

**Speech of Secretary General
André Mernier
on the
Occasion of the 10th Anniversary of the
Coming into Force of the Energy Charter Treaty**

**The Energy Charter Treaty
Remains a Vital Legal Instrument in a Rapidly
Changing and Challenging Global Environment**

Ladies and gentlemen, dear colleagues, friends,

On behalf of the Secretariat and the organisation as a whole I thank you for joining us today to mark this very important milestone in the life of our Energy Charter Treaty – it is a pleasure and an honour to see you all here.

Today is exactly 10 years since the Energy Charter Treaty has come of age. And while this is quite a young age for an international treaty – the ECT has proved to be a successful and well-functioning legal instrument so far, which has everything to continue serving the best interests of its members in the years to come. Designed not just to resolve a set of issues of the moment at the time of negotiations, but to set up a legal framework for key dimensions of international energy relations – security of investment and security of supply – the Treaty naturally caters for the demands of the changing international energy market.

The energy world is evolving rapidly. Energy prices are higher than ever before and are increasingly volatile; steadily growing world oil demand is beginning to face various bottlenecks, such as tight refining capacity; and natural gas is taking its first steps to become a global commodity. We are seeing more and more energy being traded internationally; in line with growing demand, markets tap into increasingly distant resources; energy transit is becoming a crucial part of the energy supply chain, while climate change concerns are affecting energy policies and bring forward energy efficiency measures.

I am not going to talk about all of these issues, I will just highlight two aspects of these adjustments in global energy markets and the way the Energy Charter Treaty is successfully dealing with them.

The first point I would like to focus on is globalisation of energy markets. Needless to say, we are living in an increasingly globalised energy environment. This is traditionally visible in the oil industry, since oil is freely traded as a global commodity. However, the gas industry, previously the domain of regional markets, is also gradually becoming more globalised due the increasing significance of LNG trade, growing and tighter gas demand around the world and closer interaction between major gas producing and consuming regions. Important new players are entering and becoming prominent in international energy trade, such as China and India, where energy demand is soaring, or

Qatar which in just a few years has taken the lead in world LNG production. All of these changes put to the test the arrangements which have developed over time to ensure the smooth running of energy markets.

The fact that the Energy Charter Treaty is a multilateral instrument and that it is designed for the entire energy value chain, coupled with its application to producer, transit and consumer states, ensures that the Treaty embraces the globalisation of energy markets. Further, the constituency of the Treaty continues to expand as more countries see the benefits of collectively establishing a level playing field and a unified approach to energy relations. While the Charter began with a priority focus on relations between the countries of Eastern and Western Europe, the Treaty's membership has grown further a-field, to the point where we can now definitely talk about Eurasian energy. This is, of course, an ongoing process – Afghanistan and Pakistan were recently invited to join the Energy Charter Treaty, and more countries are applying for observer status. Today our constituency covers Europe, Asia and Australia. This trend can be regarded as a sign of recognition of the Treaty's contribution in supporting the energy security of its member states. Globalised energy requires a framework instrument with global reach. I wholeheartedly believe that the Energy Charter Treaty is indeed such an instrument.

The second point I would like to highlight is the demand for energy efficiency.

Energy is increasingly associated with the need to mitigate climate change and improve the protection of the environment. When considering the quality approach – the use of cleaner energy and thus lesser pollution, or the quantity approach – consume less energy by improving energy efficiency – we inevitably come to the Energy Charter's Protocol on Energy Efficiency and Related Environmental Aspects.

PEEREA requires member countries to formulate clear policy aims for improving energy efficiency and reducing the negative environmental impact of the energy cycle. The emphasis here is on practical implementation of a political commitment to improve energy efficiency. Through the implementation of the Protocol, the Energy Charter provides its members with a menu of good practices and a forum in which to share experience and policy advice on energy efficiency issues. PEEREA is designed to reinforce energy efficiency policies and programmes guided by principles, which among others, include market mechanisms and price formation reflecting real energy and environmental costs, cost-effective energy policies and promotion of investments. The countries and the Secretariat regularly produce reviews of the progress achieved by member states in this important area.

Whether we talk about globalisation, energy efficiency or other aspects of the adjusting equilibriums in global energy markets, there is one omnipresent factor which we need to recognise – demand for significant timely and reliable investment.

More investment is required to improve and connect markets, and the Energy Charter Treaty seeks to promote such investment by providing a safe and reliable environment. Protection of energy investment is one of the key objectives of the Treaty, and this issue

is as valid in today's global environment as it was at the start of the 1990s. Possibly, it will be even more pertinent in the coming years. And while the focus of energy investment may be gradually changing and covering more aspects of the energy value chain – for instance, there is significant demand for investment in energy efficiency – its nature and basic principles remain the same as reflected in the Energy Charter Treaty.

The challenge here is to create a favourable investment climate based on openness, consistency and non-discrimination. The Treaty takes a balanced approach to investors' access to resources. On the one hand, it is explicit in confirming national sovereignty over energy resources. On the other hand, there is a requirement that rules on the exploration, development and acquisition of resources are publicly available, non-discriminatory and transparent.

Once the investment is made, the Treaty protects foreign investors against non-commercial risks such as discriminatory treatment, direct or indirect expropriation, or the breach of individual investment contracts.

To back up this set of rules, the Treaty provides for mechanisms to resolve disputes between states and between investors and states. To this date, we are aware of 18 cases taken to international arbitration under the investor-state dispute resolution procedure. The number of cases on the one hand indicates that this is clearly a functioning mechanism as it has received the energy sector's "seal of approval", and on the other hand – the overall investment protection framework of the ECT acts as a deterrent to potential breaches of the Treaty.

To summarise, I would like to state that in today's rapidly changing and challenging global environment the Energy Charter Treaty remains a very much adequate and relevant instrument, and it appears that there will be even more demand for it in the coming years. Naturally, this does not mean that the Treaty has reached its limits – there are several areas where it has significant potential to further improve the protection of its member states' interests. For example, through successfully finalising and adopting the Transit Protocol or through welcoming new members, such as major consumer markets like China and India, or producer states of the Persian Gulf. Here, of course, much depends on the willingness and actions of our member states, since it is their collective political will that can ensure mutually beneficial progress in such arenas of the Treaty's competence.

On this note, I would like to thank you all again for all the hard work you have done over the years to make the Energy Charter what it is today and to make sure that it has even more to offer in the future – without each and every one of you this would never have been possible. Thank you.