Core Pillars of the Proposal

Proposing measures for

- harmonisation of licensing regimes
- supply to wholesale (trade) and final (retail) customers
- gas and electricity

Geographic scope - “Title III countries“

- EU Member States
- EnC Contracting Parties
Objectives

1. **Foster** trade, market integration and customer choice
   o abolish unnecessary financial and administrative burden

2. **Maintain necessary regulatory objectives**
   o financial viability of undertakings
   o market oversight and supervision, including enforcement
   o customer protection

3. **Ensure regulatory financing** – but not necessarily linked to licenses

4. **No new obligations** in countries where a license is currently not required

5. **EnC Contracting Parties specific** – taxation and local seat requirements

**Driving question:**

- are licenses the most appropriate tool?; or
- can other instruments serve the purpose equally good **or even better** while creating less barriers to competition?
<table>
<thead>
<tr>
<th>Context</th>
<th>Objective</th>
<th>Instruments</th>
</tr>
</thead>
<tbody>
<tr>
<td>TEP</td>
<td>establish liquid gas and electricity wholesale and retail markets</td>
<td>remove obstacles / minimise financial and administrative burden preventing new market entrants (trade and supply) from engaging</td>
</tr>
<tr>
<td></td>
<td>ensure access for all customers to supplier of choice</td>
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</table>
| CESEC   | ease licensing requirements → establish mutually recognizable license/registration | create a CESEC WG to [Conclusions CESEC HLG 2017]  
- develop specific regional rules to overcome barriers in the CESEC gas and electricity markets  
- investigate the application of Title III |
| GRI     | foster liquid gas wholesale markets | harmonisation of wholesale licenses in gas [GRI SSE proposal 2017] |
| SSE     | create a trading region SSE WB6 CPs+neighbouring EU MS | explore opportunities for cooperation [...] under Title III [WB6 Trieste Summit conclusions 2017] |
Common Geographic Scope

- Title III + Gas 2020 Action
- CESEC
- GRI SSE
- WB6+
## Proposal in Detail: Objectives → Concrete Measures

<table>
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<th>Objective</th>
<th>Alternatives to licenses?</th>
<th>Proposed measures</th>
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| Ensuring financial viability of undertakings to ensure protection of market participants / customers | Wholesale supply [trade]: more efficiently addressed by market → contracts between traders, with TSOs / MOs, balancing rules | o **No license** requirement  
o Possible: register [incl fee for actual costs incurred]  
o **No local seat** requirement  
o Traders to comply with the legislation where the trade takes place |
|                                                                           | Retail supply: certain checks viable (customer protection)                                | o **Mutual recognition**  
o Based on common minimum requirements  
o Host NRA to recognise based on home NRA‘s confirmation  
o **No local seat** requirement for undertakings established in another Title III country  
o **No new** license requirements where not existing now  
o **Customer protection**: NRAs to approve supply GTC  
o Retail suppliers to comply with the legislation where the supply takes place |
## Proposal in Detail: Objectives → Concrete Measures

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<td><strong>NRA financing</strong></td>
<td>[alternatively or complementary]</td>
<td>Regulatory fee, Allocation to some licensees only (exl trade), One-off registration fee</td>
</tr>
<tr>
<td><strong>NRA enforcement powers</strong></td>
<td>Decouple from license holding</td>
<td>linked to market activity, example REMIT</td>
</tr>
<tr>
<td><strong>Taxation</strong></td>
<td>Contracting Parties specific</td>
<td>Trade - taxable at the place where the supplier has its seat, Retail supply – taxable at the place of delivery [→ taxable person requirement]</td>
</tr>
<tr>
<td><strong>Recognition of judgments, decisions and financial penalties</strong></td>
<td>Contracting Parties specific</td>
<td>Mutual recognition of judgments, decisions and financial penalties imposed by judicial or administrative authorities</td>
</tr>
</tbody>
</table>
Consultation process

- Workshop 09/2017, Vienna – NRAs of Contracting Parties, HU, AT, Baltic
- CESEC 04/12/2017
- Consultation until 12 January 2017 – input received from
  - Ministries: GR, HR, UA, AT
  - NRAs: GR, HR, MD
  - EFET
- Telco 28/02/2018 – NRAs AT, HU, GR, HR, RO, BG, MK
- Brussels, 13/03/2018
Consultation response

○ Trade
  ○ Need for regulatory enforcement powers RAE, HERA, ANRE(MD), GR → ✓ strengthened
  ○ Need for financing of regulators RAE, HERA → ✓ strengthened:
    1. Collection from all licensees (excl traders) – e.g. ME
    2. Collection from some licensees (excl traders) – e.g. SR
    3. De-coupl from licensees („regulatory fee“) – e.g. IT, AT, UA
    In any case: one-off „registration fee“ possible – e.g. HR, SR, AL, MK, GR now one-off „licensing fee“
  ○ Need for financial viability check [x]

○ Supply
  ○ Need for common set of criteria → ✓
  ○ Need for legal adjustments
Implementation Tools – Status – Way Forward

- Proposal discussed with NRAs EnC WS, GRI SSE
- Proposal would require legislative changes → CESEC WG discussions on Ministry level
- (Possible) way forward under Title III:
  1. Ministerial Decision
     - Article 82: The Ministerial Council [...] take Measures under Title III on a proposal from a Party or the Secretariat
     - Article 26, 27: Measures are applicable to →
  2. Transposition into national legislation
     - Licensing requirements
     - Regulatory powers and financing
     - [Taxation | recognition of judgments]
  3. Adaptation of national regulatory rules

Title III + Gas 2020 Action
Thank you very much for your attention!

Nina Grall-Edler
Head of Energy Community Regulatory Board Section
Energy Community Secretariat
✉️ Nina.grall@energy-community.org
📞 +43 (1) 535 2222 - 27
Background slides
Relevant legal provisions

Article 34 EnC Treaty: “The Energy Community may take Measures concerning compatibility of market designs for the operation of Network Energy markets, as well as mutual recognition of licenses and Measures fostering free establishment of Network Energy companies.”

Article 41(1) EnC Treaty: “Customs duties and quantitative restrictions on the import and export of Network Energy and all measures having equivalent effect, shall be prohibited between the Parties. This prohibition shall also apply to customs duties of a fiscal nature.

Article 3(4) of Directive 2009/72/EC and Article 3(5) of Directive 2009/73/EC: “Contracting Parties [Member States] shall ensure that all customers are entitled to have their electricity provided by a supplier, subject to the supplier’s agreement, regardless of the Contracting Parties [Member States] in which the supplier is registered, as long as the supplier follows the applicable trading and balancing rules. In this regard, Contracting Parties [Member States] shall take all measures necessary to ensure that administrative procedures do not discriminate against supply undertakings already registered in another Contracting Parties [Member States].”