

**ENERGY CHARTER
SECRETARIAT**

CCDEC 2003

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Brussels, 26 June 2003

Related documents: CC 237, CC 250

DECISION OF THE ENERGY CHARTER CONFERENCE

Subject: Establishment of a subsidiary body of the Energy Charter on Transit Issues, based on initial Mandate of the Transit Working Group

[The Energy Charter Conference at its 12th Meeting held on 26 June 2003] *approved* the proposal (circulated in document CC 237) to establish a subsidiary body of the Charter Conference on transit issues, based on the initial Mandate of the Transit Working Group, with the understanding that should any new legally-binding instruments relating to transit be proposed in the future, a new negotiating mandate would be required for this purpose.

[The Terms of Reference of the Working Group on Transit are attached at Annex.]

Keywords: Working Group on Transit, ToR, Terms of Reference

**Terms of Reference for the Working Group on Transit
As approved by the Second Meeting of the Energy Charter Conference
on 3-4 December 1998**

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.