

**ENERGY CHARTER
SECRETARIAT**

CCDEC 2016

38 NOT

Brussels, 25 November 2016

Related documents: CC 581

DECISION OF THE ENERGY CHARTER CONFERENCE

Subject: Report by the Secretary General and Progress Report on the CONEXO policy implementation 2016

The Energy Charter Conference at its 27th Meeting held on 25 November 2016 **took note** of the Secretary General's Report of the year 2016 and the progress report on the CONEXO policy implementation as contained in document CC 581 (attached hereto).

Keywords: Report, 2016, Secretary General, CONEXO, implementation

Report by the Secretary General and Progress Report on the CONEXO policy implementation 2016

1. This Report provides an overview of the activities of the Energy Charter Secretariat in 2016. The Programme of Work for 2017 was already approved by the Conference in 2015 (CCDEC2015 21), an update of which (setting out the priorities and key areas of focus for 2017 based on discussions at the relevant subsidiary groups) was circulated for Conference approval as document CC580.
2. My report as Secretary General to the 2016 Meeting of the Conference is particularly significant as it comes at the end of my first five year mandate which commenced on January 1 2011. In each of those years, 2016 included, I have endeavoured to ensure sound management of the Energy Charter Secretariat based on the prevailing budget and human resource limitations. My ambition has been to maintain the effectiveness of the Secretariat in each of the core areas of the Energy Charter Treaty with a special focus on investment, transit and dispute resolution. I thank the Conference for the confidence it has shown in me by approving the renewal of my mandate for a further five years from January 1 2017. In short I would like to summarise matters by saying “a lot done, a lot more to do”.
3. I wish to thank the Chairmanship of Japan for their great support and guidance during 2016. Mr Fumio Kishida, the Minister for Foreign Affairs is the individual who has personified Japan’s Chairmanship. I thank him, his staff in the Ministry and in the Mission of Japan to the European Union for their great commitment and spirit of cooperation which have been enjoyed throughout 2016. A special thanks is also due to the Vice-Chairs of the Conference, Mr Kazuo Kodama, Ambassador of Japan to the EU, Ms Mariam Valishvili, Deputy Minister of Energy of Georgia, and Mr Dovranmammed Redjepov, Minister of Energy of Turkmenistan. Earlier in the year there were two other vice chairs; namely Mr Keiichi Katakami (now Deputy Minister for Foreign Affairs of Japan), and Mr Myratgeldy Meredov (then Minister of Oil and Gas of Turkmenistan). I also thank them for their contribution.
4. Each of my five years has brought its own particular and special challenges and 2016 has been no exception. The year has been one of transition. The main focus of activities for the Secretariat has been internal. Many of my efforts and those of the Secretariat have been focused on administrative and human resource questions. These have come about because of the constraints on the budget. Certain critical decisions which were taken last year are being implemented to allow the Charter and the Secretariat to face the future better equipped to deal with new challenges. The objective is to ensure the principles of the International Energy Charter, and the experience accumulated, are not left to wither, particularly at a time where their relevance is so well appreciated internationally.
5. But that has not meant that implementation of the Programme of Work, or on the overall programme of modernisation of the International Energy Charter, or the efforts on CONEXO have been neglected. I hope in this report to focus on each of these three questions, internal reform and restructuring of the Secretariat, implementation of the Programme of Work, and the ongoing work on CONEXO.

The Secretariat and internal reform

6. The first significant improvement in the operation of the Secretariat is undoubtedly the move to a two year budget cycle. For 2016 / 2017, there has been a two year planned Budget and Programme of Work. The effect of this has been immediate in that it has simplified the budget procedures for the Conference and for the Secretariat. In addition it has greatly improved the ability of the Conference to plan and to enter into arrangements in the longer term.
7. This improvement in the budget planning cycle allowed the Secretariat to focus on another major reform, the restructuring of the Subsidiary Groups of the Conference. A new working method was agreed as part of the Secretary-General's Vision Plan for 2017-2021. This was presented and discussed at the March meeting of the Strategy Group and further considered in June. As a result, the Conference has agreed to the merging of the Investment Group, the Trade and Transit Group and the Energy Efficiency Group into a single Group to be called the Implementation Group (CCDEC2016 28). The intention is to bring about a more efficient, result oriented system of meetings, decreasing costs for the Secretariat and Member States and with a better focus of the Secretariat's expertise to agreed priorities.
8. The second major initiative which the Secretariat has worked on over the course of 2016 is on the relocation of the Secretariat's office to a new premises, one that is more appropriate to the new working practices and with resultant savings to the budget. I expect that this move will be completed in the second quarter of 2017. I also anticipate that the new configuration and lay-out of the office will better facilitate team work within the Secretariat in line with the new working practices.
9. The new establishment table agreed by the Conference at its 26th Meeting in 2015 will be fully completed on January 1 2017. A number of posts have been merged or abolished. The new post of Assistant Secretary General will come into being after a successful recruitment exercise was conducted. The person appointed as the first Assistant Secretary General will take up the post in early 2017 and will undertake the tasks and responsibilities formerly undertaken by the Director and the Head of Administration and Finance. As a result the Secretariat will have a leaner management structure, one that is commensurate to the budget resources, but appropriate to the tasks of the Secretariat.
10. In July, Ambassador Selim Kuneralp completed his term as Deputy Secretary General. I wish to thank Ambassador Kuneralp for his input and support particularly with regard to the CONEXO policy and on the preparations for the Ministerial Conference on the International Energy Charter in The Hague. As agreed by the Conference the post of Deputy Secretary General is now to remain vacant.
11. The discussion on the informal working name was concluded at the Strategy Group on the basis that the group would agree on this independently of the parallel discussion on the confirmation of the international personality. In July, the Conference approved the adoption of an informal working name 'International Energy Charter' to better reflect the

global nature of the organisation and for clarity in presentation to third parties. This rebranding will do much to reflect the newly restructured Secretariat and will assist in the promotion of the Energy Charter outside its original constituency.

12. The final, but not least important topic discussed by the Strategy Group was the access to the *travaux préparatoires* and transparency. Some weeks ago, through CCDEC2016 24, the Conference (i) confirmed the new policy on access to the *travaux préparatoires*, (ii) de-restricted most of the documents of the *travaux préparatoires* and (iii) allowed the publication online of the different drafts of the Energy Charter Treaty and its Trade Amendment. This is an important step towards transparency and increasing awareness of the Energy Charter Treaty.

The implementation of the Programme of Work

13. Throughout 2016 the Secretariat continued to provide support and assistance to the Strategy Group, the Investment Group, the Trade and Transit Group, the Energy Efficiency Group, and the Budget Committee. The Working Group on Procedural Issues successfully completed its mandate and the new Procedural Rules were approved by the Conference. The details of the activities of these Standing Groups, Working Group and Committee are set out in their respective Reports. Each of these reports demonstrates that despite the difficulties of reform and restructuring, the Secretariat has largely succeeded to implement the activities set out in the Programme of Work for 2016.
14. With regard to Investment there has been some preparatory work for an evaluation of a possibility of introducing a legal instrument dealing with non discrimination in the pre-investment phase. The Secretariat organised a series of investment expert meetings with governments, industry and academic representatives. This has led to the preparation of a policy paper on the scope of the potential legal instrument and the Secretariat's initial draft as basis for the Conference decision on the negotiation of a legal instrument on pre-investment (CCDEC2016 21).
15. There has also been work on the development of a methodology and ongoing work on the implementation of a pilot first publication of a flagship publication "International Energy Charter Investment Risk Assessment". The regular work on further annual issues is subject to the endorsement by the Conference.
16. With regard to transit there has been preparatory work for resuming negotiations on a "Multilateral Framework Agreement on Energy Transit" (CCDEC2016 20). The preparation of a policy paper on the scope of the Agreement and the Secretariat's initial draft is intended as basis for the Conference decision on resuming the negotiations on an International Energy Charter protocol on transit. However this must be done with avoidance of excessive human and political resources linked to potential lengthy negotiations.
17. As will also be detailed in other reports before the Conference, the Secretariat has worked on finalising and further implementing the improvement of the investment dispute

settlement mechanism of the ECT, including the discussion on introducing minimum requirements on transparency.

18. I thank all those involved with the Standing Groups, the Working Group and the Budget Committee, particularly those delegates who take part in the deliberations, those who gave of their time and efforts to act as Chairs and Vice Chairs. Their input is very important to the work of the International Energy Charter. The new working practice which has recently come into place with the establishment of the Implementation Group is intended to somewhat reduce this burden. Nonetheless the input and commitment of delegates will of course be essential and it is necessary that delegates are willing to act as Chairs of the groups.
19. During the year the Energy Charter Knowledge Centre conducted two executive energy training programmes. The training programmes continue to be a useful instrument for the advancement of some of the Energy Charter's policy objectives, particularly in relation to expansion and outreach. Participants in the training sessions mostly came from countries interested in deeper engagement with the International Energy Charter, including those from Asia, Latin America and Africa.
20. The Knowledge Centre continued to host a range of highly qualified Fellows whose work and expertise strengthened the Secretariat's implementation of the Programme of Work. Fellows provide additional research capacity at the academic and practical levels and support the Secretariat's policy work in different areas, such as transit, legal affairs, electricity, regional co-operation and many more.
21. At the March meeting of the Strategy Group, I set out the role the International Energy Charter could play in the fulfilment of the goals set by the Paris Agreement of 2015. After some discussion, delegations agreed that a declaration without implementation would not be of benefit. As a follow up, in June, the Japanese Chairmanship explained that the International Energy Charter could help in the implementation of G-7, G-20 and Paris Agreement goals and objectives in the energy sector. This has led to the Japanese preparing the draft Tokyo Declaration which is before the Conference at this meeting and which I hope can be approved.

The ongoing work on CONEXO

22. Throughout 2016 I continued my endeavours to promote the principles of the Energy Charter. I met with Ministers, Ambassadors, Head of Delegations, and representatives of the energy industry to outline the essential role and future potential of the Energy Charter Treaty and the International Energy Charter. I spoke at many conferences and events to explain the specifics of the Energy Charter in the areas of transit, trade, investments, dispute resolution and energy efficiency.
23. Since The Hague Conference in 2015 more and more countries are signing the International Energy Charter. The International Energy Charter serves as a basis for the expansion activities and efforts of the International Energy Charter. It has been quite an

achievement to bring more than eighty countries to the new Charter, which embraces the same principles and rules contained in the Energy Charter Treaty.

24. A number of countries signed the International Energy Charter in the course of 2016. Bosnia and Herzegovina signed in March, Senegal and Rwanda signed the in September. The Secretariat is also continuing to provide the necessary support to four countries preparing accession reports to the ECT. These are Chad, Niger, Swaziland and Cambodia. The timeline of ratification of the ECT has been received from Mauritania which has set up a committee to work on their accession to the ECT.
25. A signing ceremony will be held at the Meeting of the Conference in Tokyo to facilitate signature by a number of countries who have already indicated their intention to do so.
26. The Secretariat has received a voluntary contribution from Poland to support cooperation with observer countries like China. I have undertaken two visits to China in 2016 to further develop cooperation and joint activities. There has been much progress on the establishment of a research centre.
27. I thank those member countries who are contributing to the expansion activities and assisting observer countries in their accession to the ECT through liaison embassies, diplomatic efforts, international summits where the Energy Charter is highlighted. In this context, I would like to express my special appreciation to Japan for its efforts and support to the Secretariat in the activities in Africa and South East Asia where through TICAD and other Japanese partners the presence of the Secretariat has been strengthened exposure to countries interested in the ECT has been increased.
28. However I must again remark that while the adoption of the International Energy Charter in May 2015 generated a belief that a unique opportunity had been arrived at to share the values of the Energy Charter with a much broader global constituency, I have a certain sense of disappointment. Back in May 2015 there was the hope that the tried and proven principles of the International Energy Charter, could further develop into an important tool of international energy governance to tackle many contemporary problems such as energy poverty in the less developed regions, and essentially to promote the rule of law, the principles of non-discrimination and sovereignty over natural resources. But there is a sense that the success of the International Energy Charter and the enthusiasm outside the existing constituency for the values of the Energy Charter, somehow have still not been matched by sufficient enthusiasm and support from within the existing constituency. Throughout 2016, and as the Secretariat faces into 2017, there remains a situation of severe budgetary constraints, which will greatly impede the CONEXO activities that the Secretariat can undertake in the year to come.
29. With the appointment of an Assistant Secretary General, I will be personally more involved in these CONEXO efforts in 2017. Many countries are involved at different stages of accession and cooperation with the Secretariat and it is vital to streamline the resources of the Secretariat to best address these challenges. The necessary support to facilitate their accession process must be provided by the Secretariat in the most efficient

way. Those further Expansion efforts will focus on those countries where internal ratifications procedures are pending (Jordan, Yemen, Pakistan, Mauritania), on countries working on their internal approval of the accession reports (Morocco, Burundi, Niger), and on countries expressly mentioning their interest to accede to the ECT (Swaziland, Serbia, Bangladesh, Chad, Cambodia).

30. In 2015 the Energy Charter Conference approved the conclusions of the Comprehensive Review of the CONEXO Policy (Consolidation, Expansion and Outreach) 2012-2015 and beyond (CCDEC 2015 16). The short-term priorities focused on the countries currently in the process of accession to the ECT and those new countries that have engaged in the Energy Charter Process by signing the International Energy Charter. The mid-term priorities included welcoming new signatories of the International Energy Charter and renewed consolidation efforts. One important short-term implication is the fact that the Energy Charter Conference decided to phase out the status of countries as 'observers by invitation' at the end of 2016. The Japanese Chairmanship officially informed all those countries known as 'observer by invitation' of this decision and invited them to remain observers to the Energy Charter Conference by signing the International Energy Charter.
31. In conclusion I must make reference to the immense professional commitment and work of each member of the Secretariat without whom none of the tasks of 2016 would have been completed. Despite the difficulties and challenges of this period of transition there has been unfailing dedication to the goals of the Charter. The efforts of experienced core staff members were again very effectively complemented by research fellows, young energy professionals and trainees. These individuals were engaged on the basis of short-term assignments, mainly working on Expansion and Outreach, the training courses for young energy professionals and the Knowledge Centre. I thank each and everyone of those who has worked in the Secretariat during the course of 2016.

PROGRESS REPORT ON THE CONEXO POLICY IMPLEMENTATION 2016

1. In November 2015, the Energy Charter Conference *took note of* the report adopted by the Strategy Group on the ‘Comprehensive Review of the CONEXO Policy (Consolidation, Expansion and Outreach) 2012-2015 and beyond’ and approved its conclusions, including some short and mid-term priorities for CONEXO (CCDEC 2015 16).
2. In his **Vision Plan for 2017-2021** (Annex 1 to CC 533 Rev2), the Secretary-General outlined his view of the present situation with respect to CONEXO, and in particular stated his intention to maintain good working relations with the four signatories that have not yet ratified the Treaty (Australia, Belarus, Norway and Russia), continue expansion efforts with a focus on countries where ratification is pending (Jordan, Mauritania, Pakistan and Yemen), on countries working on the internal approval of accession reports (Burundi, Morocco, Niger) and countries that have expressly mentioned their interest to accede to the ECT such as Bangladesh, Chad, Serbia and Swaziland. This is consistent with the CONEXO Policy Review which focused on countries which had been invited to sign the *International Energy Charter* and demonstrated an actual interest in the Energy Charter Process.
3. At the Strategy Group meeting on 15 June 2016, the Secretary-General presented an interim report on the implementation of the CONEXO policy (StG 96), which has been updated to reflect the progress achieved.

A. CONEXO policy under the Japanese Chairmanship

4. The Secretariat has kept during 2016 regular contacts with the remaining four countries who have not yet ratified the ECT. Though there was no particular improvement, they were still committed to the Energy Charter Process.
5. The Energy Charter Conference decided **to phase out the status of “observer by invitation”** at the Energy Charter Conference in Tokyo in November 2016. The Japanese Chairmanship officially informed all “observer by invitation” countries of this decision and invited them to remain an observer to the Energy Charter Conference by signing the *International Energy Charter*.
6. The Secretariat is grateful to the Japanese Chairmanship for its support in this area and in particular for the letters that have been sent by the Ambassador of Japan to the European Union (as Vice-Chair of the Energy Charter Conference) to the fourteen “observers by invitation” that will lose this status by the end of 2016. The Secretariat has visited the Embassies of the fourteen “observer by invitation” countries to discuss this matter.

7. The CONEXO policy has also been supported by the Japanese Chairmanship in Africa through the **Tokyo International Conference on African Development (TICAD)** held in Kenya in August 2016. These efforts have enabled some African countries to take a further step in the Energy Charter Process. Chad and Swaziland have since then expressed their intention to accede to the ECT and nominated Secondees to prepare accession reports.
8. ***The Energy Charter and Africa.*** Apart from ECOWAS, the countries from the African continent who have so far signed or adopted the International Energy Charter are:
 - Benin
 - Botswana (adopted)
 - Burkina Faso (adopted)
 - Burundi
 - Chad
 - Mauritania
 - Morocco
 - Niger
 - Rwanda
 - Senegal
 - Swaziland
 - Tanzania
 - Uganda

B. New signatories to the *International Energy Charter* since 20th May 2015

9. Since The Hague II Conference in May 2015, several countries have signed the IEC:
 - The Republic of Korea signed in Paris on 17.11.2015 at the OECD headquarters.
 - The Kingdom of Cambodia, Kyrgyz Republic, Principality of Liechtenstein, and Montenegro, took part in a group signing ceremony in the Secretariat on 19.10.2015.
 - The Kingdom of Swaziland signed on 15.12.2015.
 - Bosnia and Herzegovina signed in Brussels on 1.03.2016.
 - The Republic of Senegal signed on 20.09.2016 during the Investment Group meeting
 - The Republic of Rwanda signed on 21.09.2016 during the TTG meeting
10. Several countries (Guatemala, Iran, Iraq) and international organisations (G5 Sahel, ECCAS, EAC) have expressed their intention to become a signatory to the International Energy Charter at the annual meeting of the Conference in Tokyo (25 November 2016).
11. Many more countries are in the process of examining the benefits of signing the Charter. Within the existing constituency of the Energy Charter there is a continuation

of the openness and willingness to reach out to new partners on all continents, and to promote the existing principles of the Charter.

C. Accessions to the ECT

12. Iceland ratified and Montenegro acceded to the ECT in 2015 and thus became Contracting Parties after a lengthy accession process. In 2016, Mauritania has been invited to ratify the ECT. Yemen has also finalised its accession reports and has been invited to ratify the ECT. Morocco has expressed its intention to accede to the ECT and has been working with the Secretariat on clarifying certain elements of the Treaty. The approved accession reports are awaited from the capitals. Burundi and Niger are preparing their respective accession reports. Bangladesh, Chad and Cambodia are expected to finalise their accession reports in 2017 with the support of the Secretariat. The CONEXO policy will give priority to the countries which have made progress in their accession to the ECT and to those in the ratification stage.

D. Mid-term priorities: *The International Energy Charter and Consolidation*

13. **Signing of IEC/EEC:** The Secretariat will continue welcoming new signatories to the 2015 International Energy Charter and to the 1991 European Energy Charter from among countries which share the same principles and values in energy cooperation to promote the ECT. Future signing events will be organised by the Secretariat in an efficient manner with preference being given to group signing events. In this context, the Secretariat organised an information session in Tehran in June 2016 on the ECT and the *International Energy Charter* in cooperation with the Ministry of Foreign Affairs and Ministry of Energy of Iran. Furthermore, the Secretariat successfully organised a side event at the 23rd World Energy Congress in Istanbul on 12 October 2016 in cooperation with the World Bank Group and the Economic Organisation based in Tehran.
14. **Provide Assistance for the Accession Process:** The CONEXO policy will support countries that have signed the International Energy Charter in their next steps in the Energy Charter Process through their preparation of accession reports to the ECT and the necessary support on clarifying elements of the Treaty for the government authorities in targeted countries.
15. **Consolidation:** The Secretariat will continue building on its successful results with Iceland by maintaining regular contacts with the remaining four countries who have not yet ratified the ECT.
16. **Outreach in Latin America:** The Secretariat will promote the principles of the International Energy Charter in Latin America. The MoU with the Iberoamerican

Association of Energy Regulators (ARIAE) provides a space to promote the Energy Charter Process among energy regulators from 18 countries in Latin America, Portugal and Spain. The presentation of the Colombian Energy Investment Report in the Congress of Colombia in August 2016 was an opportunity to encourage other Latin American countries to sign the International Energy Charter.

17. **Southern African Outreach:** The G5 Sahel Secretariat has formally requested to become a signatory to the International Energy Charter. The SADC Senior Energy Officials Meeting and the Joint Ministerial Workshop on Water and Energy Crisis in June 2016 provided an avenue for bilateral meetings with Ministers from other SADC members other than Tanzania and Swaziland who have signed the International Energy Charter. It was also an opportunity to engage directly with the SADC Secretariat.
18. **Energy Charter Liaison Embassies:** The Embassies of Turkey in Pakistan and Tunisia have enabled the Secretariat to maintain a close communication channel with the local authorities in their progress. The Netherlands have been instrumental in the preparation of accession reports for Morocco through its Embassy in Rabat. The Slovak Embassy in Montenegro has successfully enabled the accession of Montenegro to the ECT, The Slovak Embassy in Belgrade is now assisting the Secretariat in the accession process of Serbia to the ECT. Kazakhstan and Hungary have also joined in 2014 their efforts to support the CONEXO policy through their Embassies in United Arab Emirates and Vietnam respectively.
19. **Voluntary contribution:** The Secretariat has received a voluntary contribution from Poland in the amount of thirty thousand Euros for its CONEXO activities and to support its efforts with China which has signed the International Energy Charter and became an observer to the Energy Charter Conference in 2015.

E. G20 Chairmanship of China

20. The synergy between support from Contracting Parties, the activities and efforts undertaken by the Secretariat and the internal political environment in targeted countries have produced tangible results (i.e. China). The Secretariat has continued to attend the G20 Energy Sustainability Group Meetings in China during 2016 and to contribute to the efforts on “Access to Energy Investments in South East Asia”. The Secretary General has also attended the G20 Energy Ministerial Conference in Beijing in June 2016. China signed the International Energy Charter and is an active observer and contributor to the Energy Charter Conference. This has allowed the ECS to deepen its relations with G20 countries in the framework of the CONEXO policy.
21. The ECS hopes to continue receiving support from Member States in its participation and involvement in international platforms (including G7) and to continue its activities with international organisations subject to available Voluntary Contributions.