoring and reporting on the electricity and natural gas sectors | | |
| 35. Monitor internal markets in electricity and natural gas | Monitoring | Article 11(1) Reg 713/2009 |
| 36. Make public annual report on results of monitoring | Report | Article 11(2), (3) Reg 713/2009 |

Furthermore, the Agency may, upon a request of the European Parliament, the Council or the Commission, or on its own initiative, provide opinions or recommendations on any of the issues relating to the purpose for which it has been established (Article 5, Regulation (EC) No 713/2009). Finally, the Agency will also be called to implement, once adopted, the REMIT, in the areas of wholesale energy monitoring and coordination of investigations by national authorities on instance of suspected insider trading and market manipulation. This will involve:

- monitoring trading activity in wholesale energy products to detect and prevent trading based on inside information and market manipulation;
- collecting data on wholesale energy trading, both for physical delivery and for financial settlements, including on derivatives products;
- at least annually submitting a report to the Commission on its activities under REMIT, highlighting flaws in market rules, standards, and procedures which could facilitate insider trading and market manipulation or undermine the internal market;
- establishing mechanisms to share information and data it receives with NRAs, the competent financial authorities and competition authorities of MSs;
- providing recommendations as to the records of transactions, including orders to trade, which it considers are necessary to effectively and efficiently monitor wholesale energy markets; and
- ensuring that NRAs carry out their tasks under REMIT in a coordinated way.

3. Priorities

The range and nature of tasks already assigned and possibly to be further assigned (i.e. by the proposed REMIT) to ACER poses a challenge to the Agency, taking into account its limited human² and financial³ resources. In this context, the priorities set for ACER's second year of operation are in line with the new target date of completing the Internal Energy Market (IEM) by 2014, as defined by the European Council on 4 February 2011, with the joint Commission/ACER/ENTSOs three-year plan and with the resources available to the Agency (own resources and support by NRAs). These priorities are defined as follows:

- Framework Guidelines for Network Codes (item 7 in the above table), in the areas defined by the Commission, which will be given the highest priority, as they are in the critical path for the completion of the IEM;
- Opinions on the compliance of Network Codes with the corresponding Framework Guidelines (item 8 in the above table)⁴;
- Opinions and recommendations on the 10-year network development plans (items 3, 4 and 5 of the above table), as greater cross-border capacity is key for a true IEM⁵;
- Decisions on cross-border congestion management or TPA exemptions (items 19 and 26 in the above table), upon the joint request of all the concerned NRAs or when these fail to reach an agreement.

It will also be a priority for ACER to carry out its monitoring functions, including on regional initiatives (items 13 to 17 and 35 in the above table). In this context, in April 2010 the Commission invited NRAs to come up with Regional Workplans for the period 2011 – 2014, with the aim of achieving the objective of

² *Cfr infra* "Human Resources".

³ In its 2012 budgetary proposal, the Commission has requested to the Budgetary Authority a subsidy to the Agency for the 2012 financial year of € 7.315.000, a reduction of approx. 284.000 € with respect to the estimate made by the Administrative Board, on the basis of the preliminary draft budget prepared by the Director, and transmitted to the Commission pursuant to Article 23(1) of Regulation (EC) No 713/2009. The Commission proposal is based on the maximum ceiling for ACER's 2012 budget in the financial programming - of 6.000.000 € - and the additional financial needs for REMIT - of 1.315.000 €.

⁴ These opinions shall be provided within a period of three months from the day of receipt of a network code, pursuant to Article 6(7) of Regulations EC (Nos) 714/2009 and 715/2009.

⁵ These opinions and recommendations shall be provided within a period of two months from the receipt of the draft ten-year network development plan, pursuant to Article 9(2) of Regulations EC (Nos) 714/2009 and 715/2009.

the completion of the IEM by 2014. ACER has supported this process and will continue to assist NRAs and other stakeholders in the implementation of these Workplans.

Finally, it will a priority for ACER to start the preparatory work for implementing REMIT.

In particular, ACER work in 2012 will include *inter alia*:

- determination, in cooperation with NRAs, of the format according to which information in national registries will be transmitted to the Agency;
- formulation of recommendations to the Commission as to the record of transactions, including orders to trade, which it considers are necessary to effectively and efficiently monitor wholesale energy markets;
- issue possibly non-binding guidance 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;
- development of mechanisms for sharing of information between ACER, NRAs and other Authorities.

It should however be stressed that unexpected events in the energy sector may lead to a modification of priorities of EU institutions, including ACER, as well as lead the Agency to perform tasks which are not envisaged in the present Work Programme.

4. Organisation, Administration and Functioning of the Agency

4.1. Internal organisation

ACER comprises a Director, an Administrative Board, a Board of Regulators, and a Board of Appeal. The first three bodies were already established in the first half of 2010 with the Director being appointed in May 2010 and taking up his duties on 16 September 2010.

At the time of preparation of this draft Work Programme (30 June 2011), the Board of Appeal is in the final stage of establishment⁶.

Finally, the adoption of internal regulations and the development of internal procedures and routines began as soon as the Agency started operating in Brussels in the final quarter of 2010 and is ongoing.

Most of them are taking place via Director's decisions (19 have been issued so far - 8 in 2010 and 11 in 2011) and Administrative Board decisions.

The Administrative Board met 3 times in 2010 and twice (so far – June 2011) in 2011. It adopted 10 decisions in 2010 and 17 in 2011. As regards the Staff implementing rules, 5 implementing rules were adopted by the Administrative Board, while 5 implementing rules are still in the decision-making process. Most of these are expected to be finalised before the beginning of 2012.

In 2012 the Administrative Board shall adopt and publish the first annual report on the activities of the Agency, pursuant to Article 13(12) of Regulation (EC) No 713/2009. The annual report shall contain an independent section, approved by the Board of Regulators, concerning the regulatory activities of the Agency. The Administrative Board shall transmit the annual report to the European Parliament, the Council, the Commission, the Court of Auditors, the European Economic and Social Committee and the Committee of the Regions by 15 June 2012.

The Board of Regulators met 4 times in 2010 and 6 times (so far – July 2011) in 2011. In the first half of 2011 the BoR held orientation debates on the following Framework Guidelines: Electricity Grid Connection, Gas Capacity Allocation; Gas Balancing; and Electricity Capacity Allocation and Congestion

⁶ The members of the Board of Appeal are formally appointed by the Administrative Board, on a proposal from the Commission, following a public call for expression of interest, and after consultation of the Board of Regulators. An invitation for expressions of interest was published in June 2010. ACER received a proposal from the Commission on 24 May 2011. The Board of Regulators provided its opinion on 16 June 2011. Formal appointment by the Administrative Board is expected by September 2011.

Management. It also provided, by consensus, its favourable opinion on the Agency's opinions on the ENTSO-E's and ENTSOG's draft Articles of Association, list of members and draft rules of procedure, and a favourable opinion to the Commission's proposal for members and alternates of the Board of Appeal. The Board of Regulators discussed organisational arrangements and functioning of the Agency's Working Groups as well as the role of the Agency in regional cooperation. In May it adopted its first decision on publication of its documents.

4.2. ACER premises

The Director took office in Brussels on 16 September 2010. The Seat Agreement between the Government of the Republic of Slovenia and the Agency, committing the Slovenian Government, *inter alia*, to provide office premises for the Agency for a period of two years, free of rent and related charges, was signed in Ljubljana on 26 November 2010. The Agreement was ratified by the Slovenian Parliament on 20 December 2010 (law 28 December 2010, number 003-02-11/2010-20) and entered into force on 10 January 2011. The premises were made available to the Agency on 1 February 2011, for a period of two years.

The Agency started operating from its temporary premises in Ljubljana (Trg republike 3, Ljubljana) on 1 February 2011. The premises have 52 working places. In the course of 2012 the Agency will run a procurement procedure to select its final premises in Ljubljana (from February 2013). In the search of its final premises, ACER will take into account any expansion of its staff following the assignment of additional tasks and functions (e.g. as in the case of the REMIT proposal).

The procurement process for furniture and appliances for the Agency's premises was launched immediately after the signing of the Seat Agreement, and most of the delivery took place in the last week of January/first week of February 2011. A few items were delivered in May 2011.

In June 2011, ACER also opened a liaison office in Brussels with one staff member. The office is hosted in premises made available, free of charge, by CEER, as a contribution in kind to the working of the Agency. CEER is also providing secretarial support to ACER's activities in Brussels, so that ACER staff presence in the Brussels liaison office can be limited to one temporary agent. The IT and information resources are shared with the liaison office, which makes it an indispensable part of ACER's structure.

ACER's target for 2012 is therefore to have:

- **launched and finalised on time the selection procedure for final premises in Ljubljana, to be occupied as of 1 February 2013;**
- **launched and finalised on time the procurement process for any additional furniture and appliances required for the new premises as of 1 February 2013, depending on any additional staff the Agency may have to recruit.**

Key performance indicators:

- **the selection procedure for final premises finalised on time to effectively occupy final premises as of 1 February 2013;**

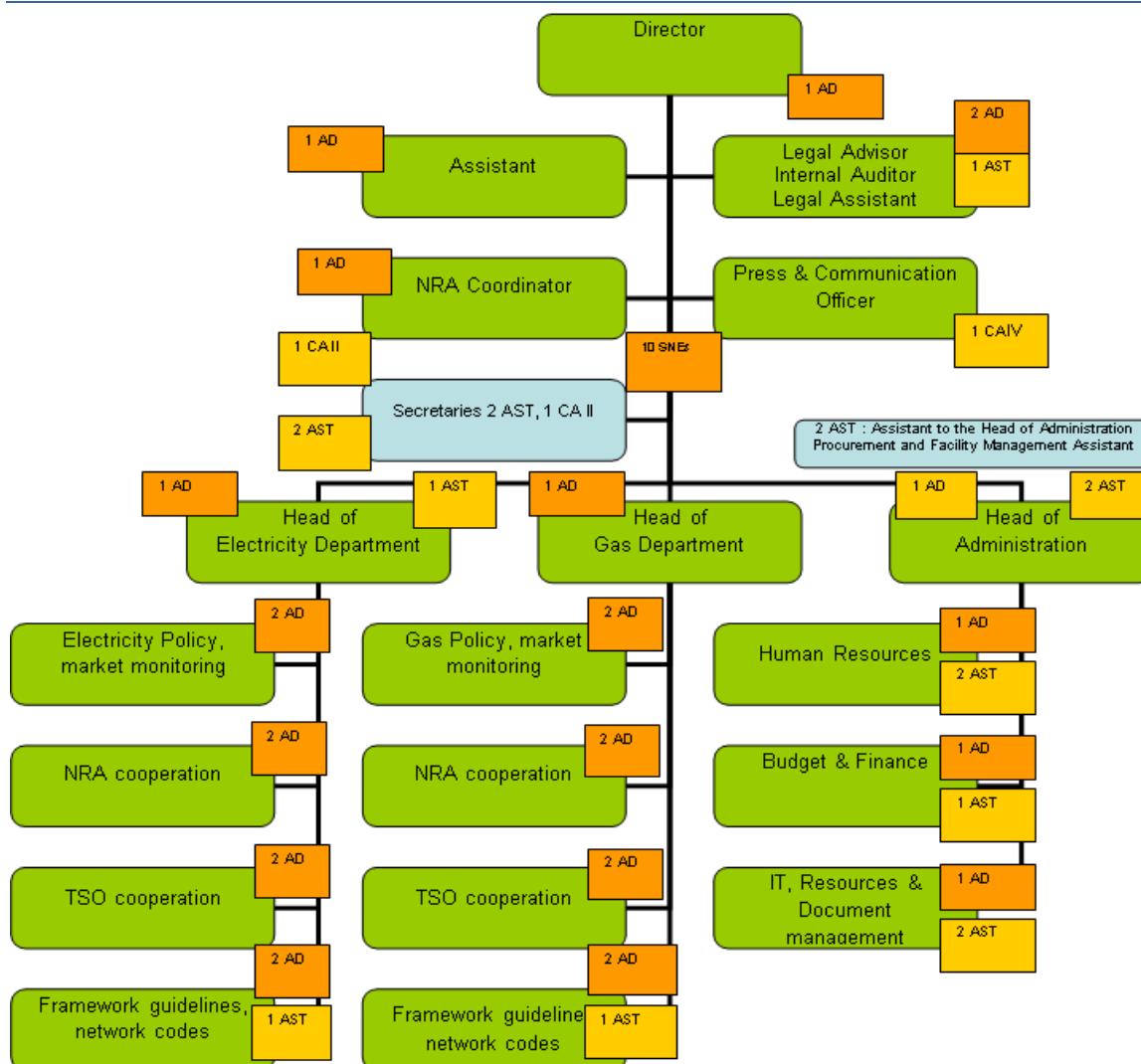
- **the selection procedure for any additional furniture and appliances required for the new premises finalised on time.**

Staff: 1ADs, 1AST

4.3. Human resources

The organisational chart below reflects the current structure of ACER (June 2011), which envisages 40 temporary agents, 2 contract agents on long-term employment and up to 10 seconded national experts (SNEs). The number of staff in different departments according to the current organisational chart is the following:

- Director's office: 8 temporary agents (5 ADs, 3 ASTs), 2 contract agents, 10 SNEs;
- Administration Department: 11 temporary agents (4 ADs, 7 ASTs);
- Electricity Department: 11 temporary agents (9 ADs, 2 ASTs);
- Gas Department: 10 temporary agents (9 ADs, 1 AST).



*Comment: 1 AST is temporarily assigned to the Administration Department and would be reassigned to the Head of the Gas Department by the end of 2011.

The recruitment process for the temporary agent positions started in May 2010. ACER is continuing to recruit its staff in order to complete the process by the end of 2011. In June 2011, 20 staff (19 temporary agents and 1 contract agent) were working for ACER, with a further 2 temporary agents confirmed to start. All management positions (Director, Head of the Administration Department, Head of the Electricity Department and Head of the Gas Department) have been filled. In May and June 2011, HR started the process of pre-selection for 11 posts (10 temporary agents and 1 contract agent), which will be concluded in the coming months. In June 2011, HR plans to publish the last vacancy notices in order to recruit the remaining (8) temporary agents, except for the position of Internal Audit Officer (AD8) which will not be published in 2011. In fact, ACER plans, for an initial period and until the exact workload of the Internal Audit Officer position is assessed, to use shared resources of another regulatory agency for its internal audit activities. The first visit of the Internal Auditor of EMSA is scheduled for July 2011.

During 2011, it is also expected that the SNEs will be selected. In June 2011, one seconded national expert started working at ACER, with further 5 SNEs confirmed to start in July, August, September and October. SNEs seconded from NRAs or Member States will assist the Director and key staff in the Electricity and Gas Departments in particular energy tasks within their expertise.

In June 2011, ACER also opened a liaison office in Brussels with one staff member in order to improve the effectiveness of the interaction with other EU institutions – and in particular the European Parliament and the European Commission – and other stakeholders. The need for maintaining such a liaison officer in Brussels will be reviewed in two years.

It is also expected that in the course of the legislative procedure a number of additional tasks will be assigned to ACER, in particular as regards the REMIT⁷. The exact level of the additional human and financial resources required to fulfil the new tasks under REMIT will have to be assessed once the Regulation is adopted.

ACER's target is therefore to:

- **Have 41 staff (39 temporary agents, 2 contract agents) and up to 10 SNEs recruited by the beginning of 2012;**
- **Complete the recruitment of the additional resources required to fulfil the new tasks assigned under REMIT by the date in which ACER is due to take up its responsibility under the Regulation. It is however expected that the maximum intake rate could not exceed 10 staff members per quarter.**

Key performance indicator:

- **Achievement of 90% of the recruitment targets on time.**

Staff: 1AD, 1 AST

⁷ According to the Commission's proposal, the additional human resources which ACER would need to recruit to fulfil its mission under REMIT amount to 3 temporary agents and 2 SNEs in the second half of 2012 and 6 temporary agents and 4 SNEs in 2013. Therefore, the total staff for 2012 would be 57 (43 temporary agents, 2 contract agents and 12 SNEs) and 67 in 2013 (49 temporary agents, 2 contract agents and 16 SNEs).

Temporary agents on short-term employment

The post of Director is considered as short-term. It may be extended once - after proposal by the Commission and assuming there is no change in ACER's mandate - for a fixed period of three years, after the initial five years fixed-term.

Example of job profile:

Director (AD14)

- To recruit and supervise Agency staff and to foster a good team spirit and working environment
- To prepare and participate in the work of the Administrative Board, without the right to vote
- To adopt and publish the opinions, recommendations and decisions of the Agency after having received a favourable opinion of the Board of Regulators
- To prepare the annual draft work programme of the Agency as well as the Agency's annual report
- To implement the annual work programme of the Agency, under the guidance of the Board of Regulators of the Agency, and under the administrative control of the Administrative Board
- To draw up a preliminary draft budget of the Agency and to implement the budget of the Agency
- To take the necessary measures, notably the adoption of internal administrative instructions and the publication of notices, to ensure smooth functioning of the Agency
- To exercise the powers conferred on the appointing authority by the Staff Regulations of Officials of the European Communities and on the authority entitled to conclude contracts by the Conditions of Employment of Other Servants of the European Communities
- To communicate with the public on all matters within the Agency's remit

Temporary agents on long-term employment

All tasks, both in the AD and the AST function groups, are of a permanent nature and will be carried out by the core staff that will be composed of 39 temporary agents. This figure is based on the current needs of the Agency and may be reviewed depending on future changes in ACER's tasks and missions. In consequence, all these temporary agent posts (with the exception of the Director) are identified as posts of long-term duration.

Examples of job profiles:

Assistant to the Director (AD5)

- Assistance in management of and coordination within ACER
- Coordination and consultation with other EU institutions, Member States and stakeholders
- Preparation of work of Administrative Board
- Coordination of preparation of annual report on the activities of ACER
- Coordination of preparation of annual and multi-annual work programmes
- Coordination of preparation of preliminary draft budget
- Preparation of internal administrative instructions

Internal Audit Officer (AD8)

- Achieve the objectives of the policies, programmes and action of the Agency in accordance with the principle of sound financial management
- Comply with the rules of EU law and minimum control standards established by the Agency
- Safeguard the Agency's assets and information
- Prevent and detect irregularities, errors and fraud
- Identify and prevent management risks and manage them effectively
- Ensure reliable production of financial and management information
- Keep supporting documents relating to and subsequent to budget implementation and to budget implementation measures
- Keep documents relating to advance guarantees for the institution and keep a log to provide suitable monitoring of such guarantees to be adequately monitored

Legal Advisor (AD9), Legal Assistant (AST3)

- Legal advice to Director and ACER departments on all legal issues, in particular on European law, notably on internal energy market legislation
- Scrutiny of all legally binding decisions to be adopted by ACER
- Proceedings before the Board of Appeals
- Procurement, employment contracts and other legal administrative issues

NRA Coordinator (AD9)

- Coordination of NRA Working Groups and relations between ACER and NRAs
- Recommendations for sharing good practices among NRAs and market players
- Development of framework for NRA cooperation
- Promotion of cooperation between NRAs and regulatory authorities at regional and EC level; if considered necessary, recommendation to Commission to propose binding rules
- Preparation of meetings of Board of Regulators

Secretaries (2 AST3)

- Secretarial services for Director or Gas/Electricity Departments
- Co-ordination of meetings
- Organisation of travel activities
- Administrative support to the Legal Advisor and NRA Coordinator
- Co-ordination of administrative issues related to budget and staff
- Archiving (assistance to the Knowledge Manager)
- Co-ordination of requests for access to documents
- Assistance to and secretarial services for Electricity/Gas Department
- Organisational issues related to the Working Groups with NRAs, all stakeholder consultations
- Administrative assistance to the rest of the Electricity/Gas Department staff according to needs

Head of Administration (AD11)

- Coordination and management of Administration Department
- Responsibility for internal control and risk management issues

Assistant to the Head of Administration/Internal Control Coordinator (AST3)

- Administrative assistance to the Head of Administration and the other staff of the Department according to needs
- Assistance with internal control and risk management issues

Procurement and Facility Management Assistant (AST3)

- Assist in managing the Agency's building, non-IT infrastructure and services
- Participating in the preparation of tender dossiers and drafting of contracts
- Assisting in the launch and administration of tendering procedures
- Coordinating opening and evaluation sessions
- Drafting evaluation reports, notification letters and associated documents
- Providing guidance and assistance to the contracting departments within the Agency in the management of their tendering procedures
- Monitoring the Agency's annual contractual needs
- Assisting in the management of the building and facilities at Agency headquarters
- Planning and managing office allocations and carrying out office removals
- Providing data and status reports for the preparation and monitoring of the annual building and facilities budget, and verifying invoices

Human Resources (AD5, AST3)

- Personnel Administration (contracts, keeping and updating employee files, leaves and holidays...)
- Implementation and supervision of the HR policies of the Agency (training, career and development, mobility)
- Co-ordination of the analysis and definition of present and future human resources needs of the Agency
- Drafting, updating and publishing Job vacancies and Job descriptions and organising or supporting internal and external recruitment processes
- Setting up, coordination and participation in the work of the Selection Committees
- Integration of new staff into the service

Budget and Finance (AD5, AST3)

- Manage ACER accounts and establishment of the budget
- Assist the Director with the establishment and implementation of the budget

- Prepare provisional accounts and report on budgetary and financial management over the financial year
- Monitor the implementation of Internal Control Standards
- Keep inventory of the agency's property and assets

IT Resources and Document Management (AD5, AST3)

- Install, configure, monitor and maintain computer systems and networks
- Solve network problems and solve hardware/software faults
- Provide support to the IT users, including documentation
- Run network applications to support systems and users
- Support new applications and set up new systems and users
- Ensure data protection
- Establish and maintain the ACER web site (in co-operation with the Press and Communications Officer)

Knowledge Manager (AST5)

- Promote knowledge sharing through the Agency's processes and systems by, among others, strengthening links between knowledge sharing and the information systems
- Improve integration amongst IT and document systems in the Agency, to facilitate seamless exchange of information between EU institutions and National Energy Regulatory Authorities
- Promote collaborative tools, such as "virtual platforms" or activity rooms, to facilitate sharing of ideas and work among internal teams and external stakeholders
- Provide support for the establishment and nurturing of communities of practice, including workshops, knowledge fairs, site visits, troubleshooting, training sessions, preparation of brochures/presentations in co-operation with the Press and Communications Officer
- Help monitor and evaluate the knowledge-sharing and document management systems, including external benchmarking and evaluation programs/opportunities
- Help disseminate information about the organization's knowledge-sharing programme to internal and external audiences

Head of the Electricity Department (AD11)

- Co-ordination and management of the Electricity Department

Assistant to the Head of the Electricity Department (AST3)

- Assistance to the Head of the Electricity Department
- Organisational issues related to the Working Groups with NRAs, all stakeholder consultations
- Administrative assistance to the rest of the Electricity Department staff according to needs

NRA cooperation, including a Legal Officer (AD7, AD5)

- Decisions on terms and conditions for access to and operational security of electricity cross-border infrastructure
- Decisions on exemptions from regulatory regime for cross-border infrastructure
- Work in the context of the Inter Transmission System Operators' (TSO) compensation mechanism Guidelines
- Opinion on whether a NRA decision complies with Guidelines or other relevant provisions and information of the Commission or Member States concerned where NRA does not comply with opinion of the Agency
- Opinion to NRA which encounters difficulties with application of the Guidelines
- Opinion on decisions of NRAs on TSO certification
- Cooperation with NRAs and TSOs to ensure compatibility of regulatory frameworks between regions; if needed, appropriate recommendations
- Recommendations towards achieving compatibility of technical rules

TSO cooperation (AD7, AD5)

- Opinion on draft statutes, list of members and draft rules of procedure of ENTSO-E
- Monitoring of execution of tasks of ENTSO-E
- Opinion (if need be: duly reasoned) to ENTSO-E on draft annual work programme, draft EU-wide network development plan and other relevant documents (e.g. annual summer and winter supply outlooks)
- Monitoring of progress of new inter-connector projects
- Monitoring of implementation of EU-wide Network Development Plans; investigate reasons for inconsistencies and make recommendations to TSO
- Monitoring of regional cooperation of TSO
- Approval of compliance programmes for joint undertakings

Framework guidelines and network codes (AD8, AD5, AST3)

- Opinion to Commission on annual priority list
- Framework guidelines
- Reasoned opinion to ENTSO-E on draft network codes, submission of draft network codes to the Commission and recommendation that they be adopted
- If required, preparation of draft network codes
- If required, opinion on draft network codes prepared by the Commission
- If required, proposal of amendments to network codes
- Monitoring of execution of tasks of ENTSO-E as far as network codes are concerned
- Monitoring and analysis of implementation of network codes and Guidelines by ENTSO-E, report to Commission and duly reasoned opinion to the Commission where ENTSO-E failed to implement

Monitoring of Internal Electricity Market (AD8, AD6)

- Monitoring of internal markets in electricity
- Preparation of annual report on results of monitoring
- If appropriate, opinion to the European Parliament and the Commission on how to remove barriers on Internal Market
- Preparation of annual report on the activities of ACER
- Preparation of annual work programme
- Preparation of overall ACER regulatory policy on electricity in close co-ordination with Commission
- Co-operation with third countries

Head of the Gas Department (AD11)

- Co-ordination and management of the Gas Department

Assistant to the Head of the Gas Department (AST3)

- Assistance to the Gas Department
- Organisational issues related to the Working Groups with NRAs, all stakeholder consultations
- Administrative assistance to the rest of the Gas Department staff according to needs

NRA cooperation, including a Legal Officer (AD7, AD5)

- Decisions on terms and conditions for access to and operational security of gas cross-border infrastructure
- Decisions on exemptions from regulatory regime for cross-border infrastructure
- Opinion on whether a NRA decision complies with Guidelines or other relevant provisions and information of the Commission or Member States concerned where NRA does not comply with opinion of the Agency
- Opinion to NRA which encounters difficulties with application of Guidelines
- Opinion on decisions of NRAs on TSO certification
- Cooperation with NRAs and TSOs to ensure compatibility of regulatory frameworks between regions; if needed, appropriate recommendations
- Recommendations towards achieving compatibility of technical rules

TSO cooperation (AD7, AD5)

- Opinion on draft statutes, list of members and draft rules of procedure of ENTSO-G
- Monitoring of execution of tasks of ENTSO-G
- Opinion (if need be: duly reasoned) to ENTSO-G on draft annual work programme, draft EU-wide network development plan and other relevant documents (e.g. annual summer and winter supply outlooks)
- Monitoring of progress of new interconnector projects

- Monitoring of implementation of EU-wide Network Development Plans; investigate reasons for inconsistencies and make recommendations to TSO
- Monitoring of regional cooperation of TSO
- Approval of compliance programmes for joint undertakings

Framework guidelines and network codes (AD8, AD5, AST3)

- Opinion to the Commission on annual priority list
- Framework guidelines
- Reasoned opinion to ENTSO-G on draft network codes, submission of draft network codes to the Commission and recommendation that they be adopted
- If required, preparation of draft network codes
- If required, opinion on draft network codes prepared by the Commission
- If required, proposal of amendments to network codes
- Monitoring of execution of tasks of ENTSO-G as far as network codes are concerned
- Monitoring and analysis of implementation of network codes and guidelines by ENTSO-G, report to the Commission and duly reasoned opinion to the Commission where ENTSO-G failed to implement

Monitoring of Internal Gas Market (AD8, AD6)

- Monitoring of internal markets in natural gas
- Preparation of annual report on results of monitoring
- If appropriate, opinion to the European Parliament and the Commission on how to remove barriers on Internal Market
- Preparation of the annual report on the activities of ACER
- Preparation of annual work programme
- Preparation of overall ACER regulatory policy on gas in close co-ordination with the Commission
- Co-operation with third countries

Contract agents on long-term employment

Examples of job profiles:

Press and Communications Officer (CA, FGIV)

- Corporate Communication, Media & Public Relations
- Prepare meetings and liaise with the Commission, MS and third parties
- Internal Communication
- Coordination and assistance to departments on consultation processes
- Publication of all documents and minutes of consultation meetings
- Publication of information in relation to meetings of ACER Boards

Secretary (CA, FGII)

- Secretarial services for Director or Gas/Electricity Departments
- Co-ordination of meetings
- Organisation of travel activities
- Administrative support to the Legal Advisor and NRA Coordinator
- Co-ordination of administrative issues related to budget and staff
- Archiving (assistance to the Knowledge Manager)
- Co-ordination of requests for access to documents
- Assistance to and secretarial services for Electricity/Gas Department
- Organisational issues related to the Working Groups with NRAs, all stakeholder consultations
- Administrative assistance to the rest of the Electricity/Gas Department staff according to needs

Establishment Plan 2012

| Function group and grade | 2011 | | 2012 | |
|--------------------------|----------------------------|-----------------|-----------------|-----------------|
| | Authorised under EU Budget | | Draft Budget | |
| | Permanent Posts | Temporary Posts | Permanent posts | Temporary Posts |
| AD 16 | | | | |
| AD 15 | | | | |
| AD 14 | | 1 | | 1 |
| AD 13 | | | | |
| AD 12 | | | | |
| AD 11 | | 3 | | 4 |
| AD 10 | | | | |
| AD 9 | | 2 | | 2 |
| AD 8 | | 5* | | 6 |
| AD 7 | | 4 | | 4 |
| AD 6 | | 3 | | 2 |
| AD 5 | | 9** | | 11 |
| AD total | | 27 | | 30 |
| AST 11 | | | | |
| AST 10 | | | | |
| AST 9 | | | | |
| AST 8 | | | | |
| AST 7 | | | | |
| AST 6 | | | | |
| AST 5 | | 1 | | 1 |
| AST 4 | | | | |
| AST 3 | | 12 | | 12 |
| AST 2 | | | | |
| AST 1 | | | | |
| AST total | | 13 | | 13 |
| TOTAL | | 40 | | 43 |
| GRAND TOTAL | | 40 | | 43*** |

(*) One AD8 position - Internal Audit Officer - may not be recruited in 2011. (**) ACER will recruit 10 AD5 posts in 2011 (1 AD6 post will be used for 1 AD5 post). (***) 3 AD posts (1 AD11, 1 AD8 and 1 AD5) will be covered only after approval of the REMIT proposal.

4.4 Budget, Finance and Audit

1.Revenues

The following table presents the authorised revenues for 2011 and the estimated revenues for 2012, taking into account the budgetary proposal submitted by the Commission.

| REVENUES | 2011 | 2012 |
|--|------------------|------------------|
| | Authorised | Draft Budget |
| 2. EU CONTRIBUTION | 5,000,000 | 7,315,000 |
| of which Administrative (Title 1 and Title 2) | 4,017,000 | 6,925,000 |
| of which Operational (Title 3) | 983,000 | 390,000 |
| 3 THIRD COUNTRIES CONTRIBUTION (incl. EFTA and candidate countries) | 119,000 | 174,097 |
| Of which EFTA | 119,000 | 174,097 |
| ⁸TOTAL REVENUES | 5,119,000 | 7,489,097 |

2. Expenditure

The following table presents the expenditure as included in the 2011 budget and the estimated expenditure for 2012, taking into account the budgetary proposal submitted by the Commission⁹.

⁸ ACER is receiving contribution in kind from CEER related to the Agency's liaison office in Brussels.

⁹ The estimated expenditure for 2012 presented in the table are not in line with the expenditure estimate made by the Administrative Board in March 2011, as they reflect the Commission's budgetary proposal which envisage a reduction in the subsidy to the Agency by approx. 284,000€.

| EXPENDITURE | Commitment & Payment appropriations | |
|--|-------------------------------------|-------------------|
| | Budget 2011 | Draft Budget 2012 |
| Title 1 | | |
| Staff Expenditure | 3,664,612 | 5,033,186 |
| 11 Salaries & allowances | 3,225,710 | 4,669,392 |
| 12 Expenditure relating to Staff recruitment | 164,100 | 29,000 |
| 13 Mission expenses | 153,307 | 168,307 |
| 14 Socio-medical infrastructure | 30,900 | 40,800 |
| 15 Training | 43,172 | 75,000 |
| 16 External Services | 47,423 | 50,687 |
| 17 Receptions and events | 0 | 0 |
| Title 2 | | |
| Infrastructure and operating expenditure | 471,388 | 2,065,910 |
| 20 Rental of buildings and associated costs | 80,000 | 55,000 |
| 21 Information and communication technology | 107,388 | 1,077,388 |
| 22 Movable property and associated costs | 27,000 | 42,000 |
| 23 Current administrative expenditure | 106,000 | 186,000 |
| 24 Postage / Telecommunications | 151,000 | 166,000 |
| 25 Meeting expenses | 0 | 539,522 |
| 26 Running costs in connection with operational activities | 0 | 0 |
| 27 Information and publishing | 0 | 0 |
| 28 studies | 0 | 0 |
| Title 3 | | |
| Operational expenditure | 983,000 | 390,000 |
| Operational cost | 983,000 | 390,000 |
| TOTAL EXPENDITURE | 5,119,000 | 7,489,097 |

For the Internal Audit Function ACER plans to use shared resources of another regulatory agency, based on the experience gained in 2011. To that end, in 2011 ACER addressed EMSA to share resources on Internal Audit and the services were provided under an SLA, signed by both parties.

The services focussed on:

- Consultation and assessment of the Internal Controls System and Procedures at ACER - recommendations for improvement, follow-up and monitoring of the implementation;
- Consultation on the monitoring of performance and development of necessary tools for monitoring of ACER activities - both financial and operational;
- Consultation on Risk Management implementation, risk management exercise, tools and strategies;
- Consultation on financial workflow and managerial issues;
- Consultation on ACER's Business continuity, recovery and contingency plans;
- Consultation on the assessment, documentation and mitigating controls for ACER's sensitive functions/areas of activity;

As a result of his work the EMSA Internal Auditor provided recommendations on:

- ACER Internal Control Framework, policies and procedures proposed/introduced;
- The monitoring of performance and tools to be further developed for monitoring of ACER financial and operational activities;
- Risk Management identification and assessment needs of ACER, tools and strategies to be introduced;
- Existing procedures on financial workflow and operational matters;
- ACER's Business continuity, recovery and contingency plans;
- Assessment, documentation and mitigating controls for ACER's sensitive areas of activity.

In 2012 ACER will assess its Internal Audit needs and will proceed with the recruitment of an Internal Audit Officer.

Staff: 1AD, 2 AST

4.5 IT infrastructure

IT infrastructure serves as the backbone for Agency's core activities. The deployment of the complete IT infrastructure, worth about €1 million, was finalised at the end of April 2011, providing the necessary services and functionalities that enable ACER to fulfil its functional role. Further fine tuning of existing and additional IT complementary services is envisaged to be provided later in 2011 and during 2012.

Moreover, deployment of dedicated applications for ACER departments (i.e. HR software, improvements in the Agency's intranet, installation of video conferencing system) is expected to be finalised by the first quarter of 2012. Further additions and customisations according to the Agency's needs are expected to be finalised by the second quarter of 2012.

The ACER website, which serves as the main communication and information sharing tool with the Boards, stakeholders, and the public is in place since the end of 2010 (supported by E-Control, the Austrian energy regulatory authority) and has been providing the necessary services for the Agency's functioning since 3 March 2011. During 2012 it will be further improved and enriched with content and additional functionalities that have proved to be necessary during the Agency's first year of activity. Moreover, the transfer of selected ERGEG/CEER website pages, such as the regional initiatives', will be completed by the end of 2011.

All IT policies and relevant rules are expected to be finalised during or by the end of 2011 and by the first quarter of 2012 the Agency is expected to be fully functioning in line with these rules.

If REMIT were adopted, ACER would have to plan during 2012 to adapt its IT infrastructure accordingly in order to accommodate the increased number of users and the new tasks assigned to it, including gathering, reviewing and sharing data from wholesale energy markets. It would therefore have to deploy IT infrastructure capable of handling large volumes of data and specialist software for automated data analysis purposes. The Commission, in its REMIT proposal, estimated that the cost for IT infrastructure could reach € 985.000.

ACER's target for 2012 is therefore to have:

- **the fine tuning of existing and additional IT complementary services completed by the end of 2012;**
- **the deployment of dedicated applications for ACER departments (i.e. HR software, improvements in the Agency's intranet, installation of video conferencing system) finalised by the first quarter of 2012;**
- **all IT policies and relevant rules in place (by the end of 2011) and the Agency to be fully functioning in line with these rules by the middle of 2012;**
- **if REMIT were adopted, planning the adaptation of its IT infrastructure within 6 months in order to start accommodating the increased number of users and the new tasks of ACER within 12 months.**

Key indicators:

- **timely deployment of dedicated applications for ACER departments;**
- **the IT policies and rules in place at the target date;**
- **if REMIT were adopted, the IT planning completed within 6 months and the timely start of accommodation of the increased users and tasks within 12 months.**

Staff: 1 AD, 2 ASTs

5. The Regulatory Practice

5.1. Cooperation and Communication with NRAs

ACER promotes the cooperation of energy regulators through, and in particular, the Board of Regulators, the Agency's Working Groups which are composed of regulatory authorities' representatives, the Agency's staff and the Commission, and specific initiatives (such as the support to regional cooperation).

Both Agency's Electricity Working Group (AEWG) and Gas Working Group (AGWG) were established on 1 March 2011 and their Chairs appointed. They are now fully operational.

In parallel, ACER organised Regional Initiatives coordination meetings with regulators' representatives (devoted to electricity and gas) and Regional Initiatives workshops with all regulators, devoted to regional developments and future work plans on the development and the implementation of the regional work.

Since March 2011, ACER webpage is used for the organisation of Working Group meetings. Following the dissolution of ERGEG on 1 July 2011, the Agency has set up a section on Regional Initiatives on its website using a new structure in order to reflect developments on Regional Initiatives with a focus on the regional work plans and on specific inter-regional projects. The reporting activity on the Regional Initiative process will be streamlined through the publication of Quarterly reports which will allow to follow-up the implementation of the European Energy Work Plan for 2011-2014.

By the start of 2012 all ACER Working Groups and task forces shall be fully supported by dedicated IT applications. They should meet regularly, typically once a month, and deliver advice to the Director as required, to allow ACER to fulfil its work programme.

5.2. Stakeholders involvement and consultation (framework guidelines etc.)

According to article 10(1) of Regulation (EC) No 713/2009, "[i]n carrying out its tasks, in particular in the process of developing framework guidelines [...] and in the process of proposing amendments of network codes [...], the Agency shall consult extensively and at an early stage with market participants, transmission system operators, consumers, end-users and, where relevant, competition authorities, without prejudice to their respective competence, in an open and transparent manner, in particular when its tasks concern transmission system operators".

The ACER Electricity Stakeholders Advisory Group (AESAG) was established on 18 March.

The first public consultations started on 3 March 2011 and finished on 2 May 2011, on the draft Framework Guidelines on Capacity Allocation Mechanisms for the European Gas Transmission Networks

and on Electricity Grid Connections. Additional public consultation on the draft Framework Guidelines on Electricity Capacity Allocation and Congestion Management and Gas Balancing were launched in April and ran until June 2011.

As ACER's primary communication tool with all external parties is its website, public consultations are executed through the website as well. Personalised logins for all interested parties and a high degree of standardisation, together with user-friendly interfaces, facilitate the public consultation process for all parties involved and grant a lean overall procedure.

ACER will develop by the first quarter of 2012 and based on 2011 experience, a policy of public consultations, a policy on workshops, public hearings and conferences, access to logins, webpage users, subscriptions, etc. This will be published on ACER's website by June 2012.

A test policy on workshops has been experimented since March 2011. The first presentation workshop (on the draft Framework Guidelines on Capacity Allocation Mechanisms for the European Gas Transmission Networks) was held in Ljubljana on 7 March 2011. The second one (on the draft Framework Guidelines on Gas Balancing) was held in Ljubljana on 18 May.

ACER's target for 2012 is therefore to have:

- **a policy of public consultations, a policy on workshops, public hearings and conferences, access to logins, webpage users, subscriptions in place by the first quarter of 2012;**
- **a presentation workshop held in Ljubljana on most ACER public consultations on draft Framework Guidelines.**

Key performance indicator:

- **timely set up of the policy of public consultations, a policy on workshops, public hearings and conferences, access to logins, webpage users, subscriptions**
- **percentage of workshops organised representing a fraction of launched public consultations: 50%.**

Staff: 1 AST, 2ENDs

6. Regulatory Activities

6.1. Introduction and Framework

In the regulatory practice area, this Work Programme presents the activities on which ACER is planning to work in 2012 and the expected schedule of deliverables for these activities. It is however to be noted that, as in 2011, the timelines of some of the processes in which ACER will be involved are dependent on the input from other actors: for example, the process of preparing the Framework Guidelines will be initiated by the Commission (which issues a letter of invitation). Moreover, some of the activities to be performed by ACER are undertaken upon request from NRAs, such as the decisions on cross-border congestion management or on exemptions, or from the European Parliament, the Council and the Commission, and it is at the moment difficult to envisage the exact scale of the effort required to meet these requests. For these reasons, the timing and deliverables in this 2012 Work Programme of ACER may have to be adapted over the year.

Furthermore, the activities which ACER envisages to undertake in 2012 are, in some cases, closely related to other work carried out by the European energy regulators within CEER.

Eventually, ACER will promote cooperation among NRAs in all regulatory areas, according to its wider mandate¹⁰. However, during this initial period, which will extend into 2012, when priority should be given to the development of Framework Guidelines and other activities in areas which clearly fall within its main institutional remit and are in the critical path for the completion of the IEM by 2014, CEER will continue to promote cooperation among European energy regulators in areas which, while relevant to the activities of ACER, are outside this narrow scope, including some of those arising from the dissolution of ERGEG in mid-2011. For example, in the gas sector, CEER is developing the “Target Model” for the Internal Gas Market, which will outline the approach(es) and tool(s) for the development of liquid (national or regional) gas markets and their integration into a single European gas market. A gas Target Model is not envisaged in Regulation (EC) No 713/2009, or in any of the other acts included in the Third Package and therefore does not fall within the formal responsibilities of ACER. However, and quite obviously, some of the Framework Guidelines that ACER is developing for the gas sector will be affected by the Target Model and this may also influence the timing of their development.

Therefore, it should be understood that some of the activities which ACER is planning to carry out in 2012 are linked – including in their exact timing - to other related work developed by CEER and included in its 2012 Work Programme (and *vice versa*).

¹⁰ In particular, Article 7(3) of Regulation (EC) No 713/2009 envisages that “The Agency shall provide a framework within which national regulatory authorities can cooperate. It shall promote cooperation between the national regulatory authorities and between regulatory authorities at regional and Community level, and shall take due account of the outcome of such cooperation when formulating its opinions, recommendations and decisions”.

2012 will also see significant action in the infrastructure areas, following the Commission's Communication of November 2010¹¹. This work may develop in a number of areas, including infrastructure cost allocation and tariff structure harmonisation. While these are areas for which the development of framework guidelines and network codes is envisaged, the Commission has indicated that it is considering developing "Comitology Guidelines" instead. A final decision on the legal vehicle to be used in these areas is likely to be taken by the end of 2011. The Commission has also indicated that, if Comitology Guidelines are to be used, it would welcome support from European energy regulators and therefore, irrespective of the legal instrument to be adopted, ACER may well be asked to work in this field. However, the timing and scope of this work has still to be defined and its inclusion in the Work Programme is based on current expectations.

Finally, most of the activities performed by the Agency in the regulatory area will be carried out through the Agency's Working Groups, which are mainly composed of NRAs' representatives (but also by representatives from the Commission and ACER staff). In this Section, the staff dedication to the different activities only relates to the Agency's own staff, and does not include NRAs' representatives contributing through the Agency's Working Groups.

6.2. Uncertainty and Risks

This Work Programme presents the activities which the Agency is expecting to carry out during 2012.

However, as already noted, not all the activities which the Agency will perform in 2012 can be foreseen in advance. For example:

- according to Regulation (EC) No 713/2009, the Agency is called to intervene with decisions on a number of cross-border issues (e.g. terms and conditions for access to cross-border interconnections, exemptions from third-party access and unbundling requirements) when the involved NRAs fail to reach a common position or when they instead decide to invest the Agency with the decision;
- according to Regulations (EC) No 713/2009, 714/2009 and 715/2009, the Agency may also be called upon by the Commission to provide its opinion on the national regulatory authority's decision regarding the certification of TSOs;
- the Agency may also be required by the European Parliament, the Council or the Commission to provide opinions and recommendations in its areas of competence;

¹¹ *Energy infrastructure priorities for 2020 and beyond - A Blueprint for an integrated European energy network* - Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 17 November 2010, COM(2010) 677 final.

- unexpected events may affect the energy sector (e.g. the recent natural disaster in Japan, initiating a reassessment of the nuclear energy strategy both on an EU level and in many Member States) and impact on scope and timing for the work of EU institutions, including ACER.

In all these cases it is difficult to envisage in advance the nature of the required activities and the exact scope and extent of the related effort.

Moreover, the Agency's tasks are often part of a process involving other institutions or entities (e.g. the Commission, ENTSOs) and therefore the exact timing of the Agency's contribution may depend of the way in which these other bodies will develop their own work.

The present Work Programme should therefore be read keeping in mind that the Agency may have to reallocate resources and priorities in the light of specific requests received by NRAs, the European Parliament, the Council and the Commission, in response to modified timelines in the work of other entities or as a result of unexpected events.

6.3. Electricity

1) Continuing work from 2011

a) Balancing

| | |
|-------------------------------------|--|
| Deliverable: | Framework Guidelines on Electricity Balancing |
| Legal basis: | Articles 6(2) and 8(6j) Regulation (EC) 714/2009 |
| Status: | Scoping to start in June 2011 |
| Targets and deadlines (indicative): | <p>Expected Public consultation: January 2012</p> <p>Expected Final FG: June 2012</p> <p>In the 2011 Work Programme, the completion of the FG on Electricity balancing was envisaged by December 2011. The additional time required is due to the longer scoping phase. Scoping discussions on the electricity Balancing framework guideline during the second half of 2011 (Q3 and Q4).</p> |
| Key performance indicators: | <ul style="list-style-type: none"> - the timely launch of the public consultation - the timely adoption of the framework guideline |

2) New assignments

a) Third party access

| | |
|-------------------------------------|---|
| Deliverable: | Framework Guidelines on Third Party Access |
| Legal basis: | Article 6(2) and 8(6c) Reg 714/2009 |
| Status: | No activity yet |
| Targets and deadlines (indicative): | Scoping discussions on the third party access framework guideline during the second half of 2012 (Q3 and Q4) FG and IIA to be prepared in Q1-Q2 2013 |
| Key performance indicators: | - the timely adoption of the framework guideline and IIA |

b) Grid connection

| | |
|-------------------------------------|--|
| Deliverable: | Reasoned opinion on the network code on Electricity Grid Connections |
| Legal basis: | Article 6(4) Reg 713/2009; Article 6(7) Reg 714/2009 and Reg 715/2009 |
| Status: | The final Framework Guidelines have been submitted to EC in July 2011. NC to be developed by ENTSO-E and submitted to ACER in Quarter 1 – March 2012 |
| Targets and deadlines (indicative): | Expected start date: April 2011 Expected public consultation period: May 2012 ¹² Expected completion date: June 2012 ^{13,14} |
| Key performance indicators: | - the timely launch of the public consultation on the network code - the timely delivery of the reasoned opinion on the network code |

¹² ACER will consider whether it would be appropriate to consult stakeholders when preparing its opinion on the network codes, pursuant to Article 6(7) of Regulation (EC) No 714/2009.

¹³ Article 6(7) of Regulation (EC) No 714/2009 requires ACER to deliver its Opinion on the network codes within three months of receiving the codes from ENTSO-E. Therefore, this deadline depends on the date in which ACER receives the network codes. In parallel, and without prejudice to ACER's formal Opinion on the network codes, ACER will cooperate closely with ENTSO-E during the preparation of the network codes.

¹⁴ The target is for the reasoned opinion on the network code on generation connection only. The target for the reasoned opinion on the network code on DSO and industrial load connection is March 2013.

c) Capacity allocation congestion management

| | |
|-------------------------------------|---|
| Deliverable: | Reasoned opinion on the network code on Capacity Calculation, Intraday and Day-Ahead |
| Legal basis: | Articles 6(2) and 8(6g) Regulation (EC) 714/2009 |
| Status: | The final Framework Guidelines have been submitted to the Commission in July 2011. NC to be developed by ENTSO-E and submitted to ACER by September 2012 |
| Targets and deadlines (indicative): | Expected start date: September 2012 Expected public consultation period: October 2012 Expected completion date: November - December 2012 |
| Key performance indicators: | <ul style="list-style-type: none"> - the timely launch of the public consultation on the network code - the timely delivery of the reasoned opinion on the network code |

d) ITC compensation

| | |
|-------------------------------------|---|
| Deliverable: | Annual report on implementation and management of the ITC fund. Proposal to the Commission on the annual cross-border infrastructure compensation sum. |
| Legal basis: | Paragraphs 1.4, 5.3 and 5.5, Guidelines on the Inter-Transmission System Operator Compensation Mechanism, Commission Regulation (EU) No 838/2010 |
| Status: | No activity yet. |
| Targets and deadlines (indicative): | Annual Report: <ul style="list-style-type: none"> - Start of activities: March 2012 - Report delivered: June 2012 Proposal to the Commission <ul style="list-style-type: none"> - Expected Public consultation: December 2012 - Expected date for the fund's proposal: March 2013 |
| Key performance indicators: | <ul style="list-style-type: none"> - the timely report on the implementation and management of the ITC fund delivered - the timely delivery of the Proposal to the Commission on the annual cross-border infrastructure |

Staff allocated to the preparation of Framework Guidelines and to the assessment of Network Codes, as well as ITC: 3 ADs, 1 AST, 1 END

6.4. Natural Gas

1) Continuing work from 2011

a) Framework Guideline on Interoperability

| | |
|-------------------------------------|--|
| Deliverable: | Framework Guideline on Interoperability of gas systems |
| Legal basis: | Articles 6(2) and 8(6)(e) Regulation (EC) 715/2009 |
| Status: | Scoping will start in June 2011 |
| Targets and deadlines (indicative): | <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>In the 2011 Work Programme, the completion of the FG on Gas Inter-operability was envisaged by December 2011. The additional time required is due to the longer scoping phase.</p> |
| Key performance indicators: | <ul style="list-style-type: none"> - the timely launch of the public consultation - the timely adoption of the framework guideline |

2) New assignments

a) Framework Guideline on the Rules for Trading

| | |
|-------------------------------------|--|
| Deliverable: | Framework Guideline on the Rules for Trading |
| Legal basis: | Articles 6(2) and 8(6)(h) Regulation (EC) 715/2009 |
| Status: | No activity yet |
| Targets and deadlines (indicative): | <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> |
| Key performance indicators: | <ul style="list-style-type: none"> - the timely launch of the public consultation - the timely adoption of the framework guideline |

b) Framework Guideline on Data Exchange and Settlement Rules

| | |
|-------------------------------------|--|
| Deliverable: | Framework Guideline on Data Exchange and Settlement rules |
| Legal basis: | Articles 6(2) and 8(6)(d) Regulation (EC) 715/2009 |
| Status: | No activity yet |
| Targets and deadlines (indicative): | Expected start date: Q1/2 2012 Expected public consultation period: Q2/3 2012 Expected completion date: Q3/4 2012 |
| Key performance indicators: | <ul style="list-style-type: none"> - the timely launch of the public consultation - the timely adoption of the framework guideline |

c) Opinion on Network Codes on Capacity Allocation Mechanisms

| | |
|-------------------------------------|---|
| Deliverable: | Reasoned opinion on the Network Code on Capacity Allocation Mechanism |
| Legal basis: | Articles 6(7), (8), (9) Regulation (EC) 715/2009 |
| Status: | The final Framework Guidelines have been submitted to EC in August 2011. NC to be developed by ENTSOG and submitted to ACER by Q1/2012 |
| Targets and deadlines (indicative): | Expected start date: Q1/2 2012 Expected public consultation period: Q1/2 2012 ¹⁵ Expected completion date: Q2 2012 ¹⁶ |
| Key performance indicators: | <ul style="list-style-type: none"> - the timely launch of the public consultation - the timely delivery of the reasoned opinion on the network code |

¹⁵ ACER will consider whether it would be appropriate to consult stakeholders when preparing its opinion on the network codes, pursuant to Article 6(7) of Regulation (EC) No 715/2009.

¹⁶ Article 6(7) of Regulation (EC) No 714/2009 requires ACER to deliver its Opinion on the network codes within three months of receiving the codes from ENTSOG. Therefore, these deadlines depend on the date in which ACER receives the network code. In parallel, and without prejudice to ACER's formal Opinion on the network codes ACER will cooperate closely with ENTSOG during the preparation of the network codes.

d) Opinion on the Network Code for Gas Balancing

| | |
|-------------------------------------|---|
| Deliverable: | Reasoned opinion on the Network Code on Balancing Rules |
| Legal basis: | Articles 6(7), (8), (9) Regulation (EC) 715/2009 |
| Status: | The final Framework Guidelines are expected to be submitted to EC in October 2011. NC to be developed by ENTSOG and submitted to ACER by Q3/2012 |
| Targets and deadlines (indicative): | Expected start date: Q4 2012 Expected public consultation period: Q4 2012/Q1 2013 ¹⁷ Expected completion date: Q4 2012/Q1 2013 ¹⁸ |
| Key performance indicators: | - the timely launch of the public consultation - the timely delivery of the reasoned opinion on the network code |

Staff allocated to the preparation of the Framework Guidelines and the assessment of Network Codes: 2 ADs, 1 AST, 1 END

6.5. Cross-Sector Issues

a.) Monitoring of the internal markets in electricity and natural gas

| | |
|--------------|---|
| Deliverable: | Annual report on the results of monitoring of the internal electricity and natural gas market (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) |
| Legal basis: | Articles 11 (1) and (2) Regulation (EC) 713/2009 |

¹⁷ ACER will consider whether it would be appropriate to consult stakeholders when preparing its opinion on the network codes, pursuant to Article 6(7) of Regulation (EC) No 715/2009.

¹⁸ Article 6(7) of Regulation (EC) No 714/2009 requires ACER to deliver its Opinion on the network codes within three months of receiving the codes from ENTSO-E. Therefore, these deadlines depend on the date in which ACER receives the network codes.

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| Status: | <p>This is to continue the collection of national reports and indicators (Eurostat, own database) and drafting of the assessment/benchmarking report. The expected date to start this activity was June 2011, however due to limited resources and other priority activities, ACER has not yet carried out activities in this field. By the end of 2011, ACER will have developed data requirements and indicators for the above monitoring exercises. The target date for publication of the assessment report on the National Reports will be done in 2012, in close cooperation with the ACER working groups.</p> <p>ACER will start, in 2012, deploying the methods, procedure and infrastructure for the monitoring of wholesale energy markets.</p> |
| Targets and deadlines (indicative): | <p>Monitoring Report:</p> <ul style="list-style-type: none"> - Expected start date: April 2012 - Expected completion date: September 2012 <p>Activities related to REMIT</p> <p>Development of monitoring methodologies and procedures</p> <ul style="list-style-type: none"> - Expected start date: July 2012 - Expected completion date: December 2012 <p>Contribution to the preparation of the delegated act, upon request from the Commission</p> <ul style="list-style-type: none"> - Upon request |
| Key performance indicators: | <ul style="list-style-type: none"> - Timely completion of the annual report - ACER indicators and database included in the report - Data from all regulators included in the report |
| Staff: | 4 ADs, 2 ENDS |

b.) Regional Initiatives Status Review

| | |
|--------------------|---|
| Deliverable: | Report with a status review of the Regional Initiatives |
| Legal basis: | <p>Several articles on regional dimension of Regulations (EC) 713/2009, 714/2009 and 715/2009;</p> <p>EC Communication on RIs (“EREGEG RIs” will become “ACER RIs”)</p> |
| Status: | Continuation of ERGEG Regional Initiatives (Annual) Progress Reports but emphasising the implementation of the EU Energy work plan for 2011-2014. |
| Related documents: | Strategy for delivering a more integrated European energy market: The role of the ERGEG Regional Initiatives (May 2010); |

| | |
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| | <p>ERGEG RIs Progress Report 2009</p> <p>EU Energy Work Plan for 2011-2014</p> |
| Targets and deadlines (indicative): | <p>Expected start date: September 2012</p> <p>Expected completion date: December 2012</p> |
| Key performance indicators: | <p>- Timely completion of the monitoring report</p> |
| Staff: | <p>2 ADs,1 AST</p> |

c.) Monitoring on ENTSO-E and ENTSOG

| | |
|-------------------------------------|---|
| Deliverable: | <p>Opinion on ENTSO-E and ENTSO-G Work Programmes</p> |
| Legal basis: | <p>Articles 6 (4) Regulation (EC) 713/2009</p> |
| Status: | <p>Regulation (EC) No 713/2009 states that ACER must provide, within two months from the day of receipt, a duly reasoned opinion as well as recommendations to ENTSO-E and ENTSOG and to the Commission where it considers that the ENTSOs' draft annual work programme does not contribute to non-discrimination, effective competition, the efficient functioning of the market or a sufficient level of cross-border interconnection open to third-party access.</p> <p>Upon receipt of the 2013 Work Programmes from ENTSOs, ACER will deliver its opinion in 2012.</p> |
| Targets and deadlines (indicative): | <p>Within 2 months from the day of receipt, opinion on ENTSO-E and ENTSO-G work programmes to the European Commission (this work will be performed by the ACER staff in close cooperation with the ACER working groups).</p> |
| Key performance indicators: | <p>- Timely delivery of the opinion on ENTSO-E and ENTSO-G work programmes to the European Commission</p> |
| Staff: | <p>2 ADs,1 AST</p> |

d) Opinion on ENTSO-E relevant documents

| | |
|--------------|--|
| Deliverable: | <p>Opinion to ENTSO-E on draft Community-wide network development plan.</p> <p>Opinion/recommendations to ENTSO-E, EP, Council and EC, where draft Community-wide TYNDP do not contribute to IEM objectives/principles.</p> <p>Recommendations to TSOs, NRAs or other competent bodies based on monitoring the implementation of Community-wide Network Development Plan and</p> |
|--------------|--|

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| | <p>investigation of reasons for inconsistencies with the national/regional Ten-Year Network development Plans.</p> <p>Report to EC on common network operation tools including a common incidents classification scale, and research plans</p> <p>Opinion to annual summer and winter generation adequacy outlooks.</p> <p>Report to EC on recommendations relating to the coordination of technical cooperation between Community and third-country transmission system operators.</p> |
| Legal basis: | Article 9(1)+(2) Reg 714/2009; Article 6(3)+(4)+(8) Reg 713/2009; Article 8(2)+(3)+(11), 9(2) Reg 714/2009 and Article 22(5) Dir 2009/72/EC |
| Status: | ENTSO-E is expected to produce the next Ten-Year Network Development Plan in 2012. |
| Targets and deadlines (indicative): | <p>For the opinion to ENTSO-E on draft Community-wide network development plan, within 2 months of submission by ENTSO-E</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</p> <p>For the report to EC on recommendations relating to the coordination of technical cooperation between Community and third-country transmission system operators, 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>This work will be performed by ACER staff in close cooperation with the ACER Working Groups</p> |
| Key performance indicators: | - Timely delivery of the above documents |
| Staff: | 2ADs, 1 END |

e) Opinion on ENTSOG relevant documents

| | |
|--------------|---|
| Deliverable: | <p>Regional investment plans will complete the Community wide network development plan, complementary opinion could be necessary</p> <p>Opinion to NRA on consistency of national Ten-Year Network Development Plan (TYNDP) with Community-wide TYNDP, at request</p> <p>Opinion/recommendations to ENTSOG, EP, Council and EC, where draft Community-wide TYNDP do not contribute to IEM objectives/principles</p> <p>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</p> |
|--------------|---|

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| | <p>Recommendation to EC on common network operation tools including a common incidents classification scale, and research plans</p> <p>Opinion to annual summer and winter supply outlooks</p> <p>Report to EC on recommendations relating to the coordination of technical cooperation between Community and third-country transmission system operators.</p> |
| Legal basis: | Article 9(1)+(2) Reg 715/2009; Article 6(3)+(4)+(8) Reg 713/2009; Article 8(2)+(3)+(11), 9(2) Reg 715/2009 |
| Status: | <p>TYNDP has been assessed in 2011, next assessment 2013</p> <p>Yearly assessment of the outlooks, work programme, annual reports of ENTSOG</p> <p>Recommendation to EC on common network operation tools including a common incidents classification scale, and research plans (if not done in 2011)</p> <p>Other recommendations and opinions as mentioned in deliverables at request and when arise</p> |
| Targets and deliverables (indicative): | <p>For the report to EC on common network operation tools including a common incidents classification scale, and research plans, by end of 2012</p> <p>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>For the opinion to annual summer and winter generation adequacy outlooks, within 2 months of submission by ENTSOG.</p> <p>This work will be performed by ACER staff in close cooperation with the ACER Working Groups</p> |
| Key performance indicators: | - Timely delivery of the above documents |
| Staff: | 2 ADs, 1 END |

f) Support to the Commission in the infrastructure area

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|--------------|---|
| Deliverable: | Proposals to the European Commission on cost allocation methodologies and other aspects related to energy infrastructure |
| Legal basis: | Article 5 Reg 713/2009 |
| Status: | In November 2010 the Commission issued a Communication on <i>Energy infrastructure priorities for 2020 and beyond - A Blueprint for an integrated European energy network</i> , identifying a number of action areas, including cost allocation, which need to be addressed in order to ensure the timely development of the European energy networks. The Commission is planning to come forward |

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| | with a legislative proposal by November 2011. Some of these areas, possibly including cost allocation and the related tariff structure harmonisation principles, may be addressed via Comitology Guidelines. The Commission is requesting the support of European energy regulators and ACER in developing approaches to be included in these Guidelines. |
| Targets and deadlines (indicative): | Consistently with the timeline adopted by the Commission for the Comitology Guidelines |
| Key performance indicators: | - Timely delivery of proposals to the Commission, consistent with the Commission's timeline |
| Staff: | 0,5 AD |

g) Advice to the Commission on the certification of Transmission System Operators (TSOs)

| | |
|-------------------------------------|--|
| Deliverable: | Opinion on decisions of national regulatory authorities on TSO certification |
| Legal basis: | Article 3 of Regulations (EC) No 713/2009, 714/2009 and 715/2009 |
| Status: | On demand of the Commission, pursuant to Article 9(2) of Regulation 713/2009. Article 3 (1) of Regulations (EC) No 714/2009 and 715/2009, the Agency may be requested by the Commission to provide its opinion on the national regulatory authority's decision regarding the certification of TSO. |
| Targets and deadlines (indicative): | Within two months of the day of receipt of such request from the Commission |
| Key performance indicators: | - Timely delivery of the opinion to the Commission, consistent with the Commission's timeline |
| Staff: | 0,5 AD |

h) REMIT – Determination of the format for transmitting information from national registries to the Agency

| | |
|-------------------------------------|--|
| Deliverable: | Decision on the format according to which information in national registries is transmitted to the Agency |
| Legal basis: | Article 9(3) of REMIT |
| Status: | No activity yet |
| Targets and deadlines (indicative): | Within six months of the entry into force of REMIT Activity expected to be started upon entry into force of REMIT |
| Key performance indicators: | - Timely delivery of decision on the format according to which information in national registries is transmitted to the Agency |
| Staff: | 1 AD, 1 END |

i) REMIT – Recommendation to the Commission as to the records of transaction

| | |
|-------------------------------------|--|
| Deliverable: | Recommendation to the Commission on the records of transactions which it considers necessary to effectively and efficiently monitor wholesale energy markets |
| Legal basis: | Article 7(3) of REMIT |
| Status: | No activity yet |
| Targets and deadlines (indicative): | Expected start date: January 2012 Expected public consultation period: March - April 2012 Expected completion date: July 2012 |
| Key performance indicators: | - Timely delivery of the recommendations to the Commissions as to the records of transactions which it considers necessary to effectively and efficiently monitor wholesale energy markets |
| Staff: | 1 AD, 1 END |

j) REMIT – Guidance on the application of definitions in Article 2 of REMIT

| | |
|-------------------------------------|---|
| Deliverable: | Recommendation to the Commission on the application of the definitions listed in Article 2 of REMIT |
| Legal basis: | Article 16(1) of REMIT |
| Status: | No activity yet |
| Targets and deadlines (indicative): | AS required. |
| Key performance indicators: | - n/a |
| Staff: | 1 AD, 1 END |

j) REMIT – Mechanisms for sharing on information between the Agency, NRAs and other Authorities

| | |
|-------------------------------------|--|
| Deliverable: | 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. |
| Legal basis: | Article 10(1) of REMIT |
| Status: | The Agency shall establish mechanisms to share information it receives in accordance with Article 6(1) and Article 7 with national regulatory authorities, the competent financial authorities of the Member States, competition authorities of the Member States, ESMA and other relevant authorities. Before establishing these mechanisms, the Agency shall consult with these authorities. |
| Targets and deadlines (indicative): | As required. |
| Key performance indicators: | - n/a |
| Staff: | 1 AD, 1END |

ANNEX: LIST OF ABBREVIATIONS

| | |
|---------|---|
| ACER | Agency for the Cooperation of Energy Regulators |
| AB | Administrative Board |
| BoA | Board of Appeal |
| BoR | Board of Regulators |
| CEER | Council of European Energy Regulators |
| Dir | Directive |
| EC | European Commission |
| SNE | Seconded National Expert |
| ENTSO-E | European Network of Transmission System Operators for Electricity |
| ENTSOG | European Network of Transmission System Operators for Gas |
| EWG | Electricity Working Group |
| EP | European Parliament |
| ERGEG | European Regulators' Group for Electricity and Gas |
| GGP | Guidelines of Good Practice |
| GWG | Gas Working Group |
| IEM | Internal Energy Market |
| IIA | Initial Impact Assessment |
| MS | Member State |
| NDP | Network Development Plan |
| NRA | National Regulatory Authority |
| Reg | Regulation |
| REMIT | Regulation for Energy Market Integrity and Transparency |
| TSO | Transmission System Operator |



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