

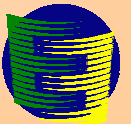
RUSSIA, EUROPEAN UNION, ENERGY SECURITY AND THE ENERGY CHARTER PROCESS

Dr. Andrei A. Konoplyanik
Deputy Secretary General,
Energy Charter Secretariat

Presentation at the
“Russia, Central Asia and the Caucasus: energy & security conference”,
RUSI-WEF, London, Whitehall, June 20, 2006

OUTLINE:

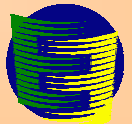
- (1) What is the Energy Charter Treaty and the Energy Charter process**
- (2) Energy Charter within the international energy cooperation framework – and protection of energy investors**
- (3) Russian G8 energy security discussions, the EU approach, and the Energy Charter - what is the common denominator**
- (4) The future of the Energy Charter Treaty - whether Russian ratification ever transpire?**



FROM ENERGY CHARTER POLITICAL DECLARATION...

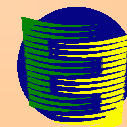
“The signatories are desirous of improving security of energy supply and of maximising the efficiency of production, conversion, transport, distribution and use of energy, to enhance safety and to minimise environmental problems ...Within the framework of State sovereignty and sovereign rights over energy resources and in a spirit of political and economic cooperation, they undertake to promote the development of an efficient energy market throughout Europe, and a better functioning global market, in both cases based on the principle of non-discrimination and on market-oriented price formation, taking into account environmental concerns. They are determined to create a climate favourable to the operation of enterprises and to the flow of investments and technologies by implementing market principles in the field of energy”

From the first paragraphs of the Energy Charter Declaration, signed by 55 states, *including all members of the G8*, on December 17, 1991.

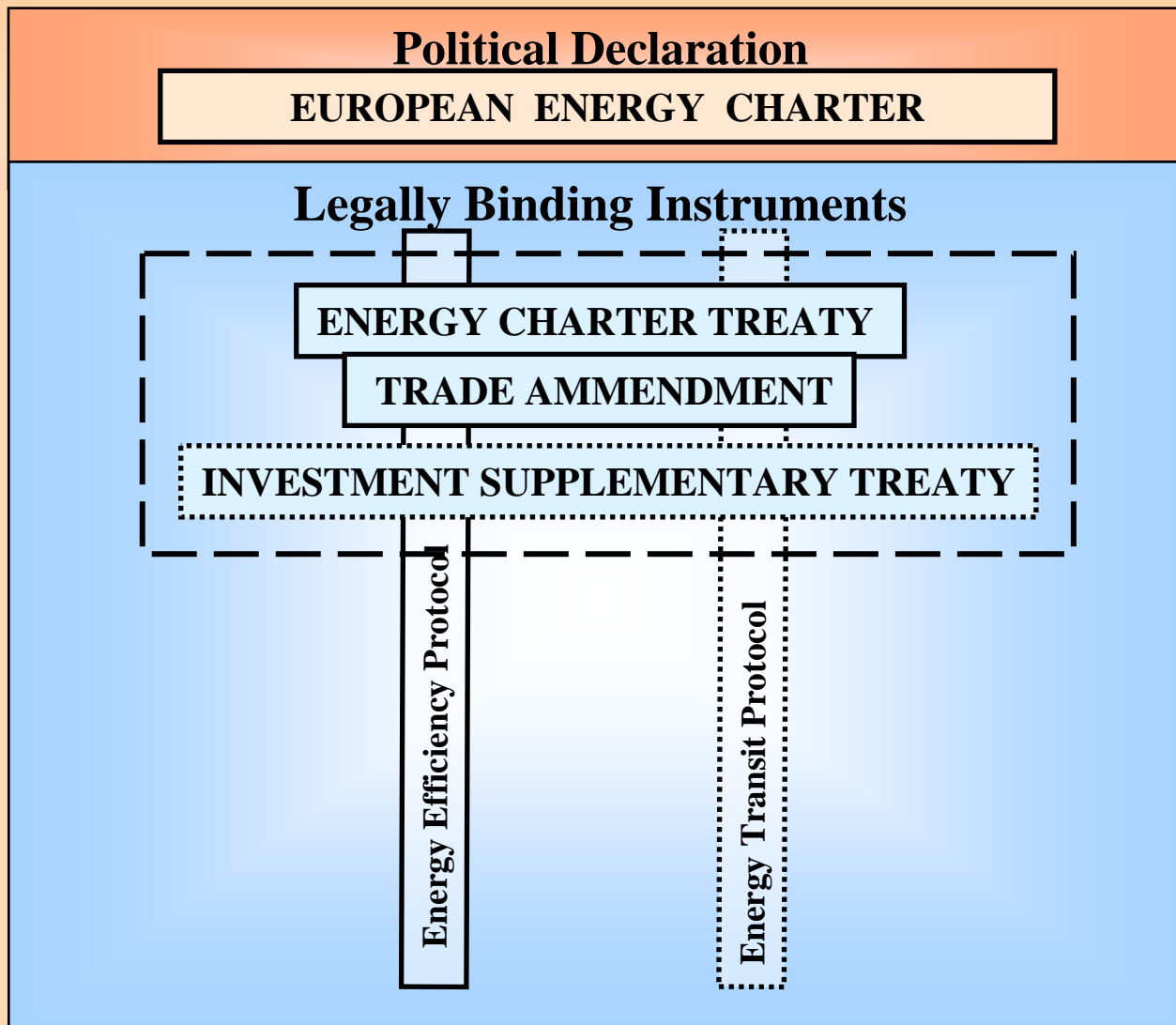


ENERGY CHARTER HISTORY

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 and became an integral part of international law
As of today	<ul style="list-style-type: none">• ECT signed by 51 states + European Communities = 52 ECT signatories + 18 observer-states• ECT ratified by 46 states + EC (excl. 5 countries: Russia, Belarus, Iceland, Australia, Norway)• Russia and Belarus : provisional application of ECT



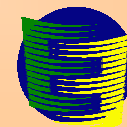
ENERGY CHARTER AND RELATED DOCUMENTS



- in force

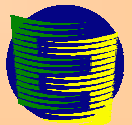


- negotiations continue or not finished

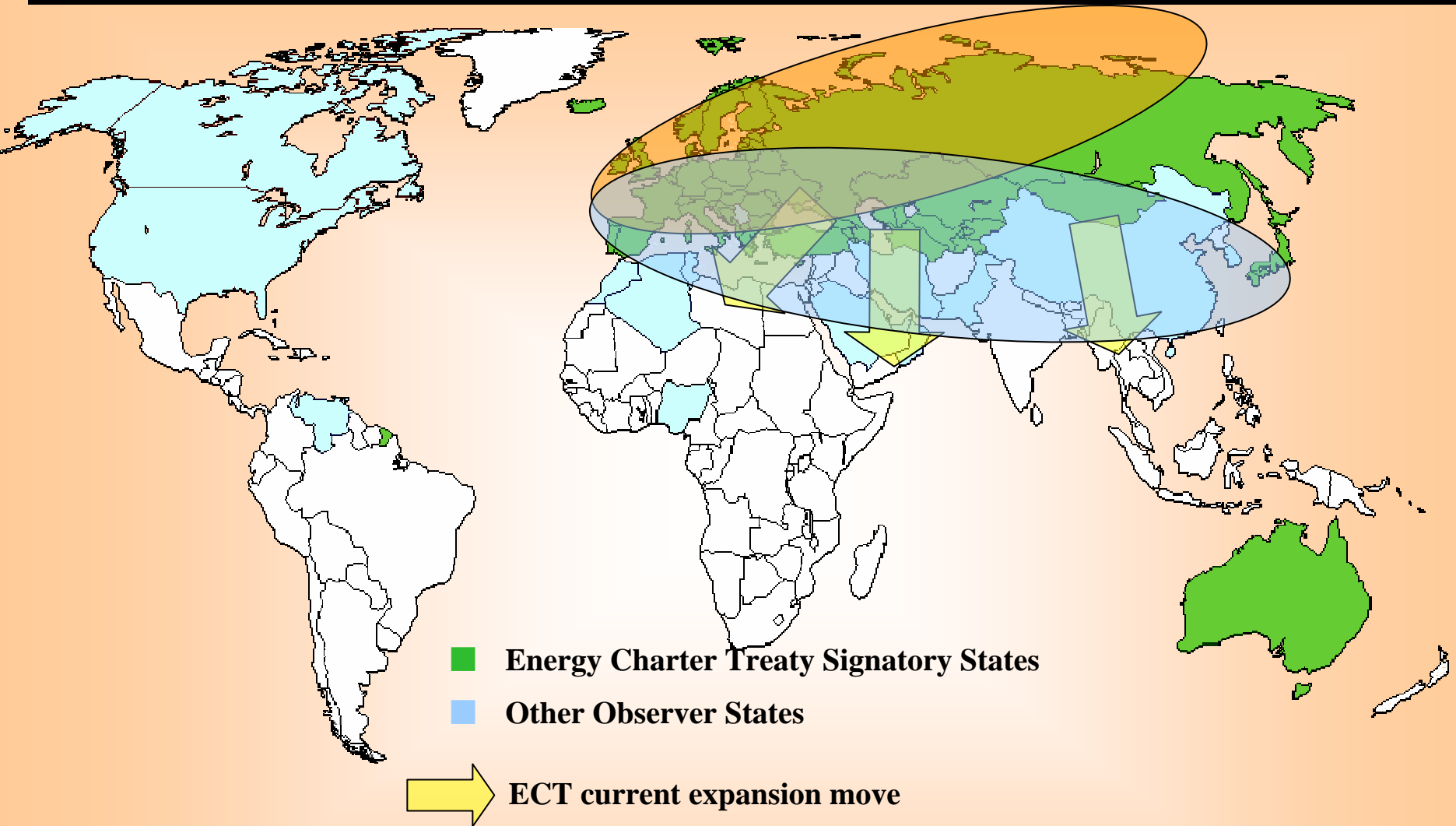


ECT SPECIFIC ROLE

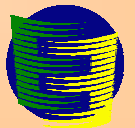
- **Unique coverage of different areas for *energy* cooperation:**
 - investment, trade, transit, energy efficiency, dispute settlement,
 - EMP + energy-related equipment,
 - 51 member-states + 18 observer-states
- **First and only one multilateral investment agreement with high standard of investment protection, incl. dispute settlement (*NB*: long-run energy security = diversification = investment protection)**
- **Energy Charter process:**
 - Specialized forum for “advanced” discussion of the issues of energy markets evolution that might create new risks for development of energy projects in ECT member-states,
 - platform for preparation of new legally binding instruments to diminish such risks within ECT member-states.



ENERGY CHARTER PROCESS: GEOGRAPHICAL DEVELOPMENT

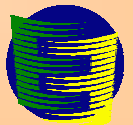


1. From trans-Atlantic political declaration to broader Eurasian single energy market
2. ECT expansion is an objective and logical process based on economic and financial reasons



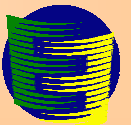
ECT EXPANSION PROCESS: **ASIAN DIMENSION DOMINATES**

- **New ECT members:**
Mongolia - 1999
- **New ECT observers:**
China – 2001
Korea Rep. – 2002
Iran – 2002
Nigeria – 2003
ASEAN – 2003
Pakistan – 2005



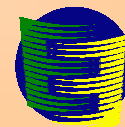
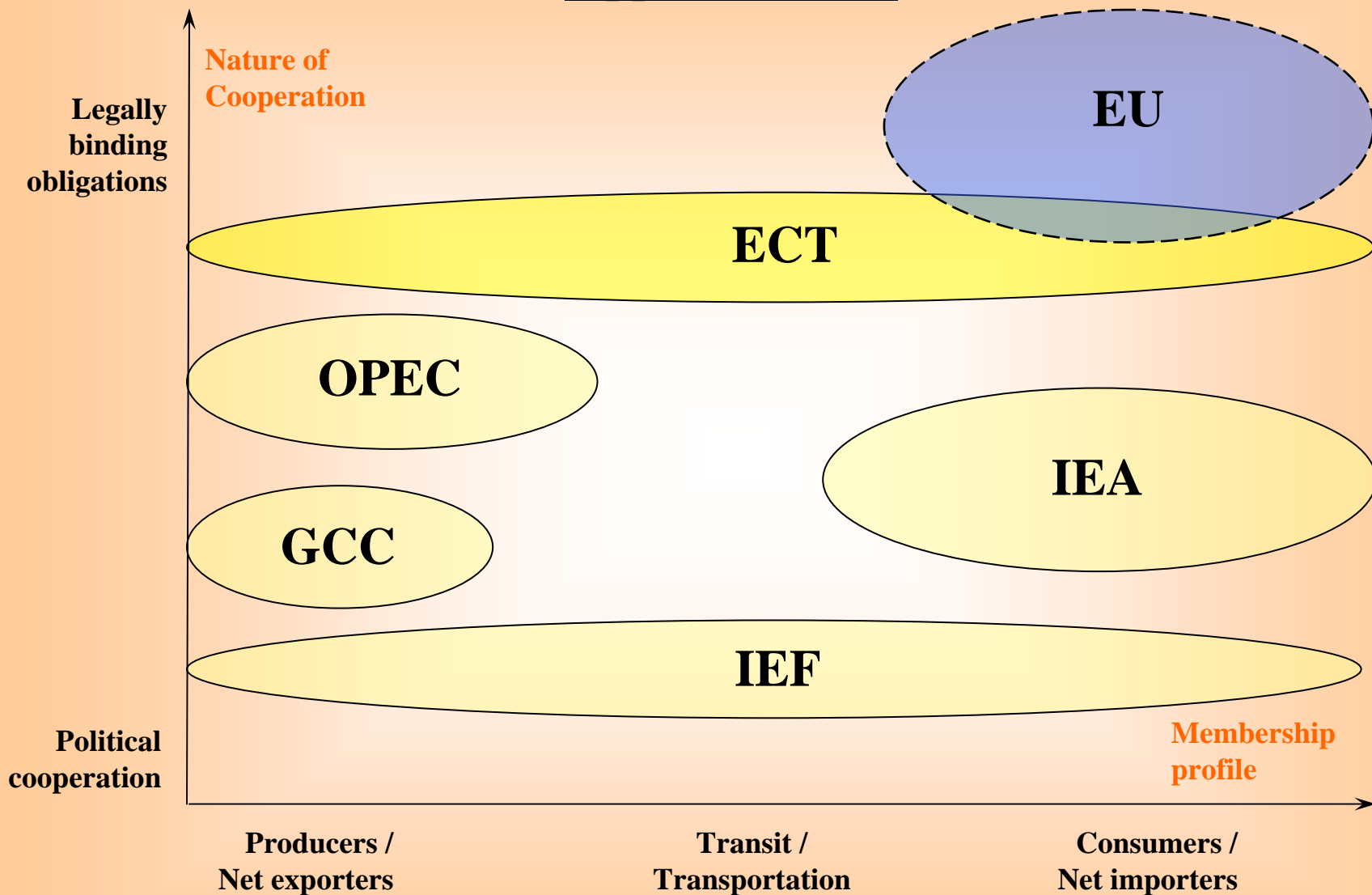
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SOME ENERGY-RELATED INTERNATIONAL ORGANISATIONS

(approximation)

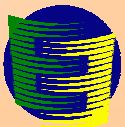
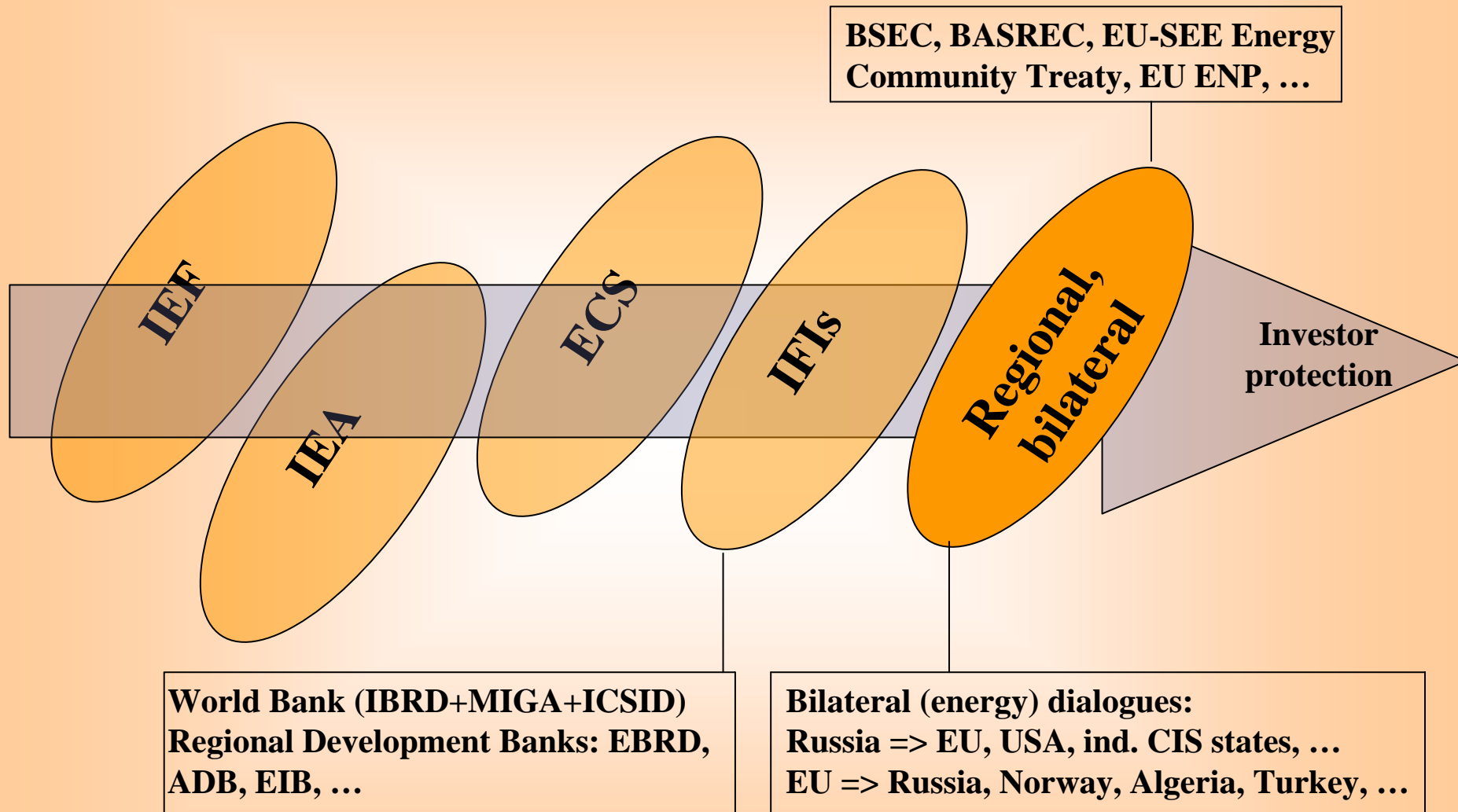


ENERGY-RELATED INTERNATIONAL ORGANISATIONS: SCOPE OF ACTIVITIES

- **International Energy Forum (IEF):**
 - Indication of issues of interest/concern, “raising the questions”
- **International Energy Agency (IEA):**
 - In-depth analysis, quantitative assessments, scenarios-forecasts
- **Energy Charter:**
 - *Policy debate* – development of common approach to identified challenges and risks of future energy markets development,
 - *Negotiations & implementation* – establishing new legal instruments that would address newly identified risks, and/or amendments to (revisions of) existing legal instruments to update them (when/if necessary) to the new state of the energy markets developments
- **International Financial Institutions (e.g. IFIs = WB (IBRD, MIGA,...), EBRD, ADB, EIB ...):**
 - Lead-financiers in FDI inflows in transition economies (pilot actors), lower cost of capital (debt financing),
- **Regional organisations (e.g. BSEC, BASREC, EU-SEE En.Comm.Treaty), bilateral processes (e.g. energy dialogues):**
 - Incremental political, economic (?), financial (?) support to the “projects of common interest”

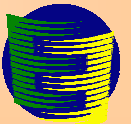


COMPLIMENTARITY OF ENERGY-RELATED INTERNATIONAL ORGANISATIONS (IN PROTECTING ENERGY INVESTMENTS)



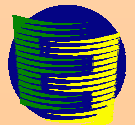
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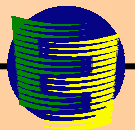
RUSSIAN DRAFTS OF G8 JULY 2006 SPb SUMMIT POLITICAL STATEMENT ON ENERGY SECURITY

- **Yet officially non-public, but**
- **Spirit of Energy Charter and in some cases - even ECT wording (i.e. re investment protection)**
- **Few key issues aimed at risk mitigation – of specific importance for Russia:**
 - **Security (predictability) of demand (to secure long-term upstream investments in new projects & infrastructure)**
 - **Long-term supply contracts (financial tool for securing pay-backs for huge upstream investments)**
 - **Exchange of assets (risk-mitigation within interdependent energy world and energy value chains, firstly with participants of corresponding investment consortia)**



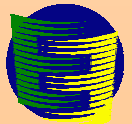
V.PUTIN ON G-8 ENERGY SECURITY - vs. ECT

V.Putin (Rossiyskaya Gazeta, 01.03.06)	ECT
1. “Real threat to global energy supply ... instability in hydrocarbons markets. In particular increasing gap between demand & supply”	Gap = result of under-investment. To diminish it – invest in increase of supply & in diminishment of demand (energy efficiency). ECT investment provisions!
2. “To “flatten” situation in this sphere coordinated activities of all international community is needed”	ECT is the best available instrument with the broadest geographical coverage (51 members + 18 observers)
3. “Since energy became global, energy security is indivisible. Common energy destiny means common responsibility, common risks & rewards”	ECT provides common legally-binding rules of the game in energy within its expanding area, aimed at diminishing risks
4. “More close cooperation of ... all international community in developing innovative technologies”	ECT Art.8 “Transfer of Technology” (POW 2006/ Item 5.2)
5. “To develop complex approach to increase energy efficiency...To adopt Action Plan aimed on encouragement of innovations, energy saving and protection of environment”	PEEREA is in force since 1998. Ratify & implement ECT.



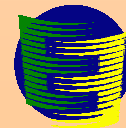
EU GREEN PAPER (MARCH 2006)

- **Starting points: Europe has entered into a new energy era:**
 - Urgent need for investment,
 - Import dependency is rising,
 - Reserves are concentrated in few countries, ...
 - Europe has not yet developed fully competitive internal energy markets
- **That demands:**
 - To diminish risks throughout **WHOLE** energy value chain, incl. inside EU,
 - Respect interest of producers & transit states – those who are outside EU,
 - Find balanced solutions – within the whole energy value chains (within broader Eurasian energy market)



EU GREEN PAPER – SIX PRIORITY AREAS

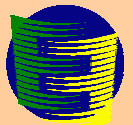
- 1) **Competitiveness and internal energy market**
 - Progress “is too slow...”
- 2) **Diversification of energy mix**
 - What should EU do to promote ... diversification of supplies?
- 3) **Solidarity**
- 4) **Sustainable development**
- 5) **Innovation & technology**
- 6) **External policy**
 - Should there be a common external policy on energy?
 - Should EU develop new partnerships with its neighbours, incl. Russia and other main producers & consumers?



EU GREEN PAPER:

2.6. Towards a coherent external energy policy (1)

- **In the process of being formulated, dependent upon progress with internal policies**
- **Strategic Review to be presented by the Commission by the end of 2006**
- **Energy Policy for Europe and a prioritised Action Plan to be adopted at 2007 Spring meeting of the European Council**



EU GREEN PAPER:

2.6. Towards a coherent external energy policy (2)

(i) Clear policy on securing & diversifying energy supplies

Especially appropriate for gas

Application of transit (?) & [mandatory?] TPA to existing pipelines (outside EU) (*NB: correlation with ECT?*)

(ii) Energy partnerships with producers, transit countries & other international actors... (*see also next slide*)

EU and its energy partners are interdependent

... incl. through multilateral fora like G8 (*NB: what about ECT?*)

(iii) Reacting effectively to external crisis situations

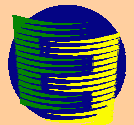
EU has no formal instrument dealing with external energy supplies (*NB: what about ECT?*)

(iv) Integrating energy into other policies with an external dimension

Focus in relations with global partners (US, Canada, China, Japan and India) on ... energy efficiency, ... R&D of new technologies, global market access and investment trends, with better results in multilateral fora such as UN, IEA and G8. (*NB: what about ECT?*)

...as a first step EU should propose and promote an international agreement on energy efficiency (*NB: correlation with PEEREA?*)

...more focus could be given to technological cooperation (*NB: correlation with ECT (Art.8) ?*)



EU GREEN PAPER:

2.6. Towards a coherent external energy policy (3)

(2.6.ii.a) Dialogue with major energy producers/suppliers

With Russia: work should start on new energy initiative, paving the way for necessary long-term investments in new capacity; fair & reciprocal access to markets & infrastructure, incl. in particular TPA to pipelines

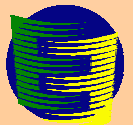
Results could be integrated into the framework of EU-Russia relations due to replace current EU-Russia PCA in 2007

In addition, efforts should be intensified in the G8 to secure rapid ratification by Russia of ECT and conclusion of negotiations on Transit Protocol

(2.6.ii.b) Developing a pan-European Energy Community

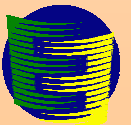
Could be created both through a new [Energy Community] Treaty, and through bilateral agreements

In line with ENP ... creating a “common regulatory space” around Europe



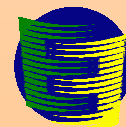
EXTERNAL ENERGY POLICY PAPER (JUNE 2006) FROM COMMISSION/SG/HR FOR THE EUROPEAN COUNCIL

- **External security of energy supplies of EU:**
 - 10 Guiding principles (*correlates with ECT/PEEREA/draft TP*)
 - 2 building blocks: functioning markets & diversification
- **Possible initiatives:**
 - At bilateral level,
 - Work towards comprehensive agreement with Russia covering all energy products. The aim should be integration of EU & Russian energy markets in a mutually beneficial, reciprocal, transparent and non-discriminatory manner. Such agreement should ideally be negotiated in the context of the post PCA contractual framework (*NB: correlation with ECT and TP finalisation?*)
 - At regional level,
 - At multilateral level
 - Conclude the negotiations of the Energy Charter Transit Protocol and secure the ratification of ECT by all signatories to the Charter



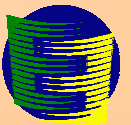
ENERGY SECURITY: WHAT IS EU APPROACH ?

- **Bilateral or multilateral ?**
- **Creation of “common regulatory space” around Europe: further expansion of EU *acquis* or ECT-based “minimum standard”?**
 - **Q: whether all “neighbours” are willing to take *acquis* as common “rules of the game”? What about Russia? What about ECT as existing set of rules?**
- **Whether EU adequately promoting ECT?**



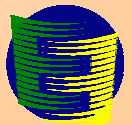
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RUSSIA'S ECT RATIFICATION HISTORY

- **Russia started ratification procedure in 1996**
- **Evolution of RF State Duma position:**
 - **1997: No – but linked to WTO accession,**
 - **2001: Russia will ratify ECT, but not yet (depending on Transit Protocol)**
- **Major Russia's concerns regarding ECT ratification relates to gas transit issues or to the issues outside the scope of the ECT**
- **Successful finalisation of Transit Protocol = key to reopen ECT ratification issue**
- **Mixed statements of RUF officials and international press on RUF ECT ratification**



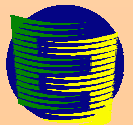
2006: NEW RISE OF ATTENTION TO ECT

- **Reasons:**

- RUF-UA gas dispute,
- RUF G-8 Presidency with “energy security” issue,
- Recent Energy Charter expansion,

BUT

- wrong expectations/ECT interpretation both in the West & East/in the press ...
- ... creates myths on what is ECT in Russia, plus
- increasing political pressure on Russia to ratify ECT
- increases concerns and generates mixed statements re ECT at political level in Russia

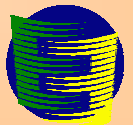


KEY ARGUMENTS AGAINST ECT RATIFICATION IN RUSSIA

– related to the substance of ECT

Opponents, as if:

- **ECT demands mandatory TPA to Gazprom’s pipelines for cheap gas from Central Asia**
 - **No such obligation. ECT excludes mandatory TPA (ECT Understanding IV.1(b)(i)). Transit is only one of the available options (+ on-border purchases, swaps)**
- **Obligation to transit Central Asian gas through Russia at low (subsidised) domestic transportation tariffs**
 - **No such obligations (though possibility for broader interpretation of ECT Article 7(3) + “Lami package” of 2003 during RUF-EU WTO accession negotiations). Transit and transportation are different in non-EU states (it being further clarified in draft Transit Protocol)**
- **ECT will “kill” LTCs**
 - **Not true. ECT documents do not deal with LTC as such at all. Economic niche for LTCs might become more narrow due to objective reasons, but they will continue to exist as a major instrument of financing Greenfield oil & gas projects. ECT supports LTC by diminishing political and regulatory risks (+ proposed solution to “contractual mismatch” problem in draft Transit Protocol).**

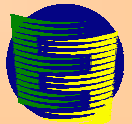


KEY ARGUMENTS AGAINST ECT RATIFICATION IN RUSSIA

– non-related to the substance of ECT

Opponents: ECT does *not* address/solve/regulate problems of:

- **Bilateral RF-EU trade in nuclear materials**
 - Prior to ECT signing in Dec.1994, RUF and EU has agreed in July 1994 to regulate nuclear trade between them on a bilateral basis (RUF-EU PCA, Art. 22). Bilateral declaration in the ECT Final Act. This concern raised again by RUF as result of EU expansion. Lack of bilateral progress under PCA is not a fault of multilateral ECT.
- **Black Sea straits**
 - 1936 Montreaux Convention on the regime of Turkish Straits sets forth freedom of passage and navigation,
- **Maritime transit of oil & products**
 - Maritime transportation is covered by the UN Convention on the Law of the Sea
- **Most recent: ECS was silent during RUF-UA gas dispute**
 - Not true. ECS SG letter to RUF & UA & EU as of Jan 3, 2006 (re conciliation procedure), etc.
- **Most recent: Supplementary Treaty not finished**
 - Russia is not ready today for implementation of national treatment at pre-investment phase (draft Law “On Subsoil”)

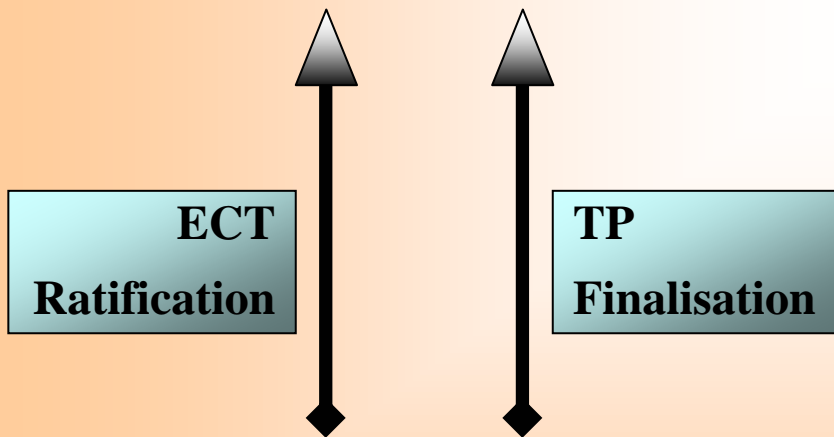


TWO VIEWS ON HOW TO PROCEED WITH RUSSIA'S ECT RATIFICATION

Before G8 SPB Summit

.....

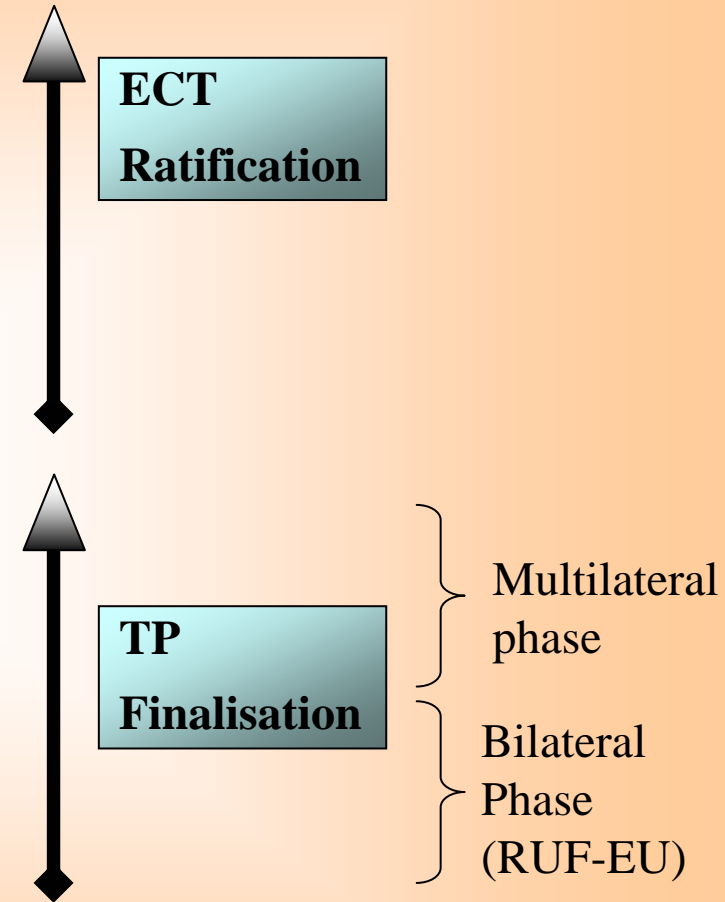
OR



EU/G7 preference

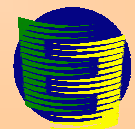
Until March 17, 2006

(Barroso-Putin meeting)

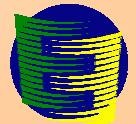
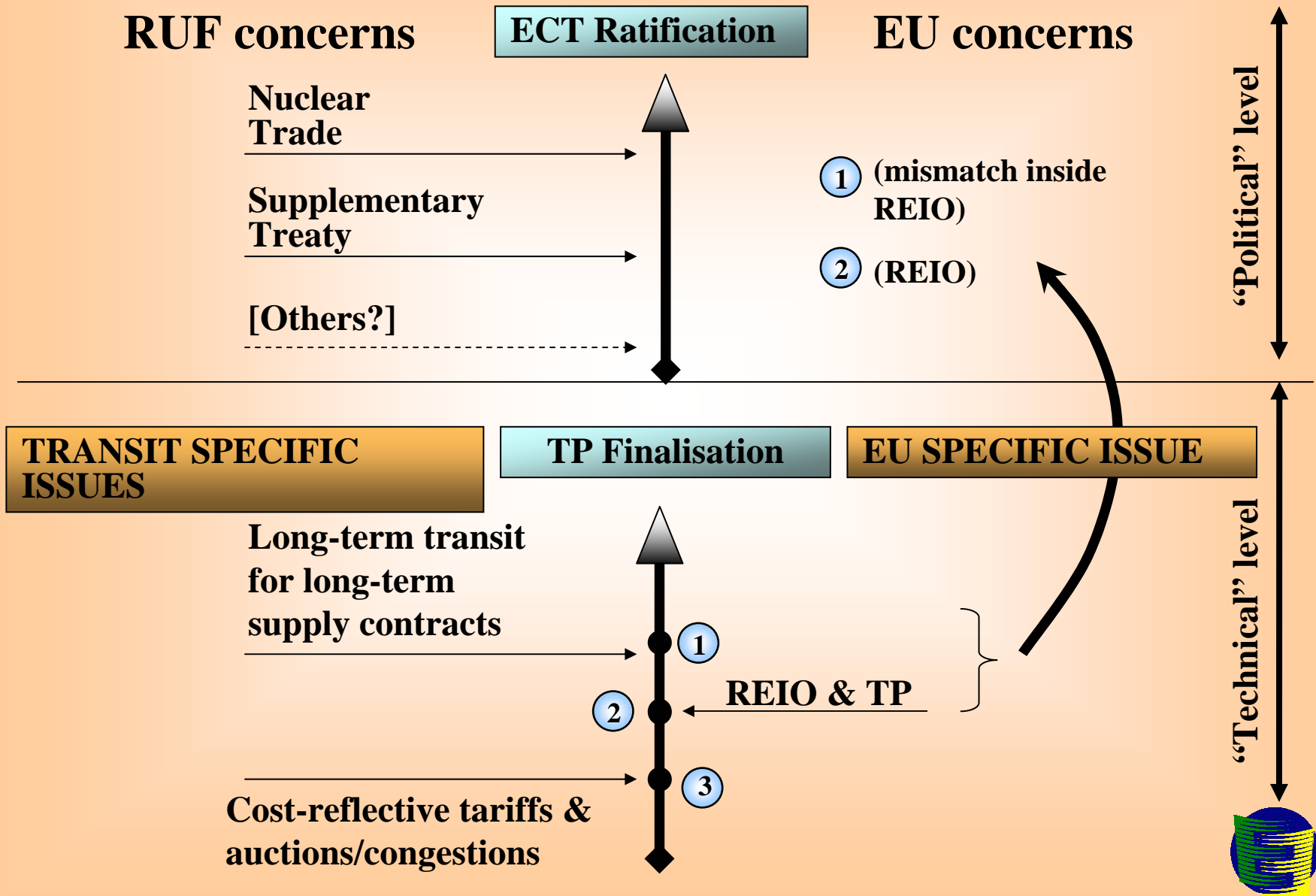


RUF position

Since 2001 (State Duma)

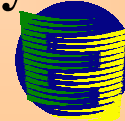


FINALISATION OF TRANSIT PROTOCOL & ECT RATIFICATION BY RUSSIA: CURRENT STATUS



RUSSIA'S 2006 G-8 PRESIDENCY AND ECT

- **“Energy security” – key topic for Russia’s 2006 G-8 Presidency. ECT is effective (cost/benefit) instrument of providing “energy security” throughout all cross-border energy value chains within Eurasia,**
- **Energy Charter – the only international organisation dealing with energy issues which decisions are legally binding, where Russia is full member,**
- **All G-8 countries have signed Energy Charter political declaration in 1991. That is good basis for developing energy cooperation within G-8 states - common political fundament is already there for 15 years, nothing need to be invented,**
- **New start of ECT ratification procedure by Russia may act as valuable input of my country in implementing “energy security” philosophy within Eurasia and as culmination of Russia’s G-8 Presidency.**
- **Finalisation of Transit Protocol is a must for that. It depends now on both Russia and the EU. Last pre-G-8 Summit opportunity for both parties to achieve practical results is July 6.**



Thank you for your attention!

www.encharter.org

