



*Energy Sector Reforms seen  
within the WTO and ECT  
frameworks*

**Ashgabat, 7 June 2013**

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Energy Charter  
Secretariat



# Outline

- Energy Charter and Energy Charter Treaty (ECT)
- ECT Trade Provisions
- Regional Energy Cooperation in ECT
- Local level: Covenant of Mayors going east (DACO)
- Low carbon activities



## **Energy Charter Secretariat**

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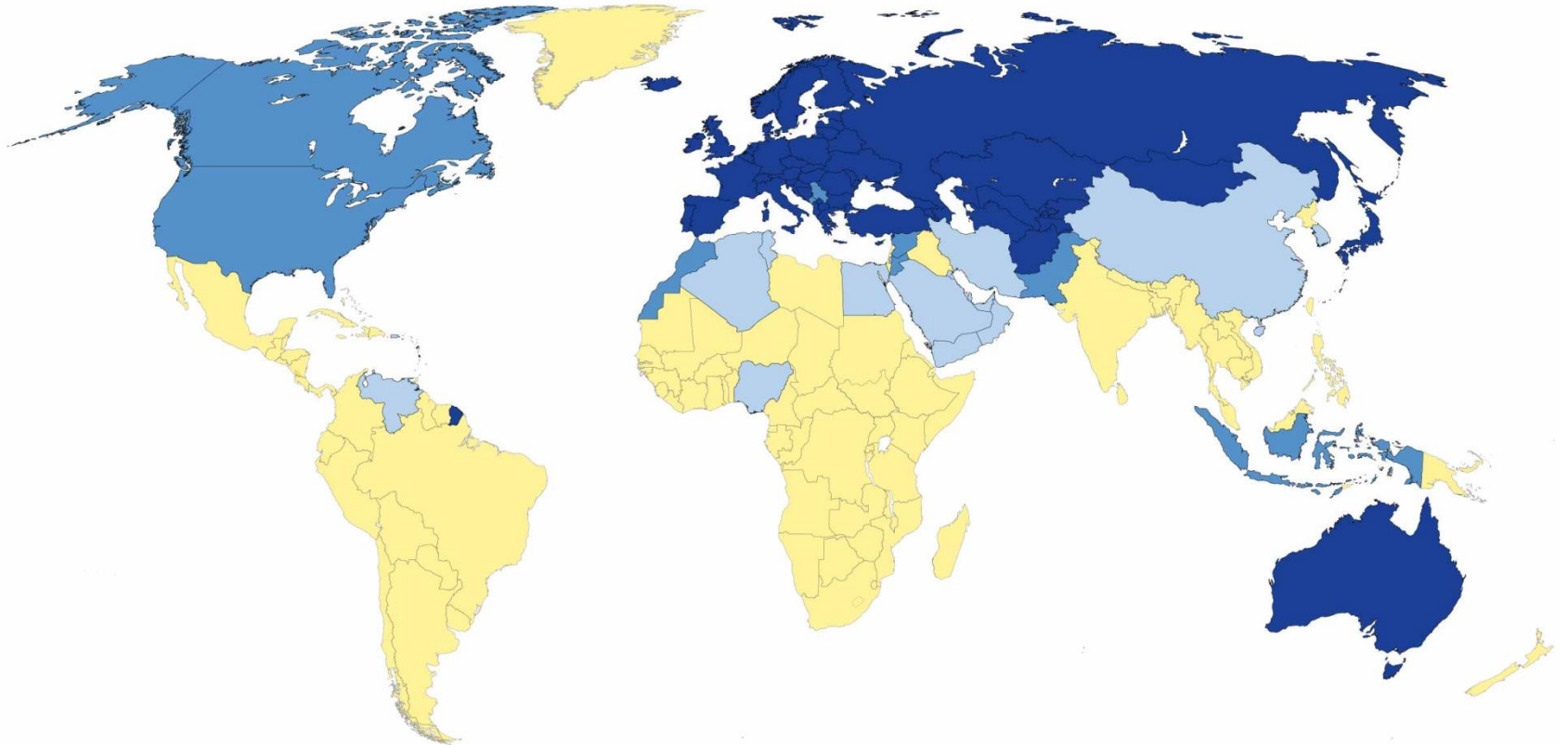
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***Common rules for global energy security***



# Energy Charter Constituency



■ Members   ■ Observers (signed 1991 Charter)   ■ Observers (by invitation)

*This map is without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area*



## **Intergovernmental treaty and organisation promoting the Principles of the Energy Charter (1991):**

- **Improving energy security**
- **Implementing energy efficiency**
- **Enhancing safety and minimising environmental problems**
- **Developing more efficient energy markets**
- **Creating a climate favourable for both enterprises and for the flow of investments and technologies**



## **Energy Charter Treaty and Protocol on Energy Efficiency (1994):**

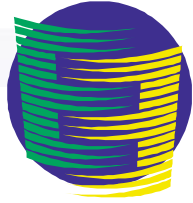
- **More than 50 members; open to any exporting, transit or importing country**
- **National sovereignty over energy resources**
- **Investment protection based on non-discrimination**
- **WTO based trade provisions, including freedom of transit**
- **Investor-to-state and state-to-state dispute settlement procedures**
- **Protocol on Energy Efficiency and Related Environmental Aspects**
- **Model Agreements facilitating construction of cross-border infrastructure**

# ECT as Trade Instrument



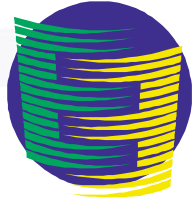
- **ECT principles are identical to WTO principles: market openness, transparency and non-discrimination**
- **ECT applies in by reference approach WTO rules to trade in relations between CPs one (or more) of which is non-WTO Member**
- **ECT applies WTO rules to all forms of energy materials and products, including electricity**
- **ECT applies in particular key WTO principles: MFN, NT, prohibition of quantitative restrictions, non-discrimination by state companies,**
- **Exceptions: General exceptions, exceptions for security, for closer regional cooperation**

# WTO Key principles in ECT



- **MFN requires non-discrimination between foreign exporters or importers. Such treatment has to be granted immediately and unconditionally.**
- **NT requires treatment as favorable as that accorded to domestic goods. This covers all laws and regulations affecting sale, purchase, transport etc.**
- **Art. XI GATT outlaws restrictions on exports or imports through quotas, import/export licences etc.**
- **Art. XVII GATT prohibits state-owned companies to discriminate between buyers and sellers.**

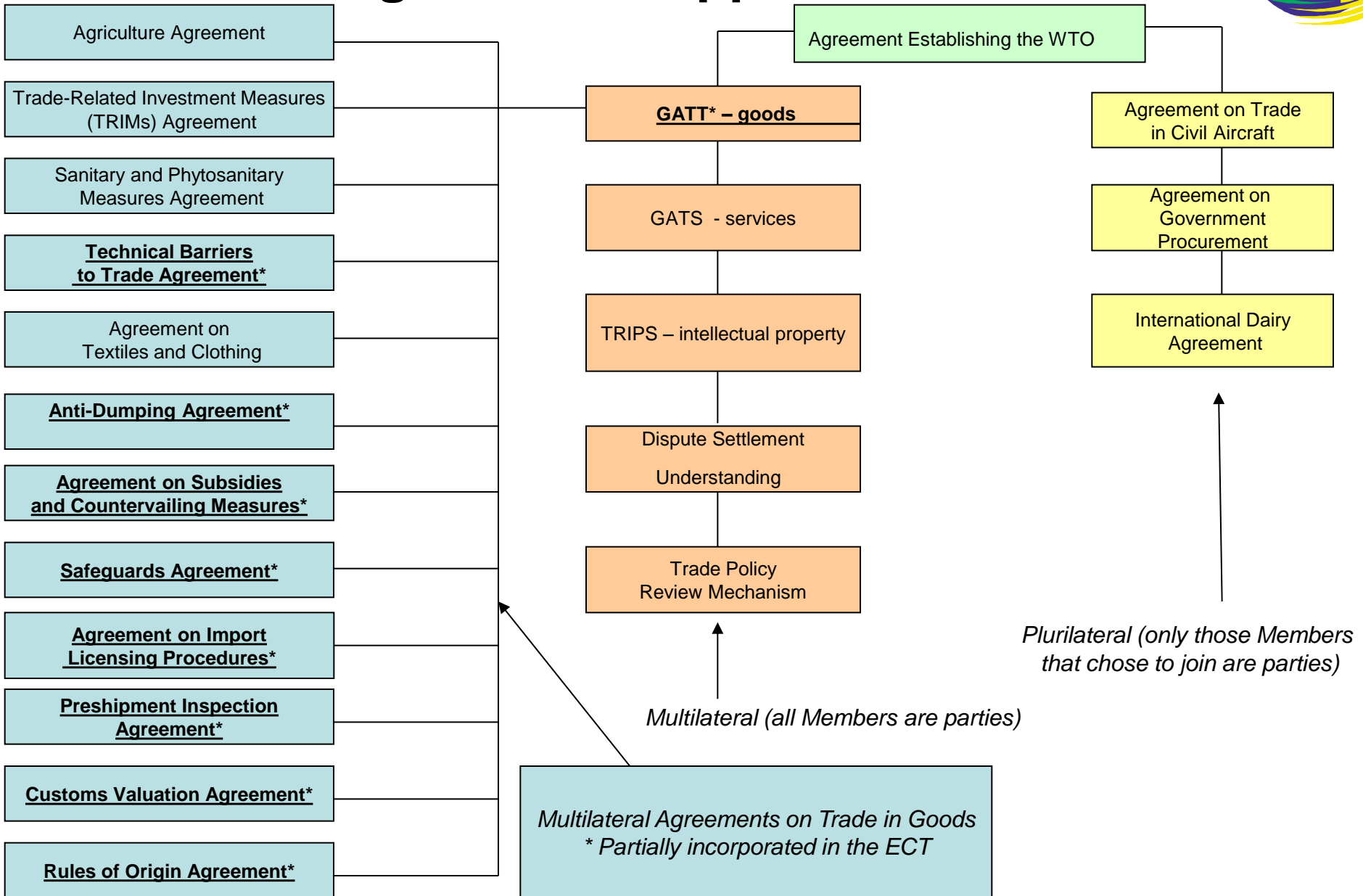
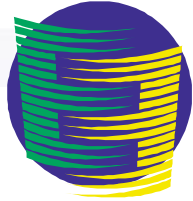




# WTO Key exceptions in ECT

- **Art. XX GATT provides for general exceptions**
- **Art. XXI GATT on security exceptions**
- **Art. XXIV GATT: Customs unions and Free Trade Agreements**

# WTO Agreements applicable under ECT



# Comparison with WTO Rules



- **ECT covers trade in services only in the (post-) investment context; GATS covers broader range of services**
- **ECT has no binding customs tariff system; raising of duties only subject to notification and consultation; however: Trade Amendment (see below)**
- **Both ECT and GATT impose freedom of transit and MFN, but ECT also requires non-interruption of flows and a kind of NT for goods in transit**

# Trade Amendment (TA)



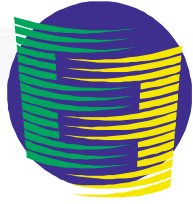
- **Technical change of GATT 1947 references and terms that are replaced with their relevant WTO 1994 references and terms, cf. ECT Art. 30 and new Art. 29(2)**
- **Inclusion of Energy Equipment ECT Art. 31 and new Art. 29(1) (see next slide)**
- **Empowers Energy Charter Conference to decide unanimously to introduce binding customs tariff standstill, cf. ECT Art. 29(6) and new Art. 29(6) and 29(7), country exceptions (see below)**



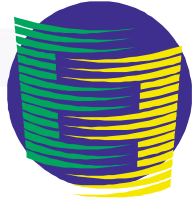
# Energy-Related Equipment

- Trade provisions of the ECT originally only applied to trade in energy materials and products
- The Trade Amendment extended the ECT trade rules to energy-related equipment
- 70 categories of Energy-Related Equipment are covered in the new Annex EQ I based on the Harmonised System (HS) of the World Customs Organization (WCO):
  - Pipelines
  - Fittings
  - Turbines
  - Transformers, etc. (see Annex EQ I)

# Possible binding tariff regime



- **Art. 29 provides for mechanism to move to a binding customs tariff standstill regime for agreed items (presently subject to the best endeavours commitment)**
- **Procedure by unanimous decision of the Conference**
- **Standstill on the date of the decision by the Conference to list the particular item in the relevant Annex**
- **Notification of rates on the date of standstill**
- **Possibility to integrate WTO commitments or concessions into the ECT trade regime**
- **Potential contribution to low carbon economy**



# **Review of customs duties/charges**

- **Twofold purpose of the review:**
  - **Transparency obligations under the ECT Art. 29(3) notifications if there are changes in import or export tariffs or other charges**
  - **Preparation of the discussion on binding regime for customs duties/charges**



# Review method

- **For WTO members, information collected by the Secretariat using Tariffs Analysis facility on WTO website + national customs authorities websites**
- **For non-WTO members information has been requested from delegations**
- **Data based on HS 8-digits level of customs classification collected for most countries**
- **Was not possible to collect the information with respect to Bosnia and Herzegovina, Tajikistan (is due beginning of March) and Turkmenistan**



# Regional Energy Cooperation



- **Regional Task Force on Electricity Cooperation in Central and South Asia**
- **Countries: Afghanistan, Kazakhstan, Kyrgyzstan, Mongolia, Pakistan, Tajikistan, Turkmenistan and Uzbekistan**
- **Established in 2007, 8 meetings so far**
- **Focus: developing a framework for sustainable and secure regional power trade based on the principles of the ECT**
- **→ Regional Energy Cooperation**



# ECT Contributions

- **Model Agreements for Cross-Border Pipelines**
  - IG-PMA for state-to-state agreements
  - HG-PMA for agreements between an individual state and the project investors
- **Model Agreements for Cross-Border Electricity Projects**
  - IG-EMA for state-to-state agreements
  - HG-EMA for agreements between an individual state and the project investors
- **Market and System Inter-Operability Agreement Guidelines for Cross-Border Electricity Projects**
- **Tariff Transit Methodology** under development to be presented at 9<sup>th</sup> Meeting of the Task Force in October 2013 during Kazenergy, Kazakhstan



# Low carbon activities

- **Energy Efficiency reviews (since 1998)**
- **Under discussion: start work on**
  - reduction of inefficient fossil fuel subsidies
  - Harmonisation of technical regulations and standards
  - Electricity labelling
  - Asia super grid
- **Measures to promote low carbon to be in compliance with WTO/ECT rules**



# Covenant of Mayors Going East - Supporting the participation of Eastern Partnership and Central Asian cities in the Covenant of Mayors



Based on a voluntary commitment by municipalities and regions to fight **Climate Change** through increased **energy efficiency** and development of **renewable energy** sources.



Project website:  
<http://daco.encharter.org>



## *Leader*



## *Technical partners*



## *Local partners*

AZERBAIJAN



SUMGAYIT

BELARUS



NOVOGRUDOK

KAZAKHSTAN



TARAZ

TAJIKISTAN



SOMONIYON

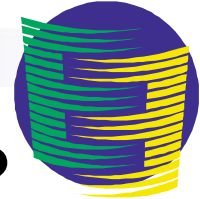


# SUSTAINABLE ENERGY ACTION PLAN

## IT IS A POLITICAL COMMITMENT

The emission reduction target is the percentage of CO<sub>2</sub> emissions a signatory commits to reducing by 2020, compared to a chosen baseline year.





# Which sectors to address?

- ✓ Municipal buildings, equipment/facilities
- ✓ Tertiary (non municipal)
- ✓ Residential
- ✓ Transport

**STRONGLY  
RECOMMENDED**

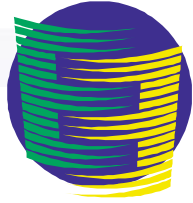
- ✓ Industries
- ✓ Other road transportation (e.g. highways)
- ✓ Waste & water treatment, solid waste treatment

**OPTIONAL**

- ✓ Aviation
- ✓ Agriculture (enteric fermentation, fertilizer application, etc...)
- ✓ Land use, land use change, forestry

**NOT RECOMMENDED**

# Sustainable Energy for All



- **UN initiative with 3 main objectives:**
  - **Ensure universal access to modern energy services;**
  - **Double the global rate of improvement in energy efficiency;**
  - **Double the share of renewable energy in the global energy mix.**
  
- **The Energy Charter Secretariat is a Member of the Global Partnership for Energy-Efficient Buildings, an initiative of the UN Foundation under the Sustainable Energy for All.**





# Conclusion

**Energy Charter Process – a contribution on three levels:**

- **Global framework for trade in energy, linked to WTO, applying to ECT members**
- **Regional energy cooperation in Central Asia complementary to CAREC**
- **Local level: DACO project with cities**
- **In future: developing tools for low carbon transition and fulfilment of UN initiative on Sustainable Energy for All**



Thank you for your attention

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