

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