

Invitation

Investment agreements and Investor-State-Arbitration: No place for a sustainable energy future?

The challenge of the international investment regime and what energy and climate activists can do about it

Organised by Re:Common, PowerShift and the Rosa Luxembourg Foundation as part of the TNI led EC-project 'Making EU investment policy work for sustainable development.'

The Seminar

International investment agreements, such as the Transatlantic Free Trade Agreement (TTIP), are a serious threat to social and environmental justice. Our societies urgently need to transition to a zero carbon, sustainable future. Yet investment agreements provide unparalleled legal protection to companies and investors promoting fossil fuels, locking us into carbon dependency. Fracking is clearly one area where investment agreements could support fossil fuel companies. There is a real risk that the EU-Canada and EU-USA free trade agreements can undermine fracking moratoriums in Europe, for instance. Other controversial cases include Vattenfall's suit against Germany for its nuclear phase out. These examples highlight the dangerous interplay between investment agreements and dirty energy which will be the subject of the seminar.

Seminar Aims

This seminar will gather together NGOs, legal experts and policy makers to examine how investment and energy issues intersect and explore opportunities for action by participants across these two areas. It has the following four aims:

1. Increase common understanding of EU investment and energy policies and the implications they have for each;
2. Examine existing and potential threats from investment policy to ongoing campaigns on energy transition and fossil fuel divestment in Europe;
3. Identify key entry points and opportunities for civil society collaboration and action in the intersection between the investment and energy agendas;
4. Explore long term opportunities to support ongoing struggles and reclaim policy space for energy transition at European level.

The converging European investment and energy agendas

Significant developments in both energy and investment matters have taken place at EU level in recent years. Since the entry into force of the Lisbon Treaty, the European Commission has gained a greater role in both energy and investment and new mechanisms have been introduced to allow the Commission to negotiate agreements in both areas.

The Commission sees investor protection as a key element of its energy policy, as can be seen with the expansion of the Energy Charter Treaty (ECT) to North Africa and Asia, a central political goal for the next decade. The ECT is the only binding multilateral investment agreement on energy matters and it relies heavily on investor protection through investor to state dispute settlement (ISDS).

Limiting democracy, human rights and social and environmental justice

At the level of individual energy projects, particularly cross-border projects, many specific agreements have been ratified in controversial circumstances and form part of a complex regulatory umbrella protecting fossil fuel investment, which includes Bilateral Investment Treaties (BITs). These agreements over-ride community wishes and national laws, include burdensome investor protections and limit government policy space for energy alternatives.

All these developments raise the question of policy coherence in the EU's foreign policy. The Treaty of the European Union sets out broad human rights, environmental and development goals for the union in its external relationships with third countries. Yet it is far from clear how the EU's trade and investment agenda will work towards the achievement of these goals. Instead, it seems increasingly likely that the investment agenda will lock us into a high carbon, corporate driven future that puts profit before human rights, the environment and development.

The converging European investment and energy agendas are working to limit space for democracy, human rights and social and environmental justice. This seminar will explore options to challenge that.

Venue: Jugendherberge Köln-Riehl, City-Hostel, An der Schanz 14, 50735 **Cologne/Germany**

Dates: 4-5 December, 2013

(followed by energy/finance-seminar Urgewald/Re:Common 5-6 Dec., 2013)

Target group: Energy-, environment-, climate- & development organisations in Europe; progressive academics; progressive policy makers/staff.

To register:

If you are interested in attending please email Jamie Gorman (jamie.gorman@power-shift.de) before **10 November** with:

- Your name, organisation and a brief note on your work or area of expertise
- Your requirements for travel and accommodation cost reimbursement, if needed

The organisers are in a position to fund participants, but will need to assess the feasible number of participants once we are aware of all travel and accommodation costs that require reimbursement. We ask that any organisations that are in a position to finance their own participants consider doing so, thus facilitating those who can't.

Participation in the seminar will be confirmed on **12 November**



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Seminar Agenda

Day 1: Understanding the political economy of energy and the role of investment agreements

10.30 Welcome and agenda

10.40 Introducing ourselves

11.15 The political economy of energy investment: What's going on? What's needed for a sustainable energy future?

- Investment and energy
- Financing and energy
- Investing in a sustainable energy future: what would that mean?

Q&A and discussion

13.00 Lunch

14.30 Energy issues as part of the European and global investment agenda

- Free Trade Agreements including the Transatlantic Trade and Investment Policy
- International Investment Agreements and energy
- The Energy Charter Treaty
- International energy project agreements

Q&A and discussion

16.00 Coffee break

16:15 Investor-State-Arbitration and Energy

- General problems with Investor to State dispute mechanisms
- Vattenfall cases (coal/nuclear)
- The case of fracking (Lone Pine v Canada)
- Indonesia/Coal-case (Churchill Mining v Indonesia)
- Other cases; e.g. solar energy in Spain and windfarms

Q&A and discussion

18:00 Session closes

18: 30 Dinner and an informal evening activity

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DAY 2: Opportunities to challenge the investment liberalisation agenda on energy matters

9.00 Reflections on day one

9.15 Tackling policy coherence between the investment agenda and other European goals on environment, development and human rights

- Article 21 of the Lisbon Treaty and EU investment and energy policies
- The new EU energy and climate package and how this relates to investments

10.45 Coffee break

11.00 Challenging energy and investment issues at the project level

- The Southern Gas Corridor negotiations as a test case
- Perspectives from the fossil fuel divestment movement

12.45 Lunch

13.45 Challenging new and ongoing investment negotiations

- Fracking and other energy issues in the EU-Canada and EU-USA free trade agreements
- EU-China Bilateral Investment Treaty

15.30 Closing session: next steps

16.00 Session closes

