

**Meeting on Regional Energy Cooperation in Asia (RECA)**

**THE REGULATION OF ENERGY INVESTMENTS ALONG THE “BELT AND ROAD”**

organised by

**The Chinese University of Hong Kong  
KAS Regional Energy Security and Climate Change Project,  
and  
Energy Charter Secretariat**

**Hong Kong, 23-25 February 2017**

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## Background

Energy is a central aspect of China’s “Belt and Road” policy. In the context of increasing dependence on energy imports, it is of strategic importance for China to ensure the secure and reliable supply of external energy resources to the Chinese market. Central Asia and Russia play an increasingly important role for China’s energy security. However, the energy investment environment in these countries is challenging. Specific challenges for Chinese companies include the protection of their investments against regulatory and policy risks (e.g. expropriation) and against the risk of interruption of energy supply via third countries. At the same time, Chinese foreign energy investments impact on the organisation of energy supply in the host countries, and on the strategic interests of other major players in the region, e.g. the EU that relies on similar sources of energy supply.

The law has an important but largely unexplored role to play in facilitating the necessary investments in the energy infrastructure along the “Belt and Road”, and more generally in regulating China’s increasingly influential foreign energy relations. This conference aims to reflect on the energy policy objectives of the “Belt and Road” policy and critically discuss the role of law for the achievement of China’s energy security under this initiative. Besides the financing and protection of Chinese energy investments in the “Belt and Road” countries and the question of energy transit, this conference looks at the interaction of the “Belt and Road” policy with existing domestic and multilateral energy security initiatives.



## The organisers

**The Chinese University of Hong Kong, Faculty of Law:** Enriched by the intellectual and cultural heritage of its University and at the heart of the legal system, the Faculty of Law brings together common law and Chinese law with other great legal traditions and values to promote justice and safeguard the rule of law. Building further on the recognition of energy and sustainability as two of the main themes of the University’s new research strategy, the Faculty of Law aims to develop teaching and research activities in the field of energy and environmental law.

**Konrad Adenauer Stiftung:** The Konrad Adenauer (KAS) Foundation offers political education nationally and internationally to forward peace, freedom and justice. KAS promotes and sustains liberal democracy, constitutional legacy and the social market economy. The KAS Regional Project Energy Security and Climate Change Asia-Pacific, based in Hong Kong, supports the political dialogue between decision makers in the region and with Europe concerning challenges of the energy and climate policy. The project develops solutions and concrete projects of sustainability in politics, economy and society.

**International Energy Charter:** The International Energy Charter is a multilateral organisation promoting international energy cooperation based on the Energy Charter Treaty (ECT), which is a comprehensive investment and trade treaty ratified by the European Union, its Member States, Japan and most other Eurasian countries. In 2015, China signed the International Energy Charter, which is a political declaration and a first step towards a possible accession to the Treaty. The Energy Charter Regional Task Force focuses on energy cooperation in Central Asia with the aim of developing energy trade and facilitating energy infrastructure projects. The latest meeting of this Task Force was held in Almaty, Kazakhstan in November 2016 where the regulation of energy investment, trade and transit in Central and South Asia was discussed.



## The Regulation of Energy Investments along the “Belt and Road”

### AGENDA

**Date: Thursday, February 23<sup>rd</sup> (Day I)**

**Venue: Warren Chan Moot Court, Graduate Law Centre, 2/F, Bank of America, 12 Harcourt Road Tower, Central**

**13:30-14:00**      **Registration**

**14:00-14:45**      **Opening Session - Setting the scene**

*Welcoming remarks*

- Prof. Fanny Cheung – Pro-Vice-Chancellor/Vice-President, CUHK
- Prof. Chris Gane – Dean, Faculty of Law, CUHK
- Dr. Peter Hefele – Director, KAS Regional Energy Security and Climate Change Project
- Amb. Urban Rusnak – Secretary General, Energy Charter Secretariat

*Keynote speeches*

- Ms. Yvonne Choi – HK Commissioner of Belt and Road
- Representative of National Energy Administration of China (tbd)

**14:45-16:15**      **Session 1 – Energy policy objectives of China’s OBOR**

*Chair:* Peter Hefele – Director, KAS Energy Security and Climate Project

*Energy corridors within the OBOR initiative*

- Yufeng Yang – Deputy Director, Energy Research Institute, NDRC

*China’s energy security in a context of increased import dependency*

- Kim Younkyoo – Professor, Hanyang University

*The geopolitics of energy and OBOR*

- Kaho Yu – Associate, Harvard University

*Mapping China’s energy investment strategy*

- Vincent Connor – Partner, Pinsent Masons



**16:15-16:45**

**Coffee break**

**16:45–18:00**

**Session 2 – Multilateral frameworks for energy cooperation**

*Chair:* Urban Rusnak – Secretary General, Energy Charter Secretariat

*Multilateral implications of Sino-Russian energy cooperation: security of gas supply*

- Keun-Wook Paik – Senior Research Fellow, Chatham House; Oxford Institute for Energy Studies

*Multilateral implications of Sino-Russian energy cooperation: security of oil supply*

- Andrei Belyi – Associate Professor, University of Eastern Finland

*China's OBOR Project and the Eurasian Economic Union's Energy and Investment Regulation: Conflicting or Complementary?*

- Zhenis Kembayev – Professor, KIMEP University

*International law and the OBOR energy objectives*

- Wenhua Shan – Dean, Xi'an Jiaotong University, School of Law; Director of the XJTU Silk Road Institute for International and Comparative Law and Peng Wang – Xi'an Jiaotong University

**18:00-18:30**

**Discussion: OBOR energy policy objectives and international energy governance**

*Moderator:* Kaj Hobér – Professor, Uppsala University; Chair, SCC Arbitration Institute; Associate, 3 Verulam Buildings, Grays Inn

**18:30-19:00**

**Wine reception**

**19:00**

**Dinner** (speakers and invited guests)



**Date: Friday, February 24<sup>th</sup> (Day II)**

**Venue: Harbour Grand Kowloon, 20 Tak Fung Street, Whampoa Garden, Hung Hom**

**9:00-10:45**

**Session 3 – The perspective of the OBOR countries: FDI and energy market reform**

*Chair:* Kanat Botbaev – Transit Expert, Energy Charter Secretariat

*The regulation of FDI and energy security in Uzbekistan*

- Eldor Manopov – Professor, Westminster International University in Tashkent; Partner, Avent Advokat, Uzbekistan

*The regulation of FDI and energy security in Kazakhstan*

- Shaimerden Chikanayev – Partner, Grata Law, Kazakhstan

*The regulation of FDI and energy security in Kyrgyzstan and Tajikistan*

- Nurlan Kyshtobaev – Partner, Grata Law, Kyrgyzstan

*The regulation of FDI and energy security in Russia*

- Sergey Seliverstov – Partner, Sokolov, Maslov and Partners, Moscow

*The regulation of FDI and energy security in the EU*

- Mark Bungenberg – Professor, Saarland University

**Discussion: the impact of FDI on energy market reform**

*Discussants:* Yuan Xu – Associate Professor, CUHK; and Anatole Boute – Associate Professor, CUHK

**10:45-11:15**

**Coffee break**

**11:15-12:30**

**Session 4 – Financing energy investments**

*Chair:* Hilary Lau – Partner, Herbert Smith

*Energy Investment and Cooperation under OBOR: Policy Imperatives and Implementation Strategies*

- Jinzhao Wang – Energy Research Institute

*National power market reform and Chinese outward energy investments*

- Representative of China Electricity Council (tbc)



*Navigating country risk issues to successfully implement OBOR's first project financed project – a case study*

- John Yeap – Partner, Pinsent Masons

*The carbon externality of Chinese energy FDI*

- Hao Zhang – Research Associate, CUHK

**Discussion: Legal challenges to the financing of OBOR energy projects**

*Discussant:* Antoine Martin – Research Associate, CUHK

**12:30-14:00**

**Lunch**

**14:00-16:00**

**Session 5 – Resolution of energy investment disputes**

*Chair:* Sarah Grimmer – Secretary General, HKIAC (tbc)

*Arbitration of energy disputes under the ECT: added value for OBOR*

- Kaj Hobér – Professor, Uppsala University; Chair, SCC Arbitration Institute; Associate, 3 Verulam Buildings, Grays Inn

*ECS – Investment mediation, good offices and the Conflict Resolution Centre of the International Energy Charter*

- Alejandro Carballo Leyda – Legal Counsel, Energy Charter Secretariat

*Handling political risks: contractual prevention mechanisms and post-closing claims*

- Libin Zhang – Partner, Broad & Bright; Peking University Energy Law Centre

*Chinese BIT policy with OBOR countries: implications for energy investments*

- Mark Feldman – Associate Professor, PKU School of Transnational Law

*The protection of state owned enterprises under investment arbitration*

- Julien Chaisse – Professor; and Dini Seijko – Researcher, CUHK

**Discussion: the creation of a “level playing field” for energy investments under OBOR**

*Discussants:* May Tai – Partner, Herbert Smith; and Chin Lim – Professor, HKU



**16:00-16:30**

**Coffee break**

**16:30-18:00**

**Session 6 – Energy transit**

*Chair:* Alejandro Carballo Leyda – Legal Counsel, Energy Charter Secretariat

*Energy transit, the ECT and the WTO*

- Vitaliy Pogoretsky – Advisory Centre on WTO Law, Geneva

*Bilateral and multilateral approaches to transit dispute resolution*

- Danae Azaria – Lecturer, University College London

*The regulation of energy transit risks under existing pipeline agreements*

- Jianzhong Lv – Vice-President Representative, CNPC Economics and Technology Research Institute

*Case Study: Sudan-South Sudan pipeline dispute*

- Calvin Ho – Senior Associate, Herbert Smith

**Discussion: the role of international law for the mitigation of transit risks under OBOR**

*Discussant:* Kanat Botbaev – Transit Expert, Energy Charter Secretariat

**Concluding remarks: OBOR and the regulation of global energy markets**

- Anatole Boute – Associate Professor, CUHK

**19:00**

**Dinner** (speakers and invited guests)



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**Date: Saturday, February 25<sup>th</sup> (Day III)**

**Venue: Harbour Grand Kowloon, 20 Tak Fung Street, Whampoa Garden, Hunghom**

**10:00-12:00            Workshop on “The regulation of energy investments under the  
OBOR initiative: future research directions”**

**12:00-14:30            Lunch**