Power Industry North Africa

27 February 2013

THE CONTRIBUTION OF THE ENERGY CHARTER TO GLOBAL ENERGY GOVERNANCE

Address by Amb. Urban Rusnák
Energy Charter Secretary General

I am greatly honoured to be here in Casablanca for this important event. At the beginning of 2012, I took office as Secretary General of the Energy Charter Secretariat, and over this past year I have been to the Kingdom of Morocco a number of times. There was a great occasion in Rabat last September when the Energy Charter held its policy conference, entitled the Rabat Energy Forum.

The Rabat Energy Forum was co-organised with the Moroccan Ministry of Energy, Mines, Water and Environment, under the high patronage of His Majesty the King, Mohammed VI. The focus of the Forum was on the key energy issues in the Middle East and North Africa (MENA) countries, and the relevance of the Energy Charter to the development of the region's energy market. At the Rabat event, Morocco signed the 1991 Energy Charter, reinforcing its status as a Charter observer. Morocco was the sixtieth country to sign the Energy Charter, and the first country from the African continent to do so. This was a major event in my first year in office.

Today's event is an important follow-up to the Rabat Energy Forum. The North Africa region has already made significant progress in the development of a regional energy market. Globally the energy market is changing, and very much so in North Africa. In Rabat, the Energy Charter sought an opportunity to present the potential contribution of the Energy Charter to the regional energy market of North Africa. This is the occasion, and this is the objective of the Power Industry North Africa conference. All the relevant stakeholders are here today in Casablanca. I now hope to outline to you the potential of the Energy Charter as an instrument of energy governance in the North Africa region.

Part 1. What is the Energy Charter

But before I proceed, I first need to explain, or perhaps remind you, of what I mean precisely by (a) the Energy Charter and (b) the Energy Charter Treaty. The Energy Charter Treaty of 1994 was developed on the basis of the 1991 Energy Charter. Whereas the Charter was drawn up as a declaration of political intent to promote energy cooperation, the Energy Charter Treaty is a legally-binding multilateral instrument and part of international law.

The Energy Charter is one of a number of international institutions which attempt to provide a system for multilateral cooperation on energy policy. The Energy Charter as an organisation is however based on a binding treaty, the Energy Charter Treaty. The legal framework of the Treaty provides some principles on the role of governments in facilitating international cooperation in the energy field and in addressing non-commercial risks. Treaty provisions cover common rules on investment promotion and protection, and on trade and transit.

The European Union and its 27 member states are all members. Twenty-four other countries in Europe and Asia, as well as Australia, are also members, including important energy

producing countries such as Azerbaijan, Kazakhstan, Turkmenistan; and transit countries such as Turkey and Ukraine. The Russian Federation signed the Treaty, but has not ratified it. However the Russian Federation actively participates in the Energy Charter Process. In fact, I have reason to believe that the Russian position towards the Energy Charter is now moving in a positive direction.

Last week the government of Afghanistan informed the Energy Charter Secretariat that the internal procedures for ratifying the Energy Charter Treaty have been completed. Ninety days after the instrument of ratification is deposited with the government of Portugal, Afghanistan will be become the 54th member of the Charter.

Morocco as I have already said is an observer to the Energy Charter and has signed the 1991 Charter. Each of Algeria, Tunisia, Egypt and Jordan are all observers. China, the United States and Indonesia are among the other important observers.

As a multilateral organisation the Energy Charter is less focused on independence than on mutual cooperation. That is because the Charter is founded on the basis of common rules and the belief in the benefits of mutual cooperation. From the Energy Charter's perspective, the notion of diversification of supply and demand is fully within the scope of the founding documents.

Investment is a critical issue in the provision of energy supply, and energy supply routes. One way to improve the climate for investment is to reduce the level of risk. A suitable legal and judicial framework is very important to attract and encourage the necessary energy infrastructure investments. The rules of international trade and cooperation must be defined, accepted and known by the players. Very generally this is the aim of the World Trade Organisation (WTO). But more specifically in the energy context, this is the aim of the Energy Charter Treaty. Moreover the WTO does not cover investment protection, and energy trade is covered only in a limited way.

The Energy Charter Treaty fulfils this particular role through its investment promotion and protection provisions. Those provisions include recognition of state sovereignty and sovereign rights over energy resources. There is also the important legally binding commitment made by the parties to the Treaty to abide by international investor-state arbitration in cases of dispute. Beyond the immediate resolution of particular disputes, these provisions have the secondary effect of helping to strengthen the rule of law and transparency, thereby contributing to an improvement in the general investment climate. At all times the balance between the protection of investors and the sovereignty of host states must be maintained.

Part 2. Modernisation and Expansion

Some commentators point to shortcomings in the Energy Charter. This is why a modernisation process is underway. The objective of this modernisation process is to secure the full adherence of all its parties to the common rules and to attract new members, particularly major energy producing and consuming countries.

The Twenty-Third Meeting of the Energy Charter Conference, our organisation's top governing and decision-making body, was held in Warsaw in November 2012, just three months ago. The discussions in Warsaw are of great relevance today here in Casablanca and to the question of energy governance. The Ministerial Session of the Warsaw Meeting

focused on the topic "*The Demands for Global Energy Governance and the Potential of the Energy Charter*".

The Ministerial 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 means different things to producers and consumers. To producers it means security of demand. To consumers it means security of supply. 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 emerging markets. Volatility of energy prices is a threat to both groups.

There was general agreement in Warsaw 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 include 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 expressed their support for the potential of the Energy Charter in addressing the issues of global energy governance.

Mr. Günther Oettinger, the European Union Commissioner for Energy, remarked that the more countries subscribe to the principles of the Energy Charter, the more they would set the standard for international energy relations on a global basis.

Energy Charter member countries therefore agreed to engage in a process which envisages the preparation of a draft updated version of the 1991 Energy Charter. In today's situation the need to focus on the modernisation, indeed revitalisation of the Energy Charter is all the more pressing.

Part 3. The Relevance of the Energy Charter to North Africa

Ladies and Gentlemen, I would now like to focus more specifically on the question of the relevance of global energy governance for Morocco, and for all the countries of North Africa, and the potential of the Energy Charter in that regard.

The strategic importance of North Africa is evident. That is due in part to the region's close proximity to Europe. Algeria, for example, has significant energy resources, while on the other side of the Mediterranean countries like Spain and Italy have great energy needs. But it is not just Europe which is of significance to the region. To the south is West Africa which also has growing energy needs. One of the striking features of the Energy Charter Treaty is that it provides a comprehensive set of principles for the creation of regional cooperation leading in turn to the creation of a regional energy market. That common set of shared principles is what is required to ensure the development of a regional energy market in North Africa.

Morocco is to the fore within the MENA region with regard to the development of renewable energy. By 2020 renewable energy will represent 40% of Morocco's power generating capacity. Other countries in the region notably Egypt, Algeria, and the Gulf countries such as Saudi Arabia and Qatar have ambitious plans on renewable energy. The added value of the Energy Charter lies here. The development of renewable electricity generation, which since it cannot be stored, requires a flexible grid to enable energy traffic flow in both ways. If countries share a network; they need to share common principles and rules. That is what the Energy Charter Treaty provides. That is further enhanced by the Protocol on Energy Efficiency and Related Environmental Aspects (PEEREA), which further develops the energy efficiency policies of the Charter. The Energy Charter Treaty and PEEREA by providing the principles can contribute to the development of a hub which sustains the development of energy sources consistently with sustainable development.

In 2012, the Energy Charter Secretariat with the financial support of the government of Germany, commenced 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 Treaty (in particular Morocco, Algeria, Tunisia, Libya, Egypt and Jordan). The Energy Charter and the Secretariat would therefore be the platform to promote regional energy partnerships and projects in the MENA region.

The Charter has also a special project in the region of Central and South Asia which can be an example for the MENA region. The Task Force on Regional Energy Cooperation in Central and South Asia was established in 2007 in order to intensify and develop cross-border energy trade on the basis of the Energy Charter Treaty. Today the Task Force consists of delegates from Afghanistan, Kazakhstan, Kyrgyzstan, Mongolia, Pakistan, Tajikistan, Turkmenistan and Uzbekistan.

The Treaty has already contributed much to energy sector reform and the development of a well functioning trade and system of cooperation in energy for its member states. A good example of that is Central Asia. The development of the Caspian energy resources demonstrates the positive role that the Energy Charter can play. I believe that the whole Caspian development story which started back in the 1990s has benefited greatly from the Energy Charter Treaty. Today, the investment situation seems so much more attractive thanks in part to the stabilising effect the Treaty has played over the past 15 years.

North Africa and the MENA region as a whole face great challenges. In recent years there has been great political change which is still ongoing. To achieve stability, sound economic policies based on sound energy policies can contribute much. I will conclude at this point, in the hope that my remarks will be an incentive for further consideration of the potential for North Africa of involvement in the Energy Charter as a regional multilateral framework to secure energy investments.