REPORT ON THE STEPS UNDERTAKEN
BY THE CONTRACTING PARTIES FOR IMPLEMENTATION

Progress in the period March – August 2009

I. BACKGROUND

The Directives on Security of Supply of electricity and natural gas\(^1\) have been included in the scope of the Acquis communautaire of the Energy Community Treaty by the Ministerial Council decision in June 2007. The Ministerial Council decided that the Directive 2004/67/EC and the Directive 2005/89/EC had to be implemented by the Contracting Parties by the end of 2009\(^2\).

A preliminary report\(^3\) on the activities undertaken by the Contracting Parties in this respect was submitted by the Energy Community Secretariat and discussed on the 12\(^{th}\) PHLG Meeting, and a special attention on the implementation of these two Directives was recalled\(^4\). Secretariat was invited to provide operational support if required by the Contracting Parties.

Another recall on the steps to be taken along the Roadmaps for implementation of the Security of Supply Directives was registered on the 13\(^{th}\) PHLG Meeting\(^5\), and the Secretariat was tasked to provide direct assistance in this respect upon request by a Contracting Party.

The Security of Supply aspects were addressed on the Ministerial Council Meeting in Sarajevo, primarily with respect to the crisis of gas supply from January 2009 and its consequent concerns and foreseen remedies. Information on the latest investment activities, projects and policies for new energy infrastructure were presented to the Council by each of the Contracting Parties.

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1. See Conclusion 8 and Item 4 Annex I, Ministerial Council meeting 29.06.2007, Montenegro.
4. Conclusion No 4, 12\(^{th}\) PHLG Meeting, 17.03.2009
5. Conclusion No 9, 13\(^{th}\) PHLG Meeting, 25.06.2009
By 1\textsuperscript{st} of September 2009 information along the Roadmaps for implementation of Directives 2005/89/EC and 2004/67/EC is the one received by the Secretariat before March 2009, in particular:

For ELECTRICITY, from:
- Albania
- Bosnia and Herzegovina
- Croatia (partial information)
- The Former Yugoslav Republic of Macedonia
- Serbia
- UNMIK

For NATURAL GAS, from:
- Albania
- Croatia
- The Former Yugoslav Republic of Macedonia
- Serbia

Some related information is available in the updated Security of Supply Statements for 2009, so far received from:
- Albania
- Bosnia and Herzegovina
- Croatia (provisional)
- The Former Yugoslav Republic of Macedonia
- Montenegro
- Serbia (provisional)
- UNMIK

Following the expressed interest of the Contracting Parties, the Energy Community Secretariat experts during their missions to all Contracting Parties in the second quarter of 2009, assisted in raising the level of awareness and clear understanding of the required steps to be taken for implementation of the Security of Supply acquis.

This report outlines the progress on the Energy Community Level, registered between March and September 2009. For obtaining overall view of the state of play of the implementation of the Security of Supply directives at the end of August 2009, this Report should be considered together with the corresponding Report prepared for the 12\textsuperscript{th} PHLG Meeting in March 2009.

\textbf{II. PROGRESS AS REGARDS IMPLEMENTATION OF THE DIRECTIVE 2005/89/EC}

In general terms, Energy Community Contracting Parties have preserved the pace for implementation of the security of electricity supply Acquis over the past six months. Although only few steps in improving the legal framework are completed during this period, a number of attempts are under way. In all such cases
the Secretariat is engaged to provide its comments and proposals upon request from the Contracting parties. Strategic documents outlining specific energy development policies are also under development in several Contracting Parties.

The Energy Strategy of Albania is undergoing a process of updating – currently expected to be approved by the Council of Ministers. The Legal framework on electricity based on the act from 2003 needs to be further amended in compliance with the relevant Directive.

The legal framework is updated in Bosnia and Herzegovina. Despite the lack of progress on state level, adopting the new Energy Law and amending the Law on Electricity in Republika Srpska improved the legal framework of this entity in several related aspects such as public service obligations, energy policy and energy development planning. The Federation of BIH is preparing its Strategic Plan and Programme for Development of the Energy Sector.

After completing the public debate over the Green Book for adjustment and upgrading of the energy development strategy of Croatia by the beginning of this year, the final White Book of the Strategy for the period 2010 – 2020 is due for adoption.

Amendments of the Energy Law, aimed to bring it in full compliance with the relevant Acquis, are under consideration by the energy authorities in the Former Yugoslav Republic of Macedonia. The draft Strategy for the Energy Development (2008 – 2020) has completed a public hearing procedure.

Montenegro is finalizing the process of amending its legal framework.

The Energy Law of Serbia undergoes a process for extensive amendments, aimed to bring it in compliance with the Acquis. The Green Book of Electric Power Industry of Serbia (2009 – 1017) has been published.

All three laws related to the energy sector of UNMIK (the Law on Energy, the law on Electricity and the Law on the Regulator) are in the process of extensive amending aimed to bring the overall legal framework in compliance with the relevant Acquis.

All Contracting Parties are focussed primarily on the security of supply aspects related to balancing the electricity demand, investments in new generation and transmission infrastructure and secure operation of their networks. Further attention however is required on demand forecast, generation adequacy, contracting the supply, securing the supply under market conditions, efficient balancing, ATC criteria, mutual assistance, monitoring of the security and reporting, as well as energy efficiency policies.

III. PROGRESS AS REGARDS IMPLEMENTATION OF THE DIRECTIVE 2004/67/EC
At the end of August 2009, when the implementation deadline is approaching within 4 months, the Directive 2004/67/EC can be considered as implemented to a certain extent only by one Contracting Party (Croatia). For all other Contracting Parties the implementation process is in the different phases, but far from completion.

During the period in focus, those Contracting Parties which do have a gas market currently, took the active participation in the meetings of the EU Gas Coordination Group in the course of the gas supply restrictions in January 2009, which has to be recognised as an effort in the practical implementation of the Directive 2004/67/EC.

Several Contracting Parties are in the revision process of the existing Energy Laws, which has to be used as an opportunity for implementation of all missing provisions, including those of the Security of Supply directives.

Albania passed on 30th June 2008 the gas act which contains also a sound basis for a well-functioning security of supply respectively crisis mechanism. In order to avoid an amendment of the gas act, progress is focused on a solution on how to provide more details on more “comprehensive” rules. Completion of the relevant rules is foreseen for the end of 2009.

There is no noted progress at the state level regard the implementation of the Directive 2004/67/EC in Bosnia and Herzegovina.

Substantial amendments of the Energy Law and the Strategy for Energy Development are currently under active preparation in the Former Yugoslav Republic of Macedonia. So far, the ECS has had only opportunity to comment the draft Strategy.

The ECS has commented the draft of the relevant legislation of Montenegro.

According to the information received by Serbia, the new Amendments to the Energy Law are under the preparation. So far the Secretariat has not received a copy of any of them, as to be able to assess the implementation status of the Directive 2004/67/EC.

UNMIK has included some provisions of the Directive 2004/67/EC in the draft Law on Gas. The missing provisions are in the phase of development and the intention is to complete the relevant legislation in due time for the MC meeting scheduled in December 2009 - taking the need of sending the report to the MC a few weeks ahead of the meeting into consideration.

Again the strong link between proper implementations of the Directive 2003/55/EC and of the Directive 2004/67/EC has to be underlined. I.e. where the implementation process of the basic gas directive, setting the structure of the gas market, is not finished or not done in a proper way, it is hard to define clear responsibilities and to establish functional procedures dealing with Security of Supply in line with the Directive 2004/67/EC.
IV. CONCLUSIONS AND NEXT STEPS

Over the period between March and September 2009 all Contracting Parties have sustained their efforts in implementing main provisions of the Directives 2005/89/EC and 2004/67/EC however with only few effective outcomes. A number of related aspects need further attention and increased efforts.

Common areas for possible progression are registered mainly in demand forecast, efficient use of the available infrastructure, administration of new capacities, the role and the reliability of the markets, monitoring / reporting processes and mutual cooperation.

Contracting Parties should continue their ongoing efforts in implementation of the Security of Supply Acquis along the corresponding Roadmaps aiming to complete the task before 31st December 2009.

In their efforts, the Contracting Parties are encouraged to address the Energy Community Secretariat for direct assistance in assessment, advising and commenting their draft legislation, amendments and further steps required. This could be done in particular in the course of the mission to each of the Contracting Parties - which will take place in due time for completion of the legislation related to the directives.

In order to ensure a highly efficient procedure the Contracting Parties should raise questions – which they regard as obstacles for the timely implementation - in due time before the missions. Relevant information of the first Security of Supply Group Meeting should also be taken into consideration.

During the last quarter of 2009 Energy Community Secretariat, in direct cooperation with the Contracting Parties shall assess their progress – based on the progress resulting from discussions in the course of the missions and, if necessary, update and focus the Roadmaps on key outstanding issues. Such Updated Roadmaps shall also serve for future reference and benchmarking.

Following the Ministerial Council Decision6, the Secretariat shall provide a detailed report to the Energy Community on the state of play of implementation of the Directives 2005/89/EC and 2004/67/EC on the second PHLG meeting in 2010.

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6 MC Decision No. 2007/06/MC-EnC, Article 1 (3) and Article 2 (4)