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# Charter News

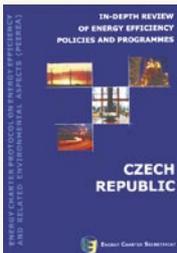
A NEWSLETTER FROM THE ENERGY CHARTER

## Promoting Open and Competitive Energy Markets

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*Investment Reviews of the Russian Federation, Romania and Armenia*



*Energy Efficiency Review of the Czech Republic*



*Energy Efficiency Review of Denmark*

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There is no single formula for restructuring the energy sector, but there are a number of critical components – competition, transparency, market-based pricing, attention to social and environmental issues, sound corporate governance, and a predictable legislative and institutional framework – that must all come together in a successful national policy approach. This was the conclusion of a Workshop organised by the Secretariat in May 2004, which highlighted the experience of countries across Europe and Eurasia in moving towards open and competitive energy markets.



*The first session of the Workshop*

The themes of the discussion were drawn from the 'Best Practice Guidelines for Restructuring (including Privatisation) in the Energy Sector', developed by the Secretariat and endorsed by the Energy Charter Conference in 2003, and the Workshop provided a forum for the exchange of ideas and lessons from the experience gained so far. Among the issues discussed were supply risks and investment incentives in liberalised markets, public service obligations, the growing importance of environmental policy, and the appropriate balance between regulation and competition. Another question that stimulated debate was the optimum sequencing of reform, and in particular the conditions that should be in place before proceeding with the privatisation of national energy companies.

The speakers included representatives of Energy Charter member states, the Secretariat, the European Commission, international financial institutions, private companies, industry associations and research institutions. The Workshop reflected the broad constituency of the Energy Charter by highlighting experiences from the EU, with special emphasis on the creation of the internal energy market, the Balkans, Eastern Europe, the Caspian region and the countries of the Southern and Eastern Mediterranean.

More information on the Workshop, including copies of all presentations, is available online at [www.encharter.org](http://www.encharter.org) (see events / seminars)

## Conference approves an Industry Advisory Panel

The Energy Charter Conference, the decision-making body for the Charter process, gave its approval in June 2004 to the establishment of an Industry Advisory Panel. This Panel, which should become operational in early 2005, will strengthen the dialogue between member countries and the energy business community by allowing for a structured exchange of views on issues affecting energy investments, trade, transit and energy efficiency across Eurasia. The Charter Conference is scheduled to take a decision on the membership of the Panel at its next meeting in December 2004.

## Green Light for Resumption of Transit Talks

### Model Agreements assist in preparation of Aktau-Baku link

The Charter's Model Agreements are helping to provide a basis for negotiations between Kazakhstan and Azerbaijan on the trans-Caspian Aktau-Baku transport system, which would provide an additional export route for Kazakh energy resources through the Baku-Tbilisi-Ceyhan pipeline.

The Charter's Model Agreements have been available since December 2003, when the Charter Conference took positive note of the first editions. The Agreements aim to facilitate project-specific talks by providing a neutral and non-prescriptive starting point for negotiations, reflecting the various interests of the parties concerned.

The two interdependent Model Agreements prepared under the Charter's auspices are an 'Intergovernmental Model' - for state-to-state agreements - and a 'Host-Government Model', designed for an agreement between an individual state and the project investor(s). They were developed by an Expert Group containing government and industry experts, assisted by an ad-hoc Legal Advisory Task Force.

*The first edition of the Charter's Model Agreements is available online at [www.encharter.org](http://www.encharter.org)*

Negotiations on the Energy Charter's draft Transit Protocol are set to continue, after the Energy Charter Conference approved the resumption of talks at its meeting in June 2004. Discussions on the draft Protocol had been suspended in December 2003, in recognition of the fact that energy issues, including transit, were at that time on the bilateral agenda for the European Union and the Russian Federation in the context of Russian negotiations for accession to the World Trade Organisation.



*Henning Christophersen*

Commenting after the June 2004 meeting in Brussels, the Chairman of the Energy Charter Conference Henning Christophersen welcomed the Conference's decision: "I am pleased that we now have a prospect to move towards completion of the Transit Protocol. The support for this Protocol from countries across the Charter's constituency confirms my view that this instrument can make a significant contribution to Eurasia's collective energy security. It is increasingly the case that energy resources have to cross different countries and national jurisdictions on their way from producers to consumers. This is a challenge that demands extensive cooperation between governments, and one where the multilateral rules being developed in the Energy Charter can play a vital role. However, I would re-iterate that the completion of this task - and the implementation of these rules - will still require a sustained exercise of political will from our member states."

Negotiations on a Transit Protocol were launched in 2000, and aim to build on the existing transit-related provisions of the Energy Charter Treaty by developing an enhanced set of operational rules under international law governing energy transit flows across national borders. Agreement was reached on the bulk of the Protocol's text at the end of 2002, when the multilateral negotiations were provisionally concluded, and the three outstanding issues relate to differences in position between the European Union and the Russian Federation.

These issues are, firstly, the Russian proposal for a "right of first refusal" for incumbent transit shippers. The essence of this proposal is to ensure that energy exporters with long-term supply contracts, whose transit rights through third countries are covered only by short-term transit agreements, have the first opportunity to renew these latter agreements upon their expiry, but under competitive conditions. The second issue is the EU's proposal for a clause on regional economic integration organisations. The third issue relates to the precise formulation for cost-based transit tariffs.

Following the decision of the June 2004 Conference, consultations between the EU and Russia are scheduled for the autumn of 2004 on these three issues, with the objective to find bilateral solutions allowing for the finalisation of the Protocol by all of the Charter's member states.

## Visit of the Secretary-General to Azerbaijan

### 9th International Energy Forum meets in Amsterdam

Representatives of the main producer and consumer countries gathered in Amsterdam from 22-24 May for the 9th International Energy Forum (IEF). This forum, which was first held in Paris in 1991 as the Producer-Consumer Dialogue, is a high-level biennial meeting designed to promote understanding and coordination of international energy issues.

Discussions at the IEF focused both on current challenges and on the need for future investments in exploration, production and transport. A number of participants highlighted energy transit as a major issue, requiring extensive cooperation between states.



*Russian Deputy Minister of Industry and Energy, Ivan Materov, speaking with the Secretary-General at the IEF*

The Energy Charter Secretariat was represented at the IEF by the Secretary-General, Dr Ria Kemper, and the Deputy Secretary-General, Dr Andrei Konoplyanik.

*More information on the International Energy Forum is available at the IEF web site, [www.iefs.net](http://www.iefs.net)*

The application of the Energy Charter Treaty to the evolving needs of the Azeri energy sector was the theme for the visit of the Secretary-General, Dr Ria Kemper, to Baku in June 2004. Development of the major oil and gas fields at Azeri-Chirag-Gunashli and Shah Deniz, along with the construction of the Baku-Tbilisi-Ceyhan (BTC) and South Caucasus pipeline projects, indicates Azerbaijan's growing importance on Eurasian energy markets, and points to the value of common 'rules of the game' for investors and governments in the region.



*Minister of Energy of Azerbaijan Mecid Kerimov*

Addressing the 11th International Caspian Oil and Gas Conference, Dr Kemper examined the ways in which the Charter's disciplines on investment protection and on transit can promote the climate of transparency, legal stability and predictability that fosters international energy cooperation. This was also the topic for more detailed discussion with the Minister of Fuel and Energy, Mecid Kerimov, the Foreign Minister Elmar Mammedyarov, and the President of the State Oil Company (SOCAR) Natig Aliyev.

The Secretary-General thanked the Azeri authorities for their willingness to host an in-depth review of the Azeri investment climate and market structure in 2004. This review, and accompanying recommendations, will be presented to the Charter's member states in the second half of the year, and subsequently made available to a broader public through the Charter's web site.

While in Baku, Dr Kemper also met with Mr Samir Sharifov, the Executive Director of the State Oil Fund, Mr David Woodward, President of the Azerbaijan International Operating Company, and Michael Townshend, CEO of the BTC Pipeline Company.



*Dr Kemper addressing the Conference*

### Comment on the Charter's role in minimising transit risks

"As gas supply is becoming increasingly dependent on long-distance cross border pipelines, international treaties safeguarding transit will be required. The WTO agreements may not be sufficient to minimize the risk of international transport. Multilateral treaties like the Energy Charter and its (draft) Transit Protocol have been established to fill this void".

*Excerpt from paper prepared by Mrs Coby van der Linde (Clingendael Institute) and Mr Jonathan Stern (Oxford Institute for Energy Studies) and presented to the 9th International Energy Forum, May 2004, Amsterdam.*

## PEEREA Group meets in Prague

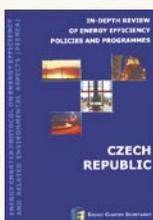
### Energy Efficiency: New Publications on Denmark and the Czech Republic



The Charter's review of Denmark is notable in that it highlights the policy

measures that have made this country one of the world leaders in promoting energy efficiency and sustainable development, providing an example and inspiration to other countries. At the same time, the review finds scope for further cost-effective progress in improving efficiency in the context of a liberalised energy market.

The study of the Czech Republic examines the major changes that have taken place in national energy policy over recent years, and concludes that Czech energy efficiency policies are consistent and realistic. At the same time, it calls for a renewed focus on demand-side measures promoting energy efficiency, alongside policies addressing energy supply, including renewable energy.



Copies of the Danish and Czech reviews are available from the Secretariat, or to download from [www.encharter.org](http://www.encharter.org)

By kind invitation of the Czech Government, the most recent meeting of the Charter's Working Group on Energy Efficiency and Related Environmental Aspects - known as the PEEREA Group - was held in Prague in June 2004, under the chairmanship of Peter Helmer Steen.

The meeting coincided with the publication of the Charter's review of Czech energy efficiency policies (see sidebar), and the review and its recommendations were among the items discussed in a meeting in Prague between the Secretary-General and the Czech Deputy Minister of Trade and Industry responsible for energy issues, Martin Pecina.

The Working Group itself focused on energy efficiency policies in Moldova, where an in-depth review was carried out in early 2004, and heard presentations from Belarus, Ireland and Slovenia. Ireland's experience was particularly notable since, during a period of high GDP growth, it has managed to decrease its energy intensity by 3.1% per year over the last decade.

Turning to broader policy issues, the Group examined the opportunities for energy-efficiency projects related to the Kyoto Protocol flexibility mechanisms and the EU's Emissions Trading System. It also hosted a panel discussion on best practices for cogeneration and district heating, and a presentation on energy efficiency indicators and trends in Central Europe. This presentation showed the results of a major project, led by ADEME (the French Agency for Environment and Energy Efficiency) and financed by the EU's SAVE programme, in which the countries of Central Europe and the Secretariat participated.

### Comment on the Charter's role in South-East Asia

"Thinking about regional gas flows has been going on for some years under the auspices of Asean and energy ministers have endorsed indicative cross-border pipeline plans: the 'Asean gas grid'. The hard task remains of establishing binding agreements over the necessary common policy, legal and regulatory conditions for multi-country pipeline gas flow.

But one important step towards such agreements is now being contemplated by governments - an Asean energy treaty or, as some suggest, a simpler course, membership of the international Energy Charter Treaty (ECT).

Asean became an observer to the Brussels-based ECT processes in December last year. The treaty, which grew out of European concern to guarantee free energy flows in their region, sets down rules of conduct and requires, among other things, governments to guarantee their non-interference in cross-border energy trade, and acceptance of agreed dispute resolution procedures."

*Excerpt from 'Imported gas - a dangerous dependency, or ties that bind?' (Straits Times, 14 July 2004) by Andrew Symon, visiting research fellow at the Institute of SE Asian Studies, Singapore.*

## Investment Focus on Russia, Romania and Armenia

### Charter presentations to Chinese and Korean delegations

Both China (since 2001) and South Korea (since 2002) have the status of observers at the Energy Charter, demonstrating the strengthening Asian dimension of the Charter process, and the Secretariat was pleased to host two presentations for visiting delegations from these observer states in June and July 2004.



*The Chinese delegation at the Secretariat*

The Chinese delegation was led by Mr Liu Xianfa, Deputy Director General responsible for Energy Resources in the National Development and Reform Commission, and included senior officials dealing with energy policy and strategy. The visit was part of a study tour organised by the EU-China Energy and Environment Programme.

The Korean delegation was made up of senior representatives of Korean industry and business, and was particularly interested in the protection available under the Energy Charter Treaty for investments, as well as its provisions on cross-border energy flows.

### Regular Review - Russian Federation

The Charter has completed a review of the investment climate in the Russian Federation. The comprehensive material for this review was prepared and presented by the Russian authorities, and contains a wealth of information about recent legislative and policy developments. This is the first Charter review of Russia, and its analysis of key aspects of the Russian energy sector represents a contribution to a more transparent regulatory environment, of significant value to investors.



In considering this report, the Charter Conference noted the progress made by the Russian Federation in its transition to a market environment and of the improvements in the investment climate, as witnessed by the trend in the inflows of capital. The Conference also noted that further improvements are required in order to secure the financing of Russia's substantial investment needs over the next decade.

### Regular Review - Romania

This review highlights the significant steps taken in recent years to improve the investment climate in Romania, including liberalisation measures concerning the acquisition of real estate by foreign investors. It examines in particular progress with the implementation of the 'National Strategy for Energy Development' and the 'Energy Road Map', adopted by the Romanian authorities, which aim to establish a more commercial, transparent and cost-reflective environment in the energy sector that is integrated into the European market.

### In-depth Review - Armenia



In addition, the Charter has completed the first in a new series of 'in-depth' studies of the investment climate and market structure in the energy sector of its member countries. The review of Armenia was conducted by investment experts from the Secretariat, in close cooperation with the Armenian authorities, and examiners from Norway and Uzbekistan. The review included a visit of Secretariat staff to Yerevan in

March 2004; recommendations concerning the review were adopted by the Energy Charter Conference in June.

The review demonstrates how Armenia, following several years of severe power shortages, now has an improving environment for the operation of its energy sector. At the same time, there remain concerns about the implementation of existing legislation, and establishing a record of good governance and completing investment-related legislation is crucial.

In its recommendations, the Charter Conference welcomed the progress that has been made, and encouraged further movement on developing the regulatory framework, including a timetable for the privatisation of the remaining state-owned enterprises in electricity generation, and adoption and implementation of effective competition rules.

*All country reviews are available online at [www.encharter.org](http://www.encharter.org)*

# News in Brief

## Joint IEA/ECS Seminar on Natural Gas in South-East Europe

The International Energy Agency (IEA), in collaboration with the Secretariat, held a joint seminar in May 2004 in Istanbul to discuss issues of investment, transit and trade in South-East Europe. The main objective of the seminar was to assess the viability of possible supply routes across Turkey and South East Europe, which would pave the way for direct gas supply from the Caspian and Gulf regions to South East and Western Europe.

The Istanbul seminar assessed the prospects for gas supply against the background of a liberalised EU internal market for natural gas, and the political intention to create a regional energy community in South-East Europe. It also looked at developments in regional infrastructure, in particular the commissioning of the Blue Stream gas pipeline in early 2003, construction of the Turkey-Greece link and the South Caucasus Pipeline from Azerbaijan to Turkey, as well as possible projects such as the 'Nabucco' route from Turkey to Austria. The seminar underlined Turkey's potential and importance as a key country for gas transit.

All materials from the seminar are available on the Charter's web site at [www.encharter.org](http://www.encharter.org) (under events / seminars)

## Annual Roundtable for ECT Observer States

Representatives of Algeria, China, the Gulf Cooperation Council, South Korea, Saudi Arabia, Oman and Venezuela attended the annual roundtable organised by the Secretariat for the ECT observer

states in June 2004. The intention of this Roundtable is to provide an opportunity for exchange of information on current activities in the Energy Charter process, and to encourage closer ties, including the possibility of accession to the Treaty, among the observer countries.

## Meeting with Georgian Energy Minister Gilauri

The Secretary-General, Dr Kemper, met with the Energy Minister of Georgia, Mr Nika Gilauri, in June for an exchange of views on recent developments in Georgia and in the Energy Charter process. Mr Gilauri outlined the priorities



*Minister Gilauri with the Secretary-General*

for reform of the Georgian energy sector, and expressed his interest in the ways that the Charter process can encourage regional energy cooperation. The Secretary-General welcomed the Minister's willingness to host an 'in-depth' review of Georgia's energy efficiency policies in 2005.

## ABN AMRO presentation to the Investment Group

Frank Kuijlaars, Global Head of Oil and Gas at ABN AMRO Bank, was the guest of the Charter's Investment Group in May 2004, making a presentation to the Group on investment opportunities in Russia. Mr Kuijlaars noted that there are good opportunities for joint ventures on a project basis, but that financing these projects would depend on the existence of a predictable and non-discriminatory

environment for foreign investors. The presentation was part of the continuing effort to strengthen the dialogue between government representatives and business on issues related to the investment climate.

## Presentation of new IEA Study on Security of Gas Supply

The main authors of the IEA's new study on Security of Gas Supply, Ralf Dickel, Head of the Energy Diversification Division, and Sylvie Cornot-Gandolphe, Principal Gas Expert, were in Brussels in June 2004 to present the study to the Secretariat and to interested Charter member countries.

The study highlights the strategic importance of ensuring secure multilateral arrangements for transit and investment such as those provided by the Energy Charter process, noting that these arrangements are likely to become more important for Europe in the future, as dependence on gas imports from distant production areas continues to grow.

The presentation made in Brussels is available on the Charter's web site at [www.encharter.org](http://www.encharter.org); the publication itself is available from the IEA at [www.iea.org](http://www.iea.org).

## New appointments to the Charter's Budget Committee

The Energy Charter Conference has approved the nominations of Ms Katrin Forgó from Austria as Chair of the Committee, and of Mr Helge Westborg from Norway as Vice-Chair.

# Forthcoming Events

*Energy Charter Conference:*

## Energy Transit in Eurasia: Challenges and Perspectives

*Brussels, 19-20 October 2004*

*Expert Meeting:*

### Trade-Friendly Promotion of Renewable Energy

*Brussels, 2 November 2004*

The Energy Charter's Group on Trade is holding a one-day Expert Meeting on 2 November 2004 to examine the interrelationship between measures promoting the use of renewable energy and the provisions of the ECT and the WTO.

The meeting will bring together officials and experts responsible for trade, energy and environment policies, and it follows on from previous discussions that have taken place within the Group on Trade. Representatives of the WTO, the OECD, the European Commission, and selected countries have been invited to make presentations.

The Expert Meeting is open to representatives of member states and observer states, and will be held in conjunction with the next meeting of the Trade Group. More information is available from Andras Lakatos at the Secretariat ([Andras.Lakatos@encharter.org](mailto:Andras.Lakatos@encharter.org))

Transit is indispensable for ensuring secure energy flows, and transit issues are gaining importance with the increased interdependency and integration of the energy markets. The aim of the Energy Charter's work in this area is to develop a regime of

commonly-accepted legal principles covering flows of energy resources across national borders, both hydrocarbons and electricity, designed to ensure the security and non-interruption of transit.



The Conference "Energy Transit in Eurasia: Challenges and Perspectives", to be held on 19 and 20 October in Brussels, will bring together representatives of governments, businesses and the academic community to discuss the existing legal framework for energy transit and future perspectives for ensuring unimpeded flows of energy.

A preliminary programme for this Conference is available on the Charter's web site at [www.encharter.org](http://www.encharter.org). The Conference sessions will provide an industry perspective on the problems and risks of energy transit, followed by the assessment of key countries, such as Turkey, Ukraine, Russia, Iran, and Kazakhstan. The Conference concludes with an examination of the role of the Energy Charter process in establishing a stable multilateral framework for secure energy flows across Eurasia.

Among the speakers that have already confirmed their participation are Mr William Ramsay, the Deputy Executive Director of the IEA, Mr Sami Demirbilek, Undersecretary of the Ministry of Energy and Natural Resources of Turkey, Mr Bohdan Kluik, Deputy Minister of Fuel and Energy of Ukraine, Mr Musabek Issayev, Head of the Petroleum Industry Department of the Ministry of Energy and Natural Resources of Kazakhstan, and senior representatives from the European Union, international financial institutions, and from industry.

The Conference sessions will be chaired by Mr Jean-Marie Devos, Secretary-General of Eurogas, Professor Jonathan Stern, Director of Gas Research at the Oxford Institute for Energy Studies, and Professor Thomas Waelde from the Centre of Energy, Petroleum and Mineral Law and Policy in Dundee.

The working languages of the Conference will be English and Russian. Participation is free of charge, but will be limited to approximately 150 persons. The targeted audience is senior representatives of government, industry and academia. Enquires should be addressed to Mr Gürbüz Gönül at the Secretariat ([Gurbuz.Gonul@encharter.org](mailto:Gurbuz.Gonul@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.*