

9th ACER Administrative Board meeting

Tuesday, 20 June 2012, 9.00 – 12.30

ACER, Trg republike 3, 1000 Ljubljana

Present:

Mr. Razvan Eugen Nicolescu, Vice-Chair

Mr. Phillippe Guillard, Member

Mr. Stefan Tostmann, Member and with proxy for Mr. Philip Lowe, Member

Mr. Luis Martin Oar, Member

Mr. Rene Tammist, Member

Mr. Alfonso Gonzalez Finat, Alternate, replacing Mr. Bortoni

Mr. Peter Gordos, Alternate

Lord John Mogg, Chair of the Board of Regulators, Observer

Mr. Alberto Pototschnig, Director of ACER, Observer

Ms. Marie-Christine Jalabert, Adviser

Main conclusions of the meeting

- 1.) The Board concluded that the ACER part of the market monitoring report should contain recommendations. A joint report with CEER is agreed , but it is not obligatory.
- 2.) The Board concluded that the Agency needs additional financial resources for the implementation of REMIT. Without them, the implementation of REMIT as foreseen faces difficulties. To postpone REMIT is not an option, therefore there is a need for further efforts to secure additional resources. The report from the Board of Regulators was a helpful outline of the position of the national regulatory Authorities.
- 3.) The Board will hold another discussion on REMIT at its next meeting. The issue of resources should also be raised with Commissioner Oettinger.
- 4.) The Board considered the IAS Strategic Audit Plan 2013-2015 of ACER an important topic and will revert to it at its next meeting. Its endorsement was postponed.
- 5.) The Board decided that any comments of the stakeholders on the Agency Work Programme 2013 should be circulated to the Board. The table describing the process of Work Programme preparations should be updated and the document should be circulated to the Board.
- 6.) The Board adopted the Mid-term review of the 2012 Work Programme with an additional reference on the impact on human resources.
- 7.) The Board adopted the AB Decision on the adoption of Internal Control Standards (repealing Decision AB no. 08/2011 on the adoption of Internal Control Standards) (ANNEX 1).
- 8.) The Board decided to discuss the approach on how the Agency communicates with the outside world at the next Board meeting. The Agency's Communication strategy and a list of important messages to be delivered to the outside world – including possible press releases would be presented.
- 9.) The Board adopted the AB decision establishing the policy and procedure for the reclassification of temporary agents (ANNEX 2).
- 10.) The Board adopted the AB decision establishing the policy and procedure for the reclassification of contract staff (ANNEX 3).
- 11.) The Board adopted the opinion on the 2011 Annual Accounts of ACER (ANNEX4).
- 12.) The Board decided that all Director's decisions be published on the internet.
- 13.) The dates for the AB meetings in 2013 will be confirmed at the next AB meeting.

1. Approval of the Agenda

The following agenda of the 8th ACER Administrative Board meeting was approved:



9th ACER Administrative Board meeting
Wednesday, 20 June 2012, 9.00 – 12.30
ACER, Trg republike 3, 1000 Ljubljana

AGENDA

Agenda Topics	Accompanying documents	Rapporteur
Opening 1. Approval of the agenda 2. Minutes of the 8th Administrative Board meeting	Doc 1 for approval Doc 2 for approval	AB Chair AB Chair
Reporting on developments 3. Report on the written procedures 4. Report on ACER developments (including REMIT, monitoring pursuant to Art. 11 Regulation (EC) No 713/2009, and on the activities of the Board of Regulators) 5. REMIT Ad hoc Working Group- final report	Oral update Oral update For information	ACER Director ACER Director BoR Chair (tbc) BoR Chair
General ACER work 6. IAS Strategic Audit Plan 2013 - 2015 for ACER	Presentation Doc 3 for endorsement	Ilian KOMITSKI, Internal Audit Service AB Chair

Agenda Topics	Accompanying documents	Rapporteur
7. European Court of Auditors (ECA)	Doc 4 for information	ACER Director
8. ACER Work programme 2013 – process	Doc 5 for information Doc 6 for information	AB Chair AB Chair
9. ACER Public consultation policy	Doc 8 for information/discussion	ACER Director
10. Mid-term review of ACER Work programme 2012	Doc 9 for adoption	ACER Director
11. Decision AB no. [...]/2012 on the adoption of Internal Control Standards (repealing Decision AB no. 08/2011 on the adoption of Internal Control Standards)	Doc 10 for decision	ACER Director
12. External representation of ACER	For discussion	AB Chair
13. New ACER Premises – Update on the process	Oral update	ACER Director
Administration (HR)		
14. Decision AB no. [...]/2012 establishing the policy and procedure for the reclassification of temporary agents	Doc 11 for decision	ACER Director
15. Decision AB no. [...]/2012 establishing the policy and procedure for the reclassification of contract staff	Doc 12 for decision	ACER Director
Administration (Financial)		
16. Decision AB no. [...]/2012 on the adoption of the Implementing Rules of ACER Financial Regulation (*)	Doc 13 for decision	ACER Director
17. AB opinion on the 2011 Annual Accounts of ACER	Doc 14 for decision	ACER Director
18. Budget Transfers	Doc 15 for information	ACER Director

Agenda Topics	Accompanying documents	Rapporteur
19. AOB AB meetings in 2012 and 2013	Doc 16 for information	AB Chair

* Draft undergoing Commission's inter-service consultation

2. Minutes of the 8th Administrative Board meeting

The Director took note of the Vice-Chairman's suggestion that the future draft minutes should clearly reflect comments from individual AB members and observers in track changes.

The draft minutes of the 8th Administrative Board meeting were amended following a few suggestions and adopted.

3. Report on the written procedures

The Director reported on the two written procedures having taken place since the last meeting: the Decision on the estimate of revenue and expenditure of the Agency for the 2013 financial year was adopted on 30 March and the Agency Annual Activity Report was approved on 8 June. A printed version of the Annual Activity Report will be available and distributed by the end of July.

4. Report on ACER developments (including REMIT, monitoring pursuant to Art. 11 Regulation (EC) No 713/2009, and on the activities of the Board of Regulators)

The Director updated the Board on the Agency establishment plan: 59 positions are expected to be filled by the end of 2012. Currently there are 51 staff members in office, 6 appointed and 3 under selection. He presented the nationality composition of the Agency, mentioning that there are 17 different nationalities present. On framework guidelines and network codes, ENTSOG had submitted the Gas Capacity Allocation

Mechanism Network Code to the Agency on 6 March and the Agency delivered its reasoned opinion by 5 June. Additionally, 3 network codes are expected to be delivered to the Agency in 2012. On 4 June the Agency also adopted its opinion on the ENTSO-E Annual Report and issued its Opinion on the Gas Winter Supply Outlook. On monitoring, the work is proceeding on schedule, the CEER Database for 2011 is online since May and the NRAs are requested to provide data as soon as available. The First joint ACER/CEER Market Monitoring Report was expected to be published in November/December 2012. On REMIT, by the end of June the Agency will publish the data format for registration of market participants. The Director provided an extensive outline of the registration format. By the end of September the Agency plans to make a recommendation to the Commission on the Record of Transactions and is holding a public consultation from 20 June to 31 July. On Energy Infrastructure Package, the Director presented the new Agency tasks as envisaged in the latest Council text.

Lord Mogg, in his capacity as BoR Chair, underlined that despite the complexity of the process of adoption of framework guidelines and network codes, it had now become clearer. . The Planning Group, which meets typically every two months and examines the 3-year plan, helps to ensure a more efficient and quicker process.

Some discussion on the market monitoring report took place. The Board member representing the Commission inquired whether a joint CEER-ACER report is in line with the ACER regulation. The Vice-Chair expressed some concerns as regards the timing and underlined the need for analytical value of the report.

The Director explained that the Agency is using the data received from the Commission, the ENTSOs and the NRAs. The Report would include an analytical part, supported by the information and comments of the NRAs. The Agency had developed 20 new indicators last year. In terms of timing, however, he said that in some countries by legislation the data is not available before the summer. He said that readers will appreciate having the two parts of the monitoring output contained in a single ACER-CEER report. The Director will approve the ACER part of the monitoring report and the CEER General Assembly will approve the CEER part of the monitoring report. In the future ACER could still have its own monitoring report.

The Vice-Chair concluded that the ACER part of the market monitoring report should contain recommendations. Although a joint report with CEER is acceptable, it is not obligatory and should not be at the expense of the added value of the report.

A further discussion took place on the possibility to implement REMIT with insufficient financial resources. The Director believed that without the necessary resources could invoke a delay in the implementation of REMIT. However, the Commission is exploring ways to find an additional 2,4 million euros.

The Board member representing the Commission explained that the Commission had already proposed in its 2013 draft budget 1 million € extra with respect to 2012. It was

important to use this money for the REMIT development and not for the new premises or staff. The Agency could also present its case for increased REMIT funding to the European Parliament ITRE Committee.

One Board member provided the insights of the process of budget negotiations in the EP and underlined the urgent need for immediate action. He recognized the efforts of the Director, saying that both ITRE and the Budget committee are aware of the issue.

The Director listed the contacts he had had with the EP and with the Slovenian government on this issue already. With the BoR chair the Director would appear before the ITRE later in the month.

The Vice-Chairman concluded that the Agency needs additional financial resources for the implementation of REMIT, otherwise the REMIT's implementation as foreseen might be delayed. However, postponement is not an option, therefore there is a need for further efforts to secure additional resources.

5. REMIT Ad hoc Working Group- final report

Lord Mogg, as Chairman of the BoR, presented the REMIT Ad Hoc Working Group Final report. The conclusion of the report was that for smaller NRAs there will be insufficient capabilities to support ACER. This conclusion is based on the result of a survey carried out among NRAs on the basis of a questionnaire included in the report. Therefore there is a very real concern about the potential reputational risk. He underlined that the very demanding audience of the financial services will be following this closely and it is therefore politically important to getting things right. The NRAs are however willing to help.

The Vice-Chair clarified the difference in required numbers in terms of human resources allocated to the Agency for the implementation of REMIT 50 (Agency view) versus 15 (EC view). With the report provided by the BoR the Vice-Chair found that it becomes clear that the figure provided by the EC should be revised.

The Board member representing the Commission commented that the assumption is that the work is going to be carried out mostly by ACER, but by legislation some work will also be done by the regulators. The BoR Chair should convey the message that the regulators need to do the market monitoring themselves, as ACER cannot do everything.

Lord Mogg argued that there is a legal obligation of NRAs to carry out enforcement actions but some NRAs would not be in a position to carry out the monitoring. The essence of the Agency is to monitor the cross-border monitoring transactions. Although the NRAs are undertaking market monitoring, but not necessarily financial monitoring.

The Director explained that ACER has the obligation to report all transactions- for physical and financial transactions, amounting to around half million a day. The IT system would identify anomalous situations. Beyond that it is a matter for experts to undertake an analysis. They would identify any suspicious situations for NRAs. In cases of transnational transactions, the Agency would also need to coordinate the action. If the Agency does not have the necessary resources all cases of anomalous situations would be passed to the regulators. Larger NRAs would be able to handle it but smaller probably not.

The Vice-Chair concluded that the Agency's role should not be a simple postbox, but it should bring added value. The Commission was invited to reflect on this thought.

Action: The Board will hold another discussion on this topic at the next Board. The issue of resources would also be raised with Commissioner Oettinger.

6. IAS Strategic Audit Plan 2013 - 2015 for ACER

Mr Komitski from the Internal Audit Service (IAS) made a presentation regarding the IAS Strategic Audit Plan 2013-2015 for ACER. He informed that the IAS visited the Agency from 5-10 February. A risk assessment and a limited review of the implementation of the Agency's internal control standards (ICS) took place at the same time. In his view, the implementation of the ICS at the Agency is quite advanced.

He presented the IAS methodology i.e. the so called Audit Universe: The 36 processes are the same for all agencies, the operational sub-processes are defined for each agency. The auditors start with a desk review and finish with the validation of the report by the managers of the Agency. The Strategic Audit Plan is then submitted for endorsement to the Administrative Board.

Mr Komitski continued by explaining the MERCI approach of the audit report. When a sub process ends up in the red area this means that no controls are in place and it requires the immediate attention of the management, who is requested to prepare an action plan on how to mitigate this area.

In the case of ACER, the majority of the sub processes are in the orange zone (assurance area). On the basis of the risk assessment performed, in 2013 the IAS will audit the Agency's budget implementation and procurement. In the period of 2013-2015 it plans to audit the Agency IT governance (in the context of preparedness for REMIT), its Planning, budgeting and monitoring and its Development of framework guidelines and opinion on network codes. Moreover, an update of the Strategic Audit Plan will also take place next year.

Mr Komitski also explained the difference between the European Court of Auditors' (ECA) audits and the audits of the IAS. While ECA audits financial statements - accounting, HR, procurement and budgetary execution, IAS looks at issues such as the validation of the accountant systems, the independence and the appointment by the Board of the accountant. On the Framework Guidelines and Network Codes IAS looks at the process and checks whether the managers have the control on the outcome etc.

One Board Member requested a comparison of the IAS ranking of ACER compared to other Agencies.

Mr Komitski explained that this Strategic Audit Review is not yet an audit. He also said that even if a sub process is in the orange zone, this does not mean that the controls are working. The MERCI plan is just a perceived security plan. The impression of IAS is however that ACER has done a great job given the Agency's one year of experience. The outcome of the Review is quite good - there are only two very important recommendations. The level of implementation of internal controls will be included in the audit opinions.

Lord Mogg, in his capacity as BoR Chair, said that it would be helpful to understand the number of people and their cost involved in the administration (the cost of non- policy involvement), such as transport and attending meetings in Ljubljana.

The Vice-Chair had two questions regarding the Limited Review on the implementation of ICS, particularly concerning the IAS remark on a.) the Work Programme and b.) the roles and responsibilities of different stakeholders. On a.) Mr Komitski replied that the intention of ACER on the Annual Work Programme is to move to the Activity Based Budgeting. The benefit of ABB is that the Board would have a clearer view of its implementation, as there would be a clear link between the activities and the resources needed to achieve them. If this link is not sufficiently clear, the monitoring can be impeded. On b.) he said that the IAS comment is about the clear definition of roles and who does what at ACER.

Action: The Vice-Chair said that this was an important topic for the Agency that should be scrutinized by the Board and suggested that at its next meeting the Administrative Board should discuss how it takes into consideration the comments of the IAS. The endorsement of the IAS Strategic Audit Plan was postponed to the next Board meeting.

7. European Court of Auditors (ECA)

The Director informed the Board about the ECA visit to the Agency that took place from 16-20 April 2012. ECA carried out its first audit and identified 3 main issues: the low execution of the budget last year, some shortcomings regarding the recruitment

procedures and the payment of subsistence allowance to the Slovenian SNEs. The Board took note of the document.

8. ACER Work Programme 2013 – process

The Director explained that the draft Work Programme of the Agency for 2013 will be submitted to the Board of Regulators, to the European Parliament and to the Commission by 30 June. Lord Mogg mentioned that in order to present energy regulators' collective work Programme, CEER has aligned its time schedule to the Agency's WP timetable. On 6 June there was a presentation of the ACER Work Programme in Ljubljana and that on 11 July there will be a joint ACER-CEER presentation of both Work Programmes to the EP ITRE committee and to stakeholders in Brussels. The stakeholders will then have time to react by 30 July. The BoR will approve the Work Programme on 4 September and the Administrative Board will adopt it on 5 September.

The Board member representing the Commission confirmed that the Commission would endeavor to deliver its opinion by 30 August 2012, provided that the draft work program is submitted by 30 June 2012

One Board member requested that the list of procurements is included in the Work Programme 2013.

Action: Any comments on the Agency Work Programme 2013 by stakeholders will be circulated to the Board. The table will be updated with all the events and the document will be circulated to the Board.

9. ACER Public consultation policy

The Director presented the document on the public consultation policy of ACER. The Board noted the document.

10. Mid-term review of ACER Work programme 2012

The Director explained that the process of the Agency Work Programme Review is not envisaged by the Regulation, but he has come to the view that, it is necessary to proceed to a mid-term review of the Work Programme in order to reflect the change in priorities emerging from the Planning group process. The BoR approved the Mid-term Review on 19 July. He continued by mentioning the main differences with the original Work Programme 2012: the Agency will focus on finalising the framework guidelines that are already in the pipeline and process new network codes. The document itself focuses only on the changes.

The Board was pleased with the changes, but some of the members suggested including the impact of these changes on the resources.

Action: The Board adopted the Mid-term Review of the 2012 Work Programme with an additional reference on the impact on human resources.

11. Decision AB no. [...] /2012 on the adoption of Internal Control Standards (repealing Decision AB no. 08/2011 on the adoption of Internal Control Standards)

The Director explained that the Board had already adopted the internal control standards last year. But the reference to obligatory mobility for sensitive posts at the Agency is impractical due to its size.

One Board member concurred with his disagreement with mobility as a rule, especially in the case of smaller entities, where it is difficult or almost impossible to ensure rotation.

The Board member representing the Commission asked how the Agency was going to tackle the sensitive posts issue. The Director replied that ex-post controls and mitigations would take place at the Agency.

Action: The Board adopted the AB Decision on the adoption of Internal Control Standards (repealing Decision AB no. 08/2011 on the adoption of Internal Control Standards) (ANNEX1).

12. External representation of ACER

With the experience of a year of the operation of the Agency the Vice-Chairman suggested that certain rules be prepared as a precautionary measure to avoid any inconsistency of messages to the public. This could be a code of conduct on communication and a contact point for communication. According to the ACER regulation it is the Director who represents the Agency. The Vice-Chair proposed that internal rules on how the Agency communicates with the outside world should be discussed at the next Board meeting when the Agency's Communication strategy and the pre-prepared important messages should be presented to the Board.

Lord Mogg, as BoR Chair, commented that he preferred an approach where guidelines would be developed in respect of the BoR to provide for external communication. The BoR already had updated its own rules of procedure. The guidelines would cover the general line of communication rather than specific messages. The point is to convey a consistent message. It would not be appropriate however for senior officials to have to contact ACER headquarters to agree on the messages.

One Board member suggested establishing a Code of conduct for AB members.

The Vice-Chair argued that a disclaimer - personal view - can be used when conveying messages in such cases. The idea of the prepared messages is to provide them to facilitate work, not to check on the conveyed messages.

One Board member underlined that the Director is responsible for the communication policy of the Agency.

Action: The Board decided that guidelines on how the Agency communicates with the outside world would be discussed at the next Board meeting. The Agency's Communication strategy and the list of important messages to be delivered to the outside world – press releases would also be presented.

13. New ACER Premises – Update on the process

The Director updated on the ongoing process of the Agency finding its new premises. He had not yet received any feedback from the Selection Committee.

14. Decision AB no. [...] /2012 establishing the policy and procedure for the reclassification of temporary agents

The Director said that the document went through the Inter-service consultations of the Commission and is now ready for the adoption of the Board.

The ACER Staff Committee Chairman confirmed that the Staff Committee had been consulted on the document.

Action: The Board adopted the decision (ANNEX 2).

15. Decision AB no. [...] /2012 establishing the policy and procedure for the reclassification of contract staff

The Director said that the document went through the Inter-service consultations of the Commission and is now ready for the adoption of the Board.

The ACER Staff Committee Chairman confirmed that the Staff Committee had been consulted on the document.

Action: The Board adopted the decision (ANNEX 3).

16. Decision AB no. [...] /2012 on the adoption of the Implementing Rules of ACER Financial Regulation (*)

The Director informed that the Commission has not yet finalised its inter-service consultations on the document, therefore the document was not discussed.

17. AB opinion on the 2011 Annual Accounts of ACER

The Board took note of the accounts. The Board member representing the Commission confirmed that the Commission agrees with the Agency's final accounts. Even though there was a suggestion to present the contribution of the CEER as "*pro memoria*" in the

final accounts, the Accountant of the Agency confirmed that the accounting standards do not allow it.

Action: The Board adopted the opinion (ANNEX 4).

18. Budget Transfers

The Board took note of the document.

19. AOB

As regards the Board meetings in 2013 the Vice-Chair asked that the BoR Chair proposes two dates for each meeting of the AB if they are to be held back-to back with the BoR meetings. He also said that the AB meetings should start at 9.00 and become one day meetings.

Action: The Vice-Chair proposed that all Director's decisions be uploaded on ACERnet.

The Board member representing the Commission reminded about the publicity to be given to the ACER Director's outside activities (teaching engagement at the Florence School of Regulation). The Director replied that this teaching engagement was to be found on the Website of the Agency,

Done in Ljubljana on 5 September 2012

For the Administrative Board:

Signed

Piotr Woźniak
Chairman of the ACER Administrative Board

ANNEX1

DECISION AB n°10/2012

ON THE ADOPTION OF INTERNAL CONTROL STANDARDS AND REPEALING DECISION AB n° 08/2011

THE ADMINISTRATIVE BOARD OF THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

HAVING REGARD to Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing a European Agency for the Cooperation of Energy Regulators¹,

HAVING REGARD to Commission Regulation (EC, Euratom) No 2343/2002 of 23 December 2002 on the framework Financial Regulation for bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities² and, in particular, Article 38(4) thereof,

HAVING REGARD to Decision AB n° 08/2011 on the adoption of Internal Control Standards, and in particular Standard 7: Operational Structure,

Whereas:

- (1) It is necessary, following Article 38(4) of Commission Regulation (EC, Euratom) No 2343/2002, for agencies to adopt appropriate internal control standards on the basis of the standards laid down by the Commission for its own departments.
- (2) The Internal Control Standards of the Agency, as adopted by Decision AB n° 08/2011 as of 10 April 2011, are identical to the standards adopted by the European Commission and require ultimate mobility of staff who perform functions regarded as 'sensitive'.
- (3) At the Commission, mandatory mobility is relatively easy to implement because of its size and the availability of alternative posts. At the Agency, however, due to a limited number of posts and staff working in specialised areas, mandatory mobility cannot be enforced.
- (4) The requirement for mandatory mobility of staff performing sensitive functions should be waived and risks associated with sensitive tasks should be managed through mitigating controls and specific ex-post controls,

¹ OJ L 211, 14.8.2009, p.1

² OJ L 357, 31.12.2002, p. 72

HAS DECIDED:

1. To adopt the Internal Control Standards as listed in Annex I to this decision. The standards shall apply to all ACER's administrative processes.
2. To entrust the Director with the adoption of the detailed implementing rules and procedures related to the Internal Control Standards.
3. To repeal Decision AB n° 08/2011 on the adoption of Internal Control Standards.

This decision shall take effect on the day following that of its adoption.

Done at Ljubljana, on 20 June 2012

For the Administrative Board:

Razvan Nicolescu

Vice-Chairman of the Administrative Board

Annex to the Decision AB No 10-2012

Standard 1: Mission:

ACER's mission and vision are clearly defined in up-to-date and concise mission statements developed from the perspective of ACER's stakeholders and customers.

Standard 2: Ethical and Organisational Values:

Management and staff are aware of and share appropriate ethical and organisational values and uphold these through their own behaviour and decision-making.

Standard 3: Staff Allocation and Mobility:

The allocation and recruitment of staff is based on ACER's objectives and priorities. Management promote and plan staff mobility so as to strike the right balance between continuity and renewal.

Standard 4: Staff Evaluation and Development:

Staff performance is evaluated against individual annual objectives, which fit with ACER's overall objectives. Adequate measures are taken to develop the skills necessary to achieve the objectives.

Standard 5: Objectives and Performance Indicators:

ACER's objectives are clearly defined and updated when necessary. These are formulated in a way that makes it possible to monitor their achievement. Key performance indicators (KPIs) are established to help management evaluate and report on progress made in relation to their objectives.

Standard 6: Risk Management Process:

A risk management process that is in line with applicable provisions and guidelines is integrated into the annual activity planning.

Standard 7: Operational Structure:

ACER's operational structure supports effective decision-making by suitable delegation of powers. Risks associated with ACER's sensitive functions are managed through mitigating controls and specific ex-post controls. Adequate IT governance structures are in place.

Standard 8: Processes and Procedures:

ACER's processes and procedures used for the implementation and control of its activities are effective and efficient, adequately documented and compliant with applicable provisions. They include arrangements to ensure segregation of duties and to track and give prior approval to control overrides or deviations from policies and procedures.

Standard 9: Management Supervision:

Management supervision is performed to ensure that the implementation of activities is running efficiently and effectively while complying with applicable provisions.

Standard 10: Business Continuity:

Adequate measures are in place to ensure continuity of service in case of "business-as-usual" interruption. Business Continuity Plans (BCP) are in place to ensure that ACER is able to continue operating to the extent possible whatever the nature of a major disruption.

Standard 11: Document Management:

Appropriate processes and procedures are in place to ensure that ACER's document management is secure, efficient (in particular as regards retrieving appropriate information) and complies with applicable legislation.

Standard 12: Information and Communication:

Internal communication enables management and staff to fulfil their responsibilities effectively and efficiently, including in the domain of internal control. ACER shall have an external communication strategy to ensure that its external communication is effective, coherent and in line with ACER's key political messages. IT systems used and/or managed by the ACER (where the ACER is the system owner) are adequately protected against threats to their confidentiality and integrity.

Standard 13: Accounting and Financial Reporting:

Adequate procedures and controls are in place to ensure that accounting data and related information used for preparing the organisation's annual accounts and financial reports are accurate, complete and timely.

Standard 14: Evaluation of Activities:

Evaluations of expenditure programmes, legislation and other non-spending activities are performed to assess the results, impacts and needs that these activities aim to achieve and satisfy.

Standard 15: Assessment of Internal Control Systems:

Management assess the effectiveness of ACER's key internal control systems, including the processes carried out by implementing bodies, at least once a year.

Standard 16: Internal Audit Capability:

ACER has an Internal Audit Capability (IAC), which provides independent, objective assurance and consulting services designed to add value and improve the operations of ACER.

ANNEX 2

DECISION AB n° 11/2012

ESTABLISHING THE POLICY AND PROCEDURE FOR THE RECLASSIFICATION OF TEMPORARY AGENTS

THE ADMINISTRATIVE BOARD OF THE AGENCY FOR THE COOPERATION OF
ENERGY REGULATORS,

HAVING REGARD to Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing the Agency for the Cooperation of Energy Regulators (hereafter referred to as “ACER Regulation” and “ACER”), and in particular Article 28(2) thereof;

HAVING REGARD to the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union (hereafter “CEOS”), as laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 and the amendments thereto, and in particular Article 10 of the CEOS;

HAVING REGARD to Commission decision C(2005)5304 of 16 December 2005 concerning Guidelines on the staff policy for regulatory agencies;

HAVING REGARD to the Administrative Board Decision n° 25/2011 establishing the policy and procedure for the performance appraisal of staff with reference to Article 15(2) of the CEOS;

After the consultation of the Staff Committee of the Agency and in agreement with the European Commission pursuant to Article 28(2) of Regulation (EC) No 713/2009 and Article 110 of the Staff Regulations;

Whereas,

1. It is possible to clearly indicate to temporary staff of ACER their career development within the Agency;

2. To this end, it is appropriate to set up for temporary staff with long term employment on permanent tasks an annual reclassification exercise under Article 10 of the CEOS;
3. The reclassification system applicable to ACER staff should aim to establish a close link between the actual reclassification and the performance, merit and individual aptitude, as appreciated in the annual evaluation reports under Article 15(2) of the CEOS;

HAS DECIDED AS FOLLOWS:

Article 1

Definitions

The assignment of temporary staff to employment corresponding to a grade superior to that to which they were initially employed constitutes a nomination to a higher grade in the function group to which the temporary agent belongs. It is allocated by decision of the authority entitled to conclude contracts of employment for temporary staff (hereinafter referred to as AHCC). For the purposes of this Decision, this procedure is hereinafter called “reclassification”.

By reclassification of temporary staff it is meant upgrading from the grade held to the next higher grade within the function group. This is the result of comparative examination of merits of the temporary staff, based in particular on their annual performance evaluation reports, on the use within the performance of their duties of languages other than the language they are supposed to have a detailed knowledge of according to Article 12(2)(e) of the CEOS and, where appropriate, on the level of responsibilities.

Article 2

Scope

1. The present Decision applies to long term employed temporary staff on permanent tasks (hereinafter referred to as “temporary staff”) remunerated on the appropriations of the ACER budget where the grade allows reclassification to a higher grade within their function group, other than temporary staff whose grade is higher than AD13.
2. Temporary staff that are eligible for reclassification and referred to in paragraph 1, must have on 31st December of the calendar year in which the reclassification exercise takes place a minimum of 2 years seniority in their grade.
3. Short-term employed temporary agents on short-term tasks do not take part in the annual reclassification exercise as defined in this Decision.
However, short-term employed temporary staff whose contract was concluded for duration equal to or higher than 3 years and whose duration of tasks, although limited

in time, allows to envisage a renewal could benefit from a reclassification to the next higher grade in their function group on the basis of Article 10 of the CEOS.

This reclassification should preferably take place at the time of renewal of the contract and depends on the resources and the budgetary posts available at the end of the annual reclassification exercise for long-term employed temporary staff.

Article 3

Reclassification exercise

1. A reclassification exercise is organised every year. It starts after the evaluation exercise foreseen by Administrative Board Decision n° 25/2011 establishing the policy and procedure for the performance appraisal of staff with reference to Article 15(2) of the CEOS.
2. Reclassification is decided by the AHCC based on a proposal from the management committee.

Article 4

Management committee

1. The management committee is instructed to draw up, for every grade, a list of temporary agents to be proposed for reclassification. It meets at least once a year.
2. The management committee is composed of the Director, the Heads of Departments. It is chaired by the Director.
3. Meetings of the management committee are convened by the Director.
4. The committee's deliberations are only valid if all its members are present. The opinions of the committee are agreed on by consensus or, in the absence of consensus, by a simple majority vote by the members present. If there is a split vote, the vote of the chair shall be decisive. If it considers it necessary, the management committee can hear the managers of temporary agents concerned as well as any other person.
5. Any member of the management committee who is eligible for reclassification to a given grade cannot take part in the deliberations relating to the drawing up of the list of temporary agents proposed for reclassification in this grade.

Article 4a

Joint appraisal and reclassification committee

The Administrative Board Decision n° 25/2011 establishes the composition procedure and powers of the joint appraisal and reclassification committee (hereinafter referred to as JARC).

Article 5
Career plan and average career

The average career is defined by an indicative average duration of service in active employment to be carried out in each grade before being reclassified to the next higher grade. The rhythm of progression of the career of a temporary agent is determined by his/her merit. Moreover, the eligibility of temporary agents to reclassification should be considered with respect to their professional development over several years. It is therefore the merit accumulated year after year, in each grade, which justifies access to the next higher grade and which determines a more rapid or slower career profile than that of the average career.

In view of the statutory provisions, the current distribution of temporary agents in the various grades, the number of grades in each function group and the budgetary constraints, the indicative average duration to be spent in each grade before being reclassified to the next higher grade (average career) is in the following way:

Held grade	Indicative average duration in the grade, in years (average career)
AD 13	5
AD 12	4
AD 11	4
AD 10	4
AD 9	4
AD 8	3
AD 7	3
AD 6	3
AD 5	3
AST 10	5
AST 9	5
AST 8	4
AST 7	4
AST 6	4
AST 5	4
AST 4	3
AST 3	3
AST 2	3
AST 1	3

This career plan is based on Annex IB to the Staff Regulations, subject to a possible revision of the rates fixed by this annex and pursuant to the provisions of Article 6(4) of the Staff Regulations.

The concept of the average career is also dependent on other considerations, in particular on the availability of resources and authorised budgetary posts permitted each year by the budgetary authority.

The concept of the average career does not confer any individual right to reclassification which results from seniority in the grade.

Article 6

Special provisions

1. The years of service worked in the institutions, bodies, offices or Community agencies as an official or temporary servant are taken into account under the seniority criterion in the grade, in order to compare the career with the career profiles for the purposes of the reclassification exercise, subject to satisfying the following two conditions:
 - These years were worked without interruption between the various periods;
 - The periods of service took place in the same function group and the same grade, or in the same category and the same grade for servants recruited before 1st May 2004.
2. The periods mentioned in paragraph 1 are not taken into consideration to determine the minimum seniority required to have eligibility for reclassification, as defined in Article 2.

Article 7

Indicative threshold for reclassification

To be proposed for reclassification, temporary agents have to have a number of reclassification points equal or superior to the indicative threshold in reference.

For every grade, this threshold is fixed according to the average career plan established in Article 5 of the present Decision and budgetary resources available.

Held grade	Indicative average duration in the grade, in years (average career)	Indicative threshold in reference (reclassification points)
AD 13	5	11
AD 12	4	9
AD 11	4	9
AD 10	4	9
AD 9	4	9
AD 8	3	7
AD 7	3	7
AD 6	3	7
AD 5	3	6

AST 10	5	11
AST 9	5	11
AST 8	4	9
AST 7	4	9
AST 6	4	9
AST 5	4	9
AST 4	3	7
AST 3	3	7
AST 2	3	7
AST 1	3	6

These thresholds are re-examined as required according to resources and budgetary posts authorised each year by the budgetary authority.

Subject to a possible revision of the rates fixed in Annex IB pursuant to the provisions of Article 6(4) of the Staff Regulations:

- These reference indicative thresholds are fixed according to the career procedure established by Article 5, which takes for reference Annex IB of the Staff Regulations.

Article 8

Attribution of reclassification points

1. Temporary agents acquire, for every year in the grade under consideration, reclassification points in a range from 0 to 4.
2. Each Head of department attributes, according to art. 12(1), reclassification points to the temporary agents within his/her department. The immediate superior who draws up the annual appraisal report may give a recommendation to the responsible Head of department on how to assess the merits of use of languages, level of responsibility and

activities of general interest as stated in paragraph 3. The management committee on the basis of the points attributed by the Head of department, formulates a proposal to the AHCC.

3. The number of points attributed represents the merits of the temporary agent for the period between the first day following the previous reclassification exercise to the date of the start of the reclassification exercise for which points have to be allocated.

This number of points:

- Must be related to the evaluation carried out in the last definitive appraisal report at the time of attribution of reclassification points;
 - Take into consideration the use in the performance of their duties of languages other than the language of which they justified having detailed knowledge of in accordance with Article 28(f) of the Staff Regulations;
 - Take into account, if necessary, the level of responsibility;
 - Take into account, if necessary, the merits generated by activities of general interest for the Agency which already have not been taken into account in the estimate of the merits resulting from the evaluation report.
4. According to the evaluation carried out in the last final appraisal report, a number of minimum points is guaranteed to each temporary agent:
 - this number is fixed at a minimum of 3 points for temporary agents having obtained overall assessment: “The job-holder demonstrates a sustained outstanding performance in all appraised aspects (efficiency, abilities, and conduct in the service)”;
 - this number is fixed at a minimum of 2.25 points for temporary agents having obtained overall assessment: “The efficiency, the abilities and the aspects of conduct appraised are significantly above the levels required for the post occupied”;
 - this number is fixed at a minimum of 2 points for temporary agents having obtained overall assessment: “Overall, the efficiency, the abilities and the aspects of conduct appraised are above the levels required for the post occupied”;
 - this number is fixed at a minimum of 1.25 points for temporary agents having obtained overall assessment: “Overall, the efficiency, the abilities and the aspects of conduct appraised correspond to the level required for the post occupied”;
 - this number is fixed at a minimum of 0.5 points for temporary agents having obtained overall assessment: “The efficiency, the abilities and the aspects of conduct appraised are acceptable despite some weak points”;
 - no promotion point is allocated to temporary agents having obtained overall assessment:
 - “The efficiency, the abilities and the aspects of conduct appraised do not correspond to the level required for the post occupied. Improvements are needed”;
 - "The efficiency, the abilities and the aspects of conduct appraised are unacceptable in relation to the level required for the post occupied. Mandatory improvements are included in the attached action plan”.
 5. Reclassification points are not allocated to temporary agents at grade AST 11.

6. The amount of points allocated for each year in a grade constitutes the main reclassification points. These starting level points represent the merit accumulated year after year in the grade under consideration.
7. When the temporary agent passed less than one year in the grade concerned at the time of beginning the reclassification exercise, the number of points which is allocated is reduced proportionally to the period under consideration.
8. Temporary agents for less than three months in active service during the reference period and therefore not having obtained any performance appraisal report, shall get reclassification points in the following year according to their performance level of that year and proportionally augmented to the period served in the previous year.
9. Temporary agents benefiting from parental leave within the meaning of Article 42(a) of the Staff Regulations, or family leave within the meaning of Article 42(b) of the Staff Regulations, or carrying out part-time activity within the meaning of Article 55(a) of the Staff Regulations or half-time within the meaning of Article 55(b) of the Staff Regulations are considered, for the application of this Decision, as being in full-time active employment.

Article 9

Particular cases

Reclassification points can be allocated each year to staff, covered by this Decision, seconded full-time to the staff committee on a proposal from the Director based on the methods provided for in this Decision. For the purposes of the reclassification exercise, the staff committee will be considered following the same rules as any agency service. When the secondment of the interested party to the staff committee is part-time, the allocated points are adjusted proportionally to the time devoted to the staff committee. These will be added to the points obtained in the originating department which will also be adjusted proportionally to the time devoted to the originating department. When there is no formal detachment to the staff committee, its members will receive reclassification points following the general rules applicable to all temporary agents.

Article 10

Exceptional merit

1. In order to recognize the exceptional merits of certain temporary agents, Heads of departments have a quota of additional points, limited to 10% of the quota as defined in Article 12. The attribution of these points is added to that provided for in Articles 8 and 12 in an undifferentiated way.
2. However, despite exceptional point attribution, the allocated points cannot exceed:
 - for the individual agent, the limit of 4 points per person fixed at Article 8(1);
 - for all temporary staff assigned to a department, the total number of points available to allocate within that department, as resulting from the quota

defined in Article 12 and from the additional points as defined in the first paragraph of this Article.

In the event that within a department the total points provided for in Article 8 exceed the total number of points available to allocate, all points attributed to temporary agents of that department shall be proportionally reduced.

3. On the recommendation of the Director, the management committee can propose for reclassification a temporary agent who would not yet have reached the indicative reference threshold but who has shown particularly high merit, attested by his/her last appraisal report. This proposal has to obtain the unanimity of the management committee. If the AHCC would take such a reclassification decision, it would be communicated to the JARC.

Article 11

Reconstitution of starting level points

In the event of mobility of a temporary agent from an institution or from an agency towards ACER according to the conditions provided for in Article 6(2), it is advisable to reconstitute starting level points for reclassification.

These starting level points are made up of 2 points per year of seniority in the grade for the period prior to the entry into service in ACER, the total of the reconstituted points which cannot exceed the indicative reference threshold fixed at Article 7 for the corresponding grade minus 4 points.

Article 12

Reclassification procedure

1. Each Head of department has a quota of reclassification points to distribute, equal to double the number of temporary agents assigned to his/her department, except for the temporary agents on short-term employment or in grades AD 14 or higher and AST 11. These points can be allocated only to temporary agents.
2. Except than in exceptional circumstances and subject to availability of resources and/or of budgetary posts, the reclassification of a temporary agent is granted if he/she has reached or exceeded the indicative reference threshold for reclassification fixed for temporary agents in the grade under consideration. Before the first reclassification is granted, the temporary agent has also to satisfy the conditions stated in Article 45(2) of the Staff Regulations.

However, on the recommendation of a Director, the management committee can propose to defer the reclassification of a temporary agent who would have reached the indicative reference threshold, but whose last appraisal report is particularly negative. This proposal has to obtain the unanimity of the management committee. If the AHCC would take such a decision, it would be communicated to the JARC.

3. Each temporary agent is informed by the Human Resources unit of the number of points that the management committee proposed granting him/her for the year under consideration and of his/her cumulated starting level points.
4. Within the ten working days which follow the communication provided for in paragraph 3, the temporary agent can lodge an appeal to the JARC. This appeal has to be formulated in writing and justified to make it possible for the JARC to decide if the appeal is well founded.

After the internal appeals procedures foreseen in the previous sub-paragraph have been concluded, the temporary agent can lodge a complaint to the AHCC under Article 90(2) of the Staff Regulations.

5. The AHCC definitively fixes the number of points allocated to each temporary agent after having taken note of the proposals of the management committee and of the possible opinions of the JARC, at the latest three months after the communication provided for in paragraph 3.

Each temporary agent is notified individually of the final number of points allocated.

On the basis of this attribution, the accumulated points of each temporary agent are compared with the indicative promotion threshold corresponding to his/her grade and function group. A list of names of the temporary agents to be reclassified is drawn up. This list is approved and signed by the AHCC, and it is published to all staff.

Article 13

Taking effect of the reclassification of a temporary agent

Reclassification of a temporary agent can be decided by the AHCC with effect at 1st January of the year under consideration, provided the conditions given in the Articles 2 and 12 are satisfied at that date.

Article 14

Point transfer

In the event of reclassification, when the temporary agent has a point total higher than the indicative reference threshold for his/her grade, the number of points exceeding the threshold is deferred to the initial starting level points for the following grade of the same function group. The career plan is the same as that serving as a reference to Annex IB of the Staff Regulations.

Article 15

Transparency and evaluation of the reclassification exercises

In order to guarantee maximum transparency, the JARC is instructed to publish a report at the end of each reclassification exercise.

In order to allow the JARC to proceed, the Human Resources department is responsible for communicating the information considered useful by the JARC and those requested by its chairman.

The report will contain recommendations for the attention of the AHCC concerning the preparation of the next reclassification exercise. It will obligatorily contain an analysis of exceptional situations, in particular those provided for in Article 12(2), and in Article 10, last subparagraph, in compliance with the rules on protection of personal data.

This report will be communicated to the staff by the Human Resources unit.

Article 16
Entry into Force

This Decision shall take effect on the day following that of its adoption.

Done in Ljubljana on 20 June 2012

For the Administrative Board:

Razvan Nicolescu
Vice- Chairman of the ACER Administrative Board

ANNEX3

DECISION AB n° 12/2012

ESTABLISHING THE POLICY AND PROCEDURE FOR THE RECLASSIFICATION OF CONTRACT STAFF

THE ADMINISTRATIVE BOARD OF THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

HAVING REGARD to Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing the Agency for the Cooperation of Energy Regulators (hereafter referred to as “ACER Regulation” and “ACER”), and in particular Article 28(2) thereof;

HAVING REGARD to the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union (hereafter “CEOS”), as laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 and the amendments thereto, and in particular Article 87(3) of the CEOS;

HAVING REGARD to Commission decision C(2005)5304 of 16 December 2005 concerning Guidelines on the staff policy for regulatory agencies;

HAVING REGARD to the Administrative Board Decision n° 25/2011 establishing the policy and procedure for the performance appraisal of staff with reference to Articles 15(2) and 87(1) of the CEOS;

After the consultation of the Staff Committee of the Agency and in agreement with the European Commission pursuant to Article 28(2) of Regulation (EC) No 713/2009 and Article 110 of the Staff Regulations;

Whereas,

- 1) An indication should be given to contract staff as regards their career development within the Agency;
- 2) To this end, it is appropriate to set up an annual reclassification exercise under Article 87(3) of the CEOS for contract staff with a contract (or a series of contracts) for a

total duration of at least three years, whereof a minimum of 2 years need to be completed in the current grade;

- 3) The principles which guide the evaluation and reclassification exercise for temporary staff employed under Article 2(a) of the CEOS should also apply to the evaluation and reclassification of contract staff employed under Article 3(a) of the CEOS;
- 4) The reclassification system applicable to ACER staff should aim to establish a close link between the actual reclassification and the performance, merit and individual aptitude, as appreciated in the annual evaluation reports under Article 87(1) of the CEOS;
- 5) Specific measures should be envisaged for contract staff to take account of the particular situation of this category of staff;
- 6) Contract agents will be attributed points according to the rules of the present Decision, following the same principles as applied for the appraisal of temporary agents. The point count is confirmed by dedicated letters to contract staff;

HAS DECIDED AS FOLLOWS:

Article 1 **Definitions**

The assignment of contract staff to employment corresponding to a grade superior to that to which they were initially employed constitutes a nomination to a higher grade in the function group to which the contract agent belongs. It is allocated by decision of the authority entitled to conclude contracts of employment for contract staff (hereinafter referred to as AHCC). For the purposes of this Decision, this procedure is hereinafter called “reclassification”. By reclassification of contract staff it is meant upgrading from the grade held to the next higher grade within the function group. This is the result of comparative examination of merits of the contract staff, based in particular on their annual performance evaluation reports, on the use within the performance of their duties of languages other than the language they are supposed to have a detailed knowledge of according to Article 12(2)(e) of the CEOS and, where appropriate, on the level of responsibilities.

Article 2 **Scope**

Contract agents with a contract with ACER (or a series of contracts with ACER) for a total duration of at least three years, and who have completed a minimum period of two years in their grade on 31st December of the calendar year in which the reclassification exercise takes place and where the grade still allows for reclassification to the first step of the next higher grade in the same function group, shall be eligible for reclassification.

Article 3
Reclassification exercise

3. A reclassification exercise is organised every year. It starts after the evaluation exercise foreseen by Administrative Board Decision n° 25/2011 establishing the policy and procedure for the performance appraisal of staff with reference to Article 87(1) of the CEOS.
4. Reclassification is decided by the AHCC based on a proposal from the management committee.

Article 4
Management committee

6. The management committee is instructed to draw up, for every grade, a list of contract agents to be proposed for reclassification. It meets at least once a year.
7. The management committee is composed of the Director and the Heads of Departments. It is chaired by the Director.
8. Meetings of the management committee are convened by the Director.
9. The committee's deliberations are only valid if all its members are present.
The opinions of the committee are agreed on by consensus or, in the absence of consensus, by a simple majority vote by the members present. If there is a split vote, the vote of the chair shall be decisive.
If it considers it necessary, the management committee can hear the managers of contract agents concerned as well as any other person.

Article 4a
Joint appraisal and reclassification committee

The Administrative Board Decision n° 25/2011 establishes the composition procedure and powers of the joint appraisal and reclassification committee (hereinafter referred to as JARC).

Article 5
Career plan and average career

The average career is defined by an indicative average duration of service in active employment to be carried out in each grade before being reclassified to the first step of the next higher grade.

The rhythm of progression of the career of a contract agent is determined by his/her merit. Moreover, the eligibility of contract agents to reclassification should be considered with respect to their professional development over several years. It is therefore the merit accumulated year after year, in each grade, which justifies access to the next higher grade and which determines a more rapid or slower career profile than that of the average career.

In view of the statutory provisions, the current distribution of contract agents in the various grades, the number of grades in each function group and the budgetary constraints, the indicative average duration to be spent in each grade before being reclassified to the next higher grade (average career) is in the following way:

Function Group	Held grade	Indicative average duration in the grade, in years (average career)
IV	18	
	17	8
	16	6
	15	5
	14	4
	13	4
III	12	
	11	8
	10	6
	9	5
	8	4
II	7	
	6	8
	5	6
	4	4
I	3	
	2	8
	1	4

The concept of the average career is also dependent on other considerations, in particular on the availability of resources authorised each year by the budgetary authority.

The concept of the average career does not confer any individual right to reclassification which results from seniority in the grade.

Article 6
Special provisions

3. The years of service worked in the institutions, bodies, offices or Community agencies as a contract agent 3bis are taken into account under the seniority criterion in the grade, in order to compare the career with the career profiles for the purposes of the reclassification exercise, subject to satisfying the following two conditions:
 - These years were worked without interruption between the various periods;
 - The periods of service took place in the same function group and the same grade.
4. The periods mentioned in paragraph 1 are not taken into consideration to determine the minimum seniority required to have eligibility for reclassification, as defined in Article 2.

Article 7
Indicative threshold for reclassification

To be proposed for reclassification, contract agents have to have a number of reclassification points equal or superior to the indicative threshold in reference.

For every grade, this threshold is fixed according to the average career plan established in Article 5 of the present Decision and budgetary resources available.

Function Group	Held grade	Indicative average duration in the grade, in years (average career)	Indicative threshold in reference (reclassification points)
IV	18		
	17	8	18
	16	6	13
	15	5	11
	14	4	9
	13	4	9
III	12		
	11	8	18
	10	6	13
	9	5	11
	8	4	9
II	7		
	6	8	18
	5	6	13

	4	4	9
I	3		
	2	8	18
	1	4	9

These thresholds are re-examined as required according to resources authorised each year by the budgetary authority.

Article 8

Attribution of reclassification points

4. Contract agents acquire, for every year in the grade under consideration, reclassification points in a range from 0 to 4.
5. Each Head of department attributes, according to Article 12(1), reclassification points to the contract agents within his/her department. The immediate superior who draws up the annual appraisal report may give a recommendation to the responsible Head of department on how to assess the merits of use of languages, level of responsibility and activities of general interest as stated in paragraph 3. The management committee on the basis of the points attributed by the Head of department, formulates a proposal to the AHCC.
6. The number of points attributed represents the merits of the contract agent for the period between the first day following the previous reclassification exercise to the date of the start of the reclassification exercise for which points have to be allocated.

This number of points:

- Must be related to the evaluation carried out in the last definitive appraisal report at the time of attribution of reclassification points;
 - Take into consideration the use in the performance of their duties of languages other than the language of which they justified having detailed knowledge of in accordance with Article 28(f) of the Staff Regulations;
 - Take into account, if necessary, the level of responsibility;
 - Take into account, if necessary, the merits generated by activities of general interest for the Agency which already have not been taken into account in the estimate of the merits resulting from the evaluation report.
7. According to the evaluation carried out in the last final appraisal report, a number of minimum points is guaranteed to each contract agent:
 - this number is fixed at a minimum of 3 points for contract agents having obtained overall assessment: “The job-holder demonstrates a sustained outstanding performance in all appraised aspects (efficiency, abilities, and conduct in the service)”;
 - this number is fixed at a minimum of 2.25 points for contract agents having obtained overall assessment: “The efficiency, the abilities and the aspects of conduct appraised are significantly above the levels required for the post occupied”;

- this number is fixed at a minimum of 2 points for contract agents having obtained overall assessment: “Overall, the efficiency, the abilities and the aspects of conduct appraised are above the levels required for the post occupied”;
 - this number is fixed at a minimum of 1.25 points for contract agents having obtained overall assessment: “Overall, the efficiency, the abilities and the aspects of conduct appraised correspond to the level required for the post occupied”;
 - this number is fixed at a minimum of 0.5 points for contract agents having obtained overall assessment: “The efficiency, the abilities and the aspects of conduct appraised are acceptable despite some weak points”;
 - no reclassification point is allocated to contract agents having obtained overall assessment:
 - “The efficiency, the abilities and the aspects of conduct appraised do not correspond to the level required for the post occupied. Improvements are needed”;
 - “The efficiency, the abilities and the aspects of conduct appraised are unacceptable in relation to the level required for the post occupied. Mandatory improvements are included in the attached action plan”.
8. No appraisal based reclassification points shall be awarded to contract agents in Function Group I grade 3, Function Group II grade 7, Function Group III grade 12 or Function Group IV grade 18.
 9. The amount of points allocated for each year in a grade constitutes the main reclassification points. These starting level points represent the merit accumulated year after year in the grade under consideration.
 10. When the contract agent passed less than one year in the grade concerned at the time of beginning the reclassification exercise, the number of points which is allocated is reduced proportionally to the period under consideration.
 11. Contract agents for less than three months in active service during the reference period and therefore not having obtained any performance appraisal report, shall get reclassification points in the following year according to their performance level of that year and proportionally augmented to the period served in the previous year.
 12. Contract agents benefiting from parental leave within the meaning of Article 42(a) of the Staff Regulations, or family leave within the meaning of Article 42(b) of the Staff Regulations, or carrying out part-time activity within the meaning of Article 55(a) of the Staff Regulations or half-time within the meaning of Article 55(b) of the Staff Regulations are considered, for the application of this Decision, as being in full-time active employment.

Article 9

Particular cases

Reclassification points can be allocated each year to staff, covered by this Decision, seconded full-time to the staff committee on a proposal from the Director based on the methods provided for in this Decision. For the purposes of the reclassification exercise, the staff

committee will be considered following the same rules as any agency service. When the secondment of the interested party to the staff committee is part-time, the allocated points are adjusted proportionally to the time devoted to the staff committee. These will be added to the points obtained in the originating department which will also be adjusted proportionally to the time devoted to the originating department. When there is no formal detachment to the staff committee, its members will receive reclassification points following the general rules applicable to all contract agents.

Article 10

Exceptional merit

1. In order to recognize the exceptional merits of certain contract agents, Heads of departments have a quota of additional points, limited to 10% of the quota as defined in Article 12. The attribution of these points is added to that provided for in Articles 8 and 12 in an undifferentiated way.
2. However, despite exceptional point attribution, the allocated points cannot exceed:
 - for the individual agent, the limit of 4 points per person fixed at Article 8(1);
 - for all contract staff assigned to a department, the total number of points available to allocate within that department, as resulting from the quota defined in Article 12 and from the additional points as defined in the first paragraph of this Article.

In the event that within a department the total points provided for in Article 8 exceed the total number of points available to allocate, all points attributed to contract staff of that department shall be proportionally reduced.

3. On the recommendation of the Director, the management committee can propose for reclassification a contract agent who would not yet have reached the indicative reference threshold but who has shown particularly high merit, attested by his/her last appraisal report. This proposal has to obtain the unanimity of the management committee. If the AHCC would take such a reclassification decision, it would be communicated to the JARC.

Article 11

Reconstitution of starting level points

In the event of mobility of a contract agent 3bis from an institution or from an agency towards ACER according to the conditions provided for in Article 6(1), it is advisable to reconstitute starting level points for reclassification.

These starting level points are made up of 2 points per year of seniority in the grade for the period prior to the entry into service in ACER, the total of the reconstituted points which cannot exceed the indicative reference threshold fixed at Article 7 for the corresponding grade minus 4 points.

Article 12

Reclassification procedure

1. Each Head of department has a quota of reclassification points to distribute, equal to double the number of contract agents assigned to his/her department, except for the contract agents in Function Group I grade 3, Function Group II grade 7, Function Group III grade 12 or Function Group IV grade 18. These points can be allocated only to contract agents.

2. Except than in exceptional circumstances and subject to availability of resources, the reclassification of a contract agent is granted if he/she has reached or exceeded the indicative reference threshold for reclassification fixed for contract agents in the grade under consideration.

However, on the recommendation of a Director, the management committee can propose to defer the reclassification of a contract agent who would have reached the indicative reference threshold, but whose last appraisal report is particularly negative. This proposal has to obtain the unanimity of the management committee. If the AHCC would take such a decision, it would be communicated to the JARC.

3. Each contract agent is informed by the Human Resources unit of the number of points that the management committee proposed granting him/her for the year under consideration and of his/her cumulated starting level points.

4. Within the ten working days which follow the communication provided for in paragraph 3, the contract agent can lodge an appeal to the JARC. This appeal has to be formulated in writing and justified to make it possible for the JARC to decide if the appeal is well founded.

After the internal appeals procedures foreseen in the previous sub-paragraph have been concluded, the contract agent can lodge a complaint to the AHCC under Article 90(2) of the Staff Regulations.

5. The AHCC definitively fixes the number of points allocated to each contract agent after having taken note of the proposals of the management committee and of the possible opinions of the JARC, at the latest three months after the communication provided for in paragraph 3.

Each contract agent is notified individually of the final number of points allocated.

On the basis of this attribution, the accumulated points of each contract agent are compared with the indicative reclassification threshold corresponding to his/her grade and function group. A list of names of the contract agents to be reclassified is drawn up. This list is approved and signed by the AHCC, and it is published to all staff.

Article 13
Taking effect of the reclassification of a contract agent

Reclassification of a contract agent can be decided by the AHCC with effect at 1st January of the year under consideration, provided the conditions given in the Articles 2 and 12 are satisfied at that date.

Article 14
Point transfer

In the event of reclassification, when the contract agent has a point total higher than the indicative reference threshold for his/her grade, the number of points exceeding the threshold is deferred to the initial starting level points for the following grade of the same function group.

Article 15
Transparency and evaluation of the reclassification exercises

In order to guarantee maximum transparency, the JARC is instructed to publish a report at the end of each reclassification exercise.

In order to allow the JARC to proceed, the Human Resources department is responsible for communicating the information considered useful by the JARC and those requested by its chairman.

The report will contain recommendations for the attention of the AHCC concerning the preparation of the next reclassification exercise. It will obligatorily contain an analysis of exceptional situations, in particular those provided for in Article 10(2), and in Article 9, last subparagraph, in compliance with the rules on protection of personal data.

This report will be communicated to the staff by the Human Resources unit.

Article 16
Entry into Force

This Decision shall take effect on the day following that of its adoption.

Done in Ljubljana on 20 June 2012

For the Administrative Board:

Razvan Nicolescu

Vice-Chairman of the ACER Administrative Board

ANNEX4

DECISION AB n°1/2012

ADOPTING THE OPINION OF THE ADMINISTRATIVE BOARD ON ACER 2011 FINAL ACCOUNTS

THE ADMINISTRATIVE BOARD OF THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

HAVING REGARD to Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing a European Agency for the Cooperation of Energy Regulators (hereafter referred to as the "ACER Regulation" and "Agency") and in particular Article 24(5).

HAVING REGARD to the ACER Financial Regulation and, in particular, Article 83(2).

HAVING REGARD to the preliminary observations of the European Court of Auditors on the provisional accounts of the Agency for the financial year 2011.

HAVING REGARD to the Agency final accounts for the financial year 2011 drawn up by the Director and signed off by the Accounting Officer and sent to the Administrative Board on 6 June 2012.

Whereas:

After receiving the observations of the Court of Auditors on the provisional accounts of the Agency the Director shall draw up the final accounts and transmit them for opinion to the Administrative Board.

The Administrative Board shall deliver an opinion on the final accounts of the Agency.

The Director shall transmit the final accounts, accompanied by the opinion of the Administrative Board, by 1 July following the completion of the financial year, to the European Parliament, the Council, the Commission and the Court of Auditors.

The ADMINISTRATIVE BOARD of ACER HAS DECIDED to

- Give a favourable opinion on the final accounts of the Agency for the financial year 2011 as presented in Annex I.
- Ask the Director to send the final accounts together with this opinion to the European Parliament, the Council, the Commission and the Court of Auditors.

- Request the Director to take immediate actions to remedy the shortcomings identified by the European Court of Auditors. The Administrative Board looks forward to receiving the final outcome of these observations in due course.

This decision shall enter into force on the day following its adoption.

Done at Ljubljana, on 20 June 2012

For the Administrative Board:

Piotr Woźniak

Chairman of the ACER Administrative Board

Final Accounts of the European Agency for the Cooperation of Energy Regulators

and

Report on Budgetary and Financial Management

8 March 2011 – 31 December 2011

Drawn up by Director, Alberto Pototschnig,

Signed off by Accounting and Budget Officer, Rodica Mandroc

19 June 2012

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CERTIFICATION OF ANNUAL ACCOUNTS

The annual accounts of the Agency for the Cooperation of Energy Regulators (ACER) for the year 2011 have been prepared in accordance with Title VII of ACER's Financial Regulation as well as the accounting rules adopted by the European Commission's Accounting Officer.

I acknowledge my responsibility for the preparation and presentation of the annual accounts of ACER in accordance with Article 43 of ACER's Financial Regulation.

I have obtained from the authorising officer, who guaranteed its reliability, all the necessary information for the production of the accounts that show ACER's assets and liabilities and the budgetary implementation.

I hereby certify that based on this information, and on such checks as I deemed necessary to sign off the accounts, I have a reasonable assurance that the accounts present a true and fair view of the financial position of ACER in all material aspects.

19 June 2012

Rodica Mandroc,
Accounting and Budget Officer

INTRODUCTION

LEGAL BASIS

The European Agency for the Cooperation of Energy Regulators (hereinafter referred to as 'ACER') with the seat in Ljubljana, Slovenia has been established by Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 (the "founding Regulation").

The overall mission of ACER, according to its founding Regulation, is to assist national regulatory authorities (NRAs) to perform their duties at the European Union level and to coordinate their actions whenever necessary.

ACER's activities are also governed by the following directives and regulations:

- Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC;
- Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC;
- Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity, which repeals Regulation (EC) No 1228/2003;
- Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005;
- Commission Regulation (EU) No 838/2010 of 23 September 2010 on laying down guidelines relating to the inter-transmission system operator compensation mechanism and a common regulatory approach to transmission charging, and,
- Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency.

BACKGROUND INFORMATION

According to the founding Regulation, ACER's governing bodies on administrative matters are the Administrative Board and the Director.

The Director of ACER, Mr Alberto Pototschnig is, according to Article 17 of the founding Regulation, responsible for representing the Agency and in charge of its management.

The Administrative Board, chaired by Mr Piotr Woźniak, is composed of nine members with two members appointed by the European Parliament, five members appointed by the Council and two members appointed by the European Commission. Each member has an alternate.

The Administrative Board shall give an opinion on the final accounts of ACER as drawn up by the Director in accordance with Article 24(4) and (5) of the founding Regulation.

ACER's expenditures for 2011 were integrally financed through an annual subsidy from the general budget of the European Union.

In accordance with Article 43(1) of ACER Financial Regulation adopted by the Administrative Board with Decision AB n° 22/2011, the Administrative Board appointed Mrs Rodica Mandroc on 22 September 2011 as the Accounting and Budget Officer of ACER.

This is the first year of ACER's operation and the final accounts have been drawn up starting 8 March 2011, date when the financial autonomy has been granted to the Agency.

The following accounts together with a report on budgetary and financial management have been drawn up in accordance with Articles 76 – 83 of ACER’s Financial Regulation and Article 24 of the founding Regulation.

PART I – FINANCIAL STATEMENTS

The following financial statements and notes for the financial year ending 31 December 2011 are presented from the date ACER became financially autonomous, the 8th of March 2011.

ECONOMIC OUTTURN ACCOUNT

	8 March - 31 December 2011 €
<i>for the year ending 31 December 2011</i>	
REVENUE	
European Commission subsidy	4,362,607.98
Other operating revenue	38,290.07
TOTAL OPERATING REVENUE	4,400,898.05
ADMINISTRATIVE AND OPERATIONAL EXPENSES	
Staff expenses	1,887,289.29
Fixed asset related expenses	112,674.20
Other administrative expenses	1,029,584.75
Operational expenses	444,356.83
TOTAL ADMINISTRATIVE AND OPERATIONAL EXPENSES	3,473,905.07
SURPLUS/(DEFICIT) FROM OPERATING ACTIVITIES	926,992.98
FINANCIAL OPERATIONS	
Financial operations expenses	62.15
SURPLUS/ (DEFICIT) FROM FINANCIAL ACTIVITIES	(62.15)
ECONOMIC RESULT OF THE YEAR	926,930.83

BALANCE SHEET

<i>as of 31 December 2011</i>	8 March - 31 December 2011
	€
NON-CURRENT ASSETS	
Intangible fixed assets	28,191.70
Tangible fixed assets	459,311.32
Plant and equipment	456.56
Computer hardware	416,282.16
Furniture and vehicles	41,182.25
Other fixtures and fittings	1,390.35
TOTAL NON-CURRENT ASSETS	487,503.02
CURRENT ASSETS	
Short-term receivables	41,015.09
Current receivables	207.43
Sundry receivables	23,495.52
Prepaid expenses and accrued income	17,312.14
Cash and cash equivalents	2,387,634.18
TOTAL CURRENT ASSETS	2,428,649.27
TOTAL CURRENT AND NON-CURRENT ASSETS	2,916,152.29
	EQUITY AND LIABILITIES
EQUITY	
Economic result of the year	926,930.83
TOTAL EQUITY	926,930.83
CURRENT LIABILITIES	
Accounts payable	1,989,221.46
Current payables	5,667.92
Accrued expenses and deferred income	401,416.73
Accounts payable with consolidated entities	1,582,136.81
TOTAL CURRENT LIABILITIES	1,989,221.46
TOTAL EQUITY AND LIABILITIES	2,916,152.29

CASH FLOW STATEMENT

<i>for the year ending 31 December 2011</i>	8 March - 31 December 2011 €
Surplus/(deficit) from operating activities	926,992.98
Cash Flows from Operating Activities	
<u>Adjustments</u>	
Amortization (intangible fixed assets)	5,333.55
Depreciation (tangible fixed assets)	107,340.65
Depreciation of assets transferred from the European Commission	3,598.77
(Increase)/decrease in Short term Receivables	(41,015.09)
Increase / (decrease) in Other liabilities	401,416.73
Increase/(decrease) in Current payables	5,667.92
Increase/(decrease) in Liabilities related to consolidated entities	1,582,136.81
<i>Net Cash Flow from Operating Activities</i>	2,991,472.32
Cash Flows from Investing Activities	
Purchase of tangible and intangible fixed assets	(603,775.99)
<i>Net Cash Flow from Investing Activities</i>	(603,775.99)
Financing Activities	
Financial operations revenues/expenses	(62.15)
<i>Net Cash Flow from Financing Activities</i>	(62.15)
<i>Net increase/(decrease) in cash and cash equivalents</i>	2,387,634.18
Cash and cash equivalents at the beginning of the period	0.00
<i>Cash and cash equivalents at the end of the period</i>	2,387,634.18

STATEMENT OF CHANGES IN NET ASSETS

as at 31 December 2011

Net Assets	Economic result of the year	Total Net Assets
	€	€
Balance as of 8 March 2011	0.00	0.00
Economic result of the year	926,930.83	926,930.83
Balance as of 31 December 2011	926,930.83	926,930.83

NOTES TO THE FINANCIAL STATEMENTS

ACCOUNTING POLICIES AND PRINCIPLES

The objective of the financial statements in general is to provide users with an overview on the financial performance, position and cash flow of an entity. For a public entity like ACER this objective is more specific as the information contained is used in the decision making process as well as to demonstrate the accountability of the agency towards the resources entrusted to it.

The financial statements for the year 2011 were prepared on the basis of the European Commission Accounting Rules as laid down by the accounting officer of the European Commission, applicable to the specific environment of the European Union and which are based on the International Public Sector Accounting Standards and International Financial Reporting Standards. The financial statements are prepared on an accrual basis whereas the reports on the implementation of the budget are prepared on a cash basis. Reconciliation between the two methods is presented in the second part of this report.

The accounting system of ACER contains general and budget accounts with the functional currency being Euro. The budget accounts provide a detailed picture on the implementation of the budget and are based on cash accounting principles. The general accounts prepared on an accrual accounting basis present the financial performance and position of ACER as at the end of the financial year.

The current financial statements have been drawn in accordance with the principles specified in Article 78 of ACER Financial Regulation and the corresponding articles of the general Implementing Rules, as follows:

Going concern basis

ACER has been established for an indefinite duration and the financial statements have been prepared in accordance with the going concern principle and Article 187 of the general Implementing Rules.

Principle of prudence

The assets and income in the financial statements of ACER have not been overstated nor have the liabilities and charges been understated. The principle of prudence from Article 188 of the general Implementing Rules has been complied with.

Principle of consistent accounting method

In accordance with this principle and Article 189 of the general Implementing Rules, the structure of the components of the financial statements and the accounting methods and valuation rules adopted this year carry no intention of being changed over the coming years.

Principle of comparability of information

In accordance with this principle for each item the financial statements shall show the amount of the corresponding item in the previous year – Article 190 of the general Implementing Rules. Being the first year of operations for ACER, comparative amounts will only be shown from next year.

Materiality principle

The materiality principle as per Article 191 of the general Implementing Rules has been applied to the financial statements of ACER and implies that all operations significant by nature shall be taken into account in the financial statements. Items may be aggregated if they are of identical nature, negligible amounts or when aggregation improves clarity of financial statements.

No-netting principle

The no-netting principle in accordance with Article 192 of the general Implementing Rules as applied to the financial statements of ACER implies that assets and liabilities have not been offset against each other, nor were revenues and expenses except where the revenues and expenses derived from the same or similar transaction.

Principle of reality over appearance

In accordance with the Article 193 of the general Implementing Rules, the accounting events recorded in the financial statements of ACER are presented by reference to their economic nature.

Accrual-based accounting principle

According to this principle and Article 194 of the general Implementing Rules, transactions and events entered in the accounts of ACER were recorded at the time they occurred and not when amounts were actually paid or recovered.

CURRENCY AND BASIS FOR CONVERSION

Functional and reporting currency

The functional and reporting currency used in the preparation of the financial statements for ACER is Euro.

Transactions

Foreign currency transactions were translated into Euros in accordance with Articles 7 and 8 of the general Implementing Rules using the official European Commission exchange rates of the day on which the payment order was drawn up.

Foreign exchange gains and losses resulting from the settlement of transactions in foreign currency are recognised in the economic outturn account.

CHART OF ACCOUNTS

The chart of accounts used by ACER follows the structure of the chart of accounts used by the European Commission (PCUE).

ECONOMIC OUTTURN STATEMENT

Revenue

The 2011 revenues of ACER consist of

- the subsidy received from the general budget of the European Union that contains a percentage of EFTA countries' contribution;
- revenues resulted from the transfer of assets that were bought on behalf of ACER while under the *tutelle* of the parent Directorate General, and
- foreign exchange realised gains.

	8 March - 31 December 2011
	€
Revenues	
European Commission subsidy	4,362,607.98
Other operating revenue	38,290.07
	<hr/> 4,400,898.05 <hr/>

Expenses

	8 March - 31 December 2011
	€
Administrative and operational expenses	
Staff expenses	1,887,289.29
Fixed asset related expenses	112,674.20
Other administrative expenses	1,029,584.75
Operational expenses	444,356.83
	<hr/> 3,473,905.07 <hr/>

Staff expenses consist of personnel-related expenses such as salaries, allowances and other welfare benefits.

Fixed assets-related expenses contain the charge of amortisation of intangible assets and the depreciation of tangible assets for the financial year ending 31 December 2011.

Other administrative expenses consist of costs associated with the building, office running costs, including the cost of physical inventory that does not qualify as financial assets, as well as the cost of interim staff.

Operational expenses include the cost of operational missions, meetings, workshops, public hearings and other operational expenditure incurred for the functioning of the Agency.

BALANCE SHEET

NON-CURRENT ASSETS

Assets are resources controlled by ACER as a result of past events from which future economic benefits or service potential is expected to flow.

Fixed assets are assets with a useful life of more than one reporting period. The valuation of fixed assets in the financial statements of ACER is based at their acquisition price. The book value of these assets is equal to their acquisition price increased or decreased by revaluations, decreased by depreciation and amounts written off.

For the record of fixed assets ACER uses ABAC Assets2 as inventory application, which is an integrated part of the ABAC platform. Two main categories can be distinguished: intangible and tangible assets.

Intangible fixed assets

Intangible fixed assets recorded in the inventory of ACER consist of assets without physical substance and are only represented by software.

Tangible fixed assets

Assets with a physical substance recorded in the inventory of ACER consist mainly of furniture, computer hardware, telecommunication and audio-visual equipment and a small number of other equipment and fittings.

Amortisation and depreciation

Depreciation and amortisation as a systematic allocation of the loss in value over the useful life of an asset is calculated using the straight-line method with the following rates:

Type of asset	Straight line depreciation rate
Computer software	25%
Furniture	10%
Transport and kitchen equipment	12.5%
Computer hardware	25%
Technical equipment	25%
Telecommunication audio-visual equipment	25%

A number of assets administered by DG ENER of behalf of ACER have been transferred to ACER after the financial autonomy has been granted.

Details on the classification and depreciation rates of the fixed assets can be found in the following table:

FIXED ASSETS
08.03.2011 - 31.12.2011

Account number	Asset category	Opening balance	Acquisition price			Depreciation Rate and Method	Depreciation				
			Assets transferred from DG ENER	Additions during the year	Closing balance		Opening balance	Depreciation of assets transferred from DG ENER	Depreciation charge for the year	Accumulated Depreciation	Closing book value
21001000	Computer software	0.00	36,573.02	0.00	36,573.02	L 25%	0.00	3,047.77	5,333.55	8,381.32	28,191.70
23001000	Plant, machinery and equipment	0.00	0.00	515.65	515.65	L 12,5%	0.00	0.00	59.09	59.09	456.56
24001000	Furniture and rolling stock	0.00	0.00	44,607.47	44,607.47	L 10%; 12,5%, 25%	0.00	0.00	3,425.22	3,425.22	41,182.25
24101000	Computer hardware	0.00	5,289.30	515,092.17	520,381.47	L 25%	0.00	551.00	103,548.31	104,099.31	416,282.16
24201000	Other fixtures and fittings	0.00	0.00	1,698.38	1,698.38	L 25%	0.00	0.00	308.03	308.03	1,390.35
	Totals	0.00	41,862.32	561,913.67	603,775.99		0.00	3,598.77	112,674.20	116,272.97	487,503.02

CURRENT ASSETS

Receivables

Receivables are carried at original invoice amount less any write-down for impairment. A write-down for impairment of receivables is established only where there is objective evidence that ACER will not be able to collect all amounts due according to the original terms of the receivables, with the impaired amount being recognised in the economic outturn for the year.

Short-term receivables

	2011
	€
VAT receivable	207.43
Salary advances paid to staff	23,495.52
Deferred charges	17,312.14
	<u>41,015.09</u>

ACER benefits from a direct exemption for VAT from the Slovenian state for purchases above the threshold amount of €60 and the VAT paid on purchases where the direct exemption is impracticable to obtain the VAT is refunded by the Slovenian state on a quarterly basis.

Salary advances paid to staff members are integrated/recuperated by the Pay Master Office (PMO) from the staff member salary in the month following that of the payment.

Deferred charges consist of prepayments made during the year mainly on subscriptions and insurance premiums.

Cash and cash equivalents

	2011
	€
Bank account	2,378,677.54
Imprest account	8,484.05
Petty cash	472.59
	<u>2,387,634.18</u>

The main bank account and the imprest account are held with UniCredit AG Germany based on a banking services contract signed between the two parties.

EQUITY AND LIABILITIES

Current liabilities

	8 March - 31 December 2011
	€
Accounts payable	5,667.92
Accrued expenses	401,416.73
Repayable positive budgetary outturn	1,571,424.88
Repayable interest earned on EU subsidy	10,711.93
	<hr/> 1,989,221.46 <hr/>

The accounts payable as at 31 December 2011 consist of outstanding claims from ACER suppliers and other public bodies to be settled as they fall due.

Accrued expenses relate mainly to goods or service delivered at the end of the financial year but for which the invoices have not been received. According to Staff Regulation (Annex V – Leave, Article 4) the staff members are entitled to a compensation equal to one thirtieth of his/her monthly remuneration for each leave day due to him/her at the time of leaving the service. A holiday compensation amounting to €44,097.04 has been calculated and recognised as accrued expenses for all untaken annual leave entitlements as at the end of the financial year.

The budgetary outturn result remains the property of the European Commission and ACER has an obligation to return the unused amount of the pre-financing.

Interest yields on the pre-financing fall under the same obligation and have to be returned to the European Commission.

CONTINGENT ASSETS

Under international financial reporting standards, a contingent asset is a possible asset arising from past events and that will be confirmed only by future events not under an entity's control.

ACER has identified as contingent asset the disputed salary indexation and coefficient correction for the period starting 1 July 2011. If the legal action were to be successful, the impact for ACER would be a receivable amount of €14,608.77 to be recuperated from a number of its staff members.

CHANGES IN ACCOUNTING POLICIES

There have been no changes in accounting policies for the financial year 2011.

OTHER DISCLOSURE

Contribution in kind

Since 1 February 2011 when ACER has moved its seat in Ljubljana the following contributions in kind have been accepted:

From the Council of European Energy Regulators:

- office space, logistical and secretarial support for the Agency's liaison office in Brussels free of any rent, fees and charges.

From the Government of the Republic of Slovenia:

- use of office space offered free of any rent or related charges pursuant to the Seat Agreement signed on 26 November 2010 for the first two years of ACER operation. The rent-free period ends on 31 January 2013, date from which ACER will be responsible for covering the costs of its premises.

In both cases neither the legal title nor the economic ownership has passed to ACER, therefore the non-exchange component of these transactions is not accounted for in the accounts of ACER.

EVENTS AFTER BALANCE SHEET DATE

ACER has not identified any material event after its balance sheet date that would have an impact on its financial performance and position.

PART II – REPORT ON BUDGETARY AND FINANCIAL MANAGEMENT

ACER has become financially autonomous on 8 March 2011. The approved budget for the Agency for the financial year 2011 amounted to €5,000,000 plus a contribution from EFTA countries of €119,000. Before the financial autonomy, DG ENER has managed the budget of the Agency ensuring a sound financial management of the Agency's appropriations.

From the beginning of the financial year until 8 March 2011 when the financial autonomy has been granted an amount of €326,655 has been spent on behalf of ACER in commitment and payment appropriations by the parent Directorate General.

At the time when the financial autonomy has been granted the amount of available appropriations that have been transferred into the Agency's accounts amounted to €4,792,345 in commitments and payments appropriations.

The following table presents the implementation of these appropriations for the period between 8 March 2011 and 31 December 2011:

Title Chapter	Heading	Appropriation (1)	Committed (2)	% Committed	Paid (3)	% Paid	Balance Commitment (1-2)	Balance Payment (2-3)
TITLE 1	Expenditure related to employees of the agency							
CHAPTER 11	Staff in active employment	2,930,526.00	2,012,603.33	68.68%	1,837,481.23	62.70%	917,922.67	175,122.10
CHAPTER 12	Missions and duty travel	142,031.00	79,746.37	56.15%	71,338.76	50.23%	62,284.63	8,407.61
CHAPTER 13	Socio-medical infrastructure	21,600.00	8,507.45	39.39%	366.08	1.69%	13,092.55	8,141.37
CHAPTER 14	Social services	14,300.00	6,664.00	46.60%	6,076.76	42.49%	7,636.00	587.24
	TOTAL TITLE 1	3,108,457.00	2,107,521.15	67.80%	1,915,262.83	61.61%	1,000,935.85	192,258.32
TITLE 2	Agency's building and associated costs							
CHAPTER 20	Agency premises costs	104,000.00	77,457.41	74.48%	48,900.89	47.02%	26,542.59	28,556.52
CHAPTER 21	Data processing	153,388.00	129,515.32	84.44%	55,759.41	36.35%	23,872.68	73,755.91
CHAPTER 22	Movable property and associated costs	80,000.00	69,068.14	86.34%	53,936.26	67.42%	10,931.86	15,131.88
CHAPTER 23	Current administrative expenditure	236,500.00	108,681.24	45.95%	19,132.00	8.09%	127,818.76	89,549.24
CHAPTER 24	Postal charges, telecommunication and computer infrastr.	177,000.00	124,587.43	70.39%	29,842.21	16.86%	52,412.57	94,745.22
	TOTAL TITLE 2	750,888.00	509,309.54	67.83%	207,570.77	27.64%	241,578.46	301,738.77
TITLE 3	Operational expenditure							
CHAPTER 30	Meetings, seminars and representation expenses	412,160.00	255,714.97	62.04%	67,087.72	16.28%	156,445.03	188,627.25
CHAPTER 31	Operational and expert missions	291,864.00	220,367.11	75.50%	184,608.53	63.25%	71,496.89	35,758.58
CHAPTER 32	Public relations and website	188,976.00	119,489.35	63.23%	7,034.62	3.72%	69,486.65	112,454.73
CHAPTER 33	Translations	40,000.00	0.00	0.00%	0.00	0.00%	40,000.00	0.00
	TOTAL TITLE 3	933,000.00	595,571.43	63.83%	258,730.87	27.73%	337,428.57	336,840.56
	GRAND TOTAL BUDGET 2011	4,792,345.00	3,212,402.12	67.03%	2,381,564.47	49.70%	1,579,942.88	830,837.65

A detailed description of the 2011 budget implementation can be found under the 'Revenue' and 'Expenditure' sub-sections of the 'Budgetary Management' section of this report.

In addition to the current year appropriations an amount of €1,443,833.71 has been transferred from DG ENER after the financial autonomy has been granted and represents the value of commitment and payment appropriations carried forward from the financial year 2010 to honour the commitments administered on behalf of ACER by the parent DG.

The following table presents the implementation of these appropriations for the period between 8 March 2011 and 31 December 2011:

Title Chapter	Heading	Appropriation (1)	Committed (2)	% Committed	Paid (3)	% Paid	Balance Commitment (1-2)	Balance Payment (2-3)
TITLE 1	Expenditure related to employees of the agency							
CHAPTER 11	Staff in active employment	190,902.28	37,109.76	19.44%	37,109.76	19.44%	153,792.52	0.00
CHAPTER 12	Missions and duty travel	15,033.15	0.00	0.00%	0.00	0.00%	15,033.15	0.00
CHAPTER 13	Socio-medical infrastructure	10,500.00	2,854.40	27.18%	2,854.40	27.18%	7,645.60	0.00
	TOTAL TITLE 1	216,435.43	39,964.16	18.46%	39,964.16	18.46%	176,471.27	0.00
TITLE 2	Agency's building and associated costs							
CHAPTER 20	Agency premises costs	37,000.00	9,699.64	26.22%	9,699.64	26.22%	27,300.36	0.00
CHAPTER 21	Data processing	90,872.41	54,979.49	60.50%	54,979.49	60.50%	35,892.92	0.00
CHAPTER 22	Movable property and associated costs	149,660.85	149,660.85	100.00%	149,660.85	100.00%	0.00	0.00
CHAPTER 23	Current administrative expenditure	15,000.00	1,246.51	8.31%	1,246.51	8.31%	13,753.49	0.00
CHAPTER 24	Postal charges, telecommunication and computer infrastr.	868,295.60	868,278.20	100.00%	868,278.20	100.00%	17.40	0.00
	TOTAL TITLE 2	1,160,828.86	1,083,864.69	93.37%	1,083,864.69	93.37%	76,964.17	0.00
TITLE 3	Operational expenditure							
CHAPTER 30	Meetings, seminars and representation expenses	65,569.42	27,716.23	42.27%	27,716.23	42.27%	37,853.19	0.00
CHAPTER 33	Translations	1,000.00	0.00	0.00%	0.00	0.00%	1,000.00	0.00
	TOTAL TITLE 3	66,569.42	27,716.23	41.64%	27,716.23	41.64%	38,853.19	0.00
	GRAND TOTAL BUDGET 2011	1,443,833.71	1,151,545.08	79.76%	1,151,545.08	79.76%	292,288.63	0.00

More details on the implementation of these commitments can be found under the 'Revenue' and 'Expenditure' sub-sections of the 'Budgetary Management' section of this report.

REVENUE OUTTURN STATEMENT

The Revenue Outturn Statement presents on a cash basis the actual amounts cashed as income and the amount of cash consumed to honour the payment of commitments as well the amounts of unutilised and cancelled appropriations. Based on forecasted cash flows during the year an amount of €300,000 has not been cashed from the available appropriations of €4,792,345 on 8 March 2011.

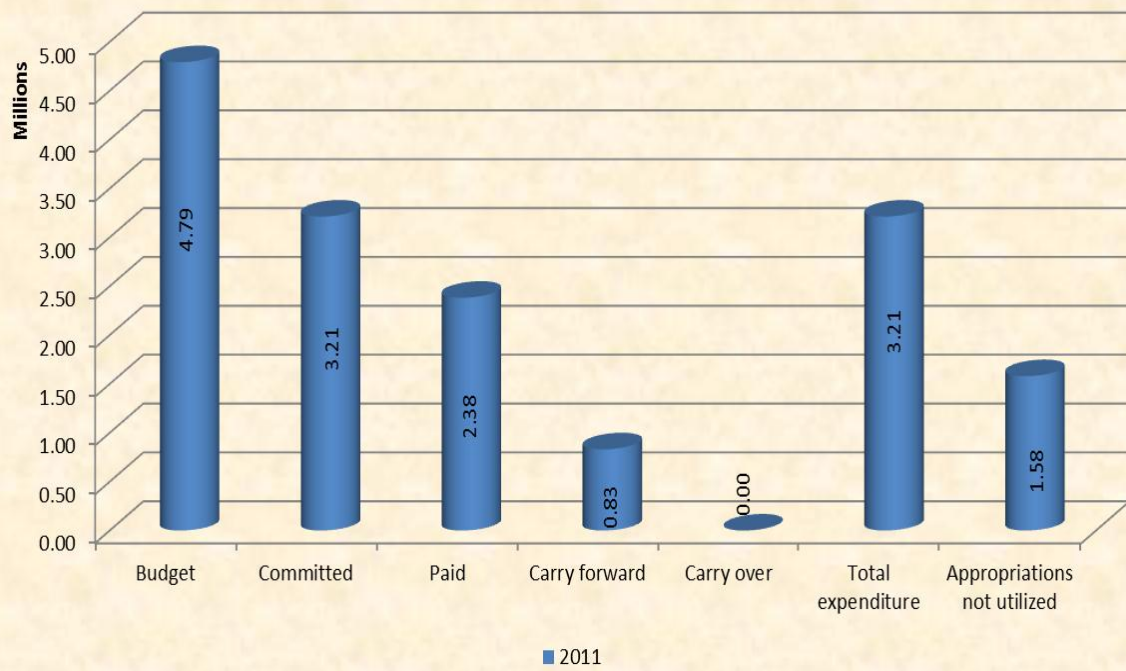
	8 March - 31 December 2011
	€
INCOME	
European Commission subsidy	4,371,199.15
EFTA contribution	119,000.00
Miscellaneous income	0.00
TOTAL INCOME	<u>4,490,199.15</u>
EXPENSES	
Expenditure related to employees of the agency -Title I	
Payments	1,915,262.83
Carry-forwards and carryovers	192,258.32
Agency's building and associated expenses - Title II	
Payments	207,570.77
Carry-forwards and carryovers	301,738.77
Operational expenditure - Title III	
Payments	258,730.87
Carry-forwards and carryovers	336,840.56
TOTAL EXPENSES	<u>3,212,402.12</u>
Total appropriations not utilised	1,277,797.03
REVENUE OUTTURN BEFORE SPECIAL ITEMS	<u>1,277,797.03</u>
Cancelled carryovers	292,288.63
Correction from data migration	2,146.27
Exchange rate differences	-807.05
REVENUE OUTTURN	<u><u>1,571,424.88</u></u>

BUDGET IMPLEMENTATION

The following tables present a detailed budget implementation by budget Titles as well as individual budget lines for both the current year budget and the budgetary appropriations of 2010.

	8 March - 31 December 2011
	€
TITLE 1	
Budget	3,108,457.00
Committed	2,107,521.15
Paid	1,915,262.83
Carry forward	192,258.32
Carry over	0.00
Total expenditure	2,107,521.15
Appropriations not utilized	1,000,935.85
Executed	67.80%
TITLE 2	
Budget	750,888.00
Committed	509,309.54
Paid	207,570.77
Carry forward	301,738.77
Carry over	0.00
Total expenditure	509,309.54
Appropriations not utilized	241,578.46
Executed	67.83%
TITLE 3	
Budget	933,000.00
Committed	595,571.43
Paid	258,730.87
Carry forward	336,840.56
Carry over	0.00
Total expenditure	595,571.43
Appropriations not utilized	337,428.57
Executed	63.83%
TOTAL	2011
Budget	4,792,345.00
Committed	3,212,402.12
Paid	2,381,564.47
Carry forward	830,837.65
Carry over	0.00
Total expenditure	3,212,402.12
Appropriations not utilized	1,579,942.88
Executed	67.03%

Implementation of 2011 budget - fund source C1



Detailed budget implementation of current year appropriations – fund source C1

B.L.	Official Budget Item Desc (Fr)	Appropriation (1)	Committed (2)	% Committed (2/1)	Paid (3)	% Paid (3/1)	Balance Commitment (1-2)	Balance Payment (2-3)
A-1100	Basic Salaries and corr	1,175,591.00	1,018,262.09	86.62 %	1,018,262.09	86.62 %	157,328.91	0.00
A-1101	Family allowance	281,923.00	115,131.56	40.84 %	115,131.56	40.84 %	166,791.44	0.00
A-1102	Epatriation allowance	233,033.00	159,919.12	68.63 %	159,919.12	68.63 %	73,113.88	0.00
	Sum:	1,690,547.00	1,293,312.77	76.50 %	1,293,312.77	76.50 %	397,234.23	0.00
A-1110	Contract agents	79,348.00	66,126.38	83.34 %	66,126.38	83.34 %	13,221.62	0.00
	Sum:	79,348.00	66,126.38	83.34 %	66,126.38	83.34 %	13,221.62	0.00
A-1120	Training	83,172.00	48,782.00	58.65 %	21,998.71	26.45 %	34,390.00	26,783.29
	Sum:	83,172.00	48,782.00	58.65 %	21,998.71	26.45 %	34,390.00	26,783.29
A-1130	Sickness Insurance	52,316.00	39,774.78	76.03 %	39,774.78	76.03 %	12,541.22	0.00
A-1131	Accidents Insurance	14,088.00	8,208.42	58.27 %	8,208.42	58.27 %	5,879.58	0.00
A-1132	Unemployment insurance	17,392.00	14,689.88	84.46 %	14,689.88	84.46 %	2,702.12	0.00
	Sum:	83,796.00	62,673.08	74.79 %	62,673.08	74.79 %	21,122.92	0.00
A-1140	Birth and death grants	1,983.00	0.00	0.00 %			1,983.00	0.00
A-1141	Travel allowance	42,301.00	11,783.74	27.86 %	11,783.74	27.86 %	30,517.26	0.00
A-1142	Removal allowance	104,827.00	104,817.40	99.99 %	41,062.35	39.17 %	9.60	63,755.05
A-1143	Schooling fees	70,565.00	54,565.00	77.33 %	29,084.14	41.22 %	16,000.00	25,480.86
	Sum:	219,676.00	171,166.14	77.92 %	81,930.23	37.30 %	48,509.86	89,235.91
A-1160	Recruitment	164,100.00	100,780.00	61.41 %	55,933.24	34.08 %	63,320.00	44,846.76
A-1161	Take-up duty costs	21,000.00	14,161.07	67.43 %	14,161.07	67.43 %	6,838.93	0.00
A-1162	Installation allowance	276,954.00	137,323.02	49.58 %	137,323.02	49.58 %	139,630.98	0.00
A-1163	Daily allowance	264,510.00	98,840.98	37.37 %	98,840.98	37.37 %	165,669.02	0.00
	Sum:	726,564.00	351,105.07	48.32 %	306,258.31	42.15 %	375,458.93	44,846.76
A-1170	Interim staff	10,000.00	9,922.50	99.23 %	5,181.75	51.82 %	77.50	4,740.75
A-1171	Admin publications	0.00					0.00	0.00
A-1172	Admin translations	10,000.00	5,000.00	50.00 %			5,000.00	5,000.00
A-1173	Admin assistance	27,423.00	4,515.39	16.47 %			22,907.61	4,515.39
	Sum:	47,423.00	19,437.89	40.99 %	5,181.75	10.93 %	27,985.11	14,256.14
A-1200	Staff missions	142,031.00	79,746.37	56.15 %	71,338.76	50.23 %	62,284.63	8,407.61
	Sum:	142,031.00	79,746.37	56.15 %	71,338.76	50.23 %	62,284.63	8,407.61

B.L.	Official Budget Item Desc (Fr)	Appropriation (1)	Committed (2)	% Committed (2/1)	Paid (3)	% Paid (3/1)	Balance Commitment (1-2)	Balance Payment (2-3)
A-1300	Medical service	20,600.00	8,107.45	39.36 %			12,492.55	8,107.45
A-1301	Medical equipment	1,000.00	400.00	40.00 %	366.08	36.61 %	600.00	33.92
	Sum:	21,600.00	8,507.45	39.39 %	366.08	1.69 %	13,092.55	8,141.37
A-1401	Staff interaction	14,300.00	6,664.00	46.60 %	6,076.76	42.49 %	7,636.00	587.24
	Sum:	14,300.00	6,664.00	46.60 %	6,076.76	42.49 %	7,636.00	587.24
A-1410	Staff Committee	0.00					0.00	
	Sum:	0.00					0.00	
A-2020	Insurance	15,000.00	1,329.29	8.86 %	1,248.16	8.32 %	13,670.71	81.13
	Sum:	15,000.00	1,329.29	8.86 %	1,248.16	8.32 %	13,670.71	81.13
A-2030	Building security	34,000.00	27,805.58	81.78 %	500.00	1.47 %	6,194.42	27,305.58
	Sum:	34,000.00	27,805.58	81.78 %	500.00	1.47 %	6,194.42	27,305.58
A-2040	Other buliding costs	55,000.00	48,322.54	87.86 %	47,152.73	85.73 %	6,677.46	1,169.81
A-2041	Equipment maintenance	0.00					0.00	
	Sum:	55,000.00	48,322.54	87.86 %	47,152.73	85.73 %	6,677.46	1,169.81
A-2100	Consumables	15,000.00	369.33	2.46 %	369.33	2.46 %	14,630.67	0.00
A-2101	Software	61,000.00	57,100.00	93.61 %			3,900.00	57,100.00
A-2102	Subscriptions	77,388.00	72,045.99	93.10 %	55,390.08	71.57 %	5,342.01	16,655.91
	Sum:	153,388.00	129,515.32	84.44 %	55,759.41	36.35 %	23,872.68	73,755.91
A-2210	Purchase of furniture	25,000.00	20,439.13	81.76 %	11,066.74	44.27 %	4,560.87	9,372.39
	Sum:	25,000.00	20,439.13	81.76 %	11,066.74	44.27 %	4,560.87	9,372.39
A-2220	Transportation	25,000.00	20,059.00	80.24 %	15,104.80	60.42 %	4,941.00	4,954.20
	Sum:	25,000.00	20,059.00	80.24 %	15,104.80	60.42 %	4,941.00	4,954.20
A-2230	Library purchases	3,500.00	2,500.00	71.43 %	1,694.71	48.42 %	1,000.00	805.29
A-2231	Subscriptions copies	26,500.00	26,070.01	98.38 %	26,070.01	98.38 %	429.99	0.00
	Sum:	30,000.00	28,570.01	95.23 %	27,764.72	92.55 %	1,429.99	805.29
A-2300	Stationery	25,000.00	25,000.00	100.00 %	13,672.61	54.69 %	0.00	11,327.39
	Sum:	25,000.00	25,000.00	100.00 %	13,672.61	54.69 %	0.00	11,327.39

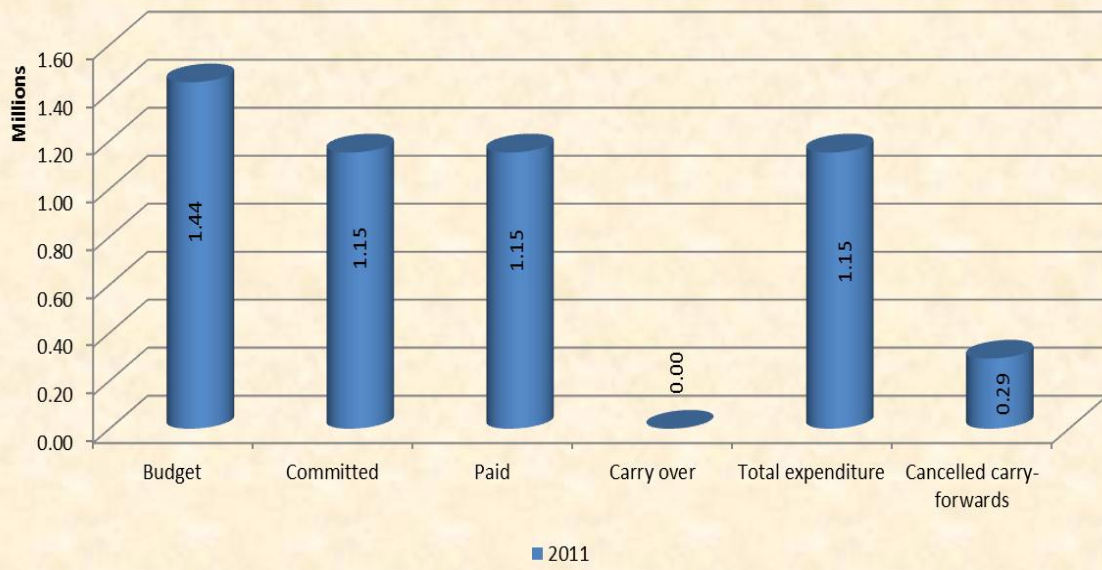
B.L.	Official Budget Item Desc (Fr)	Appropriation (1)	Committed (2)	% Committed (2/1)	Paid (3)	% Paid (3/1)	Balance Commitment (1-2)	Balance Payment (2-3)
A-2310	Bank charges	500.00	100.00	20.00 %	62.15	12.43 %	400.00	37.85
	Sum:	500.00	100.00	20.00 %	62.15	12.43 %	400.00	37.85
A-2320	Legal expenses	0.00					0.00	
A-2321	Consultation	211,000.00	83,581.24	39.61 %	5,397.24	2.56 %	127,418.76	78,184.00
	Sum:	211,000.00	83,581.24	39.61 %	5,397.24	2.56 %	127,418.76	78,184.00
A-2400	Postal charges	6,000.00	4,200.00	70.00 %	1,016.07	16.93 %	1,800.00	3,183.93
	Sum:	6,000.00	4,200.00	70.00 %	1,016.07	16.93 %	1,800.00	3,183.93
A-2410	Telecommunication	29,000.00	17,868.38	61.62 %	13,108.75	45.20 %	11,131.62	4,759.63
	Sum:	29,000.00	17,868.38	61.62 %	13,108.75	45.20 %	11,131.62	4,759.63
A-2420	Hardware	67,000.00	33,978.65	50.71 %	13,756.39	20.53 %	33,021.35	20,222.26
A-2421	Maintenance	25,000.00	24,710.40	98.84 %	1,961.00	7.84 %	289.60	22,749.40
A-2422	Phones	0.00					0.00	
A-2423	Video conf equip	50,000.00	43,830.00	87.66 %			6,170.00	43,830.00
	Sum:	142,000.00	102,519.05	72.20 %	15,717.39	11.07 %	39,480.95	86,801.66
B3-000	AB missions	47,200.00	37,760.00	80.00 %	16,840.26	35.68 %	9,440.00	20,919.74
B3-001	RoB missions	292,640.00	162,530.97	55.54 %	35,530.97	12.14 %	130,109.03	127,000.00
B3-002	BoA missions	23,320.00	23,320.00	100.00 %	2,708.63	11.62 %	0.00	20,611.37
B3-004	Experts missions	19,000.00	7,851.00	41.32 %	351.00	1.85 %	11,149.00	7,500.00
	Sum:	382,160.00	231,461.97	60.57 %	55,430.86	14.50 %	150,698.03	176,031.11
B3-010	Seminars	10,000.00	4,253.00	42.53 %	4,253.00	42.53 %	5,747.00	0.00
	Sum:	10,000.00	4,253.00	42.53 %	4,253.00	42.53 %	5,747.00	0.00
B3-020	Representation exp	20,000.00	20,000.00	100.00 %	7,403.86	37.02 %	0.00	12,596.14
	Sum:	20,000.00	20,000.00	100.00 %	7,403.86	37.02 %	0.00	12,596.14
B3-100	Boards missions	20,000.00	14,878.56	74.39 %	7,878.56	39.39 %	5,121.44	7,000.00
	Sum:	20,000.00	14,878.56	74.39 %	7,878.56	39.39 %	5,121.44	7,000.00
B3-110	SNEs	156,864.00	90,488.55	57.69 %	90,488.55	57.69 %	66,375.45	0.00
	Sum:	156,864.00	90,488.55	57.69 %	90,488.55	57.69 %	66,375.45	0.00
B3-120	Other Missions	115,000.00	115,000.00	100.00 %	86,241.42	74.99 %	0.00	28,758.58
	Sum:	115,000.00	115,000.00	100.00 %	86,241.42	74.99 %	0.00	28,758.58

B.L.	Official Budget Item Desc (Fr)	Appropriation (1)	Committed (2)	% Committed (2/1)	Paid (3)	% Paid (3/1)	Balance Commitment (1-2)	Balance Payment (2-3)
B3-200	Public hearing, conf	45,000.00	29,000.00	64.44 %	3,676.59	8.17 %	16,000.00	25,323.41
B3-201	Website	60,000.00	54,450.00	90.75 %			5,550.00	54,450.00
B3-202	Info material	60,000.00	19,486.03	32.48 %	3,358.03	5.60 %	40,513.97	16,128.00
B3-203	Annual report	23,976.00	16,553.32	69.04 %			7,422.68	16,553.32
	Sum:	188,976.00	119,489.35	63.23 %	7,034.62	3.72 %	69,486.65	112,454.73
B3-300	Translation CDT	40,000.00	0.00	0.00 %			40,000.00	0.00
B3-301	Translation other	0.00					0.00	
	Sum:	40,000.00	0.00	0.00 %			40,000.00	0.00
	Sum:	4,792,345.00	3,212,402.12	Sum:	2,381,564.47	Sum:	1,579,942.88	830,837.65
			Average:	67.03 %	Average:	49.70 %		

Implementation of previous year carried over budget - fund source C8

	2011
	€
TITLE 1	
Budget	216,435.43
Committed	39,964.16
Paid	39,964.16
Carry forward	0.00
Carry over	0.00
Total expenditure	39,964.16
Cancelled carry-forwards	176,471.27
Executed	18.46%
TITLE 2	
Budget	1,160,828.86
Committed	1,083,864.69
Paid	1,083,864.69
Carry forward	0.00
Carry over	0.00
Total expenditure	1,083,864.69
Cancelled carry-forwards	76,964.17
Executed	93.37%
TITLE 3	
Budget	66,569.42
Committed	27,716.23
Paid	27,716.23
Carry forward	0.00
Carry over	0.00
Total expenditure	27,716.23
Cancelled carry-forwards	38,853.19
Executed	41.64%
TOTAL	
Budget	1,443,833.71
Committed	1,151,545.08
Paid	1,151,545.08
Carry over	0.00
Total expenditure	1,151,545.08
Cancelled carry-forwards	292,288.63
Executed	79.76%

Implementation of 2011 budget - fund source C8



Detailed budget implementation of appropriations carried forward – fund source C8

B.L.	Official Budget Item Desc (Fr)	Appropriation (1)	Committed (2)	% Committed (2/1)	Paid (3)	% Paid (3/1)	Balance Commitment (1-2)	Balance Payment (2-3)
A-1110	Contract agents	10,000.00	9,528.75	95.29 %	9,528.75	95.29 %	471.25	0.00
	Sum:	10,000.00	9,528.75	95.29 %	9,528.75	95.29 %	471.25	0.00
A-1120	Training	20,171.51	19,151.13	94.94 %	19,151.13	94.94 %	1,020.38	0.00
	Sum:	20,171.51	19,151.13	94.94 %	19,151.13	94.94 %	1,020.38	0.00
A-1160	Recruitment	160,730.77	8,429.88	5.24 %	8,429.88	5.24 %	152,300.89	0.00
	Sum:	160,730.77	8,429.88	5.24 %	8,429.88	5.24 %	152,300.89	0.00
A-1200	Staff missions	15,033.15	0.00	0.00 %			15,033.15	0.00
	Sum:	15,033.15	0.00	0.00 %			15,033.15	0.00
A-1300	Medical service	10,500.00	2,854.40	27.18 %	2,854.40	27.18 %	7,645.60	0.00
	Sum:	10,500.00	2,854.40	27.18 %	2,854.40	27.18 %	7,645.60	0.00
A-2040	Other buliding costs	37,000.00	9,699.64	26.22 %	9,699.64	26.22 %	27,300.36	0.00
	Sum:	37,000.00	9,699.64	26.22 %	9,699.64	26.22 %	27,300.36	0.00
A-2102	Subscriptions	90,872.41	54,979.49	60.50 %	54,979.49	60.50 %	35,892.92	0.00
	Sum:	90,872.41	54,979.49	60.50 %	54,979.49	60.50 %	35,892.92	0.00
A-2210	Purchase of furniture	149,660.85	149,660.85	100.00 %	149,660.85	100.00 %	0.00	0.00
	Sum:	149,660.85	149,660.85	100.00 %	149,660.85	100.00 %	0.00	0.00
A-2321	Consultation	15,000.00	1,246.51	8.31 %	1,246.51	8.31 %	13,753.49	0.00
	Sum:	15,000.00	1,246.51	8.31 %	1,246.51	8.31 %	13,753.49	0.00
A-2420	Hardware	868,295.60	868,278.20	100.00 %	868,278.20	100.00 %	17.40	0.00
	Sum:	868,295.60	868,278.20	100.00 %	868,278.20	100.00 %	17.40	0.00
B3-000	AB missions	65,569.42	27,716.23	42.27 %	27,716.23	42.27 %	37,853.19	0.00
	Sum:	65,569.42	27,716.23	42.27 %	27,716.23	42.27 %	37,853.19	0.00
B3-300	Translation CDT	1,000.00	0.00	0.00 %			1,000.00	0.00
	Sum:	1,000.00	0.00	0.00 %			1,000.00	0.00
	Sum:	1,443,833.71	1,151,545.08	Sum:	1,151,545.08	Sum:	292,288.63	0.00
			Average:	79.76 %	Average:	79.76 %		

BUDGETARY OUTTURN RECONCILIATION

Given the different basis of presentation between the budgetary and financial statements information, reconciliation is performed between the two systems, as follows:

	8 March - 31 December 2011	
	€	
	Detail	Total
Budgetary revenue outturn		1,571,424.88
<u>Impact of budgetary result (return to the European Commission)</u>		(1,571,424.88)
<u>Impact of purchase of fixed assets and depreciation</u>		
Purchase of fixed assets less unpaid assets	603,775.99	
Depreciation of assets transferred from European Commission	(3,598.77)	
Depreciation and write off fixed assets	(112,674.20)	
		487,503.02
<u>Impact of accrued expenses of the year</u>		
Carry-forwards	830,837.65	
Accrued expenses and allocated expenses	(401,416.73)	
		429,420.92
<u>(Increase)/decrease of provisions</u>		
		0.00
<u>Other impacts</u>		
Prepaid expenses	17,312.14	
Creditors	(7,237.99)	
Other corrections	(67.26)	
		10,006.89
Total adjustments		(644,494.05)
Economic result		926,930.83

BUDGETARY MANAGEMENT

Budgetary principles

The budget of ACER has been established in compliance with the principles of unity, budgetary accuracy, annuality, equilibrium, unit of account, universality, specification, sound financial management and transparency, as set out in ACER Financial Regulation.

Subsidy from the general budget of the European Union

A budget of 5,000,000€ has been allocated to ACER in 2011 from the general budget of the European Union. Together with its subsidy, ACER also received an amount of 119,000€ as percentage allocation of the EFTA contribution. On 8 March 2011, when financial autonomy was granted to ACER, commitment and payment appropriations of €4,792,345 were transferred into the accounts of ACER. On the basis of cash flow forecasts during the year an amount of €300,000 from the available appropriation has not been cashed.

In addition to the current year appropriations an amount of €1,443,833.71 has been transferred from DG ENER after the financial autonomy has been granted that represents the value of commitment and payment appropriations carried forward from the financial year 2010 to honour the commitments administered on behalf of ACER by the parent DG.

Budget and accounting management systems

In order to record and keep track of the budgetary transactions, ACER uses the financial system also used by the European Commission, ABAC, with the SAP system integrated as back-end for the accounting part. The Business Objects web platform is used as the reporting tool. The workflow access in ABAC allows for an instant audit trail and provides the authorising officer with an overview on the segregation of duties compliance as required under the 'four-eyes' principle. The inventories are managed by ACER in accordance with its Financial Regulation and the system used to record inventory items is ABAC Assets2.

Nomenclature

The nomenclature of appropriations is as follows:

- C1: Appropriations voted in the current budget
- C4: Internal assigned revenue (current year)
- C5: Internal assigned revenue (carried over)
- C8: Commitments carried forward corresponding appropriations
- C9: Commitments carried forward (without corresponding payment appropriations)
- R0: External assigned revenue (expense side)
- IC1: Universal income voted in the budget
- IC4: Internal assigned revenue
- IR1: External assigned revenue (income side)

REVENUE

For the financial year ending 31 December 2011 ACER budget has been funded by a subsidy from the general European Union budget of €5,119,000 including a percentage allocation of EFTA contribution. Until the financial autonomy the budget of ACER has been administered by the parent Directorate General for Energy. On 8 March 2011 when financial autonomy was granted to ACER, commitment and payment appropriations for €4,792,345

were transferred into the accounts of ACER. On the basis of cash flow forecasts during the year an amount of €300,000 from the available appropriation has not been cashed.

Non-budgetary revenue in the form of bank interest received on the daily account balance amounting to €10,711.93 and recorded in the accounts of ACER will be returned to the European Commission according to Article 51 of ACER Financial Regulation. Also to be returned to the European Commission is the positive result of the budgetary outturn amounting to €1,571,424.88.

EXPENDITURE

Current year appropriations – C1

Title	Heading	Original Budget	Final Budget	Commitments	Commitment execution	Payments	Payment execution
TITLE 1	EXPENDITURE RELATING TO EMPLOYEES OF THE AGENCY	3,337,957.00	3,108,457.00	2,107,521.15	67.80%	1,915,262.83	61.61%
TITLE 2	AGENCY'S BUILDING AND ASSOCIATED COSTS	471,388.00	750,888.00	509,309.54	67.83%	207,570.77	27.64%
TITLE 3	OPERATIONAL EXPENDITURE	983,000.00	933,000.00	595,571.43	63.83%	258,730.87	27.73%
	TOTAL BUDGET 2011	4,792,345.00	4,792,345.00	3,212,402.12	67.03%	2,381,564.47	49.70%

Title 1

ACER became financially autonomous as of 8 March 2011 and has used all its available options at that time to continue attracting human resources in order to implement the tasks assigned to it by the relevant directives and regulation.

The length of the recruitment process has been most of the time influenced by factors outside the Agency's control. The Agency is seeking very specific profiles and offers a remuneration package which, especially for the more senior positions, is not always competitive when compared with opportunities offered in an expanding energy sector. Moreover, its location in Ljubljana represents a challenge for the relocation of staff members' families, due to limited education and occupational opportunities. These issues resulted in late occupancy of several opened positions.

Although the Agency has managed to fill in all of the advertised position by the end of 2011, the delay in the actual taking-up of these positions had a significant impact on the Agency's ability to implement its budget. This resulted in an overall low implementation rate of 67.80% for commitment appropriation and 61.61% for payment appropriation.

Title 2

With a reduced number of human resources in the first year of its operation, ACER has managed to initiate most of its procurement procedures. The unexpected low reply-rate to most of the tender procedures, and in a few cases the absence of replies, resulted in a low implementation of the allocated budget. The limited human resources available to the Agency for running procurement procedures during most of the year resulted in a concentration of such procedures towards the end of the year, with consequent delays in the actual delivery of the ordered goods and services, implying a low implementation of the payments appropriation.

Title 3

With most of the Board of Regulators meetings taking place in locations other than Ljubljana, and a delay in the taking up duties of the seconded national experts, significant savings have occurred in the allocated budget for Title 3. Some timing delays in the reimbursements of participants to the meetings led to a low implementation of payments appropriation for the same title.

Budget transfers

During the financial year 2011 two lots of budgetary transfers took place in order to reallocated resources from areas where budgetary savings have been identified towards areas of scarce resources to ensure the achievement of the year's objectives. From a total number of 45 budgetary transfers, five transfers approved by Director Decision were made between budget titles within the limit of 10%.

The following table presents the detailed budgetary transfers made during the financial year 2011.

BUDGET TRANSFERS 2011						
Budget line	Fund source	Credit Local Key	Acceptance Date	Initial	Aménagements	Credit Available Pay
A-1100	C1	ACR.1	16/03/2011	1,340,591.00		1,340,591.00
	C1	ACR.29	10/08/2011		-45,000.00	-45,000.00
	C1	ACR.31	28/10/2011		-120,000.00	-120,000.00
A-1100	Basic salaries and corrections			1,340,591.00	-165,000.00	1,175,591.00
A-1101	C1	ACR.1	16/03/2011	311,923.00		311,923.00
	C1	ACR.31	28/10/2011		-30,000.00	-30,000.00
A-1101	Family allowances			311,923.00	-30,000.00	281,923.00
A-1102	C1	ACR.1	16/03/2011	258,533.00		258,533.00
	C1	ACR.31	28/10/2011		-25,500.00	-25,500.00
A-1102	Expatriation allowance			258,533.00	-25,500.00	233,033.00
A-1110	C1	ACR.1	16/03/2011	79,348.00		79,348.00
A-1110				79,348.00		79,348.00
A-1120	C1	ACR.1	16/03/2011	43,172.00		43,172.00
	C1	ACR.29	10/08/2011		40,000.00	40,000.00
A-1120	Training of staff			43,172.00	40,000.00	83,172.00
A-1130	C1	ACR.1	16/03/2011	52,316.00		52,316.00
A-1130				52,316.00		52,316.00
A-1131	C1	ACR.1	16/03/2011	14,088.00		14,088.00
A-1131				14,088.00		14,088.00
A-1132	C1	ACR.1	16/03/2011	17,392.00		17,392.00
A-1132				17,392.00		17,392.00
A-1140	C1	ACR.1	16/03/2011	1,983.00		1,983.00
A-1140				1,983.00		1,983.00

Budget line	Fund source	Credit Local Key	Acceptance Date	Initial	Aménagements	Credit Available Pay
A-1141	C1	ACR.1	16/03/2011	42,301.00		42,301.00
A-1141				42,301.00		42,301.00
A-1142	C1	ACR.1	16/03/2011	158,827.00		158,827.00
	C1	ACR.31	28/10/2011		-54,000.00	-54,000.00
A-1142	Removal expenses			158,827.00	-54,000.00	104,827.00
A-1143	C1	ACR.1	16/03/2011	70,565.00		70,565.00
A-1143				70,565.00		70,565.00
A-1160	C1	ACR.1	16/03/2011	164,100.00		164,100.00
A-1160				164,100.00		164,100.00
A-1161	C1	ACR.1	16/03/2011	21,000.00		21,000.00
A-1161				21,000.00		21,000.00
A-1162	C1	ACR.1	16/03/2011	276,954.00		276,954.00
A-1162				276,954.00		276,954.00
A-1163	C1	ACR.1	16/03/2011	264,510.00		264,510.00
A-1163				264,510.00		264,510.00
A-1170	C1	ACR.29	10/08/2011		10,000.00	10,000.00
A-1170	Interim staff				10,000.00	10,000.00
A-1171	C1	ACR.1	16/03/2011	10,000.00		10,000.00
	C1	ACR.29	10/08/2011		-10,000.00	-10,000.00
A-1171	Administrative publications			10,000.00	-10,000.00	0.00
A-1172	C1	ACR.1	16/03/2011	10,000.00		10,000.00
A-1172				10,000.00		10,000.00
A-1173	C1	ACR.1	16/03/2011	27,423.00		27,423.00
A-1173				27,423.00		27,423.00

Budget line	Fund source	Credit Local Key	Acceptance Date	Initial	Aménagements	Credit Available Pay
A-1200	C1	ACR.1	16/03/2011	142,031.00		142,031.00
A-1200				142,031.00		142,031.00
A-1300	C1	ACR.1	16/03/2011	15,600.00		15,600.00
	C1	ACR.29	10/08/2011		5,000.00	5,000.00
A-1300	Medical services			15,600.00	5,000.00	20,600.00
A-1301	C1	ACR.1	16/03/2011	1,000.00		1,000.00
A-1301				1,000.00		1,000.00
A-1401	C1	ACR.1	16/03/2011	9,800.00		9,800.00
	C1	ACR.29	10/08/2011		4,500.00	4,500.00
A-1401	Staff welfare			9,800.00	4,500.00	14,300.00
A-1410	C1	ACR.1	16/03/2011	4,500.00		4,500.00
	C1	ACR.29	10/08/2011		-4,500.00	-4,500.00
A-1410	Staff committee			4,500.00	-4,500.00	0.00
A-2020	C1	ACR.1	16/03/2011	15,000.00		15,000.00
A-2020				15,000.00		15,000.00
A-2030	C1	ACR.1	16/03/2011	50,000.00		50,000.00
	C1	ACR.29	10/08/2011		-16,000.00	-16,000.00
A-2030	Building security			50,000.00	-16,000.00	34,000.00
A-2040	C1	ACR.1	16/03/2011	10,000.00		10,000.00
	C1	ACR.29	10/08/2011		3,000.00	3,000.00
	C1	ACR.31	28/10/2011		42,000.00	42,000.00
A-2040	Other building costs			10,000.00	45,000.00	55,000.00
A-2041	C1	ACR.1	16/03/2011	5,000.00		5,000.00
	C1	ACR.29	10/08/2011		-5,000.00	-5,000.00
A-2041	Equipment maintenance			5,000.00	-5,000.00	0.00

Budget line	Fund source	Credit Local Key	Acceptance Date	Initial	Aménagements	Credit Available Pay
A-2100	C1	ACR.1	16/03/2011	5,000.00		5,000.00
	C1	ACR.29	10/08/2011		10,000.00	10,000.00
A-2100	Consumables			5,000.00	10,000.00	15,000.00
A-2101	C1	ACR.1	16/03/2011	1,000.00		1,000.00
	C1	ACR.31	28/10/2011		60,000.00	60,000.00
A-2101	Software			1,000.00	60,000.00	61,000.00
A-2102	C1	ACR.1	16/03/2011	82,388.00		82,388.00
	C1	ACR.29	10/08/2011		10,000.00	10,000.00
	C1	ACR.31	28/10/2011		-15,000.00	-15,000.00
A-2102	IT Subscriptions			82,388.00	-5,000.00	77,388.00
A-2210	C1	ACR.1	16/03/2011	15,000.00		15,000.00
	C1	ACR.29	10/08/2011		10,000.00	10,000.00
A-2210	Purchase of furniture			15,000.00	10,000.00	25,000.00
A-2220	C1	ACR.1	16/03/2011	5,000.00		5,000.00
	C1	ACR.29	10/08/2011		30,000.00	30,000.00
	C1	ACR.31	28/10/2011		-10,000.00	-10,000.00
A-2220	Transportation costs			5,000.00	20,000.00	25,000.00
A-2230	C1	ACR.1	16/03/2011	3,500.00		3,500.00
A-2230				3,500.00		3,500.00
A-2231	C1	ACR.1	16/03/2011	3,500.00		3,500.00
	C1	ACR.29	10/08/2011		23,000.00	23,000.00
A-2231	Subscriptions			3,500.00	23,000.00	26,500.00
A-2300	C1	ACR.1	16/03/2011	25,000.00		25,000.00
A-2300				25,000.00		25,000.00
A-2310	C1	ACR.1	16/03/2011	6,000.00		6,000.00
	C1	ACR.29	10/08/2011		-5,000.00	-5,000.00
	C1	ACR.31	28/10/2011		-500.00	-500.00
A-2310	Bank charges			6,000.00	-5,500.00	500.00

Budget line	Fund source	Credit Local Key	Acceptance Date	Initial	Aménagements	Credit Available Pay
A-2320	C1	ACR.1	16/03/2011	20,000.00		20,000.00
	C1	ACR.31	28/10/2011		-20,000.00	-20,000.00
A-2320		Legal expenses		20,000.00	-20,000.00	0.00
A-2321	C1	ACR.1	16/03/2011	50,000.00		50,000.00
	C1	ACR.29	10/08/2011		-30,000.00	-30,000.00
	C1	ACR.31	28/10/2011		191,000.00	191,000.00
A-2321		Consultation		50,000.00	161,000.00	211,000.00
A-2400	C1	ACR.1	16/03/2011	6,000.00		6,000.00
A-2400				6,000.00		6,000.00
A-2410	C1	ACR.1	16/03/2011	80,000.00		80,000.00
	C1	ACR.29	10/08/2011		-40,000.00	-40,000.00
	C1	ACR.31	28/10/2011		-11,000.00	-11,000.00
A-2410		Telecommunication		80,000.00	-51,000.00	29,000.00
A-2420	C1	ACR.1	16/03/2011	44,000.00		44,000.00
	C1	ACR.31	28/10/2011		23,000.00	23,000.00
A-2420		Hardware		44,000.00	23,000.00	67,000.00
A-2421	C1	ACR.1	16/03/2011	25,000.00		25,000.00
A-2421				25,000.00		25,000.00
A-2422	C1	ACR.1	16/03/2011	5,000.00		5,000.00
	C1	ACR.29	10/08/2011		-5,000.00	-5,000.00
A-2422		Phones		5,000.00	-5,000.00	0.00
A-2423	C1	ACR.1	16/03/2011	15,000.00		15,000.00
	C1	ACR.29	10/08/2011		15,000.00	15,000.00
	C1	ACR.31	28/10/2011		20,000.00	20,000.00
A-2423		Video conference equipment		15,000.00	35,000.00	50,000.00

Budget line	Fund source	Credit Local Key	Acceptance Date	Initial	Aménagements	Credit Available Pay
B3-000	C1	ACR.1	16/03/2011	47,200.00		47,200.00
B3-000				47,200.00		47,200.00
B3-001	C1	ACR.1	16/03/2011	292,640.00		292,640.00
B3-001				292,640.00		292,640.00
B3-002	C1	ACR.1	16/03/2011	28,320.00		28,320.00
	C1	ACR.29	10/08/2011		-5,000.00	-5,000.00
B3-002	BoA meetings			28,320.00	-5,000.00	23,320.00
B3-004	C1	ACR.1	16/03/2011	59,000.00		59,000.00
	C1	ACR.29	10/08/2011		-40,000.00	-40,000.00
B3-004	Experts missions			59,000.00	-40,000.00	19,000.00
B3-010	C1	ACR.1	16/03/2011	10,000.00		10,000.00
B3-010				10,000.00		10,000.00
B3-020	C1	ACR.1	16/03/2011	20,000.00		20,000.00
B3-020				20,000.00		20,000.00
B3-100	C1	ACR.1	16/03/2011	35,000.00		35,000.00
	C1	ACR.29	10/08/2011		-15,000.00	-15,000.00
B3-100	Boards missions			35,000.00	-15,000.00	20,000.00
B3-110	C1	ACR.1	16/03/2011	326,864.00		326,864.00
	C1	ACR.29	10/08/2011		-120,000.00	-120,000.00
	C1	ACR.31	28/10/2011		-50,000.00	-50,000.00
B3-110	SNEs			326,864.00	-170,000.00	156,864.00
B3-120	C1	ACR.1	16/03/2011	15,000.00		15,000.00
	C1	ACR.29	10/08/2011		100,000.00	100,000.00
B3-120	Other missions			15,000.00	100,000.00	115,000.00
B3-200	C1	ACR.1	16/03/2011	45,000.00		45,000.00
B3-200				45,000.00		45,000.00

Budget line	Fund source	Credit Local Key	Acceptance Date	Initial	Aménagements	Credit Available Pay
B3-201	C1	ACR.1	16/03/2011	20,000.00		20,000.00
	C1	ACR.29	10/08/2011		40,000.00	40,000.00
B3-201		Website set-up		20,000.00	40,000.00	60,000.00
B3-202	C1	ACR.1	16/03/2011	5,000.00		5,000.00
	C1	ACR.29	10/08/2011		55,000.00	55,000.00
B3-202		Information material		5,000.00	55,000.00	60,000.00
B3-203	C1	ACR.1	16/03/2011	38,976.00		38,976.00
	C1	ACR.29	10/08/2011		-15,000.00	-15,000.00
B3-203		Annual report production		38,976.00	-15,000.00	23,976.00
B3-300	C1	ACR.1	16/03/2011	10,000.00		10,000.00
	C1	ACR.29	10/08/2011		30,000.00	30,000.00
B3-300		Translations CdT		10,000.00	30,000.00	40,000.00
B3-301	C1	ACR.1	16/03/2011	30,000.00		30,000.00
	C1	ACR.29	10/08/2011		-30,000.00	-30,000.00
B3-301		Translations other		30,000.00	-30,000.00	0.00
			Sum:	4,792,345.00	0.00	4,792,345.00

Carry forward appropriation – fund source C8

Title	Heading	Budget carried forward from 2010	Commitments	Commitment execution	Payments	Payment execution
TITLE 1	EXPENDITURE RELATING TO EMPLOYEES OF THE AGENCY	216,435.43	39,964.16	18.46%	39,964.16	18.46%
TITLE 2	AGENCY'S BUILDING AND ASSOCIATED COSTS	1,160,828.86	1,083,864.69	93.37%	1,083,864.69	93.37%
TITLE 3	OPERATIONAL EXPENDITURE	66,569.42	27,716.23	41.64%	27,716.23	41.64%
	TOTAL	1,443,833.71	1,151,545.08	79.76%	1,151,545.08	79.76%

Title 1

Appropriations carried forward under Title 1 related mainly to recruitment costs for the vacant positions published during 2010. The actual cost of reimbursements turned out to be significantly less than initially estimated. The unused amount is to be returned to the European Commission.

Title 2

Most of the appropriations carried forward under this title have been consumed in order to honour the obligations ACER had towards its suppliers. The unused portion is to be returned to the European Commission.

Title 3

The appropriations carried forward under Title 3 were mainly used to cover the reimbursement of costs for the Boards' members participating in the organised meetings during 2010. The lower than expected costs resulted in some significant budgetary savings and the unused amount is to be returned to the European Commission.

PART III – ESTABLISHMENT PLAN

The numbers of temporary posts as authorised under the 2011 budget are as follows:

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