

## **RECOMMENDATION OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY**

### **2018/03/MC-EnC to prepare the implementation of Chapter II, Chapter IV and Annex VI of Directive 2010/75/EU of the European Parliament and of the Council**

#### THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

Having regard to the Treaty establishing the Energy Community, and in particular Articles 2, 76 and 79 thereof,

Having regard to Directive 2010/75/EU of the European Parliament and of the Council<sup>1</sup>, and in particular Chapters II, IV and Annex VI thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Article 2 of the Treaty defines the improvement of the environmental situation related to Network Energy in the Contracting Parties as one of its key objectives.
- (2) Directive 2010/75/EU, Chapter II, provides that permits for activities listed in its Annex I must set emission limit values for pollutant emissions which must be based on the use of best available techniques including those established by the European Commission through its implementing decisions establishing conclusions on Best Available Techniques (BAT) for the sectors concerned. Annex I lists various Network Energy-related activities, including large combustion plants, refineries, waste incinerators, waste co-incinerators.
- (3) Directive 2010/75/EU, Chapter IV and Annex VI furthermore set specific minimum requirements and emission limit values for waste (co-) incineration activities.
- (4) Chapters II, IV and Annex VI of Directive 2010/75/EU therefore pursue the same environmental objective as that enshrined in Article 2 of the Treaty establishing the Energy Community.
- (5) In order to ensure that new Network Energy-related activities apply the best available techniques aimed at minimising pollutant emissions to air, water and soil, and that waste (co-) incineration activities comply with minimum requirements and emission limit values laid down in Chapter IV and Annex VI of Directive 2010/75/EU, it would be necessary to incorporate Chapters II and IV and Annex VI of Directive 2010/75/EU into the Energy Community acquis.
- (6) A full and legally binding incorporation in the Energy Community of Chapters II and IV and Annex VI of Directive 2010/75/EU would require their adaptation in accordance with Article 24 of the Treaty.

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<sup>1</sup> Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions, OJ L 334, 17.12.2010, p. 17

- (7) It is however recommended, in a first instance, to prepare new Network Energy-related activities to future compliance with these provisions, allowing them to rely on the framework for regional cooperation established by the Energy Community and the assistance offered by its institutions and bodies, which can be essential in preparing the successful implementation of Chapters II and IV and Annex VI of Directive 2010/75/EU;
- (8) The Environmental Task Force, at its meetings of 8 June 2017 and 13 September 2017, discussed and endorsed the present Recommendation;
- (9) The Permanent High Level Group, at its meetings of 26 June 2016 and 19 October 2016, discussed and endorsed the present Recommendation,

HAS ADOPTED THIS RECOMMENDATION:

*Article 1*

1. Contracting Parties should prepare the legal and institutional preconditions for the implementation of the core elements of Chapter II, Chapter IV and Annex VI of Directive 2010/75/EU in their jurisdictions.
2. The Secretariat should assist the Contracting Parties' efforts in this respect. It should annually report to the Ministerial Council on progress.

*Article 2*

1. In the framework of the Environmental Task Force, the Contracting Parties, the Secretariat and the European Commission should identify the provisions of Chapter II, Chapter IV and Annex VI of Directive 2010/75/EU which are suitable for incorporation in the Energy Community, as well as the required adaptations and appropriate deadlines in view of their effective implementation in the Energy Community.
2. The European Commission should regularly inform the Contracting Parties and the Secretariat on possible amendments to Chapter II, Chapter IV and Annex VI of Directive 2010/75/EU.

*Article 3*

Subject to a proposal by the European Commission, the Ministerial Council will decide on the adoption of a decision incorporating suitable provisions of Chapter II, Chapter IV and Annex VI of Directive 2010/75/EU.

*Article 4*

This Recommendation shall enter into force upon its adoption by the Ministerial Council.

*Article 5*

This Recommendation is addressed to the Contracting Parties and institutions of the Treaty.

Done by written procedure on 3 January 2018

For the Ministerial Council

Presidency