

Focus: ENERGY DISPUTE RESOLUTION IN ARBITRATION



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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

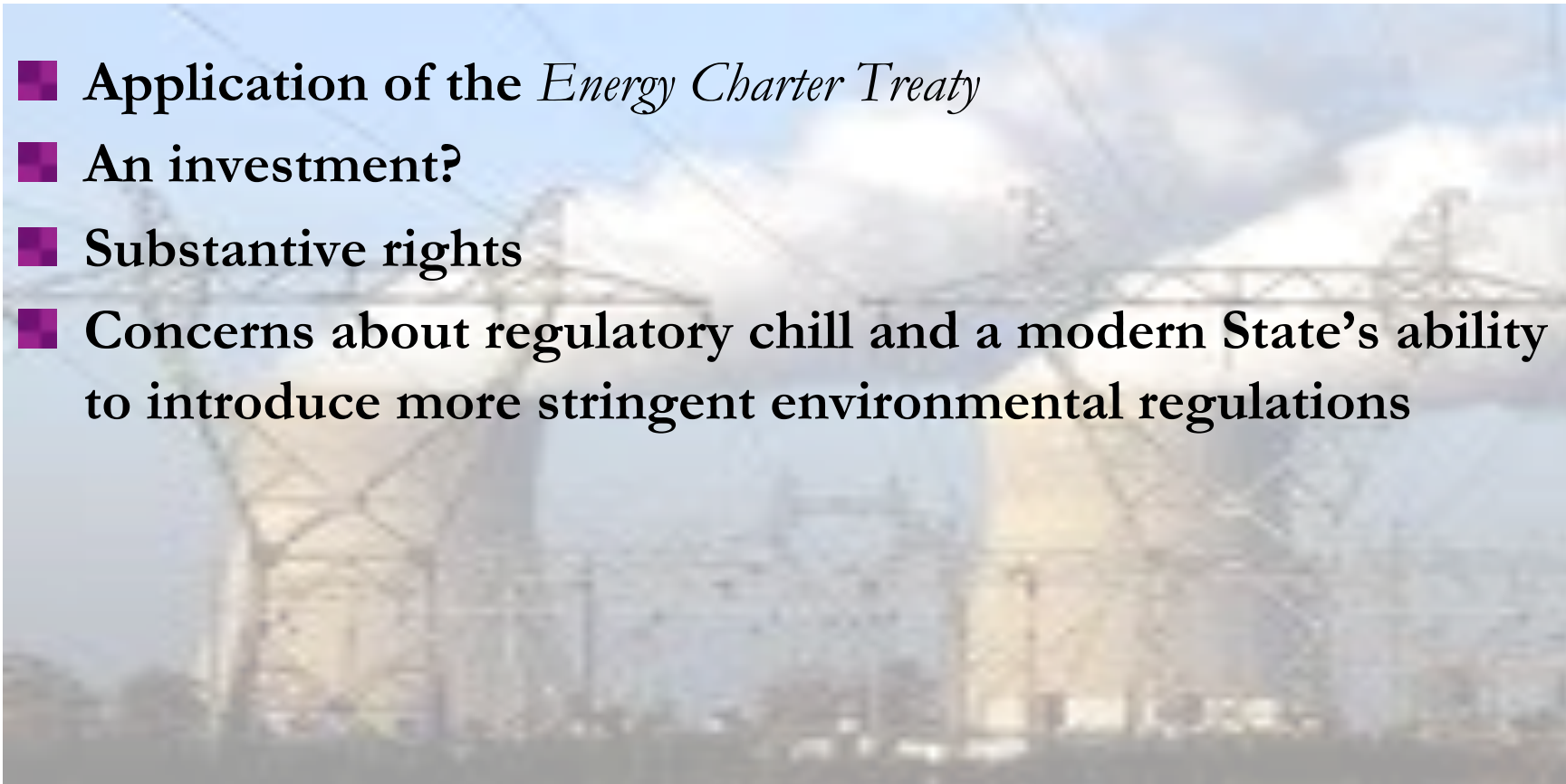
A word about investment arbitration

- 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

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- **Parallel arbitrations**
 - **Corruption allegations**
 - **Does the US-Egypt BIT apply?**
 - **A substantive violation of the US-Egypt BIT?**

Vattenfall nuclear power stations in Germany

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- 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





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Thank you!