PROTOCOLUL CARTEI ENERGETICE PRIVIND EFICIENȚA ENERGETICĂ ȘI ASPECTELE ECOLOGICE CONEXE*

SEMNAT LA LISABONA LA 17 DECEMBRIE 1994

ENERGY CHARTER PROTOCOL ON ENERGY EFFICIENCY AND RELATED ENVIRONMENTAL ASPECTS,

SIGNED AT LISBON ON DECEMBER 17, 1994

* *În vigoare pentru Republica Moldova din 20 iunie 1996*

PREAMBLE

THE CONTRACTING PARTIES to this Protocol,

HAVING REGARD to the European Energy Charter adopted in the Concluding Document of the Hague Conference on the European Energy Charter, signed at The Hague on 17 December 1991; and in particular to the declarations therein that cooperation is necessary in the field of energy efficiency and related environmental protection;

HAVING REGARD also to the Energy Charter Treaty, opened for signature from 17 December 1994 to 16 June 1995;

MINDFUL of the work undertaken by international organizations and fora in the field of energy efficiency and environmental aspects of the energy cycle;

AWARE of the improvements in supply security, and of the significant economic and environmental gains, which result from the implementation of cost-effective energy efficiency measures; and aware of their importance for restructuring economies and improving living standards;

RECOGNIZING that improvements in energy efficiency reduce negative environmental consequences of the energy cycle including global warming and acidification;

CONVINCED that energy prices should reflect as far as possible a competitive market, ensuring market-oriented price formation, including fuller reflection of environmental costs and benefits, and recognizing that such price formation is vital to progress in energy efficiency and associated environmental protection;

APPRECIATING the vital role of the private sector including small and medium-sized enterprises in promoting and implementing energy efficiency measures, and intent on ensuring a favourable institutional framework for economically viable investment in energy efficiency;

RECOGNIZING that commercial forms of cooperation may need to be complemented by intergovernmental cooperation, particularly in the area of energy policy formulation and analysis as well as in other areas which are essential to the enhancement of energy efficiency but not suitable for private funding; and

DESIRING to undertake cooperative and coordinated action in the field of energy efficiency and related environmental protection and to adopt a Protocol providing a framework for using energy as economically and efficiently as possible:

HAVE AGREED AS FOLLOWS:

PART I

INTRODUCTION

Article 1

Scope and objectives of the Protocol

(1) This Protocol defines policy principles for the promotion of energy efficiency as a considerable source of energy and for consequently reducing adverse Environmental Impacts of energy systems. It furthermore provides guidance on the development of energy efficiency programmes, indicates areas of cooperation and provides a framework for the development of cooperative and coordinated action. Such action may include the prospecting for, exploration, production, conversion, storage, transport, distribution, and consumption of energy, and may relate to any economic sector.

(2) The objectives of this Protocol are:

(a) the promotion of energy efficiency policies consistent with sustainable development;

(b) the creation of framework conditions which induce producers and consumers to use energy as economically, efficiently and environmentally soundly as possible, particularly through the organization of efficient energy markets and a fuller reflection of environmental costs and benefits; and

(c) the fostering of cooperation in the field of energy efficiency.

Article 2

Definitions

As used in this Protocol:

(1) "Charter" means the European Energy Charter adopted in the Concluding Document of the Hague Conference on the European Energy Charter signed at The Hague on 17 December 1991; signature of the Concluding Document is considered to be signature of the Charter.

(2) "Contracting Party" means a state or Regional Economic Integration Organization which has consented to be bound by this Protocol and for which the Protocol is in force.

(3) "Regional Economic Integration Organization" means an organization constituted by states to which they have transferred competence over certain matters a number of which are governed by this Protocol, including the authority to take decisions binding on them in respect of those matters.

(4) "Energy Cycle" means the entire energy chain, including activities related to prospecting for, exploration, production, conversion, storage, transport, distribution and consumption of the various forms of energy, and the treatment and disposal of wastes, as well as the decommissioning, cessation or closure of these activities, minimizing harmful Environmental Impacts.

(5) "Cost-Effectiveness" means to achieve a defined objective at the lowest cost or to achieve the greatest benefit at a given cost.

(6) "Improving Energy Efficiency" means acting to maintain the same unit of output (of a good or service) without reducing the quality or performance of the output, while reducing the amount of energy required to produce that output.

(7) "Environmental Impact" means any effect caused by a given activity on the environment, including human health and safety, flora, fauna, soil, air, water, climate, landscape and historical monuments or other physical structures or the interactions among these factors; it also includes effects on cultural heritage or socio-economic conditions resulting from alterations to those factors.

PART II

POLICY PRINCIPLES

Article 3

Basic principles

Contracting Parties shall be guided by the following principles:

(1) Contracting Parties shall cooperate and, as appropriate, assist each other in developing and implementing energy efficiency policies, laws and regulations.

(2) Contracting Parties shall establish energy efficiency policies and appropriate legal and regulatory frameworks which promote, inter alia:

(a) efficient functioning of market mechanisms including market-oriented price formation and a fuller reflection of environmental costs and benefits;

(b) reduction of barriers to energy efficiency, thus stimulating investments;

(c) mechanisms for financing energy efficiency initiatives;

(d) education and awareness;

(e) dissemination and transfer of technologies;

(f) transparency of legal and regulatory frameworks.

(3) Contracting Parties shall strive to achieve the full benefit of energy efficiency throughout the Energy Cycle. To this end they shall, to the best of their competence, formulate and implement energy efficiency policies and cooperative or coordinated actions based on Cost-Effectiveness and economic efficiency, taking due account of environmental aspects.

(4) Energy efficiency policies shall include both short-term measures for the adjustment of previous practices and long-term measures to improve energy efficiency throughout the Energy Cycle.

(5) When cooperating to achieve the objectives of this Protocol, Contracting Parties shall take into account the differences in adverse effects and abatement costs between Contracting Parties.

(6) Contracting Parties recognize the vital role of the private sector. They shall encourage action by energy utilities, responsible authorities and specialized agencies, and close cooperation between industry and administrations.

(7) Cooperative or coordinated action shall take into account relevant principles adopted in international agreements, aimed at protection and improvement of the environment, to which Contracting Parties are parties.

(8) Contracting Parties shall take full advantage of the work and expertise of competent international or other bodies and shall take care to avoid duplication.

Article 4

Division of responsibility and coordination

Each Contracting Party shall strive to ensure that energy efficiency policies are coordinated among all of its responsible authorities.

Article 5

Strategies and policy aims

Contracting Parties shall formulate strategies and policy aims for Improving Energy Efficiency and thereby reducing Environmental Impacts of the Energy Cycle as appropriate in relation to their own specific energy conditions. These strategies and policy aims shall be transparent to all interested parties.

Article 6

Financing and financial incentives

(1) Contracting Parties shall encourage the implementation of new ap-

proaches and methods for financing energy efficiency and energy related environmental protection investments, such as joint venture arrangements between energy users and external investors (hereinafter referred to as "Third Party Financing").

(2) Contracting Parties shall endeavour to take advantage of and promote access to private capital markets and existing international financing institutions in order to facilitate investments in Improving Energy Efficiency and in environmental protection related to energy efficiency.

(3) Contracting Parties may, subject to the provisions of the Energy Charter Treaty and to their other international legal obligations, provide fiscal or financial incentives to energy users in order to facilitate market penetration of energy efficiency technologies, products and services. They shall strive to do so in a manner that both ensures transparency and minimizes the distortion of international markets.

Article 7

Promotion of energy efficient technology

(1) Consistent with the provisions of the Energy Charter Treaty, Contracting Parties shall encourage commercial trade and cooperation in energy efficient and environmentally sound technologies, energy related services and management practices.

(2) Contracting Parties shall promote the use of these technologies, services and management practices throughout the Energy Cycle.

Article 8

Domestic programmes

(1) In order to achieve the policy aims formulated according to Article 5, each Contracting Party shall develop, implement and regularly update energy efficiency programmes best suited to its circumstances.

(2) These programmes may include activities such as the:

(a) development of long-term energy demand and supply scenarios to guide decision-making;

(b) assessment of the energy, environmental and economic impact of actions taken;

(c) definition of standards designed to improve the efficiency of energy using equipment, and efforts to harmonize these internationally to avoid trade distortions;

(d) development and encouragement of private initiative and industrial cooperation, including joint ventures;

(e) promotion of the use of the most energy efficient technologies that are economically viable and environmentally sound;

(f) encouragement of innovative approaches for investments in energy efficiency improvements, such as Third Party Financing and co-financing;

(g) development of appropriate energy balances and data bases, for example with data on energy demand at a sufficiently detailed level and on technologies for Improving Energy Efficiency;

(h) promotion of the creation of advisory and consultancy services which may be operated by public or private industry or utilities and which provide information about energy efficiency programmes and technologies, and assist consumers and enterprises;

(i) support and promotion of cogeneration and of measures to increase the efficiency of district heat production and distribution systems to buildings and industry;

(j) establishment of specialized energy efficiency bodies at appropriate levels, that are sufficiently funded and staffed to develop and implement policies.

(3) In implementing their energy efficiency programmes, Contracting Parties shall ensure that adequate institutional and legal infrastructures exist.

PART III

INTERNATIONAL COOPERATION

Article 9

Areas of cooperation

The cooperation between Contracting Parties may take any appropriate form.

Areas of possible cooperation are listed in the Annex.

PART IV

ADMINISTRATIVE AND LEGAL ARRANGEMENTS

Article 10

Role of the Charter Conference

(1) All decisions made by the Charter Conference in accordance with this Protocol shall be made by only those Contracting Parties to the Energy Charter Treaty who are Contracting Parties to this Protocol.

(2) The Charter Conference shall endeavour to adopt, within 180 days after the entry into force of this Protocol, procedures for keeping under review and facilitating the implementation of its provisions, including re-

porting requirements, as well as for identifying areas of cooperation in accordance with Article 9.

Article 11
Secretariat and financing

(1) The Secretariat established under Article 35 of the Energy Charter Treaty shall provide the Charter Conference with all necessary assistance for the performance of its duties under this Protocol and provide such other services in support of the Protocol as may be required from time to time, subject to approval by the Charter Conference.

(2) The costs of the Secretariat and Charter Conference arising from this Protocol shall be met by the Contracting Parties to this Protocol according to their capacity to pay, determined according to the formula specified in Annex B to the Energy Charter Treaty.

Article 12
Voting

(1) Unanimity of Contracting Parties Present and Voting at the meeting of the Charter Conference where such matters fall to be decided shall be required for decisions to:

(a) adopt amendments to this Protocol; and

(b) approve accessions to this Protocol under Article 16.

Contracting Parties shall make every effort to reach agreement by consensus on any other matter requiring their decision under this Protocol. If agreement cannot be reached by consensus, decisions on non-budgetary matters shall be taken by a three-fourths majority of Contracting Parties Present and Voting at the meeting of the Charter Conference at which such matters fall to be decided.

Decisions on budgetary matters shall be taken by a qualified majority of Contracting Parties whose assessed contributions under Article 11(2) represent, in combination, at least three-fourths of the total assessed contributions.

(2) For purposes of this Article, "Contracting Parties Present and Voting" means Contracting Parties to this Protocol present and casting affirmative or negative votes, provided that the Charter Conference may decide upon rules of procedure to enable such decisions to be taken by Contracting Parties by correspondence.

(3) Except as provided in paragraph (1) in relating to budgetary matters, no decision referred to in this Article shall be valid unless it has the support of a simple majority of Contracting Parties.

(4) A Regional Economic Integration Organization shall, when voting,

have a number of votes equal to the number of its member states which are Contracting Parties to this Protocol; provided that such an Organization shall not exercise its right to vote if its member states exercise theirs, and vice versa.

(5) In the event of persistent arrears in a Contracting Party's discharge of financial obligations under this Protocol, the Charter Conference may suspend that Contracting Party's voting rights in whole or in part.

Article 13
Relation to the Energy Charter Treaty

(1) In the event of inconsistency between the provisions of this Protocol and the provisions of the Energy Charter Treaty, the provisions of the Energy Charter Treaty shall, to the extent of the inconsistency, prevail.

(2) Article 10(1) and Article 12(1) to (3) shall not apply to votes in the Charter Conference on amendments to this Protocol which assign duties or functions to the Charter Conference or the Secretariat, the establishment of which is provided for in the Energy Charter Treaty.

PART V

FINAL PROVISIONS

Article 14
Signature

This Protocol shall be open for signature at Lisbon from 17 December 1994 to 16 June 1995 by the states and Regional Economic Integration Organizations whose representatives have signed the Charter and the Energy Charter Treaty.

Article 15
Ratification, acceptance or approval

This Protocol shall be subject to ratification, acceptance or approval by signatories.

Instruments of ratification, acceptance or approval shall be deposited with the Depositary.

Article 16
Accession

This Protocol shall be open for accession, from the date on which the Protocol is closed for signature, by states and Regional Economic Integration

Organizations which have signed the Charter and are Contracting Parties to the Energy Charter Treaty, on terms to be approved by the Charter Conference. The instruments of accession shall be deposited with the Depositary.

Article 17
Amendments

(1) Any Contracting Party may propose amendments to this Protocol.

(2) The text of any proposed amendment to this Protocol shall be communicated to Contracting Parties by the Secretariat at least three months before the date on which it is proposed for adoption by the Charter Conference.

(3) Amendments to this Protocol, texts of which have been adopted by the Charter Conference, shall be communicated by the Secretariat to the Depositary which shall submit them to all Contracting Parties for ratification, acceptance or approval.

(4) Instruments of ratification, acceptance or approval of amendments to this Protocol shall be deposited with the Depositary. Amendments shall enter into force between Contracting Parties having ratified, accepted or approved them on the thirtieth day after deposit with the Depositary of instruments of ratification, acceptance or approval by at least three-fourths of the Contracting Parties. Thereafter the amendments shall enter into force for any other Contracting Party on the thirtieth day after that Contracting Party deposits its instrument of ratification, acceptance or approval of the amendments.

Article 18
Entry into force

(1) This Protocol shall enter into force on the thirtieth day after the date of deposit of the fifteenth instrument of ratification, acceptance or approval thereof, or of accession thereto, by a state or Regional Economic Integration Organization which is a signatory to the Charter and a Contracting Party to the Energy Charter Treaty or on the same date as the Energy Charter Treaty enters into force, whichever is later.

(2) For each state or Regional Economic Integration Organization for which the Energy Charter Treaty has entered into force and which ratifies, accepts, or approves this Protocol or accedes thereto after the Protocol has entered into force in accordance with paragraph (1), the Protocol shall enter into force on the thirtieth day after the date of deposit by such state or Regional Economic Integration Organization of its instrument of ratification, acceptance, approval or accession.

(3) For the purposes of paragraph (1), any instrument deposited by a Regional Economic Integration Organization shall not be counted as additional to those deposited by member states of such Organization.

Article 19
Reservations

No reservations may be made to this Protocol.

Article 20
Withdrawal

(1) At any time after this Protocol has entered into force for a Contracting Party, that Contracting Party may give written notification to the Depositary of its withdrawal from the Protocol.

(2) Any Contracting Party which withdraws from the Energy Charter Treaty shall be considered as also having withdrawn from this Protocol.

(3) The effective date of withdrawal under paragraph (1) shall be ninety days after receipt of notification by the Depositary. The effective date of withdrawal under paragraph (2) shall be the same as the effective date of withdrawal from the Energy Charter Treaty.

Article 21
Depositary

The Government of the Portuguese Republic shall be the Depositary of this Protocol.

Article 22
Authentic texts

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Protocol in English, French, German, Italian, Russian and Spanish, of which every text is equally authentic, in one original, which will be deposited with the Government of the Portuguese Republic.

DONE at Lisbon on the seventeenth day of December in the year one thousand nine hundred and ninety-four.

ANNEX

ILLUSTRATIVE AND NON-EXHAUSTIVE LIST OF POSSIBLE AREAS OF COOPERATION PURSUANT TO ARTICLE 9

Development of energy efficiency programmes, including identifying energy efficiency barriers and potentials, and the development of energy labelling and efficiency standards.

Assessment of the Environmental Impacts of the Energy Cycle.

Development of economic, legislative and regulatory measures.

Technology transfer, technical assistance and industrial joint ventures

subject to international property rights regimes and other applicable international agreements.

Research and development.

Education, training, information and statistics.

Identification and assessment of measures such as fiscal or other market-based instruments, including tradeable permits to take account of external, notably environmental, costs and benefits.

Energy analysis and policy formulation:

- assessment of energy efficiency potentials;
- energy demand analysis and statistics;
- development of legislative and regulatory measures;
- integrated resource planning and demand side management;
- Environmental Impact assessment, including major energy projects.

Evaluation of economic instruments for Improving Energy Efficiency and environmental objectives.

Energy efficiency analysis in refining, conversion, transport and distribution of hydro-carbons.

Improving Energy Efficiency in power generation and transmission:

- cogeneration;
- plant component (boilers, turbines, generators, etc);
- network integration.

Improving Energy Efficiency in the building sector:

thermal insulation standards, passive solar and ventilation;

space heating and air conditioning systems;

high efficiency low NOx burners;

metering technologies and individual metering;

domestic appliances and lighting.

Municipalities and local community services:

- district heating systems;
- efficient gas distribution systems;
- energy planning technologies;
- twinning of towns or of other relevant territorial entities;
- energy management in cities and in public buildings;
- waste management and energy recovery of waste.

Improving Energy Efficiency in the industrial sector:
- joint ventures;
- energy cascading, cogeneration and waste heat recovery;
- energy audits.

Improving Energy Efficiency in the transport sector:
- motor vehicle performance standards;
- development of efficient transport infrastructures.

Information:
- awareness creation;
- data bases: access, technical specifications, information systems;
- dissemination, collection and collation of technical information;
- behavioural studies.

Training and education:
- exchanges of energy managers, officials, engineers and students;
- organization of international training courses.

Financing:
- development of legal framework;
- Third Party Financing;
- joint ventures;
- cofinancing.