



PUBLIC COMMUNICATION ON THE FIRST NEGOTIATION ROUND ON THE MODERNISATION OF THE ENERGY CHARTER TREATY

On 6 November 2019 (see Conference Decision [CCDEC 2019 10](#)), the Energy Charter Conference established and mandated the Modernisation Group to start negotiations on the modernisation of the Energy Charter Treaty, with a view to conclude negotiations expeditiously.

The First Negotiation Round on the Modernisation of the Energy Charter Treaty took place on 6-9 July 2020 by videoconference.

Initial proposals and discussion papers were presented and discussed in detail by the delegations. The Modernisation Group took note of the comments and positions of the delegations as well as the progress made at the meeting. Taking into account the list of topics for modernisation of the Energy Charter Treaty (see Conference Decision [CCDEC 2018 18](#)), the discussion was based on the following agenda:

- Definitions
 - Definition of ‘charter’
 - Definition of ‘economic activity in the energy sector’
- Investment protection
 - Definition of investment
 - Definition of investor
 - Clarification of ‘most constant protection and security’
 - Compensation for losses
 - Definition of Fair and Equitable Treatment
 - Definition of indirect expropriation
 - Denial of benefits
 - MFN clause
 - Right to regulate
 - Transfers related to investments
 - Umbrella clause

The Second Negotiation Round is taking place by videoconference on 8-11 September. The Modernisation Group envisages to address the following topics:

- Dispute settlement
 - Frivolous claims
 - Security for costs
 - Third party funding
 - Transparency
 - Valuation of damages
- Transit
 - Access to infrastructure (including denial of access and available capacities)
 - Definition and principles of tariff setting
 - Definition of ‘transit’
- Sustainable development and corporate social responsibility
- Remaining topics from previous negotiation round