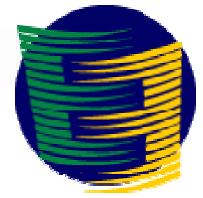


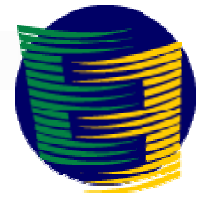
ELECTRICITY STAKEHOLDER EVENT ON TRANSIT AND CROSS-BORDER CO-OPERATION

**Energy Charter Secretariat
Brussels, 28 March 2012**



Content

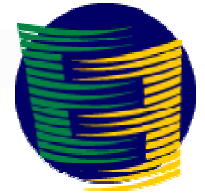
- 1. Mandate**
- 2. Transit Provisions of the ECT**
- 3. Transit Protocol**
- 4. Consultations in 2011**
- 5. Stakeholder consultations in 2012**



1. Mandate

Energy Charter Conference, Sofia, 29 November 2011:

- Repealed the mandate to negotiate the draft Transit Protocol on the basis of a text that emerged from negotiations and consultations in 2001-2010
- Tasked the Trade and Transit Group to conduct consultations among members and observers with regard to the **prospects for a new Protocol**, including the issues to be addressed and the convergence of positions within the constituency in this regard, consulting other stakeholders, in particular transmission-system-operators (TSO)
- Advised to take into account the original mandate for the negotiations on the Transit Protocol in CC 156 adopted on 7 December 1999.



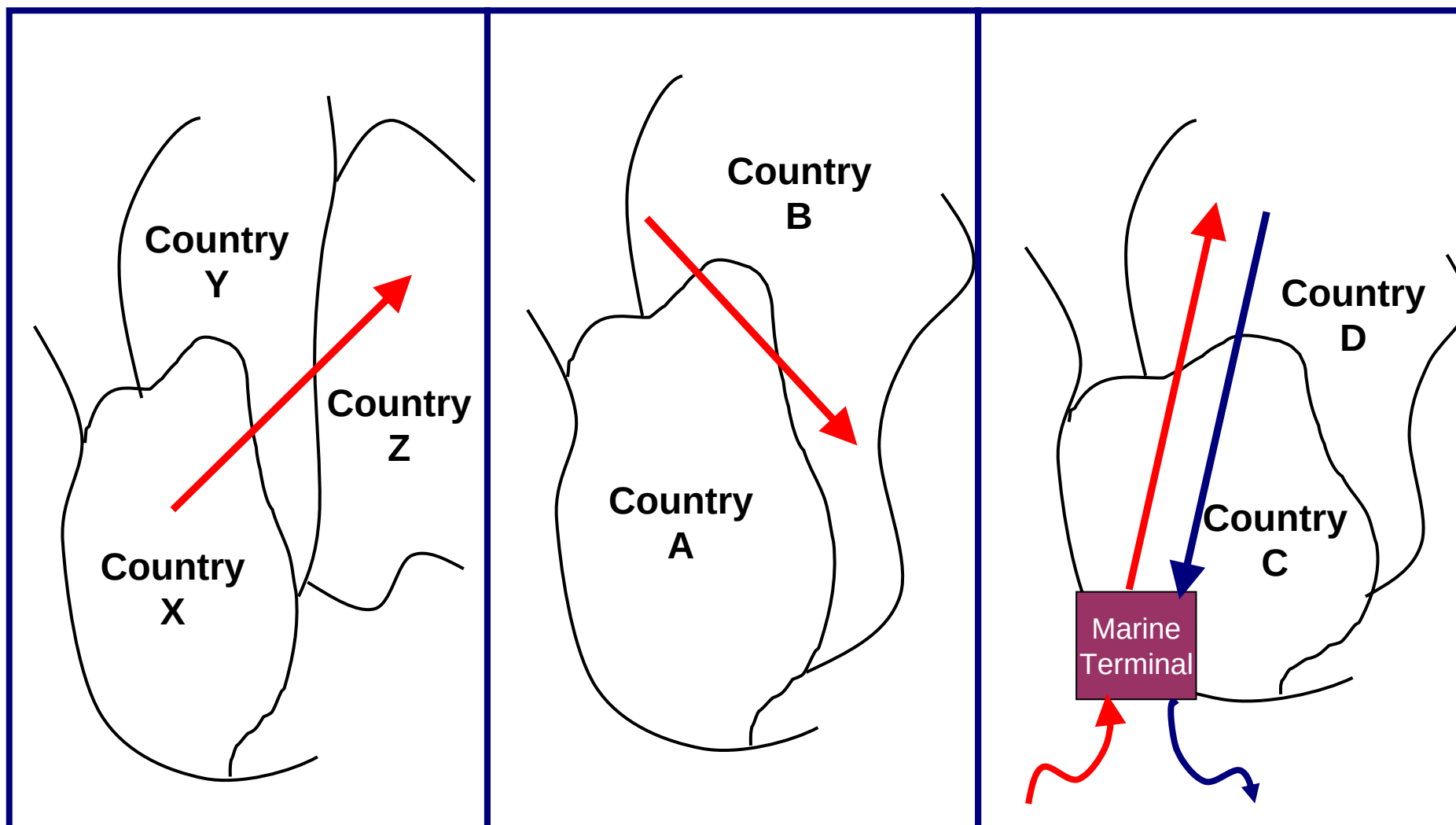
2. Transit provisions of the Energy Charter Treaty (ECT)

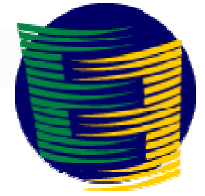
- Definition of transit
- Freedom of transit
- Co-operation of TSOs
- Non-discriminatory treatment of transit
- New capacity
- Security of established flows
- Conciliation procedure



2. Transit provisions of the ECT

Definition of Transit

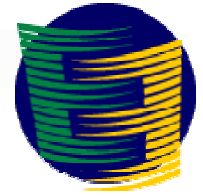




2. Transit provisions of the ECT

Definition of Transit

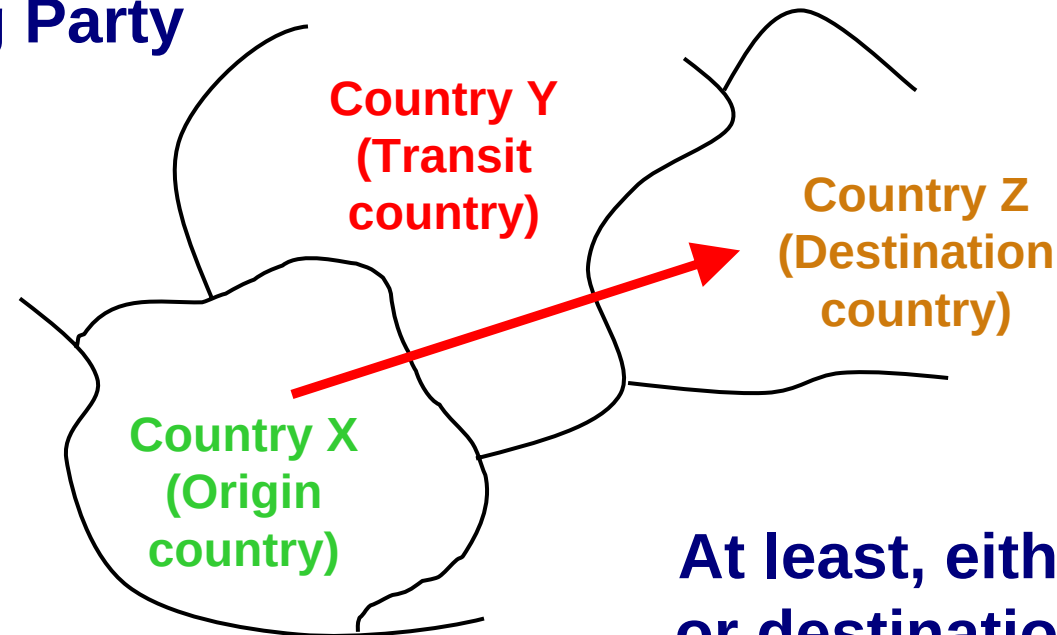
- Transit of *Energy Materials and Products (EMP)*
 - Crude oil, oil products, natural gas, electricity, coal
- Transit through fixed infrastructure (*Energy Transport Facilities, ETF*)
 - High pressure gas pipelines
 - High voltage electricity grids and transmission lines
 - Crude oil transmission lines and product pipelines
 - Coal slurry pipelines
 - Other fixed infrastructure



2. Transit provisions of the ECT

Definition of Transit

**Transit country
must be an ECT
Contracting Party**



**At least, either source
or destination country
must be an ECT
Contracting Party**



2. Transit provisions of the ECT

Freedom of Transit

GATT – Article V.2

There shall be **freedom of transit** through the territory of each contracting party, via the routes most convenient for international transit, for traffic in transit to or from the territory of other contracting parties. **No distinction shall be made which is based on the flag of vessels, the place of origin, departure, entry, exit or destination, or on any circumstances relating to the ownership or goods, of vessels or of other means of transport.**

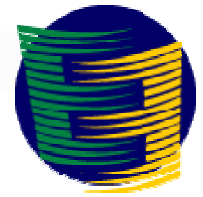
ECT – Article 7.1

Each Contracting Party shall take the necessary measures to **facilitate the Transit** of Energy Materials and Products **consistent with the principle of freedom of transit and without distinction as to the origin, destination or ownership of such Energy Materials and Products or discrimination as to pricing** on the basis of such distinctions, and without imposing any unreasonable delays, restrictions or charges.



2. Transit provisions of the ECT

Co-operation of TSOs



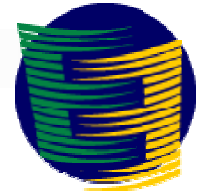
Art. 7 (2) ECT

Contracting parties to encourage relevant entities to co-operate in:

- Modernizing ETF necessary to the Transit of EMP
- The development and operation of ETF serving the Areas of more than one Contracting Party
- Measures to mitigate the effects of interruptions in the supply of EMP
- Facilitating the interconnection of ETF



2. Transit provisions of the ECT



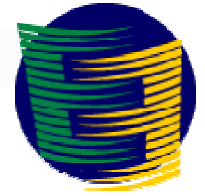
Non-discriminatory treatment of transit

Art. 7 (3) ECT

Legal provisions shall treat EMP in Transit no less favourable than EMP originating in or destined for their own Area



2. Transit provisions of the ECT



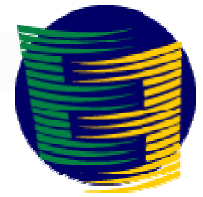
New capacity

Art. 7 (4) ECT

Contracting Parties shall not place obstacles in the way of new capacity being established if Transit of EMP cannot be achieved on commercial terms



2. Transit provisions of the ECT



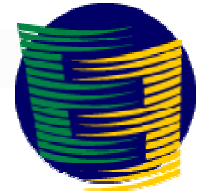
Security of established flows

Art. 7 (5) / (6) ECT

- Contracting Parties shall secure established flows of EMP to, from or between the Areas of other Contracting Parties
- No interruption or reduction of existing flows in case of disputes over transit (obligation to Contracting Parties, relating also to entity subject to their control or jurisdiction)



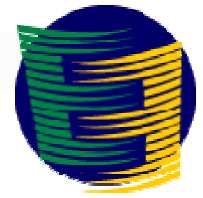
2. Transit provisions of the ECT



Conciliation procedure

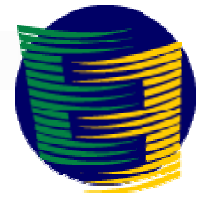
Art. 7 (6) / (7) ECT

- Contracting Party may refer dispute to the Secretary General who shall appoint a Conciliator
- Conciliator shall seek the agreement of the Parties. He may recommend a resolution or a procedure to achieve such solution and shall decide the interim tariffs and other terms and conditions for Transit



3. Transit Protocol

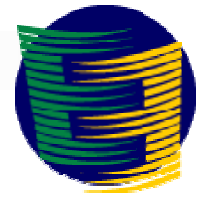
- Mandate (1999) by the Energy Charter Conference to negotiate a Transit Protocol to
 - Ensure secure, efficient, uninterrupted and unimpeded transit
 - Promote more efficient use of transit infrastructure
 - Facilitate the construction or modification of transit infrastructure



3. Transit Protocol

Major achievements of the draft text:

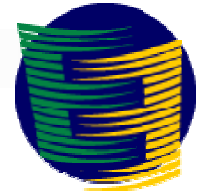
- Principles for access to available capacity
 - Principles for transit tariffs, charges
 - Provisions for new capacity creation
-
- Problems:
 - Long-term capacity booking
 - Auctions
 - Non-applicability to individual EU members



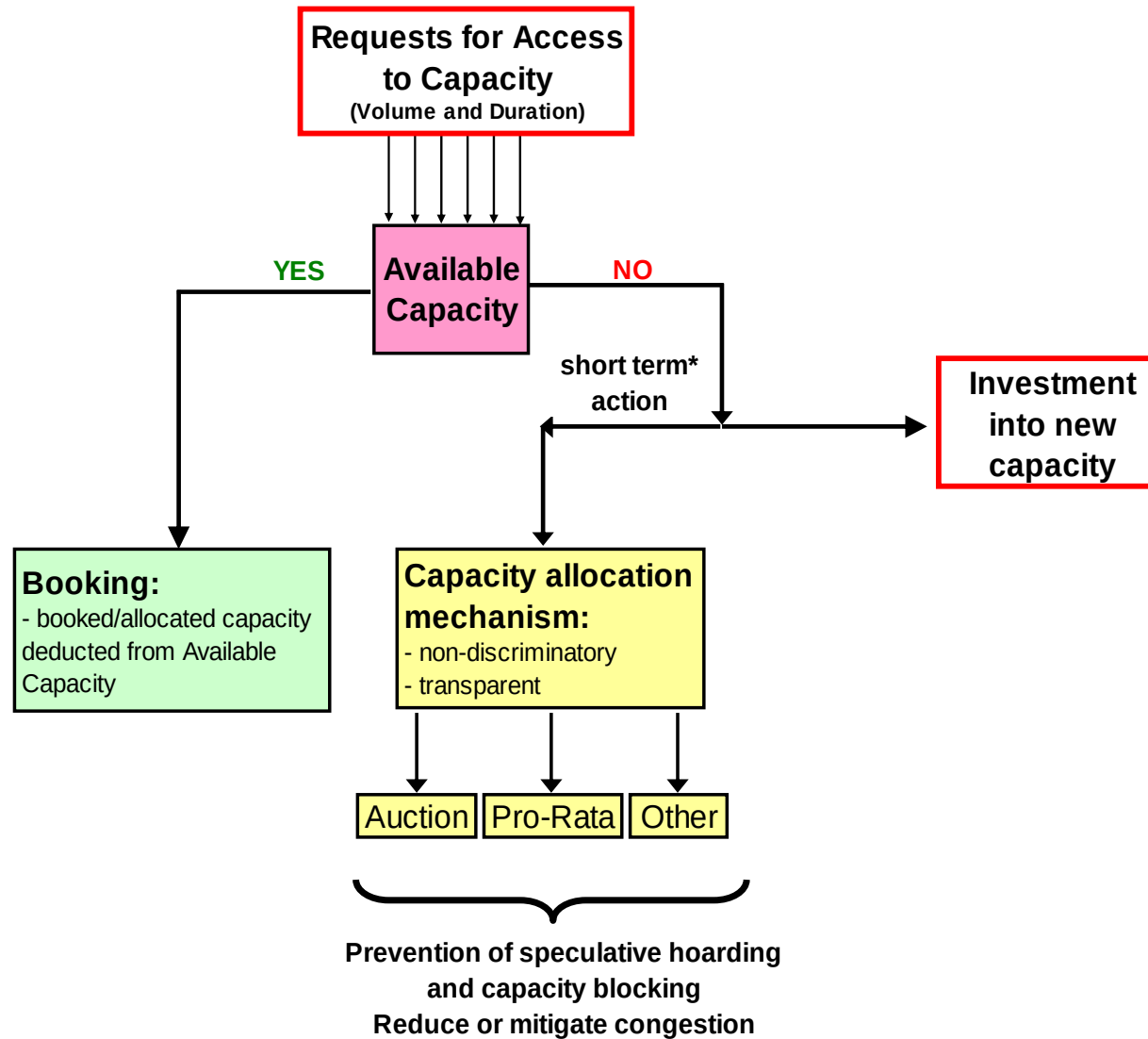
3. Transit Protocol

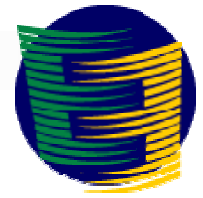
Suggested Principles on Transit Tariffs

- Objective
- Reasonable
- Transparent
- Non-discriminatory
- Cost-based
 - Operational and investment costs, including a reasonable rate of return



3. TP: Mechanism for Capacity Allocation and Creation

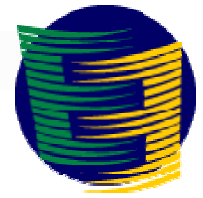




3. Transit Protocol

Creation of new capacity

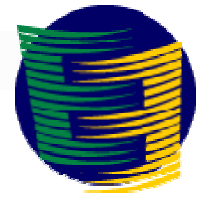
- Contracting Parties shall have authorisation procedures or legislation concerning the construction, expansion, extension, re-construction, and operation of ETF used for Transit
- **Authorisation procedures, legislation and measures shall be no less favourable than for internal transportation**



4. Consultations in 2011

Challenge of energy transit

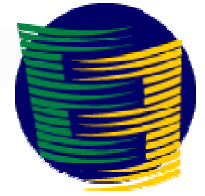
- Growing dependence of consuming countries on imported energy
- Emergence of new energy producers, often in land-locked countries
- Increasing volumes of energy traded across borders, often involving transit



4. Consultations in 2011

The Charter's modernisation agenda

- Transit Protocol, possibly with more consideration of regional specificities and concrete projects
- Operational issues (transparency, standards)
- Emergency response

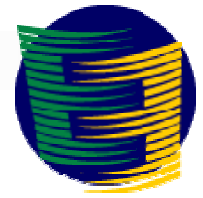


4. Consultations in 2011

Is there support to expand the TP to include new issues?

Interest in

- Provisions to accelerate authorisation procedures
- Platform for exchange of best practices with transportation tariffs and services
- Further elaboration on tariffs, methodologies, benchmarks
- Acknowledgement of role of Long Term Contracts in declaratory form
- Enlargement of scope to include cross-border transportation



4. Consultations in 2011

Regional effectiveness

How do participants view the possibility of agreeing additional rules under the TP in a regional context?

- **Caution**
 - Least preferred option, whole constituency preferred
 - ECT useful in providing harmonized rules that are generally and world wide applicable
- **Interest**
 - By one participant to apply to Art. 10 (Tariffs) and 10bis (Congestion)



4. Consultations in 2011

Country flexibility

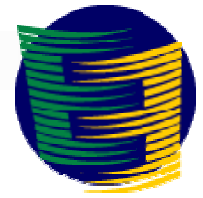
Would specific exceptions on individual provisions help to find an agreement?

➤ **Interest**

- On Art. 8 (Utilization of Available Capacity) in due and exceptional cases
- On Art. 10 (Tariffs)

➤ **Caution**

- From industry

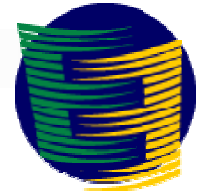


4. Consultations in 2011

Technical flexibility

How do participants view possibility of moving some technical rules to Annex?

- Interest by one country with regard to
 - Art. 1(2) Available Capacity
 - Understandings



5. Stakeholder consultations in 2012

28.03.	<i>Electricity Stakeholder Event</i>
23.05.	Trade and Transit Group
19.06.	<i>Gas Stakeholder Event</i>
26.09.	<i>Oil Stakeholder Event</i>
09.10.	Trade and Transit Group
11/12	Energy Charter Conference