



EUROPEAN
COMMISSION

Brussels, 12.7.2016
COM(2016) 456 final

ANNEX 1

ANNEX

to the

Proposal for a Council Decision

On a proposal to establish the Energy Community list of energy infrastructure projects

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EXPLANATORY MEMORANDUM

1. Introduction

On 16 October 2015 the Ministerial Council of the Energy Community adopted a Decision on the implementation of the Regulation (EU) No 347/2013 of the European Parliament and of the Council of on guidelines for trans-European energy infrastructure¹. The purpose of this measure was to create a legal framework for prioritising key energy infrastructure projects among Contracting Parties and between Contracting Parties and EU Member States.

Regulation (EU) No 347/2013 as adopted in the Energy Community sets a comprehensive framework for streamlining the permitting, regulatory and cost-allocation procedures in Contracting Parties. It also requires, subject to a number of criteria, a Ministerial Council decision to establish under Title III of the Energy Community Treaty a list of priority infrastructure projects called projects of Energy Community interest (PECI). The final transposition deadline for main provisions of the Regulation and deadline for establishment of the list of PECI is 31 December 2016.

As required by the provisions Regulation (EU) No 347/2013, as adopted in the Energy Community, two working Groups were created in order to prepare PECI list. Projects that have been submitted by project promoters have been consulted in a public consultation launched by Energy Community Secretariat on 2nd of May 2016. In the course of 2016, projects were assessed as regards their eligibility for the PECI status. A cost benefit analysis of each project was performed leading to the ranking of projects which was based on specific scores related to the level of the fulfilment of the criteria. At the end of the process, based on a consensus, a draft preliminary list of PECIs is to be proposed to the decision making body which is the Energy Community Permanent High Level Group (PHLG). Following the positive opinion of the Energy Community Regulatory Board the final preliminary list of PECIs has to be agreed by the decision making body.

The Annex with respective list of projects are established following the decision making process as described above.

¹ D/2015/09/MC-EnC

2. Legal basis of the proposal

Under Article 82 of the Treaty the Ministerial Council shall take measures under Title III on a proposal from a Party or the Secretariat. The Commission submitted on behalf of the European Union such a proposal to the Ministerial Council of the Energy Community.

Under Article 7 paragraph 5 (a) of the Decision the Ministerial Council shall establish the list of projects of the Energy Community interest by way of a Decision under Title III of the Treaty.

European Union Proposal for a

DECISION OF THE

MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

on the establishment of the list of projects of Energy Community interest ('Energy Community list')

THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY,

Having regard to the Treaty establishing the Energy Community ('The Treaty'), and in particular Articles 2, 26, 27, 82 thereof,

Having regard to the Decision of the Ministerial Council of the Energy Community D/2015/09/MC-EnC on the implementation of the Regulation (EU) No 347/2013 of the European Parliament and of the Council on guidelines for trans-European energy infrastructure, and in particular Article 3, paragraph 4 of this Regulation, as adopted in the Energy Community.

Having regard to the proposal from the European Union,

Whereas:

- (1) On 16 October 2015 the Ministerial Council of the Energy Community adopted a Decision² on the implementation of the Regulation (EU) No 347/2013 of the European Parliament and of the Council on guidelines for trans-European energy infrastructure.
- (2) Under Article 82 of the Treaty measures are to be proposed by a Party or the Secretariat.
- (3) Projects proposed for the inclusion in the list of projects of the Energy Community interest ("PECI") have been assessed by the Groups and meet the criteria laid down in the Regulation.
- (4) The preliminary list of PECIs was agreed by the Groups at technical-level meetings. Following the positive opinion of the Energy Community Regulatory Board ("ECRB") on the consistent application of the assessment criteria and the cost/benefit analysis, proposed list was discussed and agreed upon in the [XX] meeting of the Energy Community Permanent High Level Group ('PHLG') on the [XXXX] 2016 and this Decision was finalised and endorsed by the PHLG acting for this purpose as a decision-making body.

² Decision D/2009/2015/MC-EnC

- (5) Organisations representing relevant stakeholders, including producers, distribution system operators, suppliers, and consumer and environmental protection organisations were consulted on the projects proposed for the inclusion in the Energy Community list.
- (6) The inclusion of PECO list is without prejudice to the outcome of the relevant environmental assessment and permit procedure. Under Article 5(8) of the adopted Regulation, a project that does not comply with Energy Community law may be removed from the Energy Community list. The implementation of PECOs, including their compliance with the Energy Community legislation, should be monitored in accordance with Article 5 of that Regulation.
- (7) Pursuant to the second paragraph of Article 3(4) of the adopted Regulation, the Energy Community list is established every two years by way of a Decision under Title III of the Treaty.

HAS ADOPTED THIS DECISION:

Article 1

The list of PECOs is adopted as set out in the Annex to this Decision.

Article 2

This Decision shall enter into force on the day of its adoption.

The Decision is addressed to the Adhering Parties, to the United Nations Interim Administration Mission in Kosovo and to the Member States referred to in Article 27 of the Energy Community Treaty.

Done at ..., ... 2016.

For the Ministerial Council
The President