

Disputes Originated by Energy Transition Policies *

Summary

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

The Washington Arbitration Update session focused on the intersection of energy transition policies and international arbitration, particularly in the context of Latin America, with a specific emphasis on Colombia. The session was moderated by Jose Antonio Rivas, co-founder of World Arbitration Update, who introduced key panelists including experts in energy, economics, and international law.

The discussion highlighted the increasing relevance of renewable energy in the Americas, particularly in Colombia, where the government has initiated policies aimed at transitioning from fossil fuels to renewable energy sources. A key point raised was the potential for disputes arising from regulatory changes, such as the proposed ban on fracking in Colombia and similar measures in other countries, like Slovenia and the Netherlands, which have led to international arbitration cases.

Panelists discussed various case studies, including Spain's past experiences with renewable energy regulations that led to over 50 investor-state disputes, and Italy's similar challenges. The conversation also touched on the Energy Charter Treaty (ECT) and its role in protecting investments in both fossil fuel and renewable sectors, while noting criticisms that it may hinder states from implementing necessary energy transition policies due to fears of litigation.

Challenges related to the electric grid and infrastructure were also addressed, emphasizing the need for significant investment to facilitate the transition to renewable energy. The panel concluded with a discussion on the complexities of navigating disputes in the context of sweeping policy changes and the importance of balancing regulatory rights with investor protections.

Overall, the session underscored the intricate dynamics between energy policy, investment protection, and the emerging landscape of international arbitration, particularly as countries strive to meet ambitious climate goals while managing legal and economic risks.



Authors

Ricardo Alarcón, Alberto Zuleta, Adriana Espinel, Kurt Strunk, Carola Rojas, Martha Isabel Cobo

Topics

Energy, Energy Disputes, Energy Transition Policies, International Arbitration

Category

WAU

Full Transcript

00:03:10

Okay, so We are about

00:03:14

to start so welcome to

00:03:17

World of rotation update. This

00:03:19

is the the Americas World

00:03:22

arbitration update. This is the

00:03:24

third time that we do

00:03:26

this in Columbia. And with

00:03:27

the with great pleasure. I

00:03:29

see that we have a

00:03:30

full house here and I

00:03:32

am pretty sure that there

00:03:33

are other people online. So

00:03:36

we're making significant progress in

00:03:39

terms of attendance and we

00:03:41

have a wonderful sponsors both

00:03:45

Nira and think this this

00:03:51

this new format effort. My

00:03:53

name is Jose Antonio Rivas,

00:03:55

if if if you have

00:03:58

seen other panels apologies for

00:03:59

seeing, you know, my presenting

00:04:02

myself so many times if

00:04:03

you have not thanked you

00:04:06

and you understand why I'm

00:04:07

presenting myself. I'm the co-founder

00:04:10

of of world arbitration update

00:04:12

together with e Cleared from

00:04:15

Crowell & moring and I

00:04:17

do investment at practice in

00:04:19

International Investment arbitration International commercial

00:04:23

arbitration and public international law

00:04:24

from a boutique law firm

00:04:27

called extra glp, which is

00:04:29

based in Washington DC and

00:04:30

it also has presence in

00:04:31

Bogota Colombia. I also teach

00:04:34

the same subject investment arbitration

00:04:36

and public international law Georgetown

00:04:39

law. It is with great

00:04:41

pleasure that that that were

00:04:43

giving We're we're having this

00:04:48

panel, which is is a

00:04:52

key panel on the only

00:04:57

aspect of renewable energy an

00:04:59

international arbitration. We did not

00:05:02

limit the scope to either

00:05:07

investment or International commercial arbitration

00:05:09

on purpose. It is a

00:05:13

subject that that is of

00:05:16

course on point for so

00:05:18

many reasons in the Americas

00:05:21

an end in perspective is

00:05:25

is the regional perspective here

00:05:27

from Colombia. There's a lot

00:05:29

of renewable energy in terms

00:05:33

of solar power in terms

00:05:35

of wind power in terms

00:05:37

of possibilities of hydrogen and

00:05:39

etcetera. So I wouldn't go

00:05:41

into the into that that

00:05:42

is the task for for

00:05:44

our moderator as well as

00:05:45

introducing at Let me however

00:05:49

introduce Ricardo Alarcon afternoon Ricardo

00:05:55

for at least 15 years,

00:05:59

perhaps I first met at

00:06:01

the castle as he was

00:06:03

a a a law student

00:06:04

at perhaps at the end

00:06:06

of his his his years

00:06:07

at Los Angeles University. He

00:06:10

was part of the Los

00:06:14

Angeles team that went on

00:06:18

to compete in the National

00:06:21

rounds and later in the

00:06:22

in the world rounds of

00:06:24

the Philip. And this has

00:06:28

been I believe the only

00:06:33

team that has won the

00:06:36

competition of Columbia and one

00:06:39

of the few that has

00:06:39

won the competition of Latin

00:06:43

America and and the and

00:06:44

it's no baby. World champion

00:06:48

is Legend and I have

00:06:49

the pleasure of listening to

00:06:51

him and and and also

00:06:52

to hear to his team

00:06:56

members and also contributing by

00:07:00

helping them in the training

00:07:02

in for the all around.

00:07:03

So it's really a pleasure

00:07:05

to know. I also do

00:07:11

like he was at some

00:07:13

stage and Associates Sherman Sterling

00:07:15

and now he is the

00:07:18

director of an international arbitration

00:07:24

and Martinez, which is a

00:07:26

which is a Colombian firm

00:07:28

at but but with the

00:07:29

original reach so and I

00:07:32

could go on and on

00:07:32

and I don't think that

00:07:34

he would appreciate that. So

00:07:35

if you can't do you

00:07:36

have the store? Thank you.

00:07:37

Thank you very much for

00:07:39

San Antonio for for the

00:07:40

kind words, and I thank

00:07:44

you for organizing this event.

00:07:49

And what I will do

00:07:51

as a moderator out, I'll

00:07:53

begin by introducing the panelists

00:07:55

hopefully brief introduction of the

00:07:58

of the topic at hand

00:07:59

before the floor to the

00:08:02

panelists. So they will be

00:08:05

speaking we have here must

00:08:07

become a professor. She's a

00:08:11

professor at 1 and she's

00:08:15

also the dean of the

00:08:16

faculty of engineering there and

00:08:18

she's a chemical engineering from

00:08:24

the University and she has

00:08:27

worked on various projects and

00:08:28

investigations relevant to the energy

00:08:30

transition renewable energy and climate

00:08:32

change including relation to production

00:08:35

of green hydrogen and CO2

00:08:38

capture. Then we will hear

00:08:41

from Kurt Strunk who is

00:08:43

a senior managing director at

00:08:45

Nera which is an economic

00:08:47

consulting firm that provides advice

00:08:49

in international arbitration and litigation

00:08:51

matters. Is an energy and

00:08:55

finance expert he has 25

00:08:57

years of experience working in

00:08:59

energy disputes and as an

00:09:00

adviser to energy companies governments

00:09:03

and regulators and he has

00:09:05

taken the stand in more

00:09:06

than 100 energy-related disputes. Then

00:09:11

we will hear from Alberto

00:09:12

spinetta Alberto. He's a partner

00:09:23

at the arbitration and litigation

00:09:25

practice of guava Casas and

00:09:28

he has appeared before the

00:09:36

Columbian courts would also International

00:09:38

tribunals under the ICC on

00:09:41

Central and icdr rules. We

00:09:45

also have kado. Rojas. She's

00:09:47

the head of arbitration at

00:09:50

a very important Energy company

00:09:51

in Columbia called the attorney

00:09:57

in the energy industry, and

00:09:58

she's held positions in various

00:10:00

other energy companies prior to

00:10:02

her current role at including

00:10:04

Pacific Midstream limited and Pacific

00:10:06

Stratus energy Columbia Court. And

00:10:09

finally, we have found Sarah.

00:10:10

He is a senior managing

00:10:13

director focusing specifically on developing

00:10:18

and overseeing issue Management Programs

00:10:20

to address high-stakes corporate challenges,

00:10:22

including acute political risk. so

00:10:30

to introduce a topic we're

00:10:31

here to discuss disputes arising

00:10:35

from energy transition policy. So

00:10:37

obviously what is the energy

00:10:40

transition and briefly I won't

00:10:43

tell into this a lot

00:10:43

because who's the expert in

00:10:46

this field will tell us

00:10:47

a bit more about that

00:10:48

shift from fossil fuels to

00:10:52

renewable energy for clean energy

00:10:54

sources and the main goal

00:10:57

is to combat climate change

00:11:01

and of course to achieve

00:11:04

in energy production and distribution

00:11:09

and consumption. Entergy States August

00:11:13

we need to adopt policies

00:11:14

to transform their energy Frameworks.

00:11:18

And as we all know

00:11:19

regulatory change often leads to

00:11:22

Legal disputes. So I want

00:11:27

to talk about Colombia. What's

00:11:29

what's what's what's happened here

00:11:31

in Columbia. And of course,

00:11:34

the current government has taken

00:11:35

certain measures to further the

00:11:38

energy transition one that comes

00:11:41

to mind is a ban

00:11:43

on fracking the government since

00:11:45

August 2022 has pushed for

00:11:48

a ban on fracking as

00:11:51

an energy transition policy policy

00:11:54

has not yet been approved.

00:12:03

Felt in terms of international

00:12:05

arbitration disputes for example in

00:12:08

July last year a commercial

00:12:10

arbitration was initiated by subsidiaries

00:12:12

of a Canadian company called

00:12:14

Santana energy against ExxonMobil. The

00:12:18

two companies were signed agreement

00:12:21

to jointly operate and develop

00:12:22

a oil field using fracking

00:12:25

however ExxonMobil withdrew unilaterally from

00:12:29

this project and presumably at

00:12:33

least in part due to

00:12:34

the government's opposition for tracking

00:12:38

this ban on fracking was

00:12:42

Probably going to take effect.

00:12:48

Other states however have implemented

00:12:50

already complete bans on fracking

00:12:53

one example that comes to

00:12:54

mind is Slovenia, which is

00:13:01

natural gas and this led

00:13:03

to invest in arbitration disputes

00:13:06

filed by the UK company

00:13:08

Ascent resources, which had been

00:13:10

awarded the rights to exploit

00:13:12

an oil and gas field.

00:13:15

Using the back of methodology

00:13:16

that case is pending. So

00:13:18

we don't know what the

00:13:21

results will be energy transition

00:13:28

policies is coal and coal

00:13:31

fired energy plants. For example

00:13:35

is one country that has

00:13:36

taken action in this regard

00:13:37

is the Netherlands in 2019

00:13:43

by which Coal Fired power

00:13:46

plant super to be completely

00:13:47

phased out and this investor-state

00:13:51

dispute against the Netherlands one

00:13:53

filed by the German company

00:13:54

r w Germany Coal Fired

00:14:00

power plants in the Netherlands.

00:14:05

Now I want to admission

00:14:07

to speed stemming from policies

00:14:09

that affect fossil fuel companies,

00:14:10

but there's also another side

00:14:13

to the story. That's because

00:14:17

energy transition policy not only

00:14:18

affect companies in the fossil

00:14:20

fuel sector, but they also

00:14:21

affect renewable energy companies who

00:14:25

obviously are the actors at

00:14:28

the Forefront of the energy

00:14:29

transition. And of course there

00:14:31

have been many and I

00:14:34

really need many disputes in

00:14:35

this field obvious case of

00:14:37

Spain. Spain is a country

00:14:41

that in the 1990s Implemented

00:14:46

reforms to to stimulate investment

00:14:48

in renewable energy and these

00:14:51

reforms are actually very successful

00:14:53

a lot of investment in

00:14:56

photovoltaic Thermo solar wind. Fame

00:15:02

enter into the country, but

00:15:05

after a few years Spain

00:15:07

faced as significant deficit and

00:15:10

so unresponsive that regulatory framework

00:15:13

that was very beneficial for

00:15:15

renewable energy companies removing. Obviously,

00:15:22

a lot of investors felt

00:15:25

that their rights under the

00:15:27

protection trees had been affected

00:15:30

and a lot of them

00:15:31

initiated investor-state dispute against pain.

00:15:35

No less than 58 disputes

00:15:38

have been initiated against pain

00:15:39

most of them in favor

00:15:44

of the investors and there

00:15:46

are at least fifteen there

00:15:47

are still pending. So this

00:15:48

is an ongoing story. Between

00:15:52

is not the only country

00:15:53

that has a similar situation

00:15:56

other countries. For example, Italy

00:15:58

faced an almost identical situation.

00:16:02

They offered a lot of

00:16:06

incentives to renewable energy companies.

00:16:08

A lot of there was

00:16:11

a lot of foreign investment

00:16:11

coming into the country and

00:16:14

after a few years, they

00:16:15

decided to remove some of

00:16:16

the benefits offered to foreign

00:16:17

investors or two renewable energy

00:16:19

investor. Sorry as a result.

00:16:23

There were multiple investor-state arbitration

00:16:28

filed against Italy just to

00:16:30

name a couple of examples

00:16:31

and cavities and others versus

00:16:33

Italy in which the investor

00:16:35

has claimed was dismissed. And

00:16:37

also ESPN Raiders vs. Italy

00:16:39

which had the opposite results.

00:16:41

The state was found liable

00:16:43

in that in that dispute.

00:16:47

I want to take a

00:16:47

moment to discuss international tree

00:16:51

under which most of these

00:16:53

renewable energy disputes have been

00:16:56

initiated in the ACT is

00:17:02

a multilateral convention and what

00:17:06

is precisely to afford protection

00:17:09

to investors in the energy

00:17:12

sector energy at large doesn't

00:17:14

differentiate between fossil fuel investors

00:17:16

or renewable energy investors. popular

00:17:23

let's a convention a lot

00:17:25

of States became parties to

00:17:28

the convention Most states in

00:17:29

Europe a lot of states

00:17:31

in Central Asia and further

00:17:33

place like Japan, for example

00:17:38

however, the ECP has come

00:17:41

under a lot of scrutiny

00:17:42

lately because it's been criticized

00:17:46

as hindering the energy transition

00:17:49

by creating a so-called regulatory.

00:17:53

Chill. Meaning that states are

00:17:56

afraid of adopting energy transition

00:17:59

policies because they might be

00:18:02

They might face as a

00:18:03

result investor-state dispute from fossil

00:18:10

fuel. So there were efforts

00:18:15

recently to reform the energy

00:18:18

charger treaty to exclude to

00:18:21

withdraw protections offered to fossil

00:18:23

fuel investors. Therefore leaving the

00:18:25

convention solely at protecting renewable

00:18:29

energy and best resort or

00:18:30

other energy investors those reforms

00:18:32

however, failed and many member

00:18:35

states states are now opting

00:18:37

instead to withdraw entirely from

00:18:38

the convention of states that

00:18:43

have withdrawn or harvest drawing

00:18:49

or plan to withdraw. For

00:18:50

example, Germany, France Italy Spain

00:18:52

the Netherlands and the UK

00:18:54

as the latest state to

00:18:56

have announced that it intends

00:18:58

to withdraw from the convention.

00:18:59

So I just want to

00:19:02

highlight the fact that this

00:19:03

is a complex issue. Because

00:19:07

by the ACT Zone calculations

00:19:08

about 60% of arbitrations brought

00:19:12

under the ACT concern Renewable

00:19:14

Power Generation and always about

00:19:16

35% concerned fossil-fuel self, ironically

00:19:20

could be said that the

00:19:22

ECT Works in favor of

00:19:25

the energy transition by protecting

00:19:26

and encouraging investment in renewable.

00:19:30

And according to some commentators

00:19:32

withdrawing from the hinder. I'm

00:19:42

running out of time. So

00:19:43

if there's one last topic

00:19:44

that I would like to

00:19:44

discuss and that is the

00:19:46

electric grid and change it

00:19:48
to the electric grid. Which

00:19:52
is a crucial topic for

00:19:53
the energy transition as we

00:19:56
know it renewable energy is

00:19:57
generated in remote places no

00:19:59
place with a lot of

00:20:00
Thunder with a lot of

00:20:00
wind that aren't necessarily close

00:20:02
to the places where the

00:20:05
energy is going to be

00:20:05
used. And so there has

00:20:08
to be inappropriate electric grid

00:20:13
infrastructure so that the energy

00:20:15

can reach the urban centers

00:20:17

and I'd like to mention

00:20:20

a an article. I read

00:20:22

The Economist which came out

00:20:24

in April last year. It's

00:20:25

called hug pylons not trees

00:20:26

the case for an environmentalism

00:20:28

that builds and the gist

00:20:29

of that article is Apollo.

00:20:32

economy says that the scale

00:20:34

of the changes needed to

00:20:34

adapt the world the electricity

00:20:36

grids for the energy energy

00:20:37

transition is vastly underappreciated and

00:20:40

too little investment is taking

00:20:41

place just to get a

00:20:43

grasp of The investment is

00:20:47

needed the total cost for

00:20:50

the entire energy transition is

00:20:51

calculated as being divided 55%

00:20:54

for new energy generation, but

00:20:56

45% that's almost half for

00:20:59

distribution transmission storage systems that

00:21:01

are needed to make that

00:21:03

supply of energy usable. However,

00:21:06

investment ingrates is way way

00:21:08

below what is needed. The

00:21:10
economist calculate said it's about

00:21:12
a quarter of what it

00:21:14
should be at the moment

00:21:15
and to make things worse

00:21:18
according to the economist. There

00:21:19
is too much undue for

00:21:22
unwarranted opposition to building the

00:21:25
electric grid infrastructure that is

00:21:26
needed by the very environmentalist

00:21:29
that supports of the energy

00:21:31
transition. How to spell a

00:21:36
discussion in Columbia specifically we

00:21:41
are facing obstacles with the

00:21:42

electric grid and even though

00:21:45

we haven't seen disputes arise

00:21:47

from this issue there very

00:21:50

well might be in the

00:21:53

future one example. This is

00:22:00

a key project for the

00:22:01

energy transition in Columbia. A

00:22:08

great amount of the wind

00:22:09

farms that are being built

00:22:10

in the north of Columbia

00:22:12

and what he has assigned

00:22:12

to the National electricity system.

00:22:18

So without this one electricity

00:22:21

line all that wind power

00:22:24

will be unusable. So the

00:22:28

problem is that the project

00:22:29

faced very long delays. I

00:22:32

think it was 3 years

00:22:33

because there were difficulties in

00:22:36

completing the mandatory consultations or

00:22:38

is it called him here

00:22:39

comes with numerous local? So

00:22:44

I just want to highlight

00:22:46

that fact as an example

00:22:47

of a factual situation that

00:22:50

even though it hasn't let

00:22:51

the disputes yet. They very

00:22:53

well could and actually in

00:22:55

other countries that has already

00:22:57

been the case and coincidentally,

00:23:01

it involves a Colombian company

00:23:03

that makes a claim against

00:23:09

what their my last few

00:23:09

years ago precisely under similar

00:23:12

circumstances. They were building or

00:23:16

they are building one of

00:23:18

the most important projects in

00:23:21

Guatemala which concerns enough enough

00:23:23

weight to the electric grid

00:23:25

and the project has faced.

00:23:28

Numerous obstacles with the authorities

00:23:31

but also with the local

00:23:32

communities who have opposed the

00:23:34

project. So I just want

00:23:38

to say this is another

00:23:41

type of dispute that related

00:23:44

to the energy transition that

00:23:46

we will have to look

00:23:48

out for in the future.

00:23:50

So would that I wanted

00:23:52

to provide just a general

00:23:53

landscape of a few interesting

00:23:54

topics that that relate to

00:23:57

the energy transition and disputes

00:23:59

arising from the energy transition

00:24:01

and now we can get

00:24:03

to to the nitty gritty

00:24:04

and we'll start with and

00:24:14

we'll hear about energy transition

00:24:18

and the goals that states

00:24:20

have acquired in that regard

00:24:23

and potential that is a

00:24:26

noble energy. So, please thanks

00:24:31

Ricardo and organized because he

00:24:33

remotely learning definitely my background

00:24:38

is Ricardo mentioned. So I've

00:24:44

been working all my research

00:24:46

life on producing energy. Okay,

00:25:03

so we can start with

00:25:04

this. next. So I'm sure

00:25:15

you already know more than

00:25:17

me that energy is going

00:25:18

to be increasing the demands

00:25:21

or we're going to need

00:25:22

more and more energy is

00:25:26

supplied by a demon of

00:25:28

the population and improve the

00:25:31

quality of life. So we

00:25:33

need to look for new

00:25:36

energy sources. That's the problem

00:25:42

here is that energy is

00:25:44

coming from the combustion of

00:25:46

fossil fuels and this process

00:25:48

is releasing CO₂ gases to

00:25:52

the environment. We can say

00:26:04

we are sure that there

00:26:08

is increasing the temperature of

00:26:10

the plant so Netflix. Next

00:26:17

time so the first picture

00:26:29

is fire symbol with out

00:26:32

early this year. So we

00:26:40

are having fires on hurricanes

00:26:44

in places. We didn't get

00:26:46

Jaden early and also many

00:26:53

species of releasing high amounts

00:26:58

of carbon dioxide in the

00:27:00

ocean and increase payments crisis.

00:27:05

We are facing right now.

00:27:09

We all know the difference

00:27:16

between 5 degrees C and

00:27:23

we are April 2015 and

00:27:25

will be able to get

00:27:29

it at least 50% of

00:27:35

the CO₂ emissions for 2004

00:27:46

Jetta diesel station. So the

00:27:48

United Nations has a to

00:27:50

sustainable development affordable energy. hey

00:28:03

Irina, the international renewable energy

00:28:06

transformation of the global energy

00:28:15

sector from for sale of

00:28:19

the century and male by

00:28:31

Renault energy deployment in the

00:28:36

entire world 90% of these

00:28:38

are gonna produce the carbon

00:28:40

reduction we need And the

00:28:44

energy transition we know that

00:28:46

will be enabled by information

00:28:47

technology is Martin neurology. And

00:28:50

the reason we are here

00:28:51

for TC framework, maybe new

00:28:53

policy Frameworks and Market in

00:28:55

Surrey. So just to bring

00:28:59

the table the target of

00:29:02

the universal access to Affordable

00:29:06

Energy Service Services increased substantially

00:29:12

the share of renewable energy

00:29:13

in the global market mix.

00:29:20

But also we have some

00:29:22

at a specific targets related

00:29:25

to enhance International cooperation that's

00:29:28

going to be very important

00:29:29

to complete a task to

00:29:31

clean energy research and technology

00:29:32

and also the second that

00:29:36

I want to mention is

00:29:38

expanse infrastructure and technology in

00:29:45

developing phones. So definitely, this

00:29:47

is not a very easy

00:29:48

optimization a problem. Columbia at

00:29:55

without mentioning a has the

00:29:57

potential and worldwide in a

00:30:00

morally in a songs of

00:30:08

the country most the right.

00:30:18

You can see the challenges

00:30:27

we are. Can we have

00:30:31

some data of the potential

00:30:33

we have been calculated by

00:30:35
2050 for a queen and

00:30:40
solar energy yellow mostly in

00:30:43
north and east as we

00:30:45
are going to need. In

00:30:58
the amounts URC ended so

00:31:01
just to finish the challenges

00:31:03
of the energy transition are

00:31:04
related to a technical economic

00:31:08
current rotation wants scaling of

00:31:12
renewable energy infrastructure and independence

00:31:18
with prices. So I think

00:31:22
this is a generation that

00:31:24
has to build these coordination

00:31:29

problem. So we are going

00:31:47

to need International cooperation with

00:31:50

renewable energy and sustainable to

00:31:56

face these we are face

00:32:00

it. We have a human

00:32:01

kindness right now. Thank you.

00:32:06

Thank you very much monthly

00:32:08

tile. That was perfect timing

00:32:10

to drink. I have to

00:32:11

say it's from the other

00:32:19

panelists anyone has. I do

00:32:23

I do want to ask

00:32:25

a question and it relates

00:32:27

to sustainable development goals 7.

00:32:29

Would you mention there in

00:32:30

your slides according to that?

00:32:32

They should significantly expand their

00:32:37

infrastructure in renewable energy. And

00:32:40

my question is how ambitious

00:32:42

you think that? They should

00:32:46

be in achieving that goal.

00:32:48

And I asked this question

00:32:50

in the context of the

00:32:53

Spain in Spain one could

00:32:58

say that. The state was

00:33:01

perhaps too ambitious of one

00:33:02

point in sitting in schools

00:33:03

in an expanding its energy

00:33:06

infrastructure offered incentives and then

00:33:10

because of physical economically reasons

00:33:12

had to backtrack and this

00:33:14

obviously led to a massive

00:33:15

wave of dispute. So I

00:33:17

guess my question is how

00:33:19

ambitious do you think that

00:33:20

states should be in setting

00:33:22

their goals? I think you

00:33:28

have fun like they're in

00:33:29

aspic. The success of implementing

00:33:41

sdga every price analyzing the

00:33:46

current energy landscape policy environment

00:33:49

& infrastructure capabilities. I want

00:33:53

to focus on Monday. We

00:33:55

need to build caparelli capacities

00:33:58

in our country is definitely

00:34:01

a sot going to make

00:34:02

factors and Columbia specific information

00:34:07

on potential. I am convinced

00:34:09

of that for significantly increasing

00:34:11

the share of renewable energy.

00:34:13

We need to work on

00:34:17

continuous support around it. We

00:34:23

are right in the middle

00:34:24

of the second 2025 Model

00:34:28

A and we need every

00:34:31

Wings by 2030 if we

00:34:34

can get some regarding these

00:34:37

energy transition in the thirties

00:34:42

and forties are going to

00:34:43

be easier in the energy

00:34:45

transition. Fighting Columbia to Tel

00:34:50

Dan Beacham the goals for

00:34:51

Liverpool energy infrastructure recognizing the

00:34:55

multiple benefits again, in terms

00:34:59

of climate action economic growth

00:35:01

and energy security. We need

00:35:05

we need the balance. We

00:35:10

know more than me and

00:35:12

those aspects with a note

00:35:15

so we can become a

00:35:16

regional leader in renewable energy

00:35:18

has right now we are

00:35:20

becoming intern some green hydrogen

00:35:22

a patient experience. We Joseph

00:35:27

painting our initial political framework

00:35:29

from the government to your

00:35:31

four years ago and that

00:35:32

was enough for getting in

00:35:35

touch with the lateral associations.

00:35:38

We are participating hydrogen hydrogen

00:35:42

hydrogen Association, so we are

00:35:48

I'm talking on in touch

00:35:49

with the government to promote

00:35:51

policies we need to do

00:35:54

it and I know it

00:35:55

so we have cleared research

00:35:57

funding Ministry of science is

00:36:01

a clear line in supporting

00:36:05

research on hydrogen. So that

00:36:09

combine are allowed to develop

00:36:12

capacities in the country and

00:36:14

we are a regional leader

00:36:17

in this topic. So this

00:36:22

early we can give us

00:36:24

a confidence and hope I

00:36:27

think we have a start

00:36:28

with that and I just

00:36:30

want to mention the realistic

00:36:33

goals that we can Define

00:36:37

to work on this ambition,

00:36:39

but realistic targets for example

00:36:44

of resources as I do

00:36:46

with hair when it What

00:36:48

we have and how much

00:36:50

is going to cost, you

00:36:51

know, what role in these

00:36:52

places and these calculations must

00:36:55

be constant because all the

00:36:56

time political and Technical and

00:36:59

social aspects are affecting the

00:37:01

cost of the sustainable energy.

00:37:04

We need incremental targets. So

00:37:09

we have to be an

00:37:10

assistant achievements and capacities. For

00:37:13

example, natural gas. I think

00:37:14

that's I think that's why

00:37:17

I got some fuel so

00:37:19

we have to work with

00:37:20

that and if we moved

00:37:22

our natural gas employment, we

00:37:25

easily can move to hydrogen

00:37:27

and electrical Grid electric acadian

00:37:31

of the industry in Columbia.

00:37:33

And also quality and Regulatory

00:37:35

framework, which is no disease

00:37:37

that has a stroke a

00:37:38

strong point in Colombia seems

00:37:40

that you are the expert

00:37:41

infrastructure development. As you said

00:37:45

that we need to create

00:37:46

an infrastructure and energy storage

00:37:49

is Margaret Technologies. So that's

00:37:52

why we need research incorporated

00:37:53

International cooperation is stakeholder engagement

00:37:56

including local communities private sector

00:38:01

players international Partners have to

00:38:04

Define how to talk and

00:38:07

how to manage this conversation

00:38:09

because he's not easy with

00:38:11

the national company and the

00:38:14

government might. I don't know

00:38:16

how do you face that

00:38:18

station of the time? How

00:38:22

did these policies are working

00:38:24

bring us important lessons and

00:38:31

sure if for example Is

00:38:34

written policy stability again, another

00:38:37

word for interior designing financially

00:38:42

sustainable incentives right now 18,

00:38:44

we don't have almost incentivise.

00:38:46

I don't think Colombia has

00:38:49

the risk of unsustainable incentive

00:38:53

because we don't have conducted

00:38:56

you planning to have an

00:39:00

economic and fiscal planning of

00:39:03

these Investments protecting in the

00:39:05

investor interest adopting faces approach

00:39:11

is starting with this morning

00:39:13

is smaller a manifold of

00:39:15

manifolds project and go in

00:39:18

Italian up as I mentioned

00:39:23

in these communities and companies

00:39:26

communication. So is this a

00:39:30

very hard question, but I

00:39:31

tried to answer some phones

00:39:33

and bring them to the

00:39:34

same thing. I will move

00:39:39

on to hear Kurtz discuss

00:39:45

the potential energy transition and

00:39:49

the complexity of quantum assessment

00:39:51

cell. Please hurt. Good afternoon.

00:39:54

My name is Kurt's drunk.

00:39:57

I've been working in the

00:39:59

energy sector actually now for

00:40:01

30 years and have done

00:40:05

a lot of disputes that

00:40:06

relate to the energy transition.

00:40:09

But I'd say half of

00:40:12

my practice is actually advisory

00:40:14

work where I'm working with

00:40:15

energy companies to help them

00:40:18

plan help them look at

00:40:19

specific transaction. And then the

00:40:22

other half of my practices

00:40:24

is disputes were like I

00:40:25

serve as witness often it

00:40:28

matters of quantum. My work

00:40:33
is is global and has

00:40:36
done extensive work throughout Latin

00:40:38
America. So with that I'll

00:40:40
move on Ricardo mentioned. I'm

00:40:43
looking to give you an

00:40:46
overview of of two sources

00:40:48
of new disputes that I

00:40:50
see potentially coming wanted more

00:40:53
near-term issue and the other

00:40:58
is a longer-term issue and

00:41:00
then As those disputes come

00:41:03
in. I'll explain a few

00:41:05
of the challenges that damages

00:41:07

experts have to deal with

00:41:09

us as they're looking at

00:41:10

at these disputes next line,

00:41:13

please. so the near-term I

00:41:17

think one of the problems

00:41:19

that that I've been observing

00:41:20

as as we go through

00:41:24

this energy transition is is

00:41:27

that projects are facing major

00:41:30

cost increases right the the

00:41:34

levels of inflation in in

00:41:38

the past several years have

00:41:39

been much higher than then

00:41:41

they were for four decades

00:41:42

similarly after the process of

00:41:48

zero zero interest rate policy

00:41:50

interest rates are now increasing

00:41:53

and companies that are developing

00:41:56

these projects to finance them.

00:42:00

This is a a big

00:42:03

Endeavor as Martha Isabel mentioned

00:42:06

and Ricardo mentioned. It's it's

00:42:08

a massive investment the International

00:42:13

Energy agency estimates that just

00:42:17

for Latin America and the

00:42:18

Caribbean alone, then need the

00:42:22

investment need is one. Australian

00:42:24

u.s. Dollars during the. The

00:42:27

Five-Year period from 2026 to

00:42:29

2030 so you know with

00:42:32

with the high cost. And

00:42:36

Supply chains that have been

00:42:38

strained Supply trains were extremely

00:42:41

strange during the the covid

00:42:44

pandemic but in addition there

00:42:46

their new supply chain into

00:42:48

their supply chains that are

00:42:50

subject to Growing Pains. It's

00:42:54

very hard to get projects.

00:42:58

On time and within budget,

00:43:00

so the fact that projects

00:43:03

are delayed and the costs

00:43:05

are much higher or is

00:43:07

likely to it to lead

00:43:08

to dispute. So often times

00:43:10

when projects come out of

00:43:13

international competitive bidding processes. The

00:43:17

developer will have to fix

00:43:18

a certain elements of its

00:43:21

bid price. And so I'm

00:43:23

trying to win those fixed

00:43:27

elements of the pricing were

00:43:28

set into a different Market

00:43:31

environment. And now that the

00:43:33

developer is facing much higher

00:43:35

cost very hard to comply

00:43:37

with with the terms of

00:43:40

those commitments in in the

00:43:41

contractual Frameworks. And so if

00:43:45

developers are unable to comply

00:43:47

with a contract there will

00:43:49

that will lead to the

00:43:51

claims. So on. on the

00:43:57

next slide you'll see just

00:44:00

a few. Indicators of the

00:44:05

increase in costs and and

00:44:06

so on the left side,

00:44:07

you've seen how raw materials

00:44:10

prices have increased in the

00:44:13

last five years and similarly

00:44:15

on the right hand side.

00:44:17

You can see how just

00:44:19

the Government Bond rates that

00:44:21

which are the Baseline for

00:44:23

what private companies can finance

00:44:28

that they would finance that

00:44:30

with this credit spread over

00:44:31

and above the Baseline, but

00:44:34

those have just shot up

00:44:35

significantly making it much more

00:44:40

costly for developers to to

00:44:44

undertake these projects. Text Mike,

00:44:48

please. Without those disputes that

00:44:52

come from cost increases in

00:44:54

the inability to meet project

00:44:58

pricing due to cost increases

00:45:05

as near-term disputes. In the

00:45:09

longer term, I would agree

00:45:12

with Martha Isabel. Is it

00:45:14

in natural gas as a

00:45:15

transition fuel? Right, but if

00:45:21

we look at Latin America

00:45:22

and the quantity of investment

00:45:26

has been made in natural

00:45:27

gas-fired power generation in the

00:45:30

last 5 years and we

00:45:32

look at what's expected for

00:45:33

the next five years. We're

00:45:35

talking over a hundred gigawatts

00:45:38

of new gas-fired generation. And

00:45:44

as the degrees change not

00:45:49

we're not at the next

00:45:50

five years as the Greeks

00:45:53

change. Yeah, it may be

00:45:57

the that those. Gas-fired power

00:46:02

plants were anticipating at a

00:46:04

certain level of operation. The

00:46:06

grid needs them today at

00:46:07

desperately needs those plants today.

00:46:09

It needs them to you

00:46:11

know cycle up and down

00:46:13

as as as renewable energies

00:46:17

is going to intermittently injected

00:46:21

into the grade basketball project.

00:46:26

Its well-established. Everyone knows the

00:46:29

technology. It's easy to build

00:46:30

a pipeline to the plant.

00:46:32

So it's it's it's because

00:46:36

the needs of the greater

00:46:37

so big it's an obvious

00:46:39
solution today. And even though

00:46:41
these power plants are for

00:46:43
hood for looking at for

00:46:44
example of a combined cycle

00:46:45
power plant that would in

00:46:48
today's market could run it

00:46:49
at 60% capacity Factor if

00:46:52
we look at The full

00:46:56
lifespan of of that power

00:46:58
plant. It could be a

00:46:59
30-year lifespan and 10 years

00:47:02
into it. There could be

00:47:04
so much renewable energy on

00:47:06

the grid power plants not

00:47:09

going to be running nearly

00:47:11

as much as it anticipated

00:47:13

or as it was when

00:47:14

it was first put into

00:47:16

commercial operation. So that in

00:47:20

my mind couldn't could trigger

00:47:22

a Acclaim and a complicated

00:47:28

claim what you know to

00:47:30

the extent that that there

00:47:33

is a loss in economic

00:47:34

value associated with all these

00:47:38

new Renewables coming onto the

00:47:40

system the investor in the

00:47:44

in the gas-fired power project.

00:47:51

Randolph do you sleep the

00:47:53

merits of the case would

00:47:54

need to be disputed and

00:47:55

it would they would need

00:47:57

to pay it would all

00:47:58

need to be sort of

00:47:59

tested and consistent with whatever

00:48:02

legal framework was was in

00:48:05

place. But you know, it

00:48:07

doesn't take a shutdown of

00:48:09

the plant to trigger a

00:48:11

claim. I didn't go to

00:48:12

an investor could even if

00:48:14

it's only make a claim

00:48:15

based on reduced operations. I've

00:48:21

seen that with coal plants

00:48:23

in North America where there

00:48:26

was a dispute because the

00:48:28

coal plant was operating at

00:48:29

a real juice level. It

00:48:31

can operate as efficiently is

00:48:33

economics are all based on.

00:48:35

You know, how much higher

00:48:37

capacity Factor? So if those

00:48:42

disputes do do arise in

00:48:45

the future, that's where some

00:48:48

of the complexities will come

00:48:49

in or the if she

00:48:53

turn to the next slide

00:48:54

now. What is the reason

00:48:58

for the reduced operations right

00:49:00

is the reduced operations the

00:49:03

results of a change in

00:49:04

policy would it be and

00:49:08

I was sort of tie

00:49:09

to that training change in

00:49:11

policy or are there other

00:49:13

Market factors that explained that

00:49:15

the reduced operation? For example,

00:49:19

what did the gas-fired project

00:49:22

run last because gas prices

00:49:23

were higher and it was

00:49:26

not as economic as it

00:49:28

as it once was so

00:49:30

when we're looking at specific

00:49:32

claims in in an investor

00:49:35

State dispute contacts. It'll be

00:49:39

important for the damages expert

00:49:42

to be able to parse

00:49:44

out. Okay, what which parts

00:49:46

of the claim are specifically

00:49:48

related to the liability that

00:49:52

the respondent state might have

00:49:54

and the allegations made in

00:49:58

a complaint and what part

00:50:00

of that loss and economic

00:50:02

value could be attributed to

00:50:05

factors that are unrelated to

00:50:07

the Claymore the allegations against

00:50:09

the made against the the

00:50:11

responded state. So, you know,

00:50:14

it could be that the

00:50:15

market shows Renewables not because

00:50:18

of the policy change, but

00:50:20

because they were the most

00:50:21

economic solution. So there is

00:50:24

as we move through this

00:50:30

transition, I think it raises

00:50:32

fascinating but extremely challenging questions

00:50:37

for for damages experts and

00:50:40

end for the quantum quantifying

00:50:43

what what the harm to

00:50:44

the investor is. I'll leave

00:50:47

it there. Thank you. Thank

00:50:52

you very much Kurt's I

00:50:55

do have a question. In

00:50:59

Your Capacity as an expert

00:51:02

in the energy industry. I

00:51:03

want to ask what your

00:51:05

predictions are for the disputes

00:51:09

landscape in relation to the

00:51:11

energy transition policies in the

00:51:12

coming decades because most disputes

00:51:15

to date that we've seen

00:51:16

a focus on power generation

00:51:20

and including the disputes that

00:51:23

you you mentioned that might

00:51:28

arise in the future. He

00:51:32

also concerned power generation. What

00:51:38

about energy transmission? That's the

00:51:40

other side of the story.

00:51:41

Do you think the energy

00:51:42

transmission will gain a leading

00:51:45

role in terms of disputes

00:51:46

or or will it still

00:51:49

continue to be dominated by

00:51:51

power generation dispute? Thank you.

00:51:57

That's a great question. And

00:51:59

it really sort of boils

00:52:03

down to what's the potential

00:52:06

for economic lost its investors

00:52:09

commit funds to transmission versus

00:52:12

generation and it's much more

00:52:15

likely to be the case

00:52:16

that generation investment would be

00:52:19

stranded data transmission investment because

00:52:22

usually what happens with an

00:52:25

existing transmission line that has

00:52:28

all the rights of way

00:52:29

it needs and in service

00:52:32

is that in Odell what

00:52:36

we're seeing a lot to

00:52:41

be able to use the

00:52:43

existing substations and the existing

00:52:47

infrastructure to to get that

00:52:50

new Renewable Power to Market.

00:52:53

But I don't think that

00:52:56

transmission is immune from disputes

00:52:59

that the case that you

00:53:00
mentioned Ricardo Grupo interfere with

00:53:06
their claim against Guatemala, right?

00:53:07
That's kind of a typical

00:53:09
I would say that's a

00:53:10
very typical case in Latin

00:53:12
America where the developer will

00:53:15
have trouble getting permits, even

00:53:18
though it one that won

00:53:20
the right to to build

00:53:22
the project. It'll have trouble

00:53:25
with opposition from local communities.

00:53:27
There will be roadblocks. It

00:53:29
won't be able to get

00:53:30
that supplies to the to

00:53:33
the site and so so

00:53:36
so the fact that there

00:53:39
is going to be There

00:53:41
is that there needs to

00:53:42
be a lot of transmission

00:53:43
build. See what it means

00:53:47
that there are likely to

00:53:48
be that kind of dispute.

00:53:50
But it it's a it's

00:53:52
different from us stranded ass

00:53:54
at this view, but I

00:53:55
think you would have You

00:54:01

would have a different you

00:54:05

don't deserve a different nature.

00:54:06

I mean some of the

00:54:07

cases we've seen in in

00:54:08

Canada. There are there was

00:54:12

a claim by a coal

00:54:13

miner against the government of

00:54:16

Canada under it was and

00:54:19

I think we're going to

00:54:19

have to claim but that

00:54:22

it's its coal mine was

00:54:24

stranded right and that the

00:54:28

government of Alberta had paid

00:54:30

the sixties who own power

00:54:34

plants. To close their power

00:54:37

coal-fired power plants. And so

00:54:40

there was a bit of

00:54:41

a des-case with Westmoreland. It

00:54:42

didn't go far. I think

00:54:43

it got thrown out on

00:54:44

on jurisdictional grounds, but it

00:54:48

was kind of a it

00:54:49

was a stranded asset case.

00:54:52

And and I think generation

00:54:56

has much more of a

00:54:57

potential for stranded assets than

00:55:00

transmission transmission cases are more

00:55:02

likely to be the delays

00:55:04

or you know, even potentially

00:55:06

the cost cost overruns said

00:55:08

that may you know, no

00:55:11

one anticipated the market to

00:55:13

to move in the way

00:55:14

that it did and the

00:55:15

bid was promised on another

00:55:18

set of economic conditions. So

00:55:23

that could easily be a

00:55:24

case. Excellent. Thank you very

00:55:29

much cards. If we don't

00:55:31

have any other questions for

00:55:33

Kurt's then we'll move on

00:55:35

with who will discuss energy

00:55:40

transition policies in the framework

00:55:42

of protection treaties and he'll

00:55:44

focus on a few important

00:55:46

dispute and and decisions in

00:55:50

this field. Thanks, my cousin.

00:55:58

when I was looking at

00:55:59

the topics that I would

00:56:01

discuss today in in the

00:56:02

framework of investment disputes originated

00:56:04

by energy transition policies, I

00:56:06

found Several interesting things number

00:56:09

one is everybody's talking about

00:56:11

it. Right? So everybody has

00:56:12

an opinion. There's a lot

00:56:13

of information. The second thing

00:56:16

that caught my attention was

00:56:18

it generally speaking. A lot

00:56:21

of people take for granted

00:56:22

that energy or policy. Changes

00:56:28

would generate a lot of

00:56:29

litigation. They can think about

00:56:32

it. The system is not

00:56:33

really designed that way. It's

00:56:35

not really meant to work

00:56:36

that way. The protection of

00:56:38

International Investment is not meant

00:56:40

to could tell the states

00:56:41

abilities to serve its meant

00:56:44

to provide a legal framework

00:56:45

for that to happen. But

00:56:46

I think that one of

00:56:48

the ideas that has allowed

00:56:50

a great number of people

00:56:52

to accept the system is

00:56:55

that countries continue to have

00:56:58

the ability to regulate so

00:57:00

why is it that we're

00:57:02

saying that's number one white

00:57:03

was saying that and number

00:57:04

to why are we saying

00:57:05

it so matter-of-factly well. This

00:57:09

energy transition has two components.

00:57:11

Right? And I think that

00:57:13

the first one is very

00:57:14

interesting because there are a

00:57:17

lot of transitions in the

00:57:18

world as the years go

00:57:20

by transitions from one type

00:57:22

of business to another technological

00:57:24

changes in this and that

00:57:24

but it is not that

00:57:26

often that transitions in food

00:57:30

strong specific efforts to stop

00:57:34

an end in Industry. What

00:57:36

usually happens is that transitions

00:57:40

are led by univation buy

00:57:43

new circumstances buy new patterns

00:57:45

of consumption, whatever you want

00:57:46

and then competition and the

00:57:48

functioning of the markets and

00:57:49

so on and so forth

00:57:50

just sort of allows the

00:57:52

other Sort of the market

00:57:59

that's in place to sort

00:58:00

of Doubt. But we're making

00:58:02

specific efforts to Halt the

00:58:06

emission of greenhouse gases. Like

00:58:09

the condo was saying earlier

00:58:10

the problem that we have

00:58:11

right now as far as

00:58:12

I can understand it being

00:58:14

a lawyer is that we

00:58:16

are we have too many

00:58:17

gases that make your Escape

00:58:19

stay in the world is

00:58:22

getting warmer and we need

00:58:23

to stop CO2 gases and

00:58:27

we're going to get in

00:58:30

the way of businesses that

00:58:31

are successful today. We're going

00:58:33

to have to get in

00:58:34

the way of businesses that

00:58:35

are legal that required a

00:58:38

great deal of innovation of

00:58:40

work and countries are going

00:58:42

to have to come over

00:58:43

and say I'm sorry you

00:58:44

got to stop so that

00:58:45

itself puts us in a

00:58:48

difficult position. Number to this

00:58:51

is happening. Of course all

00:58:52

over the world. If you

00:58:53

look at the Paris agreement

00:58:55

and in a lot of

00:58:56

effort, I want to mention

00:58:56

that specifically it's very soon.

00:58:59

It's going to be 10

00:59:00

years. It's been 8 years.

00:59:03

Most of the world for

00:59:05

parties to the Paris agreement

00:59:06

and those countries that are

00:59:08

not to just do away

00:59:15

with the generation of energy

00:59:17

with essentially coal oil and

00:59:21

that's going to have a

00:59:22

lot of impacts in different

00:59:25

walks of life and in

00:59:26

different Industries, but for sure

00:59:28

in the rights of investors

00:59:29

who put in a lot

00:59:31

of work and put in

00:59:32

a lot of capital and

00:59:33

put it put in a

00:59:34

lot of Innovations on to

00:59:36

develop but in addition to

00:59:40

that It's going to be

00:59:44

very hard to replace this

00:59:45

from a technical standpoint when

00:59:48

you look and when you

00:59:49

read the articles of the

00:59:50

experts and they tell you

00:59:53

what are the possibilities that

00:59:54

you have in the world

00:59:55

with the technology we have

00:59:57

today to actually replace the

00:59:59

amount of energy that's required.

01:00:01

It it's not very obvious

01:00:03

that that's going to be

01:00:03

possible in the short term

01:00:05

how much it's going to

01:00:06

cost how it's going to

01:00:07

happen and when that's going

01:00:07

to happen, so there's a

01:00:09

lot of incentives going on

01:00:10

everywhere. Right? So governments are

01:00:12

coming up with incentives not

01:00:14

just for people to stop

01:00:15

doing something but to start

01:00:16

doing something but they're experimenting

01:00:18

with a lot of these

01:00:19

and sent right and because

01:00:21

everybody thinks that were in

01:00:22

a hurry and it seems

01:00:23

like we are because we

01:00:24

have to be done by

01:00:24

2050 seems to be like

01:00:26

the general sort of consensus.

01:00:29

They're attracting a lot of

01:00:31

these policies will come to

01:00:35

invest and you know, five

01:00:36

or six years later then

01:00:37

a government did not know

01:00:39

this was a bad idea.

01:00:40

Let's do it the other

01:00:41

way and then you have

01:00:42

a situation like what happened

01:00:43

in Spain with a lot

01:00:44

of people relying on one

01:00:45

thing and then the government

01:00:46

said well, maybe not so

01:00:47

much and that is what's

01:00:49

generating a lot of litigation

01:00:51

and will continue to generate

01:00:54

a lot of litigation in

01:00:55

a context that is really

01:00:57

not meant that is really

01:00:58

where they made big efforts

01:01:03

for this not to happen.

01:01:03

Right? So at the end

01:01:06

of the day, I think

01:01:06

that the views that find

01:01:09

it normal that this is

01:01:11

going to give rise to

01:01:11

a lot of investment litigation

01:01:13

or either missing something or

01:01:15

there. Questioning summer think at

01:01:18

the end of the day

01:01:18

of the foundations of the

01:01:19

investment protection system. Okay. So

01:01:23

let's go a little bit

01:01:25

of Statistics. If you look

01:01:27

at investment disputes administered by

01:01:31

exit in 20, 21, 22

01:01:33

and 23 the ones related

01:01:35

with energy and with energy

01:01:37

energy. I mean oil gas

01:01:38

Mining and Electric Power They're

01:01:42

almost 50% their 4346 and

01:01:45

42 are divided boil gas

01:01:47

and Mining usually in the

01:01:49

in the high twenties and

01:01:50

then electric power and others

01:01:51

around 15% So there's a

01:01:53

lot of litigation going on

01:01:55

in these kinds of Industries.

01:01:59

The one who changes rights

01:02:01

we have policy changes that

01:02:02

might affect the rights of

01:02:04

investors find second dispute surrounding

01:02:07

incentives. We talked about Spain

01:02:09

but there's something that's going

01:02:11

to change here very quickly,

01:02:13

I think and I've always

01:02:15

thought about it from an

01:02:16

economically point of view because

01:02:17

of the country where we

01:02:18

live and maybe take Columbia

01:02:20

and you take away the

01:02:21

gold and you take away

01:02:22

the oil I don't think

01:02:25

anybody has an answer for

01:02:27

what's left and for how

01:02:28

we replace that from a

01:02:30

purely economic point of view.

01:02:31

And what's going to happen

01:02:32

is that the resources associated

01:02:36

with generating energy and selling

01:02:38

energy and buying energy are

01:02:40

going to be completely reallocated

01:02:42

across the world as countries

01:02:44

find the they have different

01:02:45

resources than they did in

01:02:47

the previous scheme Rice Hill

01:02:48

Country that has a lot

01:02:49

of coal in a lot

01:02:49
of oil but we don't

01:02:51
have a lot of oil

01:02:51
but it's a lot for

01:02:52
us. We don't know that

01:02:57
we're going to have the

01:02:57
resources to generate equivalent amount

01:03:00
of energy. So what is

01:03:01
that going to mean? Are

01:03:02
we going to have to

01:03:03
go buy it from somewhere

01:03:03
else? Are we going to

01:03:04
what is that going to

01:03:06
mean for us and you're

01:03:07

going to have ice and

01:03:08

I'm tired. I'm napping in

01:03:09

World Markets where trade of

01:03:12

energy and energy associated products

01:03:14

and services is going to

01:03:16

be completely changed and I

01:03:18

think that the. We're that

01:03:20

begins to happen as energy

01:03:23

transition happens to the extent

01:03:25

that it does. I was

01:03:27

one of those things I

01:03:27

still want to see it

01:03:28

happening. A lot of questions

01:03:30

still to kanamak rearrangement is

01:03:33

going to give rice probably

01:03:34

to a lot of litigation

01:03:35

a lot of complex in

01:03:36

a lot of a lot

01:03:36

of those going to be

01:03:37

treating base conflicts or there's

01:03:39

going to be contact Basecamp.

01:03:43

Now, let's look at this

01:03:44

from a regulatory aspect to

01:03:46

come back to the to

01:03:47

the point. I was making

01:03:47

of the beginning soap. If

01:03:50

you look at the existing

01:03:51

energy disputes and what has

01:03:53

to do with investment disputes

01:03:54

about 89% of those of

01:03:58

the treaties involved in these

01:03:59

disputes can be considered considered

01:04:02

older treaties right there. A

01:04:05

lot of people who are

01:04:06

mentioning this notion that as

01:04:09

renegotiation of expiring investment protection

01:04:13

agreement starts happening, then it's

01:04:16

going to happen in a

01:04:17

framework that is going to

01:04:18

maybe reduce litigation, but we'll

01:04:20

have to see if that

01:04:21

happened. But the whole foundation

01:04:23

of the idea that there's

01:04:25

going to be a regulatory

01:04:26

change in the international scenario

01:04:28

is based on the notion

01:04:30

that the existing framework is

01:04:32

limiting country's ability to regulate

01:04:33

against that is a little

01:04:38

bit surprising to me because

01:04:39

I'm just going to offer

01:04:41

my personal opinion here. I

01:04:44

do think that important social

01:04:47

changes in foreign technology technological

01:04:50
changes policy changes if they

01:04:52
cost money and they often

01:04:54
do it is better for

01:04:56
States just assume that they

01:04:59
do it. What we're headed

01:05:01
towards is this acknowledging the

01:05:04
rights of investors as a

01:05:05
way to reduce the cost

01:05:06
of the transition. I think

01:05:08
that would be a bad

01:05:09
thing generally speaking for for

01:05:12
the investment protection system for

01:05:14
international relations. Of course, the

01:05:17

devil is in the details

01:05:18

and what I'm saying, but

01:05:19

generally speaking what I think

01:05:22

would be the West the

01:05:23

best thing to happen is

01:05:24

that we could see a

01:05:26

smooth transition from Generation 3

01:05:32

disabling if you want to

01:05:32

look at it that way

01:05:33

to a new generation of

01:05:34

treaties with people actually find

01:05:36

a way to agree on

01:05:37

ways to regulate this in

01:05:39

a manner that's not going

01:05:40
to generate a lot of

01:05:41
responsibility for States. But the

01:05:43
one it does then stay

01:05:45
to say right now that's

01:05:46
the price of doing business.

01:05:47
And if you look at

01:05:48
it internally forget the international

01:05:50
context for a minute if

01:05:52
you look at the way

01:05:53
countries do business and trying

01:05:54
to lie when they have

01:05:56
big changes and industries, we've

01:05:57
had it in Colombia and

01:05:58
transportation and other Industries a

01:06:00
lot of times you have

01:06:02
to take the assets and

01:06:03
the businesses from people who

01:06:04
had legitimate rights in them.

01:06:06
And what what does the

01:06:07
government do they buy it

01:06:08
from them and they respect

01:06:09
the rights and The old

01:06:12
ghosts and it's time for

01:06:13
the news. So I do

01:06:15
think that there's going to

01:06:16
be a lot of litigation.

01:06:17

I Thanks, though that the

01:06:20

reason is not the fact

01:06:22

itself that we having changes

01:06:24

in policy. I think that

01:06:25

the system should be able

01:06:27

to absorb changes in policy

01:06:29

if there if they're properly

01:06:30

done and not generate an

01:06:32

awful amount of litigation. I

01:06:33

do think that there's a

01:06:35

lot of indirect or I

01:06:36

don't know necessarily unintended with

01:06:38

a lot of indirect consequences

01:06:40

to the changes that are

01:06:41

going to come to the

01:06:41

necessarily going to generate a

01:06:43

lot of a lot of

01:06:44

litigation and I think the

01:06:46

system is going to have

01:06:47

to be readjusting we adapting

01:06:50

and I hope that it

01:06:51

happens in a way that

01:06:53

people generally find disrespectful to

01:06:54

the rights of parties on

01:06:55

both side because I am

01:06:56

hearing a lot of noise

01:06:57

of people who say you

01:06:59

know, what this is so

01:07:00

important that if we're going

01:07:01

to step on the toes

01:07:02

of a lot of people

01:07:02

on the rights of a

01:07:03

lot of people doesn't really

01:07:04

matter that much it does

01:07:06

matter I'm relatively old, you

01:07:08

know, very generously they got

01:07:12

the stuff that I've been

01:07:12

doing this for 20 years

01:07:13

have been doing it for

01:07:14

30 and I've seen a

01:07:17

lot of things around the

01:07:18

world where I place

01:07:19

a lot of value on

01:07:21

the law and on the

01:07:22

on the Civilized solution of

01:07:24

disputes, and I do hope

01:07:25

that this translation says does

01:07:27

not happen at the expense

01:07:28

of the investment protection system.

01:07:30

Thank you. Thanks very much.

01:07:34

I bet it though. I

01:07:37

do have a question. I

01:07:38

want to go back to

01:07:39

something you said I've noticed

01:07:41

at one point a little

01:07:42

bit of skepticism as to.

01:07:44

Whether or not the energy

01:07:46

transition will actually happen. You

01:07:48

said you were not sure

01:07:48

the weather is we're going

01:07:50

to get there if I

01:07:52

understood correctly and investment protection.

01:07:59

Because presumably an investment protection

01:08:03

treaty with a a multilateral

01:08:06

convention focusing on renewable energy

01:08:10

Investments would presumably help accelerate

01:08:14

the energy transition, right because

01:08:15

if investments in that field

01:08:17

should be more comfortable and

01:08:23

more Investments. They will lead

01:08:27

to more investments in the

01:08:28

country and I want to

01:08:32

ask if you if you

01:08:33

think that such a convention

01:08:36

is possible if there's enough

01:08:38

political will today to achieve

01:08:40

it. And also whether you

01:08:42

think that it would actually

01:08:43

help further the energy transition

01:08:46

and I want to put

01:08:47

this in the context of

01:08:48

the act because I mentioned

01:08:49

there were recent efforts to

01:08:51

reform the convention and those

01:08:59

I myself am not sure

01:09:01

that states actually really want

01:09:05

to go there. Thanks. I

01:09:09

got to go. You're right.

01:09:10

I am skeptical not because

01:09:12

I don't think that there's

01:09:13

enough will around but because

01:09:15

it really just seems like

01:09:16

an awfully difficult thing to

01:09:17

do if I'm both Technical

01:09:20

and economic standpoint. So I'm

01:09:24

sure it's going to happen

01:09:24

to some extent but we

01:09:25

have to see s to

01:09:27

question. I do think that

01:09:29

we're going to have a

01:09:30

multilateral system with some points

01:09:32

that's going to be supporting

01:09:34

this entire transition. I think

01:09:36

that the real question is

01:09:37

the level of detail because

01:09:39

I think the devil's in

01:09:40

the details, right? So there's

01:09:42

a lot of trees where

01:09:44

people say, okay that needs

01:09:45

to be done. Let's have

01:09:47

these sorts of agreements. But

01:09:49

then when you get in

01:09:49

the details of who's going

01:09:51

to assume which costs when

01:09:52

you have developing countries telling

01:09:54

developed countries that we have

01:09:56

we have for so many

01:09:57

years, you know, you get

01:09:59

you got to give us

01:10:00

a pass because we're not

01:10:01

there yet, right. So you

01:10:03

have to assume a higher-cost

01:10:04

you have political Dynamics inside

01:10:07

each country. So I think

01:10:10

we're going to have a

01:10:12

problem with the lateral treaty.

01:10:15

We're going to have a

01:10:15

International System that's going to

01:10:18

support this but I think

01:10:19

that a lot of important

01:10:21

things are going to be

01:10:21

left out of the regulation

01:10:23

because it's going to be

01:10:24

too difficult to have so

01:10:25

many people agree on them.

01:10:26

That's what I think's going

01:10:27

to have. Absolutely. No expert.

01:10:29

That's just my personal opinion.

01:10:31

Great. Thank you very much.

01:10:37

Are there any other questions

01:10:38

for all this to know

01:10:40

so I will now give

01:10:44

the floor to cuddle. I

01:10:45

will speak about potential challenges

01:10:48

that companies like May face

01:10:50

when structuring projects related to

01:10:52

the energy transition and also

01:10:54
the mitigation of risks in

01:10:56
relation to the action you

01:11:02
may to Marcy severe weather

01:11:08
actually has to become a

01:11:16
reality and the sexiest is

01:11:18
that for example recently in

01:11:21
the Netherlands and we were

01:11:25
talking about this. This is

01:11:39
not longer a commercial issue

01:11:42
a human rights issue that

01:11:48
actually important and it's not

01:11:52
should not be longer. I

01:11:54
never buy gold at the

01:11:57

end to know how we're

01:11:59

going to make that goal

01:12:01

successful and valuable to basically

01:12:10

every contractor a party that's

01:12:12

going to be in each

01:12:16

other. We have to start

01:12:17

thinking differently on how we're

01:12:20

going to the contract and

01:12:22

the first Human ever to

01:12:29

combat and to and how

01:12:35

we approach it should not

01:12:38

be the same way we

01:12:39

can about what are the

01:12:42

benefits of going to be

01:12:44

to the weather what's returns

01:12:46

going to be or whether

01:12:48

there is or what's the

01:12:51

net value is going to

01:12:53

be of the project and

01:12:54

therefore project should be push

01:12:58

forward or not. We just

01:12:59

have to do it. But

01:13:01

therefore we need to know

01:13:03

how and that's where we

01:13:06

councils or aspires council's need

01:13:09

to come in and it's

01:13:11

basically and perhaps how we

01:13:13
structure country's major contract or

01:13:18
project. A security are already

01:13:27
Define. They're basically already tested

01:13:31
system that has been proved

01:13:34
but this is not going

01:13:36
to basically because this project

01:13:39
as everyone has mentioned has

01:13:42
different challenges and therefore we

01:13:44
have to figure it out

01:13:46
how to mitigate and manage

01:13:48
those for our clients at

01:13:52
the end of the day

01:13:52
for this date as well.

01:13:54

So how I started this

01:13:58

we have to Envision new

01:14:00

ways of an even new

01:14:03

ways and how we deal

01:14:04

with Partners business partners in

01:14:07

a joint venture for project.

01:14:11

Whether we have been reading

01:14:14

a lot about is what

01:14:15

it's called a color approach

01:14:18

basically should no longer at

01:14:23

construction and eventually going to

01:14:28

lose my safe negotiations position

01:14:41

of the parties. We have

01:14:44

a lot of Commerce in

01:14:46

this inspection and therefore a

01:14:48

contractor normally will have a

01:14:50

bargaining position for the last

01:15:00

German. It doesn't matter is

01:15:02

going to be the first

01:15:03

pass. So we have to

01:15:13

start the color of principle,

01:15:16

but this is only going

01:15:17

to work if artist adult

01:15:20

the color is principal first

01:15:26

or relation to reservation of

01:15:29

the energy on installation of

01:15:37

prices in financial problems from

01:15:41
contractors lack of Finance. For

01:15:45
example, the lack of regulatory

01:15:47
framework for a changing regulatory

01:15:50
framework. So for someone to

01:15:55
share. Necessarily mitigate or managed

01:16:02
just share the blame because

01:16:04
as perhaps her and I

01:16:12
need to have have in

01:16:21
this type of business. We

01:16:31
have to have a different

01:16:31
approach on standard size listed

01:16:37
on the head of a

01:16:42
company and also a lawyer

01:16:46
in front of the tribunal

01:16:49
we start we have to

01:16:51
start me to dispute and

01:16:53
at the end of the

01:17:00
If we talked and that

01:17:05
is also the first we

01:17:07
have to take on how

01:17:08
we're going to dispute I

01:17:12
ever supposed to make a

01:17:15
fax on West Main Street

01:17:17
actually can be brought before

01:17:22
a panel or the tribunal

01:17:23
that are real but at

01:17:35

the end everyone or just

01:17:38

come true for example those

01:17:42

projects that difficult decision. Then

01:17:46

the parties must make a

01:17:49

decision together. So no one

01:17:51

can be thanked for it

01:17:53

how we addressed all these

01:17:59

issues that we have practice

01:18:12

is at work, but have

01:18:13

were using the system wrong

01:18:15

and basically perhaps that the

01:18:19

public and private interest because

01:18:23

it's not their fault, but

01:18:35

has we have to come

01:18:36

also we have different ways

01:18:38

on tile tribunals. Find a

01:18:41

decision or or soap opera

01:18:43

back in a dispute and

01:18:45

we got a lot even

01:18:53

though that is because it

01:18:58

was first named better set

01:19:08

that of course, there are

01:19:09

legitimate expectations were violated could

01:19:17

not expect that. There will

01:19:19

be no changes is a

01:19:20

regulation legislate regulate and of

01:19:31

course, they need to be

01:19:32
proportionate to itself. In the

01:19:41
investment system on the problem

01:19:44
is we're going to fix

01:19:45
the problem that is related

01:19:49
to sexual frustration or let

01:19:54
it seems we're going to

01:20:02
say okay. What's the state

01:20:05
or because of the interest

01:20:07
symbol was a necessary measures

01:20:10
to be taken. And as

01:20:13
a last resort because as

01:20:15
an option that a lot

01:20:20
of change are going to

01:20:21

result from commercial and then

01:20:29

there's a lot we also

01:20:31

have to start about financing

01:20:34

and that is basically first

01:20:38

if you're advising a flyer

01:20:39

then you have to start

01:20:41

thinking like a favor. There's

01:20:43

are you willing to allocate

01:20:49

you're very finite resources in

01:20:51

research hundreds. So you have

01:21:01

to actually advise clients whether

01:21:04

it's Important or relevant enough

01:21:08

for them to bring a

01:21:09

dispute and perhaps waste more

01:21:11
money. Going to get in.

01:21:14
So I do care a

01:21:21
lot of fun to fight

01:21:22
all the things that are

01:21:23
going to get a chance.

01:21:24
So we have to be

01:21:31
to find out the economics

01:21:33
of these actually fight the

01:21:41
climate change. That is my

01:21:45
personal point of view and

01:21:47
how we actually lawyer schedule

01:21:48
with parentage. Thank you very

01:21:53
much, Anna. I don't know

01:21:56

if anyone has a question.

01:21:58

Jose Antonio Thank you to

01:22:03

all the panelist. I do

01:22:05

have a question with respect

01:22:07

to the two to the

01:22:10

notion of of how you

01:22:13

know, how rigid or I'm

01:22:19

sorry, but for now we

01:22:29

are still good on time.

01:22:31

I'll give us a route

01:22:33

to Dynamics affect the speed

01:22:39

profile and affect the decision

01:22:42

of corporate entities as to

01:22:44

whether or not fortuitous, please

01:22:46

thank you so much. Look,

01:22:50

I'm going to make an

01:22:52

argument about how Mexico was

01:22:56

supposed to be the country

01:22:58

that was next to the

01:23:00

arbitration wave that we all

01:23:02

talked about which was Spain.

01:23:05

Why that didn't materialize and

01:23:08

at the end they'll make

01:23:09

some kind of lessons learned

01:23:11

about why that was the

01:23:13

case and what do stakeholder

01:23:15

Dynamics have to do with

01:23:17

litigation and arbitration in general.

01:23:20

I think that a lot

01:23:21

of the things that we're

01:23:22

discussing are super interesting because

01:23:24

they deal with broader political

01:23:26

values and societal demands and

01:23:29

expectations and you really can't

01:23:32

have a Wholistic discussion unless

01:23:35

you bring that to a

01:23:36

table at some point. So

01:23:37

I hope that the Mexico

01:23:39

case can they help us

01:23:41

bring everything together and an

01:23:44

m and raise a couple

01:23:45

of things that I think

01:23:47

are interesting from an industry

01:23:48

perspective. Hopefully also from a

01:23:51

broader societal perspective. So for

01:23:55

those of you that are

01:23:56

not too familiar with the

01:23:58

specific Mexico case in 2019

01:24:03

the new the elected government

01:24:06

of President Lopez obrador started

01:24:09

to engage in what we

01:24:10

can call little bit of

01:24:12

an orthodox policy-making in terms

01:24:14

of reviewing some of the

01:24:16

incentives for Renewables that were

01:24:19

not In general questioned in

01:24:23

the Mexican energy system based

01:24:26

on his discourse. It was

01:24:28

very evident that it was

01:24:30

not that he was opposed

01:24:32

to the use of renewable

01:24:33

energies was just a matter

01:24:35

of there is very little

01:24:37

renewable energy that is generated

01:24:39

by the commission that electricity

01:24:42

and the president wanted to

01:24:45

make sure that all the

01:24:46

policies in the Mexican market

01:24:48

maximized the the the market

01:24:52

share of the state-run company,

01:24:54

right? So there was an

01:24:55

issue of traditional economic discrimination

01:24:59

in terms of how the

01:25:02

policies were being explained by

01:25:04

the president. Obviously, they were

01:25:05

embedded in a broader discourse

01:25:08

of Ronaldo's have some technical

01:25:10

challenges around intermittency. And there

01:25:13

were some legitimate concerns that

01:25:15

were raced along the line,

01:25:17

but if you listen to

01:25:18

the Mananitas with the president

01:25:19

or president speaks out stay

01:25:21

for a couple of hours

01:25:22

to the to the president

01:25:24

through Mexican Society was very

01:25:26

clear that the that the

01:25:27

spirit that was animating. This

01:25:30

was his intent to make

01:25:32

sure that he was at

01:25:33

the front and center of

01:25:34

that the moment that the

01:25:36

clean energy certificates dispute came

01:25:40

to the fore everyone started

01:25:42

to say well this is

01:25:44

Potentially worse than what happened

01:25:47

in Spain, right? Because this

01:25:49

is this if you listen

01:25:51

to what the president is

01:25:52

saying, he's a lot more

01:25:53

aggressive is a lot more

01:25:54

ambitious. He has a more

01:25:58

drastic Vision than what we

01:26:00

saw with the rolling back

01:26:02

of the of the Spanish

01:26:04

clean energy incentives and there

01:26:09

started to be some domestic

01:26:12
dispute in Mexico under Mexican

01:26:16
law. There's a very famous

01:26:19
figure in the Mexican law,

01:26:20
which is a those which

01:26:21
were challenges that sought to

01:26:25
stuff that the government from

01:26:27
pursuing those kinds of action

01:26:29
as opposed to looking for

01:26:31
compensation report the loss of

01:26:34
revenue from the the the

01:26:35
the revenue stream of the

01:26:38
clean energy certificates, but the

01:26:40
clean energy certificates Dear, I

01:26:45

think folks said we're early

01:26:47

on saying this is potentially

01:26:49

going to be worse than

01:26:50

Spain. We're right and we

01:26:52

saw policy after policy in

01:26:56

an escalating way being brought

01:26:58

to bear to pursue the

01:27:00

same objectives again, putting comision

01:27:03

Federal de electricidad at the

01:27:06

center of the power generation

01:27:08

Market in Mexico and that

01:27:11

raised quite a few interesting

01:27:13

questions and brought a few

01:27:15

interesting political Dynamics to the

01:27:17

4th very much in line

01:27:18

with what you were saying

01:27:19

like out of a battle

01:27:21

to the energy charger treaty

01:27:22

and sometimes the claims being

01:27:25

actually online with promoting the

01:27:27

position of investors out out

01:27:33

outside talking about investment arbitration

01:27:35

the second the prospective investors

01:27:37

were very much aligned with

01:27:39

we need more participation of

01:27:42

Renewables in the Mexican energy

01:27:43

grid not less right and

01:27:46
they were over all trained

01:27:47
as trying to protect both

01:27:50
the societal right to a

01:27:54
clean environment. And also, of

01:27:57
course the Investor's rights to

01:27:59
having perinet with the whole

01:28:01
treatment do all of that

01:28:03
coming to the four interesting

01:28:06
because investors As everyone was

01:28:10
expecting that the new arbitration

01:28:12
wave was going to materialize

01:28:14
in Mexico. didn't and there's

01:28:20
a couple of very interesting

01:28:21

things that emerge from that

01:28:23

the first one is investors

01:28:26

did have access to domestic

01:28:30

remedies that sought injunctions and

01:28:33

they were kind of imperfect

01:28:36

tools because they they they

01:28:37

they they couldn't. The government

01:28:41

policies there were bits and

01:28:43

pieces that were left out.

01:28:44

And if you talk to

01:28:46

the companies that participate in

01:28:47

the Renewables Market in Mexico,

01:28:49

they will tell you that

01:28:50

they have lost that their

01:28:53

perspectives in terms of how

01:28:54

their investment would flow in

01:28:56

the revenues that they would

01:28:57

have has changed dramatically because

01:28:59

of this policy, so it's

01:29:02

not just that there were

01:29:03

domestic remedies and because of

01:29:05

domestic remedies were pursued there's

01:29:06

kind of a fork in

01:29:07

the road consideration and they

01:29:09

decided not to follow through

01:29:10

with investment arbitration when you

01:29:12

talk to them what they

01:29:13

will tell you is Mexico

01:29:16

continues to be an interesting

01:29:17

country because of the size

01:29:18

of the Target, we did

01:29:20

not want to jeopardize our

01:29:22

participation in the Mexican market

01:29:24

and given how much of

01:29:27

a priority this is for

01:29:29

the Mexican president. We didn't

01:29:31

want to be in the

01:29:32

crosshairs of Mexican rice. And

01:29:34

so if if you look

01:29:36

at it from a legal

01:29:37

perspective, those are all very

01:29:39

most of them are very

01:29:41

sophisticated companies with a very

01:29:42

sophisticated Council that know that

01:29:45

they have remedies and they

01:29:50

know that he have a

01:29:51

fiduciary duty perhaps to to

01:29:54

exercise those remedies and still

01:29:56

they chose to stand back

01:29:58

because they they they thought

01:29:59

that the commercially it was

01:30:01

a better decision to push

01:30:03

to not push back and

01:30:05

and seek compensation for this.

01:30:07

So I'm going to start

01:30:09

getting to my point here

01:30:11

in a second which is

01:30:15

The investment arbitration community in

01:30:19

the Americas specifically and Latin

01:30:21

America has been very much

01:30:23

used to the notion of

01:30:24

Defending Investments. Once there's kind

01:30:27

of a targeted undirected action

01:30:30

from the government do your

01:30:31

points Court the transitional process

01:30:33

difficult case in Latin America

01:30:36

has to do with a

01:30:37
permit that gets responded or

01:30:40
some sort of interpretation of

01:30:42
a regulation, but that has

01:30:44
el nombre De La Paz

01:30:45
middle of the investor and

01:30:47
then the investor. It's very

01:30:48
clear that you need to

01:30:49
fight back and you start

01:30:51
an arbitration what year were

01:30:53
talking about something different that

01:30:54
goes back to the early

01:30:55
days of investment arbitration in

01:30:58
Latin America, which is sweeping

01:30:59

policy changes, right and Sweeping

01:31:04

policy changes are very difficult

01:31:06

to address and I'm not

01:31:08

making a claim here from

01:31:10

a legal perspective. I'm not

01:31:11

a lawyer sweeping policy changes

01:31:15

are difficult to address from

01:31:17

a strategic standpoint for investors

01:31:19

because it means that out

01:31:21

of a big group of

01:31:22

companies in the case of

01:31:24

Renewables in Mexico, you're talking

01:31:26

about 60 or 70 logo

01:31:28

companies that have investment there.

01:31:30

You need to raise your

01:31:32

hand and start at this

01:31:33

field that is individual and

01:31:35

you need to put yourself

01:31:37

at the crosshairs of political

01:31:39

priorities that the government has

01:31:41

or at least that's the

01:31:42

priority. That's the thinking at

01:31:45

the mindset of investors as

01:31:48

they decided to not go

01:31:50

ahead with with with arbitration.

01:31:53

So sweeping policy changes are

01:31:55

very challenging, right but the

01:31:57
prototypical cases in Latin America,

01:31:59
of course Coral Equinox and

01:32:01
peanut The very famous Venezuela

01:32:05
expropriation cases from back in

01:32:08
the day, but now we're

01:32:09
dealing with a new wave

01:32:11
of of arbitration and I

01:32:13
think there's a lot of

01:32:14
concern from investors and there's

01:32:17
not I think that in

01:32:19
in in general in the

01:32:20
in the arbitration Community, we

01:32:22
have been kind of slow

01:32:23
to to to to to

01:32:25
sivas wave coming and come

01:32:27
up with tools that help

01:32:29
investors think their way through

01:32:32
this kind of consideration from

01:32:34
a stakeholder perspective, right? I

01:32:36
think that investors are legitimately

01:32:39
leaving some money on the

01:32:42
table talking from a very

01:32:44
pragmatic perspective because they are

01:32:46
not willing to do to

01:32:49
start those cases and sometimes

01:32:52
I hear 2212 artist point

01:32:54

to the notion of yeah,

01:32:55

but investors will take every

01:32:57

single opportunity to litigate, of

01:32:59

course, they won't write that

01:33:01

they would much rather continue

01:33:02

investing. What countries dentist operation

01:33:06

to start fighting a country

01:33:08

and engage in something that

01:33:09

triggers a lot of political

01:33:12

political risk, another regulatory considerations

01:33:15

that could be disastrous to

01:33:17

them. So. The final point

01:33:21

that I would make your

01:33:22

is I think that mindset

01:33:26

from industry of you can't

01:33:29

engage in this cute without

01:33:31

triggering apocalyptic political risk is

01:33:35

wrong. I think it just

01:33:37

starts from this tradition of

01:33:39

looking at political risk as

01:33:42

this McElroy's considerations and you

01:33:44

have a country score and

01:33:46

you look at the president

01:33:47

than you look at how

01:33:48

aggressive is rhetoric is and

01:33:50

you look at how radical

01:33:51

the groups around him are

01:33:52

and then you say well

01:33:54

you can't start that kind

01:33:56

of thing in that in

01:33:57

a in a country that

01:33:58

has that's a populist Dynamics

01:34:01

right? That scares some of

01:34:02

the investors and I have

01:34:05

to say I think that's

01:34:07

that's the wrong perspective here.

01:34:08

There's a better way to

01:34:09

do it, which is really

01:34:12

understand that. Governments often times

01:34:18

even if they are pushing

01:34:20

for a policy and it's

01:34:21

in their priorities. They they

01:34:24

they don't have a priority

01:34:26

to make every single fight

01:34:28

a national fight. You can

01:34:31

trigger those considerations if you

01:34:33

are obnoxious about it, if

01:34:36

you are on strategic about

01:34:37

it, if you don't understand

01:34:39

the Dynamics of play but

01:34:40

between forming informal qualifications with

01:34:45

industry to be able to

01:34:46

explain the issues at hand

01:34:48

between making sure that you

01:34:51
are appropriately dealing with you

01:34:53
are as fake holders in

01:34:55
that country. For example of

01:34:57
your in the energies face,

01:34:58
you will continue to have

01:35:00
a lot of energy regulators.

01:35:01
And if you are going

01:35:03
to start a dispute against

01:35:04
the AA country, you can

01:35:08
certainly make sure to provide

01:35:10
a heads-up to some of

01:35:12
those regulators and you you

01:35:14
can explain why the dispute

01:35:16

is a Technical consideration and

01:35:17

not a political considerations and

01:35:19

how you you don't intend

01:35:21

to make this a politicized

01:35:23

broader Dynamic and all of

01:35:26

that has very significant impact

01:35:29

on how things unfold and

01:35:33

perhaps closing the the the

01:35:35

the the point here is

01:35:37

there are now in a

01:35:40

few couple of months ago.

01:35:42

We saw the start of

01:35:45

the first investment arbitration case

01:35:48

against the government of Mexico

01:35:49

that happened by a Spanish

01:35:52

Renewables company and it started

01:35:55

the litigation and it's not

01:35:57

in the Mayan era. The

01:35:59

government is not be crying

01:36:01

that there's a politicized move

01:36:05

against them did not materialize

01:36:11

in that case and I

01:36:13

think that shows and proves

01:36:15

that if you have a

01:36:17

broader perspective on the strategy

01:36:19

of your dispute and you

01:36:21

are a little bit more

01:36:21
mindful of the broader Dynamics,

01:36:24
you can engage and you

01:36:26
can use the stools in

01:36:28
a way that is not

01:36:29
politically the destructive and by

01:36:32
doing that I have to

01:36:35
return to your point about

01:36:36
your facilitating more constructive agreements

01:36:40
right than you are facilitating

01:36:42
more constructive dialogue. So stopping

01:36:45
this this mentality that everything

01:36:49
is an ounce right kind

01:36:51
of high conflict thing know

01:36:53

it can be a technical

01:36:54

conflict and our countries in

01:36:56

Latin America even in the

01:36:58

most paleta. Types of days

01:37:00

have shown that that's kind

01:37:01

of dynamic is it is

01:37:02

feasible? I think that that's

01:37:04

that's a relevant Factor at

01:37:06

play here and I think

01:37:08

that more and more we

01:37:10

will require a broader assessment

01:37:12

of the of the dynamic

01:37:13

as opposed to just a

01:37:14

legal marriage and then assuming

01:37:16

oh I have legal merits

01:37:18

but the politics are super

01:37:20

messy. I can't touch that

01:37:21

with a ten-foot pole know.

01:37:23

Why don't you go ahead

01:37:24

and analyze what's the appropriate

01:37:26

strategy to do it? Because

01:37:28

that's the way that you

01:37:29

are broken leaders and value

01:37:30

for it for your for

01:37:32

your for Industries to thank

01:37:37

you Pablo. Very interesting. I

01:37:42

think we're at an hour

01:37:42
30, but we do want

01:37:46
to hear your question was

01:37:47
Antonio. Thank you for it.

01:37:50
And I'll try to be

01:37:51
very brief the question relates

01:37:58
to how how strict should

01:38:02
have the system arbitrators tribunals

01:38:05
on the notion of of

01:38:08
of the right to regulate

01:38:09
on the one hand and

01:38:10
it by states on the

01:38:13
other hand the notion that

01:38:15
the provisions that are now

01:38:19

in place whether of all

01:38:23

treaties or of nutrients are

01:38:26

part of the international rule

01:38:28

of law and therefore one

01:38:31

would think that they should

01:38:31

be applied. So today there's

01:38:36

a push this notion of

01:38:39

the right to regulate and

01:38:41

it's being it is being

01:38:43

explained as as a new

01:38:45

notion. Although it is not

01:38:48

a new notion know there

01:38:49

are with with with Claus's

01:38:54

referring to the right of

01:38:55

Frank American Colombia in in

01:38:59

Venezuela Argentina, and in other

01:39:03

places, so the notion of

01:39:04

right to regulate is not

01:39:06

is not a new one

01:39:07

if we presented to the

01:39:10

whole world so that this

01:39:16

question is DF current Windy

01:39:27

City, I think that that

01:39:28

Ricardo framed the presentation on

01:39:30

an ECT quite well, in

01:39:32

terms of of the number

01:39:34

of cases there was an

01:39:35

attempt to reframe the ECT

01:39:37

as this International Organization or

01:39:40

Regional organization or theme organization

01:39:42

that that would be veering

01:39:45

towards we have an issue

01:39:52

and Europe and and the

01:39:53

number of these streets are

01:39:54

now going against against against

01:39:57

against European state name Lee

01:40:00

but not only me but

01:40:02

also many other countries so

01:40:04

I don't I really don't

01:40:06

think that is because of

01:40:12

their issue of Renewables is

01:40:15

it is more related to

01:40:16

a geopolitical realities Europe or

01:40:22

European European state. In States

01:40:27

Eastern European states are suing

01:40:28

European state of the issue.

01:40:31

So I say this because

01:40:35

because of two things one.

01:40:39

At least the meetings that

01:40:41

those investors that are energy

01:40:45

producers based on fossil fuel.

01:40:49

They seem to know things

01:40:51

will change that they are

01:40:53

aware of this and that

01:40:55

there seem to be transitions

01:40:56

words towards that so you

01:40:58

see even you said you

01:40:59

to see out and advertising

01:41:04

for any of the big

01:41:05

companies in the old now,

01:41:11

how do you see that

01:41:13

man? Go like wow PVP

01:41:15

is now solar producer or

01:41:17

we see it. You don't

01:41:19

have to give you a

01:41:20

researcher to do to know

01:41:21

that so they know what's

01:41:22
going on. You have to

01:41:25
pay a price. If there

01:41:27
is a direct expression world,

01:41:30
the tree will say that

01:41:31
they have to be compensated.

01:41:32
There is an indirect tax

01:41:34
preparation going back to your

01:41:35
point of sweeping policies, perhaps

01:41:37
that might not be for

01:41:38
a man as indirect expropriation

01:41:40
because some DVDs allow for

01:41:43
certain purpose. The greater purpose

01:41:46
policy transition is not to

01:41:49

be Indirect patient but that

01:41:51

is taking care of my

01:41:53

concern is for for those

01:41:56

investors need to invest billions

01:42:01

of dollars that they need

01:42:02

to invest in Renewables. And

01:42:05

and we have on the

01:42:06

one hand that push and

01:42:09

a system that can only

01:42:10

be rule-based. If we if

01:42:13

we were going to have

01:42:14

investors, I don't know some

01:42:16

some states that are saying

01:42:18

well that's too soft regulation.

01:42:24

Let's move away from the

01:42:26

rules-based investor arbitration and let's

01:42:29

start doing more of the

01:42:31

diplomacy faced. My question to

01:42:38

you to you is how

01:42:39

far should the right of

01:42:40

Regulation go or whether we

01:42:42

should stick to a rules-based

01:42:44

system that respecting the international

01:42:47

rule of law. I'm sorry

01:42:50

for the longest but You

01:42:53

want me to answer that

01:43:03

and Latin Americans are also

01:43:06

so we we are very

01:43:08

much sales tax advisors in

01:43:11

the sense that we think

01:43:12

that were always the rule

01:43:14

Breakers, but look at Europe.

01:43:16

I mean 50 cases in

01:43:19

an energy system where the

01:43:22

investor was or the investors

01:43:24

were trying to invest in

01:43:26

Renewables and that's what rich

01:43:30

Jet just very quickly. I

01:43:34

would say you need to

01:43:35

balance the notion of right

01:43:37
to regulate against the notion

01:43:39
of a kind of blank

01:43:42
check to violate rights of

01:43:44
companies. And I think that

01:43:46
as much as neoliberalism and

01:43:50
them neoliberal reforms of the

01:43:52
last 40 years now, not

01:43:56
the best of names across

01:43:58
the region. I think they're

01:44:00
decried by a number of

01:44:01
politicians from the left and

01:44:03
from the right. There was

01:44:06
this notion of because we

01:44:09

take a lot of Pride

01:44:10

and because there's a lot

01:44:11

of value in a rules-based

01:44:13

system, even when you are

01:44:15

in a breaking traditional Monopoly,

01:44:18

even if you're passing reform

01:44:21

that is tricky because it

01:44:22

can trigger Legacy rides from

01:44:24

other investors. You need to

01:44:26

be very thorough. You need

01:44:28

to be very technical. You

01:44:29

need to be very precise.

01:44:30

Create a pocket that preserves

01:44:34

those rights even while you

01:44:36

open up the opportunity for

01:44:39

significant change in that industry,

01:44:40

right if you look for

01:44:42

example at the 2013 energy

01:44:44

reforms in Mexico, that's exactly

01:44:46

what they where it's not

01:44:48

that Folks at that point

01:44:49

in time thought that the

01:44:50

outlaw pass go and those

01:44:52

Legacy contract models were perfect.

01:44:54

Most of Industry thing is

01:44:57

actually a wrong contractual model,

01:45:00

but it's like so they

01:45:02

needed to figure out the

01:45:03

way how do you advance

01:45:06

change while safeguarding the rights

01:45:09

that you have in the

01:45:10

past? And now I think

01:45:11

that because politics has become

01:45:14

more overarching and overwhelmingly dominant

01:45:17

not just in Latin America

01:45:19

to your points, but across

01:45:20

the different regions you have

01:45:23

regulators and you have legislators

01:45:26

that are often times compelled

01:45:28

to act without being mindful

01:45:30

of those. Right, right. And

01:45:32

in the name of energy

01:45:33

transition, they can propose ridiculously

01:45:37

ambitious goals that were are

01:45:40

not going to be sustainable

01:45:41

over time. And that's fine.

01:45:43

And I think that that

01:45:45

is a fundamental mistake of

01:45:48

legislative and Regulatory technique from

01:45:52

from the truck from the

01:45:54

authorities and I think that

01:45:55

that is a a a

01:45:56

a big loss the more

01:45:58

that we bring more and

01:45:59

more politics and say well

01:46:02

because it's aligned with societal

01:46:03

claims. We have the right

01:46:06

to ignore the the letter

01:46:08

of the law. I think

01:46:09

that's good. That's not a

01:46:11

food full debate ready to

01:46:12

present should be how respecting

01:46:15

what we have we can

01:46:16

advance the most ambitious change

01:46:18

possible and often times. That's

01:46:19

not the question that his

01:46:20

books are making. If anyone

01:46:28

else wants to add anything.

01:46:32

Okay. Well, thank you very

01:46:34

much. We can conclude the

01:46:37

panel now. Thank you wasn't

01:46:40

funny. Okay, so We are

00:03:14

about to start so welcome

00:03:17

to World of rotation update.

00:03:18

This is the the Americas

00:03:22

World arbitration update. This is

00:03:24

the third time that we

00:03:25

do this in Columbia. And

00:03:27

with the with great pleasure.

00:03:29

I see that we have

00:03:30

a full house here and

00:03:31

I am pretty sure that

00:03:33

there are other people online.

00:03:35

So we're making significant progress

00:03:39

in terms of attendance and

00:03:41

we have a wonderful sponsors

00:03:43

both Nira and think this

00:03:49

this this new format effort.

00:03:52

My name is Jose Antonio

00:03:54

Rivas, if if if you

00:03:58

have seen other panels apologies

00:03:59

for seeing, you know, my

00:04:01

presenting myself so many times

00:04:03

if you have not thanked

00:04:06

you and you understand why

00:04:07

I'm presenting myself. I'm the

00:04:10

co-founder of of world arbitration

00:04:11

update together with e Cleared

00:04:14

from Crowell & moring and

00:04:17

I do investment at practice

00:04:19

in International Investment arbitration International

00:04:22

commercial arbitration and public international

00:04:24

law from a boutique law

00:04:26

firm called extra glp, which

00:04:29

is based in Washington DC

00:04:30

and it also has presence

00:04:31

in Bogota Colombia. I also

00:04:33

teach the same subject investment

00:04:36

arbitration and public international law

00:04:38

Georgetown law. It is with

00:04:41

great pleasure that that that

00:04:42

were giving We're we're having

00:04:48

this panel, which is is

00:04:51

a key panel on the

00:04:55

only aspect of renewable energy

00:04:58

an international arbitration. We did

00:05:02

not limit the scope to

00:05:06

either investment or International commercial

00:05:09

arbitration on purpose. It is

00:05:12

a subject that that is

00:05:15

of course on point for

00:05:18

so many reasons in the

00:05:20

Americas an end in perspective

00:05:25

is is the regional perspective

00:05:27

here from Colombia. There's a

00:05:29

lot of renewable energy in

00:05:33

terms of solar power in

00:05:35

terms of wind power in

00:05:36

terms of possibilities of hydrogen

00:05:39

and etcetera. So I wouldn't

00:05:40

go into the into that

00:05:42

that is the task for

00:05:43

for our moderator as well

00:05:45

as introducing at Let me

00:05:48

however introduce Ricardo Alarcon afternoon

00:05:54

Ricardo for at least 15

00:05:59

years, perhaps I first met

00:06:01

at the castle as he

00:06:03

was a a a law

00:06:04

student at perhaps at the

00:06:06

end of his his his

00:06:06

years at Los Angeles University.

00:06:09

He was part of the

00:06:13

Los Angeles team that went

00:06:17

on to compete in the

00:06:20

National rounds and later in

00:06:22

the in the world rounds

00:06:24
of the Philip. And this

00:06:28
has been I believe the

00:06:33
only team that has won

00:06:35
the competition of Columbia and

00:06:38
one of the few that

00:06:39
has won the competition of

00:06:42
Latin America and and the

00:06:44
and it's no baby. World

00:06:47
champion is Legend and I

00:06:49
have the pleasure of listening

00:06:50
to him and and and

00:06:52
also to hear to his

00:06:53
team members and also contributing

00:06:58

by helping them in the

00:07:01

training in for the all

00:07:03

around. So it's really a

00:07:05

pleasure to know. I also

00:07:11

do like he was at

00:07:13

some stage and Associates Sherman

00:07:15

Sterling and now he is

00:07:17

the director of an international

00:07:24

arbitration and Martinez, which is

00:07:26

a which is a Colombian

00:07:28

firm at but but with

00:07:29

the original reach so and

00:07:32

I could go on and

00:07:32

on and I don't think

00:07:33
that he would appreciate that.

00:07:34
So if you can't do

00:07:36
you have the store? Thank

00:07:37
you. Thank you very much

00:07:38
for San Antonio for for

00:07:40
the kind words, and I

00:07:43
thank you for organizing this

00:07:47
event. And what I will

00:07:50
do as a moderator out,

00:07:52
I'll begin by introducing the

00:07:54
panelists hopefully brief introduction of

00:07:58
the of the topic at

00:07:59
hand before the floor to

00:08:01
the panelists. So they will

00:08:05
be speaking we have here

00:08:07
must become a professor. She's

00:08:11
a professor at 1 and

00:08:15
she's also the dean of

00:08:16
the faculty of engineering there

00:08:17
and she's a chemical engineering

00:08:24
from the University and she

00:08:27
has worked on various projects

00:08:28
and investigations relevant to the

00:08:30
energy transition renewable energy and

00:08:32
climate change including relation to

00:08:34
production of green hydrogen and

00:08:37

CO2 capture. Then we will

00:08:41

hear from Kurt Strunk who

00:08:43

is a senior managing director

00:08:44

at Nera which is an

00:08:47

economic consulting firm that provides

00:08:49

advice in international arbitration and

00:08:51

litigation matters. Is an energy

00:08:55

and finance expert he has

00:08:56

25 years of experience working

00:08:59

in energy disputes and as

00:09:00

an adviser to energy companies

00:09:02

governments and regulators and he

00:09:05

has taken the stand in

00:09:06

more than 100 energy-related disputes.

00:09:10

Then we will hear from

00:09:12

Alberto spinetta Alberto. He's a

00:09:22

partner at the arbitration and

00:09:25

litigation practice of guava Casas

00:09:27

and he has appeared before

00:09:35

the Columbian courts would also

00:09:37

International tribunals under the ICC

00:09:41

on Central and icdr rules.

00:09:44

We also have kado. Rojas.

00:09:46

She's the head of arbitration

00:09:49

at a very important Energy

00:09:51

company in Columbia called the

00:09:53

attorney in the energy industry,

00:09:57

and she's held positions in

00:09:59

various other energy companies prior

00:10:01

to her current role at

00:10:02

including Pacific Midstream limited and

00:10:06

Pacific Stratus energy Columbia Court.

00:10:08

And finally, we have found

00:10:10

Sarah. He is a senior

00:10:12

managing director focusing specifically on

00:10:17

developing and overseeing issue Management

00:10:20

Programs to address high-stakes corporate

00:10:22

challenges, including acute political risk.

00:10:27

so to introduce a topic

00:10:31

we're here to discuss disputes

00:10:34

arising from energy transition policy.

00:10:37

So obviously what is the

00:10:39

energy transition and briefly I

00:10:42

won't tell into this a

00:10:43

lot because who's the expert

00:10:46

in this field will tell

00:10:47

us a bit more about

00:10:48

that shift from fossil fuels

00:10:52

to renewable energy for clean

00:10:54

energy sources and the main

00:10:57

goal is to combat climate

00:11:01

change and of course to

00:11:04

achieve in energy production and

00:11:08

distribution and consumption. Energy States

00:11:13

August we need to adopt

00:11:14

policies to transform their energy

00:11:16

Frameworks. And as we all

00:11:19

know regulatory change often leads

00:11:22

to Legal disputes. So I

00:11:27

want to talk about Colombia.

00:11:29

What's what's what's what's happened

00:11:31

here in Columbia. And of

00:11:34

course, the current government has

00:11:35

taken certain measures to further

00:11:38

the energy transition one that

00:11:41

comes to mind is a

00:11:43

ban on fracking the government

00:11:44
since August 2022 has pushed

00:11:48
for a ban on fracking

00:11:48
as an energy transition policy

00:11:52
policy has not yet been

00:11:55
approved. Felt in terms of

00:12:04
international arbitration disputes for example

00:12:07
in July last year a

00:12:09
commercial arbitration was initiated by

00:12:12
subsidiaries of a Canadian company

00:12:13
called Santana energy against ExxonMobil.

00:12:17
The two companies were signed

00:12:20
agreement to jointly operate and

00:12:22
develop a oil field using

00:12:24

fracking however ExxonMobil withdrew unilaterally

00:12:29

from this project and presumably

00:12:32

at least in part due

00:12:34

to the government's opposition for

00:12:37

tracking this ban on fracking

00:12:40

was Probably going to take

00:12:44

effect. Other states however have

00:12:50

implemented already complete bans on

00:12:52

fracking one example that comes

00:12:54

to mind is Slovenia, which

00:12:57

is natural gas and this

00:13:02

led to invest in arbitration

00:13:05

disputes filed by the UK

00:13:07

company Ascent resources, which had

00:13:10
been awarded the rights to

00:13:11
exploit an oil and gas

00:13:13
field. Using the back of

00:13:16
methodology that case is pending.

00:13:18
So we don't know what

00:13:21
the results will be energy

00:13:28
transition policies is coal and

00:13:30
coal fired energy plants. For

00:13:34
example is one country that

00:13:36
has taken action in this

00:13:37
regard is the Netherlands in

00:13:42
2019 by which Coal Fired

00:13:46
power plant super to be

00:13:47

completely phased out and this

00:13:49

investor-state dispute against the Netherlands

00:13:53

one filed by the German

00:13:54

company r w Germany Coal

00:14:00

Fired power plants in the

00:14:00

Netherlands. Now I want to

00:14:06

admission to speed stemming from

00:14:08

policies that affect fossil fuel

00:14:10

companies, but there's also another

00:14:12

side to the story. That's

00:14:16

because energy transition policy not

00:14:18

only affect companies in the

00:14:20

fossil fuel sector, but they

00:14:21

also affect renewable energy companies

00:14:23

who obviously are the actors

00:14:28

at the Forefront of the

00:14:28

energy transition. And of course

00:14:31

there have been many and

00:14:34

I really need many disputes

00:14:35

in this field obvious case

00:14:37

of Spain. Spain is a

00:14:41

country that in the 1990s

00:14:45

Implemented reforms to to stimulate

00:14:48

investment in renewable energy and

00:14:50

these reforms are actually very

00:14:53

successful a lot of investment

00:14:56

in photovoltaic Thermo solar wind.

00:15:02

Fame enter into the country,

00:15:04

but after a few years

00:15:06

Spain faced as significant deficit

00:15:09

and so unresponsive that regulatory

00:15:13

framework that was very beneficial

00:15:14

for renewable energy companies removing.

00:15:18

Obviously, a lot of investors

00:15:24

felt that their rights under

00:15:27

the protection trees had been

00:15:29

affected and a lot of

00:15:31

them initiated investor-state dispute against

00:15:34

pain. No less than 58

00:15:38

disputes have been initiated against

00:15:39

pain most of them in

00:15:44

favor of the investors and

00:15:46

there are at least fifteen

00:15:47

there are still pending. So

00:15:48

this is an ongoing story.

00:15:51

Between is not the only

00:15:52

country that has a similar

00:15:56

situation other countries. For example,

00:15:58

Italy faced an almost identical

00:16:01

situation. They offered a lot

00:16:06

of incentives to renewable energy

00:16:07

companies. A lot of there

00:16:11

was a lot of foreign

00:16:11

investment coming into the country

00:16:13

and after a few years,

00:16:14

they decided to remove some

00:16:16

of the benefits offered to

00:16:17

foreign investors or two renewable

00:16:19

energy investor. Sorry as a

00:16:23

result. There were multiple investor-state

00:16:27

arbitration filed against Italy just

00:16:30

to name a couple of

00:16:30

examples and cavities and others

00:16:32

versus Italy in which the

00:16:34

investor has claimed was dismissed.

00:16:36

And also ESPN Raiders vs.

00:16:39

Italy which had the opposite

00:16:41
results. The state was found

00:16:43
liable in that in that

00:16:43
dispute. I want to take

00:16:47
a moment to discuss international

00:16:51
tree under which most of

00:16:53
these renewable energy disputes have

00:16:56
been initiated in the ACT

00:17:02
is a multilateral convention and

00:17:06
what is precisely to afford

00:17:09
protection to investors in the

00:17:12
energy sector energy at large

00:17:14
doesn't differentiate between fossil fuel

00:17:16
investors or renewable energy investors.

00:17:22

popular let's a convention a

00:17:25

lot of States became parties

00:17:28

to the convention Most states

00:17:29

in Europe a lot of

00:17:31

states in Central Asia and

00:17:33

further place like Japan, for

00:17:35

example however, the ECP has

00:17:41

come under a lot of

00:17:41

scrutiny lately because it's been

00:17:45

criticized as hindering the energy

00:17:49

transition by creating a so-called

00:17:52

regulatory. Chill. Meaning that states

00:17:55

are afraid of adopting energy

00:17:58

transition policies because they might

00:18:01

be They might face as

00:18:03

a result investor-state dispute from

00:18:10

fossil fuel. So there were

00:18:15

efforts recently to reform the

00:18:17

energy charger treaty to exclude

00:18:21

to withdraw protections offered to

00:18:23

fossil fuel investors. Therefore leaving

00:18:25

the convention solely at protecting

00:18:28

renewable energy and best resort

00:18:30

or other energy investors those

00:18:32

reforms however, failed and many

00:18:35

member states states are now

00:18:36

opting instead to withdraw entirely

00:18:38

from the convention of states

00:18:43

that have withdrawn or harvest

00:18:49

drawing or plan to withdraw.

00:18:50

For example, Germany, France Italy

00:18:52

Spain the Netherlands and the

00:18:53

UK as the latest state

00:18:56

to have announced that it

00:18:57

intends to withdraw from the

00:18:59

convention. So I just want

00:19:02

to highlight the fact that

00:19:03

this is a complex issue.

00:19:06

Because by the ACT Zone

00:19:08

calculations about 60% of arbitrations

00:19:11

brought under the ACT concern

00:19:14

Renewable Power Generation and always

00:19:16

about 35% concerned fossil-fuel self,

00:19:19

ironically could be said that

00:19:22

the ECT Works in favor

00:19:24

of the energy transition by

00:19:26

protecting and encouraging investment in

00:19:29

renewable. And according to some

00:19:32

commentators withdrawing from the hinder.

00:19:41

I'm running out of time.

00:19:42

So if there's one last

00:19:43

topic that I would like

00:19:44

to discuss and that is

00:19:46

the electric grid and change

00:19:48

it to the electric grid.

00:19:51

Which is a crucial topic

00:19:53

for the energy transition as

00:19:56

we know it renewable energy

00:19:57

is generated in remote places

00:19:58

no place with a lot

00:19:59

of Thunder with a lot

00:20:00

of wind that aren't necessarily

00:20:02

close to the places where

00:20:04

the energy is going to

00:20:05

be used. And so there

00:20:07

has to be inappropriate electric

00:20:12

grid infrastructure so that the

00:20:15

energy can reach the urban

00:20:17

centers and I'd like to

00:20:20

mention a an article. I

00:20:22

read The Economist which came

00:20:24

out in April last year.

00:20:24

It's called hug pylons not

00:20:26

trees the case for an

00:20:27

environmentalism that builds and the

00:20:29

gist of that article is

00:20:30

Apollo. economy says that the

00:20:33

scale of the changes needed

00:20:34

to adapt the world the

00:20:35

electricity grids for the energy

00:20:37

energy transition is vastly underappreciated

00:20:39

and too little investment is

00:20:41

taking place just to get

00:20:43

a grasp of The investment

00:20:47

is needed the total cost

00:20:49

for the entire energy transition

00:20:51

is calculated as being divided

00:20:52

55% for new energy generation,

00:20:55

but 45% that's almost half

00:20:58

for distribution transmission storage systems

00:21:01

that are needed to make

00:21:03

that supply of energy usable.

00:21:05

However, investment ingrates is way

00:21:08

way below what is needed.

00:21:09

The economist calculate said it's

00:21:11

about a quarter of what

00:21:14

it should be at the

00:21:15

moment and to make things

00:21:17

worse according to the economist.

00:21:19

There is too much undue

00:21:22

for unwarranted opposition to building

00:21:24

the electric grid infrastructure that

00:21:26

is needed by the very

00:21:28

environmentalist that supports of the

00:21:30

energy transition. How to spell

00:21:36

a discussion in Columbia specifically

00:21:39

we are facing obstacles with

00:21:42
the electric grid and even

00:21:45
though we haven't seen disputes

00:21:47
arise from this issue there

00:21:50
very well might be in

00:21:53
the future one example. This

00:22:00
is a key project for

00:22:01
the energy transition in Columbia.

00:22:07
A great amount of the

00:22:09
wind farms that are being

00:22:10
built in the north of

00:22:11
Columbia and what he has

00:22:12
assigned to the National electricity

00:22:16
system. So without this one

00:22:20

electricity line all that wind

00:22:23

power will be unusable. So

00:22:28

the problem is that the

00:22:29

project faced very long delays.

00:22:31

I think it was 3

00:22:32

years because there were difficulties

00:22:35

in completing the mandatory consultations

00:22:38

or is it called him

00:22:38

here comes with numerous local?

00:22:43

So I just want to

00:22:45

highlight that fact as an

00:22:46

example of a factual situation

00:22:49

that even though it hasn't

00:22:51

let the disputes yet. They

00:22:53

very well could and actually

00:22:55

in other countries that has

00:22:57

already been the case and

00:23:00

coincidentally, it involves a Colombian

00:23:03

company that makes a claim

00:23:08

against what their my last

00:23:09

few years ago precisely under

00:23:12

similar circumstances. They were building

00:23:15

or they are building one

00:23:18

of the most important projects

00:23:21

in Guatemala which concerns enough

00:23:23

enough weight to the electric

00:23:25

grid and the project has

00:23:27

faced. Numerous obstacles with the

00:23:30

authorities but also with the

00:23:32

local communities who have opposed

00:23:33

the project. So I just

00:23:38

want to say this is

00:23:41

another type of dispute that

00:23:43

related to the energy transition

00:23:45

that we will have to

00:23:47

look out for in the

00:23:48

future. So would that I

00:23:51

wanted to provide just a

00:23:52

general landscape of a few

00:23:54

interesting topics that that relate

00:23:57

to the energy transition and

00:23:58

disputes arising from the energy

00:24:01

transition and now we can

00:24:03

get to to the nitty

00:24:04

gritty and we'll start with

00:24:07

and we'll hear about energy

00:24:17

transition and the goals that

00:24:19

states have acquired in that

00:24:22

regard and potential that is

00:24:26

a noble energy. So, please

00:24:30

thanks Ricardo and organized because

00:24:33

he remotely learning definitely my

00:24:37

background is Ricardo mentioned. So

00:24:43

I've been working all my

00:24:45

research life on producing energy.

00:25:02

Okay, so we can start

00:25:04

with this. next. So I'm

00:25:15

sure you already know more

00:25:17

than me that energy is

00:25:18

going to be increasing the

00:25:20

demands or we're going to

00:25:22

need more and more energy

00:25:23

is supplied by a demon

00:25:28

of the population and improve

00:25:30

the quality of life. So

00:25:32

we need to look for

00:25:35

new energy sources. That's the

00:25:38

problem here is that energy

00:25:44

is coming from the combustion

00:25:45

of fossil fuels and this

00:25:48

process is releasing CO₂ gases

00:25:52

to the environment. We can

00:26:04

say we are sure that

00:26:05

there is increasing the temperature

00:26:10

of the plant so Netflix.

00:26:17

Next time so the first

00:26:29

picture is fire symbol with

00:26:31

out early this year. So

00:26:40

we are having fires on

00:26:42

hurricanes in places. We didn't

00:26:46

get Jaden early and also

00:26:49

many species of releasing high

00:26:58

amounts of carbon dioxide in

00:27:00

the ocean and increase payments

00:27:05

crisis. We are facing right

00:27:07

now. We all know the

00:27:10

difference between 5 degrees C

00:27:22

and we are April 2015

00:27:25

and will be able to

00:27:29

get it at least 50%

00:27:35

of the CO₂ emissions for

00:27:37

2004 Jetta diesel station. So

00:27:48

the United Nations has a

00:27:50

to sustainable development affordable energy.

00:28:03

hey Irina, the international renewable

00:28:06

energy transformation of the global

00:28:15

energy sector from for sale

00:28:16

of the century and male

00:28:31

by Renault energy deployment in

00:28:35

the entire world 90% of

00:28:38

these are gonna produce the

00:28:40

carbon reduction we need And

00:28:44

the energy transition we know

00:28:46

that will be enabled by

00:28:47

information technology is Martin neurology.

00:28:49

And the reason we are

00:28:51

here for TC framework, maybe

00:28:53

new policy Frameworks and Market

00:28:55

in Surrey. So just to

00:28:59

bring the table the target

00:29:01

of the universal access to

00:29:05

Affordable Energy Service Services increased

00:29:11

substantially the share of renewable

00:29:13

energy in the global market

00:29:15

mix. But also we have

00:29:22

some at a specific targets

00:29:24

related to enhance International cooperation

00:29:27

that's going to be very

00:29:28

important to complete a task

00:29:30

to clean energy research and

00:29:32
technology and also the second

00:29:36
that I want to mention

00:29:37
is expanse infrastructure and technology

00:29:40
in developing phones. So definitely,

00:29:47
this is not a very

00:29:48
easy optimization a problem. Columbia

00:29:55
at without mentioning a has

00:29:57
the potential and worldwide in

00:29:59
a morally in a songs

00:30:08
of the country most the

00:30:18
right. You can see the

00:30:19
challenges we are. Can we

00:30:31
have some data of the

00:30:33

potential we have been calculated

00:30:35

by 2050 for a queen

00:30:40

and solar energy yellow mostly

00:30:43

in north and east as

00:30:45

we are going to need.

00:30:58

In the amounts URC ended

00:31:00

so just to finish the

00:31:02

challenges of the energy transition

00:31:04

are related to a technical

00:31:06

economic current rotation wants scaling

00:31:12

of renewable energy infrastructure and

00:31:16

independence with prices. So I

00:31:22

think this is a generation

00:31:24

that has to build these

00:31:27

coordination problem. So we are

00:31:47

going to need International cooperation

00:31:49

with renewable energy and sustainable

00:31:55

to face these we are

00:31:59

face it. We have a

00:32:01

human kindness right now. Thank

00:32:03

you. Thank you very much

00:32:07

monthly tile. That was perfect

00:32:10

timing to drink. I have

00:32:11

to say it's from the

00:32:19

other panelists anyone has. I

00:32:23

do I do want to

00:32:25

ask a question and it

00:32:26

relates to sustainable development goals

00:32:28

7. Would you mention there

00:32:30

in your slides according to

00:32:32

that? They should significantly expand

00:32:36

their infrastructure in renewable energy.

00:32:40

And my question is how

00:32:42

ambitious you think that? They

00:32:46

should be in achieving that

00:32:48

goal. And I asked this

00:32:50

question in the context of

00:32:52

the Spain in Spain one

00:32:58

could say that. The state

00:33:00

was perhaps too ambitious of

00:33:02

one point in sitting in

00:33:03

schools in an expanding its

00:33:05

energy infrastructure offered incentives and

00:33:09

then because of physical economically

00:33:11

reasons had to backtrack and

00:33:14

this obviously led to a

00:33:15

massive wave of dispute. So

00:33:16

I guess my question is

00:33:18

how ambitious do you think

00:33:20

that states should be in

00:33:22

setting their goals? I think

00:33:28

you have fun like they're

00:33:29

in aspic. The success of

00:33:40

implementing sdga every price analyzing

00:33:45

the current energy landscape policy

00:33:48

environment & infrastructure capabilities. I

00:33:51

want to focus on Monday.

00:33:55

We need to build caparelli

00:33:57

capacities in our country is

00:33:59

definitely a sot going to

00:34:02

make factors and Columbia specific

00:34:06

information on potential. I am

00:34:08

convinced of that for significantly

00:34:10

increasing the share of renewable

00:34:12

energy. We need to work

00:34:17

on continuous support around it.

00:34:22

We are right in the

00:34:24

middle of the second 2025

00:34:27

Model A and we need

00:34:31

every Wings by 2030 if

00:34:34

we can get some regarding

00:34:37

these energy transition in the

00:34:41

thirties and forties are going

00:34:43

to be easier in the

00:34:45

energy transition. Fighting Columbia to

00:34:49

Tel Dan Beacham the goals

00:34:51

for Liverpool energy infrastructure recognizing

00:34:55

the multiple benefits again, in

00:34:59

terms of climate action economic

00:35:00

growth and energy security. We

00:35:04

need we need the balance.

00:35:07

We know more than me

00:35:12

and those aspects with a

00:35:15

note so we can become

00:35:16

a regional leader in renewable

00:35:18

energy has right now we

00:35:19

are becoming intern some green

00:35:22

hydrogen a patient experience. We

00:35:25

Joseph painting our initial political

00:35:28

framework from the government to

00:35:30

your four years ago and

00:35:32

that was enough for getting

00:35:34

in touch with the lateral

00:35:37

associations. We are participating hydrogen

00:35:41
hydrogen hydrogen Association, so we

00:35:47
are I'm talking on in

00:35:49
touch with the government to

00:35:51
promote policies we need to

00:35:54
do it and I know

00:35:55
it so we have cleared

00:35:56
research funding Ministry of science

00:36:01
is a clear line in

00:36:05
supporting research on hydrogen. So

00:36:08
that combine are allowed to

00:36:12
develop capacities in the country

00:36:14
and we are a regional

00:36:17
leader in this topic. So

00:36:21

this early we can give

00:36:24

us a confidence and hope

00:36:27

I think we have a

00:36:28

start with that and I

00:36:30

just want to mention the

00:36:31

realistic goals that we can

00:36:35

Define to work on this

00:36:39

ambition, but realistic targets for

00:36:44

example of resources as I

00:36:46

do with hair when it

00:36:48

What we have and how

00:36:49

much is going to cost,

00:36:50

you know, what role in

00:36:51

these places and these calculations

00:36:55

must be constant because all

00:36:56

the time political and Technical

00:36:58

and social aspects are affecting

00:37:01

the cost of the sustainable

00:37:04

energy. We need incremental targets.

00:37:07

So we have to be

00:37:09

an assistant achievements and capacities.

00:37:12

For example, natural gas. I

00:37:14

think that's I think that's

00:37:16

why I got some fuel

00:37:19

so we have to work

00:37:20

with that and if we

00:37:22

moved our natural gas employment,

00:37:24

we easily can move to

00:37:27

hydrogen and electrical Grid electric

00:37:30

acacian of the industry in

00:37:32

Columbia. And also quality and

00:37:34

Regulatory framework, which is no

00:37:37

disease that has a stroke

00:37:38

a strong point in Colombia

00:37:39

seems that you are the

00:37:41

expert infrastructure development. As you

00:37:44

said that we need to

00:37:46

create an infrastructure and energy

00:37:48

storage is Margaret Technologies. So

00:37:52

that's why we need research

00:37:53

incorporated International cooperation is stakeholder

00:37:56

engagement including local communities private

00:38:00

sector players international Partners have

00:38:04

to Define how to talk

00:38:06

and how to manage this

00:38:08

conversation because he's not easy

00:38:10

with the national company and

00:38:14

the government might. I don't

00:38:16

know how do you face

00:38:18

that station of the time?

00:38:21

How did these policies are

00:38:23

working bring us important lessons

00:38:30

and sure if for example

00:38:33

Is written policy stability again,

00:38:36

another word for interior designing

00:38:41

financially sustainable incentives right now

00:38:44

18, we don't have almost

00:38:45

incentivise. I don't think Colombia

00:38:49

has the risk of unsustainable

00:38:50

incentive because we don't have

00:38:54

conducted you planning to have

00:39:00

an economic and fiscal planning

00:39:03

of these Investments protecting in

00:39:05

the investor interest adopting faces

00:39:10

approach is starting with this

00:39:12

morning is smaller a manifold

00:39:15

of manifolds project and go

00:39:18
in Italian up as I

00:39:23
mentioned in these communities and

00:39:26
companies communication. So is this

00:39:29
a very hard question, but

00:39:31
I tried to answer some

00:39:32
phones and bring them to

00:39:34
the same thing. I will

00:39:39
move on to hear Kurtz

00:39:43
discuss the potential energy transition

00:39:48
and the complexity of quantum

00:39:50
assessment cell. Please hurt. Good

00:39:54
afternoon. My name is Kurt's

00:39:56
drunk. I've been working in

00:39:59

the energy sector actually now

00:40:01

for 30 years and have

00:40:04

done a lot of disputes

00:40:06

that relate to the energy

00:40:08

transition. But I'd say half

00:40:12

of my practice is actually

00:40:13

advisory work where I'm working

00:40:15

with energy companies to help

00:40:18

them plan help them look

00:40:19

at specific transaction. And then

00:40:21

the other half of my

00:40:22

practices is disputes were like

00:40:25

I serve as witness often

00:40:27

it matters of quantum. My

00:40:33

work is is global and

00:40:35

has done extensive work throughout

00:40:37

Latin America. So with that

00:40:40

I'll move on Ricardo mentioned.

00:40:43

I'm looking to give you

00:40:46

an overview of of two

00:40:48

sources of new disputes that

00:40:49

I see potentially coming wanted

00:40:53

more near-term issue and the

00:40:58

other is a longer-term issue

00:41:00

and then As those disputes

00:41:03

come in. I'll explain a

00:41:04

few of the challenges that

00:41:06
damages experts have to deal

00:41:09
with us as they're looking

00:41:10
at at these disputes next

00:41:13
line, please. so the near-term

00:41:16
I think one of the

00:41:18
problems that that I've been

00:41:20
observing as as we go

00:41:24
through this energy transition is

00:41:26
is that projects are facing

00:41:29
major cost increases right the

00:41:33
the levels of inflation in

00:41:37
in the past several years

00:41:39
have been much higher than

00:41:40

then they were for four

00:41:42

decades similarly after the process

00:41:48

of zero zero interest rate

00:41:50

policy interest rates are now

00:41:52

increasing and companies that are

00:41:56

developing these projects to finance

00:42:00

them. This is a a

00:42:03

big Endeavor as Martha Isabel

00:42:05

mentioned and Ricardo mentioned. It's

00:42:08

it's a massive investment the

00:42:12

International Energy agency estimates that

00:42:16

just for Latin America and

00:42:18

the Caribbean alone, then need

00:42:21

the investment need is one.

00:42:23

Australian u.s. Dollars during the.

00:42:26

The Five-Year period from 2026

00:42:29

to 2030 so you know

00:42:32

with with the high cost.

00:42:36

And Supply chains that have

00:42:38

been strained Supply trains were

00:42:41

extremely strange during the the

00:42:44

covid pandemic but in addition

00:42:46

there their new supply chain

00:42:48

into their supply chains that

00:42:50

are subject to Growing Pains.

00:42:52

It's very hard to get

00:42:55

projects. On time and within

00:43:00

budget, so the fact that

00:43:03

projects are delayed and the

00:43:05

costs are much higher or

00:43:07

is likely to it to

00:43:08

lead to dispute. So often

00:43:10

times when projects come out

00:43:13

of international competitive bidding processes.

00:43:16

The developer will have to

00:43:18

fix a certain elements of

00:43:20

its bid price. And so

00:43:22

I'm trying to win those

00:43:26

fixed elements of the pricing

00:43:28

were set into a different

00:43:30

Market environment. And now that

00:43:32

the developer is facing much

00:43:34

higher cost very hard to

00:43:36

comply with with the terms

00:43:40

of those commitments in in

00:43:41

the contractual Frameworks. And so

00:43:44

if developers are unable to

00:43:47

comply with a contract there

00:43:48

will that will lead to

00:43:50

the claims. So on. on

00:43:57

the next slide you'll see

00:44:00

just a few. Indicators of

00:44:04

the increase in costs and

00:44:06

and so on the left

00:44:07

side, you've seen how raw

00:44:10

materials prices have increased in

00:44:13

the last five years and

00:44:15

similarly on the right hand

00:44:17

side. You can see how

00:44:18

just the Government Bond rates

00:44:21

that which are the Baseline

00:44:22

for what private companies can

00:44:27

finance that they would finance

00:44:30

that with this credit spread

00:44:31

over and above the Baseline,

00:44:33

but those have just shot

00:44:35

up significantly making it much

00:44:40

more costly for developers to

00:44:43

to undertake these projects. Text

00:44:48

Mike, please. Without those disputes

00:44:52

that come from cost increases

00:44:53

in the inability to meet

00:44:55

project pricing due to cost

00:45:04

increases as near-term disputes. In

00:45:09

the longer term, I would

00:45:12

agree with Martha Isabel. Is

00:45:14

it in natural gas as

00:45:15

a transition fuel? Right, but

00:45:19

if we look at Latin

00:45:22

America and the quantity of

00:45:25

investment has been made in

00:45:27

natural gas-fired power generation in

00:45:30

the last 5 years and

00:45:32

we look at what's expected

00:45:33

for the next five years.

00:45:34

We're talking over a hundred

00:45:37

gigawatts of new gas-fired generation.

00:45:44

And as the degrees change

00:45:48

not we're not at the

00:45:50

next five years as the

00:45:53

Greeks change. Yeah, it may

00:45:57

be the that those. Gas-fired

00:46:01

power plants were anticipating at

00:46:04

a certain level of operation.

00:46:06

The grid needs them today

00:46:07

at desperately needs those plants

00:46:09

today. It needs them to

00:46:10

you know cycle up and

00:46:13

down as as as renewable

00:46:17

energies is going to intermittently

00:46:20

injected into the grade basketball

00:46:25

project. Its well-established. Everyone knows

00:46:29

the technology. It's easy to

00:46:30

build a pipeline to the

00:46:31

plant. So it's it's it's

00:46:35

because the needs of the

00:46:37

greater so big it's an

00:46:39
obvious solution today. And even

00:46:41
though these power plants are

00:46:42
for hood for looking at

00:46:44
for example of a combined

00:46:45
cycle power plant that would

00:46:47
in today's market could run

00:46:49
it at 60% capacity Factor

00:46:51
if we look at The

00:46:55
full lifespan of of that

00:46:57
power plant. It could be

00:46:59
a 30-year lifespan and 10

00:47:02
years into it. There could

00:47:04
be so much renewable energy

00:47:06

on the grid power plants

00:47:09

not going to be running

00:47:10

nearly as much as it

00:47:12

anticipated or as it was

00:47:14

when it was first put

00:47:15

into commercial operation. So that

00:47:19

in my mind couldn't could

00:47:22

trigger a Acclaim and a

00:47:27

complicated claim what you know

00:47:30

to the extent that that

00:47:33

there is a loss in

00:47:34

economic value associated with all

00:47:38

these new Renewables coming onto

00:47:40

the system the investor in

00:47:44

the in the gas-fired power

00:47:46

project. Randolph do you sleep

00:47:53

the merits of the case

00:47:54

would need to be disputed

00:47:55

and it would they would

00:47:56

need to pay it would

00:47:58

all need to be sort

00:47:59

of tested and consistent with

00:48:02

whatever legal framework was was

00:48:04

in place. But you know,

00:48:07

it doesn't take a shutdown

00:48:09

of the plant to trigger

00:48:11

a claim. I didn't go

00:48:12

to an investor could even

00:48:14

if it's only make a

00:48:15

claim based on reduced operations.

00:48:19

I've seen that with coal

00:48:22

plants in North America where

00:48:26

there was a dispute because

00:48:27

the coal plant was operating

00:48:29

at a real juice level.

00:48:31

It can operate as efficiently

00:48:32

is economics are all based

00:48:35

on. You know, how much

00:48:37

higher capacity Factor? So if

00:48:42

those disputes do do arise

00:48:45

in the future, that's where

00:48:47

some of the complexities will

00:48:49

come in or the if

00:48:53

she turn to the next

00:48:53

slide now. What is the

00:48:58

reason for the reduced operations

00:49:00

right is the reduced operations

00:49:02

the results of a change

00:49:04

in policy would it be

00:49:07

and I was sort of

00:49:09

tie to that training change

00:49:11

in policy or are there

00:49:13

other Market factors that explained

00:49:15

that the reduced operation? For

00:49:18

example, what did the gas-fired

00:49:21

project run last because gas

00:49:23

prices were higher and it

00:49:25

was not as economic as

00:49:28

it as it once was

00:49:29

so when we're looking at

00:49:32

specific claims in in an

00:49:34

investor State dispute contacts. It'll

00:49:39

be important for the damages

00:49:41

expert to be able to

00:49:44

parse out. Okay, what which

00:49:46

parts of the claim are

00:49:47

specifically related to the liability

00:49:51
that the respondent state might

00:49:54
have and the allegations made

00:49:58
in a complaint and what

00:50:00
part of that loss and

00:50:02
economic value could be attributed

00:50:04
to factors that are unrelated

00:50:06
to the Claymore the allegations

00:50:08
against the made against the

00:50:11
the responded state. So, you

00:50:14
know, it could be that

00:50:15
the market shows Renewables not

00:50:18
because of the policy change,

00:50:20
but because they were the

00:50:21

most economic solution. So there

00:50:23

is as we move through

00:50:29

this transition, I think it

00:50:31

raises fascinating but extremely challenging

00:50:36

questions for for damages experts

00:50:39

and end for the quantum

00:50:41

quantifying what what the harm

00:50:44

to the investor is. I'll

00:50:47

leave it there. Thank you.

00:50:52

Thank you very much Kurt's

00:50:53

I do have a question.

00:50:59

In Your Capacity as an

00:51:01

expert in the energy industry.

00:51:02

I want to ask what

00:51:05

your predictions are for the

00:51:07

disputes landscape in relation to

00:51:11

the energy transition policies in

00:51:12

the coming decades because most

00:51:14

disputes to date that we've

00:51:16

seen a focus on power

00:51:19

generation and including the disputes

00:51:23

that you mentioned that

00:51:28

might arise in the future.

00:51:31

He also concerned power generation.

00:51:37

What about energy transmission? That's

00:51:40

the other side of the

00:51:41

story. Do you think the

00:51:42

energy transmission will gain a

00:51:44

leading role in terms of

00:51:46

disputes or or will it

00:51:49

still continue to be dominated

00:51:50

by power generation dispute? Thank

00:51:57

you. That's a great question.

00:51:58

And it really sort of

00:52:00

boils down to what's the

00:52:06

potential for economic lost its

00:52:08

investors commit funds to transmission

00:52:12

versus generation and it's much

00:52:14

more likely to be the

00:52:16

case that generation investment would

00:52:19

be stranded data transmission investment

00:52:22

because usually what happens with

00:52:25

an existing transmission line that

00:52:27

has all the rights of

00:52:28

way it needs and in

00:52:31

service is that in Odell

00:52:34

what we're seeing a lot

00:52:37

to be able to use

00:52:42

the existing substations and the

00:52:46

existing infrastructure to to get

00:52:50

that new Renewable Power to

00:52:52

Market. But I don't think

00:52:55

that transmission is immune from

00:52:58

disputes that the case that

00:53:00

you mentioned Ricardo Grupo interfere

00:53:03

with their claim against Guatemala,

00:53:07

right? That's kind of a

00:53:08

typical I would say that's

00:53:10

a very typical case in

00:53:12

Latin America where the developer

00:53:15

will have trouble getting permits,

00:53:18

even though it one that

00:53:20

won the right to to

00:53:22

build the project. It'll have

00:53:24

trouble with opposition from local

00:53:27

communities. There will be roadblocks.

00:53:29

It won't be able to

00:53:30
get that supplies to the

00:53:33
to the site and so

00:53:36
so so the fact that

00:53:38
there is going to be

00:53:40
There is that there needs

00:53:42
to be a lot of

00:53:43
transmission build. See what it

00:53:46
means that there are likely

00:53:48
to be that kind of

00:53:49
dispute. But it it's a

00:53:51
it's different from us stranded

00:53:53
ass at this view, but

00:53:55
I think you would have

00:53:59

You would have a different

00:54:04

you don't deserve a different

00:54:06

nature. I mean some of

00:54:07

the cases we've seen in

00:54:08

in Canada. There are there

00:54:12

was a claim by a

00:54:13

coal miner against the government

00:54:15

of Canada under it was

00:54:19

and I think we're going

00:54:19

to have to claim but

00:54:21

that it's its coal mine

00:54:24

was stranded right and that

00:54:27

the government of Alberta had

00:54:29

paid the sixties who own

00:54:34

power plants. To close their

00:54:37

power coal-fired power plants. And

00:54:40

so there was a bit

00:54:41

of a des-case with Westmoreland.

00:54:42

It didn't go far. I

00:54:43

think it got thrown out

00:54:44

on on jurisdictional grounds, but

00:54:46

it was kind of a

00:54:49

it was a stranded asset

00:54:51

case. And and I think

00:54:55

generation has much more of

00:54:57

a potential for stranded assets

00:54:59

than transmission transmission cases are

00:55:02

more likely to be the

00:55:03

delays or you know, even

00:55:06

potentially the cost cost overruns

00:55:08

said that may you know,

00:55:10

no one anticipated the market

00:55:12

to to move in the

00:55:14

way that it did and

00:55:15

the bid was promised on

00:55:17

another set of economic conditions.

00:55:22

So that could easily be

00:55:24

a case. Excellent. Thank you

00:55:29

very much cards. If we

00:55:31

don't have any other questions

00:55:32

for Kurt's then we'll move

00:55:35

on with who will discuss

00:55:39

energy transition policies in the

00:55:42

framework of protection treaties and

00:55:44

he'll focus on a few

00:55:44

important dispute and and decisions

00:55:49

in this field. Thanks, my

00:55:53

cousin. when I was looking

00:55:59

at the topics that I

00:56:00

would discuss today in in

00:56:02

the framework of investment disputes

00:56:03

originated by energy transition policies,

00:56:05

I found Several interesting things

00:56:08

number one is everybody's talking

00:56:11

about it. Right? So everybody

00:56:12

has an opinion. There's a

00:56:13

lot of information. The second

00:56:16

thing that caught my attention

00:56:17

was it generally speaking. A

00:56:21

lot of people take for

00:56:22

granted that energy or policy.

00:56:26

Changes would generate a lot

00:56:29

of litigation. They can think

00:56:32

about it. The system is

00:56:33

not really designed that way.

00:56:34

It's not really meant to

00:56:36

work that way. The protection

00:56:38
of International Investment is not

00:56:39
meant to could tell the

00:56:41
states abilities to serve its

00:56:44
meant to provide a legal

00:56:45
framework for that to happen.

00:56:46
But I think that one

00:56:48
of the ideas that has

00:56:50
allowed a great number of

00:56:52
people to accept the system

00:56:53
is that countries continue to

00:56:58
have the ability to regulate

00:57:00
so why is it that

00:57:02
we're saying that's number one

00:57:03

white was saying that and

00:57:04

number to why are we

00:57:05

saying it so matter-of-factly well.

00:57:09

This energy transition has two

00:57:11

components. Right? And I think

00:57:13

that the first one is

00:57:14

very interesting because there are

00:57:17

a lot of transitions in

00:57:18

the world as the years

00:57:20

go by transitions from one

00:57:22

type of business to another

00:57:23

technological changes in this and

00:57:24

that but it is not

00:57:26

that often that transitions in

00:57:30

food strong specific efforts to

00:57:33

stop an end in Industry.

00:57:36

What usually happens is that

00:57:39

transitions are led by univation

00:57:42

buy new circumstances buy new

00:57:44

patterns of consumption, whatever you

00:57:46

want and then competition and

00:57:48

the functioning of the markets

00:57:49

and so on and so

00:57:50

forth just sort of allows

00:57:52

the other Sort of the

00:57:57

market that's in place to

00:57:59

sort of Doubt. But we're

00:58:02

making specific efforts to Halt

00:58:05

the emission of greenhouse gases.

00:58:08

Like the condo was saying

00:58:10

earlier the problem that we

00:58:11

have right now as far

00:58:12

as I can understand it

00:58:13

being a lawyer is that

00:58:16

we are we have too

00:58:17

many gases that make your

00:58:19

Escape stay in the world

00:58:21

is getting warmer and we

00:58:23

need to stop CO2 gases

00:58:27

and we're going to get

00:58:30

in the way of businesses

00:58:31

that are successful today. We're

00:58:33

going to have to get

00:58:33

in the way of businesses

00:58:34

that are legal that required

00:58:37

a great deal of innovation

00:58:39

of work and countries are

00:58:42

going to have to come

00:58:43

over and say I'm sorry

00:58:44

you got to stop so

00:58:45

that itself puts us in

00:58:47

a difficult position. Number to

00:58:50

this is happening. Of course

00:58:52

all over the world. If

00:58:53

you look at the Paris

00:58:54

agreement and in a lot

00:58:55

of effort, I want to

00:58:56

mention that specifically it's very

00:58:59

soon. It's going to be

00:59:00

10 years. It's been 8

00:59:01

years. Most of the world

00:59:04

for parties to the Paris

00:59:06

agreement and those countries that

00:59:08

are not to just do

00:59:14

away with the generation of

00:59:16

energy with essentially coal oil

00:59:19

and that's going to have

00:59:21

a lot of impacts in

00:59:24

different walks of life and

00:59:26

in different Industries, but for

00:59:27

sure in the rights of

00:59:29

investors who put in a

00:59:31

lot of work and put

00:59:32

in a lot of capital

00:59:33

and put it put in

00:59:34

a lot of Innovations on

00:59:36

to develop but in addition

00:59:40

to that It's going to

00:59:44

be very hard to replace

00:59:45

this from a technical standpoint

00:59:47

when you look and when

00:59:49

you read the articles of

00:59:50

the experts and they tell

00:59:53

you what are the possibilities

00:59:54

that you have in the

00:59:55

world with the technology we

00:59:56

have today to actually replace

00:59:59

the amount of energy that's

01:00:00

required. It it's not very

01:00:02

obvious that that's going to

01:00:03

be possible in the short

01:00:05

term how much it's going

01:00:06

to cost how it's going

01:00:07

to happen and when that's

01:00:07

going to happen, so there's

01:00:09

a lot of incentives going

01:00:10

on everywhere. Right? So governments

01:00:12

are coming up with incentives

01:00:13

not just for people to

01:00:14

stop doing something but to

01:00:16

start doing something but they're

01:00:18

experimenting with a lot of

01:00:19

these and sent right and

01:00:21

because everybody thinks that were

01:00:22

in a hurry and it

01:00:22

seems like we are because

01:00:24

we have to be done

01:00:24
by 2050 seems to be

01:00:25
like the general sort of

01:00:27
consensus. They're attracting a lot

01:00:31
of these policies will come

01:00:35
to invest and you know,

01:00:36
five or six years later

01:00:37
then a government did not

01:00:38
know this was a bad

01:00:40
idea. Let's do it the

01:00:41
other way and then you

01:00:42
have a situation like what

01:00:43
happened in Spain with a

01:00:44
lot of people relying on

01:00:45

one thing and then the

01:00:46

government said well, maybe not

01:00:47

so much and that is

01:00:49

what's generating a lot of

01:00:51

litigation and will continue to

01:00:54

generate a lot of litigation

01:00:55

in a context that is

01:00:57

really not meant that is

01:00:58

really where they made big

01:01:02

efforts for this not to

01:01:03

happen. Right? So at the

01:01:06

end of the day, I

01:01:06

think that the views that

01:01:09

find it normal that this

01:01:11
is going to give rise

01:01:11
to a lot of investment

01:01:12
litigation or either missing something

01:01:15
or there. Questioning summer think

01:01:18
at the end of the

01:01:18
day of the foundations of

01:01:19
the investment protection system. Okay.

01:01:22
So let's go a little

01:01:25
bit of Statistics. If you

01:01:27
look at investment disputes administered

01:01:31
by exit in 20, 21,

01:01:33
22 and 23 the ones

01:01:35
related with energy and with

01:01:37

energy energy. I mean oil

01:01:38

gas Mining and Electric Power

01:01:42

They're almost 50% their 4346

01:01:45

and 42 are divided boil

01:01:47

gas and Mining usually in

01:01:49

the in the high twenties

01:01:49

and then electric power and

01:01:51

others around 15% So there's

01:01:53

a lot of litigation going

01:01:54

on in these kinds of

01:01:56

Industries. The one who changes

01:02:00

rights we have policy changes

01:02:02

that might affect the rights

01:02:04
of investors find second dispute

01:02:07
surrounding incentives. We talked about

01:02:09
Spain but there's something that's

01:02:11
going to change here very

01:02:13
quickly, I think and I've

01:02:15
always thought about it from

01:02:16
an economically point of view

01:02:17
because of the country where

01:02:18
we live and maybe take

01:02:19
Columbia and you take away

01:02:21
the cold and you take

01:02:22
away the oil I don't

01:02:25
think anybody has an answer

01:02:26

for what's left and for

01:02:28

how we replace that from

01:02:30

a purely economic point of

01:02:31

view. And what's going to

01:02:32

happen is that the resources

01:02:34

associated with generating energy and

01:02:37

selling energy and buying energy

01:02:39

are going to be completely

01:02:41

reallocated across the world as

01:02:43

countries find the they have

01:02:45

different resources than they did

01:02:46

in the previous scheme Rice

01:02:48

Hill Country that has a

01:02:49

lot of coal in a

01:02:49
lot of oil but we

01:02:50
don't have a lot of

01:02:51
oil but it's a lot

01:02:52
for us. We don't know

01:02:57
that we're going to have

01:02:57
the resources to generate equivalent

01:02:59
amount of energy. So what

01:03:01
is that going to mean?

01:03:01
Are we going to have

01:03:02
to go buy it from

01:03:03
somewhere else? Are we going

01:03:04
to what is that going

01:03:06
to mean for us and

01:03:07

you're going to have ice

01:03:08

and I'm tired. I'm napping

01:03:09

in World Markets where trade

01:03:12

of energy and energy associated

01:03:14

products and services is going

01:03:16

to be completely changed and

01:03:18

I think that the. We're

01:03:20

that begins to happen as

01:03:22

energy transition happens to the

01:03:25

extent that it does. I

01:03:26

was one of those things

01:03:27

I still want to see

01:03:28

it happening. A lot of

01:03:30

questions still to kanamak rearrangement

01:03:33

is going to give rice

01:03:34

probably to a lot of

01:03:34

litigation a lot of complex

01:03:36

in a lot of a

01:03:36

lot of those going to

01:03:37

be treating base conflicts or

01:03:39

there's going to be contact

01:03:39

Basecamp. Now, let's look at

01:03:44

this from a regulatory aspect

01:03:46

to come back to the

01:03:47

to the point. I was

01:03:47

making of the beginning soap.

01:03:50

If you look at the

01:03:50
existing energy disputes and what

01:03:52
has to do with investment

01:03:54
disputes about 89% of those

01:03:57
of the treaties involved in

01:03:59
these disputes can be considered

01:04:01
considered older treaties right there.

01:04:05
A lot of people who

01:04:05
are mentioning this notion that

01:04:08
as renegotiation of expiring investment

01:04:13
protection agreement starts happening, then

01:04:16
it's going to happen in

01:04:17
a framework that is going

01:04:18
to maybe reduce litigation, but

01:04:20

we'll have to see if

01:04:21

that happened. But the whole

01:04:23

foundation of the idea that

01:04:25

there's going to be a

01:04:26

regulatory change in the international

01:04:27

scenario is based on the

01:04:29

notion that the existing framework

01:04:31

is limiting country's ability to

01:04:33

regulate against that is a

01:04:38

little bit surprising to me

01:04:39

because I'm just going to

01:04:41

offer my personal opinion here.

01:04:42

I do think that important

01:04:47

social changes in foreign technology

01:04:49

technological changes policy changes if

01:04:52

they cost money and they

01:04:53

often do it is better

01:04:56

for States just assume that

01:04:59

they do it. What we're

01:05:01

headed towards is this acknowledging

01:05:04

the rights of investors as

01:05:05

a way to reduce the

01:05:06

cost of the transition. I

01:05:08

think that would be a

01:05:08

bad thing generally speaking for

01:05:11

for the investment protection system

01:05:14

for international relations. Of course,

01:05:17
the devil is in the

01:05:18
details and what I'm saying,

01:05:18
but generally speaking what I

01:05:21
think would be the West

01:05:22
the best thing to happen

01:05:24
is that we could see

01:05:25
a smooth transition from Generation

01:05:31
3 disabling if you want

01:05:32
to look at it that

01:05:33
way to a new generation

01:05:34
of treaties with people actually

01:05:35
find a way to agree

01:05:37
on ways to regulate this

01:05:39

in a manner that's not

01:05:40

going to generate a lot

01:05:41

of responsibility for States. But

01:05:43

the one it does then

01:05:44

stay to say right now

01:05:46

that's the price of doing

01:05:47

business. And if you look

01:05:48

at it internally forget the

01:05:49

international context for a minute

01:05:51

if you look at the

01:05:53

way countries do business and

01:05:54

trying to lie when they

01:05:55

have big changes and industries,

01:05:57

we've had it in Colombia

01:05:58

and transportation and other Industries

01:06:00

a lot of times you

01:06:01

have to take the assets

01:06:03

and the businesses from people

01:06:04

who had legitimate rights in

01:06:05

them. And what what does

01:06:07

the government do they buy

01:06:08

it from them and they

01:06:09

respect the rights and The

01:06:11

old ghosts and it's time

01:06:13

for the news. So I

01:06:15

do think that there's going

01:06:16

to be a lot of

01:06:17
litigation. I Thanks, though that

01:06:20
the reason is not the

01:06:21
fact itself that we having

01:06:23
changes in policy. I think

01:06:25
that the system should be

01:06:27
able to absorb changes in

01:06:28
policy if there if they're

01:06:29
properly done and not generate

01:06:31
an awful amount of litigation.

01:06:33
I do think that there's

01:06:34
a lot of indirect or

01:06:36
I don't know necessarily unintended

01:06:38
with a lot of indirect

01:06:39
consequences to the changes that

01:06:41
are going to come to

01:06:41
the necessarily going to generate

01:06:42
a lot of a lot

01:06:44
of litigation and I think

01:06:46
the system is going to

01:06:46
have to be readjusting we

01:06:49
adapting and I hope that

01:06:51
it happens in a way

01:06:52
that people generally find disrespectful

01:06:54
to the rights of parties

01:06:55
on both side because I

01:06:56
am hearing a lot of

01:06:57

noise of people who say

01:06:59

you know, what this is

01:07:00

so important that if we're

01:07:01

going to step on the

01:07:02

toes of a lot of

01:07:02

people on the rights of

01:07:03

a lot of people doesn't

01:07:04

really matter that much it

01:07:06

does matter I'm relatively old,

01:07:08

you know, very generously they

01:07:11

got the stuff that I've

01:07:12

been doing this for 20

01:07:13

years have been doing it

01:07:14

for 30 and I've seen

01:07:16

a lot of things around

01:07:17

the world where I I

01:07:19

place a lot of value

01:07:20

on the law and on

01:07:22

the on the Civilized solution

01:07:23

of disputes, and I do

01:07:25

hope that this translation says

01:07:26

does not happen at the

01:07:27

expense of the investment protection

01:07:29

system. Thank you. Thanks very

01:07:34

much. I bet it though.

01:07:37

I do have a question.

01:07:37

I want to go back

01:07:39

to something you said I've

01:07:40

noticed at one point a

01:07:41

little bit of skepticism as

01:07:43

to. Whether or not the

01:07:46

energy transition will actually happen.

01:07:47

You said you were not

01:07:48

sure the weather is we're

01:07:50

going to get there if

01:07:51

I understood correctly and investment

01:07:56

protection. Because presumably an investment

01:08:02

protection treaty with a a

01:08:04

multilateral convention focusing on renewable

01:08:09

energy Investments would presumably help

01:08:13

accelerate the energy transition, right

01:08:15

because if investments in that

01:08:17

field should be more comfortable

01:08:20

and more Investments. They will

01:08:27

lead to more investments in

01:08:28

the country and I want

01:08:32

to ask if you if

01:08:33

you think that such a

01:08:34

convention is possible if there's

01:08:38

enough political will today to

01:08:40

achieve it. And also whether

01:08:42

you think that it would

01:08:43

actually help further the energy

01:08:45

transition and I want to

01:08:47

put this in the context

01:08:48

of the act because I

01:08:49

mentioned there were recent efforts

01:08:51

to reform the convention and

01:08:59

those I myself am not

01:09:01

sure that states actually really

01:09:05

want to go there. Thanks.

01:09:09

I got to go. You're

01:09:10

right. I am skeptical not

01:09:11

because I don't think that

01:09:12

there's enough will around but

01:09:14

because it really just seems

01:09:16

like an awfully difficult thing

01:09:17
to do if I'm both

01:09:19
Technical and economic standpoint. So

01:09:23
I'm sure it's going to

01:09:24
happen to some extent but

01:09:25
we have to see s

01:09:27
to question. I do think

01:09:29
that we're going to have

01:09:30
a multilateral system with some

01:09:32
points that's going to be

01:09:33
supporting this entire transition. I

01:09:36
think that the real question

01:09:37
is the level of detail

01:09:39
because I think the devil's

01:09:40

in the details, right? So

01:09:42

there's a lot of trees

01:09:43

where people say, okay that

01:09:45

needs to be done. Let's

01:09:46

have these sorts of agreements.

01:09:48

But then when you get

01:09:49

in the details of who's

01:09:50

going to assume which costs

01:09:52

when you have developing countries

01:09:54

telling developed countries that we

01:09:56

have we have for so

01:09:57

many years, you know, you

01:09:59

get you got to give

01:10:00

us a pass because we're

01:10:01

not there yet, right. So

01:10:02

you have to assume a

01:10:03

higher-cost you have political Dynamics

01:10:06

inside each country. So I

01:10:10

think we're going to have

01:10:11

a problem with the lateral

01:10:14

treaty. We're going to have

01:10:15

a International System that's going

01:10:18

to support this but I

01:10:19

think that a lot of

01:10:20

important things are going to

01:10:21

be left out of the

01:10:22

regulation because it's going to

01:10:24

be too difficult to have

01:10:25

so many people agree on

01:10:26

them. That's what I think's

01:10:27

going to have. Absolutely. No

01:10:29

expert. That's just my personal

01:10:31

opinion. Great. Thank you very

01:10:34

much. Are there any other

01:10:38

questions for all this to

01:10:39

know so I will now

01:10:43

give the floor to cuddle.

01:10:44

I will speak about potential

01:10:47

challenges that companies like May

01:10:50

face when structuring projects related

01:10:52

to the energy transition and

01:10:54

also the mitigation of risks

01:10:56

in relation to the action

01:11:02

you may to Marcy severe

01:11:04

weather actually has to become

01:11:15

a reality and the sexiest

01:11:18

is that for example recently

01:11:21

in the Netherlands and we

01:11:25

were talking about this. This

01:11:39

is not longer a commercial

01:11:41

issue a human rights issue

01:11:43

that actually important and it's

01:11:52

not should not be longer.

01:11:54

I never buy gold at

01:11:57
the end to know how

01:11:59
we're going to make that

01:12:00
goal successful and valuable to

01:12:09
basically every contractor a party

01:12:12
that's going to be in

01:12:13
each other. We have to

01:12:17
start thinking differently on how

01:12:19
we're going to the contract

01:12:22
and the first Human ever

01:12:29
to combat and to and

01:12:35
how we approach it should

01:12:37
not be the same way

01:12:38
we can about what are

01:12:42

the benefits of going to

01:12:43

be to the weather what's

01:12:46

returns going to be or

01:12:48

whether there is or what's

01:12:51

the net value is going

01:12:52

to be of the project

01:12:54

and therefore project should be

01:12:56

push forward or not. We

01:12:59

just have to do it.

01:13:00

But therefore we need to

01:13:03

know how and that's where

01:13:05

we councils or aspires council's

01:13:08

need to come in and

01:13:11

it's basically and perhaps how

01:13:13

we structure country's major contract

01:13:18

or project. A security are

01:13:26

already Define. They're basically already

01:13:30

tested system that has been

01:13:34

proved but this is not

01:13:36

going to basically because this

01:13:39

project as everyone has mentioned

01:13:41

has different challenges and therefore

01:13:44

we have to figure it

01:13:46

out how to mitigate and

01:13:48

manage those for our clients

01:13:51

at the end of the

01:13:52

day for this date as

01:13:54

well. So how I started

01:13:58

this we have to Envision

01:13:59

new ways of an even

01:14:02

new ways and how we

01:14:04

deal with Partners business partners

01:14:06

in a joint venture for

01:14:08

project. Whether we have been

01:14:14

reading a lot about is

01:14:15

what it's called a color

01:14:17

approach basically should no longer

01:14:23

at construction and eventually going

01:14:28

to lose my safe negotiations

01:14:40

position of the parties. We

01:14:43

have a lot of Commerce

01:14:45

in this inspection and therefore

01:14:48

a contractor normally will have

01:14:50

a bargaining position for the

01:14:52

last German. It doesn't matter

01:15:01

is going to be the

01:15:03

first pass. So we have

01:15:13

to start the color of

01:15:15

principle, but this is only

01:15:17

going to work if artist

01:15:19

adult the color is principal

01:15:21

first or relation to reservation

01:15:28

of the energy on installation

01:15:37

of prices in financial problems

01:15:41

from contractors lack of Finance.

01:15:43

For example, the lack of

01:15:46

regulatory framework for a changing

01:15:50

regulatory framework. So for someone

01:15:52

to share. Necessarily mitigate or

01:16:02

managed just share the blame

01:16:03

because as perhaps her and

01:16:10

I need to have have

01:16:21

in this type of business.

01:16:26

We have to have a

01:16:31

different approach on standard size

01:16:37

listed on the head of

01:16:42

a company and also a

01:16:44
lawyer in front of the

01:16:49
tribunal we start we have

01:16:51
to start me to dispute

01:16:53
and at the end of

01:16:54
the If we talked and

01:17:04
that is also the first

01:17:06
we have to take on

01:17:08
how we're going to dispute

01:17:09
I ever supposed to make

01:17:15
a fax on West Main

01:17:17
Street actually can be brought

01:17:20
before a panel or the

01:17:23
tribunal that are real but

01:17:35
at the end everyone or

01:17:38
just come true for example

01:17:40
those projects that difficult decision.

01:17:46
Then the parties must make

01:17:49
a decision together. So no

01:17:51
one can be thanked for

01:17:53
it how we addressed all

01:17:59
these issues that we have

01:18:08
practice is at work, but

01:18:13
have were using the system

01:18:14
wrong and basically perhaps that

01:18:19
the public and private interest

01:18:21
because it's not their fault,

01:18:35

but has we have to

01:18:36

come also we have different

01:18:38

ways on tile tribunals. Find

01:18:41

a decision or or soap

01:18:43

opera back in a dispute

01:18:44

and we got a lot

01:18:51

even though that is because

01:18:58

it was first named better

01:19:07

set that of course, there

01:19:09

are legitimate expectations were violated

01:19:12

could not expect that. There

01:19:18

will be no changes is

01:19:20

a regulation legislate regulate and

01:19:31

of course, they need to

01:19:32

be proportionate to itself. In

01:19:41

the investment system on the

01:19:44

problem is we're going to

01:19:44

fix the problem that is

01:19:49

related to sexual frustration or

01:19:54

let it seem we're going

01:20:02

to say okay. What's the

01:20:05

state or because of the

01:20:07

interest symbol was a necessary

01:20:09

measures to be taken. And

01:20:13

as a last resort because

01:20:15

as an option that a

01:20:19

lot of change are going

01:20:21
to result from commercial and

01:20:27
then there's a lot we

01:20:30
also have to start about

01:20:33
financing and that is basically

01:20:37
first if you're advising a

01:20:39
flyer then you have to

01:20:41
start thinking like a favor.

01:20:42
There's are you willing to

01:20:49
allocate you're very finite resources

01:20:51
in research hundreds. So you

01:21:01
have to actually advise clients

01:21:04
whether it's Important or relevant

01:21:07
enough for them to bring

01:21:09

a dispute and perhaps waste

01:21:11

more money. Going to get

01:21:14

in. So I do care

01:21:21

a lot of fun to

01:21:22

fight all the things that

01:21:23

are going to get a

01:21:24

chance. So we have to

01:21:28

be to find out the

01:21:32

economics of these actually fight

01:21:40

the climate change. That is

01:21:43

my personal point of view

01:21:46

and how we actually lawyer

01:21:48

schedule with parentage. Thank you

01:21:53

very much, Anna. I don't

01:21:55
know if anyone has a

01:21:56
question. Jose Antonio Thank you

01:22:03
to all the panelist. I

01:22:05
do have a question with

01:22:07
respect to the two to

01:22:09
the notion of of how

01:22:11
you know, how rigid or

01:22:17
I'm sorry, but for now

01:22:28
we are still good on

01:22:30
time. I'll give us a

01:22:33
route to Dynamics affect the

01:22:39
speed profile and affect the

01:22:41
decision of corporate entities as

01:22:44

to whether or not fortuitous,

01:22:45

please thank you so much.

01:22:49

Look, I'm going to make

01:22:52

an argument about how Mexico

01:22:56

was supposed to be the

01:22:58

country that was next to

01:23:00

the arbitration wave that we

01:23:02

all talked about which was

01:23:03

Spain. Why that didn't materialize

01:23:06

and at the end they'll

01:23:08

make some kind of lessons

01:23:10

learned about why that was

01:23:13

the case and what do

01:23:15

stakeholder Dynamics have to do

01:23:17

with litigation and arbitration in

01:23:20

general. I think that a

01:23:21

lot of the things that

01:23:22

we're discussing are super interesting

01:23:23

because they deal with broader

01:23:26

political values and societal demands

01:23:28

and expectations and you really

01:23:32

can't have a Wholistic discussion

01:23:35

unless you bring that to

01:23:36

a table at some point.

01:23:37

So I hope that the

01:23:39

Mexico case can they help

01:23:40

us bring everything together and

01:23:43
an m and raise a

01:23:45
couple of things that I

01:23:46
think are interesting from an

01:23:48
industry perspective. Hopefully also from

01:23:51
a broader societal perspective. So

01:23:53
for those of you that

01:23:56
are not too familiar with

01:23:57
the specific Mexico case in

01:24:00
2019 the new the elected

01:24:05
government of President Lopez obrador

01:24:07
started to engage in what

01:24:10
we can call little bit

01:24:12
of an orthodox policy-making in

01:24:14

terms of reviewing some of

01:24:16

the incentives for Renewables that

01:24:19

were not In general questioned

01:24:22

in the Mexican energy system

01:24:25

based on his discourse. It

01:24:28

was very evident that it

01:24:30

was not that he was

01:24:31

opposed to the use of

01:24:32

renewable energies was just a

01:24:35

matter of there is very

01:24:37

little renewable energy that is

01:24:38

generated by the commission that

01:24:41

electricity and the president wanted

01:24:45

to make sure that all

01:24:46

the policies in the Mexican

01:24:48

market maximized the the the

01:24:51

market share of the state-run

01:24:54

company, right? So there was

01:24:55

an issue of traditional economic

01:24:58

discrimination in terms of how

01:25:01

the policies were being explained

01:25:04

by the president. Obviously, they

01:25:05

were embedded in a broader

01:25:07

discourse of Ronaldo's have some

01:25:10

technical challenges around intermittency. And

01:25:13

there were some legitimate concerns

01:25:15

that were raced along the

01:25:16

line, but if you listen

01:25:17

to the Mananitas with the

01:25:19

president or president speaks out

01:25:20

stay for a couple of

01:25:22

hours to the to the

01:25:23

president through Mexican Society was

01:25:26

very clear that the that

01:25:27

the spirit that was animating.

01:25:29

This was his intent to

01:25:31

make sure that he was

01:25:33

at the front and center

01:25:34

of that the moment that

01:25:36

the clean energy certificates dispute

01:25:39

came to the fore everyone

01:25:41

started to say well this

01:25:43

is Potentially worse than what

01:25:46

happened in Spain, right? Because

01:25:48

this is this if you

01:25:51

listen to what the president

01:25:52

is saying, he's a lot

01:25:53

more aggressive is a lot

01:25:54

more ambitious. He has a

01:25:57

more drastic Vision than what

01:26:00

we saw with the rolling

01:26:02

back of the of the

01:26:03

Spanish clean energy incentives and

01:26:07

there started to be some

01:26:11

domestic dispute in Mexico under

01:26:16

Mexican law. There's a very

01:26:18

famous figure in the Mexican

01:26:20

law, which is a those

01:26:21

which were challenges that sought

01:26:25

to stuff that the government

01:26:27

from pursuing those kinds of

01:26:29

action as opposed to looking

01:26:31

for compensation report the loss

01:26:34

of revenue from the the

01:26:35

the the revenue stream of

01:26:37

the clean energy certificates, but

01:26:40

the clean energy certificates Dear,

01:26:45

I think folks said we're

01:26:46

early on saying this is

01:26:48

potentially going to be worse

01:26:49

than Spain. We're right and

01:26:52

we saw policy after policy

01:26:56

in an escalating way being

01:26:58

brought to bear to pursue

01:27:00

the same objectives again, putting

01:27:02

comision Federal de electricidad at

01:27:05

the center of the power

01:27:07

generation Market in Mexico and

01:27:10

that raised quite a few

01:27:13

interesting questions and brought a

01:27:15

few interesting political Dynamics to

01:27:17

the 4th very much in

01:27:18

line with what you were

01:27:19

saying like out of a

01:27:20

battle to the energy charger

01:27:22

treaty and sometimes the claims

01:27:24

being actually online with promoting

01:27:27

the position of investors out

01:27:32

out outside talking about investment

01:27:34

arbitration the second the prospective

01:27:36

investors were very much aligned

01:27:39

with we need more participation

01:27:41

of Renewables in the Mexican

01:27:43

energy grid not less right

01:27:45

and they were over all

01:27:47

trained as trying to protect

01:27:49

both the societal right to

01:27:52

a clean environment. And also,

01:27:56

of course the Investor's rights

01:27:59

to having perinet with the

01:28:01

whole treatment do all of

01:28:03

that coming to the four

01:28:05

interesting because investors As everyone

01:28:10

was expecting that the new

01:28:12

arbitration wave was going to

01:28:14

materialize in Mexico. didn't and

01:28:19

there's a couple of very

01:28:21
interesting things that emerge from

01:28:23
that the first one is

01:28:25
investors did have access to

01:28:28
domestic remedies that sought injunctions

01:28:33
and they were kind of

01:28:35
imperfect tools because they they

01:28:37
they they they couldn't. The

01:28:41
government policies there were bits

01:28:43
and pieces that were left

01:28:44
out. And if you talk

01:28:46
to the companies that participate

01:28:47
in the Renewables Market in

01:28:49
Mexico, they will tell you

01:28:50

that they have lost that

01:28:52

their perspectives in terms of

01:28:54

how their investment would flow

01:28:56

in the revenues that they

01:28:56

would have has changed dramatically

01:28:58

because of this policy, so

01:29:00

it's not just that there

01:29:03

were domestic remedies and because

01:29:04

of domestic remedies were pursued

01:29:06

there's kind of a fork

01:29:07

in the road consideration and

01:29:08

they decided not to follow

01:29:10

through with investment arbitration when

01:29:12

you talk to them what

01:29:13
they will tell you is

01:29:15
Mexico continues to be an

01:29:17
interesting country because of the

01:29:18
size of the Target, we

01:29:20
did not want to jeopardize

01:29:21
our participation in the Mexican

01:29:23
market and given how much

01:29:27
of a priority this is

01:29:28
for the Mexican president. We

01:29:31
didn't want to be in

01:29:32
the crosshairs of Mexican rice.

01:29:34
And so if if you

01:29:36
look at it from a

01:29:36

legal perspective, those are all

01:29:39

very most of them are

01:29:40

very sophisticated companies with a

01:29:42

very sophisticated Council that know

01:29:44

that they have remedies and

01:29:50

they know that he have

01:29:51

a fiduciary duty perhaps to

01:29:53

to exercise those remedies and

01:29:56

still they chose to stand

01:29:57

back because they they they

01:29:59

thought that the commercially it

01:30:01

was a better decision to

01:30:03

push to not push back

01:30:05

and and seek compensation for

01:30:07

this. So I'm going to

01:30:09

start getting to my point

01:30:11

here in a second which

01:30:12

is The investment arbitration community

01:30:18

in the Americas specifically and

01:30:21

Latin America has been very

01:30:23

much used to the notion

01:30:24

of Defending Investments. Once there's

01:30:27

kind of a targeted undirected

01:30:29

action from the government do

01:30:31

your points Court the transitional

01:30:33

process difficult case in Latin

01:30:35

America has to do with

01:30:37

a permit that gets responded

01:30:40

or some sort of interpretation

01:30:42

of a regulation, but that

01:30:43

has el nombre De La

01:30:45

Paz middle of the investor

01:30:47

and then the investor. It's

01:30:48

very clear that you need

01:30:49

to fight back and you

01:30:50

start an arbitration what year

01:30:53

were talking about something different

01:30:54

that goes back to the

01:30:55

early days of investment arbitration

01:30:57

in Latin America, which is

01:30:59
sweeping policy changes, right and

01:31:03
Sweeping policy changes are very

01:31:06
difficult to address and I'm

01:31:08
not making a claim here

01:31:09
from a legal perspective. I'm

01:31:11
not a lawyer sweeping policy

01:31:14
changes are difficult to address

01:31:16
from a strategic standpoint for

01:31:19
investors because it means that

01:31:21
out of a big group

01:31:22
of companies in the case

01:31:24
of Renewables in Mexico, you're

01:31:26
talking about 60 or 70

01:31:28

logo companies that have investment

01:31:30

there. You need to raise

01:31:32

your hand and start at

01:31:33

this field that is individual

01:31:35

and you need to put

01:31:37

yourself at the crosshairs of

01:31:39

political priorities that the government

01:31:41

has or at least that's

01:31:42

the priority. That's the thinking

01:31:45

at the mindset of investors

01:31:48

as they decided to not

01:31:50

go ahead with with with

01:31:51

arbitration. So sweeping policy changes

01:31:55

are very challenging, right but

01:31:57

the prototypical cases in Latin

01:31:59

America, of course Coral Equinox

01:32:01

and peanut The very famous

01:32:04

Venezuela expropriation cases from back

01:32:07

in the day, but now

01:32:09

we're dealing with a new

01:32:10

wave of of arbitration and

01:32:13

I think there's a lot

01:32:14

of concern from investors and

01:32:16

there's not I think that

01:32:18

in in in general in

01:32:20

the in the arbitration Community,

01:32:22

we have been kind of

01:32:23

slow to to to to

01:32:24

to sivas wave coming and

01:32:27

come up with tools that

01:32:29

help investors think their way

01:32:32

through this kind of consideration

01:32:33

from a stakeholder perspective, right?

01:32:36

I think that investors are

01:32:38

legitimately leaving some money on

01:32:42

the table talking from a

01:32:44

very pragmatic perspective because they

01:32:46

are not willing to do

01:32:48

to start those cases and

01:32:51

sometimes I hear 2212 artist

01:32:53

point to the notion of

01:32:55

yeah, but investors will take

01:32:57

every single opportunity to litigate,

01:32:59

of course, they won't write

01:33:00

that they would much rather

01:33:01

continue investing. What countries dentist

01:33:04

operation to start fighting a

01:33:07

country and engage in something

01:33:09

that triggers a lot of

01:33:11

political political risk, another regulatory

01:33:14

considerations that could be disastrous

01:33:16

to them. So. The final

01:33:21

point that I would make

01:33:22

your is I think that

01:33:25

mindset from industry of you

01:33:28

can't engage in this cute

01:33:30

without triggering apocalyptic political risk

01:33:35

is wrong. I think it

01:33:37

just starts from this tradition

01:33:39

of looking at political risk

01:33:41

as this McElroy's considerations and

01:33:44

you have a country score

01:33:46

and you look at the

01:33:46

president than you look at

01:33:47

how aggressive is rhetoric is

01:33:49

and you look at how

01:33:50

radical the groups around him

01:33:52

are and then you say

01:33:53

well you can't start that

01:33:56

kind of thing in that

01:33:57

in a in a country

01:33:58

that has that's a populist

01:34:00

Dynamics right? That scares some

01:34:02

of the investors and I

01:34:04

have to say I think

01:34:06

that's that's the wrong perspective

01:34:08

here. There's a better way

01:34:09

to do it, which is

01:34:10

really understand that. Governments often

01:34:18

times even if they are

01:34:19

pushing for a policy and

01:34:21

it's in their priorities. They

01:34:23

they they don't have a

01:34:25

priority to make every single

01:34:27

fight a national fight. You

01:34:31

can trigger those considerations if

01:34:33

you are obnoxious about it,

01:34:35

if you are on strategic

01:34:37

about it, if you don't

01:34:38

understand the Dynamics of play

01:34:40

but between forming informal qualifications

01:34:44

with industry to be able

01:34:46

to explain the issues at

01:34:48

hand between making sure that

01:34:51

you are appropriately dealing with

01:34:53

you are as fake holders

01:34:55

in that country. For example

01:34:57

of your in the energies

01:34:58

face, you will continue to

01:35:00

have a lot of energy

01:35:00

regulators. And if you are

01:35:02

going to start a dispute

01:35:04

against the AA country, you

01:35:08

can certainly make sure to

01:35:10

provide a heads-up to some

01:35:12

of those regulators and you

01:35:14

you can explain why the

01:35:15
dispute is a Technical consideration

01:35:17
and not a political considerations

01:35:19
and how you you don't

01:35:21
intend to make this a

01:35:22
politicized broader Dynamic and all

01:35:25
of that has very significant

01:35:28
impact on how things unfold

01:35:32
and perhaps closing the the

01:35:35
the the the point here

01:35:37
is there are now in

01:35:40
a few couple of months

01:35:42
ago. We saw the start

01:35:44
of the first investment arbitration

01:35:47

case against the government of

01:35:49

Mexico that happened by a

01:35:52

Spanish Renewables company and it

01:35:55

started the litigation and it's

01:35:57

not in the Mayan era.

01:35:59

The government is not be

01:36:01

crying that there's a politicized

01:36:04

move against them did not

01:36:10

materialize in that case and

01:36:13

I think that shows and

01:36:14

proves that if you have

01:36:16

a broader perspective on the

01:36:18

strategy of your dispute and

01:36:20

you are a little bit

01:36:21

more mindful of the broader

01:36:23

Dynamics, you can engage and

01:36:26

you can use the stools

01:36:27

in a way that is

01:36:28

not politically the destructive and

01:36:32

by doing that I have

01:36:35

to return to your point

01:36:36

about your facilitating more constructive

01:36:40

agreements right than you are

01:36:41

facilitating more constructive dialogue. So

01:36:44

stopping this this mentality that

01:36:48

everything is an ounce right

01:36:50

kind of high conflict thing

01:36:52
know it can be a

01:36:53
technical conflict and our countries

01:36:56
in Latin America even in

01:36:58
the most paleta. Types of

01:36:59
days have shown that that's

01:37:01
kind of dynamic is it

01:37:02
is feasible? I think that

01:37:04
that's that's a relevant Factor

01:37:06
at play here and I

01:37:08
think that more and more

01:37:09
we will require a broader

01:37:11
assessment of the of the

01:37:12
dynamic as opposed to just

01:37:14

a legal marriage and then

01:37:15

assuming oh I have legal

01:37:17

merits but the politics are

01:37:19

super messy. I can't touch

01:37:21

that with a ten-foot pole

01:37:22

know. Why don't you go

01:37:24

ahead and analyze what's the

01:37:25

appropriate strategy to do it?

01:37:27

Because that's the way that

01:37:29

you are broken leaders and

01:37:30

value for it for your

01:37:31

for your for Industries to

01:37:36

thank you Pablo. Very interesting.

01:37:41

I think we're at an

01:37:42
hour 30, but we do

01:37:46
want to hear your question

01:37:47
was Antonio. Thank you for

01:37:50
it. And I'll try to

01:37:50
be very brief the question

01:37:58
relates to how how strict

01:38:00
should have the system arbitrators

01:38:04
tribunals on the notion of

01:38:06
of of the right to

01:38:09
regulate on the one hand

01:38:10
and it by states on

01:38:13
the other hand the notion

01:38:15
that the provisions that are

01:38:19

now in place whether of

01:38:23

all treaties or of nutrients

01:38:25

are part of the international

01:38:27

rule of law and therefore

01:38:29

one would think that they

01:38:31

should be applied. So today

01:38:35

there's a push this notion

01:38:39

of the right to regulate

01:38:41

and it's being it is

01:38:43

being explained as as a

01:38:45

new notion. Although it is

01:38:47

not a new notion know

01:38:49

there are with with with

01:38:53

Claus's referring to the right

01:38:55

of Frank American Colombia in

01:38:59

in Venezuela Argentina, and in

01:39:02

other places, so the notion

01:39:04

of right to regulate is

01:39:05

not is not a new

01:39:07

one if we presented to

01:39:10

the whole world so that

01:39:13

this question is DF current

01:39:26

Windy City, I think that

01:39:28

that Ricardo framed the presentation

01:39:30

on an ECT quite well,

01:39:32

in terms of of the

01:39:33

number of cases there was

01:39:35

an attempt to reframe the

01:39:37

ECT as this International Organization

01:39:40

or Regional organization or theme

01:39:42

organization that that would be

01:39:44

veering towards we have an

01:39:51

issue and Europe and and

01:39:53

the number of these streets

01:39:54

are now going against against

01:39:56

against against European state name

01:40:00

Lee but not only me

01:40:02

but also many other countries

01:40:04

so I don't I really

01:40:05

don't think that is because

01:40:11
of their issue of Renewables

01:40:15
is it is more related

01:40:16
to a geopolitical realities Europe

01:40:21
or European European state. In

01:40:26
States Eastern European states are

01:40:28
suing European state of the

01:40:30
issue. So I say this

01:40:34
because because of two things

01:40:36
one. At least the meetings

01:40:40
that those investors that are

01:40:43
energy producers based on fossil

01:40:47
fuel. They seem to know

01:40:50
things will change that they

01:40:53
are aware of this and

01:40:55
that there seem to be

01:40:55
transitions words towards that so

01:40:58
you see even you said

01:40:59
you to see out and

01:41:03
advertising for any of the

01:41:04
big companies in the old

01:41:08
now, how do you see

01:41:13
that man? Go like wow

01:41:14
PVP is now solar producer

01:41:17
or we see it. You

01:41:19
don't have to give you

01:41:20
a researcher to do to

01:41:21

know that so they know

01:41:22

what's going on. You have

01:41:25

to pay a price. If

01:41:27

there is a direct expression

01:41:29

world, the tree will say

01:41:31

that they have to be

01:41:31

compensated. There is an indirect

01:41:33

tax preparation going back to

01:41:35

your point of sweeping policies,

01:41:37

perhaps that might not be

01:41:38

for a man as indirect

01:41:40

expropriation because some DVDs allow

01:41:43

for certain purpose. The greater

01:41:46

purpose policy transition is not

01:41:48
to be Indirect patient but

01:41:51
that is taking care of

01:41:52
my concern is for for

01:41:55
those investors need to invest

01:42:00
billions of dollars that they

01:42:02
need to invest in Renewables.

01:42:04
And and we have on

01:42:06
the one hand that push

01:42:08
and a system that can

01:42:10
only be rule-based. If we

01:42:13
if we were going to

01:42:14
have investors, I don't know

01:42:16
some some states that are

01:42:18

saying well that's too soft

01:42:22

regulation. Let's move away from

01:42:25

the rules-based investor arbitration and

01:42:29

let's start doing more of

01:42:30

the diplomacy faced. My question

01:42:37

to you to you is

01:42:38

how far should the right

01:42:40

of Regulation go or whether

01:42:42

we should stick to a

01:42:44

rules-based system that respecting the

01:42:47

international rule of law. I'm

01:42:50

sorry for the longest but

01:42:51

You want me to answer

01:42:53

that and Latin Americans are

01:43:05

also so we we are

01:43:08

very much sales tax advisors

01:43:11

in the sense that we

01:43:12

think that were always the

01:43:13

rule Breakers, but look at

01:43:16

Europe. I mean 50 cases

01:43:18

in an energy system where

01:43:22

the investor was or the

01:43:23

investors were trying to invest

01:43:26

in Renewables and that's what

01:43:29

rich Jet just very quickly.

01:43:34

I would say you need

01:43:35

to balance the notion of

01:43:36
right to regulate against the

01:43:39
notion of a kind of

01:43:41
blank check to violate rights

01:43:43
of companies. And I think

01:43:46
that as much as neoliberalism

01:43:49
and then neoliberal reforms of

01:43:52
the last 40 years now,

01:43:54
not the best of names

01:43:58
across the region. I think

01:43:59
they're decried by a number

01:44:01
of politicians from the left

01:44:03
and from the right. There

01:44:06
was this notion of because

01:44:08
we take a lot of

01:44:10
Pride and because there's a

01:44:11
lot of value in a

01:44:12
rules-based system, even when you

01:44:15
are in a breaking traditional

01:44:18
Monopoly, even if you're passing

01:44:20
reform that is tricky because

01:44:22
it can trigger Legacy rides

01:44:24
from other investors. You need

01:44:26
to be very thorough. You

01:44:27
need to be very technical.

01:44:29
You need to be very

01:44:29
precise. Create a pocket that

01:44:33

preserves those rights even while

01:44:36

you open up the opportunity

01:44:37

for significant change in that

01:44:40

industry, right if you look

01:44:42

for example at the 2013

01:44:43

energy reforms in Mexico, that's

01:44:46

exactly what they where it's

01:44:48

not that Folks at that

01:44:49

point in time thought that

01:44:50

the outlaw pass go and

01:44:51

those Legacy contract models were

01:44:53

perfect. Most of Industry thing

01:44:57

is actually a wrong contractual

01:44:59

model, but it's like so

01:45:02
they needed to figure out

01:45:03
the way how do you

01:45:05
advance change while safeguarding the

01:45:08
rights that you have in

01:45:10
the past? And now I

01:45:11
think that because politics has

01:45:13
become more overarching and overwhelmingly

01:45:17
dominant not just in Latin

01:45:19
America to your points, but

01:45:20
across the different regions you

01:45:22
have regulators and you have

01:45:25
legislators that are often times

01:45:27
compelled to act without being

01:45:29

mindful of those. Right, right.

01:45:31

And in the name of

01:45:32

energy transition, they can propose

01:45:35

ridiculously ambitious goals that were

01:45:39

are not going to be

01:45:40

sustainable over time. And that's

01:45:43

fine. And I think that

01:45:44

that is a fundamental mistake

01:45:47

of legislative and Regulatory technique

01:45:51

from from the truck from

01:45:54

the authorities and I think

01:45:55

that that is a a

01:45:55

a a big loss the

01:45:58

more that we bring more

01:45:59

and more politics and say

01:46:01

well because it's aligned with

01:46:03

societal claims. We have the

01:46:06

right to ignore the the

01:46:08

letter of the law. I

01:46:09

think that's good. That's not

01:46:11

a food full debate ready

01:46:12

to present should be how

01:46:14

respecting what we have we

01:46:16

can advance the most ambitious

01:46:17

change possible and often times.

01:46:19

That's not the question that

01:46:20

his books are making. If

01:46:27

anyone else wants to add

01:46:29

anything. Okay. Well, thank you

01:46:34

very much. We can conclude

01:46:37

the panel now. Thank you

01:46:40

wasn't funny.