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**Position Paper**  
**Energy Community Treaty**

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**Introduction**

On 24 September 2010 Ukraine joined The Energy Community Treaty (ECT) and on 1 February 2011 became a full member of Energy Community (EnC). By signing the Treaty, Ukraine committed itself to implement the relevant acquis, to develop an adequate regulatory framework and to liberalize its energy market in line with the acquis under the Treaty. We consider that Ukraine's entry into this international organization will provide an excellent opportunity to start reforms required in its energy sector.

The Energy Community focuses its activities on the ground of concrete acquis in the areas of electricity, gas, environment, energy efficiency, renewable energy sources, competition and security of supply. In addition, it is planned to further extend the acquis in statistics and oil stocks.

This Position Paper will only focus on energy efficiency and renewable energy sources. Implementation of EU Directives in the sectors of Energy Efficiency and Renewable Energy is an integral part of Ukraine's obligations under the Treaty, in parallel to reaching the goal of establishing transparent energy market.

**1. POSITION: Energy efficiency Directives have to be transposed by Ukraine and needed framework secured on the national level.**

Today, the Energy Community Contracting Parties have to transpose following directives into their legislations:

- **Directive 2006/32/EC** on energy end-use efficiency and energy services, and repealing Council Directive 93/76/EEC (transposition deadline: 31 December 2011)
- **Directive 2010/31/EC** on energy performance of buildings (transposition deadline: 30 September 2012)
- **Directive 2010/30/EC** on the indication by labeling and standard product information of the consumption of energy and other resources by energy-related products (framework directive,

transposition deadline: 31 December 2011) as well as set of implementing regulation for separate appliances (transposition deadline: 31 December 2012)<sup>1</sup>.

For different countries, the implementation schedule for directives varies, but eventually it is obligatory for all parties. The Directives deal with the issues of energy efficiency in energy end use sectors and energy services, promotion of energy performance of buildings and labeling of energy related products, including energy labeling of household appliances. Ukraine is delaying in the presentation of National Energy Efficiency Action Plan, as well as implementation of two above mentioned directives for which transposition deadline expired (December 2011).

At this stage it is necessary to:

- a) Present the National Action Plan on Energy Efficiency to the Energy Community Secretariat;
- b) Develop a road map for implementation of Energy Efficiency Directives;
- c) Adopt the Law on Energy Efficiency of Ukraine and prioritize energy efficiency, making sure it corresponds to Energy Efficiency Acquis, as well as major national energy related laws, including Energy Strategy of Ukraine;
- d) Adopt timely the Law on Energy Efficiency in Buildings that should transpose Directive on energy performance on buildings.
- e) Eliminate consumer price backing as a negative factor hindering the implementation of energy efficiency measures, while developing a security net for vulnerable consumers.

## **2. POSITION: Alternative energy related Directives have to become an integral part of current legal framework for RES in Ukraine.**

Currently Energy Community Contracting Parties have concrete obligations in relation to two Directives dealing with renewable energy sources:

- **Directive 2003/30/EC** on the promotion of the use of biofuels or other renewable fuels for transport
  - **Directive 2001/77/EC** on the promotion of electricity produced from renewable energy sources in the internal electricity market
- a) Ukraine needs to adopt the Law on alternative fuels for transport sector as the first step;
  - b) The economic incentives are necessary to boost the internal market of biofuels consumption;
  - c) The targets for biofuels consumption should be unified in single state programme on usage of alternative fuels and all relevant policies and laws.
  - d) The presentation of Action Plan on Renewable Energy Directives Implementation in August 2011 should be followed up by the Road Map with measurable targets;

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<sup>1</sup> For more information, please, see Decision of the Energy Community Ministerial Council No 2010/02/MC-EnC , No. 2009/05/MC-EnC and No. 2011/03/MC-EnC, available under: [http://www.energy-community.org/portal/page/portal/ENC\\_HOME/ENERGY\\_COMMUNITY/Legal/Decisions](http://www.energy-community.org/portal/page/portal/ENC_HOME/ENERGY_COMMUNITY/Legal/Decisions)

## **Summary and Analysis**

Indicative renewable targets within Ukraine are not sufficiently in line with the Directives and should be reevaluated using similar procedure as in EU and following process within the Energy Community. EU approach should be reflected in Ukraine and Energy Community, thus:

- ensuring the use of energy from renewable sources at 20% level until 2020,
- decreasing greenhouse gas emissions by 20%,
- increasing energy efficiency by 20%,
- ensuring the use of energy from renewable sources in transport at the minimum level of 10%.

In order to ensure fulfilling obligations under the ECT Ukraine should:

- a. Take an active part in the Task Force on Energy Efficiency (EETF) and Renewable Energy (RETF)
- b. Develop comprehensive incentive systems for energy efficiency and renewable energy within the country (green tariffs; simplification of procedures to obtain necessary permissions for power station construction or providing a possibility to construct small plants by passing only a single registration procedure) in order to stir the market activity.
- c. Public sector should lead by example in promotion and implementation of energy efficiency measures toward other end-use sectors.
- d. In the mid-term future, it has to be provided the highest standard of consumer protection and public services (norms for allowing consumers to change a supplier within three weeks; norms for obliging a supplier to inform a consumer and provide an efficient procedure for processing of complaints);
- e. Separate the structures engaged into transmission and energy generation in vertically integrated enterprises (it is the possibility for a country to select one of three separation options: separation in ownership, formation of independent system operator, creation of independent transmission system operator). This is a necessary step for ensuring transparent energy market;
- f. Widen the powers and independency of national regulators in energy sector;
- g. Encourage new institutional framework – i.e. ACER (the Agency for the Cooperation of Energy Regulators) and ENTSO (European Networks of Transmission System Operators).
- h. Finally, provide stable investment climate along with fulfilling the obligations under all related international agreements independently of any internal country administration reforms or political processes.