



The Energy Community


LEGAL FRAMEWORK

2023 | EDITION 5.0

TREATY

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TREATY ESTABLISHING THE ENERGY COMMUNITY

The Parties, being:

The European Community on the one hand,

And

The following Contracting Parties on the other hand:

- The Republic of Albania, the Republic of Bulgaria, Bosnia and Herzegovina, the Republic of Croatia, the former Yugoslav Republic of Macedonia, the Republic of Montenegro, Romania, the Republic of Serbia (hereafter referred to as the Adhering Parties),

and

- The United Nations Interim Administration Mission in Kosovo pursuant to the United Nations Security Council Resolution 1244,

Consolidating on the Athens Process and the 2002 and 2003 Athens Memoranda of Understanding,

Noting that the Republic of Bulgaria, Romania and the Republic of Croatia are Candidate Countries for accession to the European Union, and that the former Yugoslav Republic of Macedonia has also applied for membership,

Noting that the European Council in Copenhagen in December 2002 confirmed the European perspective of the Republic of Albania, Bosnia and Herzegovina, and Serbia and Montenegro, as potential candidates for accession of the European Union, and underlined the determination to support their efforts to move closer to the European Union,

Recalling that the European Council in Thessaloniki in June 2003 endorsed “The Thessaloniki Agenda for the Western Balkans: moving towards European integration”, which aims to further strengthen the privileged relations between the European Union and the Western Balkans and in which the European Union encouraged the countries of the region to adopt a legally binding South-East Europe energy market agreement, Recalling the Euro-Mediterranean Partnership Process and the European Neighbourhood Policy,

Recalling the contribution of the Stability Pact for South East Europe that has as its core the need to strengthen co-operation amongst the states and nations of South East Europe and to foster the conditions for peace, stability and economic growth,

Resolved to establish among the Parties an integrated market in natural gas and electricity, based on common interest and solidarity,

Considering that this integrated market may involve at a later stage other energy products and carriers, such as liquefied natural gas, petrol, hydrogen, or other essential network infrastructures,

Determined to create a stable regulatory and market framework capable of attracting investment in gas networks, power generation and transmission networks, so that all Parties have access to the stable and continuous gas and electricity supply that is essential for economic development and social stability,

Determined to create a single regulatory space for trade in gas and electricity that is necessary to match the geographic extent of the concerned product markets,

Recognising that the territories of the Republic of Austria, of the Hellenic Republic, of the Republic of Hungary, of the Italian Republic, and of the Republic of Slovenia are naturally integrated or directly affected by the functioning of the gas and electricity markets of the Contracting Parties,

Determined to promote high levels of gas and electricity provision to all citizens based on public service obligations, and to achieve economic and social progress and a high level of employment as well as a balanced and sustainable development through the creation of an area without internal frontiers for gas and electricity,

Desiring to enhance the security of supply of the single regulatory space by providing the stable regulatory framework necessary for the region in which connections to Caspian, North African and Middle East gas reserves can be developed and indigenous reserves of natural gas, coal and hydropower can be exploited,

Committed to improving the environmental situation in relation to gas and electricity, related energy efficiency and renewable energy sources,

Determined to develop gas and electricity market competition on a broader scale and exploit economies of scale,

Considering that, to achieve these aims, a broad ranging and integrated market regulatory structure needs to be put in place supported by strong institutions and effective supervision, and with the adequate involvement of the private sector,

Considering that in order to reduce stress on the state level gas and electricity systems and contribute to resolving local gas and electricity shortages, specific rules should be put in place to facilitate gas and electricity trade; and that such rules are needed to create a single regulatory space for the geographic extent of the concerned product markets,

Have decided to create an Energy Community.

TITLE I – PRINCIPLES

Article 1

1. By this Treaty, the Parties establish among themselves an Energy Community.
2. Member States of the European Community may become Participants in the Energy Community pursuant to Article 95 of this Treaty.

Article 2

1. The task of the Energy Community shall be to organise the relations between the Parties and create a legal and economic framework in relation to Network Energy, as defined in paragraph 2, in order to:
 - (a) create a stable regulatory and market framework capable of attracting investment in gas networks, power generation, and transmission and distribution networks, so that all Parties have access to the stable and continuous energy supply that is essential for economic development and social stability,
 - (b) create a single regulatory space for trade in Network Energy that is necessary to match the geographic

extent of the concerned product markets,

(c) enhance the security of supply of the single regulatory space by providing a stable investment climate in which connections to Caspian, North African and Middle East gas reserves can be developed, and indigenous sources of energy such as natural gas, coal and hydropower can be exploited,

improve the environmental situation in relation to Network Energy and related energy efficiency, foster the use of renewable energy, and set out the conditions for energy trade in the single regulatory space,

(d) develop Network Energy market competition on a broader geographic scale and exploit economies of scale.

2. Network Energy' shall include the electricity and gas sectors falling within the scope of the European Union Directives 2003/54/EC and 2003/55/EC¹, as well as hydrogen and carbon dioxide sectors.²

Article 3

For the purposes of Article 2, the activities of the Energy Community shall include:

the implementation by the Contracting Parties of the *acquis communautaire* on energy, environment, competition and renewables, as described in Title II below, adapted to both the institutional framework of the Energy Community and the specific situation of each of the Contracting Parties (hereinafter referred to as "the extension of the *acquis communautaire*"), as further described in Title II;

the setting up of a specific regulatory framework permitting the efficient operation of Network Energy markets across the territories of the Contracting Parties and part of the territory of the European Community, and including the creation of a single mechanism for the cross-border transmission and/or transportation of Network Energy, and the supervision of unilateral safeguard measures (hereinafter referred to as "the mechanism for operation of Network Energy markets"), as further described in Title III;

the creation for the Parties of a market in Network Energy without internal frontiers, including the coordination of mutual assistance in case of serious disturbance to the energy networks or external disruptions, and which may include the achievement of a common external energy trade policy (hereinafter referred to as "the creation of a single energy market"), as further described in Title IV.

Article 4

The Commission of the European Communities (hereinafter referred to as "the European Commission") shall act as co-ordinator of the three activities described in Article 3.

¹ Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity, Official Journal of the European Union L 176, 15 July 2003, p. 37-56; and Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas, Official Journal of the European Union L 176, 15 July 2003, p. 57-78.'

² According to Article 1 of Decision 2008/03/MC-EnC of 1 December 2008 concerning the implementation to the oil sector of certain provisions of the Treaty and the creation of an Energy Community Oil Forum,

"1. The Treaty is extended to oil under the conditions set by this Article.

2. 'Network Energy' as mentioned in Article 2 paragraph 2 of the Treaty shall be understood as to include the oil sector, i.e. supply, trade, processing and transmission of crude oil and petroleum products falling within the scope of the Directive 2006/67/EC and the related pipelines, storage, refineries and import/export facilities <...>

4. Paragraphs 1 and 2 of this Article do not apply to Articles 21 to 23 and to Articles 43 to 46 of the Treaty."

Article 5

The Energy Community shall follow the *acquis communautaire* described in Title II, adapted to both the institutional framework of this Treaty and the specific situation of each of the Contracting Parties, with a view to ensuring high levels of investment security and optimal investments.

Article 6

The Parties shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Treaty. The Parties shall facilitate the achievement of the Energy Community's tasks. The Parties shall abstain from any measure which could jeopardise the attainment of the objectives of this Treaty.

Article 7

Any discrimination within the scope of this Treaty shall be prohibited.

Article 8

Nothing in this Treaty shall affect the rights of a Party to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply.

TITLE II – THE EXTENSION OF THE ACQUIS COMMUNAUTAIRE**CHAPTER I
GEOGRAPHIC SCOPE****Article 9**

The provisions of and the Measures taken under this Title shall apply to the territories of the Adhering Parties, and to the territory under the jurisdiction of the United Nations Interim Administration Mission in Kosovo.

**CHAPTER II
THE ACQUIS ON ENERGY**

Article 10

Each Contracting Party shall implement the *acquis communautaire* on energy in compliance with the timetable for the implementation of those measures set out in Annex I.

Article 11

The "*acquis communautaire* on energy", for the purpose of this Treaty, shall mean the acts listed in Annex I of this Treaty.³

CHAPTER III THE ACQUIS ON ENVIRONMENT

Article 12

Each Contracting Party shall implement the *acquis communautaire* on environment in compliance with the timetable for the implementation of those measures set out in Annex II.

Article 13

The Parties recognise the importance of the Kyoto Protocol. Each Contracting Party shall endeavour to accede to it.

Article 14

The Parties recognise the importance of the rules set out in Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control. Each Contracting Party shall endeavour to implement that Directive.

Article 15

After the entry into force of this Treaty, the construction and operation of new generating plants shall comply with the *acquis communautaire* on environment.

³ Amended by Ministerial Council Decisions 2025/09/MC-EnC, 2021/13/MC-EnC, 2021/14/MC-EnC and 2021/15/MC-EnC of 30 November 2021, including Article 1 of Ministerial Council Decision 2011/02/MC-EnC of 6 October 2011

Article 16

The “*acquis communautaire* on environment”, for the purpose of this Treaty, shall mean

- (i) Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment as amended by Directive 2014/52/EU,⁴
- (ii) Directive (EU) 2016/802 of the European Parliament and of the Council of 11 May 2016 relating to a reduction in the sulphur content of certain liquid fuels and Commission Implementing Decision (EU) 2015/253 of 16 February 2015 laying down the rules concerning the sampling and reporting under Council Directive 1999/32/EC as regards the sulphur content of marine fuels,⁵
- (iii) 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,⁶
- (iv) Article 4(2) of Directive 79/409/EEC of the Council of 2 April 1979 on the conservation of wild birds,
- (v) 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),⁷
- (vi) Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage, as amended by Directive 2006/21/EC, Directive 2009/31/EC and Directive 2013/30/EU⁸, and,
- (vii) Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment.⁹

Article 17

The provisions of and the Measures taken under this Chapter shall only apply to Network Energy.

4 Amended by the Ministerial Council Decision 2016/12/MC-EnC of 14 October 2016 on amending the Treaty establishing the Energy Community and adapting and implementing Directive (EU) 2016/802 and Commission Implementing Decision (EU) 2015/253.

5 Amended by the Ministerial Council Decision 2016/15/MC-EnC of 14 October 2016 on amending the Treaty establishing the Energy Community and adapting and implementing Directive (EU) 2016/802 and Commission Implementing Decision (EU) 2015/253.

6 Amended by the Ministerial Council Decision 2013/05/MC-EnC of 24 October 2013 on the implementation of Directive 2001/80/EC of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants and Decision 2015/07/MC-EnC on amending 2013/05/MC on implementation of Directive 2001/80/EC on limitation of certain emissions.

7 Amended by the Ministerial Council Decision 2013/06/MC-EnC of 24 October 2013 on the implementation of Chapter III Annex V, and Article 72(3)-(4) of Directive 2010/75/EU of 24 November 2010 on industrial emissions (integrated pollution prevention and control) and amending Article 16 and Annex II of the Energy Community Treaty.

8 Amended by the Ministerial Council Decision 2016/14/MC-EnC of 14 October 2016 on amending the Treaty establishing the Energy Community and adapting and implementing Directive 2004/35/EC.

9 Amended by the Ministerial Council Decision 2016/13/MC-EnC of 14 October 2016 on amending the Treaty establishing the Energy Community and adapting and implementing Directive 2001/42/EC.

CHAPTER IV THE ACQUIS ON COMPETITION

Article 18

1. The following shall be incompatible with the proper functioning of the Treaty, insofar as they may affect trade of Network Energy between the Contracting Parties:

- (a) all agreements between undertakings, decisions by associations of undertakings and concerted practices which have as their object or effect the prevention, restriction or distortion of competition,
- (b) abuse by one or more undertakings of a dominant position in the market between the Contracting Parties as a whole or in a substantial part thereof,
- (c) any public aid which distorts or threatens to distort competition by favouring certain undertakings or certain energy resources.

2. Any practices contrary to this Article shall be assessed on the basis of criteria arising from the application of the rules of Articles 81, 82 and 87 of the Treaty establishing the European Community (attached in Annex III).

Article 19

With regard to public undertakings and undertakings to which special or exclusive rights have been granted, each Contracting Party shall ensure that as from 6 months following the date of entry force of this Treaty, the principles of the Treaty establishing the European Community, in particular Article 86 (1) and (2) thereof (attached in Annex III), are upheld.

CHAPTER V THE ACQUIS FOR RENEWABLES

Article 20¹⁰

Each Contracting Party shall implement Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources.

¹⁰ Amended by Ministerial Council Decision 2022/02/MC-EnC on amending Ministerial Council Decision 2021/14/MC-EnC and Decision 2021/13/MC-EnC of 30 November 2021 amending Article 20 and Annex I to the Treaty establishing the Energy Community and incorporating Directive (EU) 2018/2001, Directive (EU) 2018/2002, Regulation (EU) 2018/1999, Delegated Regulation (EU) 2020/1044, and Implementing Regulation (EU) 2020/1208 in the Energy Community acquis communautaire.

CHAPTER VI

COMPLIANCE WITH GENERALLY APPLICABLE STANDARDS OF THE EUROPEAN COMMUNITY

Article 21

Within one year of the date of entry into force of this Treaty, the Secretariat shall draw up a list of the Generally Applicable Standards of the European Community, to be submitted to the Ministerial Council for adoption.

Article 22

The Contracting Parties shall, within one year of the adoption of the list, adopt development plans to bring their Network Energy sectors into line with these Generally Applicable Standards of the European Community.

Article 23

“Generally Applicable Standards of the European Community” shall refer to any technical system standard that is applied within the European Community, and is necessary for operating network systems safely and efficiently, including aspects of transmission, cross-border connections, modulation and general technical system security standards issued where applicable via the European Committee for Standardization (CEN), the European Committee for Electrotechnical Standardization (CENELEC) and similar normation bodies or as issued by the Union for the Co-ordination of Transmission of Electricity (UCTE) and the European Association for the Streamlining of Energy Exchanges (Easeegas) for common rule setting and business practices.

CHAPTER VII

THE ADAPTATION AND EVOLUTION OF THE ACQUIS

Article 24

For the implementation of this Title, the Energy Community shall adopt Measures adapting the *acquis communautaire* described in this Title, taking into account both the institutional framework of this Treaty and the specific situation of each of the Contracting Parties.

Article 25

The Energy Community may take Measures to implement amendments to the *acquis communautaire* described in this Title, in line with the evolution of European Community law.

TITLE III – MECHANISM FOR OPERATION OF NETWORK ENERGY MARKETS

CHAPTER I GEOGRAPHIC SCOPE

Article 26

The provisions of and the Measures taken under this Title shall apply to the territories of the Adhering Parties, to the territory under the jurisdiction of the United Nations Interim Administration Mission in Kosovo, and to the territories of the European Community referred to in Article 27.

Article 27

As regard the European Community, the provisions of and the Measures taken under this Title shall apply to the territories of the Hellenic Republic, of Hungary, of the Republic of Bulgaria, of the Republic of Croatia, of the Republic of Italy, of the Republic of Poland, of the Republic of Romania and of the Republic of Slovakia.¹¹ Upon accession to the European Union of an Adhering Party, the provisions of and the Measures taken under this Title shall, without any further formalities, also apply to the territory of that new Member State.

CHAPTER II MECHANISM FOR LONG-DISTANCE TRANSPORTATION OF NETWORK ENERGY

Article 28

The Energy Community shall take additional Measures establishing a single mechanism for the cross-border transmission and/or transportation of Network Energy.

CHAPTER III SECURITY OF SUPPLY

¹¹ Amended by Ministerial Council Decision 2015/09/MC-EnC on the implementation of Regulation (EU) 347/2013 on guidelines for trans-European energy infrastructure.

Article 29

The Parties shall, within one year of the date of entry into force of this Treaty, adopt security of supply statements describing in particular diversity of supply, technological security, and geographic origin of imported fuels. The statements shall be communicated to the Secretariat, and shall be available to any Party to this Treaty. They shall be updated every two years. The Secretariat shall give guidance and assistance with respect to such statements.

Article 30

Article 29 does not imply a necessity to change energy policies or purchasing practices.

**CHAPTER IV
PROVISION OF ENERGY TO CITIZENS****Article 31**

The Energy Community shall promote high levels of provision of Network Energy to all its citizens within the limits of the public service obligations contained in the relevant *acquis communautaire* on energy.

Article 32

For this purpose, the Energy Community may take Measures to:

- (a) allow for the universal provision of electricity;
- (b) foster effective demand management policies;
- (c) ensure fair competition.

Article 33

The Energy Community may also make Recommendations to support effective reform of the Network Energy sectors of the Parties, including *inter alia* to increase the level of payment for energy by all customers, and to foster the affordability of Network Energy prices to consumers.

**CHAPTER V
HARMONISATION**

Article 34

The Energy Community may take Measures concerning compatibility of market designs for the operation of Network Energy markets, as well as mutual recognition of licenses and Measures fostering free establishment of Network Energy companies.

CHAPTER VI RENEWABLE ENERGY SOURCES AND ENERGY EFFICIENCY

Article 35

The Energy Community may adopt Measures to foster development in the areas of renewable energy sources and energy efficiency, taking account of their advantages for security of supply, environment protection, social cohesion and regional development.

CHAPTER VII SAFEGUARD MEASURES

Article 36

In the event of a sudden crisis on the Network Energy market in the territory of an Adhering Party, the territory under the jurisdiction of the United Nations Interim Administration Mission in Kosovo, or a territory of the European Community referred to in Article 27, where the physical safety or security of persons, or Network Energy apparatus or installations or system integrity is threatened in this territory, the concerned Party may temporarily take necessary safeguard measures.

Article 37

Such safeguard measures shall cause the least possible disturbance in the functioning of the Network Energy market of the Parties, and not be wider in scope than is strictly necessary to remedy the sudden difficulties which have arisen. They shall not distort competition or adversely affect trade in a manner which is at variance with the common interest.

Article 38

The Party concerned shall without delay notify these safeguard measures to the Secretariat, which shall immediately inform the other Parties.

Article 39

The Energy Community may decide that the safeguard measures taken by the Party concerned do not comply with the provisions of this Chapter, and request that Party to put an end to, or modify, those safeguard measures.

TITLE IV – THE CREATION OF A SINGLE ENERGY MARKET**CHAPTER I
GEOGRAPHIC SCOPE****Article 40**

The provisions of and the Measures taken under this Title shall apply to the territories to which the Treaty establishing the European Community applies under the conditions laid down in that Treaty, to the territories of the Adhering Parties and to the territory under the jurisdiction of the United Nations Interim Mission in Kosovo.

**CHAPTER II
INTERNAL ENERGY MARKET****Article 41**

1. Customs duties and quantitative restrictions on the import and export of Network Energy and all measures having equivalent effect, shall be prohibited between the Parties. This prohibition shall also apply to customs duties of a fiscal nature.
2. Paragraph 1 shall not preclude quantitative restrictions or measures having equivalent effect, justified on grounds of public policy or public security; the protection of health and life of humans, animals or plants, or the protection of industrial and commercial property. Such restrictions or measures shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Parties.

Article 42

1. The Energy Community may take Measures with the aim of creating a single market without internal frontiers for Network Energy.
2. Paragraph 1 shall not apply to fiscal measures, to those relating to the free movement of persons nor to those relating to the rights and interests of employed persons.

CHAPTER III EXTERNAL ENERGY TRADE POLICY

Article 43

The Energy Community may take Measures necessary for the regulation of imports and exports of Network Energy to and from third countries with a view to ensuring equivalent access to and from third country markets in respect of basic environmental standards or to ensure the safe operation of the internal energy market.

CHAPTER IV MUTUAL ASSISTANCE IN THE EVENT OF DISRUPTION

Article 44

In the event of disruption of Network Energy supply affecting a Party and involving another Party or a third country, the Parties shall seek an expeditious resolution in accordance with the provisions of this Chapter.

Article 45

Upon request of the Party directly affected by the disruption, the Ministerial Council shall meet. The Ministerial Council may take the necessary Measures in response to the disruption.

Article 46

Within one year of the date of entry into force of this Treaty, the Ministerial Council shall adopt a Procedural Act for the operation of the mutual assistance obligation under this Chapter, which may include the conferral of powers to take interim Measures to the Permanent High Level Group.

TITLE V – INSTITUTIONS OF THE ENERGY COMMUNITY

CHAPTER I THE MINISTERIAL COUNCIL

Article 47

The Ministerial Council shall ensure that the objectives set out in this Treaty are attained. It shall:

- (a) provide general policy guidelines;

(b) take Measures;

(c) adopt Procedural Acts, which may include the conferral, under precise conditions, of specific tasks, powers and obligations to carry out the policy of the Energy Community on the Permanent High Level Group, the Regulatory Board or the Secretariat.

Article 48

The Ministerial Council shall consist of one representative of each Contracting Party and two representatives of the European Community. One non-voting representative of each Participant may participate in its meetings.

Article 49

The Ministerial Council shall adopt its internal rules of procedure by Procedural Act.

Article 50¹²

The Presidency shall be held in turn by each Contracting Party for a term of one year in the order decided by a Procedural Act of the Ministerial Council. The Presidency shall convene the Ministerial Council in a place decided upon by the Presidency. The Ministerial Council shall meet at least once every year. The meetings shall be prepared by the Secretariat.

Article 51

The Presidency shall chair the Ministerial Council and be assisted by one representative of the European Community and one representative of the incoming Presidency as Vice-Presidents. The Presidency and the Vice-Presidents shall prepare the draft Agenda.

Article 52

The Ministerial Council shall submit an 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.

CHAPTER II THE PERMANENT HIGH LEVEL GROUP

¹² Amended by Ministerial Council Decision 2009/02/MC-EnC of 18 December 2009 amending the Treaty establishing the Energy Community with regard to the frequency of Ministerial Council meetings.

Article 53

The Permanent High Level Group shall:

- (a) prepare the work of the Ministerial Council;
- (b) give assent to technical assistance requests made by international donor organisations, international financial institutions and bilateral donors;
- (c) report to the Ministerial Council on progress made toward achievement of the objectives of this Treaty;
- (d) take Measures, if so empowered by the Ministerial Council;
- (e) adopt Procedural Acts, not involving the conferral of tasks, powers or obligations on other institutions of the Energy Community;
- (f) discuss the development of the *acquis communautaire* described in Title II on the basis of a report that the European Commission shall submit on a regular basis.

Article 54

The Permanent High Level Group shall consist of one representative of each Contracting Party and two representatives of the European Community. One non-voting representative of each Participant may participate in its meetings.

Article 55

The Permanent High Level Group shall adopt its internal rules of procedure as a Procedural Act.

Article 56

The Presidency shall convene the Permanent High Level Group at a place to be determined by the Presidency. The meetings shall be prepared by the Secretariat.

Article 57

The Presidency shall chair the Permanent High Level Group and be assisted by one representative of the European Community and one representative of the incoming Presidency as Vice-Presidents. The Presidency and the Vice-Presidents shall prepare the draft Agenda.

CHAPTER III THE REGULATORY BOARD

Article 58

The Regulatory Board shall:

- (a) advise the Ministerial Council or the Permanent High Level Group on the details of statutory, technical and regulatory rules;
- (b) issue Recommendations on cross-border disputes involving two or more Regulators, upon request of any of them;
- (c) take Measures, if so empowered by the Ministerial Council;
- (d) adopt Procedural Acts.

Article 59¹³

The Regulatory Board shall be composed of one representative of the energy regulator of each Contracting Party, pursuant to the relevant parts of the *acquis communautaire* on energy. The European Union shall be represented by the European Commission, assisted by one regulator of each Participant, and one representative of the Agency for the Cooperation of Energy Regulators.

Article 60

The Regulatory Board shall adopt its internal rules of procedure by Procedural Act.

Article 61

The Regulatory Board shall elect a President for a term determined by the Regulatory Board. The European Commission shall act as Vice-President. The President and the Vice-President shall prepare the draft Agenda.

Article 62

The Regulatory Board shall meet in Athens.

CHAPTER IV THE FORA

¹³ Amended by Ministerial Council Decision 2011/02/MC-EnC of 6 October 2011 on the implementation of Directive 2009/72/EC, Directive 2009/73/EC, Regulation (EC) 714/2009 and Regulation (EC) 715/2009 and amending Articles 11 and 59 of the Energy Community Treaty.

Article 63

Two Fora, composed of representatives of all interested stakeholders, including industry, regulators, industry representative groups and consumers, shall advise the EnergyCommunity.¹⁴

Article 64

The Fora shall be chaired by a representative of the European Community.

Article 65

The conclusions of the Fora shall be adopted by consensus. They shall be forwarded to the Permanent High Level Group.

Article 66

The Electricity Forum shall meet in Athens. The Gas Forum shall meet at a place to be determined by a Procedural Act of the Ministerial Council.¹⁵

CHAPTER V THE SECRETARIAT

Article 67

The Secretariat shall:

- (a) provide administrative support to the Ministerial Council, the Permanent High Level Group, the Regulatory Board and the Fora;
- (b) review the proper implementation by the Parties of their obligations under this Treaty, and submit yearly progress reports to the Ministerial Council;
- (c) review and assist in the coordination by the European Commission of the donors' activity in the territories

¹⁴ Pursuant to Decision 2008/03/MC-EnC of 18 December 2008 concerning the implementation to the oil sector of certain provisions of the Treaty and the creation of an Energy Community Oil Forum, the Ministerial Council established the Oil Forum.

¹⁵ According to Procedural Act 2023/01/MC-EnC of 14 December 2023 on the seat of the Gas Forum of the Energy Community, "the Energy Community Gas Forum shall be held in Ukraine as soon as conditions will allow. The conditions shall be assessed by the Energy Community Secretariat in cooperation with Ukraine, the Presidency and the Vice-Presidency in due time before the envisaged date of the respective meeting of the Gas Forum. Until conditions allow for the Gas Forum to take place in Ukraine, it shall take place in Vienna, Austria."

According to Article 2 of the Procedural Act 2023/01/MC-EnC, "the Energy Community Secretariat shall undertake the necessary steps for the practical set-up of the Gas Forum in cooperation with the competent Ukrainian authorities and in consultation with the Presidency and the Vice-Presidency. Article 3 of the Procedural Act requires that "The host will ensure that representatives of all Contracting Parties can attend the meetings."According to Article 2 of the Decision 2008/03/MC-EnC of 18 December 2008 Oil Forum shall meet in Belgrade, Serbia.

of the Adhering Parties and the territory under the jurisdiction of the United Nations Interim Administration Mission in Kosovo, and provide administrative support to the donors;

(d) carry out other tasks conferred on it under this Treaty or by a Procedural Act of the Ministerial Council, excluding the power to take Measures; and

(e) adopt Procedural Acts.

Article 68

The Secretariat shall comprise a Director and such staff as the Energy Community may require.

Article 69

The Director of the Secretariat shall be appointed by a Procedural Act of the Ministerial Council. The Ministerial Council shall lay down, by Procedural Act, rules for the recruitment, working conditions and geographic equilibrium of the Secretariat's staff. The Director shall select and appoint the staff.

Article 70

In the performance of their duties the Director and the staff shall not seek or receive instructions from any Party to this Treaty. They shall act impartially and promote the interests of the Energy Community.

Article 71

The Director of the Secretariat or a nominated alternate shall assist at the Ministerial Council, the Permanent High Level Group, the Regulatory Board and the Fora.

Article 72

The seat of the Secretariat shall be in Vienna.

CHAPTER VI BUDGET

Article 73

Each Party shall contribute to the budget of the Energy Community as set out in Annex IV. The level of contributions may be reviewed every five years, on request of any Party, by a Procedural Act of the Ministerial Council.

Article 74

The Ministerial Council shall adopt the budget of the Energy Community by Procedural Act every two years. The budget shall cover the operational expenses of the Energy Community necessary for the functioning of its institutions. The expenditure of each institution shall be set out in a different part of the budget. The Ministerial Council shall adopt a Procedural Act specifying the procedure for the implementation of the budget, and for presenting and auditing accounts and inspection.

Article 75

The Director of the Secretariat shall implement the budget in accordance with the Procedural Act adopted pursuant to Article 74, and shall report annually to the Ministerial Council on the execution of the budget. The Ministerial Council may decide by Procedural Act, if appropriate, to entrust independent auditors with verifying the proper execution of the budget.

TITLE VI – DECISION MAKING PROCESS

CHAPTER I GENERAL PROVISIONS

Article 76

Measures may take the form of a Decision or a Recommendation. A Decision is legally binding in its entirety upon those to whom it is addressed. A Recommendation has no binding force. Parties shall use their best endeavours to carry out Recommendations.

Article 77

Save as provided in Article 80, each Party shall have one vote.

Article 78

The Ministerial Council, the Permanent High Level Group or the Regulatory Board may act only if two third of the Parties are represented. Abstentions in a vote from Parties present shall not count as votes cast.

CHAPTER II MEASURES UNDER TITLE II

Article 79

The Ministerial Council, the Permanent High Level Group or the Regulatory Board shall take Measures under Title II on a proposal from the European Commission. The European Commission may alter or withdraw its proposal at any time during the procedure leading to adoption of the Measures.

Article 80

Each Contracting Party shall have one vote.

Article 81

The Ministerial Council, the Permanent High Level Group or the Regulatory Board shall act by a majority of the votes cast.

**CHAPTER III
MEASURES UNDER TITLE III****Article 82**

The Ministerial Council, the Permanent High Level Group or the Regulatory Board shall take Measures under Title III on a proposal from a Party or the Secretariat.

Article 83

The Ministerial Council, the Permanent High Level Group or the Regulatory Board shall act by a twothird majority of the votes cast, including a positive vote of the European Community.

**CHAPTER IV
MEASURES UNDER TITLE IV****Article 84**

The Ministerial Council, the Permanent High Level Group or the Regulatory Board shall take Measures under Title IV on a proposal from a Party.

Article 85

The Ministerial Council, the Permanent High Level Group or the Regulatory Board shall take Measures by unanimity.

CHAPTER V PROCEDURAL ACTS

Article 86

A Procedural Act shall regulate organizational, budgetary and transparency issues of the Energy Community, including the delegation of power from the Ministerial Council to the Permanent High Level Group, the Regulatory Board or the Secretariat, and shall have binding force on the institutions of the Energy Community, and, if the Procedural Act so provides, on the Parties.

Article 87

Save as provided in Article 88, Procedural Acts shall be adopted in compliance with the Decision Making Process set out in Chapter III of this Title.

Article 88

The Procedural Act appointing the Director of the Secretariat provided for in Article 69 shall be adopted by simple majority on a proposal from the European Commission. The Procedural Acts on budgetary matters provided for in Articles 73 and 74 shall be adopted by unanimity on a proposal from the European Commission. The Procedural Acts conferring powers on the Regulatory Board provided for in Article 47(c) shall be taken by unanimity on a proposal from a Party or the Secretariat.

TITLE VII – IMPLEMENTATION OF DECISIONS AND DISPUTE SETTLEMENT

Article 89

The Parties shall implement Decisions addressed to them in their domestic legal system within the period specified in the Decision.

Article 90

1. Failure by a Party to comply with a Treaty obligation or to implement a Decision addressed to it within the required period may be brought to the attention of the Ministerial Council by a reasoned request of any Party, the Secretariat or the Regulatory Board. Private bodies may approach the Secretariat with complaints.

2. The Party concerned may make observations in response to the request or complaint.

Article 91

1. The Ministerial Council may determine the existence of a breach by a Party of its obligations. The Ministerial Council shall decide:

- (a) by a simple majority, if the breach relates to Title II;
- (b) by a two-third majority, if the breach relates to Title III;
- (c) by unanimity, if the breach relates to Title IV.

2. The Ministerial Council may subsequently decide by simple majority to revoke any decisions adopted under this Article.

Article 92

1. At the request of a Party, the Secretariat or the Regulatory Board, the Ministerial Council, acting by unanimity, may determine the existence of a serious and persistent breach by a Party of its obligations under this Treaty and may suspend certain of the rights deriving from application of this Treaty to the Party concerned, including the suspension of voting rights and exclusion from meetings or mechanisms provided for in this Treaty.

2. The Ministerial Council may subsequently decide by simple majority to revoke any decisions taken under this Article.

Article 93

When adopting the decisions referred to in Articles 91 and 92, the Ministerial Council shall act without taking into account the vote of the representative of the Party concerned.

TITLE VIII – INTERPRETATION

Article 94

The institutions shall interpret any term or other concept used in this Treaty that is derived from European Community law in conformity with the case law of the Court of Justice or the Court of First Instance of the European Communities. Where no interpretation from those Courts is available, the Ministerial Council shall give guidance in interpreting this Treaty. It may delegate that task to the Permanent High Level Group. Such guidance shall not prejudice any interpretation of the *acquis communautaire* by the Court of Justice or the Court of First Instance at a later stage.

TITLE IX – PARTICIPANTS AND OBSERVERS

Article 95

Upon a request to the Ministerial Council, any Member State of the European Community may be represented in the Ministerial Council, the Permanent High Level Group and the Regulatory Board under the conditions laid down in Articles 48, 54 and 59 as a Participant, and shall be permitted to participate in the discussions of the Ministerial Council, the Permanent High Level Group, the Regulatory Board and the Fora.

Article 96

1. Upon a reasoned request of a neighbouring third country, the Ministerial Council may, by unanimity, accept that country as an Observer. Upon a request presented to the Ministerial Council within six months of the date of entry into force of this Treaty, Moldova shall be accepted as an Observer.
2. Observers may attend the meetings of the Ministerial Council, the Permanent High Level Group, the Regulatory Board and the Fora, without participating in the discussions.

TITLE X – DURATION

Article 97

This Treaty is concluded for a period of 10 years from the date of entry into force¹⁶. The Ministerial Council, acting by unanimity, may decide to extend its duration. If no such decision is taken, the Treaty may continue to apply between those Parties who voted in favour of extension, provided that their number amounted to at least two thirds of the Parties to the Energy Community.

Article 98

Any party may withdraw from this Treaty by giving six months notice, addressed to the Secretariat.

Article 99

Upon accession to the European Community of an Adhering Party, that party shall become a Participant as provided for in Article 95.

¹⁶ According to Ministerial Council Decision 2023/01/MC-EnC on extending the duration of the Energy Community Treaty, the duration of the Treaty is extended for a period of 10 years.

TITLE XI – REVISION AND ACCESSION

Article 100

The Ministerial Council may, by unanimity of its Members:

- (i) amend the provisions of Title I to VII;
- (ii) decide to implement other parts of the acquis communautaire related to Network Energy;
- (iii) extend this Treaty to other energy products and carriers or other essential network infrastructures;
- (iv) agree on the accession to the Energy Community of a new Party.

TITLE XII – FINAL AND TRANSITIONAL PROVISIONS

Article 101

Without prejudice to Articles 102 and 103, the rights and obligations arising from agreements concluded by a Contracting Party before the signature of this Treaty shall not be affected by the provisions of this Treaty. To the extent that such agreements are not compatible with this Treaty, the Contracting Party concerned shall take all appropriate measures to eliminate the incompatibilities established, no later than one year after the date of entry into force of this Treaty.

Article 102

All obligations under this Treaty are without prejudice to existing legal obligations of the Parties under the Treaty establishing the World Trade Organisation.

Article 103

Any obligations under an agreement between the European Community and its Member States on the one hand, and a Contracting Party on the other hand shall not be affected by this Treaty. Any commitment taken in the context of negotiations for accession to the European Union shall not be affected by this Treaty.

Article 104

Until the adoption of the Procedural Act referred to in Article 50, the 2003 Athens Memorandum of Understanding¹⁷ shall define the order for holding the Presidency.¹⁸

¹⁷ Memorandum of Understanding on the Regional Energy Market in South East Europe and its Integration into the European Community Internal Energy Market, signed in Athens on 8 December 2003.

¹⁸ According to Annex point III(1) of Procedural Act 2006/01/MC-EnC of 17 November 2006 on adoption of Internal Rules of Procedures of Ministerial Council of Energy Community, the Presidency of the Council shall be held in turn by each Contracting Party in alphabetical order, following the names of the Parties as indicated in the Treaty.

Article 105

This Treaty shall be approved by the Parties in accordance with their internal procedures.

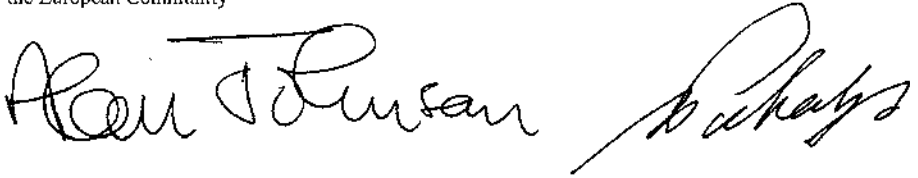
This Treaty shall enter into force on the first day of the month following the date on which the European Community and six Contracting Parties have notified the completion of the procedures necessary for this purpose.

Notification shall be sent to the Secretary-General of the Council of the European Union who shall be the depositary for this Treaty.

In witness thereof the duly authorised representatives have signed this Treaty.

Done at Athens, on the twenty-fifth day of October in the year two thousand and five.

For the European Community

A handwritten signature in black ink, appearing to read "Anton Gargalidis". The signature is written in a cursive style with a long horizontal line at the top.

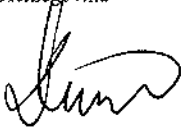
For the Republic of Albania

A handwritten signature in black ink, appearing to read "Gene Rukh". The signature is written in a cursive style.

For the Republic of Bulgaria

A handwritten signature in black ink, appearing to read "L. L. L.". The signature is written in a cursive style.

For Bosnia and Herzegovina

A handwritten signature in black ink, appearing to read "L. L. L.". The signature is written in a cursive style.

For the Republic of Croatia

A handwritten signature in black ink, appearing to read "P. P. P.". The signature is written in a cursive style.

For the former Yugoslav Republic of Macedonia

For the Republic of Montenegro

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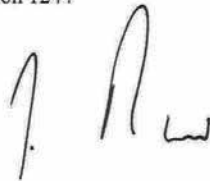
For Romania

A handwritten signature in black ink, appearing to be 'Mircea Cioloș', written in a cursive style.

For the Republic of Serbia

A handwritten signature in black ink, appearing to be 'Boris Tadić', written in a cursive style.

For the United Nations Interim Administration Mission in Kosovo pursuant to the United Nations Security Council Resolution 1244

A handwritten signature in black ink, appearing to be 'J. Row', written in a cursive style.



Republic of Macedonia
– Office of the Deputy Prime Minister –
Minčo Jordanov

Athens, 25 October 2005

Your Excellency,

Hereby I declare that the text of the Treaty establishing the Energy Community is acceptable for the Government of the Republic of Macedonia.

With this letter, the Government of the Republic of Macedonia considers itself as signatory of the Treaty establishing the Energy Community.

However, I declare that the Republic of Macedonia does not accept the denomination used for my country in the above-mentioned documents having in view that the constitutional name of my country is the Republic of Macedonia.

Please accept, Your Excellency, the assurances of my highest consideration.

Minčo Jordanov

THE EUROPEAN COMMUNITY

Brussels



**COUNCIL OF
THE EUROPEAN UNION
The Presidency**

Athens, 25 October 2005

Mr. Minco Jordanov,
Vice-President of the Government
of the former Yugoslav Republic of Macedonia.

Sir,

The European Community takes note of your letter of today's date and confirms that your letter and this reply shall together take the place of the signature of the Treaty establishing the Energy Community by the former Yugoslav Republic of Macedonia. However, this cannot be construed as acceptance or recognition by the European Community, in whatever form or content of a denomination other than "former Yugoslav Republic of Macedonia".

Please accept, Sir, the assurance of my highest consideration.

On behalf of
the European Community

UNITED NATIONS
United Nations Interim
Administration Mission in
Kosovo



NATIONS UNIES
Mission d'Administration
Intérimaire des Nations Unies
au Kosovo

DECLARATION

I, Søren Jessen-Petersen, Special Representative of the Secretary General and Head of the United Nations Interim Administration Mission in Kosovo (UNMIK),

HEREBY DECLARE that the United Nations Interim Administration Mission in Kosovo (UNMIK) is signing the Treaty establishing the Energy Community on 25 October 2005, subject to the following terms:

- (i) The United Nations Interim Administration Mission in Kosovo (UNMIK) established by Security Council resolution 1244 (1999) of 10 June 1999 signs the Treaty on behalf of Kosovo;
- (ii) The Treaty is valid in respect of Kosovo for the duration of UNMIK administration under resolution 1244 (1999), and its continued validity beyond that would depend on the future administration of Kosovo; and
- (iii) The conclusion of the Treaty on the part of UNMIK is without prejudice to the future status of Kosovo.

Furthermore, the Treaty does not engage the responsibility of the United Nations, nor does it create for the Organization any legal, financial or other obligations.

I request that this Declaration be duly recorded and form part of the official records of the Treaty.

IN WITNESS WHEREOF, I have hereto set my hand and seal.



Done at Pristina on 21 October 2005.

A handwritten signature in black ink, appearing to read "Søren Jessen-Petersen".

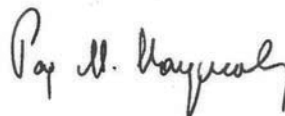
Søren Jessen-Petersen
Special Representative of the Secretary General

STATEMENT

Of the Serbian Delegation at the Ceremony of the signing of the Treaty establishing the Energy Community

"The Government of the Republic of Serbia would like to state that the signing of the Treaty establishing the Energy Community on behalf of the Special Representative of the Secretary General United Nations Interim Administration Mission in Kosovo shall in no way prejudice the final status of Kosovo and Metohija. The Government of the Republic of Serbia recalls the UN Security Council Resolution 1244 reaffirming the commitment of all Member States to the sovereignty and territorial integrity of the Serbia and Montenegro."

Athens, October 25, 2005



ANNEX I

LIST OF ACTS INCLUDED IN THE “ACQUIS COMMUNAUTAIRE ON ENERGY”

- (1) Directive (EU) 2019/944 of 5 June 2019 on common rules for the internal market for electricity, as adopted by Ministerial Council Decision 2021/13/MC-EnC of 30 November 2021.
- (2) Regulation (EU) 2019/943 of 5 June 2019 on the internal market for electricity”, as adopted by Ministerial Council Decision 2022/03/MC-EnC of 15 December 2022.
- (3) Regulation (EU) 2019/941 of 5 June 2019 on risk-preparedness in the electricity sector, as adopted by Ministerial Council Decision 2021/13/MC-EnC of 30 November 2021.
- (4) Regulation (EU) 2017/1938 of 25 October 2017 concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2011 as adapted to and adopted in the Energy Community by Ministerial Council Decision 2021/15/MC-EnC of 30 November 2021, Ministerial Council Decision 2022/01/MC-EnC of 30 September 2022 and Ministerial Council Decision 2025/09/MC-EnC of 18 December 2025, and Regulation (EC) 715/2009 of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) 1775/2005 as adapted and adopted by Ministerial Council Decision 2011/02/MC-EnC of 6 October 2011 and as adapted by Permanent High-Group Decision 2018/01/PHLG-EnC of 12 January 2018 and Ministerial Council Decision 2022/01/MC-EnC of 30 September 2022.
- (5) Regulation (EU) 2022/869 of 30 May 2022 on guidelines for trans-European energy infrastructure, amending Regulations (EC) No 715/2009, (EU) 2019/942 and (EU) 2019/943 and Directives 2009/73/EC and (EU) 2019/944, and repealing Regulation (EU) No 347/2013, as adopted by Ministerial Council Decision 2023/02/MC-EnC of 14 December 2023.
- (6) Directive (EU) 2018/2001 of 11 December 2018 on the promotion of the use of energy from renewable sources, as adopted by Ministerial Council Decision 2021/13/MC-EnC of 30 November 2021.
- (7) Directive (EU) 2018/2002 of 11 December 2018 amending Directive 2012/27/EU on energy efficiency, as adopted by Ministerial Council Decision 2021/13/MC-EnC of 30 November 2021.
- (8) Regulation (EU) 2018/1999 of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) 663/2009 and (EC) 715/2009, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) 525/2013, as adopted by Ministerial Council Decision 2021/13/MC-EnC of 30 November 2021.
- (9) Commission Delegated Regulation (EU) 2020/1044 of 8 May 2020 supplementing Regulation (EU) 2018/1999 with regard to values for global warming potentials and the inventory guidelines and with regard to the Union inventory system and repealing Commission Delegated Regulation (EU) 666/2014, as adopted by Ministerial Council Decision 2021/13/MC-EnC of 30 November 2021.
- (10) Commission Implementing Regulation (EU) 2020/1208 of 7 August 2020 on structure, format, submission processes and review of information reported by Member States pursuant to Regulation (EU) 2018/1999 and repealing Commission Implementing Regulation (EU) 749/2014, as adopted by Ministerial Council Decision 2021/13/MC-EnC of 30 November 2021.
- (11) Regulation (EU) 2019/942 of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators, as adopted by Ministerial Council Decision 2022/03/MC-EnC of 15 December 2022.

(12) Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC and amending Commission Regulation (EU) 601/2012 as adopted by Ministerial Council Decision 2022/05/MC-EnC of 15 December 2022.

(13) Commission Implementing Regulation (EU) 2018/2067 of 19 December 2018 on the verification of data and on the accreditation of verifiers pursuant to Directive 2003/87/EC as adopted by Ministerial Council Decision 2022/05/MC-EnC of 15 December 2022.

(14) Directive 2003/87/EC of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC as adopted by Ministerial Council Decision 2022/05/MC-EnC of 15 December 2022.

ANNEX II

TIMETABLE FOR THE IMPLEMENTATION OF THE ACQUIS ON ENVIRONMENT

1. Each Contracting Party shall implement Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment by 14 October 2016. Each Contracting Party shall implement Directive 2014/52/EU by 1 January 2019, with the exception of the provisions referring to Directives not covered by Article 16 of this Treaty.
2. Each Contracting Party shall implement 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 by 31 December 2011.
 - 2a. Each Contracting Party shall implement Directive (EU) 2016/802 of the European Parliament and of the Council of 11 May 2016 relating to a reduction in the sulphur content of certain liquid fuels and Commission Implementing Decision (EU) 2015/253 of 16 February 2015 laying down the rules concerning the sampling and reporting under Council Directive 1999/32/EC as regards the sulphur content of marine fuels by 30 June 2018.
3. Each Contracting Party shall implement 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 by 31 December 2017.
4. Each Contracting Party shall implement Article 4(2) of Directive 79/409/EEC of the Council of 2 April 1979 on the conservation of wild birds on the entry into force of this Treaty.
5. Each Contracting Party shall implement 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) from 1 January 2018 for new plants. For existing plants, Contracting Parties shall implement those provisions by 1 January 2028 at the latest. Prior to that date, they shall endeavour to implement the provisions of Chapter III and Annex V within the shortest possible timeframe, in particular in the cases of retrofitting existing plants. 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_x¹⁹
6. Each Contracting Party shall implement Directive 2004/35/EU of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage, as amended by Directive 2006/21/EC, Directive 2009/31/EC and Directive 2013/30/EU by 1 January 2021.
7. Each Contracting Party shall transpose Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment by 1 January 2018 and implement those provisions by 31 March 2018.

¹⁹ Amended by the Ministerial Council Decision 2015/07/MC-EnC on amending Decision 2013/05/MC-EnC of 24 October 2013 on the implementation of Directive 2001/80/EC 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.

ANNEX III

EC COMPETITION RULES

Article 81 of the EC Treaty

1. The following shall be prohibited as incompatible with the common market: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the common market, and in particular those which:

- (a) directly or indirectly fix purchase or selling prices or any other trading conditions;
- (b) limit or control production, markets, technical development, or investment;
- (c) share markets or sources of supply;
- (d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
- (e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

2. Any agreements or decisions prohibited pursuant to this article shall be automatically void.

3. The provisions of paragraph 1 may, however, be declared inapplicable in the case of:

- any agreement or category of agreements between undertakings,
- any decision or category of decisions by associations of undertakings,
- any concerted practice or category of concerted practices,

which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

- (a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;
- (b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

Article 82 of the EC Treaty

Any abuse by one or more undertakings of a dominant position within the common market or in a substantial part of it shall be prohibited as incompatible with the common market in so far as it may affect trade between Member States.

Such abuse may, in particular, consist in:

- (a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
- (b) limiting production, markets or technical development to the prejudice of consumers;

(c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

(d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

Article 86(1) and (2) of the EC Treaty

1. In the case of public undertakings and undertakings to which Member States grant special or exclusive rights, Member States shall neither enact nor maintain in force any measure contrary to the rules contained in this Treaty, in particular to those rules provided for in Article 12 and Articles 81 to 89.

2. Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly shall be subject to the rules contained in this Treaty, in particular to the rules on competition, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the interests of the Community.

Article 87 of the EC Treaty

1. Save as otherwise provided in this Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market.

2. The following shall be compatible with the common market:

(a) aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned;

(b) aid to make good the damage caused by natural disasters or exceptional occurrences;

(c) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, in so far as such aid is required in order to compensate for the economic disadvantages caused by that division.

3. The following may be considered to be compatible with the common market:

(a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment;

(b) aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State;

(c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest;

(d) aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Community to an extent that is contrary to the common interest;

(e) such other categories of aid as may be specified by decision of the Council acting by a qualified majority on a proposal from the Commission.

PROTOCOL
CONCERNING THE ACCESSION OF THE REPUBLIC OF MOLDOVA TO THE
TREATY ESTABLISHING THE ENERGY COMMUNITY

The Energy Community, in accordance with the Treaty establishing the Energy Community (herein- after - the Treaty) on the one hand,

and the Republic of Moldova on the other hand,

Taking note of the outcome of negotiations on the Republic of Moldova's accession to the Energy Community,

Having regard to the Decision of the Ministerial Council of the Energy Community of 18 December 2009 approving the accession of the Republic of Moldova to the Energy Community on the conditions set out herein (Decision 2009/03/MC-EnC),

AGREED ON THE FOLLOWING:

Article 1

The Republic of Moldova accedes to the Energy Community as a Contracting Party under the terms and conditions set out in the Decision of the Ministerial Council of the Energy Community of 18 December 2009 on the accession of the Republic of Moldova to the Energy Community (Decision 2009/03/MC-EnC), as laid down in this Protocol.

Unless specified otherwise in this Protocol, by date of accession, the Republic of Moldova 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 purpose of compliance with Title II of the Treaty establishing the Energy Community and its related Annexes, the timetable for implementation by the Republic of Moldova of the *acquis communautaire* is defined as follows

Directive 2003/55/EC concerning common rules for the internal market in natural gas	By 31 December 2009
Regulation 1775/2005 on conditions for access to the natural gas transmission networks	By 31 December 2010
Directive 2004/67/EC concerning measures to safeguard security of natural gas supply	By 31 December 2010

Directive 2003/54/EC concerning common rules for the internal market in electricity	By 31 December 2009
Regulation 1228/2003 on conditions for access to the network for cross-border exchanges in electricity	By 31 December 2010
Commission Decision 2006/770/EC amending the Annex to Regulation No 1228/2003 on conditions for access to the network for cross-border exchanges in electricity	By 31 December 2010
Directive 2005/89/EC concerning measures to safeguard security of electricity supply and infrastructure investment	By 31 December 2010
Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 97/11/EC and Directive 2003/35/EC	By 31 December 2010
Directive 1999/32/EC relating to a reduction in the sulphur content of certain liquid fuels	By 31 December 2014
Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants	By 31 December 2017
Directive 79/409/EC, Article 4(2), on the conservation of wild birds	By 31 December 2010
Plan for the implementation of Directive 2001/77/EEC on the promotion of electricity produced from renewable energy sources in the internal electricity market	By 31 December 2010
Plan for the implementation of Directive 2003/30/EC on the promotion of the use of biofuels or other renewable fuels for transport	By 31 December 2010

2. The Republic of Moldova must ensure that the eligible customers within the meaning of EC Directives 2003/54/EC and 2003/55/EC are:

- From 1 January 2013, all non-household customers; and
- From 1 January 2015, all customers.

3. In 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 the Republic of Moldova". In 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 the Republic of Moldova". In 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 the Republic of Moldova".

4. Article 15 of the Treaty shall apply to the Republic of Moldova as from one year following the date of accession of the Republic of Moldova.

Article 3

1. The contribution of the Republic of Moldova and of the other Parties to the budget of the Energy Community shall be set out in a Procedural Act to be adopted pursuant to 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 the Republic of Moldova shall be due for the first full budgetary year following accession.

Article 4

1. After adoption by the Ministerial Council of the Energy Community of its Decision on the Republic of Moldova's accession to the Energy Community, the Republic of Moldova shall initiate its internal procedures required for entry into force of its accession to the Energy Community.
2. The accession to the Energy Community shall enter into force on the first day of the second month following the month of completion of the procedures provided in the first paragraph of this article.

Done at Vienna, this seventeenth day of March in the year two thousand and ten. For the Energy Community For the Republic of Moldova

PROTOCOL
CONCERNING THE ACCESSION OF UKRAINE
TO THE TREATY ESTABLISHING THE ENERGY COMMUNITY

The Energy Community, in accordance with the Treaty establishing the Energy Community (herein- after - the Treaty) on the one hand, And Ukraine on the other hand,

Taking note of the outcome of negotiations on Ukraine’s accession to the Energy Community Treaty,

Having regard to the Decision of the Ministerial Council of the Energy Community of 18 December 2009 approving the accession of Ukraine to the Energy Community Treaty on the conditions set out herein (Decision 2009/04/MC-EnC),

AGREED ON THE FOLLOWING:

Article 1

Ukraine accedes to the Treaty establishing the Energy Community as a Contracting Party under the terms and conditions set out in the Decision of the Ministerial Council of the Energy Community of 18 December 2009 on the accession of Ukraine to the Energy Community Treaty (Decision 2009/04/MC-EnC), as laid down in this Protocol.

Unless specified otherwise in this Protocol, 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 timetable for implementation of the *acquis communautaire* is defined as follows:

Directive 2003/55/EC concerning common rules for the internal market in natural gas	By 1st January 2012
Regulation 1775/2005 on conditions for access to the natural gas transmission networks	By 1st January 2012
Directive 2004/67/EC concerning measures to safeguard security of natural gas supply	By 1st January 2012
Directive 2003/54/EC concerning common rules for the internal market in electricity	By 1st January 2012

Regulation 1228/2003 on conditions for access to the network for cross-border exchanges in electricity	By 1st January 2012
Commission Decision 2006/770/EC amending the Annex to Regulation 1228/2003 on conditions for access to the network for cross-border exchanges in electricity	By 1st January 2012
Directive 2005/89/EC concerning measures to safeguard security of electricity supply and infrastructure investment	By 1st January 2012
Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 97/11/EC and Directive 2003/35/EC.	By 1st January 2013
Directive 1999/32/EC relating to a reduction in the sulphur content of certain liquid fuels	By 1st January 2012
Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants	By 1st January 2018
Directive 79/409/EC, Article 4(2), on the conservation of wild birds	By 1st January 2015
Plan for the implementation of Directive 2001/77/EEC on the promotion of electricity produced from renewable energy sources in the internal electricity market	By 1st January 2011
Plan for the implementation of Directive 2003/30/EC on the promotion of the use of biofuels or other renewable fuels for transport	By 1st January 2011

2. Ukraine must ensure that the eligible customers within the meaning of EC Directives 2003/154/EC and 2003/55/EC are:

- From 1 January 2012, all non-household customers; and
- From 1 January 2015, all customers.

3. In 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”.

In 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”. In 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 out in a Procedural Act to be adopted pursuant to 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.

Article 4

1. After adoption by the Ministerial Council of the Energy Community of its Decision on Ukraine's accession to the Energy Community, Ukraine shall initiate its internal procedures required for entry into force of its accession to the Energy Community.
2. The accession to the Energy Community shall enter into force on the first day of the second month following the month of completion of the procedures provided in the first paragraph of this article.

Done at Skopje, this twenty fourth day of September in the year two thousand and ten. For the Energy Community For Ukraine

PROTOCOL
CONCERNING THE ACCESSION OF GEORGIA
TO THE TREATY ESTABLISHING THE ENERGY COMMUNITY

The Energy Community, in accordance with the Treaty establishing the Energy Community (herein - after - the Treaty), on the one hand, and Georgia, on the other hand,

Taking note of the outcome of negotiations on Georgia's accession to the Energy Community,

Having regard to the Decision of the Ministerial Council of the Energy Community of 14th October 2016 approving the accession of Georgia to the Energy Community (Decision 2016/18/MC-EnC),

Considering that Georgia is not directly interconnected to the energy network of any Contracting Party or any Member State of the European Union and that specific solutions needs to be found as regards key gas transmission infrastructures mainly used for the shipment of gas through Georgia,

Considering that Georgia became an observer to the Energy Community in 2007, after the negotiation of the conditions ruling these gas transmission infrastructures,

AGREED ON THE FOLLOWING:

Article 1

1. Georgia hereby accedes to the Treaty establishing the Energy Community as a Contracting Party under the terms and conditions set out in the present Protocol.
2. Unless specified otherwise in this Protocol, by date of accession, Georgia 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 purpose of compliance with Title II of the Treaty establishing the Energy Community and its related Annexes, the timetable for implementation of the *acquis communautaire* is defined as follows:

Directive 2009/73/EC concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC	By 31 December 2020
Regulation (EC) No 715/2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005	By 31 December 2020
Directive 2004/67/EC concerning measures to safeguard security of natural gas supply	By 31 December 2020

Directive 2009/72/EC concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC	By 31 December 2018
Regulation (EC) No 714/2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003	By 31 December 2018
Directive 2005/89/EC concerning measures to safeguard security of electricity supply and infrastructure investment	By 31 December 2019
Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 97/11/EC and Directive 2003/35/EC	Without prejudice to commitments under EU-Georgia Association Agreement the entire Directive should be fully implemented by 1 September 2017.
Directive 1999/32/EC relating to a reduction in the sulphur content of certain liquid fuels	Without prejudice to commitments under EU-Georgia Association Agreement the entire Directive should be fully implemented by 1 September 2021.
Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants	By 31 December 2018
Chapter III, Annex V and Article 72(3)-(4) of Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control) – for new plants	By 1 September 2018
Chapter III, Annex V and Article 72(3)-(4) of Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control) – for existing plants	By 1 September 2026
Directive 79/409/EC, Article 4(2), on the conservation of wild birds	By 1 September 2019
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	By 31 December 2018
Directive 2012/27/EU on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC.	By 31 December 2018
Directive 2010/30/EU on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products (recast)	By 31 December 2018
Directive 2010/31/EU on the energy performance of buildings (recast)	By 30 June 2019
Directive 2009/119/EC imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products	By 1 January 2023

Directive 2008/92/EC concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users (recast)	By 31 December 2017
Regulation (EC) No 1099/2008 on energy statistics	By 31 December 2017

2. Georgia must ensure that the eligible customers within the meaning of EC Directives 2009/72/EC and 2009/73/EC are:

- From 31 December 2018, all non-household customers; and
- From 31 December 2019, all customers.

3. In Article 19 of the Treaty, the reference “as from 6 months following the date of entry into force of this Treaty” shall be understood as meaning “as from one year following the date of accession of Georgia”. In 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 Georgia”. In 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 Georgia”.

4. Article 15 of the Treaty shall apply to Georgia as from one year following the date of accession of Georgia.

5. The South Caucasus Pipeline²⁰ and the North South Gas Pipeline²¹ are exempted from the implementation of Directive 2009/73/EC and Regulation (EC) No 715/2009 until 31 August 2026, the date of expiration of the Energy Community Treaty.

6. The present protocol of accession shall not affect the Intergovernmental Agreement between Georgia and the Azerbaijan Republic relating to the transit, transportation and sale of natural gas in and beyond the territories of Georgia and the Azerbaijan Republic through the South Caucasus Pipeline System.

7. As regards implementation of the provisions of Article 2(5) and 2(6) of this Protocol it is confirmed that Georgia is exempted from the application of the Treaty in relation to legal and/or regulatory regime and/or terms and conditions of cross-border transmission (transit) of natural gas, as well as to the terms and conditions of the existing agreements concluded to implement the Intergovernmental Agreement between Georgia and the Azerbaijan Republic relating to the transit, transportation and sale of natural gas in and beyond the territories of Georgia and the Azerbaijan Republic through the South Caucasus Pipeline System.

8. Should the Energy Community Treaty be extended beyond the date referred to in point 5, the provisions under points 5 and 6 of the present article shall be reviewed.

Article 3

The contribution of Georgia and of the other Parties to the budget of the Energy Community shall be set out in a Procedural Act to be adopted pursuant to 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.

²⁰ The South Caucasus Pipeline means SCP Project within the meaning ascribed to this term in the Intergovernmental Agreement between Georgia and the Azerbaijan Republic.

²¹ The North-South Gas Pipeline is a part of the Georgian Main Gas Pipelines System consisting of 1200/1000 mm diameter gas pipeline sections (as may be renewed, repaired, modified, refurbished, reconstructed and/or replaced) primarily assigned for transportation of natural gas from Russian Federation to the Republic of Armenia.

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

Article 4

After adoption by the Ministerial Council of the Energy Community of its Decision on Georgia's accession to the Treaty establishing the Energy Community, Georgia shall initiate its internal procedures required for entry into force of its accession to the Energy Community.

The accession to the Energy Community shall enter into force on the first day of the second month following the month of completion of the procedures provided in the first paragraph of this article. Notification thereof shall be sent to the Secretary General of the Council of the European Union, who shall be the depositary for this Protocol.

Done in Sarajevo, 14th October 2016 For the Energy Community For Georgia

ANNEX

COMMON UNDERSTANDING CONCERNING THE IMPLEMENTATION OF THE PROTOCOL

1. As regards the provisions included in the *acquis communautaire* listed under articles 2(1) and 2(2) of the protocol concerning energy cross-border exchanges with a Contracting Party or a Member State of the European Union, it shall be taken into account that Georgia is not directly interconnected to the energy network of any Contracting Party or Member State of the European Union. Georgia will start applying these rules and principles with respect to any Contracting Party or Member State of the European Union whenever it is physically interconnected to the energy network of any Contracting Party or Member State of the European Union. Rules and principles governing trade with countries which are not a Contracting Party of the Energy Community or a Member State of the European Union remains a national competence.
2. Any application of the provisions of the Chapter IV in Title II the Treaty (the *acquis* on competition) shall take into account that Georgia is currently an isolated market not having direct interconnections to the energy network of any Party. Georgia will promote and apply these provisions insofar as trade between the Contracting Parties may be affected.
3. For the implementation of Directive 2009/72/EC concerning common rules for the internal market in electricity, to be completed by 31 December 2018 and Directive 2005/89/EC concerning measures to safeguard security of electricity supply and infrastructure investment, to be completed by 31 December 2019, it is understood that a subsequent period of one year will be necessary for testing and adjusting the relevant implementing provisions and market instruments.
4. For the setting and level of electricity distribution tariffs, it is understood that Georgia may continue to observe its commitments with investors resulting from contracts concluded before the signature of this Protocol. It will engage in discussions with the Secretariat aimed at eliminating potential incompatibilities with the Treaty, no later than Article 2(1) and 2(2) become applicable.
5. Within the scope of Directive 2009/28/EC on the promotion of the use of energy from renewable sources, the applicability and, if appropriate, the calculation of the 2020 renewable energy target for Georgia will be established after the completion of the study appositely carried out under the responsibility of the Energy Community Secretariat.
6. With regard to Directives 2001/80/EC, 2012/27/EU, 2009/28/EC, 2010/30/EU, and 2010/31/EU, a number of specific deadlines differing from the overall Directives deadlines have been adapted by the Ministerial Council Decisions 2015/08/MC-EnC, 2013/05/MC-EnC, 2012/04/MC-EnC, 2014/02/MC-EnC and 2010/02/MC-EnC. In these specific cases, Georgia shall be granted the same adapted timeframe for implementation following the logic of the adaptations made for the existing Contracting Parties plus an additional period of 12 months. Within one month after signature of this Protocol, the Secretariat shall compile the deadlines applicable to Georgia under these Directives in a table for clarification.