MEMORANDUM

The European Commission, acting on behalf of the Energy Community as mandated by the Energy Community Ministerial Council on 29 June 2007, on the one side, and Ukraine, on the other side, have carried out negotiations in view of the accession of Ukraine to the Energy Community Treaty.


On this basis, the undersigned negotiators hereby declare that the negotiations are concluded and recommend that their outcome is submitted to the relevant approval procedures on both sides.

Besides, the undersigned negotiators recall the terms of the Memorandum of Understanding on cooperation in the field of energy between the European Union and Ukraine signed in Kiev on 1st December 2005, and in particular its point 5.1 stating that "The condition for EU support to the ultimate accession of Ukraine to the Energy Community is the satisfactory assessment of the level of nuclear safety in all Ukrainian operating NPPs", and take note that the related joint project is well-advanced.

The undersigned negotiators also recall the terms of the Joint Declaration made in Brussels on 23rd March 2009 at the occasion of the Joint EU-Ukraine International Investment Conference on the Modernisation of Ukraine’s Gas Transit System and in particular Ukraine’s commitment to "develop a Gas Sector Reform Programme by the end of 2009 at the latest for the implementation of the gas sector reforms in 2010-2011 with deadlines that should match the commitments that will be entered into in the context of […] Ukraine’s accession to the Energy Community Treaty".

Done in Kiev,

On ..................... On .....................

For the Energy Community For Ukraine
Fabrizio Barbaso  
Deputy-Director general  
Directorate general for Energy and Transport  
European Commission
DECISION
OF THE MINISTERIAL COUNCIL
OF THE ENERGY COMMUNITY

.../..MC-EnC on the accession of Ukraine to the Energy Community Treaty

The Ministerial Council of the Energy Community,

Having regard to the Treaty establishing the Energy Community signed in Athens on 25 October 2005 ("the Treaty"), and in particular Articles 100(i) and (iv) thereof,

Whereas Ukraine has been actively participating in the Energy Community as an Observer since November 2006,

Whereas Ukraine has undertaken significant reforms to approximate its legal framework with the requirements of the Energy Community Treaty,

Whereas negotiations on the accession of Ukraine where held and successfully concluded on ... in Kiev,

Whereas Ukraine and the Parties to the Treaty recognize that the accession of Ukraine as a Contracting Party is of mutual interest and is compatible with the principles and aims of the Treaty,

HAS ADOPTED THIS DECISION BY UNANIMITY:

Article 1

The Ministerial Council of the Energy Community agrees on the accession of Ukraine to the Energy Community Treaty as a Contracting Party under the terms and conditions set in Annex to this Decision.

Article 2

1. This Decision enters into force on the first day of the second month following notification by Ukraine of the completion of its ratification procedures for the Treaty establishing the Energy Community and for the Annex to this Decision.

2. Notification shall be sent to the Secretary-General of the Council of the European Union as depositary of the Energy Community Treaty pursuant its Article 105.
Done ....

For the Presidency
ANNEX

To the Decision of the Ministerial Council of the Energy Community concerning

THE ACCESSION OF UKRAINE
TO THE ENERGY COMMUNITY TREATY

Article 1

1. Ukraine accedes to the Treaty establishing the Energy Community as a Contracting Party under the terms and conditions laid down in this Annex.

2. Unless specified otherwise in this Annex, by date of accession, Ukraine is entitled to all rights granted to Contracting Parties and is subject to all obligations imposed on Contracting Parties by the Treaty and by all Decisions and Procedural Acts adopted in application of the Treaty since its entry into force.

Article 2

1. For the purposes of compliance with Title II of the Treaty establishing the Energy Community and its related Annexes, the time table for implementation of the acquis communautaire is defined as follows:

<table>
<thead>
<tr>
<th>Directive/Regulation</th>
<th>Date of Implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulation n°1775/2005 on conditions for access to the natural gas transmission networks</td>
<td>By 1st January 2012</td>
</tr>
<tr>
<td>Directive 2003/54/EC concerning common rules for the internal market in electricity</td>
<td>By 1st January 2012</td>
</tr>
<tr>
<td>Regulation n°1228/2003 on conditions for access to the network for cross-border exchanges in electricity</td>
<td>By 1st January 2012</td>
</tr>
<tr>
<td>Commission Decision 2006/770/EC amending the Annex to Regulation n°1228/2003 on conditions for access to the network for cross-border exchanges in electricity</td>
<td>By 1st January 2012</td>
</tr>
</tbody>
</table>
2. Ukraine must ensure that the eligible customers within the meaning of EC Directives 2003/54/EC and 2003/55/EC are:
   - From 1 January 2012, all non-household customers; and
   - From 1 January 2015, all customers.

3. At Article 19 of the Treaty, the reference “as from six months following the date of entry into force of this Treaty” shall be understood as meaning “as from six months following the date of accession of Ukraine”. At Article 22 of the Treaty, the reference “within one year of the adoption of the list” shall be understood as meaning “within one year of the date of accession of Ukraine”. At Article 29 of the Treaty, the reference “within one year of the date of entry into force of this Treaty” shall be understood as meaning “within one year of the date of accession of Ukraine.”

4. Article 15 of the Treaty shall apply to Ukraine as from two years following the date of accession of Ukraine.
Article 3

1. The contribution of Ukraine and of the other Parties to the budget of the Energy Community shall be set in a Procedural Act to be adopted pursuant Article 73 of the Treaty. The methodology to be applied shall be based on a pro-rata calculated in relation to GDP and Total Primary Energy Supply.

2. The first contribution of Ukraine shall be due for the first full budgetary year following accession.