

**PROTOCOL  
CONCERNING THE ACCESSION OF GEORGIA  
TO THE TREATY ESTABLISHING THE ENERGY COMMUNITY**

The Energy Community, in accordance with the Treaty establishing the Energy Community (hereinafter - the Treaty), on the one hand,

and Georgia, on the other hand,

Taking note of the outcome of negotiations on Georgia's accession to the Energy Community,

Having regard to the Decision of the Ministerial Council of the Energy Community of 14<sup>th</sup> October 2016 approving the accession of Georgia to the Energy Community (Decision 2016/18/MC-EnC),

Considering that Georgia is not directly interconnected to the energy network of any Contracting Party or any Member State of the European Union and that specific solutions needs to be found as regards key gas transmission infrastructures mainly used for the shipment of gas through Georgia,

Considering that Georgia became an observer to the Energy Community in 2007, after the negotiation of the conditions ruling these gas transmission infrastructures,

**AGREED ON THE FOLLOWING:**

**ARTICLE 1**

1. Georgia hereby accedes to the Treaty establishing the Energy Community as a Contracting Party under the terms and conditions set out in the present Protocol.

2. Unless specified otherwise in this Protocol, by date of accession, Georgia is entitled to all rights granted to Contracting Parties and is subject to all obligations imposed on Contracting Parties by the Treaty and by all Decisions and Procedural Acts adopted in application of the Treaty since its entry into force.

## ARTICLE 2

1. For the purpose of compliance with Title II of the Treaty establishing the Energy Community and its related Annexes, the timetable for implementation of the *acquis communautaire* is defined as follows:

Directive 2009/73/EC concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC	By 31 December 2020
Regulation (EC) No 715/2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005	By 31 December 2020
Directive 2004/67/EC concerning measures to safeguard security of natural gas supply	By 31 December 2020
Directive 2009/72/EC concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC	By 31 December 2018
Regulation (EC) No 714/2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003	By 31 December 2018
Directive 2005/89/EC concerning measures to safeguard security of electricity supply and infrastructure investment	By 31 December 2019
Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 97/11/EC and Directive 2003/35/EC	Without prejudice to commitments under EU-Georgia Association

	Agreement the entire Directive should be fully implemented by 1 September 2017.
Directive 1999/32/EC relating to a reduction in the sulphur content of certain liquid fuels	Without prejudice to commitments under EU-Georgia Association Agreement the entire Directive should be fully implemented by 1 September 2021.
Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants	By 31 December 2018
Chapter III, Annex V and Article 72(3)-(4) of Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control) – for new plants	By 1 September 2018
Chapter III, Annex V and Article 72(3)-(4) of Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control) – for existing plants	By 1 September 2026
Directive 79/409/EC, Article 4(2), on the conservation of wild birds	By 1 September 2019
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	By 31 December 2018
Directive 2012/27/EU on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC.	By 31 December 2018
Directive 2010/30/EU on the indication by labelling and standard product information of the consumption of energy and other resources	By 31 December 2018

by energy-related products (recast)	
Directive 2010/31/EU on the energy performance of buildings (recast)	By 30 June 2019
Directive 2009/119/EC imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products	By 1 January 2023
Directive 2008/92/EC concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users (recast)	By 31 December 2017
Regulation (EC) No 1099/2008 on energy statistics	By 31 December 2017

2. Georgia must ensure that the eligible customers within the meaning of EC Directives 2009/72/EC and 2009/73/EC are:
  - From [31 December 2018], all non-household customers; and
  - From [31 December 2019], all customers.
  
3. In Article 19 of the Treaty, the reference "as from [6 months] following the date of entry into force of this Treaty" shall be understood as meaning "as from [one year] following the date of accession of Georgia". In Article 22 of the Treaty, the reference "within [one year] of the adoption of the list" shall be understood as meaning "within [one year] of the date of accession of Georgia". In Article 29 of the Treaty, the reference "within [one year] of the date of entry into force of this Treaty" shall be understood as meaning "within [one year] of the date of accession of Georgia".
  
4. Article 15 of the Treaty shall apply to Georgia as from [one year] following the date of accession of Georgia.
  
5. The South Caucasus Pipeline<sup>1</sup> and the North South Gas Pipeline<sup>2</sup> are exempted from the implementation of Directive 2009/73/EC and Regulation (EC) No 715/2009 until 31 August 2026, the date of expiration of the Energy Community Treaty.

<sup>1</sup> The South Caucasus Pipeline means SCP Project within the meaning ascribed to this term in the Intergovernmental Agreement between Georgia and the Azerbaijan Republic

<sup>2</sup> The North-South Gas Pipeline is a part of the Georgian Main Gas Pipelines System consisting of 1200/1000 mm diameter gas pipeline sections (as may be renewed, repaired, modified, refurbished, reconstructed and/or replaced) primarily assigned for transportation of natural gas from Russian Federation to the Republic of Armenia.

6. The present protocol of accession shall not affect the Intergovernmental Agreement between Georgia and the Azerbaijan Republic relating to the transit, transportation and sale of natural gas in and beyond the territories of Georgia and the Azerbaijan Republic through the South Caucasus Pipeline System.
7. As regards implementation of the provisions of Article 2(5) and 2(6) of this Protocol it is confirmed that Georgia is exempted from the application of the Treaty in relation to legal and/or regulatory regime and/or terms and conditions of cross-border transmission (transit) of natural gas, as well as to the terms and conditions of the existing agreements concluded to implement the Intergovernmental Agreement between Georgia and the Azerbaijan Republic relating to the transit, transportation and sale of natural gas in and beyond the territories of Georgia and the Azerbaijan Republic through the South Caucasus Pipeline System.
8. Should the Energy Community Treaty be extended beyond the date referred to in point 5, the provisions under points 5 and 6 of the present article shall be reviewed.

#### ARTICLE 3

1. The contribution of Georgia and of the other Parties to the budget of the Energy Community shall be set out in a Procedural Act to be adopted pursuant to Article 73 of the Treaty. The methodology to be applied shall be based on a pro-rata calculated in relation to GDP and Total Primary Energy Supply.
2. The first contribution of Georgia shall be due for the first full budgetary year following accession.

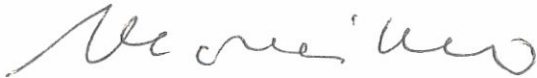
#### ARTICLE 4

1. After adoption by the Ministerial Council of the Energy Community of its Decision on Georgia's accession to the Treaty establishing the Energy Community, Georgia shall initiate its internal procedures required for entry into force of its accession to the Energy Community.

2. The accession to the Energy Community shall enter into force on the first day of the second month following the month of completion of the procedures provided in the first paragraph of this article. Notification thereof shall be sent to the Secretary General of the Council of the European Union, who shall be the depositary for this Protocol.

Done in Sarajevo, 14<sup>th</sup> October 2016

For the Energy Community

A handwritten signature in blue ink, appearing to be 'M. ...', written below the text 'For the Energy Community'.

For Georgia

A handwritten signature in blue ink, appearing to be 'Z. ...', written below the text 'For Georgia'.

## ANNEX

### COMMON UNDERSTANDING CONCERNING THE IMPLEMENTATION OF THE PROTOCOL

1. As regards the provisions included in the *acquis communautaire* listed under articles 2(1) and 2(2) of the protocol concerning energy cross-border exchanges with a Contracting Party or a Member State of the European Union, it shall be taken into account that Georgia is not directly interconnected to the energy network of any Contracting Party or Member State of the European Union. Georgia will start applying these rules and principles with respect to any Contracting Party or Member State of the European Union whenever it is physically interconnected to the energy network of any Contracting Party or Member State of the European Union. Rules and principles governing trade with countries which are not a Contracting Party of the Energy Community or a Member State of the European Union remains a national competence.

2. Any application of the provisions of the Chapter IV in Title II the Treaty (the *acquis* on competition) shall take into account that Georgia is currently an isolated market not having direct interconnections to the energy network of any Party. Georgia will promote and apply these provisions insofar as trade between the contracting parties may be affected.

3. For the implementation of Directive 2009/72/EC concerning common rules for the internal market in electricity, to be completed by 31 December 2018 and Directive 2005/89/EC concerning measures to safeguard security of electricity supply and infrastructure investment, to be completed by 31 December 2019, it is understood that a subsequent period of one year will be necessary for testing and adjusting the relevant implementing provisions and market instruments.

4. For the setting and level of electricity distribution tariffs, it is understood that Georgia may continue to observe its commitments with investors resulting from contracts concluded before the signature of this Protocol. It will engage in discussions with the Secretariat aimed at eliminating potential incompatibilities with the Treaty, no later than Article 2(1) and 2(2) become applicable.

5. Within the scope of Directive 2009/28/EC on the promotion of the use of energy from renewable sources, the applicability and, if appropriate, the calculation of the 2020 renewable energy target for Georgia will be established after the completion of the study appositely carried out under the responsibility of the Energy Community Secretariat.

6. With regard to Directives 2001/80/EC, 2012/27/EU, 2009/28/EC, 2010/30/EU, and 2010/31/EU, a number of specific deadlines differing from the overall Directives deadlines have been adapted by the Ministerial Council Decisions 2015/08/MC-EnC, 2013/05/MC-EnC, 2012/04/MC-EnC, 2014/02/MC-EnC and 2010/02/MC-EnC. In these specific cases, Georgia shall be granted the same adapted timeframe for implementation following the logic of the adaptations made for the existing Contracting Parties plus an additional period of 12 months. Within one month after signature of this Protocol, the Secretariat shall compile the deadlines applicable to Georgia under these Directives in a table for clarification.