

**ENERGY CHARTER  
SECRETARIAT**

---

CCDEC 2014

18 NOT

---

Brussels, 26 November 2014

Related documents: CC 500 Rev
----------------------------------

**DECISION OF THE ENERGY CHARTER CONFERENCE**

**Subject: Report by the Chair of the Trade and Transit Group**

The Energy Charter Conference at its 25th Meeting held on 26<sup>th</sup> November 2014 **took note** of the Report by the Chair of the Trade and Transit Group (attached hereto) as contained in document CC 500 Rev.

Keywords: Report, Chair, Trade and Transit Group

## **Report by the Chair of the Trade and Transit Group**

This report provides an overview of the activities of the Group for Trade and Transit (TTG) in 2014. The Group convened four times in 2014: on 27 March, 29 April, 3 June and 18 September 2014.

The discussions in the Group continued addressing topical issues of energy trade and transit.

### **Emergency response**

1. As provided by the Road Map for the Modernisation of the Energy Charter Process of 2010, the enhancement of the Conciliation Mechanism for transit disputes existing in Article 7 ECT is an important activity in the area of emergency response. The TTG continued to discuss amendments to the Rules on Conciliation in order to make this mechanism immediately available in case of need. The Group consulted the Legal Advisory Committee on a number of issues. Taking into account the legal advice and the positions of the delegations, the Trade and Transit Group considered further improvement of the Rules on Conciliation. The Secretariat will work bilaterally with delegations concerned on the outstanding issues.
2. Energy security and emergency response became a particularly prominent issue against the background of the crisis in Ukraine, which has had from the beginning serious repercussions on energy issues. Based on the experience of the 2009 gas crisis, when a dispute over gas pricing for a transit country developed into a major supply crisis for downstream countries, the Secretary General offered the Energy Charter at an early stage as a neutral platform for Russia, Ukraine and the European Union to enhance confidence and transparency on energy relations. The Contact Group established by the Secretary General on the level of official representatives of the missions of Russia and Ukraine to the EU, the European Commission as well as the European External Action Service met four times. For the future, it was envisaged to use this platform as well for an exchange of data on actual flows of electricity, natural gas and oil, as a preventive measure against disruptions.
3. The Work of the Energy Security Contact Group and the ongoing crisis gave a push to the work of the Trade and Transit Group in preparation of a more general Model Early Warning Mechanism which could be used by parties voluntarily, on a case by case basis, in order to prevent and overcome emergency situations in the energy sector related to the Transit and supply of electricity, natural gas, oil and oil products through cross-border grids and pipelines. The Trade and Transit Group met on three occasions to develop a Model Early Warning Mechanism. It encourages states to bring energy security risks to the attention of the Secretary General, who would then facilitate an active exchange of information among relevant parties and promote transparency in relation to this situation. A Contact Group would be convened to engage the parties in direct talks in order to evaluate the situation and to elaborate

possible solutions. The establishment of a special Monitoring Mission to verify information would be further possibility.

4. The Secretariat in the framework of cooperation with the Organisation for Security and Cooperation in Europe (OSCE) organised a Bratislava Energy Charter Forum on 10 October 2014 which was hosted by the Ministry of Foreign and European Affairs of the Slovak Republic. The topic of the Forum was “Securing Energy Supply – How to better protect energy networks from disruptions”. This event provided platform to promote security and safety of non-nuclear critical energy infrastructure against natural disasters and man-made disruptions. As an outcome of this cooperation, it is planned to develop a handbook on good practices on the protection of electricity networks from natural disasters and man-made errors. The work on the handbook will continue in 2015.

### **Energy Transit**

5. Following the decision of the Energy Charter Conference of 2011 to suspend negotiations on the draft Transit Protocol and to reconsider a reset at a later stage, the Energy Charter Secretariat has been active in promoting the implementation of the existing transit provisions of the Energy Charter Treaty and in mainstreaming some of the core principles of the draft Transit Protocol such as non-discriminatory access to pipelines and grids, transparent and cost-based tariffs and authorisation procedures for the creation of new transit capacity.
6. With regard to the implementation of ECT transit provisions, the Secretariat organised a technical workshop on electricity transit. Electricity transit is one of the main concerns in Central and South Asia in the effort to develop regional energy trade. The workshop brought together the representatives of Ministries of Energy and TSOs of Central Asia and Afghanistan along with the representatives of ENTSO-E and European TSOs in order to assist power system operators of Central Asia to adapt the ENTSO-E’s Inter TSO Compensation (ITC) mechanism to the operational needs of integrated power systems in the region.
7. The Energy Charter Secretariat and the Government of Turkmenistan will be co-organising Ashgabat Energy Charter Forum on 8-9 December 2014. The purpose of the event is to share experience on energy transit in the broader geographical and institutional context and to discuss the possibility of agreeing additional common principles or rules in the Energy Charter framework. In addition to that, the Forum will support the implementation of UNGA Resolution 67/263 on “Reliable and stable transit of energy and its role in ensuring sustainable development and international cooperation” sponsored by Turkmenistan and will be followed by an international meeting of experts in accordance with the mandate from UNGA.

## **Trade issues**

8. Encouragement of ratification and implementation of the Trade Amendment provisions remained one of the top priorities for the Energy Charter in the course of 2014. In order to realise this priority, the Secretariat has prepared and circulated an explanatory note on the Amendment to the trade provisions of the ECT. The purpose of this note was to provide decision-makers of the ECT Contracting Parties with key information on the changes brought about by the Trade Amendment. The paper summarised the main elements of the Trade Amendment and explained the advantages of its ratification in order to encourage the remaining ECT members to ratify. In particular WTO members such as Turkey and Japan are encouraged to ratify the Trade Amendment.
9. The Trade Amendment empowers the Conference to discuss and introduce binding customs tariff standstill. Developments which have been taking place within the WTO allowed discussing the introduction of binding tariff standstill in ECT in a situation of greater international attention. At the TTG meeting on 18 September 2014, the Group discussed ways of cooperation with the WTO Permanent Missions with regard to promotion of the Environmental Goods Agreement, which concerns two dimensions: awareness raising and technical advice. Activities of promotion of trade in environmental goods go in line with the decision to conduct further analysis and consultations on benefits of adding new low-carbon energy materials and products to the Annexes of the ECT, taken by the Energy Charter Conference at its 23<sup>rd</sup> Meeting on 26 November 2012 in Warsaw, Poland, in the context of promoting low-carbon investment.
10. The Trade and Transit Group furthermore discussed a possibility of modification of Annex W (A) which provides with “Exceptions to the Application of the Provisions of the WTO Agreement”, to a positive list of spelled out texts of the WTO provisions applicable to the ECT under Article 29(2)(a). For pure transparency purposes, the positive list of the WTO provisions which apply to the ECT can be found on the website of the Energy Charter.
11. By tradition, in October 2014 the Energy Charter organised a Working Session within the WTO Public Forum 2014 with the subject "Trade in Environmental Goods as Catalyst for Implementing Sustainable Energy For All initiative in Africa". During the Forum, representatives from UNIDO, ICTSD, WTO, WEC and African NGOs shared a view that trade in environmental goods is an important step to promote energy security and reduce energy poverty.

## **Transparency Initiative**

12. The transparency initiative on new cross-border infrastructure projects and strategies allowed delegations to exchange information on practical issues related to the development of energy infrastructure.
13. A representative of Analytical Centre Nomos, Ukraine, presented a proposal on Transparency Regime for Cross-border Gas Flows. He discussed various possibilities of monitoring flows of natural gas in Russian - Ukrainian gas transportation system,

including lessons learnt from Ukraine - Russia crisis of 2006 and 2009 involving the supplier, transit country and the consumer.

14. Delegations of the Kyrgyz Republic and the Republic of Tajikistan updated on the proposed forth line of Central Asia-China gas pipelines project. The capacity of the proposed pipeline would be 30 bcm a year anticipating 1,2-1,4 billion US dollars of investments. The pipeline is scheduled to be completed by the end of 2016.
15. A representative of IFC Russia Renewable Energy Program made a presentation on cooperation and trade in renewable energy products between Russia and the EU, with a focus on the implementation of pilot projects in the field of small hydropower, biogas and wind energy in the North West of Russia. Russia is one of the last major markets to be opened for renewable energy producers, for project developers and for equipment providers. However, the biggest challenge Russian renewable energy was facing was a trade issue, namely, the issue of high local content requirements. He claimed that international law, namely, Article 5 of the Energy Charter Treaty as well as trade-related investment measures under the WTO, provided a solution for this situation.
16. CDC “Energiya”, regional electricity dispatch centre of Central Asia, briefed on the ongoing work on adaptation of ENTSO-E’s Inter-Transmission Compensation mechanism to the needs of three Central Asian countries, namely Kazakhstan, Kyrgyzstan and Uzbekistan. CDC “Energiya” aims to develop a software to adapt the ITC to unified power system for this purpose.
17. A delegate from Kyrgyzstan presented recent developments related to CASA-1000 project. The project aims to interconnect power systems of Central and South Asia in order to supply hydropower surpluses from Kyrgyzstan and Tajikistan to Afghanistan and Pakistan. The presentation highlighted current institutional arrangements, funding gaps and infrastructure developments.
18. Delegation from the Afghanistan made an overview of proposed TAPI project. This natural gas pipeline aims to transport 33 bcm of gas from Turkmenistan to Pakistan and India through Afghanistan. This project has obvious economic benefits for all countries involved; however, security concerns remain the main obstacle.
19. A representative of Georgian Ministry of Energy presented their flagship initiative related to regional electricity cooperation in South Caucasus. The proposal is to establish two ministerial-level task forces on energy cooperation and integration. One task force will focus on east-west corridor, including Turkmenistan, Azerbaijan, Georgia and Turkey, and another one on north-south, including Georgia, Armenia, Iran and Russia. It is anticipated that this initiative will promote political dialogue for the development of transport corridors and cross-border trade as well help developing a legal, regulatory and technical framework for facilitating investments based on ECT.

## **Middle East and North Africa (MENA)**

20. Following the Euro-Mediterranean Ministerial Energy Conference of December 2013, the Secretariat of the Union for the Mediterranean (UfM) launched in 2014 the establishment of working groups in four areas: energy policy and regulation, infrastructure and interconnection, energy efficiency and job creation. Working groups are open for all 43 countries composing the UfM and relevant stakeholders (e.g. Medreg, Med-Tso, Medener, RCREEE, Medgrid, Dii, Res4Med, EIB, EBRD...). The Energy Charter Treaty needs to be seen as a suitable instrument to fill the legal gap between both sides of the Mediterranean by spreading the principles of transparency and non-discrimination in the areas of investments, trade and transit.
21. In order to promote the principles and rules of the ECT on investments, trade and transit, the Energy Charter Secretariat organised on 23 June 2014 a joint workshop on long-term transmission rights in the electricity sector in the context of the EU internal market and the Mediterranean region. The workshop was co-organised by the Energy Charter Secretariat, the industrial initiative Dii GmbH (Desertec), GO15 (which represents the world's largest power grid operators), and it was hosted by the Spanish company ACS in Ciudad Real, Spain.