

**ENERGY CHARTER
SECRETARIAT**

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Related documents: CC 725

DECISION OF THE ENERGY CHARTER CONFERENCE

Subject: Report by the Secretary-General on the Activities in 2021

The Energy Charter Conference at its 32nd Statutory Meeting held on 14 December 2021 **took note** of the attached Report by the Secretary-General on the Activities in 2021.

REPORT BY THE SECRETARY-GENERAL ON THE ACTIVITIES IN 2021

- 1 I would like to thank the **Chairmanship of Armenia** for its support and guidance throughout the year. A special appreciation to Chairs of the Energy Charter Conference, former and current Ministers of Territorial Administration and Infrastructure of Armenia, His Excellency Mr Suren Papikyan and His Excellency Mr Gnel Sanosyan. I would like to express my gratitude to Mr Hakob Vardanyan, Deputy Minister of Territorial Administration and Infrastructure of Armenia and Vice-Chair of the Conference, Mr Samir Valiyev, Deputy Minister of Energy of Azerbaijan and Vice-Chair of the Conference, and Mr Bayarmagnai Myagmarsuren, the Vice-Minister of Energy of Mongolia and Vice-Chair of the Conference, for their commitment throughout the year.
- 2 I thank all those involved with the Subsidiary Groups of the Conference, particularly those delegates who gave their time and effort to act as **Chairs and Vice-Chairs**: Chair of the *Strategy Group* - Mr Samir Abdurahimov (Azerbaijan); Chair of the *Implementation Group* and the *Working Group on Governance Issues* - Ms Klara Rakhmetova (Kazakhstan); Chair of the *Budget Committee* - Mr Christian Bühlmann (Switzerland); Chair of the *Modernisation Group* – Mr Lukas Stifter (Austria); Vice-Chairs of the *Implementation Group* - Mr Johan Vetlesen (Norway) and Mr Aziz Khamidov (Uzbekistan); Vice-Chairs of the *Working Group on Governance Issues* - Mr Guy Lentz (Luxembourg) and Mr Towfick Sufian (Yemen); Vice-Chairs of the *Modernisation Group* – Mr Sunao Orii (Japan) followed by Mr Akiyoshi Kawabata (Japan), Mr Samir Abdurahimov (Azerbaijan), Mr Guy Lentz (Luxembourg) and Mr Felix Imhof (Switzerland). Their input was vital to achieving the objectives of the Energy Charter Conference and advancing the Energy Charter Process. I thank Mr Rafael Cayuela, Chair of the *Industry Advisory Panel (IAP)*, for his commitment and efficient coordination of the IAP activities.
- 3 The year 2021 was the second year of the COVID-19 pandemic. Therefore, all meetings of delegates of the Energy Charter Conference and its Subsidiary bodies were moved to the videoconferencing platform ZOOM. According to the Programme of Work, the Modernisation of the Energy Charter Treaty (ECT) and the Implementation of the Conclusions of the 2019 Review under Article 34(7) of the ECT, including the recommendations of the International Public Audit, were the main priorities. As recommended by the Conclusions of the 2019 Review and requested by the Budget Committee, the Secretariat's accounting system has been converted to the International Public Sector Accounting Standards (IPSAS) during the summer with the support of PwC. The External Audit of the financial statements for the year ending 31 December 2020 was conducted by EY in accordance with the newly adopted standards. Based on the external audit, the Conference released the Secretary-General of his management and financial responsibilities for the year 2020 (CCDEC 2021 17).

Modernisation Group activities

- 4 In line with its decision on the schedule of meetings in 2021 (MOD 32), the Modernisation Group held five negotiation rounds. Meetings continued to be restricted to Contracting Parties only. In addition, the Modernisation Group held a meeting on 25 November 2021 to decide the schedule of meetings of the Group in 2022. The negotiation rounds were chaired by Mr Lukas Stifter (Austria), Chair of the Group. The Vice-Chairs of the Group were Messrs Felix Imhof

(Switzerland), Guy Lentz (Luxembourg), Samir Abdurahimov (Azerbaijan), and Sunao Orii, later replaced on 1 July 2021 by Akiyoshi Kawabata (Japan).

- 5 Following the Informal Roadmap (MOD 35), the Group also held two informal drafting meetings, on 21 June and 8 September 2021, to facilitate the drafting of compromise proposals by the Secretariat before formal consideration by the Modernisation Group in the following negotiation rounds.
- 6 The steering group met informally at regular intervals to prepare the upcoming negotiation rounds and, for the sake of transparency, debriefed the Modernisation Group. In 2021, the steering group held seven meetings. The Modernisation Group agreed (MOD 38) that the steering group's summary records of future meetings would be circulated to Contracting Parties in advance of the relevant negotiation round.
- 7 The Modernisation Group also adopted (MOD 36) a policy on access to the audio recordings of its meetings, allowing delegates to listen to audio recordings at the Secretariat's office but without providing a copy.
- 8 The aim of discussions in 2021 was to discuss and clarify or modify the underlying positions of the Contracting Parties and to merge different text proposals to the largest extent possible to produce draft compromise proposals. The Group agreed that the progress attained in the negotiation rounds of 2021 achieved this aim.
- 9 The discussions were based on a single negotiation draft (with text proposals, positions and draft compromise proposals), which was updated before, during and after each negotiation round. The Contracting Parties that submitted similar text proposals on a topic were encouraged to agree on a compromise wording with the assistance of the Secretariat and the Chair. For most of the topics, the Secretariat was mandated to prepare draft compromise proposals, which were used as a basis for further discussions.
- 10 During the negotiation rounds held in 2021, the Group tentatively agreed to conclude the discussion on some topics while good progress was made in others. The Group also agreed to convey an *Ad Hoc* Energy Charter Conference in person in June 2022, aiming at reaching the agreement in principle.

Strategy Group activities

- 11 The Strategy Group convened three times for ordinary meetings and one extraordinary meeting in 2021. All of them were chaired by Mr Samir Abdurahimov (Azerbaijan), the Chair of the Strategy Group. Meetings were restricted to Members only for the second consecutive year.
- 12 Discussions in the Strategy Group in 2021 were largely devoted to the implementation of the Conclusions of the 2019 Review under Article 34(7) of the ECT, including the recommendations of the International Public Audit. In particular, Delegations discussed the development of the guidelines for improving the effective implementation of CONEXO (keeping the pause on expansion activities introduced in December 2019); the assessment of

the practice of the Chairmanship (the Chairmanship Handbook) and the Terms of Reference of the Strategy Group.

- 13 The Group also held some discussion on the composition of the Industry Advisory Panel and discussed a policy regarding access to audio recordings of the meetings of the Conference and its subsidiary bodies.
- 14 There were presentations by the 2021 Armenian Chairmanship of the Conference on its priorities for the year, as well as a presentation by the incoming 2022 Mongolian Chairmanship. Finally, at the extraordinary meeting of the Group held in October, Delegations discussed the status of Australia and Russia.

Working Group on Governance Issues activities

- 15 The Working Group on Governance Issues held four ordinary meetings and one extraordinary meeting. All meetings were chaired by the Working Group's Chair, Ms Klara Rakhmetova (Kazakhstan), while Mr Towfick Sufian (Yemen) and Mr Guy Lentz (Luxembourg), until 22 March 2021, were acting as Vice-Chairs.
- 16 The Working Group addressed the structure of the Secretariat in all its meetings except the final one. Each revision of the draft structure took into account comments made by delegates and was duly consulted with the Staff Committee. Finally, the draft provisional structure was approved by the Working Group by correspondence on 19 September 2021 (Message 1893).
- 17 The Working Group continued discussions on potential revisions to the Staff Regulations and Rules and the Code of Conduct throughout the year, in close consultation with the Staff Committee. This activity is still in progress and will be subject to further discussions next year.
- 18 Further revisions to the Rules of Procedure of the Conference were addressed by the Working Group at each of its ordinary meetings.
- 19 Discussions on the appointment of the Deputy Secretary-General (DSG) were finalised in April 2021, when the Conference approved the appointment of Ms Atsuko Hirose. Subsequently, the Working Group addressed the draft appointment letter for the DSG, which was approved by the Working Group by correspondence in June 2021. The DSG took office in mid-September 2021.
- 20 During the first half of the year, the Working Group continued discussions on the draft "International Energy Charter Whistleblowing Guidelines", which were prepared by the Secretariat (in consultation with the Staff Committee) at the request of the Working Group. In July 2021, the Whistleblowing Guidelines were approved by the Conference (CCDEC 2021 12).
- 21 At its extraordinary meeting in May, the Working Group tasked the Secretariat with preparing a manual on the applicability of the Staff Regulations and Rules to the Secretary-General (SG). For the meeting in September, the Secretariat uploaded the outline of the requested manual, extending the scope also to the relevant Rules of Procedures of the Conference regarding the appointment of the SG, as well as the relevant provisions applicable to the DSG, since the DSG

is also appointed by the Conference. The revised manual was discussed by the Working Group at its last meeting in 2021 and will be subject to further discussions.

- 22 The initial term of the Working Group's mandate is until the 32nd meeting of the Energy Charter Conference in 2021. Considering that some of the activities are still in progress, at its November meeting, the Working Group recommended to the Energy Charter Conference to approve the extension of its mandate until the 33rd meeting of the Conference in 2022, as well as to align its Terms of Reference with the functions of the Management Committee (established on 30 September 2021, CCDEC 2021 16).

Implementation Group activities

- 23 The Implementation Group convened four times in 2021.
- 24 In general, the discussions at the Implementation Group in 2021 were devoted to the implementation of the Conclusions of the 2019 Review under Article 34(7) of the ECT as well as to other areas carried over from 2020 and relating to investments in the energy sector, transit of energy resources and energy efficiency.
- 25 Implementation Group meetings were chaired by Ms Klara Rakhmetova (Kazakhstan). In 2021 the Implementation Group had two Vice-Chairs: Mr Johan Vetlesen (Norway) and Mr Aziz Khamidov (Uzbekistan).
- 26 Following the mandate of the conclusions of the 2019 review, the Implementation Group worked on the following areas: a) review of Energy Investment Risk Assessment (EIRA); and b) evaluation and update of the terms of reference of the Implementation Group.

i. Review of Energy Investment Risk Assessment (EIRA)

- 27 On 1 September 2021, the Energy Charter Conference (CCDEC 2021 13) approved the revised EIRA scope and methodology, including the updated EIRA questionnaire for future editions, and requested the Secretariat to develop and publish the annual EIRA Reports in 2022-2024 using the revised EIRA scope and methodology, taking into account the conclusions of the 2019 Review under Article 34 (7) ECT.
- 28 Participation in EIRA increased from 30 countries in 2020 to 34 in 2021. The geographical reach of EIRA spans countries in Africa, Asia, the Americas, and Europe. Twenty-seven countries participating this year were also assessed in EIRA 2020, while two countries returned to the assessment from 2019. Apart from these, five countries are taking part in EIRA for the first time.
- 29 The fourth edition of the EIRA report was published and launched on 7 October 2021. It contains the profiles of 34 member and observer countries. More than 215 contributors have been involved in the development of the publication, all on a pro bono basis.

ii. Investment Facilitation Toolbox (IFT)

- 30 In 2021, Armenia and the Secretariat prepared the report on Stage I of the implementation of the IFT in Armenia - Identification of existing non-discriminatory and de facto barriers to entry of energy investment.

iii. *Managing Investor Grievances in the Renewable Energy Sector*

31 As part of activities 8 (dispute prevention) and 10 (cooperation with other international organisations) of the Programme of Work, the Secretariat has prepared jointly with the World Bank a draft paper regarding the management of investor grievances in the renewable energy sector. It examines the contours of political risks in renewable energy, explores perspectives on investment risks, elaborates the profile of different types of disputes and conflicts in renewable energy projects, and discusses existing tools for managing conflicts between investors and the host country.

iv. *Transit of Energy Resources*

32 The Implementation Group addressed and reviewed the Report on the Implementation of Transit Provisions and a paper on the treatment of transit swaps operations and virtual flows. Transit-related activities will continue in 2022 in accordance with the underlying Programme of Work.

33 On the regional cooperation front, despite the restrictions caused by the pandemic, the Secretariat has managed to continue its work on promoting Regional Energy Cooperation in Central and South Asia (RECA), focusing on sustainable energy development, regional markets and interconnection.

v. *Energy Efficiency issues*

34 In 2021, the Group continued discussions on energy efficiency-related topics. The Implementation Group took note of the report, “Role of the Energy Charter Treaty in Achieving Clean Energy Transition While Ensuring Energy Security”, and agreed to continue the discussion on the topic if there are further comments from delegations.

35 The Implementation Group took note of the draft report on “The In-Depth Review of the Energy Efficiency Policy of the Republic of Uzbekistan”, approved by correspondence the Recommendations of the In-depth Review, and agreed to put them forward for approval by the Energy Charter Conference.

36 The Secretariat continued raising awareness to promote energy efficiency, climate neutrality and sustainable development in line with the Paris Agreement objectives during its internal events and other events organised by international and donor organisations. The Energy Charter Secretariat and the Ministry of Energy of Uzbekistan also started the preparation of the joint Tashkent Regional Energy Dialog Forum entitled "The Role of International Cooperation to Facilitate Clean Energy Transition while Ensuring Energy Security", to be implemented in early 2022.

Industry Advisory Panel activities

37 The Secretariat also continued to support the activities of the Industry Advisory Panel (IAP), based on its revised Terms of Reference and the renewed mandate up to 2024. IAP consists of 67 members from 33 countries. The IAP released its statement concerning the outcomes of the fourth negotiation round on the ECT modernisation, welcoming the progress made by the Contracting Parties participating in the negotiations.

38 The IAP Chair and members participated in and made interventions during several events organised and co-organised by the Secretariat, such as the Yerevan International Energy Charter Forum on 6 June, the EIRA2021 launch event on 7 October and the Joint ECOWAS-Energy Charter Regional Energy Governance Forum and Training Programme on Improving Energy Governance and Promoting Regional Cooperation in West Africa on 23 November. The IAP meeting, to be hosted by COGEN Europe, is planned to take place on-line on 15 December.

Budget Committee activities

39 In 2021, four regular meetings and one extraordinary meeting of the Budget Committee were chaired by its Chair, Mr Christian Bühlmann (Switzerland). Despite the calls of the Chair and the Secretariat to Member Countries to nominate a vice-Chair of the Budget Committee, no nomination was received, and the position remained vacant in 2021.

40 The Budget Committee was kept informed during the year on the collection of national contributions for 2021, as well as the outstanding contributions (prior to 2021). The Committee also discussed the cases of Australia and the Russian Federation.

41 Following the evaluation of the current Terms of Reference of the Budget Committee by the Secretariat, the Budget Committee decided to revise them in line with:

- i. the potential amendments of the Financial Rules;
- ii. the Staff Regulations and Rules including the Manual on Data Protection and the Code of Conduct; and
- iii. the Rules of Procedure of the Conference, as well as any other decision related to the matter.

42 In 2021, apart from discussing ordinary financial and administrative matters, the Budget Committee continued its work on the implementation of the conclusions of the Review under Article 34(7) of the ECT, including the conclusions from the Independent Public Audit. In particular, the Budget Committee undertook to review and revise the entire set of rules governing budgetary matters of the Energy Charter Secretariat, which will continue in 2022.

43 Despite the limited capacity of Secretariat's staff to produce documents and reports, all other workstreams could be concluded in 2021:

- i. new terms of reference of the Budget Committee
- ii. new terms of reference for the external auditor;
- iii. a new structure of the programme of work;
- iv. prioritisation of activities included in the programme of work;
- v. a new structure of the budget; and
- vi. better information received through specific reports requested by the Budget Committee.

Knowledge Sharing activities

44 Under the Chairmanship of the Republic of Armenia, the Secretariat, in cooperation with the Ministry of Territorial Administration and Infrastructure, organised the Yerevan International Energy Charter Forum on "*Facilitating Energy Infrastructure for Sustainable Development*". The event brought together over 100 participants, including high-level officials and leading

experts from 35 countries, international organisations, the energy industry and academia, to discuss regional energy cooperation, energy trade and investments in cross-border infrastructure.

- 45 In cooperation with the Ministry of Energy and Industry of the Kyrgyz Republic, the Secretariat organised a high-level side event on "*Promoting sustainable energy and energy transition in Central Asia*" on the margins of the First EU-Central Asia Economic Forum. The event addressed the challenges the countries of Central Asia and the region face on the way to the energy transition and substantially discussed the issues of regional energy cooperation, connectivity and market integration, clean energy technologies and frameworks.

The Extraordinary meeting of the Energy Charter Conference

- 46 Upon the request of the European Union, an extraordinary meeting of the Energy Charter Conference was convened on 14 April 2021. The Conference updated (CCDEC2021 07) the timeline and procedure for the appointment of the Secretary-General (previously adopted in December 2020, CCDEC2020 25).
- 47 The activities of the Program of work 2021 were concluded. However, all aspects of the performance of the Secretariat were affected by the COVID-19 pandemic and related sanitary restrictions.