

**ENERGY CHARTER
SECRETARIAT**

CCDEC 2017

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| Related documents: CC 606, CC 615 |
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DECISION OF THE ENERGY CHARTER CONFERENCE

Subject: Report by the Chair of the Strategy Group

The Energy Charter Conference at its 28th Meeting held on 28-29 November 2017 **took note** of the Report by the Chair of the Strategy Group as contained in document CC 606 (attached hereto).

Keywords: Report, Chair, Strategy Group

Report by the Chair of the Strategy Group

1. This report provides an overview of the activities of the Strategy Group in 2017. The Group convened two times in 2017, on 7-8 June and on 19-20 October.

A. Clarification of the respective roles of the Strategy and Implementation Groups. Involvement of Observers

2. After having reviewed the respective roles of the Strategy and Implementation groups it was confirmed that relevant topics would be discussed either in the Strategy Group or the Implementation Group according to the Terms of Reference of both subsidiary groups (CCDEC 2010 03 and CCDEC 2016 28). On the other hand, the agenda of the Strategy Group will indicate which topics are open for discussion with Observers. The Strategy Group also considered a preliminary draft schedule of meetings for 2018 (Message 1365/17).

B. Strategic communications: vision/mission/objectives statements.

3. The Secretariat presented a proposal for the development of statements that would define the vision, mission and strategic objectives of the Energy Charter Secretariat. These statements would serve to assist with: internal strategic thinking and prioritisation of activities; informing and engaging stakeholders on the purpose and role of the Energy Charter Secretariat; bringing together the purpose and values of the Energy Charter Treaty and International Energy Charter political declaration together in an accessible and consistent way; and directing and aligning narrative and messaging of Secretariat staff and Signatories operating in international fora. The statements would be used both internally and externally, including on the website and in the annual report or in strategic communications.
4. Following the discussion held on 20 October 2017, the Secretariat submitted a revised draft to delegates for their approval by correspondence. During such consultation, some delegations requested more time to better consider the content of the strategic communication and therefore the topic will be discussed again at the first meeting of the Strategy Group in 2018.

C. Ashgabat Energy Charter Declaration.

5. With the support of the Secretariat, the Strategy Group discussed a draft of the Ashgabat Declaration prepared by the Chairmanship in order to facilitate its adoption at the annual meeting of the Conference.

D. Modernisation.

6. The initial discussions at the Implementation Group on whether or not the investment protection standards under the Energy Charter Treaty are clear and applied in a consistent manner by international arbitral tribunals, moved into a full analysis of how the existing provisions under the ECT differed from developments contained in recent international investment agreements. According to a Contracting Party, the present provisions of the ECT, including investment protection standards, were adopted as a package in the prudent negotiation of the Treaty as a whole, whose coverage is not limited to investment protection. Therefore, any discussion on reviewing or updating the investment protection standards should also take into consideration the remaining provisions of the ECT to ensure a balanced approach.
7. The Strategy Group supported to start discussions on the modernisation of the ECT (as a whole and not limited to the investment protection standards) during 2018-2019. In order to address modernisation in the most affective way, it was agreed to: (i) establish a subgroup of the Strategy Group to conduct the discussion on the modernisation; (ii) hold a preliminary discussion at the annual meeting in Ashgabat to consider the scope of consultation with observers and the industry; and (iii) based on the outcome of that previous discussion, have consultations with the industry and Observers in 2018. Based on the initial discussions and consultations, a proposed list of topics that could be part of the modernisation will be considered by Contracting Parties during the 2019 five-yearly review under Art. 34(7) of the ECT. At the end of such review in 2019, the Conference will then decide whether or not to start negotiations on the modernisation of the ECT in 2020 and if so, on the limits of such negotiations.

E. Consolidation, Expansion and Outreach (CONEXO policy).

8. The Secretariat updated the Strategy Group on the implementation of CONEXO. While the International Energy Charter remains open to new countries (outreach), the Secretariat's work focuses on consolidation (signatories of the ECT that have not yet ratified it) and expansion (acceding countries). By November 2017 there are 87 signatories of the International Energy Charter from all continents. In 2017 it was signed by Burkina Faso, Gambia, Kenya, Mali, Nigeria and Panama. Three observer countries are in advanced cooperation with the Secretariat: China, Nigeria and Iran.

9. Acceding to the ECT is typically and lengthy and political process, lasting on average more than 7 years. While the Secretariat provides technical assistance throughout the entire accession process, the political implications inherent in the decision to accede to the ECT require political and diplomatic support from the entire constituency. The Strategy Group submitted to the Conference a proposal for simplification of the ECT accession procedure. The proposal would allow to sign, or explicitly express conformity with, the 1991 European Energy Charter at any time before accession to the ECT instead of only before being invited by the Conference to accede to the ECT. Expansion efforts have benefited from voluntary contributions from the Ministry of Energy of Iran, the Ministry of Energy of Poland and the EU Technical Assistance Facility for the SE4All initiative.

F. Energy Dialogue.

10. On 7 June 2017, an Energy Dialogue on policy and market regulation was held for the first time. The Energy Dialogue was opened by high-level representatives of the current, outgoing and incoming Chairmanships of the Energy Charter Conference (Turkmenistan, Japan and Romania). It was followed by sessions dealing with regulation of the energy sector in Contracting Parties, acceding countries (Serbia and Pakistan) and Observers (Guatemala, Nigeria and Iran). There were also presentations on regional approaches from African, Caribbean and Pacific (ACP), the Economic Community of Central African States (ECCAS), the Council for the European Energy Regulators (CEER) and the Mediterranean Energy Regulators (MEDREG).

G. Mid-term review by the Chairmanship and Ashgabat International Energy Charter Forum.

11. In June, the *Deputy Minister of Energy of Turkmenistan, Mr Ashyrov*, presented the mid-term review of Turkmenistan's 2017 Chairmanship including the efforts to promote the expansion of the organisation and the relevant events (on transit, regional cooperation and investment promotion/protection) that already took place in 2017. The *Turkmenistan Chairmanship* explained that within the new structure effective as of January 2017, the Secretariat successfully continued to fulfil its functions and maintained high efficiency in all main areas of the Energy Charter Treaty. Despite the relocation to the new office, all discussions were prepared on time, and support from the financial and administrative department was rendered in a timely and effective manner. Turkmenistan also believed that the new working practice of the subsidiary bodies of the Conference and the Secretariat demonstrated its effectiveness and expediency. Finally, the Chairmanship introduced the concept of the Ashgabat declaration.

12. At the same meeting, the Strategy Group was informed of the successful result of the Ashgabat International Energy Charter Forum (30-31 May) as another step in order to implement the decision of the Tokyo Conference in order to identify specific needs and challenges related to transit. The Concluding Document of the Ashgabat International Energy Charter Forum “Towards a Multilateral Framework Agreement on Transit of Energy Resources” under the chairmanship of Turkmenistan was circulated as a Room Document. *Vice-chair of the Implementation Group* Ms. Klara Rakhmetova presented the outcomes of the Forum and called the delegations to take active part in further consultations on transit.

H. Energy Investment Risk Assessment (EIRA).

13. Following a first pre-pilot in 2016 and based on the decision of the Energy Charter Conference in Tokyo, the Strategy Group guided the development of the first non-public edition of the Energy Investment Risk Assessment (EIRA) Report in 2017, which is intended to become the flagship publication of the Energy Charter Secretariat. The Secretariat reported the results of the pilot phase of the EIRA project that are reflected in the non-public EIRA Report 2017. It was highlighted that the draft EIRA Report 2017 includes the scope, methodology and five country risk profiles (Armenia, Mauritania, Mongolia, Romania, Ukraine). The Secretariat indicated that the completed EIRA Report 2017 could be welcomed at the Energy Charter Conference Meeting in Ashgabat. The Secretariat also presented the draft Conference decision for voluntary participation in EIRA Report 2018.
14. The Strategy Group discussed the pathways for the future development of the publication. It was stressed that participation in the EIRA Report should take place on a voluntary basis. In addition, the support of the Energy Charter Industry Advisory Panel for the future development of the EIRA Report as a distinctive publication was welcomed. The Strategy Group agreed on a draft Conference decision, which welcomes the EIRA Report 2017 and requested the Secretariat to start the work on the first public version of the EIRA Report in 2018, based on voluntary participation of Contracting Parties, Observers and outreach countries. Following a positive Conference decision, invitation letters would be sent out to countries for participation in the EIRA Report 2018.

I. International Personality of the Organisation.

15. After the approval of the informal working name of the organization in 2016 (CCDEC2016 08), the Strategy Group finalised discussions on the international personality of the organisation. It was agreed to keep the current *status quo* as reflected in the paper prepared by the Secretariat (StG 90 Rev).

J. Diplomatic Dialogues.

16. The Secretariat proposed to create a platform for International Energy Charter Diplomatic Dialogues. The discussion on this initiative will be finalised in the first meeting of 2018.

K. Designation of Energy Charter Enquiry Points.

17. According to Art. 20.3 of the ECT, each Contracting Party shall designate and communicate to the Secretariat one or more enquiry points. Those enquiry points do not need to coincide with delegates attending the meetings of the subsidiary groups of the Conference. The last update of the enquiry points refers to 2010, or even earlier, since not all Contracting Parties did update their enquiry points during the 2014 Review. Therefore, the Strategy Group made a new call to Contracting Parties for updating enquiry points.