



Република Србија  
**МИНИСТАРСТВО**  
**РУДАРСТВА И ЕНЕРГЕТИКЕ**  
Број: 312-01-956/2016 -01  
Датум: 4. август 2016. године  
Београд

Dear Mr Кораџ,

Please find enclosed proposed amendments to the Treaty for the Ministerial council in october 2016, in accordance with Article 100 of the Treaty.

Sincerely,

**MINISTER**

Aleksandar Antić

**Energy Community Secretariat**  
**Mr. Janez Кораџ, Director**  
**Am Hof 4**  
**1010 Vienna**  
**AUSTRIA**

## PROPOSED AMMENDMENTS TO THE TREATY FOR THE MINISTERIAL COUNCIL IN OCTOBER 2016

### 1. Introduction

Pursuant to the Treaty establishing the Energy Community between the European Community and the Republic of Albania, Republic of Bulgaria, Bosnia and Herzegovina, Republic of Croatia, Former Yugoslav Republic of Macedonia, Republic of Montenegro, Romania, Republic of Serbia and the United Nations Interim Administration Mission in Kosovo in accordance with Resolution 1244 of the UN Security Council (hereinafter referred to as EC Treaty) Energy Community was established in order to integrate energy markets of the European Union and of the Parties to the Treaty in accordance with the *acquis communautaire* in the field of energy.

According to the Treaty, the task of the Energy Community is to govern the relations between the Parties and create a legal and economic framework in terms of network energy, in order to, among other objectives defined by the Treaty, improve the environmental conditions in terms of network energy.

Also, the Treaty stipulates that for the purpose of achieving the objectives set out in the Treaty, the activities of the Energy Community, including the implementation of relevant *acquis communautaire* on energy, environmental protection, competition and renewable energy sources by the Contracting Parties, as provided for under Title II of this Treaty, adapted to both the institutional framework of the Energy Community, as well as to the specific circumstances of each Contracting Party.

### 2. Amendments proposed based on Article 100 of the Treaty

- Amendment of Annex II Deadlines for implementation of EU legislation concerning the environment (hereinafter referred to as Annex II)

In point 2 of Annex II the words "until 31 December 2011" shall be replaced by the words: "**until 31 December 2019**".

#### **Rationale:**

The Government of the Republic of Serbia is strategically oriented towards the European integration process and acquiring the status of full membership in the European Union.

The process of Euro integrations, in addition to harmonizing the national legislation with the *acquis communautaire*, involves meeting the economic and political criteria for the membership in the EU, including, inter alia, the creation of a stable economic and monetary environment.

The Government of the Republic of Serbia has already initiated and adopted measures to restore the stability of public finances and the overall macroeconomic environment. A credible fiscal consolidation program has been confirmed by concluding a Precautionary Arrangement with IMF in early 2015. Accordingly, the Strategy of fiscal consolidation for 2016 has been adopted, with projections for 2017 and 2018 projecting the basic macroeconomic aggregates and indicators for the Republic of Serbia in the period 2016-2018. on the basis of current economic trends and perspective in the Republic of Serbia and the international environment, bearing in mind the planned economic policies and the Precautionary Arrangement concluded with IMF;

Regarding the harmonization of national legislation with the Directive 1999/32/EC significant efforts have been made in regards to its implementation:

**New Rulebook on technical and other requirements for liquid fuels of petroleum origin has been adopted and it harmonized the following:**

- Article 1 of Directive (EC) 1999/32 - Completed the harmonization of the part related to exceptions to which the limits in the sulphur content in liquid fuels used as energy fuel is not applied.

- Article 2 of the Directive (EC) 1999/32 - Completed the harmonization of the definitions of liquid fuels of petroleum origin for: gas oil and fuel oil and tariff nomenclature codes for individual liquid fuels have been introduced.

- Article 6 of the Directive (EC) 1999/32 - Completed the harmonization in the part related to sampling and analysis, i.e. monitoring of the sulphur content in fuel oils and gas oil (excluding marine fuel) to be placed on the market in the Republic of Serbia. Also the testing methods of sulphur content in fuels have been adapted by introducing the method of testing of sulphur content SRPS EN ISO 14596 in addition to the already existing method SRPS EN ISO 8754 in the gas oil (Gas Oil 0.1 and Gas Oil Euro EI) and fuel oil. Also an arbitration method for determining the sulphur content SRPS EN ISO 14596 has been established, as well as that for the interpretation of test results the methods described in SRPS EN ISO 4259 shall be used.

- Article 7 of Directive (EC) 1999/32 - provides the basis for future reporting of international organizations on the quality of fuel in accordance with the international commitments assumed by the Republic of Serbia until 30 June of the current year for the previous calendar year.

**New Energy Law has been adopted, as well as related secondary legislation which transposed into the Serbian legislation Articles 5 and 6 of Directive (EC) 1999/32:**

- Article 337, par. 4 of the Energy Law stipulates that due to insufficient supply in the energy and energy-generating products market or the occurrence of other emergencies, the Government may adopt an act to approve a modification of the limit values for certain characteristics of the quality of petroleum products that can be placed on the market of the Republic of Serbia for a period of maximum of six months;

- Article 338 of the Energy Law stipulates that the Ministry responsible for energy is monitoring the quality of petroleum products and biofuels, as well as that the Government shall regulate the conditions, manner and procedure for monitoring of the quality of petroleum products and biofuels.

- Article 367 of the Energy Law stipulates that supervision of the implementation of the provisions of this law and the regulations adopted under this Law, referring to the marking, monitoring and the quality of petroleum products, shall be conducted by the ministry in charge of trade via market inspectors in accordance with the law governing trade and the law governing consumer protection.

- Regulation on monitoring the quality of petroleum products and biofuels specifies the conditions, manner and procedure for monitoring the quality of petroleum products and biofuels.
- Rulebook on the content and manner of implementation of the annual program of monitoring the quality of petroleum products and biofuels which prescribes the manner of implementation and content of the annual program of monitoring the quality of petroleum products and biofuels specifying: the scope and place of implementation of the monitoring, the number of samples to be tested, quality parameters to be examined, the planning of sampling procedure, method of sample collecting and labelling, the method of handling of samples, the manner of reporting on the monitoring performed, the period of implementation of monitoring and other elements important for the system of monitoring the quality of petroleum products and biofuels.
- The provisions of Article 11 of Directive (EC) 1999/32 have been transposed into national legislation by the Energy Law, Law on the requirements for products and conformity assessment, as well as the Regulation on the monitoring of the quality of petroleum products and biofuels.

In addition, in the period from 2009 - 2012, the quality of motor fuels Euro diesel and unleaded petrol have been fully harmonized with requirements of standard EN 549 and EN 228, investments were made in the refinery units (MHC/DHT project, projects related to environmental protection) worth over EUR 500 million, and the placement of about 2 billion litres of motor fuel of the highest quality on the market of the Republic of Serbia was enabled, which significantly contributed to environmental protection and consumer health protection.

Also, the Republic of Serbia, as a minority shareholder of the joint stock company "Naftna industrija Srbije", which performs energy activity of production of petroleum products, has taken all the necessary actions to reduce the sulphur content of certain liquid fuels to an acceptable level, as soon as possible. Business Plan and long-term Strategy of "Naftna industrija Srbije" a.d. have been harmonized with the majority shareholder of NIS ad, which clearly confirms the support for the project of „deep processing“. The implementation of the project of „deep processing“ already started and completion of construction and commencement of pre-start activities is expected in the second quarter of 2019.

Previous implementation of the project of deep processing has significantly affected the activities carried out in order to create a stable economic and monetary environment, but also the secure supply of petroleum products to the consumers of the Republic of Serbia, for the following reasons:

- Import of petroleum products has a significant impact on the balance of payments of the Republic of Serbia. Any potential disturbances in the production process of petroleum products in refinery units of the Republic of Serbia and marketing of products would have an estimated impact to the decrease of budget revenues of the Republic of Serbia in the amount of about USD 10 million annually. In that case, the estimated losses in the operations of NIS, which itself needs to invest over EUR 300 million in the project of deep processing, would amount to about USD 4.5 million annually;

- Fuel oil with a sulphur content up to 3% at the territory of the Republic of Serbia is used for power generation in thermal power plants - heating plants (TE-TO), power stations and heating plants, industry, construction, transport, agriculture and for other consumers. The situation when placement of fuel oil with a sulphur content up to 3% would not be possible for the duration of the investment cycle in the Refinery Pančevo could also endanger the

production of other petroleum products, and thus of the regular supply of consumers in the Republic of Serbia;

- Disabling the placement of fuel oil with a sulphur content up to 3% which is largely used for heating of the population and public institutions on the market would necessarily require imports of fuel oil with a sulphur content up to 1%, since domestic production capacities could not provide the necessary amounts to meet domestic consumption;

- Increase the cost of procurement of fuel oil from imports would most significantly affect economically most vulnerable consumers, primarily heating plants and public institutions, which are in Serbia, at the same time, relatively most important in the structure of consumption of fuel oil with a sulphur content up to 3%;

- Under conditions of severe economic and fiscal crisis as well as the expected strong fiscal adjustment in the period from 2015 to 2019, any increase in costs would jeopardize the ability of the public sector to finance energy for heating of the population and public institutions, which could lead to serious economic consequences;

- Comparison of the price of fuel oil with a sulphur content up to 3% from domestic production with the price of imported fuel oil with a sulphur content up to 1% indicates that the inability to place the fuel oil with a sulphur content up to 3% on the market would lead to an increase in costs for domestic consumers which would, depending on the volume of purchases and transportation costs, total at least between 7% and 10%. "

In order to follow up the investment process in oil sector, the Ministry of Mining and Energy has prepared a draft of the rulebook on data to be submitted to the Ministry in connection with the development and investments, and which in accordance with Article 336 of the Energy Law, specifies the deadlines, the content and manner of submission of data that are energy entities performing the activity of production of petroleum products are required to submit to the Ministry responsible for energy affairs. The draft of the rulebook specifically defines the units for which it is necessary to provide data on the planned and initiated investments, in order to enable the monitoring of the full implementation of the requirements of the Directive (EC) 1999/32 in addition to the implementation of new energy capacities. The Ministry responsible for energy on a monthly basis monitors the implementation of the project Development of Refinery Processing in NIS (increasing the depth of processing), which is a prerequisite for the implementation of Article 3 of Directive (EC) 1999/32, without any negative impact on the creation of a stable economic and monetary environment in the Republic of Serbia.

**Considering the above, the Republic of Serbia suggests, regarding the principle expressed in Article 3.1.a of the Treaty ( "... adapted to the specific circumstances of each Contracting Party"), to take into account the specific circumstances of the Republic of Serbia (activities on the implementation of Directive 1999/32 / EC implemented so far, social and economic present circumstances, as well as activities carried out on the creation of a stable economic and monetary environment) and to stipulate 31/12/2019 as the deadline for the full implementation of Article 3(1) of Directive 1999/32.**