



**Agency for the  
Cooperation of Energy Regulators  
Work Programme  
2016**

**Review January 2016**

## Director's Foreword

2016 will mark the fifth year since the Agency's establishment in Ljubljana. While the Agency has strived to reach 'cruising speed' on a number of components related to its mandate, it is operating in a rapidly changing environment. The European Union's efforts to establish an Energy Union, following the launch of the Strategy in February 2015, are in full swing; 2016 should be the year in which the new institutional set-up to implement the Energy Union will begin to come to life.

Although at the time of adoption of this Work Programme the Agency's role and competences within the new set-up have not yet been defined, there seems to be a clear consensus that the Agency will play a central role in making the Energy Union a reality, as already envisaged in the Energy Union Communication.

The current revised version of the Work Programme is based on the Agency's mandate as it stands in January 2016. The structure of the document, for the second year, follows the format of the Single Programming Document for EU Agencies, which will become mandatory from next year. It thus entails information otherwise contained in four separate documents: the multiannual and annual work programmes, the draft budget outline and the Multiannual Staff Policy Plan (MSPP).

The multiannual outlook for the 2016 – 2018 period remains substantially unchanged from last year's version; a number of factual updates have been introduced. It thus continues to focus on the objectives in the four main areas on which the Agency expects to concentrate its activities:

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

The above areas are all aimed at delivering tangible benefits to European energy consumers by ensuring more choice and better prices. As they will continue to guide the Agency's work also in 2016, the Agency's priorities listed in this Work Programme remain similar to those in the previous year.

In terms of complexity of the challenge ahead, the implementation of the Regulation on Wholesale Energy Market Integrity and Transparency (REMIT) deserves a special mention. In 2016 the implementation of REMIT's monitoring framework will be completed. As of October 2015, the Agency is actively monitoring trading in EU wholesale energy markets on the basis of the reported trade and fundamental data and using the purposely developed surveillance platform. This is a formidable task, both because it is unprecedented at the EU level and because the effectiveness with which the Agency will be able to perform this activity will crucially depend on it being assigned the significant additional resources that it has been requesting since 2014.

While there is a growing awareness and recognition that the Agency needs additional support, notably as concerns the implementation of REMIT, the Agency has been so far only partly successful in obtaining the necessary resources.

The completion of the Internal Energy Market also remains at the forefront, with the focus moving towards supporting and monitoring the implementation of the adopted Network Codes and Guidelines. We will continue to monitor 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 published in its Annual Market Monitoring Report, which has become one of our flagship products.

In 2016 the Agency will also be involved in the process for the definition of the electricity Ten Year National Development Plans (TYNDP) and in monitoring the implementation of the TYNDPs and the Projects of Common Interest (PCIs) included in the second lists (which will be adopted in the second half of 2015). In this context, the Work Programme inevitably contains some uncertainties. As in 2014 and 2015, the Agency may be called to take cross-border cost allocation decisions on PCIs, where the relevant National Regulatory Authorities (NRAs) fail to agree within six months of receiving the investment request or upon a joint referral of these NRAs. Such requests are challenging because, besides being very complex, they cannot be predicted and thus weigh on the Agency's workload due to the tight deadlines by which decisions must be delivered.

Finally, the analysis of some aspects of the electricity and gas market design, including their governance, will continue. Part of this work will be driven by the consultative documents published by the European Commission in the framework of the establishment of the Energy

Union Strategy, setting the scene for a wider reflection on the extent to which the current design of the electricity and gas sectors may need to be complemented by other components.

The 2016 Work Programme was originally developed – and later approved and adopted - in line with the estimate of expenditure for 2016 made by the Administrative Board in March 2015, with a supportive opinion by the Board of Regulators. This estimate envisaged the requirement for additional resources – 44 FTEs in total – for the Agency to be able to fulfil its mandate effectively. Additional resources – 15 FTEs – were indeed assigned to the Agency in the budgetary procedure, for which the Agency is very grateful. The Agency has then had to decide how to allocate these resources to several areas requiring much higher staffing levels. As the implementation of REMIT is the area suffering from the greatest shortage of resources, most of the additional staff – eleven FTEs - has been assigned to REMIT-related activities. A second priority has been the strengthening of the Agency's capabilities in the energy infrastructure area, to which additional three FTEs have been devoted. Finally, one additional FTE has been assigned to reinforce the human resources capabilities in the face of an Agency with an expanding staff. That said, as these additional resources fall however short of the envisaged requirement, the Agency has been forced to revise the Work Programme (and review its ambitions, especially in relation to the implementation of REMIT).

Finally, I would like to thank my colleagues at the Agency for all their hard work and the Agency's Administrative Board, Board of Regulators, Board of Appeal, the European Parliament's Committee for Industry Research and Energy and the Directorate-General for Energy of the European Commission for their engagement and support.

In much of its work the Agency has relied, and will continue to rely, on the extensive involvement of experts from NRAs, for whose support I am very grateful, especially considering the human resources constraints that they are facing. I would also like to thank all the stakeholders involved in our activities, for example through our public consultations.

The challenge of building an Energy Union remains ahead of us. While it can be met only with the concerted efforts of all the players and institutions involved, 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.

Alberto Pototschnig, Director

Ljubljana, January 2016

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## 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
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.

# 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 took over from ERGEG<sup>1</sup> the coordination and support of the Electricity and Gas Regional Initiatives (ERI and GRI), a voluntary process launched by the European energy regulators in 2006 and involving all energy sector stakeholders, aimed at developing pilot projects at regional level for speeding up the integration of energy markets and, later on, for promoting the early implementation of the provisions to be contained in the Network Codes. 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

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<sup>1</sup> The European Regulators' Group for Electricity and Gas (ERGEG) was set up by the European Commission (Decision of 11 November 2003 2003/796/EC) as its advisory body on internal energy market issues. Following the Agency becoming fully operational, With ACER fully operational, ERGEG was formally dissolved by the European Commission, with effect from 1 July 2011.

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 will have to report trade data - and other stakeholders - responsible for reporting fundamental data. The Agency started the implementation of REMIT even before the Regulation was adopted. This activity continued in 2012, 2013, 2014 and 2015. 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. Since then the Agency receives the information on trades concluded on organised market places and fundamental data from the ENTSOs' transparency platforms which it can use to detect instances of suspect market manipulation and trading based on inside information. Its ability to actually do so however 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). While the Agency has been asking for additional resources for several years, only in 2016 part of its requests were accepted and some additional resources granted. However the available resources still fall short of the Agency's estimate of needs to be able to effectively and efficiently fulfil its REMIT-related tasks.

Finally, 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.

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 “unexpectedly” and significantly expanded over the last years.

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>2</sup>.

## **A challenging future**

While the current legislative framework and the first four 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 - and which the Agency itself is currently exploring through the Paper “Energy Regulation: A Bridge to 2025”.

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>3</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 the European Commission’s Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy, presented in February 2015. The Communication proposes a ‘significant reinforcement

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<sup>2</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>3</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).

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.’

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>4</sup>; secondly because the Agency may be called to perform tasks in new areas, something which is difficult to predict at the moment.

This 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, notably in Eastern Europe, have once again raised 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 follow-up to the review of the Gas Target Model in order to increase the liquidity of gas markets, or 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.

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<sup>4</sup> Especially if the Agency is not granted the resources required to fulfil its mandate.



## SECTION II - MULTIANNUAL OUTLOOK 2016 – 2018

### 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 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.

**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. This will relate, on the one hand, to the completion and adoption of those Network Codes and Guidelines currently under development or already proposed to the European Commission for adoption and, on the other hand, to the implementation of the provisions in the adopted Network Codes and Guidelines, possibly ahead of their becoming binding. The Agency will also continue to monitor 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.

**The Infrastructure Challenge.** As already mentioned, 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. Apart from being required to assess the cost-benefit analysis methodologies developed by the ENTSOs and the consistent application of the criteria for identifying PCIs, the Agency may also be called to take decisions on investment requests and cross-border cost allocation submitted by PCI promoters. PCI lists will be adopted every two years, the next one late in 2015. 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.

**The monitoring 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 final stage of the implementation of REMIT began when the trade and fundamental data reporting obligation for contracts concluded on organised market places and for fundamental data from the ENTSOs’ transparency platforms entered into force in early October 2015. The Agency now has the information available to effectively and efficiently detect market manipulation and trading based on inside information. By early April 2016 all trades in wholesale energy products and additional fundamental data will have to be reported to the Agency, and by early July 2016, backloading of details of wholesale energy contracts which were concluded beforehand and remain outstanding on that date shall be reported, thus completing the implementation of REMIT. The monitoring strategy which the Agency is able to adopt crucially depends on the available resources. In particular, given the

sheer volume of transactions reported by market participants, the Agency is performing its monitoring functions, consisting in an initial assessment or analysis of the reported transactions, in two steps. The first step is based on the automatic screening performed by purposely-developed surveillance software. This screening identifies anomalous events on the basis of predefined “alerts”. The second step looks into these anomalous events to identify those for which market abuse can be suspected and which are to be notified to NRAs for investigation. This second step focuses on market participants’ behaviour and must therefore inevitably be conducted by highly qualified experts, a resource which is in short supply at the Agency for the time being.

**The 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.

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 for 2016 and therefore included in this Work Programme. 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.

## **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 identified 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. 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, since new tasks have been assigned to it, the Agency has been operating with a level of resources far below what would be required to deliver on its mission effectively and in a

sustainable manner. For example, the Agency started to implement REMIT before it was able to recruit any additional dedicated staff member, and the same occurred for the implementation of the TEN-E Regulation, which in fact 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 extra-ordinary level of effort, while counting also on the valuable support of NRAs. It is however obvious that this cannot be a sustainable strategy. In particular, it is not possible to plan the future on the basis that this extra-ordinary effort will be maintained indefinitely. The experience and the better understanding of the scope of the additional tasks assigned to the Agency by REMIT and the TEN-E Regulation have indicated that the additional dedicated resources already assigned to the Agency (15 FTEs in 2012 and 2013 and 5 FTEs in 2014, no additional FTEs in 2015 and 15 FTEs in 2016 respectively) remain insufficient to perform those tasks. The Agency has therefore had to identify ways to implement these Regulations compatibly with the available resources, with the concrete 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 in 2016, was as in previous years, originally developed on the assumption that the Agency would be assigned the resources required to effectively deliver on its mission, which was the basis of the estimate of revenue and expenditure for the financial year 2016, adopted by the Administrative Board on 26 March 2015. It has now been revised to take into account that only a fraction of the requested resources has been made available to the Agency.

## **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:

- (Post-) Completion of the Internal Energy Market;
- Wholesale Energy Market Integrity and Transparency;
- The Infrastructure Challenge;
- 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.

#### **2.1.2 The regulatory practice**

##### **Institutional Framework**

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

The Agency promotes and facilitates the cooperation of NRAs at Union level and in the exercise of Union-related functions. It fully complements the European mandate of the NRAs and their duty to promote, in close cooperation with each other and the Agency, a competitive, secure and environmentally sustainable internal energy market (under the Third Package). Regulatory cooperation is reflected in the Agency's structure, which includes the Board of Regulators, in which NRAs from all EU countries are represented.

Furthermore, regulatory cooperation is also embedded within the Agency's framework through the four Agency Working Groups (AWG) which cover the main areas of the Agency's work, a REMIT Coordination Group established in 2015, and two Coordination Groups on electricity and gas regional Initiatives to oversee regional arrangements (bringing together the NRAs' representatives and Agency's staff).

## Board of Regulators (BoR)

### Composition

The Board of Regulators (BoR) consists of senior representatives of NRAs, one for each MS (and one alternate), and one non-voting representative of the European Commission. The Director participates in the BoR meetings and presents his proposals for the Agency's Acts which require the favourable opinion of the BoR before their adoption, reports on developments and provides regular updates 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

Under the Third Package, the BoR has, *inter alia*, the following tasks:

- Providing opinions on many of the Agency's opinions, recommendations and decisions in relation to the regulatory functions of the Agency which are considered for adoption by the Director;
- approving the Agency's Work Programme, before its adoption by the Administrative Board and the regulatory activities section of the Agency Annual Report; and
- providing guidance to the Director within its field of competences.

In accordance with the REMIT Regulation, the BoR is consulted by the Director on all aspects of its implementation.

The BoR makes recommendations with regard to the Commission's report on the evaluation of the activities of the Agency and its working methods.

In terms of the budget, the BoR is consulted on the Agency's budget before its adoption by the Administrative Board.

The BoR also provides its opinions during the process for the appointment, and possible extension of the term of the Director and is consulted by the European Commission on its proposal for the members of the Board of Appeal.

## Meetings

The BoR typically meets on a monthly basis. The meeting agendas, minutes and background documents are made public and 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 quarterly public debriefs in order to raise awareness of its deliberations and of progress in the preparation of the Agency's acts which are considered for adoption as well as of the overall ACER work.

## Agency Working Groups (AWGs)

The Agency's Working Groups (AWGs) bring together representatives of the NRAs and the Agency's Head of Departments and Agency's staff. They remain fundamental for enhancing the collaboration and cooperation among NRAs and with the Agency, thus ensuring complementarity of regulatory functions at national and EU level. The AWGs' objectives are to:

- provide inputs to the Director for the preparation of Agency's Acts considered for adoption;
- 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, with a view to facilitating the necessary BoR deliberations on 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 on the following link:

[http://www.acer.europa.eu/The\\_agency/Organisation/Working\\_groups/Pages/default.aspx](http://www.acer.europa.eu/The_agency/Organisation/Working_groups/Pages/default.aspx)



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

With the entry into force of the REMIT Implementing Acts in January 2015 and the consequential 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.

### **Regulatory practice - objectives and expected achievements**

- 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.
- 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.
- 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.
- 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.

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

- 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).

### **2.1.3 Risks**

The Agency relies on the secondment of experts from NRAs and the voluntary participation of NRAs' experts in the AWGs, as well as in the Coordination Groups for the Regional Initiatives (RIs). According to the Third Package and REMIT, the Agency and the NRAs are under a mutual obligation to cooperate. Without this 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 the Agency through the AWGs and the Coordination Groups for the RIs.

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

In February 2011 the European Council set 2014 as the target date for the completion of the internal market in electricity and natural gas and 2015 for the removal of energy islands. The European Council reaffirmed these goals in May 2013, when it stated that "speeding up the adoption and implementation of remaining network codes" was a priority. The Agency plays a central role both in the completion of the IEM and the removal of energy islands. These processes 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.

### **2.2.1 Framework Guidelines and Network Codes**

Progress in the development of Framework Guidelines and Network Codes is regularly monitored and discussed in Planning Group meetings, which take place typically every 2-3 months and bring together representatives from the European Commission – Directorate-General for Energy, ENTSO-E, ENTSG and the Agency. The Planning Group maintains and

regularly updates a Three-Year Plan, where the activities of the four participating bodies in the Framework Guidelines and Network Codes area are assigned the appropriate timeline (which may occasionally change due to unexpected circumstances).

### **2.2.2 IEM Implementation**

Most of the activities of the Agency contribute to the completion of the Internal Energy Market. The driving visions are the Electricity and Gas Target Models, which were developed over the last 3-5 years (with the Gas Target Model Review completed in 2015) and which set out an effective design for the electricity and gas markets in the European Union. In both cases the Agency will pay attention as to whether any enhancement is required to address the new challenges facing the electricity and gas sector in the future.

### **2.2.3 Network Codes Implementation and Monitoring**

Under the Third Package, the Agency cooperates with NRAs in order to ensure the compatibility of the regulatory frameworks in the MSs with the aim to achieve a competitive Internal Energy Market and takes care of possible amendment or peer review requests. Moreover, the Agency coordinates the regional framework for the early implementation of the Network Codes through two dedicated RIs: the ERI and the GRI. Progress is reflected in regular annual reports (the Annual Status Review Report).

Regular reports are provided to the Director and to the BoR. Within the ERI, specific NRAs were designated as leaders of the four cross-regional roadmaps for the implementation of the Electricity Target Model in the area of Capacity Allocation and Congestion Management. Within the GRI, work at regional level is driven by Lead NRAs in the two active gas regions, and early implementation of Network Codes started with the Roadmap on Capacity Allocation Mechanisms and will continue in other areas, like Balancing. The first Implementation monitoring report was issued by the Agency on the CMP Guidelines.

### **2.2.4 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. The first MMR was published in November 2012, covering developments in 2011.

### **2.2.5 Completion of the IEM - objectives and expected achievements**

In electricity, the focus over the next few years will be on the implementation of all the Network Codes 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. The Agency will put particular emphasis on the finalisation of the implementation of the Target Model in the area of Capacity Allocation and Congestion Management and on the further integration of the Balancing markets.

The Agency will also continue to monitor and identify any obstacle to the well-functioning of the market and 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. The Network Codes on Capacity Allocation Mechanisms, and on Gas Balancing in Transmission Systems entered into force in 2015. The Network Code on Interoperability and Data Exchange Rules will be applicable as of May 2016. Before they formally become 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 will start monitoring its implementation.

The Agency will take a more proactive role in its stakeholder engagements. A new Gas Network Codes functionality platform, managed jointly with ENTSOG, shall collect and follow up stakeholders' supra-national issues relating to codes. In particular in gas, the existing structures managing discussions with NRAs (GRI, AGWG) will be kept and used in a manner to improve the coordinated implementation of the codes in Europe.

### **2.2.6 Risks**

Late adoption of the Network Codes in electricity could postpone their implementation accordingly. As already indicated, the early – voluntary - implementation of the provisions contained in the Network Codes depends on the engagement of NRAs and TSOs.

Moreover, in electricity, the Agency might be short of resources to perform the new tasks assigned to it by Commission Regulation (EU) 2015/1222 (the CACM Guidelines) and the forthcoming Network Code on Forward Capacity Allocation (FCA NC).

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

### **2.3.1 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 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.

### **2.3.2 Completion of REMIT Implementation**

During the REMIT implementation stage, the Agency will 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 will cooperate. This stage started with the entry into force of REMIT on 28 December 2011. Since then, the Agency has issued three 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 will focus 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. The remaining parts will have to reach operational stage well in advance of the application of the corresponding provisions in REMIT so that REMIT implementation can be completed by the beginning of July when the backloading of details of wholesale energy contracts which were concluded before 7 April 2016 and remain outstanding on that date will have been completed.

### **2.3.3 Wholesale Market Monitoring**

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

- As of 7 October 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 must be reported to the Agency;
- 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 (over one million 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 has to assess the operation and the transparency of different categories of market places and ways of trading and to 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. However, 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.

### **2.3.4 REMIT - objectives and expected achievements**

The overall objective of the Agency's work under REMIT is to detect and prevent trading based on inside information and market manipulation. It is important to ensure 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. The goal of increased integrity and transparency of wholesale energy markets should therefore be to 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.

### 2.3.5 Risks

The Agency's monitoring and data collection tasks require appropriate financial and human resources in order to adequately fulfil these additional tasks assigned to it under REMIT. Without additional human resources the market monitoring of trading activity in wholesale energy markets by the Agency will be endangered, without the possibility of replacing the Agency, in its monitoring role at European level, by other competent authorities. 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.

The Agency has already highlighted on several occasions the inadequacy of such resources and submitted requests for additional staff with the Agency's draft budgets for 2014, in 2015 and, more recently for 2016 – on which this Work Programme was originally based. All budgets were adopted by the Agency's Administrative Board with a supportive opinion of the Board of Regulators. However, until 2016 no additional staff had been authorised. In fact, in its Opinion on the draft of the 2015 Work Programme<sup>6</sup>, the European Commission indicated that “[a]s to ACER's concerns in relation to the staffing levels mentioned in the draft work programme, the Commission considers, as already explained in the opinion to ACER's Multi-annual staff policy plan 2014-2020 and in the context of the assessment of the Draft Budget 2015, the 15 personnel already granted to ACER as sufficient to meet all obligations arising from the REMIT Regulation. In case ACER requires additional resources, it should consider redeploying

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<sup>6</sup> (COM (2014) 7890 final as of 30.10.2014).



*resources internally and to make efforts to involve additional experts of national regulatory authorities in its monitoring program”<sup>7</sup>.*

It should however be clear that internal redeployment could not be a solution to the resource problem for the operation of REMIT, since: (i) the Agency is already working with a very tight complement of human resources in all areas; (ii) the Agency has been encouraged, in the same Opinion, to intensify its activities in a number of areas (e.g. cross-border cost allocation for the project of common interest, ensuring the proper and timely application of the entry-exit model for the European gas market, ...); and (iii) as the Agency currently operates with 77 staff members, meeting the requirements for operating REMIT would mean redeploying 50% of the staff currently working in other areas, which is clearly unrealistic.

However, in 2016 the Agency has been assigned an additional 15 FTEs, 11 of whom have been assigned to REMIT-related activities. Such a reinforcement, while welcome, still falls short of what is required.

## 2.4 The European Infrastructure Challenge

### 2.4.1 Institutional Framework

Cooperation between the Agency and NRAs is foreseen 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

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<sup>7</sup> Despite the fact that the recently published IEM Communication on “Progress towards completing the Internal Energy Market” (13.10.2014, COM(2014) 634 final) recognised “*the utmost importance that regulators and ACER keep a close eye on the trading activities, because consumers and policy makers need to trust that prices are not manipulated to the advantage of some but detriment of consumers. The Communication states that it is important that ACER and NRAs dispose of the necessary resources to carry out these significant new tasks.*”

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 achieving the Internal Energy Markets.

### **2.4.2 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. 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.

### **2.4.3 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.

### **2.4.4 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. The Agency adopted its first CBCA decision in August 2014 and a second one in April 2015.

### **2.4.5 Infrastructure - objectives and expected achievements**

The overall objective of the Agency's work on Infrastructure is to enable efficient infrastructure investments to take place, with a particular focus on cross-border investments. 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.

### **2.4.6 Risks**

As in the case of the implementation of REMIT, the main risk of the Agency not being able to fulfil its mandate in the energy infrastructure area is linked to the lack of resources. Despite an estimate of an additional requirement of 12-14 FTEs made at the time of the adoption of the TEN-E Regulation, only 5 FTEs were assigned to the Agency in 2014. In 2016, of the 15 additional FTEs assigned to the Agency, 3 FTEs are being allocated to infrastructure-related activities.

## **2.5 International Cooperation**

### **2.5.1 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>8</sup>, although so far no third country has been admitted to participate in the Agency.

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<sup>8</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

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 take part in some of the work carried out under the ERI<sup>9</sup>. 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, will thus be 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>10</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

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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>9</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.

<sup>10</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*.

cooperation between FERC and the Agency whenever an exchange of experience or information is required to support the respective market monitoring activities.

### **2.5.2 International Cooperation - objectives and expected achievements**

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), 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.

The Agency and FERC aim at intensifying their exchange of knowledge and experience in 2016.

### **2.5.3 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.

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

### **2.6.1 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.

### **2.6.2 “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.

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

The review of the Gas Target Model was completed in late 2014 and the results presented in January 2015. It was initiated due to a number of previously unforeseen market and political developments, which have a significant impact on the functioning of the European gas market. The review should act as the joint vision of the Agency and NRAs for the mid-term European gas market. It includes the following topics: properly linking gas and electricity market arrangements, updating the indicators for functioning wholesale markets and the implications of the use of gas in the transportation sector. A similar review of the Electricity Target Model, focussing on flexible response and system adequacy, will continue to be conducted in 2016.

### **2.6.4 Future challenges - multiannual objectives and expected achievements**

The Conclusions Paper “Energy Regulation: A Bridge to 2025” contains a set of recommendations, including for regulatory action. While some of them call for immediate action by the Agency, in most cases, the recommendations have a longer time span. The Agency, in cooperation with CEER, has developed a plan with identified priorities and will implement the different actions accordingly and compatibly with its available resources.

### 2.6.5 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 lead not only to a less efficient energy sector, but also possibly jeopardise the secure operation of the energy systems.

## 3. HUMAN AND FINANCIAL RESOURCES OUTLOOK

### 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 revision of this document (early January 2016), are presented in detail in sections 3.2.1. and 3.2.2. below and in Annexes II and III.

## 3.2 Resource programming

### 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 2016 and beyond, as described below:

#### **Title 1**

Compared to 2015, an 81.99% increase in financial resources was requested for Title 1, mainly relating to increased staff expenditure (remuneration) for the 44 additional staff requested as from January 2016. This staff is considered necessary to ensure the implementation of Regulation (EU) 1227/2011 on energy market integrity and transparency (30 additional staff), Regulation (EU) No 347/2013 on Guidelines for Trans-European Energy Infrastructure (9 additional staff) and 5 additional staff to support the increase in the volume of horizontal services. Within the budgetary procedure a 26.85% increase was received.

For the following years, 2017 and 2018, the increase within this Title relates only to the expected costs for salaries and allowances adjustments and staff promotions.

#### **Title 2**

The 25.15% increase in 2016 of the requested financial resources under Title 2 as compared to 2015 mainly related to a minor increase in the size of office space contracted in 2014 that became available during 2015, 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. A 2.00% increase was approved in the final 2016 budget. An increase in the level of expenditure within this Title for the years 2017 and 2018 is expected.

#### **Title 3**

The 127.78% increase in 2016 mainly reflects the resources needed to cover the costs, under a new contract, for hosting services for the Agency's REMIT Information System from mid-2016 onwards (including upgrade of ARIS, renewal of licences and related consultancy). A 127.07% increase was approved in the adopted 2016 budget.



In 2013 the Agency signed a framework contract in order to procure IT hosting services to comply with its REMIT related obligations. The contract's budget ceiling has been already almost reached and a new framework contract will have to be launched in 2016. The requested amount is needed to cover the hosting services for 2017 and beyond and to allow for potential migration of the entire ARIS environment to another contractor. This kind of services cannot be negotiated on a monthly or yearly basis. Long-term arrangements are needed to ensure operational reliability according to Article 12(1) of REMIT, an obligation for the Agency. This will become the most critical risk for the Agency in 2016 regarding the operations of the Agency's REMIT Information System and the Agency's capability of keeping its REMIT operations running.

Moreover, funding will be required for specific activities under existing framework contracts:

- Although the majority of IT development for ARIS took place in the 2014 - 2015 period on the basis of the budget received from 2013 to 2015, there will be a need to upgrade ARIS in 2016.
- On the basis of a joined framework contract from DG DIGIT, Oracle support and maintenance services for licenses for the ARIS databases will have to be renewed annually.
- For some parts of ARIS which went live in the first half of 2015, the warranty period will expire in 2016 and maintenance costs have to be foreseen to ensure proper support from the contractor.
- Software development will be completed in 2016 and the Agency needs to secure the provision of services by entering into a specific contract to cover the services for most of 2017.

One additional year of SMARTS licensing and for consultancy services are also envisaged under Title 3 expenditure.

In addition, costs of data presentation equipment and security related to the data collected and analysed by the Market Monitoring Department have to be covered in 2016.

In 2013 the Agency procured a framework contract for IT consultancy for REMIT implementation on the basis of which additional IT consultancy services are foreseen to be ordered in 2016. Further details are provided in Annex VII: 2016 Indicative Procurement Plan for Operational Tasks.

The impact of the REMIT related operations on the operational costs within this Title will vary in the years 2017 and 2018, depending on the renewal of expiring contracts.

### 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>11</sup> to fulfil one of the main priorities of its political agenda defined in July 2014, entails, *inter alia*, 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 within the Energy Union.

#### **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.

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<sup>11</sup> COM(2015) 80 final.

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 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).*

In light of the above, it is estimated that **at least 15 additional 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.

In 2015, the budgetary authorities approved 15 additional staff members for the Agency for 2016 of which 10 will be attributed to work on 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.

This additional staff will also enhance the Agency's capability to fulfil its additional tasks under 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.

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

The Agency 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<sup>12</sup>;
- subsequently, a preliminary analysis of anomalous instances will be performed in order to identify suspicious practices which may amount to market abuse.

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<sup>12</sup> This IT tool is in its final stage of development and will be released for operations in the second quarter of 2015.

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.

In 2015, the budgetary authorities approved 15 additional staff members for the Agency for 2016 of which 11 will be attributed to work on REMIT-related tasks. This will enable the Agency to fulfil its mandatory tasks under REMIT as described under 3.2.2.2, but it will not enable the Agency 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.

Such restructuring will take place in the course of 2016, once the additional 11 staff members approved for REMIT-related tasks will be recruited, including **one additional management position** graded at AD11. 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.

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>13</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>14</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, monitoring of the implementation of the TYNDPs and of the PCIs will become an increasingly important activity for the Agency, to ensure that these plans and projects are 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. As of 2015, the Agency is required 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.

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<sup>13</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>14</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:

1. formulating opinions on draft statutes, lists of members and draft rules of procedure of the ENTSOs;
2. 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);
3. 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;
4. monitoring the functioning of the inter TSO compensation mechanism in electricity.

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, updated in November 2015 to 108 electricity, 77 gas, 7 oil and 3 smart grids 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, including an assessment of the ENTSO's methodologies for network and market modelling and the relevant models, and their consistency with the harmonised energy system-wide cost-benefit analysis at Union level for projects of common interest, will require additional resources, estimated in **5 additional infrastructure officer positions**<sup>15</sup>, 3 in the Electricity and 2 in the Gas Department<sup>16</sup>.

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 Database developers** will be needed, one in each of the Gas and Electricity Departments.

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<sup>15</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>16</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, 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.

Of the 15 additional posts assigned to the Agency for 2016, 3 have been allocated to the Electricity and Gas Departments to perform infrastructure related tasks.

Therefore, overall, the additional resources that the Agency will continue to request in future years to be able to fulfil its mandate under the TEN-E Regulation amount to **6 FTEs**, of which **3 officers in the Electricity Department** and **3 officers in the Gas Department**.

The additional staff, 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 Internal Energy Market

With the adoption of Network Codes and Guidelines under the Third Energy Package, the Agency is being assigned additional tasks (e.g. those envisaged in article 9 of Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management). Moreover, the Agency will be responsible for monitoring the implementation of the provisions contained in the Network Codes and Guidelines. The Agency

will request additional resources in future years to complement those currently available in the Electricity and Gas Department in order to perform these new tasks effectively.

### **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.

Of the 15 additional posts assigned to the Agency in 2016, one has been allocated to the HR Team in the Administration Department.

However, the increase in staff numbers and the substantial expansion in the activities of the Agency, including in new areas (REMIT and TEN-E) require further 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:

<b>Grade</b>	<b>TAs</b>
AD7	1
AD5	1
AST3	2

### **3.2.2.6. 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.

However, as indicated above, significant 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.

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).

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

Despite the additional resources assigned to the Agency in 2016, its staffing is still significantly short of what would be required to fulfil its statutory mission and perform the tasks mandated to it by legislation. Therefore, as in previous years, the Agency has to deprioritise a number of the activities initially included in the 2016 Annual Work Programme<sup>17</sup>.

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 reduced in scope.

More specifically:

- In the area of Infrastructure/TEN-E:

The deliverable “Report on national methodologies and criteria used to evaluate investments in electricity and gas infrastructure projects and the higher risks incurred by them” under 3.5.1 has been deleted, since this task is not foreseen in Regulation

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<sup>17</sup> The Agency's Annual Work Programme was originally developed in line with the estimate of expenditure for 2016 (€20, 078,441 and 44 additional posts) made by the Administrative Board in March 2015, with a supportive opinion by the Board of Regulators.

347/2013 and it may overlap with work which the European Commission is likely to commission.

- In the area of the Regional Initiatives:

The scope of the Agency's activities for coordinating and monitoring the early voluntary implementation of Network Codes before their rules become legally binding has been reduced.

- 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 to later years;
- The provision of commercially non-sensitive trade database for scientific purposes, subject to confidentiality requirements has been partly postponed to later years;
- 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, is being 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 will only be 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. 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.

### **3.2.2.8. 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>18</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>18</sup> Communication COM(2013)519, p. 5.2.6, page 16  
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## **SECTION III – WORK PROGRAMME 2016**

### **1. THE AGENCY'S PRIORITIES FOR 2016**

The Agency's priorities in 2016 will be similar to those in the previous year. First of all, in the framework of the completion of the Internal Energy Market, the Agency will have to support and monitor the implementation of the adopted Network Codes and Guidelines, while continuing to monitor more general developments in the Internal Energy Market to identify any remaining barriers to competition, both at wholesale and retail level.

Secondly, in 2016 the implementation of the wholesale energy market monitoring framework established by REMIT will be completed. Starting in October 2015, the Agency is called to actively monitor trading in EU wholesale energy markets on the basis of the reported trade and fundamental data and using the purposely developed surveillance platform. The effectiveness with which the Agency is able to perform this activity crucially depends on it being assigned the significant additional resources that it has been requesting since 2014.

Thirdly, the Agency will be involved in the process for the definition of the electricity TYNDP and in monitoring its implementation of the TYNDPs and the PCIs included in the second lists (adopted in 2015). In this context, the Agency may also be 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 particularly 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.

Finally, the Agency intends to continue, in 2016, the analysis of some aspects of the electricity and gas market design, including their governance, which are becoming increasingly relevant to address some of the challenges that the energy sector is going to face in the years to come. Following the launch of the Energy Union Strategy in February 2015, the European Commission published a set of consultative documents setting the scene for a wider reflection on the extent to which the current design of the electricity and gas sectors, while fundamentally sound, may need to be complemented by other components – e.g. in the electricity sector, in the area of flexibility and capacity support – so as to remain fully fit for purpose also in the



future. The Agency anticipates having to play a central and proactive role in these reflections, given its role in promoting a well-functioning internal energy market and as they may lead to new competences assigned to it (as already envisaged in the Energy Union Communication).

## **2. CONSULTATION ON 2016 WORK PROGRAMME**

In preparation of this draft Work Programme, the Agency published and presented an outline in a public Workshop held in Ljubljana on 3 June 2015. Stakeholders were asked to provide feedback and inputs by 19 June.

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 2016.

## **3. OPERATIONAL ACTIVITIES**

### **3.1 Electricity Framework Guidelines & Network Codes**

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 note takes into account the priorities informally discussed with the European Commission – Directorate-General for Energy.

However, some tasks in 2016 derive from work already started in the previous year(s). This includes Reasoned Opinions and Recommendations which the Agency will be called to formulate on Network Codes currently or soon to be developed by ENTSO-E, the advice to be given during the comitology process and the preparation for the Network Code implementation and monitoring. More specifically, during 2016, the Agency plans to work towards the following deliverables:

### 3.1.1 Framework Guidelines

Task	Follow-up of the work on harmonisation of transmission tariff structures
Legal basis	Article 6(4) Reg. (EC) No 713/2009; Articles 6(7), 6(9) and 8(6)(k) Reg. (EC) No 714/2009
Overview (status)	In line with the conclusions of the scooping activity, the Agency will elaborate a common set of transmission tariff principles in order to build a common understanding and facilitate the sharing of best practices
Objectives and Outputs	Delivery of a position paper/recommendation to NRAs to adopt a common set of transmission tariff principles.
Performance indicators and targets (deadlines)	Timely delivery.
Staff	0.5 FTE
Risks	Given the limited resources of the Agency, the involvement of NRAs and national experts is essential to ensure the timely delivery.

### 3.1.2 Network Codes, their implementation and its monitoring

Task	Advice and support on Network Codes and Guidelines during their adoption via the comitology process, as appropriate
Legal basis	Article 6 and Article 8(6)(a), (b), (g) and (j) Regulation (EC) 714/2009
Overview (status)	The Agency has recommended the adoption of several Network Codes in the area of electricity grid connection, electricity system operation, capacity allocation and congestion management and electricity balancing. The adoption of some of these Network Codes will continue throughout 2016. The Agency is invited to assist European Commission during this process.

Objectives and Outputs	Advice and support to be provided along the timelines determined by the Commission and the Comitology Committees.
Performance indicators and targets (deadlines)	The timely delivery of the feedback and support on the Network Codes in the course of the Comitology process.
Staff	0.3 FTE
Risks	No appreciable risk.

Task	Preparation for the monitoring of the implementation of the adopted Network Codes and Guidelines
Legal basis	Article 9 of the Regulation (EC) 714/2009
Overview (status)	The Agency has recommended the adoption of several Network Codes in the area of electricity grid connection, electricity system operation, capacity allocation and congestion management and electricity balancing. Therefore, in 2016, a number of Network Codes and Commission Guidelines will enter into the implementation phase, which will require preparatory activities needed for the monitoring of implementation of these Network Codes and Guidelines.
Objectives and Outputs	<p>The Agency will ensure the establishment of (i) a suitable framework concept with the NRAs and the ENTSO-E, (ii) working processes and (iii) IT support.</p> <p>The Agency will coordinate with ENTSO-E on a plan for the monitoring of the implementation of the adopted Network Codes and Guidelines and on the associated list of the relevant information to be communicated by ENTSO-E to the Agency. The Agency will issue an Opinion on ENTSO-E's plan for the monitoring of the implementation of the adopted Network Codes and Guidelines.</p>
Performance indicators and targets (deadlines)	The timely delivery of the Opinion in ENTSO-E's plan for the monitoring of the implementation of the adopted Network Codes and Guidelines and of the list of relevant information to be communicated by ENTSO-E to the Agency.
Staff	0.6 FTE

Risks	The work load related to this task depends on the number of adopted 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.
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<b>Task</b>	<b>Investigation of the reasons when TSOs, NEMOs or other entities fail to submit terms and conditions or methodologies for the approval by NRAs pursuant to the adopted Network Codes and Guidelines</b>
Legal basis	To be established pursuant to the Network Codes and Guidelines.
Overview (status)	The Network Codes and Guidelines will establish numerous obligations for TSOs, NEMOs or 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. In case TSOs, NEMOs or third entities fail to submit terms and conditions or methodologies for the NRAs' approval, the Agency should investigate the reasons for the failure and inform the European Commission.
Objectives and Outputs	The Agency will collect the relevant draft terms and conditions or methodologies and other relevant information from TSOs, NEMOs or third entities and elaborate a report for the European Commission.
Performance indicators and targets (deadlines)	Report submitted to European Commission on the reasons for failure to submit terms and conditions or methodologies by TSOs, NEMOs or third entities.
Staff	0.3 FTE
Risks	Insufficient information received from TSOs, NEMOs or third entities.

<b>Task</b>	<b>Coordination of NRAs for the approval of the terms and conditions or methodologies developed by TSOs, NEMOs or third entities pursuant to the adopted Network Codes and Guidelines</b>
Legal basis	To be established pursuant to the Network Codes and Guidelines.

Overview (status)	<p>The Network Codes and Guidelines will establish numerous obligations for TSOs, NEMOs or 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. These approval procedures need to be coordinated.</p> <p>The Agency can also be requested to provide an Opinion on the terms and conditions pursuant to Article 9(9) of the CACM GL.</p>
Objectives and Outputs	<p>The Agency will provide a frame for the coordination of NRAs and will strive to facilitate the reaching of the agreement among the involved NRAs on whether to approve, reject or require amendments to the proposed terms and conditions or methodologies.</p>
Performance indicators and targets (deadlines)	<p>NRAs' agreement reached within the deadlines foreseen in the Network Codes and Guidelines.</p> <p>Timely delivery of the ACER's opinion (if requested by the EC).</p>
Staff	0.8 FTE
Risks	The agreement might not be reached among all involved NRAs.

Task	Decision in case NRAs are unable to reach an agreement on terms and conditions or methodologies to be approved pursuant to the adopted Network Codes and Guidelines
Legal basis	To be established pursuant to the Network Codes and Guidelines.
Overview (status)	<p>The Network Codes and Guidelines will establish numerous obligations for TSOs, NEMOs or 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. When NRAs failed to reach an agreement and to issue decisions within six months, the Agency shall decide on those terms and conditions or methodologies.</p>
Objectives and Outputs	<p>The decision of the Agency on the terms and conditions or methodologies for which no consensus agreement has been found among the involved NRAs.</p>
Performance indicators and targets (deadlines)	<p>Timely delivery of the Agency's Decision (i.e. within six months after the deadline by which the NRAs should have reached an agreement and issued decisions).</p>

Staff	0.4 FTE
Risks	There is a risk that a majority will not be found within the Board of Regulators.

Task	Coordination of implementation projects established pursuant to the Network Codes and Guidelines and, where relevant, pursuant to the early implementation process
Legal basis	To be established pursuant to the Network Codes and Guidelines.
Overview (status)	<p>The Network Codes and Guidelines will introduce numerous requirements and obligations for TSOs, NEMOs or third entities to implement new elements related to the integration of electricity market. These elements will be implemented through concrete implementation projects which require coordination, monitoring and supervision from NRAs and the Agency.</p> <p>Where the relevant Network Codes or Guidelines have not yet been adopted, the Agency will have to continue coordinating and monitoring of the early implementation process.</p>
Objectives and Outputs	Facilitation of implementation projects and ensuring timely involvement of regulators and stakeholders within the process.
Performance indicators and targets (deadlines)	Timely implementation of these projects.
Staff	0.7 FTE
Risks	Delays in implementation projects subject to unforeseen difficulties.

Task	Facilitation of the stakeholder involvement as required pursuant to the adopted Network Codes and Guidelines
Legal basis	To be established pursuant to the Network Codes and Guidelines.
Overview (status)	The Agency, in close cooperation with ENTSO for Electricity, will organise stakeholder involvement with regard to the different aspects of the implementation and operation of the Network Codes and Guidelines.

Objectives and 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.
Performance indicators and targets (deadlines)	The Agency will seek for regular feedback from stakeholders regarding their involvement in this Network Codes implementation process.
Staff	0.6 FTE
Risks	Lack of human and other resources to facilitate the functioning of stakeholder committees.

<b>Task</b>	<b>Review of the requests for amendments to the adopted Network Codes and Guidelines from interested persons and, where appropriate, based on these requests or Agency's own initiative, preparation of the amendment proposals for the European Commission</b>
Legal basis	Article 7 of Regulation (EC) 714/2009
Overview (status)	By 2016 a few Network Codes and Guidelines will enter into force, while the adoption of Network Codes will continue throughout 2016.
Objectives and Outputs	The Agency will duly follow the procedure set out in the Agency Guidance on the Evaluation Procedure for Network Code Amendment Proposals under Article 7 of the Electricity and Gas Regulation.
Performance indicators and targets (deadlines)	Number of amendment requests received and time needed to address them.
Staff	0.3 FTE
Risks	Lack of human and other resources.

Task	Performance of the specific obligations of the Agency pursuant the adopted Network Codes and Guidelines
Legal basis	To be established pursuant to the Network Codes and Guidelines.
Overview (status)	<p>The Network Codes and Guidelines will establish numerous new obligations for the Agency. The obligations in general cover the following:</p> <ul style="list-style-type: none"> <li>- Reporting on different aspects of the Network Codes and guidelines beyond Implementation monitoring;</li> <li>- Monitoring the development of aspects of the Network Codes and guidelines as well as entities having obligations pursuant to the Network Codes and Guidelines;</li> <li>- Overseeing processes and entities obligations pursuant to the Network Codes and Guidelines;</li> <li>- Publishing of reports and other documents to be developed pursuant to the Network Codes and Guidelines;</li> <li>- Requesting specific actions from different entities pursuant to the Network Codes and Guidelines;</li> <li>- Participating to different groups or committees established pursuant to the Network Codes and Guidelines;</li> <li>- Maintaining different registers pursuant to the Network Codes and Guidelines;</li> <li>- Issuing opinions as required or foreseen by the Network Codes and Guidelines.</li> </ul>
Objectives and Outputs	The specific obligations pursuant to Network Codes and Guidelines should be fulfilled in a timely manner.
Performance indicators and targets (deadlines)	Timely delivery of these obligations.
Staff	0.7 FTE
Risks	Lack of human and other resources to facilitate the performance of these tasks.



## 3.2 Gas Framework Guidelines & Network Codes

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, in some instances, amending existing Network Codes. A set of indicators has been developed to measure 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.

The overarching framework for the implementation of the Network Codes is the Gas Target Model, an update of which was presented in January 2015. In 2016, the focus will be on the implementation of the various aspects of the Gas Target Model, including tracking the indicators on hub development and promoting regional market integration.

Task	Implementation of the Gas Target Model
Legal basis	None
Overview (status)	Implementation of the various provision of the Gas Target Model, with a focus on hub development indicators, self-assessments by the NRAs, and regional market integration.
Objectives and Outputs	Objectives: promote the voluntary work on implementing the Gas Target Model.  Outputs: updated indicators (depending on data availability, this may not yet be the case in 2016), overview of self-assessments by NRAs.
Performance indicators and	The process is voluntary and thus depends on the possibilities and willingness of individual NRAs to move the work forward.

targets (deadlines)	
Staff	0.3 FTE
Risks	Limited NRA resources are focused on legal obligations.

### 3.2.1 Framework Guidelines

<b>Task</b>	<b>Preparation for the review (Transparency) or scoping new Framework Guidelines at the request of the EC. Potential amendment to the Network Code on Capacity Allocation Mechanisms, if there is scope for improvements based on ACER's analysis of conditional capacity uses</b>
Legal basis	Article 6 (for scoping) and 7 (for amending codes) of (EC) Regulation 715/2009
Overview (status)	Revision of the current content and compatibility checks of the Network Codes adopted. Scope new codes to the extent the market is looking for them.
Objectives and Outputs	Objectives: consistency across the codes adopted so far, improve functionality of the codes based on market experiences and possible amendments addressing these experiences.  Outputs: mainly amendments, potential codes requested by stakeholders (input from the regular EC consultations).
Performance indicators and targets (deadlines)	The process is of an ad hoc nature. Targets to be agreed with the Planning group and new requests from the market.
Staff	0.3 FTE
Risks	Get these processes agreed by EC, NRAs and set their content.

### 3.2.2 Network Codes, their implementation and its monitoring

Task	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
Legal basis	Part of a voluntary process.
Overview (status)	Reporting on the status of early implementation for the Network Code on tariffs, once a Network Code text is available which is stable enough, and the amendment regarding incremental capacity.
Objectives and Outputs	Get NRA involvement to the process and report on the progress made towards the full application of the provisions of these codes.
Performance indicators and targets (deadlines)	Early implementation reports. Q4/2016-Q1/2017
Staff	0.5 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.

Task	Implementation Monitoring Report for the Network Code on Capacity Allocation Mechanisms
Legal basis	Article 9 of (EC) Regulation 715/2009
Overview (status)	Reporting on the status of implementation for the Network Code on Capacity Allocation Mechanisms. This implementation monitoring replaces the CAM Roadmap once the Network Code has become binding.
Objectives and Outputs	Involve TSOs and NRAs in this process, in particular as concerns their contribution to data collection. Provide practical recommendations in the implementation report.
Performance indicators and	Implementation monitoring report.

targets (deadlines)	Q4/2016
Staff	1 FTE
Risks	Data collection and data availability from national NRA/TSO sources may be delayed or missing.

Task	<b>2<sup>nd</sup> ACER report on Progress of capacity bundling at interconnection points according to the Network Code on Capacity Allocation Mechanisms</b>
Legal basis	Article 20 of Commission Regulation (EU) 984/2013
Overview (status)	Bundling arrangements are to be reported to the relevant NRAs and national reports are to be sent to the Agency regarding the yearly progress of capacity bundling.
Objectives and Outputs	Based on the national reports, the Agency publishes a report on the progress made on capacity bundling. (Expected: 4 November 2016).
Performance indicators and targets (deadlines)	Timely delivery of the report and data collection ahead of report. (Q4 2016)
Staff	0.4 FTE
Risks	National information may not be provided on time. Regulators collect this information also from network users and TSOs, which may be late, given the large number of stakeholders potentially involved.

<b>Task</b>	<b>Monitoring of the Network Code on Balancing</b> <b>- Implementation Monitoring Report for the Network Code on Balancing</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 9 of (EC) Regulation 715/2009
Overview (status)	Reporting on the status of implementation for the Network Code on Balancing.
Objectives and Outputs	Involve TSOs and NRAs in this process, in particular as concerns their contribution to data collection. Provide practical recommendations in the implementation report.
Performance indicators and targets (deadlines)	Implementation monitoring report. Q4/2016
Staff	1 FTE
Risks	Data collection and data availability from national NRA/TSO sources may be delayed or missing.

<b>Task</b>	<b>Monitor the ENTSOG monitoring of the Implementation of the Network Code on Interoperability and Data Exchange Rules</b>
Legal basis	Article 9 of (EC) Regulation 715/2009 and Article 25(1) of Commission regulation (EU) 2015/703
Overview (status)	Reporting on the status of implementation of the Network Code on Interoperability and Data Exchange. Provide practical recommendations in the implementation report.
Objectives and Outputs	Involve TSOs and NRAs. Work together with ENTSOG on the data collection parameters. Provide practical recommendations in the implementation report.
Performance indicators and	Implementation monitoring report. Q4/2016-Q1/2017

targets (deadlines)	
Staff	0.3 FTE
Risks	Data collection and data availability from national NRA/TSO sources may be delayed or missing.

Task	<b>3<sup>rd</sup> ACER report on monitoring of Congestion at interconnection points and monitoring the Implementation Monitoring of ENTSOG on the CMP Guidelines with a view to the combined application of CMPs</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 Third Report on Congestion at interconnection points is to be prepared with a view to the recommendations of the second Agency report and new recommendations may be developed in the light of the changes observed in the report.
Objectives and Outputs	CMP Scope list. Improved data consistency and quality. Third Report due on 1 June 2016.
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. Target date: Q2 2016
Staff	0.6 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>Review of amendment requests to Network Codes and propose amendments on own initiative based on Article 7 of the Gas Regulation and preparation of reasoned proposals to the Commission, where appropriate</b>
Legal basis	Article 7 of (EC) Regulation 715/2009
Overview (status)	The implemented and applied codes will trigger stakeholder requests for ad-hoc amendments and may also lead to own initiatives to improve applications. The amendments that are supported by the market will be turned into reasoned proposals to the European Commission to amend the codes adopted so far.
Objectives and Outputs	Consistent framework of codes, which supports the integration of the gas markets.  Reasoned proposals to the European Commission underpinned by stakeholder support.
Performance indicators and targets (deadlines)	Timely response and consultation on the received amendment requests. The amendments that are taken further as reasoned proposals are well justified; inconsistency, where identified, is addressed and/or market functioning improved.  This is an ad hoc task. No deadlines can be provided.
Staff	0.4 FTE
Risks	Insufficiently justified and/or unclear amendments received from the stakeholders.

### 3.2.3 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 Regulations (EC) No 713/2009, (EC) and (EC) No 715/2009  Article 6 of Regulation 715/2009 (EC) (gas)
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 and Outputs	To foster the early implementation of Network Codes and to promote regional market integration. As part of the latter, 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.
Staff	0.7 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

Task	Annual Regional Initiatives Status Review Report, reviewing developments in the Gas Regional Initiatives and providing guidance for future work
Legal basis	Several articles on regional cooperation in Regulations (EC) No 713/2009, (EC) and (EC) No 715/2009
Overview (status)	Annual report documenting progress made in the GRI.
Objectives and Outputs	To inform stakeholders about progress made, and to encourage NRAs to achieve such progress.
Performance indicators and targets (deadlines)	Delivery of the report by January 2017.
Staff	0.2 FTE



Risks	The quality of the report depends to a large degree on the input provided by the NRAs.
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Task	Regional implementation of the network codes and guidelines using the GRI framework, focused on the SSE region
Legal basis	Several articles on regional cooperation in Regulations (EC) No 713/2009, (EC) and (EC) No 715/2009
Overview (status)	Early implementation process and follow up of network code implementation within the GRIs, and in particular in SSE GRI.
Objectives and Outputs	To collect information about the progress made and to encourage NRAs to follow best practices before implementation. To reduce the numbers of late implementers.
Performance indicators and targets (deadlines)	Deadlines difficult to establish. It will be an ongoing task supporting the countries and regions lagging behind implementation or in need of closing regulatory gaps in early implementation.
Staff	0.3 FTE
Risks	Openness and willingness of the NRAs and Member States concerned to sign up to move the current processes towards a more detailed exchange and practical dialogue.

### 3.3 Cross-Sector Issues (Electricity and Gas)

Market monitoring is becoming increasingly sophisticated, as the relevant developments in the European electricity and gas markets are followed more closely. Moving the monitoring closer in time to the actual events remains a challenge. In the future the market monitoring report will be enriched with additional indicators to measure the effectiveness of the various Network Codes.

### 3.3.1 Monitoring

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

Task	The 5 <sup>th</sup> Market Monitoring Report covering retail prices in electricity and natural gas, barriers to entry, wholesale market integration, 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 compliance with consumer rights (including protection and enforcement of consumer rights). The report will also cover the operation of different categories of market places and ways of trading.
Legal basis	Articles 11 (1) and (2) of Regulation (EC) 713/2009 Article 7(3) of Reg. (EU) 1227/2011 Article 6 of Regulation (EC) 713/2009 Network Codes
Overview (status)	In 2016 the Market Monitoring Report (MMR) will focus on the functioning of energy markets and ways to improve their efficiency, in order to make energy more affordable for European consumers. More specifically, the MMR will analyse the evolution of retail prices for electricity and natural gas, wholesale market integration, access to networks (including electricity produced or gas sourced from renewable energy sources), and compliance with consumer rights.  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.  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.  The Agency will also cooperate and coordinate with the Council of European Energy Regulators (CEER).
Objectives and Outputs	Annual Market Monitoring Report: Expected completion date: November 2016.
Performance indicators and	Timely completion of the Annual Market Monitoring Report.  Positive feedback by the European Parliament, the European Commission and stakeholders on the market monitoring report,

targets (deadlines)	including the possibility of a survey following the publication and presentation of the report.
Staff	8.5 FTEs
Risks	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.

## 3.4 TSO Cooperation

The tasks related to the Agency's work on TSO cooperation, pursuant to Article 6 of the Agency Regulation, 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 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 2016 towards the following deliverables:

### 3.4.1 Electricity

<b>Tasks</b>	<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 and ENTSO-E's annual report</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 (the latter is subject to ICS report)</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 Community-wide network development plan and (if appropriate) recommendations to amend the national ten-year</b></p>
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	<p><b>network development plans or the Community-wide network development plan</b></p> <p><b>Opinion on ENTSO-E'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 electricity Community-wide TYNDP and the progress as regards the implementation of projects to create new interconnector capacity</b></p> <p><b>Opinion on ENTSO-E's draft Ten Year Network Development Plan 2016</b></p> <p><b>Opinion on ENTSO-E's draft Scenario Outlook and Adequacy Forecast 2016</b></p>
Legal basis	<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>
Overview (status)	<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 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 and Outputs	Annual monitoring report on ITC and opinions.
Performance indicators and targets (deadlines)	Timely delivery and quality of the documents. Monitoring report on 2014 ITC implementation: October 2016. Opinion on ENTSO-E's Work Programme and TYNDP: within two months after receipt of the document by ENTSO-E if considered non-compliant. Opinion on ENTSO-E's other documents: after receipt of the document by ENTSO-E.
Staff	2.6 FTEs
Risks	The delivery is subject to the release of corresponding documents by ENTSO-E and to the availability of resources.

### 3.4.2 Gas

<b>Tasks</b>	<p><b>Opinions on ENTSG's annual work programme 2017 and ENTSG's annual report 2015</b></p> <p><b>Opinions on ENTSG's common network operation tools including a common incidents classification scale and research plans</b></p> <p><b>Opinions on ENTSG'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 ENTSG'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>
<b>Legal basis</b>	<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 ENTSG's common network operation tools including a common incidents classification scale and research plans: Article 8(3)a of Regulation 715.</p>

Overview (status)	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 to the Agency by ENTSOG.
Objectives and Outputs	<p>Upon receipt of ENTSOG's 2017 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).</p>
Performance indicators and targets (deadlines)	<p>Timely delivery of the reports and opinions.</p> <p>Opinion on ENTSOG's Work Programme and TYNDP: within two months after receipt of the document by ENTSOG if considered non-compliant.</p>
Staff	3.3 FTEs
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).

## 3.5 Guidelines for Trans-European Energy Infrastructure

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 2016 towards the following deliverables:

### 3.5.1 Electricity and Gas

Task	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
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 and Outputs	Upon the receipt of the submissions from project promoters by 31 March 2016, the Agency will deliver its consolidated report within three months from 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.
Performance indicators and targets (deadlines)	Timely delivery of the report.
Staff	2.7 FTEs
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.

Task	Opinion on ENTSOs' updated methodologies for cost-benefit analysis
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. 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 such updates and improvements 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.
Objectives and Outputs	Request(s) for updates and improvements of the CBA methodology(ies).
Performance indicators and targets (deadlines)	Timely delivery of ad-hoc requests for CBA methodologies updates and improvements.
Staff	2.2 FTEs
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.

## 3.6 Activities which are Subject to Specific Conditions

In 2016 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, when requested jointly by the concerned NRAs or when the concerned NRAs fail to take a decision within a predefined period (6 months, with possible extension)</b>
Legal basis	Regulation (EC) No 713/2009, Article 8 for decisions on terms and conditions and operational security of cross-border interconnectors. Article 36(4) of Directive 2009/73/EC for decisions on exemptions.



Overview (status)	For cross-border infrastructure, the Agency shall decide upon 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 transmission system operators concerned and shall be informed of the proposals and observations of all the transmission system operators concerned.
Objectives and Outputs	The task involves the development of a decision containing the following required elements: a procedure for capacity allocation; a timeframe for allocation; shared congestion revenues; and the levying of charges on the users of the infrastructure referred to in Article 17(1)(d) of Regulation (EC) No 714/2009 or Article 36(1)(d) of Directive 2009/73/EC. 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)	Timely delivery of a decision within six months from the date of referral to the Agency.
Staff	1.0 FTE
Risks	<p>Timely receipt of complete file and supporting material from NRAs, carrying out a quality consultation with NRA participation prior to taking a decision.</p> <p>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. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 32(2) of this Regulation. 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.</p>

Task	Decisions on investment requests including on cross-border cost allocation
Legal basis	Article 12(6) of Regulation (EU) No 347/2013
Overview (status)	Promoters of project of common interest are eligible to submit an investment request including a request for cross-border cost allocation (CBCA) pursuant to Article 12(3) of Regulation (EU) No 347/2013. In 2014 and 2015 over 20 CBCA requests were submitted to the National Regulatory Authorities (NRAs). In two cases the NRAs failed to reach an agreement on the CBCA and the Agency was called to decide. Investment / CBCA requests can be submitted at any time. In 2016 new CBCA requests might be referred to the Agency.
Objectives and Outputs	Delivery of a decision within three months from date of referral to the Agency, with a possible two months extension in case additional information is needed.
Performance indicators and targets (deadlines)	Delivery of a decision within the prescribed period of time from the date of referral to the Agency.
Staff	1.0 FTE per decision (on demand)
Risks	Availability of Agency and possibly NRA resources and required data. Timely receipt of complete file and supporting material from NRAs, carrying out a quality consultation with NRAs and stakeholders prior to taking a decision.

Task	Opinions on preliminary decisions by NRAs on TSO certification when requested by the Commission
Legal basis	Article 9(2) of Regulation (EC) No 713/2009 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 and Outputs	Provide support to TSO certification by delivering, upon request, an opinion on preliminary decisions by NRAs on TSO certification.

Performance indicators and targets (deadlines)	Timely delivery of the opinion to the Commission.
Staff	0.5 FTE per requested opinion
Risks	Receipt of complete quality information about the preliminary decision on certification along with all pertinent supporting evidence, coordination with stakeholders, time constraints.

Task	Peer reviews, as submitted to the Agency based on Article 7(4) of the (EC) Regulation No 713/2009
Legal basis	Regulation (EC) No 713/2009, Article 7(4)
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 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 and Outputs	<p>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.</p> <p>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, an information report regarding lack of compliance to the Commission and the Member State concerned.</p>
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.
Staff	0.5 FTE per request

Risks	Receipt of complete quality information from NRAs, carrying out consultation with NRAs, time constraints.
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Task	Opinions and recommendations in the areas of its competence, upon request by the European Parliament, the Council or the European Commission
Legal basis	Regulation (EC) No 713/2009, Article 5
Overview (status)	Upon request by the European Parliament, the Council and the European Commission.
Objectives and Outputs	Provide support to the European Parliament, the Council and the European Commission, by delivering the requested opinions and recommendations.
Performance indicators and targets (deadlines)	Timely delivery of the opinions and recommendations.
Staff	0.5 FTE per request
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.

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

In 2016 the Agency may decide to issue:

Task	Opinions and recommendations in the areas of its competence, to the European Parliament, the Council and the European Commission, whenever this is appropriate for ensuring the proper functioning of the Internal Energy Market
Legal basis	Regulation (EC) No 713/2009, Article 5

Overview (status)	The Agency has the responsibility of issuing opinions and recommendations on its own initiative, whenever appropriate, for ensuring the proper functioning of the European Internal Energy Market.
Objectives and Outputs	Recommendation(s) on specific mechanisms to further enhance the cooperation between NRAs and the effectiveness of the regulatory action at EU level.  Opinions and Recommendations in other areas, including on the regulatory oversight of mandatory and voluntary EU TSO bodies, to be initiated if necessary or appropriate.
Performance indicators and targets (deadlines)	Timely delivery of a recommendation.
Staff	0.5 FTEs
Risks	Interaction with stakeholders, time constraints.

### 3.8 Wholesale Market Monitoring – REMIT

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 had/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. As of 7 October 2015, the Agency is collecting and monitoring wholesale energy contracts, including orders to trade, from organised market places and fundamental data from the ENTSOs' transparency platform 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 the Work Programme depended on the Agency being assigned the required additional staff envisaged in this respect and presented in Section 3.2.2. This revised version is based on the additional resources effectively allocated in the budgetary procedure and to be recruited in the course of 2016. Therefore, each additional member of staff is counted as ½ full-time equivalent over the whole year.

The tasks originally listed in this Section of the Work Programme were subject to the Agency being provided with the appropriate financial and human resources, in order to adequately fulfil the additional tasks assigned to it under REMIT. Since the requested human resources have not been fully made available, the Agency has made an effort to reallocate internal resources and tasks to ensure the implementation of REMIT, even though in a manner compatible with the limited available resources. The most significant change in the revised AWP concerns the allocation of resources to market monitoring of trading activity in wholesale energy markets to detect and prevent trading based on inside information and market manipulation.

The data collection in two phases will result in the Agency having to collect data for the first phase of data reporting since 7 October 2015 and in parallel having to continue its IT development activities for the second phase of data reporting from 7 April 2016. This will cause an additional workload which the Agency will cover by employing additional short/long-term contract agents in 2016 (indicated separately in the tables below).

The Agency will nevertheless be obliged to adjust the scope of its monitoring of trading activities in wholesale energy markets to detect and prevent trading based on market abuse to the effective human resources at its disposal. A revised market monitoring strategy based on the available resources is now being finalised on the basis of the resources allocated to the Agency in December 2015.

The following tasks originally foreseen in the Work Programme have been deprioritised in line with the available human resources (cancelled, postponed or in part combined with other tasks listed below):

- Establishment of appropriate mechanisms to access emission allowances data;
- Publication of parts of the trade information the Agency will possess, provided that commercially sensitive information on individual market participants or individual transactions or individual market places are not disclosed and cannot be inferred;
- Making available the Agency's commercially non-sensitive trade database for scientific purposes, subject to confidentiality requirements.

Furthermore, there will be a reduction in the scope of the implementation of the following tasks:

- 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.

Task	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
Legal basis	Articles 7-10 and 12 of Reg. 1227/2011

Overview (status)	Software development and customisation is ongoing.
Objectives and Outputs	<p>Deployment and running of CEREMP;</p> <p>Deployment and running of ARIS and its market monitoring solution completed within 9 months of the entry into force of the Implementing Acts concerning the data to be reported within phase 1 of data reporting and within 15 months of the entry into force of the Implementing Acts concerning the data to be reported within phase 2 of data reporting;</p> <p>Sharing and dissemination of information with NRAs;</p> <p>Ensuring operational reliability and professional secrecy concerning the information received by the Agency, by taking all necessary measures to prevent misuse of, and unauthorised access to, the information received and maintained in the Agency's systems, by identifying sources of operational risk and by minimising them through the development of appropriate systems, controls and procedures.</p>
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>
Staff	7 FTEs + 6 short/long term
Risks	<p>The registration process takes place at a national level. NRAs may not have sufficient resources for managing the strict deadline for completing the registration, especially in countries with a high number of market participants. Practical solutions have to be adopted for ensuring the completion of the registration process in the timeframe envisaged by REMIT.</p> <p>Data collection will be extremely complex due to the huge amount of data to be gathered and the diversity of sources. Many operational aspects have to be defined through the implementing acts; however it was not possible to wait until the formal approval of the implementing acts, as the IT-system would not have been ready on time. Consequently, adjustments will be needed during the course of 2016 and requests for changes may be necessary.</p> <p>Reliance on data collection under EU financial market rules (EMIR, MiFID).</p> <p>Delays in establishing protocols and common security standards with NRAs and limited resources for market monitoring in EU NRAs.</p> <p>Risk of leakage of highly sensitive trade data if adequate security measures are not in place.</p>



<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 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</b>
Legal basis	Article 7 and 8 of Reg. (EU) 1227/2011
Overview (status)	Monitoring methodologies under development. On-going review of notified cases.
Objectives and Outputs	Market Monitoring of the data collected according to Articles 7 and 8 of Reg. (EU) 1227/2011. Increased integrity and transparency of wholesale energy markets. Detection of abusive practices.  A revised market monitoring strategy is being developed in line with the limited resources available to the Agency.
Performance indicators and targets (deadlines)	The performance indicators and targets will be defined once the revised market monitoring strategy is developed.
Staff	6.5 FTEs + 1.0 short/long term
Risks	Quality of the monitoring depends on the quality of the data received.  Limited resources for market monitoring in EU NRAs.

<b>Task</b>	<b>Coordination of NRAs and other relevant authorities, including at the regional level, without prejudice to their responsibilities, aiming to promote best practices for the implementation of REMIT and to ensure that NRAs 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</b>
Legal basis	Article 16(1) of Reg. (EU) 1227/2011

Overview (status)	Ongoing
Objectives and Outputs	<p>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.</p> <p>Publication of Agency Guidance as required.</p> <p>Coordination of investigation of alleged cross-border market abuse instances as required.</p> <p>A revised market monitoring strategy is being developed in line with the limited resources available to the Agency.</p>
Performance indicators and targets (deadlines)	The performance indicators and targets will be defined once the revised market monitoring strategy is developed.
Staff	3 FTEs
Risks	Risk of leakage of highly sensitive trade data if adequate security measures are not in place.

<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 with the aim of 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</b>
Legal basis	Articles 1(3), 10, 16 of Reg. (EU) 1227/2011
Overview (status)	Ongoing
Objectives and Outputs	<p>Cooperation on the basis of Memoranda of Understanding (MoUs);</p> <p>Coordination of investigation of alleged cross-border market abuse instances as required;</p>

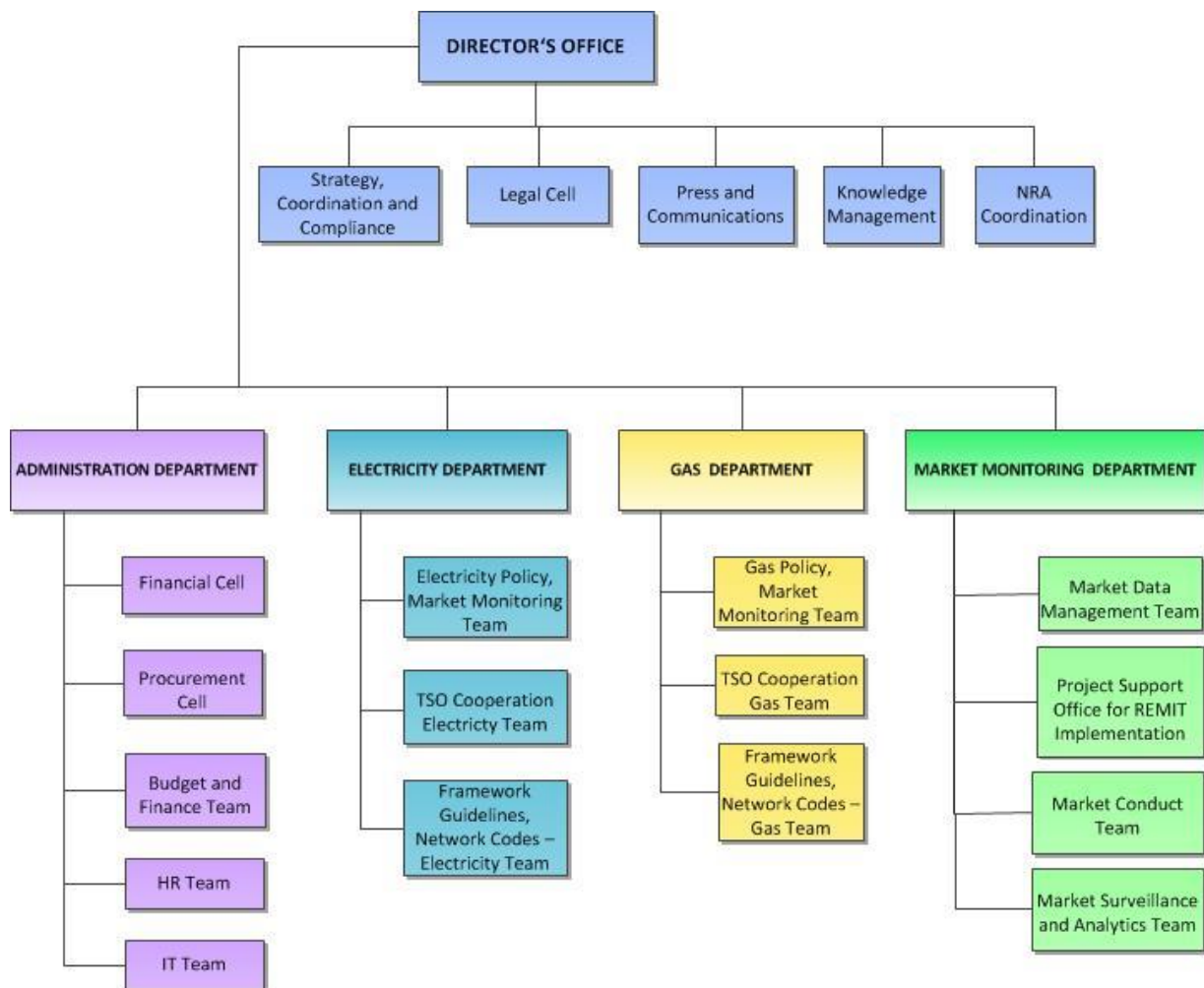
	Promotion of best practices for the implementation of REMIT.
Performance indicators and targets (deadlines)	Conclusion of MoUs with relevant authorities and implementation of the MoUs in practice through regular meetings with the relevant authorities.
Staff	3 FTEs
Risks	Risk of leakage of highly sensitive trade data if adequate security measures are not in place.

Task	Annual report on the Agency activities under REMIT according to Article 7(3) of REMIT
Legal basis	Article 7(3) of Reg. (EU) 1227/2011
Overview (status)	Expected submission of the 4 <sup>th</sup> Annual Report of REMIT: Q3 2016.
Objectives and Outputs	<p>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. In order to streamline the use of human resources, a consistent part of the above will be included in the Agency's Market Monitoring Report.</p> <p>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>
Performance indicators and targets (deadlines)	Submission of the AR on REMIT implementation by end Q3.
Staff	1.0 FTEs + 0.5 short/long-term
Risks	No appreciable risk.

## 3.9 Organisation, Administration and Functioning of the Agency

### 3.9.1 Organisation

The organisational chart below, including Temporary Agents, short-term and long-term Contract Agents and SNEs, reflects the internal structure of the Agency as of January 2016 (pending the foreseen restructuring of the Market Monitoring Department).



### **3.9.2 Communication**

Despite the limited resources available for this purpose, communication is a crucial element for the functioning of the Agency. According to its Founding Regulation, the Agency is required to consult extensively and at an early stage on its regulatory activities. Part of the Agency's communication efforts are therefore geared towards ensuring an efficient flow of information to and from the Agency, its stakeholders and NRAs.

At the same time the Agency increasingly strives to ensure that its 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). Part of the communication efforts is also channelled towards 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.

#### **3.9.2.1 External Communication**

The external communication of the Agency takes two main forms:

- involving NRAs and stakeholders in the Agency's work;
- communicating with the general public both directly and through the media.

The Agency's communication strategy aims to increase the transparency of the Agency's activities, reinforcing its position as an independent, credible, transparent, service-oriented and efficient expert EU body in energy regulation.

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 2016, they are severely limited by resource constraints.

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. The Agency is also striving to increase the use of

e-surveys, through which stakeholders have the possibility of providing feedback on the quality of the Agency's documents, and webinars. While the Agency will explore the possibility for its presence on social media, developments in this respect are likely to remain on hold due to resource constraints.

The Agency will continue to engage policy makers, stakeholders and the media through 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.

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 (see deliverables below) and which are among its flagship deliverables.

In 2016 the Agency's external communication will focus on the following tasks:

Task	Agency Website
Overview (status)	This remains the Agency's first point of contact. In 2015 ACER focused on improving the navigation and look and feel of the site; offering its main website contents in all EU official languages; providing stakeholders with feedback opportunities on ACER documents; improving the usability and forms for meetings registration and participation; as well as enhancing the usability of the ACER extranet.
Objectives and Outputs	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.  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.
Performance indicators and targets (deadlines)	Unique website hits: 3% increase with respect to year N-1.  Online survey: at least 2/3 of respondents satisfied or highly satisfied.
Staff	0.5 FTE

Risks	Timely delivery by external contractors of outputs related to the website.
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Task	Relations with Journalists
Overview (status)	<p>Press releases are launched on very specific topics which may have an impact on the general public. E-alerts (Infoflashes), which may be accompanied by a web piece of news, are launched when more specific information is disseminated.</p> <p>Infoflashes also provide fresh information on upcoming ACER conferences, workshops and events, as well as newly published open consultations or official documents such as Framework Guidelines, opinions, recommendations, etc. They are also used to provide information on new tenders or the Agency's public debriefings. Infoflashes are issued to over 3,000 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 and Outputs	<p>The aim is to keep a large number of interested people and multipliers regularly informed on the Agency's activities and initiatives, through press releases, Infoflashes and briefings.</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>
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 Infoflashes: &gt;40.</p> <p>Number of references to the Agency in selected media included in the Agency's media monitoring (proxy for impact): 200.</p>
Staff	0.2 FTE

Risks	No appreciable risk.
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Task	Events Annual Conference Workshop on the Outline of the 2016 Work Programme
Overview (status)	<p>Besides the public events geared towards stakeholders, the Agency also organises a number of other events geared towards interested parties and the general public.</p> <ul style="list-style-type: none"> <li>- In Q2-Q3 the Agency organises an Annual Conference for all stakeholders. The event typically focuses on one of the Agency's major areas of work.</li> <li>- In June the Agency organises a presentation on the Outline of its Annual Work Programme.</li> </ul>
Objectives and Outputs	<ul style="list-style-type: none"> <li>- The Annual Conference provides a platform for a high-level exchange of views among stakeholders and an outlook for a more strategic overview of the Agency's tasks.</li> <li>- The aim of the presentation of the Annual Work Programme is to receive feedback on the Outline of the AWP for the following year from interested parties and to open the consultation period in which the Agency is open for suggestions on its AWP.</li> </ul>
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> <p>Presentation of AWP:</p> <p>Over 15 participants (either present at the event or through interactive web streaming).</p>
Staff	0.3 FTE
Risks	Workshop: Limited inputs from stakeholders, as most of the Agency's AWP is set by legal requirements.



Task	<b>Publications:</b> <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>
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>
Objectives and Outputs	<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> <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> </ul>

	<ul style="list-style-type: none"> <li>- Other publications: Besides its major publications, the Agency also prepares 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.</li> </ul>
Performance indicators and targets (deadlines)	<p><u>AAR:</u></p> <ul style="list-style-type: none"> <li>- Published by 15 June.</li> <li>- Over 10 website hits within one month of publication.</li> </ul> <p><u>Regional Initiatives Report</u></p> <ul style="list-style-type: none"> <li>- Work on track to enable publication in January 2017.</li> </ul> <p><u>Market Monitoring Report</u></p> <ul style="list-style-type: none"> <li>- Expected completion date: November 2016.</li> <li>- Over 75 website hits 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> <ul style="list-style-type: none"> <li>- Expected submission of the 3rd Annual Report of REMIT: Q2 2016.</li> </ul> <p>Over 30 website hits within one month of the publication of the report.</p> <p><u>Other publications</u></p> <p>Informing the general public and stakeholders on the Agency's activities, both general and more specific ones.</p> <p>The material is regularly updated to reflect new tasks assigned to the Agency.</p>
Staff	0.6 FTE
Risks	No appreciable risks.

### 3.9.2.2 Internal Communication

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.

To achieve these goals the main internal communication channels are:

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

Task	Internal Communication: - Intranet - Internal newsletter - Presentations
Overview (status)	<ul style="list-style-type: none"> <li>- An internal newsletter for the Agency's staff is circulated on a monthly basis.</li> <li>- The intranet is being further developed to include all information relevant to the Agency's staff.</li> <li>- The Agency organises internal presentations over lunch-time in which ACER staff members present specific topics related to the Agency's tasks to their colleagues.</li> </ul>
Objectives and Outputs	<ul style="list-style-type: none"> <li>To increase the level of awareness of ACER's work and recent developments related to the Agency.</li> <li>To provide new features and services according to staff needs and demands.</li> <li>To keep information updated and easily retrievable.</li> <li>To provide staff with an opportunity to acquaint itself with the work and tasks of the various departments.</li> </ul>
Performance indicators and targets (deadlines)	<ul style="list-style-type: none"> <li>Staff satisfaction on internal communication measured through a question on the internal newsletter in the staff survey.</li> <li>2/3 of participating staff satisfied or highly satisfied.</li> </ul>
Staff	0.4 FTE

Risks	No appreciable risk.
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<b>TOTAL STAFF for communication tasks</b>	2.0 FTEs
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.

### 3.9.3 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. The Agency exercised the option to rent additional space in summer 2015, to accommodate the additional project-specific short-term contract staff under recruitment.

Task	Procurement and Facility Management
Overview (status)	<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 2016. Certain adaptations and changes might be performed, depending on the use of the premises and the Agency's specific needs.</p> <p>In 2016 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> <p>Procurements will be carried out in line with the 2016 Procurement Plan, in order to enable the continuity of the services, as well as to procure additional services, where needed.</p>

Objectives and Outputs	<p>The Agency's objectives for 2016 are as follows:</p> <ul style="list-style-type: none"> <li>- To prepare a Policy on Health and Safety at Work and set up a Health and Safety Committee, overseeing the implementation of the policy.</li> <li>- To perform fitting out and maintenance works at the office premises, as needed, to ensure a smooth continuation of the Agency's work.</li> <li>- Successfully implement the 2016 Procurement Plan.</li> </ul>
Performance indicators and targets (deadlines)	<ul style="list-style-type: none"> <li>- Policy on Health and Safety at Work drafted and put in place by Q2 2016.</li> <li>- Health and Safety Committee set up and operational by Q2 2016.</li> <li>- On-time implementation of the fitting out and maintenance plan at the Agency's office premises in 2016.</li> <li>- At least 80% implementation of the 2016 Procurement Plan.</li> </ul>
Staff	1.5 FTEs (involved in all procurement activities of the Agency)
Risks	<p>The non-availability of financial resources and human resource constraints may impact the timely delivery of the objectives.</p> <p>The absence of timely and quality input from the project managers may impact the successful implementation of the Procurement Plan.</p>

### 3.9.4 Human Resources

Task	Human Resources Management
Overview (status)	<p>Human Resources (HR) Team s concentrates efforts on the amendment of processes and procedures in implementation of the amended Staff Regulations and the new Implementing Rules.</p> <p>For 2016 additional 15 positions allocated to the Agency will have to be recruited.</p> <p>ECA's 2015 audit did not result in any critical comments in the area of human resources administration and management. The HR Team will strive to maintain the quality of HR services also in 2016.</p>

	Best practices, among which the implementation of flexitime and PIT are introduced to contribute to a balanced workplace.
Objectives and Outputs	<p>The Agency's objectives for 2016 are as follows:</p> <ul style="list-style-type: none"> <li>- To develop and implement a competency framework in the Agency;</li> <li>- To recruit additional resources in line with the Agency's Establishment Plan and replace departing staff members in an efficient and timely manner;</li> <li>- To complete successfully the Annual performance appraisal exercise in 2016, in line with the new Implementing Rules;</li> <li>- To ensure that staff members regularly attend training to improve their skills and competencies;</li> <li>- To prepare for the introduction and use of the Commission HR Tool Sysper;</li> <li>- To receive positive evaluation results from the ECA.</li> </ul>
Performance indicators and targets (deadlines)	<ul style="list-style-type: none"> <li>- Competency framework introduced in the Agency by Q4 2016;</li> <li>- Average length of recruitment procedure: 4 months (including the 1-month period of publication of the Vacancy Notice);</li> <li>- Minimum 90% of the recruitment target reached in 2016;</li> <li>- 100% of the Agency's staff subject to performance appraisal undergoes evaluation in the 2016 exercise in line with the new Implementing Rules;</li> <li>- Minimum 75% attendance of trainings;</li> <li>- No critical or very important recommendations received from ECA audit in 2016.</li> </ul>
Staff	4.0 FTEs
Risks	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>A decrease of the correction coefficient for Slovenia may have a significant negative impact on attracting new staff and staff retention.</p> <p>Delays in the introduction and implementation of Sysper across Agencies, caused by external factors, may result in additional strain on HR and IT teams, and may require additional resources for the maintenance of the current HR software.</p>
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### 3.9.5 Budget Implementation and Audit

Task	Budget Implementation and Audit
Overview (status)	<p><u>Budget Implementation</u></p> <p>Since becoming financially autonomous in 2011, the Agency has been striving to improve its financial management and budget implementation rates.</p> <p>A number of policies and procedures have been introduced and followed to ensure effective budget management. In 2015 the Agency will introduce e-invoicing and a paperless workflow, which will add 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% of the commitment appropriations and 69.84% of the payment appropriations in 2014 and 95.05% of the commitment appropriations and 74.88% of the payment appropriations in 2015</p> <p>In 2016 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 and Outputs	<p>The Agency's objectives for 2016 are as follows:</p> <ul style="list-style-type: none"> <li>- To achieve a high level of budget implementation for both commitment and payment appropriations.</li> <li>- To implement recommendations of the Internal Audit Service (IAS) in a timely manner, to receive a positive opinion from the European Court of Auditors (ECA) and to implement its recommendations.</li> </ul>
Performance indicators and targets (deadlines)	<ul style="list-style-type: none"> <li>- Minimum 95% execution of 2016 commitment appropriations by the end of Q4 2016.</li> <li>- Minimum 75% execution of 2016 payment appropriations by the end of Q4 2016.</li> <li>- Non-qualified opinion from ECA and 95% of its recommendations implemented in line with the Agency's Action Plan.</li> <li>- 95% of IAS recommendations implemented and reported in line with the Agency's Action Plan.</li> </ul>
Staff	2 FTEs + 2 FTEs in the Agency's horizontal Financial Cell
Risks	<p>Delay in the procurement procedures may have a negative impact on the achievement of the budget implementation targets.</p> <p>Delay or problems related to the implementation of contracts by the project managers may have a negative impact on the achievement of the budget implementation targets.</p>

### 3.9.6 ICT Infrastructure

Task	ICT Development
Overview (status)	<p>In 2016 the IT Team plans to complete the renewal of the Agency's internally hosted IT infrastructure (which does not include IT infrastructure relevant to REMIT, as this is externally hosted and covered by different budget lines) which started in 2015. This will also result in the deployment of new services to meet the Agency's evolving needs and to keep up with technological trends.</p> <p>At the same time, the IT Team will continue the close collaboration with the Agency's departments in order to provide all the necessary IT tools and applications required to</p>



	support the achievement of the Agency's objectives.
Objectives and Outputs	<p>The Agency's objectives for 2016 are as follows:</p> <ul style="list-style-type: none"> <li>- To complete the renewal of IT infrastructure which started in 2015;</li> <li>- To deploy new services and applications as a result of the renewal of the IT infrastructure. The IT Team will strive to ensure a successful deployment and, where needed, smooth transition between the old and new services;</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 proceed with all the necessary procedures that will support the efficient functioning of the Agency;</li> <li>- To provide high level IT support services to enable the Agency staff to perform their tasks effectively.</li> </ul>
Performance indicators and targets (deadlines)	<ul style="list-style-type: none"> <li>- Completion of the renewal of IT infrastructure by Q2 2016;</li> <li>- Successful deployment of new services (as a result of the IT infrastructure renewal) by Q4 2016;</li> <li>- Successful and timely completion of the tasks included in the 2016 IT Action Plan by Q4 2016;</li> <li>- 80% of staff satisfied or very satisfied with the IT services on the basis of an annual satisfaction survey.</li> </ul>
Staff	4 FTEs
Risks	<p>Human resource constraints and mobility of IT staff may impact the timely delivery and the quality of the outputs.</p> <p>Close collaboration with the Agency's Departments is needed in order to effectively define and implement their IT needs.</p>

### 3.9.7 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 (the horizontal posts to be filled in 2016 are counted as ½ FTE, on the assumption that they will be filled during the course of the year):

- Legal advisers: 2.5 FTEs;
- National Regulatory Agencies Cooperation Officers: 3 FTEs;
- Events Management Assistant: 1 FTE;
- Knowledge Manager: 1 FTE;
- Relations with Stakeholders (requests): 1 FTE;
- Administrative Assistant: 1 FTE.

# ANNEX I: 2016 RESOURCE ALLOCATION PER ACTIVITY

Following the conclusion of the budgetary procedure, the human resources allocated to the activities foreseen in the AWP 2016 are envisaged to be the following:

- 54 Temporary Agents (TAs) available according to the establishment plan in 2015;
- 15 additional TAs allocated to the Agency in the adopted 2016 Budget, counted as ½ FTE each for the purposes of the work programme, on the assumption that they will be progressively recruited during the course of the year = 7.5 FTEs;
- Up to 30 Contract Agents (CAs), depending on budget availability. At the time of the revision of the Work Programme, 22 CA posts (short-term and long-term) were filled, while the remaining were to be recruited progressively during the course of the year and are counted at ½ FTE each. The total CA allocation thus amounts to  $22 + (8 \times 1/2) = 26$  FTEs;
- 6 Seconded National Experts, of which 2 cost-free for the Agency.

**The total FTEs allocated in the 2016 Work Programme = 54 + 7.5 + 26 + 6 = 93.5 FTEs**

## 2016 Full Time Equivalents - Breakdown per Activity:

Electricity Framework Guidelines & Network Codes: **5.2 FTEs**

Gas Framework Guidelines & Network Codes: **4.8 FTEs**

Gas Regional Initiative: **1.2 FTE**

Monitoring of the internal markets in electricity and natural gas: **8.5 FTEs**

TSO Cooperation: **5.9 FTEs**

TEN-E Regulation (Gas + Electricity): **4.9 FTEs**

Activities subject to specific conditions (Gas + Electricity): **3.5 FTEs**

Opinions and Recommendations on the Agency's own initiative (Gas + Electricity): **0.5 FTEs**

## Wholesale Market Monitoring

- Centralised European Registry for Energy Market Participants (CEREMP), Agency's REMIT information system (ARIS): **13.0 FTEs**
- Market monitoring of trading activity in wholesale energy markets: **7.5 FTEs**
- 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, relations with stakeholders, knowledge management and administrative assistant): **7.0 FTEs**
- Legal cell in the Director's Office and Legal Officer in Administration: **2.5 FTEs**
- National Regulatory Agencies Cooperation: **3.0 FTEs**
- Press and Communication: **2.0 FTEs**
- Events management: **1.0 FTE**
- Head of Administration (HoA), Assistant to HoA/Internal Control Assistant: **2.0 FTEs**
- Procurement and facility management **1.5 FTEs**
- Human Resources: **4.0 FTEs**
- Budget implementation and audit, including Financial Cell: **4.0 FTEs**
- ICT development: **4.0 FTEs**

<b>Total staff allocated in the 2016 AWP</b>	
Gas and Electricity	<b>34.5</b>
Wholesale Market Monitoring	<b>28.0</b>
Horizontal tasks	<b>31.0</b>
<b>Total</b>	<b>93.5</b>

## ANNEX II: FINANCIAL RESOURCES

**Table 1 – Expenditure**

Expenditure	2015		2016 Agency request		Authorised 2016	
	Commitment appropriations	Payment appropriations	Commitment appropriations	Payment appropriations	Commitment appropriations	Payment appropriations
<b>Title 1</b>	6,539,935	6,539,935	11,902,305	11,902,305	8,211,815	8,211,815
<b>Title 2</b>	2,522,483	2,522,483	3,156,886	3,156,886	2,693,770	2,693,770
<b>Title 3</b>	2,203,582	2,203,582	5,019,250	5,019,250	4,966,997	4,966,997
<b>Total expenditure</b>	<b>11,266,000</b>	<b>11,266,000</b>	<b>20,078,441</b>	<b>20,078,441</b>	<b>15,872,582</b>	<b>15,872,582</b>

EXPENDITURE	Commitment appropriations						
	Executed Budget N-1	Budget 2015	Budget 2016		VAR 2016 / 2015	Envisaged in 2017	Envisaged 2018
			Agency request	Authorised			
<b>Title 1</b>							
<b>Staff Expenditure</b>	<b>5,363,813</b>	<b>6,539,935</b>	<b>11,902,305</b>	<b>8,295,983</b>	<b>25.56%</b>	<b>12,668,389</b>	<b>12,921,757</b>
<b>11 Salaries &amp; allowances</b>	4,787,187	5,961,200	11,154,523	7,655,673	28.43%	11,429,314	11,665,833
- of which establishment plan posts	3,927,842.08	4,639,620	9,375,745	6,307,661	35.95%	9,300,250	9,494,188
- of which external personnel	859,345	1,321,580	1,778,778	1,348,012	2.00%	2,129,064	2,171,645
<b>12 Expenditure relating to Staff recruitment</b>	85,769	50,000	70,000	51,000	2.00%	182,400	186,048

<b>13 Mission expenses</b>	85,539	164,535	160,900	167,826	2.00%	182,169	182,169
<b>14 Socio-medical infrastructure</b>	44,586	30,000	73,632	30,600	2.00%	61,741	61,741
<b>15 Training</b>	166,460	100,000	180,000	152,000	52.00%	324,050	330,531
<b>16 External Services</b>	120,860	145,000	170,000	147,900	2.00%	336,000	342,720
<b>17 Receptions, events and representations</b>	5,919	12,000	15,500	12,240	2.00%	16,615	16,615
<b>18 Social welfare</b>	18,000	27,200	27,750	27,744	2.00%	40,000	40,000
<b>19 Other Staff related expenditure</b>	49,494	50,000	50,000	51,000	2.00%	96,100	96,100
<b>Title 2 Infrastructure and operating expenditure</b>	<b>2,424,084</b>	<b>2,522,483</b>	<b>3,156,886</b>	<b>2,573,017</b>	<b>2.00%</b>	<b>3,766,601</b>	<b>3,766,601</b>
<b>20 Rental of buildings and associated costs<sup>19</sup></b>	948,848	902,600	999,225	920,652	2.00%	1,211,710	1,211,710
<b>21 Information and communication technology</b>	418,643	425,500	477,450	434,010	2.00%	1,023,518	1,023,518
<b>22 Movable property and associated costs</b>	128,774	183,800	210,000	187,476	2.00%	302,500	302,500
<b>23 Current administrative expenditure</b>	130,142	158,000	162,460	161,160	2.00%	178,251	178,251
<b>24 Postage / Telecommunications</b>	56,550	77,500	78,000	79,050	2.00%	102,000	102,000
<b>25 Meeting expenses</b>	168,422	240,783	264,751	265,683	2.04%	253,922	253,922
<b>26 Running costs in connection with operational activities</b>	13,500	20,000	40,000	20,400	2.00%	164,700	164,700

<sup>19</sup> Including possible repayment of interest; detailed information as regards building policy provided in Table in Annex III.

<b>27 Information and publishing</b>							
<b>28 Studies</b>	559,205	514,300	925,000	524,586	2.00%%	530,000	530,000
<b>Title 3</b>							
<b>Operational expenditure</b>	<b>2,547,600</b>	<b>2,203,582</b>	<b>5,019,250</b>	<b>5,003,582</b>	<b>127.07%</b>	<b>3,431,148</b>	<b>5,431,148</b>
<b>to be specified by chapter</b>	2,547,600	2,203,582	5,019,250	5,003,582	<b>127.07%</b>	3,431,148	5,431,148
<b>TOTAL EXPENDITURE</b>	<b>10,335,497</b>	<b>11,266,000</b>	<b>20,078,441</b>	<b>15,872,582</b>	<b>40.89%</b>	<b>19,866,138</b>	<b>22,119,506</b>

## Table 2 – Revenue

Revenues	2015	2016	2016
	Revenues received by the agency	Requested by Agency	Authorised Budget
<b>EU contribution</b>	11,266,000	20,078,441	15,872,582
<b>Additional EU funding: ad hoc grants and delegation agreements</b>	0	0	0
<b>Other revenue</b>	0	0	0
<b>Total revenues</b>	<b>11,266,000</b>	<b>20,078,441</b>	<b>15,872,582</b>

REVENUES	2014	2015	2016		VAR 2016/2015	Envisaged N+2	Envisaged N+3
	Executed Budget	Revenues received by the agency	As requested by the agency	Authorised Budget			
<b>1 REVENUE FROM FEES AND CHARGES</b>							
<b>2. EU CONTRIBUTION</b>	10,335,497	11,266,000	20,078,441	15,872,582	40.89%	19,866,138	22,119,506
of which Administrative (Title 1 and Title 2)	7,095,897	8,647,418	14,351,191	10,161,000	17.50%	15,682,990	16,688,358
of which Operational (Title 3)	2,547,600	2,203,582	5,019,250	5,003,582	127.07%	3,431,148	5,431,148
of which assigned revenues deriving from previous years' surpluses	692,000	415,000	708,000	708,000	70.60%	752,000	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							
5 ADMINISTRATIVE OPERATIONS							
6 REVENUES FROM SERVICES RENDERED AGAINST PAYMENT							
7 CORRECTION OF BUDGETARY IMBALANCES							
<b>TOTAL REVENUES</b>	<b>10,335,497</b>	<b>11,266,000</b>	<b>20,078,441</b>	<b>15,872,582</b>	<b>40.89%</b>	<b>19,866,138</b>	<b>22,119,506</b>

## Table 3 - Budget outturn and cancellation of appropriations

### Calculation budget outturn

Budget outturn	2012	2013	2014
Revenue actually received (+)	7,241,850	11,934,419	10,895,960
Payments made (-)	-4,837,747	-6,561,834	-7,598,986
Carry-over of appropriations (-)	-1,951,409	-5,075,003	-2,736,510
Cancellation of appropriations carried over (+)	240,691	118,814	148,844
Adjustment for carry over of assigned revenue appropriations from previous year (+)	0	0	0
Exchange rate differences (+/-)	-782	-472	-756
Adjustment for negative balance from previous year (-)	0	0	0
Total	692,606	415,924	708,552

## ANNEX III: HUMAN RESOURCES

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

Staff population		Staff population actually filled in 31.12.2013	Staff population in EU Budget 2014 <sup>20</sup>	Staff population actually filled at 31.12.2014	Staff population in voted EU Budget 2015 <sup>21</sup>	Staff population in voted EU Budget 2016 <sup>22</sup>	Staff population envisaged in 2017 <sup>23</sup>	Staff population envisaged in 2018 <sup>24</sup>
Officials	AD	0	0		0			
	AST	0	0		0			
	AST/SC	0	0		0			
TA	AD	33	39	37	39	54	80	80

<sup>20</sup> As authorised for officials and temporary agents (TA) and as estimated for contract agents (CA) and seconded national experts ("SNE").

<sup>21</sup> As authorised for officials and temporary agents (TA) and as estimated for contract agents (CA) and SNE.

<sup>22</sup> *Ibid*

<sup>23</sup> Anticipated request for staff by the Agency.

<sup>24</sup> *Ibid*.

	AST	14	15	15	15	15	22	22
	AST/SC	0	0					
<b>Total<sup>25</sup></b>		<b>47</b>	<b>54</b>	<b>52</b>	<b>54</b>	<b>69</b>	<b>102</b>	<b>102</b>
CA GFIV		1	5	4	9	16	18	18
CA GF III		0	0	0	0	7	8	8
CA GF II		6	6	6	6	7	7	7
CA GFI		0	0					
<b>Total CA<sup>26</sup></b>		<b>7</b>	<b>11</b>	<b>10</b>	<b>15</b>	<b>19</b>	<b>33</b>	<b>33</b>
<b>SNE<sup>27</sup></b>		<b>15</b>	<b>12</b>	<b>11</b>	<b>8</b>	<b>4</b>	<b>4</b>	<b>4</b>
<b>TOTAL</b>		<b>69</b>	<b>77</b>	<b>73</b>	<b>77</b>	<b>92</b>	<b>139</b>	<b>139</b>

<sup>25</sup> Headcounts

<sup>26</sup> FTE

<sup>27</sup> FTE

**Table 2 - Multi-annual staff policy plan Year 2016 -2018**

Category and grade	Establishment plan in EU Budget 2014 <sup>28</sup>		Modifications in 2014 in application of flexibility rule <sup>29</sup>		Establishment plan in voted EU Budget 2015 <sup>30</sup>		Modifications envisaged in establishment plan 2015 in application of flexibility rule		Establishment plan in voted EU Budget 2016 <sup>31, 32</sup>		Establishment plan 2017 <sup>33, 34</sup>		Establishment plan 2018 <sup>35, 36</sup>	
	officials	TA	officials	TA	officials	TA	officials	TA	officials	TA	officials	TA	officials	TA
AD 16														
AD 15										1		1		1

<sup>28</sup> Establishment plan grades (EU Budget 2014) and promotions in 2013.

<sup>29</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>30</sup> Establishment plan grades (EU Budget 2015) and promotions in 2014 (incl. modification of the establishment plan in application of the flexibility rule).

<sup>31</sup> Current grades (2015) and new posts requested. No information on 2015 reclassifications (not yet available).

<sup>32</sup> These are recruitment grades

<sup>33</sup> Future reclassifications are not included.

<sup>34</sup> These are recruitment grades

<sup>35</sup> *Ibid.*(33)

<sup>36</sup> These are recruitment grades

AD 14		1				1								
AD 13														
AD 12														
AD 11		4				4				5		5		5
AD 10														
AD 9		2				2				2		2		2
AD 8		7		8		6				10		13		13
AD 7		6		5		6				10		11		11
AD 6		5		4		7				7		11		11
AD 5		14		15		13				19		37		37
<b>Total AD</b>		<b>39</b>				<b>39</b>				<b>54</b>		<b>80</b>		<b>80</b>
AST 11														
AST 10														
AST 9														
AST 8														

AST 7														
AST 6														
AST 5		1				1				1		1		1
AST 4		1				1				1		2		2
AST 3		13				13				13		19		19
AST 2														
AST 1														
<b>Total AST</b>		<b>15</b>				<b>15</b>				<b>15</b>		<b>22</b>		<b>22</b>
AST/SC6														
AST/SC5														
AST/SC4														
AST/SC3														
AST/SC2														
AST/SC1														
<b>Total AST/SC</b>										15				

<b>TOTAL</b>		<b>54</b>		<b>54</b>		<b>54</b>		<b>54</b>		<b>69</b>		<b>102</b>		<b>102</b>
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# ANNEX IV: RECRUITMENT, APPRAISAL AND STAFF MATTERS

## A. Recruitment policy

### a) Different categories of staff

#### **Officials**

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

#### **Temporary agents on long-term employment**

The criteria for the identification of the posts as being of long-time duration are the following:

- posts covering tasks of a permanent nature as resulting from the mandate and business plan of the Agency;
- posts allowing to safeguard continuous expertise in a specific field.

All tasks, both in the AD and the AST function groups, are of a permanent nature and are carried out by the core Agency staff. All these temporary agent posts (with the exception of the Director's post) are identified as posts of long-term duration.

#### **Temporary agents on short/medium term employment**

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

#### **Contract agents on long-term employment**

Given the austerity measures among national authorities, and the fact that finding suitable Seconded National Experts poses a challenge for the Agency, it has been decided to recruit contract agents who will support the Agency on a more stable and long-term basis with their expertise instead of Seconded National Experts.

#### **Contract agents on short-term employment**

The Agency has been given new tasks under REMIT and the European Infrastructure Package. These new tasks have considerably increased the workload and the need for additional administrative and secretarial support. The percentage of long-term staff involved in the administration work at the Agency is currently very low (18.5%) compared to the Commission (42%).

To that end, the Agency had to recruit contract agents for short-term employment as of 2012. As indicated in the already approved MSPP 2012-2014, the Agency needs contract agents for short-term employment at certain periods of time, specifying that the criteria used to recruit such category of staff are the following:

- Reinforcement of existing capacities in support and administrative functions when necessary.
- To work on specific, time-limited projects.
- To fill gaps during long-time absences.
- Exceptionally, to reinforce capacities in areas of work where a specific competence profile is needed for a limited time period, or where a long-term requirement has not yet been defined.

### **Seconded National Experts (SNEs)**

Seconded National Experts (SNEs) are national or international civil servants coming from a national, regional or local public administration or an International Governmental Organisation (IGO), working temporarily for the Agency under the rules applicable to such experts. They have a dual role: to bring to the Agency their experience of the issues they are used to dealing with where they normally work and to take back to their home administration the knowledge of the Agency issues which they acquire during their secondment.

Their task is to assist the Agency's staff, carrying out the duties assigned to them under the Work Programme. They may not carry out official acts that commit the Agency vis-à-vis third parties. When their activities are defined, areas in which there may be a conflict of interests for the Agency and/or Community are avoided.

National experts are to work in the field defined in their working agreements. There should be no conflict of interest between the work assigned to them and the work they perform for the seconding institution.

National experts have the same obligations as other Agency staff - they must, in the course of their work, act solely in the interest of the Agency. Under no circumstances are they to enter into financial commitments on behalf of the Agency, nor are they to be allowed to negotiate on relevant matters.

#### **b) Selection procedures**

The selection procedures involve the following steps:

- Publication of a vacancy notice on the ACER 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 ACER, 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.

#### 1) Recruitment of temporary and contract agents

The recruitment policies for temporary and contract agents were established with the respective implementing rules adopted by the Agency in 2011 (Administrative Board Decision AB n° 10/2011 on the adoption of general implementing provisions on the procedure governing the engagement and the use of temporary agents at ACER and Administrative Board Decision AB n° 11/2011 on the adoption of general implementing provisions on the procedures governing the engagement and the use of contract staff at ACER). Staff recruitments are carried out in accordance with these implementing provisions.

Director Decision 2014-06 on Guidelines on recruitment procedures and work of the Selection Committees further ensures that the principles of independence, impartiality and equal treatment and sound administration are enshrined in all the selection procedures. It allows for greater transparency and further facilitates equal treatment of candidates.

#### 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, renewed up to a total period of four years.

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.

c) 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.

d) Duration of employment

The Director's post is that of a short-term temporary agent. He was 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, on the basis of a proposal from the Commission endorsed by the Administrative Board after consultation with the Board of Regulators.

This proposed duration of employment was approved by the Commission and adopted through the implementing rules under Article 110 procedure (Article 6(3) on duration of contracts of the Administrative Board Decision AB n° 10/2011 on the adoption of general implementing provisions on the procedure governing the engagement and the use of temporary agents at ACER). It is also dependent on an unchanged ACER mandate.

Long-term temporary agents are offered a first fixed-term contract of five years. Considering the long-term or permanent nature of the regulatory tasks entrusted to ACER, the extension following the initial 5 years fixed-term contract will be for an indefinite duration (Article 6(1) on duration of contracts of the Administrative Board Decision AB n° 10/2011). All extensions of contract for temporary agents will be subject to a confirmation of the long-term need for the post, based on the establishment plan, budget availability and to a thorough examination of the performance of the post holder.

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 between three months and five years. Any further renewal of a contract agent's contract in function groups II to IV shall lead to an indefinite-duration contract if the first two contracts covered a total period of at least five years.

Contract agents for short-term functions are recruited for time-limited support and administrative functions, for time-limited projects, and for compensating long absences of staff on long-term functions. They are offered an initial fixed-term contract whose duration is based on the duration of the tasks to be performed, but will certainly not exceed five years.

### **e) Structural service providers<sup>37</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).

- Tender procedure: ACER/OP/ADMIN/12/2012
- Duration of the contract: 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.

- Tender procedure: ACER/OP/ADMIN/21/2012
- Duration of the contract: 4 years

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

- Tender procedure: ACER/OP/MMD/12/2013
- Duration of the contract: 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: 24 months

The Agency will use 1 IT consultant with the task of networking consultancy.

- Tender procedure: DIGIT FWC DI/07030
- Duration of contract: 3 working days with first half to 2015.

The Agency will use up to six Interims (on short-term or *when needed* basis) with the task 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>37</sup> NB Structural service providers are not employed by the agency.

## B. Appraisal of performance and reclassification/promotions

Table - Reclassification of temporary staff/promotion of officials

Category and grade	Staff in activity at 1.01.2014		How many staff members were promoted/reclassified in 2015		Average number of years in grade of reclassified/promoted staff members
	officials	TA	officials	TA	
AD 16					
AD 15					
AD 14		1			
AD 13					
AD 12		1		2	4.4
AD 11		3			
AD 10		1		1	
AD 9		4		1	
AD 8		5		1	
AD 7		4			
AD 6		6		2	
AD 5		13			
<b>Total AD</b>		<b>38</b>		<b>7</b>	
AST 11					
AST 10					
AST 9					
AST 8					
AST 7					
AST 6					
AST 5		1			
AST 4		3		2	3.58
AST 3		10			

AST 2					
AST 1					
<b>Total AST</b>		<b>14</b>		<b>2</b>	
AST/SC6					
AST/SC5					
AST/SC4					
AST/SC3					
AST/SC2					
AST/SC1					
<b>Total AST/SC</b>					
<b>Total</b>		<b>52</b>		<b>9</b>	

#### Reclassification of contract staff

No contract staff was reclassified in 2014.

#### **Appraisal of performance 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.

The Administrative Board 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).

In compliance with the Staff Regulations and in line with the requirements of the decisions on performance appraisal, a Joint Appraisal and Reclassification Committee (JARC) has also been established and its members and alternates are nominated on an annual basis with the launch of the performance appraisal exercise.

The third annual performance appraisal exercise for the Agency's staff was launched in January 2014. It was performed electronically via the Annual Performance Appraisal tool. Its purpose was to review individual performance and achievements over the last year and to identify career development prospects and objectives.

The performance appraisal assessed the period from 01 January 2013 to 31 December 2013. The procedure was mandatory for all temporary and contract staff and SNEs who worked a minimum of four continuous months in 2013. For staff that worked less than four months during 2013, only objectives and training needs for 2014 were agreed with the Reporting Officer and validated by the Countersigning Officer. In order to familiarise the staff with the new procedure, an information session on Performance Appraisal was organised and additional information

presented in the Performance Appraisal Guidelines (defining the scope of the exercise; the timeline; the appraisal actors, roles and responsibilities; self-assessment; evaluation criteria and assessment levels; guidelines for setting performance objectives, etc.) and the Performance Appraisal End User Manual. All staff eligible for assessment have undergone the performance appraisal exercise.

The fourth performance appraisal exercise, assessing the period from 01 January 2014 to 31 December 2014, has been launched in the beginning of 2015.

The Agency's policy on the **promotion and reclassification of staff** is based on the relevant implementing rules of the European Commission. The Administrative Board adopted two decisions on the reclassification (Decision AB n° 11/2012 establishing the policy and procedure for the reclassification of temporary agents and Decision AB n° 12/2012 establishing the policy and procedure for the reclassification of contract agents).

Long-term temporary agents for assistant positions can be reclassified up to the grade of AST11 and administrative positions will, as a rule, be reclassified up to grade AD14 in line with the AB Decision establishing the policy and procedure for the reclassification of staff.

The list of temporary agents and contract agents proposed for reclassification is drawn up by the Management Committee. Reclassification is decided by the Authority Habilitated to Conclude Contracts (AHCC), based on the proposal from the Management Committee.

## C. Mobility policy

### *Internal mobility*

The Agency started with recruitment procedures in 2010 and continued to recruit the remaining staff in the past 4 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 75 staff (TAs and CAs) members recruited in the period 2010 – 2014, 30 staff members came from other institutions (11 from EU agencies, 4 from Permanent Representation, 15 from EC).



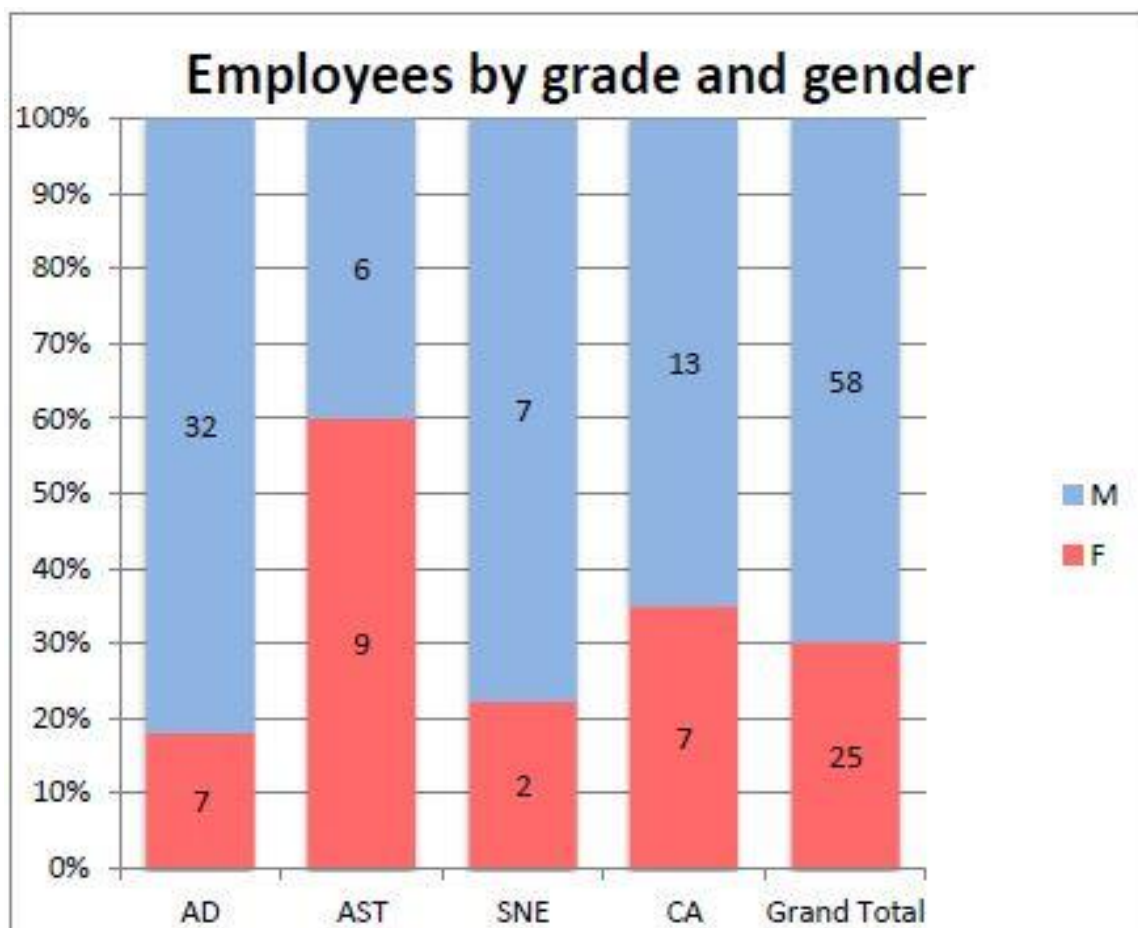
## D. Gender and geographical balance

### 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.

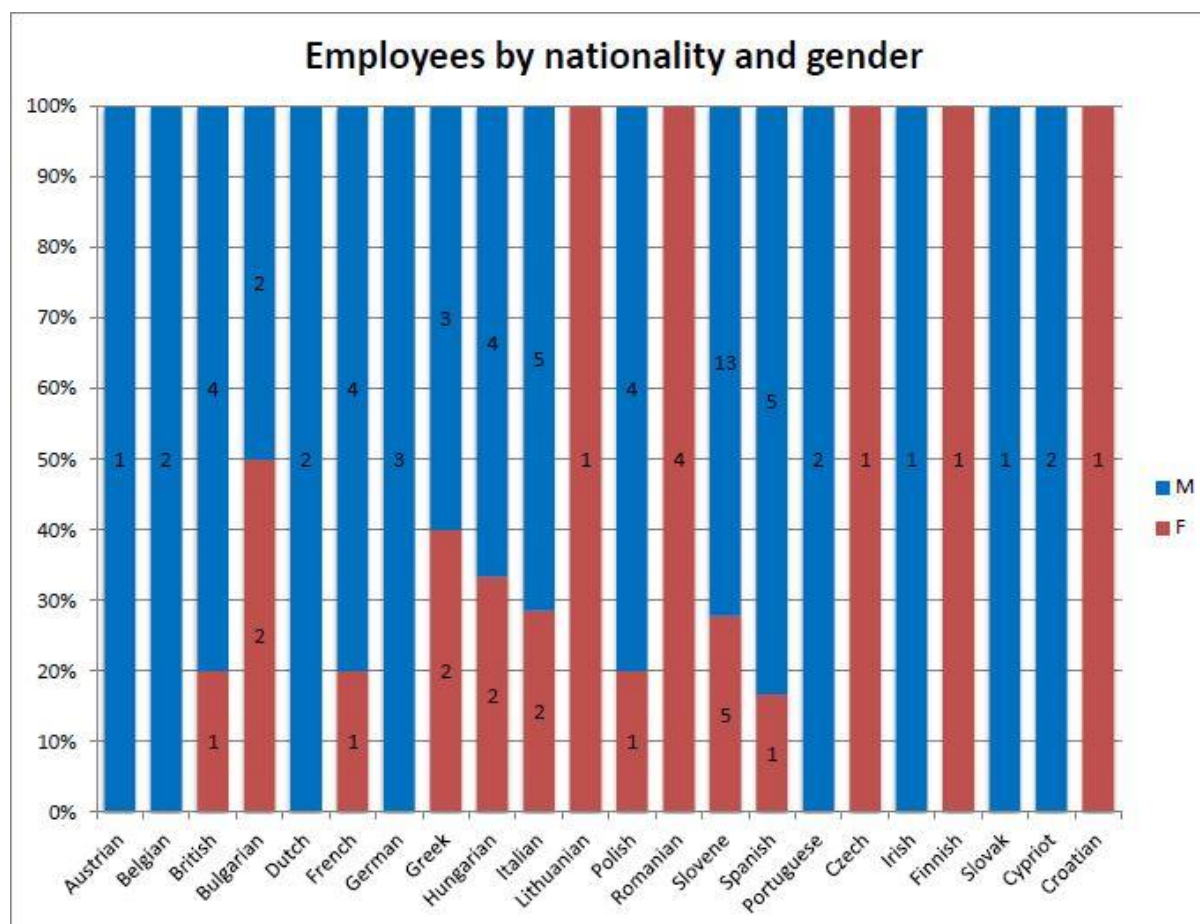
The graph below represents an overview of the Agency's staff by grade and gender as of 1<sup>st</sup> January 2016.



## 2) Geographical balance

In 1<sup>st</sup> January 2016, ACER employed 73 staff members and had 9 SNEs of different geographical origin. Staff and SNEs came from 22 different EU countries: Austria, Belgium, United Kingdom, 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 in 1<sup>st</sup> January 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 109 working places. At the moment the Agency has 95 staff members (this includes temporary agents, contract agents, seconded national experts, interim staff and trainees) and 8 working places available for consultants working on site.
Surface area (in square metres)	3,144.54 m <sup>2</sup> and 35 parking spaces	
- Of which office space	2,909.54 m <sup>2</sup>	
- Of which non-office space	235.00 m <sup>2</sup>	
Annual rent (in EUR)	720,629.70	Of which rent only EUR 633,561.90 and parking EUR 87,067.80

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.

## ANNEX VII: 2016 INDICATIVE PROCUREMENT PLAN FOR OPERATIONAL TASKS

Tasks	Estimated value in Eur <sup>38</sup>	Tentative number of contracts <sup>39</sup>	Tentative timeframe <sup>40</sup>
Web application development, software maintenance and remote support to stakeholder services	707,500	2	Q2-Q4
IT infrastructure hosting services for the Agency	2,000,000	3	Q2-Q3
IT consultancy services for the implementation of the Agency's REMIT Information System (ARIS)	686,415	2	Q2-Q4
Market monitoring system for the Agency's REMIT information system (ARIS)	450,000	2	Q3-Q4
Oracle software licences and associated services	500,000	3	Q2-Q3
Provision of legal assistance in the field of energy regulation for the Agency	90,000	2	Q1-Q3
Provision of economic assistance in the field of energy regulation for the Agency	220,000	3	Q1-Q3
Provision of technical assistance in the field of energy regulation for the Agency	180,000	2	Q1-Q3
Provision of catering services for the Agency's events	60,000	1	Q1-Q4
Provision of conference room facilities and catering services in Brussels for the Agency's events	20,000	2	Q1-Q4
Provision of printing services for the Agency	15,000	1	Q1-Q4

<sup>38</sup> Estimated commitments 2016.

<sup>39</sup> Framework contracts, specific contracts, direct contracts, amendments or agreements, as appropriate. Order forms throughout the year are counted as one contract.

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

Provision of legal and administrative support services to the Agency's Board of Appeal	20,000	2	Q2-Q4
Agency's website set-up and maintenance services	159,500	3	Q2-Q4
Provision of design services for the Agency	20,000	1	Q1-Q4
General legal support services for the Agency (Slovenian law and litigation before the Slovenian courts, EU social law and litigation before the Civil Service Tribunal and litigation before the EU Courts)	60,000	3	Q1-Q4
<b>TOTAL PLANNED PROCUREMENT 2016</b>	<b>4,990,415</b>	<b>32</b>	

## ANNEX VIII: KEY PERFORMANCE INDICATORS

### External Communication

Task	Agency Website
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> <ul style="list-style-type: none"> <li>- 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.</li> </ul>
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>

Task	Relations with media / information for stakeholders
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>



## **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**

Task	Budget Implementation and Audit
Objectives	<p>To achieve a high level of budget implementation for both commitment and payment appropriations.</p> <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.</p>
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	<p><b>14.</b> 80% of staff satisfied or very satisfied with IT services on the basis of an annual satisfaction survey.</p>

## **Regulatory practice and cooperation with NRAs**

Task	Regulatory Cooperation
Objectives	<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 the most efficient 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>
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 delivery of Framework Guidelines, Network Codes (amendments) and related opinions and recommendations and support the comitology procedure.
KPI	<b>16.</b> 90% of above acts delivered according to the timelines indicated in the Work Programme (i.e. in line with the Three-Year Plan or legal deadlines set by the Regulations), as possibly updated by the Planning Group process.

### **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 delivery of <ul style="list-style-type: none"> <li>• Framework Guidelines or their review</li> <li>• Opinions and Recommendations on Network Codes (amendments)</li> <li>• Support to comitology procedure</li> <li>• Implementation monitoring reports</li> </ul>
KPI	<b>17.</b> 90% of acts delivered according to the timelines indicated in the Work Programme (i.e. in line with the Three-Year Plan or legal deadlines set by the Regulations), as possibly updated by the Planning Group process.

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

Tasks	<p>Key reports produced by the Agency in the Gas and Electricity fields:</p> <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>C) <u>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> <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.

<b>Tasks</b>	<p><b>ENSTO-G related opinions, reviews, recommendations and reports:</b></p> <p><b>Opinions on ENTSG's annual work programme 2017 and ENTSG's annual report 2015</b></p> <p><b>Opinions on ENTSG's common network operation tools including a common incidents classification scale and research plans</b></p> <p><b>Opinions on ENTSG'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 ENTSG'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 ENTSG.</p> <p>Opinion on ENTSO-G's Work Programme: within two months after receipt of the document from ENTSO-G.</p> <p>Opinion on ENTSG's other documents: after receipt of the document from ENTSG.</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.
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### **Wholesale Market Monitoring – REMIT**

<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.  To collect and make data available for internal assessment and for sharing with NRAs for REMIT purposes.
KPI	<b>23.</b> 99% system availability.  <b>24.</b> 0 breaches of the security system with a data leakage involved.

<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.



Task	Coordination of NRAs and other relevant authorities, including at the regional level, without prejudice to their responsibilities
Objectives and deadlines (indicative)	<p>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.</p> <p>Coordination of investigation of alleged cross-border market abuse instances as required.</p>
KPIs	<b>26.</b> The performance indicators and targets will be defined once the revised market monitoring strategy is developed.

Task	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
Objectives and deadlines (indicative)	<p>Cooperation on the basis of Memoranda of Understanding (MoUs);</p> <p>Coordination of investigation of alleged cross-border market abuse instances as required.</p>
KPIs	<b>27.</b> Conclusion of MoUs with relevant authorities and implementation of the MoUs in practice through regular meetings with the relevant authorities.

Task	Reporting on REMIT: Annual Report on the Agency activities under REMIT
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

	<p>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.</p> <p>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>Expected submission of the Annual Report of REMIT: Q2/Q3.</p>
KPI	<b>28.</b> Submission of the Annual Report on REMIT implementation by end Q3.

Task	Implementation of Conflict of Interest Policy
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 submitted by the deadline reviewed by end of April.</p> <p><b>30.</b> All Dols submitted by the deadline published by end of April.</p>

## ANNEX IX: ACER RISK REGISTER 2016<sup>41</sup>

[illegible]

<sup>41</sup> **Only for critical risks**

<sup>42</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>43</sup> Internal vs. External

<sup>44</sup> Avoid / Transfer / Reduce / Accept

<p>the EU Budget, despite the increase in human resources foreseen compared to 2015 (additional 15 staff members).</p> <p>The registration process takes place at a national level. NRAs may not have sufficient resources for managing the strict deadline of 3 months for completing the first phase of registration, especially in countries with a high number of market participants.</p> <p>The success of REMIT in general also depends on the cooperation with National Regulatory Agencies, 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</p>	<p>External</p> <p>External</p> <p>Internal</p> <p>External</p>	<p>(CEREMP) and the Agency's REMIT Information System (ARIS)</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>the completion of the registration process in the timeframe envisaged by REMIT.</p> <ul style="list-style-type: none"> <li>- Revision of the Work Programme and review of priorities in line with the available funds and allocation of human resources.</li> <li>- Implementation of internal security measures.</li> </ul>		<p>Q1</p> <p>Q1 – Q4</p>
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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).						
Risk Description	Risk type	Activity/Objective affected	Risk Response	Action Plan Summary		
<u>HORIZONTAL MATTERS</u>						
<b>2. Human Resources Management</b> A decrease of the correction coefficient for Slovenia affecting the staff's salaries could have a significant negative impact on the staff recruitment (attracting new staff) and on staff retention.	External	Human resources – recruitment and retention of staff in general	Accept/ Reduce	<ul style="list-style-type: none"><li>- The Agency will continue to participate in the Agencies' Coordination working group to ensure a better understanding of the calculation of the correction coefficient and of the statistical data used within this procedure.</li><li>- The Agency may also consider the introduction of social measures for staff in line with Art.1e of Staff</li></ul>	Administration	Q1 – Q4

				Regulations to address, at least, in part a potential further decrease of the correction coefficient.		
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