

Italy Withdraws from Energy Charter Treaty

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Italy is reported to have given formal notice to withdraw from the ***Energy Charter Treaty (ECT)***.

Rumours of Italy's intention to leave the ECT had been circulating since last autumn. IAREporter now revealed that Italy has delivered its official notice of withdrawal in January 2015.

According to the journal, Italy's decision to withdraw, is to save on costs associated with its membership. This is certainly an unusual justification for a developed country's withdrawal from a multilateral investment protection treaty.

Pursuant to article 47 of the ECT, Italy's withdrawal will take effect upon the expiry of one year after the date of notification, thus in January 2016. However, the provisions of the Treaty will continue to apply to investments made in Italy before such date for a period of further 20 years.

As a consequence:

- With respect to past energy investments, investors can continue to bring their claims against Italy until January 2036. In particular, Italy's withdrawal from the ECT does not prevent PV investors from bringing a claim for last year's feed-in tariff cuts.
- With respect to future energy investments, investors should (i) either ensure the investment is made before January 2016 or (ii) consider to structure the investment so as to obtain protection under a suitable bi-lateral investment treaty (BIT).

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