



CONFERENCE

THE EU LAW OF UNINTENDED CONSEQUENCES

WHAT IS THE IMPACT OF THE ACHMEA JUDGMENT ON INVESTMENT AND DISPUTE SETTLEMENT IN THE EU ENERGY SECTOR?

Organised by:

**Energy Union Law Area of Florence School of Regulation, RSCAS, European University Institute
Dechert LLP
École des Hautes Études Commerciales de Paris**

Venue: HEC Champerret Campus, 6-14 Avenue de la Porte de Champerret, 75017 Paris

16 NOVEMBER 2018

■ INTRODUCTION

Context and Objectives

The seminar will focus on investments in the energy field and in particular on three major themes surrounding the recent ruling by the Court of Justice of the EU (CJEU) in the *Achmea* case (in which the CJEU ruled that investor-state arbitration clauses in bilateral investment treaties (BITs) concluded between EU member states are incompatible with EU law). Those themes are: (i) the implications of *Achmea* for investor-state dispute settlement under Bilateral Investment Treaties concluded by EU member states; (ii) the implications of *Achmea* for investor-state dispute settlement under other types of international agreements, such as intergovernmental and host government agreements frequently entered into with respect to large energy infrastructure projects (gas pipelines, LNG terminals, etc.) by EU member states; and (iii) the forms of legal recourse available to EU investors in the future, in light of the *Achmea* ruling and the CJEU's future CETA Opinion.

■ PROGRAMME

- 09.30 - 10.00 Registration and welcome coffee
- 10.00 - 10.15 Welcome
Arnaud van Waeyenberge | École des Hautes Études Commerciales de Paris
Adrien de Hauteclocque | Florence School of Regulation, RSCAS, EUI & CJEU
- 10.15 - 10.30 Opening remarks
Arif Ali | Dechert LLP
- 10.30 - 11.00 Keynote speech
Sir Alan Dashwood QC | Henderson Chambers
- 11.00 - 12.30 **Session I**
Implications of *Achmea* for investor-state dispute settlement under Bilateral Investment Treaties
Moderator:
Sir Francis Jacobs QC | King's College London
What did the CJEU actually decide in *Achmea*, and does it necessarily entail a clash of EU and international law? What are the systemic ramifications, including for CETA and ICSID?
David Restrepo Amariles | École des Hautes Études Commerciales de Paris
Amir Farhadi | International Court of Justice
What are the implications of *Achmea* in investment treaty law? What degree of notice should national courts give to intra-EU investment treaty awards in light of the *Achmea* judgment
Veronika Korom | Bredin Prat & ESSEC Business School
What are the implications of *Achmea* for BITs with acceding countries?
Samira Sulejmanović | Ministry of Foreign Trade and Economic Relations, Bosnia and Herzegovina
- 12.30 - 13.30 Lunch
- 13.30 - 15.00 **Session II**
Implications of *Achmea* for investor-state dispute settlement under other international instruments
Moderator:
Daniel Dozsa | Dechert LLP
What are the implications of *Achmea* for investor-state dispute settlement under the Energy Charter Treaty?
Paschalis Paschalidis - Formerly Court of Justice of the European Union
The Commission communication on the protection of intra-EU investment and its relevance for the energy sector
Tim Maxian Rusche | European Commission, Legal Service
Recalibrating autonomy - why EU law requires autonomy to be less absolute
Armin Cuyvers | Leiden University

15.00 - 15.30	Coffee break
15.30 - 17.00	<p>Session III</p> <p>The Future: How does <i>Achmea</i> fit in the CJEU's more recent case-law on mutual trust and what impact will it have on EU investors?</p> <p>Moderator: Adrien de Hauteclocque Florence School of Regulation, RSCAS, EUI & CJEU</p> <p>Achmea, EU law, and mutual trust between Member States Maya Lester QC Brick Court Chambers</p> <p>Are contractual dispute resolution clauses under Intergovernmental and Host Government agreements in the field of energy a solution at risk? Leigh Hancher Florence School of Regulation, RSCAS, EUI & Tilburg University</p> <p>What is <i>Achmea's</i> impact on private investment in the EU energy sector? Pál Kara MOL Hungarian Oil & Gas Plc.</p>
17.00 - 17.15	<p>Closing remarks Eduardo Silva Romero Dechert LLP</p>