CACM (and other market networks codes) in Energy Community

Energy Community Secretariat
Procedural aspects

Scope of committees’ work

- Agree on adapted NC / GL versions ready for proposal for PHLG adoption

EC | ECS | Party → proposal → MC

MC Decision → Transposition into national legislation

2/3 majority
Incl positive EU vote
one vote per CP
Adapted approach for the EnC

- All TSOs/(NEMOs) All NRAs
- Pan-European terms & conditions / methodologies / platforms
- Relevant TSOs/(NEMOs) & NRAs
- Regional (CCR) terms & conditions / methodologies / platforms
- Relevant TSOs/(NEMOs) & NRAs
- National (CCR) terms & conditions / methodologies / platforms
- National implementation applicable on CPs

Transfer through PHLG decision applicable on Title III (CP-CP, CP-MS)

Developed on regional level and applicable on Title III (CP-CP, CP-MS)

Example of a region

Example of a region
Issues

• ACER powers?

• Regulatory decision making / approvals?
Role of ACER

- **EU**: Art 43 re-cast ACER Regulation
- **EnC**: Energy Community Treaty clause: mandate to ACER & switch on (regulatory gap)

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**Article 43**

**Cooperation agreements**

1. ACER shall be open to the participation of third countries which have concluded agreements with the Union and which have adopted and are applying the relevant rules of Union law in the field of energy including, in particular, the rules on independent regulatory authorities, third-party access to infrastructure and unbundling, energy trading and system operation and consumer participation and protection, as well as the relevant rules in the fields of environment and competition.

2. Subject to the conclusion of an agreement to that effect between the Union and third countries as referred to in paragraph 1, ACER may also exercise its tasks under Articles 3 to 13 with regard to third countries, provided that those third countries have adopted and apply the relevant rules in accordance with paragraph 1 and have mandated ACER to coordinate the activities of their regulatory authorities with those of the regulatory authorities of Member States. Only in such cases the references to issues of cross-border character shall relate to borders between the Union and third countries, and not to borders between two Member States.

3. The agreements referred to in paragraph 1 shall provide for arrangements specifying, in particular, the nature, scope and procedural aspects of the involvement of those countries in ACER’s work, including provisions relating to financial contributions and to staff.

4. The Administrative Board shall adopt rules of procedures for relations with third countries referred to in paragraph 1 after receipt of a positive opinion by the Board of Regulators. The Commission shall ensure that ACER operates within its mandate and the existing institutional framework by concluding an appropriate working arrangement with ACER’s Director.
Reciprocity

Adoption of amendments to ECT, especially new Art. 25 and Annex V.

- **MC Decision**
  - EU Proposal to the MC for a Decision (provisions listed in new Annex V to the ECT and fulfilling the requirements of new Art. 25(1) ECT), see new Art. 81 ECT
  - MC Decision under new Art. 25(1) ECT defining mutual rights and obligations based on these provisions (EU positive vote required, see amended Art. 81 ECT)

- **EU assessment:** CP sufficiently demonstrating effective implementation and enforcement of its obligations

- **Safeguards**
  - COM Proposal to the Council (EU) to enact mutual rights and obligations defined in the MC Decision
  - EU Decision to enact, see new Art. 25(3) and (5) ECT

- **EU assessment:** CP not implementing and enforcing effectively its obligations

  - COM Proposal to the Council (EU) to suspend EU obligations
  - Advance notice to the CP concerned and the Secretariat (except in cases of urgency), see new Art. 25(4) ECT
  - EU Decision to suspend, see new Art. 25(4) and (5) ECT

- **Switch on**
  - Specific provisions listed in new Annex V to the ECT shall be binding between CP and the EU

- **Switch off**
  - Procedural details in a new Procedural Act
A critical review

► [currently] for EL GL and gas SoS only
► How to combine individual switch-on and regional market coupling?
► Decision making in ACER – representation of CP NRAs?
► Timeline
Thank you for your attention!

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