

**ENERGY CHARTER
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Related documents: CC 412, CC 413, CC 432 Rev.
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DECISION OF THE ENERGY CHARTER CONFERENCE

Subject: Adoption of Conclusions with regard to Investment Climate and Market Structure Reports on Moldova, Azerbaijan and Poland

[The Energy Charter Conference at its 22nd Meeting held on 29th November 2011] *took note* of the Investment Group Chairman's report and *adopted* the conclusions proposed by the Investment Group with regard to the Investment Climate and Market Structure Reports of Moldova, Azerbaijan and Poland, as contained in CC 413 (Annex).

Keywords : Conclusions, Investment Climate, Market Structure, Reports, Moldova, Azerbaijan, Poland

**Conclusions on In-depth Investment Climate and Market Structure Reports on
Moldova, Azerbaijan and Poland**

as adopted by the Energy Charter Conference
at its 22nd Meeting on 29 November 2011

THE CHARTER CONFERENCE,

Having heard the report from the Investment Group with respect to the Reports on Investment Climate and Market Structure from Moldova (ICMS-51), Azerbaijan (ICMS-53) and Poland (ICMS-55)

NOTED

- a) That the reviews have shown that the member countries honour their commitments under the ECT and have undertaken broad reforms and investment policy measures towards improving legal frameworks for investors;
- b) That the reviews have helped to clarify the existence and content of nonconforming measures in accordance with Article 10 (5) of the Treaty, resulting in update of one non-conforming measures in the “Blue Book” of the Energy Charter;
- c) In particular, with respect to:
 - (i) *Moldova*
 - Took note with satisfaction that Moldova has significantly improved the business climate over the last years with notable results in simplified business registration, issue of licenses and improved judiciary system. The next challenge is simplifying procedures on construction permits;
 - Welcomed the considerable progress in development of the energy sector legislation and market reforms aimed at establishment of open and competitive energy market and a level playing field for local and foreign investors;
 - Noted efforts related to development of the regulatory framework, restructuring of the energy markets with disaggregation of former vertical monopoly and achieved partial privatisation;
 - Encouraged to continue strengthening market-oriented energy policies, implying liberalisation, application of full cost recovery tariffs conditioned to quality of energy services, increasing competition, providing investment incentives and invited to consider benefits of further privatisation in the energy sector;
 - Took note that the Government is working with national and international partners to further update the Energy Strategy 2020 in order to reflect new developments in the market and set new timelines;

- Draw attention that national energy sector stakeholders underline importance of developing, adopting and implementing secondary legislation for the gas and electricity sectors;
- Underlined that extension of electricity and gas interconnections is key for increasing the security of energy supply in Moldova and in the neighbouring territories of the emerging regional energy market;
- Encouraged more measures aimed at strengthening capacity of the energy sector regulator to make it fully independent, empowered and equipped to monitor compliance;
- Underlined that it is imperative to resolve the issue of historic debts in the heating and gas sectors, as a condition for a competitive energy market and attract necessary investments. The Government is invited to consider different options of district heating versus cogeneration or a combination of both;
- Draw attention that bilateral donors and major stakeholders in the country underline importance of private sector investments and recognised the need to create incentives for small and medium size enterprises to invest in energy efficiency and renewable energy;
- Encouraged to consolidate and make available to investors all available information on potential of the renewable energy sources and energy efficiency both on supply and demand sides. Taking into account social and economic implications the Government is invited to proceed with state policies to stimulate investments in renewable energy sources. The Government is advised to consider streamlining administrative procedures to allow effective allocation of agricultural and forest land title to renewable energy projects;
- Draw attention to the fact that the national economy is strongly linked to agricultural activities, the development of a higher awareness of the economic value of biomass residues from agriculture and forestry as renewable fuels for electricity, gas, and heat production should be strongly supported; and
- Emphasised that the energy efficiency work should focus on sectors holding the largest potential including loss reduction in transmission/distribution and improving energy efficiency in buildings and heating systems.

(ii) *Azerbaijan*

- Took note that Azerbaijan has adopted an open door policy in the oil and gas sectors that has resulted in significant inflow of FDI in the energy sector. The development of oil and gas resources continues to drive the country's economic growth;
- Invited the Government to consider review and update of the existing "State Programme on development of fuel-energy complex of the Republic of Azerbaijan in 2005-2015". The revised programme could provide a medium and long-term strategy for the development of the power sector and related environmental policies;

- Invited Azerbaijan to ratify the ECT Trade Amendment. Its ratification would allow the country to familiarise with the practices and disciplines that WTO membership entails, through application of its rules “by reference” to trade in energy materials and products and energy-related equipment;
- Took note with satisfaction that the Government is committed to further develop a network of oil and gas pipelines throughout the region to promote international trade and cooperation in the energy sector. New pipelines for export of natural gas are key for increasing the security of energy supply from Azerbaijan to the neighbouring countries as well as global energy markets;
- Welcomed the broad reforms to improve the investment climate. Priority to further reforms shall be given to streamlining procedures for construction permits, ensuring effective functioning of custom system, ensuring independence and competence of courts and judiciary system and continued efforts fighting against corruption;
- Invited to further develop legislation and regulations aimed at setting high standards of business conduct, transparency, corporate governance and environmental protection;
- Invited to consider increasing competition in the electricity sector towards establishing an open and competitive energy market and creating a level playing field for local and foreign investors;
- Noted that Azerbaijan has successfully undertaken rehabilitation of power generation facilities in the electricity sector but rehabilitation of transmission and distribution networks remains a challenge. The sector will require substantial investments in the coming years where foreign investors could make contributions;
- Emphasised need to continue strengthening market-oriented energy policies and continued application of full cost recovery tariffs. Special consideration should be given to development of new tariff structure and methodology while also ensuring that social protection mechanisms for vulnerable segments of the population are in place;
- Noted that the Tariff Council of Azerbaijan acts as a regulatory body covering many economy sectors including the energy. In order to stimulate further development of the energy market it is advised to consider establishment of an independent state agency to regulate the energy sector in a fair, transparent and predictable manner;
- Underlined that the market for energy efficiency improvements and renewable energy sources is limited in its scope and does not seem to attract investors. The Government is advised to strengthen the existing legal, regulatory and institutional framework, and introduce incentive schemes to enhance energy security and reduce air pollution and contribute to climate change mitigation efforts;
- Draw attention to ecologic aspects in the energy sector. It is advised to continue work aimed at minimising, in an economically efficient manner,

harmful environmental impacts arising from hydrocarbon production and consumption.

(iii) Poland

- Took note with satisfaction that Poland has significantly improved the business climate over the last years with which resulted in significant inflow of FDI. The next challenge of improving investment climate is simplifying procedures on construction permits;
- Noted that Poland has made a considerable progress in development of its energy sector legislation and market reforms aimed at establishing an open and competitive energy market and creating a level playing field for local and foreign investors;
- Draw attention that diversification of supply sources, development of natural gas infrastructure, including the construction of LNG terminal, expansion of underground storage capacities and increase of domestic gas production are the key elements of Poland's gas security policy;
- Underlined that extension of electricity and gas interconnections is key for increasing the security of energy supply in Poland and in the neighbouring countries of the regional energy market;
- Noted that with its huge potential unconventional gas is expected to play a major role in Poland. If the shale gas resources are confirmed, their large-scale exploitation will significantly change the energy landscape of Poland;
- Draw attention that power sector restructuring and privatisation of the four large power companies remain as key challenges. The sector will require substantial investments in the coming years where foreign investors could make important contributions;
- Invited to strengthen market-oriented energy policies, implying liberalisation and continued application of full cost recovery tariffs. Special consideration shall be given to application of market tariffs to the households while also ensuring that social protection mechanisms for vulnerable population is in place;
- Draw attention that the energy sector would strongly benefit from increased competition. Effective competition mechanisms would improve the efficiency of business performance to the benefit of consumers and ensure an adequate level of network infrastructure development towards security of supplies;
- Encouraged further improvements in the legislative framework with emphasis to be given to Law on public utility transmission corridors; new Green Law to stimulate development of renewable energy sources and legal framework for nuclear power;
- Emphasised need to continue strengthening capacity of the energy sector regulator to make it fully independent, empowered and equipped to monitor compliance;

- Draw attention that the electricity sector is heavily dependent on coal, it is advised to further promote development of renewable energy sources and facilitate implementation of energy efficiency programme.