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

- 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!