



Assessment of the draft “Procedure for the creation, management and operation of the system of minimum reserves of oil and petroleum products in Ukraine”

by the Energy Community Secretariat

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PURPOSE STATEMENT

This assessment reviews the compliance of the draft Resolution of Cabinet Ministers of Ukraine “On Approval of the Procedure for the Creation, Management, and Operation of the System of Minimum Reserves of Oil and Petroleum Products in Ukraine”, published by the Ministry of Energy for public consultations on 6 September 2024 , with the legal requirements and objectives outlined in the Emergency Oil Stocks Directive and the Law of Ukraine “On Minimum Reserves of Oil and Petroleum Products”, as well as its impact on the market.

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Ukraine Energy Market Observatory

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Introduction

In accordance with Article 4 point 2 (1) of the Law of Ukraine “On Minimum Reserves of Oil and Petroleum Products” No. 3484-IX (hereinafter, Law No. 3484-IX),¹ the Ministry of Energy published the draft Resolution of the Cabinet of Ministers of Ukraine “On Approval of the Procedure for the Creation, Management, and Operation of the System of Minimum Reserves of Oil and Petroleum Products in Ukraine” (hereinafter, the draft Procedure) for public consultations. This Resolution aims at establishing a formal procedure to comply with the law’s objectives and ensure Ukraine's energy security.

This assessment focuses on the draft Procedure's provisions related to emergency oil stocks, covering the creation, management, and operation of the minimum reserves system. It evaluates the draft Resolution's compliance with legal requirements to ensure the structured, effective functioning of Ukraine's system for Minimum Reserves of Oil and Petroleum products (MROP).

Background

- Directive 2009/119/EC

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, as adapted and adopted by Ministerial Council Decision 2012/03/MC-EnC of 18 October 2012 (hereinafter, Directive 2009/119/EC) outlines the framework for establishing and maintaining strategic oil reserves by Energy Community Contracting Parties. The main components of the Council Directive 2009/119/EC are:

- To ensure a high level of security of oil supply in the Energy Community by maintaining minimum emergency oil stocks equivalent to at least 90 days of average daily net imports or 61 days of average daily inland consumption, whichever of the two quantities is greater.
- To ensure preparedness for supply disruptions by establishing standard rules for maintaining strategic reserves.
- To ensure that these stocks are readily accessible and meet specific quality and quantity requirements.

Directive 2009/119/EC defines three types of oil stocks - Contracting Parties must report on stock levels monthly, ensuring transparency and alignment with EU requirements:

- Crude oil stocks: unprocessed oil stored in refineries or designated facilities.

¹ [https://zakon.rada.gov.ua/laws/show/3484-20#Text%20\[4.04.2024\]](https://zakon.rada.gov.ua/laws/show/3484-20#Text%20[4.04.2024])

- Finished product stocks: refined products such as gasoline, diesel, kerosene, heating oil, etc.
- Specific stocks: Contracting Parties can designate some of their stocks as “specific stocks” based on particular petroleum products crucial to their domestic markets.

Directive 2009/119/EC allows the release of emergency stocks to address significant supply disruptions or respond to IEA recommendations. However, before releasing stocks, coordination with the Energy Community Secretariat is required, particularly if other Contracting Parties are impacted.

Directive 2009/119/EC mandates annual reporting to the Energy Community Secretariat, including inventory composition and emergency oil stocks. The Energy Community Secretariat monitors compliance and can take action if Contracting Parties fail to meet their stockholding obligations.

Contracting Parties are responsible for ensuring adequate legal and administrative provisions to manage and monitor their stocks effectively.

Directive 2009/119/EC aligns with the International Energy Agency (IEA) stockholding obligations for EU Member States that are also IEA members. Contracting Parties should coordinate their actions with the IEA, especially in major international supply disruptions.

As a Contracting Party of the Energy Community, Ukraine committed to implementing Directive 2009/119/EC by 1 January 2023.

- Law No. 3484-IX

Law No. 3484-IX, adopted in November 2023, establishes the legal, organisational, and economic framework for creating and managing minimum oil and petroleum reserves in Ukraine. The Secretariat had assessed this draft law and provided comments and recommendations to the Ministry of Energy and the Committee of the Verkhovna Rada of Ukraine on Energy, Housing, and Utilities (Assessment Note 16/2023, dated 21 August 2023)².

Law No. 3484-IX established an industry-based model for managing emergency oil stocks. This model emphasises collaboration between key stakeholders, such as oil companies, refineries, storage operators, and relevant government agencies, in creating and managing emergency reserves.³

Secondary acts implementing Law No. 3484-IX are to be adopted by the Cabinet of Ministers of Ukraine and the Ministry of Energy within one year after adoption.

Security of Oil Supply

Directive 2009/119/EC plays a critical role in securing the Energy Community’s energy supply by ensuring that emergency oil reserves are in place, which can mitigate the effects of unexpected supply crises.

² <https://www.energy-community.org/dam/jcr:a7827424-5edb-4dca-9fcf-51aa4a4a354e/Note16.pdf>

³ [https://zakon.rada.gov.ua/laws/show/3484-20#Text%20\[4.04.2024\]](https://zakon.rada.gov.ua/laws/show/3484-20#Text%20[4.04.2024])

Maintaining emergency oil stocks is essential for managing sudden supply disruptions and ensuring stability during crises or unexpected interruptions. These reserves act as a protective buffer, only to be deployed in cases of substantial disruptions caused by extraordinary circumstances.

For Ukraine, creating an emergency stockholding system not only ensures compliance with Directive 2009/119/EC but also significantly enhances its oil supply security. This system presents further strategic opportunities, potentially reducing long-term costs and positioning emergency oil stockholding as a durable investment in Ukraine's energy resilience.

Establishing this system in accordance with Directive 2009/119/EC allows Ukraine to improve its energy security, increase storage capacity, foster transparency, and strengthen its business environment.

Assessment of the draft Procedure and its impact on the market

- Calculation Methodology:

The draft Procedure specifies only one method for measuring reserves - gross domestic consumption - without considering the 90-day requirement for daily average net imports.

This does not fully align with the provisions of Article 8 point 1 of the Law No. 3484-IX, which stipulates that the total volume of minimum reserves of oil and petroleum products must meet the needs of Ukraine's domestic market during a crisis.

This total volume should be determined by the largest of the following indicators: 90 days of average daily net imports or 61 days of average daily domestic consumption.

This distinction is crucial because, as outlined in Directive 2009/119/EC, both average daily net imports and inland consumption must be calculated based on crude oil equivalent for the previous calendar year, per the methods set out in Annex I and Annex II.

Additionally, paragraph 3 point 1 of the draft Procedure states that the inland consumption of petroleum products is converted into its crude oil equivalent by multiplying by a factor of 1.2. While this method is intended to account for the higher energy content of crude oil compared to refined products, it is necessary to clarify how this multiplier aligns with EU approaches to standardising oil consumption measurements to ensure adequate reserve levels.

- Purpose of MROP system and its functioning

The MROP system in Ukraine is a vital framework designed to ensure the country's energy security through the management, monitoring, and maintenance of essential reserves of oil and petroleum products. Its primary function is to safeguard during emergencies or significant market disruptions, ensuring that Ukraine can continue to meet its domestic energy needs in times of crisis.

The MROP system is essential to Ukraine's energy resilience strategy. The system strengthens Ukraine's energy security by ensuring adequate oil and petroleum product reserves, improving crisis readiness, and adhering to EU standards. Integrating modern electronic monitoring tools further enhances its functionality, making it a transparent, responsive, and effective framework for managing the country's energy needs.

- Volumes and list of MROP

Ukraine's MROP system establishes clear guidelines for calculating, distributing, and monitoring oil and petroleum product reserves, which is crucial to ensuring energy security during market disruptions or emergencies. The system outlines volume calculations and procedures as follows:

The daily averages of net imports and inland consumption, as referred to in that paragraph, shall be determined, as regards the period from 1 January to 30 June of each calendar year, on the basis of the quantities imported or consumed during the last year but one before the calendar year in question. The relevant methodology for calculating the level of MROP, shall be developed and approved by the Ministry of Energy, taking into account the requirements specified in Annexes I-III to Council Directive 2009/119/EC – as amended⁴.

At the same time, during the first two years after Law No. 3484-IX comes into force⁵, the volumes and list of MROP that market participants are required to create, are determined independently by them, guided by the requirements of relevant provisions of the law⁶. In particular, the share of minimum reserves of oil and oil products to be created by market participants shall be calculated from the volume of oil and/or oil products put into circulation by market participants for the base year, but not less than 250 tons, and is:

- 1) during the first year from the date when the obligations arise⁷ – 3%;
- 2) during the second year from the date when the obligations arise - 6%;
- 3) during the third year from the date when the obligations arise – 9%;
- 4) during the fourth year from the date when the obligations arise – 12%;
- 5) during the fifth year from the date when the obligations arise - 15%;
- 6) during the sixth year from the date when the obligations arise – 18%;
- 7) during the seventh year from the date when the obligations arise - 21%;
- 8) during the eighth year from the date when the obligations arise and each subsequent year – 24%.

The Ministry of Energy decides in determining and communicating reserve obligations, with a phased implementation period to allow market participants to adapt. This structured, transparent framework aligns Ukraine's oil reserves management with EU standards, enhancing both readiness and compliance. By establishing these guidelines, the MROP system strengthens Ukraine's resilience to supply disruptions, supporting long-term energy security.

- Interaction systems MROP with other information and communication systems

The MROP system's integration with various information and communication systems ensures efficient data exchange, oversight, and compliance. The Electronic Reporting System (ERS) serves as the core platform for this interaction, facilitating seamless information flows among market participants and state authorities.

⁴ [Commission Implementing Directive \(EU\) 2018/1581 of 19 October 2018 amending Council Directive 2009/119/EC as regards the methods for calculating stockholding obligations](#)

⁵ In twelve months from the date of publication - 24 December 2024.

⁶ Parts 8-10 of Article 8, Article 9, paragraphs 1-4 of Section V "Final and Transitional Provisions" of the Law No. 3484-IX

⁷ Obligations to create minimum oil reserves from the minimum reserves of oil and petroleum products in accordance with the requirements of this Law arise for market entities six months after the date of termination or cancellation of martial law.

The MROP system's integration with Ukraine's information and communication infrastructure supports a robust regulatory framework, enhancing oversight, transparency, and compliance. By streamlining data exchange across various government bodies and market participants, the system provides a coordinated approach to reserve management, aligning Ukraine's practices with international standards for energy security and regulatory control.

- Creation of MROP

The MROP system sets specific requirements for market entities and operators to establish and maintain minimum reserves of oil and petroleum products, creating a responsive, transparent, and compliant reserve management framework that aligns with national energy security goals.

Under paragraphs 14-17 of the draft Procedure, the Ministry of Energy calculates the required MROP volumes, though entities are free to exceed the minimum reserve threshold. The system fosters transparency, timely reporting, and clear operational standards, ensuring efficient oversight via the ERS. This structured approach enhances Ukraine's energy security, supports regulatory alignment, and ensures that reserve obligations are effectively monitored and met.

- Storage of MROP

The storage requirements for Ukraine's MROP ensure secure, accessible reserves in times of crisis while maintaining compliance with quality, safety, and regulatory standards. The framework offers flexibility for both domestic and international storage options, as outlined below:

a) Domestic Storage:

- MROP reserves must be stored in designated facilities that maintain quality and allow prompt release during emergencies, per the Cabinet of Ministers' response timelines.
- Facilities must be registered as excise warehouses under Ukraine's Tax Code, ensuring fiscal and regulatory compliance.

b) International Storage:

The total volume of minimum reserves stored abroad across all EU Member States who share the border with Ukraine must not exceed 25% of the total minimum reserves.

During the period of martial law and for six months following its termination or cancellation (but not earlier than the date of entry into force of this Law), market entities are allowed to store minimum reserves of oil and oil products under the following conditions:

- 50% - total allowed abroad in Member States which share the border with Ukraine.
- Up to 25% (out of allowed 50%) of Member States who share the border with the Member States which are neighbours with Ukraine

Such storage framework ensures that MROP reserves are securely managed, accounted for, and compliant with all standards. The inclusion of Contracting Parties further shall enhance flexible storage options, including international locations, to support effective reserve management across borders.

- Tickets Contracts

Ticket contracts are essential to creating, storing, and managing Ukraine's MROP. These agreements ensure that market entities and operators fulfil their reserve obligations within the legislative framework governing MROP.

By outlining roles, responsibilities, reporting mechanisms, and quality control standards, ticket contracts provide a structured framework for compliance. They play a critical role in maintaining the integrity of Ukraine's emergency oil reserves, strengthening the country's energy security and resilience in times of crisis.

- Bank Guarantee

The bank guarantee serves as a crucial financial security for the creation of MROP under Ukrainian law. The guarantee ensures that operators or market entities meet their obligations regarding the creation and maintenance of MROP by providing a financial backup to the Ministry of Energy. The process is structured and regulated through specific procedures and requirements that define the roles of all involved parties: the guarantor bank, the principal (the operator or market entity), and the beneficiary (the Ministry of Energy).

The guarantee must comply with strict conditions to be valid, and any claims for payment are processed promptly, though the guarantee does not absolve the principal from continuing to meet its MROP obligations.

- Crisis Management and Monitoring

Paragraphs 80 and 81 of the draft Procedure establish a proactive, transparent approach to monitoring Ukraine's oil and petroleum supply and demand balance. These provisions assign clear responsibilities to the Ministry of Energy and the Administrator to ensure that Ukraine's reserves meet national and international standards, particularly during market crises.

This crisis management framework enables continuous monitoring and adequate supply and demand dynamics management. With established inspection procedures, international oversight, and crisis response, the Ministry of Energy can act swiftly to protect Ukraine's oil supply in emergencies. This system, encompassing the sale and renewal of MROP, upholds Ukraine's energy security while aligning with Directive 2009/119/EC.

At the same time, the draft Procedure does not allow international bodies to review emergency stock documentation and inspect the facilities where the minimum reserves are held, as Article 18(3) of Directive 2009/119/EC requires. It is recommended to specify that the Administrator, in cooperation with the Ministry of Energy and relevant market entities, should *facilitate inspections by authorised representatives of international bodies*.

- Termination of activity on the market of oil and of oil products of a MROP participant

To ensure the transparency and stability of the Minimum Reserve of Oil and Petroleum Products market, the following measures are put in place when market participants cease their activity or undergo legal dissolution (e.g., bankruptcy, liquidation):

- Notification to the Ministry of Energy and Administrator
- Restriction on the Sale of MROP Reserves
- Monitoring Legal Procedures
- Ensuring Market Stability

Implementing these procedures ensures that when market participants exit the MROP system due to bankruptcy or liquidation, their responsibilities and reserves are managed in a way that does not jeopardise the stability of Ukraine's oil supply. The timely notifications, restrictions on reserve sales, and closure of ERS accounts help maintain compliance with legal requirements and safeguard market integrity. These measures contribute to a transparent and stable MROP market, which is crucial for maintaining Ukraine's energy security, especially during market volatility or crisis periods.

Recommendations for Enhanced Compliance

While in many aspects the draft Procedure is in line with the Energy Community acquis, certain its provisions require further refinement to fully comply with Directive 2009/119/EC and Law No. 3484-IX, ensuring that the system operates efficiently and meets all necessary legal and operational standards.

In this context, the Energy Community Secretariat recommends aligning the draft Procedure with the requirements of Directive 2009/119/EC in the following aspects:

1) Detailed Calculation Procedures

- Clarification of the 1.2 Multiplier: The Secretariat recommends specifying in paragraph 3 point 1 how the 1.2 multiplier aligns with EU practices to convert refined products to crude oil equivalents. This will standardise the calculation of inland consumption and ensure that reserves are sufficient in times of crisis.
- Include the net imports and inland consumption metrics in the annual reserve calculations.
- Separate calculations for Net Imports and Consumption: the Secretariat requests that the calculation for net imports and domestic consumption be conducted separately each year based on the data from the previous calendar year. This will allow for a clearer understanding of the national obligation and ensure the reserve system remains responsive to changes in domestic oil production and refinery capacities and shifts in import patterns.

2) International Inspection Access

Amend paragraph 80 of the draft Procedure to permit representatives from international bodies, particularly the Energy Community and the EU, to inspect both documentation and physical reserves. This adjustment will align with Directive 2009/119/EC's Article 18(3) and would allow international bodies to review emergency stock documentation and inspect the facilities where the minimum reserves are held. This would ensure compliance with EU standards and foster transparency and accountability in managing emergency reserves. This also contributes to increasing the trust in Ukraine's stock infrastructure and facilitates future use by other CPs or EU Member States.

3) Storage of MROP

In paragraph 37, at the end of the paragraph, it should be added: *"Ukraine shall comply with tank standards as defined in the respective legislation of EU Member States."*

- This ensures alignment with EU requirements, enhances the credibility of Ukraine's storage practices, and facilitates integration with broader EU market mechanisms."

- We recommend that in all instances where Ukraine stores emergency oil stocks abroad, such arrangements should be formalised through an intergovernmental agreement between Ukraine and the country's government where the stocks will be stored.

4) Annual Review of Reserve Levels

- Periodic Review of Base Year Calculation: ensure that the base year for reserve calculations is reviewed annually to reflect import or consumption patterns shifts. Given that consumption patterns and import volumes may change over time, it is essential to periodically review the base year calculation to determine minimum reserve levels. These reviews should adapt to fluctuations in consumption and import patterns to assess reserve requirements accurately. This will strengthen Ukraine's market responsiveness and ensure adequate reserves to meet potential crisis demands.

5) Flexibility for Storage within Energy Community Contracting Parties

- Amending paragraph 37 of the draft Procedure to permit reserve storage in other Energy Community Contracting Parties under proper regulatory agreements would support Ukraine's flexibility and compliance with Directive 2009/119/EC. In particular, adding the provision, that *"MROP may also be stored in Contracting Parties of the Energy Community, provided storage complies with national and international emergency oil stock management regulations."*

By following these recommendations, the draft Procedure will comply with Directive 2009/119/EC. It will improve Ukraine's readiness to manage and protect its oil reserves to meet its energy security needs in alignment with EU and Energy Community standards.

The Secretariat invites the Government and the Ministry of Energy to proceed with further implementation of Law No. 3484-IX by adopting the full package of relevant secondary legislation⁸ to create a comprehensive framework for MROP functioning, contributing to Ukraine's security and to transparent and predictable business environments for market participants.

⁸ Procedure for the functioning and maintenance of the electronic reporting system, the procedure for monitoring volumes on the markets of oil, oil products and liquefied gas in Ukraine; the procedure for monitoring the quality and safety of oil products in Ukraine; the methodology for calculating the level of MROP, etc.