

**ENERGY CHARTER  
SECRETARIAT**

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Related documents: CC 726
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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 32<sup>nd</sup> Statutory Meeting held on 14 December 2021 **took note** of the attached Report by the Chair of the Strategy Group.

## REPORT BY THE CHAIR OF THE STRATEGY GROUP

The Strategy Group convened three times for ordinary meetings in 2021, on 8 February, 26 April and 13 September, as well as for one extraordinary meeting on 19 October. Taking into account travel restrictions to Belgium and suspension of Belgian visa activity in light of the ongoing Covid-19 pandemic, all meetings were held by videoconference via the ZOOM platform. As was the case in 2020, 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 Energy Charter Treaty (ECT), including the recommendations of the International Public Audit. CONEXO policy-related discussions took place within this context.

Additionally, during the first meeting of the Group in February, Switzerland presented a paper on the topic of foreign direct investment (FDI) in ECT Observer countries, with a view to kickstarting a discussion on investment as a possible criterion for evaluation of the CONEXO policy. The Swiss initiative led to the Secretariat preparing a scoping paper on FDI in a random selection of ECT Observers, which led to further discussion on this topic at the Group's April and September meetings (see below). The February meeting of the Group also saw the Secretary General presenting his conclusions and recommendations to the Energy Charter Conference on the 2019 Review and beyond.

During the course of this year's meetings, Delegations also discussed the implementation of the International Public Audit's individual recommendations in the area of its competence, including the development of the guidelines for improving the effective implementation of CONEXO. Delegates also discussed the assessment of the practice of the Chairmanship (the Chairmanship Handbook), evaluated the Terms of Reference of the Strategy Group and held some discussion on the composition of the Industry Advisory Panel. The Group also discussed a policy regarding access to audio recordings of the meetings of the Conference and its subsidiary bodies. There were also 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.

All Strategy Group meetings in 2021 were Chaired by Mr Samir Abdurahimov, the Chair of the Group, and were attended by Members only for the second consecutive year.

### **I. Implementation of the Conclusions of the Review under article 34 (7) of the ECT**

1. As was the case in 2020, the Strategy Group devoted substantial energies towards discussing the implementation of the conclusions of the Review under Article 34 (7) of the ECT. Discussions taking place in the Group under this topic focused on the following sub-topics, as briefly elaborated upon below:
  - i. **Assessment of the potential criteria for granting observer status under the Energy Charter Conference (StG 142 Rev 2).** This topic was discussed at the three ordinary meetings of the Group taking place during the course of the year on the basis of the Secretariat's document StG 142, which was

revised several times further to Delegate comments. The Group evaluated the criteria for granting Observer status, and there was substantial discussion about the question of whether Observers should make financial contributions to the Secretariat's budget. The Secretariat prepared several options on Observer financial contributions for Delegates to consider this question. At the last ordinary meeting of the Group, in September, Delegations requested additional time to consider the latest revision of document StG 142, inclusive of the Secretariat's proposals. The Strategy Group subsequently agreed to return to the discussion at its next ordinary meeting.

- ii. **Re-assessment of the CONEXO policy (StG 143 Rev 4).** Whereas substantive discussion took place with respect to this sub-topic in the Strategy Group meetings in 2020, discussions on the re-assessment of the CONEXO policy in 2021 were limited. Some discussion took place at the February meeting, based on the revised version of the Secretariat's document StG 143. The Secretariat revised the document further for the April meeting, at which point the Strategy Group decided to postpone the discussion on this item. Delegations concluded the April meeting that upon the finalisation of the re-assessment of the CONEXO policy, a discussion within the Group needs to take place as to whether to continue with the implementation of the policy in its current form or to update it in a manner deemed necessary by Delegates. Further to the Group's September meeting, Delegations agreed to again revise the document StG 143 (Rev 4) based on comments to be received. The Group agreed to return to the sub-topic at its next ordinary meeting.
  
- iii. **CONEXO, the accession pause and energy FDI in ECT Observers (StG 154 Rev).** This topic was proposed for inclusion into the Strategy Group agenda by Switzerland for the Group's February meeting. It relates to the Review of 2019 given that the temporary pause which the Conference instituted on the ECT accession process resulted from the Review conclusions. Switzerland, for its part, proposed to include investment as a possible criterion for evaluating the CONEXO policy as part of the Conference re-assessment of the policy. It also proposed to discuss energy FDI in a random selection of ECT Observers in order to assess whether and when the pause should be lifted. Delegates discussed this topic at all three ordinary Strategy Group meetings which took place in 2021. They took note of the presentation by Switzerland at the February meeting, as well as the discussion paper on energy FDI in ECT Observers as prepared by the Secretariat for the April and September meetings. The Group requested the Secretariat to conduct more work in this area, to develop investment portraits of Observer countries in ECT accession based on a standardised, more specific approach. Delegates also concluded that this work could lead into a joint meeting on CONEXO between the Strategy Group and the Industry Advisory Panel.

- iv. **Assessment of the practice of the Chairmanship – Chairmanship Handbook (StG 151 Rev).** This topic was discussed at the February and April meetings, based on the Secretariat's draft handbook. The Group agreed to finalise it after the approval of the relevant rules, including the Rules of Procedure and of the supporting mechanism to the Conference.
- v. **Supporting mechanism for the Chair of the Conference.** After discussion at the Strategy Group, the supporting mechanism for the Chair of the Conference (Management Committee) was approved by correspondence by the Conference on 30 September 2021 (CCDEC 2021 16).
- vi. **Evaluation of the Terms of Reference of the Strategy Group (StG 144 Rev 4).** The Group discussed the Terms of Reference of the Strategy Group based on the Secretariat's document StG 144, which was revised on several occasions further to Delegate comments. The document is due to be finalised at the next meeting of the Group.

## II. **Implementation of the International Public Audit's individual recommendations in the area of its competence and assessment of any other issue relevant to the Strategy Group**

- 2. The Strategy Group also discussed the implementation of the International Public Audit's individual recommendations in the area of its competence as well as the assessment of any other issues relevant to the Strategy Group (Message 1658).
  - i. With respect to the International Public Audit's individual recommendations within its competence, no comments or suggestions were made by delegations.
  - ii. With respect to the assessment of any other issues relevant to the Strategy Group, discussions which started during 2020 continued on the **Guidelines for improving the effective implementation of CONEXO (StG 148 Rev 3)**. The topic was discussed at all three ordinary meetings of the Group in 2021. Discussions on this topic within the Group led to several more revisions of the Secretariat's document StG 148, which were taken note of by Delegates. Furthermore, at its September meeting, the Group requested the Secretariat to merge document StG 148 with documents StG 142 and 154 into one synthesised work. The Group was of the view that all three documents are inter-connected and opted to continue discussions at the next meeting. Discussions on the guidelines for improving CONEXO implementation also resulted in Delegates proposing to have more involvement of the energy industry and civil society in shaping the future evolution of CONEXO. More specifically, the Chair of the Energy Charter Industry Advisory Panel joined the September meeting

of the Strategy Group and shared some additional views on CONEXO. Delegates further discussed the composition of the IAP and expressed their own views on collaboration with industry in light of CONEXO.

### **III. Chairmanship priorities**

3. The Strategy Group took note of the updates by the Armenian Chairmanship, which took place at the February and September meetings, including its plans to host the annual meeting at the end of the year. The Strategy Group also took note of the priorities of the upcoming 2022 Mongolian Chairmanship, following a presentation of such priorities during the Group's September meeting. Also, at the September meeting, the Secretary General informed Delegates that Uzbekistan expressed its willingness to Chair the Conference in 2023 (on 26 September 2021, CCDEC 2021 15, the Conference approved the Chairmanship of Uzbekistan for 2023) and invited Delegations to nominate themselves for the Chairmanship of the Conference in 2024.

### **IV. Policy regarding access to the audio recordings of the negotiation rounds, meetings of the Conference and its subsidiary bodies (StG 157)**

4. This topic was discussed at the April and September meetings of the Strategy Group, following agreement in principle that a policy on access to the audio recordings should be developed. At its September meeting, the Group agreed in principle on the policy, although it was also agreed to return to the topic at the next meeting. A specific rule has been included in the draft amendments to the Rules of Procedure of the Conference under discussion by the Working Group on Governance Issues.

### **V. Conclusions and Recommendations of the Secretary General to the Energy Charter Conference on the 2019 Review and Beyond (Message 1755/20 and StG 152)**

5. At the February meeting of the Strategy Group, the Secretary General presented his conclusions and recommendations to the Energy Charter Conference on the 2019 Review and beyond. Delegations discussed and took note of the recommendations. Whereas Delegations expressed differing views on the issues reflected in the Secretary General's presentation and associated documents, the Group agreed to return to those issues when necessary.

### **VI. Status of Australia and Russia**

6. In late September 2021, the Secretariat was informed that ECT signatory country, Australia, was poised to withdraw its signature from the Treaty. Further to this development, the Strategy Group convened for an extraordinary meeting on 19 October to discuss the status of Australia, as well as Russia. The Group took note of Australia's intention to withdraw its signature from the Treaty and requested the Secretariat to clarify as to whether the country

intended to remain an Observer to the Conference based on its signature of the 1991 European Energy Charter. It also requested the Secretariat to provide some information for the reasons for the termination of its ECT signatory status. As regards to Russia, the Group took note of the country's status as no longer being an ECT signatory.