

44th PERMANENT HIGH LEVEL GROUP

Vienna

15 December 2016

1. The meeting was chaired by Branka Knežević on behalf of Bosnia and Herzegovina and Hans van Steen for the European Commission.
2. The Permanent High Level Group (PHLG) approved the agenda.

Treaty amendments

3. Following up on the conclusions of the Ministerial Council meeting in Sarajevo on the next steps related to Energy Community reform, the PHLG identified issues requiring Treaty amendments on the basis of the proposals already made by the Secretariat and the Republic of Serbia. The PHLG agreed on an indicative road map for further discussions. Several Contracting Parties stressed the need to timely involve the decision-makers from the capitals to allow discussion on substance and to involve into negotiations also other relevant institutions in Contracting Parties apart from Ministries of Energy. Several Contracting Parties called for a letter of the Secretariat to the Ministers for proper preparation of the negotiation process, including on the proposed informal Ministerial Council meeting in June 2017.
4. It was agreed that all Parties may submit issues and proposals for Treaty amendments by 1 February 2017.

Implementation of the acquis

5. The Energy Community Secretariat reminded of the Contracting Parties' obligation to implement and transpose Regulation (EC) 543/2013 by end of December 2015, including the duty to notify the Secretariat accordingly. The Secretariat noted that related notifications have not been received so far and also presented an ECRB analysis highlighting lack of compliance in practical terms. The Contracting Parties Montenegro, Ukraine, Serbia and Albania reported about the ongoing processes to finalise correct implementation of the Regulation. Secretariat asked for written reports. The PHLG urged the Contracting Parties to notify the Secretariat before the next PHLG legislative measures taken to implement and transpose Regulation (EC) 543/2013, steps calling national regulators to enforce compliance and any related measures taken by those.

New acquis

6. The PHLG took note of the presented adapted versions of Commission Decision (EU) 2015/715 and Commission Regulation (EU) 2015/703 and expressed its intention to adopt them at the March PHLG meeting. The PHLG invited the Secretariat and Commission to continue discussions with EU and Contracting Parties' regulators and transmission system operators to table other gas network codes and guidelines for PHLG adoption in line with the recommendations of the Working Group. Georgia stressed and PHLG agreed that provisions of the acquis related to interconnection points are not obligatory and most probably not relevant for Georgia as long as they will not border to any Member State or Contracting Party.

7. The PHLG invited the Secretariat to analyze the possibility and means including a possible roadmap to implement and expand the EU-wide mechanism established by Regulation (EU) 1227/2011 in context of Commission Regulation (EU) 2015/1222 (REMIT) on the territory of the Contracting Parties and present the outcome at the next PHLG meeting.
8. PHLG was informed that a new Regulation (EU) 2016/1952 of the European Parliament and of the Council on European statistics on natural gas and electricity prices and repealing Directive 2008/92/EC entered into force on 7 December 2016. New Regulation replaces an existing Directive 2008/92/EC on the territory of EU (with effect from 1 March 2017). Recalling that Directive is a part of the Energy Community acquis, and that price reporting in the format and questionnaires established under the Directive will not be possible after effectiveness of new Regulation, PHLG encourages the early implementation of the Regulation on price statistics in all Contracting Parties following the same reporting time schedule as relevant for the EU, and as a minimum in the scope of the data reported under the Directive with the aim to ensure continuity of data collection and submission.
9. PHLG invites the European Commission and the Secretariat to launch a written procedure for early adoption of the Regulation by the Ministerial Council.
10. The Secretariat is invited to provide assistance and training for timely implementation, where necessary.

Winter Package

11. The Commission presented a set of proposals prepared in the Commission under the name "Clean Energy for all Europeans".

Regional initiatives

12. The PHLG took note of the Secretariat's presentation on the state of play with the implementation of the measures under the Sustainability Charter adopted at the Paris WB6 Summit in July 2016.
13. Serbia expressed its expectation to be consulted about the content of the monitoring reports before they are published.
14. Having in view that the highest level authorities in the WB6 will have to present the progress with the measures at the upcoming WB6 Summit in July 2017, the PHLG invited the respective Contracting Parties to take actions to start implementing the measures and report to the Secretariat on the progress every three month.
15. The WB6 PHLG members, recognizing their role as national focal points, will coordinate and facilitate the regular progress reporting to the Secretariat.
16. The PHLG took note of the Secretariat's presentation of CESEC Action Plan 2 and the current status of its implementation. The PHLG invited gas market stakeholders to endeavor to meet the

actions and deadlines referred to in the List of regulatory actions in the Energy Community Contracting Parties (Appendix 2 of CESEC Action Plan 2).

17. The PHLG took note of the Secretariat's presentation on the progress made in creating a regional electricity market under the Western Balkan 6 Initiative, and further efforts needed to implement WB6 targets to which countries committed to. The Secretariat informed of the Commission's approval of the Work Programme for the two-year project established by the Grant Contract for Technical Assistance to Connectivity in the Western Balkans, Component 2: Regional Energy Market between the European Commission and the Energy Community Secretariat. The PHLG invited Western Balkan 6 countries to actively cooperate with the Secretariat in implementing technical assistant projects in line with the Work Programme.

Miscellaneous

18. The PHLG was informed about the draft event calendar for 2017.
19. The Commission reported about the main discussion points on the Budget Committee which had its meeting on 14 December 2016.

Done in Vienna on 15 December 2016

For the Permanent High Level Group,

THE PRESIDENCY

45th PERMANENT HIGH LEVEL GROUP

Vienna
17 February 2017

1. The meeting was chaired by Luan Morina on behalf of Kosovo* and Hans van Steen for the European Commission.
2. The Permanent High Level Group (PHLG) approved the agenda.

Treaty amendments

3. Following up on the non-paper of the Energy Community Secretariat on the next steps related to Energy Community reform, the PHLG identified the key issues requiring Treaty amendments. Several Contracting Parties stressed the need to allow discussion on substance and to involve into negotiations also other relevant institutions in Contracting Parties apart from Ministries in charge of Energy.
4. PHLG agreed to continue discussion following the table filled in with options by the Secretariat, based on the today's discussion and additional input to be provided by the Contracting Parties. The Secretariat and Parties are invited to propose further options in issues 3-8 to be discussed, latest till 3 March. Secretariat shall distribute the updated table to Parties before 10 March.
5. On that basis consideration should be given to holding the meeting of legal experts of a technical nature with the Parties on the date envisaged for PHLG in March.
6. PHLG invited the Parties to create and participate in bilateral working groups that will discuss details of optional Treaty amendments.
7. Secretariat is invited to report about the discussions on the working groups well in advance of the next PHLG meeting that shall be moved from March to April.

Done in Vienna on 17 February 2017

For the Permanent High Level Group,

Luan Morina

THE PRESIDENCY



46th PERMANENT HIGH LEVEL GROUP

*Vienna
27 April 2017*

1. The meeting was chaired by Luan Morina on behalf of Kosovo* and Hans van Steen for the European Commission.
2. The Permanent High Level Group (PHLG) approved the agenda.

Treaty amendments

3. Against the background of the Buzek report on Energy Community reform and Conclusion No 8 of the 2016 Ministerial Council (“the Ministerial Council asks the members of the Permanent High Level Group (PHLG) to identify, discuss and propose to the Ministerial Council amendments to the Energy Community Treaty under Article 100, necessary to ensure the Energy Community can fully fulfil its objectives and live up to the requirements of a Single Energy Market based on the effective implementation of the *acquis communautaire* in the Contracting Parties on equal terms with Member States of the European Union as well as on fair and equal conditions for access to markets and infrastructure. The PHLG shall present its proposals for Treaty amendments well ahead of the Ministerial Council at its meeting in 2017. ..The work should be finalized before the summer break 2017.”), the Permanent High Level Group welcomes the first draft compiled by the Secretariat on the basis of the previous discussions in the Group and the meeting of legal experts.
4. Following a detailed introduction of the proposals by the Secretariat and upon presentation by the Parties of their initial reactions, the following way forward was agreed:
 - Submission of any remaining comments in writing to the Secretariat by 10 May 2017;
 - The Secretariat to follow-up, as appropriate, with Contracting Parties in May, and to process the information provided;
 - Organization of a second legal experts’ meeting by the end of May at the latest;
 - compilation and submission of an updated version of the proposals by the Secretariat.

These steps will prepare the Informal Ministerial Council on 10 June in Wachau. Following that meeting, a revised draft will be submitted by the Secretariat to the PHLG at its meeting to take place on 30 June 2017.

Implementation of the acquis

5. The PHLG acknowledging that only Kosovo* adopted an Administrative Instruction to transpose the Regulation 347 (due by 1 January 2017), urges the remaining Contracting Parties to take urgent measures to rectify the situation; it also recalls that the next deadline is June 30th - for the designation of National Competent Authority (one stop shop). The Secretariat emphasized that implementation of PECIs and PMIs require a high degree of inter – state/companies cooperation and urges Contracting Parties to give these a strong political and administrative support.
6. The Secretariat presented the latest situation with regard to the implementation of the General Policy Guideline concerning a Roadmap on Implementation of the Certain Deadlines of the Council Directive 2009/119/EC on minimum oil stocks. By 31st of March 2017 all Contracting Parties should communicate the main provisions of the draft national law which shall transpose the Directive 2009/119/EC. Only Albania, Moldova and Ukraine sent their respective information in accordance to their current situation up to that date. As a consequence, PHLG invited all the other Contracting Parties to deliver their current provisions of the draft national law immediately, but no later than the end of May 2017.
7. The Energy Community Secretariat recalled the Parties' obligation to monitor security of supply in line with Article 4 of Directive 2009/72/EC and update and submit security of supply statements to the Secretariat pursuant to Article 29 of the Treaty. The PHLG took note of the delays in submitting statements by some Parties and underlined the importance of timely submission and provision of comprehensive and relevant information. The PHLG urged the Parties to communicate the updated statements to the Secretariat by 31 July 2017 and tasked the Secretariat to report on the status at the next PHLG meeting.

New acquis

8. The PHLG took note of the concept of Regulation 1227/2011 (REMIT) presented by the Secretariat and supported the step-wise implementation approach. The PHLG invited the Secretariat to elaborate with ACER, ENTSO-E and ENTSOG on the possibility to expand data reporting and monitoring to the Contracting Parties. The PHLG further invited the Secretariat to present an impact assessment for REMIT implementation in the Contracting Parties to the next PHLG.
9. The PHLG welcomed the Secretariat's initiative to launch discussions on the early implementation of electricity network codes and guidelines in the Contracting Parties. The PHLG invited the Commission to finalize procedures for tabling the gas network code on interoperability (Commission Regulation 2015/703) and the gas guidelines on congestion management procedures (Commission Decision 2015/715) for adoption by the PHLG.

10. The PHLG welcomes the activities aimed at harmonizing the VAT related rules in the Energy Community pertinent to cross border transactions in Network Energy. The Secretariat is invited to engage with the Commission's services with a view to proposing adaptations necessary to harmonize VAT legislation within the Energy Community and to support capacity building in the Contracting Parties to prevent and combat VAT fraud in cross border trade, based on the experience and practice developed in the EU.
11. The PHLG took note of the recommendations from the Study of the level of already achieved compliance with the EU acquis based on the different international cooperation mechanisms and on the extending of the Energy Community Treaty to include the rules on public procurement. PHLG invited the Secretariat to engage with the Commission's services with a view to proposing harmonization of public procurement and concession rules in the Energy community by means of incorporation of the public procurement and concession directives, including the necessary adaptations thereof.
12. The Secretariat briefed the PHLG about the Energy Community Gas 2020, a draft strategy paper for establishing functioning gas markets in the Energy Community and fostering pan-European gas market integration. The strategy - "Energy Community Gas Action 2020" - prepared by the Secretariat, outlines legal, market and infrastructure measures in order to help overcome shortcomings of the present gas infrastructure connectivity and market structures and attain more liquidity, competition, diversification and security of supply in the Energy Community region. The Commission highlighted the need for the strategy to keep being aligned with the CESEC initiative. The dedicated Gas Action 2020 group will be involved in the implementation of the measures.
13. The Secretariat urged Albania, Kosovo*, Montenegro, Moldova and Ukraine to complete full transposition of Regulation 543/2013 by the end of quarter 2/2017 the latest. The PHLG welcomed the implementation progress made by Serbia, fYR of Macedonia and Bosnia and Herzegovina and called upon these Contracting Parties to continue efforts towards full implementation compliance.
14. The Secretariat informed of the activities towards implementing Regulation 543/2013 by TSOs as agreed in the Joint ECS- ENTSO-E Workshop on Transparency. PHLG welcomed the Secretariat's efforts on facilitating the transposition and implementation process in close cooperation with ENTSO-E.

Done in Vienna on 27 April 2017

For the Permanent High Level Group,

THE PRESIDENCY

47th PERMANENT HIGH LEVEL GROUP

Vienna
30 June 2017

1. The meeting was chaired by Luan Morina on behalf of Kosovo* and Mrs Megan Richards for the European Commission.
2. The Permanent High Level Group (PHLG) approved the agenda.

Treaty amendments

3. The PHLG discussed the latest version of the proposals for Treaty amendments (version of 19 June 2017) presented by the Secretariat. The text reflects the debate at the informal Ministerial Council on 10 June 2016 as well as bilateral discussions. The PHLG agreed that a proposal which could reach consensus by all Parties at the upcoming Ministerial Council is preferable over a proposal only supported by a group of more advanced Contracting Parties (signing an additional Annex or Protocol).
4. Upon discussions, the PHLG agreed that members will initiate the process of obtaining a mandate of their respective authorities/political masters to agree to a Decision under Article 100(i) of the Treaty at the Ministerial Council. Due to additional needed time for obtaining the mandate to negotiate the Ministerial Council will need to be postponed for at least 6 weeks. The Secretariat is invited to propose a new date and liaise with the Presidency about this.

The PHLG agreed on the following amendments made to the proposals

The second sentence of Article 13(1) reads: “The Contracting Parties shall align their energy policies with their nationally determined contributions”

Article 18(3) reads “Competent authorities of Contracting Parties may be assisted by the Secretariat in drafting decisions within the scope of paragraph 1”.

In Article 18(4), the “submit” is replaced by “make available”.

5. The Secretariat explained that under the Vienna Convention on the Law of Treaties, Decisions taken under Article 100(i) ECT do not require ratification.
6. The PHLG members will update the Secretariat regularly on the process of obtaining a mandate or potentially additional comments. The Secretariat and the European Commission will support this process, wherever needed.

Agenda of the Ministerial Council

7. The Director presented the Annual Budget Report under Article 75 ECT for the financial year 2016 as well as Budget Committee’s [“BC’] Report on Audit 2016, both already discussed and approved by the Budget Committee at its meeting on 27 June 2017. Both reports took into consideration the

overall audit results as presented in KPMG's Audit Report for the financial year 2016. As no comments were received, the reports were approved for further proceedings in the Ministerial Council.

8. Following the presentation of the financial reports, Chair informed about the proposed decision on the Discharge of the Director from his administrative and management responsibility for the year 2016. PHLG endorsed the draft decision for further proceedings by the Ministerial Council.
9. As regards the reporting requirement of the Budget Committee towards the PHLG (see item III.3 of the Internal Rules of Procedure of the BC) – in absence of the Chair of the Budget Committee – the representative from the Commission informed about the work of the Budget Committee in the year 2016 and presented in short the Annual Activity Report (AAR). PHLG took note of this report.
10. Commission informed about the draft budget proposal for the years 2018-2019 for the Energy Community established in accordance with the applicable rules (Budgetary Procedures of the Energy Community) being under finalization within Commission services. The proposal shall be circulated in due time to the Ministerial Council for its decision.
11. Following the decision of the Ministerial Council on the accession of Georgia to the Energy Community in 2016, a draft Procedural Act amending Annex IV of the Treaty on Parties contributions to the Energy Community budget was presented. The amended table of contributions shall be applicable as of 1 January 2018 and is part of the draft budget proposal 2018-2019.
12. The Secretariat presented the Second Report on the Progress in the Promotion of Renewable Energy in the Energy Community. The report shall be adapted taking into account the comments expressed by the Contracting Parties during the meeting and presented to the Ministerial Council.

New acquis

13. The Commission highlighted that, once agreed and adopted at EU level, the EU Regulation on the "Energy Union Governance" is likely to introduce a number of novelties on climate reporting requirements and it will repeal Regulation (EU) No 525/2013 on a mechanism for monitoring and reporting greenhouse gas emissions (MMR) in 2021. Since at this stage it is difficult to predict to what extent this new Regulation will deviate from the existing provisions of the MMR, the Commission stated it does not intend to propose a decision for the adoption of the MMR at the next Ministerial Council. The Commission stressed that these considerations do not reduce in any way the importance it attaches to the inclusion of climate change legislation in the Energy Community and to the fulfilment of Contracting Parties' commitments under the Paris Agreement.
14. The PHLG took note of the presentation by the Commission on the Commission Guidance COM(2015) 572 final – Guidance to Member States on national energy and climate plans as part of the Energy Union governance.
The Commission announced its intention to propose as the most efficient way forward to prepare Contracting Parties for the future implementation of the Energy Union Governance Regulation for adoption at the next Ministerial Council a Recommendation to implement the '2015 Commission Guidance to Member States on the preparation of integrated energy and climate plans'. The Recommendation would be accompanied by a Commission declaration stating it will work towards

a proposal to incorporate the Energy Union Governance Regulation into the Energy Community, once this Regulation is adopted at EU level.

15. Based on the discussions at the 14th meeting of the Environmental Task Force and its related conclusions, the PHLG discussed the draft proposal of the Commission for a Recommendation to prepare for the implementation of the Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC (Fuel Quality Directive). The PHLG agreed that the Recommendation should be tabled for the Ministerial Council's meeting in 2017.
16. Based on the discussions at the 14th meeting of the Environmental Task Force and its related conclusions, the PHLG discussed the draft proposal of the Commission for a Recommendation to prepare for the implementation of Chapters II and IV and Annex VI of the Industrial Emissions Directive (Directive 2010/75/EU). The PHLG agreed that the Recommendation should be tabled for the Ministerial Council's meeting in 2017.
17. The PHLG welcomed the adapted proposals and impact assessment prepared by the Secretariat for implementation of Regulation 1227/2011 (REMIT) and Implementing Regulation 1348/2014 in the Contracting Parties. The PHLG invited the Secretariat to present final proposals to the PHLG following their agreement by the relevant Contracting Parties' stakeholders. The PHLG also encouraged the Secretariat and Commission to closely consult the views of ACER, ENTSO-E and ENTSO-G to the extent additional duties would accrue to these bodies from implementation of Regulation 1227/2011 and Regulation 1348/2014 in the Contracting Parties. Secretariat announced it will prepare a Procedural Act proposing a delegation of adoption power to the PHLG, which will be discussed on the October meeting.
18. The PHLG welcomed the Commission's proposals for adapted versions of the gas network code on interoperability (Commission Regulation 2015/703) and the gas guidelines on congestion management procedures (Commission Decision 2015/715). The PHLG supported the Commission's announcement to seek for PHLG adoption on next meeting of the PHLG.
19. The PHLG welcomed the adapted versions of the electricity network codes on requirements for connection of generators (Commission Regulation 2016/631), demand connection (Commission Regulation 2016/1388) and high voltage direct current (Commission Regulation 2016/1447) prepared by the Secretariat upon support of stakeholders.
20. The PHLG encouraged the Secretariat to continue negotiations with relevant stakeholders of the Contracting Parties and neighboring EU Member States on implementation of the electricity market guidelines on capacity allocation and congestion management (Commission Regulation 2015/1222) and forward capacity allocation (Commission Regulation 2016/1719). The PHLG underlined its understanding that implementation of the electricity market guidelines should encompass reciprocal application on interconnection points between Contracting Party and Members States..

Miscellaneous

21. Open cases – an update information and proposals relevant measures for each of them.
The PHLG took note of the Secretariat's information about the seven infringements proceedings in which the Secretariat, on 19 May 2017, submitted a Reasoned Request to the Ministerial Council requesting its decisions under Article 91 of the Treaty at its meeting in 2017. The Secretariat also informed that for the three cases initiated under the Dispute Settlement Rules of 2015, the PHLG at its next meeting shall hear both Parties to the case and the President of the Advisory Committee. Finally, the PHLG took note of the Secretariat's announcement that it might initiate a procedure under Article 92 of the Treaty provided that no progress in rectifying the breach is achieved by the Contracting Parties concerned.
22. The Director informed about the draft agenda proposal and organizational aspects of the Ministerial Council planned for December 2017.
23. The Director informed about the Energy Community website relaunch that was implemented on 29 June 2017. With the new approach to design and graphical elements, few features / functionalities of the website will/might be new for the users of the website. This might be noted in most of the cases in the area of events (registration, reimbursement) or when receiving subscriptions from the Energy Community. Secretariat will be also thankful to receive feedback on the relaunched website and its user friendliness.

Done in Vienna on 30 June 2017

For the Permanent High Level Group,

THE PRESIDENCY