



INVESTMENT ARBITRATION FROM A RULE OF LAW PERSPECTIVE

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Brief introduction to the PCA

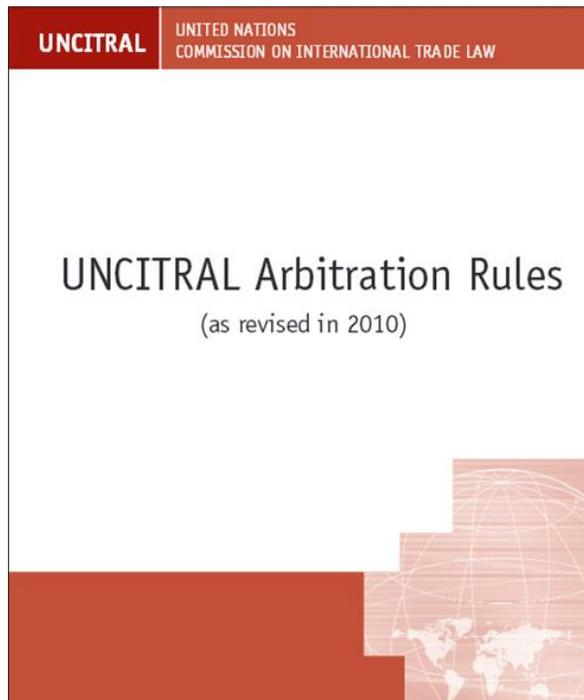


Peace Palace – The Hague (the Netherlands)



Ébène – Cyber City (Mauritius)

Appointing Authority Services



**THE MAURITIAN INTERNATIONAL
ARBITRATION ACT 2008**
Text and Travaux Préparatoires

**LA LOI MAURICIENNE SUR
L'ARBITRAGE INTERNATIONAL DE 2008**
Textes et Travaux Préparatoires

1899 Convention for the Pacific Settlement of International Disputes



“Desirous of extending the empire of law, and of strengthening the appreciation of international justice...”

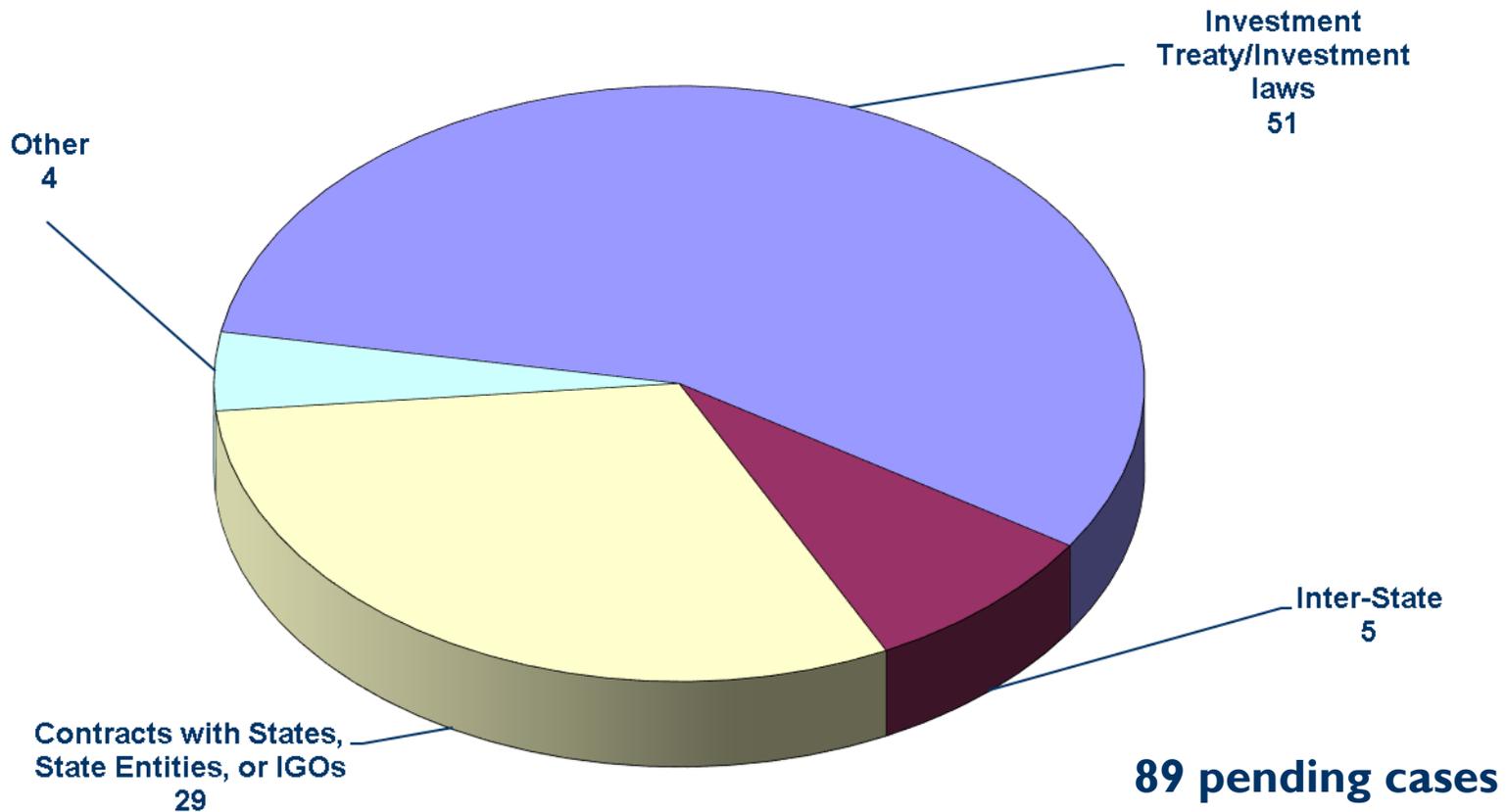


Delegates at the 1899 Hague Convention

Preamble, 1899 Hague Convention



PCA Docket





Inter-State Disputes



Eritrea/Yemen Arbitration (1998)



Investor-State Disputes



**Tribunal and PCA Registry in the Hulley
Entreprises Limited et al. v. the Russian Federation
arbitrations (2014)**

Hulley Entreprises Limited v. the Russian Federation (2014)



*“ [R]espect for the rule of law is not a one way-street.
Foreign investors have a duty to abide by the law, pay taxes,
provide required disclosures of their activities in the host
State, and cooperate with the authorities.”*

Hulley Entreprises Limited v. the Russian Federation, Final Award, 18 July 2014, para. 83.

Lord Bingham's Eight Principles of the Rule of Law



1. The law must be accessible and so far as possible, intelligible, clear and predictable.
2. Questions of legal right and liability should ordinarily be resolved by application of the law and not the exercise of discretion.
3. The laws of the land should apply equally to all, save to the extent that objective differences justify differentiation.
4. Ministers and public officers at all levels must exercise the powers conferred on them in good faith, fairly, for the purpose for which the powers were conferred, without exceeding the limits of such powers and not unreasonably.



Lord Bingham (1933-2010)

Lord Bingham's Eight Principles of the Rule of Law



5. The law must afford adequate protection of fundamental human rights.
6. Means must be provided for resolving without prohibitive cost or inordinate delay, bone fide civil disputes which the parties themselves are unable to resolve.
7. Adjudicative procedures provided by the state should be fair.
8. The rule of law requires compliance by the state with its obligations in international law as in national law.



Lord Bingham (1933-2010)

Bilcon of Delaware et al v. Government of Canada (2015)



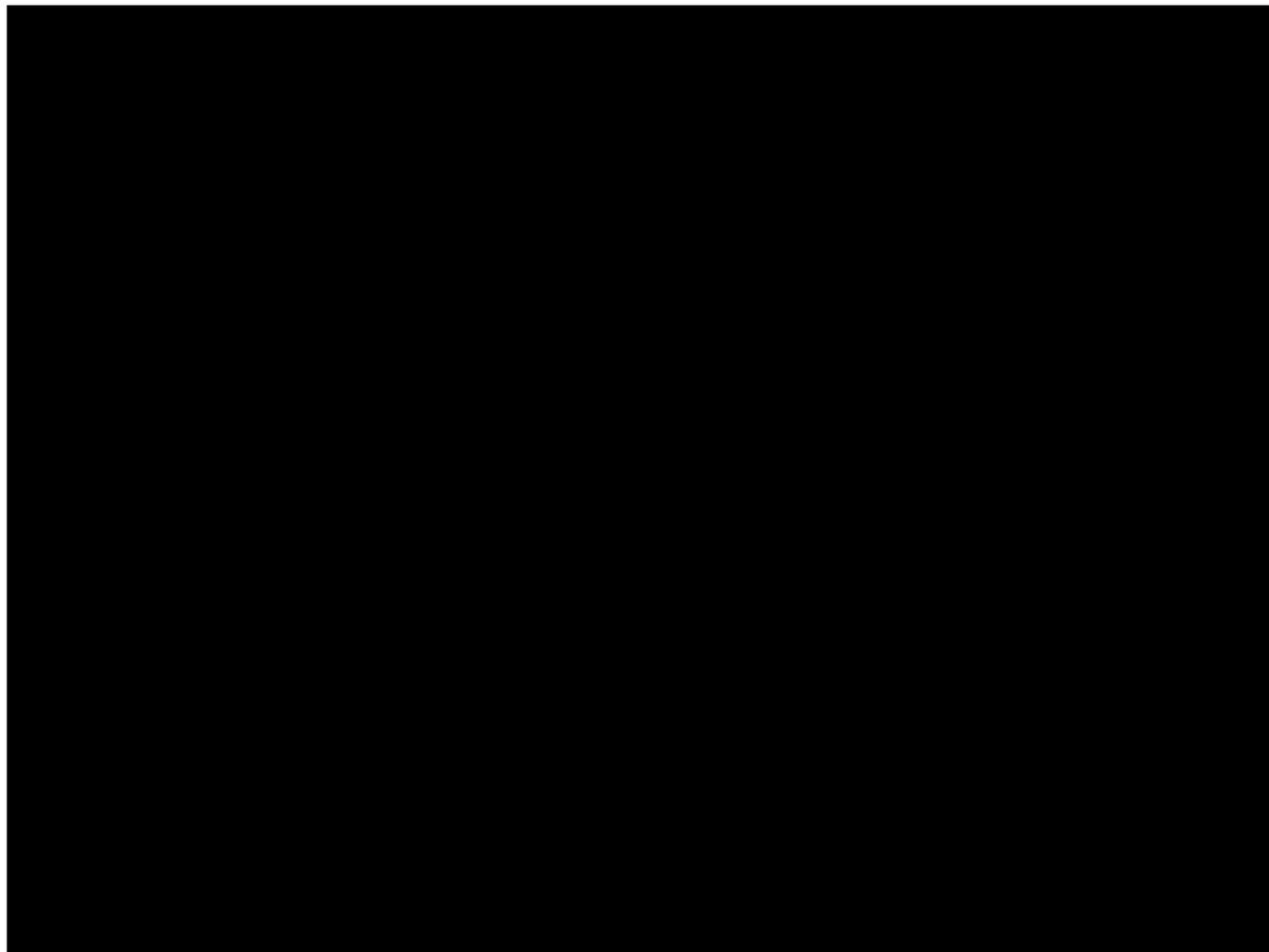
“[The JRP] ignored relevant facts and relied upon arbitrary, biased, capricious, and irrelevant considerations.”



Bilcon of Delaware et al v. Government of Canada, Award on Jurisdiction and Liability of 17 March 2015, para. 362.



Bilcon of Delaware et al v. Government of Canada (2015)



Discussion to be continued in Mauritius...



