

56th PERMANENT HIGH LEVEL GROUP

Cyberspace, 16 July 2020

1. The meeting was chaired by Ms Radmila Damjanović on behalf of Montenegro and Mss Cristina Lobillo Borrero and Anne Charlotte Bournoville for the European Commission.
2. The Permanent High Level Group (PHLG) approved the agenda.

Treaty amendments

3. The PHLG members continued negotiations on the basis of an updated EU negotiation position that the European Commission transmitted to all Contracting Parties in the form a comprehensive table and a further developed draft Protocol on denominations and other updates of the Energy Community Treaty.

4. In this context, the European Commission (Commission) referred to the EU's updated draft Procedural Act on the exchange of information and cooperation between the European Commission, the Secretariat and the Contracting Parties in the fields of compliance with Treaty obligations and the reciprocity mechanism as well as the other two envisaged Procedural Acts concerning financial penalties.

5. The PHLG members welcomed important progress in finding a compromise in particular on the reciprocity mechanism and the system of financial penalties. Ukraine reserved the right to comments. The Commission stressed the urgency to finalise the Treaty amendment negotiations and agree on a stable text by the Ministerial Council on 27 November 2020. The Ukrainian side stressed the need to adhere to the principle of justice within the Energy Community, noting that for the same violations there can be no such gap in the amount of the penalty by country. In this context was emphasized that penalty shall not exceed the average contribution paid by the Contracting Parties.

6. The Commission also stressed that a failure to use this window of opportunity would have negative consequences both for the EU and Contracting Parties. It would notably further delay electricity market coupling in South East Europe. As interconnected markets are a pre-condition for an affordable energy transition, such delay would harm consumers and hamper the energy transition in South-East Europe.

7. All Contracting Parties and the Secretariat are invited to provide their remaining comments on the updated EU negotiation position as well as the envisaged three accompanying Procedural Acts in writing by 1 September in view of the next negotiation round at the PHLG on 25 September.

8. The Commission also offered bilateral discussions with Contracting Parties to clarify some outstanding issues which was welcomed by the Contracting Parties.

New acquis

7. The Secretariat presented concept note on adoption of the: Ecodesign Directive 2009/125/EC, Regulation 2019/2020 on Light sources and separate control gears; Regulation 206/2010 on Air

conditioners and comfort fans; Regulation 2015/1185 on Solid fuel local space heaters and Regulation 2019/2019 on Refrigerating appliances. Transposition and implementation deadlines were discussed. Some PHLG members supported the transposition. In principle, the Commission supports adoption by the Energy Community but considers that at this stage further assessment of existing market surveillance capacities and the potential impact of these legislative acts on the relevant markets of the Contracting Parties is needed..

8. The PHLG took note of the proposal of the adapted version of the Directive on common rules for the internal market for electricity (EU) 2019/944 presented by the Secretariat. The PHLG, having heard the Secretariat, discussed on the presented proposal and on the timeline for introducing an adapted version for the Energy Community. In that terms, PHLG invites the Secretariat and the European Commission to organize further discussions in the course of 2020 and to table the Directive 2019/944 for a possible adoption in 2021.
9. The PHLG took note of the proposal of the adapted version of the Regulation on the internal market for electricity (EU) 2019/943 presented by the Secretariat. The PHLG, having heard the Secretariat, discussed on the presented proposal and on the timeline for introducing an adapted version for the Energy Community. In that terms, PHLG invites the Secretariat and the European Commission to organize further discussions in the course of 2020 and to table Regulation 2019/943 for a possible adoption in 2021.
10. The Commission informed that it envisages to propose a prolongation of the existing 2020 energy targets and respective legislation, the Directive 2009/28/EC and Directive 2012/27/EU, by one year to avoid a legal gap between the expiration of the already incorporated 2020 framework by the end of 2020 and the adoption of new 2030 targets in 2021. The PHLG in general welcomed this proposal as a way for ensuring legal continuity and certainty.

Market coupling

11. The PHLG agreed on the urgency of implementation of market coupling. The European Commission clarified that an agreement on the envisaged reciprocity mechanism in the Treaty amendments under negotiations at the Ministerial Council on 27 November is a necessary pre-condition to ensure the further development of electricity cooperation between the Contracting Parties and the EU. PHLG took note of the Secretariat's concept to start the implementation of the CACM and FCA Regulations.
12. The PHLG acknowledged that supporting the implementation of market coupling pilot projects between Contracting Parties and EU neighboring markets will require a timely start of the transposition of the CACM Regulation, with an implementation by no later than Q42021]. To bridge the time until the reciprocity clause and the CACM and FCA framework are transposed into national law, it was considered useful to provide legal certainty on how to proceed in a legally compliant manner with ongoing pilot coupling projects in the interim period.
13. The Commission and the Secretariat underlined that the implementation of the CACM and FCA framework should start as soon as possible. PHLG discussed the possibility of a stepwise approach (e.g. making the entry into force of certain governance provisions conditional upon the transposition

of the new reciprocity provision in the Treaty). Some members of the PHLG stressed that no separate legal act should be proposed for the interim period which would duplicate the implementation process of the CACM and FCA framework and that a staged implementation of the final framework was preferable. The PHLG encouraged the Secretariat and the European Commission to follow up on this issues.

14. Until the full transposition of CACM Regulation, Contracting Parties are encouraged to continue preparation of market coupling with pilot projects and, where necessary, to enter into regional arrangements with neighbouring EU Capacity Calculation Regions on calculating cross-zonal capacities.

The 2030 energy and climate framework

15. The Commission informed that energy and climate modelling capacity study is in the final evaluation stage and the implementation is planned to start in September.
16. The Commission underlined that constructive and close cooperation between all the Contracting Parties, the Secretariat, the Commission and the contractor will be crucial for the quality of the study and the timely adoption of the 2030 energy and climate targets by the Ministerial Council in 2021. The Contracting Parties and the Secretariat offered their full support to the implementation of the study
17. The Commission recalled that the Study will offer unique and valuable modelling capacity building activities for all Contracting Parties individually and in the context of the working group of the Energy and Climate Committee.

Miscellaneous

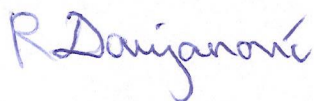
18. The Commission presented amendments to Procedural Act No. 01/2011 PHLG-EnC of the Permanent High Level Group of the Energy Community of 23 March 2001 laying down the rules governing the arbitration procedure in staff matters. The Secretariat proposed an alternative solution based on an approach of other international organisations – ILO.
19. The Secretariat presented its proposal for a study on energy poverty in the Energy Community Contracting Parties. The study would focus on selecting criteria for measuring energy poverty in the Contracting Parties, propose definitions and identify the main causes of energy poverty as well as provide recommendations for policies and measures to address it. PHLG in principle welcomed the proposal. PHLG members are invited to send comments on ToR until 1 September.
20. The PHLG took note of the preliminary list of Projects of Energy Community Interest (PECI) and Projects of Mutual Interest (PMI) proposed by the Electricity, Gas and Oil Groups, and invited the European Commission to start the procedure for adoption of a Ministerial Council Decision on the List of Projects of Energy Community Interest, and the Recommendation on the List of Projects of Mutual Interest based on the proposal presented by the Secretariat.
21. The PHLG took note of the initiative by the Secretariat to establish the Energy Derivatives Coordination Group (EDCG) which aims at focussing on cooperation between Energy and Financial Regulators in the areas where input and coordination is required to ensure market integrity, as well

as to facilitate the development of a regulatory framework related to energy commodity derivatives and centralized clearing.

Done in Vienna on 16 July 2020

For the Permanent High Level Group,

THE PRESIDENCY

A handwritten signature in blue ink, appearing to read "R. Davignon".