IMPLEMENTATION OF THE TREATY
(February 2008)

– ELECTRICITY –

8th PHLG Meeting
Vienna, 11 March 2008

Energy Community Secretariat
ASSESSMENT
Contracting Parties Missions

Framework

- **Conclusions Item 7 and 8 of the 7th PHLG Meeting**
  - as a part of the technical assistance from the EC, aimed to support the implementation of the Treaty by the Contracting Parties – ECS in cooperation with PHLG, January – February 2008

- **Targeted activities (through direct contacts with the relevant stakeholders)**
  - Obtain / verify the information on implementation of Treaty related to electricity (Directive 2003/54/EC, Regulation 1228/2003, Road Maps for development of a competitive market);
  - Discuss the compliance with the Acquis on electricity and open issues related to the market;
  - Raise awareness and provide information related to the process of implementation of the Treaty and liberalization of the electricity market.

Realization

- Albania 11 – 12 February 2008
- Bosnia and Herzegovina 16 – 17 January 2008
- Croatia 04 – 05 February 2008
- Former Yugoslav Republic of Macedonia 04 – 05 February 2008
- Montenegro 11 – 12 February 2008
- Serbia 23 – 24 January 2008
ASSESSMENT

Basis for assessment

- *Detailed Road Maps on Electricity* - Contracting Parties, December 2007


Scope

**Acquis:** Directive 2003/54/EC, Regulation 1228/2003/EC

**Road Maps:** Implementation and enforcement of the Acquis, Market structure, Wholesale market, Retail market, Tariff reform, Affordability, Market integration
FINDINGS – main open issues
PSO and Customer Protection

Public / Universal Service

- **Public Service Obligation** – well addressed - sometimes applied in a rather general manner (*with less consideration of the competitive market*), in some cases with insufficient detail, some aspects addressed in other legal acts or in regulatory acts / technical rules

- **Universal service** – not clear - often **not specified as a customer right** (not clearly reflected to eligible customers), very few references on a Supplier of Last Resort

Customer protection

- **Final customers** – partially addressed - the relation with competitive market not always sufficiently covered, criteria for protection of households generally not exhaustive enough (**Directive 2003/54 - Annex 1**), not applied on eligible customers, provisions mostly transposed through the technical rules

- **Vulnerable customers** – rules are generally under development – usually leaning on non-energy legislation (missing energy-specific provisions), applied mostly within general social schemes and/or **supplemented by load-sensitive tariff measures (block-tariffs)** or cross-subsidized, other problems are related to inter-governmental cooperation, identification of these customers, administrative procedures and financing
FINDINGS – main open issues

Security / monitoring of supply

Security of supply

- **Energy balance** – broadly applied – on annual basis, commitments still to be clarified and enforced including load forecast and planning procedures, new generation (construction) planning is not always sustainable or consistently supported, in some cases transmission capacity planning should be included / enforced as well

- **Technical safety** – generally applied – mostly through the secondary legislation, enforcement and accountability criteria should be addressed

- **Monitoring** – applied annually – imports are balanced and planned within the yearly national energy balances, usually self-sustainability is targeted and few market-related contingency criteria for electricity are provided, constant import monitoring / reporting (reflecting the relations between security of supply and the market) is generally considered not applicable

Safeguard measures

- **Crisis situations** - treated locally - load shedding criteria are usually defined and generally applied as a regular measure, no specific provisions / commitments related to bilateral support in sudden crisis or market-related measures are considered
FINDINGS – main open issues

Technical Rules

Transmission rules

- **Grid Codes** – generally developed – usually well covering the TSO obligations, grid connection criteria and technical aspects, *applied in accordance with the relevant market environment* – to be further upgraded/updated and enforced accordingly

- **Balancing rules** – less transparent – usually embedded in the Grid Code, employing indigenous electricity sources (*few cases with competitive balancing option*) and the TSO as sole provider of balancing services

Distribution rules

- **Distribution codes** – mostly *under development* – alternatively the existing Rules for connection are upgraded and still applied, wherever developed well address the required criteria

- **Connection rules** – generally applied – substituting Distribution Codes wherever the DSO is still not unbundled in which cases basically referring the conditions required for connection of tariff customers, often not distinguishing clearly between *access to the network and access to the market*

- **Other technical rules** – are well in progress – either as separate regulatory acts or embedded in the Code, (for metering, disconnection, etc) – *customer switching rules to be developed*
FINDINGS – main open issues

Unbundling / access to accounts

Legal unbundling

- **Unbundling of TSO** – generally applied (in one case still in progress) - usually also providing transmission and market operation services, dispatching and balancing, in some cases still to be unbundled from the wholesale supply function

- **Unbundling of DSO** – generally still in consideration – usually still bundled with the supply and often with generation functions, also providing distribution network related services

Unbundling of accounts

- **Functional unbundling** – applied – basic criteria for independent decision making are commonly provided in the legislation, in most cases Compliance programmes are still to be developed,

- **Unbundled accounts** – generally applied – basic provisions are stipulated and regulatory practice is applied, unbundling of regulated from market related activities in generation and supply should be further addressed

- **Access to the accounts** – applied – in most cases reported on regular annual basis, international accounting standards are usually applied, options for access upon request by the regulator is provided, regulatory scrutiny should be further enforced
FINDINGS – main open issues

Third Party Access

To transmission networks

- **TPA** – applied – commonly addressed in the primary legislation and well provided in the Grid Code, most often well applied, in many cases **criteria for transparency** and non-discrimination should be enforced, and **cost-reflectivity of network access tariffs** should be further addressed, along with administrative issues (ownership rights) related to the connection

To distribution networks

- **TPA** – applied – in practice more often addressed through the Rules for connection (sometimes a common reference with supply rules is applied) – in some cases **more clear and transparent connection criteria** should be provided, the **connection tariffs** should be defined as cost-reflective

Refusal of access

- **Refusal of TPA** – generally well treated – in most cases addressed in the legislation and treated by the regulator **along with other aspects subject to complaint**
FINDINGS – main open issues

New generation capacity

Authorization

- **Authorization procedures** – often inefficient – in some cases formally addressed in the primary legislation but in practice often linked to several laws / authorities and subject to different rules – sometimes not very clear or conflicting (land ownership rights, spatial plans, environmental criteria, concessions on the use of water, etc), employing **lengthy administrative procedures**, criteria for capacity optimization, priority criteria etc.

Tendering

- **Tendering conditions** – usually provided – often addressed in another legal act, sometimes addressed through custom designed “tender rules”, either the Regulator, Generation company or the Ministry can be accountable – **transparency should be improved**

Appeal

- **Refusal of Authorization** – generally applied – in most cases addressed in the legislation and sometimes the same authority (launching tender or issuing permits) is accountable – **a higher instance should be considered**
FINDINGS – main open issues

Market opening

Wholesale market

- **Market structure** – under development – in most cases **bilateral contracts are being introduced** together with (still regulated) balancing market, in many cases **single buyer relations still persist** (for tariff customer supply, implemented through the generation or a wholesale supply function), there is no competitive real-time form of market functioning in the region.

- **Market concentration** – not monitored – **usually very high concentration** in generation (typically a single, state owned company - usually dedicated to supply the tariff customers, plus several IPPs), very few (usually large industry) eligible customers, **basic competition instruments applied** mostly for contracted imports of electricity.

- **Reciprocity** – usually missing – in most cases **considered as not applicable** on national level, and in some cases administrative barriers are applied – should be further addressed on regional level.
Retail market

- **Eligibility calendar** – generally applied – in most cases it is included in the regulatory acts and related to administrative treatment of eligibility threshold – in some cases practical application is linked to **other criteria then consumption level** (such as the voltage level of grid connection), usually provided as an option while in few cases eligibility is **applied on mandatory basis** (no option for tariff supply), small number of (usually large industrial) customers has switched their supply.

- **Switching procedures** – usually missing – DSO should be legally independent and further develop required **administrative and technical support for switching** including infrastructure (metering, billing, etc).

- **Supply** – mostly regulated – the supply function is generally dedicated to tariff customer supply – a **supply function for eligible customers** should be further developed (notwithstanding the trade)
FINDINGS – main open issues

Cross-border trade

Implementation of Regulation 1228/2003

- **Primary legislation** - Regulation 1228/2003 principles are not properly addressed in the legislation, Roles and responsibilities of the Regulatory Authorities and TSO in the cross-border trade are not defined adequately, **Regulation 1228/2003 should be implemented by 1st July 2008 APART from the tasks for the establishment of the Coordinated Auction Office in SEE region**

- **Capacity allocation** – most of the Contracting Parties (with the exception of Albania, the Former Yugoslav Republic of Macedonia, UNMIK) have started the allocation of cross-border capacity based on explicit auctions, charges for access to the networks are not approved yet for most of the CPs, there are reserved capacities for suppliers of tariff customers (under PSO)

- **Congestion management** – not yet in compliance with the Regulation, use of congestion income not defined by most of CPs,

- **Transparency** - has to increase

- **Penalties** – generally not properly addressed in the primary legislation
Key FINDINGS

Albania

Progress area

- **Market opening** - all non-households customer are eligible since 1\textsuperscript{st} of January 2008, according to ERE decision
- **Market model** - new market model adopted in 2007 is now in process to be revised, Grid and Distribution Codes, Market Rules to be adjusted
- **Unbundling** - legally unbundled DSO is in process of privatisation, unbundling of supply function should proceed
- **Customer protection** - new Customer Protection Law to be approved, vulnerable customer protection scheme has been introduced

Main challenges

- **Security of supply** - generation-demand is not balanced, imports are limited by the interconnection capacities
- **Technical rules** - compliance with UCTE criteria, supplier of last resort, customer switching mechanisms
- **Cross-border trade** - congestion management rules and transparency
FINDINGS
Bosnia and Herzegovina

Progress area

- **Wholesale market** - dispatching – AMR is being introduced to support the balancing market, explicit auctioning of capacity is in preparation

- **Transparency** - access to accounts, TSO information, introduction of SCADA system for load monitoring

- **Technical Rules** - Grid Code is developed and applied for transmission, (DSO grid connection rules to be further improved),

Main challenges

- **Unbundling** - enforcement of the ISO function, further support legal unbundling of DSO and entry of competition in the supply, improved TPA in distribution

- **Customer protection** - introduction of non-tariff measures for protection of socially vulnerable customers, eliminate cross-subsidies

- **Authorization** - define and enforce simplified and efficient procedures

- **Regulatory practice** - support coordinated regulatory practice, enforce market monitoring
FINDINGS

Croatia

Progress area

- **Customer protection** - non-tariff measures for protection of vulnerable customers are being introduced, service monitoring rules as well

- **Security of supply** - monitoring of the supply is introduced, demand forecast study is under way

- **Market opening** - new metering is introduced, switching procedures are applied and load curves are under estimation, deadline for household eligibility is set for 01.07.2008

- **Cross-border trade** - explicit auctioning applied on all borders (monthly and daily, for 50% capacity, common auctioning with Hungary)

Main challenges

- **Regulatory practice** - Compliance programs to be introduced (TSO and DSO) along with other unbundling enforcement measures

- **Market monitoring** - market monitoring measures to be enforced and applied to encourage and support independent suppliers entry on the market
FINDINGS
Former Yugoslav Republic of Macedonia

Progress area

- **Customer protection** - affordability study including social measures provided basis for amendment of the legislation and establishment of vulnerable customers protection scheme
- **Technical rules** - market rules are under development, Distribution code has entered public hearing, other technical rules upgrade is considered
- **Market structure** - changes to the market model are under consideration aimed to eliminate wholesale supplier function

Main challenges

- **Unbundling** - support legal unbundling of DSO function and unbundling between supply for tariff and eligible customers
- **Tariff reform** - improve cost reflectivity of end-user tariffs (unbundled costs of generation, new tariff system, no cross-subsidies)
- **Market opening** - develop and adopt calendar for practical market opening, develop and apply procedures for customer switching
- **Cross-border trade** - support regulation of cross-border trade and capacity allocation rules
FINDINGS

Montenegro

Progress area

- **Unbundling**
  - accounts unbundling of the vertically integrated utility is done, legal unbundling is under way – licenses are issued, compliance program to be developed

- **Market structure**
  - the process of defining the underlying market structure is under way (based on bilateral trading), market rules to be developed

- **Technical rules**
  - provisional Grid Codes are developed, final to be updated

- **Customer protection**
  - Vulnerable customer protection programme is applied using budget sources (still to eliminate cross-subsidies)

Main challenges

- **Security of supply**
  - long term development strategy is adopted - related measures are to be supported and enforced, planning and monitoring should be implemented

- **Market opening**
  - implement the new market structure (eliminating wholesale concentration), adopt calendar for practical market opening, develop switching procedures

- **Cross-border trade**
  - TPA enforcement and capacity auctions to be applied

- prepared by the Energy Community Secretariat -
FINDINGS

Line of progress – SERBIA

Progress area

- **Legal framework** - Energy Law amendments envisaged – monitoring security of supply, legal unbundling of DSO, supplier of last resort, monitoring role of the Regulatory Agency

- **Tariffs** - transmission tariff - approved by the Regulator in December 2007

- **Cross-border trade** - explicit auctions have been implemented

Main challenges

- **Legal framework** - adoption of the envisaged amendments of the Energy Law, Grid Code and Distribution Code

- **Market rules** - adoption and implementation – in particular bilateral contracts, dispatching, balancing, transparency regarding cross-border trade mechanism

- **Market opening** - customer switching procedure and metering rules to be developed market opening calendar to be adopted

- **Tariffs** - cost-reflectivity of retail tariffs to be enforced
FINDINGS
UNMIK

Progress area

- **Customer protection** - block-tariffs are currently applied – legal measures for non-tariff vulnerable customer protection are considered to be introduced and remove cross-subsidies

- **Technical rules** - Distribution code along with other technical rules are being developed

- **Market opening** - voltage-related threshold is applied, provisional market opening calendar is defined, market monitoring required

Main challenges

- **Security of supply** - rules on supply restriction are applied, demand planning, monitoring and long term measures for security of supply should be further developed and supported, along with measures for improvement of collections, suppression of losses and enforcement of cost-reflectivity of tariffs

- **Unbundling** - unbundling of DSO from competitive supply functions should be further planned and implemented

- **Cross-border trade** - cross-border trade criteria should be applied based on market-based principles
FINDINGS

General findings

Main challenges

- Persistence of non cost-reflective regulated tariffs and cross-subsidies
- Unbundling (accounts, DSO) should be further enforced
- Wholesale supply activities should be unbundled / dismantled
- Retail supply function (for eligible customers) should be supported
- Unbundling / market-based instruments to be introduced in generation
- Overall generation capacity insufficient for competitive market – efficient procedures and incentives for new capacity required
- Diversity of market opening criteria
- Collection rates and losses to be addressed wherever required
- Independent and efficient regulatory practice to be further developed and enforced
- Deficient administrative capacity in energy
**NEXT STEPS**

- ECS will take into consideration the **updated information** provided by the Contracting Parties to the draft Report on the Implementation of the Acquis under the Treaty – March 2008;

- ECS, in coordination with PHLG, will organize a **Training Process (Workshop)** on legal / regulatory issues and best practice related to implementation of the Acquis under the Treaty – April 2008;

- ECS will undertake additional **targeted missions to specific Contracting Parties** (in coordination with PHLG representatives) - April 2008, aimed to:
  - further support specific aspects of the process, and
  - obtain detailed information on the state of play

- ECS will draft and submit **Contracting Party Reports** focussed on the implementation of the Acquis, to be updated by the Contracting Parties and discussed on the next PHLG meeting – May 2008;