

**DECISION
OF THE MINISTERIAL COUNCIL
OF THE ENERGY COMMUNITY**

D/2009/04/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 were held and successfully concluded on 7 October 2009 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,

Whereas, in the gas sector, the fulfilment of the obligations deriving from the accession to the Energy Community requires specific attention due to the importance of this sector for the security of supply of all Parties,

HAS ADOPTED THIS DECISION BY UNANIMITY:

Article 1

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 the Protocol attached to the present Decision.
2. The Ministerial Council of the Energy Community authorizes its President to sign on behalf of the Energy Community the Protocol, attached to the present Decision, which sets out, as provided for in paragraph 1, the terms and conditions of accession. Before signing this Protocol, the President shall, in agreement with the Vice-President representing the European Union, verify that a law on the gas sector in compliance with Directive 2003/55/EC is adopted and enacted.

Article 2

1. This Decision enters into force on the day of its adoption.
2. The accession to the Energy Community shall enter into force on the first day of the second month following the month of completion by Ukraine of its internal procedures for the approval of the accession to the Energy Community. 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 in Zagreb on 18 December 2009

For the Presidency



- ANNEX -

**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 (hereinafter - 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,

Agreed on the following:

Article 1

1. Ukraine accedes to the Treaty establishing the Energy Community as a Contracting Party under the terms and conditions set 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, as laid down in this Protocol.
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 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 1 st January 2012
Regulation n°1775/2005 on conditions for access to the natural gas transmission networks	By 1 st January 2012
Directive 2004/67/EC concerning measures to safeguard security of natural gas supply	By 1 st January 2012
Directive 2003/54/EC concerning common rules for the internal market in electricity	By 1 st January 2012
Regulation n°1228/2003 on conditions for access to the network for cross-border exchanges in electricity	By 1 st January 2012
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	By 1 st January 2012
Directive 2005/89/EC concerning measures to safeguard security of electricity supply and infrastructure investment	By 1 st 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 1 st January 2013
Directive 1999/32/EC relating to a reduction in the sulphur content of certain liquid fuels	By 1 st January 2012
Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants	By 1 st January 2018
Directive 79/409/EC, Article 4(2), on the conservation of wild birds	By 1 st 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 1 st July 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 1 st July 2011

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.

Article 4

1. After adoption by the Ministerial Council of the Energy Community of its Decision on Ukraine's accession to the Treaty establishing 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.

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