

## 71<sup>st</sup> PERMANENT HIGH LEVEL GROUP

Vienna, 18 March 2024

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1. The meeting was chaired by Ms. Yolanda Garcia Mezquita for the European Commission as Vice-Presidency.
2. The Permanent High Level Group (PHLG) approved the agenda for the meeting.
3. The PHLG suggests that while the draft PHLG agenda predominantly focuses on informational and discussion items without planned adoptions, it would greatly enhance the efficiency and effectiveness of deliberations for Contracting Parties to be provided with relevant documents and presentations ahead of the meeting. This preparatory step would facilitate informed and constructive discussions on various topics.

### Energy Community acquis evolution

4. Upon presentation by the European Commission and the Secretariat, the PHLG discussed a non-exhaustive set of relevant pieces of EU acquis within the scope of the Treaty for possible adoption by the Ministerial Council during this budgetary period. The acts under consideration extend to the environmental dimension (Water Framework Directive, Birds Directive, Habitats Directive), the energy dimension (REMIT Regulation) and the decarbonization dimension of the Treaty (renewables and energy efficiency).
5. Upon discussion, the Contracting Parties expressed their readiness to review any proposal made by the European Commission once available and request sufficient time to prepare negotiation position on each piece of the acquis and to contribute to the adaptations of the provisions and the definition of the deadlines for the purpose of transposition and implementation in the upcoming years.
6. With regard to the environmental dimension, the European Commission recalled the support by the Environmental Task Force for the adoption of the Water Framework Directive, the Birds Directive and the Habitats Directive in their entirety. It was clarified that no definite positions are expected to be taken at this point. North Macedonia pointed out, while not opposing to inclusion of new legislation, that it would be a burden to the countries to add new legislation and will create a huge workload to the EnC Secretariat, however this should go hand in hand with strengthening and support of the EnC, whereas Ukraine expressed support for the incorporation of the Water Framework Directive and reserved its position on the other two Directives. Serbia informed about the implementation status regarding the environmental dimension and respectfully requested to receive proposals for each piece of acquis beforehand. Furthermore, Serbia proposes timely discussions on potential adaptations and timelines for all three Directives in the forthcoming years. Kosovo\* also requested more clarity about the implementation timelines. Moldova raised concerns with regard to the suitability of the Energy Community Treaty for the incorporation of environmental acquis. The European Commission and the Secretariat recalled the importance of harmonising environmental regulation for the benefit of the increased sustainability of the network energy sectors in the Contracting Parties. The Contracting Parties invited the European Commission and the Secretariat to present concrete proposals and tentative timeline for the respective Decisions under Title II and for implementation challenges to be addressed and alleviated also by the Environmental Task Force.

7. With regard to the energy dimension, the European Commission informed about the updated REMIT Regulation in the European Union. Ukraine underlined the importance of aligning Contracting Parties' legislation in the area of market surveillance in parallel with the integration of markets with those of the EU. The Contracting Parties invited the European Commission to present concrete proposals for the respective Decision under Title IV in 2025, that would have to be submitted to the Ministerial Council by the European Union. Serbia emphasized the importance of receiving a preliminary adapted version of the EU REMIT and would appreciate sufficient time to articulate its position regarding ACER's competence as applicable to the Contracting Parties. The Energy Community Secretariat also invited the ECRB to prepare during 2024 for the swift implementation of the REMIT Regulation, in particular in discussing and agreeing on the necessary administrative and financial commitments (subject to decision on fees) to be made by Contracting Parties' regulatory authorities.
8. With regard to the decarbonization dimension, the European Commission and the Secretariat informed about the intention to submit a proposal for a Recommendation of the Energy Community Ministerial Council on accelerating the deployment of renewable energy projects and implementing the energy efficiency first principle, based on the European Union's Fit for 55 Package. Moldova and Serbia informed about their respective national efforts to streamline permitting for renewable energy and implement the energy efficiency first principle. The Secretariat informed about the upcoming result of the study conducted in the area and the policy recommendations, its efforts to provide support in respect of renewable acceleration areas and recent activities in the area of energy efficiency. The Contracting Parties welcomed the initiative and anticipate that the results of the study be shared at the earliest convenience.

## **Decarbonisation Roadmap: Next Steps**

9. Following up on the conclusions of the Ministerial Council meeting in 2023, the European Commission presented an update on the state of play of the impact assessment on various policy options for a regional carbon pricing system at the Energy Community level, with an inception report in late April/early May and an interim report to be expected in July.
10. The Contracting Parties kindly reminded the European Commission of its commitment to share the terms of reference before commencing the impact assessment process, facilitating a comparative analysis between EU and national impact assessments. Furthermore, the Contracting Parties invited the European Commission to engage them in the impact assessment work, urging for the prompt sharing of a draft impact assessment. They also propose presenting concrete proposals by the June PHLG and informal Ministerial Council meetings, allowing ample time for the Contracting Parties to prepare negotiation positions and actively contribute to discussions before any decisions are made. It is important to note that this does not imply a commitment to making a decision at the Ministerial Council in 2024. Serbia, Kosovo\*, Moldova and Ukraine requested for all relevant documents, including the terms of reference for the study, to be shared imminently. The European Commission agreed to share the terms of reference via the Secretariat, and update Contracting Parties' regularly on further process. To this end, the European Commission announced that two technical meetings will be organized in June and September respectively. Serbia underscored that while the results from the impact assessment conducted by the European Commission are valued, they will not be regarded as obligatory for the Contracting Parties, particularly if they diverge from the findings of the national impact assessment.

11. Serbia requested a discussion about the just transition dimension of the Decarbonization Roadmap.
12. The representatives of Serbia noted, with respect to the impact assessment methodology, that the same consultant involved in the 2030 Energy Community study is also performing the current assessment utilizing the same scenario modeling tools. While acknowledging this approach has advantages, Serbia previously raised concerns regarding the transparency of the 2030 study, particularly in relation to specific calculations, especially those concerning the renewable energy share in the energy mix. To address these concerns, Serbia recalls the successful negotiation of a new article in the December 2022 Ministerial Council decision aimed at mitigating such issues.
13. For the official position of Serbia regarding the next steps to the Decarbonization Roadmap, please see Annex I.

## **Implementation of the Treaty: State of play**

14. Recalling the importance of accelerating the overdue transposition and implementation of the Electricity Integration Package adopted in 2022, and in particular its relevance for market coupling, the Secretariat presented an overview of the state of play from the perspective of the Contracting Parties and the expectations by the bodies established within the European Union. Delayed transposition inevitably postpones the implementation of the Package, as illustrated by the postponed MCO Integration Plan. As transposition of the Package still lags behind in all Contracting Parties, the Secretariat will launch the infringement procedures as announced. The Secretariat underlined the need for all stakeholders in Contracting Parties to sign the CACM Global NDA, and vetos to be lifted. The Secretariat further recalled that the configuration of the CCR as stipulated by the Package remained unchanged, that their implementation is overdue and needs to be swiftly achieved by full cooperation among all TSOs, NEMOs and NRAs in good faith. The Secretariat proposed for the Contracting Parties to agree at this year's Berlin Summit to sign all cooperation agreements, regional terms, conditions and methodologies and agreements with regional coordination centers for the Western Balkan Contracting Parties.
15. Serbia remains firmly committed to fulfilling its obligations as defined by the Ministerial Council decisions within the Energy Community framework. Despite limitations of a technical government hindering formal legislative adoption, Serbia has actively pursued implementation efforts. Recognizing the significance of electricity market integration, Serbia is eager to make progress and collaboratively identify solutions that benefit all parties.
16. The Secretariat presented an update on the state of play in the process of selecting PEI projects under the new TEN-E Regulation for adoption by the Ministerial Council at its meeting in 2024. By the deadline of 18 March 2024, which cannot be formally postponed for legal and procedural reasons, 11 proposals for PEIs have been received and will be evaluated further by the consultants. Any additional proposals would need to be received still in March to be included in the process. The Secretariat announced to send the tables with country-specific data to the PHLG members for distribution to their electricity and gas TSOs and responsible units in the Ministries to verify, correct and complement by 8 April 2024. The European Commission reiterated the importance of a timely transposition of the TEN-E Regulation in the national legal frameworks within the deadline by the end of this year to ensure that the Contracting Parties can accelerate permitting and realization of the Projects of Energy Community Interest.

17. The Secretariat presented an overview of the state of play of Contracting Parties in transposing the Renewable Energy Directive (REDII), the Energy Efficiency Directive and the MRVA Package. The Energy Community Secretariat invited all Contracting Parties to complete the adoption of the necessary national legislation by mid-2024 in order to avoid the launch of infringement procedures.
18. Following up on the Roadmap for Recognizing Guarantees of Origin Issued by Energy Community Contracting Parties within the EU and the comments received by Contracting Parties after the Ministerial Council meeting in 2023, the Secretariat presented an overview of Contracting Parties' state of compliance with implementing the related provisions from the Renewable Energy Directive (RED II) and other criteria set out in the Roadmap. The European Commission invited the Secretariat to continue this monitoring and report to the next PHLG meeting and called on the Contracting Parties to voluntarily report to the Secretariat and to the next PHLG meeting on their progress. The European Union Commission and the Secretariat updated on the ongoing work on preparing a possible Decision to be taken by the Ministerial Council under Title IV of the Treaty. Such a decision would allow for mutual recognition of guarantees of origin issued by Contracting Parties upon their individual fulfillment of certain conditions necessary to guarantee the accuracy and robustness of the system and the relevant processes. The upcoming work by the European Commission and the Secretariat will focus on preparing the draft Decision to be proposed by the European Union that takes into account to the extent possible the comments submitted by the Contracting Parties on the Roadmap 2023. Furthermore, Serbia kindly requests recognition of the diligent efforts undertaken and the comprehensive transposition and implementation of obligations related to guarantees of origin within the Contracting Parties. The Secretariat reiterated to the Contracting Parties to actually use the regional system established with the support of the Energy Community by recognizing all guarantees of origin issued by other Contracting Parties. Ukraine proposed the establishment of a working group to address recognition of the Guarantees of Origin on Renewable Gases (biomethane).
19. The Secretariat summarized the main features of the draft integrated National Energy and Climate Plans (NECPs) submitted by Contracting Parties and the Secretariat's recommendations. The Secretariat underlined in particular the need for closer regional cooperation in designing and implementing NECPs. The PHLG urged Contracting Parties which have not yet done so to submit their draft NECPs to the Secretariat. In line with the Governance Regulation, each Contracting Party shall take due account of any recommendations from the Secretariat in its integrated National Energy and Climate Plan, and, if the Contracting Party concerned does not address a recommendation or a substantial part thereof, that Contracting Party shall provide and make public its reasons. In any event, final NECPs must be notified to the Secretariat by 30 June 2024.
20. The Secretariat presented an overview of the state of play of Contracting Parties in transposing and implementing the Oil Stocks Directive. The PHLG invited all Contracting Parties to complete the adoption of the necessary national legislation by mid-2024 to rectify existing non-compliances.

## **PHLG decisions in preparation**

21. The European Commission and the Secretariat informed about the purpose and content of the Commission Implementing Regulation (EU) 2022/2299, which needs to be adopted by the PHLG under Article 17(4) of the Governance Regulation. The formal proposal for adoption is envisaged to be presented at the PHLG meeting, planned in autumn 2024. Serbia recognizes the importance of a timely adoption process for Commission Implementing Regulation (EU) 2022/2299. However, to ensure a smooth and effective national implementation, Serbia would appreciate sufficient time to conduct thorough consultations and complete internal procedures. This includes developing a

well-informed negotiating position and securing the necessary approvals at both the government and the National Assembly level. Serbia also invites the Secretariat under Art.17(4) Governance Regulation to fulfil its obligations and inform the PHLG in one week from adoption of the Implementing Regulations.

## AOB

22. The Presidency, the European Union and the Secretariat informed the PHLG about the dates, for the 2024 informal Ministerial Council meeting in Bosnia and Herzegovina.

## Conclusions

23. The PHLG adopted the present conclusions.

Done in Vienna on 18 March 2024  
For the Permanent High Level Group

THE PRESIDENCY

### *Anex 1: Statement of the Republic of Serbia:*

New acquis for 2023 (referring to the Conclusion No.5)

“The Republic of Serbia, as a frontrunner in establishing a system for guarantees of origin that aligns with the Renewable Energy Directive and European standards, expresses its readiness to assist other Contracting Parties in implementing the system to contribute to regional objectives. Furthermore, Serbia extends an invitation to the Commission to propose explicit criteria that, upon fulfillment, would enable mutual recognition and individual integration of Parties into the EU system for guarantees of origin in accordance with the Commission's criteria.”

Preparation for the Informal Ministerial Council:

“The Republic of Serbia supports the active role of the European Commission and the Secretariat and seeks to be provided with necessary detailed and comparative analysis and assumptions regarding the informal proposal of the regional ETS in order to express positions on the guiding questions. Serbia reminds of its official note to the Secretariat on June 16<sup>th</sup>, 2023, stating that Serbia will not be able to express its position on the guiding questions at such short notice without government approval and the availability of detailed and comprehensive analysis. Serbia has also informed the PHLG that when these preconditions are fulfilled and in accordance with the procedure prescribed by the Treaty and the procedural acts of the Energy Community, Serbia can express its position at Energy Community Ministerial Council.”