



Seventh Executive Training Programme for Young Energy Leaders Legal Session

Settling Investment Disputes through Mediation:

How to reach an Agreement

Energy Charter Secretariat

56 Boulevard de la Woluwe

1200 Brussels

3 – 6 November 2015

AGENDA

TUESDAY 3 NOVEMBER 2015

09.30 – 15.00	Complex Investment Negotiations: Guidelines Venue: King & Wood Mallesons, Brussels	This seminar will be <i>exclusively open to government officials</i> interested in learning more on drafting and concluding complex investment agreements. There will be a registration coffee and a networking lunch break with assorted sandwiches.
15.30 – 17.30	Information session on the Energy Charter and its activities (optional) Venue: Energy Charter Secretariat, Conference room 4 th floor	Dr Marat Terterov Training Programme Coordinator and Research Fellow, Energy Charter Secretariat Knowledge Centre, Brussels Dr Alejandro Carballo Leyda Legal Counsel, Energy Charter Secretariat, Brussels Dr Matteo Barra Investment Expert, Energy Charter Secretariat, Brussels

WEDNESDAY 4 NOVEMBER 2015

09.00 – 09.30	Arrival and Registration	Venue: Energy Charter Secretariat, Conference room 4 th floor
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09.30 – 10.15	Programme Opening	
	Welcome remarks	Amb. Urban Rusnák Secretary General, Energy Charter Secretariat, Brussels
	Programme orientation and Introduction	Dr Marat Terterov Training Programme Coordinator and Research Fellow, Energy Charter Secretariat Knowledge Centre, Brussels Mr Andrzej Grossman Director, Centre for Effective Dispute Resolution (CEDR), London
<i>Warm up exercise</i>		
10.15 – 11.00	Landscape of Dispute Resolution	Mr Robert Wheal Partner, White & Case, London
	This session will offer a comparison of different types of dispute resolution processes, including litigation, arbitration and mediation. Advantages and disadvantages will also be explored.	
11.00 – 11.15	Coffee Break	
11.15 – 12.15	Exercise on Adjudication vs Settlement	
	This exercise is designed to focus on core difference between adjudication and settlement processes such as mediation.	
12.15 – 13.00	Convincing your team and the other party	Mr Michael Cover Accredited Mediator, CEDR, London
	Understanding common objections to mediation and how to address them.	
13.00 – 14.00	Lunch with participant-speaker networking	Venue: Tri Logia Restaurant, Rue Voot 40 (next to the Energy Charter Secretariat)
14.00 – 14.45	<i>Preparation Exercise: Convincing others to attend mediation including dealing with Authority issues</i>	Mr James South Mediator, Director of Training, Centre for Effective Dispute Resolution (CEDR), London, and IMI Board Member
14.45 – 15.45	Overview of the Mediation Process:	
14.45 - 15.30	Understanding mediation	Mr Andrzej Grossman Director, Centre for Effective Dispute Resolution (CEDR), London

This session will help participants understanding the distinct phases of mediation and the role of the mediator and parties involved in each phase.

15.30 - 16.00 **Applicable rules. An example: UNCITRAL** **Ms Judith Knieper,**
Legal Consultant, UNCITRAL, Vienna

This session will explore the different rules available for the conduct of mediation/conciliation using the specific example of UNCITRAL conciliation rules.

16.00-16.15 **Coffee Break**

16.15- 17.00 *Preparation: Preparing your negotiation position and opening* **Mr James South**
Mediator, Director of Training, Centre for Effective Dispute Resolution (CEDR), London, and IMI Board Member

This session will be devoted to how parties should prepare for mediation and in particular to making their opening statements. Participants will be divided into party teams and will prepare for the upcoming role play mediation.

17.00 – 17.45 **Role Play 1: The Mediation Opening** **Mr James South**
Mediator, Director of Training, Centre for Effective Dispute Resolution (CEDR), London, and IMI Board Member

The opening phase of the role play will be conducted with the parties making their opening statements to each other and the mediator. Please note the mediator will be a trained, experienced professional through all stages of the mediation scenario.

17.45 – 18.00 **Debrief and Day 1 Wrap Up**

19.00 – 22.00 **Gala dinner for all speakers and participants** Note: hosted by the Energy Charter Secretariat
Venue: Le Moulin de Lindekemale, Jean-François Debeckerlaan 6, Brussels

THURSDAY 5 NOVEMBER 2015

09.00 – 09.30 **Review of Day 1**

09.30 – 11.45 **Exploration: Getting maximum value out of the mediation** **CEDR/IMI Trainers**

This session will focus on understanding the importance of moving beyond stated legal positions to look at underlying interests. An exercise will also be conducted on the skills that representatives to mediation can use, alongside the mediator, to understand what is really important.

11.45 – 12.00 **Coffee Break**

12.00 – 13.15	Role Play 2: Exploration of the Interests	Mr Michael Cover Accredited Mediator, CEDR, London
	Continuation of the role play, this time focusing on the exploration phase of the mediation process.	
13.15- 13.30	Debrief of Role Play	
13.30 – 14.30	Lunch with participant-speaker networking	Venue: Tri Logia Restaurant, Rue Voot 40 (next to the Energy Charter Secretariat)
14.30 – 15.45	Negotiating effectively in Mediation	Mr Andrzej Grossman Director, Centre for Effective Dispute Resolution (CEDR), London
	This session will present participants with a framework for making offers and provide input on effective negotiating strategy in mediation. Following this, parties will have time to prepare their opening offers for the role play mediation.	
15.45 – 16.00	Coffee Break	
16.00 – 17.15	Role Play 3: Making Initial Offers	Mr James South Mediator, Director of Training, Centre for Effective Dispute Resolution (CEDR), London, and IMI Board Member
	Moving in the bargaining phase of the mediation process, parties will deliver and respond to opening offers.	
17.15 – 18.15	Debrief and Day 2 Wrap Up	
18.30	Departure of all speakers and participants from the Energy Charter Secretariat for dinner	Note: Courtesy transportation provided by the Energy Charter Secretariat
19.00 – 22.30	Team building dinner for all speakers and participants	Note: hosted by the Energy Charter Secretariat Venue: Restaurant In't Spinnepokke, Place du Jardin aux Fleurs 1, 1000 Brussels
FRIDAY 6 NOVEMBER 2015		
09.00 – 09.30	Review of Day 2	
09.30 – 11.00	Negotiation in Mediation – Dealing with Deadlock	Mr Michael Cover Accredited Mediator, CEDR, London

This session will explore the causes of deadlock in negotiations in mediations and the techniques for addressing them and breaking through to agreement. Participants will be presented with a deadlock scenario from the role play and will have time to consider how to break the impasse.

11.00 – 11.15	Coffee Break	
11.15 – 12.30	Role Play 4: Negotiating through deadlock	
	Using information from previous sessions, parties will attempt to overcome a deadlock situation and negotiation through to agreement.	
12.30 – 12.45	Debrief	
12.45 – 13.30	Drafting a settlement agreement	Dr Loukas Mistelis Professor of Transnational Commercial Law and Arbitration, Queen Mary University London
	In this session, input will be given on how to go about drafting a settlement agreement and other matters to conclude the mediation process.	
13.30 – 14.30	Lunch with participant-speaker networking	Venue: Tri Logia Restaurant, Rue Voot 40 (next to the Energy Charter Secretariat)
14.30 – 15.30	Role Play 5: Drafting a settlement agreement (including press statements)	
	Using the agreement potentially reached in the role play, parties will draft an outline settlement agreement including an agreed press statement.	
15.30 – 15.45	Coffee Break	
15.45 – 16.30	Specific Issues in Investor-State Disputes	Ms Cecile Oosterveen Association for International Arbitration (AIA), Brussels
	This session is designed to address specific issues of investor-state disputes and to explore how they are addressed in the mediation context.	
16.30 – 17.30	Course Debrief and Evaluations	
17.30 – 18.30	Farewell cocktail Venue: The Energy Charter Secretariat, 4th floor	Award of Energy Charter Secretariat Knowledge Centre Certificates of Excellence to all participants followed by cocktail reception at the Energy Charter Secretariat