

Energy Community Secretariat

Am Hof 4, Level 5, 1010 Vienna, Austria

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Vienna, 14 November 2014

UA-MIN/O/jko/11/14-11-2014

Excellency,

Ukraine's membership in the Energy Community was a landmark in the country's commitment to European values and the rule of law. Let me also recall your personal pledge at the Energy Community Ministerial Council of 23 September in Kyiv to respect the obligations that stem out of the Energy Community membership. Against this background I have to bring your attention to the following:

1. The Secretariat was informed about the Cabinet of Ministers' Decree No. 596 of 7 November 2014 on natural gas procurement. This Decree raises serious concerns in terms of its compliance with the Energy Community Treaty. A preliminary review of the Decree strongly suggests that the Cabinet of Ministers departs from core principles of the Energy Community which are legally binding on Ukraine. In particular, the Decree seems to suspend the open gas market in Ukraine, as it re-establishes an import monopoly, denies the eligibility of big customers such as industry, district heating and power plants, restricts third party access to transmission and distribution pipelines and affects the activities and independence of the National Commission for State Energy and Public Utilities Regulation and the Antimonopoly Committee.

Evidently, such measures are of the utmost detrimental effects to the well-functioning of the gas market and are likely to affect existing contracts. Such measures can only be based on overriding reasons of public security and must be proportionate and transparent. The Secretariat requests you to justify the measures taken in the Decree, and in particular demonstrate that these interventions in the market do not go beyond what is necessary to address any problem identified.

2. Moreover, the Secretariat has been made aware exports of electricity from Ukraine to Moldova were disrupted at a very significant level, allegedly due to measures taken with the aim to protect Ukrainian customers. Disruptions of cross-border exchanges in electricity initiated by the State or public institutions are in violation of the principles and rules of the Energy Community Treaty, and may threaten the security of supply in neighbouring countries. Again, such interferences in the electricity market need to be proportionate to the objective pursued, and be notified to the Secretariat under Article 38 of the Energy Community Treaty.

H.E. MR. ARSENIY YATSENYUK
PRIME-MINISTER OF UKRAINE

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You are hereby kindly requested to provide the Secretariat with a description of and the reasons for the measures intervening in the gas and electricity market, as well as their proportionality and transparency, at your earliest convenience, but not later than

20 November 2014.

The Secretariat remains at your disposal for further discussion.

Please accept, Excellency, the assurance of my highest considerations,



Janez Kopač
Director

CC:
European Union Delegation to Ukraine
European Commission Support Group for Ukraine