

5th Market European Stakeholder Committee
 Wednesday, 7 September 2016 from 10:30 to 16:30
ENTSO-E, 100 Avenue de Cortenbergh, Brussels

Draft Minutes

Participants			
Christophe	GENCE-CREUX	ACER	Chair
Rodrigo	ESCOBAR	ACER	
Matthias	RÜTZEL	ACER	
Sven	KAISER	ACER	
Matti	SUPPONEN	European Commission	
Blanca	ANDRES-ORDAX	European Commission	
Mark	LANE	ENTSO-E	
Zoltan	GYULAY	ENTSO-E	
Marta	MENDOZA-VILLAMAYOR	ENTSO-E	
Corné	MEEUWIS	ENTSO-E	
Stela	NENOVA	ENTSO-E	Secretariat
Ritva	HIRVONEN	ENTSO-E	
Cris	COTINO	ENTSO-E	
Frank	VANDENBERGHE	ENTSO-E	
Athanasios	TROUPAKIS	ENTSO-E	
Mark	CSETE	ENTSO-E	
Jerome	LE PAGE	EFET	
Paul	GIESBERTZ	EFET	
Arben	KLLOKOQI	EFET	
Sonia	SALY	EFET	
Steve	WILKIN	Europex	
Andrew	CLAXTON	Europex	
Christian	BAER	Europex	
José Javier	GONZALEZ	Europex	
Rickard	NILSSON	Europex	
Pierre	CASTAGNE	EURELECTRIC	
Ruud	OTTER	EURELECTRIC	
Charlotte	RENAUD	EURELECTRIC	
Rabia	IKRAM	EURELECTRIC	
Peter	CLAES	IFIEC	
William	CHAN	IFIEC	

1. Opening

1.1 Welcoming address + Approval of minutes + Draft Agenda

The draft agenda and the minutes of the 4th MESC meeting were approved.

1.2. Update on recent developments (market suspensions in the E&R NC + Winter Package + relationships between MESC and BSG, Workshop on 2015 MMR wholesale chapters, etc.)

Christophe Gence-Creux (ACER) invited all to attend the upcoming ACER Workshop on 21st September in Ljubljana where the chapter on wholesale electricity and gas of the ACER Market Monitoring Report (MMR) will be presented. The MMR was split into 5 parts this year (wholesale electricity, wholesale gas, retail, consumer protection chapters + the main document, which includes a summary of the main findings and some recommendations). The wholesale chapters, to be released around mid-September, will include analysis on capacity calculation methods, progress and obstacles in different timeframes, respectively for both electricity and gas.

The Chair underlined that the relationship between the MESC and the BSG should remain as it currently is but the MESC and BSG meetings can be organized back-to-back in the future. In case of concerns with balancing-related topics, the procedure is first to raise the concerns directly through the BSG group, and only if the concern is not addressed in the BSG, then it should be brought up in the MESC to explore solutions.

Blanca Andres-Ordax (EC) provided an update on the Emergency & Restoration Code (E&R). She noted that the EC has started discussing the E&R text with CBC members in April. Several meetings took place to discuss the informal working versions of the code. In early July the official updated version was published. The EC is working on accommodating comments from Member States (MS) in the committee and has received feedback from many MS. No big issues of concern have been noted so far, so the EC is hoping for a positive vote soon.

Paul Giesbertz (EFET) raised one concern of EFET in the context of the the E&R code. Paul reminded of some basic principles of market participants' behavior as suggested by William Hogan at a CREG Workshop in June 2016 that the main focus should be first on getting the prices right through appropriate models for real-time prices. Only after all market solutions have been used, would it make sense to focus on out-of-market payments and forward market rules, since all energy delivery takes place in the real-time market and market participants will anticipate and make forward decisions based on expectations about real-time prices.

EFET suggested 3 proposals to ensure this principle works: proper setting of imbalance prices (this should be tackled in the implementation of the EBGL), ensuring that imbalance settlement prices reflect VoLL in times of physical scarcity (which could still be tackled in the E&R code), and allowing for back-propagation of such prices in ID, DA and forward markets. Paul Giesbertz reminded that in cases of emergency and to avoid blackout there is actual physical scarcity and it is exactly then that the market prices need to work. Any intervention taking place in such cases will impact the market and this should be evaluated. Furthermore, it is important for scarcity prices to be able to emerge, especially in the energy-only market. Anti-trust provisions should be enforced and market abuse should be monitored properly so that there are no barriers to the free formation of prices and so that scarcity and surplus prices can materialise.

Paul Giesbertz (EFET) suggested that a principle to ensure imbalance price reflects the value of the actions should be added, for example looking at the VOLL and the value of this intervention. If nothing is arranged, in most extreme cases there would be no price, which would mean a risk of suppression of market prices. EFET hopes that these elements can be addressed in the E&R code as they are fundamental in nature, and suggested that Art. 39.3 detailing the settlement rules foresees that the rules "ensure that the imbalance price reflects the value of the actions taken by the TSO to maintain and restore the system."

Blanca Andres-Ordax (EC) clarified that the E&R code is a first step to provide a harmonized framework at EU level. The EC can review the situation in a few years, and then draw conclusions on how markets are regulated, as now it is too premature to go into details. Regarding the settlement, the market interactions chapter of the E&R code gives general guiding principles. It should be always taken into account that we talk about maintaining market functioning until the very end, and if any intervention follows, it can be only in extraordinary cases and only if justified.

Rickard Nilsson (Europex) commented that the text of the code is very vague and general but that there can be major implications in terms of risks due to the lack of clarity, and questioned whether the market arrangements should be tackled in this code. The code seems reasonably clear on the technical aspects, but should be on the market aspects mainly related to possible TSO determined interruption or re-starting of organized markets, such as Single Day Ahead and Intra Day Coupling, are very unclear, and again questionable if this should be dealt with in this E&R code and not instead as part of further detailing linked to CACM GL. The time it takes to restore normal functioning of the grid will differ depending on the size of the emergency situation, whether or not it has materialised into a blackout, the size of the given blackout and the size of the events that caused the grid system emergency/blackout. Accordingly there will also be different implications on the market arrangements as many events, even blackouts, would normally not have to impact Day Ahead timeframe and also on limited basis Intra Day trading beyond maybe maximum 6-10 hours forward in time. If TSOs declare what the condition of the grid is expected to be for tomorrow, the DA market doesn't need to be suspended, provided that the estimate is that the grid will largely be intact again DA, and the ID market can still be opened or continue to be open for at least the periods of the next day. He enquired on more details on how the market arrangements will be working and asked when and where these details would be found and as such be based on common agreement with All NEMOs that are charged to operate Single DA/ID Coupling via their MCO Function(s).

Blanca Andres-Ordax (EC) clarified that once the E&R code is adopted and implemented, there will be a follow-up. The regulatory oversight is in place as the NC imposes on ENTSO-E to monitor and report on how the provisions on market interactions are functioning in Member States. At present, a lot is done mainly at the national level, and the E&R NC is giving the European framework to achieve a higher degree of harmonization across MS.

Paul Giesbertz (EFET) pointed out that the E&R is a system operation code but that it is very important that market aspects are properly governed and managed as well. He noted that principles should be correct and that there is always a possibility that the market can't meet the demand and that some emergency situation appears. For some hours per year, such situation could happen, and if it happens, its impact on the market and market prices can be potentially significant. If this is not covered now in the E&R code, the EC should find a way to address this issue in the upcoming package.

Andrew Claxton (Europex) warned against labelling codes as „only market“ and „only operations“ since there are market implications of system operation codes which should also be addressed in the MESC. For example, regarding the VOLL aspect, CACM mentions VOLL in min/max prices in DA and ID markets that are supposed to reflect VOLL, and agreed with EFET's proposal in this context – the VOLL price should be the price of curtailment in the real time balancing arrangements. It is not for the market to set VOLL but market prices will reflect VOLL as it is in the imbalance prices.

Steve Wilkin (Europex) asked that there is consistency between the E&R code and the EBGL for assignment and delegation to non-TSO third parties e.g. where the task of imbalance settlement is carried out by non-TSO third parties under the EBGL, that doesn't cease when there is market suspension under the E&R code. This principle of assignment and delegation seems to be already in the EBGL but not yet in the E&R and it should be recognized in both codes.

Zoltan Gyulay (ENTSO-E) agreed that these scarcity pricing principles should go hand in hand in the EBGL and the E&R and noted that there can't be one solution that fits all, and that unserved energy can have many causes besides generation outage, a network element can influence outage but might not necessarily be connected to imbalances.

Blanca Andres-Ordax (EC) pointed out that this is introduced in a recital in the E&R as well. In case of scarcity, and not just about scarcity in general, the chapter includes some conditions under which TSOs might exceptionally be authorized to suspend the market.

Paul Giesbertz (EFET) noted that EFET does not criticize or dispute the necessity of interventions in emergency but pointed out that it has to be recognized that there is a settlement and that even in emergency situations, there has to be a price. If there are no principles about this, then exposure to scarcity prices might not work, and this is a risk for all.

Pierre Castagne (EURELECTRIC) commented that one principle on settlement seems to be missing – the code should deal with difficult situations where TSOs need to work together with third parties to solve these. Third parties should not question some specific orders too long and should accept them, and there should not be penalties about such type of request in the case of such difficult situations. If TSOs want market players to take specific actions in such type of situations, then the principles for these actions should be in the code too.

The Chair noted that if there is an issue about consequences of market suspension, the E&R code is not necessarily the place where this should be addressed. He will remind colleagues working on balancing issues to make sure this is addressed in the final version of the EBGL.

Rickard Nilsson (Europex) pointed out that the code should be respected but that there are many market-related issues and asked if a stakeholder workshop on this topic could be organized soon. Europex is interested.

The Chair noted he will warn colleagues to address these issues at the next BSG as the BSG is the right framework for this, and the next BSG meeting agenda will reflect this.

Matti Supponen (EC) noted that the EC is quite advanced in the process of NCs but that it is open to comments on the code and that these ideas can be brought to the EC's attention through the MS. Matti agreed with the ideas brought up by EFET.

Update on the Winter Package

Matti Supponen (EC) provided a brief update on the Winter Package. The EC did in July the impact assessment (IA) to the Winter Package, which doesn't show a proposal, just outlines various options and justifications for the options, pointing out the ones the EC would prefer. The IA Board meeting in mid-September will examine the IA. The EC is drafting the legal proposal regarding market design, including a revision of the electricity directive, the electricity regulation, the RES directive, and the proposal on the energy efficiency directive. No major surprises are expected compared to the Florence Forum. Inter-service consultation should start in early October. The EC proposals will then go to the Council and the Parliament, with an estimated final adoption in 2018.

Regarding the timing, some changes can happen but no major reasons seen for a delay of the package. Regarding the package content, there are 5 key themes or „clouds“ – some new proposals on balancing can be expected, as well as more progressive proposals in the WP. TSO cooperation, flexibility needs, and adequate price signals are some of the major themes, as well provisions on capacity remuneration mechanisms, and a new chapter to translate the security of electricity supply directive into a security of electricity supply regulation to address risk preparedness. Consumer is put in the middle with provisions for the right to self-consume, the right to manage data, and for the relations between service providers and consumers. Additionally, as there will be lots of small scale generation in parallel to big power plants supplying all types of customers, this will require new thinking on ensuring that tariff structures are adequate for the future. Many people have recognized the importance of big data – the idea is to ensure that there is neutral treatment in access to data. The WP will outline the main principles. On governance, the objective would be to streamline the governance, reshuffle powers of ACER, and ensure stronger TSOs cooperation.

2. Capacity Allocation and Congestion Management Guideline

2.1. Update on the CACM GL implementation

Marta Mendoza (ENTSO-E) provided an update on the CACM status and upcoming consultations. On the determination of capacity calculation regions, TSOs submitted their proposal in Nov. 2015, and a decision from ACER is expected by Nov. 2016. The Generation and Load Data Provision Methodology was submitted by TSOs in June 2016 and an answer is expected from the regulators. The CGM methodology has also been submitted by TSOs in June 2016.

On Congestion Income Distribution Arrangements, TSOs submitted their proposal in August 2016, and further information is also available on the ENTSO-E website [here](#). Regarding the Methodology for scheduled exchanges, a consultation will be open in October for 1 month. TSOs will submit methodology according to the CACM, by Dec. 2016.

On the fallback, this should be done by CCRs but CCRs are not defined yet as the ACER decision is still expected. There will be 1-month consultation as soon as the CCRs are established. ENTSO-E, in cooperation with ACER and NRAs, will look for a solution as the timings for submission of the methodologies by CCRs are unfeasible due to the delayed decision on the CCR establishment. On DAFD and XBIDG opening and closing time, ENTSO-E held consultations and submission of the proposals to NRAs is expected by December 2016.

On the Requirements for the Price Coupling & Continuous Matching Algorithm for DA and ID, all TSOs have submitted the proposal to NEMOs in April 2016 and are now working in cooperation with NEMOs. NEMOs and TSOs expect to develop the Common set of requirements for price coupling & continuous matching algorithm and the algorithm and hold a joint All-NEMO and All-TSO consultation in October 2016 with the aim for submission of a final proposal by Feb 2017.

Maximum and Minimum Clearing Price limits and Back up Methodologies: the expectation is for All-NEMO to start consultation in October 2016 for a submission by Feb. 2017. Monitoring plan for Agency opinion was submitted by ENTSO-E (Feb. 2016) and ACER's opinion was received in June 2016.

The List of information to be communicated by ENTSO-E to the Agency was submitted to ENTSO-E in February 2016 and work is ongoing.

Paul Giesbertz (EFET) asked if the price caps on ID and DA should also cover caps on offers and bids too. Marta Mendoza (ENTSO-E) claimed that it should be included.

José Javier Gonzalez (Europex) pointed out a potential problem that sometimes negative prices reflect some subsidies for RES and all types of factors affecting limits in the bids, which can't be controlled and this can cause a lot of troubles. The objective should be to regulate or discuss interfering prices due to existing different national subsidies.

Paul Giesbertz (EFET) added that even without RES subsidies, it can make sense to sell at negative prices; however, the fundamental principle is that there should be no price caps, neither caps on offers and bids.

Ruud Otter (EURELECTRIC) inquired if there are border issues where someone might want to keep prices.

José Javier Gonzalez (Europex) pointed out that this can be a serious issue as in any place the clearing price in one bidding area reflects imports and exports. Anything can be done to bids in the area, but if clearing prices are not blocked, anything can happen with an open market. If there are no limits to prices, through the borders, RES in one area can feed to another bid area due to a better feed-in tariff. As long as there is no interference with the clearing prices, it is free flow of thing but there is a need to discuss feed-in tariffs across: if the tariff in one area is lower, you get border infeed, that's why regulation should not touch clearing prices as this is where it has an impact.

Matthias Rützel (ACER) noted there are 2 layers to the discussion - if CACM only regulates clearing price but PXs are allowed to set limits of bids not coming from RES schemes, then it is logical for the clearing price not to be lower than the bids. If there is a limit set by PXs higher than the max prices, the impression is it won't make sense in this case. For example, if max price is 3000 but PX forbids a price bid above 2000, then it doesn't work – market participants should be free to bid to max price, feed-in tariffs affect behaviour, and the range of this behavior should be set by the clearing prices.

José Javier Gonzalez (Europex) noted that not only PXs have this possibility, but also the regulator, and that the clearing price is the only thing reflecting the market.

Matthias Rützel (ACER) pointed out that we should be careful on the proposal of min/max prices as there can be limits – mostly national up to now.

José Javier Gonzalez (Europex) pointed out that the clearing price on the cross-border is the issue, and clarified that CACM is clear on the clearing prices.

Paul Giesbertz (EFET) noted that the consultation is to allow for the free formation of prices, but it makes no sense to look at clearing only and not look at bid/offer prices.

José Javier Gonzalez (Europex) pointed out that subsidies also have to be looked at as they affect the prices; every time there is a negative price – there is some regulatory explanation.

Rickard Nilsson (Europex) pointed out that an All-NEMO Committee PX task force under his leadership has been set up to investigate how to formulate the Minimum and Maximum Clearing Price Methodology required under CACM. The group has focused so far on establishing the criteria for setting and changing limits. There is hesitation on whether in this methodology limits should be hardcoded as such. The All-NEMO Committee wants a justification for and an ability to allow for derogations if needed and this will be reflected in the consultation. Further clarity from NRAs is also needed – if we have supporting documents for some methodology, there should be a mechanism for logical and justified changes on this.

Arben Klllokoqi (EFET) agreed that there are operational limits to observe in place, but the question is if these operational limits are prohibiting the market price in some way. Experience on existing rules should be gathered, and cases shown where market price has or not reached the level of limits. On the regulatory side, we should not try to influence market design by setting limits themselves, rather through regulatory oversight. If it is the behaviour of market participants that is targeted, we have REMIT and competition law in place to address doubts of any abusive behaviors.

Andrew Claxton (Europex) noted that the price limits are not a problem now, and the lack of scarcity prices is due to other things, for example special contracts offered with TSOs regulated supported by ministries, and lots of other policies constraining wholesale prices.

José Javier Gonzalez (Europex) noted that in order to run the algorithm, PXs need a max/min price in a bidding area (clearing prices are there but the numbers need to be put in some way – when the max/min are not uniform, a strange effect could happen – e.g. scheduled energy flows going from higher to lower prices when the bidding zone(s) with higher limit has not reached curtailment but sets a price that is higher than the highest limit of adjacent bidding zone(s) that may be in curtailment situation due to maximum limit reached).

The Chair noted that the purpose of this consultation was to try to harmonize the max/min and to go for a uniform max/min price in Europe. He expects concrete proposals on what the price will be. The idea is that there won't be a limit on bid/offer, only on min/max prices. **This point will be discussed again at the next MESC.**

2.2 Update on definition of Capacity Calculation Regions

The Chair pointed out that the agency is expected to take a decision on the CCRs. There was a public consultation in June-July to address a few points which were not properly consulted and discussed in the ENTSO-E consultation.

Regarding the process, ACER is discussing the draft decision with NRAs and in the coming weeks will consult TSOs on this draft decision as there is an obligation to consult NRAs and TSOs. ACER will not go for requests for amendments, but will go directly for a decision, which does not mean there won't be change to the TSOs' proposal, but the process of requesting amendments and going to feedback will be skipped. A decision can be expected in early November (there is a BoR meeting on 9th November) and ACER is confident that it will get a favourable opinion on this decision. On the content, the CWE-CEE merger message for TSOs will be most likely aligned with the all-NRA position (i.e. to go for a merger of the two regions). The 2nd critical issue is the DE/AT border.

Andrew Claxton (Europex) mentioned that he saw some comments by Ofgem recently that the DE/AT border is a critical issue and the ACER decision in that regard could be brought to court. He asked if some mitigation measures can be applied so that work can still move forward on the various initiatives in such a scenario. The Chair noted he will think about this to ensure no delays. Regarding the decision on the DE/AT border, the Chair reminded that the DE-AT border was included as a new bidding zone border of the CCE Region in the initial All-TSOs' CCR Proposal and that the Agency's decision will therefore just be a confirmation or not of the All-TSOs' Proposal.

2.3 Update on ACER's data monitoring request

The Chair noted that based on Art. 82.4, ACER sent a letter to ENTSO-E on 2nd February 2016 with a list of data items for the Agency's monitoring purposes, including all information items the Agency deemed necessary to perform its duties. The list includes 52 items, out of which 8 were accepted by ENTSO-E. ENTSO-E has committed to provide some of the items through improving the Transparency Platform (TP), such as information about countertrading, split of CB schedules into LT, DA and ID, wind and solar forecasts at different points in time, among others. Further information can be provided for qualitative indicators on applied capacity calculation methods and on loss factors and network losses (on borders where this is applied). Some of the other data items requested by ACER might not be provided due to various reasons: as the related TP improvement was not taken on board (provision of D-1 NTC, of EIC codes for generation units in TP), as ACER will collect some of the info from NRAs (curtailments), items where ACER should look for alternatives and their feasibility, or items where TSOs cannot commit to provide this data (ex. on indicators referring to capacity calculation process and results, and information on EIC codes of RES plants above a certain MW capacity threshold). ACER has seen some commitment of ENTSO-E to address some of these in the TP, but not enough. The Chair expressed his disappointment with the ENTSO-E response to the ACER request. According to the Chair, ACER has invested a significant amount of time with limited progress and proposals and wants to see stronger ENTSO-E and TSOs' commitment. He stresses also that in this process ENTSO-E will also need this data if it wants to perform its own monitoring duties properly.

The Chair noted that improvements of the Transparency Platform (TP) are welcome but they will address only a small part of the problem according to ACER. The Chair sees that collecting data through NRAs appears to be inefficient as it involves an exercise between ACER-NRAs-TSOs, too many institutions and also stresses that there is no legal basis for doing it.

The Chair pointed out that the fact that some methodologies are not yet developed cannot be an excuse for not committing to provide this data and for not preparing the grounds for a proper collection process. Furthermore, future regional entities (e.g. coordinated capacity calculators) will soon become the main data sources and he sees that this shows the inefficiency of the NRAs' channel.

As next steps, ACER will send to the EC a request to clarify what type of information ACER is entitled to request according to CACM. If this process fails, an alternative way to collect this data can be found, ex. reopening the transparency regulation if needed, through the TP, the Winter Package, or through an Agency recommendation on capacity calculation methodology and cost-sharing methodology etc.

Zoltan Gyulay (ENTSO-E) reminded that implementation should come first and monitoring second, so once the methodologies are known, data can be delivered. He ensures that ENTSO-E is fully committed to the process but pointed out that it is important to avoid double reporting (possible cause of inconsistencies) and red tape. He explains that some of the data is not available, and that ENTSO-E does not have authority to ask for them. Only regulators can, and it might be easier for ACER to ask regulators to avoid excessive reporting burden. Moreover, he stressed that, the progress on the work is now on ACER's side as ENTSO-E had been waiting for answers on data and for granularity questions since July but had not received any answers on these. He invited ACER to first talk to the NRAs and harmonise the data collection, as double data collection is not effective.

The Chair noted that ACER does not have any legal basis to go through the NRAs' channel, but has the legal basis to go to ENTSO-E with Art. 82.4 and has the EC support on this. Even at the last Florence Forum the EC informed that they support ACER, who wrote a letter to ENTSO-E. ACER will need to inform the EC of the consequences on the monitoring of the NC implementation process if they don't receive the data, e.g no possibility to monitor the effectiveness of some provisions in CACM. The Chair also mentioned the support of market participants on this subject, as expressed at the last Florence Forum and MESC meeting.

The Chair noted that NRAs support the ACER request and never opposed the list. However, the process will not be efficient if all NRAs are also involved as this means 28 NRAs dealing with 42 TSOs + a few regional entities. It would be simpler to use the ENTSO-E channel instead of asking NRAs to collect data both from national TSOs and regional entities.

Zoltan Gyulay (ENTSO-E) noted that all NRAs will also ask the same information to regional bodies so there should be harmonization to avoid inconsistencies. ACER should work on this harmonisation with the NRAs instead of obliging ENTSO-E and TSOs to a double report.

Ruud Otter (EURELECTRIC) expressed his disappointment with the attitude of ENTSO-E and reminded TSOs of their role of a neutral market facilitator. He requested more transparency from ENTSO-E for both monitoring and market efficiency purposes. To achieve the latter, data should be made available to market participants as it would help them be more efficient in the market. He noted the developments in that regard have been disappointing so far.

The Chair clarified that ENTSO-E has a reporting obligation every 3 years but a proper process is needed to collect data on a regular basis, not just waiting every 3 years to receive data.

Ruud Otter (EURELECTRIC) noted that in CGM there is no improvement loop included and asked if TSOs are assessing what they are doing.

Ritva Hirvonen (ENTSO-E) underlined that on data collection, ENTSO-E is obliged every 2 years to collect data on capacity calculation and every 3 years on bidding zones. Here the current issue is that TSOs have not decided how to collect the data (each TSO separately or jointly) but ENTSO-E is providing the reports every 2/3 years. There is an issue with capacity calculation – the methodologies are not there yet as they are developed now, and only after that can ENTSO-E be sure what data will be provided and how. Under paragraph 2.82. ENTSO-E is jointly cooperating with NEMOs on this but it is not clear yet what the actual issues to monitor are. First, things have to be implemented, then it remains to be seen what needs to be monitored. The data monitoring list might then need to be amended, as soon as new methodologies are available. Before they have the approval from NRAs, TSOs are facing uncertainty, but after implementation, there will be monitoring.

Andrew Claxton (Europex) noted he strongly supports transparency and market participants' role in helping the process. He pointed out, however, that too much data gathering/monitoring can be very costly and risks missing the main purpose. Before the question on what data needs to be gathered, the value of this data and the gathering process need to be analysed as well as the impact. REMIT should allow us to have the right to get the data if it is needed. A more pragmatic review is needed and we should avoid gathering the same information many times over.

Cris Cotino (ENTSO-E) noted that the issue for TSOs is the excess of data, how it is provided and used. ENTSO-E wants efficiency and that the use of data and the experience with it would be considered. If we start committing to gathering data without knowing how to do it, when, in what time resolution, there will be a problem with finetuning; and it would cost a lot of money too. The use of data should be assessed beforehand.

The Chair pointed out that the data items in the ACER request relate to capacity calculation and allocation – TSOs should not limit capacity but there is great opacity on this subject and no data to monitor what TSOs are doing. The objective of this list is to give ACER this information and to monitor how the existing regulation is applied and whether TSO are compliant. NRAs tried to do this 6 years ago in the framework of the TP but failed and now there is a good opportunity.

Jérôme Le Page (EFET) noted that most of the data requested in the xls sheet is linked to capacity calculation. EFET has asked many times for transparency for market participants as there is no way to understand how, i.e., the flow-based mechanism relates to the information provided on the transparency platform, and to what market participants get. EFET supports ACER for this request in making these data items available to the public and to market participants.

Andrew Claxton (Europex) pointed out that data should be relevant and have an impact, and the work on CWE consultation group is very useful for this.

Cris Cotino (ENTSO-E) pointed out that TSOs are publishing data based on the regulation.

Ruud Otter (EURELECTRIC) suggested turning the reasoning around: there should be a decision on what is not to be published, and the rest should be published as the system can be optimised only if the relevant information is available.

Zoltan Gyulay (ENTSO-E) noted that NRAs have all relevant information and they are the ones scrutinizing TSOs and also approving the methodologies. The level of data to be made transparent should be discussed further.

The Chair concludes that he will inform the EC on the state of play. Moreover, on the issue of proportionality, he committed to revise the list if someone can show that the data request is disproportionate.

2.4 Update on the NRAs' request for transparency in the CWE FBMC

Matthias Rützel (ACER) noted that regarding policy regulatory gaps, there will be an answer for NL, BE, FR and a different one for the DE TSO in the forthcoming 2 weeks.

Jérôme Le Page (EFET) noted that the issue was discussed in the CCG and there was a clear request to all 7 TSOs, which have failed to fulfil the transparency requirements of the regulators by the deadline of November 2015. EFET is disappointed that there is no update on this today and expects very good justifications. This request should be passed to the NRAs too as the TSOs from all 4 countries should fully implement the initial NRA decision.

Andrew Claxton (Europex) noted that there is an issue with some TSOs related to the infrastructure security regulation and asked if it is under progress now.

Zoltan Gyulay (ENTSO-E) noted that the DE ministry had been asked about this but he was not sure if there had been an answer but he would pass the message to the TSOs and hoped that the ministry and the NRA would also have an update.

Paul Giesbertz (EFET) underlined that transparency is important for the market, especially in a FB environment, and that NRAs when giving the green light for the start CWE FB project, made that start conditional to transparency improvements. These conditions should be taken seriously or we should learn from this experience and not go for such conditional decisions in the future.

Matthias Rützel (ACER) assured all that NRAs are taking this seriously, waiting currently for answers and then will proceed further.

2.5 Update on the limitations of cross-border capacity in the capacity calculation process

The Chair noted that as discussed at the previous MESC, the issue of limitations of cross-border capacity (XB) is important and ACER intends to take actions to solve it.

The Chair explained the basic idea of the proposal: that the capacity calculation is benchmarked against the perfect zonal market model. In this perfect zonal market model, the capacity between zones is not limited by internal congestions, loopflows would be limited and/or non-existent, which would mean that the capacity between zones would be determined by something close to the (full) capacity of cross-zonal network elements. Any deviation from the benchmark should be then justified from the perspective of market efficiency.

Currently there are a number of problems with the CC methodologies: the calculation must first accommodate all flows resulting from internal exchanges, cross-zonal exchanges are using only the left-overs, and in continental Europe cross-zonal capacity represents only about 25% of the full capacity of the interconnectors. In two extreme cases the capacity reached 0 level: on the DK1-DE border and on the DE-PL border. Problems with existing CC methodologies include discrimination between network users in different parts of the network, distorted competition (cross-zonal and internal exchanges, including generation sources and consumption in adjacent Bidding Zones with limited IC capacity provided, are not put on equal footing). The current framework seems to not provide the correct incentives to TSOs to implement more efficient measures compared to reduction of cross-zonal capacities, distorts incentives to invest in the right type of infrastructure, gives TSOs a natural inclination to reduce ex ante the level of cross-zonal capacities, and does not properly take into account the impact of reducing cross-zonal capacities on the IEM, also allowing for some free-riding. As there is not enough data, it is difficult to assess to what extent this is the case.

The Chair presented 2 recommendations on capacity calculation and 1 on sharing redispatching cost, which would need to be applied simultaneously to provide the correct incentives to TSOs. As per the existing regulation, internal network elements should not limit XB capacity. The first 2 principles are that TSOs of a CCR shall not be allowed to consider internal critical network elements in their cross-zonal capacity calculation methods, and that the capacity of the cross-zonal critical network elements considered in the capacity calculation methodologies shall not be reduced in order to accommodate loop flows (this 2nd principle is still missing in the existing regulation). A derogation to these rules may be applied for a limited period of time (e.g. 2 years), if TSOs of a CCR can prove that: either this is the only available remedy to ensure operational security, or that this minimises the negative impacts on the internal market in electricity, and that this is economically more efficient than other available remedies.

In case a deviation is applied, TSOs of a CCR could fix a minimal limit on the amount of capacity of those congested internal/cross-zonal network elements that must be made available for cross-zonal exchanges in order to limit the discrimination between internal and cross-zonal exchanges. During the derogation period, TSOs of a CCR should develop a long-term solution, including the projects and the methodology to implement it. If TSOs are able to prove that continuing the derogation is more efficient than any other available long-term solution, they can propose to NRAs to extend the deviation.

The third new principle proposed by the Chair is that the costs of remedial actions should be shared according to the “polluter pays” principle, where the polluters are defined as flows resulting from internal exchanges such as loop flows and internal flows. Regarding the governance of these rules, coordinated capacity calculation methodologies developed pursuant to Article 21(1) of the CACM should be compliant with rules 1 and 2. Any deviation should be included in the proposal for coordinated CC methodology, justified, accompanied with the action plan to implement a long-lasting solution and, properly consulted before submission to NRAs’ approval.

The Chair explained that the Recommendation will be discussed with NRAs in October with a view to agree on the proposal in the forthcoming months. These rules might not be able to deliver a huge increase in XB capacity overnight, but the hope is that it will deliver at least much more transparency in the method of determining XB capacity and that it will challenge the current practices. TSOs will have to provide explanations if reduction in capacity occurs and to justify any deviations.

Zoltan Gyulay (ENTSO-E) noted that he understood that ACER had received a letter from the EC. The Chair confirmed that the Agency has received a letter asking ACER to issue recommendations to help assist TSOs and NRAs in developing and approving the methodology for capacity calculation and cost-sharing. The Chair noted that there is a link with the BZ configuration and in case of a proper BZ configuration, it is possible that these problems might not exist. According to the Chair, if all this is implemented, especially principle 3, TSOs, MS and NRAs will have the right incentives to take proper measures to solve their internal congestions, be it through coordinated redispatching, bidding zone reconfiguration or investment.

Arben Kllokoqi (EFET) noted that principles 1 and 2 as a way of benchmark and assessing the situation are interesting but asked how quickly they would be implemented and whether they will have a practical impact. In CEE, due to congestions, calculations are showing 0 capacity at times and asked if principle 3 could be implemented earlier as cost-sharing is currently quite opaque and no information is available as to how TSOs take costly remedial actions.

Sonia Saly (EFET) asked whether the third principle is identical to the Financial Security Option defined by the CEE TSOs years ago. The Chair noted that it isn’t.

The Chair noted that there is early implementation in the CEE region within the TSC area where part of the remedial actions is shared according to the polluter-pays principle. Regarding the effectiveness of the application of these rules, the Chair noted that it might take time and will depend on TSOs’ and NRAs’ willingness to follow this principle.

Ritva Hirvonen (ENTSO-E) asked if the data presented refers to a thermally constrained system – if TSOs have voltage it is easy but constraints between grids and different zones are different. If thermal constraints are taken into account, in the case of 2 lines, 50 % is max, if 3 lines – it is different. However, the capacity would never be 100% due to the N-1 limit (theoretical limit).

The Chair noted that this point is addressed in the latest ACER Market Monitoring Report (MMR). The core chapter does not take into account the N-1 criteria but a methodology to apply the N-1 rule is proposed in the annexes. The comparison with or without N-1 does not change the overall conclusion that a very small part of the existing infrastructures is actually made available for XB trade.

Peter Claes (IFIEC) pointed out that there is a CREG report showing that the situation is not compliant with Reg.714, so a fast action is needed. Regarding the 3rd principle, he asked if this applies to the region or to the TSO’s own zone – as regarding economic efficiency it would be interesting to apply to a zone but it should be clarified if it would also be good for a region. Peter also rejected the idea that the ACER proposal necessarily leads to a redelineation of BZ into smaller zones – it could lead to a discussion on the opportunity of having larger TSOs/ISOs.

The Chair noted these 3 principles apply in the CACM regulation in the annex as general principles. TSOs have to justify any deviation at the level of the CCR which then has to be endorsed by all NRAs of the CCR after a proper consultation process of stakeholders.

Paul Giesbertz (EFET) supports ACER on behalf of EFET but noted this seems to be a lengthy process, though the two first principles should be quick wins as they are not new. It is all about efficient facilitation of market and XB trade – some examples include the German border, Polish export restrictions, wind and solar in Germany that leads to restrictions in both import capacity to and export capacity from Germany on some interconnectors (as wind is not same value for all hours so there are benefits for sure). 1MW additional capacity results in welfare gains and EFET wants fast adoptions of the ACER proposal. Though this discussion is related to the delineation of BZ, the two debates are not interchangeable: whether or not a BZ re-delineation happens, transparency and clear rules for capacity calculation are necessary. BZ can be changed in the future but should be stable in the meantime, we should not wait for changes in BZ to implement the ACER proposal.

Ruud Otter (EURELECTRIC) noted that regarding the 3rd principle, it is difficult to assess the figures sometimes and asked if these are the same as congestion rents or not. Congestion rents are the other side of the coin and should be treated in the whole authorisation.

The Chair noted that a discussion is ongoing on sharing congestion rents.

Ruud Otter (EURELECTRIC) pointed out that there is a confusion if congestion rents are income to TSOs or something to be used to increase network capacity, and these are linked for sure but the issue can't be solved in the MESC platform.

Marta Mendoza (ENTSO-E) clarified that congestion rent is never an income for the TSOs, and that it is clear in the regulation how it can be used.

Ruud Otter (EURELECTRIC) noted that the ENTSO-E proposal is mixed as part of it is money to be used for investment in dealing with regional optimization.

Marta Mendoza (ENTSO-E) noted that the second principle proposed by ACER is not a good market model as the physical reality is different. These principles imply that there is a separate physical (grid model) and a separate market model – while this should not be the objective. A correct market model should mirror the physical model as much as possible. Loopflows exist and will not disappear. This will only create an even bigger gap. The market should mirror the grid and this might further show how much money needs to be invested in the grid to improve it.

The Chair noted that all these principles should not be all implemented 'à la lettre' and that deviations would be possible if properly and transparently justified – ACER wants to set a more ambitious default option in order to be able to challenge TSOs and to ensure more transparency. Currently this is not the case and ACER would like TSOs and NRAs to take into account the impact of unduly limiting XB capacity.

Marta Mendoza (ENTSO-E) agreed that transparency is crucially important, but benchmarking the current market model assuming the perfect grid does not provide the needed information. Those discussions should be taken separately and would include the discussion on how much money can be paid to have a perfect grid, if this is finally the objective. Any benchmark of the market model shall be based on the current grid which is now the reality.

Paul Giesbertz (EFET) commented that a perfect market model nor a perfect transmission system is important in this discussion. The objective is to calculate XB capacity between borders given the current market model and current transmission system. TSOs also agree that there is potential for improvement resulting in welfare gains, so this should be just a way to get all parties going. He finds it wise from ACER to put the 3rd principle in place and hopes this will not hinder the application of principles 1 & 2. If there is a problem with principle 3, principles 1&2 should apply regardless.

Rickard Nilsson (Europex) asked if it would be possible, before the next MESC to elaborate this also in the framework of the bidding zones. On principle 3, the polluter pays, it might be difficult to clearly identify who the polluter is.

The Chair noted that all 3 principles should be applied simultaneously, not just partially. Even if there is a connection with the bidding zone configuration, the application of these principles is somehow independent from the BZ discussion configuration and the two issues should be treated separately.

Sonia Saly (EFET) agreed that it is useful to have these principles for all parties and that TSOs and market participants can equally benefit from it.

Matti Supponen (EC) pointed out that both a visible benchmark and an optimal grid are needed. Here it is more about market benchmark which is not so obvious considering the model which is used. He noted that it will take time to establish a robust process.

2.6 Update on the XBID and LIP projects

José Javier Gonzalez (Europex) provided an update on the XBID and LIP projects development. The timeline remains the same, aiming for a go-live within the previously planned Q3-17 window but towards the end of Q3. Some of the key achievements include the completion of the Capacity Management Module (CMM), Shipping Module (SM) and Shared Order Book (SOB) Development and of all phases of Factory Acceptance Testing (FAT) which have been successfully completed for CMM, SM and SOB. The EC has confirmed that XBID is the pan-European intraday solution, implementation of the MPLSs (secure communications channels) has been successfully completed. This proved to be very complex with numerous technical issues to be resolved. Progress has been achieved with the drafting of operational procedures and the Accession Stream is fully mobilised. Knowledge Transfer is being managed through a series of workshops (two further workshops are scheduled for 13th and 14th September covering TSO aspects and LIPs respectively).

Some current challenges to the project include completing the DSA Maintenance negotiations before end-December. The entry criteria for LIPs which intend to join the first phase of LIP testing for go-live in Q3-2017 have been documented and they apply to Accession Stream LIPs as well as NWE+ LIPs. However, it is possible that not all LIPs will meet these criteria on time. Whoever meets the criteria can go live. As the XBID will be the central system for Europe, there is still a struggle on who will lead it.

José Javier Gonzalez (Europex) notes that another challenge for the project is to manage to align on the model for Central Admin for each of the 3 modules (CMM, SM & SOB) which involves questions such as how the service should be provided (through a tender to 3rd parties) and whether DBAG could be a potential service provider. Decisions on these questions should be taken soon. A temporary TSO solution has been chosen regarding the shipping information and the preferred shipper, with some modifications to the model needed with respect to the shipping for LIPs where there is just one PX/CCP. Some resourcing conflicts due to the continued intensity of project activities, balancing the needs of AS parties requiring information from the project and focus on future requirements such as losses on DC cables also present challenges. The implementation group with regulators has a meeting as some things need to be discussed on how to allocate the cost and for cost-recovery, knowledge transfer, assessing each accession stream individually and its key LIP set up: and these steps are going well. Foreign parties are discussing what to do, reporting on issues and will also inform NRAs how it is going.

Ritva Hirvonen (ENTSO-E) noted that there are 2 external LIPs with 14 LIPs now in progress and some are still waiting to go-live. Regarding LIPs' testing, a LIP Testing coordinator was hired to set up and support LIP testing. An elaboration of the LIP testing plan is ongoing. Regarding information exchange between XBID-Project and LIPs, a dedicated LIP subgroup working on all LIP issues was set up in August 2015 with monthly reporting to track progress and readiness for testing; and a dedicated project place section for information exchange on all LIP-relevant XBID documentation was set up. Regarding external communication, all LIPs are represented at the User group meetings providing project updates (next User Group meeting with LIP input is scheduled for 8th November 2016). The project aims at simultaneous go-live of all LIPs that pass the go-live criteria. DBAG confirmed that simultaneous go-live can be supported. Altogether, the project has moved from the Development Phase to Testing and the results from the first testing phases have been positive. The contract for hosting has been signed. The go-live is still planned to be within Q3-2017, although the first LIP 'go-live' will be 9 weeks later than originally planned due to the late start of 3rd party support, and LIPs are mobilised and go-live scenarios are under investigation. A lot of work and activity still needs to be completed in an environment complexified by the implementation of CACM provisions (multiple NEMOs, cost sharing /recovery principles). The project continues to work to deliver a successful XBID go-live in Q3-2017 and depends on the support of stakeholders to achieve this.

Rodrigo Escobar (ACER) asked if there is any designated NEMO that is accessing the stream. Jose Javier noted that PXs are all in there and there are still missing 1 or 2 TSOs neighboring the projects which either have to be in or in the accession stream. A table showing which NEMOs and TSOs should join and when can be circulated. The map shows only the established LIPs but there are discussions on how to establish the 4MMC.

Mark Lane (ENTSO-E) asked, regarding the projects looking to join, if there is a plan for additional LIPs to join one by one. Jose Javier Gonzalez (Europex) responded that entry criteria apply to everyone and that everything is open.

Pierre Castagne (EURELECTRIC) noted that this is a long list and asked if they are all ready for go-live as for some there are quite some challenges.

Jose Javier Gonzalez (Europex) noted that this is theoretical and the project allows all to go in if they fulfil the necessary criteria. Some LIPs are behind others and discussions need to take place LIP by LIP on what is late, missing, when to sign etc. NRAs can further help to push to be ready by 2017 where possible. The go-live is now more towards the end of Q3-2017 but the project will try to maintain the timeline – the testing phase has not been extended even if it has moved slightly.

Ruud Otter (EURELECTRIC) asked if there is a map with borders where implicit and explicit capacity allocation is done.

José Javier Gonzalez (Europex) clarified that each project and each border can decide whether it will use explicit in addition to continuous implicit; it can open and close borders at different times; projects are quite flexible and have no limitations.

Ruud Otter (EURELECTRIC) noted that Q3-17 is one year ahead and it would be useful to receive information as soon as possible on the requirements to be fulfilled. Jose Javier noted that it is mostly up to TSOs and on which borders TSOs will allow also explicit intra day allocation of capacity.

Ritva Hirvonen (ENTSO-E) clarified that for implicit/explicit allocation, this needs to be approved by NRAs. Further confirmation is needed as a couple of borders currently have this explicit allocation but in for example the Nordics there is only implicit allocation and this will not change.

Andrew Claxton (Europex) asked if some further clarification on this question can be provided to stakeholders. Jose Javier noted that this request for clarification should be put in the minutes and responded to.

Arben Kllokoqi (EFET) asked a question to TSOs on what the timeline is for the ID recalculation of capacity – on the go-live of XBID. Ritva Hirvonen (ENTSO-E) noted that this is linked to the gate opening times. TSOs have now the results of the consultation on the gate opening time and have to investigate how the capacity calculation fits to that. TSOs have time after CGM to calculate capacity for ID, and it is for CCRs to define if they want early timelines to apply now. TSOs are thinking of a hybrid solution in the context of when these possibly different timelines per MS/BZ for ID Cross Zonal GOT should be and how capacities are recalculated, and a gate opening proposal needs to be provided by December. This all needs to be coupled.

José Javier Gonzalez (Europex) pointed out that there was a meeting regarding the optimality of the PCR Euphemia solution applied in DA MRC, and envisioned to be used also for Single DA Coupling, and transparency on what will happen to the algorithm. The PRBs will be discussed further. During the meeting some parties wanted to know this information on how many rejected PRBs there are and it was answered, also in a letter, that this was already taken in.

Pierre Castagne (EURELECTRIC) commented that he appreciated the workshop very much, and informed MESC about the letter to ACER regarding the rejected bids.

The Chair noted that there will be a follow-up to the letter from EURELECTRIC. In the minutes of the meeting it was noted that there could be a competition and confidentiality issue in issuing some information on PRBs in small bidding areas.

Arben Kllokoqi (EFET) asked whether the letter is asking for information produced globally to be discussed at regional level. Jose Javier Gonzalez (Europex) clarified that some NEMOs publish all information in 90 days, but information is not uniform all over Europe and it is not known if it will be harmonized or not.

The Chair advised all to first discuss what needs to be harmonized, and what the differences and conditions are in order to have a more global approach.

Rickard Nilsson (Europex) noted that in the BZ configuration, the fact that there are different BZ configurations provides more information to the market in some countries, such as when a MS/third country that is part of DA Coupling is subdivided into multiple Bidding Zones, but in other countries there is not the same visibility and it is therefore not fair to equalize them with each other (example compare Germany with Sweden). As scheduled flows in a zone, physical flows, production and consumption etc. can be seen at subnational bidding zone level without getting into bids, this question should be discussed again in a broader context.

Arben Kllokoqi (EFET) asked if the information is requested per BZ or MS. Jose Javier noted that NEMOs are bound by local regulation. The Chair noted that there will be a follow-up on this.

3. Forward Capacity Allocation

3.1 Update on JAO's performance and lessons to be learned

Corné Meeuwis, JAO, provided an update on the recent incidents with JAO auction cancellations, pointing out there were two categories of issues – IT-related and issues outside JAO (i.e. linked to TSO) - which impacted the performance. After the December and January issues JAO already reported upon, there were again issues with hardware and software which resulted in auction cancellations. On 29th May and 1st June a network files server malfunction due to random malfunction of NFS software lead to an auction cancellation. After data analysis, it turned out that the network served showed this error before but on non-critical moments. The hardware setup was changed and the issue was solved.

Regarding the problem on 13/07, when the auction for delivery on 14th July was cancelled, this was due to a bug in the auction algorithm which failed to generate results. Corné Meeuwis clarified that this was not related to the bug which caused problems in December/January. This problem was due to a very specific combination of bids and offered capacity. The software supplier found the solution, however not within the given timeframes. Shadow auctions results though available, could not be used due to passed deadlines.

On 23/07, the ID auction issue on the Italian border was due to 2 processes running in parallel. Re-running the auction was not feasible due to the short time available. The ID auctions do not foresee in a fallback procedure due to the very tight time schedule. The procedure has been changed so that there will be no processes running in parallel anymore.

On 29/07 for delivery on 30/07, an error on JAO's side in the ATC calculation for the Polish borders was originally not noticed. The fact that the error was not noticed by JAO became clear to the TSOs when market participants started sending their nomination files. Because JAO had allocated more capacity than what was available TSOs required JAO to cancel the auction. Given the design of the CEE auctions, with capacities on all borders allocated via one auction, all CEE borders were affected. As the Croatian market closes at 11h and others at 12h, and there is no ID market on the border between Hungary and Croatia, the cancellation had significant impact for traders on that border. JAO has tried to mitigate the impact by discussing with the respective TSOs. Unfortunately it was not possible to come to a joint solution before reaching the nomination deadline. The ATC calculation procedure has been changed and the process will be automated. with release 3 of the Auction Tool. Regarding issues external to JAO, which also resulted in recent auction cancellations, some of these cancellations were due to lack of ATC values received by respective TSOs, most linked to ID auction, except on 15/08 to 18/08 when the IT-GR interconnector was not available and auctions were cancelled. If ATC is 0, there is no sense in running the auction.

Paul Giesbertz (EFET) asked regarding the ATC value on the PL border, how much difference between the actual ATC, what value was used for the auction and why XB redispatching was not considered. Corné Meeuwis (JAO) noted he doesn't recall the ATC value but the delta was min 200MW and the consideration on how to solve the issue was not in JAO's hand. There are different possibilities but in the end it is TSOs' decision to cancel an auction. Corné Meeuwis (JAO) pointed out that it has to be taken into account that CEE is considered to be 1 auction and if there is an issue on 1 border, everything is cancelled. JAO will propose to TSOs to have one auction per border. All auctions would still run simultaneously. This can however have a technical impact on messages sent out as nowadays all parties receive 1 message with all information and systems work based on that message. A border per border auction might imply that parties need to amend their systems to receive multiple messages or JAO needs to build something that aggregates the various files and sends them as one to all parties.

Paul Giesbertz (EFET) expressed his surprise of the very different triggers for cancellation in the past months and mentioned that this situation looks unprecedented. He argued that cancelling an auction because of a technical problem to hold the auction may be acceptable, but that cancelling an auction because of a wrong capacity on one border should not be acceptable. Other remedies such as XB redispatch, counter-trading or curtailment are better alternatives to the cancellation of an auction. He suggested that the behaviour of JAO and the TSOs may go against the fundamental principles of the 2009/714 Regulation.

Frank Vandenberghe (Supervisory Board, JAO) pointed out that JAO will propose a change to the current CEE Auction process. TSOs are closely following the events at JAO through an audit, involving the Supervisory Board (SB) and Shareholders' Committees. A JAO improvement plan was initiated with reporting to the Supervisory Board and shareholders' meetings. Following an independent audit by third parties, a comprehensive change plan for reorganization and reinforcement of JAO was developed – including a new COO assigned in June, and ongoing actions for improvement. JAO will follow-up on all this along with some proposals for improvement in the process of auctions. A monthly operational report is also sent to the TSO Joint Service Counsel, providing information on incidents, actions taken, open issues, progress, etc. and this monthly report is also shared with TSOs as Shareholders.

Corné Meeuwis (JAO) commented that if there is an issue affecting security of supply, TSOs have an option to cancel the auctions. Solving these issues by means of XB redispatch, or curtailments is complex and not in the domain of JAO to decide upon. The problem with this specific auction was notified at 11h15. JAO discussed with TSOs possible solutions but with the gate closure of most markets coming up (12.00) TSOs requested to cancel the auction, which was done at 11.45.

JAO would like to introduce a split of the CEE region auction into individual border auctions (with the exception of the Polish borders where the auctions on these borders will need to remain as one auction). JAO will discuss with TSOs what to do in case this happens and what the alternatives and fall back procedures are. Regarding a back-up system, JAO disconnected shadow auctions from the daily auctions process and now shadow auctions are run before the daily auctions, information and data are restored locally in case of issues with the tool so JAO can always share information with market participants. Systems are now separate so shadow auctions cannot be affected by incidents during the DA auction process.

Corné Meeuwis (JAO) noted that several improvements on the IT side since the incidents have been performed and work is still on-going to address all known issues and to improve the monitoring. The system was tested and further infrastructural and operational measures were taken to improve the performance. Shadow auctions are now run every morning prior to the actual daily auction. This way, in the event of a failure in the CEE auction, the results from shadow auctions can be used in case the failure is detected before the deadline (10h15).

TSOs mentioned they are closely supervising JAO now as it is in the interest of all parties to solve this. New releases and features are only accepted on production after being fully tested and having run in parallel for some time. Following the July incidents, JAO will propose during the upcoming Joint Service Counsel (on September 27) the above-mentioned procedural changes to the respective TSOs regarding splitting of the CEE regional auction into separate border auctions. JAO would also suggest that TSOs approve the ATC calculation prior to the start of the auction. In case no objection is received before auction closure, the provided ATC values would be deemed as accepted. In case of a mistake in the ATC values, TSOs could consider curtailment instead of cancellation to limit the market impact.

Arben Kllokoqi (EFET) welcomed the news that there were some developments for solutions to tackle the repeated incidents. He mentioned it has been a year since the start of operation of JAO and members of the JAO advisory group had only short calls with JAO. Regarding processes, he noted that there have not been meetings of the group so far but that it would be good to discuss the proposals with the members of the group in one of the meetings to be organized by JAO rather than just proposals coming as decisions that market participants cannot challenge anymore. One key point is that members were not involved enough in the process to contribute and he asked that JAO organizes such a meeting as soon as possible to discuss the proposals. Corné Meeuwis (JAO) noted that such a meeting will be initiated by JAO on short notice.

Paul Giesbertz (EFET) noted that the issue with the ATC mistake is worrying and the issue in January was due to a different reason but had a huge impact too. Market parties were left with open positions, and they have the same urgent need to close their positions. EFET would like to see a clear promise that this won't happen again. Paul noted that TSOs do not seem to look for alternatives to auction cancellation, such as redispatching and XB countertrading for one border, which could be more cost-efficient from an overall welfare perspective. Cancelling auctions on several borders is costly, in terms of transaction and administrative costs, as well as risky in terms of security of supply. He asked for further clarification on why cancelling has been considered better for security of supply at these occasions when even for SoS it is more risky to cancel published auction results than to do redispatching.

Frank Vandenberghe (JAO) noted that TSOs take this issue at hand, and this will be discussed and addressed with all TSOs, shareholders and customers of JAO to avoid such situations in the future. Corné Meeuwis (JAO) clarified that this is not in the hands of JAO and JAO can't decide for TSOs if they should curtail, redispatch across borders etc.

Paul Giesbertz (EFET) noted that talking to all, including JAO, NRAs, MESC, TSOs etc. the options for TSOs are apart from curtailment, either XB redispatch as alternative or buying back transmission.

Frank Vandenberghe (JAO) replied that curtailment would be a last resort for quantities and borders where there is no other solution.

The Chair asked whether curtailment would be fine for market participants even with new firmness rules. Arben Kllokoqi (EFET) confirmed that it would be ok as long as it is not done too often, in any case better than auction cancellations.

Andrew Claxton (Europex) pointed out that on fall back arrangements due to lack of time/tight deadlines, there is a risk for all in this process. An overly rigorous interpretation of deadlines by TSOs in CWE might lead to decoupling after the deadline, and a more pragmatic approach on this is necessary.

Rodrigo Escobar (ACER) noted that NRAs have some concern about this – in a working group meeting with ACER the issue will be raised, and NRAs will investigate what is to be done, whether specific short term auction rules are compliant, whether auction cancellations are indeed used as a low-cost alternative to redispatching or curtailment. On the issue of IT-CH borders, the auction was cancelled due to critical conditions and NRAs will look into the specific auction and how this case can be interpreted. Whether the auction was run correctly or cancelled, TSOs have responsibility for capacity calculation/allocation and TSOs should have tools to do the back up allocation in case something happens. NRAs will follow up on this.

Jérôme Le Page (EFET) provided EFET's view on JAO's performance and welcomed the proposal for a stronger governance structure of JAO. He noted that since January, EFET and EFET Members have warned JAO over the structural underperformance of the platform with issues such as auction cancellations, missing fallback solution, technical/IT incidents, registrations, billing and nominations' issues, and substandard user-friendliness of the platform. Those incidents were recognized as significant "market disturbances", by JAO and also by the MESC, and the problems need to be solved as soon as possible. Some complementary information was sent by email since the last report at the previous MESC meeting but EFET expects a new, comprehensive report, taking account the market perspective. TSOs and NRAs ought to take full responsibility in ensuring the proper functioning of JAO and XB capacity allocation in general. Jerome pointed out that incidents have reoccurred in July and August, some with very severe financial consequences for EFET Members, especially in places where there was no ID market, and JAO's communication during and after incidents remained poor.

A detailed report on the incidents would be very welcome by EFET, showing which IT and technical problems are occurring frequently (and whether the 13/07 issue was related to the January issue). Corné Meeuwis (JAO) confirmed that the two were not related. EFET noted it would be important to know why and how they impact market participants, in terms of MW, efficiency of the notification procedure, existence of fallback options (within or beyond JAO) etc. EFET would like to see an updated action plan by JAO with reporting on the lessons learnt and a precise timeline for solving platform-specific problems.

EFET would like to see as well a reaction from TSOs as shareholders of JAO, and as TSOs are responsible for capacity allocation, and need to take responsibility for governance and oversight of JAO. EFET welcomes the fact that there is finally a chair of the JAO Supervisory Board and the updates for improved governance. He pointed out that the involvement of market participants as users is very important – as in the past the lack of interaction lead to disappointing outcome on all sides. Jérôme agreed it is important to make sure NRAs take full responsibility for oversight of capacity calculation to ensure a non-discriminatory process and ensure non-discriminatory access to XB capacity and noted regulators should take a more active role on that.

The Chair noted that ACER has issued a paper on the issue of the governance gap of these entities. NRAs should take this seriously too and put into place a process to monitor these entities and the TSOs behind.

Pierre Castagne (Eurelectric) noted he supports the points that were raised and pointed out that there is a need to think about the different situations in advance. There are several solutions with different impact on the market and market parties should be involved in this kind of discussions to choose the best solution.

The Chair concluded that there will be an update at the next MESC again on the topic of JAO performance and improvements.

3.1 Update on the early implementation of HAR

Mark Lane (ENTSO-E) provided an update on the HAR's early implementation. The Allocation Rules have been updated in the course of 2016, so that they can be used for 2017 capacity transmission rights, which is part of the early implementation of the FCA. The HAR Main Body and Explanatory document were approved by all TSOs on 29 June 2016 after a public consultation which ran from 18/04 to 18/05/2016. Documents were published on the ENTSO-E website in May-June 2016 and the HAR Main Body was submitted for approval to NRAs, the Explanatory document was submitted for information and the Border/Regional Specific Annexes were submitted for approval by NRAs, where applicable). Auctions are planned to start in 2017. The process of updating the HAR will be repeated after the FCA enters into force as part of the formal implementation of FCA.

Some of the main changes to the main body of the HAR in the version for public consultation include some changes in the curtailment chapter (triggering events, deletion of the concept of long-term firmness deadline), changes in return and transfer chapters, in the settlement (cap and compensation), deletion/change of definitions and set of application to auctions for LTRs with delivery date from January 2017, regional specificities due to market design aspects or NRAs' requests. FTR obligations are not included in the early implementation version of the HAR but will be included in the final version.

Mark Lane (ENTSO-E) noted that regarding triggering events and consequences of curtailment on LTTRs, changes were introduced to art. 56 for improved clarification. Art. 59 on the Compensation for curtailments to ensure operation remains within Operational Security Limits before the DAFD was also amended - the structure of the Article sets the yearly cap as an option subject to the approval of the NRAs and this depicts the situation in most countries. For DC and HVDC cables, there might be some differences. Further amendments were introduced to regional specificities (art. 4), the form of bank guarantees (art. 21), among others. Specific borders will be covered in a list in the annex. It is expected that most NRAs will approve the cap but more discussion on the cap might follow.

The task for updating the HAR for the LTTR 2017 allocation was completed on time and approval by all TSOs was completed end of June 2016 for a submission to the NRAs in mid-July 2016. The next milestone will be the approval of the HAR and the Border/Regional Specific Annexes. As the current version of the HAR is part of the early implementation of the FCA, the process will be repeated after the entry into force of the FCA GL to ensure formal and full compliance through further stakeholder engagement and consultation.

Rodrigo Escobar (ACER) noted that the timing was respected and no problems are expected on the NRA's side.

Rickard Nilsson (Europex) noted that in relation to regulatory changes to the right to use bank guarantees, JAO can operate with bank guarantees as an exemption to MiFID appears to exist for TSOs/JAO while there is not such an exception given for primary or secondary trading in case organized trading is facilitated by other parties, such as Exchanges or OTC-platforms, and asked if this is a special exemption for JAO itself or could also be applied by others as long as the LTTRs are linked to TSOs as original owners of the rights.

Rodrigo Escobar (ACER) pointed out that the use of bank guarantees was abolished as a tool for financial products while here TSOs are accepting bank guarantees as collateral since transmission rights are exempted and TSOs can keep on accepting them. Mark Lane (ENTSO-E) clarified that the TSOs' exemption is on transmission rights.

Christian Baer (Europex) noted that the use of bank guarantees of EMIR is different, and in MiFID II as of 2018 there is a special exemption for TSOs but no exemption of LTTRs as such. This means that trading in primary auctions is exempted, so the bank guarantees limitations do not apply, but on secondary trading of transmission right, the rules could be different.

Mark Lane (ENTSO-E) clarified that TSOs should have no role in secondary trading and there are separate platforms for primary allocation and secondary trading. The FCA has a provision for resale; with a process to identify who is the relevant, on TSOs' side, but without preventing any other entity from entering, including all companies, NRAs, etc. Through a platform even TSOs can provide secondary trading.

Arben Killoqi (EFET) pointed out that not everyone considers that transmission rights allocated by existing rules and new HARs (except FTR obligations) are financial rights under MiFID. The transmission rights' characteristics as a product should be first considered before classifying a product as physical or financial. The treatment of forward transmission rights in secondary markets is another question that should be discussed in a separate forum.

Mark Lane (ENTSO-E) asked if the EC had an update on the expected entry into force of the FCA.

Matti Supponen (EC) pointed out that no specific date is known for the FCA entry into force yet, but towards the end of September it is most likely it will be published.

4. Transparency

4.1 Update on progress

Cris Cotino (ENTSO-E) provided an update on the ENTSO-E Transparency Platform (TP)'s latest developments. Regarding the update on download solutions and restful API, which is in production, she noted that documentation is available, 170 users have asked for access, and lots of positive feedback was received so far from the users. Regarding the data repository, documentation is available and it is 99% ready (except the transmission outages information which is published on the platform but data needs to be put into a download solution). 10 users provided positive feedback in the initial phase of the data repository. All data which was published since 5 January 2015 is available for download.

Regarding the ETUG, the next user group will be organised in the second part of October and the main focus will be on receiving feedback on the download solutions in order to report on further changes in the Manual of Procedures (MoP). The MoP revision passed through various stages. A 1st MoP revision workshop was held in January for the revision of Detailed Data Definitions (DDD); the revised DDDs were shared with ACER in end February, taking into account all requests from users and suggestions on how to improve quality of data. Users seemed satisfied with the level of data quality improvement reached.

A 2nd MoP revision workshop in mid-March was organized to kick off the revision of Business Requirements Specifications (BRS) as based on revised DDDs. ACER's feedback provided to ENTSO-E in end-March included feedback on revised DDDs and complete DDDs. ENTSO-E processed ACER's comments in June and July (among which the revision of data items related to Load and Generation category have been discussed with ACER and ETUG). A final draft was shared with ACER at the beginning of August and additional comments/questions received whose answers and justifications were provided by ENTSO-E at the end of August. The MoP is undergoing an internal ENTSO-E approval procedure in October and will then be submitted to ACER for its opinion, in order to be able to start improvements on technical documents in January 2017.

The Chair confirmed on behalf of ACER that they are quite satisfied with the collaboration with ENTSO-E on the TP but still waiting for a clear commitment of TSOs to include items such as internal redispatching, as the current commitment is very weak on some points and TSOs can decide still what to publish.

Cris Cotino (ENTSO-E) noted that ENTSO-E is going into the ACER direction and asked to include a footnote in the manual of procedures on this.

Jérôme Le Page (EFET) expressed positive remarks on the improvements observed with the TP. An issue/question that could be discussed in the CCG group is how market parties can identify data that is missing on the TP but that TSOs may be publishing on their website. For example, there was a case where CBCO is activated in FB but there was no data to be linked, and CCG members said there were problems and outages on the network but nothing appeared on that day in that country. EFET would like to know the process in place to make sure data is on the platform or on the site of the TSO and if NRAs can request TSOs to put it.

Cris Cotino (ENTSO-E) replied that ENTSO-E is starting a project to improve the TP and data quality as per the MoP, but also aspects related to the structure of the TP itself and the ability to monitor data that is delivered to the TP. One part of this project includes CACM data to improve the ability of the platform to monitor data provided by data providers and point out if data missing. This will be automatized in 2017 as it is done now manually and is not so efficient.

The Chair noted the 2nd report from ENTSO-E was forwarded to NRAs for action and some NRAs are more active than others. Things that still need to be clarified include the reasons for certain data absence and lack of clarity on how to report on some data items. The MoP revision should address this. **ACER will send a reminder to all NRAs in the last quarter of 2016 and will report to the MESC at the December meeting on actions taken by NRAs and TSOs that were not so active up to now.**

5. AOB:

A request from ENTSO-E to change date of the next MESC in December due to an overlap with the ENTSO-E Market Committee meeting.

6. Next meetings for 2016: NEW DATE: 9th December 2016 (CEER, Brussels)

Summary of decisions & actions:

- The Chair will emphasize to colleagues working on balancing issues to make sure that the final version of the EBGL addresses properly the issue of consequences of market suspension, and will warn colleagues to address these issues at the next BSG meeting as well.
- The topic of min/max prices should be dicussed again at the next MESC.
- A table showing which NEMOs and TSOs should join and when can be circulated in relation to the XBID project.
- Further clarification should be provided about the implicit/explicit allocation at different borders in the XBID.
- An update on the topic of JAO performance and improvements will be provided at the next MESC again.
- ACER will send a reminder to all NRAs in the last quarter of 2016 and will report to the MESC at the December meeting on actions taken by NRAs and TSOs that were not so active up to now with regard to the TP and data submission.