

East meets West in the new world energy order, developing new business relationships. Energy Charter process establishing common “rules of the game”.

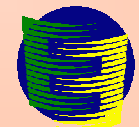
**Dr. Andrei Konoplianiuk
Deputy Secretary General
The Energy Charter Secretariat**

**2nd Polish International Oil & Gas Summit
in association with
13th Economic Forum
4 – 6 September 2003, Krynica, Poland**

EAST MEETS WEST IN ENERGY: WHERE?

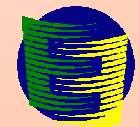
Where in energy chain?	Where in geography?	Where legal protection is needed?
Upstream	Russia (oil and gas) and Central Asia (gas)	Investment and trade
Transportation	Russia and transit states of CIS and Eastern Europe	Transit
Downstream	Russia and Eastern Europe	Investment

Figure 1



EAST MEETS WEST IN ENERGY: UPSTREAM RUSSIA

- **oil and gas taxation (TEMR) → fight for mineral rent**
- **PSAs → “to kill a competitor” (FDI)**
- **pipelines → resources, markets, state owned or private, i.e.**
 - **Murmansk vs BPS**
 - **Nakhodka vs Dacing**
- **mergers and acquisitions → different aims:**
 - **BP-TNK → in search of areas for strategic investments in CIS;**
 - **Yukos-Sibneft → in search of strategic foreign buyer / shareholder**
- **Yukos case: beginning of re-privatisation policy towards business as a whole or political episode related to a particular company?**



DEVELOPMENT OF ENERGY MARKETS AND MECHANISMS FOR INVESTORS PROTECTION / STIMULATION

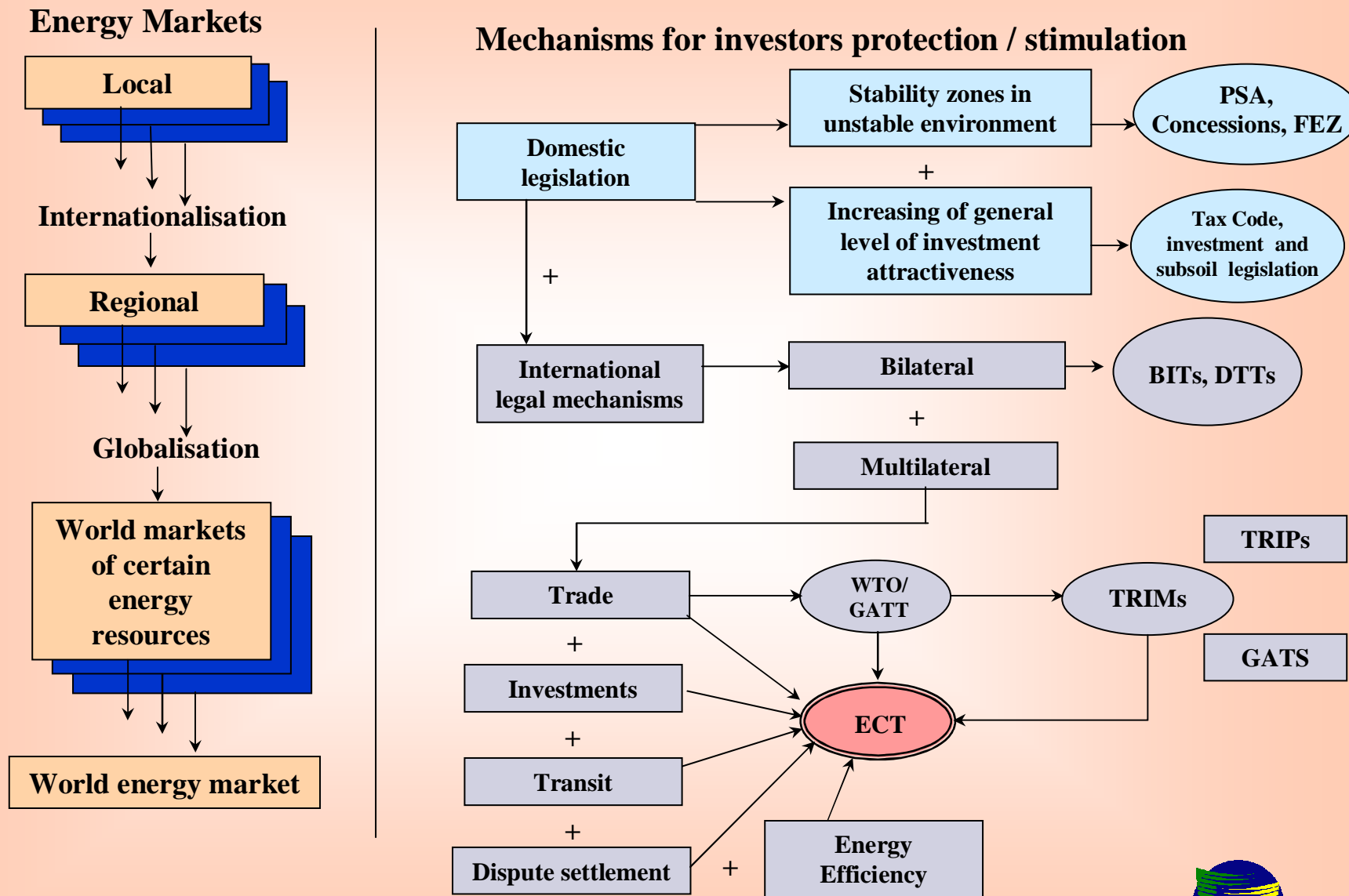
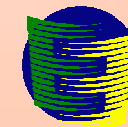


Figure 3



ENERGY CHARTER HISTORY

June 25, 1990	Lubbers' initiative on common broader European energy space presented to the European Council
December 17, 1991	European Energy Charter signed
December 17, 1994	Energy Charter Treaty (ECT) and Protocol on Energy Efficiency and Related Environmental Aspects (PEEREA) signed
16 April, 1998	ECT enters into force
As of today	<ul style="list-style-type: none"> • ECT signed by 51 states + European Communities = 52 ECT signatories • ECT ratified by 46 states + EC (excl. 5 countries: Russia, Belarus, Iceland, Australia, Norway) • Russia and Belarus : provisional application of ECT

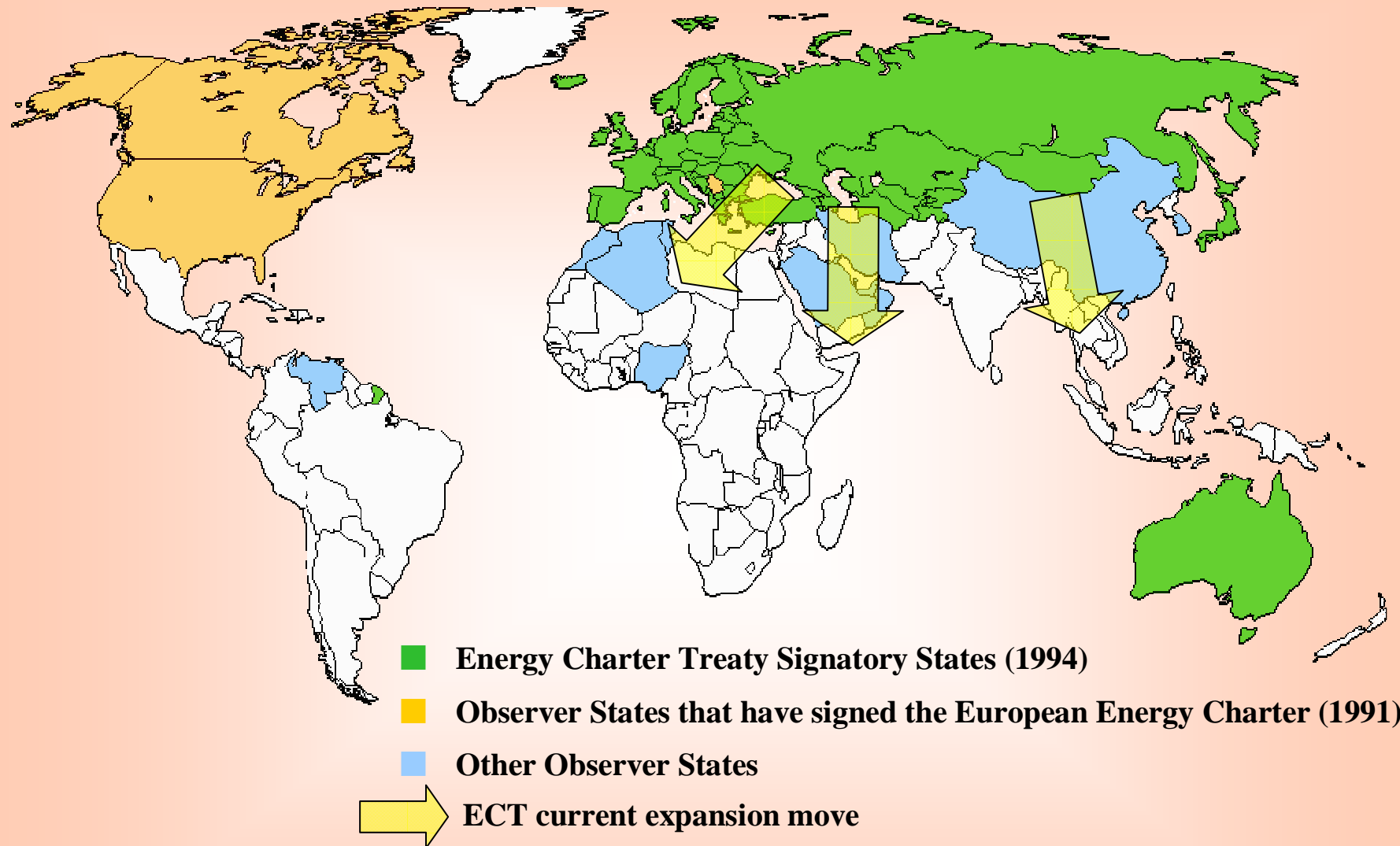
Russia has started ratification process in 1996

RF State Duma (2001): Russia will ratify ECT, but not yet (depending on Transit Protocol)

Figure 4



ENERGY CHARTER TREATY: GEOGRAPHY



1. From trans-Atlantic political declaration to broader Eurasian single energy market
2. ECT expansion is an objective and logical process based on economic and financial reasons

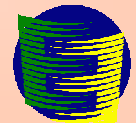


Figure 5

ENERGY CHARTER AND RELATED DOCUMENTS

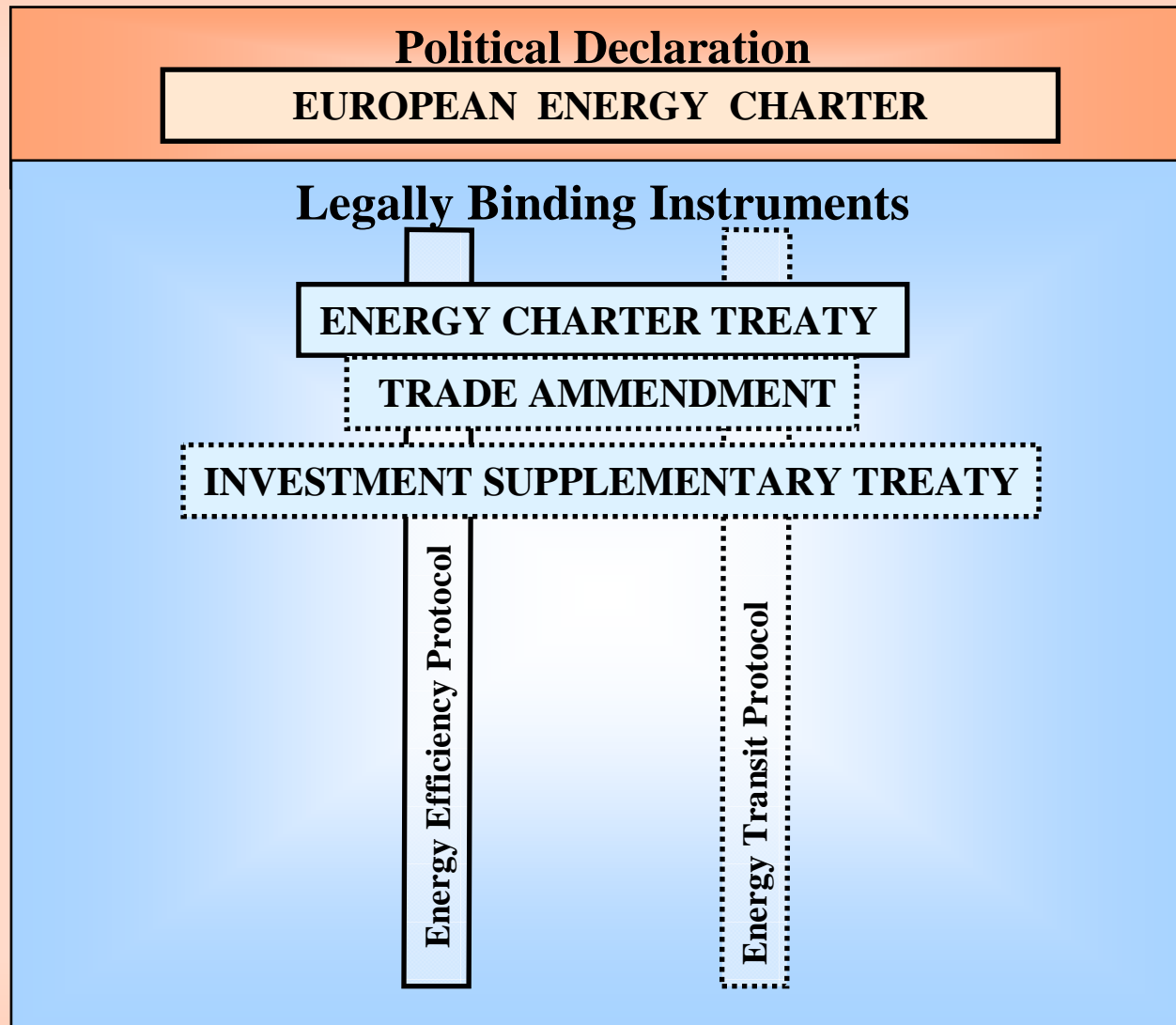
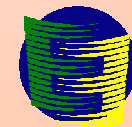
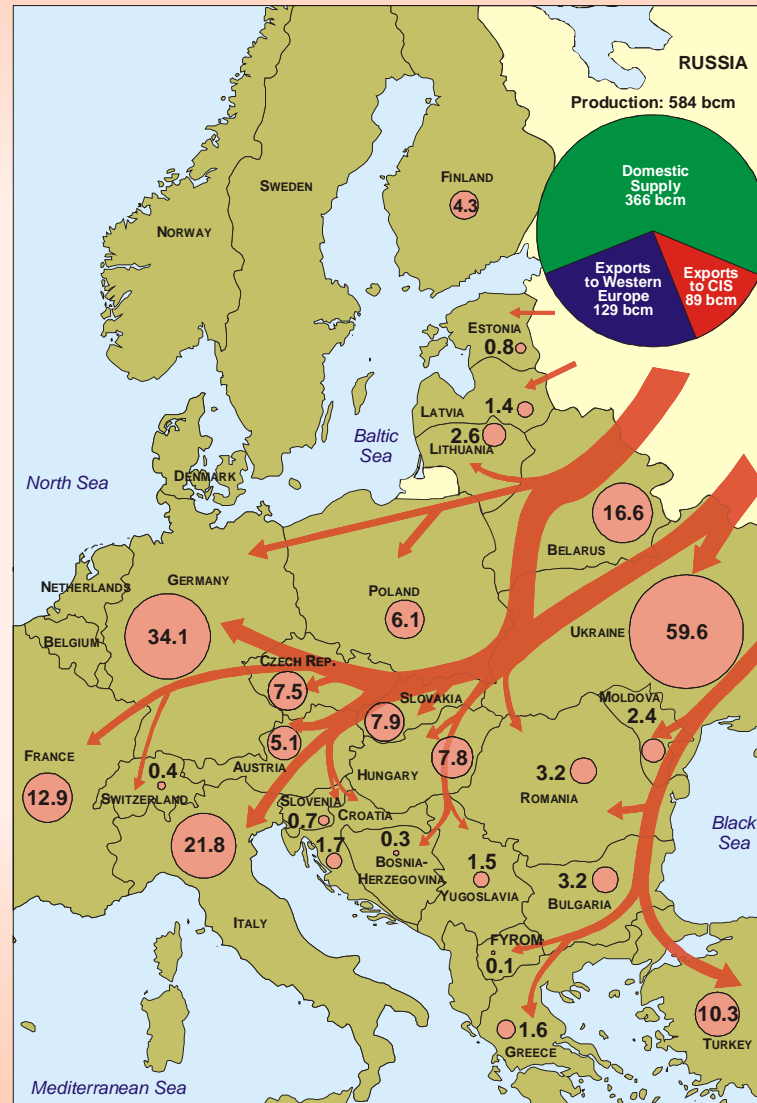


Figure 6

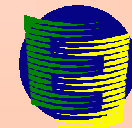


RUSSIAN GAS EXPORT TO EUROPE IN 2000 AND ROLE OF TRANSIT



Source:
IEA/ECS "Russia Energy
Survey 2002"

Figure 7

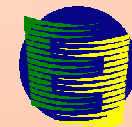


RUSSIAN OIL EXPORT INFRASTRUCTURE TO EUROPE AND ROLE OF TRANSIT



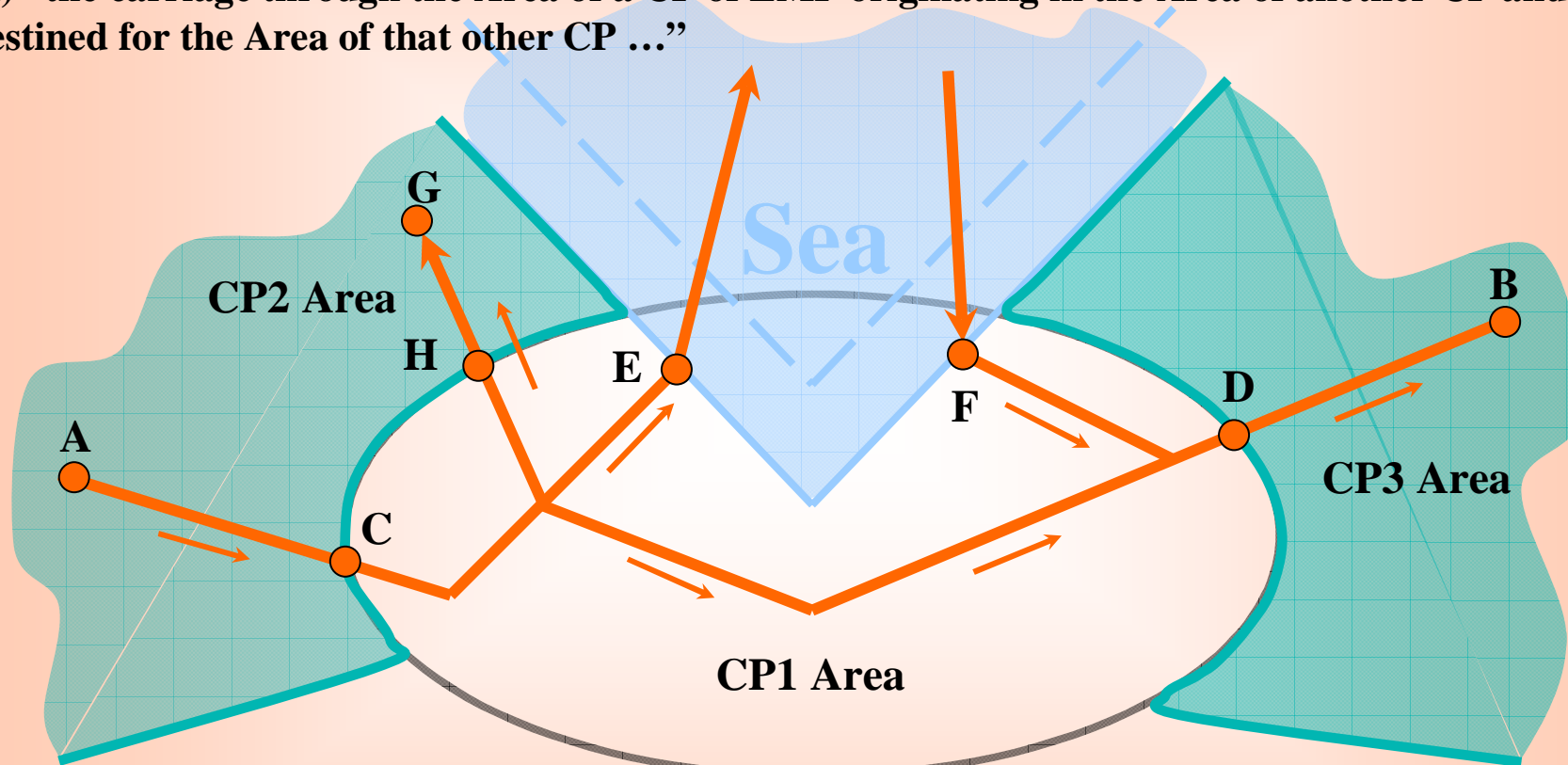
Source:
IEA/ECS “Russia Energy
Survey 2002”

Figure 8



DEFINITION OF TRANSIT (Art. 7(10) ECT)

“...(a) Transit means: (i) the carriage through the Area of a CP, or to or from port facilities in its Area for loading or unloading, of EMP originating in the Area of another state and destined for the Area of a third state, so long as either the other state or the third state is a CP; or (ii) the carriage through the Area of a CP of EMP originating in the Area of another CP and destined for the Area of that other CP ...”

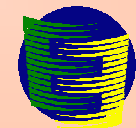


3 possibilities of energy supplies from A to B:

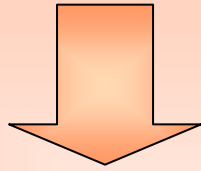
No transit (on-boarder sales at C and D), f.i. RUF-EU, Turkm-RUF, Kaz-RUF

Transit: • through the pipe owned/leased by shipper, f.i. Fr-Germ, Norw-Fr; planned RUF-CIS/EE
• through the pipe not owned by shipper

Figure 9

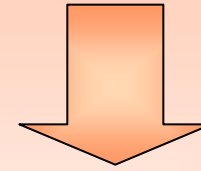


TWO SCENARIOS OF RUSSIAN GAS EXPANSION FURTHER IN EUROPE



1) **Gazprom = owner of pipeline**
(construction of new pipeline capacities, purchase of pipeline companies shares)

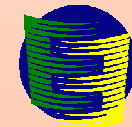
- More expensive
- Decreasing rights of pipeline owners on decisions for transit/ transportation conditions according to EC legislation



1) **Gazprom = shipper** (from gas sales at the border to wholesale buyers/resellers – to sales to final consumers inside the country)

- Less expensive
- Increasing rights of transporters on decisions... according to EC legislation

Figure 10



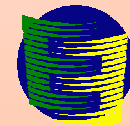
ECT TRANSIT PROTOCOL

- 1. Obligation to observe Transit Agreements**
- 2. Prohibition of unauthorized taking of Energy Materials and Products in Transit**
- 3. Negotiated access of third parties to Available Capacity in Energy Transport Facilities used for Transit (mandatory access is excluded)**
- 4. Facilitation of construction, expansion or operation of Energy Transport Facilities used for Transit**
- 5. Transit Tariffs shall be non-discriminating, objective, reasonable and transparent, not affected by market distortions, and cost-based incl. reasonable ROR**
- 6. Technical and accounting standards harmonized by use of internationally accepted standards**
- 7. Energy metering and measuring strengthened at international borders**
- 8. Co-ordination in the event of accidental interruption, reduction or stoppage of Transit**
- 9. Protection of International Energy Swap Agreements**
- 10. Implementation and compliance**
- 11. Dispute settlement**

Result:

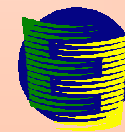
- risks & costs related to transit diminishes**
- competitiveness of transit supplies increases**
- improves “energy security” (“security of supplies”+”security of demand”+”security of infrastructure”)**

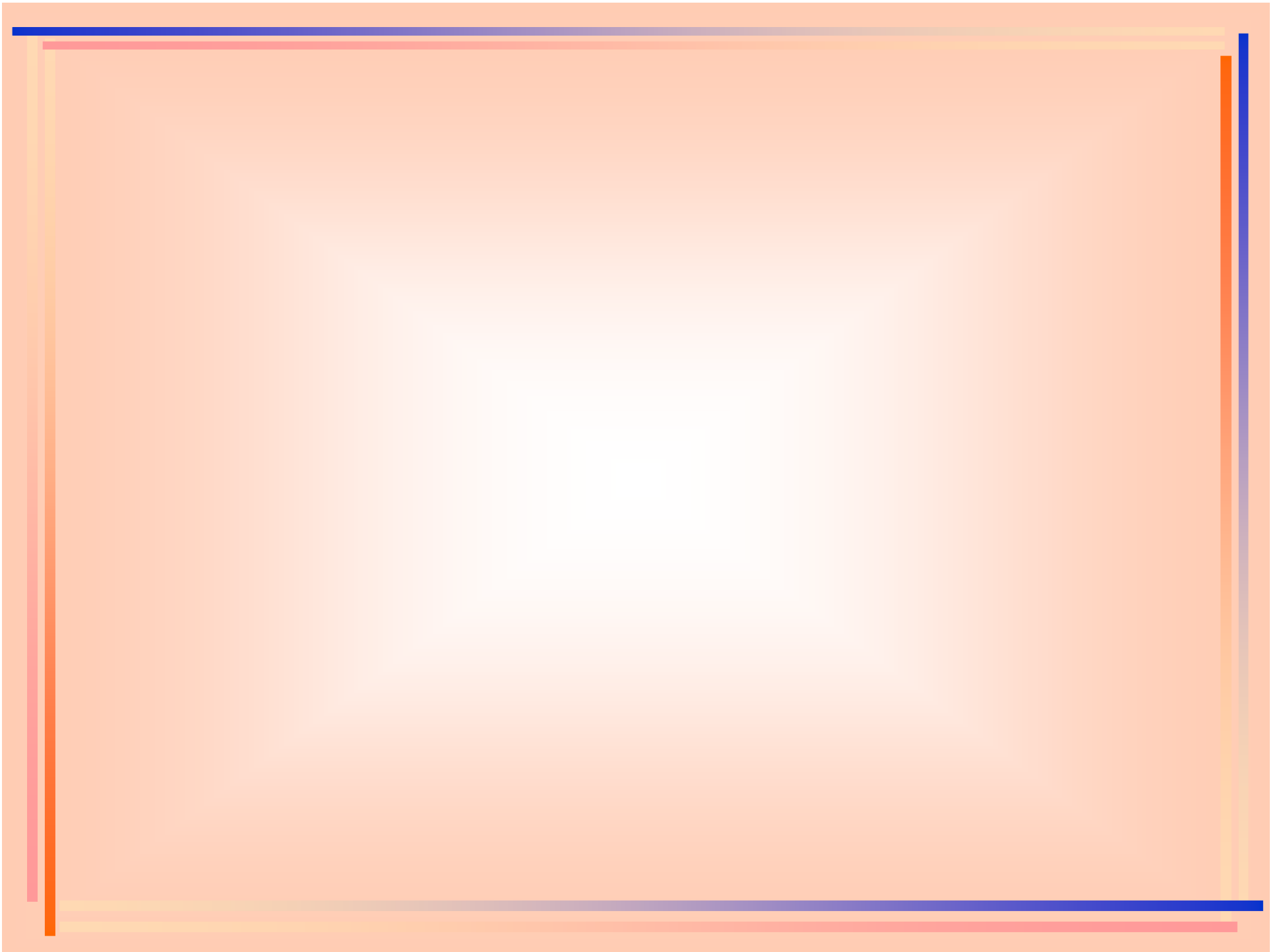
Figure 11



Khristenko: “Ratification of the ECT means only one thing for Russia as of today - namely, completion of negotiations and reaching final formulations on the one single protocol ... That is the Protocol on Transit ... Consultations on this protocol ... are still being conducted. As of today, the Russian Federation still has a number of serious concerns. We have three points, which are quite serious ones for us, and on which we would like to find satisfactory answers. Once we achieve satisfactory results on this protocol, we will be ready to sign it ... Therefore, we are proposing to continue the work and seek a mutually acceptable outcome - and then, correspondingly, options will open up with regard to the ECT in general.”

(Press-conference given by Russian Deputy Prime Minister Viktor Khristenko at the Russian EU Mission in Brussels , Monday 23 June 2003)

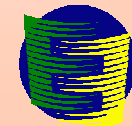




ECT MAJOR OPPONENTS IN RUSSIA AND THEIR ARGUMENTS

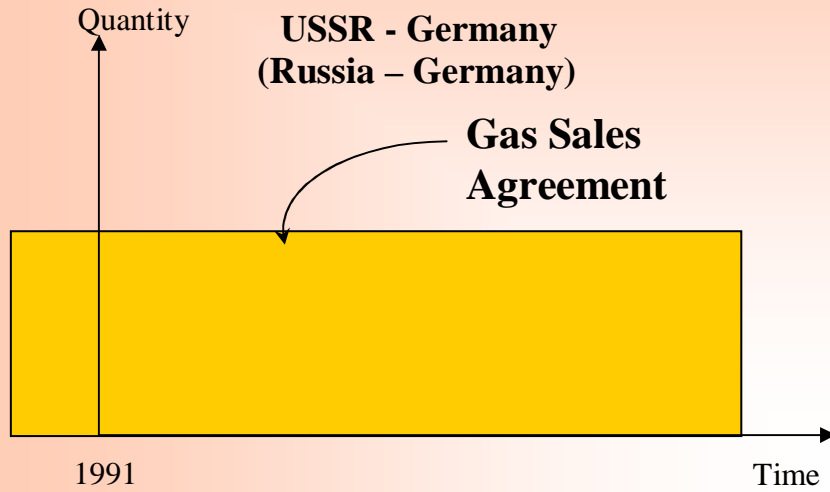
Arguments against ECT ratification	Comments
<p><u>Gazprom:</u></p> <ol style="list-style-type: none"> 1) ECT demands mandatory TPA to Gazprom’s pipelines for cheap gas from Central Asia 2) Obligation to transit Central Asian gas at low (subsidised) domestic transportation tariffs 3) ECT will “kill” LTCs 	<ol style="list-style-type: none"> 1) No such obligation. “The provisions of the Treaty do not oblige any CP to introduce mandatory TPA” (ECT Understanding IV.1(b)(i)). 2) No such obligations. Transportation and transit are different in non-EU (ECT Article 7(3)). 3) Not true. ECT documents do not deal with LTC at all. Economic niche for LTCs will become more narrow due to objective reasons, but they will continue to exist as a major instrument of financing greenfield gas projects.
<p><u>Ministry of Nuclear:</u></p> <ol style="list-style-type: none"> 1) Bilateral RF-EU trade in nuclear materials is not regulated by ECT 	<p>Prior to ECT signing in 1994, RF and EU has agreed to regulate nuclear trade bilaterally (P&CA).</p>

Major Russia’s concern regarding ECT ratification relates to gas transit issues

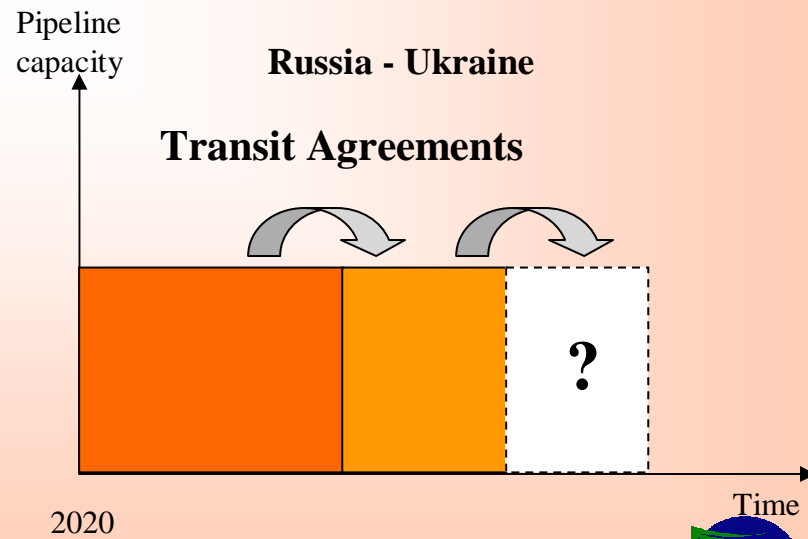
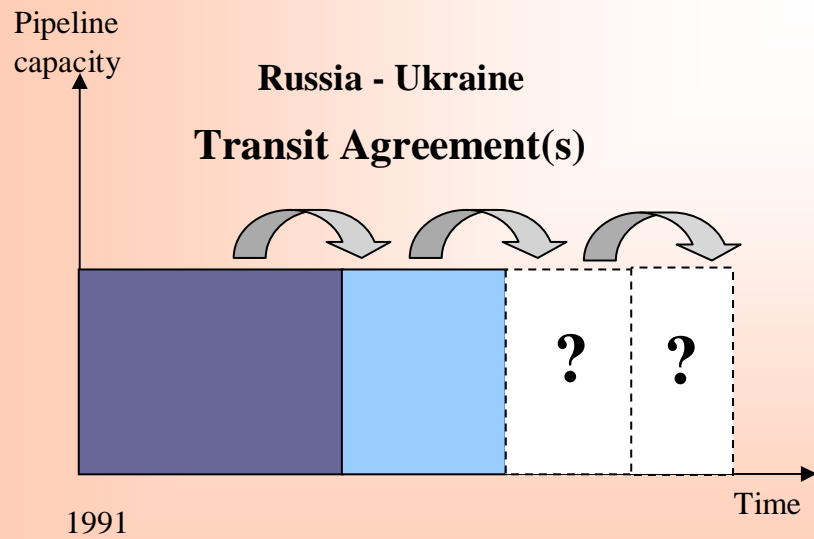
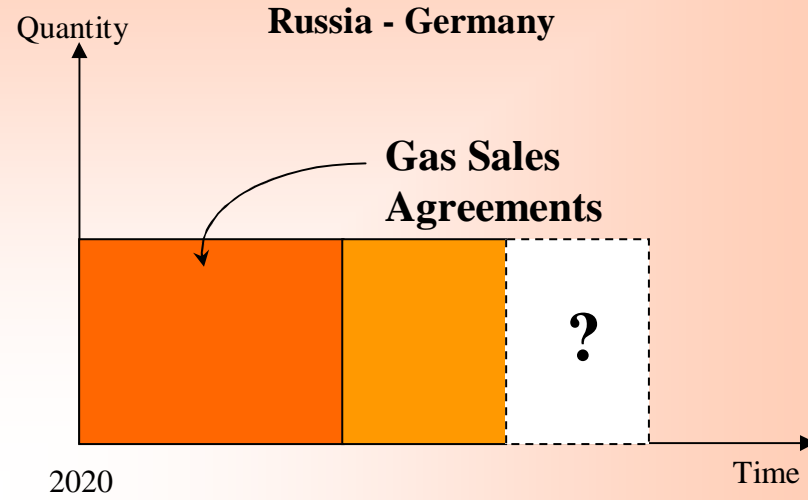


RIGHT OF FIRST REFUSAL: TWO ASPECTS

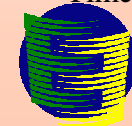
Currently



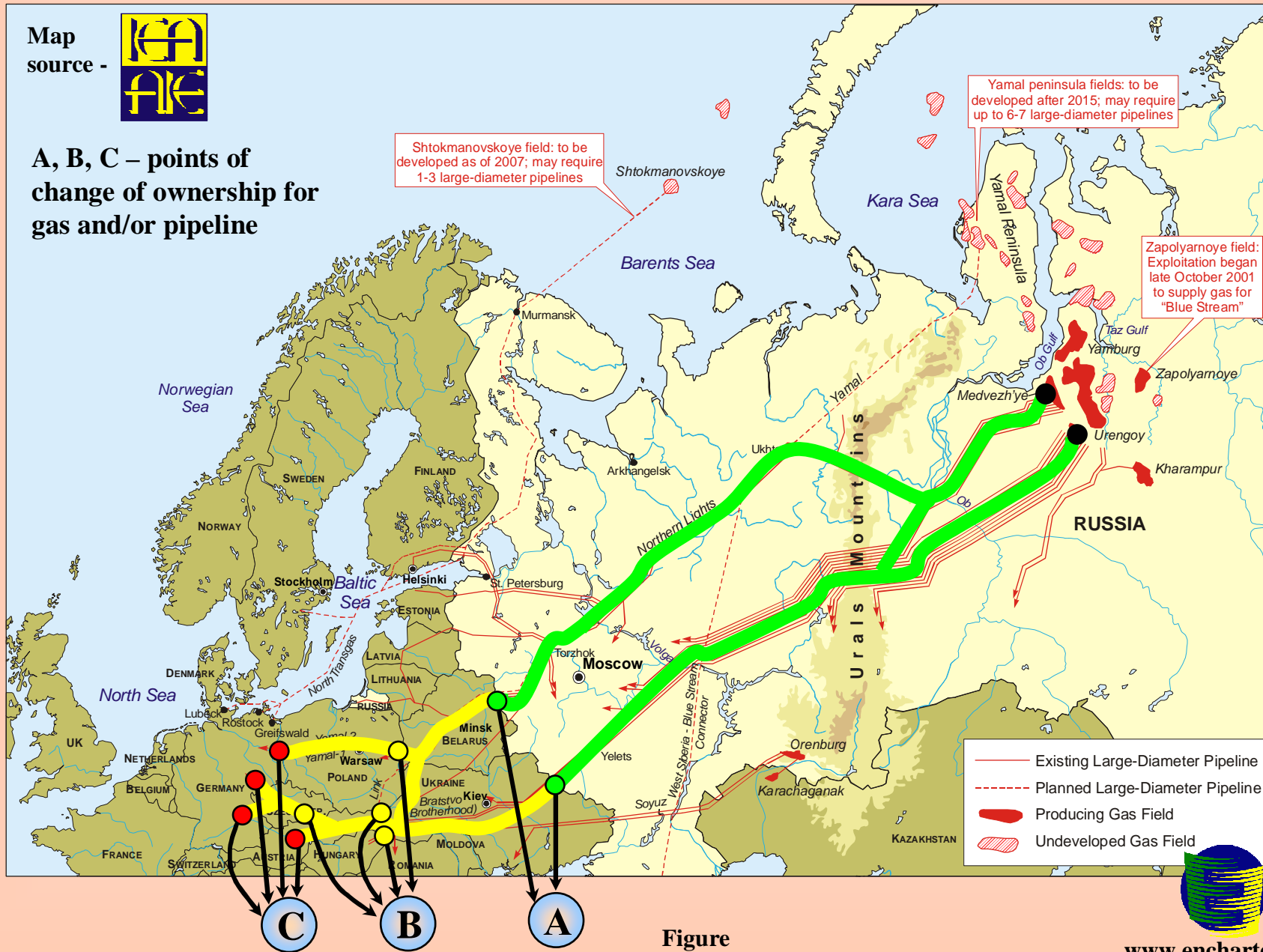
In the future



Figure



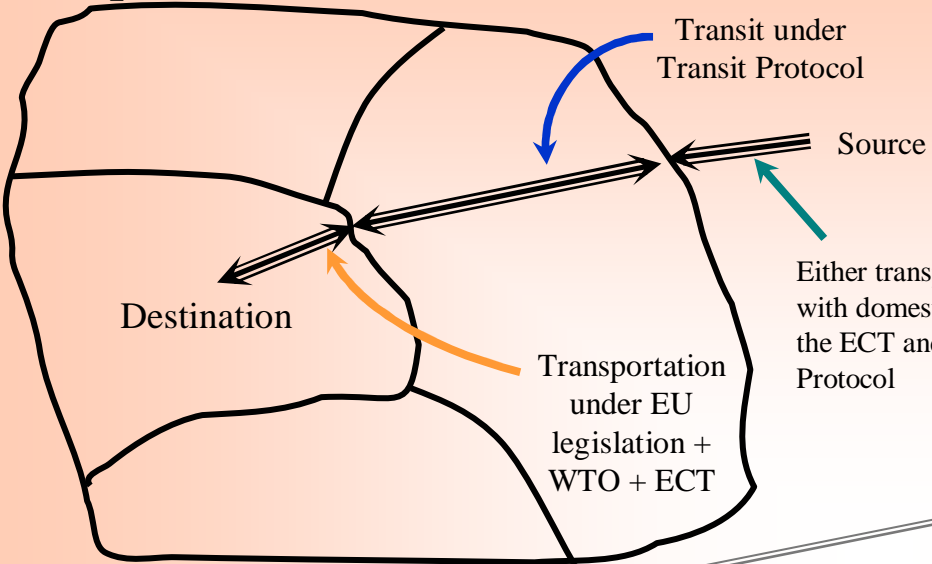
RIGHT OF FIRST REFUSAL AND INTEREST OF DIFFERENT COUNTRIES IN ITS APPLICATION IN EUROPE (1)



Figure

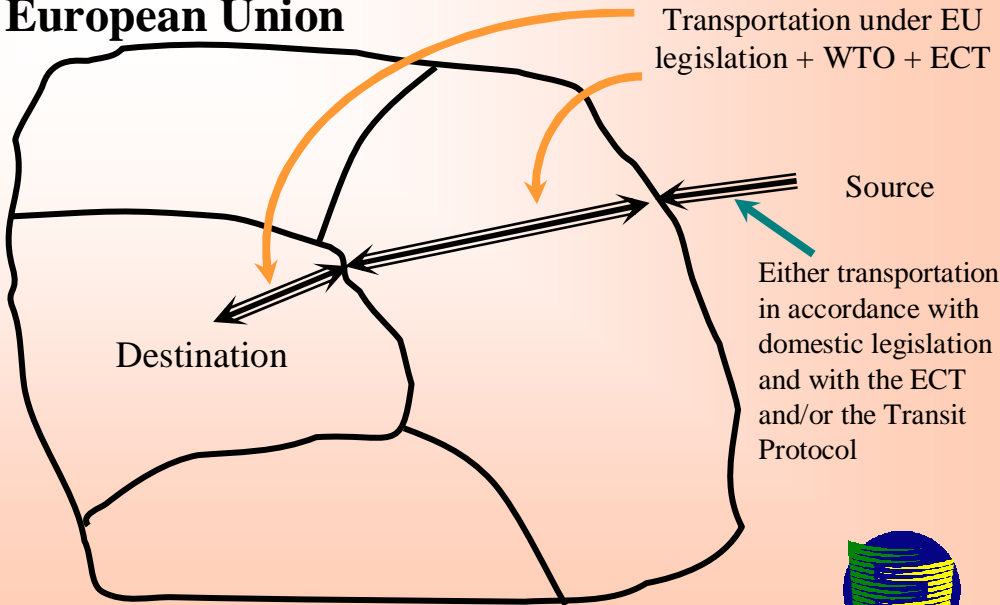
REIO CLAUSE: LEGAL ASPECTS

European Union



(a) Before REIO:

European Union



(b) After REIO:

Figure

