

ENERGY CHARTER SECRETARIAT

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Related documents: CC 209, CC 209 Corr., CC 211, CC 213, RD 4 (ECC of 20 06 2002), RD 5 (ECC of 20 06 2002), RD 6 (ECC of 20 06 2002)
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DECISION OF THE ENERGY CHARTER CONFERENCE

Subject: Reports submitted to the 10th Meeting of the Energy Charter Conference on held on 20 June 2002

- **Report by the Chairman of the Working Group on Energy Efficiency and Related Environmental Aspects**

The Chairman of the Working Group provided the Conference with an overview of the Group's activities during the first half of 2002. It was noted that country presentations had been made to the last meeting of the Group in June 2002 by the Czech Republic, Estonia, Kyrgyzstan and Switzerland, and that these would be made available on the Energy Charter's web-site. Two further in-depth energy efficiency reviews, of Estonia and Turkey, were planned for the second half of 2002. At its last meeting the Group also held a policy discussion on issues of cogeneration and district heating and their contribution to energy efficiency, which may serve as the basis for future activities in this area by the Group. The Chairman of the Group presented the present situation concerning the preparation of a comprehensive report on implementation of the energy efficiency policy recommendations and guidelines of the 1998 UN-ECE Ministerial Conference in Aarhus for the follow-up UN-ECE Ministerial Conference in Kyiv in May 2003. He urged those countries that have not yet submitted their national contributions to this report to do so by the middle of August. It was noted that the governments of Denmark and the UK have already provided financial and technical support for this project through voluntary contributions, and that the Finnish government is considering a possible voluntary contribution to finance the printing of the report, once finalized. The Chairman of the Group also informed the Conference on the development of the Group's relations with other relevant international bodies and representatives, and on its preliminary work

Keywords: Transit Protocol, Working Capital Fund, Exceptional Draw, Policy Discussion, Gas Market Issues, Customs Duties, Croatia, Slovenia

plans for 2003. It was noted with appreciation that the Czech Republic had offered to host a meeting of the Working Group next year.

The Conference Chairman thanked the Chairman of the Working Group on Energy Efficiency and Related Environmental Aspects for this overview of the Group's activities, and underlined the Conference's appreciation of the voluntary contributions made or being considered by Denmark, the UK and Finland for the compilation of the report for the Kyiv Conference in May 2003.

- **Report by the Chairman of the Transit Working Group, and Procedures for finalisation of negotiations on an Energy Charter Protocol on Transit and for its adoption and signature (CC 209)**

[The Conference approved the proposal circulated as Room Document 4 that the negotiations on the Protocol on Transit be brought to an end at the next meeting of the Conference in December 2002.]

[The Conference approved the proposal by the Conference Chairman that he and the Secretary General be granted the authority to hold discussions with the Danish government on all relevant technical and administrative issues with regard to the preparation of the 11th Meeting of the Conference in December 2002 in Copenhagen.]

- **[The Conference approved the proposal contained in Room Document 6]** to allow the Secretariat to draw in 2002 on the Working Capital Fund established with the balance of funds (56.217 Euros) unspent in 2001 from the previously-approved exceptional draw on the General Reserve Fund for transit-related purposes. This proposal, made on the basis of consultations with the Chairman of the Budget Committee, was put forward in order to ensure the financing of costs related to the continuation and conclusion of the negotiations, including additional expenditure for consultations concerning the preparation of a compromise package.
- **[The Conference took note of the analytical paper on gas market issues submitted by the Secretariat and circulated to delegations in document CC 211.]**

[The Conference] Chairman concluded that there was general agreement with the principle of holding policy discussions, of a non-committal nature, on such issues of current interest at the Conference, provided that the issues in question are of relevance to the core tasks of the Charter process, and that any unwarranted duplication of discussions in other organizations is avoided. Concerning document CC 211, the Chairman tasked the Secretariat with preparing a modified version of the paper, taking account of the comments made by delegations. This revised version might then be re-circulated to delegations, he suggested, or eventually at a later stage be made publicly available under the authority of the Secretariat.

- **[The Conference took note of the report by the Vice-Chairman of the Investment Group.]**

The Vice-Chairman of the Investment Group (representing the Chairman of the Group, who was unable to attend this meeting of the Conference) reported to the Conference on the Group's most recent activities. Concerning the latest review of horizontal exceptions to the Treaty's investment-related provisions, he noted that this had resulted in the overall number of exceptions maintained by Contracting Parties/Signatories being reduced from 114 to 99, which is now reflected in the latest edition (June 2002) of the register of exceptions issued by the Secretariat ("Blue Book"). The Vice-Chairman reported that work was continuing within the Group on the development of best-practice guidelines in

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the area of restructuring and privatization in the energy sector, a revised version of which would be considered at the next meeting of the Group in the autumn. He also informed the Conference on the Group's activities regarding contacts with the business community and its plans to establish individual country pages on the Energy Charter web-site.

Concerning the Supplementary Treaty, the Vice-Chairman noted that the Group had discussed at its most recent meeting the relationship between this agreement and the GATS agreement, and had established that there may be a certain overlap between the two in the area of energy services, which might complicate the negotiating position of Contracting Parties/Signatories within the WTO. The Group also heard a presentation from the International Confederation of Free Trade Unions concerning its views on the draft Supplementary Treaty's provisions on social and environmental standards. Discussions on the Supplementary Treaty would continue at the next meeting of the Group.

The delegation of the Russian Federation took the floor to request that the country report due to be submitted to the Investment Group this autumn on the investment climate and market restructuring in Russia's energy sector be postponed until the first half of 2003, in the light of the fact that several new legal documents of direct relevance to the content of this report were now in the process of being finalized. The Secretary General undertook to consider this request together with the Chairman of the Investment Group, but added that such a proposal could only be agreed to on the understanding that it would be the last such postponement of the Russian country report, which has already been rescheduled on two occasions previously.

The Conference Chairman thanked the Vice-Chairman of the Investment Group for his report, and encouraged the Group to pursue further the initiatives and activities mentioned above.

- Report by the Chairman of the Trade Group, including report on possibilities for moving to a legally-binding commitment on customs duties.

The Chairman of the Trade Group reported on the Group's recent activities. Concerning the possibilities for moving to a legally-binding tariff commitment, he recalled that the Group had been asked by the Conference to hold further discussions on this issue, in line with the obligation under the Treaty to conduct an annual review of possibilities in this area. The Group had concluded that at present there were no possibilities for moving towards such a legally-binding commitment. The Conference Chairman took note of this situation, and asked the Trade Group to present its proposals to the next Conference meeting concerning possible ways of reconciling the annual review obligation with the reality of the lack of prospects for progress on this issue.

The Chairman of the Trade Group noted that, following discussions and clarifications within the Group on the issue of the compatibility of obligations under the WTO with the commitments that Contracting Parties take on under the Treaty, the delegation of Japan was satisfied that no further actions on this issue were required at this stage. He expressed thanks to the delegation of Japan for the constructive spirit it had shown in resolving this issue.

Concerning the draft study on Regional Electricity Markets prepared for consideration by the Group, the Chairman of the Trade Group outlined the obstacles to trade in electricity that it covers. At the request of the Group, the Secretariat had been tasked with developing possible policy options that might be considered in order to address these obstacles. A revised draft of the study, incorporating inter alia written comments from

delegations and the results of fact-finding consultations that the Secretariat will undertake with the electricity industry, will be submitted to the next meeting of the Group. The Conference Chairman welcomed this report, and encouraged the Secretariat to continue developing its work on the electricity study in line with the input that it receives from delegations and industry. Mr V.I. Dzangirov (Chairman of the Executive Committee of the Electric Power Council of the Commonwealth of Independent States, attending the Conference as an observer) took the floor under this item and reiterated the interest of his organization in the commencement of negotiations on a binding Protocol on Electricity under the Charter's auspices as the most appropriate means of addressing the issues raised by the draft electricity study.

It was also reported that the Trade Group had reviewed, at the request of Slovenia, recent measures introduced by Croatia with regard to road transit of oil and oil products. Slovenia had informed the Group that it had requested bilateral consultations with the Croatian side under Article 27(1) of the Treaty in order to resolve this issue. The Chairman of the Trade Group noted that the Secretariat had offered its good offices to both parties in order to facilitate a settlement. The delegation of Croatia informed the Conference that the Croatian Ministry of Economy was giving consideration to this question and would respond soon. The delegation of Slovenia thanked the Secretariat and the Chairman of the Trade Group for their efforts to resolve this matter, but expressed regret that no response had yet been forthcoming to Slovenia's efforts on a bilateral basis to suggest means of achieving a solution. The Conference Chairman urged both parties to make every effort to resolve the above-mentioned issue on an amicable basis bilaterally, within the framework of the Treaty.

Concerning compliance with the Treaty's trade-related notification obligations, the Chairman of the Group reported that, unfortunately, the present situation remained far from satisfactory. With the aim of improving the compliance of non-WTO Contracting Parties/Signatories with these obligations, the Group had recommended that certain incentives be introduced, including in relation to participation in the one week training course on notifications to be organized in February 2003 with financial support from Switzerland. The Conference Chairman echoed the appeal for all Contracting Parties/Signatories that are not yet WTO members to comply with the Treaty's notification obligations, and thanked the Swiss authorities for their voluntary contribution in support of the next planned training course on notifications.