

**ENERGY CHARTER  
SECRETARIAT**

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**DECISION OF THE ENERGY CHARTER CONFERENCE**

**Subject: Model Energy Charter Early Warning Mechanism**

The Energy Charter Conference at its 25<sup>th</sup> Meeting held on 26th November 2014

**welcomed** the work of the Trade and Transit Group in preparing a Model Energy Charter Early Warning Mechanism that parties can refer to, voluntarily, on a case by case basis, in order to prevent and overcome emergency situations in the energy sector related to the Transit and supply of electricity, natural gas, oil and oil products through cross-border grids and pipelines;

**welcomed** the availability of this Model Mechanism to the Signatories of the future International Energy Charter

Keywords: Model, Early Warning Mechanism, Transit

## **Model Energy Charter Early Warning Mechanism**

- (1) The Model Energy Charter Early Warning Mechanism has been prepared by the Trade and Transit Group and in the context of the Energy Charter Secretariat's Programme of Work for 2014. Parties can refer to it, voluntarily, on a case by case basis. It will be complementary to other mechanisms for early warning and dispute resolution agreed bilaterally between individual parties.
- (2) In the European Energy Charter, the Signatories expressed their desire to improve security of energy supply, and of maximising the efficiency of production, conversion, transport, distribution and use of energy, to enhance safety and to minimise environmental problems, on an acceptable economic basis.
- (3) The Signatories of the European Energy Charter further envisaged to broaden their cooperation in dealing with events in the energy sector with transfrontier consequences.
- (4) Under the Energy Charter Treaty, the Contracting Parties shall secure established flows of Energy Materials and Products to, from or between the Areas of other Contracting Parties and shall not, in the event of a dispute over any matter arising from Transit, interrupt or reduce or permit any entity to interrupt or reduce existing flows of Energy Materials and Products except in cases stated in subparagraph (6) of Article 7.
- (5) The Energy Charter Conference was mandated in Article 34 (3)(b) of the Energy Charter Treaty (ECT) to facilitate the implementation of the principles of the 1991 Charter and of the provisions of the Energy Charter Treaty and the Protocols. Article 35 (4) of the Energy Charter Treaty mandates the Secretariat to provide the Charter Conference with all necessary assistance for the performance of its duties.
- (6) The resolution of controversies in case of emergency was one of the aims stated in the Rome Statement adopted at the 20<sup>th</sup> Meeting of the Energy Charter Conference in Rome on 9 December 2009 (CCDEC2009 (14) GEN).
- (7) In the Road Map for the Modernisation of the Energy Charter Process, adopted at the 21<sup>st</sup> Meeting of the Energy Charter Conference, it was stated that the Energy Charter's approach to securing established flows of energy is a dual one, based on the legally binding provisions of the Energy Charter Treaty as well as the multilateral forum of peers established under the Energy Charter Conference and its subsidiary bodies.

## **Definitions**

- 1.1. **“Emergency situation”** is a situation with a significant disruption or physical interruption of supply of electricity, natural gas and oil within the Energy Charter constituency with cross-border significance;
- 1.2. **“Energy Security Contact Group”** is the primary working body under this Mechanism, which may be established by the Secretary General in view of a situation that could potentially lead to an emergency situation;
- 1.3. **“Energy Charter Monitoring Group”** is a working group that can be established by the Chair of the Contact Group in case of a need to confirm information gathered within the Energy Security Contact Group.

## **Objective and elements of the Model Energy Charter Early Warning Mechanism**

- 2.1. The objective of the Model Energy Charter Early Warning Mechanism is to provide for a non-binding framework aimed at preventing and overcoming emergency situations in the energy sector related to the Transit and supply of electricity, natural gas, oil and oil products through cross-border grids and pipelines;
- 2.2. The methodology of the Model Energy Charter Early Warning Mechanism includes exchange of information and response to requests for information, consultations, confirmation of information and monitoring, risk evaluation and recommendations for action in view of an emergency situation or the threat of an emergency situation.

## **Transparency**

3. Transparency on energy production and consumption, flows, free capacities of pipelines and grids, capacities of underground gas storage and their usage are essential to prevent energy emergency situations. The Energy Charter Conference encourages all market participants to work towards providing such transparency, including by using existing international and multilateral public and private cooperation platforms.

## **Initiation of the Model Energy Charter Early Warning Mechanism**

- 4.1. The Model Energy Charter Early Warning Mechanism may be initiated by any Signatory of the European Energy Charter in case of an emergency situation or the threat of an emergency situation by notification to the Secretary General.
- 4.2. If an emergency situation or the threat of an emergency situation concerns two Signatories of the European Energy Charter that have a comparable bilateral early warning mechanism, it is understood that those Signatories will normally use the

latter mechanism first. Those Signatories can however unanimously decide to use the Model Energy Charter Early Warning Mechanism immediately.

- 4.3. The notification should include relevant information, e.g. a description of the situation, name other parties that may be involved or affected and any information requested from those. The notifying party and the other parties that may be involved or affected will henceforth be named the “Parties Involved”. The Model Early Warning Mechanism applies to Parties Involved subject to their approval.
- 4.4. Within 2 days from the reception of the notification, the Secretary General will inform the Chairman of the Energy Charter Conference and its members and observers, through a communication of the Trade and Transit Group, of the fact that the Model Energy Charter Early Warning Mechanism has been initiated. He will forward the documentation received from the notifying party to those Signatories mentioned in the notification.
- 4.5. If a Signatory of the European Energy Charter who is not included in the initial notification believes that it is also involved or affected, it may send a written request to the Secretary General to be represented in the Energy Charter Contact Group as one of the Parties Involved. The decision on the acceptance of that Signatory as one of the Parties Involved will be taken at the following meeting of the Energy Security Contact Group by consensus.
- 4.6. The Signatories mentioned in the notification are invited to respond promptly to the Secretary General whether they wish to participate in the Model Early Warning Mechanism. In case they wish to participate, they should also provide their own assessment of the situation. The Secretary General will make this information available to the Parties Involved.

### **Energy Security Contact Group**

- 5.1. Following the exchange of written information any of the Parties Involved may request the Secretary General to convene an Energy Security Contact Group. He shall do so no later than three days following the reception of such request.
- 5.2. Alternatively, the Secretary General may convene the Energy Security Contact Group upon his own initiative.
- 5.3. The Energy Security Contact Group is chaired by the Secretary General or his/her representative and will normally include representatives of the Parties Involved, the Chairmanship of the Energy Charter Conference (who will act as Vice-Chair of the Contact Group) and of the Energy Charter Secretariat. Should the Chairmanship be one of the parties concerned, the most senior Vice-Chairman of the Energy Charter Conference, as per definition in CC 464, not representing any Party Involved, will

act in the capacity of the Conference Chairmanship for the meetings of the Energy Security Contact Group and as Vice-Chair of the Contact Group. The Group can decide, by consensus, on inviting further parties to participate in its meetings. If the Secretary General has the nationality of one of the Parties Involved, the Deputy Secretary General or the Director at the Energy Charter Secretariat will chair the Group.

- 5.4. The Energy Security Contact Group encourages the exchange of information among the Parties Involved on issues they consider relevant in view of the prevention or resolution of an emergency situation. The Parties Involved may request information to be provided, on voluntary basis and in compliance with applicable rules and legislation on confidentiality, by any of the other Parties Involved. The Chair of the Contact Group will disseminate information within the Contact Group. The Parties Involved may request the Chair to invite experts to provide information during designated parts of the meetings; they Chair will invite such experts unless any of the other Parties Involved objects.
- 5.5. The Energy Security Contact Group analyses available information in view of an actual threat to energy security. It may, among other things, compile a list of energy infrastructure that is critical for averting an emergency situation, e.g. upstream, midstream, downstream pipelines, metering stations, storage facilities, power generation and transmission facilities.
- 5.6. In view of a perceived risk to established flows of energy materials and products, and in case of a continued lack of transparency despite the efforts set out in section 3 and 5.3, the participants of the Energy Charter Contact Group are invited to consider possible measures to ensure transparency before an emergency situation occurs, including, e.g. with regard to
  - Daily actual flows of gas, electricity and oil across borders from, through or to the areas of the parties involved;
  - Daily nominations for flows of gas, electricity and oil across borders from, through or to the areas of the parties involved;
  - Volumes transited as documented by the operators.
- 5.7. The Energy Security Contact Group will aim at:
  - elaborating a common evaluation of the situation and of the possible further development of events;
  - elaborating recommendations to eliminate the threat of an emergency situation or to overcome the emergency situation, for consideration by the parties involved;

When evaluating the situation and elaborating recommendations, the Energy Charter Contact Group should be guided by the provisions of the Energy Charter Treaty and

the European Energy Charter, and by any bilateral or multilateral agreements or contracts among the Parties Involved that it is aware of.

- 5.8. Following the meetings of the Energy Security Contact Group, the Chair of the Contact Group will draft a report for the Signatories of the Energy Charter Treaty through the delegates of the Trade and Transit Group. The report will be cleared with the Parties Involved and the Vice-Chair of the Contact Group. In case consensus on the report cannot be reached, the Chair of the Contact Group will make sure that diverging views of the Parties Involved are adequately reflected in it. The Signatories of the Energy Charter Treaty may address requests for further information, as well as comments and proposals, to the Chair of the Contact Group, who will make those information, comments and proposals available within the Energy Security Contact Group and ensure follow-up as appropriate.

### **Energy Charter Monitoring Group**

- 6.1. In case of a need to confirm the information gathered within the Energy Security Contact Group the Parties Involved, the Chair of the Contact Group, its Vice-Chair, or the Parties Involved may propose the establishment of an Energy Charter Monitoring Group. The Chair of the Contact Group will establish the Energy Charter Monitoring Group in case this is supported by all the Parties Involved and the Vice-Chair of the Contact Group.
- 6.2. The Energy Security Contact Group will decide, by consensus, on the composition of the Energy Charter Monitoring Group, its speaker and Terms of Reference, including a date when its mandate finishes.
- 6.3. As part of the Terms of Reference, the Parties Involved may agree, within their competence, to facilitate access of the members of the Energy Charter Monitoring Group to critical energy infrastructure established under 5.4. and to necessary information as well as to facilitate the work of the Monitoring Group throughout their presence on their territory.
- 6.4. The Energy Charter Monitoring Group, through its speaker, provides the Energy Security Contact Group with regular updates on their work. The Parties Involved may request, in consultation with the Chair and the Vice-Chair of the Contact Group, ad-hoc oral or written reports from the speaker of the Monitoring Group.

### **Costs**

7. The costs of the work of the Energy Security Contact Group and the Energy Charter Monitoring Group, such as travel and communication, will normally be borne independently by their respective participants. Administrative support may be provided by the Energy Charter Secretariat.

### **Confidentiality**

8. The participants of the Energy Security Contact Group take all necessary measures on the basis of the relevant legal and normative acts of the Parties Involved as well as in accordance with applicable international agreements, to protect confidential information received.

### **Final Provisions**

9. This Decision does not constitute an international agreement or other legally binding document and does not establish rights and obligations governed by international law.