

## **30<sup>TH</sup> PERMANENT HIGH LEVEL GROUP**

### **MEETING CONCLUSIONS**

**Belgrade, 23 October 2013**

1. The meeting was opened by Tatjana Jovanović on behalf of Serbia as Presidency in office and Mr. Fabrizio Barbato for the European Union as Vice-Presidency.
2. The Permanent High Level Group approved the agenda.

#### **Ministerial Council Meeting**

3. The Secretariat provided organizational information on the upcoming Ministerial Council meeting.
4. The Permanent High Level Group reviewed the documents for the Ministerial Council meeting and proposed them for adoption.
5. As regards the list of Projects of Energy Community Interest, the Permanent High Level Group recalled its endorsement by written procedure in July 2013. The Group requested, in line with its previous conclusions, to put Regulation No 347/2013 on Guidelines for Trans-European Energy Infrastructure on the list of legislative acts to be incorporated possibly in 2014.
6. In relation to the adoption of Commission's proposals for a Decision on the implementation of Directive 2001/80/EC and on the implementation of Chapter III, Annex V and Article 72(3)-(4) of Directive 2010/75/EU and amending Article 16 and Annex II of the Treaty, the Permanent High Level Group, taking note of the discussions at the meeting of the Environmental Task Force of 17 September 2013 and the draft compromise texts circulated by the Secretariat, agreed to endorse the draft Ministerial Council decisions and proposed them for adoption subject to the amendments as displayed in Annex I to these conclusions. A conclusion by the Ministerial Council should refer to the special situation of Ukraine.
7. The Permanent High Level Group reiterated its support for the proposed Recommendation for the adoption of the Energy Efficiency Directive 27/2012/EU in the Energy Community and proposed it for adoption.
8. The Permanent High Level Group reiterated its full support for the extension of the Treaty beyond 2016 for a 10-year period and welcomed the setting up of a High Level Reflexion Group. The PHLG endorsed its mandate as well as the appointment of Professor Jerzy Buzek as Chairman.
9. The PHLG agreed that the Ministerial Council conclusions should refer to the need for some Contracting Parties to finalise the internal national procedures

related to the Ministerial Council decision on extension of the Energy Community Treaty.

10. The Permanent High Level Group, taking note of the Reasoned Request by the Secretariat against Bosnia and Herzegovina in Case ECS-8/11 as well as the opinion by the Advisory Committee, proposed the Ministerial Council to declare the breach by this Contracting Party of its obligations under the Treaty, as confirmed by the Advisory Committee. The Permanent High Level Group also recommended the Ministerial Council to request Bosnia and Herzegovina to take follow-up action, namely the adoption of compliant legislation. Failing to do so should be considered a serious and persistent breach under Article 92 of the Treaty. The Secretariat was invited to finalise the text of the Ministerial Council Decision along these lines and to circulate it before the end of the PHLG meeting.
11. The Permanent High Level Group endorsed the composition of the Advisory Committee established under the Dispute Settlement Rules of Procedure for the period 2014-2015 as proposed by the Secretariat. It proposed the appointment by the Ministerial Council of Mr Wolfgang Urbantschitsch, Mr Schmitt von Sydow and Mr Rajko Pirnat as members, and Mrs Amela Alihodžić, Mr Visar Hoxha and Mr Nikola Radovanovic as alternate members.

### **Implementation of the Energy Community Treaty**

12. The Secretariat presented its annual Implementation Report for 2012/13. The Report focuses on the progress made and the state of implementation in each Contracting Party per sector.
13. The Permanent High Level Group agreed with the Secretariat's concern that the gap between transposition and true implementation in the Contracting Parties is widening. It recalled the commitment made by the Permanent High Level Group to use the upcoming transposition of the Third Package as a unique chance to rectify existing obstacles in the market designs, and invited all Contracting Parties to work closely with the Secretariat to that effect.
14. The Permanent High Level Group took note of the report on the Regional Wholesale Market Opening Action Plan presented by the Secretariat. It welcomed the progress made by the Company in Charge of Establishing a Coordinated Auction Office in South East Europe Ltd. and urged the company to increase its pace of operation. In this context Montenegro stressed the need for political support to ensure participation of all 8<sup>th</sup> Region in the project. Serbia informed that the Serbian Exchange is expected to be set up by the end of 2014.
15. The Contracting Parties expressed their views on the Implementation and the Wholesale Market Opening Reports and provided additional information on the developments in their jurisdictions.
16. The Permanent High Level Group thanked the Secretariat for its detailed view of the progress made and the remaining obstacles in implementing the Treaty. It

invited the Secretariat to play an active role in reviewing the upcoming amendments to the primary legislation in place and reiterated its commitment to catch up with the progress made within the European Union in the spirit of the internal market established by the Energy Community.

## **ITC Mechanism**

17. Reiterating its conclusions of the meetings held on 21 June 2012 and 19 June 2013, the Permanent High Level Group adopted the proposed Procedural Act incorporating Regulation (EU) No 838/2010. The Secretariat offered to facilitate the discussions between Ukrenergo of Ukraine and KOSTT of Kosovo\* and ENTSO-E respectively on the modalities of its practical implementation. Ukraine looks forward to the outcome of these discussions before finalising its internal procedures. It also announced to review the workability of participation in the ITC mechanism by the Contracting Parties in its next Implementation Report.

## **PHLG Rules of Procedure**

18. The Permanent High Level Group adopted the Procedural Act amending Procedural Act of the Permanent High Level Group of 17 October 2006 on the Adoption of Internal Rules of Procedure including editorial changes expressed during the discussion.

## **Miscellaneous**

19. The Secretariat presented its proposals for topics to be discussed at the meeting of the PHLG in December 2013. In particular, the Secretariat proposed to include Energy Efficiency Directive 27/2012/EU, Regulation (EU) No 543/2013 on submission and publication of data in electricity markets (amending Annex I to Regulation (EC) No 714/2009), Regulation No 347/2013 on Guidelines for Trans-European Energy Infrastructure, Regulation (EU) No 994/2010 concerning measures to safeguard security of gas supply, Decision No 994/2012/EU establishing an information exchange mechanism on intergovernmental agreements between Member States and third countries in the field of energy, the new package of EU public procurement legislation as well as the necessary adaptations to the *acquis communautaire* in oil stocks and statistics.
20. In relation to the topics discussed at the Gas Forum, the Permanent High Level Group welcomed the Contracting Parties' efforts to adopt secondary legislation. However, concerns about existing cases of noncompliance and substantial barriers to effective market opening remain. It was recalled that the Forum requested the adoption, as soon as possible, of the EU regulation on security of gas supply.

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\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo declaration of independence.

21. The European Commission invited the Secretariat to increase efforts in the future so as to respect as much as possible the procedural rules on circulation of documents prior to the meetings.
22. The representative of IRENA informed the Permanent High Level Group about the Workshop on Renewable Power in Southeast Europe that will take place in Montenegro on 12<sup>th</sup> December 2013.

The adoption of these conclusions follows the Rules of Procedure, as amended.

Done in Belgrade on 23 October 2013

For the Permanent High Level  
Group,

THE PRESIDENCY