

INVESTMENT
ARBITRATION
AND
THE ENERGY
CHARTER
TREATY

Edited by
CLARISSE RIBEIRO

Investment Arbitration And The Energy Charter Treaty

Gloria M Alvarez



Investment Arbitration And The Energy Charter Treaty:

Investment Arbitration and the Energy Charter Treaty Clarisse Ribeiro, 2006 *Settlement of Investment Disputes under the Energy Charter Treaty* Thomas Roe, Matthew Happold, 2011-04-14 The Energy Charter Treaty has come of age with almost 50 States parties and a small but growing body of arbitral case law In this new study of the Treaty s investment protection provisions Thomas Roe and Matthew Happold set out to identify and explain the Treaty s principal provisions and to suggest answers to some of the difficult problems thrown up by its drafting They discuss in detail questions such as the standards of protection granted by the Treaty and the international responsibility of States for breaches of the Treaty the various procedures available for the vindication of rights under the Treaty and the conditions to be satisfied before a claimant s complaint may be considered on the merits Specific issues addressed include the impact of EU law on claims under the Treaty and the Treaty s provisions concerning taxation Energy Dispute Resolution: Investment Protection, Transit and the Energy Charter Treaty Graham Coop, 2011-06-01 Energy Dispute Resolution Investment Protection Transit and the Energy Charter Treaty is a compilation of written contributions prepared in the context of a conference organized by the Energy Charter Secretariat in cooperation with five other well known legal institutions the Arbitration Institute of the Stockholm Chamber of Commerce the British Institute of International and Comparative Law the International Centre for Settlement of Investment Disputes the International Chamber of Commerce and the Permanent Court of Arbitration This highly successful conference took place in Brussels in October 2009 Energy Dispute Resolution Investment Protection Transit and the Energy Charter Treaty focuses on investment arbitration under the Energy Charter Treaty or ECT and on transit dispute resolution under the ECT Part I consists of a review of awards decisions and other developments in ECT investment arbitrations of which nearly 30 were in the public domain as of 1 January 2011 Part II deals with the relationship between bilateral investment treaties the ECT as a multilateral investment treaty and European Union EU law and addresses the question of whether conflict between these legal systems is inevitable In Part III the book reviews the highly developed provisional application mechanism of the ECT particularly in relation to Russia which signed the ECT in 1994 but has never ratified it Part IV deals with the energy transit provisions of the ECT and the Treaty s potential application with respect to East West energy transit and supply disputes The book also contains an Editor s Preface introductory and closing remarks a table of contents a detailed index and an Appendix in the form of a CD ROM containing the rules of arbitration of the three international arbitration mechanisms provided by the ECT ICSID SCC and ad hoc UNCITRAL arbitration The book is of international application particularly within the 51 country Energy Charter constituency Western Central and Eastern Europe the former Soviet Union Japan Turkey Mongolia and Australia but is relevant to energy and international arbitration lawyers worldwide **Multilateral Investment Treaties: Is the energy charter treaty an effective instrument for protecting international investments?** Shamsu Yahaya, 2009-12-14 Masterarbeit aus dem Jahr 2009 im Fachbereich Jura

Zivilrecht Handelsrecht Gesellschaftsrecht Kartellrecht Wirtschaftsrecht University of Abertay Dundee Centre for energy petroleum and mineral law and policy Sprache Deutsch Abstract The end of the cold war signalled an emerging need for economic integration between Western European countries and those countries which comprised the former Soviet Union The energy sector was considered a perfect starting point for pursuing such cooperation mainly due to the fact that Eastern European countries were considered rich in oil and gas reserves For this purpose the Energy Charter Treaty as well as the Energy Charter Protocol were signed in December 1994 and came into effect on 16th April 1998 The aim of the Treaty was to establish a comprehensive legal framework for promoting long term cooperation between signatory countries in the energy sector Indeed the treaty is considered a powerful tool for investors as it grants direct right to initiate arbitration proceedings against host governments where there are alleged breaches of investment obligations The purpose of this dissertation is to take a critical look at the effectiveness or otherwise of the treaty as regards the protection of international investments in the energy sector A historical background leading up to the signing of the charter will be rendered Also the provisions of the treaty regarding investment protection and arbitration taking certain case studies of causes of action brought under the treaty will be discussed Furthermore a critical look at the shortcomings of the treaty will be attempted The research findings will show that several successful cases have been concluded under the treaty but criticisms and limits to the effectiveness of the treaty will be highlighted **Investment Arbitration Under the Energy Charter Treaty** Thomas W. Waelde,1997

Investment Protection and the Energy Charter Treaty Graham Coop,Clarisse Carvalho Ribeiro,2008 **International Investment Arbitration and Energy Disputes in the EU** Gloria M Alvarez,2021-04-08 This book contributes to a new paradigm shift towards sustaining the Energy Charter Treaty which remains the key instrument on global energy governance and foreign investment The book detangles the misunderstandings produced by Achmea and Micula drawing upon the consequences of international energy investments in the EU The author demonstrates a clear solution where ECT tribunals respect the autonomy of EU law while resolving intra EU energy disputes She achieves this by presenting for the first time comprehensive scholarly jurisprudential and empirical findings proving that EU Law operates a functional role in analysing breaches of investment treaty protection If applied effectively this new approach can produce valid and enforceable intra EU arbitration awards At a time when the ECT is being modernised the conceptual standpoints presented offer a problem solving approach to assist the arbitrator academic policymaker and legal practitioner in understanding both the present and the future of EU energy investments The book focuses on the low carbon power sector including electricity nuclear and renewable energy disputes The arguments advanced can be transplanted to other economic sectors and regional investment blocks including CETA EU Singapore EU Mercosur EU Mexico and the EU Australia Trade Agreements *Settlement of Investment Disputes under the Energy Charter Treaty* Thomas Roe,Matthew Happold,2011-04-14 Treaty based investment arbitration is becoming increasingly important in international commerce with the vast majority of such investment cases

being filed within the past three years The issues associated with investment arbitration are therefore of growing interest not only to governments but also to the business and legal communities Within this overall picture the Energy Charter Treaty occupies a singular position providing a unique multilateral investment protection regime for the energy sector This book seeks to provide practical guidance to the complex operation of the Treaty

EU Law and International Investment Arbitration Michael De Boeck, 2022-07-04 The EU's participation in international dispute resolution mechanisms presents particular problems owing to its multilevel governance and its autonomy from international and national law The inclusion of foreign direct investment in the Common Commercial policy in the Treaty of Lisbon expanded those to investment arbitrations under Member States BITs as the Court of Justice ruled in Achmea EU Law and International Investment Arbitration examines the impact of that inclusion beyond Achmea from the perspectives of international and EU law to the remaining extra EU BITs of the Member States and the Energy Charter Treaty

The Energy Charter Treaty PROF. DR KAJ. HOBER, Kaj Hobér, 2020 A detailed article by article commentary on the Energy Charter Treaty including coverage and analysis of the Treaty's history background jurisprudence and reference to relationships with other treaties

The Energy Charter Treaty Crina Baltag, 2012-01-01 The Energy Charter Treaty ECT is a multilateral treaty in the energy sector entered into force in April 1998 which gained worldwide recognition mainly because of its provisions on the promotion and protection of investments The ECT currently has over 45 contracting parties Its popularity increased significantly in the last few years following the proliferation of disputes submitted to arbitration under Article 26 of the ECT while investors became more familiarized with the rights granted by the ECT in respect of their investments At present more than 20 disputes between investors and contracting parties have been submitted to arbitration The requirements of investor and investment are essential for the benefit of the protection offered by the ECT The book suggests a comprehensive approach to the notion of investor It analyzes the notion of investor in an inclusive manner starting with the concept of Contracting Party to the ECT and its implications in respect of the notion of investor going through nationality permanent residency dual nationality companies and other legal entities and shareholders to the notion of investment and its role in defining the concept of investor under the ECT The aim of the book is to shed light on the proper meaning of the notion of investor under the ECT considering the close relationship between the ECT and other treaties such as the ICSID Convention and arbitration rules

The State's Power to Tax in the Investment Arbitration of Energy Disputes Cornel Marian, 2020-09-28 The State's Power to Tax in the Investment Arbitration of Energy Disputes reviews and maps out existing case law pertaining to the treatment of tax measures in the context of energy disputes providing the first in depth exploration of the intersection between the treaty investment protection regime and taxation measures States today are expected not only to regulate the efficient and safe production and distribution of energy to end users but also to incentivize increased production of energy and the transition to clean energy In recent years states are increasingly relying on taxation measures to address the economic

challenges affecting the energy sector Investment Arbitration Under the Energy Charter Treaty Thomas W. Wälde,2003

Commentary on the Energy Charter Treaty Rafael Leal-Arcas,2018 The Commentary on the Energy Charter Treaty ECT provides a unique article by article textual analysis of this important international agreement The ECT outlines a multilateral framework for cross border cooperation in the energy sector based on the principles of open competitive markets and sustainable development **Investment Governance between the Energy Charter Treaty and the European**

Union Ottavio Quirico,2021-07-05 Against the background of climate change the Energy Charter Treaty and the law and policy of the European Union are no longer fully aligned with each other in the case of a conflict in the area of investment regulation what norms should apply Within the framework of the ongoing reform of the international investment system notably investor State dispute settlement and of the modernisation of the Energy Charter Treaty Ottavio Quirico explores how to approach regulatory conflicts and re harmonise the Energy Charter Treaty with the law of the European Union

Investment Arbitration in Central and Eastern Europe Csongor Nagy,2019 Central and Eastern Europe CEE is the testing ground for investment arbitration in Europe the majority of the cases against EU Member States are proceedings launched against countries from the region Despite their relevance CEE experiences have not been analysed in a comprehensive manner This book is the first of its kind to present an extensive collection of case law on investment arbitration within Europe Contributors provide contextual analysis taking political economic and regulatory factors in to account to create an accessible text for practitioners and scholars alike *Investment Arbitration and Climate Change* Annette Magnusson,Anja Ipp,2023-12-11 At the nexus between international investment law climate law and human rights law States obligations to protect foreign investments clash with their right or even their duty to regulate to protect the planet and people State efforts at climate change mitigation and adaptation have already triggered claims of liability under the investor protection provisions of bilateral and multilateral investment treaties In this comprehensive elaboration on the topic stellar experts and practitioners describe different types of climate related investment disputes provide a thorough analysis of the unique procedural issues that emerge in such disputes and evaluate the proper balance between States right to regulate to fight climate change and their obligations towards foreign investors Each of the book s contributions offers a penetrating perspective on this complex matter touching on such aspects as the following investment disputes arising from States climate measures or actions whether and how states can file counterclaims against investors in such disputes the appropriate role for climate science at various stages of arbitration how to assess damages in cases involving fossil assets left stranded by the climate transition and whether on balance existing international investment law supports or hinders the global energy transition Along the way arbitrators and other practitioners will gain insight into how to argue defend and assess climate related investment disputes using not only investment treaty case law but also international climate agreements human rights law and environmental law Policymakers are shown ways to design and implement climate policy and investment

treaties in order to avoid claims by foreign investors For policymakers treaty and contract negotiators dispute resolution lawyers and international organizations no other resource provides such incisive discussion of how to balance treaty based investment protection against states inherent duty to regulate in the public interest The Future of Investment Treaty Arbitration in the EU Crina Baltag, Ana Stanić, 2020-07-16 In March 2018 the Court of Justice of the European Union EU ruled in Achmea that investor state dispute resolution provisions in intra EU bilateral investment treaties BITs are incompatible with EU law and ipso facto invalid In January 2019 EU Member States issued Declarations on the Legal Consequences of the Judgment in Achmea undertaking to take steps formally to terminate intra EU BITs However at present there is no consensus among them on the implications of Achmea on the Energy Charter Treaty the multilateral energy treaty to which the EU and its Member States are all parties Many EU law scholars consider the Achmea judgment as the death knell to intra EU investment treaty arbitrations Some have even predicted the end of Investor State Dispute Settlement itself Investment treaty and public international law scholars and legal practitioners however have a different view of the schism now growing between EU and international law The Future of Investment Treaty Arbitration in the EU examines the current and the proposed new framework for investment protection in the EU and internationally with a particular focus on investment treaty arbitration and energy related investments With contributions from leading academics and practitioners the book addresses the following themes Intra EU investment protection and the rule of law including the proposed Multilateral Investment Court The original purpose and features of investment protection with particular focus on the EU The Achmea judgment and its impact on the Energy Charter Treaty and energy investments The ongoing discussion to modernize the Energy Charter Treaty post Achmea EU state aid and investment arbitral awards Recognition and enforcement of investment arbitral awards post Achmea in EU Member States including in the light of Brexit Recognition and enforcement of investment arbitral awards post Achmea in China Singapore Switzerland and the United States This eminently informative book is very timely given the ongoing debate taking place in the EU and internationally regarding the interrelationship between investment treaty arbitration public international law and EU law The contributions from leading academics scholars and European Commission officials provide a balanced contextualized detailed and critical analysis that will aid interested stakeholders to navigate their way with confidence through this difficult and changing area of the law Testimonial is a welcome addition to the already vast literature focusing on EU investment arbitration Perhaps the main merit of the book is that it brings together different perspectives on the debates ensuing in this field offering the reader both the EU perspective and that of public international investment lawyers As such it harmoniously integrates those sometimes conflicting views and is a great starting point for anyone unfamiliar with the subject while also being of relevance to practitioners and academics with a knowledge of intra EU investment arbitration allowing the reader to gain an in depth and fully comprehensive understanding of the legal problems raised in this area Alexandros Catalin Bakos LL M Editor Revista Rom na de Arbitraj Volume 54 Issue 3 2020 p183

194 **Law and Practice of Investment Treaties** Andrew Paul Newcombe, Lluís Paradell, 2009-01-01 The book focuses on the substantive protections accorded to investors and investments and on the variations among jurisdictions Among the many specific issues and topics that arise in the course of the discussion are the following problems of transparency and conflict of interest the recent growth in IIAs between and among developing nations the effect of new model bilateral investment treaties BITs the ability of non disputing parties to participate in investor state arbitration theories of the interaction of foreign direct investment FDI and BITs investor state arbitration as an evasion of public regulatory authority the role of investment funds in international investment fork in the road provisions and institutional versus ad hoc arbitration International business and other investors will greatly appreciate the in depth information and insightful guidance in this solidly useful book It will also be welcomed by jurists and students as a significant milestone in the development of principles in a quickly growing field of practice that is still plagued with inconsistencies The State's Power to Tax in the Investment Arbitration of Energy Disputes Cornel Marian, 2020-09-28 The State s Power to Tax in the Investment Arbitration of Energy Disputes Outer Limits and the Energy Charter Treaty Cornel Marian States today are expected not only to regulate the efficient and safe production and distribution of energy to end users but also to incentivize increased production of energy and the transition to clean energy In recent years states are increasingly relying on taxation measures to address the economic challenges affecting the energy sector This book provides the first in depth exploration of the intersection between the treaty investment protection regime and taxation measures as these materialize in investor state energy disputes With the analysis of all known and pending cases under the Energy Charter Treaty ECT as well as non ECT cases and bilateral investment treaties which have heavily influenced ECT jurisprudence the author develops a deeply informed energy tax policy that greatly mitigates the points of tension in the current regime He closely investigates the following elements of the subject aligning the ECT Taxation Article with the taxation articles of other investment treaties tracing current case law to the original arbitration decisions involving tax measures extrapolating the interplay of taxation provisions with substantive standards of investment protection as reviewed by international arbitral tribunals evaluating the outer limits of the state s power to tax under investment treaties and public international law and addressing how the Yukos arbitration case has changed the framework of taxation issues in investment arbitration In a clear and concise manner the author provides the necessary framework to dissect any taxation chapter of an investment treaty and presents tools for the development of long term tax policy and the adoption of model taxation clauses for sustainable investment protection mechanisms The book takes a giant step toward meeting the ECT s mandate to promote long term cooperation in the energy field with a set of defined objectives focusing on trade cooperation energy efficiency and environmental protection It will be of immeasurable value to states in developing tax specific investment incentive schemes as well as to investors in completing a necessary level of due diligence against possible adverse tax measures Practitioners and academics with a focus on international arbitration will

benefit from the book's systematic approach to the complex taxation provisions of investment protection treaties and more readily recognize the red flags attached to national taxation provisions and their impact on investments in the energy sector

Uncover the mysteries within Crafted by is enigmatic creation, Embark on a Mystery with **Investment Arbitration And The Energy Charter Treaty** . This downloadable ebook, shrouded in suspense, is available in a PDF format (PDF Size: *). Dive into a world of uncertainty and anticipation. Download now to unravel the secrets hidden within the pages.

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