14. ANNEX T

CONTRACTING PARTIES’ TRANSITIONAL MEASURES
(IN ACCORDANCE WITH ARTICLE 32(1))

List of Contracting Parties entitled to transitional arrangements

Albania
Armenia
Azerbaijan
Belarus *
Bulgaria
Croatia
The Czech Republic
Estonia
Georgia
Hungary
Kazakhstan
Kyrgyzstan
Latvia
Lithuania
Moldova
Poland
Romania
The Russian Federation *

Slovakia
Slovenia
Tajikistan
Turkmenistan
Ukraine
Uzbekistan

List of provisions subject to transitional arrangements

Article 6(2)
Article 6(5)
Article 7(4)
Article 9(1)
Article 10(7)
Article 14(1)(d)
Article 20(3)
Article 22(3)

* Denotes State for which ratification of the Energy Charter Treaty is still pending as of September 2004.

Editor’s Note: The Transitional Measures have now been phased-out and Annex T has been retained in this booklet for transparency.
ARTICLE 6(2)

“Each Contracting Party shall ensure that within its jurisdiction it has and enforces such laws as are necessary and appropriate to address unilateral and concerted anti-competitive conduct in Economic Activity in the Energy Sector.”

COUNTRY: ALBANIA

Sector: All energy sectors.
Level of Government: National.
Description: There is no law on protection of competition in Albania. The law No 7746 of 28 July 1993 on Hydrocarbons and the law No 7796 of 17 February 1994 on Minerals do not include such provisions. There is no law on electricity which is in the stage of preparation. This law is planned to be submitted to the Parliament by the end of 1996. In these laws Albania intends to include provisions on anti-competitive conduct.

COUNTRY: ARMENIA

Sector: All energy sectors.
Level of Government: National.
Description: At present a state monopoly exists in Armenia in most energy sectors. There is no law on protection of competition, thus the rules of competition are not yet being implemented. There are no laws on energy. The draft laws on energy are planned to be submitted to the Parliament in 1994. The laws are envisaged to include provisions on anti-competitive behaviour, which would be harmonized with the EC legislation on competition.

COUNTRY: AZERBAIJAN

Sector: All energy sectors.
Level of Government: National.
Description: The anti-monopoly legislation is at the stage of elaboration.
Phase-out: 1 January 2000.
COUNTRY: BELARUS

Sector: All energy sectors.
Level of Government: National.
Description: Anti-monopoly legislation is at the stage of elaboration.
Phase-out: 1 January 2000.

COUNTRY: GEORGIA

Sector: All energy sectors.
Level of Government: National.
Description: Laws on demonopolization are at present at the stage of elaboration in Georgia and that is why the State has so far the monopoly for practically all energy sources and energy resources, which restricts the possibility of competition in the energy and fuel complex.

COUNTRY: KAZAKHSTAN

Sector: All energy sectors.
Level of Government: National.
Description: The law on Development of Competition and Restriction of Monopolistic Activities (No 656 of 11 June 1991) has been adopted, but is of a general nature. It is necessary to develop the legislation further, in particular by means of adopting relevant amendments or adopting a new law.

COUNTRY: KYRGYZSTAN

Sector: All energy sectors.
Level of Government: National.
Description: The law on Anti-monopoly Policies has already been adopted. The transitional period is needed to adapt provisions of this law to the energy sector which is now strictly regulated by the state.
COUNTRY: MOLDOVA

Sector: All energy sectors.
Level of Government: National.
Description: The law on Restriction of Monopolistic Activities and Development of Competition of 29 January 1992 provides an organizational and legal basis for the development of competition, and of measures to prevent, limit and restrict monopolistic activities; it is oriented towards implementing market economy conditions. This law, however, does not provide for concrete measures of anti-competitive conduct in the energy sector, nor does it cover completely the requirements of Article 6.

In 1995 drafts of a law on Competition and a State Programme of Demonopolization of the Economy will be submitted to the Parliament. The draft law on Energy which will be also submitted to the Parliament in 1995 will cover issues on demonopolization and development of competition in the energy sector.


COUNTRY: ROMANIA

Sector: All energy sectors.
Level of Government: National.
Description: The rules of competition are not yet implemented in Romania. The draft law on Protection of Competition has been submitted to the Parliament and is scheduled to be adopted during 1994.

The draft contains provisions with respect to anti-competitive behaviour, harmonized with the EC’s law on Competition.

Phase-out: 31 December 1996.

COUNTRY: THE RUSSIAN FEDERATION

Sector: All energy sectors.
Level of Government: The Federation.
Description: A comprehensive framework of anti-monopoly legislation has been created in the Russian Federation but other legal and organizational measures to prevent, limit or suppress monopolistic activities and unfair competition will have to be adopted and in particular in the energy sector.

COUNTRY: SLOVENIA

Sector: All energy sectors.
Level of Government: National.
Description: Law on Protection of Competition adopted in 1993 and published in Official Journal No 18/93 treats anti-competitive conduct generally. The existing law also provides for conditions for the establishment of competition authorities. At present the main competition authority is the Office of Protection of Competition in the Ministry of Economic Relations and Development. With regard to importance of energy sector a separate law in this respect is foreseen and thus more time for full compliance is needed.

COUNTRY: TAJIKISTAN

Sector: All energy sectors.
Level of Government: National.
Description: In 1993 Tajikistan passed the law on Demonopolization and Competition. However, due to the difficult economic situation in Tajikistan, the jurisdiction of the law has been temporarily suspended.

COUNTRY: TURKMENISTAN

Sector: All energy sectors.
Level of Government: National.
Description: Under the Ruling of the President of Turkmenistan No 1532 of 21 October 1993 the Committee on Restricting Monopolistic Activities has been established and is acting now, the function of which is to protect enterprises and other entities from monopoly conduct and practices and to promote the formation of market principles on the basis of the development of competition and entrepreneurship.
Further development of legislation and regulations is needed which would regulate anti-monopoly conduct of enterprises in the Economic Activity in the Energy Sector.
COUNTRY: UZBEKISTAN

Sector: All energy sectors.
Level of Government: National.
Description: The law on Restricting Monopoly Activities has been adopted in Uzbekistan and has been in force since July 1992. However, the law (as is specified in article 1, paragraph 3) does not extend to the activities of enterprises in the energy sector.

ARTICLE 6(5)

“If a Contracting Party considers that any specified anti-competitive conduct carried out within the Area of another Contracting Party is adversely affecting an important interest relevant to the purposes identified in this Article, the Contracting Party may notify the other Contracting Party and may request that its competition authorities initiate appropriate enforcement action. The notifying Contracting Party shall include in such notification sufficient information to permit the notified Contracting Party to identify the anti-competitive conduct that is the subject of the notification and shall include an offer of such further information and cooperation as that Contracting Party is able to provide. The notified Contracting Party or, as the case may be, the relevant competition authorities may consult with the competition authorities of the notifying Contracting Party and shall accord full consideration to the request of the notifying Contracting Party in deciding whether or not to initiate enforcement action with respect to the alleged anti-competitive conduct identified in the notification. The notified Contracting Party shall inform the notifying Contracting Party of its decision or the decision of the relevant competition authorities and may if it wishes inform the notifying Contracting Party of the grounds for the decision. If enforcement action is initiated, the notified Contracting Party shall advise the notifying Contracting Party of its outcome and, to the extent possible, of any significant interim development.”

COUNTRY: ALBANIA

Sector: All energy sectors.
Level of Government: National.
Description: In Albania there are no established institutions to enforce the competition rules. Such institutions will be provided for in the law on the Protection of Competition which is planned to be finalized in 1996.
COUNTRY: ARMENIA

Sector: All energy sectors.
Level of Government: National.
Description: Institutions to enforce the provisions of this paragraph have not been established in Armenia. The laws on Energy and Protection of Competition are planned to include provisions to establish such institutions.

COUNTRY: AZERBAIJAN

Sector: All energy sectors.
Level of Government: National.
Description: Anti-monopoly authorities shall be established after the adoption of anti-monopoly legislation.
Phase-out: 1 January 2000.

COUNTRY: BELARUS

Sector: All energy sectors.
Level of Government: National.
Description: Anti-monopoly authorities shall be established after the adoption of anti-monopoly legislation.
Phase-out: 1 January 2000.

COUNTRY: GEORGIA

Sector: All energy sectors.
Level of Government: National.
Description: Laws on demonopolization are at present at the stage of elaboration in Georgia and that is why there are no competition authorities established yet.
COUNTRY: KAZAKHSTAN

Sector: All energy sectors.
Level of Government: National.
Description: An Anti-monopoly Committee has been established in Kazakhstan, but its activity needs improvement, both from legislative and organizational points of view, in order to elaborate an effective mechanism handling the complaints on anti-competitive conduct.

COUNTRY: KYRGYZSTAN

Sector: All energy sectors.
Level of Government: National.
Description: There is no mechanism in Kyrgyzstan to control the anti-competitive conduct and the relevant legislation. It is necessary to establish relevant anti-monopoly authorities.

COUNTRY: MOLDOVA

Sector: All energy sectors.
Level of Government: National.
Description: The Ministry of Economy is responsible for the control of competitive conduct in Moldova. Relevant amendments have been made to the law on Breach of Administrative Rules, which envisage some penalties for violating rules of competition by monopoly enterprises.

The draft law on Competition which is now at the stage of elaboration will have provisions on the enforcement of competition rules.
COUNTRY: ROMANIA

Sector: All energy sectors.
Level of Government: National.
Description: Institutions to enforce the provisions of this paragraph have not been established in Romania.

The Institutions charged with the enforcement of competition rules are provided for in the draft law on Protection of Competition which is scheduled to be adopted during 1994. The draft also provides a period of nine months for enforcement, starting with the date of its publication.

According to the Europe Agreement establishing an association between Romania and the European Communities, Romania was granted a period of five years to implement competition rules.


COUNTRY: TAJIKISTAN

Sector: All energy sectors.
Level of Government: National.
Description: Tajikistan has adopted laws on Demonopolization and Competition, but institutions to enforce competition rules are in the stage of development.


COUNTRY: UZBEKISTAN

Sector: All energy sectors.
Level of Government: National.
Description: The law on Restricting Monopoly Activities has been adopted in Uzbekistan and has been in force since July 1992. However, the law (as is specified in article 1, paragraph 3) does not extend to the activities of the enterprises in the energy sector.


ARTICLE 7(4)

“In the event that Transit of Energy Materials and Products cannot be achieved on commercial terms by means of Energy Transport Facilities the Contracting Parties shall not place obstacles in the way of new capacity being established, except as may be otherwise provided in applicable legislation which is consistent with paragraph (1).”
COUNTRY: AZERBAIJAN

Sector: All energy sectors.
Level of Government: National.
Description: It is necessary to adopt a set of laws on energy, including licensing procedures regulating transit. During a transition period it is envisaged to build and modernize power transmission lines, as well as generating capacities with the aim of bringing their technical level to the world requirements and adjusting to conditions of a market economy.

COUNTRY: BELARUS

Sector: All energy sectors.
Level of Government: National.
Description: Laws on energy, land and other subjects are being worked out at present, and until their final adoption, uncertainty remains as to the conditions for establishing new transport capacities for energy carriers in the territory of Belarus.

COUNTRY: BULGARIA

Sector: All energy sectors.
Level of Government: National.
Description: Bulgaria has no laws regulating Transit of Energy Materials and Products. An overall restructuring is ongoing in the energy sector, including development of institutional framework, legislation and regulation.
Phase-out: The transitional period of 7 years is necessary to bring the legislation concerning the Transit of Energy Materials and Products in full compliance with this provision.

1 July 2001.
COUNTRY: GEORGIA

Sector: All energy sectors.
Level of Government: National.
Description: It is necessary to prepare a set of laws on the matter. At present there are substantially different conditions for the transport and transit of various energy sources in Georgia (electric power, natural gas, oil products, coal).

COUNTRY: HUNGARY

Sector: Electricity industry.
Level of Government: National.
Description: According to the current legislation establishment and operation of high-voltage transmission lines is a state monopoly.

The creation of the new legal and regulatory framework for establishment, operation and ownership of high-voltage transmission lines is under preparation.

The Ministry of Industry and Trade has already taken the initiative to put forward a new Act on Electricity Power, that will have its impact also on the Civil Code and on the Act on Concession. Compliance can be achieved after entering in force of the new law on Electricity and related regulatory decrees.
Phase-out: 31 December 1996.

COUNTRY: POLAND

Sector: All energy sectors.
Level of Government: National.
Description: Polish law on Energy, being in the final stage of coordination, stipulates for creating new legal regulations similar to those applied by free market countries (licenses to generate, transmit, distribute and trade in energy carriers). Until it is adopted by the Parliament a temporary suspension of obligations under this paragraph is required.
ARTICLE 9(1)

“The Contracting Parties acknowledge the importance of open capital markets in encouraging the flow of capital to finance trade in Energy Materials and Products and for the making of and assisting with regard to Investments in Economic Activity in the Energy Sector in the Areas of other Contracting Parties, particularly those with economies in transition. Each Contracting Party shall accordingly endeavour to promote conditions for access to its capital market by companies and nationals of other Contracting Parties, for the purpose of financing trade in Energy Materials and Products and for the purpose of Investment in Economic Activity in the Energy Sector in the Areas of those other Contracting Parties, on a basis no less favourable than that which it accords in like circumstances to its own companies and nationals or companies and nationals of any other Contracting Party or any third state, whichever is the most favourable.”

COUNTRY: AZERBAIJAN

Sector: All energy sectors.
Level of Government: National.
Description: Relevant legislation is at the stage of elaboration.
Phase-out: 1 January 2000.

COUNTRY: BELARUS

Sector: All energy sectors.
Level of Government: National.
Description: Relevant legislation is at the stage of elaboration.
Phase-out: 1 January 2000.

COUNTRY: GEORGIA

Sector: All energy sectors.
Level of Government: National.
Description: Relevant legislation is at the stage of preparation.
COUNTRY: KAZAKHSTAN

Sector: All energy sectors.
Level of Government: National.
Description: The bill on Foreign Investments is at the stage of authorization approval with the aim to adopt it by the Parliament in autumn 1994.

COUNTRY: KYRGYZSTAN

Sector: All energy sectors.
Level of Government: National.
Description: Relevant legislation is currently under preparation.

ARTICLE 10(7) - SPECIFIC MEASURES

“Each Contracting Party shall accord to Investments in its Area of Investors of another Contracting Party, and their related activities including management, maintenance, use, enjoyment or disposal, treatment no less favourable than that which it accords to Investments of its own Investors or of the Investors of any other Contracting Party or any third state and their related activities including management, maintenance, use, enjoyment or disposal, whichever is the most favourable.”

COUNTRY: BULGARIA

Sector: All energy sectors.
Level of Government: National.
Description: Foreign persons may not acquire property rights over land.
A company with more than fifty per cent of foreign person’s share may not acquire property right over agricultural land;
Foreigners and foreign legal persons may not acquire property rights over land except by way of inheritance according to the law. In this case they have to make it over;
A foreign person may acquire property rights over buildings, but without property rights over the land;
Foreign persons or companies with foreign controlling participation must obtain a permit before performing the following activities:
- exploration, development and extraction of natural resources from the territorial sea, continental shelf or exclusive economic zone;
- acquisition of real estate in geographic regions designated by the Council of Ministers.
- The permits are issued by the Council of Ministers or by a body authorized by the Council of Ministers.


ARTICLE 14(1)(D)

“Each Contracting Party shall with respect to Investments in its Area of Investors of any other Contracting Party guarantee the freedom of transfer into and out of its Area, including the transfer of:

unspent earnings and other remuneration of personnel engaged from abroad in connection with that Investment;”

COUNTRY: BULGARIA

Sector: All energy sectors.
Level of Government: National.
Description: Foreign nationals employed by companies with more than 50 per cent of foreign participation, or by a foreign person registered as sole trader or a branch or a representative office of a foreign company in Bulgaria, receiving their salary in Bulgarian leva, may purchase foreign currency not exceeding 70 per cent of their salary, including social security payments.

COUNTRY: HUNGARY

Sector: All energy sectors.
Level of Government: National.
Description: According to the Act on Investments of Foreigners in Hungary, article 33, foreign top managers, executive managers, members of the Supervisory Board and foreign employees may transfer their income up to 50 per cent of their aftertax earnings derived from the company of their employment through the bank of their company.
Phase-out: The phase out of this particular restriction depends on the progress Hungary is able to make in the implementation of the foreign exchange liberalization programme whose final target is the full convertibility of the Forint. This restriction does not create barriers to foreign investors. Phase-out is based on stipulations of Article 32.
1 July 2001.

ARTICLE 20(3)

“Each Contracting Party shall designate one or more enquiry points to which requests for information about the above mentioned laws, regulations, judicial decisions and administrative rulings may be addressed and shall communicate promptly such designation to the Secretariat which shall make it available on request.”

COUNTRY: ARMENIA

Sector: All energy sectors.
Level of Government: National.
Description: In Armenia there are no official enquiry points yet to which requests for information about the relevant laws and other regulations could be addressed. There is no information centre either. There is a plan to establish such a centre in 1994-1995. Technical assistance is required.
Phase-out: 31 December 1996.
COUNTRY: AZERBAIJAN

Sector: All energy sectors.
Level of Government: National.
Description: There are no official enquiry points so far in Azerbaijan to which requests for information about relevant laws and regulations could be addressed. At present such information is concentrated in various organizations.

COUNTRY: BELARUS

Sector: All energy sectors.
Level of Government: National.
Description: Official enquiry offices which could give information on laws, regulations, judicial decisions and administrative rulings do not exist yet in Belarus. As far as the judicial decisions and administrative rulings are concerned there is no practice of their publishing.

COUNTRY: KAZAKHSTAN

Sector: All energy sectors.
Level of Government: National.
Description: The process of establishing enquiry points has begun. As far as the judicial decisions and administrative rulings are concerned they are not published in Kazakhstan (except for some decisions made by the Supreme Court), because they are not considered to be sources of law. To change the existing practice will require a long transitional period.

COUNTRY: MOLDOVA

Sector: All energy sectors.
Level of Government: National.
Description: It is necessary to establish enquiry points.
COUNTRY: THE RUSSIAN FEDERATION

Sector: All energy sectors.
Description: No official enquiry points exist in the Russian Federation as of now to which requests for information about relevant laws and other regulation acts could be addressed. As far as the judicial decisions and administrative rulings are concerned they are not considered to be sources of law.

COUNTRY: SLOVENIA

Sector: All energy sectors.
Level of Government: National.
Description: In Slovenia there are no official enquiry points yet to which requests for information about relevant laws and other regulatory acts could be addressed. At present such information is available in various ministries. The Law on Foreign Investments which is under preparation foresees establishment of such an enquiry point.

COUNTRY: TAJIKISTAN

Sector: All energy sectors.
Level of Government: National.
Description: There are no enquiry points yet in Tajikistan to which requests for information about relevant laws and other regulations could be addressed. It is only a question of having available funding.
COUNTRY: UKRAINE

Sector: All energy sectors.
Level of Government: National.
Description: Improvement of the present transparency of laws up to the level of international practice is required. Ukraine will have to establish enquiry points providing information about laws, regulations, judicial decisions and administrative rulings and standards of general application.

ARTICLE 22(3)

“Each Contracting Party shall ensure that if it establishes or maintains a state entity and entrusts the entity with regulatory, administrative or other governmental authority, such entity shall exercise that authority in a manner consistent with the Contracting Party’s obligations under this Treaty.”

COUNTRY: THE CZECH REPUBLIC

Sector: Uranium and nuclear industries.
Level of Government: National.
Description: In order to deplete uranium ore reserves that are stocked by Administration of State Material Reserves, no imports of uranium ore and concentrates, including uranium fuel bundles containing uranium of non-Czech origin, will be licensed.