

ISSUE PAPER

on the benefits of joining Energy Community and matrix on legally binding obligations in the areas of renewable energy and energy efficiency”

Ad Hoc Expert Facility

under the INOGATE project

“INO GATE Technical Secretariat & Integrated Programme in support of the Baku Initiative and the Eastern Partnership energy objectives”

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Tbilisi, Georgia

March 2013

For Contracting Parties commitments from the EnC Treaty include implementation of core parts of the EC Acquis Communautaire, both sectoral and general. The change of status from an “Observer” to a “Contracting Party” to the Energy Community Treaty will result in a legal obligation for implementation of the EnC acquis, which also includes EU Directives on energy efficiency and renewable energy sources. Deadlines and conditions for implementation of the relevant legislation for Georgia will be determined in the process of negotiations on accession to the Energy Community.

Energy Community Acquis

The current Energy Community acquis communautaire includes the following¹:

[The Acquis on Electricity](#)

[The Acquis on Gas](#)

[The Acquis on Environment](#)

[The Acquis on Competition](#)

[The Acquis on Renewables](#)

[The Acquis on Energy Efficiency](#)

[The Acquis on Oil](#)

[The Acquis on Statistics](#)

Assistance and Access to Information

Transposition and implementation of the EnC Acquis in the Contracting Parties have been strongly supported by the Energy Community Secretariat and a number of donor agencies through a range of technical assistance programs. In this respect and after obtaining the Contracting Party status, Georgian authorities can seek assistance in transposition and implementation activities.

Subsequent to obtaining the Contracting Party status, analysis and donor sponsored research, benchmarking of the countries’ legal framework, business environment, etc. will also include Georgia. Such reports have been in the past used for information by financial institutions and energy companies in other countries, which are an additional way of promotion of Georgian energy sector potential and opportunities for investments.

Affiliation to European Organizations

An objective of the Energy Community Treaty is approximation of energy sectors of the Contracting Parties to the EU Internal Energy Market by application of the relevant EU Directives. With implementation of the EnC Acquis, Georgia will inevitably achieve approximation to the European Union through horizontal approximation of the energy sector, which will lead to meeting one of the objectives of Energy Security Strategy of Georgia: *“strengthening of co-operation with the international organizations in order to contribute to acceleration of affiliation of the country in European and Euro-Atlantic organizations”*.

Attracting Investment in the Energy Sector

One of the objectives of the Energy Community is to attract investments in energy sector. Expected benefit of the EnC membership for Contracting Parties is facilitation of private sector investments through increasing stability and transparency of the legal framework. A stable and predictable regulatory framework with regional oversight and independent dispute settlement is considered as an important factor to facilitate interest of international investors who are discouraged by unregulated and

¹ The EnC acquis can be obtained using the following link: http://www.energy-community.org/portal/page/portal/ENC_HOME/ENERGY_COMMUNITY/Legal/EU_Legislation

unstable investment climate. In this regard, membership in the Energy Community will lead to meeting one of the objectives of Energy Security Strategy of Georgia to “*attract foreign investment in the energy sector and ensuring energy security of the country through diversification of energy sources*”.

Georgia’s renewable energy potential and opportunity to exploit it via the new transmission lines to Turkey make Georgia well placed to benefit from the new renewable legislation in the Energy Community and interest for renewable energy in the European Union. The current situation where Turkey is an EnC Observer country could also be changed considering the latest initiative from the EU to re-start Turkey accession process into the European Union. In that case, Georgia would have a land border with one EnC Contracting Party (or in the future, EU Member State).

The 2009 RES Directive clearly establishes that development of renewable energy is a priority for the EU internal market. The Directive enables various legal structures aimed to incentivize investment in renewable energy and presents an attractive legal framework which can be used by Georgia to its advantage in the long-term. Importantly, the 2009 RES Directive provides for different mechanisms for cooperation between the EU Member States and EU Member States and third countries, with a particular reference to the Energy Community. Since the Directive has been adopted as part of the EnC Acquis, listed mechanisms for cooperation are available to Contracting Parties of the Energy Community (in accordance with the Directive and relevant Decision of the EnC Ministerial Council²). With the full membership status in the Energy Community, opportunities provided with this Directive, combined with Georgia’s vast renewable energy potential would make Georgia a significant market player in renewable energy. An important step in that direction is ensuring that the new Renewable Energy Law, currently in preparation in Georgia, is consistent with the new RES Directive in order to comply with the requirements of the Directive and clarify the framework for new investors.

Energy Efficiency contributes to increase of Economic Competitiveness and Overall Economic Development

Energy Intensity in EnC countries is much higher than in the EU while most of the Contracting Parties are heavily dependent on energy imports. In such circumstances providing a framework for improving energy efficiency through implementation of the EnC relevant acquis is seen as an important element for facilitation of security supply as well as an overall economic development.

While benefits of energy efficiency clearly encompass positive impact on the environment, energy efficiency improvements offer many potential commercial benefits, financial as well as operational, for businesses and households. Energy efficiency is a way to reduce energy demand and help reduce dependency on imported fuels. The opportunities for business advantage generated by increased energy efficiency are compelling, with the most obvious being the ability to reduce energy consumption and thus energy-related expenditure. Lower energy bills for both consumers and industries consequently enhance competitiveness of industries and the economy as a whole. Energy efficiency initiatives also lead to creation of local jobs in providing services (energy auditors, construction companies, architects, equipment providers, installers, etc.).

Financial constraints for energy efficiency improvements are an important factor to be considered by policy makers. Experiences from other EnC Contracting Parties and available information resulting from research conducted in the auspices of Energy Community should provide guidance on the best way forward in addressing these constraints.

² <http://www.energy-community.org/pls/portal/docs/1766219.PDF>

Matrix on legally binding obligations in the area of Energy Efficiency

MAIN ELEMENTS	DESCRIPTION / LEGAL OBLIGATIONS
1. Directive 2006/32/EC on energy end use efficiency and energy services	The Directive promotes improvement of end-users' energy efficiency. It requires, among others, the adoption of indicative energy savings targets and National Energy Efficiency Action Plans (NEEAPs), promotes the exemplary role of the public sector, setting-up of energy efficiency criteria in public procurement, energy audits, procedures for monitoring and verification of energy savings, and other measures to promote energy efficiency and energy services.
1.1 Energy Savings Targets	<p>Adoption of national indicative energy savings target of 9 % for the ninth year of application of this Directive and preparation of Energy Efficiency Plans (EEAP) in the assigned timeframe.</p> <p>Assignment to one or more new or existing authorities or agencies the overall control and responsibility for overseeing the framework set up in relation to EEAPs.</p> <p>The public sector fulfills an exemplary role in the context of this Directive. It will need to apply <i>at least two</i> requirements listed in Annex VI.</p>
1.2. Promotion of energy end - use efficiency and energy services	
1.2.1 Energy distributors, distribution system operators and retail energy sales companies.	The Contracting Parties shall ensure that energy distributors, DSOs and retail energy sales companies provide on request, but no more than once a year, aggregated statistical information on their final customers. The Contracting Parties shall choose one or more of the proposed requirements to be complied with by energy distributors, DSOs and retail energy sales companies and ensure equal level playing field for market actors for energy services, energy audits and energy efficiency improvement measures.
1.2.2. Availability of information.	Information on energy efficiency mechanisms and financial and legal frameworks should be transparent and widely disseminated.
1.2.3. Availability of qualification, accreditation and certification schemes.	Measures may include: i) establishment of an accreditation body and/or qualification scheme for energy auditors etc.; ii) regulations specifying the qualifications and responsibilities of energy auditors, installers, etc.; iii) specifications for energy audits,

	energy measurements, installation of equipment, etc.
1.2.4. Financial instruments for energy savings	Identification and remove barriers for use of financial instruments for energy efficiency in the private and public sectors (e.g. funds, subsidies, tax rebates, loans, third –party financing, energy performance contracting, etc.)
1.2.5. Energy efficient tariffs and other regulations for net-bound energy.	The Contracting Parties shall ensure the removal of incentives in transmission and distribution tariffs that unnecessarily increase the volume of distributed or transmitted energy.
1.2.6. Energy audits	The Contracting Parties shall ensure the availability of efficient high – quality energy audit schemes, which are designed to identify potential energy improvement measures and which are carried out in an independent manner.
1.2.7. Metering and informative billing of energy consumption	Final customers for electricity, natural gas, district heating and/or cooling and domestic hot water should be provided with competitively priced individual meters that actually reflect the final customers’ actual energy consumption and that provide information on the actual time of use. Where appropriate, billing should be performed based on actual energy consumption and appropriate information provided on or with the bill.
1.2.8. Reports	The Contracting Parties will submit 3 NEEAPs to the EnC Secretariat (in accordance with the applicable schedule and using a template prepared by the EnC Secretariat).
2. Directive 2010/31/EU on the energy performance of buildings	This Directive aims to promote the energy performance of buildings taking into account outdoor climatic and local conditions, as well as indoor climate requirements and cost-effectiveness. Under this Directive, the Contracting Parties should apply minimum requirements as regards the energy performance of new and existing buildings, ensure the certification of their energy performance and require the regular inspection of boilers and air conditioning systems in buildings.
2.1. Definitions and adoption of a methodology for calculating the energy performance of buildings.	Requirement for introduction of definitions in the national legislation as given in the Article 2 for proper implementation of Directive (i.e. Energy performance of a building, major renovation, energy performance certificate, etc). Contracting Parties shall apply a methodology for calculating the energy performance of buildings in accordance with the common general framework set out

	in Annex I of the Directive.
2.2. Setting of energy performance requirements.	Requirement for necessary measures to ensure that minimum energy performance requirements for buildings or building units are set with a view to achieving cost-optimal levels. The energy performance shall be calculated in accordance with the methodology referred to in Article 3. Cost-optimal levels shall be calculated in accordance with the comparative methodology framework referred to in Article 5 once the framework is in place. When setting requirements, Contracting Parties may differentiate between new and existing buildings and between different categories of buildings.
2.3. New buildings.	Measures shall be taken to ensure that new buildings meet the set minimum energy performance requirements.
2.4. Existing buildings.	Measures shall be taken to ensure that when buildings undergo major renovation, the energy performance of the building or the renovated part thereof is upgraded in order to meet set minimum energy performance requirements in so far as this is technically, functionally and economically feasible.
2.5. Technical building systems.	The system for which requirements should be set with respect to the overall energy performance shall cover at least: (a) heating systems; (b) hot water systems; (c) air-conditioning systems; (d) large ventilation systems or combination of such systems. Also, Contracting Parties shall encourage the introduction of intelligent metering systems whenever a building is constructed or undergoes major renovation.
2.6. Nearly zero-energy buildings.	Contracting Parties shall draw up national plans for increasing the number of nearly zero-energy buildings. By 30 June 2021, all new buildings are nearly zero- energy buildings; and after 30 June 2019, new buildings occupied and owned by public authorities are nearly zero-energy buildings.
2.7. Financial incentives and market barriers.	Contracting Parties shall develop a list of the existing and potential financial instruments used to promote improvements in the energy performance of buildings. This list is to be updated every three years
2.8. Energy performance certificate.	Contracting Parties shall establish a system of certification of the energy performance of buildings. The energy performance certificate shall include the energy performance of a building and reference values in order to make it possible for owners or tenants of the building or building unit to compare and assess its

	energy performance.
2.9. Issue of energy performance certificates.	Contracting Parties shall ensure that an energy performance certificate is issued for: (a) buildings or building units which are constructed, sold or rented out to a new tenant; and (b) buildings where a total useful floor area over 500 m ² is occupied by a public authority and frequently visited by the public. On 30 September 2015, this threshold of 500 m ² shall be lowered to 250 m ² .
2.10. Display of energy performance certificates.	Contracting Parties shall take measures to ensure that where a total useful floor area over 500 m ² of a building for which an energy performance certificate has been issued in accordance with Article 12(1) is occupied by public authorities and frequently visited by the public, the energy performance certificate is displayed in a prominent place clearly visible to the public. On 30 September 2015, this threshold of 500 m ² shall be lowered to 250 m ² .
2.11. Inspection of heating and air-conditioning systems.	Contracting Parties shall lay down the necessary measures to establish a regular inspection of the accessible parts of systems used for heating and air-conditioning of buildings. As an alternative, Contracting Parties may opt to take measures to ensure the provision of advice to users concerning the replacement or other modifications to the heating / air-conditioning systems.
2.12. Independent experts.	Contracting Parties shall ensure that the energy performance certification of buildings and the inspection of heating systems and air-conditioning systems are carried out in an independent manner by qualified and/or accredited experts.
2.13. Independent control system.	Contracting Parties shall ensure that independent control systems for energy performance certificates and reports on the inspection of heating and air-conditioning systems are established in accordance with Annex II.
2.14. Information.	Contracting Parties shall take the necessary measures to inform the owners or tenants of buildings or building units of the different methods and practices that serve to enhance energy performance.
3. Directive 2010/30/EU on labelling of energy-related products “Energy-related product” is defined as any good having an impact on energy consumption during use, which is placed on the market and/or put into service in the Energy Community,	The main purpose of the recast Energy Labelling Directive 2010/30/EU is to establish a framework for the harmonization of national measures on end-user information, particularly by means of labelling and standard product information, on the consumption of energy and where relevant of other essential resources during use,

<p>including parts intended to be incorporated into energy-related products covered by this Directive which are placed on the market and/or put into service as individual parts for end-users and of which the environmental performance can be assessed independently.</p>	<p>and supplementary information concerning energy-related products, thereby allowing end-users to choose more efficient products. Requirement also includes the implementing Directives associated with the umbrella Directive (the delegated regulations deal with the labelling of specific energy-related products: tumble driers, air conditioners, dishwashers, refrigerators, washing machines, TVs, etc.).</p>
<p>3.1. Responsibilities of Contracting Parties.</p>	<p>Contracting Parties shall ensure that (a) all suppliers and dealers established in their territory fulfill the obligations as set in the Directive; (b) to ensure that for products covered by this Directive, the display of other labels, marks, symbols or inscriptions which do not comply with the requirements of this Directive and of the relevant delegated acts is prohibited.</p> <p>Contracting Parties shall ensure that appropriate information is provided with respect to requirements and implementation of this Directive.</p>
<p>3.2. Responsibilities of suppliers.</p>	<p>It is required that (a) suppliers placing on the market or putting into service products covered by a delegated act supply a label and a fiche in accordance with this Directive and the delegated act; (b) suppliers produce technical documentation which is sufficient to enable the accuracy of the information contained in the label and the fiche to be assessed.</p>
<p>3.3. Responsibilities of dealers.</p>	<p>Dealers shall display labels properly, in a visible and legible manner, and make the fiche available that will accompany products when sold to end-users.</p>
<p>3.4. Distance selling.</p>	<p>Where products are offered by mail, catalogue, through the Internet where the potential end-user cannot see the product, it must be ensured that buyers are provided with the information specified on the label before buying the product.</p>
<p>3.5. Public procurement and incentives.</p>	<p>Contracting authorities which conclude public works shall endeavor to procure only such products which comply with the criteria of having the highest performance levels and belonging to the highest energy efficiency class. Contracting Parties may require the contracting authorities to procure only products fulfilling those criteria.</p>
<p>3.6. Penalties.</p>	<p>Contracting Parties shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and its delegated acts, including unauthorized use of the label.</p>

Matrix on legally binding obligations in the area of Renewable Energy

MAIN ELEMENTS	DESCRIPTION / LEGAL OBLIGATIONS
<p>4. Directive 2009/28/EC on the promotion of the use of energy from renewable sources</p>	<p>The main purpose of the Directive is to establish a common framework for the promotion of energy from renewable sources. It sets mandatory national targets for the overall share of RES in gross final consumption of energy and for the share of RES in transport. It lays down rules relating cooperation mechanisms between Member States, and between Member States and third countries, rules regarding guarantees of origin, administrative procedures, information and training, and access to the electricity grid for energy from renewable sources. It also establishes sustainability criteria for biofuels and bioliquids.</p> <p>It is for the very first time – in this Directive - that an EU piece of legislation makes a reference to the Energy Community Treaty and envisages mutually benefitting cooperation between EU-27 and the EnC Contracting Parties.</p>
<p>4.1. Mandatory RES targets.</p>	<p>RES targets for the existing Contracting Parties are set in the EnC MC Decision (see above). Setting the target for Georgia should be addressed in the accession negotiation process. In addition, it is required to set 10% target of renewables in transport sector – a share of biofuels in transport petrol and diesel consumption.</p>
<p>4.2. National Renewable Energy Action Plans (NREAP).</p>	<p>Contracting Parties are obliged to adopt NREAP with set targets for the share of energy from RES in transport, electricity and heating and cooling and adequate measures to be taken to achieve those targets, including cooperation between local, regional, and national authorities. For preparation of NREAP it has been decided that Contracting Parties will use the template as provided for the EU Member States³. Preparation of NREAPs in Contracting Parties is in progress and EU Member States NREAPs are available for review⁴.</p>

³ Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:182:0033:0062:EN:PDF>

⁴ Available at http://ec.europa.eu/energy/renewables/action_plan_en.htm

4.3. Support schemes.	Contracting Parties can use a range of market-based instruments to subsidize renewable energy. These can be: i) instruments to support investments, ii) production support schemes (quantity based and price based instruments).
4.4. Calculation of the share of energy from renewable sources.	Calculation of the share of energy from renewable sources shall be done in accordance to the methodology presented in the Annex I of the Directive.
4.5. Cooperation Mechanisms (statistical transfers, joint projects, joint support schemes).	Directive provides for co-operation mechanisms between the individual Member States and between Member States and the third countries. These are explicit means for Member States to buy renewable energy from another country and count it toward its target. Subsequent to the adoption of the Directive as EnC acquis, Cooperation Mechanisms provided in the Directive are available to the EnC Contracting Parties, as set in the EnC Ministerial Council Decision on Adoption of the 2009 RES Directive (see above a link for the MC Decision).
4.6. Administrative procedures, regulations and codes.	<p>Contracting Parties shall ensure for authorization, certification and licensing procedures, including spatial planning, to be proportionate and necessary, streamlined and expedited at the appropriate administrative level. For smaller projects, there should be simplified and less burdensome procedures. Established procedures shall be objective, transparent and proportionate.</p> <p>Information on the processing of authorization and licensing applications and on available assistance to the applicants should be made available.</p>
4.7. Renewable energy in buildings.	Contracting Parties shall introduce in their building regulation and codes appropriate measures in order to increase the share of energy from renewable sources in the building sector. The Directive sets a clear requirement to promote the use of renewable energy in public buildings.
4.8. Information and training.	Information provision and knowledge- based promotion are needed in conjunction with other policy tools as a lack of information may inhibit investment in renewable energies. Contracting Parties shall ensure that information and guidance is made available to all relevant actors (planners, architects, installers, etc.).
4.9. Guarantees of origin of electricity, heating and cooling produced from renewable energy sources.	Contracting Parties shall ensure that the origin of electricity, heating and cooling can be guaranteed as such within the meaning of this Directive. To that end, guarantees of origin should be issued in response to a request from a producer of renewable energy. A competent body has to be appointed to supervise issuance, transfer and

	<p>cancellation of guarantees of origin.</p>
<p>4.10. Access to and operation of the grids.</p>	<p>Contracting Parties shall take steps to develop transmission and distribution infrastructure, intelligent networks and storage facilities in order to allow the secure operation of the systems as it accommodate for further development of production from renewable energy sources.</p> <p>TSOs and DSOs shall be required to set up and make public their standard rules relating to bearing and sharing of costs of technical adaptations such as grid connections, grid reinforcements, improved operations of the grid and rules on the nondiscriminatory implementation of grid codes.</p>
<p>4.11. Priorities or guaranteed access.</p>	<p>Ensuring priority access to the grid is required for electricity from renewable sources. Installations generating electricity from renewable sources should have priority over plants using conventional sources when feeding electricity into the grid. This requirement is constrained by the need to avoid endangering the stability of the electricity network as Directive requires to ensure that “appropriate” grid and market operational measures are taken to enable the integration of the variable resources.</p>
<p>4.12. Sustainability criteria for biofuels and bioliquids.</p>	<p>Sustainability criteria relating to greenhouse gas performance, land use and ‘cross-compliance’ with the environmental requirements. Contracting Parties shall require from economic operators to show that the sustainability criteria as set in the Directive have been fulfilled.</p>