

**ENERGY CHARTER
SECRETARIAT**

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Related documents: RD 3 (ECC of 5-6 12 2013)

DECISION OF THE ENERGY CHARTER CONFERENCE

Subject: Starting text for the negotiations on the UEC

At its 24th Meeting held on 5th/6th December 2013, the Energy Charter Conference **agreed** that the text attached to Room Document 3 (attached hereto in a clear version) should be used as basis for the discussion on an updated version of the 1991 Charter.

Keywords: UEC, Updated Energy Charter, Basic text

**CONCLUDING DOCUMENT OF THE HAGUE
CONFERENCE ON THE [...] ¹ENERGY CHARTER**

The representatives of Afghanistan, Albania, Armenia, Australia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, The European Union, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Indonesia, Ireland, Italy, Japan, Jordan, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Mongolia, Montenegro, Morocco, The Netherlands, Norway, Pakistan, Poland, Portugal, Romania, The Russian Federation, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Syria, Tajikistan, The Former Yugoslav Republic of Macedonia, Turkey, Turkmenistan, Ukraine, The United Kingdom of Great Britain and Northern Ireland, The United States of America, Uzbekistan, representing the signatories of the European Energy Charter of 1991, convened in the Hague, The Netherlands, from ... to ... 2014 in order to adopt the [...] Energy Charter as an update of the European Energy Charter.

They were joined by ... [list of countries], being observers to the Energy Charter Conference, who became signatories of the [...] Energy Charter after its adoption.

During the Conference, contributions were received and statements made by delegates of the signatories.

Determined to give full effect to the results of the Conference, the representatives of the signatories adopted the following text for the [...] Energy Charter:

[...] ENERGY CHARTER

The representatives of the signatories meeting in The Hague on ... 2014,

Having regard to the Charter of Paris for a New Europe, signed in Paris on 21 November 1990 at the summit meeting of the Conference on Security and Cooperation in Europe (CSCE);

Having regard to the document adopted in Bonn on 11 April 1990 by the CSCE Conference on Economic Co-operation in Europe;

Having regard to the declaration of the London Economic Summit adopted on 17 July 1991;

¹ Name to be determined

Having regard to the report on the conclusions and recommendations of the CSCE meeting in Sofia on 3 November 1989, on the protection of the environment, as well as its follow-up;

Having regard to the Agreement establishing the European Bank for Reconstruction and Development signed in Paris on 29 May 1990;

[Delegations will be invited to make suggestions with regard to the mentioning of more recent relevant political events at this place.]

Anxious to give formal expression to this new desire for regional and global co-operations based on mutual respect and confidence;

Resolved to promote a new model for energy co-operation in the long term regionally and globally within the framework of a market economy and based on mutual assistance and the principle of non-discrimination;

Aware that account must be taken of the problems of construction and restructuring in the developing and emerging countries and that it is desirable for the signatories to participate in joint efforts aimed at facilitating and promoting market-oriented reforms and modernisation of energy sectors in these countries;

Certain that taking advantage of the complementary features of energy sectors within each region will benefit the world economy;

Persuaded that broader energy cooperation among signatories is essential for economic progress and more generally for social development and a better quality of life;

Convinced of the signatories' common interest in problems of energy supply, safety of industrial plants, particularly nuclear facilities, and environmental protection;

Willing to do more to attain the objectives of security of supply and efficient management and use of resources, and to utilise fully the potential for environmental improvement, in moving towards sustainable development;

Convinced of the essential importance of efficient energy systems in the production, conversion, transport, distribution and use of energy for security of supply and for the protection of the environment;

Recognising State sovereignty and sovereign rights over energy resources;

Assured of support from the European Union, particularly through completion of its internal energy market;

Aware of the obligations under major relevant multilateral agreements, of the wide range of international energy co-operation, and of the extensive activities by existing

international organisations in the energy field and willing to take full advantage of the expertise of these organisations in furthering the objectives of this Charter;

Recognising the role of entrepreneurs, operating within a transparent and equitable legal framework, in promoting co-operation under this Charter;

Determined to establish closer, mutually beneficial commercial relations and promote energy investments;

Convinced of the importance of promoting free movement of energy products and of developing an efficient international energy infrastructure in order to facilitate the development of market-based trade in energy;

Aware of the need to promote technological co-operation among signatories;

Affirming that the energy policies of signatories are linked by interests common to all their countries and that they should be implemented in accordance with the principles set out below:

Affirming, finally, their desire to take the consequent action and apply the principles set out below:

HAVE ADOPTED THE FOLLOWING DECLARATION CONSTITUTING THE
“[...] ENERGY CHARTER”

TITLE I OBJECTIVES

The signatories are desirous of improving security of energy supply and of maximising the efficiency of production, conversion, transport, distribution and use of energy, to enhance safety and to minimise environmental problems, on an acceptable economic basis.

Within the framework of State sovereignty and sovereign rights over energy resources and in a spirit of political and economic co-operation, they undertake to promote the development of efficient regional energy markets and a better functioning global energy market, in both cases based on the principle of non-discrimination and on market-oriented price formation, taking due account of environmental concerns.

They are determined to create a climate favourable to the operation of enterprises and to the flow of investments and technologies by implementing market principles in the field of energy.

To this end, and in accordance with these principles, they will take action in the following fields:

1. Development of trade in energy consistent with major relevant multilateral agreements such as the WTO Agreement and its related instruments, and nuclear non-proliferation obligations and undertakings, which will be achieved by means of:
 - an open and competitive market for energy products, materials, equipment and services;
 - access to energy resources, and exploration and development thereof on a commercial basis;
 - access to local and international markets;
 - removal of technical, administrative and other barriers to trade in energy and associated equipment, technologies and energy-related services;
 - modernisation, renewal and rationalisation by industry of services and installations for the production, conversion, transport, distribution and use of energy;
 - promoting the development and interconnection of energy transport infrastructure;
 - promoting best possible access to capital, particularly through appropriate existing financial institutions;
 - facilitating access to transport infrastructure, for international transit purposes in accordance with the objectives of this Charter expressed in the first paragraph of this Title;
 - access on commercial terms to technologies for the exploration, development and use of energy resources;

2. Co-operation in the energy field, which will entail:
 - co-ordination of energy policies, as necessary for promoting the objectives of this Charter;
 - mutual access to technical and economic data, consistent with proprietary rights;
 - formulation of stable and transparent legal frameworks creating conditions for the development of energy resources;
 - co-ordination and, where appropriate, harmonisation of safety principles and guidelines for energy products and their transport, as well as for energy installations, at a high level;
 - facilitating the exchange of technology information and know-how in the energy and environment fields, including training activities;
 - research, technological development and demonstration projects.

3. Energy efficiency and environmental protection, which will imply:
 - creating mechanisms and conditions for using energy as economically and efficiently as possible, including, as appropriate, regulatory and market based instruments;
 - promotion of an energy mix designed to minimise negative environmental consequences in a cost-effective way through:

- i. market-oriented energy prices which more fully reflect environmental costs and benefits;
 - ii. efficient and co-ordinated policy measures related to energy;
 - iii. use of new and renewable energies and clean technologies;
- achieving and maintaining a high level of nuclear safety and ensuring effective co-operation in this field.

TITLE II IMPLEMENTATION

In order to attain the objectives set out above, the signatories will, within the framework of State sovereignty and sovereign rights over energy resources, take co-ordinated action to achieve greater coherence of energy policies, which should be based on the principle of non-discrimination and on market-oriented price formation, taking due account of environmental concerns.

They underline that practical steps to define energy policies are necessary in order to intensify co-operation in this sector and further stress the importance of regular exchanges of views on action taken, taking full advantage of the experience of existing international organisations and institutions in this field.

The signatories recognise that commercial forms of co-operation may need to be complemented by intergovernmental co-operation, particularly in the area of energy policy formulation and analysis as well as in areas which are essential and not suitable to private capital funding.

They undertake to pursue the objectives of this Charter by creating regional energy markets and enhancing the efficient functioning of the global energy market by joint or co-ordinated action under this Charter in the following fields:

- access to and development of energy resources;
- access to markets;
- liberalisation of trade in energy;
- promotion and protection of investments;
- safety principles and guidelines;
- research, technological development, innovation and dissemination;
- energy efficiency and environmental protection;
- education and training.

In implementing this joint or co-ordinated action, they undertake to foster private initiative, to make full use of the potential of enterprises, institutions and all available financial sources, and to facilitate co-operation between such enterprises or institutions from different countries, acting on the basis of market principles.

The signatories will ensure that the international rules on the protection of industrial, commercial and intellectual property are respected.

1. Access to and development of energy resources

Considering that efficient development of energy resources is a sine qua non for attaining the objectives of this Charter, the signatories undertake to facilitate access to and development of resources by the interested operators. To this end, they will ensure that rules on the exploration, development and acquisition of resources are publicly available and transparent; they recognise the need to formulate such rules wherever this has not yet been done and to take all necessary measures to co-ordinate their actions in this area.

With a view to facilitating the development and diversification of resources, the signatories undertake to avoid imposing discriminatory rules on operators, notably rules governing the ownership of resources, internal operation of companies and taxation.

2. Access to Markets

The signatories will strongly promote access to local and international markets for energy products for the implementation of the objectives of this Charter. Such access to markets should take account of the need to facilitate the operation of market forces, and promote competition.

3. Liberalisation of trade in energy

In order to develop and diversify trade in energy, the signatories undertake progressively to remove the barriers to such trade with each other in energy products, equipment and services in a manner consistent with the provisions of the WTO Agreement and its related instruments, and nuclear non-proliferation obligations and undertakings.

The signatories recognise that transit of energy products through their territories is essential for the liberalisation of trade in energy products. Transit should take place in economic and environmentally sound conditions.

They stress the importance of the development of commercial international energy transmission networks and their interconnection, with particular reference to electricity and natural gas and with recognition of the relevance of long-term commercial commitments. To this end, they will ensure the compatibility of technical specifications governing the installation and operation of such networks, notably as regards the stability of electricity systems.

4. Promotion and protection of investments

In order to promote the international flow of investments, the signatories will at national level provide for a stable, transparent legal framework for foreign

investments, in conformity with the relevant international laws and rules on investment and trade.

They affirm that it is important for the signatory States to negotiate and ratify legally binding agreements on promotion and protection of investments which ensure a high level of legal security and enable the use of investment risk guarantee schemes.

Moreover, the signatories will guarantee the right to repatriate profits or other payments relating to an investment and to obtain or use the convertible currency needed.

They also recognise the importance of the avoidance of double taxation to foster private investment.

5. Safety principles and guidelines

Consistent with relevant major multilateral agreements, the signatories will:

- implement safety principles and guidelines, designed to achieve and/or maintain high levels of safety, in particular nuclear safety and the protection of health and the environment;
- develop such common safety principles and guidelines as are appropriate and/or agree to the mutual recognition of their safety principles and guidelines.

6. Research, technological development, innovation and dissemination

The signatories undertake to promote exchanges of technology and cooperation on their technological development and innovation activities in the fields of energy production, conversion, transport, distribution and the efficient and clean use of energy, in a manner consistent with nuclear non-proliferation obligations and undertakings.

To this end, they will encourage co-operative efforts on:

- research and development activities;
- pilot or demonstration projects;
- the application of technological innovations;
- the dissemination and exchange of know-how and information on technologies.

7. Energy efficiency and environmental protection

The signatories agree that co-operation is necessary in the field of efficient use of energy and energy-related environmental protection.

This should include:

- ensuring, in a cost-effective manner, consistency between relevant energy policies and environmental agreements and conventions;
- ensuring market-oriented price formation, including a fuller reflection of environmental costs and benefits;
- the use of transparent and equitable market-based instruments designed to achieve energy objectives and reduce environmental problems;
- the creation of framework conditions for the exchange of know-how regarding environmentally sound energy technologies and efficient use of energy;
- the creation of framework conditions for profitable investment in energy efficiency projects.

8. Education and training

The signatories, recognising industry's role in promoting vocational education and training in the energy field, undertake to co-operate in such activities, including:

- professional education;
- occupational training;
- public information in the energy efficiency field.

TITLE III SPECIFIC AGREEMENTS

The signatories undertake to pursue the objectives and principles of this Charter and implement and broaden their co-operation as soon as possible by negotiating in good faith the accession of new states and Regional Economic Integration Organizations to the Energy Charter Treaty and its Protocols.

Areas of co-operation could include:

- horizontal and organisational issues;
- energy efficiency, including environmental protection;
- prospecting, production, transportation and use of oil and oil products and modernisation of refineries;
- prospecting, production and use of natural gas, interconnection of gas networks and transmission via high-pressure gas pipelines;
- all aspects of the nuclear fuel cycle including improvements in safety in that sector;
- modernisation of power stations, interconnection of power networks and transmission of electricity via high-voltage power lines;
- all aspects of the coal cycle, including clean coal technologies;
- development of renewable energy sources;
- transfers of technology and encouragement of innovation;

- co-operation in dealing with the effects of major accidents, or of other events in the energy sector with transfrontier consequences.

The signatories will, in exceptional cases, consider transitional arrangements. They, in particular, take into account the specific circumstances facing some developing and emerging states and accept the possibility of a stage-by-stage compliance in those countries for the implementation of those particular provisions of the Energy Charter Treaty and related Protocols that they are, for objective reasons, unable to implement immediately and in full.

Specific arrangements for coming into full compliance with this Charter's provisions as elaborated in the Energy Charter Treaty and Protocols will be negotiated by each Party requesting transitional status, and progress towards full compliance will be subject to periodic review.

TITLE IV FINAL PROVISIONS

The signatories request the Government of The Netherlands to transmit to the Secretary-General of the United Nations the text of the [...] Energy Charter which is not eligible for registration under Article 102 of the Charter of the United Nations.

In adopting the [...] Energy Charter Ministers or their representatives record that the following understanding has been reached:

The representatives of the Signatories understand that in the context of the [...] Energy Charter, the principle of non-discrimination means Most-Favoured-Nation Treatment as a minimum standard. National Treatment has been agreed to in provisions of the Energy Charter Treaty and/or Protocols.

The original of this Concluding Document, drawn up in English, French, German, Italian, Russian and Spanish² texts, will be transmitted to the [depository] which will retain it in its archives. Each of the Signatories will receive from the [depository] a true copy of the Concluding Document.

Done at [venue] on the [date].....

² Poland proposed to use the official languages of the United Nations: Arabic, Chinese, English, French, Russian and Spanish.