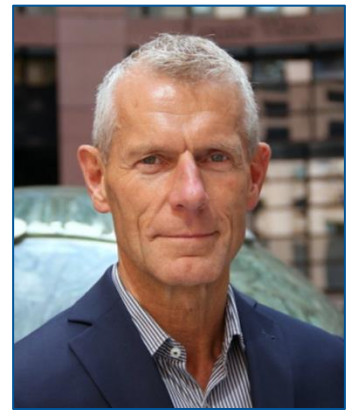


Scaling Renewables: Helmut Scholz on Regulatory Frameworks and Investment Treaties

July 13, 2023

In the fifth expert interview related to [CCSI's work on scaling renewable energy investment](#), we interviewed Helmut Scholz to understand the importance of institutional, legal, and regulatory frameworks for investment in renewables, as well as the dangers that investment treaties pose. Helmut Scholz is a Member of the European Parliament, where he serves since 2009. He is the coordinator of The Left group in the Committee on International Trade as well as in the Constitutional Affairs Committee. He further serves as a member of the European Parliament's Steering Committee for the Parliamentary Assembly at the World Trade Organization (WTO). Born in Berlin, Mr. Scholz graduated in political science from the Moscow State Institute for International Relations.



Why are institutional, legal, and regulatory frameworks important in creating an enabling environment for investment in renewable energy generation?

In a global context of climate crisis and soaring energy prices, few would deny the urgent need of scaling up renewable energy development. In 2021, fossil fuels [made up](#) 70% of gross available energy in the European Union (EU). To reach the [target](#) of 45% renewables by 2030, the EU has passed new key legislation such as the [European climate law](#) (2020), the [Fit For 55](#) Energy Package (2021), and the REPowerEU Plan (2022), among others. Surely, it is worth discussing whether these laws are ambitious enough. Some of us would argue they are not. Nonetheless, they do indeed show that the reality of the climate crisis calls for putting in place policies that can foster the supply of renewable energy and to transform the European economy—now.

Countries in the Global South that fall short of Europe's capacity to advance the energy transition through public investment might need additional foreign direct investment (FDI). However, research has shown that generating positive spillover effects cannot be taken for granted. Indeed, the regulation of FDI is key for them to generate positive effects such as technology transfer of renewable energy technologies. Furthermore, researchers have [highlighted](#) that government support policies, such as access to the electricity grid and feed-in tariffs, are crucial factors for attracting FDI.

How do investment treaties limit country governments' policy space and impose extraordinary costs on states, ultimately working against the goal of encouraging renewable energy investments?

For governments to dare to be bold and test support schemes for renewable energy sources, flexibility is an important condition. If circumstances change, governments should be able to adjust their policies without being haunted by the threat of investors' lawsuits. [Spain's experience](#) is a painful reminder of how foreign investors have used investment protection treaties to sue governments for billions of euros in international arbitration tribunals when changes to renewable energy policies affected their profits. In 2008, Spain started to change its generous renewable energy incentives after they became untenable. As a result, the country has so far been attacked in 51 lawsuits undertaken by investors that used the [Energy Charter Treaty](#) (one among more than 2,500 investment protection treaties in force today) amounting to a total of at least €8 billion. It is worth noting that the majority of investors that sued Spain were investment funds or letterbox companies that had made speculative investments. At the time of their investment, they [had been aware](#) of the government's plans to change its energy regulation.

Spain's experience demonstrates that investment agreements can create a regulatory chill and could disincentivize support schemes for renewable energy. This can lead to an increase in the cost of the energy transition. Governments will be hesitant to incentivize renewables, unless they are able to withdraw or reduce support without the threat of being sued for billions of euros.

How does the work of The Left in the European Parliament contribute to scaling investment in renewable energy?

The Left in the European Parliament has [advocated](#) for a fair energy model that should rely on renewables and be under public control. We are [committed](#) to energy sovereignty through public planning, and we consider that the deployment of decentralized renewable energy—promoting local, distributed, small and medium-sized energy generation—should include the participation of citizen and municipal energy communities and public energy companies in Europe.

We know that investment protection treaties can undermine climate action and the scaling up of renewable energy. We have therefore consistently called for a [full withdrawal](#) of the 27 EU Member states from the Energy Charter Treaty. We have denounced the dangers of the investment protection regime and [rejected](#) the signing of investment protection agreements.

Last year, the whole European Parliament [voted](#) a resolution asking to “exclude from treaty protection investments in fossil fuels or any other activities that pose significant harm to the environment and human rights.” It is an undeniable part of pushing for more and precise, legally binding steps towards a new energy policy realized in solidarity with human beings and environment globally.

For more information, read [CCSI's work on scaling investment in renewable energy](#).