

International Affairs

**A Russian Journal of World Politics,
Diplomacy and International Relations**

In This Issue

Russia and the "Great Recession"

President Obama: A Year in the White House

The Korean Nuclear Problem

China's Integration Into the Global Economy

BRIC as a New Form of Multilateral Diplomacy

Russian Natural Gas and Global Energy

Did Stalin Want to Join NATO?



\$10.50 US / \$12.95 CAN

International Affairs

VOLUME 56

NUMBER 2, 2010

CONTENTS

GOLDEN COLLECTION

Croatia: Ten Years of Change *Stjepan Mešić* 1

WORLD ISSUES

The CIS in 2009: Achievements, Issues, Prospects *A. Denisov* 11

President Obama: A Year in the White House *M. Bragin* 23

OSCE: A Time for Change? *A. Azimov* 32

The Model of China's Integration Into the Global Economy *D. Kouzmine* 41

The Korean Nuclear Problem *M. Sharko* 57

EDITOR-IN-CHIEF'S COLUMN

Did Stalin Want to Join NATO? *A. Oganesyanyan* 67

ENERGY AND GLOBAL POLITICS

Iraq: A Key Section of the World's Energy "Solar Plexus" *Yu. Shafranik* 71

Russian Natural Gas and Global Energy *A. Medvedev* 78

Why Is Russia Opting Out of the Energy Charter? *A. Konoplyanik* 84

ROUND TABLE DISCUSSION

BRIC as a New Form of Multilateral Diplomacy

*L. Kadyshchev, N. Kosolapov, P. Kuprikov, A. Makushkin,
L. Okuneva, A. Orlov, I. Timofeev, A. Schetinin* 97

COMMENTARY AND ESSAYS

Russia and the “Great Recession”	<i>E. Shadrina, Lúcio Vinhas de Souza</i>	113
Copenhagen-2009	<i>T. Avdeeva</i>	130
Russia’s Image in the German Media	<i>I. Kravchenko</i>	146
Priorities in Modernizing Russia’s Diplomacy	<i>V. Likhachev</i>	157
Historical Politics or Politicized Memory	<i>A. Dyukov</i>	165

RUSSIA AND OTHER NATIONS

Vietnam: Pages From the Past, a Look Into the Future	<i>Pham Gia Khiem</i>	177
Indonesia: A History of Ups and Downs	<i>M. Galuzin</i>	182
Mexico: “The Potential of Our Relations Is Very Big”	<i>Lourdes Aranda Bezaury</i>	193

INTERVIEW

Holy Places of the Holy Land	<i>S. Stepashin</i>	201
-------------------------------------	---------------------	-----

RUSSIAN WORLD

Moscow Is the Heart of the Russian World	<i>Yu. Luzhkov</i>	206
---	--------------------	-----

OPINIONS

Yalta, February 1945: Beginning of a New World?	<i>M. Narinsky, A. Dugin, V. Oleandrov, I. Panarin</i>	210
--	--	-----

HISTORY AND MEMOIRS

He Was Equal to Suvorov	<i>A. Vorobiev, N. Vorobieva</i>	220
Russia and Finland in 1917-1920	<i>L. Molchanov</i>	228

BOOK REVIEW

A. Kh. Vezirov. <i>My Diplomatic Service</i> (in Russian)	<i>B. Piadyshev</i>	238
--	---------------------	-----

Why Is Russia Opting Out of the Energy Charter?

A. Konoplyanik

ON 30 JULY 2009, Prime Minister Vladimir Putin signed government order No. 1055-r discontinuing the provisional application by the Russian Federation of the Energy Charter Treaty (ECT).¹ On August 24, in accordance with Article 45 (3-a) of the ECT, Russia notified in writing the Charter Depositary (the government of Portugal) of its intention not to become a party to the ECT. Sixty days later, Russia ceased to be a party provisionally applying the ECT. As of October 20, it became (alongside Australia, Iceland, and Norway) a nation that has signed but not ratified the Treaty and does not apply it on a provisional basis, that is to say, it has taken “a step back” while remaining within the Charter process nonetheless.

Russia's Criticism of ECT in Chronological Order

CRITICISM OF THE ECT/CHARTER by Russia's top leaders was mounting consistently in January through June of 2009. The first serious criticism of the ECT at this level came amid the gas dispute between Russia and Ukraine in January. The cause for criticism was the violation by Ukraine of the ECT transit provisions, the absence of appropriate reactions to these violations from the European Union and its member states and the inaction on the part of the political leaders of the Energy Charter Secretariat before and during the Russia-Ukraine gas conflict.

When President Dmitry Medvedev was meeting on 20 January 2009 with Gazprom president Aleksei Miller, he criticized the Energy Charter for failing to prevent the Russia-Ukraine gas crisis, which ended shortly before the meeting, to say that “there have to be new international mech-

Andrey Konoplyanik, Consultant to the Gazprombank Board of Governors, Professor at the Gubkin Russian Oil and Gas State University, Deputy Secretary General of the Energy Charter Secretariat (2002-2008), Doctor of Sciences (Economics), andrey.konoplyanik@gpb-ngs.ru

anisms.” The president suggested that thought had to be given to either amending the operating Energy Charter (provided the contracting parties approve the idea), or drafting a new multilateral document, or what sort of a mechanism would be right to draft in this sense and propose it to all members of the international community.²

Voicing his strong criticism aimed at the Energy Charter (actually aimed at the political leadership of the Energy Charter Secretariat), the Russian

A number of the Russian leadership’s complaints against the Energy Charter process and against its main legally binding document, the ECT, are quite sound.

president, also proposed an alternative course of action or updating the Charter (in a broad sense), or else drafting a new document. On 1 March 2009, the president proposed, in an interview to the Spanish mass media, the drafting of a new Energy Charter, or a new version of the Energy Charter³ confirming thereby an alternative character of his proposal.

At the end of April, however, the nature of the president’s intentions changed. In Helsinki President Medvedev said that Russia intended to alter the legal basis of relationships with its energy consumers and transit countries. With regard to the Energy Charter and other documents he said “we have not ratified these documents and do not regard ourselves bound by these decisions.” The president said he was going to distribute a basic document defining the questions of international cooperation in the field of energy.⁴

The “basic document” was posted on April 21 on the Russian president’s official site. This is a five-page “Conceptual Approach to the New Legal Framework for Energy Cooperation (Goals and Principles).”⁵

The Russian president’s April initiative naturally changed the “alternative” character of criticism aimed at the ECT (either upgrade the Charter process and its documents, or develop a new set of documents) into one “leaving no alternative.” After 21 April 2009, the Russian leadership began pushing the second option – to develop a new set of documents based on Russian initiatives. Russia’s proposal to develop a new system to replace the ECT generated no special enthusiasm among potential partners. Brussels and individual EU members said that giving up on the Energy Charter was out of the question. This only stands to reason – once ECT entered into force in 1998, it became part of the system of

international law; it was signed by 51 countries, 46 of which ratified it. Twenty-three countries and ten international organizations have observer status in the Charter process.

Speaking in Sofia on 29 April 2009, Prime Minister Putin said: “The Energy Charter ... has regrettably not played its expected role. The Russian Federation has always said we do not consider ourselves bound by this document, because we have not ratified it. Today we can say in no uncertain terms that we find it pointless to even retain our signature on the Charter.”⁶ President Medvedev reaffirmed the Russian position in St. Petersburg on 5 June 2009 noting that the Energy Charter cannot resolve all the problems in the international gas sphere. He said: “Has this Energy Charter helped during the course of the notorious gas conflict early this year? The procedures provided for in this Charter did not work, the stimuli it provides for did not work, and the Energy Charter Treaty was not applied. This means we need to get some other foundations to solve conflicts of this sort.”⁷

On 29 June 2009, participants in the interdepartmental conference chaired by Vice Premier Igor Sechin were informed that (despite objections from all the main government departments) it was decided to discontinue the provisional application by the Russian Federation of the Energy Charter Treaty. And then finally, on 30 July 2009, the swelling tide of criticism led to its logical conclusion – the government order to discontinue the provisional application of the ECT by Russia.

There is, however, no alternative to the ECT today, all the more reason for getting it constantly updated as world energy markets grow, instead of “rejecting” it. Nonetheless, Moscow withdrew from the provisional application of the ECT.

What Are the Possible Consequences?

FIRST, withdrawing from the provisional application of the ECT, Russia will play into the hands of anti-Russian forces in world politics which will once again argue that Russia has confirmed its reputation of a country disregarding the supremacy of law. Statements of this kind were in ample evidence of late even before the government order of July 30. Let us cite just two examples of similar publications (both appearing in the widely read *Financial Times*): the articles by Emmanuel Gaillard “Russia cannot walk away from its legal obligations” (18 August 2009) and by David Clark “Russia’s unsustainable energy model” (16 October 2009) reprint-

ed (20 October 2009) under the title "Putin's Coercive Energy Model" in *The St. Petersburg Times*.

In the economic sphere there will be enhanced risks of credits to Russia, the price of borrowing in terms of the opening credit lines will grow and the volume of credits will fall. As a result, spending on investment projects in Russia's energy sector will grow. However, the losing of prestige is costlier than the growing risks of crediting.

Second, the ECT is the only multilateral instrument to protect and encourage investments in the energy sector – the most capital-intensive and high-risk sphere of business. With the passage of time the ECT increasingly protects not only foreign investments in Russia, it will also protect (if ratified by parliament) Russian investments in other countries. It will above all protect against the "risks of liberalization" in the EU market which have increased with the passing of the Third Liberalization Package of the EU, a number of whose provisions are seen by many observers as anti-Russian. Russia thinks the ECT is not protecting well enough the interests of producers (this is a statement that has to be proved, to say the least, especially if we think of the other instruments of protection and encouragement of investments in the energy sector). However, the ECT is the highest multilateral and legally binding compromise reached by the international community today: the cumulative effect of the ECT equals the cumulative effect of 1,275 bilateral investment-protection agreements concluded between 51 states. Incidentally, the ECT will continue shielding European companies from anti-investment measures of the Third Liberalization Package of the EU, but it will no longer protect Russian companies.

Third, Russia's withdrawal from the ECT does not mean the treaty will be scrapped. Its positive aspects will simply be used (as a risk-reduction mechanism) by other countries whose costs in energy projects will drop compared to those of Russia while their competitiveness will increase. By staying away from the ECT, Russia will slip further behind, as regards the competitiveness of its energy investment projects in the ECT member countries and will not be able to have its say in formulating the rules of the game in these countries. The same thing may happen over again which happened with GATT/WTO in 1947 when the USSR was invited to participate in formulating the rules of world trade but the USSR refused to take part. The GATT rules were formulated without Soviet participation and without taking into account Soviet interests. Now we have been trying (unsuccessfully so far) to join this world club which was

formed without us.

Fourth, Russia's rejection of the ECT does not mean that Russia will succeed in having an alternative and more effective multilateral instrument created in the foreseeable future. The window of political opportunity made it possible to quickly complete the talks and sign the ECT in the early 1990s, but the window has sharply narrowed since then. Under the prevailing conditions, the ECT, even in its present form, would hardly be signed at all. Work should have continued on gradual improvement of the multifaceted process of the Energy Charter and its instruments. With this in mind, the Charter process has adaptation mechanisms built into it.

The absence in the ECT of a mechanism for the effective prevention of crisis situations and their prompt resolution and the inaction of the political leadership of the Energy Charter Secretariat shortly before the Russian-Ukrainian gas crisis was no cause to withdraw from the provisional application of the ECT but a cause to launch and take a lead in modernizing the treaty by proposing to include in it a new relevant agreement, all the more so because Gazprom already drafted this agreement. Today Russia invites the EU to sign a treaty on the prevention of emergency situations in transit on a bilateral (Russia-EU) basis. The transit emergency situation prevention mechanism will hardly be able to function efficiently without the participation of transit countries. At the same time, the mechanism proposed by Russia could be the starting point to develop an efficient mechanism at a forum of producer, consumer and transit states. The Energy Charter is the only such forum with an operating multilateral international law foundation.

Fifth, the rejection of the ECT today is not going to bring about the least semblance of its analogue tomorrow or the day after tomorrow. This means that giving up on the ECT will, on the one hand, create for Russia a zone of legal vacuum (legal insufficiency) in the highest-risk sphere of entrepreneurial activity. On the other, once the ECT entered into force in 1998 and while Russia was provisionally applying it, many Russian ministries and departments (Federal Antimonopoly Service, for one) modeled their legal rules on the legal rules of the ECT. Abandoning the ECT, Russia will still retain part of its heritage incorporated in Russian legislation. Some of Russian laws will have to be rewritten, thus creating more investment risks (this is what involved in any rewriting of any piece of legislation no matter what good intentions should guide the legislator both in Russia and in Europe, because the investors need stability of the

rules of the game above all).

At the same time, when Russia suggests that the documents made public on 21 April 2009 should “actually replace the Energy Charter” (Arkady Dvorkovich),⁸ it therefore suggests de facto that two parallel systems of legal control over international energy sector should be built, with both (as analysis of the Russian proposals shows) resting on the principles of the Energy Charter and being in full accord with its goals. It, however, does not seem possible to build two different houses at the same time on the same foundation, or, more accurately, it is impossible to add to an existing house yet another using the same foundation. It is far from being a fact therefore that Russia is likely to interest the other countries in launching a new negotiating process (aimed at getting a practical result) on the basis of Russia’s new proposals. None the less I am confident that the international community could accept as the basis Russia’s proposals in trying to adapt the Energy Charter to new realities and challenges in international energy markets (this requirement was written into the conclusions of the 2004 review of the Charter process).⁹

ECT as a Mechanism for Reducing “Risks of the Liberalization” of the EU

THE SYSTEM OF CONCLUDING international agreements between the EU and third countries makes it extremely difficult, if not impossible, to agree on terms which are not quite compatible with European law. Under Article 300 (6) of the Treaty on European Union, the European Parliament, Council and Commission and member states may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the provisions of EU law. If the Court’s opinion is adverse, the agreement may enter into force if approved by all EU members, which considerably limits the practical possibility of signing the agreement (it is virtually impossible today to secure 27+1 ratifications in the EU).

The same arrangement applies to international treaties of individual EU states: Article 133 (6) of the European Community Treaty prohibits member states from concluding treaties incompatible with EU internal legislation. Thus the EU follows a policy of exporting its legislation via the system of its international treaties. The ECT is the only instrument today that makes it possible to oppose this tendency. This of course cannot be done automatically but rather through a constant, never stopping

and often mundane technical dialogue between parties concerned, i.e. a dialogue on the professional rather than political level.

Early in the 1990s, when ECT talks were in progress, first EU energy directives were being drafted (which were passed in 1996 and 1998): there are no fundamental differences between the ECT and these directives. Since then, the EU passed new and more liberal directives (2003) and even more radical further directives (they entered into force on 3 September 2009). As a result, the gap in terms of liberalization level of "open and competitive markets" between the ECT and European energy law widened sharply.

The ECT, however, is a constituent part of EU legislation and it is applied according to the "minimal standard" principle. It means the following: in its national legislation every country can go further than what is required by the ECT, in terms of the level of competition, liberalization and nondiscrimination. In accordance with the "minimal standard" principle, however, it cannot ask the other ECT member countries do likewise, and even less, it cannot punish them for not applying more liberal than the ECT norms. Under these circumstances, withdrawing from the ECT will deny nonmembers of the EU the possibility to negotiate with the Europeans a "new world energy order" on other than EU legislation conditions.

The European Union was constantly trying to impose on Russia this interpretation of ECT provisions. This interpretation stressed the progressively liberal internal legislation of the EU, but it clashed with the ECT "minimal standard" principle. The forcibly accelerated use of the EU liberalization model could have the worst impact on the producer countries planning to implement large-scale capital-intensive projects involving the production and transportation of, above all, natural gas. Such liberal market norms, typical of importer countries, as segmentation of vertically integrated companies (unbundling) and mandatory access for third parties to energy infrastructure heighten the risks in financing investment projects and deter investments in them. It is indeed no accident that all the main capital-intensive infrastructure projects in the natural gas sphere in the EU (LNG import terminals, interconnectors) have not been in recent years carried out on the basis of EU legislation (Second EU Gas Directive of 2003), but on the basis of exemptions from its requirements provided for in Articles 21-22 of this Directive. The reason for this is that it is the only way (by forgoing mandatory access for third parties to energy infrastructure for the period of recoupment of investments, for example) to

increase and accelerate the recoument of investments through encouraging the development of infrastructure in order to increase the size and broaden the geographical span of energy deliveries to the EU from outside the EU.

ECT and the Transit Protocol

WHEN THE GOVERNMENT OF RUSSIA asked the State Duma in August of 1996 to ratify the ECT, Russia had only two legitimate worries over the ECT: the possibility to interpret to Russia's detriment the provisions of Article 7(3) of the ECT "Transit" dealing with the correlation of transit tariffs and domestic transport tariffs; and the absence in Article 7(7)(c) of any clarification of the mechanism whereby provisional transit tariffs, set by the conciliator during the course of the procedure to achieve resolution of the dispute, are recalculated into final transit tariffs upon the resolution of the dispute.

Meeting in January of 2001 on ratification of the ECT, the State Duma passed a pragmatic and legally valid decision that Russia's legitimate concerns with regard to ECT provisions regarding transit ought to be resolved in a special and legally mandatory protocol to the Energy Transit Charter (talks on it opened in 2000). Under Article 1(13) (a) of the ECT, Protocol means "a treaty ... in order to complement, supplement, extend or amplify the provisions of this Treaty with respect to any specific sector or category of activity." Thus the more accurate interpretation of transit provisions in the Protocol to the Energy Transit Charter is quite legitimate and entails no corrections in the ECT itself. Russian and EU experts consulting for many years on a draft Transit Protocol produced special mutually acceptable understandings regarding ECT provisions pertaining to transit and approved at the multilateral level.

Russia's announcement of its intention not to become party to the ECT either stops the completion of work on the Transit Protocol or (as was the case with GATT/WTO) completes work on it without taking into account Russia's legitimate concerns. The country will, as a result, not get the needed (or acceptable) multilateral legally binding transit instrument on which it had insisted and which took ten years to evolve.

In the meantime, all the vexed questions regarding the Transit Protocol, with the exception of one provision, have been settled today. There is still a lack of agreement on the EU proposal (Article 20) not to regard the movement of energy resources inside the EU as transit. The EU

proposal may create additional transit risks for Russian gas supplies to Europe because, following the expansion of the EU in 2004-2007, a considerable proportion of these supplies – to the export-import terminals – run across the EU territory. However, the Energy Charter Plus scenario (see below) nearly offered a very important new solution – the possibility to include in the Transit Protocol a provision saying that Article 20 gets automatically withdrawn from it if Russia ratifies it. It means that the same also happens if Russia ratifies the ECT, because Russia can ratify the ECT and the Transit Protocol only at the same time.

That, however, did not work out. The other countries entered the final phase of the Transit Protocol talks without Russia (it did not attend the meeting in question) and, as a consequence, with Article 20 retained in the Protocol.

Transit: Common Delusion

SOME RUSSIAN POLICYMAKERS constantly feared that in the event Central Asian producers and European buyers sign direct contracts for supplies of gas to Europe, the ECT could oblige Russia give those companies access to cheap Central Asian gas through Russian gas pipeline system at low internal transport tariffs. As a result, passing across Russia, Central Asian gas will cost less than Russian gas on the European market.

Such is the common delusion. But, first, the ECT says nothing about mandatory access to transit facilities for third parties. The Treaty only says that each “Contracting Party shall take the necessary measures to facilitate transit” (Article 7(1) of the ECT) to mean the existing transit rather than some new transit and that it shall “encourage relevant entities to cooperate” in the realm of transit (Article 7(2) of the ECT). Article 7(4) of the ECT says that “the Contracting Parties shall not place obstacles in the way of new capacity being established, except as may be otherwise provided in applicable legislation” (for a country which provisionally applies the ECT, its own legislation takes precedence over the ECT if their standards are in conflict). Furthermore Article 7(5) of the ECT says that the Contracting Party through whose area energy materials and products may transit shall not be obliged to permit the construction or modernization of energy transit facilities, permit new or additional transit, if it demonstrates to the other Contracting Parties concerned that such measures “would endanger the security or efficiency of its energy systems,

including the security of supply.”

Thus, Article 7 of the EC “Transit” provides for five levels of conclusive protection by the transit country of its interests, provided it is unwilling to allow to third parties a new transit facility. Thus, the ECT does not make it mandatory to grant to anyone access to Gazprom’s gas transport system. Instead it provides for internationally recognized mechanisms of motivated prevention of adding a new (potential) transit facility to the national gas transport system.

Second, the Energy Charter solves in no uncertain terms the question of the ratio between transit and internal tariffs by taking full account of Russia’s interests as part of the drafting of the Transit Protocol (it will have to be approved on the political level).

Third, Central Asian gas is no longer cheap. Beginning in 2009, prices of all exported gas both in the EU and the former Soviet Union are set according to the same netback pricing method. It is more advantageous for Central Asian states to export their gas using this formula at their national borders than transit their gas to Europe. As for Western European companies, they forfeited in 2009 the economic incentives to seek direct purchases of Central Asian gas because of the disappearance of the scarcity rent, or the so-called Hotelling rent.*

Scrap or Modernize Dilemma

THUS, a number of the Russian leadership’s complaints against the Energy Charter process and against its main legally binding document, the ECT, are quite sound: The ECT cannot make its signatories fulfill the treaty’s provisions, the ECT has no mechanism for compelling the Contracting Parties to honor their own obligations, for prompt and efficient multilateral prevention and resolution of emergency situations in the energy sector, prompt and effective sanctions for violations of ECT provisions. These statements are quite fair, I think. The demand for abandoning the ECT and developing a new document to replace it, however, is the less effective way of satisfying legitimate complaints of the Russian side against the Energy Charter (if practically possible at all).

* The latter is the difference between the “cost of substituting gas in Europe (determined on the basis of the prices for the end consumer of energy resources competing with gas) brought to the border of Central Asia exporter countries (minus their transportation costs), on the one hand, and the export price at the national borders of these countries calculated, until this year, on the cost-plus basis, on the other.

The Conceptual Approach proposed by Russia in April of 2009 cannot be regarded as an alternative to the ECT. Most possibly, the international community could accept it as a starting point in trying to update the Energy Charter process as the sole universal mechanism for legal control of international relations in the energy sector.

In accordance with Article 34 (7) of the ECT, the Energy Charter activities get reviewed once every five years and it gets adapted to the new conditions on the energy markets. The latest review (completed in December of 2009) was a good chance for introducing a number of reasonable amendments to the Energy Charter process and its documents, and this could have dispelled Russia's legitimate concerns.¹⁰ To make it possible, Russia should have been active in the amendment process. What happened, however, was probably a knee-jerk reaction on the part of the lower echelon bureaucrats to the still unfinished decision-making process at the top. Indeed, the government was yet to sign orders on Russia's withdrawal from provisional application of the ECT, but the bureaucratic machinery virtually stopped the efforts necessary for continuing and, more importantly, for stepping up participation of the Russian delegation in the Energy Charter process in order to, promote, among other things, the presidential initiatives aimed at winning leading positions by Russia.

Energy Charter Plus: A Lost Opportunity?

RUSSIA COULD HAVE PROPOSED to the Charter community a scenario which could have incorporated the initiatives of April 21 into the Energy Charter process. Right up to July 30, when the government order was issued, the scenario for reforming the Energy Charter process (tentatively entitled "Energy Charter Plus") was being discussed informally with some of the key figures in this process, who were further discussing it with representatives of a number of European states, and won a strong support. The Russian delegation took first steps in this direction on June 16 at the meeting of the Energy Charter ad hoc group on strategy. Further steps could have aimed at producing a detailed roadmap based on the Russian initiative of April 21. The roadmap could have been a part of a balanced package solution made by a regular Energy Charter Conference (the governing and decision-making body of the Charter process). This package solution would allay Russia's reasonable concerns with regard to the Energy Charter. Russia should have worked on that intensively with the other countries to meet the December deadline. All efforts, however,

were stopped by the government order of July 30.

Its withdrawal from the provisional application of the ECT does not, in principle, prevent Russia from implementing, together with the other countries, the Energy Charter Plus. Norway, which also signed but not ratified the ECT, does apply the Treaty on a provisional basis, but it does very actively take part in the Charter process. Even so, there are little chances to see Russia's official position on the Energy Charter reversed anytime soon.

Russia does remain a signatory to the ECT, for which reason all Russia's legitimate complaints remain in force as do the proposed solutions to them. Thus, nothing prevents Russia from going back in the future to the question of ratification of the ECT proceeding from its new status. It is important to continue to actively participate in the Charter process and try to incorporate into it the April initiatives of the president, instead of setting them off against the ECT, an operating multilateral international law instrument – the only multilateral treaty protecting and promoting investments, trade, transit in the energy sector, greater energy efficiency, and resolution of disputes. One should not reject it, but improve and update it, expand the subject-matter and geographic scope of this unique treaty and the entire multifaceted Energy Charter process. The Russian president's remarks (at a press briefing at the end of the Russia-EU Summit in Stockholm on 18 November 2009) to the effect that Russia's "energy initiative" in April were in addition (emphasis is mine – *A. K.*) to the existing energy documents, including the Energy Charter,¹¹ and it was not the rejection of the ECT and instruments pertaining to it, and that this initiative was offering new prospects for the consolidation of these processes.

The discussions and the approval of the Energy Charter activities in 2004-2009 make for improving the Energy Charter process. In particular, the Energy Charter Conference in December approved the idea for the Ad Hoc Group on Strategy to function on a permanent basis, instead of meeting once every five years, and to effectively respond to new energy market challenges.

Russia ought to propose the Charter community a path for implementing the president's April initiatives that could help not only avoid further opposition between these initiatives and the Energy Charter process, but also unite both these processes which are in effect aimed at scoring one and the same result – to make our shared energy world less risky, more secure and predictable.

It is necessary to clearly explain to the Charter community why Russia has withdrawn from provisional application of the ECT and say clearly that Russia intends to continue paying into the organization's budget and that would indicate beyond any doubt that Russia is legally and actually one of the countries which signed the ECT but not ratified it and continues to enjoy corresponding rights and fulfills its obligations under the Treaty (alongside Australia, Iceland, and Norway).

And finally, there is the question of a new political leadership of the organization. Depending on the objectives the international community is going to put before the organization, one should approach the questions of electing its new political leadership soon, especially its new secretary general who in effect exercises absolute authority between the annual conferences. It is therefore necessary to see to it that anyone elected to this position should have the requisite professional knowledge, skills and willingness to apply them in the interest of the entire Charter community. If the Energy Charter is to resolve a set of fundamentally new tasks and update its multifarious activities, it is necessary today to have a detailed and frank discussion to see if the present political leadership of the organization is capable of finding appropriate answers to these challenges.

Russia's active participation in the Energy Charter process alone will make it possible to score the desirable results, viz make the legal framework of international cooperation in the energy sector more efficient.

NOTES

¹ URL: http://www.encharter.org/fileadmin/user_upload/document/RU.pdf

² URL: <http://kremlin.ru/text/appears/2001/01/211884.shtml>

³ URL: http://eng.kremlin.ru/text/speeches/2009/03/01/1002_type82914type82916_213434.shtml

⁴ URL: <http://www.ltv.ru/news/polit/142214>

⁵ URL: <http://news.kremlin.ru/news/3812/print>

⁶ URL: <http://premier.gov.ru/events/2670.html>

⁷ URL: <http://www.rian.ru/economy/20090605/173397918.html>

⁸ URL: <http://www.rian.ru/economy/20090605/173397918.html> URL: http://news.kremlin.ru/ref_notes/186/print

⁹ URL: http://www.encharter.org/fileadmin/user_upload/document/Final_Review_conclusions_rus.pdf

¹⁰ See: URL: <http://www.encharter.org/index.php?id=22&L=1>

¹¹ URL: <http://news.kremlin.ru/transcripts/6034/print>

Key words: Russia, Energy Charter process, Energy Charter Treaty (ECT), "Energy Charter Plus," withdrawal from the provisional application of the ECT, EU, energy liberalization, transit of energy resources, international energy cooperation.