ENERGY CHARTER SECRETARIAT

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Brussels, 5 July 2013

Related documents:
CC 459, Mess 1095/13

DECISION OF THE ENERGY CHARTER CONFERENCE

Subject: **Adoption by written procedure of the Policy Conclusions and Recommendations of the In-depth Review on Investment Climate and Market Structure (ICMS) in the Energy Sector of Mongolia**

By CC document 459, dated 10 June 2013, delegations were invited to approve the Policy Conclusions and Recommendations of the In-depth Review on Investment Climate and Market Structure (ICMS) in the Energy Sector of Mongolia. As specified by Rule 20 of the Rules of Procedure (CC 53 corr. 2) concerning the adoption of decisions by correspondence, members of the Energy Charter Conference were informed that any delegation that wished to object to this proposal should notify the Secretariat of its position in writing not later than 5 July 2013.

Having received no objections within the specified time limit (as confirmed by Message 1095), **on 5 July 2013** the Energy Charter Conference

Taking into account the decision by the Investment Group that convened on 15 May 2013 in Brussels regarding the Policy Conclusions and Recommendations arising from the In-depth Review on Investment Climate and Market Structure in the Energy Sector of Mongolia (ICMS-61 and ICMS-62),

NOTED

a) that Mongolia is in an advanced stage of market-based reforms of the energy sector at all levels: institutional, legislative and industrial. Mongolia has undertaken a

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comprehensive reform of the investment climate in the energy sector in a direction more favourable to foreign investors;

b) that the In-depth Review has shown that Mongolia honours its commitments under the ECT. The Review has confirmed the existence and content of two nonconforming measures under Article 10 (5) of the Treaty, resulting in the update of one of them in the "Blue Book" of the Energy Charter;

c) and, in particular,

- **took note** with satisfaction that Mongolia has significantly improved the investment climate over the last few years, which has resulted in a significant inflow of foreign direct investment (FDI) in the mining sector. The next challenge in improving the investment climate could be improving access to electricity and trading across borders through regional cooperation;

- **took note** with satisfaction, that Mongolia has put into place a comprehensive legal and regulatory framework for the implementation of national energy policies that apply to foreign investors based upon the principle of national-treatment;

- **emphasised** that the role of fair competition and the establishment of a level playing field is central to attracting private companies, including foreign investors. The Energy Regulatory Commission (ERC) has been successful in regulating the generation, transmission, distribution, dispatching and supply of energy. It is recommended that the independence of the ERC could be further increased;

- **underlined** that administrative and management capacity is remarkably strong at high levels of public administration. It is recommended that the issue of additional capacity building could be addressed to officers in ministries, state-owned companies and independent agencies to further streamline the implementation of the administrative procedures and therefore contribute to an improved investment climate;

- **invited** the Mongolian Government to facilitate measures aimed at reducing carbon emissions and reducing energy intensity. This could require a more rapid transition to a low carbon economy through revision of planning and policy, the development of renewable energy sources, technological modernisation, reduction of power losses, reinforcement of consumption monitoring, education and public awareness regarding energy efficiency programmes, appropriate tariff policies and further commercialisation of utilities;

- **noted** that the promotion of renewable energy is so far limited to the feed-in tariff, which may be worth revising when considering the sinking costs of technology and the rising energy prices. The Mongolian Government could consider subsidies that are less restrictive of competition and give priority access to the grid for electricity from renewable energy sources and other incentives;

- **noted** that the Mongolian Government supports the establishment of a regional electricity market for renewable energies through the Gobitec and Asian Super Grid initiatives. The Government is invited to consider the possibility to include the development of the renewable energy sources and transmission infrastructure in the new energy master plan of Mongolia in order to allow cooperation with regional partners and international financial institutions;

- **noted** that the Mongolian Government intends to promote more investments to the clean coal technologies and generate electricity for regional electricity market;

- **drew attention** to the fact that, as opposed to the mining sector, the electricity and heating sectors are strongly dominated by state-owned companies. In this respect, regulated tariffs and any subsidies to state companies may constitute barriers to the entry of competitors, including foreign investors. A new round of privatization could have a huge potential in terms of positively contributing to the improved competition in and sustainability of the energy sector;

- **noted** that in order to attract private investors into the energy sector, the Mongolian Government is invited to continue improving transparency and corporate governance in state-owned enterprises;

- **recommended** that the Mongolian Government should continue to strengthen market-oriented energy policies and a predictable and transparent framework, including liberalisation and application of full cost recovery tariffs along with direct support to vulnerable groups of the population;

- **underlined** that, with respect to additional investments, mining revenues could be regulated and organised in a national wealth fund active both in domestic as well as in international energy investment markets. Clear and transparent rules on financial markets could avoid distortion of the competition;

- **drew attention** to the fact that the aging infrastructure and diminishing capacity in the electricity and heating sectors call for additional investments, national and foreign. Given the sound financial situation of the country and its creditworthiness before the main international financial institutions, national investment vehicles in the form of concessions and private-public partnership (PPPs), including national wealth funds, could be a viable and sound alternative to resorting to international finance.