



ALMA MATER STUDIORUM
UNIVERSITÀ DI BOLOGNA



REFORMING THE GLOBAL ECONOMIC GOVERNANCE:
THE EU FOR SDGS IN INTERNATIONAL ECONOMIC LAW



Co-funded by
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Re-Globe Seminar Series

The Energy Charter Treaty: The Past, the Present and the Future

Agata Daszko, University of Göttingen

27, 28 and 29 March 2023 -University of Bologna

The Energy Charter Treaty (“ECT”), signed in December 1994, is the only multilateral investment treaty to exclusively regulate cooperation in the energy sector and is the most-often invoked international investment agreement in Investor-State Dispute Settlement (ISDS) cases. It has been the basis for at least 150 out of around 1200 known claims. Despite its acceptance in the international investment arbitration environment, or perhaps because of it, the ECT has been attracting growing criticism, calls for modernisation and even demands for its abandonment.

Introductory Remarks and Discussant

Prof. Elisa Baroncini – University of Bologna, Re-Globe Coordinator



27.03

Learning from the Past:
History, functions and objectives of the ECT



28.03

Considering the Present:
Overview of the current case law and other legal developments under the ECT



29.03

Looking to the Future:
Modernisation of (and potential alternatives to) the ECT

START

9.00 am - 11.00 am

Aula L Belmeloro,
Second Floor,
Via Beniamino Andreatta, 8
Bologna



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The seminar “**The Energy Charter Treaty: The Past, the Present and the Future**” aims to paint a fuller picture of this notorious Treaty, concentrating not only on the most ‘controversial’ cases stemming from it but also taking a step back to discuss why it was concluded in the first place; what are its (envisaged) functions; how it has developed through practice; how come the EU, one of its 54 signatory parties, is now turning its back on it; what the alternatives might be; and many more inter-related issues. Besides providing attendees with a more in-depth understanding of the ECT, the seminar will also encompass material relevant to other developments in international investment law and arbitration.



The first lecture in the seminar “**Learning from the Past: History, functions and objectives of the ECT**” will aim to first, cover the basics of international investment law in order to contextualise further learning and discussions surrounding the ECT. Against this backdrop, the lecture will provide an overview of the negotiating history, why the ECT was heralded to present a “win-win situation” and what are its functions and objectives (also non-investment-protection related).



The second lecture “**Considering the Present: Overview of the current case law and other legal developments under the ECT**” will take an in-depth look at how the case law under the famously ‘vague’ ECT has developed in the last 29 years. While a portion of the discussion will address some general themes of ISDS, the lecture will also consider how standards such as Fair and Equitable Treatment and protection from illegal expropriation under the Treaty have been construed by various tribunals (in all types of energy disputes). This lecture will also review the controversial *Rockhopper v. Italy* award as well as look at other ECT cases involving Italy (and Italian investors), both in the intra-EU context and internationally.



The final lecture in the series, “**Looking to the Future: Modernisation of (and potential alternatives to) the ECT**” will examine the ongoing modernisation process, from its conception in 2017, the Agreement in Principle concluded in June 2022, to the perceived abandonment of the process in recent months. The lecture will discuss the goals and explanations of various stakeholders and potential alternatives to the ECT.



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Agata Daszko is a Ph.D. candidate and a research fellow at the University of Göttingen, Federal Republic of Germany. She holds an LL.M. in Public International Law from Leiden University and an undergraduate degree in Law with German from the University of Nottingham. Prior to pursuing her doctoral degree, she was a researcher in investment and commercial arbitration at a large international law firm, where she assisted on many ISDS claims, at all stages of proceedings.

She is the editor-in-chief of the EFILA Blog (European Federation for Investment Law and Arbitration) and the Assistant General Editor of the Commentaries on World Trade Law (Brill, 2021–). She is an active member of a number of international law societies where she frequently presents her research, including: International Law Association (Young Scholar 2022), European Society of International Law and Society of International Economic Law. Besides international investment law, her research interests lie in international humanitarian law, international economic law broadly speaking, international environmental law and the rule of law.



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