

**The welcome address of the Secretary General Dr. Ria Kemper
Conference on International Arbitration and the Energy Charter
Treaty**

Stockholm, 9-10 June 2005

Your Majesty, Mr Chairman, Distinguished Ladies and Gentlemen, it is a great pleasure to welcome you here to this Conference, which has been co-organised by the Energy Charter Secretariat and the Arbitration Institute of the Stockholm Chamber of Commerce, and I would like to begin by expressing my particular gratitude to His Majesty the King of Sweden for the honour of his presence today.

I am very pleased that the Arbitration Institute of the Stockholm Chamber is our co-organiser for this Conference, given its high international standing on matters of investment arbitration and also because the first award issued under the Energy Charter Treaty was made under the auspices of this institution in December 2003. I take this opportunity to thank Secretary General Ulf Franke and his team at the Institute for their excellent collaboration in the preparation of this event.

The Energy Charter Treaty is still a relatively new addition to the international legal architecture - it entered into force only in April 1998 - but I am pleased to observe that there has been a steady growth in interest in the Treaty and the protection that it offers. This increasing prominence has been reinforced in recent months by the claim brought under the Treaty by Yukos shareholders against the Russian Federation, and the wealth of comment that this case has generated in the international press.

In this context, it is essential for governments, energy investors and the legal profession to be aware of the Treaty's provisions and how they are applied, and I am delighted that we have such a distinguished selection of speakers, chairpersons, commentators and participants for our discussions over the next day-and-a-half. Since the negotiations on the Treaty were concluded in 1994, I do not recall another occasion when there was such a great concentration of legal expertise on the Energy Charter Treaty gathered in a single room, and I look forward to what should be most interesting proceedings.

This is the first Conference that is specifically addressing questions of investment arbitration in relation to the Energy Charter Treaty, so I would like to take the opportunity to say a few words about the challenges that the Treaty and the Energy Charter process are trying to address.

Investment projects in the energy sector are highly strategic and capital-intensive, frequently requiring both the cooperation of a large number of commercial partners and also - for example in the case of cross-border infrastructure projects - the consent and support of multiple governments. This is a uniquely complex environment, and one that creates a demand for internationally enforceable 'rules of the game'.

The response from governments from across Europe, the Caspian region and Central Asia in the early 1990s was to develop a balanced framework of rules for the energy sector which would cover the entire investment cycle, including not only investments in production and generation but also the terms under which energy could be traded and transported across different national jurisdictions to international markets.

A common objective was to reduce the specific risks associated with the operation of the energy sector, based on the shared belief that long-term security of supply, and security of revenue for producing countries, can best be served by the existence of a common multilateral framework to secure investment and energy flows, and to promote efficient use of energy resources.

The resulting Treaty represents a distinctive attempt by governments to increase their energy security through a binding instrument of international law, based on a recognition of mutual interest and interdependence. Under conditions of growing globalisation of capital and energy markets, I am sure that these rules have helped to establish a more balanced and transparent framework for international cooperation than could have been provided by bilateral agreements alone.

I believe that this body of rules is as valid today as it was when it was originally negotiated. Indeed, there is good reason to assume that the relevance of this framework will increase over time as more countries become dependent on energy imports from distant production areas, and as the infrastructure for a common Eurasian energy market is developed to serve the growing markets of south and northeast Asia. Although the Energy Charter process was originally conceived in Europe as a forum for East-West cooperation, it has now taken on a broader perspective as Iran, China, Korea and the ASEAN group of countries have all taken on observer status, thus considerably strengthening the Asian dimension of the process. There have also been intensive contacts during the first months of this year with India and Pakistan, where the debate over possible new regional pipelines has stimulated interest in the principles and protection that the Treaty can provide.

Many of the benefits that both current and potential Contracting Parties perceive in the Energy Charter Treaty are linked to its strong self-executing mechanisms for the settlement of disputes. In relation to the investment chapter of the Treaty, the Secretariat is thus far aware of six cases that have been brought by private investors to international arbitration, and I would concur with the opinion expressed in the Institute's most recent newsletter that the number of arbitrations under the Treaty is likely to grow in the years to come.

However, I would not like to assess the importance or effectiveness of the Energy Charter Treaty solely by looking at the number of cases brought to arbitration, or by considering the outcome of any particular case. Effective dispute settlement mechanisms have significance beyond the cases that come before a tribunal, in that they provide persuasive encouragement for Contracting Parties to observe their Treaty obligations in the first place, or to reach amicable settlements out of court.

The Energy Charter process supports compliance with the Treaty's obligations through a well-established dialogue with member governments, designed to raise awareness about specific provisions and to monitor progress with the implementation of Treaty commitments. Regular contact with the energy industry and other stakeholders is also designed to ensure that we can respond to new challenges and developments as they emerge on international energy markets.

I believe that the multilateral rules of the Energy Charter Treaty can make a substantial and innovative contribution to meeting these challenges. I am also confident that today's Conference will play an important role in raising awareness about the Treaty and thereby promoting its full implementation. On this note, I would like to re-iterate my warm welcome to you all, and to wish this Conference every success.

Thank you for your attention.