



EUROPEAN COMMISSION

Brussels, 19.9.2012
COM(2012) 532 final

2012/0254 (NLE)

Proposal for a

COUNCIL DECISION

**on establishing the European Union position within the Ministerial Council of the
Energy Community (Budva, 18th October 2012)**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The 10th Ministerial Council of the Energy Community will take place on 18th October 2012 in Budva (Montenegro).

The position of the European Union on the decisions that are on the agenda for this meeting needs to be established pursuant to 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 (hereafter the 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 or which require taking an EU position. The Commission considers that other items on the agenda of the Ministerial Council do not require guidance for statement by the European Union, as referred to in the Working methods with respect to the preparation of meetings of the Energy Community Ministerial Council agreed between the services of the Commission and the Council (14623/07).

2. DRAFT ANNOTATED AGENDA

2.1. "A points" (No discussion)

The Commission shall approve the Director's financial discharge for 2011 on the basis of the Audit Report of 31st December 2011, the Budget Committee Report on Audit for 2011 and the Director's Report on Execution of the 2011 Budget.

The Commission shall approve the Annual Report on the activities of the Energy Community to the European Parliament and to the Parliaments of the Adhering Parties and of the Participants, foreseen in Article 52 of the Treaty.

The Commission shall take note of the other reports presented under this Agenda item.

2.2. Implementation of the Treaty

The Commission shall take note on the Secretariat's Report on the implementation of the Treaty, which includes a first assessment of Moldova and Ukraine, as newest Contracting Parties.

The Commission will also take note of the Report on dispute settlement. It will take note of the progress achieved on the open cases and will further support the Secretariat's efforts in view of finding negotiated solutions.

The Commission shall moreover propose the inclusion of the following wording in the Ministerial Council conclusions: "The Ministerial Council took note that Moldova and Ukraine, which joined the Energy Community in 2010 and 2011, may need longer than the deadline of 1st January 2016 to implement Article 9 of Directive 2009/73/EC¹"

¹ Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC

2.3. Statistics

The Commission shall approve the draft Ministerial Council Decision concerning the implementation of the rules of energy statistics in the Energy Community, by which the Contracting Parties agree to implement, not later than 31st December 2013, Regulation (EC) No 1099/2008² on energy statistics and Directive 2008/92/EC³ concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users.

This draft Ministerial Council Decision is based on Article 100(ii) of the Treaty and does not include any specific adaptation for the Contracting Parties. A formal Commission's proposal under Article 79 of the Treaty was therefore not deemed necessary. This decision requires unanimity. Should the unanimity not be reached on the proposed deadline of 31st December 2013, the Commission could accept to delay the implementation deadline to 31st December 2015 at the latest.

Considering that sound, reliable, comparable and consistent energy statistics are essential for monitoring the effectiveness of energy policies, the adoption of these basic EU rules should not be delayed unnecessarily, especially in view of the expected application of the cooperation mechanisms on renewable energy between EU Member States and Contracting Parties.

2.4. Oil stocks

The Commission shall approve the draft Ministerial Council Decision on the implementation of Directive 2009/119/EC⁴ imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products, by which Contracting Parties commit to implement this Directive not later than 1st January 2020.

This draft Ministerial Council Decision is based on Article 100(ii) of the Treaty and does not include any specific adaptation for the Contracting Parties. A formal Commission's proposal under Article 79 of the Treaty was therefore not deemed necessary. This decision requires unanimity.

Should the unanimity not be reached on the proposed deadline of 1st January 2020, the Commission could accept to delay the implementation deadline to 1st January 2023 at the latest. In case none of the two options reach the unanimous agreement, the Commission could accept to postpone the formal adoption of the draft Ministerial Council Decision while proposing the inclusion of a political statement in the Ministerial Council conclusions encouraging Contracting Parties to take the necessary steps for building the necessary oil stocks reserves and inviting the Energy Community Secretariat to continue its support to Contracting Parties in this area.

² Regulation (EC) No 1099/2008 of the European Parliament and of the Council of 22 October 2008 on energy statistics

³ Directive 2008/92/EC of the European Parliament and of the Council of 22 October 2008 concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users (recast)

⁴ Council Directive 2009/119/EC of 14 September 2009 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products

2.5. Renewable Energy Sources

The Commission shall approve the draft Ministerial Council Decision on the implementation of Directive 2009/28/EC⁵, upon which Contracting Parties commit to implement the Directive by 1st January 2014.

The adaptations contained in the Ministerial Council Decision, under Article 24 of the Treaty, are largely in line with those proposed in the Commission Decision of 19th March 2012. Some amendments were introduced following the discussions at the 25th meeting of the Permanent High Level Group, as follows:

- Reporting deadlines are adapted in line with the general implementation deadline.
- Article 16 (“Review based on the experience”) has been amended to give the possibility of drawing consequences from progress in compliance with the requirements of EUROSTAT methodology for energy statistics.

No agreement was reached at the meeting of the Permanent High Level Group on the Contracting Parties targets for the share of energy from renewable sources in their gross final energy consumption and on the share of energy from renewable sources in all forms of transport in 2020, which will need to be agreed at the meeting of the 10th Ministerial Council.

The Commission can agree on an overall correction of the targets for the share of energy from renewable sources taking into account a shorter period of implementation of the Directive. Such correction should take into account the non-linear nature of the EU's trajectory for target fulfilment.

The Commission shall also approve amendments to the Treaty, in line with the Council Decision of 28 June 2011 to authorise the Commission to negotiate on behalf of the European Union amendments to the Energy Community Treaty.⁶

This decision requires unanimity.

2.6. Energy Strategy

The Commission shall approve the Energy Strategy of the Energy Community, which results from the work of the Energy Strategy Task Force and takes into account comments made by the Contracting Parties and by the Commission on behalf of the European Union.

The Commission shall approve the extension of the mandate of the Energy Strategy Task Force till June 2013. The Energy Strategy Task Force should be tasked with the screening and identification of Projects of Energy Community interest and with the identification of possible policy measures aiming at fostering the development of the future projects of Energy Community interest.

The Commission shall steer a debate on energy security, which is one of the main objectives of the Energy Community, and requires that all parties to the Treaty coordinate action. It will highlight the importance of the internal market rules that guarantee cross border flows of electricity and gas within Europe, of establishing strategic oil stocks and promoting renewable

⁵ Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC

⁶ As a reminder, 11242/11 REV 1 states : "The Commission shall ensure that amendments to be agreed on behalf of the European Union refer to the obligation of Contracting Parties to adopt Directive 2009/28/EC on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC".

sources of energy and increased energy efficiency. It will encourage the Contracting Parties to participate actively in Security of Supply Group⁷.

2.7. Appointment of a Director of the Energy Community Secretariat

The Commission shall approve the Procedural Act of the Ministerial Council appointing Mr. Janez Kopač as Director of the Secretariat for a fixed renewable term of three years.

Based on the Commission proposal the Ministerial Council shall decide on the appointment of the Director on a simple majority.

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Procedural Act 2008/02/MC-EnC of the Ministerial Council of the Energy Community of 11 December 2008, on the Establishment of a Security of Supply Coordination Group

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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 Articles 194 and 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,¹ and in particular Articles 4 and 5 thereof,

Having regard to the proposal from the European Commission,

HAS DECIDED AS FOLLOWS:

Sole Article

In view of the 10th meeting of the Ministerial Council of the Energy Community to be held in Budva on 18th October 2012, the position of the European Union regarding the issues falling under the scope of Article 218, paragraph 9, of the Treaty on the Functioning of the European Union is set out in the Annex to this Decision.

Done at Brussels,

*For the Council
The President*

¹ OJ L 198, 20.7.2006, p. 15.

ANNEX

European Union position

- The European Union approves the financial discharge of the Director of the Energy Community Secretariat for 2011.
- The European Union approves the 2011 Annual Report on the activities of the Energy Community to the Parliaments, foreseen in Article 52 of the Energy Community Treaty.
- The European Union approves the implementation by the Energy Community of Regulation (EC) No 1099/2008, on energy statistics, and Directive 2008/92/EC, concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users, not later than 31st December 2015.
- The European Union approves the implementation of Directive 2009/119/EC on the obligation to maintain minimum stocks of crude oil and/or petroleum products, not later than 1st January 2023.
- The European Union approves the implementation by the Energy Community of Directive 2009/28/EC, on the promotion of renewables, not later than 1st January 2014, whereby Contracting Parties commit to targets of a level of effort similar to the one applicable to EU Member States, taking into account also the shorter period of implementation allowed to Contracting Parties.
- The European Union approves amendments to Article 20 of 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 Energy Strategy of the Energy Community.
- The European Union approves the extension of the mandate of the Energy Strategy Task Force until June 2013.
- The European Union approves the appointment of Mr. Janez Kopač as Director of the Secretariat for a fixed renewable term of three years.