I am very pleased to present the Annual Report of the Energy Charter Secretariat for 2012, the first year of my term of office as Secretary General. The purpose of this Annual Report is to present an account of the activities of the Secretariat in 2012 for the benefit not only of the constituency of the Energy Charter, but also for the wider public who may be interested in energy matters.

I took office as Secretary General on 1 January 2012 and embarked on a busy and challenging year. I devoted much effort to getting better acquainted with the constituency and to listen to the views of the member states on how to improve the added value of the Energy Charter Secretariat, and how to revitalise the Energy Charter Process overall.

As a result, I introduced several measures to raise the efficiency of the Secretariat. These new measures were aimed at a more focused, result-oriented approach and improving internal coordination. One of the most significant initiatives was the new Establishment Table approved by the Energy Charter Conference, the organisation’s top governing and decision-making body. The Secretariat also developed a new approach to raising the public profile of the Energy Charter by improving communication with member delegations. A particular example of this is my practice of sending monthly updates to ministers. The first steps in the establishment of an Energy Charter Secretariat Knowledge Centre were completed, in that the physical space and technical infrastructure are in place.

The policy on consolidation, expansion and outreach was adopted with the objective of enlargement of the geographic area of application of the Energy Charter Process. As Secretary General, I took personal responsibility for the consolidation aspect of this policy. In the course of the year, I conducted detailed consultations with the governments of the five countries, who have not yet ratified the Energy Charter Treaty.

A very successful policy conference related to the Energy Charter’s Middle East and North Africa project took place in September in the form of the Rabat Energy Forum. The Forum was co-organised with the Moroccan Ministry of Energy, Mines, Water and Environment, under the high patronage of His Majesty the King of Morocco, Mohammed VI.

Perhaps the most significant development of 2012 took place at the Ministerial Session of the 23rd Meeting of the Energy Charter Conference. During this session there was general agreement on the need for an effective global governance structure to promote cooperation on the basis of common rules and principles. The value of the Energy Charter with its unique legally binding framework was recognised and there was an acknowledgement that the Charter needs to modernise to adapt to new realities. Member countries therefore agreed to engage in a process which envisages the preparation of a draft updated version of the 1991 European Energy Charter.

In 2012 I put in place the first steps to improve the effectiveness and efficiency of this organisation, which is capable of delivering on the principles of the Energy Charter Treaty and responding to the ever greater need for international energy cooperation. I hope that the information in this Annual Report will provide a clear description of those efforts. At the same time, I must emphasise that the success of the Energy Charter Process depends also on the political will of the constituency to make progress, working in cooperation with the Secretariat. The principles of the Energy Charter Treaty are more than ever relevant and necessary today, fifteen years after the coming into force of the Treaty.

Urban Rusnák
Secretary General
Energy Charter Secretariat
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Frequently Asked Questions

Why an Energy Charter?

The Energy Charter is based on the recognition that all countries stand to benefit from a balanced framework for cooperation in the energy sector. Countries with natural resources get a means to attract investment, to protect their interests downstream, and to ensure reliable transportation for their energy exports to consumers. Energy-importing countries get protection for their outward energy investments, and mechanisms to promote security of supply. All countries benefit from measures to encourage the efficiency of energy production and use and to minimise their environmental impacts.

The Energy Charter has two distinctive features. Firstly, the Treaty is the only body of international rules that is tailored to the specific needs of the energy sector. Secondly, the Energy Charter covers a broad and diverse range of countries across Eurasia, including energy producers, consumers and transit countries.

The Charter dates back to a political initiative launched in Europe in the early 1990s, at a time when the end of the Cold War offered an unprecedented opportunity to overcome the previous economic divisions in the region. A political declaration on international energy cooperation, the European Energy Charter was adopted in 1991, and was followed by the legally binding Energy Charter Treaty, which was signed in 1994 and which entered into force in 1998.

What Does the Treaty Do?

The Treaty’s common ‘rules of the game’ for the energy sector are designed to encourage investment and trade, to ensure reliable transit, and to promote efficient energy use.

A huge volume of investment is required all along the supply chain, in order to meet the growing demand for energy. The Energy Charter is based on the idea that international flows of investments, capital and technologies for the energy sector are mutually beneficial, and the primary aim of the Treaty is to promote the necessary climate of predictability that can attract private sector involvement.

The Treaty does not create investment opportunities for companies by forcing open access to resources or defining a certain market structure for Energy Charter member countries. These are sovereign decisions for member governments.

However, once an energy investment is made, the Treaty is designed to provide a stable interface between the foreign investor and the host government. This stability is particularly important in the global energy sector, where projects are highly strategic and capital-intensive, and where risks have to be assessed over the long-term.

It is a major task to reduce these risks, as far as possible, by creating a stable and transparent investment climate. The Energy Charter Treaty assists by offering binding protection for foreign energy investors against key non-commercial risks, such as discriminatory treatment, direct or indirect expropriation, or breach of individual investment contracts.

A second priority for the Treaty is to promote reliable international transit flows. This is a particularly important issue for Eurasian energy security, since a high proportion of oil and gas in Eurasia is delivered through long-distance pipelines that cross multiple national borders and jurisdictions.

Under the Treaty, member countries are under an obligation to facilitate energy transit in line with the principle of freedom of transit and not to interrupt or reduce established energy transit flows.

Thirdly, the Treaty requires that all member states act to minimise the harmful environmental impact of energy-related activities. The Treaty does not have binding targets in this area, but member countries use the Energy Charter as a forum to exchange information on programmes and policies that have been successful in improving energy efficiency.

Who Are the Members of the Energy Charter Treaty?

Fifty-one European and Asian countries have signed or acceded to the Energy Charter Treaty. All EU states are individual signatories, but the Treaty has also been signed collectively by the European Community (now part of the European Union) and Euratom, so the total number of parties to the Treaty is fifty-three.

Of these fifty-three, all have ratified the Treaty except for five. These five countries are Australia, Belarus, Iceland, Norway, and the Russian Federation. Belarus and the Russian Federation have accepted provisional application of the Treaty, which meant that – pending ratification – they agreed to apply the Treaty to the extent that it was consistent with their own constitutions, laws and regulations. On 20 August 2009 the Russian Federation officially informed the Depository that it did not intend to become a Contracting Party to the Energy Charter Treaty. In accordance with
ECT Article 45(3)(a), such notification resulted in Russia’s termination of its provisional application of the Treaty upon expiration of 60 calendar days from the date on which the notification was received by the Depository. Therefore, the last day of Russia’s provisional application of the Energy Charter Treaty was 18 October 2009. Belarus still applies the Treaty provisionally.

With its current membership, the Energy Charter has a natural focus on the evolving Eurasian energy market, including the Mediterranean region, the Middle East and North Africa. Although the Treaty was conceived as a European initiative with a focus on ‘East-West’ cooperation, the scope of the Energy Charter is now considerably broader. Pakistan, China, Korea, Iran and the Association of South-East Asian Nations have all taken on observer status in recent years; the role of the Energy Charter in Asia is becoming increasingly important.

How Does a Country Join the Charter Process?

The first step for a country wishing to join the Energy Charter is to sign the 1991 political declaration (the ‘European Energy Charter’). On the basis of this commitment to the principles of the Energy Charter, the country then becomes an observer to the Energy Charter, with access to all meetings and documents.

The next stage, if a country wishes to take it, is accession to the Treaty itself. This is a more lengthy process, since a country must first assess the compatibility of its domestic legislation with the provisions of the Treaty. Once the relevant reports have been approved by the Energy Charter Conference – the Energy Charter’s governing body in which all member countries are represented – the applicant country is invited to accede to the Treaty.

The Treaty is open for accession by any country that wishes to participate, that is ready to take on the obligations in the Treaty, and whose application is accepted by the Energy Charter Conference.

How Do Energy Charter Observers Participate in the Charter Process?

There are currently twenty six observers and ten international organisations with the status of observer to the Energy Charter.

Observes have the right to attend all meetings of the Energy Charter Conference and of its subsidiary groups. They also have the right to receive all related documentation, reports and analyses, and to participate in the working debates taking place within the Energy Charter.

The intention is that observer status should provide the chance for a country to familiarise itself with the Charter and its functions, in order to facilitate its assessment of the benefits of accession to the Energy Charter Treaty. In cases where there is a strong interest in a closer association with the Charter, energy experts appointed by observers assist in the work of the Secretariat as secondees or interns.

In 2004, the existing member countries made a detailed review of the functioning of the Charter Process, and drew the following conclusions with regard to its expansion:

“The Energy Charter Process has a natural focus on the evolving Eurasian energy market, including the Mediterranean, the Middle East and Asia. We welcome the interest shown in the Charter Process by several non-member states, and acknowledge in particular the growing Asian dimension of the Charter Process. Observer status at the Energy Charter Conference provides a mechanism for facilitating association and familiarity with the Charter Process and we encourage the observer states to participate actively in the Charter’s work and to consider the mutual benefits of full accession to the Energy Charter Treaty.”

Does the Treaty Oblige Countries to Provide Foreign Investors with Access to Their National Energy Resources?

While the Energy Charter is based on the idea that international flows of investments and technologies in the energy sector are mutually beneficial, national sovereignty over energy resources is a core principle of the Treaty (ECT Article 18).

Each member country is free to decide whether and how its national energy resources are developed, and also the extent to which its energy sector is open to foreign investors.

Does Implementation of the Energy Charter Treaty Mean Mandatory Third-Party Access to Pipelines and Energy Networks?

The Treaty includes an obligation on member countries to facilitate energy transit across their territory, in line with the principle of freedom of transit, and an obligation to secure established transit flows. At the same time, an Understanding that accompanies the Treaty makes it clear that the Treaty provisions “do not oblige any Contracting Party to introduce mandatory third-party access”.

"The Energy Charter Process has a natural focus on the evolving Eurasian energy market, including the Mediterranean, the Middle East and Asia. We welcome the interest shown in the Charter Process by several non-member states, and acknowledge in particular the growing Asian dimension of the Charter Process. Observer status at the Energy Charter Conference provides a mechanism for facilitating association and familiarity with the Charter Process and we encourage the observer states to participate actively in the Charter’s work and to consider the mutual benefits of full accession to the Energy Charter Treaty.”
**Frequently Asked Questions**

**Does the Energy Charter Treaty Require Unbundling/Privatisation of State-Owned Energy Assets?**

An objective of the Treaty is to promote transparency and efficiency in the operation of energy markets, but it is for governments to define the structure of their national energy sector. There is no obligation to privatise state-owned energy companies, or to break up vertically integrated energy companies.

**Is the Treaty just about Oil and Gas? What about Renewable Sources of Energy?**

The Treaty covers all types of energy materials and products, inclusive of electricity and energy-related equipment, and the provisions on investment protection apply also to investments in hydropower, solar, wind energy, and all other renewable energy sources. For example, the first arbitration award made to an investor under the Energy Charter Treaty concerned the treatment of an investment – by a small company – in environmentally-friendly cogeneration of heat and power.

**If a Country Becomes a Member of the WTO, What Is the Added Benefit of Being Part of the Energy Charter?**

The Energy Charter shares core principles with the World Trade Organisation, in particular the principles of transparency and non-discrimination. The rules of the Treaty are fully compatible with those of the international trading system, and in practice the Energy Charter Treaty has been a valuable stepping stone for some member states on their way towards accession to the WTO.

However, the Energy Charter goes further than the WTO framework in addressing specific challenges for the energy sector. There is no counterpart in the WTO system to the Energy Charter Treaty’s provisions on the protection of investment. The Charter also covers in more detail the issue of energy transit, and includes a distinctive mechanism for the resolution of energy transit disputes. In relation to the energy sector, memberships in the WTO and in the Energy Charter are complementary; these organisations are not substitutes for one another.

**Is the Energy Charter an Institution of the European Union?**

The idea of an Energy Charter to promote international energy cooperation was launched by the (then) European Community in June 1990. All the member states of the enlarged EU are among the fifty-one signatories of the Energy Charter Treaty.

However, the Energy Charter is a separate international organisation, which aims to find balanced solutions to key energy challenges among a diverse range of member countries across Europe and Asia, including producers, consumers and transit states, participating in the Charter on an equal basis. And although the Charter Process was originally conceived in Europe as a forum for East-West cooperation, the Asian dimension of the Charter Process has become an increasingly important priority in recent years.

**What is the Difference between the Energy Charter and the Energy Community?**

The Energy Charter is an independent international intergovernmental organisation, based on the 1994 Energy Charter Treaty, bringing together 51 states in Europe and Asia. The Energy Charter Treaty focuses on cross-border cooperation in the energy sector: promotion of investments, stable energy flows and increased energy efficiency.

The Energy Community is a European Union platform designed to extend EU’s internal energy market rules to interested non-EU countries in Europe. It involves the European Union and nine members in South-Eastern and Eastern Europe.

**What Happens if a Country Does Not Comply with its Obligations under the Energy Charter Treaty?**

The Treaty contains a variety of mechanisms to settle disputes, each of these being designed to address a particular aspect of the Treaty.

If a member country feels that another state is not complying with its obligations under the Treaty – and if no resolution is possible through bilateral diplomatic channels – then the matter can be taken to binding international arbitration. This mechanism is applicable to almost all disputes arising under the Treaty, with the exception of the articles on competition and on the environment.

The Treaty also grants individual foreign investors the right to take Energy Charter member countries to international arbitration, in the event of an alleged breach of the Treaty’s investment provisions.

The Treaty also includes a unique conciliation procedure to deal specifically with disputes over transit. This can be invoked by member states, and is likely to be faster and less formal than taking a case to arbitration. Under this procedure, the Energy Charter Secretary General appoints an independent conciliator in order to assist the parties in reaching an agreement. If no agreement is reached quickly, then the conciliator ultimately has the power to fix
interim transit tariffs for up to twelve months while negotiations between the parties continue. The aim of this procedure is to reduce the risk of interruptions to transit flows while an agreement is being found.

Except for the specific instance of the Secretary General appointing the conciliator for the abovementioned conciliation procedure, the Secretariat is not involved in dispute settlement mechanisms. The Secretariat has no mandate to act as arbiter on disputes arising under the Treaty, nor can it recommend or take any sanctions against member countries.

**How Can I Find Out More about an Individual Investment Dispute Raised under the Energy Charter Treaty?**

The Secretariat has no formal role in relation to the settlement or administration of investment disputes under the Energy Charter Treaty, and parties to any dispute are not obliged to release information about the progress of individual cases. However, some information is in the public domain, and the Secretariat has compiled a list of cases containing – to the best of our knowledge – relevant public information about the investor-state disputes that have been formally initiated. This list is available on the Energy Charter website [www.encharter.org](http://www.encharter.org).

**What Does the Treaty Say about Provisional Application?**

The Energy Charter Treaty provides in Article 45(1) that “Each signatory agrees to apply this Treaty provisionally pending its entry into force … to the extent that such provisional application is not inconsistent with its constitution, laws or regulations” (emphasis added).

Provisional application of the Treaty was a possibility only for countries that signed the Treaty when it was initially open for signature (from 17 December 1994 until 16 June 1995). At the time of signing, each state had the option of filing a declaration to the effect that it was unable to accept provisional application of the Treaty, and a number of countries filed such declarations. The Russian Federation and Belarus accepted provisional application.

Since end-June 1995, any new member wishing to be bound by the Treaty has to accede; this is a different procedure that does not entail signing the Treaty itself, and so the question of provisional application does not arise in these cases.

As of 2012, five of the original signatory countries have not ratified the Treaty. Of these five, Norway, Iceland and Australia filed declarations at the time of signing to the effect that they were unable to accept provisional application. The Russian Federation and Belarus are the only two signatories which have not ratified the Treaty, and which have – by not filing declarations at the time of signature – accepted provisional application.

The status of Russia and Belarus in relation to the Energy Charter Treaty is open to a degree of interpretation, since the extent to which a state’s acceptance of provisional application creates legal rights and obligations is – having regard in particular to the emphasised language above in Article 45(1) – not entirely clear under international law. Ultimately, this question can be settled authoritatively only in the context of relevant cases brought to international arbitration.

On 20 August 2009 the Russian Federation has officially informed the Depository that it did not intend to become a Contracting Party to the Energy Charter Treaty and the Protocol on Energy Efficiency and Related Environmental Aspects (PEEREA). In accordance with Article 45(3)(a) of the Energy Charter Treaty, such notification results in Russia’s termination of its provisional application of the ECT and the PEEREA upon expiration of 60 calendar days from the date on which the notification is received by the Depository. Therefore, the last day of Russia’s provisional application of the Energy Charter Treaty and the PEEREA was 18 October 2009.

Belarus continues to apply the ECT and the PEEREA provisionally.

**What Is Russia’s Status with the Energy Charter?**

Russia signed the Energy Charter Treaty in 1994 and has accepted provisional application of the Treaty pending ratification. This means that Russia has agreed to apply the provisions of the Energy Charter Treaty to the extent that they were consistent with Russia’s constitution, laws and regulations.

The absence of ratification does not present an obstacle to the practical and technical work of the Energy Charter Process, in which Russia is an active participant. It does, however, leave ambiguity about the extent of Russia’s legal rights and obligations under the Treaty.

On 20 August 2009 the Russian Federation has officially informed the Depository that it did not intend to become a Contracting Party to the Energy Charter Treaty and the Protocol on Energy Efficiency and Related Environmental Aspects (PEEREA). In accordance with Article 45(3)(a) of the Energy Charter Treaty, such notification results in Russia’s termination of its provisional application of the ECT and the PEEREA upon expiration of 60 calendar days from the date on which the notification is received by the Depository. Therefore, the last day of Russia’s provisional application of the Energy Charter Treaty and the PEEREA was 18 October 2009.

Afghanistan, Albania, Armenia, Australia*, Austria, Azerbaijan, Belarus*, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, European Community (now part of the European Union) and Euratom, Finland, France, Georgia, Germany, Greece, Hungary, Iceland*, Ireland, Italy, Japan, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Mongolia, the Netherlands, Norway*, Poland, Portugal, Romania, Russian Federation*, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, The former Yugoslav Republic of Macedonia, Turkey, Turkmenistan, Ukraine, United Kingdom, Uzbekistan

* – denotes state in which ratification of the Energy Charter Treaty is still pending

ˆ – the Russian Federation signed the Energy Charter Treaty and was applying it provisionally until 18 October 2009 inclusive

OBSERVERS TO THE ENERGY CHARTER CONFERENCE – signed the 1991 Energy Charter

Canada, Indonesia, Jordan, Montenegro, Morocco, Pakistan, Serbia, Syria, United States of America

OBSERVERS TO THE ENERGY CHARTER CONFERENCE – by invitation of the Conference

Algeria, Bahrain, China, Egypt, Iran, Korea, Kuwait, Nigeria, Oman, Palestinian National Authority, Qatar, Saudi Arabia, Tunisia, United Arab Emirates, Venezuela, Yemen

International Organisations with Observer Status:

ASEAN, BASREC, BSEC, CIS Electric Power Council, EBRD, IEA, OECD, UN-ECE, World Bank, WTO

The Energy Charter Secretariat signed a Memorandum of Understanding with the Secretariat of the League of Arab States on 19 March 2012 and a Letter of Understanding on Cooperative Activities with the Secretariat of the International Energy Forum in November 2007

This map is without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area
# Structure of the Organisation

## Energy Charter Conference

The Energy Charter Conference is the governing and decision-making body for the Energy Charter Process. All states who have signed or acceded to the Energy Charter Treaty are members of the Conference, which meets on a regular basis to discuss issues affecting energy cooperation among the Treaty’s signatories, to review the implementation of the provisions of the Energy Charter Treaty and the Protocol on Energy Efficiency and Related Environmental Aspects, and to consider possible new instruments and joint activities within the Energy Charter framework.

*Chairman: H.E. Selim Kuneralp, Permanent Representative of Turkey to the WTO*

**Conference Vice-Chairmen**

Since November 2010, the Vice-Chairmen of the Energy Charter Conference are Mr. Anatoly Yanovskiy, Deputy Minister of Energy of the Russian Federation, and Mr. Odd Sverre Haraldsen, Director General at the Ministry of Petroleum and Energy of Norway.

## Strategy Group

The Strategy Group serves as a forum for discussion on such issues as fostering the acceptance and implementation of the Energy Charter Treaty and the development of the entire Energy Charter Process, identifying ways to improve their effectiveness and examining possible options as to how the Energy Charter Process could be modernised.

*Chairman: Mr. Odd Sverre Haraldsen (Norway)*

## Trade and Transit Group

The Trade and Transit Group is responsible for discussion of all issues related to cross-border energy flows that are covered by the Treaty. Its main tasks are:

- Monitoring and assistance in the implementation of the ECT and related instruments on trade and transit;
- Promoting and securing cross-border energy flows based on the Energy Charter Treaty;
- Facilitating the development of open, competitive and sustainable energy markets, and energy flows across the Charter constituency.

*Vice-Chairman: Mr. Masahiko Fujihara (Japan)*

## Working Group on Energy Efficiency and Related Environmental Aspects

The Working Group on Energy Efficiency and Related Environmental Aspects is the institutional body in the Energy Charter Process for the discussion of all matters related to energy efficiency. The Working Group has developed into a valuable forum for policy debate and exchange of experience, and many of the transition economies have used this cooperative process to develop policies, legislation and other measures supporting improvements in energy efficiency.

*Chairman: Dr. Victor Shakhin (Russian Federation)*

## Investment Group

The Investment Group is the institutional body for the discussion of all investment-related issues covered by the Treaty. Its main tasks are:

- Providing a policy forum for all investment-related matters under the Treaty;
- Preparing reports concerning the investment climate and the issue of market restructuring/privatisation;
- Exercising peer pressure with regard to the reduction of remaining energy investment restrictions;
- Giving recommendations to specific member states concerning their investment-related energy policies;
- Informing of recent developments in the investment-related energy policies of member countries.

*Chairman: Dr. Michael Thomadakis (Greece)*

## Industry Advisory Panel

The Industry Advisory Panel was set up by the Energy Charter Conference in 2004 as a means to build on existing contacts with industry, and to strengthen the dialogue with the private sector on the main directions of the Charter Process, with a particular focus on risk mitigation and improvement of the business climate. The Panel is intended as a consultative board to the Energy Charter Conference and to its various Groups, to provide advice on relevant issues related to energy investments, cross-border flows and energy efficiency.

*Chairman: Mr. Howard Chase (Dow Europe GmbH)*

## Legal Advisory Committee

*Chairman: Mr. Colin Brown (European Commission)*

## Budget Committee

*Chairman: Amb. Erik Ulfstedt (Finland)*

## Structure of the Organization

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The 23rd Meeting of the Energy Charter Conference was organised as a one and a half day event, and was hosted in Warsaw at the invitation of the Polish government. For the first half day on 26 November 2012, the Meeting dealt with the statutory obligations of the Secretariat and with elements relating to implementation of the Treaty.

At the Statutory Session the Conference decided to engage in a process that might lead to the adoption of an updated version of the 1991 Energy Charter. It was agreed that the work leading to the holding of a proposed Ad Hoc Conference would be known as the Warsaw Process. The intention is that this work would lead to the adoption of a renewed and potentially global Energy Charter. It was also decided to seek legal expertise, in particular on how to address the link between the updated version of the 1991 Energy Charter and the Energy Charter Treaty, prior to any negotiations.

The Ministerial Session was held on 27 November 2012 when the topic “The Demands for Global Energy Governance and the Potential of the Energy Charter” was discussed. Among non-member participants, a high-level delegation from the People’s Republic of China was present and took an active part in the discussions, as was the delegation from the United States of America. Both countries are observers to the Charter. The Chairman of the Energy Charter Conference had also invited some countries and international organisations from outside the organisation to participate in the Ministerial Session.

A Discussion Paper prepared by the Secretariat on global energy governance provided a brief description of current global energy challenges. The need for closer cooperation to bring about more stability and predictability in energy markets, in facilitating investments along the energy value chain, in promoting clean energy and efficiency, in reducing energy poverty were all emphasised. No government, it was argued, was capable of finding isolated solutions to the complex and interlinked energy challenges which knew no borders.

The Ministerial Session discussions contributed much to a mutual understanding of the complex challenges of the energy world. Delegations confirmed that there was a need to find solutions to enhance energy security and to promote economic development as well as to protect the environment. Energy security meant different things to producers and consumers. Energy producing countries wished to optimise their buyer’s market and to enhance stability. For energy consuming countries the main concern was sustainable supply and access to energy at acceptable prices. This was a particularly pressing issue for developing countries. Volatility of energy prices is a threat to both groups.

There was general agreement at the Ministerial Session on the need for an effective global governance structure to promote cooperation on the basis of common rules and principles. The value of the Energy Charter Treaty with its unique legally binding framework was recognised and there was an acknowledgement that the Charter needs to modernise to adapt to new realities.

The advantages of the Energy Charter Treaty with regard to the challenges identified by the G8 and G20 were also discussed. Those advantages included its unique legal framework for investment promotion and protection, with rules on energy trade and transit and a cooperation framework for energy efficiency, its broad membership and openness to all countries. Ministers and distinguished delegates from the Energy Charter constituency present expressed their support for the potential of the Energy Charter in addressing the issues of global energy governance. The work of international organisations in the energy sphere, such as the UN, IEF, IEA, IRENA and others, were all acknowledged.

Poland’s Acting Minister of Economy Mr. Mieczyslaw Kasprzak confirmed his country’s view of the value of the Energy Charter Treaty as an excellent tool for the development of global energy rules. Mr. Guenther Oettinger, the European Union Commissioner for Energy, addressed the Conference and expressed his support for the core objective of the Treaty and for its promotion as “a global model for energy cooperation in the long term”. The delegation of the Russian Federation expressed its intention to participate constructively in the modernisation process. The Chinese delegation referred to the importance it attached to China-ECT cooperation and to the benefits of its observer status.
The Conference also welcomed Montenegro and Yemen as new observers. Montenegro signed the 1991 Energy Charter at the Meeting and was thus the sixty-first country to put its signature to this important document. In doing so, Montenegro completed the first necessary step on the way to acceding to the Energy Charter Treaty. Yemen became an observer by invitation of the Conference.

Overall the Meeting of the Conference in Warsaw provided the necessary strategic direction to widen the geographic scope of the Energy Charter and to strengthen its framework for cooperation. The negotiations on an updated version of the 1991 Energy Charter will provide an excellent opportunity to accelerate the modernisation of the Energy Charter, and to find the right balance of interest within its broad constituency.

Before actual negotiations can open on updating the Charter, the Legal Advisory Committee will examine the legal implications vis-à-vis the Energy Charter Treaty. Thereafter a further Conference decision will be required to mandate the negotiation of an updated version of the Energy Charter. Once negotiations are successfully completed under the guidance of the Strategy Group, and a draft text agreed between all members, a high-level Ad Hoc Conference is to be convened to officially adopt the proposed revised Energy Charter.

Mandate for Updating the 1991 European Energy Charter

The Energy Charter Conference, at its 23rd Meeting on 26-27 November 2012 in Warsaw, Poland, Taking into account the wishes to update the European Energy Charter, Decides the following:

1. The Energy Charter Conference will engage in a process that might lead to the adoption of an updated version of the European Energy Charter, henceforth referred to as “Updated Energy Charter” for the purposes of this decision;
2. The Strategy Group is tasked, with the assistance of the Legal Advisory Committee, to examine, in the coming months, the legal implications of the adoption of the Updated Energy Charter vis-à-vis the Energy Charter Treaty;
3. The Secretariat is tasked to prepare in the coming months an assessment of the objectives, scope, benefits and costs/risks as well as other relevant aspects with regard to the Updated Energy Charter;
4. Depending on the outcome of the work under paragraphs 2 and 3 above, the Strategy Group will resubmit a draft decision to the Conference for approval by written procedure, mandating the Strategy Group to negotiate the Updated Energy Charter as described in the paragraphs below;
5. Provided a mandate is received from the Conference as described in paragraph 4 above, the Strategy Group will first reconvene the signatories of the European Energy Charter with the aim of agreeing upon a text conveying their understanding of the Updated Energy Charter and its final name;
6. Provided an agreement on a text is reached as laid out in paragraph 5 above, the Chairman of the Strategy Group will invite, on behalf of the Energy Charter Conference, countries who have been invited by the Conference as observers pursuant to the Rules of Procedure of the Conference (CC 53 Corr.2) and CC 146 without having signed the European Energy Charter, also those states who participated in the 23rd Meeting of the Energy Charter Conference on 26-27 November 2012 in Warsaw and any other interested states, in particular those states termed as Outreach states in the CONEXO policy, to participate in the negotiation of the Updated Energy Charter;
7. Once the process under paragraph 6 has resulted in a high degree of convergence among the parties on the text of the Updated Energy Charter, an ad hoc high level Conference shall be convened for the signatories of the European Energy Charter to adopt the Updated Energy Charter and for partners mentioned in paragraph 6 above to sign the Updated Energy Charter after it has been adopted.
A highly successful policy conference related to the Charter’s MENA Project took place in September 2012 in the form of the Rabat Energy Forum. The Forum was co-organised with the Moroccan Ministry of Energy, Mines, Water and Environment, under the high patronage of His Majesty the King of Morocco Mohammed VI. This event focused on the key energy issues in MENA countries and the relevance of the Charter for the development of the region’s energy market.

At the opening of the Forum’s plenary Ministerial Session, Morocco signed the 1991 Energy Charter, reinforcing its status as a Charter observer. Morocco was the 60th country to sign the Charter and the first country from the African continent to do so.

The event brought together more than 250 high-level representatives of governments, energy companies, financial institutions, international organisations and academia. Among the speakers were: Mr. Fouad Douiri, Moroccan Minister of Energy, Mines, Water and Environment; Mr. Saad dine El Otmani, Moroccan Minister of Foreign Affairs and Cooperation; Mr. Neoklis Sylikiotis, Cypriot Minister of Commerce, Industry and Tourism, and EU Energy Council President; Dr. Awad A. Ibrahim, Libyan Minister of Electricity and Renewable Energy; Mr. Hasan Murat Mercan, Turkish Deputy Minister of Energy and Natural Resources; Mr. Detlef Dauke, German Director General for Energy Policy; Dr. Marwansyah Lobo Balia, Secretary General of Indonesia’s National Energy Council; and Dr. Mohammed Moussa Sobeih, Assistant Secretary General of the League of Arab States.

The Secretary General met with a number of high-level officials from participating countries and organisations in the margins of the conference.

With H.E. Mr. Fouad Douiri, Minister of Energy, Mines, Water and Environment of the Kingdom of Morocco, the Secretary General discussed the involvement of Morocco in the Energy Charter Process and the possibilities of cooperation between Morocco and the Charter with a view to promote regional energy integration and sustainable development in MENA countries.

In meetings with H.E. Dr. Awad Ibrahim, Minister of Electricity and Renewables of Libya, and H.E. Mr. Mohammed Sobeih, Assistant Secretary General of the League of Arab States, Amb. Rusnák particularly focused on the benefits the Energy Charter had to offer to the energy development of the MENA region.

The Energy Charter’s project of cooperation with the countries of the MENA region is developed with the particular support of the German government. The Secretary General discussed the progress of the Charter’s MENA Project and the follow-up steps following the Rabat Energy Forum with Mr. Detlef Dauke, Director General for Energy Policy at the German Federal Ministry of Economy and Technology.

The Secretary General discussed the further development of the Charter, particularly in the context of the ongoing process of consolidation and modernisation of the Charter with Amb. Ron Strikker, Ambassador of the Netherlands to the Kingdom of Morocco.

Energy cooperation across the Mediterranean, the possibility of establishing common frameworks and sharing of technology and know-how, particularly in the field of energy efficiency and renewables, and the potential contribution of the Energy Charter were also the topics of discussion between Amb. Rusnák, Mr. Neoklis Sylikiotis, Minister of Commerce, Industry and Tourism of Cyprus, who represented the EU Presidency at the Forum, and the Turkish Deputy Minister of Energy and Natural Resources Mr. Hassan Murat Mercan.

The Conference closed with the signing of the Rabat Declaration.
RABAT ENERGY FORUM
Concluding Declaration

The first Rabat Energy Forum took place on 20-21 September 2012 in the Moroccan capital. This Forum, co-organised by the Ministry of Energy, Mines, Water and Environment and by the Energy Charter Secretariat, brought together over 220 participants from 30 countries. Representatives of governments, industry, regional and international organisations and academia put forward suggestions aimed at enabling the creation of a competitive integrated regional energy market.

The Forum highlighted the importance of energy issues in the Middle Eastern and North African (MENA) region, taking into account the strong growth in energy demand in the countries of this region, the demographic and economic growth of these countries, persistently high and volatile fossil fuel prices, the need for an urgent response to ensure the direction towards a more sustainable global energy system and more stable and more secure energy markets in the future.

Aware that several cooperation initiatives have been undertaken or considered for the Euro-Mediterranean region, while few of them involved the countries of the MENA region in their entirety, notably the countries of the Middle East;

Aware that strengthening regional and international dialogue and cooperation in this field is likely to be beneficial for the multiple synergies and meet the challenges of sustainable development in the MENA region;

Taking into account the strategic character of reinforcing electricity interconnections and exchange in the MENA region in order to strengthen energy security, contribute to the integration of the regional energy market and to exploit the region’s renewable energy potential;

The participants recognise:
- the need for promoting a set of principles aimed at developing cooperation, which would be beneficial for all concerned countries,
- the need for promoting an energy governance model, which would favour exchange as much with the countries of the European Union as within the North African and Middle Eastern region,
- the development of renewable energy as the determining vector for building cooperation within the region in question,
- the opportunity for developing an integrated regional energy market in this region as a means of promoting a regional energy network, which would favour structured industrial integration, offer new employment possibilities, while benefiting from the opportunities of synergies and economy of scale,
- the Energy Charter as capable to contribute and strengthen energy cooperation in the MENA region,
- that it is advisable to promote the principles and objectives of the Energy Charter within the MENA region.

The Forum recommends:
- to accelerate the pace of energy resources diversification initiated by the countries in the region during this past several years,
- to develop further or to establish institutional, legislative and governing frameworks, which would favour the creation of an integrated and competitive regional energy market through the creation of an environment which would encourage energy investments and deployment of innovative and flexible financing mechanisms and instruments, which would increase the participation of the private sector, including through public-private partnerships, which promote research, development, innovation and strengthening of professional skills,
- to promote the transfer of clean technologies and know-how towards and within the countries of the MENA region and the strengthening of networks for exchanging experience and knowledge at the level of local, regional and national authorities, as well as technical and professional organisations,
- to provide special focus on the promotion of energy efficiency, notably in transport, buildings and the industry,
- to pay special attention to possible distortions, which can result from policies of subsidising energy prices, for industrial consumers as for households; such distortions hinder the promotion of energy efficiency and renewable energy.

Forum participants invite the Energy Charter Secretariat, in cooperation with the League of Arab States and the government of the Kingdom of Morocco, to conduct a study on the necessary conditions for the creation of an integrated competitive regional energy market within the MENA region (member countries of the League of Arab States).

The participants agreed on the importance of holding the Rabat Energy Forum regularly in order to maintain the dialogue between the countries of the MENA region and to ensure the monitoring of the above recommendations.

The participants express their gratitude to the government of the Kingdom of Morocco for the warm welcome, good organisation and the smooth running of the Forum.

The participants also express their appreciation to the Energy Charter Secretariat for its essential contribution to the success of this important event.
Strategy

The Strategy Group was established as a standing group in 2010 to serve as a forum for discussion by members and observers on policy and strategic issues. In particular, it received a mandate to examine possible options for modernising the Energy Charter Process. The Strategy Group is available as a forum for discussions with outreach partners and organisations, which makes it a crucial instrument in view of the evolution of the Energy Charter into an instrument of global energy governance.

Mr. Odd Sverre Haraldsen, Directory General for International Affairs at the Ministry of Petroleum and Energy of Norway, continued to serve as Chairman of the Group in 2012.

Consolidation, Expansion and Outreach

In the course of the year the Strategy Group reinforced its efforts to promote the modernisation of the Energy Charter Process. One part of this activity included the monitoring of the implementation of the Roadmap for the Modernisation of the Energy Charter Process adopted in 2010.

The Energy Charter policy on consolidation, expansion and outreach has become a cornerstone in the modernisation process. Consolidation is related to activities to facilitate the ratification of the Energy Charter Treaty by all its original signatories. Expansion means expansion of the geographic scope of the Treaty by means of activities supporting the accession of new countries, particularly existing observers, to the Treaty. And outreach refers to any activity carried out to popularise the principles of the Energy Charter, the Energy Charter Treaty and the Charter’s policy forum beyond its current constituency of members and observers.

The Roadmap for Modernisation foresaw the establishment of an integrated policy on consolidation, expansion and outreach (CONEXO). Based on drafts discussed in the Strategy Group in 2011, the final draft of the CONEXO policy paper was discussed at the May meeting and approved by the Energy Charter Conference in July. The adoption of this policy paper is a significant step forward in view of the aim of the member states to expand the geographic scope of the Energy Charter Treaty. In particular, the policy provides an instrument for member states to prioritise among countries to be approached and supported in moving towards ECT membership.

The policy further describes consolidation, expansion and outreach as an area which necessitates active involvement and support of member states, their administrations and diplomatic services. With this in mind, the concept of Energy Charter Liaison Embassies (ECLE) has been established, which foresees that member countries may nominate their diplomatic representation in a country targeted in the CONEXO policy as a liaison embassy. The ECLE are intended to promote the principles of the Energy Charter Treaty, to encourage the host country to accede to the Treaty, and to develop cooperation on Energy Charter matters.

Modernisation of the Energy Charter Process

In the decision on the Road Map for Modernisation it was emphasised that that modernisation of the Energy Charter Process and strengthening the Energy Charter Treaty shall ensure the continued commitment of existing members and at the same time make it more attractive for those major actors which are currently not part of its constituency, but with whom the current members share common interests in the areas covered by the ECT. In this context, the Strategy Group discussed some substantive factors which will affect the success of the policy.

If the CONEXO policy is to pursue the mutual interests of current Energy Charter members and potential future acceding counties, modernisation needs to provide answers to modern energy challenges for the existing constituency as well as for potential newcomers. Until new interested countries become Treaty members, there is a need to state clearly the principles, objectives and the
strategy

The Strategy Group further advised the Conference on strategic policy directions, discussed horizontal issues and gave broad orientations on the Secretariat’s Programme of Work. The Group monitored the implementation of the Road Map for Modernisation of 2010 and was used on a regular basis by the Secretary General to inform delegations of new initiatives to promote the Energy Charter Treaty and Process.

Forum for Dialogue

Delegations made active use of the Forum for Energy Dialogue, an established item on the agenda of the Group meetings to exchange information on important recent developments, e.g., national or multilateral energy strategies, developments with regard to the structure of domestic markets, and the creation of new institutions dealing with energy issues.

The Group benefited from the presentation by a leading representative of the Ministry of Energy, Mines, Water and Environment of Morocco on the situation and challenges in that country’s energy sector. An important part of the Moroccan energy strategy focuses on renewable energy sources, which should cover 42% of installed capacity in 2020. To achieve this, Morocco prepared a solar power programme, wind power programme, and an energy efficiency programme. The presentation was particularly relevant as part of preparations for the “Rabat Energy Forum”, which the Energy Charter Secretariat organised later in the year together with the Moroccan government.

The Russian Federation informed the Group of the APEC Summit in Vladivostok in September 2012, where a number of energy-related issues had been discussed, including the intended reduction of applied tariff rates for environmental goods that contribute to green growth.

An official of the National Energy Administration of China seconded to the Secretariat informed delegations on developments in China’s energy markets, with particular emphasis on coal reserves, coal distribution, oil and gas exploration and production, trunk pipelines, coal-bed methane, shale gas, hydropower, nuclear, wind and solar power, and regional power grid clusters. An ad hoc seminar on China’s views on global energy governance was held in conjunction with the Strategy Group on 23 October, as part of preparations for the Conference Meeting in Warsaw. The Director General of the Energy Research Institute of the National Development and Reform Commission of China shared his views on contemporary energy challenges and China’s expectations with regard to the work of international organisations.

Horizontal Issues

The Strategy Group further advised the Conference on strategic policy directions, discussed horizontal issues and gave broad orientations on the Secretariat’s Programme of Work. The Group monitored the implementation of the Road Map for Modernisation of 2010 and was used on a regular basis by the Secretary General to inform delegations of new initiatives to promote the Energy Charter Treaty and Process.
Consolidation, Expansion and Outreach

Early in 2012 pursuant to the Road Map for the Modernisation of the Energy Charter Process, the Secretariat prepared a policy paper on consolidation, expansion and outreach (CONEXO). This policy was approved in July 2012.

The key objectives of the CONEXO policy which the Secretariat commenced to implement in 2012 are:

- Consolidation of the Energy Charter Treaty among its original signatories (COnsolidation);
- attraction of key energy players, who already has observer status, to eventually accede to the Treaty (EXpansion);
- promotion of the Energy Charter Treaty and Process on a broader geographic level (Outreach).

Throughout the year, the Secretariat implemented the policy in close coordination with the members of the Energy Charter Treaty and reported to the Charter Groups when appropriate. Necessary adjustments were made based on the deliberations of the Groups.

The concept of the Energy Charter Liaison Embassies (ECLE) was introduced in the policy paper on CONEXO in 2012 and some countries expressed their readiness to participate in these diplomatic activities: the Netherlands – in Rabat, Morocco, and the Slovak Republic – in Podgorica, Montenegro.

**Consolidation**

The Secretary General took the lead on the Charter consolidation efforts by personally engaging with the relevant authorities of the countries, which have so far signed but not ratified the Energy Charter Treaty: Australia, Belarus, Iceland, Norway and the Russian Federation. Amb. Rusnák undertook missions to Canberra, Minsk, Moscow and Oslo for high-level meetings. The Secretary General also held joint consultations in Brussels with the representatives of all five countries. At the October meeting of the Strategy Group he reported on all his efforts on Consolidation.

**Expansion**

The People’s Republic of China continued to participate in certain Energy Charter Secretariat activities. On 23 October the Secretariat organised an ad hoc seminar on China’s views on global energy governance. An official Chinese delegation headed by the Director General of the Energy Research Institute of the National Development and Reform Commission, Prof. Han Wenke, spoke on behalf of the Chinese delegation. In December the Secretariat’s Deputy Secretary General, Amb Rakhmanin, conducted a mission to Beijing to meet with officials in the National Development and Reform Commission, as well as the National Energy Administration, the Ministry of Foreign Affairs and other relevant institutions.

On 20 September the Kingdom of Morocco signed the 1991 Energy Charter during the Charter’s policy conference, the Rabat Energy Forum. Morocco was the first nation from the African continent to do so, and the sixtieth country overall.

The Secretariat continued dialogue with Serbia based on this country’s expressed interest in acceding to the Energy Charter Treaty. A number of missions by Secretariat staff were conducted to Belgrade. On 5 September a working meeting was held in the Secretariat between the Prime Minister of Serbia, Mr. Ivica Dačić, and Amb. Rusnák. Prime Minister Dačić confirmed his country’s intention to accede to the Treaty. On 12 October a letter from the Minister of Energy, Development and Environmental Protection to Amb. Rusnák confirmed that the accession reports would be finalised by the Serbian authorities.

Afghanistan signed the Energy Charter on 4 August 2006. Accession reports were approved by the Energy Charter Conference in 2007 when the Conference invited Afghanistan to accede to the Energy Charter Treaty. In July 2012,
Mr. Hisham Alimi, General Director of the Ministry of Energy of Afghanistan, confirmed the readiness of his country to pursue the ratification of the Treaty. On 12 October a meeting with a delegation from the Parliament of Afghanistan was held in the Secretariat in order to facilitate the ECT ratification process.

The Secretariat maintained contacts with the authorities of the Hashemite Kingdom of Jordan, whose accession reports were approved by the Energy Charter Conference in 2009. In April Secretariat representatives met with Dr. Khaled Toukan, Minister of Energy and Mineral Resources of Jordan. The government of Jordan expressed its willingness to continue the accession process and to place the ratification issue on the agenda of the new parliament.

The Secretary General held consultations with the representatives of the government of Pakistan in Dushanbe in July. The purpose of the consultations was to update Pakistani authorities on the Energy Charter Process and to facilitate the ratification of the Energy Charter Treaty by Pakistan’s parliament.

Montenegro signed the 1991 Energy Charter during the Meeting of the Energy Charter Conference in November, thus becoming an observer to the organisation. During the same Meeting, Yemen became an observer by invitation of the Conference. The participation of each of Montenegro and Yemen in the Energy Charter Process is a further welcome development in the expansion of the geographic scope of the Energy Charter.

**Outreach**

In September the Secretary General met with the Minister of Electricity and Renewable Energy of Libya Dr. Awad Ibrahim and encouraged the Libyan authorities to join the Energy Charter Process.

The Secretariat also maintained close relations with other international organisations, particularly those dealing with energy issues. A new impulse was given to cooperation with the International Energy Agency (IEA) and the Organisation for Economic Cooperation and Development (OECD). The joint efforts with the IEA are now focused on the development of renewable energy policies, and with the OECD – on the promotion of energy investments. Also, on 14 September the Secretariat organised a special briefing on recent developments in the Energy Charter Process for the ASEAN Ambassadors in Belgium (The ASEAN organisation is an observer to the Energy Charter Conference).

On 19 March a Memorandum of Understanding was signed between the Secretariat of the League of Arab States and the Energy Charter Secretariat. The Memorandum provides for opportunities for a closer cooperation with the Arab countries and will contribute to a better involvement of those countries in the Energy Charter Process.

**MENA Project**

In 2012, the Secretariat with the financial support of the government of Germany, commenced the implementation of the project focused on Middle East and North Africa (MENA Project). The goal of the MENA Project is to create a reliable framework for energy investments in the region, based on the Energy Charter Treaty. The project promotes the eventual accession of several MENA countries to the Energy Charter Treaty (in particular Morocco, Algeria, Tunisia, Libya, Egypt and Jordan). The Energy Charter Conference and the Secretariat would therefore be the platform to promote regional energy partnerships and projects in the MENA region.

Within the MENA Project, delegations from MENA countries participated in events and working meetings organised by the Secretariat in Brussels. Secretariat staff conducted missions to Algeria, Morocco, Tunisia, Egypt, United Arab Emirates and Libya to meet with government officials to establish contacts and to provide information on the Energy Charter Process. Recent political changes in some countries of the region mean however that these efforts will take time.

The MENA Project was launched with a presentation to the German Federal Ministry for Economy and Technology in January 2012. An important number of missions to the countries of the MENA region followed. The missions were dedicated to identifying the key energy-related interests of these countries and presenting the opportunities offered by the Charter. Meetings were held with high-level authorities and experts, as well as with local embassies of ECT countries. A special meeting with the participation of ECT member countries and countries targeted by the Charter’s expansion policy was also held in Brussels.
Energy Efficiency

The Protocol on Energy Efficiency and Related Environmental Aspects (PEEREA) has a proven record as a successful international instrument for the promotion of energy efficiency by providing a well developed framework for peer reviews, exchange of information and dissemination of good practices. The Working Group acts as a dynamic forum for policy sharing and advice for members and observers on energy efficiency and related aspects.

**PEEREA Review Process**

Three In-depth energy efficiency reviews (IDRs) were on the agenda of the Working Group in 2012.

**In-Depth Energy Efficiency Review of Albania**

The first IDR of Albania was completed in March 2012 by a team of experts led by a representative of Switzerland and including representatives of Bulgaria and Italy, supported by the Energy Charter Secretariat. The team appreciated the fact that the Albanian government had followed through on the reform of the electricity market, as well as noted the recent success of the energy policy in delivering a more reliable electricity supply. The review team believes that a strong energy efficiency policy could contribute strongly to achieving the targets and goals that the Albanian government has set in the energy sector.

The team underlined, that much remains to be done to successfully implement energy policy priorities identified by the Albanian authorities. These priorities include solar panel deployment, bill collection, illegal electricity connection elimination, awareness raising and incentives for energy efficiency. There are, without doubt, real resource constraints and the imperative is to maximise the effectiveness of policy measures.

Based on its observations and assessment of progress made by the country, the review team made recommendations to the Albanian government to accelerate the pace of reform in the energy sector, to finalise the process of adoption of the existing draft pieces of legislation energy efficiency and renewable energy and to demonstrate commitment to follow through on energy policy with effective implementation, regular assessment of progress and review and by allocation of resources to support priority actions. The government should also continue to act with firm resolve to secure the stability and reliability of the electricity system and to ensure that the goals of loss reduction and full bill collection are achieved, as well as to consider reviewing the electricity tariff system to better reflect payment capacity and the consumption patterns of end consumers.

**In-Depth Energy Efficiency Review of Belarus**

The IDR of Belarus was completed in September 2012 by a team of experts led by a representative of Kazakhstan and comprising officials from Armenia, Austria and Sweden. The review team observed that since the beginning of the 1990s, Belarus has pursued a consistent governmental policy aimed at improvement of energy efficiency of the economy, including the establishment of a regulatory framework, institutional infrastructure, mechanisms of state support and incentives, a system of key performance indicators and state programmes with respective monitoring instruments. Energy saving and energy efficiency are key elements of the state energy policy of Belarus.

Pursuant to the Strategy of Energy Potential Development in the Republic of Belarus and the prepared draft Concept of the Law on Electricity, a step-by-step reform of the electricity sector is planned. The review team recommended that the Belarus government should pursue plans for the unbundling of activities, development of market structures, harmonisation of legislation and development of wholesale and retail markets of electricity. This will support the harmonisation of Belarus’ legislation and the compliance with obligations under international treaties.

The review team encouraged the Belarus authorities to continue with the implementation of the state policy on energy efficiency and renewable energy as well as to pursue the policy of restructuring the energy prices to remove cross-subsidies. The team also recommended to the government to consider the adoption of market-oriented principles and legislation for the energy sector, to further analyse and identify a system of measures aimed to increase the share of equity capital, private capital, loans and borrowings in energy efficiency and renewable energy implementation necessary.
In-Depth Energy Efficiency Review of Azerbaijan

The IDR of Azerbaijan was finalised in September 2012 with the support of experts from Albania, Sweden and the EU Delegation in Baku. The review team noted that the development of renewable energy, improvement of demand-side energy efficiency and energy conservation were among the priority areas for Azerbaijan. At the same time, institutional arrangements for energy efficiency are at a very early stage of development. Their further development needs to be based on an understanding of the short, medium and long-term tasks to be accomplished. The review team made recommendations to the Azerbaijani government to reflect the potential contribution of energy efficiency to increasing fuel export and supporting economic growth and the environment and to give high priority to energy efficiency and renewable energy. Detailed analysis of the energy efficiency economic potential in all sectors of the economy needs to be developed and the barriers impeding the realisation of this potential assessed.

Furthermore, the government was urged to consider the introduction of market-oriented principles in the energy sector and appropriate regulatory framework based on international experience and to review existing electricity, heat and gas tariffs in order to facilitate the implementation of energy efficiency measures. A number of specific recommendations were made for the improvement of existing legislation and for the introduction of various energy efficiency policies in residential, public, industrial, district heating, service and transport sectors.

General Policy Activities – Energy Efficiency in the Buildings Sector

The energy efficiency technologies available today could achieve significant reductions in the energy consumption of buildings, but their deployment is happening at a slow pace. Market and policy are not stimulating actions towards energy efficiency in buildings, and lifestyle barriers stand in the way of achieving the huge progress that is both necessary and possible. The rapid construction growth in the member states of the Energy Charter with developing economies is part of the challenge, as well as the legacy of inefficient, deteriorating buildings and heating systems.

During a roundtable discussion organised in April, Charter member states discussed the possibilities of triggering the implementation of energy efficiency policies. Different perspectives were presented – those of EU member states, Eastern and Central Asian member states, as well as donors and financial institutions. Energy efficiency in buildings was regarded as one of the main areas for improvement of the energy picture in European and Central Asian countries. The Secretariat provided insights, best practice examples and opportunities for international cooperation.

International Cooperation

An informal cooperation framework was established between the Energy Charter Secretariat, the IEA and the OECD. The PEEREA Working Group continued also to serve as a forum for networking and exchange of information with other international and national organisations active in the area of energy efficiency, in particular the United Nations Economic Commission for Europe, the Energy Community Secretariat, the World Bank, the Organisation for Security and Cooperation in Europe, the Regional Environmental Centre for Central Asia, EU Joint Research Centre, and the EU Covenant of Mayors office.

DACO Project

The global objective of the DACO (Yes (Da) to the Covenant”) project, which was launched in the beginning of 2012, is to support local authorities in acquiring a common methodology to correctly monitor, evaluate and reduce their energy consumption and CO2 emissions. More specifically, the aim is to improve energy security at local level by enhancing energy efficiency, reducing dependence on fossil fuels and contributing to climate change mitigation in the participating regions, thus implementing the concept “Think Globally, Act Locally”. The intention is to extend the principles, rules and goals of the Covenant of Mayors to these new participating regions.

The specific objective is to develop Sustainable Energy Action Plans in the involved municipalities – Sumgayit (Azerbaijan), Novogrudok (Belarus), Taraz (Kazakhstan) and Somonyon (Tajikistan). Based on those Action Plans, each participating municipality will select and implement a pilot project. More information on DACO project activities is available on the project website: http://daco.encharter.org.

* The Covenant of Mayors – a European movement involving local and regional authorities, voluntarily committing to increasing energy efficiency and use of renewable energy sources on their territories. By their commitment, Covenant signatories aim to meet and exceed the European Union 20% CO2 reduction objective by 2020.
Transit

Multilateral Rules on Transit

For many years the negotiations on the Transit Protocol dominated much of the Energy Charter’s agenda. At its Meeting in November 2011, the Energy Charter Conference decided to suspend negotiations on the draft Transit Protocol, while expressing the willingness to consider a reset of the negotiations. The Conference requested more information with regard to the prospects for such an initiative.

As a follow-up to this request, a series of Stakeholder Events was held by the Secretariat in 2012 under the auspices of the Trade and Transit Group, on each of electricity, natural gas and oil. The purpose was to discuss with transmission system operators as well as integrated energy companies the question in which geographic regions and in which areas of interest, stakeholders saw a need for complementary rules or other forms of intergovernmental collaboration in energy transit and cross-border trade.

The discussions demonstrated that cross-border energy infrastructure development is crucial in view of the main policy goals shared by most countries, namely energy security, economic development and environmental protection. The existence of accessible cross-border and transit energy transport infrastructure is a requirement for landlocked oil and gas producers in order to access attractive downstream markets. It is likewise a requirement for landlocked oil and gas consumers, which rely on pipelines to bring gas to final consumers and oil to their inland refineries. Infrastructure development, including transit, is crucial in view of diversification strategies of energy producers and consumers, both of which are motivated by the attempt to achieve better market conditions (higher/lower prices). Such development is of utmost importance for the integration of efficient and low-carbon energy production into electricity networks. Supergrids will be required for the transmission of electricity from wind, solar and hydro to the consumption centres.

Transit remains a special case due to the different interests of producers, consumers and transit countries. The Energy Charter’s approach of applying the principle of freedom of transit needs to be further discussed against the needs of transit a country in terms of the responsibility it takes for other countries and its own energy security.

The following approaches were identified:

- Parties should facilitate transparency and exchange of information to better predict future need for energy transport infrastructure;
- There is a need for a common regulatory framework, the depth of this framework will remain a matter for discussion;
- Cooperation of transmission system operators is becoming a necessity in view of the separation of transmission from production and distribution in large parts of the constituency;
- Common planning of infrastructure can help generate economies of scale;
- Energy trade in general requires free trade rules;
- To be reliable, cross-border and transit energy infrastructure need to have effective mechanisms for the settlement of disputes and the prevention and management of emergency situations.

Having reviewed the results of the Stakeholder Events, the Conference reiterated the possibility to reset negotiations on the basis of a new document reflecting the common views of the constituency should an important number of stakeholders/contracting parties express a genuine interest in such negotiations and a commitment to be bound by its result. Moreover, the scope of common rules that could be developed under the Energy Charter Treaty requires further analysis, which would be a task to be undertaken by the Trade and Transit Group in the coming years.

Emergency Response: Conciliation in Case of Transit Disputes

Effective conciliation under ECT Article 7(7) is one of the priority areas within the Charter’s Road Map for Modernisation. The aim is to enable the conciliation mechanism to settle transit disputes effectively, and to prevent major emergency situations affecting the energy security of the Energy Charter member states. Previously it was agreed that proposals for effective conciliation should be presented as amendment proposals to the “Rules Concerning the Conduct of Conciliation of Transit Disputes” adopted by the Conference in 1998. The Secretariat presented concrete proposals at

Mr. Masahiko Fujihara
Vice-Chairman,
Trade and Transit Group
the meeting in Trade and Transit Group meeting in May 2012. Based on comments received, an updated version was presented to the Group meeting in October. The main proposals concerned:

- Ways to address the problem that the Conciliator for transit disputes is only available once the parties have exhausted all other dispute settlement mechanisms they agreed among themselves;
- The creation of a roster of available conciliators maintained by the Secretary General based on nominations from the Contracting Parties in order to accelerate the process and to strengthen confidence in the mechanism;
- The need to clarify the scope of the conciliator’s decision.

At the meeting of the Group in October, delegations required further consultations on the various proposals. It is therefore proposed to continue this discussion in 2013.

**Transparency Initiative**

The transparency initiative on new cross-border infrastructure projects focused on electricity interconnections in the Mediterranean, in Central and South Asia as well as gas infrastructure projects.

The Medgrid project, a co-development industrial initiative was presented to the Trade and Transit Group in May. The central plan for Medgrid is the Mediterranean solar plan. Its key objectives are to facilitate the free exchange of electricity in the Mediterranean basin, to create a regulatory framework for large development of solar power generation and other renewable sources of energy, as well as to enhance the technological cooperation.

Issues of interest were in particular the evolution of power systems and interconnections in the Mediterranean basin, the existing submarine connections and potential projects. A strong increase of the interconnections within the different power systems and better efficiency of the operation by the transmission system operators will be essential. The Group discussed the project with particular attention to the requirement of common rules for transmission, investments and technological cooperation.

The Group discussed the regional investment plan for the EU’s southern gas corridor in May on the basis of the regional ten-year network development plan developed by ENTSOG under the chairmanship of the Greek TSO Desfa. The aim of the plan is to help to identify potential additional capacity (investment) gaps as well as the need for an enhanced analysis of bi-directional flows linked to security of supply investments and to provide the market with a valuable outlook of the future energy investments in the region. The presentation gave an overview of the methodology for creating the plan and an overview of several project considered. A particular challenge is the diversity of the region with substantial natural gas production but also countries relying on imports as well as transit countries. The main interest was to ensure transportation of gas from the Caspian region and possibly from the Middle East to Europe.

During the Trade and Transit Group meeting in October, several regional updates were presented. Dr. Raina from Entecsol International discussed in his presentation current developments in the energy sector of South Asia, particularly India and Pakistan. Updates were also provided on the two regional projects to supply natural gas (TAPI) and power (CASA-1000) from Central Asia to South Asia.

Another presentation was devoted to the current developments in the Mongolian energy system, this was delivered by Mongolia’s former Minister of Energy Mr. Zorigt Dashdorj. In his presentation Mr. Dashdorj addressed the energy policy of his country, coal and gas resources and highlighted the importance of renewable energy sources in Mongolia’s energy strategy. Mr. Dashdorj discussed in detail the so-called “Asia Super Grid” project. This is an initiative led by the private sector, which intends to interconnect the grids of Japan, Russia, China, South Korea and Mongolia. The concept of the project is to invest nearly USD 62 bln in the next ten years in the development of solar and wind power plants in Mongolia.

The Kyrgyz Republic also updated the Trade and Transit Group on the status of the regional infrastructure. A new 500 kV transmission project has been launched to improve the existing South-North connection.

In 2012 the Secretariat published two reports on transit and transmission tariffs for pipelines, one on oil and one on natural gas. For this purpose, the reports published in 2006 and 2007 had to be revised and a significant amount of information be added.

The report “Bringing Oil to the Market: Transport Tariffs and Underlying Methodologies for Cross-Border Crude Oil and Products Pipelines” describes and analyses existing crude and oil product transport tariffs and methodologies as well as rules for access where relevant for existing and new cross-border oil pipeline systems across selected countries.
Transit

countries of the former Soviet Union (Russia, Ukraine, Belarus, Azerbaijan, Georgia, Kazakhstan, Uzbekistan), selected EU members (Bulgaria, the Czech Republic, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia) and two non-EU, non-FSU countries (Turkey and Croatia). A special emphasis is made on oil pipeline transit in view of the Energy Charter Treaty’s provisions.

Essential technical and economic elements influencing costs of oil and oil products pipeline transportation are described, as well as typical tariff methodologies. Amounts and methodologies of oil pipeline tariffs are examined and, where relevant, cross-border tariff regimes are compared with those for domestic transport.

Transit tariffs across the countries examined show a wide range of variations. Cost-reflective tariffs and negotiated tariffs are the two methodologies used. Transit tariffs are typically subject to negotiations. Specific requirements of a pipeline project may require the setting of tariffs for a short or a longer term.

Varying aspects of a particular movement can create a wide range of tariffs, even under a methodology which is compatible with efficient system operation and adequate profits.

Lack of transparency of transit tariffs is an important challenge. In most of the countries, such tariffs are negotiated at state level and set through intergovernmental agreements. Such negotiations are often conducted under strict confidentiality and the outcomes are often not revealed to the public.

The report “Bringing Gas to the Market: Gas Transit and Transmission Tariffs in Energy Charter Treaty Countries – Regulatory Aspects and Tariff Methodologies” analyses tariffs in view of their important role in determining access conditions to natural gas pipelines.

As a multilateral agreement, the Energy Charter Treaty does not provide a detailed regulatory framework for the management of the energy transport infrastructure. Instead it focuses on energy transit as an important factor for international trade in energy. Reliable transit of energy is a critical issue for regional and global energy security, as energy is increasingly transported across multiple borders on the way from producer to consumer.

Since the first edition of the gas tariffs study was published, major reforms of European gas markets have taken place and still continue. As a result, it has become even more difficult to analyse gas transit tariffs separately from domestic transmission. The report therefore discusses the methodologies for transmission tariffs in general, but with special emphasis on how gas transit may be effectuated under the rules applicable, whether these are transit-specific or not.

For the purpose of updating the 2006 study, the Energy Charter Secretariat has asked the members of the Charter to provide answers to a tailor-made questionnaire.

Tariff methodologies which could be identified as common standards rather than nominal tariff levels were the primary focus of the study.

The study shows that core principles like the regulation of tariffs on the basis of published laws, the establishment of regulatory authorities, and tariff principles like transparency, non-discrimination and cost-reflectiveness are broadly shared among the countries analysed, while concrete methodologies to determine tariffs on the basis of a regulated asset value and rate of return as well as the unit tariff methodologies vary significantly. With regard to the market structure and in particular mandatory third-party access and unbundling differences are more obvious, in particular between the EU and FSU countries. Furthermore, separate transit regimes are rare and mainly exist on the basis of exemptions from normal regulation or intergovernmental agreements.

Task Force on Regional Energy Cooperation in Central and Southern Asia

The 8th meeting of the Task Force on Regional Energy Cooperation in Central and Southern Asia took place in Dushanbe, Tajikistan, on 20 July 2012 upon the invitation of the Ministry of Energy and Industry of Tajikistan and with the support of the government of Norway. The meeting focused on the promotion and development of sustainable energy resources in the region, including hydropower. There were also discussions on the development of transport corridors and trade in electricity and gas. A Declaration on Promoting Regional Energy Cooperation between Central and South Asia was adopted during the meeting.
Trade

In 2012 the work in the trade area mainly consisted of the review of the import and export duties regime of the countries within the ECT constituency; the discussion of the possibility to move from “best endeavour” to binding commitments with respect to import and export duties; and the review of changes in the Harmonised Commodity Description and Coding System.

Review of the Import and Export Duties Regime of the Countries within the Energy Charter Treaty Constituency

The Secretariat continued to review the changes in the trade regime of ECT members. This review is carried out to comply with the transparency obligations under the Treaty and to prepare the adoption of a binding tariff regime with respect to products covered by the Energy Charter Treaty. In 2012 the Secretariat complemented the information it had collected earlier with more detailed data of applied duty rates at the 8-digit level of the Harmonised System.

Possibility of Moving to a Binding Tariff Regime for Import and Export Customs Duties on Selected Items

The first priority in the ECT trade regime is the decision to move to a bound tariff regime. For this, a unanimous decision of the Energy Charter Conference is required. At present the Energy Charter Treaty contains only a best-endeavour provision not to increase customs duties and charges for importation or exportation. Under the Trade Amendment to the Treaty, an obligation can be introduced not to increase such duties above rates at which they are applied at present. The Energy Charter Conference conducts annual reviews on the possibility of moving items to a legally binding commitment under Understanding No. 3 to the Trade Amendment. The Secretariat organised a meeting of Trade Experts 18 September 2012 to address the issue in detail.

Based on the collected information on applied and bound customs tariff rates, the Secretariat proposed to delegations an approach to the negotiations on the customs bound standstill. At the Trade Experts meeting delegations considered the technical and legal methods for a change from the “best endeavour” regime to a binding commitment. It was decided to continue this discussion further in 2013.

Review of Changes in the Harmonised Commodity Description and Coding System

The Harmonised Commodity Description and Coding System is an internationally standardised nomenclature for the description, classification and coding of goods, developed and maintained by the World Customs Organisation. When the Energy Charter Treaty was negotiated in the early 1990s, the negotiations were based on the 1992 version of the System. Subsequent negotiations on the ECT Trade Amendment used the 1996 version of the System. The evolution of the Harmonised System led to changes that entered into force in 2002, 2007 and, most recently, in 2012.

In 2012 the Secretariat conducted a review of these changes and identified the consequently required amendments to the Energy Charter Treaty Annexes. A proposal was prepared for a decision by the Energy Charter Conference.
Investment

The Investment Group (a Subsidiary Body of the Energy Charter Conference, for the discussion of all investment-related issues) convened twice in 2012. The activities of the Group have shown that the ECT signatories are active in promoting investment and facilitating cross-border investment flows, which require national and international measures to further improve and sustain the most conducive climate for investment in the energy sector during times of economic uncertainty in the global financial markets.

In 2012 the delegations engaged in a consultation process on the assessment of the ECT provisions with regard to low-carbon investment, performed reviews of two countries, continued monitoring investment policy developments in member countries, discussed specific aspects related to the conditions for mutual investments along the energy value chain, and discussed the issues of transparency and competition in the framework of ECT implementation in specific areas.

Assessment of the ECT Provisions with regard to Low-Carbon Investment

In accordance with the Road Map for the Modernisation of the Energy Charter Process the Secretariat implemented an “Assessment of the ECT provisions with regard to low-carbon investment.” The overall purpose of the assessment was to evaluate the instruments of the ECT in view of their continued ability to promote investments into all parts of the energy chain and to ensure non-discriminatory access to international energy markets.

The Secretariat conducted a public consultation process which was open to ECT signatories, observers, the Industry Advisory Panel and other interested stakeholders. The objective was to seek accurate and precise guidance on the scope for actions and measures that might be taken to promote low-carbon investment, including trade and energy efficiency aspects. Discussions within the different subsidiary bodies of the Energy Charter confirmed that there is a need to promote multilateral cooperation on low-carbon policies. Various instruments were considered within the consultation process to give effect to a policy of low-carbon investment promotion. These included legally binding provisions, soft-law obligations, declarations and possible new legal instruments, variously aimed at complementing the effectiveness of the relevant ECT provisions.

The Energy Charter Conference at its Meeting in November took the following decision regarding multilateral cooperation on promoting low-carbon investment:

• Conduct further analysis and consultations on benefits of a non-binding Declaration and/or interpretative notes on promoting low-carbon investment within the framework of the ECT;

• Conduct further analysis and consultations on benefits of adding new low-carbon energy materials and products to Annex EM I of the ECT;

• Develop further proposals on the reduction of inefficient fossil fuel subsidies within the ECT constituency based on the discussion of this issue in the Investment Group, the Trade and Transit Group and the PEEREA Working Group.

Country Reviews of Investment Climate and Market Structure

In 2012 Lithuania and Kazakhstan presented reviews on the Investment Climate and Market Structure (ICMS) in the energy sector. The reviews were prepared by the national authorities of those countries in close cooperation with the Energy Charter Secretariat. Sweden and Ukraine acted as peer review countries for the report of Lithuania. France and Portugal acted as peer review countries for the report of Kazakhstan. The Investment Group commended the progress achieved by the reviewed countries concerning investment liberalisation and energy market restructuring. The Investment Group appreciated, in particular:

• With regard to Lithuania, its efforts to improve the business climate and continued progress in developing energy sector legislation and market reforms;
• With regard to Kazakhstan, its extensive business climate reforms in recent years which resulted in a significant inflow of foreign direct investment.

The Energy Charter Conference endorsed the review conclusions and recommendations for both countries at its November Meeting. The Conference noted that the reviews demonstrate the member countries honour their commitments under the ECT and undertake broad reforms and investment policy measures towards improving the legal frameworks for investors.

**Improving Entry Conditions for Foreign Investors**

Protection against discrimination is one of the most important components in creating a favourable investment climate in the ECT constituency. Both the Secretariat and the Investment Group continue analysing recent investment policy developments via a review of exceptions to the national treatment principle (non-conforming measures). These exceptions are recorded in the so-called “Blue Book” – a list of member countries’ non-conforming measures in the pre-establishment phase of an investment. Regular updates of the publicly accessible “Blue Book” contribute to enhancing transparency and encourage countries to reduce the number of such exceptions.

**Review of ECT Implementation In Selected Areas and Risk Mitigation**

In the context of investment arbitration, the Secretariat updated the delegations on the work of the United Nations Commission on International Trade Law (UNCITRAL) in developing a legal standard on transparency in treaty-based investor-state arbitration. It was emphasised that if the Transparency Rules developed by the Working Group II within UNCITRAL became applicable to ECT-based arbitration, a considerable amount of information would be made available to the public, and thus, it would be much easier for the Secretariat and the ECT constituency to collect information on those cases and assess the effectiveness of the Energy Charter Treaty’s dispute settlement mechanism.

In addressing the political and regulatory risks for foreign investors, in terms of the Risk Reduction Dialogue, the Investment Group looked into specific aspects of bilateral and multilateral cooperation options under the competition and free-market economy principles embodied within the ECT. The Secretariat prepared an analytical paper to facilitate discussions on how to create an energy competition forum in order to exchange views, experience and best practices, and to facilitate case-specific cooperation in enforcement of competition rules under the auspices of the ECT. It was concluded that a competition forum under the ECT could have a strategic edge compared to other regional and multinational information exchange arrangements. The Investment Group agreed to continue the exchange of experience and stimulate cooperation on competition issues, particularly where barriers to network access in electricity and gas markets are concerned.

**Workshop on Investor-State Arbitration**

In November the Secretariat organised a workshop on investor-state arbitration under the Energy Charter Treaty, aimed mainly at the governments of the ECT constituency. The purpose of this event was to provide the governments of the Energy Charter constituency with information on the arbitration scheme, as well as on actual cases. Three distinguished lawyers briefed the audience on the impact of investor-state arbitration on states, the concepts of “investor” and “investment” under the ECT, and the possibility of claims by state enterprises. There was a further presentation by the Secretariat’s Acting General Counsel. The presentations were followed by an active discussion among participants, more than half of whom were government officials, while the rest were private-sector lawyers practicing in investment arbitration.
Based on the experience of its members in energy investment and development, the Industry Advisory Panel (IAP) continues to strongly support the Energy Charter Process and the principles of the ECT in international energy practice. The Energy Charter Treaty addresses the continuing need for a reliable framework for international energy cooperation. The provisions of the Treaty, including those on dispute resolution procedures, provide a robust international framework which can do much to underpin both government and investor confidence in major energy sector development.

The IAP currently has over thirty members from around twenty countries. It covers all aspects of the energy industry, from supply and transportation to financing and end use. In 2012, the IAP convened twice in Brussels, at the headquarters of the Energy Charter Secretariat. A further meeting was held within the framework of the Rabat Energy Forum which allowed Panel members to acquire in-depth and first-hand information on the energy sector challenges and prospects in Morocco as well as the MENA region in general.

In 2012 the agenda of the IAP reflected various interests. The IAP discussed regional and global gas market developments, the promotion of low-carbon policies, the growth of indigenous energy markets in North Africa, access to finance in the energy sector and the role of the Energy Charter Treaty.

**Main Observations for 2012**

**Gas Market Developments**

The energy industry considers that natural gas is abundant, affordable and environmentally acceptable. Global natural gas consumption is forecast to overtake coal before 2030 and to meet one quarter of global energy demand by 2035.

There is a strong need to continue international cooperation on promoting access to natural gas, including the promotion of investment and transit, expediting of environmental and social impact assessments and streamlined procedures for the approval and implementation of beneficial infrastructure projects.

**Promoting Low-Carbon Investment**

The energy sector is beginning to make the transition to a lower-carbon economy, as governments around the globe put in place frameworks to address climate change. There is a strong need everywhere for balanced energy policies to ensure the delivery of affordable, sustainable and secure energy. The ECT provisions for investment promotion and protection are important in attracting investment in all energy sectors, including in lower-carbon development. This also applies to the facilitation of international energy trade through the removal of barriers, promotion of access to capital and technology transfer.

Multilateral cooperation between countries with different energy generation and storage capabilities could assist in providing cost-effective solutions for secure energy supply from intermittent sources. This could involve longer-term capacity contracts for relevant facilities and corresponding cross-border capacity. The ECT provisions are particularly relevant in this respect.

**Promoting Access to Finance in the Energy Sector**

International financial institutions (IFIs), including the European Bank for Reconstruction and Development and the European Investment Bank, are extensively involved in energy sector investment in the Energy Charter area. The availability of IFI financing may be of particular value in the current economic context of more limited private sector
financing capacity for individual infrastructure projects. The IFIs have an extensive range of financing instruments at their disposal; co-financing may also assist in attracting private investment and in managing the overall risk profile of energy projects.

The Industry Advisory Panel believes it is useful to underline the continuing important role of international finance institutions in promoting access to finance in the energy sector. The IFIs can also bring substantial experience of managing sustainability, social and environmental aspects of energy infrastructure development. They can assist both the public and private sectors in building successful public-private partnerships through the development of organisational capacity and sharing of experience and best practices.

**Key Messages from the IAP Presented at the Rabat Energy Forum**

The Rabat Energy Forum of 2012 focused on North Africa’s growing indigenous energy markets, the importance of oil and gas supplies to European and global markets and the significant potential for renewable energy generation and transmission from North African sources. Attention was also drawn to the advantaged geographic position adjacent to key markets, the substantial energy infrastructure already in existence and the strong track record of international collaboration over many years in various parts of the energy sector. The ability to attract international finance and technologies and the continued expansion of international infrastructure, will remain crucial both to continued energy sector development in the region and wider economic growth.

The development of large-scale renewable technologies, including wind and concentrated solar power, can also be supported by many of the advanced technology solutions available from the chemical and other industrial sectors. Examples include high-performance materials and innovative techniques of water management. Technology will be crucial in all areas to ensuring the long-run competitiveness of renewable energy sources. These stakeholders also share an interest in stable, secure and productive investment conditions.

The growing internationalisation of the energy sector underlines the value of the Energy Charter framework for both national economies and investors. Support for the Energy Charter principles would undoubtedly be seen as a positive signal by prospective investors in the entire North African energy sector.

The Energy Charter can play a significant role in promoting and securing the infrastructure investment needed for cross-border electricity trade and wider energy market development in North Africa. Likewise the Energy Charter can play a valuable role in promoting the technologies, networks and policy frameworks needed to accelerate energy efficiency and large-scale renewable energy development in the North African economies.

More information on the Panel’s activities is provided in a dedicated publication, IAP Insights, available on the Energy Charter website www.encharter.org
Dispute Settlement

The Energy Charter Treaty contains a comprehensive system for settling disputes on matters covered by the Treaty. The two basic forms of binding dispute settlement are state-state arbitration on the interpretation or application of almost all aspects of the Treaty (except for competition and environmental issues), and investor-state arbitration for investment disputes. There are special provisions, based on the WTO model, for the resolution of inter-state trade issues, and the ECT also offers a conciliation procedure for transit disputes. The starting point for all these mechanisms is the desirability of an amicable agreement between the parties to any dispute. However, in the event that this does not prove possible, then the Treaty opens a number of additional avenues to promote and reach a settlement.

Over the years since the Treaty has entered into force, the investor-state dispute settlement mechanism has a proven operational record. If an investor chooses to bring a dispute to arbitration, there are three possible avenues: the International Centre for the Settlement of Investment Disputes (ICSID - an autonomous international institution with close links to the World Bank); a sole arbitrator or an ad hoc arbitration tribunal established under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL); or an arbitral proceeding under the Arbitration Institute of the Stockholm Chamber of Commerce. International arbitral awards are binding and final, and each ECT state is obliged to make provision for the effective enforcement of such awards in its area.

### List of Investor-State Dispute Settlement Cases (as of end 2012)

<table>
<thead>
<tr>
<th>Investor / State Registration Year &amp; Forum</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>AES Summit Generation Ltd. Hungary 2001 - ICSID</td>
<td>Settlement agreed by the parties</td>
</tr>
<tr>
<td>Nykomb Synergetics Technology Holding AB Latvia 2001 - Stockholm</td>
<td>Award rendered in 2003</td>
</tr>
<tr>
<td>Plama Consortium Ltd. Bulgaria 2003 - ICSID</td>
<td>Award rendered in 2008</td>
</tr>
<tr>
<td>Pobacht Ltd. Kyrgyzstan 2003 - Stockholm</td>
<td>Award rendered in 2005</td>
</tr>
<tr>
<td>Alstom Power Italia SpA, Alstom SpA Mongolia 2004 - ICSID</td>
<td>Settlement agreed by the parties</td>
</tr>
<tr>
<td>Yukos Universal Ltd. Russian Federation 2005 - UNCITRAL</td>
<td>Interim Award on Jurisdiction and Admissibility rendered in 2009</td>
</tr>
<tr>
<td>Holley Enterprises Ltd. Russian Federation 2005 - UNCITRAL</td>
<td>Interim Award on Jurisdiction and Admissibility rendered in 2009</td>
</tr>
<tr>
<td>Veteran Petroleum Trust Russian Federation 2005 - UNCITRAL</td>
<td>Interim Award on Jurisdiction and Admissibility rendered in 2009</td>
</tr>
<tr>
<td>Ioannis Kardassopoulos Georgia 2005 - ICSID</td>
<td>Award rendered in 2010, annulment proceeding in 2010, revision proceeding in 2011</td>
</tr>
<tr>
<td>Astra Ukraine 2005 - ICSID</td>
<td>Award rendered in 2008</td>
</tr>
<tr>
<td>Hrvatska Elektroprivreda d.d. (HEP) Slovenia 2005 - ICSID</td>
<td>Pending</td>
</tr>
<tr>
<td>Libananci Holdings Co. Limited Turkey 2006 - ICSID</td>
<td>Award rendered in 2011, annulment proceeding pending</td>
</tr>
<tr>
<td>Aspetrol International Holdings B.V. et al Azerbaijan 2006 - ICSID</td>
<td>Award rendered in 2009</td>
</tr>
<tr>
<td>Barmek Holding A.S. Azerbaijan 2006 - ICSID</td>
<td>Settlement agreed by the parties</td>
</tr>
<tr>
<td>Cementownia “Nowa Huta” S.A. Turkey 2006 - ICSID</td>
<td>Award rendered in 2009</td>
</tr>
<tr>
<td>Europe Cement Investment and Trade S.A. Turkey 2007 - ICSID</td>
<td>Award rendered in 2009</td>
</tr>
<tr>
<td>Liman Caspion Oil B.V. and NCL Dutch Investment B.V. Kazakhstan 2007 - ICSID</td>
<td>Award rendered in 2010</td>
</tr>
<tr>
<td>Electraft S.A. Hungary 2007 - ICSID</td>
<td>Pending</td>
</tr>
<tr>
<td>AES Summit Generation Limited et al Hungary 2007 - ICSID</td>
<td>Award rendered in 2010</td>
</tr>
<tr>
<td>Mohammad Ammar Al-Bahloul Tajikistan 2008 - ICSID</td>
<td>Award rendered in 2010</td>
</tr>
<tr>
<td>Mercia Energy Group Ltd. Poland 2008 - ICSID</td>
<td>Award rendered in 2011</td>
</tr>
<tr>
<td>Alapli Elektrik B.V. Turkey 2008 - ICSID</td>
<td>Award rendered in 2012</td>
</tr>
<tr>
<td>Remington Worldwide Limited Ukraine 2008 - ICSID</td>
<td>Award rendered in 2011</td>
</tr>
<tr>
<td>Vattenfall AB et al Germany 2009 - ICSID</td>
<td>Settlement agreed by the parties</td>
</tr>
<tr>
<td>EDF International S.A. Hungary 2009 - UNCITRAL</td>
<td>Pending</td>
</tr>
<tr>
<td>EVN AG The FYROM 2009 - ICSID</td>
<td>Settlement agreed by the parties</td>
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<tr>
<td>AES Corporation and Tau Power B.V. Kazakhstan 2010 - ICSID</td>
<td>Pending</td>
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<tr>
<td>Ascom S.A. Kazakhstan 2010 - Stockholm</td>
<td>Pending</td>
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<tr>
<td>Khan Resources B.V. Mongolia 2011 - UNCITRAL</td>
<td>Pending</td>
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<tr>
<td>Türkiye Petrolleri Anonim Ortaklığı Kazakhstan 2011 - ICSID</td>
<td>Pending</td>
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<tr>
<td>The PV Investors Spain 2011 - UNCITRAL</td>
<td>Pending</td>
</tr>
<tr>
<td>Slovak Gas Holding B.V. et al Slovak Republic 2012 - ICSID</td>
<td>Pending</td>
</tr>
<tr>
<td>Vattenfall AB et al Germany 2012 - ICSID</td>
<td>Pending</td>
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</tbody>
</table>

NB: There is no requirement that investor-state disputes be notified to the Secretariat, nor is the Secretariat involved in the administration of the investor-state dispute settlement procedure. This information was compiled by the Secretariat from various public sources.
Administration and Finance

In the course of 2012 several new measures were introduced to raise the efficiency of the Energy Charter Secretariat, aimed at a more focused, result-oriented approach and improving internal coordination. Weekly Management Meetings were introduced to discuss and consider the day-to-day running of the Secretariat and the planning of the Secretariat’s work. Regular ECS Policy Meetings were also introduced where staff was encouraged to contribute to strategic discussions related to the organisation.

All missions of Secretariat staff now include meetings with the relevant national authorities to improve contacts with delegations. Missions to non-member states are conducted with the involvement of relevant member countries where possible. An internal system of electronic country files has been introduced, country coordinators were designated as points of initial contact for member states.

On the administrative side, the Legal Affairs unit was incorporated in the Private Office, mission management was optimised and centralised.

The Secretariat finalised the negotiations on the leasing of extra office space. This was achieved at a reduced overall charge for rent. The availability of extra space is to further improve the efficiency and capability of the Secretariat. Furthermore, it is an important step in the establishment of the proposed Knowledge Centre planned for 2013. By the end of 2012 most of the infrastructure was in place to allow the Knowledge Centre to commence to function in 2013. The Centre will focus on training programmes for interns, secondees and young professionals; it will also be used as platform for seminars and workshops, and for research.

One of the more significant measures in the effort to improve the efficiency of the Secretariat is the new Establishment Table, approved by the Energy Charter Conference in November 2012. An important point to note is that in 2013 all posts within the Secretariat will be filled, resulting in a fully staffed Secretariat for the first time in five years.

New Office Space for ECS Staff
High-Level Bilaterals, Missions, Speeches and Published Material

**Energy Charter Secretariat Missions in 2012**

Secretary General:
- Charter Members: 30
- Charter Observers: 31
- Total: 61

Secretariat Staff:
- Charter Members: 2
- Charter Observers: 1
- Third Countries: 90
- Total: 154

**Bilateral Meetings of the Secretary General in 2012**

Charter Members:
- Heads of State and Government: 16
- Ministers: 8
- Deputy Ministers and Other High-Level Officials: 5
- Total: 39

Charter Observers and Third Countries:
- Heads of State and Government: 9
- Ministers: 4
- Deputy Ministers and Other High-Level Officials: 3
- Total: 16

Other:
- Heads of International Organisations: 19
- Senior Industry Representatives: 5
- Academia and Experts Community, NGOs: 1
- Total: 115

**ECS Speeches and Published Material in 2012**

Secretary General:
- Oral Reports: 23
- Published Material: 19
- Total: 42

Secretariat Staff:
- Oral Reports: 7
- Published Material: 78
- Total: 85

Energy Charter Secretariat:
- Secretariat Publications: 15
- Total: 135
# Meetings Held in 2012

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>14 February</td>
<td>Meeting to Launch the DACO Project (Chieti, Italy)</td>
</tr>
<tr>
<td>2 March</td>
<td>SG Appointment Working Group</td>
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<tr>
<td>27 March</td>
<td>Industry Advisory Panel</td>
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<tr>
<td>28 March</td>
<td>Stakeholder Event on Electricity Transit</td>
</tr>
<tr>
<td>3 April</td>
<td>PEEREA Working Group</td>
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<tr>
<td>4 April</td>
<td>Investment Group</td>
</tr>
<tr>
<td>21 May</td>
<td>Middle East and North Africa (MENA) Project Meeting</td>
</tr>
<tr>
<td>21 May</td>
<td>SG Appointment Working Group</td>
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<tr>
<td>22 May</td>
<td>Strategy Group</td>
</tr>
<tr>
<td>23 May</td>
<td>Trade and Transit Group</td>
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<tr>
<td>7 June</td>
<td>DACO Meeting (Novogrudok, Belarus)</td>
</tr>
<tr>
<td>19 June</td>
<td>Stakeholder Event on Gas Transit</td>
</tr>
<tr>
<td>21 June</td>
<td>DACO Meeting (Sumgayit, Azerbaijan)</td>
</tr>
<tr>
<td>16 July</td>
<td>DACO Meeting (Taraz, Kazakhstan)</td>
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<tr>
<td>18 July</td>
<td>DACO Meeting (Somonyon, Tajikistan)</td>
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<tr>
<td>20 July</td>
<td>Task Force on Regional Energy Cooperation (Dushanbe, Tajikistan)</td>
</tr>
<tr>
<td>18 September</td>
<td>Trade Experts Meeting</td>
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<tr>
<td>20 September</td>
<td>Industry Advisory Panel (Rabat, Morocco)</td>
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<tr>
<td>20-21 September</td>
<td>Policy Conference: Rabat Energy Forum (Rabat, Morocco)</td>
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<tr>
<td>24 September</td>
<td>PEEREA Working Group</td>
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<td>25 September</td>
<td>Investment Group</td>
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<tr>
<td>26 September</td>
<td>Stakeholder Event on Oil Transit</td>
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<td>27 September</td>
<td>Ad Hoc Expert Group on the Draft Programme of Work for 2013</td>
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<tr>
<td>27 September</td>
<td>Budget Committee</td>
</tr>
<tr>
<td>8 October</td>
<td>SG Appointment Working Group</td>
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<tr>
<td>9 October</td>
<td>Trade and Transit Group</td>
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<tr>
<td>10 October</td>
<td>Strategy Group</td>
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<tr>
<td>23 October</td>
<td>Strategy Group</td>
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<tr>
<td>23 October</td>
<td>Ad Hoc Seminar on China's Views on Global Energy Governance</td>
</tr>
<tr>
<td>5 November</td>
<td>Budget Committee</td>
</tr>
<tr>
<td>5 November</td>
<td>SG Appointment Working Group</td>
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<tr>
<td>6 November</td>
<td>Seminar on Investor-State Arbitration under the ECT</td>
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<tr>
<td>7 November</td>
<td>Industry Advisory Panel</td>
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<tr>
<td>26-27 November</td>
<td>23rd Meeting of the Energy Charter Conference (Warsaw, Poland)</td>
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Georgia: In-depth Energy Efficiency Review

Georgia ratified the Energy Charter Treaty in 1995 and the Protocol on Energy Efficiency and Related Environmental Aspects in 2004. By ratifying the Protocol, countries commit themselves to formulating and implementing policies for improving energy efficiency and reducing the negative environmental impact of the energy cycle. This in-depth review of Georgia’s energy efficiency policies was carried out in 2010, following the previous review in 2005. The in-depth review report was discussed and approved by the PEEREA Working Group in 2011.

Bosnia and Herzegovina: In-depth Energy Efficiency Review

Bosnia and Herzegovina ratified the Energy Charter Treaty and the Protocol on Energy Efficiency and Related Environmental Aspects in 2001. The country review process is a core activity in monitoring and facilitating the implementation of the Protocol. In-depth reviews provide peer guidance to governments in developing and implementing energy efficiency policies. This in-depth review of Bosnia and Herzegovina was carried out in 2011, following a regular review report submitted by the Bosnia and Herzegovina authorities in 2008.

Expropriation Regime under the Energy Charter Treaty

The Energy Charter Treaty provides a multilateral legal framework towards the promotion and protection of energy investments. This study examines the concept of expropriation through the prism of the Energy Charter Treaty while taking into consideration other international agreements, such as bilateral investment treaties, to which Energy Charter Treaty member countries are party. This study analyses both direct and indirect forms of expropriation, with the intention of raising further awareness of the importance of the expropriation concept, as well as its repercussions in practical application.

Annual Report 2011

This report provides an overview of the Energy Charter Secretariat’s activities throughout 2011.
Bringing Gas to the Market: Gas Transit and Transmission Tariffs in ECT Countries - Regulatory Aspects and Tariff Methodologies

This study analyses methodologies and tariff principles for natural gas transmission used in member countries of the Energy Charter Treaty, paying particular attention to developments in Europe, the Black Sea region and Central Asia. Common basic principles exist across this area, but concrete methodologies vary, as well as the choice of the market structure and the treatment of transit, in particular between the European Union on the one hand and some Eastern European and Central Asian countries on the other.

Bringing Oil to the Market: Transport Tariffs and Underlying Methodologies for Cross-Border Crude Oil and Products Pipelines

This study focuses on crude oil and oil products pipeline systems in Eastern and South Eastern Europe, the Caspian region and Central Asia. It considers: (i) essential technical and economic elements, which influence costs of oil and oil products pipeline transportation; (ii) the methodology for calculating oil pipeline tariffs and the actual tariff rates; (iii) where relevant, rules for access to existing and new cross-border oil pipeline systems; (iv) treatment of pipeline transit against the background of the multilateral rules on transit established by the Energy Charter Treaty.

Competition under the Energy Charter Treaty

This study reviews the legislation of the selected ECT member states and their bilateral, multilateral and regional endeavours to cooperate in establishing open and competitive network energy markets. It also looks at the methods and cooperation options that member countries have successfully developed in order to stimulate competition in their network energy industries. Recommendations are provided to facilitate and further improve cooperation on issues of competition within the ECT constituency.

IAP Insights 2012

IAP Insights is an annual publication, which summarises the Industry Advisory Panel’s activities throughout the course of the year.

These publications as well as various other Energy Charter Secretariat materials are freely accessible on the Energy Charter website [www.encharter.org](http://www.encharter.org)
The work of the Energy Charter Conference and its subsidiary groups is supported by a small multinational Secretariat, based in Brussels. The staff of the Secretariat is drawn from across the Energy Charter constituency, and it is led by a Secretary General appointed by the Conference. The Secretariat’s activities are included in an annual Work Programme, which is subject to approval by the Energy Charter Conference.

Structure and Management of the Secretariat at the Beginning of 2012

Private Office
Secretary General: Amb. Urban Rusnák
Deputy Secretary General: Amb. Vladimir Rakhmanin

Legal Affairs
Acting General Counsel: Ms. Noriko Yodogawa

Administration and Finance
Head of Unit: Mr. Denis Westerhof

Directorate for Trade and Transit
Director: Mr. Steivan Defila

Directorate for Energy Efficiency and Investment
Director: Dr. Dario Chello

Organisational Structure of the Secretariat, as Approved by the Energy Charter Conference at its Meeting in November 2012
Further Information


The Secretariat also publishes an electronic newsletter with details of Energy Charter meetings, activities and developments. If you are interested in receiving this newsletter, please subscribe by visiting the Charter’s website.

You may also follow the information on Energy Charter activities on Facebook at [www.facebook.com/EnergyCharter](http://www.facebook.com/EnergyCharter).

For any other queries, please contact the Secretariat at the address below, or send an email to [info@encharter.org](mailto:info@encharter.org).

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