

40th PERMANENT HIGH LEVEL GROUP

Vienna
17 December 2015

1. The meeting was chaired by Entela Cipa on behalf of Albania and Hans van Steen for the European Commission. The incoming Presidency of the European Union, the Netherlands, presented its priorities including regional cooperation for which the Energy Community provides an important framework as well.
2. The Permanent High Level Group approved the agenda.

I. Looking back to 2015 and forward to 2016

3. The Permanent High Level Group expressed its satisfaction with the achievements made during 2015 in terms of adopting new acquis and starting the reform of the Energy Community.
4. The Permanent High Level Group welcomed the update by the Secretariat on the state of implementation and enforcement. Contracting Parties which have not yet transposed the Third Package are urged to finalize this process in early 2016. The Secretariat announced that it will start enforcement actions against those countries which are not on track in early 2016. The same applies to the lack of transposition of energy efficiency and renewable acquis.
5. The members of the Permanent High Level Group thanked the Secretariat for playing a proactive role in the implementation process which was crucial for the achievements made. They called upon the Secretariat and the European Commission to continue their intense support.
6. The Permanent High Level Group expressed its satisfaction that the measures under Article 92 of the Treaty were essential in opening new and real opportunities for implementing the Third Package in Bosnia and Herzegovina. In line with the commitments made by the Ministerial Council in Tirana, the improvement of the sanctions regime will play an important part in the reform process during 2016. The Permanent High Level Group called upon Serbia, Albania, Bosnia and Herzegovina and former Yugoslav Republic of Macedonia to immediately bring to an end the infringements established by the Ministerial Council in 2014 and 2015 in order to avoid the imposition of measures under Article 92 in 2016.
7. The Permanent High Level Group welcomed the announcement by the Secretariat to structure the application of the new Rules of Procedure primarily in a way so as to enable dialogue and negotiations with the Parties concerned and come to settlements in line with Energy Community law.

II. Network Codes

8. The European Commission stressed the importance of incorporating and applying network codes developed within the European Union also in the Energy Community. The Commission announced a detailed technical consultation with transmission system operators, including of neighbouring EU Member States, early next year, before tabling the electricity CACM code for adoption during 2016.
9. As regards the legal basis, the European Commission expressed a preference for a decision to be taken under Title II. The Secretariat pointed out that the incorporation of network codes in the Energy Community

is an essential precondition for the creation of the single market and that this requires equal treatment of the interface between Contracting Parties and Member States with those between two Member States or two Contracting Parties. If this was not achievable under Title II, the Secretariat deems that alternative procedures should be explored and discussed by the Ministerial Council.

10. The Commission and the Secretariat also explained that in order to achieve equal treatment in the applicability of network codes in Member States and Contracting Parties, amendments to the Treaty providing for direct applicability of regulations in the Contracting Parties would be necessary.
11. The Secretariat suggested that in order to promote the pan-European integration not only of electricity but also of gas markets, incorporation of network codes should also start in the area of gas. The Commission pointed out that bilateral agreements between the transmission system operators of Ukraine and several EU Member States are already based on EU network codes.

III. Continuing Energy Community reform

12. The Permanent High Level Group welcomed the recent Resolution by the European Parliament stressing "that a strengthened Energy Community should be the pivotal arm of the EU's external energy policy" and calling for concrete proposals for further strengthening and reform of the Energy Community in line with the report by the High Level Reflection Group.
13. In line with the Policy Guideline "Roadmap on Reform of Energy Community" adopted by the Ministerial Council in Tirana, the Secretariat announced to come up with a number of proposals for changes of the Treaty including on measures under Article 92 and direct applicability, as well as an impact assessment for the incorporation of the *acquis* related to public procurement and VAT as well as a number of pieces of environmental and climate change legislation, in particular following the agreement reached at the COP21 in Paris.
14. Serbia recommended looking at the work already done in the Contracting Parties with regard to climate change. The Commission underlined that after Paris, the Contracting Parties should make an effort in line with their INDCs. The Permanent High Level Group recommended that the Environmental Task Force looks into possible expansion of the *acquis* by technical measures such as the Greenhouse Gas Monitoring Mechanism Regulation (MMR).
15. The Permanent High Level Group welcomed the information by the European Commission on the work of the reform of the Gas Security of Supply Regulation within the European Union and the Commission's work in preparing the Energy Community Joint Act on Security of Supply for the Ministerial Council.
16. The European Commission invited all Contracting Parties, represented by their delegates to the Energy Community Security of Supply Group, to the EU Gas Coordination Group for its first meeting after the adoption of the Commission's proposal for a revised Regulation (tentatively on 18 February 2016). At this meeting, the Commission intends to present and discuss its proposals with experts from Member States and Contracting Parties.

IV. Projects of Energy Community Interest (PECI)

17. The Permanent High Level Group welcomed the incorporation of the TEN-E Regulation and expects the updated PECI list to be adopted by the Ministerial Council in 2016.
18. The Secretariat recalled that the Decision as adopted by the Ministerial Council excludes projects between Member States and Contracting Parties which are not already Projects of Common Interest (PCI). They can thus not be proposed to be included in the PECI list. Several Contracting Parties expressed their dissatisfaction with this situation. The Commission in this context recalled conclusion 12 of the Ministerial Council meeting. On top of this, Moldova and Ukraine asked the European Commission to come up with concrete proposals on how to ensure that new infrastructure projects on the interface between Contracting Parties and Member States are not factually excluded from the pan-European network.

19. The Commission called upon the Contracting Parties to focus their proposals on a limited number of most relevant and realistic transnational projects only to take advantage of funding in the most efficient way.
20. The Permanent High Level Group and the IFIs present at the meeting support the schedule for the process of selection of PECIs as presented by the Secretariat. The group in charge of selection will be chaired by Ms Catharina Sikow-Magny of the European Commission. Given the time-lines to be respected in that process, the Secretariat proposed and the Permanent High Level Group supports adoption of the list by written procedure by the end of 2016.
21. Serbia asked for the Secretariat's assistance in transposing the TEN-E Regulation in their domestic legal order.

V. State of Play of the Regional Initiatives within or involving the Energy Community

22. The Permanent High Level Group welcomed the strong political commitment made by the six Western Balkan Contracting Parties at the Vienna Summit to establish among themselves a regional power market in the areas of electricity wholesale trade, electricity balancing as well as electricity network capacity allocation (including the associated national reform commitments).
23. The Commission underlined that living up to these commitments will be essential for funding of connectivity projects to be granted in Paris in summer 2016. In this respect, the Permanent High Level Group expressed its concern, despite the progress in some areas, about the lack of progress in several WB6 countries as reflected in the latest report by the Secretariat.
24. The Western Balkan members of the Permanent High Level Group welcomed the Secretariat's initiative to link the transmission system operators of the region through two memoranda of understanding related to market coupling and balancing respectively. The members of the Permanent High Level Group will support and facilitate the conclusion of these memoranda by their system operators.
25. The Permanent High Level Group welcomed the Secretariat's efforts in regular and detailed reporting also on the progress made by the Contracting Parties involved in the CESEC initiative. The Secretariat announced to publish its first bimonthly CESEC report already on 18 December 2015.
26. The Secretariat informed the Permanent High Level Group about its discussions with the European Commission related to technical assistance to the Eastern Partnership countries.
27. With regard to the so-called 8th Region Decision on cooperation between Contracting Parties in the power sector which the Ministerial Council could not extend beyond 2015 in Tirana, the European Commission stressed that the incorporation of a well-adapted CACM network code is a priority for 2016.
28. The Permanent High Level Group took note of the event calendar presented by the Secretariat.

VI. Miscellaneous

29. The Permanent High Level Group welcomed the presentation made by the SEEChange Net on behalf of South East Europe Sustainable Energy Policy (SEE EP) project on their energy modelling for South East Europe by 2050, which comes with an interactive videogame to be hosted on the Energy Community website.
30. Upon request by the Secretariat and as discussed in June, the Permanent High Level Group extended the mandate of the Environmental Task Force until further notice.
31. The Secretariat recalled the deadline for submission of NERPs and Opt-Out Requests by the end of the year.

VII. Presidency Handover

32. The Permanent High Level Group thanked the Republic of Albania, and Ms Entela Cipa personally, for their leadership as Presidency in office during 2015.
33. The Permanent High Level Group welcomed Bosnia and Herzegovina as the upcoming Presidency. Bosnia and Herzegovina's priorities, as presented at the Ministerial Council, focus on the reform of the Energy Community in line with the development of a true pan-European Energy Union, effective implementation of the Third Energy Package in all Contracting Parties, implementation of new acquis, finding sources of funding to assist Contracting Parties in meeting their obligations, the implementation of environmental acquis, as well as the development of wholesale markets, and expansion of the SEE CAO office within the borders of Southeast Europe.
34. The Permanent High Level Group bid farewell to Ms Mubera Bićakčić as its longest-serving member. She will be missed.

The adoption of these conclusions follows the Rules of Procedure.

Done in Vienna on 17 December 2015

For the Permanent High Level Group,

THE PRESIDENCY