ENTSOG Guidelines on Stakeholder Interaction

during the Network Code Development Process

Content

1   Application and Status of these Guidelines

ENTSOG aims to be a fair partner to all actors in the process of developing network codes.

These guidelines indicate how ENTSOG will interact with wider stakeholders during the process to support network code development[1]. They draw the preferred "Guidelines" for all actors interacting in this process, as a highly participative process will be essential to ensure that robust codes, capable of wide acceptance, are delivered in the end.

These guidelines furthermore define the expected commitments from participating stakeholders. During the network code development, stakeholders will be approached by ENTSOG at several key moments and using the most appropriate interaction:

- Interactive design through Stakeholders Joint Working Sessions (SJWs), detailed in section 3.

- Formal consultation on project plan and draft network code, detailed in section 4.

- The final code will be proposed for market support as detailed in section 5.

ENTSOG's aspiration is to be a fair partner to all stakeholders. These guidelines formalise the way in which ENTSOG will approach its responsibilities and capture the commitments off wider stakeholders to ensure they successfully and appropriately contribute to the network code development process.

The network code development process will be lead by ENTSOG, consistent with its responsibilities as defined in Regulation (EC) No 715/2009. ENTSOG leads but must, and will, consult widely and at an early stage in the process.

Although ENTSOG will seek to meet with any interested stakeholder at any stage of the network code development process, its articles of association specifically detail both formal consultations based on bilateral and written feedback on key deliverables, as well as interactive multi-lateral workshops involving a large panel of industry representatives, namely Stakeholder Joint Working Session. In any case, the relevant ENTSOG Subject Managers (SM) will have a key role to work, communicate and animate the relationship with external stakeholders.

2   General approach to communication

ENTSOG recognises the significant challenge associated with the communication and the development of mutual understanding of all actors' positions during the entire twelve month process and therefore will ensure that all stakeholders are kept up to date via a combination of direct mailings or via ENTSOG website updates. All formal meetings will be documented and action logs will be maintained, updated and published as appropriate.

3   Stakeholders Joint Working Sessions

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[1] This document has been supplied at the start of the pilot CAM network code development and ENTSOG envisages that it will be refined and re-published in the light of experience for use in later network code developments.

3.1 Participation & Invitees

As mentioned Stakeholder Joint Working Sessions will be a key part of the process. The SJWSs will be sessions open to all interested parties during the period where ENTSOG is working towards developing a draft code for consultation to gather ideas, reactions, assist formulation of, and to test, proposals. These sessions will be chaired by ENTSOG, probably the Subject Manager, with other ENTSOG staff and member representatives in attendance as appropriate.

All stakeholders, TSOs, regulators, and ministries will be able to attend the SJWS and each should nominate a primary contact to lead participation and receive information about the process. A representative may be substituted or replaced but this replacement should have appropriate knowledge to allow them to participate actively. The aspiration is that attendees will share their company or organisation's view on matters of significance to the code development and shall actively contribute to the development process.

ENTSOG would welcome confirmation of a core group of stakeholders who offer substantial time commitment to the project. This core group could provide essential contribution to the development providing significant inputs and assistance to the development of major elements of the code. A commitment to work closely with the ENTSOG team would be essential and to embrace a progressive spirit and willingness to compromise to develop a robust but widely acceptable code would be essential.

It is essential that stakeholders participate actively both in the SJWS meetings themselves and outside of them in order to progress work plans in an efficient manner. This includes completing pre-requisite work, reading minutes, analysing intermediate material and other behaviours consistent with promoting a progressive work group environment and to ensure timely progress. Whilst ENTSOG can only request and not insist upon this level of stakeholder participation it is important that all stakeholders realise that early contributions and involvement to shape the NC is essential if the timescales associated to the process, a maximum of twelve months from the Commission's invitation to the delivery of code to ACER, are to allow proper development, consultation and refinement to deliver robust and acceptable codes.

It is essential that the core group composition is determined early and includes key players that have already made significant contributions to the framework guideline development. ENTSOG will seek core group members as part of the project plan consultation and would hope that, via a process of self-selection following dialogue with ENTSOG and particularly the SM, a small, diverse but representative group of stakeholders can be identified to fulfil this essential role.

The SJWS will be documented to include attendance and to capture the essence of the discussion. In particular items of agreement / disagreement and agreed actions will be captured. Such minutes will be published via ENTSOG website. SJWS participants are expected to register for meetings in advance to aid meeting administration. Core group participants should notify the ENTSOG of non-attendance including details of their replacement.

3.2 SJWS Conduct

Meeting participants should conduct themselves to allow all parties to express their opinion. The chairman moderates the discussion to ensure that the business is strictly conducted during the time available and follows the agenda agreed at the beginning of the meeting.

Meeting participants should adhere to general behavioural good practice, with virtues such as being prepared, respecting and listening to the views of others and not unfairly holding up discussions.

Discussion will be limited to those items appearing on the agenda or added to the agenda at the beginning of the meeting, at the chairman's discretion if agreed by the majority of participants, as Any Other Business (AOB).

In order to be considered, all AOB items should be:

- original or unresolved

- significant in nature and substance

- appropriate for discussion in open multilateral meetings

- relevant to the scope of the project being considered

- arriving early enough in the process to be considered

Any rejected item will be reasoned and captured within the minutes.

Where the proposer continues to feel that the item should be discussed they may appeal to the ENTSOG General Manager (GM) after the meeting and substantiate the need for discussion.

During SJWS discussions, the chairman will seek different perspectives and consider the views of all participants before pursuing an outcome.

Differing positions and any justification for a proposal being supported will be captured within the minutes.

3.3 Liaison Outside of the SJWS

The chairman may seek guidance from the ENTSOG General Manager (who in turn may seek guidance from the ENTSOG Management Board) upon major sources of dissent and unresolved discussions with the SJWS or more generally in respect of project development.

In case the Chairman has sought guidance, the ENTSOG General Manager and/or ENTSOG Management Board may give "guidance" to him on any matter relating to the business or conduct of the meetings. A Progress Report prepared by the ENTSOG staff will be published after each SJWS summarising the minutes plus the status of major topics under discussion, progress made and target dates for resolution.

3.4 Meeting Administration

The chairman will ensure that meeting dates are normally communicated to primary stakeholders' contacts at least 14 calendar days in advance.

The agenda will be prepared by the chairman and will normally be circulated to members together with any relevant papers one week in advance of the meeting. Later papers can eventually be accepted at the discretion of the SJWS participants.

The chairman will endeavour to circulate draft minutes, plus additional relevant documents in a timely manner after the meeting. Material points of dissent regarding those minutes should be referred at least to the chairman as soon as reasonably practicable and in any case in advance of the next meeting. At the beginning of each SJWS, minutes of previous meeting will be approved as accurate or amended by agreement of attending members. Any written comments on the last minutes from non-attendees will be raised and considered at this point.

All materials will be made available on the ENTSOG website and web-alerts will be used to communicate the publication of all material based on circulation list including any stakeholder nominations.

4 Formal Project Plan & Draft Code Consultation

ENTSOG's network code development process includes two consultation periods; a first one to seek stakeholders' feedback on the draft project plan and a second one on the draft network code itself.

Regarding the project plan consultation, the document is published on the ENTSOG website and circulated to key stakeholder organisations also using the ENTSOG distribution list. Market parties are provided with time to provide feedback on the proposed planning and to commit to the process. Committed users will form a core group as specified in section 2.1. After the project plan consultation the document is eventually updated taking comments made into account and used as a part of the Launch Documentation which is the basis for the SJWS.

The second consultation in the process, the draft network code consultation, is launched after the SJWS for a period allowing market participants to provide contributions. The received feedback will be summarised in a consultation response analysis report documenting both the contributions and their analysis for the impact on the network code. This report provides the basis for ENTSOG to revise and finalise the network code.

Written feedback to any of the above consultation is sought until the deadline as stated in each consultation document. Late feedback will be difficult for ENTSOG to process and therefore will have less weight as feedback provided earlier in the process. Participants are therefore encouraged to get involved early in the network code development activity.

ENTSOG prefers stakeholder feedback to be submitted as non-confidential in order to be taken into account especially to be used during debate during the network code development process. However ENTSOG respects that sometimes some elements of responses might be supplied on a confidential basis. Under these circumstances ENTSOG will explore with respondents how best to

use such feedback in the network code development. Wherever possible all consultation responses will be published on the ENTSOG website.

5   Final Stakeholder Support Process

Having taken account of the draft network code consultation feedback ENTSOG will publish an interim conclusion and, if appropriate, a revised code proposal. Stakeholders will be asked whether they believe the interim conclusion and associated code proposal affords an improvement over the current status; in other words can stakeholders support a decision to implement the proposed network code. The feedback from this process will inform ENTSOG's final decision whether to recommend the code for implementation.

6   Other bilateral or multilateral discussions

Furthermore, there is always the possibility for all market parties to meet and discuss any topic or progress with ENTSOG. Respective requests should be addressed to the relevant ENTSOG Subject Manager. ENTSOG will do its best to organize such session in due time, taking adequate lead time into account to ensure proper attendance and preparation. By mutual agreements these meetings will be documented, recording participants' main points of discussion and conclusions. The notes would be made available on the ENTSOG website after approval by all participants.

7   Complaints Procedure

ENTSOG will ensure at all times aspects relating to the SJWS interaction during the development process are managed appropriately. If in the unlikely event of this falling short of stakeholders' expectations, they are invited to contact in the first instance the chairperson of the meeting.

Stakeholders unhappy with the conduct of meetings or consultation should first contact the Subject Manager. Where a stakeholder is not satisfied with the conduct of the process, this should be escalated to the ENTSOG General Manager who is responsible for the day-to-day management of the ENTSOG activity.

The ENTSOG General Manager will need to consider the issue with the stakeholder and will then deliver a recommendation to the Chairman and to the appellant. This process may involve thoughts of other stakeholders being sought.