



BUILDING ENERGY SECURITY FOR THE WIDER EUROPE

Address by Dr. Ria Kemper

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Mr Chairman, distinguished delegates, it is a great pleasure for me to be here in Moldova, on my first visit to your country in my capacity as Secretary General of the Energy Charter Secretariat. I also welcome the opportunity to participate in this International Conference, and to present a perspective from the Energy Charter on energy security in the wider Europe.

I would like in my presentation to address two main issues, which I believe are of key relevance to Moldova. Firstly, I will look at the way that international rules on investment and cross-border energy flows contribute to Eurasian energy security, and how the framework provided by the Energy Charter Treaty is of direct benefit to Moldova.

Secondly, I will examine the same issue from the 'demand' side, by looking at energy efficiency as a key policy objective that can contribute to a country's energy security. In this regard, I shall refer to the Energy Charter's in-depth review of Moldova's energy efficiency policies and programmes, which was completed last year.

On the first point, it is well known that Europe as a whole is becoming increasingly reliant upon imported energy. This has traditionally been the case for oil, but it applies also to natural gas as this fuel looks set to take an increasing share of Europe's primary energy supply. For Moldova, this dependence upon imported energy is already a fact of life, and so you are used to asking the question that is increasingly being asked in Brussels and in other European capitals: how can we ensure long-term security of supply from external producer regions?

One answer to this question is to take a broad perspective and to look at Eurasia as a whole. From this vantage point, we can see that this region includes very significant reserves of oil and gas, primarily in the Russian Federation and in the countries of the Caspian and Central Asia. These producer states are looking to attract investments into their energy sectors in order to secure the development of long-term production, transportation and refining capacity. More generally, many economies in transition need to attract capital flows in order to support the modernisation of their energy infrastructure, including generation and transmission of electricity, and also in order to improve energy efficiency. This is notably the case for Moldova.

From this perspective, it is possible to discern across Eurasia a pattern of complementary interests in investment and cross-border energy supply. In turn, this creates a strong rationale for international cooperation, since states can work together to promote mutually beneficial flows of investment capital and energy.

Such a common framework is useful because, if we look at energy markets and legislative developments at national level in different countries across Eurasia, what we see in practice is a wide discrepancy between different parts of the Eurasian space. On the one hand, we have a process led by the European Union to create a liberalised and competitive internal European market for gas and for electricity, including, in relation to cross-border supply, mandatory third party access to networks, and market-based tariffs. I welcome the fact that Moldova is demonstrating its interest in this model through its observer status in the Energy Community of South-East Europe.

On the other hand, in parts of Eastern Europe and across the Caspian and Central Asia, we observe a situation characterised in some areas by uncertain conditions for investment and network access, more limited supply competition and a very high concentration of market power in the hands of a few large producers.

The constituency of the Energy Charter extends across this diverse landscape, and a core aim of the founders of the Charter process in the early 1990s was to identify and promote balanced solutions to our common energy needs – based on rules for investments and cross-border energy flows to which all parties could subscribe. The result of this initiative was the 1994 Energy Charter Treaty, which has been signed by fifty-one states across Europe and Asia. Moldova was an original signatory of this Treaty and one of the first countries to complete the process of ratification.

The approach taken by the Energy Charter Treaty rests upon the assumption that the bulk of investments in the energy sector will be made not by governments, but by commercially-motivated investors on the basis of an assessment of the risks and opportunities involved. The Treaty does not dictate the structure of energy markets that any given government should choose, or the extent to which its energy sector will be opened to foreign

investors. That is the sovereign decision of each state. However, once a foreign investment in the energy sector is made in line with national legislation, then it falls under the protection of the Treaty.

A distinctive feature of investments in the energy sector is that they are often highly capital-intensive and require a long-term commitment from both the investor and the host government. The Treaty supports this commitment by protecting the investment against important non-commercial risks such as discriminatory treatment, direct or indirect expropriation, and the breach of individual investment contracts. In this way, the Treaty helps to promote a climate of stability and predictability that is a necessary condition for major investment decisions.

If a government fails to meet its obligations towards foreign investors under the Treaty, then investors have the right to take the host country to international arbitration. Thus far, the Secretariat is aware of six cases that have been brought by private investors in this way, and two of these have so far been subject to binding arbitral awards.

I am pleased to report that none of these cases involves Moldova, but they are nonetheless significant for your country because they demonstrate that the Treaty's provisions are effective and enforceable. As such, I hope that they provide persuasive encouragement for all Contracting Parties to observe their Treaty obligations, or to reach amicable settlements on the basis of dialogue with investors if and when a potential problem arises.

A critical factor in many investment decisions in the energy sector, most obviously for exploration and production projects, is the ability to deliver the resulting energy product to paying markets. For this reason, the Treaty is innovative in covering the entire investment cycle, including not only the protection of investments within a given country but also the terms under which energy is traded or transported across national borders.

The Treaty is uniquely well placed to tackle the issue of cross-border energy flows because of its broad geographical reach across Europe and Asia. It is self-evident that a reliable regime for trade and transit across such a large area must be based on common standards that are accepted by all countries on a multilateral basis.

The current Treaty provisions oblige participating states to take all necessary measures to facilitate transit of energy, as well as to co-operate in order to mitigate the effects of interruptions in energy supply. Measures to facilitate transit must be taken on a non-discriminatory basis, and without imposing any unreasonable delays, restrictions or charges.

Transit countries are also under an obligation not to interrupt or reduce existing transit flows, even if they have disputes with another country concerning this transit. In such cases, they have the possibility to invoke a special, rapid conciliation procedure, under which an

independent conciliator is empowered to fix interim transit tariffs for up to twelve months if the parties to the dispute fail to reach an agreement.

These rules came into force in 1998 as part of the existing Treaty. However, experience showed that the issue of transit across Eurasia remained an area of concern, particularly for landlocked energy producers in the Caspian and in Central Asia. The Energy Charter's member states therefore took the decision to start negotiations on a new legal instrument, known as the Transit Protocol, which is intended to provide more detail on specific operational issues relating to energy transit. Regrettably this instrument remains unfinished, because of a small number of matters that remain subject to agreement between the European Union and the Russian Federation.

However, I would like to emphasise the large degree of consensus that has already been reached on the bulk of the draft text: in its current form, the draft Protocol would strengthen the obligations on governments to ensure that energy flows passing through their territory in transit are secure, unimpeded and not interrupted. It would make transparent the criteria that are used for setting transit tariffs, and allow for negotiations on access to available capacity for transit shipments on a transparent and non-discriminatory basis, without, however, imposing mandatory third party access. It would also promote the effective settlement of transit disputes, and prohibit the illegal taking of energy resources in transit.

For Moldova, I believe that participation in the Energy Charter process is an important instrument for achieving the objectives set out your Energy Strategy for the period 2000-2010. It provides a framework that can enhance the security and diversity of your energy supply, and encourage foreign investment in your energy sector. It is fully complementary with Moldova's aim to participate in the Energy Community of South-East Europe, and to bring its legislation progressively into line with that of the European internal energy market. Moreover, as I shall elaborate in a moment, it also assists in another priority area: the need for energy conservation and mitigation of the environmental impact of energy use.

Mr Chairman, I started this presentation with the well-known observation that Moldova is highly dependent on external supplies of energy. In this context, the 'demand' side of the energy equation is an area where national policy measures can have a significant and direct impact on overall energy security.

The Energy Charter process helps in this context by providing a policy forum in which leading OECD states and countries with economies in transition can share their experience and advice. Our work in this area is based on the Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects, which requires its participating states to formulate policy aims for

improving energy efficiency and reducing the energy cycle's negative environmental impact.

Moldova underwent an 'in-depth' review of its energy efficiency policies within the Charter framework in 2004, and I am very grateful to the Moldovan authorities and other organisations represented here for their excellent cooperation with the review team, comprising experts from Denmark, the Slovak Republic, Romania, Ukraine and from the Energy Charter Secretariat, during their visit to Chisinau last year.

The review and its findings were presented and discussed among our member states in our Working Group on Energy Efficiency, and specific recommendations regarding possible improvements to Moldova's energy efficiency strategy were adopted by our governing body, the Energy Charter Conference, in June 2004. I am pleased that this report is also available in printed form, in Russian and in English, and that it has been made available to all participants here today.

The review welcomed the high priority that energy conservation measures enjoy in Moldova's overall energy strategy, including the ambitious national objective to reduce the energy intensity of Moldova's gross domestic product by 2-3% every year. At the same time, it concluded that achieving these goals in practice would require concerted and coordinated actions across different parts of the government.

The review makes clear that actions to improve energy efficiency and to promote local sources of energy can play a significant role in enhancing Moldova's overall energy security, through a progressive reduction in the country's huge dependence on imported energy supplies. This in turn would assist in mitigating the problem of external indebtedness, which has been a major fiscal issue for the national economy.

Examining the options, the review encourages the Moldovan authorities to investigate the opportunities for domestic and renewable sources of energy supply. Given Moldova's agricultural sector, there may be viable opportunities for the use of biomass and also the possibility to introduce solar panels for heating purposes in some areas. Clearly, any such initiatives will have to be coordinated with the implementation of the national gasification programme that was approved in 2002.

In relation to the wider question of energy efficiency, the starting point is that energy consumption per capita in Moldova is among the lowest in Europe, and there is no scope to aim for a reduction in energy use, especially in the residential sector. Rather, the aim should be to integrate efforts to enhance energy efficiency into the overall strategy for sustainable economic development, so that improvements in energy efficiency go hand in hand with improvements in overall welfare. This will require a strong degree of coordination across a number of areas of government and government policy, and the development of sectoral programmes in key areas.

Finally, I would like to comment on the difficult issue of financing. It is clear that resources from the national state budget are limited in Moldova. Nonetheless, I would make the observation that the realisation of the government's National Energy Conservation Programme will not be possible unless there is an institution with the necessary human and financial resources to implement it. I would therefore encourage the Government of Moldova to strengthen the institutional capacity and resource allocations in relation to energy efficiency, to bring them into line with the stated political ambitions in this area.

Overall, I believe that this process of peer review through the Energy Charter process offers substantial benefits for countries seeking to create a more efficient, sustainable and diversified basis for developing their national energy policies. Our contribution in this area constitutes an important addition to the role of other organisations, such as the European Union, the EBRD, the World Bank and the IEA. We remain committed to close interaction with all of these partners in order to maximise the assistance that the international community can provide in promoting energy efficiency and sustainable development.

Mr Chairman, by way of conclusion I would like to look ahead at the prospects for our collective energy security in the years to come. As of today, there are few signs that fossil fuels will be displaced from their dominant position in the global energy mix in the short to medium term; on the contrary, the demand for oil is likely to increase as it has in the past, but there will be an even stronger increase in demand for natural gas. Over the three decades to 2030, world energy demand will rise by some 60% and this will create new challenges, not least for the global environment.

Many commentators suppose that a likely result will be an increasingly competitive and politicized environment for the conduct of international energy policy, with the interrelation between energy policy and foreign and security policy becoming ever closer.

However, I would like to point to an alternative possibility, in which cooperation – rather than competition – is the dominant theme. The Kyoto Protocol is an example of such a cooperative mechanism; the existence of the Energy Charter Treaty is another framework in which governments of both producer, transit and consumer countries have recognised their complementary interests and come together to agree some essential "rules of the game". I firmly believe that the strategic importance of secure multilateral arrangements for investment and cross-border flows, and also of the priority to improve the efficiency of energy use, is only likely to increase.

This is an important reason why the Energy Charter process has welcomed such countries as China, the Republic of Korea, Iran and the Association of Southeast Asian Nations (ASEAN) as observers in recent years. Indeed, next week I will be addressing a Conference in

Northeast Asia, where there is considerable interest in the Energy Charter framework as a means to promote regional energy cooperation. I believe that this is a positive sign of the prospects for our collective energy security.

Thank you for your attention, Mr Chairman, and allow me to wish you and all of the participants every success for this Conference.