

Treaty establishing the Energy Community

Mini-Gas Forum

13 October 2006

Vienna

▶ The European Community



- ▶ The Republic of Albania
- ▶ The Republic of Bulgaria
- ▶ Bosnia and Herzegovina
- ▶ The Republic of Croatia
- ▶ The former Yugoslav Republic of Macedonia
- ▶ The Republic of Montenegro
- ▶ Romania
- ▶ The Republic of Serbia
- ▶ The United Nations Interim Administration Mission in Kosovo

The main objectives

- Establishment of a single energy policy
- Harmonization and application of the EU *acquis communautaire* on energy
 - *Electricity Directive and regulation*
 - *Natural Gas Directive*
 - *Acquis on Environment*
 - *Acquis for Renewables*
 - *Acquis on Competition*
- Single and stable regulatory space and stable market framework
- Enhancement the security of supply of the single regulatory space
- Regional integrated and interoperated network mechanisms between gas producers and users
- Network energy market competition on a broader geographic scale

Acquis on Energy

- Electricity Directive 2003/54/EC
- Natural Gas Directive 2003/55/EC
- EC Regulation on conditions for access to the network for cross-border exchanges in electricity 1228/2003/EC

Acquis on environment

- endeavour to accede to Kyoto Protocol
- Implement Council Directive **85/337/EEC**, [on the entry into force of Treaty](#)
- Implement Council Directive **1999/32/EC** by [31 December 2011](#)
- implement Directive **2001/80/EC** by [31 December 2017](#)
- implement Article 4(2) of Directive **79/409/EEC** [on the entry into force of the Treaty](#)

Acquis on renewables

- Implement Directive **2001/77/EC** within one year of the date of entry into force of Treaty
- Implement Directive 2003/30/EC within one year of the date of entry into force of Treaty

Acquis on competition

- Implement the Articles 81, 82, 86(1),86(2) and 87 of the Treaty establishing the European Community

Each Contracting Party must ensure that the eligible customers

- From **1 January 2008**, all non-household customers
- From **1 January 2015**, all customers

- Within one year of the date of entry into force of this Treaty, the Secretariat shall draw up a list of the Generally Applicable Standards of the European Community, to be submitted to the Ministerial Council for adoption
- The Contracting Parties shall, within one year of the adoption of the list, adopt development plans to bring their Network Energy sectors into line with these Generally Applicable Standards of the European Community
- Generally Applicable Standards of the European Community” shall refer to any technical system standard that is applied within the European Community

- The Parties shall, within one year of the date of entry into force of Treaty, adopt security of supply statements describing in particular
 - diversity of supply
 - technological security and
 - geographic origin of imported fuels

- They shall be updated every two years

- The Secretariat shall give guidance and assistance with respect to the Security of Supply statements

- **Background**

- Sudden crisis on the Network Energy market

- **Purpose**

- Such safeguard measures shall cause the least possible disturbance in the functioning of the Network Energy market of the Parties

- **Obligation by the Contracting Parties**

- Without a delay notification on these safeguard measures to the Secretariat

- **Background:**

- In the event of disruption of Network Energy supply, the Parties shall seek an expeditious resolution

- **Request:**

- Upon request of the Party directly affected by the disruption, the Ministerial Council shall meet. The Ministerial Council may take the necessary Measures in response to the disruption

- **Obligation:**

- Within one year of the date of entry into force of this Treaty, the Ministerial Council shall adopt a Procedural Act for the operation of the mutual assistance

- Prohibition of customs, duties and quantitative restrictions on the import, export and customs duties of a fiscal nature between parties
- The Energy Community may take measures with the aim of creating a single market without internal frontiers for Network Energy
- The Energy Community may take measures necessary for the regulation of imports and exports of Network Energy to and from third countries ensuring equivalent access to and from third country markets

- **The Ministerial Council**

- shall provide general policy guidelines, take measures, adopt Procedural Acts

- **Permanent High Level Group**

- prepares the work of the Ministerial Council, gives assent to technical assistance, requests made by donors, take Measures, if so empowered by Ministerial Council, adopts Procedural Acts, discusses the development of the *acquis communautaire*

- **Energy Community Regulatory Board (ECRB)**

- advise the Ministerial Council or the Permanent High Level Group on the details of statutory, technical and regulatory rules; issue Recommendations on cross-border disputes involving two or more Regulators, take Measures

- **Electricity Forum**

- advises the Energy Community on electricity issues and is composed of representatives of all interested stakeholders

- **Gas Forum**

- advises the Energy Community on gas issues and is composed of representatives of all interested stakeholders

- **Energy Community Secretariat**

- Provide administrative support to the MC, PHLG, ECRB, the Fora and the donors, review the proper implementation by the Parties of their obligations under the Treaty
- The Secretariat facilitates the successful implementation of the Energy Community Treaty

General stipulations

- Measures may take the form of a **Decision** or a **Recommendation**
 - Decision is legally binding in its entirety; Recommendation has no binding force
- Each Party shall have one vote (1 vote)
- The Ministerial Council, the Permanent High Level Group or the Regulatory Board may act only if **two third of the Parties** are represented

▪ Title II: Extension of the *acquis communautaire*

- MC, PHLG or ECRB shall take measures on a proposal from the EC
- The EC may alter or withdraw its proposal
- MC, PHLG and ECRB shall act **by a majority** of the votes cast

▪ Title III: Mechanism for operation of Network Energy Markets

- MC, PHLG or ECRB shall take measures on a proposal from a Party or the Secretariat
- MC, PHLG or ECRB shall act by a **two third majority** of the votes cast, including a positive vote of the EC

▪ Title IV: Creation of a Single Energy Market

- MC, PHLG or ECRB shall take Measures on a proposal from a Party
- MC, PHLG or ECRB shall take Measures by unanimity

- The Ministerial Council may determine the existence of a breach by a Party of its obligations

- The Ministerial Council shall decide as follows
 - simple majority, if the breach relates to Title II
 - two-third majority, if the breach relates to Title III
 - unanimity, if the breach relates to Title IV

- The Ministerial Council may subsequently decide by simple majority to revoke any decisions adopted

Participants and Observers

- Upon a request to the Ministerial Council, any Member State of the European Community may be represented in the Ministerial Council, the Permanent High Level Group and the Regulatory Board as a ***Participant***
- Upon a reasoned request of a neighbouring third country, the Ministerial Council may, by unanimity, accept that country as an ***Observer***
- Observers may attend the meetings of the Ministerial Council, the Permanent High Level Group, the Regulatory Board and the Fora, without participating in the discussions

- The Ministerial Council may, by unanimity of its Members:
 - Amend the provisions
 - Decide to implement other parts of the *acquis communautaire* related to Network Energy
 - Extend this Treaty to other energy products and carriers or other essential network infrastructures
 - Agree on the accession to the Energy Community of a new Party

Final and Transitional Provisions

- Treaty is concluded for a period of 10 years
- The rights and obligations arising from agreements concluded by a Contracting Party before the signature of this Treaty shall not be affected
- To the extent that such agreements are not compatible with this Treaty, the Contracting Party concerned shall take all appropriate measures to eliminate the incompatibilities established, no later than one year after the date of entry into force the Treaty
- Treaty shall enter into force on the first day of the month following the date on which the European Community and six Contracting Parties have notified the completion of the procedures necessary for this purpose

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