



INTERNATIONAL  
**ENERGY CHARTER**

***UNWAVERING DURABILITY: EU-JAPAN ENERGY COOPERATION***

**EIAS**

BRUSSELS

22 MARS 2017

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***INTERNATIONAL ENERGY CHARTER***



1994 Energy Charter Treaty

2015 International Energy Charter



## CHANGING GLOBAL ENERGY LANDSCAPE

- UNFCCC 2015 Paris Agreement on Climate
- UN 2030 Agenda for Sustainable Development
- Shale gas revolution
- Increase in renewable energy
- Demand shifting to emerging economies



## EU-JAPAN FTA (17<sup>TH</sup> ROUND SEP 2016)

Topics discussed included:

- Investment liberalisation, investment protection
- Appointing tribunal members
- The review and enforcement of awards



## 1994 ENERGY CHARTER TREATY

- International investment protection standards
- International investment dispute settlement



## EU COUNCIL CONCLUSIONS OF 24 NOV 2011

- Need of geographical enlargement of Energy Charter Treaty which will aim at strengthening the role of the Treaty as a global instrument, recognised as the basis for international energy regulation in its main fields of competence





## TOKYO ENERGY CHARTER DECLARATION NOV 2016

- The ECT contributes to strengthening rule of law and to improving the business environment in energy field and also the importance of promoting appropriate and sustained energy investments and quality infrastructure investments are reiterated





## AREAS FOR MULTILATERAL COOPERATION

- access to and development of energy sources
- access to energy markets
- liberalisation of trade in energy
- promotion and protection of investments in all energy sectors
- safety principles and guidelines
- research, technological development, technology transfer, innovation
- energy efficiency, environmental protection and clean energy
- access to sustainable energy
- education and training
- diversification of energy sources and routes

[What we do](#) / [Dispute Settlement](#) / [Investment Dispute Settlement Cases](#)

/ [34. Charanne \(the Netherlands\) and Construction Investments \(Luxembourg\) v. Spain](#)

# Charanne (the Netherlands) and Construction Investments (Luxembourg) v. Spain

Counsel

Bird & Bird, and Latham & Watkins LLP (F. Mantilla-Serrano and J. Adam - Paris) v. Herbert Smith Freehills

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Case registered

2013

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Forum & reference

Arbitration Institute of the SCC





## OPEN ISSUES

### **Charanne, Construction v Spain, 21 Jan 2016, Dissenting opinion**

When an investor complies with all the requirements established by the legislation to be entitled to a particular and specific benefit, subsequent changes violates a legitimate expectation. The state was entitled to amend or eliminate the established promotion regime. No risk of freezing, petrification or immutability of the economic framework existed. Nevertheless, if the modification of the benefit granted to parties that had already invested as a result of this special caused harm without providing adequate compensation, this would violate the legitimate expectations created, and thus, the FET protected by Article 10 ECT.



**Thank you**

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