

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..

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