

## EREF Press Release

# Time to end the Energy Charter Treaty (ECT) and to move on with the European energy transition

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EREF calls on the EU and Member States to join France, the Netherlands, Poland and Spain and to initiate their withdrawal from the Energy Charter Treaty (ECT) because the so-called *agreement in principle* on the modernisation of the ECT sustains EU fossil fuel dependency and impedes the transition to 100% renewable energy EU.

EREF recalls that the conclusions of 15 rounds of negotiations included in the so-called *agreement in principle* (on which governments did not agree yet!) if adopted by November 22<sup>nd</sup> at the Energy Charter Conference meeting in Mongolia will 1) extend the protection under the Energy Charter Treaty's investor-state-dispute settlement (ISDS) mechanism of existing foreign investment in all fossil fuels at least until 2033 and in gas until 2043; and 2) introduce the protection of foreign investments in technologies needed only if Europe does not shift to 100% renewable energy.

Both outcomes of the modernisation of the ECT do not match with the EU climate neutrality target as rightly pointed out by the French High Council for Climate in its [opinion](#) on the so-called *agreement in principle* on the ECT modernisation. This opinion has been instrumental in the decision of President Macron to withdraw France from the ECT. The EU and other Member States cannot ignore a scientific-based recommendation from an independent body of highly qualified climate French scientists.

EREF is also sceptical about the capacity of the new provisions (i.e. right to regulate, the non-application of un-reformed ECT ISDS mechanism for intra-EU disputes) proposed in the so-called *agreement in principle* to avoid new ISDS claims against the EU and its Member States. The inter-se agreement proposed by the European Commission [Communication](#) to the European Council on the interpretation of the ECT confirms our fear about the weaknesses of the changes proposed in the "*agreement in principle*" and the risk of new ISDS claims. This risk of a carbon lock-in through the use of ISDS was also highlighted by [the 2022 IPCC report](#)

Building an EU powered by 100% renewable energy requires the immediate ending of the fossil fuels era by initiating the withdrawal of the EU and its Member States from the Energy Charter Treaty and rejecting the so-called *agreement in principle* at the Energy Charter Conference meeting scheduled for November 22<sup>nd</sup> in Mongolia.

The ongoing energy crisis revealed that the fast transformation to a renewable-based energy system that is combined with a substantially more efficient use of energy is the

only true sustainable way to bring back Europe's sovereignty on its energy policies. [A recent study on higher renewable energy and energy efficiency 2030 targets \(Executive Summary\)](#) demonstrates the feasibility and financial benefits of a such a stronger uptake in Europe's different renewable energy sources that can provide decarbonised energy at any point in the day, season or year, and keep our systems in balance.

Director Dörte Fouquet: "EREF underscores, that with a coordinated and massive exit of Nation States from the ECT, the current sunset clause in Art 47 ECT would become void under the rules of „Clausius rebus sic stantibus clause“ established in international law by the Vienna Convention on the Law of the Treaties in Art. 62. The ECT is in conflict with our legal obligations surrounding our climate goals and not least the Paris agreement. We face a fundamental change of circumstances compared to the times when the ECT was first developed. All signatures to the treaty should seriously consider to withdraw now, before they are left holding the baby"

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