

ANNUAL ACTIVITY REPORT OF THE BUDGET COMMITTEE FOR 2017

Background

This Annual Activity Report ("the Report") follows the reporting requirements of the Budget Committee ["BC"] defined in item III.3 of the "*Internal Rules of Procedure of the Budget Committee*" ("*Rules*") of 16 December 2014¹. It has been prepared for the purpose of presentation at the Budget Committee meeting on 20 June 2018.

Activities 2017

In 2017, the Budget Committee met two times to discuss topics of budgetary and/or financial relevance in the context of the implementation of the Energy Community budget (see Minutes of the Meetings annexed). In 2017, Mr. Marcos Roman Parra was the **chair in office** in the first half of the year 2017 and then Mrs. Anne Montagnon followed.

The Budget Committee was advising and supervising the Director in the financial management. It was consulted whenever an agreement was required under the applicable budgetary procedures. During the year, it had the following **strategic topics** on its agenda:

- Discussion and endorsement of financial reports for the year 2016 for the decision of the Ministerial Council,
- Director's proposal on the budget 2018-2019 of the Energy Community with the aim to obtain an agreement of all parties and approval at the meeting of the Council in December 2017,

Further, the analysis of the ongoing **budget accounts** of the Energy Community (as a legal entity) and of the grant **projects accounts** was on a regular agenda. Director informed also on a regular basis on the progress made in the **arbitration procedure** with the former employee of the Energy Community at the Court of Arbitration in the Hague and of the related costs. At the meeting in December 2017, Budget Committee suggested the idea of changing the **budgeting approach** at the Energy Community with the aim to strengthen the link of strategic (activity) and operational (expenditure) planning. Further discussion on that topic will continue in 2018.

Conclusion

In 2017, the Budget Committee received from the Secretariat all requested information of financial relevance that enabled to carry out its tasks. At the time of this report, the Energy Community annual accounts were audited and an **unqualified audit opinion** was issued.

Based on all reports related to the budget execution for 2017, the Budget Committee agreed to propose to the Ministerial Council of the Energy Community to decide on the **discharge** of the Director for year 2017 at its next meeting at the end of 2018.

Annex: BC's Minutes of the meetings that took place in 2017

¹ Date of amendment of the Initial Rules of 30 Jan 2008

29th meeting of the Budget Committee

*Location: Energy Community Secretariat, Vienna
Date and time: 27 June 2017, 13:30 – 15:30*

1. Opening of the meeting: Welcome and agenda approval

- 1.1. Director Kopac welcomed all present to the meeting and in particular new Chair of the Budget Committee, Mr Marcos Román Parra.
- 1.2. Mr. Román Parra thanking for the welcome, introduced also new representative of the Commission to the meeting, Ms Anne-Cecile Swinnen who will provide overall support to the meetings. Draft agenda was consulted and approved.

2. Report on the Audit of the Financial Statements of the Energy Community for the period ending 31 December 2016

- 2.1. Mr. Román Parra welcomed representatives of the external audit company KPMG, Dr Bauer and Ms Oberbeck, being responsible for carrying out the audit of the Energy Community accounts.
- 2.2. Mr Bauer in his introduction referred to audit related responsibilities and presented then in details the conclusions and main focus areas of the audit of the year 2016. Following the general part, details of reconciliation between the *Comparison of Budget and Actual Amounts* for the year 2016 and Financial Statements of the Energy Community were referred to in details (see KPMG presentation, page 5).
- 2.3. Further, explanations regarding ordinary and extraordinary budget were provided. In particular details regarding legal commitments (in total amount of EUR 800.143,00) as well as of the unused donations received in 2016 – mainly, in relation with the direct grants received (total: (EUR 1.447.472,05), were presented. Representatives of KPMG explained in particular the provisions made for other liabilities in the amount of EUR 200.000,00 for the costs estimated for the ongoing arbitration procedure with the former employee of the Energy Community Secretariat.
- 2.4. In conclusions, auditor informed about not used budget appropriations of the year 2016 in the amount of EUR 22.579,85 subject to repayment to all Parties. Due to minor amounts - with the exception of EU (EUR 21.437,30) - Secretariat was asked to offset the amounts in the course of payments of budget contributions 2018.
- 2.5. In conclusion, following final remarks, Chair thanked the audit company for the comprehensive presentation of the audit results.

3. Follow up of the last meeting

- 3.1. Chair invited the Secretariat to report on main points of discussions at the last meeting of the Budget Committee in December 2016.
- 3.2. The following issues were recalled: financing and nature of the work of the Advisory Committee (donation received from the Republic of Poland at the end of 2016), direct grants received in 2016, status quo related to arbitration proceedings with the former employee of the Energy Community, draft budget proposal for the upcoming biennium and the final rental price for the extra office space (after deducting the contribution from EU4Energy).
- 3.3. In particular, Chair asked for the details in relation with the ongoing arbitration procedure and related costs. Director of the Secretariat provided background information on the case, details related to the ongoing procedure and next steps envisaged. It is expected that in the next weeks the Sole Arbitrator will make a decision in regard with the oral hearing to take place late September 2017 (TBC) in the Hague (TBC). It is also an assumption that the proceedings shall be finalised in the second half of 2017.
- 3.4. On the final rental price for the extra office space and the Austrian donation to cover the Energy Community premises costs, the Director reported that in 2017 the increase in expenditure by the end of the year will be compensated through budget transfers to take place within the available budget of the Energy Community.

Further coverage of the expenditure will be possible through ongoing rent donation of the Republic of Austria¹ and from the ongoing grant contract².

As of 2018, Energy Community shall have the increased budget for the rent expenditures as proposed in the budget draft proposal for 2018-2019 (subject to further approval by the Ministerial Council).
- 3.5. Further, Director reported about the direct grant contracts signed mid 2016 for the defined purpose of regional projects implementation: (1) concerning "Technical Assistance in the Connectivity in the Western Balkans on Regional Energy Markets" (Component 2) concluded for 2 years in June 2016 and (2) on "Legislative and Regulatory Environment and Key Energy Infrastructure" ("EU4ENERGY") in the Eastern Partnership Countries concluded in June 2016 for the duration of 4 years. In this context, Director reported about the regional offices established for the latter in Kyiv and Tbilisi and envisaged future tasks.

4. "A points" at the Ministerial Council meeting in 2017

- 4.1. The Director was invited to present the draft Report on the Budget Utilisation 2016 under Art 75 of the Treaty. Few comments as received from the Commission earlier shall be implemented into the final draft before submitting it to the Ministerial Council. The draft report was endorsed by the Budget Committee.
- 4.2. Secretariat presented further Annual Activity Report of the Budget Committee (as required under the Internal Rules of Procedure of the Budget Committee) and Budget Committee's Report on Audit to the Ministerial Council (as required under the Budgetary Procedures). Both

¹Based on the Letter of Confirmation signed by the Minister of the Federal Ministry of Science, Research and Economy on behalf of the Republic of Austria, Dr Mitterlehner, dated 27 October 2016; the contribution in the new defined amount of EUR 170.000 p.a. (capped) for the years 2017-2026.

² EU4ENERGY, annual contribution in the amount of EUR 64.140 p.a. in the period March 2017 until June 2020;

reports were approved in the presented version for further submission respectively to the PHLG and MC, in due time.

- 4.3. Following the approval of the financial reports for the year 2016, Budget Committee endorsed the draft Decision on the discharge of the Director for the year 2016.
- 4.4. Commission presented an outline of the draft Budget Proposal for the Energy Community for the years 2018-2019 ("Explanatory Memorandum") and informed about the open procedural steps on the Commission side. The Decision of the Commission in this respect shall be communicated to the Contracting Parties in due time for the respective MC decision in 2017. In principle, the budget of the Energy Community for the upcoming biennium shall be 4% higher in comparison with 2017, resulting from a justified increase in the budget positions "Office Rent" (due to office extension of the Secretariat in 2016/2017) and "Human Resources" (for the inflationary salary adjustments in 2018 and in 2019). Budget Committee endorsed the draft Explanatory Memorandum with the changed Table of Budget Contributions (Annex IV) as circulated in the meeting (page 11 of the document) as well as draft Procedural Act on the amending Annex IV of the Treaty in the context of accession of Georgia to the Energy Community.
- 4.5. As far as the principle of the Statement of Revenue (= Table of Budget Contributions, Annex IV of the Treaty) is concerned, Chair suggested to prepare an explanatory memorandum on the currently applied methodology of calculation of budget contributions and discuss it at Budget Committee in December 2017. This shall be then a basis for any future amendments of Annex IV.
- 4.6. Further, under this agenda point, representatives from the Commission suggested the consideration of an improved presentation of the work programs in future. This shall include the presentation of budget, reporting and implementation of it on an activity by activity basis, objective setting and introduction of few Key Performance Indicators to understand how different types of measures contribute to the overall achievement of organizational goals. The Energy Community will prepare an initial proposal for approach for the next BC meeting.
- 4.7. Chair noted this in the context of the steadily increasing pressure on EU resources downwards as well as the obligation for public institutions to present their achievements in a transparent way while obtaining financing from the public payer's monies. In particular, no additional human resources should be expected.
- 4.8. Finally, the chair welcomed the Director's Report Conclusions that call for more action regarding internal controls. The Director clarified that the main objective is to improve procurement planning. The Chair expressed interest to be kept informed on action and progress.

5. Budget 2017 – Current budget utilization report

- 5.1. Secretariat provided a current status report on budget utilisation of 2017 outlining at the same time the major activities planned by the end of 2017 on the level of technical assistance and policy implementation justifying the forecast of the budget utilisation by the end of the year. It is an estimate that Energy Community's budget for 2017 will be well utilised (as in the last year) at a level of almost 100%.

Minutes of the meeting

27th Budget Committee

6. AOB

- 6.1. As no other issues were raised, Chair closed the meeting and thanked all members for their participation.

Chair of the Budget Committee



Marcos Román Parra
Signature and date

List of participants: 29th BC meeting on 27 June 2017

Mr. Marcos Román Parra	Chair European Commission
Ms. Anne-Cecile Swinnen	EU representative
Mr. Roderick van Voorst	EU representative
Ms. Aferdita Daja-Bareti	ALBANIA – Ministry of Energy and Industry
Ms. Magdalena Bilbilovska	FYROM – Ministry of Economy, Energy Department
Ms. Natalla Lukovic	SERBIA - Ministry of Energy, Development and Environment Protection
Mr. Agim Thaci	KOSOVO* - Ministry of Economic Development
Mr. Janez Kopac	ECS Director
Ms. Božena Mazur	ECS Head of Financial Unit
Dr Johannes Bauer, Ms Edith Oberbeck	KMPG external audit company

30th meeting of the Budget Committee

Location: Energy Community Secretariat, Vienna

Date and time: 19 December 2017, 11:00 – 13:00

1. Opening of the meeting: Welcome and agenda approval

- 1.1. Director Kopac welcomed all present to the meeting and in particular new Chair of the Budget Committee, Ms Anne Montagnon.
- 1.2. Ms. Montagnon thanked for the introduction and welcomed the new representative from Georgia, Ms Goksadze from the Ministry of Energy who will represent her country in the meetings of the Budget Committee in the future. Draft agenda was consulted and approved.

2. Budget 2017 – Utilisation Report

- 2.1. Mdme Chair asked the Secretariat to provide an overview of the current budget utilization with the particular focus on activities planned by the end of the year.
- 2.2. Secretariat explained the actual level of utilisation (as of 30/11/2017) referring to the structure of the budget and budget transfers carried out during budget execution in 2017. Secretariat provided explanation to the principle interpretation of the baseline to be used for the maximum 10% budget transfers according to Art 18(1) of the budgetary procedures that defines the 10% on the basis of the overall budget of a year.
- 2.3. Further, Secretariat informed that number of activities planned for December 2017 shall result in almost entire utilisation of the budget at the end of 2017. In particular, reference was made to the budget of the year 2017 for *Studies/Consultancy* of EUR 459.000 that has been committed, however execution of studies shall continue in 2018. Those legal commitments are subject to regular reporting in the course of the monthly and quarterly reporting in the year of implementation.
- 2.4. Further, Director reported about the direct grant contracts signed mid 2016 for the defined purpose of regional projects implementation: (1) concerning "Technical Assistance in the Connectivity in the Western Balkans on Regional Energy Markets" (Component 2) concluded for 2 years in June 2016 and (2) on "Legislative and Regulatory Environment and Key Energy Infrastructure" ("EU4ENERGY") in the Eastern Partnership Countries concluded in June 2016 for the duration of 4 years. In this context, Director reported about the regional offices established for the latter in Kyiv and Tbilisi and envisaged future tasks. In addition, Secretariat presented current status of implementation of grant contracts signed in 2016 (EU4ENERGY and Technical Assistance to Connectivity in the Western Balkans). Outline of activities planned in line with the work programs approved, was also provided. Mdme Chair asked the Secretariat to make grants revenues and expenditure visible as is done in the accounts.
- 2.5. In general, Secretariat informed about an overview of other sources of revenue that are managed by the Secretariat and include direct grants, donations and sponsors' monies. In this context, Director informed about planned involvement of the Energy Community and its Secretariat in cooperation' with other entities on the basis of subcontracting (not being a Contracting Authority) and providing its expertise to the other legal entities concluding contacts. An example of cooperation with Austrian *Environmental Agency (Umweltbundesamt,*

<http://www.umweltbundesamt.at/en/>) applying for “EU Support for Climate Action in IPA II beneficiaries – Transition towards the low emissions and climate-resilient economy in the Western Balkans and Turkey”. Budget Committee took note of this information and confirmed that a decision regarding an involvement shall be made by the Director of the Secretariat further to prior information to the Chair and reporting on implementation in accordance with an agreed scheme. Decision of the Budget Committee of 6 May 2016 (BC-D) was recalled in the context of receiving Sponsors' monies for the organisation of the Vienna Forum on the European Energy Law and of the Energy Community Summer School.

- 2.6. In conclusion, Secretariat recalled all decisions of the Budget Committee taken in the year 2017 including on secondees. On the EnC policy for secondment, the Director explained that in 2017, there were 27 secondees or interns for various periods of time. They are temporary staff paid by the Energy Community (4,200 EUR for secondees and 1,580 EUR for interns). In 2018 and 2019, 36 man months of secondments/internships are included in the EnC budget, the Secretariat consults the Presidency and Vice-Presidency on the candidates for secondment, according to the Rules for Recruitment, Working Conditions and Geographical Equilibrium of the Secretariat's Staff. Budget Committee shall be informed about appointments of secondees in the future.

3. Energy Community Budget 2018-2019

- 3.1. Commission informed about its decision on the proposal for the Energy Community budget 2018-2019 (“Explanatory Memorandum”) of 1 Sep 2017 [ref.: C(2017) 5926 final]. This decision incorporates specific changes of budget contribution table (Annex IV) resulting from bilateral discussions between the Commission and the Secretariat after 20th Budget Committee meeting (June 2017). No further changes in the earlier discussed budget proposal (level, structure etc) were done. This budget proposal was discussed (not approved yet) at the recent meeting of the Ministers on 15 December 2017 in Pristina.
- 3.2. In this context Director informed that due to the lack of quorum at the last Ministerial Council of the Energy Community, all due decisions will have to be adopted by means of “written procedure” according to item VI (23-27) of the Internal Rules of Procedure of the Ministerial Council (“IRP MC”) in its amended version on 16 October 2015. Among those decisions, all A Points of the Council's agenda (incl. budget and related reports of 2017) were circulated for decision to be taken by 27 December 2017. At the Secretariat's request, Mdrne Chair accepted to represent the European Commission in the committee reviewing the votes cast (according to item VI.26 of IRP MC).
- 3.3. In this context, Serbian representative raised her concern about the principles of decision-making and procedure followed. In response, Chair of the Committee explained the reasons for the minor changes in the levels of contributions by the Parties that were necessary after the meeting of the Budget Committee in June 2017: the Contracting Parties budget contributions must indeed follow a clear methodology based on objective GDP criteria while observing the EU budget maximum ceiling. On the decision-making process, it was agreed that in future Budget Committee will be informed about any potential changes, *post* decisions taken, in due time. Also, from now on, the BC meetings will systematically take place prior to the Ministerial Council meetings.

4. AOB

- 4.1. Secretariat informed about the procedural history of the ongoing Staff Legal case and related costs. After long procedure (started in March 2016) the ruling is expected in the first half of 2018. Secretariat was asked to duly inform the Budget Committee of any new developments in the Case, on a regular basis, given its financial impact.
- 4.2. As a follow up of the discussions at the 29th meeting of the Committee (June 2017), Secretariat presented its initial views on potential changes of the budgeting principles in future (from 2020 on). A concept paper will be produced by the Secretariat for discussion at the June BC meeting, with a cost/benefit analysis and a focus on output/performance..
- 4.3. In reference with the work and activities planned for 2018, Secretariat informed about the financial reporting deadlines (monthly, quarterly and annual financial reports). It proposed the following dates for the meeting of the Budget Committee in 2018: Wednesday, 20 June and Thursday, 11 October 2018.

Chair of the Budget Committee



Anne Montagnon
Signature and date

List of participants

Mr. Anne Montagnon	Chair European Commission
Ms. Anne-Cecile Swinnen	EU representative
Mr. Janez Kopac	ECS Director
Ms. Bozena Mazur	ECS Head of Financial Unit
Ms. Aferdita Daja-Bareti	ALBANIA – Ministry of Energy and Industry
Mrs. Elene Goksadze	Georgia - Ministry of Energy
Ms. Natalia Lukovic	SERBIA -Ministry of Energy, Development and Environment Protection