EXPLANATORY NOTE

Procedural act on the Establishment of a Security of Supply Coordination Group

Motivation

Security of energy supply is a challenge of pan-European significance and constitutes one of the overriding principles of the Energy Community. The Treaty itself makes several references to security of supply, most notably in Article 29 which requires the Parties to adopt and update security of supply statements. Further to this, the Ministerial Council in December 2007 decided to implement Directives 2004/67/EC and 2005/89/EC on gas and electricity security of supply respectively to the Energy Community.

Whilst the provisions on substance are thus already in place, an efficient approach to safeguarding security of supply requires also the establishment of institutions and procedures with a view to fulfill the two main functions of any security of supply policy, namely the prevention of security of supply crises and disruption through precautionary measures on one hand and the prompt reaction to and the proper management of imminent or existing crises and supply. In this respect, security of supply corresponds to the Treaty’s commitment to mutual assistance among the Parties in a spirit of solidarity as expressed in Articles 44-46.

Whereas securing energy supply in compliance with the Energy Community acquis is a task ultimately for national authorities to fulfill, origins and effects of security of supply crises or disruption certainly exceed the frontiers of one Party alone and make crises prevention and reaction issues of a genuine cross-border nature. For this reason, this Procedural Act by establishing a Security of Supply Coordination Group aims at providing the institutional and procedural framework for coordinating measures to be taken on a national level and for initiating measures to be taken at the Energy Community level.

In doing so, the Procedural Act builds upon the establishment of and the experience gained within the EC Gas Coordination Group set up under Directive 2004/67/EC. As security of supply is a challenge transcending one source of energy alone and given the interdependence of energy sources, the envisaged Security of Supply Coordination Group shall have similar tasks in electricity. This
corresponds to the general wording of Articles 44 to 46 of the Treaty and will contribute to a full implementation of Directive 2005/89/EC.

In terms of composition, the basic principle applying to the Security of Supply Coordination Group should be efficiency. This is why the draft Procedural Act, besides governmental representatives, foresees participation also of non-governmental stakeholders in the form of associations of the energy industry as well as consumers. Those associations have a regional or, in the absence of regional associations, a pan-European character. Ultimately it would be for the Permanent High Level Group to decide on the composition. It goes without saying that Parties may nominate existing Permanent High Level Group Members as members to the Security of Supply Coordination Group.

As gas and electricity may exhibit different focuses in terms of security of supply, the Group might eventually meet in two compositions, with a certain share of necessary overlapping.

It is noted that the proposed Security of Supply Coordination Group is only entrusted with a task of coordination and will not have the competence to adopt legally binding measures.

Finally, it is considered reasonable to only use the possibility foreseen at Article 46 of the Treaty to confer to the Permanent High level Group the power to take interim measures after having gained sufficient experience about the functioning of the Security of Supply Coordination Group. For this purpose, the draft Procedural Act contains a review clause.

Legal basis

Article 46 of the Treaty calls for the adoption of a Procedural Act as defined in Articles 86 and 87 of the Treaty.

The Ministerial Council is invited to consider the following draft procedural act.
The Ministerial Council of the Energy Community,

Having regard to the Treaty Establishing the Energy Community (“the Treaty”), and in particular Articles 46 and 87 thereof,


Having regard to the deliberations at the Permanent High Level Group and the input from the Contracting Parties,

Having regard to the proposal by the Secretariat,

Whereas securing energy supply through solidarity constitutes one of the main objectives of the Energy Community;

Whereas the implementation of Directives 2004/67/EC and 2005/89/EC requires the setting-up of a coordination mechanism in the Energy Community;

Whereas this objective requires a group of experts to advise Energy Community and national institutions as well as to coordinate crisis management measures;

Whereas such a group should be composed of all relevant stakeholders and should cover both electricity and gas so as to ensure utmost efficiency,

HAS ADOPTED THIS PROCEDURAL ACT:

Article 1
Security of Supply Coordination Group

A Security of Supply Coordination Group is hereby established.
Article 2  
Composition

(1) The Security of Supply Coordination Group shall be composed of representatives of the Parties and representative bodies of the industry concerned and of relevant consumers. The composition of the Group may differ for gas and electricity respectively.

(2) Participant and Observer countries may be represented in accordance with Articles 95 and 96 of the Treaty.

(3) The Security of Supply Coordination Group shall be chaired by the member representing the European Community.

(4) Each Party shall nominate its representatives and inform the Secretariat. The list of representative bodies of the industry concerned and of relevant consumers shall be established and updated by the Permanent High Level Group upon proposal by the Chair of the Security of Supply Coordination Group.

(5) The Security of Supply Coordination Group and its Chair shall be assisted by the Secretariat.

Article 3  
Tasks

(1) The Security of Supply Coordination Group shall facilitate the coordination of security of supply measures and advise the Energy Community institutions on issues relating to gas and electricity security of supply.

(2) The Security of Supply Coordination Group shall regularly monitor the state of security of supply of network energy within the Energy Community share experience on security of supply mechanisms and develop comprehensive risk analysis. The conclusions of the Group’s annual meetings shall be submitted to the Ministerial Council, the Permanent High Level Group and the Regulatory Board.

(3) The tasks of the Security of Supply Coordination Group are without prejudice to the obligations of the Parties to adopt and update security of supply statements in accordance with Article 29 of the Treaty. The Security of Supply Coordination Group shall support the Parties in the preparation and updating of national emergency measures.

(4) In the event of an existing or imminent threat to security of supply or in the event of a supply disruption affecting a Party and involving another Party or a third country, the Security of Supply Coordination Group shall, where appropri-
ate, coordinate measures taken at national levels. In doing so, it shall follow the principles established by Article 9 of Directive 2004/67/EC in both the gas and electricity sectors.

(5) In the cases mentioned in paragraph 4, the Chair of the Security of Supply Coordination Group or any Party directly affected may request an ad-hoc meeting of the Ministerial Council to take measures in response to the existing or imminent threat to security of supply.

(6) The activities of the Security of Supply Coordination Group may relate to, but are not restricted to, all issues falling within the scope of Directives 2004/67/EC and 2005/89/EC as well as mutual assistance within the meaning of Chapter IV in Title IV of the Treaty and the handling of unilateral safeguard measures in accordance with Article 39 of the Treaty.

Article 4
Meetings

(1) The Security of Supply Coordination Group shall meet regularly once per year. Normally this meeting shall take place in connection with the second Permanent High Level Group meeting in the second half of the year. The meeting may be split in two parts for gas and electricity respectively.

(2) Ad hoc meetings of the Security of Supply Coordination Group shall be convened by the Chair in case of existing or imminent threat to security of supply on its own initiative or upon request of a Party to the Treaty.

(3) Upon initiative of the Chair, the Security of Supply Coordination Group may hold additional ad hoc joint sessions with the European Community Gas Coordination Group to discuss issues of common interest.

Article 5
Review

Within three years of the date of its entry into force, this Procedural Act shall be reviewed in order to assess the functioning of the cooperation mechanisms it establishes. This review may provide for the conferral of powers to take interim measures to the Permanent High Level Group, as foreseen in Article 46 of the Treaty.
Article 6

Addressees

This Procedural Act shall enter into force on the day of its adoption and is addressed to the Parties.

Done in … on … 2008

For the Ministerial Council

Presidency