



EUROPEAN ENERGY CHARTER

Monday, 14 December 1992

PRESS NOTICE

EUROPEAN ENERGY CHARTER NEGOTIATIONS

The European Energy Charter was signed in the Hague on 17 December last year and inaugurated a new era of cooperation in Europe in energy policy, energy investments and energy trade. The objective of this cooperation will be to fuel economic recovery in the East by creating the right conditions for East-West co-operation in the energy sectors of the countries concerned. The European Council in Lisbon earlier this year stressed the importance of developing close co-operation in the energy sector as a vital contribution to facilitating and accelerating the transition of the former centrally planned economies towards a market economy.

The Charter has been signed by 48 countries including all members of the European Community, as well as the Community itself, all the other countries of Western Europe, nearly all the countries of Eastern Europe and the former USSR region, three countries in the Mediterranean and the four major non-European countries of OECD. A list of signatories is attached to this note.

Since the Charter was signed, the participating countries have been negotiating the Charter's Basic Agreement (or Charter Treaty) which will provide the legal basis for the energy industries' operations and investment in all signatory countries. Both the EC Energy Council in Brussels in November and the European Summit in Edinburgh last week underlined the importance of these negotiations and called for their

early completion. The Plenary meeting of the Charter Conference today has now set a new timetable committing itself to that aim.

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The Conference will also negotiate a series of Protocols to define specific cooperation activities for each energy sector. Most advanced are a Nuclear Protocol, concentrating on safety issues and an Energy Efficiency Protocol which will have considerable benefits for the environment. Other Protocols will follow.

At the moment the priority is to complete the negotiations on the Basic Agreement. This will address the issues which are important for East-West co-operation in energy, including investment protection, non-discrimination, transit and open trading conditions.

Although these negotiations are not yet finalised, very substantial progress has been made and it is now possible to see the form which the new Treaty is likely to take. The following description is however provisional. The negotiations are still going on and there are a number of issues which are still contested by one or more countries.

A central aspect of the new Treaty will be the Treatment of Investments. In its present form the Basic Agreement will commit all countries to create stable and favourable conditions for investors, and to ensure that investments are given protection and security by guaranteeing them against unfair or discriminatory treatment. A number of related provisions will safeguard other rights for investors, for instance the right to bring in key personnel and to transfer earnings abroad. In general these rules will provide investors with the type of safeguards which already exist in the West.

One of the key concepts of the whole Agreement is that investors from any of the Charter countries should have the right to be treated no less favourably than companies of the same nationality as the country in which the investment is made (National Treatment). This commitment not to discriminate against foreign Charter companies would be absolute once investments are made. In the pre-investment stage a few countries, in both East and West, have existing laws which favour their own domestic companies as far as the right to invest is concerned. The existing situation would however be subject to 'Standstill' in the

sense that all countries, whether or not they had such laws, would undertake not to increase the level of discrimination. There would then be a review procedure (Rollback) in which the Conference would discuss such exceptions with the countries concerned, with the aim of eliminating all such discrimination in Charter countries.

The Sovereign Rights of governments will be maintained in the Basic Agreement, for instance in decisions on whether or when to license areas for oil and gas exploration and on what environmental and safety rules to apply. The signatory countries will however commit themselves to allowing Charter companies Access to Energy Resources, such as oil and gas reserves, under transparent and non-discriminatory rules. As a counterpart, the Agreement will also ensure Access to Markets in all signatory countries. Other provisions will commit the signatories to ensuring that energy markets in their countries are open to fair competition.

There will be important provisions in the Basic Agreement dealing with Energy Trade. Even with the investment guarantees described above companies would clearly not want to undertake major investments unless they could be sure that there would be no barriers to their selling their energy production in other countries and the world market, as well as in the home market of the country concerned.

It is likely that the Basic Agreement will deal with the trade issue by effectively applying the rules of GATT to energy trade between the Charter signatories, even though many of these countries are not yet GATT members. Under that approach the Charter countries will for instance commit themselves not to erect trade barriers or increase tariffs on energy imports. There will be assurances against 'buy national' procurement policies operated through State companies. The Agreement will also define mechanisms for resolving energy trade disputes.

Alongside the trade rules it will be necessary to ensure that countries and investors can transit third countries in sending their energy to export markets. The Agreement will require signatory countries to facilitate such transit, for instance through interconnected gas or electricity systems.

In recognition of the major importance of energy production and use for the European and World environment, the Basic Agreement will commit the Charter countries to policies which take full account of environmental needs and costs.

Other Articles in the new Treaty will deal with taxation, access to capital, technology and intellectual property, as well as defining dispute procedures under which companies or their governments can take up cases where the Treaty rules have not been followed.

Two important issues still remain to be discussed in detail. The first is the question of what Transitional Measures will be agreed for countries of Eastern Europe and the former-USSR region. It is accepted in the Conference that some of these countries will need time to change their laws and practices, before they can complete the transition to an open energy market regime. Equally, no country will wish to deter investors by insisting on lengthy and complex transitional measures.

The second major issue still to be defined is the future Institutional Structure for ensuring that the objectives of the Charter and the new Treaty are implemented. The most likely outcome is that the Charter Conference will continue in existence as a standing body which will meet once or twice a year to review progress. The Conference would be supported by a limited Charter Secretariat which would make as much use as possible of resources available in other international organisations.

Once signed, the new Treaty would be sent for ratification by the Parliaments concerned, and would come into force after the thirtieth signatory country had ratified it. But the signatories would apply the Treaty on a provisional basis from the time of signature. It would be possible for other countries to join the Treaty later on, or to negotiate association agreements with the Charter group.

Although the terms of the new Charter Treaty are directed to the needs of industrial investors and the energy sector, its significance will be very much wider. By promoting investments and industrial cooperation in the energy field, the security of energy supplies in Eastern Europe, Europe as a whole and the world market will be greatly enhanced.

Equally, investments in energy efficiency and the transfer of efficient technologies should have major benefits for the European and global environment. The major business opportunities created by this new cooperation will help to create economic wealth and new jobs. Above all, a new cycle of cooperation and economic activity based on the vast energy potential which exists in the East, will drive economic recovery in those regions and create a new sense of political partnership throughout Europe.

The Charter signatories are :-

Albania	Georgia	Netherlands
Armenia	Germany	Norway
Australia	Greece	Poland
Austria	Hungary	Portugal
Azerbaijan	Iceland	Roumania
Belgium	Ireland	Russia
Belarus	Italy	Spain
Bulgaria	Japan	Sweden
Canada	Kazakhstan	Switzerland
Cyprus	Kyrgyzstan	TadJikistan
Czech and	Latvia	Turkey
Slovak Republic	Lichtenstein	Ukraine
Denmark	Lithuania	United Kingdom
Estonia	Luxembourg	United States
European Community	Malta	Uzbekistan
Finland	Moldova	Yugoslavia
France		Slovenia