

Energy Charter Treaty and China in Sino-European energy cooperation

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Abstract:

This paper explores whether entering into the Energy Charter Treaty is a feasible option for China to enhance energy security and if such a move would promote Sino-European energy cooperation in the era of low carbon economy. While China and the EU have undergone a dramatic transformation in recent decades, their common interests in energy issues, such as energy technology transfer, low carbon economy and sustainable development, have grown. The two giants account for approximately one third of the world's energy use and their energy need is expected to increase continuously. Although a host of unsolved problems, such as carbon emissions, constraint of access to China's markets and reduced rare-earth export quotas, have doomed the prospect of EU-China cooperation, the EU, as the largest trading partner of China, would naturally consider China to be a mutually beneficial energy partner, and vice versa. This paper argues that there are three positive implications to EU-China energy cooperation if China enters the Treaty. Firstly, it can provide comprehensive legal protection to China's foreign energy investment. Secondly, the legal framework of the Treaty can protect foreign energy investment in China. Thirdly, joining the Treaty would promote green energies and sustainable development, which is a common objective in a number of cooperation agreements between the EU and China. However, although China participation in the Energy Charter Treaty could enhance a Sino-European energy cooperation legal framework, mutual trust between the two powers remains a crucial factor in their cooperation in technology transfer.

While China and the EU have undergone a dramatic transformation in recent decades, their common interests in energy issues have grown. The two giants account for approximately one third of the world's energy use and their energy need is expected to increase continuously. Although a host of unsolved problems, such as carbon emissions, constraint of access to China's markets and reduced rare-earth export quotas, have doomed the prospect of EU-China cooperation, the EU, as the largest trading partner of China, would naturally consider China to be a mutually beneficial energy partner, and vice versa. This paper explores whether entering into

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the Energy Charter Treaty is a feasible option for China to enhance energy security and if such a move would promote Sino-European energy cooperation.

Situation of China's energy security

The security of energy supply has become an increasingly important factor for China's development, while at the same time the country's blooming economy has uncovered environment degradation. According to predictions of the International Energy Agency², China will be one of the key energy consumers in the next few decades. Its energy demand is expected to be greater than the total demand of the U.S. and Japan by 2035. In order to meet its demand, China, at the moment, relies heavily on conventional resources such as, oil, gas and, most importantly, coal in power generation. In 2035 China's oil demand will rise to almost 15 million barrels per day (mb/d) from around 8 mb/d in 2009, and natural gas demand will increase up to 500 billion cubic metres (bcm) from around 130 bcm in 2011³. Coal will remain one of the major energy source in China, accounting for 70% of the total energy consumption. _To secure access to overseas energy resources, China has developed a going-out energy investment strategy to sign a number of deals and agreements with oil-producing countries. Since Chinese consumption of petroleum and coal is higher than the world average level, China is confronted with serious environmental distress and the current situation is not expected to change in the foreseeable future. The communication from the European Commission in 2001 stressed that "a country of the size of China is both part of the problem and the solution to all major problems of international and regional co-operation" and "its potential impact on the world scene a matter of great international importance, particularly for air pollution and climate change."⁴ _

While energy security focuses on ensuring sufficient supply and safe source, environmental security concentrates on reducing CO² emissions. These security concerns are associated to a wide range of negative effects, particularly on economic growth. Energy insecurity, such as supply disruption, high energy price and accidents in energy facilities and high energy price, will increase the cost of production and security means. On the other hand, environmental pollution risks human health and natural diversity and hence will increase cost in hospital treatment, decrease available workforce and reduce revenues from environmental-related industries, such as

² IEA (2012) World Energy Outlook 2012 Executive Summary. IEA.

³ IEA (2012) *Oil & Gas Security: Emergency Response of IEA Countries: People's Republic of China*. IEA.

⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52001DC0265:EN:NOT>

agriculture and tourism. Along this line, climate change has further reflected a close linkage between energy consumption and environmental protection. It has re-shaped the energy security with the environmental considerations, pointing policy responds towards energy transition from conventional energy to renewable alternatives. Since the burning of petroleum and coal is one of the major causes of CO² emissions, reducing conventional energy demand does not merely contribute to energy security but also environmental protection. _To achieve this, new regulations and institutes, such as Kyoto Protocol and Clean Development Mechanism are established in international level, developed countries are pressed by global pressure to meet CO² emission standard, shift to renewable energy and improve energy efficiency and developing countries are pushed to deploy clean technology and CO² emission trade-offs.

Advanced energy technologies are understood to be important for its economic growth, sustainable development, foreign investment and better local environment. They are therefore important for China in reducing negative social impact and maintaining national authority as “it is an unwritten social contract between the party and the people whereby the people do not compete with the party for political power as long as the party looks after their economic fortunes.”⁵ In recognition that low-carbon economy is one of the key agendas in international negotiations, the above functions are also understood as the cornerstone for China to constructing an international Chinese image of a “responsible state”. China, in its *Energy Policy (2012) White Paper*⁶, asserts its attempt to enlarge its reliance on renewable energy and increase its energy efficiency in existing power facilities. However, due to the lack of advanced technology in green energy and energy efficiency, China needs a partner who masters technologies and, more importantly, are willing to share them with a rising power. For instance, the US and Japan has the technological capability but are hesitated in technology exchange with China because of strategic concern. _The EU, by contrast, is understood to be more open to technology cooperation with China⁷ and there are at least three reasons. Firstly, in a broader strategic perspective, the EU see China as a global partner with equal power to raise its international position. Secondly, energy dependency has driven EU to international cooperation especially on renewable energy, energy efficiency and institutional regulations. Meanwhile, China has

⁵ Breslin, S. (2005) 'Power and production: rethinking China's global economic role', Review of International Studies. 31 (04), 735.

⁶ National Energy Agency (2012) China's Energy Policy 2012 White Paper. National Energy Agency

⁷ Grei, G. d. V., Alvaro. (2008). *Partnerships for Effective Multilateralism: EU Relations with Brazil, China, India and Russia*. Retrieved May 2008.

developed agreements and relationships with energy suppliers in the Middle East, Central Asia and Russia in which the EU is interested. The EU and China share common interest as well as challenges regarding energy and environmental issues in these regions. Thirdly, the actions of a great power like China are believed to have a more significant influence on international, regional and bilateral relations. Its energy security is a very important part of global security, as well as global energy governance. It is necessary for the EU, as a key leader in the international energy and environmental regime, to encourage China's participation in international frameworks. Therefore, as a global problem, Chinese energy security and environmental pollution do not merely pose a challenge to China in how this rising power shape its own image on the international stage, they also paves the path for EU-China energy cooperation on improving energy efficiency, reducing CO² emission and shifting to alternative clean energy.

EU-China energy relationship

EU-China energy relationship can be viewed through the broader picture of EU-China relationship which started as a trading partnership. Its development has undergone three phrases⁸: 1) exploration and construction of their partnership, 2) deepening and maturing of their bilateral ties and 3) managing their relationship particular in the context of cooperation and competition. Trade has maintained a key platform for the interaction of the two powers as well as exchange of energy related technology over these phrases. Since 1978, the opening up policy and structural change _of China under the leadership of Deng Xiaoping has made trade a driving force in EU-China partnership and shaped their relations with economic initiatives In light of its market size, China has projected as the fastest growing power in the world and became an important target in EU's policy agenda in Asia. In 1978, China and EU signed their first key accord⁹, Trade Agreement between the European Economic Community and the People's Republic of China, which is a new body to regulate trade-related issues between them. This agreement also underpins the ideology behind EU-China relations and remains the heart of future the bilateral partnership between the two powers. In 1985, the two power signed Agreement on Trade and Economic Cooperation which can be seen as a new reference for their relationship. Since 1990s, the EU began to see China as rising power and "an unprecedented

⁸ Snyder, F. G. (2009). *The European Union and China, 1949-2008: basic documents and commentary*. Hart Publishing. P. 309-654

⁹ Agreement between the European Economic Community and the People's Republic of China of 03/04/1978 (OJ L123 of 11/05/1978, p.2)

series of summits between China and some of its key world partners over the last year have demonstrated China's wish to be recognised as a world power¹⁰ According to the first China policy paper in 1995, "Europe must develop a long-term relationship with China that reflects China's worldwide, as well as regional, economic and political influence. Europe's relations with China are bound to be a cornerstone in Europe's external relations, both with Asia and globally¹¹". In 2001, the EU strongly encouraged and supported China's accession in the World Trade Organisation (WTO) which has greatly improved the trading environment for foreign investment in China as well as EU-China bilateral relations. Because of increasing interdependency in economies¹², EU and China have become the major trading partner of each other. In 2011, while China is the EU's largest source of import, it is also EU's major export market. Despite the financial crisis, trade between the EU and China is over 1 billion Euro per day. Other than regulation of activities in market, economic activities between EU and China is extended to other sectors like energy cooperation, technology exchange and climate change. However, the rise of China as a economical and political giant in the international system has further changed the balance of power in its relationship with the EU, modifying the perception of the EU towards China as well as form of support the EU provided. In the mid 2000s, the EU-China relationship has entered a glacial period particularly when the EU took a move to life the arm embargo against China¹³. Although their relationship was assumed to be developed from common interests and converging values, both Brussel and Beijing fail to achieve what they want and lower their expectations. Yet, it is also understood that although EU-China relationship has passed its honeymoon period, it reached its maturity.

In face of climate change, high global energy consumption, volatility of international oil prices and environmental degradation have bring the two powers together closer. While trade remains the main focus in their relationship, issues like global governance, environmental protection, sustainable development are also addressed in the EU's policy agenda towards China, becoming a common ground for cooperation of both sides. Development of a mutual beneficial cooperation is one of the core elements of both China's and the EU's ideologies. In May 2012,

¹⁰ European Commission, (1998) Building a Comprehensive Partnership with China p.3

¹¹ European Commission. (1995). A long term policy for China-Europe Relations.

¹² Europa (2012) *Countries and regions China*. Available from:

<http://ec.europa.eu/trade/creating-opportunities/bilateral-relations/countries/china/>

¹³ Godement, Francois (2010) Again, the China arms embargo issue, *European Foreign Policy Socrecard 2013* available from:

http://ecfr.eu/content/entry/commentary_once_again_the_china_arms_embargo_issue_godement

China and the EU signed their agreement of energy "partnership" ensuring "open" access to each other's markets.¹⁴ Other than affirming the EU's agenda to develop mutual beneficial energy partnership with key third countries, the new agreement also recalls China's new energy security concept that calls for "mutually beneficial cooperation, diversified forms of development and common energy security through coordination".¹⁵ The Sino-EU energy cooperation is not limited to traditional security of resource and price and is extended to broader energy security concept including various aspects such as energy governance, diversification of energy supplies, improvement of energy efficiency and conservation and research innovations. Most importantly, the EU-China energy partnership does not only promote positive EU-China relations but also better global energy governance.

China's energy transition

The 11th Five-Year Plan of China stated that the security of China's energy supply should be ensured by "expanding international energy cooperation", "actively engaging with the international energy system" and "making full use of the international market"¹⁶. Energy diplomacy, and adopting the going-out strategy, has thus played a crucial role in China's overall diplomacy as well as in its energy security. It encourages Chinese state own energy enterprises to make Foreign Direct Investment (FDI) in resource-rich developing countries in Africa, the Middle East, Central Asia and Latin America. These FDI, which have both commercial and diplomatic characteristics¹⁷, reduce China's dependence on a sole energy supply region and sole energy transport route. Through bilateral and regional cooperations, China increases its oil reserves and diversifies its supply sources and a Chinese energy supply system is constructed gradually. According to the UNCTAD World Investment Report, FDI outflows from China is \$65 billion in 2012¹⁸ and state own enterprise accounted almost 70% of the country's total FDI in 2011¹⁹. The three largest Chinese national oil company, China National Petroleum Corporation (CNPC), China Petroleum & Chemical Corporation (Sinopec) and China National

¹⁴ European Union, EU-China Joint Declaration on Energy Security, Brussels 3 May 2012

¹⁵ European Union, EU-China Joint Declaration on Energy Security, Brussels 3 May 2012

¹⁶ State Council of PRC (2001) China's 11th Five Year Plan.

¹⁷ Daniel H. Rosen and Thilo Hanemann, (2009) China's Changing Outbound Foreign Direct Investment Profile: Drivers and Policy Implications, Peterson Institute for International Economics, *Policy Brief*, available from: <http://www.iie.com/publications/pb/pb09-14.pdf>

¹⁸ UNCTAD, World Investment Report 2012, UNCTAD

¹⁹ China Mining (2011) *China's overseas investment up*, China Mining, available from: <http://www.chinamining.org/News/2011-07-28/1311815613d48298.html>

Offshore Oil Corporation (CNOOC) has become significant in global petroleum industry. The merger and acquisition deals by these Chinese companies accounted for 60% of total acquisition by national oil companies in 2009²⁰. Despite the impressive growth in quantity, there are many questions concerning the quality of behaviour of China's national oil companies in terms of degree of transparency, management and credibility.

In face of energy security issues, China has placed more emphasis on bilateral and regional initiative. Since 1982, China's protection on its FDI have been relying on bilateral investment treaties (BITs) which is one of the most important international legal framework. The early BITs are argued to have controversial national treatment standard, limited arbitration mechanism and unbalanced focus on industrialized states. Moreover, after the economic reform of the country, China remained as a capital-importing country and hence, in the beginning stage, BITs are signed to protect incoming investment in China instead of the country's overseas investments. In the late 1990s, BITs are advanced by application of national treatment clauses and access to international arbitration. Together with China's accession to WTO in 2001, a favourable environment is created for China's going out strategy proposed in the same time. Increasing capital export has intensified the need of comprehensive protection of China's FDI. Although China has already become one of the largest BIT signers in the world²¹ in 2012, but it is argued that the international law could not provide China's overseas energy investment with effective protection in terms of national treatment standard and arbitration mechanism. In the BITs signed with major trade partners, such as Australia, Germany, Hong Kong, Russia, Singapore, South Africa, the UK and the US, while national treatments are either not existing or subject to local law, some of the international arbitration mechanisms are limited to investor-State dispute settlement. Since there are different treatments with different countries, such inconsistencies reduce the legitimacy of international investment arbitration. Moreover, China and its national energy companies _believe that foreign countries, particularly the West, often have a negative perception towards, and hence impose strict regulation on, their overseas energy and resource investment. For instance, Chinese oil company CNOOC dropped the bid to buy US oil firm UNOCAL²² in 2005 since the US consider such a deal as threat of national security threat and

²⁰ CNPC Research Institute of Economics & Technology (2010), *Report on Domestic and Overseas Oil & Gas Industry Development in 2009*, Beijing: CNPC Research Institute of Economics & Technology.

²¹ UNCTAD (2012) *Country-specific Lists of Bilateral Investment Treaties*. UNCTAD Available from: <http://unctad.org/en/Pages/DIAE/International%20Investment%20Agreements%20%28IIA%29/Country-specific-Lists-of-BITs.aspx>

²² White, Ben, (2005) "Chinese Drop Bid To Buy U.S. Oil Firm" *Washington Post*, 3 Aug

violation of fair trade. Similarly, in face of increasing FDI from China, Canada and Australia impose a strict stance on state owned energy investments in their recent investment guideline²³.

China's transformation into the world's biggest energy consumer and biggest greenhouse gas emitter has already placed itself into international energy policy agendas such as meeting global energy demand, reducing greenhouse gas emission and transiting to a low-carbon economy. This boosts the market for advanced technology of energy efficiency and green energy as discussed above. Although China has developed much bilateral relations, international cooperation and government policies to support and protect its FDI, China lacks confidence in the capability of international institutions in protecting its own national interests. As a result, China remains outside major international energy frameworks. Such conservative behaviour reflects its skepticism towards international system and insistence on state sovereignty²⁴. In other words, China is understood to be seeking an international framework which offers it a platform to obtain technology exchange without committing to multilateral responsibilities of greenhouse gas emission reduction. For instance, Chinese Premier Wen Jiabao stated that on one hand developed countries should provide financial and technological support to developing countries as "this is an unshirkable moral responsibility as well as a legal obligation that they must fulfill"²⁵. On the other hand, he stated that national condition should be taken into account when developing countries respond to climate change. It is reasonable to argue that instead of working towards the ideology behind the international framework, China is attempting to maximise its national benefits from it. However, China soon realizes bilateral and regional initiative are not sufficient for energy security. In 2012, it emphasizes global energy governance²⁶ which can be understood as "the setting and enforcement of rules and regulations for global collective energy interests"²⁷. It called for an effort among countries to tackle energy problems collectively and proposed to establish an international institute to govern the energy

²³ Wong, S. et al. (2008) Mining for China's Outbound Direct Investment. *China Law & Practice*. 37–40.

²⁴ Stephan W. Schill, (2007) Tearing Down the Great Wall: the New Generation Investment Treaties of the People's Republic of China, *Journal of International and Comparative Law* 73, p.82.

²⁵ Xinhua (2009) Common but differentiated responsibilities' must never be compromised: Premier, Xinhua. available from:

http://www.china.org.cn/environment/Copenhagen/2009-12/18/content_19094598.htm

²⁶ National Energy Agency (2012) China's Energy Policy 2012 White Paper. National Energy Agency

²⁷ Kong, B. (2011) Governing China's Energy in the Context of Global Governance. *Global Policy*. 51–65

market. It also claimed it would actively engage in global energy cooperation²⁸ which does not focus merely on energy resource, such as oil, gas, coal, renewable and nuclear, but also other local and global externalities such as environment, health and habitats.²⁹ At present, mechanisms of global energy governance are carried out through institutional frameworks based on energy sectors such as International Energy Agency (IEA), International Energy Forum (IEF), International Renewable Energy Agency (IRENA) and other intergovernmental governors and multilateral development banks. Although these institutional frameworks are seen as inadequate and uncoordinated mechanisms with fragmented and unprioritized objectives in resolving energy problems, global energy governance is currently being established, developed and advanced as a new promising strand of approach that relies on governments' attitudes toward multilateralism³⁰. Coinciding with China's call for global energy governance, the EU Commissioner for Energy in May of the same year encouraged China to become a full member of the Energy Charter. China has been a very active observer since 1991 and an upgrade in membership implies the rising power would have a greater engagement in the international energy sector.

China and Energy Charter Treaty

The Energy Charter Treaty (ECT) is a multilateral version of BITs signed in 1994 to provide comprehensive protect energy investments and reduce commercial risks in international energy cooperation³¹. ECT includes common protections provisions on competition, transparency, sovereignty, taxation and the environment. While its principle cover issues such as protection of energy investment, equality in energy trade, national treatment, subjectivity to international law, compliment with obligations and dispute settlement mechanism, its legal entities are formulated in soft-law and has a wider coverage in teams of investors and investments. _ECT was originally a political initiative launched by Energy Charter in the early 1990s to overcome economic division between European countries and post-Soviet countries. In the recognition of growing

²⁸ UPI (2012) 'China urges global energy cooperation', United Press International, 16 January [online] Available from: http://www.upi.com/Business_News/Energy-Resources/2012/01/16/China-urges-global-energy-cooperation/UPI-77361326740422.

²⁹ Dubash, N. K., & Florini, A. (2011) 'Mapping Global Energy Governance', Global Policy, 2, 6-18; Florini, A. (2011) 'The International Energy Agency in Global Energy Governance', Global Policy, 2, 40-50

³⁰ Goldthau, A. (2011) 'Governing global energy: existing approaches and discourses', Current Opinion in Environmental Sustainability, 3(4), 213-217

³¹ Europa (2007) European Energy Charter. Available from: http://europa.eu/legislation_summaries/energy/external_dimension_enlargement/l27028_en.htm

energy demand in Europe and rich resources in post-Soviet countries, energy sector offers a clear platform for developing co-dependent beneficial energy cooperation among the states of Eurasia. Its principles for openness and non-discrimination of energy markets for a wide range of international energy activities, including trade, investments, transit, and energy efficiency, have underpinned the development of the Energy Charter Treaty. Although the original purpose of ECT is rooted in EU-Russia relations, the treaty has extended beyond Eurasia to promote energy cooperation³² with new emerging countries like China. As discussed above, China is facing a rapid increase in energy consumption and its aggressive overseas energy investment has raised economic, political and strategic concern among many host countries. In this regard, China on one hand relies more importation of energy resource, on the other it looks for a structural shift to low-carbon development in energy sector. Therefore, it needs to strengthen the protection of its overseas energy business as well as incoming energy investment to transfer technology of energy efficiency and clean energy. In this respect, entering into the Treaty will have significant implications for China as follow.

First, the legal framework of ETC can provide comprehensive protection to China's FDI on energy resource. Currently, most of China's overseas energy investment are carried out via state owned energy companies and, in their perspective, China's BITs are not effective enough to protect and promote their overseas investment³³. It is argued that there are obstacles imposed by partner countries against Chinese overseas energy investment because of national security concerns. Besides, without a comprehensive legal framework, China has to settle the disputes via political or diplomatic negotiation. In this respect, ECT can be a feasible solution. On one hand, ECT can guarantee Chinese energy company access to energy resource with fair, equitable and non-discriminatory rules³⁴. Countries or companies in contract must ensure a stable, favourable and transparent conditions for FDI and offer foreign investors the same treatment given to national ones. They must "ensure that their legal framework includes provisions to address any unilateral or concerted anti-competitive behaviour in economic activities in the energy sector" and "nominate at least one inquiry point to which requests for information on laws, regulations, legal decisions and general administrative decisions regarding energy materials and products may

³² Beckman, Karel (2012) The Energy Charter Treaty is entering a crucial phase. *European Energy Review*

³³ Li, X. (2012) Oil's going out strategy in Political Science and International Relations Conference 2012, Tsinghua University, Beijing 14-15 July

³⁴ Europa (2007) European Energy Charter. Available from:

http://europa.eu/legislation_summaries/energy/external_dimension_enlargement/l27028_en.htm

be addressed³⁵” On the other hand, ECT enhance a strict, effective and consistent international investment arbitration³⁶. While the investor in the case of a investor-country dispute can submit the dispute to international arbitration, countries in the case of a country-country dispute can set up an ad hoc arbitration tribunal if diplomatic mean is unsuccessful. These mechanism in ECT can be carried out consistantly because they are generated from the same source. Most importantly, ECT can keep a balance between investment protection and national sovereignty which is a serious concern of China. Within the obligation of ECT, “contracting Parties exercise sovereignty over their energy resources in accordance with and subject to international law. They also have the right to choose the geographical areas in their territory to be made available for exploration and exploitation.³⁷”

Second, ECT can protect China’s energy investment in and cooperation with Central Asia and the EU. Middle East and North Africa are considered to be major energy suppliers of China. Nonetheless, China’s energy security is affected, if not jeopardized, by social instability and humanity issues in the regions. Instead of over relying on a sole supplier, China encourages diversification of energy sources to reduce vulnerability in energy security. In light of this, Central Asia which could be both a energy supplier and energy transitor³⁸ becomes a potential partner. Energy activities between China and Central Asia countries, such as Kazakhstan, Kyrgyzstan, Tajikistan and Turkmenistan, have increased in recent years. Among them, Chinese energy companies have already built two pipelines connecting Kazakhstan and Turkmenistan with China. Other than being an alternative to maritime route line, energy bridge (or corridor) in Central Asia can also link China with other resource rich regions such as the Gulf and Russia. More importantly, a number of Central Asian countries are members of ECT and hence if China joined ECT, Chinese energy investment and transit in Central Asia will be secured by the treaty. As a supplement to existing BITs, ETC can also strengthen confidence of Chinese energy company in investment in Central Asia. The purpose of Chinese engagement is similar to the original initiative of ETC in promoting energy cooperation between resource rich Soviet Union and energy demand high EU. Meanwhile, ECT can promote EU-China energy cooperation. In the regard of different political ideologies and behaviours between the EU and China, the two

³⁵ Europa (2007) European Energy Charter. Available from:
http://europa.eu/legislation_summaries/energy/external_dimension_enlargement/l27028_en.htm

³⁶ Europa (2007) European Energy Charter. Available from:
http://europa.eu/legislation_summaries/energy/external_dimension_enlargement/l27028_en.htm

³⁷ Europa (2007) European Energy Charter. Available from:
http://europa.eu/legislation_summaries/energy/external_dimension_enlargement/l27028_en.htm

powers are still establishing mutual trust³⁹ and hence cooperation not as easy as expected. If China has a greater engagement with international framework, the EU and China could work together towards better energy governance in regions where they share common interests. While the legal framework of ECT can protect China's FDI in the EU, it can also promote the EU's energy investment in China in a balanced manner. In other words, EU investors could have more confidence in energy investment in China who also encourages energy cooperation as a platform for advanced energy technology.

Last but not least, ECT would promote green energies, energy efficiency and sustainable development, which is a common objective in a number of cooperation agreements between the EU and China. Since the ECT includes a number of environmental obligations, this could help China raise its environmental measurement for better sustainable development. ECT enshrines the "polluter pays" principle which "favours market-led pricing which fully reflects environmental costs and benefits." Countries and investors must "reduce, in an economically effective manner, any environmentally harmful impact caused by any operations in the energy cycle in their territory, in compliance with security standards."⁴⁰ As a result, ECT create a favourable environment for energy producer and consumer to use energy in a more economic, efficient and environmental friendly manner. Considering its significant impact on climate change, China has to improve energy efficiency to reduce consumption of conventional energy and shift to green energy to promote low-carbon economy. Since China lacks relative energy technology, joining ECT can function as a secured international framework for EU and China to promote technology transfer and sustainable energy projects. Therefore, this paper argues that a Sino-European energy cooperation legal framework will be enhanced if China enters into the Energy Charter Treaty.

³⁸ Khan, H. (2008) China's Energy Drive and Diplomacy. *International Review*. 91–108.

³⁹ Wye, Rod (2012) China, EU and International System in Conference EU-China financial governance, King's College London, 26 Oct

⁴⁰ Europa (2007) European Energy Charter. Available from:

http://europa.eu/legislation_summaries/energy/external_dimension_enlargement/l27028_en.htm