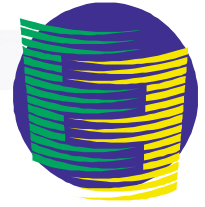




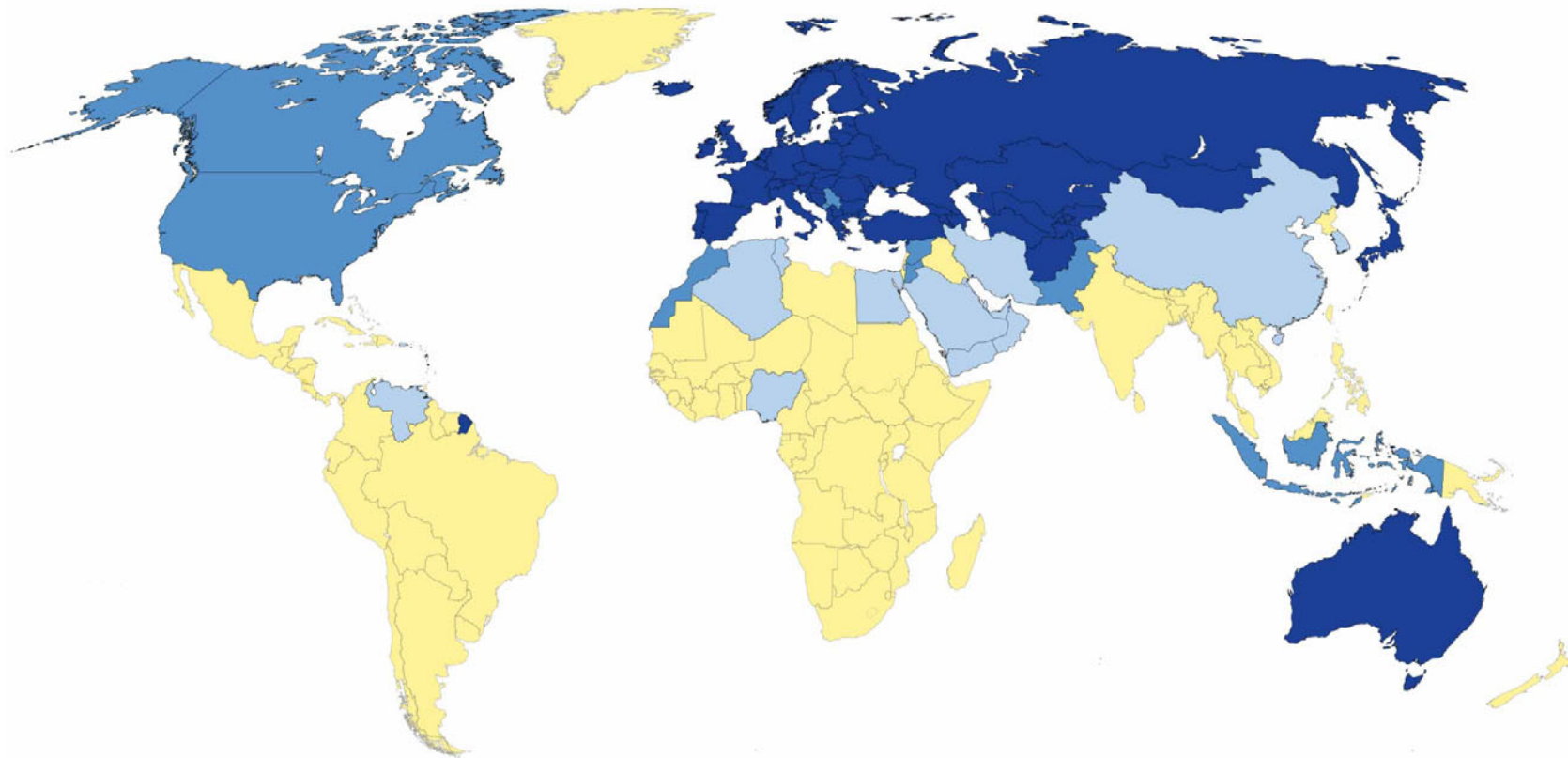
Energy Charter Treaty - a special framework for energy trade and investment

**Workshop on the Role of Intergovernmental Energy
Agreements in Energy Policy, WTO, Geneva, 29 April 2013**

Steivan Defilla
Director
Energy Charter
Secretariat



Energy Charter Constituency



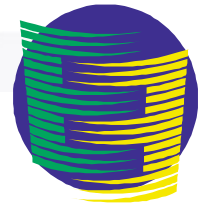
■ Members ■ Observers (signed 1991 Charter) ■ Observers (by invitation)

This map is without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area



Trade provisions (Treaty Art. 3 – 5 and 29)

- Energy Charter Treaty (ECT) extends WTO rules to non-WTO Members that are in ECT, does not affect trade between WTO members
- The key principles have been incorporated in the ECT in by-reference approach (e.g. MFN, NT, Transit, Elimination of QR, Exceptions, Regional Integration)
- GATS and TRIPS not included
- ECT does not prescribe a market model for grid bound energies



Key commitments

MFN: Most Favoured Nation

NT: National Treatment

EQR: Elimination of Quantitative Restrictions (GATT)

MA: Market Access (GATS)

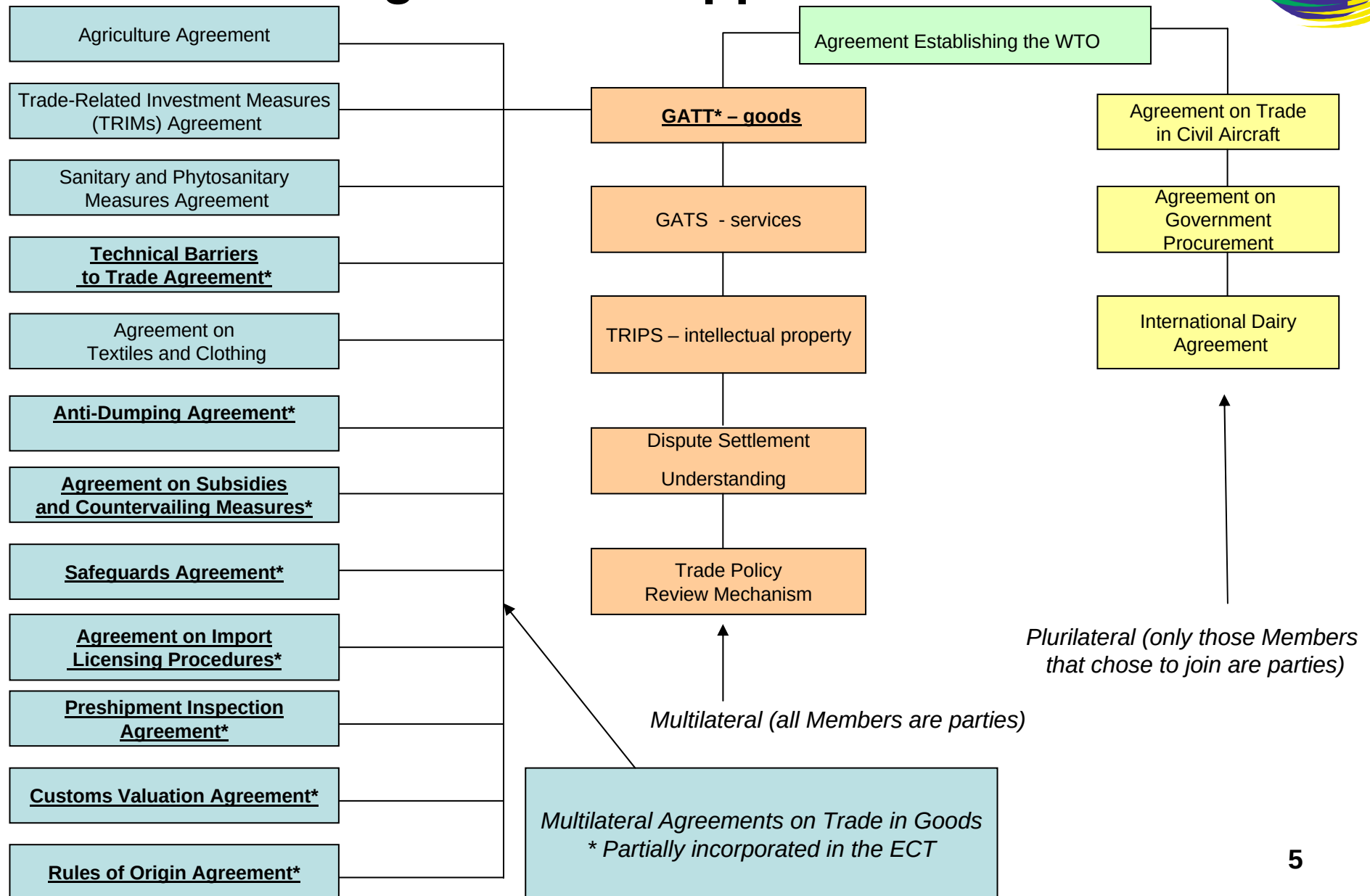
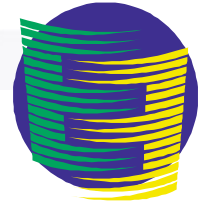
	Goods	Services	Investments
MFN	GATT, ECT	GATS	ECT (post investment stage; soft commitment at pre-investment phase)
NT	GATT, ECT	GATS (further commitments in Doha Round)	ECT (post investment stage: soft commitment at pre-investment phase)
EQR / MA	GATT, ECT	GATS (further commitments in Doha Round)	ECT (only post investment stage)

ECT: Energy Charter Treaty

GATT: WTO General Agreement on Tariffs and Trade

GATS: WTO General Agreement on Trade in Services

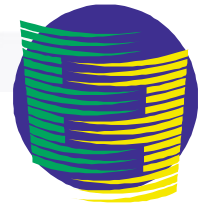
WTO Agreements applicable under ECT





Trade Amendment, in force 2010

- Extend Treaty coverage to approx. 70 categories of Energy-Related Equipment (based on the classification of the Harmonized System of the World Customs Organization)
- Dispute settlement: nominate roster of panellists for disputes involving at least one non-WTO country
- Possibility to introduce binding customs tariff standstill regime in ECT
- Selective introduction of this regime on low carbon equipment could enhance transition to low carbon economy
- Would be best done as joint undertaking with WTO



Competition (Art. 6)

- Obligation to alleviate market distortions and barriers to competition in Economic Activity in the Energy Sector
- Best endeavour to provide assistance on the development and implementation of competition rules to other Contracting Parties.
- Cooperation to address unilateral and concerted anti-competitive conduct in Economic Activity in the Energy Sector



Transit (Art. 7)

- Freedom of transit, non-discrimination with respect to origin, destination or ownership
- Commitment: Provisions relating to transport of energy shall treat energy materials in transit no less favourably than imports or exports
- Forbidden to interrupt or reduce established transit flows except if allowed by agreement or as a result of Conciliator procedure
- Model Agreements: Intergovernmental Agreements and Host-Government Agreements for both, pipelines and electricity

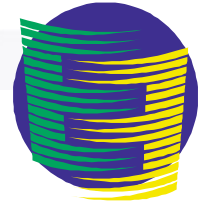


Sovereignty over energy resources and Investment (Art. 10 – 18)

- Recognition of sovereignty over energy resources, to be exercised in accordance with international law
- Treaty does not prejudice property ownership of energy resources
- Right to decide: geographical areas to be made available, depletion rate, taxes and royalties, environmental regulation and safety, gvt. participation by state enterprises
- Facilitate access to energy resources inter alia by non-discriminatory authorisations, licences, concessions
- Investment: see presentation in session 3



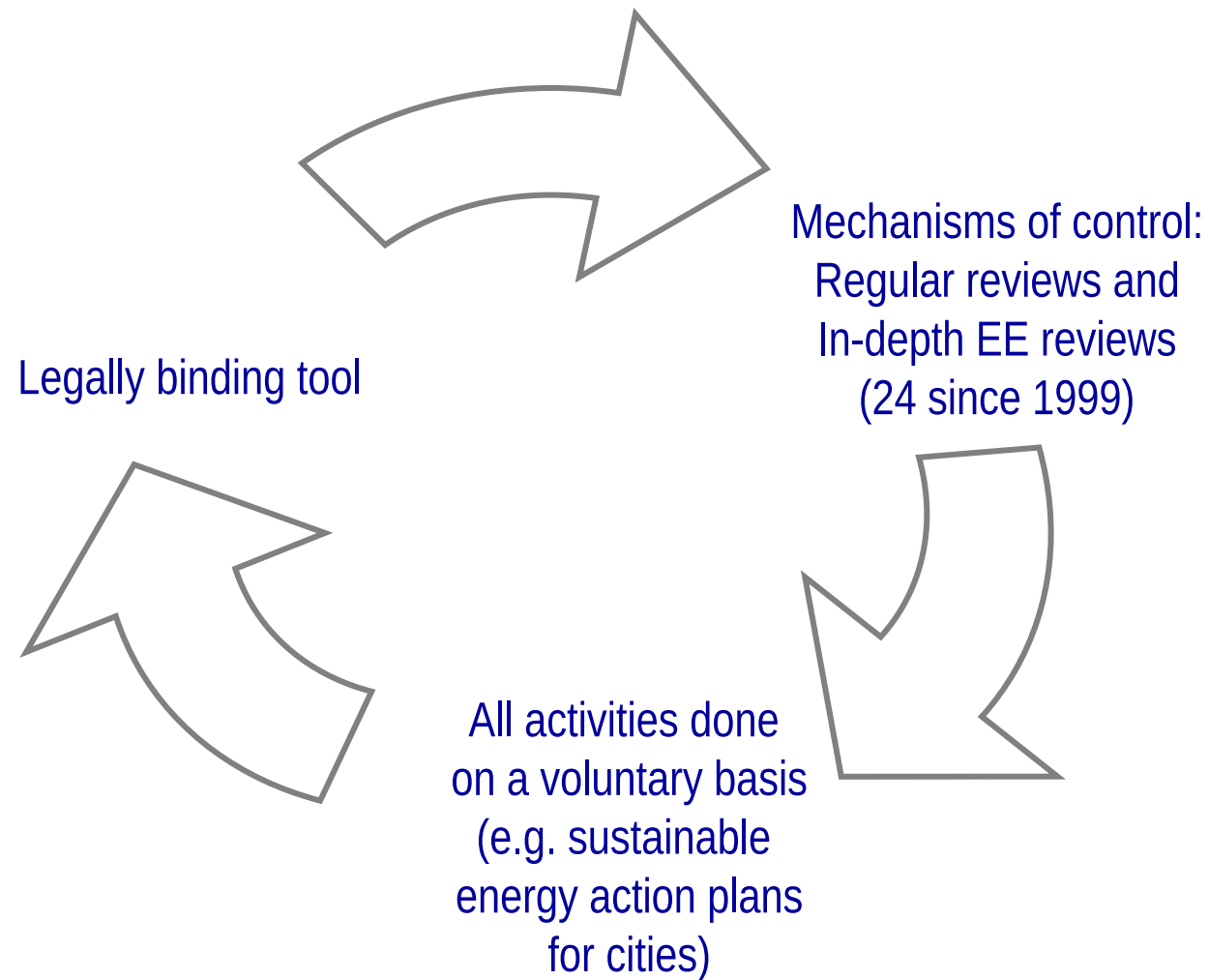
Environment (ECT Art. 19 and Energy Efficiency EE Protocol)



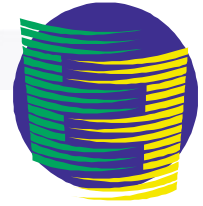
- Contracting parties commit to:
- Formulate and implement EE strategies and policies
- Create appropriate legal, regulatory and institutional frameworks
- Develop, implement, and update EE programmes
- Encourage new approaches of financing EE
- Co-operate internationally and assist each other



Functioning of the EE Protocol

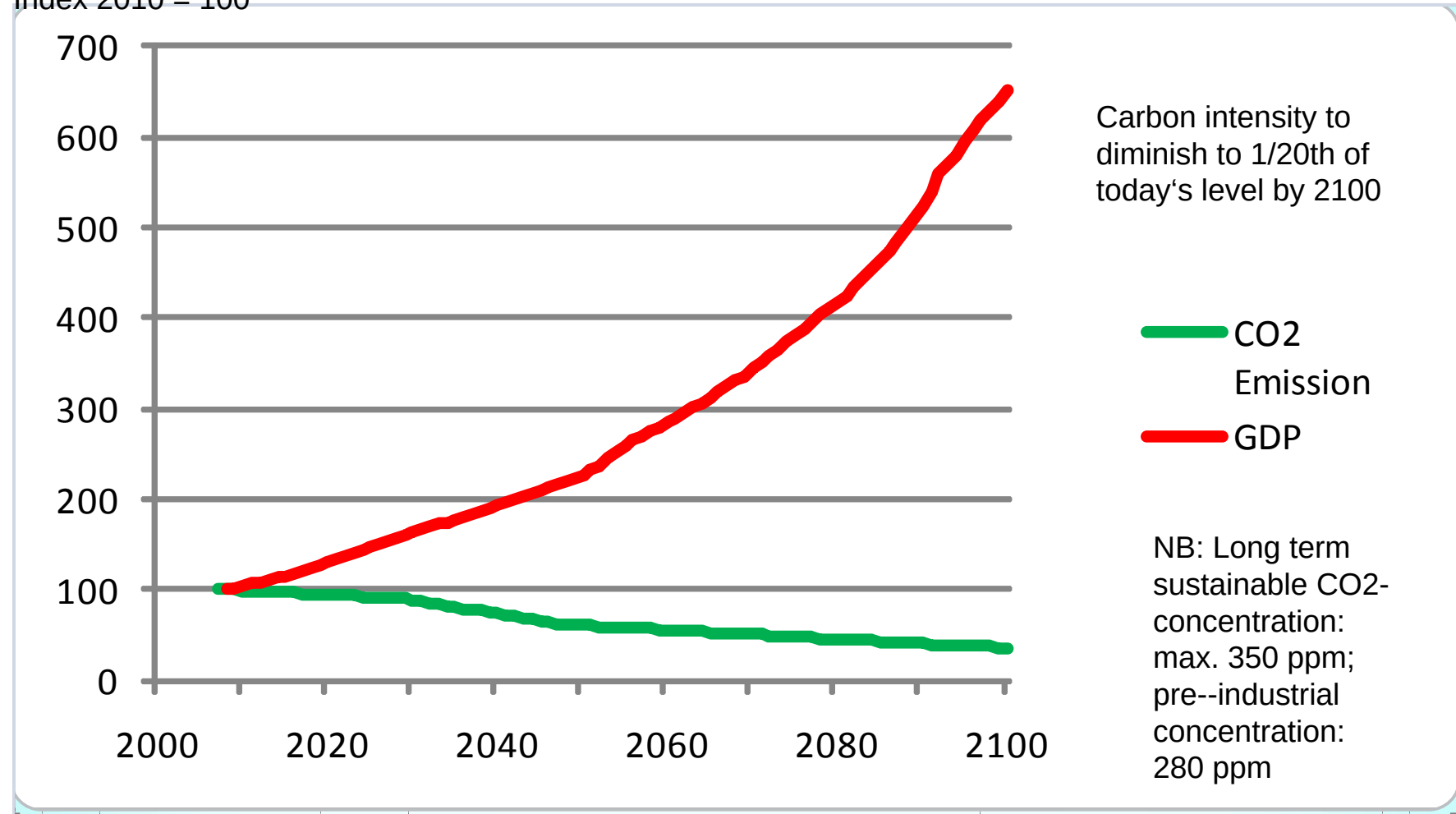


Global low carbon decoupling



Making global economic growth (e.g. 2%) compatible with the max. temperature increase of +2° C (e.g. 450 ppm CO₂) until 2100

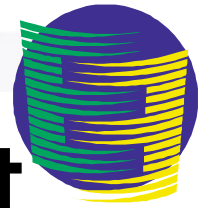
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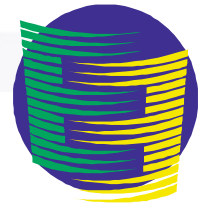
Data: IEA (450 ppm scenario 2050, [WEO 2009](#), [Key World Energy Statistics 2009](#), [ETP 2008](#))



ECT Low carbon assessment

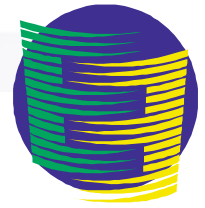


- Recognised need: improve energy efficiency and increase the share of renewable energy
- Possible subjects to be addressed in ECT:
 - non-binding Declaration and/or interpretative notes on promoting low-carbon investment within the framework of the ECT
 - adding new low-carbon energy materials and products and energy equipments to Annexes
 - reduction of inefficient fossil fuel subsidies within the ECT constituency
- Promotion of low carbon infrastructures (Gobitec and Asian Super Grid)



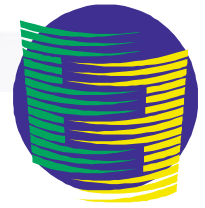
Modernisation

- Low carbon assessment is part of modernisation agenda
- Enlarge material scope of Energy Charter rules: include new topics such as low carbon and energy poverty
- Starting point: update the 1991 European Energy Charter (political document); mandate under discussion (possibly: Universal or International Energy Charter)
- Enlarge also the geographical scope of Energy Charter rules: outreach policy



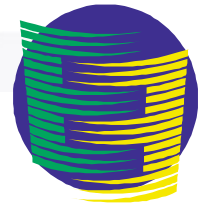
Conclusions

- Energy Charter is a political declaration (1991) without binding legal effects:
- Improving energy security
- Implementing energy efficiency
- Enhancing safety and minimising environmental problems
- Developing more efficient energy markets
- Creating a climate favourable for both enterprises and for the flow of investments and technologies
- Possibly other topics (modernisation agenda)



Energy Charter Treaty (ECT) and Protocol on Energy Efficiency (1994):

- More than 50 members; open to any exporting, transit or importing country
- National sovereignty over energy resources
- Investment protection based on non-discrimination
- WTO based trade provisions, including freedom of transit
- Investor-to-state and state-to-state dispute settlement procedures
- Protocol on Energy Efficiency and Related Environmental Aspects PEEREA
- Model Agreements facilitating construction of cross-border infrastructure



Thank you for your attention !

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Common rules for global energy security