

ECT disputes



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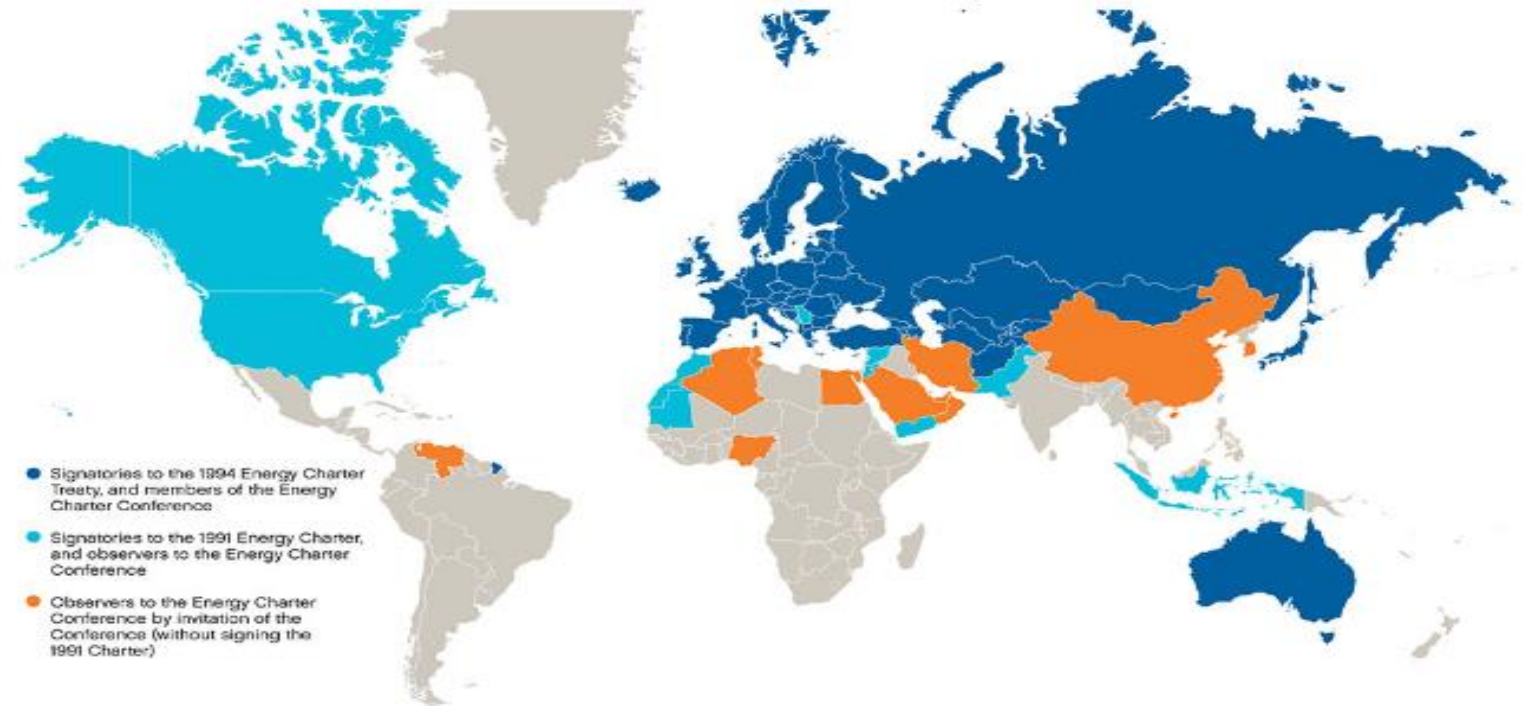
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**“The secret of politics?
Make a good treaty with Russia”**

By Otto von Bismarck

ECT signatories and observers

Energy Charter Treaty Ratification



Source: www.encharter.org

* As of February 2015

Substantive protections

- ❑ Fair and equitable treatment
- ❑ Full protection and security
- ❑ Unreasonable or discriminatory measures
- ❑ Umbrella clause
- ❑ National treatment and most favored nation treatment
- ❑ Effective means
- ❑ Expropriation

Dispute settlement

- ❑ Includes state-to-state and investor-state
- ❑ Investor-state:
 - Three-month “cooling off” period for negotiations
 - Then reference to: (a) host-state courts; (b) agreed venue; or (c) international arbitration (ICSID, SCC, UNCITRAL)

ECT settlement resolution in action

- Petrobart v. Kyrgyz Republic (2005)
- Contract for condensate between Petrobart and KGM (state-owned)
- Petrobart sued KGM for outstanding payments and won
- Government stripped KGM of its assets and it was declared bankrupt
- Petrobart started SCC arbitration against Kyrgyz Republic

