

**ENERGY CHARTER  
SECRETARIAT**

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Brussels, 28 November 2017

Related documents: CC 608, CC 615
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**DECISION OF THE ENERGY CHARTER CONFERENCE**

**Subject: Report by the Chairman of the Industry Advisory Panel**

The Energy Charter Conference at its 28<sup>th</sup> Meeting held on 28-29 November 2017:

- **took note** of the report by the Chairman of the Industry Advisory Panel as contained in document CC 608 (attached hereto)
- **requested** the Secretariat to follow up the findings and recommendations of the Communication and assist the IAP with its further work;
- **approved** the new IAP members in accordance with the attached membership list.

Keywords: Communication, Chairman, Industry Advisory Panel, IAP, Membership List

**COMMUNICATION FROM THE INDUSTRY ADVISORY PANEL  
TO THE ENERGY CHARTER CONFERENCE**

*28 November 2017*

**Introduction**

**Membership structure and new members**

1. Currently the IAP has members from 59 energy companies, international associations, intergovernmental institutions and individuals from 28 countries, which operate in fields such as exploration, production, generation, transmission, distribution, finance, equipment, services, technology and consultancy.
2. In 2017 the IAP received, and accepted membership applications from 3 new members. These were WindEurope together with Eustream and Vychodoslovenska energetika Holding (VSE Holding) of Slovakia. This underlines that the IAP continues to provide an attractive forum for exchange of knowledge and expertise on energy matters in the service of the entire Energy Charter constituency.
3. A full list of IAP members is provided in Annex I.

**Meetings**

1. The IAP held three meetings in 2017. In line with established practice, meetings were composed of: case studies provided by IAP members; review of expert work presented by the Secretariat or other invited authorities; and invited guest speakers addressing a specific topic of interest for the IAP and the International Energy Charter.
2. The first meeting was held on 23 March 2017 in Warsaw at the kind invitation of Gaz-System, with a focus on LNG and natural gas infrastructure development in northern and central Europe. The meeting of over 70 high-level business representatives was addressed by two high level government representatives: Michal Kurtyka, Deputy Minister of Energy and Piotr Naimski, Plenipotentiary of the Government for Strategic Energy Infrastructure. The formal session was followed on 24 March with a well-attended visit to the newly constructed Swinoujscie LNG terminal on the Polish Baltic Sea coast.
3. The second meeting was held jointly on 14 September 2017 in Brussels in collaboration with WindEurope, the wind energy industry association in Europe. This meeting was also attended by representatives of the International Energy Charter governments. This was the first time such a joint meeting was organised by the IAP. The focus of discussion was on the promotion and de-risking of renewable energy investments, and the role of the Energy Charter in supporting a stable investment framework and addressing investor disputes in the renewables sector. It was generally considered that the joint format was a success and should be considered again on future occasions.

4. The third meeting was held on 28 September in Beijing at the kind invitation of the Electrical Power Planning and Engineering Institute (EPPEI) under its President Mr Xie Qiuye. This was the second meeting of the IAP in Beijing and was notably well attended by over 120 representatives from Chinese companies and financial institutions, agencies and international companies active in China. The focus of discussion was on power generation and transmission and international energy governance, including in the context of China's "Belt and Road" Initiative.
5. During 2017 IAP members also contributed expert views to the draft Energy Charter Investment Facilitation Toolbox, to the peer review of Energy Investment Risk Assessment methodology, and to the Implementation Group meeting on Energy Investment Risk Assessment on 14 September in Brussels.

### **Main issues considered in 2017**

#### ***LNG and Natural Gas Markets***

1. The rapid development of LNG not only contributes to energy security but is also transforming the international gas market in a more flexible, integrated and liquid direction, as demonstrated by greater flexibility in recent LNG contracts. By 2035 LNG is expected to account for around half of all globally traded gas. As predicted by Michał Kurtyka, the Polish Deputy Minister of Energy: "*LNG will be fastest growing fossil fuel in the 21<sup>st</sup> century – the age of gas*".
2. As noted by Piotr Naimski, Plenipotentiary of the Polish Government for Strategic Energy Infrastructure, LNG is one part of a bigger picture and has to compete with piped gas. Poland is well positioned to be a natural gas gateway for Central European countries and to contribute to wider supply diversity in the region.
3. The high expectations for the growth of LNG trade, and the wish to diversify gas supplies, are reflected in the construction of new liquefaction and regasification capacity worldwide, which has more than doubled over the past five years.
4. LNG is covered by the investment protection provisions in the Energy Charter Treaty. Already some important LNG exporting and importing countries, including Australia, Russia, Norway, Japan, Turkey and the EU are signatories of the Treaty. A move by current observers to full country membership of the Energy Charter Treaty, would further strengthen the investment climate for international LNG development.
5. Notwithstanding many positive developments in the global LNG markets, volume peaked for the present in 2013, and LNG capacity out of service has more than doubled over the past five years, highlighting the security and investment challenges for producers.
6. The same period has also seen the emergence of greater flexibility in the global LNG market driven by availability of uncontracted LNG and facilitated by commercial and operational developments including diversions, re-loads and open destination contracts. Europe and the United States have accounted for much of the flexibility provided by the demand-side over the past five years.

7. The EU has abundant LNG infrastructure which offers supply and delivery flexibility. Europe is well placed to benefit from new suppliers in the global market. Global LNG oversupply is expected to continue until after 2020.
8. Europe is also well positioned to sustain competitive pipeline gas imports from Norway, Algeria and Russia via existing and new infrastructure, and from new sources including the Caspian and East Mediterranean
9. Japan imported 83 million metric tonnes of LNG, accounting for 32% of global LNG demand, and is expected to remain the leading global LNG importer for at least the coming 10-20 years.

### ***Promotion and De-risking of Renewable Energy Development***

1. Investment decisions in the renewable energy sector are driven by several factors, among which are political and operation risks, as well as legal issues. Where investments take into account government support, for instance in the form of guaranteed tariffs, cost recoveries or priority access, it is particularly important that investors can rely on a robust framework for investment protection. Regulation should reflect the policy framework of greater sustainability and core principles such as fair and equitable treatment. Access to reliable investor-state dispute settlement procedures can be a significant factor in reducing project risks and financing costs and strengthening investor confidence.
2. Sustainable business and investment models in the renewable energy sector need to take account of the inherent variability of certain delivered energy and revenue flows. Furthermore, the low marginal cost of some renewables when delivered can drive wholesale market prices below reinvestment levels for conventional energies, although these sources are critical to maintaining grid stability when renewables are not available. As higher quantities of intermittent renewables are added to the grids, proper demand response and reserves management will be needed to help manage both the associated financial and physical risks.
3. Although public support can play an important role in creating scale and innovation in the sector, the longer term objective should be that the costs of intermittency rest with the generator, providing a major incentive for renewable generators to contract with and invest in demand management as well as storage and back-up capacity. The balancing and flexibility of markets should be encouraged and stabilising mechanisms such as the use of Power Purchase Agreements or public tender procedures to ensure price discovery can play an important role.
4. The recent significant number of investor arbitration cases in the renewable energy sector underlines the importance of regulatory stability and the negative impact that regulatory changes can have on renewables investment. Reference is frequently made to the investment protection and dispute resolution provisions of the Energy Charter Treaty in this respect, and the outcomes of the relevant arbitration proceedings are of considerable importance for investors in the entire sector.

### ***Energy Governance in Asia***

1. China is now the world's largest energy consumer. By 2025, China is set to become the world's second largest LNG importer. Due to its robust economic growth, China also has the world's largest GHG emissions. India's energy consumption and GHG emissions are small compared to China but can be expected to grow significantly in the coming decades.
2. According to the Energy Research Institute of the National Development and Reform Commission (NDRC), the proportion of imported oil in China's total domestic consumption supplied will reach 65% by 2020. In 2016 non-fossil based energy represented 13.5% of total energy consumption. Coal consumption dropped by 4.7% and natural gas consumption increased by 8%. Natural gas imports were 74.6 billion cubic metres (about 7% of total global natural gas trade) and will further increase in future years.
3. As energy consumption continues to rise in Asia, there is a growing interest in models of international energy governance to support energy interconnectivity and trade across Asia, the Middle East and Europe. Approaches under discussion include a 'G20+IEA' and an Asia Energy Agency. IAP members believe that the International Energy Charter can make a valuable contribution to this process based on nearly thirty years' experience of rules-based international energy governance.
4. The China National Energy Administration (NEA) has indicated that it is considering a "Belt and Road Energy Club" to be formally launched in May 2018 at the first anniversary of the "Belt and Road Summit". The intention would be to provide a platform for bilateral and multilateral policy dialogues, strategic projects, development of energy cooperation, joint technology research, think-tank exchange and a service for energy companies.

### ***IAP Globalisation***

1. IAP members consider that the Energy Charter process and the Energy Charter Treaty continue to provide an important reference point for investment in the energy industry, in particular through the provisions for the promotion and protection of energy trade and investment and for dispute resolution.
2. The IAP is committed to the geographic expansion of the Energy Charter Process and notes with particular satisfaction the strengthening of IAP activities in China, in close collaboration with the Electric Power Planning & Engineering Institute (EPPEI) based in Beijing and with the active participation of existing IAP members.
3. The successful establishment of the IAP in China may also provide a useful model for other locations worldwide.

### ***Energy Investment Risk Assessment (EIRA)***

1. The IAP strongly supports and has provided input to the development by the Energy Charter Secretariat of its flagship publication on Energy Investment Risk Assessment. In the view of the IAP Chairman: "*The EIRA Report can make a distinctive*

*contribution to energy investment thanks to its rigorous and structured methodology.”*

2. IAP members believe that the publication will be of value for industry in providing horizontal analysis of energy investment flows, and of legal and regulatory risks related to investment across the energy sectors on a well-informed and structured basis. This can greatly assist in investment appraisal, management of financial risks, and effective project planning and development.

### ***Addressing Disputes***

1. IAP members welcomed and commended the International Energy Charter Guide on Investment Mediation adopted in 2016 by the Energy Charter Conference. IAP members were also invited to respond to the International Energy Charter Survey on Investment Dispute Settlement through Mediation/Conciliation, presented at the IAP meeting of 14<sup>th</sup> September 2017.
2. The IAP has given particular attention to the value of mediation and conciliation to address a wide range of contractual and social dispute situations. Members noted that conciliation is relevant not only to de-escalate disputes at an early stage, but also during and after arbitration proceedings. Mediation may also be useful to address conflicts between investors and local communities.
3. IAP members also welcomed the Conclusions of the Experts Meeting on Investment Protection Standards under the ECT on 27<sup>th</sup> January 2017.
4. IAP members also noted the International Energy Charter paper on Modernising of the ECT. A reliable international legal framework and means of addressing investment disputes, remains of high value to all stakeholders (governments, investors, operators and communities) in all forms of energy investment (conventional and renewable), by supporting risk management, efficient allocation of resources and effective project implementation.

### **Work Programme for 2018**

1. The IAP proposes to meet on three occasions in 2018, subject to available resources. At least one meeting should be held in Brussels.
2. IAP members will welcome the opportunity to comment further on the modernisation of the ECT as appropriate.
3. IAP members are invited to liaise with the Secretariat in order to identify ad hoc activities (events and/or publications) to be sponsored in 2018.
4. IAP members and the Secretariat will circulate a list of relevant external events in 2018 to which IAP members are invited to participate.



## COMPOSITION OF THE ENERGY CHARTER INDUSTRY ADVISORY PANEL (IAP)

MEMBERS AS OF 10 NOVEMBER 2017:

### COMPANIES

#### **Azerbaijan**

State Oil Company of Azerbaijan Republic (SOCAR)	VELIYEV Nazim	Head of Science and Technical Department
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#### **Bulgaria**

Bulgarian Energy Holding EAD	IVANOV Petyo	Chief Executive Officer
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#### **People's Republic Of China**

China National Petroleum Corporation (CNPC)	WANG Haiyan	Deputy Director International Department
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Electric Power Planning & Engineering Institute (EPPEI)	XIE Qiuye	President
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#### **Czech Republic**

ČEZ a.s.	JEDLICKA Michal	Lawyer – European Affairs
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#### **Georgia**

Georgian Oil and Gas Corporation	TSITSISHVILI David	Head of Commercial Department
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#### **Germany**

UNIPER SE	AHLUWALIA Kavita	Senior Vice President and Head of EU office Political & Regulatory Affairs
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EWE AG	SCHULTE-DERNE Sebastian	Head of Brussels Representative Office
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## **Greece**

Hellenic Petroleum SA	GOUTA Liana	Director of Energy Policy & International Affairs
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## **Hungary**

MOL Group	VARI Ilona	Head of EU Regulatory Affairs
	PÁLMAI Márton	Brussels Representative

## **Italy**

Edison S.p.A.	MARGHERI Marco	Head of EU Liaison Office
Enel S.p.A.	ZANGRANDI Roberto	Head of Institutional European Affairs
Eni S.p.A.	MARCHETTI Fabio	Head of European Government Affairs
ERG S.p.A.		

## **Japan**

Japan Oil, Gas and Metals National Corporation (JOGMEC)	TAKAHIRO Mochizuki	Deputy General Manager London Office
Mitsubishi Corporation International (Europe) Plc.	MATSUSHITA Takeshi	Senior Vice-President Energy Business
Mitsui & Co. Benelux	SUGIMOTO Shigeo	European Affairs Manager

## **Jordan**

Jordan Petroleum Refinery Company LTD	AL-REFAI Ahmed	Chief Executive Officer
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## **Kazakhstan**

Kazakhstan Electricity Grid Operating Company (KEGOC)	KATYSHEV Sergei	Managing Director
KAZENERGY Association	RAKHMETOVA Klara	Energy Charter Project Manager

## **Luxembourg**

R-square RiskLab	MAJUMDAR Chitro	Managing Partner
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## **Moldova**

Moldovagaz	Aculov Andrei	Special Advisor
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## **Norway**

Statoil	KIENEL Laila	European Policy and Regulation Advisor
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## **Poland**

Gas Transmission Operator GAZ-SYSTEM S.A.	KUŚ Piotr	Director Brussels Office
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## **Portugal**

EDP Energias de Portugal SA	PITA DE ABREU Antonio	Executive Member of the Board
	VITORIO Pedro	Director Institutional Relations, Representative Brussels Office

## **Russian Federation**

Gazprom	POTAPOV Maxim	Head of Division International Business Department
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Lukoil	BUNIN Maxim	Director Corporate Affairs
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## **The Netherlands**

Gasunie	GROENENDIJK Wim	Head of International Business
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Shell International B.V.	VAN DOESBURG Ruben	Senior Legal Counsel
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## **Serbia**

NIS a.d. Novi Sad	KOKOTOVIC Nadezda	Representative in Brussels
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## **Spain**

ACS Servicios, Comunicaciones y Energía, S.L.	NEBRERA Jose A.	General Manager Grupo Cobra
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Abengoa S.A.	BEJARANO GARCIA Germán	Advisor to the Chairman, Director for Institutional Affairs
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	ZICKFELD Florian	Manager International Business Development
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Gas Natural Fenosa

La Unión Española Fotovoltaica (UNEF)	GONZALEZ Aida	Chief Policy & Regulatory Officer
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Asociación Nacional de Productores de Energía Fotovoltaica (ANPIER)	GARAU Laura	Brussels Office Representative
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## **Slovakia**

Eustream	SEDLÁČEK Milan	Head of EU Affairs and Strategy
	CZETÓ Daniel	Representative for EU Affairs
Vychodoslovenska energetika Holding	HEJCMAN Thomas Jan	Chief Executive Officer

## **Switzerland**

Axpo Group	HESELBARTH Thomas	Axpo Power AG Gas Asset/Infrastructure Management
	ROEHM-MALCOTTI Eberhard	Axpo Services AG Head of EU Energy Policy

## **Turkey**

BOTAŞ Petroleum Pipeline Corporation	AKTAN Hülya	Foreign Relations and EU Coordination Manager International Projects
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## **Ukraine**

Naftogaz of Ukraine	VOROCHEK Victoria	Deputy Head of Strategic Planning Department of NJSC
NEC "Ukrenergo"	BNO-AIRIIAN Mykhailo	Director of Communications and International Cooperation
NNEGC "Energoatom"	KUKHARCHUK Mykola	Director for International Cooperation
	TIURIN Andriy	Director of Brussels Office

## **United Kingdom**

BHP Billiton	KILKENNY Carmel	Commercial Manager
BP	HUIJGENS Rutger	Director European Government Affairs
John Crane	MORTON John	Product Line Director
	LAIMINA Liene	Senior Manager Government Relations
The Prince of Wales's Corporate Leaders Group	KOEGLER Peter	Programme Manager

## **United States**

The Dow Chemical Company	CHASE Howard <b>(IAP Chair)</b>	Director of Government Affairs Europe
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## INTERGOVERNMENTAL ORGANISATIONS

CIS Electric Power Council	MISHUK Evgeny	Chair Executive Committee
European Bank for Reconstruction and Development (EBRD)	RASMUSSEN Eric	Director Natural Resources

## INTERNATIONAL BUSINESS ASSOCIATIONS

European Committee of Domestic Equipment Manufacturers (CECED)	FALCIONI Paolo	Director General
Eurelectric	RUBY Kristian	Secretary General
	NOYENS Koen	Director of Communication & Corporate Affairs
Eurogas	RAABE Beate	Secretary General
	GIALOGLOU Kyriakos	EU Affairs Director
EU Turbines	BARON Sonia	Manager European Affairs
Central Europe Energy Partners	JAKUBIK Maciej	Executive Director
Gas Infrastructure Europe (GIE)	ACHOVSKI Boyana	Secretary General
GO15. Reliable and Sustainable Power Grids	DOBBENI Daniel	President
	STEVEN Alain	Secretary General
International Association of Oil & Gas Producers (IOGP)	FESTOR Roland	Director EU Affairs
	SCHWARCK Christian	Deputy Director, EU Affairs
WindEurope	DICKSON Giles	Chief Executive Officer

## INDEPENDENT EXPERTS

KALKAVOURA Anastasia  
**(Deputy Chair of IAP)**