

LEX PETROLEA: Sources and Successes of International Petroleum Law

2015 International Upstream Energy Conference

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POSSIBLE SOURCES OF *LEX PETROLEA*

- ❖ **International Law**
- ❖ **National Petroleum Laws**
- ❖ **International Petroleum Contracts (IPCs)**
- ❖ **Custom and Practice in International Oil Industry**
- ❖ **International Arbitration Awards**

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SOURCES OF INTERNATIONAL LAW

The Statute of the International Court of Justice:

Article 38.1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:

- (a) International conventions establishing rules expressly recognized by the contesting States;
- (b) International custom, as evidence of a general practice accepted as law;
- (c) The general principles of law recognized by civilized nations;
- (d) Judicial decisions and the teachings of the most highly qualified publicists of the various nations.

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POSSIBLE SOURCES OF *LEX PETROLEA* DERIVED FROM INTERNATIONAL LAW

- ❖ Energy Charter Treaty, entered into force 16 April 1998
- ❖ U.N. Gen. Assembly Res. 1803 (XVII) of 14 December 1962: "Permanent Sovereignty over Natural Resources"
- ❖ International principles of law generally agreed on the subject of hydrocarbons
- ❖ Code of Uniform Petroleum Laws commissioned by Fifth OPEC Conference (1963)

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ENERGY CHARTER TREATY

- ❖ The ECT establishes a legal framework in order to promote long-term cooperation in the energy field.
- ❖ ECT promotes access to international markets, alleviation of market distortions and barriers to competition, cross-border transit of energy, transfer of technology, and access to capital.
- ❖ ECT provides for promotion, protection, and treatment of investments, including commitment by Contracting Parties to accord investment of other Contracting Parties fair and equitable treatment.
- ❖ Article 26 provides for settlement of disputes between Investor and a Contracting Party through international arbitration under rules of ICSID, ICSID Additional Facility, UNCITRAL, or Stockholm Chamber of Commerce.

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ENERGY CHARTER TREATY (Cont'd)

- ❖ Energy Charter Conference meets periodically, with each Contracting Party entitled to one representative; the Charter Conference has a Secretariat composed of a Secretary-General and staff.
- ❖ Energy Charter Conference has 53 members, including the countries of Europe and such other countries as Australia, Japan, Kazakhstan, and Turkey; the USA has observer status; the Russian Federation signed ECT but stopped applying it provisionally in 2009.

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