



ENERGY CHARTER SECRETARIAT

INTERNATIONAL ENERGY CHARTER

Frequently Asked Questions

Brussels, 21 November 2014

What is the *International Energy Charter*?

In May 2015, states representing up to one half of the UN membership will gather at a Ministerial (“The Hague II”) Conference on the *International Energy Charter*. The *International Energy Charter* is a political declaration that will be formally adopted and signed at the Ministerial Conference, which will be hosted by the government of The Netherlands. It maps out common principles for international cooperation and common areas of cooperation in the field of energy.

Around 80 states took part in negotiations on the *International Energy Charter*, which were conducted throughout the year 2014 at the Headquarters of the Energy Charter Secretariat in Brussels, Belgium. The negotiations started on the basis of the text of the *European Energy Charter* which was adopted back in 1991 in The Hague (“The Hague I”). Non-signatories of this historic declaration joined the negotiations on an equal footing with its signatories. The objective has been to work out a text reflecting modern energy challenges as well as the ambition of the Energy Charter to play a leading role in the evolving architecture of global energy governance.

By signing the *International Energy Charter*, states and specialised intergovernmental organisations will document their commitment to established principles of the Charter, including:

- political and economic co-operation
- sovereignty over energy resources
- the development of efficient energy markets
- non-discrimination
- the promotion of a climate favourable to the operation of enterprises and the flow of investments and technologies
- environmental issues

In addition, the *International Energy Charter* reflects some of the most topical energy challenges of the 21st century, in particular:

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- the full scope of multilateral documents and agreements on energy developed in the last two decades, and the synergies among energy-related multilateral fora, including the Energy Charter, in view of follow-up action
- the growing weight of developing countries for global energy security
- the “trilemma” between energy security, economic development and environmental protection
- the role of enhanced energy trade for sustainable development
- the need to promote access to modern energy services, energy poverty reduction, clean technology and capacity building
- the need for diversification of energy sources and routes
- the role of regional integration of energy markets

By including all these relevant issues, the *International Energy Charter* promotes mutually beneficial energy cooperation among nations for the sake of energy security and sustainability. The *International Energy Charter* thus fits well into the global policy agenda reflected, for instance, in the G20 Leaders’ Communiqué of the Brisbane Summit in November 2014 and the UN Document “The Future We Want” endorsed by the UN Conference on Sustainable Development in June 2012.

The *International 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. This is explicitly stated in the text.

The updated Charter will be in English, French, German, Italian, Spanish and Russian languages (also in Arabic and Chinese 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.

What is the relationship of the *International 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-four European, Asian, Australasia, 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*.

The members of the *Energy Charter Conference* (Signatories and Contracting Parties to the *Energy Charter Treaty*) are hopeful that the signing of the *International 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 *International Energy Charter* does not oblige in any way a state to accede to the *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.

What motivates states to sign the International Energy Charter?

The main objectives of the *International Energy Charter* are to

- confirm, reinforce and enhance established principles of energy cooperation
- create a governmental platform to address contemporary energy challenges
- support the modernisation of the Energy Charter Process
- contribute to solid global energy governance by facilitating new accessions to the Energy Charter Treaty, without containing any obligations in this respect

A key tool to follow up on the political commitments contained in the *International Energy Charter* will be observership to the Energy Charter Conference. Signatories of the political declaration will be eligible for observer status with the Energy Charter Conference. This means they may attend the meetings of the Energy Charter Conference without a right to vote and may be invited to attend meetings of subsidiary bodies. As a general rule, normally observers have access to official documents of the Energy Charter Conference and its subsidiary bodies. They may be invited to send seconded experts to the Secretariat. Provided that funds are available, they may further benefit from activities of the Secretariat like Energy Charter Forums, Executive Training Programmes, Energy Efficiency Reviews or Reports on Investment Climate and Market Structure (ICMS).

Observership with the Energy Charter Conference will thus offer an effective instrument to follow-up on the areas of cooperation listed in the *International Energy Charter*. It brings together economically and technologically advanced economies with emerging, transition and developing countries, among them energy producing, consuming and transit countries. It will be qualitatively distinct from the observership that some states have enjoyed so far. Signing the *International Energy Charter* or the *European Energy Charter* will be a condition to obtain or retain observer status.

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 *International Energy Charter* will strengthen the authority of the Charter, reconfirm its basic principles and its openness to modernisation. There is an expectation that signing of the declaration will have a positive effect on the geographical expansion of the Energy Charter Treaty and on cooperation with non-members of the Conference. This will offer new investment and trade opportunities and thus strengthen energy security.

2. By signing the *International Energy Charter* 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. They will also benefit from the application of common principles, in particular in view of an enhanced investment climate in target countries for their FDI.
3. Non-signatories of the *European Energy Charter* will strengthen their role and influence in view of the formation of global energy governance architecture. By signing the *International Energy Charter* they will contribute to qualitative shifts in this architecture, which will better reflect modern energy challenges. By obtaining or retaining observership status with the *Energy Charter Conference*, they will have at their disposal an efficient tool for cooperation with other signatories, including many of the advanced economies, but also transiting and developing countries.

Which states participated in the negotiations on the *International Energy Charter*?

The negotiations were conducted in four rounds during 2014. They were open to any interested state. The parties included:

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, Mauritania, Moldova, Mongolia, Montenegro, Morocco, Netherlands, Norway, Pakistan, Palestine, 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, Yemen

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

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

3. Other states:

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

Acceptance of the text and invitation to “The Hague II”

Following the finalisation of the text of the *International Energy Charter* in November 2014, the negotiating parties have been asked to confirm by 31 January 2015 in writing, in the name of their government, the acceptance of the text and participation at The Hague Conference.

Ministerial (“The Hague II”) Conference on the International Energy Charter

Delegations authorised to approve/sign the International Energy Charter are expected to attend the Ministerial (“The Hague II”) Conference on the International Energy Charter in The Hague in May 2015:

- The Government of The Netherlands will send formal invitations informing the of the venue, date and time of the Conference, to those delegations that have informed the Secretariat of the acceptance of the final draft
- Negotiating parties are expected to inform the Secretariat before 2 March 2015, of the composition of their delegation (maximum four members including the head of the delegation) and the head of delegation authorised to confirm acceptance of the final text in accordance with its national procedures and to approve/sign it
- During the Ministerial (“The Hague II”) Conference on the International Energy Charter each head of delegation will be invited to make a statement
- The Netherlands, as host country, will open and Chair the Conference
- Negotiating parties will adopt the final text by consensus at the Conference. After adoption, each negotiating party present will be invited to sign the adopted text during the conference; negotiating parties will be able to sign the adopted text at any time.

Attendance of the Ministerial (“The Hague II”) Conference by additional states and international organisations:

Requests from States who did not take part in the negotiations to sign the International Energy Charter at the Ministerial (“The Hague II”) Conference will be circulated to the Signatories of the 1991 Charter for approval. This approval provided, those states will be asked to confirm, in the name of their government and in writing, the acceptance of the text. They will then be invited by the government of the Netherlands to the Ministerial Conference.

Selected international organisations will be invited to be present at the Ministerial Conference. Intergovernmental organisations with specific competence may request with the Energy Charter Secretariat to sign the *International Energy Charter* at the Ministerial Conference.