



# CHARTER NEWS

## A newsletter from the Energy Charter

### JAPAN ACCEPTS THE ENERGY CHARTER TREATY

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On 5 July the House of Councillors of the Japanese parliament approved Japan's acceptance of the Energy Charter Treaty (ECT). With the formal procedure to follow, Japan will become the 46<sup>th</sup> Contracting Party to the Treaty. The remaining five states that have signed the ECT but not yet completed its ratification are Australia, Belarus, Iceland, Norway and the Russian Federation.



*Japan's ratification underlines the ECT's potential role for building energy security in Asia*

"This represents a major step forward for the Energy Charter process", commented Henning Christophersen, Chairman of the Treaty's governing body, the Energy Charter Conference, adding that Japan's acceptance highlighted the growing potential of the Charter as a mechanism for energy cooperation in Asia. "The Energy Charter process originally began life as a European initiative, but its potential role in

building energy security also in Asia has long since been recognised, and Japan's acceptance testifies to this", he noted. In particular, according to Christophersen, the Treaty's rules could in the future provide an important legal basis for the development of oil and gas export routes from Central Asia to Japan and the Asia-Pacific region. All of the Central Asian states, as well as Mongolia, have signed and ratified the ECT, and the People's Republic of China became an official observer state to the Energy Charter at the end of 2001.

The procedure for Japan's acceptance of the ECT, together with the Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects, will be completed once its instruments of acceptance are deposited with the government of Portugal, which acts as the Treaty's depositary.

### SEMINAR ON TRADE AND INVESTMENT IN THE POWER SECTOR

On 3<sup>rd</sup> October, the Energy Charter Secretariat is organizing a Seminar on "Liberalising Trade and Investment in the Eurasian Power Sector", which will be held at the Hotel "Sodehotel" in Brussels.

The aim of the Seminar is to promote a policy discussion on some of the issues relating to inter-regional electricity trade that are currently the subject of analysis within the Energy Charter process (see article on page 2). The Seminar will consider the perspectives of governments, regulators and power companies from east and west concerning, inter alia, the future integration of European electricity markets; existing barriers

to liberalised trade in electricity; access to national networks; and investment issues, in particular in transition economies. Representatives from the energy industries of western Europe and the CIS, the European Commission, academia and international organizations have been invited to address the Seminar, which will be conducted in English and Russian.

Participation is free of charge, but places are limited, and advance registration is essential. For further details, and to register your interest in attending, please contact the Secretariat (details shown below).

### ENERGY CHARTER UNDERTAKES STUDY ON REGIONAL ELECTRICITY MARKETS

The Energy Charter is currently developing a study on the operation of Regional Electricity Markets among its member states. The study, which is being undertaken by the Energy Charter Conference's subsidiary body on trade issues (Trade Group), aims to identify the technical and legal barriers presently existing to increased electricity trade between eastern and western Europe, and how they might be overcome.

A preliminary version of the study was discussed by the Trade Group at its last meeting in May, and will now be revised taking account of comments from governments and input gained by the Secretariat through consultations with the electricity industry.

Steivan Defilla, Chairman of the Charter's Trade Group, notes that increasingly there are calls from certain governments to ensure that the process of liberalizing electricity trade is not limited only to the EU, but encompasses the entire Eurasian space. "Many states see the Energy Charter Treaty as a key legal instrument in this regard, both because of its comprehensive geographical coverage, and because its provisions deal with trade in all forms of energy materials and products, including electricity", commented Defilla.

In particular, the Treaty has the important effect of extending "by reference" the rules and obligations of the WTO with regard to trade in energy materials and products between all of its Signatories, even those that are not presently members of the WTO.

The preliminary text of the study identifies a lack of open access to grids, import restrictions on electricity introduced on environmental grounds, and uncertain investment conditions in the electricity sectors of transition economies as being among the main barriers to increased inter-regional trade in electricity. As a result, regional electricity trade accounts for only 2% of all electricity generated in the Eurasian area at present, and there is practically no direct trade in electricity between the states of the CIS region and those of western Europe (with the exception of a modest level of exports from Russia to Finland).

Among the study's preliminary recommendations are that governments should recognize the mutual benefits that increased electricity trade can offer, in terms of increased security of supply and efficiency gains; that trade restrictions are not the most appropriate means of addressing legitimate public concerns over safety and environmental standards in electricity generation; and that a contin-



*Inter-regional trade in electricity represents only 2% of total electricity generation in Eurasia*

ued policy focus is required on the liberalization of national regimes for access to grids (via unbundling of monopolies and extending the principle of third-party access) and on the liberalization of national investment regimes in transition economies.

Once the study is finalized, it is hoped that it will provide a common starting-point for further multilateral efforts by the Charter's member states to deal with existing barriers to regional electricity trade.

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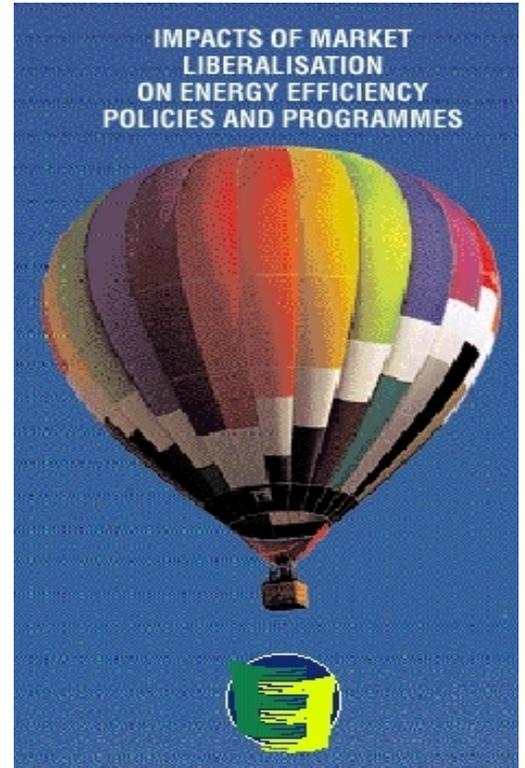
### IMPACTS OF MARKET LIBERALISATION ON ENERGY EFFICIENCY POLICIES AND PROGRAMMES

The Energy Charter Secretariat has published a new report entitled "Impacts of Market Liberalisation on Energy Efficiency Policies and Programmes". The report is based on a study carried out under the Charter's auspices with financial support from the Ministry of Petroleum and Energy of Norway.

The aim of the report is to identify the possible effects of evolving competition in the energy sector of many national economies on energy efficiency, and to establish how energy efficiency policies and programmes should best be adapted to meet the challenges of energy market liber-

alization. The report, which includes a number of case studies that highlight best practices in adapting energy efficiency policies to conditions of market liberalisation, was prepared also with the aim of supporting policy discussions on the issues raised within the forum of the International Energy Agency (IEA).

The full text of the report is available in English and Russian as a down-load file on the Energy Charter web-site (<http://www.encharter.org>). Printed copies can also be obtained by contacting the Secretariat (see address at foot of page 1).



### ENERGY CHARTER CONFERENCE APPROVES INVESTMENT CLIMATE COUNTRY REPORTS

At its last meeting on 20 June, the Energy Charter Conference approved recommendations concerning country reports prepared by the Charter's Investment Group on investment climate and market restructuring in the energy sectors of **Croatia, Ukraine** and (market restructuring only) **Albania**. In each case, the Charter Conference was able to note that considerable progress had been made in recent years towards the creation of national legislative frameworks in line with the provisions of the Energy Charter Treaty. The efforts of all three countries to move further in the direction of market restructuring and liberalisation were also noted.

As a direct result of these reports, the Conference was able to welcome the clarification of one measure listed by Croatia in the "Blue Book" of non-conforming measures relating to the Treaty's investment-related provisions, and also the withdrawal of one measure previously listed by Ukraine in the "Blue Book".

The full texts of the country reports on Croatia, Ukraine and Albania, which include an overview in each case of the respective governments' approaches towards privatization in the energy sector, will shortly be made available on the Energy Charter web-site (<http://www.encharter.org>). The latest edition of the "Blue Book" can also be viewed on the web-site.



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### ENERGY CHARTER CONFERENCE CONSIDERS EURASIAN GAS MARKET ISSUES

At its latest meeting on 20<sup>th</sup> June, the Energy Charter Conference held a policy discussion on issues currently affecting natural gas markets in the Eurasian area, with the aim of identifying issues of common concern to the organisation's 51 member governments. Proceeding from the starting-point of Article 3 of the Energy Charter Treaty, which stipulates that "contracting parties shall work to promote access to international markets on commercial terms, and generally to develop an open and competitive market for energy materials and products", the Conference reviewed a discussion paper produced by the Secretariat summarizing the main issues for debate at inter-governmental level at present with relation to natural gas market issues.



*At the Charter Conference meeting on 20 June*

Among the key issues identified in this paper were:

- A lack of sufficient supply competition on the Eurasian continent
- Lack of rights of consumers to choose their supplier in certain cases
- Insufficiency of third-party access regimes to natural gas networks, and
- Deviation of natural gas prices in economies in transition from long-run market prices.

In order to address these issues, it was proposed that governments might focus their attention at multilateral levels on establishing and maintaining adequate corporate governance systems,

strengthening competition in the natural gas market throughout Eurasia, ensuring that transparent and reasonable regulated third-party access regimes to gas transmission pipelines are put in place, and the need to tackle the problem in certain transition economies of non-payments for gas supplies, whilst addressing also the related need for social safety-net systems for disadvantaged consumers.

Energy Charter Conference Chairman Henning Christophersen noted that there was no unanimity of views among the Charter's member states regarding the obstacles identified in the discussion paper or the proposed remedies to address them. He added, however, that there was widespread support for the opinion that such debates

on natural gas market issues in a multilateral inter-governmental setting were useful, in order to take into account the full range of views of consumers and producers. "Dialogue between governments on gas market issues in Eurasia is highly necessary, both from the point of view of Europe's security of supply and in the interests of major gas-producing states. The Energy Charter Conference represents one of the best available forums for taking this dialogue forward", said Christophersen.

The Energy Charter Conference tasked the Secretariat with revising its discussion document to take account of the points raised, with a view to possibly continuing the policy debate on this issue at its next meeting in December.