-The Eurasian Electricity Market - Ideas for Intergovernmental Co-Operation?

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Background

1. The Energy Charter Secretariat – an intergovernmental organization

2. International law

3. Intergovernmental policy debate
Electricity in the Energy Charter Treaty

• Electricity is treated as any other good when applying the rules of the Energy Charter Treaty and the international trade rules of the World Trade Organization to the electricity value chain.
  – Transit of electricity
  – Investment in the electricity industry
  – International dispute settlement
Definition of Transit

Red line: Transit
The Existing Transit Obligations of the Energy Charter Treaty

Article 7 ECT:

states shall not discriminate with respect to origin, destination or ownership of electricity in transit
The Existing Transit Obligations of the Energy Charter Treaty, Contd.

Article 7 ECT, contd.:

states shall have provisions on the transportation of electricity which treat electricity in transit no less favorably than such provisions treat electricity imported or exported
The Existing Transit Obligations of the Energy Charter Treaty, Contd.

Article 7 ECT, contd.:

The following exceptions may be invoked:

Measures necessary to protect human, animal or plant life or health
The Existing Transit Obligations of the Energy Charter Treaty, Contd.

General Agreement on Trade and Tariffs 1994

States shall accord general most favored nation treatment to imported or exported electricity regarding customs duties and other charges
The Existing Transit Obligations of the Energy Charter Treaty, Contd.

GATT 1994, Contd.:

• States shall accord national treatment to imported electricity regarding national laws and regulations affecting the sale of such electricity

• States shall exempt electricity in transit from customs duties, transit duties and other charges
The Existing Transit Obligations of the Energy Charter Treaty, Contd.

GATT 1994, contd.:

The following exceptions may be invoked:

Measures necessary to protect human, animal or plant life or health
The Existing Investment Protection Obligations of the Energy Charter Treaty

- States shall create stable, equitable, favorable and transparent conditions for foreign investors to make investments in electricity production or transmission
- States shall observe any obligations it has entered into with a foreign investor
- States shall accord the most favorable of national treatment and most favored nation treatment to investments by foreign investors in electricity production or transmission
Few, if any, international legal barriers to free trade and transit of electricity on the Eurasian continent

Adequate international legal protection of foreign investment in electricity generation or transmission
Intergovernmental Policy Debate

• Given few legal barriers, why does not substantial electricity trade emerge?
Power Generation Capacities

• Power generation overcapacity in the European Union (*inter alia* the UCTE and NORDEL regions)
  – The overcapacity is caused by the historic tendency of national autarky in power generation
  – Overcapacity becoming evident as the European Union creates the internal electricity market (Regional markets)
  – This overcapacity is expected to disappear within the next five to ten years by plant decommissioning and electricity demand growth
Power Generation Capacities, Contd.

- Power generation overcapacity in the economies in transition
  - Overcapacity becoming evident due to contraction of economic activities as a consequence of economic transition from centrally planned economies to market economies
  - Overcapacity expected to disappear within the next decade due to plant decommissioning and increased electricity demand driven by increased economic growth
Power Generation Capacities, Contd.

- Oversupply complicating incentives for co-operation and trade
- Price differential in favor of electricity trade from east to west.
Cost-reflective Electricity Prices

• Electricity prices in the European Union at least cost reflective
  – May debate current vs. expected efficiency gains from the EU internal electricity market?
• Electricity prices in the economies in transition lower than cost-reflective level
  – The lowest electricity prices in the Caspian Sea region
  – Also low electricity prices in the other CIS member states and in Central and Eastern Europe
Cost-reflective Electricity Prices, Contd.

• Increasing electricity prices to a cost-reflective level yields macroeconomic gains
  – Lower substitutability of electricity implies lower sensitivity of demand to increases in price compared to primary energy carriers
  – Lower price elasticity of demand implies lower macroeconomic gain
  – Effects on feedstock market, such as natural gas, of importance
Cost-reflective Electricity Prices, Contd.

• Low price leads to under maintenance and under investment
  – Security of supply issue in the intermediate term for economies in transition?
Competition Issues

- High market concentration at national and regional level
- High incidence of state trading
- High incidence of national monopolies

- Consequences
  - High barriers to entry facing newcomers
Trade Barriers

• Legal trade barriers
  – Reciprocity vs. Most Favoured Nation Treatment
  – Environmental standards
  – Import monopolies
  – Vertically integrated national monopoly
  – Single buyer system
  – Eligibility (economies in transition)
  – Schemes for promotion of renewables based electricity production
  – Absence of transparent, non-discriminatory third party access regimes to power transmission grids and lines
The Way Forward?

- Best practice on socially acceptable price reforms
- Best practice on privatization and increased power generation competition
- Best practice on unbundling
The Way Forward?

• Best practice on third party access to transmission grids or lines
• Best practice on implementation of environmental standards without jeopardizing trade
• Best practice in developing regional electricity markets