# Recommendations to National Regulatory Authorities

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ACER Workshop on CBCA
Ljubljana, 2 February 2016

# Outline of the presentation

- **Overview of the major steps by NRAs to take coordinated decisions**
- **Details of each step with some illustrations**
  1. first actions after the receipt of an investment request
  2. preliminary assessment of completeness
  3. assessment of the robustness of the scenario analysis and the quality of the CBA
  4. identification the start of the 6-month period
  5. processing the investment request to reach an agreement on CBCA
  6. coordinated decisions and notification to the Agency

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# Major steps to take coordinated decisions(1)

1. transmit the request to the Agency, define a coordinating NRA *(without delay)*

1 2 Complete?

Yes → **next slide**

**No**

2b ← 2c 2d

if some info is still missing

2. preliminary assessment *(indicatively within one month)*

2b. request the promoters to provide missing information *(within a reasonable period of time)*

2c. assess the received information

2d. inform the Agency about the request and result *(without delay)*

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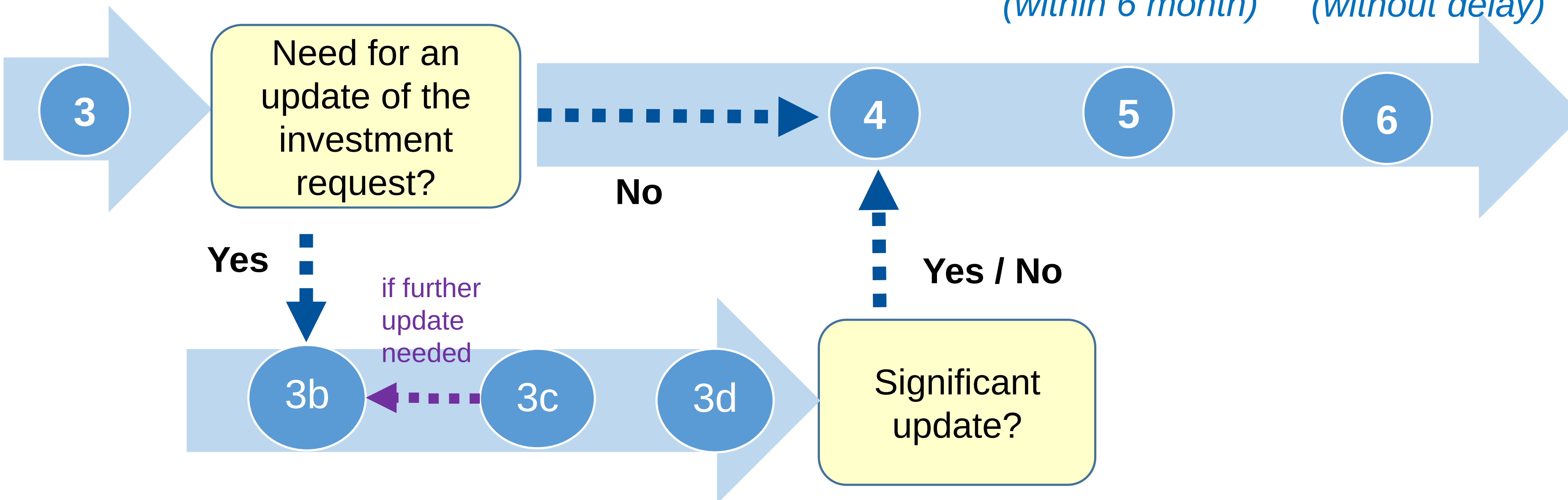
# Major steps to take coordinated decisions(2)

3. assess the robustness of the scenario analysis and the quality of the CBA

4. inform the Agency about the start date of the 6-month period *(without delay)*

5. process with the investment request to reach a CBCA agreement *(within 6 month)*

6. take coordinated decisions and notify them to the Agency *(without delay)*




3b. request the promoters to update the request

3c. assess the updated information

3d. inform the Agency about the request and update *(without delay)*

# 1.step: first actions after the receipt of an investment request

- NRAs should transmit a copy of each investment request to the Agency [Article 12(3) Reg. 347]
- (The NRAs should keep informed the Agency about the treatment of the investment request)
- NRAs should jointly define a coordinating NRA (roles of the parties are detailed in Section 2.1. of the Recommendation)

**Definition of a coordinating NRA, if the project is**

a) located in one Member State → NRA of that Member State
b) cross-border electricity project → NRA of the Member State with the longest part
c) cross-border gas project → NRA of the Member State with the highest investment costs

Details in Section 2.1 of the Recommendation

## 2.step: preliminary assessment of completeness

- Well informed and robust decisions require a complete investment request
- NRAs should jointly assess the completeness of the information submitted
- Request jointly (through the coordinating NRA) the project promoters to provide the missing information

Details in Section 2.2.

# 3.step: assessment of the robustness of the scenario analysis and the quality of the CBA

- Well informed and robust decisions require the investment request to be of adequate quality
- NRAs should assess the robustness of the scenarios (consideration of uncertainties, assumptions and input data used for building the scenarios)
- NRAs are free to set the assessment criteria ← the Agency's opinions on scenarios, TYNDPs, PCIs could be considered
- NRAs should request (through the coordinating NRA) the project promoters to update the investment request with regard to certain elements which are not of adequate quality (if needed) → the update provided by the project promoter(s) can be significant or not significant (see next slide)

# What is a significant update?

In the Agency’s view, a significant update is:

- a significant variation in total costs (in general, exceeding the 20% cost uncertainty range)
- a significant change in the national net impacts, which reveals a new Member State with significant net impact
- updated information which all the involved NRAs deem significant

# 4.step: identification of the start of the 6-month period

the 6-month period for NRAs decision starts when the last NRA concerned receives the investment request [Art. 12(4)]

If further information was jointly requested by the NRAs → start date is the receipt of the last piece of missing information listed in Section 1.5

If the investment request was updated* by the project promoters <u>and this update is significant</u> → start date is the receipt of the significant update

*following the joint request of the NRAs

# 5.step: processing the investment request to reach an agreement on CBCA

- identify the costs to be allocated
- agree on a plausible scenario (or a combination of scenarios)
- agree on the allocation of the costs
- agree on the payments for implementation of the cost allocation
- mechanism for adjustments of the cost allocation

# Identification of the costs to be allocated

Efficiently incurred investment costs, which excludes maintenance costs, shall be borne by the relevant TSOs or project promoters […] [Article 12(1)] → Costs for CBCA are different from costs for CBA (total costs)

- "investment cost": it usually covers development, construction and commissioning costs, but only costs which are related to the PCI which is subject of the investment request
- "efficiently incurred": it requires a preliminary evaluation of the efficient costs based on published reference values (unit investment costs, historic costs, studies) if possible
- expected values → does not prejudice an evaluation of the actual efficient investment costs after the realisation of the project. e.g. for tariff inclusion

Details in Section 2.4

## Agreement on a plausible scenario or a combination of scenarios

- NRAs are free to agree on any plausible scenario (or a combination of scenarios) → to use for the purpose of the benefit calculations and the subsequent cost allocation
- NRAs should provide a thorough explanation of the reasoning behind their choice of scenario (or combination of scenarios)
- The Recommendation does not provide a list of criteria which the plausible scenarios should meet. (i.e. the NRAs should agree on them)

# Agreement on the allocation of costs (1) (principles)

## (1) What to compensate?

- if at least one hosting Member State has a net negative impact in at least one of the scenarios deemed plausible by all involved NRAs
- compensate the negative net benefit in the hosting country(ies), but it is possible to set a higher compensation ("agreements going beyond")
- up to the maximum amount of the expected efficient investment costs (in case the net negative impact is higher)

## (2) Who should provide compensation?

- countries with a net positive impact exceeding the significance threshold (i.e. equal to 10% of the sum of net positive impacts of all beneficiary countries, but could be lowered stepwise to 5%)

## (3) How to allocate the investment costs?

- allocate 100% of the expected efficient investment costs → CBCA decisions should not be conditional to future public funding (but relevant adjustments can be defined ex-ante)

Details in Section 2.6.

# Agreement on the allocation of costs (2) (Illustration)

## (1) Identification of the compensation

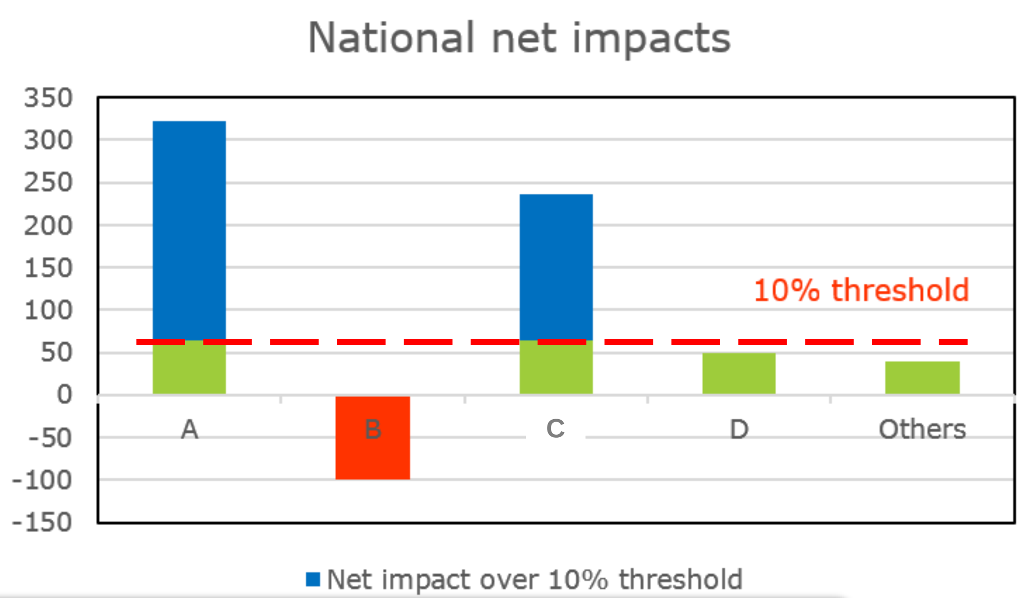
*Inputs from the CBA calculation*

| | Country A | Country B | Country C | Country D | All other beneficiary countries | Total |
|---|---|---|---|---|---|---|
| Hosting / non hosting | hosting | hosting | non-hosting | non-hosting | non-hosting | |
| **Net impact** | **322.89** | **-100** | **236.93** | **50** | **40.18** | |

## (2) identification the contributors

*(2.1) Calculation of the threshold*

| | |
|---|---|
| Sum of net positive impacts (i.e total net impacts of the beneficiaries) | 650 |
| **10% Threshold** | **65** |



# Agreement on the allocation of costs (3) (Illustration)

*(2.2.) Identification of the contribution indicators*

| | Country A (host) | Country B (host) | Country C | Country D | All other beneficiary countries | Total |
|---|---|---|---|---|---|---|
| Net impact over 10% threshold | 257.89 | 0 | 171.93 | 0 | 0 | 429.82 |
| Contribution required | Yes | n.a. | Yes | No | | |
| Contribution indicator | 60% | n.a. | 40% | 0% | | |

## (3) Allocation of 100% of the investment costs

*Contributions per country and allocated investment costs*

| | Country A (host) | Country B (host) | Country C |
|---|---|---|---|
| **Investment costs* (before CBCA)** | **371.32** | **200** | **0** |
| Compensation | | -100 | |
| Allocated contribution | 60 | | 40 |
| **Allocated investment costs* (after CBCA)** | **431.32** | **100** | **40** |

*expected efficient costs (net present value of the year of the CBCA)

The table shows net present values of the year of the CBCA → **actual payment will be different** → see next slide

## Agreement on the payments for implementation of the cost allocation

- Cross-border compensation should be expressed in values of the year of the expected payment (i.e. it should be projected to the date of payment, using the appropriate rate)
- Lump sum payment after commissioning is considered as the default option but NRAs are free to implement different payment schedules (e.g. instalments)

Details in Section 2.8.

# Mechanism for adjustments of the cost allocation (1)

**Stable and predictable regulatory framework is key for legal certainty and clarity for the involved parties →**

- CBCA decisions should be definitive
- clear specification of the conditions and terms under which an adjustment is implemented after the commissioning of the project
- only pre-defined adjustment should be applied

Recommendation on treatment of cost variation in hosting country(ies)

- If actual investment costs of a hosting country are higher than expected, the amount of compensations from the contributing countries should be left unchanged.
- However, if the actual investment costs turn out to be lower than expected, the allocation of the investment costs should be adjusted. → see next slide

Details in Section 2.7.

# mechanism for adjustments of the cost allocation (2) (Illustration)

| Countries | A (host) | B (host) | C | D | Others | Total |
|---|---|---|---|---|---|---|
| Investment costs (before CBCA) | 371.32 | 200 | 0 | 0 | 0 | 571.32 |
| Net impact | 322.89 | -100 | 236.93 | 50 | 40.18 | |
| Contribution indicator | 60% | n.a. | 40% | 0% | | |
| Allocated compensation | | -100 | | | | |
| Allocated contribution | 60.00 | | 40 | | | |
| Allocated investment costs (after CBCA) | 431.32 | 100 | 40 | 0 | | 571.32 |

Case 1: Actual investment cost of country B is 20 mEur lower than expected

| | | | | | | |
|---|---|---|---|---|---|---|
| Net impact | 322.89 | -80 | 236.93 | 50 | 40.18 | |
| Contribution indicator | 60% | n.a. | 40% | 0% | | |
| Allocated contribution | 48 | | 32 | | | |
| Allocated investment costs (after CBCA) | 419.32 | 100 | 32 | 0 | | 551.32 |

**Result: compensations from the contributing countries should be decreased proportionally**

Case 2: Actual investment cost of country A is 20 mEur lower than expected

| | | | | | | |
|---|---|---|---|---|---|---|
| Net impact | 342.89 | -100 | 236.93 | 50 | 40.18 | |
| Contribution indicator | 62% | n.a. | 38% | 0% | | |
| Allocated contribution | 61.88 | | 38.12 | | | |
| Allocated investment costs (after CBCA) | 413.2 | 100 | 38.12 | 0 | | 551.32 |

**Result: compensations from the contributing countries should be adjusted applying the same principles applied for the CBCA decision**

# 6.step: coordinated decisions and notification to the Agency

- NRAs shall take coordinated decisions on the investment costs within a six-month period [Art. 12(4)]
- NRAs shall also decide on the inclusion of the investment costs in tariffs
- Each NRA should address its coordinated national decision to the project promoters and TSOs of its own Member State
- The CBCA decisions or the lack of agreement shall be notified to the Agency [Art. 12(5) and (6)]

The content of the coordinated decisions and the list of accompanying information are detailed in Art 12(4) and (5) of Reg. 347/2013 and Section 2.9 of the Recommendation

# Tariff inclusion

*Efficiently incurred investment costs, to the extent not covered by congestion rents or other charges, shall be paid for by tariffs for network access.”* *[Article 12(1)]*

- NRAs shall decide on the inclusion of the allocated investment costs in the tariffs in line with Article 12 (4) of the Regulation.
- The concrete way how the costs are reflected in tariffs is the responsibility of the respective NRAs
- Tariff inclusion should be in line with the applicable legislative and regulatory framework in the respective Member State
- NRAs should avoid the risks of double support of the project. Congestion rents, any contribution from 3rd parties (e.g. grants), revenues from ITC mechanism, revenues from bookings should be deducted from the investment costs included in tariffs.
- The treatment of cross-border payment (e.g. passed-through CAPEX or OPEX) is also left for national frameworks.

Details in Section 2.10.

# Notification to the Agency

In case NRAs took coordinated CBCA decisions

↓

Each involved NRA shall notify to the Agency without delay its own CBCA decision, together with all relevant information with respect to the decision

In case NRAs cannot reach an agreement within 6-month or in case of joint request from NRAs

↓

NRAs shall inform the Agency. The Agency recommends that NRAs submit a joint referral report explaining the treatment of the investment request their concerns and potential agreement

Details in Section 2.11.

# Thank you for your attention!

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# What information should be provided together with the CBCA agreement and decisions?

**The agreement on the allocation of the investment costs should include:**

- identification of the Member States with significant net positive impact, and their respective TSOs
- summary and justification of the evaluations on costs to be allocated, choice of scenarios, allocation of costs, adjustment mechanisms, cross-border payments

**shall accompanied by:**

- evaluation of the identified impacts, including on network tariffs of each of the concerned Member States
- evaluation of the business plan
- regional or Union-wide positive externalities of the project
- the results of the consultation of the project promoters concerned

**may include** rules for promoting timely implementation, ensuring technical performance or other relevant elements

# How the stepwise reduction of the threshold works? (Illustration)

| Countries | A | B | C | D | E | Total |
|---|---|---|---|---|---|---|
| Net impact | 60 | -200 | 170 | 50 | 30 | |
| Sum of positive net impact | | | | | | 310 |
| 10% Threshold | | | | | | 31 |
| Net impact over 10% threshold | 29 | 0 | 139 | 19 | 0 | |
| Sum of net positive impacts exceeding the threshold | | | | | | 187 |

| | | | | | | |
|---|---|---|---|---|---|---|
| Sum of positive net impact | | | | | | 310.00 |
| 9% Threshold | | | | | | 27.90 |
| Net impact over 9% threshold | 32.10 | 0 | 142.10 | 22.10 | 2.10 | |
| Sum of net positive impacts exceeding the threshold | | | | | | 198.40 |

| | | | | | | |
|---|---|---|---|---|---|---|
| Sum of positive net impact | | | | | | 310 |
| 8% Threshold | | | | | | 24.80 |
| Net impact over 8% threshold | 35.20 | 0 | 145.20 | 25.20 | 5.20 | |
| Sum of net positive impacts exceeding the threshold | | | | | | 210.80 |
| Contribution required | Yes | n.a. | Yes | Yes | Yes | |
| Contribution indicator | 17% | n.a. | 69% | 12% | 2% | |