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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 21.11.2008
COM(2008) 783 final

Proposal for a

COUNCIL DECISION

**on establishing the European Community position within the Ministerial Council of the
Energy Community (Tirana, 11 December 2008)**

(presented by the Commission)

EXPLANATORY MEMORANDUM

The Ministerial Council of the Energy Community will meet on 11 December 2008 in Tirana (Albania). In order for the European Community to take part in the relevant decisions, it is necessary to establish the position of the European Community pursuant Article 300 of the Treaty and in accordance with the provisions of the Council Decision of 29 May 2006 on the conclusion by the European Community of the Energy Community Treaty.

The proposal for a Council Decision covers all agenda items for which a decision by the Ministerial Council is expected as indicated hereafter. The other agenda items are also mentioned below for information.

1. ELEMENTS FOR DECISION

1.1. Coordinated Auction Office - location

Preparatory works to establish a Coordinated Auction Office in charge of cross-border capacity allocation and congestion management are well-advanced. A critical mass of electricity transmission system operators and energy regulators from the region is supporting the project. They indicated that a political orientation concerning the location of the Office would considerably help the process and allow for practical establishment in 2009-2010. Among the Contracting Parties, both Croatia and Serbia have indicated their interest to host the Coordinated Auction Office. The Commission will favour a consensus upon the location receiving more acceptance and support.

1.2. Procedural Act relating to the establishment, the composition and the functioning of a Coordination Group on Security of Supply

Following the political orientation decided at the last Ministerial Council meeting in June 2008, the Ministerial Council is expected to decide upon the setting-up of a Security of Supply Coordination Group based on voluntary coordination between the Parties (no decision-making power). This Group would cover both electricity and gas. In order to avoid unnecessary costs and to ensure synergies, it would meet once a year in connection with a PHLG meeting. In addition, it could hold ad-hoc joint sessions with the EU Gas Coordination Group. Any Contracting Party facing a situation of imminent threat could request the Chair to convene an ad hoc meeting. Participation of industry stakeholders and relevant consumer organisation is foreseen.

1.3. Decision concerning the extension of certain provisions of the Energy Community Treaty to the oil sector and the establishment of an annual Oil Forum

Second, the Ministerial Council will extend the scope of the Energy Community Treaty to the oil sector (crude oil, oil products and oil infrastructures). The proposed text reflects a prudent and progressive approach. It excludes from the scope of the oil dimension those articles of the Treaty that are considered difficult to implement in relation to oil, at least in a first period. This is the case for the provisions on mutual assistance, external energy trade and technical standards. Further, it does not define

for the moment a list of EU acquis, but indicate that this list – together with a timetable for implementation – should be elaborated by June 2010. This will allow us to examine with due care the question of oil stocks, if necessary by means of a study that could be done in 2009. Finally, it provides for the establishment of an oil forum, as requested by several Member States and Countries in the region, which first edition could take place in the second semester 2009.

2. OTHER ELEMENTS

2.1. Points without debate

The Commission will approve the conclusions of the preceding two meetings of the Permanent High level Group and the annual activity report to be addressed to Parliaments pursuant Article 52 of the Energy Community Treaty.

The Commission will also take note of the following reports:

- Report on the implementation of the Work Programme of the Energy Community for 2008;
- Preliminary Report on the implementation of the budget of the Energy Community for the period 01.01.2008- 31.12.2008;
- Report on the implementation of Generally Applicable Standards.

2.2. Implementation of the Treaty

The Commission will take note of the report. It will positively assess the substantial progress realised in most Contracting parties this year, but further underline the necessity to complement the legal framework by the necessary secondary legislation and implementation acts. Besides, the Commission will underline the importance of a regulatory framework favouring investment and the importance to quickly find negotiated solutions to disputes involving investors.

2.3. Social dimension

The Commission will take note of the report, in particular as regards the results of the Social Forum held on 18-19 November 2008 and further support progress in the establishment of the social action plans by the Contracting Parties.

2.4. Energy Efficiency

The Commission will take note of the intermediary report presented by the Chair of the Energy Efficiency Task Force, with the understanding that the final report – including recommendations – is expected for the next Ministerial Council in June 2009.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 300 paragraph 2, second subparagraph,

Having regard to Council Decision on the Conclusion by the European Community of the Energy Community Treaty (2006/500/EC – 29 May 2006), and in particular Article 4 and 5 thereof,

Having regard to the proposal from the Commission,

HAS DECIDED AS FOLLOWS:

Sole Article

In view of the meeting of the Ministerial Council of the Energy Community to take place in Tirana on 11 December 2008, the position of the Community regarding the issues falling under the scope of Article 300 paragraph 2 second subparagraph of the Treaty is set out in Annex to this decision.

Done at Brussels,

*For the Council
The President*

ANNEX

European Community position

- The European Community supports the establishment of a Coordinated Auction Office for cross-border capacity allocation and congestion management in the field of electricity. It favours a consensus as regards the location of the Office in one of the Contracting Party, with the understanding that the location shall widely be supported within the Contracting Parties and Member States participating in the setting-up of the Office.
- The European Community approves the adoption of the Procedural Act relating to the establishment, the composition and the functioning of a coordination group on electricity and gas security of supply.
- The European Community approves the adoption of the Decision concerning the extension of certain provisions of the Energy Community Treaty to the oil sector and the establishment of an annual oil forum.
- The European Community approves the adoption of an updated list of priority infrastructure projects in the Contracting Parties.