



## **PUBLIC COMMUNICATION ON THE SIXTH NEGOTIATION ROUND OF THE MODERNISATION OF THE ENERGY CHARTER TREATY**

On 6-9 July 2021, the Sixth Negotiation Round on the modernisation of the Energy Charter Treaty (ECT) was held by videoconference.

The following topics were addressed:

- Pre-investment
- Regional Economic Integration Organization (REIO)
- Obsolete provisions
- Definition of Economic Activity in the Energy Sector
- Investment protection provisions

The Modernisation Group discussed the aforementioned topics on the basis of the progress made in the previous negotiation rounds,<sup>1</sup> submissions and comments provided by the delegations before and during the Sixth Round of Negotiations, as well as draft compromise proposals which were prepared on some of the topics.

On “Pre-investment”, further discussions may take place on the basis of the comments made and subject to the availability of text proposals. Regarding “REIO”, the Contracting Parties further clarified their positions and agreed to address this topic also during the informal workshop on transit issues in September. In addition, it was tentatively agreed to conclude the discussion of “Obsolete provisions”.

The Modernisation Group continued discussions on the “Definition of “economic activity in the energy sector”. Recalling the benefits of differential implementation and taking into account Contracting Parties’ individual climate goals and energy mixes, multiple approaches should be considered to address this topic. In this respect, some initial options to implement such flexibility were presented to the Contracting Parties by the Secretariat. As a result of the constructive discussions, the Secretariat was mandated to further elaborate on these options with a view to continue discussions at the next Round.

With respect to the topics on investment protection, the Contracting Parties considerably progressed on definitions of “investment” and “investor”, on the “Definition of indirect expropriation” as well as on “Denial of benefits”.

A high degree of convergence on the “Clarification of “most constant protection and security”,

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<sup>1</sup> For public communications with respect to the previous negotiation rounds, please consult <https://www.energychartertreaty.org/modernisation-of-the-treaty/>.

“Compensation for losses”, the “MFN Clause” and “Transfers related to investments” was reached.

The Modernisation Group continued to consider the introduction of treaty language preserving the “Right to regulate”.

On “Definition of Fair and Equitable Treatment (FET)”, the Contracting Parties reached a common view that this topic will be subject to further detailed discussion.

With the view to conclude the negotiations expeditiously, the Secretariat will reflect the discussions of this negotiation round in draft compromise proposals, which are based on the original text proposals submitted by the Contracting Parties.

The Seventh Round of negotiations will take place on 28 September -1 October 2021 by videoconference.<sup>2</sup>

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<sup>2</sup> It is expected that in 2021 the Modernisation Group will hold five rounds of negotiations ([CCDEC 2020 17](#)).