

CONCLUDING DOCUMENT OF THE HAGUE CONFERENCE ON
THE EUROPEAN ENERGY CHARTER

DOCUMENT DE CLOTURE DE LA CONFERENCE DE LA HAYE
SUR LA CHARTE EUROPEENNE DE L'ENERGIE

ABSCHLUSSDOKUMENT DER HAAGER KONFERENZ
ÜBER DIE EUROPÄISCHE ENERGIECHARTA

DOCUMENTO CONCLUSIVO DELLA CONFERENZA TENUTASI ALL'AIA
SULLA CARTA EUROPEA DELL'ENERGIA

ЗАКЛЮЧИТЕЛЬНЫЙ ДОКУМЕНТ ГААГСКОЙ КОНФЕРЕНЦИИ
ПО ЕВРОПЕЙСКОЙ ЭНЕРГЕТИЧЕСКОЙ ХАРТИИ

DOCUMENTO DE CLAUSURA DE LA CONFERENCIA DE LA HAYA
SOBRE LA CARTA EUROPEA DE LA ENERGIA

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THE EUROPEAN ENERGY CHARTER

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The representatives of Albania, Armenia, Australia, Austria, Azerbaijan, Belgium, Byelarus, Bulgaria, Canada, Czechoslovakia, Cyprus, Denmark, Estonia, The European Communities, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, The Interstate Economic Committee, Ireland, Italy, Japan, Kazakhstan, Kirghizstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, The Netherlands, Norway, Poland, Portugal, Romania, The Russian Federation, Spain, Sweden, Switzerland, Tadjikistan, Turkey, Turkmenistan, Ukraine, The United Kingdom of Great Britain and Northern Ireland, The United States of America, Uzbekistan, Yugoslavia convened in The Hague, the Netherlands, from 16 to 17 December 1991 in order to adopt the European Energy Charter.

The Conference was opened and closed by the Minister of Economic Affairs of the Netherlands.

Her Majesty, Queen Beatrix of the Netherlands, attended the opening of the Conference.

The Prime Minister of the Netherlands and the Commissioner for Energy of the European Commission addressed the Conference.

During the Conference, contributions were received and statements made by delegates of the signatories.

Determined to give full effect to the results of the Conference, the representatives of the signatories adopted the following text for the European Energy Charter:

EUROPEAN ENERGY CHARTER

The representatives of the signatories meeting in The Hague on 16 and 17 December 1991,

Having regard to the Charter of Paris for a New Europe, signed in Paris on 21 November 1990 at the summit meeting of the Conference on Security and Co-operation in Europe (CSCE);

Having regard to the document adopted in Bonn on 11 April 1990 by the CSCE Conference on Economic Co-operation in Europe;

Having regard to the declaration of the London Economic Summit adopted on 17 July 1991;

Having regard to the report on the conclusions and recommendations of the CSCE meeting in Sofia on 3 November 1989, on the protection of the environment, as well as its follow-up;

Having regard to the Agreement establishing the European Bank for Reconstruction and Development signed in Paris on 29 May 1990;

Anxious to give formal expression to this new desire for a European-wide and global co-operation based on mutual respect and confidence;

Resolved to promote a new model for energy co-operation in the long term in Europe and globally within the framework of a market economy and based on mutual assistance and the principle of non-discrimination;

Aware that account must be taken of the problems of reconstruction and restructuring in the countries of Central and Eastern Europe and in the USSR and that it is desirable for the signatories to participate in joint efforts aimed at facilitating and promoting market-oriented reforms and modernisation of energy sectors in these countries;

Certain that taking advantage of the complementary features of energy sectors within Europe will benefit the world economy; persuaded that broader energy co-operation among signatories is essential for economic progress and more generally for social development and a better quality of life;

Convinced of the signatories' common interest in problems of energy supply, safety of industrial plants, particularly nuclear facilities, and environmental protection;

Willing to do more to attain the objectives of security of supply and efficient management and use of resources, and to utilize fully the potential for environmental improvement, in moving towards sustainable development;

Convinced of the essential importance of efficient energy system in the production, conversion, transport, distribution and use of energy for security of supply and for the protection of the environment;

Recognizing State sovereignty and sovereign rights over energy resources;

Assured of support from the European Community, particularly through completion of its internal energy market;

Aware of the obligations under major relevant multilateral agreements, of the wide range of international energy co-operation, and of the extensive activities by existing international organizations in the energy field and willing to take full advantage of the expertise of these organizations in furthering the objectives of the Charter;

Recognizing the role of entrepreneurs, operating within a transparent and equitable legal framework, in promoting co-operation under the Charter;

Determined to establish closer, mutually beneficial commercial relations and promote energy investments;

Convinced of the importance of promoting free movement of energy products and of developing an efficient international energy infrastructure in order to facilitate the development of market-based trade in energy;

Aware of the need to promote technological co-operation among signatories;

Affirming that the energy policies of signatories are linked by interests common to all their countries and that they should be implemented in accordance with the principles set out below:

Affirming, finally, their desire to take the consequent action and apply the principles set out below:

HAVE ADOPTED THE FOLLOWING DECLARATION CONSTITUTING THE "EUROPEAN ENERGY CHARTER"

TITLE 1: OBJECTIVES

The signatories are desirous of improving security of energy supply and of maximising the efficiency of production, conversion, transport, distribution and use of energy, to enhance safety and to minimise environmental problems, on an acceptable economic basis.

Within the framework of State sovereignty and sovereign rights over energy resources and in a spirit of political and economic co-operation, they undertake to promote the development of an efficient energy market throughout Europe, and a better functioning global market, in both cases based on the principle of non-discrimination and on market-oriented price formation, taking due account of environmental concerns. They are determined to create a climate favourable to the operation of enterprises and to the flow of investments and technologies by implementing market principles in the field of energy.

To this end, and in accordance with these principles, they will take action in the following fields:

1. Development of trade in energy consistent with major relevant multilateral agreements such as GATT, its related instruments, and nuclear non-proliferation obligations and undertakings, which will be achieved by means of:

- an open and competitive market for energy products, materials, equipment and services;
- access to energy resources, and exploration and development thereof on a commercial basis;
- access to local and international markets;
- removal of technical, administrative and other barriers to trade in energy and associated equipment, technologies and energy-related services;
- modernization, renewal and rationalization by industry of services and installations for the production, conversion, transport, distribution and use of energy;
- promoting the development and interconnection of energy transport infrastructure;
- promoting best possible access to capital, particularly through appropriate existing financial institutions;
- facilitating access to transport infrastructure, for international transit purposes in accordance with the objectives of the Charter expressed in the first paragraph of this Title;

- access on commercial terms to technologies for the exploration, development and use of energy resources.

2. Co-operation in the energy field, which will entail:

- co-ordination of energy policies, as necessary for promoting the objectives of the Charter;
- mutual access to technical and economic data, consistent with proprietary rights;
- formulation of stable and transparent legal frameworks creating conditions for the development of energy resources;
- co-ordination and, where appropriate, harmonization of safety principles and guidelines for energy products and their transport, as well as for energy installations, at a high level;
- facilitating the exchange of technology information and know-how in the energy and environment fields, including training activities;
- research, technological development and demonstration projects.

3. Energy efficiency and environmental protection, which will imply:

- creating mechanisms and conditions for using energy as economically and efficiently as possible, including, as appropriate, regulatory and market-based instruments;
- promotion of an energy mix designed to minimise negative environmental consequences in a cost-effective way through:
 - (i) market-oriented energy prices which more fully reflect environmental costs and benefits;
 - (ii) efficient and co-ordinated policy measures related to energy;
 - (iii) use of new and renewable energies and clean technologies;
- achieving and maintaining a high level of nuclear safety and ensuring effective co-operation in this field.

TITLE II: IMPLEMENTATION

In order to attain the objectives set out above, the signatories will, within the framework of State sovereignty and sovereign rights over energy resources, take co-ordinated action to achieve greater coherence of energy policies, which should be based on the principle of non-discrimination and on market-oriented price formation, taking due account of environmental concerns.

They underline that practical steps to define energy policies are necessary in order to intensify co-operation in this sector and further stress the importance of regular exchanges of views on action taken, taking full advantage of the experience of existing international organizations and institutions in this field.

The signatories recognize that commercial forms of co-operation may need to be complemented by intergovernmental co-operation, particularly in the area of energy policy formulation and analysis as well as in areas which are essential and not suitable to private capital funding.

They undertake to pursue the objectives of creating a broader European energy market and enhancing the efficient functioning of the global energy market by joint or co-ordinated action under the Charter in the following fields:

- access to and development of energy resources;
- access to markets;
- liberalization of trade in energy;
- promotion and protection of investments;
- safety principles and guidelines;
- research, technological development, innovation and dissemination;
- energy efficiency and environmental protection;
- education and training.

In implementing this joint or co-ordinated action, they undertake to foster private initiative, to make full use of the potential of enterprises, institutions and all available financial sources, and to facilitate co-operation between such enterprises or institutions from different countries, acting on the basis of market principles.

The signatories will ensure that the international rules on the protection of industrial, commercial and intellectual property are respected.

1. Access to and development of energy resources

Considering that efficient development of energy resources is a sine qua non for attaining the objectives of the Charter, the signatories undertake to facilitate access to and development of resources by the interested operators.

To this end, they will ensure that rules on the exploration, development and acquisition of resources are publicly available and transparent; they recognize the need to formulate such rules wherever this has not yet been done and to take all necessary measures to co-ordinate their actions in this area.

With a view to facilitating the development and diversification of resources, the signatories undertake to avoid imposing discriminatory rules on operators, notably rules governing the ownership of resources, internal operation of companies and taxation.

2. Access to Markets

The signatories will strongly promote access to local and international markets for energy products for the implementation of the objectives of the Charter. Such access to markets should take account of the need to facilitate the operation of market forces, and promote competition.

3. Liberalization of trade in energy

In order to develop and diversify trade in energy, the signatories undertake progressively to remove the barriers to such trade with each other in energy products, equipment and services in a manner consistent with the provisions of GATT, its related instruments, and nuclear non-proliferation obligations and undertakings.

The signatories recognize that transit of energy products through their territories is essential for the liberalization of trade in energy products. Transit should take place in economic and environmentally sound conditions.

They stress the importance of the development of commercial international energy transmission networks and their interconnection, with particular reference to electricity and natural gas and with recognition of the relevance of long-term commercial commitments. To this end, they will ensure the compatibility of technical specifications governing the installation and operation of such networks, notably as regards the stability of electricity systems.

4. Promotion and protection of investments

In order to promote the international flow of investments, the signatories will at national level provide for a stable, transparent legal framework for foreign investments, in conformity with the relevant international laws and rules on investment and trade.

They affirm that it is important for the signatory States to negotiate and ratify legally binding agreements on promotion and protection of investments which ensure a high level of legal security and enable the use of investment risk guarantee schemes.

Moreover, the signatories will guarantee the right to repatriate profits or other payments relating to an investment and to obtain or use the convertible currency needed.

They also recognize the importance of the avoidance of double taxation to foster private investment.

5. Safety principles and guidelines

Consistent with relevant major multilateral agreements, the signatories will:

- implement safety principles and guidelines, designed to achieve and/or maintain high levels of safety, in particular nuclear safety and the protection of health and the environment;
- develop such common safety principles and guidelines as are appropriate and/or agree to the mutual recognition of their safety principles and guidelines.

6. Research, technological development, innovation and dissemination

The signatories undertake to promote exchanges of technology and co-operation on their technological development and innovation activities in the fields of energy production, conversion, transport, distribution and the efficient and clean use of energy, in a manner consistent with nuclear non-proliferation obligations and undertakings.

To this end, they will encourage co-operative efforts on:

- research and development activities;
- pilot or demonstration projects;
- the application of technological innovations;
- the dissemination and exchange of know-how and information on technologies.

7. Energy efficiency and environmental protection

The signatories agree that co-operation is necessary in the field of efficient use of energy and energy-related environmental protection. This should include:

- ensuring, in a cost-effective manner, consistency between relevant energy policies and environmental agreements and conventions;
- ensuring market-oriented price formation, including a fuller reflection of environmental costs and benefits;
- the use of transparent and equitable market-based instruments designed to achieve energy objectives and reduce environmental problems;
- the creation of framework conditions for the exchange of know-how regarding environmentally sound energy technologies and efficient use of energy;
- the creation of framework conditions for profitable investment in energy efficiency projects.

2. Education and training

The signatories, recognizing industry's role in promoting vocational education and training in the energy field, undertake to co-operate in such activities, including:

- professional education;
- occupational training;
- public information in the energy efficiency field.

TITLE III: SPECIFIC AGREEMENTS

The signatories undertake to pursue the objectives and principles of the Charter and implement and broaden their co-operation as soon as possible by negotiating in good faith a Basic Agreement and Protocols.

Areas of co-operation could include:

- horizontal and organisational issues;
- energy efficiency, including environmental protection;
- prospecting, production, transportation and use of oil and oil products and modernization of refineries;

- prospecting, production and use of natural gas, interconnection of gas networks and transmission via high-pressure gas pipelines;
- all aspects of the nuclear fuel cycle including improvements in safety in that sector;
- modernization of power stations, interconnection of power networks and transmission of electricity via high-voltage power lines;
- all aspects of the coal cycle, including clean coal technologies;
- development of renewable energy sources;
- transfers of technology and encouragement of innovation;
- co-operation in dealing with the effects of major accidents, or of other events in the energy sector with transfrontier consequences.

The signatories will, in exceptional cases, consider transitional arrangements. They, in particular, take into account the specific circumstances facing some states of Central and Eastern Europe and the USSR as well as their need to adapt their economies to the market system, and accept the possibility of a stage-by-stage transition in those countries for the implementation of those particular provisions of the Charter, Basic Agreement and related Protocols that they are, for objective reasons, unable to implement immediately and in full.

Specific arrangements for coming into full compliance with Charter provisions as elaborated in the Basic Agreement and Protocols will be negotiated by each Party requesting transitional status, and progress towards full compliance will be subject to periodic review.

TITLE IV: FINAL PROVISION

The signatories request the Government of the Netherlands, President-in-Office of the Council of the European Communities, to transmit to the Secretary-General of the United Nations the text of the European Energy Charter which is not eligible for registration under Article 102 of the Charter of the United Nations.

In adopting the European Energy Charter Ministers or their representatives record that the following understanding has been reached:

The representatives of the Signatories understand that in the context of the European Energy Charter, the principle of non-discrimination means Most-Favoured-Nation Treatment as a minimum standard. National Treatment may be agreed to in provisions of the Basic Agreement and/or Protocols.

The original of this Concluding Document, drawn up in English, French, German, Italian, Russian and Spanish texts, will be transmitted to the Government of the Kingdom of the Netherlands, which will retain it in its archives. Each of the Signatories will receive from the Government of the Kingdom of the Netherlands a true copy of the Concluding Document.