

CEER

Council of European
Energy Regulators



Role of Regulators in SoS

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Fostering energy markets,
empowering **consumers**.

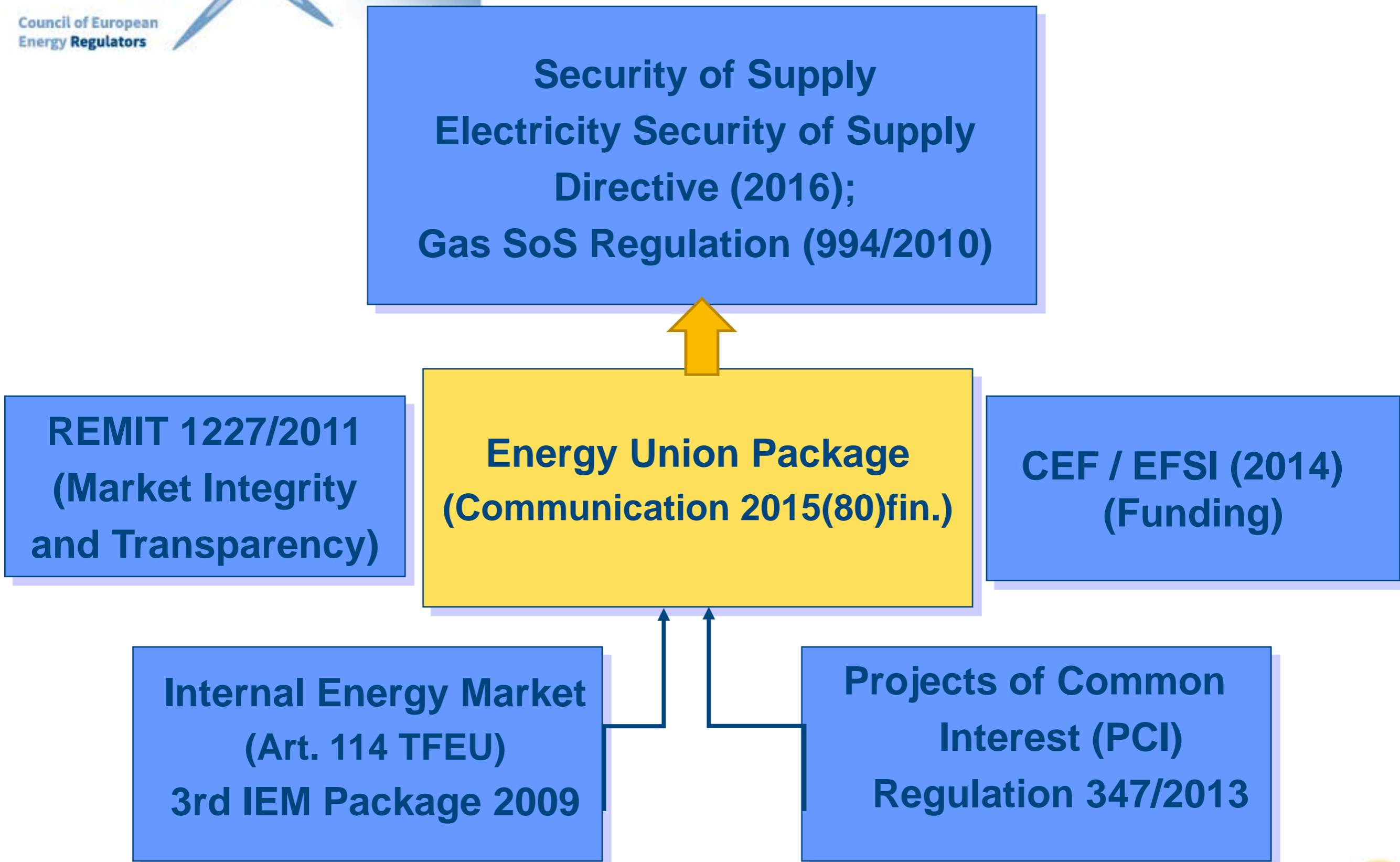


Agenda

- ▶ **Energy Union Communications 2015**
- ▶ **3rd Internal Energy Market package 2009**
- ▶ **Enhancing investments:
The EU infrastructure package 2013**
- ▶ **REMIT (Regulation 1227/2011)**
- ▶ **Conclusions**



Overview of recent EU energy market legislation



Energy Union: The birth of a new EU agenda

President Juncker's commitment:

"I want to be serious about being big on big things and small on small things"

"Commission proposals must withstand the scrutiny of proportionality and subsidiarity"

European Commission 2015 work programme of 15 Dec 2014

"3. A Resilient Energy Union with a Forward-Looking Climate Change Policy

Reliable and affordable energy is a top priority for all.

*The Commission will adopt a **Strategic Framework for the Energy Union** setting out the key actions to be taken in order to*

- *ensure energy supply security,*
- *reduce dependence on imports from third countries,*
- *further integrate national energy markets and improve participation of consumers,*
- *enhance energy efficiency,*
- *decarbonise the energy mix and*
- *promote research and innovation in the energy field."*

Energy Union Communication (1)

Energy Union “package” adopted by the College on 25 Feb 2015

- **Communication on Energy Union Framework Strategy**
(COM(2015) 80) and Annex with Roadmap
- **Communication “The Paris Protocol –
A blueprint for tackling global climate change beyond 2020”**
(COM(2015) 81), Annex as well as Staff Working Document (SWD(2015) 17)
- **Communication “Achieving the 10% electricity interconnection target”**
(COM(2015) 82) and Annex



Energy Union Communication (2)

Energy Union strategy composed of five mutually-reinforcing, interrelated “**dimensions**” to bring greater energy security, sustainability and competitiveness:

- **Energy security, solidarity and trust;**
- **A fully integrated European energy market;**
- **Energy efficiency contributing to moderation of demand;**
- **Decarbonising the economy, and**
- **Research, Innovation and Competitiveness**



Security of supply (1)

- Revision of **Electricity Security of Supply Directive** (in 2016), linked to Market Design initiative:
”Commission to establish range of acceptable risk levels for supply interruptions, and an objective, EU-wide, fact-based SoS assessment, taking into account cross-border flows, variable RES, demand response and storage. Capacity mechanisms should only be developed to address SoS if a regional system adequacy assessment points to need.”
- Revision of **Gas Security of Supply Regulation** (consultation ongoing):
Key features of commercial gas supply contracts that may have an impact on EU energy security should be aggregated and regularly published, subject to confidentiality safeguards
- Revision of Decision 994/2012/EU on **information exchange for IGAs** (in 2016) with mandatory early-stage information and involvement of the Commission, develop standard contract clauses covering EU rules;
- Commission to assess options for voluntary **demand aggregation mechanisms** for collective purchasing of gas during crisis and where Member States depend on a single supplier- would need to be fully compliant with WTO and EU competition rules
- Strategy on **LNG and storage** (in 2015-16)
- **Domestic resources** to reduce energy import dependence

Security of supply (2)

- Include energy-related provisions in **trade agreements** with third-country partners
- Initiative to strengthen the **Energy Community** (in 2015)
- Adoption and signature of a new **International Energy Charter** (2015)
- Strengthen **Euromed** cooperation on gas, electricity, energy efficiency and renewables
- Commission to work with Member States to develop access to **alternative suppliers**, including via Southern Gas Corridor route, hubs in CEE and Mediterranean and Algeria
- Develop partnerships strategic energy partnerships with **producing and transit countries** such as Algeria and Turkey; Azerbaijan and Turkmenistan; the Middle East; Africa and other potential suppliers; Norway, US, Canada and Ukraine
- EU to consider reframing the energy relationship with **Russia** when conditions are right, based on a level playing field in terms of market opening, fair competition, environmental protection and safety

Electricity market design

- Commission to propose a new **European electricity market design, linking wholesale and retail**
- Commission concerned about divergent national market arrangements, such as **capacity mechanisms** and **uncoordinated renewables support schemes** – suggests **regional system adequacy assessment**, treatment of interconnectors in CRMs, cooperation mechanisms on RES support
- Public Interventions package (2013), **State Aid Guidelines** (2014) deemed not sufficient: [Not all interventions may constitute aid; DG COMP action is prohibitive (“*do not*”), but not prescriptive (“*do*”)]
- Commission to ensure that **energy efficiency** and **demand side response** can compete on equal terms with generation capacity
- DG ENER to prepare a **non-paper** by in mid-March 2015
- Commission to hold a **public consultation** in June-August 2015
- Commission to adopt **legislative proposals** in 2016, Revision of Electricity Security of Supply Directive 2005/89/EC in 2016

Regulatory framework: 3rd IEM

- 3rd package: **Infringement proceedings** on unbundling and independence of regulators
- **Strict enforcement of competition rules:** No territorial restrictions in supply contracts as well as upstream/downstream and network foreclosure issues (including interconnectors); Assessment of energy price formation.
- Work on adoption [*implementation?*] of **Network Codes** to be completed [*no deadline*]
- **Review of ACER** and the energy regulatory framework (in 2015-16)
- **Upgrade of ENTSOs** (in 2015-16)
- Commission to develop guidance on **regional cooperation** and participate actively
- **CEER/ACER** to provide input (see also next slide)

How does the Energy Union Communication address CEER/ACER's Bridge proposals?

- *“A well-functioning internal energy market needs an effective regulatory framework. The 3rd package set up bodies to ensure cooperation among TSOs and regulators. In the context of the market design discussion, the functioning of these bodies will be strengthened. **Currently decisions in these bodies still reflect national views.**”*
- *„**ACER** was established to assist national regulators, in particular on cross-border issues. However, ACER currently acts primarily through recommendations and opinions. It has **very limited decision-making rights**, e.g. it can only take decisions at the request of the NRAs or if they fail to take a decision within a certain timeframe. EU-wide regulation of the single market should be strengthened, through a significant **reinforcement of the powers and independence of ACER to carry out regulatory functions at the European level** in order to enable it to effectively oversee the development of the IEM and the related market rules as well as to deal with all cross-border issues necessary to create a seamless internal market (e.g. decisions relating to new infrastructure affecting more than two Member States, reverse flows exemptions, CBCA or similar).”*
- *“Transmission system operation will need to become much more integrated to meet the challenges of the transformed energy system. **ENTSO-E** and **ENTSO-G** need to be **upgraded** to fulfil such a role. **Regional operational centres** will have to be created, so that they can effectively **plan and manage** cross-border electricity and gas flows.”*



ACER Bridge to 2025 – Key objectives

The Bridge Recommendation as published in Sept. 2014 (http://www.acer.europa.eu/official_documents/) reflects regulators' ambition to achieve five key objectives for the Internal Energy Market (IEM) by 2025:

1. Establishing liquid, competitive and integrated wholesale energy markets

2. Enhancing Europe's security of supply and channelling the external element of IEM

3. Moving to a low carbon society with increased renewables and smart, flexible responsive energy supply

4. Developing a functioning retail market that benefits consumers

5. Building stakeholder dialogue, cooperation and new governance arrangements

Regulation on Trans-European Energy Networks

- Regulation 347/2013/EU on Guidelines for trans-European energy infrastructure (TEN-E)
- Selection of "Projects of European Interest" (PCIs)
- PCIs will benefit from:
 - ▶ Faster permit granting (max. 3 ½ years, one-stop-shop)
 - ▶ Improved regulatory treatment through cross-border cost allocation and risk-related incentives
 - ▶ Access to financial support through "Connecting Europe Facility" (additional filter, 5.85 bn euro in 2014-2020 for electricity, gas and oil projects via grants and financial instruments)





The EU infrastructure package (Regulation 347/2013)

Around 200 Projects of Common Interest (PCIs) have been identified:

Electricity, gas, Smart grids, CO2 transport that will be privileged to foster roll-out of a European wide energy infrastructure for the development of the internal market and for enhancing the security of supply

**Accelerated
permit
granting**

**Regulatory
measures
Criteria / CBCA**

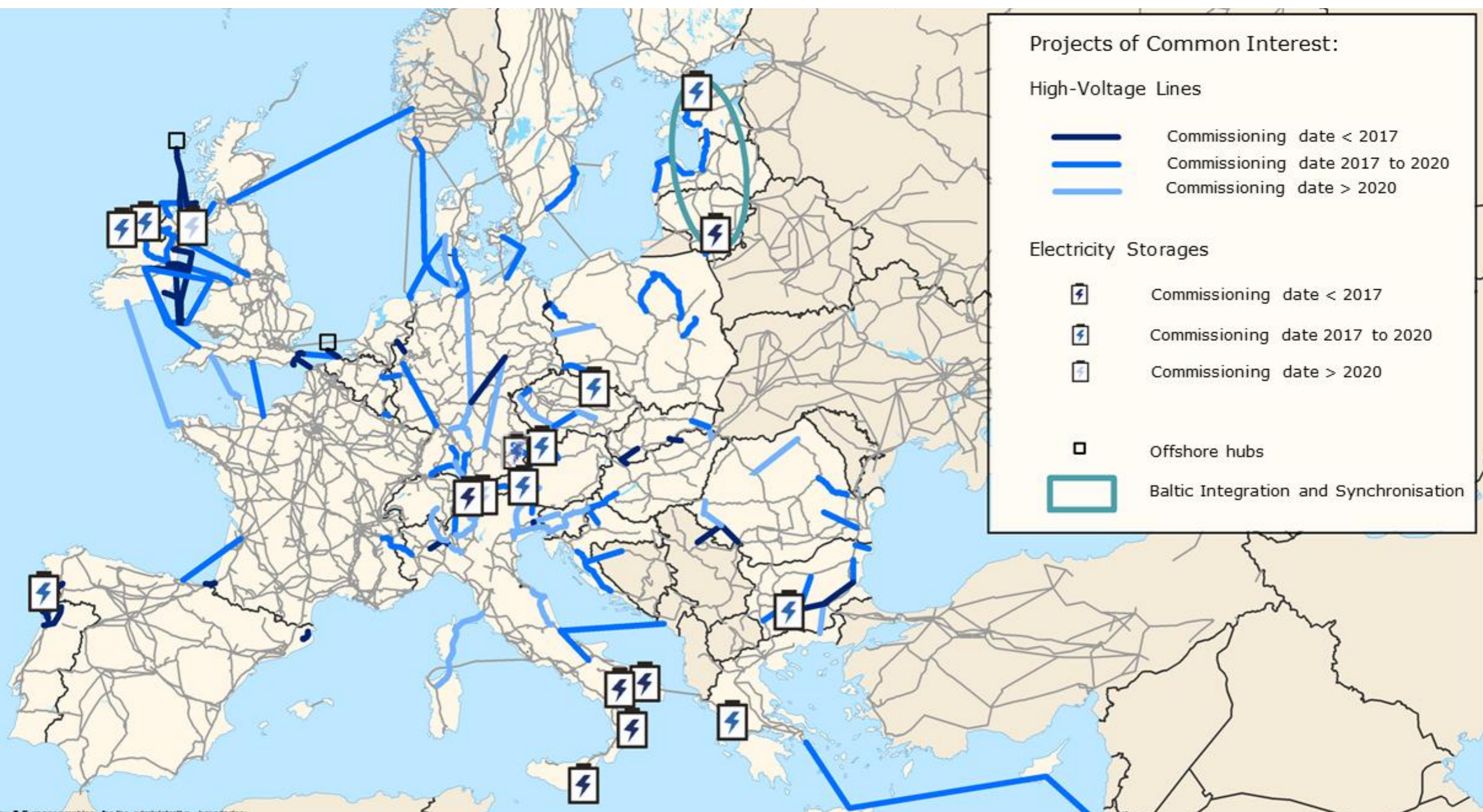
**EU financial
assistance
CEF funding**

Identification of Projects of common interest

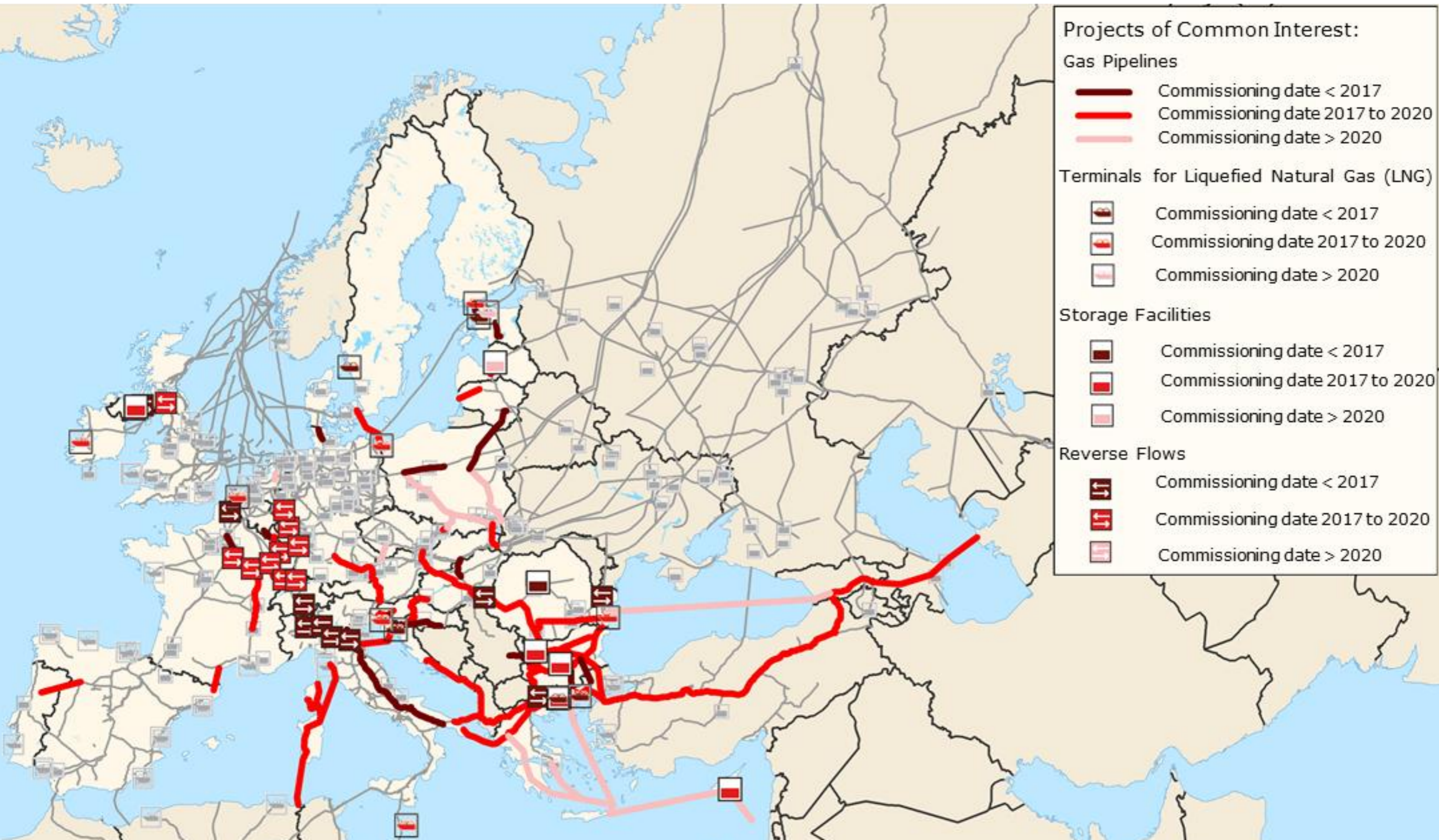
- **General criteria**
 - PCI contributes to the implementation of the infrastructure priorities
 - Economic, social and environmental viability
 - Involves at least two Member States:
 - Cross-border infrastructures
 - Infrastructure with significant cross-border impact
- **Specific criteria**
 - Market integration
 - Security of supply Diversification Secure system operations
 - Sustainability Integration of RES GHG avoidance
 - Cost-benefit analysis



Projects of Common Interest in electricity



Projects of Common Interest in gas



Energy infrastructure (1)

- **Second PCI list** and first list of Energy Community projects (PECIs) (in 2015)
- Commission to establish an **Energy Infrastructure Forum** (first meeting in late 2015)
- Annual **progress report** on 10%-by-2020 electricity interconnection target;
Report on 15%-by-2030 electricity interconnection target (in 2016)
- Accompanying Communication “Achieving the 10% electricity interconnection target” calls on MS implement and fully apply **TEN-E Regulation 347/2013/EU** [*permit granting*]; enhance regional cooperation (Baltic, Iberian, Northern Seas, CEE/SEE)
[No mention of review of TEN-E-Regulation, but see above for CBCA powers for ACER]
- Communication also specifies that “no gas interconnection target has been proposed because for security of supply reasons Member States are already obliged to provide for the situation when their largest single gas infrastructure element fails (N-1 rule)”

Energy infrastructure (2)

- EU support to financing of energy infrastructure investment,
“combined with the efforts of regulators to finance projects through network tariffs”
- **Connecting Europe Facility** (now reduced by 500m to 5.35bn euro):
Grants for studies and works, as well as financial instruments
- Existing co-financing under **European Structural and Investment Funds (ESIF)**
- Proposed **European Fund for Strategic Investment (EFSI)**, part-financed by CEF designed to mobilise private capital through widespread use of financial instruments
- EFSI scope to include **PCIs** or other interconnection projects
(alongside RES and energy efficiency projects, and other sectors)
- PCI Regional Groups to have important role in **EFSI project selection** (“pipeline”)
- *“Commission to explore proposals for energy investment regimes that pool resources to finance economically viable investments, avoiding market distortion and fragmentation”*

Financing: Connecting Europe Facility 2014-2020

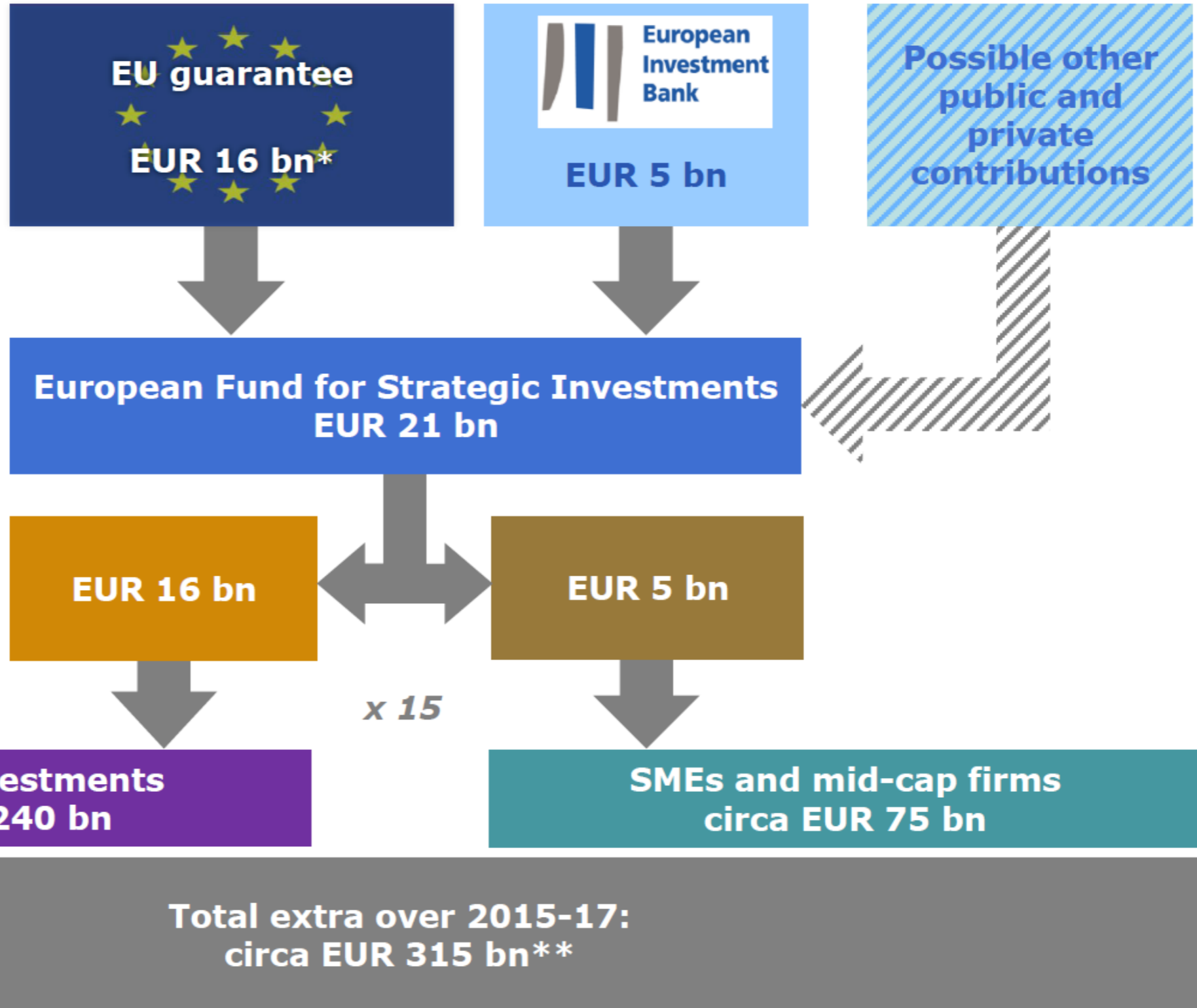
- **€50 bn for transport, energy (prop. €9.12 bn) and ICT projects**
 - **Financial Instruments (equity/debt incl. project bonds in cooperation with IFIs) and**
 - **grants for studies and works**
- **Eligibility criteria (in Guidelines):**
 - **Grants for studies and financial instruments: Available to all PCIs**
 - **In exceptional cases, grants for works for PCIs provided that:**
 - **CBA shows positive externalities**
 - **Commercially not viable**
 - **Cost-allocation decision done**





Juncker Investment Plan: EU Funding (EFSI)

Cou
Ene



* 50% guarantee = EUR 8 bn from Connecting Europe Facility (3.3), Horizon 2020 (2.7) and budget margin (2)

** Net of the initial EU contributions used as guarantee: EUR 307 bn



REMIT: General Framework

- **Scope of Regulation 1227/2011/EU on wholesale energy market integrity and transparency**
 - Defines provisions to enhance the **integrity and transparency** of wholesale energy markets, including prohibitions of **market abuse** that are consistent with MAD but sector specific
 - Establishes a **EU-wide market monitoring task** performed by ACER, in cooperation with NRAs and complemented by **market monitoring at regional and national level**
 - Applies to **all wholesale energy products**
(prohibitions of market abuse only apply to non-financial energy products)
- **Prohibitions and obligations**
 - Prohibition of **insider trading** (Article 3)
 - Prohibition of **market manipulation** (Article 5)
 - Obligation to publish **inside information** (Article 4)
 - **Data reporting obligation** (Article 8)
- **Enforcement**
 - NRAs shall ensure that the **prohibitions of market abuse** and the **obligation to publish inside information** are applied
 - ACER shall aim to ensure that NRAs carry out their tasks under REMIT in a **coordinated and consistent way**



Conclusions (1)

- Stable and **predictable** regulatory framework is key to ensure investors' confidence and avoid disruption
- Develop the **Internal Energy Market** to realize cross-border benefits (market coupling) and overall **security of supply**
- Integrate **new routes/sources of energy** as quickly as possible in the European market (market based approach) incl. the neighbours as diversification improves energy security overall
- Foster **investment in cross-border infrastructure** or infrastructure with cross-border effects: the EU infrastructure package with the **special regime for PCIs** is now complemented by the Juncker Investment Plan for Europe (**EFSI**)
- Develop **smart markets** providing the right price signals to cope with **increased complexity** of the energy system based on **competition** to enable rational economic decisions!
- **Speed up** grid expansion to **integrate renewables**, and **move** towards a low carbon or carbon free economy
- Foster **storage, demand side management** and increase **import/export capacities**





Conclusions (2)

- Renewables require a more flexible energy system, which is best achieved by a more **market-based approach** with the participation of all players
- All players must adapt their business models to this energy system and react to new incentives
- Keep hands-off, i.e. let the market work and abstain from interventions distorting the price signals as well as the incentives to invest in new infrastructure
- With the PCI regime, cross-border investments will be incentivised (Cross Border Cost Allocation) which will support cross border trade
- Thus the implementation of the **IEM** provides for the „*software*“ of rules/NC/MC etc while the **PCI** regulation provides the „*hardware*“ of cross-border infrastructure to ensure the IEM is working, together this supports **security of supply** and energy security



Thank you for your attention!

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Back up





RES, ETS, energy efficiency and governance

- *[ETS reform (Market Stability Reserve) only mentioned in passing]*
- Revision of **Renewable Energy Directive** (in 2016-2017), to ensure that the 2030 EU RES target is met cost-effectively
- Communication on **best practice** in self-consumption and renewable support schemes (in 2016-2017)
- Commission to facilitate **cooperation and convergence** of national RES support schemes leading to more cross border opening (*see Market Design initiative above*)
- Review of the **State Aid Guidelines** (in 2017-19)
- Legislation to achieve agreed **2030 emission reduction targets** in the **ETS** (Commission proposal in 2015) and **non-ETS sectors** (proposal in 2016)
- Revision of the **Directives** on **Eco-Design** and **Labelling** (in 2015), and on **Buildings** and on **Energy Efficiency** (in 2016)
- Com. to propose an upgraded **Strategic Energy Technology Plan** (2016)
- Commission and Member states to establish integrated **Governance scheme for the Energy Union**, including on 2030 targets (2015 onward)

Agenda

- ▶ **Enhancing investments:
The EU infrastructure package**



Regulatory framework: Measures

Energy system-wide cost-benefit analysis (CBA)

- Proposal by ENTSOs, ACER opinion, Commission approval

Enabling investments with cross-border impact:

- Cross-border cost allocation (CBCA)
- NRA joint decision on investments and cost allocation
- ACER decision if no agreement after 6 months

Long-term incentives for investment (Art. 13):

- NRAs to grant appropriate risk-related incentives
- ACER guidance on best practices of NRAs + common methodology
- Commission can issue guidelines on incentives





A pan-European Cost Benefit Analysis (CBA) methodology (Art. 11)

Address major changes and challenges in the electricity sector (climate change, RES, market integration, SoS...)

- **Common benefit framework reflecting today's challenges**
- **Highlight projects which have a particular value in achieving certain targets, such as RES integration or completing the Internal Market**
- **Identify robust projects, taking into account uncertainties linked to future system evolution**
- **Common scenarios and joint grid planning**

Enhance dialogue with stakeholders

- **Huge investment needs**
- **Need for social acceptance**





ACER Recommendation on cross-border cost allocation requests

ACER Recommendation 07/2013 specifies for the first list of PCIs:

- Requirements for completeness of request
- Criteria for PCI maturity
- High-level principles for providing compensation:
 - Available only to countries hosting a project
 - Countries are compensated only if they are deemed to incur negative net benefit
 - Countries compensate only if they are deemed to incur significant positive net benefit

Recommendation highlights need for sound Cost-Benefit-Analysis (CBA) and calls for a monetisation of :

- Socio-economic welfare
- Variation in losses
- Security of supply (load)
- Relieving national constraints
- Variation in generation curtailments

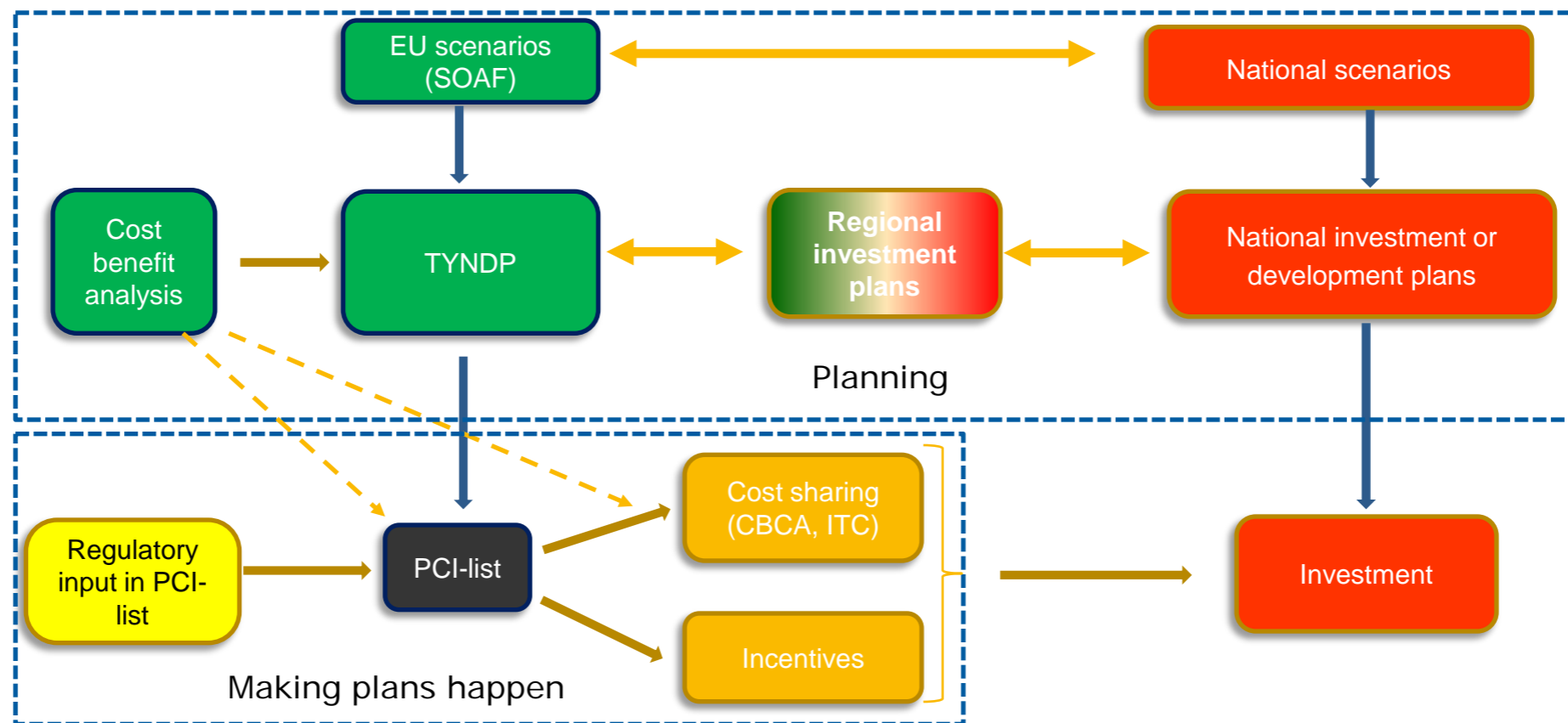


Cross border cost allocation (CBCA) requests (Art. 12): Process

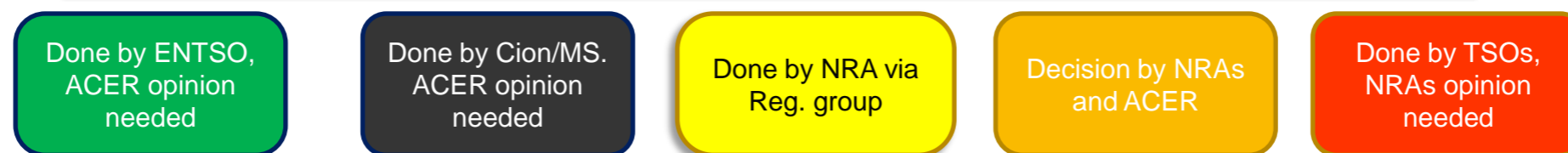
- **Electricity PCI investment requests so far – in Germany**
 - **3 requests, for 4 PCIs geographically located in 3 countries / 1 region**
- **Are project promoters incentivised to ask for CBCA and thus make investments with uneven distribution of benefits happen?**
 - **CBCA is one of the priorities in the “regulatory treatment”**
 - **NRAs take coordinated decisions within 6 months**
 - **To prevent delays in implementation of new investments, NRAs must engage into CBCA agreements containing:**
 - **cost-sharing agreement,**
 - **payment details (one-time,**
 - **date(s), linked to construction phases ... etc.**



Decision making processes and involved parties



Clarification for colour scheme



Source: ACER



Time horizon and discounting method

Benefit figures

- Year 2020 (mid-term)
- Year 2030 (long-term)

Interpolate/extrapolate:

- Before 2020: use mid-term value
- Between 2020-2030: linear interpolation
- After 2030: use long-term value

ACER deemed Frontier Economic's short-term approach reasonable :

- a common discount rate of 4% (real)
- a common time range of 25-years lifetime for all projects
- a common reference year (present year) for discounting





Adequate investments
Nor only refer to the level of investments
But also to their scope and quality

=

take into account the growing importance of RD&D



Conclusions

- Investors need to be clear that only **efficiently incurred costs** will be allowed by national regulators for cost recovery from network tariffs in order to ensure the effective use of capital.
- We do not want to delay commercially sound projects by suggesting that they may be eligible for incentive that they don't actually need. Nor do we want to allow the costs of investments to spiral inefficiently. It is essential that incentives should be proportionate to the risk incurred by investors.
- National Regulatory Authorities have the core expertise in ensuring that investments in infrastructure are made, and are made efficiently. However, the critical issue is whether the framework within which regulators operate helps them to work effectively – or hinders them.
- The Energy Infrastructure Regulation provides a sufficient set of instruments to ensure investments in PCIs is made timely





Final thought

*“Not everything that counts can be counted,
and not everything that can be counted
counts”*

Albert Einstein

