

MEMORANDUM

The authorized representatives of the European Commission, acting on behalf of the Energy Community as mandated by the Energy Community Ministerial Council on 29 June 2007, on the one side, and the authorized representatives of the Ukrainian Delegation for the negotiations, on the other side, have carried out negotiations in view of the accession of Ukraine to the Energy Community Treaty. These negotiations resulted in the terms and conditions set out in annex to this Memorandum.

The undersigned negotiators hereby declare that the negotiations are concluded and recommend that their outcome is submitted to the relevant approval procedures on both sides. It is understood that accession will take effect pursuant to the timing defined in the relevant Decision of the Ministerial Council of the Energy Community and upon completion and notification by Ukraine of its internal approval procedures.

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

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

Done in Kiev,

On 7 October 2009

For the Energy Community



Fabrizio Barbaso
Deputy-Director general
Directorate general for Energy
and Transport
European Commission

For the Ukrainian Delegation



Yuriy Prodan
Minister of Fuel and Energy
Of Ukraine

ANNEX

Terms and conditions concerning

THE ACCESSION OF UKRAINE TO THE ENERGY COMMUNITY TREATY

Article 1

1. Ukraine accedes to the Treaty establishing the Energy Community as a Contracting Party under the terms and conditions laid down in this Annex.
2. Unless specified otherwise in this Annex, by date of accession, Ukraine is entitled to all rights granted to Contracting Parties and is subject to all obligations imposed on Contracting Parties by the Treaty and by all Decisions and Procedural Acts adopted in application of the Treaty since its entry into force.

Article 2

1. For the purposes of compliance with Title II of the Treaty establishing the Energy Community and its related Annexes, the 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.

MEMORANDUM

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

These negotiations resulted in the attached draft Ministerial Council Decision on the accession of the Republic of Moldova to the Energy Community and its Annex.

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

Done in Chisinau on 29th April 2009.

For the Energy Community



Fabrizio Barbaso
Deputy-Director General
Directorate General for Energy
and Transport European
Commission

For the Republic of Moldova



Tudor Copaci
Deputy Minister,
Ministry of Economy and Trade

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

**..././MC-EnC on the accession of
the Republic of Moldova to the Energy Community**

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 the Republic of Moldova has been actively participating in the Energy Community as an Observer since November 2006,

Whereas the Republic of Moldova has undertaken significant reforms to approximate its legal framework in accordance with the requirements of the Energy Community Treaty,

Whereas negotiations on the accession of the Republic of Moldova were held and successfully concluded on 29 April 2009 in Chisinau,

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

HAS ADOPTED THIS DECISION BY UNANIMITY:

Article 1

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

Article 2

1. This Decision enters into force on the first day of the second month following notification by the Republic of Moldova of the completion of its internal approval procedures for the Treaty establishing the Energy Community and for the Annex to this Decision.
2. Notification shall be sent to the Secretary-General of the Council of the European Union as depositary of the Energy Community Treaty pursuant its Article 105.

Done at

For the Presidency

ANNEX

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

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

Article 1

1. The Republic of Moldova accedes to the Treaty establishing the Energy Community as a Contracting Party under the terms and conditions laid down in this Annex.
2. Unless specified otherwise in this Annex, by date of accession, 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 n°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 n°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 n°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	By 31 December 2014

content of certain liquid fuels	
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. 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 the Republic of Moldova”. 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 the Republic of Moldova”. 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 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 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 the Republic of Moldova shall be due for the first full budgetary year following accession.
