

Annex II of the Memorandum of Understanding of the Central and South-Eastern European Gas Connectivity (CESEC) High Level Group

Action Plan 2.0

Since the July 2015 CESEC High Level Group Meeting, where the Memorandum of Understanding and Action Plan were adopted, important progress has been made as regards the implementation of both infrastructure and regulatory projects set out in the Action Plan.

This complement to that Action Plan focuses on and further details the regulatory actions necessary to ensure the efficient operation of existing and planned infrastructure and with it to secure that the objectives of source diversification, market integration and security of supply are achieved.

1. List of regulatory actions per EU Member State

In the first place this Action Plan 2.0 consists of a list of specific regulatory actions per Member State that are linked primarily to fully and effectively implementing harmonized EU rules in the natural gas sector as well as the over-arching the Third Energy Package provisions.

All actions foresee specific deadlines and responsible parties per Member State. The list of regulatory actions is in the Appendix 1. Member States agree to do their utmost to meet the deadlines and report on those once the deadline has expired.

2. Improving the trading environment and boosting competition

As part of the work on the regulatory actions it emerged clearly that even in Member States and Contracting Parties where harmonized market rules have already been fully or nearly implemented, trading on the wholesale market is still underdeveloped, hampered by e.g.

- lack of a well-functioning (robust but market-friendly) trading environment
- administrative and financial entry barriers to organized markets;
- lack of well-functioning daily balancing regimes;
- unaligned licensing regimes;
- regulated prices and (often);
- the market power of the incumbent operator, resulting in very limited access to (de iure or de facto lock-in of) retail customers and, correspondingly, a very limited number of competitors on either wholesale or retail level.

Many of the above challenges are the same across the Member States and Contracting Parties and therefore it is appropriate to address consider the issues jointly (notwithstanding specific conditions regarding the market in each Member State) and include in such discussions

organizations such as EFET, ENTSOG (and other associations who can contribute to the process are also welcome of course) to highlight best practices.

Action: A working group will be set up involving e.g. ACER, NRAs, Energy Community Secretariat and stakeholders such as traders' organizations (EFET) to deliver recommendations on i) a set of general “key success factors” and “key pitfalls to be avoided”; along with ii) a possible specific actions per Member State and per Contracting Party to improve market arrangements.

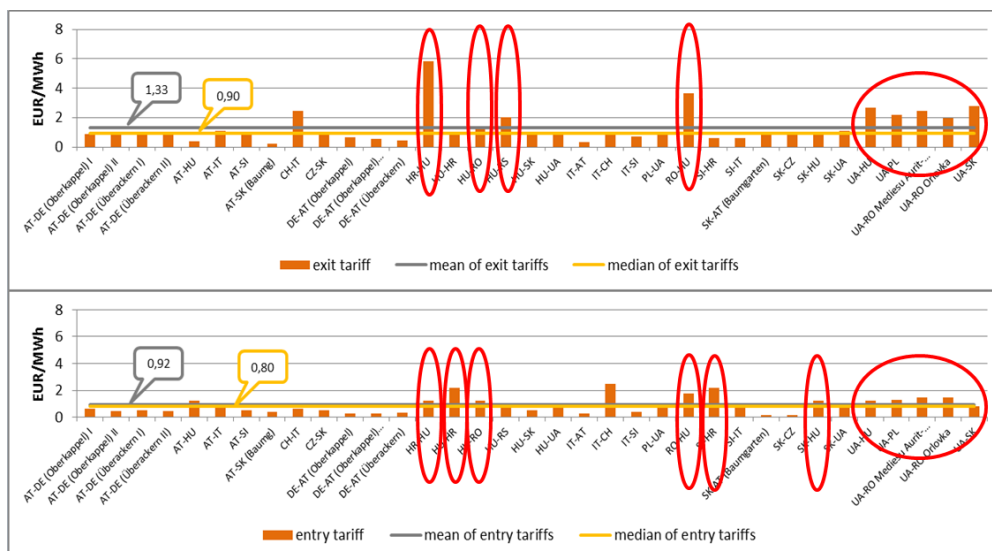
DG ENER will organize and chair the working group which will have at least 2 meetings in the period September 2016-March 2017.

3. Tariffs

In the course of the CESEC work DG ENER has commissioned the consultancy Regional Centre for Energy Policy Research (REKK) to assess gas transmission tariffs in CESEC countries. The key conclusions of that study are the following:

1. important market distortions have been detected in applied entry-exit tariffs in the CESEC region;
2. coordinated tariff reforms to correct above average tariffs at interconnection points can clearly improve regional welfare (offsetting lower TSO earnings with projected higher throughput);
3. tariff levels on interconnection points (existing and new) bringing spot gas to the region are critical for competition and market integration;
4. albeit extreme, a scenario to lower tariffs across the board leading to a significant spot gas supply increase and decent wholesale price decrease, is a strong message for regulators when designing tariffs for future spot gas entry points for the region.

In view of point 2) the following interconnection points were identified as above average tariffs:



Of the outliers (considering existing points and existing sources¹) the REKK analysis and modelling concluded that lowering the tariffs (by up to 50%) would still increase overall welfare at least the following interconnection points (and directions): SK-HU, HU-SRB, HU-HR. Information outside the modelling scope suggests that the RO-HU interconnection point/direction also falls into this category.

While such modelling has its limitations it is instructive that tariffs in the region can likely be optimized in a "win-win" scenario that should be considered by involved TSO and NRAs.

Action: A working group shall be set up consisting of NRAs and TSOs and relevant stakeholder organizations to further identify cross-border trade- and competition-distorting aspects of current and planned tariffs in the CESEC region. The potential to optimize/lower outlier tariffs (relative to existing infrastructure and considering any new-build focusing on changes likely to bring about overall benefits due to higher throughput) should specifically be examined by 31 March 2017.

DG ENER will organize and chair the working group which will have at least 2 meetings in the period September 2016-March 2017.

4. List of regulatory actions in the Energy Community Contracting Parties and Network Codes implementation in the Energy Community

In parallel to the Member States action lists the Energy Community Secretariat has been publishing Monitoring Reports on the progress of implementation of energy acquis by Contracting Parties. A list of specific legislative and regulatory actions that are linked primarily to fully and effectively implementing the CESEC MoU and Energy Community acquis in the natural gas sector can be found in appendix 2.

¹ i.e. this analysis does not account for any future tariffs for gas from Croatia or the possibility to move gas across Romania due to the infrastructure constraints

Additionally, the Energy Community Secretariat and DG Energy, with the support of ACER and ENTSOG, have been developing a concept for the phased implementation of network codes in the Energy Community. The approach differentiates provisions in network codes² that are necessary to be implemented for first and second phases of market opening/creation in order to allow Contracting Parties a pragmatic and realistic implementation timeline.

Actions:

1. *Contracting Parties agree to do their utmost to meet the actions and deadlines referred to in appendix 2. The Energy Community Secretariat shall facilitate and monitor meeting of targets as outlined in appendix 2.*
2. *EU Member States neighbouring Energy Community Contracting Parties agree to cooperate in implementing gas network codes on their interconnection points with Energy Community Contracting Parties.*

Monitoring action: *Progress with the entire updated Action Plan will be reviewed early 2017 and continuously thereafter*

Appendix 1: List of regulatory actions per Member State

Appendix 2: List of regulatory actions in the Energy Community Contracting Parties

² Congestion Management Procedures Guideline, Capacity Allocations Mechanism Network Code, Balancing Network Code and Interoperability and Data Exchange Network Code

Appendix 1

Member State	Description of the issue	Comments	Responsible	Timing
Austria	No full Capacity Allocation Mechanism Network Code (CAM NC) implementation no capacity bundling at AT-HU interconnection point	Project plan of concerned TSOs (Gas Connect Austria and FGSZ) and NRAs (E-Control and HEO) foresees capacity booking platform selection through tender procedure	TSOs and National Regulatory Authorities (NRA) from AT and HU	31 December 2016
Bulgaria	Compliance of the national transposition of the 3rd Package under review		Ministry of Energy	Fully compliance to be achieved by 31 December 2016
	Interconnection points not bookable/Interoperability Network Code non-implementation as regards Interconnection agreements (IA)	<ul style="list-style-type: none"> - Bulgartransgaz (BTG)-DESFA IA signed 24 June 2014, effective 1 July 2016-1 October 2016 - Work on BTG-Transgaz IA (Transit 2 and 3 pipeline) on-going (Transit 1 signed 14 July 2016) - <i>Work on BTG-GAMA (FYROM) and BTG-BOTAS (TR) IA to be launched by September 2016</i> 	BTG and partner TSOs as well as NRAs from BG and neighbouring countries	<ul style="list-style-type: none"> - Prolongation of BTG-DESFA IA effective 1 October 2016 by September 2016 - efforts towards BTG-GAMA IA finalization by 31 December 2016 - efforts towards BTG-BOTAS IA finalization by 31 December 2016

Appendix 1

Member State	Description of the issue	Comments	Responsible	Timing
	Congestion Management Procedures (CMP) Guideline: contractual congestion, i.e. no access to firm capacity across Trans-Balkan pipeline; EL-BG and BG-RO interconnection point per ACER Congestion Report and – as third-country point – particularly at BG-FYROM point	BTG shall apply CMP rules at the IPs with EU MSs and will undertake best efforts (in line with planned work on Interconnection Agreements) on IPs with third countries. CMP rules are submitted to NRA for approval. Expected implementation date 1 October 2016 after the approval and entry into force of new entry-exit tariffs and capacity booking platform.	BTG and BG NRA	1 October 2016: BTG-DEFA IP; 1 October 2016: BTG-Transgaz IP and efforts towards implementing by 1 January 2017: BTG-GAMA IP
	Balancing NC not yet implemented	Application for interim measures granted by NRA. Draft rules implementing Balancing NC have been submitted to NRA by BTG)	BTG and BG NRA	1 October 2016
	CAM NC: effectively no implementation as no Day Ahead/Within Day (DA/WD) capacity offer, Booking Platform yet to be implemented, no capacity bundling, no auctions, no compliance on interruptible capacity, etc.	Agreement to use Regional Booking Platform capacity platform in place	BTG and BG NRA	1 October 2016
	Trading: no gas hub, no Virtual Trading Point (VTP), limited number of active market participants	VTP is under implementation as part of the new balancing regime submitted to NRA Develop action plan to develop/improve gas trading environment (also part of the Balkan Gas Hub concept)	BTG and BG NRA	31 December 2016

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Member State	Description of the issue	Comments	Responsible	Timing
Croatia	Gas export and import restrictions, delayed market opening, price regulation for non-household customers and capacity allocation and access to storage facilities.	Infringement procedure on these issues on-going	Ministry of Economy	1 April 2017
	Compliance of the national transposition of the 3rd Package under review		Ministry of Economy	Fully compliance to be achieved by 31 December 2016
	Develop gas trading platform	Trading gas platform is under development by the Croatian Energy Market Operator (HROTE) (VTP is developed and used on daily and within-daily basis)	HROTE	31 December 2016
	Implementation of CAM NC	Challenge of using two capacity booking platforms at 2 IPs (2 booking platforms have been contracted) and associated issue of need for solution for booking platforms cooperation (and cost for using two booking platforms at HR border)	Prisma, RBP, HERA and Plinacro	tbd
	SoS Regulation: no decision on the establishment of physical reverse flow with HU and SI	Resolution of HU reverse flow part of Memorandum of Understanding (MoU) to be signed between HR and HU. Decision on implementing a Pressure Management Agreement (PMA).	Ministries, NRAs and TSOs from HR and HU	9 September 2016 (PMA) followed by MoU by 31 December 2016 at the latest

Appendix 1

Member State	Description of the issue	Comments	Responsible	Timing
Greece	Compliance of the national transposition of the 3rd Package under review	Substantiated reply already sent by the Hellenic Administration	Ministry of Energy EL NRA	Compliance to be achieved by 31 December 2016
	Interoperability Network Code non-implementation as regards Interconnection agreements (IA): Interconnection point with BTG (BG) and – as third country BOTAS (TR) – not bookable	(BTG)-DESFA IA signed 24 June 2014, effective 1 July 2016-1 October 2016	DESFA and BTG as well as NRAs from EL and BG	BTG-DESFA “IA 2.0”, effective 1 October 2016, by September 2016
	CAM NC and Balancing NC non-implementation	Selection of capacity booking platform in progress; consultation of the 3 rd revision of the national NC (to implement CAM and Balancing NC) completed	DESFA and EL NRA	1 October 2016
	Trading: no VTP established, inactive gas hub trading	Develop and – as possible implement – action plan to develop/improve gas trading environment; Establishment of gas balancing platform and virtual trading point – approved by EL NRA – are interim measures for the implementation of the Balancing NC	DESFA and EL NRA	30 June 2017
	Ensure effective and flexible access for all market players to Revithoussa LNG terminal	Upon implementation of 3 rd LNG tank new options will be available for more flexible and effective access	DESFA, EL NRA	31 October 2017

Appendix 1

Member State	Description of the issue	Comments	Responsible	Timing
Hungary	Capacity Allocation Mechanism Network Code (CAM NC): - no full implementation no capacity bundling at AT-HU interconnection point	- Project plan of concerned TSOs (GCA and FGSZ) and NRAs (E-Control and HEO) foresees capacity booking platform selection through tender procedure	TSOs and National Regulatory Authorities (NRA) from AT and HU	31 December 2016
	Trading: established exchange trading (CEEGEX) but low level of liquidity and volumes on both OTC and exchange	Develop action plan to develop/improve gas trading environment	CEEGEX, FGSZ, HU NRA	31 December 2016
	Incorrect transposition of the Third Energy Package Directives	Infringement procedure on-going	Ministry of National Development	Resolution of infringement procedure by Q4 2016
Italy	N/A	N/A	N/A	N/A
Romania	Interoperability NC: No Interconnection Agreement with Bulgartransgaz and Ukrtransgaz	Interconnection agreements with BTG (BG) and Ukrtransgaz (UA) for Transit 1 have been signed; IAs for Transit 2 and 3 still pending due to complex situation with Gazprom Export at Isaccea	Transgaz and Ukrtransgaz	Interconnection Agreements for Transit 1 effective by 1 October 2016
	Balancing NC: daily balancing not fully implemented	ANRE order sets implementation date of daily balancing for 1 November 2016; experience with implementation will be reviewed in forthcoming interim reports	Transgaz and RO NRA	1 November 2016

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Member State	Description of the issue	Comments	Responsible	Timing
	No (full) CAM NC implementation (no single nomination, no capacity bundling at IP with Bulgaria)	Work in progress coordinated with the conclusion of the Interconnection Agreements NRA approved Decision nr. 34/19.07.2016 approving the procedures on transport capacity booking and on setting the tariffs for gas transport service provision through the gas transport pipelines Isaccea-Negru Voda	Transgaz and RO NRA	1 October 2016 for Negru Voda 1 (for Negru Voda 2 and 3 deadline depends on concluding the relevant IAs)
	CAM NC: Misaligned auction calendar of FGSZ with Transgaz	Such misalignment was caused by the late (April 2016) issue of ANRE Order establishing the CAM NC based auction details (General conditions of contracts, platform rules, etc.)	Transgaz and RO NRA	1 October 2016
	Delayed CMP implementation, despite existent contractual congestion on Trans-Balkan pipeline	Contractual congestion is no longer expected to be in place on Transit 1 as from 1 October 2016 for when on available capacity will be auctioned For Transit 2+3 auctioning of available capacity depends on conclusion of the relevant IA.	Transgaz and RO NRA	1 October 2016
	Trading: trading available on RCE (Romanian commodity exchange) but no deals to date, low level of gas trading activity on OTC market	Prepare action plan to develop/improve gas trading environment	RCE, RO NRA and (as applicable) Transgaz	31 December 2016

Appendix 1

Member State	Description of the issue	Comments	Responsible	Timing
	Gas export restrictions (national law obliges producers to make available with priority their entire gas production for the domestic market (households))	Infringement procedure on-going; Measures to address this situation have been identified and are currently under implementation	Ministry of Energy	Political-level resolution of infringement by 30 September CESEC HLG; operative resolution by 31 December 2016
	Storage data not transparently published either on own Romgaz website or on GSE's AGSI portal	Romgaz intends to become GSE member in the near future	Romgaz, RO NRA	Start of regular publication of storage data by Romgaz on GSE AGSI platform by 31 December 2016
Slovakia	Interoperability NC: no IA with Ukrtransgaz at Velke Kapusany IP Rules at interconnection point Budince (with UA) are not governed by the same rules as at EU interconnection points (e.g. no overselling and buy-back, etc.); goal is to have phased implementation of EU network codes	Continue negotiations with a view to finalizing IA Best efforts to amend existing national legislation and interconnection agreement in order to align rules of Budince IP with those of EU IPs	Eustream, Ukrtransgaz and NRAs Eustream, Ukrtransgaz and NRAs	final deadline tbd in accordance with full implementation of prior IAs tbd

Appendix 1

Member State	Description of the issue	Comments	Responsible	Timing
Slovenia	Trading: VTP with Trading platform with gas balancing exchange established on 1 October 2015	Gas trading environment has been developed and improved significantly by introducing trading platform	Plinovodi, SI NRA	31 December 2016

Appendix 2 ³					
List of Measures for the Energy Community Contracting Party signatories to the MoU ⁴					
No.	Measures	lit.	Sub-measures	Contracting Parties	Finish date
I	Ensuring transparent and non- discriminatory third- party access				
1	Establish capacity allocation mechanisms and congestion management rules allowing TPA in forward and reverse flow	a	Implementation of missing CAM and CMP requirements of Regulation (EC) No 715/2009 ⁵	ALB: Harmonization of secondary legislation with CAM and CMP requirements. FYROM: Existing network code and market rules to be adjusted so to include all CAM and CMP requirements i.e. <i>Rules for allocation of transmission capacities</i> still not available; both firm and interruptible capacity have to be offered; no rules for network users who wish to re-sell or sublet their unused contracted capacity on the secondary market; majority of transparency requirements for TSO missing; missing provision(s) related to trading of capacity rights. MDA: Finalization and implementation of secondary legislation including required CAM and CMP provisions (<i>Regulation on access to transmission natural gas networks and congestion management</i>) SRB: the network codes of both TSOs to allow for capacity rights transfer on a monthly or daily basis; obligation to offer unused capacity on the primary market at least on a day-ahead and interruptible basis to be included in network codes. Network codes to be implemented in practice. Transparency requirements of the Regulation to be fulfilled. UKR: transparency requirements to be fulfilled for all relevant points in line with 3.2 of Annex I (i.e. exit points to distribution grids, entry from production etc are missing)	01/07/2017
		b	Publication of missing capacity-related information necessary for network users to gain effective access to the system, in line with Annex to the Regulation (EC) No 715/2009	FYROM, MDA, SRB, UKR	01/01/2017

³ All actions and deadlines indicated are without prejudice to legally binding obligations stemming from the Treaty establishing the Energy Community and are not meant to waive the Energy Community Secretariat's prerogative to initiate infringement procedures before their expiry.

⁴ Albania, FYR of Macedonia, Moldova, Serbia and Ukraine.

⁵ References to the missing elements herein will be found, inter alia, in the Secretariat's Annual Implementation Report 2016.

		c	Implement stepwise Regulation (EU) 984/2013 on CAM as well as COM Decision amending Regulation (EC) 715/2009 Annex I (2012/490/EU) related to CMP, as adopted by the PHLG ⁶	ALB, FYROM, MDA, SRB, UKR	As of 01/01/2018
2	Establish market- based balancing mechanisms	a	Implementation of missing requirements of Regulation (EC) No 715/2009 related to balancing	ALB: Finalization of secondary legislation to align with requirements related to balancing. FYROM: To harmonize balancing- related provisions of the existing network code and market rules (especially tolerance levels); <i>Code for natural gas and ancillary services</i> , mentioned in the market rules, still not published; missing methodology for calculating imbalance charges. MDA: Finalization and implementation of secondary legislation including required balancing provisions (<i>Regulation on natural gas market rules</i>) SRB: <i>Yugorosgaz Transport code</i> to include provisions on commercial responsibility of system users and transmission system operator's obligation to publish information on balancing status. Network codes of both TSOs to be implemented in practice. UKR: Balancing responsibility to be clearly defined and practised; financial security for balancing services to be proportional.	01/07/2017
		b	Implement stepwise Regulation (EU) 312/2014 on balancing, as adopted by the PHLG ⁴	ALB, FYROM, MDA, SRB, UKR	As of 01/01/2018
3	Develop transparent and non-discriminatory tariffication rules that do not distort trade across borders	c	Implementation of entry- exit transmission tariff methodology that allows separately set tariffs for all entries to and all exits from the system in a non- discriminatory way	ALB: Finalization of entry- exit transmission tariff methodology. FYROM, MDA: Finalization and implementation of entry- exit transmission tariff methodology. SRB: implementation of entry-exit transmission tariff methodology for <i>Yugorosgaz</i> . UKR: full implementation of the entry-exit transmission tariff methodology on all entry and exit points.	01/01/2017 ⁷
II Ensuring free flow of gas and provision of competitive framework					

⁶ Envisaged adoption on the PHLG meeting in December 2016.

⁷ The Energy Community Secretariat and the European Commission recognize the specific challenges and exemption approved by the Energy Community Ministerial Council for the Republic of Moldova to implement this measure and are ready to consider approving a maximum 1-year delay in implementation and to support the Republic of Moldova in implementing it.

1	Optimise actual capacity use in both directions, including backhaul	a	Establish a possibility for backhaul with adjacent TSO(s), in cooperation with the EC and the ECS	ALB, FYROM, MDA, SRB, UKR	01/01/2018
		b	Ensure publication of transparency requirements of Regulation (EC) No 715/2009 on ENTSOG transparency platform	FYROM, MDA, SRB, UKR	01/01/2017
III	Infrastructure related measures				
1	Adopt interconnection agreements	a	Agree and finalize interconnection agreements with adjacent TSOs	SRB with BIH and HUN; FYROM with BGR; MDA with UKR; UKR with POL, SVK and ROM (for IPs where ICAs are missing)	01/01/2018
2	Provide a cross- border cost allocation mechanisms in line with Regulation (EU) 347/2013	b	Implement Ministerial Council Decision 2015/09/MC-EnC on the implementation of Regulation (EU) No 347/2013 of the European Parliament and of the Council on guidelines for trans-European energy infrastructure	ALB, FYROM, MDA, SRB, UKR	31/12/2016 ⁸
3	Ensure harmonised framework of operation of interconnected EU MS-EnC CP systems	c	Implement Regulation (EU) 703/2015 on Interoperability and data exchange rules, as adopted by the PHLG ⁴	ALB, FYROM, MDA, SRB, UKR	As of 01/01/2018
IV	Cross-cutting measures				
1	Unbundle and certify transmission system operator in line with the Third Energy Package	a	Adopt a final decision on TSO certification (taking into account the Secretariat's Opinion)	ALB, FYROM, MDA, SRB, UKR	01/01/2017 ⁹

⁸ The Energy Community Secretariat and the European Commission recognize the specific challenges and exemption approved by the Energy Community Ministerial Council for the Republic of Moldova to implement this measure and are ready to consider approving a maximum 1-year delay in implementation and to support the Republic of Moldova in implementing it.

⁹ Postponement of gas TSO certification (in line with the Third Package) in Moldova until 2020 on the basis of Energy Community Ministerial Council Decision