

Stabilization Clauses and their Effects on Energy Sustainability

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Abstract

Countries endowed with petroleum resources often do not have the enormous financial resources and the technology to exploit them. Consequently, they resorted to partnering with oil company investors with the requisite capacity. The practice by oil companies to protect their investments through stabilization clauses made sovereign countries unable to meet their international treaty obligations towards global energy sustainability efforts. Existing studies focused on the advantages of stabilization clauses without due consideration of how to balance their positive and negative impacts. This paper examined the positive and negative impacts of stabilization clauses with a view to striking a balance between them. The study adopted qualitative research methodology using doctrinal research design and relied on primary and secondary sources of information. Primary sources included bilateral and multilateral investment treaties, petroleum industry contracts and case law pronouncements. Secondary sources consisted of textbooks, scholarly peer reviewed journal articles, commentaries and reports. The study revealed that stabilization clauses are potent instruments for investment protection while at the same time constituting impediments to the implementation of global efforts towards energy sustainability. The paper concluded that there is need to strike a balance between the negative and positive impacts of stabilizations clauses. It recommended that parties to petroleum contracts need to work together to ensure balance between the positive and negative impacts of stabilization clauses. Parties should not allow their desire to maximize profits overshadow their responsibilities towards global energy sustainability efforts.

Keywords: Energy Sustainability, Investment Promotion and Protection, Legal Framework, Stabilization Clauses, Treaties.

Introduction

The objective of this paper is to do a critical overview of stabilization clauses as instruments of investment protection in the petroleum industry and their effects on sustainable extraction and use of petroleum resources. The article proceeded from the points of view of background; problem statement; objective of the paper; meaning of stabilization clauses; legal framework, types of stabilization clauses; origin and purpose; role in petroleum industry investment protection; effects of stabilization clauses; arguments for and against stabilization clauses; conclusion and recommendations.

Background

Petroleum and its derivatives is a major source of energy (Dictionary of Cambridge, n.d.) which drives modern industrial, technological, scientific and other forms of development in today's world in the quest by countries of the world to achieve rapid industrialization and

economic development (London Premier Centre, 2022). Petroleum is used in modern industrial societies to achieve a degree of mobility on land; at sea and in the air. Other uses of petroleum and its derivatives include manufacture of medicines and fertilizers, foodstuffs, plastics, building materials, paints, cloth and in generating electricity (London Premier Centre, 2022). The use of petroleum and its derivatives to meet various energy needs spreads across all the nations of the world, inclusive of countries that are not endowed with the natural resource.

However, the extraction, refining and production of petroleum resources is a capital-intensive venture which requires huge capital outlays, technological and scientific know-how, specialized and highly skilled manpower and takes a long time of gestation before investors can earn returns on their huge investments. As a result, most countries endowed with petroleum resources are unable on their sole efforts, to tap the resources from beneath the earth where they are trapped and consequently have to enter into partnerships with international oil companies that have the capital, technology and manpower required to invest in petroleum extraction and production (Shamaram Petroleum Corporation, 2025). Such partnerships are governed by the provisions of petroleum investment contracts in form of concessions, production sharing contracts, joint ventures and other forms of contracts.

The essence of the contract is to balance the divergent objectives of the host State, which are development of natural resources, early revenue to advance economic development, retention of sovereignty and ownership over their natural resources, transfer of technology and expertise (Shamaram Petroleum Corporation, 2025); with the investment objectives of the international oil company investor, which are quick recovery of sunk cost, adequate return on investments and repatriation of same to their home countries, long term right to natural resources, fiscal and contractual stability. In order to protect their huge investments, international oil companies often seek to insert stabilization clauses into petroleum contracts.

Problem Statement

The desire by oil companies to protect their huge investments has resulted in the practice of inserting stabilization clauses into petroleum contracts in order to induce host countries to refrain from expropriating their investments and ensuring the sanctity of the contracts. This practice has however created the problem of sovereign countries that enter into petroleum contracts containing stabilization clauses not being able to fulfill their international treaty obligations towards global efforts to attain energy sustainability. Judicial authorities have held such countries bound by the terms of the stabilization clauses freely entered into by them, though they tend to fetter the exercise of their sovereignty rights. Stabilization clauses therefore tend to unduly favour oil companies at the expense of global efforts towards ensuring energy sustainability.

Objective of the Paper

The objective of this paper is to critically examine stabilization clauses as instruments of investment protection and their effects on global efforts towards energy sustainability. The positive impact of stabilization clauses in ensuring investment protection is juxtaposed with their negative impacts of impeding global efforts towards ensuring energy sustainability in order to strike a balance between them in the final analysis.

Literature Review

Stabilization clauses are contractual provisions inserted into petroleum industry contracts the aim of which is to protect the sanctity of the contracts and its terms so as to sustain the commercial and investment objectives of oil company investors (IISD, 2021). Stabilization clause is a way of managing political risks that could arise in the course of execution of petroleum industry contractual agreements by virtue of host State's use of its administrative or legislative powers to introduce measures that adversely affect the interests of the investor (Gehne et al, 2017). In order to secure their investments, oil companies induce host countries through stabilization clauses to undertake to refrain from the practice of expropriating or nationalizing properties belonging to foreign investors and, in the event of such expropriation or nationalization happening, undertake to pay adequate compensation in a prompt manner (Suswam, 2011). Stabilization clauses also feature in bilateral and multilateral investment treaties because such treaties aim at protecting the investments of the citizens of the respective countries who are signatories to such treaties.

Types of Stabilization Clauses

There are four notable types of stabilization clauses namely: (i) freezing clause, (ii) intangibility clause, (iii) rebalancing clause, and (iv) allocation of burden clause (IISD, 2021). The nature and legal effects of each of these clauses are discussed below.

Freezing stabilization clause

Freezing stabilization clause introduce contractual terms into petroleum industry investment agreements that fetter the exercise of the rights of host States to change their laws or regulations in a manner that will negatively affect the investments of an investor for the duration of the investment contract (Maniruzzaman, 2008). In other words, the state of the host country's laws and regulations as at the day the investment contract was signed will continue to apply to the contract throughout its duration. It further prevents the host State from taking measures that will override the provisions in the contract except with the consent of the investor. Freezing clauses favour investors because of their stabilization effect on their contractual terms by making the host State's laws static as far as their investments are concerned. Furthermore, stabilization clauses favour developing countries because it is one of the means of attracting foreign direct investments; although stabilization clauses could also fetter the right of developing countries to freely exercise

their right of state sovereignty and of permanent sovereignty (UNGA, 1962) over their natural resources.

Intangibility clause

Intangibility clauses target the contractual regime and seek to prohibit the unilateral alteration of the terms of the contract except with the consent of all parties to the contract (Norton, 2016). Intangibility clauses therefore freeze the contract rather than the law of the host State and as such have been seen as a subcategory of traditional freezing clause. The legal effect of the freeze is that the terms of the contract as at the date it was entered into remain in full force except changes mutually agreed to by the parties were later incorporated into the contract.

Rebalancing stabilization clause

Rebalancing clause seeks to bring about a situation where the contract terms are to be renegotiated upon the occurrence of certain circumstances or events specified in the contract which negatively affects the economic benefits of the investor under the agreement. Rebalancing clauses are realistic clauses in recognition of the rights of sovereign States to change their laws or the terms of the contract and lays the foundation for addressing the economic impacts of such changes on the investments of the oil company (Martin, 2011).

Allocation of burden stabilization clause

Allocation of burden clause shifts the burden of the negative effects brought about by changes in the law or the contract terms to the National Oil Company which is the representative of the State in the contract (Martin, 2011). The effect of this clause is to insulate the investor from the exercise of State or governmental power or influence to either reduce the benefits of the investors or to increase the burdens of the investor under the contract (Martin, 2011).

Origin and purpose

The historical origin of stabilization clauses has been traced to the Latin American nationalizations in the period between World War I and World War II which prompted American multinational oil companies resorted to the insertion of stabilization clauses into concession contracts (Bishop, 2002). The purpose for which stabilization clauses were included in these concession contracts was in order to preserve the operation of the concession contracts to their full terms under the original terms and conditions expressed in the concession contracts (Bishop, 2002). Thus the major aim of introducing early stabilization clauses was to prevent expropriation. The aim of modern stabilization clauses is not to prevent nationalization or expropriation but to make it unlawful when it occurs so as to increase the amount of compensation payable to the aggrieved party (Bishop, 2002).

Legal Framework for Stabilization Clauses

Stabilization provisions could be made as administrative orders or regulations, in form of legislations or by way of specific provisions in petroleum contracts (Bishop, 2002). Discussions in this article will however, centre on stabilization clauses contained in bilateral and multilateral investment treaties and specific provisions made in petroleum contracts. Bilateral investment treaties (BIT) are agreements which are concluded between two countries in which both countries reciprocally undertake the promotion and protection of private investments which nationals of each of the signatory countries made within each other's territorial jurisdiction (Reuters, 2025). The agreement specifies the terms and conditions based upon which the nationals of each signatory country are to invest in the other, their rights and protections such as protection against illegal nationalization and expropriation of the investment assets of foreign nationals (Reuters, 2005). BITs also contain provisions which guard against other actions of the government of a signatory country which are likely to undermine the ownership rights or economic interests of the nationals of the other signatory country (Reuters, 2005). An example of a Bilateral Investment Treaty is that between the Government of Australia and the Government of the Argentine Republic on the Promotion and Protection of Investments, and Protocol (Australian Treaty Series, 1995). The treaty was concluded with the aim of intensifying economic cooperation between the two countries, promote investment relations and strengthen economic cooperation in accordance with internationally accepted principles of mutual respect for sovereignty, equality, and mutual benefits, non-discrimination and mutual confidence (Australian Treaty Series, 1995).

Multilateral Investment Treaties (MIT) on the other hand, is 'an investment agreement made between several countries and containing provisions to protect investments made by individuals and companies in each other's territories' (Reuters, 2025). An example is the Energy Charter Treaty made between members of the European Union and members of the European Atomic Energy Community (Energy Charter, 1994). The four broad areas of focus of the treaty are (i) the protection of foreign investments, based on the extension of national treatment, or most-favoured nation treatment (Kenton, 2024) and protection against key non-commercial risks;(ii) non-discriminatory conditions for trade in energy materials, products and energy-related equipment based on WTO rules, and provisions to ensure reliable cross-border energy transit flows through pipelines, grids and other means of transportation;(iii) the resolution of disputes between participating states, and - in the case of investments - between investors and host states; (iv) the promotion of energy efficiency, and attempts to minimize the environmental impact of energy production and use (Kenton, 2024).

African Continental Free Trade Area Agreement (AfCFTA) is another example of a Multilateral Investment Treaty which was negotiated under the auspices of the African Union for digital trade and investment promotion and protection (SERRARI, 2018). The treaty aims at ensuring that there is free flow of goods and services across the African

Continent by eliminating trade barriers thereby boosting intra-African trade (SERRARI, 2018).

Bilateral and Multilateral treaties do contain stabilization clauses by virtue of their investment protection provisions, such as national treatment, most favoured-nation treatment, fair and equitable treatment, and compensation in the event of expropriation.

Another major source of stabilization clauses is found in international petroleum industry investment contracts. An example is presented by a six-year oil concession made in 1948 between the Ruler of Kuwait and Aminoil - a United States international oil corporation (Dalaume, 1989). The stabilization clause which was included in the said concession agreement read as follows:

The Skaikh shall not by general or special legislation or by administrative measures or by any other act whatever annuls this Agreement except as provided in Article 11. No alteration shall be made in the terms of this Agreement by either the Shaikh or the Company except in the event of the Shaikh or the Company jointly agreeing that it is desirable in the interest of both parties to make certain alterations, relations or additions to this Agreement (Hunter, et al, 2005).

The essence of the above stabilization clause was to prevent Kuwait from unilaterally annulling or altering the terms of the concession agreement. Such clauses are meant to protect the arbitrary alteration of the terms of the concession by the Kuwaiti State either by means of administrative measures or by some other acts which would have the effect of annulling the concession agreement. The aim is to ensure that the investment of the oil corporation is protected and that the terms of the concession agreement as at the date it was entered into is preserved. The dispute arising from the above stabilization clause gave rise to the case of Government of the State of Kuwait v. American Independent Oil Co. ('Aminoil') (1982) 21 I.L.M 976. The dispute pertained to the subsequent nationalization of the concession by Kuwait in 1977 due to Aminoil's refusal for Kuwait to further increase her take under the 'Abu Dhabi formula' agreed by OPEC countries (Ripinsky, et al, 2008). Although the arbitration tribunal determined that the nationalization of Aminoil by Kuwait was lawful and valid, it however held that Aminoil was entitled to appropriate compensation based on the 1962 United Nations General Assembly Resolution 1803 (Ripinsky, et al, 2008).

Role of Stabilization Clauses in Energy Investment Promotion and Protection

The role of stabilization clauses in investment promotion and protection is illustrated with the aid of the following decided cases in order to illustrate the practical application of stabilization clauses and how the courts and arbitration tribunals have interpreted and applied them.

The case of BP Exploration Company (Libya) Ltd v. Government of the Libyan Arab Republic (1973) 53 I.L.R. 297 related to a concession which was originally granted to Nelson Bunker Hunt in 1957 but later assigned to BP Exploration Company (Libya) Ltd. The Libyan government later nationalized BP's entire interests in the concession in 1971. Based on

arbitration clause inserted into the concession by virtue of Clause 28 (c) of the concession agreement BP requested the International Court of Justice to appoint an arbitrator. The appointment of an arbitrator removed the determination of the dispute from the domestic legal framework of Libya and placed it at the international law domain. The arbitrator so appointed determined that the agreement entered into by the parties was contractual in nature and that the contract belongs to the category of administrative contracts. The arbitrator further determined that by virtue of the stabilization clause inserted into the concession agreement, Libya had limited her freedom to alter or terminate the concession agreement unilaterally unless it could be shown that the changes were truly in the public interest. The arbitrator's final determination was that the act of nationalizing BP's assets amounted to a fundamental breach of the concession agreement and a total repudiation of the agreement (Greenwood, 1982).

Texaco Overseas Oil Petroleum Co/California Asiatic Oil Co. v. Government of the Libyan Republic (1979) 531 I. L R. 389 involved various concessions granted to two United States oil corporations - Texaco and Calasiati between 1955 and 1968. The Libyan government later nationalized 51 percent of the companies' interests. The companies based on clause 28 (3) of the concession agreement, requested for submission to arbitration which led the Libyan government to nationalize the remaining forty nine percent of the companies' interests in the concession. Libya however opposed the arbitration proceedings claiming that it acted based on state sovereignty. The arbitrator held as follows as regards the right of a sovereign state to nationalize the interests of a foreign private company: the recognition by international law of the right to nationalize is not sufficient to empower a State to disregard its commitments, because the same law also recognizes the power of a state to commit itself internationally, especially by accepting the inclusion of stabilization clauses in a contract entered into with a foreign private party (Greenwood, 1982).

The arbitrator also considered the validity of stabilization contracts inserted into concession contracts and came to the following conclusion:

Thus, in respect of the international law of contracts, nationalization cannot prevail over an internationalized contract, containing stabilization clauses, entered into between a State and a foreign private company. The situation could be different only if one were to conclude that the exercise by a State of its right to nationalize place that State on a level outside of and superior to the contract and also to the international legal order itself, and constitutes an act of government which is beyond the scope of any judicial redress or any criticism (Greenwood, 1982).

The implication of the above holdings is that sovereign states cannot renege on their obligations under contracts freely entered into with a foreign private company which to the knowledge of the government contained a stabilization clause. It also implies that the right of a sovereign state to nationalize does not supersede an internationalized contract except under special circumstances which does not exist in the case under consideration. It follows that stabilization clauses are accorded recognition under international law.

The other case is the case of Libyan Oil Co. (LIAMCO) v. Government of the Libyan Arab Republic which also featured the nationalization by the Libyan government of the interests of the company which was acquired under a concession contract which also contained a stabilization clause. The sole arbitrator was appointed by the President of the International Court of Justice to arbitrate in the dispute at LIAMCO's request. The arbitrator's finding after analysis of the stabilization clause was to the effect that the clause was justifiable both under Libyan petroleum legislation, under the general principle of sanctity of contracts as well as under international law. The arbitrator found that the concession was binding on the parties and therefore could not be validly terminated unilaterally altered or terminated except on the mutual consent of both parties to the contract (Martin, 2011).

In the case of Agip v. Popular Republic of Congo (1982) 21 I.L.M. 726 the President of Congo nationalized Agip and seized all of its assets, files and accounting records on April 12, 1975 despite the fact that Agip had earlier negotiated with the government and agreed on the sale of fifty percent of Agip's capital. The agreement which was reached following the negotiations contained several stabilization clauses and arbitration clause. One of the stabilization clauses committed the Congo government to adopt measures to prevent the application to Agip of future amendments to the law affecting the structure and composition of Agip's bodies (Garcia-Amador, 1993). This move prompted Agip to file application for arbitration based on the arbitration clause inserted into the negotiated agreement. In the ensuing arbitration, the arbitrator held that where a sovereign government freely accepts the insertion of stabilization clauses into an agreement, the effect of the stabilization clauses do not operate to affect the principles of its sovereign legislative and regulatory powers since the government still retains such powers over national and foreign nationals with whom the government has not entered into such obligations imposed by the stabilization clauses. The implication of the above holding is that governments that freely enter into agreements containing stabilization clauses are bound by the obligations imposed by such stabilization clauses.

Effects of Stabilization Clauses on Energy Sustainability

There is no doubt that stabilization clauses protect investments and advance the course of investment promotion. However, it could limit the right of sovereign resource owning countries from fully exercising their rights of state sovereignty and that of sovereignty over their natural resources. It could also hinder them from freely taking steps to comply with international obligations imposed upon them by international treaties on the protection of the environment from the adverse effects of the indiscriminate use of fossil fuels. This situation would impact negatively on global efforts to achieve energy sustainability as reflected in international environmental treaties such as the United Nations Framework Convention on Climate Change (UNFCCC) 1992, its 1997 Kyoto Protocol and the 2015 Paris Agreement. For instance, the 1992 United Nations Framework Convention on Climate Change and its 1997 Kyoto Protocol requires drastic reduction on the use of fossil fuel, such as petroleum and natural gas by signatory countries to the convention and its protocol as a

way of global collective effort to address the problem of atmospheric pollution and climate change (Amokaye, 2004).

Further progress was made at the Conference of Parties (COP21) to the UNFCCC where the Paris Agreement was concluded on December 12, 2015 in Paris, France and was adopted by 196 Parties. A landmark agreement was reached to intensify efforts to combat Climate Change and to accelerate and intensify actions and investments needed to ensure a low and sustainable hydrocarbon uses in the future. The basic aim of the Agreement was to achieve a reduction in global temperature rise to less than 2 degrees Celsius and to intensify efforts to further limit global temperature to 1.5 degrees Celsius (UNFCCC, n.d.). A further landmark agreement was reached at the 28th meeting of Conference of the Parties (COP28) to the United Nations Framework Convention on Climate Change (UNFCCC held in Dubai, United Arab Emirates which explicitly called on all nations to transit from fossil fuels (United Nations Climate Change, n.d.). This is important step towards curbing greenhouse emissions and limiting the extent of global warming. The conference realized that the goal of the global community to limit rising global warming temperatures to 1.5 degrees Celsius as adopted in the 2015 Paris Climate Change Agreement is still far from being met as a result of the fact that current national commitments towards reduction of greenhouse gas emissions have woefully fallen below expectations.

Energy sustainability is usually viewed from the angles of the effect of the uses and applications of energy resources on the society, the environment and the economy and its ability to meet the needs of the present generation without compromising the ability of future generations to meet their own energy needs (Science Direct, 2023). Most sustainable energies are derived from renewable energy sources such as wind, hydroelectricity, geothermal, wave, tidal, biomass, geothermal and solar energies; amongst others (Science Direct, 2023). Renewable energy sources do not constitute harm to the environment and their sources are not exhaustible, unlike non-renewable energy sources such as petroleum and natural gas. This is the point which underlies global move towards energy transition from non-renewable energy which are unsustainable to renewable energy which are sustainable in terms of their environmental friendliness and long-lasting availability.

Application of Stabilization Clauses

Resource owning developing countries and developed countries have been pitched in arguments on the territorial application of stabilization clauses (Dickson, 1986). While developing countries argue that their domestic laws ought to govern the interpretation and application of stabilization clauses based on the concept of state sovereignty and permanent sovereignty over their natural resources, developed countries argue on the contrary, that sovereign states must fulfill their contractual promises and that disputes arising from their failure to so comply must be governed by international law to compel them to either specifically perform the contracts or to pay commensurate monetary compensation to the innocent party (Dickson, 1986).

However, international law does not automatically apply to every petroleum contract (Crawford, et al, 1986). In order therefore to bring stabilization clauses contained in petroleum contracts outside the purview of the laws of resource owning countries, such clauses must be internationalized. When a petroleum contract has been internationalized, the legal effect is that the resolution of any disputes arising from such contracts are to be resolved outside the legal frameworks of the domestic laws of the resource owning country and must be settled by international arbitration or other international adjudicatory systems (Walde, et al, 1996). Internationalization can be achieved by inserting clauses in the petroleum contract which make provision for international arbitration, choice of law, offshore account and stabilization clauses (Margarita, 2002).

On the part of international oil companies, one of the solid foundations that can be laid in order to manage risks associated with petroleum industry operation is through insertion of investment protection clauses in international investment treaties, choice of law clauses and stabilization clauses. This is because such provisions make it possible for resolution of petroleum industry disputes to take place outside the domestic legal framework of the States that own petroleum resources; thereby ensuring a higher level of objectivity and also the application of neutral laws to the resolution of such disputes.

Nigeria is signatory to treaties that seek to implement the much criticized Investor State Dispute Settlement (ISDS) process which enables foreign investors access to international tribunals over disputes arising from investment agreements as a result of which she fell prey to ISDS claim dispute (Muller, et al, 2022). In a dispute between Nigeria and a United Kingdom firm – Process and Industrial Development (P&ID) over a contract-based claim relating to gas facility contract Nigeria was ordered to pay P&ID a whopping sum of US\$9.6 billion as compensation by a London-based arbitral tribunal (Akeredolu, 2019). The arbitration was enabled by an arbitration clause inserted in the contract allowing disputes arising from the contract to be arbitrated in London unless the parties agreed otherwise. By October 23, 2023 when an England's High Court of Justice vacated the arbitral award after finding lapses in the arbitral process, the judgment sum had risen to US\$11 billion due to accumulated interests (Granja, 2024). The case however, exposed the vulnerabilities of the arbitration process and calls for more precaution to be applied by arbitration tribunals so as to pluck the loopholes of the process and the possibilities of manipulating the process by parties. Caution is also needed on the part of Nigeria in inserting ISDS-related clauses in petroleum industry investment contracts in order to limit the rate of access to foreign arbitral tribunals over disputes arising from such contracts.

Pros and Cons of Stabilization Clauses

It is pertinent at this juncture to focus attention on the advantages and disadvantages of stabilization clauses contained in investment treaties and petroleum contract agreements vis-à-vis protection of the environment from the adverse effects of the use of fossil fuel. Investment treaties could have both positive and negative effects. On the positive side, investment treaties lead to the promotion and protection of the investments of investors of

both contracting parties. Such investments are made within the framework of the laws of the other contracting parties. The provisions of investment treaties try to balance the interests of the investors outside the framework of the domestic laws of the contracting parties in order to stimulate individual business initiatives that will be of mutual benefits to both contracting parties (Australia Treaty Series, 1995).

On the negative side, the trend of petroleum resource owning countries over the years to resort to signing investment protection treaties have adversely affected their ability to meet their treaty obligations to slow down global warming and climate change through reduction of the indiscriminate use of fossil fuel (Thrasher, et al, 2022). The nature of these investment protection treaties is meant to entice investors to bring in their investments that will create local jobs and usher in new technologies.

The challenge which this pose, however, is that these investment protection contracts tend to bind the hands of resource owning countries as they make efforts to comply with the obligations imposed upon them under international treaties and conventions to phase out the use of fossil fuels in order to save the environment. This challenge stems from the fact that investors with the benefit of investment protection clauses are allowed under the Investor-State Dispute Settlement (ISDS) to sue governments before international arbitration tribunals to demand compensation in response to government's moves to remove fossil fuels such as cancelling pipelines and or denying the rights to drilling permits. The compensation claims could run into several billions of Dollars (Thrasher, et al, 2022). A ready example is the legal tussle between the United States and a Canadian energy company – TC Energy before a World Bank Tribunal whose jurisdiction the United States challenged against TC Energy's compensation claims in the sum of US\$15 billion. The dispute emanated from the action of President Joe Biden's cancellation of the Keystone XL Pipeline project (Johnson, 2024).

It is noteworthy that the matter was decided not on the merits of the cases of the parties, but on technical grounds of jurisdiction raised by the United States based on the fact that Joe Biden's revocation of TC Energy's permit to build the Keystone pipeline occurred in January 2021 after the North American Free Trade Agreement's termination on June 30, 2020. The Tribunal declined jurisdiction based on these jurisdictional grounds. This study is of the position that had the matter been decided on the merits, the result could have been different and the US\$15 billion being claimed against the United States would have been at stake.

Conclusion

Stabilization clauses contribute immensely in investment promotion and protection by giving investors confidence over the security of their investments especially in foreign countries. They also give investors assurance that adjudication of disputes arising from the implementation of their petroleum industry contracts would take place outside the domestic legal framework of the host countries and brought to the international legal

forum as a result of the internationalization of stabilization clauses. The effect of this is to ensure impartiality and independence in the dispute adjudication process before international arbitral tribunals based on international legal principles. However, stabilization clauses do also have adverse impacts on global efforts to attain energy sustainability by limiting the freedom of sovereign states to amend their laws in a manner that align with their obligations under international treaties for the protection of the environment from the adverse effects of the indiscriminate use and application of fossil fuel and other hydrocarbon substances.

Recommendation

The paper recommends that sovereign states, especially developing countries, should look before they leap in their desire to entice foreign investors to invest in their petroleum industry through the use of stabilization clauses and signing of investment treaties. They could achieve this by weighing and balancing the investment promotion and protection benefits of stabilization clauses with their adverse effects on global efforts to attain energy sustainability in order to preserve the earth for next generations.

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