INTERNATIONAL ENERGY CHARTER

EIRA

ENERGY INVESTMENT RISK ASSESSMENT

2019

COMMON RULES FOR GLOBAL ENERGY SECURITY

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ABOUT THE INTERNATIONAL ENERGY CHARTER

In the early 1990s, after the end of the Cold War, the Dutch Prime Minister at the time, Ruud Lubbers, took the initiative to establish cooperation in the field of energy between the East and the West. This paved the way for the Energy Charter Treaty (ECT) which was signed in December 1994 at Lisbon and entered into force in April 1998.

The ECT establishes a unique multilateral legal framework for facilitating international energy cooperation. Its key principles, namely, openness of energy markets, investment protection and non-discrimination stimulate foreign direct investment and cross-border trade. As of 1 February 2019, the ECT has 56 Signatories and Contracting Parties (including the European Union and Euratom).

The *International Energy Charter* is the informal working name of the Energy Charter Conference, its subsidiary bodies and the ECS. The name was adopted in 2016 to better reflect the global nature of the Organisation.

The Energy Charter Conference is the governing and decision-making body of the Organisation. Each year its Chairmanship is entrusted to a different Contracting Party of the ECT. In 2019, Albania holds the Chairmanship. The 98 Members and Observers of the Energy Charter Conference represent governments and regional intergovernmental organisations from six continents, including all major energy producing, transit and consuming regions.

The Energy Charter Secretariat is based in Brussels, Belgium. It is headed by Secretary-General Urban Rusnák. The main functions of the Secretariat include:

- **Providing administrative support and facilitating the work of the Energy Charter Conference and its subsidiary bodies;**
- **Monitoring the implementation of the ECT;**
- **Assisting governments in enhancing their investment climate through various instruments;**
- **Offering support for dispute settlement and conflict resolution;**
- **Developing regulation and model agreements for cross-border energy projects;**
- **Organising capacity building and training sessions related to the ECT;**
- **Assisting Observer countries with ECT accession.**

MESSAGE OF THE CONFERENCE CHAIR

The Energy Investment Risk Assessment (EIRA) is a valuable publication for assessing policies, identifying gaps, and strengthening the regulatory framework of countries. The further development of EIRA is a priority for the Albanian Chairmanship.

We are pleased to note that this year the reach of EIRA has grown from 30 to 34 countries. It is commendable that of these, 26 are returning participants, and 8 are newcomers. Moreover, EIRA has seen an expansion in its geographical scope and now includes countries from Europe, Africa, Middle East, Asia and Central America. It can be inferred that EIRA has been welcomed as a useful instrument which can pave the way for needed reforms and contribute to economic progress.

We appreciate the efforts of the Energy Charter Secretariat in making EIRA more interactive, by launching a website dedicated to the project. Through this, the Secretariat will highlight the exhaustive information gathered by it and provide a wealth of knowledge to interested readers.

As the Chair of the Energy Charter Conference, I encourage the Secretariat to maintain discussions with the Constituency in developing EIRA further and ensure that it continues to reflect the will of the Contracting Parties and the Observer countries. I thank the Energy Charter Strategy Group and the Energy Charter Implementation Group for their guidance in the evolution of EIRA.

Finally, I urge more countries to take part in EIRA and avail the benefits of this highly valuable assessment.

Belinda Balluku
Chair of the Ministerial
Energy Charter Conference 2019
Minister
Albanian Ministry of Infrastructure and Energy

FOREWORD

Due to the ongoing energy transition, scaling up investments in sustainable energy resources and clean technologies has become critical for countries across the globe. At the same time, countries are trying to maintain and develop the existing infrastructure and conventional energy resources to avoid stranded investments.

The need for a meaningful and well-timed transition is embedded in the International Energy Charter framework. It is rooted in the European Energy Charter of 1991 that is the basis of the Energy Charter Process. The European Energy Charter recognises the importance of environmentally sound and energy-efficient policies. It encourages countries to create mechanisms and conditions for using energy as economically and efficiently as possible, including, as appropriate, regulatory and market-based instruments. Moreover, it calls on them to set market-oriented energy prices that reflect environmental costs and benefits, as well as use new and renewable energies and clean technologies.

In recent times, the urgency of transitioning to low-carbon resources has increased, as has the need to protect incumbent investments. In the midst of this growing dilemma, the Energy Charter Secretariat inaugurated the Energy Investment Risk Assessment – EIRA – last year. The objective was for EIRA to be a timely and effective analytical tool that would assist policymakers navigate these multiple objectives and the inevitable energy transition. EIRA uses four cross-cutting indicators to evaluate the following risk areas: (1) unpredictable policy and regulatory change (2) discrimination between domestic and foreign investors (3) breach of State obligations. It provides countries with feedback on how they can mitigate these risks and prevent disputes with investors.

Now in its second year, the geographical coverage of EIRA has increased, as has the number of its participants. This is primarily because there is a need for instruments, such as EIRA, that help national governments meet different development objectives and at the same time reconcile diverging courses of action. EIRA 2019 expands and builds on the findings of its predecessor and gives deeper insights into the participating countries. Apart from highlighting the key strengths and areas for improvement in each country, the profiles of the recurrent participants include a year-on-year comparison table. Through this, the countries can benchmark their performance and take stock of any changes to their risk level. By tracking changes to regulatory frameworks, the report will also provide some evidence of the real progress made by countries towards energy transition. Although EIRA is still at a nascent stage, the addition of this new aspect brings it a step closer to one of its key objectives – tracking the progress of countries over time.

This year a website dedicated to EIRA has also been launched. It is intended to offer extensive and updated data on the evolving regulatory regimes of the participating countries. It projects the year-on-year trajectory of the country on different EIRA parameters, provides detailed information for each question on the EIRA questionnaire and includes an online library of over 1,500 primary legal documents. Some of these documents are exclusively available on the EIRA website.

In the coming years, it is our aim to refine the EIRA methodology and make the analysis richer. I am confident that with the ongoing research and finetuning of EIRA, the report will be even better able to serve the Energy Charter Constituency.

On a final note, I express my sincere gratitude to the countries and external parties participating in EIRA 2019, as well as the authors of the report. I hope that an increasing number of governments will subscribe to EIRA in the future.

Urban Rusnák
Secretary-General
Energy Charter Secretariat
Brussels

ACKNOWLEDGEMENTS

EIRA was conceptualised and developed at the initiative of Urban Rusnák, Secretary-General of the ECS.

The 2019 edition of EIRA is prepared by the Investment Unit of the ECS. The core data analysis and drafting team comprises: Ishita Pant, Anna Pitaraki, Danai Oikonomakou and Edward Safaryan. The detailed biographies of the authors are available in the last section of the report.

The team is grateful for the assistance provided by colleagues, both within and outside the ECS. The efforts of Ruslan Galkanov, Can Öğütçü, Natasa Rajovik and Jibrin Ismaila Obokhale are particularly acknowledged.

The ECS expresses its appreciation to the participants of EIRA 2019: Afghanistan, Albania, Armenia, Bangladesh, Belarus, Benin, Bosnia and Herzegovina, Burkina Faso, Croatia, Czech Republic, Eswatini, The Gambia, Georgia, Greece, Jordan, Kazakhstan, Kenya, Kyrgyzstan, Liechtenstein, the Republic of Moldova, Mongolia, Montenegro, Morocco, Nigeria, Palestine, Panama, Romania, Rwanda, Senegal, Slovakia, Uganda, Ukraine, Uzbekistan and Viet Nam. A special word of thanks goes to Benin, Morocco and Viet Nam for hosting fact-finding missions.

The ECS wishes to thank the focal points in the participating countries for their support during the preparation of EIRA 2019 and for their invaluable cooperation.

EIRA is made possible through the expertise and generous input of more than 250 contributors. Legal and energy experts, members of the academia, financial institutions, think-tanks, business consultants, accountants and other professionals, actively engaged in the participating countries, provided the team with in-depth on-the-ground information and data. They are duly acknowledged in the Contributors section of the report.

The project has benefitted from the feedback of the Energy Charter Strategy Group and the Energy Charter Implementation Group delegates, the peer reviewers and the Energy Charter Industry Advisory Panel.

ABBREVIATIONS

BIT	Bilateral Investment Treaty
ECS	Energy Charter Secretariat
ECT	Energy Charter Treaty
EIRA	Energy Investment Risk Assessment
EU	European Union
FDI	Foreign Direct Investment
GDP	Gross Domestic Product
GHG	Greenhouse Gas
IEA	International Energy Agency
INDC	Intended Nationally Determined Contributions
LNG	Liquefied Natural Gas
MDA	Ministries Departments and Agencies
NDC	Nationally Determined Contributions
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Co-operation and Development
OHADA	Organization for the Harmonization of Business Law in Africa
SDG	Sustainable Development Goals
SE4ALL	Sustainable Energy for All
TPES	Total Primary Energy Supply
UN	United Nations
UNCITRAL	United Nations Commission on International Trade Law
UNFCCC	United Nations Framework Convention on Climate Change
WTO	World Trade Organization

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EXECUTIVE SUMMARY

EIRA assesses risks to energy investment that can be mitigated by adjusting legal and regulatory frameworks. It gives guidance to countries on how they can improve their investment climate and benchmarks their performance against international best practices.

EIRA evaluates three types of risks: (1) unpredictable policy and regulatory change, (2) discrimination between domestic and foreign investors and (3) breach of State obligations. It highlights the key strengths and areas for improvement in each country, gives recommendations to improve results, assists in designing risk mitigation plans, and influences governments to work towards such plans. EIRA recognises that various factors, which are outside its scope, can shape investment decisions. For this reason, it does not claim to give a complete picture regarding the investment prospects or attractiveness of a country. Similarly, it does not judge, predict or indicate if one country is better to invest in over another.

The target audience of EIRA is policymakers. Its objective is to assist them in (1) identifying policy and regulatory gaps and (2) taking action to attract the right investments in the energy sector. Additionally, it seeks to give the energy industry, investors and the financial sector insight into particular aspects of the investment climate in the assessed countries. That said, the findings of EIRA are not an alternative to the due diligence that companies must conduct before they invest in the energy sector of an assessed country.

The scope of EIRA 2019 is the same as last year. Like its predecessor, this second edition of EIRA does not delve into commercial and other market-related risks or geopolitical issues. Despite this, its application remains very comprehensive and covers investment across the entire spectrum of the energy sector. The scoring methodology is also the same as in 2018. All indicators carry equal weight and are the average of their component sub-indicators. Each sub-indicator is calculated through a set of questions that are scored between 0 to 100. The indicator scores are depicted through a five-band colour-coding (page 19).

Highlights of EIRA 2019

Participation in EIRA has grown considerably. 9 countries participated in the 2017 pilot version of EIRA. The number has increased to 34 in the 2019 edition of the report. The geographical reach of EIRA has also expanded and now spans countries in Africa, Asia, the Americas, and Europe.

The accuracy of the assessment has improved because participating countries have a better understanding of EIRA. Countries participating for the second consecutive year were more familiar with the data collection and validation process. As a result, the information provided by them was more extensive compared to last year. Understanding of the scope, purpose and practical use of EIRA has also increased. In fact, the project has integrated itself as a core activity in the International Energy Charter framework of many participating countries.

The network of external parties has grown significantly in 2019. This year, the number of external parties and reviewers was higher. The majority of external parties for EIRA 2019 have also contributed to reputed publications of other international organisations. EIRA now has a vast network of globally renowned law firms, industry associations, academia and financial institutions that actively participate in the project and promote it on a voluntary and pro bono basis. The full list of contributors for 2019 is available in the second last section of the report.

The text of the country profiles is more detailed and offers a year-on-year overview. As EIRA enters its second year, it is now better equipped to fulfil its ultimate objective: to track change. In the first year, the country profiles gave a snapshot of the country's legal and regulatory regime. Essentially, they served as a starting point for measuring future performance. This year, the analysis has a comparative nature and shows how the legal and regulatory regime of countries has evolved in response to the set targets, commitments and policy direction. Profiles of the recurrent countries now have a table that reflects the change in their performance vis-à-vis 2018 on (1) the risk areas and (2) the indicators. It is important to note that the objective of EIRA is for countries to track their own progress over the years rather than to rank countries that have distinct economic, political and social makeups, and different growth trajectories.

EIRA 2019 attempts to address the enforcement and implementation of existing laws and regulations. This year EIRA tries to give a clearer picture regarding the application of laws and policies in the 34 participating countries. The qualitative assessment in the country profiles better reflects the implementation of the existing framework. It highlights the progress made in translating commitments to actions. Attention is given to the implementation of projects, programmes and secondary regulations between 2018 and 2019. With its current approach EIRA tries to tackle the issue to the greatest extent possible but further research is needed on how to embed this aspect more effectively in the scope and methodology.

EIRA is a source of latest information. All changes observed in the participating countries were tracked and recorded, to the greatest extent possible. For some countries, EIRA is one of the first reports to analyse these changes.

The EIRA website introduces a number of new features. This year a website dedicated to EIRA has been launched (www.eira.energycharter.org). Its purpose is to offer extensive and updated information on the regulatory environment of the energy sectors of the assessed countries. To facilitate data collection, it allows the participating governments and external parties to fill in the EIRA questionnaire online. It also consists of an interactive webpage that projects the year-on-year trajectory of the country on different EIRA parameters. The website hosts a "question explorer" that provides detailed findings on each question and highlights the key changes observed on them. Finally, it has an online library that contains over 1,500 primary policy and legal documents for the 34 participating countries. Some of these documents are exclusively available on the EIRA website.

Key findings

The political commitment of countries towards the transition to clean energy resources and low-carbon technologies is driving legal and regulatory reforms in the participating countries. In 21 of the 26 recurrent EIRA participants, significant changes were made to the legal and policy frameworks. Some countries, such as Kenya and Uganda, enacted new energy and investment laws to modernise their existing regime and to introduce best practices. Albania, Greece, and Bosnia and Herzegovina updated their national energy policies and plans to give investors clarity on the future trajectory of their energy sectors. In all countries, the policy thrust is largely on migrating to renewable energy systems and clean technologies. While this is a progressive step, enforcement of these policies will be the most defining factor for their success. Actions, by policymakers and investors alike, must be taken in a timely manner to (1) achieve the clean energy goals and (2) maintain stability and predictability in the investment environment. The urgency of energy transition is only going to increase in the future, and this will have an effect not just on government policies and investor decisions but also on consumer attitudes.

Countries are pursuing energy transition in diverse ways. The policy objectives of countries differ significantly, ranging from improving energy security to achieving energy access and affordability. There is also variation in the natural resource endowment, energy consumption patterns, emission levels and socio-economic needs of each country. Due to these and other important variables, energy systems across the globe are transitioning in highly diverse ways. For instance, nations with high fossil fuel imports are taking measures to increase the share of power generation from domestic renewables. Morocco is a good example of this. Although its domestic energy demand is currently met by coal, oil and natural gas imports, the country is taking proactive steps to promote its solar industry, attract international green finance and deregulate the electricity market for greater competition in renewables. Similarly, countries with large emission-intensive industries are placing emphasis on the modernisation of the energy infrastructure, investment in R&D, and the adoption of cleaner and more efficient technologies. **Despite the divergence in approach, the underlying commonality observed is that all countries are making positive efforts to actually transform their energy and investment landscape**

in line with the ongoing transition. EIRA assists in this by providing evidence of real and meaningful regulatory reforms in countries, and by tracking the pace of change.

Policy focus needs to shift from short-term motivations to long-term objectives. All the EIRA countries have policy frameworks in place for sustainable energy. In most, short- and medium-term targets have been set for key priorities such as reducing emissions, integrating a larger share of renewable sources in the energy mix and for promoting energy efficient technologies. Despite these efforts, **the link between sustainable energy targets and long-term resource planning is relatively weak and will need to be strengthened**. The absence of seamless policies and targets will create barriers to the energy transition. It can potentially reduce the pace of change, affect the world's ability to meet the Paris Agreement goals, and result in unsustainable investment patterns for the coming years. The European Union serves as a model for countries currently developing long-term policies for the energy sector. In 2018, the European Commission presented its strategic long-term vision for a prosperous, modern, competitive and climate-neutral economy by 2050. The strategy demonstrates how Europe can achieve climate neutrality by investing in realistic technological solutions, empowering citizens, and aligning action in key areas such as industrial policy, finance, or research while ensuring social fairness for a just transition.

Investment in energy infrastructure lacks coherent long-term policy planning even though it is considered a priority. Targets and implementation plans exist in most countries for the development of energy infrastructure. This includes plans for strengthening regional interconnections, building new generation, transmission and distribution infrastructure, and for modernising the existing infrastructure. However, these targets and plans are not always integrated into the economy-wide investment strategy or do not complement the goals set for the development of different energy resources. Actions are focused on the near future and rarely take into account the changing power infrastructure needs. Unplanned investment in long-term fossil fuel projects will create liabilities for energy companies and most likely increase the amount of stranded assets. To avoid this risk, governments will need to design long-term plans for promoting investment in low-carbon energy technologies including smart grids, storage and e-mobility solutions. A clear strategy will also be needed for gradual divestment in dated power infrastructure. **Investors, just as policymakers, will have to align themselves with the changing national objectives and pathways**. Countries with large fossil fuel resources are driving for sustainability in the oil and gas industry. To avoid an abrupt abandonment of incumbent energy investments, oil and gas companies will have to review their long-term strategies, seriously consider diversifying their portfolios and adapt business models to be in line with a low-carbon energy transition.

In addition to stepping up renewable electricity generation, actions should be directed towards other high-emission sectors. Significant work is being undertaken to reduce CO_2 emissions through renewable electrification. A number of countries from Afghanistan to Viet Nam have set policies, targets and implementing plans in this respect. In contrast, the integration of renewable policies in other sectors is less defined. This is particularly the case of high-emission sectors, such as transport. The penetration of low-emission transportation models should be actively pursued to (1) shift the sector to a sustainable path and (2) contribute to the reduction of urban air pollution. Energy efficiency targets for the heating sector are also low and need to be addressed. This should be done sooner rather than later as it is bound to cause changes in investment patterns, impact the value of assets for certain investors, as well as affect the cost of doing business.

NDC planning and implementation largely remains disconnected from the national development planning. Synchronisation of the NDC targets with the overall development objectives can be improved across countries. Actions and programmes in relation to NDCs continue to be standalone. Synergies between the NDCs and the overall socio-economic objectives such as job creation, education, poverty reduction and health should be explored for holistic and coordinated policy development. In particular, more effective planning is needed to fully integrate the NDC targets in the national energy policies. For example, sectoral targets for GHG emissions and removal from land use, land-use change and forestry (LULUCF) are stated in the NDC of some EIRA countries but rarely find mention in the national energy and climate change strategies. Governments are urged to address this disconnect while making revisions to their NDCs, and use this as an opportunity to better align their international commitments with their national plans.

Monitoring and evaluation (M&E) of energy policies is not sufficient or systematic. Energy policies and plans in most countries contain detailed procedures on monitoring the performance indicators for the energy sector. Information on the lead authorities conducting the evaluation, the data-gathering bodies and the list of activities are also available in certain cases. Some countries have taken a different approach and incorporated

M&E provisions in regulatory impact assessment laws. **Although M&E is considered a significant part of the overall policy-making process, most countries are struggling with its actual implementation**. Conclusions of the M&E activities are rarely accessible to the public. Data collection and sharing between the national and local level can also be better organised. Most importantly, greater clarity is required on how effectively countries are trying to close the gap between the policy actions and associated costs. Disaggregated costs of each action should be calculated and the results of ex post and ex ante cost-benefit analysis for all planned activities must be widely circulated. **M&E of GHG emissions and energy efficiency targets stand out as exceptions since most countries have unified data sources, inventories and evaluation mechanisms in place**. Monitoring mechanisms for these indicators can be used as models for evaluating the performance in other areas.

Although decision-making on the national level is well functioning, coordination between the national and subnational governments needs attention. All EIRA countries make reference to the contribution of local governments in the energy planning through their national laws, policies or plans. They are considered pivotal to monitoring performance standards, bringing changes to behaviour patterns, improving energy efficiency and creating greater awareness of the use of renewable energy sources. Typically, local authorities are responsible for granting permits, certifications and approvals for projects located in their jurisdiction. They conduct land use and spatial planning and in certain cases also contribute to de-risking local energy projects by providing the necessary financial resources or guarantees. Despite the significant role of local authorities in the energy sector, **the link between policies and development plans on the national and local level remains weak**. This raises questions regarding the ability of local governments to implement decisions that are taken with their limited involvement or that do not necessarily complement their individual plans. It also creates administrative burdens for investors who have to juggle overlapping or conflicting regulations on the national and subnational level. At present, there is little evidence to suggest that countries are taking proactive measures to remedy the situation. To avoid a mismatch of priorities and actions, it is urged that the division of roles and responsibilities between the national and local governments should be clarified, including a defined budgetary relationship. In Kenya the new energy law tries to resolve this issue by delimiting the role of the central government to policy coordination, and vesting local planning and implementation in the county governments. Greece has also made efforts to decentralise the energy processes and engage local communities and administration in the energy planning. In 2018, it enacted a law promoting the direct participation of citizens, municipalities and small- and medium-sized local businesses in the production, distribution and supply of energy.

33 of the 34 EIRA countries have an established legal framework on transparency and information access. Legislative initiatives are now geared towards strengthening the accountability of public and private actors. 23 of the EIRA countries are members of the Open Government Partnership that aims to promote accountable, responsive and inclusive governance. In 2018, the Federal Republic of Nigeria issued a new executive order for adopting higher transparency standards for public authorities, prescribing disciplinary actions and penalties for public authorities and officials found misappropriating government assets. Slovakia also introduced amendments to its Anti-Money Laundering Act to increase accountability in business transactions. **Moreover, countries with rich extractive industries are adopting international best practices and higher standards of public disclosure**. Access to information on government expenditure, transfer of revenue on the subnational level, licence allocation, and state participation in oil and gas projects are receiving particular attention. An example is Ukraine, which adopted a new law to ensure transparency and prevent corruption in the country's extractive industries. Senegal has also adopted a new petroleum code through which all extractive industries are obliged to comply with the principles of the Extractive Industries Transparency Initiative.

There is a gradual convergence to international best practices for benchmarking the independence of national energy regulators. Each country decides on the type and structure of its national energy regulator based upon a number of country-specific issues such as the size and structure of its market and its traditional legal and administrative setup. Even with these variances, it is notable that most EIRA countries are making efforts to safeguard and guarantee greater independence for their national energy regulators. The decisions of national regulators are binding across all assessed countries and most of them have operational independence. However, **asymmetries exist in how the best practices are applied and this can lead to uncertainty for market players**. In some countries, provisions safeguarding budgetary independence are highly robust whereas those guaranteeing the appointment and governance of Board Members are not up to the same standard. To avoid such irregularities, countries are urged to evaluate whether the concept of independence is applied holistically to all aspects of the regulator. Equal attention must be given to ensuring autonomy in the institutional setup, human resources, financing, appointment procedures, decision-making and enforcement of decisions across all the assessed countries.

Market liberalisation and non-discriminatory market access still remain issues of significance for a number of EIRA countries. To bring greater legal stability and predictability for investors, a number of countries are consolidating and updating secondary rules, codes and guidelines on technical issues. This includes issues of network and market operations, financial arrangements between market players, and regulatory reforms on network access. In December 2018, Georgia adopted the Concept Design for the Georgian Electricity Market, which describes implementation activities for establishing a competitive electricity market by 2022. Bangladesh also adopted a new Grid Code in 2018 for ensuring transparent, non-discriminatory and economical access to the grid. **In countries with mature regulatory setups, based on well-grounded principles of transparency and a high level of competition, the focus was on fine-tuning existing guidelines rather than undertaking major structural reforms**.

The quality of judicial processes needs to be enhanced and legal provisions on the respect for property rights must be updated. For investors, actual recourse to courts is less likely and less significant compared to potential recourse. They place a higher premium on the knowledge that in case of potential recourse their rights will be guaranteed. Dated case management systems and dispute resolution mechanisms can considerably reduce the attractiveness of a country in the eyes of investors. It increases their risk of getting embroiled in protracted and costly litigation. For this reason, having a defined length of proceedings, adequate human and financial resources, and easy access to the relevant information gives investors predictability and a feeling of legal security. **While the EIRA countries have well-functioning legal systems, there is a definite need for modernisation and improvement of judicial effectiveness**. Rwanda is one country making consistent efforts to improve the quality of its judiciary. In 2018, it enacted a new legislation introducing provisions for limiting the adjournment of case hearings exclusively for unforeseen and extraordinary situations. **In a similar vein, many countries still have traditional expropriation rules that are not sufficient to address the evolving challenges**. Though legal provisions guaranteeing the property rights of investors exist in all jurisdictions, their ability to give legal protection must be enhanced. This is especially relevant in terms of defining “public interest” and providing timely and adequate compensation.

RISK AREAS AND INDICATORS FOR EIRA

EIRA evaluates specific risks affecting energy investment that can be mitigated through adjustments to policy, legal and regulatory frameworks. The performance of countries against the EIRA risk areas is evaluated through four indicators. The indicators are constructed to reward countries for sound regulation and efficient processes. They capture the ability to cope with the risks through various positive measures such as the creation of predictable policy objectives, transparent decision-making, the establishment of strong public institutions, development of competent market oversight mechanisms, and the successful resolution of disputes with foreign investors.

What are the risks assessed by EIRA?

EIRA analyses the following risk areas:

Unpredictable policy and regulatory change
Governments reserve the right to adopt measures that are necessary for pursuing legitimate public policy objectives. Nevertheless, unsystematic and arbitrary modifications can detrimentally affect the interests of foreign investors. They can lead to increased or stranded costs for operating a business, reduced attractiveness for investment, and an overall distorted competitive landscape. Foreign investors may reconsider investing in the country or relocate the investment. It follows that in exercising their right to regulate, governments must make investors aware of the conditions and nature of policy changes.

Discrimination between domestic and foreign investors
Foreign investors need clarity on the extent to which markets are competitive and whether they offer a level playing field. While discrimination can take various forms, between energy resources, technologies and types of investors, EIRA focuses on discrimination between domestic and foreign investors. This includes the likelihood of an unfair advantage to local investors, as recipients of rights and privileges, to the exclusion of foreign investors. Discrimination may also occur in the form of 'protectionist' practices intended to restrain trade and give rise to foregone investment gains.

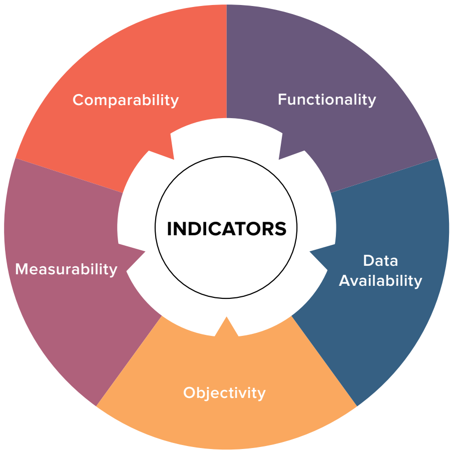
Breach of State obligations
Disputes brought by investors against a State can disrupt the relations between the two parties and even damage the overall investment climate. Investors must have confidence that they will have recourse to mechanisms for dispute resolution and the enforcement of rights if governments default on their obligations. Such obligations include protection against discrimination, expropriation and nationalisation, breach of investment treaties, and limited access to alternative dispute settlement avenues.

How are the EIRA indicators selected?

The indicators have been constructed from a wide range of variables. They bear direct relevance to a government's overarching objective of creating a secure, favourable and transparent investment environment.

Five criteria are applied to determine the appropriate indicators:

Figure I.1 – Criteria for selection of indicators



Functionality/Actionability – Indicators are 'reform-oriented'. They reflect best practices through which countries can manage the risks. They capture aspects of policy-making and regulation that are under the control of governments.

Data availability – Data for indicators is available from sources that are reputable and reliable. Indicators are based on data that is relevant, readily accessible and easy to collect.

Measurability – Indicators provide a quantifiable assessment. They are robust and unaffected by minor changes in the method used for their construction.

Comparability – Indicators allow comparability across (1) countries; (2) energy sub-sectors; and (3) the energy value chain. Additionally, they are consistent and comparable over time.

Objectivity – Indicators reflect an accurate overview of the policy, regulatory and legal reality in the assessed countries.

What are the EIRA indicators?

Based on the above criteria the indicators selected are:

- Foresight of policy and regulatory change
- Management of decision-making processes
- Regulatory environment and investment conditions
- Rule of law (compliance with national and international obligations)

The indicators are cross-cutting and apply to more than one risk. Each indicator consists of two sub-indicators. They measure the ability of governments to identify whether the assessed risks exist and the extent to which they can be mitigated. The indicators reward countries for taking positive measures that manage and limit arbitrary or discriminatory policy changes which could result in a breach of State obligations. Such measures include designing and setting long-term policy objectives and goals, ensuring transparency in decision-making, granting equal treatment to foreign and domestic investors, and effectively managing disputes with foreign investors.

Table I.1 – Correlation between EIRA risk areas and indicators

RISK AREAS	INDICATORS			
	Foresight of policy and regulatory change	Management of decision-making processes	Regulatory environment and investment conditions	Rule of law
Unpredictable policy and regulatory change	✓	✓		✓
Discrimination between domestic and foreign investors		✓	✓	✓
Breach of State obligations				✓

INDICATOR 1
Foresight of policy and regulatory change

National energy priorities and regulatory frameworks evolve in response to changing circumstances. Meeting new objectives may result in policy revisions, and governments must be sensitive to the impact of such revisions on long-term investments. Ensuring stable conditions is a major challenge as the global energy transition is proving to be a highly dynamic process. Policy and investment patterns are likely to evolve as countries seek to decarbonise their energy sectors under the Paris Agreement. Managing this change is crucial, so governments must communicate any adjustments to their energy policy objectives and effectively plan and implement the means to pursue them. Investors can then better manage risk, modify investment portfolios and cope with the policy changes.

SUB-INDICATOR:
COMMUNICATION OF VISION AND POLICIES

This sub-indicator captures the commitment of governments to convey the vision of their energy sector. It also looks into the approach and principles that will guide governmental decisions in this respect.

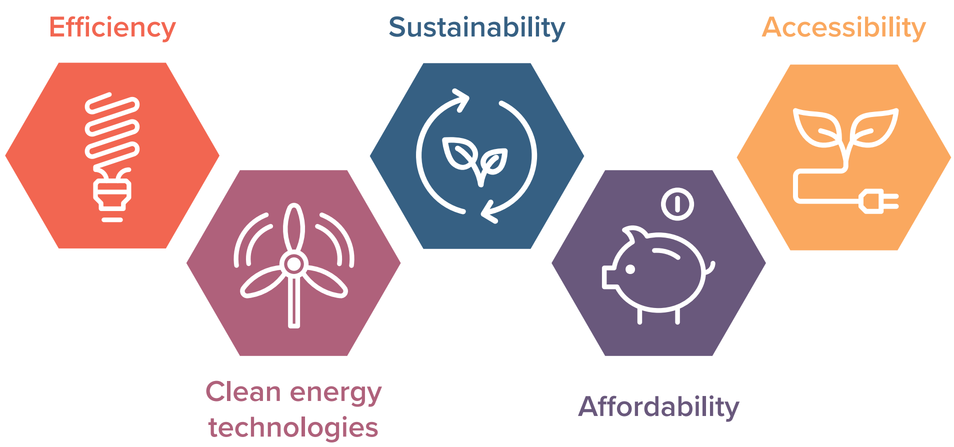
Risk management requires a view on the future. This forward-looking vision is typically enshrined in strategy documents of governments, which inform investors about the energy goals to be achieved and the timeframes for their achievement. As countries transition to sustainable energy systems, new demands are placed upon regulatory frameworks and existing decision-making structures. Understanding the energy landscape and how it can evolve is a central element of investment planning. Hence, communicating any intended changes in a clear and timely manner contributes to bolstering investor confidence and averting risk. Moreover, the establishment of milestones or short- and medium-term goals indicates to investors the pace of change and the progress made towards the final goals and targeted outcomes.

SUB-INDICATOR:
ROBUSTNESS OF POLICY GOALS AND COMMITMENTS

Good governance and the creation of effective monitoring mechanisms indicate the determination of governments to attain their policy goals. Conversely, a fragmented or weakly implemented monitoring and evaluation framework can significantly reduce the ability of policy makers and investors to track if real progress has been made on the goals.

This sub-indicator focuses on monitoring and evaluating the implementation of the energy goals. Monitoring provides an opportunity to assess the progress towards meeting energy objectives and identifying potential gaps. Furthermore, it allows governments to ensure that policies are periodically updated and amended when necessary. In this context, the establishment of an independent and competent authority with the appropriate monitoring and reporting mechanisms is critical. It gives investors the confidence that policies will be evaluated and improved to achieve the desired outcomes and will not be subject to arbitrary modifications.

Figure I.2 – Energy priorities under the UN Sustainable Development Goal 7



INDICATOR 2
Management of decision-making processes

The second indicator addresses the importance of coordinated and transparent policies in eliminating perceived or actual opacity of government initiatives and the exclusion of investors from the planning and decision-making phases. To ensure structured and simplified decision-making processes the role and responsibilities of different governmental levels must be defined. It is also essential that investors are well informed and consulted whenever governments intend to revise laws or regulations. Stakeholder engagement allows foreign investors to participate in decision-making processes actively and take well-informed and timely decisions.

SUB-INDICATOR:
INSTITUTIONAL GOVERNANCE

Formulating investment and energy policies may involve several levels of government and ministries. Provinces, municipalities as well as regional and local authorities may also participate in framing policies. This can make the process relatively complicated and result in the risk of overlapping decisions. Unless well managed, complex institutional governance may lead to the adoption of sub-optimal choices or conflicting laws and policies.

This sub-indicator measures how well governments coordinate policy-making. While the degree of centralisation in each country may differ significantly, one central body should ultimately be responsible for coordinating across different levels of government and reconciling the diverging perspectives of public agencies. Effective intra-governmental and inter-ministerial management in undertaking policy design and implementation is, therefore, an essential precondition for minimising unpredictability and maintaining an investment-friendly climate.

Figure I.3 – Key aspects of effective decision-making process

SUB-INDICATOR:
TRANSPARENCY

Policy and regulatory changes are always risky for investors. However, if they are systematised and transparent, investors can adapt to them better. Transparency is beneficial to all types of investors, but it is particularly crucial for foreign investors who have to cope with regulatory systems and administrative frameworks that are different from their own. This sub-indicator gauges the openness demonstrated by governments in designing and implementing their laws and policies.

EIRA understands transparency as first, effective communication of information on national laws, regulations and practices that may materially affect investments; and second, prior notification and consultation of regulatory changes that are of interest to investors.

Governments can enhance the quality and predictability of their regulatory framework by reviewing and publishing administrative decisions, codifying legislation, disseminating regulatory materials, and developing registers of existing and proposed regulation. These core transparency measures help to ensure that investors are aware of policies affecting them. Prior consultation on investment and energy-related governmental actions can provide investors with more foreseeable conditions in the host countries. For instance, it may reveal indirect discrimination caused by secondary measures that deviate from the enabling legislation. Moreover, affording interested parties the right to comment may lead legislators and regulatory authorities to reflect carefully before modifying existing laws and consider alternatives.

INDICATOR 3
Regulatory environment and investment conditions

This indicator evaluates the independence exercised by energy regulators in their decision-making and other functions. Independence from national governments and the industry guarantees neutrality and helps to avoid situations where regulatory decisions are constantly revised to the detriment of some market actors and investors. It further examines the extent of restrictions faced by foreign investors in the energy sector. Despite the increasing realisation that international capital flows are crucial for the development of the energy sector, persisting restrictions act as serious deterrents for foreign investors. Key restrictions include screening and local content requirements, as well as limitations on currency and investment-related capital transfer, which tilt the playing field in favour of domestic investors.

SUB-INDICATOR:
REGULATORY EFFECTIVENESS

Market monitoring by a dedicated and expert institution minimises the risk of biased decision-making, discriminatory market rules and anti-competitive behaviour. Political distance gives the regulatory authority credibility because it limits governmental influence and provides assurance that political events will not interfere with regulatory functions.

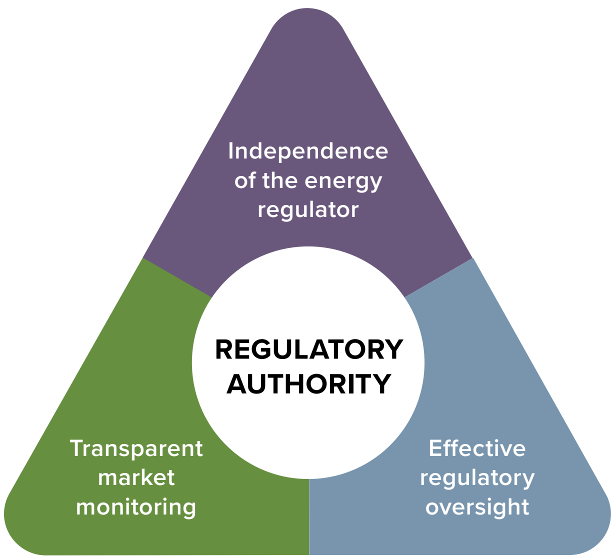
This sub-indicator examines the energy regulator's autonomy based on various parameters including whether its duties and powers are embedded in legislation and how they are defined in relation to ministries and government executives. It also scrutinises the regulator's financial autonomy, its accountability as well as the transparency exercised in the selection of its staff.

SUB-INDICATOR:
RESTRICTIONS ON FOREIGN DIRECT INVESTMENT

Overt policy and regulatory measures that discriminate between domestic and foreign firms can have a restrictive effect on inward investment flows. They can obstruct foreign investments or make the cost of operation unbearable. Some of the typical restrictive measures foreign investors may face are mandatory screening and approval procedures, regional investment restrictions, and operational controls.

This sub-indicator assesses the countries' commitment not to discriminate in the treatment afforded to domestic and foreign investors. It evaluates whether they receive equal treatment in the application of laws and regulations. Particular attention is given to the national treatment of foreign investment including sectoral restrictions, limits on the transfer of profit and repatriation of capital abroad, and onerous local content requirements.

Figure I.4 – Regulatory environment and investment conditions



INDICATOR 4

Rule of law (compliance with national and international obligations)

EIRA relies on the 'rule of law' definition presented in the UN Report "The rule of law and transitional justice in conflict and post-conflict societies"[1]. It focuses on three aspects of this definition. First, fair and effective implementation of national laws and international commitments arising from treaties and international agreements; second, settlement of investor-State disputes promptly and according to due process; and third, respect for the property rights of foreign investors. Peace, security and human rights are outside the purview of EIRA.

SUB-INDICATOR:

MANAGEMENT AND SETTLEMENT OF INVESTOR-STATE DISPUTES

This sub-indicator measures the efficiency of case-management and settlement procedures within the assessed countries. Foreign investors place a premium on adherence by the host countries of their obligations to: provide accessible, clear and predictable legislation, avoid retrospective changes to legal acts, ensure equality before the law, resolve disputes without undue cost or delay, and comply with their commitments under international, as well as national laws.

Well-organised judicial procedures help to foster investor-State trust. Effective enforcement of foreign judgments and awards reduces uncertainty because investors are assured that the domestic courts will safeguard their rights. Similarly, the existence of appeal mechanisms and domestic dispute mitigation instruments, such as an investment ombudsman and mediation, provide additional avenues for resolving conflicts between investors and States. Beyond the national legal system, governments must provide an extra layer of protection to investors by granting them recourse to dispute-settlement mechanisms under international law. They may give foreign investors this benefit either through BITs or on a case-by-case basis.

SUB-INDICATOR:

RESPECT FOR PROPERTY RIGHTS

This sub-indicator assesses the risk to investors of losing ownership or control due to governmental actions or restrictions. These actions can also lead to the additional risk of discrimination when foreign investors in particular suffer such loss.

Under this sub-indicator, the term 'investment' refers to tangible and intangible assets, including intellectual property rights. It does not delve into the forms of expropriation. Instead, it focuses on whether expropriation, nationalisation or confiscation (or any action tantamount to these) was undertaken for a legitimate public purpose, following the due process of law, in a non-discriminatory manner and with adequate compensation.

Some steps governments may take to reduce the risk of perceived arbitrariness are first, defining expropriation in their domestic laws; second, describing the process for the determination of compensation; and third, setting the timeframe for the payment of compensation. This gives increased security to foreign investors operating under the existing BITs and also protects investors that are not covered under these treaties. In turn, investors can also assess whether the host country's laws, mechanisms and guarantees are in line with international practice and investment-related agreements. This adds to the reliability and enforceability of property rights against arbitrary expropriation. By determining the circumstances under which expropriation may take place, foreign investors can take measures to fortify their investments.

Figure I.5 – Rule of law elements covered by EIRA

1 EIRA interprets 'rule of law' as "a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency." United Nations, Report of the Secretary-General, *The rule of law and transitional justice in conflict and post-conflict societies (2004). UN Member States reaffirmed their commitment to uphold "rule of law" in the United Nations, Declaration of the High-level Meeting of the UN General Assembly on the Rule of Law at the National and International Levels,* A/RES/67/1 (30 November 2012).

EIRA METHODOLOGY

EIRA assesses three types of risk to energy investment. It applies four indicators to (1) identify the actions needed to address these risks and (2) highlight the corrective measures countries may take to mitigate them.

The risks are evaluated by examining whether necessary laws, policies and actions have been adopted by countries. However, legislation and policy measures will have maximum impact when they are enforced. EIRA 2019 recognises this and tries to give a clearer picture regarding the application of laws and policies. This year, the country profiles have been structured to better reflect the implementation of the existing policy framework and highlight the progress made by countries in translating their commitments to actions.

No variations have been made to the methodology since last year. The indicators are based on a questionnaire developed by the ECS over a period of two years. The questionnaire is designed to ensure it is comprehensible to respondents and that information obtained is easily verifiable. It allows comparability across energy sub-sectors and captures trends over time. Most questions are binary, requiring simple “Yes” or “No” answers. Granular options are provided in some cases to obtain more detailed information. Moreover, respondents have the opportunity to offer additional remarks and brief descriptions of policy programmes (these questions are not scored).

How are the respondents for EIRA selected?

The EIRA questionnaire is provided to the governments of the participating countries. To counter the perception of self-assessment and secure an objective viewpoint, it was also sent to selected external parties in the assessed countries.

The unit of analysis for EIRA is a country. The policies taken into consideration are those framed and implemented at the national level. In federal arrangements, the central government is designated as a single point of contact responsible for collecting and processing inputs from relevant ministries/departments at State and municipal level.

External parties are chosen from a pool of experts comprising local and international law firms, legal practitioners, business councils, accounting and consulting firms, think-tanks, energy associations, chambers of commerce, international institutions and non-governmental organisations operating in the assessed countries. In 2019, over 550 external parties were contacted of which 21 per cent were selected based on their expertise, availability, and willingness to participate. Extensive research was conducted before the final decision.

The main parameters for selecting the external parties are:

Expertise in the energy sector: Active involvement in different stages of energy projects, and experience of providing consulting services in multiple energy sub-sectors and on regulatory issues.

Diversity of clients and neutrality: Vast experience working with governmental entities as well as private investors. This ensures the external party has a holistic understanding of issues in the energy sector and contributes to a more balanced approach.

Reputation: Parties with extensive global reach or local partner groups. For law firms, international guides identifying leading providers of legal services (local and global) in each country are consulted.

What is the data collection and validation process for EIRA?

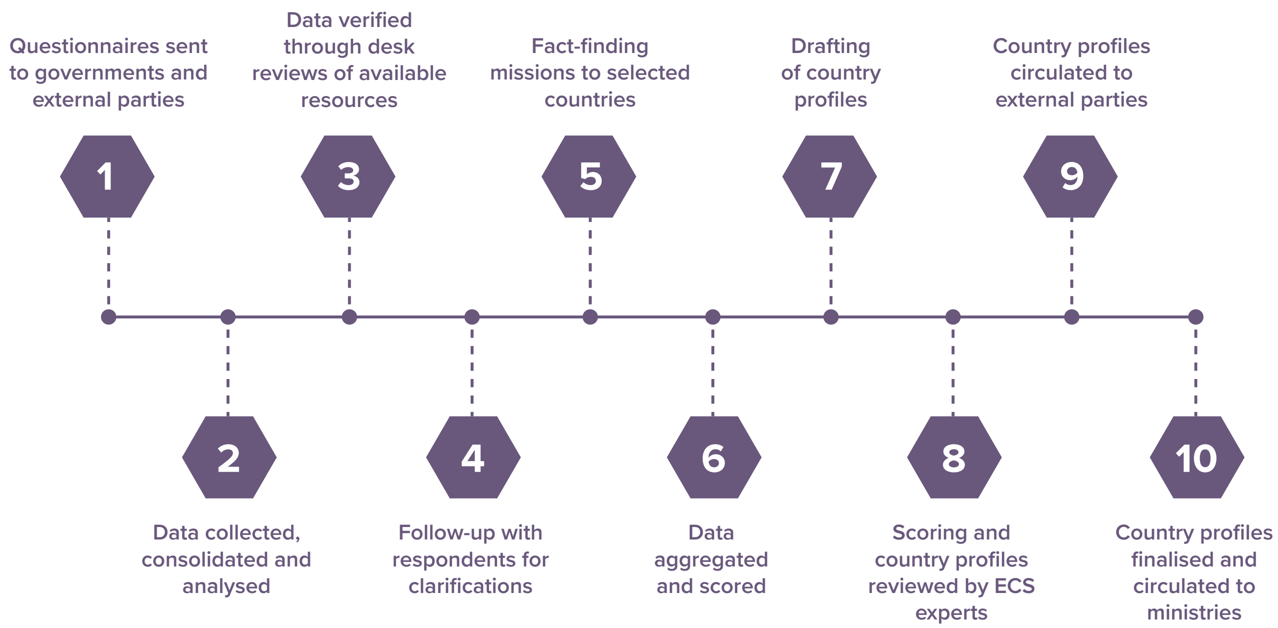
Data for EIRA is collected in a standardised manner. For the 2019 edition, responses from the participating countries and external parties were collected over a period of five months. The respondents provided copies of the source documentation and translations (if required) that supported their responses. The data provided was accepted only to the extent that it was premised on original laws, regulations, national plans and strategies. Legislative initiatives and regulatory reforms not legally in force on 1 April 2019 were not taken into consideration.

Upon receipt of the questionnaires, the ECS in-house investment, legal, regulatory and energy efficiency experts engaged in an extensive process of validating information provided during the survey. In particular, it was confirmed that each question was correctly understood by the respondents and that the documentation submitted supported the response given. In the absence of documents, or in the case of conflicting answers, clarifications were sought through correspondence and phone interviews with government officials and external parties. Answers obtained were once again reviewed and cross-checked for consistency with known elements of each country's investment policies and energy sector.

Efforts were made to address the issue of low data availability in certain countries. As an exceptional case, due to the lack of external parties, the country profile of Burkina Faso was based on the information provided by the Government and the desk research conducted by the ECS in-house experts. In selected countries, fact-finding missions were also undertaken to obtain hands-on information. The purpose was to gain insight into their regulatory and investment environment as well as obtain the views of different stakeholders in the energy sector.

Overall, the process of data collection and validation lasted eight months, from December 2018 to July 2019.

Figure I.6 – Data collection and validation process



How are risks assessed in EIRA?

EIRA relies on a blend of quantitative and qualitative analysis. The quantitative analysis is performed using a scoring system that conveys the performance of the countries on the indicators. The more complex dynamics of the assessment are represented through qualitative country profiles that identify areas for improvement using narrative and visuals.

Scoring system

All indicators carry equal weight. The total for each indicator is the average of its component sub-indicators. Each sub-indicator is similarly calculated through a set of questions. The questions are scored between 0 and 100 and are equally weighted. The highest achievable score for each question is 100. All the scores have been rounded off for the risk areas and the indicators. The overall performance across each indicator is defined as the average of first, the score received in the government questionnaire; and second, the combined average of the external party scores.

Figure I.7 – Scoring an indicator for individual respondents

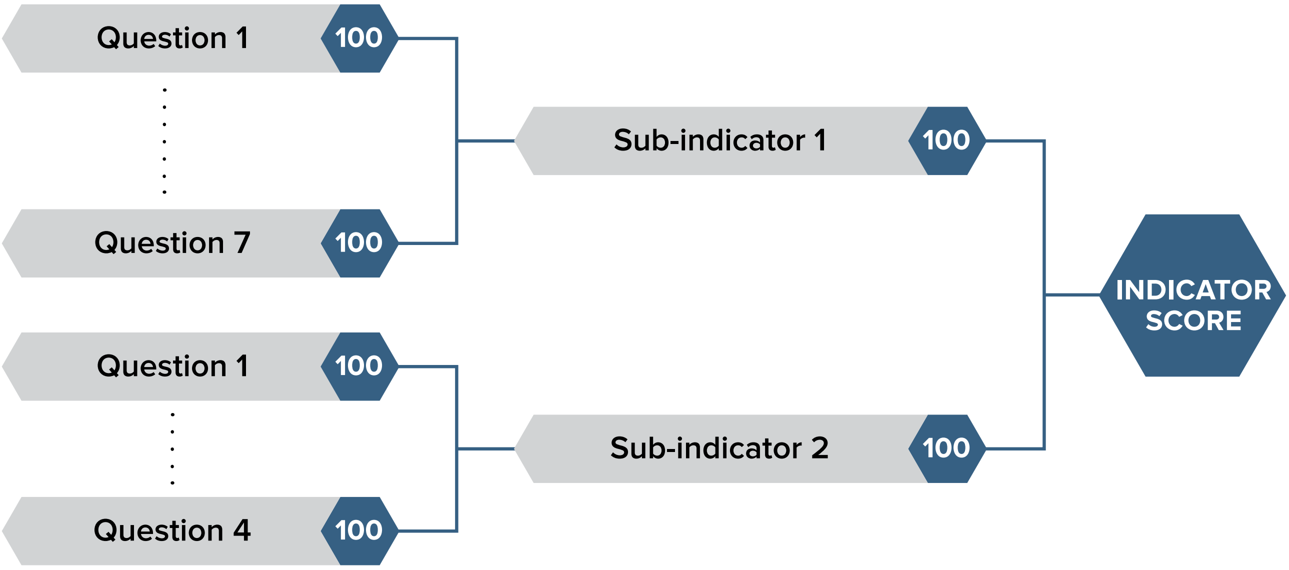
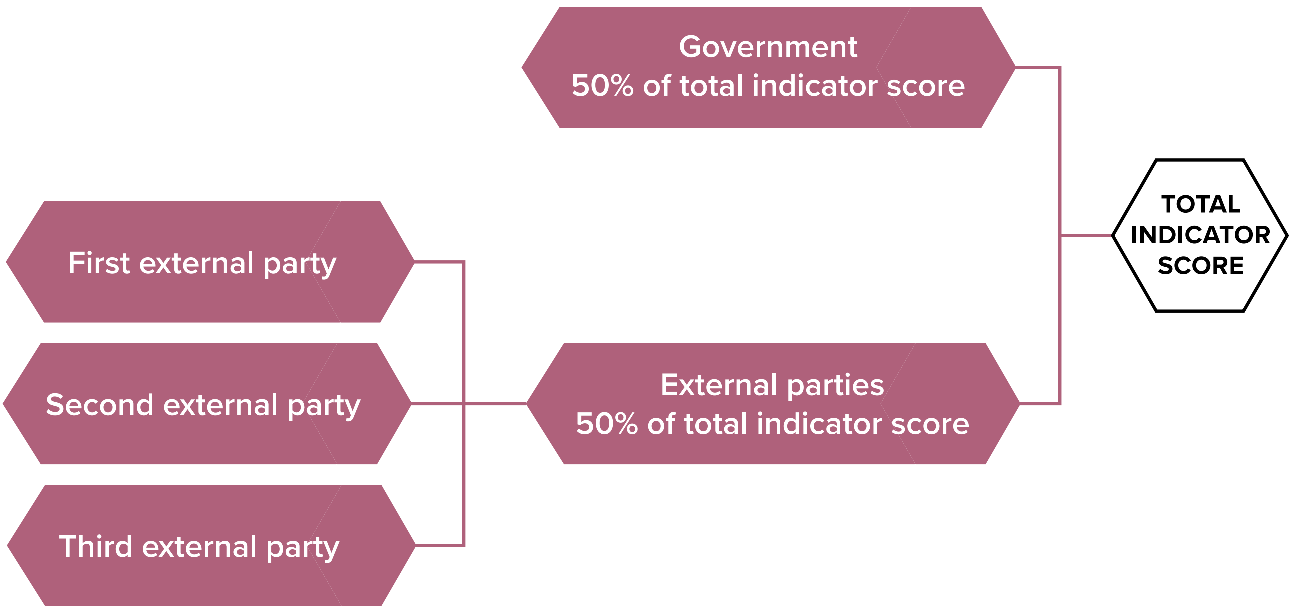
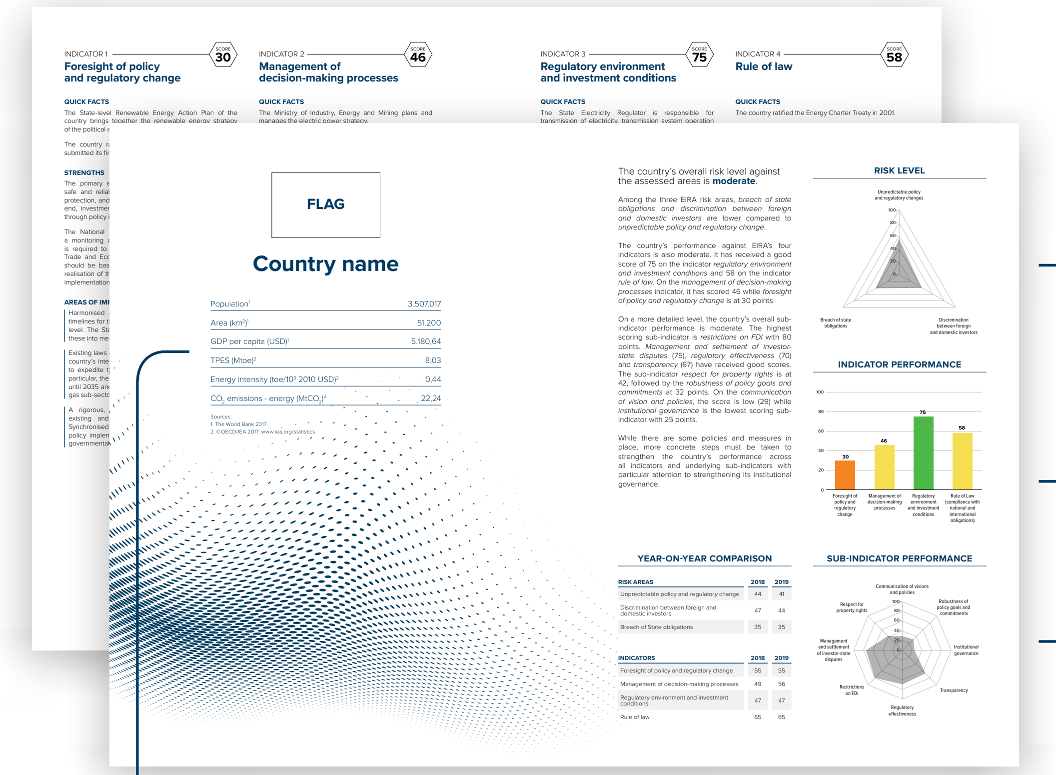


Figure I.8 – Total score for an indicator



Country profile outline

The qualitative assessment for each country is visualised through a four-page profile. The initial two pages provide an overview of the country. They feature a table of the country's key metrics and three charts. The metrics include demographic, economic and energy information and give a background to the country's profile. The first chart illustrates the risk level across the assessed areas. It is followed by a bar chart that shows the performance of the countries on each of the four indicators. A 5-colour coding approach is used for this purpose. Dark green represents the highest band of scores while red represents the lowest. The third chart breaks down the country's performance across the sub-indicators, where 0 denotes the weakest and 100 the strongest performance. The remaining pages of the profile offer a detailed analysis of the country's performance on each indicator. They present the overall score for each indicator and summarise the key strengths and areas for improvement. Profiles of the recurrent countries now have a table that reflects the change in their performance vis-a-vis 2018 on (1) the risk areas and (2) the indicators.



KEY METRICS

Population and surface area: Data refers to year 2017. *The World Bank 2017, World Development Indicators, World Bank national accounts data and OECD National Accounts data files, https://data.worldbank.org/ (accessed on 10 July 2019)**

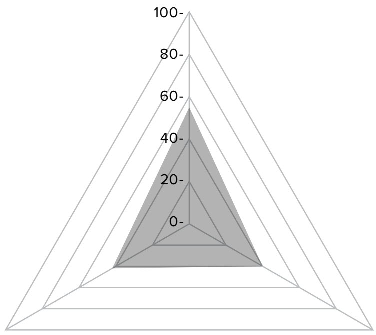
GDP per capita (current US$): Data refers to year 2017. *The World Bank 2017, World Development Indicators, World Bank national accounts data and OECD National Accounts data files, https://data.worldbank.org/ (accessed on 10 July 2019)**

Total primary energy supply (TPES): TPES represents inland demand only and, except for world energy demand, excludes international marine and aviation bunkers. Data refers to year 2016. *OECD/IEA 2018, www.iea.org/statistics**

Energy Intensity: This is a measure of total primary energy use per unit of gross domestic product. Data refers to year 2016. *OECD/IEA 2018, www.iea.org/statistics**

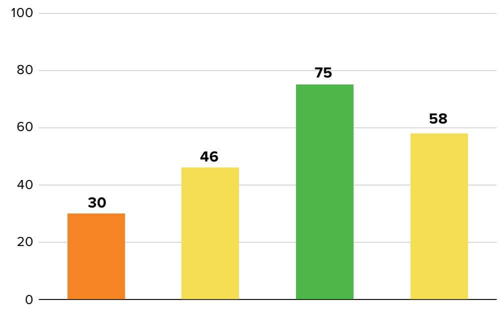
CO_2 emissions from fuel combustion: Data refers to year 2016. *OECD/IEA 2018, www.iea.org/statistics**

*N/A means data is not available for this metric



RISK LEVEL

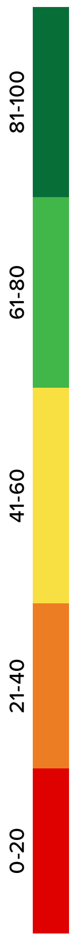
The risk level is displayed by the grey triangle. Each axis represents a risk area. The smaller the size of the grey triangle, the lower the level of risk.



INDICATOR PERFORMANCE

The indicators affect the risk areas differently. For example, rule of law has the highest impact since it influences all three risk areas. For details on the correlation between the indicators and the risk areas, see Table I.1 on page 9.

The bars are colour-coded. Each colour corresponds to a performance level.



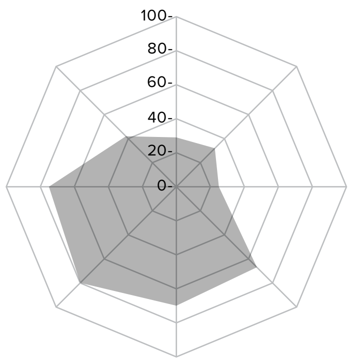
VERY GOOD
The performance against the assessed indicators is very good and the risk level is very low. The country provides attractive conditions for investors and is working in the right direction.

GOOD
The performance against the assessed indicators is good and the risk level is low. While the country has relevant policies and measures in place, there is some potential for improvement.

MODERATE
The performance against the assessed indicators is moderate and the risk level is moderate. There are some policies and measures in place but more concrete steps must be taken to further strengthen the performance.

LOW
The performance against the assessed indicators is low and the risk level is high. Considerable steps need to be taken to improve the performance.

VERY LOW
The performance against the assessed indicators is very low and the risk level is very high. Significant and immediate steps need to be taken to improve the performance.



SUB-INDICATOR PERFORMANCE

Each axis represents a sub-indicator. The larger the size of the grey area, the better the country's performance.

INDICATOR AND SUB-INDICATOR CORRELATION

Indicator 1
1. Communication of vision and policies
2. Robustness of policy goals and commitments

Indicator 2
1. Institutional governance
2. Transparency

Indicator 3
1. Regulatory effectiveness
2. Restrictions on FDI

Indicator 4
1. Management and settlement of investor-State disputes
2. Respect for property rights

Greece

Population[1]	10,754,679
Area (km^2)[1]	131,960
GDP per capita (USD)[1]	18,883.46
TPES (Mtoe)[2]	22.67
Energy intensity (toe/10^3 2010 USD)[2]	0.09
CO_2 emissions - energy ($MtCO_2$)[2]	63.10

Sources:
1. The World Bank 2017
2. ©IEA 2018, www.iea.org/statistics

Greece's overall risk level against the assessed areas is **very low**.

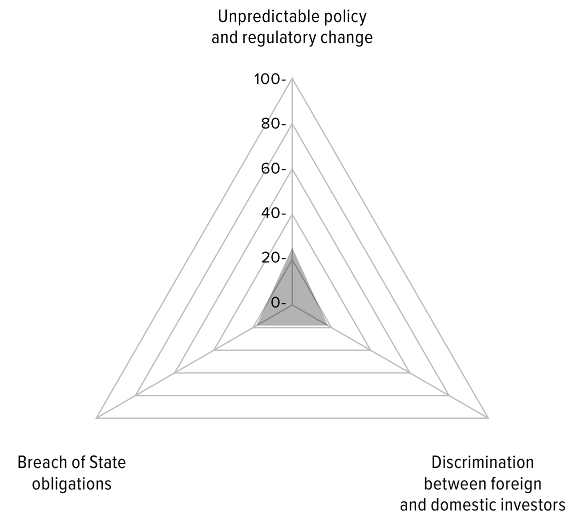
The risks *discrimination between foreign and domestic investors* and *breach of State obligations* are the lowest after their level has dropped compared to 2018. The level of *unpredictable policy and regulatory change* has gone down but it is again the highest risk area.

Greece has a very good performance on two indicators, and a good performance on two. It has maintained a score of 90 on *regulatory environment and investment conditions*. The performance on *rule of law* has improved by 5 points and stands at 82. On *management of decision-making processes* it has scored 75 as in last year's assessment. The score for *foresight of policy and regulatory change* has increased from 54 to 69 points.

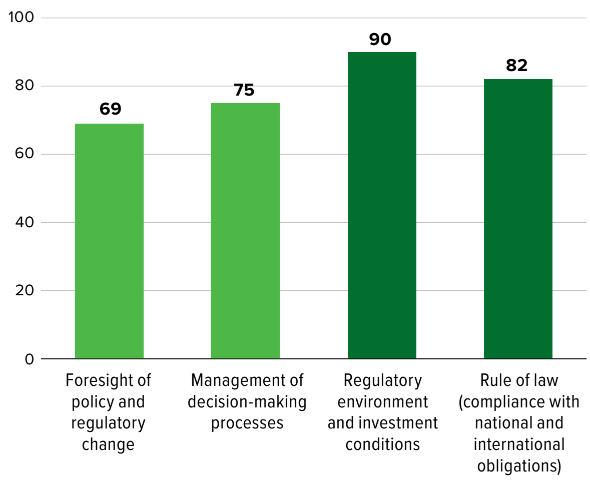
On a more detailed level, Greece's overall sub-indicator performance is good. The highest-scoring sub-indicator continues to be *regulatory effectiveness* with 94 points. It is followed by *restrictions on FDI* at 85 and *respect for property rights* at 83. The score for *management and settlement of investor-State disputes* has increased and is now at 80. *Robustness of policy goals and commitments*, *institutional governance* and *transparency* received 75 points each, for a second year. Performance on *communication of vision and policies* has significantly improved from 32 to 63 points.

Greece provides attractive conditions for investors and is working in the right direction. Attention should be given to better communicating the country's policies to investors.

RISK LEVEL



INDICATOR PERFORMANCE

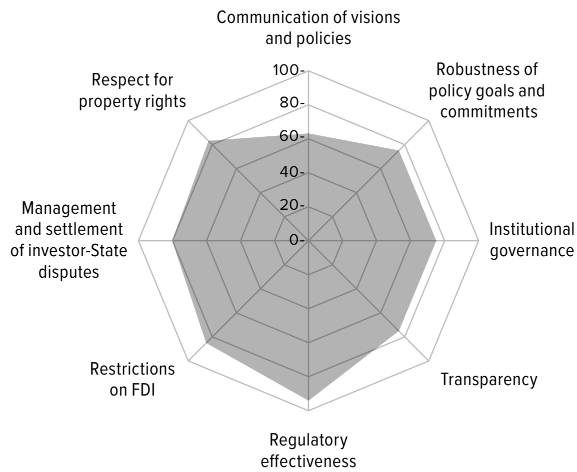


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019
Unpredictable policy and regulatory change	31	25
Discrimination between foreign and domestic investors	19	18
Breach of State obligations	23	18

INDICATORS	2018	2019
Foresight of policy and regulatory change	54	69
Management of decision-making processes	75	75
Regulatory environment and investment conditions	90	90
Rule of law	77	82

SUB-INDICATOR PERFORMANCE



INDICATOR 1

SCORE 69

Foresight of policy and regulatory change

QUICK FACTS

The National Renewable Energy Action Plan, adopted in 2010, and Law no. 3851/2010 are the main strategy documents for promoting the development of renewable energy sources.

In January 2019, Greece finalised the National Energy and Climate Plan 2030.

The National Energy Efficiency Action Plan for the implementation of national energy efficiency improvement targets was adopted in 2017.

As an EU Member State, Greece ratified the Paris Agreement in 2016.

STRENGTHS

The National Energy and Climate Plan 2030 sets targets for three priorities, namely, increasing the share of renewables in energy consumption, reducing GHG emissions, and achieving energy savings in the final consumption. To meet these objectives, the Government enacted Law no. 4602/2019 on Geothermal Energy which supports the framework for the efficient utilisation of the country's geothermal potential. Greece continued to work towards restructuring the energy market. For this purpose, the Ministry and the Hellenic Energy Exchange S.A. took steps to set up the operation of the Day-Ahead Market, the Intraday Market and the Energy Financial Market. The operation of the Markets, scheduled for the end of 2019, will increase transparency and enhance the competitiveness of the wholesale energy market to the benefit of the consumers.

Data on the implementation of the energy targets are regularly collected and analysed. In 2018, the Regulatory Authority for Energy (RAE) submitted to the European Commission the annual National Report on the regulation and performance of the electricity and the natural gas market for the previous year. Statistical data for energy is available on the website of the Ministry of Environment and Energy. Information on GHG emissions and activity data was provided to the UNFCCC in April 2019 through the latest National Inventory Report.

AREAS FOR IMPROVEMENT

In line with last year's suggested improvement, Greece adopted the new action plan to facilitate the implementation of the country's energy objectives. However, the effectiveness of the plan will depend upon, among other things, its effective monitoring. Monitoring and evaluation mechanisms are essential for the achievement of the targets set. Continuous benchmarking and efficient reporting mechanisms can improve the implementation and enforcement of the country's energy policy. Incentives or penalties can also be employed to provide certainty regarding the country's future actions. Additionally, the plan must be periodically reviewed to guarantee progress towards the identified priorities.

INDICATOR 2

SCORE 75

Management of decision-making processes

QUICK FACTS

The Ministry of Environment and Energy leads the formulation of energy policies.

The General Secretariat for Investment was established in 2013 as a one-stop investment approval authority for strategic investments.

Enterprise Greece operates as a single window for all enquiries concerning investment policies and applications, under the supervision of the Ministry of Economy and Development.

Greece enacted Law no. 3861/2010 requiring the mandatory online publication of all laws and regulations.

STRENGTHS

The Government is subject to Parliamentary control. In 2018-2019, all submitted questions, interpellations, requests for documents and petitions were made electronically available by the Hellenic Parliament. The Ministry of Environment and Energy exercised the legislative initiative for the energy sector through the submission for discussion of draft bills. Measures were taken for attracting and facilitating the establishment of strategic investments through Enterprise Greece. The agency's website tracked the progress made on projects included in the Fast Track Law no. 3894/2010.

All laws and regulatory decisions adopted during the EIRA assessment year were published in the Official Gazette. In parallel, administrative decisions became effective through their publication on the Diavgeia portal. The decisions of RAE and legislation proposed by the Ministry of Environment and Energy are uploaded on their respective websites. Consultation between the Government and stakeholders played a significant role in 2018. For instance, public deliberation of the new National Energy and Climate Plan was concluded in December 2018. RAE conducted public consultations for the regulations and methodologies regarding the functioning of the Day-Ahead and the Intraday markets.

AREAS FOR IMPROVEMENT

It is important that the country integrates amendments and corrigenda to consolidated texts of legal acts. At present, an amending law may effect changes to multiple laws that are related to different subject matters. This makes it difficult to trace the amendments and users must rely on private legal databases to follow successive changes. Consolidated texts will provide the latest version of the law and facilitate the access of investors to updated and accurate information. To further enhance transparency, investment promotion agencies can make enacted laws and regulations available in English or other foreign languages.

INDICATOR 3

SCORE 90

Regulatory environment and investment conditions

QUICK FACTS

RAE regulates the electricity and natural gas sub-sectors and monitors the oil products market.

The Hellenic Hydrocarbon Resources Management SA (HHRM) grants the rights to prospecting, exploration and exploitation of hydrocarbons.

Law no. 2289/1995 on prospecting, exploration and production of hydrocarbons regulates the upstream sector.

STRENGTHS

RAE continues to enjoy financial and functional autonomy. During the past year, RAE announced and successfully carried out competitive procedures for power generation stations from renewable energy sources. Through this, it intends to implement the framework supporting renewables in Greece. Additionally, RAE commenced the development of an energy price comparison tool to ensure a fair and competitive electricity market by facilitating access to objective and neutral information. In February 2019, the regulations for the function of the comparison tool were published for deliberation.

The legislative framework remains liberal and supportive towards foreign investments. As an EU Member State, Greece became a signatory to two new investment promotion agreements, with Japan and Singapore, in 2018. Following last year's recommendation, the State relaxed the capital controls restricting the transfer of funds which have been in place since 2015. From October 2018, the limit on transactions in the course of business activities abroad was raised from EUR 40,000 to EUR 1,000,000 per day, subject to the presentation of the relevant invoices and supporting documents.

AREAS FOR IMPROVEMENT

Following the partial relaxation of the existing capital controls, the country may consider abolishing the measures regarding the transfer of capital abroad. The liberalisation of transactions can promote the flow of foreign funds in the domestic market.

INDICATOR 4

SCORE 82

Rule of law

QUICK FACTS

Greece became a Contracting Party to the Energy Charter Treaty in 1997.

The Convention on the Settlement of Investment Disputes between States and Nationals of Other States was ratified by Greece in 1969.

Provisions against the expropriation of immovable property are stated in the Constitution and Law no. 2882/2001 setting out the conditions on expropriation of immovable property.

STRENGTHS

Foreign investors are effectively protected through domestic courts or international arbitration. National laws do not require the exhaustion of local judicial remedies before the initiation of arbitration proceedings. All public decisions of the Supreme Administrative Court and the Administrative Courts of First Instance for the past year have been made available electronically. Greece has established an Investor Ombudsman to assist investors facing difficulties during the licensing procedure and specific bureaucratic obstacles.

The Constitution and the national laws safeguard property rights. Expropriation is permitted only upon the payment of effective compensation, within eighteen months from the publication of the court decision regarding its determination. Intellectual property rights are protected through several laws and BITs to which Greece is a party. The new EU-Japan Economic Partnership Agreement, which came into force in 2019, recognises the importance of intellectual property and includes provisions for its protection. In general, technology transfer is not restricted.

AREAS FOR IMPROVEMENT

Effective case management measures should be adopted to lower the domestic courts' caseload and accelerate judicial proceedings. Alternative dispute resolution mechanisms can be employed, such as encouraging mediation in disputes involving public entities.

Currently, "public interest" is defined on a case-by-case basis within limits prescribed by the Supreme Administrative Court. A general definition of the term may be incorporated in Expropriation Code (Law no. 2882/2001) to clarify its scope and application and to create greater certainty. Additionally, Greece may consider widening the scope of the Expropriation Code, which only applies to real property, to include other types of property.

As mentioned in EIRA 2018, retroactive changes to laws should be avoided to increase investment security.

ANNEX I: SCORING GUIDE

The score for each indicator is the average of its component sub-indicators. The score of each sub-indicator is the average of its underlying questions. The scoring rules for different types of questions are as follows:

1. Questions with proportionate scores

This category is scored based on the number of energy policy goals set by the country. In the example given below, the first sub-indicator of Indicator 1 allows the respondents to list the energy priorities of the country. Under the first question, there are nine identified options for respondents to select. Additionally, they are given the opportunity to specify other priorities considered relevant to their respective energy sectors. The response to the first question sets the premise on which the following questions will be answered and scored. For example, a country has set 5 goals. As a result, 20 points are attributed to each of the selected goals for the scoring of the next questions. Subsequently, the respondent identifies an energy strategy document for three out of the five selected goals, and the country receives 60 points on that question. The scores for the third and the fourth questions are calculated likewise. The final score of this sub-indicator is the average scores of its component questions, which in this case is 66.7.

Sample Question Type 1

INDICATOR 1: FORESIGHT OF POLICY AND REGULATORY CHANGE	SCORING	RESPONSE	SCORE
Sub-indicator 1: Communication of vision and policies			**66.7**
1. What are the key priorities or goals of the energy sector policy? **a. Energy security [Y/N]** **b. Power reliability [Y/N]** **c. Affordability – energy poverty [Y/N]** **d. Access to energy [Y/N]** **e. Investment in the energy sector [Y/N]** **f. CO_2 reduction [Y/N]** **g. Renewable energy [Y/N]** **h. Energy efficiency [Y/N]** **i. Innovation [Y/N]** **j. Others issues related to the energy sector (like air quality, water quality job creation etc). Please specify.**	Not Scored	5 goals selected: Energy security; power reliability; access to energy; CO_2 reduction; and Innovation (100/5=20 for each goal in the related questions)	–
2. Does the country have an energy strategy document for the key priority areas selected above (e.g. a Vision document/ Roadmap etc.)? [Y/N]	Based on the number of goals selected in the previous question proportionate scores are allocated	Energy strategy document for 3 goals: Energy security; CO_2 reduction; and innovation	3x20=60

2. Binary questions

These questions can be answered with a simple "yes" or "no". In the example below, the respondent must answer "yes" to all three questions to obtain the highest score. However, the respondent gives two positive answers and a negative one. As a result, the score for the sub-indicator is 66.7.

Sample Question Type 2a

INDICATOR 3: REGULATORY ENVIRONMENT AND INVESTMENT CONDITIONS	SCORING	RESPONSE	SCORE
Sub-indicator 1: Regulatory effectiveness			**66.7**
1. Does the energy regulator derive its authority from a law? [Y/N]	Yes-100 No-0	Yes	100
2. Are the functions and obligations of the energy regulator stated in a law? [Y/N]	Yes-100 No-0	No	0
3. Does the energy regulator have a budget that is separate from the government's budget? [Y/N]	Yes-100 No-0	Yes	100

In some cases, a negative response may yield a high score while a positive answer may be scored 0. In the following example, the respondent must answer "no" to all the questions to obtain the highest score. However, the respondent gives one negative and one positive answer. As a result, the score for the sub-indicator is 50.

Sample Question Type 2b

INDICATOR 3: REGULATORY ENVIRONMENT AND INVESTMENT CONDITIONS	SCORING	RESPONSE	SCORE
Sub-indicator 2: Restrictions on FDI			**50**
1. Are foreign investors required by law to partner with State/ State-owned enterprises or local enterprises before undertaking projects in the energy sector? [Y/N]	Yes-0 No-100	No	100
2. Are foreign investors required to purchase a certain percentage/ value/quantity of products or services from local suppliers? [Y/N]	Yes-0 No-100	Yes	0

3. Questions with alternative responses and granulated scores

In some cases, the respondent is asked to select an answer from a group of alternatives. The answer reflecting best practice is scored 100, whereas the score for the rest of the options is granulated. In the table below, the respondent states that only some legal and regulatory information is made available. This alternative is not considered optimal and, thus, yields only 50 points. In the following question, the respondent states that laws and regulations are accessible both electronically and in print. This is considered best practice and gets a score of 100. Similarly, the respondent answers that the energy regulator makes available all its decision to the public, which again is considered best practice and gets 100. The overall score for this sub-indicator is 83.3.

Sample Question Type 3

INDICATOR 2: MANAGEMENT OF DECISION-MAKING PROCESSES	SCORING	RESPONSE	SCORE
Sub-indicator 1: Transparency			**83.3**
1. Does the country make available legal and regulatory information to the public?		1-b	50
a. Yes, all information is made available	100		
b. Only some information is available	50		
c. No information is available	0		
2. How are laws and regulations made accessible to public?		2-a	100
a. Both electronically and in print	100		
b. Only electronically	66.7		
c. Only in print	33.3		
d. Available only upon request/or payment of fee	0		
3. Does the energy regulator make available its decisions (on tariffs, tariff methodology, market access etc.) to the public?		3-a	100
a. Yes, all decisions are made available	100		
b. Only some decisions are made available	50		
c. No decisions are made available	0		

4. Questions with alternative sub-questions

This type of question provides alternatives to the respondents, in case a negative answer to the main question is compensated by other measures. In the example provided below, the respondent claims that investors need authorisation before investing in the energy sector. Since this imposes a restriction on investors, the answer to the main question gets a 0. Where the prior authorisation requirement results in restrictiveness but is not discriminatory in nature, 50 points are 'recovered' by answering "yes" to question 1a.

Sample Question Type 4

INDICATOR 3: REGULATORY ENVIRONMENT AND INVESTMENT CONDITIONS	SCORING	RESPONSE	SCORE
Sub-indicator 2: Restrictions on FDI			**50**
1. Is there a pre-screening or prior-authorization requirement for investing in the energy sector? [Y/N]	Yes-0 No-100	Yes	0
If yes: **1a. Is pre-screening applicable to both domestic and foreign investors? [Y/N]**	Yes-50 No-0	Yes	50

5. Divided questions

For some sub-indicators the main question is bifurcated into sub-questions, which are awarded identical scores since they are equally important. The sub-questions develop a joint perfect score of 100, when answered positively. In the example below, the country scores 50 because it is a Contracting Party only to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States.

Sample Question Type 5

INDICATOR 4: RULE OF LAW (COMPLIANCE WITH NATIONAL AND INTERNATIONAL OBLIGATIONS)	SCORING	RESPONSE	SCORE
Sub-indicator 1: Management and settlement of investor-State disputes			**50**
1. Is the country a Contracting Party to:			
1a. The Convention on the Settlement of Investment Disputes Between States and Nationals of Other States? [Y/N]	Yes-50 No-0	Yes	50
1b. The Convention on the Recognition and Enforcement of Foreign Arbitral Awards? [Y/N]	Yes-50 No-0	No	0

ANNEX II: EIRA QUESTIONNAIRE 2019

Indicator 1: Foresight of policy and regulatory change

QUESTIONS	CLARIFICATIONS TO QUESTIONS	SCORING
Sub-indicator 1.1: Communication of vision and policies		
1.1.1 What are the key priorities or goals of the energy sector policy? a. Energy security [Y/N] b. Power reliability [Y/N] c. Affordability – energy poverty [Y/N] d. Access to energy [Y/N] e. Investment in the energy sector [Y/N] f. CO_2 reduction [Y/N] g. Renewable energy [Y/N] h. Energy efficiency [Y/N] i. Innovation [Y/N] j. Others issues related to the energy sector (like air quality, water quality job creation etc). Please specify.	This is not an exhaustive list and countries are only expected to tick the boxes relevant to them. Countries may add priorities or goals not listed.	Not scored
1.1.2 Does the country have an energy strategy document for the key priority areas selected above (e.g. a Vision document/ Roadmap)? [Y/N]	Kindly provide details of the energy strategy (such as date when the document was endorsed). Please also provide a link to the document or send the pdf version.	Based on the number of goals selected
1.1.3 Has the country set any short-, medium- term targets for the priority areas selected above? [Y/N]	This may include any specific short-, medium-term outcomes/targets for the energy sub-sectors.	Based on the number of goals selected
1.1.4 Has the country set any ultimate/final outcomes for the priority areas selected above? [Y/N]	This may include any specific final outcomes or end game for the energy sub-sectors.	Based on the number of goals selected
1.1.5 Is there a timeframe for achieving the ultimate/final outcomes for the priority areas selected above? [Y/N]		Based on the number of goals selected
1.1.6 Is there a binding national action plan in place for implementing the priorities selected above? [Y/N]		Based on the number of goals selected
1.1.7a Is the country a party to the United Nations Paris Climate Agreement? [Y/N] **1.1.7b If yes, does the country's NDC contain details on energy sector CO_2 contribution? [Y/N]**		Yes-50 No-0 Yes-50 No-0
Sub-indicator 1.2: Robustness of policy goals and commitments		
1.2.1 Is there a body responsible for monitoring the implementation of each energy priority? [Y/N]		Based on the number of goals selected
1.2.2 Is the monitoring body independent of the authority/ministry responsible for implementing the energy priorities selected above? [Y/N]	For instance a technical/statistics body.	Based on the number of monitoring bodies
1.2.3 Is the monitoring body required to provide feedback to the authority/ministry responsible for implementing the energy priorities selected above? [Y/N]		Based on the number of monitoring bodies
1.2.4 Is there a legal provision that allows the government to review the energy priorities selected above, and sets out the process in which the review should be performed? [Y/N]	Please provide relevant legal acts/provisions.	Yes-100 No-0

Additional remarks:
Are there any regulatory measures/legal changes that you anticipate in the coming year? *Please describe.*

Indicator 2: Management of decision-making processes

QUESTIONS	CLARIFICATIONS TO QUESTIONS	SCORING
Sub-indicator 2.1: Institutional governance		
2.1.1 Indicate the levels of government involved in framing energy legislation: a. Central government [Y/N] b. Provincial [Y/N] c. Municipal [Y/N] d. More than 3 [Y/N] e. How many levels are involved in total?		For one level 100 For two levels 50 For three levels 25 For more than three levels 0
2.1.2 Is there a central authority responsible for the overall energy policy formulation process? [Y/N]	Please provide the name of the institution and its website.	Yes-100 No-0
2.1.3 Is there a central authority responsible for the overall investment policy formulation process? [Y/N]	Please provide the name of the institution and its website.	Yes 100 No-0
2.1.4 Do the energy and investment authorities consult each other while formulating polices related to their respective sectors? [Y/N]	This includes consultation within working groups, etc.	Yes-100 No-0
2.1.5 Is there an authority responsible for the overall implementation and monitoring of the country's NDC? [Y/N]	Please provide the name of the institution and its website.	Yes-100 No-0
2.1.6 Is there a process that requires the government to periodically review the implementation of its NDC? [Y/N]		Yes-100 No-0
2.1.7a Has the country established a one-stop shop investment approval authority? [Y/N] **2.1.7b If yes, does it also give approval for the energy sector? [Y/N]**	Please provide the name of the institution and its website.	Yes-50 No-0 Yes-50 No-0
2.1.8a Is there a single window for all enquiries concerning investment policies and applications? [Y/N] **2.1.8b If yes, does it also give information for the energy sector? [Y/N]**	Please provide the name of the institution and its website.	Yes-50 No-0 Yes-50 No-0
Sub-indicator 2.2: Transparency		
2.2.1 Does the country have a law on transparency? [Y/N]		Yes-100 No-0
2.2.2a Do exceptions to transparency rules exist? [Y/N] **2.2.2b If yes, are these exceptions clearly defined in law or regulation? [Y/N]**	Such exceptions can include national security, public interest, law and order etc.	Yes-0 No-100 Yes-100 No-0
2.2.3 Does the country make available legal and regulatory information to the public? a. Yes, all the information is made available b. Only some of information is made available c. No information is made available	Legal and regulatory information includes enacted laws, draft laws, regulations, draft regulations. If the information is limited, please state reasons for this answer.	100 50 0
2.2.4 How is law and regulation made accessible to the public? [Y/N] a. Both electronically and in print b. Only Electronically c. Only in print d. Available only upon request or payment of fee	On request means investors can approach public authorities for hard copies.	100 66.7 33.3 0
2.2.5 Does the energy regulator make available its decisions (on tariffs, tariff methodology, market access etc.) to the public? a. Yes, all the decisions are made available b. Only some decisions are made available c. No decisions are made available		100 50 0

QUESTIONS	CLARIFICATIONS TO QUESTIONS	SCORING
2.2.6 Are energy strategy documents and national plans available in any of the UN languages? [Y/N]	The UN languages are Arabic, Chinese, English, French, Russian and Spanish. For the purpose of this question, unofficial translations are not relevant.	Yes-100 No-0
2.2.7 Are enacted laws available in any of the UN languages? [Y/N]	The UN languages are Arabic, Chinese, English, French, Russian and Spanish. For the purpose of this question, unofficial translations are not relevant.	Yes-100 No-0
2.2.8 Do the bodies responsible for monitoring and implementing energy priorities/objectives publish their data? [Y/N]	This question refers to monitoring bodies mentioned in question 1.2.1.	Yes-100 No-0
2.2.9 Is legal information centralised? a. In an electronic centralised registry of laws and regulations b. Centralised registry/official gazette in print c. No centralisation of laws and regulations		 100 50 0
2.2.10 Is consultation between the government and the stakeholders required under any law/regulation/rule? [Y/N]	Stakeholders may include affected public and private investors, energy agencies, local government administration, non-governmental organisations, and wider community.	Yes-100 No-0
2.2.11 Is consultation between the energy regulator and the stakeholders required under any law/regulation/rule? [Y/N]		Yes-100 No-0
2.2.12 Are stakeholders notified and consulted in advance when new laws and regulations are enacted? [Y/N] a. Notified and consulted in advance b. Notified but not consulted c. Not notified or consulted		 100 0 0

Additional remarks:
Are there any concerns regarding the transparency in the country or its decision making that you wish to highlight? *Please describe.*

Indicator 3: Regulatory environment and investment conditions

QUESTIONS	CLARIFICATIONS TO QUESTIONS	SCORING
Sub-indicator 3.1: Regulatory effectiveness		
3.1.1 Which institution is responsible for regulating the energy sector? a. A separate energy regulatory body b. An agency under the control of the Ministry c. A Ministry d. Multiple ministries/agencies regulating sub-sectors separately	Hereafter referred to as 'the energy regulator'.	Not scored
3.1.2* Does the energy regulator derive its authority from a law? [Y/N]	Please provide the name of the legal act which establishes the energy regulator.	Yes-100 No-0
3.1.3* Are the functions and obligations of the energy regulator stated in a law? [Y/N]	Please provide the name of the legal act which specifies the obligations of the energy regulator.	Yes 100 No-0
3.1.4* Is the energy regulator subject to the public control conducted by other institutions? a. Supreme Audit Office which is independent from the central government and/or Parliament b. Governmental institution c. None of the above		 100 0 0
3.1.5* Does the energy regulator have a budget that is separate from the government's budget? [Y/N]	This means the budget is not determined by the government.	Yes-100 No-0
3.1.6* Does the energy regulator have a dedicated budget for itself? [Y/N]	Dedicated budget means that the energy regulator is not required to transfer or share its funds with any other governmental entities.	Yes-100 No-0
3.1.7* Does the energy regulator have the right to allocate its budget? a. Yes, it has full right to do so b. Yes, but it needs approval from the governmental/ministry c. No, it cannot allocate the budget on its own		 100 50 0
3.1.8a* Is there a fixed term appointment for the board of the energy regulator? [Y/N] **3.1.8b* If so, is the term renewable more than once? [Y/N]**		Yes-50 No-0 Yes-0 No-50
3.1.9* Is the selection procedure of the board and its finalisation publically announced? [Y/N]		Yes-100 No-0
3.1.10a Does the energy regulator deal with competition issues? [Y/N] **3.1.10b If no, is there a separate governmental body dealing with competition issues, including the energy sector? [Y/N]**		Yes-100 No-0 Yes-100 No-0
Sub-indicator 3.2: Restrictions on FDI		
3.2.1a Does the country give equal treatment to domestic and foreign investors? [Y/N] **3.2.1b If yes, is this equal treatment established in law? [Y/N]**	Please provide legal acts which grant equal treatment to domestic and foreign investors.	Yes-50 No-0 Yes-50 No-0
3.2.2a Are investors in the energy sector allowed to invest in all zones or regions within the country? [Y/N] **3.2.2b If no, is this applicable to domestic and foreign investors alike? [Y/N]**	This can include restrictions on undertaking activities in the Exclusive Economic Zones, special economic zones, free trade zones.	Yes-100 No-0 Yes-50 No-0

* For electricity and hydrocarbon regulators

QUESTIONS	CLARIFICATIONS TO QUESTIONS	SCORING
3.2.3a Is there a pre-screening or prior-authorization requirement for foreign investors in the energy sector? [Y/N] **3.2.3b If yes, is it only a notification requirement? [Y/N]**	Screening mechanisms include requiring the foreign investors to show that the project is in the national interest of the Host State. However, in some cases, they are automatic and amount to a simple pre-notification requirement for investors.	Yes-0 No-100 Yes-50 No-0
3.2.4 Are foreign companies legally allowed to hold a majority stake in energy projects? [Y/N]		Yes-100 No-0
3.2.5 Are foreign investors required by law to partner with the State/State-owned enterprises or local enterprises before undertaking projects in the energy sector? [Y/N]		Yes-0 No-100
3.2.6 Are there limitations on the employment of foreign personnel? a. There are no limitations [Y/N] b. Limitation by percentage [Y/N] c. Limitation on the number of times work permit/visa can be renewed [Y/N]		 100 0 0
3.2.7 Are foreign investors required to employ specific percentages of local work force? a. There are no such requirements [Y/N] b. Yes, for the managerial level (board of directors etc.) [Y/N] c. Yes, for the unskilled labour and non-technical/administrative staff [Y/N]		 100 0 0
3.2.8 Are foreign investors required to purchase a certain percentage/value/quantity of products or services from local suppliers? [Y/N]	Local content provisions require foreign investors to purchase a minimum threshold of goods (e.g. raw materials) and services (e.g. human resources) locally.	Yes-0 No-100
3.2.9a Are there any currency restrictions and/or foreign exchange controls applied to foreign investors under a law or regulation? [Y/N] **3.2.9b If yes, do these exchange controls include:** a. Banning use of foreign currency? [Y/N] b. Limiting currency exchange to government approved exchangers? [Y/N] c. Fixed exchange rates? [Y/N]		Yes-0 No-100
3.2.10a Do restrictions on the transfer of investment related capital, payments and profits exist? **3.2.10b If yes, do they apply equally on foreign and domestic investor?**	e.g. profits, dividends, interest and royalty receipts, original capital, capital appreciation, proceeds from liquidation, payments received as compensation for property expropriation, settlement of disputes etc., and earnings of personnel engaged from abroad in connection with an investment.	Yes-0 No-100 Yes-50 No-0

Additional remarks:
Are there any measures by the regulator or restrictions on investment you wish to highlight? *Please describe.*

Indicator 4: Rule of Law (compliance with national and international obligations)

QUESTIONS	CLARIFICATIONS TO QUESTIONS	SCORING
Sub-indicator 4.1: Management and settlement of investor-State disputes		
4.1.1 Is the jurisdiction for hearing contractual disputes with foreign investors defined in the domestic law? [Y/N]		Yes-100 No-0
4.1.2 Is there a separate mechanism for appealing against regulatory decisions? a. Yes, appeals can be heard by the regulator in the first instance b. Appeals can only be heard by general courts c. There is no appeal process		 100 50 0
4.1.3 Are national courts and administrative tribunals required by law to deliver decisions within a defined time limit? [Y/N]		Yes 100 No-0
4.1.4 Is arbitration included in: a. An investment law b. A separate arbitration law c. As a chapter/section in the code of civil procedure d. There is no law that refers to arbitration		 100 100 100 0
4.1.5 Is voluntary mediation, conciliation or both included in: a. An investment law b. Arbitration and mediation law c. As a chapter/section in the code of civil procedure d. There is no law that refers to mediation and/or conciliation		 100 100 100 0
4.1.6 Is there an investment ombudsman to whom foreign investors can refer disputes with the government? [Y/N]	Please provide the name of the institution and its website.	Yes-100 No-0
4.1.7a Do national laws allow the recognition and enforcement of foreign judgments? [Y/N] **4.1.7b If yes, then are these laws equally applicable to different jurisdictions? [Y/N]**		Yes-50 No-0 Yes-50 No-0
4.1.8 Do national laws and/or International Investment Agreements require exhaustion of local remedies (e.g. domestic courts) before recourse to international arbitration? [Y/N]	Foreign investors are required to go through the administrative and judicial system of the State before initiating international proceedings directly against the State.	Yes-0 No-100
4.1.9 Has the country made retroactive changes to its laws in the past 5 years? [Y/N]		Yes-0 No-100
4.1.10 Is the country a Contracting Party to: a. The Convention on the Settlement of Investment Disputes Between States and Nationals of Other States? [Y/N] b. The Convention on the Recognition and Enforcement of Foreign Arbitral Awards? [Y/N]		 Yes-50 No-0 Yes-50 No-0
Sub-indicator 4.2: Respect for property rights		
4.2.1 Are the criteria for 'public interest' as grounds for expropriation clearly stated? [Y/N]	Please provide the legal act that specifies these criteria.	Yes-100 No-0
4.2.2 Does the State provide in its laws and/or its International Investment Agreements a process for determining compensation in the event of expropriation in the energy sector? [Y/N]	e.g., determination of compensation by independent auditors.	Yes-100 No-0
4.2.3 Does the State provide in its laws and/or its International Investment Agreements a time frame within which compensation needs to be paid? [Y/N]	Please provide the law which states this time frame.	Yes-100 No-0

QUESTIONS	CLARIFICATIONS TO QUESTIONS	SCORING
4.2.4a Does the State include in its laws and/or International Investment Agreements protection against the expropriation of intellectual property rights? [Y/N]		Yes-50 No-0
4.2.4b Is the country a Member State of the World Intellectual Property Organization? [Y/N]		Yes-50 No-0
4.2.5 Does the State have in its laws and/or International Investment Agreements any provisions restricting the transfer of technology in the energy sector? [Y/N]	Please provide the law which states this restriction.	Yes-0 No-100
4.2.6 Is the country a Member State/Contracting Party to: a. The World Trade Organization? [Y/N] b. The Energy Charter Treaty? [Y/N]		 Yes-50 No-0 Yes-50 No-0

Additional remarks:
Are there any risks related to investor state disputes in the energy sector which you anticipate? *Please describe.*

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as of 18 Feb 2019

MEMBERS (56)

Sig	Rat	EEC	IEC	Country
	2013	2006	2015	Afghanistan
1994	1997	1991	2015	Albania
1994	1997	1991	2015	Armenia
1994		1991		Australia
1994	1997	1991	2015	Austria
1994	1997	1991	2018	Azerbaijan
1994		1991	2015	Belarus
1994	1998	1991	2015	Belgium
1995	2001	1995	2016	Bosnia and Herzegovina
1994	1996	1991	2015	Bulgaria
1994	1997	1993	2015	Croatia
1994	1998	1991	2015	Cyprus
1995	1996	1993	2015	Czech Republic
1994	1997	1991	2015	Denmark
1994	1998	1992	2015	Estonia
1994	1998	1991	2015	European Union
1994	1998	1991	2015	EURATOM
1994	1997	1991	2015	Finland
1994	1999	1991	2015	France
1994	1995	1991	2015	Georgia
1994	1997	1991	2015	Germany
1994	1997	1991	2015	Greece
1995	1998	1991	2015	Hungary
1994	2015	1991		Iceland
1994	1999	1991	2015	Ireland
1995	2002	1991	2015	Japan
	2018	2007	2015	Jordan
1994	1995	1991	2015	Kazakhstan
1994	1997	1992	2015	Kyrgyzstan
1994	1995	1991	2015	Latvia
1994	1997	1991	2015	Liechtenstein
1995	1998	1992	2015	Lithuania
1994	1997	1991	2015	Luxemburg
1994	2001	1991	2015	Malta
1994	1996	1992	2015	Moldova
	1999	1997	2015	Mongolia
	2015	2012	2015	Montenegro
1994	1997	1991	2015	Netherlands
	1998	1996	2015	North Macedonia
1995		1991	2015	Norway
1994	2000	1991	2015	Poland
1994	1997	1991	2015	Portugal
1994	1996	1991	2015	Romania
1994		1991		Russian Federation
1994	1995	1993	2015	Slovakia
1994	1997	1992	2015	Slovenia
1994	1997	1991	2015	Spain
1994	1997	1991	2015	Sweden
1994	1996	1991	2015	Switzerland
1994	1997	1991		Tajikistan
1994	2001	1991	2015	Turkey
1994	1997	1994	2015	Turkmenistan
1994	1998	1991	2015	Ukraine
1994	1996	1991	2015	United Kingdom
1995	1995	1991	2015	Uzbekistan
	2018	2014	2015	Yemen

OBSERVERS (42)

Country	EEC	IEC
Bangladesh		2015
Benin		2015
Burkina Faso		2017
Burundi	2015	2015
Cambodia		2015
Canada	1991	
Chad	2015	2015
Chile		2015
China		2015
Colombia		2015
EAC		2016
ECCAS		2016
ECOWAS		2015
Eswatini		2015
G5 Sahel		2016
Gambia		2017
Guatemala		2016
Guyana		2018
Indonesia	2009	
Iran		2016
Iraq		2016
Italy	1991	2015
Kenya		2017
Mali		2017
Mauritania	2014	2015
Morocco	2012	2015
Niger	2015	2015
Nigeria		2017
Pakistan	2005	2015
Palestine	2014	2015
Panama		2017
Rwanda		2016
Senegal		2016
Serbia	2001	2015
Sierra Leone		2018
South Korea		2015
Syria	2010	
Tanzania		2015
UAE		2017
Uganda		2015
USA	1991	2015
Vietnam		2018

INTERNATIONAL ORGANISATIONS WITH OBSERVER STATUS (by decision of the Energy Charter Conference):

- Association of Southeast Asian Nations
- Baltic Sea Region Energy Cooperation
- Black Sea Economic Cooperation
- CIS Electric Power Council
- Economic Cooperation Organization
- European Bank for Reconstruction and Development
- International Atomic Energy Agency
- International Energy Agency
- International Renewable Energy Agency
- Organisation for Economic Co-operation and Development
- United Nations Economic Commission for Europe
- The World Bank
- World Trade Organisation

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