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The Energy Charter Treaty & Regional Frameworks

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The views expressed in this presentation are those of the author only and not necessarily of the Energy Charter Secretariat or any party to the Energy Charter Treaty



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. Entry into force by April 1998

The Energy Charter Process



Dispute Settlement

Investment

Trade

Transit

**Energy
Efficiency**

**Energy Charter Treaty
European Energy Charter**



What does ECT provide for?

- Basic principles
 - First multilateral investment agreement
 - Energy sector-specific
 - Principle of non-discrimination/national treatment/MFN for established investments
 - Best endeavour clause for investments in the making
 - Respect for sovereignty over natural resources
 - A discussion forum for energy investment issues
 - Privatization not required
 - Aims at establishing a level playing field
 - Designed to take out political/legal risks associated with energy investments
 - Critical for investments and therefore for energy security



Main features of the ECT

- **Principle of non-discrimination**
 - Most Favored Nation (MFN) clause
 - National treatment clause
 - Fair and equitable treatment clause
 - The most constant protection principle
- **Security of investments**
- Security for investors through settlement of dispute mechanisms, including binding international arbitration
- **Binding investment arbitration**
- **Conclusion: ultimate goal of securing a level playing field to promote energy investments**



Dispute Resolution Procedures

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

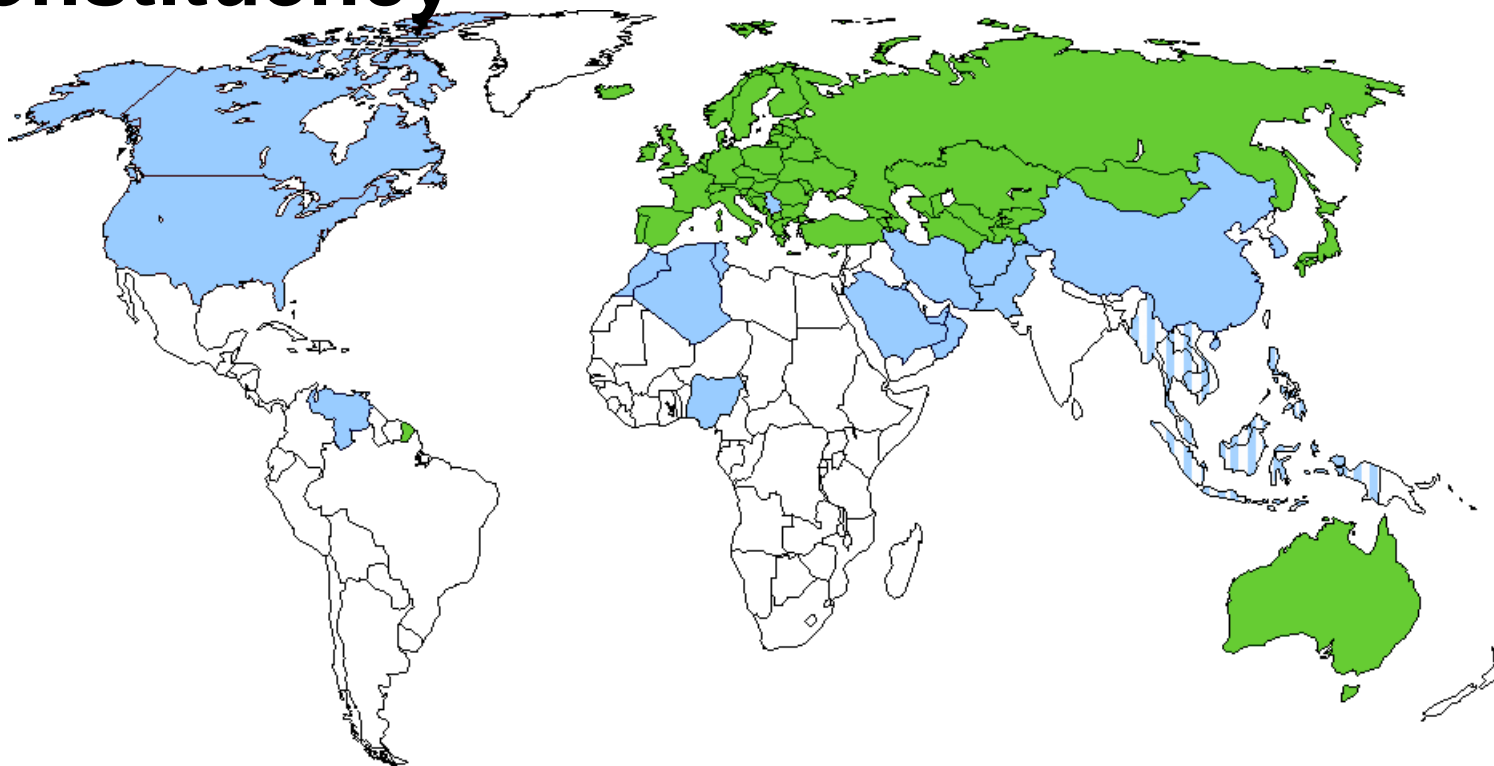


ECT and the regional framework approach

- **ECT: The first multilateral framework established under international law**
 - **Wide and diverse geographic coverage: 51 states party to the ECT, including, *inter alia*, the EU, Russian Federation, Australia and Turkey (see the slide below for geographic coverage)**
- **Broader context for energy security**
- **Possible synergies with regional frameworks, including the South East Europe Regional Energy Market Initiative**



Energy Security Visible via Geographic Coverage of the Energy Charter Constituency



■ Member Countries

■ Observers