

10TH ENERGY COMMUNITY MINISTERIAL COUNCIL

MEETING CONCLUSIONS

Budva, 18th October 2012

1. The Ministerial Council meeting was opened by H.E. Mr. Vladimir Kavarić – Minister of Economy – on behalf of Montenegro as Presidency in office. The European Commissioner for Energy Mr. Guenther Oettinger and Ambassador Nafsika Krousti (Cyprus) welcomed the participants on behalf of the European Union as Vice-Presidency.
2. The Ministerial Council thanked the Presidency Authorities for their hospitality.
3. The Ministerial Council approved the agenda.
4. The Ministerial Council adopted the A-points as indicated in Annex 1.
5. The Ministerial Council reviewed the state of play of the implementation of the Treaty on the ground of the annual Implementation Report as presented by the Energy Community Secretariat. Welcoming the progress made in the Contracting Parties, in particular on the level of secondary legislation, the Ministerial Council expressed its concerns with regard to the state of market opening and regional integration. Addressing this and to effectively start the preparations for the implementation of the Third Package should be in the focus of the activities over the next reporting period. The ministers noted the importance of implementation in the context of providing security of supply and adequate conditions for investments.
6. The Ministerial Council noted the statement of Republic of Moldova (attached) asking for a time extension for the provisions on unbundling under the Directive 2009/73/EC on the gas sector.
7. Due to their specific situation, the Ministerial Council took note that the Republic of Moldova and Ukraine, which joined the Energy Community in 2010 and 2011, may need longer than the deadline of 1 June 2016 to implement Article 9 of Directive 2009/73/EC. In this respect the European Union proposed to create a "joint expert group" with Ukraine and the Republic of Moldova which could facilitate the implementation of Directive 2009/73/EC, according to the Contracting Parties' obligations resulting from the Energy Community Treaty.
8. The Ministerial Council invited Ukraine to accelerate the adoption and the transposition of the Third Energy Package.
9. The Ministerial Council took note that the European Commission is finalizing a formal proposal for a Ministerial Council Decision under Articles 24 and 79 of the Energy Community Treaty, which takes into consideration Moldova's special situation and suggests to grant Moldova an extension of the implementation

deadline set by Article 3(1) 2nd line of Decision D/2011/02/MC. The Presidency, assisted by the Secretariat, is invited to initiate a procedure for decision-making by correspondence in line with the Rules of Procedure without delay after reception of the Commission's formal proposal.

10. The Ministerial Council noted the report by the Secretariat on pending dispute settlement cases and encouraged a quick resolution between Parties or resolution based on the provisions of the Treaty.
11. In relation to the extension of the Energy Community acquis in the area of statistics the Ministerial Council adopted Decision on the implementation of Regulation (EC) No 1099/2008 of 22 October 2008 on energy statistics and Directive 2008/92/EC of 22 October 2008 concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users with the deadline of 31 December 2013.
12. In relation to the extension of the Energy Community acquis in the area of oil stocks, the Ministerial Council adopted an amended Decision on the implementation of Directive 119/2009/EC on imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products not later than 1 January 2023. The Ministerial Council noted the statement of Republic of Serbia, which is attached.
13. In relation to the extension of the Energy Community acquis in the area of renewables, the Ministerial Council, upon updating the envisaged review clause, adopted Decision on the implementation of Directive 2009/28/EC on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC.
14. The Ministerial Council adopted the Energy Strategy of the Energy Community, and welcomed the interest of the civil society towards the development of the Energy Community Strategy as reported by the Presidency in Office, the EU and the Secretariat. The ministers emphasized on the importance of transparency and agreed that the civil society representatives should be appropriately consulted in the follow-up work.
15. The Ministers approved the extension of the mandate of the Energy Strategy Task Force till June 2013, with the scope of preparing a list of Projects of Energy Community Interest, and proposing associated regulatory measures and financial mechanisms to implement projects of Energy Community Interest.
16. The Ministerial Council exchanged views concerning the security of supply status in general and for the winter 2012/2013.
17. The Ministerial Council thanked Mr Igor Raguzin of Croatia for his work as Chair of the Energy Efficiency Task Force.

18. The Ministers noted the information on the outcome of the Social Forum and welcomed the Secretariat's initiative for developing a Social Strategy of the Energy Community. They invited the Secretariat, in cooperation with the social partners, to prepare an outline of a Social Strategy for discussion and eventual adoption at the Ministerial Council meeting in 2013 upon debate at the PHLG.
19. The Ministerial Council thanked Mr Neykov for his successful work, and appointed Mr. Janez Kopač as Director of the Energy Community Secretariat for a period of 3 years.
20. The Ministerial Council thanked the current Presidency of the Energy Community in the person of Minister Kavarič and welcomed the incoming Presidency – Serbia.
21. The Ministers took note of the priorities for the incoming Presidency presented by Minister Mihajlović, which shall focus on:

- Further development of Energy Strategy of the Energy Community-planning of implementation steps, including concrete investment planning and infrastructure developments;

- Social dimension – preparation of an outline of a Social Strategy of the Energy Community;

- Further steps towards implementation of Regional Action Plan for Market Integration in South East Europe

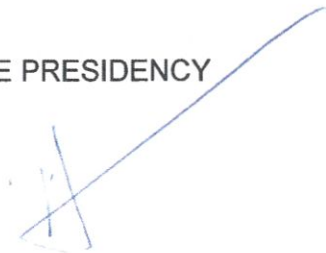
- Energy Security (Security of Supply, with the focus on gas interconnections and oil stocks).

These Conclusions are adopted.

Done in Budva on October 18, 2012

For the Ministerial Council,

THE PRESIDENCY



Annex 1

- 1) The Ministerial Council takes note of the Director's report on the implementation of the Work Programme of the Energy Community for 2012.
- 2) The Ministerial Council takes note of the Report of Audit as of 31 December 2011, presented by "Ernst & Young", of the Budget Committee report on Audit 2011 and of the Director's Report on the implementation of the budget of the Energy Community for 2011.
- 3) Based on the information under item 2 above, the Ministerial Council adopted a Decision on Financial Discharge of the Director of the Energy Community Secretariat for the year 2011.
- 4) The Ministerial Council adopted the Energy Community Report under Article 52 of the Treaty.
- 5) The Ministerial Council took note of the reports on the activities of the Task Forces on Energy Efficiency, Renewables, Environment and Regional Energy Strategy.
- 6) The Ministerial Council adopts the Conclusions of the 23rd, 24th, 25th and 26th Permanent High Level Group meetings.

Annex to the Ministerial Council Conclusions of 18 October 2012

Statement of the Republic of Moldova regarding the implementation of measures of the European Union's Third Energy Package

Since the Ministerial Council of the Energy Community (MC-EnC) decided on the accession of Republic of Moldova in December 2009, the country undertook several important measures for the implementation of the Second internal energy market package. The Law on Electricity (No. 124) and the Law on Natural Gas (No. 123) were adopted in December 2009, which transposed Directive 2003/54/EC and Directive 2003/55/EC, respectively.

On 6th October 2011, at the 9th Ministerial Council meeting, Chisinau (Moldova), the Republic of Moldova joint the other Contracting Parties in adoption of the Decision related to the implementation of the Third legislative package on energy ("Third Energy Package") for an internal EU gas and electricity markets (D/2011/02/MC-EnC). This was an important step towards aligning Moldovan energy market rules to the EU standards and to its integration into the South-East European regional market. During this meeting the Republic of Moldova raised the issue of some particularities of implementation of the Third Package in the country regarding the gas sector.

Furthermore, on 14th December 2011, an official "Statement of the Republic of Moldova regarding the implementation of the 3rd internal energy market package" was brought at the attention of the 23rd PHLG meeting. In addition, a letter with similar content and addressing the same issue was sent to the Director of the EnC Secretariat on 1st June 2012. Thus, Republic of Moldova informed the Energy Community about several critical problems, in particular as concerns the gas sector. An overview of the specific context of this sector of the Republic of Moldova is further described.

According to the draft amended Law on Natural Gas, transposing Directive 2003/55/EC, which is currently under the adoption process, the subsidiary Distribution and Supply companies of JSC "Moldovagaz" will be unbundled functionally and accounting-wise. Additional improvements are expected to take place especially as regards the third party access and capacity allocation.

Furthermore, in line with the same amending proposals, the regulated activity of the System Operation shall be legally separated from the market activities of Supply and Production and thus will be unbundled according to the Second Energy package. The JSC "Moldovagaz" shall therefore create three separate undertakings (branches) that will carry out activities of Transmission, Distribution and Supply of natural gas.

However, in order to ensure the implementation of additional unbundling requirements of the Third Energy Package in the gas sector, there is a strong need for a thorough and careful consideration of the specific and complex context of the realities of the gas market structure in the Republic of Moldova, namely:

- Moldova is lacking indigenous energy resources;
- There is a 100% dependency on the gas imports from a single gas supplier (JSC "Gazprom"), the highest dependency among all the Contracting Parties;
- There is no gas storage facilities;
- There is no access to LNG and no entry points from other EU Member States or Contracting Parties apart from Ukraine;
- The Russian state-owned JSC "Gazprom" owns 50% of shares in JSC "Moldovagaz", and manages 13,4% of its shares related to the Transnistrian region;
- The import of the natural gas to the Republic of Moldova as well as transits to the South-East European countries is currently regulated by the Agreement between JSC "Moldovagaz" and JSC "Gazprom", which expired in December 2011. Currently, new gas supply and transport agreements are under difficult negotiation process. These ones are aimed to be developed in line with the second and partially third energy packages.

All these circumstances make the Moldovan gas market exceptionally vulnerable in terms of security of supply, which has to entail a gradual and predictable process of implementation of the third energy package.

The Republic of Moldova is considering the implementation of the ITO unbundling model, which is the best applicable option for the specific gas market structure of the country. However, in order to ensure its sustainable implementation, the Government of the Republic of Moldova needs a temporal derogation until 2020.

Thus, having regard to the above mentioned arguments and specific grounds, herewith the Republic of Moldova asks for the support of the Contracting Parties and European Commission to adopt a Decision of the Ministerial Council of the Energy Community allowing a formal derogation for the transposition and implementation of the adapted version of the Directive 2009/73/EC on the gas sector. The derogation shall be limited (1) to the unbundling provisions (art. 9 of the Directive) and (2) in time until 1 January 2020.

Annex to the Ministerial Council Conclusions of 18 October 2012

Unilateral Statement of the Republic of Serbia on extension of due date for full implementation of Directive 2009/119/EC

Ministry of Energy, Development and Environmental Protection of the Republic of Serbia and all the relevant state institutions of the Republic of Serbia that are be involved in the procedure of mandatory oil stocks build-up, have considered the proposal contained in this Decision in great detail.

In compliance with the opinions issued by these institutions, during its meeting on October 10, 2012, the Government of the Republic of Serbia adopted the Conclusion suggesting that the deadline for mandatory oil and oil derivatives' stocks build-up be postponed, so that instead of January 1, 2020, the deadline for mandatory oil and oil derivatives' stocks build-up should be December 31, 2023.

Serbia is a member of the Energy Community since its very inception and it has been deeply committed to the implementation of the Treaty establishing the Energy Community.

We are investing considerable efforts into thorough and timely implementation of the EU Directives in the energy sector. At the same time, as a responsible state, we are of the opinion that the Decisions on Directive implementation should be adopted by taking account of the actual specific circumstances in individual Contracting Parties. This was done in the case of the Decision on Implementation of Directive 2009/119/EC.

The Law on Commodity Reserves, which should serve as the legal basis for mandatory stocks build-up, has not yet been passed. Upon passing of this Law and of the relevant by-laws, conditions will be created for the implementation of this Directive. Financial situation in the Republic of Serbia is, just like in the majority of the countries in this region, quite challenging, and its economic growth has been slow. Funding that Serbia needs to earmark for the mandatory oil stocks build-up is considerable. It should additionally be pointed out here that from the time when the Mandatory Oil Stocks in the Energy Community Study was prepared, the crude oil and oil derivatives' prices have gone up by more than 40%.

Bearing in mind all the above mentioned reasons, the Government of the Republic of Serbia has reached the Conclusion suggesting that the deadline for mandatory oil stocks build-up be extended by December 31, 2023.