

Expert Roundtable:

The Energy Charter Treaty at a Crossroads

Concept note

1. Overview

The Energy Charter Treaty (ECT) is the only multilateral investment treaty catered to investments in the energy sector. Contracting Parties include the EU and EU Member States as well as non-EU Member States across Eurasia—all signatories to the Paris Agreement. On 24 June 2022, the Contracting Parties reached an agreement in principle on the modernization of the ECT, which could be a game-changer after a decade of ever-increasing intra-EU disputes in the renewable energy sector. These disputes, along with concerns over the protection of fossil fuel investments, have raised questions as to the compatibility of the treaty with both EU law and international climate action.

After fifteen rounds of negotiations, the revised text of the ECT is expected to be made public in November 2022. Against the backdrop of national and regional policies aiming at greater investments in the renewable energy sector and the phasing out of fossil fuels, this roundtable aims at bringing together experts across sectors in a lively debate on investment arbitration under the ECT in the face of international climate goals. The roundtable will address, inter alia, the following questions:

- Where are we coming from and where are we going: Intra-EU disputes and the environmental aspect of the ECT, how will the (revised) ECT serve to protect low-carbon energy investments?
- How will public interest considerations, and climate change in particular, play a greater role in investor-State disputes under the ECT?
- What are the challenges in the medium and long-term for investors and market players and how can the ECT address these challenges?
- How can the modernization of the ECT better align the treaty with today's international climate goals and what are the pros and cons of modernization vs. withdrawal?

2. Event format

As part of the roundtable discussion, academics and practitioners will provide their insights on key legal questions concerning investment and environmental protection under the ECT.

The event is structured over four rounds of questions, in which panelists will:

- provide their view on the modernization process (round 1);
- set out their different perspectives on the ECT reflecting their respective roles and expertise (round 2);
- debate one-on-one over specific key legal challenges in the ECT modernization process (round 3); and
- wrap up the conversation by discussing prognoses for the future (round 4).
- A Q&A session follows.

The discussion will be moderated by Dr. Alessandro Monti (University of Copenhagen), Dr. Matteo Fermeglia (Hasselt University) and Dr. Martina Magnarelli (Seven Summits Arbitration).

The event will take place **online** on the Zoom platform on Thursday, 8 September 2022, at 16.00-18.00 CEST.

3. Participation

Participation to the event is open and registration is free, but required through this [link](#). The event aims to reach a broad range of stakeholders, including (1) academics and students (2) practitioners, (3) representatives of international institutions, (3) members of civil society and (4) the business community.

4. Speakers

- a. **Freya Baetens** (Professor of Public International Law, University of Oxford)
- b. **Martin Dietrich Brauch** (Lead Researcher, Columbia Center on Sustainable Investment, Columbia University, New York)
- c. **Anja Ipp** (Co-Founder, Climate Change Counsel, Stockholm)
- d. **Greg Lourie** (Counsel, ICC International Court of Arbitration, Paris)
- e. **Tomáš Linhart** (Lead Counsel, Siemens Energy, Berlin & General Counsel, Siemens Energy Switzerland, Morocco, Ivory Coast)
- f. **Giacomo Lorenzo** (Legal Counsel, Deminor, Brussels)

5. Programme

Time	Programme
16:00 – 16:10	Opening remarks <i>Dr. Alessandro Monti</i> , Assistant Professor, University of Copenhagen, Faculty of Law <i>Dr. Martina Magnarelli</i> , Associate, Seven Summits Arbitration, Munich <i>Dr. Matteo Fermeglia</i> , Assistant Professor, Hasselt University, Faculty of Law
16:10 – 16:30	Roundtable discussion – 1st round: The modernization process: challenges and achievements
16:30 – 16:50	Roundtable discussion – 2nd round: Sectoral perspectives on the ECT

Time	Programme
16:50 – 17:20	<i>Roundtable discussion – 3rd round:</i> Analysis of selected legal issues
17:20 – 17:40	<i>Roundtable discussion – 4th round:</i> Way forward: short-term and long-term perspectives
17:40 – 17:50	<i>Q&A</i>
17:50 – 18:00	Concluding remarks <i>Dr. Alessandro Monti</i> , Assistant Professor, University of Copenhagen, Faculty of Law <i>Dr. Martina Magnarelli</i> , Associate, Seven Summits Arbitration, Munich <i>Dr. Matteo Fermaglia</i> , Assistant Professor, Hasselt University, Faculty of Law