

Ο περί της Συνθήκης για τον Ευρωπαϊκό Χάρτη Ενέργειας (Κυρωτικός) (Τροποποιητικός) Νόμος του 2004 εκδίδεται με δημοσίευση στην Επίσημη Εφημερίδα της Κυπριακής Δημοκρατίας σύμφωνα με το Άρθρο 52 του Συντάγματος.

Αριθμός 45(ΙΙΙ) του 2004

ΝΟΜΟΣ ΚΥΡΩΤΙΚΟΣ ΤΗΣ ΤΕΛΙΚΗΣ ΠΡΑΞΗΣ ΤΗΣ ΔΙΕΘΝΟΥΣ ΔΙΑΣΚΕΨΗΣ ΚΑΙ ΤΗΣ ΑΠΟΦΑΣΗΣ ΤΗΣ ΔΙΑΣΚΕΨΗΣ ΤΟΥ ΧΑΡΤΗ ΕΝΕΡΓΕΙΑΣ ΠΟΥ ΕΧΕΙ ΥΠΟΓΡΑΦΕΙ ΣΤΙΣ 24 ΑΠΡΙΛΙΟΥ 1998 ΣΤΙΣ ΒΡΥΞΕΛΛΕΣ ΣΧΕΤΙΚΑ ΜΕ ΤΗΝ ΤΡΟΠΟΠΟΙΗΣΗ ΤΩΝ ΕΜΠΟΡΙΚΩΝ ΔΙΑΤΑΞΕΩΝ ΤΗΣ ΣΥΝΘΗΚΗΣ ΓΙΑ ΤΟ ΧΑΡΤΗ ΕΝΕΡΓΕΙΑΣ ΠΟΥ ΠΕΡΙΕΧΕΤΑΙ ΣΤΟΝ ΠΕΡΙ ΤΗΣ ΤΕΛΙΚΗΣ ΠΡΑΞΗΣ ΤΗΣ ΔΙΑΣΚΕΨΗΣ ΤΟΥ ΕΥΡΩΠΑΪΚΟΥ ΧΑΡΤΗ ΕΝΕΡΓΕΙΑΣ (ΚΥΡΩΤΙΚΟ) ΝΟΜΟ ΤΟΥ 1997

Η Βουλή των Αντιπροσώπων ψηφίζει ως ακολούθως:

1. Ο παρών Νόμος θα αναφέρεται ως ο περί της Συνθήκης για τον Ευρωπαϊκό Χάρτη Ενέργειας (Κυρωτικός) (Τροποποιητικός) Νόμος του 2004 και θα διαβάζεται μαζί με τον περί της Τελικής Πράξης της Διάσκεψης του Ευρωπαϊκού Χάρτη Ενέργειας (Κυρωτικό) Νόμο του 1997 (που στη συνέχεια θα αναφέρεται ως «ο βασικός νόμος») και ο βασικός νόμος και ο παρών Νόμος θα αναφέρονται μαζί ως οι περί της Συνθήκης για τον Ευρωπαϊκό Χάρτη Ενέργειας Νόμοι του 1997 και 2004.

Συνοπτικός
τίτλος.
28(ΙΙΙ) του 1997.

2. Στον παρόντα Νόμο, εκτός εάν προκύπτει από το κείμενο διαφορετική έννοια—

Ερμηνεία.

«Τελική Πράξη» σημαίνει την Τελική Πράξη της Διεθνούς Διάσκεψης και την Απόφαση της Διάσκεψης του Χάρτη Ενέργειας σχετικά με την Τροποποίηση των Εμπορικών Διατάξεων της Συνθήκης για το Χάρτη Ενέργειας που συνήφθη στις 24 Απριλίου 1998 στις Βρυξέλλες η υιοθέτηση της οποίας εγκρίθηκε από το Υπουργικό Συμβούλιο με την Απόφασή του με Αριθμό 48.155 και ημερομηνία 10.8.1998.

3. Με τον παρόντα Νόμο κυρώνεται η Τελική Πράξη της Διεθνούς Διάσκεψης και η Απόφαση της Διάσκεψης του Χάρτη Ενέργειας σχετικά με την Τροποποίηση των Εμπορικών Διατάξεων της Συνθήκης για το Χάρτη Ενέργειας, το κείμενο των οποίων στο Αγγλικό πρωτότυπο εκτίθεται στο Μέρος Ι του Πίνακα και σε Ελληνική μετάφραση στο Μέρος ΙΙ του Πίνακα:

Κύρωση
της Τελικής
Πράξης.

Πίνακας.
Μέρος Ι,
Μέρος ΙΙ.

Νοείται ότι, σε περίπτωση οποιασδήποτε διαφοράς μεταξύ των κειμένων του Μέρους Ι και εκείνων του Μέρους ΙΙ του Πίνακα, θα υπερισχύουν τα κείμενα που εκτίθενται στο Μέρος Ι του Πίνακα.

ΠΙΝΑΚΑΣ

(Αρθρο 3)

ΜΕΡΟΣ Ι

(Αγγλικό κείμενο)

**FINAL ACT OF THE INTERNATIONAL CONFERENCE AND DECISION BY THE
ENERGY CHARTER CONFERENCE IN RESPECT OF THE AMENDMENT TO THE
TRADE-RELATED PROVISIONS OF THE ENERGY CHARTER TREATY**

**FINAL ACT OF THE INTERNATIONAL CONFERENCE
AND DECISION OF THE ENERGY CHARTER CON-
FERENCE**

- I. Between 17 December 1994 and 18 December 1997 the Provisional Energy Charter Conference met to negotiate an amendment to the trade-related provisions of the Energy Charter Treaty. A Conference to adopt the amendment was held at Brussels on 23 and 24 April 1998. Representatives of the Republic of Albania, the Republic of Armenia, Australia, the Republic of Austria, the Azerbaijani Republic, the Kingdom of Belgium, the Republic of Belarus, Bosnia and Herzegovina, the Republic of Bulgaria, the Republic of Croatia, the Republic of Cyprus, the Czech Republic, the Kingdom of Denmark, the Republic of Estonia, the European Communities, the Republic of Finland, the French Republic, the Republic of Georgia, the Federal Republic of Germany, the Hellenic Republic, the Republic of Hungary, the Republic of Iceland, Ireland, the Italian Republic, Japan, the Republic of Kazakhstan, the Republic of Kyrgyzstan, the Republic of Latvia, the Principality of Liechtenstein, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Malta, the Republic of Moldova, the Kingdom of the Netherlands, the Kingdom of Norway, the Republic of Poland, the Portuguese Republic, Romania, the Russian Federation, the Slovak Republic, the Republic of Slovenia, the Kingdom of Spain, the Kingdom of Sweden, the Swiss Confederation, the Republic of Tajikistan, the former Yugoslav Republic of Macedonia, the Republic of Turkey, Turkmenistan, Ukraine, the United Kingdom of Great Britain and Northern Ireland and the Republic of Uzbekistan (hereinafter referred to as 'the representatives') participated in the Conference, as did invited observers from certain countries and international organizations.
- II. The Energy Charter Conference, which was definitively established on the entry into force on 16 April 1998 of the Energy Charter Treaty 1994, also met on 23 and 24 April 1998 to consider adoption of the amendment to the Trade-Related Provisions of the Energy Charter in accordance with the provisions of the Energy Charter Treaty.

**AMENDMENT TO THE TRADE-RELATED PROVI-
SIONS OF THE ENERGY CHARTER TREATY**

- III. The text of the Amendment to the Trade-Related Provisions of the Energy Charter Treaty (hereinafter referred to as the 'Amendment') which is set out in

Annex I and Decisions with respect thereto which are set out in Annex II were adopted in accordance with the modalities of the international conference called for this purpose and under the Energy Charter Treaty in accordance with the procedure provided for in the Treaty.

UNDERSTANDINGS

- IV. The following understandings with respect to the Amendment were adopted:

1. understanding with respect to Article 29(2)(a) and Annex W:

Notwithstanding the listing of paragraph 6 of Article XXIV of the GATT 1994 in Annex W(A)(1)(a)(i), any signatory affected by an increase in customs duties or other charges of any kind imposed on or in connection with importation or exportation referred to in the first sentence of that paragraph, is entitled to seek consultations in the Charter Conference.

2. understanding with respect to Article 29(7):

In the case of a signatory, not a member of the WTO, which is listed in Annexes BR or BRQ or both, any concession offered formally in the process of its accession to the WTO with respect to energy materials or products listed in Annex EM II or energy-related equipment listed in Annex EQ II shall, for the purpose of this Article, be regarded as a commitment under the WTO.

3. understanding with respect to Articles 29(6) and (7) and 34(3)(o):

The Charter Conference shall conduct an annual review with respect to any possibility of moving items of energy materials and products or energy-related equipment from Annexes EM I or EQ I to Annexes EM II or EQ II.

DECLARATIONS

- V. The following Declarations were made with respect to the Amendment:

Joint declaration on trade-related intellectual property rights

Signatories confirm their commitment to provide effective protection of intellectual property rights following the highest international standards.

Intellectual property rights include for the purpose of this declaration in particular copyright and related rights (including computer programmes and data bases), trademarks, geographical indications, patents, designs, topographies of semiconductor products and undisclosed information.

Joint declaration by the Russian Federation and the European Union

The Russian Federation has raised the issue of trade in nuclear materials. The Russian Federation and the EU agreed that the partnership and cooperation agreement between the Russian Federation, the European Union and its Member States, which entered into force on 1 December 1997, is the appropriate framework to deal with this issue, as confirmed in the conclusions of 27 January 1998 Cooperation Council.

ANNEX I

AMENDMENT TO THE TRADE-RELATED PROVISIONS OF THE ENERGY CHARTER TREATY

Article 1

Article 29 of the Treaty shall be replaced by the following text:

*Article 29***Interim provisions on trade-related matters**

1. The provisions of this Article shall apply to trade in energy materials and products and energy-related equipment while any Contracting Party is not a member of the WTO.
2. (a) Trade in energy materials and products and energy-related equipment between Contracting Parties at least one of which is not a member of the WTO shall be governed, subject to subparagraph (b) and to the exceptions and rules provided for in Annex W, by the provisions of the WTO Agreement, as applied and practised with regard to energy materials and products and energy-related equipment by members of the WTO among themselves, as if all Contracting Parties were members of the WTO;
 - (b) Such trade of a Contracting Party which is a State that was a constituent part of the former Union of Soviet Socialist Republics may instead be governed, subject to the provisions of Annex TFU, by an agreement between two or more such States, until 1 December 1999 or the admission of that Contracting Party to the WTO, whichever is the earlier;
3. (a) Each signatory to this Treaty, and each State or regional economic integration organisation acceding to this Treaty before 24 April 1998, shall on the date of its signature or of its deposit of its instrument of accession provide to the Secretariat a list of all customs duties and charges of any kind imposed on or in connection with importation or exportation of energy materials and products, notifying the level of such customs duties and charges applied on such date of signature or deposit. Each signatory to this Treaty, and each State or regional economic integration organisation acceding to this Treaty before 24 April 1998, shall on that date provide to the Secretariat a list of all customs duties and charges of any kind imposed on or in connection with importation or exportation of energy-related equipment, notifying the level of such customs duties and charges applied on that date;
 - (b) Each State or regional economic integration organisation acceding to this Treaty on or after 24 April 1998, shall, on the date of its deposit of its instrument of accession, provide to the Secretariat a list of all customs duties and charges of any kind imposed on or in connection with importation or exportation of energy materials and products and energy-related equipment, notifying the level of such customs duties and charges applied on such date of deposit.

Any changes to such customs duties or charges of any kind imposed on or in connection with importation or exportation shall be notified to the Secretariat, which shall inform the Contracting Parties of such changes.
4. Each Contracting Party shall endeavour not to increase any customs duty or charge of any kind imposed on or in connection with importation or exportation:
 - (a) in the case of the importation of energy materials and products listed in Annex EM I or energy-related equipment listed in Annex EQ I and described in Part I of the Schedule relating to the Contracting Party referred to in Article II of the GATT 1994, above the level set forth in that Schedule, if the Contracting Party is a member of the WTO;
 - (b) in the case of the exportation of energy materials and products listed in Annex EM I or energy-related equipment listed in Annex EQ I, and that of their importation if the Contracting Party is not a member of the WTO, above the level most recently notified to the Secretariat, except as permitted by the provisions made applicable by subparagraph 2(a).
5. A Contracting Party may increase such customs duty or other charge above the level referred to in paragraph (4) only if:
 - (a) in case of a customs duty or other charge imposed on or in connection with importation, such action is not inconsistent with the applicable provisions of the WTO Agreement, other than those provisions of the WTO Agreement listed in Annex W; or

(b) it has, to the fullest extent practicable under its legislative procedures, notified the Secretariat of its proposal for such an increase, given other interested Contracting Parties reasonable opportunity for consultation with respect to its proposal, and accorded consideration to any representations from such Contracting Parties.

6. In respect of trade between Contracting Parties at least one of which is not a member of the WTO, no such Contracting Party shall increase any customs duty or charge of any kind imposed on or in connection with importation or exportation of energy materials and products listed in Annex EM II or energy-related equipment listed in Annex EQ II above the lowest of the levels applied on the date of the decision by the Charter Conference to list the particular item in the relevant Annex.

A Contracting Party may increase such customs duty or other charge above that level only if:

(a) in case of a customs duty or other charge imposed on or in connection with importation, such action is not inconsistent with the applicable provisions of the WTO Agreement, other than those provisions of the WTO Agreement listed in Annex W; or

(b) in exceptional circumstances not elsewhere provided for in this Treaty, the Charter Conference decides to waive the obligation otherwise imposed on a Contracting Party by this paragraph, consenting to an increase in a customs duty, subject to any conditions the Charter Conference may impose.

7. Notwithstanding paragraph 6, in the case of trade referred to in that paragraph, Contracting Parties listed in Annex BR in respect of energy materials and products listed in Annex EM II, or in Annex BRQ in respect of energy-related equipment listed in Annex EQ II, shall not increase any customs duty or other charge above the level resulting from their commitments or any provisions applicable to them under the WTO Agreement.

8. Other duties and charges imposed on or in connection with importation or exportation of energy materials and products or energy-related equipment shall be subject to the provisions of the understanding on the interpretation of Article II: 1(b) of the GATT 1994 as modified according to Annex W.

9. Annex D shall apply:

(a) to disputes regarding compliance with provisions applicable to trade under this Article;

(b) to disputes regarding the application by a Contracting Party of any measure, whether or not it conflicts with the provisions of this Article, which is considered by another Contracting Party to nullify or impair any benefit accruing to it directly or indirectly under this Article; and

(c) unless the Contracting Parties parties to the dispute agree otherwise, to disputes regarding compliance with Article 5 between Contracting Parties at least one of which is not a member of the WTO;

except that Annex D shall not apply to any dispute between Contracting Parties, the substance of which arises under an agreement that:

(i) has been notified in accordance with and meets the other requirements of subparagraph (2)(b) and Annex TFU; or

(ii) establishes a free-trade area or a customs union as described in Article XXIV of the GATT 1994.

Article 2

The Treaty shall be amended as follows:

In the Preamble, paragraph 7, replace 'General Agreement on Tariffs and Trade and its Related Instruments' with 'Agreement Establishing the World Trade Organisation'.

In the Preamble, paragraph 8, replace 'related equipment' with 'energy-related equipment'.

In the Preamble, paragraph 9, replace 'General Agreement on Tariffs and Trade' and 'parties thereto' with 'World Trade Organisation' and 'members thereof'.

In the Preamble, paragraph 10, replace 'parties to the General Agreement on Tariffs and Trade and its Related Instruments' with 'members of the World Trade Organisation'.