



**Agency for the  
Cooperation of Energy Regulators**

**Programming Document**

**2017 - 2019**

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## **DIRECTOR'S FOREWORD**

Since its establishment, the EU Agency for the Cooperation of Energy Regulators (ACER) has been assigned significant additional tasks – notably in the areas of market monitoring and energy infrastructure planning – and it continues to operate in a rapidly changing environment. The programming for 2017 comes at a time when the European Commission has not yet unveiled its proposal for the institutional set-up for the Energy Union, in which the Agency will play an important role, as already envisaged in the Energy Union Communication. While 2017 should be the year in which the new institutional set-up to implement the Energy Union will be defined, the current Programming Document is based exclusively on the Agency's mandate and role at the time of the document's adoption in September 2016.

As a consequence, while a number of factual updates have been introduced, the multiannual outlook for the 2017 – 2019 period remains substantially unchanged from last year's version. The Agency remains committed to deliver tangible benefits to European energy consumers by ensuring more choice and better prices and its priorities in 2017 will remain similar to those in the previous year. Therefore, in line with its current legal mandate, the Agency will continue to focus on four main areas:

- The (post-2014) completion of the IEM;
- The infrastructure challenge;
- The monitoring of wholesale energy markets;
- The longer-term regulatory challenges.

In the framework of the completion of the Internal Energy Market, its tasks will range from supporting the implementation of Network Codes and Guidelines to the identification of the remaining barriers to competition, both at the wholesale and retail levels.

The EU's infrastructure challenge also remains a priority. The Agency's second consolidated annual report on the progress of Projects of Common Interest (PCIs) in electricity and gas published in July 2016 indicates that overall progress in implementing the PCIs is limited and that the vast majority of the PCIs are delayed compared to their original schedule. The Agency will continue to do its best in addressing this challenge within the scope of its mandate, by performing its TYNDP and PCI-related tasks, and taking, whenever requested, cross-border cost allocation decisions on PCIs.

Despite the complexity of the above tasks, there is little doubt that the Agency's greatest challenge remains the implementation of the wholesale energy market monitoring framework established by REMIT, which the Agency has been gradually introducing over the last few years. 2017 will be the first full year in which all the elements foreseen by the REMIT monitoring framework will be in force. REMIT is a formidable challenge, not only because it is unprecedented, not only at the EU level but also worldwide, and complex per se, but also because the effectiveness with which the Agency is able to execute its tasks crucially depends on it being assigned the significant additional resources that it has been requesting since 2014.

While the Agency will also strive to address future regulatory challenges, there is little doubt that it will focus primarily on the three areas mentioned above, in line with its legal requirements and the available resources.

It should be recalled that the 2017 Work Programme has been developed in line with the estimate of expenditure made by the Administrative Board in January 2016, with a supportive opinion by the Board of Regulators. This estimate reflects the increase in staffing levels – 33 additional FTEs with respect to 2016 - that the Agency considers necessary to fulfil its legislative mandate. As in previous years, the Agency will revise the 2017 Work Programme (and review its planned activities), should the resources foreseen not become available to the Agency.

The structure of the document follows the format of the Single Programming Document for EU Agencies, which has become mandatory for the 2017 planning exercise, but which the Agency has applied already in previous years. This means that the document includes information on the Agency's multiannual and annual work programmes, the draft budget outline and the staffing plan. While this provides for a wealth of information, it may lead to a more bulky document than the average reader would desire, despite the fact that most of the numerical tables are contained in the annexes. The reader interested solely in the Agency's activities in 2017 is invited to focus on the section of the Programming Document related to the 2017 Work Programme, in which information on deliverables can be found.

As always, I would like to thank my colleagues in the Agency for all their commitment and effort, and the Agency's Administrative Board, Board of Regulators, the European Parliament's Committee for Industry Research and Energy and the Directorate-General for Energy of the European Commission for their continuous support. I would also like to highlight

the important role of the Board of Appeal, as an internal, yet independent, review body. New members have recently been appointed and I would like to wish them a successful mandate.

The Agency also continues to rely on the involvement of experts from NRAs; I am most grateful to them, and to their parent institutions, for their precious support. I would also like to thank the numerous stakeholders involved in our activities; we value their contributions and try to take them on board to the extent possible.

Building the Energy Union is like climbing a tall mountain, the direction is known and the summit seems close, yet there always appears to be just one additional small peak to conquer along the way. The path may not always be linear and occasionally unforeseen obstacles may come up, yet I am confident that, by the end of 2017, the Agency, together with all the numerous other 'climbers' involved, will be standing much closer to the mountain top.

## LIST OF ABBREVIATIONS AND ACRONYMS

| Abbreviation | Meaning   |
|--------------|---|
| The Agency   | Agency for the Cooperation of Energy Regulators             |
| AB           | Administrative Board  |
| AMITWG       | ACER Monitoring, Integrity and Transparency Working Group   |
| ARIS         | Agency's REMIT Information System                           |
| AWG          | Agency Working Group  |
| BoA          | Board of Appeal   |
| BoR          | Board of Regulators   |
| CBA          | Cost Benefit Analysis                                       |
| CBCA         | Cross-Border Cost Allocation                                |
| CEER         | Council of European Energy Regulators                       |
| CEREMP       | Centralised European Register of Energy Market Participants |
| CMP          | Congestion Management Procedures                            |
| DAS          | Department of Analysis and Surveillance                     |
| Dir          | Directive   |
| DMO          | Department of Market Oversight                              |
| DoI          | Declaration of Interest                                     |
| EC           | European Commission   |



|         |   |
|---------|---|
| EnC     | Energy Community  |
| ECRB    | Energy Community Regulatory Board                                 |
| ENTSO-E | European Network of Transmission System Operators for Electricity |
| ENTSOG  | European Network of Transmission System Operators for Gas         |
| ERGEG   | European Regulators' Group for Electricity and Gas                |
| ERI     | Electricity Regional Initiative                                   |
| ESMA    | European Securities and Markets Authority                         |
| FERC    | Federal Energy Regulatory Commission                              |
| FG      | Framework Guideline   |
| FTE     | Full Time Equivalent  |
| GRI     | Gas Regional Initiative   |
| HVDC    | High Voltage Direct Current                                       |
| IEM     | Internal Energy Market  |
| INEA    | Innovation and Networks Executive Agency                          |
| ITC     | Inter-TSO Compensation  |
| LNG     | Liquefied Natural Gas   |
| LSO     | Liquefied Natural Gas (LNG) System Operators                      |
| MiFID   | Markets in Financial Instruments Directive                        |
| MMR     | Market Monitoring Report  |

|        |   |
|--------|---|
| MoU    | Memorandum of Understanding                             |
| MS     | Member State  |
| MSPP   | Multi-annual Staff Policy Plan                          |
| NC     | Network Code  |
| NDP    | Network Development Plan                                |
| NRA    | National Regulatory Authority                           |
| OTC    | Over the counter  |
| PCI    | Project of Common Interest                              |
| Reg    | Regulation  |
| REMIT  | Regulation for Energy Market Integrity and Transparency |
| RRM    | Registered Reporting Mechanisms                         |
| SMARTS | Market monitoring software                              |
| SNE    | Seconded National Expert                                |
| SSO    | Storage System Operators                                |
| TEN-E  | Trans-European Energy Network                           |
| TF     | Task Force  |
| TSO    | Transmission System Operator                            |
| TYNDP  | Ten Year Network Development Plan                       |

## MISSION STATEMENT

The Agency complements and coordinates the work of national energy regulators at EU level, and works towards the completion of the single EU energy market for electricity and natural gas.

ACER plays a central role in the development of EU-wide network and market rules with a view to enhancing competition to the benefit of consumers. The Agency coordinates regional and cross-regional initiatives, which favour market integration. It monitors the work of European networks of transmission system operators (ENTSOs), and notably, their EU-wide network development plans.

Under the Regulation on Guidelines for trans-European energy infrastructure (“TEN-E Regulation”), the Agency contributes to the energy infrastructure challenge through its role in the process of identification and monitoring of Projects of Common Interest (PCIs).

Furthermore, the Agency monitors the functioning of gas and electricity markets in general. In line with the Regulation on Wholesale Energy Market Integrity and Transparency (REMIT), it monitors wholesale energy trading to detect and prevent trading based on inside information and market manipulation.

Finally, additional specific tasks are assigned to the Agency by the Network Codes and Guidelines adopted as part of the secondary legislation required to implement the Internal Electricity and Gas Markets.

In summary, the Agency has been assigned tasks and responsibilities by a number of legislative acts, including:

- the Third Package – Directive 2009/72/EC (the “Electricity Directive”), Directive 2009/73/EC (the “Gas Directive”), Regulation (EC) No 713/2009 (the “Agency Regulation”), Regulation (EC) No 714/2009 (the “Electricity Regulation”) and Regulation (EC) No 715/2009 (the “Gas Regulation”);
- REMIT and Commission Implementing Regulation (EU) No 1348/2014 (the REMIT “Implementing Acts”);
- Regulation (EU) 994/2010 on security of gas supply;

- Commission Regulation (EU) 838/2010 on the inter-TSO compensation mechanism (the “ITC Regulation”);
- Regulation (EU) No 347/2013 on Guidelines for trans-European energy infrastructure (“TEN-E Regulation”); and
- Commission Regulation (EU) 2015/1222 establishing a guideline on capacity allocation and congestion management

More generally, in electricity, all the Network Codes and Guidelines entering into force in the course of 2016 will assign new tasks and responsibilities to the Agency.

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# SECTION I – GENERAL CONTEXT

## STRATEGIC AIMS

### Background

The Agency was established as part of the new institutional framework defined by the Third Package to support the completion of the Internal Energy Market and to fill the regulatory gap emerging in this process due to the mainly national competences of NRAs. Therefore, in its initial period, the Agency focused its effort on tasks related to the development of common market and network operation rules - through the preparation of Framework Guidelines and, later on, the evaluation of the Network Codes drafted by the ENTSOs - and to the planning of the development of European energy networks - with its opinions on the TYNDPs. At the same time, the Agency promoted the early implementation of the provisions to be contained in the Network Codes, for example through the so-called regional initiatives. In 2012 the Agency started its Internal Energy Market monitoring activities and published its first Market Monitoring Report.

New important responsibilities were assigned to the Agency at the end of 2011 by REMIT. REMIT aims at increasing transparency of wholesale energy markets and to promote their integrity by introducing explicit prohibitions of market abusive behaviour and establishing a new, sector-specific monitoring framework to detect and deter market manipulation and insider trading. In this respect, the Agency was tasked with collecting trade and fundamental data related to all wholesale energy market transactions, irrespective of where they are concluded (on organised markets, through other trading venues or over the counter) and of the type of product traded (for physical delivery or financial settlement) and with conducting an initial assessment and analysis of these transactions to identify suspicious events which are then notified to NRAs, responsible for investigations and enforcement.

The monitoring framework introduced by REMIT is unprecedented worldwide in terms of its geographical and product scope, and its implementation poses a formidable challenge for the Agency, NRAs, market participants - which have to report trade data - and other stakeholders - responsible for reporting fundamental data.

Following the entry into force of the REMIT Implementing Acts on 7 January 2015, the new monitoring framework with its reporting obligations went live in October 2015. As of 7 April 2016 data on transactions in the remaining wholesale energy contracts (OTC standard and non-standard supply contracts; transportation contracts) and reportable fundamental data from Transmission System operators (TSOs), (Liquefied Natural Gas System Operators (LSOs) and Storage System operators (SSOs) will also have to be reported to the Agency.

With the information available the Agency is set to detect instances of suspect market manipulation and trading based on inside information. The Agency's ability to do so depends on the availability of expertise and resources, in an area - wholesale energy market monitoring - which is very different from the original focus of the Agency's activities (according to the Third Package).

More recently, in 2013, the TEN-E Regulation introduced a new framework for the development of critical energy infrastructure – PCIs –, foreseeing a role for the Agency in the process for identifying PCIs and in assisting NRAs in dealing with investment requests – including for cross-border cost allocation – submitted by PCI promoters. While the new tasks assigned to the Agency by the TEN-E Regulation are in an area – energy network development planning – on which the Agency had already been working on the basis of the provisions of the Third Package (e.g. the opinions on the TYNDPs), these new tasks have added substantially to the workload of the Agency.

Finally, with the entry into force of the Network Codes and Guidelines envisaged, as secondary legislation, by the Third Package, the Agency is being assigned additional important tasks and responsibilities in supporting the coordination of NRAs and the harmonisation of IEM rules, including by stepping in when NRAs are unable to reach an agreement on the above aspects.

This brief description of the developments in the legislative mandate of the Agency since its establishment – which has focused on the main pieces of relevant legislation – illustrates, on the one hand, the most important components of the current mission of the Agency and, on the other, how this mission has been significantly expanded over the last years, in some cases in new and “unexpected” areas.

Adding to this, the Agency, in cooperation with the Council of European Energy Regulators (CEER), has conducted an assessment of the main trends affecting the energy sector over the next ten years and their regulatory implications (the “Energy Regulation: A Bridge to 2025”

initiative). A Conclusions Paper, presenting the results of this assessment, was issued by the Agency in September 2014<sup>1</sup>.

## A challenging future

While the current legislative framework and the first five years of its activity may indicate the areas in which the Agency will be called to operate in the future, there is no guarantee that the Agency's mandate will not be again further expanded, or otherwise modified, in the years to come, including in relation to the new challenges which the energy sector will face.

In particular, the Agency has demonstrated the validity of its role as an effective instrument for developing a European dimension in the cooperation among NRAs and to make this cooperation even more robust and effective<sup>2</sup>. This successful experience may attract additional tasks to the Agency. Areas where additional competences may be assigned to the Agency, subject to legislative intervention, include the oversight of the ENTSOs and other bodies which fulfil essential functions in the energy sector, the approval of EU-wide regulatory instruments and security of supply, for instance through the revised Security of Supply Regulation.

A reference to an Agency's enhanced role is contained in European Commission's Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy, presented in February 2015. There the Communication proposes a 'significant reinforcement of the powers and independence of ACER to carry out regulatory functions at the European level in order to enable it to effectively oversee the development of the internal energy market and the related market rules as well as to deal with all cross-border issues necessary to create a seamless internal market.'

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<sup>1</sup> Recommendation of the Agency No 05/2014 of 19 September 2014 on the regulatory response to the future challenges emerging from developments in the internal energy market.

<sup>2</sup> This has been recognised by the European Commission in its first evaluation of the Agency (C(2014) 242 final, 22.1.2014): "*The Commission is satisfied to acknowledge that since its establishment ACER has become a credible and respected institution playing a prominent role*" (page 7). "*[The Commission] congratulates ACER for having been able to undertake activities necessary to ensure a smooth implementation of REMIT and the TEN-E Regulation already ahead of those Regulations entering into force and the corresponding budgetary adjustments becoming available to ACER*" (page 8).

Therefore, any multiannual outlook turns out to be challenging to define in at least two respects: first because of the complexity of some of the tasks entrusted onto the Agency, often unprecedented, which may project some uncertainty as to the exact shape of the Agency's action<sup>3</sup>; secondly because the Agency may be called to perform an enhanced role in its traditional areas of activities or tasks in new areas, something which is difficult to predict at the moment.

That said, it seems likely that over the next years the Agency will focus its activities at least on the following four main areas, which will already guide the Agency's work next year:

- The (Post-2014) Completion of the Internal Energy Market;
- The Infrastructure Challenge;
- The monitoring of wholesale energy markets;
- The longer-term regulatory challenges.

Moreover, geopolitical developments continue to raise concerns regarding the security of energy supply in the EU. While this is an area of primary responsibility of MSs and the European Commission, some of the activities performed by the Agency, and included in this Work Programme (e.g. the decisions on cross-border cost allocation for PCIs which should facilitate their development), may contribute to enhance the security of EU energy supply. It is therefore possible that in the future the Agency will be called to contribute more explicitly to the common effort in this area. However, as at present no particular move in this direction can be foreseen, no specific action in this regard is included in this Work Programme.

Furthermore, at the time of writing of this Multiannual outlook, the role of the Agency within the Energy Union has not been defined yet. While the Agency is ready and more than willing to take on new responsibilities to promote a well-functioning internal energy market, provided that it is allocated the adequate resources to do its part, it cannot speculate at this stage neither what its role will be nor whether it will be given additional powers. The current multiannual outlook is therefore based exclusively on the Agency's mandate as it stands in December 2015.

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<sup>3</sup> Especially if the Agency is not granted the resources required to fulfil its mandate.



## SECTION II - MULTIANNUAL PROGRAMMING 2017 – 2019

### 1. MULTIANNUAL OBJECTIVES

One of the priorities identified by the new European Commission is “Energy Union and Climate”, which includes, as two of its mutually-reinforcing dimensions, the completion of the internal energy market and the security of energy supply. For both such dimensions, rules for efficient market functioning, energy market integrity and transparency, and the strengthening of the energy infrastructure are key components.

Many of the activities which the Agency is planning to perform over the next three years are instrumental to achieve these objectives and therefore contribute to the Energy Union strategy.

#### **Objective 1: Contribute to the (post-2014) completion of the Internal Energy Market**

Supporting the integration of the electricity and gas markets in the European Union was the main role assigned to the Agency by its founding Regulation and other provisions in the Third Package. In 2011 the Council of the European Union set 2014 as the target date for the completion of the Internal Electricity and Gas Markets. Significant progress has already been achieved, both in terms of the development of the required market and network operation rules and on the ground. Therefore, while by the end of 2014 it was possible to claim that the integration of the internal electricity and gas markets had advanced significantly, this process will have to continue in the years to come and the Agency will still have to be engaged and crucially contribute to it.

The Agency will in particular contribute to:

- The implementation of the provisions in the adopted Network Codes and Guidelines. This will include a variety of specific tasks assigned to the Agency by these legal provisions which are instrumental to the integration and well-functioning of the internal electricity and gas markets;
- Monitoring developments in the Internal Energy Market. These monitoring activities may result in recommendations for amending Network Codes or Guidelines or for other regulatory intervention, which may require the involvement of the Agency.

### Expected achievements

In electricity, the focus over the next few years will be on the full implementation of all the Network Codes and Guidelines across the European Union and on the assessment of whether and how the Electricity Target Model could be improved or refined to meet the impending challenges.

By monitoring and identifying any obstacle to the well-functioning of the market, the Agency will strive to contribute to the policy debate and promote more coordinated and efficient solutions to address, in particular, problems of adequacy and flexibility. In this respect, the Agency will particularly focus on the role of demand response in addressing these challenges.

In gas, the Network Code on Harmonised Transmission Tariff Structures is expected to be finalised in 2016. For the time being, no new Framework Guidelines are expected to be put forward for development. The focus will thus shift to implementation and monitoring, also of the Network Codes on Capacity Allocation Mechanisms, Gas Balancing in Transmission Systems and Interoperability and Data Exchange Rules, which entered into force in 2015. Before they become formally binding, a number of their provisions should already be implemented early in some MSs through the GRI. Given the voluntary nature of this process, its success will depend on the willingness of NRAs and TSOs to step forward. As soon as a Network Code becomes formally binding, the Agency begins monitoring its implementation.

The Agency will also take a more proactive role in its stakeholder engagements through, e.g. the creation of a European Stakeholder Committee for each family of Network Code and Guideline (Market, Connection and System Operation) or the implementation of a portal to collect and follow up stakeholders' issues relating to codes.

### Performance indicators

- Timely implementation of the Network Codes and Guidelines;
- Implementation of an effective process, involving stakeholders, for monitoring the NC implementation and its impact on the IEM;
- Implementation of an effective amendment process.

### Risks

Late adoption of the Network Codes and Guidelines in electricity could postpone their implementation accordingly. The early – voluntary - implementation of the provisions

contained in the Network Codes and Guidelines depends on the engagement of NRAs and TSOs.

The Agency is only one of the key players involved in the completion of the Internal Energy Market. The attainment of its objectives is largely dependent also on forces on which it has little or no control.

The adopted Network Codes and Guidelines foresee a role of the Agency in adopting third-level binding provisions in case NRAs fail to agree on them. However, in such cases, given the complexity of the issues referred to it, even the Agency may not be able to adopt these provisions. In this case, the Agency will be unable to play the surrogate role envisaged by the legislation.

### **Objective 2: Contribute to the Infrastructure Challenge**

The TEN-E Regulation has introduced a new framework aimed at promoting the development of PCIs, i.e. infrastructure projects which are particularly beneficial in supporting a more integrated European energy market. In 2011 the Council of the European Union set 2015 as the target date for removing “energy islands”, i.e. better connecting those EU regions whose systems have limited interconnection capacity with the rest of the Union. According to the Third Package, the Agency was already involved in the energy network development project, but the TEN-E Regulation projected this involvement into a completely new dimension. As one of the many players involved, the Agency aims to contribute to the infrastructure challenge in line with its legal mandate.

#### Implementation of the objective:

- Assessing the cost-benefit analysis methodologies developed by the ENTSOs and the consistent application of the criteria for identifying PCIs;
- Providing opinions on the draft PCI lists, in particular on the consistent application of the cost-benefit analysis and the selection criteria;
- Taking decisions, when it is called to do so, on investment requests and cross-border cost allocation submitted by PCI promoters. PCI lists will be adopted every two years. TYNDPs - which are also developed every two years, but at present in different years for the electricity and gas sector - will serve as the basis for the PCI lists. Investment requests may be submitted by promoters of PCIs included in the lists. Therefore, the

TYNDP/PCI identification/investment request process will run over two years, repeating itself every two years. The Agency will be crucially involved in all the stages of this process.

#### Expected achievements

The Agency will strive to enable efficient infrastructure investments to take place, with a particular focus on investments of cross-border relevance. Such investments should help integrate the internal energy market further, as well as to increase security of supply. In particular, they should contribute to the elimination of the so-called energy islands.

#### Performance indicators

- Consistent application of the criteria for identifying PCIs by the end of the multiannual period;
- All decisions on the investment requests taken within the legal deadlines foreseen.

#### Risks

The Agency is only one of the key players involved in the infrastructure challenge and ensuring that efficient infrastructure investments take place and that energy islands are eliminated. Even in relation to its narrower objectives, for example reporting on the progress of projects of common interest and (if appropriate) providing recommendations to facilitate the implementation and to overcome delays/difficulties in PCI implementation, the Agency depends on the timely submission by project promoters of their annual reports and on the quality of the submitted reports.

The investment requests referred to the Agency are those on which NRAs fail to agree and therefore are likely to be the most complex ones. However, it is difficult to forecast how many of such requests will be referred to the Agency and when this will happen. The Agency has been called for a significant reinforcement of its staffing to effectively implement the TEN-E Regulation. So far only a fraction of the required posts have been authorised. It is therefore possible that the Agency might be unable to meet the legal deadline set for such decisions, especially if several requests were referred to the Agency at the same time.

**Objective 3: Increased integrity and transparency of wholesale energy markets**

A well-functioning pan-European energy market demands that energy is traded according to the highest transparency and integrity standards, so that prices reflect the fundamentals of demand and supply. This is also a major contributor to security of energy supply. REMIT aims at establishing the conditions for this to happen. Therefore its effective implementation constitutes an integral part of the creation of an efficient internal energy market, of promoting security of energy supply and, thus, of the Energy Union's strategy. REMIT introduces a new, unprecedented, sector-specific market monitoring framework to detect market abuse in European wholesale energy markets, thus deterring such behaviour. The Agency aims to ensure that REMIT is fully implemented so that consumers and other market participants have confidence in the integrity of electricity and gas markets, that prices set on wholesale energy markets reflect a fair and competitive interplay between supply and demand, and that no profits can be drawn from market abuse.

**Implementation of the objective:**

- Following the entry into force in October 2015 of the obligation to report trade and fundamental data, the Agency is set to detect market manipulation and trading based on inside information. The monitoring strategy which the Agency will be able to adopt crucially depends on the available resources.
- Given the sheer volume of transactions which will be reported by market participants, the Agency is planning to perform its monitoring functions, consisting in an initial assessment or analysis of the reported transactions, in two stages. The first stage will be based on the automatic screening performed by purposely-developed surveillance software. This screening is expected to identify anomalous events on the basis of predefined "alerts". The second stage will look into these anomalous events to identify those for which market abuse can be suspected and which will be notified to NRAs for investigation. This second stage will focus on market participants' behaviour and therefore will inevitably have to be conducted by highly qualified experts, whom the Agency, at the time of writing of this multiannual outlook, was still in the process of recruiting.

### Expected achievements

Increased integrity and transparency of wholesale energy markets should foster open and fair competition in wholesale energy markets for the benefit of final consumers of energy. Well-functioning energy markets are also instrumental to provide signals to promote security of supply through a cooperative approach throughout Europe. Efficient market monitoring by the Agency at Union level is therefore vital for detecting and deterring market abuse in wholesale energy markets and a major contributor to the Energy Union strategy.

### Performance indicators

- Timely implementation of the REMIT transaction reporting regime;
- Implementation of an effective market monitoring of wholesale energy markets to detect trading based on inside information and market manipulation.

### Risks

The Agency's monitoring and data collection tasks require appropriate financial and human resources. The Agency has already highlighted on several occasions the inadequacy of its resources and submitted requests for 30 additional posts devoted to the implementation of REMIT with the Agency's draft budgets for 2014, 2015 and 2016. All budgets were adopted by the Agency's Administrative Board with a supportive opinion of the Board of Regulators. Until 2016 no additional staff had been authorised. However for 2016, the Agency received 15 additional posts, many of which will be assigned to the REMIT area. Such a reinforcement, while welcome, is still far from what is required to fulfil the Agency's mandate in this respect and to meet the related multiannual objective. The shortage of staff in the Agency cannot be address by reallocating some of its activities to NRAs or other national competent authorities, as they do not have and cannot have an EU-wide vision of wholesale energy trading which is essential for effective monitoring in an increasingly integrating internal energy market. This would put the achievement of REMIT's aims - transparency and integrity of wholesale energy markets - at risk. In addition, the Agency's market monitoring, coordination and data collection tasks will require a close interaction with NRAs and therefore create interdependencies with NRAs. While the Agency will prioritise legally mandated tasks, the tasks that are likely to be first to be cut are non-mandatory tasks. In addition, a significantly reduced budget may lead to a delay also of legally mandated tasks.

**Objective 4: Contribute to address longer-term regulatory challenges**

The Conclusions Paper “Energy Regulation: A Bridge to 2025”, issued in September 2014, contains European energy regulators’ conclusions on the challenges facing the electricity and gas sectors over the coming decade and recommendations on the appropriate regulatory response within the framework of the Europe’s Internal Energy Market. The Conclusions Paper covers a wide range of aspects related to: the gas and electricity sectors, including the changing face of electricity generation in the European Union; the changing role of Distribution System Operators; consumer empowerment and protection; and retail markets. The document also includes a chapter on the governance of the process for the development of the internal European gas and electricity markets. The 2025 time horizon has been chosen to cover a period which is, at the same time, long enough to allow the development of a regulatory strategy, but not too long to keep the degree of uncertainty to a manageable level.

Implementation of the objective:

- Some of the recommendations contained in the Conclusions Paper call for immediate action by the Agency and specific tasks to implement them are already undergoing or are planned in the coming years, resources permitting. Other recommendations have a longer time span and will be implemented in future work programmes.
- Linked to the Bridge initiative and in parallel to it, in 2014 the Agency conducted a review of the Gas Target Model to assess whether it needs to be “augmented” to better meet the challenges which the energy sector will face in the next few years. The results of this review were presented in January 2015. A similar assessment of the Electricity Target Model, with specific focus on flexible response and the mechanisms to promote system adequacy will continue to be conducted in 2016. Moreover, it may well be that a more robust governance framework for the Energy Union would lead to the Agency being assigned greater responsibilities to promote the European regulatory dimension.

Future challenges – expected achievements

While some of the recommendations for regulatory action of the Conclusions Paper “Energy Regulation: A Bridge to 2025” call for immediate action by the Agency, in most cases, the recommendations have a longer time span and may require legislative changes. The Agency, in cooperation with CEER, has developed a plan with identified priorities and will implement

the different actions, or formulate proposal for legislative action, accordingly and compatibly with its available resources.

### Performance indicators

- Timely implementation of the priorities identified in the Bridge paper;
- Implementation of an effective process, involving stakeholders, for monitoring the NC implementation, its impact on the IEM and for identifying the need for further legislative initiatives.

### Risks

Since a number of these activities may have to be implemented before they can be enshrined in regulations, in order to address the identified challenges in a timely manner, the main risk to their implementation is related to the limited (human) resources available to the Agency and other relevant institutions (e.g. NRAs). However, even once or where the actions are mandated by binding rules, the limited resources may still pose a risk in terms of timely and effective implementation. A delay in regulatory action to respond to the identified challenges may not only lead to a less efficient energy sector, but also possibly jeopardise the secure operation of the energy systems.

### **General risks and uncertainties**

Apart from the uncertainties related to the future scope of the mission of the Agency, which has already been significantly extended since its establishment and which may be expanded again in the next years, the action of the Agency faces a number of risks, mainly related to its role as a EU institution dedicated to promoting the cooperation among energy regulators and to the resources available to it.

Risks specific to the different areas of activities are listed above together with the related objectives and more specifically in the Annual Work Programme section. Here only the more general risks, affecting all the activities of the Agency, are outlined.

First, one of the essential characteristics of the Agency is the fact that it brings together the expertise and experience of NRAs and complements them with a European dimension. The cooperation between the Agency and NRAs and between NRAs within the Agency is therefore an essential part of the working method of the Agency. Such cooperation takes place, at technical level, in the Agency's Working Groups (AWGs), which are composed of NRAs'



experts and Agency's staff. However, AWGs are not part of the institutional set-up of the Agency and NRAs contribute to them on a purely voluntary basis. The Agency therefore faces the possible risk of a diminished engagement of NRAs in AWGs, possibly due to NRAs' resource limitations or when contentious issues are referred to the Agency and NRAs might have reduced incentives to support the Agency's activities. Apart from undermining one of the main tenets of the Agency's action, a possible reduced engagement of NRAs in AWGs would significantly impair the Agency's ability to deliver on its mandate.

Secondly, in many areas, the tasks performed by the Agency are part of processes where other institutions and stakeholders are involved. Therefore, the time at which the Agency is required to contribute to these processes depends on the timing of the other activities included in the same processes and performed by other actors. These interdependencies between the activities of the Agency and those of other institutions and stakeholders, apart from creating uncertainty in the exact timing of the performance of some of the Agency's activities, may also make the planning of the utilisation of the Agency's own resources more difficult.

Finally, in a number of previous occasions, the Agency has been called to start implementing new provisions well before it was given the resources required to deliver on its new/enhanced mission effectively. This happened in the case of both REMIT and the TEN-E Regulation: the Agency started to implement REMIT before it was able to recruit any additional dedicated staff member, and the implementation of the TEN-E Regulation started well before the Regulation itself was adopted. In both cases the Agency used the flexibility inherent in a young and efficient organisation to redeploy staff temporarily and to ask its staff to sustain an extraordinary level of effort, while counting also on the valuable support of NRAs. It is however obvious that this cannot be a sustainable strategy.

If such a situation persists, the Agency will have to identify ways to implement these Regulations compatibly with the available resources, with the risk of a less effective implementation and of the related criticisms, directed to the Agency and, possibly, to the entire EU construct. This document, and in particular Section III presenting the Annual Work Programme outlining the specific activities which the Agency is planning to perform next year, is, as in previous years, developed on the assumption that the Agency will be assigned the resources required to effectively deliver on its mission. Should these additional resources not be assigned to the Agency, this Work Programme will have to be revised in line with the level of resources actually available.

## **2. MULTIANNUAL PROGRAMME**

### **2.1 Introduction**

#### **2.1.1 Strategic Areas**

The Agency's activities over the next years will focus on four strategic areas, which are mirrored in the Multi-annual objectives listed in the section above:

- (Post-) Completion of the Internal Energy Market;
- The Infrastructure Challenge;
- Wholesale Energy Market Integrity and Transparency;
- Future Challenges (including Renewable Energy Sources Integration).

Moreover, two horizontal areas of work have cross-cutting effects on the above strategic areas: the regulatory practice and international cooperation. This section aims to address the two horizontal areas and to lay down the main elements of the Agency's work in the four strategic areas listed above. The specific tasks and deliverables are listed in the annual work programme section.

### **2.2 The Regulatory Practice**

#### **2.2.1 Institutional Framework**

##### **Cooperation with NRAs**

The Agency promotes and facilitates cooperation among NRAs at a European-level and in the exercise of their Union-related functions. It fully complements the NRAs' European mandate and their duty to promote, in close cooperation with each other and the Agency, a competitive, secure and environmentally sustainable internal energy market.

The Agency's formal structure ensures regulatory cooperation through the Board of Regulators, in which NRAs from all EU countries are represented. Regulatory cooperation is also embedded in the Agency's framework that brings together experts from the NRAs and

the Agency through the four Agency Working Groups, the REMIT Coordination Group, and the Gas Regional Initiatives Coordination Group<sup>4</sup>.

## **Board of Regulators (BoR)**

### **Composition**

The BoR consists of 28 members (and 28 alternates) representing the NRA from each Member State, and one non-voting representative of the European Commission. The Director participates in the BoR meetings and presents his/her proposals for Agency Acts that require the favourable opinion of the BoR before their adoption, reports and progress on work in other areas. The Director also reports regularly to the BoR on the Agency's activities. Without prejudice to its members' acting on behalf of their respective national regulatory authorities, the BoR acts independently and its decisions must comply with European Union law.

### **Tasks**

The tasks of the BoR described in the Third Package include:

- providing opinions on Agency Opinions, Recommendations and Decisions considered for adoption by the Director in relation to the regulatory functions of the Agency;
- approving the Agency's Work Programme before it is adopted by the Administrative Board, and approving the section on regulatory activities in the Agency's Annual Report; and
- providing guidance to the Director within its field of competences.

In addition to these tasks, the BoR is consulted by the Director on all aspects of REMIT implementation, in accordance with the relevant legislation. It also makes recommendations with regard to the Commission's evaluation of the activities of the Agency and its working methods and is consulted on the Agency's budget before its adoption by the Administrative Board. The BoR also provides its opinions during the appointment of the Director - and

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<sup>4</sup> The Electricity Regional Initiative Coordination Group was abolished in 2015, as the early implementation of the Internal Energy Market provisions extended beyond the regional dimension and was organised according to project-specific roadmaps.

possible extension of the Director's term - and is consulted by the European Commission on its proposal for the members of the Board of Appeal.

### **Meetings**

The BoR typically meets around 10 times a year. The meeting agendas, minutes and background documents are made public and are available at the following link:

[http://www.acer.europa.eu/The\\_agency/Organisation/Board\\_of\\_Regulators/Pages/Opinions.aspx](http://www.acer.europa.eu/The_agency/Organisation/Board_of_Regulators/Pages/Opinions.aspx)

The BoR Chair and the Director hold open sessions on a quarterly basis to update interested parties on the work of the BoR and on the preparation of the Agency Acts being considered for adoption, as well as of the overall Agency work.

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

The AWGs provide the foundation for collaboration and cooperation among NRAs and with the Agency. By bringing together experts from the NRAs and the Agency, the AWGs ensure the complementarity of regulatory functions at national- and EU-level. The AWGs:

- provide input to the Director for the preparation of the Agency's Acts;
- support the Director (and the Agency staff) on other tasks, such as reviewing and analysing stakeholders' submissions during a consultation process;
- provide information to the BoR on the issues relevant to the Director's proposals, facilitating discussions in the BoR as it forms its opinions on the Director's proposal.

There are currently four AWGs which cover the main areas of the Agency's work on regulatory issues: Electricity; Gas; Monitoring, Integrity and Transparency; and Implementation, Monitoring and Procedures. Each AWG has established Task Forces (TFs) to address specific issues. In the future, the number and focus of the AWGs may be adapted to reflect the requirements of the regulatory framework within which the Agency operates.

The current structure of the AWGs and the TFs can be found at the following link:

<http://www.acer.europa.eu/Events/BoR/WG/Pages/default.aspx>

### **The REMIT Coordination Group (REMIT CG)**

With the entry into force of the REMIT Implementing Acts in January 2015 and the start of the REMIT operational phase in October 2015, the Agency is required to “*ensure that national regulatory authorities carry out their tasks under this Regulation in a coordinated and consistent way*”<sup>5</sup>.

For this purpose, a REMIT Coordination Group was established in the first half of 2015, bringing together senior representatives in charge of the implementation of REMIT in all NRAs, to support a coordinated implementation of the Regulation. The REMIT CG and the AMIT WG have implemented a range of innovative practices to better facilitate coordination and consistency between the Agency and NRAs in the implementation of REMIT, including workshops and Q&A (Question and Answers) sessions and reports to build among NRAs a common understanding of how the relevant provisions of the REMIT Regulation should be interpreted and implemented.

### **Gas Regional Initiative Coordination Group (GRI CG)**

The Gas Regional Initiative (GRI) aims to identify and solve market integration issues at a regional level. The GRI CG is part of the Agency’s framework. The GRI CG is chaired by the Agency and composed of all NRAs, including the lead NRAs from the regional groups. The GRI CG provides a platform for ensuring that regulatory cooperation at regional-level maintains a pan-European dimension and consistency among NRAs in promoting the single internal gas market with particular focus on projects for the early implementation of the network codes.

## **2.2.2 Regulatory practice - objectives**

- Maintain high efficiency in the working methods of the BoR, AWGs, as well as the REMIT CG, and optimise their operational arrangements to facilitate their activities with a view to promoting regulatory cooperation.

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<sup>5</sup> Article 16(1) of REMIT.

- Ensure that the structure and focus of the AWGs always reflect the requirements of the regulatory framework, by establishing and dissolving the AWGs or by modifying their remit as required and further improve working arrangements to ensure the most efficient operation of the Agency and the smooth and timely preparation of its work.
- Increase public awareness, through regular debriefings, of the activities of the Agency and of the role of the BoR as the forum for NRA cooperation.
- Further develop, where appropriate, working arrangements and specific mechanisms for the cooperation of NRAs (including at regional level) to facilitate the sharing of best practices and enhance the cooperation between NRAs and the effectiveness of the regulatory action at EU level. In the previous years the Agency has continuously introduced improvements as appropriate through a dedicated away-day with the AWGs and TFs chairmanship (in 2014) and further discussions undertaken in the context of a BoR Summit (September 2015). We shall continue to maintain and increase the efficiency of our working methods on the basis of lessons learned.
- Contribute to developing regional cooperation further in the context of the Energy Union Strategy, with a focus on successful delivery of implementation projects as well as on accounting for the lessons learned from the pilot projects in the implementation of the Network Codes and Guidelines.
- Foster exchange of experience with the regulatory associations outside the EU, where necessary, and on areas of mutual interest (e.g. FERC on market monitoring activities).

### **2.2.3 Regulatory Practice - Risks**

According to the Third Package and REMIT, the Agency and the NRAs are under a mutual obligation to cooperate. This obligation notwithstanding, the Agency is supported, albeit not as much as in its initial years, by the secondment of experts from NRAs. Moreover, the Agency relies on the voluntary participation of NRAs' experts in the AWGs, the REMIT CG and the GRI CG. Without such cooperation, the Agency would lack the contribution of the national expertise and experience provided by NRAs and it would be greatly limited - in fact more than it is already - in its ability to deliver according to its regulatory mandate. The Agency would thus run the concrete risk of not meeting the expectation of stakeholders in delivering on its

Work Programme, which is based on the assumption that the NRAs will continue to support and work close with the Agency.

## 2.3 International Cooperation

### 2.3.1 Institutional Framework

While most of the tasks of the Agency relate to the cooperation among EU NRAs, some tasks require or may benefit from collaboration with regulatory entities in third countries.

Both the Agency Regulation and REMIT include provisions for the involvement of third countries in the activities of the Agency<sup>6</sup>, although so far no third country has been admitted to participate in the Agency.

Moreover, the implementation of the Network Codes inevitably requires the coordination with third countries whose systems are interconnected with the EU networks, even more so in the case of synchronous electricity transmission systems. Therefore, Norway and Switzerland were involved in some of the work carried out for the early implementation of the electricity Network Codes<sup>7</sup>. Contacts are currently underway to allow the Norwegian NRA to participate, as observer, in the AWGs and in the REMIT CG, and the Swiss NRA in the Electricity AWG.

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<sup>6</sup> Article 31 of Regulation (EC) No 713/2009 states that "(1) The Agency shall be open to the participation of third countries which have concluded agreements with the Community whereby they have adopted and are applying Community law in the field of energy and, if relevant, in the fields of environment and competition. (2) Under the relevant provisions of those agreements, arrangements shall be made specifying, in particular, the nature, scope and procedural aspects of the involvement of those countries in the work of the Agency, including provisions relating to financial contributions and to staff". Article 19 of REMIT states that "Insofar as is necessary to achieve the objectives set out in this Regulation and without prejudice to the respective competences of the Member States and the Union institutions, including the European External Action Service, the Agency may develop contacts and enter into administrative arrangements with supervisory authorities, international organisations and the administrations of third countries, in particular, with those impacting the Union energy wholesale market in order to promote the harmonisation of the regulatory framework. Those arrangements shall not create legal obligations in respect of the Union and its Member States nor shall they prevent Member States and their competent authorities from concluding bilateral or multilateral arrangements with those supervisory authorities, international organisations and the administrations of third countries".

<sup>7</sup> In particular in the activities aimed at the early implementation of the provision in the Network Code on Capacity Allocation and Congestion Management in the area of wholesale electricity market coupling.

Moreover, the Contracting Parties of the Energy Community are also due to implement the Network Codes in their jurisdictions. This calls for stronger cooperation between the Agency and the regulatory authorities in these third countries. Institutional cooperation between the Agency and the Energy Community, which started soon after the Agency was established and was further strengthened in 2014 and 2015, will thus be further enhanced, both as concerns relations with the Energy Community's Secretariat and its Regulatory Board (ECRB).

Furthermore, the TYNDPs in both electricity and gas typically also cover adjacent third countries. Their assessment may require the acquisition of information from regulatory authorities in such jurisdictions.

Finally, the effective implementation of REMIT requires the Agency to cooperate with entities tasked with wholesale market monitoring responsibilities in non-EU jurisdictions. Wholesale energy markets are becoming increasingly global and effective cooperation of monitoring authorities is essential to protect the integrity and transparency of these markets.

In this context, the Agency has been in contact with regulatory authorities in Switzerland<sup>8</sup> and the United States and in January 2015 signed a MoU, according to article 19 of REMIT, with the US Federal Energy Regulatory Commission (FERC). These arrangements will govern the cooperation between FERC and the Agency whenever an exchange of experience or information is required to support the respective market monitoring activities.

### **2.3.2 International Cooperation - objectives**

The Agency aims at fostering the exchange of experience with the regulatory institutions outside the EU, where necessary (including the Energy Community), and in areas of mutual interest (e.g. with FERC on market monitoring activities).

Cooperation with the Energy Community should be enhanced at the Working Group level, in the areas of Network Codes, infrastructure (e.g. exemptions, cross-border cost allocation),

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<sup>8</sup> The Swiss Federal Electricity Regulatory Commission ElCom. However, contacts in relation to the implementation of REMIT are suspended, pending the conclusion of the negotiations between the Swiss Federal Government and the European Union on the more general Energy *acquis*.



market monitoring, cross-border capacity allocation, and possibly other issues which relate to borders between the EU and the Energy Community.

One tangible objective would be to define a legal framework and processes for coordinated decisions on cross-border issues – e.g. related to infrastructure, capacity-allocation – in those cases where EU MSs and Energy Community's Contracting Parties are involved.

### **2.3.3 International Cooperation - Risks**

Scarce resources, human and financial, in particular in the Energy Community Contracting Parties regulatory authorities may strongly limit their cooperation with the Agency, however the Energy Community Secretariat may financially support such cooperation.

## **2.4 Completion of the Internal Energy Market**

The Agency plays a central role both in the completion of the IEM and the removal of energy islands. These objectives will remain at the forefront of the Agency's Work Programme over the next years, as will the implementation of the Energy Union, in line with the role the Agency will be given in this framework.

### **2.4.1 Implementation and monitoring of Network Codes and Guidelines**

The effective and timely implementation of the Network Codes (NCs) and Guidelines (GLs) will be the main priority of the Agency in 2017 and beyond. An effective Network Code monitoring process will also have to be implemented to monitor the impact of these NCs and GLs on the functioning of the Internal Energy Market. The Agency will pay attention as to whether any enhancement is required to address the new challenges facing the electricity and gas markets in the future.

### **2.4.2 Monitoring of the Internal Energy Market**

The Annual Market Monitoring Report (MMR) is the Agency's flagship publication, covering all relevant developments in the European gas and electricity markets. The report is a fact-based analysis covering all 28 EU MSs. NRAs are involved in its production.

As of 2016 the MMR is expected to evolve and become more flexible, with parts released earlier during the year. Work on measuring the effects of the NCs will start in 2016 and continue in 2017. The results will be included in the MMR.

## **2.5 The European Infrastructure Challenge**

### **2.5.1 Institutional Framework**

The Agency and NRAs cooperate in implementing the TEN-E Regulation, which entered into force on 15 May 2013. The Regulation aims at enhancing the physical integration of the internal energy market, including by ensuring that no MS is isolated from the European network.

The Agency has various functions and roles regarding the development of the electricity and gas infrastructure. Cost-efficient network development is essential for overcoming physical congestion, improving energy security and ensuring sustainability. Capacity allocation methods and/or congestion management procedures alone cannot resolve physical congestion in electricity and gas transmission systems, especially at interconnection points and other system bottlenecks. Adequate physical transmission capacity is thus a necessary prerequisite for completing the Internal Energy Markets.

In the period 2017 – 2019, this relatively new institutional framework is expected to stabilise, profiting in particular from the experience of the first two rounds of PCI selection. The methodologies should by then be more established, leading to a more stable and predictable process.

### **2.5.2 TYNDP**

Article 6(2) of the Agency Regulation requires the Agency to monitor the execution of the tasks of ENTSO-E and ENTSG in accordance with Articles 9 of the Gas and Electricity Regulations, and in particular, those related to the preparation of a Ten Year Network Development Plan (TYNDP), a task performed by ENTSO-E and ENTSG on a bi-annual schedule. With the adoption of the TEN-E Regulation, the role of the TYNDPSs has been enhanced, since, in order to be eligible for PCI status, projects should be included in the most recent TYNDP. The Agency also monitors the preparation and the execution of the electricity

and gas regional investment plans (RIPs) and of the national infrastructure development plans, and assesses their consistency with respect to the Europe-wide TYNDP.

### **2.5.3 Identification of PCIs**

According to the TEN-E Regulation, the Agency gives an Opinion on the cross-regional consistency of the regional PCI lists. In this way, the Agency contributes to the overall quality of the PCI identification process. In line with the TEN-E Regulation, it is also responsible for PCI monitoring.

### **2.5.4 Cross-Border Cost Allocation**

If within 6 months of receiving an investment request, the concerned NRAs cannot agree on the cross-border cost allocation (CBCA) decision, they hand over the case to the Agency. The Agency may also be called to take such a decision upon the joint request of all concerned NRAs. In such cases, the Agency should take the decision within 3 months of taking over the case, unless further information is sought, in which case an additional 2 months can be added to the period.

## **2.6 Wholesale Energy Market Integrity and Transparency**

### **2.6.1 Institutional Framework**

REMIT, which established rules prohibiting abusive practices affecting wholesale energy markets, extended the Agency's original mandate by assigning new responsibilities in the area of wholesale market monitoring. Such activities are very different from the monitoring of the internal market which the Agency has been performing pursuant to its founding Regulation and require the Agency to acquire new IT infrastructure and software to collect data from market participants at EU level, as well as new market monitoring tools and specialised expertise.

Regulatory cooperation is, however, an essential element of REMIT. Close cooperation and coordination between the Agency and NRAs is necessary to ensure proper monitoring of

energy markets. Coordination is needed between the ambits of responsibilities of the Agency (monitoring of the European market) and of NRAs (monitoring at national level, investigation and enforcement).

The creation of the Agency's Market Integrity and Transparency Working Group (AMIT WG) allows taking account of early input from the NRAs on the Agency's work. Furthermore, the regular discussions in the BoR will continue to promote such collaboration and to ensure that a coordinated approach is taken to the implementation of the relevant rules.

The Agency aims to ensure that NRAs carry out their tasks under REMIT in a coordinated and consistent way. To this end, a REMIT Coordination Group was established in early 2015, with the aim of ensuring an effective and efficient coordination of the Agency's and NRAs' activities in the operational phase of REMIT.

Moreover, apart from NRAs, the Agency cooperates closely with the European Securities and Market Authority (ESMA), the competent financial market authorities of MSs and, where appropriate, national competition authorities. The Agency may also establish strong links with major organised market places.

The scope and practical terms for implementing the cooperation with NRAs, ESMA and organised market places have been defined in Memoranda of Understanding (MoUs). Whilst the MoU with NRAs is a multilateral agreement, the MoUs with ESMA and with organised market places are bilateral.

### **2.6.2 Completion of REMIT Implementation**

During the REMIT implementation stage, the Agency put in place the IT tools and procedures for effectively monitoring wholesale energy markets, including data exchange with NRAs and other authorities (at national and EU level) with which the Agency cooperates. This stage started with the entry into force of REMIT on 28 December 2011. Since then, the Agency has issued four editions of the Guidance on the application of REMIT, a document defining the Registration Format and its Recommendations to the European Commission on the records of transactions. During the remaining part of the REMIT implementation stage, the Agency focused on completing the development and deployment of the IT system for the effective monitoring of the markets in wholesale energy products (the IT system for the Agency's European register of market participants and market participants' registration with NRAs is

already operational). The software implementation has been progressing well and parts of the REMIT IT system (ARIS) - e.g. the platform for the registration of Registered Reporting Mechanisms - already went live in January 2015, upon entry into force of the Implementing Acts. At the same time, the REMIT Portal, the single point of access to all REMIT-related applications, was launched, the registration of Registered Reporting Mechanisms opened and a number of supporting documents published. The remaining parts will have to reach operational stage well in advance of the application of the corresponding provisions in REMIT.

In 2017 the Agency will start reviewing REMIT implementation for the purpose of ensuring coherence with other relevant Union legislation in the fields of financial services and energy and for the purpose of taking into account developments on wholesale energy markets.

### **2.6.3 Wholesale Market Monitoring**

Following the entry into force of the Commission's Implementing Acts on 7 January 2015:

- data on transactions in wholesale energy contracts admitted to trading at Organised Market Places and fundamental data from the ENTSOs' central information transparency platforms is being reported to the Agency from 7 October 2015;
- data on transactions in the remaining wholesale energy contracts (OTC standard and non-standard supply contracts; transportation contracts) and reportable fundamental data from Transmission System operators (TSOs), (Liquefied Natural Gas System Operators (LSOs) and Storage System operators (SSOs) will have to be reported to the Agency from 7 April 2016.

As a result, in October 2015 the Agency began receiving data on a large number of wholesale energy market transactions exceeding, in number 1,000,000 per day, and the Agency is required to screen such data in the light of the actual state of the energy systems, identify instances of possible market abuse and notify them to competent national authorities responsible for investigation and enforcement. The Agency is also responsible for coordinating the investigations. Finally, the Agency assesses the operation and the transparency of different categories of market places and ways of trading and will make recommendations regarding market rules, standards and procedures which could improve market integrity and the functioning of the internal market. It may also evaluate whether any minimum requirement for organised markets could contribute to enhanced market transparency. Given that the

prohibitions and obligations of REMIT already apply since 28 December 2011 to market participants and persons professionally arranging transactions, the Agency has already been obliged to review and to coordinate suspected cases of breaches of REMIT since then. Since the 2<sup>nd</sup> phase of data collection will start on 7 April 2016, with backloading of reportable contracts concluded and remaining outstanding before that date ending by 6 July 2016, the Agency will be in a position to monitor trading activity in wholesale energy products and to assess the operation and transparency of different categories of market places and ways of trading on an annual basis for the first time as of 2017.

## **2.7 Future Challenges, including RES Integration**

### **2.7.1 Institutional Framework**

The EU Council Conclusions of May 2013 stated that “the deployment of renewable energy sources will continue, while ensuring their cost reflectiveness [and] further market integration.” In fact, the future greater penetration of renewable-based generation into the European electricity system, beyond contributing to the achievement of the EU climate policy goals, will be a source of new challenges facing the electricity and gas systems in the years to come, including in terms of adequacy and flexibility. These challenges may require a regulatory and market design response. The Agency is committed to contributing to this effort.

### **2.7.2 “Energy Regulation: A Bridge to 2025” Implementation**

The Conclusions Paper ‘Energy Regulation: A Bridge to 2025’, adopted by the Agency in September 2014, identified the main trends which will characterise the energy sector over the next ten years, assessing their regulatory implications, so that the Agency and NRAs can develop a regulatory response which is fit for the purpose.

### **2.7.3 Review of the Electricity and Gas Target Models**

The review of the Gas Target Model (GTM) was completed in late 2014 and the results presented in January 2015. A similar review of the Electricity Target Model, focussing on flexible response and system adequacy, was started in 2015 and will continue in 2016. The

Agency contributed to the European Commission's consultation on the electricity market design initiative.

The implementation of the GTM focuses on a process of self-evaluation by the NRAs, whereby structure measures of regional market integration should be considered if the regular development of the national market falls short of the recommended values. In the period 2017 – 2019, it should be clear which national market will not be able to develop a sufficiently liquid hub by themselves, and thus should embark on a process of regional market integration. Such a process should include a specification of the chosen market integration model, as well as the choice of the neighbour(s) to be integrated with.

In electricity, as the system decarbonises, the traditional model of generation, network and market operation will have to be further developed. We will continue to see many more generators connecting at distribution voltage levels. This will require distribution networks to become more actively managed and there will be a need to (re)define the relationship between TSOs and DSOs. Cross-border power flows driven by price signals and increased interconnection between countries will become ever more important and the coordination of those flows will be vital to manage the system and use resources efficiently. Perhaps most importantly, we will continue to see the emergence of an active demand side of the market and the ability for consumers to take part in markets. The changes in market conditions are going to continue to raise questions about how to promote the investment which Europe needs – whether in transmission, distribution or generation capacity, smart grids or innovation – while maintaining security of supply and continuing to decarbonise. If we want investments to take place in response to forward prices, it is imperative that everything is done to make sure that price signals reflect scarcity and to create shorter-term markets which will reward those who provide the flexibility services which the system increasingly needs.

## **3. HUMAN AND FINANCIAL RESOURCES OUTLOOK 2017 - 2019**

### **3.1 Overview of the past and current situation**

While no new primary legislation was passed in 2014 or 2015 directly affecting the Agency, regulatory developments following legislation which entered into force in previous years are assigning new important tasks to it, in particular in two areas:

1. Monitoring EU wholesale energy markets
2. Energy infrastructure development.

These two areas are key components of the *Energy Union Strategy* identified as one of the priorities of the new European Commission.

The staff required to implement the new tasks effectively, as well as to deliver on the other parts of the Agency's mission, together with the related expenditure, based on the situation at the time of the drafting of this document (early January 2016), are presented in detail in the sections below and in Annexes II and III.

### **3.2 Resource programming 2017 – 2019**

#### **3.2.1 Financial resources**

The increase in the number of activities the Agency is performing results in the need for increased financial resources foreseen in 2017 and beyond.

#### **Revenue**

On the revenue side, there is an increase of 25.16% in the proposed EU subsidy for 2017 as compared to 2016. This is required to cover the additional expenditure necessary to ensure the proper operation of all Agency's processes. Of the total requested contribution 6.21% will be covered by the surplus resulted from the operations during the year 2015.

The difference in the requested funding between 2016 and 2017 grouped by budget title is explained below with detailed calculations presented in Annex II.



## **Expenditure**

### **Title 1**

Compared to 2016, there is a 54.27% increase in financial resources requested for Title 1, mainly relating to increased staff expenditure (remuneration) for the 33 additional staff requested as from January 2017. This staff is necessary to ensure the implementation of Regulation (EU) 1227/2011 on energy market integrity and transparency (19 additional staff), Regulation (EU) No 347/2013 on Guidelines for Trans-European Energy Infrastructure (6 additional staff), the electricity and gas network codes, including the monitoring of such implementation (4 additional staff) and 4 additional staff to support the increase in the volume of horizontal services.

For the following years, 2018 and 2019, the slight increase within this Title relates only to the expected costs for salaries and allowances adjustments and staff promotions.

### **Title 2**

The 39.83% increase in 2017 of the requested financial resources under Title 2 as compared to 2016 mainly relates to an increase in the size of office space to accommodate the additional human resources granted in the 2016 budget and the additional requests for 2017, as well as to the following: agreed price indexation of the rented office space; additional studies envisaged in the fields of electricity, gas and market monitoring, external development of IT applications, gradual replacement of IT infrastructure and the use of intra-muros consultants on ICT services and support. It is expected that the level of expenditure within this Title will remain unchanged for the years 2017 and 2018.

### **Title 3**

The 30.92% decrease in 2017 mainly reflects the investment cycle in resources needed to cover the costs under the contract for hosting services for the Agency's REMIT Information System. The two-year cycle for the renewal of the hosting services and related investment needed to ensure operational reliability has been reflected in the budget estimate for 2018.

The above mentioned decrease is to some extent offset by the increased need for translation services. Given the new requirement of EPSO from January 2016 for the publishing of new vacancies notices, the Agency needs to translate all its vacancy notices in the 24 languages,

thus incurring more costs. In addition, the possible requirement to have the Agency's opinions translated in all EU official languages contributes to the increased translation costs.

### 3.2.2 Human resources

#### 3.2.2.1. New tasks

The *Framework Strategy for a Resilient Energy Union*, launched by the Commission on 25 February 2015<sup>9</sup> to fulfil one of the main priorities of its political agenda defined in July 2014, confirms, *inter alia*, the commitment of the European Union towards the creation of a single internal energy market and the enhancement of security of supply.

The Agency performs tasks and responsibilities that are at the heart of the creation of the Energy Union with the integration of the electricity and gas markets. As already indicated, since its establishment the Agency has already been assigned additional tasks with regards to:

- i) the monitoring of wholesale energy markets in the Union, and
- ii) the optimal development of trans-European energy infrastructures.

The new tasks that the Agency will be called to perform from 2016/2017 are provided in detail below, together with a description of the consequences on the Agency's staff policy, i.e. an overview of the human resources needed to fulfil these new important tasks. The Agency cannot, however, at this stage speculate on the new tasks it may be attributed as part of the implementation of the Energy Union strategy.

#### **Monitoring of wholesale energy markets in the Union: the REMIT Operational stage**

The Agency has been called to undertake a key role in the monitoring of wholesale energy markets in the Union under REMIT. REMIT entered into force on 28 December 2011 and introduced explicit prohibitions of market manipulation, attempted market manipulation and insider trading, which took effect immediately.

The Agency has greater responsibilities in monitoring the EU wholesale energy market since trade reporting obligations took effect on 7 October 2015 and such role cannot be delegated. In fact, while REMIT envisages close cooperation between the Agency and NRAs, recital 17 of REMIT recognizes that the Agency "[...] *is best placed to carry out such monitoring as it*

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<sup>9</sup> COM(2015) 80 final.

*has both a Union-wide view of electricity and gas markets, and the necessary expertise in the operation of electricity and gas markets and systems in the Union”.*

Moreover, with the entry into force of the Network Codes provided for in Regulation (EC) No 714/2009, the Union electricity and gas markets will become even more integrated, with increasing shares of cross-border trading. Against this background, a pan-European approach to market monitoring is the only effective way of detecting and preventing wholesale energy market abuse.

The **implementation stage** of REMIT, which started upon the entry into force of REMIT, is expected to be completed by 7 July 2016, when the back-loading of outstanding contracts from the second phase of reporting under the REMIT Implementing Acts should be completed. However, the **operational stage** already started on 7 January 2015, with the entry into force of the REMIT Implementing Acts.

If the Agency is not provided with the additional resources and expertise required to fulfil its mission under REMIT, the effectiveness of market monitoring at Union level, which is vital for detecting and deterring market abuse on wholesale energy markets, may be endangered. As a result, the integrity and transparency of wholesale energy markets in the Union may be impaired, adversely affecting energy consumers. In fact, it is questionable whether NRAs will be able to replace the Agency in such activities since they do not have the Union-wide vision of the energy markets required for effective monitoring.

### **3.2.2.2. Additional REMIT-related tasks assigned to the Agency during the REMIT legislative process**

With regard to human resources needed to implement the Agency’s mandate under REMIT, the *Fiche Financière* of REMIT only reflects the Commission proposal from 8 December 2010 and does not consider the amendments introduced in the course of the legislative process, until its final adoption on 25 October 2011. The additional tasks and activities for the Agency are as follows:

- *ACER guidance on market abuse definitions (Articles 2, 6 and 16(1), second subparagraph, of REMIT);*
- *Monitoring of additional data taking into account modifications to the definition of inside information, the prohibition of insider dealing and the obligation to publish inside information (Articles 2, 3 and 4 of REMIT);*
- *Monitoring of additional data on emission allowances (Article 10(3) of REMIT);*

- *Establishment of strong links with major organised markets (Recital 18 of REMIT);*
- *Assessment of the operation and transparency of different categories of market places and ways of trading (Article 7(3) of REMIT);*
- *Close cooperation with NRAs, ESMA, national financial market authorities and, if applicable, competition authorities to ensure a coordinated enforcement of market abuse rules under REMIT and under the Market Abuse Directive (Article 1(3), 8, 10 and 16 of REMIT; MAD/MiFID review);*
- *Registration of market participants (Article 9 of REMIT);*
- *Publication of data by the Agency (Article 12 of REMIT).*

Further additional tasks were assigned to the Agency by the REMIT Implementing Acts, according to which the Agency is also responsible for registering reporting parties and producing and maintaining a number of policy documents, manuals and lists, including:

- the Transaction Reporting User Manual (“TRUM”);
- the Manual of Procedures on transaction and fundamental data reporting (“MoP”);
- the Requirements for the Registration of Registered Reporting Mechanisms (“RRM Requirements”);
- the List of Organised Market Places;
- the List of Standard Contracts;
- List of Registered Reporting Mechanisms (“RRMs”);
- List of Inside Information Platforms;
- European Register of Market Participants.

All these documents, except for the List of Standard Contracts, the List of RRM and the European Register of Market Participants, were first released on 8 January 2015, upon entry into force of the Implementing Acts. The management of such documents and lists, as well as the update of the ACER Guidance pursuant to Article 16(1), second sub-paragraph, of REMIT and the maintenance/updating of the Questions and Answers (Q&A) on REMIT will be a recurring task for the Market Monitoring Department.

In light of the above, it is estimated that **at least 15 staff members** (2 policy officers and 4 monitoring officers for REMIT policy and market conduct tasks, 2 monitoring officers, 1 legal officer, 1 IT officer and 1 IT assistant for market surveillance and analytics tasks as well as 2 IT officers and 2 IT assistants for market data management tasks) are required to fulfil the

additional tasks stipulated by the REMIT legislators in the course of the legislative process and in the REMIT Implementing Acts.

In 2015, the budgetary authorities approved 15 additional staff members for the Agency for 2016 of which 10 have been assigned to REMIT-related tasks at technical level and one to the post of Head of Department, following the envisaged split of the Market Monitoring Department (see 3.2.2.3). This will enable the Agency to fulfil its mandatory tasks under REMIT, including most of the aforementioned additional tasks and activities (ACER guidance on market abuse definitions (Articles 2, 6 and 16(1), second subparagraph, of REMIT); Monitoring of additional data taking into account modifications to the definition of inside information, the prohibition of insider dealing and the obligation to publish inside information (Articles 2, 3 and 4 of REMIT); Assessment of the operation and transparency of different categories of market places and ways of trading (Article 7(3) of REMIT); Close cooperation with NRAs, ESMA, national financial market authorities and, if applicable, competition authorities to ensure a coordinated enforcement of market abuse rules under REMIT and under the Market Abuse Directive (Article 1(3), 8, 10 and 16 of REMIT; MAD/MiFID review); Registration of market participants (Article 9 of REMIT)). However, the Agency will still not be able to perform some tasks and activities (Monitoring of additional data on emission allowances (Article 10(3) of REMIT; Establishment of strong links with major organised markets (Recital 18 of REMIT); Publication of data by the Agency (Article 12 of REMIT)) given the lack of resources for which 5 additional staff members (2 IT officers and 3 IT assistants) would still be required.

### **3.2.2.3. Level of wholesale energy market integration in the Union: Regional market monitoring**

The Agency also considers that the basic monitoring activities already included in the Commission's proposal require a larger number of highly qualified staff than those envisaged in the *Fiche Financière* of REMIT to enable the Agency to assume an active role in monitoring wholesale energy markets in the Union.

These activities include:

- a) validating the data, to be reported by 200+ reporting mechanisms on an hourly/daily basis, and ensuring operational reliability of data received and maintained;
- b) analysing the data to detect suspected instances of market abuse;
- c) preparing the cases to be notified to national authorities for their investigation;
- d) coordinating the investigative groups on cross-border cases;

- e) coordinating the enforcement of market abuse rules;
- f) drafting reports.

In this respect, the human resource requirements estimated by the Agency, which are higher than those foreseen in the *Fiche Financière* established for REMIT, reflect both the experience gained during the implementation stage and the benchmarking with other regulatory organisations entrusted with similar functions (e.g. the Federal Energy Regulatory Commission in the US and the Financial Conduct Authority in the UK).

In particular, the most resource intensive activity will be the analysis of the data reported by market participants and other reporting parties and collected by the Agency.

In this respect, to monitor wholesale energy markets in the most efficient and effective manner, the Agency is planning to analyse the trading and fundamental data in two steps:

- first, an automatic screening performed by a dedicated IT tool on the basis of predefined “alerts” will enable to detect anomalous instances;
- subsequently, a preliminary analysis of anomalous instances will be performed in order to identify suspicious practices which may amount to market abuse.

This analysis would inevitably have to be performed by highly qualified experts, who will have to cover trading in all 28 Member States, in energy commodity markets and in energy derivatives, on organised markets and over-the-counter. Therefore a wide range of expertise would be required.

In view of the above, the Agency will have to devote significant resources both to the operation of the market screening tool, to the assessment of its output (in terms of alerts) and to the subsequent preliminary analysis of anomalous situations.

A combination of horizontal (product-specific) and regional desks is envisaged, with:

- 1 monitoring officer for each of the following products/markets: (1) EU intraday/within-day and balancing electricity and natural gas markets, (2) EU day-ahead and forward electricity and natural gas markets and (3) EU derivatives relating to electricity and natural gas markets each, for a total of 3 monitoring officers for market surveillance and analytics tasks;
- 1 monitoring officer for each of the 5 regional areas for electricity and 5 regional areas for natural gas, for a total of 10 monitoring officers for market surveillance and analytics tasks, supported by 2 assistants.

While the “horizontal” product/market monitoring approach could already be implemented with the Agency’s current market surveillance and analytics staff, the regional market monitoring approach would require **10 additional monitoring officers**.

Moreover, **2 additional monitoring officers supported by 2 assistants** should be foreseen to coordinate the cross-border investigations conducted by NRAs.

Therefore, an effective approach to market monitoring would require **12 additional officers and 2 assistants for market surveillance and analytics tasks**, beyond the staffing level of the current resources envisaged and already authorised in the *Fiche Financière* of REMIT.

As already indicated, of the 15 additional posts authorised for the Agency in 2016 by the budgetary authorities, 10 have been assigned to REMIT-related activities at technical level and they will be used to allow the Agency to perform the additional mandatory tasks under REMIT as described under 3.2.2.2. Therefore, these posts cannot be used to undertake a regional market monitoring as described under 3.2.2.3. The Agency would still require 14 additional staff members to perform such regional market monitoring.

With the new tasks to be covered and the additional staff devoted to them, it is expected that the current Market Monitoring Department will have to be restructured into two Departments. The following organisational structure is envisaged:

- a Market Monitoring Department I (MMD I) will be responsible for i) REMIT Policy, proposing policy options and regulatory strategies for improving the functioning of trading venues, ii) Market Data Reporting and iii) Market Data Management; and
- a Market Monitoring Department II (MMD II) will be responsible for i) market conduct tasks, ii) developing and implementing surveillance tools to detect potential instances of market abuse, and iii) performing daily oversight of the internal gas and electricity markets, identifying market events and trends and referring issues of potential market abuse or rules violations to the market conduct team.

This type of structure is typical of other organisations performing similar market monitoring activities. In fact, the responsibilities are divided according to the different approaches and skills requested for the performance of the duties. On this basis, the interaction with external stakeholders (organised market places, reporting parties, market participants) for the purposes of REMIT Policy, Market Data Reporting and market data management ('front office') and the interaction with NRAs and other regulatory authorities for the purposes of screening of the markets to identify anomalous instances and the assessment of these instances with the aim to determine whether they represent suspicious events (ahead of an investigation being launched) and market conduct tasks are assigned to different teams/departments. One of the 15 additional posts authorised for the Agency in 2016 is at grade AD11 and will be used to recruit an additional Head of Department.

The additional 19 staff members, whom the Agency will continue to request in future years in order to be able to fulfil its mission under REMIT in an efficient and effective manner are expected to be graded as follows:

| Grade | TAs for the Market Monitoring Department |
|-------|--|
| AD7   | 3  |
| AD5   | 11                                       |
| AST4  | 1  |
| AST3  | 4  |

#### 3.2.2.4. PCI monitoring and cross-border cost allocation decisions

The Agency was assigned 5 FTEs for the TEN-E Regulation tasks in 2014, compared to the 14 identified by the Agency as necessary to perform these tasks<sup>10</sup>. The Agency is already striving to maximise synergies with the existing TSO Cooperation teams (4 FTEs) which are already responsible, *inter alia*, for preparing the Agency's opinions on the TYNDPs, the consistency across various plans, the winter and summer supply outlooks of the ENTSOs, the scenario developments and European supply adequacy outlook components of the TYNDP, as well as many other tasks of complex nature<sup>11</sup>.

Furthermore, the TYNDPs are becoming increasingly complex documents, given the many challenges faced by energy networks in the future, involving proper cost-benefit analysis, and interlinked electricity and gas market and network models in 2016, along with the need to coordinate plans at various levels (national, regional, and European) and support them to become a robust basis for the selection of PCIs.

Going forward, assessing the added-value of the TYNDPs and of the PCIs, as well as

<sup>10</sup> In reality, an initial allocation of 8FTEs was reduced to 5FTEs by imposing on the Agency the 5% reduction in staffing envisaged by 2018.

<sup>11</sup> These experts deal with all TSO-related tasks assigned to the Agency by the Third Energy Package (*Regulation (EC) No 713/2009*) and by Commission Regulation (EU) No 838/2010 which can be summarised as follows:

- formulating opinions on draft statutes, lists of members and draft rules of procedure of the ENTSOs;
- formulating opinions on draft annual work programmes, draft EU-wide TYNDPs and other ENTSOs' relevant documents (e.g. annual summer and winter supply outlooks, annual work programme, annual report);
- monitoring the execution of tasks of ENTSOs; monitoring progress of new interconnector projects and the implementation of EU-wide TYNDPs, monitoring regional cooperation of TSOs;
- monitoring the functioning of the inter TSO compensation mechanism in electricity.



monitoring their implementation will become an increasingly important activity for the Agency, to ensure that these plans and projects are, firstly, justified from a socio-economic point of view, and, secondly, put into action and operation and that any problem or delay is identified early on and remedial actions taken. In 2014 the Agency already started to monitor the consistency of the network development planning at different geographical level (EU-wide, regional, national). However, this monitoring was mostly based on information already collected for these plans. In 2015, the Agency started to monitor the implementation of individual PCIs, on the basis of reports submitted by project promoters by 31 March, and produce a report to the Regional Groups by 30 June. The scope and granularity of such monitoring clearly require resources significantly greater than what the Agency has so far been allocated.

To illustrate the scope and the extent of the monitoring required to be performed by the Agency under the TEN-E Regulation, it should be noted that:

- The first PCIs list included 107 gas sector projects and 134 electricity sector projects. The updated PCI list adopted in 2015 included 77 gas sector projects and 111 electricity sector projects. While the PCIs identification process will be repeated every two years, it is expected that each time it will last for most of the two year period, starting with the assessment of the TYNDP which is explicitly the basis for the PCIs list; and
- The PCIs monitoring activities will cover, on a continuous yearly basis, the aforementioned PCIs and also the projects included in the TYNDP and in other plans (in total, more than 1000 electricity and gas investments were monitored in the Agency's Opinions published in 2014).

The Agency assesses that effective monitoring of PCI projects, on top of the other tasks that the Agency is called to perform in the infrastructure area, will require additional resources, estimated in **5 additional infrastructure officer positions**<sup>12</sup>, 3 in the Electricity and 2 in the Gas Department<sup>13</sup>.

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<sup>12</sup> This assessment compares quite favourably with the level of effort deployed on the promoters' side. For electricity, ENTSO-E's Work Programme 2013 indicates that the TYNDPs, including regional plans, involve some 200-member TSO experts in six Regional Groups and over five Working Groups. About half of TYNDP investment items were proposed as PCIs in the current ad-hoc round, which gives an indication of the amount of work involved (beyond the national planning activities).

<sup>13</sup> More additional resources are envisaged for the Electricity Department, compared to the Gas Department, given the higher number and complexity of electricity PCIs.

Moreover, to make sure that it can handle the information on hundreds of projects involving thousands of investment items in very diverse sectors and subsectors in both electricity and gas, the Agency has initiated preliminary assessment of an information management and data support system designed to service infrastructure-related tasks.

To enable the set-up and proper functioning of such a system, **at least 2 additional IT experts** will be needed, one in each of the Gas and Electricity Departments.

Moreover, the Agency has the responsibility to decide on investment requests, including on cross-border cost allocation, if the involved NRAs cannot agree on them within six months of the requests being submitted, or upon a joint request by these NRAs. The Agency has three months for adopting its decision, which can be extended by an additional two months if additional information is required from the project promoters. By the end of 2014, 17 investment requests in gas and 5 investment requests in electricity were notified to the Agency, with two of them being referred for decision. The Agency took its first cross-border cost allocation decision in August 2014 and the second one in April 2015. Going forward, it is expected that the number of referrals of cross-border cost allocation decisions will increase. While the resource requirements of such an activity clearly depend on the number of referrals of cross-border cost allocation requests by NRAs, and is subject to peaks when referrals are received and the decisions need to be adopted within a tight timeframe, it is considered necessary that **2 additional infrastructure officers** are, on average, allocated to this task, one in each of the Gas and Electricity Departments.

Therefore, overall, the additional resources required for the Agency to be able to fulfil its mandate under the TEN-E Regulation amount to **9 FTEs**, of which **4 officers and 1 IT expert in the Electricity Department** and **3 officers and 1 IT expert in the Gas Department**.

In 2016, 3 of the 15 additional posts authorised to the Agency have been assigned to infrastructure-related activities. Therefore, the Agency still requires 6 additional posts to fulfil its mandate in this area. The additional staff, to be assigned to the Electricity and Gas Departments, is expected to be graded as follows:

| Grade | TAs for the Electricity Department | TAs for the Gas Department |
|-------|------------------------------------|----------------------------|
| AD8   | 1                                  | 1                          |
| AD5   | 2                                  | 2                          |

### 3.2.2.5. Implementation of the adopted Network Codes and Guidelines

Some of the Network Codes and Guidelines adopted under the Third Package assign new tasks to the Agency. In electricity, these new tasks include, for example, new specific reporting and monitoring obligations pursuant to the adopted market-related Guidelines, the monitoring of the implementation projects established pursuant to the Guidelines on Capacity Allocation and Congestion Management, on Forward Capacity Allocation on Electricity Balancing and on Guideline on Electricity Transmission System Operation, the organisation and coordination of stakeholders' involvement in monitoring the implementation of the adopted Network Codes and Guidelines through, in particular, the European stakeholder committees established pursuant to the Network Codes and Guidelines. Moreover, the Guideline on Capacity Allocation and Congestion Management and on the Forward Capacity Allocation foresee terms and methodologies in several areas that should be approved by all NRAs, upon the proposal of all TSOs. However, in case NRAs are not able to reach a common position, typically within six months of receiving the TSOs' proposal, the approval decision is passed to the Agency.

On the gas side, the current draft of the Network Code of Harmonised Gas Transmission Tariff Structures, which the Commission is finalising for the comitology process, foresees a review by the Agency of all national tariff methodologies. Next to that, the code foresees that guidelines for tariff methodologies have to be developed by the Agency. The application date currently foreseen is one year after entry into force, with the vote scheduled for summer 2016. If these tasks remain in the final version, this implies a significant additional workload for the Agency.

The completion of the Framework Guidelines and Network Development process will make staff available for the activities related to the approval of binding tertiary legislation and for the monitoring of the implementation of the Network Codes, Guidelines and such additional tertiary instruments. However, it is envisaged that this redeployment will not be sufficient and that, on top of the new FTEs assigned in 2016, **4 additional FTEs** will be required, 3 FTEs for the Electricity Department and 1 FTE for the Gas Department. The additional staff is expected to be graded as follows:

| Grade | TAs for the Electricity Department | TAs for the Gas Department |
|-------|------------------------------------|----------------------------|
| AD6   | 1                                  |                            |
| AD 5  | 2                                  | 1                          |

### 3.2.2.6. Growth of existing tasks

As indicated above, over the next two years the Agency is facing important challenges in the implementation of the TEN-E Regulation and in operating REMIT. To meet these challenges, the Agency requires a significant increase in the number of staff with specific technical expertise, often in new areas, as illustrated above.

The increase in staff numbers and the substantial expansion in the activities of the Agency, including in new areas (REMIT and TEN-E) require some addition to the resources available for central and support functions in the following areas: Legal Advice (1 Assistant – AST3); Communication and Stakeholders Relations (1 Officer – AD5); Procurement (1 Assistant – AST3); IT Support (1 Senior IT Officer - AD7).

The requested additional staff for support functions is expected to be graded as follows:

| Grade | TAs |
|-------|-----|
| AD7   | 1   |
| AD5   | 1   |
| AST3  | 2   |

### 3.2.2.7. Efficiency gains

With regards to the proposed policy to reduce staff in all EU institutions and bodies by 5% by 2018, it is important to stress that, since it became formally operational in 2011, the Agency has been assigned substantial new tasks in the area of wholesale energy market monitoring (by REMIT) and infrastructure development planning (by the TEN-E Regulation).

To implement these new tasks, the Agency has been assigned:

- 15 additional posts in 2012 and 2013 for the implementation of REMIT;
- 5 additional posts in 2014 for the implementation of the TEN-E Regulation.
- 15 additional posts in 2016 for the implementation of REMIT and the TEN-E Regulation.

However, as indicated above, further resources are required for the full implementation of REMIT and the TEN-E Regulation. The assessment provided above already takes into account the efficiency gains which the Agency can achieve and has achieved in the use of its staff. As a consequence, it is expected that ACER's staff will still grow beyond 2015.

The current internal structure of ACER is based on three technical departments – the Electricity, the Gas and the Market Monitoring Departments –, the Administration Department

and the Director's Office. The separate organisation of the technical work for the two sectors (electricity and gas) reflects their specificities in the area of regulation.

In order to increase synergies in market monitoring activities, greater cooperation will be promoted between the Market Monitoring Department (responsible for the implementation of REMIT) and the Market Monitoring Teams in the Electricity and Gas Departments (responsible for monitoring various aspects of the Internal Energy Market).

At the same time, the Agency is committed to continuous improvement and has been constantly working towards ensuring the most effective and efficient use of its resources, to the extent possible.

To achieve that, it is regularly re-assessing, optimizing and streamlining its support functions and administrative processes. This is done by a number of means: knowledge sharing and introduction of best practices from other Agencies, review, documentation and automation of certain processes.

A number of tools have been developed to improve efficiency and the use of resources:

HR Tool - personnel data and files, the annual performance appraisal, working time recording and flexitime, leave requests and annual leave balances, and teleworking requests are managed via the tool.

Financial Tool – the tool facilitates the whole preparatory process of the financial transactions prior to their initiation in ABAC. The following type of transactions are processed automatically: commitments, de-commitments, commitment top-ups, budget transfers, recovery orders and payments (invoices and direct payments). The tool also enables constant monitoring of the spending of the budget, the level of commitment and payment appropriations for each budget line. It further facilitated and optimized the introduced paperless workflow.

Contracts Tool – the tool provides an inventory of all concluded contracts and agreements, enables their efficient management, monitoring of deadlines, consumption rates, etc.

Mission Management Tool – the whole process from request of a mission (mission order) to the reimbursement of expenses (mission claim) is managed via the tool.

Records Repository Tool – the tool facilitates the implementation of efficient document management and provides the possibility for registration of incoming, outgoing and internal documents, mail and records and their subsequent management: classification, archival, destruction or permanent preservation. The tool also provides a case management function.

Case Management Tool – the tool provides improved and efficient system form management of cases in the field of REMIT.

Other existing tools include: an event management tool; transport management tool; online library; IT helpdesk.

The tools complement each other and are managed in view of ensuring efficient use of resources (the tools have shortened the processing time, minimized human error and improved transparency as well). In addition to automating the processes, the tools provide up-to-date, real time information on the state of play of transactions, budget consumption, etc. and ensure business continuity of the operations and institutional memory (in cases of long-term absence or departure).

### **3.2.2.8. Negative priorities/Decrease of existing tasks**

Due to the limited resources available to the Agency, much less than would be needed to fulfil its statutory mission and perform the tasks mandated to it by legislation, and the unsuccessful bid by the Agency to be authorised to recruit the necessary additional staff in the 2015 and partly also in the 2016 budgetary processes, the Agency has had already to deprioritise a number of the activities initially included in the 2015 and 2016 Annual Work Programmes.

In particular, some activities planned, especially with respect to tasks related to the implementation of REMIT, and, to a lesser extent, the TEN-E Regulation and the Network Code implementation monitoring process, have been postponed or reduced in scope.

More specifically:

- In the area of Infrastructure:
  - the level of ambition of the Agency in assessing the relevance of the TYNDP and PCI projects as well as their implementation was adapted to the level of resources.
- In the area of REMIT:
  - the establishment of appropriate mechanisms to access emission allowances data has been postponed;
  - the publication of parts of the trade information the Agency will collect under REMIT, provided that commercially sensitive information on individual market participants or individual transactions or individual market places are not disclosed and cannot be inferred, has been postponed;
  - the provision of commercially non-sensitive trade database for scientific purposes, subject to confidentiality requirements has been postponed;

- the assessment of the operation and transparency of different categories of market places and ways of trading in the context of the annual REMIT report was not performed in 2015;
- the scope of the monitoring of trading activities in wholesale energy markets to detect and prevent trading based on inside information and market manipulation, in cooperation with NRAs, on the basis of data collected in connection with the REMIT implementing acts, was reduced;
- the cooperation and coordination with NRAs, ESMA, national financial market authorities and, if applicable, competition authorities, to ensure a coordinated enforcement of market abuse rules under REMIT and under the Market Abuse Directive is being developed to the limited extent allowed by the available resources.

Such deprioritisation is particularly unfortunate, as it leads to important activities being postponed; it is however inevitable, given the inadequate resources available to the Agency. Should no additional resources be secured in 2017, some of the tasks identified in the current Work Programme will also have to be deprioritised. Furthermore, with REMIT entering into the operational stage and infrastructure monitoring gaining momentum, any future deprioritisation may affect the ability of the Agency to detect and deter market abuse and to ensure that infrastructure projects progress according to plans. In this way some of the key components of the Energy Union strategy may be jeopardised.

#### **3.2.2.9. Redeployment of resources in view of budgetary constraints**

No redeployment is envisaged until 2018, as the Agency is marked as an Agency with new tasks and still has to recruit additional staff in order to implement its newly assigned tasks. In view of its new tasks deriving from the TEN-E Regulation (comprising mainly the identification and monitoring of projects of common interest in the field of gas and electricity infrastructure), over the period 2014-2017 the Agency has been indicated to receive 8 additional posts, as well as the corresponding appropriations. However, the Agency was only authorised to recruit 5 additional staff. The difference was explained as the 5% staff reduction which all EU bodies are required to achieve by 2018<sup>14</sup>. However, in the case of the Agency, such a reduction was applied at a rate of 7% and already in full in 2014.

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<sup>14</sup> Communication COM(2013)519, p. 5.2.6, page 16

## **SECTION III – WORK PROGRAMME 2017**

### **1. EXECUTIVE SUMMARY**

The Agency's priorities in 2017 will be similar to those in the previous year. In the framework of the completion of the Internal Energy Market, the Agency will support and monitor the implementation of the adopted Network Codes and Guidelines. It will also monitor more general developments in the Internal Energy Market to identify any remaining barriers to competition, both at wholesale and retail level. The Agency's findings will be presented in the Annual Market Monitoring Report, which has become one of the Agency's flagship products.

2017 will be the first year in which all the elements related to the implementation of the wholesale energy market monitoring framework established by REMIT will be in force during the course of the whole year. The Agency began monitoring trading in EU wholesale energy markets on the basis of the reported trade and fundamental data and using the purposely developed surveillance platform in October 2015, while as of 7 July 2016 all data sets will have to be reported to the Agency, including the back-loading of outstanding non-standard contracts. The effectiveness with which the Agency is able to perform these tasks crucially depends on it being assigned the significant additional resources that it has been requesting since 2014.

While performing its TYNDP and PCI-related tasks, the Agency is also being called to take cross-border cost allocation decisions on PCIs, where the relevant NRAs fail to agree within six months of receiving the investment request or upon a joint referral of these NRAs. Adopting cross-border cost allocation decision is a challenging activity for the Agency, due to the complexity typically characterizing the requests referred to it (which otherwise would be successfully handled by the relevant NRAs) and the tight timeline (three months, with a possible two-month extension) within which the Agency has to operate. Such requests, whose number remains unpredictable, put additional strain on the Agency's human resources.

In preparation of this draft Work Programme, the Agency published and presented an outline in a public workshop held in Ljubljana on 5 November 2015. Stakeholders were asked to provide feedback and inputs by 30 November.

The Agency thanks stakeholders for their valuable feedback and input on the outline of the Work Programme. The Agency has also aimed to align its draft Work Programme with the Commission's public consultation document on the Annual priority list of Network Codes and Guidelines 2017.



## 2. ACTIVITIES

### 2.1 Electricity Network Codes (Operational)

As regards the Agency's work on Framework Guidelines and Network Codes, Article 6(1) of Regulations (EC) No 714/2009 and (EC) No 715/2009 stipulates that the European Commission, after consulting the Agency, ENTSOs and other relevant stakeholders, establishes an annual priority list identifying the areas to be considered for the development of Network Codes. This programme takes into account the priorities informally discussed with the European Commission – Directorate-General for Energy. As in previous years, the Agency expects the Commission to consult on the priority list for 2017 in the first half of 2016 and to formalise it afterwards. Therefore, no indication as to which priority areas will be identified for 2017 is currently available.

However, some tasks in 2017 will derive from work already started in the previous year(s). This includes the implementation of the adopted Network Codes and Guidelines and its monitoring, as well as the advice to be given during the comitology process, even though the Agency expects that the remaining Network Codes and Guidelines still being worked on will be adopted before the end of 2016. More specifically, during 2017, the Agency plans to work towards the following deliverables:

| <b>Task</b>                | <b>Common set of transmission tariff principles to facilitate a harmonised approach, if needed</b>   |
|----------------------------|--|
| Legal basis                | Articles 6(4) and 7(2) of Regulation (EC) No 713/2009; Articles 6(7), 6(9) and 8(6)(k) Reg. (EC) No 714/2009   |
| Overview (status)          | The Agency will initiate work on a common set of transmission tariff principles in 2016, to be continued in 2017.  |
| Objectives                 | Specific objective: establish and adopt a harmonised set of transmission tariff principles, allowing an efficient balance between the Internal Energy Market goals.<br>Multi-annual objective: Contribute to the (post-2014) completion of the Internal Energy Market. |
| Outputs                    | Harmonised set of transmission tariff principles.  |
| Performance indicators and | Timely delivery  |

|                        |  |
|------------------------|--|
| targets<br>(deadlines) |  |
| Resources              | 0.5 FTE  |
| Risks                  | Given the limited resources of the Agency, the involvement of NRAs is essential to ensure the timely delivery. |

|                      |  |
|----------------------|--|
| <b>Task</b>          | <b>Assistance to NRAs for the approval of the terms and conditions or methodologies developed by TSOs, NEMOs or other entities pursuant to the adopted Network Codes and relevant Guidelines</b>   |
| Legal basis          | To be established pursuant to the Network Codes and relevant Guidelines. For example, in Commission Regulation (EU) 2015/1222 this task is specified in Article 9(9) and (10).   |
| Overview<br>(status) | <p>The Network Codes and Guidelines will establish numerous obligations for TSOs and other entities to develop proposals for terms and conditions or methodologies, which need to be approved by all NRAs or a group of NRAs pursuant to Commission Regulation (EU) 2015/1222. In the first few years following the entry into force of different Network Codes and Guidelines, around 40 terms and conditions and methodologies will need to be developed at European level and approved by all NRAs. Additionally, around 30 terms and conditions and methodologies need to be developed and approved by TSOs and NRAs of individual regions, where the number of regions established for different purposes varies between 5 and 10.</p> <p>As these approval procedures need to be coordinated, the Agency will facilitate such coordination within the Agency's working groups' structures.</p> <p>The Agency can also be requested by NRAs to provide an Opinion on the terms and conditions pursuant to Article 9(9) of Commission Regulation (EU) 2015/1222.</p> <p>Efficient decision making procedures are needed in order to facilitate (post-2014) completion of the Internal Energy Market.</p> |
| Objectives           | <p>Specific objective: the Agency will provide a framework for the coordination of NRAs and will strive to facilitate the reaching of an agreement among the involved NRAs on whether to approve, reject or require amendments to the proposed terms and conditions or methodologies.</p> <p>Multi-annual objective: contribute to the (post-2014) completion of the Internal Energy Market.</p>   |

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|--|---|
| Outputs  | Framework for the coordination of NRAs - Agreement and coordinated decisions of all NRAs on the proposed terms and conditions or methodologies.   |
| Performance indicators and targets (deadlines) | Coordinated NRAs decisions on the proposed terms and conditions or methodologies within the deadlines specified by the relevant Network Codes and Guidelines.<br>Timely delivery of any ACER's opinion. |
| Resources                                      | 1.5 FTEs  |
| Risks  | The agreement might not be reached among all involved NRAs and coordinated decisions not taken.   |

| <b>Task</b>       | <b>Coordination of implementation projects established pursuant to the Network Codes and relevant Guidelines and, where relevant, pursuant to the early implementation process</b>  |
|-------------------|---|
| Legal basis       | Established pursuant to Network Codes and relevant Guidelines.  |
| Overview (status) | <p>The Network Codes and Guidelines will introduce numerous requirements and obligations for TSOs and other entities to fulfil requirements related to the integration of the electricity market. These requirements will be fulfilled through concrete implementation projects which require coordination, monitoring and supervision from NRAs and the Agency.</p> <p>The Agency assumes that many terms and conditions or methodologies developed and approved by TSOs and NRAs will be implemented through implementation projects. The Agency currently estimates that around 30 different implementation projects will be established at European or regional level for the purpose of implementation of the Network Codes and Guidelines. As many of these projects are essential for the completion of the Internal Energy Market, the Agency's involvement in these implementation projects is needed in order to ensure their timely finalisation. The active monitoring and coordination of these projects will require a substantial allocation of staff.</p> |
| Objectives        | <p>Specific objective: facilitate the implementation of projects and ensure the timely completion, as well as the involvement of stakeholders within the implementation process.</p> <p>Multi-annual objective: contribute to the (post-2014) completion of the Internal Energy Market.</p>   |
| Outputs           | Implementation of requirements pursuant to the adopted Network Codes and Guidelines through specific implementation projects.   |

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|--|--|
| Performance indicators and targets (deadlines) | Completion of specific implementation projects within the deadlines established by the adopted Network Codes and Guidelines. |
| Resources                                      | 1.5 FTEs   |
| Risks  | Delays in implementation projects subject to unforeseen difficulties.  |

| <b>Task</b>                                    | <b>Facilitation of stakeholder involvement pursuant to the adopted Network Codes and relevant Guidelines</b>  |
|--|---|
| Legal basis                                    | To be established pursuant to the Network Codes and relevant Guidelines. For example, in Commission Regulation (EU) 2015/1222 this task is specified in Article 11.   |
| Overview (status)                              | The Agency, in close cooperation with ENTSO-E, is obliged to organise stakeholder involvement with regard to the different aspects of the implementation and operation of the Network Codes and Guidelines. Involvement of stakeholders within the implementation process will ensure wider acceptance of the changes introduced by the Network Codes and Guidelines, thus facilitating the (post-2014) completion of the Internal Energy Market.                                       |
| Objectives                                     | Specific objective: involvement of stakeholders within the implementation of the Network Codes and Guidelines and monitoring their operation and effect on the Internal Energy Market.<br>Multi-annual objective: contribute to the (post-2014) completion of the Internal Energy Market.   |
| Outputs  | The Agency will establish dedicated stakeholder committees for several groups of Network Codes and Guidelines. The stakeholder committees will be chaired by the Agency and will involve EU stakeholder organisations with direct interest in these Network Codes and Guidelines.<br><br>The Agency will facilitate stakeholder involvement also through other means, such as consultations, responses to individual requests, dedicated meetings and workshops with stakeholders, etc. |
| Performance indicators and targets (deadlines) | The general level of stakeholder satisfaction and support to the implementation process of the Network Codes and Guidelines.  |
| Resources                                      | 0.8 FTE   |

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| Risks | Lack of human and other resources to facilitate proper stakeholder involvement and in particular the functioning of stakeholder committees. |
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| <b>Task</b>                                    | <b>Review of the requests for amendments to the adopted Network Codes and relevant Guidelines from interested persons and, where appropriate, based on these requests or the Agency's own initiative, preparation of the amendment proposals for the European Commission</b>   |
| Legal basis                                    | Article 7 of Regulation (EC) No 714/2009.  |
| Overview (status)                              | By 2016 eight Network Codes and Guidelines should be adopted. Unavoidably, it can be expected that some elements of these Network Codes and Guidelines will prove to be inadequate for the task at hand and will need to be reviewed and changed in order to improve the process for the (post-2014) completion and functioning of the Internal Energy Market. |
| Objectives                                     | Specific objective: to improve the requirements and procedures (both technical and governance) for faster implementation and better functioning of Internal Energy Market.<br><br>Multi-annual objective: contribute to the (post-2014) completion of the Internal Energy Market.  |
| Outputs  | The Agency will propose amendments to the Network Codes and Guidelines to the European Commission where necessary in order to ensure more efficient implementation and functioning of the Internal Energy Market.  |
| Performance indicators and targets (deadlines) | General level of satisfaction and support of stakeholders and regulators to the proposed amendments of the Network Codes and Guidelines.   |
| Resources                                      | 0.5 FTE  |
| Risks  | Unexpectedly high amount of requests for amendments of the Network Codes and Guidelines.<br><br>Barriers in the implementation of the Network Codes requiring urgent amendments of the Network Codes and Guidelines.<br><br>Lack of human and other resources.   |

| <b>Task</b>                                    | <b>Performance of the specific obligations of the Agency pursuant the adopted Network Codes and Guidelines</b>   |
|--|--|
| Legal basis                                    | To be established pursuant to the Network Codes and relevant Guidelines.   |
| Overview (status)                              | The Network Codes and Guidelines will establish numerous new obligations for the Agency. These obligations relate to transparency, reporting, facilitation of cooperation, monitoring, providing opinions and recommendations, etc.  |
| Objectives                                     | <p>Specific objective: the Agency's specific obligations pursuant to Network Codes and Guidelines should be fulfilled in a timely manner, with the aim of improving transparency and reporting, facilitate cooperation, etc.</p> <p>Multi-annual objective: contribute to the (post-2014) completion of the Internal Energy Market.</p>  |
| Outputs  | <p>The obligations for the Agency cover the following:</p> <ul style="list-style-type: none"> <li>(a) Reporting on different aspects of the Network Codes and Guidelines beyond the implementation monitoring (e.g. report on the efficiency of bidding zones pursuant to Regulation (EU) 2015/1222);</li> <li>(b) Monitoring the development of aspects of the Network Codes and Guidelines as well as entities having obligations pursuant to the Network Codes and Guidelines (e.g. monitoring of NEMO's progress in establishing and performing single day-ahead or intraday coupling and providing reports and recommendations to European Commission pursuant to Article 7 of Regulation (EU) 2015/1222);</li> <li>(c) Overseeing processes and entities' obligations pursuant to the Network Codes and Guidelines (e.g. coordination of monitoring activities of entity or entities performing the MCO functions pursuant to Article 82 of Regulation (EU) 2015/1222);</li> <li>(d) Publishing of reports and other documents to be developed pursuant to the Network Codes and Guidelines;</li> <li>(e) Requesting specific actions from different entities pursuant to the Network Codes and Guidelines (e.g. the Agency may request ENTSO-E to draft the technical report on bidding zones and TSOs to launch the review of bidding zones);</li> <li>(f) Maintaining different registers pursuant to the Network Codes and Guidelines (e.g. the Agency needs maintain a list of designated NEMOs, their status and where they operate on its website pursuant to Article 4 of Regulation (EU) 2015/1222).</li> </ul> |
| Performance indicators and targets (deadlines) | Timely delivery of these obligations.  |

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| Resources | 1.0 FTE   |
| Risks     | Lack of human and other resources to facilitate the performance of these tasks. |

| <b>Task</b>       | <b>Monitoring of the implementation of Network Codes and relevant Guidelines</b>   |
|-------------------|--|
| Legal basis       | Article 6(6) of Regulation (EC) No 713/2009; Article 9(1) of Regulation (EC) No 714/2009; Article 7(2) of Regulation (EC) No 713/2009  |
| Overview (status) | By the end of 2016, eight Network Codes and Guidelines in the areas of market, grid connection and system operation should be adopted. The focus of the Agency will shift from the development to the implementation and monitoring of the Network Codes and Guidelines. The Agency needs to monitor whether and how the requirements and provisions of different Network Codes and Guidelines have been implemented. Together with ENTSO-E, the Agency needs to monitor the implementation of different requirements against the obligations specified in the Network Codes and Guidelines. The purpose of this monitoring is to identify delays and barriers in the implementation and if needed to propose mitigating measures in order to facilitate the (post-2014) completion of the Internal Energy Market.   |
| Objectives        | <p>Specific objectives:</p> <ul style="list-style-type: none"> <li>(a) Timely identification and reporting on delays and barriers in the implementation of the Network Codes and Guidelines.</li> <li>(b) Providing opinions on ENTSO-E's plan for the monitoring of the implementation of the adopted Network Codes and Guidelines;</li> <li>(c) Providing opinions and requirements on ENTSO-E and other entity's reports related to implementation monitoring;</li> <li>(d) Determination of a list of relevant information to be communicated by ENTSO-E to the Agency for the purpose of its monitoring activities pursuant to the adopted Network Codes and Guidelines;</li> <li>(e) Providing recommendations to assist NRAs and market players in sharing good practices, where necessary.</li> </ul> <p>Multi-annual objective: contribute to the completion of the Internal Energy Market.</p> |
| Outputs           | <p>Report on monitoring the implementation of the Network Codes and Guidelines and, where necessary recommendations.</p> <p>Opinions on ENTSO-E's plans for the monitoring of the implementation of the adopted Network Codes and Guidelines.</p>  |

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|  | <p>Lists of information required for monitoring the implementation of the Network Codes and Guidelines.</p> <p>Opinions and requirements on ENTSO-E and other entity's reports related to implementation monitoring.</p>  |
| Performance indicators and targets (deadlines) | <p>Delivery of first implementation monitoring report for 2016 (Target date: Q4 2017) and timely delivery of any recommendations for sharing good practices.</p> <p>The timely delivery of the opinions on ENTSO-E's implementation monitoring plan, the lists of required information for monitoring of the implementation of the adopted Network Codes and Guidelines, and opinions and requirements on ENTSO-E's and other entities' reports related to implementation monitoring.</p> |
| Resources                                      | 0.5 FTE   |
| Risks  | <p>Incomplete implementation in some countries may cause delays, as data collection may not be possible in parallel with the drafting of the report.</p> <p>The work load related to this task depends on timely and successful implementation of the Network Codes and Guidelines. Given the limited resources of the Agency, the involvement of NRAs is essential to ensure the timely preparation of the above deliverables.</p>   |

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| <b>Task</b>       | <b>Monitoring of the effect of Network Codes and relevant Guidelines on the harmonisation of applicable rules aimed at facilitating market integration as well as on non-discrimination, effective competition and the efficient functioning of the market</b>   |
| Legal basis       | Article 6(6) of Regulation (EC) No 713/2009; Article 9(1) of Regulation (EC) No 714/2009; Article 7(2) of Regulation (EC) No 713/2009.   |
| Overview (status) | The Agency needs to monitor what is the effect of different Network Codes and Guidelines on the harmonisation of applicable rules aimed at facilitating market integration as well as on non-discrimination, effective competition and the efficient functioning of the market. The purpose of this monitoring is to identify which elements of the network codes serve the purpose and which elements would need to be improved in order to better facilitate the (post-2014) completion and efficient functioning of the Internal Energy Market. |
| Objectives        | Specific objective: timely identification and reporting on barriers to market integration as well as on the effect of Network Codes and Guidelines non-discrimination, effective competition and the efficient functioning of the market.  |



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|  | Multi-annual objective: contribute to the (post-2014) completion and efficient functioning of the Internal Energy Market.  |
| Outputs  | Report on monitoring the effect of the Network Codes and Guidelines at least one year after their requirements have been fulfilled and are operational, and where necessary, issue recommendations.  |
| Performance indicators and targets (deadlines) | Delivery of first monitoring report for 2017 (Target date: Q4 2018) and timely delivery of any recommendations for sharing good practices.   |
| Resources                                      | 1.0 FTEs   |
| Risks  | Delays in the implementation of the Network Codes and Guidelines might require postponement of the monitoring of their effect.<br><br>Limited resources might also require to reduce the scope and extent of monitoring of the effect of Network Codes and Guidelines. |

## 2.2 Gas Network Codes (Operational)

The majority of the Gas Network Codes have been adopted and are on their way towards implementation; Tariffs and the Incremental amendment to the Network Code on Capacity allocation mechanisms are the exception. This means that the work of the Agency is shifting from developing Framework Guidelines and recommending Network Codes to implementation monitoring and, depending on the need, amending existing Network Codes. A set of indicators has been developed to start measuring the effectiveness of the various Network Codes. The Agency will focus its reports on contentious issues.

Beyond implementation monitoring, the Agency will support the coherent and coordinated implementation of the Network Codes and Guidelines across the EU. Using the existing structures of the GRI, the Agency will encourage early implementation, with a focus on the SSE GRI, where the greatest efforts shall be made.

## 2.2.1 Network Codes, their implementation and monitoring

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| <b>Task</b>                                    | <b>Review of the requests for amendments to the adopted Network Codes from interested persons and, where appropriate, based on these requests or the Agency's own initiative, preparation of the amendment proposals for the European Commission, if appropriate amendment of the Transparency Annex</b> |
| Legal basis                                    | Article 7 of Regulation (EC) No 715/2009   |
| Overview (status)                              | Collect/ propose amendments to the legal text, where necessary.  |
| Objectives                                     | Specific objective: create a framework to enable the Agency to collect sensible requests and ensure stakeholder involvement to the process.<br><br>Multi-annual objective: contribute to the (post-2014) completion of the Internal Energy Market.   |
| Outputs  | Evaluating and processing amendment requests, proposing amendments on own initiative.  |
| Performance indicators and targets (deadlines) | Amendments, public consultations preceding amendments<br><br>As established by Article 7 of Regulation (EC) No 715/2009, no specific deadlines are foreseen.   |
| Resources                                      | 0.5 FTE  |
| Risks  | Implementation is highly dependent on stakeholder support to allow for a proper process to be launched.  |

|                   |   |
|-------------------|---|
| <b>Task</b>       | <b>Early implementation of the Network Code on Harmonised Transmission Tariff Structures and the amendment of the Network Code on Capacity Allocation Mechanisms regarding Incremental Capacity</b><br><br><b>Other supporting documents, recommendations, guidelines and opinions may be required for the successful implementation of the Network Code on Tariffs</b> |
| Legal basis       | Part of a voluntary process.  |
| Overview (status) | Provide a framework preceding implementation and support the endeavours for successful implementation.  |

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|--|--|
| Objectives                                     | <p>Specific objective: ensure NRA involvement to the process and report on the progress made towards the full application of the provisions of these codes.</p> <p>Multi-annual objective: contribute to the (post-2014) completion of the Internal Energy Market.</p> |
| Outputs  | <p>Reporting on the status of early implementation for the Network Code on Tariffs, once a sufficiently stable Network Code text is available, and the amendment regarding incremental capacity.</p> <p>Creating Guidelines, recommendations, opinions.</p>            |
| Performance indicators and targets (deadlines) | <p>Early implementation reports.</p> <p>Q4/2016-Q1/2017</p> <p>Guidelines, recommendations, opinions</p> <p>As established in the relevant regulations, yet to be adopted.</p>   |
| Resources                                      | 1.3 FTE  |
| Risks  | Implementation is highly dependent on the date of adoption and entry into force of the aforementioned codes and on whether these dates allow for a proper process to be launched.  |

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|--|--|
| <b>Task</b>                                    | <b>Implementation Monitoring Report for the Network Code on Capacity Allocation Mechanisms, Balancing, Interoperability and Data Exchange (with a focus on the elements that were not covered in the previous edition)</b>   |
| Legal basis                                    | Article 9 of (EC) Regulation (EC) No 715/2009  |
| Overview (status)                              | Report for issues that were not implemented in a timely manner and addressed appropriately in the previous editions.   |
| Objectives                                     | <p>Specific objective: involve TSOs and NRAs in this process, in particular ask to contribute to data collection. Provide practical recommendations in the implementation report.</p> <p>Multi-annual objective: contribute to the (post-2014) completion of the Internal Energy Market.</p> |
| Outputs  | Updating on the state of play concerning the implementation of the network codes, so far adopted.  |
| Performance indicators and targets (deadlines) | Implementation monitoring report. Q3 or Q4/2017  |

|           |  |
|-----------|--|
| Resources | 2.3 FTE  |
| Risks     | Data collection and data availability from national NRA/TSO sources may be delayed or missing. |

| <b>Task</b>                                    | <b>Opinion(s), if sought by NRAs, on within-day obligations and continuous revision of the annual reports on interim measures according to the Network Code on Balancing</b>  |
|--|---|
| Legal basis                                    | Article 7 of Regulation (EC) No 713/2009 and Article 27(2) or Article 45(3) of Commission Regulation (EU) No 312/2004   |
| Overview (status)                              | Reporting on the status of implementation for the Network Code on Balancing.  |
| Objectives                                     | Specific objective: step in at the request of an NRA. Provide practical recommendations to ensure conformity with the provisions of Regulation (EU) No 312/2004.<br><br>Multi-annual objective: contribute to the (post-2014) completion of the Internal Energy Market. |
| Outputs  | Opinions  |
| Performance indicators and targets (deadlines) | Triggered at NRA request. Opinions 3 months after receiving complete documentation.   |
| Resources                                      | 0.5 FTE   |
| Risks  | Appropriate data and information received on these specific national cases.   |

| <b>Task</b>       | <b>4<sup>th</sup> ACER report on monitoring of Congestion at interconnection points</b>  |
|-------------------|--|
| Legal basis       | Point 2.2.2.1.2 of the Commission's Decision of 24 August 2012 Annex I Point 2.2 on Congestion management procedures in the event of contractual congestion (CMP Guidelines).  |
| Overview (status) | The Fourth Report on Congestion at interconnection points is to be prepared with a view to the recommendations of the third Agency report and new recommendations may be developed in the light of the changes observed in the report. |

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| Objectives                                     | Specific objectives: CMP Scope list.<br>Data consistency and quality.<br>Multi-annual objective: Contribute to the (post-2014) completion of the Internal Energy Market.      |
| Outputs  | Fourth Report on Congestion at interconnection points   |
| Performance indicators and targets (deadlines) | The timely delivery of the report and the collection of data for the report possibly along the amended deadlines proposed in the first Agency report.<br>Target date: Q2 2017 |
| Resources                                      | 0.7 FTE   |
| Risks  | Data requirements may still not meet the standards. Data requirements and resources for further and deeper analysis may not be available.                                     |

| <b>Task</b>                                    | <b>Work on data collection tools to improve monitoring of the Network Codes and assessing their effectiveness in the internal market</b>   |
|--|--|
| Legal basis                                    | Article 9 of (EC) Regulation (EC) No 715/2009  |
| Overview (status)                              | Improve the tools to reach improved data collection and access to comparable data efficiently and in a timely manner.  |
| Objectives                                     | Specific objective: Involve ENTSOG and to the extent possible find joint solutions.<br>Multi-annual objective: Contribute to the (post-2014) completion of the Internal Energy Market. |
| Outputs  | Improve data collection tools and if necessary evaluate how to improve data sourcing.  |
| Performance indicators and targets (deadlines) | Improved reports supported by effective data collection tools.   |
| Resources                                      | 0.5 FTE  |
| Risks  | Some improvements may not be achievable, as they would require a reinforcement the Agency's data collection powers.  |

## 2.2.2 Gas Regional Initiatives

### A) Support and Monitoring

| <b>Task</b>                                    | <b>Coordination and monitoring of activities for the early voluntary implementation of Network Codes before their rules become legally binding</b>  |
|--|---|
| Legal basis                                    | Several articles on regional cooperation in Regulation (EC) No 713/2009 and Regulation (EC) No 715/2009<br><br>Article 6 of Regulation (EC) No 715/2009   |
| Overview (status)                              | ACER will coordinate, through the Gas Regional Initiatives Coordination Group, and support the active GRI regions. The expectations is that the active regions will remain South South East and South, with the North West region remaining inactive due to a lack of lead regulator. |
| Objectives                                     | Specific objective: to foster the early implementation of Network Codes and to promote regional market integration.<br><br>Multi-annual objective: contribute to the (post-2014) completion of the Internal Energy Market.  |
| Outputs  | As part of the promotion of regional market integration, NRAs will report periodically on the implementation of the Gas Target Model and ACER will summarise and evaluate the results of the self-evaluation and the proposed measures.   |
| Performance indicators and targets (deadlines) | Provided in the regional Work Plans and the Gas Target Model.   |
| Resources                                      | 0.5 FTE   |
| Risks  | As this is a voluntary process, progress depends on the extent to which NRAs are willing to commit resources to the process and can agree on measures to be taken.  |

### B) Annual Status Review Report

| <b>Task</b> | <b>Annual Regional Initiatives Status Review Report</b>   |
|-------------|---|
| Legal basis | Several articles on regional cooperation in Regulation (EC) No 713/2009 and Regulation (EC) No 715/2009 |

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| Overview (status)                              | Annual report documenting progress made in the Gas Regional Initiatives and providing guidance for future work.  |
| Objectives                                     | Specific objective: to inform stakeholders about progress made, and to encourage NRAs to achieve such progress.<br><br>Multi-annual objective: contribute to the (post-2014) completion of the Internal Energy Market. |
| Output   | Annual report  |
| Performance indicators and targets (deadlines) | Delivery of the report by January 2017   |
| Resources                                      | 0.3 FTE  |
| Risks  | The quality of the report depends to a large degree on the input provided by the NRAs.   |

| <b>Task</b>                                    | <b>Greater involvement in the SSE region</b>   |
|--|--|
| Legal basis                                    | Several articles on regional cooperation in Regulation (EC) No 713/2009 and Regulation (EC) No 715/2009  |
| Overview (status)                              | ACER will specifically support the GRI SSE region in order to improve the catching up with the rest of the EU in terms of network codes implementation.  |
| Objectives                                     | Specific objective: To improve compliance with the network codes and capability to integrate their national markets into the internal market.<br><br>Multi-annual objective: Contribute to the completion of the Internal Energy Market. |
| Outputs  | Workshop(s) and other forms of hands-on knowledge transfer and support, both from more experienced NRAs and from the Agency, to NRAs in the GRI SSE.   |
| Performance indicators and targets (deadlines) | Improved scores of the GRI SSE MS in the NC implementation monitoring reports.   |
| Resources                                      | 0.4 FTE  |
| Risks  | Key staff from the GRI SSE NRAs may leave during the process, for instance due to salary cuts and more attractive offers from the private sector (as has happened in the past).  |

## 2.3 Electricity and Gas Internal Market Monitoring (Operational)

As regards the Agency's work on Internal Energy Market monitoring, Article 11 of Regulation (EC) No 713/2009 specifies that the Agency shall monitor the internal market for electricity and natural gas, and, in particular, retail prices of electricity and natural gas, access to networks (including the access of electricity produced from renewable energy sources), and compliance with consumer rights as laid down in the Third Package. This activity has to be carried out in close cooperation with NRAs, the European Commission and other relevant organisations, and without prejudice to the competences of competition authorities. This work will be combined with part of the Agency's obligation under article 7(3) of Regulation (EU) 1227/2011.

Market monitoring is becoming increasingly sophisticated, as the relevant developments in the European electricity and gas markets are followed more closely. Making the structure of the report more flexible will help in moving the monitoring closer in time to the actual events. The market monitoring report will be enriched with additional indicators to measure the effectiveness of the various Network Codes, starting with gas, as well as with GTM indicators.

### Monitoring of the internal markets in electricity and natural gas

| Task              | 7 <sup>th</sup> Market Monitoring Report  |
|-------------------|---|
| Legal basis       | Articles 11 (1) and (2) of Regulation (EC) No 713/2009<br>Article 6(6) of Regulation (EC) No 713/2009; Article 9(1) of Regulation (EC) No 714/2009; Article 9(1) of Regulation (EC) No 715/2009; Network Codes and Guidelines<br>Article 7(3) of Reg. (EU) No 1227/2011   |
| Overview (status) | In line with previous issues, the MMR will provide in-depth analysis of barriers to integration and give recommendations to the European Parliament and Commission on how to remove them.<br>The Agency's policy and market monitoring teams for gas and electricity will coordinate the substance of the MMR with the Directorate-General for Energy of the European Commission in order to avoid duplication of work.<br>The Agency will also cooperate and coordinate with the Council of European Energy Regulators (CEER). |
| Objectives        | Specific objective: removal of barriers to integration. The report will cover retail prices in electricity and natural gas, barriers to entry,  |



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|  | <p>wholesale market integration (for gas also including the Gas Target Model Metrics), consumer welfare benefits or losses as a result of market integration (or lack thereof), access to networks (including electricity produced or gas sourced from renewable energy sources and assess market effects of those Network Codes and relevant Guidelines that are in force and for which a sufficiently long data time series is available), and compliance with consumer rights (including protection and enforcement of consumer rights). The report will cover the operation of different categories of market places and ways of trading. Lastly, the report will also assess the effect the (implemented) network codes have on the market integration process and the functioning of the Internal Energy Market. For this purpose the specific data collecting provisions in the relevant Network Codes and Guidelines will be considered.</p> <p>Multi-annual objective: contribute to the (post-2014) completion of the Internal Energy Market.</p> |
| Outputs  | Annual Market Monitoring Report   |
| Performance indicators and targets (deadlines) | <p>Timely completion of the Annual Market Monitoring Report.</p> <p>Expected completion date: November 2017 (with parts delivered earlier).</p> <p>Positive feedback by the European Parliament, the European Commission and stakeholders on the market monitoring report, including the possibility of a survey following the publication and presentation of the report.</p>  |
| Resources                                      | 9.0 FTEs  |
| Risks  | <p>The quality of the report depends on the quality and accessibility of the data received by the Agency. Human resource constraints may impact the timely delivery and quality of the report. The integrity of all data sources needs to be secured electronically and, in some cases, to be coordinated with REMIT and the ENTSOs.</p>  |

## 2.4 Electricity TSO Cooperation (Operational)

The tasks related to the Agency's work on TSO cooperation, pursuant to Article 6 of Regulation (EC) No 713/2009, consist in formulating opinions on draft statutes, list of members and draft rules of procedure of the ENTSOs; formulating opinions on draft annual work programmes, draft Community-wide ten-year network development plans (TYNDPs) and other ENTSO's relevant documents (e.g. annual Summer and Winter supply outlooks); monitoring the execution of tasks of ENTSOs, monitoring progress of new interconnector projects, the implementation of TYNDPs and regional cooperation of TSOs.

In relation to this area, the Agency plans to work in 2017 towards the following deliverables:

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|--------------------------|--|
| <p><b>Tasks</b></p>      | <p><b>Annual monitoring report on the implementation and management of the inter-TSO compensation fund;</b></p> <p><b>Opinions on ENTSO-E's annual work programme 2018 and ENTSO-E's annual report 2016;</b></p> <p><b>Opinions on ENTSO-E's annual Summer and Winter supply outlooks;</b></p> <p><b>Opinions on ENTSO-E's common network operation tools including a common incidents classification scale;</b></p> <p><b>Opinion on ENTSO-E's research and development plan;</b></p> <p><b>Opinion on the electricity national ten-year network development plans to assess their consistency with the Union-wide network development plan and (if appropriate) recommendations to amend the national ten-year network development plans or the Union-wide network development plan;</b></p> <p><b>Opinion on ENTSO-E's recommendations relating to the coordination of technical cooperation between the Union and third-country transmission system operators.</b></p>                     |
| <p>Legal basis</p>       | <p>Article 1(4) of Annex Part A, Commission Regulation (EU) No 838/2010</p> <p>Articles 6(3)(b) and 6(4) of Regulation (EC) No 713/2009 in conjunction with Articles 8(3)(d) and 8(3)(e) of Regulation (EC) No 714/2009</p> <p>Article 6(3)(b) of Regulation (EC) No 713/2009 in conjunction with Article 8(3)(f) of Regulation (EC) No 714/2009</p> <p>Article 6(3)(b) of Regulation (EC) No 713/2009 in conjunction with Article 8(3)(a) of Regulation (EC) No 714/2009</p> <p>Article 6(3)(b) of Regulation (EC) No 713/2009 in conjunction with Article 8(3)(a) of Regulation (EC) No 714/2009</p> <p>Article 8(11) of Regulation (EC) No 714/2009</p> <p>Article 6(3)(b) of Regulation (EC) No 713/2009 in conjunction with Article 8(3)(c) of Regulation (EC) No 714/2009</p> <p>Articles 6(7) and 6(8) of Regulation (EC) No 713/2009</p> <p>Articles 6(3)(b) and 6(4) of Regulation (EC) No 713/2009 in conjunction with Articles 8(3)(b) and 8(10) of Regulation (EC) No 714/2009</p> |
| <p>Overview (status)</p> | <p>Annual monitoring report on ITC, opinions on ENTSO-E's annual work programme and ENTSO-E's annual report, on ENTSO-E's annual Summer and Winter supply outlooks, on ENTSO-E's research and development plan, on the electricity national ten-year network development plans, on monitoring the implementation of</p>  |

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|  | <p>the electricity Community-wide TYNDP were already prepared in the last years (2012 and/or 2013 and/or 2014 and/or 2015).</p> <p>Activities about opinions on ENTSO-E documents to be carried out upon submission of the relevant documents by ENTSO-E.</p>  |
| Objectives                                     | <p>Specific objective: monitoring of ITC and opinions</p> <p>Multi-annual objective: contribute to the infrastructure challenge</p>  |
| Outputs  | Annual monitoring report   |
| Performance indicators and targets (deadlines) | <p>Timely delivery and quality of the documents.</p> <p>Monitoring report on 2015 ITC implementation: October 2017.</p> <p>Opinion on ENTSO-E's Work Programme and TYNDP: within two months after receipt of the document by ENTSO-E if considered non-compliant.</p> <p>Opinion on ENTSO-E's other documents: after receipt of the document by ENTSO-E.</p> |
| Resources                                      | 3.0 FTEs   |
| Risks  | The delivery is subject to the release of corresponding documents by ENTSO-E and to the availability of resources.   |

## 2.5 Gas TSO Cooperation (Operational)

The tasks related to the Agency's work on TSO cooperation, pursuant to Article 6 of Regulation (EC) No 713/2009, consist in formulating opinions on draft statutes, list of members and draft rules of procedure of the ENTSOs; formulating opinions on draft annual work programmes, draft Community-wide ten-year network development plans (TYNDPs) and other ENTSO's relevant documents (e.g. annual Summer and Winter supply outlooks); monitoring the execution of tasks of ENTSOs, monitoring progress of new interconnector projects, the implementation of TYNDPs and regional cooperation of TSOs.

In relation to this area, the Agency plans to work in 2017 towards the following deliverables:

|              |   |
|--------------|---|
| <b>Tasks</b> | <p><b>Opinions on ENTSOG's annual work programme 2018 and ENTSOG's annual report 2016;</b></p> <p><b>Opinion on ENTSOG's common network operation tools including a common incidents classification scale;</b></p> <p><b>Opinion on ENTSOG's research and development plan;</b></p> |
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|--------------------------|--|
|                          | <p><b>Opinions on ENTSOG’s annual Summer and Winter supply outlooks;</b></p> <p><b>Opinion on ENTSOG’s draft Ten Year Network Development Plan 2017;</b></p> <p><b>Reviews and recommendations on national ten-year network development plans to assess their consistency with the Union-wide network development plan and (if appropriate) recommendations to amend the national ten-year network development plans or the Union-wide network development plan;</b></p> <p><b>Opinion on ENTSOG’s recommendations relating to the coordination of technical cooperation between Union and third-country transmission system operators;</b></p> <p><b>Report on monitoring the implementation of the Union-wide TYNDP and the progress as regards the implementation of projects to create new interconnector capacity</b></p> |
| <p>Legal basis</p>       | <p>For all deliverables: Article 6(3)(b) Regulation (EC) 713/2009.</p> <p>For Work Programme and TYNDP: Article 6(4) Regulation (EC) 713/2009 and Article 9(2) Regulation (EC) 715/2009.</p> <p>For Opinions on ENTSOG’s common network operation tools including a common incidents classification scale and research plans: Article 8(3)a of Regulation 715.</p>   |
| <p>Overview (status)</p> | <p>Opinions on submitted documents have been regularly delivered during the previous years, except for opinions on network operation tools including a common incidents classification scale and research plans and recommendations relating to the coordination of technical cooperation between Community and third-country transmission system operators, which were not submitted (or not as a separate document) to the Agency by ENTSOG.</p>   |
| <p>Objectives</p>        | <p>Specific objective: upon receipt of ENTSOG’s 2018 Work Programme, ACER will deliver its opinion within two months from the day of receipt (the work will be performed by ACER staff in close cooperation with the relevant ACER working group).</p> <p>Other opinions will be provided upon receipt from ENTSOG of the relevant documents, within a reasonable time (usually two to three months), if they are not already covered by the opinion(s) on ENTSOG’s AWP and Annual Report.</p> <p>Multi-annual objective: contribute to the infrastructure challenge</p>   |
| <p>Outputs</p>           | <p>The Agency will report to the European Commission on the execution of the tasks of ENTSO-E and ENTSO-G referred to in Art. 8(1), (2) and (3) of Regulation (EC) 714/2009 and Regulation (EC) 715/2009, using the deliverables (opinions and recommendations) listed above and other relevant Agency’s acts, with additional comments where needed.</p>  |

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| Performance indicators and targets (deadlines) | Timely delivery of the reports and opinions.<br>Opinion on ENTSOG's Work Programme and TYNDP: within two months after receipt of the document by ENTSOG if considered non-compliant.   |
| Resources                                      | 3.3 FTE  |
| Risks  | The delivery is subject to the release of corresponding documents by ENTSOG and to the availability of resources (taking into account the possible prioritisation of activities for the tasks of Regulation (EU) No 347/2013). |

## 2.6 Guidelines for Trans-European Energy Infrastructure (Operational)

The tasks assigned to the Agency under the TEN-E Regulation mostly relate to the process of identification and monitoring of the implementation of Projects of Common Interest (PCIs).

In relation to this area, the Agency plans to work in 2017 towards the following deliverables:

### 2.6.1 Electricity and Gas

| <b>Task</b>                | <b>Annual consolidated report on progress of projects of common interest and (if appropriate) recommendations to facilitate the implementation and overcome delays/difficulties in PCI implementation</b>   |
|----------------------------|---|
| Legal basis                | Article 5(5) of Regulation (EU) No 347/2013   |
| Overview (status)          | The consolidated reports follow the submission by project promoters of annual reports for each project of common interest to the competent authority, either to the Agency or, for projects falling under the categories set out in Annex II.3 and 4 of Regulation (EU) No 347/2013, to the respective Group. |
| Objectives                 | Specific objective: provide feedback on the progress of projects of common interest and, if appropriate, provide recommendations to facilitate their implementation and overcome difficulties.<br>Multi-annual objective: contribute to the infrastructure challenge  |
| Outputs                    | Annual consolidated report  |
| Performance indicators and | Timely delivery of the report<br>Upon the receipt of the submissions from project promoters, the Agency will deliver its consolidated report within three months from   |

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| targets (deadlines) | the day of receipt. The work will be performed by ACER staff in close cooperation with the relevant ACER working groups and with INEA with respect to its financial monitoring duties.   |
| Resources           | 1.0 FTE (0.5 for Electricity + 0.5 for Gas)  |
| Risks               | The delivery is subject to the timely submission by project promoters of their annual reports and to the quality of the submitted reports, particularly regarding the provision of the necessary information about progress achieved in the development, construction and commissioning of the projects with regard to permit granting and consultation procedures, and, where relevant, delays compared to the implementation plan, the reasons for such delays and other difficulties encountered. |

| <b>Task</b>                                    | <b>Opinion on ENTSO-E's and/or ENTSO-G's methodologies for cost-benefit analysis, if updated</b>  |
|--|---|
| Legal basis                                    | Article 11(6) of Regulation (EU) No 347/2013  |
| Overview (status)                              | The CBA methodologies were approved in February 2015 by the Commission and published by the ENTSO for Electricity and the ENTSO for Gas on their websites. The methodologies shall be updated and improved regularly.   |
| Objectives                                     | Specific objective: updated and improved CBA methodology(ies).<br>Multi-annual objective: contribute to the infrastructure challenge.   |
| Outputs  | The Agency, on its own initiative or upon a duly reasoned request by national regulatory authorities or stakeholders, and after formally consulting the organisations representing all relevant stakeholders and the Commission, may request updates and improvements of the CBA methodology(ies) with due justification and timescales. In doing so, the Agency will take into account the suitability for the selection of projects of common interest and how to incorporate the unit investment costs from the ACER report. |
| Performance indicators and targets (deadlines) | Timely delivery of ad-hoc requests for CBA methodologies updates and improvements.  |
| Resources                                      | 1.0 FTE (0.5 for Electricity + 0.5 for Gas)   |
| Risks  | The delivery is subject to the release of corresponding documents by ENTSO(s), the willingness of the ENTSO(s) to take into account the Agency's point of view, and the availability of resources.  |

| <b>Task</b>                                    | <b>Opinion on the draft regional lists of proposed projects of common interest, in particular on the consistent application of the criteria and the cost-benefit analysis across regions</b>  |
|--|---|
| Legal basis                                    | Annex III 2(12) of Regulation (EC) No 713/2013  |
| Overview (status)                              | An Opinion on the draft regional lists of proposed projects of common interest was delivered for the first time by the Agency in 2013. The Agency will deliver its opinion within three months from the receipt of the draft regional lists and the accompanying opinions of Groups, under the procedure of Article 15(1) of Regulation (EC) No 713/2009. |
| Objectives                                     | Specific objective: the Agency will deliver its opinion focusing in particular on the consistent application of the criteria and the cost-benefit analysis across regions.<br><br>Multi-annual objective: contribute to the infrastructure challenge.   |
| Outputs  | Opinion on the draft Regional lists of projects of common interest.   |
| Performance indicators and targets (deadlines) | Timely delivery of the opinion.   |
| Resources                                      | 1.0 FTE (0.5 for Electricity + 0.5 for Gas)   |
| Risks  | The delivery is subject to the timely submission of the draft regional lists of proposed projects of common interest and of the opinions of Groups, and to the quality of the submissions, particularly regarding the application of the criteria and the cost-benefit analysis across regions.   |

| <b>Task</b>       | <b>Opinion to Member States and the Commission on ENTSOs consistent and interlinked electricity and gas market and network model including both electricity and gas transmission infrastructure as well as storage and LNG facilities, submitted to the Commission and the Agency by 31 December 2016</b>  |
|-------------------|--|
| Legal basis       | Article 11(8) of Regulation (EU) No 347/2013   |
| Overview (status) | By 31 December 2016, the ENTSO for Electricity and the ENTSO for Gas shall jointly submit to the Commission and the Agency a consistent and interlinked electricity and gas market and network model including both electricity and gas transmission infrastructure as well as storage and LNG facilities, covering the energy infrastructure priority corridors and areas and drawn up in line with the principles laid down in Annex V. After approval of this model by the Commission according to the procedure set out in Article 11(2) |

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|  | to 11 (4) of Regulation (EU) No 347/2013, it shall be included in the methodologies.   |
| Objectives                                     | Specific objective: delivery of an opinion on ENTSOs' consistent and interlinked electricity and gas market and network model to Member States and the Commission, and its (their) publication.<br>Multi-annual objective: contribute to the infrastructure challenge. |
| Outputs  | Opinion to Member States and the Commission on ENTSOs consistent and interlinked electricity and gas market and network model.   |
| Performance indicators and targets (deadlines) | Timely delivery of an opinion within the 3 month of the date of receipt of the consistent and interlinked electricity and gas market and network model.  |
| Resources                                      | 1.0 FTE (0.5 for Electricity + 0.5 for Gas)  |
| Risks  | The delivery is subject to the release of corresponding documents by ENTSO(s) and to the availability of resources.  |

## 2.7 Tasks which are Subject to Specific Conditions (Operational)

### 2.7.1 Tasks initiated by others

In 2017 the Agency may be called to perform the following tasks on request:

| <b>Task</b>       | <b>Decision on terms and conditions and operational security of cross-border interconnectors and on exemptions</b>   |
|-------------------|--|
| Legal basis       | Article 8 Regulation (EC) No 713/2009; Article 17 of Regulation (EC) No 714/2009; Article 36(4) of Directive 2009/73/EC for decisions on exemptions.   |
| Overview (status) | For cross-border infrastructure, the Agency shall decide upon those regulatory issues which fall within the competence of NRAs, including terms and conditions for access and operational security, only: (a) in cases in which the competent national regulatory authorities have not been able to reach an agreement within a period of six months from when the case was referred to the last of those regulatory authorities; or (b) upon a joint request from the competent national regulatory authorities. The competent national regulatory authorities may jointly request that the period is extended by a period of up to six months. When preparing its decision, the Agency shall consult the national regulatory authorities and the |



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|  | transmission system operators concerned and shall be informed of the proposals and observations of all the transmission system operators concerned.   |
| Objectives                                     | Specific objective: provide support to the NRAs in the regulatory approval process and conclude this process by issuing a decision.<br>Multi-annual objective: contribute to the infrastructure challenge.  |
| Outputs  | The Agency shall take a decision on the regulatory issue. The Agency may, if necessary, provide an interim decision to ensure that security of supply or operational security of the infrastructure in question is protected.   |
| Performance indicators and targets (deadlines) | Delivery of a decision within six months from the date of referral to the Agency (subject to a possible extension).   |
| Resources                                      | 0.4 FTE (0.2 for Electricity + 0.2 for Gas)   |
| Risks  | Timely receipt of the complete file and supporting material from NRAs and TSOs, carrying out a quality consultation with NRAs and TSOs prior to taking a decision.<br><br>The Commission may adopt Guidelines on the situations in which the Agency becomes competent to decide upon the terms and conditions for access to and operational security of cross-border infrastructure. There may be a mismatch between the moment such Guidelines are adopted by the Commission and the moment the procedure starts or is underway at the Agency. |

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|-------------------|---|
| <b>Task</b>       | <b>Reporting on TSOs', NEMOs' or other entities' failure to submit terms and conditions or methodologies for the approval by NRAs pursuant to the adopted Network Codes and relevant Guidelines</b>   |
| Legal basis       | Established pursuant to the Network Codes and relevant Guidelines. For example, in Commission Regulation (EU) 2015/1222 this task is specified in Article 9(4).   |
| Overview (status) | The Network Codes and Guidelines will establish numerous obligations for TSOs, NEMOs and other entities to develop proposals for terms and conditions or methodologies, which need to be approved by all NRAs or a group of NRAs. In case TSOs or NEMOs fail to submit terms and conditions or methodologies for the NRAs' approval pursuant to Commission Regulation (EU) 2015/1222, the Agency should inform the European Commission and, at the Commission's request, investigate the reasons for the failure. Timely and efficient decision making processes are essential for successful (post-2014) completion of the Internal Energy Market. |

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| Objectives                                     | <p>Specific objective: to avoid delays in the implementation of the Network Codes and Guidelines and to provide the European Commission with the relevant information required to take action.</p> <p>Multi-annual objective: contribute to the (post-2014) completion of the Internal Energy Market.</p> |
| Outputs  | The Agency will collect the relevant draft terms and conditions or methodologies and other relevant information from TSOs, NEMOs or other entities and produce a report for the European Commission.  |
| Performance indicators and targets (deadlines) | Timely delivery of the report to the European Commission on the TSOs', NEMOs' or other entities' failure to submit terms and conditions or methodologies.   |
| Resources                                      | 0.1 FTE   |
| Risks  | Insufficient information received from TSOs, NEMOs or other entities.   |

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| <b>Task</b>       | <b>Adoption of the opinions and recommendations at the request of one or more NRAs, or the European Commission, pursuant to Regulation (EC) No 713/2009 as well as the adopted Network Codes and relevant Guidelines</b>   |
| Legal basis       | The Network Codes and relevant Guidelines provide specific roles for the Agency in the NRAs' decision-making processes established pursuant to these Network Codes and Guidelines. The roles include facilitating coordination between parties seeking agreement, providing opinion and recommendations on issues that need coordinated decisions and, in specific cases, issuing a decision when the parties seeking agreements were not able to find it. In addition, pursuant to Article 7(2) of Regulation (EC) No 713/2009 the Agency may make recommendations to assist NRAs and market players in sharing good practices. |
| Overview (status) | Once the Network Codes and Guidelines enter into force, the Agency is given a central role in facilitating the decision making process established within these Network Codes and Guidelines.  |
| Objectives        | <p>Specific objective: an efficient decision-making process for the adoption of different terms and conditions or methodologies developed pursuant to Network Codes and Guidelines.</p> <p>Multi-annual objective: contribute to the (post-2014) completion of the Internal Energy Market.</p>   |
| Outputs           | Opinions and recommendations related to the terms and conditions or methodologies established pursuant to Network Codes and  |

|  |  |
|--|--|
|  | Guidelines and, where necessary, recommendations for sharing good practices.   |
| Performance indicators and targets (deadlines) | Timely delivery of opinions and recommendations.   |
| Resources                                      | 0.4 FTE (for Electricity)  |
| Risks  | The Network Codes and Guidelines require a significant amount of coordinated decisions within first few years after entry into force. In case of an excessive number of disputes among the parties seeking agreement, the Agency may, due to limited resources, not be able to deliver the opinions and recommendations in an efficient and timely manner. |

| <b>Task</b>                                    | <b>Decision on terms and conditions or methodologies to be approved pursuant to the adopted electricity Network Codes and Guidelines</b>  |
|--|---|
| Legal basis                                    | Article 8 of Regulation (EC) No 713/2009; Network Codes and relevant Guidelines, e.g. Article 9(11) of Commission Regulation (EU) 2015/1222   |
| Overview (status)                              | The Network Codes and Guidelines will establish numerous obligations for TSOs and NEMOs or other third entities to develop proposals for terms and conditions or methodologies, which need to be approved either by all NRAs or a group of NRAs pursuant to Commission Regulation (EU) 2015/1222. If NRAs fail to reach an agreement within 6 months, or upon their joint request, the Agency shall take a decision concerning the submitted proposals for terms and conditions or methodologies within 6 months. |
| Objectives                                     | Specific objective: provide support to the NRAs in the regulatory approval process and conclude this process by issuing a decision.<br>Multi-annual objective: contribute to the (post-2014) completion of the Internal Energy Market   |
| Outputs  | The Agency shall take a decision on the terms and conditions or methodologies.  |
| Performance indicators and targets (deadlines) | Delivery of the decision within six months from the date of referral to the Agency.   |
| Resources                                      | 1.3 (for Electricity)   |

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| Risks | Timely receipt of the complete file and supporting material from NRAs and the parties submitting the proposal, carrying out a quality consultation with NRAs and those parties prior to taking a decision. |
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| <b>Task</b>                                    | <b>Decisions on investment requests including on cross-border cost allocation</b>   |
|--|---|
| Legal basis                                    | Article 12(6) of Regulation (EU) No 347/2013  |
| Overview (status)                              | Promoters of projects of common interest may submit an investment request including a request for cross-border cost allocation (CBCA) pursuant to Article 12(3) of Regulation (EU) No 347/2013. Where the national regulatory authorities concerned have not reached an agreement on the investment request within six months, or upon their joint request, the Agency shall take the decision on the investment request including cross-border cost as well as the way the cost of the investments are reflected in the tariffs within three months (with a possible two months extension in case additional information is needed). |
| Objectives                                     | Specific objective: provide support to the NRAs in the regulatory approval process and conclude this process by issuing a decision.<br>Multi-annual objective: contribute to the infrastructure challenge.  |
| Outputs  | The Agency shall take a decision on the investment request including cross-border cost as well as the way the cost of the investments are reflected in the tariffs  |
| Performance indicators and targets (deadlines) | Delivery of a decision within three months from date of referral to the Agency (subject to a possible extension).   |
| Resources                                      | 2.0 FTEs (1 for Electricity + 1 for Gas)  |
| Risks  | Availability of Agency and possibly NRA resources and required data. Timely receipt of complete file and supporting material from NRAs and project promoters, carrying out a quality consultation with NRAs and stakeholders prior to taking a decision.  |

| <b>Task</b>       | <b>Peer reviews upon request by an NRA or the Commission pursuant to Article 7(4) of Regulation (EC) No 713/2009</b>  |
|-------------------|---|
| Legal basis       | Article 7(4) and (5) of Regulation (EC) No 713/2009   |
| Overview (status) | At the request of a regulatory authority or of the Commission, the Agency must provide a fact-based opinion on whether a decision taken by a regulatory authority complies with the Guidelines referred |

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|  | to in Directive 2009/72/EC, Directive 2009/73/EC, Regulation (EC) No 714/2009 or Regulation (EC) No 715/2009, or with other relevant provisions of those Directives or Regulations. Where a national regulatory authority does not comply with the opinion of the Agency within four months from the day of receipt, the Agency shall inform the Commission and the Member State concerned accordingly. By the end of 2014, the Agency received two peer review requests. |
| Objectives                                     | Specific objective: provision of a fact-based opinion and, in cases of lack of compliance with the Opinion, within four month from the date of its adoption, of an information report regarding lack of compliance to the Commission and the Member State concerned.<br><br>Multi-annual objective: contribute to the completion of the Internal Energy Market.   |
| Outputs  | The Agency shall provide an opinion on whether an NRA's decision complies with the Guidelines referred to in Directive 2009/72/EC, Directive 2009/73/EC, Regulation (EC) No 714/2009 or Regulation (EC) No 715/2009, or with other relevant provisions of those Directives or Regulations.  |
| Performance indicators and targets (deadlines) | Delivery of the Opinion and the information report regarding lack of compliance to the Commission and the Member State Concerned (if applicable) within a reasonable time.  |
| Resources                                      | 1.5 FTE (1.0 FTE for Electricity, 0.5 FTE for Gas)  |
| Risks  | Receipt of complete quality information from NRAs, carrying out consultation with NRAs, time constraints.   |

|                   |  |
|-------------------|--|
| <b>Task</b>       | <b>Opinions on the application of Union energy legislation upon request by an NRA pursuant to Article 7(6) of Regulation (EC) No 713/2009</b>  |
| Legal basis       | Article 7(6) of Regulation (EC) No 713/2009  |
| Overview (status) | When a national regulatory authority encounters, in a specific case, difficulties with the application of Guidelines referred to in Directive 2009/72/EC, Directive 2009/73/EC Regulation (EC) No 714/2009 or Regulation (EC) No 715/2009, it may request the Agency for an opinion. |
| Objectives        | Specific objective: issuance of an opinion to support NRAs in the application of the legal provisions at issue.<br><br>Multi-annual objective: contribute to the (Post-2014) completion of the Internal Energy Market.   |
| Outputs           | The Agency shall provide the opinion with regard to the application of Guidelines referred to in Directive 2009/72/EC, Directive   |

|  |   |
|--|---|
|  | 2009/73/EC, Regulation (EC) No 714/2009 or Regulation (EC) No 715/2009 after consultation with the Commission within three months.        |
| Performance indicators and targets (deadlines) | Timely delivery of the opinion.   |
| Resources                                      | 0.7 FTE (for Electricity)   |
| Risks  | Receipt of complete quality information along with all pertinent supporting evidence, consultation with the Commission, time constraints. |

| <b>Task</b>                                    | <b>Opinions on preliminary decisions by NRAs on TSO certification when requested by the Commission</b>   |
|--|--|
| Legal basis                                    | Article 9(2) of Regulation (EC) No 713/2009<br>Article 3(1) of Regulations (EC) No 714/2009 and (EC) No 715/2009   |
| Overview (status)                              | Regular consultation and information exchange takes place between the Commission and the Agency. The Agency has not yet been requested to provide the opinion on the national regulatory authority's decision regarding the certification of TSOs. |
| Objectives                                     | Specific objective: provide support to the TSO certification process.<br>Multi-annual objective: contribute to the infrastructure challenge.   |
| Outputs  | Information exchange, opinion, if requested.   |
| Performance indicators and targets (deadlines) | Timely delivery of the opinion to the Commission.  |
| Resources                                      | 0.4 FTE (0.2 for Electricity + 0.2 for Gas)  |
| Risks  | Receipt of complete quality information about the preliminary decision on certification along with all pertinent supporting evidence, coordination with stakeholders, time constraints.  |

| <b>Task</b>                                    | <b>Opinions and recommendations in the areas of its competence, upon request by the European Parliament, the Council or the European Commission</b>   |
|--|---|
| Legal basis                                    | Article 5 of Regulation (EC) No 713/2009  |
| Overview (status)                              | Upon request by the European Parliament, the Council and the European Commission.   |
| Objectives                                     | Specific objective: provide support and advice to the European Parliament, the Council and the European Commission, by delivering the requested opinions and recommendations.<br><br>Multi-annual objective: contribute to the (Post-2014) completion of the Internal Energy Market |
| Outputs  | Opinions and recommendations  |
| Performance indicators and targets (deadlines) | Timely delivery of the opinions and recommendations.  |
| Resources                                      | 0.8 FTE (0.4 for Electricity + 0.4 for Gas)   |
| Risks  | Receipt of complete quality information about the issue for which an opinion and/or recommendation is requested along with all pertinent supporting evidence, coordination with stakeholders, time constraints.   |

| <b>Task</b>       | <b>Provide input to the TEN-E mid-term evaluation</b>   |
|-------------------|---|
| Legal basis       | Article 5 of Regulation (EC) No 713/2009  |
| Overview (status) | The mid-term review of Regulation 347/2013 is due in 2017 and the Agency may be called on to provide specific input to the review process, in particular regarding the possible revision of the Regulation by changing the scope and the tasks which the Agency would perform |
| Objectives        | Support the mid-term review of Regulation 347/2013  |
| Outputs           | Provide input to the European Commission in the matter of eventual revisions / amendments of Regulation 347/2013 especially those related to the Agency's role  |

|  |   |
|--|---|
| Performance indicators and targets (deadlines) | Ad hoc, depending on the process of the mid-term review of Regulation 347/2013  |
| Resources                                      | 0.8 FTE (0.4 for Gas + 0.4 for Electricity)   |
| Risks  | Receipt of complete quality information about the issue for which the input, opinion and/or recommendation is requested along with all pertinent supporting evidence, coordination with stakeholders, time constraints. |

### 2.7.2 Opinions and Recommendations on the Agency's own Initiative

In 2017 the Agency may decide to issue:

| <b>Task</b>                                    | <b>Opinions and recommendations in the areas of its competence, to the European Parliament, the Council and the European Commission</b>   |
|--|---|
| Legal basis                                    | Article 5 of Regulation (EC) No 713/2009  |
| Overview (status)                              | The Agency may issue opinions and recommendations on its own initiative with regard to its areas of competence.   |
| Objectives                                     | Specific objective: further enhance the cooperation between NRAs and the effectiveness of the regulatory action at EU level.<br>Multi-annual objective: contribute to the (Post-2014) completion of the Internal Energy Market. |
| Outputs  | Opinions and Recommendations  |
| Performance indicators and targets (deadlines) | Timely delivery of a recommendation.  |
| Resources                                      | 1.0 FTE (0.5 for Electricity + 0.5 for Gas)   |
| Risks  | Interaction with stakeholders, time constraints.  |



## 2.8 Wholesale Market Monitoring – REMIT (Operational)

While many of the obligations and the market abuse prohibitions introduced by REMIT already apply since the entry into force of the Regulation on 28 December 2011, the entry into force in early January 2015 of the Implementing Acts triggered important deadlines for data reporting. Market participants and third parties reporting on their behalf will have to:

- within nine months, i.e. by 7 October 2015, report transactions in wholesale energy contracts admitted to trading at Organised Market Places and fundamental data from the ENTSOs central information transparency platforms, and
- within fifteen months, i.e. by 7 April 2016, report transactions in the remaining wholesale energy contracts (OTC standard and non-standard supply contracts; transportation contracts) and reportable fundamental data from TSOs, LSOs and SSOs.

The operational phase of REMIT started with the entry into force of the REMIT Implementing Acts, on 7 January 2015. This is when the Agency launched its REMIT portal and opened its registration system for Registered Reporting Mechanisms. In parallel, NRAs started to register market participants through the Agency's Centralised European Register of Energy Market Participants (CEREMP). The Agency published an excerpt of the European register of market participants on 17 March 2015 and is updating it on a continuous basis.

The operational phase overlaps with the ongoing implementation phase of REMIT during a transitional period which will at least last until the time the Agency will be fully operational with its data collection on the basis of the phased approach of the REMIT Implementing Acts, i.e. 7 July 2016, when all data sets will have to be reported to the Agency, including the back-loading of outstanding non-standard contracts. During the transitional period the Agency will complete the development and deployment of the IT platforms and procedures for the acquisition of market participants registration information from NRAs, the operation of CEREMP, the acquisition of the reported transaction and fundamental data, the assessment of trading activities to detect any instance of market abuse, the sharing of these data with NRAs, the notification to NRAs of suspected market abuse instances and the coordination of cross-border investigations.

The full implementation of this Work Programme depends on the Agency being assigned the required additional staff envisaged in this respect and presented in Section 3.2.2. It is assumed that these additional resources will be recruited in the course of 2016. Therefore, each additional member of staff is counted as ½ full-time equivalent over the whole year. With

REMIT implementation being accomplished in 2016, 2017 will be the first year the Agency will be able to focus entirely on its operational tasks under REMIT.

| <b>Task</b>                                    | <b>Review of the REMIT operations and rulebook</b>  |
|--|---|
| Legal basis                                    | Articles 1(3), 7,8 and 16 of Reg. 1227/2011 and Articles 3(2), 5(2), 10(3) and 11(1) of Commission Implementing Regulation (EU) No 1348/2014  |
| Overview (status)                              | ACER will undertake a review of the REMIT operations and rulebook in the light of the experience with data collection during 2016.  |
| Objectives                                     | Specific objective: This review may result in the formulation of proposals to the European Commission for technical updates of REMIT, according to Article 6 of REMIT, or of the REMIT Implementing Regulation, the drafting of recommendations and guidance.<br><br>Multi-annual objective: Increased integrity and transparency of wholesale energy markets |
| Outputs  | ACER Guidance<br>Transaction Reporting User Manual review<br>Manual of Procedures on transaction and fundamental data reporting review<br>Requirements for the Registered Reporting Mechanisms review   |
| Performance indicators and targets (deadlines) | Deliverable of the outputs by end 2017  |
| Resources                                      | 6.5 FTEs  |
| Risks  | Limited resources for review activities.  |

| <b>Task</b>       | <b>Operation of the Centralised European register of energy market participants (CEREMP) and of the Agency's REMIT Information System (ARIS)</b>                                   |
|-------------------|--|
| Legal basis       | Articles 7-10 and 12 of Reg. 1227/2011   |
| Overview (status) | CEREMP was established in 2014 and the European register of market participants was launched on 17 March 2015. ARIS was established in 2014 and launched on 8 January 2015 for the |

|  |   |
|--|---|
|  | registration of reporting parties and on 7 October 2015 for the collection of trade and fundamental data.   |
| Objectives                                     | <p>Specific objective: Operation and further development and, if necessary, enhancements of the Centralised European register of energy market participants (CEREMP), of the Agency's REMIT Information System (ARIS) for collection of trade, fundamental and other data and for the data sharing with NRAs, in connection with the REMIT implementing acts.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets</p> |
| Outputs  | Continuous operations of CEREMP and ARIS  |
| Performance indicators and targets (deadlines) | <p>99% of planned system availability.</p> <p>AND 0 breaches of the security system with a data leakage involved.</p>   |
| Resources                                      | 13.5 FTEs   |
| Risks  | Limited resources for operational activities.   |

| <b>Task</b>       | <b>Market monitoring of trading activity in wholesale energy markets</b>   |
|-------------------|--|
| Legal basis       | Article 7 and 8 of Reg. (EU) 1227/2011   |
| Overview (status) | <p>Market monitoring of trading activity in wholesale energy markets to detect and prevent trading based on inside information and market manipulation according to Article 7 of REMIT, in cooperation with NRAs, on the basis of data collected in accordance with the REMIT implementing acts, and establishment, further development and operation of the Agency's market surveillance solution to perform its market monitoring activity.</p> <p>A revised market monitoring strategy is being developed in line with the limited resources available to the Agency.</p> |
| Objectives        | <p>Specific objectives:</p> <p>Market Monitoring of the data collected according to Article 8 of Reg. (EU) 1227/2011.</p> <p>Increased integrity and transparency of wholesale energy markets. Detection of abusive practices.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets</p>   |

|  |   |
|--|---|
| Outputs  | Preliminary Initial Assessments of potential market abuse cases   |
| Performance indicators and targets (deadlines) | The performance indicators and targets will be defined once the revised market monitoring strategy is developed.              |
| Resources                                      | 14.0 FTEs   |
| Risks  | Quality of the monitoring depends on the quality of the data received.<br>Limited resources for market monitoring in EU NRAs. |

| <b>Task</b>                                    | <b>Coordination of NRAs and other relevant authorities</b>  |
|--|---|
| Legal basis                                    | Article 16(1) of Reg. (EU) 1227/2011  |
| Overview (status)                              | The coordination of NRAs and other relevant authorities, including at the regional level, without prejudice to their responsibilities, is ongoing.<br><br>A revised market monitoring strategy is being developed in line with the limited resources available to the Agency.   |
| Objectives                                     | Specific objectives: To foster regulatory convergence and to avoid regulatory arbitrage resulting from different regulatory practices under REMIT.<br><br>To aim at ensuring that NRAs and other relevant authorities carry out their tasks under REMIT in a coordinated and consistent way, including the update of the Agency's guidance on the application of REMIT definitions and coordination of NRAs' investigation activities on cross-border market abuse instances.<br><br>Multi-annual objective: Increased integrity and transparency of wholesale energy markets |
| Outputs  | Publication of Agency Guidance on the application of REMIT as required.<br><br>Coordination of investigation of alleged cross-border market abuse instances as required.  |
| Performance indicators and targets (deadlines) | The performance indicators and targets will be defined once the revised market monitoring strategy is developed.  |
| Resources                                      | 3.0 FTEs  |

|       |   |
|-------|---|
| Risks | <p>Risk of leakage of highly sensitive trade data if adequate security measures are not in place.</p> <p>Limited resources for coordination activities.</p> |
|-------|---|

| <b>Task</b>                                    | <b>Cooperation with NRAs, ESMA, competent national financial market authorities and other authorities and with supervisory authorities, international organisations and the administrations of third countries</b>   |
|--|--|
| Legal basis                                    | Articles 1(3), 10, 16 of Reg. (EU) 1227/2011   |
| Overview (status)                              |  |
| Objectives                                     | <p>Specific objectives: Ensuring that a coordinated approach is taken to the enforcement of market abuse rules where actions relate to one or more wholesale energy products which are financial instruments to which Article 9 of Directive 2003/6/EC applies and also to one or more wholesale energy products to which Articles 3, 4 and 5 of REMIT applies according to Article 1(3) of REMIT.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets</p> |
| Outputs  | Memoranda of Understanding (MoUs)  |
| Performance indicators and targets (deadlines) | <p>Conclusion of MoUs with relevant authorities and implementation of the MoUs in practice through regular meetings with the relevant authorities.</p> <p>Coordination of investigation of alleged cross-border market abuse instances as required;</p> <p>Promotion of best practices for the implementation of REMIT.</p>  |
| Resources                                      | 3.0 FTEs   |
| Risks  | Limited resources for cooperation activities.  |

| <b>Task</b>       | <b>Annual Report on the Agency activities under REMIT</b>  |
|-------------------|--|
| Legal basis       | Article 7(3) of Reg. (EU) 1227/2011  |
| Overview (status) | The Agency submits at least on an annual basis a Report to the Commission on its activities under REMIT. |

|  |   |
|--|---|
|  | In order to streamline the use of human resources, a consistent part of the issues to be dealt with in the report will be included in the Agency's Market Monitoring Report.  |
| Objectives                                     | <p>Specific objectives:</p> <p>To assess the operation and transparency of different categories of market places and ways of trading and, if necessary, make recommendations to the Commission as regards market rules, standards, and procedures which could improve market integrity and the functioning of the internal market.</p> <p>Evaluate whether any minimum requirements for organised markets could contribute to enhanced market transparency.</p> <p>Provide recommendations for potential reviews of REMIT, in particular according to Article 6 of REMIT, in view of potential needs to align REMIT definitions with new relevant Union legislation in the fields of financial services and energy, or in view of new developments on wholesale energy markets or of REMIT implementing acts.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets</p> |
| Outputs  | 5th Annual REMIT Report   |
| Performance indicators and targets (deadlines) | Expected submission of the 5 <sup>th</sup> Annual REMIT Report: Q3 2017   |
| Resources                                      | 1.5 FTEs  |
| Risks  | No appreciable risk.  |

## 2.9 Communication (Horizontal)

The Agency's communication efforts are focused on three elements (the first two external, the third one internal), despite the limited resources available for this purpose:

- Consulting extensively and at an early stage on its regulatory activities, in line with its Founding Regulation. Communication with NRAs and stakeholders thus remains a crucial element for the functioning of the Agency.
- Ensuring that the Agency's tasks and the impact of its work are understood also by the (specialised) media, the interested general public and specific groups of stakeholders (e.g. consumers).

- Ensuring that staff is well informed on developments, both within the Agency and in the wider environment in which it operates, and to ensure a common understanding of the Agency's mission and objectives.

### 2.9.1 External Communication

In 2017 the Agency's external communication will focus on the following tasks:

| Task              | Agency Website   |
|-------------------|--|
| Overview (status) | <p>Digital communication remains the Agency's primary communication channel. The focus is on further developing a user-friendly website and to publish timely and informative e-alerts for all interested parties. In an effort to bring the work of the Agency closer to the citizens, the Agency is also striving to publish basic information on its activities in the EU official languages. While efforts towards multilingualism will be further pursued in 2017, they are severely limited by resource constraints.</p> <p>Press releases, news items and Citizens' summaries (putting the Agency's activities in a wider context using language that is comprehensible also to non-experts) will continue to be published and Agency debriefings will continue to be organised for stakeholders.</p> <p>While the Agency is exploring the possibility for its presence on social media, developments in this respect are likely to remain on hold due to resource constraints.</p> |
| Objectives        | <p>Specific objective: to further improve the Agency's website in terms of usability, features and functionalities, so stakeholders find it easy to navigate and regularly updated so as to encourage returning visits.</p> <p>Bring the work of the Agency closer to EU citizens.</p> <p>Multiannual objective: to contribute to all the Agency's multiannual operational objectives.</p>   |
| Outputs           | <p>Regular updating of pages</p> <p>News items</p> <p>Press releases</p> <p>Events</p> <p>Citizens summaries</p>   |

|  |  |
|--|--|
| Performance indicators and targets (deadlines) | Unique visits: 3% increase with respect to 2016.<br>Online survey on the website: at least 2/3 of respondents satisfied or highly satisfied. |
| Resources                                      | 0.5 FTE  |
| Risks  | Timely delivery by external contractors of outputs related to the website.   |

| <b>Task</b>                                    | <b>Relations with Journalists</b>   |
|--|---|
| Overview (status)                              | <p>Press releases are launched on very specific topics which may have an impact on the general public. E-alerts (Infolashes), which are generally accompanied by a web piece of news, are launched when more specific information is disseminated.</p> <p>Infolashes also provide fresh information on upcoming ACER conferences, workshops and events, as well as newly published open consultations or official documents such as opinions and recommendations. They are also used to provide information on the Agency's public debriefings. Infolashes are issued to over 3,250 contacts (a number in constant growth), including stakeholders, national regulators, academics, media, think tanks, as well as other interested citizens. Subscription to the Agency's alerts is available within seconds when visiting ACER's website homepage.</p> <p>Press briefings generally coincide with the launch of press releases; they also focus on major events or deliverables.</p> <p>In addition, the Agency regularly responds to journalists' questions.</p> |
| Objectives                                     | <p>Specific objectives: to keep a large number of interested people and multipliers regularly informed on the Agency's activities and initiatives.</p> <p>The Agency aims to further engage not only with specialised media but also with national media in Member States, as gateways to policy-makers, national experts and the general public.</p> <p>Multiannual objective: to contribute to all the Agency's multiannual operational objectives</p>  |
| Outputs  | Infolashes, Press releases, briefings   |
| Performance indicators and targets (deadlines) | <p>Urgent requests from journalists are to be answered on a timely basis (within 3 working days, unless otherwise specified).</p> <p>Number of news items within Infolashes: &gt;40.</p>  |



|           |   |
|-----------|---|
|           | Number of references to the Agency in selected media included in the Agency's media monitoring (proxy for impact): 200. |
| Resources | 0.2 FTE   |
| Risks     | No appreciable risk.  |

| <b>Task</b>                                    | <b>Events</b>  |
|--|--|
|  | <p><b>Annual Conference</b></p> <p><b>Workshop on the Outline of the 2018 Work Programme</b></p>   |
| Overview (status)                              | The Agency engages policy makers, stakeholders and the media through workshops and public events, with the Agency's traditional Annual Conference at the forefront. Events take various forms: they allow stakeholders to contribute to the Agency's deliverables; or inform interested parties and the media of the Agency's latest documents or future plans   |
| Objectives                                     | <p>Specific objectives:</p> <p>Annual Conference: to provide a platform for a high-level exchange of views among stakeholders and an outlook for a more strategic overview of the Agency's tasks.</p> <p>Annual Work Programme presentation: to receive feedback on the Outline of the AWP from interested parties and to open the consultation period in which the Agency is open for suggestions on its AWP.</p> <p>Regular workshops: to enable the Agency to inform stakeholders on specific issues related to its mandate and to receive their feedback.</p> <p>Multiannual objective: to contribute to all the Agency's multiannual operational objectives</p> |
| Outputs  | <p>Annual Conference for all stakeholders, focused on one of the Agency's major areas of work.</p> <p>Presentation of the Agency's Annual Work Programme (AWP) to stakeholders.</p> <p>Workshops on various topics.</p>  |
| Performance indicators and targets (deadlines) | <p>Annual Conference:</p> <ul style="list-style-type: none"> <li>- Number of participants: &gt; 150.</li> <li>- Participants satisfaction survey: 2/3 majority satisfied or highly satisfied.</li> </ul>   |

|           |  |
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|           | <p>Presentation of AWP:</p> <ul style="list-style-type: none"> <li>- Over 15 participants (either present at the event or through interactive web streaming).</li> </ul> <p>Workshops:</p> <ul style="list-style-type: none"> <li>- Participants satisfaction survey: 2/3 majority satisfied or highly satisfied.</li> </ul>                     |
| Resources | 1.2 FTE  |
| Risks     | <p>Workshop: Limited inputs from stakeholders, as most of the Agency's AWP is set by legal requirements.</p> <p>Due to the timing requirements of the Single Programming Document, stakeholders have to be engaged on the work programme already in year N-2, when the uncertainties related to the year in question are still considerable.</p> |

| Task              | Publications  |
|-------------------|---|
| Overview (status) | <p>The Agency publishes a number of reports and other publications, some mandated by legal requirements, others on its own initiatives. While most of these reports are drafted at the operational departments' level, they also require communication inputs (ranging from the design to all aspects related to their publication, presentation and promotion).</p> <p>Printed publications have progressively been reduced to a bare minimum; most publications are now produced and distributed in digital form only. The Agency issues four large-scale reports annually which undergo professional graphic design and which are among its flagship deliverables.</p>   |
| Objectives        | <p>Specific objectives:</p> <p>From a communication point of view, the objective is to ensure that the publications are appealing, clear, informative and well-presented.</p> <ul style="list-style-type: none"> <li>- In the Annual Activity Report the Agency reports yearly on its activities and achievements in relation to the tasks assigned to it in a specific year.</li> <li>- The Regional Initiatives Status Review Report, aims to promote the early implementation of some of the most critical rules for the integration of the electricity and gas markets. It also aims to promote transparency towards stakeholders, informing them on progress achieved in RIs, obstacles faced during the year and indicate the way forward.</li> </ul> |

|   |  |
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|   | <ul style="list-style-type: none"> <li>- In the Market Monitoring Report the Agency provides an assessment of the progress made towards the implementation of the Third Energy Legislative Package ('the 3rd Package') and the completion of the internal energy market. This report is issued together with the Council of European Energy Regulators (CEER).</li> <li>- In the REMIT Report the Agency reports on its activities under the Regulation on wholesale energy market integrity and transparency (REMIT). The aim is to assess the operation and transparency of different categories of market places and ways of trading and if necessary make recommendations to the Commission as regards market rules, standards, and procedures which could improve market integrity and the functioning of the internal market.</li> <li>- Other publications: Besides its major publications, the Agency also prepares for information purposes brochures and specific leaflets in all EU official languages for events and visits. These leaflets in all EU languages are also accessible digitally from the Agency's web homepage. The Agency also publishes many other sectorial reports on specific issues related to gas and electricity. The objective is to inform the general public and stakeholders on the Agency's activities, both general and more specific ones.</li> </ul> <p>The material is regularly updated to reflect new tasks assigned to the Agency.</p> <p>Multiannual objective: to contribute to all the Agency's multiannual operational objectives.</p> |
| <p>Outputs</p>  | <ul style="list-style-type: none"> <li>- Annual Activity Report</li> <li>- Regional Initiatives Status Review Report</li> <li>- Market Monitoring Report</li> <li>- REMIT Report</li> <li>- Brochures, leaflets</li> <li>- Other publications</li> </ul>   |
| <p>Performance indicators and targets (deadlines)</p> | <p><u>AAR:</u></p> <ul style="list-style-type: none"> <li>- Published by 15 June.</li> <li>- Over 10 unique visits within one month of publication.</li> </ul> <p><u>Regional Initiatives Report</u></p> <ul style="list-style-type: none"> <li>- Publication in January 2017.</li> </ul> <p><u>Market Monitoring Report</u></p> <ul style="list-style-type: none"> <li>- Expected completion date: November 2017.</li> <li>- Over 75 unique visits within one month of publication.</li> <li>- Reader survey: 2/3 majority of respondents satisfied or highly satisfied.</li> </ul>   |

|           |   |
|-----------|---|
|           | <p><u>REMIT Report</u></p> <p>- Expected submission of the 3rd Annual Report of REMIT: Q2 2017.</p> <p>Over 30 unique visits within one month of the publication of the report.</p> |
| Resources | 0.6 FTE   |
| Risks     | No appreciable risks.   |

## 2.9.2 Internal Communication

Internal communication focuses primarily on:

- Digital communication: website, newsletters, newsfeeds
- Events/internal presentations

| Task              | Internal Communication  |
|-------------------|---|
| Overview (status) | <p>Internal communication activities aim to keep all those working within the Agency informed and to enable both management and staff to fulfil their responsibilities effectively and efficiently. Staff members must be regularly informed of policy decisions taken by the Boards and the Director, enabling them to better understand their role and to acquire broader knowledge of the Agency's mission and activities. This should contribute to a common corporate culture, improve staff engagement and ultimately also improve external communication.</p> <p>- An internal newsletter for the Agency's staff is circulated on a monthly basis.</p> <p>- The intranet is being further developed to include all information relevant to the Agency's staff</p> <p>- The Agency occasionally organises internal presentations over lunch-time in which ACER staff members present specific topics related to the Agency's tasks to their colleagues.</p> |
| Objectives        | <p>To increase the level of awareness of ACER's work and recent developments related to the Agency.</p> <p>To provide new features and services according to staff needs and demands.</p> <p>To keep information updated and easily retrievable.</p> <p>To provide staff with an opportunity to acquaint itself with the work and tasks of the various departments.</p>   |

|  |   |
|--|---|
| Outputs  | - Intranet<br>- Internal newsletter<br>- Presentations  |
| Performance indicators and targets (deadlines) | Staff satisfaction on internal communication measured through a question on the internal newsletter in the staff survey.<br><br>2/3 of participating staff satisfied or highly satisfied. |
| Resources                                      | 0.5 FTE   |
| Risks  | No appreciable risk.  |

|   |  |
|---|--|
| <b>TOTAL STAFF for communication tasks</b>      | <b>3.0 FTEs (including events coordination for the entire Agency) + ½ additional requested</b>   |
| Overall risk assessment for communication tasks | Human resources constraints in communication and IT support for the Agency's website could result in delays when providing public information to stakeholders. |

## 2.10 Organisation, Administration and Functioning of the Agency (Horizontal)

### 2.10.1 Organisation

At the time drafting of this Work Programme the Agency was divided into the following departments: the Electricity Department, the Gas Department and the Market Monitoring Department, as well as the Director's Office and the Administration Department and three operational department, both dealing primarily with horizontal tasks. With the new tasks to be covered and the additional staff devoted to them, it is expected that the current Market Monitoring Department will have to be restructured into two Departments.

This section covers the horizontal tasks that cannot be attributed to specific operational objectives. The Agency's organisational chart can be found in Annex X.

## 2.10.2 The Agency's Premises, Procurement and Facility Management

Since February 2014 the Agency is seated in its permanent premises in Ljubljana, rented for a period of 5 years, with an option for renewal for a further 5-year period and for expansion of the office space. In the course of the coming years certain adaptations and changes might be needed, depending on the use of the premises.

| Task              | Procurement and Facility Management  |
|-------------------|--|
| Overview (status) | <p>Procurements will be carried out in line with the 2017 Procurement Plan, in order to enable the continuity of the Agency's services, as well as to procure additional services, where needed.</p> <p>The rental agreement for the Agency's permanent premises, which expires on 31 January 2019, provides a possibility for expansion of the total office space used.</p> <p>No expansion is foreseen in the course of 2017. Certain adaptations and changes might be performed, depending on the use of the premises and the Agency's specific needs and security requirements.</p> <p>In 2017 the Agency will keep its liaison office in Brussels with two staff members (1 AD and 1 SNE) assigned to it. The office is hosted on the premises made available, free of charge, by the Council of European Energy Regulators (CEER), as a contribution in kind to the work of the Agency. The IT and information resources are shared with the liaison office, which makes it an indispensable part of the Agency's structure.</p> |
| Objectives        | <p>The objectives for 2017 are as follows:</p> <ul style="list-style-type: none"> <li>- Further improve effectiveness and efficiency of the procurement processes and implement measures to rationalise and optimise the procurement processes for the implementation of the work programme.</li> <li>- Manage the Agency's premises in line with the evolving needs of the Agency, including, whenever necessary, the expansion of the occupancy of the office surface and the necessary fitting out works and procurement of equipment to ensure smooth continuation of the Agency's work.</li> <li>- Ensure the security in the Agency's premises, in line with the Agency's security policy.</li> </ul>  |
| Outputs           | <ul style="list-style-type: none"> <li>- Annual procurement plan in place and successfully implemented.</li> <li>- Annual facility management plan in place and successfully implemented.</li> </ul>   |

|  |  |
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|  | - Secure and sufficient office space made available for the operations of the Agency.  |
| Performance indicators and targets (deadlines) | At least 90% implementation of the 2017 Procurement Plan.<br>The Agency's premises managed in line with the Agency's facility management plan and within the allocated budget by the end of 2017.  |
| Resources                                      | 2.5 FTEs (including ½ FTE requested)   |
| Risks  | The non-availability of financial resources and human resource constraints may negatively impact the timely delivery of the objectives.<br><br>The absence of timely and quality input from the project managers may impact the successful implementation of the Procurement Plan. |

### 2.10.3 Human Resources

| Task              | Human Resources Management  |
|-------------------|---|
| Overview (status) | <p>The Human Resources (HR) Team continues to concentrate efforts on the redesign and adaptation of processes and procedures in light of the implementation of the amended Staff Regulations and subsequent new Implementing Rules. Such implementation involves several areas of activity, from internal policy drafting, consultations, practical implementation, development of supporting documentation and tools.</p> <p>It is expected that the above processes will also continue in 2017, as new model decisions for Agencies are being developed.</p> <p>ECA performed an audit in December 2015 in the area of human resources administration and management.</p> <p>The HR Team will strive to maintain the availability and the quality of HR services also in 2017.</p> <p>In addition to above, recruitment will remain the main activity with the allocation of additional resources to the Agency.</p> <p>Best practices are explored with other EU Agencies and will be introduced to contribute to a balanced workplace.</p> <p>The concept of Competence framework was discussed within the Agencies' Network, however it has lost its momentum, therefore the Agency is progressing in this area on its own using internal resources in order to be at the forefront of these developments.</p> |

|   |   |
|---|---|
| <p>Objectives</p>                                     | <p>The objectives for 2017 are as follows:</p> <ul style="list-style-type: none"> <li>- To recruit additional resources in line with the Agency's updated Establishment Plan and replace departing staff members in an efficient and timely manner.</li> <li>- To design, implement, and complete the Annual performance appraisal exercise in 2017, in line with the new Implementing Rules.</li> <li>- To ensure that staff members are offered appropriate training opportunities aimed to improve their skills and competencies.</li> <li>- To consider the possible use of the Commission HR Tools, when available.</li> <li>- To receive positive evaluation results from the ECA.</li> <li>- The implementation of Competence Framework to be planned.</li> </ul>  |
| <p>Outputs</p>  | <ul style="list-style-type: none"> <li>- Staff with the necessary knowledge and skills recruited and made available to the Agency.</li> <li>- Training made available as per identified training needs.</li> <li>- Annual performance appraisal carried in line with the adopted rules.</li> <li>- Action Plan for the implementation of Competence Framework to be finalised.</li> </ul>   |
| <p>Performance indicators and targets (deadlines)</p> | <ul style="list-style-type: none"> <li>- Average length of recruitment procedure: 4 months (including the 1-month period of publication of the Vacancy Notice).</li> <li>- Minimum 95% occupancy rate of TA posts in the establishment plan by the end of 2017.</li> <li>- 100% of the eligible Agency's staff subject to performance appraisal to undergo evaluation in the 2017 exercise in line with the new Implementing Rules by end of June 2017.</li> <li>- Minimum of 75% attendance at in-house organised trainings.</li> <li>- No critical or very important recommendations received from ECA audit in 2017.</li> <li>- Continued gradual revision of job descriptions in light of the Competency Framework. 50% of job descriptions to be revised by the end of 2017.</li> <li>- New Vacancy Notices aligned with the competencies and skills required for the positions advertised.</li> </ul> |
| <p>Resources</p>                                      | <p>5.0 FTEs</p>   |
| <p>Risks</p>  | <p>An increase in the number of recruitment procedures, and subsequently the number of staff in the Agency, may require more HR staff than currently envisaged, which may result in delays or a reprioritisation of objectives.</p>   |



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|  | <p>The Agency is facing difficulties in attracting the right candidates in light of the specific expertise required and competition from the private sector which offers more competitive remuneration packages, which may result in more unsuccessful selection procedures.</p> <p>A decrease of the correction coefficient for Slovenia may have a significant negative impact on attracting new staff and staff retention.</p> <p>The lack of an Accredited European School is another factor that has a negative impact on attracting and retaining staff at the Agency.</p> |
|--|--|

### 2.10.4 Budget Implementation and Audit

| Task              | Budget Implementation and Audit   |
|-------------------|---|
| Overview (status) | <p><u>Budget Implementation</u></p> <p>The Agency has been constantly improving its financial management and budget implementation processes.</p> <p>A number of policies and procedures have been introduced and followed to ensure effective budget management. In 2015 the Agency introduced e-invoicing and a paperless workflow, which added to the efficiency of its financial management.</p> <p>In the past years the annual results from budget implementation have been gradually improving, reaching 95.09% of the commitment appropriations and 74.88% of the payment appropriations in 2015.</p> <p>In 2017 the Agency will strive to further improve the above results.</p> <p><u>Audit</u></p> <p>Since its establishment, the Agency has not received any critical recommendations from the internal and external auditors.</p> <p>Furthermore, all recommendations from previous years have been implemented as planned, reported in a timely manner and approved by the respective authority. As a result, the Agency has been granted a discharge for all years for which the discharge procedure has been closed.</p> |
| Objectives        | <p>The objectives for 2017 are as follows:</p> <ul style="list-style-type: none"> <li>- Apply current accounting standards and rules in order to draw accurate financial statements that present a fair view of the Agency's financial performance and position and receive an unqualified audit opinion.</li> </ul>  |

|  |  |
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|  | <ul style="list-style-type: none"> <li>- Implement in a timely manner the recommendations from the Internal Audit Service (IAS), the European Court of Auditors (ECA) and the external audit firm.</li> <li>- Coordinate the budget planning, consumption forecast, budget reviews and transfer of appropriations aiming at achieving higher budget implementation rates.</li> <li>- Ensure proper assets management in order to safeguard the property of the Agency and minimise fraud.</li> <li>- Ensure proper treasury management through availability of liquidities to cover Agency's obligations towards its suppliers and on time execution of payments.</li> <li>- Provide specific training to financial actors to ensure a smooth workflow within the financial circuits.</li> </ul> |
| Outputs  | <ul style="list-style-type: none"> <li>- Annual accounts prepared according to current accounting standards, accounting rules and general accepted accounting principles.</li> <li>- Audit recommendations implemented in time.</li> <li>- Good planning resulting in higher budget implementing rates.</li> <li>- Agency's property records presenting the true value of its assets. Yearly impairment check of fixed assets. Scanning all inventory items every three years. Next scan due in November 2018.</li> <li>- Cash flow management and on time payments.</li> <li>- Training on financial matters made available to all involved actors.</li> </ul>  |
| Performance indicators and targets (deadlines) | <ul style="list-style-type: none"> <li>- Provisional accounts prepared and presented by 1 March 2017, final accounts by 1 July 2017.</li> <li>- Unqualified opinion from ECA by 30 June 2017.</li> <li>- Minimum 95% budget implementation for commitment appropriation and 75% for payment appropriation by 31 December 2017.</li> <li>- Fixed assets impairment check by end of November 2017.</li> <li>- Replenished bank account balance.</li> <li>- Presentation of financial matters delivered by end of June 2017.</li> </ul>   |
| Resources                                      | 4.0 FTEs (including 2.0 FTEs from the Financial Cell)  |
| Risks  | <ul style="list-style-type: none"> <li>- Reservations on financial results made by the Accounting Officer may have a negative impact on the audit opinion.</li> <li>- Delays in procurement procedures and/or delays from contract implementations by project managers may have a negative impact on the achievement of the budget implementation targets.</li> <li>- Results from assets impairment checks may negatively impact the financial position of the Agency.</li> <li>- Downturn in the rating of the financial institution may negatively impact the Agency's solvency.</li> </ul>   |

## 2.10.5 ICT Infrastructure

| Task                     | ICT Development   |
|--------------------------|---|
| <p>Overview (status)</p> | <p>The IT Team's main goal in 2017 is to continue and further enhance the alignment of the IT services with the Agency's strategic goals and objectives, which was initiated in 2016 following the results of the ICT governance study and the new ACER ICT Strategy of 2016-2018.</p> <p>For this reason, the expected coordination between the Agency's different IT Teams should be achieved together with the fine tuning of all procedures related to the ICT governance and the transition into a service-based organisation.</p> <p>In addition, the necessary IT contracts that will enable the implementation of the Agency's evolving needs for development of applications, automation and services should be put in place.</p> <p>Furthermore, the IT Team should ensure that there is the necessary ICT overarching infrastructure covering multiple units/departments, ensuring synergies (cross-departmental) and a unified IT environment.</p>  |
| <p>Objectives</p>        | <p>The objectives for 2017 are as follows:</p> <ul style="list-style-type: none"> <li>- To ensure the fine tuning of ICT governance procedures and that the expected coordination between the different IT teams is in place</li> <li>- To achieve the necessary service orientation by having in place the right procedures and rules (ITIL based) and adapting the IT Team's members work profiles to this.</li> <li>- To acquire and further develop applications and services to cover the Agency departments' needs and to maintain or renew the existing ones. The IT Team shall collect and assess business requirements and contribute to their implementation to support the efficient functioning of the Agency.</li> <li>- To put in place the necessary ICT overarching infrastructure, covering multiple units/departments, and ensuring synergies (cross-departmental) in a unified IT environment.</li> <li>- To assure high level IT support services to enable the Agency's staff to perform their tasks effectively.</li> </ul> |
| <p>Outputs</p>           | <ul style="list-style-type: none"> <li>- Efficient collaboration between the Agency's IT Teams.</li> <li>- Service oriented, flexible IT environment suited to the Agency's objectives and needs.</li> <li>- New applications and services made available to the users, in line with the identified needs.</li> </ul>   |

|  |  |
|--|--|
|  | <ul style="list-style-type: none"> <li>- Unified IT environment that enables easy collaboration and interaction between the Agency's departments/units.</li> <li>- IT requests fulfilled in a timely and efficient manner, adequate IT support rendered to the users.</li> <li>- Successful achievement of the Agency's goals and objectives through the use of ICT.</li> </ul>  |
| Performance indicators and targets (deadlines) | <ul style="list-style-type: none"> <li>- Rules and procedures of ITIL based service management introduced by Q1 2017.</li> <li>- External ICT services and support contracted by Q1 2017 and IT Team's members work profiles adapted accordingly.</li> <li>- IT development contract in place by Q1 2017. The needed IT applications and services to be developed, maintained and fine-tuned under the new contract during the whole of 2017.</li> <li>- Successful and timely completion of the tasks included in the 2017 IT Action Plan by Q4 2017.</li> <li>- 85% of staff satisfied or very satisfied with the IT services on the basis of an annual satisfaction survey by Q4 2017.</li> </ul>   |
| Resources                                      | 4.5 FTEs (including ½ FTE requested)   |
| Risks  | <ul style="list-style-type: none"> <li>- Human resource constraints may impact the timely delivery and the quality of the outputs.</li> <li>- The budget for the tenders of IT application development and ICT service and support contracts is subjected to approval as it comes as additional to the usual IT Team's budget. If the budget is not approved, the Agency will not be able to reach some important objectives for 2017.</li> <li>- Tendering procedures of IT application development and ICT service and support contracts may not be completed on time or not attract the appropriate candidates.</li> <li>- The establishment of an ICT overarching infrastructure, ensuring synergies may not be achieved due to security constraints or not efficient choice of compatible technologies.</li> <li>- New IT support team may fail to satisfy users in its first year of operation due to the adaptation time needed.</li> </ul> |

### 2.10.6 Other Internal and Horizontal Tasks

Apart from the specific tasks and deliverables presented in this Work Programme, the Agency needs to maintain administrative support and a number of central services. Strategic direction,

leadership and coordination across the different departments are also essential to ensure the effective and efficient operation of the Agency in delivering on its mission and meeting its objectives.

Therefore, beyond the staff devoted to specific activities and deliverables, the following positions have a more strategic and coordination role:

- Director, Assistant to the Director and Secretary of the Director: 3 FTEs;
- Head of Administration, Assistant to the Head of Administration/Internal Control Assistant: 2 FTEs;
- Strategy, Coordination and Compliance adviser: 1 FTE.

In addition, staff members allocated to the following positions also have a more horizontal role not assigned to specific activities / deliverables within this Work Programme (additional horizontal posts requested by the Agency for 2017 are counted as ½ FTE each, on the assumption that the posts will indeed be allocated to the Agency during the budgetary procedure and that staff will be recruited progressively during the course of the year):

- Legal advisers: 3.0 FTEs + ½ FTE requested;
- National Regulatory Agencies Cooperation Officers: 3 FTEs;
- Knowledge Manager: 1 FTE;
- Administrative Assistant: 1 FTE.

# ANNEX I: 2017 RESOURCE ALLOCATION PER ACTIVITY

The allocation of human resources to activities has been calculated by adding to the staff available to the Agency, together with the posts to be filled by the end of 2016, the additional staff requested within the 2017 budgetary procedure.

In addition, the following FTE allocations are based on staff the Agency is requesting for 2017:

**19** TAs requested for REMIT + **6** TAs requested for TEN-E + **4** TAs requested for Network Codes monitoring and implementation (3 Electricity and 1 Gas) + **4** TAs for horizontal tasks = **33** posts

The requested staff is calculated as ½ FTE for the purposes of the 2017 Work Programme, on the assumption that staff will be recruited progressively throughout the year.

The total FTEs allocated to 2017 tasks:  $102 + (33 \times \frac{1}{2} = 16.5) = \mathbf{118.5}$  FTEs

## 2017 Full Time Equivalents - Breakdown per Activity:

|  |                  |
|--|------------------|
| <u>Electricity Framework Guidelines &amp; Network Codes:</u>   | <b>7.3 FTEs</b>  |
| <u>Gas Framework Guidelines &amp; Network Codes:</u>   | <b>5.8 FTEs</b>  |
| Gas Regional Initiative:   | <b>1.2 FTE</b>   |
| <u>Monitoring of the internal markets in electricity and natural gas:</u>  | <b>9.0 FTEs</b>  |
| <u>TSO Cooperation:</u>  | <b>6.3 FTEs</b>  |
| <u>TEN-E Regulation (Gas + Electricity):</u>   | <b>4.0 FTEs</b>  |
| Note: Some TEN-E tasks are subject to conditions and included in the activity below                                |                  |
| <u>Tasks subject to specific conditions (Gas + Electricity):</u>   | <b>8.4 FTEs</b>  |
| <b>Note: Includes TEN-E tasks</b>  |                  |
| <u>Opinions and Recommendations on the Agency's own initiative (Gas + Electricity):</u>                            | <b>1.0 FTEs</b>  |
| <u>Wholesale Market Monitoring</u>   |                  |
| - Review of the REMIT operations and rulebook  | <b>6.5 FTEs</b>  |
| - Centralised European Registry for Energy Market Participants (CEREMP), Agency's REMIT information system (ARIS): | <b>13.5 FTEs</b> |
| - Market monitoring of trading activity in wholesale energy markets:   | <b>14 FTEs</b>   |

- Coordination of NRAs, etc. aiming to promote best practices for REMIT: **3.0 FTEs**
- Cooperation with NRAs, etc. for coordinated approach to market abuse: **3.0 FTEs**
- Annual REMIT Report: **1.5 FTEs**

Horizontal Activities (Organisation, Administration and Functioning of the Agency and other functions not allocated to specific activities)

- Director and horizontal matters in the DO (including 2 assistants, strategy and coordination, knowledge management and an administrative assistant): **6.0 FTEs**
- Legal cell in the Director's Office and Legal Officer in Administration: **3.5 FTEs**
- National Regulatory Agencies Cooperation: **3.0 FTEs**
- Press and Communication: **2.5 FTEs**
- Events management: **1.0 FTE**
- Head of Administration (HoA), Assistant to HoA/Internal Control Assistant: **2.0 FTEs**
- Procurement and facility management **2.5 FTEs**
- Human Resources: **5.0 FTEs**
- Budget implementation and audit, including Financial Cell: **4.0 FTEs**
- ICT development: **4.5 FTEs**

| <b>Total staff allocated in the 2016 AWP</b> |              |
|--|--------------|
| Gas and Electricity                          | <b>43.0</b>  |
| Wholesale Market Monitoring                  | <b>41.5</b>  |
| Horizontal tasks                             | <b>34.0</b>  |
| <b>Total</b>                                 | <b>118.5</b> |

## ANNEX II: FINANCIAL RESOURCES

### Table 1 – Expenditure

| Expenditure              | 2016                      |                        | 2017                      |                        |
|--------------------------|---------------------------|------------------------|---------------------------|------------------------|
|                          | Commitment appropriations | Payment appropriations | Commitment appropriations | Payment appropriations |
| Title 1                  | 8,211,815                 | 8,211,815              | 12,668,389                | 12,668,389             |
| Title 2                  | 2,693,770                 | 2,693,770              | 3,766,601                 | 3,766,601              |
| Title 3                  | 4,966,997                 | 4,966,997              | 3,431,148                 | 3,431,148              |
| <b>Total expenditure</b> | <b>15,872,582</b>         | <b>15,872,582</b>      | <b>19,866,138</b>         | <b>19,866,138</b>      |

| EXPENDITURE   | Commitment appropriations |                  |                   |                 |                |                   |                   |
|---|---------------------------|------------------|-------------------|-----------------|----------------|-------------------|-------------------|
|   | Executed Budget 2015      | Budget 2016      | Draft Budget 2017 |                 | VAR 2017/ 2016 | Envisaged in 2018 | Envisaged 2019    |
|   |                           |                  | Agency request    | Budget Forecast |                |                   |                   |
| <b>Title 1</b>                                      |                           |                  |                   |                 |                |                   |                   |
| <b>Staff Expenditure</b>                            | <b>6,104,396</b>          | <b>8,211,815</b> | <b>12,668,389</b> |                 | <b>54.27%</b>  | <b>12,921,757</b> | <b>13,180,192</b> |
| <b>11 Salaries &amp; allowances</b>                 | 5,585,345                 | 7,513,545        | 11,429,314        |                 | 52.12%         | 11,665,833        | 11,907,082        |
| - of which establishment plan posts                 | 4,496,722                 | 6,364,651        | 9,300,250         |                 | 46.12%         | 9,494,188         | 9,692,004         |
| - of which external personnel                       | 1,088,623                 | 1,148,894        | 2,129,064         |                 | 85.31%         | 2,171,645         | 2,215,078         |
| <b>12 Expenditure relating to Staff recruitment</b> | 40,000                    | 50,000           | 182,400           |                 | 264.80%        | 186,048           | 189,769           |
| <b>13 Mission expenses</b>                          | 107,473                   | 156,626          | 182,169           |                 | 16.31%         | 182,169           | 182,169           |
| <b>14 Socio-medical infrastructure</b>              | 0                         | 50,000           | 61,741            |                 | 23.48%         | 61,741            | 61,741            |
| <b>15 Training</b>                                  | 123,938                   | 200,000          | 324,050           |                 | 62.03%         | 330,531           | 337,142           |
| <b>16 External Services</b>                         | 170,589                   | 147,900          | 336,000           |                 | 127.18%        | 342,720           | 349,574           |



|   |                   |                   |                   |  |                |                   |                   |
|---|-------------------|-------------------|-------------------|--|----------------|-------------------|-------------------|
| <b>17 Receptions, events and representations</b>                  | 11,623            | 15,000            | 16,615            |  | 10.77%         | 16,615            | 16,615            |
| <b>18 Social welfare</b>  | 16,428            | 27,744            | 40,000            |  | 44.18%         | 40,000            | 40,000            |
| <b>19 Other Staff related expenditure</b>                         | 49,000            | 51,000            | 96,100            |  | 88.43%         | 96,100            | 96,100            |
| <b>Title 2<br/>Infrastructure and operating expenditure</b>       | <b>2,281,615</b>  | <b>2,693,770</b>  | <b>3,766,601</b>  |  | <b>39.83%</b>  | <b>3,766,601</b>  | <b>3,766,601</b>  |
| <b>20 Rental of buildings and associated costs<sup>15</sup></b>   | 960,408           | 981,713           | 1,211,710         |  | 23.43%         | 1,211,710         | 1,211,710         |
| <b>21 Information and communication technology</b>                | 453,666           | 454,010           | 1,023,518         |  | 125.44%        | 1,023,518         | 1,023,518         |
| <b>22 Movable property and associated costs</b>                   | 157,992           | 163,121           | 302,500           |  | 85.45%         | 302,500           | 302,500           |
| <b>23 Current administrative expenditure</b>                      | 143,130           | 144,820           | 178,251           |  | 23.08%         | 178,251           | 178,251           |
| <b>24 Postage / Telecommunications</b>                            | 65,600            | 91,850            | 102,000           |  | 11.05%         | 102,000           | 102,000           |
| <b>25 Meeting expenses</b>  | 177,591           | 226,830           | 253,922           |  | 11.94%         | 253,922           | 253,922           |
| <b>26 Running costs in connection with operational activities</b> | 31,257            | 175,000           | 164,700           |  | -5.89%         | 164,700           | 164,700           |
| <b>27 Information and publishing</b>                              |                   |                   |                   |  |                |                   |                   |
| <b>28 Studies</b>   | 291,971           | 456,426           | 530,000           |  | 16.12%         | 530,000           | 530,000           |
| <b>Title 3<br/>Operational expenditure</b>                        | <b>2,326,866</b>  | <b>4,966,997</b>  | <b>3,431,148</b>  |  | <b>-30.92%</b> | <b>5,431,148</b>  | <b>3,431,148</b>  |
| <b>to be specified by chapter</b>                                 | 2,326,866         | 4,966,997         | 3,431,148         |  | -30.92%        | 5,431,148         | 3,431,148         |
| <b>TOTAL EXPENDITURE</b>  | <b>10,712,876</b> | <b>15,872,582</b> | <b>19,866,138</b> |  | <b>25.16%</b>  | <b>22,119,506</b> | <b>20,377,941</b> |

<sup>15</sup> Including possible repayment of interest; detailed information as regards building policy provided in Table in Annex III.

**Table 2 – Revenue**

| Revenues              | 2016                             | 2017              |
|-----------------------|----------------------------------|-------------------|
|                       | Revenues estimated by the agency | Budget Forecast   |
| EU contribution       | 20,078,441                       | 19,866,138        |
| Other revenue         | 0                                | 0                 |
| <b>Total revenues</b> | <b>20,078,441</b>                | <b>19,866,138</b> |

| REVENUES   | 2015            | 2016                            | 2017                       |                 | VAR 2018 /2017 | Envisaged 2018 | Envisaged 2019 |
|--|-----------------|---------------------------------|----------------------------|-----------------|----------------|----------------|----------------|
|  | Executed Budget | Revenues received by the agency | As requested by the agency | Budget Forecast |                |                |                |
| <b>1 REVENUE FROM FEES AND CHARGES</b>                                     |                 |                                 |                            |                 |                |                |                |
| <b>2. EU CONTRIBUTION</b>  | 10,712,876      | 15,872,582                      | 19,866,138                 |                 | 25.16%         | 22,119,506     | 20,377,941     |
| of which Administrative (Title 1 and Title 2)                              | 7,971,010       | 10,197,585                      | 15,682,990                 |                 | 53.79%         | 16,688,358     | 16,946,793     |
| of which Operational (Title 3)   | 2,326,866       | 4,966,997                       | 3,431,148                  |                 | -30.92%        | 5,431,148      | 3,431,148      |
| of which assigned revenues deriving from previous years' surpluses         | 415,000         | 708,000                         | 752,000                    |                 | 6.21%          | 0              | 0              |
| <b>3 THIRD COUNTRIES CONTRIBUTION (incl. EFTA and candidate countries)</b> |                 |                                 |                            |                 |                |                |                |

|  |                   |                   |                   |  |               |                   |                   |
|--|-------------------|-------------------|-------------------|--|---------------|-------------------|-------------------|
| of which EFTA  |                   |                   |                   |  |               |                   |                   |
| of which Candidate Countries                             |                   |                   |                   |  |               |                   |                   |
| <b>4 OTHER CONTRIBUTIONS</b>                             |                   |                   |                   |  |               |                   |                   |
| of which delegation agreement, ad hoc grants             |                   |                   |                   |  |               |                   |                   |
| <b>5 ADMINISTRATIVE OPERATIONS</b>                       |                   |                   |                   |  |               |                   |                   |
| <b>6 REVENUES FROM SERVICES RENDERED AGAINST PAYMENT</b> |                   |                   |                   |  |               |                   |                   |
| <b>7 CORRECTION OF BUDGETARY IMBALANCES</b>              |                   |                   |                   |  |               |                   |                   |
| <b>TOTAL REVENUES</b>                                    | <b>10,712,876</b> | <b>15,872,582</b> | <b>19,866,138</b> |  | <b>25.16%</b> | <b>22,119,506</b> | <b>20,377,941</b> |

## Table 3 - Budget outturn and cancellation of appropriations

### Calculation budget outturn

| Budget outturn  | 2013           | 2014           | 2015           |
|---|----------------|----------------|----------------|
| Revenue actually received (+)   | 11,934,419     | 10,895,960     | 11,267,795     |
| Payments made (-)   | -6,561,834     | -7,598,986     | -8,435,504     |
| Carry-over of appropriations (-)  | -5,075,003     | -2,736,510     | -2,277,372     |
| Cancellation of appropriations carried over (+)                                     | 118,814        | 148,844        | 198,294        |
| Adjustment for carry over of assigned revenue appropriations from previous year (+) | 0              | 0              | 0              |
| Exchange rate differences (+/-)   | -472           | -756           | -786           |
| Adjustment for negative balance from previous year (-)                              | 0              | 0              | 0              |
| <b>Total</b>  | <b>415,924</b> | <b>708,552</b> | <b>752,427</b> |

### Budget outturn

The total budget outturn for the financial year 2015 amounting to 752,427 EUR is composed of the year 2015 unused budget appropriation of 554,919 EUR (representing 4.93% of the 2015 budget), cancelled payment appropriations of 198,294 EUR carried over from financial year 2014 (representing 7.25% of the carried over amount) and exchange rate differences of 786 EUR. The main reasons for the unspent 4.93% of the 2015 appropriations relate to vacancy gaps during the year, non-finalised procurement procedure due to lack of offers and some minor savings under operational missions due to extensive use of video conferencing equipment and locally organised meetings.

## ANNEX III: HUMAN RESOURCES – QUANTITATIVE

**Table 1 - Staff population and its evolution; Overview of all categories**

| Staff population    |        | Staff population actually filled in 31.12.2014 | Staff population in EU Budget 2015 <sup>16</sup> | Staff population actually filled at 31.12.2015 | Staff population in voted EU Budget 2016 <sup>17</sup> | Staff population – Agency’s request in Draft EU Budget 2017 | Staff population envisaged in 2018 <sup>18</sup> | Staff population envisaged in 2019 <sup>19</sup> |
|---------------------|--------|--|--|--|--|---|--|--|
| Officials           | AD     |  |  |  |  |   |  |  |
|                     | AST    |  |  |  |  |   |  |  |
|                     | AST/SC |  |  |  |  |   |  |  |
| TA                  | AD     | 37   | 39   | 39   | 54   | 80  | 80   | 80   |
|                     | AST    | 15   | 15   | 15   | 15   | 22  | 22   | 22   |
|                     | AST/SC | 0  |  |  |  |   |  |  |
| Total <sup>20</sup> |        | <b>52</b>                                      | <b>54</b>  | <b>54</b>                                      | <b>69</b>  | <b>102</b>  | <b>102</b>                                       | <b>102</b>                                       |

<sup>16</sup> As authorised for officials and temporary agents (TA) and as estimated for contract agents (CA) and seconded national experts (“SNE”).

<sup>17</sup> As authorised for officials and temporary agents (TA) and as estimated for contract agents (CA) and SNE.

<sup>18</sup> Anticipated request for staff by the Agency.

<sup>19</sup> *Ibid.*

<sup>20</sup> Headcounts

|  |           |           |                        |           |                             |                             |                             |
|--|-----------|-----------|------------------------|-----------|-----------------------------|-----------------------------|-----------------------------|
|  |           |           |                        |           |                             |                             |                             |
| CA GFIV  | 4         | 5         | 9                      | 13        | 21                          | 21                          | 21                          |
| CA GF III  | 0         | 0         | 5                      |           | 9                           | 9                           | 9                           |
| CA GF II   | 6         | 6         | 6                      | 6         | 3                           | 3                           | 3                           |
| CA GFI   |           |           |                        |           |                             |                             |                             |
| <b>Total CA<sup>21</sup></b>   | <b>10</b> | <b>11</b> | <b>20<sup>22</sup></b> | <b>19</b> | <b>33</b>                   | <b>33</b>                   | <b>33</b>                   |
| <b>SNE<sup>23</sup></b>  | <b>11</b> | <b>12</b> | <b>6</b>               | <b>4</b>  | <b>4 + (1)<sup>24</sup></b> | <b>4 + (1)<sup>25</sup></b> | <b>4 + (1)<sup>26</sup></b> |
| <b>TOTAL</b>   | <b>73</b> | <b>77</b> | <b>80</b>              | <b>92</b> | <b>139 + (1)</b>            | <b>139 + (1)</b>            | <b>139 + (1)</b>            |
| <i>External staff<sup>27</sup> for occasional replacement<sup>28</sup></i> |           |           |                        |           |                             |                             |                             |

<sup>21</sup> FTE

<sup>22</sup> Additional CA employed, as the resources provided have not covered the needs of the Agency. Budgetary appropriations have been ensured from budget savings.

<sup>23</sup> FTE

<sup>24</sup> One Seconded National Expert position is cost-free

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

<sup>27</sup> FTE

<sup>28</sup> For instance replacement due to maternity leave or long sick leave.

**Table 2 - Multi-annual staff policy plan 2017- 2019**

| Category and grade | Establishment plan in EU Budget 2015 <sup>29</sup> |    | Modifications in 2015 in application of flexibility rule <sup>30</sup> |    | Establishment plan in voted EU Budget 2016, |    | Modifications envisaged in establishment plan 2016 - <sup>31</sup> |    | Establishment plan – Agency's request in Draft EU Budget 2017 <sup>32</sup> |    | Establishment plan 2018, |    | Establishment plan 2019 |    |
|--------------------|--|----|--|----|---|----|--|----|---|----|--------------------------|----|-------------------------|----|
|                    | officials  | TA | officials  | TA | officials                                   | TA | officials  | TA | officials   | TA | officials                | TA | officials               | TA |
| AD 16              |  |    |  |    |   |    |  |    |   |    |                          |    |                         |    |
| AD 15              |  |    |  |    |   | 1  |  | 1  |   | 1  |                          | 1  |                         | 1  |
| AD 14              |  | 1  |  | -  |   |    |  |    |   |    |                          |    |                         |    |
| AD 13              |  |    |  |    |   |    |  |    |   |    |                          |    |                         | 1  |
| AD 12              |  |    |  |    |   |    |  | 4  |   | 4  |                          | 4  |                         | 4  |
| AD 11              |  | 4  |  | -  |   | 5  |  | 1  |   | 1  |                          | 2  |                         | 2  |
| AD 10              |  |    |  |    |   |    |  | 2  |   | 4  |                          | 4  |                         | 4  |

<sup>29</sup> Establishment plan grades (EU Budget 2014) and promotions in 2013.

<sup>30</sup> In line with Article 32 (1) of the framework Financial Regulation, the management board may modify, under certain conditions, the establishment plan by in principle up to 10% of posts authorised, unless the financial rules of the body concerned allows for a different % rate.

<sup>31</sup> The Agency is currently been requested to initiate amending budget procedure for the 2016 budget, to re-align the grades in the establishment plan with the current staff population and the 2016 re-classification exercise.

<sup>32</sup> The Agency is currently requesting a revision of the draft budget 2017, to re-align the grades in the establishment plan with the current staff population and evolution.

|                  |  |           |  |           |  |           |  |           |  |           |  |           |  |           |
|------------------|--|-----------|--|-----------|--|-----------|--|-----------|--|-----------|--|-----------|--|-----------|
| AD 9             |  | 2         |  | -         |  | 2         |  | 6         |  | 6         |  | 8         |  | 9         |
| AD 8             |  | 6         |  | -         |  | 10        |  | 8         |  | 11        |  | 11        |  | 12        |
| AD 7             |  | 6         |  | -         |  | 10        |  | 7         |  | 12        |  | 14        |  | 13        |
| AD 6             |  | 7         |  | -         |  | 7         |  | 13        |  | 14        |  | 12        |  | 12        |
| AD 5             |  | 13        |  | -         |  | 19        |  | 12        |  | 27        |  | 24        |  | 22        |
| <b>Total AD</b>  |  | <b>39</b> |  | <b>39</b> |  | <b>54</b> |  | <b>54</b> |  | <b>80</b> |  | <b>80</b> |  | <b>80</b> |
| AST 11           |  |           |  |           |  |           |  |           |  |           |  |           |  |           |
| AST 10           |  |           |  |           |  |           |  |           |  |           |  |           |  |           |
| AST 9            |  |           |  |           |  |           |  |           |  |           |  |           |  |           |
| AST 8            |  |           |  |           |  |           |  |           |  |           |  |           |  |           |
| AST 7            |  |           |  |           |  |           |  |           |  |           |  |           |  |           |
| AST 6            |  |           |  |           |  |           |  | 1         |  | 1         |  | 2         |  | 2         |
| AST 5            |  | 1         |  | -         |  | 1         |  |           |  | 2         |  | 3         |  | 3         |
| AST 4            |  | 1         |  | -         |  | 1         |  | 8         |  | 9         |  | 8         |  | 10        |
| AST 3            |  | 13        |  | -         |  | 13        |  | 6         |  | 10        |  | 9         |  | 7         |
| AST 2            |  |           |  |           |  |           |  |           |  |           |  |           |  |           |
| AST 1            |  |           |  |           |  |           |  |           |  |           |  |           |  |           |
| <b>Total AST</b> |  | <b>15</b> |  | <b>15</b> |  | <b>15</b> |  | <b>15</b> |  | <b>22</b> |  | <b>22</b> |  | <b>22</b> |



|                         |  |           |  |           |  |           |  |           |  |            |  |            |            |
|-------------------------|--|-----------|--|-----------|--|-----------|--|-----------|--|------------|--|------------|------------|
| AST/SC6                 |  |           |  |           |  |           |  |           |  |            |  |            |            |
| AST/SC5                 |  |           |  |           |  |           |  |           |  |            |  |            |            |
| AST/SC4                 |  |           |  |           |  |           |  |           |  |            |  |            |            |
| AST/SC3                 |  |           |  |           |  |           |  |           |  |            |  |            |            |
| AST/SC2                 |  |           |  |           |  |           |  |           |  |            |  |            |            |
| AST/SC1                 |  |           |  |           |  |           |  |           |  |            |  |            |            |
| <b>Total<br/>AST/SC</b> |  |           |  |           |  |           |  |           |  |            |  |            |            |
| <b>TOTAL</b>            |  | <b>54</b> |  | <b>54</b> |  | <b>69</b> |  | <b>69</b> |  | <b>102</b> |  | <b>102</b> | <b>102</b> |

# ANNEX IV: HUMAN RESOURCES – QUALITATIVE

## A. Recruitment policy

**The Agency employs temporary agents and contract agents.** Seconded national experts are working temporarily for the Agency under the rules applicable to such experts.

The establishment plan of the Agency does not foresee permanent posts and it is not envisaged to require such posts in the future.

### 1) Rules for recruitment of temporary agents and contract agents

The recruitment policy for temporary agents is laid down in Decision AB No 08/2015 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 11 June 2015 laying down general implementing provisions on the procedure governing the engagement and use of temporary staff under Article 2(f) of the Conditions of Employment of Other Servants of the European Union. Up until the new implementing rules of the Commission will be adopted by the Administrative Board later in 2016, the recruitment policy for contract agents is governed by Decision AB n° 11/2011 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 1 June 2011 on the adoption of general implementing provisions on the procedures governing the engagement and the use of contract staff at ACER.

The selection procedures for temporary agents and contract agents involve the following steps:

- Publication of a vacancy notice on the Agency and EPSO websites, defining eligibility and selection criteria, indicating the type and duration of the contract and the recruitment grade.
- Setting up of a Selection Committee representing the recruiting department, the Human Resources section, and the Staff Committee.
- Pre-selection of candidates on the basis of CVs, evaluation of eligibility and selection criteria.
- Invitation of selected candidates to interviews and written tests, covering the specific competences in the area of expertise, in particular in the domain of the Agency, general aptitudes and language abilities.
- Assessment of candidates through interviews and anonymous written tests. The assessment is carried out by the selection committee against predefined criteria.
- All steps and decisions taken by the Selection Committee are recorded in writing in the minutes of the selection procedure.
- The selection committee proposes a short list of successful candidates sent to the Authority Habilitated to Conclude Contracts (AHCC) who establishes the reserve lists and offers the employment contracts.

- The candidates to be recruited should pass a compulsory medical exam. Their entry grade and step, as well as their personal rights, are determined by the PMO.

## 2) Rules on the secondment of national experts (SNEs) to the Agency

SNEs are not recruited by the Agency; they do not become staff members but remain employed and paid by the employer seconding them to the Agency. As compensation for the additional costs of living temporarily abroad, SNEs are entitled to daily and monthly subsistence allowances.

SNEs are selected in two ways:

1. By means of an open and transparent selection procedure. Vacancy notices are published for no less than one month before the closing date for applications and are advertised, at least, on the Agency website, with a notification thereof on the EPSO portal and to the Permanent Representations to the EU. Where appropriate, other means of advertisement are used;
2. By direct contact between the Agency and the Administration where the candidate is working.

The initial period of secondment of national experts may not be less than six months and more than two years, and under certain conditions can be renewed up to a total period of four years. Exceptionally, at the request of the department concerned and where the interest of the service warrants it, the Director may authorise one or more extensions of the secondment for a maximum of two more years at the end of the four year period (cf. Art. 5(1) of AB n° 02/2011). Detailed rules on the secondment of SNEs are defined in the Administrative Board Decision n° 02/2011 laying down the rules on the secondment of national experts to the Agency. In 2015, the Agency also concluded a Service Level Agreement with the Federal Energy Regulatory Commission, which provides the framework for the secondment of members of staff of both bodies on a mutual basis.

### **a) Grade and function group corresponding to the tasks and to the level of the post**

Temporary agents, as a rule, are recruited at levels AD5, AD6, AD7, AD8, AD9, AD11, AST3 and AST5. The Director was recruited at AD14 level. Grades AD9-AD12 are recruitment grades for middle management and exceptionally for highly qualified experts.

Following the adoption by the Commission of implementing rules and general implementing provisions to give effect to the amended Staff Regulations (SR), in line with Article 110(2) of the SR, the provisions of **Commission Decision of 16.12.2013** laying down general implementing provisions concerning the criteria applicable to classification in step on appointment or engagement (C (2013) 8970) apply by analogy at the Agency as of 1 October 2014.

### **b) Duration of employment**

The Director's post is that of a short-term temporary agent. He is offered a fixed-time contract for a period not exceeding five years, with the possibility of one extension for another fixed-time period not exceeding three years, by the Administrative Board, on the basis of a proposal from the Commission and after consultation with the Board of Regulators.

Long-term temporary agents are offered a first fixed-term contract of five years. Contracts of 2f temporary agents are renewed once for indefinite period of time.

Contract agents are offered a first fixed-term contract of duration between three months and five years. Contracts of contract agents in FG II to IV may be renewed once for a definite period of not more than five years.

**c) Structural service providers<sup>33</sup>**

A number of structural service providers will be contracted for the implementation of specific tasks in the coming years, as follows:

The Agency will require up to 3 IT consultants (on short-term or *when needed* basis) for web applications development services for the implementation of the Agency's REMIT Information System (ARIS).

- Framework contract: ACER/OP/ADMIN/12/2012.
- Services ordered under the FWC will need to be executed by April 2018 at the latest. The Agency plans to launch a new procurement procedure for the web applications development services in the course of 2017, with the duration of 4 years.

The Agency will use 1 IT consultant (on short-term or *when needed* basis) for the provision of its market monitoring system for ARIS.

- Framework contract: ACER/OP/ADMIN/21/2012
- Services ordered under the FWC will need to be executed by June 2018 at the latest. The Agency plans to launch a new procurement procedure for the provision of its market monitoring system for ARIS in the course of 2017, with the duration of 4 years.

The Agency will use 1 IT (on short-term or *when needed* basis) consultant for IT infrastructure hosting services.

- The Agency will launch the procurement procedure for IT infrastructure hosting services in the beginning of 2016 with the aim to have a new framework contract in place in the last quarter of 2016, with the duration of 4 years.

The Agency will use 1 IT consultant (on short-term or *when needed* basis) for its ARIS main database development.

- Tender procedure: DIGIT/R2/PO/2011/041
- Duration of contract: 4 years

The Agency will use up to 2 IT consultants (on short-term or *when needed* basis) for the provision of IT consultancy services for the implementation of ARIS.

- Tender procedure: ACER/OP/MMD/09/2013
- Duration of contract: 4 years

The Agency will use 1 IT consultant with the task of networking consultancy on short-term or *when needed* basis in the course of 2017.

- Framework contract DIGIT DI/07030

The Agency will use up to seven Interims (full time equivalent) for the provision of general secretarial support across all departments of the Agency.

- Tender procedure: ACER/OP/ADMIN/10/2014
- Duration of contract: 4 years

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<sup>33</sup> NB Structural service providers are not employed by the Agency.

## B. Appraisal of performance and reclassification/promotions

**Table 1 - Reclassification of temporary staff/promotion of officials**

| Category and grade | Staff in activity at 1.01.2015 |           | How many staff members were promoted/reclassified in 2016 <sup>34</sup> |    | Average number of years in grade of reclassified/promoted staff members |
|--------------------|--------------------------------|-----------|---|----|---|
|                    | officials                      | TA        | officials   | TA |   |
| AD 16              |                                |           |   |    |   |
| AD 15              |                                | 1         |   |    |   |
| AD 14              |                                |           |   |    |   |
| AD 13              |                                |           |   |    |   |
| AD 12              |                                | 3         |   |    |   |
| AD 11              |                                | 1         |   | 1  | 3.08  |
| AD 10              |                                | 2         |   |    |   |
| AD 9               |                                | 4         |   |    |   |
| AD 8               |                                | 6         |   | 2  | 2.54  |
| AD 7               |                                | 3         |   | 1  | 4.21  |
| AD 6               |                                | 8         |   | 2  | 3   |
| AD 5               |                                | 11        |   | 3  | 3.23  |
| <b>Total AD</b>    |                                | <b>39</b> |   |    |   |
| AST 11             |                                |           |   |    |   |
| AST 10             |                                |           |   |    |   |
| AST 9              |                                |           |   |    |   |
| AST 8              |                                |           |   |    |   |
| AST 7              |                                |           |   |    |   |
| AST 6              |                                |           |   |    |   |
| AST 5              |                                | 1         |   | 1  | 4.71  |

<sup>34</sup> The 2016 reclassification exercise was ongoing at the time of finalisation of the 2017 Programming Document. As a matter of preliminary information, the Agency inserted the figures of the proposal (draft list) for reclassification of Temporary and Contract Staff.

|                     |  |           |  |   |   |
|---------------------|--|-----------|--|---|---|
| AST 4               |  | 5         |  |   |   |
| AST 3               |  | 9         |  | 3 | 4 |
| AST 2               |  |           |  |   |   |
| AST 1               |  |           |  |   |   |
| <b>Total AST</b>    |  | <b>15</b> |  |   |   |
| AST/SC6             |  |           |  |   |   |
| AST/SC5             |  |           |  |   |   |
| AST/SC4             |  |           |  |   |   |
| AST/SC3             |  |           |  |   |   |
| AST/SC2             |  |           |  |   |   |
| AST/SC1             |  |           |  |   |   |
| <b>Total AST/SC</b> |  |           |  |   |   |
| <b>Total</b>        |  |           |  |   |   |

**Table 2 - Reclassification of contract staff**

**Appraisal of performance and reclassification/promotions**

**Table 2 -Reclassification of contract staff**

| Function Group | Grade | Staff in activity at 1.01.2015 | Staff members reclassified in 2016 <sup>35</sup> | Average number of years in grade of reclassified staff members |
|----------------|-------|--------------------------------|--|--|
| CA IV          | 18    |                                |  |  |
|                | 17    |                                |  |  |
|                | 16    |                                |  |  |
|                | 15    |                                |  |  |
|                | 14    | 5                              |  |  |
|                | 13    | 4                              | 1  | 3.37   |
| CA III         | 12    |                                |  |  |
|                | 11    |                                |  |  |
|                | 10    |                                |  |  |
|                | 9     | 4                              |  |  |
|                | 8     | 1                              |  |  |

<sup>35</sup> The 2016 reclassification exercise is currently ongoing. As a matter of preliminary information, the Agency inserted the figures of the proposal (draft list) for reclassification of Temporary and Contract Staff.

|       |   |    |  |  |
|-------|---|----|--|--|
| CA II | 7 |    |  |  |
|       | 6 |    |  |  |
|       | 5 | 5  |  |  |
|       | 4 | 1  |  |  |
| CA I  | 3 |    |  |  |
|       | 2 |    |  |  |
|       | 1 |    |  |  |
| Total |   | 20 |  |  |

### The Agency's policy on performance appraisal and promotion/reclassification

The ability, efficiency and conduct in the service of each staff member of the Agency are subject to an annual report made in line with Article 43 of the Staff Regulations.

In 2011 the Administrative Board of the Agency adopted two decisions regarding **performance appraisal** (Decision AB n° 25/2011 establishing the policy and procedure for the performance appraisal of staff and Decision AB n° 26/2011 concerning the appraisal of the Director of the Agency for the Cooperation of Energy Regulators). The two decisions governed the rules and procedures on the performance appraisal of contract agents and temporary agents for the appraisal periods until the end of 2014.

As of December 2015 new rules on performance appraisal of temporary agents and contract agents have been adopted by the Administrative Board and entered into force (Decision AB n° 22/2015 on general provisions for implementing Article 87(1) of the Conditions of Employment of Other Servants of the European Union and implementing the first paragraph of Article 44 of the Staff Regulations and Decision AB n° 23/2015 laying down general provisions for implementing Article 43 of the Staff Regulations and implementing the first paragraph of Article 44 of the Staff Regulations for temporary staff). These two decisions will govern the procedure on performance appraisal as of the 2015 appraisal exercise (from the appraisal period starting from 1 January 2015).

As of 2016, the Agency's policy on the **reclassification of staff** is based on new implementing rules, adopted by the Administrative Board, which took effect as of 1 May 2016. There are Decision AB n° 06/2016 of 04 April 2016 on general implementing provisions regarding Article 87 (3) of the Conditions of Employment of Other Servants of the European Union and Decision AB n° 07/2016 of 04 April 2016 laying down implementing provisions regarding Article 54 of the Conditions of Employment of Other Servants of the European Union.

Following their adoption, the two decisions govern the reclassification procedure for temporary agents and contract agents, employed by the Agency.

## C. Mobility policy

### *Internal mobility*

The Agency started with recruitment procedures in 2010 and continued to recruit the remaining staff in the past 5 years; therefore, mobility within the Agency and the publication of vacant posts internally has not been implemented yet.

*Mobility among agencies (Inter-agency Job Market)*

The Agency has acceded to the agreement on the Inter-agency Job Market (IAJM) as of 9 November 2012. Currently, no posts/positions have become vacant due to departures to other Agencies and no posts/positions were filled with staff coming from other Agencies (recruited through IAJM).

*Mobility between the agencies and the institutions*

Out of 94 staff (TAs and CAs) members recruited in the period 2010 – 2015, 32 staff members came from other institutions (13 from EU agencies, 4 from Permanent Representation, 15 from EC).

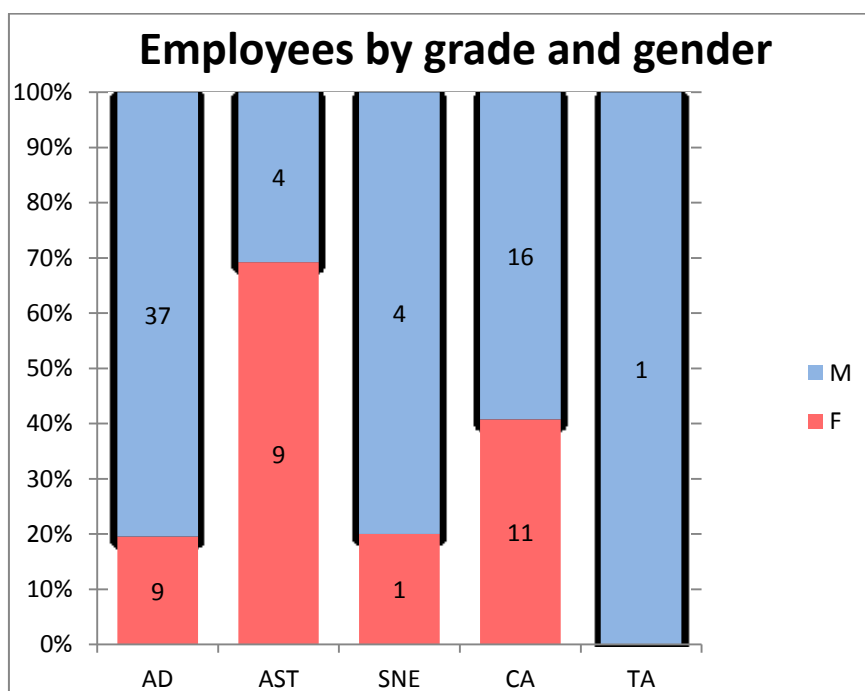
## D. Gender and geographical balance

### 1) Gender balance

In accordance with Article 1d of the Staff Regulations and Articles 12(1) and 82(1) of the CEOS, the Agency applies an equal opportunities policy for its staff, adopting measures and taking actions to promote equal opportunities for men and women. Its targets can be broken down into several types of measures:

- to remove barriers to any gender discrimination in recruitment, training and career development paths;
- to reconcile personal and working life (e.g. implementing provisions on teleworking have been adopted with the Decision AB n° 21/2012);
- to raise awareness on issues of gender equality;
- to protect the dignity of the person in the workplace.

The graph below represents an overview of the Agency’s staff by grade and gender as of July 2016:

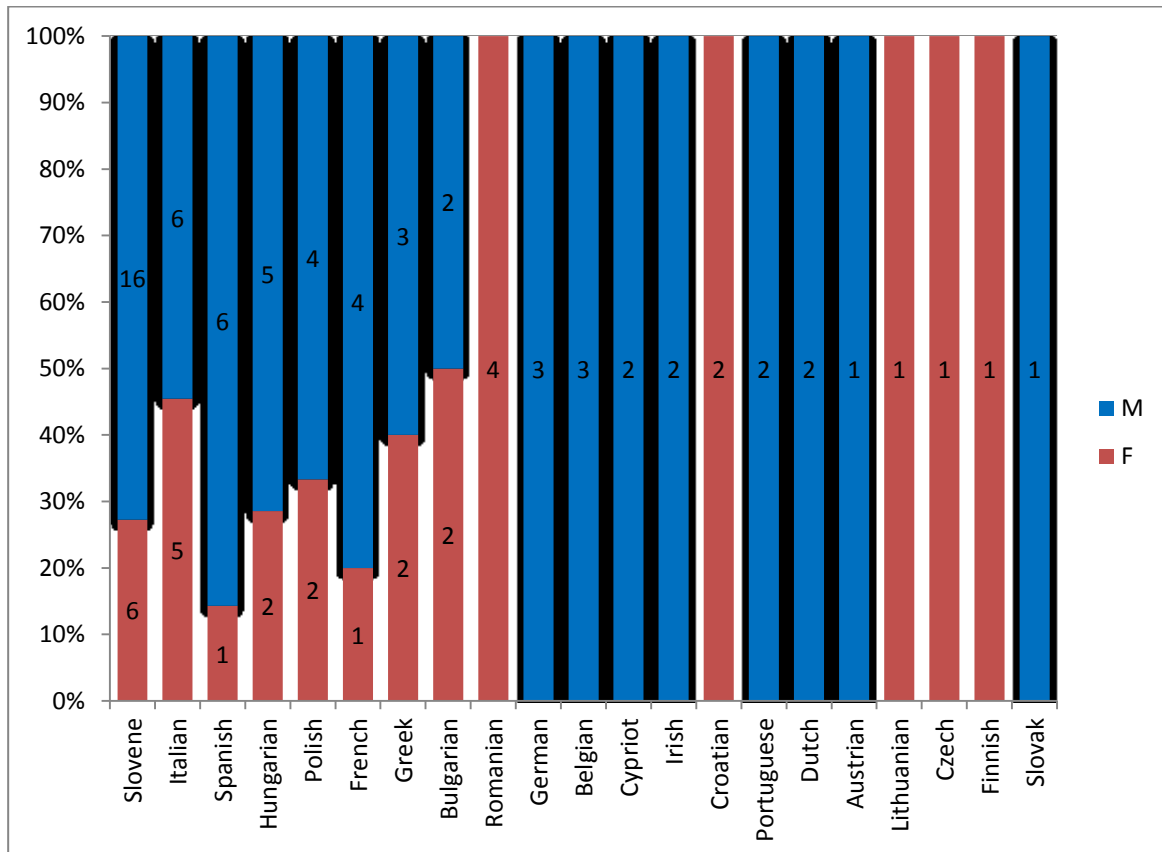




## 2) Geographical balance

In July 2016, ACER employed 87 staff members and had 5 SNEs of different geographical origin. Staff and SNEs came from 21 different EU countries: Austria, Belgium, Bulgaria, the Netherlands, France, Germany, Greece, Hungary, Italy, Lithuania, Poland, Romania, Slovenia, Spain, Portugal, Czech Republic, Ireland, Finland, Slovakia Cyprus and Croatia.

The graph below represents an overview of the Agency's staff by country of origin and gender as of June 2016:



## E. Schooling

As established in the Seat Agreement (Article 13) between the Slovenian Government and the Agency, the Government shall establish a European School within the public school network in Slovenia, in accordance with the Convention defining the Statute of the European Schools and with the programmes of European schools.

European Schools provide multilingual tuition in all EU languages and offer the European Baccalaureate recognised in all Member States. Staff members of the EU Institutions, including the agencies, should enjoy free access to European Schools (school fees and transport included).

Since there is no European school that could be attended free of charge in or within 50 kilometres from Ljubljana, and in fact anywhere in Slovenia, staff members of the Agency are obliged to send their children to international schools offering education in English or French.

These schools are considerably more expensive than the double education allowance foreseen under Article 3, Annex VII of the Staff Regulations. In this respect a measure of social nature is needed to address the unequal working conditions (in line with the Article 1(e) of the Staff Regulations) to which the Agency's staff is subject to compared to the staff working in other European Union institutions located in places where European Schools are available.

To address this, the Administrative Board adopted Decision AB no 10/2014 of 18 September 2014 "on the support granted to ACER staff members in respect to kindergarten and school fees", where it is recognised that "the Agency needs to employ and retain staff of the highest standards of ability, efficiency and integrity, recruited on the broadest possible geographical basis from among nationals of EU Member States", that "the availability of proper schooling opportunities is extremely important in attracting staff to the Agency" and, therefore, that "in the absence of a European School in Ljubljana, it is appropriate that the Agency provides support to staff against the cost of international schooling in Ljubljana or elsewhere, in order for staff to be able to choose the best possible solution for kindergarten and schooling of their children". In line with the specific provisions of the decision, the Agency fully covers kindergarten and school costs exceeding the sum of educational allowance or pre-school allowance, received by staff members under the Staff Regulations. The additional financial contribution, granted by the Agency, is paid directly to the schools on the basis of concluded service agreements.

In both cases (European section or international school programmes), the Agency includes the budgetary credits necessary to cover its financial contribution in the provisional draft budget sent to the budgetary authority in the framework of the annual budgetary procedure. The Agency also transmits full information on the measures planned to the budgetary authority.

There are three private international schools in Ljubljana:

1. **QSI International School of Ljubljana**, an American school operating in Ljubljana since 1995, which offers education from pre-school through secondary school (4-17 years of age).
2. **British School International** is a newly established school for students aged 3-18. It also offers Cambridge International Examinations and A-level qualification in the Secondary section.
3. **Ecole Française de Ljubljana** is part of AEFÉ (Agency for teaching French abroad) network for 2 to 11 years old children. Lessons are taught in English, French and Slovenian language.

There are international sections in the national school system, both at primary (OŠ Danila Kumar) and secondary level (Gimnazija Bežigrad).

**OŠ Danila Kumar** has been offering an international programme since 1993 for children of foreign nationals living in Slovenia. The Ministry of Education subsidises the school, covering more than half of the operational costs. International programmes exist also at the kindergarten level. School tuition fees for international schools cost between 5.505 EUR and 6.500 EUR. The fees for the kindergarten programme (food included) amount to 7.769 EUR per year.

**Gimnazija Bežigrad** launched its two international programmes in 1993. Both programmes are offered by the International Baccalaureate Organization. The Middle Years Program (MYP) is for students in grades 9 and 10 and the Diploma Program (DP) for grades 11 and 12. School tuition fee for the international programme is 4782.00 EUR.

There are also four universities in Slovenia, amongst others the University of Ljubljana with 23 faculties and 3 art academies.

## ANNEX V: BUILDINGS

### Current building(s)

|   | Name, location and type of building  | Other Comment   |
|---|--|---|
| <i>Information to be provided per building:</i> | Trg republike 3, Ljubljana, office building, rented  | The Agency's current rental agreement entered into force on 01.02.2014. The premises are suitable for up to 138 working places. At the moment the Agency has 114 staff members (this includes temporary agents, contract agents, seconded national experts, seconded experts, interim staff and trainees) and 8 working places available for consultants working on site. |
| Surface area (in square metres)                 | 3,926.98 m <sup>2</sup> and 56 parking spaces  |   |
| - Of which office space                         | 3,401.62 m <sup>2</sup>  |   |
| - Of which non-office space                     | 525.36 m <sup>2</sup>  |   |
| Annual rent (in EUR)                            | 892,961.93   | Of which rent only EUR 791,207.93 and parking EUR 101,754.00  |
| Type and duration of rental contract            | Rental for 5 years with a possibility for an extension for an additional period of up to five (5) years. |   |
| Host country grant or support                   | <i>Not applicable.</i>   |   |
| Present value of the building                   | <i>Not applicable.</i>   |   |

### Building projects in planning phase

There are no building projects in planning phase.

### Building projects submitted to the European Parliament and the Council

There are no new building projects foreseen.

## ANNEX VI: PRIVILEGES AND IMMUNITIES

The Protocol on the Privileges and Immunities of the European Union governs the status of the European Institutions and their staff in relation to the Member States. Thus, the protocol applies in full to the Agency and its staff.

The relations between the Agency and its host country, as well as particular rules and privileges applicable to Agency staff in Slovenia, are governed by the Seat Agreement between the Slovenian Government and the Agency for the Cooperation of Energy Regulators, signed in Ljubljana on 26 November 2010.

| Agency privileges  | Privileges granted to staff   |  |
|--|---|--|
|  | Protocol of privileges and immunities / diplomatic status   | Education / day care   |
| <ul style="list-style-type: none"> <li>- Inviolability of premises and archives</li> <li>- Facilitations for communication Security</li> <li>-Direct exemption from taxes</li> </ul> | <ul style="list-style-type: none"> <li>- Staff immunity from Slovenian jurisdiction regarding acts carried out in the official capacity</li> <li>- Exemption from national taxes on salaries and wages</li> <li>- Staff exemption from import taxes and duties on personal effects in the first year</li> <li>- Exemption from social security contribution towards Slovenian schemes</li> <li>- Director and Heads of Departments holding Diplomatic status</li> </ul> | <ul style="list-style-type: none"> <li>- Proposed establishment of schooling facilities for children of agency's staff members and transitional solutions</li> <li>- Government of Slovenia committed to establish a European School in Slovenia. The Agency to pay school fees, on the basis of established references, in the interim period.</li> </ul> |

## **ANNEX VII: EVALUATIONS**

The Agency has an internal monitoring system based on a 'traffic lights' approach through which Key Performance Indicators - KPIs (see Annex XI) are monitored. Specific tasks are monitored at the department level, unless they are included in the KPIs. The traffic lights system ensures that the results achieved and deadlines met in relation to the objectives are monitored on a quarterly basis at the coordination and management meetings, with measures taken in case the objectives are at risk of not being met. The absorption of the Agency's budget is monitored through weekly reports providing an overview of both commitments and payments.

In late 2015 the Agency launched a survey enabling stakeholders to assess ACER's regulatory activities, working methods and efficiency (for example in relation to the timely provision of deliverables), transparency, engagement with stakeholders and publications. The results will be evaluated in the first quarter of 2016.

As a young Agency launched in 2011, the Agency has so far been subject to one external evaluation from the Commission, as foreseen in the Founding Regulation, in 2014.

The first few years of operation of the Agency were characterised primarily by the adoption of Framework Guidelines (FGs) and Network Codes (NCs). While the effects of FGs and NCs cannot be evaluated in the short term, the Agency has begun the process of developing ex-post evaluations on their impact. In October 2015 the Agency released a study for a methodology proposal to evaluate the impact of the gas NCs and Guidelines (GLs) in terms of implementation and market effects.

A total of 45 indicators were selected for the desired effects of network codes/guidelines (NC/GLs) and policy goals, of which 23 NC/GL indicators and 22 market monitoring indicators. The proposed indicators should not be used in isolation to draw conclusions regarding market impacts of NCs and GLs, but rather be looked at in combination and interpreted in the light of market fundamentals. The indicators will be used by ACER in its annual Market Monitoring Report to measure the economic impact of NCs/GLs and its use will gradually increase over time. Further details are available on the Agency's website at <http://www.acer.europa.eu/Media/News/Pages/ACER-publishes-study-on-how-best-monitor-the-effects-of-the-implementation-of-the-network-codes.aspx>.

## ANNEX VIII: RISKS - ACER RISK REGISTER 2017<sup>36</sup>

| Risk Description <sup>37</sup>   | Risk type <sup>38</sup> | Activity/Objective affected                                     | Risk Response <sup>39</sup> | Action Plan Summary  |  |                            |
|--|-------------------------|---|-----------------------------|--|--|----------------------------|
|  |                         |   |                             | Brief description of action to be taken  | Responsible  | Implementation Target Date |
| <b><u>REGULATORY ACTIVITIES</u></b>  |                         |   |                             |  |  |                            |
| <p><b>1. Implementation of REMIT</b></p> <p>In 2017 the Agency will continue its activities for the full implementation of REMIT. At the time in which the 2017 WP was planned there was still a considerable divergence between the minimum allocation of human resources which the Agency considered necessary to fulfil its role in meeting the objectives of REMIT</p> | External                | Implementation of REMIT – activities subject to critical risks: | Accept/Reduce               | - Raise awareness among EU institutions, National Regulatory Authorities, stakeholders, on the benefits of the proper implementation of REMIT. | Market Monitoring Department, DIR office, IT section of the ADMIN department | Q1 - Q4                    |

<sup>36</sup> **Only for critical risks**

<sup>37</sup> Including cause and potential consequence. Risks are assessed always at their residual level (i.e. after taking into account controls existing in the organisation). The identified impact and likelihood of the residual risk shall be described in the field.

<sup>38</sup> Internal vs. External

<sup>39</sup> Avoid / Transfer / Reduce / Accept

|   |                 |  |  |  |  |           |
|---|-----------------|--|--|--|--|-----------|
| <p>and the posts effectively at its disposal.</p>   |                 |  |  |  |  |           |
| <p>Limited resources for operational activities: Due to lack of resources dedicated to the technical support and further evolution of ARIS (including CEREMP) and the lack of resources for the registration of Market Participants by NRAs at national level, the potential issues with performance and availability of the system may not allow for efficient data collection. This may negatively impact the quality and availability of market data and, ultimately, the efficiency and effectiveness of market monitoring. The lack of resources dedicated to operational activities of ARIS (including CEREMP) increases the risks related to information security.</p> | <p>External</p> | <p>1. Operation of the Centralised European register of energy market participants (CEREMP) and the Agency's REMIT Information System (ARIS)</p>               |  | <p>- Practical solutions will have to be adopted for the registration process envisaged by REMIT.</p>                                |  | <p>Q1</p> |
| <p>Quality of the monitoring depends on the quality of the data received: Due to potential issues with IT systems supporting market monitoring, the efficiency and effectiveness of monitoring activities may be degraded (e.g. low quality data, unavailability of data, limitations on performance of</p>   | <p>External</p> | <p>2. Market monitoring of trading activity in wholesale energy markets to detect and prevent trading based on inside information and market manipulation.</p> |  | <p>- Revision of the Work Programme and review of priorities in line with the available funds and allocation of human resources.</p> |  | <p>Q1</p> |

|   |                 |   |  |   |  |                |
|---|-----------------|---|--|---|--|----------------|
| <p>relevant IT systems). The lack of resources during the REMIT implementation phase may also negatively impact the data collection and hence market monitoring, as any compromise that had to be accepted during the REMIT implementation phase may then have negative consequences. In addition, 2017 will be the first year of full data collection and market monitoring of trading activity. The effectiveness of this activity depends on the quality of data received, functioning surveillance software and integration of new staff in order to perform operations. Failure to perform any of the tasks mentioned previously will prevent the Agency to effectively monitor EU energy markets. Finally, limited resources for market monitoring both at the Agency and/or in EU NRAs will automatically negatively impact the market monitoring of trading activity in wholesale energy markets.</p> <p>The success of REMIT in general also depends on the cooperation with National Regulatory Agencies,</p> | <p>External</p> | <p>3. Coordination of NRAs and other relevant authorities</p> |  | <p>- Cooperation, guidance and awareness-raising.</p> |  | <p>Q1 – Q4</p> |
|---|-----------------|---|--|---|--|----------------|



| <p>especially as concerns the follow-up and investigations in cases of potential market manipulation identified by the Agency.</p> <p>There is also a risk of leakage of highly sensitive trade data if adequate security measures are not in place.</p> <p>Ineffective application of REMIT, even if due to reasons outside the Agency's control, could represent a reputational risk for ACER (in addition to the economic damage suffered by taxpayers due to the negative effects on markets).</p> | <p>Internal</p> <p>External</p> |   | <p>Transfer</p>      | <p>- Implementation of internal security measures.</p>   |                       | <p>Q1 – Q4</p> |
|--|---------------------------------|---|----------------------|--|-----------------------|----------------|
|  |                                 |   |                      |  |                       |                |
| Risk Description   | Risk type                       | Activity/Objective affected                             | Risk Response        | Action Plan Summary  |                       |                |
| <b><u>HORIZONTAL MATTERS</u></b>   |                                 |   |                      |  |                       |                |
| <p><b>2. Procurement and facility management</b></p> <p>The non-availability of financial resources and human resource constraints may negatively impact</p>   | <p>Internal</p>                 | <p>Various activities of the WP affected by tenders</p> | <p>Accept/Reduce</p> | <p>- Awareness-raising among key actors in the budget procedure to ensure that adequate horizontal resources are allocated to the Agency</p> | <p>Administration</p> | <p>Q1 – Q4</p> |

|  |                 |  |   |  |   |                               |
|--|-----------------|--|---|--|---|-------------------------------|
| <p>the timely delivery of the objectives.</p> <p><b>3. Human Resources Management</b></p> <p>An increase in the number of recruitment procedures, and subsequently the number of staff in the Agency, may require more HR staff than currently envisaged, which may result in delays or a reprioritisation of objectives.</p> <p><b>4. ICT Development</b></p> <p>The budget for the tenders of IT application development and ICT service and support contracts is subjected to approval as it comes as additional to the usual IT Team's budget. If the budget is not approved, the Agency will not be able to reach some important objectives for 2017.</p> | <p>Internal</p> | <p>All activities of the WP, depending on recruitment procedures involved</p> <p>REMIT and various horizontal activities</p> | <p>Accept/Reduce</p> <p>Accept/Reduce</p> | <ul style="list-style-type: none"> <li>- Internal redeployment, if necessary.</li> <li>- Awareness-raising among key actors in the budget procedure to ensure that adequate horizontal resources are allocated to the Agency</li> <li>- Internal redeployment, if necessary.</li> </ul><br><ul style="list-style-type: none"> <li>- Awareness-raising among key actors in the budget procedure to ensure that adequate IT are allocated to the Agency</li> <li>- Internal redeployment, if necessary.</li> </ul> | <p>Administration</p> <p>Administration</p> | <p>Q1 – Q4</p> <p>Q1 – Q4</p> |
|--|-----------------|--|---|--|---|-------------------------------|

## ANNEX IX: 2017 INDICATIVE PROCUREMENT PLAN FOR OPERATIONAL TASKS

| Subject matter of the contracts envisaged  | Type of procurement | Type of contract   | Indicative time-frame <sup>40</sup> | Indicative number of contracts envisaged <sup>41</sup> | Estimated value in EUR <sup>42</sup> | Estimated value in EUR <sup>43</sup> |
|--|---------------------|--|-------------------------------------|--|--------------------------------------|--------------------------------------|
| Web application development, software maintenance and remote support to stakeholder services   | service             | new framework contract                                     | Q1                                  | 1  |                                      | 5,000,000                            |
| Web application development, software maintenance and remote support to stakeholder services   | service             | specific contracts based on an existing framework contract | Q3                                  | 1  | 350,000                              |                                      |
| IT hosting services for the Agency   | service             | specific contracts based on an existing framework contract | Q2-Q4                               | 1  | 150,000                              |                                      |
| IT consultancy services for the implementation of the Agency's REMIT Information System (ARIS) | service             | specific contracts based on an existing framework contract | Q2                                  | 1  | 650,000                              |                                      |
| IT consultancy services for the implementation of the Agency's REMIT Information System (ARIS) | service             | new framework contract                                     | Q2                                  | 1  |                                      | 3,000,000                            |
| Market monitoring system for the Agency's REMIT information system (ARIS)                      | service             | new framework contract                                     | Q1                                  | 1  |                                      | 4,500,000                            |

<sup>40</sup> Indicative timeframe for launching new procurement procedure or for signing specific contracts/order forms under the existing framework contracts.

<sup>41</sup> Order forms throughout the year are counted as one contract.

<sup>42</sup> Estimated commitments 2017.

<sup>43</sup> Estimated value for procurement procedures for new framework contracts.

| Subject matter of the contracts envisaged  | Type of procurement | Type of contract   | Indicative time-frame <sup>40</sup> | Indicative number of contracts envisaged <sup>41</sup> | Estimated value in EUR <sup>42</sup> | Estimated value in EUR <sup>43</sup> |
|--|---------------------|--|-------------------------------------|--|--------------------------------------|--------------------------------------|
| Market monitoring system for the Agency's REMIT information system (ARIS)          | service             | specific contracts based on an existing framework contract | Q3-Q4                               | 1  | 200,000                              |                                      |
| Oracle software licences and associated services                                   | service             | specific contracts based on an existing framework contract | Q2-Q4                               | 2  | 250,000                              |                                      |
| Provision of legal assistance in the field of energy regulation for the Agency     | service             | specific contracts based on an existing framework contract | Q1-Q3                               | 1  | 50,000                               |                                      |
| Provision of economic assistance in the field of energy regulation for the Agency  | service             | specific contracts based on an existing framework contract | Q1-Q3                               | 3  | 200,000                              |                                      |
| Provision of technical assistance in the field of energy regulation for the Agency | service             | specific contracts based on an existing framework contract | Q1-Q3                               | 2  | 200,000                              |                                      |
| Provision of catering services for the Agency's events                             | service             | order forms based on an existing framework contract        | Q1-Q4                               | 1  | 60,000                               |                                      |
| Provision of printing services for the Agency                                      | service             | order forms based on an existing framework contract        | Q1-Q4                               | 1  | 15,000                               |                                      |
| Legal support services to the Agency's Board of Appeal                             | service             | specific contracts based on an existing framework contract | Q1-Q4                               | 2  | 50,000                               |                                      |
| Agency's website set-up and maintenance services                                   | service             | specific contracts based on an existing framework contract | Q3-Q4                               | 1  | 60,000                               |                                      |
| Provision of design services for the Agency  | service             | order forms based on an existing framework contract        | Q1-Q4                               | 1  | 20,000                               |                                      |
| Legal support in litigation before the EU Courts                                   | service             | specific contracts based on an existing framework contract | Q1-Q4                               | 1  | 40,000                               |                                      |

| Subject matter of the contracts envisaged  | Type of procurement | Type of contract   | Indicative time-frame <sup>40</sup> | Indicative number of contracts envisaged <sup>41</sup> | Estimated value in EUR <sup>42</sup> | Estimated value in EUR <sup>43</sup> |
|--|---------------------|--|-------------------------------------|--|--------------------------------------|--------------------------------------|
| General legal support services in the field of Slovenian law, including litigation before Slovenian courts | service             | new framework contract                                     | Q1-Q4                               | 1  | 20,000                               |                                      |
| Legal advice services for the staff of the Agency  | service             | specific contracts based on an existing framework contract | Q3-Q4                               | 1  | 15,000                               |                                      |
| Maintenance, support and development services for the SharePoint applications                              | service             | specific contracts based on an existing framework contract | Q2-Q4                               | 1  | 100,000                              |                                      |
| Maintenance, support and development services for the Java/PHP applications                                | service             | specific contracts based on an existing framework contract | Q2-Q4                               | 3  | 200,000                              |                                      |
| Access to online business media monitoring tool for the Agency   | service             | new framework contract                                     | Q4                                  | 1  |                                      | 30,000                               |
| <b>TOTAL PLANNED PROCUREMENT 2017</b>  |                     |  |                                     | <b>29</b>  | <b>2,630,000<sup>44</sup></b>        | <b>12,530,000<sup>45</sup></b>       |

<sup>44</sup> The global budgetary envelope reserved for procurement during the year 2017.

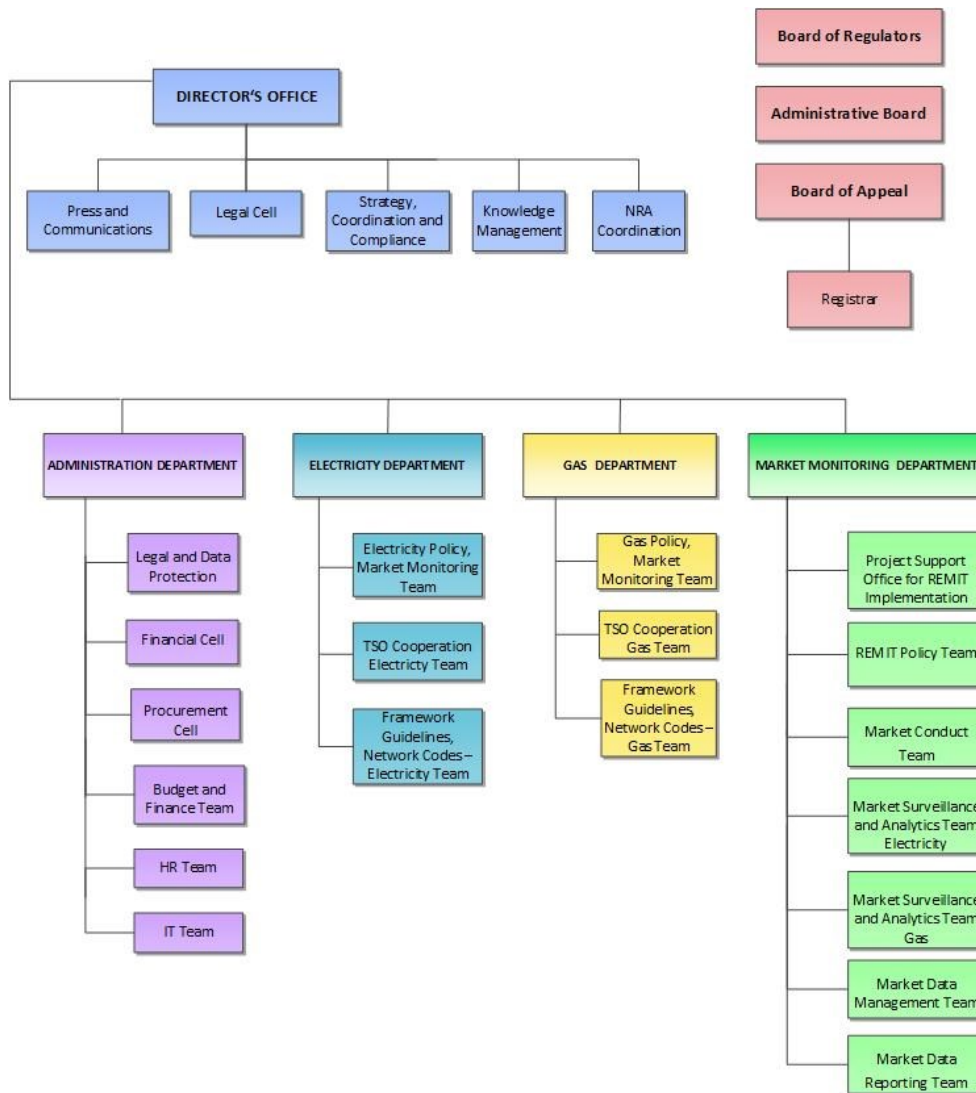
<sup>45</sup> Total estimated value for procurement procedures for new framework contracts to be launched in the course of 2017.

# ANNEX X ORGANISATION CHART

The number of staff in the different departments as of July 2016 was the following:

- Director's Office: **14** (9TAs + 4 CAs + 1 cost-free SNE);
- Administration Department: **17** (10 TAs + 6 CAs + 1 SNE);
- Electricity Department: **15** (12 TAs + 2 CAs+ 1 SNE);
- Gas Department: **19** (15 TAs + 3 CAs + 1 SNE);
- Market Monitoring Department: **27** (14 TAs+ 12 CAs + 1 SNEs).

The organisation chart below reflects the situation in July 2016 (note that a restructuring of the Market Monitoring Department is foreseen in the course of 2016).



## ANNEX XI: KEY PERFORMANCE INDICATORS<sup>46</sup>

### External Communication

| Agency Website                        |  |
|---------------------------------------|--|
| Task                                  |  |
| Objectives and deadlines (indicative) | <p>The Agency's goal is to further improve its website in terms of usability, features and functionalities, so stakeholders find it easy to navigate and regularly updated so as to encourage returning visits.</p> <p>In particular, tasks will focus on further developing the ACER online surveys, the dedicated workspaces for meetings and workshops, as well as different actions to bring the work of the Agency closer to EU citizens.</p> |
| KPIs                                  | <ol style="list-style-type: none"> <li>1. Unique website hits: 3% increase with respect to the preceding year.</li> <li>2. Online survey: at least 2/3% of respondents satisfied or highly satisfied.</li> </ol>   |

| Relations with media / information for stakeholders |  |
|---|--|
| Task  |  |
| Objectives and deadlines (indicative)               | <p>To send Infoflashes (e-alerts to registered contacts) with the aim of keeping a large number of interested people and multipliers regularly informed on the Agency's activities and initiatives.</p> <p>To answer urgent requests from journalists on a timely basis (within 3 working days, unless otherwise specified).</p> |
| KPIs  | <ol style="list-style-type: none"> <li>3. Number of news items within Infoflashes: &gt; 40</li> <li>4. Number of references to the Agency in selected media included in the Agency's media monitoring (proxy for impact): 200</li> </ol>   |

<sup>46</sup> As in the past, the Agency has included the list of KPIs foreseen for 2017, although this Annex does not constitute a mandatory part of the Programming Document.

**Staff satisfaction**

| <b>Task</b>                           |  | <b>Review of staff engagement /satisfaction</b> |
|---------------------------------------|--|---|
| Objectives and deadlines (indicative) | <p>To assess on a regular basis staff's engagement and satisfaction with internal communication and more in general satisfaction with working at the Agency in order to address potential shortcomings.</p> <p>Review to be performed every 2 years.</p> |   |
| KPIs                                  | <p><b>5.</b> 2/3 of participating staff satisfied or highly satisfied.</p> <p><b>6.</b> 70% of staff satisfied or highly satisfied with the level of information shared by line managers.</p>  |   |

**Administration and human resources**

| <b>Task</b>                           |  | <b>Human Resources Management</b> |
|---------------------------------------|--|-----------------------------------|
| Objectives and deadlines (indicative) | <p>To recruit additional resources in line with the Establishment Plan and replace departing staff members in an efficient and timely manner.</p> <p>To successfully complete the Annual performance appraisal exercise.</p> <p>To ensure that staff members regularly attend training to improve their skills and competencies.</p>   |                                   |
| KPIs                                  | <p><b>7.</b> Average length of recruitment procedures: 4 months (including the 1-month period of publication of the Vacancy Notice).</p> <p><b>8.</b> 100% of the Agency's staff subject to performance appraisal on an annual basis.</p> <p><b>9.</b> 75% of staff satisfied or very satisfied with the Agency's training policy.</p> |                                   |

**Budget Implementation and Audit**

| <b>Task</b> |   | <b>Budget Implementation and Audit</b> |
|-------------|---|--|
| Objectives  | <p>To achieve a high level of budget implementation for both commitment and payment appropriations.</p> |  |



|     |  |
|-----|--|
|     | To implement recommendations of the Internal Audit Service in a timely manner and to receive a positive opinion from the European Court of Auditors and implement its recommendations.   |
| KPI | <p><b>10.</b> At least 95% execution of commitment appropriations.</p> <p><b>11.</b> Minimum 75% execution of payment appropriations.</p> <p><b>12.</b> Non-qualified opinion received from ECA and 75% of its recommendations implemented in line with the Agency's Action Plan.</p> <p><b>13.</b> 80% of IAS recommendations implemented and reported in line with the Agency's Action Plan.</p> |

### ICT Infrastructure

| Task       | ICT Development  |
|------------|--|
| Objectives | <p>To ensure the further development and acquisition of applications and services to cover the Agency's departments' needs and to maintain or renew those already in place.</p> <p>Where needed, upgrade or renew the ICT equipment, software and hardware infrastructure of the Agency.</p> |
| KPI        | <b>14.</b> 80% of staff satisfied or very satisfied with IT services on the basis of an annual satisfaction survey.  |

### Regulatory practice and cooperation with NRAs

| Task       | Regulatory Cooperation   |
|------------|--|
| Objectives | <p>Organise the regulatory activities of the Agency in an efficient and effective way, using the available resources to pursue the Agency's legislative mandate.</p> <p>Maintain high efficiency in the working methods of the BoR, AWGs, as well as the REMITCGs, and optimise their operational arrangements to facilitate their activities with a view to promoting regulatory cooperation.</p> <p>Ensure that the structure and focus of the AWGs always reflect the requirements of the regulatory framework, by establishing and dissolving the AWGs or by modifying their remit as required and further improve working arrangements to ensure their most</p> |

|     |  |
|-----|--|
|     | <p>effective contribution to the operation of the Agency and the smooth and timely preparation of its work.</p> <p>Increase public awareness, through regular debriefings, of the activities of the Agency and of the role of the BoR as the forum for NRA cooperation.</p> <p>Develop, where appropriate, beyond the existing working arrangements, the tools and specific mechanisms for the cooperation of NRAs (including at regional level) to facilitate the sharing of best practices and further enhance the cooperation between NRAs and the effectiveness of the regulatory action at EU level.</p> <p>Contribute to developing regional cooperation further through the dedicated ERI and GRI Groups (Electricity and Gas Regional Initiative Groups), in line with the agreed objectives set out in the cross-regional plans in electricity and in gas, with a focus on new pilot projects.</p> <p>Foster exchange of experience with the regulatory associations outside the EU, where necessary, and on areas of mutual interest (e.g. FERC on market monitoring activities). Consolidate regulatory cooperation and working arrangements in the context of the tasks assigned to the Agency under the TEN-E Regulation.</p> <p>Produce a yearly, high-quality Market Monitoring report.</p> <p>Reinforce cooperation between NRAs under REMIT, both at EU and regional level, through MOUs, and potential synergies in services to avoid duplication.</p> <p>Engage stakeholders in the Agency's work as appropriate.</p> |
| KPI | <p><b>15.</b> 70% positive feedback from an annual survey measuring stakeholders' satisfaction with the Agency's regulatory activities.</p>  |

**Electricity Framework Guidelines, Network Codes, Opinions and Recommendations**

| Task                                  | Agency Acts in the Electricity field foreseen in the Work Programme and in the regulations relevant for the Agency |
|---------------------------------------|--|
| Objectives and deadlines (indicative) | Timely and effective Network Codes implementation monitoring.  |
| KPI                                   | <b>16.</b> To be reviewed in the course of 2016  |

**Gas Framework Guidelines, Network Codes, Opinions and Recommendations**

| Task                                  | Agency Acts in the Gas field foreseen in the Work Programme and in the regulations relevant for the Agency |
|---------------------------------------|--|
| Objectives and deadlines (indicative) | Timely and effective Network Codes implementation monitoring.  |
| KPI                                   | <b>17.</b> To be reviewed in the course of 2016  |

**Cross-Sector Issues (Electricity and Gas)**

| Tasks                                 | Key reports produced by the Agency in the Gas and Electricity fields:   |
|---------------------------------------|---|
|                                       | <p><b>Annual Market Monitoring Report</b></p> <p><b>Regional Initiatives Annual Status Review Report</b></p> <p><b>Annual Consolidated Report on progress of projects of common interest</b></p>  |
| Objectives and deadlines (indicative) | <p>Overall objective: timely preparation of high quality reports. More specifically:</p> <p>A) The <u>Annual Market Monitoring Report</u> is to provide in-depth analysis of barriers to IEM integration and give recommendations to the European Parliament and Commission on how to remove them.</p> <p>Expected completion date: November.</p> <p>B) The <u>Regional Initiatives Annual Status Review Report</u> promotes transparency towards stakeholders, informing them on progress achieved in RIs, obstacles faced during the year and indicates the way forward.</p> <p>Expected completion date: January 2017.</p> <p><u>C) Annual Consolidated Report on progress of projects of common interest</u></p> <p>Report published within three months of the receipt of the annual reports by the project promoters.</p> |
| KPIs                                  | <p><b>18.</b> 67% of the above-mentioned reports published on time.</p> <p><b>19.</b> Positive feedback to selected reports based on online surveys (70% satisfied or very satisfied).</p> <p><b>20.</b> Number of unique downloads of the MMR.</p>   |

**Opinion on ENTSO-E and ENTSG Relevant Documents**

|  |  |
|--|--|
| <p><b>Tasks</b></p>                          | <p>ENSTO-E related opinions, reviews, recommendations and reports:</p> <p>Annual monitoring report on the implementation and management of the inter-TSO compensation fund</p> <p>Opinions on ENTSO-E’s annual work programme and ENTSO-E’s annual report</p> <p>Opinions on ENTSO-E’s annual Summer and Winter supply outlooks</p> <p>Opinions on ENTSO-E’s common network operation tools including a common incidents classification scale (the latter is subject to ICS report)</p> <p>Opinion on ENTSO-E’s research and development plan</p> <p>Opinion on the electricity national ten-year network development plans to assess their consistency with the Community-wide network development plan and (if appropriate) recommendations to amend the national ten-year network development plans or the Community-wide network development plan</p> <p>Opinion on ENTSO-E’s recommendations relating to the coordination of technical cooperation between Community and third-country transmission system operators</p> <p>Report on monitoring the implementation of the electricity Community-wide TYNDP and the progress as regards the implementation of projects to create new interconnector capacity</p> <p>Opinion on ENTSO-E’s draft Ten Year Network Development Plan 2016</p> <p>Opinion on ENTSO-E’s draft Scenario Outlook and Adequacy Forecast 2016</p> |
| <p>Objectives and deadlines (indicative)</p> | <p>To meet the legal reporting requirements foreseen in various Regulations.</p> <p>Activities to be carried out upon submission of the relevant documents by ENTSO-E.</p> <p>E.g. Monitoring report on ITC implementation: September.</p> <p>Opinion on ENTSO-E’s Work Programme: within two months after receipt of the document from ENTSO-E.</p> <p>Opinion on the electricity TYNDP: within two months after receipt of the document from ENTSO-E.</p>  |

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|     | <p>Opinion on ENTSO-E's other documents: after receipt of the document from ENTSO-E.</p> <p>Opinion on the draft regional lists of proposed electricity projects of common interest: within three months of the date of receipt.</p> |
| KPI | <b>21.</b> 90% the opinions, reviews, recommendations and reports timely delivered.  |

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| Tasks                                 | <p><b>ENSTO-G related opinions, reviews, recommendations and reports:</b></p> <p><b>Opinions on ENTSOG's annual work programme 2017 and ENTSOG's annual report 2015</b></p> <p><b>Opinions on ENTSOG's common network operation tools including a common incidents classification scale and research plans</b></p> <p><b>Opinions on ENTSOG's annual Summer and Winter supply outlooks</b></p> <p><b>Reviews and recommendations on national TYNDPs regarding their (in)consistency with the Community-wide TYNDP</b></p> <p><b>Opinions on ENTSOG's recommendations relating to the coordination of technical cooperation between Community and third-country transmission system operators</b></p> <p><b>Report on monitoring the implementation of the Community-wide TYNDP and the progress as regards the implementation of projects to create new interconnector capacity</b></p> |
| Objectives and deadlines (indicative) | <p>To meet the legal reporting requirements foreseen in various regulations.</p> <p>Activities to be carried out upon submission of the relevant documents by ENTSOG.</p> <p>Opinion on ENTSO-G's Work Programme: within two months after receipt of the document from ENTSO-G.</p> <p>Opinion on ENTSOG's other documents: after receipt of the document from ENTSOG.</p> <p>Opinion on the draft regional lists of proposed gas projects of common interest: within three months of the date of receipt.</p>  |
| KPI                                   | <b>22.</b> 90% the opinions, reviews, recommendations and reports timely delivered.   |

**Wholesale Market Monitoring – REMIT**

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| <b>Task</b>                           | <b>Establishment, further development and operation of a Centralised European Registry for Energy Market Participants (CEREMP) and of the Agency’s REMIT information system (ARIS) for collection of trade, fundamental and other data and for the data sharing with NRAs, in connection with the REMIT implementing acts</b> |
| Objectives and deadlines (indicative) | To operate CEREMP and its interfaces with the registration system of NRAs.<br><br>To operate ARIS and to collect and make data available for internal assessment and for sharing with NRAs for REMIT purposes.  |
| KPI                                   | <b>23.</b> 99% system availability.<br><b>24.</b> 0 breaches of the security system with a data leakage involved.   |

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| <b>Task</b>                           | <b>Market monitoring of trading activity in wholesale energy markets to detect and prevent trading based on inside information and market manipulation, in cooperation with NRAs, on the basis of data collected in connection with the REMIT implementing acts, and establishment, further development and operation of the Agency’s market surveillance solution to perform its market monitoring activity</b> |
| Objectives and deadlines (indicative) | Market Monitoring of the data collected according to Article 8 of REMIT. Increased integrity and transparency of wholesale energy markets. Detection of abusive practices.   |
| KPI                                   | <b>25.</b> The performance indicator and targets will be defined once the revised market monitoring strategy is developed.   |

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| <b>Task</b>                           | <b>Coordination of NRAs and other relevant authorities, including at the regional level, without prejudice to their responsibilities</b>  |
| Objectives and deadlines (indicative) | To ensure that NRAs and other relevant authorities carry out their tasks under REMIT in a coordinated and consistent way, including the update of the Agency’s Guidance on the application of REMIT definitions and coordination of NRAs’ investigation activities on cross-border market abuse instances.<br><br>Coordination of investigation of alleged cross-border market abuse instances as required. |

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| KPIs | <b>26.</b> The performance indicators and targets will be defined once the revised market monitoring strategy is developed. |
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| <b>Task</b>                           | <b>Cooperation with ESMA, competent national financial market authorities and other authorities and with supervisory authorities, international organisations and the administrations of third countries to promote a coordinated approach is taken to the enforcement of market abuse rules where actions relate to one or more wholesale energy products which are financial instruments to which Article 9 of Directive 2003/6/EC applies and also to one or more wholesale energy products to which Articles 3, 4 and 5 of REMIT applies</b> |
| Objectives and deadlines (indicative) | Cooperation on the basis of Memoranda of Understanding (MoUs);<br><br>Coordination of investigation of alleged cross-border market abuse instances as required.  |
| KPIs                                  | <b>27.</b> Conclusion of MoUs with relevant authorities and implementation of the MoUs in practice through regular meetings with the relevant authorities.   |

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| <b>Task</b>                           | <b>Reporting on REMIT:<br/>Annual Report on the Agency activities under REMIT</b>  |
| Objectives and deadlines (indicative) | The Agency shall submit at least on an annual basis a Report to the Commission in which the Agency shall assess the operation and transparency of different categories of market places and ways of trading and may make recommendations to the Commission as regards market rules, standards, and procedures which could improve market integrity and the functioning of the internal market. It may also evaluate whether any minimum requirements for organised markets could contribute to enhanced market transparency.<br><br>Recommendations for potential reviews of REMIT, in particular according to Article 6 of REMIT, in view of potential needs to align REMIT definitions with new relevant Union legislation in the fields of financial services and energy, or in view of new developments on wholesale energy markets or of REMIT implementing acts<br><br>Expected submission of the Annual Report of REMIT: Q2/Q3. |
| KPI                                   | <b>28.</b> Submission of the Annual Report on REMIT implementation by end Q3.  |

| Task                                  | Implementation of Conflict of Interest Policy  |
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| Objectives and deadlines (indicative) | <p>As of 2015 the Agency has started to implement a new Policy for the Prevention and Management of Conflicts of Interest.</p> <p>In line with the Policy, by 31 January the Agency’s senior management, members and alternates of the Administrative Board, Board of Regulators, Board of Appeal, as well as Agency Working Group Chairs and Co-Chairs and Task Force Convenors must submit their declarations of Interest (Dols). The Dols are subsequently processed by review panels and, in case of conflicts of interest, measures taken.</p> <p>The Dol of board members, as well as those of the Agency’s management (Director and head of departments) are published on the Agency’s website.</p> |
| KPI                                   | <p><b>29.</b> All Dols of staff submitted by the 31 January deadline. 90% of Dols of Boards’ members and Agency Working Group Chairs and Co-Chairs and Task Force Convenors submitted by the 31 January deadline. Received Dols reviewed by end of April.</p> <p><b>30.</b> All Dols published within one month of receipt or of the conclusion of the review process, whichever is later.</p>   |

**Note:** The KPIs above also implicitly include selected KPIs for Directors of Decentralised Agencies:

Percentage of completion of the activities of the AWP;

Timely achievement of objectives of the AWP;

Rate of budget execution;

Rate of payments;

Rate of audit recommendations implemented;

Length of recruitment procedures;

Staff satisfaction (based on the Agency’s staff satisfaction survey).