

**ENERGY CHARTER
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Related documents: CC 538

DECISION OF THE ENERGY CHARTER CONFERENCE

Subject: Report by the Chairperson of the Trade and Transit Group

The Energy Charter Conference at its 26th Meeting held on 3 December 2015 **took note** of the Report by the Chairperson of the Trade and Transit Group as contained in document CC 538 (attached hereto).

Keywords: Report, Chairperson, Trade and Transit Group

Report by the Chairperson of the Trade and Transit Group

This report provides an overview of the activities of the Group for Trade and Transit (TTG) in 2015. The Group convened three times in 2015: on 23 April, 9 June and 21 October. The main activities of the Trade and Transit Group included (i) Review of implementation of the ECT transit provisions, (ii) Amendments to the Rules Concerning the Conduct of Conciliation of Transit Disputes, (iii) Transit Issues, (iv) Trade issues and (v) Regional cooperation.

Review of implementation of the ECT transit provisions

1. Following the conclusions of the “Review conducted under Article 34 (7) of the ECT”, the Trade and Transit Group throughout 2015 undertook a comprehensive review of implementation of the ECT transit provisions. The objective of the review was to identify whether the existing legal, institutional and regulatory frameworks in the Contracting Parties of the ‘Energy Charter Treaty’ (ECT) allow for the implementation of the ECT transit provisions. As an outcome of this activity, the Secretariat prepared a report which was based on the responses provided by the Contracting Parties to the questionnaire.
2. The report on the review of implementation of ECT transit provisions (TTG 151) was finalised and approved by the Trade and Transit Group in October. The Group supported the conclusions of the report which were submitted for Conference approval as CC 527.
3. The main findings of the report on implementation of ECT transit provisions revealed that there are divergences in regulatory and institutional approaches regarding energy transit, trade and cross-border transport across the constituency. The report concluded that there is a need for the highest possible denominator on transit issues. The Trade and Transit Group, in view of progress made in 2015, expressed its readiness to start the negotiations of a Framework Agreement on Energy Transit on a multilateral basis. The Secretariat was tasked to start preparing the grounds for negotiation.

Amendments to the Rules Concerning the Conduct of Conciliation of Transit Disputes

4. The Trade and Transit Group reached an agreement on the amendments to the Rules Concerning the Conduct of Conciliation of Transit Disputes. Throughout 2015 the Secretariat conducted series of bilateral consultations to agree on these amendments. Following general agreement of the Group, the amended version of the Rules Concerning the Conduct of Conciliation of Transit Disputes was adopted by the Conference by written procedure (CC 520).
5. Following the adoption of the Conciliation Rules, the Trade and Transit Group also decided to work on the commentary to the Rules to address some of the comments from the delegations. In addition to that, the Group tasked the Secretariat to disseminate a call for nominations of candidates to be included into the roster of conciliators.

Energy Transit

6. The Trade and Transit Group continued to be involved into the work related to the International Meetings of Experts on Reliable and Stable Transit of Energy organised jointly by the Government of Turkmenistan and the Energy Charter Secretariat. Two meetings were organised in 2015 following the first meeting convened in accordance with the mandate from United Nations General Assembly (UNGA) Resolution 67/263 on “Reliable and stable transit of energy and its role in ensuring sustainable development and international cooperation”.

7. The second meeting of experts took place on 22 April in Brussels. The objective of the meeting was to reflect on the common benefits of energy cooperation and develop joint responses to the contemporary challenges facing reliable and stable transit of energy. As an outcome of this meeting, it was agreed that common rules for energy transit are important in ensuring global energy security. On this basis, parties also agreed to organise a further meeting in 2015 to discuss the main elements of such rules.

8. The third meeting of experts is planned for 27 November by China, which as a new signatory of the International Energy Charter supports this process and has expressed its interest in energy transit. The objective of the meeting will be to discuss the establishment of a multilateral legal instrument on energy transit to enhance cooperation among energy producing, transit and consuming countries. The discussion will focus on the main elements of the draft proposal prepared by the Secretariat on energy transit/transportation, including investments into cross-border infrastructure projects, the legal and operational aspects of cross-border energy infrastructure, and issues related to transit tariffs and utilisation of available capacity.

Trade issues

9. In the course of the year, the activities of the Trade and Transit Group continued to focus on the implementation of the Trade Amendment provisions. The Trade Amendment allows for an annual review on the possibility to move from best endeavours to binding commitments with respect to import and export duties on items covered by the ECT Annexes EM I and EQ I. Previously in 2014 the Secretariat had proposed to conduct such a review in the light of developments taking place in the WTO, namely, the Environmental Goods Agreement (EGA) negotiations.

10. In 2015, the Secretariat continued to follow closely the EGA negotiations and to raise awareness about it. In January, the Energy Charter organised a technical workshop with the negotiating EGA partners at the WTO in Geneva, allowing them to identify energy equipment goods to be included in their agreement. The speakers included representatives of some of the largest industries and industry associations from all over the world (Japan, The Netherlands, Denmark, Sweden, Finland, US). At the 26th Meeting of the Energy Charter Conference, the Energy Charter Contracting Parties will furthermore adopt a political declaration encouraging the conclusion of the EGA. Once the EGA has been concluded, the Energy Charter Conference will carry out an assessment on the introduction of binding customs tariff commitments on the products covered by the EGA.

11. In order to strengthen cooperation between the Energy Charter and the WTO, the Secretariat held a special event in the WTO premises on 17 April. The event had a title “*The Evolving Landscape of Clean Energy Governance: Implications for International Trade*”. High-level

speakers included Roberto Azevêdo (Director-General, WTO), Christoph Frei (Secretary General, World Energy Council), Ricardo Meléndez-Ortiz (Chief Executive, ICTSD), Joakim Reiter (Deputy Secretary-General, UNCTAD), Howard Chase (Chairman, IAP) and Energy Charter high officials. In his speech, the WTO Director-General Roberto Azevêdo acknowledged that “*the Energy Charter is the only energy-specific agreement that covers all major aspects of international energy*” and said that there were numerous areas where the WTO and the Energy Charter “can work more closely together to improve governance”. The Energy Charter will continue, when necessary, its trade activities in close cooperation with the WTO.

Regional Energy Cooperation

12. Regional cooperation continued to be the in the scope of the Trade and Transit Group. Two regional events were organised in 2015 by the Energy Charter Secretariat in cooperation with the hosting countries.

13. Georgia, in the framework of Georgia’s chairmanship in the Energy Charter Conference, proposed to initiate political dialogue on regional electricity cooperation in South Caucasus. This flagship initiative aims to foster electricity trade, develop efficient transport corridors and attract investments into regional energy infrastructure. The first meeting was jointly organised by the Secretariat and the Ministry of Energy of Georgia on 1 July 2015 in Tbilisi. As an outcome, countries agreed that creation of a forum within the Energy Charter framework would become an important step towards enhancing regional cooperation on electricity trade and identifying specific cross-border issues in South Caucasus.

14. Regional energy cooperation in Central and Southern Asia was discussed at the 11th RECA meeting on 25 September 2015 at Issyk-Kul lake. This event was jointly organised by the Energy Charter Secretariat and the Ministry of Energy and Industry of the Kyrgyz Republic. The participants discussed perspectives of sustainable regional cross-border energy trade, shared recent developments in their national energy systems and addressed current challenges. As an outcome of the meeting, the delegates adopted Issyk-Kul Declaration on Promoting Regional Energy Cooperation in Central and Southern Asia, which among other things, supported the second phase of the Energy Charter modernisation process and welcomed resumption of the multilateral energy transit agreement.