



The Energy Charter Secretariat and
the Arbitration Institute of the
Stockholm Chamber of Commerce
present

INVESTMENT ARBITRATION AND THE ENERGY CHARTER TREATY

Conference
9 and 10 June 2005
Stockholm, Sweden

- **The concept of expropriation**
- **Treaty claims and contractual claims**
- **State responsibility**
- **Investments and investors covered by the Treaty**

Treaty-based investment arbitration is becoming increasingly important. The number of cases has grown from a handful ten years ago to more than 160 in 2004. Indeed, the vast majority of cases were filed within the past three years. Amounts involved are significant, often involving tens, if not hundreds, of millions of US dollars.

Although arbitration under traditional bilateral investment protection treaties (BITs) continues to play an important role, multilateral investment protection treaties (MITs) have recently assumed increasing significance.

Among other functions, the Energy Charter Treaty (ECT) provides a unique multilateral investment protection regime for the energy sector. The increasing number of arbitrations under the ECT and other MITs represents an important current trend.

The purpose of this conference is to give participants an insight into the specifics of investment arbitration, with particular reference to ECT and its dispute resolution mechanisms.

CONFERENCE INFORMATION

The Arbitration Institute of the Stockholm Chamber of Commerce

The SCC Institute was established in 1917 and has over the past few decades emerged as one of the leading international arbitral institutions in the world. In recent years an increasing number of investment arbitrations has been filed with SCC Institute both under bilateral investment protection treaties and the Energy Charter Treaty.

The present SCC Rules came into force in 1999 and are available in Chinese, English, French, German, Russian, Spanish and Swedish. The SCC Institute has also adopted rules for expedited arbitrations and mediation rules, and often serves as appointing authority in arbitrations under the UNCITRAL Arbitration Rules.

For more information, visit www.sccinstitute.com

The Energy Charter Treaty

The ECT is a legally binding multilateral instrument, the only one of its kind dealing specifically with inter-governmental cooperation in the energy sector. The ECT was signed in December 1994 and entered into force in April 1998. To date the ECT has been signed or acceded to by fifty-one states plus the European Union. These fifty-two Signatories, together with other states and international organisations having observer status, constitute the Energy Charter Conference, which convenes annually. The Conference is serviced by a permanent Secretariat based in Brussels.

The fundamental aim of the ECT is to strengthen the rule of law on energy issues, by creating a level playing field of rules to be observed by all participating governments, thus minimising the risks associated with energy-related investments and trade.

The ECT provides a multilateral framework for energy cooperation that is unique under international law, and the strategic value of these rules is likely to increase in the context of efforts to build a legal foundation for global energy security, based on the principles of open, competitive markets and sustainable development.

For more information, visit www.encharter.org

Who should attend

This conference is designed for private practitioners, public servants, in-house counsel, arbitrators and others involved in investment protection issues in general, and investment arbitration in particular.

Language at the Conference

English with simultaneous interpretation into Russian.

Conference location

Operaterassen, The Opera House, Karl XII's torg, Stockholm
www.operakallaren.se

Investment Arbitration and The Energy Charter Treaty

Stockholm, 9 – 10 June 2005

Thursday 9 June 2005

13.00 – 14.00 Registration

14.00 Introductory Addresses

Opening Address

H.M. the King of Sweden

Welcoming Addresses

Dr Ria Kemper, Secretary General, Energy Charter Secretariat, Brussels

Ulf Franke, Secretary General, Arbitration Institute of the
Stockholm Chamber of Commerce

14.30 Introductory session

Chairperson:

Hans Corell, Former UN Under-Secretary-General for Legal Affairs and Legal Counsel

Introduction to the Energy Charter Treaty

- Overview and history of the Energy Charter Treaty
- Membership
- The role of the Energy Charter Secretariat

Graham Coop, General Counsel, Energy Charter Secretariat, Brussels

The dispute settlement mechanisms of the Energy Charter Treaty

- Available options
- Distinctive features
- Disputes submitted to arbitration under the Treaty

Laurent Gouiffès, Senior Associate, Denton Wilde Sapte, London

16.00 BREAK

16.20 Panel Session No. 1

Investments and investors covered by the Energy Charter Treaty and other investment protection treaties

- Which investments are protected under the Treaty?
- Who is entitled to claim under the Treaty?
- The nationality of claimants for the purposes of the Treaty
- Comparison of the Treaty with other investment protection treaties

Chairperson:

Stephen M. Schwebel, Former President of the International Court of Justice,
The Hague

Rapporteur:
Emmanuel Gaillard, Partner, Shearman & Sterling LLP, Paris

Commentators:
Stephen Jagusch, Partner, Allen & Overy LLP, London
Antonio Parra, Deputy Secretary-General, ICSID, Washington DC

18.00 End of Programme Day 1

Cocktail Reception

Buffet Dinner

Friday 10 June 2005

9.00 Panel Session No. 2

The concept of expropriation under the Energy Charter Treaty and other investment treaties

- Direct, indirect and creeping expropriation
- Regulatory takings
- Restitution; compensation for wasted expenditure; lost profits; net present value and discount rates

Chairperson:
Sergei N. Lebedev, President, Maritime Arbitration Commission at the Chamber of Commerce and Industry of the Russian Federation, Moscow

Rapporteur:
Christoph H. Schreuer, Professor, University of Vienna

Commentators:
Audley Sheppard, Partner, Clifford Chance LLP, London
Abby Cohen Smutny, Partner, White & Case, Washington, D.C.
Katia Yannaca-Small, Legal Adviser on International Investment, Directorate for Financial and Enterprise Affairs, OECD, Paris

10.30 BREAK

10.50 Panel Session No. 3

The relationship between contractual claims and claims under the Energy Charter Treaty or other investment protection treaties

- The meaning and effect of umbrella clauses
- Parallel proceedings

Chairperson:
Gabrielle Kaufmann-Kohler, Professor, School of Law, Geneva University

Rapporteur:
Thomas Wälde, Professor, Center for Energy, Petroleum and Mineral Law and Policy, University of Dundee

Commentators:
Thomas J. Dimitroff, Senior Legal Adviser, BTC Company, London
Fred Wennerholm, Partner, Setterwalls Advokatbyrå, Stockholm

12.20 LUNCH

13.30 Panel Session No. 4

State responsibility under the Energy Charter Treaty and other investment protection treaties

- Customary international law
- Rules of attribution
- Features specific to the Energy Charter Treaty

Chairperson:

Karl-Heinz Böckstiegel, Independent Arbitrator; President of the International Law Association (ILA)

Rapporteur:

Kaj Hobér, Partner, Mannheimer Swartling Advokatbyrå, Stockholm

Commentators:

Anatoliy S. Martinov, Director General, Center of Trade Policy and Law, Moscow

Robert Volterra, Partner, Latham & Watkins LLP, London

15.00 BREAK

15.20 Panel Session No. 5

Arbitration under the Energy Charter Treaty and other investment protection treaties

- Available options/fork-in-the-road provisions
- Features specific to the Energy Charter Treaty
- Rendered awards and pending arbitrations under the Energy Charter Treaty

Chairperson:

Jan Paulsson, Partner, Freshfields Bruckhaus Deringer, Paris

Rapporteur:

Bernardo M. Cremades, Professor, University of Madrid

Commentators:

Richard Happ, Associate, Luther Menold Rechtsanwaltsgesellschaft mbH, Hamburg

Michael Polkinghorne, Partner, White & Case LLP, Paris

16.50 Concluding remarks

Hans Corell, Former UN Under-Secretary-General for Legal Affairs and Legal Counsel

17.00 End of Conference

Conference location

Operaterassen
The Opera House
Karl XII's torg
Stockholm
www.operakallaren.se

Hotel accommodation

Special room rates have been negotiated with the Radisson SAS Strand Hotel and the First Hotel Reisen, both which are within 5 minutes' walking distance from the conference location.

Please book your accommodation directly with the hotel.

Radisson SAS Strand Hotel

Nybrokajen 9
Box 16396
SE-103 27 Stockholm
e-mail: louise.thomson@radissonsas.com
Tel: +46 8 50 66 4000
Fax: +46 8 50 66 4001
www.radissonsas.com
Reference: HAND090605
Single room: SEK 2,230
Standard room: SEK 2,575 / 2,755 (occupied by one person/two persons)
Superior room: SEK 2,875 / 3,055 (occupied by one person/two persons)
Prices include breakfast, taxes and service charge.

First Hotel Reisen

Skeppsbron 12
SE-111 30 Stockholm
Tel: +46 8 22 32 60
Fax: +46 8 20 15 59
www.firsthotels.se
Reference: -CHA090605
Standard room: SEK 1,799 (occupied by one person)
The price includes taxes and service charge.

In order to benefit from the special rates please book no later than 25 April 2005.

If you wish to receive information about other hotels, please contact:
caroline.statham@chamber.se



W E L C O M E T O S T O C K H O L M

R E G I S T R A T I O N F O R M

The Energy Charter Secretariat and the Arbitration Institute of the Stockholm Chamber of Commerce
Investment Arbitration and the Energy Charter Treaty – 9 and 10 June 2005

Titel: Family name: First name:

Company/firm/organisation:

Address:

VAT no. (EU companies):

Tel: Fax:

E-mail address:

Latest date for registration and payment 16 May 2005.

Fee

- Private practitioners/company employees EUR 700
- Academics/Civil servants/Judges (full time) EUR 550

The fee includes conference materials, refreshments at breaks, reception and buffet dinner on 9 June and luncheon on 10 June.

Value added tax: For EU companies, other than Swedish, no VAT is payable if a VAT registration number is supplied. For non-EU companies no VAT is due. VAT will be added to the fee payable by Swedish companies.

Method of payment:

Bank transfer to EURO account:

Account number 5901-82 12679 at
SEB (Skandinaviska Enskilda Bank)
Sergels Torg 2, 106 40 Stockholm
IBAN no. SE35 5000 0000 0590 1821 2679
BIC/SWIFT address: ESSESESS
Beneficiary: Stockholm Chamber of
Commerce

Swedish Companies and individuals may pay to our bank giro account in SEK:

Bankgiro 160-3711

Contact the SCC Institute for information
on the fee in SEK.

Please ensure that your name and the words "ECT 9-10 June" appear on any transfer or draft. Attach a copy of the bank transfer details to the registration form.

A confirmation will be sent to your above address after receipt of payment.

Cancellation: All cancellations must be in writing to the SCC Institute. If cancellation is received at the SCC Institute by 16 May 2005, the fee will be refunded less a 25 per cent administration charge. We regret that no refunds can be made after this date.

Please return to:

Arbitration Institute of the Stockholm Chamber of Commerce
P.O.Box 16050 • SE-103 21 STOCKHOLM SWEDEN
Tel: +46 8 555 100 00 • Fax: +46 8 566 316 50
E-mail: caroline.statham@chamber.se • www.sccinstitute.com