

NON-PAPER

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

Upon request of Ukraine, the Ministerial Council at its meeting of 24 October 2013 concluded that it would endeavour to consider a decision based on Article 24 of the Energy Community Treaty to take into account the specific situation of Ukraine as concerns the implementation of the environmental acquis on the reduction of emissions from existing large combustion plants.

In the light hereof, taking into account the need for Ukraine to secure its energy supply, the large number of existing large combustion plants (exceeding 140), the current status of the equipment of these plants, the high costs of emission abatement measures and the high investments needed for the construction of new plants, adaptation is needed of the provisions and timeframes set out in Articles 4 and 5 of Decision D/2013/05/MC-EnC, as well as of the deadline set in Point 5 of Annex II of the Treaty, following amendments could be envisaged:

1. Certain existing plants in Ukraine may be allowed, where proven necessary, to operate the plant for not more than 40 000 operational hours starting from 1 January 2018 and ending no later than 31 December 2033. This would imply an amendment of Article 4 of Decision D/2013/05/MC-EnC as follows: “From the point in time when the plant has been operating for 40 000 hours since 1 January 2018 and in any case from 1 January 2034 onwards, the plant shall not be operated further unless it meets the emission limit values set out in Part 2 of Annex V to Directive 2010/75/EU”.
2. The timeframes for implementing a National Emission Reduction Plan (NERP), in paragraphs 5-8 of Decision D/2013/05/MC-EnC, would be replaced by the following:
 - A NERP shall be in use up to 31 December 2028 at the latest for SO₂ and dust and up to 31 December 2033 at the latest for NO_x.
 - The ceilings for 2018 shall not be higher than the emissions for 2012, while taking into account all emission reduction measures that are foreseen to be realised by 2018.
 - The ceilings for the year 2028 for SO₂ and dust and the ceiling for the year 2033 for NO_x shall be calculated on the basis of the relevant emission limit values set out in Part 1 of Annex V to Directive 2010/75/EU or, where applicable, the relevant rates of desulphurisation set out in Part 5 of Annex V to Directive 2010/75/EU.
 - The ceilings for the intermediate years shall be set providing a linear decrease of the ceilings between 2018 on the one hand, and 2028 (SO₂, dust) or 2033 (NO_x) on the other.
3. To take account of these modified timeframes to make use of the ‘flexibility mechanisms’ under Directive 2001/80/EC, the deadlines for implementing Chapter III, Annex V and Article 72(3)-(4) of Directive 2010/75/EC, as foreseen in Annex II of the Energy Community Treaty, need to be amended for UA: implementation of those provisions should take place by 1 January 2029 at the latest for SO₂ and dust and by 1 January 2034 at the latest for NO_x.