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**FINAL**

The Tirana Declaration

The Permanent High Level Group,

Having regard to the Athens Memoranda of 2003 and 2002, and the Ministerial Council Conclusions of 8/12/2003, regarding the creation of a Regional Energy Market,

Have resolved to establish an independent advisory group on electricity and gas, called the "South East European Regulators Board for Electricity and Gas";

Submits for approval "the Ministerial Council Decision on establishing the South East European Regulators Board for Electricity and Gas" to the Ministerial Council.

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## **Ministerial Council Decision**

### **on establishing the South East European Regulators Board for Electricity and Gas**

#### **“The Tirana Declaration”**

The Ministerial Council of the South East Europe Regional Energy Market - REMSEE,

Having regard to

the Athens Memoranda of 2003 and 2002, and

the Ministerial Council Conclusions of 8/12/2003

regarding the creation of a Regional Energy Market,

Whereas:

- (1) Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC<sup>1</sup>, Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC<sup>2</sup> and Regulation (EC) 1228/2003 of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity<sup>3</sup> establish a new regulatory framework for the internal markets for electricity and gas, that is to be transposed to the region of South East Europe.
- (2) Signatories to the Athens Memoranda are required under the Directives 2003/54/EC and 2003/55/EC to designate one or more competent bodies with the function of

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<sup>1</sup> OJ L 176, 15.7.2003, p. 37

<sup>2</sup> OJ L 176, 15.7.2003, p. 57

<sup>3</sup> OJ L 176, 15.7.2003, p. 1

regulatory authorities, to carry out the regulatory tasks specified in those directives. These regulatory authorities have to be wholly independent from the interests of the electricity and gas industry.

- (3) The detailed responsibilities and tasks of the competent regulatory authorities are likely to differ between Signatories of the Athens Memoranda, but all Signatories of the Athens Memoranda will have to designate at least one regulatory agency to apply the rules of the new regulatory framework once they have been transposed into applicable law, in particular those concerning day to day supervision of the market.
- (4) Directives 2003/54/EC and 2003/55/EC establish objectives to be achieved and provide a framework for action at state level, but give flexibility in certain areas to apply the rules in the light of specific conditions. Consistent application of the relevant rules in all Signatories of the Athens Memoranda is essential for the successful development of the regional energy market.
- (5) As regards common approaches to issues relevant to cross-border transactions, the European Electricity Regulatory Forum and the European Gas Regulatory Forum and the Forum of the REEMSEE have made important contributions. Whilst the three Fora will remain important as comprehensive discussion platforms involving all players from government, regulators and industry, it is now necessary to give regulatory co-operation and co-ordination a more formal status, in order to facilitate the completion of the regional energy market.
- (6) In those circumstances, a “South East European Regulatory Board for Electricity and Gas” should be established to facilitate consultation, co-ordination and co-operation between the regulatory bodies in Signatories of the Athens Memoranda, and between these bodies and the European Commission, with a view to consolidating the regional market and ensuring the consistent application in all Signatories of the Athens Memoranda of Directives 2003/54/EC and 2003/55/EC and Regulation (EC) 1228/2003.
- (7) The members of the South East European Regulatory Board for Electricity and Gas should comprise the heads or their representatives of the competent authorities in the

field of electricity and gas regulation in the Signatories of the Athens Memoranda. The European Commission should be represented at a high level.

- (8) The South East European Regulatory Board for Electricity and Gas should maintain through the European Commission close co-operation with the Committees established under Article 30 of Directive 2003/55/EC and Article 13 of Regulation (EC) 1228/2003. Its work should not interfere with the work of those Committees.

HAS DECIDED AS FOLLOWS:

*Article 1*

**Subject matter and activities**

1. An independent advisory Board on electricity and gas, called the "South East European Regulators Board for Electricity and Gas" (hereinafter referred to as the "Board"), is hereby established by the Ministerial Council.
2. The Board shall advise and assist the European Commission in proposing detailed statutory, technical and regulatory rules, with the aim of consolidating the regional energy market, in particular with respect to the preparation of draft implementing measures in the field of electricity and gas, and on any matters related to the regional market for electricity and gas. The Board shall facilitate consultation, co-ordination and co-operation of competent regulatory authorities, contributing to a consistent application, in all Signatories of the Athens Memoranda, of the provisions set out in Directive 2003/54/EC, Directive 2003/55/EC and Regulation (EC) 1228/03, as well as of possible future Community legislation in the field of electricity and gas.

The Regulatory Board shall advise and assist on:

- Ensuring a level playing field in the regional energy market by monitoring the regional electricity market and issuing recommendations to competent authorities and the EC;

- The supervision of the integration and compatibility of the regulatory approach throughout the region and making recommendations to the competent regulators with respect to the strengthening of the independence of State Energy Regulators;
- Monitoring issues of regional security of supply, recommending measures to improve security of supply and giving an opinion on the regional investment optimisation plan;
- Drawing up common guidelines on market design, minimum recommended harmonization of authorization and licensing procedures and other market issues, through co-operation with competent authorities and the European Commission Secretariat.
- Collaborating with the competent authorities and the European Commission's Secretariat when making proposals on the Regional Energy Market Design, its implementation and changes;
- Monitoring the progress achieved with respect to infrastructure projects having a regional dimension;
- Reviewing regional technical bodies tasked with the operation of the regional market, if and when these bodies are established;
- Issuing recommendations as regards identifying the competent state regulator in cross border disputes, and issue an opinion in the event of a cross-dispute if it is requested by the competent regulatory authority;

## *Article 2*

### **Membership of the Board**

1. The Board shall be composed of the heads of the competent regulatory authorities or their representatives.

2. For the purpose of this Decision “competent regulatory authority” means a public authority established in a Signatory State pursuant to the Athens Memoranda, according to which Signatories shall designate one or more competent bodies with the function of regulatory authorities, to ensure non-discrimination, effective competition and the efficient functioning of the gas and electricity market and in particular to oversee the day-to-day application of the provisions of Directives 2003/54/EC and 2003/55/EC and Regulation (EC) 1228/03 in that respect.
3. Until 31<sup>st</sup> December 2004, if a Signatory of the Athens Memoranda has not designated one or more competent bodies with the function of regulatory authorities, that Signatory of the Athens Memoranda shall be represented in the Board by a representative of another competent public authority.
4. The European Commission shall be present at the meetings of the Board and shall designate a high-level representative to participate in all its debates.

### *Article 3*

#### **Organisation of the Board**

1. The Board shall elect a chairperson from among its members.
2. The Board may set up expert working groups to study specific subjects, on the basis of a mandate and as it deems appropriate.
3. The European Commission may attend all meetings of such expert working groups.
4. Experts from observer states to the Athens Memoranda may attend the meeting of the Board as observers. The Board and the European Commission may invite other experts and observers to attend its meetings.
5. The Board shall adopt its rules of procedure by consensus, or in the absence of consensus, by a two-thirds majority vote, one vote being expressed per Signatory, subject to the approval of the European Commission.
6. The European Commission shall provide the secretariat of the Board.

7. A permanent base for the Regulators Board will be decided by the Ministerial Council within the context of the Athens Memoranda.
8. The Board shall submit an annual report of its activities to the European Commission. The European Commission shall transmit the annual report to the National Parliaments or democratic institutions of the Signatories of the Athens Memoranda, the Permanent High Level Group and to the Ministerial Council, where appropriate with comments.

#### *Article 4*

#### **Consultation**

The Board shall consult extensively and at an early stage with market participants, consumers and end-users in an open and transparent manner.

#### *Article 5*

#### **Confidentiality**

In principle, discussions at the Board are confidential. The Chairperson may decide that only members of the Board may be present at meetings. Where the European Commission informs the Board that the advice requested or the question raised is not of a confidential nature, members of the Board as well as observers and any other person may disclose information which has come to their knowledge through the work of the Board or its working groups.

#### *Article 6*

#### **Entry into force**

1. This Decision shall enter into force one month after its adoption by the Ministerial Council.
2. The Board shall take up its duties on the date of entry into force of this Decision.

Done at [...]