

Draft
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Round Table **«Settlement of Investment Disputes»**

Independence Palace, Astana, Kazakhstan, 30 September 2015

There is a growing recognition, among states and companies, that solving the dispute by adversarial means (e.g. national courts or investment arbitration) is expensive, drawn out and destructive for long-term relations. On the contrary, solving the dispute by looking at the interests of both parties (mediation) could restore broken relations and ensure long-term benefit for the host Contracting Party and the foreign investor. In fact, Article 26 of the Energy Charter Treaty allows investors to refer the dispute to mediation/conciliation. However, investment mediation has been rarely used by the parties in dispute.

Formation of adequate investment environment is one of the most important factors for sustainable development of oil and gas sector and the economy as a whole.

Kazakhstan is a leader in many aspects of the business and investment climate in the region and the former Soviet Union. Having significant hydrocarbon resources and successful experience of long-term international relations in the energy sector, being at the centre of the entire region of the Energy Charter and at the intersection of major energy flows, Kazakhstan plays an important role in shaping the energy balance and providing the energy security of the region. In 2014, during the Kazakhstan Chairmanship at the Energy Charter Conference, a number of initiatives relating to encouragement of investments in the energy sector and enhancement of the mechanism for settlement of investment disputes were put forward by Kazakhstan. Thus, mediation implementation has been proposed as a dispute settlement mechanism aimed at reducing resort to international arbitration. Setting up of an Investment Ombudsman with the Secretary General has been also recommended in order to assist in effective dispute resolution and even prevention of dispute occurrence.

As a consequence, the Energy Charter Secretariat is working with the International Mediation Institute and several dispute resolution institutions in order to produce a clear and effective

framework for the amicable resolution of investment disputes within the energy sector (good offices and mediation).

The present Roundtable, being held by KAZENERGY in cooperation with the Energy Charter Secretariat, is an exercise to understand the opinion and experience of the different stakeholders involved in dispute resolution in the energy sector regarding amicable settlement mechanisms, including mediation, “good offices”, etc. As Secretary General Urban Rusnák outlined in the first roundtable in the Peace Palace in May 2015, ‘dialogue is the first step towards solving problems and the Energy Charter is the global forum for such dialogue in the energy sector.’

PROGRAMME

15.30 – 16.00

Registration and coffee-break

16.00 – 16.30

Introduction part «Upgrading of the mechanism for settlement of energy disputes: encouragement and protection of energy investments» (*3 minutes for each speaker*)

Moderator - **Djambulat Sarsenov**, Deputy Chairman of KAZENERGY Association, Special Representative of the Secretary General of the Energy Charter (Astana) ([confirmed](#))

Uzakbay Karabalin, First Vice-Minister of Energy of the Republic of Kazakhstan, Deputy Chairman of the Energy Charter Conference ([confirmed](#))

Urban RUSNÁK, Secretary General, the Energy Charter Secretariat (ECS) (Brussels) ([confirmed](#))

Berik Imashev, Minister of Justice of the Republic of Kazakhstan (Astana) ([confirmed](#))

Meg Kinnear, Secretary General, the International Centre for Settlement of Investment Disputes (ICSID) via Skype (Washington) ([confirmed](#))

Brooks W. Daly, Deputy Secretary General, the Permanent Court of Arbitration (PCA) (the Hague) ([confirmed](#))

Annette Magnusson, Secretary General, the Arbitration Institute of the Stockholm Chamber of Commerce (SCC) (Stockholm)

(confirmed)

16.30 – 17.10

**Interactive debate on main concerns of governments
in international energy disputes resolution**

Moderator – **Nina Grigorievna Vilкова**, Professor of the Russian Foreign Trade Academy & international arbitrator, Arbitration Court of the ICC (Paris), the Chartered Institute of Arbitrators (CI Arb) (London), the International Commercial Arbitration Court at the RF Chamber of Commerce and Industry (ICAC at the RF CCI) (Moscow) (confirmed)

- **Adinda Sinnaeve**, Legal Officer, Dispute Settlement and Legal Aspects of Trade Policy, DG Trade (F2), European Commission (Brussels) (confirmed)
- **Albert Rau**, Deputy Minister for Investments and Development of the Republic of Kazakhstan (to be confirmed)
- **Safinov Kanatbek**, Executive secretary , Ministry of Energy of the Republic of Kazakhstan (confirmed)
- **Meirzhan Alpysbai**, alternate director , Department of State Property Rights, Ministry of Justice of the Republic of Kazakhstan (Astana) (to be confirmed)
- **Serkan Yikarbaba**, Legal Counsel, Legal Department, Ministry of Energy and Natural Resources, Turkey (Istanbul) (confirmed)

17.10 – 17.50

**Interactive debate on main concerns of companies
in international energy disputes resolution**

Moderator – **Nina Grigorevna Vilкова**

- **Murray Done**, Associate General Counsel, Upstream, Non Operated Ventures, Royal Dutch Shell plc (The Hague) (confirmed)

- **David Goldberg**, Partner, London, Moscow, White & Case (**confirmed**)
- **Rustam Zhursunov**, Deputy Chairman of the Board, National Chamber of Entrepreneurs of the Republic of Kazakhstan (Astana) (**confirmed**)
- **Theodore Etchison**, General Manager, Operations, Tengizchevroil LLP (**confirmed**)
- **Moldir Zhaksybayeva**, Director, Legal Department, «Total E&P Kazakhstan» (**confirmed**)
- **Asset Kurmanbayev**, Deputy Director, International contracts department, JSC «NC KazMunayGas» (**confirmed**)
- **Zhumageldy Yelyubayev**, Chevron Eurasia Business Unit Managing Counsel (**confirmed**)

17.50 – 18.00

Closing speeches

Urban RUSNÁK, Secretary General, the Energy Charter Secretariat (ECS) (Brussels)

Djambulat Sarsenov, Deputy Chairman of KAZENERGY Association, Special Representative of the Secretary General of the Energy Charter (Astana)