

**ENERGY CHARTER
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Related documents: CC 212, CC 213

DECISION OF THE ENERGY CHARTER CONFERENCE

Subject: Recommendations on Country Reports on Investment Climate and Market Structure

The Conference approved the conclusions circulated in document CC 212 with regard to the reports undertaken by the Investment Group on Investment Climate and Market Structure issues in the energy sectors of Croatia and Ukraine, and on market restructuring in Albania. These conclusions are attached as [Annex.]

Keywords: ICMS, Croatia, Ukraine, Albania

Recommendations on Country Reports on Investment Climate and Market Structure Issues

as adopted by the Energy Charter Conference
at its 10th Meeting held on 20 June 2002

The Charter Conference,

Having heard the report from the Investment Group with respect to the Reports on Investment Climate and Market Structure from Croatia (ICMS-5) and the Ukraine (ICMS-6);

Having heard the report from the Investment Group with respect to the Report on Market Restructuring from Albania (RIP-22);

NOTED

- a) That the reviews have shown considerable progress in the legislative framework, in particular by adopting a number of energy-related laws and regulations, enhanced transparency and further steps towards restructuring and privatisation of the energy sector in the reviewed countries;
- b) That the reviews have revealed a positive development concerning the rollback of non-conforming measures in accordance with Article 10(5)(a) of the Treaty and concerning the clarification of the relevance of certain notified exceptions, resulting in the withdrawal of one exception from the “Blue Book” (Ukraine) and the modification of one other exception (Croatia);
- c) In particular, with respect to:

(i) Croatia

- Took note with satisfaction of the overall favourable climate for foreign investment in Croatia;
- Agreed that the Croatian exception concerning a reciprocity requirement for the acquisition of real estate by foreign investors be modified in order to clarify (1) that it applies only to non-resident investors, and (2) that reciprocity is presumed to exist until proven otherwise;
- Invited the Croatian authorities to streamline and facilitate administrative procedures for foreign investors, in particular with regard to the process of acquiring land;
- Welcomed the decision of the Croatian government to restructure the electricity and the oil and gas sector, and encouraged the Croatian authorities to move ahead with the rapid privatisation of the utilities “HEP” (Hrvatska elektoprivreda) and “INA” (Industrija nafte);
- Encouraged the Croatian authorities to also consider and implement the privatisation of the oil pipeline company “JANAF”;

- Welcomed the recent establishment of a Council for Regulation of Energy Activity, and invited the Croatian authorities to issue further guidelines for the implementation of a transparent, stable and competitive regulatory environment.

(ii) Ukraine

- Welcomed the efforts of the Ukrainian authorities to implement the restructuring of the energy sector in a way as to create favourable conditions for foreign and domestic investors, and encouraged the Ukrainian authorities to enhance their policies to that goal;
- Invited the Ukrainian authorities to provide additional clarification about privatisation policies for power generation facilities, coal mines, and regional power distribution companies, and about Ukraine's policies aiming at coping with problems caused by the disintegration of unitary energy systems that existed in the former USSR;
- Appreciated improvements in the stability of the legal environment for foreign investors, and invited the Ukrainian authorities to continue their work in the area, in particular with regard to facilitating the acquisition of real estate by foreign investors;
- Welcomed the determination of the Ukrainian authorities to improve the taxation structure in the framework of the adoption of the new Tax and Civil Codes and encouraged the Ukrainian authorities to persist in their endeavour;
- Welcomed the efforts of the Ukrainian authorities with regard to streamlining the relationship between different administrative procedures for upstream investments in the petroleum industry, and invited further steps in this direction.

(iii) Albania

- Noted that Albania has been implementing a privatisation program in the energy sector, particularly in the electricity sector, and that a restructuring program, including the unbundling of the vertically integrated national electricity company KESH, is under way;
- Encouraged the Albanian authorities to implement the restructuring of the electricity sector as scheduled and in a way to create favourable conditions for foreign and domestic investors;
- Invited the Albanian authorities to update the report based on the discussions and the facts presented at the Investment Group meeting.