Ms Palacio, Mr Franke, Distinguished Guests, Ladies and Gentlemen,

It’s a great pleasure to be here in Washington for this Conference. I would like to express my profound thanks to Secretary General Palacio and her staff at ICSID, and also to Secretary General Franke and the Arbitration Institute of the Stockholm Chamber of Commerce, for their excellent cooperation in the arrangement of today’s event.

Some of you present today may also have attended the first conference of this type in Stockholm two years ago. At that time, I understand that there was much discussion about the potential of the Treaty for resolving investment disputes in the energy sector. Two years later the situation is quite different; we are now in a position to review the operation of a functioning instrument of international law.

The rapid increase in the number of cases brought under the Treaty is perhaps a reflection of the broader trends in investment arbitration. But there is also no question that the last few years have also been turbulent ones for international energy markets. We have seen high and volatile prices for energy, greater state involvement in the operation of the energy sector in some countries, unease about reliability of energy supply,
uncertainty over the conditions for new investment in energy production and infrastructure, and widespread concern over the environmental impact of energy use.

In these times, it is no surprise that there has been strong international attention on the ‘rules of the game’ that apply to the energy sector and how they are implemented.

In the Energy Charter Treaty, the international community has an enforceable way to demonstrate its commitment to some key principles: sanctity of property and of contract, reliable energy supply and energy transit, transparency, national sovereignty over energy resources, sustainable development. I strongly believe that these are the right principles on which to base international energy cooperation, and I was pleased to see explicit support for the Energy Charter principles as part of the outcome of last year’s G8 discussions on energy security.

A keystone in the construction of the Energy Charter Treaty is the mechanisms for dispute settlement. Without these mechanisms, the Treaty would be little more than a statement of political intent, easy to endorse, and also relatively easy to ignore.

I would not wish to measure the Treaty’s effectiveness by the number of disputes, far from it. But I do want it to be widely understood that the Treaty mechanisms are functioning, and that there are potential costs – both reputational and financial – in case of non-compliance.

Transparency, debate and awareness are therefore vital to the long-term credibility of the Energy Charter Treaty. This is where I see the value and importance of today’s Conference, and I am particularly pleased to see so
many of the world’s leading experts on investment arbitration present here today.

Before concluding, I would like to make a couple of observations about the Secretariat’s role in relation to the dispute settlement mechanisms.

As many of you will be aware, there is no formal part for the Secretariat to play in disputes between investors and host governments. Nonetheless, I wanted to draw your attention to some areas where our efforts are designed to be of practical value.

Firstly, wherever information on Energy Charter disputes and jurisprudence is in the public domain, the Secretariat has a natural role to collate this information and to make it available [i.a. through our new website].

Secondly, we do have detailed archives from the negotiations of the Treaty. These can provide a useful insight into the meaning or interpretation of certain provisions and are open for reference and research, but … you have to come to us in Brussels.

And finally, I hope that we can continue our successful partnership with the arbitration institutions mentioned in the Treaty to conduct events like today’s Conference in the future.

The objective in all our work is to sustain the long-term credibility and effectiveness of the Treaty, and to make a tangible contribution a secure and sustainable energy future.

On that note, it remains only for me to thank you all for coming, and to look forward to the debate.

Thank you for your attention