



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 7 May 2014

**8038/1/14
REV 1**

ENER 139

NOTE

from:	General Secretariat of the Council
to:	Delegations
Subject:	International relations in the field of energy The value of multilateral frameworks - <i>Preparation of June Council policy debate</i>

The Union's external energy relations form an important part of the Union's energy policy. Providing support to the establishment and development of multilateral energy frameworks¹ has proven to be one of the key instruments at the disposal of the Union, serving to promote a wide range of energy and climate policy goals. The Union initiated, or played key roles in, the establishment and development of several multilateral energy frameworks that cover various aspects of energy policy. Examples are the Energy Charter Treaty, the Energy Community, the International Renewable Energy Agency (IRENA) and the International Partnership for Energy Efficiency Cooperation (IPEEC).

¹ Note: these policy frameworks are also referred to as '*multilateral energy governance initiatives*'.

The value of the Union's actions in this area, and of the multilateral energy frameworks themselves, are well-recognised and undisputed ¹. Continued efforts are however necessary, in order to improve *existing* multilateral energy frameworks and address new developments in the context of these frameworks, as well as to create *new* multilateral energy frameworks wherever this could provide a clear added value compared to bilateral relations as regards the promotion of the interests of the Union.

The Presidency has therefore scheduled a discussion on the topic of "the value of multilateral frameworks" for the June 2014 meeting of the TTE (Energy) Council. Taking due account of current political and economic circumstances, including *inter alia* the development of an Energy Security Strategy for the EU, this discussion would focus on existing multilateral energy frameworks - the Energy Community, the Energy Charter Treaty (ECT) and the International Energy Agency (IEA) - and, in this context, on the issue of "Energy cooperation in the Mediterranean" with a view to the possible development of a multilateral energy framework in the Mediterranean area.

The text in Annex sets out the current state of play for the three existing multilateral energy frameworks and for energy cooperation in the Mediterranean area, and sets out some issues for consideration.

At the Energy Working Party meeting of 15 April, delegations provided comments on issues that could be considered for the future development of the existing multilateral energy frameworks and of the energy cooperation in the Mediterranean; in addition, written comments were received. Furthermore, the 7th Meeting of the Strategic Group for International Energy Cooperation, held in Brussels on 10 April 2014 was devoted to a discussion on the future strategic orientation of the Energy Community and the IEA.

¹ Note: see *inter alia*:

- TTE (Energy) Council conclusions of 24 November 2011, (doc. 17615/11) in particular its Annex I 'Principles of the set of cooperation formats';
- Council Report of 12 December 2013 on the external dimension of the EU energy policy (doc. 17756/13);
- European Council conclusions of 20/21 March 2014 (doc. EUCO 7/1/14 REV 1), in particular point 20.

This Note was adapted: in the Annex, changes are identified with **bold underlined text**. At the Energy Working Party meeting of 13 May, this paper will be finalised in order to form the basis for the policy debate at the June meeting of the TTE (Energy) Council.

I. ENERGY COMMUNITY

Achievements and state of play:

Since the Energy Community Treaty entered into force in 2006³, it has seen the expansion both of its scope, in terms of the evolving *acquis* adopted by its Contracting Parties, and of its membership, with the accession of the Republic of Moldova and Ukraine in 2010 and 2011 respectively. Georgia applied for membership in the Energy Community which it is currently negotiating. The adoption of the EU internal energy market legislation, the Directive on Renewable Energy Sources and EU legislation on large combustion plants mark some key steps of the *acquis* adopted thus far. As the first common treaty-based project undertaken by the non-European Union countries of South East Europe in the aftermath of the conflicts in the region during the 1990s, aimed at encouraging investments, economic development, security of energy supply and regional stability, the Energy Community is also about solidarity, mutual trust and peace. With more demanding and evolving relevant *acquis* being adopted by the Contracting Parties, the Energy Community ultimately is about creating a truly pan- European energy market and promoting the EU's approach on energy governance.⁴

In its conclusions on "The EU Energy Policy: Engaging with partners beyond our borders" of 24 November 2011⁵, the Council underlined the importance of enhancing and extending the Energy Community, notably by "*continuing the analysis of the functioning of the Energy Community Treaty*", and called for "*further enhancement of the Energy Community integration with the EU as well as adapting the decision-making and organisational structures of the Energy Community to future challenges*". The Council Report on the review of developments on the external dimension of the EU energy policy endorsed by Council on 12 December 2013⁶ notes that "*Member States are satisfied with the progress achieved (...) in recent years*" and states that "*the Energy Community should be promoted as a framework for energy relationships in the Western Balkans, Eastern Europe and other neighbouring countries willing and able to implement the relevant acquis.*"

³ Council Decision of 29 May 2006 on the conclusion by the European Community of the Energy Community Treaty 2006/500/EC, OJ L 198 of 20.7.2006, p. 15-37.

⁴ see the Report from the Commission to the European Parliament and the Council under Article 7 of Decision 2006/500/EC (Energy Community Treaty) of 10 March 2011; 7629/11.

⁵ 17615/11

⁶ 17756/13

By Decision of the Ministerial Council of the Energy Community D/2013/03/MC-EnC, in October 2013, the duration of the Energy Community Treaty was extended for a further 10 years⁷. Parallel to the Decision on the extension of the Treaty, the Ministers established a High Level Reflection Group (HLRG) mandated to assess the adequacy of the institutional set up and working methods of the Energy Community in achieving the objectives of the Treaty, taking into account the organisation's evolution over the past years, including its extended membership, and to make proposals for improvements to the Ministerial Council in 2014.

The Ministerial Council of the Energy Community appointed Mr. Jerzy Buzek, MEP, as the Chair of the HLRG. A report, to be discussed at the meeting of the Ministerial Council foreseen for September 2014, is due to be presented to the meeting of the Permanent High Level Group (PHLG) of the Energy Community of 18 June.

Outlook and issues for consideration:

Ahead of the next meeting of the Ministerial Council of the Energy Community, the Commission will present in due course a proposal for an EU position, to be adopted by Council in time before the meeting of the Ministerial Council foreseen for 23 September 2014. That meeting is set to include a political debate on the possible evolution of the Energy Community Treaty and its functioning, in which both the EU and the Contracting Parties will be able to express their views. In order to prepare and enrich the deliberations within the EU in the perspective of a "*thorough discussion and analysis (...) [to] address any weaknesses in the instruments and working methods used, leading to substantial improvement of the Treaty's substance and procedures to adequately address the manifold challenges, and possible ways of improving the institutional settings and the enforcement mechanisms*"⁸, the following aspects, which are interlinked, could merit consideration:

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- 1. Which options could be considered for further encouraging the implementation of the acquis by the Energy Community Contracting Parties and attracting investments?**
- 2. How to find the right balance for responding to the challenges resulting both from the consolidation of the Energy Community and its expansion?**

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⁷ see OJ L 320 of 30.11.2013, p. 81.

⁸ Council Report of 12 December 2013, doc. 17756/13, p. 8

II. THE ENERGY CHARTER AND THE ENERGY CHARTER TREATY

Background

Following the end of the Cold War, in 1991 the Energy Charter was adopted as a declaration of political intent to promote energy cooperation. Subsequently, the Energy Charter Treaty (ECT) was concluded in 1994. It seeks to apply the rule of law in the energy sector and contains provisions regarding trade, transit, investment protection and has binding dispute resolution procedures. The Treaty has been signed by 52 countries, including Russia, and the EU.

State of play

In early 2009 Russia withdrew provisional application and announced that it had no intention to ratify the Treaty. The legal implications are subject to debate but the Treaty has less impact in terms of its goals when Russia is not fully on board. In that context, in 2009 a process of modernisation of the Energy Charter process was started, aimed at increasing the attractiveness and relevance of the ECT.

An important element of the modernisation agenda is the intention to agree in the near future on a new political declaration in support of the Energy Charter's objectives. Such a new declaration (working title: 'updated Energy Charter') will **co-exist with** the existing 1991 European Energy Charter Declaration as this is partially outdated and **the name "European" does not help to attract new signatories []**. The new Declaration is to be signed **or approved** by the existing constituency and also targets outreach countries. **Phase one of the negotiations finished in March 2014, when the constituency agreed upon the draft on an updated text. Phase two started late April when a first round of negotiations with non-member countries was held.** Negotiations **will continue in the coming months []**.

'Consolidation, Expansion and Outreach' (Conexo)

A policy for consolidation, expansion and outreach of the constituency was agreed upon in 2012, partly to engage new countries. The Energy Charter Secretariat is prioritising in particular the ratification of the Treaty by all signatories. A paper for a modernisation of the Charter was shared with the contracting parties in 2013. The EU favours a clear and unequivocal commitment of the consolidation countries [] as a '*conditio sine qua non*' for engaging in discussions on the paper.

One of the objectives is to attract new target countries to join the process. **For instance, Morocco and Mauritania have already** signed the European Energy Charter in September 2012 **and in April 2014, respectively,** as a first step towards **their** full membership. Afghanistan recently completed its ratification process. **In the coming years,** several other countries are expected to **sign/approve the updated Energy Charter, once the agreement upon a new text has been reached, as well as the 1991 declaration, that will continue being a requisite to** accede to the Treaty [1]. The Energy Charter Secretariat targets, **among others,** the main regional players in the Middle East and North Africa (MENA) and promotes the accession of these countries to the Energy Charter Treaty.

Issue for consideration

[1]

1. What should be the main drivers **and the subsequent geographical priorities for [1]** the Conexo policy e.g. investment opportunities, trade in energy materials and equipment, sustainability and which actions could the EU consider in supporting **this process [1] ?**

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III. THE INTERNATIONAL ENERGY AGENCY

Background

Founded in response to the 1973/4 oil crisis, the International Energy Agency's (IEA) initial role was to help countries co-ordinate a collective response to major disruptions in oil supply through the release of emergency oil stocks. It is an autonomous organisation which works to ensure reliable, affordable and clean energy for its 28 member countries (19 EU Member States are IEA members) and beyond. The IEA's four main areas of focus are: energy security, economic development, environmental awareness, and engagement worldwide.

Outlook and issues for consideration

Following the meeting of the IEA Governing Board at the Ministerial level in November 2013, the IEA has entered a period of reflection on its strategic orientation for the coming years. In addition to its regular work on data, statistics and security of supply, acting as an impartial advisor on energy policies, the organisation has a considerable outreach programme of bilateral and multilateral engagements beyond its membership. One major project is the IEA Association initiative aimed to seek to integrate partner countries (Brazil, Russia, India, China, Indonesia, South Africa and Mexico) in the IEA work. The initiative is a way for the IEA to ensure its continued role in the global energy architecture and to maintain the high quality of its analysis. In this context, the association process is the next step and a way to link partner countries for which OECD membership is not possible in the near future.

On 4-5 June 2014, the IEA Governing Board will hear an update on Association progress and will continue the discussion on the Agency's strategic orientation.

In April 2013, the Council Energy Working Party provided a set of Shared Orientations to guide the discussions and consultations on the IEA Association Initiative. While these orientations are still largely relevant today, the geopolitical developments in EU's immediate neighbourhood have led to inclusion in the 20-21 March 2014 European Council conclusions which "*support the suspension of negotiations over Russia's joining the OECD and IEA*". While IEA continues to proceed with Association talks, it may be time for a discussion of an EU position on how the Association Initiative can progress in order to facilitate IEA's engagement beyond consumer countries in the current circumstances.

Issues for consideration

The Council could discuss:

1. what major global energy challenges Member States would consider important for an organisation such as IEA to address in the short-term and in the long-term; and
2. how the IEA Association Initiative could contribute to ensuring a more effective global energy architecture.

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IV. ENERGY COOPERATION IN THE MEDITERRANEAN

Background:

Energy needs are growing steadily in the Mediterranean region. Reducing unbalances in socio-economic development requires access to affordable, secure and sustainable energy sources. This challenge is being addressed as a key priority by all governments in the region, however, mostly from a national perspective. National policies could be implemented in a regional framework which would allow for a progressive increase in energy trade in the region as well as in its export potential to the EU. To date, energy trade possibilities are low and trade rules and regulations are often of limited geographical application. In many cases, cross-border infrastructures are in place but not sufficiently used. In other cases, cross-border infrastructures to sustain regional energy exchanges are insufficient or missing. Commercial exchanges of electricity and natural gas are limited and mostly concentrated on a few North-South/South-North flows. As a consequence, the Mediterranean region remains largely excluded from the worldwide trend towards energy systems integration and from the benefits of a larger increase in global energy trade flows.

The 5th Euro-Mediterranean Energy Ministerial took place in Cyprus on 17 December 2007. On this occasion a Priority Action Plan (PAP), spanning the 2008-2013 period, was adopted. The PAP addresses a range of topics, from the harmonization of energy markets and legislation and the integration of (electricity, gas) energy markets, the promotion of sustainable (renewables, energy efficiency) energy sectors and use (energy efficiency) to the development of gas, oil, and electricity infrastructure of common interest and R & D initiatives, that would be wide enough to offer something of interest to every partner.

The Council Report on external energy relations, endorsed by the Council on 12 December 2013⁹, declares that *"in the Mediterranean region, regulatory convergence should be further promoted through EU bilateral cooperation and in the context of the DCFTA negotiations. The possible future development, by the Union for the Mediterranean, of an energy community of UfM members is supported as a long term perspective in order to foster regional integration and to facilitate energy investment and trade, inter alia in the context of new fossil fuel discoveries in the area and the potential for renewable energies and energy efficiency; such development is without prejudice to the need for the EU to prioritise sufficient infrastructure interconnection levels between EU Member States"*.

⁹ 17756/13

In its conclusions, adopted on 20/21 March 2014, "the European Council calls on the Commission to conduct an in-depth study of EU energy security and to present by June 2014 a comprehensive plan for the reduction of EU energy dependence. The plan should reflect the fact that the EU needs to accelerate further diversification of its energy supply (...) and coordinate the development of the infrastructure to support this diversification in a sustainable manner, including through the development of interconnections. Such interconnections should also include the Iberian peninsula and the Mediterranean area. Where relevant, interconnections should also be developed with third countries."

State of play:

The Ministerial meeting on Energy took place in Brussels on 11 December 2013. On this occasion, the Ministerial held a first orientation debate on future perspectives of the Euro-Mediterranean partnership in the energy sector, including the notion of an energy community of UfM members [1]. Technical consultations at expert level are planned to continue throughout this year.

An Energy Summit will take place in Malta in July 2014 addressing the role of gas developments in the Mediterranean region and its potential to enhancing security of supply in the EU. The Italian Presidency plans to organise in November 2014 a High Level Conference on the topic of Energy cooperation in the Mediterranean, addressing different aspects.

Issues for consideration

The Council could discuss, taking into account the experience in existing multilateral energy frameworks such as the Energy Community, the ECT and the IEA, as well relevant actions undertaken so far in the Mediterranean area:

1. which future actions and instruments are best suited to foster energy cooperation in the Mediterranean area ? If appropriate, please distinguish between short-, medium- and long-term perspectives.