

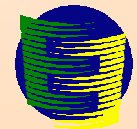
**THE FUTURE OF THE ENERGY CHARTER PROCESS:
TO FIND A COMPETITIVE NICHE**

Mr. Andrei Konopliank
Deputy Secretary General
The Energy Charter Secretariat

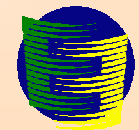
Internal ECS Seminar, Brussels, 28 May 2004

QUESTIONS FOR CONSIDERATION:

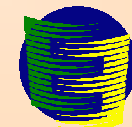
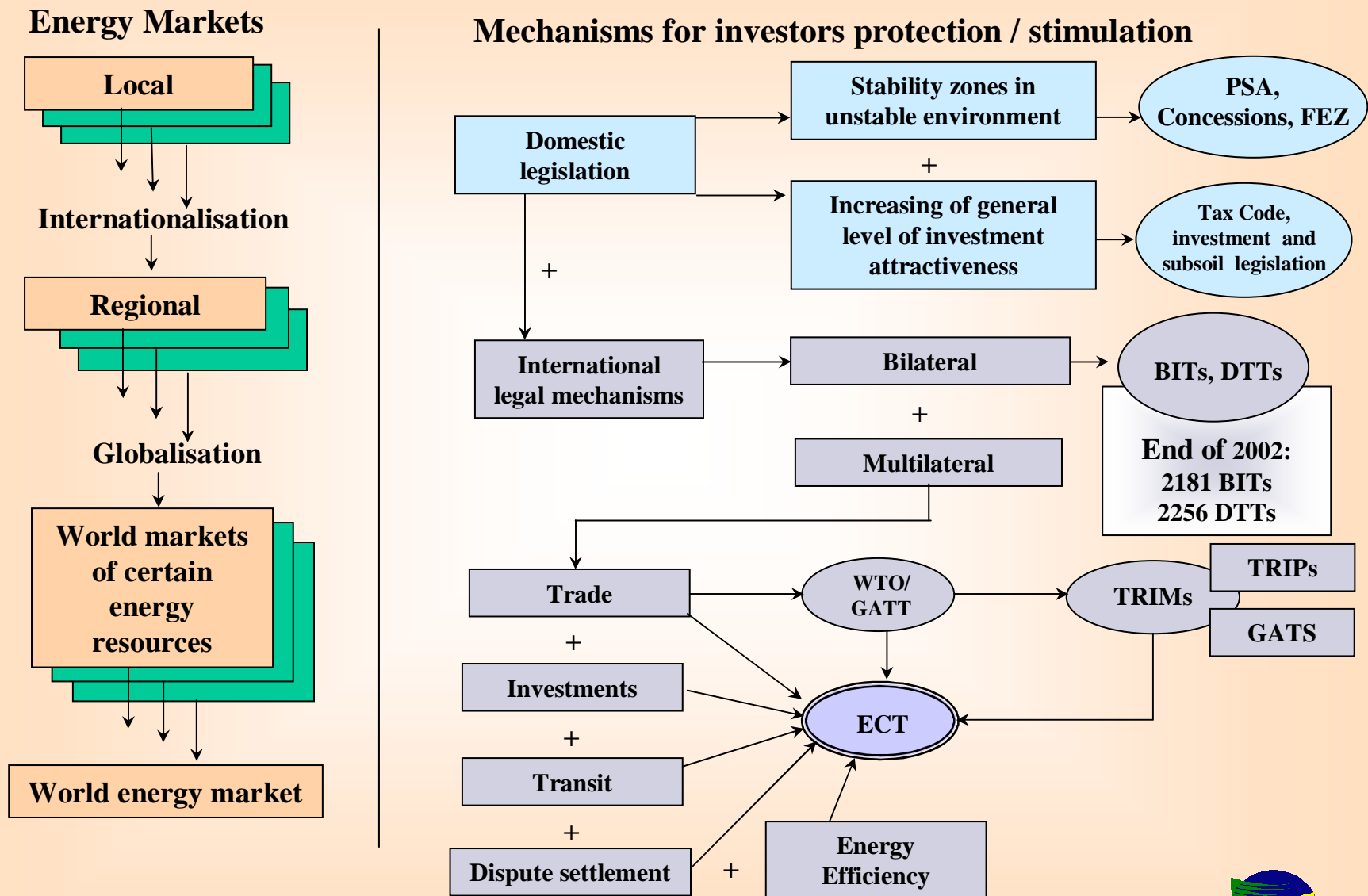
- **Energy Charter competitive niche among other international organisations**
- **Energy Charter process life-cycle**
- **Energy Charter emerging geography and expansion policy**



1. Energy Charter competitive niche among other international organisations



DEVELOPMENT OF ENERGY MARKETS AND MECHANISMS FOR INVESTORS PROTECTION / STIMULATION

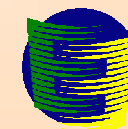


MAIN CONTENT OF SELECTED INTERNATIONAL INVESTMENT-RELATED AGREEMENTS

Organisation	Legal Status	Scope	Investment	Trade	Transit	Energy Efficiency	Dispute Settlement
ECT	LB	Energy	Yes	Yes	Yes	Yes	Yes
WTO	LB	General	(Yes) Services	Yes	Yes/No*	No	Yes
NAFTA	LB	General	Yes	Yes	No	No	Yes
MERCOSUR	LB	General	Yes	Yes	No	No	Yes
OECD	LB	General	Yes	No	No	No	No
APEC	Non-LB	General	Yes	Yes	No	No	No

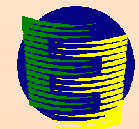
Source: J.Karl, Senior Expert, DEI, Energy Charter Secretariat

* - application of GATT Art.V to grid-bound transportation systems is under debate
 Plus specialised energy-related organisations: OPEC, IEA, IEF, UN ECE
 Plus specialised “regional” organisations: BSEC, BASREC, ...



ENERGY CHARTER PROCESS IN A GLOBAL FRAMEWORK

- General vs. specific risks,
- Global vs. regional scope



ENERGY CHARTER PROCESS IN A GLOBAL FRAMEWORK: GENERAL VS. SPECIFIC RISKS

Q.: Are there any specific risks in energy to be addressed in a special forum / documents?

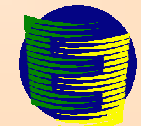
A.: Yes. Energy projects (compared to other industries):

- Highest capital intensity (absolute & unit CAPEX per project),**
- Longest project life-cycle,**
- Longest pay-back periods,**
- Geology risks (+ immobile infrastructure, etc.),**
- Highest demand for legal & tax stability,**
- Role of risk management.**

So, a competitive niche exists for energy-related multilateral international organisations – at least to address specific character of energy risks.

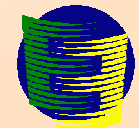
Are these organisations complimentary or competitive to each other?

What is their optimal correlation?



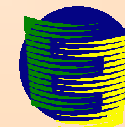
ENERGY CHARTER PROCESS IN A GLOBAL FRAMEWORK: GLOBAL VS. REGIONAL SCOPE

- Investment = global (BITs, DTTs, [MAI?])
- Energy Efficiency = global (partly IEA and UNECE)
- Trade = global (WTO)
- Dispute settlement = global (ECT covers all available DS types/procedures):
 - State-to-State
 - Investor-to-State
- Transit = regional (no other international organization deals with transit except ECT)

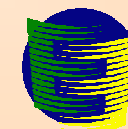
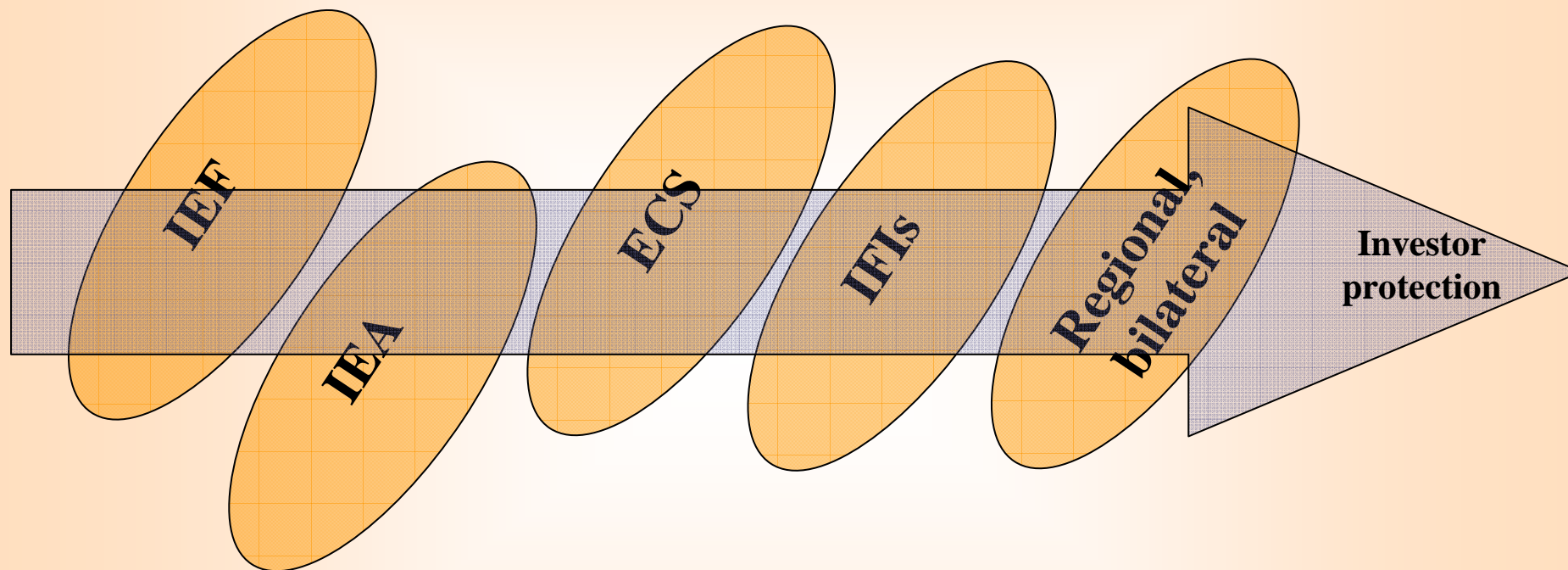


MULTILATERAL ENERGY-RELATED ORGANISATIONS: OPEC, IEF, IEA, UN ECE, ENERGY CHARTER

- **Organisation of Petroleum Exporting Countries (Vienna):**
 - Formal (government oil export policies), but deals only with one – oil – market,
 - Crude oil export quotas mechanism,
 - Oil market research & analysis, etc.
- **International Energy Forum (Er-Ryadh):**
 - Purely informal minister-to-minister dialogue (?),
 - No legal consequences (?),
 - Strong intention of IEF leadership to prevent potential bureaucratisation, etc.
- **International Energy Agency (Paris):**
 - Partly formal – related to oil market (common IEA governments oil stocks policy),
 - Mostly informal (energy markets research & analysis, energy policy recommendations),
 - Quantitative assessments of future energy markets, etc.
- **United Nations Economic Commission for Europe (UN ECE) (Geneva):**
 - Policy debate, technical issues, coordinated policies (?),
 - The only “transatlantic” organisation that historically has been uniting both OECD and former USSR/COMECON states.
- **Energy Charter (Brussels):**
 - Formal (negotiations on legally-binding documents + their implementation),
 - Expanding and deepening the scope of international law in energy-related sphere
 - Add. Policy debate

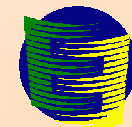


**CHAIN OF ACTIVITIES SUPPORTIVE TO ENERGY MARKETS
DEVELOPMENT PROCESS AND PROSPECTIVE ROLE/PLACE IN IT OF
DIFFERENT INTERNATIONAL ENERGY-RELATED ORGANISATIONS (I)**

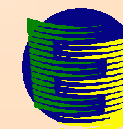
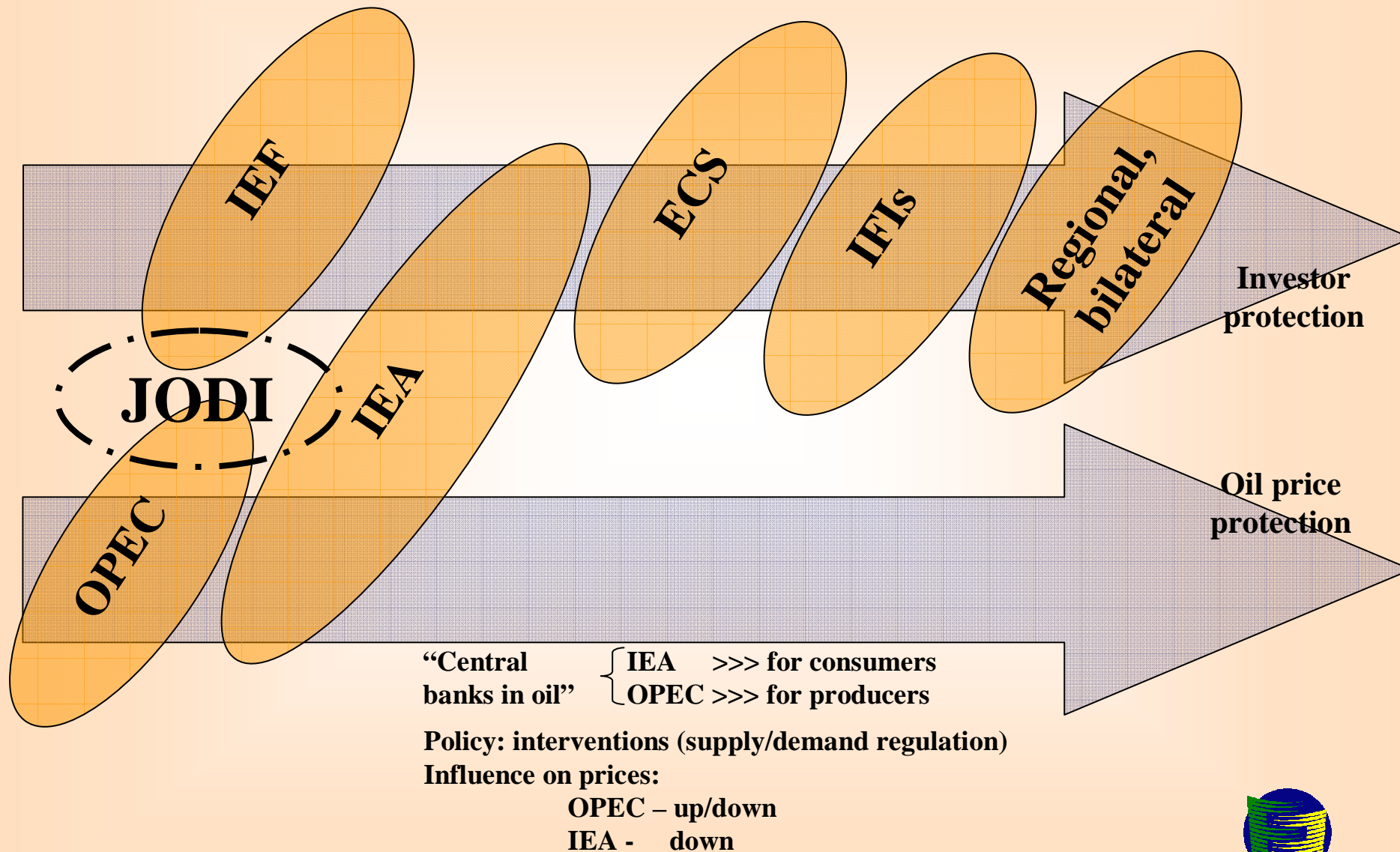


**CHAIN OF ACTIVITIES SUPPORTIVE TO ENERGY MARKETS
DEVELOPMENT PROCESS AND PROSPECTIVE ROLE/PLACE IN IT OF
DIFFERENT INTERNATIONAL ENERGY-RELATED ORGANISATIONS**

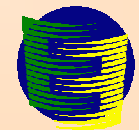
- **International Energy Forum (IEF):**
 - Indication of issues of interest/concern, “raising the questions”
- **International Energy Agency (IEA):**
 - In-depth analysis, quantitative assessments, scenarios-forecasts
- **Energy Charter:**
 - *Policy debate* – development of common approach to identified 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 (IFIs = EBRD, ADB, ...):**
 - Lead-financiers in FDI inflows in transition economies (pilot actors), lower cost of capital (debt financing),
 - Possibility (?): ECT based policy chapters in IFIs energy loans structure
- **Regional organisations (BSEC, BASREC), bilateral processes (RF-EU energy dialogue):**
 - Incremental political, economic (?), financial (?) support to the “projects of common interest”



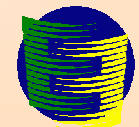
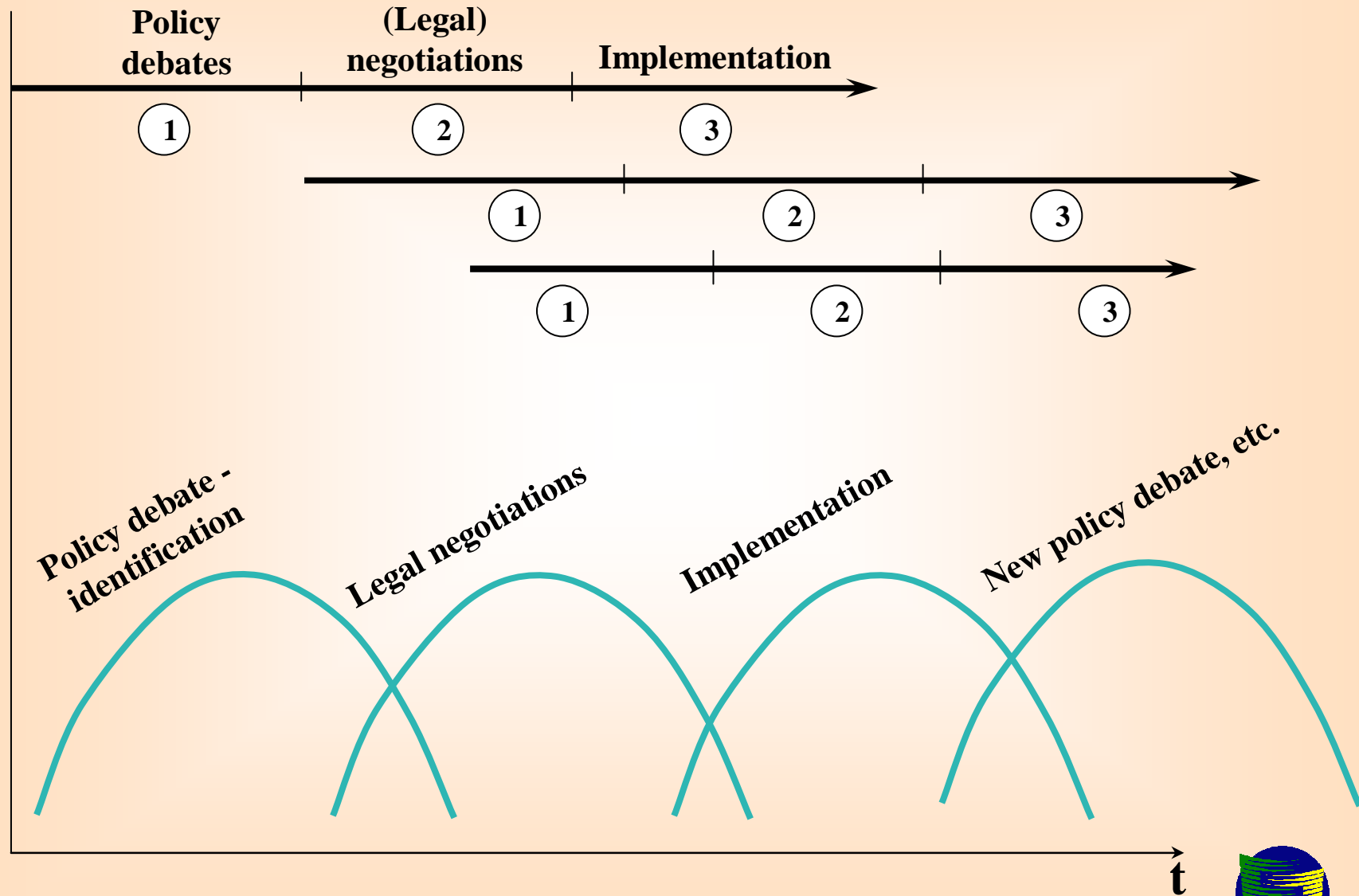
CHAIN OF ACTIVITIES SUPPORTIVE TO ENERGY MARKETS DEVELOPMENT PROCESS AND PROSPECTIVE ROLE/PLACE IN IT OF DIFFERENT INTERNATIONAL ENERGY-RELATED ORGANISATIONS (II)



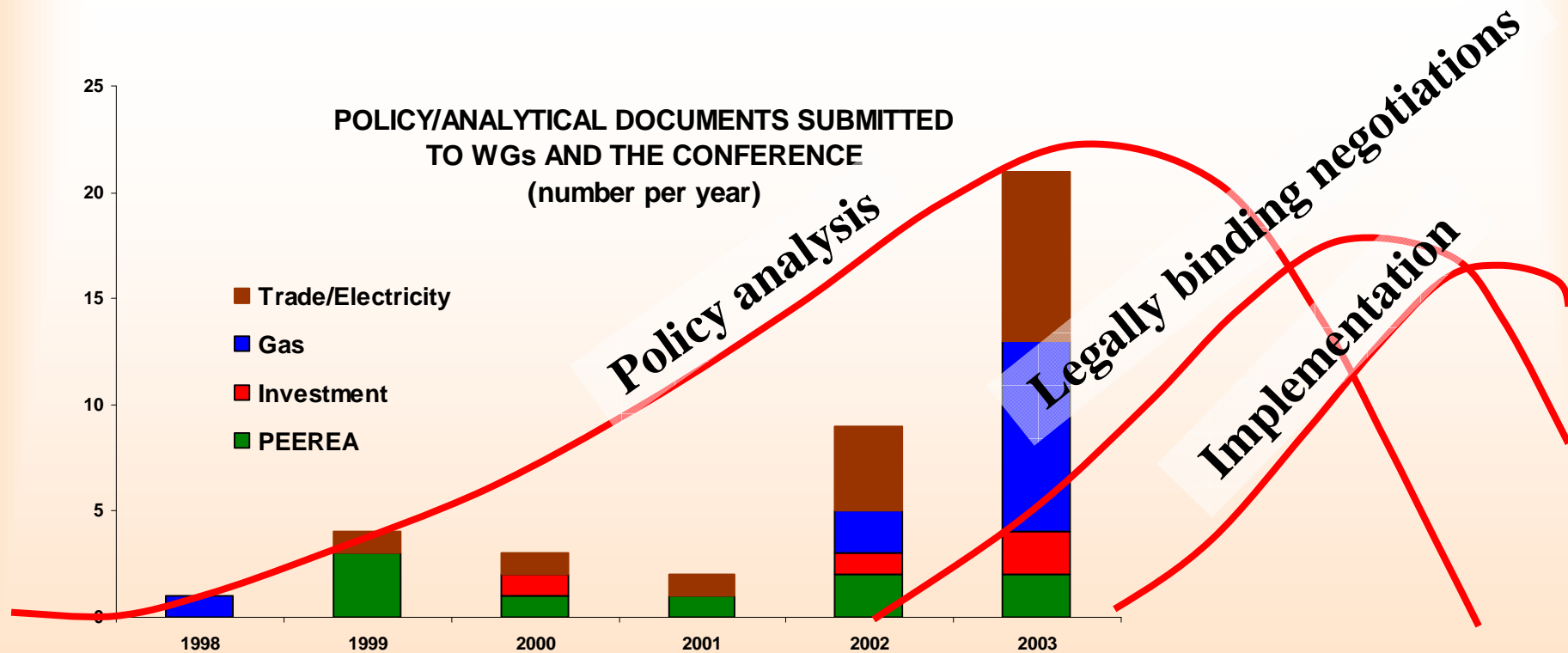
2. Energy Charter process life-cycle



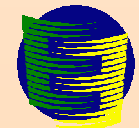
ENERGY CHARTER PROCESS CYCLE



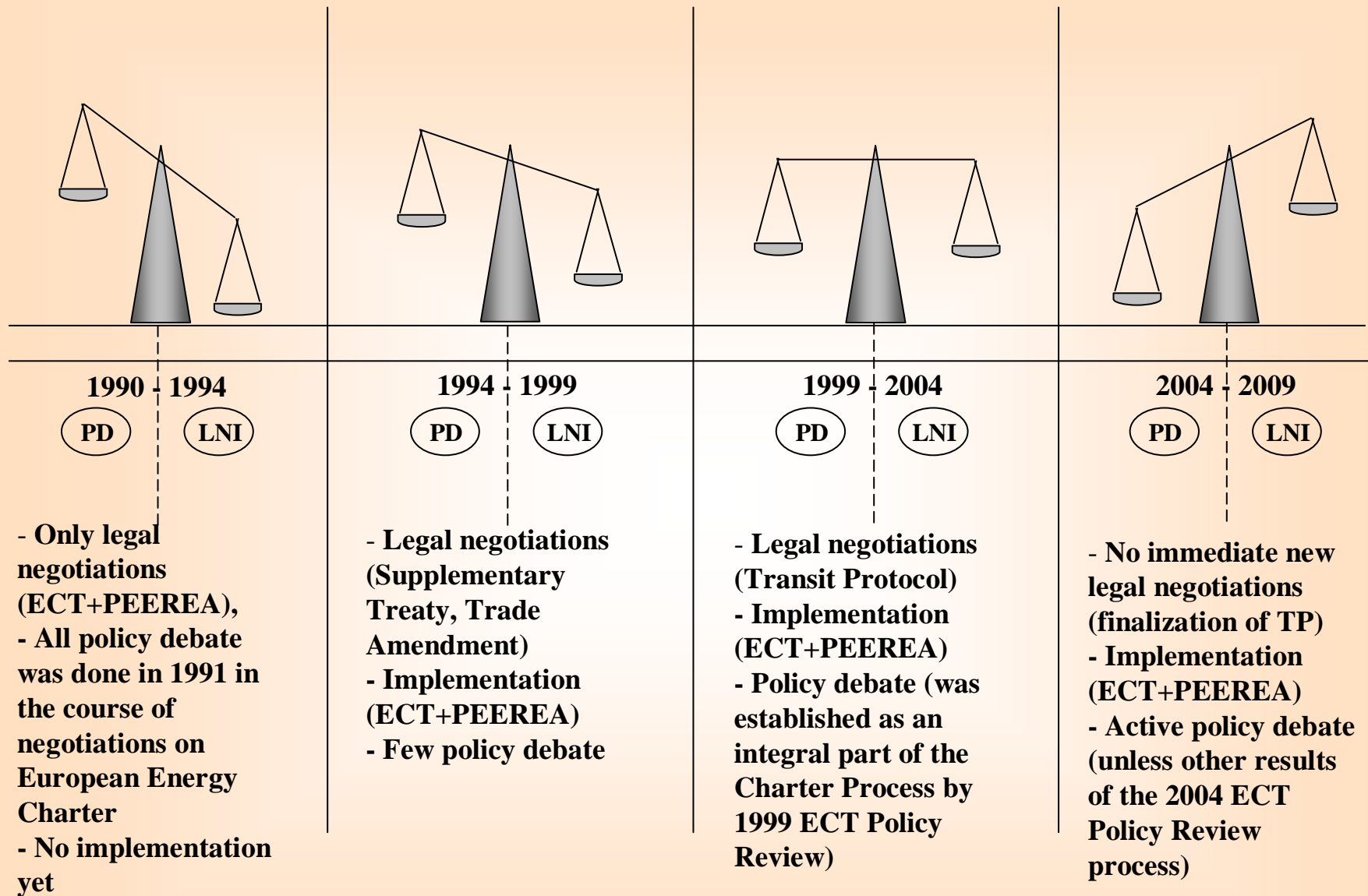
A Clear Trend to More Policy Analysis



Based on data from E.Sorensen's, DEI, presentation at ECS Retreat, 10.02.04

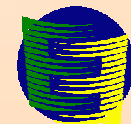


ENERGY CHARTER EVOLVING BALANCE OF ACTIVITIES



PD – policy debate

LNI – Legal negotiations and implementation



ENERGY CHARTER PROCESS LIFE-CYCLE: STAGES

CYCLE 1:

- 1.1 Evaluation of the current stage and further developments of energy markets (policy debate-1)
- 1.2 Identification of commonly accepted new challenges and new risks (policy debate -2)
- 1.3 Legal negotiations aimed at how to adequately address new risks
- 1.4 Implementation of the new legal instruments

CYCLE 2:

- 2.1 ...
- 2.2
- 2.3
- 2.4

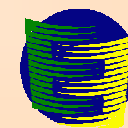
CYCLE 3:

- 3.1 ...
- 3.2
- 3.3
- 3.4

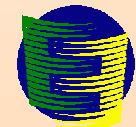
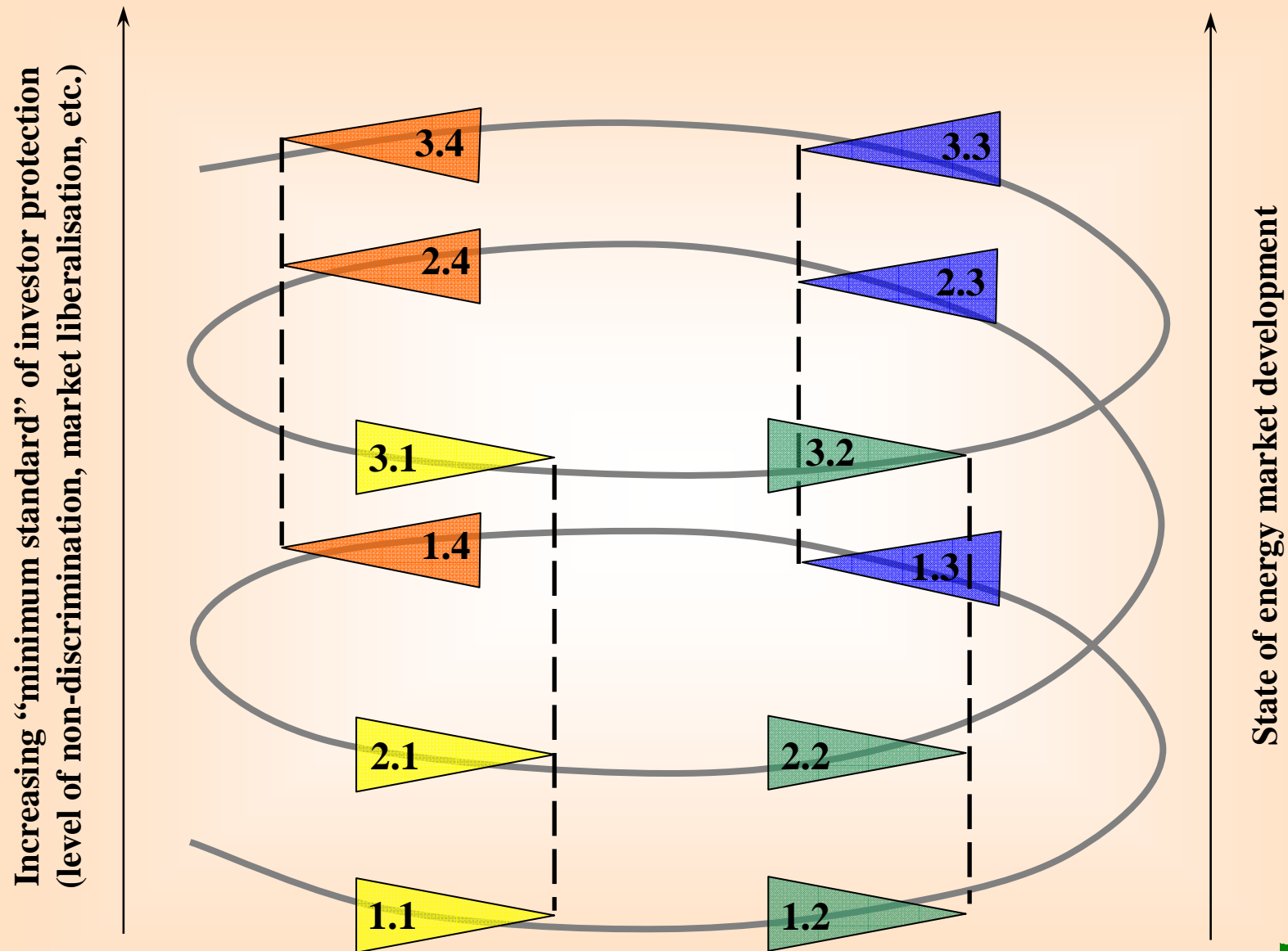
• • •

CYCLE N:

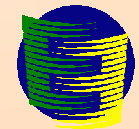
- N.1 ...
- N.2
- N.3
- N.4



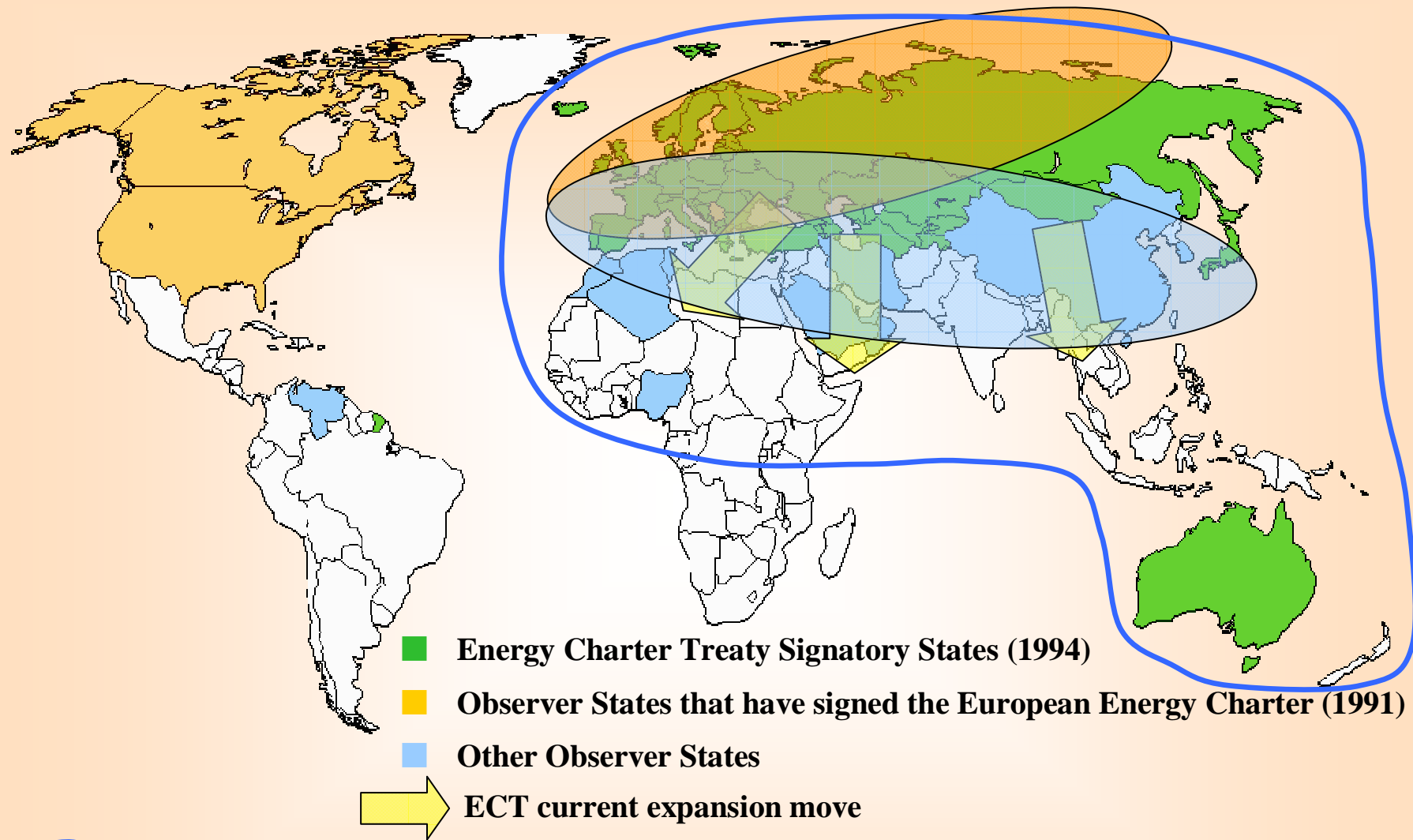
ENERGY CHARTER PROCESS LIFE-CYCLE (A CONCEPT)



3. Energy Charter emerging geography and expansion policy

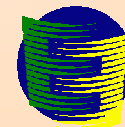


ENERGY CHARTER PROCESS: GEOGRAPHICAL DEVELOPMENT



A prospective area of broader Eurasian single energy market

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



CORRELATION BETWEEN EU AND ECT EXPANSION PROCESSES

