

**ENERGY CHARTER  
SECRETARIAT**

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Related documents: CC 104 Rev., CC 112 Corr., RD 4 (ECC of 17-18 12 1997)
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**DECISION OF THE ENERGY CHARTER CONFERENCE**

**Subject: Secretariat's Work Programme for 1998**

The Secretary General introduced the Work Programme as a minimum of activities for 1998 and urged the Conference to give the appropriate guidance for the Secretariat's work. The Conference approved the work program with one amendment, proposed by Japan, concerning Paragraph 2.7 on Energy Efficiency, which is contained in RD 4. Hungary and Switzerland made comments on the activities listed for 1998 requesting the Secretariat to avoid duplication with work carried out in other international fora.

[Attached is the Work Programme for 1998 adopted by the Conference and circulated in CC 104 Rev.]

Keywords: Secretariat's Work Programme

## WORK PROGRAMME FOR 1998

### A. INTRODUCTION

The activities of the Energy Charter Conference (Conference) and the Energy Charter Secretariat (ECS) in 1998 will be influenced by two key factors, the exact timing of which cannot be predicted today:

- the entry into force of the Energy Charter Treaty (ECT) and the Protocol on Energy Efficiency and Related Environmental Effects
  - the conclusion of the negotiations on a Supplementary Treaty (ST) and on issues of Trade and Energy Equipment,
2. Based on ECT provisions and particularly Article 2, which states: "This Treaty establishes a legal framework in order to promote long-term co-operation in the energy field based on complementarities and mutual benefits, in accordance with the objectives and principles of the Charter". The Conference, supported by the ECS, shall, amongst others:
    - keep under review and facilitate the implementation of the principles of the European Energy Charter, the provisions of the ECT and the Protocol on Energy Efficiency and Related Environmental Effects;
    - facilitate the co-ordination of appropriate measures to carry out the principles of the Charter, including in the trade sector;
    - encourage co-operative efforts aimed at facilitating and promoting market-oriented reforms and modernisation of the energy sector in economies in transition;
    - facilitate the development of transit and support the conciliation of transit disputes;
    - review conditions for investments in the energy sector.
  3. The ECT (and in future the ST) sets standards for non-discrimination in **investment** activities in the energy sector. The ECT also specifies that Signatories undertake to endeavour to remove existing restrictions. Results may notably be obtained through peer reviews of the relevant legal framework. Improved **transparency** and reliability of the legal framework for foreign direct investment will result in increased trust and confidence among investors in the energy sector.
  4. The **trade** provisions of the ECT require the Secretariat to perform functions (which are the GATT Secretariat's functions as exercised on 1 March 1994 for the GATT 1947 and the Tokyo Round Agreements) throughout the next 4-5 years until all ECT Signatories have become a party to the WTO. The implementation of the ECT's trade provisions will facilitate their WTO accession.

5. To improve access to world markets of land-locked energy producers and to enhance diversity and security of supply, the ECT requires Signatories to facilitate **transit** and the interconnection of energy transport facilities, to co-operate in taking measures to mitigate the effects of supply interruptions and in modernising and operating their energy transport facilities serving the areas of more than one Contracting Party.
6. The ECS will support the objectives of the ECT by providing for **transparency** of existing legal systems and by that avoiding disputes, which will be a major contribution to the achievement of the Charter's objectives. This will improve the investment climate and support the confidence of investors and users of transit systems.
7. There are ECT obligations linked to a **transitional** period, which include ECS activities in reviewing and phasing out of country-specific transitional arrangements.
8. The ECS has been invited to participate in preparation of the **G-8 Energy Ministerial Meeting** in Moscow in March/April 1998. In particular the ECS has been asked to prepare a paper on energy transit and - jointly with IEA - on investment issues (the ECS will focus on investment-related legislation).
9. The Conference will have to adopt implementation procedures regarding **the Protocol on Energy Efficiency and Related Environmental Aspects**, which requires that Contracting Parties develop strategies and domestic programmes and identify areas of co-operation. Energy efficiency has to be seen both in its contribution to balance energy supply and demand, as well as in connection with environmental policies. It will be an important factor of economic viability and competitiveness for industry, transport and the private sector.

The implementation of the Protocol can be important as a catalyst and as a forum for exchange of information and peer reviews, serving a constituency, half of which is in the process of transition to market oriented economies.

10. The **structure of the ECS** will reflect the conclusion of the ongoing negotiations, which will bring to an end the existing Working Groups. Subject to Conference decision on new negotiations, the Secretariat will continue to host meetings, e.g. on the conditions of investment, on transit, on issues of developing a co-operation in energy efficiency, on subjects relevant to the implementation of the ECT or on any other issue the Conference may identify.

After the conclusion of the ongoing negotiations, it seems appropriate to formally give up the existing division of tasks between the Negotiation and Implementation Directorates. Each directorate will be responsible for specific implementing, and possibly, negotiation tasks. Details will be developed at a later stage.

11. The following programme of work lists the activities to be undertaken in 1998, which will be a specific transitional year. The Conference might wish to come back to it (notably also with regard to trade) even before the end of 1998.

## **B. ACTIVITIES**

### **1. PRIVATE OFFICE (84 staff-months)<sup>1</sup>**

The Secretary-General and Deputy Secretary-General will provide overall direction and co-ordination of the Secretariat's work.

The implementation of the ECT and the conclusion of the ongoing negotiations require extensive contacts with governments of Signatories at highest political level, including the diplomatic representations of constituents in Brussels and with International Organisations.

The same applies to the relations with the energy industry, including the Brussels based associations or unions.

Specific guidance will be necessary in relation to countries which want to accede to the ECT.

Public information about the entry into force of the ECT and its positive effects on energy industry will require continuous and significant efforts, including amongst others, relations with the media and participation in international conferences and seminars.

### **2. DIRECTORATES**

#### **2.1 RATIFICATION AND ACCESSION (10 staff-months)**

The Secretariat will continue to support Signatories which have not yet completed their national ratification procedures, providing specific information, addressing briefing sessions for Members of Parliaments etc.

The Secretariat will also continue to assist countries in accession procedures, including signing of the Charter and negotiating the terms of accession to the ECT.

The accession procedures for the Former Yugoslav Republic of Macedonia and Mongolia to the ECT should be completed in 1998. The accession process to the Protocol will be initiated for the Former Yugoslav Republic of Macedonia and possibly also for Mongolia. Anticipating their accession to the Protocol, both countries will be included in the survey in the framework of the "Energy Efficiency Initiative", supporting the 1998 Environment Ministers Conference in Aarhus, Denmark.

The ECS will pursue contacts with countries which have expressed interest in the Energy Charter process such as the Peoples' Republic of China, the Republic of Korea and Mediterranean countries.

#### **2.2 TRANSITIONAL ARRANGEMENTS**

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<sup>1</sup> All staff months include secretarial support.

*Activity:* Annex T reviews

(7 staff-months)

Progress of economies in transition towards full compliance with provisions of the ECT and phasing out suspensions will be reviewed and supported by the ECS. The 1998 annual report to the Conference will build on the 1997 review, which showed, faster than legally required, phasing out of transitional arrangements. Emphasis will be put on competition, transit and transparency provisions.

### 2.3 INVESTMENT

*Activity:* Supplementary Treaty

(22 staff-months)

Under the assumption that the negotiations on the Supplementary Treaty (ST) will be concluded before 1<sup>st</sup> January 1998, the Secretariat will facilitate the signature of the ST by Contracting Parties.

Experience indicates that preparation for signature will require half a year (legal scrutiny, translation of documents to all official languages etc.). Any delay in the negotiations would require their ongoing ECS support and in consequence postpone the preparation for signature of ST.

*Activity:* Surveys

(32 staff-months + 8 consultancy months)

In co-operation with the countries concerned, the ECS will update the comprehensive reports on exceptions to national treatment. Whereas the primary function of the surveys so far has been to specify and register the exceptions to national treatment, the updated reports should not only provide a better understanding of the economic significance of those exceptions, but in particular develop the information on the general investment climate through examination of relevant legislation. The analysis of categories of exceptions is to be developed further.

Signatories have committed themselves to remove progressively restrictions affecting investors of other Signatories. One of the most efficient mechanisms to give effect to such a roll-back are peer sessions based on facts, analyses and discussions. Such peer sessions will become an important element for the survey activities.

Based on preparation by the ECS, the Signatories will be invited to discuss the overall opportunities for investors in making investments. In particular, the documentation will take account of the ECS G-8 contribution and cover the existence and nature of relevant state entities, monopolies and exclusive or special privileges. In addition, the ECS plans to organise annual discussions of particular problems inhibiting investment.

The ECS will continue co-operation with the IEA in preparation of reports for Azerbaijan, Uzbekistan, Tajikistan and Kazakhstan and with the Black Sea Regional Energy Center in publication of reports concerning its constituency.

### 2.4 TRANSIT

*Activity:* Access to energy transit systems (10 staff-months + 2 consultancy months)

The requirements under Article 7 of the ECT, for access to transit pipelines in order to facilitate transit, necessitate collection/analysis of information on the existing different legal, institutional and regulatory frameworks of Signatories, in particular with reference to access terms and conditions. This will include discussion on relevant competition/regulatory regimes. The ECS will build on the work done in the G-8 context and the results will be shared with delegations, and possibly other interested parties, through appropriate meetings.

*Activity:* Transit related methodologies (9 staff-months + 5 consultancy months)

Transit tariffs are key elements and may be the major causes of a transit dispute. The ECS will undertake to collect and disseminate information on methodologies used to calculate transit tariffs in the transport systems of Signatories (excluding commercial information). It is envisaged to share the findings with Signatories, possibly by organising workshops and seminars.

*Activity:* Analysis in the Area of Transit Interruptions (6 staff-months + 2 consultancy months)

Reasons which may cause energy transit interruptions range from domestic network problems in the transit country to major equipment failures or accidents. This activity will be carried out in co-operation with industrial associations such as Eurelectric and Eurogas.

There will be investigation of the major reasons that may cause electricity, oil and gas transit to be affected or interrupted, and the consequences of such interruptions for the shipping and/or the receiving countries. Findings will be disseminated and discussed with governments and/or industry.

*Activity:* Transit investments monitoring (4 staff-months)

The ECS will monitor and report to the Conference on transit projects considered by industry, priorities emerging and decisions made. It will liaise with appropriate institutions such as the one of the European Commission for grid and pipeline projects in Western and Central Europe, as well as with the appropriate CIS industries (CIS Electric Power Council, Gazprom, Transneft and others).

## 2.5 TRADE

*Activity:* Analysis of requirements resulting from the transition of GATT 1947 and Related Instruments to the WTO Agreement (2 staff-months + 2 consultancy months)

The ECS will prepare a decision by the Conference (similar to the decisions of 8 December 1994 by parties to the GATT 1947 and Tokyo Round Agreements) in order to avoid overlap of applicable implementation systems, e.g. regarding notifications.

*Activity:* Development of notification (8 staff-months + 2 consultancy months)  
and dispute settlement procedures

The ECS will arrange for and handle notifications by non-WTO Signatories of national measures/policies, as required in the applicable provisions of GATT 1947 and Related Instruments: questionnaires, management of information.

The ECS will assist the Conference in discharging its functions designated to bodies under the GATT or Related Instruments including assistance in reviews provided for by applicable provisions for GATT 1947 and Related Instruments.

The ECS will perform dispute settlement related functions under the ECT; including identifying candidates for the list of panelists and rules of procedure.

*Activity:* Information on custom duties (2 staff-months)

The ECS will collect notifications and disseminate information on custom duties and other charges levied on Energy Materials and Products at the time of importation and exportation as well as of additional information on applied customs duties and charges of any kind relevant to the tariff standstill amendment (Trade Amendment) and management of information on "bound rates" for Signatories listed in that Amendment. The ECS will collect and handle the additional information concerning duties and other charges regarding energy-related equipment.

*Activity:* TRIMs notifications (4 staff-months)

The ECS will facilitate countries' notifications and assist non-WTO members in identifying their trade-related investment measures (TRIMs). Notifications of such measures maintained by Signatories should be made no later than 3 months after entry into force of the ECT by WTO members and no later than 12 months by non-WTO members. The ECS will also monitor their termination and eventual extension to new investments during the applicable period. Close co-operation is foreseen with the WTO Secretariat.

*Activity:* Energy-related equipment and trade negotiations (6 staff-months)

Assuming that the negotiations on an instrument "Energy Related Equipment" and "Tariff Standstill" to be covered by trade provisions of the ECT are concluded by the end of 1997 there will be a need for legal scrutiny, translation into all official languages etc.

The consideration of appropriate amendments in the light of the Uruguay Round of Multilateral Trade Negotiations under Article 30 of the ECT, which has already started, might continue (e.g. on the incorporation of GATS, TRIPS, and other Uruguay Round Results).

## 2.6 TRANSPARENCY

*Activity:* Report on competition legislation (7 staff-months + 2 consultancy months)

The ECT requires Signatories to publish legislation affecting all matters covered by the ECT. Such information will be very important since many transitional suspensions, relating to competition provisions of the ECT, were already terminated. Some countries still maintain transitional suspensions because they intend to improve existing legislation or to extend general competition rules to the energy sector.

In order to provide information on competition issues, the ECS will invite Signatories to submit their competition legislation and their implementing rules together with information on enforcement (including the establishment of specialised entities or regulation bodies). The ECS may call a working group to analyse the models chosen by countries and exchange information.

*Activity:* Networking of enquiry points (8 staff months + 4 consultancy months)

Enquiry points will have to play an important role as information centres on ECT relevant issues and become the “antennae” of the Conference in capitals.

The ECS envisages:

- to organise seminar(s) for representatives of the enquiry points (especially from Central and Eastern European Countries/CIS countries) addressing the following aspects:
  - the role which the enquiry points have to play in facilitating foreign investments in their national energy sector through supplying information on national laws, regulations, judicial decisions and administrative rulings;
  - the type and the detail level of information to be made available;
  - particular needs, such as information materials, hard/software, etc.
- to launch a pilot project for a group of enquiry points on a regional basis, including linking them through electronic networks.

*Activity:* Annex ID notifications (3 staff-months)

The ECS will prepare a transparency report on policies, practices and conditions not allowing investors to resubmit the same dispute to international arbitration at a later stage once the procedure was initiated at domestic courts in all Signatories listed in Annex ID which have deposited their instruments of ratification or accession. The task, to be performed gradually pending the entry into force of the ECT for each state listed in Annex ID, requires the collection of appropriate information, enabling period reporting to the Conference.

*Activity:* “Charter efficiency projects” (2 staff-months)

The ECT covers any investment associated with an Economic Activity in the energy sector, referring also to investments or classes of investments designated by a Contracting Party as “Charter efficiency projects” provided they are notified to the ECS. In this case they shall enjoy the same treatment as other investments in the energy sector. The ECS has not yet received any such notification. Signatories should notify those activities on a voluntary basis.

## 2.7 ENERGY EFFICIENCY AND RELATED ENVIRONMENTAL ASPECTS



*Activity:* Participation in the Aarhus Conference (8 staff-months + 1 Consultancy)

The ECS will continue to work on the preparations for the 1998 Aarhus Environmental Ministers Conference. The report to be realised, together with the IEA and the Danish Energy Agency for this Conference will involve most issues related to the Protocol. After completion of the Country Reports, the focus of ECS will be on the co-ordination of the project and participation in the development of other parts of the report. Policy recommendations are expected to be strongly related to the principles and procedures of implementation of the Protocol.

In the context of the Aarhus Conference and in order to facilitate the understanding and implementation of the provisions of the Protocol, the ECS will develop other related activities such as meetings or specific publications.

*Activity:* Completion of procedures required by the Protocol (3 staff-months)

In 1997, anticipating the entry into force of the Protocol, the ECS has started to develop draft procedures for keeping under review and facilitating the implementation of its provisions. The Conference will receive these procedures for approval in 1998. The process will require intensive consultations with national authorities before submitting a final draft to the Conference. Consultation meetings will be organised in this respect with national authorities. Implementation of these procedures may also start in 1998 with peer reviews on energy efficiency policies following the entry into force of the Protocol and related decisions by the Conference.

### **3. LEGAL AFFAIRS** (24 staff months)

Legal Affairs will provide legal advice to the Secretary-General and all parts of the Secretariat, supporting the ongoing negotiations, providing advice on the investment, transit and trade regimes in the ECT; environment and energy efficiency issues; dispute resolution mechanisms (including transit conciliation); institutional issues, such as the application of the Headquarters Agreement, staff regulations and rules and the terms of contracts. After conclusion of the current negotiations, legal/juridical checking will have to follow, in order to prepare for signature.

The set up tasks involved in the creation of a new international organisation and ECT regime will continue throughout 1998. Discussions with the Belgian Government over social security issues and the establishment of an interim external staff appeal mechanism (until the ILO Administrative Tribunal assumes jurisdiction) will be major tasks. The entry into force of the ECT will see new demands for information and assistance by Contracting Parties and investors and their advisers.

### **4. ADMINISTRATION AND FINANCE** (72 staff months)

The Administration and Finance Unit will assume the routine responsibility for budget planning, budget control and administration, financial control, contracts and contracts procedures, payroll, personnel management (including recruitment, probation, advancement, staff discipline, staff

regulations, staff rules and related working procedures), information technology and communications, premises and support services, and all practical support for formal meetings of the Charter process.

Primary objectives in 1998, beyond taking forward the above matters of routine business, will be to finish the extensive projects related to building the Secretariat's administrative and financial structures, notably, the accounting system and accounting procedures, financial analyses and regular financial management reporting, the introduction of the new Staff Manual and its related working procedures (both formal and informal), stabilisation and development of current IT systems and related training and cost-effective management of the ECS' financial and human resources.