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Answer given by Ms Simson
on behalf of the European Commission
(25.1.2022)

In the course of the six rounds of negotiations for the modernisation of the Energy Charter Treaty (ECT) that took place in 2021, it became clear that many non-EU contracting parties do not support the initial EU proposal regarding the definition of ‘economic activity in the energy sector’, entailing the application to all ECT countries of the proposed phase out of investment protection of fossil fuels.

The Commission continues to believe that the best possible outcome of the negotiations is to align the ECT with the Paris Agreement, the European Green Deal and the modern standards of investment protection. As a compromise, it supports the flexible approach as outlined in the proposal made by the ECT secretariat, which supposes the application of the phase out solely to the jurisdictions of the interested contracting parties. However, under this approach, all the elements of its initial EU proposal need to be reflected in the text operating the exclusion of investment protection of fossil fuels, including the distinction between new and existing investments, the applicable phase out deadlines and the exceptions (for qualified projects in gas and pipelines).

In 2022, ECT contracting parties will continue the discussion based on the ECT secretariat’s three options offering a flexible approach, taking into account their individual energy security and climate goals.

The contracting parties aim to conclude the negotiations by mid-2022, with five rounds of negotiations scheduled from January to June 2022. An extraordinary meeting of the Energy Charter Conference would then be convened, in order to endorse the finalized text of the ECT revision.