Focus:
ENERGY DISPUTE RESOLUTION IN ARBITRATION

Dr Phillip LANDOLT
LANDOLT & KOCH
17, rue du Mont-Blanc
CH-1201 Geneva
E-mail: phillip@landoltandkoch.com
Tel. +41 22 311 00 55
Fax +41 22 311 00 54
Outline

• Why and why not arbitration in energy dispute resolution?
• Typical issues in energy arbitrations
• A word about investment arbitration
• Three illustrative and current cases
Why arbitration?

• Contracts in the energy sector tend to be international and long-term
• Arbitration is the preferred binding dispute resolution mechanism in international matters
• Arbitration is flexible
• Also: confidentiality
• Investment arbitration
Why not?

• Arbitrators lack judges’ coercive powers
• Problems of multiparty disputes
Typical issues in energy arbitrations

• Change of circumstances in long-term contracts
  – Force majeure
  – Hardship
  – Price review
A word about investment arbitration

- Bilateral investment treaties
- Multilateral investment treaty in the energy sector – the *Energy Charter Treaty* of 1994
- International Center for the Settlement of Investment Disputes (ICSID)
- Special issues of jurisdiction
- Special rights for investors – public international law
Egypt - Israel natural gas transmission dispute

- Parallel arbitrations
- Corruption allegations
- Does the US-Egypt BIT apply?
- A substantive violation of the US-Egypt BIT?
Vattenfall nuclear power stations in Germany

- Application of the *Energy Charter Treaty*
- An investment?
- Substantive rights
- Concerns about regulatory chill and a modern State’s ability to introduce more stringent environmental regulations
EU embargo on Syrian petroleum products

- Availability of investment arbitration?
- Potential effects of embargo on commercial contract rights
Thank you!