



**ENERGY CHARTER TREATY VS.
FOSSIL FUEL NON-PROLIFERATION TREATY**
Out with the old, in with the new

ENERGY CHARTER TREATY (ECT) <i>"A fossil fuel protection treaty"</i>	vs.	FOSSIL FUEL NON-PROLIFERATION TREATY (FOSSIL FUEL TREATY) <i>"A climate protection treaty"</i>
<p><i>An anachronistic treaty:</i></p> <ul style="list-style-type: none">• Drafted and ratified in 1991, in the midst of neoliberal globalisation, the objective of the ECT was to encourage and protect foreign direct investment in the energy sector• Like other agreements or institutions born with globalisation, the ECT is contradictory with the fight against global warming and anachronistic in light of the increasing climate emergency		<p><i>An innovative and bold treaty addressing the climate emergency:</i></p> <ul style="list-style-type: none">• <u>Pacific nations</u> - among the most affected by the climate crisis, even though they contribute less than 0.03% of CO2 emissions- were the first to propose a global treaty to end the proliferation of new fossil fuel projects in 2015• The proposed Fossil Fuel Treaty recognises the importance of the Paris Agreement in international climate governance but also its limitations: Paris makes no mention of oil, gas and coal. Yet, these 3 substances are responsible for 86% of CO2 emissions in the past decade• The proposed Fossil Fuel Treaty aims to complement the Paris Agreement in order to effectively address the climate crisis by tackling its root cause: oil, gas and coal production

A treaty that places the law at the service of private interests:

- Since the ECT establishes the investor-state dispute settlement systems (ISDS) – granting private foreign investors the right to sue a sovereign nation in a forum other than that nation's domestic courts – it provides private investors with a level of legal protection that puts them in a position of strength in the face of a government refusing to extend fossil fuel projects or launch new ones
- The risk of litigation to which States are exposed thus becomes a deterrent to the feasibility of the energy transition

A treaty that places the law at the service of the people:

- The proposed Fossil Fuel Non-Proliferation Treaty would promote international cooperation in order to preserve the rights of populations and our common home.
- The proposed Fossil Fuel Non-Proliferation Treaty places the collective interest at the heart of its political project in order to guarantee the right of all to a dignified life and a healthy planet, especially the most vulnerable communities

A treaty that protects transnational fossil fuel investors:

- With the majority of investments to date going to fossil fuels rather than renewables, the ECT is not neutral as to the energy sources it protects
- Even in the rare cases where investors' claims are actually related to their renewable energy investments, the claimant's renewable energy portfolio is a very small part of its assets, meaning that the money claimed is likely to be reinvested in the fossil fuel sector
- Under ECT rules, the claims can only be taken by foreign investors, putting smaller domestic renewable investors and communities at a disadvantage since most of global investment in renewable energy is domestic

A treaty that protects communities and promotes renewable energy:

- The Fossil Fuel Non-Proliferation Treaty would be a tool to put an end to our dependence on the oil, gas and coal industry and instead, promote investments in renewable energies
- The Fossil Fuel Treaty proposal is based on scientific expertise showing that there is already enough fossil fuel in production as well as enough renewable energy potential in every region to build a world free from oil, gas and coal
- Centred on the concept of just transition, the Fossil Fuel Non-Proliferation Treaty proposal aims to foster support from the richest countries to the most vulnerable and fossil fuel-dependent countries so that they too can achieve their energy transition

A treaty that locks-in countries' fossil fuels stranded assets:

- The ECT – and other treaties, including ISDS mechanisms – force countries to foot the bill for stranded fossil fuel assets, undermining investments in renewables needed from governments
- Even though it is modernised, there has been no discussion of the “twenty-year sunset clause” which preserves the protection of existing investments for 20 years after their withdrawal, placing a heavy burden on policy makers.

A treaty that protects against economic risks:

- The Fossil Fuel Treaty proposal is based on economic common sense since there is no future for oil, gas and coal production
- It is based on three pillars to ensure the phasing out of fossil fuels:
 - Non-proliferation
 - A fair phase-out
 - A just transition
- Rather than suffer the transition, the Fossil Fuel Treaty would offer a way to plan for it and thus avoid climate chaos as well as the economic chaos of stranded assets or volatile energy prices

A treaty that reduces the climate policy space and jeopardises the 1.5 goal:

- The ETC undermines the commitment to the 1992 United Nations Framework Convention on Climate Change
- The IPCC has warned that the ECT may lead to “regulatory chill” by severely restricting the implementation of ambitious climate policies
- The ECT is incompatible with the Paris Agreement 1.5 objective

A treaty that keeps 1.5 alive:

- A Fossil Fuel Treaty would allow governments and investors to rethink their investments in light of their climate commitments
- The proposal responds to the warnings of the IPCC and the entire scientific community, which is calling on governments to take concrete policy measures in support of a managed phase-out of fossil fuels which address the climate emergency.
- The Fossil Fuel Treaty proposal is not just compatible with the Paris Agreement; it will help make the Paris Agreement 1.5 goal still achievable