



Brussels, 26.11.2020
COM(2020) 781 final

ANNEXES 1 to 2

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 (Tivat, Montenegro, 16-17 December 2020)**

ANNEX I

Ministerial Council

1. DECISION 2020/.../MC-ENC ON THE IMPLEMENTATION OF THE COMMISSION REGULATION (EU) 2019/2146 OF 26 NOVEMBER 2019 AMENDING REGULATION (EC) NO 1999/2008 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

The position to be adopted on behalf of the European Union is to approve the draft Decision in accordance with Commission Decision of 26 November 2020 (C(2020) 8439 final) 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 1999/2008 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.

2. DECISION 2020/.../MC-ENC ON THE IMPLEMENTATION OF THE COMMISSION IMPLEMENTING REGULATION (EU) 2019/803 OF 17 MAY 2019 CONCERNING THE TECHNICAL REQUIREMENTS REGARDING THE CONTENT OF QUALITY REPORTS ON EUROPEAN STATISTICS ON NATURAL GAS AND ELECTRICITY PRICES PURSUANT TO REGULATION (EU) 2016/1952 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

The position to be adopted on behalf of the European Union is to approve the draft Decision in accordance with Commission Decision of 26 November 2020 (C(2020) 8439 final) 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 Implementing Regulation (EU) 2019/803 of 17 May 2019 concerning the technical requirements regarding the content of quality reports on European statistics on natural gas and electricity prices pursuant to Regulation (EU) 2016/1952 of the European Parliament and of the Council.

3. DECISION 2020/..../MC-ENC ON THE ESTABLISHMENT OF THE LIST OF PROJECTS OF ENERGY COMMUNITY INTEREST

The position to be adopted on behalf of the European Union is to approve the draft Decision as set out in the Addendum to this Annex.

4. 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 Decision under Article 91(1) ECT establishing the existence of a breach in:

- (a) Case ECS-13/17 (Serbia), on condition that the Advisory Committee of the Energy Community delivers an opinion supporting the findings of the Energy Community Secretariat prior to the meeting of the Ministerial Council and that the obiter dictum in point (71) of the Reasoned Request is removed.
- (b) Case ECS-10/18 (Bosnia and Herzegovina), once the Advisory Committee of the Energy Community, following the hearing on 9 December 2020, has delivered an opinion supporting the findings of the Energy Community Secretariat and subject to new developments on the case.

5. DECISIONS UNDER ARTICLE 92(1) ECT ON THE ADOPTION OF MEASURES IN RESPONSE TO SERIOUS AND PERSISTENT BREACHES BY BOSNIA AND HERZEGOVINA OF THE ENERGY COMMUNITY TREATY IN CASES ECS-8/11S, ECS-2/13S AND ECS-6/16S; ON UKRAINE IN CASE ECS-1/18S AND ON SERBIA IN CASE ECS-10/17S.

The position to be adopted on behalf of the European Union is to approve the draft Decisions under Article 92(1) ECT on Bosnia and Herzegovina in Cases ECS-2/13S and ECS-6/16S. As regards Case ECS-8/11S on Bosnia and Herzegovina, the position to be adopted on behalf of the European Union in the Ministerial Council is to approve the draft Decision, with the exception of measures under Article 3(1) of Decision 2016/16/MC-EnC, whose extension should not be approved.

The position to be adopted on behalf of the European Union in the Ministerial Council on Ukraine in Case ECS-1/18S should be to approve the decision of the Ministerial Council determining the existence of a serious and persistent breach, on condition that the deadline for reporting to the Ministerial Council by Ukraine and for the rectification of the breach by Ukraine be set on the date of the Ministerial Council 2021.

The position to be adopted on behalf of the European Union in the Ministerial Council is to approve the Decision determining the existence of a serious and persistent breach under Article 92(1) ECT on Serbia in Case ECS-10/17S.

6. APPOINTMENT OF THE MEMBERS OF THE ADVISORY COMMITTEE IN ACCORDANCE WITH ARTICLE 32 (3) OF THE RULES UNDER PROCEDURAL ACT NO 2008/01/MC-ENC ON THE RULES OF PROCEDURE FOR THE DISPUTE SETTLEMENT AS AMENDED BY PROCEDURAL ACT 2015/04/MC-ENC

The position to be adopted on behalf of the European Union is to support the proposed appointments.

ADDENDUM TO ANNEX I

DECISION 2020/.../MC-ENC 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 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 Energy Community Secretariat,

Whereas:

- (1) On the 16th of October 2015 the Ministerial Council of the Energy Community adopted a Decision¹ 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 ("PECIs") have been assessed by the Groups and meet the criteria laid down in the Regulation.
- (4) The draft 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, the proposed list was discussed in the 56th meeting of the Energy Community Permanent High Level Group ('PHLG') on the 16th of July 2020 and this Decision was finalised and endorsed by the PHLG acting as a decision-making body, for this purpose.
- (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 PECI 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 PECIs, including

¹ Decision D/2015/09/MC-EnC

their compliance with the Energy Community legislation, should be monitored in accordance with Article 5 of the 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 PECIs 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 Contracting Parties of the Energy Community.

Done in Tivat, on ... 2020

For the Presidency

EXPLANATORY MEMORANDUM

1. Introduction

On the 16th of 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 infrastructure.² 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.

² D/2015/09/MC-EnC

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 ECT 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 first list of PECI was the 31st of December 2016. The list shall be updated every two years.

As required by the provisions of 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 were subject of a public consultation launched by Energy Community Secretariat on the 30th of March 2020. In the course of 2020, 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 was proposed to the decision making body which is the Energy Community Permanent High Level Group (PHLG) and endorsed, on 16 July 2020. Following the positive opinion of the Energy Community Regulatory Board received on the 28th of July 2020, the final list of PECIs has to be agreed by the Ministerial Council on the 17 December 2020.

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

2. Legal basis of the proposal

Under Article 82 of the ECT the Ministerial Council shall take measures under Title III on a proposal from a Party or the Secretariat.

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.

The Secretariat submits the proposed List of PECI in the Annex upon the initiative of Electricity Group, respectively, Gas and Oil Group and in agreement with the services of the European Commission. If and to the extent the Secretariat is being made aware of any concerns regarding a Project of Energy Community Interest's compliance with Energy Community law, it may propose to the Ministerial Council to remove the Project from the List in accordance with Article 5(8) of Regulation (EU) No 347/2013 of the European Parliament and of the Council on Guidelines for trans-European Energy Infrastructure, as incorporated in the Energy Community.

ANNEX

List of PECI in Electricity

EL_01	Transbalkan corridor
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a	New 400 kV OHL SS Kragujevac 2 (RS) – SS Kraljevo 3 (RS), with voltage level upgrade in SS Kraljevo 3 (RS) to 400 kV voltage level
b	New double circuit 400 kV OHL SS Obrenovac (RS) – SS Bajina Basta (RS) with upgrade of SS Bajina Basta (RS) to 400 kV
c	New 400 kV interconnection between SS Bajina Basta (RS) - Visegrad (BA) - Pljevlja (ME)

List of PECO in Gas

	Project name	Cluster
Gas_13	Albania-Kosovo* Gas Pipeline - ALKOGAP	Supplying Kosovo competing projects 'cluster
Gas_26	North Macedonia–Kosovo Interconnector	Supplying Kosovo competing projects' cluster
Gas_11	Interconnector Serbia-North Macedonia	Supplying North Macedonia competing projects' cluster
Gas_09	Interconnector Bulgaria-Serbia (PCI) as a competing project with TurkStream expansion in Serbia (Gastrans project)	N/A

List of PECO in Oil

Oil_01	Ukraine - Poland oil pipeline (Brody - Adamowo)
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* 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.

ANNEX II

PHLG

PROCEDURAL ACT 2020/.../PHLG-ENC AMENDING PROCEDURAL ACT NO 01/2011 PHLG – ENC OF THE PERMANENT HIGH LEVEL GROUP OF THE ENERGY COMMUNITY LAYING DOWN THE RULES GOVERNING THE ARBITRATION PROCEDURE IN STAFF MATTERS UNDER ARTICLE 14 OF THE STAFF REGULATIONS

The position to be adopted on behalf of the European Union is to approve the draft Procedural Act in accordance with Commission Decision of 26 November 2020 (C(2020) 8437 final) establishing a Commission proposal to the Permanent High Level Group of the Energy Community for a Procedural Act of the Permanent High Level Group of the Energy Community amending the Procedural Act No 01/2011 PHLG-EnC of the Permanent High Level Group of the Energy Community of 23/03/2011 laying down the rules governing the arbitration procedure in staff matters under Article 14 of the Staff Regulations of the Energy Community.

Minor changes to the draft Procedural Act may be agreed to, in the light of comments from the Energy Community Contracting Parties or the Energy Community Secretariat before or at the PHLG meeting.

In this context, the Council confirms, subject to the adoption by the Permanent High Level Group of the proposed amendment of Procedural Act No 01/2011 PHLG-EnC, the appointment of Mr Manuel Kellerbauer as a permanent member of the Arbitration Committee representing the European Commission and Mr Lars Albath as a permanent alternate member of the Arbitration Committee representing the European Commission.