



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

From 2-5 March 2021, the Fourth Negotiation Round on the modernisation of the Energy Charter Treaty (ECT) was held by videoconference.¹ All parties present engaged in fruitful discussions on all topics covered.

The following topics were addressed:

- 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
 - Umbrella clause

The Modernisation Group discussed the aforementioned topics on the basis of the progress made last year,² as well as submissions and comments provided by the delegations before and during the Fourth Negotiation Round.

In their deliberations, Contracting Parties continued to clarify similarities and differences in their positions with a view to advance negotiations to the drafting of compromise proposals.

Good progress was made and the Modernisation Group mandated the Energy Charter Secretariat, and the Chair and Vice-Chairs, with the drafting of draft compromise proposals to

¹ 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. For the previous negotiation rounds, please consult <https://www.energychartertreaty.org/modernisation-of-the-treaty/>.

² The Energy Charter Conference at its 31st Statutory Meeting held on 16 December 2020 took note of the Report of the Modernisation Group on Progress Made in Fulfilling the Negotiations Mandate ([CCDEC 2020 16](#)).

be considered during one of its next negotiation rounds in 2021.

With respect to the topic of '*definition of 'economic activity in the energy sector'*', text-based discussions were held for the first time. The Modernisation Group decided to intensify discussions on this topic before the next negotiation round.

The Fifth Round of negotiations will take place from 1-4 June 2021.³

³ It is expected that in 2021 the Modernisation Group will hold five rounds of negotiations ([CCDEC 2020 17](#)).