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RECOMMENDATION FROM THE COMMISSION TO THE COUNCIL

**to authorise the Commission to negotiate on behalf of the European Union amendments
to the Energy Community Treaty**

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1. EXPLANATORY MEMORANDUM

The Treaty establishing the Energy Community was signed on 25 October 2005 in Athens by the European Community and then nine Contracting Parties from South East Europe and it entered into force on 1 Jul 2006. Article 16 of the Treaty defines the "acquis communautaire on environment" as meaning:

- Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, as amended by Council Directive 97/11/EC of 3 March 1997 and Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003,
- Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC,
- Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants (LCP Directive),
- Article 4(2) of Directive 79/409/EEC of the Council of 2 April 1979 on the conservation of wild birds.

Article 12 of the Treaty establishing the Energy Community states that Each Contracting Party shall implement the acquis communautaire on environment in compliance with the timetable set out in Annex II of the treaty.

The LCP Directive was replaced by Chapter III, Article 72(3) and (4), and Annex V of Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) with effect from 7 January 2013 for new plants and from 1 January 2016 for existing plants. The LCP Directive is repealed with effect from this latter date. Therefore, the acquis communautaire on environment set out in Article 16 of the Treaty establishing the Energy Community, and the timetable for implementation set out in Annex II thereof, should be amended accordingly.

On 29 April 2013, the Commission adopted a Decision C(2013) 2364 final establishing the Commission Proposals to the Ministerial Council of the Energy Community on the implementation of Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants, and on the implementation of Chapter III, Annex V and Article 72(3)-(4) of Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) and amending Article 16 and Annex II of the Energy Community Treaty.

Article 5(2) of Council Decision 2006/500 of 29 May 2006 on the conclusion by the European Community of the Energy Community Treaty sets out the procedure to be applied before a

position can be taken at the Energy Community on amendments to the Energy Community Treaty.

In this context, the Commission recommends that the Council authorise it to deliberate within the institutions of the Energy Community on necessary amendments of the Energy Community Treaty.

2. RECOMMENDATION

The Commission recommends that:

- the Council authorise the Commission to negotiate on behalf of the European Union necessary amendments to the Treaty establishing the Energy Community;
- in accordance with the Treaty, the Council authorise the Commission to act as negotiator representing the European Union and negotiate the amendments to the Energy Community Treaty as set out in the negotiating directives annexed to this Recommendation (the "negotiating directives");
- the Council designate a committee in consultation with which the negotiation will be conducted; and
- the Council issue the negotiating directives.

ANNEX

Directives for the negotiation of amendments to the Treaty establishing the Energy Community

Amendments to be agreed on behalf of the European Union should be based on those proposed in Commission Decision C(2013) 2364 final and aim to ensure within the shortest possible time frame convergence with the updated *acquis* communautaire on environment concerning emissions from large combustion plants.