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# Charter News

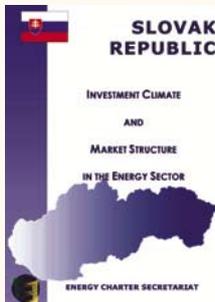
A NEWSLETTER FROM THE ENERGY CHARTER

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## 2003 Annual Report:



## Investment Report on the Slovak Republic:



see also report on page 3

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## President Kocharyan at the Energy Charter

During his visit to Brussels on 3-5 December 2003, President Robert Kocharyan of Armenia met with Secretary General Dr Ria Kemper to discuss developments in regional energy cooperation and Armenia's relationship with the Charter process. President Kocharyan emphasised that Armenia's status as a country without natural energy resources enhanced the importance of the Charter's legal framework for trade, transit, investment and energy efficiency, and said that Armenia looked in particular for close ties with the Charter on investment and transit issues. He also outlined the significant restructuring of the Armenian energy sector that has taken place in recent years, since the Secretary General's previous visit to Yerevan in 2001.



President Kocharyan

On investment, Dr Kemper thanked President Kocharyan for Armenia's willingness to undertake in 2004 an in-depth review of its investment climate and market structure within the Charter process, and hoped that this would provide a valuable opportunity to discuss its energy sector reforms in an international setting. Dr. Kemper also congratulated President Kocharyan for his country's accession to the World Trade Organisation, which took place in 2003.

## Dr Boot kicks off the Charter review

2004 sees the tenth anniversary of the signature of the Energy Charter Treaty, and also the second review of the functioning of the Treaty. The idea of a review is built into the Treaty itself - Article 34(7) states that:

*"in 1999 and thereafter at intervals (of not more than five years) to be determined by the Charter Conference, the Charter Conference shall thoroughly review the functions provided for in this Treaty in the light of the extent to which the provisions of the Treaty and Protocols have been implemented. At the conclusion of each review the Charter Conference may amend or abolish the functions (of the Charter Conference itself) and may discharge the Secretariat."*



Dr. Boot

Dr Pieter Boot, Deputy Director General for Energy in the Dutch Ministry of Economic Affairs, was appointed as Chairman of the review in February 2004. On 26 March, he held the first meeting in Brussels of an Ad Hoc Group, in which all member states and observers can participate, to start the discussions.

The final conclusions of the review are on the agenda for the December 2004 meeting of the Energy Charter Conference. During the March meeting, Dr Boot said that the priority at this stage was to sound out a broad range of opinions, including those of member governments and of other stakeholders.

## Visit of the Secretary General to China and Korea

### Charter presentation to ASEAN officials



Senior Officials from eight countries

of the Association of Southeast Asian Nations (ASEAN) came to the Energy Charter Secretariat on 27 January for a presentation on the Charter process. The visit was organised as part of an IEA/ASEAN study tour providing a comparative examination of national and regional regulatory frameworks in the energy sector. The aim of the discussions in Brussels was to inform the ASEAN officials about the role of the Charter in promoting regional energy cooperation.

In December 2003, ASEAN's application for observer status in the Charter process was unanimously approved by the Energy Charter Conference. ASEAN is represented in its dealings with the Charter process by the ASEAN Centre for Energy in Jakarta, which is now entitled to attend all meetings of the Charter Conference and its subsidiary groups.

The Asian dimension of the Charter process has been considerably strengthened in recent years, as the People's Republic of China (in 2001), Korea (in 2002), and then ASEAN (in 2003) became observers to the Charter Conference. In recognition of this interest, the Secretary General travelled in March 2004 to Shanghai, Beijing and to Seoul in order to raise awareness of the Charter's role in promoting regional energy cooperation, and to hold discussions with the Chinese authorities.



*Dr Kemper speaking at the Shanghai conference*

In Shanghai, Dr Kemper gave a keynote address to the Eighth International Conference on the Northeast Asian Natural Gas Pipeline, in which she emphasised the importance of multilateral 'rules of the game' in facilitating trade in natural gas. The cumulative investment requirement for gas supply developments in the Asia-Pacific region as a whole has been estimated at around \$380 billion over the next thirty years. This capital needs to be attracted primarily from the private sector, but Dr Kemper underlined that governments and international organisations such as the Energy Charter can make a crucial contribution by creating the necessary legal and regulatory conditions under which private companies can invest with confidence. While in China, Dr Kemper also met with senior Chinese officials at the National Development and Reform Commission, and at the Chinese National Petroleum Corporation.

The occasion for a visit to Seoul was a conference organised joint by the IEA and the Korea Energy Economics Institute on "Northeast Asia Energy Security and Regional Cooperation". The President of the Institute, Mr Lee Sang-gon, noted in his keynote opening address that "up to now, since there is no well-coordinated cooperative mechanism for energy supply across Northeast Asian countries, an individual country is extremely vulnerable to any single energy crisis". The focus of Dr Kemper's speech was to highlight the Energy Charter process as a mechanism for inter-governmental cooperation, and the lessons that its experiences to date may hold for the Northeast Asian region. By way of conclusion, the Secretary General suggested that the states of the Northeast Asia region might consider, in due time, the possibility of acceding to the Energy Charter Treaty, as the optimum means of strengthening the multilateral basis for guaranteeing energy investment and transit rights in this area.

*The full texts of Dr Kemper's speeches in Shanghai and in Seoul are available on the Energy Charter web site at [www.encharter.org](http://www.encharter.org)*

## New Investment Report on the Slovak Republic

### Kyrgyz Deputy Prime Minister visits the Secretariat

The role of the Energy Charter in Central



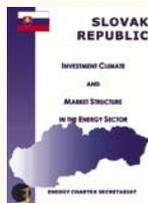
Ularbek  
Mateev

Asia was the topic for discussion during a visit of the Deputy

Prime

Minister of the Kyrgyz Republic, Mr Ularbek Mateev, to the Secretariat in March 2004. Speaking with Deputy Secretary General Andrei Konoplyanik, the Deputy Prime Minister underlined the relevance of the Energy Charter rules to his country's efforts to expand regional electricity trade, notably to new markets in Afghanistan and Pakistan.

Compared to neighbouring countries like Kazakhstan and Uzbekistan, the Kyrgyz Republic has limited access to fossil fuels; it does, however, have significant hydropower resources and potential. Arrangements governing regional trade in energy are linked to issues related to the transfer of water resources, and Mr Mateev noted the shared interest of the countries of the region in frameworks, such as the Energy Charter, which can promote cooperation on these issues.



The Charter has completed a review of the investment climate and market structures in the energy sector of the Slovak Republic, and concluded that it has made considerable progress in the restructuring and privatisation of its energy sector in recent years. The main priorities for Slovakian energy policy, as defined by the government in 2000, are to ensure security of energy supply, to promote sustainable development, and to prepare for integration into the European Union's internal market. The report provides a broad overview of the Slovakian energy sector, including those aspects – such as progress with privatisation – that are not part of the EU accession process, and looks at specific legislative and policy developments that might be of interest to potential investors.

In common with the other countries joining the European Union in 2004, and indeed with the existing EU Member States, Slovakia is dependent on imported energy. Domestic energy sources are limited to hydropower and brown coal/lignite: almost 90% of primary energy needs – including nuclear fuels – are imported, and all imports of oil and natural gas are supplied by the Russian Federation. For electricity, nuclear power covers over 62% of Slovak total consumption, but thermal plants and hydropower continue to play an important role.

Compared to neighbouring countries, the stock of foreign direct investment in Slovakia has until recently been modest. However, the report notes that this situation has improved significantly: completion of the privatisation process and the attraction of increasing amount of non-privatisation investment will nonetheless be crucial to finance the large current account deficit and to reduce unemployment.

The agenda for restructuring the energy sector has been set by the need to introduce the EU rules on the internal energy market. With this in mind, Slovakia has announced the timetable for progressively opening up its electricity and gas markets. By July 2007, all consumers – including households – should have the ability to choose their supplier of electricity and natural gas. In addition, since 2000, the privatisation process in Slovakia has accelerated markedly.

The report identifies some of the future challenges that face Slovakia; these include energy price de-regulation, de-monopolisation and the successful completion of the privatisation process. Measures addressing these issues have been already taken, or are currently in the process of implementation. One specific concern noted in the conclusions of the Energy Charter Conference is the regulator's ability to establish and maintain cost-reflective and transparent tariffs, and to eliminate cross-subsidisation in the electricity and gas sector. Nonetheless, the overall conclusion is that Slovakia has made considerable progress in the reform of the sector, and in creating a favourable climate for investment.

The full text of the report is available on the Energy Charter web site at [www.encharter.org](http://www.encharter.org)

## Charter activities planned for 2004...

### Russian Ministry of Foreign Affairs on the Charter process

“The Energy Charter Treaty and related documents represent the product of mutual compromises and concessions, reflecting the wishes of the negotiating parties to find a balance of interests.

...Russian participation in the creation of an international legal basis for wide-ranging cooperation in the energy sector facilitates the integration of Russia into the world economy and into the international system of collective energy security.

At the same time, the Energy Charter Treaty supports the strengthening of pan-European stability and security. Implementation of the Energy Charter Treaty would provide Russia with a long-term and reliable perspective on cooperation with many partners in the energy sector.”

*Excerpts from a background information document on the Energy Charter Treaty prepared by the Department of Economic Cooperation of the Russian Ministry of Foreign Affairs, published in February 2004 on the Ministry's web site [www.mid.ru](http://www.mid.ru)*

The Secretariat's Work Programme for 2004 was considered and approved by the Energy Charter Conference at its meeting in December 2003. It outlines the major directions of work to be undertaken in the Charter process in the course of 2004 in the four main areas of activity: Investment, Trade, Transit, and Energy Efficiency. As in past years, the Secretariat aims to ensure that its work on these issues is closely coordinated with that of other relevant international organizations.

### Investment

Activity on investment issues retains its traditional focus on the implementation of the relevant provisions of the Charter Treaty, in particular through country reviews of investment climate and market structures, and reducing the exceptions to national treatment. There are two new elements to this work in 2004; firstly, there is a new follow-up procedure for the investment reviews, with member countries invited to report back to the Investment Group on measures they have taken in response to the Charter Conference's policy conclusions. Secondly, this year will see the first of the 'in-depth' country reviews, conducted by investment experts from the Secretariat as a supplement to the countries' own reporting. The first two in-depth reviews, of Armenia and of Azerbaijan, should be completed in 2004. The Investment Group will also continue its work as a policy forum, inviting major energy companies and financial institutions to participate in discussions, and also addressing best practices for energy market restructuring (see page 7)

### Trade

As well as the task of overseeing the implementation of the Treaty's trade provisions, the Secretariat intends to deepen and expand its ongoing work on trade in electricity, with a focus on establishing criteria for possible future trade liberalisation in the light of existing Treaty provisions. The Trade Group will analyse trends in market concentration in power generation and their impact on market access, trade and competition, and the linkages between trade and environment. The Secretariat will continue to monitor developments in WTO accession negotiations of the nine member countries that are not yet members of the WTO.

### Transit

The programme of activities related to transit in 2004 is largely inspired by, and derived from, the issues debated during the Transit Protocol negotiations, which were suspended in December 2003. The Secretariat is organising (see page 7) a Conference during 2004 specifically devoted to energy transit issues, with the aim of continuing the efforts of the Charter process to find common policy approaches to cross-border flows of energy. The Secretariat proposes to analyse methodologies for establishing transit tariffs in line with proposal of the draft Transit Protocol that these be objective, transparent, non-discriminatory and cost-based, as well as comparing existing domestic legislation in member countries for natural gas transportation. The Secretariat will continue and intensify its analysis of the lack of cost-reflective natural gas prices in the economies in transition.

## Ukrainian ex-Minister on energy transit and the Charter

“Our gas transportation system belongs to everyone. We have ratified the Energy Charter and we provide free access for the natural gas in transit through our territory.

... Our gas transportation system has free capacity.



*Serhiy Yermilov*

In recent years we have invested much not only in its technical maintenance but also in its development: equipment is being renewed at gas compression stations; we even replaced entire insecure sections and automatic machinery. We have increased its reliability and practically achieved its planned carrying capacity. Currently its capacity is not being fully utilized. So you are welcome to transport if you have resources.”

*Serhiy Yermilov, former Ukrainian Minister of Fuel and Energy of Ukraine, from an interview published in 'Zerkalo Tizhnya', No. 9(484), 6-12 March 2004*

## Energy efficiency

The government of the Czech Republic has very kindly offered to host the next meeting of the Energy Efficiency Working Group, in June 2004. The meeting in Prague will focus on the regular and in-depth energy efficiency reviews, and the first half of 2004 sees discussion on the regular reviews of Germany and Latvia, and the publication of the in-depth reviews of Denmark and of the Czech Republic itself. The Secretariat also plans in 2004 to promote debate on complementary issues in support of the activities of the Energy Efficiency Working Group. These issues include opportunities for promoting energy efficiency offered by the financing mechanisms available under the Kyoto Protocol; the integration of energy efficiency, environmental and renewable energy policies; and the identification of best practices concerning policies related to cogeneration and district heating.

### Comment on the Charter's Transit Protocol

“The EU and Russia have pursued many more issues in their energy dialogue since its inception at their Paris summit in October 2000. There has been one significant disappointment, with Russia declining in December 2003 to agree to the Energy Charter's Transit Protocol, on the grounds that the European Commission had been trying to transfer the issue into the WTO legal environment. The transit protocol would introduce multilateral regulation of the gas and oil pipeline business, which is especially pertinent for complex cases where major pipelines cross many frontiers. Within Russia there are manifest differences of interest between Gazprom, which has been against this multilateral legal order since it would restrict its monopolistic position, and other energy sector interests that favour it. It is possible that the Russian side stands to lose most from a sub-optimal regime, failing to digest the fact that the economics and technology of liquefied natural gas (LNG) transport are improving fast, which means that the monopolistic position of Gazprom is eroding. ... More generally the world natural gas market is becoming more competitive and fluid. The EU also seeks Russian agreement for its pipeline system to be open for the transit of, for example gas from Kazakhstan, with direct dealings between buyer and seller. Russia sticks to the position of wishing to be the buyer of such gas, before selling on to European buyers, which would strengthen its monopolistic position in the short run, but the EU as monopsonistic buyer will in this case seek alternatives, which seem to be increasingly available in the medium to long run (viz. LNG supplies, TransCaucasus pipelines, etc.). Overall the negotiators seem not yet to be converging on an optimal solution. The Russian side may be criticised for yielding to shortsighted Gazprom lobbying, and the EU side not trying hard enough to use the potential of the multilateral Energy Charter framework.”



*Michael Emerson*

*Michael Emerson, Senior Research Fellow at the Centre for European Policy Studies and former Head of the European Commission Delegation to Russia, from a paper "Russia and the EU - From an Awkward Partnership to a Greater Europe?" presented to the CEPS/IISS European Security Forum, on 22 March 2004*

## News in Brief

### New appointments to the Charter's Transit Group

Two nominations have been approved by the Energy Charter Conference to the Transit Group, the institutional body in the Charter process for all transit-related issues covered by the Treaty. Mr Hakki Akil, Deputy Director General in the Ministry of Foreign Affairs of Turkey, has been confirmed as Chairman of the Group, with Dr Géza Széphalmi of Hungary as Vice-Chairman.

### 2003 Annual Report available

The Secretariat's Annual Report for 2003, providing a full overview of activities aimed at the implementation of the Energy Charter Treaty, is available online at [www.encharter.org](http://www.encharter.org). Please contact the Secretariat if you wish to receive a paper copy.

### IP Week 2004: Secretary General addresses Russia's role on global gas markets

Speaking at the prestigious IP Week in London on 17 February, Secretary General Dr Ria Kemper analysed Russia's position as a major gas supplier to the global market, in particular to the European Union, and how this may develop in the future. The speech looked at the challenges that need to be met if Russia is to develop an open, competitive domestic gas market, and thus promote the creation of a pan-European market for natural gas. It also addressed the role of inter-governmental cooperation in reducing the long-term risks that face the development of natural gas markets in the Eurasian space. The full text of the speech is available on the Energy Charter web site at [www.encharter.org](http://www.encharter.org).

### Seminar in Tehran examines prospects for closer ties with Iran

"It is evident that energy-supplying countries do need advanced technologies and foreign investments to develop their oil and gas reserves, and find a foothold in international and European natural gas markets". This was the opinion expressed by Dr Nejad Hosseinian, Deputy Petroleum Minister of the Islamic Republic of Iran, at a joint seminar organised in Tehran in February 2004 by the Institute for International Energy Studies and the Energy Charter Secretariat. The seminar was part of the Secretariat's efforts to further develop a dialogue with the Iranian government on the Energy Charter process, to which Iran became an observer in 2002.



*The opening of the Seminar in Tehran*

Around 100 officials from government ministries, the parliament, from energy companies and from academia attended the seminar, which was addressed by Deputy Secretary General Andrei Konoplyanik, together with experts from the Secretariat on investment, trade and transit, and energy efficiency. The seminar provided important input to a study, currently being prepared by the Institute for International Energy Studies in Tehran with the assistance of the Secretariat, on the consequences of a decision by Iran to accede to the Charter Treaty. The results of this study should be submitted to the Iranian government later this year.

### Energy cooperation among the Baltic Sea States

The possibility to attract financing for energy projects in North-West Russia was the focus of a conference organised by the Council of the Baltic Sea States in St Petersburg on 16-17 March 2004. Addressing the Conference, a Senior Expert on investment issues at the Secretariat, Boyko Nitzov noted the way in which a high-risk investment environment adversely affects the chances of particular projects being funded, and underlined the role of the Energy Charter in mitigating and reducing certain risks associated with investment. An outline of his presentation, together with all conference materials, is available on the BASREC web site at <http://www.cbss.st/basrec/conferences/>.

### New publication on Russia and the ECT

The Institute of Economic Forecasting of the Russian Academy of Sciences has published the proceedings of a debate on the Energy Charter that took place in October 2003. It includes a presentation by the Deputy Secretary General Andrei Konoplyanik on the "role of the Charter process in enhancing Russia's position on global capital and energy markets", and a record of the subsequent discussion. Those interested in copies of this publication should contact the Institute by e-mail at [office@mail.ecfor.rssi.ru](mailto:office@mail.ecfor.rssi.ru).



# Forthcoming Events

## Workshop:

### Best Practices in the Energy Sector

Brussels, 12 May 2004

Does restructuring (including privatisation) in the energy sector lead, by default, to competitive markets and improved efficiency? Is network industry restructuring destined to provide transparent markets and reduce costs? How can restructuring be combined with maintenance of quality and reliability of energy supply?

These questions reflect just some of the concerns voiced over the introduction of private participation, competition and new regulatory approaches to the energy sector. The intention of the Workshop on Best Practices in the Energy Sector is to provide a forum where lessons learned from experience over the past decades can be exchanged, and where options less likely to encounter pitfalls can be considered.

The Secretariat has published Best Practices Guidelines on Restructuring (including privatisation), developed on the mandate of the Energy Charter Conference, in an attempt to highlight policy approaches that are conducive to improving the investment climate, while also attaining efficiency and environmental and social goals.

For more information on the Workshop, please contact Boyko Nitzov at the Secretariat (Boyko.Nitzov@encharter.org).

## Energy Charter Conference Announcement:

### Energy Transit in Eurasia: Challenges and Perspectives

Brussels, 19-20 October 2004



Transit is indispensable for ensuring secure energy flows, and transit issues are rapidly gaining in importance with the increased interdependency and integration of energy markets.

The Conference “Energy Transit in Eurasia: Challenges and Perspectives” will provide a forum for discussing the relevance of the existing legal framework, and future perspectives for using multilateral instruments to ensure unimpeded flows of energy.

#### Provisional Programme

##### Day 1

###### Morning

Opening and welcome addresses  
Current perspective: economics, barriers and risks:

- Review of current energy flows and transit routes
- Barriers to utilisation of the existing transit infrastructure
- New transit projects: investment barriers and financial risks

*Panel debate:* ways to improve the operational and investment climate for transit projects.

###### Afternoon

Legal framework for energy transit at multilateral, regional and national levels:

- Freedom of transit under the ECT and WTO
- Key provisions of the draft Energy Charter Protocol on Transit
- Regulation of cross-border energy flows in the EU
- Regulation of cross-border energy flows in key transit countries

*Panel debate:* the adequacy of the existing legal framework for transit

##### Day 2

###### Morning

Model Agreements for cross-border pipelines

- Background, objectives and structure
- Key provisions of the Model Agreements
- Implementation and enforcement

*Panel debate:* the role of Model Agreements in developing best practices in cross-border transportation of energy.

###### Afternoon

*Concluding Session:* designing a transit framework for open and integrated energy markets:

- Role of transit for market integration and supply/demand security
- Adequacy of and compliance with the existing legal instruments
- Need for optimisation and development of the legal framework for transit
- Better coordination of policies and regulations

Closing of the Conference

The working languages of the conference will be English and Russian. Participation is free of charge, but will be limited to 120-150 persons. The targeted audience is senior representatives of governments, industry and academia. Enquiries should be addressed to Janusz Bielecki at the Secretariat (Janusz.Bielecki@encharter.org)

## THE MISSION AND OBJECTIVES OF THE ENERGY CHARTER

The mission of the Energy Charter process is:

- to strive towards open, efficient, sustainable and secure energy markets
- to promote a constructive climate conducive to energy interdependence on the basis of trust between nations

In the broadest terms, this mission will be achieved through:

- strengthening and extending the rule of law to facilitate market developments in the energy sector
- establishment of rules of conduct, guidelines, standards and recommendations for open efficient and sustainable energy markets
- developing clear, commonly-accepted rules on energy transit
- helping countries to develop national energy efficiency policies
- peer-group reviews of countries' progress towards their Energy Charter obligations
- expanding the geographical coverage of the Energy Charter process
- developing the Energy Charter Conference's role as a key inter-governmental forum for East-West policy discussions.



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*The term "Energy Charter process" is used to cover all obligations contained in, and activities relating to, the 1991 European Energy Charter; the 1994 Energy Charter Treaty (as amended by the 1998 Trade Amendment); and the 1994 Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects.*