

Editorial

European Energy Charter

In the wake of the European Council in Rome in December 1990 the Commission has now formulated an outline proposal for a European Energy Charter for consideration by all European countries (including the Soviet Union). The objectives envisage action in the fields of expansion of trade in energy; co-operation and co-ordination on energy matters, and the optimum use of energy and protection of the environment. This involves a free market in energy, with free access to known and future energy resources and their exploitation on the basis of long-term profitability; the development of infrastructure; the removal of technical and administrative obstacles to trade; modernisation, renewal and rationalisation of installations for the production, transfer and use of energy; permitting access to technical and economic data; permitting all concerned to exploit resources; a high level of technical and safety harmonisation; research, technological development and demonstration projects; the development of new and renewable energy resources; greater energy savings, and measures to combat pollution.

The draft Charter proposes that access to markets be facilitated by transparent and non-discriminatory rules and that appropriate measures relating to mining rights be adopted where this has not yet been done. The exploitation of resources would also not be subject to discrimination and barriers; thus discrimination on grounds of ownership of resources, operation of companies' management boards, internal management and taxation would be prohibited. The right to repatriate profits and to obtain or use convertible currency would be guaranteed; the existing international rules on investment and trade would be applied and the signatory states would co-ordinate their rules on company accounts. Free trade would be promoted by the removal of barriers to trade with each other in energy products, including obstacles to transit. Main international transmission grids would be expanded and interconnected and opened up to users. Technical compatibility in installation and operation and the stability of electricity grids would be ensured. On technical specifications, the call for high standards on safety, health,

environment and workers' interests necessitates joint agreements or mutual recognition of specifications and rules. Research, technical co-operation and innovation co-operation is, not surprisingly, subject to industrial and commercial property interests. Specific agreements would be concluded between the states concerned and the European Community (which would be a signatory as such to the Charter) and they would be open to other states or international organisations concerned. Priority areas for specific agreements would be nuclear energy and improvements in reactor safety; mining and clean coal technologies; efficient use of energy; the development of renewable energy resources: use of natural gas and transmission via high pressure gas pipelines; modernisation of power stations, interconnection of power grids and modernisation of electricity transmission via high voltage power lines; use and transmission of oil and oil products and the modernisation of refineries, and technology transfer and encouragement of innovation. The Charter would be administered by a Secretariat which could draw on other organisations active in the energy field. Any dispute which could not be settled by the signatories concerned bilaterally would be submitted to an Arbitration Board and the parties to the dispute would be bound to take the steps necessary to ensure that the Board's decision was implemented.

The Commission hopes that an international conference could be convened in the second half of 1991 to consider this draft Charter which would be the basis for a free energy market which concentrated co-operation on the improvement of infrastructure and efficiency in the perspective of environmental protection. Irrespective of whether they join the Community, approval of the Charter would oblige certain states with notoriously closed market regulation to open themselves up to competition on a realistic basis. A European Energy Charter in various ways expands the Community free market and its philosophy. Attitudes of other European states such as Norway to the prospect of dismantling their energy protectionism will be a test case for their commercial readiness to join the Community. Thus sectorial integration may once again pave the way for the more widespread integration demanded on accession to the Community.

Laurence Gormley

Apology and Correction

We apologise to Messrs Denton and Edwards for omitting correct references in their articles published in the January issue. Unfortunately there was an administrative misunderstanding and the references were not sent to the printers for incorporation in the finished journal.

The statutory instrument number missing from page 3, at the end of the penultimate paragraph in the middle column should be SI 88/0915.

In Mr Edwards' article the case references should read as follows:

- (1) Case 24/85, *JMA Spijkers v Gebroeders Benedik Abbattoir CV* [1986] ECR 1119; [1986] 2 CMLR 296.
- (2) Case 324/86, *Foreningen Af Arbejdsledere I Danmark v Daddy's Dance Hall A/S* [1988] ECR 739; [1988] IRLR 315.
- (3) Case 101/87, *P Bork International A/S v Foreningen Af Arbejdsledere I Danmark* [1988] ECR 3057; [1989] IRLR 41.
- (4) Case 287/86, *Lands Organisationen I Danmark v Ny Molle Krow* [1989] ECR 5456; [1988] IRLR 37.

The statutory instrument number missing from the end of page 7 is SI 81/1794.

In addition to the above, it should be noted that the Second Direct Life Directive referred to on page 4 of Mr Denton's article has been adopted by the Council (90/619/EEC, OJ 1990 L330/50).

February

In the February issue the *Dow* cases were referred to in the article by Stephen Kinsella "Gone Fishing". The full reference to these cases will be published as soon as available.

April Issue

The April issue will contain articles on the *Hag II* decision, Italian banking law and UK immigration law.