

**Dr Penelope Crossley**

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Dear Ms Watts,

**Submission on the Energy Charter Consultation Paper**

Thank you for the opportunity to comment on the Energy Charter Consultation Paper ('the Consultation Paper').

**1. Expertise in this area**

As an academic and a lawyer, my fields of research include the complex legal issues involving the energy sector, renewable energy and electricity market governance. I am a recognised expert in this field both nationally and internationally. In 2019, Cambridge University Press will publish my book, 'Renewable Energy Law: An International Assessment,' which will be the first scholarly work to compare the national renewable energy laws of every country in the world with such a law.

**2. General Comments about the Consultation Paper**

First, I would like to take the opportunity to commend the actions of all of the participants in this project. I would also like to acknowledge your excellent work, Emma. In light of recent developments in the respect of the NEG, it is pleasing to see industry and key stakeholders voluntarily working together to 'progress the culture and solutions required to deliver a more affordable, reliable and sustainable energy system for all Australians.'

Second, I have had the benefit of reading the submission by the Public Interest Advocacy Centre and I wholeheartedly endorse their comments. In particular, I believe their comments on the accountability mechanisms and the operation of the Independent Panel are prescient.

My primary concern with the draft Energy Charter is its name. For those of us working both within the realm of the Australian energy sector and the international energy sector, this name is highly confusing. Lawyers who practice in this area know that very few of our transactions are purely Australia based — rather they invariably involve foreign investors, foreign manufacturers of key technology, foreign financiers or foreign companies in some stage of the transaction. When people use the term Energy Charter in the sector, they refer to the Energy Charter Treaty. Further, Australia is a Member of the Energy Charter Treaty. The importance of the Energy Charter Treaty has grown considerably within the sector in recent years, particularly in the context of resolving international investment disputes. Such is the importance of the Energy Charter Treaty that we now teach it as part of all three of our Energy Law courses at the University of Sydney.

The development of the Energy Charter is undoubtedly a positive development within the Australian Energy Sector, however, as someone who frequently presents research about the sector to International audiences, I will struggle to talk about the Energy Charter without confusing my audiences. It would be a shame if I cannot discuss the fine work of the Energy Charter in either international publications or international presentations due to the likelihood of confusion.

*Recommendation 1: That members consider changing the name of the Energy Charter due to the likelihood of confusion amongst Government and foreign audiences.*

In short, I strongly endorse the creation of the Energy Charter and would be happy to assist in its further development. Should you wish to discuss any of these issues further with me, I may be contacted either on (02) 9351 0388 or alternatively, via email at [penelope.crossley@sydney.edu.au](mailto:penelope.crossley@sydney.edu.au).

Yours sincerely

Dr Penelope Crossley