

## 33rd PERMANENT HIGH LEVEL GROUP

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Vienna

18 June 2014

1. The meeting was chaired by Mr Oleg Schevchenko on behalf of Ukraine as Presidency in office and Mr Fabrizio Barbaso for the European Union as Vice-Presidency.
2. The PHLG approved the agenda and remaining three conclusions from the 32<sup>nd</sup> PHLG meeting.
3. Prof Jerzy Buzek presented the final report of the High Level Reflection Group (HLRG) together with the other HLRG members. The Commission expressed its general support and stressed the need for the reinforcement of the Energy Community to ensure the application of the acquis in the Contracting Parties but recalled that its final position will be finalised after additional consultation with the Member States. Also some Contracting Parties expressed a need for further elaboration of some aspects of the HLRG report and announced concrete proposals. The PHLG generally expressed its satisfaction on the outcome and also its expectation for wide support of the proposals on the forthcoming Ministerial Council.
4. PHLG invited all Contracting Parties to send their concrete proposals and comments related to the HLRG report to the Secretariat to be included into the analysis envisaged by the Procedural act regarding the Report of the HLRG.
5. The PHLG warmly thanked Prof Jerzy Buzek and the other members of the HLRG for their excellent work and all-encompassing engagement in the past months.
6. The PHLG endorsed the Procedural Act No 2014/01/MC-EnC establishing a roadmap related to the report of the HLRG.
7. The Commission and Georgia reported on the ongoing negotiations for entering the Energy Community as a Contracting Party. The PHLG expressed its expectation that the negotiation process will end before Ministerial Council on 23 September 2014.
8. The Secretariat informed the PHLG about the state of play of its Implementation Report for 2013/2014 and invited all Contracting Parties to comprehensively cooperate with the Secretariat in its finalization. Ukraine stressed the importance of respecting the provisions of the Third Package provisions in relation to South Stream project and suggested to discuss this issue during the next Ministerial Council meeting.
9. The Secretariat summarized the state of play of the Third Package transposition. The PHLG expressed its concern about the lack of progress since the last meeting in March. It invited all the Contracting Parties to send their draft energy legislation to the Secretariat for review by the end of June 2014.
10. The PHLG took note of the Secretariat's report on ongoing dispute settlement procedures, and in particular the Reasoned Request submitted to the Ministerial Council. It invited all Contracting Parties concerned by dispute settlement procedures to take appropriate steps for solving the situations of non compliance, in close cooperation with the Secretariat. The PHLG expressed its concerns in particular about the state of transposition in Bosnia and Herzegovina which was

reminded of the Decision by the Ministerial Council of October 2013 declaring the existence of a breach by the country with respect to its obligations in the gas sector. Bosnia and Herzegovina so far has not shown any activity to rectify the breach by June 2014 and thus faces sanctions in accordance with Article 92 of the Treaty. Bosnia and Herzegovina recalled the letter sent to the Secretariat on 30 May 2014.

11. The PHLG welcomed the announcement by the Secretariat and the Commission to request, under Article 94 of the Treaty, an Interpretation by the Ministerial Council on the definition of interconnectors between Contracting Parties and EU Member States, an issue of serious concern to many Contracting Parties. The PHLG requested the Secretariat and the Commission to share their draft for the Ministerial Council's Interpretation well ahead of the next meeting.
12. The Secretariat presented its Position paper on the definition of "new" and "existing" plant in the context of Decision 2013/06/MC-EnC of the Ministerial Council. The PHLG endorsed the definition presented by the Secretariat. Serbia expressed its general support regarding the definition of "new" and "existing" plant. The definition of operation permit is to be finalized at the next meeting of the Environmental Task Force, based on the practice in the European Union.
13. Ukraine announced the submission of a draft national emissions reduction plan within the immediate future. In view of the special situation in Ukraine, the PHLG requested this item to be put on the agenda of the Ministerial Council (item 3.). The PHLG proposed the Ministerial Council to support an extended deadline for Ukraine, to invite the Commission to present a proposal for a formal Decision, and to adopt this via written procedure.
14. The PHLG discussed the Decision on adapting certain Delegated Regulations on energy related products (Annex 6) which mirrors the developments in EU since 2009, pointed out the differences between Secretariat's and Commission's proposal and decided to discuss it again on PHLG meeting in September 2014 with a view for endorsement prior to the Ministerial Council.
15. The following documents, due for the Ministerial Council, were presented in brief to the PHLG for information: the draft agenda of the MC meeting, the report on Audit 2013, the Budget Committee report on the Audit 2013, the Director's Report on budget execution for 2013.
16. The PHLG reconfirmed its request for a full incorporation of Regulation 347/2013 into the Energy Community at the Ministerial Council meeting in 2015. It welcomed the proposal to focus, in the meantime, on a project-by-project approach where a list of elements of an improved administrative and regulatory governance, including those from Regulation 347/2013 would be identified and made binding for each individual PECL project. For this purpose, it is recommended that the Ministerial Council tasks the PHLG to proceed with this approach, relying on close cooperation between the Contracting Parties concerned, the Secretariat and the Commission.
17. The Ministerial Council agenda should include a political debate on security of gas supply upon presentation by the Commission of its recent European Energy Security Strategy.
18. On the ground of the presented budget related information and documents, the PHLG endorsed the draft decision for discharge of the Director for 2013 with a view for adoption by the Ministerial Council.

19. The PHLG endorsed draft Procedural Act No. 2014/.../MC-EnC of 18 June 2014 on the adoption of amended Energy Community procedures for the establishment and implementation of the budget, and for presenting and auditing accounts and inspection.
20. The Secretariat presented the delay in electricity Wholesale Market Opening and reminded the Contracting Parties on their responsibility to more actively push national TSOs to comply with the elements of the Regional Action Plan. The Secretariat also re-called the need to reform national legislation with a view to enable wholesale market opening, in particular related to the introduction of market based balancing and day ahead market rules and the abolishment of existing legal barriers - such as regulated generation, regulated wholesale and retail prices and single buyer models.
21. The PHLG endorsed the conclusions of the 19<sup>th</sup> electricity (Athens) forum.
22. The PHLG welcomed the progress made on establishment of the SEE CAO for long-term capacity allocation. The Secretariat urged Albania to overcome the only remaining issue, VAT legislation, preventing the Albanian TSO from joining the SEE CAO. The Secretariat further reminded on the request of the recent Electricity Forum for the TSOs of FYR of Macedonia and Serbia to present to the Secretariat by the end July 2014 a roadmap with concrete actions and timelines for participation in any regional body performing long-term capacity allocation; the Secretariat called upon Serbia and FYR of Macedonia to provide political support to this.
23. The PHLG welcomed the Secretariat's announcement to prepare Policy Guidelines on trade and integration barriers related to VAT matters that will be issued before PHLG meeting in September 2014.
24. With regard to steps taken and discussions started on power exchange development, the Secretariat calls upon Contracting Parties to opt for cooperative models with joint shareholdership in one or two regional power exchanges (PXs) instead of fragmented national PXs in all Contracting Parties.
25. The PHLG thanked the World Bank and ECA Consulting for the Inception Report on Gas to Power Study, and encouraged the Contracting Parties to continue engaging in the preparatory work for developing the consortium concept and to nominate Country Contact Points to supply information on potential gas infrastructure and gas –to- power projects and to engage with consultant to develop sub-regional project proposals.
26. Representatives of Ukraine reported on the negotiations on securing gas supplies from Russia and Ukraine's preparedness for the winter season. The PHLG invited Ukraine to make utmost efforts to overcome the crisis. In this context, the Commission and the Secretariat expressed readiness to assist Ukraine as well as any other Contracting Party that might face the disruption of supply. The Commission invited the Contracting Parties to participate in the upcoming risk assessments (stress tests).
27. The Secretariat presented the Budget Committee's Annual Activity Report for 2013.
28. The Secretariat presented conclusions from the Renewable Energy workshop and urged the respective Contracting Parties who fail to adopt the National Renewable Action Plans to do so with priority. The implementation of Directive 2009/28/EC is the key to trigger further investments and to contribute to diversification and reducing dependency on energy imports. The existing rate of growth in the use of renewable energy is falling short for many Contracting Parties and is diverging from being on trajectory to 2020. The Commission underlined the importance of

participation of relevant representatives from all Contracting Parties on workshops and other events, organised by the Secretariat.

Done in Vienna on 18 June 2014

For the Permanent High Level Group,



THE PRESIDENCY

