

**ENERGY CHARTER  
SECRETARIAT**

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**DECISION OF THE ENERGY CHARTER CONFERENCE**

**Subject: Secretariat's Work Programme for 2005**

[The Energy Charter Conference at its 15<sup>th</sup> Meeting held on 14 December 2004 *approved* the Secretariat's Work Programme for 2005 as contained in CC292, amended by Room Document 4, with the request of the delegation of Kyrgyzstan to include to the Programme the specific countries that will be the subjects of In-depth Energy Efficiency Reviews in 2005.]

Keywords: Secretariat's Work Programme

## Energy Charter Secretariat's Work Programme for 2005

as adopted by the Energy Charter Conference  
at its 15<sup>th</sup> Meeting held on 14 December 2004

### INTRODUCTORY NOTES

The Secretariat's Work Programme for 2005 has been prepared on the basis of the strengthened priority to promote implementation of the Energy Charter Treaty (ECT). In its elaboration of the proposed activities, the Secretariat has made particular reference to the current review of the Energy Charter, conducted in 2004 pursuant to Article 34(7) of the Treaty, and has included in this respect an indication of anticipated outputs for each programme activity, in response to the Review recommendation for the formulation of 'accountable targets'.

In this context, the main themes of the Work Programme for 2005 are the following.

- *A focus on implementation and related policy activities in the 'core' areas of Charter activity:* investment, trade, transit and energy efficiency. As indicated in the draft report on the review, the strength of the Charter process is its combination of a unique legal basis and its potential as a policy forum. The activities described in the Work Programme are therefore linked to the application and implementation of the Treaty, and are supported, where appropriate, by targeted discussions on relevant policy areas.
- *Cooperation with other international organisations and interaction with the business community:* the Secretariat will continue to make a consistent effort to ensure that its activities are complementary to those of other international organisations, notably the International Energy Agency (IEA). Interaction with the business community will be greatly facilitated by the establishment in 2005 of an Industry Advisory Panel, following the decision of the Charter Conference to this effect in June 2004.

The detailed description of activities included in the Work Programme includes estimates of allocated staff and consultancy months.

The Work Programme has been prepared on the assumption that the subsidiary bodies of the Charter Conference will meet twice in 2005. Activities in the areas of trade and transit are included in a single section, reflecting the draft review proposal that – subject to the decision of the Conference – the Groups in these areas be merged.

The summary, included overleaf, draws delegations' attention to some of the main aspects of the Programme. The full Work Programme follows, with a summary of the staff month calculations attached at Annex I.

## **SUMMARY**

*Private Office:* the activities of the Private Office will continue to provide the overall direction and operational co-ordination of the Secretariat's work. As in previous years, a priority will be to facilitate the ratification of the Charter's legal instruments in those Signatory States where this remains to be completed. In this context, an external event is planned for the spring of 2005 in Minsk on the Treaty and its relevance for Belarus. The Private Office also has the lead responsibility for supporting the Charter Conference in its implementation of the conclusions of the Article 34(7) review.

*Cooperation with International Organisations; External Events; Horizontal Activities:* the Secretariat is committed to ensuring that its activities are complementary with those of other international organisations. To this end, two external events planned for 2005 are foreseen in collaboration with other international partners. Following the successful practice of holding an annual conference in recent years, the Secretariat proposes a 2005 Conference on Risk Reduction in the Energy Sector, which could be held jointly with the IEA. Likewise, a workshop in Turkmenistan is envisaged as a joint initiative of the Government of Turkmenistan, the Secretariat, and the European Commission.

In addition, the Secretariat will support the activities of the Industry Advisory Panel (IAP) and secure the development of the interaction between the ECT constituency and the IAP.

*Ratification, Accession and Relations with Non-Signatories:* in addition to its support for the ratification process in the five Signatory States where this remains outstanding, the Secretariat intends to continue and deepen its cooperation with current observers, notably China, Iran, ASEAN and the Mediterranean countries.

*Investment Issues:* this section of the Work Programme retains its traditional focus on the core activities of the Investment Group in monitoring implementation of the investment-related provisions of the ECT (in particular, through country reviews of investment climate and market structures, and monitoring of exceptions in the "Blue Book"). The in-depth reviews will continue with the format adapted in the light of the experience gathered in 2004, in order to facilitate focused discussions of the national policies in the Investment Group. In addition, more follow-up Reports on investment climate and market structure will be discussed to monitor compliance of reviewed countries with the policy conclusions of the Conference.

In order to share the experience of the advanced market economies and ensure a balanced approach, the Secretariat will initiate a review of the Investment Climate and Market Structure across a selected number of these economies, using existing studies and materials wherever possible. This will aim to compare alternative policy approaches, and to draw general conclusions of value for the whole ECT constituency.

As a new initiative, the Secretariat will explore the possibility of establishing a risk-reduction dialogue, reflecting the fundamental changes underway in the energy sectors of ECT countries. Liberalisation is progressing in many countries and regulatory frameworks are being developed, enhancing transparency and promoting competition. On the one hand, increased transparency could reduce risks in the market place. On the other hand, fundamental changes lead to new types of cross-border risks, as well as new regulatory risks. As a first step, the Secretariat would seek more information on and analyse risk factors, which would allow the Investment Group to identify options for risk mitigation policies.

As a follow-up to the workshop held in May 2004 on Best-Practice Guidelines on Energy Market Restructuring (including Privatisation) selected issues related to restructuring and privatisation will be examined in greater depth.

*Trade and Transit:* the Secretariat plans in 2005 to review the trade-related aspects of ECT countries' competition policies and laws (ECT Article 6). A new topic in 2005 will be an analysis of obstacles to technology transfer (ECT Article 8). The work on promoting cross-border cooperation in the electricity sector, initiated following the request of the CIS Power Council, will continue and be broadened with reference to other initiatives at regional level in the power sector. The objective is to foster a pragmatic discussion on the elements associated with cross-border electricity cooperation by exchanging information on existing regional and sub-regional initiatives, for example the regional energy market in South-East Europe. The work should include an examination of trade barriers that are related to the physical characteristics of energy flows.

The transit section of the Work Programme for 2005 foresees activities relating to the conclusion of the Energy Charter Protocol on Transit. Another main focus of the proposed activities will be the monitoring of implementation of the transit-related provisions of the ECT. The Secretariat proposes to analyse the implementation practices in the Contracting Parties of the non-discrimination principle, access to networks for energy transit/transport as well as existing obstacles to construction of new transport facilities.

The Secretariat will also finalise its review of transit tariffs and underlying methodologies and an assessment of their conformity with the requirements of the Treaty and the draft Protocol.

*Energy Efficiency and Related Environmental Aspects:* the Work Programme for the implementation of PEEREA and Article 19 of the ECT focuses on a continuation of the review process of signatory states' fulfilment of their commitments under PEEREA, in the form of regular reviews, in-depth reviews and reporting of most recent developments in the area of energy efficiency.

A new study will examine the barriers to energy efficiency improvements in the transition process, where there is a significant untapped potential for improvements and where several countries seek to build up energy efficiency policies. The study will result in a report to the PEEREA Group addressing legal, institutional, financial, administrative barriers to energy efficiency measures and suggesting ways to reduce the barriers.

Another study will address progress and differences in residential energy efficiency across the ECT constituency. Residential energy efficiency will be analyzed for a number of selected countries, which are illustrative of the situation in the entire constituency. There are important differences in the residential energy efficiency situation and in the policies directed at this sector. A report to the PEEREA Group will identify trends, compare the situation in various countries, and point to policy priorities.

In continuation of the work undertaken in 2004 on carbon trading and energy efficiency the Secretariat will report to the PEEREA Group on the effects of the EU Emission Trading Scheme. It will also report to the Group on trends in renewable energy policies and their integration with energy efficiency and environmental policies.

## **Energy Charter Secretariat's Work Programme For 2005**

*(Note: All staff-month calculations include secretarial support and secondees' output)*

### **1. PRIVATE OFFICE**

*(84 staff-months)*

The Secretary-General and Deputy Secretary-General, supported by the Private Office, will be responsible for:

- overall direction and operational co-ordination of the Secretariat's work, and strategic and political aspects of the Secretariat's role, including the development of contacts with governments of Contracting Parties/Signatories, with their diplomatic representations in Brussels, and with relevant international organisations and institutions, with the aim of promoting implementation and awareness of the Treaty and its related instruments;
- high-level political contacts with those Signatories that have yet to complete their ratification of the Charter's legal instruments, with the aim of facilitating the ratification process;
- consultations at political level with countries wishing to become more closely involved in the Charter process and eventually to accede to the Treaty;
- relations with the energy industry and its associations, and with other relevant bodies and organisations dealing with energy issues;
- raising the level of public awareness of the Treaty and its impact on the energy sector via public relations activities, participation in international conferences, and high-level contacts with constituent states and with the headquarters of relevant international organizations;
- advice and organisational support for the Conference Chairman and Vice-Chairmen to ensure their close engagement in matters relating to the Charter process;
- information policy, including all external communications and the maintenance of the Energy Charter's web site.

In addition to the above, Private Office is responsible for the coordination, monitoring and quality control of all work relating to the translation of Energy Charter documents from and into Russian.

Private Office also has the lead responsibility within the Secretariat for supporting the Charter Conference in its implementation of the conclusions of the review, which, in accordance with Article 34(7) of the Treaty, is being carried out in 2004.

## **2. COOPERATION WITH INTERNATIONAL ORGANISATIONS; EXTERNAL EVENTS; HORIZONTAL ACTIVITIES**

*(16 staff months<sup>1</sup>)*

2.1	<i>Co-operation with international organisations</i>	
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In all areas of activity described in the Work Programme, the Secretariat will strive, in accordance with Article 34(4) of the Treaty, to ensure that its activities are complementary with those of other relevant international organizations. 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 such organisations.

The most relevant organisations in this context are the World Trade Organisation (WTO) and the International Energy Agency (IEA), but this consideration applies in specific areas also to the International Energy Forum (IEF), the OPEC Secretariat, UN-ECE, the EBRD, and regional organisations such as ASEAN, BASREC and BSEC. The Secretariat will also maintain close contacts with other regional initiatives, such as that to create a regional energy market in South-East Europe.

In relation to the WTO, the Secretariat will investigate the possibility of an arrangement with the WTO Secretariat (including the possibility of observership) aiming at enhanced cooperation in the areas of information exchange, and education on energy-specific issues of trade rules.

2.2	<i>Conference on Risk Reduction in the Energy Sector</i>	<i>7 staff-months</i>
<i>Output:</i>	<i>Conference in Brussels</i>	<i>Timing: 2<sup>nd</sup> half 2005</i>

Following the successful practice of holding annual public events, the Secretariat will organise a conference in 2005 on the risk reduction in the energy sector. It is envisaged that this could be organized jointly with the IEA. The programme will cover a range of issues, including an examination of the main risks throughout the energy chain and how these are affected by policy choices, i.e. towards more open and competitive energy markets across Eurasia. The Conference will look in particular at the role in this context of legal guarantees provided by the ECT and other public international legal instruments.

2.3	<i>Workshop in Turkmenistan on access of Turkmen energy to international markets</i>	<i>2 staff-months</i>
<i>Output:</i>	<i>Workshop in Ashgabat</i>	<i>Timing: January 2005</i>

At the invitation of the Government of Turkmenistan, the Secretariat will organise with the European Commission a workshop on access of Turkmen energy to international markets. The event, to be held in Turkmenistan, should address issues of market access and international cooperation, the investment climate, and transit and trans-border projects.

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<sup>1</sup> The staff-months are shared (8+8) between the two Directorates.

Participation would also be open to representatives of other relevant Energy Charter member countries, as well as from international financial institutions and energy companies.

<i>2.4 Interaction with the Industry Advisory Panel</i>	<i>3 staff-months</i>
<i>Outputs: Assistance to the arrangements for meetings of the IAP in 2005  Securing the interaction between the Conference and its subsidiary bodies and the IAP</i>	<i>Timing: one meeting early 2005 and one early autumn (tentative).  as needed.</i>

The Secretariat will support the set-up of the IAP and secure the development of the interaction between the ECT constituency and the IAP in accordance with the Terms of Reference of the IAP as adopted by the Conference. This activity is based on ECT Articles 9(3) and 6(2), and PEEREA Article 3(6).

<i>2.5 Improving Transparency</i>	<i>3 staff-months</i>
<i>Output: Creation of individual country pages, up-dates of individual country pages</i>	<i>Timing: ongoing</i>

The Secretariat will continue to establish and update individual country pages on the ECS website in 2005 in cooperation with member countries, and in conjunction with ICMS and Follow-up ICMS Reports. The concept will be evaluated in order to assure that the aim is reached, that is, to provide the public with up-to-date information on ECT-related issues in member countries (for instance, status of ratification of ECT, texts of energy-related legislation, contact details of relevant state authorities and links to their national websites, and similar issues). This activity is based on ECT Article 20.

<i>2.6 Enquiry Points</i>	<i>1 staff-month</i>
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The Secretariat will continue to inform Contracting Parties/Signatories on designated enquiry points, and, where necessary, will review existing enquiry points to make sure that they are available to provide relevant information.

**3. RATIFICATION, ACCESSION AND RELATIONS WITH NON-SIGNATORIES**  
(18 staff-months<sup>2</sup>)

<i>3.1 Ratification of the Treaty/PEEREA/Trade Amendment</i>	<i>5 staff-months<sup>3</sup></i>
<i>Output: Support to Signatory States in their ratification process</i>	<i>Timing: ongoing</i>

The Secretariat will continue to provide technical advice and support to those Signatories (Australia, Belarus, Iceland, Norway and the Russian Federation), which have not yet completed their national ratification procedures for the Treaty. Support and advice will also be provided to Contracting Parties/Signatories in relation to the ratification of the Trade Amendment, especially to those of the Contracting Parties which are not yet WTO members. The Secretariat will continue to assist Serbia and Montenegro in the consultation process for the elaboration of their terms for accession to the Energy Charter Treaty and the Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects.

In support of initiatives taken by Private Office, the Secretariat intends in 2005 to make a particular effort to raise awareness about the Energy Charter Treaty in Signatories that have yet to ratify, among which a key country is the Russian Federation. These efforts will include the organisation of events on the Treaty and its provisions aimed at the national energy industry, international energy companies with operations in the country(ies) concerned, and at relevant opinion-formers and decision-makers, in particular representatives of national parliaments (see for example 3.1.1. below).

<i>3.1.1 Workshop on the Treaty and its relevance for Belarus</i>	<i>2 staff-months</i>
<i>Output: Workshop in Belarus</i>	<i>Timing: 1<sup>st</sup> half of 2005</i>

This workshop is envisaged as a joint initiative of the Secretariat and the Government and Parliament of Belarus, and would be aimed at parliamentary deputies, officials from the relevant Government institutions, and energy companies. The workshop will cover the Treaty and its obligations, with an examination of the implications of ratification for the Belarusian energy sector.

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<sup>2</sup> This activity is the responsibility of the Directorate for Trade, Transit and Relations with Non-Signatories

<sup>3</sup> This resource allocation is in addition to the significant resources that will be devoted by the Private Office in 2005 to promoting ratification and developing relations with Non-Signatories at political level.

3.2 <i>Relations with Non-Signatories</i>	<i>13 staff-months</i>
<i>Outputs:</i> <i>Round Table for observer countries</i>	<i>Timing:</i> <i>2Q 2005</i>
<i>For Asia: joint event with National Development and Reform Commission in Beijing:</i>	<i>3Q 2005</i>
<i>For Mediterranean countries: joint event with Robert Schumann Institute Florence:</i>	<i>to be clarified</i>
<i>Support of Iranian process towards ECT accession</i>	<i>as required</i>
<i>Monitoring possible candidates wishing to accede</i>	<i>ongoing</i>

The focus of the Secretariat's work with observer states will be to develop a focused relationship, guided by the need to ensure that observer status is a stepping-stone to full membership. Following consultations with member states, the Secretariat intends to make proposals in this regard to the Energy Charter Conference, including the possibility to introduce a limited duration of observer status.

Following the practice established over the past two years, the Secretariat will hold its third yearly 'Round Table' forum for the observer states; this serves as a means to provide information on Charter activities and to exchange views on the observer states' possible accessions to the Energy Charter Treaty.

*- Asia*

The North East Asian region constitutes the main focus of the Secretariat's effort in Asia. Following up on contacts during 2004, the Secretariat will continue the dialogue with the authorities of the People's Republic of China and the Republic of Korea with the aim of closer involvement of these countries in the Energy Charter process. The Secretariat has proposed to the National Development and Reform Commission of China to hold a joint event in Beijing in the second half of 2005. The possibility of enhancing relations with the ASEAN countries through the ASEAN Centre for Energy will also be explored.

*- The Mediterranean*

The Secretariat will continue its efforts to promote the Treaty and its provisions to the countries of the southern Mediterranean, in line with the conclusions of the December 2003 EU Energy Council. This will include efforts to assist Tunisia in its progress towards accession, and also contacts with the other two observers from this region, Algeria and Morocco. It is envisaged to hold an event in 2005, in partnership with the Robert Schuman Institute in Florence, to promote the Charter process to the Mediterranean countries.

*- The Middle East*

The main focus for activities in this region will be to follow up on contacts with the Government of the Islamic Republic of Iran, on the basis of the seminar held in Tehran in February 2004 and the study being conducted by the Iranian Institute for International Energy Studies on the economic benefits of Iranian accession to the Energy Charter Treaty.

**4. INVESTMENT ISSUES**  
(42 staff-months + 2 consultancy-months)

4.1 Country Reports on Investment Climate and Market Structure	25 staff-months
<i>Output:</i> <i>Two In-depth ICMS Reports</i> <i>(possibly including one multi-country study – see below)</i>  <i>Up to six follow-up Reports</i>	<i>Timing:</i> <i>one in spring, one in autumn</i>    <i>up to three in spring, up to three in autumn</i>

The Investment Group will review the reports on Investment Climate and Market Structure in accordance with the agreed Table of Contents for regular reports and procedures for in-depth reports.<sup>4</sup> The activity is based on ECT Article 10(9).

The reports will cover information on the general investment climate through examination of relevant legislation, with particular emphasis on market access developments. Special emphasis will be placed on monitoring remaining pre-investment exceptions in view of the undertaking of Contracting Parties/Signatories to remove progressively discriminatory restrictions for investors of other Contracting Parties/Signatories.

The reports will likewise focus on the process of energy market development and restructuring, including regulatory frameworks and the issue of access to capital (ECT Article 9). The aim is to facilitate discussion among experts on the complex and politically sensitive issues of restructuring energy markets and privatisation, focusing on countries with economies in transition.

Both the in-depth and follow-up reviews will continue in 2005. The purpose is to arrive at a lively and focused debate in the Group on key policy issues. This will be supported by a more extensive Secretariat evaluation of the investment climate to be included in the report.

The review process will include a monitoring, through follow-up reports, of compliance by member countries with the policy recommendations adopted by the Charter Conference in respect of ICMS Reports. At the same time, this procedure will give member countries an opportunity to share their experience in implementing the policy recommendations and to discuss recent developments.

Representatives of economies in transition have requested that reports should not only be presented by member countries in transition, but also by economically more advanced market economies. At several occasions, the Chairmen of the Investment Group and the Chairman of the Conference have appealed to the latter group of countries to volunteer for such a review in order to share their experience with energy market restructuring, privatisation and the creation of an attractive investment climate with the economies in transition. The grounds for this request are still valid, but in the event that it remains unanswered the Secretariat intends to respond by initiating a study on the Investment Climate and Market Structure covering a selected number of the developed economies,

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<sup>4</sup> These reports will continue to be available on the Energy Charter web site.

with the emphasis on the various approaches to market reforms and re-structuring of the energy sector.

This would allow a comparison of the main features of alternative reform policies and to draw conclusions of general value for the ECT constituency. The selection of countries, to be agreed with the countries concerned, should reflect the variety in policy approaches. The review would be drafted by the Secretariat in consultation with the selected countries and would draw wherever possible on existing sources of information. The Secretariat will seek cooperation with the IEA when undertaking this study. Following the established peer-review process for the Investment Climate and Market Structure Reports, the Investment Group could be invited to endorse policy conclusions from the study.

This review process will be supplemented by monitoring the exceptions in the “Blue Book” (see activity 4.2), the further work on aspects of the “Best Practices Guidelines on Restructuring/Privatisation” in light of the workshop held in Brussels in May 2004, and the possible organisation of a further similar event (see activity 4.4).

4.2	<i>Monitoring of Exceptions in the “Blue Book”</i>	<i>3 staff-months</i>
<i>Output:</i>	<i>Revised versions of the Blue Book</i>	<i>Timing: ongoing</i>

The Secretariat will continue its overall analysis and monitoring of non-conforming measures of Contracting Parties/Signatories in the pre-establishment phase of an investment as compiled in the “Blue Book” (updated regularly monthly to bi-monthly). The purpose of this activity is to provide for full transparency concerning existing country-specific exceptions to the principle of non-discrimination, and to work towards their gradual elimination.

An efficient mechanism to promote such a “roll-back” has proved to be consideration within the Investment Group of relevant legislation, with particular emphasis on market access developments. The Secretariat will pursue such peer-review activities with respect to individual non-conforming measures notified by Contracting Parties/Signatories. In particular, the Secretariat will identify existing notifications in the “Blue Book”, which can be considered to be of minor importance, and seek to clarify whether there is a need to maintain them. The activity is based on ECT Article 10(3), (5), (9).

4.3	<i>Preparation of Risk Reduction Dialogue</i>	<i>5 staff-months</i> <i>2 consultancy-months</i>
<i>Outputs:</i>	<i>Identification and assessment of the most relevant risks</i>	<i>Timing:</i> <i>Spring 2005</i>
	<i>Conference in Brussels (see activity 2.2)</i>	<i>2<sup>nd</sup> half 2005</i>

In response to requests for greater focus on the core objectives of the ECT process and in pursuit of implementation in these areas, the Secretariat will as a new initiative explore the possibility of establishing a risk-reduction dialogue in the energy sector. There are several reasons for this. New types of risks emerge because of fundamental changes in the energy sector where liberalisation is progressing in many countries and regulatory frameworks are

being developed, enhancing transparency and promoting competition. On the one hand, increased transparency could reduce risks in the market place. On the other hand, fundamental changes lead to new types of cross-border risks, which are in addition to new regulatory risks.

It is proposed to concentrate initially on the identification and assessment of specific types of risks for investments in the energy sector. This would allow the Investment Group to identify options for risk mitigation policies. The project could receive inputs from the IAP and cooperation will be sought with other international organisations active in this area, such as the IEA and UNCTAD.

4.4	<i>Best Practices Guidelines on Privatisation / Restructuring</i>	<i>3 staff-months</i>
	<i>Output Design of workshop</i>	<i>Timing: Autumn 2005</i>

Following the finalisation of The Best Practices Guidelines in 2003, and the workshop on the Guidelines organised by the Secretariat in 2004, selected facets of the broad range of issues covered by the Guidelines will be further developed. This will include an examination of preconditions for success in the privatisation process and of regulatory models suitable for the energy sector in advanced market economies compared to economies in various phases of transition. It is envisaged to organise a workshop, focusing on these issues, in the fall of 2005. In the process of this work, the Secretariat will seek interaction with stakeholders (government agencies, international financial institutions, industry via the IAP, etc.)

4.5	<i>Review of ECT implementation in selected areas</i>	<i>4 staff-months</i>
	<i>Output Submissions to the Investment Group</i>	<i>Timing: ongoing</i>

The Investment Group will continue its exchange of information on measures adopted by Contracting Parties/Signatories with regard to energy-related foreign investment. This activity has been recognised by the Group as being an important element in the monitoring of implementation of the ECT's investment provisions. It supplements the generic country reports on investment climate and market structure by reference to individual recent cases and provides delegations with up-to-date information about recent developments, examines whether these developments might have implications for Contracting Parties/Signatories under the ECT, and invites to a discussion of these issues in the Group. This activity is based on ECT Article 20.

To further strengthen the role of the Investment Group, the Secretariat will pursue the preparation of occasional papers on selected investment-related issues. It will likewise continue to invite representatives of relevant outside bodies (energy companies, financial institutions, academia and international organisations) to make presentations on their investment-related activities in member countries. These activities are based on ECT Art.2.

<i>4.6 Supplementary Treaty Issues</i>	<i>2 staff-months</i>
<i>Output Note to the Investment Group on the Prospects for the Supplementary Treaty</i>	<i>Timing: Spring 2005</i>

The Secretariat will continue to closely monitor the developments in the WTO concerning the GATS and possible future negotiations on a multilateral framework for investment. In view of the interest expressed by several member countries in the context of Article 34(7) review, the Secretariat will assist the Investment Group in a fresh assessment of the prospects of resuming the suspended negotiations on the Supplementary Treaty. This activity is based on the ECT Article 10 (4).

## 5. TRADE AND TRANSIT ISSUES

### TRADE

(27 staff-months + 3 consultancy-months)

5.1 <i>Implementation of ECT Competition Provisions (ECT Article 6)</i>	6 staff-months 1 consultancy-month
<i>Output: Background paper by the Secretariat, as a basis for further monitoring by the Group</i>	<i>Timing: To be discussed at the spring meeting of the Group</i>

A study on competition issues in the energy sector has been launched in 2004. The study will examine the core competition-related issues of energy market liberalisation, including the role of competition policies of ECT members in securing market contestability and their relationship with sector regulations. It will also review the current competition policies and laws in the ECT area.

Following the discussion of the preliminary results of the study at the November 2004 meeting of the Group on Trade, it is proposed to undertake additional analyses in priority areas during 2005, with the objective of promoting the implementation of national competition policies in line with ECT Article 6. In this context, the Group in 2005 could initiate an assessment of the implementation of ECT Article 6 by Signatories/Contracting Parties. This activity may require external consultancy and additional information supplied by the Contracting Parties.

5.2 <i>Obstacles to Technology Transfer (ECT Article 8)</i>	6 staff-months
<i>Output: A exploratory expert meeting preceded by a paper for Energy Charter internal discussion to identify the existing differences in technology application and possible obstacles to technology transfer</i>	<i>Timing: 2 Q 2005</i>

As suggested during the current review process, the Secretariat will prepare an initial background paper to take stock of differences in the state of applied commercial technology and to identify the obstacles to the transfer of technology, e.g.: basic economic conditions in the energy sector, the trade and investment conditions in general and especially conditions conducive (or obstructive) to transfer of technology into major ECT energy producing countries. The paper will identify potential market-friendly measures aimed at facilitating technology transfer. Because of its cross-cutting nature, this work will be undertaken in close cooperation with the Investment Group.

5.3	<i>Cross-Border Cooperation in the Electricity Sector [ECT Articles:3, 4, 7]</i>	<i>7 staff-months</i>
	<i>Output: An examination of the existing models in the Charter constituency for market opening in the electricity sector, and approaches to tackling barriers to cross-border cooperation.</i>	<i>Timing: 2 Q 2005</i>

Following the request from the CIS Electric Power Council, the Secretariat and the Group will continue to facilitate discussions on the further development of cooperation in the electricity sector. Out of five broad areas that need to be addressed in designing a future framework for electricity cooperation - technical standards, cross-border interconnections, market liberalisation, environmental standards and trade/investment regimes - the areas of market liberalisation and trade and investment regimes have been identified as focus for the Secretariat's work.

In relation to cross border electricity cooperation, and in accordance with the approach endorsed by the Conference in June 2003, the priority will be to address the market reforms that are conducive to greater integration and freer trade in electricity. Of particular relevance in this context will be the planned reports on markets and environment to be developed jointly by Eurelectric and the CIS Electric Power Council.

This debate can be enriched with reference to other initiatives at closer regional and sub-regional cooperation in the power sector. Examination, for example, of the experience of the countries of South-East Europe in creating a regional energy market could facilitate a focused discussion in the Group on the elements associated with greater integration of energy markets. The objective would be to support other ECT countries in formulating their approaches to this issue.

In this context, the Secretariat proposes to examine also the trade barriers related to physical characteristics of energy flows, (i.e. related to governance of different transmission systems). This can be done most effectively in cooperation with such organisations as the OECD, IEA, ETSO, and the Florence Forum.

The role of the Charter process in this regard is two-fold. On the one hand, the Treaty itself provides common principles (non-discrimination, transparency, an orientation to market solutions) that serve as a legal foundation for closer integration. On the other hand, the Charter process as a whole provides a unique forum for policy dialogue in this area.

5.4	<i>The Impact of CO<sub>2</sub> Reduction Measures on Energy Trade</i>	<i>6 staff-months 2 consultancy months</i>
	<i>Output: Study describing CO<sub>2</sub> mitigation regimes in selected ECT Contracting Parties, and the effects of these regimes on power generation and energy trade.</i>	<i>Timing: 4 Q 2005</i>

Climate change policies can have repercussions for energy trade, and the Secretariat will continue to monitor the trade-related aspects of these policies, taking into account the guidelines established by the Group on Trade. In 2005, the follow-up work will include

updates on the development of emissions trading schemes in the EU and other ECT countries, and the analyses of interface between emissions trading and other measures to implement the Kyoto Protocol (notably the Clean Development Mechanisms and Joint Implementation) and the impact on electricity generation, trade and related energy flows in the light of the trade provisions of the ECT /WTO. This will be done in co-operation with the IEA and the organisations of UNFCCC.

5.5 <i>Dispute Settlement under Annex D</i>	<i>1 staff-month</i>
<i>Output: Monitoring</i>	<i>Timing: ongoing</i>

Subject to the continuation in 2005 of the WTO negotiations on the review of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), the Secretariat will continue to monitor developments in Geneva. The Secretariat will also follow up on any updates to the trade-related dispute settlement provisions of the ECT under Annex D that might be necessary once the negotiations in the WTO have been successfully concluded. The Secretariat will also maintain, and seek to expand, the roster of panellists in order to be in a position to establish panels, if so required.

5.6 <i>Binding Tariff Regime and ratification of the Trade Amendment</i>	<i>1 staff-months</i>
<i>Output: Expert Meeting to formulate recommendations</i>	<i>Timing: 1<sup>st</sup> half of 2005</i>

The Group on Trade has discussed ways to assist Contracting Parties with ratification of the Trade Amendment. In this context, it is suggested to convene an expert meeting to look into this issue, in order to eliminate any differences between the substantive trade provisions of the ECT (which is still based on GATT 1947) and the WTO, and provide recommendations back to the Group.

### **TRANSIT**

*(36 staff-months + 3 consultancy-months)*

5.7 <i>Activities Relevant to the Transit Protocol</i>	<i>7 staff-months</i>
<i>Output: Bilateral meetings between the EU and the Russian Federation</i>	<i>Timing: ongoing</i>

Based on the decision of the June 2004 Charter Conference, whereby the Conference agreed to renew efforts to complete the Energy Charter Transit Protocol within a reasonable timeframe, and based on the resumption of the bilateral meetings between the EU and the Russian Federation, the Secretariat envisages activities in 2005 in support of this objective. These should include further bilateral consultations between the EU and the Russian Federation as necessary, aiming at successful finalisation of the bilateral consultations in the first half of 2005 and preparation of the Protocol for adoption and signature.

5.8 <i>Implementation of the ECT Transit Provisions (ECT Article 7)</i>	<i>12 staff-months 2 consultancy-months</i>
<i>Output:</i>  <i>Monitoring papers on the implementation of the Transit Provisions</i>  <i>Updated overview of the status of new transport facilities</i>	<i>Timing:</i>  <i>end 2005</i>  <i>ongoing</i>

The main theme of the 2005 activities related to transit will be the monitoring of how the transit-related provisions of the ECT are implemented. This will be pursued through multi-country analyses of the following issues:

- implementation of the non-discrimination principle;
- practices for access to networks for transit/transport of energy in selected Contracting Parties; and
- legal and regulatory framework for the construction of new transport facilities and possible obstacles.

External consultants may be required to develop some aspects of the above analyses.

The analysis of the framework for the construction of new transport facilities could be complemented by greater transparency between ECT member states on the status of new energy transport facilities relevant to cross-border flows. This would be based on a concept presented to the autumn 2004 meeting of Transit Group.

In addition, the Secretariat will undertake a review of domestic laws addressing the requirements of various provisions of the draft Transit Protocol (i.e. the authorization procedures/legislation concerning the construction, expansion and operation of transit facilities).

5.9 <i>Transit Tariffs and Underlying Methodologies</i>	<i>6 staff-months 1 consultancy-month</i>
<i>Output:</i> <i>Finalised report on this topic</i>	<i>Timing:</i> <i>3 Q 2005</i>

The Secretariat will complete and present to the Group its analysis – that was launched in 2004 – of transit tariffs in various ECT members, including the underlying methodologies for establishing such tariffs and the degree of their compliance with the principles of objectiveness, transparency, non-discrimination and cost-reflectiveness. Some input from external consultants may be needed for parts of this analysis. The analysis will be completed and presented to the Group in the spring of 2005.

5.10 <i>Domestic Natural Gas Transportation Laws</i>	<i>5 staff-months</i>
<i>Output:</i> <i>Finalised reports and dissemination</i>	<i>Timing:</i> <i>3 Q 2005</i>

Over the last two years, the Secretariat has undertaken reports on the domestic natural gas transportation laws of nine ECT countries. This work will be completed in 2005 with a cross-country comparison on how gas transit is regulated in various ECT countries.

<i>5.11 Eurasian Natural Gas Market Issues</i>	<i>6 staff-months</i>
<i>Output: Conclusions and dissemination of results</i>	<i>Timing: mid 2005</i>
<i>Separate internal papers on cost-reflective gas prices</i>	<i>mid 2005</i>

In 2005, the Secretariat will seek to draw conclusions on specific Eurasian Natural Gas Market issues in two areas:

- i. An initial exchange of views on the report “Eurasian gas production scenarios” at the autumn 2004 meeting of the Transit Group should lead to some refinements of the report and further discussions in the spring of 2005. The objective of the report is to assess future expected changes in the gas trade flows in Eurasia and their implications for the development of Eurasian gas markets.
- ii. The Working Group should also conclude in 2005 its debate on the “Economic consequences of introducing cost reflective natural gas prices” on the basis of a revised report on the Russian Federation. This report, and other reports on Ukraine and the Slovak Republic completed earlier, addresses the practical implications of gas price reforms and discuss ‘best practise’ options for implementing such reforms.

**6. ENERGY EFFICIENCY AND RELATED ENVIRONMENTAL ASPECTS**  
(36 staff-months)

6.1 <i>Review Process</i>	<i>18 staff-months</i> <i>2 consultancy-months</i>
<i>Outputs:</i> <i>Two In-depth Reviews of National Energy Efficiency Policies</i> <i>6 standard energy efficiency reviews</i> <i>2 progress reports on earlier in-depth reviews</i>	<i>Timing:</i> <i>One in spring, one in autumn</i> <i>3 in spring, 3 in autumn</i> <i>One in spring, one in autumn</i>

The PEEREA review process, based on regular and in-depth energy efficiency reviews, provides a unique platform of international analysis and discussion on energy efficiency and environmental issues.

The regular reviews serve mainly to monitor progress in implementation of the PEEREA obligations. Reviews should be updated at regular intervals (*i.e.* every 2-3 years) and member countries should periodically present recent developments and progress at the Working Group meetings. As a new feature the regular reviews could include relatively short sections on renewable policies and climate change policies (to the extent relevant for energy efficiency policy). The Secretariat will assist countries in preparing and presenting their reports. Once finalised, these reports will be made available on the website of the Energy Charter.

The in-depth reviews are the main tool for offering peer guidance to Governments in developing and implementing their energy efficiency policies. The Secretariat will continue these in-depth reviews for selected countries in co-operation with other international or regional organisations as appropriate. As in previous years, two in-depth reviews are planned, of Kyrgyzstan and Georgia, for 2005. Follow-up on the implementation of the recommendations of earlier in-depth reviews will continue.

In addition to the formal reviews, countries will be invited to report on recent energy efficiency trends, including policy implementation and new initiatives. These briefs improve the monitoring by the PEEREA Group of the countries' energy efficiency policies and measures.

Further analysis and activities will be undertaken drawing on the review process and on the results of the studies undertaken in 2004. The Secretariat will work to promote wider dissemination of the results of PEEREA activities.

6.2 <i>Energy Efficiency and Renewables in the transition process</i>	<i>8 staff-months</i> <i>0.5 consultancy-months</i>
<i>Output: Finalisation of report</i>	<i>Timing: Autumn 2005</i>

Improving energy efficiency and promoting renewable energy sources in the context of economic restructuring and energy market liberalisation represent a challenge for many PEEREA countries. In many economies in transition, governments seek to build up energy

efficiency policies or to strengthen the existing framework in order to exploit the significant potential for energy efficiency improvements. For these countries, the development of good practices could benefit from the experiences of other PEEREA countries, while taking into account the local economic and social circumstances.

The study will address legal, institutional, financial, and administrative barriers to energy efficiency and to renewables. It will be based on information from the review process and will draw upon additional information and analysis.

The Secretariat will assist the interested countries in initiating work on national energy efficiency indicators, following the example of the ADEME project financed by the EU Save programme for Central and Eastern Europe (CEE). As was the case for the CEE project, such a project for the CIS would require funding.

6.3	<i>Energy Efficiency in the Residential Sector – a PEEREA perspective</i>	<i>7 staff-months 1 consultancy-month</i>
<i>Output:</i>	<i>First draft of Report</i>	<i>Timing: Autumn 2005</i>

The residential sector is one of the main end-use energy sectors in both developed and transition economies. There are, however, important differences in the energy efficiency situation across the countries of the ECT. In the EU 15 there has been significant progress over the last decade, notably in regard to the efficiency of appliances and more recently also in buildings. In CEE there have been efforts at modernisation and support for the penetration of energy efficient appliances, but it has proved more difficult to achieve progress in relation to the energy performance of buildings. There has been less progress in CIS countries in both areas. A report will provide a non-exhaustive cross-country analysis of these issues, identify market trends, and point to policy priorities and areas for governmental intervention.

6.4	<i>Energy Efficiency and Emission Trading</i>	<i>3 staff-months 0.5 consultancy-months</i>
<i>Output:</i>	<i>Report on emissions trading and effects on energy efficiency</i>	<i>Timing: Autumn 2005</i>

Following up on the report “Carbon trading and Energy Efficiency” produced in 2004, the Secretariat will report to the PEEREA Group on the effects of the EU Emission Trading Scheme, in particular on the use of flexible mechanisms to promote energy efficiency improvements such as demand side energy efficiency projects.

Also as a follow up on the activities in 2004, the Secretariat will report to the Group on trends in renewable energy policies and their integration with energy efficiency and environmental policies.

## 7. LEGAL AFFAIRS

(30 staff-months)

7.1 <i>Energy Charter Treaty Commentary</i>	12 staff-months
Output: <i>Substantial progress towards completion of the Commentary</i>	Timing: <i>ongoing</i>

As indicated in the Work Programme for 2004, the aim of the commentary will be to provide a coherent and authoritative legal analysis of the provisions of the Energy Charter Treaty, with the objective of assisting interested parties in assessing and implementing the legal obligations of the Treaty.

This commentary will take the form of an article-by-article commentary and analysis of the provisions based on the *Travaux Préparatoires* and the relevant rules and principles of international law, including case law. It will give a comprehensive overview of the content and aim of the Treaty as well as an overview of its negotiating history.

Work on this commentary is carried over from 2004 because of the volume of preparatory work and a change of personnel in Legal Affairs. This activity will be the main focus for Legal Affairs in 2005.

7.2 <i>Dispute Settlement Mechanisms</i>	4 staff-months
Outputs: <i>Workshop on ECT dispute settlement procedures in Brussels</i>  <i>Conference on ECT and Investment Arbitration in Stockholm</i>	Timing: <i>First half of 2005</i>  <i>June 2005</i>

In response to various requests from delegations to have better information on the dispute settlement mechanisms available under the Treaty, the Secretariat will organise a workshop in the first half of 2005 on the dispute settlement procedures available under the Treaty to which all interested parties will be invited. The workshop will also include discussion on possible alternative dispute settlement mechanisms (e.g., good offices and mediation).

In addition, the Secretariat intends to co-organise, with the Arbitration Institute of the Stockholm Chamber of Commerce, a Conference on 'Investment Arbitration and the Energy Charter Treaty'. This Conference will cover topics such as the concept of expropriation, Treaty claims and contractual responsibilities, state responsibility, and investors and investments covered by the ECT.

7.3 <i>Model Agreements for Cross-Border Pipelines</i>	2 staff-months
Output: <i>Examination of possibility to update Model Agreements</i>	Timing: <i>2<sup>nd</sup> half of 2005</i>

At its December 2003 meeting, the Charter Conference took positive note of the First Edition of Model Agreements ("MAs"), which were subsequently widely circulated to

member states, relevant industries and law firms. As a follow up, Legal Affairs will continue to promote the MAs and, as authorised by the Conference in 2003, Legal Affairs will also examine the need and possibility to review and expand the First Edition.

7.4 <i>Permanent Responsibilities of Legal Affairs</i>	<i>12 staff-months</i>
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Legal Affairs will continue to provide overall legal advice and assistance to the Charter Conference and its subsidiary bodies. Legal Affairs will, in particular, be responsible for providing the necessary legal advice and support to the finalisation of the Transit Protocol, as well as advice on internal issues for the Secretariat.

## **8. ADMINISTRATION AND FINANCE**

*(66 staff-months)*

The main areas of work of Administration and Finance are Budget, Personnel, Financial Administration, Information Technology and Support Services; specific activities are as follows.

- Budget: preparation of draft Budgets, financial control of expenditure, collection of outstanding contributions and preparation of documents for the Budget Committee.
- Personnel: recruitment and appointment procedures and all other issues related to the implementation of the Secretariat's Staff policies and rules.
- Financial Administration: administration and control of all commitments, payroll and expenditure; preparation of annual Financial Statements and assistance in the Audit procedure.
- Information Technology: maintenance and upgrading of all communication and other technical facilities of the Secretariat, ensuring the functioning of all IT systems, developing and maintaining the public and restricted areas of the organisation's web site.
- Administration and Support Services: various activities, notably office management, document dissemination procedures and support for all ECS meetings, including external workshops and seminars.

## Annex I - SUMMARY OF STAFF MONTH CALCULATIONS

	<i>Staff months</i>
<b>1. Private Office</b>	<b>84</b>
<b>2. Cooperation with Int'l Organisations; Ext. Events; Horizontal Activities</b>	
2.2 Conference 'Security of Energy Supply'	7
2.3 Turkmenistan seminar	2
2.4 Interaction with IAP	3
2.5 Improving transparency	3
2.6 Enquiry points	<u>1</u>
<i>Sub-total</i>	<b>16</b>
<b>3. Ratification, Accession and Relations with Non-Signatories</b>	
3.1 Ratification of the Treaty / PEEREA / Trade Amendment	7
3.2 Relations with non-signatories	<u>13</u>
<i>Sub-total</i>	<b>20</b>
<b>4. Investment Issues</b>	
4.1 ICMS reports	25
4.2 'Blue Book'	3
4.3 Risk reduction dialogue	5
4.4 Best practices guidelines	3
4.5 ECT implementation in selected areas	4
4.6 Supplementary Treaty issues	<u>2</u>
<i>Sub-total</i>	<b>42</b>
<b>5. Trade and Transit</b>	
<b>Trade</b>	
5.1 Implementation of ECT competition provisions	6
5.2 Obstacles to technology transfer	6
5.3 Cross-border cooperation in the electricity sector	7
5.4 Impact of CO <sub>2</sub> reduction measures on energy trade	6
5.5 Dispute settlement under Annex D	1
5.6 Ratification of the Trade Amendment	<u>1</u>
<i>Sub-total</i>	<b>27</b>
<b>Transit</b>	
5.7 Activities related to the Transit Protocol	7
5.8 Implementation of ECT transit provisions	12
5.9 Transit tariffs and underlying methodologies	6
5.10 Domestic natural gas transportation laws	5
5.11 Eurasian natural gas market issues	<u>6</u>
<i>Sub-total</i>	<b>36</b>
<b>6. Energy Efficiency and Related Environmental Aspects</b>	
6.1 Review process	18
6.2 Energy efficiency and renewables in CIS countries	8
6.3 Energy efficiency in the residential sector	7

6.4 Energy efficiency and emissions trading	<u>3</u>
<i>Sub-total</i>	<b>36</b>
<b>7. Legal Affairs</b>	<b>30</b>
<b>8. Administration and Finance</b>	<u>66</u>
<b>TOTAL</b>	<b>357</b>

This calculation corresponds to 28 persons x 12 months and 1 person x 3 months, plus 18 months' worth of secondees' time.