

**72<sup>nd</sup> ACER Board of Regulators Meeting**  
**Wednesday, 24 January 2018, 09.00 – 16.00**  
**Hotel Balkan, 5 Sveta Nedelya square, Sofia, Bulgaria**

**Minutes (Final)**

Member States	Name <sup>[1]</sup>	Member States	Name
Austria (E-Control)	M: Wolfgang Urbantschitsch A: Dietmar Preinstorfer	Italy (ARENAI)	M: Clara Poletti A: Francesco Cariello O: Ilaria Galimberti
Belgium (CREG)	O: Geert Van Hauwermeiren	Latvia (PUC)	O: Lija Makare
Bulgaria (EWRC)	A: Evgenia Haritonova	Lithuania (NCC)	M: Inga Žilienė O: Irma Vasarytė
Croatia (HERA)	A: Sonja Tomašić Škevin O: Nataša Mihajlović	Luxemburg (ILR)	M: Camille Hierzig
Cyprus (CERA)	A: Alkis Philippou	Malta (REWS)	A: Phyllis Micallef
Czech Republic (ERO)	M: Vladimír Outrata A: Martin Sik O: Vladimir Vlk O: Kateřina Firlová	Netherlands (ACM)	A: Remko Bos O: Maarten Klijn
Denmark (DERA)	Excused	Poland (URE)	A: Małgorzata Kozak
Estonia (ECA)	A: Külli Haab	Portugal (ERSE)	A: Alexandre Santos O: Natalie McCoy
Finland (EV)	A: Antti Paananen	Romania (ANRE)	O: Florin Tobescu
France (CRE)	A: Hélène Gassin O: Michaël Mastier	Slovakia (RONI)	O: Marian Záhora
Germany (BNetzA)	M: Annegret Groebel O: Alexander Linov	Slovenia (AGEN-RS)	A: Bojan Kuzmič
Greece (RAE)	A: Nektaria Karakatsani	Spain (CNMC)	M: Fernando Hernández O: Gema Rico
Hungary (HEA)	O: Gergely Szabo O: Adam Krinszki	Sweden (Ei)	M: Anne Vadasz Nilsson
Ireland (CER)	M: Garrett Blaney (BoR Chair) O: Paul McGowan O: Seamus Byrne	United Kingdom (Ofgem)	A: Andrew Burgess

ACER	Alberto Pototschnig, Fay Geitona
European Commission	Michael Schuetz
CEER	Andrew Ebrill

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

### Draft MEETING CONCLUSIONS SUMMARY – 72<sup>nd</sup> BoR, 24 January 2018

1. *The minutes from the 71st BoR meeting were approved, as was the agenda for the 72nd meeting with the withdrawal of item 3.2b - the ACER opinion on the participation of Switzerland in the European platforms for the exchange of standard products for balancing energy. The Director withdrew his proposal for an opinion as it seems that there might be soon a clearer picture as to the shape of a possible agreement of the EU with Switzerland.*
2. *No conflict of interest was declared by the participants.*
3. *The Chair informed about the cancellation of the November BoR meeting.*
4. *The Chair informed about the outcome of the BoR electronic procedures. The BoR endorsed the Agency's draft Single Programming document 2019-2021 and supported the 2019 budget proposal.*
5. *The BoR provided its favourable opinion on the Agency's decision on the request of the Regulatory Authorities of AT, FR, IT, SL to extend the period for agreement on the amended proposal for complementary regional intraday auctions in the capacity calculation region Italy North.*
6. *The BoR provided its favourable opinion on the Agency's decision on the request of the Regulatory Authorities of It and GR to extend the period for agreement on the amended proposal for complementary regional intraday auctions in the capacity calculation region Greece-Italy.*
7. *The Director reported that, as per usual practice, in line with the Agency's policy for the prevention and management of conflicts of interest, Members and Alternates of the Board of Regulators, Agency Working Group Chairpersons and Vice-Chairpersons, and Task Force Convenors are to submit Declarations of Interest and their CVs. All Dols and CVs should be submitted to the BoR Secretariat **by 31 January 2018**.*
8. *The EC, Mr Schuetz, provided the regular update on the negotiations on the CEP; on the Electricity Directive and Regulation recast the Council agreed on a general approach in December. The EP ITRE committee vote will likely be on 21 February. He then reported on the key issues. The next EWP will be on 20 February to discuss the ACER Regulation recast and the Bulgarian Presidency would like to agree a general approach soon. On the ACER Regulation recast critical issues include the possibility to give ACER new tasks (including decisions), and other issues of internal governance such as the possibility for the BoR to propose amendments to the Director's proposals. There seems to be consensus that ACER should be given the right to collect fees for REMIT. The ITRE vote on the ACER Regulation recast is scheduled for 21 February.*
9. *The BoR Chair presented the proposal on the informal workshop in March and the subsequent Summit on future challenges of the IEM. The proposal aims to facilitate the developing of a joint understanding and, if possible, an agreement on the high-level objectives of, as well as of the steps towards the internal workshop in March and the BoR Summit later this year (in December) including, if possible, a joint ACER-CEER output. **The BoR agreed on the proposed way forward and the objectives, whilst noting that the approach and discussions should not prejudice the formal deliberation processes of each Institution in terms of approving any final outputs.***
10. *The BoR Chair informed the members about the workshop that the EC will organise following the discussions at the last IMP NC on digitalisation. In addition to the ACER Director and HoDs the Chair will identify the most relevant people who also work on the CEER digital agenda for participation.*

11. The Director presented the revised 2018 ACER Work Programme. With respect to the 2018 Programming Document adopted by the Administrative Board in September 2017, the current version has been adapted to reflect the level of resources assigned to the Agency in the 2018 EU budget, and as a result a number of activities have been deprioritised or limited in their scope in order to bring the WP into line with the available resources. There are three different priority levels as discussed at the December BoR: Critical, Important, and Relevant. Most resources will be allocated to critical tasks and to a lesser extent to important tasks
12. Relevant tasks will be significantly de-scoped and performed to the minimum extent compatible with complying with the legislative mandate. **The BoR approved the revised 2018 ACER Work Programme, and reiterated its concerns about the budgetary constraints.** This will be submitted to the AB for adoption
13. .The BoR agreed the establishment and composition of the review panel consisting of the BoR Chair, Vice-Chair, Mr Jureković as the member and Mr Bos as the alternate. The ACER Director will attend the review panel meetings as an observer. The Review Panel shall convene on 13 March 2018 to assess the submissions.
14. The Director presented the Agency's Opinion on ENTSO-E's Annual Winter Outlook and Summer Review for the BoR's Opinion. The Agency welcomes the improvements in the WOR 2017/18, in particular the chapters on stress tests and risk assessments, and on multiple outages and encourages ENTSO-E further to investigate these issues and incorporate them in future seasonal outlooks. **The Opinion was given the favourable opinion of the BoR (by consensus of the members present or represented).**
15. The Director informed the BoR members that the Agency is working on improving access to information for stakeholders and thus would like to make some key information on the Agency's website accessible, relating to the approvals of those terms and conditions or methodologies (TCMs), developed under the network codes/guidelines (NC/GL), which require coordination of at least two NRAs. The BoR supported increasing transparency with regard to such decisions and the decision making process and suggested also developing a public tracker for reflecting the state of the progress at each stage along with appropriate links to the relevant documents. The Director welcomed this suggestion while noting that this would be a project for a longer term given the resources constraints. **The BoR agreed to the publication of the information relating to the above issues subject to some scrutiny to ensure the protection of confidential information (particularly regarding the information related to the referral of the decisions to ACER) with due respect and clarity to the appropriate distinction between responsibilities of the ERF (all NRAs decisions) from ACER ones.**
16. The BoR Chair provided an update to the BoR members on the arrangements for the BoR's technical advice to the AB for the selection process of the next Director. **The BoR members agreed the revised procedural arrangements.**
17. The Director informed the BoR that the call for NRAs legal experts to join LEN was opened on 24 December. Interested NRAs' legal experts who wish to join the LEN from the start are invited to apply by 31 January 2018 indicating their areas of expertise, so that, in establishing the LEN panels, the LEN co-Coordinators will be able to invite experts with the most relevant expertise for the issue to be considered. The Director also explained that the NRAs can nominate a contact person, whilst this is optional. **The Director has appointed Mr Sik and Mr Martinet as the LEN co-coordinators.**
18. Mr Hernandez provided an update on the ongoing work in the AEWG as well as on the latest status of the Electricity Regulation recast. The EP is working on its compromise proposal, and a trilogue would start after EP vote. The proposals in the latest Council text threaten to increase costs for consumers. There are concerns about the current wording of Articles 12, 13 and 14. The EC and ACER supported those concerns. It was discussed how best to consider the above provisions and develop a joint position through CEER. The Chair suggested to bring into this also the ACER's expertise. An update will be provided at the next meeting

19. The Director presented the issue of language waivers for ACER decisions again after an initial discussion at the previous BoR meeting. The Director reiterated that, although the safest option in legal terms would be the translation of the ACER Decisions in all languages, language waivers represent perhaps the most pragmatic option to address this problem. The Director sought clarification from BoR members who are not bound by national language obligations and thus can use the language waivers with the view to restricting the need for translations ideally to a few countries. He also noted that, when the Agency steps in to take decisions on terms and conditions or methodologies, it does so as a result of NRAs failing to agree, or upon their joint request. If the NRAs were able to agree on the decision, they would have to translate it in order to adopt it at national level. Therefore, an argument could be made, also on the basis of recital (20) of Regulation (EC) No 713/2009, that NRAs could support the translation of the Agency's decisions. Some BoR members reiterated their concerns in respect of the compliance with the legal obligation. A number of BoR members were concerned about providing a waiver and some were also concerned to committing on a regular basis to support the translations of all ACER decisions. **The BoR agreed that the legal implications and risks of the various options along with existing practices and obligations in other Agencies will be considered by the LEN which is now established.** The Director noted the urgency given the upcoming ACER decision on intraday cross-zonal gate opening and closure time.
20. The Director informed the BoR members on the status of the intraday gate times methodology, which was referred to ACER (on 24 October). A consultation was opened by the Agency on 9 January, particularly on the proposed amendments by the Agency. All interested stakeholders are invited to submit their comments by 30 January 2018. The consultation document identifies the following topics: The feasibility of earlier regional GOTs; the establishment of an EU-wide harmonised GOT and the clarification of its effective implementation date; the review of the gate closure times for specific bidding zone borders. The final decision is expected by March. Two members expressed their concerns.
21. Mr Hernandez informed the Director about the request for the extension of the deadline of the all NRAs decisions for the IDCZCP which will be soon submitted to ACER for decision.
22. Ms Poletti provided an update on the Quo Vadis study commissioned by the European Commission and the feedback that was provided by NRAs which was sent to the EC on 12 January. A publishable version of the comments will be finalised by the GWG. The GWG will keep working on those issues along with the work on FROG under CEER, which tries to build harmonised positions on the way forward. The EC also informed the BoR that the time schedule for the Quo Vadis study is Q1 and the EC will launch another study this year on the sector coupling.
23. The Director informed the BoR members on the Agency's analysis document for the periodic national tariff decision-making. As the code on tariffs has entered into force, before each NRA takes the final decision on the tariff structure, NRAs (or TSOs) should hold a public consultation and ACER has to analyse certain elements of the consultation document. The planning was presented (which will be updated) for such consultations, and some suggestions such as having the consultations in English which is very important for stakeholders and the exchange of information between NRAs and ACER. The Director invited NRAs experts who work on tariffs to be involved in this work for a couple of months through "sort term expert secondments" (e.g. 2 months) to ACER. With regard to the substance of the ACER analysis, ACER should analyse both completeness and compliance. The main question for ACER is what does the 'reference price method' entail? Some aspects will be outside the scope of the review of ACER and we shall start preparing some guidance. He will report back at the next BoR meeting on the content. One member suggested that given tariffs structures are very complicated, ACER should carefully consider what to analyse against the main objectives of the codes. The GWG Chair suggested looking into those issues at the WG. **The BoR members took note of the upcoming analysis of the Agency.**

24. Ms Groebel provided an update on the AMIT WG and the REMIT CG (RCG). The RCG and the AMIT WG agreed to have four back to back meetings per year. Ms Groebel referred to the updates at the last meeting as there have been no AMIT or REMIT CG meetings since the last BoR. Their next meetings are scheduled for 21 and 22 February and an update will be provided at the March BoR. The Director noted that following Mr Godfried's presentation at the December BoR meeting a number of alerts were disseminated to some NRAs (those being part of the CMT) on 9 January.
25. **The members agreed the revised 2018 calendar which includes the cancellation of the November BoR meeting.**

Part A: Items for discussion and/or decision

## 1. Opening

### 1.1. Approval of the agenda

BoR Decision agreed: (D 1)

*The agenda was approved subject to the withdrawal of item 3.2b a. The Director withdrew his proposal for an ACER opinion on the participation of Switzerland in the European platforms for the exchange of standard products for balancing energy as it seems that there might be soon a clearer picture as to the shape of a possible agreement of the EU with Switzerland.*

### 1.2. Approval of the minutes of the 71<sup>st</sup> BoR meeting

BoR Decision agreed: (D 2)

*The minutes of the 71<sup>st</sup> BoR were approved.*

The BoR Chair informed about the cancellation of the BoR November meeting. The remaining BoR meetings remain as scheduled.

The Chair thanked the EWRC for hosting the meetings as well as for the impeccable organisation of the dinner the previous night.

## 2. Updates from the Director, E, aCnd BoR Chair

### 2.1. Update on recent developments

#### a) ACER

##### ➤ ACER conflict of interest policy

The Director informed that, in line with the Agency's policy for the prevention and management of conflicts of interest, Members and Alternates of the BoR, AWG Chairpersons and Vice-Chairpersons, and Task Force Convenors are required to submit Declarations of Interest and their CVs each year. The AWG Chairs Vice-Chairs and TF Convenors who are also members or alternates of the Board of Regulators shall submit only one DoI. The Director explained that while the Declarations of Interest (DoIs) are to be

submitted on an annual basis, even if they remain substantially unchanged, CVs (in the specific format), are to be submitted only the first year and are, subsequently, updated when and if necessary.

*Dols and CVs are to be sent to the BoR Secretariat by 31 January.*

**b) European Commission**

➤ Update on Clean Energy Package proposals

Mr Schuetz from the EC provided an update on the negotiations on the CEP: On the Electricity Directive and Regulation recast the Council agreed on a general approach in December. The EP ITRE Committee vote will likely be on 21 February. The key issues include *inter alia*: Emissions' thresholds for capacity mechanisms, rules on Bidding Zone Configuration and Congestion Management (Articles 13, 14).and the phasing out of regulated prices. The discussions on the approach on the adequacy assessment (national versus European). The discussions at the Council about the limitation of the capacity of the EC to adopt new network codes and Guidelines. The next EWP on 20 February will discuss the ACER Regulation recast and the Bulgarian Presidency would like to agree a general approach soon. On the ACER Regulation recast critical issues include the possibility to give ACER new tasks (involving decision making powers), and other issues of internal governance. There seems to be consensus that ACER should be given the right to collect fees for REMIT. The ITRE vote on the ACER Regulation recast is scheduled for 21 February.

**c) BoR Chair**

➤ BoR internal workshop and preparations for BoR Summit

The last BoR agreed to hold an informal orientation brainstorming discussion on future IEM challenges, in the margins of the March BoR, ahead of a formal Summit which was postponed for later on in the year to benefit from more clarity on the CEP framework and the presence of the new Director.

The BoR Chair presented a proposal on the informal workshop in March and the subsequent Summit on future challenges for the IEM planned for December with emphasis on the wholesale market arrangements on the basis of a note circulated. The aim is to facilitate developing of a joint understanding and, if possible, an agreement on the high-level objectives of as well as of the steps towards, the internal workshop and the BoR Summit including, if possible, a joint ACER-CEER output. The objectives set for the March workshop relate to developing a framework of future challenges that need to be addressed post-CEP by identifying the key issues as well as defining the next steps on the joint output after the BoR Summit and a first roadmap to the BoR Summit. The Summit objective will be to refresh (after the Bridge) the discussion on future challenges in a holistic way against an evolving IEM framework which is radically changing as a result of the EC proposals on the CEP as well as the anticipated gas market design proposals by the EC expected in 2020; and to pursue the dialogue with stakeholders at a more strategic level beyond our "business as usual" agenda.

The BoR agreed on the proposed way forward and the objectives whilst noting that the approach and discussions should not prejudice the formal deliberation processes of each Institution in terms of approving any final outputs.

The BoR Chair informed the members about the workshop that the EC will organise following the discussions at the last IMP NC on data provision and digitalisation. In addition to the ACER Director and HoDs the Chair will identify the most relevant people who also work on the CEER digital agenda for participation.

### 3. Items for BoR Opinion, endorsement or agreement

#### 3.1. Cross-sectoral

##### a) ACER Work Programme 2018 revision

The Director presented the revised Programming Document 2018 - 2020, which also includes the 2018 Work Programme. The current version has been adapted to reflect the level of resources assigned to the Agency in the 2018 EU Budget, with only a modest increase in the budget (3.4%) and a reduction of one post compared to 2017. This level of resources is significantly lower than what the Administrative Board proposed and on which the version of the 2018 Programming Document adopted in September 2017 was based. Therefore, in revising the Work Programme for 2018 a number of activities have been deprioritised or descoped, in order to bring it into line with the available resources. There are three different priority levels as discussed at the December BoR: Critical, Important, and Relevant. Most resources will be allocated to critical tasks and to a lesser extent to important tasks. Within the critical activities the revised WP sets out the following: all activities related to the implementation, monitoring and improvements/amendments of network codes and Guidelines, with the only exception of the Gas Congestion Report and the activities related to the Gas Regional Initiative; a number of activities in the TSO-cooperation and infrastructure area; decisions which are referred to the Agency for adoption; a number of opinions that the Agency may be required to issue, notably Peer Review opinions and opinions on TSO certifications; all activities required for the effective monitoring according to REMIT - except the review of the REMIT operations and rulebooks and the REMIT annual report; activities related to the new Gas Security of Supply Regulation; a Market Monitoring Report focusing only on the main developments and barriers in wholesale electricity and gas markets, including market effects monitoring.

A number of other tasks are significantly de-scoped and performed to the minimum extent (e.g. slimming down the Congestion and Balancing IMRs and PCI Reports, reducing the scope of the Opinions on the ENTSOs' Annual Reports and Annual Work Programmes etc.) compatible with complying with the legislative mandate.

The Director also reminded the members that on 16 January an EP was launched for the 2019 SPD endorsement and the BoR supportive opinion on the 2019 budget. 23 members participated and all endorsed the SPD and provided a supportive opinion on the 2019 Budget. This is now submitted for AB EP for adoption.

Mr Blaney reiterated the concerns on the resources constraints which heavily impact on the Agency's and NRAs' activities.

*The ACER 2018 revised Work Programme was approved.*

##### b) Appointment of the review panel

The BoR Chair sought the BoR's agreement that the review of the DoI/CV submissions be carried out on the same basis as in previous years by the BoR Review Panel and on the establishment and composition of the review panel with Mr Jureković as the member and Mr Bos as the alternate. The Review Panel shall convene in the margins of the March BoR meeting to discuss any issues arising from the submissions.

*The BoR agreed the establishment and composition of the review panel.*

### 3.2. Electricity

#### a) Opinion on ENTSO-E's Annual Winter Outlook and Summer Review

##### Winter Outlook Report 2017/2018

The Director presented the draft ACER opinion. The Winter Outlook Report (WOR) 2017/18 reports on the winter period from 29 November 2017 to 1 April 2018. The draft opinion welcomes the improvements in the WOR 2017/18, in particular the additional chapter on stress tests and risk assessments, and the chapter on multiple outages which provides valuable insight to how specific events such as generation outages, transmission infrastructure outages, cyber-attacks, human error and extreme weather events can have a high and often unforeseen impact on adequacy and security of supply in general. The Agency thus encourages ENTSO-E further to investigate these issues and incorporate them in future seasonal outlooks and reiterates its request to ENTSO-E to:

- Start assessing voltage-related issues and the effect of the decreasing trend of flexible generation capacity on it, and
- Perform market simulations to understand how both upward and downward adequacy crises affect electricity prices and market behaviour.

The summer Review 2017 (SR) covers the period from 31 May to 1 October 2017. The SR 2017 states that electricity demand was close to the one predicted in the Summer Outlook report 2017. Beyond this point, there is no additional comparison between the forecast of the Summer Outlook report 2017 and the SR 2017, which would transparently indicate potential improvements of future forecasts and help improve the overall quality of the seasonal adequacy outlooks.

*The BoR provided its favourable opinion on the draft ACER Opinion on ENTSO-E's Annual Winter Outlook and Summer Review by consensus of the members present or represented.*

#### b) Opinion on the participation of Switzerland in the European platforms for the exchange of standard products for balancing energy

*This item was withdrawn from the agenda.*

#### c) Information on the ACER website on decisions on terms, conditions and methodologies under the codes and GL.

The Director informed the BoR members that the Agency is working on improving access to information for stakeholders and thus ACER would like to make accessible key information on the Agency's website related to the approvals of those terms and conditions or methodologies, developed under the network codes/guidelines (NC/GL), which require coordination of at least two NRAs. He sought the NRAs' agreement to the publication of ERF/NRAs common documents addressed to the TSOs/NEMOs requesting amendments of such proposals and addressed to the Agency providing info on the failure to reach agreement on such proposals or agreeing their referral to ACER or requesting an extension of the deadline.

The Agency will also seek TSOs/NEMOs' agreement to publish TSOs/NEMOs' documents on its website. *The BoR strongly endorsed the need for more transparency in the process of the approval of the terms, conditions, and methodologies of the network codes and Guidelines and suggested developing a public tracker for reflecting the state of the progress at each stage along with appropriate links to the relevant documents. The BoR agreed to the publication of the information relating to the above issues on the ACER website subject to further exploring the detailed arrangements to ensure some scrutiny for the*

protection of confidential information (particularly regarding the information related to the referral of the decisions to ACER) and with due clarity to the distinction between responsibilities of the ERF (all NRAs decisions) from ACER ones. It was also clarified that all NRAs decisions are already public on the CEER website.

#### 4. Cross-sectoral

##### 4.1. Update on the arrangements for the BoR's technical advice to the AB for the selection process of the Director

The BoR Chair updated the members on the latest discussions at the AB on the process and practical arrangements for the appointment of the Director endorsed by the BoR at the December meeting.

*The BoR agreed the revised arrangements for the BoR's technical advice to the AB for the selection process of the new ACER Director.*

##### 4.2. LEN update: nomination of experts

The Director informed the BoR that he opened the call for NRAs legal experts to join LEN on 24 December. Applicants are invited to indicate, in the application form, their areas of expertise, so that, in establishing the LEN panels, the LEN co-Coordinators will be able to invite experts with the most relevant expertise for the issue to be considered. Interested NRAs' legal experts who wish to join the LEN from the start are invited to apply by 31 January 2018. The LEN rules also foresee the possibility for NRAs to nominate a contact person, which he clarified that it is optional. The Director informed the BoR that he appointed Mr Sik and Mr Martinet as the two LEN co-coordinators.

#### 5. Electricity

##### 5.1. Important updates (NC implementation)

Mr Hernandez made a presentation on the key issues emerging from the CEP negotiations. The Council has agreed its compromise at the meeting on 18 December and the EP is working on its compromise proposal. In the discussions he reiterated that NRAs have concerns about the current wording of Articles 12, 13 and 14 and that the proposals in the latest Council text threaten to increase costs for consumers. He then explained in detail that the Council text rather than increasing cross-zonal trade, reduces it. The other issue relates to the extensive use of redispatching as congestion management method which reduces competition and liquidity on organized markets and lead to significant inefficiencies. In terms of the next steps, Mr Hernandez pointed out that NRAs firmly believe that an adequate bidding zone configuration (as foreseen in the CACM Regulation) is the most effective and efficient solution in the short- to medium term.

Mr Schuetz noted that the EC shares the concerns with regard to Articles 13 and 14 and despite the fierce negotiations, the EC will reiterate those points. There are also concerns in legal terms whether those revised provisions are precise enough to allow their proper implementation.

The Director also shared the concerns.

The BoR discussed how best to bring these points to the attention of the Council and make concrete suggestions for amendments, notably through CEER.

This issue will be pursued at the EWG and brought to the March GA for a decision. An update will be provided to the BoR.

## 5.2. Language waiver letters for ACER Decisions update

The Director presented this issue. At the last BoR this issue was discussed. He reiterated that, notwithstanding the concerns expressed about the legal obligations, the obligation to translate such ACER decisions could be extremely detrimental in terms of timing and the costs and thus pointed to the need to come up with a pragmatic approach (possibly based on language waivers). Given the concerns at the last meeting, the Director invited the members to clarify which members are bound by national language obligations and thus cannot use the language waivers, with a view to restricting the need for translations ideally to a few countries. He also noted that, when the Agency steps in to take decisions on terms and conditions or methodologies, it does so as a result of NRAs failing to agree, or upon their joint request. If the NRAs were able to agree on the decision, they would have to translate it in order to adopt it at national level. Therefore, an argument could be made, also on the basis of recital (20) of Regulation (EC) No 713/2009, that NRAs could support the translation of the Agency's decisions.

The Director asked the members' feedback on how many members could assist ACER in translations. He considered that while there is indeed an obligation for ACER to translate, the assistance of NRAs could be perfectly legitimate. The Agency would of course take full responsibility of such translations.

Several members were concerned about the legal implications and potential challenges on the use of the language waivers. Several members could not accept committing on a regular basis to support the translations of all ACER decisions. It was proposed instead to explore further the legal implications through the LEN.

The Director supported the revision of the whole timeline for the decisions that would entail, in practice that the decision be ready ahead of the deadline and then circulated to NRAs for translations. Subsequently, it could go to ACER for reformatting it so that it would be issued in all languages.

*The BoR agreed that the legal implications and risks of the various options along with existing practices and obligations in other Agencies will be considered by the LEN. The Director agreed to it, but also noted the urgency given the upcoming ACER decision on intraday gate opening and closure time. Therefore, this could also be a test of how quickly the LEN can respond.*

## 5.3. Update on the ACER Decision on intraday cross-zonal gate times methodology

The Director informed the BoR that the intraday cross-zonal gate times methodology was referred to ACER (on 24 October). A consultation was opened by the Agency on 9 January particularly on the proposed amendments. Comments must be submitted by 30 January 2018. The consultation document identifies three topics: the feasibility of earlier regional GOTs; the establishment of an EU-wide harmonised GOT and the clarification of its effective implementation date; and the review of the gate closure times for specific bidding zone borders. The Decision is expected in March.

Two members raised some concerns about the timetable for implementation rather than the target model as such.

Mr Hernandez informed the Director about the request for the extension of the deadline of the all NRAs decisions for the IDCZCP which will be soon submitted to ACER.

## 6. Gas

### 6.1. Important updates (NC implementation)

Ms Poletti presented some updates on the Quo Vadis study. On 13 December 2017, there a stakeholder workshop took place in Brussels and on 22 December 2017 the draft study was circulated to the GTM TF for comments. Comments have been received from ACER, ACM, ARERA, CREG, ILR, ERSE, E-Control, and URE and were sent to the Commission on 12 January. A publishable version of the comments will be finalised by the GWG. In terms of the substance, NRAs noticed in their comments that some data are not coherent, and asked the EC to make the database which was used for those scenarios available. A main issue raised was also about stranded costs related to the increase of the market areas and the entry exit area. The GWG will keep working on those issues along with the work on FROG under CEER, which tries to build harmonised positions on which way forward. The EC also informed the BoR that the time schedule for the Quo Vadis study is Q1 and the EC will launch another study this year on the sector coupling.

### 6.2. The Agency's Analysis document for the periodic national tariff decision-making

The Director presented the next steps on the Agency's analysis outlining that as the code on tariffs has entered into force, before each NRA takes the final decision on the tariff structure, NRAs (or TSOs) should hold a public consultation and ACER has to analyse certain elements of the consultation document. The planning was presented (which will be updated) for such consultations, and some suggestions for having the consultations in English as it is very important for stakeholders, especially those active cross-border. With regard to the exchange of info between NRAs and ACER, it was suggested that, given the period of four months from the launch of the consultation for the analysis of ACER, NRAs inform ACER of any critical issues as soon as they emerge and provide time for bilateral talks. The Director invited NRAs experts who work on tariffs to be involved in this work of the Agency for a couple of months through "sort term expert secondments" (e.g. 2 months) to ACER. With regard to the ACER analysis, the main question for ACER is what the 'reference price method' entails. Some aspects will be outside the scope of the review of ACER and ACER is preparing some guidance. The Director will report back at the next BoR meeting on the content.

A member referred to the NRAs' resources constraints and noted that it would be difficult for ACER to understand the detailed tariffs methodologies at national level which take 2 years to be designed. Thus ACER should carefully consider what to analyse against the key objectives of the codes.

The BoR members took note of the upcoming analysis of the Agency.

## 7. Market Integrity and Transparency

### 7.1. Important updates (REMIT implementation and operation)

Ms Groebel provided an update on the AMIT WG and the REMIT CG (RCG). The RCG and the AMIT WG agreed to have four back to back meetings per year. Ms Groebel referred to the updates at the last meeting as there have been no AMIT or REMIT CG meetings since the last BoR. Their next meetings are scheduled for 21 and 22 February and an update will be provided at the March BoR. The Director noted that following Mr Godfried's presentation at the December meeting a number of alerts were disseminated to several NRAs (those being part of the CMT) on 9 January.