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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	10 November 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 701 final - ANNEX
Subject:	ANNEX to the Proposal for a Council Decision on the position to be taken on behalf of the European Union in the Ministerial Council of the Energy Community (Vienna, Austria, 14 of December 2023)

Delegations will find attached document COM(2023) 701 final - ANNEX.

Encl.: COM(2023) 701 final - ANNEX



EUROPEAN
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Brussels, 10.11.2023
COM(2023) 701 final

ANNEX

ANNEX

to the

Proposal for a Council Decision

**on the position to be taken on behalf of the European Union in the Ministerial Council of
the Energy Community (Vienna, Austria, 14 of December 2023)**

ANNEX

DECISION 01/2023/MC-EnC ON EXTENDING THE DURATION OF THE TREATY ESTABLISHING THE ENERGY COMMUNITY

The position to be taken on behalf of the European Union is to approve the draft Ministerial Council Decision on extending the duration of the Treaty establishing the Energy Community ('ECT') for a period of 10 years in accordance with Addendum 1 to this Annex.

DECISION .../2023/MC-EnC AMENDING ARTICLE 2(2) OF THE TREATY ESTABLISHING THE ENERGY COMMUNITY

The position to be taken on behalf of the European Union is to approve the draft Ministerial Council Decision in accordance with Commission Decision of 20 September 2023 on the proposal for a Decision of the Ministerial Council of the Energy Community amending Article 2(2) of the Treaty establishing the Energy Community and a Decision of the Ministerial Council of the Energy Community amending Annex I to the Treaty establishing the Energy Community to adapt to and adopt in the Energy Community Regulation (EU) 2022/869 of the European Parliament and of the Council on guidelines for trans-European energy infrastructure, Annex I [C(2023)6183 final].

PROCEDURAL ACT .../2023/MC-EnC ON THE SEAT OF THE GAS FORUM OF THE ENERGY COMMUNITY

The position to be taken on behalf of the European Union is to approve the draft Ministerial Council Procedural Act on the seat of the Gas Forum of the Energy Community in accordance with Addendum 2 to this Annex.

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

The position to be taken on behalf of the European Union is to approve the draft Ministerial Council Decisions under Article 91(1)(a) ECT, provided that the Advisory Committee of the Energy Community timely delivers a prior opinion supporting the findings of the Energy Community Secretariat establishing the existence of a breach in:

- (a) Decision .../2023/MC-EnC on the failure of the Republic of North Macedonia to comply with the Energy Community Treaty in Case ECS-7/21;
- (b) Decision .../2023/MC-EnC on the failure of Kosovo*¹ to comply with the Energy Community Treaty in Case ECS-8/21;
- (c) Decision .../2023/MC-EnC on the failure of Bosnia and Herzegovina to comply with the Energy Community Treaty in Case ECS-9/21;

¹ Kosovo (*) - This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ opinion on the Kosovo declaration of independence.

- (d) Decision .../2023/MC-EnC on the failure of Montenegro to comply with the Energy Community Treaty in Case ECS-15/21;
- (e) Decision .../2023/MC-EnC on the failure of Bosnia and Herzegovina to comply with the Energy Community Treaty in Case ECS-10/23;
- (f) Decision .../2023/MC-EnC on the failure of Kosovo* to comply with the Energy Community Treaty in Case ECS-11/23;
- (g) Decision .../2023/MC-EnC on the failure of the Republic of Moldova to comply with the Energy Community Treaty in Case ECS-12/23.

ADDENDUM 1 TO THE ANNEX

DECISION OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY 01/2023/MC-EnC on extending the duration of the Treaty establishing the Energy Community

THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY,

Having regard to the Treaty establishing the Energy Community ('the Treaty'), and in particular Article 97 thereof,

Whereas the Treaty was signed on 25 October 2005 and entered into force on 1 July 2006;

Whereas, according to its Article 97, the Treaty was concluded for an initial period of 10 years from the date of entry into force and requires a decision by the Ministerial Council for its extension;

Whereas the Treaty was already extended for a period of 10 years by Ministerial Council Decision 1/2013/MC-Enc on 24 October 2013;

Whereas the Energy Community continues to provide an efficient framework for regional cooperation in the energy field, which was significantly upgraded by the adoption of the electricity sector integration package by the Ministerial Council in December 2022;

Whereas the Energy Community, in particular by the adoption of a Decarbonisation Roadmap and the Clean Energy Package, has been evolving into a robust framework to drive and support the Contracting Parties' energy transitions and climate action;

Whereas the commitments entered into by the Parties to the Energy Community extend well beyond 2026;

ADOPTS THIS DECISION:

Article 1

Extension of the duration of the Treaty establishing the Energy Community

The duration of the Treaty is extended for a period of 10 years until 30 June 2036.

Article 2

Entry into force

This Decision enters into force upon its adoption.

Done at

For the Ministerial Council

The President

ADDENDUM 2 TO THE ANNEX

PROCEDURAL ACT .../2023/MC-EnC ON THE SEAT OF THE GAS FORUM OF THE ENERGY COMMUNITY

The Ministerial Council of the Energy Community,

Having regard to the Treaty on Establishing the Energy Community and in particular Articles 66, 82 and 87 thereof,

Having regard to the Energy Community Ministerial Conclusions of 29 June 2007 which determined that the Gas Forum of the Energy Community shall meet in Maribor, Slovenia, and instructed the Permanent High-Level Group to adopt a Procedural Act setting out the practical arrangements for its organisation,

Pursuant to Article 1 of the Procedural Act 2007/03/2/PHLG-EnC of 17 October 2007 on the seat of the Gas Forum, the Energy Community Secretariat was to cooperate on practical arrangements for the organisation of the Forum with the competent Slovenian authorities, while consulting the Presidency and the Vice-Presidency,

Whereas the Ministerial Council concluded on 15 December 2022 that it is desirable that the Gas Forum of the Energy Community meets in Ukraine as from 2023, or as soon as conditions will allow, in recognition of Ukraine's importance for Europe's energy security, in particular its further integration of its gas market and systems, including for decarbonized gases and hydrogen. The Ministerial Council invited the Secretariat and the European Commission to make the necessary arrangements to this end,

Having regard to the expression of solidarity by the Slovenian authorities with Ukraine and their offer to cede the location of the Gas Forum to the benefit of Ukraine,

Taking into account that the Gas Forum will start meeting in Ukraine as soon as conditions allow and unit then, it shall meet in Vienna,

Upon proposal by the Energy Community Secretariat,

HAS ADOPTED THIS PROCEDURAL ACT:

ARTICLE 1

- (1) 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 the Presidency and the Vice-Presidency in due time before the envisaged date of the respective meeting of the Gas Forum.

- (2) Until conditions allow for the Gas Forum to take place in Ukraine, it shall take place in Vienna, Austria.

ARTICLE 2

The Energy Community Secretariat shall undertake the necessary steps for the practical set-up of the Gas Forum in cooperation with the relevant Ukrainian authorities and in consultation with the Presidency and the Vice-Presidency.

ARTICLE 3

The host will ensure that representatives of all Contracting Parties can attend the meetings.

ARTICLE 4

This Procedural Act enters into force on the day of its adoption.

Done in Vienna on XXX

For the Ministerial Council

Presidency