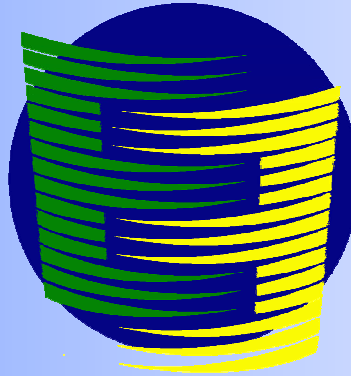




Session I

The Energy Charter as a Legal Instrument and the Energy Charter Process

by

Erik S. Sorensen

Director

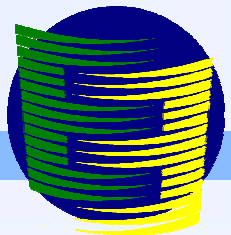
The Energy Charter Secretariat

Round Table on Access of Turkmen Energy Carriers to External Markets

2-3 March 2005, Ashgabat, Turkmenistan

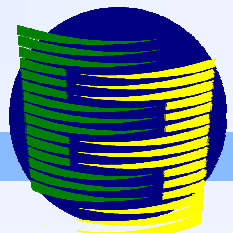
Energy Charter History

June 25, 1990	Dutch initiative presented in Dublin
December 17, 1991	European Energy Charter signed
December 17, 1994	Energy Charter Treaty (ECT) and Protocol on Energy Efficiency and Related Environmental Aspects (PEEREA) signed
April, 1998	ECT came into full legal power
Currently	•ECT signed by 51 states + European Union •ECT ratified by 46 states. Not yet ratified by: Russia, Belarus, Iceland, Australia, and Norway •Russia: provisional application, together with Belarus

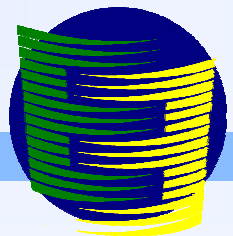
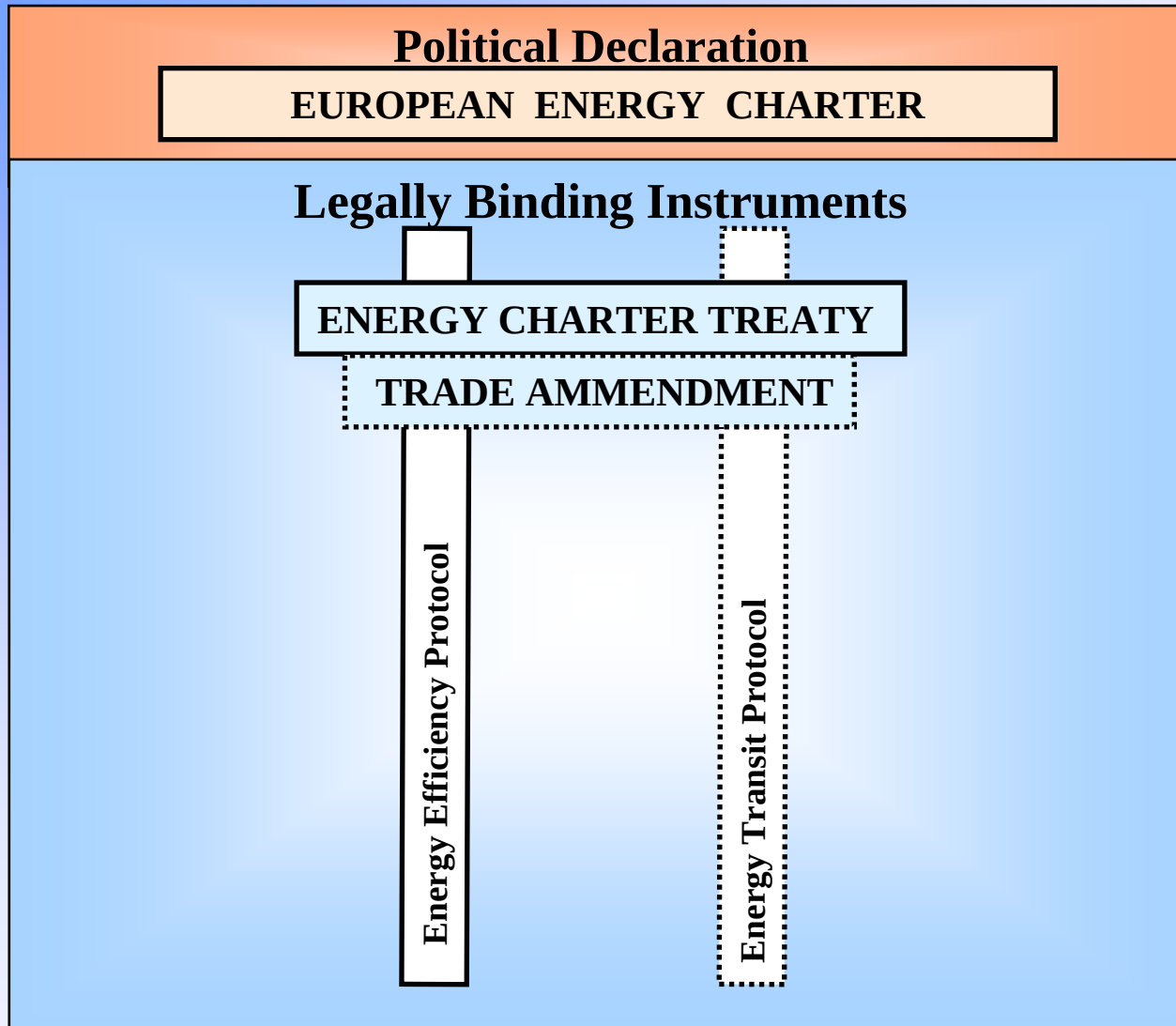


Background to the Treaty's creation:

- Common interest in energy cooperation between CIS and western world in post-Cold War era
- Inter-governmental framework was needed to provide legal stability for investments and to secure trade and transit of energy
- Promote energy market reforms
 - ❑ Re-structuring and commercialization, energy price reforms
- Promote a higher energy efficiency



ENERGY CHARTER AND RELATED DOCUMENTS



The Four Pillars of the ECT

Dispute Settlement

**Investment
Protection**

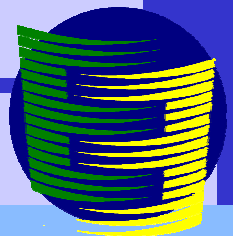
Trade

Transit

**Energy
Efficiency**

Energy Charter Treaty

European Energy Charter



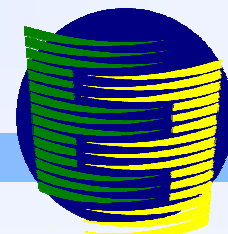
ECT's central principles

- ✓ Openness
- ✓ Non-discrimination
- ✓ Market orientation

Allows producer-states to increase their attractiveness for foreign investors

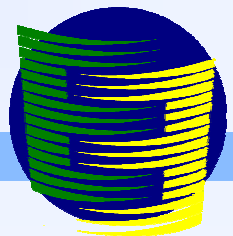
Facilitates transit

Binds together the interests of producing consuming countries



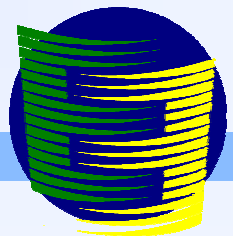
Pioneering Structure of ECT

- Unique in covering investment, trade, transit and energy efficiency
- Offers intermediary step towards WTO membership
- Establishes inter-governmental forum to discuss energy cooperation issues

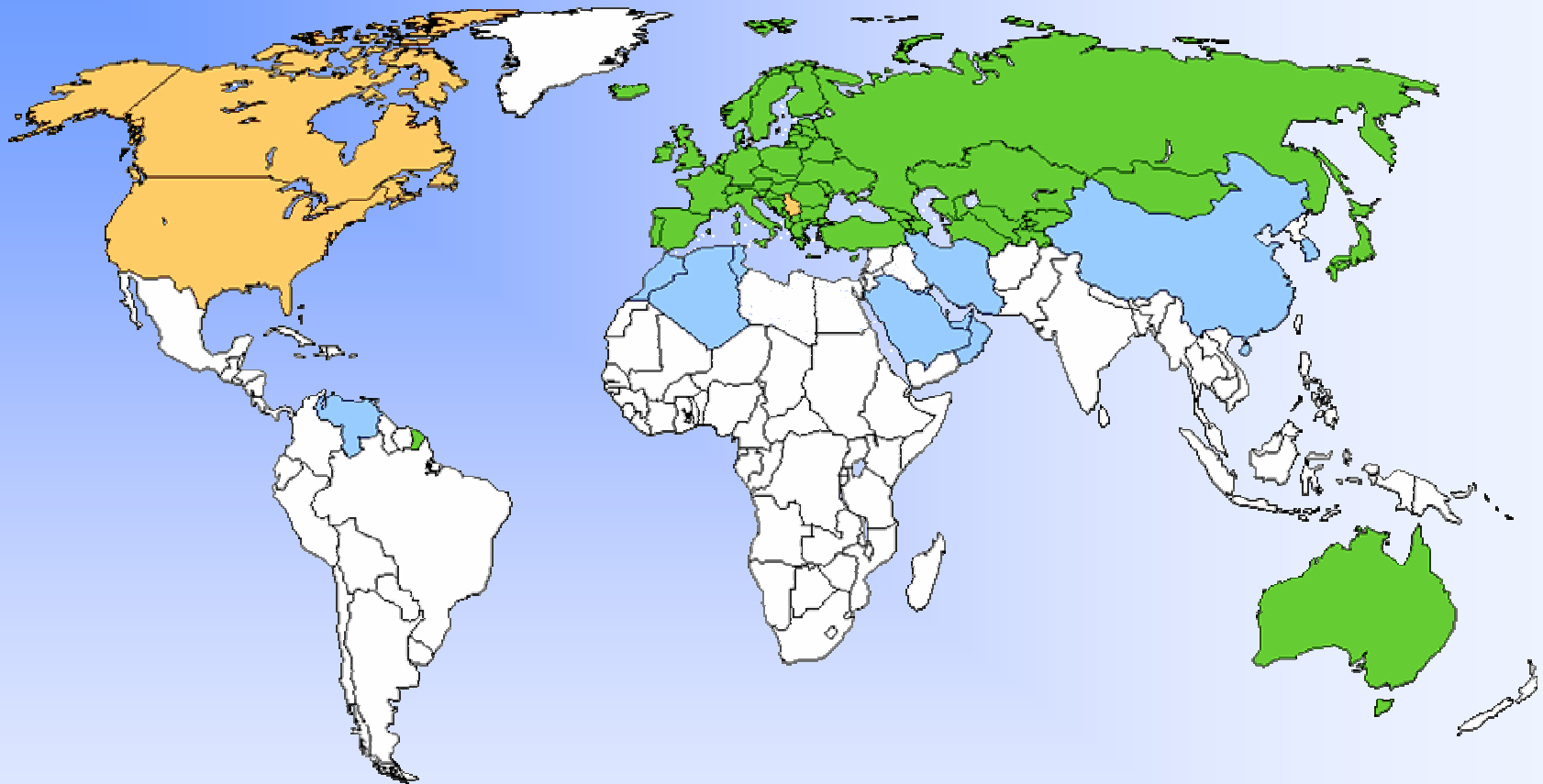


ECT has a wide geographical scope

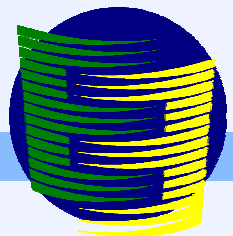
- The geographical scope of the Energy Charter is Eurasian and Euro-Mediterranean
- Member countries favor targeted further expansion of the ECT, new supply and demand constellations, new regional challenges
- New observers: China (2001), Iran (2002), S. Korea (2002), Asean (2003), Nigeria (2003)
- Currently, India and Pakistan are showing interest in the Charter process – also interest in Latin America



ENERGY CHARTER TREATY: GEOGRAPHY

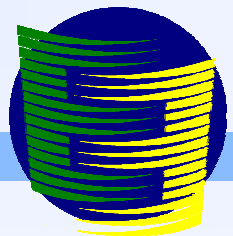


- **Energy Charter Treaty Signatory States (1994)**
- **Observer States that have signed the European Energy Charter (1991)**
- **Other Observer States**



Trade Provisions

- Currently 12 of the ECT signatures are non-WTO members
 - ❑ A bridge to WTO membership
 - ❑ 7 ECT countries have become WTO members since 2000
- WTO rules are applied by reference for energy products and equipment
- Most Favored Nation Clause (MFN)
- Dispute Settlement



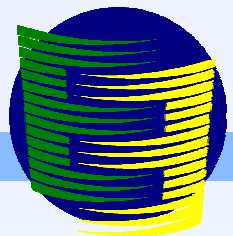
Transit: key elements

➤ The Treaty

- ☐ Freedom of transit
- ☐ Non-discrimination
 - ✓ not less favourable than conditions for national import or export transportation

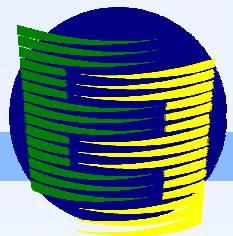
➤ Transit Protocol negotiated

- ☐ Basic principles as in the Treaty, but more specific

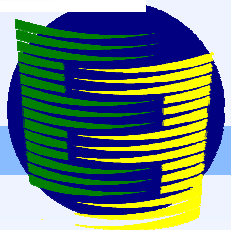
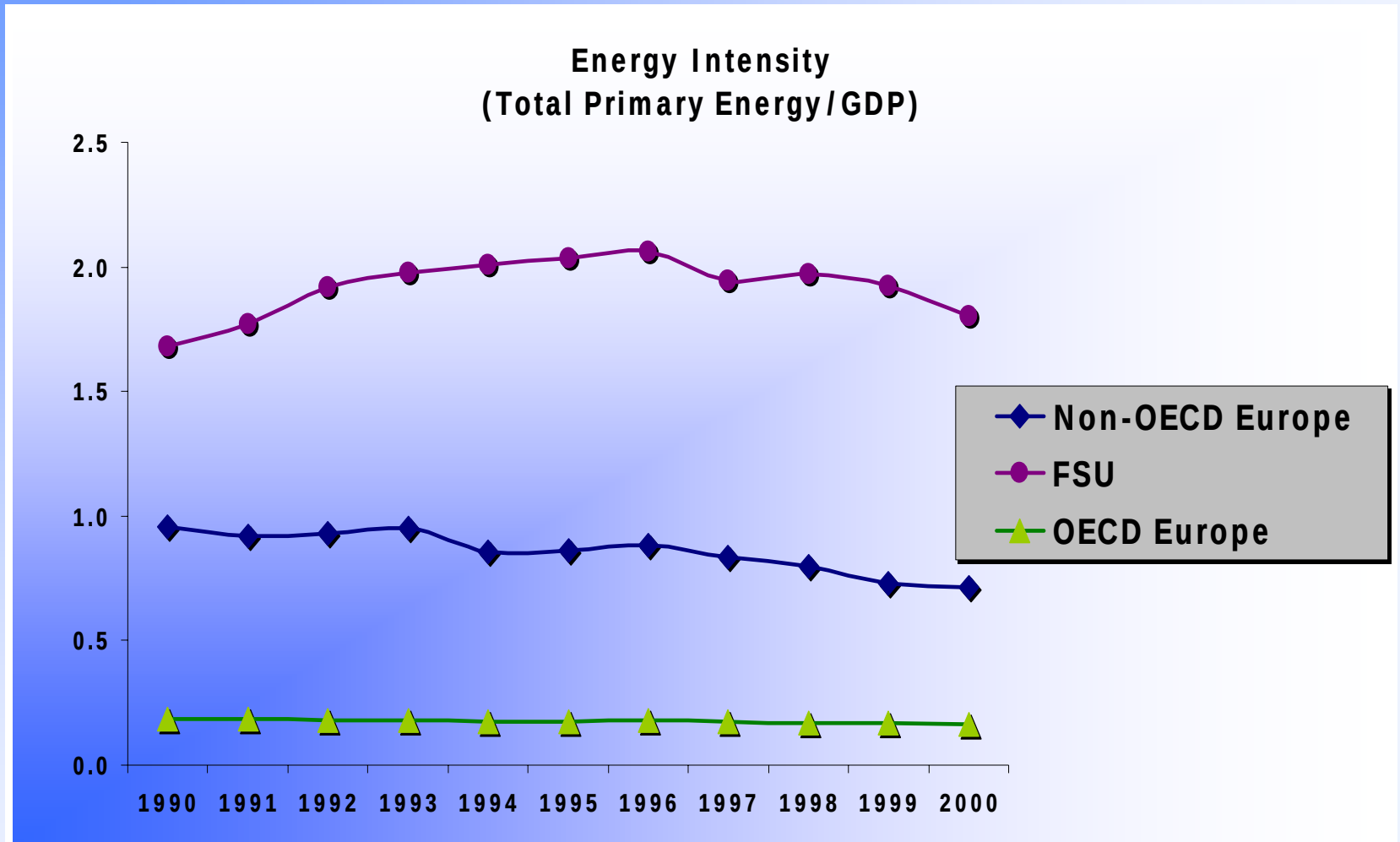


Investments

- The first multilateral investment agreement
 - ❑ Energy sector-specific
 - ❑ Principle of non-discrimination/national treatment for established investments
 - ❑ Best endeavour clause for investments in the making
 - ❑ Confirms national sovereignty over natural resources
 - ❑ A permanent discussion forum for energy-related investment issues

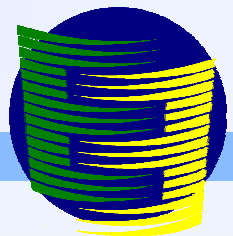


Energy Efficiency: potential for improvements



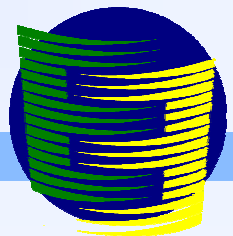
Energy Efficiency: Activities

- Developing energy efficiency strategies
- Fiscal and taxation policies for improving energy efficiency
- Development of energy efficiency institutions
- Financing mechanisms and third party financing
- Adapting energy efficiency policies to market liberalisation
- Development of cogeneration and district heating



How do we work?

- Three permanent working groups: Trade & Transit, Investments, Energy Efficiency
- Exchange of experiences between countries
 - ❑ in different stages of development
 - ❑ with different policy strategies
- Country reviews of
 - ❑ investment climate, restructuring and privatisation policies
 - ❑ energy efficiency policies
- Analysis and cooperation on trade and transit issues
 - ❑ Transit tariffs and access conditions
 - ❑ Trade distortions, trade facilitation
- Interaction with the private sector
 - ❑ Industry Advisory Panel created end-2004



What do we want to achieve?

- Promoting investments and investment flows
- Development of resources
- Development of infrastructure
- Open trade and easier transit
- Geographical expansion
- Efficiency in use

