



ENERGY CHARTER SECRETARIAT

'UPDATED' ENERGY CHARTER

Frequently Asked Questions

Brussels, 12 September 2014

What is the 'updated' Energy Charter and what is its purpose?

The adoption and signing of the 'updated' *Energy Charter* is envisaged to take place at a High Level (Ministerial) Conference to be hosted by The Netherlands in The Hague in 2015. This will be a milestone for the Charter Process, its expansion and modernisation. The process is part of the ambition of the Energy Charter to become a leading organisation of future global energy governance.

The 'updated' *Energy Charter* is a political declaration mapping out common principles for international cooperation and common areas of cooperation in the field of energy. The final name has not yet been decided. Currently, the two options discussed are "International Energy Charter" or "World Energy Charter". The term "'updated' *Energy Charter*" is a working title that simply refers to the fact that the text of the new declaration is being worked out on the basis of the *European Energy Charter* of 1991.

The 'updated' *Energy Charter* will be open for signature or acceptance by invited states and regional economic integration organisations.

The negotiations have been initiated by the members of the *Energy Charter Conference* to:

- strengthen the cohesion within the constituency and the political authority of the Energy Charter Process¹
- to support the implementation of the CONEXO² policy, with the aim to facilitate the expansion of the geographical scope of the *Energy Charter Treaty* and Process
- to engage in a structured dialogue with non-signatories of the *European Energy Charter* in order to promote the principles of the Charter and its framework for cooperation on the global scale

¹ "Energy Charter Process" refers to the political cooperation framework established under the *Energy Charter Treaty*, which includes members and observers to the *Energy Charter Conference*.

² Policy on Consolidation, Expansion and Outreach.

ENERGY CHARTER SECRETARIAT

BOULEVARD DE LA WOLUWE, 56 • B-1200 BRUSSELS • BELGIUM
TEL: +32 2 775 98 00 • FAX: +32 2 775 98 01 • E-MAIL: UPDATED.ENERGY.CHARTER@ENCHARTER.ORG
WWW.ENCHARTER.ORG

- to modernise the *European Energy Charter* as the basic political declaration of the Energy Charter Process
- to support active observership in the *Energy Charter Conference*, aiming at close political cooperation and early accession of observer countries to the *Energy Charter Treaty*

By engaging non-signatories of the original 1991 Charter in negotiations on a basic document on energy cooperation, the members of the *Energy Charter Conference* have demonstrated their openness to reach out to new partners on all continents, to promote the existing principles of the Charter, and, at the same time, to listen to the concerns of the new partners and to reflect those concerns in the joint political declaration.

What is the relationship of the 'updated' Energy Charter to the European Energy Charter and the Energy Charter Treaty?

The *European Energy Charter* is a political declaration adopted in The Hague on 17 December 1991. Up to now it has been signed by sixty-two European, Asian, North American and African states as well as the European Union and EURATOM. It provides for a long-term partnership in international co-operation in the field of energy based on common principles. The *European Energy Charter* contains a commitment to negotiate in good faith a legally binding Basic Agreement and Protocols.

The Basic Agreement referred to in the *European Energy Charter* is known as the *Energy Charter Treaty*. Most, but not all signatories of the *European Energy Charter* signed or acceded to the Treaty, which was open for signature in 1994 and entered into force in 1998. Unlike the *European Energy Charter*, the provisions of the *Energy Charter Treaty* on energy trade, transit, investments, environmental aspects and dispute settlement are legally binding. The *Energy Charter Treaty* also established a political decision making-body, the *Energy Charter Conference*. Signatories of the *Energy Charter Treaty* are members of the *Energy Charter Conference*, and signatories of the *European Energy Charter* and some invited countries are observers to the Conference. A state or regional Economic Integration Organisation that wishes to accede to the *Energy Charter Treaty* is required to be a signatory of the *European Energy Charter*.

In accordance with the "CONEXO Policy" it should be noted that the members of the Conference are hopeful that the signing of the 'updated' *Energy Charter* will encourage non-members to consider acceding to the *Energy Charter Treaty*. At the same time, it is well understood that the signing of the 'updated' *Energy Charter* can only be a beginning that does not pre-empt in any way the decision of a state to accede to the *Energy Charter Treaty*. As observers to the *Energy Charter Conference*, non-members will however have the opportunity to learn more about the Treaty, its benefits and obligations, and will cooperate closely with the members to that end. This will enable them to make an informed decision about possible further steps.

Will the signing of the 'updated' Energy Charter bear any legal or financial obligations?

The 'updated' *Energy Charter* is a declaration of political intention aiming at strengthening energy cooperation between the signatory states and which does not bear any legally binding obligation or financial commitment.

Who can sign the updated Energy Charter and what is the benefit?

States and regional economic integration organisations (like the European Union) can sign the updated Energy Charter or otherwise express their consent to it after it has been formally adopted in The Hague. In terms of the benefit, three categories of states need to be distinguished:

1. For Signatories and Contracting Parties of the *Energy Charter Treaty*, signing of the UEC will strengthen the authority of the Charter, reconfirm its basic principles and its openness to modernisation. They should benefit from the positive effect the '*updated*' *Energy Charter* will have on the expansion of the Energy Charter Treaty and the new scope of cooperation it facilitates with non-members of the Conference. This will offer new investment and trade opportunities and thus strengthen energy security.
2. The signatories of the *European Energy Charter* can reconfirm their commitment to the Charter, benefit from its strengthened authority and broadened cooperation. They can reassess their engagement with the Energy Charter Process in light of the modernisation agenda.
3. Non-signatories of the *European Energy Charter* will obtain observership status with the *Energy Charter Conference* on signing or consenting to the updated Energy Charter. This means that they will, as a rule, be able to participate in official meetings on political and expert level and have access to the relevant documents, including technical reports and policy papers. They will be able to cooperate closely with other signatories, including many of the advanced economies, but also transiting and developing countries. If the necessary funding is provided, they can further benefit from Energy Charter activities and programmes, such as workshops and training programmes, which can be held in their countries. They will be able to work closely with the Energy Charter Secretariat in view of deepening their engagement in the Process.

As far as the current category of "observers by invitation" is concerned, it is envisaged to cancel this status about one year after the adoption of the '*updated*' *Energy Charter*. This means that states would need to sign the '*updated*' *Energy Charter* in order to retain their observership status.

Who participates in the negotiations and how can additional states be admitted?

The negotiations are open to any interested state.

The group of states taking part in the negotiations on the '*updated*' *Energy Charter* started from the signatories of the *European Energy Charter* and is constantly growing. States who were invited to take part in the negotiations include (note that this list does not imply that all of these states have confirmed their status as negotiating parties):

1. Signatories of the *European Energy Charter*:

Afghanistan, Albania, Armenia, Australia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, European Union, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Indonesia, Ireland, Italy, Japan, Jordan,

Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mauretania, Moldova, Mongolia, Montenegro, Morocco, Netherlands, Norway, Pakistan, Poland, Portugal, Romania, Russian Federation, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, The Former Yugoslav Republic of Macedonia, Turkey, Turkmenistan, Ukraine, United Kingdom, United States of America, Uzbekistan

2. Observers to the *Energy Charter Conference* by invitation:

Algeria, Bahrain, China, Egypt, Iran, Korea, Kuwait, Nigeria, Oman, Palestine, Qatar, Saudi Arabia, Tunisia, United Arab Emirates, Venezuela, Yemen

3. Other states:

Argentina, Bangladesh, Bhutan, Brazil, Brunei Darussalam, Cambodia, Chile, Colombia, India, Iraq, Israel, Lao PDR, Lebanon, Libya, Malaysia, Maldives, Mauritania, Mexico, Mozambique, Myanmar, Nepal, Philippines, Singapore, South Africa, South Sudan, Sri Lanka, Sudan Tanzania, Thailand, Vietnam

Additional interested states may be admitted to the negotiations according to the following procedure: A request from the given state is sent to the Secretariat, which will circulate it to the Signatories of the *European Energy Charter* for approval. If, within two weeks, no opposition is received in writing and at least one of them supports in writing the request, the Secretariat will inform the Chair of the negotiation meetings for extending the invitation.

What is the content of the 'updated' Energy Charter and how does it differ from the *European Energy Charter* of 1991?

The textual basis of the *updated Energy Charter* was the *European Energy Charter*. In a first step, this document has been cleared of outdated references and new challenges for energy co-operation were added.

During the negotiations amendment proposals from non-signatories of the *European Energy Charter* have been discussed. In the final text it is expected that:

- the basic principles of the *European Energy Charter* will be endorsed, including state sovereignty over energy resources, political and economic co-operation, the development of efficient energy markets, non-discrimination and the promotion of a climate favourable to the operation of enterprises and the flow of investments and technologies, taking due account of environmental concerns
- there will be a common definition of energy security, reflecting better the different perspectives of energy producing, consuming and transit countries
- there will be a better reflection of the specific needs of emerging and developing countries;
- areas of cooperation will be agreed
- recent political declarations and initiatives on energy on the global and regional level will be taken note of, to provide for a better reflection of current challenges in the work of the Charter

How are the negotiations organised?

The negotiations are financed by the *Energy Charter Conference* and supported by the *Energy Charter Secretariat*. The body where the negotiations take place is nominally the *Strategy Group* of the Energy Charter, however gathered in Special Session and outside the normal rules of procedure. This ensures the equality of all states taking part. The Chairman is Mr. Odd Sverre Haraldsen, Director General at the Ministry of Petroleum and Energy of Norway. The Vice-Chairperson is Ms. Carmen Sofia Sanz Estebanez (Spain).

Delegations are asked to limit their representation at negotiation meetings to a maximum of 2-4 persons. Each delegation should inform the Secretariat at least five working days before the date of a meeting, of the names of their participants at such meeting. Members and observers can use the online registration procedure, while “new partners” need to register by sending forms.

Negotiations are held in English with Russian translation. Delegations are invited to send to the Secretariat any comments, messages or additions they wish to put forward on the negotiations at least 15 days before the next meeting. The Secretariat will then circulate amongst all participants these comments and messages, together with a new working draft (additions will be shown in square brackets), at least 12 days in advance of the meeting. The Secretariat will distribute a text reflecting the results of the respective negotiation round 7 days after it took place.

What does the timetable towards adoption look like?

15-16 Sep 14	Special Session for the negotiations
29-30 Oct 14	Special Session for the negotiations, where an agreement on the text should be reached
31 Dec 14	Final date for delegations to provide a letter from their government confirming their acceptance of the final draft and their intention to sign it at the High Level Conference in The Hague (date tbc) or to otherwise express their consent with it.

What are the official languages of the updated Energy Charter?

The updated Charter will, be in English, Arabic, Chinese, French, German, Italian, Russian, and Spanish languages, provided states who have these languages as their official languages are among the signatories. The parties still need to decide whether all language versions will be subject to adoption and have equal original value or whether the versions other than English will be official translations.