

DECISION

OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

D/2015/07/MC-EnC: On amending Decision D/2013/05/MC-EnC of 24 October 2013 on the implementation of Directive 2001/80/EC of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from large combustion plants and on amending Annex II of the Energy Community Treaty

THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

Having regard to the Treaty establishing the Energy Community ("the Treaty"), and in particular Articles 24, 79 and 81 thereof;

Having regard to the proposal from the European Commission¹,

Whereas:

- 1) Article 16 of the Treaty on the 'acquis communautaire on environment' includes Chapter III, Annex V, and Article 72(3)-(4) of Directive 2010/75/EU of the Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control)².
- 2) Article 12 of the Treaty requires each Contracting Party to implement the 'acquis communautaire on environment' in compliance with the timetable set out in its Annex II.
- 3) Annex II to the Treaty sets a general deadline of 31 December 2017 for the implementation of Directive 2001/80/EC³.
- 4) Decision D/2013/05/MC-EnC of the Ministerial Council of the Energy Community sets specific dates and timeframes for the implementation of Article 4(3), 4(4), 4(6) and Annex VIII.B of Directive 2001/80/EC for the Contracting Parties to the Energy Community.
- 5) In respect of Article 4(4) of Directive 2001/80/EC, Article 4 of Decision D/2013/05/MC-EnC provides that existing plants may be exempted from compliance with the emission limit values referred to in paragraph 3 (of Directive 2001/80/EC) and from their inclusion in the national emission reduction plan, subject to a written declaration by the operator to the competent authority not to operate the plant for more than 20 000 operational hours starting from 1 January 2018 and ending no later than 31 December 2023.
- 6) In respect of Article 4(6) of Directive 2001/80/EC, Article 5 of Decision D/2013/05/MC-EnC provides that national emission reduction plans shall be in use up to 31 December 2027 at the latest and establishes the method for calculating the ceilings.
- 7) Decision D/2015/06/MC-EnC of the Ministerial Council of the Energy Community Treaty of 16 October 2015 on the implementation of Chapter III, Annex V and Article 72(3)-(4) of

¹ C(2015) 5014 final 24.07.2015

² OJ L 334, 17.12.2010, p.17

³ OJ L 309, 27.11.2001, p. 1

Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) for existing combustion plants and amending Annex II of the Energy Community Treaty, sets 1 January 2028 as the deadline for the implementation of the provisions of Chapter III, Annex V and Article 72(3)-(4) for existing plants.

- 8) Upon request of Ukraine, the Ministerial Council at its eleventh meeting of 24 October 2013 concluded that it would endeavour to consider a decision based on Article 24 of the Energy Community Treaty to take into account the specific situation of Ukraine as concerns the implementation of the environmental acquis on the reduction of emissions from existing large combustion plants.
- 9) In the light hereof, taking into account in particular the need for Ukraine to secure its energy supply, the large number of existing large combustion plants (exceeding 140), the current status of the equipment of these plants, the high costs of emission abatement measures and the high investments needed for the construction of new plants, adaptation is needed of the provisions and timeframes set out in Articles 4 and 5 of Decision D/2013/05/MC-EnC, as well as of the deadline set in Point 5 of Annex II of the Treaty.
- 10) The Permanent High Level Group, at its meeting of 24 June 2015, invited the European Commission to proceed on the basis of the non-paper presented at the meeting and subsequently endorsed the present Decision,

HAS ADOPTED THIS DECISION:

Article 1

The following paragraphs shall be added to Article 4 of Decision D/2013/05/MC-EnC:

"Taking into account the above procedure, certain existing plants in Ukraine may be allowed, where proven necessary, to operate the plant for not more than 40 000 operational hours starting from 1 January 2018 and ending no later than 31 December 2033.

From the point in time when the plant has been operating for 40 000 hours since 1 January 2018 and in any case from 1 January 2034 onwards, the plant shall not be operated further unless it meets the emission limit values set out in Part 2 of Annex V to Directive 2010/75/EU."

Article 2

The following paragraph shall be added to Article 5 of Decision D/2013/05/MC-EnC:

"As regards Ukraine, paragraphs 5 to 8 are replaced by the following:

A national emission reduction plan shall be in use up to 31 December 2028 at the latest for SO₂ and dust and up to 31 December 2033 at the latest for NO_x.

The ceilings for the year 2018 shall not be higher than the emissions for the year 2012 from the plants concerned, while taking into account all emission reduction measures that are foreseen to be realised by 2018.

The ceilings for the year 2028 for SO₂ and dust and the ceiling for the year 2033 for NO_x shall be calculated on the basis of the relevant emission limit values set out in Part 1 of Annex V to Directive 2010/75/EU or, where applicable, the relevant rates of desulphurisation set out in Part 5 of Annex V to Directive 2010/75/EU.

The ceilings for the intermediate years shall be set providing a linear decrease of the ceilings between 2018 on the one hand, and 2028 (for SO₂ and dust) or 2033 (for NO_x) on the other."

Article 3

The following sentence is added to Point 5 of Annex II of the Treaty:

"Ukraine shall implement those provisions by 1 January 2029 at the latest for SO₂ and dust and by 1 January 2034 at the latest for NO_x."

Article 4

This Decision shall enter into force upon its adoption by the Ministerial Council.

Article 5

This Decision is addressed to the Contracting Parties.

Done in Tirana on 16 October 2015

For the Ministerial Council

Presidency

