

# ENERGY CHARTER SECRETARIAT

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Related documents: CC 134, CC 137
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## **DECISION OF THE ENERGY CHARTER CONFERENCE**

### **Subject: Secretariat's Work Programme for 1999**

Discussion revealed a wide degree of agreement among delegations that the priority areas of work for the Secretariat in 1999 would be Transit, Trade and Energy Efficiency and Related Environmental Aspects, with the issue of Investments also remaining an important area of activity. In the cases of Trade and Energy Efficiency and Related Environmental Aspects, several delegations underlined the need to ensure that the Secretariat's activities did not duplicate work already being carried out in other fora. On Investments and Trade issues, it was agreed that the Secretariat continue its activities. The Secretary General agreed to fully take into account the discussion at the Conference, and the priorities indicated, when implementing the 1999 Work Programme.

[...] It was agreed that the two groups on Trade and Investments respectively should continue to function as at present, i.e. chaired by the Secretariat, and that the question of the status of these bodies should be revisited at the next Conference meeting.

The delegation of the Netherlands offered a voluntary contribution to finance additional activities related to PEEREA complementary to those listed in the 1999 Work Programme. The Conference indicated its acceptance of this offer, and the Secretary General noted that the activities concerned [Annex B] would henceforth be considered as an integral part of the updated 1999 Work Programme [Annex A.]

Keywords: Secretariat's Work Programme

## **Energy Charter Secretariat's Work Programme for 1999**

[as adopted by the Energy Charter Conference  
at its 2<sup>nd</sup> Meeting held on 3–4 December 1998]

### **A. INTRODUCTION**

1998 was a successful year for the Energy Charter process. On 16 April 1998, the Energy Charter Treaty (ECT) and the Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects (PEEREA) entered into force (90 days after the 30<sup>th</sup> instrument of ratification of the Treaty and PEEREA was deposited). Since then, the overall number of ratifications has reached 38, while a further 6 Signatories apply the ECT provisionally.

At the meeting of the Energy Charter Conference on 24 April 1998, the Amendment to the Trade-Related Provisions of the ECT (the Trade Amendment), which had been under negotiation since 1995, was adopted. Most of the Contracting Parties/Signatories presently apply it on a provisional basis.

Negotiations on the Supplementary Treaty have reached a wide measure of agreement. However, some parties, while not questioning the importance of the Supplementary Treaty or the need for its early adoption, were not able to adopt it at the Conference Meeting of 24 June 1998 due to a political climate in which various groups, including those representing labour and environmental interests, needed to be heard more fully before conclusion. A few negotiating parties were of the view that further work is needed on some of the provisions before it is ready for adoption. Adoption and signature of the Supplementary Treaty remain major political objectives.

The Energy Charter Conference and the Energy Charter Secretariat have gained increased international acknowledgement and recognition in 1998. The Secretariat was invited to participate in the G8-Energy Ministerial Meeting in Moscow on 1 April 1998, and prepared substantial input with regard to Energy Transit and - together with the International Energy Agency - Energy Investment. The proposals contained in the relevant documents have been widely endorsed at international level, including by G8 leaders in Birmingham.

Co-operation with the European Union and with international organisations such as the IEA/OECD, WTO and others has been very fruitful. The Secretariat has published reviews and reports together with the IEA and the Black Sea Regional Energy Centre. The Secretariat's co-operation with IEA and ECE in preparing the Aarhus Conference of Ministers for Energy and Environment, which was made possible due to a substantial voluntary contribution by the Danish government, was also well received by the international community.

Maintaining and developing links with these international organisations, as well as with the OSCE and financial institutions such as the World Bank group, EBRD, EIB and others, will continue to be a major feature of the Secretariat's activities.

In 1999 there will be a greater emphasis in the activities of the Conference and the Secretariat on implementing the ECT and PEEREA. Consultations on the development of a multilateral regime for Energy Transit will be one of the priority areas of work. Substantial activity will also be devoted to implementation of the trade provisions of the Trade Amendment. Activities related to

PEEREA are likewise of growing importance and demand corresponding adjustments to the Protocol's self-standing budgetary and staffing arrangements. Work will also continue on investment issues, with the aim of increasing transparency and developing the investment climate and conditions in a number of Contracting Parties/Signatories, and towards ensuring ratification of the Treaty and potential expansion of its membership.

Since negotiations on the Trade Amendment and the Supplementary Treaty continued into the first half of 1998, some of the activities outlined in the 1998 Work Programme had to be delayed and are thus proposed for 1999.

As a consequence of the above, and even allowing for closer cooperation with the WTO and financial support from the EU, increased staff resources will be required to deal with the Secretariat's expanding work-load in the coming year.

The structure of the Conference's work should reflect these developments, inter alia through the establishment of new subsidiary bodies (Standing Groups/Working Groups) covering the main areas of activity: Transit, Trade, and Energy Efficiency and Related Environmental Aspects. Draft Terms of Reference for these are annexed herewith (Annex I-III). The work of the existing Investment group will also continue.

The internal structure of the Secretariat will also have to adapt, with Directorates henceforth being divided between Investment and Trade on one hand and Transit and Energy Efficiency and Related Environmental Aspects on the other hand.

## **B. ACTIVITIES**

### **1. PRIVATE OFFICE**

*(84 staff-months)<sup>1</sup>*

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

The implementation of the ECT and Protocol requires extensive contacts with governments of Contracting Parties/Signatories at highest political level, including their diplomatic representations in Brussels, and with international organisations. The same applies to relations with the energy industry, including its Brussels-based associations or unions.

Consultations will also be required with countries wishing to become involved in the Charter process and eventually to accede to the ECT.

Dissemination of public information about the ECT and its positive impact on the energy sector will require ongoing efforts in the areas of press and public relations, participation in international conferences and seminars etc.

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

## 2. LEGAL AFFAIRS

(36 staff-months)

Legal Affairs will provide legal advice to the Secretariat and to the Conference and its subsidiary bodies. Such advice will be required primarily in relation to the work of the subsidiary bodies of the Conference on Transit, trade, and energy efficiency and environmental issues. Institutional issues, such as the application of the Headquarters Agreement, staff regulations and terms of contracts, will also have to be covered.

## 3. ADMINISTRATION AND FINANCE

(72 staff-months + 3 consultancy-months)

Administration and Finance will be responsible for budget planning, control and administration; financial control; contracts and contracts procedures; payroll; personnel management; information technology and communications; premises and support services; and all practical support for meetings of the Conference and its subsidiary bodies.

## 4. DIRECTORATES

### Transit

*Activity: Elaboration of a Transit Framework* (49 staff-months + 4½ consultancy-months)

Consultations on the elaboration of a multilateral framework for energy transit will be the main focus of the Secretariat's activities in 1999. It is proposed that initially work in this area should concentrate on hydrocarbons and electricity: in future, each of these sectors may merit separate treatment. Without prejudicing its eventual legal character, the Framework should expand on what is already found in the ECT (specifically, Article 7 on Transit and the Rules concerning the Conduct of Conciliation of Transit Disputes, scheduled to be agreed by the Charter Conference before the end of 1998; Article 10 on Promotion, Protection and Treatment of Investments; and Article 6 on Competition).

Other possible components could include (but not be limited to) the notion of "sanctity" of transit; taxation and accounting principles; safety and environmental aspects; liability; competition and access to transit capacity; technical standards; tariff methodologies; and dispute settlement procedures.

To take forward work on the Transit Framework in 1999, the creation of a Group on Transit is necessary, the draft Terms of Reference of which are attached (Annex I). The Group should report to the Conference on progress made by no later than 30<sup>th</sup> June 1999.

*Activity : Other Transit-related activities*

(7 staff-months)

In parallel with the above, work will continue, in close cooperation particularly with the European Commission, on other Transit-related activities, such as reviews of national regulations and legislation relating to Transit, collation and dissemination of data concerning transit projects and related investments, analysis of the cause and effects of transit interruptions.

## Trade

Implementation of the trade provisions of the ECT/Trade Amendment based on GATT/WTO rules with regard to Contracting Parties/Signatories who are not WTO members is a transitory task. Its duration will depend on progress in the WTO accession process, the facilitation of which remains a major ECT objective.

The Secretariat's activities on Trade issues relate either to tasks explicitly required by the Treaty, or to the undertaking to assist Contracting Parties/Signatories in fulfilling their obligations based on WTO practice. Were Contracting Parties/Signatories to require that all of these tasks be carried out in parallel, significant additional staff resources would be necessary. The activities proposed below are based on a minimalist approach which assumes very close cooperation with other international organisations and, in particular, with the WTO and the EC, as the provider of important technical assistance to those countries preparing for membership of the WTO. In order to ensure efficiency in this area, the Secretariat proposes to expand regular cooperation with the WTO, inter alia through seeking observer status on behalf of the Charter Conference at appropriate WTO bodies.

As envisaged in the Conference decision of 24 April 1998, the Secretariat will also assist in the implementation of the trade-related obligations based on the Trade Amendment which makes WTO-rules applicable to trade in Energy Materials and Products and Energy-Related Equipment.

To ensure support for the Treaty's trade-related activities, the creation a Group on Trade is proposed. Draft Terms of Reference for such a Group are attached at Annex II.

*Activity: Notification procedures based on applicable WTO rules on trade in goods  
(33 staff-months + 2½ consultancy-months)*

Notifications will have to be based on the Trade Amendment and its requirements. Formats for notifications and procedures will mirror WTO practices while avoiding duplication of WTO work. The Secretariat's services in this area will include the preparation of questionnaires; circulation of notifications received and of summaries of notifications; circulating information on the availability of notified legislation/data; translation of notifications; provision of information on compliance with notification obligations; preparation of consultations/review sessions on notifications upon request.

The ECT requires notifications on specific measures, procedures, applicable laws, rules, administrative issues of general application, etc. (see Annex V). Some of these WTO-based notifications are required on an ad hoc basis in response to certain government measures. Others require either the initial provision of full information on the status quo, followed by subsequent updates, or full notifications periodically on specific issues. The above-mentioned obligations relate to trade in Energy Materials and Products and to Energy-Related Equipment. In the case of WTO members, it might be sufficient to indicate how this information is to be obtained (e.g. from the WTO Secretariat directly).

*Activity: Monitoring/review of measures triggered by notifications  
Information on customs duties and other charges  
Review on moving of items to a legally binding tariff commitment  
(13 staff-months + 2 consultancy-months)*

Certain activities foreseen in the applicable provisions of the WTO Agreement will be triggered by notifications or by non-compliance with notification obligations. These provisions (e.g. procedure on balance of payments measures) explicitly task the Secretariat in certain areas. Further tasks may be triggered by delegations' requests in response to notifications from other delegations or the lack of full compliance by certain delegations with notification obligations (i.e. consultations on technical barriers to trade).

As required by ECT Article 29(3), the Secretariat will collect notifications and provide information on customs duties and other charges of any kind imposed on or in connection with importation or exportation of Energy Materials and Products and Energy-Related Equipment and on any changes to such duties or charges (applied rates).

As foreseen in Understanding No. 3 of the Final Act of the Trade Amendment, the possibility of moving to a legally binding tariff commitment will be reviewed. Background documentation containing applicable and bound rates of customs duties and other charges of any kind, as well as on rates contained in official offers submitted in the context of WTO accession in case of non-WTO members which request listing in Annexes BR or BRQ will be provided with respect to Energy Materials and Products and Energy-Related Equipment.

*Activity: Dispute settlement procedures*

*(6 staff-months)*

Rules of procedure referred to in Annex D(3)(a) of the ECT will be prepared for adoption by the Charter Conference, and preparations will be made to constitute the roster of panellists. This task, already included in the 1998 Work Programme, has to be carried forward to 1999.

The trade-related dispute settlement provisions of Annex D, which are broadly similar to those under the WTO (DSU), require technical advice upon request on the functioning of the dispute settlement procedure and the applicable rules. Implementation of dispute settlement procedures in connection with disputes under Articles 5 and 29 ECT (i.e. to the extent that trade-related disputes are submitted under Annex D) will require that the Secretariat provides assistance to panels.

## Investment

*Activity: Surveys of exceptions to NT/MFN*

*(35 staff-months + 4 consultancy-months)*

In cooperation with Contracting Parties/Signatories, the Secretariat will update, based on Article 10(9) of the ECT, the reports on exceptions to national treatment contained in Annex EX. Whereas the primary function of the surveys so far has been to specify and register the exceptions to national treatment/MFN, the updated reports should aim to provide a better understanding of the economic significance of those exceptions and disseminate information on the general investment climate.

Contracting Parties/Signatories have undertaken to remove progressively restrictions for investors of other Contracting Parties/Signatories. One of the most efficient mechanisms to promote such a roll-back are peer sessions reviewing relevant legislation with particular emphasis on market access developments. Such peer sessions will become an important element of the survey activities.

In addition, the Secretariat plans to organise discussions among experts of particular problems discouraging investment, primarily with the aim of creating a forum in which to raise issues related to implementation of the ECT's investment provisions. The Secretariat will also undertake surveys and fact-finding missions in this regard, addressing transfer of payments, post-investment treatment, and procedures for key personnel. To facilitate activities in this area, it is proposed that the existing Investment group continue its work in 1999.

The Secretariat will continue to co-operate with the IEA to prepare reports for countries in the Black Sea region, and with the Black Sea Regional Energy Centre in publication of reports concerning common Constituents.

The Secretariat will also co-operate closely with the World Bank group and EBRD with a view to ensuring that compliance with ECT obligations becomes an integral part of those organisations' conditionality procedures.

### Ratification and Accession

*Activity: Ratification of the Energy Charter Treaty* (4 staff-months)

The Secretariat will continue to provide advice and support to those Signatories to the ECT which have not yet completed their national ratification procedures of the Treaty and/or the Protocol.

*Activity: Ratification of Trade Amendment* (2 staff-months)

Support will be provided upon request to Contracting Parties in relation to the ratification of the Trade Amendment, in particular to the 17 non-WTO members of the Energy Charter constituency.

*Activity: Accessions* (6 staff-months)

In 1999, the accession procedures for Mongolia will be concluded. Contacts with countries which have already expressed interest in the Charter process, such as the People's Republic of China, the Republic of Korea and some Mediterranean countries will be pursued. The Secretariat will upon request assist new participants in signing the Charter and in gaining the status of a regular observer at the Charter Conference meetings, and will initiate the accession process as appropriate.

*Activity: Notifications related to ratification/entry into force of the ECT (TRIMs)* (6 staff-months)

The Secretariat, in close cooperation with the WTO, will facilitate the provision by non-WTO Contracting Parties/Signatories of their notifications on trade-related investment measures (TRIMs) in accordance with Article 5 and Annex TRM. Notifications of such measures, which should be made no later than 15 April 1999, will be circulated, and other relevant information received by the Secretariat will be made available to interested parties at their request. The

Secretariat will co-operate with Contracting Parties/Signatories over the phasing-out of any TRIMs or their possible extension to new investments during the applicable period.

### Transitional Arrangements

*Activity: Annex T reviews*

*(6 staff-months)*

The review and report for the Charter Conference in 1999 on progress made by countries with economies in transition towards full compliance with those provisions of the ECT for which they had requested temporary suspensions will be based on findings of the 1998 review session. It should contain the positions of Governments in cases where there are diverging views on compliance with ECT provisions. As appropriate, it should also contain proposals on Annex T procedures, in particular in relation to deadlines and justifications for additional extensions of transitional arrangements. A detailed review of all outstanding transitional suspensions will be organised by the Secretariat in the second half of 1999.

### Competition

*Activity: Competition/market access*

*(6 staff-months)*

Over the coming years, competition policy and new legislation, particularly in countries in transition, will have an increasing importance with regard both to the attraction of investments and their actual use. Substantial progress in the development of such legislation is expected, and all outstanding transitional measures maintained by Contracting Parties/Signatories on competition issues should therefore be reviewed.

Starting in the second half of 1999, a group of experts will hold consultations and exchange information focusing on the transitional arrangements noted above, the development of competition legislation, and information compiled pursuant to the relevant energy-related trade provisions of the GATT regime. Available legislation will be analysed with special attention to its consequences for access and use of transport and transit facilities.

### Enquiry Points

*Activity : Support of Enquiry Points*

*(1 staff-month)*

The Secretariat will facilitate the integration of Enquiry Points into all aspects of the Energy Charter process in order to raise efficiency of implementation of the Charter instruments and to ensure transparency, including on institutional developments. It will continue to inform Contracting Parties/Signatories on designated enquiry points.

### Energy and Environment (Activities relating to Article 19 of the Treaty)

*Activities: Market oriented price formation and internalization of environmental costs*

*Efficient Energy Policies and Technologies*

*Charter Efficient Projects*

*(18 staff-months + 4 consultancy-months )*

An analysis of pricing policies in Contracting Parties/Signatories, beginning with selected countries, will address the effects of energy price levels; price formation; subsidies and cross-subsidies on energy efficiency in countries with different economic structures and various levels of

economic development. Progress made in reflecting environmental costs in the price of energy products will be assessed. Findings will be discussed in an ad hoc expert group.

In cooperation with other international organisations, a workshop will be held to discuss environmentally sound and economically efficient energy policies, technologies and practices, in the context of the ECT, which will serve as a basis for reviewing progress.

The Secretariat will investigate whether the absence to date of any notifications of “Charter efficiency projects” is due to a genuine lack of suitable projects or to other reasons. The results and any related recommendations will be submitted to the Conference.

## **Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects (PEEREA)**

Actions required under PEEREA are aimed at moving energy efficiency up the policy-making agenda, conferring on it a status of priority much closer to that of 'supply side' energy policies. Dialogue on successful policies, peer reviews and exchanges of information on concrete cases will all help to promote this aim.

The creation of a Group on Energy Efficiency and Related Environmental Aspects is proposed, one of whose main tasks will be to monitor implementation of PEEREA. Its draft Terms of Reference are attached at Annex III.

Secretariat activities related to PEEREA will concentrate on reviewing, analysing and supporting its implementation. Priority areas for action will differ from country to country, since PEEREA covers a range of areas where Contracting Parties/Signatories are to develop domestic programmes or increase co-operate with each other. Initial activities in this part of the Work Programme will focus on common issues of priority for all states.

Activity: *Energy Efficiency Policy Aims* (2 staff-months + 2 consultancy-months)

A report on major policy factors contributing to the improvement of energy efficiency will be prepared. It will not only identify the key components of a sound energy efficiency policy but also discuss modalities and factors determining success in this area. A major aim will be to indicate progress towards the development and implementation of cost-effective energy efficiency policies in participating countries. The proposed Group on Energy Efficiency and Related Environmental Aspects will analyse and discuss this report, the results of which will be submitted to the Charter Conference.

Activity: *Energy Efficiency Reviews* (7 staff-months + 5 consultancy-months)

The survey of energy policies and activities, prepared for the Aarhus Ministerial Conference as part of the Energy Conservation Initiative, will serve as a basis for reviewing progress made by Contracting Parties/Signatories in improving energy efficiency. Peer review sessions are seen as an important tool in this context for assessing developments in energy efficiency related legislation, policies (including pricing policies and practices) and programmes.

Activity: *Energy Efficiency Strategies* (2 staff-months + 1 consultancy-month)

The country profiles prepared during 1998 indicated that energy efficiency strategies have not yet been developed by all Contracting Parties/Signatories. The proposed Group will prepare a set of guidelines on how to develop and use energy efficiency strategies.

*Activity: Financing Instruments for Energy Efficiency (6 staff-months + 5 consultancy-months)*

Given the considerable financial outlay which improvements in energy efficiency often require, financial instruments other than subsidy schemes, tax credits and soft loans need to be considered by governments. These include revolving funds (e.g. through the EBRD or EU), third party financing and new mechanisms such as Activities Implemented Jointly(AIJ)/Joint Implementation(JI). Analysis of the relationship between the capacity to use various financing instruments and the status of development of legal/regulatory frameworks will be undertaken.

*Activity: Energy Efficiency mechanisms: Voluntary Agreements (5 staff-months + 4 consultancy-months)*

Voluntary agreements have hitherto been little used by Contracting Parties/Signatories with economies in transition, but nonetheless merit consideration as part of the market reform process. A report on voluntary agreements will aim to support an exchange of information between Contracting Parties/Signatories and to expand the use of this type of arrangement. Industrial, transportation and residential sectors should be covered. Barriers and conditions for the enforcement of such agreements should be explained in detail.

*Activity: Energy Efficient Technologies (2 staff-months + 3 consultancy-months)*

Transfer of and access to energy efficient technologies (e.g. small scale co-generation) is one of the key issues for improving energy efficiency. A report on transfer of technology related to legal and regulatory aspects, including fiscal and financial incentives, will be produced for dissemination in the proposed Group.

**Terms of Reference for the Working Group on Transit**

**1. Establishment**

A Working Group on Transit is established in accordance with Article 34(5) of the Treaty and Rule 10 of the Rules of Procedure for the Energy Charter Conference.

**2. Composition**

The Working Group on Transit consists of representatives of all Contracting Parties/Signatories to the Energy Charter Treaty. Observers are invited to participate in accordance with Rules 7 and 8 of the Rules of Procedure.

**3. Tasks**

The Working Group on Transit shall:

- a) analyse the relevant issues with a view to improving and developing the conditions for transit and, based on the findings, conduct consultations on a Multilateral Transit Framework, as well as possibly on specific model agreements.

The work should expand on principles and provisions of the ECT.

Furthermore, analysis and consultations should include but not be limited to:

- (1) the notion of “sanctity” of energy transit;
  - (2) facilitation of transit through existing facilities;
  - (3) facilitation of new or expansion of existing Energy Transit Facilities;
  - (4) non-discrimination in establishment and/or use of new and/or existing Energy Transit Facilities;
  - (5) questions of owner and operator liability in force majeure cases;
  - (6) certain operational issues (competition, capacity, technical standards, tariff methodologies).
  - (7) resolution of transit disputes;
  - (8) principles of accounting relevant to transit. Analysis and assessment of common principles of taxation as agreed in GATT/WTO and OECD concerning transit;
  - (9) other relevant project-specific issues, including possibly, specific model agreements (such as Host Government Agreement or Transport Agreement).
  - (10) favourable conditions for investments in projects of construction of new and expansion of existing facilities for energy transit.;
- b) address any other transit related issue in accordance with Rule 12 of the Rules of Procedure;
- c) Report to the Energy Charter Conference on its findings and proposed appropriate action in accordance with Rule 13 of the Rules of Procedure.

**Terms of Reference for the Working Group on Trade**

**1. Establishment**

A Working Group on Trade is established in accordance with Article 34(5) of the Treaty and Rule 10 of the Rules of Procedure for the Energy Charter Conference.

**2. Composition**

The Working Group on Trade consists of representatives of all Contracting Parties/Signatories to the Energy Charter Treaty. Observers are invited to participate in accordance with Rule 7 and 8 of the Rules of Procedure.

**3. Tasks**

The Working Group on Trade shall:

- a) assist the Energy Charter Conference in discharging its functions with respect to the implementation of the trade-related provisions of the Energy Charter Treaty and the Amendment to the Trade-Related Provisions of the Energy Charter Treaty.

These tasks include but are not limited to:

- functions resulting from the implementation of trade-related provisions of the WTO Agreement made applicable either by reference or by repeating their wording in substance and of its predecessor agreements called up by the Energy Charter Treaty, as applicable under a unified implementation system;
  - conducting the annual review with respect to any possibilities for moving of items of Energy Materials and Products or Energy-Related Equipment from best endeavours to a legally binding commitment on customs duties and other charges of any kind and conducting any surveys and consultations in that respect;
  - conducting consultations as requested by Contracting Parties/Signatories under any appropriate trade-related provision of the Energy Charter Treaty and the Amendment to the Trade-Related Provisions of the Energy Charter Treaty;
  - assisting, as appropriate, in matters related to dispute resolution under any of the trade-related provisions of the Energy Charter Treaty and the Amendment to the Trade-Related Provisions of the Energy Charter Treaty;
- b) address any other trade related issue referred to it by the Energy Charter Conference or suggested by its chairperson(s) or upon request of Contracting Parties/Signatories in accordance with Rule 12 of the Rules of Procedure;
- c) Report to the Energy Charter Conference on its findings and proposed appropriate action in accordance with Rule 13 of the Rules of Procedure.

**Terms of Reference for the Working Group on  
Energy Efficiency and Related Environmental Aspects**

**1. Establishment**

The Working Group is established as a subsidiary body in accordance with Art. 34(5) of the Treaty and the relevant Rules of Procedure for the Energy Charter Conference and is based on the Procedures for Implementation of the Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects.

**2. Composition**

The Working Group consists of representatives of all Contracting Parties/Signatories to the Protocol. Observers may be invited to participate in accordance with the Rules 7 and 8 of the Rules of Procedure.

**3. Tasks**

The Group shall:

1. Organise periodic reviews of the national energy efficiency policies, strategies, programmes and pricing policies, as well as other economic instruments. Measures for improving the policies, strategies and programmes should be identified;
2. Serve as a forum for identifying options for specific energy efficiency policies and programmes best suited to the circumstances of individual countries in accordance with the basic principles outlined in Article 3 (2) of the Protocol. Contracting Parties may use these options and define time-schedules for their implementation;
3. Develop proposals for specific activities under the Protocol;
4. Report to the Charter Conference on progress of implementation of the Protocol every year.

**Extract from the Rules of Procedure for the Charter Conference  
(Document CS(95)80)**

**VI. SUBSIDIARY BODIES**

*Rule 10*

- (a) The Conference may, as provided in Article 34(5) of the Energy Charter Treaty, establish such subsidiary bodies as it considers appropriate for the performance of its duties. Such subsidiary bodies shall be either "Standing Groups" established to deal with issues of a regular nature or "Working Groups" established to carry out negotiations or other work of a temporary nature.
- (b) The Conference shall determine the terms of reference for and the membership of subsidiary bodies.

*Rule 11*

The Conference or subsidiary bodies may set up temporary sub-groups to assist them in their work.

*Rule 12*

- (a) A subsidiary body shall address such issues as it is instructed to do by the Conference.
- (b) A subsidiary body may decide to address any matter related to the issues within its competence.
- (c) The Conference may decide that the work undertaken by a subsidiary body should not be carried further.

*Rule 13*

- (a) A subsidiary body shall through its Chairperson report to the Conference.
- (b) Recommendations submitted by the Chairperson of a subsidiary body to the Conference shall call attention to differences in the views of Signatories.
- (c) A sub-group shall through its Chairperson report to the body which set it up, which shall give it the necessary guidance for carrying out its work.

**Notifications required by the applicable provisions of the WTO Agreement include:**

GATT Article XI, quantitative restrictions affecting imports:

Notification procedure agreed by the Council for Trade in Goods (document G/L/59) which builds on the procedure agreed by Contracting Parties in 1984/85: Complete notification every 2 years (including full description of the products and tariff lines affected, the type of restriction, the grounds and WTO justification for the measure, trade effects of the measure) and notification of changes when they occur.

First year: a full notification plus ad hoc notification of details of changes when they occur later.

Understanding on Balance-of-Payments Provisions of the GATT 1994:

Paragraph 9 (notification of introduction or change to any restrictive import measures for balance of payments purposes; notification of any modification in the announced time schedule for their removal; yearly consolidated notification including all laws, regulations, policy statements or public notices, plus information, as far as possible on a tariff-line level, on the type of measures applied, the criteria used for their administration, product coverage and trade flows affected).

Each year: a full consolidated notification plus ad hoc notifications on introduction or changes of measures leading to balance-of-payments consultations.

Understanding on the Interpretation of Article XVII of the GATT 1994:

Paragraph 3 (new and full notification in accordance with the questionnaire on state trading, WTO doc. G/STR/3, in the first year and every third year, with respect to enterprises referred to in paragraph 1 of the Understanding: i.e. enumeration of State-trading enterprises, reasons for introducing or maintaining a State-trading enterprise, description of the functioning of the State-trading enterprises, statistical information, etc.; updating notifications in the intervening two years).

First year: full notification.

Article XXIV.7 GATT:

Prompt notification of entering into a free trade agreement and any substantial changes thereto; invitation to inscribe it on the agenda of the first meeting following signature of such a treaty; periodic reporting every two years, following a calendar fixing dates for such examination.

First year: full reporting of existing free trade agreements and customs unions and setting of a time table for a review.

### Agreement on Technical Barriers to Trade (TBT):

Article 2.9 (notification of planned introduction of standards other than those in accordance with international standards, their product coverage, objective and rational), Article 2.10 (immediate notification upon introduction of urgent measures on standards, products covered, reason and rational, including the nature of the urgent problem), Article 3.2 (notification by local governments of such standards if they are not substantially the same as those notified by central government), Article 5.6 (notification of planned introduction of conformity assessment other than that in accordance with international guidelines, the products to be covered, the objective and rational), Article 5.7 (immediate notification of urgent measures on conformity assessment, products covered, reason and rational, including the nature of the urgent problem), Article 7.2 (notification by local governments of such conformity assessment procedures if they are not substantially the same as those notified by central government), Article 10.3 (one or more national inquiry points to be established) Article 10.6 (Secretariat to circulate copies of all notifications to ECT members and to interested international standardising and conformity assessment bodies), Article 10.7 (notification of agreements among countries on issues related to technical regulations, standards or conformity assessment procedures), Article 10.11 (in case more than one single central government authority is responsible on a national level for implementing notification procedures, notification of complete information on the scope of responsibility of each of these authorities). Article 15.2 (statements on implementation and administration of the TBT Agreement).

First year: full notification under 10.3 (inquiry points), 10.7 (international agreements), 10.11 (multiple authorities) and 15.2 (implementation and administration of the TBT Agreement) plus ad hoc notification on planned and on emergency measures under 2.9, 2.10, 3.2, 5.6, 5.7 and 7.2.

### Agreement on Implementation of Article VII of the GATT 1994:

Article 22.2 (information on changes to / notification of relevant laws and regulations on customs valuation and administration thereof).

First year: full notification and subsequent notification of changes only.

### Agreement on Preshipment Inspection:

Article 5 (copies of laws and regulations which put this Agreement into force and of those relating to preshipment inspection, immediate notification of any changes to such rules or regulations; the ESC to inform ECT members of the availability of such information).

First year: full notification and subsequent notification of changes.

### Agreement on Rules of Origin:

Article 5 (non preferential rules of origin, judicial decisions and administrative rulings of a general application relating to rules of origin to be notified within 90 days; list of information available to the ECS to be circulated to the ECT members), paragraph 4 of Annex II (preferential rules of origin indicating the preferential agreement to which they apply, judicial decisions and administrative rulings of general application).

First year: full notification.

### Agreement on Import Licensing Procedures:

Article 1.4(a) (sources in which information concerning licensing procedures are published), Article 5 (notification of import licensing procedures within 60 days of publication, including information on products covered, contact points for information, administrative bodies for applications, publication, whether the procedure is automatic or non-automatic plus purpose or measure being implemented, expected duration; notification of changes to import licensing procedures containing the same information elements; publication(s) in which detailed information on submission of applications is published in accordance with Article 1 of the Agreement). Article 7.3 (annual notification; questionnaire on import licensing procedures), Article 8.2(b) (information on changes to / notification of relevant laws and regulations and the administration thereof).

First year: full notification on relevant laws and regulations and the administration thereof as well as on sources in which information concerning licensing procedures are published and notification on all applicable import license procedures plus continuous update thereof.

#### Agreement on Subsidies and Countervailing Measures:

Article 8.3 (notification of non actionable subsidy programmes under Article 8.2 in advance of their implementation and yearly updates of such notifications specifying e.g. global expenditure and any modification to the programme), Article 25 (annual notification of granted or maintained subsidies which are specific containing information on form of the subsidy, subsidy per unit, policy objective/purpose of the subsidy, duration or time-limit, statistical data permitting the assessment of trade effects; notification of authorities competent to initiate and conduct countervailing duty investigations and procedures governing such investigations; notification without delay of any preliminary or final action taken in respect of countervailing duties plus semi-annual report on any countervailing actions taken on an agreed standard form), Article 29.3 (subsidies under Article 3, prohibition, maintained—for a maximum of 7 years by ECT members in transition to a market economy, further notification thereon after two years), Article 32.6 (notification of existing laws and regulations and the administration thereof and updates thereto).

First year: full notification of programmes under Article 8.3 and on specific subsidies under Article 25, notification of authorities and procedures on countervailing procedures under Article 25.12 and semi-annual reports on countervailing duty actions plus report without delay on preliminary and final action on countervailing duties, full notification under Article 29.3, full notification of existing laws and regulations under Article 32.6 and continuous update thereof.

#### Agreement on Safeguards:

Article 12 (immediate notification of initiation of investigations, findings and decisions on safeguard measures; notification prior to provisional safeguard measures; notification of results of consultations pursuant to the Agreement; notification of the termination of an investigation with no safeguard measures being imposed; prompt notification of laws, regulations and administrative procedures relating to safeguard measures and modifications thereto; notification of Article 11.1 measures in force like voluntary export restraints, orderly market arrangements or any similar measures on the export or import side in order to have them phased out subject to timetables which need to be presented).

First year: full notification on all above elements plus subsequent ad hoc notification on safeguard measures and modifications to laws, regulations and administrative procedures.

## **Work Programme 1999**

### **Protocol on Energy Efficiency and Related Environmental Aspects (PEEREA): Supplementary Activities**

The Government of the Netherlands has offered a voluntary contribution to the 1999 Budget in order to include several additional activities related to implementation of PEEREA in the 1999 Work Programme. The aim of these additional activities is to strengthen and consolidate the efforts of Contracting Parties/Signatories to develop cost-efficient energy policies, improve energy efficiency and support global efforts to reduce environmentally harmful emissions.

The specific activities proposed are:

- **Creation of a “Review Format”**

A specific “review format” would be developed, taking into account the Guidelines on Energy Efficiency Policies adopted at the Aarhus Conference of Environment Ministers in June 1998. The format would draw on the experience of existing national and international programmes (eg NOVEM SCORE), and would be used in analysis and advice on the progress of individual countries in implementing PEEREA.

- **Assistance to National Energy Efficiency Bodies**

Under this activity, as a contribution to the strengthening of institutions relevant to implementation, practical assistance would be provided to national energy efficiency agencies. Assistance would focus in particular on the development of databases and networking by such bodies in countries in transition allowing for closer monitoring of progress towards implementation of PEEREA. On this basis additional high-level policy action may be initiated.

- **Development of Financing Instruments**

This activity would concentrate on analysis of specific issues relating to the development of financing instruments which support pricing policies conducive to greater energy efficiency and environmental protection. Following the compilation of an initial report, this activity might address the possible creation of a Clearing House system capable of identifying the optimum financing possibilities for various energy efficiency and environmental projects.