

**ENERGY CHARTER
SECRETARIAT**

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Brussels, 10 December 2003

Related documents: CC 262, CC 262 Rev. 1, CC 266, RD 4 (ECC of 10 12 2003)

DECISION OF THE ENERGY CHARTER CONFERENCE

Subject: Adoption of the Energy Charter Secretariat's Work Programme for 2004

[The Energy Charter Conference at its 13th Meeting held on 10 December 2003] *approved* the Secretariat's Work Programme for 2004 as contained in CC 262, amended by Room Document 4, on the understanding, as confirmed by the Chairman, that the Secretariat would take into account the comments and requests made by delegations during this discussion with regard to the Work Programme.

Keywords: Secretariat's Work Programme

Energy Charter Secretariat's Work Programme for 2004

as adopted by the Energy Charter Conference
at its 13th Meeting held on 10 December 2003

INTRODUCTORY NOTES

General

The Secretariat's Work Programme for 2004 has been prepared on the basis of a continuation of the multi-annual "core" of activities relating to implementation of the Energy Charter Treaty in its central areas: investment issues, trade, transit and energy efficiency. The structure and presentation of the Work Programme have, accordingly, followed the model adopted in previous years. However, delegations' attention is drawn to the following aspects of the Work Programme for 2004 that are of particular note:

- The Work Programme envisages a further shift in emphasis of the Energy Charter process towards policy-oriented activities, in line with the corresponding conclusions adopted by the Charter Conference at its Special Tenth-Anniversary Session in December 2001. Thus, a number of policy-focused studies are proposed, and the Work Programme foresees a continuation of efforts aimed at securing greater interaction between the Charter process and the business community, in order to increase the latter's awareness of the Energy Charter Treaty's role.
- This tendency is most evident of all in the area of transit, where, for the first time, the Secretariat foresees to undertake in 2004 a full annual work programme focused on implementation and related policy issues, rather than on the process of negotiations that has hitherto dominated its work in this area. Following the Charter Conference's approval in June 2003 for the establishment of a Transit Group, the Secretariat proposes to undertake a number of studies and research projects designed to support the policy debate within this Group on several of the key issues that have emerged from the Transit Protocol negotiations.

Under section 2 of the Work Programme ("Directorates") staff and consultancy months have been allocated to individual activities based on the priorities among them. Calculations of staff and consultancy months allocated to individual activities correspond to the proposed 2004 Budget and Establishment Table (document BC 128). In this context, delegations' attention is drawn to the fact that an internal transfer of one staff post at B5 level from the Directorate for Energy Efficiency and Investments to the Private Office was implemented during 2003, resulting in a corresponding reallocation of staff months. The staff member concerned is responsible for the coordination, monitoring and quality control of Russian-language translations of all Energy Charter documents. Accordingly, this reallocation represents a purely technical step, aimed at better reflecting the fact that this service is provided for the entire Secretariat, rather than one Directorate alone. No reduction, in real terms, in the overall amount of staff time devoted to the policy substance of the activities undertaken by Directorates will result from this move.

Delegations should also note that a unified programme of activities is proposed in the area of energy efficiency (i.e. encompassing both the Protocol on Energy Efficiency and Related Environmental Aspects and Article 19 of the ECT), in line with the proposal contained in BC 128 to introduce, beginning from 2004, a unified budget for the financing of all areas of the Secretariat's activities (i.e. abolishing the previous division between Budget Parts 1A and 1B).

The Work Programme has been drafted on the assumption that two meetings of the Charter Conference and of each of its subsidiary bodies will be held during the course of 2004 - although it should be noted that this does not exclude the possibility that further meetings may be required.

In all areas of activity described in the Work Programme, the Secretariat will strive, in accordance with Article 34(4) of the Treaty, to ensure that its activities are complementary with those of other relevant international organizations. Accordingly, the calculated staff time devoted to the activities described below encompasses in each case the need to devote certain Secretariat resources to the development of cooperation with such organisations.

Finally, it should be mentioned that in 2004 an additional task is envisaged in the Work Programme, namely the provision of support for the review by the Charter Conference of the functions of the Energy Charter Treaty, which, in accordance with Article 34(7) of the Treaty, is to be carried out before the end of 2004. Lead responsibility for this task will rest with the Private Office.

Investment Issues

The Investment section of the Work Programme retains its traditional focus on supporting the core activities of the Investment Group in monitoring implementation of the investment-related provisions of the ECT (in particular country reviews of investment climate and market structures [ICMS-Reviews], and monitoring of exceptions in the "Blue Book"). In addition, attention should be drawn to a new follow-up procedure in connection with the ICMS-Reviews. As of 2004, reviewed member countries will be invited to report back to the Investment Group on measures they have taken in response to the policy conclusions adopted by the Charter Conference in respect of each ICMS-Report.

Additionally, the Secretariat will continue to provide support for the development of the Investment Group's function as a policy forum on energy investment issues, inter alia through the invitation of major energy companies to address the Investment Group, the involvement of a wide range of interested outside actors in ongoing discussions of the Best-Practice Guidelines on Energy Market Restructuring (including Privatisation) developed in 2003, and also the preparation of occasional papers on selected relevant issues. The proposed establishment of a permanent Industry Advisory Panel is a step in the direction of developing the dialogue with industry on investment related issues as well as on other areas of activities in the Energy Charter process. Resources will be allocated to obtaining independent assessments of the investment climate in countries subject to review as a supplement to the countries' own reporting.

Trade

A major part of the topics included in the Work Programme for 2004 flow from studies prepared earlier and suggestions made by delegations in the Group on Trade. In 2004, the focus of attention of the Group on Trade is expected to further shift from the traditional

task of overseeing the implementation of ECT trade provisions on the basis of notifications to analytical work related to topical policy issues.

The Secretariat intends to deepen and expand its ongoing work on electricity. As agreed by the Group on Trade, activities in this area will include providing background analytical notes on substantive issues for the Group's work. These include the proposal for an electricity instrument that was considered by the Energy Charter Conference in June 2003; and several electricity reports, and energy-related reports focusing primarily on electricity, which will be revised and updated.

In addition, the Secretariat will continue to monitor developments in WTO accession negotiations of ECT Signatories/Contracting Parties that are not yet members of the WTO.

Transit

Proposed activities related to transit are largely inspired by, and derived from, the issues debated during the Transit Protocol negotiations. The Secretariat plans to organize a policy Conference during 2004 specifically devoted to energy transit issues, with the aim of continuing the Charter process's efforts to analyse and find common approaches to resolving the transit-related problems that have been the focus of attention in negotiations on the draft Transit Protocol. In addition, the Secretariat proposes to analyse the methodologies for establishing transit tariffs in conformity with the obligations of the Treaty and the Protocol. Finally, the Secretariat will compare existing domestic legislation for natural gas transportation with the aim of broadening the policy debate on energy transit issues. In addition, the Secretariat will engage in developing the idea of establishing a forum for discussion on existing and new transport infrastructure.

The Secretariat will also continue and intensify its analysis of the lack of cost-reflective natural gas prices in the economies in transition. This constitutes an economic burden for these countries and a major influence on the flows and utilization of the existing natural gas pipelines.

Energy Efficiency and Related Environmental Aspects

The combined work programme of activities aimed at implementation of PEEREA and Article 19 of the ECT focuses primarily on a continuation of the process of regular reviews and in-depth reviews of signatory states' fulfillment of their commitments under PEEREA. This review process formed the foundation of the Secretariat's report to the UNECE "Environment for Europe" Ministerial in Kiev in May 2003, at which Ministers both recognized the important role of PEEREA in promoting energy efficiency policies, and requested that the Secretariat submit a further report on progress on implementation of the Protocol to the next "Environment for Europe" Ministerial meeting.

In addition to this core activity, the Secretariat also plans in 2004 to carry out studies on complementary policy issues in support of the activities of the Energy Efficiency Working Group. These issues include opportunities for promoting energy efficiency offered by the financing mechanisms available under the Kyoto Protocol; the integration of energy efficiency, environmental and renewable energy policies; and the identification of best-practices concerning policies related to cogeneration and district heating. As in past years, the Secretariat will aim to ensure that its work on these issues is closely coordinated with that of other relevant international organizations.

Energy Charter Secretariat's Work Programme For 2004

(Note: All staff-month calculations include secretarial support and secondees' output)

ACTIVITIES

1. PRIVATE OFFICE

(84 staff-months¹)

The Secretary-General and Deputy Secretary-General, supported by the Private Office, will be responsible for:

- overall direction and operational co-ordination of the Secretariat's work, and strategic and political aspects of the Secretariat's role, including the development of contacts with governments of Contracting Parties/Signatories at an appropriate political level, with their diplomatic representations in Brussels, and with relevant international organisations and institutions, with the aim of promoting implementation and awareness of the Treaty and its related instruments;
- high-level political contacts with those Signatories that have yet to complete their ratification of the Charter's legal instruments, with the aim of facilitating the ratification process;
- consultations at political level with countries wishing to become more closely involved in the Charter process and eventually to accede to the Treaty;
- relations with the energy industry and with other relevant bodies and organisations dealing with energy issues, including associations or unions;
- raising the level of public awareness of the Treaty and its impact on the energy sector via public relations activities, participation in international conferences, and high-level contacts with constituent states and with the headquarters of relevant international organizations;
- advice and organisational support for the Conference Chairman to ensure his close engagement in policy matters relating to the Charter process and to facilitate informal political consultations where required between the Chairman and Contracting Parties/Signatories.

In addition to the above, Private Office has recently taken on responsibility for the coordination, monitoring and quality control of all work relating to the translation of Energy Charter documents from and into Russian.

Private Office will also have the lead responsibility within the Secretariat for supporting the Charter Conference in its preparation of a review of the functions of the Energy Charter Treaty, which, in accordance with Article 34(7) of the Treaty, is to be carried out before the end of 2004. A more detailed proposal concerning the procedures for conducting this Review is to be submitted to the Charter Conference for approval at its meeting in December 2003 (see document CC 264).

¹ Increase of 12 staff-months compared to 2003 Work Programme reflects the internal transfer to Private office of one B5 post (see page 1 of Introductory Notes).

2. DIRECTORATES

2.1 Ratification, Accession and Relations with Non-Signatories²

2.1.1 Ratification of the Treaty/PEEREA/Trade Amendment (5 staff-months)

The Secretariat will continue to provide advice and support to those Signatories (Australia, Belarus, Iceland, Norway and the Russian Federation), which have not yet completed their national ratification procedures for the Treaty. Support and advice will also be provided to Contracting Parties/Signatories in relation to the ratification of the Trade Amendment; this latter support will focus on non-WTO Contracting Parties/Signatories because of the WTO related content of the Trade Amendment.

2.1.2 Accession (3 staff-months)

The Secretariat will upon request assist new participants in signing the European Energy Charter and/or in gaining the status of a regular observer at the Charter Conference meetings, and will initiate the accession process as appropriate. The Secretariat will continue to assist Serbia and Montenegro in the consultation process for the elaboration of their terms for accession to the Energy Charter Treaty and the Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects.

2.1.3 Relations with Non-Signatories (9 staff-months)

Contacts will be pursued with countries that have expressed interest in closer relations with the Charter process. Following up on contacts during the past year, including the results of a Seminar held in Tashkent, Uzbekistan in September 2003, the Secretariat will continue its dialogue with the authorities of the People's Republic of China and the Republic of Korea with the aim of obtaining a closer involvement of these countries in the Energy Charter process. The possibility of establishing relations will be explored also with other Asian countries, in particular the ASEAN group of countries.

Dialogue with the observer states in the Middle Eastern region will also be pursued. The Secretariat will continue consultations with the government of the Islamic Republic of Iran on the possibility of a joint study on the benefits of becoming a member of the Energy Charter. Dialogue with Mediterranean countries will also be continued, in particular with Morocco, Algeria and Tunisia.

In order to confirm the observers' interests in the Energy Charter process, the Secretariat will launch a yearly 'Round Table' forum for the observer states with the view to an exchange of views on the development of the observer states' participation in the Energy Charter process and where relevant their possible accession to the Energy Charter Treaty. The first meeting of the 'Observers Round Table' will be held in early 2004 in Brussels. The "Round Table will supplement the regular bilateral contacts between the observer countries and the Secretariat.

In pursuing the above work, the Secretariat will take into account the need for maintaining a balance between expanding the coverage of the Charter process and deepening its

² This resource allocation is in addition to the significant resources that will be devoted by the Private Office in 2004 to promoting ratification and developing relations with non-signatories at a political level.

substance within its existing constituency. The Secretariat will develop co-operation with other international and regional organizations as appropriate.

2.2 Investment Issues

2.2.1 Country Reports on Investment Climate and Market Structure (24 staff-months plus 1 consultancy-month)

The Investment Group will review the reports on Investment Climate and Market Structure (ICMS reports). In accordance with the agreed Table of Contents, the reports should aim to cover information on the general investment climate through examination of relevant legislation, with particular emphasis on market access developments. The documentation will also cover the existence and nature of relevant state entities and monopolies. Special emphasis will be placed on monitoring remaining pre-investment exceptions in view of the undertaking of Contracting Parties/Signatories to endeavour to remove progressively discriminatory restrictions for investors of other Contracting Parties/Signatories.

In addition, it is intended to pay more attention to possible remaining restrictions in the *post-establishment* phase of an investment, and existing *general exceptions* of contracting parties in accordance with Article 24 ECT. Depending on the findings of this part of the examination process, one might consider initiating a more systematic horizontal review of remaining investment obstacles in various energy sub-sectors at a later stage, subject to agreement by member states.

The reports will likewise focus on the process of energy market restructuring, including the development of a regulatory framework. The aim is to facilitate discussion among experts on the complex and politically sensitive issues of restructuring energy markets and privatisations, focusing on countries with economies in transition.

As a new follow-up procedure to the ICMS-Reports, member states will be invited – as of 2004 – to report back to the Investment Group, at an interval of three years after the report's compilation, on measures that they have taken in response to the policy conclusions adopted by the Charter Conference with regard to each review. The objective is to give member states the possibility to monitor compliance with these conclusions, to discuss recent developments in the reviewed country, and to share information about its experience in implementing recommended policy measures.

There is a general agreement that reports should not only be presented by member countries in transition, but also by economically more advanced market economies. The purpose of this broader focus is to share amongst all participants the experience gained by those countries in the process of privatisation and restructuring. At the Energy Charter Conferences in June and December 2003, the Conference Chairman repeated his appeal to economically more advanced member countries to volunteer for such a review. The Secretariat will pursue its efforts to arrange for this review.

The Secretariat will allocate resources to secure as appropriate information and analysis of the investment climate in the countries examined as a complement to the information and analysis supplied by the countries themselves in the ICMS Reports. This could imply visits by Secretariat experts to the examined countries as well as consultant assistance. The purpose would be to provide the Investment Group with an independent view on the

investment climate in the examined countries in order to enrich the debate in the Group and secure a better guidance to the countries in their efforts to improve the investment climate.

As a part of this activity the Secretariat could offer expert assistance to the Signatories on the implementation of the provisions of the Energy Charter Treaty in national legislation and related administrative practices.

2.2.2 Monitoring of Exceptions in the “Blue Book” (3 staff-months)

The Secretariat will continue its overall analysis and monitoring of non-conforming measures of Contracting Parties/Signatories in the pre-establishment phase of an investment as compiled in the “Blue Book”. The purpose of this activity is to provide for full transparency concerning existing country-specific exceptions to the principle of non-discrimination, and to work towards their gradual elimination in the future.

One of the most efficient mechanisms to promote such a “roll-back” has proven to be consideration within the Investment Group of relevant legislation, with particular emphasis on market access developments. The Secretariat will pursue such peer-review activities with respect to individual non-conforming measures notified by Contracting Parties/Signatories.

2.2.3 Best Practices Guidelines on Privatisation/Restructuring (4 staff-months)

The Best Practices Guidelines offer a set of voluntary principles on restructuring and privatization. The Guidelines were finalized in the first half of 2003 and were welcomed by the Energy Charter Conference at its June 2003 meeting. . Originally planned for 2003 but delayed because of the organisation of other external events, a workshop on the Guidelines will be arranged with stakeholders, such as representatives from the member countries, privatisation agencies, industry and other international organisations in Brussels in early 2004. The purpose of the workshop is to present policies as reflected in the Guidelines, and to share practical experience with the restructuring and privatisation process in individual member countries.

2.2.4 Establishment of an Industry Advisory Panel (6 staff-months + 1 consultancy month)

The main purpose of this initiative is to strengthen the interaction and co-operation between governments and the business community in the Energy Charter process, as it has been called for in the Declaration on the Occasion of the Tenth Anniversary of the Founding of the Energy Charter Process in December 2001.

Subject to the outcome of the Energy Charter Conference in December 2003, it is intended to establish a so-called “Preparatory Group”, consisting of industry representatives and Secretariat staff, in early 2004. This Group will be tasked to further clarify the possible role, function and modus operandi of the IAP. Based on the findings of this Group, the Charter Conference will be invited to take a final decision on the establishment of the IAP in June 2004.

Although listed under “Investment Issues”, the IAP is proposed to cover the Energy Charter process as a whole. However, it is expected that investment related activities will be a core task.

2.2.5 Information Exchange

(2 staff-months)

The Investment Group will continue its mutual exchange of information on measures adopted by Contracting Parties/Signatories with regard to energy-related investment. The main objective of this initiative is to provide delegations with up-to-date information about recent developments in this area, to examine whether these developments might have implications for the position of Contracting Parties/Signatories under the ECT, to supplement the generic country reports on investment climate and market structure by individual recent cases, and to invite a discussion of these issues amongst participants.

2.2.6 Policy Dialogue

(4 staff-months +1 consultancy month)

To strengthen further the role of the Investment Group as a forum for policy dialogue between all interested parties, the Secretariat will pursue the preparation of occasional papers on selected issues relating to foreign investment and market structure/privatisation in the energy sector. It is suggested that one such paper deals with recent developments in FDI flows/stocks in the energy sector, drawing on available and to the extent possible up-to-date data in this area.

Representatives of major international energy companies will continue to be invited to make presentations on their investment-related activities in member countries. This may be supplemented by presentations from academia.

The Secretariat plans to arrange, together with the International Energy Agency, a “Seminar on Natural Gas in South East Europe: Investment, Transit, Trade”, to take place in Istanbul in March 2004.

2.2.7 Improving Transparency

(2 staff-months)

The Secretariat will continue to establish individual country pages on the ECS website in 2004 in cooperation with member countries. The aim is to provide interested readers with up-to-date information on ECT-related issues in member countries (for instance, status of ratification of ECT, texts of energy-related legislation, coordinates of relevant state authorities and links to their national websites, and other similar issues). As agreed in late 2003, the country pages will be made available on the public section of the ECS website.

2.2.8 WTO and Investments

(1 staff-month)

Related to the earlier decision to keep the negotiations on the Supplementary Treaty on hold, the Secretariat will continue to closely monitor the developments in the WTO concerning the establishment of a multilateral framework for investment, and assess its possible implications for the Supplementary Treaty.

2.3 Trade

2.3.1 Policy Dialogue on Increased Cooperation in the Electricity Sector

(7 staff-months)

As agreed in the June 2003 meeting of the Energy Charter Conference, the Group on trade will continue to analyse and discuss the trade issues identified in document CC 243 relating to the proposal for an Energy Charter instrument on electricity. The focus will be on

establishing criteria for possible future trade liberalization under the Energy Charter Treaty and the most appropriate means of pursuing this objective in the light of existing treaty provisions. External consultancy may be required to review existing electricity market structures and rules of operation within the CIS and compare them with those within the UCTE system. In order to ensure complementarity, this activity will be pursued in close cooperation with Eurelectric and the CIS Electric Power Council.

2.3.1. Market Concentration in the Electricity Sector

(11 staff-months plus 1 consultancy-month)

On the basis of comments made by the Group on Trade, the Secretariat will undertake further updates and revisions of its analysis of the trends in market concentration in the power generation and their impact on market access, trade and competition. The additional work will entail, *inter alia*, a more thorough explanation of the statistical indices used and a discussion of the concept of relevant markets for electricity (including product and geographical market definitions) and their practical implications for measuring market concentration in the ECT area, the discussion of implications of market concentration on market access and the analysis of vertical integration and convergence between power and gas markets. Further discussion in the Group will focus on potential remedies against power market concentration and suggestions on concrete action by ECT constituencies. The latter will include consideration of how to implement adequate separation of generators from the operation of transmission lines and how to prevent anti-competitive behaviour during the transition from state to private ownership.

2.3.3 Linkages between Trade and Environment in the Electricity Sector

(3 staff-months)

The Secretariat will continue to refine and expand the analysis of trade and environmental issues facing the electricity sector, taking into account the guidelines provided by the Group on Trade and the Conference. The follow-up work will include, *inter alia*, the discussion of substantive contributions of various international organizations in developing environmental and safety standards as well as efforts by non-EU countries to improve nuclear safety and environmental protection. In addition, the Secretariat proposes exchanging ideas on the linkages between trade and environment in the electricity sector in a specially dedicated session of the Group on Trade, with open participation of experts in this field.

2.3.4. Promotion of Renewable Energy Sources

(2 staff-months)

As agreed at the May 2003 meeting of the Group on Trade, this topic will be kept on the agenda of the Group in 2004. The Secretariat will further develop and strengthen the analytical part of the study on the promotion of renewable energy for discussion in the Group to cover, *inter alia*, non-EU countries practices as well as to take more fully into account the primarily non-trade objectives of various support schemes when assessing them against WTO/ECT obligations. As discussed within the Group, the Secretariat will prepare and support consultations with experts in charge of trade, energy and environment policies to address the trade concerns about the key aspects of different promotional schemes used for the promotion of renewable energies.

2.3.5. *Seminar on Electricity*³

(6 staff-months)

Following the positive responses from the Group on Trade and industry stakeholders to the first ECS seminar on electricity in the autumn of 2002, the Secretariat intends to organise a follow-up event in 2004. This event will underline the Secretariat's recent emphasis on policy-oriented activities by focusing on cross-border issues in the Eurasian power markets. It will gather trade, competition and electricity experts from governments, regulatory bodies, international organizations and enterprises.

2.3.6. *Monopolies and Exclusive Rights*

(2 staff-months)

As a follow up to the discussions on the background note on state trading in the energy sector, the Secretariat will prepare an updated and expanded paper that will also cover trade in services and the relationship between trade and competition rules as they apply to state trading enterprises and enterprises with dominant positions.

2.3.7. *Subsidies in the Energy Sector*

(4 staff-months plus 1 consultancy-month)

Energy subsidies are among the key trade distorting factors and their progressive elimination would greatly contribute to bringing about market economy structures and to removing trade distortions among ECT countries. As requested by the Group on Trade, the Secretariat will prepare an in-depth analytical paper on energy subsidies which will serve as a basis for the Group's work in 2004 on this issue. The paper will focus on trade distortions caused by energy subsidies and - subject to data availability - will seek to quantify their impact on both international trade and economic efficiency. External consultancy will be required for this in-depth analysis.

2.3.8. *Competition Issues*

(7 staff-months plus 1 consultancy-month)

Competition laws do not yet play a significant role in the regulation of energy markets, partly due to specific sector regulations and partly due to the prevalence - in some markets - of vertically integrated monopolies. On the basis of previous analyses on the electricity and gas markets, the Secretariat plans to examine more thoroughly the core competition-related issues of energy market liberalization, including the role of competition policies of ECT Member countries in securing market contestability and their relationship with sector regulations. Input from external consultants will be required for some of these analyses.

2.3.9. *Notifications*

(1 staff-month)

Notifications by non-WTO Contracting Parties/Signatories under the WTO-by-reference approach and Article 29(3) notifications will continue to be collected, primarily through direct contacts with governmental agencies responsible for trade. While all notifications will have to be reviewed by the Group on Trade, the Secretariat will focus on those key areas that the Group on Trade might wish to select as priority issues for 2004 (e.g. subsidies or regional trade agreements).

2.3.10. *Trade dispute settlement under Annex D*

(1 staff-month)

³ The implementation of this activity is subject to the understanding that the Conference on transit issues to be organised by the Secretariat in 2004 (see activity 2.4.1) will be given priority in terms of resources and planning.

The Secretariat will monitor developments in the WTO negotiations on the improvements of the Dispute Settlement Understanding and will make proposals, as appropriate, to amend the trade-related dispute settlement provisions of the ECT in the light of the outcome of those negotiations. The Secretariat will also maintain, and seek to expand, the roster of panellists in order to be in a position to establish a panel, if so required.

2.3.11. Technical Cooperation (1 staff-month)

The Secretariat will continue to offer to non-WTO countries, and countries that recently acceded to the WTO, its assistance in relation to WTO provisions relating to energy and in particular the ECT trade provisions, including notifications. Individual non-WTO members that so request will be assisted in their efforts to fully comply with the trade provisions of the Treaty.

2.4 Transit

2.4.1. Policy Event on Transit issues (6 staff-months)

The Secretariat will organize and prepare a policy Conference to be held during the course of 2004 specifically devoted to an in-depth consideration of regulatory aspects of energy transit, focusing in particular on some of the major points of debate among delegations during negotiations on the draft Energy Charter Transit Protocol. The Conference will be open for participation by all Energy Charter delegations, and will also aim to involve senior policy-makers, industry representatives, international organisations and other experts from across the Charter's constituency.

2.4.2. Transit Tariff Methodology (10 staff-months plus 1 consultancy-month)

The Protocol on Transit will introduce important obligations on the Contracting Parties concerning the establishment of transit tariffs. These obligations will include particularly the requirement to ensure that these tariffs are objective, transparent, non-discriminatory and cost-based. Therefore, the Secretariat proposes to undertake an analysis of various existing methodologies for establishing tariffs and the degree of their compliance with the above requirements. Some input from external consultants will be needed for parts of this analysis. The results will be discussed in the newly established Transit Group.

2.4.3. Consultations on New Transport Facilities (6 staff-months)

The Secretariat intends to set up a framework for consultation and dialogue on the establishment of new energy transport facilities relevant for cross border flows. The objective for 2004 is to develop a concept for such a framework, in cooperation with governments and other players in the Eurasian energy market. The newly established Transit Group is considered a suitable forum for this consultation.

The purpose of such a consultative framework is to allow for the presentation of planned projects, and for fostering the optimal use of existing and additional capacity. Commercial confidentiality in relation to individual projects will be entirely ensured in this context.

2.4.4. Comparative study of domestic natural gas transportation laws (11 staff-months)

Several issues relating to the regulation of natural gas transportation and transit have been discussed during the Transit Protocol negotiations. Such issues nevertheless merit further analysis and discussion among signatories to the Treaty. The Secretariat plans to finalize the work on the domestic natural gas transportation laws to be presented to delegations in 2003, notably the country reports on the Czech Republic, the Slovak Republic, Poland, Ukraine, and Turkmenistan. Furthermore, the Secretariat plans to prepare a new series of country reports analysing Belarus, Kazakhstan, Russia, and Uzbekistan, and also the energy transportation regime applicable within EU and selected Member States. The selection of countries will be made on the basis of the size of the current and expected natural gas flows of the signatories to the Treaty. Domestic natural gas transportation legislation will be compared to international natural gas transit obligations in the Treaty and the WTO Agreements. This legislation will also be assessed against the requirements of efficient energy market liberalization.

2.4.5. Eurasian Natural Gas Market Policy Issues (10 staff-months plus 1 consultancy-month)

The Secretariat intends to increase its support for policy debates among signatories to the Treaty on issues related to the development of an open, non-discriminatory and competitive Eurasian natural gas market and the implications for security of natural gas supply. The focus of work in 2004 will be on the submission and subsequent discussion of two reports on the economic consequences of introducing cost reflective natural gas prices in Ukraine and Russia. Furthermore, a similar report on the Slovak Republic will be finalised. This project will also include dissemination of best practices in implementing such reforms, including closer co-operation between the Secretariat and relevant authorities in the economies in transition.

2.5 Enquiry Points (1 staff-month)

The Secretariat will facilitate and organize the integration of Enquiry Points into all aspects of the Charter process in order to raise efficiency of implementation of the Charter instruments and to ensure transparency, including on institutional developments. It will continue to inform Contracting Parties/Signatories on designated enquiry points, and, where necessary, will review existing enquiry points to make sure that they are available to provide relevant information. Utilization of the Energy Charter website will also be pursued to strengthen the function of Enquiry Points.

3. Energy Efficiency and Related Environmental Aspects (covering Article 19 of ECT and the Protocol on Energy Efficiency and Related Environmental Aspects (PEEREA))

3.1 Review process (15 staff-months + 2 consultancy-months)

The PEEREA review process, based on regular and in-depth energy efficiency reviews, provides a unique platform of international analysis and discussion on energy efficiency and environmental issues. The valuable contributions from the process were recognised at

the Kiev Environmental Ministerial Conference. It will serve as a basis for reporting on energy efficiency trends and policies to the next Environmental Ministerial.

The regular reviews serve mainly to monitor progress in implementation of the PEEREA obligations. Reviews should be updated at regular intervals (i.e. every 2-3 years) and member countries should present periodically recent developments and progress at the Working Group meetings. The Secretariat will assist countries in preparing and presenting their reports. Once finalised these reports will be made available on the website of the Energy Charter.

The in-depth reviews are the main tool for offering peer guidance to Governments in developing and implementing their energy efficiency policies. The Secretariat will continue these in-depth reviews for two selected countries in 2004, in co-operation with other international or regional organisations if appropriate. Follow-up on the implementation of the recommendations of the in-depth reviews will also continue.

As indicated below, further analysis and activities will be undertaken drawing on the review process. The Secretariat will work for securing a wider dissemination of the results of the PEEREA work.

3.2 Energy Efficiency, Environment and Renewable Energy Sources (8 staff-months)

Addressing environmental impact throughout the whole energy cycle, from production to end-use, is one of the objectives of the ECT. Related to the preparation of the Kiev Environmental Ministerial Conference, the Secretariat explored in 2003 the issue of integrating energy efficiency policies with other economic and environmental policies. In 2004, the integration of energy efficiency, environmental and renewable energy policies will be further analysed, partly in relation to the work on the use of flexible mechanisms for energy efficiency projects under the Kyoto Protocol described below.

3.3 Energy Efficiency and Kyoto financing mechanisms (5 staff-months + 2.5 consultancy months)

Energy efficiency improvements are recognised to be one of the main tools for achieving the objectives of the Kyoto Protocol. In turn, the Kyoto Protocol offers new opportunities for financing energy efficiency projects through the use of flexible mechanisms (mainly through Joint Implementation). Therefore, the link between energy efficiency investments and flexible mechanisms under the Kyoto Protocol, such as Joint Implementation and emission trading has to be explored.

Following up on a panel discussion on these issues in 2003 the Secretariat will further develop analysis on and understanding of the use of flexible mechanisms. This work will result in a report on the opportunities for financing energy efficiency in the context of climate change mitigation policies. This also represents a continuation of earlier Secretariat activities related to the financing of energy efficiency projects that resulted in the reports “*Financing Energy Efficiency – an application manual*” and “*Third Party Financing – achieving its potential*”. The Secretariat will co-ordinate its work with other International Organisations who are active in this area.

3.4 *Cogeneration and District Heating – the role of Municipal Planning* (4 staff-months)

The Secretariat has already initiated work on the evolution of, barriers to and opportunities for cogeneration and district heating (2002 report), in line with the requirement in PEEREA for Contracting Parties to develop initiatives for the “support and promotion of cogeneration and measures to increase the energy efficiency of the district heat production and distribution systems to buildings and industry”. The Working Group discussed the main issues and challenges faced by the cogeneration/district heating sector in the context of market liberalisation and economic restructuring.

Initially planned for 2003, follow-up work in this area had to be rescheduled to 2004, due to the need to allocate resources particularly for the preparation of the Kiev Environmental Ministerial Conference. It is proposed in 2004 to continue and deepen the work, with a view to identifying and promoting best practices for policies related to cogeneration and district heating. An important issue, which is an increasing challenge to cogeneration and district heating, is the competition from other heating forms, such as individual natural gas heating and electric heating. Municipalities may not always have the capacity to tackle such problems in the context of market liberalisation. The aim of identifying best practices is to promote policy options for consolidation and preservation of the existing cogeneration and district heating systems and to create a basis for an increased role of these systems in the future.

4. **LEGAL AFFAIRS** (30 staff-months)

4.1 – *Model Agreements*⁴

According to the current schedule, a first set of the Model Agreements, which include both the Intergovernmental Agreement (IGA) and the Host Government Agreement (HGA), will be presented to the Charter Conference in December 2003.

In 2004, Legal Affairs will promote and circulate the first edition of the Model Agreements to interested parties.

4.2 – *Signature and ratification of the Transit Protocol*

Following the adoption of the Transit Protocol, Legal Affairs will be responsible for providing the members states with the necessary legal advice and support with regard to the procedure for the signature and ratification of the Protocol.

4.3 – *Legal commentary of the Energy Charter Treaty*

In response to repeated requests made by delegations, the Legal Affairs Unit will embark on a detailed and systematic legal commentary of the Energy Charter Treaty. This commentary will take the form of comprehensive, article- by- article analysis of the Treaty, carried out in the context of its negotiating history and of recent legal developments in relevant fields of international law. The main purpose of the commentary will be to provide an up-to-date, coherent and authoritative legal analysis of the Energy Charter Treaty’s

⁴ DTT will provide assistance and support on this project up to approximately 2 staff-months.

provisions, in order to assist interested parties in assessing and implementing the legal obligations of the Treaty.

4.4 – Permanent responsibilities of Legal Affairs

Legal Affairs' main responsibility is to provide overall legal advice and assistance to the Charter Conference and its subsidiary bodies.

Legal Affairs also provides general legal assistance on all matters arising from the operational activities of the Secretariat. In addition, Legal Affairs deals with matters of a legal nature arising from the Secretariat's day-to-day operations.

Legal Affairs is also responsible for relations with the Depositary and for external legal queries.

5. ADMINISTRATION AND FINANCE

(66 staff-months)

The main areas of work of Administration and Finance are Budget, Personnel, Financial Administration, Information Technology and Support Services; specific activities are as follows:

Budget: preparation of draft Budgets, financial control of expenditure, collection of outstanding contributions and preparation of documents for the Budget Committee;

Personnel: recruitment and appointment procedures and all other issues related to the implementation of the Secretariat's Staff policies and rules;

Financial Administration: administration and control of all commitments, payroll and expenditure; preparation of annual Financial Statements and assistance in the Audit procedure;

Information Technology: maintenance and upgrading of all communication and other technical facilities of the Secretariat, ensuring the functioning of all IT systems, developing and maintaining the public and restricted areas of the organisation's Web-site;

Administration and Support Services: various activities, notably office management, document dissemination procedures and support for all ECS meetings, including external workshops and seminars.

**ENERGY CHARTER SECRETARIAT WORK PROGRAMME 2004
SUMMARY OF STAFF MONTH CALCULATIONS**

<u>I Directorates</u>	<u>No. of Staff Months</u>
Ratification	5
Accession	3
Non-Signatories	9
Total Ratification/Accession/Non-Signatories	17
Country Reports	24
Blue Book	3
Best Practice Guidelines	4
Industry Advisory Panel	6
Information exchanges	2
Policy Dialogue	4
Improving Transparency	2
Other International Organisations	1
Total Investment	46
Electricity-related work	29
Monopolies/Subsidies	6
Competition Issues	7
Notifications	1
Annex D Dispute Settlement	1
Technical Cooperation	1
Total Trade	45
Transit Conference	6
Transit Tariff methodology	10
Consultations on New Transport Facilities	6
Gas Transportation Laws Study	11
Natural Gas Markets Policy Debate	10
Model Agreements	2
Total Transit	45
Enquiry Points	1
Energy Efficiency reviews	15
Energy Efficiency & Renewables	8
Kyoto financing mechanisms	5
Cogeneration & District Heating	4
Total Energy Efficiency & Environment	32
TOTAL FOR DIRECTORATES	186
II Private Office	84
III Legal Affairs	30
IV Administration & Finance	66
V GRAND TOTAL FOR ECS	366

This calculation corresponds to the proposed Establishment Table of 29 staff (29 x 12 months per person = 348 months), plus 18 months' worth of secondees' time.