

IMPLEMENTATION BY ALBANIA OF THE *ACQUIS COMMUNAUTAIRE* ON RENEWABLE ENERGY, AND ENVIRONMENT WITH FOCUS TO THE ENERGY COMMUNITY

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Abstract:

Background: The Energy Community is established between the European Union and a number of third countries (Albania included) in order to extend the EU internal energy market to South East Europe and beyond. The Treaty was signed in Athens, Greece, on 25 October 2005, and entered into force on 1 July 2006. The Energy Community aims at establishing a common regulatory framework for energy markets in contracting parties by extending the *acquis communautaire* of the European Union to the territories of participating countries. It covers the relevant fields of energy, environment, and competition of the EU legislation.

Results: The Albanian Government and some relevant public institutions are drafting the Law on Renewable Energy Sources. The purpose of the law is to promote a greater contribution of renewable sources of energy to the production of electricity in the domestic energy market; to reduce the greenhouse gas emissions and protect the environment in compliance with the country's international commitments under the UNFCCC, Kyoto Protocol and to encourage and promote clean technologies for utilization of renewable energy sources.

Conclusion: In this paper, I describe the policy mechanisms and the market conditions mandated by the EU directive aimed at liberalizing the electric energy market. I then assess the role of political culture, historical resource endowment and geographical conditions in the utility restructuring strategies of some key Member States and its effects on the overall goals of a harmonized internal electric energy market. Finally, I argue that European electric energy restructuring must be understood within the context of the political and economic milieu that spawned the individual Member States' electric energy industry.

Key Words: Energy, Community, Renewable, Albania, Europe, Law, Environment.

1. Background

Albanian Economy (General)

The Albanian economy recorded a positive trend during the last three years maintaining macroeconomic stability and going on with the structural reforms aiming at advanced economic efficiency and further solid development. In general, economic developments were in line with the mid-term budget programming envisaged for economic progress. Business stimulation through facilities, fiscal incentives and administrative policies had a positive impact on business performance.

Continuous infrastructure upgrading, technology transfer and human capacity improvement gave an impetus to the overall plan of economic efficiency, which had been progressively transformed into a factor of economic growth.

Few Figures

- Real economic growth in 2008: 7.2%;
- Both average and annual inflation: 3.4 and 2.2 respectively (were the lowest in the region);
- Unemployment: fell to 12.7% and salaries increased significantly in nearly everyone sectors, including the public one;
- Current account deficit in 2008 widened to 14.9% of GDP against 10.5% in 2009;
- Exports grew by 17% and imports by 15%;
- Trade deficit in 2008 was 27.5% of GDP compared to 26.5% in 2007 due to the high share of imports;
- Imports would have been lower if not for significant import of machinery, equipment and other materials used mainly in public infrastructure investment.
- Annual decline of remittances by 12% affected current account deficit significantly¹.

However, current account deficit was generally covered by foreign capital inflows resulting in a surplus of the balance of payments. Foreign reserve increased by around 192 million EUR and foreign reserve stock was safely sufficient to cover around 4 months of imports. Despite current deficit, general external position looked more positive considering that half of the current deficit was covered from non-debt capital inflows, i.e. from foreign direct investment (FDI).

FDI inflows continued to grow considerably through 2009, despite the high increase of 86% in 2007. Net FDI grew by 36% in 2008, because of some privatization inflow and a large share from Greenfield investment in various sectors. Central government budget was executed generally in line with the forecasts. Both revenue collection and total expenditure execution were around 2.5% less than the respective forecast, resulting in a targeted fiscal deficit of 5.5% of GDP. Revenue was 1% of GDP more than the previous year, or 26.7% of GDP. Tax and customs revenue fell short of the targeted plan by only 2%.

Current expenses was 2.7% less than the forecasts and capital expenses reached 99.7%, the highest figure in the last decade, or 8.5% of GDP. The deficit of 5.5% of GDP was covered

¹ All data provided from the Albanian Ministry of Finance.

from internal debt by 1.4% of GDP, 0.5% of GDP from privatization capital and the rest of 3.3% of GDP was financed with external debt.

Real economic growth was around 4.8% in 2009, which means around 2% less than the 7% potential growth of real economy. To mitigate the negative impact of the crisis, Albanian authorities planned and started implementing a series of crisis response measures. Monetary and fiscal policies were planned in full coordination with each-other².

Energy Sector Development

The policy of the Government in the Energy Sector aims to ensure the development of a safe and competitive energy market, able to provide energy supply to all consumers and with realistic prices, in an economically and environmentally friendly way and in line with broadly accepted commercial and legal principles of the market and in accordance with the European Union Directives and the European Community Treaty too.

Main targets are defined to achieve this goal, such as the establishment of a financially and technically solid energy industry, an efficient and transparent legal and regulatory framework, the restructuring of the vertically integrated public company KESH (Albanian Power Corporation), the establishment of plain market rules, absorption of private capital and investments from experienced strategic investors, and creation of a competitive power market in line with the European Union requirements concerning electric energy sector reform (Directive 2003/54/EC).

The creation of a private energy market has been one of the main priorities of the Government policy in its vision to promote development by upholding market economy rules as an useful practice that helps improve services offered to the customer and extend investment efficiency.

2. Introduction

Energy Community

The conflicts of the 1990 led to the disintegration of a unified energy system that stretched from the Adriatic to the Aegean and Black sea. What was once a single system, after the 90's was a patchwork of many. Regardless of the frontiers drawn on maps since the conflict erupted, the separate entities still rely on each other for the smooth functioning of their power supplies.

Therefore, the South East European region needed a framework in which it can cooperate on rebuilding its energy networks, ensure the stability vital for investment, and create the conditions in which its economies can be rebuilt effectively. A regional approach to energy security offers significant advantages both in terms of improved utilization of existing supply and production capacities as well as optimizing future investments. The raison d'être of the Energy Community is to facilitate this process. Ultimately it will also support the integration of the region into the internal energy market of the European Community³.

The Energy Community (also referred as Energy Community of South East Europe (ECSEE) and European Energy Community (EEC)) is a community established between the European

² Data furnished from the Ministry of Economy, Trade and Energy.

³ **SECURITY OF SUPPLY IN THE CONTEXT OF THE ENERGY COMMUNITY** (Outline of the presentation of the Energy Community Secretariat on the occasion of a hearing at the Committee on Industry, Research and Energy of the European Parliament – Brussels, 02.04.2009)

Union (EU) and a number of third countries in order to extend the EU internal energy market to South East Europe and beyond. The Treaty establishing the Energy Community was signed in Athens, Greece, on 25 October 2005, and entered into force on 1 July 2006.

The Energy Community aims at establishing a common regulatory framework for energy markets in contracting parties by extending the *acquis communautaire* of the European Union to the territories of participating countries. It covers the relevant fields of energy, environment, and competition of the EU legislation. The Energy Community deals with electricity, natural gas, and petroleum products.

3. Objectives and Methods

Albanian Law on renewable energy sources

The Albanian Government and some relevant public institutions are drafting the Law on Renewable Energy Sources.

The main purposes of this law are to:

- promote a greater contribution of renewable sources of energy to the production of electricity in the domestic energy market;
- promote measures to attain the national indicative targets established by the Albanian Government;
- increase the diversification of the energy resources and the security of energy supply in the country;
- reduce the greenhouse gas emissions and protect the environment in compliance with the country's international commitments under the UNFCCC, Kyoto Protocol and other relevant international treaties or agreements;
- encourage and promote clean technologies for utilization of renewable energy sources.

Other important purposes of this law are the establishment of the legislative framework for the promotion of energy from renewable sources. It sets some mandatory national targets for the overall share of energy from renewable sources in gross final consumption of energy and lays down some rules relating to the guarantees of origin, streamlining licensing and permitting procedures for obtaining, connection and access to the electricity grid of power plants using renewable sources.

The National targets of renewable energy sources

A National mandatory overall target for the share of energy from renewable sources is calculated according to the rules settled by the Albanian Council of Ministers. According to the above mentioned Law, the National mandatory overall target shall be met by 2020 and shall be consistent with the Countries commitments under the UNFCCC, the Kyoto Protocol and the other relevant International legislation.

Starting from January 1, 2011, the Council of Ministers must set a yearly minimum quota of electricity produced from renewable energy sources to be injected into the national grid. The quota obligation shall apply to all producers and importers of electricity.

Each producer or importer of electricity that produced or imported, in the previous year, a certain amount of electricity generated from fossil fuels, shall be subject to the obligation to

feed a certain percentage of renewable energy in the national grid in the next year. Such a percentage shall be calculated on the amount of fossil energy produced or imported by the producer/importer in the previous year.

Every year within March 30, the producers/importers of fossil energy will submit to ERE (Energy Regulatory Entity) a self declaration on the amount of fossil energy produced or imported in the previous year.

The quota obligation set shall apply to producers and importers whose production and/or import of fossil energy exceeds 100 GWh annually. This quota shall be fulfilled either by producing or importing electricity from Renewable Energy Sources or by purchasing the green certificates as we will discuss further on.

National Renewable Energy Action Plan

The Ministry of Energy in cooperation with the Ministry of Environment, Forest and Water Resources, Ministry of Public Works, Transport and Telecommunication and Ministry of Agriculture and Food shall, within December 31, 2010, develop a National Renewable Energy Action Plan.

The National Renewable Energy Action Plan must set out the national targets for the share of energy from renewable sources consumed in electricity, transport and heating and cooling in 2020, taking into account the effects of other policy measures relating to energy efficiency on final consumption of energy, the respective estimated trajectories for the share of energy from renewable in electricity, transport and heating and cooling, and adequate measures to be taken to achieve the national overall target, including cooperation of national authorities and institutions with local and regional authorities.

The National Renewable Energy Action Plan will be approved by the Council of Ministers.

The Minister of Energy, within September 30th of each year starting from 2011, shall submit to the Council of Ministers and the Parliamentary Committee on Productive Activities and Environment a detailed report on the implementation of the National Renewable Energy Action Plan and the respective targets set.

Measures for the use of energy from renewable sources

The Council of Ministers is authorized to introduce measures effectively designed to ensure that the share of energy from renewable sources equals or exceeds the one set in the National Renewable Energy Action Plan.

In order to reach the targets, in addition to the incentives provided for by the law that we are disusing, the Council of Ministers may apply the following measures:

- a) other support schemes in addition to the incentives provided for by the provisions of this law and Article 2 of the law no. 8987, date 24.12.2002 “On establishing of facilities for construction of new power generation capacities”;
- b) measures of cooperation with any EU member state for achieving their national overall targets in accordance with EU Acquis Communautaire.

Information and training

The Ministry of Energy or any subordinated institution as may be authorized, shall ensure that information on support measures is made available to all relevant factors, such as consumers, builders, installers, architects, and suppliers of heating, cooling and electricity equipment and systems compatible with the use of energy from renewable sources.

The Ministry of Energy or any subordinated institutions as may be authorized, shall develop suitable information, awareness-raising, guidance or training programs in order to inform citizens on the benefits and practicalities of developing and using energy from renewable sources.

Renewable energy fund

The Council of Ministers shall, within 12 months from the date the draft law becomes effective, adopt a Decree establishing a renewable energy fund.

The Fund shall be financed by:

- Annual contribution from the State Budget;
- Grants and financings from donor and international institutions;
- Every other income or interest coming from deposits or investments of the Fund's money;
- Private contributions.

The Fund shall be used for:

- financing projects and studies for identification of the renewable energy potentials in the country;
- financing projects that support the use of renewable energy sources, providing incentives for them;
- testing and monitoring of the new technologies utilizing energy from renewable sources;
- financing awareness campaigns for the use of renewable energy sources.

A person that benefits the feed-in tariff system or from the green certificate market as we will explain below shall not benefit any financing from the renewable energy fund.

Management of renewable energy fund

The renewable energy fund will be managed by a Committee subordinated to the Ministry responsible of energy composed by five members with experience and knowledge in the field of renewable energy sources appointed by Minister responsible for energy.

The Committee shall function according to a regulation approved by the Council of Ministers. The Fund has its own budget, which is defined every year by the Committee and it depends on the approval of the Minister responsible for energy.

The budget covers the financial program of the Fund for every financial year, which starts on the 1st of January and ends on the 31st of December.

The Committee has the authority and the duty to propose to the Minister responsible for energy the areas and activities financed through the fund, in order to achieve the goals of this law.

More specifically the Committee will propose:

- a. financing or subsidizing, always according to the conditions and the prerequisites that are defined by the programs, different activities, which have as a goal to encourage the use of renewable energy sources;
- b. examination, evaluation, and selection of applications for subsidizing or financing of the programs and activities;
- c. making every necessary expense, relevant to the goals of the Fund;
- d. development, either alone or in co-operation with any legal or natural person, every other complementary or helpful activity, in order to achieve the goals of the Fund.

Promotion of electricity production from renewable sources

The Council of Minister will adopt a Decree introducing a one-stop shop licensing center for power producers using renewable sources.

The structure, functions and the procedures of the one-stop shop licensing center for power producers using renewable sources shall be approved by the Council of Ministers.

For power producers using renewable energy sources with installed capacity no larger than 15 MW, the ERE is authorized to adopt simplified licensing procedures applying the criteria set forth in the law no.9072, date 22.05.2003 “On power sector” as amended.

Connection to grid

Grid system operators will, determine according to the requirements of the Transmission or Distribution Code, the connection point to their systems.

Grid system operators shall reinforce/upgrade their systems for connection and transmission of electricity from new power plants using Renewable Energy Sources, in line with the National Strategy of Energy, the Renewable Energy Action Plan or any other government policy document that will be in force.

The date of entry into operation of a power producer using renewable energy sources is the earliest date from which all the following conditions are met:

- a. The power producer is connected in parallel with the electricity system;
- b. The relevant power purchase contracts for sale of the electricity are effective;
- c. All the obligations with respect to the control of the access to grids are met.

Obligation to purchase the electricity produced from renewable energy sources

The Wholesale Public Supplier or the subsequent entity as may be determined by the Albanian Electricity Market Model shall be obliged to purchase the electricity output from:

- any producer of electricity from renewable energy sources connected to the distribution network despite their installed capacity;
- from hydropower producers with installed capacity not larger than 15 MW, wind power producers with installed capacity no larger than 20 MW and power producers using other renewable energy sources with installed capacity no larger than 25 MW connected to transmission network.

4. Results

Feed-in tariffs

One of the most important news to be introduced by the new Law will be the *Feed in tariffs*. The ERE shall determine the purchase prices of electricity produced from renewable sources, which decide to enter into a power purchase agreement with the Wholesale Public Supplier for the subsequent calendar year in advance, separately for the individual types of renewable sources.

The feed in tariff is a policy mechanism designed to encourage the adoption of renewable energy sources and to help accelerate the move toward grid parity.

It typically includes three key provisions:

1. guaranteed grid access,
2. long-term contracts for the electricity produced, and
3. purchase prices that are methodologically based on the cost of renewable energy generation and tend towards grid parity. Under a feed-in tariff, an obligation is imposed on regional or national electric grid utilities to buy renewable electricity, from all eligible participants.

The cost-based prices therefore enable diversity of projects (wind, solar, etc.) to be developed, and for investors to obtain a reasonable return on renewable energy investments. This principle was first explained in Germany's 2000 Renewable Energy Sources Act:

“The compensation rates...have been determined by means of scientific studies, subject to the provision that the rates identified should make it possible for an installation – when managed

efficiently – to be operated cost-effectively, based on the use of state-of-the-art technology and depending on the renewable energy sources naturally available in a given geographical environment.” (RES Act 2000, Explanatory Memorandum A).

As a result, the rate may differ among various source of power generation, installation place (e.g. rooftop or ground-mounted), projects of different sizes and, sometime, by technology employed (solar, wind, geothermal, etc.). The rates are typically designed to ratchet downward over time to track technological change and overall cost reductions. This is consistent with keeping the payment levels in line with actual generation costs over time.

In addition, FITs typically offer a guaranteed purchase for electricity generated from renewable energy sources within long-term (15–25 year) contracts. These contracts are typically offered in a non-discriminatory way to all interested producers of renewable electricity.

As of 2009, feed-in tariff policies have been enacted in 63 jurisdictions around the world, including in Australia, Austria, Belgium, Brazil, Canada, China, Cyprus, the Czech Republic, Denmark, Estonia, France, Germany, Greece, Hungary, Iran, Republic of Ireland, Israel, Italy, the Republic of Korea, Lithuania, Luxembourg, the Netherlands, Portugal, Singapore, South Africa, Spain, Sweden, Switzerland, and in some (nowadays, a dozen) states in the United States, and is gaining momentum in other ones as China, India and Mongolia.

In 2008, a detailed analysis by the European Commission concluded that "well-adapted feed-in tariff regimes are generally the most efficient and effective support schemes for promoting renewable electricity", going to grid parity. This conclusion has been supported by a number of recent analyses, including by the International Energy Agency the European Federation for Renewable Energy, as well as by Deutsche Bank.

The Renewable Energy Guarantees of Origin

REGOs are electronic certificates attaching to electricity produced from renewable sources. These were introduced on 27 October 2003 in response to the Renewable Directive - EU Directive 2001/77/EC Article 5. The purpose of this Directive is to promote an increase in the contribution of renewable energy sources to electricity production in European Member States.

Article 5 of the Directive requires Member States to ensure that a Guarantee of Origin is issued, on request, in respect of electricity produced from renewable energy sources. REGOs may be known as GoOs (Guarantees of Origin) in other EU Member States.

The Electricity (Guarantees of Origin of Electricity Produced from Renewable Energy Sources) Regulations 2003 set out the requirements for the issue, transfer and revocation of REGOs in Great Britain.

REGOs are issued as evidence that the electricity was generated from a ‘renewable source’ (as defined in the legislation) with one REGO representing one kilowatt/hour of electricity.

On 18 March 2005, under the Electricity (Fuel Mix Disclosure) Regulations 2005, a new standard licence condition (SLC 30A) was introduced into electricity supply licences.

The new licence condition obliges electricity suppliers to give their customers details of the mix of fuels used to produce the electricity supplied to them. Suppliers must show this on their bill, together with certain environmental information.

REGO/GoOs issued by a recognised body from one of 25 EU Member States are the primary evidence for the identification of supply as coming from a renewable source.

In Albania the ERE is the responsible body for issuing the REGO upon the request of an electricity producer who has received a prior technical qualification of renewable energy plant by the ERE. Guarantees of Origin shall be issued based on adequate data and precise

information provided by the producer to certify the origin of electricity as well as certified measurement data from the System Operator. A guarantee of origin shall be of standard size of 1 MWh.

The ERE will keep a register in electronic format and hard copy of guarantees of origin. This register shall be used to record guarantees of origin issued, the particulars they contain and all information relating to amendment or withdrawal thereof. Any interested party shall be entitled to freely access this register.

Assurance mechanism

In order to ascertain that the conditions for issuing Guarantees of Origin have been met and that the data and information on the basis of which they are issued is correct, the issuing body and persons authorized by it, without prejudice to observance of business secrets, shall have free access to the relevant production plant and all data and information relating to that plant. The power producer is obliged to facilitate the work of the issuing body and persons authorized by it.

Green Certificates

A Green Certificate - terminology used in Europe - also known as Renewable Energy Certificates (RECs) in the USA, are a tradable commodity proving that certain electricity is generated using renewable energy sources. Typically one certificate represents generation of 1 Megawatt/hour of electricity. What is defined as "renewable" varies from certificate trading scheme to trading scheme.

Green certificates represent the environmental value of renewable energy generated. The certificates can be traded separately from the energy produced. Several countries use green certificates as a mean to make the support of green electricity generation closer to a market economy instead of more bureaucratic investment support and feed-in tariffs. Such national trading schemes are in use in e.g. Poland, Sweden, the UK, Italy, Belgium (Wallonia and Flanders), and some US states.

In Albania with new law on the Renewable Energy the production of electricity with an average annual nominal power exceeding 1MW, is supported by the issuance of green certificates for a period of 15 years.

The ERE shall, upon the request of a power producer whose plant complies with the requirements of the Law and has been recognized the technical qualification of renewable energy source, issue green certificates.

International cooperation on Guarantees of Origin and Green Certificate system

A guarantee of origin of electricity produced from renewable energy sources issued in any Member State of the European Union will also be recognised in Albania.

The Council of Ministers or the Ministry responsible for energy may enter in agreement with any of EU member states or any contracting party of the Energy Community South East Treaty for mutual recognition of the Guarantees of Origin and Green Certificates for the purposes of measuring compliance with the requirements of the law concerning national overall targets for renewable energy sources.

5. Conclusion

The inconvenient truth about climate change has begun to set in, however for those with foresight this has been a driver for the development of clean and renewable energy technologies. With the growth in international outcry on the adverse impact of global warming, clean energy is a major consideration in the energy landscape of the future. Although a small country, Albania still has a responsibility to environmental sustainability, furthermore Albania's interests in clean and sustainable energy solutions are also driven by the need for energy security, i.e., less dependence on traditional fossil fuel sources. To this end, the Albanian Government has started making concrete steps towards the implementation of new policies on energy. Among the strategies outlined included achieving greater energy efficiency and diversification, where the government plans to reduce the energy intensity⁴. However, Albania is also cognizant that these efforts should not diminish energy competitiveness to ensure there is sustainable economic growth for the Nation.

The countries of the European Union are currently the global leaders in the development and application of renewable energy. Promoting the use of renewable energy sources is important both to the reduction of the EU's dependence on foreign energy imports, and in meeting targets to combat global warming. Germany and the United Kingdom however, are currently the only members of the EU that are on track to achieve the objectives set by the Kyoto Protocol on climate change.

The Maastricht Treaty set an objective of promoting stable growth while protecting the environment. The Amsterdam Treaty added the principle of sustainable development to the objectives of the EU. Since 1997, the EU has been working towards a renewable energy supply equivalent to 12% of the total EU's energy consumption by 2010.

The Johannesburg Summit failed to introduce the radical changes targeted for ten years after the Rio Summit. No specific goals were set for the energy sector, which disappointed many countries. While the EU had proposed an annual increase in the use of renewable energy at a rate of 1.5% worldwide until 2010, Johannesburg's action plan did not recommend such a "substantial" increase, with no concrete goals nor dates being set.

The EU was unwilling to accept this result and with other nations formed a group of "pioneer countries" that promised to establish ambitious national or even regional goals to achieve global targets. The Johannesburg Renewable Energy Coalition (JREC) has a total of more than 80 member countries; the EU members, Brazil, South Africa and New Zealand amongst them.

In the European Conference for Renewable Energy in Berlin in 2004, the EU defined ambitious goals of its own. The conclusion was that by 2020, the EU would seek to obtain 20% of its total energy consumption requirements with renewable energy sources. Up until that point, the EU had only set targets up to 2010, and this proposal was the first to represent the EU's commitment up to 2020.

EU leaders reached agreement in principle in March 2007 that 20 percent of the bloc's energy should be produced from renewable fuels and by 2020 as part of its drive to cut emissions of carbon dioxide. Renewables now account for less than 7 percent of the EU energy mix. In a special report, the European Parliament said that to give the legislation teeth, it should contain binding renewable energy targets for particular sectors -- electricity, heating and transport -- rather than just a general goal. The parliament said it would resist any attempt to treat nuclear energy as a substitute for renewables.

⁴ **Energy intensity** is a measure of the energy efficiency of a nation's economy. It is calculated as units of energy per unit of GDP.