

Energy Community Task Force on Environment 15th Meeting

25 October 2017

Conclusions

1. Jürgen Schneider, Chairman of the Task Force welcomed the participants and stressed the importance of today's meeting by outlining the agenda items, including the necessity to endorse the two recommendations scheduled for adoption at this year's Ministerial Council.
2. The Task Force adopted the agenda.

Chapters II and IV of Industrial Emissions Directive (2010/75/EU)

3. The representative of DG Environment presented the draft Recommendation to prepare the implementation of Chapters II and IV of Directive 2010/75/EU (IED) in the Contracting Parties, which was adopted by Commission Decision on 3 August 2017. It was mentioned that the Task Force deals with this issue since 2014, when its incorporation into the Energy Community environmental *acquis communautaire* was recommended by the report of the High Level Reflection Group. Later on, following the identification of the provisions that are relevant in an Energy Community context, a decision on the incorporation of Chapters II and IV as well as Annex VI of the IED could be foreseen.
4. Former Yugoslav Republic of Macedonia asked about the legal status of the Recommendation as well as the deadlines involved. The Secretariat explained that a Recommendation, while being a Measure under the Energy Community Treaty, is not legally binding and therefore no deadlines are established therein. However, the draft Recommendation mandates the Commission and the Secretariat to identify the provisions that are relevant in an Energy Community context while at the same time it gives space for the Contracting Parties to prepare for future transposition.
5. Georgia pointed out that there is already an ongoing project on the incorporation of the IED into national law and since the draft Recommendation is not in conflict with Georgia's Accession Protocol to the Energy Community Treaty, it can be supported.
6. In the absence of any opposition from other Contracting Parties, the Task Force endorsed the draft Recommendation and referred it to the Permanent High Level Group for further consideration.

Fuel Quality Directive (98/70/EC)

7. The representative of the Secretariat presented the draft Recommendation on the implementation of the Fuel Quality Directive (98/70/EC) on the basis of the input of DG Climate

Action. It was pointed out that this Directive was also recommended for incorporation into the Energy Community *acquis* by the High Level Reflection Group already in 2014.

8. Bosnia and Herzegovina asked whether the annual progress report envisaged in the draft Recommendation would entail additional administrative burden for the Contracting Parties. The representative of the Secretariat explained that since it should be presented to the Ministerial Council by the Secretariat, there is only a need from the Contracting Parties' side to contribute to its preparation, however, it should not increase admin burden for the countries.
9. Georgia pointed out that the inclusion most recent fuel quality standards compatible with vehicles standards would be very difficult, considering the dependence on fuel imports in that Contracting Party and the lack of accredited laboratories that would be able to carry out sampling and analysis of these fuels in a way that is required by the Directive. However, it was mentioned that Georgia is open for discussions of particular provisions of the Directive, of which the most important will be regarding implementation deadlines.
10. Serbia supported this position by outlining that this is also a difficult issue for countries that have refineries, since considerable investments were needed to comply with the fuel quality standards foreseen in the Directive. It was mentioned that Serbia is also under infringement for non-compliance with the Sulphur in Fuels Directive, while the Fuel Quality Directive is less of a problem because the necessary investments in the refinery are already concluded. Since this Directive is also part of the EU accession process, Serbian legislation has to be aligned very soon in any case.
11. In Kosovo*, a new Administrative Instruction on fuel quality was adopted in April 2017 and customs authorities are already inspecting these fuels, equipped with proper laboratories. No objections were raised against the draft Recommendation.
12. In former Yugoslav Republic of Macedonia, the thresholds of the Fuel Quality Directive are already transposed, the last issue solved was the sampling and analysis of fuels via proper laboratories. The only refinery in the country, OKTA, is currently not operational.
13. Bosnia and Herzegovina pointed out that an Environmental Task Force was established in the Contracting Party, including representatives of the entities, business and other stakeholders. Under the auspices of this Task Force, a draft Rulebook is being prepared and should be adopted by the end of the year, which could also address the case related to the Sulphur in Fuels Directive.
14. As previously concluded at the last Task Force meeting in June, the Chairman reiterated that a two-step approach is indeed appropriate for this particular piece of EU law.
15. The Task Force endorsed the draft Recommendation and referred it to the Permanent High Level Group for further consideration.

Large Combustion Plants Directive (2001/80/EC)

16. The Chairman and the Secretariat recalled the imminence of the implementation deadline of the LCP Directive, *i.e.* 1 January 2018. Reference was made to the NERPs on which the Secretariat issued its opinion in October 2016 and to the list of plants to be opted out.
17. The Contracting Parties reported on their progress towards transposition and implementation, including NERPs.

18. Kosovo* reported that the NERP is in its final stages of its adoption, however asked for a final endorsement from the Secretariat. It was also reported that progress is being made with regard to the transposition of the IED. Subject to the law transposing the IED, an Administrative Instruction on emission limit values for large and medium combustion plants, waste incineration and co-incineration plants as well as volatile organic compounds will be adopted and the work on this project this has already commenced.
19. Former Yugoslav Republic of Macedonia reported that the comments in the Opinion of the Secretariat were accepted, the NERP was modified accordingly and it was approved by the Government in April 2017. The main contributor of emissions, REK Bitola (a coal-fired large combustion plant), will start with the installation of emission reduction measures for dust from 2018 onwards (phase 1), followed by (more costly) SO₂ reduction measures (phase 2). The timing for phase 2, however, remains unclear. For the new Government, environmental issues are considered as a general priority.
20. Bosnia and Herzegovina reported that the NERP was approved by the Council of Ministers and submitted to the Secretariat, of which it has received approval. At the latest meeting of the Environmental Task Force of BiH, the concrete measures to ensure its implementation were discussed. With regard to the LCP Directive, draft Rulebooks were provided in order to ensure the proper transposition of its provisions. For the first time, Bosnia and Herzegovina has also developed an Energy Strategy, which is currently under adoption. Without this strategy, Bosnia and Herzegovina would not be possible to move forward on the way to EU integration. The Secretariat asked whether the NERP forms part of that strategy, something that does not seem to happen for the time being. The Secretariat was invited to provide its comments as soon as possible.
21. In Ukraine, the adoption of the NERP is still pending and the responsibilities between the Ministry of Energy and Coal Industry and the Ministry of Ecology and Natural Resources are unclear. The Secretariat stressed the need to adopt the NERP immediately given the prominence of the Ukrainian power sector in the Energy Community as well as for ensuring regulatory stability.
22. Georgia has a small number of combustion plants and has recently adopted a Low Emissions Strategy that would contribute to the reduction of emissions into the air.
23. Serbia reported that operators that have plants also on the opt-out list were required to inform the Ministry by 1 June 2017 whether they would really want to be covered by the scope of the NERP. The NERP is currently realigned based on the responses received from the operators as well as the Secretariat's opinion issues in October 2016.
24. The Secretariat announced that discussions regarding with the European Environmental Agency started with the aim to harmonise reporting and potentially used the platform developed by the Agency in order to increase synergies. Members of the Task Force supported this approach.

Upcoming implementation deadlines

25. The Secretariat provided an overview on the upcoming deadlines for the amended Sulphur in Fuels Directive, with particular regard to marine fuels.

26. Serbia asked whether the provisions of the Commission Implementing Decision on the sampling and analysis of marine fuels would also need to be transposed by landlocked countries, given the fact that there are no marine fuels used on the territory of the country and it is impossible to have samples of marine fuels domestically.
27. The Secretariat recalled the upcoming implementation deadline for the Strategic Environmental Assessment Directive (March 2018) and reminded Contracting Parties that have not yet transposed the Directive in their national legislation to do so in the near future.
28. Kosovo* reported that the Directive has already been transposed into national law in that Contracting Party.
29. Georgia reported on the recent adoption of the new EIA Code in June 2017 in that Contracting Party, which will enter into force in January 2018 for EIA and June 2018 for SEA. The Code also contains transboundary issues but directly links those to the ratification of the relevant part of the Espoo Convention.
30. Ukraine reported that the Strategic Environmental Assessment Law was adopted in first reading in May 2017 and final adoption is expected by the end of this year.
31. Former Yugoslav Republic of Macedonia reported that the Directive has been transposed and it is being implemented in practice, although in the beginning there were some plans and programmes in the case of which implementation was not fully and completely correct.
32. Serbia mentioned that apart from the SEA that was carried out in the process of adopting the Energy Strategy, SEAs will also be carried out also for the programmes that serve as follow-up to the Strategy.

Conclusions

33. The Task Force endorsed the draft Recommendations on Chapter II and IV of the IED and the Fuel Quality Directive and referred them to the Permanent High Level Group for further consideration.
34. The Chairman urged Contracting Parties who want to make use of the NERP but have not yet adopted the final versions of their NERPs to do so without further delay and inform the Secretariat thereof.
35. The Task Force requested the Secretariat to follow up with the European Environmental Agency with regard to reporting of emissions from large combustion plants.

Any other business

36. The indicative date for the next meeting of the Task Force is 22 March 2018.