

**ENERGY CHARTER
SECRETARIAT**

CCDEC 2003

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Brussels, 10 December 2003

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| Related documents: CC 256, CC 266 |
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DECISION OF THE ENERGY CHARTER CONFERENCE

Subject: Conclusions on Investment Climate and Market Structure Reports on the Russian Federation and the Slovak Republic

[The Energy Charter Conference at its 13th Meeting held on 10 December 2003] *approved* the conclusions circulated in document CC 256 with regard to the reports reviewed by the Investment Group on Investment Climate and Market Structure issues in the energy sectors of the Russian Federation and the Slovak Republic.

Keywords: ICMS, Russian Federation, Slovak Republic

Conclusions
with respect to the Reports on Investment Climate and Market Structure
Issues on the Russian Federation and the Slovak Republic

as adopted by The Energy Charter Conference
at its 13th Meeting held on 10 December 2003

The Charter Conference,

Having heard the report from the Investment Group with respect to the Reports on Investment Climate and Market Structure from the Russian Federation (ICMS-14) and the Slovak Republic (ICMS-13).

NOTED

- a) That the reviews have shown some progress in the legislative framework, in particular by adopting a number of energy-related laws and regulations, enhanced transparency and further steps towards restructuring and privatisation of the energy sector in the reviewed countries.
- b) That the reviews have helped to clarify the existence and content of a number of non-conforming measures in accordance with Article 10 (5) of the Treaty, resulting in the reduction in the number and scope of several exceptions of the Russian Federation and the Slovak Republic in the “Blue Book”.
- c) In particular, with respect to:

(i) The Russian Federation

- Acknowledged with satisfaction the Report on the Investment Climate and Market Structure of the Energy Sector in the Russian Federation (Document ICMS-14), a thorough document that analyses key aspects of its energy sector, and contributes to transparency, which is of significant value to foreign investors;
- Took note of the progress made by the Russian Federation in its transition to a market environment and of the improvements in the investment climate of the Russian Federation that have taken place in recent years as witnessed by the trend in the inflows of capital. The Conference also noted that further improvements are required in order to secure the financing of the substantial investment needs over the next decade;
- Welcomed the efforts of the Russian Federation in establishing conditions for competition in the energy sector of the country, improving the pricing mechanisms and the market structure, and introducing advanced regulatory practices;
- Accepted the suggestion of the Russian authorities to reduce the number and scope of several non-conforming measures notified in the “Blue Book” to reflect recent liberalization measures concerning the treatment of foreign investors in the Russian Federation, in particular the withdrawal of exceptions related to some restrictions of

re-sale of shares in privatized entities and mandatory audit of entities with any amount of foreign capital;

- Encouraged more consistent measures in the creation and the assurance of stable conditions that facilitate investment, in particular improving governance and the actual implementation of the rule of law, both on a national and regional scale;
- Took note of the efforts to restructure markets, particularly in the power sub-sector, and expressed its hope that more competitive, open, transparent, efficiently functioning markets can be established in all sectors. There is in particular a need to expand efforts towards market reform to include the gas sector;
- Welcomed measures aiming at improving corporate governance and business ethics, and encouraged further resolute efforts to this end;
- Welcomed steps to design and implement impartial, non-discriminatory policies in regulating inward and outward flows of capital in the energy sector, in a manner that helps alleviate structural imbalances and contributes to the development of competitive business environment;
- Encouraged the periodic review and gradual withdrawal of non-market based regulations on the domestic markets, such as delivery quotas, domestic pricing and export taxation systems for energy products, and existing obstacles regarding access to transportation and trans-shipment facilities for energy materials, including to export destinations;
- Encouraged measures taken for the enhancement of private participation in energy infrastructure projects, particularly in transportation of energy materials (including pipelines) and in the power sector, and expressed its hope that such private participation will be possible on a significant scale;
- Recognized the need to secure the independence and the impartiality of regulatory bodies, and a clear division between the domains of authorities dealing with competition and regulation;
- Encouraged investment in energy efficiency activities and in renewable energy, and welcomed efforts designed to achieve international standards in environmental protection.

(ii) *The Slovak Republic:*

- Took note with satisfaction of the overall favourable climate for foreign investors in the Slovak Republic, and the considerable progress achieved in the restructuring and privatisation of its energy sector in recent years;
- Welcomed the plans of the Slovak authorities to amend the Law on Large-Scale Privatisation with the objective to enable the sale of more than 49 % of the shares in strategic companies, and expressed its hope that the law amendment will be passed in the near future;
- Encouraged the Slovak authorities to move ahead with the privatisation of electricity generation and distribution companies, in particular the “Slovak Electric plc. (SEAS)”, and major district heating companies;
- Encouraged the Slovak authorities to establish and maintain cost-reflective and transparent tariffs, and to eliminate cross-subsidisation in the electricity and gas sector;

- Agreed to the suggestion of the Slovak authorities to amend the existing non-conforming measure in the “Blue Book” relating to the acquisition of real estate to reflect liberalisation measures in connection with the forthcoming accession of the Slovak Republic to the European Union;
- Encouraged the Slovak authorities to improve and streamline administrative procedures for the acquisition of real estate by foreign investors, and in particular to ensure that the transfer tax on real estate does not result in discrimination between domestic and foreign investors.