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Regulatory and Energy Assistance

REPORT FROM REAP TO USAID 12th Athens Forum May 15-16, 2008

REAP representative at the meeting: Ognjen Markovic

Particularity: Due to a strike of Greek national airspace controllers I arrived in Athens late (7 PM local time on Thursday, May 15) so could not attend the first day meeting.

Executive Summary:

Directive 2003/54: *Reform of the sector has slowed down in the region. When the Energy Treaty Secretariat Report that was presented at the 12th Athens Forum on implement- of the EU 2003/54 in BiH is compared with the USAID-REAP Internal Action Plan, one can find that a very high level of similarity exists between these two documents with regard to current status of activities and major next steps that are to be undertaken in order for BiH to comply with the Energy Treaty.*

Regulation 1228/2003: *Little has been achieved since the last Athens Forum that took place in November 2007. The most important achievement is Inter TSO Compensation mechanism. As mentioned above, in this case one can also find huge level of similarity between the Energy Secretariat Report and the Internal Action Plan with regard to current status of activities and major next steps that are to be undertaken in order for BiH to comply with the regulation.*

Regional Electricity Market/Market Opening: *Electricity Market opening is far from being a reality – either in the region or on national levels. Although the Forum adopted conclusions on this issue (see below) it is hard to believe that a contracting party would implement them since a mechanism that obliges contracting party countries to implement these conclusions does not exist.*

Regional Electricity Market/Coordination Auction Office (CAO): *The Coordination Auction Office as one of several preconditions for a regional electricity market to be established is far from being a reality in the region. In the meeting, so many different opinions were presented with regard to the business plan, establishment of the 8th region, location of the CAO, etc., it is obvious that the targeted day for this CAO to be established has been postponed to the year 2010. Some participants commented that this date is an unrealistic one (too short). A Memorandum of Understanding on establishment of the CAO has been presented in the meeting.*

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Detailed Report:

1. Legal Aspect: Implementation Report on Directive 2003/54 and Regulation 1228/2003: Having discussed with those who attended the first day meeting and having read the presentation prepared by the Energy Secretariat, I found the following:

- a. Directive 2003/54. *General conclusion by Ognjen M.: Reform of the sector has slowed down in the region.* In spite the fact that the conclusions from the forum says: “It emphasized the progress made and also the outstanding issues need further consideration,” one who reads and discusses the Implementation Report carefully can easy conclude that not much development could be seen with regard to:
 - i. Electricity market – General market concept is missing; single wholesale regulated suppliers still exist.
 - ii. Further unbundling of DSO and supply function – In most cases, DSOs are still bundled with the integrated utilities.
 - iii. Technical rules – distribution codes are still under development.
 - iv. New generation capacity – Authorization procedure is partially enforced and often applied in a nontransparent way (sounds familiar) while tendering rules are scarce and often rely on parallel laws.

Comparing the two documents, Energy Treaty Secretariat Report on implementation of the EU 2003/54 in BiH and the USAID-REAP Internal Action Plan, one can find that very high level of similarity exists between these two documents with regard to the current status of activities and major next steps that are to be undertaken in order BiH to comply with the Energy Treaty. Particularly, the Report addresses the following issues related to BiH:

- Customer protection-Vulnerable Customer
 - Security of Supply
 - Technical rules-Distribution Code in FBiH
 - DSO-Unbundling and designation
 - Confidentiality-Unbundling of accounts and access to the accounts
 - Third Party Access to the network
 - New generation Capacity
 - Regulatory Authority-Harmonization and coordination is needed
 - Electricity market-Switching procedures to be further enforced
- b. Regulation 1228/2003. *Little has been achieved after the last Athens Forum that took place in November 2007.* The most important achievement is the Inter TSO Compensation mechanism. The Energy Secretariat addressed the following issues as the worst with regard to signatories’ compliance with 1228/2003:
 - i. New interconnectors – None of the regulators in the region has the power to grant exemptions for a new interconnector.
 - ii. Penalties – Only two regulators are allowed by laws to impose penalties on those who do not comply with regulations.



- iii. Public service obligation – Market-based principles should be fully applied in Cross Border Transmission Capacity Allocation Regulations.

As mentioned above, in this case one can also find very high level of similarity between the report and Internal Action Plan with regard to the current status of activities and major next steps that are to be undertaken in order for BiH to comply with the regulation. Particularly, the Report addresses the following issues related to BiH:

- Congestion management method (pro-rata versus market based allocation method)
- New interconnectors
- Penalties
- Public Service obligation (Cross Border Transmission Capacity Allocation)

The Conclusion on both items a and b: The Forum asked the Energy Treaty Secretariat to draft Contracting Party reports focusing on specific actions in priority order needed to further improve the implementation of the Acquis.

2. Regional Electricity Market:

- a. Market Opening: General conclusion by Ognjen M.: *Electricity Market opening is far from being a reality in the region and on national levels.*

This conclusion is from the following facts:

- i. Market design has not been prepared so can not be implemented. Incumbents have a dominant role.
- ii. Cross border issues have not settled down.
- iii. Basic information to ensure transparency with regard to cross border capacities is still missing.
- iv. Security of supply issue in all contracting parties has not been established in an appropriate manner.
- v. Different regulators' positions with regard to independence, accountability, etc., still exists.
- vi. State-owned generation companies are still the biggest “market” players.
- vii. End user prices are mainly regulated by ministries in consultation with regulators (It is obvious BiH differ positively to this common approach).
- viii. End user prices are not cost reflective.

The Forum has concluded the following:

- Public Private Partnership schemes are to be further analyzed.
- Integrated supply and demand planning process is to be further improved.
- Concrete actions are needed in order to overcome already identified obstacles to the market opening.



- Contracting Parties and Energy Community Regulatory Board (ECRB) are to further investigate measures to stimulate new investments through developing legislative and regulatory framework.
- The Forum requested all Contracting Parties to focus on removing price distortions, proceed with effective unbundling and take steps to open the market.

It is obvious these conclusions are not a “must” since there are no mechanisms to impose these conclusions on the contracting parties.

- b Coordination Auction Office: General conclusion by Ognjen M.: *The Coordination Auction Office as one out of several pre-conditions to a regional electricity market to be established is far from being a reality in the region. In the meeting, so many different opinions were presented with regard to a business plan, establishment of the 8th region, location, etc. so it is obvious that the targeted day this CAO to be established has been postponed for 2010. Some of participants that commented this date is an unrealistic one. A Memorandum of Understanding on establishment of the CAO has been presented in the meeting.*

The Forum concluded the following:

- i. The Forum expects that some obstacles to establish the CAO will be solved before the next Athens Forum.
 - ii. In order to solve the obstacles mentioned above, the Forum recommended appointing a project leader to follow up on actions outlined in the CAO Action Plan.
 - iii. As an alternative proposal to the establishment of the CAO for the entire region, the establishment of a “small” CAO by those TSOs who express their willingness to do so was proposed. This idea is to be examined in near future.
- c Report on the Regional Balancing Mechanism was presented briefly. No discussion on this issue.
- d USAID presented a market monitoring report. No discussion on this issue.