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Proposal for a

**COUNCIL DECISION**

**on establishing the European Union position within the Ministerial Council of the  
Energy Community (Chişinău, 6 October 2011)**

## EXPLANATORY MEMORANDUM

### **1. CONTEXT OF THE PROPOSAL**

The Ministerial Council of the Energy Community will meet on 6<sup>th</sup> October 2011 in Chişinău (Republic of Moldova).

The position of the European Union on the decisions that are on the agenda for this meeting needs to be established pursuant Article 218, paragraph 9, of the Treaty on the functioning of the European Union and in accordance with the provisions of Council Decision 2006/500/EC of 29 May 2006 on the conclusion by the European Community of the Energy Community Treaty.

Under Article 6 of Decision 2006/500/EC, the position of the European Union must be expressed by the representative of the European Commission within the Ministerial Council.

This Proposal for a Council Decision covers all agenda items for which a decision by the Ministerial Council is expected.

### **2. BUDGETARY MATTERS**

#### **2.1 Approval of the financial management for 2010**

The European Union must approve the Director's financial discharge for 2010 on the basis of the Audit Report of 31 December 2010, the Budget Committee Report on Audit for 2010 and the Director's Report on Execution of the Budget.

#### **2.1.2. Approval of the budget and financial contributions for the period 2012 – 2013**

The European Union must approve the budget for 2012-2013, subject to the approval of the corresponding appropriations by the budget authority for both years. This budget is consistent with the Commission's proposal, adopted by the Commission Decision of 20 June 2011.

The total budget must not exceed €3230000 for 2012 and €3342200 for 2013. These amounts represent a decrease (-4% and -1%, respectively) compared with the budget approved for 2011, and are based on the lessons learnt from the actual utilisation of the previous budget.

The European Union must agree to the Energy Community taking on two additional members of staff in 2012 (one administrative and financial assistant and one expert on EU environmental policy and climate change) and one additional staff member in 2013.

The European Union must also agree to the amendments to Annex IV of the Energy Community Treaty, which details the budget contributions from the European Union and from each Contracting Party. Following the accession of Moldova and Ukraine to the Energy Community, all contributions will be changed; this should mean a reduction in the European Union's total contribution.

## **2.2. LEGISLATIVE DEVELOPMENTS**

### **2.2.1. Implementation of the ‘Third Package’ (internal market for electricity and gas)**

The European Union must approve the Ministerial Council Decision on the implementation by the Energy Community of Directive 2009/72/EC, Directive 2009/73/EC, Regulation (EC) No 714/2009 and Regulation (EC) No 715/2009.

The adaptations contained in the Ministerial Council Decision, under Article 24 of the Energy Community Treaty, are in line with those proposed in the Commission's decision of 6 May 2011 (C(2011) 3013 final).

The EU must also approve amendments to the Energy Community Treaty, in line with the negotiating mandate set out in Council Decision of 28 June 2011. It is understood that amending the Treaty is not an essential part of the decision on the Third Package and could be decided at a later stage.

### **2.2.2. Adoption of delegated acts on Energy Efficiency (‘labelling’)**

The Ministerial Council decisions on adopting the basic EU legislation on energy efficiency (Ministerial Council Decision 2009/05-MC-EnC of 18 December 2009, as amended by Decision 2010/02-MC-EnC in September 2010) included a dynamic clause whereby the Energy Community will implement delegated acts adopted by the Commission on the basis of Directive 2010/30/EU<sup>1</sup>.

This dynamic procedure for adopting delegated regulations on energy efficiency implies that the relevant acts must be put on the agenda of the next meeting of the Ministerial Council following their adoption and notification by the European Commission. At that meeting the Ministerial Council has the opportunity to object to the application of a delegated act to the Contracting Parties of the Energy Community. If, at that meeting, the Ministerial Council has not objected to the delegated act, it will become binding on the Contracting Parties, subject to possible adaptation.

The European Union must approve the Energy Community’s adoption of the delegated regulations on the energy labelling of household dishwashers, washing machines, refrigerating appliances, televisions and household refrigerating appliances<sup>2</sup>.

## **2.3. POLICY DOCUMENTS**

### **2.3.1. Adoption of the Energy Community Work Programme for 2012-2013**

The European Union must approve the Energy Community Work Programme for 2012-2013, as proposed by the Secretariat and endorsed by the Permanent High Level Group (PHLG) on 29 June 2011.

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<sup>1</sup> Directive 2010/30/EU of the European Parliament and of the Council of 19 May 2010 on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products

<sup>2</sup> It concerns the four Commission Delegated Regulations adopted on 28 September 2010, supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of household dishwashers, household washing machines, televisions and household refrigerating machines.

This Work Programme represents the continuation of the work carried out in the past and covers all areas of activity. It places particular emphasis on the energy regulators' work in the field of implementation and cooperation. It also takes into consideration future work on completing the internal market for electricity and gas (by implementing the 'third package') and on statistics and security of supply through the planned implementation of the oil stocks Directive and the Regulation on Security of Gas Supply.

### **2.3.2. Adoption of an Implementation Plan for Gas Infrastructure Development in the Energy Community**

The Energy Community Gas Ring concept has been extensively discussed in the Energy Community institutions, at the highest level (Ministerial Debate, Skopje September 2010) and in the context of a meeting held in June 2010 between the PHLG and the Energy Community Regulatory Board (ECRB). The ECRB is moreover working on the regulatory instruments for promoting the Gas Ring.

The European Commission has made a political decision to prioritise the development of the Energy Community Gas Ring<sup>3</sup>.

The development of a Gas Ring would help the Contracting Parties achieve two key objectives. The first is to increase the share of gas in their respective power generation mix and thus satisfy an increasing power demand. The second is to comply with their environmental obligations within the Energy Community framework.

A large-scale gas pipeline infrastructure project like this one calls for extraordinary efforts in technical, financial and regulatory fields across the whole region. Last but not least, it requires strong political will and support.

The European Union must call on the Ministerial Council to make a political commitment to advance rapidly on the Gas Ring concept, in line with the 'non paper' presented by the Commission at the meeting of the Permanent High Level Group in Vienna, on 29 June 2011.

## **3. ARMENIA — ACCEPTANCE AS AN OBSERVER**

The Energy Community Treaty states that 'upon a reasoned request of a neighbouring third country, the Ministerial Council may, by unanimity, accept that country as an Observer' and 'Observers may attend the meetings of the Ministerial Council, the Permanent High Level Group, the Regulatory Board and the Fora, without participating in the discussions' (Article 96).

In May 2010, Armenia asked to become an observer. In July 2010, it sent the Secretariat a detailed justification for this request, referring in particular to security of supply and diversification, and to the importance of international cooperation. Armenia also mentioned other initiatives in which it is playing an active part (Inogate, ENP, Eastern Partnership).

The Ministerial Council was formally informed of this application at its annual meeting on 24 September, but took no decision.

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<sup>3</sup> REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL under Article 7 of Decision 2006/500/EC (Energy Community Treaty)  
[http://ec.europa.eu/energy/gas\\_electricity/community/doc/20110310\\_report\\_en.pdf](http://ec.europa.eu/energy/gas_electricity/community/doc/20110310_report_en.pdf)

The European Union must agree that Armenia be accepted as an observer.

#### **4. OTHER DECISIONS**

##### **4.1. Work of Task Forces**

The work of the existing tasks forces will be reviewed at the meeting of the Ministerial Council, which will take note of the reports on their activities and decide on their future work, as follows:

- Renewables Task Force. Its mandate must be extended by one year, to help Contracting Parties implement Directive 2009/28 (on the basis of the 2010 Recommendation from the Ministerial Council and of a future binding decision).
- Energy Efficiency Task Force. Its mandate must be extended by one year, to assist with the implementation of the relevant directives and delegated regulations.
- Environment Task Force. An oral report is expected on what the Task Force has been doing since it was set up in May 2011 (no decision).
- Regional Strategy Task Force. The Ministerial Council is expected to endorse the concept of a Task Force charged with preparing a Regional Strategy and Investment Plan.

##### **3.2. Dispute settlement — Appointment of an Advisory Committee**

The Advisory Committee is an intermediate step before the Ministerial Council declares that a Party is in breach of its obligations. This Advisory Committee is provided for in Article 32 of Procedural Act n° 2008/01/MC-EnC, of 27 June 2008 on the Rules of Procedure for Dispute Settlement under the Treaty.

The members appointed in 2009 came to the end of their term of office in June 2011. The Ministerial Council must therefore appoint members of the Advisory Committee for a new term of two years.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 218, paragraph 9 thereof,

Having regard to Council Decision 2006/500/EC of 29 May 2006 on the conclusion by the European Community of the Energy Community Treaty, and in particular Articles 4 and 5 thereof,

Having regard to the proposal from the European Commission,

HAS DECIDED AS FOLLOWS:

*Sole Article 1*

In view of the meeting of the Ministerial Council of the Energy Community to be held in Chişinău on 6 October 2011, the position of the European Union regarding the issues falling under the scope of Article 218, paragraph 9, of the Treaty is set out in the Annex to this Decision.

Done at Brussels,

*For the Council  
The President*

**ANNEX**  
**European Union position**

- The European Union approves the financial discharge of the Director of the Energy Community Secretariat for 2010.
- The European Union approves the Budget for 2012-2013, subject to approval by the budget authority of the corresponding appropriations for both years.
- The European Union approves the amendments to Annex IV of the Energy Community Treaty, concerning the contributions of the parties to the Energy Community Budget.
- The European Union approves the implementation by the Energy Community of Directive 2009/72/EC, Directive 2009/73/EC, Regulation (EC) No 714/2009 and Regulation (EC) No 715/2009.
- The European Union approves amendments to the Energy Community Treaty, in line with Council Decision of 28 June 2011 authorising the Commission to negotiate on behalf of the European Union amendments to the Energy Community Treaty.
- The European Union approves the adoption by the Energy Community of the 2011 Delegated Regulations on the energy labelling of household dishwashers, washing machines, refrigerating appliances, televisions and household refrigerating appliances.
- The European Union approves the Energy Community Work Programme for 2012-2013.
- The European Union approves the Implementation Plan on Gas Infrastructure Development in the Energy Community
- The European Union approves the acceptance of Armenia as an observer to the Energy Community.
- The European Union approves the setting up of a Regional Strategy Task Force.
- The European Union approves the appointment of the members of the Dispute Settlement Advisory Committee.