

**UNECE Committee on Sustainable Energy, 15th Annual Session  
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**Panel Session on “Energy Security: Emerging Energy Security Risks and  
Risk Mitigation – A Global Overview and Global Energy Security and the  
Caspian Sea region”**



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**“Emerging Energy Security Risks and Risk Mitigation: The Role of  
International Legal Framework”**

Ladies and Gentlemen,

The discussions on energy security, being intensified during the 2006 Russian G-8 Presidency, have once more underlined that investment is a key to international energy security. Within next 5-7 minutes I would like to underline few points in this regard.

**1. On energy investment**

Demand for energy has been and would be continuously growing in absolute terms. Due to asymmetry between key energy markets and resources major consumers will face growing import demand. That leads to continued growth in international energy trade with its increasing cross-border character, to further development of energy (mostly grid-bound) infrastructure – on the supply side and of new energy saving technologies – on the demand side. Thus – to new energy investments.

***Figure 1: Global energy trends – why non-OECD important***

Major part of new energy demand and supply will come from the “new” (non-OECD) markets. According to IEA, during 2001-2030 70% of incremental demand, 95% of supply and 60% of energy investments would be originated in non-OECD area. Emerging economies have been developing their legal systems for less time, compared to OECD states, and thus are associated with higher risks. One can call them “transition risks”. But investment risks, incl. of political nature,

are immanent to all markets, incl. OECD. For instance, further liberalization of energy markets in Continental Europe creates what can be called “liberalisation risks”. Effective instruments are needed to address all these risks, both in transition and liberalized markets.

## **2. On interdependency**

Linking together consumers and producers by common (usually immobile) infrastructure increase their mutual interdependency. Internationalization and globalization of energy markets put an end to the earlier existing concepts of “energy independency”. Nowadays we live in the interdependent energy world. Short-term-oriented and populist politicians can appeal for “energy independency”. Energy professionals understand that “independency game” is over.

## **3. On diversification and mutual dependence**

Almost 100 years ago, when Winston Churchill switched the British Navy from coal to oil, it was recognized that “safety and certainty in oil lie in variety and variety alone”. Since then diversification is a must for energy security.

### *Figure 2: Energy security and diversification*

Nowadays however the balance of interests of players along the energy value chain - producers, consumers, transit states - is equally important.

## **4. Demand for common rules.**

Increasing demand for energy and diversification in the energy area requires creating new infrastructure, hence investments, mostly of large-scale. Especially large-scale fixed investments has to be based on clear, predictable and enforceable rules. In energy the “quality” of such legal and regulatory framework is among the highest compared to other industries - due to longest lead-times, highest unit capital value of energy projects, together with broadest nomenclature of risks and immobile character of energy infrastructure. This unique and complex environment creates demand for some additional ‘rules of the game’ needed to mitigate risks related to full investment cycle in energy projects.

### *Figure 3: Economic “circle of life” of energy projects*

It means fostering not only capital investments as such in all parts of the cross-border energy value chain – from exploration and development to final consumption of energy. They are also needed to mitigate risks of cross-border energy flows from suppliers to consumers and the reverse flow of income.

### *Figure 4: Full investment cycle and energy security*

It is in this context that we in the Energy Charter interpret the concept of ‘energy security’ as a triad consisting of security of supplies, security of infrastructure, security of demand, based on clear rules within the sovereignty of a country on access to the resources, to infrastructure and to the markets.

## **5. ECT the only common multilateral energy-specific standard**

There is an increasing need for a common binding framework – agreed by all states along the energy value chain. That is the substance of the legally-binding Energy Charter Treaty (ECT). Today the Energy Charter Treaty is the only multilateral investment treaty, which is energy-specific with broadest geographical coverage. As cross border energy investment and trade increases across Eurasia, the value of the Charter framework will increase for consumers, producers and transit states.

### ***Figure 5: Energy Charter process: geographical development***

The Energy Charter process has been developing to cover the evolving Eurasian energy market. Accession of Pakistan to ECT as 52<sup>nd</sup> member-state was approved just a week ago.

## **6. Major ECT benefit.**

The major benefit of the ECT is that this single multilateral treaty provides common “rules of the game” within its constituency. In its given composition comprising of 51 member-states, ECT substitutes 1275 bilateral investment treaties. In this respect ECT streamlines and shortens the way to mutually beneficial international order.

## **7. ECT and G-8.**

Energy Charter political declaration is the only common document addressing energy security that was signed (in December 1991) by all member-states of the G-8. At their Summit this July G-8 member-states have reconfirmed their support to Energy Charter principles.

Moreover, on a number of key institutional issues such as development of open and competitive energy markets, investment protection, energy efficiency, transparency, etc., G-8 documents use the same approaches and even the same wording as in ECT.

## **8. ECT and Russia.**

The issue of ECT ratification by Russia has been subject of extensive discussion, not least in the context of the Russian G-8 Presidency.

### ***Figure 6: Russia’s ECT ratification history***

Russia’s State Duma has officially stated in 2001 that the door to ratification would be open by finalisation of Transit Protocol with fair solution of substantiated Russian concerns. Finalisation of Transit Protocol since end-2002 is in the hands of both Russia and the EU – which are equally responsible for the success of these multilateral negotiations.

*Non*-ratification is *not* in Russian own interests since it create incremental risks

and financing costs for energy investment projects in Russia and for Russian energy investment in other ECT countries. Moreover, as Russian delegation has stressed at 17<sup>th</sup> session of ECC a week ago, “ECT preserve its great importance for Russia as the unique document for today that establishes rules of the game in the global energy”.

There are no more substantiated Russian concerns regarding ECT except two on interpretation of its transit provision. Those two have been discussed during expert talks on Transit Protocol. Other concerns on ECT that were made public either reflect *mis*-reading or even *not*-reading of the Treaty, or address the issues *outside* the scope of ECT.

It is important that other Charter member states take legitimate Russian concerns seriously. At the same time, other Charter states need to be sure that all Russian concerns are on the table and ratification is not a “moving target”.

Only after Russia ratifies the Treaty and has become a Contracting Party, it can (according to ECT Art.42) propose amendments to ECT. Appeals of the Russian delegation a week ago “to discuss the problem of reforming the ECT” look more like a negotiating tool within upcoming negotiations on new Russia-EU Partnership and Cooperation Agreement. Moreover, most recent statements of Russian officials as if on “no go” for ECT ratification in its current form need to be interpreted rather as political Russian response to political pressure from the EU, rather than as a practical guide to the interests of the parties concerned.

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Finding an international consensus on issues of energy is not an easy task, especially when the objective is to conclude a binding multilateral instrument of international law. The Energy Charter Treaty is therefore a unique achievement in international cooperation aimed to protect international energy investment and thus adding to international energy security.

Thank you for your attention.