Harmonization of licensing regimes

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Proposal

1. **Gas and electricity**
2. **Mutual recognition** of licenses
   - for supply to wholesale customers (trade)
   - based on common minimum requirements
3. **Abolishment** of local establishment requirements
4. Enforcement powers of NRAs
5. Taxation [for CPs only]
Recognition Procedures

**Home State**
*NRA*

Issues trading license

**Host State**
*NRA*

Recognises license issued by Home State by a declaratory decision

[mutual recognition]

No local establishment needed

- Not applicable in case the Home State does not require a trade license → no new obligations

provided the Home State license has been issued based on minimum requirements:

- Contact details of the trader;
- valid and authentic certificate of register
- evidence for financial capacity, absence of insolvency, professional capability;

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*Title III country in which trader is established and entitled to perform trading according to national rules
** Title III country other than the Home State where the trade service is provided

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## Where did we start from

<table>
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<tr>
<th>Objective</th>
<th>Alternatives to licenses?</th>
<th>Proposed measures</th>
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| **Ensuring financial viability of undertakings to ensure protection of market participants / customers** | **Wholesale supply** [trade]: more efficiently addressed by market → contracts between traders, with TSOs / MOs, balancing rules | | o No license requirement  
  o Possible: register [incl fee for actual costs incurred]  
  o **No local seat** requirement  
  o Traders to comply with the legislation where the trade takes place |
| | **Retail supply**: certain checks viable (customer protection) | | o **Mutual recognition**  
  o Based on common minimum requirements  
  o Host NRA to recognise based on home NRA‘s confirmation  
  o **No local seat** requirement for undertakings established in another Title III country  
  o **No new** license requirements where not existing now  
  o **Customer protection**: NRAs to approve supply GTC  
  o Retail suppliers to comply with the legislation where the supply takes place |
Proposal would require legislative/regulatory changes → CESEC WG discussions on Ministry level

Way forward under Title III:

- **Discuss**
  - CESEC 05/2018
- **Endorse**
  - CESEC 06/2018
- **Adopt**
  - MC 10/2018
- **Transpose and implement**
  - 12 months
Thank you very much for your attention!

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## Proposal in Detail: Objectives → Concrete Measures

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| **NRA financing** [alternatively or complementary] | | [alternatively or complementary]  
  o Regulatory fee  
  o Allocation to some licensees only (exl trade)  
  o One-off registration fee |
| **NRA enforcement powers** | Decouple from license holding linked to market activity example REMIT | |
| **Taxation** | **Contracting Parties specific** |  
  o **Trade** - taxable at the place where the supplier has its seat  
  o **Retail supply** – taxable at the place of delivery [→ taxable person requirement] |
| **Recognition of judgments, decisions and financial penalties** | **Contracting Parties specific** | Mutual recognition of judgments, decisions and financial penalties imposed by judicial or administrative authorities |
Legal grounds are in place

**Article 41(1) of the Energy Community Treaty**

*Customs duties and quantitative restrictions on the import and export of Network Energy and all measures having equivalent effect, shall be prohibited between the Parties.*

[...]

→ Requires mutual recognition
→ Forbids local establishment requirements as disproportionate and excessive
→ Principle of reciprocity applies to Parties to the Treaty
Consultation process

- Workshop 09/2017, Vienna – NRAs of Contracting Parties, HU, AT, Baltic
- CESEC 04/12/2017
- Consultation until 12 January 2017 – input received from
  - Ministries: GR, HR, UA, AT
  - NRAs: GR, HR, MD
  - EFET
- Telco 28/02/2018 – NRAs AT, HU, GR, HR, RO, BG, MK
- Brussels, 13/03/2018
Consultation response

- **Trade**
  - Need for regulatory enforcement powers RAE, HERA, ANRE(MD), GR → ✓ strengthened
  - Need for financing of regulators RAE, HERA → ✓ strengthened:
    1. Collection from all licensees (excl traders) – e.g. ME
    2. Collection from some licensees (excl traders) – e.g. SR
    3. De-coulpe from licensees („regulatory fee“) – e.g. IT, AT, UA
    In any case: one-off „registration fee“ possible – e.g. HR, SR, AL, MK, GR now one-off „licensing fee“
  - Need for financial viability check [x]

- **Supply**
  - Need for common set of criteria → ✓
  - Need for legal adjustments