

## Statement on the so-called “*agreement in principle*” on the modernisation of the Energy Charter Treaty

Poland, Spain, the Netherlands, France, Slovenia and Germany are at different stages in their internal procedures to withdraw from the Energy Charter Treaty (ECT).

The decision of these front-runner countries to withdraw from the Energy Charter Treaty is based on their assessments of the conclusions of 15 rounds of negotiations included in the so-called “*agreement in principle*”, on which our governments did not agree yet!

*“The proposed timeline to phase-out protection of foreign investment in fossil fuels does not match with the EU decarbonisation timeline and the climate emergency”* as rightly stated by the French High Council for Climate, an independent body advising the French Government on climate policies, in its assessment of the so-called “*agreement in principle*” on the modernisation of the Energy Charter Treaty.

The so-called “*agreement in principle*” on the modernisation of the Energy Charter Treaty, if adopted, at the Energy Charter Conference meeting planned for November 22<sup>nd</sup> in Mongolia, as proposed by the European Commission to the European Council will extend protection of existing foreign investment in all fossil fuels at least until 2033 and in gas at least until 2043.

The real phase-out of protection of foreign investment in fossil fuels will take much longer as the ratification of the approved text, if adopted, is likely to take more than the three years suggested by the ECT secretariat, if ever ratification happens. The adoption of the “*Agreement in principle*” on the modernisation of the Energy Charter Treaty will also open the door to protecting technologies and solutions needed only in a fossil-fuel economy at the time the EU aims to become climate neutral and fossil-fuel free.

The subsequent agreement proposed by the European Commission to the Council provides evidence that the claimed safeguard provisions included in the so-called “*agreement in principle*” on the modernisation of the Energy Charter Treaty will not be sufficient to avoid new investor-state dispute settlement (ISDS) claims against the EU and its Member States. The ISDS lock-in effect identified in the 2022 IPCC report on climate mitigation is likely to become the EU daily reality.

As of today, there are 150 known ISDS claims under the ECT. This is equivalent to more than €40 billion claimed by investors. With the reform, previous estimates of €1.3 trillion ISDS costs and €2.15 trillion of stranded fossil fuels assets protected by the ECT by 2050 are likely to become a reality.

The so-called “*agreement in principle*” on the modernisation of the Energy Charter Treaty is neither consistent with the European Green Deal, nor with the EU climate law, nor with the EIB energy lending policy, nor the EU taxonomy for sustainable investment, nor the EU strategy to limit its energy dependency on fossil fuels and our vote for a Treaty for a non-proliferation of fossil fuels. Adopting the so-called “*agreement in principle*” on the modernisation of the Energy Charter Treaty will

undermine our collective efforts towards the climate neutrality and the energy dependency of the EU.

**We, Members of the European Parliament require the European Commission to prepare and publish without further delay a communication to the European Parliament, the European Council, and the Member States on the withdrawal of the EU and its Member States for approval at the European Council prior to the Energy Charter Conference meeting planned for November 22<sup>nd</sup> in Mongolia. This will give a clear signal about the EU climate commitment to implementing the Paris agreement on the occasion of the COP27.**

### **Signatories**

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