



INTERIM PUBLIC COMMUNICATION ON THE FOURTEENTH NEGOTIATION ROUND OF THE MODERNISATION OF THE ENERGY CHARTER TREATY

Delegations decided to extend the Fourteenth Negotiation Round for one day, Tuesday 14 June 2022, while taking Monday 13 June for informal consultations and bilateral discussions.

During the first days of the negotiation round, 8-10 June 2022:

A representative of Ukraine provided an update on the Russian war against Ukraine. The Modernisation Group reiterated its support for Ukraine.

The following remaining topics were addressed:

- *Text proposals of one delegation on Transit and REIO*
- *Definition of ‘Economic Activity in the Energy Sector’*
- *Sustainable development and corporate social responsibility*
- *Dispute settlement*
 - *Transparency*
- *Investment protection*
 - *Definition of ‘Investment’*
 - *Right to regulate*
 - *Definition of ‘Fair and Equitable Treatment’*
 - *Umbrella clause*
 - *MFN clause*

In the course of the Fourteenth Negotiation Round, the Modernisation Group discussed the aforementioned topics on the basis of draft compromise proposals, submissions and comments provided by the delegations, taking into account the progress made in the previous Negotiation Rounds.¹

On the “Definition of Economic Activity in the Energy Sector”, the Modernisation Group tentatively concluded the discussions on an updated list of Energy Materials and Products and tentatively agreed to introduce a periodical review mechanism. With respect to the introduction of a potential flexibility mechanism, proposals of individual Contracting Parties were considered in combination with rules on reciprocity among Contracting Parties as well as transition periods.

With respect to Sustainable Development and Corporate Social Responsibility, delegations tentatively concluded discussions on a dedicated dispute settlement mechanism as well as on a

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

standalone article on sustainable development.

In the context of “Right to Regulate”, discussions focused on Security Exceptions.

The Modernisation Group tentatively agreed on the application of the UNCITRAL Rules on Transparency in Treaty-based Investor-State arbitration to the cases under the ECT with some additions. Furthermore, the introduction of transparency provisions applicable to State-to-State disputes was tentatively confirmed.

The Modernisation Group tentatively concluded the discussion on FET and umbrella clause, and made progress on the outstanding issues on the Definition of Investment and the MFN clause.