

CONCLUSIONS

17th PERMANENT HIGH LEVEL GROUP MEETING

29 JUNE 2010, VIENNA

1. The meeting was chaired by Mr. Fabrizio Barbaso for the European Commission as Vice-Presidency. PHLG regretted to note the absence of the Presidency and one other Contracting Party at the meeting.

AGENDA ITEM ONE – RENEWABLE ENERGY SOURCES

2. The PHLG took note of the report of the Chair of the RE TF on the RES related activities so far and on the outcome of the PHLG – RES TF meeting of 21.05.2010.
3. The RES TF Chair summarized the views of the RES TF on the next steps, related to the extension of the acquis on RES. On this ground the PHLG noted that the lack of adequate biomass data of the Contracting Parties represents factual hindrance for practical implementation of the new RES Directive and therefore prevents the Ministerial Council from adopting a binding decision on the implementation of Directive 2009/28/EC at this stage.
4. Against this background, the European Commission presented its proposal for a Recommendation on the promotion of the use of energy from renewable sources, which should give Contracting Parties an appropriate framework for progressing in this area, which will be submitted to the Ministerial Council of the Energy Community at its meeting on 24.09.2010.
5. The PHLG noted that the proposed Recommendation identifies specific issues for implementation, including the relevant deadlines. PHLG noted that the measures in the proposed Recommendation are in line with the provisions from the corresponding EU Directive and provide *de facto* support to its implementation.
6. On this ground, the PHLG endorsed the proposed Recommendation, which shall be submitted to the Ministerial Council of the Energy Community for consideration at its Meeting on 24.09.2010. However, the PHLG members are invited to provide any comments on the text of the Recommendation by 12.07.2010.
7. Further, the PHLG – recalling the importance of the biomass data for the accuracy of the 2020 RES targets – requested the Secretariat to launch a new study on biomass consumption based on surveys; these will serve as a basis for the calculation of the RES targets. The Secretariat will prepare the tender in close cooperation with the European Commission and the RE Task Force. PHLG members are invited to comment the circulated draft terms of reference by 09.07.2010.
8. PHLG invites the MC to consider extension of the RES TF mandate.
9. The PHLG encourages all Contracting Parties to give their relevant national institutions all the needed powers and duties to focus and continue their effective work on renewable energy as one of the priority areas of the energy policy for the

Energy Community for 2011. On this ground, inclusion of Directive 2009/28/EC on the list of applicable acquis will be considered in 2011.

AGENDA ITEM TWO – OIL DIMENSION

10. The PHLG took note of the report, prepared by the Secretariat, on the summary of activities and planned next steps, concerning the development of the oil dimension in the Energy Community. The main outcome of the Oil Workshop on 27-28 May 2010 in Croatia was also presented.
11. The PHLG therefore welcomes the launch of an Emergency Oil Stocks Study, which will provide with concrete data that is essential for preparing a prospective implementation of Directive 2009/119/EC in the different Contracting Parties and Observers.
12. In parallel, PHLG welcomes the initiative that the Secretariat starts individual work with each Contracting Party and Observer as to specify in concrete the major steps, needed to be undertaken as to prepare the Contracting Party for easier implementation of Directive 2009/119/EC upon its adoption as part of the Energy Community acquis.
13. The PHLG agrees, following the conclusions and recommendations of the regional study on emergency oil stocks, to consider a proposal to the Ministerial Council of the Energy Community on the inclusion of Directive 2009/119/EC on the list of applicable acquis in 2011.
14. The Contracting Parties are invited to submit to the Secretariat any rules and practice, related to customs duties on oil and oil products by 15.09.2010.

AGENDA ITEM THREE – INVESTMENTS – INFRASTRUCTURE PRIORITY PROJECTS

15. The PHLG took note of the report by ECS on the concrete steps, related to the identified priority infrastructure projects in both electricity and gas and supported the focussed approach ((i) 400 kV electricity interconnection Albania - former Yugoslav Republic of Macedonia; (ii) 400 kV electricity interconnection Serbia – Romania, (iii) Gas interconnection Serbia – Bulgaria, (iv) Ionian Adriatic Pipeline, and (v) LNG terminal in Croatia. The PHLG agreed to inform the Secretariat regularly on the progress with the priority investments and also to consult on the tender documentation, especially in cases where there is potential for market foreclosure. The Secretariat informed that it will invite the ministers to nominate their representatives as members of a committee for development of the IAP project.
16. The PHLG expressed its awareness of the fact that the investment climate in the Energy Community Contracting Parties is not sufficiently developed to match the expectations of the investment community. In this respect the PHLG supported the initiative of the Secretariat to clearly outline the key obstacles and expose to the Energy Community individual cases of lack of compliance which are proven as decisive for registered failures of specific investment projects.
17. The Commission stated that the infrastructure development should follow a regional concept, where bottlenecks and new infrastructure are identified based on regional needs. The institutional and regulatory framework of the Energy Community Treaty

should be better used to encourage and support regional cooperation, turn challenges into opportunities for the Contracting Parties. Commission asks the Contracting Parties to use this framework at its best and facilitate the implementation of regional projects in general.

18. The PHLG welcomed the ECRB discussion papers on instruments for promoting new investments in gas and electricity infrastructure. Commemorating the establishment of an investment friendly market framework as one of the key goals of the Energy Community, the PHLG called on the Energy Community institutions to develop joint efforts in adequately adjusting the legal and regulatory framework.
19. In this respect the PHLG welcomed the ECRB recommendations for necessary changes of the regulatory and legal rules in the Contracting Parties. The PHLG considered that ministries and regulators should address the obstacles identified by the ECRB and implement the missing legal and regulatory measures without delay.
20. The PHLG took note of the fact that additional recommendations for legal and regulatory adjustments are expected from an Energy Community study on regulatory investment incentives in early 2011. However, the PHLG, pointed out that this ongoing activity shall not serve as excuse for delay in implementing the already existing ECRB recommendations. Reiterating the specific relevance of cross-border interconnection in the Energy Community, the PHLG specifically stressed the need to take steps for eliminating the so-called "regulatory gap" for non-domestic investments and empowering the national regulators with the necessary independent responsibilities.

AGENDA ITEM FOUR – THIRD ENERGY INTERNAL MARKET PACKAGE

21. The European Commission briefed the PHLG on the implementation process of the third package by the EU member states.
22. The PHLG thanked the European Commission for the workshop on the topic, which took place on 15.04.2010 in Vienna.
23. The European Commission presented its proposal for a Recommendation on the implementation of amendments to the Acquis Communautaire on energy. The Recommendation encourages Contracting Parties to implement the electricity and gas acquis, as resulting from the so called "Third Package", which has in the meantime already become the element of reference on EU internal market policy at international forums.
24. The PHLG endorsed the text of the Recommendation, which will be submitted to the Ministerial Council with a view to its adoption at the forthcoming meeting on 24.09.2010. The PHLG noted that this non binding Recommendation represents a first step towards the adoption of the "Third Package" - thus, PHLG is of the opinion that at its meeting the Ministerial Council should also aim at taking an implementing decision in the course of 2011. PHLG moreover stated that a future binding decision on the "Third Package" should contain the necessary adaptations under Article 24 of the Energy Treaty and should therefore contain appropriate implementation deadlines and provide an answer to outstanding questions such as participation of the Contracting Parties in ACER, ENTSO-E and ENTSO - G.
25. The Secretariat recalled that the implementation of the existing acquis (the "Second Package") is still far from being completed and required significant further efforts. In

this context, it was deplored that the Contracting Parties did not follow the previous PHLG's request to identify remaining obstacles and introduce mechanisms and measures in line with the Treaty to foster the process and to present these to the Secretariat. The Secretariat announced that it will make use of the dispute settlement mechanism to address cases of non compliance, in particular with respect to market opening, price regulation and barriers to trade. Furthermore, the Contracting Parties, until the next PHLG meeting, will submit to the Secretariat their domestic rules and practices regarding authorization and tendering procedures as applied to energy projects. The Secretariat will circulate a questionnaire for this purpose by mid-July 2010.

AGENDA ITEM FIVE – MINISTERIAL COUNCIL MEETING

26. The Secretariat outlined to the PHLG members the agenda for the Ministerial Council meeting on 24.09.2010 in Skopje as agreed by the Presidency and the Vice-Presidency. Several amendments were proposed.
27. The Secretariat informed that invitation letters to Commissioner Oettinger and all ministers shall be sent out soon by the Presidency. The PHLG members are invited to undertake timely measures as to assure that the event is in the calendar of their ministers.

AGENDA ITEM SIX – MISCELLANEOUS

28. The Director of the Secretariat informed that he has received an official letter, with which Armenia has applied for an Observer Status. This letter has been sent to the Presidency and the Vice-Presidency for further consideration in the context of the MC agenda.
29. The Chair of the Budget Committee presented the Budget Committee report on its 2009 activities.
30. The Secretariat provided a short update on the dispute settlement cases.
31. The Contracting Parties and the Secretariat provided information on the work, undertaken so far, in relation to the process of implementation of the energy efficiency acquis as adopted by the Ministerial Council of the Energy Community in December 2009.
32. The PHLG was informed of the recent publication of Directive 2010/31/EU of 19 May 2010 on the energy performance of buildings, recasting and repealing Directive 2002/91/EC as from February 1st 2012 and Directive 2010/30/EU on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products (recast), repealing Directive 92/75/EEC. It was agreed that the adoption of Directives 2010/30/EU and 2010/31/EU will be included in the Agenda of the forthcoming Ministerial Council meeting, as provided for in Article 2(5) of Ministerial Council Decision D/2009/05/MC-EnC of 18th December 2009. The PHLG invites the MC to consider extension of the EE TF mandate.
33. The Secretariat presented in brief the launched study on statistics, as well as the outcome of the Statistics' Workshop (15-16 June 2010). The PHLG recognized the importance of reliable and consistent energy statistics data for Contracting Parties to

establish energy policies in compliance with the energy acquis, including investment policies and sustainable development, monitoring of security of energy supply, energy efficiency and renewables, transparency in energy markets and competition.

34. The PHLG supported development of a Road Map for harmonization of energy statistics in the Energy Community within the related Study, in line with the agreed common platform, as basic reference for their capacity building and implementation of their respective Action Plans.
35. The Secretariat summarized the major conclusions of the Social Forum (10-11.06.2010). It also recalled that a separate report on the social dimension will be presented at the Ministerial Council in September 2010. The PHLG agreed to give stronger support to the work on the Social Dimension, especially for the implementation of the Social Action Plans.
36. The PHLG reviewed the Energy Community Event Calendar 2010.
37. The Secretariat briefed on the joint PHLG – ECRB meeting, scheduled to take place on 30.06.2010.
38. The European Commission and the Secretariat invited the Contracting Parties and the Observers to consider more active participation in all Energy Community events including their more pro-active engagement on substance. In this aspect, particularly for workshops, it was recalled that the reimbursement rules envisage possibility for broader financial support. Further, the Secretariat recalled that all attendees of Energy Community events are invited to consider e-registration.
39. The PHLG noted the request of Moldova for financial coverage of the expenses, related to participation in Energy Community events (including the reimbursement of visa fee).
40. The next PHLG meeting shall take place on 23.09.2010 in Skopje.

Energy Community Vice-Presidency:

Vienna, 29.06.2010

