

MINUTES AND CONCLUSIONS 4th PERMANENT HIGH LEVEL GROUP MEETING 14 MARCH 2007, VIENNA

WELCOMING AND INTRODUCTORY REMARKS

1. The meeting was co-chaired by Mr. Canovic, Deputy Minister of Economic Development of Montenegro, on behalf of Montenegro as Presidency in office, and Mr. Barbaso, Deputy Director General of DG TREN of the European Commission, in the presence of Mr. Lorenzen, representative of the EU German Presidency.
2. Montenegro as Presidency in office of the Energy Community and the European Commission welcomed the participants to the meeting.
3. The Agenda was adopted.

REVIEW OF THE IMPLEMENTATION OF THE TREATY

4. The European Commission noted that the deadlines under the Treaty must be respected by all Contracting Parties. Therefore, the Contracting Parties and the Secretariat are invited to further proceed with their work which will allow them to undertake the Treaty obligations, including those related to environment.
5. Further, the European Commission indicated that the proper implementation of the obligations in the Treaty, and in particular of the European Union's acquis, needs adapting the acquis to the institutions of the Energy Community. The European Commission asked the Secretariat, on the ground of Article 25 of the Treaty, to consider a proposal for addressing the issue at the coming Ministerial Council.

In this aspect, the Secretariat noted that further to adapting the relevant institutions in accordance with the acquis, the key questions, which shall be followed within the review of the implementation of the Treaty, are whether the existing institutions have the relevant capacity and powers to contribute to the Contracting Party's performance along the requirements of the Treaty and the acquis, listed in it (as an example, reference to the regulatory authorities in Bosnia and Herzegovina was made).

6. The Secretariat made an overview of its findings on the progress with implementation of the Treaty after the adoption of the Electricity and Gas Road Maps and Action Plans; progress notes for both sectors have been distributed in advance, where concrete areas of particular concern were indicated for each of the Contracting Parties.
7. The Contracting Parties reconfirmed their principle readiness to follow the deadlines under the Treaty. Each of them presented in concrete terms the undertaken steps and the major problems they face on the ground of the Road Maps and the Action Plans.
8. However, the PHLG noted that further concrete efforts towards implementation of the Treaty are needed by all Contracting Parties along the findings, presented by the Secretariat, and

urged them to further proceed with the implementation process with the ongoing support of the Secretariat.

9. The Secretariat presented its views on the preparation of a report to the Ministerial Council on the implementation process at its coming meeting in June 2007. In this aspect, the Secretariat noted that the operational review of the implementation process and assistance in this direction prior to the Ministerial Council meeting will continue intensively in different forms as the Ministerial Council should be objectively informed about the developments.
10. In particular, the Secretariat noted its readiness to assist the Contracting Parties with comments on draft legislation, mainly from the viewpoint of its compliance with the Treaty and the relevant EU acquis. In this respect, the Secretariat noted that it can hardly replace the competent Contracting Parties' authorities; therefore, these comments might be primarily of strategic and tactical nature, which, however, will not exclude also concrete drafting proposals. The PHLG welcomed this approach and invited the Contracting Parties to benefit from the Secretariat's proposal.
11. The Secretariat noted the importance of the technical assistance which can be provided by the Donors' Community. In this aspect, reference was made to the meeting between the Contracting Parties and the Donors' Community in December 2006, where concrete options for assistance were discussed – this was followed by a distribution of a list of concrete requests for assistance. The PHLG noted its expectations towards further support by the Donors' Community and the Secretariat on promotion of concrete steps which might contribute to the implementation process and asked the European Commission as a chair of the Donors' Community to consider.

AN ENERGY POLICY FOR EUROPE – PRESENTATION BY EC

12. The European Commission presented the recent energy package, developed by it, called “An Energy Policy for Europe”. The presentation focused on the conclusions of the last European Council of 8-9 March 2007, where energy has had due focus.
13. The European Commission noted the role of the proposed documents in the context of the Treaty establishing the Energy Community. It pointed out the relation between the indicated strategic approach and the expected enlargement of the Energy Community.

SECURITY OF SUPPLY

14. The Secretariat made a short introduction with a reference to the obligations under the Treaty in relation to the security of supply and the presented expected content of Security of Supply Statements. The adoption of these was noted as a key next step in this direction. These should describe the particular diversity of supply, technological security and geographic origin of imported fuels.
15. Statements by the Parties were made:
 - a. Bulgaria informed about a Conference in Sofia with high level participation of representatives of governments from the region of SEE, where a declaration concerning security of supply in the region in electricity has been supported, including

- a request to the European Commission to reconsider the situation in the region in the context of the closure of Units 3 and 4 of NPP Kozloduy; the text of the draft declaration has been distributed;
- b. The European Commission noted that such a declaration has not been officially deposited yet to it; However, it reiterated that the Commission had already expressed its position on the issue;
 - c. Albania pointed that further to the concrete questions raised in Sofia, there is an overall electricity deficit in the region (Albania; Serbia; FYR of Macedonia etc.) – so – further to the concrete questions of Units 3 and 4 of Kozloduy NPP – there is a principle question – how the Commission can support the region in providing proper electricity supply – the issue concerns not only generation capacities, but also support in the context of cross border transit;
 - d. On the latter topic the European Commission pointed that common efforts, including such within the Energy Community, are aimed to bring solutions to these questions – as for instance the current discussions on security of supply and on the mutual assistance obligations. Therefore, the Contracting Parties are invited to consider concrete steps in this direction.

INFORMATION ON RENEWABLES

16. The Secretariat recalled the obligations within the Treaty concerning the renewables. A short review of the undertaken steps was followed by reference to the coming tasks. Following the proposal of the Secretariat, the PHLG invited all Contracting Parties to submit their plans for implementation of Directive 2001/77/EC and Directive 2003/30/EC, as envisaged in Article 20 of the Treaty. The plans shall be submitted to the Secretariat not later than 30 April 2007. The Secretariat is afterwards invited to analyze the plans and to submit them to the European Commission for their presentation to the Ministerial Council for adoption.
17. In relation to the request of Bosnia and Herzegovina for concrete help on the issue, the Secretariat made reference to the distributed draft plan on the implementation of the directives and repeated its readiness to assist any Contracting Party, which has concrete questions towards its finalization. However, it was noted that the Secretariat will consider the issue within the coming meeting in Bosnia and Herzegovina on 19-20 March 2007.

INFORMATION ON GENERALLY APPLICABLE STANDARDS – INITIAL VIEWS

18. Upon reference to the Treaty obligations in this direction (Article 21 – 23), the Secretariat presented an introductory paper on Generally Applicable Standards, outlining the coming tasks.
19. Some Contracting Parties expressed their concern that – taking into account the importance of the Standards – there might be not sufficient time to work on the issue properly. In this relation, the Secretariat made some clarifications on the content of the obligations as envisaged under the Treaty.
20. In addition, the PHLG asked the Secretariat to consult in details the draft content of the document prior to developing it on substance as the development and application of the

Generally Applicable Standards is a complex process; besides the selection of the standards as such shall be subject to initial consideration.

21. On this ground, the PHLG asked the Secretariat, in cooperation with the EC, to draw up the list of Generally Applicable Standards as proposed and submit the list to the MC in due time for adoption.

SOCIAL ISSUES – NEXT STEPS

22. The Parties reconfirmed the importance of the social issues within the Energy Community initiative.
23. The Secretariat recalled the decision of the Ministerial Council meeting in November 2006 in this direction, which, further to the importance of the issue, gives a formal background to raise the topic again.
24. As an initiator of the development of the Social Memorandum, the European Commission made a reference to the Ministerial Council conclusions (Conclusion No. 12, Skopje, 17 November 2006) concerning the Memorandum and the outstanding tasks in this direction. The Commission presented a proposed new format for the Social Memorandum and explained the reasons to change the form of the Memorandum.
25. As further steps, the Commission indicated that its expectations are to have the Memorandum adopted at the Ministerial Council meeting in June 2007.
26. The Contracting Parties (Albania, FYR of Macedonia, and UNMIK) made comments that the national internal procedures require substantial time for approval. Further, it was pointed that the energy ministries and institutions are not the responsible on national level for this topic.
27. Croatia, supported by other Contracting Parties, made concrete comments indicating that it is necessary to consider the Social Memorandum, including e.g. the establishment of a Social Forum from a legal point of view (two Fora are given by the Treaty), as well as the option to amend the Treaty (rather than the proposal made by the Commission to do this by a Procedural Act).
28. After extensive debates, the PHLG asked the European Commission, with the support of the Secretariat, to develop and distribute for comments updated version of the Memorandum with a detailed explanatory note on the content, the views on the next steps, the relevant time frame and legal justification of the envisaged steps. PHLG will be asked to provide comments, on the ground of which next steps shall be respectively considered.

INVESTMENT RELATED ISSUES

29. The Secretariat informed the PHLG about the coming investment related events. Further, a reference to the USAID initial views on the establishment of Energy Supply and Investment Task Force was made.
30. In this relation, the PHLG noted again its expectations towards concrete results as an outcome of such events. It indicated its expectations that the Donors' Community would

further promote concrete projects in the region. A reference was made to the collected and distributed information on needed Donors' support.

31. On this ground, the European Commission, being a chairperson of the Donors' Community, noted that the Donors on their side request and expect concrete and well backed up project proposals (World Bank was explicitly indicated).
32. Albania noted that the proposal of USAID is a positive one, but like in the other proposals it has to be elaborated and a decision should be backed up by comments.

All interested parties (including EC, contracting parties, participants) should give comments. Only afterwards the PHLG might take appropriate decision.

33. Further, other Contracting Parties (Croatia in details) noted that it is better to consider the next steps towards development and building up of the Secretariat, including strengthening of its expert capabilities. It was underlined that it is more important to have internal expertise on all issues related to the Treaty than to discuss the involvement of various external task forces which are not directly related to it. Thus, it is better to consider the future structure of the Secretariat, which is very important for performance on substance matters and, therefore, it should be clarified prior to setting up other organizations.
34. Bulgaria noted the request for the gasification study, making a reference to a joint letter by BULGARGAZ AND SRBIJAGAS, which has been submitted to the Secretariat last week after the support for this study has been previously submitted to the Donors' Community. The Commission – as a chair of the Donors' Community - took note of the letter.

ANY OTHER BUSINESS

35. The Secretariat informed that the Work Programme of the Energy Community is strictly followed.
36. The Secretariat informed PHLG about the recent developments concerning the establishment of Energy Community as an international institution with its seat in Vienna. It was pointed that the conclusion of the Headquarters Agreement will have impact on the administrative status of the Secretariat and further employment and working conditions of the current staff.
37. The Secretariat informed the PHLG about the necessity certain decisions to be taken by the Ministerial Council using the Correspondence Procedure as envisaged in Art. 23 of the Internal Rules of Procedure of this Institution. This refers to:
 - a. Adoption of the Organigramme of the Secretariat;
 - b. Adoption of the Budget 2007 of the Energy Community;
 - c. Report to the European Parliament and the national parliaments on the activities of the Energy Community (Article 52 of the Treaty).

The Secretariat asked for the support of the PHLG members that – once the relevant materials are submitted to the members of the Ministerial Council – their position is indicated at the earliest convenience.

The European Commission confirmed that the budget of the Energy Community is being finalized. As the Organigramme of the Secretariat is function of the budget, the two will be proposed to the Ministerial Council together.

38. The Secretariat informed the PHLG that in analogy to the *Report on Regional Market Design* for the electricity sector the Secretariat will also provide on a voluntary basis a *Report on Regional Market Design in the natural gas sector* as soon as possible.
39. The Presidency and the Secretariat informed the PHLG about the application of Moldova for becoming a Party to the Treaty establishing the Energy Community. Further to its previous decision in this aspect, the PHLG asked the European Commission to co-ordinate actions and act in the preliminary phase on behalf of the Energy Community, making a report for the Ministerial Council on the application. The Commission noted that the work was being carried out.
40. The Secretariat and the Presidency informed the PHLG about the preparation of the next Ministerial Council meeting (29 June 2007).
41. The Secretariat informed the PHLG about other coming events related to the Energy Community (Investment Seminar on 23 April in Athens; Electricity Forum on 24-25 April in Athens; Mini Gas Forum on 11 May in Vienna; ERRRA Conference on 21-22 May in Istanbul; Parliamentarian Conference on 24-25 May in Sofia; Investment Conference on 4 June in Athens; Vienna Economic Forum on 25 June in Istanbul; Ministerial Council Meeting on 29 June in Montenegro).
42. Chair summarized the results of the PHLG meeting and congratulated on the active participation and contribution of the Parties to the overall results of the meeting.
43. Presidency concluded the meeting thanking the PHLG members for the achieved results.