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European oil and gas fields and the Energy Charter Treaty

The Energy Charter Treaty (ECT) is an international treaty designed to protect the interests of investors in energy infrastructure outside their home country. Under the ECT, investors can sue government if they are not fairly treated by them, in so-called investor-to-state dispute settlement cases. (ISDS)

It has been argued that the threat of such cases could be an obstacle to climate action, if the owners of oil and gas fields sue governments in response to environmental regulation or limits placed on oil and gas extraction.

To help understand the scope of the potential problem, Oil Change International calculated an estimate of the value of European oil and gas fields currently owned by ECT signatories.

Identifying the relevant fields and companies

As the debate around the ECT is especially strong in Europe, this investigation looks at assets in EU countries, the UK and Switzerland. We used the Rystad Energy Ucube (February 2021) database to identify oil and gas fields in these countries, and the capital expenditure (Capex) spent on these fields by foreign signatories of the ECT from 2000 to 2020 inclusive. Due to database limitations, we excluded projects in which less than US$5 million has been spent.

As the ECT only covers the rights of foreigners, we identified those oil and gas fields that have at least one owner that is, a) based in a different country to the field, and b) based in a country that has ratified the ECT.

The list of countries who have currently ratified the ECT are:

> *Afghanistan, Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Japan, Jordan, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Mongolia, Montenegro, Netherlands, North Macedonia, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, Turkey, Turkmenistan, UK, Ukraine, United Kingdom, Uzbekistan, Yemen.*

Although Italy has left the treaty, we included it here because for 20 years, Italy can still be sued under the treaty, and Italian corporations can still sue other governments.

Results

Using the approach described above, we arrived at the figures shown in Table 1. These figures represent an initial estimate of potential liability that these countries may face should they implement policies that lead to limiting oil and gas production. This includes oil and gas fields producing today as well as those that are yet to be exploited but which the Rystad database sees as likely to be brought into production by 2050 under its base case.

Given that all of these countries are signatories of the Paris Agreement on Climate Change, and climate science makes clear that oil and gas production must decline dramatically in order to achieve the Paris Agreement goal of "limit(ing) global warming to well below 2, preferably to 1.5 degrees Celsius, compared to pre-industrial levels," the ECT has the potential to leave countries vulnerable to compromise over crucial climate action.

Table 1: Estimated Potential Upstream Oil & Gas Liability of European Countries Under the ECT

Country	Billion Euro	Billion US Dollar
Cyprus	**0.041**	**0.047**
Czech Republic	**0.037**	**0.043**
Denmark	**8.498**	**9.798**
France	**0.015**	**0.018**
Germany	**0.852**	**0.982**
Ireland	**0.307**	**0.354**
Italy	**5.574**	**6.427**
Netherlands	**2.796**	**3.224**
Poland	**0.064**	**0.074**
Romania	**8.778**	**10.121**
Slovenia	**0.088**	**0.101**
United Kingdom	**99.101**	**114.263**
TOTAL	**126.151**	**145.452**

Source: Rystad Energy Ucube (Feb 2021)

Oil Change International is a research, communications, and advocacy organization focused on exposing the true costs of fossil fuels and facilitating the coming transition towards clean energy.

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