

Open letter from climate leaders and scientists to signatories of the Energy Charter Treaty (ECT)

Withdraw from the Energy Charter Treaty because it impedes the transition to clean energy

Fossil fuels account for 72% of European energy supply and they need to be urgently phased out in order to avoid a climate catastrophe. A rapid transition towards a fossil-free energy system is required.

The Energy Charter Treaty (ECT) is a major obstacle to this transition. It protects investments in energy supply, including coal mines, oil and gas extraction, pipelines, refineries and power stations. The treaty allows energy firms to challenge almost any state measure that impacts the investor's expected profit. Legal disputes of this kind are not settled by national courts but in non-transparent private arbitration hearings. Awards worth billions of euros (of taxpayers money) are being made against governments. Investors can even claim and receive compensation for expected future profits.

Energy firms are using the ECT to slow down the transition away from fossil fuels. For example, UK oil company Rockhopper is suing Italy for banning oil extraction in the country's coastal waters, claiming seven times the sum that the company initially invested. British energy firm Ascent Resources is suing Slovenia for demanding the company carries out an Environmental Impact Assessment before starting gas explorations using fracking. In the Netherlands, the operator of a coal-fired power station has started legal proceedings under the ECT against the Dutch government's coal phase-out law, reportedly demanding €1 billion in compensation.

The threat of investment arbitration claims of this kind can be sufficient to dissuade governments from legislating in the public interest. Therefore, the signatories to this letter see the Energy Charter Treaty as a major obstacle to the implementation of the Paris Agreement and the European Green Deal.

We call on the European Union and the 53 signatories to the ECT to immediately:

- **Withdraw from the Energy Charter Treaty.** The ECT is outdated. The ongoing reform process of the treaty (referred to as "modernisation") should not be used as an excuse to defer withdrawal, as it will not make the ECT Paris-compliant. An end to the protection of foreign investments in fossil fuels is not even on the negotiation table, and it would anyway be unacceptable to many of the ECT's signatories, who must unanimously agree to reforms.
- **Work together on an agreement to end the "sunset clause".** This clause allows investors to sue governments for 20 years after they have withdrawn from the ECT. To mitigate this problem, we call on countries to withdraw from the ECT simultaneously and to adopt an agreement that excludes investor claims within this group of countries.
- **Stop the attempts to expand the ECT internationally.** As things stand dozens of low and middle income countries, in Africa, Asia and Latin America, are being encouraged to join the ECT. The European Union is funding this expansion process using public funds. Expansion must be stopped.

The climate emergency does not tolerate any further delay. If governments want to be seen as leaders on climate change then they need to step away from investment agreements that tie their hands and continue to protect fossil fuels at the taxpayers' expense. Withdrawal from the Energy Charter Treaty is an essential first step.

Yours sincerely