

**ENERGY CHARTER
SECRETARIAT**

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Related documents: CC 498

DECISION OF THE ENERGY CHARTER CONFERENCE

Subject: Report by the Chairman of the Strategy Group

The Energy Charter Conference at its 25th Meeting held on 26th of November 2014 **took note** of the Report by the Chairman of Strategy Group as contained in document CC 498 (attached hereto).

Keywords: Report, Chairman, Strategy Group

Report by the Chairman of the Strategy Group

1. This report provides an overview of the activities of Strategy Group of the Energy Charter (StG) in 2014. The Group convened several times in 2014, in its statutory format dealing with ordinary activities on 24 January, 26 March, 3 June, 17 September and 28 October, in Special Sessions for the signatories of the European Energy Charter on 23 January, 26 March and 28 April and in Special Sessions with invited countries joining the negotiations on the “updated” Energy Charter on 29 April, 23-24 June, 15-16 September and 29-30 October.
2. The main activities of the Strategy Group in 2014 included the negotiations on the “updated” Energy Charter declaration and the Review under Article 34(7) of the Energy Charter Treaty.

A. International Energy Charter

3. At its 23rd Meeting in Warsaw, the Energy Charter Conference decided to launch a process towards the adoption of an update of the basic political declaration of the organisation. As a consequence, in late 2013, the Strategy Group was mandated to start negotiations on the “updated” Energy Charter declaration (CCDEC 201306).
4. In accordance with the “Warsaw mandate” (CCDEC 201219), the Strategy Group first reconvened the Signatories of the European Energy Charter of 1991 with the aim of agreeing upon a text conveying their understanding of the Updated Energy Charter and its final name. The Strategy Group met three times in this format to fulfil this task, which was achieved in early April. The document UEC 5 Rev. reflected this understanding of the Signatories of the European Energy Charter, while it was agreed to decide on the name later in the process and together with the non-members to join the negotiations.
5. Some procedural aspects of the negotiations were pre-discussed by the Signatories of the European Energy Charter and then generally agreed with all negotiating parties (UEC 7, later revised as UEC 7 Rev. 3).
6. For the first round of negotiations on 29 April 2014 the Chairman of the Strategy Group and the Secretary General invited around 40 states that did not yet sign the European Energy Charter. An overview of the negotiating parties to the “updated” Energy Charter is provided in CC 491. In total the Strategy Group conducted four rounds of negotiations within this extended group of states. The final text was agreed in the last meeting on 29-30 October 2014, except for some outstanding issues, which cleared in the following week. The final draft text was then sent to all delegations with the request to confirm its acceptance by their governments. The final name was “International Energy Charter”.
7. Some issues related to the adoption of the International Energy Charter were again discussed in the normal format of the Strategy Group, as they concerned decisions

under the authority of the Energy Charter Conference. Those included the issue of observership for signatories of the International Energy Charter, as envisaged in CCDEC 201306, and a small modification of the Warsaw mandate, to allow for an adoption of the International Energy Charter by all negotiating parties present at the Ad Hoc High Level Conference in The Hague in 2015 and its possible signing by Intergovernmental Organisations. The relevant issues were put forward to the Conference in CC 491.

B. Review under Article 34(7) of the Energy Charter Treaty

8. Article 34(7) of the Energy Charter Treaty (ECT) requires that, at intervals of not more than five years, the Energy Charter Conference ('the Conference') shall review its functions in the light of the extent to which the ECT and PEEREA have been implemented. As a result, the Conference may amend or abolish, if needed, any of the functions specified in Article 34(3) ECT and may discharge the Secretariat.
9. In preparation for the five-yearly Review, and to facilitate it, the Secretariat, in consultation with the Coordinators, drafted a comprehensive report based on the work carried out in the last five years (2009-2014). The report has been based on the opinion of the signatories of the ECT (compiled through a questionnaire)¹ and takes into account the joint reply of the Industry Advisory Panel (IAP). Additional questionnaires were presented to Observers of the Conference – their answers² were not included in the Report, but were considered by the Strategy Group.
10. The draft report has been thoroughly discussed, finalised and approved (StG 71 Rev.) by the Strategy Group during the meetings on 24 January, 26 March, 3 June, 17 September and 28 October. The main objective was to evaluate whether the work of the Conference and its Secretariat should be re-orientated to better respond to the current priorities of the Signatories of the ECT.
11. The recommendations contained in the report were used by the Strategy Group in the preparation of the Conclusions of the Review, which were adopted by the Conference by written procedure (CC 492). The implementation of the conclusions will require further decisions by the Conference, through the Secretariat's Programme of Work of each year, on the basis of available resources (both human and financial).
12. The Strategy Group also discussed a Draft Astana Roadmap taking into account the semi-annual report of the Kazakh Chairmanship of the Energy Charter Conference (Message 1154/14), which contained several suggestions in line with the result of the review under Article 34(7) ECT. The document was put forward to the Conference in document CC 505.

¹ The Secretariat received answers from: Afghanistan, Armenia, the European Union together with its (28) Member States, Georgia, Japan, Kazakhstan, Kyrgyz Republic, Switzerland and Turkey. In addition,

² Pakistan and Indonesia.

C. *Working Group on Procedural Issues*

13. In December 2013, at the 24th Meeting of the Conference, the Working Group on the Rules of Procedure for the Appointment of the Secretary-General was dissolved with the recommendation that the issue should be considered in relation to the Review to be conducted in 2014.³
14. Based on the answers received to the questionnaire on the five-yearly Review and the comments raised during the Meeting of the Conference in Nicosia, the Secretariat prepared some documents (for discussion at the Strategy Group) regarding the re-establishment of the Working Group. However, several delegations considered that for cost-efficiency reasons it would be sensible to establish a single working group (Working Group on Procedural Issues) to deal with a broader mandate: (i) voting rights - including a definition of 'persistent arrears' of Article 36(8) of the Energy Charter Treaty, (ii) additional issues regarding the procedure for the appointment of the Secretary General, and (iii) any other required changes to the procedural rules.
15. Delegations discussed during the meeting of the Strategy group on 28 October the proposed Conference decision (CC 490 Rev.) and their interest in participating as members of the Working Group (Message 1168/14).

D. *Transparency Rules*

16. On 24 January, the Strategy Group had an initial discussion on transparency on investment arbitration under Article 26 of the Treaty (arbitration between the Investor and a Contracting Party). The group decided to continue discussions on transparency (StG 59) and other proposals for improving the ECT investment dispute settlement mechanisms under the Investment Group (IN 123).

³ CCDEC 2013(19) APP