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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	8 November 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2021) 690 final - ANNEXES 1 to 2
Subject:	ANNEXES to the Proposal for a Council Decision on the position to be adopted on behalf of the European Union in the Ministerial Council of the Energy Community and in the Permanent High Level Group of the Energy Community (Belgrade, Serbia, 29 and 30 November 2021)

Delegations will find attached document COM(2021) 690 final - ANNEXES 1 to 2.

Encl.: COM(2021) 690 final - ANNEXES 1 to 2



EUROPEAN
COMMISSION

Brussels, 5.11.2021
COM(2021) 690 final

ANNEXES 1 to 2

SENSITIVE*

ANNEXES

to the

Proposal for a Council Decision

**on the position to be adopted on behalf of the European Union in the Ministerial Council
of the Energy Community and in the Permanent High Level Group of the Energy
Community (Belgrade, Serbia, 29 and 30 November 2021)**

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ANNEX I

Ministerial Council

1. DECISION 2021/.../MC-ENC 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

The position to be adopted on behalf of the European Union is to approve the draft Decision in accordance with Commission Decision of 24/09/2021 establishing a Commission proposal to the Ministerial Council of the Energy Community for a Decision of the Ministerial Council of the Energy Community to adopt a set of legal acts for setting the 2030 energy and climate framework in the Contracting Parties of the Energy Community **[C(2021) 7044 final]**.

Minor changes may be agreed to, in the light of comments from the Energy Community Contracting Parties before or at the Ministerial Council, by the Commission, without a further decision of the Council.

2. DECISION 2021/.../MC-ENC AMENDING ANNEX I TO THE TREATY ESTABLISHING THE ENERGY COMMUNITY AND INCORPORATING DIRECTIVE (EU) 2019/944 AND REGULATION (EU) 2019/941 IN THE ENERGY COMMUNITY ACQUIS

The position to be adopted on behalf of the European Union is to approve the draft Decision in accordance with Commission Decision of 24/09/2021 establishing a Commission proposal to the Ministerial Council of the Energy Community for a Decision of the Ministerial Council of the Energy Community on the incorporation of the Directive (EU) 2019/944 and Regulation (EU) 2019/941 and amending Annex I of the Energy Community Treaty **[C(2021) 7041 final]**. An adaption shall be made in respect to paragraph 2 of Article 4 of the Annex to the aforementioned Commission Decision of 24.9.2021 to the extent that the year “1996” in the definitions (42) on ‘small isolated system’ and (43) on ‘small connected system’ is replaced by the year “2006”.

Minor changes may be agreed to, in the light of comments from the Energy Community Contracting Parties before or at the Ministerial Council, by the Commission, without a further decision of the Council.

3. DECISION 2021/.../MC-ENC AMENDING ANNEX I TO THE TREATY ESTABLISHING THE ENERGY COMMUNITY AND ADAPTING AND IMPLEMENTING REGULATION (EU) 2017/1938 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL CONCERNING MEASURES TO SAFEGUARD THE SECURITY OF GAS SUPPLY

The position to be adopted on behalf of the European Union is to approve the draft Decision in accordance with Commission Decision of 24/09/2021 establishing a Commission proposal to the Ministerial Council of the Energy Community for a Decision of the Ministerial Council of the Energy Community on the incorporation of Regulation (EU) 2017/1938 and amending Annex I of the Energy Community Treaty [C(2021) 7045 final].

Minor changes may be agreed to, in the light of comments from the Energy Community Contracting Parties before or at the Ministerial Council, by the Commission, without a further decision of the Council.

4. PROCEDURAL ACT 2021/05/MC-ENC AMENDING PROCEDURAL ACT OF THE MINISTERIAL COUNCIL 2008/02/MC-ENC OF 11 DECEMBER 2008 ON THE ESTABLISHMENT OF SECURITY OF SUPPLY GROUP

The position to be adopted on behalf of the European Union is to approve the draft Procedural Act in accordance with the Addendum to this Annex I

Minor changes may be agreed to, in the light of comments from the Energy Community Contracting Parties before or at the Ministerial Council, by the Commission, without a further decision of the Council.

5. DECISION 2021/.../MC-ENC ADAPTING AND IMPLEMENTING COMMISSION REGULATION (EU) 2019/2146 AMENDING REGULATION (EC) NO 1099/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL, AS REGARDS THE IMPLEMENTATION OF UPDATES FOR THE ANNUAL, MONTHLY AND SHORT-TERM MONTHLY ENERGY STATISTICS

The position to be adopted on behalf of the European Union is to approve the draft Decision in accordance with Commission Decision of 24/09/2021 establishing a Commission proposal to the Ministerial Council of the Energy Community for a Decision of the Ministerial Council of the Energy Community on the implementation of the Commission Regulation (EU) 2019/2146 of 26 November 2019 amending Regulation (EC) No 1099/2008 of the European Parliament and of the Council on energy statistics, as regards the implementation of updates for the annual, monthly and short-term monthly energy statistics [C(2021) 7042 final].

Minor changes may be agreed to, in the light of comments from the Energy Community Contracting Parties before or at the Ministerial Council, by the Commission, without a further decision of the Council.

6. DECISION 2021/.../MC-ENC AMENDING DECISION NO 2015/09/MC-ENC ON THE IMPLEMENTATION OF REGULATION (EU) NO 347/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON GUIDELINES FOR TRANS-EUROPEAN ENERGY INFRASTRUCTURE

The position to be adopted on behalf of the European Union is to approve the draft Decision in accordance with Commission Decision of 24/09/2021 establishing a Commission proposal to the Ministerial Council of the Energy Community for a Decision of the Ministerial Council of the Energy Community amending Decision No 2015/09MC-EnC of 16 October 2015 on the implementation of Regulation (EU) No 347/2013 of the European Parliament and of the Council on guidelines for trans-European energy infrastructure **[C(2021) 7051 final]**.

Minor changes may be agreed to, in the light of comments from the Energy Community Contracting Parties before or at the Ministerial Council, by the Commission, without a further decision of the Council.

7. PROCEDURAL ACT ON THE ADOPTION OF THE BUDGET OF THE ENERGY COMMUNITY FOR THE PERIOD 2022-2023

The position to be adopted on behalf of the European Union is to approve the draft Procedural Act which is based on the Commission Decision of 24/09/2021 establishing a Commission proposal to the Ministerial Council of the Energy Community for a Decision of the Ministerial Council of the Energy Community on the Budget of the Energy Community for the period 2022-2023**[C(2021) 7050 final]**.

Minor changes may be agreed to, in the light of comments from the Energy Community Contracting Parties before or at the Ministerial Council, by the Commission, without a further decision of the Council.

8. DECISIONS UNDER ARTICLE 91(1) ECT ESTABLISHING THE EXISTENCE OF A BREACH OF THE ENERGY COMMUNITY TREATY IN THE FOLLOWING CASES:

The position to be adopted on behalf of the European Union is to approve the draft Decisions under Article 91(1) ECT establishing the existence of a breach in:

- (a) Decision 2021/02/MC-EnC on the failure of Bosnia and Herzegovina to comply with the Energy Community Treaty in Case ECS-5/17;
- (b) Decision 2021/04/MC-EnC on the failure of Moldova to comply with the Energy Community Treaty in Case ECS-7/18;
- (c) Decision 2021/03/MC-EnC on the failure of Bosnia and Herzegovina to comply with the Energy Community Treaty in Case ECS-10/18;
- (d) Decision 2021/05/MC-EnC on the failure of Montenegro to comply with the Energy Community Treaty in Case ECS-3/21;
- (e) Decision 2021/06/MC-EnC on the failure of Ukraine to comply with the Energy Community Treaty in Case ECS-4/21;

- (f) Decision 2021/07/MC-EnC on the failure of North Macedonia to comply with the Energy Community Treaty in Case ECS-22/21;
- (g) Decision 2021/08/MC-EnC on the failure of Serbia to comply with the Energy Community Treaty in Case ECS-23/21;
- (h) Decision 2021/09/MC-EnC on the failure of Moldova to comply with the Energy Community Treaty in Case ECS-24/21.

9. DECISIONS UNDER ARTICLE 92(1) ECT:

The position to be adopted on behalf of the European Union is to approve the draft Decisions under Article 92(1) ECT establishing the existence of a serious and persistent breach in:

- (a) Decision 2021/12/MC-EnC on establishing a serious and persistent breach against Serbia under Art. 92(1) of the Treaty in Case ECS-10/17S and in Case ECS-13/17S;
- (b) Decision 2021/13/MC-EnC on establishing a serious and persistent breach against Ukraine under Art. 92(1) of the Treaty in Case ECS-1/18S.

ADDENDUM TO ANNEX I

19th MC/Annex 27/30-09-2021

PROCEDURAL ACT OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

2021/05/MC-EnC amending Procedural Act of the Ministerial Council 2008/02/MC-EnC of 11 December 2008 on the Establishment of Security of Supply Group

The Ministerial Council of the Energy Community,

Having regard to the Treaty establishing the Energy Community (“the Treaty”), and in particular Articles 47(c), 82, 83, 86 and 87 thereof,

Having regard to the Procedural Act 2008/02/MC-EnC establishing a Security of Supply Group in the Energy Community,

Whereas that Procedural Act refer to *acquis communautaire*, namely Directive 2004/67/EC and Directive 2005/89/EC, which have been replaced by adapted versions of Regulation (EU) 2017/1938 and Regulation (EU) 2019/941 respectively, by Decisions of the Ministerial Council No 2021/xx/MC-EnC and No 2021/xx/MC-EnC,

Whereas the composition and tasks of the Security of Supply Group needs to be adapted to reflect that development,

Whereas the Permanent High Level Group, at its meeting on 29 November 2021 endorsed the present Procedural Act,

Upon proposal by the Secretariat,

ADOPTS THE FOLLOWING PROCEDURAL ACT:

Article 1

(1) Article 2 of Procedural Act 2008/02/MC-EnC shall be amended as follows:

- (a) The following sentence should be added at the end of paragraph 2: “The Member States of the European Union may, under the coordination of the European Commission, participate in the Security of Supply Coordination Group with regard to all matters with which they are concerned.”.

- (b) Paragraph 3 shall be replaced by the following: “The Security of Supply Coordination Group shall be chaired by the European Commission in cooperation with the Energy Community Secretariat.”
- (c) Paragraph 4 shall be replaced by the following: “Each Party shall nominate its representatives and inform the Energy Community Secretariat. The list of representative bodies of the industry concerned and of relevant consumers shall be established and updated by the Permanent High Level Group upon a joint proposal by both the European Commission and the Energy Community Secretariat. The agenda and the draft conclusions of each meeting of the Security of Supply Coordination Group shall be agreed by the European Commission and the Energy Community Secretariat prior to circulating”;
- (d) Paragraph 5 shall be replaced by the following: “The Security of Supply Coordination Group shall establish subgroups for gas and electricity”.

(2) Article 3 of Procedural Act 2008/02/MC-EnC shall be amended as follows:

- (a) Paragraph 4 shall be replaced by the following: “In the event of an existing or imminent threat to security of supply or in the event of a supply disruption affecting a Party and involving another Party or a third country, the Security of Supply Coordination Group shall, where appropriate, coordinate measures taken at national levels. In doing so, it shall follow the principles established by Regulation (EU) 2017/1938, as adapted and adopted by Decision of the Ministerial Council No 2021/xx/MC-EnC, and Regulation (EU) 2019/941, as adapted and adopted by Decision of the Ministerial Council No 2021/xx/MC-EnC, in the gas and electricity sectors respectively.”
- (b) Paragraph 6 shall be replaced by the following: “The activities of the Security of Supply Coordination Group may relate to, but are not restricted to, all issues falling within the scope of Regulation (EU) 2017/1938, as adapted and adopted by Decision of the Ministerial Council No 2021/xx/MC-EnC, and Regulation (EU) 2019/941, as adapted and adopted by Decision of the Ministerial Council No 2021/xx/MC-EnC, as well as mutual assistance within the meaning of Chapter IV in Title IV of the Treaty and the handling of unilateral safeguard measures in accordance with Article 39 of the Treaty.”
- (c) The following paragraph 7 shall be added: “The activities of the Security of Supply Coordination Group shall not have legally binding effects.”

(3) Article 4 of Procedural Act 2008/02/MC-EnC shall be amended as follows:

- (a) Paragraph 1 shall be replaced by the following: “The Security of Supply Coordination Group, or its subgroups, shall meet regularly and at least once per year.”
- (b) Paragraph 3 shall be replaced by the following: “Upon agreement of the European Commission and the Energy Community Secretariat, the Security of Supply

Coordination Group may hold additional ad hoc joint sessions with the European Community Gas Coordination Group to discuss issues of common interest.”

Article 2

This Procedural Act shall enter into force upon adoption. It shall be published on the Energy Community website.

Done in Belgrade on 30 November 2021

For the Presidency

ANNEX II

PHLG

DECISION 2021/.../PHLG-ENC DECISION 2021/.../PHLG-ENC ON THE AMENDMENT OF PHLG DECISION 2013/01/PHLG-ENC OF 23 OCTOBER 2013 ON THE INCORPORATION OF REGULATION (EU) NO 838/2010 IN THE ENERGY COMMUNITY ACQUIS

The position to be adopted on behalf of the European Union is to approve the draft Decision in accordance with Commission Decision of 24/09/2021 on establishing a proposal to be submitted by the Commission to the Permanent High Level Group of the Energy Community (PHLG) for a Decision of the PHLG to amend PHLG Decision 2013/01/PHLG-EnC of 23 October 2013 on the incorporation of Regulation (EU) No 838/2010 in the Energy Community acquis [C(2020) 7049 final].