With energy at the top of the international agenda, and the Energy Charter an important part of the debate over energy security, it has been a busy and rewarding first few months for me as Secretary General. I am pleased at this opportunity to welcome you to our Spring 2006 newsletter, which has a particular focus on international energy security and the role of the Energy Charter.

The Energy Charter is a young organisation, and by virtue of its unique legal framework, its broad constituency across Eurasia and its focus on a highly strategic sector, it occupies a distinctive niche among mechanisms for international cooperation.

In a world of climate change, growing energy demand and increasing competition for hydrocarbon resources, it is not difficult to find areas of disagreement on questions of international energy. But this is not the task of the Energy Charter. Our objective must be to continue developing areas of consensus among our member states and observers on the key issues for energy security, based on the conviction that security of supply for consumers, and security of demand for producers, can best be served by a common framework promoting investment, reliable energy flows and efficient energy use.

This is not always an easy task. But the Energy Charter is well placed to make a tangible contribution because the Treaty is already a functioning and operational instrument of international law - based on the common desire to see more efficient, sustainable and secure energy markets.

I am convinced that international energy security is reinforced by the existence of common ‘rules of the game’ for international energy cooperation, and by the commitment of our member states to observe them in practice.”

André Mernier was appointed Secretary General of the Energy Charter Secretariat by the Energy Charter Conference in December 2005, and took up his post in January 2006. Previously, he was the Head of Energy Services in the Ministry of Foreign Affairs of Belgium, and has enjoyed a distinguished career in the Belgian foreign service, including service as Belgian Ambassador in Geneva from 1996-1999 and in Moscow from 2000-2004, during which period he was also accredited to Belarus, Moldova, Armenia, Georgia, Uzbekistan, Tajikistan, Kyrgyzstan and Kazakhstan.
IAP comments on Eurasian investment climate

The need for increased energy investment at a time of high prices, strong demand and tight capacity was one of the main themes at the 16th Meeting of the Energy Charter Conference in December 2005.

Howard Chase from BP Europe, the Chairman of the Charter’s Industry Advisory Panel (IAP), presented the Panel’s report on the promotion of investment across the Energy Charter Constituency (available on the Charter’s web site and re-printed in the 2005 Annual Report).

The IAP report notes a number of concerns about the investment climate. Given that all energy investors take a careful and methodical approach to risk assessment in their investment planning, Mr Chase reminded delegates that investor perceptions of risk are directly related to real investment flows.

In relation to the role of the Energy Charter, the report refers to the need and benefits of a functioning multilateral system for energy trade and investment, and welcomes that a track record of dispute resolution is beginning to emerge within the Energy Charter framework.

2006 is the right moment for a political signal from Russia on ratification of the Energy Charter Treaty. This was the message from André Mernier to an International Conference on Energy Security, organised in Moscow as part of the Russian presidency of the G8 (the speech is available in full on the Charter’s web site). A political signal on ratification would be a “visible and tangible demonstration of Russia’s commitment to energy cooperation based on common principles and values”.

Russia signed the Energy Charter Treaty in 1994, and applies the Treaty on a provisional basis. While this does not present an obstacle to the practical and technical work of the Energy Charter process, in which Russia is an active participant, the Secretary General underlined that the absence of ratification creates a number of disadvantages. It creates uncertainties regarding the extent of Russia’s legal rights and obligations, and this leads to “incremental risks – and costs – that are borne by energy investment projects within Russia and by Russian investments and energy flows in other Energy Charter member countries.”

Mr Mernier recalled that the last hearings in the State Duma on ratification of the Energy Charter Treaty took place in 2001. While opinion was broadly favourable, these hearings revealed concerns about specific provisions of the Treaty, leading to the conclusion that ratification would take place ‘not now, but later’ – once certain issues related to energy transit had been clarified. These issues related to transit have been taken up in the negotiation of a Transit Protocol (see page 8).

At a press conference during the Ministerial meeting, the Russian Minister for Industry and Energy Victor Khristenko reiterated the Russian position that progress with ratification would require completion of the Transit Protocol. He added that Russia doesn’t need the Charter as a political framework, but does need a “understandable, transparent legal environment, that would guarantee and protect Russia’s interests in the complex business of oil and gas”.

Q. What can be done to make sure that the risk of a disruption to energy supply is reduced in the future?

Commissioner Piebalgs: “... I think the most important instrument could be the Energy Charter and the Transit Protocol. The Energy Charter Treaty has been ratified by Ukraine, and signed but not ratified by Russia. On the Transit Protocol, we still need a final agreement, I think that is quite evident that there should be clear-cut rules for transit of gas ... I expect that during Russia’s G8 Presidency these issues will be brought on the agenda by Russia and by other G8 countries because it is very important to establish a clear and transparent mechanism to avoid any disruption of supplies.”

Excerpt from an interview with European Commissioner Andris Piebalgs on the BBC Radio 4 ‘Today’ programme, 4 January 2006
Five Myths about the Energy Charter...

While much of the recent reporting and commentary about the Energy Charter has been on the mark, there have also been some recurring misunderstandings about the scope and application of the Treaty. Five of the most common are reprinted below, with clarifications that are aimed at fostering a realistic debate on the Charter’s role and the implications of a country’s participation in the Charter process:

1. “The Energy Charter obliges countries to provide foreign investors with access to their national energy resources”

   While the Energy Charter is based on the idea that international flows of investments and technologies in the energy sector are mutually beneficial, national sovereignty over energy resources is a core principle of the Treaty (ECT Article 18). Each member country is free to decide whether and how its national energy resources are developed, and also the extent to which its energy sector is open to foreign investors.


   The Treaty includes an obligation on member countries to facilitate energy transit across their territory, in line with the principle of freedom of transit, and an obligation to secure established transit flows. At the same time, an understanding included in the Treaty makes it clear that the Treaty provisions “do not oblige any Contracting Party to introduce mandatory third party access”.

   The Energy Charter Transit Protocol aims to clarify the operational meaning of ‘freedom of transit’ for the energy sector, on the basis of the existing Treaty provisions. The overall aim is to provide clear and transparent rules for international energy transit flows, which can encourage the efficient development and use of energy transportation infrastructure and reduce the risk of interruptions to supply.


   An objective of the Treaty is to promote transparency and efficiency in the operation of energy markets, but it is for governments to define the structure of their national energy sector. There is no obligation to privatise state-owned energy companies, or to break up vertically integrated energy companies.


   The Treaty does not touch upon the contractual arrangements for energy supply between commercial entities. The role of long-term contracts in energy supply has been an issue in bilateral discussions between Russia and the EU, and the nature of these contracts has evolved in line with changes in energy markets, but there is a broad recognition that long-term contracts can facilitate the very significant investments that will be needed to meet future energy demand.

5. “The Energy Charter is an institution of the European Union, and reflects only EU interests”

   The idea of an Energy Charter to promote international energy cooperation was launched by the (then) European Community in June 1990. All the member states of the enlarged EU are among the fifty-one signatories of the Energy Charter Treaty, and the Treaty is part of the acquis communautaire - the body of Community law.

   However, the Energy Charter is a separate international organisation, which aims to find balanced solutions to key energy challenges among a diverse range of member countries across Europe and Asia, including producers, consumers and transit states, participating in the Charter on an equal basis. And although the Charter process was originally conceived in Europe as a forum for East-West cooperation, the Asian dimension of the Charter process has become an increasingly important priority in recent years.

For more information about the Energy Charter Treaty, the Charter’s web site (www.encharter.org) has the full text of the Treaty and related documents, as well as explanatory materials and a ‘Reader’s Guide to the Treaty’. In case of additional questions, please contact the Secretariat directly at the coordinates shown on the front page.
Pakistan and the Charter process

Pakistan has signed the 1991 Energy Charter Declaration and become an observer to the Charter process. The application for observer status was unanimously approved at the meeting of the Energy Charter Conference in December 2005, and work on developing the relationship between Pakistan and the Energy Charter has continued in 2006 with a visit in April by the Secretary General to Islamabad.

Following the approval of Pakistan's application, the Chairman of the Energy Charter Conference, Henning Christophersen, welcomed the decision and commented that “it is in our mutual interest to have a close relationship between Pakistan and the Energy Charter process, and I hope that this will encourage Pakistan to move speedily towards accession to the Treaty”.

While in Pakistan in April, Mr Mernier discussed Pakistan's energy policy priorities with the Prime Minister, Mr Shaukat Aziz, and with the Minister for Petroleum and Natural Resources Amanullah Khan Jadoon.

Signature of the 1991 Energy Charter declaration is the first step towards accession to the Treaty. As an observer, Pakistan has the right to attend all Energy Charter meetings and to receive all related reports and analysis, and senior energy officials from Pakistan will be attending the Charter's Trade and Transit Group in Brussels in May.

Expanding contacts with Non-Member Countries

The growth in energy trade and the need for new cross-border energy infrastructure is generating increasing interest in the Energy Charter from non-member countries.

In March, the Secretary General and members of the Secretariat met with a senior Chinese delegation in Brussels, led by Wu Guihui, Deputy Director General of the Energy Bureau in the Chinese National Development and Reform Commission. The meeting confirmed the Chinese interest in a closer relationship with the Charter, to which China is already an observer.

Mr Mernier met the Executive Director of the ASEAN Centre for Energy, Weerawat Chantanakome, to discuss the work of an ‘ASEAN-ECT Task Force’, which is examining the possible adoption of the Energy Charter Treaty by the countries of Southeast Asia, and which will be making recommendations to ASEAN Energy Ministers later this year.

In addition, the Secretary General visited Jordan and Syria to discuss the prospects for closer ties by these countries with the Charter.

Visit of the Secretary General to Washington, D.C.

Mr Mernier’s visit to the US in April was in the context of meetings with representatives of all G8 countries to discuss the Energy Charter’s role in promoting energy security. The Secretary General spoke at the Annual Meeting of the US Energy Association, and had a range of meetings with senior officials responsible for international energy policy, including Faryar Shirzad, Deputy National Security Advisor for International Economic Affairs, and Karen Harbert, Assistant Secretary for Policy and International Affairs in the Department of Energy.

While in Washington, Mr Mernier also discussed the Energy Charter with Jamal Saghir, Energy Director at the World Bank, and Margrete Stevens, Acting Lead Counsel at the International Centre for Settlement of Investment Disputes (ICSID). ICSID is one of the avenues for dispute settlement open to investors under the Energy Charter Treaty.
Energy Efficiency in Georgia

As Georgia makes progress with reform of its energy sector, the contribution that energy efficiency can make to its overall energy security will become increasingly visible. This was one of the main conclusions of the Energy Charter’s in-depth review of Georgia’s energy efficiency policies and programmes, which was completed in 2005.

Georgia has quite significant domestic energy resources relative to its own needs, notably in hydropower, but is still highly dependent on imported oil and gas. Energy infrastructure is in a generally poor state, following years of under-investment and the effects of civil strife. To address these issues, the Georgian government has embarked on a major restructuring and liberalisation programme, with the emphasis on creating a strong market foundation for the energy sector.

A priority for the Georgian government has been to secure adequate and diverse sources of energy supply, and the Review encouraged the government to take a balanced approach between energy supply and demand measures. The development of a comprehensive energy efficiency strategy and legislation will need to be accompanied by efforts to strengthen the institutional capacity to implement energy efficiency policies.

The review was conducted by a team from four Charter member states (Norway, Denmark, Sweden and the FYR of Macedonia), led by Johan Vetlesen, Deputy Director General in the Norwegian Ministry of Petroleum and Energy, and assisted by the Secretariat. Recommendations were adopted by the Energy Charter Conference in December 2005.

The review is available on the Energy Charter web site, and in printed form from the Secretariat.

Climate Change Policies and Energy Efficiency

2005 was a critical year for international cooperation on climate change, witnessing the entry into force of the Kyoto Protocol and the launch of the EU’s emissions-trading system for CO₂. A new publication from the Energy Charter provides an update on developments in the EU’s system, and discusses opportunities that climate change mitigation policies open up for countries across the Energy Charter constituency for investments in energy efficiency.

The report was developed in the Charter’s Working Group on Energy Efficiency, and pays special attention to the implications for both EU and non-EU countries of the EU’s ‘Linking Directive’. This Directive allows EU member states to gain emission credits through the Kyoto Protocol’s project-based mechanisms (Joint Implementation and the Clean Development Mechanism) by investing in emissions-saving projects in non-EU countries that have ratified the Protocol.
The Energy Charter and the WTO

The Energy Charter process has a natural affinity with the World Trade Organisation (WTO), since the rules of the multilateral trading system are incorporated into the Energy Charter Treaty as the basis for energy trade between its member countries.

The added value of the Energy Charter Treaty is that it addresses specific challenges for the energy sector, notably in relation to investment and energy transit, that are not covered by the multilateral trading system.

Cooperation between the Charter process and the WTO was the topic for a meeting in Geneva in February between Secretary General André Mernier and the Director General of the WTO, Pascal Lamy, with both sides agreeing to maintain close contact on a range of energy issues; the Charter has also submitted a request for observer status with various WTO bodies and committees.

Perspectives on Energy Security for the 21st Century

The new policy of the leading world countries should be based on the understanding that the globalization of the energy sector makes energy security indivisible. Our common future in the area of energy means common responsibilities, risks and benefits.

In our view, it is especially important to develop a strategy for achieving global energy security. It should be based on a long-term, reliable and environmentally sustainable energy supply at prices affordable to both the exporting countries and the consumers. In addition to reconciling the interests of stakeholders in the global energy interaction, we will have to identify practical measures aimed at ensuring sustainable access of the world economy to traditional sources of energy, as well as promoting energy-saving programmes and developing alternative energy sources.

A balanced and fair energy supply is undoubtedly a pillar of global security at present and in the years to come. We ought to pass on to the future generations a world energy architecture that would help avoid conflicts and counterproductive competition for energy security. This is why it is essential to find common approaches to creating a solid and long-term energy base for our civilization.

Vladimir Putin is President of the Russian Federation. This is an excerpt from an article on the G8 Summit in St Petersburg, published on the official web site of the Russian G8 Presidency (www.g8russia.ru)
and embraces renewable energies and energy efficiency as key goals.

We have to revitalize the Charter, broaden its influence and win the support of additional states.

With Russia’s presidency this year of the Group of Eight, Vladimir Putin has rightly identified energy security as its central issue. Russia’s ratification of the Energy Charter Treaty and the conclusion of the negotiations on this treaty’s transit protocol would therefore be a clear expression of support from Europe’s greatest energy provider for a European set of rules.”

Frank-Walter Steinmeier is Germany’s Minister for Foreign Affairs. This is an excerpt from an article published in the International Herald Tribune on 23 March 2006.

“Energy markets are getting more integrated and energy security has become important element in foreign policy making. I believe that enhancing global energy security is high on agenda. Every member of the international community should make further effort individually and collectively to address this global agenda.

Russia is one of the largest energy producing countries in the world, and, as this year’s G8 chair, has chosen global energy security as one of the main themes of the St. Petersburg Summit Meeting. The total energy consumption of three major consuming countries in Asia, namely Japan, China and India occupies approximately 20% in the world. In China and India, energy demands have been increasing rapidly as their economy and population show remarkable growth. Compared with Japan, the primary energy consumption per one GDP unit in Russia is 20 times larger, and 10 times larger in China or India. Therefore, improvement of energy efficiency and preservation of the environment are key policy issues not only for them but also for us.

Energy policies in Russia, China and India affect very much the world energy security, including that of Japan. Therefore, while making full understanding of such policies, Japan intends to make efforts to strengthen dialogues, cooperation in technologies for energy conservation and energy efficiency, and emergency measures so that international cooperation is promoted.”

Kiyohiko Toyama is Vice Minister (Parliamentary) for Foreign Affairs of Japan. This is an excerpt from a welcome address to a seminar on foreign policy and energy security in Tokyo on 1 March 2006.

Risk Reduction in the Energy Sector

The Charter launched in 2005 a ‘dialogue on risk reduction’, focusing on new risks and challenges that are emerging for governments and investors in the energy sector. This dialogue is conducted in close cooperation with the Industry Advisory Panel, and included a conference in autumn 2005 organised together with the International Energy Agency.

Among the themes for discussion at the Conference were the extent to which higher energy prices are affecting the relationships between consumers and producers of energy, and whether there is a need to reconsider the balance within individual countries between the potentially competing claims of the competitive market, the environment and security of supply, in order to promote new investment.

For consumer countries in particular, the Conference highlighted the extent to which higher energy prices are affecting the relationships between consumers and producers of energy, and whether there is a need to reconsider the balance within individual countries between the potentially competing claims of the competitive market, the environment and security of supply, in order to promote new investment.

More information on the Conference, together with speeches and presentations, is available on the Energy Charter web site (see under events / seminars).
**New Study on Eurasian Gas Transit**

Tariffs charged for transit of natural gas differ widely across the countries of Eurasia that make up the constituency of the Energy Charter. This is a main finding of a study, released by the Energy Charter Secretariat, which analyses tariff-setting methodologies and tariff levels across the main EU and non-EU gas transit countries.

The study reviews tariff arrangements for existing and new gas pipeline systems. It also analyses the overall consistency of gas transit tariffs with the provisions of the Energy Charter, which include in particular the obligations to ensure transparent, cost-based and non-discriminatory transit tariffs.

Tariff levels in different countries vary according to the tariff setting methodology applied, but major differences stem also from technical parameters (pipeline diameter, pressure), geographical conditions, and economic factors such as depreciation of the system and changes in exchange rates.

In general, the analysis showed a significant difference between tariffs charged in EU and non-EU countries, although the increase earlier this year in transit tariffs in Russia and Ukraine from $1.09/mcm/100km to $1.60/mcm/100km brought these tariffs towards the range shown by the study for comparable cases in the EU. There are also differences in many countries, both within and outside the EU, between tariffs for transit and for domestic transportation.

The study does not suggest a generally applicable methodology for setting transit tariffs, but it does include specific recommendations on promoting transparency, cost-reflectiveness and non-discrimination. Improving the degree of transparency with regard to the conditions for energy transit is perhaps the most immediate challenge, and one that applies to a greater or lesser degree across the Energy Charter constituency.

Greater transparency on transit tariffs (and underlying methodologies) and conditions for access to transport facilities would reduce risks perceived by investors, system users and operators, and help to develop a more open and competitive energy market across Eurasia – a core objective of the Energy Charter Treaty.

The full text of the study is available to download from the web site of the Energy Charter (www.encharter.org). Any questions or comments relating to the study can be addressed to the Secretariat’s Transit Expert, Gürbüz Gönül (email: gurbuz.gonul@encharter.org).
The ECT and the Russia-Ukraine dispute

The dispute over gas supply and transit between Russia and Ukraine in January 2006 generated a lot of international attention and comment. One aspect of this debate has been the role of the Energy Charter and, more specifically, how the Charter framework can reduce the risk of interruptions to energy supply.

Representatives of both Russia and Ukraine made numerous references during the dispute to Energy Charter provisions and principles as a basis for finding a solution. In addition, the Secretary General wrote on 3 January to both parties recalling that the Energy Charter Treaty has mechanisms for dispute resolution, including a specific conciliation procedure for transit issues, and proposing that these be used in the event that no bilateral agreement was reached.

The conclusion of an agreement between Gazprom and Naftohaz on 4 January meant that this proposal was overtaken by events, and - as Mr Mernier noted in his speech in Moscow (see page 3) - “bilateral agreements are always preferable to formal dispute settlement procedures.”

The value of the Energy Charter is in providing an international legal framework of ‘rules of the game’ that can promote cooperation between member states. Where a member country considers that another state is not complying with these rules, it can use the Energy Charter as both a forum for discussion and a mechanism that can help to resolve, in a depoliticized manner, the issue at hand. The Secretary General has emphasised in this context that, while the Secretariat makes every effort to raise awareness about the Treaty and promote its implementation, it has no mandate to act as arbiter on specific issues arising between member states.

Relevant Provisions of the Energy Charter:

On Issue of Energy Supply / Price:
- Access to international markets on commercial terms (ECT Art. 3)
- Sovereignty over energy resources (ECT Art. 18)
- Principle of ‘market-oriented price formation’
  (1991 Energy Charter Declaration)

On Energy Transit:
- Obligation to take the necessary measures to facilitate transit in line with the principle of freedom of transit (ECT Art. 7.1)
- No obstacles to establishment of new capacity (ECT Art. 7.4)
- Obligation to secure established transit flows (ECT Art. 7.5)
- Obligation not to interrupt or reduce transit flows (ECT Art. 7.6)

On Dispute Settlement:
- Conciliation procedure for transit disputes (ECT Art. 7.7)
- State-state dispute settlement procedures (ECT Art. 27)

Clarifying the Charter’s Role

Contrary to some press reports that appeared following the Russia-Ukraine dispute, the Energy Charter does not have a role in policing energy supply arrangements. If deliveries under an existing energy supply contract are suspended, the Treaty does not replace the remedies provided for by the contract itself, nor does it interfere in negotiations about pricing or other elements of new gas supply arrangements.

An area where the Treaty does make a distinctive contribution relates to the reliability of energy flows in transit. Many countries rely on energy resources from distant production areas, and the relevant Energy Charter provisions (see box below right) are designed to facilitate the delivery of these energy resources across different national borders to consumers.

An additional Transit Protocol to the Treaty (see page opposite) would provide more operational detail on the meaning of ‘freedom of transit’ for the energy sector, by providing clear guidance in areas such as access to networks and the criteria for establishing transit tariffs.

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IAP considers access to capital and the EC Green Paper

The Energy Charter's Industry Advisory Panel held its first meeting of the year in March, with the participation of two new members: Brett Langley, Manager for Market Development at BHP Billiton, and Karl-Peter Thelen, Head of Regulatory Affairs at E.ON Ruhrgas.

The main topic on the agenda was barriers to 'access to capital', which has been raised by representatives of countries in transition as an impediment to energy investment. The IAP is preparing an issue paper on this topic which will be considered by the Charter's Investment Group in May.

The Industry Advisory Panel also heard a presentation from Christopher Jones, Deputy Head of the Cabinet of Energy Commissioner Andris Piebalgs, on the European Commission's energy Green Paper. In his presentation, Mr Jones focused in particular on the Commission's priorities to complete the internal energy market, to address the challenge of global warming, and to develop a common external energy policy.

Raising awareness about the Energy Charter

One of the priority directions for the Secretariat’s work in 2006 has been to raise awareness about the Energy Charter Treaty, and - along with the high profile of international energy issues in general - this has meant an extensive round of meetings, speaking engagements, articles and presentations by the staff of the Secretariat in the first months of the year.

Some important engagements (in addition to those mentioned elsewhere in this newsletter) include a presentation by the Secretary General to the EU Council's Energy Group in February, an address to the Board of Eurogas in March, and a speech on energy security to NATO Ambassadors in May.

The Deputy Secretary General, Andrei Konoplyanik, presented the Energy Charter to a meeting organised by the Japan External Trade Organisation (JETRO) in London in January, and to the Energy Group of the Association of European Business in Moscow in March. He also spoke at three conferences in Russia in April on energy security and the Energy Charter, and has also published a number of articles on international energy issues in Russian and English-language newspapers and journals.

More detail on these presentations and publications is available on the Energy Charter web site under 'Secretariat > Secretary General' and 'Deputy Secretary General'.
Meetings and Events

**Workshop:**

**Promoting Reliable Gas Transit**

*Brussels, 19 May 2006*

Secure cross-border energy flows are critical to Eurasian energy security, since a high proportion of natural gas is delivered through pipelines that cross multiple national borders and jurisdictions. The Energy Charter is uniquely well placed to address this issue because its binding legal framework covers a broad constituency across Europe and Asia.

The workshop will examine technical, contractual and legal risk factors that can have an impact on transit flows. By analysing these issues with reference to practice from countries across the Energy Charter constituency, the objective is to highlight ways of mitigating transit-related risks, including through the instruments of the Energy Charter, as guidance for the Energy Charter’s future work. A report on the workshop, and copies of presentations, will be available on the Charter’s web site.

**Conference Announcement:**

**The Role of Governments in Promoting Energy Security**

*Brussels, Autumn 2006*

The Energy Charter’s annual autumn policy Conference in 2006 will address the role of governments in promoting energy security. The focus on this issue was proposed by Russia in the light of its agenda for the G8, and it is envisaged that the Conference will look at definitions of energy security in different Energy Charter member states of the Charter process, and assess the way that governments affect energy security in different ways, both as policymakers with responsibility for the regulatory and legal framework, and also – in many cases – as resource owners and participants on the energy market.

**Schedule of Regular Meetings:**

17-18 May  
Trade and Transit Group

23-24 May  
Investment Group

14-15 June  
Working Group on Energy Efficiency and Related Environmental Aspects

*Meetings of the Charter’s Working Groups are open to representatives of member states and of states and international organisations with the status of observers to the Charter process.*
THE ENERGY CHARTER

The Energy Charter Treaty and the Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects were signed in December 1994, and entered into force in April 1998. To date, the Treaty has been signed or acceded to by fifty-one European and Asian states as well as by the European Communities. Eighteen countries and ten international organisations have observer status to the Energy Charter process.

The Energy Charter Treaty promotes open and competitive energy markets and security of energy supply, while respecting the principles of sustainable development and sovereignty over natural resources. The Treaty is a comprehensive multilateral agreement, which aims to strengthen the rule of law on energy issues by creating common rules to be observed by all participating governments. The Treaty’s provisions focus on four broad areas:

• the protection of foreign investments, based on the extension of national treatment, or most-favoured nation treatment (whichever is more favourable) and protection against key non-commercial risks;

• non-discriminatory conditions for trade in energy materials, products and energy-related equipment based on WTO rules, and freedom of energy transit through pipelines, grids and other means of transportation;

• the resolution of disputes between participating states, and - in the case of investments - between investors and host states;

• the promotion of energy efficiency, and attempts to minimise the environmental impact of energy production and use.

The Treaty was developed on the basis of the Energy Charter Declaration of 1991, but while this Declaration signalled the political intent to strengthen international energy ties, the 1994 Treaty is a legally binding multilateral agreement. It is the only agreement of its kind dealing with inter-governmental cooperation in the energy sector, covering the whole energy value chain (from exploration to end-use) and all energy products and energy-related equipment.

For more information, or to receive this newsletter on a regular basis, please contact us at:

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