



Arbitration and Infrastructure, Energy and Construction Projects in the Midst of Climate Change *

Summary

*** Please note that this summary of the panel was AI-generated and therefore has not been fully vetted for accuracy.**

The panel discussion titled "Arbitration, Infrastructure, Energy, and Construction Projects in the Midst of Climate Change," held during Washington Arbitration Week on December 2, 2022, focused on the intersection of climate change and international arbitration, particularly in the context of energy and infrastructure projects. The session was moderated by Meghan Buchman, a partner at Crowell & Moring, who emphasized the relevance of the topic given the increasing impact of climate change on investment and arbitration.

The panel featured several experts, including Annette Magnuson, Greg Williams, Pablo Lopez, and Christopher Goncalves, each bringing unique insights into the challenges and disputes arising from climate change-related regulations and investments. Magnuson discussed the urgent need for infrastructure and energy projects to adapt to climate change, referencing the Paris Agreement's goals and the projected increase in energy investments necessary to achieve these targets. She highlighted the vulnerabilities of critical infrastructure to climate change and the need for urgent decision-making to mitigate risks.

Williams provided examples of current disputes in North America related to climate change, including cases involving the Keystone Pipeline and fracking bans in Canada. He noted the tension between regulatory flexibility and the protection of investments, emphasizing the role of international arbitration in resolving these tensions. Lopez focused on the economic implications of climate change, discussing how environmental changes affect commitments made in contracts and the complex nature of climate change as an economic problem, particularly regarding externalities and public goods.

Goncalves addressed the evolving landscape of energy investments, noting the shift from fossil fuels to renewable energy sources and the regulatory challenges that accompany this transition. He stressed the need for clear policies and strategies to bridge the gap between current investment levels and the ambitious climate targets set by international agreements.



The panel concluded with a discussion on the modernization of the Energy Charter Treaty (ECT) and its implications for investor-state disputes, particularly regarding the potential exclusion of fossil fuel investors from protections under the treaty. The participants underscored the necessity for a balanced approach to regulatory changes that consider both climate goals and the rights of investors.

Overall, the session highlighted the intricate relationship between climate change, investment, and arbitration, with a focus on the need for adaptive strategies and clear regulatory frameworks to navigate the challenges ahead.

Authors

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Topics

Construction, infrastructure, climate change

Category

WAW

Full Transcript

00:00:04

Okay. Welcome everyone to our

00:00:08

third panel today for Washington

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arbitration weekday 5, it's December

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2nd 2022. And of course,

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we've saved the best for

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last r-panel here. Today is



00:00:24
titled arbitration, and infrastructure and

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energy, and construction projects in

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the midst of climate change.

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Very topical topic before we

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get into that and I

00:00:34
introduce our moderator. I just

00:00:37
wanted to say a few

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thank you to the various

00:00:43
folks that made Washington arbitration

00:00:46
week possible. We've this is

00:00:49
the third Washington arbitration week.

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We were able to get

00:00:53
20 some odd panels together.



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This year, a great participation

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rate from the major law

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firms in the arbitration field

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here. And Washington, d.c. hosting

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events like today's event here

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at the Crowell & moring.

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And it goes without saying

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that you really need a

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team. You know, you really

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need a village so to

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speak to, to raise the

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child in neutral, child is

00:01:22

Washington arbitration week and I



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said this at an earlier

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panel but really I think

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the diversity of programs and

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substantive content that we seen

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this week and the quality

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of the presentation is just

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being truly phenomenal and it

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really is a reflection of

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Washington as a place of

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arbitration. We have the arbitrator's

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we have the council, we

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have the institutions that you

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know it said is headquartered



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here for instance. And as

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you know 70% of investors

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State arbitration cases run through

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exit it really is that

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Crown Jewel of Washington arbitration

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seeing it and really you

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know Watching arbitration week is,

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it has grown amazingly, and

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it is just kind of

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going from success success. And

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I think a lot of

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that is due course to

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our great Advisory board, our



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supporters are sponsors, but also

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to our organizers, like, Anna

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and Maria with Chia and

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co-founder dr. Jose Antonio Rivas

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strategy who has provided the

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administrative support for kind of

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pulling together all of Washington

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arbitration week and just to

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let you know that we

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do have an active website

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and we are recording these

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sessions because they're all virtual

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and they'll be available for



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people to go back. Watch

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again, and even if you've

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missed sessions, the other sessions

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that were on this week

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will be available and certainly

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recommend post it to go

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do that. So, let's let's

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go into panel. It's our

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moderator is my partner. Here

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across the Moor. Ain't Meghan,

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Buchman and Megan is here

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in Washington. D.c. she focuses

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her. Practice on Construction, contract



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disputes, and other complex Marshall

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issues in both arbitration and

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litigation. She has served as

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a lead, and Cody Council

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on a number of international

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arbitration and mediation involving large

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infrastructure, projects, in addition to

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her advocacy work. Megan regularly,

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counsels clients on contract matters,

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relating to Major construction and

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infrastructure projects, including dispute avoidance,

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an early resolution of disputes.

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I really think that says



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it all and why Megan

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was perfect and helping us

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to put together this this

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Holiday. These are very current

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issues, very important issues and

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I really glad to have

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you here and Megan's going

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to take it away. Thanks

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making, thank you again. So,

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as in alluded to the

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idea for this panel in

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about, in discussions with him

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and Jose and Tonio about



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how measures that are being

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planned or better under way

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to combat, climate change are

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bringing it to energy transportation

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and other infrastructure and construction

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projects and how these changes

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in turn are affecting investment

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and then what is for

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international arbitration. And each of

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our panelists here today were

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obvious choices for their extensive

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experience for their extensive experience

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and insights on this topic.



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And so it was really

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no further Ado. I'd like

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to just introduce You in

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the order in which they'll

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present. So we have a

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couple people who are joining

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us for Julie's from other

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countries and also we have

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a rag and Pablo here

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today. So I'll start with

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Annette Magnuson. Who is joining

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us from Sweden? I think

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that's where you are today,



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right? In that. And that

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is the co-founder of climate

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change Council, which is a

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think and do Hank, that

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is dedicated to accelerating climate

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change of solutions, through locks

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and Annette. And her colleagues

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worked for this. You are

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a mix of advocacy and

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advisory efforts speaking-writing publishing with

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the aim of really engaging

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commercial lawyers in the fight

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against climate change. And in



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providing climate-related advisory services to

00:05:46
companies organizations law firms and

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also providing services that include

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animal Rising how the planet

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transition will affect certain businesses

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and industries out before co-founding

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climate change Council. And that

00:06:02
was the Secretary General of

00:06:03
the Stockholm Chamber of Commerce,

00:06:07
the arbitration Institute of the

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Stockholm Chamber of Commerce and

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under her leadership in 2017,

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that won the SEC. Initiated



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the Stockholm treaty lab which

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was, is a global competition

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to innovate new international law

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for the purpose of climate

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change mitigation and adaptation. I

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think it's fair to say

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that Annette has. And just

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about every role possible, Advocate

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arbitrator administrator, and she brings

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a wealth of knowledge and

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insights. And if you'll pardon

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the pun energy to today's

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topic, next will have Greg



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Williams to sitting next to

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me. Greg is the head

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of global disputes at Wylie

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rhyme and is Greg and

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I were just talking about

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earlier today. His practice really

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sits at the intersection of

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international arbitration and international litigation

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with many of his cases

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involving parallel or related arbitration

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and litigation spanning multiple continents.

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Bag is also a member

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of the board of directors



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for the Osgood Center, for

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international studies, which is a

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nonprofit educational organization that offers

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short-term foreign policy programs and

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experiential learning opportunities, for graduate

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college, and high school students

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from around the world. And

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some of Grandma's Mason, high-profile

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cases have involved key players

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and initiatives in clean energy,

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technology, and Smart City development.

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So again and obvious choice

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of next will have Pablo



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Lopez. Also with us today.

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In person, he's an executive

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vice president with compass lexecon

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and is a Quantum and

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economic testifying expert witness in

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both investment on Commercial arbitration

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proceedings. He has designed and

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led teams that are in

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charge of implementing customized valuation

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models for he gets more

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than 70 assets from us,

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a full stack drum of

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Industries at located all over



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the world. And with an

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emphasis in Emerging Markets which

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again is quite relevant

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to the discussion. We're having

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today, he's having food in

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evaluation models and a number

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of high-profile and high-value cases

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involving expropriation of energy projects

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in Latin America. And more

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recently Pablo's also been involved

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in operations involving Renewables as

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a damages expert. Pablo has

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particular experience in You're standing



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and valuing the environmental risk

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and responsibilities and technological changes

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that will impact the value

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of an asset and last

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but certainly not least. Christopher

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goncalves is joining us today

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from Grease actually where he

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is at the the LNG,

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they're Christopher is the managing

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director and chair of Biaggi's

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energy and climate practice a,

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he provides both business advice

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to Industry and financial sector



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clients on energy infrastructure and

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commerce including Ellen gllpg natural,

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gas, oil, conventional and renewable

00:09:39

energies and hydrogen. Chris is

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also a seasoned industry and

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damages expert who has given

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evidence in a large number

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of disputes under the auspices

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of excited. Child, the ICC

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icdr, and also, UK, and

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US courts. And he speaks

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and publishes extensively on a

00:10:01

host of climate and energy



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transition issues, including on the

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thorny issue of causation and

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correlation analysis in investment, arbitrations

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that have Arisen as a

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result of climate change policy

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and also the energy transition.

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So as I said, he's

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joining us today from Greece,

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where he's just finished. Speaking

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on mastering ghg abatement during

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the time of energy security.

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And I'm sure that the

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conference that he was at



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featured, many in-depth discussions about

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the speed and scale of

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change in the energy transition

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and what that means for

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Ellen G, and that's also

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certainly going to be relevant

00:10:43

to our topic today. To,

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before, I turn the floor,

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over to Annette to start

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us off. I just wanted

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to just very brief Highlight

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a few Logistics, certainly welcome

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questions. So if you're joining



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us online, please just post

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it in the chat and

00:11:01

we may come to some

00:11:02

of them during our discussion

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but we have left, plenty

00:11:06

of time to talk and

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the answer questions then and

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if you're in the room

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to get my attention and

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and we'll get your question

00:11:15

to the floor. And I

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think as you all know,

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as well as the organizers



00:11:21
have also organized a networking

00:11:22
session at the end of

00:11:24
today's session. So for those

00:11:26
of you online you'll go

00:11:27
into breakout room and for

00:11:29
those of us in the

00:11:30
room will mingle. And with

00:11:33
that I'll just turn it

00:11:35
over to you in that.

00:11:36
Thanks so much. Thank you

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very much, my guns, and

00:11:41
the hello everyone. Thank you

00:11:44
so much for the year



00:11:45
opportunity to be joining you

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virtually today, and I can

00:11:50
come in the morning to,

00:11:50
to hosting a bottle of

00:11:52
the Washington arbitration week. So,

00:11:54
you heard from Megan, we

00:11:56
will give an overview of

00:11:58
the, the different issues. So

00:12:00
I could sort of them

00:12:01
coming to pay when we

00:12:02
talked about this fits in

00:12:03
the infrastructure energy, and construction

00:12:06
projects. And you have heard



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that they represent their race

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or a wide range of

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perspectives. So, my task here

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today is so, do I

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set the stay and see

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what it mean? When we

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talked about this, dude, in

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the infrastructure and the end

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of construction project against the

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backdrop of climate change and

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and and what will happen

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in the future and you're

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hurting Megan mencher metric measures



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plan. So my primary focus

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will just to give her

00:12:34

a little bit of an

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helicopter perspective of societal transition.

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Proceed ahead. Hopefully, if we're

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going to meet the climate

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change, challenge ahead of us,

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but of course, many of

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these developments have already been

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visible to some extent, including

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in disputes. And I think

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he will hear more detailed

00:12:55

examples from Greg after me



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on how about they self

00:12:59

in Texas. So this transition

00:13:03

crazy, seeing a mini market

00:13:06

in many sectors is, is

00:13:08

it again, is to development

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that we are seeing, but

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we need to see much

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more and I will give

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you some examples of what

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this will mean in practice.

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When we try to understand

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what the climate change challenge

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means to practice there is,



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there is plenty to draw

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from. There's no real shortage

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of reports, an expert telling

00:13:32

us what to do, and

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why? And I would love

00:13:36

to go to so much

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into the why I'm here

00:13:38

today, but simply refer to

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the fact that all of

00:13:41

the changes that I will

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talk about for the next

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5 or 10 minutes, take

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their starting point in the



00:13:48

Paris agreement and the 1.5

00:13:50

degree Target. So in other

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words to use the wording

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or the Paris agreement, the

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ambition is to hold of

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the increase in the global

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average. Temperature to well, below

00:14:01

2 degrees Celsius above pre-industrial

00:14:03

levels. Pursue efforts to limit

00:14:06

the temperature increases to 1.5

00:14:08

degrees above pre-industrial levels, M&S

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to be heard in the

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top 27, of course there



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is someone could have a

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discussion whether or not the

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one point five degrees Target

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is alive or not and

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they're different juice on that

00:14:24

sand. Look, surprisingly it. But

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I I prefer to soda

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still believe that the cam

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you can reach the 1.5

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degree Target but if course,

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it will take quite the

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loss of an effort and

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an important milestone for the



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Paris agreement is to reach

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Nest are carbon emissions by

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2050 and and we need

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to reduce emissions by 50%

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in 2030. So that's just

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a little bit over seven

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years to go, which is,

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which is not much in

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particular if you're talkin in

00:14:57

an infrastructure and Energy Products

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contacts, as willing as much

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time at all, but if

00:15:02

you're looking a little bit,



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111 stores to turn to

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time to stand us. If

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they ask, if you see

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the report States, the government

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panel on climate change in

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the last a little over

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a year, they are supposed

00:15:24

to see it. Three working

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groups have issues with a

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report. So the working group

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one came in the August

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last year which is the

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address of the physical science



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basis of climate change and

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working group to come in

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February, this year by climate

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change impact at a patient

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and vulnerability. And the third

00:15:42
working group issued a report

00:15:44
in April this year. And

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mitigation, if I left a

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lot of reports that's a

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lot of fine City Florence

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to Sunrise, if one can

00:15:52
say that, if one talks

00:15:54
about what is causing the



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problem with my match, a

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working group to talk about

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how bad is the problem.

00:15:59

And working till 3, how

00:16:01

can we fix the problem?

00:16:03

MMA. The findings from sort

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of how bad is the

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problem in the brand. They

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talked about impacts that a

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patient and vulnerability. There are

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there's some important takeaways for

00:16:15

the topic that were talking

00:16:15

about here today, where the



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efficiency and notes that the

00:16:19
key infrastructure systems, including sanitation,

00:16:23
water, Health, transport Communications and

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energy will be increasingly vulnerable

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Define standards been out of

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town for changing climate conditions

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are here in. This is

00:16:35
including some of the physical,

00:16:36
check of climate change as

00:16:39
well. And also points out

00:16:42
that to avoid climate risk

00:16:44
requires urgent decision making for

00:16:46
the new built environment but



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also for fitting of existing

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Oregon to sign infrastructure and

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land use for. This is

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another example of how infrastructure

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energy and construction projects are

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really after Spencer of climate

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change adaptation and the, and

00:17:01

resilient And of course the

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energy transition at large isn't

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a very important elements, is

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to tackle climate change, and

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the and the and the

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challenges. It poses on us



00:17:11
to see a very large

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increase in the energy Investments

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back on track for the

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next Air emissions by 2050

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targets. And this is this

00:17:24
is this is one if

00:17:26
one comes out the end

00:17:27
of the International Energy agency

00:17:29
and they're on the world

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energy Outlook and this year's

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World energy Outlook just came

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out in October so that's

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not long ago. And the



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Indians in the scenario is

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forcing to reach the next

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year by 25th. Is it

00:17:42

is? It is clear that

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this requires the electrification of

00:17:47

Transport heating, cooling and industrial

00:17:49

production and spending on new

00:17:54

energy-efficient building. Again, we're talkin

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infrastructure at large here and

00:17:59

annual spending on energy efficient.

00:18:02

Send it to increase. I

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really need to be more

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more than four times higher



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than today. So, looking with

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numbers today were seeing about

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1.3 from 1.3 trillion dollars

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and such a big number

00:18:14
is supposed to clean energy

00:18:21
And real to meet the

00:18:22
next day or Target for

00:18:23
10 to 15, that needs

00:18:25
to rise above 4 trillion

00:18:27
US Dollars. And in this

00:18:33
transition which I think is

00:18:34
important to keep him lying.

00:18:35
There were talking about this



00:18:36

bit is that the transition

00:18:38

is is is very much

00:18:40

texture than and involves the

00:18:41

development and deployment of new

00:18:43

technology. Low-carbon Technologies. We we

00:18:49

need to see this new

00:18:51

the technologist, the toilet large-scale

00:18:54

and also we need to

00:18:55

see new investors to really

00:18:57

come into the energy sector

00:18:58

to support this transition. We

00:19:01

know that. Must have all

00:19:02

the reductions for seeing put



00:19:04

to meet them at their

00:19:05

targets by 2050 are expected

00:19:07

to come from technologies that

00:19:09

are currently in the demonstration

00:19:11

or prototypes. So again, we

00:19:16

need to see you at

00:19:17

pushy or two to make

00:19:18

this dispensation have fun. And

00:19:22

it's some industry, the share

00:19:24

or condition, reductions that will

00:19:26

come from technology. Development is

00:19:28

even higher than a 50%.

00:19:31

So, that in itself is



00:19:33

a challenge, I just added

00:19:36

to the challenges. Of course,

00:19:37

we are facing a complex

00:19:41

geopolitical situation. Currently in the

00:19:43

world in many places which

00:19:46

puts energy security at the

00:19:47

top of the list. It's

00:19:49

illustrates the difficulty of balancing

00:19:51

short-term, needs and long-term goals,

00:19:55

and short-term needs of course,

00:19:57

being prompted by the political

00:19:58

conflict and challenges, And the

00:20:01

long-term growth again, being the



00:20:03
ability and the ambition to

00:20:05
meet them there, at 25th

00:20:08
to Target and have this

00:20:10
is reflected in government policy.

00:20:11
It's fairly volatile policy and

00:20:16
a climate here. so, I'm

00:20:20
Hope you're having a safe

00:20:21
if they have in this

00:20:24
in this context to have

00:20:25
a lot of new technologies

00:20:26
that needs to be put

00:20:27
in place, we have it

00:20:28
but this needs to happen



00:20:29

happen. If a space that

00:20:32

we have potentially, or I

00:20:33

should say, hopefully a lot

00:20:35

of new players coming in

00:20:36

at two different markets in

00:20:38

a different Industries, to contribute

00:20:40

to this transition. And also,

00:20:42

a lot of new policy

00:20:44

that is geared toward enhancing

00:20:46

this transition. So new technology,

00:20:49

new players and new policy

00:20:52

that old place together. And

00:20:54

it will result in a



00:20:56

lot of this. Just because

00:20:57

this beats are components that

00:20:59

put together equals a very

00:21:02

high risk of this juice.

00:21:03

That's something we have seen

00:21:05

in the past, these are

00:21:07

parameters, you know, from experience

00:21:08

will contribute to high risk

00:21:10

of dispute and this is

00:21:11

something that lawyers and account

00:21:14

the late to prepare for

00:21:15

and of course, prepare their

00:21:17

client for. But as I



00:21:19
mentioned that I started We

00:21:20
have already seen a number

00:21:22
of these disputes play out

00:21:23
of practice. So I think

00:21:24
I will end here and

00:21:26
I will hand over to

00:21:27
Greg because I think it

00:21:28
will continue and give you

00:21:29
some examples of this has

00:21:30
played out. Thank you. Thanks

00:21:36
so much. Net and thank

00:21:38
you, Megan and Ian. And

00:21:39
everyone is here, today is



00:21:41
great on her. So isn't

00:21:43
that is explained a lot

00:21:45
these to happen in a

00:21:46
very short period of time

00:21:47
and it presents a myriad

00:21:50
of potential types of disputes.

00:21:52
My role today, here is

00:21:54
to highlight some illustrations examples

00:21:56
of those to get a

00:21:58
feel of what it looks

00:21:58
like today. And what it

00:22:00
might look like in the

00:22:01
future, we've already seen a



00:22:03

large number of climate change-related

00:22:06

disputes from both the investor

00:22:08

State, and the commercial Spears

00:22:10

on the isdsi. The system

00:22:14

is seeking to balance the

00:22:15

need for regulatory flexibility and

00:22:18

authority to address the serious

00:22:20

issues on the one hand.

00:22:22

While reasonably protecting Investments including

00:22:24

Investments and those Technologies needed

00:22:27

to address climate change. Disputes

00:22:32

highlight these tensions. In the

00:22:34

critical role of international arbitration



00:22:36
in resolving such disputes start

00:22:40
with North America since that's

00:22:41
where we are and are

00:22:43
used. As the first example,

00:22:44
the Keystone Pipeline cases by

00:22:47
TC energy and Alberta at

00:22:50
the end of last year.

00:22:50
Canadian Energy company TC energy

00:22:53
filed a request for arbitration

00:22:55
on the past 11. 11:20

00:22:59
u.s. Mexico agreement, Legacy places

00:23:06
after Eastern pipeline. I have

00:23:22
note to not only remind



00:23:24

me of what I'm saying,

00:23:24

but to keep get shorter

00:23:25

as we tend to talk

00:23:26

too long. Hopefully, I'll keep

00:23:29

it short. This is the

00:23:31

second time, the TC energy

00:23:32

has filed a claim over

00:23:34

the pipeline which would carry

00:23:35

bitumen oil from Alberta to

00:23:38

Texas and Oklahoma. Originally their

00:23:41

long-running environmental objections to the

00:23:43

project including concerns that this

00:23:46

type of oil is it



00:23:48

emits a great deal, more

00:23:50

greenhouse gases than typical oil

00:23:52

among other things. The Obama

00:23:54

Administration originally refused to issue

00:23:57

the permit on the project

00:23:58

in part on environmental grounds

00:24:00

which led to TC energies,

00:24:02

original exit claim. When the

00:24:05

Trump Administration was elected. It

00:24:06

reversed that position and through

00:24:07

a series of executive orders

00:24:08

issued the permit in the

00:24:11

exit proceedings were discontinued. Then



00:24:15
when the vitamin stration came

00:24:17
in and revoke the permits

00:24:19
TC energy, filed the NAFTA

00:24:20
claim. In February this year

00:24:23
Alberta, which has over a

00:24:25
billion dollars taken TC energy

00:24:26
and has made loans to

00:24:27
the company. Also filed an

00:24:31
app to claim it as

00:24:32
represented by the outstanding Law

00:24:34
Firm that we maybe you

00:24:35
could being hosted by at

00:24:37
this very moment. And it



00:24:38

raises that case, raises fascinating

00:24:41

issue of a government as

00:24:44

an investor which is unique

00:24:47

and rare. If not unique

00:24:49

it'll be interesting to see

00:24:50

how it plays out. The

00:24:52

second example also involves an

00:24:54

after case, upholding Canada's fracking

00:24:57

ban that was very recently,

00:24:58

publicly announced there was a

00:25:01

company that was seeking. It

00:25:04

was, it was thinking if

00:25:06

I don't have to claim



00:25:07

based on the revocation of

00:25:08

a fracking permit and it

00:25:11

was recently announced that a

00:25:12

divided, NAFTA, panel rejected, that

00:25:15

claim the wards not yet

00:25:17

public. So we don't know

00:25:18

the details or the reasoning,

00:25:20

but the investor argued that

00:25:21

the Location of the permit

00:25:23

by Quebec violated NAFTA, minimum

00:25:27

standard of treatment and expropriation.

00:25:29

The Canada responded that the

00:25:32

measures were in the public



00:25:33

interest or non-discriminatory and didn't

00:25:36

significantly deprived or substantially deprived.

00:25:39

The investor of its investment

00:25:41

because it only affected. One

00:25:43

of the company's multiple licenses

00:25:45

would be interesting to read

00:25:47

out a word when it

00:25:48

comes out and see the

00:25:49

basis of the tribunals reasoning.

00:25:52

The last North, American example,

00:25:54

are the Koch brothers claim

00:25:55

against Canada for the cancellation

00:25:57

of the cap-and-trade program. In



00:25:59
particular Ontario's, cap-and-trade program in

00:26:02
2020 Koch brothers initiated enough

00:26:05
to claim against Canada, arising

00:26:07
out of the 2018, cancellation

00:26:10
of the cap-and-trade program, by

00:26:11
Ontario, and alleged failure to

00:26:14
compensate the coke companies for

00:26:17
the emissions allowances that they

00:26:19
have purchased a cancellation occurred

00:26:21
right after an election of

00:26:23
a new party which is

00:26:25
run on the platform platform,

00:26:26
that included a promise to



00:26:29

revoke the cap-and-trade program, if

00:26:30

elected. And I think even

00:26:32

in poses, a potential prison

00:26:34

imprisonment for anyone who tries

00:26:36

to engage in cap and

00:26:37

trade activities after the cancellation,

00:26:40

that's actually the first Legacy,

00:26:42

NAFTA case Legacy NAFTA, case

00:26:45

after the 2020 agreement as

00:26:47

well, As you may know,

00:26:53

there's just as much if

00:26:54

not more energy and climate

00:26:57

related isds arbitrations in Europe,



00:27:01

for example, Netherlands faces a

00:27:03

claim based on its ban

00:27:06

on coal power plants and

00:27:08

we've all seen the recent

00:27:09

Exodus from the energy Charter.

00:27:11

Treating with which I think

00:27:13

the Slovenian government described it

00:27:16

as quote, an obstacle to

00:27:18

responsible climate and energy policy,

00:27:20

France, Netherlands and Spain and

00:27:22

distance living in Authority, left

00:27:24

with many other countries including

00:27:26

Poland, and others either announcing



00:27:28

that they are intending to

00:27:29

leave or that they're at

00:27:31

least, considering doing self. That's

00:27:34

we can already see numerous

00:27:36

examples of investor-state dispute related

00:27:39

to environmental regulations and other

00:27:41

measures taken to combat climate

00:27:42

change. Only the coming years.

00:27:46

On the commercial side, climate

00:27:49

change. Also lies at the

00:27:50

heart of a wide range

00:27:51

of students. Whether because the

00:27:53

effects of climate change the



00:27:55

impact of Regulation or more,

00:27:57

traditional business disputes related to

00:27:59

energy construction or other projects,

00:28:01

spawned by the need to

00:28:03

address climate change. For example,

00:28:05

we're seeing disputes related to

00:28:07

potential force, majeure event. Either

00:28:09

do to, or due to

00:28:13

regulatory changes or certainly seemed

00:28:15

disputes is a nut, a

00:28:17

limited to arising from attempts,

00:28:19

to commercialize, developing and rapidly

00:28:22

changing Technologies. I'll give an



00:28:23

example of that in a

00:28:24

minute or sink fights about

00:28:26

valuation responsibilities and traditional energy

00:28:29

projects that may lose their

00:28:31

value is country shift to

00:28:33

do power sources. And we

00:28:35

are anticipating to see a

00:28:38

fair number of his disputes

00:28:39

involving emissions trading. Given the

00:28:42

the prodian sense of those

00:28:45

regulatory regimes in the attempt

00:28:47

to try to integrate both

00:28:48

free and country-specific regime. Country



00:28:54

Companies. We represented a company

00:29:04

called Fuel Cell Energy. A

00:29:06

publicly traded us company in

00:29:08

a series of international arbitration,

00:29:09

proceedings, and related us, litigation

00:29:12

against the South Korean energy.

00:29:14

Country company refer to the

00:29:16

client is fce because the

00:29:17

word fuel cell is both

00:29:18

for the technology and the

00:29:20

company guitar to FC. Our

00:29:22

client this is all public

00:29:24

information because of FC East



00:29:26

filings and the related litigation

00:29:29

Don't feel sick. Text Joel

00:29:31

cell. Technology is a clean

00:29:32

energy source. They work like

00:29:34

batteries, except you're, so unlike

00:29:37

batteries feel, so I can

00:29:38

continue to generate electricity. As

00:29:41

long as a fuel source

00:29:42

has provided such as natural

00:29:44

gas subject to a decoration

00:29:46

/. It's not quite a

00:29:49

brand-new technology, but it's only

00:29:50

been commercialized relatively recently, or



00:29:54

the last many years have

00:29:55

Korea, has strongly supported and

00:29:57

promoted fuel cell. Technology is

00:29:59

particularly apps for South Korea.

00:30:01

South Korea lands of Premium.

00:30:03

So having big solar Farms

00:30:05

are difficult. It's mountainous. So.

00:30:07

Perfect, for wind energy to

00:30:09

fuel cell. Technology has been

00:30:10

strongly supported in a series

00:30:13

of agreements. Fce license. Progressively

00:30:16

license its technology to Costco.

00:30:20

Taking both portions of the



00:30:22

technology in the evolutions of

00:30:23

the technology and giving greater

00:30:25

exclusivity particularly in Asia, to

00:30:27

posco, a series of disputes

00:30:30

things with fuel cells are

00:30:35

small, you put them in

00:30:37

the Stacks and stacks are

00:30:38

combined into modules. You put

00:30:40

the modules together to make

00:30:41

a power plant. And for

00:30:43

a while ago, was selling

00:30:45

power plants, primarily to local

00:30:48

quasi-governmental entities that were providing



00:30:50

electricity on a commercial basis

00:30:53

in South Korea, then things

00:30:56

started to fall apart. Obviously,

00:30:59

the party's disagree about why

00:31:01

it would say that there

00:31:03

were problems with the technology

00:31:05

fuel-cell. Oh, I should say

00:31:08

that it is in these

00:31:09

agreements in return for the

00:31:12

the exclusivity and rights to

00:31:13

fdu technology, posco agreed to

00:31:16

use. Its best efforts to

00:31:17

commercialize the technology and to



00:31:20

pay royalties on the sex

00:31:22

and so, When it's time

00:31:26

to develop posco was worried

00:31:28

about the technology and stop

00:31:30

making sales and ultimately the

00:31:32

two parties couldn't work out

00:31:33

there their issues and it

00:31:35

resulted in parallel ICC, arbitrations

00:31:38

in Singapore, and London. Three

00:31:40

arbitration, Sweden, Korea, a southern

00:31:43

district of New York case

00:31:45

and a Delaware Chancery Court

00:31:46

in style. So there are



00:31:49

things going on everywhere. And

00:31:52

Basically, what happened was fuel

00:31:56

cell was claiming the pasta

00:31:58

wasn't exercising, its best effort.

00:31:59

And pasta was claiming that

00:32:01

the technology was flawed, the

00:32:03

cross claims were over a

00:32:04

billion dollars. Ultimately, the parties

00:32:08

were able to reach a

00:32:09

solution under which FC received

00:32:13

exclusive rights to its technology

00:32:15

back and pasta agreed to

00:32:17

make substantial purchases of FC



00:32:20

technology to service the existing

00:32:22

South Korean power plants Dynamics.

00:32:27

We talked about South Korea's

00:32:29

promotion of fuel cell technology,

00:32:30

undoubtedly was the basis for

00:32:33

the two parties coming together

00:32:34

and that type of regulatory

00:32:37

environment environment, and government promotion

00:32:39

is what led to the

00:32:40

commercial relationship case. Also surely

00:32:42

represents an example of a

00:32:44

dispute arising from efforts to

00:32:46

commercialize developing and rapidly changing



00:32:49

Technologies. It was one of

00:32:50

these disputes that had 8

00:32:55

to 10 underlying agreement, Each

00:32:56

of which some segments of

00:32:58

time also changing the seed

00:33:00

of of the arbitration about

00:33:02

Midway through without. Harmonizing it

00:33:04

leading to all those cases

00:33:05

that we saw. It also

00:33:08

raises an interesting point that

00:33:09

we're not ultimately resolved because

00:33:11

the parties were able to,

00:33:13

to resolve their differences, and



00:33:16

maybe a little bit of

00:33:17

a teaser for our next,

00:33:18

two speakers, one in particular,

00:33:20

is the question of how

00:33:22

to calculate damages in circumstances,

00:33:25

such as these. The butt

00:33:28

for World in a field

00:33:31

of rapidly developing and changing

00:33:33

technology, to be particularly tricky,

00:33:35

does the hockey stick growth

00:33:37

that both parties anticipated at

00:33:40

the beginning of the relationship.

00:33:42

Is it reasonable? How is



00:33:43
it going to play in

00:33:44
do hiccups and Technology costume.

00:33:46
Constitute fundamental problems or just

00:33:49
normal parts of growing pain.

00:33:51
These are all issues that

00:33:53
we're going to encounter more

00:33:54
and more in these types

00:33:55
of disputes. I'll leave it

00:33:57
there. So I'll just conclude

00:33:59
that we should all anticipate

00:34:00
the disputes related to climate

00:34:02
change and the Regulatory and

00:34:03
Commercial efforts to deal with



00:34:05
climate change. Whether investors state

00:34:07
or commercial are all going

00:34:08
to play a very significant

00:34:10
role in most people's lives

00:34:12
are in this room and

00:34:13
on-screen. Thank you. I think

00:34:17
that's a great Segway to

00:34:18
Pablo. Thank you Megan. Thank

00:34:20
you Greg. And thank you

00:34:22
to the organizer for invitation.

00:34:25
So to me, talkin about

00:34:28
this issue climate change and

00:34:30
I was thinking, how can



00:34:32

I add value to this

00:34:34

panel? The reason why this

00:34:39

question for me, what's important

00:34:41

is because many respects the

00:34:45

disputes that arise here are

00:34:47

related to changes in the

00:34:49

environment changes in the environment

00:34:52

that affect the commitments that

00:34:54

were made within parties at

00:34:58

a previous point in time.

00:35:00

So in that respect for

00:35:03

me, as an Quantum expert,

00:35:07

it problematic of climate change



00:35:09

does not necessarily or maybe

00:35:13

I kept missing something over

00:35:15

this last 20 years, but

00:35:17

that's not necessarily govern their

00:35:20

aspect of my testimony or

00:35:23

the opinion that I'm going

00:35:24

tonight. But reality, climate change

00:35:28

that takes different. Forms, that

00:35:32

changes the property rights that

00:35:34

we're already assigned to the

00:35:36

different parts. So even that

00:35:39

I had this initial reaction.

00:35:41

What am I going to



00:35:42
come out and What I

00:35:45
thought this what is useful

00:35:47
is to talk a little

00:35:49
bit about certain economic analysis

00:35:53
to help frame. That is

00:35:55
why this is important because

00:36:00
when we talk about climate

00:36:03
change it depends on where

00:36:04
you're talking about it. But

00:36:06
typically we are here in

00:36:07
DC you stay. So there

00:36:15
is consensus, that is an

00:36:17
urgency to fix it. We



00:36:20

need to separate the urgency

00:36:23

to fix it from. Who

00:36:26

needs to pay and who

00:36:28

needs? Who's to blame for

00:36:30

the problem? That we have

00:36:32

not put it in my

00:36:35

words, because I have Samantha

00:36:36

gross from the broken insecure.

00:36:39

I said it better than

00:36:41

I thought. She says, there

00:36:43

is plenty of blame to

00:36:44

go around from fossil fuel

00:36:46

companies that for reals, United



00:36:48
problem, to policymakers reluctant to

00:36:51
knock. The police is needed

00:36:52
before, so we can change.

00:36:54
But all it has been

00:36:57
easier for everyone to stick

00:36:58
with the status quo. The

00:37:01
reality is that we have

00:37:02
to acknowledge that fossil fuels

00:37:04
have been the Catalyst of

00:37:05
growth or our societies, over

00:37:08
the last two years and

00:37:10
we have all benefited from

00:37:11
a specially in the developed



00:37:14
world. So changing and doing

00:37:17
away with fossil fuels is

00:37:19
a process that it necessarily

00:37:21
is going to take a

00:37:23
lot of time and there

00:37:24
has to be an appetite.

00:37:26
I decided to pay for

00:37:28
it and we can see

00:37:31
Sambo's where Society goes back

00:37:34
and forth on this issue.

00:37:35
Like, for instance, this year

00:37:40
in Europe, and the war

00:37:44
in Ukraine, will see a



00:37:45

Resurgence of cold, people like

00:37:48

cold again because they are

00:37:50

faced with a shortage of

00:37:52

natural gas. There is a

00:37:53

greater risk, infecting them, right?

00:37:57

So things are relative and

00:37:59

it's necessary to take a

00:38:01

long-term perspective. And we have

00:38:04

to admit that not everybody

00:38:06

is that either and we

00:38:09

have to admit that there's

00:38:11

going to necessarily be a

00:38:13

trade-off between two emails, who



00:38:16

pays for these and how

00:38:18

much pollution and climate change.

00:38:19

We are going to accept

00:38:25

The second problem in this

00:38:27

is related more to my

00:38:29

area of expertise that is

00:38:30

economics, is that climate change

00:38:32

is within one of the

00:38:35

most complicated economic problems that

00:38:38

you can face. this is

00:38:41

because there are two factors

00:38:43

so we can characterize climate

00:38:46

change as a product of



00:38:47

an externality and an externality

00:38:51

that let me explain what

00:38:55

I mean about that or

00:38:56

what actually Konami theory about

00:39:01

that. An externality is a

00:39:04

by-product. That affects external Asian

00:39:09

when I do an economic

00:39:10

activity. So when are you

00:39:12

generate electricity? And not looking

00:39:15

to pollute, right? I'm just

00:39:17

trying to make a profit.

00:39:21

I'm selling that to market

00:39:23

Dexter nality is that there



00:39:26

is pollutants that are released

00:39:29

to the environment and that

00:39:31

affects other agents not necessarily

00:39:33

me. This model has been

00:39:37

properly address in the last

00:39:38

few years of this type

00:39:39

of externality in the economic

00:39:41

theory by controlling the levels

00:39:47

of pollution and regulation. What

00:39:49

is calling economy property rights.

00:39:52

So let's say that he

00:39:57

has a right to clean

00:39:58

so if you want to.



00:40:00

You don't have to pay

00:40:01

or you need to avoid

00:40:03

for you. So there is

00:40:04

there is this is is

00:40:06

coastering. That essentially says that

00:40:08

my broken DS The most

00:40:15

the most difficult challenge for

00:40:18

me comes in the area

00:40:19

of public goods. And what

00:40:21

I mean by one action

00:40:27

that at one individual can

00:40:28

take to prevent climate change

00:40:31

is really significant in the



00:40:38

context of us as consumers,

00:40:40

an assistant for Michael. It's

00:40:53

how you got anybody, an

00:40:54

electric car 00 than Electric

00:40:56

System? My roof, I have

00:40:58

to pay for that. Cost

00:40:59

me significance. Essentially, will that

00:41:05

change by itself? The level

00:41:08

of contaminants around my home

00:41:11

turtle is not right because

00:41:13

my contribution to the pollution.

00:41:16

So if all my neighbors

00:41:20

continue to burn gas, then



00:41:22

there is no purpose in

00:41:24

me, just paying up for

00:41:26

an electric vehicle, or for

00:41:28

the solar system because I

00:41:30

would receive no benefit, and

00:41:32

I will stop at Aldi

00:41:33

cost. This is perhaps the

00:41:38

most challenging part of solving

00:41:41

play timing chain issues is.

00:41:44

That is very difficult for

00:41:45

the society to internalize at

00:41:48

the cost. Off climate mitigating

00:41:54

measures. I'm getting certainly the



00:41:59

political by into to enforce

00:42:02

is equally difficult because the

00:42:05

same if there is and

00:42:07

we can sit here if

00:42:09

there is a regulation that

00:42:10

tries to subsidize clean energy

00:42:12

regulation that support the replacement

00:42:17

of energy sources. Then he's

00:42:22

basically the same because you

00:42:24

need to accept to be

00:42:25

paying for something. Whose benefit

00:42:28

is very difficult to really

00:42:30

measure in yourself. It's a



00:42:34

problem that we need to

00:42:36

address is that when dealing

00:42:40

with infrastructure projects, we are

00:42:42

dealing with really long term

00:42:44

investments. Nice cars respective. So

00:42:58

we have all been benefiting

00:42:59

for over 200 years. I'm

00:43:02

flossing feels like it or

00:43:05

not. Our standard of living

00:43:06

would have not been possible

00:43:08

without forcing fears. Now, you

00:43:12

know, the to get that

00:43:14

energy Matrix, we were in



00:43:17

need to come meet, the

00:43:19

certain regulatory Frameworks because we

00:43:21

needed people to invest millions

00:43:23

and millions of dollars to

00:43:24

develop the infrastructure that we

00:43:26

need it. Now, once this

00:43:29

property rights were assigned, is

00:43:31

it proper to change it?

00:43:35

I'm not that that's that's,

00:43:37

that's a philosophical or legal

00:43:39

question, but at the end

00:43:41

of the day that I

00:43:43

believe is the main question



00:43:45

that we should be asking

00:43:46

ourselves when we talk about

00:43:48

climate change, instead of demonizing

00:43:50

the nation's just trying to

00:43:53

see whether We committed actually

00:44:00

benefited from a certain structure

00:44:03

and we are entitled to

00:44:05

change it, but how to

00:44:06

change it has to be

00:44:08

a shared responsibility. I need

00:44:13

a lot of times and

00:44:14

I will make it. Short

00:44:17

comment on this argument about



00:44:21

supernormal profits or the fact

00:44:24

that now certain industries, right

00:44:27

now, I'm getting very high

00:44:29

dividends or or or, or

00:44:31

profits to their investors. And

00:44:35

we need to be, that

00:44:36

may be true. And I

00:44:38

do, we need to be

00:44:39

careful when those type of

00:44:40

statement because you can only

00:44:43

judge supernormal profits by looking

00:44:46

at the onset of the

00:44:47

risk allocation forgiven, and I



00:44:51
can give you a very

00:44:52
extreme example. It say that

00:44:55
I tell you, okay, I'm

00:44:56
a 36 x. My investment

00:44:59
in a day. On I'm

00:45:01
complaining because somebody here is

00:45:03
saying that they want to

00:45:04
live with my games by

00:45:05
22, a factor of 20.

00:45:08
And I'm really a right

00:45:09
and you might say well

00:45:11
you're being greedy and then

00:45:13
I tell you that in



00:45:14

fact they was playing a

00:45:15

game of throne. I'm a

00:45:18

36 x, my investment. I

00:45:20

got lucky, is that a

00:45:22

supernormal profit or is part

00:45:24

of the rules of the

00:45:25

game. So the numbers by

00:45:27

itself, really doesn't tell you

00:45:28

the full story, if you

00:45:30

don't, look at the reschedule

00:45:33

gation on the payoffs that

00:45:35

were expected by the parties

00:45:36

at the onset of their



00:45:38
relationship. The second challenge for

00:45:42
long-term Investments and regulations. Is

00:45:44
that exchange exchange. Long time?

00:45:50
It's funny because we are

00:45:53
talking about climate change and

00:45:56
we tend to be looking

00:45:59
all the time at at

00:46:00
fossil fuels and how we

00:46:02
regulate that generate large amount

00:46:08
of dispute on the other

00:46:09
side where the rules of

00:46:18
the game, where change. And

00:46:21
Take for example, the Spanish



00:46:24
experience with renewal right around

00:46:30
between 10 and 15 per

00:46:32
cent of the generation capacity

00:46:35
in Spain was renewable. Buy

00:46:38
2012, 24 or 2014. It

00:46:41
was around 40% and it

00:46:43
has been flat since that

00:46:45
what explain that huge is

00:46:49
that it was certain regulation

00:46:51
promoting it that was ended

00:46:54
up being very generous. Or

00:46:57
what was considered very generous

00:46:59
skyrocketed. The amount of investment



00:47:02
in the sector. The best

00:47:10
man to remain flat then

00:47:11
we are still with the

00:47:12
same 40% of which, by

00:47:14
the way, is It's it's

00:47:22
funny that sometimes it's difficult

00:47:23
to foresee what's going on

00:47:25
even on the other side

00:47:26
of the spectrum and if

00:47:28
you think about it today,

00:47:30
maybe we kind of 2020

00:47:34
and what's going on in.

00:47:35
It may have not been



00:47:39

a bad idea to have

00:47:45

it much cleaner. Less feel

00:47:47

dependent, or 40, feel dependent

00:47:49

energy Matrix in Europe. So,

00:47:52

this is just a change

00:47:57

in both sides of the

00:47:59

spectrum of what we are

00:48:01

targeting and react accordingly. And

00:48:07

I'm running out of time

00:48:08

you were right. That we

00:48:10

end up talking much more

00:48:11

awake, but I just wanted

00:48:20

to Talk about a few



00:48:23

things that I seen the

00:48:24

real particular off of Treaty

00:48:26

of iteration. And and I'm

00:48:28

going to actually take a

00:48:29

little bit from from a

00:48:32

keynote, lecture that was eaten

00:48:34

by Freddy surgeon, a few

00:48:36

months ago, actually in the

00:48:38

same in the same law

00:48:40

firm in another conference. He

00:48:44

said we need to be

00:48:45

conscious in the arbitration community

00:48:48

of how we are limiting.



00:48:50

Climate change need to be

00:48:58

conscious, is that What countries

00:49:00

are less developed countries who

00:49:03

were need to reassure investors

00:49:06

and enter into big3 tickets.

00:49:09

Today in the position, that

00:49:13

is much more limited than

00:49:14

more developed nation. Has nobody

00:49:17

else even in the u.s.

00:49:26

3D cases, everybody has protection

00:49:32

to Ecuador you call it.

00:49:38

The other places. So today,

00:49:43

in my tire cost for



00:49:44

this nation's to implement changes

00:49:47

because they have to abide

00:49:49

by VIP protection, Reacher Nations.

00:49:53

I'm not this it's a

00:49:55

problem that contains a fact

00:49:57

that poor countries have not

00:49:58

been the biggest beneficiary so

00:50:01

far about the the benefits

00:50:05

of fossil fuels. So their

00:50:07

ass today to stop their

00:50:09

consumption of fossil fuels. While

00:50:11

the benefit actually was obtained

00:50:14

by a other country The



00:50:19

last point that I want

00:50:20

to touch is that we

00:50:22

need to, lastly, be conscious

00:50:24

that and I will leave

00:50:25

this for questions, if it's

00:50:27

somebody's interested, but we need

00:50:31

to be conscious, that they

00:50:32

are different ways, tackle, the

00:50:34

same problem. You can incentivize

00:50:37

Renewables by subsidizing them or

00:50:39

by taxing fossil fuels, or

00:50:41

by having the government investing

00:50:43

directly into renewable capacity or



00:50:49

some combination of attitude. So

00:50:51

important, from a policy perspective,

00:50:54

particular, given these limitations of

00:50:57

the circulatory constraints that. Countries

00:51:01

have to have in mind

00:51:02

that they are different tools

00:51:04

to achieve the same goal

00:51:05

and then do you just

00:51:07

like everybody almost here? I

00:51:10

can better assist and tell

00:51:12

their governments how to better

00:51:15

Implement these changes without risking

00:51:17

of minimizing the risk. Ramming



00:51:19
into this field. Thank you,

00:51:23
Pablo. Think with that. We'll

00:51:25
turn it over to Chris

00:51:26
and then we'll move to

00:51:27
questions. Give me again. I

00:51:32
will see a lot of

00:51:33
my time to questions cuz

00:51:35
I'm going to make just

00:51:35
a few, a brief observation.

00:51:38
And I took your place

00:51:42
earlier, that there might be

00:51:43
some insights for my cupboards

00:51:44
here. That would be good



00:51:45
to discuss. I won't address

00:51:47
those two specifically, but I'll

00:51:49
touch on a couple things

00:51:50
that might be springboard's for

00:51:51
further discussion. The first observation

00:51:57
I want to pick up

00:51:57
on something. That Annette said

00:51:59
she mentioned, there was one

00:52:00
trillion dollars of investment in

00:52:03
energy for year and then

00:52:05
it needs to be much

00:52:06
more. Fully agree with that.

00:52:08
But I think what's interesting



00:52:09

also is the evolution of

00:52:11

a composition about investment and

00:52:12

the fact that on average

00:52:14

and really bad investment hasn't

00:52:16

changed a lot over the

00:52:18

last 10 years. Over the

00:52:20

last 10 years investment has

00:52:22

gone up or down, perhaps

00:52:24

course, during the pandemic significantly

00:52:27

but by 10 20% per

00:52:30

year, but it really has

00:52:31

hovered around that one trillion

00:52:33

nine hundred billion 1 trillion



00:52:35

kind of bark for quite

00:52:37

a while. But it has

00:52:38

changed in his composition from

00:52:40

being around a decade ago.

00:52:42

About twenty 25%, maybe 30%

00:52:46

in a given year into

00:52:48

renewable energy and what would

00:52:49

probably be called clean energy.

00:52:51

You know, forward Solutions and

00:52:54

say, 7075, baby, 80% oil

00:52:58

and gas a decade ago

00:52:59

to being now, 20 to

00:53:01

30%, while in gas, and



00:53:03

70 to 80% renewable energy,

00:53:07

So what's let's just Look

00:53:09

Backwards before we look forward.

00:53:11

What's really going on here.

00:53:13

What's driving, what what are

00:53:16

the causes for these things

00:53:17

and along with? It should

00:53:19

be said when you're investing

00:53:20

a trillion dollars, a year,

00:53:22

as a global Society. Some

00:53:25

things are also being retired

00:53:26

and paste out coal, plants

00:53:29

are being shut down, coal



00:53:31
plants are being retired. Early,

00:53:33
some kinds of assets are

00:53:36
being oil, and gas production

00:53:37
fields are being capped and

00:53:39
retired either at the end

00:53:40
of their useful life. So

00:53:42
there's always some amount of

00:53:43
capacity and energy production coming

00:53:47
in and some that's going

00:53:49
out. Perhaps on an accelerated

00:53:51
basis in some cases. The

00:53:54
drivers and some of the

00:53:55
factors can be policy. Of



00:53:58

course, regulation, economics Market factors.

00:54:05

Yes, G. Capital discipline. Etc.

00:54:11

And if your view of

00:54:14

what's happening or what has

00:54:15

happened, may depend a lot

00:54:18

on where you sit, just

00:54:21

speaking of conferences, I've spent

00:54:22

a fair amount of time

00:54:23

this week with oil and

00:54:25

gas industry and energy interest

00:54:29

in players. I was recently

00:54:31

at a not North American

00:54:32

Natural Gas conference in Washington



00:54:33
and another renewable energy conference

00:54:36
with the American Council on

00:54:37
renewable energy in Washington. And

00:54:42
it is really fascinating, the

00:54:44
different perspectives that people have

00:54:45
on what the causes are.

00:54:47
Never not talking about litigation

00:54:49
or arbitration here, just talking

00:54:51
about commercial and business, understanding

00:54:53
of the way the world

00:54:55
works. And what's driving change?

00:54:58
I've heard things the reference,

00:55:01
for example that it's you



00:55:03

know, quote on quote, love

00:55:05

DSG, that is Shifting capital

00:55:08

from one sector to another

00:55:09

bet. These restrictions on Banks

00:55:14

and lenders need to change.

00:55:15

There's a perspective in some

00:55:17

quarters, not all quarters of

00:55:18

the oil and gas industry

00:55:19

that there's something of a

00:55:21

zero-sum game shaping up in

00:55:23

other words when renewable energy

00:55:26

and clean energy winds will

00:55:27

that's, you know, they're getting



00:55:28
my lunch and we're competing

00:55:29
for the same Capital, what

00:55:31
we're competing for the same

00:55:32
market and there's a fine

00:55:34
Audubon of investment and so

00:55:35
if they if they win,

00:55:37
I lose and so forth

00:55:39
and I thought and then

00:55:41
it made the excellent point

00:55:42
that really what needs to

00:55:43
happen going forward is that

00:55:44
investment needs to be not

00:55:45
one trillion a year but



00:55:46

two, three, four trillion a

00:55:48

year to achieve climate Ambitions

00:55:51

and and Target. And so

00:55:54

that raises the question, whatever

00:55:55

the causes were in the

00:55:58

past which are clearly, complex

00:56:00

and multifaceted, and I wouldn't

00:56:02

go so far. Obviously, I'm

00:56:03

ducking the issue to say

00:56:05

what the prime mover is

00:56:07

because I wouldn't dare in

00:56:10

the sense that each I've

00:56:12

learned in my career that



00:56:14
energy economics and energy drivers

00:56:17
are all local and are

00:56:18
all specific, it would be

00:56:20
wrong for anyone. I think

00:56:22
to say that the same

00:56:23
thing that causes one investment

00:56:25
to work in China or

00:56:27
southeast Asia, would be the

00:56:28
exact same thing that causes

00:56:30
it to work in Brazil

00:56:32
or Mexico or Western Europe.

00:56:35
There's different regulations, different policies,

00:56:38
different market, economics. Different positions



00:56:41

in the supply chain proximity

00:56:43

to supply, proximity to Market.

00:56:45

So Many Factors you really

00:56:47

have to look case-by-case asset

00:56:49

by asset project-by-project. when you

00:56:52

when you get into the,

00:56:53

the tricky issues of causation

00:56:56

But looking forward. So if

00:56:58

you imagine I want to

00:56:59

connect to ideas one that

00:57:01

we need to as a

00:57:02

global society and best three,

00:57:05

four times more than we



00:57:06

are now. And also that

00:57:09

we have. I've been saying

00:57:11

and I've heard other people

00:57:12

saying This huge disconnect between

00:57:16

our current state and our

00:57:19

Global ambition or a climate

00:57:20

change ambition. I think this

00:57:22

is now very well known.

00:57:24

We talked about every time,

00:57:25

there's a cop Summit or

00:57:26

some sort of you do

00:57:27

Global statements and policy direction

00:57:29

that we know the ambition



00:57:32

of the target, but we

00:57:33

really don't have a very

00:57:34

good plan to get from

00:57:35

here to there. What I

00:57:37

said in the conference here

00:57:38

this week is that what

00:57:39

the energy transition needs is

00:57:42

a commercial strategy and tactics

00:57:45

to pragmatically. Make the steps,

00:57:49

this is what I say

00:57:50

this. I'm talking about policy,

00:57:51

I'm talking about corporate strategy

00:57:53

and talking about investment priorities



00:57:55
and portfolio Target setting and

00:57:57
so forth. But this really

00:57:59
this huge gap in between

00:58:01
where we are and what

00:58:03
the ambition is. What's the

00:58:05
solution to that? Well, if

00:58:06
we are going to solve

00:58:07
it at all, it's going

00:58:08
to be a whole new

00:58:10
suite of policies regulations public

00:58:13
just referred to several of

00:58:14
the different options for those

00:58:15
but also Capital priorities lending



00:58:20
priorities. Bespin priorities, corporate priorities

00:58:24
and so forth and it's

00:58:26
a complex mix of thing.

00:58:27
That will be creating a

00:58:30
greater levels of investment and

00:58:32
change. And that brings us

00:58:35
to. And one of the

00:58:37
reasons for the need of

00:58:38
that, one of the reasons

00:58:40
were not getting there fast

00:58:41
enough is because what capital

00:58:43
likes is security, predictability and

00:58:48
certainty. People don't invest to



00:58:51
hit Target 20 years in

00:58:53
the future they invest because

00:58:55
they believe there's a path

00:58:56
to get there that will

00:58:57
be profitable. And so that

00:59:00
is I think a statement

00:59:02
that we're going to need

00:59:03
change in policies, regulations, corporate

00:59:08
strategies and so forth and

00:59:11
clear pragmatic pass to get

00:59:13
from point A to point

00:59:14
B, that's going to change

00:59:16
this calculus of what is



00:59:18

causation when you deal with

00:59:21

what happens to a specific

00:59:22

asset talk to, you know

00:59:23

of course about what happens

00:59:24

in a dispute. What? What

00:59:27

cause and effect, where the

00:59:28

pastor potentially quite different from

00:59:30

what they're going to be

00:59:30

in the future? If we

00:59:32

do infact come up with

00:59:33

these pragmatic strategies to get

00:59:36

from here. To this does

00:59:38

ambitious targets that we've all



00:59:39
been setting and it's going

00:59:42
to raise in my mind

00:59:43
in a lot of these

00:59:44
disputes, whether their investment disputes

00:59:47
or commercial disputes between counterparties.

00:59:52
Not only these issues of

00:59:53
causation but also huge questions

00:59:56
about what is or was

00:59:58
foreseeable and reasonably expected between

01:00:02
parties when the ambitious now.

01:00:05
But the tactics to getting

01:00:07
there. We're not. And those

01:00:08
tactics might be actually the



01:00:10
cause of alleged harm or

01:00:13
significant asset impairment or the

01:00:16
success of one source of

01:00:18
energy versus another Etc. Just

01:00:22
one final thought before finishing.

01:00:27
Regarding the issue of externalities,

01:00:28
I was interested in that

01:00:30
discussion. One of the things

01:00:32
we talked about this week

01:00:33
here, with respect to methane

01:00:36
mitigation and ghg mitigation along,

01:00:38
the gas analogy. Supply chain

01:00:40
was our view. And in



01:00:44
the view of some other

01:00:44
people that what have been

01:00:46
considered externalities. In other words,

01:00:48
carbon prices, carbon taxes, we

01:00:52
all know. Now, the methane

01:00:53
fees in North America could

01:00:57
become increasingly over the course

01:00:59
of the coming years and

01:01:00
decades. Internalized in the trade

01:01:05
of gas analogy. When I

01:01:06
say that what I mean

01:01:07
is that The price of

01:01:11
carbon or the tax on



01:01:12

carbon could become second only

01:01:15

to the actual price of

01:01:17

the commodity, and or its

01:01:19

commercial flexibility, which of the

01:01:22

two things that people mostly

01:01:23

compete on and trade on

01:01:25

or sign contract in relation.

01:01:28

To now it's already happening.

01:01:32

That's these measurements monitoring verification

01:01:36

are being written into long-term

01:01:38

contracts for gas analogy, and

01:01:40

are being factored into at

01:01:42

least exploratory early day Cargoes



01:01:46
and cargo pricing this concept

01:01:48
of clean LNG responsibly-sourced gas,

01:01:51
certified clean, you know, hydrocarbon

01:01:55
Supply such that the industry

01:01:57
I think is one of

01:01:59
its tactics or commercial strategies

01:02:02
for internalizing these things within

01:02:05
the value chain of gas

01:02:08
analogy trade is to essentially

01:02:10
internalized, the price and value

01:02:12
of ghg mitigation into the

01:02:17
actual Contracting and trade of

01:02:19
the product. So I think



01:02:21
that's also quite interesting because

01:02:23
it means that Well, all

01:02:27
those those issues of causation

01:02:28
foreseeability and issues of value

01:02:31
that will come up in

01:02:32
contracts and Commercial counterparty. Discussions

01:02:35
are already starting to happen,

01:02:36
literally as we speak. There

01:02:40
and look forward to discussion.

01:02:45
I don't know if there's

01:02:46
any questions from anybody in

01:02:48
the room here. Stacey has

01:02:50
the microphone if so as



01:02:54

she's a she's going around

01:02:55

the room and I did

01:02:56

have a question really for

01:02:57

all four of you which

01:02:59

is each one of you

01:03:01

talked about risk, allocation in

01:03:04

one way or another. And

01:03:06

you know what? The end

01:03:08

of the day, all disputes

01:03:10

me at least an especially

01:03:11

I'm on the private side

01:03:12

of it, the commercial arbitration

01:03:13

side of it, they boil



01:03:15
down to who held the

01:03:17
risk. And I think that

01:03:20
picks up on what you

01:03:21
were talking about. Chris about

01:03:22
the foreseeability parties can allocate

01:03:25
rest when they foresee arrest,

01:03:27
but to what extent have

01:03:30
they properly? Allocated the rest.

01:03:33
I wonder Greg if you

01:03:34
want to just talk a

01:03:35
little bit about that and

01:03:37
then we'll we'll go around

01:03:38
each of you cuz I



01:03:40
know each of you have

01:03:40
some some more to say

01:03:41
about that. Sure, I'll keep

01:03:44
it short. The parties have

01:03:51
done, but in the absence

01:03:53
of that and I come

01:03:56
in at the time, there's

01:03:57
at least this agreement about

01:03:59
the allocation of rest, I'll

01:04:02
say that disputes. It actually

01:04:05
ripened. There hasn't been at

01:04:08
farsighted allocation of risk typically

01:04:14
More and more. We are



01:04:15

seeing our clients and we

01:04:17

try to part with our

01:04:18

clients and help them. Look

01:04:19

at it. In addition to

01:04:21

represent them would just be

01:04:22

surprised more and more. We're

01:04:23

seeing are starting to think

01:04:25

about these issues in a

01:04:27

way they haven't in the

01:04:28

past and in the few

01:04:30

cases where we have been

01:04:32

approached about potential disputes, what

01:04:34

they thought about it in



01:04:34

advance, we've been able to

01:04:36

avoid Navigation arbitration by proceeding.

01:04:41

So I think it's getting

01:04:43

better both on a regulatory

01:04:45

space, which comes with the

01:04:46

parties do as well as

01:04:47

with the private parties are

01:04:48

doing. But it's perfect and

01:04:50

I think it's going to

01:04:51

evolve over time. Just just

01:04:58

a brief moment. I think

01:05:00

that that's certainly has Greg

01:05:03

was saying the usual and



01:05:05

it's usually specific to each

01:05:08

of the contracts. What I

01:05:10

can say is that was

01:05:12

it may experience. I have

01:05:14

not seen too many cases

01:05:17

and trying to think if

01:05:18

I can think of anything

01:05:19

that we're ubering the risk

01:05:22

of an environmental you hadn't

01:05:25

lost. A key issue may

01:05:30

be what I've seen is

01:05:32

a prospective basis is, for

01:05:36

instance, case is one case



01:05:38
where to take me to

01:05:40
expect the worst and ask

01:05:43
about the definition of a

01:05:44
condo in this concert. So

01:05:53
maybe 20 years ago, he

01:05:55
was more difficult argument to

01:05:59
make one and now it's

01:06:06
really fluid because what was

01:06:08
the other then? Maybe it's

01:06:12
not respect. I can see

01:06:18
some litigation showing up in

01:06:20
that. Way bad. I think

01:06:23
that reminder go to make



01:06:25

Stampy when definition let's say

01:06:29

over today to the time

01:06:37

of the contact. So I

01:06:38

think that respect that. Has

01:06:40

precluded some of the cases

01:06:43

from popping up even though

01:06:44

there is fluidity in the

01:06:47

India location of race Yeah,

01:06:56

thank you so and thank

01:06:57

you to all of the

01:06:59

other speakers super interesting. On

01:07:00

the thing that comes to

01:07:02

my mind. If we talk



01:07:04
about this in this context,

01:07:05
investor-state, we have, we have

01:07:08
had race in here at

01:07:09
fine, with his counsel, to

01:07:10
look a little bit more

01:07:10
deeply into that. And we

01:07:13
in our work, with the

01:07:15
end of the charter trade

01:07:16
last year, and the study

01:07:18
for this purpose and I

01:07:19
think they're you have some

01:07:20
of that the regulatory risk

01:07:22
and how should do who



01:07:23

Bears the burden for the

01:07:25

bacon. And and I think

01:07:28

maybe maybe going forward, it

01:07:32

will be interesting to see

01:07:33

how how the risk of

01:07:35

regulatory change as motivated. By

01:07:39

for example, the fact that

01:07:40

the government is now seeking

01:07:42

to do you have the

01:07:44

example of the Netherlands face

01:07:45

off for some fuel? And

01:07:47

one could argue there at

01:07:49

the consequence of them being



01:07:50

a signatory to for simple

01:07:52

the Paris agreement. It is,

01:07:55

of course, a fact that

01:07:56

has been known for quite

01:07:57

some time. Now if you

01:07:58

would, if you would go

01:07:59

back even further, you could

01:08:00

go back to the Paris.

01:08:01

It's hard to them to

01:08:03

the vehicle for the back,

01:08:07

which is, which is quite

01:08:09

well known about. This is

01:08:10

this is the International Convention



01:08:12
that is binding on the

01:08:13
stage with the clear ambition

01:08:16
is all clear at the

01:08:17
Paris agreement, but it's still,

01:08:20
it's still on. It is

01:08:23
is addressing the climate change

01:08:25
the situation and one could

01:08:28
expect one could argue that

01:08:30
they will be pretentious ass

01:08:32
motivated by a b u

01:08:33
n. F, Triple C. I'm

01:08:34
in many of the renewable

01:08:35
energy case we have seen



01:08:37
their the policy was motivated

01:08:39
by did you an extra

01:08:40
40 and the Kyoto Protocol

01:08:41
at least as described in

01:08:43
the facts of this case

01:08:44
has? So where should one

01:08:47
then put the burden of

01:08:48
understanding what this how this

01:08:49
translates into a regulatory risk.

01:08:51
We have nothing to my

01:08:53
knowledge in any case, how

01:08:54
this Different legal regimes are

01:08:56
being balanced and how that



01:08:58

place out in an actual

01:08:59

dispute. And but I think

01:09:02

that's that'll be very interesting

01:09:04

to you. Cuz then you

01:09:05

would have you would have

01:09:06

elements like a due diligence

01:09:08

before stability and how your

01:09:10

balance back together with expectations

01:09:13

and protection, the catalog. And

01:09:17

then of them who, who

01:09:20

Bears the risk and of

01:09:22

course, you know, putting aside

01:09:23

the specifics of The Facts



01:09:25
of the case with whatever

01:09:26
specifics put the past aside.

01:09:32
Just looking at the terror

01:09:33
that the principle, the principle

01:09:36
issues in that type of

01:09:37
situation. I think I'm hoping

01:09:39
we will see something to

01:09:41
the playoffs, get more details

01:09:44
on that. I'm going forward

01:09:46
because I think it will

01:09:47
be important, then if it

01:09:48
will be important to understand

01:09:50
to what extent, if at



01:09:52

all for sample, the end

01:09:53

of the charter Trade, It

01:09:55

Actually, I'm hindering the energy

01:09:58

transition. This Balancing Act in

01:10:02

the end of that context.

01:10:05

Thank you. Last words, Chris.

01:10:10

I'll just comment a couple

01:10:12

things. I give a presentation

01:10:14

at a bar live conference

01:10:16

in London about stranded assets

01:10:19

and, you know, trying to

01:10:21

share with the audience of

01:10:23

legal practitioners, kind of where



01:10:25
we see it at the

01:10:27
big concentrations of Have you

01:10:30
boil whole kinds of assets

01:10:32
that the risk of being

01:10:35
in an accelerated transition scenario

01:10:37
at risk of being, you

01:10:39
know, over on her face

01:10:40
to out more aggressively in

01:10:42
and where those issues will

01:10:43
be asked very aggressive questions

01:10:47
afterwards by some of the

01:10:48
trade press. There was a

01:10:49
whole line of arguments that



01:10:51

came through in the public

01:10:53

domain about how investor-state and

01:10:56

picking up on Annette's Point.

01:10:57

Investor-state arbitration is a secret

01:10:59

Netherworld where investors go to

01:11:03

get money, you know, to

01:11:06

avoid climate change or to

01:11:07

mitigate the effects on them.

01:11:09

If climate change I think

01:11:11

that narrative is out there,

01:11:13

it is alive and well.

01:11:14

But I actually, you know,

01:11:17

I haven't seen actual climate



01:11:20

change specific cases, come up

01:11:23

very much in international arbitration

01:11:25

when I think of the

01:11:26

renewable energy cases we worked

01:11:28

on her. Even though Gas

01:11:30

cases we worked on, I

01:11:31

would say, you know, climate

01:11:33

change energy, transition or policies

01:11:35

were around the margin, but

01:11:37

I wouldn't say they were

01:11:37

front and center. At least,

01:11:39

not yet, it was something

01:11:42

else, you know, a feed-in



01:11:44
tariff that was put into

01:11:45
place, very aggressively and then

01:11:47
was face down because it

01:11:48
was over done, and it

01:11:50
was a second second. Second

01:11:51
wave of activity. It was

01:11:53
the policy change. Yes, it

01:11:54
was tied into climate policy,

01:11:56
but it wasn't specifically climate

01:11:58
driven per say, things like

01:12:00
that. But what it what

01:12:02
is interesting to me right

01:12:03
now is actually in the,



01:12:04
the US litigation regarding climate

01:12:08
change. There is this big

01:12:10
argument? I think it's fairly

01:12:11
public. And well-known, big argument

01:12:15
about what, you know, the

01:12:16
fossil fuel industry in the

01:12:17
climate Mage, the carbon Majors

01:12:19
should have known allegedly You

01:12:23
know 20 30 years ago

01:12:24
and what they should have

01:12:27
done about it. And so

01:12:28
I think the story these

01:12:29
arguments about what what is



01:12:32

or was foreseeable at various

01:12:35

points in time, what should

01:12:36

have been expected and how

01:12:37

parties behaved might be starting

01:12:39

more in the litigation world

01:12:41

and might then eventually flow

01:12:44

over into the arbitration World

01:12:46

in terms of his issues

01:12:48

of of again foreseeability and

01:12:51

you know, responsible practices and

01:12:55

and also in commercial arbitration,

01:12:57

you know reasonable expectations of

01:13:01

what the risks were when



01:13:03
the investment. You know, contemporaneously

01:13:05
when the investment was made,

01:13:07
or when the party sign

01:13:08
the contract or whatever the

01:13:09
case may be very Dynamic.

01:13:13
I mean, what that was

01:13:14
20 or 30 years ago,

01:13:15
what it is today and

01:13:17
what it'll be ten years

01:13:18
from now is racism. Translating

01:13:23
set of questions. The very

01:13:24
Dynamic situation. Where we are.

01:13:35
I know there is a



01:13:37
question to everyone in the

01:13:39
chat, but I want to

01:13:41
also respect the UN says,

01:13:45
no was fine to go

01:13:46
ahead. Okay. Cuz I was

01:13:48
going to say I know

01:13:49
that we're supposed to move

01:13:50
into networking time, but the

01:13:53
question is, there have been

01:13:54
recent efforts to modernize the

01:13:56
energy chart Charter treaty one

01:13:58
of the features of this

01:13:59
effort is to give States



01:14:01

the option to remove isds

01:14:03

protection for fossil fuel investors

01:14:05

to the panelists, please. Comment

01:14:07

on the implications of these

01:14:08

modernization efforts the potential for

01:14:11

disputes and how do the

01:14:13

recent departures from the ECT

01:14:14

impact. This Yeah, I was

01:14:20

going to say I think

01:14:21

you're not that one might

01:14:22

be for you first. So

01:14:25

I could do that many

01:14:27

different issues in this question.



01:14:29

So I I think at

01:14:30

first, I think the risk

01:14:32

for disputes will depend on

01:14:34

the actions by by my

01:14:36

face. So I, I'm not

01:14:40

so sure whether the motor

01:14:42

nice Tracy asked if he's

01:14:43

supposed to expect them. I

01:14:47

mean, I'm just thinking out

01:14:49

loud here, In practice, we

01:14:53

have not seen nothing Chris,

01:14:54

I will talk to you.

01:14:54

Were alluding to, we haven't



01:14:55
seen so many investor-state cases,

01:14:58
and certainly not in this

01:14:59
city at work, that we

01:15:00
have done, we haven't seen

01:15:01
his. That also goes first

01:15:03
on climate change-related kcsi, although,

01:15:06
of course, one could argue.

01:15:07
That's all of the investments

01:15:09
in renewable, energy fall into

01:15:11
into that bucket that they

01:15:14
are at least. I need

01:15:15
directions to run again yesterday

01:15:16
investors for prompted by this,



01:15:18

but the hook face of

01:15:20

cases that they are, the

01:15:22

ones that we know that

01:15:22

I seen how the current

01:15:28

language of the ECT is

01:15:29

being applied in those kisses

01:15:32

on it and to what

01:15:33

extent for so I supposed

01:15:35

to feel investors for celebrity

01:15:37

investors are sort of them

01:15:40

using the ACT to 4,

01:15:44

they're Percocets and whether that's

01:15:45

what event working against it.



01:15:47

That the cleaner the transmission

01:15:49

needs to be is 2

01:15:50

pi So whether the modernization

01:15:53

the modernization is it's one

01:15:55

of the one of the

01:15:56

one of the purposes is

01:15:59

to ensure that they wanted

01:16:01

to try to trade. It

01:16:02

is not hindering the clean

01:16:03

energy transmission and one of

01:16:05

the one of them useful.

01:16:06

Beans and a fossil fuel

01:16:10

energy would not be protected



01:16:12
under the tree that weather

01:16:13
that in and of itself,

01:16:14
give rice to the state

01:16:16
action that could give rise

01:16:18
to more claims and I

01:16:20
think that's best the best

01:16:22
of hard prediction to make

01:16:24
the recent departures from the

01:16:27
ECP. Springs with a number

01:16:30
of problems that I think.

01:16:31
One of the, one of

01:16:33
them is that it filled

01:16:35
may be difficult for the



01:16:37
modernization to be approved. I'll

01:16:39
give him that. The EU

01:16:40
is a signatory to the

01:16:42
ECT in and of itself

01:16:43
and all of the EU

01:16:45
member states, need to agree

01:16:46
to vote for for the

01:16:49
age of votes. So to

01:16:50
speak to Approve, the modernization

01:16:52
of the new, the new

01:16:53
version of the ECP and

01:16:55
so far, they have not

01:16:56
been able to do that.



01:16:57

Then that the issue was

01:16:58

postponed that I don't think

01:17:00

the new text with the

01:17:01

more than I see if

01:17:01

he was supposed to be

01:17:02

at the most recent energy

01:17:05

started conference was passed on

01:17:07

to the spring. But if

01:17:09

the if the signatories to

01:17:10

be nice, if he cannot

01:17:12

all agree on which of

01:17:15

the tree did down, there

01:17:17

will be no more night



01:17:18

station on the trade is

01:17:19

a bath. I think it's

01:17:20

the variable. That is something

01:17:22

to watch for the spring

01:17:24

to see. What is the

01:17:25

EU member states? Will find

01:17:27

a way for a joint

01:17:28

vote to enable that you

01:17:31

do to vote in a

01:17:32

certain way in the Mormon

01:17:33

station process. Antoinette. I think

01:17:36

we have a question here

01:17:37

in the room. Thank you



01:17:40
for the lecture and I

01:17:41
have just two questions regarding

01:17:43
our Lindsay, another for the

01:17:45
oboes, I'll be around very

01:17:46
quickly regarding the LNG. Asked

01:17:50
me is in Greece for

01:17:53
the oranges are made so

01:17:54
maybe I can ask you

01:17:55
if I made China is

01:17:58
China was the biggest fire

01:18:01
last year and also the

01:18:02
u.s. is the biggest spot

01:18:05
supplier to China last year



01:18:07

but this year things has

01:18:08

been changed. You too many

01:18:10

issues, especially the war and

01:18:13

So the first one is

01:18:16

generally held you foresee the

01:18:18

future trade, don't you trade

01:18:21

between the two biggest M

01:18:22

& S regarding the terms

01:18:25

that g g terms. You

01:18:26

mentioned in the new long-term

01:18:27

contract which is really interesting

01:18:29

so he'll do you first.

01:18:31

See those two I believe



01:18:33
in the current long-term contracts

01:18:36
between China and the US

01:18:37
they don't have those terms.

01:18:38
I told you for seeing

01:18:40
those changes can impact the

01:18:42
trait. They're just right between

01:18:43
those two countries. Thank you.

01:18:47
Excellent questions. I've given literally

01:18:51
hours of presentations charts graphs

01:18:54
and Analysis of that, that

01:18:56
would probably be better to

01:18:57
talk about offline than to

01:18:59
try to summarize in a



01:19:00
few minutes of common are,

01:19:01
but just very broad Strokes.

01:19:08
Regarding the issue of the

01:19:10
change and trade between the

01:19:12
US and China. There are

01:19:14
many factors at play, you

01:19:16
mentioned one or two of

01:19:18
them. But I would also

01:19:19
say, you know, zero covid

01:19:20
policy and the deceleration of

01:19:23
Chinese consumption of energy and

01:19:26
particularly Imports of LNG has

01:19:28
been very material this year



01:19:30

so far, but you're sober

01:19:33

as well as other factors

01:19:38

related to the end of

01:19:39

China. Is one of the

01:19:40

major importers like India, that

01:19:43

is very price-sensitive and of

01:19:46

course because of the war

01:19:48

and the International Energy security

01:19:50

crisis in particular, you're up

01:19:52

absorbing such an enormous volumes

01:19:55

of LNG, the price has

01:19:57

reached, you know, at some

01:19:58

periods of time. Reduce level,



01:20:02

while the straightest achieve, some

01:20:05

some strange patterns reduce liquidity

01:20:08

and exceptionally high prices and

01:20:11

that's resulted in. You know,

01:20:12

people talking about India, exiting,

01:20:15

the market for a number

01:20:16

of years, just sitting on

01:20:17

the sidelines and waiting for

01:20:19

a collaboration and China reducing

01:20:22

its purchases. The other thing

01:20:24

that has to be said,

01:20:25

is China's ramping up its

01:20:27

import a pipeline gas and



01:20:28

LNG from Russia in. That's

01:20:31

another, you know, sort of

01:20:32

geopolitical factor that is at

01:20:33

play. When it comes to

01:20:35

u.s. Chinese LNG, trade was

01:20:37

just many different things going

01:20:39

on there. It's hard to

01:20:40

give a simple summary with

01:20:43

the other. Very interesting question

01:20:44

about the impact of ghg

01:20:48

emissions, intensity on the supply

01:20:50

chain and incorporation in contracts

01:20:53

and how that will affect



01:20:54

trade. We've actually done really

01:20:56

an enormous amount of analysis

01:20:57

on that. I think I'll

01:21:00

Leave it as simple as

01:21:02

saying, if it doesn't argue

01:21:03

affect trade, a lot, it

01:21:05

shifts. The sources of Supply

01:21:09

a bit, it's shifts the

01:21:11

patterns of imports in consumption.

01:21:13

So it changes the trade

01:21:14

routes a little bit. And

01:21:16

depending on what your assumption

01:21:17

is regarding the level of



01:21:19

taxes, fees, carbon quarter taxes,

01:21:21

or whatever. The case may

01:21:22

be, that it would become

01:21:23

applicable including, you know, eu-ets

01:21:26

or possible carbon prices in

01:21:28

Japan or some sort of

01:21:30

trade penalties etcetera on the

01:21:34

HD content at Borders and

01:21:37

beaches. It can have you

01:21:39

no impact measured in dollars

01:21:41

per mmbtu instead of sense.

01:21:43

And the last thing I'll

01:21:44

say is we a lot



01:21:45
of people in the industry

01:21:46
of done the work to

01:21:47
figure out that, the mitigation

01:21:48
itself doesn't cost dollars for

01:21:51
a movie to it cost

01:21:52
cents per mmbtu and saw

01:21:54
the opportunity to avoid costs

01:21:57
or create premium value. And

01:21:59
at the Very low-cost investment

01:22:02
them in the incentives are

01:22:02
all their the commercial opportunities,

01:22:05
the Technologies are improving and

01:22:07
and Mastiff eyeing. You know,



01:22:10
very rapidly. So we expect

01:22:13
this is going to be

01:22:13
a very very big Trend.

01:22:15
Especially with ESG Capital discipline

01:22:18
and the challenge of getting

01:22:20
new long-term contract signed getting

01:22:22
new Investments, sanctioned authorized loans

01:22:26
approved, having a certified clean

01:22:30
Parvo is a really you

01:22:32
know critical thing in clean

01:22:34
car, go clean contract, that

01:22:35
are better said really critical

01:22:37
thing to the bottleneck. Some



01:22:39
of those challenges to long-term

01:22:41
Contracting such as for European

01:22:43
buyers who don't want to

01:22:44
go 15 20 years in

01:22:46
the future on a fossil

01:22:47
Supply and less. It's very

01:22:49
clean and then ultimately on

01:22:52
Project financing in and taking

01:22:54
a Friday. Thank you so

01:22:58
much to our panelists and

01:23:01
that Greg Pablo Chris just

01:23:04
a fantastic panel today, really?

01:23:06
Appreciate, everybody's participation. And I'm



01:23:08

sure that many conversations will

01:23:10

continue offline of the thank

01:23:13

you again, also to washing

01:23:15

arbitration week and everybody who

01:23:16

organized this