
by

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The views expressed are those of the author and do not necessarily reflect the views of the United Nations

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UNCTAD Expert Meeting on FDI in Natural Resources
20 November 2006

1. Energy Security
Energy Policies since the 1970s

- Energy security was the priority after two oil crises in the 1970s, resulting in industrialised countries diversifying energy sources and non-OPEC areas increasing production
- The market mechanism took over in the 1980s, and oil became a commercial commodity (NYMEX WTI 1983-, IPE Brent 1988-)
- Deregulations were taking place in the natural gas and electricity sector in the 1990s, introducing competition in the sector

Why “Energy Security” Now?

- Terrorism (9/11, 7/7)
- Political instability in the Middle East (Iraq, Israel, Palestine, Lebanon, Syria)
- Natural disasters (Hurricanes “Katrina” and “Rita” in 2005)
- Blackouts (California in 2000, North America and Europe in 2003)
- Natural gas supply disruptions (Russia-Belarus in 2004, Russia-Ukraine in 2006)
- Collapse of Enron (2001)
- High oil and gas prices
- Stagnant non-OPEC production
- Low investment in resource development and infrastructure
- Demand growths
- Increasing import dependency
- Changes in supply and demand geography (emergence of China and India on the demand side, reemergence of Russia on the supply side)
Energy Security Measures

- Diversifying energy sources
- Strategic forces
- Political influences (G8, EU-Russia Summit)
- Petroleum reserves $\rightarrow$ IEA
- Producer-consumer dialog $\rightarrow$ IEF
- Promoting energy investment and trade $\rightarrow$
  Energy Charter Treaty

2. Energy Investment
World Energy Investment by Sector

Total energy investment estimated for 2001-2030: $16 trillion in the year 2000 dollar

- Oil: 19%
- Gas: 19%
- Coal: 2%
- Electricity: 60%


World Energy Investment by Region

Total energy investment estimated for 2001-2030: $16 trillion in the year 2000 dollar

- OECD: 40%
- Russia and other transition economies: 10%
- India and other Asia: 14%
- Other developing countries: 24%
- China: 14%


World Energy Investment by Market

Total energy investment estimated for 2001-2030: $16 trillion in the year 2000 dollar

- In non-OECD for non-OECD
- In non-OECD for OECD
- In OECD for OECD

Characteristics of Energy Investment

- Technology-driven
- Large-scale and capital-intensive
- Large initial investment
- Long project life
- Idiosyncratic investment
- Part of a supply chain

Risks Associated with Energy Investment

- **Political/legal risks**
  - Geopolitics
  - Related regulations
  - Environmental policies
  - Profit transfer
  - Taxes
  - Expropriation
  - Jurisdiction

- **Energy Charter Treaty designed to take out political/legal risks**

- **Economic risks**
  - Macroeconomics conditions
  - Energy prices
  - Construction
  - Operation
  - Foreign currency Exchanges

- **Other risks**
  - Natural disasters
  - Civil unrests, wars
  - Strikes
A Brief History of the Energy Charter Process

- European Energy Charter (December 1991): a political declaration for energy cooperation in the post-Cold War era. Western/Central/Eastern European and the FSU countries, plus the US, Canada, Australia and Japan, gathered in the Hague, Netherlands
- Energy Charter Treaty (December 1994): Inter-governmental agreement to provide legal framework to protect investment and secure trade and transit in the energy sector. Entering into force in April 1998
The Energy Charter Process

Investment Protection

- First multilateral investment agreement
- Energy sector-specific
- Principle of non-discrimination/national treatment for established investments
- Best endeavour clause for investments in the making
- Confirmation of national sovereignty over natural resources
- A discussion forum for energy investment issues
Dispute Resolution Procedures

- An opportunity for amicable settlement
- In failing the amicable settlement;
  - Investor-to-state disputes (Article 26)
    - UNCITRAL
    - SCC
    - ICSID
  - State-to-state disputes (Article 27)

Energy Charter Constituency

- Member Countries
- Observers
Recent Developments in the ECT Area: Oil Sector

- Slowing Russian production growths
  - Effects of Yukos/Rosneft and Sibneft/Gazprom mergers
  - West Siberia production peaking?
- Increasing Caspian production
  - Azeri-Chirag-Guneshli fields (Azerbaijan) → BTC pipeline
  - Tengiz/ Karachaganak fields (Kazakhstan) → CPC pipeline
  - Kashagan field (Kazakhstan): start of production around 2010
  - Kazakhstan-China oil pipelines
- New pipeline plan
  - East Siberia-Pacific
  - Bosporus bypass

Recent Developments in the ECT Area: Gas Sector

- Gazprom's expansion
- Stagnant upstream investment
- Gas exports from Central Asia
- Investment issue: Sakhalin I/II, Shtokman
- Supply disruption: Belarus, Ukraine, Georgia, Moldova
- New pipeline plan: Nabucco, Northern European, Turkey-Balkans-Italy
Thank you for your attention

Reserve Slides
### Investor-to-State disputes

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<td>25/4/2001</td>
<td>AES Summit Generation Ltd (UK) v Hungary</td>
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<td>11/12/2001</td>
<td>Nykomb Synergetic Technology Holding AB (Sweden) v Latvia</td>
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<td>Alstom Power Italia SpA, Alstom SpA (Italy) v Mongolia</td>
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<td>Group Menatep (Gibraltar), Hulley Enterprises Ltd (Cyprus), Yukos Universal Ltd (Cyprus), Veteran Petroleum Trust (Cyprus) v Russian Federation</td>
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### Investor-to-State disputes (2)

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<td>Libananco Holdings Co Ltd (Cyprus) v Turkey</td>
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<td>Azerpetrol International Holdings BV, Azerpetrol Group BV, Azerpetrol Oil Services Group BV (Netherlands) v Azerbaijan</td>
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Trade and Transit

- **Trade**
  - GATT rules applied by reference for energy products and equipments
  - Trade dispute settlement procedures
  - Trade Amendment (GATT → WTO) adopted in April 1998

- **Transit**
  - Covering grid-bound energy transport
  - Freedom of transit and non-discrimination
  - Transit dispute conciliation mechanism
  - Transit Protocol being negotiated
FSU Oil Production

Source: IEA

Russia  Other
World Natural Gas Trade (2004)

- Pipe - N America: 18%
- Pipe - Europe: 50%
- Pipe - Other: 6%
- LNG - N America: 3%
- LNG - Europe: 6%
- LNG - Asia: 17%
- LNG - Other: 0%

Source: BP Statistics

www.encharter.org

THE ENERGY CHARTER TREATY
A READER'S GUIDE