

**ENERGY CHARTER
SECRETARIAT**

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Related documents: CC 431, Mess 1012/12
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DECISION OF THE ENERGY CHARTER CONFERENCE

Subject: Approval of Final Draft of the “Policy on Consolidation, Expansion and Outreach” (CONEXO)

[The Energy Charter Conference *approved* in July] a final draft of the “Policy on Consolidation, Expansion and Outreach” (CONEXO) (CC 431).

[On 8th June 2012, the draft policy on Consolidation, Expansion and Outreach was submitted to the Conference for approval (CC 431) by correspondence. In Message 1012/12 (Annex) delegations were] informed that the Conference’s decision to approve the CONEXO-Policy on Consolidation, Expansion and Outreach has been *adopted*.

Keywords: CONEXO, major issues, Strategy Group, Policy, Consolidation, Expansion, Outreach

**ENERGY CHARTER
SECRETARIAT**

Brussels, 7 August 2012

Message № 1012/12

Subject: CONEXO – Policy on Consolidation, Expansion and Outreach – adopted by Written Procedure

In the document CC 432 Annex 1, the Energy Charter Conference at its meeting on 29 November 2011 in Sofia requested the Secretariat to submit a draft policy paper on outreach, expansion and consolidation. It was decided that this policy would be submitted for discussion in the Strategy Group in view of adoption by the Conference, if possible, by written procedure during 2012.

In the document StG 24, the Secretariat presented a draft Policy on Consolidation, Expansion and Outreach – CONEXO. This document was discussed at the meeting of the Strategy Group on 22 May 2012. As reported in the Summary Record of this meeting (StG 28), the Chairman of the Strategy Group proposed a period of two weeks in which countries could send their written comments to the Secretariat. It was also informed at the same meeting that, after this period, the CONEXO policy would be submitted for approval by the Conference.¹

In the document CC 431 dated 8 June 2012, the Secretariat circulated an updated version incorporating the comments expressed during the meeting of the Strategy Group on 22 May 2012 and received thereafter. In this version, delegations were requested to notify the Secretariat in writing by no later than 11 July 2012 if they were unable to approve the proposed decision on CONEXO – Policy on Consolidation, Expansion and Outreach, in accordance with Rule 20(c) of the Conference's Rules of Procedure (CC 53 Corr.2), concerning the adoption of decisions by correspondence.

Bearing in mind that no such notifications have been received, delegations are hereby informed that the Conference's decision to approve the CONEXO-Policy on Consolidation, Expansion and Outreach has been adopted as it is attached to this Message.

In line with the adopted document, specific items regarding implementation of CONEXO Policy in 2013 will be included in the draft Programme of Work of the Secretariat for the next year.

¹ Rule 20 of the Rules of Procedure for the Conference (CC 53 Corr.2) foresees that in the intervals between the meetings of the Conference decisions of the Conference may be taken by correspondence.

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POLICY ON CONSOLIDATION, EXPANSION AND OUTREACH (CONEXO)

I. INTRODUCTION

This policy paper entitled CONEXO² has been prepared pursuant to the Roadmap for Modernisation of the Energy Charter Process, adopted by the Energy Charter Conference in 2010.

The objective of the CONEXO policy is the enlargement of the geographical area of application of the Energy Charter Treaty and Process in the mutual interests of current Members of the Energy Charter Conference (Members) and potential future acceding states. The policy is considered **the shared responsibility of Members and of the Secretariat**. Members are asked for their political support which may consist of two parts: direct (bilateral) political engagement with relevant countries and the cooperation with the “Energy Charter Liaison Embassies” (ECLE). By means of the ECLE, based on a voluntary basis, Members will contribute to promote the principles of the Energy Charter Treaty, to encourage the host country to accede to the Treaty, and to develop cooperation on Energy Charter matters, and in particular in the implementation of CONEXO. Effective and timely implementation of the policy may also require additional financial support from Members through voluntary contributions. A particular recent example is the voluntary contribution of Germany to the development of the MENA Project which may be considered as a pilot initiative of shared efforts.

Consolidation. This first policy component calls for political support to achieve ratification of the Treaty by those Signatories whose ratification is outstanding. There is a similar call for ratification by those Members who have not yet ratified the Trade Amendment of the Treaty.

Expansion, the second policy component, leading to the final accession of countries whose involvement would be of benefit to the existing constituency. This component will focus on activities related to current Observer countries in order to deepen their involvement with the Energy Charter Process. The ultimate goal will be their accession to the Treaty. At present there are two categories of Observer countries – those who have signed the Energy Charter and those who have not. The policy paper suggests that to avoid this discrepancy in future, all potential Observer countries should sign the 1991 Energy Charter.

Outreach, the third component, refers to the promotion of the Energy Charter Treaty and Process among key energy producing, transit or consuming countries and to respond favourably to any country, irrespective of its geographic location, wishing to strengthen collaboration with the Energy Charter constituency or to become Contracting Party to the Treaty.

The Modernisation of the Energy Charter Process is aimed in particular at addressing the issues which prevent the countries already within the Energy Charter Process from fully joining the Treaty. Different legal instruments, which exist within the Treaty, will be examined to achieve the goals of CONEXO.

The global political situation and energy markets are evolving. Implementation of CONEXO Policy will therefore require a certain degree of flexibility. The activities and priorities expressed are assessed on the basis of the current situation and may well change according to events that arise.

² The term CONEXO policy is derived from the three components; **CON**solidation, **EX**pansion and **OUT**reach

II. BACKGROUND AND OBJECTIVES

The 1991 Energy Charter refers to the promotion of the global energy market as much as of the European one. Since its early days, the Energy Charter Conference has considered the expansion of the Energy Charter Process's geographical coverage to be in the long-term interest of global energy co-operation (CC 146). Following this logic, the legally binding framework created by the Energy Charter Treaty is open for accession by any state (Article 41), irrespective of its geographical location. The ECT has already expanded its constituency beyond its historical borders.

The CONEXO policy is an important component of the Roadmap for Modernisation of the Energy Charter Process which was adopted at the Brussels Energy Charter Conference in 2010. The policy aims at developing the ECT by means of the Modernisation of the Energy Charter Process into an instrument of global energy governance in accordance with the aim of *Common rules for global energy security*. This policy includes the following elements:

1. Consolidation is directed at countries that have not fully completed the process of Treaty ratification, or the ratification of the Trade Amendment.

1-A: The initial constituency of the Energy Charter Treaty was aimed at bringing together the main energy producers, consumers and transit countries within Eurasia. Five countries – Australia, Belarus, Iceland, Norway, and the Russian Federation did not complete the ratification of the Treaty.

1-B: Consolidation will also be focused on the ratification of the Trade Amendment.

Azerbaijan, Bosnia–Herzegovina, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, the Former Yugoslav Republic of Macedonia, Turkmenistan, and Uzbekistan have not ratified the Trade Amendment but apply it provisionally. Japan and Turkey have not ratified the Trade Amendment and do not apply it provisionally.

The Secretariat will propose to the Conference that its current policy should be pursued, namely that any country should ratify the Treaty as amended by the Trade Amendment, together with PEEREA.

2. Expansion refers to those Observers to the Energy Charter who have either signed the Energy Charter, or who have been invited as Observers without having signed the 1991 Charter.

The Expansion of the Energy Charter constituency will target, as a priority, three countries (2-A) who have been invited to accede to the Treaty but whose ratification process is still pending. Furthermore, the Observer countries will be targeted, ranked into two groups (2-B and 2-C), according to their status within the Energy Charter.

2-A: Afghanistan, Jordan and Pakistan are a priority for expansion as they have already been invited to accede to the ECT but their national ratification process is pending.

Afghanistan signed the Energy Charter in 2006. Accession reports were approved by the Conference at its 18th Meeting in Istanbul 2007 (CC 331). The Conference invited Afghanistan to accede to the ECT and to PEEREA. There has been no progress since then on the ratification.

Jordan signed the Energy Charter in 2007. Accession reports were approved by the Conference at its 20th Meeting in Rome 2009 (CC 370). The Conference invited Jordan to accede to the ECT and to PEEREA. The Jordanian Government has recently confirmed its intention to finalise the Accession process.

Pakistan signed the Energy Charter in 2005. Accession reports were approved by the Conference at its 17th Meeting in Brussels in 2006 (CC 312). The Conference invited Pakistan to accede to the ECT and to PEEREA. There has been no progress since then on the ratification.

The process for each of these countries will require additional political activity on the part of interested Members, especially those in their neighbourhood, with regard to the respective countries' political and legislative authorities.

Many of the Observer countries have an important role as energy producers (i.e. in the Middle East and North Africa). Observer status should be seen as a temporary status prior to the country becoming a Contracting Party to the ECT. It is, however, not proposed to limit the duration of the Observer status.

The CONEXO policy will separate the other Observer countries in two groups.

2-B: Canada, Indonesia, Serbia, Syria, and the United States of America have each signed the Energy Charter. In accordance with the Treaty, they are entitled to participate in negotiations on Treaty Protocols and Declarations;

2-C: Algeria, Bahrain, China, Egypt, Iran, Republic of Korea, Kuwait, Morocco, Nigeria, Oman, Philippines, Qatar, Saudi Arabia, Tunisia, the United Arab Emirates, Venezuela were invited by the Conference to be Observers to the Energy Charter Conference without signing the 1991 Energy Charter. They therefore do not have the right to participate in negotiations on Treaty Protocols and Declarations without being officially invited.

In future it would be appropriate to ensure that Observer status is always achieved by signing the Energy Charter.

Future efforts should be focused on the following Observer countries:

Indonesia signed the Energy Charter in 2009. Indonesia is an influential energy producer in Asia Pacific. In 2010 Indonesia seconded an expert to the Secretariat who commenced the preparation of Accession reports. These efforts have not yet been approved by the national authorities.

Republic of Serbia as the Federal Republic of Yugoslavia signed the Energy Charter in 2001. Accession reports were prepared in 2010 with the assistance of an expert seconded from Serbia to the Secretariat, but still have not been sent officially to the Secretariat.

The Secretariat has signed a specific programme with Germany, based on a voluntary contribution. This programme is focused on the Middle East and North Africa countries (MENA Project). The following countries engaged in the MENA Project would also be the focus of expansion policy.

Algeria was granted Observer status in 1995. The country is a significant producer and exporter of oil and natural gas. Almost two-thirds of Algeria's total natural gas exports currently flow through two natural gas pipelines operating between Algeria and Europe. The remaining one-third of total natural gas exports is exported in the form of LNG. Algeria is one of the Maghreb Electricity interconnection countries and is also included in the Mediterranean Solar Plan (MSP).

Morocco was granted Observer status in 1995. The country is the largest energy importer in northern Africa. Morocco is also a transit country for Algerian gas exports to Spain and Portugal. Morocco is one of the Maghreb Electricity interconnection countries and is also included in the Mediterranean Solar Plan (MSP).

Tunisia was granted observer status in 1995. Tunisia is an oil and gas producing country and has important transit capacities and potential. The Trans-Mediterranean (TransMed) pipeline transports Algerian natural gas to Sicily. Tunisia is also included in the Mediterranean Solar Plan (MSP).

Egypt was granted Observer status in 2008. Egypt's mineral and energy resources include oil and gas. Over the past decade Egypt has become a significant natural gas producer. Egypt has a pipeline network for exports to East Mediterranean countries. The country also exports liquefied natural gas (LNG) to Europe, Asia and the Americas. The Suez Canal and Sumed Pipeline are strategic routes for Persian Gulf oil shipments, making Egypt an important transit corridor for world energy markets. Egypt is also included in the Mediterranean Solar Plan (MSP).

Syria signed the Energy Charter in 2010. The country is an oil and gas producer and is important to energy transit in the region. ECT activities with regard to Syria can only be resumed after the political situation in the country normalises.

Qatar was granted observer status in 1995. Among the Gulf countries Qatar could be viewed as a significant country to accede to the ECT and the focus of ECT activities in the region.

In Asia-Pacific priority should be given to the following countries:

People's Republic of China was granted Observer status in 2001.

China participates in ECT activities and provides secondees to the Secretariat. China's full participation in the Treaty would significantly expand the Treaty's scope and significance. As of now the activities might be focused on China's signature to the 1991 Energy Charter.

Republic of Korea was granted Observer status in 2002.

The Republic of Korea is one of the world's most significant energy importers as a major industrial power. National delegates participate in Charter meetings and are exploring the possibilities of more formalised relations with the organisation.

3. Outreach is aimed at the countries at present outside of the Energy Charter Process who are important for the ECT constituency as a result of their geographical location, or their potential as energy consumers, producers or transit countries. Outreach is also aimed at any other state, irrespective of its geographic location or of its development level, who has expressed its wish to strengthen collaboration with the Energy Charter constituency or to become a Contracting Party to the Treaty. The Secretariat will respond favourably to any of these countries.

The Secretariat recommends particular efforts towards the following four countries:

Iraq has important oil and gas producing capacity. Introducing the ECT to Iraq may increase the country's attractiveness to foreign investors.

Libya is an important energy producer. The Secretariat will resume contacts with the country which were discontinued due to the recent conflict.

India is increasingly a significant consumer of energy resources. The development of the TAPI project (pipeline from Turkmenistan to India through Afghanistan and Pakistan) would strengthen the case for India's involvement in the Energy Charter Process.

Montenegro The Secretariat approached the national authorities on the possibility of preparing Accession reports through the secondment programme.

III. WAYS AND MEANS OF CONEXO POLICY

Despite limited resources, all the aspects of this policy should be conducted simultaneously with a prioritisation set out in Annex I.

The CONEXO policy strongly relies upon political support which can only be provided by Members.

The tools of the policy will include the following (not in priority order):

- Ad hoc meetings with non-ratifying Signatories initiated by Energy Charter Secretary General aimed at facilitating the ratification process of the Treaty,
- Coordinated actions between the ECS and Members aimed at implementing the CONEXO policy,
- Round table events for Observer countries with participation of their national experts and representatives of their Embassies in Brussels to discuss issues important to Observers and their views on the ECT,
- Organisation of conferences, seminars, workshops in targeted countries,
- The Energy Charter Liaison Embassies (ECLÉ) to be conducted, on a voluntary basis, by diplomatic missions of the ECT Members to provide liaison support for the Energy Charter Secretariat activities to facilitate achievement of CONEXO goals in the host country,
- Selection of seconded experts from Observer countries to facilitate either Accession Reports or ratification of the Trade Amendment,
- Meetings with Embassies in Brussels, Energy Charter Secretariat missions to countries, maintenance of contacts with relevant authorities and energy players in capitals,
- Promotion of regional cooperation (based on the model of the Task Force for Regional Energy Cooperation) on important regional energy projects, in order to demonstrate the potential of the Energy Charter,
- Using contacts with international organisations (such as United Nations), international regional organisations (such as ASEAN), and international fora (such as G 20) to promote the Energy Charter Process with the support of Members,
- Public relations activities, publications, computerised data collection, selected information on ECS in appropriate languages specifically targeted to serve the CONEXO policy objectives,
- Providing background information and possible speaking points on the Energy Charter for bilateral meetings between an Energy Charter Treaty Member and an Observer.

In order to take into account possible new developments, the Secretariat recommends a flexible approach, with periodic reporting through the Strategy Group and the possibility to adapt this policy.

Successful implementation of the above tools will require input from both the Secretariat and ECT Members. An example of such a joint approach is the support from the German Government for the project “Creating a reliable legal and political framework for energy investments in the Middle East and North Africa (MENA) region on the basis of the Energy Charter Treaty”.

The purpose of that project is to promote the accession of several MENA countries to the Energy Charter Treaty, to lead one pilot country to full accession to the Energy Charter Treaty

in the shortest possible period, and to offer the Energy Charter Conference and the Secretariat as a platform to promote regional energy partnerships as appropriate.

The voluntary contribution allows the finance of:

- the employment of an expert, well connected with the region, for a period of 18 months,
- the organisation of a regional Conference to promote the Energy Charter Treaty,
- Related travel.

In addition, Germany facilitates progress through the provision of political support vis-à-vis targeted countries and diplomatic assistance where appropriate to enhance contacts between the Secretariat and the countries concerned.

IV. REPORTING ON IMPLEMENTATION OF CONEXO POLICY

The Secretariat will provide written CONEXO progress reports for the targeted countries through the Strategy Group and to the Energy Charter Conference on an annual basis. If and when necessary, Members and the Secretariat may propose adjustments to the policy or the priority list for discussion in the Strategy Group and approval by the Conference.

CONEXO POLICY IMPLEMENTATION PRIORITIES
(as of May 2012)

Consolidation (Members)		Expansion (Observers)			Outreach (Others)
1A	1B	2A	2B	2C	3
Ratification of the Treaty, PEEREA, and the Trade Amendment	Ratification of the Trade Amendment	Accession to the Treaty	1. Preparation of Accession Report 2. Accession to the Treaty	1. Signing of the Energy Charter 2. Accession to the Treaty	Achieving Observer status through signing of the Energy Charter
Australia Belarus Iceland Norway Russian Federation	Kyrgyzstan NS Azerbaijan NS Moldova Kazakhstan NS Turkmenistan Uzbekistan Tajikistan Turkey	Afghanistan Jordan Pakistan	Indonesia Serbia NS Syria RT	<u>MENA region:</u> Algeria RT Morocco RT Tunisia RT Egypt RT Qatar <u>Asia-Pacific:</u> P.R. China NS RT Republic of Korea NS RT Philippines	Iraq NS Libya RT India NS Montenegro NS
POLITICAL SUPPORT FROM MEMBERS					

Tools: AhM – Ad Hoc Meetings
NS – National Seconded³
RT – Round-tables and Regional Meetings

³ Secondments: the duration of secondments is normally six months; in case of facilitating ratification of the Trade Amendment, a duration of three months is considered appropriate

**THE DIFFERENT LAYERS OF THE ENERGY CHARTER
CONSTITUENCY**

1) Core constituency, having ratified ECT, PEEREA and Trade Amendment: European Community, Euratom and 35 countries
2) Having ratified ECT and PEEREA, not having ratified Trade Amendment, but provisionally applying it: Azerbaijan, Bosnia and Herzegovina, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, The Former Yugoslav Republic of Macedonia, Turkmenistan, Uzbekistan
3) Having ratified ECT and PEEREA, not having ratified Trade Amendment, not applying it provisionally: Japan, Turkey
4) Having ratified none of ECT, PEEREA, or Trade Amendment, but provisionally applying ECT, PEEREA and TA: Belarus
5) Having ratified none of ECT, PEEREA, or Trade Amendment, applying ECT Chapter VII provisionally: Norway, Iceland, Australia
6) Having ratified none of ECT, PEEREA, or Trade Amendment, having stopped provisional application: Russian Federation
7) Observers whose accession reports have been accepted by the Conference and whose parliamentary ratification is pending: Afghanistan, Pakistan, Jordan
8) Observers having signed 1991 Energy Charter and may participate in Protocol negotiations: Canada, Indonesia, Serbia, Syria, USA
9) Observers not having signed 1991 Energy Charter: Algeria, Bahrain, China, Egypt, Iran, Korea, Kuwait, Morocco, Nigeria, Oman, Palestine National Authority, Philippines, Qatar, Saudi Arabia, Tunisia, UAE, Venezuela
10) Non-observer countries that are important to the ECT constituency: India, Iraq, Libya, Montenegro
11) Non-observer countries that have adopted the substantive ECT provisions: 15 ECOWAS member countries

**TERMS OF REFERENCE
FOR THE IMPLEMENTATION OF THE CONCEPT OF
ENERGY CHARTER LIAISON EMBASSIES (ECLE)**

- The concept of Energy Charter Liaison Embassies in diplomatic missions of the Energy Charter Treaty Members is to be implemented in the capital of the Observer country (when Expansion) or Partner country (when Outreach);
- The ECLE are nominated by the Energy Charter Delegations to the Energy Charter Secretariat on a voluntary basis. These proposals apply to countries within the CONEXO priorities. In particular cases, a Member may propose its participation as ECLE for a country currently outside of CONEXO;
- This concept aims at providing liaison political support for Energy Charter Secretariat activities in the facilitation and achievement of the CONEXO goals;
- ECLE would be required to promote towards the authorities of the host country (country of residence) the interest of the Observer or Partner countries to adhere to the principles of the Energy Charter Treaty and develop cooperation in view of signing the Energy Charter or acceding to the Treaty;
- ECLE are particularly relevant when Members are present as foreign investors, in particular in the energy sector and/or when Members have acquired a long standing political and economic relationship with the host country;
- The Energy Charter Secretariat should keep the Delegates (Strategy Group) informed of the list of ECLE in the host countries. This list will be available on the ECS website (Delegates' section) and will be updated appropriately;
- The Energy Charter Secretariat will inform the ECLE and the relevant Member of any activity of the Secretariat related to the Observer or Partner country;
- The ECLE should disseminate information relevant to the Energy Charter Process among diplomatic representations of the Energy Charter Members in the relevant country using the proper channels.