EFET European Federation of Energy Traders

EFET Legal Committee Meeting

27 February 2023

Meeting Agenda

CET		
10:30 – 11:10	Opening	• Opening from the Chair (Jan Haizmann) • Legal Chair transition (Mark Copley, CEO of EFET) • Summary of Board decision on 2023 priorities (Mark Copley) • Approval of A&D list from previous LC meeting (12 December) • Discussion of the Annual Membership Survey results (Aygul)
11:10 – 11:25	Update of EFET Netting Opinions	• Overview reforms relating to close-out netting (Italy, Czech Republic, Slovakia) (Jan) • Update on EFET Legal Opinions review (Sonia)
11:25 – 11:35	Standard documentation for AVB transactions in Spain	• **Guest speaker Cristina Ludena, CFLudena Consulting**
11:35 – 11:50	PPA standardisation	• Update on EFET PPA standard 2.0, and the German PPA initiative **-** by **Jan Haizmann and Andreas Gunst, DLA Piper**
11:50 – 12:10	Introduction to eSM (electronic settlement matching) for bilateral settlement	• **Presentation by Gavin Ferguson, EFET**
12:10 – 12:15	German Supply Chain Act (LKSG)	• Review of compliance measures – all

12:15 – 13:30 Lunch break

Meeting Agenda (contd.)

CET		
13:30 – 13:45	Update from Gas Committee on gas market interventions	• **Doug Wood, Chair of EFET Gas Committee**
13:45 – 14:30	Focus session on contractual impact of Market Correction Mechanism – Market Disruption Event in EFET contracts	Discussion round with participation of: • **Brett Hillis and Simone Goligorsky, Reed Smith:** English law perspective • **Gerd Stuhlmacher, Luther law firm:** German law perspective • Discussion on ways to mitigate discontinuance or suspension of reference price (“fallback reference price”) • Potential guidance on an MCM based market disruption event under section 15.4 EFET GA • **Rick Sandilands, ISDA:** MCM assessment from ISDA perspective
14:30 – 14:45	Coffee break	
14:45 – 15:10	**LNG Standardisation**	• Report on LNG contracting in the context of EU Energy Platform initiative – Guest speaker **Clément Gerthoffert, European Commission** • EFET history in LNG standardization – EFET Master DES LNG SPA (2010) and model clauses • Discussion of possible standardisation options

EFET

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Meeting Agenda (contd.)

CET		
15:10 – 15:25	Update on CEGH Biogas Certificates Standard Agreement for Single Trade	• Introduction and status quo - **Frederick Bernthaler, CEGH** • EU policy developments - **Mariana Liakopoulou, EFET**
15:25 – 15:40	Progress report on Hydrogen GoO Single Trade Agreement co-developed by HyXchange and EFET	• **Bert den Ouden, Project Director, HyXchange project** • **Andreas Gunst, DLA Piper**
15:40 – 15:55	Progress report from other Committees and related working groups	• Market Supervision Committee – actions on MCM, REMIT Refit – **Mike Bostan, EFET** • Overview of the new Electricity Market Design reform – **Arben Kllokoqi, EFET**
15:55 – 16:00	AOB, concluding remarks	• **Jan Haizmann, All**
16:00 – 17:30	Reception on occasion on Jan’s farewell	

EFET European Federation of Energy Traders

Legal Chair Transition

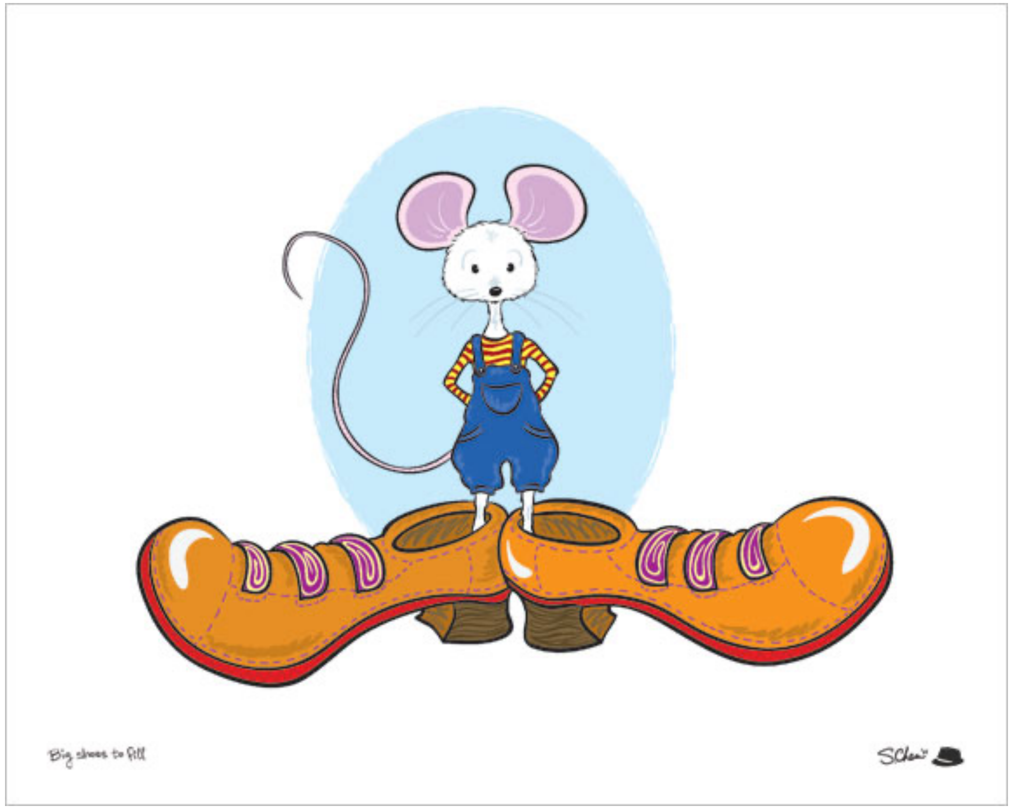
Mark Copley, CEO of EFET

Legal Chair Transition

- The challenge we face.
- What the Bye-Laws say.
- The process we’re following.
- (ideal) timings.
- Criteria
- Where are we?
- What happens next?
- Questions

Big shoes to fill!

Thank you Jan for 18 ½ years



What the Bye-Laws say

- **Bye-Law 6.5:** At the first Board meeting following the annual election by the General Meeting, the Board, including current co-opted members of it, will first proceed with reconfirmation of the existing or appointment of the new Chair of each of the Principal Committees, and then proceed with the co-option of Board members. The Board shall appoint the Chair of each Committee in accordance with Bye-Law 8.1

- **Bye-Law 7.1**: The Board appoints the Chair of each Committee taking into account the wishes of persons engaged in the work of the relevant Committee.

- Any decision about co-option to the Board is independent of a decision about the Legal Committee chair. A co-option decision will be for the Board.

Our response to Jan’s news

Develop a set of criteria

Discuss what is important in an LC chair.

Convert that into a set of criteria

Reinforce the Secretariat Team

We are lucky to have Aygul and Sonia.

Aygul is already taking on more responsibility.

I’m pleased to say Sonia will increase the time she spends on EFET work.

Gain a range of views

Discussions with colleagues.

Thoughts from Board members.

Allow us to develop a ‘long-list’.

A note on timings

1 Feb – Official day of receiving notice

27 Feb
- LC meeting.
- Update on process and hear views.

8/9 March
- Board meeting.
- Best opportunity for Board to consider.

Late March/ early April – Ideal time for a handover if possible

End April – Jan departs

In an ideal world, we get the right candidate and a smooth transition between the 2 chairs.

What we're looking for

- An experienced & highly credible chair
- Who understands the history of the LC and its work
- With an 'association mentality' (i.e. understands the challenge of having 100+ members)
- Who can steer the LC work programme & form a strong team with Aygul and Sonia
- And make a wider contribution to the EFET team
- Who can help facilitate a smooth transition from Jan.
- At a cost which can be funded from the LC budget

That's a set of criteria which we think relatively few people meet! Are there other things important to you which we should consider?

The steps we've taken so far

1) Convert our 'long-list' into a short-list.
2) Informally approach potential candidates to test their interest.
3) In some cases I have had exploratory discussions to:
    - Get to know each other.
    - Discuss views on challenges.
    - In some cases, consider possible contractual terms.

- I am pleased to say we're in discussions with several candidates who I think would make a good Chair.

What happens next?

Continue discussions
- With the aim to conclude shortly

Call with the Chairman/ OC Chair
- Each potential candidate will have a call with the EFET Chair and the EFET OC Chair.

Develop a recommendation to the Board
- The Chair, OC Chair, myself and Aygul will debrief and develop a recommendation.

Ask the Board to consider that recommendation
- That will be presented to the Board.
- The Board can also consider cooption questions.

Finalise a contract
- With a view to beginning as soon as possible.

Notify the LC, plan a handover.
- And then rewrite the byelaws!

Please join Jan for drinks after the meeting

EFET priority objectives for 2023

Why have them?

- If you don't define objectives, how do you know if you're successful?
- There's so much going on that prioritisation is key – and it's hard

What are they?

- 8 priorities identified by the Board.
- There are 5 'what' and 3 'how'
- All are cross cutting – reflecting the need for a common EFET voice

How do you use them?

- They've been shared with each Committee.
- The Board receives an update at each meeting (and we deep dive into them).

What's the relevance for a committee?

- Gives a clearer sense of Board views.
- Helps in setting Committee objectives.

EFET priority objectives for 2023 (1)

Objective	Milestones	Markers for success
Externally focussed: "The What"		
1 Influence reform of power and gas market designs in concert with allied associations, to underline the importance of open markets and so as to preserve access, competition and liquidity	• EC power market design consultation Q1 • EC legislative proposal after consultation Q2 • Implementation of LNG price reporting and EU gas joint purchasing platform Q1 – Q2 • REMIT review • Timely EFET targeted or public reactions as appropriate when new proposals emerge	• Marginal pricing and portfolio bidding survive in European wholesale power market • Existing voluntary gas price benchmarks and commercial gas contracting prevail • Reporting of inside information and transactions remains manageable, market abuse regime is rational
2 Oppose, improve the design of, and time-limit policy and regulatory interventions intended to address the energy crisis, which have a negative impact on the functioning of markets	• Gas market correction mechanism implementation Q1 – Q2 • Termination, extension, or revision of power revenue clawbacks Q3 • MiFID and EMIR reviews Q1 – Q3	• Gas market correction mechanism is not triggered with adverse consequences and is not extended beyond the initial year • Gas storage facilities are predominantly used by the market, not by public service actors • Power revenue clawbacks moderate and become aligned with EFET Guidance • MiFID exemptions for NFCs survive • Margining liquidity pressures ease • EFET assists member companies promptly and professionally in interpreting and adapting to reforms of market supervision legislation

EFET priority objectives for 2023 (2)

3 Raise the profile of EFET (in combination with allied associations when expedient) in discussions at national and regional level related to the design of markets and to current or proposed interventions in response to the energy crisis	• Finalisation of clawbacks in countries where legislation pending Q1 • Review of the effects of clawbacks on power market by EC Q2 - Q3 • Any prolonged cold snap or escalation of war	• New or prolonged national clawbacks are at realistic trigger levels and temporary • EFET or a close ally is at the table and heard during national reviews • No further national, unilateral gas price caps • National gas storage and joint purchasing interventions cease or diminish • No additional national, wholesale electricity price controls
4 Ensure incentives for renewable and decarbonised energy are market based and related standard contractual solutions facilitate market development	• Adoption of revised ETS Directive Q1 • Trilogue on RED III Q1, adoption in Q2 or Q3 • Adoption of Gas Markets Decarbonisation Package Q2 or (more likely now) Q3 • Consolidation of trial schemes for trading hydrogen and certificates evidencing RES and low carbon attributes	• Integrity and liquidity of EU ETS preserved • Expanding ETS coverage and scope • Voluntary markets in RES and low carbon attributes not impeded by legislation • Emerging hydrogen market design facilitates start of a European wholesale market • Biomethane integrated in natural gas market • Roll-out of EFET standards PPA 2.0 and biogas certificates
5 Advance the uptake of eSM (irrespective of service provider) and make eSM a facilitation mechanism for faster settlement, while updating eCM and other existing transaction data related standards	• eSM standard adapted to be usable by two or more providers Q1 • Pilot project for faster settlement underway Q1 – Q2 • Tackling complex netting Q3	• Our transaction data standards are fit for purpose and widely used • Our transaction data standards are subject to robust governance and change management processes

EFET priority objectives for 2023 (3)

Internally focused: "The How"		
6 Improve the impact of our papers and other advocacy materials by making them clearer, more succinct, and more tailored to our target audiences; underpin the impact through engagement with more senior decisionmakers in Brussels and in important national capitals	• This objective is communicated to all WGs and TFs as a priority from January • Templates used consistently from January • Secretariat empowered to be more involved in adapting content and messaging • Greater use of digital content • Greater level of interaction with senior EC and government officials	• Number of shares/ followers on social media • Feedback obtained from influential commentators/ policy makers • Board feedback occurs • Access to senior officials is established • EFET is seen to be making a positive case for the role of markets in delivering cost-efficient energy supplies • EFET inputs are timely
7 Ensure EFET governance processes are robust and transparent, and our professional way of working is mirrored in our public profile	• Cross committee coordination a focus through the year • EFET byelaws updated by March • Reserves policy implemented by April • Endowment Fund governance reviewed by June • Budget set before September • Project through 2023 to improve website and document management • Elaboration of a concept for high-quality hybrid meetings	• Board/ Committee Chairs give positive feedback on coordination • Oversight and Finance Sub-Committees are satisfied • Board approves new Bye-Laws • Budget/ fees set earlier in the calendar year • Website is clearly improved, particularly becomes more user-friendly • When appropriate and desired by a Chair, meetings for members can be hybrid
8 Verify satisfaction of existing member companies with what EFET does for them, act on their feedback and find further opportunities to acquire new members	• List of target member companies developed by March – more systematic progress • Member satisfaction exercise by mid-year. • Recommendations implemented from Q3.	• Number of members • Satisfaction results • Action on feedback

EFET priority objectives for 2023 (4)

Document audience, key points & desired outcome	
Audience – Who is this document aimed at?	
What does that mean for structure & language?	
Timing – when is the right time for this to go out?	
What are our 3 key points?	
Any potential allies? Industry-wide document or EFET-only?	
If and what is our social media message?	
Interactions – What does this relate to, which people/ groups need to know about it, externally and within EFET?	
Follow up & communications – who will we contact to raise awareness or share?	
What does good look like? What outcome would we like & how will we know?	

Annual Membership Survey 2023

Evaluation of results

Aygul Adamson, EFET

- Survey on the LC priorities run on an annual basis, launched beginning of each year
- Serves as an outlet for members' opinions and helps identify areas where legal standardisation could bring value.
- Respondent rate (18) representative of the LC membership (further input welcome!):

1. Azienda elettrica ticinese
2. Alpiq
3. Centrica
4. Danske Commodities
5. E.ON SE
6. Energie AG Oberösterreich Trading
7. ENGIE Global Markets
8. Ezpada
9. Gunvor
10. InCommodities
11. MET International
12. RWE Supply & Trading
13. Statkraft
14. SOCAR Trading
15. VERBUND
16. Vattenfall Energy Trading
17. Vitol SA
18. Ørsted

- Fully transparent: results openly discussed with members

Legal Committee

EFET

Keeping existing contractual templates and legal opinions up to date

→ Netting opinions are updated on a continuous basis (27+ jurisdictions)

→ Maintaining EFET contractual standards and their acceptance in the market

→ LC commissions external advice in line with business needs

→ Enabling contractual novation through EDRS

Responding to the energy crisis/events and providing legal guidance

→ Legal risk management and compliance

→ Reactive role, liaising with Committees, legal support of advocacy campaigns

→ Assessing contractual impact of policy interventions and trade restrictions

→ e.g. consequences of change in reference price/MCM

→ EnSiG, Russia sanctions

→ IBOR transition

Pursuing new opportunities for contract standardisation

→ Developing the PPA 2.0 (achieving simplified terms, adapting to new PPA markets + guidance notes, promoting market uptake etc.)

→ Providing standard contracts for new (green) energy products (biogas certificates master, hydrogen master)

→ LNG contracting

→ (Potentially) Review of selected provisions of EFET Master Agreements (FM, fallback mechanism, notices)

Legislative monitoring, securing favourable legal framework

→ Influencing reforms of national close-out netting regimes throughout the EU

→ Consolidation of advocacy efforts and alignment with ISDA, IETA, Re-Source, DENA, HyXchange etc.

→ Promoting EFET terms and standardisation in emerging markets (Ukraine, Turkey, Georgia)

→ Escalating complaints to DG COMP/ENER (Romania, Bulgaria etc.)

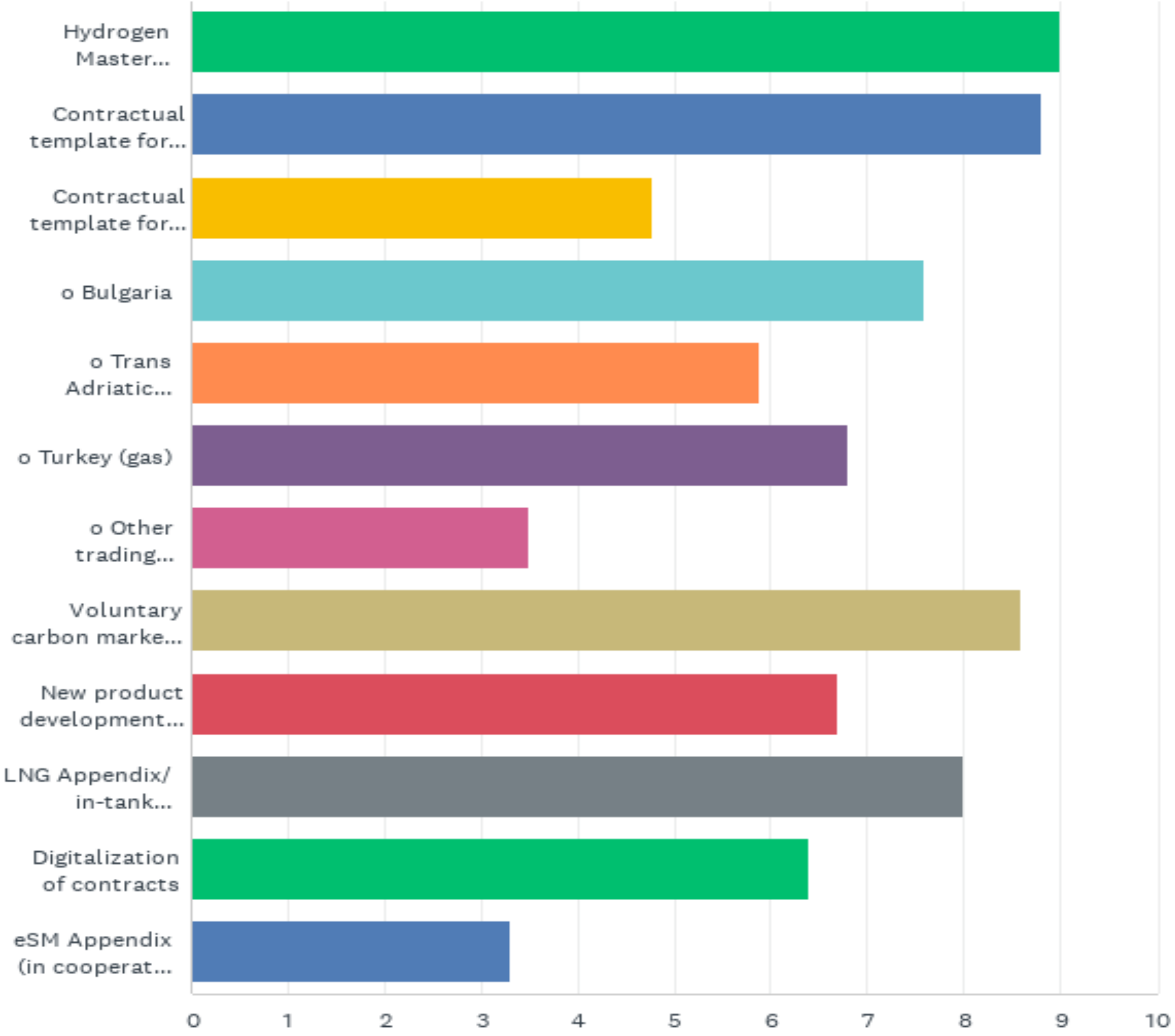
Q5: Would you like LC Secretariat to issue Legal Opinions for other EFET standard documents apart from the EFET Master Agreements (Gas & Power) and the MNA/CPMA?

- Answered: 14   Skipped: 6

ANSWER CHOICES	RESPONSES	
a. Certificate Master Agreementi. German law	33.33%	6
ii. English Law	22.22%	4
iii. Other jurisdictions: please indicate	0%	0
b. PPA standard (selected aspects thereof). Please specify jurisdictions in the comments field	22.22%	4
TOTAL		14

Q8: What are the work areas for the LC to focus on in your opinion in 2023? Where could standardisation add value?

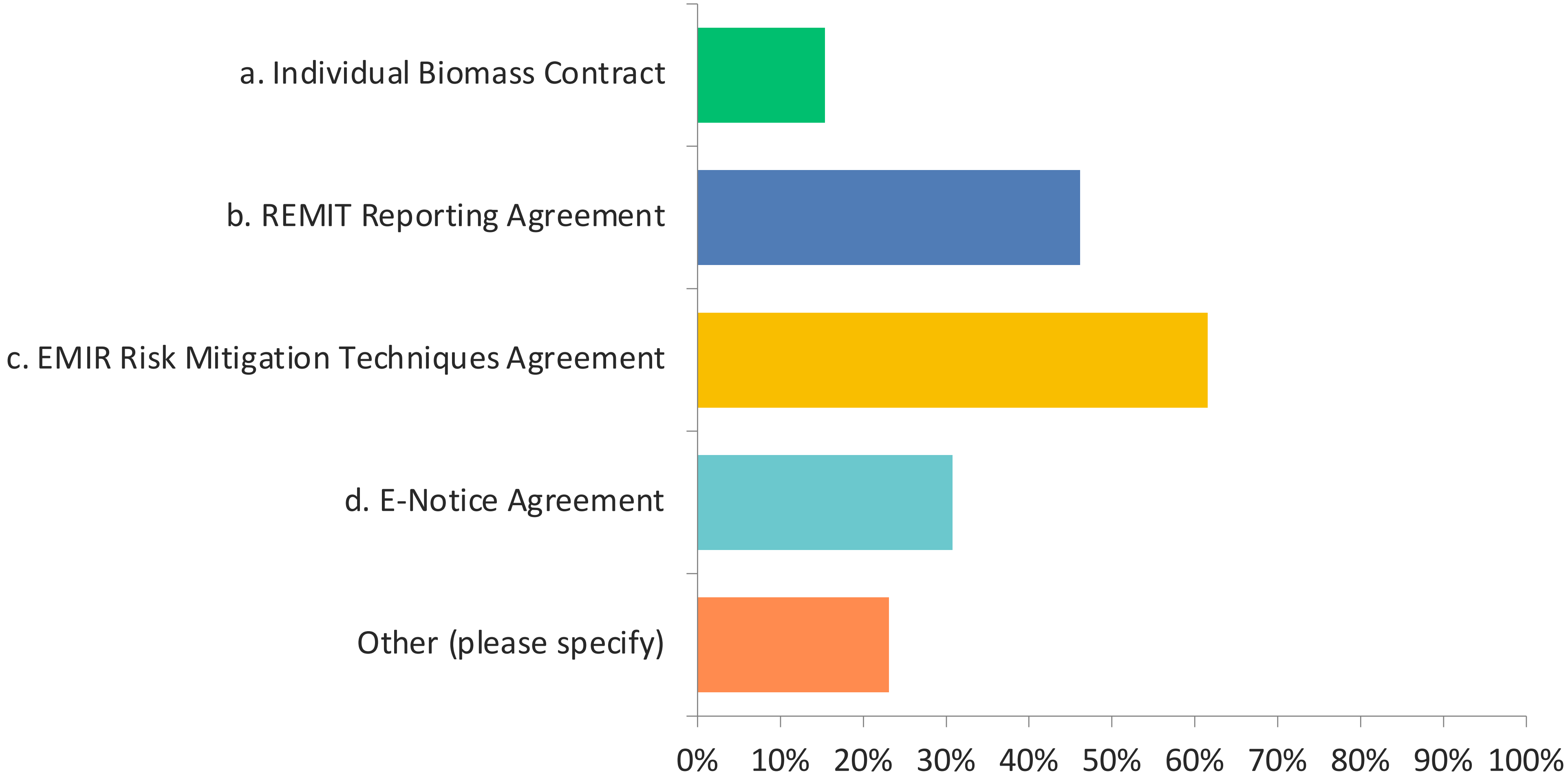
- Answered: 18 Skipped: 2



Powered by SurveyMonkey

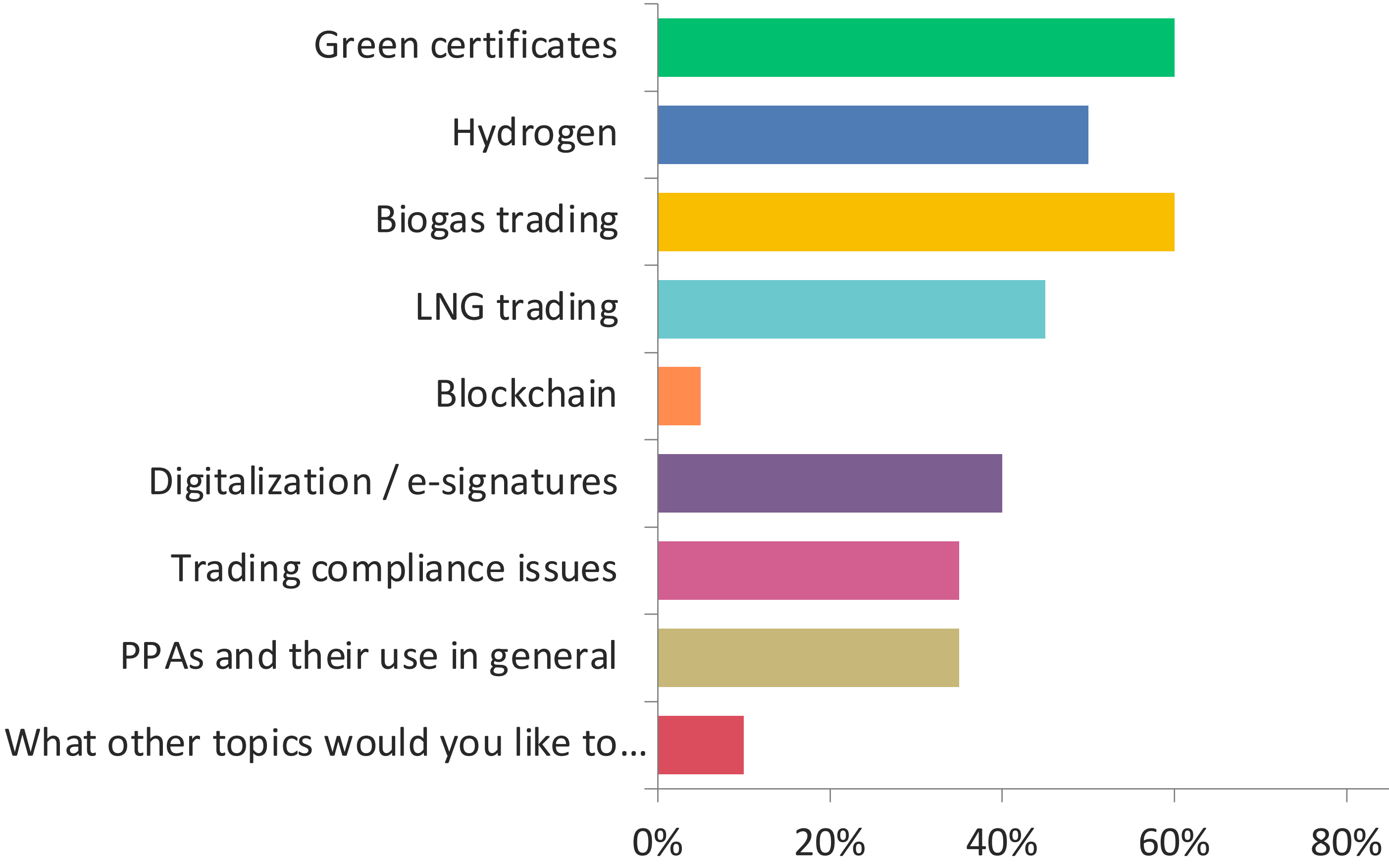
Q12: What are the currently existing EFET standards that you think should be revised by the LC in the coming year?

- Answered: 13 Skipped: 7



Q13: What should be the priority areas for educational work carried out by the LC in 2023? Please specify your areas of interest.

- Answered: 20 Skipped: 0



ANSWER CHOICES	RESPONSES	
Green certificates	60.0%	12
Hydrogen	50.0%	10
Biogas trading	60.0%	12
LNG trading	45.00%	9
Blockchain	5.00%	1
Digitalization / e-signatures	40.0%	8
Trading compliance issues	35.00%	7
PPAs and their use in general	35.00%	7
What other topics would you like to learn about?	10.0%	2
TOTAL		20

Q14: Do you wish to see more legal advice being commissioned in respect of the new legislation?

- Answered: 17 Skipped: 3

ANSWER CHOICES	RESPONSES	
market correction mechanism / price caps	29.41%	5
new windfall taxes / national clawback mechanisms	23.53%	4
national legislation that has the potential to render contractual clauses invalid	29.41%	5
Other (please specify)	17.65%	3
TOTAL		17

Q18: Are you generally satisfied with the support given by the LC Secretariat?

Answered: 19   Skipped: 1

ANSWER CHOICES	RESPONSES	
Yes	94.74%	18
No	0%	0
Other (please specify)	15.79%	3
TOTAL		21

Q19: Do you believe that the LC Secretariat pursues the right initiatives and is responsive to your needs?

Answered: 19   Skipped: 1

ANSWER CHOICES	RESPONSES	
Yes	94.74%	18
No	0%	0
Other (please specify)	10.53%	2
TOTAL		20

Q22: Are you satisfied with the level of information exchange/synergies between various work groups within the Legal Committee and across other EFET work groups/Committees?

Answered: 19 Skipped: 1

ANSWER CHOICES	RESPONSES	
Yes	63.16%	12
No	15.79%	3
Other (please specify)	31.58%	6
TOTAL		21

Q23: Do you consider the decision-making process in the LC to be sufficiently transparent?

Answered: 18 Skipped: 2

ANSWER CHOICES	RESPONSES	
Yes	94.44%	17
No	0%	0
Other (please specify)	5.56%	1
TOTAL		18

Q24: Do you think that the current organization of the LC activities adequately mirrors legal and market developments? If not, what topics would you suggest adding or removing?

Answered: 19   Skipped: 1

ANSWER CHOICES	RESPONSES	
Yes	84.21%	16
No	0%	0
Other (please specify)	15.79%	3
TOTAL		19

Q25: Are you satisfied with the current retained external counsels offered by Reed Smith (English Law) & DLA Piper (German law)?

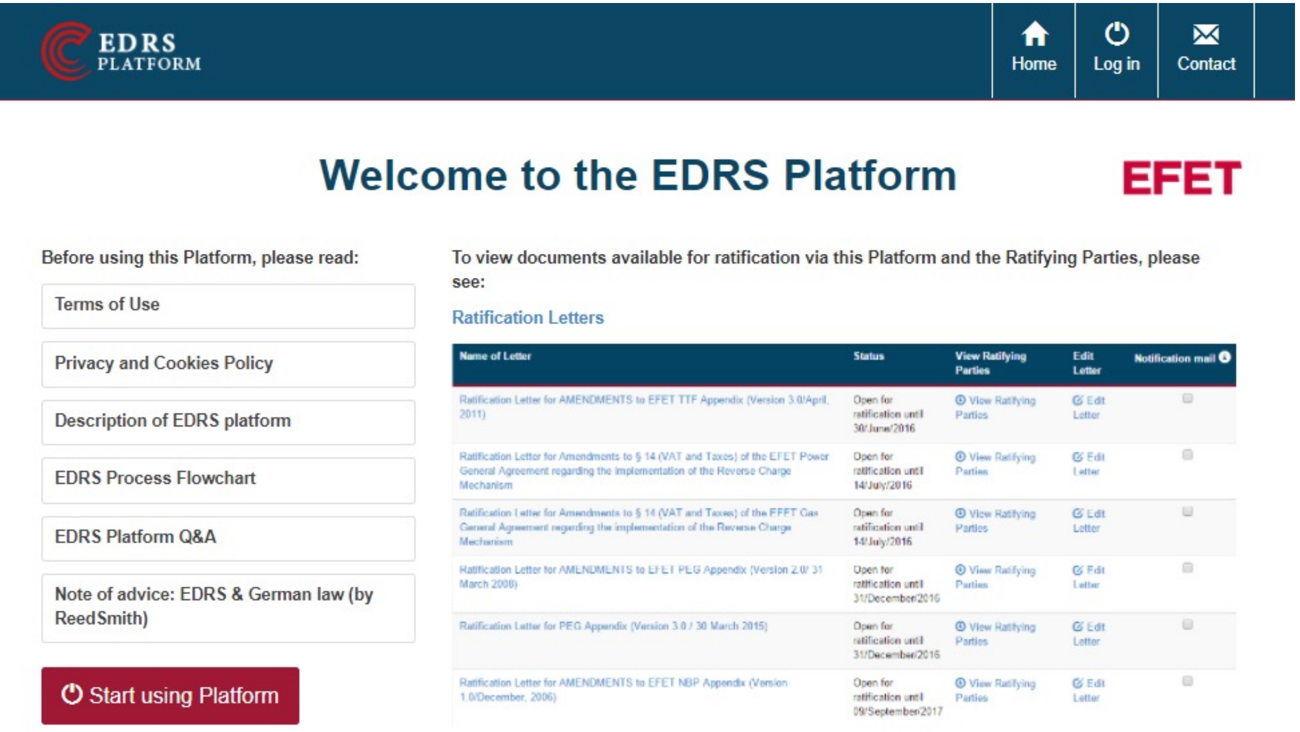
Answered: 20   Skipped: 0

ANSWER CHOICES	RESPONSES	
Yes	95.00%	19
No	0%	0
Other (please specify)	10.0%	2
TOTAL		21

Q27: Are you satisfied with the EDRS platform (ratification mechanism)? Please feel free to share your suggestions for improvement, if any.

- Answered: 18 Skipped: 2

ANSWER CHOICES	RESPONSES	
Yes	95.00%	19
No	0%	0
Other (please specify)	10.0%	2
TOTAL		21



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EFET netting opinions update 2022-2023

EFET NETTING OPINIONS 2022/2023 UPDATE

Austria	Schoenherr, Vienna	Combined Electricity & Gas	Published 14.11.2022
Baltic States	TGS Baltics	Combined Electricity & Gas	Pending review
Belgium	Stibbe BV/SRL, Brussels	Combined Electricity & Gas	Waiting for the updated draft
Bulgaria	Kambourov & Partners, Sofia	Combined Electricity & Gas	Pending review
Croatia	Wolf Theiss, Zagreb	Combined Electricity & Gas	Published 27.11.2022
Czech Republic	Allen & Overy, Prague	Combined Electricity & Gas	Published 17.01.2023
Denmark	Kromann & Reumert, Copenhagen	Combined Electricity & Gas	Published 08.11.2022
France	Reed Smith, Paris	Combined Electricity & Gas	Draft close to final
Germany	Luther, Munich	Combined Electricity & Gas	Published 16.12.2023

EFET NETTING OPINIONS 2022/2023 UPDATE

Greece	Karatzas & Partners, Athens	Combined Electricity & Gas	Pending review
Hungary	Faludi Wolf Theiss, Budapest	Combined Electricity & Gas	Waiting for the updated draft
Italy	Parola Angelini Law Firm, Milan	Combined Electricity & Gas	Waiting for the first draft
Poland	Wolf Theiss, Warsaw	Combined Electricity & Gas	Waiting for the updated draft
Portugal	Morais Leitão, Lisbon	Combined Electricity & Gas	Published 04.09.2022
Romania	Leroy Law, Bucharest	Combined Electricity & Gas	Draft close to final
Slovakia	Schoenherr, Bratislava	Combined Electricity & Gas	Temporarily on hold
Slovenia	Schoenherr, Ljubljana	Combined Electricity & Gas	Published 20.01.2023
Spain	CMS, Madrid	Combined Electricity & Gas	Draft close to final
Switzerland	Lenz & Staehelin, Zurich	Combined Electricity & Gas	Published 20.12.2022

Introduction to eSM for bilateral settlement

Gavin Ferguson, EFET Operations Committee

eSM - Faster Settlements

EFET

Legal Commitee 27-Feb-2023

- Current Settlement Context
- eSM – What is it ?
- eSM Live Status
- Benefits & PWC study
- What is the Ops Committee progressing now ?
- Next steps – Creation of the eSM Annex

eSM - Faster Settlements

EFET

Legal Commitee 27-Feb-2023

Definitions & Rules	Descriptions
Coverage & Pre-requisites Gas, Power, Emissions , Coal Physical plus associated fees **Pre-requisites:** Both parties use eSM at Line Item level. Preferred that both parties use the eSM rounding rules as per eSM Standard.	Description: **Coverage** All commodities and products (Physical & associated fees) that fall under eSM, to be included in faster settlement, except deals with pricing that does not allow for daily settlement, e.g., deals whose final price is calculated based on a monthly average of daily closing prices.

eSM - Daily Settlement – Timetable Example

Reviewed by WG X 2 on 22.11.22 and 19.01.23 – feedback amendments in blue

Coverage : FIXED prices and INDEX -> payment BD+4

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Monday
(1)delivery		(1)Settlement	(1)netting statement	(1)Payment			(8)delivery		(8)Settlement	(8)netting statement	(8)Payment			
	(2)delivery		(2)Settlement	(2)netting statement			(2)Payment	(9)delivery		(9)Settlement	(9)netting statement			
		(3)delivery		(3)Settlement			(3)netting statement	(3)Payment	(10)delivery		(10)Settlement			(10) netting statement
			(4)delivery				(4)Settlement	(4)netting statement	(4)Payment	(11)delivery				
				(5)delivery				(5)Settlement	(5) + (6) +(7) netting statement	(5) + (6) +(7)Payment	(12)delivery			
					(6)delivery			(6)Settlement				(13)delivery		
						(7)delivery		(7)Settlement					(14)delivery	

Example : If Thursday was a holiday in **either** of the parties jurisdiction

Monday	Tuesday	Wednesday	TH HOLIDAY	Friday	Saturday	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
(1)delivery		(1)Settlement		(1)netting statement			(1)Payment						
	(2)delivery			(2)Settlement			(2)netting statement	(2)Payment					
		(3)delivery					(3)Settlement	(3) + (4) netting statement	(3) + (4) Payment				
			(4)delivery				(4)Settlement						
				(5)delivery				(5)Settlement	5) + (6) +(7) netting statement	(5) + (6) +(7)Payment			
					(6)delivery			(6)Settlement					
						(7)delivery		(7)Settlement					

ONE invoice per single Flow Day
(per aggregation keys)

Invoice to be **sent** by midday of the second BD, BD+2 , i.e **2 BD** after the delivery flow

Payment **-** to be **paid** the later of **4 BD** after the flow
or **2 BD** after the invoice is issued

Key

Settlement	=generation of invoice and shadow invoice matching via eSM and resolution of mismatches
Netting statement	= generation of netting statement & shadow netting statement matching via eSM and resolution of mismatches

eSM – M+10 CD Settlement – Timetable Example

A. Scenario: 1st falls on a Monday

..Previous Month…	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th
	Monday	Tuesday	Wednesday	Thursday	Friday	Sat	Sat	Monday	Tuesday	Wednesday	Thursday	Friday
Delivery…			Settlement	Netting Generated & Matched						Payment		
			M +3 BD	**M +4 BD**						**M + 10 CD**		

B. Scenario: 1st falls on a weekend, followed by PH , e.g. Jan

..Previous Month…	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th
	Sun	Mon -PH	Tuesday	Wednesday	Thursday	Friday	Sat	Sat	Monday	Tuesday	Wednesday	Thursday
Delivery…					Settlement	Netting Generated & Matched				Payment		
					M +3 BD	**M +4 BD**				**M + 10 CD**		

C. Scenario: 1st falls on a PH , weekend, followed by another PH , e.g. Easter Good Fri, WE followed by Easter Mon

..Previous Month…	1st Apr	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th
	Easter Fri PH	Sat	Sun	Easter Mon PH	Tuesday	Wednesday	Thursday	Friday	Sat	Sun	Monday	Tuesday
Delivery…							Settlement	Netting Generated & Matched			Payment	
							M +3 BD	**M +4 BD**			**M + 10 CD**	

M+10 Settlement Rules

M +3 BD	Settlement == Invoice Generated & Matched
M +4 BD	Netting Generated & Matched
M + 10 CD	Payment on the 10th or ~~earlier~~ **next BD,** if the 10th CD is a PH in either jurisdictions

eSM Faster Settlement – Next Steps for Operations

Next WGs to progress the activities below:

	Next Steps for 2023	Status	Due Date	Who- EFET
A	**Faster Settlement - Annex** Engage with Legal to create Draft Proposal for Annex Pass all findings and Proposed Annex to Legal team	Completed	H1-2023	Gavin/ Anca
B	**Credit committee** Credit committee to have sight and be informed of Faster Settlements outcomes	Ongoing	2023	Gavin/ Anca
C	**WG for faster settlement** Ascertain appetite for creating a separate WG for faster settlement in 2023 Establish how will this operate and participants & scope of work for daily settlement and M+10	In Progress	H1 2023	Gavin/ Anca
D	**Recommendations** for **High Level Impact Assessment** Create high level draft and disseminate High Level Impact in the WG for faster settlement in 2023	In Progress	Q1-2023	Gavin/ Anca

Next Steps for Legal

	Next Steps for 2023	Status	Due Date	Who- EFET
E	**Faster Settlement – Legal to draft Annex** Mobilise Legal working group to create Draft Proposal for Annex, mirroring the Ops WG	Pending	Summer-2023	Sonia /Aygul
F	Legal Committee to review and sign off Annex	Pending	Q3-2023	Legal Committee

eSM - Faster Settlements

EFET

Legal Commitee 27-Feb-2023

Contributors : Gavin Ferguson Anca Bossons Stuart Beeston

- Any Questions ?

EFET European Federation of Energy Traders

Legal Committee

Gas Committee update

27 February 2023 Doug Wood

Gas Committee

Old (Natural Gas) Agenda	**New (R&LC gases) Agenda**
• Market functioning • Gas Markets Intervention Package	• Hydrogen • Biomethane • Gas elements from CNSG

SofS/LNG/Storage WG

Implementation WG

- Tariffs
- Gas Hubs & Balancing
- Capacity

RES Gas WG

- Union Database
- RED II/III, ETS MRR & Gas
- Contractual standardisation biomethane, hydrogen
- GHGP

Gas Markets Intervention Package 20 Dec 2022

- **Regulation 2022/2576 enhancing solidarity through better coordination of gas purchases, reliable price benchmarks and exchanges of gas across borders**
  - Transparency and information exchange
  - Demand aggregation and joint purchasing
  - Enhanced use of LNG facilities, gas storage and pipelines
  - Intra-day volatility
  - Publication of LNG price assessment and benchmark
  - Solidarity
- **Regulation 2022/2578 establishing a market correction mechanism to protect Union citizens and the economy against excessively high prices**
  - Market correction event & dynamic price caps
  - Extension of MCM to derivatives linked to other VTPs
- **Regulation 2022/2301 setting the filling trajectory with intermediary targets for 2023 for each Member State with underground gas storage facilities**
- **Council Regulation EU 2022/1369 on coordinated demand-reduction measures for gas**

Transparency and information exchange (Article 3)

- Prior notice of tenders and negotiations >5TWh/year, 6 weeks before conclusion (or 2 weeks if negotiations start later). Ad hoc Steering Board
- Commission may issue a “Recommendation”, if they consider further coordination or improved functioning of joint purchasing is necessary.

- *EC has issued a reminder and details of reporting channel, and claims to have received some notifications already.*
- *EC will not intervene, but expects recommendations to be followed!*
- *GC commencing work with LNG data reporting TF to define reporting*

Demand aggregation and joint purchasing (Art 4-11)

- Service provider to organise demand aggregation and joint purchasing with dedicated IT tools.
- Participation will be open to all gas undertakings and consumers (except RU affiliates). MS may provide liquidity support.
- Undertakings and consumers must participate in demand aggregation for storage filling targets for 15% of volumes in own or cross-border storage, but may decide not to purchase and may use gas for other purposes. MS to ensure participation.
- Undertakings and consumers may coordinate or use joint contracts subject to compliance with Competition Law.

- *PRISMA appointed as service provider; JVs rules out for competition reasons*
- *MS have discretion over how national requirements will be met – appointed firms / open to market*
- *Buyers may act as consortium leader, may provide shipping service.*
- *Gas may be purchased at National Balancing Points (or VTPs where they exist) using EFET contract; or at "European virtual LNG terminal" using own contract*
- *PRISMA an introduction tool. Contracting will be off-system.*

Infrastructure optimisation (Article 14)

Enhancing use of LNG facilities, gas storage and pipelines

- Improved LNG transparency on platform, including publication of tariffs by exempted terminals
- Underutilised transportation capacity to be offered on monthly and daily basis. If <80% is used or offered, the difference may be withdrawn for the following month (but may still use on interruptible basis, and rights are retained until reallocated). If CMP already in place (D-1 UIOLI, OSBB, STI), MS may derogate. Rules apply from 31/3/2023

- *Recognised as potentially damaging. NRAs/TSOs starting to declare derogation on basis of UIOLI rules already in place (Germany already declared)*
- *Engaged with ACER, ENTSOG and DG ENER. Differences in interpretation. Can March capacity be confiscated in April or does measurement start in April so earliest confiscation is may? ENTSOG working on how they will operate this. Need to consider what constitutes an “offer”.*
- *What happens under EFET master if your capacity is confiscated? What about secondary trades of capacity?*
- *ACER/ENTSOG workshop on 14 March 2023.*

LNG price assessments and benchmark

Publication of LNG price assessments and benchmark

- ACER empowered to gather information and obliged to produce daily LNG price assessment by 13 Jan 2023 and daily benchmark (spread) by 31 Mar 2023.
- LNG market participants must submit data to ACER by 18.00 through channels established by ACER.

- *EFET LNG Data Reporting TF formed under MSC, supported by GC*
- *ACER guidelines under review. Significant response from industry to understand what information to be supplied and how. Operational issues with reporting platform. Information on bids/offers not clearly defined, not necessarily collected. Initial focus on transactions only.*
- *Second guidance document published for comment.*

Solidarity

- Solidarity to cover protected customers and critical volumes for electricity SofS; demand reduction for non-essential consumption but not vulnerable customers; EC can request to safeguard cross-border flows.
- Solidarity obligations can be extended (temporarily) to MS with LNG facilities.
- Default rules defined for MS who have not concluded bilateral agreements. Costs to be
- "reasonable".
- *What happens if customers are interrupted to allow gas to be diverted to vulnerable consumers in MS requesting solidarity? How does EFET address this if supplies are interrupted for solidarity reasons?*

Regulation 2022/2578...

...establishing a market correction mechanism to protect Union citizens and the economy against excessively high prices

- Market correction event & dynamic price caps
  - *Key events for MCE include risks affecting*
    - *Failure of major LNG import terminal into NL*
    - *Failure of major production facility or pipeline infrastructure into NL*
    - *Decision by major exporter not to sell in EU*
- *Now looking at processes for trigger/suspension of MCE*
- Extension of MCM to derivatives linked to other VTPs
  - *Commission are "working on it"; initial proposals targeting 1 March 2023*
- *GC response to ACER preliminary report*

THANK YOU
FOR YOUR ATTENTION

MORE INFORMATION

Doug Wood

Chair, Gas Committee

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www.efet.org

EU Energy Platform

Presentation to EFET Legal Committee meeting

27 February 2023

EU Energy Platform

EU Energy Platform

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Ensuring security of gas supply

AggregateEU: Gas demand aggregation for purchasing

Leverage EU's gas demand to attract reliable supplies from global markets and price stability

Setting a framework for international cooperation

Protocols, letters of intent or Memoranda of Understanding (EC and MS)

Efficient usage of EU's gas infrastructure

Maximise LNG absorption, comply with storage obligations and ensure security of gas supply.

Coordinating an EU position on gas supplies

Demand Aggregation and Joint Purchasing

Objectives

- Procure gas at competitive conditions, avoid outbidding
- Support storage filling for next winter
- Underpin future imports of renewable H2

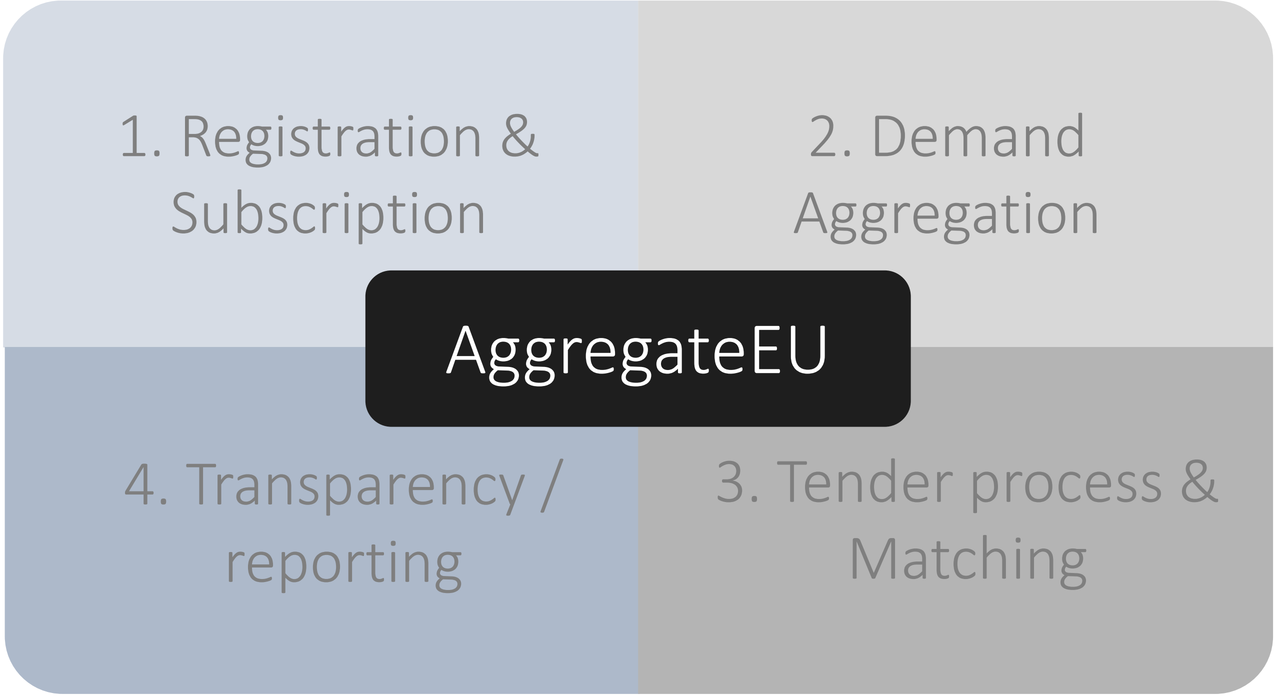
Main elements

Service Provider to organise tenders in spring 2023
Steering Board of Member States chaired by EC Vice-President
Industry Advisory Group
Regional Groups
Increased transparency of gas purchases and negotiations
Optimisation of infrastructure LNG and storage

AggregateEU in practice

Registration of the interested parties, including indication:

- if also acting as leader of group of buyers
- financial collateral



Potential buyers can indicate:

- location,
- quantities, and
- period

Tender sheets will be created with aggregated demand per location and month.

Collect the offers of potential buyers and match the potential buyers and the potential sellers **for contract negotiation**

Contracts are concluded outside the platform

They will have to be reported to PRISMA and related information will be provided to DG ENER

Contractual aspects

- Contracts are concluded outside the platform: parties can freely enter into agreements based on existing models or precedents
- For pipeline gas: the **EFET template** will certainly be used
- For LNG:
  - Different models have been published (incl. EFET, GIIGNL, BP, Trafigura)
  - No overall market standardization at this stage
  - Information will be provided about existing models

EFET European Federation of Energy Traders

Focus session on contractual impact of MCM – Market Disruption Event in EFET contracts

EFET to look at practical examples/ potential amendments relating to:

**** Outcome of London LC Meeting 12.12.2022**

1) fallbacks under FM (ISDA type)

2) review notification process in various scenarios (consider hybrid communication – refer to work undertaken during covid pandemic)

3) revision of transportation failures under FM as effects of war

4) EFET recommendation/ guidance on clause 15 Floating Price/ Market Disruption Event (on a non-binding basis) – example of ISDA/LME guidance following disruption in the nickel market

5) identify if there is merit in revisiting EFET definition of the termination amount and its components

6) expanding definition of credit support on EFET GA level (e.g. using EUAs as eligible form of collateral), collateral enforceability

EFET European Federation of Energy Traders

CEGH Biogas Certificates STA – Update on EU policy developments

Mariana Liakopoulou, Markets and Policy Associate EFET

EFET

Case 3: Crediting against National Renewable Fuel Quotas in the Transport Sector

Draft legal basis in RED III and recast Gas Directive

- **Draft RED III art. 31 on the Union database** for tracing renewable liquid & gaseous transport fuels:
  - For gaseous fuels, economic operators should only enter info on the transactions + sust. characteristics and GHG emissions **up to the injection point, where the mass balancing traceability system is complemented by GoOs**
  - GoOs are **cancelled after the consignment is withdrawn from the EU interconnected gas grid but are not tradable outside the UDB**
  - **UDB for all end-uses of gas foreseen in a year's time after adoption of RED III** (# 3 months proposed by the EC)
- **Draft art. 8 of recast Gas Directive** on certification of low-carbon fuels:
  - **Where GoOs have been issued for a consignment of low-carbon gases**, these shall be subject to the same rules as those set out in the RED for the production of RES gases
  - **The UDB should not physically track molecules** and the EU gas grid, incl. pure H2 networks, should be seen as **single mass balancing facility**

Case 3: Crediting against National Renewable Fuel Quotas in the Transport Sector

Operational aspects

- Implementing Act for Voluntary Schemes under RED II published in OJ in June 2022 (*enters into force in 18 months' time*)

- **Leaked EC Implementation Timeline of the UDB** (*expired deadlines for on-boarding of EO and TSOs, deadlines for registration of transactions in gas by June, and GoO integration not before adoption of legal basis under RED III*) → EFET PMG GoO letter to EC asking resumption of consultation with the market for our contractual standardization efforts not to be adversely impacted

- **Last input by the EC to EFET:**
  - *Trades of renewable gas within the single European mass-balancing facility will be treated as transactions using the EU as location, indifferent of the hub where the trade occurs and with no need to add any reference to EU IPs capacity and/or nomination at EU IPs and/or any hub trading confirmation. The data point about the location will be provided by the seller and it will carry information about the original entry point into the single European mass-balancing facility to allow for the calculation of the tariff discount foreseen under the Gas Decarbonisation Package (inevitably in this way the discount will only be accessible to the economic operator who will withdraw the gas from the single European mass-balancing facility). When an economic operator injects renewable gas in the single European mass-balancing facility it uploads in the UBD the relevant sustainability information jointly with the nomination confirmation received from the system operator at the injection point. When an economic operator withdraws renewable gas from the single European mass-balancing facility it uploads in the UBD the relevant sustainability information jointly with the nomination confirmation received from the system operator at the withdrawal point.*

EFET

Case 2: Reduction of Reportable Emissions under the EU ETS System

EU ETS Monitoring and Reporting Regulation Guidance 03

- Updated Guidance under MRR art. 39 on zero-rating of biomethane towards the EU ETS in line with the RED II sustainability and GHG criteria

- **Answers by DG CLIMA for EFET:**

  - If biomethane volumes are certified either by an EC-recognized voluntary scheme or a national scheme, a M-S can accept the use of biomethane imported from another M-S at an ETS-registered installation as zero-rated towards the ETS (on provision of transfer of certs for the corresponding volumes from one registry to the other).

  - Mass balancing requires that commodity and certificate are traded together.

  - The EU gas grid is seen as a single logistical facility also under the MRR. Certified biomethane should in principle be used against ETS allowances across EU borders.

  - MS still need to ensure that the mass balancing is done correctly, e.g., via a national registry. Cross-border trade is handled via agreements between registries. If no such agreement is in place, trading is frustrated. The UDB should in principle be able to settle this.

  - Hydrogen presents no relevance from an ETS perspective.

Case 1: Crediting against National Renewable Fuel Quotas in the Transport Sector

Consulted update of GHGP Corporate Standards and Guidance

- Review of market-based accounting approaches under Scopes 1, 2, 3 – deadline 14 March
- EFET PMG GoO letter to ENER and the World Resources Institute objecting to the review
- **EFET PMG GoO meeting with ENER on the topic:**

- **EFET argument:** GHGP-compliance-focused trading tends to be more for Scope 2, but revision of the corporate standard to location-based will affect all three scopes. Revision of the standard will take 2-3 years, which makes it difficult for contracts to include clear provisions ref. to the possibility of shift to location-based, and that may impact the trade in a significant manner
- ENER generally perceive this as an issue of individual EO, so not as an issue affecting targets
- We tried to explain to them that a RED II & MRR-compliant EO using PoS linked to the mass balance (i.e., amount of biomass in the whole grid matching amount given in the PoS, independent of the physical location of the biogas) will end up being incompliant with the GHGP standard

Rules for renewable hydrogen under RED II

- Delegated acts on qualifying criteria for **renewability of electricity used to produce green hydrogen** + GHG savings methodology under RED II art. 27.3 and 28.5 released by the EC on 13 February
- The EP has already requested the full 2+2-month period for approval or rejection of the Acts – so no adoption before **June 2023**
- We appreciate the flexibility provided by the EC in terms of all three qualifying criteria, which now seem to allow enough of a transitional period for the deployment of the initial hydrogen backbone. New provisions are largely in line with our latest set of EFET recommendations to the Cabinets of Simson and Timmermans from **mid December**
- We particularly appreciate the clear recognition of intermediation amongst provisions on additionality, as fuel producers are enabled to count electricity taken from the grid as renewable, provided they conclude one or more RES PPAs with economic operators
- However, too rigid of a design and interpretation of the framework conditions under RED II may hinder investment in electrolyser capacity. For this reason, the EC to stick to its newly inserted commitment for assessment of the relevance of all rules by 01 July 2028
- It cannot be excluded that the newly added provision on relief from additionality based on low grid carbon intensity could further delay approval of the RED II DA by the co-legislators, as well as RED III inter-institutional dialogue as a whole

Nexus of secondary legislation and non legislative acts

Renewable Energy Directive (RED II)

Implementing Act for voluntary schemes (transport sector)

Delegated Act on on renewable liquid and gaseous transport fuels of non-biological origin and Delegated Act on GHG methodology on greenhouse gas emissions savings from renewable liquid and gaseous transport fuels of non-biological origin and from recycled carbon fuels (transport sector)

EU Commission proposal for revision of RED II

Extension of Implementing and Delegated Acts to all end uses of gas under RED III

Gas Package (article 8 of Directive and article 16 of Regulation)

Special rules for biogas under the EU ETS Monitoring and Reporting Regulation (Guidance Document 3)