

**ENERGY CHARTER  
SECRETARIAT**

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Brussels, 7 December 1999

Related documents: CC 149, CC 162
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**DECISION OF THE ENERGY CHARTER CONFERENCE**

**Subject: Adoption of the Energy Charter Secretariat's Work Programme for 2000**

One delegation underlined that its approval of the Work Programme was given only to the understanding that, in implementing the Work Programme, full account would be taken of the Secretariat's existing budget constraints. The same delegation registered its view that the activity described under item 4.3.2 of document CC 149 ("Preparation of the Supplementary Treaty") should not be considered as a priority for 2000, although another delegation registered its disagreement with this point of view. The Chairman assured the Conference that these points would be taken into account by the Secretariat. Subject to these remarks, the Work Programme as contained in document CC 149 was approved.

[Attached is the Work Programme for 2000 as contained in document CC 149.]

Keywords: Secretariat's Work Programme

## **Energy Charter Secretariat's Work Programme for 2000**

[as adopted by The Energy Charter Conference  
at its 4<sup>th</sup> Meeting held on 7 December 1999]

### **INTRODUCTORY NOTES**

In accordance with the priorities determined by the Charter Conference at its second meeting on 3-4 December 1998 and taking into account the results of its third meeting on 30 June 1999, the Secretariat has focused its efforts in 1999 on the development and/or implementation of four key aspects of the Charter Process:

- Transit issues
- Energy Efficiency and Related Environmental issues
- Investment issues
- Trade issues

The following draft 2000 Work Programme is based on the assumption that these areas of activity will continue to reflect the Conference's priorities for the coming year.

Calculations of staff and consultancy months allocated to individual activities in this draft are based on the draft 2000 Budget and Establishment Table.

Under section 4 of the Work Programme ("Directorates") and section 5 (PEEREA activities) staff and consultancy months have been allocated to individual activities based on the priorities among them.

The Conference's decision at its second meeting on 3-4 December 1998 to initiate consultations, with a view eventually to commencing formal negotiations on a Multilateral Transit Framework (MTF) has provided the focal point for much of the Secretariat's work in 1999. Further progress towards the completion of the MTF exercise will require the continuation of a regular cycle of meetings of the Transit Working Group. Providing technical and intellectual support for these meetings will, therefore, continue to be one of the Secretariat's major priorities. This will entail the ongoing commitment of substantial resources from all parts of the Secretariat.

Concerning the implementation of PEEREA, the Secretariat will continue to support the efforts of the corresponding Working Group in elaborating appropriate strategies, developing peer reviews and studying financial instruments. The experience of the Working Group's activities so far has demonstrated the need for a more regular cycle of meetings to be held on these issues, thus reflecting more appropriately the importance attached to them by the Conference. Plans for the Secretariat's activities and staffing resources devoted to PEEREA in 2000 have consequently been tailored to take account of the likely increase in workload that will result from the introduction of more regular Working Group meetings.

Concerning Investment issues, the Work Programme assumes that the Investment Group will continue its activity with respect to the Investment Climate Reviews with particular focus on market restructuring efforts undertaken by countries in transition. It is envisaged

in particular that the Investment Group will focus on and develop its current activities regarding measures of market restructuring, liberalisation and privatisation. The Secretariat will also provide all necessary support to the Conference in order to achieve progress on the adoption and signature of the Supplementary Treaty at the earliest possible stage.

On trade, the Secretariat's activities will continue to take close account of developments within the WTO, as more Contracting Parties/Signatories move towards full WTO membership. Following WTO practice, the Secretariat will invite, receive and process WTO-like notifications by non-WTO Contracting Parties/Signatories. There will also be notifications on customs duties and other charges by all Contracting Parties/Signatories which will be made available on the Energy Charter web-site with a view to ensuring transparency, following the WTO model. The annual review on possibilities for a Conference decision on moving to a legally binding commitment on customs duties will be prepared by the Secretariat and conducted in the light of positions taken by delegations. A possibility for trade-related dispute settlement will be provided for in cases involving at least one non-WTO member country. Cooperation and synergies with TACIS programmes will be sought by the Secretariat in order to assist non-WTO countries in the implementation of WTO-based trade-related provisions of the ECT.

Concerning transitional suspensions of ECT provisions, 1999 witnessed substantial progress towards the phasing-out by countries in transition of the most significant of these. Those transitional suspensions which remain in force cover areas and issues on which the Contracting Parties/Signatories concerned already comply with the corresponding ECT obligations. Therefore, although continued monitoring of the phase-out of remaining transitional suspensions is theoretically required by the Treaty, the Secretariat does not propose in practice to devote substantial staff resources to this activity in 2000.

In all of the above areas, the Secretariat will strive to cooperate closely with other international organisations in order to ensure full complementarity of efforts on related subjects. Accordingly, the calculated staff time devoted to the activities described below encompasses in each case the need to devote certain Secretariat resources to the development of cooperation with relevant organisations. In particular, the Secretariat will seek to develop further its existing close links with the EU, IEA/OECD, World Bank, WTO, EBRD and other relevant institutions. Dialogue on relevant topics will also be developed with other international bodies whose mandate complements that of the Secretariat, notably the BSEC (with whom the Conference agreed on reciprocal observer status in 1999), OSCE, and others as appropriate.

The Secretariat will also maintain regular contacts with the Brussels-based Missions of Contracting Parties/Signatories in between Conference meetings, which will include periodic briefing meetings at the Secretariat to which all such Missions will be invited.

The Secretariat will seek more involvement of the energy industry of constituency countries, particularly in the area of transit.

Finally, it should be noted that in implementing this Work Programme, the Secretariat will have to take into account the results of the Review of the Functioning and Implementation of the Charter Treaty and PEEREA which the Conference is due to undertake by the end of 1999 in accordance with Article 34 (7) of the Treaty.

# Energy Charter Secretariat's Work Programme for 2000

## 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. In particular, they will give priority to strengthening the policy dimension of the Charter process, to overall strategic and political aspects of the Secretariat's work, and to developing the Secretariat's contacts with governments of Contracting Parties/Signatories at the highest political level, with their diplomatic representations in Brussels, and with relevant international organisations and institutions.

Such contacts will be required in particular concerning implementation of the Treaty, the further development of the Multilateral Transit Framework initiative, and activities relating to PEEREA. Relations with the energy industry, including its Brussels-based associations or unions, need also to be promoted.

Consultations will also be required at political level with countries wishing to become more closely involved in the Charter process and eventually to accede to the Treaty.

Dissemination of public information about the Treaty and its positive impact on the energy sector will require ongoing efforts by the Private Office in such areas as: press and public relations; participation in international conferences; missions to constituent states and to the headquarters of relevant international organisations, etc.

Private Office will also provide advice and organisational support for the Conference Chairman to ensure his close engagement in policy matters relating to the Charter process and to facilitate informal political consultations between the Chairman and Contracting Parties/Signatories.

### 2. LEGAL AFFAIRS

*(24 staff-months)*

Legal Affairs will advise as necessary on all legal aspects of the Energy Charter Treaty and Related Instruments, including negotiations on new legal instruments (Protocols), for instance on energy transit. Legal Affairs will also be responsible for relations with the Depositary, for maintaining transparency documents regarding signatures, ratifications and dispute settlements, and for statutory and contractual issues concerning the Secretariat.

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

### 3. ADMINISTRATION AND FINANCE (72 staff-months plus 3 consultancy-months)

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

### 4. DIRECTORATES

#### 4.1 Ratification and Expansion/Accession

##### 4.1.1 *Ratification of the Energy Charter Treaty/Protocol/Trade Amendment (8 staff-months)*

The Secretariat will continue to provide advice and support to those Signatories to the Treaty which have not yet completed their national ratification procedures of the Treaty and Protocol. Support and advice will also be provided to Contracting Parties/Signatories in relation to the ratification of the Trade Amendment; this latter support will focus on non - WTO Contracting Parties/Signatories because of the WTO related content of the Trade Amendment.

##### 4.1.2 *Expansion/Accession (7 staff-months)*

Contacts will be pursued with countries that have expressed interest in closer relations with the Charter process. Dialogue will also be developed with other states with a view to increasing their familiarity with the Treaty. The Secretariat will upon request assist new participants in signing the European Energy Charter and/or in gaining the status of a regular observer at the Charter Conference meetings, and will initiate the accession process as appropriate.

#### 4.2 Energy Transit

##### 4.2.1 *Multilateral Transit Framework (20 staff-months plus 4 consultancy months)*

The Secretariat's activities in this area in 2000 will build on the mandate decided by the 4<sup>th</sup> Meeting of the Charter Conference concerning negotiations on a Multilateral Transit Framework (MTF). The Transit Working Group will be the focal point of the discussions in this regard. The Secretariat will support the Working Group and its Chairman in preparing for and conducting meetings.

Concentrated efforts will be made to develop, draft and negotiate an MTF, with the aim of finalising a text for adoption if possible by the end of 2000. This work will include:

- detailed elaboration of an MTF, on the basis of the mandate;
- detailed work on Guidelines and Standards. This will include initially the development of a comprehensive list of Accounting Standards and Technical Standards. Co-operation will be established with the administrative bodies of the various international accounting and technical standards, in order to ensure the complementary use of the resources of different organisations;
- continuation of the consultative process with industry, the Chairman and Vice-chairmen of the Transit Working Group and representatives of individual governments and inter-governmental bodies.

#### 4.2.2 Model Agreements

*(19 staff-months plus 2 consultancy months)*

In parallel with the negotiations on an MTF, development of and follow-up work relating to Model Agreements, including Guidelines and Standards, will be carried out. This will include a continuation of the consultative process currently under way with industry, the Chairman, Vice-chairmen of the Transit Working Group and representatives of individual governments and inter-governmental bodies.

In parallel with the development of the MTF and Model Agreements, the following two transit-related activities will also be pursued:

#### 4.2.3 Legislative and Institutional Framework for Transit

*(10 staff-months)*

The Secretariat intends to provide an overview of legal regimes that exist for energy transit, with a view to monitoring implementation of the Treaty and legal conversion in this domain. This activity will build on the results of a number of projects that have been executed by the TACIS, PHARE and SYNERGY programmes of the European Union.

The Secretariat will also conduct an analysis of the role, jurisdiction and authority that governments and regulators have in licensing, construction, operation and other aspects of the functioning of energy transit systems (including transit capacity and tariff issues) in selected important transit countries. This activity will include an overview of the existence, the mandate, the role and the jurisdiction of supervisory authorities, such as competition authorities or regulators in selected transit countries.

#### 4.2.4 Energy Transit Economics

*(10 staff-months)*

The intention is to provide Contracting Parties/Signatories with more detailed information on the various existing cost structures relating to transit systems, thus facilitating their work on the development of an MTF. Understanding cost structures is also an important element in understanding tariffs and tariff methodologies.

The activity will consist of two main components:

- General economic analysis of energy transit costs, with a view to increasing transparency. This will seek to identify the main costs in the various forms of energy transit, such as oil and gas transit through pipelines and electricity transit across high voltage power grids.
- Expansion on work relating to energy tariff methodologies. For transparency reasons, the Secretariat will disseminate information about those energy transit tariffs that are publicly available and in use in selected Contracting Parties/Signatories.

### 4.3 Investment Climate

It is proposed that a continuation of the Investment Group as a Conference sub-group better reflects the reality than a negotiation oriented working group.

#### 4.3.1 Country Reports

*(26 staff-months plus 1 consultancy-month)*

As background material and basis for analysis in preparation for the peer reviews and the market restructuring activities the country reports for all Contracting Parties/Signatories shall be updated and continue to be available on the Secretariat's web site. The reports shall

as a minimum contain a section expanding on the pre-investment exceptions (the “Blue Book”). They shall in addition cover market restructuring developments including privatisation, the existence and nature of relevant state entities, monopoly situations and exclusive and special privileges, and analysis of the overall opportunities for Investors of other Contracting Parties to make investments.

#### *4.3.2 Preparation of the Supplementary Treaty (5 staff-months)*

The Secretariat will continue to prepare for eventual adoption and signature of the Supplementary Treaty, and will maintain close working contacts with Contracting Parties/Signatories over prospects for achieving this goal in 2000. Experience indicates that after adoption it would take half a year to prepare the treaty for signature (e.g. legal scrutiny, translation of documents to all official languages, legal/linguistic rectification, preparations for the event.)

#### *4.3.3 International law developments relevant to investments (3 staff-months plus 1 consultancy-month)*

The Investment Group will monitor various developments in international law and policy with respect to investment, with a view to discussing their potential relevance to the investment related provisions of the Treaty. In particular the Group may examine the relevance of references to international environmental obligations in relation to investment, the relevance of core labour standards and related health and safety issues in international conventions, as well as guidelines on investor behaviour.

#### *4.3.4 Market Restructuring (13 staff-months plus 2 consultancy-months)*

The current project with respect to exchange of experience and evaluation of market restructuring, including privatisation, in the energy sector will be further developed.

Peer sessions reviewing legislation containing discriminatory measures concerning the making of investments (as required by Article 10(9) of the Treaty), with particular emphasis on market access developments, will be used in this context to promote a roll-back of restrictions for Investors of other Contracting Parties/Signatories. Standards/targets for removal of existing restrictions affecting Investors will be discussed in the Investment Group and proposed to the Charter Conference. The Investment Group will review the fulfilment of the standards and targets and report on its findings to the Charter Conference.

In the context of market restructuring, the Secretariat also plans to organise discussions/reviews on conditions affecting existing investments, in particular problems discouraging investment, transfer of payments, post-investment treatment, etc. The primary aim shall be to create a forum in the Investment Group in which especially countries in transition can raise issues related to implementation of the Treaty’s investment provisions.

As a separate, albeit related, issue, it is intended that the Investment Group consider devising alternative models for best practice management for addressing energy sector markets becoming over-concentrated. This activity shall be complementary to WTO activities and not go beyond existing legal obligations.

#### 4.4 Trade

It is assumed that in 2000 there will be still at least 10 non-WTO countries in transition applying WTO trade rules based on the Treaty. The Secretariat will continue to closely monitor relevant developments in and intensify co-operation with the WTO as more Contracting Parties/Signatories move towards full WTO membership.

The Secretariat will seek to increase the benefits provided by the EU-TACIS project "Energy Charter Treaty Trade Implementation in CIS countries pending full WTO membership" (see 4.4.5 below) and by other technical co-operation programmes, including through bilateral TACIS projects, to countries concerning implementation of trade-related provisions of the Treaty and Trade Amendment.

It is proposed that a continuation of the Group on Trade as a Conference sub-group better reflects the reality than a negotiation oriented working group.

##### *4.4.1 Notification System*

*(10 staff-months)*

Trade-related notifications encompass notifications by non-WTO Contracting Parties/Signatories under the WTO-by-reference approach (additional information on notifications by WTO countries to the WTO will also need to be processed for comparison), and Article 29(3) notifications by all Contracting Parties/Signatories.

The Secretariat will be responsible for

- day to day running of the notification system;
- review and improvements/updates to the notification system as necessary;
- notifications are to be made available on the Internet, mirroring WTO transparency practice with appropriate links to the WTO web-site.

##### *4.4.2 Follow-up on Notifications*

*(6 staff-months plus 2 consultancy-months)*

Certain activities foreseen in the applicable provisions of the WTO Agreement are automatically 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. The Secretariat will also assist with tasks, which are triggered by some delegations' requests in response to notifications from other delegations or the lack of full compliance by certain Contracting Parties/Signatories with notification obligations (i.e. consultations on technical barriers to trade).

The Secretariat will follow up on any specific tasks or queries arising in relation to notifications received, and will investigate lack of due compliance with the notification system.

##### *4.4.3 Dispute settlement under Annex D*

*(4 staff-months)*

The Secretariat will continue preparations for dealing with disputes for settlement under Annex D of the Treaty, following the decision in 1999 by the Charter Conference that the draft Rules of Procedure governing Annex D's dispute-settlement provisions may serve as basis for the operation of panel proceedings. This will include continued work towards the adoption of the Rules of Procedure for Panel Proceedings as well as assistance aimed in particular at non-WTO members, which will also encourage the designation of experts for

inclusion on the roster of panelists provided for by Annex D. The Secretariat will provide practical assistance to any panels as required, including assistance in the selection of panelists, handling of communications concerning dispute cases, compilation of relevant factual materials, and assistance in producing the panelists' final report. The workload imposed upon the Secretariat in this area will naturally depend on the number of cases brought: should panel proceedings be invoked, additional resources will be necessary to allocate to this task in 2000.

#### *4.4.4 Review of possibilities of moving to a legally binding tariff commitment (3 staff-months)*

The Secretariat will, in accordance with the provisions of the Trade Amendment, conduct the review on the introduction of legally binding tariff commitments as an annual exercise.

#### *4.4.5 EU-TACIS project on implementation of the trade-related provisions of the Treaty (8 staff-months)*

For CIS countries' implementation of trade-related provisions of the Treaty and Trade Amendment an important role is to be played by the above-mentioned EU-TACIS project on Trade Implementation of the Treaty. Assistance provided under this project will include human resource training in capitals and help in setting up the required network linking up the institutions concerned. Its aim is to facilitate compliance with Treaty obligations such as notification and other transparency requirements. Specific non-WTO members will be assisted in their efforts to fully implement the trade-related provisions of the Treaty and Trade Amendment and to comply in particular with the respective WTO-based requirements. Under the TACIS project, assistance will exclusively be provided to countries' activities following from their obligations under the trade provisions of the Treaty and Trade Amendment.

The Secretariat will provide guidance and advice to the TACIS project in order to maximize the benefit of the project in stimulating and further enhancing compliance with the trade provisions of the Treaty and Trade Amendment.

#### *4.4.6 Transparency on Trade Provisions (7 staff-months plus 2 consultancy months)*

The Treaty as amended by the Trade Amendment makes the GATT/WTO provisions on trade in goods applicable to trade in all Energy Materials and Products as defined in Article 1 (4) of the Treaty and Annex EM, and to Energy-Related Equipment as defined in Article 1(4 bis) of the Treaty and Annex EQ. Energy Materials and Products include some which have specific technical attributes .

The Secretariat should as a priority provide increased transparency about the application of the WTO rules on trade in goods with regard to all Energy Materials and Products and, upon request, also with respect to the specific attributes of particular Energy Materials and Products, with a view to assisting in particular non-WTO members in their efforts to comply fully with the trade provisions of the ECT.

For trade in Energy Materials and Products among the Contracting Parties/Signatories, at least one of which is a WTO member, it will be important that in particular those Contracting Parties/Signatories who are preparing or implementing market restructuring, liberalisation and unbundling are aware of the scope of the existing potential international trade rules.

Thus it is necessary to provide information about the content of applicable rights and obligations and the potential implications of the relevant principals of GATT/WTO rules (e.g. Articles I, III and XI of the GATT) together with the potential impact of safeguard measures and exceptions (including under Article XIX, XX, XXI and XXIV of the GATT).

Building on the Transparency Papers on Applicable Trade Provisions of the Energy Charter Treaty and on Trade-Related Notification Requirements and Procedures, follow-up work should contribute to deepening the understanding of applicable trade provisions. A Transparency Document on applicable trade provisions and principles under the Energy Charter Treaty and in particular on implications of the applying WTO rules for trade in Energy Materials and Products and any relevant experience with their application will be prepared for submission to the mid-2000 Charter Conference meeting.

#### 4.5 Environmental Aspects (Article 19 of the ECT)

##### *4.5.1 Environmental Costs and Energy Prices* (8 staff-months [plus 2<sup>2</sup>])

Price reform, including energy prices, is crucial in the process of transition towards market economies. At the same time, it is understood that environmental considerations are an integral part of energy policies. Appropriate reflection of environmental cost in energy prices will stimulate rational and efficient use energy.

In order to assist dissemination of best practices concerning the integration of environmental concerns/cost into pricing policies, the Secretariat will prepare an overview on progress made in the reflection of environmental costs in the price of energy products and the extent to which abatement costs are included in energy pricing, both in OECD countries and in those with economies in transition. The work will, wherever possible, use existing material and may concentrate initially on some selected Contracting Parties/Signatories. Effects of such internalisation of environmental costs should be assessed in terms of economic impact and of its contribution towards meetings environmental obligations.

#### 4.6 Transparency

##### *4.6.1 Enquiry Points* (4 staff-months)

The Secretary will facilitate and organise the integration of Enquiry Points into all aspects of the 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.

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<sup>2</sup> If additional A-Grade post is approved by the Charter Conference

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

*17 staff-months [plus 10<sup>3</sup>] plus 4 consultancy-months*

In 1999 the Working Group established by the Charter Conference became fully operational. The Group took specific action in areas identified as priorities by the Charter Conference, such as the development of energy efficiency strategies and analysis of financing mechanisms. The Group acted in accordance with its main tasks: to organise periodic reviews and to identify measures for improving Energy Efficiency; to act as a forum for exchanging experiences; to develop proposals for specific activities under the Protocol; and to report to the Charter Conference on progress in implementing the Protocol every year.

Activities will be based on priorities identified in the Working Group meetings and based on recommendations from the Charter Conference, making extensive use of co-operation with other International Organisations. Perseverance in keeping track of progress made in improving energy efficiency and in identifying new opportunities is a key part of the process of restructuring and modernising of economies. Core activities will be the monitoring of progress in energy efficiency in participating countries and exchanging experiences on relevant issues.

The reviews are an excellent tool for the monitoring of the overall fulfilling of the PEEREA as well as for other international decisions and agreements on energy efficiency made by governments, for instance the decisions on energy in the 'Aarhus declaration'.

The review process relies on two complementary actions: the development of a general monitoring system and in-depth energy efficiency reviews. The review format, developed and tested in 1999, is the basis for monitoring progress in energy efficiency, supporting sustainable conditions for the economy. The in-depth reviews serve as the main tool for achieving a platform of international co-operation, exchange of experience and detailed analysis and discussion of efficiency and environmental issues of common concern.

The Secretariat proposes to undertake in-depth reviews of energy efficiency policies.

Furthermore, the agreed review format will be completed and presented for the constituency. This exercise will have to be repeated periodically in future. Based on the information gathered, it is the aim to prepare a first assessment of the implementation of the Protocol by the end of 2000. Furthermore, a comprehensive analysis should be made available to the Energy Charter Conference and the Kiev Environment for Europe Conference in 2002.

The Secretariat will assist countries in completing this task as part of its monitoring and catalysing of the implementation of the Protocol. Special attention will be paid in this context to the introduction of market oriented prices and to the commitments made in Aarhus related to the phasing out of the environmental harmful subsidies.

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<sup>3</sup> If additional A-Grade post is approved by the Charter Conference

The discussions on and the recommendations from the energy efficiency in depth reviews, as well as the overview of the implementation of the PEEREA resulting from the general monitoring process, can reinforce the need for further analyses on specific themes (e.g. financing, taxation policy and subsidies in 1999). The Secretariat will actively seek to link the needs of the countries on energy efficiency related questions to existing expertise by using networks of international organisations (including the role of international financial institutions), specific experts and consultants. Specific themes for the year 2000 are expected to include the use of flexible mechanisms, the relation between energy efficiency and market transformation, and the use of best available energy efficient technologies.