



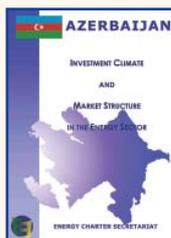
Spring 2005
no. 20

Charter News

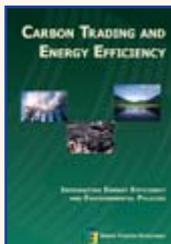
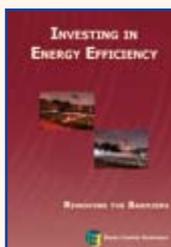
A NEWSLETTER FROM THE ENERGY CHARTER

First Meeting of the Industry Advisory Panel

Now available at:
www.encharter.org



Investment Review of Azerbaijan (see page 5)



New publications on Energy Efficiency (see page 4)

For more information, or to receive this newsletter on a regular basis, please contact us at:

*Energy Charter Secretariat
Boulevard de la Woluwe, 56
B - 1200 Brussels, Belgium*

*Tel: +32 2 775 9800
Fax: +32 2 775 9801*

*info@encharter.org
www.encharter.org*

The Energy Charter has convened the first meeting of a high-level Industry Advisory Panel (IAP), with representatives from across the Charter constituency, which will provide an important perspective from the private sector on the work of the Energy Charter process. Welcoming participants to the meeting in Brussels, the Secretary General expressed the hope that a strong dialogue with the energy industry would allow the Charter process to respond flexibly to new developments and challenges in international energy markets.

A first task for the new Panel was to choose a Chairman, and the members elected Mr Howard Chase, Director of European Government Affairs at BP, to this position. In presenting his ideas about the Panel's role, Mr Chase underlined the potential value of the IAP's practical advice to the Charter process, based on the broad commercial expertise of its members. In turn, the discussions among members of the

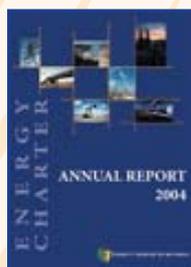


from left: Dr Wilfred Czernie (E.ON Ruhrgas); Ms Anastasia Kalkavoura (Hellenic Petroleum); Mr Howard Chase, (BP, Chairman of the IAP); Mr Jean-Marie Devos, (Eurogas)

Panel highlighted specific barriers and risks to investment and cross-border energy flows that will be addressed in more detail at future meetings.

The Industry Advisory Panel is made up of twenty-four senior representatives of companies, associations and financial institutions. The members of the Panel were selected on the basis of nominations from member countries and invitations from the Secretariat, with the aim to ensure a balance between industry sectors and different regions from across the Charter constituency. The establishment and composition of the IAP was approved by the Energy Charter Conference in 2004.

2004 in review



The Energy Charter Secretariat has published its Annual Report for 2004, which provides a detailed overview of the Charter process and its activities over the past year. It also provides information on the review of the Energy Charter, which was conducted by the Charter's participating states during 2004 under the chairmanship of Dr Pieter Boot, Deputy Director General in the Dutch Ministry of Economic Affairs. The conclusions of the review were adopted by the Energy Charter Conference in December 2004, and provide guidance for the development of the Charter process in the future.

The Annual Report is available to download at www.encharter.org, and hard copies are also available from the Secretariat.

Challenges and Perspectives for Energy Transit

Visit of the Secretary General to Minsk

Belarus is one of the five signatory states of the Energy Charter Treaty that has yet to complete ratification, and this was the main topic for discussion during a visit of the Secretary General, Dr Ria Kemper, to Minsk in November 2004. The visit included meetings with senior representatives of the Belarusian government and parliament, during which the Secretary General welcomed Belarus' active participation in the Charter process: a review of the Belarusian investment climate had been completed in 2003, and a review of energy efficiency policies the following year. At the same time, the Secretary General outlined the significant additional benefits that would accrue from full participation in the Charter process.

Belarusian government officials expressed the view that there are no problems of substance in relation to the Treaty provisions. They also welcomed the initiative to continue the dialogue on the Charter Treaty during a one-day seminar for government, parliament and industry representatives, which is scheduled to take place in Minsk in June 2005.

The Energy Charter's Transit Protocol is an important 'missing link' in the legal framework necessary to support an open and integrated Eurasian energy market. This was the conclusion of a Conference on "Energy Transit in Eurasia: Challenges and Perspectives" held in Brussels on 19-20 October 2004. The Conference brought together over 150 participants from governments, energy companies, financial institutions and international organisations, with the aim of discussing the role of transit in promoting energy security.

The question of energy transit is growing in importance with the increased interdependency and integration of energy markets, and senior representatives of major producing countries (the Russian Federation, Kazakhstan, Iran, Qatar), and from key present and potential energy transit countries (Ukraine, Turkey) provided their perspectives on this issue, alongside those of speakers from the energy industry, international financial institutions and the International Energy Agency.

Among the key issues addressed by the Conference was the need for a stable, predictable and reliable framework governing cross-border energy flows, based on a consensus among the countries and interests concerned. This is the objective of the Energy Charter's draft Transit Protocol, on which a large degree of consensus has been reached among the fifty-one member states of the Energy Charter. In its present form, the Protocol would address critical issues for energy transportation networks, in particular the conditions for access to networks and the stipulation that tariffs charged for energy transit must be objective, non-discriminatory and cost-reflective.



The opening session of the Conference, which was chaired by the Secretary General of Eurogas, Jean-Marie Devos, presented a perspective from the energy industry and from financial institutions on the risks associated with energy transit. Copies of presentations and speeches made at the Conference are available at www.encharter.org (under 'Events / Seminars').

Speaking after the conclusion of the Conference, the Secretary General of the Energy Charter Secretariat, Dr Ria Kemper, noted that huge investments are needed in order for Eurasia to meet its projected energy needs, and emphasised that a reliable framework for energy transit is essential if these investments are to be realised. "The aim of the Energy Charter process is to provide a foundation of common rules, facilitating investment in those projects offering the most advantageous combination of high economic efficiency and low environmental impact. A completed Transit Protocol would provide a strong additional impetus to these investments by clarifying – on a multilateral basis – how energy resources can be brought across different national borders and jurisdictions to consumer markets. I strongly hope that the remaining issues in the text of the Protocol – all of which are the subject of continuing consultations between the European Union and the Russian Federation – can be resolved as soon as possible."

Turkmenistan on International Energy Markets

Russian deputy Minister confirmed as Charter Conference Vice-Chairman

Mr Ivan Materov, Deputy Minister of Industry and Energy of the Russian Federation, is the new Vice-Chairman of the Energy Charter Conference, the governing body of the Energy Charter process.

The Chairman of the Energy Charter Conference, Mr Henning Christophersen, welcomed Mr Materov's appointment: "I am very pleased to have a person of such experience and stature as my Vice-Chairman, and look forward to working with Mr Materov – a representative of one of our most important participating states – in further developing the Charter process."

Mr Materov takes over as Vice-Chairman of the Energy Charter Conference from Mr Andrei Denisov, former Deputy Minister of Foreign Affairs, who is now the Russian Permanent Representative to the United Nations.

In addition, the Conference has approved new Chairmen of the Charter's Groups on Investment and on Trade & Transit for 2005. Mr Michael Caramanis, the President of the Greek Regulatory Authority for Energy, will lead the work of the Investment Group, and Mr Mithat Rende, Deputy Director General in the Turkish Ministry of Foreign Affairs, will chair the newly constituted Group on Trade and Transit issues.

Turkmenistan is a major exporter of hydrocarbons and has enormous reserves that remain to be developed, but it has no direct access to the main international markets. Access to European markets depends either on the existing Russian network, or potentially in the future on the emerging energy infrastructure to the south of the Black Sea through Turkey and South-East Europe. Prospects for export to the large markets to the south - India and Pakistan - and to the east - China - are likewise dependent on cooperation with the countries that lie between.



*The opening session of the Round Table
in Ashgabat, March 2005*

In this situation, as the Secretary General Ria Kemper noted, "the realisation of (Turkmenistan's) great potential as an exporter of hydrocarbons depends to a large extent on the existence of stable long-term arrangements for investment within Turkmenistan, and also upon arrangements for the transport of its energy resources to consumer markets via the territory of neighbouring states." This was the topic for detailed discussion at a Round Table on access of Turkmen energy resources to international markets, organised jointly by the Government of Turkmenistan, the Energy Charter Secretariat and the European Commission, which took place in Ashgabat on 2-3 March 2005.

"We believe that one important tool for creating additional opportunities for hydrocarbon exports to (international) markets is the Energy Charter Treaty ... We are faced with the challenge of making joint efforts to ensure that the realisation of the provisions embodied in the Energy Charter Treaty promote improvement of the conditions for investment and trade in the energy sector and ensure reliability of supply for consumers and reliability of markets for producers."

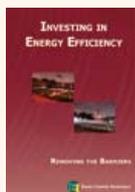
From the speech to the Round Table by Mr Amangeldy Pudakov, Minister of the Oil and Gas Industry and Mineral Resources of Turkmenistan.

The Round Table included presentations from senior officials of the Turkmen oil and gas industry, led by Deputy Prime Minister Yolly Gourbanmuradov, from the Energy Charter Secretariat and the European Commission, and from representatives of the energy industry. It examined the ways in which international cooperation can facilitate the development of the Turkmen oil and gas sector, the prospective markets and demand for Turkmen exports, and how the rules of the Energy Charter Treaty on investment and cross-border flows can provide a more transparent environment for the operation of the energy sector. There was considerable interest in the status of the negotiations on the draft Energy Charter Transit Protocol: Turkmenistan has been one of the leading proponents of new multilateral rules in this area.

Presentations and speeches from the Round Table are available at www.encharter.org (under 'Events / Seminars')

The Asian dimension of the Charter process

New Publications on Energy Efficiency



Two new reports from the Energy Charter look at different approaches to improving energy efficiency. The first of them, 'Investing in Energy Efficiency - Removing the Barriers' examines why many viable opportunities for higher energy efficiency are not tapped, and then identifies ways to remove the obstacles that can stand in the way of such investments.

The second publication focuses on the emerging market for carbon trading. It addresses the need to integrate policies on energy efficiency and on the environment, based on the notion that energy efficiency projects are often the most cost-effective way to increase overall economic efficiency, to save energy and to reduce greenhouse gas emissions.

Both of these reports are based on the work of the Charter's PEEREA Group, which is the specialised forum within the Charter process covering questions of energy efficiency and related environmental aspects.

Copies of these publications are available from www.encharter.org.

North-East Asia

By invitation of the Japanese Government, the Secretary General participated in a high-level symposium on the energy situation in China and on energy cooperation in North-East Asia, organised by the North-East Asia Economic Forum, which took place in Tokyo on 15-16 March 2005. The aim of the symposium was to bring together senior officials and industry representatives from North-East Asian countries to discuss the prospects for enhanced collaboration in the energy sector, up to and including the possibility of developing a North-East Asian energy community.

The context for the symposium was provided by rapidly growing demand for energy in North-East Asia, most notably in China, and the common concern of the major energy importers in the region - Japan, China and the Republic of Korea - to expand and diversify their sources of supply. This leads to a shared interest in developing cooperation with the Russian Federation, which has the potential to become a major supplier of energy - in particular, of natural gas - to North-East Asian markets from its major reserves in Eastern Siberia and Sakhalin.

The symposium looked in particular at Russian strategies for the development of oil and gas reserves and delivery infrastructure in Eastern Siberia, at projections of demand for natural gas in the region, and at the increasing prominence of LNG on Asian energy markets.



While in Tokyo, Dr Kemper also held meetings in the Japan Energy Law institute, which is working on a commentary to the Energy Charter Treaty; here she is pictured with (from left) Professor Mariko Kawano, Professor Yoriaki Narita, Director of the Institute, and Professor Kazuhiro Nakatani

In her presentation, the Secretary General noted that any strategy for regional cooperation in North-East Asia will require a body of common rules covering key issues such as the protection of investments, the encouragement of more transparent and competitive markets, and the promotion of energy efficiency. Given that the region includes three signatories of the Energy Charter Treaty (Russia, Japan, Mongolia) and two countries with the status of observers (China, South Korea), Dr Kemper concluded that the Energy Charter process offered a relevant and ready-made platform for closer regional ties in the energy sector.

South Asia

There is also growing awareness of the Charter process in South Asia, where discussion on new regional pipelines for natural gas has stimulated interest in the multilateral legal protection that the Energy Charter Treaty provides. Representatives of the Secretariat have visited both Delhi and Islamabad in the first months of 2005 for meetings with senior officials. The countries of Central Asia are already full Contracting Parties to the Treaty, and the Islamic Republic of Iran has been an observer to the Charter since December 2002.

Azerbaijan Investment Review

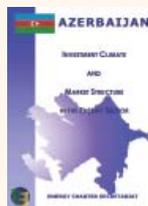
Focus on Energy Efficiency in Croatia

Croatia is the most recent country to undergo an 'in-depth' review of its energy efficiency policies within the Charter framework, a review which was undertaken in cooperation with the Croatian authorities by experts from Switzerland, Malta, Romania and Slovenia, together with the Secretariat.

The Review welcomed in particular the establishment of an Environmental Protection and Energy Efficiency Fund in Croatia. This has the potential to be a major step forward in the financing of projects, provided that it operates on the basis of transparent criteria, which reflect both cost effectiveness and environmental considerations.

The Croatian government has initiated national energy efficiency programmes in various sectors of the economy, for example in the construction sector where the energy saving potential is estimated at 22% by 2010. The Review underlined the importance of moving these programmes from the stage of pilot projects and studies to their implementation on a broader scale.

All energy efficiency country reviews are available online at www.encharter.org



The Energy Charter completed in 2004 an in-depth review of the investment climate and market structure of Azerbaijan, one of the main producer countries that is a Contracting Party to the Treaty. Extraction and processing of oil and gas-related activities already make up more than 30% of Azerbaijan's Gross Domestic Product, and hydrocarbons account for 85% of exports. The energy sector has the potential to be a crucial driver of economic and social development.

Azerbaijan has been successful in attracting foreign investments to its energy sector; this represents a major achievement, underscoring not only Azerbaijan's hydrocarbon potential and the commitment of investors to developing this potential, but also the Government's ability to negotiate and carry through complex investment projects. The amount of investments is expected to increase in the coming years as major projects are implemented and as new opportunities emerge as a result of continued domestic reforms. However, investment outside the energy sector remains very modest, and it is a continuing challenge for Azerbaijan to attract capital in areas such as agriculture, manufacturing and services.

The review provides a detailed examination of the legislative framework for investment, as well as the status of restructuring and privatisation in the energy sector. It concludes that essential steps have already been taken to create a favourable and non-discriminatory investment climate, but encourages the Azeri authorities to undertake further efforts, for example with regard to the transparency and consistency of the legal framework, administrative obstacles, and remaining restrictions regarding the ownership of land and participation by foreign investors in the privatisation process. The study also recommends further action in energy sector reform, such as the introduction of cost-reflective tariffs and prices, the improvement of collection rates and the establishment of an independent regulator.



The Review also examines progress with the restructuring of the Azeri electricity sector.

Considering the results of the review, the Energy Charter Conference also welcomed the considerable efforts undertaken by Azerbaijan to improve and diversify international transportation routes to export oil and gas, in particular through the construction of two new pipelines to Turkey (the 'Baku-Tblisi-Ceyhan' oil pipeline and South Caucasus gas pipeline), the development of regional interconnection and transit capabilities, and the harmonisation of cross-border legal and regulatory frameworks for energy flows in accordance with the principles of the Energy Charter Treaty.

The material for the review was prepared by the Secretariat in cooperation with the Azeri authorities. Representatives of the Czech Republic and Ukraine were the examiners for the review, and assisted the Secretariat in the development of the conclusions that were adopted by the Energy Charter Conference in December 2004.

All investment country reviews are available online at www.encharter.org

News in Brief

President Rakhmonov of Tajikistan at the Energy Charter

President Rakhmonov visited Luxembourg and Brussels in October 2004 in connection with the signature of the Partnership and Cooperation Agreement between Tajikistan and the European Union. While in Brussels, he met with the Secretary General and underlined that the Energy Charter plays an important role for Tajikistan by providing a foundation for regional and multilateral energy cooperation.

President Rakhmonov underlined Tajikistan's potential in hydropower generation, and provided an update on the status of two large investment projects, the Sangtuda and Rogun hydropower plants. In this context, he emphasised the value of a stable framework for regional energy cooperation and trade, given Tajikistan's perspectives for exports of electricity and also seasonal issues related to electricity production and water management.

The Secretary General welcomed the fact that the Energy Charter features prominently in the text of the EU-Tajikistan Partnership and Cooperation Agreement, and provided information on recent developments in the Charter process, in particular relating to the rules on investment and cross-border flows. The President concluded by extending an invitation to the Secretary General to visit Dushanbe in order to develop further the cooperation with the Energy Charter.

Conference Chairman and Secretary General meet with Commissioner Piebalgs

Henning Christophersen, Chairman of the Charter Conference, together with the Secretary General, met in January with the new European Commissioner responsible for energy, Andris Piebalgs. The aim of the meeting was to discuss the interrelationship between the Charter process and EU external energy policy, and how best to make use of the complementarities that exist between the two.

As well as the importance attached to the Charter's work in investment and transit, the Commissioner underlined the value of a broad forum promoting greater energy efficiency, which is a high priority for the Union both internally and in its external relations.

Mongolian Energy Minister in Brussels

Tuvden Ochirkhuu, Minister of Fuel and Energy of Mongolia, met with the Secretary General during a visit to Brussels in December in order to review cooperation between his country and the Charter process, and the implementation of a Memorandum of Understanding between the Secretariat and the Ministry of Infrastructure of Mongolia that was signed in 2003. They discussed in particular the opportunities and conditions for investment in Mongolia, and Mongolia's potential as a transit country for Russian energy exports to Asia.

Expert Meeting on Renewables

The Energy Charter's Group on Trade has highlighted the need for a well-designed interface between some energy policies aimed at protecting the environment and the existing framework of rules on international trade. As part of this debate, the Group organised an expert meeting in November 2004 on 'trade-friendly promotion of renewable energy'.

Speakers at the meeting included representatives of the WTO, OECD, the IEA, the Institute for Environmental Studies at the Vrije Universiteit in Amsterdam, and the Italian Regulatory Authority; copies of presentations made are available online at www.encharter.org (see under 'Events / Seminars').

About the Charter's secondees programme

Since 1998, the Secretariat has welcomed more than 30 young professionals from countries in transition, who have been seconded - normally for a period of one year - to the Secretariat from their national administrations. Representatives of 18 countries have participated in the programme, and many have gone on to occupy senior positions in their respective ministries or in the private sector. Over the last year, the Secretariat has benefited from the knowledge and assistance of secondees from Azerbaijan, Kazakhstan, Kyrgyzstan, Mongolia and Uzbekistan.

Forthcoming Events

Conference:

Investment Arbitration and the Energy Charter Treaty

Stockholm, 9-10 June 2005

Conference

Risk Reduction in the Energy Sector

Brussels, 26 October 2005

A key aim of the Energy Charter Treaty is to mitigate or remove risks associated with investment and cross-border flows in the energy sector. Yet the structure of energy markets across the Energy Charter constituency is constantly evolving, with a major shift in recent years being the movement towards more transparent and competitive energy markets. As policy choices evolve, so do the risks associated with investment and cross-border flows.

The aim of this conference, which will be organised in collaboration with the IEA, is to assess the new risks and challenges that arise as a result of structural change in the energy sector, and to consider the implications for energy security across Eurasia.

This event will be open to representatives of member and observer governments, to representatives of the energy industry and other stakeholders. More information will be circulated before the end of May, and will be available at www.encharter.org.

Treaty-based investment arbitration is becoming increasingly important in international commerce; the vast majority of such investment cases were filed within the past three years, and the issues associated with investment arbitration are therefore of growing interest not only to governments but also to the business and legal communities.

Within this overall picture, the Energy Charter Treaty occupies a singular position, providing a unique multilateral investment protection regime for the energy sector. The Energy Charter Secretariat, together with the Arbitration Institute of the Stockholm Chamber of Commerce, therefore took the initiative to organise a Conference on 'Investment Arbitration and the Energy Charter Treaty', which will take place in Stockholm on 9-10 June 2005.

The Conference will examine such issues as the concept of expropriation, investments and investors covered by the Treaty, the issue of state responsibility, and the relationship between contractual claims and claims under the Energy Charter Treaty. The Conference will be opened by the King of Sweden, and the programme includes presentations or commentaries from leading experts on international arbitration and on the application of the Energy Charter Treaty.

More information on the Conference, including a detailed programme and a registration form, is available from the Energy Charter web site, www.encharter.org.



The dispute settlement provisions of the Energy Charter Treaty

The investment-related provisions are a cornerstone of the Charter Treaty, and they are backed up by mechanisms both for inter-state arbitration and for investor-state dispute settlement.

The Treaty grants foreign investors in the energy sector the right to sue the host country in case of an alleged breach of an obligation of the host State relating to investment promotion and protection. The foreign investor can bring the case before the domestic courts of the host country or submit it to international arbitration. The award of an international arbitration is binding and final, and each Contracting Party is obliged to make provision for the effective enforcement of such awards in its area.

More information on the dispute settlement provisions of the Treaty is available in the 'Reader's Guide to the Energy Charter Treaty', available under 'publications' at www.encharter.org. A useful source of information on specific investment cases is the Investment Treaty Arbitration Resource Website at <http://ita.law.uvic.ca/>

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.

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.

For more information, or to receive this newsletter on a regular basis, please contact us at:

Energy Charter Secretariat
Boulevard de la Woluwe, 56
B - 1200 Brussels, Belgium

Tel: +32 2 775 9800
Fax: +32 2 775 9801
info@encharter.org
www.encharter.org