

Rt. Hon. Grant Shapps MP  
Secretary of State for Energy Security and Net Zero  
1 Victoria Street  
London  
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9th February 2023

Dear Secretary of State

We are writing to you to urge you to consider joining France, Germany, the Netherlands and other key allies in withdrawing from the Energy Charter Treaty (ECT).<sup>1</sup> It is our view that continued membership of the ECT will harm our prospects of limiting global warming to 1.5 degrees because it will prolong the UK's dependence on fossil fuels and impede the transition to renewable energy.

The 2022 IPCC report was clear that the ECT risks blocking the phase out of fossil fuels.<sup>2</sup> Investors have already brought cases against countries for phasing out coal fired power stations, banning the exploitation of oil and gas near their coastline, and requiring environmental impact assessments.<sup>3</sup>

The ECT can significantly increase the cost of climate action by allowing cases to be brought which compensate investors (including in fossil fuels) for the loss of hypothetical future profits and providing significantly larger amounts of compensation than would be available through domestic courts. There is also evidence that countries are shying away from introducing new legislation for fear of being challenged in claims under the ECT.

The ECT does nothing to help the UK achieve increased energy security. The UK's major oil and gas suppliers are not members: Norway, which provides half of the UK's imports of crude oil,<sup>4</sup> is listed on the ECT website but has never ratified the treaty; Russia withdrew from the treaty in 2018. Other major suppliers of oil and gas including the US, Saudi Arabia, and the United Arab Emirates are not members and eight European countries have recently announced their intention to withdraw.<sup>5</sup>

Current modernisation proposals extend protection under the ECT's investor-to-state dispute settlement (ISDS) mechanism for existing foreign investment in all fossil fuels until at least 2033 and in gas until 2043. This means that investors will be able to continue to use the

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<sup>1</sup> At the time of writing France, the Netherlands, Germany, Poland, Spain, Italy, Slovenia and Luxembourg have all announced that they will withdraw from the treaty.

<sup>2</sup> IPCC (2022) *Sixth Assessment Report, Working Group III* Ch. 14 p. 1505-1506. Available at: [https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC\\_AR6\\_WGIII\\_Chapter14.pdf](https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC_AR6_WGIII_Chapter14.pdf)

<sup>3</sup> Uniper vs. Netherlands ICSID Case No. ARB/21/22; Rockhopper vs. Italy, ICSID Case No. ARB/17/14; Ascent Resources vs. Slovenia ICSID Case No. ARB/22/21.

<sup>4</sup>

<https://www.ons.gov.uk/economy/nationalaccounts/balanceofpayments/articles/trendsimportsandexportoffuels/2022-06-29#:~:text=Norway%20was%20the%20UK's%20main,oil%20imports%20coming%20from%20Russia.>

<sup>5</sup> <https://www.energycharter.org/who-we-are/members-observers/>

treaty to challenge the phase out of fossil fuels at precisely the time when the world urgently needs to rapidly reduce its use. The French High Council for Climate has stated that the ECT modernisation plans are at odds with EU net zero targets, it is likely this would apply to the UK's own plans.

The ECT was created almost 30 years ago, in the context of the end of the Cold War and when there was less understanding of and consensus around the human drivers of climate change. The context has changed significantly: we have a very limited time to undertake a drastic reduction in greenhouse gas emissions.

The conclusion of COP27, the recent end to the UK's COP26 presidency and the ECT modernisation meeting proposed for early April make this a key moment for the UK to withdraw. We urge you to take this opportunity to announce that the UK will withdraw and work with other partners to ensure sunset clauses do not apply.

Yours sincerely

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