

**Draft**

**DECISIONS WITH RESPECT TO  
THE ENERGY CHARTER TREATY  
AND THE SUPPLEMENTARY TREATY**

## **DECISIONS WITH RESPECT TO THE ENERGY CHARTER TREATY AND THE SUPPLEMENTARY TREATY**

The following Decisions were adopted with respect to the Energy Charter Treaty and the Supplementary Treaty:

1. With respect to Article 10(8)

Given that there do not appear to be any programmes maintained by signatories to the Energy Charter Treaty that come within the terms of Article 10(8) of that Treaty, the modalities of application of Article 10(7) of the Energy Charter Treaty to any such programmes shall be reserved for further consideration by the Charter Conference at an appropriate time.

2. With respect to the application of the institutional arrangements of the Energy Charter Treaty to the Supplementary Treaty

The Energy Charter Conference and the Secretariat established under the Energy Charter Treaty (referred to in the Supplementary Treaty and Decisions and Understandings respectively as the Charter Conference and the Secretariat) shall perform relevant duties and functions with respect to the Supplementary Treaty.

3. With respect to Article 10(3)(a)

Given that historically those few Contracting Parties with reciprocity exceptions have seldom relied on them and that the Supplementary Treaty represents substantial progress in meeting the conditions of such exceptions, the Contracting Parties concerned shall, where they have invoked or acted under such exceptions, notify the Secretariat, which shall inform the Charter Conference.

4. With respect to Article 10(9)

Having regard to the value gained from the first review of the reports submitted to the Secretariat under Article 10(9) of the Energy Charter Treaty:

- (a) The Contracting Parties shall continue to include material illustrating the overall opportunities for investors of other Contracting Parties to Make Investments in their Areas. Such material shall cover in particular the existence and nature of relevant state entities, monopoly situations and exclusive and special privileges.
- (b) The Charter Conference should further define, as and when appropriate, the details of information to be included in such explanatory material.

Each Contracting Party listed in Annex PR to the Supplementary Treaty shall on an annual basis notify the Secretariat of any reliance on an exception provided for in Annex PR that relates to the obligation in Article 10(2) on a Contracting Party to accord treatment no less favourable than that it accords to its own Investors or their Investments. The Charter Conference may review the information provided.

5. With respect to Article 10(3)(b)

A Contracting Party which is not listed in Annex PR may, regarding an exception inscribed in Annex PR by a Contracting Party which is listed in Annex PR but not Annex T, invoke an equivalent exception to its obligation in Article 10(2) in relation to the Investors of that other Contracting Party or their Investments in its own privatisation operations.

6. With respect to Part II of the Supplementary Treaty

The provisions of Articles 40 and 43 of the Energy Charter Treaty shall apply, mutatis mutandis, to this Treaty.