DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

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This Digest annotates publicly available final decisions rendered on or before 30 July 2008 in investor-State arbitrations conducted pursuant to investment treaties. It excludes unpublished decisions rendered in such cases, and excludes arbitrations arising from contracts.

The entries are in reverse chronological order, the most recent being listed first. Each case has been assigned an IA (Investment Award) number. The numbering is in chronological order, in order to allow for regular updating. Where there is more than one entry for a given case, the case maintains the same number, with an extension, e.g.:

Industria Nacional de Alimentos S.A.
IA 73.2. Decision on Annulment, 5 September 2007
IA 73.1. Award, 7 February 2005

Multiply entries are also referenced after the heading “Type of Decision, Date”. In addition, the reader should note that while decisions on jurisdiction and awards on merits are treated as separate entries, any related decisions are referenced. Whereas dissenting opinions and procedural orders are not summarized in the Digest, they are also referenced where appropriate.

When using this Digest, the reader should further note that only the first principal mention of a subject matter in a given decision has been recorded. After having examined the first principal mention of the subject matter, the reader is advised to examine the remainder of the decision for additional information. The


The assistance of Nathalie Potin, Associate (Digest 2006), Angelica André and Leonardo Carpentieri, Visiting Interns (Digest 2008), Baker Botts (U.K.) LLP, London is also gratefully appreciated.

1. A final decision is one which is classified as an award, decision on jurisdiction, or decision on preliminary questions, containing unconditional verdict on disputed questions.
2. This Digest consolidates the Digests published in Yearbook XXXI (2006), which includes decisions rendered on or before 30 September 2006 and Yearbook XXXIII (2008), which includes decisions rendered between 1 October 2006 and 30 July 2008.

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figures in brackets following each entry represent the relevant paragraph, page number or section in the text of the decision summarized.

For this Digest, BIT denotes a Bilateral Investment Treaty, ECT denotes the Energy Charter Treaty, and NAFTA denotes the North American Free Trade Agreement. The names of the countries party to the treaty upon which jurisdiction was founded are sequenced in alphabetical order, and the date mentioned is the date of signature of the treaty.

The Digest relies upon the following sources that provide the full text of the decisions recorded in the Digest, as well as related opinions and decisions:

– Investment Claims: http://www.investmentclaims.com
– ICSID: http://www.worldbank.org/icsid/cases/cases.htm
– NAFTA Claims: http://www.naftaclaims.com
– U.S. State Department: http://www.state.gov/s/l/c3439.htm

In order to facilitate the use of this Digest, it will be made available on ICCA’s website at http://www.arbitration-icca.org.

DIGEST 2008

IA 119. Claimant(s): Rumeli Telekom A.S. Telsim Mobil Telekomunikasyon Hizmetleri A.S.
Respondent(s): Republic of Kazakhstan
Type of Decision, Date: Award, 29 July 2008
Decision: Jurisdiction upheld; Claims partially upheld
Arbitrator(s): Bernard Hanotiau (President), Stewart Boyd, Marc Lalonde
Jurisdiction founded on: Kazakhstan / Turkey BIT of 1 May 1992
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
Transaction: Telecommunications enterprise
Opinions & Decisions:
Language(s): English
Place of Arbitration: ICSID
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IA 118. Claimant(s): African Holding Company of America, Inc
  Société Africaine de Construction au Congo SARL

Respondent(s): Democratic Republic of Congo

Type of Decision, Date: Award on Jurisdiction, 29 July 2008
Decision: Jurisdiction dismissed
Arbitrator(s): Francisco Orrego Vicuña (President), O.L.O. de Witt Wijnen, Dominique Grisay
Jurisdiction founded on: Democratic Republic Congo / USA BIT of 3 August 1984
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://isd.worldbank.org
http://ita.law.uvic.ca
http://wwwinvestmentclaims.com
Transaction: Construction contracts
Opinions & Decisions: Dissenting Opinion by Arbitrator de Witt Wijnen
Language(s): French
Place of Arbitration: ICSID
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Type of Decision, Date: Award, 24 July 2008
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IA 98.2. Claimant(s): Helnan International Hotels A/S
Respondent(s): Arab Republic of Egypt
Type of Decision, Date: Award, 3 July 2008
Decision: Claims dismissed
Arbitrator(s): Yves Derains (President), Rudolf Dolzer, Michael Lee
Jurisdiction founded on: Denmark / Egypt BIT of 24 June 1996
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
Transaction: Hotel lease and development agreements
Opinions & Decisions: Decision on Jurisdiction, 17 October 2006
Language(s): English
Place of Arbitration: ICSID
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IA 88.2. Claimant(s): Metalpar S.A.  
Buen Aire S.A.  
Respondent(s): Argentine Republic  
Type of Decision, Date: Award on the Merits, 6 June 2008  
Decision: Claims dismissed  
Arbitrator(s): Rodrigo Oreamuno Blanco (President), Duncan H. Cameron, Jean-Paul Chabaneix  
Jurisdiction founded on: Argentina / Chile BIT of 2 August 1991  
Arbitration mechanism: ICSID Convention and Arbitration Rules  
Link to Award / Decision: http://ita.law.uvic.ca  
http://www.investmentclaims.com  
Transaction: Motor vehicle enterprise  
Opinions & Decisions: Decision on Jurisdiction, 27 April 2006  
Language(s): Spanish  
Place of Arbitration: ICSID  
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IA 116. Claimant(s): Trans-Global Petroleum, Inc.  
Respondent(s): Hashemite Kingdom of Jordan

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Type of Decision, Date: Decision on the Respondent’s Objection under Rule 41(5) of the ICSID Arbitration Rules, 24 September 2007

Decision: Jurisdiction partially upheld

Arbitrator(s): V.V. Veecher (President), Donald M. McRae, James Crawford

Jurisdiction founded on: Jordan / USA BIT of 2 July 1997

Arbitration mechanism: ICSID Convention and Arbitration Rules

Transaction: Oil exploration concession

Opinions & Decisions: English

Language(s): English

Place of Arbitration: ICSID

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IA 41.2. Claimant(s): Victor Pey Casado  
President Allende Foundation  
Respondent(s): Republic of Chile  
Type of Decision, Date: Award, 8 May 2008  
Decision: Claims partially upheld  
Arbitrator(s): Pierre Lalive (President), Mohammed Chemloul, Emmanuel Gaillard  
Jurisdiction founded on: Chile / Spain BIT of 2 October 1991  
Arbitration mechanism: ICSID Convention and Arbitration Rules  
Link to Award / Decision: http://ita.law.uvic.ca  
http://www.investmentclaims.com  
Transaction: Newspaper  
Opinions & Decisions: Decision on Arbitral Expenses, 14 March 2008  
Procedural Order No. 14, 22 November 2006  
Procedural Order No. 13, 24 October 2006  
Decision on Jurisdiction, 8 May 2002  
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Language(s): French, Spanish  
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IA 115. Claimant(s): The Rompetrol Group N.V.  
Respondent(s): Romania  
Type of Decision, Date: Decision on Jurisdiction, 18 April 2008  
Decision: Jurisdiction upheld  
Arbitrator(s): Franklin Berman (President), Donald Francis Donovan, Marc Lalonde  
Jurisdiction founded on: Netherlands / Romania BIT of 19 April 1994  
Arbitration mechanism: ICSID Convention and Arbitration Rules  
Link to Award / Decision: http://icisid.worldbank.org  
http://ita.law.uvic.ca  
http://www.investmentclaims.com  
Transaction: Oil refinery
Noble Energy, Inc.
Machalapower Cia. Ltda.
Republic of Ecuador
Consejo Nacional de Electricidad
Decision on Jurisdiction, 5 March 2008
Jurisdiction upheld
Gabrielle Kaufmann-Kohler (President), Bernardo M. Cremades, Henri Alvarez
Ecuador / USA BIT of 27 August 1993
Investment Agreement of 15 October 2001
Concession Contract of 15 October 2001
ICSID Convention and Arbitration Rules
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Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com
Transaction: Electricity enterprise
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IA 113. Claimant(s):
Desert Line Projects LLC
Respondent(s):
Republic of Yemen
Type of Decision, Date:
Award, 6 February 2008
Decision:
Jurisdiction upheld
Claims partially upheld
Arbitrator(s):
Pierre Tercier (President), Jan Paulsson, Ahmed S. El-Kosheri
Jurisdiction founded on:
Oman / Yemen BIT of 20 September 1998
Arbitration mechanism:
ICSID Convention and Arbitration Rules
Link to Award / Decision:
http://ita.law.uvic.ca
http://www.investmentclaims.com
Transaction:
Road construction contract
Opinions & Decisions:
English
Place of Arbitration:
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Illegal blocking of equipment (261-266)
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Inability to exercise buy-back option (267-276)
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Loss of reputation (289, 291)
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Appropriate rate (295)
Moral damages (297)
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  Loser pays (303)
  Fair and reasonable (304)
  Conduct in arbitration and success (304)

IA 112. Claimant(s): The Canadian Cattlemen for Fair Trade
Respondent(s): United States of America
Type of Decision, Date: Award on Jurisdiction, 28 January 2008
Decision: Jurisdiction denied
Arbitrator(s): Karl-Heinz Böckstiegel (President), James Bacchus, Lucinda A. Low
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: UNCITRAL Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
  http://www.investmentclaims.com
  http://www.naftaclaims.com
  http://www.state.gov/s/l/c3439.htm
Transaction: Beef and cattle business
Opinions & Decisions: Procedural Order No. 3, 3 August 2007
  Procedural Order No. 2, 7 November 2006
  Procedural Order No. 1, 20 October 2006
Language(s): English
Place of Arbitration: Washington D.C.
Subject-matter: Procedure (4-30)
Jurisdiction (31-224)
  Applicable law (32-33)
  NAFTA
  Vienna Convention on Treaties
  Ratione materiae and consent (41-223)
  Article 1101(1)(a) NAFTA (41-44)
  "Investor of another party"
  Vienna Convention on Treaties (45-48)
  NAFTA / ICSID Jurisprudence (49-51)
  Ordinary meaning (52-137)
  Article 1101 NAFTA (118-128)
  Link to investment (111-112)
  "Measures" (120)
  "Investments" (121)
  Territoriality
  Article 1139 NAFTA (122-125)
  Territoriality (126-128)
  Article 1102 NAFTA (129-133)
  Article 1103 NAFTA (134-135)
  Article 1116 NAFTA (136-137)
  Context (138-170)
  Chapter 11 NAFTA
IA 111. Claimant(s): BG Group Plc
Respondent(s): Argentine Republic
Type of Decision, Date: Award, 24 December 2007
Decision: Jurisdiction partially upheld
Arbitrator(s): Guillermo Aguilar-Alvarez (President), Alejandro M. Garro, Albert Jan van den Berg
Jurisdiction founded on: Argentina / United Kingdom BIT of 11 December 1990
Arbitration mechanism: UNCITRAL Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
Transaction: Natural gas distribution
Opinions & Decisions: Petition to Vacate or Modify Award, 20 March 2008
Language(s): English, Spanish
Place of Arbitration: Washington D.C.
Subject-matter: Procedure (3-15)
   Challenge of arbitrator (8-11)
   Facts (16-88)
      Regulatory framework (27-52)
      Crisis (53-61)
      Measures (62-82)
   Applicable law (89-103)
      BIT
      Domestic law (96-97, 100-102)
   Jurisdiction and admissibility (104-243)
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      “Investment” (111-139)
      Evidence (113)
      Assets (116-127)
      Claims to money (128-137)
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  Local remedies
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  State commitments (160-176)
  Concurrent claims (181-183)
  Derivative claims (186-218)
  Indirect equity (188-205)
  Claims to money (206-215)
  Control (213)
Measures of general application (219-233)
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Independent claims (239)
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Expropriation (244-272)
  Direct expropriation (259)
  Indirect expropriation (260-272)
    Neutralizing benefit / interfering with investment (267)
    Permanence (270)
    Substantial deprivation (271)
Fair and equitable treatment (275-310)
  Standard (290-303)
    Minimum standard
    Stability (298)
    Bad faith (301)
    Conduct (304-310)
  Legitimate and reasonable expectations (310)
Protection and constant security (311-328)
  Physical security (324-326)
Unreasonable and discriminatory measures (329-360)
  Unreasonable measures (331-346)
  Discriminatory measures (347-360)
Umbrella clause (361-366)
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  BIT (381-387)
    Exclusionary clause (385)
    Customary international law (388-412)
    ILC Articles on State Responsibility (409-412)
Remedies (413-453)
Compensation (417-457)
  Standard (419-429)
    Full reparation (426)
    Causality (428-429)
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  Fair market value
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  Dividends (450-451)
IA 73.3. Claimant(s): Industria Nacional de Alimentos S.A.
Indalsa Peru S.A. (previously Empresas Lucchetti, S.A.)
Respondent(s): Republic of Peru
Type of Decision, Date: Rectification of the Decision on Annulment, 30 November 2007
Decision: Request for rectification granted
Arbitrator(s): Hans Danelius (President), Franklin Berman, Andrea Giardina
Jurisdiction founded on: Chile / Peru BIT of 2 February 2000
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://icsid.worldbank.org
http://ita.law.uvic.ca
Transaction: Manufacture and sale of pasta
Opinions & Decisions: Decision on Annulment, 5 September 2007
Dissenting Opinion by Committee Member Berman
Award, 7 February 2005
Language(s): English, Spanish
Place of Arbitration: ICSID
Subject-matter: Procedure (1-5)
No objection to rectification (6)
Correcting counsel’s affiliation (8)

IA 110. Claimant(s): Archer Daniels Midland Company
Tate & Lyle Ingredients Americas, Inc
Respondent(s): United Mexican States
Type of Decision, Date: Award, 21 November 2007
Decision: Jurisdiction partially upheld
Claims partially upheld
Arbitrator(s): Bernardo M. Cremades (President), Arthur W. Rovine,
Eduardo T. Siqueiros
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://icsid.worldbank.org
http://ita.law.uvic.ca
Transaction: Soft drink sweetener production enterprise
Opinions & Decisions: Partial Concurring Opinion by Arbitrator Rovine
Decision on the Requests for Supplementary Decision, Interpretation and Correction of the Award, 10 July 2008
Order of the Consolidation Tribunal, 20 May 2005
Language(s): English, Spanish
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Place of Arbitration: ICSID

Subject-matter:
- Procedure (13-38)
  - Consolidation (16-22)
  - Confidential information (26, 32)
- Facts (39-99)
  - Inter-governmental exchange of letters (63-68)
  - WTO dispute settlement proceedings (85-96)
  - Inter-governmental agreement (97-99)
- Arguments (100-109)
- Countermeasures (110-180)
  - ILC Articles on State Responsibility (116)
  - NAFTA (116-123)
    - Lex specialis (116-119)
      - Relation to customary international law (120-123)
  - Customary international law (124-180)
    - Breach (128-132)
    - Inducement to cure (134-151)
    - Proportionality (152-160)
    - Individual rights (161-180)
    - NAFTA
      - Investor rights (179)
- Consequence of illegitimate countermeasures (181-184)

Merits (185-252)
- Article 1102 NAFTA (185-213)
  - Standard (193-196)
  - Like circumstances (197-204)
  - Differential treatment (205-213)
- Article 1106(3) NAFTA (214-227)
- Article 1101(1) NAFTA (221)
- Taxation (222-227)
- Article 1110 NAFTA (228-252)
  - Taking (237-238)
  - Effects (239-249)
    - Loss of control (244-245)
    - Substantial loss (246-249)
  - Duration (249)
  - Other facts (251)
- Legitimate expectations (251)

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- Compensation (253-300)
  - Jurisdiction (270-274)
  - Territoriality
  - Principles (275-286)
  - Loss suffered
    - Loss of profits
  - Speculative (285)
- Computation (287-293)
IA 73.2. Claimant(s): Industria Nacional de Alimentos S.A.
Indalsa Peru S.A. (previously Empresas Lucchetti, S.A.)

Respondent(s): Republic of Peru

Type of Decision, Date: Decision on Annulment, 5 September 2007
See also IA 73.3. Rectification of the Decision on Annulment, 30 November 2007; IA 73.1. Award, 7 February 2005

Decision: Annulment rejected

Arbitrator(s): Hans Danelius (President), Franklin Berman, Andrea Giardina

Jurisdiction founded on: Chile / Peru BIT of 2 February 2000

Arbitration mechanism: ICSID Convention and Arbitration Rules

Link to Award / Decision: http://icsid.worldbank.org
http://ita.law.uvic.ca
http://www.investmentclaims.com

Transaction: Manufacture and sale of pasta

Opinions & Decisions: Dissenting Opinion by Committee Member Berman
Decision on Rectification, 30 Nov. 2007
Award, 7 February 2005

Language(s): English, Spanish

Place of Arbitration: ICSID

Subject-matter: Facts (1-14)
BIT (15)
Award (16-22, 64-70)
Procedure (23-28)
Role of annulment (66-70, 97-98)
Article 52(1) ICSID Convention (71-73)
Corruption allegations (74-78)
Interpretation of BIT temporal clause (79-80, 89-96)
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Article 52(1)(b) ICSID Convention (34-45, 54-58, 99-116)
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Article 52(1)(d) ICSID Convention (46-50, 59-61, 117-125)
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Unclear
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IA 58.4. Claimant(s): Enron Corporation
Ponderosa Assets L.P.
Respondent(s): Argentine Republic
Type of Decision, Date: Decision on Rectification and / or Supplementary Decision of the Award, 25 October 2007
See also IA 58.3, Award, 22 May 2007; IA 58.2, Decision on Jurisdiction (Ancillary Claim), 2 August 2004; IA 58.1, Decision on Jurisdiction, 14 January 2004
Decision: Request for rectification and supplementary decision rejected
Annulment: Annulment pending
Arbitrator(s): Francisco Orrego Vicuña (President), Albert Jan van den Berg, Pierre-Yves Tschanz
Jurisdiction founded on: Argentina / USA BIT of 14 November 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com
Transaction: Gas transportation
Opinions & Decisions: Award, 22 May 2007
Decision on Jurisdiction (Ancillary Claim), 2 August 2004
Decision on Jurisdiction, 14 January 2004
Language(s): English, Spanish
Place of Arbitration: ICSID
Subject-matter: Procedure (1-8)
Applicable law (9-10)
Article 49(2) ICSID Convention (9)
ICSID Arbitration Rule 49(1) (10)
Rectification and / or supplementary decision request (11-32)
Post-award interest
Award (33-39)
Interest (41-55)
Role in compensation (41)
Inherent authority (41)
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Implied request (44, 48-51)
ILC Articles on State Responsibility (45-47)
Compensatory or moratory interest
Role of request (52-55)
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IA 58.3. Claimant(s): Enron Corporation
Ponderosa Assets L.P.
Respondent(s): Argentine Republic
Type of Decision, Date: Award, 22 May 2007
See also IA 58.4, Award, 22 May 2007; Decision on Rectification and / or Supplementary Decision of the Award, 25 October 2007; IA 58.2, Decision on Jurisdiction

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(Ancillary Claim), 2 August 2004; IA 58.1. Decision on Jurisdiction, 14 January 2004
Decision: Claims partially upheld
Annulment: Annulment pending
Arbitrator(s): Francisco Orrego Vicuña (President), Albert Jan van den Berg, Pierre-Yves Tschanz
Jurisdiction founded on: Argentina / USA BIT of 14 November 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com
Transaction: Gas transportation
Opinions & Decisions: Rectification of the Award and / or Supplementary Decision, 25 October 2007
Decision on Jurisdiction (Ancillary Claim), 2 August 2004
Decision on Jurisdiction, 14 January 2004
Language(s): English, Spanish
Place of Arbitration: ICSID
Subject-matter:
- Procedure (1-40)
  - New Request for Arbitration (3-6)
  - Ancillary claim (6, 33)
  - Claimant authorization (16-17)
  - Discontinuance of claim (26-28)
- Facts (41-79)
  - Privatization (41-46)
  - Investment (47-61)
  - Measures (62-79)
    - No adjustment for PPI (62-70)
    - Emergency law (71-79)
- Damage caused (80-86)
  - Inability to secure funding
  - Decreased revenue and value
- Right to adjustment of tariffs (95-105)
- Right to calculation of tariffs in US dollars (106-209)
- Applicable law (203-209)
  - Article 42(1) ICSID Convention
  - Stability of contract / licence under domestic law (210-230)
    - State of emergency (218-230)
    - Temporality (221-222)
    - Mutation of rights (223)
    - Reasonableness (224-225)
    - Unilateral determination (226-231)
  - Domestic law (231-232)
- Merits (233-345)
  - Applicable law (233-345)
  - BIT
  - Expropriation (234-250)
    - Direct expropriation (243)
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Constitution (291-293)
Customary international law (294-313)
BIT (314-342)
Temporality (343-345)
Compensation (346-450)
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Historical return (367-370)
Leverage (371-376)
Country risk (377-378)
Equity damage (379-390)
Shareholding / participation (391-401)
Regulated / non-regulated business (402)
Equity damage (403-404)
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Efficiency adjustment (416-417)
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Stock exchange value (424-428)
Operator damages (440-444)
PPI damages (445-448)
Interest (451-452)
Compound

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IA 109. Claimant(s): RosInvestCo UK Ltd.
Respondent(s): The Russian Federation
Type of Decision, Date: Decision on Jurisdiction, 5 October 2007
Decision: Jurisdiction partially upheld
Annulment: Award challenged in Swedish courts – challenge pending
Arbitrator(s): Karl-Heinz Böckstiegel (President), Johan van Zyl Steyn, Franklin Berman
Jurisdiction founded on: UK / USSR BIT of 6 April 1989
Arbitration mechanism: Arbitration Institute of the Stockholm Chamber of Commerce
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com
Transaction: Oil & gas
Opinions & Decisions: Declaration by Arbitrator Berman
Language(s): English
Place of Arbitration: Stockholm
Subject-matter: Procedure (4-22)
Applicable law (23-27, 33)
BIT (23)
Other BITs (24-26)
Vienna Convention on Treaties (27)
Public international law (33)
Kompetenz-kompetenz doctrine (34-36)
Article 34 SCC Arbitration Rules (36)
Principles of interpretation (37-44)
Events subsequent to Treaty
Articles 31(3)(a), (b) Vienna Convention on Treaties (38)
Article 31(3)(c) Vienna Convention on Treaties (39)
Multilateral Treaties (40)
Temporality (41-42)
Fundamental change of circumstances (43)
Objective interpretation (44)
Expropriation claim (45-48)
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BIT / ICSID jurisprudence (49)
Jurisdiction (50-156)
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Exhaustion of legal remedies (140-156)
Customary international law (153)
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Special regime (155)
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Reserved

IA 78.2. Claimant(s): Sempra Energy International
Respondent(s): Argentine Republic
Type of Decision, Date: Award, 28 September 2007
Decision: Claims partially upheld
Annulment: Annulment pending
Arbitrator(s): Francisco Orrego Vicuña (President), Marc Lalonde, Sandra Morelli Rico
Jurisdiction founded on: Argentina / USA BIT of 14 November 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://icsid.worldbank.org
http://ita.law.uvic.ca
http://www.investmentclaims.com
Transaction: Gas distribution
Opinions & Decisions: Partial Dissenting Opinion by Arbitrator Lalonde
Decision on Jurisdiction, 11 May 2005
Language(s): English, Spanish
Place of Arbitration: ICSID
Subject-matter: Procedure (4-81)
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Dismissal of testimony (47)
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Discontinuance of claim (77-81)
Facts (82-93)
Privatization (82-87)
Investment (88-92)
Measures (93)
Right to adjustment of tariffs (100-115)
Emergency law (116-156)
Historical experience (128-131)
Country risk (132-134)
Constitution (135-136)
Regulatory framework (137-140)
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Interference with collection of bills (189-196)

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Valuation date (203-210)

Inter-company loans (211-216)
Regulated / non-regulated business (217-219)

Renegotiations (220-228)
Trust fund (229-230)

Applicable law (231-240)
Stability of licence under Argentine law (241-246, 262-267)

Emergency under Argentine law (247-261)
Temporality (249-252)

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Reasonableness (255-256)

Unilateral determination (257-261)

Liability under BIT (270-324)
Expropriation (271-289)
Fair and equitable treatment (290-304)

Umbrella clause (305-314)

Arbitrariness and discrimination (315-320)

Full protection and security (321-324)
Emergency (325-397)
Necessity

Constitution (328-332)
Customary international law (333-355)

BIT (356-391)

Temporality (392-397)

Damages (398-482)
Valuation (400-466)

Historical damages (467-486)
Interest (483-486)

Compound

Costs (Dispositif)

IA 50.3. Claimant(s): CMS Gas Transmission Company
Respondent(s): Argentine Republic
Type of Decision, Date: Decision on the Application for Annulment, 25 September 2007
See also IA 50.2. Award, 12 May 2005; IA 50.1. Decision on Jurisdiction, 17 July 2003
Decision: Award partially annulled
Arbitrator(s): Gilbert Guillaume (President), Nabil Elaraby, James R. Crawford
Jurisdiction founded on: Argentina / USA BIT of 14 November 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://icsid.worldbank.org
http://ita.law.uvic.ca
http://www.investmentclaims.com

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ARBITRAL AWARDS

Transaction: Gas transportation
Opinions & Decisions: Decision on the Argentine Republic’s Request for a Continued Stay of Enforcement of the Award, 1 September 2006 Award, 12 May 2005 Decision on Jurisdiction, 17 July 2003
Language(s): English, Spanish
Place of Arbitration: ICSID

IA 108. Claimant(s): Parkerings-Compagniet AS
Respondent(s): Republic of Lithuania
Type of Decision, Date: Award, 11 September 2007
Decision: Claims dismissed
Arbitrator(s): Laurent Lévy (President), Julian Lew, Marc Lalonde
Jurisdiction founded on: Lithuania / Norway BIT of 16 June 1992
Arbitration mechanism: ICSID Convention and Arbitration Rules
Transaction: Public parking concession
Opinions & Decisions:
IA 107. **Claimant(s):** Sociedad Anónima Eduardo Vieira  
**Respondent(s):** Republic of Chile  
**Type of Decision, Date:** Award, 21 August 2007  
**Decision:** Jurisdiction denied  
**Annulment:** Annulment pending  
**Arbitrator(s):** Claus von Wobeser (President), Susana B. Czar de Zaldueno, W. Michael Reisman  
**Jurisdiction founded on:** Chile / Spain BIT of 7 July 2003  
**Arbitration mechanism:** ICSID Convention and Arbitration Rules  
**Link to Award / Decision:** http://icsid.worldbank.org  
http://ita.law.uvic.ca  
http://www.investmentclaims.com  
**Transaction:** Fisheries company  
**Opinions & Decisions:** Partial Dissenting Opinion by Arbitrator Czar de Zaldueno  
**Language(s):** Spanish
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Place of Arbitration: ICSID
Subject-matter: Procedure (1-17)
   Jurisdiction (18-304)
      Relevant facts (18-98)
      Rationae temporis (105-503)
      Rationae materiae (304)
   Costs (305)

IA 29.4. Claimant(s): Compañía de Aguas del Aconquija S.A.
                          Vivendi Universal S.A. (formerly Compagnie Generale des Eaux)
Respondent(s): Argentine Republic
Type of Decision, Date: Award, 20 August 2007
   See also IA 29.3. Decision on Jurisdiction, 14 November 2005; IA 29.2. Decision on Annulment, 3 July 2002; IA 29.1. Award, 21 November 2000
Decision: Claims partially upheld
Annulment: Annulment pending
Arbitrator(s): J. William Rowley (President), Gabrielle Kaufmann-Kohler, Carlos Bernal Verea
Jurisdiction founded on: Argentina / France BIT of 3 July 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
                           http://www.investmentclaims.com
Transaction: Water services
Opinions & Decisions: Resubmission proceeding:
   Decision on Jurisdiction, 14 November 2005
Original Arbitration Proceedings:
   Decision of the ad hoc Committee on the Request for Supplementation and Rectification of its Decision on Annulment, 28 May 2003
   Decision on Annulment, 3 July 2002
   Decision on Challenge to President, 3 October 2001
   Award, 21 November 2000
Language(s): English, Spanish
Place of Arbitration: ICSID
Subject-matter: Procedure (2.1.1-2.7.18)
   Proper claimant / shareholder (7.2.1-7.2.14)
   Scope to consider breach of contract (7.3.1-7.3.11)
   Fair and equitable treatment (7.4.1-7.4.12)
      Article 31 of Vienna Convention (7.4.2)
      Object and purpose of BIT (7.4.4)
      Minimum standard of treatment (7.4.7)
   Denial of justice (7.4.10 - 7.4.11)
   Protection and full security (7.4.13-7.4.17)
   Expropriation (7.5.1-7.5.20)
      Breach of contract (7.5.3-7.5.10)
Measures tantamount to expropriation (7.5.12-7.5.13, 7.5.24)
Destruction of value (7.5.14-7.5.17)
Bad faith (7.5.20)
Causation (7.6.1-7.6.2)
Damages (8.1.1-8.4.5)
Applicable principles (8.2.1)
Article 42(1) of ICSID Convention (8.2.2)
BIT (8.2.2)
Lawful / unlawful expropriation (8.2.3)
Chorzów factory (8.2.4)
ILC Articles (8.2.6)
Fair market value (8.2.9-8.2.10)
Interest (9.1-9.2.8)
Costs (10.1.1-10.2.6)

IA 106. Claimant(s): Fraport AG Frankfurt Airport Services Worldwide
Respondent(s): Republic of the Philippines
Type of Decision, Date: Award, 16 August 2007
Decision: Jurisdiction denied
Annulment: Annulment pending
Arbitrator(s): Yves Fortier (President), Bernardo M. Cremades, W. Michael Reisman
Jurisdiction founded on: Germany / Philippines BIT of 18 April 1997
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com
Transaction: Construction of an airport terminal
Opinions & Decisions: Dissenting Opinion by Arbitrator Cremades
Language(s): English
Place of Arbitration: ICSID
Subject-matter:
Procedure (1-76)
Local expropriation proceedings (226-279)
Right of eminent domain (232-236)
Jurisdiction (280)
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Investment accepted in accordance with laws and regulations (300)
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Objective standard of lawfulness (302)
Article 25 definition of investment (305)
BIT definition of investment (306)
Article 31 of Vienna Convention (339)
BIT wording (341-342)
Types of investment (343)
Time of compliance with domestic law (344-345)
Estoppel (346-347)
Anti-dummy law (349-382)
Concealment of secret shareholder agreements (383-395)
Costs (405)

**IA 67.3. Claimant(s):** Hussein Nuaman Soufraki  
**Respondent(s):** United Arab Emirates  
**Type of Decision, Date:** Rectification of the Decision on Annulment, 13 August 2007  
See also **IA 67.2. Decision on Annulment, 5 June 2007; IA 67.1. Award, 7 July 2004**

**Decision:** Request for rectification granted  
**Annulment:** Annulment rejected  
**Arbitrator(s):** Florentino P. Feliciano (President), Omar Nabulsi, Brigitte Stern  
**Jurisdiction founded on:** Italy / UAE BIT of 22 January 1995  
**Arbitration mechanism:** ICSID Convention and Arbitration Rules  
**Link to Award / Decision:** http://ita.law.uvic.ca  
**Transaction:** Port services  
**Opinions & Decisions:** Decision on Annulment, 5 June 2007  
Separate and Dissenting Opinion by Committee Member Nabulsi  
**Award, 7 July 2004**  
**Language(s):** English  
**Place of Arbitration:** ICSID  
**Subject-matter:** Adding name of counsel (3-9)  
Lack of objections (5)

**IA 105. Claimant(s):** M.C.I. Power Group L.C.  
New Turbine, Inc.  
**Respondent(s):** Republic of Ecuador  
**Type of Decision, Date:** Award, 31 July 2007  
**Decision:** Claims dismissed  
**Annulment:** Annulment pending  
**Arbitrator(s):** Raúl E. Vinuesa (President), Benjamin J. Greenberg, Jaime Irarrázabal  
**Jurisdiction founded on:** Ecuador / USA BIT of 27 August 1993  
**Arbitration mechanism:** ICSID Convention and Arbitration Rules  
**Link to Award / Decision:** http://ita.law.uvic.ca  
http://www.investmentclaims.com  
**Transaction:** Electric power generation  
**Opinions & Decisions:**  
**Language(s):** English, Spanish  
**Place of Arbitration:** ICSID  
**Subject-matter:** Procedure (1-25)  
ICSID Arbitration Rule 41(3) (13)  
Jurisdiction (26-191)  
Rationae temporis (45-136)  
Silence in treaty (59-60)  
Principle of non-retroactivity (61-67)  
“Dispute” (63)
Same cause or background (65)
Prior or new dispute (66)
Continuing and composite acts (69-97)
Customary international law (82-96)
   Human rights (83)
   ILC Articles on State Responsibility (86-92)
   Events subsequent to BIT (93)
   Breach prior to BIT (96)
Good faith (98-116)
   Article 18 Vienna Convention on Treaties
   Exception to non-retroactivity (108)
Most-favored-nation clause (118-128)
Non-applicability (127-128)
Injury (129-136)
   Inter-temporality (133-134)
   ILC Articles on State Responsibility (135)
Rationae materiae (137-170)
   Arising directly out of an investment (137-170)
   “Investment”
      Article 25 ICSID Convention (158-159)
      Consent (159)
      BIT (160-165)
      Accounts receivable (164)
      Operating permit (164)
      Duration (165)
      Risk (165)
      Date of existence (166-170)
Fork-in-the-road clause (171-190)
   Lis pendens (181)
   “Alternative” (184-187)
   Non-retroactivity (186-189)
   Treaty claims / contract claims (188)
Merits (192-372)
   Applicable law (214-218)
      Article 42 ICSID Convention (217)
      Primacy of international law (218)
   Attribution (219-225)
   ILC Articles on State Responsibility (225)
BIT (232-252)
   Agreement on content (252)
   Good faith (253-280)
      Liquidation of contract process (271-280)
      Sufficient of proof (276)
      Legitimate expectations (278-279)
      Investor good faith (280)
   Revocation of operating permit (281-306)
      Investor compliance with law (298)
      Domicile (298)
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Acquiescence (302-305)
Frustration of arbitration process (307-325)
   Obligation to arbitrate (319)
   Duty to negotiate (321)
   Acquired right (322)
   Existence of arbitration agreement (323)
      Verbal (323)
         Burden of proof (323)
      Freedom not to arbitrate (324-325)
   Annulment of local lawsuit (326-353)
      Voluntary discontinuance (349)
      Possibility of local remedies (350-353)
   Harassment of management (354-371)
      Fair and equitable treatment (369-370)
         Act contrary to law (369)
         Ex aequo et bono (370)
      Unfriendly acts (371)
   Costs (372)

IA 61.2. Claimant(s): Tokios Tokelès
Respondent(s): Ukraine
Type of Decision, Date: Award, 26 July 2007
Decision: Jurisdiction upheld
Arbitrator(s): Lord Mustill (President), Piero Bernardini, Daniel M. Price
Jurisdiction founded on: Lithuania / Ukraine BIT of 8 February 1994
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
Transaction: Advertising, publishing and printing business
Opinions & Decisions: Dissenting Opinion by Arbitrator Price
                Decision on Jurisdiction, 29 April 2004
                Dissenting Opinion by Arbitrator Weil
                Procedural Order No. 3, 18 January 2005
                Procedural Order No. 1, 1 July 2003
Language(s): English
Place of Arbitration: ICSID
Subject-matter: Introduction (1-5)
                ICSID jurisprudence (3)
                Jurisdiction (5)
                New facts
Political comments (6-11)
Procedure (15-30)
Reconstitution of arbitral tribunal (25-26)
Facts (31-84, 87-95)
Jurisdiction (96-112)
Local investor (97-98)
Pre-existing assets (99-100)
Order of events (101-108)
Waiting periods (102-103)
Consent (104-108)
Continuing act (107)
Transfer of assets (109-112)
Estoppel (112)
Merits (113-145)
Contradictory evidence (114-116)
Expropriation (117-122)
Indirect (117-118)
Revocation of license (119)
Proof of expropriation (120-122)
Extent of harm
Substantial (120)
Burden of proof (121)
Sufficiency of evidence (122)
Fair and equitable treatment / full protection and security (123-137)
Standard (123)
Sufficiency of evidence (123-124)
Admitted / proved facts (125-126)
Documentary evidence (127)
Conduct (128-133)
Press statement (128-129)
Taxation enforcement (130-131)
Entry into premises (130)
Adequacy of justification (131)
Electoral commission (132)
Criminal charges (133)
Cumulative effect of distinct acts / omissions (134-135)
Domestic law (138-145)
Costs (146)

**IA 62.3. Claimant(s):** LG&E Energy Corp.
LG&E Capital Corp.
LG&E International Corp.

**Respondent(s):** Argentine Republic

**Type of Decision, Date:** Award, 25 July 2007

See also **IA 62.2.** Award on Liability, 3 October 2006; IA 62.1. Decision on Jurisdiction, 30 April 2004

**Decision:** Claims partially upheld

**Arbitrator(s):** Tatiana B. de Mackelt (President), Francisco Rezek, Albert Jan van den Berg

**Jurisdiction founded on:** Argentina / USA BIT of 14 November 1991

**Arbitration mechanism:** ICSID Convention and Arbitration Rules

**Link to Award / Decision:** http://ita.law.uvic.ca
http://www.investmentclaims.com
ARBITRAL AWARDS

Transaction: Gas distribution
Opinions & Decisions: Decision on the Request for Supplementary Decision, 8 July 2008
Decision on Liability, 3 October 2006
Decision on Jurisdiction, 30 April 2004
Language(s): English, Spanish
Place of Arbitration: ICSID
Subject-matter: Exclusion of period for necessity (2-3)
Procedure (6-9)
Tribunal appointed expert (6)
Damages (10-109)
Non-expropriation claims (30)
Standard (31-32)
"Full" reparation (31)
Restitution / compensation (32)
Measure (33-57)
Fair market value (33-40)
Stock price (34)
DCF Method (34)
Impact on asset value (34-36)
Actual damage (36)
Non-expropriation claims (37-40)
Compensation / damages (38)
Discretion (40)
Actual loss (41-53)
Causation (45-53)
Unlawful acts (46)
Impact on stock price (47)
Revenue decrease (48)
Dividend decrease (48)
Proximate cause (49-50)
Loss of profits (51)
Country-risk premium (52)
Interest (54-57)
Full reparation (55)
Compound interest (56)
"Full" reparation (58)
Reduction of dividends method (59-106)
"But for" (59-60)
Calculation assumptions (61)
Principles (79-98)
Methodology (99-101)
Interest (102-105)
Short-term US Treasury bills (102)
Compound (103)
Quantification (107-109)
Costs (110-114)
Loser pays (112)
Claimant(s): Hussein Nuaman Soufraki
Respondent(s): United Arab Emirates
Type of Decision, Date: Decision on Annulment, 5 June 2007
Decision: Annulment rejected
Arbitrator(s): Florentino P. Feliciano (President), Omar Nabulsi, Brigitte Stern
Jurisdiction founded on: Italy / UAE BIT of 22 January 1995
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
Transaction: Port services
Opinions & Decisions: Separate and Dissenting Opinion by Committee Member Nabulsi
Rectification of the Decision on Annulment, 13 August 2007
Award, 7 July 2004
Language(s): English
Place of Arbitration: ICSID
Subject-matter: Pre-annulment case (1-18)
Facts / procedure (1-13)
Award (14-18)
Scope of annulment (19-20)
Standards of interpretation (21-23)
Role of annulment (24-29)
Proactive (25)
Nationality cases (28)
Overlap of annulment grounds (31-36)
Article 52(1)(b) ICSID Convention (37-120)
Manifest excess of powers (37)
"Manifest" (38-40)
"Excess of powers" (41-46)
Inexistence of power (47-78)
Kompetenz-kompetenz doctrine
Sufficiency of evidence
Failure to apply proper law (79-114)
Procedural laws and proper law
Refusal to exercise existing power (115-120)
"Manifest"
Article 52(1)(e) ICSID Convention (121-135)
Failure to state reasons
Award
Essential propositions
Sufficiency of reasons
Costs (136-138)
ARBITRAL AWARDS

IA 104. Claimant(s): Bayview Irrigation District et al.
Respondent(s): United Mexican States
Type of Decision, Date: Award, 19 June 2007
Decision: Jurisdiction denied
Annulment: Award challenged in Canadian courts – challenge rejected
Arbitrator(s): Vaughan Lowe (President), Ignacio Gómez-Palacio, Edwin Meese III
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: ICSID Additional Facility Rules
Link to Award / Decision: http://icsid.worldbank.org
http://ita.law.uvic.ca
http://www.investmentclaims.com
Transaction: Agriculture
Opinions & Decisions: Judicial review, Ontario Superior Court of Justice (Canada), 5 May 2008
Language(s): English, Spanish
Place of Arbitration: ICSID
Subject-matter: Procedure (1-23)
Chapter 11 NAFTA (81-83)
Article 1101 NAFTA (84-86)
Investor (88-91)
Investment (92-122)
Territoriality (93-122)
Water rights (110-111)
Further issues (123)
Costs (125)
Good faith

IA 44.2. Claimant(s): United Parcel Service of America, Inc.
Respondent(s): Government of Canada
Type of Decision, Date: Award, 24 May 2007
Decision: Claims dismissed
Arbitrator(s): Kenneth Keith (President), Ronald A Cass, L. Yves Fortier
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: UNCITRAL Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com
http://www.naftaclaims.com
Transaction: Postal services
Opinions & Decisions: Separate Opinion by Arbitrator Cass
Decision (Confidentiality and Transmission of Documents to Non-Participating NAFTA Parties), 4 April 2005
Procedural Order (Merits Hearing), 14 March 2005
Decision (Cabinet Privilege), 8 October 2004

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Decision (Document Production and Interrogatories), 21 June 2004
Further Order on Amicus Submissions, 1 August 2003
Order (Refusing Canada’s Request for a Second Jurisdictional Hearing), 4 April 2003
Procedural Directions for Amicus Submissions, 4 April 2003
Award on Jurisdiction, 22 November 2002
Decision (Petitions for Intervention and Participation as Amici Curiae), 17 October 2001
Order on the Place of Arbitration, 17 October 2001
Decision (Statement of Defence), 17 October 2001
Procedurals Orders 1 and 2, 17 April 2001

Language(s): English
Place of Arbitration: Washington D.C.
Subject-matter: Procedure (1-5)

Amicus Curiae (3)
Further jurisdictional objections (18-39)
Interpretation (40-44)
“Party” (45-63)
Article 1102 NAFTA
Article 1105 NAFTA
Attribution
Chapter 15 NAFTA (64-79)
Non-monopoly services
Article 1102 NAFTA (80-181)
Customs laws
Postal traffic / courier shipments
Procurement exception (121-136)
Publications assistance program (137-181)
Article 1103 NAFTA (182-184)
Article 1105 NAFTA (185-187)
Costs (188)

IA 103. Claimant(s): Malaysian Historical Salvors Sdn, Bhd
Respondent(s): Malaysia
Type of Decision, Date: Award on Jurisdiction, 17 May 2007
Decision: Jurisdiction denied
Annulment: Annulment pending
Arbitrator(s): Michael Hwang
Jurisdiction founded on: Malaysia / UK BIT of 21 May 1981
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://icsid.worldbank.org
http://ita.law.uvic.ca
http://www.investmentclaims.com
Transaction: Maritime salvage

Opinions & Decisions:
Language(s): English
Place of Arbitration: ICSID
### IA 101.2. Claimant(s): Eastern Sugar B.V.
#### Respondent(s): Czech Republic
#### Type of Decision, Date: Award on Costs, 12 April 2007
#### Decision: Claims partially upheld
#### Arbitrator(s): Pierre A. Karrer (President), Robert Volterra, Emmanuel Gaillard
#### Jurisdiction founded on: Czech Republic / Netherlands BIT of 29 April 1991
#### Arbitration mechanism: UNCITRAL Arbitration Rules
#### Link to Award / Decision: [http://ita.law.uvic.ca](http://ita.law.uvic.ca)
#### Transaction: Sugar production
#### Opinions & Decisions: Partial Award, 27 March 2007
#### Partial Dissenting Opinion by Arbitrator Volterra
#### Language(s): English
#### Place of Arbitration: Paris
#### Subject-matter: Costs (4-10)

### IA 102. Claimant(s): Waguih Elie George Siag Clorinda Vecchi
#### Respondent(s): Arab Republic of Egypt
#### Type of Decision, Date: Decision on Jurisdiction, 11 April 2007
#### Decision: Jurisdiction upheld
#### Arbitrator(s): David A.R. Williams (President), Michael Pryles, Francisco Orrego Vicuña
#### Jurisdiction founded on: Egypt / Italy BIT of 2 March 1989
#### Arbitration mechanism: ICSID Convention and Arbitration Rules
#### Link to Award / Decision: [http://ita.law.uvic.ca](http://ita.law.uvic.ca)
#### Transaction: Resort development
#### Opinions & Decisions: Partial Dissenting Opinion by Arbitrator Vicuña
#### Language(s): English
#### Place of Arbitration: ICSID
#### Subject-matter: Procedure (1-16)

**Subject-matter:**
- Facts (1-17)
- Procedure (18-37)
- Arising directly out of an investment (42-148)
- Investment
  - Article 25 ICSID Convention (54-146)
  - Objective definition
    - “Salini test”
  - BIT (147-148)
  - Other issues (149)
- Costs (150)

**IA 101.2. Claimant(s):** Eastern Sugar B.V.
**Respondent(s):** Czech Republic
**Type of Decision, Date:** Award on Costs, 12 April 2007
**Decision:** Claims partially upheld
**Arbitrator(s):** Pierre A. Karrer (President), Robert Volterra, Emmanuel Gaillard
**Jurisdiction founded on:** Czech Republic / Netherlands BIT of 29 April 1991
**Arbitration mechanism:** UNCITRAL Arbitration Rules
**Link to Award / Decision:** [http://ita.law.uvic.ca](http://ita.law.uvic.ca)
**Transaction:** Sugar production
**Opinions & Decisions:** Partial Award, 27 March 2007
**Partial Dissenting Opinion by Arbitrator Volterra**
**Language(s):** English
**Place of Arbitration:** Paris
**Subject-matter:** Costs (4-10)

**Loser pays (6)**

**IA 102. Claimant(s):** Waguih Elie George Siag Clorinda Vecchi
**Respondent(s):** Arab Republic of Egypt
**Type of Decision, Date:** Decision on Jurisdiction, 11 April 2007
**Decision:** Jurisdiction upheld
**Arbitrator(s):** David A.R. Williams (President), Michael Pryles, Francisco Orrego Vicuña
**Jurisdiction founded on:** Egypt / Italy BIT of 2 March 1989
**Arbitration mechanism:** ICSID Convention and Arbitration Rules
**Link to Award / Decision:** [http://ita.law.uvic.ca](http://ita.law.uvic.ca)
**Transaction:** Resort development
**Opinions & Decisions:** Partial Dissenting Opinion by Arbitrator Vicuña
**Language(s):** English
**Place of Arbitration:** ICSID
**Subject-matter:** Procedure (1-16)

**Facts (17-22)**
- ICSID Arbitration Rule 41 (137)
- Burden of proof (138-141)
- Rationae personae (142-201)**
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Nationality (142-147)
Individuals
Evidence (148-153)
Acquisition / loss of nationality
Foreign women
Effectiveness (195-201)
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IA 101.1. Claimant(s): Eastern Sugar B.V.
Respondent(s): Czech Republic
Type of Decision, Date: Partial Award, 27 March 2007
Decision: Claims partially upheld
Arbitrator(s): Pierre A. Karrer (President), Robert Volterra, Emmanuel Gaillard
Jurisdiction founded on: Czech Republic / Netherlands BIT of 29 April 1991
Arbitration mechanism: UNCITRAL Arbitration Rules
Link to Award / Decision: http://www.investmentclaims.com
http://ita.law.uvic.ca
Transaction: Sugar production
Opinions & Decisions: Partial Dissenting Opinion by Arbitrator Volterra
Award on Costs, 12 April 2007
Language(s): English
Place of Arbitration: Paris
Subject-matter: Procedure (13-19, 29-93)
Jurisdiction (94-181)
Timing of objection (115)
Kompetenz-kompetenz doctrine (116)
EU accession (117-139)
EC opinion (119-125)
Binding nature (123-125)
Automatic supersession of BITs (126-129)
Referral to ECJ (130-139)
Arbitrability (182-187)
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Applicable law (191-197)
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Fair and equitable treatment (198-200)
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Controlled market regime (222-242)
Legitimate expectations (242)
Transition to free market (243-296, 339-346)
Targeting investor (297-368)
Reparation (347-377)
Quantum (348-368)
Interest (369-376)
Costs (378-384)
Loser pays (379)

IA 64.2. Claimant(s): MTD Equity Sdn. Bhd.
MTD Chile SA
Respondent(s): Republic of Chile
Type of Decision, Date: Decision on Annulment, 16 February 2007
Decision: Annulment rejected
Arbitrator(s): Gilbert Guillaume (President), James Crawford, Sara Ordonez Noriega
Jurisdiction founded on: Chile / Malaysia BIT of 11 November 1992
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://icsid.worldbank.org
http://ita.law.uvic.ca
http://www.investmentclaims.com
Transaction: Planned community
Opinions & Decisions: Ad hoc Committee’s Decision on the Respondent’s Request for a Continued Stay of Execution, 1 June 2005
Award, 25 May 2004
Language(s): English, Spanish
Place of Arbitration: ICSID
Subject-matter: Procedure (1-10)
Facts (11-21)
Award (22-42)
Article 52(1)(b) ICSID Convention (44-48, 58-77)
Article 52(1)(d) ICSID Convention (49, 56-57)
Article 52(1)(e) ICSID Convention (50-51, 78-92)
Scope of annulment (52-54)
Overlap of annulment grounds (55)
Contributory fault (93-101)
Assessment of damages (102-106)
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IA 100. Claimant(s): Saipem SpA
Respondent(s): People’s Republic of Bangladesh
Type of Decision, Date: Decision on Jurisdiction and Recommendation on Provisional Measures, 21 March 2007
Decision: Jurisdiction upheld
Provisional measures partially granted

Arbitrator(s): Gabrielle Kaufmann-Kohler (President), Christoph H. Schreuer, Philip Otton

Jurisdiction founded on: Bangladesh / Italy BIT of 20 March 1990

Arbitration mechanism: ICSID Convention and Arbitration Rules

Link to Award / Decision: http://icsid.worldbank.org
http://ita.law.uvic.ca
http://www.investmentclaims.com

Transaction: Gas pipeline project

Opinions & Decisions: English

Place of Arbitration: ICSID

Subject-matter: Facts (1-41)
Procedure (42-60)
Challenge of arbitrator (47)
ICSIID jurisprudence (66-67)
Applicable law (68-70, 78-82)
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Burden of proof (83)
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Article 25 ICSID Convention (92-115)
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Arising directly out of an investment (98-114)
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Investment (119-128)
Expropriation (129-134)
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Treaty claims / contract claims (139-149)
Attribution (143-149)
Admissibility (150-158)
Local remedies (150-153)
Abuse of process (154-158)
Costs (159-160)
Provisional measures (162-185)

IA 68.2. Claimant(s): Siemens A.G.
Respondent(s): Argentine Republic

Type of Decision, Date: Award, 6 February 2007

See also IA 68.1. Decision on Jurisdiction, 3 August 2004

Decision: Claims partially upheld

Annulment: Annulment pending

Arbitrator(s): Andrés Rigo Sureda (President), Charles N. Brower, Domingo Bello Janeiro

Jurisdiction founded on: Argentina / Germany BIT of 9 April 1991

Arbitration mechanism: ICSID Convention and Arbitration Rules

Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com

Transaction: Migration control and personal identification services
ARBITRAL AWARDS

Opinions & Decisions: Separate Opinion by Arbitrator Bello Janeiro
Decision on Jurisdiction, 3 August 2004
Language(s): English, Spanish
Place of Arbitration: ICSID
Subject-matter: Procedure (1-67)
Government succession (12)
Challenge of arbitrator (35-38)
Jurisdiction (68)
Review of findings (68)
Merits (69-321)
Applicable law (69-80)
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Umbrella clause (196-212)
Investor consent (207-212)
Expropriation (213-273)
Treaty claims / contract claims (246-260)
Domestic court review (261)
Creeping expropriation (262-266)
Composite act (264-266)
Contract (267-269)
Proper law
Intention (270)
Unlawful expropriation (273)
Fair and equitable treatment (274-309)
Full protection and security (301-304)
Investor bad faith (305-308)
Arbitrary and discriminatory measures (310-321)
Arbitrary (318-319)
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Compensation (322-401)
Applicable law (349-352)
Value of investment (353-354)
Method of valuation (355-357)
Sufficiency of evidence (358-360)
Currency (361)
Computation (362-389)
Interest (390-401)
Compound
Costs (402)
Loser pays

IA 65.2. Claimant(s): PSEG Global Inc.
Konya Ilgin Elektrik
Respondent(s): Republic of Turkey
Type of Decision, Date: Award, 19 January 2007
See also IA 65.1. Decision on Jurisdiction, 4 June 2004

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Decision: Claims partially upheld
Arbitrator(s): Francisco Orrego Vicuña (President), L. Yves Fortier, Gabrielle Kaufmann-Kohler
Jurisdiction founded on: Turkey / USA BIT of 3 December 1985
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://icsid.worldbank.org
http://ita.law.uvic.ca
http://www.investmentclaims.com
Transaction: Development of lignite mine and electric power plant
Opinions & Decisions: Decision on Jurisdiction, 4 June 2004
Language(s): English
Place of Arbitration: ICSID
Subject-matter: Procedure (1-12)
Facts (12-219)
Fair and equitable treatment (222-256)
Full protection and security (257-259)
Arbitrary and discriminatory measures (260-262)
Umbrella clause (263-271)
Expropriation (272-280)
Remedies (281-351)
Fair market value (305-309)
Loss of profits (310-315)
Investor expenses (316-340)
Interest (341-351)
Compound (348)
Costs (352-354)
Loser pays

IA 99. Claimant(s): Patrick Mitchell
Respondent(s): Democratic Republic of Congo
Type of Decision, Date: Decision on Annulment, 1 November 2006
Decision: Award annulled
Arbitrator(s): Antonias Dimolitsa (President), Robert Dossou, Andrea Giardina
Jurisdiction founded on: Democratic Republic of Congo / USA BIT of 3 August 1984
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com
Transaction: Legal services
Opinions & Decisions: Decision on the Stay of Enforcement of the Award, 30 November 2004
Award, 9 February 2004
Dissenting Opinion by one arbitrator
Language(s): English
Place of Arbitration: ICSID
Subject-matter: Procedure (1-13)
Annulment application (14-18)
Role of annulment (19-22)
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Article 52(1)(b) ICSID Convention (20)
Article 52(1)(c) ICSID Convention (21)
Qualification as investment (23-48)
Article 25 ICSID Convention (25-48)
Essential security exception (49-60)
Qualification as expropriation (61-62)
Computation of damages (63-66)
Costs (67)
Fair and equitable

IA 54.2. Claimant(s):
Champion Trading Company
Ameritrade International, Inc.
Respondent(s):
Arab Republic of Egypt
Type of Decision, Date:
Award, 27 October 2006
Decision:
Claims dismissed
Arbitrator(s):
Robert Briner (President), L. Yves Fortier, Laurent Aynès
Jurisdiction founded on:
Egypt / USA BIT of 11 March 1986
Arbitration mechanism:
ICSID Convention and Arbitration Rules
Link to Award / Decision:
http://ita.law.uvic.ca
http://www.investmentclaims.com
Transaction:
Raw cotton trading company
Opinions & Decisions:
Decision on Jurisdiction, 21 October 2003
Language(s):
English
Place of Arbitration:
ICSID
Subject-matter:
Procedure (1-32)
Claims (33-39)
Facts (40-89)
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Discrimination (125-156)
Transparency (157-164)
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Costs follow the event

IA 98.1. Claimant(s):
Helnan International Hotels A/S
Respondent(s):
Arab Republic of Egypt
Type of Decision, Date:
Decision on Jurisdiction, 17 October 2006
Decision:
Jurisdiction upheld
Arbitrator(s):
Yves Derains (President), Rudolf Dolzer, Michael Lee
Jurisdiction founded on:
Egypt / Denmark BIT of 24 June 1996
Arbitration mechanism:
ICSID Convention and Arbitration Rules
Link to Award / Decision:
http://ita.law.uvic.ca
http://www.investmentclaims.com
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Hotel lease and development agreements
Opinions & Decisions:
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LG&E Capital Corp.
LG&E International Inc.
Respondent(s): Argentine Republic
Type of Decision, Date: Award on Liability, 3 October 2006
See also IA 62.3. Award, 25 July 2007; IA 62.1. Decision on Jurisdiction, 30 April 2004
Decision: Claims partially upheld
Arbitrator(s): Tatiana B. de Maekelt (President), Francisco Rezek, Albert Jan van den Berg
Jurisdiction founded on: Argentina / USA BIT of 14 November 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://icsid.worldbank.org
http://ita.law.uvic.ca
http://www.investmentclaims.com
Transaction: Gas distribution
Opinions & Decisions: Decision on the Request for Supplementary Decision, 8 July 2008
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Place of Arbitration: ICSID
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IA 97. Claimant(s): ADC Affiliate Ltd
ADC & ADMC Management Ltd
Respondent(s): Republic of Hungary
Type of Decision, Date: Award, 2 October 2006
Decision: Jurisdiction upheld
Claim partially upheld
Arbitrator(s): Neil T. Kaplan (President), Charles Brower, Albert Jan van den Berg
Jurisdiction founded on: Cyprus / Hungary BIT of 24 May 1989
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://icsid.worldbank.org
http://ita.law.uvic.ca
http://www.investmentclaims.com
Transaction: Airport project
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IA 90.2. Claimant(s): Suez
Sociedad General de Aguas de Barcelona S.A.
Vivendi Universal S.A.
AWG Group Ltd.

Respondent(s): Argentine Republic

Type of Decision, Date: Decision on Jurisdiction, 3 August 2006
Decision: Jurisdiction upheld

Arbitrator(s): Jeswald W. Salacuse (President), Gabrielle Kaufmann-Kohler, Pedro Nikken

Jurisdiction founded on: Argentina / France BIT of 3 July 1991
Argentina / Spain BIT of 3 October 1991
Argentina / UK BIT of 11 December 1990

Arbitration mechanism: ICSID Convention and Arbitration Rules
UNCITRAL Arbitration Rules

Transaction: Water distribution and waste water concession

Opinions & Decisions: Procedural Order No. 1, 14 April 2006
Procedural Order No. 2, 3 August 2006
Order (Transparency and Amicus Curiae), 19 May 2005
IA 96. Claimant(s):

Pan American Energy LLC
BP Argentina Exploration Company
BP America Production Company
Pan American Sur SRL
Pan American Fueguina SRL
Pan American Continental SRL

Respondent(s):

Argentine Republic

Type of Decision, Date:
Decision on Preliminary Objections, 27 July 2006

Jurisdiction founded on:
Argentina / USA BIT of 14 November 1991

Arbitration mechanism:
ICSID Convention and Arbitration Rules

Link to Award / Decision:
http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html

Transaction:
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IA 95. Claimant(s): Grand River Enterprises Six Nations Ltd.
Mr. Jerry Montour
Mr. Kenneth Hill
Mr. Arthur Montour, Jr.

Respondent(s): United States of America

Type of Decision, Date: Decision on Jurisdiction, 20 July 2006
Decision: Jurisdiction partially upheld
Arbitrator(s): Fali S. Nariman (President), James Anaya, John R. Crook
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: UNCITRAL Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.state.gov/s/l/c11935.htm

Transaction: Tobacco products manufacturing

Opinions & Decisions: Order and Schedule (Statement of Claim), 21 September 2006
Order and Schedule (Bifurcation), 26 October 2005
Minutes of the First Session of the Tribunal, 31 March 2005
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IA 55.2. Claimant(s): Azurix Corp.
Respondent(s): Argentine Republic
Type of Decision, Date: Award, 14 July 2006
Decision: Claim upheld
Arbitrator(s): Andres Rigo Sureda (President), Marc Lalonde, Daniel Hugo Martins
Jurisdiction founded on: Argentina / USA BIT of 14 November 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.worldbank.org/icsid/cases/awards.htm#awardar
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Transaction: Water distribution and treatment concession
Opinions & Decisions: Decision on Jurisdiction, 8 December 2003
Language(s): English, Spanish
Place of Arbitration: ICSID
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**IA 94. Claimant(s):** L.E.S.I. S.p.A
ASTALDI S.p.A

**Respondent(s):** Democratic Republic of Algeria

**Type of Decision, Date:** Decision of Jurisdiction, 12 July 2006

**Decision:** Jurisdiction upheld

**Arbitrator(s):** Pierre Tercier (President), André Faurès, Emmanuel Gaillard

**Jurisdiction founded on:** Algeria / Italy BIT of 18 May 1991

**Arbitration mechanism:** ICSID Convention and Arbitration Rules

**Link to Award / Decision:**
http://ita.law.uvic.ca
http://www.worldbank.org/ICSID/cases/awards.htm
http://www.investmentclaims.com/oa1.html

**Transaction:** Construction of dam

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**Language(s):** French

**Place of Arbitration:** ICSID

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**IA 93. Claimant(s):** National Grid PLC

**Respondent(s):** Argentine Republic

**Type of Decision, Date:** Decision on Jurisdiction, 20 June 2006

**Decision:** Jurisdiction upheld

**Arbitrator(s):** Andres Rigo Sureda (President), E. Whitney Debevoise, Alejandro Garro

**Jurisdiction founded on:** Argentina / UK BIT of 11 December 1990

**Arbitration mechanism:** UNCITRAL Arbitration Rules

**Link to Award / Decision:**
http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html

**Transaction:** Electricity transmission

**Opinions & Decisions:**

**Language(s):** English, Spanish

**Place of Arbitration:** Washington, D.C.

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Decision: Jurisdiction upheld
Arbitrator(s): Gabrielle Kaufmann-Kohler (President), Pierre Mayer, Brigitte Stern
Jurisdiction founded on: Belgo-Luxembourg / Egypt BIT of 28 February 1977
Belgo-Luxembourg / Egypt BIT of 28 February 1999
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
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IA 91. Claimant(s): Canfor Corporation
Respondent(s): United States of America
Type of Decision, Date: Decision on Preliminary Question, 6 June 2006
Decision: Jurisdiction partially upheld
Arbitrator(s): Albert Jan van den Berg (President), Armand L.C. de Mestral, Davis R. Robinson
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: UNCITRAL Arbitration Rules
Link to Award / Decision: http://www.investmentclaims.com/oa1.html
Transaction: Softwood lumber products
Opinions & Decisions: Procedural Order No. 5, 28 May 2004
Opinions & Decisions: Procedural Order No. 4, 26 March 2004
Opinions & Decisions: Decision (Place of Arbitration, Statement of Defence, Bifurcation), 23 January 2004
Opinions & Decisions: Minutes of the Organizational Hearing, 3 November 2003
Opinions & Decisions: Procedural Order No. 2, 3 November 2003
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Respondent(s): Romania  
Type of Decision, Date: Rectification of Award, 19 May 2006  
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Decision: Request for rectification granted  
Arbitrator(s): Karl-Heinz Böckstiegel (President), Jeremy Lever, Pierre-Marie Dupuy  
Jurisdiction founded on: Romania / USA BIT of 28 May 1992  
Arbitration mechanism: ICSID Convention  
Link to Award / Decision: http://ita.law.uvic.ca  
http://www.investmentclaims.com/oa1.html  
Transaction: Steel mill and associated assets  
Opinions & Decisions: Award of 12 October 2005 
Language(s): English  
Place of Arbitration: ICSID  
Subject-matter: Article 49(2) ICSID Convention  
Lack of objections  
Adding name of counsel

IA 90.1. Claimant(s): Suez  
Respondent(s): Sociedad General de Aguas de Barcelona S.A.  
InterAguas Servicios Integrales del Agua S.A.  
Type of Decision, Date: Decision on Jurisdiction, 16 May 2006  
See also IA 90.2. Decision on Jurisdiction, 3 August 2006  
Decision: Jurisdiction upheld  
Arbitrator(s): Jeswald W. Salacuse (President), Gabrielle Kaufmann-Kohler, Pedro Nikken  
Jurisdiction founded on: Argentina / France BIT of 3 July 1991  
Argentina / Spain BIT of 3 October 1991  
Arbitration mechanism: ICSID Convention and Arbitration Rules  
Link to Award / Decision: http://ita.law.uvic.ca  
http://www.worldbank.org/icsid/cases/awards.htm#awardar b0522  
Transaction: Water and waste water services  
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### Respondent(s):
 Argentine Republic

### Type of Decision, Date:
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### Decision:
Jurisdiction partially upheld

### Arbitrator(s):
Lucius Caflisch (President), Brigitte Stern, Piero Bernardini

### Jurisdiction founded on:
Argentina / USA BIT of 14 November 1991

### Arbitration mechanism:
ICSID Convention and Arbitration Rules

### Link to Award / Decision:
http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.worldbank.org/icsid/cases/awards.htm#awardar
b0522

### Transaction:
Oil, gas and power

### Opinions & Decisions:
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### IA 88.1. Claimant(s):
Metalpar S.A.
Buen Aire S.A.

### Respondent(s):
 Argentine Republic

### Type of Decision, Date:
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### See also IA 88.2. Award on the Merits, 6 June 2008
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Decision: Jurisdiction upheld
Arbitrator(s): Rodrigo Oreamuno Blanco (President), Duncan H. Cameron, Jean Paul Chabaneix
Jurisdiction founded on: Argentina / Chile BIT of 2 August 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca/
http://www.investmentclaims.com/oal.html
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Respondent(s): Czech Republic
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See also IA 63.1. Decision on Jurisdiction over the Czech Republic’s Counterclaim, 7 May 2004
Decision: Jurisdiction upheld, Claim upheld
Annulment: Award challenged in Swiss courts – outcome unknown
Arbitrator(s): Arthur Watts (President), L. Yves Fortier, Peter Behrens
Jurisdiction founded on: Czech Republic / Netherlands BIT of 29 April 1991
Arbitration mechanism: UNCITRAL Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oal.html
Transaction: Financial services
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Respondent(s): Argentine Republic
Type of Decision, Date: Decision on Jurisdiction, 22 February 2006
Decision: Jurisdiction upheld
 Arbitrator(s): Giorgio Sacerdoti (President), V.V. Veeder, Michell Nader
Jurisdiction founded on: Argentina / USA BIT of 14 November 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
Transaction: Financial services
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IA 60.2. Claimant(s): EnCana Corporation
Respondent(s): Republic of Ecuador
Type of Decision, Date: Award, 3 February 2006
Decision: Claims dismissed
 Arbitrator(s): James Crawford (President), Horacio Grigera Naón, Christopher Thomas
Jurisdiction founded on: Canada / Ecuador BIT of 29 April 1996
Arbitration mechanism: UNCITRAL Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html

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DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

Transaction: VAT Refunds on Petroleum Exploration and Exploitation
Opinions & Decisions: Dissenting Opinion by Arbitrator Naón

Award on Partial Jurisdiction, 27 February 2004
Award on Interim Measures of Protection, 31 January 2004

Language(s): English, Spanish
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IA 71.2. Claimant(s): Salini Costruttori S.p.A
Italstrade S.p.A
Respondent(s): Hashemite Kingdom of Jordan
Type of Decision, Date: Award, 31 January 2006
Decision: Claims dismissed
Arbitrator(s): Gilbert Guillaume (President), Bernardo Cremades, Ian Sinclair
Jurisdiction founded on: Italy / Jordan BIT of 30 September 2001
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.worldbank.org/icsid/cases/awards.htm#awardar
b0522
Transaction: Construction of dam
Opinions & Decisions: Declaration by Arbitrator Sinclair
Decision on Jurisdiction, 29 November 2004
Language(s): English
Place of Arbitration: ICSID
Subject-matter: Arbitrator acting as counsel in different arbitration (5,9)
State responsibility: Failure to arbitrate (25-29)
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Oral agreement (76-80)
Form requirements and binding nature (78-80)
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Declarations (88-93)
Legal effect of silence (94-96)
Failure to answer letters (97-99)
Costs (101-104)
Jurisdiction / merits
Unmeritorious claims
Loser-pays principle

IA 86. Claimant(s): International Thunderbird Gaming Corporation
Respondent(s): United Mexican States
Type of Decision, Date: Award, 26 January 2006
Decision: Jurisdiction upheld, Claims dismissed
Arbitrator(s): Albert Jan van den Berg (President), Agustin Portal Ariosa,
Thomas W. Wälde
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: UNCITRAL Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oal.html
http://www.economia.gob.mx/index.jsp?P=2259
Transaction: Gaming facility
Opinions & Decisions: Separate Opinion (Dissent in Part) by Arbitrator Wälde
Procedural Order No. 8, 24 May 2004
Procedural Order No. 7, 22 May 2004
Procedural Order No. 6, 19 May 2004
Procedural Order No. 5, 12 March 2004
Procedural Order No. 3, 3 December 2003
Procedural Order No. 2, 31 July 2003
Procedural Order No. 1, 27 June 2003
Language(s): English, Spanish
Place of Arbitration: Washington, D.C.
Subject-matter: Applicable law (89-91)
Burden of proof (94-95)
Article 1117 NAFTA
"Own or control" (103-110)
Article 1121 NAFTA (114-118)
Remedy for procedural defect (117)
Chapter 11, NAFTA
Regulation of illegal conduct (123-127)
Legitimate expectations (147-159)
Disclosure of information (151-166)
National Treatment (175-183)
Interpretation (175)
Burden of proof (176)
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FTC Interpretation (192)
Legal standard (194)
Sufficiency of evidence (196-201)
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Loser pays principle (214-218)
Mitigating factors (217-218)

IA 85. Claimant(s): Bayındır İnşaat Turizm Ticaret Ve Sanayi A.S.
Respondent(s): Islamic Republic of Pakistan
Type of Decision, Date: Decision on Jurisdiction, 14 November 2005
Decision: Jurisdiction upheld
Arbitrator(s): Gabrielle Kaufmann-Kohler (President), Franklin Berman, Karl-Heinz Böckstiegel

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Jurisdiction founded on: Pakistan / Turkey BIT of 16 March 1995
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oai1.html
http://www.worldbank.org/icsid/cases/awards.htm#awardar
http://www.worldbank.org/icsid/cases/awards.htm#awardar
Transaction: Construction of highway
Opinions & Decisions:
Language(s): English
Place of Arbitration: ICSID
Subject-matter:

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- Provisional Measures
- Stay of related arbitration (45-46)
- Jurisdiction objections and (47)
- Tribunal examination of jurisdiction "pro opio motu" (78)
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- Stay of Proceedings (264-273)
- Power to stay (266)
- Appropriateness (271)

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  - "Investment" (104-138)
    - Treaty (105-121)
      - Know-how, equipment and personnel (115-117)
      - Financial contribution (118-120)
      - ICSID Convention (122-138)
      - Object of contract (127-129)
      - "Salini test" (130-138)
    - Treaty claims / contract claims (139-167)
      - Treaty claims (143-147)
      - Difference (152-167)
      - Reality of claims (152-167)
      - Abuse of process (169-173)
  - Conflict between ICSID Convention and New York Convention (174-179)
    - State as merchant / State as sovereign (180-184)
  - Jurisdiction standard (285-263)
    - Substantiation of claims
      - Burden of proof (190-192)
      - Applicable standard (187-189, 193-200)
      - MFN claim (201-224)
        - Domestic favouritism (208-211)
        - Different time-tables (212-218)
        - Selective tendering (219-224)
      - Fair and equitable treatment (225-252)
      - Source of obligation (227-235)
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Expulsion (242-250)
Corruption (251)
Judicial independence (252)
Expropriation (253-262)
Contract rights (255)
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Abandonment claims (278)

IA 29.3. Claimant(s): Compania de Aguas del Aconquija, S.A.
Vivendi Universal S.A.
Respondent(s): Argentine Republic
Type of Decision, Date: Decision on Jurisdiction, 14 November 2005
Decision: Jurisdiction upheld
Arbitrator(s): J. William Rowley (President), Gabrielle Kaufmann-Kohler, Carlos Bernal Verea
Jurisdiction founded on: Argentina / France BIT of 3 July 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.worldbank.org/icsid/cases/awards.htm#awardarb0522
Transaction: Water services
Opinions & Decisions: Decision on Annulment, 3 July 2002
Decision on Challenge to President, 3 October 2001
Arbitral Award, 21 November 2000
Language(s): English, Spanish
Place of Arbitration: ICSID
Subject-matter: Res judicata (59-87)
Standing
Shareholder claims (88-94)
Nationality (95-97)
Preconditions to arbitrate (98-104)
Treaty claims / contract claims
Concurrent claims (105-114)
Costs (115-128)

IA 20.4. Claimant(s): Wena Hotels Ltd
Respondent(s): Arab Republic of Egypt
Type of Decision, Date: Decision on Application for Interpretation of Award, 31 October 2005
Decision: Jurisdiction upheld
Arbitrator(s): J. William Rowley (President), Gabrielle Kaufmann-Kohler, Carlos Bernal Verea
Jurisdiction founded on: Argentina / France BIT of 3 July 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.worldbank.org/icsid/cases/awards.htm#awardar
Transaction: Water services
Opinions & Decisions: Decision on Annulment, 3 July 2002
Decision on Challenge to President, 3 October 2001
Arbitral Award, 21 November 2000
Language(s): English, Spanish
Place of Arbitration: ICSID
Subject-matter: Res judicata (59-87)
Standing
Shareholder claims (88-94)
Nationality (95-97)
Preconditions to arbitrate (98-104)
Treaty claims / contract claims
Concurrent claims (105-114)
Costs (115-128)
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**IA 20.2.** Award, 8 December 2000; **IA 20.1.** Decision on Jurisdiction, 29 June 1999

**Decision:** Interpretation partially granted
**Arbitrator(s):** Klaus Sachs (President), Ibrahim Fadallah, Carl F. Salans
**Jurisdiction founded on:** Egypt / UK BIT of 11 June 1975
**Arbitration mechanism:** ICSID Convention and Arbitration Rules
**Link to Award / Decision:** http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
**Transaction:** Hotel lease and development agreements
**Opinions & Decisions:** Decision on Annulment, 28 January 2002
Award on Merits, 8 December 2000
Statement by Arbitrator Wallace
Decision on Jurisdiction, 29 June 1999

**Language(s):** English
**Place of Arbitration:** ICSID
**Subject-matter:** Purpose, scope and limits of interpretation procedure
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Existence of dispute as to meaning / scope of Award (80-107)
Character and consequences of expropriation (111-131)
Costs (134)

**IA 84. Claimant(s):** Aguas del Tunari, S.A.
**Respondent(s):** Republic of Bolivia
**Type of Decision, Date:** Decision on Jurisdiction, 21 October 2005
**Decision:** Jurisdiction upheld
**Arbitrator(s):** David D. Caron (President), José Luis Alberro-Semerena, Henri C. Alvarez
**Jurisdiction founded on:** Bolivia / Netherlands BIT of 10 March 1992
**Arbitration mechanism:** ICSID Convention and Arbitration Rules
**Link to Award / Decision:** http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.worldbank.org/icsid/cases/awards.htm#awardarb0522
**Transaction:** Water and sewage services
**Opinions & Decisions:** Declaration by Arbitrator Alberro-Semerena
Letter from President of Tribunal (Amicus Curiae), 29 January 2003
**Language(s):** English, Spanish
**Place of Arbitration:** ICSID
**Subject-matter:** Procedure
Third-party participation (17-18)
Production of documents (25-26)
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Attribution (133-138)  
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ICSID jurisprudence (287-288)  
BIT Practice of both States (289-314)  
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IA 83.1. Claimant(s): Noble Ventures, Inc.  
Respondent(s): Romania  
Type of Decision, Date: Award, 12 October 2005  
See also IA 83.2. Rectification of Award, 19 May 2006  
Decision: Claims dismissed  
Arbitrator(s): Karl-Heinz Böckstiegel (President), Jeremy Lever, Pierre-Marie Dupuy  
Jurisdiction founded on: Romania / USA BIT of 28 May 1992  
Arbitration mechanism: ICSID Convention and Arbitration Rules  
Link to Award / Decision: http://ita.law.uvic.ca  
http://www.investmentclaims.com/oia1.html  
Transaction: Steel mill and associated assets  
Opinions & Decisions: Rectification of Award, 19 May 2006  
Language(s): English  
Place of Arbitration: ICSID  
Subject-matter: Umbrella clause (42-62)  
Attribution (63-86)  
Fraudulent misrepresentation (87-101)  
Breach of contract (102-116)  
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Full protection and security (160-167)
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   Arbitrary and discriminatory measures (175-183)
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Pacta sunt servanda (194-202)
Expropriation (203-216)
Pre-emption rights (217-223)
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   Discounted cash flow (224-229)
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IA 82. Claimant(s):
Iurii Bogdanov
Agurdino-Invest Ltd.
Agurdino-Chimia JSC

Respondent(s):
Republic of Moldova

Type of Decision, Date:
Award, 22 September 2005

Decision:
Jurisdiction partially upheld, Claim upheld

Arbitrator:
Giuditta Cordero Moss

Jurisdiction founded on:
Moldova / Russia BIT of 17 March 1998

Arbitration mechanism:
Stockholm Chamber of Commerce Arbitration Rules

Link to Award / Decision:
http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html

Transaction:
Privatization

Opinions & Decisions:
English

Place of Arbitration:
Stockholm

Subject-matter:
Procedure
   Absent Respondent
      Advance on costs (1.1)
      Proceedings (1.4)
      Admission of assertion (3.3)
      No oral hearing (3.1)
      Insufficiency of pleadings (3.1)
      Admissibility of new legal arguments and evidence (3.1)

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   Waiting periods (1.5)

BIT as arbitration agreement (2)

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   Ratione Materiae (2.1)
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      Application of other treaties
   Ratione Personae (2.2)
      Foreign investor
      Domestic investment vehicle
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      Claimant’s authorized representative
      Correction to relief and clerical error
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New rationale
Attribution (2.2.2)
Ratione temporis (2.3)
Applicable law (3.2, 4.3)
Non-retroactivity of domestic legislation (4.1)
Inadequacy of compensation mechanism (4.2.1)
Full protection and security (4.2.3)
Whether corrective of domestic law
Fair and equitable treatment (4.2.4)
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Discriminatory measures
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Establishment of system permitting abuse
Indirect expropriation
Standard
Transfer of assets without compensation
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Quantification of loss (5.1)
Shareholders and indirect losses (5.1)
Contribution to loss (5.2)
Discretion (5.2)
Moral damages
Sufficiency of evidence
Interest (5.3)
Specified rate (5.3)
Adjustment (5.3)
Compound interest (7.5)
Currency of payment (5.3)
Costs
Joint costs
Individual costs

IA 81. Claimant(s): Eureko B.V.
Respondent(s): Republic of Poland
Type of Decision, Date: Partial Award, 19 August 2005
Decision: Jurisdiction upheld, Claims upheld
Annulment: Award challenged in Belgian courts – challenge pending
Arbitrator(s): L. Yves Fortier (President), Stephen M. Schwebel, Jerzy Rajski
Jurisdiction founded on: Netherlands / Poland BIT of 7 September 1992
Arbitration mechanism: Ad hoc arbitration
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
Transaction: Financial services
Opinions & Decisions: Dissenting Opinion by Arbitrator Rajski
Language(s): English
Place of Arbitration: Brussels

Subject-matter
Context of BIT (90)
Applicable law (91)
Admissibility (92-114)
  Treaty claims / contract claims
  Preclusive effect of contractual dispute resolution clause (92-11)
  Concurrent breach of contract and Treaty (112-113)
  No bar to jurisdiction (113)
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  State as merchant / State as sovereign (123-125, 130)
  Domestic law (127-129)
  ILC Articles on State Responsibility
  Cumulative nature (131-134)
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“Investment” (135-160)
  Corporate governance rights (139-146)
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  Rights to an IPO (147-160)
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  Effect of contractual waiver on BIT breaches (174-175)
  Simultaneous performance of obligations (177-180)
  Use of acts prior to waiver as factual matrix (182)

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  Acts and omissions
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    Withdrawal from agreement to sell shares in privatization strategy (205-207)
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    Role of Privatization Advisors (216-217)
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    Frustration of investment by refusal to honour legal commitments (226)
    Cumulative effect of distinct acts / omissions (227)
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  Basic expectations (232)
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“Outrageous” / “Shocking” (234)
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Full Protection and Security (236-237)
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State instigator
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“any” obligations
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Individual costs
Submissions on costs
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**IA 42.2. Claimant(s):** Methanex Corporation  
**Respondent(s):** United States of America  
**Type of Decision, Date:** Award, 3 August 2005  
See also **IA 42.1. Partial Award, 7 August 2002**  
**Decision:** Jurisdiction denied, Claims dismissed  
**Arbitrator(s):** V.V. Veeder (President), J. William F. Rowley, W. Michael Reisman  
**Jurisdiction founded on:** NAFTA of 1 January 1994  
**Arbitration mechanism:** UNCITRAL Arbitration Rules  
**Link to Award / Decision:** 
http://ita.law.uvic.ca  
http://www.investmentclaims.com/oa1.html  
http://www.state.gov/s/1/c5818.htm
ARBITRAL AWARDS

Transaction: MTBE, Methanol
Opinions & Decisions:
- Order (Exclusion of Evidence), 1 June 2004
- Procedural Order (Hearing), 28 May 2004
- Order (Reconsideration of First Partial Award, Additional Evidence), 19 April 2004
- Order (Amicus Curiae), 15 April 2004
- Order (Amicus Curiae), 6 April 2004
- Order (Amicus Curiae, Article 1128 NAFTA), 19 March 2004
- Orders (Reconsideration of First Partial Award, Additional Evidence), 16 March 2004
- Order (Expert Documents), 10 October 2003
- Order (Schedule of Next Phase), 2 July 2003
- Order (Nature and Timing of Next Phase), 2 June 2003
- Partial Award, 7 August 2002
- Decision (Amicus Curiae), 15 January 2001
Language(s): English
Place of Arbitration: Washington, D.C.
Subject-matter:
- Procedure (Part II, C)
  - Effect of partial award (Part II, E)
  - Amendment of pleadings (Part II, F)
  - Additional evidence
  - Articles 3.8 and 4.10 IBA Rules on Evidence (Part II, G)
  - Production of documents (Part II, H)
  - Exclusion of evidence (Part II, I)
- Applicable law (Part II, B)
  - NAFTA and International law (2-6)
  - UNCITRAL Rules (7-9)
  - IBA Rules on Evidence (10)
  - Interpretation rules (11-23)
- Articles 1102, 1105 and 1110 NAFTA (Part II, D; Part IV, B; Part IV, C; Part IV, D)
  - National treatment
  - Minimum standard of treatment
  - Tantamount to expropriation
  - Articles 116 and 117 NAFTA (Part II, D)
  - Findings on scientific evidence (Part III, A)
- Ban of MTBE intended to harm foreign methanol producers (Part III, B)
- Article 1101 NAFTA (Part IV, E)
  - Culpa
- Costs (Part V)

IA 80. Claimant(s): Gas Natural SDG S.A.
Respondent(s): Argentine Republic
Type of Decision, Date: Decision on Jurisdiction, 17 June 2005
Decision: Jurisdiction upheld
Arbitrator(s): Andreas F. Lowenfeld (President), Henri C. Alvarez, Pedro Nikken
Jurisdiction founded on: Argentina / Spain BIT of 3 October 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.worldbank.org/icsid/cases/pending.htm
Transaction: Production and Distribution of Natural Gas
Opinions & Decisions:
Language(s): English
Place of Arbitration: ICSID
Subject-matter: Procedure
Timeliness of objection (5)
Tribunal questions (6)
Article 25 ICSID Convention
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“Legal” dispute (22)
Pre-conditions to arbitrate
Submission to domestic courts
Waiting periods (24-31)
MFN clause (29-30)
Domestic remedies requirement in BIT (30)
Shareholder claims (32-35)
ICSID jurisprudence (37-52)
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IA 50.2. Claimant(s): CMS Gas Transmission Company
Respondent(s): Argentine Republic
Type of Decision, Date: Award, 12 May 2005
Decision: Claims upheld
Annulment: Annulment pending
Arbitrator(s): Francisco Orrego Vicuña (President), Marc Lalonde, Francisco Rezek
Jurisdiction founded on: Argentina / USA BIT of 14 November 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.worldbank.org/icsid/cases/awards.htm#awardar
Transaction: Gas transportation
Opinions & Decisions: Decision on Argentine Republic’s Request for a Continued Stay of Enforcement of the Award, 1 September 2006
Decision on Jurisdiction, 17 July 2003
Language(s): English, Spanish
Place of Arbitration: ICSID
Subject-matter: Procedure (4-45)
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  - Unjust enrichment
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Indirect expropriation (252-256)
Fair and equitable treatment (266-268)
Arbitrary and discriminatory measures (265-271)
Umbrella clause (296-303)
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  - Article 25 ILC Articles on State Responsibility (304-394)
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  - Restitution
  - Damages (395-471)
  - Costs (472)

### IA 79. Claimant(s):
Camuzzi International S.A.

### Respondent(s):
Argentine Republic

### Type of Decision, Date:
Decision on Jurisdiction, 11 May 2005

### Arbitrator(s):
Francisco Orrego Vicuña (President), Marc Lalonde, Sandra Morelli Rico

### Jurisdiction founded on:
Argentina / Belgo-Luxembourg BIT of 28 June 1990

### Arbitration mechanism:
ICSID Convention and Arbitration Rules

### Link to Award / Decision:
http://ita.law.uvic.ca
http://www.worldbank.org/icsid/cases/awards.htm#awardar
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### Transaction:
Gas distribution

### Opinions & Decisions:
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Article 25(2)(b) ICSID Convention (28-33)
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  Level of shareholding (33)
  Foreign control (39-41)
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  Same nationality (38)
  Different nationalities (39-41)
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  Preclusive effect of contractual dispute resolution clause (86-87)
  Concurrent breach of contract and Treaty (88-90)
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Pending renegotiation between parties (97)
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Substantiation of quantified damages (99)
Asymmetric treatment between nationals and foreigners (100)
Extension of BIT to domestic citizens
Claims for effects of measures on domestic investment vehicle (101)
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Preclusive effect of contractual dispute resolution clause (109-119)
  Treaty claims / contract claims (109-112)
  Identity of causes of actions (113-115)
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  Sufficiency of evidence
  Fork-in-the-road clause (117-118)
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  Compromis additional to arbitration agreement (132)
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Competence to interpret (135)
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Formation of customary international law by BITs (144-145)

1A 78.1 Claimant(s): Sempra Energy International
Respondent(s): Argentine Republic
Type of Decision, Date: Decision on Jurisdiction, 11 May 2005
See also 1A 78.2, Award, 28 September 2007
Decision: Jurisdiction upheld
Arbitrator(s): Francisco Orrego Vicuña (President), Marc Lalonde, Sandra Morelli Rico
Jurisdiction founded on: Argentina / USA BIT of 14 November 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.worldbank.org/icsid/cases/awards.htm#awardar b0522
Transaction: Gas distribution
Opinions & Decisions:
Language(s): English, Spanish
Place of Arbitration: ICSID
Subject-matter: Procedure:
Consolidation / Concurrent proceedings (5, 11, 14-15, 19)
Concurrent proceedings (5, 11, 14-15)
Separate decisions (5)
Identical Tribunal (5)
Relationship between Claimant(s) (19)
Timeliness of objection (10)
Jurisdiction: Applicable law (25-27)
Control over domestic investment vehicle
Article 25(2)(b) ICSID Convention (38-58)
Foreign control (39-41)
Claimant option of filing (42)
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Additive nature of ICSID provision (44-45)
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Same nationality (51)
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Indirect losses (67-79)
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Arising "directly" out of an investment (69-78)
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Subsequent practice of Treaty parties (143)
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IA 77. Claimant(s):
AES Corporation
Respondent(s):
Argentine Republic
Type of Decision, Date:
Decision on Jurisdiction, 26 April 2005
Decision:
Jurisdiction upheld
Arbitrator(s):
Pierre-Marie Dupuy (President), Karl-Heinz Böckstiegel, Domingo Bello Janeiro
Jurisdiction founded on:
Argentina / USA BIT of 14 November 1991
Arbitration mechanism:
ICSID Convention and Arbitration Rules
Link to Award / Decision:
http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html

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Transaction: Electricity generation and distribution
Opinions & Decisions: ICSID jurisprudence (23-33, 95-96)
Language(s): English
Place of Arbitration: ICSID
Subject-matter: ICSID jurisprudence (23-33, 95-96)

Same subject-matter (23-29)
Same basis of jurisdiction (30)
Jurisdiction: Applicable law (34-38)

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Broad interpretation (60)
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Identity of parties (91)
Treaty claims / contract claims (94)
Waiver of ICSID arbitration (97)
Calvo doctrine (97-99)

1A 76. Claimant(s): Impregilo S.p.A
Respondent(s): Islamic Republic of Pakistan
Type of Decision, Date: Decision on Jurisdiction, 22 April 2005
Decision: Jurisdiction partially upheld
Arbitrator(s): Gilbert Guillaume (President), Bernardo Cremades, Toby T. Landau
Jurisdiction founded on: Italy / Pakistan BIT of 19 July 1997
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.worldbank.org/icsid/cases/awards.htm#awardarbo522
Transaction: Construction of Hydroelectric Power Facilities
Opinions & Decisions:
Language(s): English
Place of Arbitration: ICSID
Subject-matter:
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Claims on behalf of unincorporated entity (115-139)
Claims on behalf of joint venture partners (140-152)
Claims for own share of losses in joint venture (156-174)
Claimant’s authorized representative (175-183)
Ratione Materiae (185-291)
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Preclusive effect of Contractual Dispute Resolution Clause (224-225)
Treaty claims (226-290)
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Treaty claims / contract claims (255-285)
Preclusive effect of Contractual Dispute Resolution clause (286-290)
Ratione Temporis (291-315)
Relevant Principles (299-304)
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IA 75. Claimant(s): Petrobart Limited
Respondent(s): The Kyrgyz Republic
Type of Decision, Date: Award, 29 March 2005
Decision: Jurisdiction upheld, Claims upheld
Annulment: Challenged in Swedish courts – challenge pending
Arbitrator(s): Hans Danelius (President), Ove Bring, Jeroen Smets
Arbitration mechanism: Arbitration Institute of the Stockholm Chamber of Commerce
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
Transaction: Gas condensate supply contract
Opinions & Decisions:
Language(s): English
Place of Arbitration: Stockholm
Subject-matter:
Domestic foreign investment law (8-10)
ECT (10-15)
IA 74. Claimant(s): Plama Consortium Limited
Respondent(s): Republic of Bulgaria
Type of Decision, Date: Decision on Jurisdiction, 8 February 2005
Decision: Jurisdiction partially upheld
Arbitrator(s): Carl F. Salans (President), Albert Jan van den Berg, V.V. Veeder
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.worldbank.org/icsid/cases/awards.htm#awardar
Transaction: Oil refinery
Opinions & Decisions: Order (Provisional Measures), 6 September 2005
Language(s): English
Place of Arbitration: ICSID
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Vienna Convention on Treaties
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Tribunal discretion (119)
Pro tem (119-120)
Merits (120)
Adverse inferences (120)
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Article 26 (121-142)
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Investor (124)
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Unambiguous text (156)
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Automatic incorporation of arbitration agreement by reference (213-215)
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IA 73.1 Claimant(s): Empresas Lucchetti, S.A.
Lucchetti Peru, S.A.
Respondent(s): Republic of Peru
Type of Decision, Date: Award, 7 February 2005
See also IA 73.3, Rectification of the Decision on
Annulment, 30 November 2007; IA 73.2, Decision on
Annulment, 5 September 2007
Decision: Jurisdiction denied
Annulment: Annulment pending
Arbitrator(s): Thomas Buergenthal (President), Bernardo M. Cremades, Jan
Paulsson
Jurisdiction founded on: Chile / Peru BIT of 2 February 2000
Arbitration mechanism: ICSID Convention and Arbitration Rules
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Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.worldbank.org/icsid/cases/awards.htm#awardar
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Transaction: Manufacture and sale of pasta

Opinions & Decisions:

Language(s): English, Spanish

Place of Arbitration: ICSID

Subject-matter: Procedure

Concurrent State / State dispute (7)
Suspension of proceedings (9)

Ratione Temporis (27-62)
Continuing dispute (27, 36, 37)
“Dispute” (48)

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conflicting views about rights or interests (49)
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Illegality in securing judgment (57)

“Same dispute” (58-59)

Treaty dispute / prior dispute
Clean hands (60-62)

Costs
Joint costs
Individual costs

IA 72. Claimant(s): Consortium Groupement L.E.S.I. Dipenta
Respondent(s): Democratic Republic of Algeria

Type of Decision, Date: Award, 10 January 2005

Decision: Jurisdiction denied

Arbitrator(s): Pierre Tercier (President), André Faurès, Emmanuel Gaillard

Jurisdiction founded on: Algeria / Italy BIT of 18 May 1991

Arbitration mechanism: ICSID Convention and Arbitration Rules

Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.worldbank.org/icsid/cases/awards.htm#awardar
b0522

Transaction: Construction of dam

Opinions & Decisions:
IA 19.3. Claimant(s): Ceskoslovenska Obchodni Banka A.S.
Respondent(s): Slovak Republic
Type of Decision, Date: Award, 29 December 2004

Decision: Claims upheld
Arbitrator(s): Hans van Houtte (President), Piero Bernardini, Andreas Bucher
Jurisdiction founded on: Agreement of 17 December 1993
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oai1.html

Transaction: Financial services
Opinions & Decisions:
Decision on Jurisdiction (No. 2), 1 December 2000
Procedural Order No. 5, 1 March 2000
Decision on Jurisdiction (No. 1), 24 May 1999
Procedural Order No. 4, 11 January 1999
Procedural Order No. 3, 5 November 1998
Procedural Order No. 2, 9 September 1998

Language(s): French
Place of Arbitration: ICSID
Subject-matter: Procedure (I, 3-51)
Jurisdiction: Applicable law (II, 3-4)
Article 25 ICSID Convention
“Legal” dispute (II, 5-9)
Arising directly out of an investment (II, 10-15)
Dispute with a Contracting Party (II, 16-20)
Consent (II, 21-26)
Pre-conditions to arbitrate
Waiting periods (II, 29-33)
Standing
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See also IA 19.2. Decision on Respondent’s Further and Partial Objection to Jurisdiction, 1 December 2000; IA 19.1. Decision on Jurisdiction, 24 May 1999
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IA 71.1. Claimant(s): Salini Costruttori S.p.A
Italstrade S.p.A
Respondent(s): Hashemite Kingdom of Jordan
Type of Decision, Date: Decision on Jurisdiction, 29 November 2004
See also IA 71.2. Award, 31 January 2006
Decision: Jurisdiction partially upheld
Arbitrator(s): Gilbert Guillaume (President), Bernardo Cremades, Ian Sinclair
Jurisdiction founded on: Italy / Jordan BIT of 30 September 2001
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.worldbank.org/icsid/cases/awards.htm#awardar
b0522
Transaction: Construction of dam
Opinions & Decisions: Award of 31 January 2006
Language(s): English
Place of Arbitration: ICSID
Subject-matter: Arbitrator acting as counsel in different arbitration (5,9)
Abandonment of claim (158)
Jurisdiction: Applicable law (62-67)
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  Treaty interpretation (75-79)
  Attribution (81-92)
  Scope of contractual dispute resolution clause (93-96)
  Treaty claims / contract claims (95-96)
  Concurrent breach of contract and Treaty (152-154)

Contract claims
  Treaty Dispute Resolution clause (97-101)
  MFN clause (102-119)
  Umbrella clause (120-130)

Jurisdiction standard (136-151)
  Substantiation of claims (159-166)
  State as merchant / State as sovereign (155-157)
  Ratione temporis
    Jurisdiction (167-175)
    Substantive (176-178)

IA 70. Claimant(s): GAMI Investments Inc.
Respondent(s): United Mexican States
Type of Decision, Date: Award, 15 November 2004
Decision: Jurisdiction upheld, Claims dismissed
Arbitrator(s): Jan Paulsson (President), W. Michael Reisman, Julio Lacarte Muró
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: UNCITRAL Arbitration Rules
Link to Award / Decision:
  http://ita.law.uvic.ca
  http://www.investmentclaims.com/oa1.html
Transaction: Sugar mills
Opinions & Decisions:
  Procedural Order No. 5, 7 April 2004
  Procedural Order No. 4, 25 September 2003
  Procedural Order No. 3, 30 May 2003
  Procedural Order No. 2, 22 May 2003
  Procedural Order No. 1, 31 January 2003
Language(s): English, Spanish
Place of Arbitration: Vancouver, Canada
Subject-matter:
  Procedure (3-11)
  Shareholder claims (26-43)
  Article 1105 NAFTA (83-110)
  Article 1102 NAFTA (111-115)
  Tantamount to expropriation (116-133)
  Costs (134-136)

IA 32.3. Claimant(s): The Loewen Group, Inc.
  Raymond L. Loewen
Respondent(s): United States of America
Type of Decision, Date: Decision on Respondent’s Request for a Supplementary
Decision: Request refused
Annulment: Award challenged in US courts – annulment refused
Arbitrator(s): Anthony Mason (President), Abner J. Mikva, Michael M. Mustill
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: ICSID (Additional Facility Rules)
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
Transaction: Funeral home
Opinions & Decisions: Award on Merits, 26 June 2003
Decision on Jurisdiction, 5 January 2001
Language(s): English
Place of Arbitration: Washington, D.C.
Subject-matter: Omission of decision on particular claim (17)
Dismissal of claims "in their entirety" (19-21)
 Appreciation of evidence (22)

IA 69. Claimant(s): Joy Mining Machinery Limited
Respondent(s): Arab Republic of Egypt
Type of Decision, Date: Award on Jurisdiction, 6 August 2004
Decision: Jurisdiction denied
Annulment: Annulment discontinued
Arbitrator(s): Francisco Orrego Vicuña (President), William Laurence Craig, C.G. Weeramantry
Jurisdiction founded on: Egypt / UK BIT of 24 February 1976
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.worldbank.org/icsid/cases/awards.htm#awardar
b0522
Transaction: Construction contract
Opinions & Decisions: 
Language(s): English
Place of Arbitration: ICSID
Subject-matter: Jurisdiction standard (29-30)
Investment (41-63)
Treaty claims / contract claims (71-82)
Preclusive effect of contractual dispute resolution clause (89-99)

IA 68.1 Claimant(s): Siemens A.G.
Respondent(s): Argentine Republic
Type of Decision, Date: Decision on Jurisdiction, 3 August 2004
Decision: Jurisdiction upheld
Arbitrator(s): Andrés Rigo Sureda (President), Charles N. Brower,
Domingo Bello Janeiro

Jurisdiction founded on: Argentina / Germany BIT of 9 April 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.worldbank.org/icsid/cases/awards.htm#awardar
b0522

Transaction: Migration control and personal identification services

Opinions & Decisions: Language(s): English, Spanish
Place of Arbitration: ICSID
Subject-matter:

IA 58.2. Claimant(s): Enron Corporation
Ponderosa Assets L.P.
Respondent(s): Argentine Republic
Type of Decision, Date: Decision on Jurisdiction (Ancillary claim), 2 August 2004
See also IA 58.4. Decision on Rectification and / or Supplementary Decision of the Award, 25 October 2007; IA 58.3. Award, 22 May 2007; IA 58.1. Decision on Jurisdiction, 14 January 2004
Decision: Jurisdiction upheld
Arbitrator(s): Francisco Orrego Vicuña (President), Héctor Gros Espiell, Pierre-Yves Tschanz
Jurisdiction founded on: Argentina / USA BIT of 14 November 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
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http://www.investmentclaims.com/oa1.html
http://www.worldbank.org/icsid/cases/awards.htm#awardar
b0522

Transaction: Gas industry
Opinions & Decisions: Decision on Jurisdiction, 14 January 2004
Language(s): English
Place of Arbitration: ICSID
Subject-matter: Procedure
Ancillary / additional claim (1-6)
Shareholder claims (16-22, 26-46)
Preclusive effect of contractual dispute resolution clause (23-24, 47-51)
ICSID jurisprudence (25)

IA 67.1 Claimant(s): Hussein Nuaman Soufraki
Respondent(s): United Arab Emirates
Type of Decision, Date: Decision on Jurisdiction, 7 July 2004
See also IA 67.3. Rectification of the Decision on
Annulment, 13 August 2007; IA 67.2. Decision on
Annulment, 5 June 2007
Decision: Jurisdiction denied
Arbitrator(s): L. Yves Fortier (President), Stephen M. Schwebel, Aktham El Kholy
Jurisdiction founded on: Italy / United Arab Emirates BIT of 22 January 1995
Arbitration Mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
Opinions & Decisions:
Language(s): English
Place of Arbitration: ICSID
Subject-matter: Nationality of claimant (22-84)
Sufficiency of evidence
Costs (85)

IA 66. Claimant(s): Occidental Exploration and Production Company
Respondent(s): Republic of Ecuador
Type of Decision, Date: Final Award, 1 July 2004
Decision: Claims upheld
Annulment: Award challenged in English courts, challenge rejected
Arbitrator(s): Francisco Orrego Vicuña (President), Charles N. Brower,
Patrick Barrera Sweeney
Jurisdiction founded on: Ecuador / USA BIT of 27 August 1993
Arbitration mechanism: UNCITRAL Arbitration
Link to Award / Decision: http://ita.law.uvic.ca/alphabetical_list.htm
http://www.investmentclaims.com/oa1.html
Transaction: VAT Refunds for Petroleum Exploration and Exploitation
Opinions & Decisions:
Language(s): English
Place of Arbitration: London

Subject-matter: Jurisdiction / Admissibility (37-92)
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  Exclusionary clause (64-77)
  Proof of Expropriation (78-92)

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  Andean Community Law (145-152)
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    Causal link (201)
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  Interest (211-212)
    Domestic law irrelevant (211)
    Discretionary rate (211)
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Costs (216)
  Joint costs
  Discretion
  Individual costs

IA 65.1 Claimant(s): PSEG Global Inc.
  The North American Coal corporation
  Konya Ilgin Elektrik

Respondent(s): Republic of Turkey

Type of Decision, Date: Decision on Jurisdiction, 4 June 2004
  See also IA 65.2, Award, 19 January 2007

Decision: Jurisdiction upheld (claims by PSEG and Konya Ilgin Ltd.)
  Jurisdiction denied (claims by NACC)

Arbitrator(s): Francisco Orrego Vicuña (President), L. Yves Fortier, Gabrielle
  Kaufmann-Kohler

Jurisdiction founded on: Turkey / USA BIT of 3 December 1985

Arbitration mechanism: ICSID Convention and Arbitration Rules

Link to Award / Decision: http://ita.law.uvic.ca/alphabetical_list.htm
  http://www.investmentclaims.com/oat.html

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Transaction:
Development of lignite mine and electric power plant

Opinions & Decisions:

Language(s):
English

Place of Arbitration:
ICSID

Subject-matter:
Investment (66-105)
- Preliminary expenditures
- Binding contract
- Arising “directly” out of an investment (106-124)
- Claimant’s authorized representative (116-121)
- Article 25(4) ICSID Convention (125-147)
- Notification
- Pre-conditions to arbitrate (148-174)
- Preclusive effect of contractual dispute resolution clause
- MFN clause
- Standing (175-194)
- Branch office
- Shareholders

Critical date (186-187)

IA 64.1 Claimant(s):
MTD Equity Sdn. Bhd.
MTD Chile S.A.

Respondent(s):
Republic of Chile

Type of Decision, Date:
Award, 25 May 2004
See also IA 64.2, Decision on Annulment, 16 February 2007

Decision:
Claims upheld

Annulment:
Annulment pending

Arbitrator(s):
Andrés Rigo Sureda (President), Marc Lalonde, Rodrigo Oreamuno Blanco

Jurisdiction founded on:
Chile / Denmark BIT of 28 May 1993

Arbitration mechanism:
ICSID Convention and Arbitration Rules

Link to Award / Decision:
http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.worldbank.org/icsid/cases/awards.htm#awardar

Transaction:
Planned community

Opinions & Decisions:
Ad hoc Committee’s Decision on the Respondent’s Request for a Continued Stay of Execution, 1 June 2005

Language(s):
English

Place of Arbitration:
ICSID

Subject-matter:
- Procedure (1-38)
- Applicable law (86-87)
- Significance of an investment dispute (88-89)
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- Right of States to adopt policy and enact legislation (98-99)
- MFN clause (100-104)
- Fair and equitable treatment (107-178)
- Concurrent breach of contract and treaty (179-189)
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Indirect expropriation (207-214)
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  Full cost of investment
  Interest
  Compound interest
Costs (252)

IA 63.1. Claimant(s): Saluka Investments B.V.
Respondent(s): Czech Republic
Type of Decision, Date: Decision on Jurisdiction over the Czech Republic’s Counterclaim, 7 May 2004
  See also IA 63.2. Partial Award on Jurisdiction and Liability, 17 March 2006
Decision: Jurisdiction denied
Arbitrator(s): Arthur Watts (President), Peter Behrens, L. Yves Fortier
Jurisdiction founded on: Czech Republic / Netherlands BIT of 29 April 1991
Arbitration mechanism: UNCITRAL Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/o1.html
Transaction: Financial services
Opinions & Decisions: Partial Award, 17 March 2006
Language(s): English
Place of Arbitration: Geneva
Subject-matter: Procedure
  Joinder to merits (11)
  Counterclaim (12)
  Objection to Counterclaim (13)
    Sequence of objection / counterclaim (13-14)
    Suspension of proceedings (15)
Jurisdiction: Applicable law (20-23)
  BIT
  UNCITRAL Rules
Jurisdiction over third-country nationals and consent (25)
Burden of proof (34)
Jurisdiction standard (35-36)
  Prima facie (36)
  Pro tem (35-36)
Jurisdiction under BIT and UNCITRAL Rules (37-39)
  “All disputes”
    Articles 19 and 21 UNCITRAL
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  Identity of Claimant (41-44)
  Parent / Subsidiary
Subject-matter (45-58)
  Formulation of heads of claim by Respondent (45)
  Treaty claims / contract claims (47-58)
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"Concerning an investment" (60)
Connection between claim and counterclaim (61-80)
Consent of parties (62)
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Reliance on Precedent (64)
"Indivisible" and "Interdependent" (65-67)
Iran-US Claims Tribunal (68-74)
Unity of source (75)
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"Indivisible whole" (78-79)
Common origin (78-79)
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Operational unity (78-79)
Assumptions / dispositive question (81-82)
Costs (83(iii))
Reserved

IA 23.3. Claimant(s):
Waste Management, Inc.

Respondent(s):
United Mexican States

Type of Decision, Date:
Award, 30 April 2004

See also IA 23.2. Decision on Jurisdiction (for second claim), 26 June 2002; IA 23.1. Award, 2 June 2000

Decision:
Jurisdiction upheld, Claims dismissed

Arbitrator(s):
James Crawford (President), Benjamin R. Civiletti, Eduardo Magallón Gómez

Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: ICSID Arbitration Additional Facility Rules
Link to Award / Decision:
http://ita.law.uvic.ca
http://www.investmentclaims.com/oal.html

Transaction:
Waste management services

Opinions & Decisions:
Decision on Jurisdiction (Second Claim), 26 June 2002
Order (Production of Documents), 27 November 2001
Order (Production of Documents), 1 October 2001
Decision (Venue of Arbitration), 26 September 2001
Procedural Order No. 1, 8 June 2001

Language(s):
English, Spanish

Place of Arbitration:
ICSID

Subject-matter:
Preclusive effect of prior unsuccessful proceedings (4-11)
"Award" (15)
Final and dispositive
Preliminary / interim decision (15-17)
Supplementing / clarifying / correcting
Disclosure of documents (18-31)
NAFTA claims
  Breach of contract insufficient (73)
Investor (77-85)
  Beneficial ownership
  Direct or indirect control (82)
  Nationality of investment (83)
Article 1105 NAFTA (86-140)
  Conduct of domestic litigation / arbitration (118-127)
  Denial of justice (128-132)
  Conspiracy (137-139)
Article 1110 NAFTA (114-178)
Costs (179-184)

IA 62.1 Claimant(s): LG&E Energy Corp.
LG&E Capital Corp.
LG&E International, Inc.

Respondent(s): Argentine Republic

Type of Decision, Date: Decision on Jurisdiction, 30 April 2004
  See also 1A 62.3. Award, 25 July 2007; 1A 62.2. Award on Liability, 3 October 2006

Decision: Jurisdiction upheld

Arbitrator(s): Tatiana B. de Mackelt (President), Francisco Rezek, Albert Jan van den Berg

Jurisdiction founded on: Argentina / USA BIT of 14 November 1991

Arbitration mechanism: ICSID Convention and Arbitration Rules

Link to Award / Decision: http://ita.uvic.ca
http://www.investmentclaims.com/oa1.html

Transaction: Gas distribution

Opinions & Decisions: Award on liability, 3 October 2006

Language(s): English

Place of Arbitration: ICSID

Subject-matter: Procedure
  Suspension of proceedings (17)
  Ancillary / additional claims (81)
  Hypothetical issue (83)
  Jurisdiction parameters (46)
  Jurisdiction: Applicable law (47)
  Standing (48-63)
  ICSID Convention (48)
  Article 25(2)(b) (49-51)
  "Foreign control" (50)
  BIT
  Domestic investment vehicle
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  Minority / majority shareholders
  Relevance of control in ICSID Convention (51)
  Diplomatic protection and BITs (52)

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Domestic regulatory law (58-59)
Preclusive effect of contractual dispute resolution clause
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Identity of jurisdiction instruments (61)
Identity of rights (61)
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Indirect operation of investment (63)
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Article 26 ICSID Convention
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Waiting periods
Renegotiation process (82)
ICSID jurisprudence (82)
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Reserved

IA 61.1 Claimant(s): Tokios Tokelès
Respondent(s): Ukraine
Type of Decision, Date: Decision on jurisdiction, 29 April 2004

Decision:
Jurisdiction upheld
Arbitrator(s): Prosper Weil (President), Piero Bernardini, Daniel M. Price
Jurisdiction founded on: Lithuania / Ukraine BIT of 8 February 1994
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.worldbank.org/icsid/cases/awards.htm#awardar
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Transaction: Advertising, publishing and printing business
Opinions & Decisions: Dissenting Opinion by Arbitrator Weil
Procedural Order No. 3 (18 January 2005)
Procedural Order No. 1 (1 July 2003)

Language(s): English
Place of Arbitration: ICSID
Subject-matter: Procedure (5-13)
Waiting periods (7)
Applicable law (14-20)
Article 25 ICSID Convention (15, 20)
BIT (16-18)
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"Veil piercing" (53-56)
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Dispute arising directly out of an investment (87-93)
Pre-conditions to arbitrate (94-107)
Improper and untimely consent (94-100)
Waiting periods / negotiations
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IA 60.1. Claimant(s): EnCana Corporation
Respondent(s): Republic of Ecuador
Type of Decision, Date: Partial Award on Jurisdiction, 27 February 2004
See also IA 60.2. Award, 3 February 2006
Decision: Jurisdiction upheld
Arbitrator(s): James Crawford (President), Horacio Grigera Naón, Patrick Barrera Sweeney
Jurisdiction founded on: Canada / Ecuador BIT of 29 April 1996
Arbitration mechanism: UNCITRAL Arbitration Rules
Link to Award / Decision: http://ita.uvic.ca
http://www.investmentclaims.com/oa1.html
Transaction: VAT Refunds on Petroleum Exploration and Exploitation
Opinions & Decisions: Final Award, 3 February 2006
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Dissenting Opinion by Arbitrator Naón
Award on Interim Measures, 31 January 2004

Language(s): English, Spanish
Place of Arbitration: London
Subject-matter: Procedure
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Consent: Article XIII(3)(a) BIT (12-15)
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Characterization of claims (34-38)
Joinder of issues (38-39)
Proof of expropriation (39)
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IA 59. Claimant(s): SGS Société Générale de Surveillance S.A.
Respondent(s): Republic of the Philippines
Type of Decision, Date: Decision on Jurisdiction, 29 January 2004
Decision: Jurisdiction partially upheld, Claims inadmissible, Proceedings stayed
Arbitrator(s): Ahmed S. El-Kosheri (President), James Crawford, Antonio Crivellaro
Jurisdiction founded on: Philippines / Switzerland BIT of 31 March 1997
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.worldbank.org/icsid/cases/pending.htm
Transaction: Pre-shipment inspection and certification services
Opinions & Decisions: Supplementary declaration by Arbitrator Crivellaro, 29 January 2004
Language(s): English
Place of Arbitration: ICSID
Subject-matter: Procedure (1-11)
Contract (19-25)
Article 25 ICSID Convention / BIT provisions (26-34)
IA 58.1. Claimant(s): Enron Corporation
Ponderosa Assets, L.P.

Respondent(s): Argentine Republic

Decision: Jurisdiction upheld

Arbitrator(s): Francisco Orrego Vicuña (President), Héctor Gros Espiell, Pierre-Yves Tschanz

Jurisdiction founded on: Argentina / USA BIT of 14 November 1991

Arbitration mechanism: ICSID Convention and Arbitration Rules

Transaction: Gas industry

Opinions & Decisions: Decision on Jurisdiction (Ancillary Claim), 2 August 2004

Language(s): English, Spanish

Place of Arbitration: ICSID

Subject-matter: Hypothetical dispute (72-74)
Power to order injunctive relief (76-81)
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IA 35.2. Claimant(s): Consortium RFCC
Respondent(s): Kingdom of Morocco
Type of Decision, Date: Award, 22 December 2003
Decision:
Annulment: Decision on Annulment unpublished
Arbitrator(s): Robert Briner (President), Bernardo Cremades, Ibrahim Fadlallah
Jurisdiction founded on: Italy / Morocco BIT of 18 July 1990
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
Transaction: Highway construction, road works
Opinions & Decisions: Decision on Jurisdiction, 16 July 2001
Language(s): French
Place of Arbitration: ICSID
Subject-matter:
Procedure (11-23)
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IA 57. Claimant(s): IBM World Trade Corporation
Respondent(s): Republic of Ecuador
Type of Decision, Date: Decision on Jurisdiction and Competence, 22 December 2003
Decision: Jurisdiction upheld
Arbitrator(s): Rodrigo Jijon Letort (President), Alejandro Ponce Martinez, Leon Roldos Aguilera
Jurisdiction founded on: Ecuador / USA BIT of 27 August 1993
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
Transaction: Concession contract
Opinions & Decisions: Dissent by Arbitrator Aguilera
Language(s): Spanish
Place of Arbitration: ICSID
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IA 56. Claimant(s): Nykomb Synergetics Technology Holding AB
Respondent(s): Republic of Latvia
Type of Decision, Date: Arbitral Award, 16 December 2003
Decision: Claims upheld
Arbitrator(s): Bjørn Haug (President), Rolf A. Schutze, Johan Gernandt
Arbitration mechanism: Arbitration Institute of the Stockholm Chamber of Commerce
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
Transaction: Power Purchase Agreement
Opinions & Decisions:
Language(s): English
Place of Arbitration: Stockholm
Subject-matter:
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IA 55.1. Claimant(s): Azurix Corp.
Respondent(s): Argentine Republic
Type of Decision, Date: Decision on Jurisdiction, 8 December 2003
Decision: Jurisdiction upheld
See also IA 55.2. Award, 14 July 2006
Arbitrator(s): Andres Rigo Sureda (President), Elihu Lauterpacht, Daniel H. Martins
Jurisdiction founded on: Argentina / USA BIT of 14 November 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
 http://www.investmentclaims.com/oa1.html
Transaction: Water distribution / treatment concession
Opinions & Decisions: Award, 14 July 2006
Language(s): English, Spanish
Place of Arbitration: ICSID
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  Timeliness of Objection (67)
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  Suspension of ICSID proceeding (102)
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  Article 21 ICSID Convention (49)
  Article 25 ICSID Convention (50)
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  Specificity of Treaty wording (89)
1A 54.1 Claimant(s): Champion Trading Company
Ameritrade International, Inc.
James T. Wahba
John B. Wahba
Timothy T. Wahba

Respondent(s): Arab Republic of Egypt

Type of Decision, Date: Decision on Jurisdiction, 21 October 2003

Decision: Jurisdiction partially upheld

Arbitrator(s): Robert Briner (President), L. Yves Fortier, Laurent Aynes

Jurisdiction founded on: Egypt / USA BIT of 11 March 1986
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.worldbank.org/icsid/cases/pending.htm

Transaction: Raw cotton trading company

Opinions & Decisions: English

Place of Arbitration: ICSID

Subject-matter: Procedure
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Nationality of claimants
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IA 53. Claimant(s): William Nagel
Respondent(s): Czech Republic
Type of Decision, Date: Final Arbitral Award, October 2003
Decision: Claims dismissed
Annulment: Award challenged in Swedish courts – outcome unknown
Arbitrator(s): Swedish (President), English, German
Jurisdiction founded on: Czech Republic / UK BIT of 26 October 1992
Arbitration mechanism: Arbitration Institute of the Stockholm Chamber of Commerce
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
Transaction: Claim to money
Opinions & Decisions: Language(s): English
Place of Arbitration: Stockholm
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  Reasonable estimation (167)
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IA 52. Claimant(s): Generation Ukraine, Inc.
Respondent(s): Ukraine
Type of Decision, Date: Award, 16 September 2003
Decision: Jurisdiction partially upheld, Claims dismissed
Arbitrator(s): Jan Paulsson (President), Eugen Salpius, Jurgen Voss
Jurisdiction founded on: Ukraine / USA BIT of 16 November 1996
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
  http://www.investmentclaims.com/oai.html
Transaction: Commercial property
Opinions & Decisions: English
Place of Arbitration: Paris, France
Subject-matter: Procedure
  Challenge of arbitrator (4.8-4.18)
  Replacement of President pending (4.13-4.14)
  Tribunal divided (4.15)
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IA 51. Claimant(s): SGS Société Générale de Surveillance S.A.
Respondent(s): Islamic Republic of Pakistan
Type of Decision, Date: Decision on Jurisdiction, 6 August 2003
Decision: Jurisdiction partially upheld
Arbitrator(s): Florentino P. Feliciano (President), André Faurès, Christopher Thomas
Jurisdiction founded on: Pakistan / Switzerland BIT of 11 July 1995
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca

Yearbook Comm. Arb’n
ARBIRAL AWARDS

http://www.investmentclaims.com/oa1.html

Transaction: Pre-shipment inspection and certification services
Language(s): English
Place of Arbitration: ICSID
Subject-matter:

- Domestic anti-suit injunction (35-39)
- Domestic arbitration
- ICSID arbitration
- Stay of arbitration (185-189)
- Treaty claims (187)
- Contract Arbitration (189)

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- Article 25 ICSID Convention (133)
- BIT (134)
- Broad definition (135-136)
- Pre-contract expenditures (137-140)
- Jure imperii (138-139)
- Bribery (141-143)

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- Treaty claims (146-155)
- Treaty claims / contract claims (146-148)
- Dispute Settlement clause (149-155)
- Scope (152)
- Treaty claims in Contract arbitration (154)

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- Contract arbitration (159)
- Umbrella clause (163-174)
- Estoppel (175-177)
- Domestic litigation
- Contract claims
- Waiver (178-181)
- Domestic litigation
- Contract arbitration

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- Concurrent jurisdiction
- Pre-conditions to arbitrate (183-184)
- Consultations
- Costs (191)
- Reserved

IA 50.1. Claimant(s): CMS Gas Transmission Company
Respondent(s): Argentine Republic
Type of Decision, Date: Decision on Jurisdiction, 17 July 2003
Decision: Jurisdiction upheld

See also IA 50.3. Decision on the Application for Annulment, 25 September 2007; IA 50.2. Award, 12 May 2005
Arbitrator(s): Francisco Orrego Vicuña (President), Marc Lalonde, Francisco Rezek
Jurisdiction founded on: Argentina / USA BIT of 14 November 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.worldbank.org/icsid/cases/awards.htm#awardarbo522
Transaction: Gas transmission
Opinions & Decisions: Decision on Argentine Republic’s Request for a Continued Stay of Enforcement of the Award, 1 September 2006 Award, 12 May 2005
Language(s): English
Place of Arbitration: ICSID
Subject-matter: Procedure
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Additional claims (119)
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Identity of causes of action (80)
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Article 25 ICSID Convention (88)
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IA 49. Claimant(s): Fireman’s Fund Insurance Company
Respondent(s): United Mexican States
Type of Decision, Date: Decision on the Preliminary Question, 17 July 2003
Decision: Jurisdiction partially upheld
Arbitrator(s): Albert Jan van den Berg (President), Andreas F. Lowenfeld, Francisco Carrillo Gamboa
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: ICSID Additional Facility
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oai1.html
http://www.economia.gob.mx/work/snci/negociaciones/Controversias/Casos_Mexico/Fireman/Fireman.htm
Transaction: Debentures
Opinions & Decisions: Procedural Order No. 1, 19 September 2002
Language(s): English, Spanish
Place of Arbitration: Toronto
Subject-matter: Procedure
Registration under ICSID Additional Facility (9-13)
Denial of Request for Production of Documents (21)
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Admissibility of unsolicited evidence (28)
Article 1128 NAFTA Filings (35-36)
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Article 1110 NAFTA (67)
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Article 1416(7)(a) NAFTA (101)
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IA 32.2. Claimant(s): The Loewen Group, Inc.
Raymond L. Loewen
Respondent(s): United States of America
Type of Decision, Date: Award, 26 June 2003
Decision: Jurisdiction denied, Claims dismissed
Arbitrator(s): Anthony Mason (President), Abner J. Mikva, Michael M. Mustill
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: ICSID Additional Facility
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.state.gov/s/l/c3755.htm
Transaction: Funeral home
Opinions & Decisions: Decision on Respondent’s Request for a Supplementary Decision, 6 September 2004; IA 32.1.
Decision on Jurisdiction, 5 January 2001
Decision on Competence and Jurisdiction, 5 January 2001
Language(s): English
Place of Arbitration: Washington, D.C.
Subject-matter: Applicable law (51)
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Article 1105 NAFTA
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  Article 1109 NAFTA (237)
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  Good faith by investor (238)
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IA 31.3. Claimant(s): Marvin Roy Feldman Karpa
Respondent(s): United Mexican States
Type of Decision, Date: Decision on Correction and Interpretation of Award, 13 June 2003
Decision: Correction upheld, Interpretation dismissed

See also IA 31.2. Award, 16 December 2002; IA 31.1. Interim Decision on Preliminary Jurisdiction Issues, 6 December 2000
Arbitrator(s): Konstantinos D. Kerameus (President), Jorge Covarrubias Bravo, David A. Gantz
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: ICSID Additional Facility
Link to Award / Decision: http://www.investmentclaims.com/oa1.html
http://www.economia.gob.mx/work/snci/negociaciones/Controversias/Casos_Mexico/Marvin/Marvin.htm
Transaction: Cigarettes
Opinions & Decisions: Award, 16 December 2002
Dissenting Opinion by Arbitrator Bravo
Annexes to Award, 16 December 2002
Decision on Jurisdiction, 6 December 2000
Procedural Order No. 5, 6 December 2000
Procedural Order No. 4, 3 August 2000
Procedural Order No. 3, 17 July 2000
Order, 19 June 2000
Procedural Order No. 2, 3 May 2000
Procedural Order No. 1, 3 April 2000

Language(s): English, Spanish
Place of Arbitration: Ottawa
Subject-matter: Interpretation (9-11)
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Correction (12-13)

IA 48. Claimant(s): Tecnicas Medioambientales Tecmed S.A.
Respondent(s): United Mexican States
Type of Decision, Date: Award, 29 May 2003
Decision: Jurisdiction upheld, Claims upheld
Arbitrator(s): Horacio A. Grigera Naón (President), Jose Carlos Fernandez Rosas, Carlos Bernal Verea
Jurisdiction founded on: Mexico / Spain BIT of 18 December 1996
Arbitration mechanism: ICSID Additional Facility
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
Transaction: Hazardous waste landfill site

Opinions & Decisions:
Language(s): Spanish
Place of Arbitration: Washington, D.C.
Subject-matter:
Procedure
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IA 47. Claimant(s): Yaung Chi OO Trading PTE Ltd.
Respondent(s): Government of the Union of Myanmar
Type of Decision, Date: Award, 31 March 2003
Decision: Jurisdiction denied
Arbitrator(s): Sompong Sucharitkul (President), James Crawford, Francis Delon
Jurisdiction founded on: ASEAN Agreement for the Promotion and Protection of Investments of 15 December 1987
Arbitration mechanism: Ad hoc arbitration
Link to Award / Decision:
http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
Transaction: Beer brewery
Opinions & Decisions:
Language(s): Unspecified
Place of Arbitration: Unspecified
Subject-matter:
Procedure
Appointing Authority (2)
ICSID (Additional Facility) mutatis mutandis (3)
Provisional Measures (12)
Damages as adequate remedy
Discovery of documents (14)
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Permanent Sovereignty over Natural Resources (21)
Later Treaty whether amends or extends old one (24)
Exhaustion of Contract remedies (40)
Exhaustion of Domestic remedies (40)
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"Round-tripping" (45)
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Effective management (49)
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ASEAN Framework Agreement 1988 (64-66)
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Different treaties with different definitions of investment (82)
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IA 38.2. Claimant(s): CME Czech Republic B.V.
Respondent(s): Czech Republic
Type of Decision, Date: Final Award, 14 March 2003
Decision: Claims upheld
See also IA 38.1. Partial Award 13 September 2001
Arbitrator(s): Wolfgang Kuhn (President), Stephen M. Schwebel, Ian Brownlie
Jurisdiction founded on: Czech Republic / Netherlands BIT of 29 April 1991
Arbitration mechanism: UNCITRAL Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
Transaction: Television services
Opinions & Decisions: Separate Opinion by Arbitrator Brownlie
Partial Award, 13 September 2001
Dissenting Opinion by Arbitrator Händl
Language(s): English
Place of Arbitration: Stockholm
Subject-matter: Procedure
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BIT Choice of law clauses (408-411)
Role of domestic litigation (412-413)
Inter-governmental common position on BIT (87-93)
Article 9 BIT (87)
Article 8.6 BIT (91)
Assignment of claims under BIT (92)
Applicability of other BITs (93)
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Refusal to coordinate arbitrations (426-430)
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Abuse of process
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Compound interest (642-647)
Absence of agreement (642)
Full compensation (643)
International jurisprudence (644-645)
Facts (646-647)
Costs (648-649)
Equal apportionment

IA 46. Claimant(s): ADF Group Inc.
Respondent(s): United States of America
Type of Decision, Date: Award, 9 January 2003
Decision: Jurisdiction partially upheld, Claims dismissed
Arbitrator(s): Florentino P. Feliciano (President), Armand de Mestral, Carolyn B. Lamm

Jurisdiction founded on: NAFTA of 1 January 1994

Arbitration mechanism: ICSID Additional Facility

Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.state.gov/s/l/c3754.htm

Transaction: Highway construction

Language(s): English

Place of Arbitration: Washington, D.C.

Opinions & Decisions:
- Procedural Order No. 3 (Disclosure), 4 October 2001
- Procedural Order No. 2 (Place of Arbitration), 11 July 2001
- Minutes of the First Session of the Tribunal, 14 March 2001

Subject-matter:
- Procedure
  - Place of arbitration (6, 8-26)
  - Tribunal order
  - Production of documents (27-38)
  - New claims (114)
- Measures (56-59)
  - Buy America
  - Statute
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- Contract
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  - Article 1102 NAFTA (151-158)
  - Article 1106 NAFTA (159-174)
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  - Article 1105(1) NAFTA (175-192)
  - FTC Interpretation (175-186)
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IA 45. **Claimant(s):** CCL  
**Respondent(s):** Republic of Kazakhstan  
**Type of Decision, Date:** Decision on Jurisdiction (2003), Final award (2004) and Supplemental Award and Interpretation (2004)  
**Decision:** Jurisdiction upheld; Claims dismissed  
**Arbitrator(s):** Norwegian (President), James H. Carter, Christer Söderlund  
**Jurisdiction founded on:** Kazakhstan / USA BIT of 19 May 1992, 1997 Concession Agreement, 1994 Foreign Investment Law of Republic of Kazakhstan  
**Arbitration mechanism:** Arbitration Institute of the Stockholm Chamber of Commerce  
**Link to Award / Decision:** http://ita.law.uvic.ca  
**Transaction:** Oil refinery  
**Opinions & Decisions:**  
**Language(s):** English  
**Place of Arbitration:** Stockholm  
**Subject-matter:** Jurisdiction Decision  
- Applicable law (129-131)  
- *Res judicata* and collateral estoppel (131-135)  
- Separability doctrine / *kompetenz kompetenz* doctrine (135-137)  
- Act of State doctrine (137-138)  
- Comity between States party to arbitration (138-139)  
- Sovereign immunity (139-140)  
- Contract  
- Foreign investor (140-145)  
- Direct or indirect ownership or control  
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- Burden of proof for ownership and control  
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- Ratification by acceptance  
- Preclusive effect of exercise of domestic remedies (157-158)
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  Tribunal’s decision on costs
  Whether Tribunal can issue in form of award (177)
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  Miscalculation of amounts (177-178)

IA 28.3. Claimant(s): S.D. Myers, Inc.
Respondent(s): Government of Canada
Type of Decision, Date: Award, 30 December 2002
Decision: Claims upheld
Annulment: Awards challenged in Canadian courts – challenge rejected
Arbitrator(s): J. Martin Hunter, Bryan P Schwartz, Edward C. Chiasson
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: UNCITRAL Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oia1.html
Transaction: Recycling and processing facility
Opinions & Decisions: Dissenting Opinion by Arbitrator Schwartz
  Second Partial Award, 21 October 2002
  First Partial Award, 13 November 2000
  Separate Opinion by Arbitrator Schwartz
Language(s): English
Place of Arbitration: Toronto
Subject-matter: Procedure (1-6)
  Costs
  Articles 38 and 40 UNCITRAL Rules (8-12)
  Discretion (13-30)
  Loser-pays principle (13-30)
  Individual (31-49)
  Purpose of an award of costs (45)
  Interest (50-52)

IA 31.2. Claimant(s): Marvin Roy Feldman Karpa
Respondent(s): United Mexican States
Type of Decision, Date: Award, 16 December 2002
Decision: Claims upheld
Annulment: Awards challenged in Canadian courts – challenge rejected
Arbitrator(s): J. Martin Hunter, Bryan P Schwartz, Edward C. Chiasson
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: UNCITRAL Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oia1.html
Transaction: Recycling and processing facility
Opinions & Decisions: Dissenting Opinion by Arbitrator Schwartz
  Second Partial Award, 21 October 2002
  First Partial Award, 13 November 2000
  Separate Opinion by Arbitrator Schwartz
Language(s): English
Place of Arbitration: Toronto
Subject-matter: Procedure (1-6)
  Costs
  Articles 38 and 40 UNCITRAL Rules (8-12)
  Discretion (13-30)
  Loser-pays principle (13-30)
  Individual (31-49)
  Purpose of an award of costs (45)
  Interest (50-52)
of Award, 13 June 2003; IA 31.1. Interim Decision on Preliminary Jurisdiction Issues, 6 December 2000

Decision:
Claims upheld

Annulment:
Award challenged in Canadian courts – challenge rejected

Arbitrator(s):
Konstantinos D. Kerameus (President), Jorge Covarrubias Bravo, David A. Gantz

Jurisdiction founded on:
NAFTA of 1 January 1994

Arbitration mechanism:
ICSID Convention and Arbitration Rules

Link to Award / Decision:
http://www.investmentclaims.com/oal1.html
http://www.economia.gob.mx/work/snci/negociaciones/CONTROVERSIAS/Casos_Mexico/Marvin/Marvin.htm

Transaction:
Cigarettes

Opinions & Decisions:
Dissenting Opinion by Arbitrator Bravo
Annexes to Award, 16 December 2002
Decision on Correction and Interpretation of Award, 13 June 2003
Decision on Jurisdiction, 6 December 2000
Procedural Order No. 5, 6 December 2000
Procedural Order No. 4, 3 August 2000
Procedural Order No. 3, 17 July 2000
Order, 19 June 2000
Procedural Order No. 2, 3 May 2000
Procedural Order No. 1, 3 April 2000

Language(s):
English, Spanish

Place of Arbitration:
Ottawa

Subject-matter:
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Claims pre-dating NAFTA’s entry into force (51-52)
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Audit / taxation assessment

Jurisdiction (53-88)
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Expropriation (89-153)
Applicable law (96-107)

IA 1110 NAFTA
International law
Regulatory activity (109-111)
Business problems (112-116)
Investor conduct (117-134)
Availability of domestic remedies
Public purpose (135-136)
Non-discrimination (137)
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Due process (138-141)
Fair and equitable treatment
Denial of justice

Article 1102 NAFTA (154-188)
"Like circumstances" (170-172)
Existence of discrimination (173-184)
Most favoured investor requirement (185-186)
Compensation (189-207)
Discretion
Currency of payment (207)
Costs (208)

IA 24.4. Claimant(s): Pope & Talbot Inc.
Respondent(s): Government of Canada
Type of Decision, Date: Award on Costs, 26 November 2002

See also IA 24.3. Award on Damages, 31 May 2002; IA 24.2. Merits Award (Phase 2), 10 April 2001; IA 24.1. Interim Award, 26 June 2000

Decision: Each party to bear its own legal costs, investor awarded portion of Tribunal’s costs
Arbitrator(s): Lord Dervaird (President), Benjamin J. Greenberg, Murray J. Belman
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: UNCITRAL Arbitration Rules

Link to Award / Decision: http://ita.law.uvic.ca
http://wwwinvestmentclaims.com/oa1.html

Transaction: Softwood lumber products
Opinions & Decisions: Award on Damages, 31 May 2002
Ruling (Place of Arbitration), 14 March 2002
Award on Merits, 10 April 2001
Interim Award, 26 June 2000

Language(s): English
Place of Arbitration: Montreal
Subject-matter: Costs

Article 38 UNCITRAL Rules (2-3)
Article 40 UNCITRAL Rules (4-5)
Loser-pays principle (9-17)

IA 44.1 Claimant(s): United Parcel Service of America, Inc.
Respondent(s): Government of Canada
Type of Decision, Date: Award on Jurisdiction, 22 November 2002

See also IA 44.2. Award, 24 May 2007

Decision: Jurisdiction partially upheld
Arbitrator(s): Kenneth Keith (President), Ronald A. Cass, L. Yves Fortier
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: UNCITRAL Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca

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http://www.investmentclaims.com/oa1.html

Transaction: Postal services
Opinions & Decisions: Decision (Cabinet Privilege), 8 October 2004
Decision (Document Production and Interrogatories), 21 June 2004
Decision (Statement of Defence), 17 October 2001

Language(s): English
Place of Arbitration: Unspecified
Subject-matter: Procedure (1-5)
Pleading minimum requirements (123-133)
Anticompetitive behaviour regulation
Articles 1105, 1503(3)(a) and 1503(2) NAFTA (13-29)
Jurisdiction
Preliminary question (30-31)
Prima facie test (32-38)
Treaty Interpretation (39-46)
Neutral approach (40)
Object and purpose (43-44)
Ordinary meaning of terms in their context (46)
Chapters 11 and 15 NAFTA (47-70)
Article 1105 NAFTA (71-99)
Whether customary international law prohibits / regulates
anticompetitive behaviour (84-92)
Whether challenge to anticompetitive behaviour within
Tribunal’s jurisdiction (97-99)
Article 1102 NAFTA (100-115)
Annex 2106 NAFTA, “cultural industries” (106-111)
Article 1108 (7)(b) NAFTA, subsidy measure exempt (112-
113)
Taxation measures
Article 1102 applies (116-117)
Contributory damages (118-122)

IA 28.2. Claimant(s): S.D. Myers, Inc.
Respondent(s): Government of Canada
Type of Decision, Date: Second Partial Award, 21 October 2002
Decision: Damages quantified, interest awarded
Annulment: Awards challenged in Canadian courts – challenge rejected
Arbitrator(s): J. Martin Hunter (President), Bryan P. Schwartz, Edward C.
Chiasson
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: UNCITRAL Arbitration Rules
Link to Award / Decision: http://www.investmentclaims.com/oa1.html
Transaction: Recycling and processing facility
Opinions & Decisions: Final Award, 30 December 2002

Yearbook Comm. Arb’n 127
Dissenting Opinion by Arbitrator Schwartz
First Partial Award, 13 November 2000

Separate Concurring Opinion by Arbitrator Schwartz

Language(s): English

Place of Arbitration: Toronto

Subject-matter:
- Procedure (9-81)
- Recovery / Compensation (94-172)
- Principles governing assessment
- Scope of investment (102-122)
- Chapters 11 and 12 NAFTA (123-139)
- Causation (140-160)
- Loss of opportunity (161-162)
- Out-of-pocket expenses (163)
- Mitigation (164-167)
- Goodwill (168-172)
- Quantification of loss
  - Net income stream (173-301)
  - Interest (302-308)
  - Costs (309-310)

**IA 43. Claimant(s):** Mondev International Ltd.
**Respondent(s):** United States of America
**Type of Decision, Date:** Award on Merits, 11 October 2002
**Decision:** Jurisdiction partially upheld, Claims dismissed
**Arbitrator(s):** Ninian Stephen (President), James Crawford, Stephen M. Schwébel
**Jurisdiction founded on:** NAFTA of 1 January 1994
**Arbitration mechanism:** ICSID Additional Facility
**Link to Award / Decision:**
  - http://ita.law.uvic.ca
  - http://www.state.gov/s/l/c3758.htm
**Transaction:** Commercial real estate development
**Opinions & Decisions:**
- Jurisdiction / Admissibility (42)
- Treaty interpretation (43-44)
- Continuing wrongful act (57-75)
- Articles 1116 and 1117 NAFTA (78-86)
- Article 1105 NAFTA (94-125)
  - Interpretation (94-99)
  - FTC Interpretation (100-125)
- Denial of justice (126-140)
- Public Immunity (141-156)

**IA 42.1. Claimant(s):** Methanex Corporation
**Respondent(s):** United States of America
**Type of Decision, Date:** Partial Award, 7 August 2002
See also 1A 42.2. Award, 3 August 2005

Decision: Jurisdiction partially denied, Full ruling postponed

Arbitrator(s): V.V. Veeder (President), J William F. Rowley, Warren Christopher

Jurisdiction founded on: NAFTA of 1 January 1994

Arbitration mechanism: UNCITRAL Arbitration Rules

Link to Award / Decision: http://www.investmentclaims.com/oa1.html
http://www.state.gov/s/l/c5818.htm

Transaction: MTBE, Methanol

Opinions & Decisions: Final Award, 3 August 2005
Order (Exclusion of Evidence), 1 June 2004
Procedural Order (Hearing), 28 May 2004
Order (Reconsideration of First Partial Award, Additional Evidence), 19 April 2004
Order (Amicus Curiae), 15 April 2004
Order (Amicus Curiae), 6 April 2004
Order (Amicus Curiae, Article 1128 NAFTA), 19 March 2004
Orders (Reconsideration of First Partial Award, Additional Evidence), 16 March 2004
Order (Expert Documents), 10 October 2003
Order (Schedule of Next Phase), 2 July 2003
Order (Nature and Timing of Next Phase), 2 June 2003
Decision (Amicus Curiae), 15 January 2001

Language(s): English

Place of Arbitration: Washington, D.C.

Subject-matter: Procedure

- Article 20 UNCITRAL Rules (72-79)
- Application to amend
- Request for disclosure (80-81)
- Article 21(1) UNCITRAL Rules
  - Tribunal power to rule on objections to admissibility (122-126)

Jurisdiction / Admissibility (82-147)

- Proximate cause (85-86)
- Legal right (87-88)
- Connection between measures and investment (89, 127-147)
- Loss (90)
- Loss of subsidiaries (91-92)
- Waiver (93)
- Lack of claim (94)
- General approach to jurisdiction (96-105)
  - Kompetenz-kompetenz doctrine (106-107)
  - Prima facie standard (108-118)

Article 1101 NAFTA
- Ruling on jurisdiction postponed (148-169)

Costs (170-171)
ARBITRAL AWARDS

**IA 29.2. Claimant(s):** Compania de Aguas del Aconquija, S.A.
Vivendi Universal (formerly Compagnie Générale Des Eaux)

**Respondent(s):** Argentine Republic

**Type of Decision, Date:** Decision on Annulment, 3 July 2002

- See also **IA 29.4.** Award, 20 August 2007; **IA 29.3.** Decision on Jurisdiction, 14 November 2005; **IA 29.1.** Award, 21 November 2000

**Decision:** Partially annulled

**Arbitrator(s):** L. Yves Fortier (President), James R. Crawford, José Carlos Fernandez Rozas

**Jurisdiction founded on:** Argentina / France BIT of 3 July 1991

**Arbitration mechanism:** ICSID Convention and Arbitration Rules

**Link to Award / Decision:**
- [http://ita.law.uvic.ca](http://ita.law.uvic.ca)

**Transaction:** Water concession

**Opinions & Decisions:**
- Decision on Jurisdiction, 14 November 2005
- Decision on Challenge to President, 3 October 2001
- Arbitral Award, 21 November 2000

**Language(s):** English, Spanish

**Place of Arbitration:** ICSID

**Subject-matter:** Procedure

- Partial Annulment (1)
- Time (2)
- Challenge of President (5)
- Investment (46)
- Investor (47-50)
- Domestic remedies (51-55)
- BIT (56-60)
- Role of Annulment (61-70)
- Counterclaim

**Jurisdiction findings (72-80)**

**Merits findings (81-116)**

- Article 52(1)(d) ICSID Convention (82-85)
- Article 52(1)(b) ICSID Convention (86-115)
- Federal claims (89-92)
- Tucuman claims (93-115)
- Article 52(1)(c) ICSID Convention (116)

**Costs (117-118)**

- Novelty of issues
- Loser-pays principle
- Public importance

**IA 23.2. Claimant(s):** Waste Management Inc

**Respondent(s):** United Mexican States

**Type of Decision, Date:** Decision on Jurisdiction (for second claim), 26 June 2002

- See also **IA 23.3.** Award, 30 April 2004; **IA 23.1.** Award, 2 June 2000
Decision: Jurisdiction upheld
Arbitrator(s): James Crawford (President), Benjamin R. Civiletti, Eduardo Magallón Gómez
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: ICSID Additional Facility Rules
Link to Award / Decision: http://www.investmentclaims.com/oia1.html
Transaction: Waste management services
Opinions & Decisions: Final Award, 30 April 2004
Order (Production of Documents), 27 November 2001
Order (Production of Documents), 1 October 2001
Decision (Venue of Arbitration), 26 September 2001
Procedural Order No. 1, 8 June 2001
Language(s): English, Spanish
Place of Arbitration: ICSID
Subject-matter: Procedure (1-7)
Preclusive effect of prior unsuccessful proceedings (3)
Decision of first tribunal (8-15)
Article 1121 NAFTA
Pre-conditions to arbitrate (8)
Waiver (9-15)
Whether second arbitration is precluded (16-37)
Res judicata (38-47)
Abuse of process (48-50)

IA 24.3 Claimant(s): Pope & Talbot, Inc.
Respondent(s): Government of Canada
Type of Decision, Date: Award on Damages, 31 May 2002
Decision: Damages awarded
Arbitrator(s): Lord Dervaird (President), Benjamin J. Greenberg, Murray J. Belman
Jurisdiction founded on: NAFTA
Arbitration mechanism: UNCITRAL Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oia1.html
Transaction: Softwood lumber products
Opinions & Decisions: Award on Costs, 26 November 2002
Ruling (Place of Arbitration), 14 March 2002
Award on Merits, 10 April 2001
Interim Award, 26 June 2000
Language(s): English
Place of Arbitration: Montreal
Subject-matter: Procedure (1-7)
Article 1105 NAFTA (8-69)
FTC Interpretation
Application to award of damages (52-66)
ARBITRAL AWARDS

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Damages (70-90)
  Article 1105 NAFTA (70-73)
  Articles 1116 and 1117 NAFTA (74-80)
  Non-recoverable costs (82-84)
  Management time
  Shut down costs
  Interest (88-90)

IA 41.1 Claimant(s): Victor Pey Casado
President Allende Foundation
Respondent(s): Republic of Chile
Type of Decision, Date: Decision on Jurisdiction, 8 May 2002
  See also IA 41.2, Award, 8 May 2008
Decision: Jurisdiction joined to Merits
Arbtrator(s): Pierre Lalive (President), Mohammed Bedjaoui, Galo Leoro Franco
Jurisdiction founded on: Chile / Spain BIT of 2 October 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oai.html
http://www.worldbank.org/icsid/cases/pending.htm
Transaction: Newspaper
Opinions & Decisions: Decision (Provisional Measures), 25 September 2001
Language(s): French
Place of Arbitration: ICSID
Subject matter: Procedure
  Article 41 ICSID Convention
  Tribunal power to join jurisdiction objections to merits (79-107)
  Nationality of individual (50-63, 108-110)
  Respondent State
  Renunciation of (50-63)
  Identification (108-110)
  Domestic proceedings (64-72)
  Consent (73-74)
  Existence of a foreign investment (111-119)
  Classified by domestic law
  Retroactive effect of BIT (123-124)
  Pre-conditions to arbitrate (125-130)
  Waiting periods
  Assignment of rights
  Preclusive effect of exercise of domestic remedies (131-134)

IA 33.2, Claimant(s): Link-Trading Joint Stock Company
Respondent(s): Republic of Moldova
Type of Decision, Date: Award, 18 April 2002
  See also IA 33.1, Decision on Jurisdiction, 16 February 2001
Decision: Claims dismissed
Arbitrator(s): Jeffrey M. Hertzfeld (President), Ion V. Buruiana, Ivan S. Zykin
Jurisdiction founded on: Moldova / USA BIT of 21 April 1993
Arbitration mechanism: UNCITRAL Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oia1.html
Transaction: Import of consumer products
Opinions & Decisions: Decision on Jurisdiction, 16 February 2001
Language(s): English
Place of Arbitration: Chisinau, Moldova
Subject-matter:
IA 40. Claimant(s): Middle East Cement Shipping and Handling Co. S.A.
Respondent(s): Arab Republic of Egypt
Type of Decision, Date: Award, 12 April 2002
Decision: Claims upheld
Arbitrator(s): Karl-Heinz Böckstiegel (President), Piero Bernardini, Don Wallace, Jr.
Jurisdiction founded on: Egypt / Greece BIT of 16 July 1993
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oia1.html
http://www.worldbank.org/icsid/cases/conclude.htm
Transaction: Business concession
Opinions & Decisions:
Language(s): English
Place of Arbitration: ICSID
Subject-matter:
Procedure
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Unavailability of party
Inability of party
Hearing by telephone (15-17)
Suspension of proceedings (35-38)
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Exchange of verbal notes
Inter-state dispute
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Suspension of deliberations (62)
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Admissibility of later additional claims (64-65)
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Totality of evidence
Preclusive effect of exercise of domestic remedies (70-73)
Admissibility / merits (73)
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Article 42 ICSID Convention (87)
Domestic law whether limits BIT claims (87)
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Sufficiency of evidence (90)
Rules of evidence (92-94)
ICSID Arbitration Rules 33-37 (93)
ICSID Arbitration Rule 34(1) (94)
International responsibility whether presumed
Whether strict judicial rules of evidence
Shifting of burden of proof
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Future earning capacity (127)
Sufficiency of evidence (128-129)
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Incurred losses (152-156)
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Foreign employee compensation (155)
Liquidation expenses (155)
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Misinterpretation of law by Government (157-162)
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Sufficiency of evidence (160-161)
Illegal confiscation of letter of guarantee (163-165)
Mitigation of damages (166-171)
Part of General principles of law (167)
Part of domestic law (167)
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Duty to make further investments (169)
Denial of duty to mitigate damages (170)
Burden of proof for duty and failure to perform (170)
Interest (173-175)
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Interest as element of compensation
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Compound interest as element of “adequate and effective” compensation (175)
Rate based on financial markets during relevant period (175)
Costs (176-177)
Partial success (176)
Equal apportionment (176)
Accounting for advance on costs (177)

IA 39. Claimant(s): Mihaly International Corporation
Respondent(s): Democratic Socialist Republic of Sri Lanka
Type of Decision, Date: Decision on Jurisdiction, 15 March 2002
Decision: Jurisdiction denied
Arbitrator(s): Sompong Sucharitkul (President), Andrew Rogers, David Suratgar
Jurisdiction founded on: Sri Lanka / USA BIT of 20 September 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oia1.html
http://www.worldbank.org/icsid/cases/conclude.htm
Yearbook XXVII (2002) pp. 84-97 (excerpt)
Transaction: Power generation facility
Opinions & Decisions: Separate concurring opinion by Arbitrator Suratgar
Language(s): English
Place of Arbitration: ICSID
Subject-matter: Nationality of claimant (11-27)
Effect of partnership
Effect of assignment
Arising directly out of an investment (28-61)
Preliminary expenditures (34-61)
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IA 20.3. Claimant(s): Wena Hotels Limited
Respondent(s): Arab Republic of Egypt
Type of Decision, Date: Decision on Annulment, 28 January 2002
Decision: Annulment rejected
Arbitrator(s): Konstantinos D. Kerameus (President) Andreas Bucher, Francisco Orrego Vicuna
Jurisdiction founded on: Egypt / UK BIT of 11 June 1975
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: 
http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
Transaction: Hotel development leases
Opinions & Decisions: Decision on Application for Interpretation of Award, 31 October 2005
Award on Merits, 8 December 2000
Statement by Arbitrator Wallace
Decision on Jurisdiction, 29 June 1999
Language(s): English
Place of Arbitration: ICSID
Subject-matter: Procedure:
- Stay of enforcement of award (5-6)
- Expert witness (9)
- Garnishee order (10-12)
- Article 52 ICSID Convention (17-20)
- Article 52(1)(b) ICSID Convention (21-55)
  - Standard (21-25)
  - Applicable law (26-53)
  - Characterization of dispute (28-36)
  - International law (37-46)
  - Domestic law (47-53)
- Claims on behalf of affiliates not covered by BIT (54)
- Article 52(1)(d) ICSID Convention (56-73)
  - Standard (56-58)
  - Burden of proof (59-61)
  - Assessment of damages (62-65)
  - Assessment of interest (66-70)
  - Appreciation of evidence (71-73)
- Article 52(1)(e) ICSID Convention (75-111)
  - Standard (77-80)
  - Manner of providing reasons (81-82)
  - Remedy for lack of reasons (83)
  - Contract claims (84-86)
  - Damages (87-93)
  - Interest (94-99)
  - Duty to deal with argument (100-110)

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IA 38.1. Claimant(s): CME Czech Republic B.V.
Respondent(s): Czech Republic
Type of Decision, Date: Partial Award, 13 September 2001
   See also IA 38.2. Final Award, 14 March 2003
Decision: Claims upheld
Annulment: Challenged in Swedish courts – challenge rejected
Arbitrator(s): Wolfgang Kuhn (President), Stephen M. Schwebel, Jaroslav Händl
Jurisdiction founded on: Czech Republic / Netherlands BIT of 29 April 1991
Arbitration mechanism: UNCITRAL Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
                             http://www.investmentclaims.com/oa1.html
Transaction: Television services
Opinions & Decisions: Dissenting Opinion by Arbitrator Händl
                           Final Award, 14 March 2003
                           Separate opinion by Arbitrator Brownlie
Language(s): English
Place of Arbitration: Stockholm
Subject-matter: Procedure (30-72)
                Jurisdiction (375-418)
                Investment (375-381)
                Waiver of defence
                Direct and indirect investment (382-400)
                Assignment of shares
                Treaty claims / contract claims (401-411)
                Preclusive effect of exercise of domestic remedies
                Abuse of process (412)
                Effect of domestic court decision (413-415)
                Non-compensable loss (416-417)
                Domestic remedies
                "Foreign" investment (418)
                Admissibility (419-426)
                Domestic remedies (419)
                Temporal limitation (420-426)
                Transfer of shares
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   State coercion to renegotiate (575, 599)
   Joint tortfeasors (580-585)
   Expropriation (591-609)
   Regulatory measures
   Fair and equitable treatment (611)
   Unreasonable or discriminatory measures (612)
   Full protection and security (613)
   Obligation to treat investments in conformity with international law (614)
1A 37. Claimant(s): Ronald S. Lauder
Respondent(s): Czech Republic
Type of Decision, Date: Award, 3 September 2001
Decision: Jurisdiction upheld, Claims upheld
Arbitrator(s): Robert Briner (President), Lloyd N. Cutler, Bohuslav Klein
Jurisdiction founded on: Czech Republic / USA BIT of 22 October 1991
Arbitration mechanism: UNCITRAL Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oal1.html
Transaction: Television services
Opinions & Decisions:
Language(s): English
Place of Arbitration: London
Subject-matter:
Procedure (11-42)
Jurisdiction / admissibility (153-203)
Preclusive effect of exercise of other remedies (156-166)
Identity of remedies (157-175)
Level of damages
Abuse of process
Parallel proceedings
Prima facie case (176-180)
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Estopped
Protection of property
Arbitrary and discriminatory measures (214-288)
Fair and equitable treatment (289-304)
Full protection and security (305-314)
Costs (315-319)

1A 36. Claimant(s): Salini Costruttori S.p.A.
Respondent(s): Italstrade S.p.A.
Type of Decision, Date: Decision on Jurisdiction, 23 July 2001
Decision: Jurisdiction upheld
Arbitrator(s): Robert Briner (President), Bernardo Cremades, Ibrahim Fadlallah

Jurisdiction founded on: Italy / Morocco BIT of 18 July 1990

Arbitration mechanism: ICSID Convention and Arbitration Rules

Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html

Transaction: Highway construction, maintenance and operation

Opinions & Decisions:
Language(s): French
Place of Arbitration: ICSID
Subject-matter:
- Pre-conditions to arbitrate
  - Waiting periods (15-23)
- Consent (25-27)
- Attribution (28-35)
- Investment (37-58)
- Treaty claims / contract claims (41-42, 59-64)

IA 25.2. Claimant(s): Eudoro Armando Olguín
Respondent(s): Republic of Paraguay
Type of Decision, Date: Award, 26 July 2001

Decision:
- Claims dismissed

Arbitrator(s): Rodrigo Oreamuno (President), Francisco Rezek, Edmardo Mayora Alvarado
Jurisdiction founded on: Paraguay / Peru BIT of 1 February 1994
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.worldbank.org/icsid/cases/conclude.htm

Transaction: Corn products plant

Opinions & Decisions: Decision on Jurisdiction, 8 August 2000
Language(s): Spanish
Place of Arbitration: ICSID
Subject-matter:
- Procedure (4-44)
- Nationality of individual (60-62)
  - Dual nationality
- Attribution (65)
- Discriminatory conduct (65)
- Acts equivalent to expropriation (65, 83-84)
- Causation
  - Obligation to compensate for loss established (70-82)
- Costs (85)

IA 35.1. Claimant(s): Consortium RFCC
Respondent(s): Kingdom of Morocco
Type of Decision, Date: Decision on Jurisdiction, 16 July 2001

See also IA 35.2. Award, 22 December 2003
Decision: Jurisdiction upheld
Arbitrator(s): Robert Briner (President), Bernardo Cremades, Ibrahim Fadlallah
Jurisdiction founded on: Italy / Morocco BIT of 18 July 1990
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.worldbank.org/icsid/cases/awards.htm#award1
Transaction: Highway construction, road works
Opinions & Decisions: Arbitral Award, 22 December 2003
Language(s): French
Place of Arbitration: ICSID
Subject-matter:
- Procedure (7-9)
  - Pre-conditions to arbitrate
  - Waiting periods (12-27)
- Consent (29-31)
- Attribution (32-40)
- Investment (42-66)
- Treaty claims / contract claims (67-70)

IA 34. Claimant(s): Alex Genin
Eastern Credit Limited, Inc.
A.S. Baltoil
Respondent(s): Republic of Estonia
Type of Decision, Date: Award, 25 June 2001
Decision: Jurisdiction upheld, Claims dismissed
Arbitrator(s): L. Yves Fortier (President), Meir Heth, Albert Jan van den Berg
Jurisdiction founded on: Estonia / USA BIT of 19 April 1994
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.worldbank.org/icsid/cases/awards.htm#award1
Yearbook XXVII (2002) pp. 61-83 (excerpt)
Transaction: Financial services
Opinions & Decisions: Decision on Request for Supplementary Decisions and Rectification, 4 April 2002
Language(s): English
Place of Arbitration: ICSID
Subject-matter:
- Procedure (1-29)
  - Jurisdiction (319-335)
- Investment (319-320)
  - Ownership interest in bank branch
  - Preclusive effect of exercise of domestic remedies (321-335)
- Revocation of license (348-365)
  - Due process
  - Denial of justice
  - Arbitrary and discriminatory measures
Fair and equitable treatment / arbitrary or discriminatory treatment (366-373)
Harassment claim (374-375)
Costs (379-384)

IA 24.2. Claimant(s):
Pope & Talbot Inc.

Respondent(s):
Government of Canada

Type of Decision, Date:
Merits Award (Phase 2), 10 April 2001
See also IA 24.4. Award on Costs, 26 November 2002; IA 24.3. Award on Damages, 31 May 2002; IA 24.1. Interim Award, 26 June 2000

Decision:
Claims upheld

Arbitrator(s):
Lord Dervaird (President), Benjamin J. Greenberg, Murray J. Belman

Jurisdiction founded on:
NAFTA of 1 January 1994
Arbitration mechanism: UNCITRAL Arbitration Rules

Link to Award / Decision:
http://ita.law.uvic.ca
http://www.investmentclaims.com/oaa1.html

Transaction:
Softwood lumber products

Opinions & Decisions:
Award on Costs, 26 November 2002
Award on Damages, 31 May 2002
Ruling (Place of Arbitration), 14 March 2002
Interim Award, 26 June 2000

Language(s):
English

Place of Arbitration:
Montreal

Subject matter:
Procedure (1-17)
Article 1102 NAFTA (30-104)
"Investments of investors"
Plural language (33-38)
"Most favourable" (39-42)
"No less favourable"
"Best"
Measures that disproportionately disadvantage foreign owned investments or investors (43-72)
"In like circumstances" (73-104)
Determination
Article 1105 NAFTA (105-185)
"Fairness" (105-118)
Additive to international law

IA 33.1. Claimant(s):
Link-Trading Joint Stock Company

Respondent(s):
Republic of Moldova

Type of Decision, Date:
Decision on Jurisdiction, 16 February 2001
See also IA 33.2. Award, 18 April 2002

Decision:
Jurisdiction upheld

Arbitrator(s):
Jeffrey M. Hertzfeld (President), Ion Buruiana, Ivan Zykin

Jurisdiction founded on:
Moldova / USA BIT of 21 April 1993
Arbitration mechanism: UNCITRAL Arbitration Rules
ARBITRAL AWARDS

Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
Transaction: Import of consumer products
Opinions & Decisions: Award, 18 April 2002
Language(s): English
Place of Arbitration: Chisinau, Moldova
Subject-matter: Procedure
- Defective Notice of Arbitration (6-7)
- BIT as arbitration agreement (3)
- Attribution (4)
- Denial of benefits (4)
- Domestic remedies (5)
- Pre-conditions to arbitrate
  - Waiting periods
  - Negotiation (5-6)
- Indirect expropriation (7-8)
  - Colourable claims

IA 22.3. Claimant(s): Emilio Agustin Maffezini
Respondent(s): Kingdom of Spain
Type of Decision, Date: Rectification of Award, 31 January 2001
  - See also IA 22.2. Award, 13 November 2000; IA 22.1.
  - Decision on Jurisdiction, 25 January 2000
Decision: Request for rectification granted
Arbitrator(s): Francisco Orrego Vicuña (President), Thomas Buergenthal, Maurice Wolf
Jurisdiction founded on: Argentina / Spain BIT of 3 October 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.worldbank.org/icsid/cases/conclude.htm
Transaction: Chemical products
Opinions & Decisions: Award of the Tribunal (13 November 2000)
  - Decision on Jurisdiction (25 January 1999)
  - Decision on Request for Provisional Measures (28 October 1999)
Language(s): English, Spanish
Place of Arbitration: ICSID
Subject-matter: Request for rectification (1-7)
  - “Employee” to be substituted by “official” (8-12)
  - Article 49(2) ICSID Convention (13-14)

IA 32.1. Claimant(s): The Loewen Group, Inc.
Respondent(s): Raymond L. Loewen
United States of America
Type of Decision, Date: Decision on Jurisdiction, 5 January 2001
  - Decision on Respondent’s Request for a Supplementary Decision, 6 September 2004; IA 32.2.
  - Award, 26 June 2003
Decision: Jurisdiction partially upheld
Arbitrator(s): Anthony Mason (President), Abner J. Mikva, L. Yves Fortier
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: ICSID Additional Facility Rules
Link to Award / Decision: http://www.investmentclaims.com/oa1.html
http://www.state.gov/s/1/c3755.htm
Transaction: Funeral home and funeral insurance
Opinions & Decisions: Decision on Respondent’s Request for a Supplementary Decision, 6 September 2004
Award on Merits, 26 June 2003
Language(s): English
Place of Arbitration: Washington, D.C.
Subject-matter: Procedure (14-29)
Confidentiality (24-26)
Conditional (28)
Discovery of documents (29)
Article 1101(1) NAFTA (39-60)
“Measures” Attribution
Judicial acts
“Measures adopted or maintained by a party” (61-74)
Mississippi court judgements (61-74)
Private settlement agreement (75)

IA 20.2. Claimant(s): Wena Hotels Ltd.
Respondent(s): Arab Republic of Egypt
Type of Decision, Date: Award, 8 December 2000
See also IA 20.4. Decision on Application for Interpretation of Award, 31 October 2005; IA 20.3. Decision on Annulment, 28 January 2002; IA 20.1. Decision on Jurisdiction, 29 June 1999
Decision: Claims upheld
Annulment: Annulment rejected
Arbitrator(s): Monroe Leigh (President), Ibrahim Fadlallah, Don Wallace, Jr.
Jurisdiction founded on: Egypt / UK BIT of 11 June 1975
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
Transaction: Hotel development and management leases
Opinions & Decisions: Statement by Arbitrator Wallace
Decision on Application for Interpretation of Award, 31 October 2005
Decision on Annulment, 28 January 2002
Decision on Jurisdiction, 29 June 1999
Language(s): English
Place of Arbitration: ICSID
Subject-matter: Procedure (1-14)
Abandonment of objections (5-6)
Resignation of arbitrator (8)
Production of third-party documents (13)
Harassment claim (63-64)
Attribution (65-69)
Improper influence in procurement of Contract (70-74, 111-117)
Sufficiency of evidence
Applicable law (78-79)
State responsibility (80-82)
Knowledge
Omissions
Fair and equitable treatment / Full protection and security (84-95)
Positive obligation
Expropriation (96-101)
Prompt, adequate and effective compensation
Limitation period (102-110)
Compensation (118-130)
DCF method (122-124)
Actual investments (125-126)
Interest (128-130)
Compound interest (129)
Costs (130)
Reparation

IA 31.1. Claimant(s): Marvin Roy Feldman Karpa
Respondent(s): United Mexican States
Type of Decision, Date: Interim Decision on Preliminary Jurisdiction Issues, 6 December 2000
See also IA 31.3. Decision on Correction and Interpretation of Award, 13 June 2003; IA 31.2. Award, 16 December 2002
Decision: Jurisdiction partially upheld
Arbitrator(s): Konstantinos D. Kerameus (President), Jorge Covarrubias
Bravo, David A. Gantz
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: ICSID Additional Facility
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.naftaclaims.com/disputes_mexico_karpa.htm
Transaction: Cigarettes
Opinions & Decisions: Decision on Correction and Interpretation of Award, 13 June 2003
Award, 16 December 2002
Dissenting Opinion by Arbitrator Bravo
Annexes to Award, 16 December 2002
Procedural Order No. 5, 6 December 2000
Procedural Order No. 4, 3 August 2000
Procedural Order No. 3, 17 July 2000
Order, 19 June 2000
Procedural Order No. 2, 3 May 2000
Procedural Order No. 1, 3 April 2000

Language(s): English, Spanish
Place of Arbitration: Ottawa
Subject-matter: Procedure
  - Preliminary questions (11)
  - No hearing (22)
  - Additional Claims (50-59)
  - Article 1102 NAFTA
  - Standing (23-38)
  - Permanent residence
  - Limitation period (39-49)
  - Joinder
  - Jurisdiction
    - Temporal (60-63)
    - Entry into force of NAFTA

**IA 19.2. Claimant(s):** Ceskoslovenska Obchodni Banka, A.S.
**Respondent(s):** The Slovak Republic
**Type of Decision, Date:** Decision on Respondent’s Further and Partial Objection to Jurisdiction, 1 December 2000
  - See also IA 19.3. Award, 29 December 2004; IA 19.1 Decision on Jurisdiction, 24 May 1999
**Decision:** Jurisdiction partially upheld
**Arbitrator(s):** Thomas Buergenthal (President), Piero Bernardini, Andreas Bucher
**Jurisdiction founded on:** Agreement of 17 December 1993
**Arbitration mechanism:** ICSID Convention and Arbitration Rules
**Link to Award / Decision:**
  - http://ita.law.uvic.ca
  - Yearbook XXVI (2001) pp. 87-98 (excerpt)
**Transaction:** Financial services
**Opinions & Decisions:**
  - Decision on Jurisdiction (No. 2), 1 December 2000
  - Procedural Order No. 5, 1 March 2000
  - Decision on Jurisdiction (No. 1), 24 May 1999
  - Procedural Order No. 4, 11 January 1999
  - Procedural Order No. 3, 5 November 1998
  - Procedural Order No. 2, 9 September 1998

Language(s): English
**Place of Arbitration:** ICSID
**Subject-matter:**
  - Pleadings (7)
  - Volume
  - Jurisdiction
    - Parameters (22)
    - Characterization (23-24)
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Article 25 ICSID Convention (25)
Arbitration agreement (26-30)
   Incorporation of arbitration agreement by reference (26-27)
   Specificity of consent (28)
   Extension (29)
   Absence (30)
Res judicata (31)
Identity of parties
Guidance for merits (33)
Dispute (34)
   Relation to Arbitration Agreement
ICSID arbitration (35)
   Exclusive remedy

IA 30. Claimant(s): Philippe Gruslin
Respondent(s): State of Malaysia
Type of Decision, Date: Award, 27 November 2000
Decision: Jurisdiction denied
Annulment: Annulment discontinued
Arbitrator(s): Gavan Griffith
Jurisdiction founded on: Belgo-Luxembourg / Malaysia BIT of 22 November 1979
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oal.html
Transaction: Financial Securities
Opinions & Decisions:
Language(s): English
Place of Arbitration: ICSID
Subject-matter:
   Procedure (6.5)
      Form of jurisdiction objections
   Investment (13.1-13.2)
      Territory (13.5, 13.9)
      Definition (13.6)
   Dispute Settlement clause (13.10)
      “Approved Project” (16.2, 18.3-18.4)
         Conditional consent (18.4, 24.1-24.2)
      ICSID Arbitration Rule 27 (19.1-19.7)
      Estoppel (20.1-20.5)
   Treaty interpretation (21.1-21.6)
      Extrinsic materials
      Indentation of Treaty text (22.1)
   Asset (22.2)
   Diplomatic exchanges (23.1-23.16)
      Burden of proof (23.13)
   Securities listings (25.1-25.7)
   Approval process
   Costs (27.1-27.12)
      Loser pays principle (27.4-27.5)
Compania de Aguas del Aconquija, S.A.  
Compagnie Générale des Eaux

IA 29.1. Claimant(s): Compania de Aguas del Aconquija, S.A. 
Compagnie Générale des Eaux

Respondent(s): Argentine Republic

Type of Decision, Date: Award, 21 November 2000

Decision: Claims dismissed
Annulment: Partially annulled
Arbitrator(s): Francisco Rezek (President), Thomas Buergenthal, Peter D. Trooboff

Jurisdiction founded on: Argentina / France BIT of 3 July 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules

Transaction: Water and sewage concession

Opinions & Decisions: Decision on Jurisdiction, 14 November 2005  
Decision on Annulment, 3 July 2002 
Decision on Challenge to President, 3 October 2001

Language(s): English, Spanish

Place of Arbitration: ICSID

Subject-matter: Procedure (1-23) 
ICSID Registration of request for arbitration 
Request for more information (4) 
Pre-conditions to arbitrate 
Dispute (12-13)  
Suspension of time-limits (6) 
Joinder (17) 
Statement of facts (20) 
Post-hearing memorials (22) 
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Jurisdiction (40-55) 
State responsibility (43) 
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Article 25(1), (3) ICSID Convention (51-52) 
Preclusive effect of contractual dispute resolution clause (53) 
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Treaty claims / contract claims (62-64, 77-82) 
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State as merchant / State as sovereign (79)
Investor conduct (79-81)
Availability of domestic remedies (80-81)
Preclusive effect of contractual dispute resolution clause (81)
Fall in Contract recovery rate (65-66)
Reduction of tariff rate (67)
Abuse of regulatory authority (68-69)
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Government’s failure to correct situation (83-92)
Sufficiency of evidence (92)
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Applicable law (93)
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Novelty of issues / complexity (95)
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Discretion (96)
Equal apportionment

IA 22.2. Claimant(s): Emilio Agustin Maffezini
Respondent(s): Kingdom of Spain
Type of Decision, Date: Award, 13 November 2000
See also IA 22.3. Rectification of Award, 31 January 2001;
IA 22.1. Decision on Jurisdiction, 25 January 2000
Decision: Claims upheld
Arbitrator(s): Francisco Orrego Vicuña (President), Thomas Buergenthal,
Maurice Wolf
Jurisdiction founded on: Argentina / Spain BIT of 3 October 1991
Chile / Spain BIT of 2 October 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
Transaction: Production and Distribution of Chemical Products
Opinions & Decisions:
Language(s): Spanish
Place of Arbitration: Washington, D.C.
Subject-matter: Procedure
Security for costs (12, 20)
Jurisdiction (21)
Hearing (28)
Absence of arbitrator (33-34)
Reopening proceedings (137)
Attribution (46-57)
Public functions (58-64)
Reliance (63)
Respondent(s): Government of Canada
Type of Decision, Date: Partial Award, 13 November 2000
See also IA 28.3. Award, 30 December 2002; IA 28.2. Second Partial Award, 21 October 2002
Decision: Claims upheld
Annulment: Awards challenged in Canadian courts – challenge rejected
Arbitrator(s): J. Martin Hunter (President), Bryan P. Schwartz, Edward C. Chiasson
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: UNCITRAL Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.naftaclaims.com/disputes_canada_sdmyers.htm
Transaction: PCB Waste Treatment
Opinions & Decisions: Dissenting Opinion by Arbitrator Schwartz
Language(s): English
Place of Arbitration: Toronto
Subject-matter: Procedure
Confidentiality (20, 49)
Challenge of arbitrator (25, 28-29)
Production of documents (38-39, 50, 53-54)
Crown privilege
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USA / Canada Transboundary Agreement (103-104, 190)
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Article 1102 NAFTA (238-257)
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Article 1105 NAFTA (258-269)
Minimum standard of treatment
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Breach of international law (264, 267)
Article 1106 NAFTA (270-278)
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"Requirements" (275, 277)
Article 1110 NAFTA (279-288)
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Burden of proof (316-317)
Sufficiency of evidence (316-317)
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Cumulative Treaty rights (318-319)
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IA 27. Claimant(s): SwemBalt AB
Respondent(s): Republic of Latvia
Type of Decision, Date: Award, 23 October 2000
Decision: Claims upheld
Annulment: Challenged in Danish courts – challenge rejected
Arbitrator(s): Alan Philip (President), Kaj Hober, Gustaf Möller
Jurisdiction founded on: Latvia / Sweden BIT of 10 March 1992
Arbitration mechanism: Arbitration Institute of the Stockholm Chamber of Commerce
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oA1.html
Transaction: Establishment of Floating Commercial and Trade Centre
Opinions & Decisions:
Language(s): English, Latvian
Place of Arbitration: Copenhagen
Subject-matter:
Procedure
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Diplomatic exchanges (3)
Absent Respondent (5-6)
Pleadings (6)
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Compliance with domestic law (32)
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Loss of ship (39-40)
Replacement value (39-40)
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Law of place of injury
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Law of place of arbitration (47)
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Time for payment (Decision 4)

**IA 26. Claimant(s):** Metalclad Corporation  
**Respondent(s):** United Mexican States  
**Type of Decision, Date:** Award, 30 August 2000  
**Decision:** Claims upheld  
**Annulment:** Award challenged in Canadian courts – partially set aside  
**Arbitrator(s):** Elihu Lauterpacht (President), Benjamin R. Civiletti, José Luis Siqueiros  
**Jurisdiction founded on:** NAFTA of 1 January 1994  
**Arbitration mechanism:** ICSID Additional Facility  
**Link to Award / Decision:** http://ita.law.uvic.ca  
http://www.investmentclaims.com/oai.html  
http://www.naftaclaims.com/disputes_mexico_metalclad.htm  
**Transaction:** Hazardous Waste Landfill  
**Opinions & Decisions:**  
**Language(s):** English, Spanish  
**Place of Arbitration:** Vancouver  
**Subject-matter:** Procedure  
Production of documents (12)  
Confidentiality (13)  
Late submissions (16)  
Amendment of pleadings (67-69)  
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Anticipated breach (66)  
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Governmental position on Treaty (24, 27)  
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Absence of rule / practice / procedure (88)  
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IA 25.1. Claimant(s): Eudoro Armando Olguín
Respondent(s): Republic of Paraguay
Date / Type of Decision: Decision on Jurisdiction, 8 August 2000
See also IA 25.2. Award, 26 July 2001
Decision: Jurisdiction upheld
Arbitrators: Rodrigo Oreamuno (President), Francisco Rezek, Eduardo Mayora Alvarado
Jurisdiction founded on: Paraguay / Peru BIT of 1 February 1994
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://www.worldbank.org/icsid/cases/conclude.htm
http://ita.law.uvic.ca
Transaction: Food products enterprise
Related Documents: Final award, 26 July 2001
Language: Spanish
Place of Arbitration: ICSID
Subject-matter: Jurisdiction (140-142)
  BIT (140)
  Article 25 ICSID Convention (140)
  Article 8 BIT (141)
  Article 1 BIT (141)
  ICSID Arbitration Rule Article 41(4) (142)

IA 24.1. Claimant(s): Pope & Talbot, Inc.
Respondent(s): Government of Canada
Type of Decision, Date: Interim Award, 26 June 2000
  See also IA 24.4. Award on Costs, 26 November 2002; IA 24.3. Award on Damages, 31 May 2002; IA 24.2. Merits Award (Phase 2), 10 April 2001
Decision: Claims partially dismissed
Arbitrator(s): Lord Dervaird (President), Benjamin J. Greenberg, Murray J. Belman
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: UNCITRAL Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
  http://www.investmentclaims.com/oa1.html
  http://www.naftaclaims.com/disputes_canada_pope.htm
Transaction: Softwood Lumber
Opinions & Decisions:
  Award on Costs, 26 November 2002
  Award on Damages, 31 May 2002
  Ruling (Place of Arbitration), 14 March 2002
  Award on Merits, 10 April 2001
Language(s): English
Place of Arbitration: Montreal
Subject-matter: USA / Canada Softwood Lumber Agreement (6, 30-31)
  Domestic implementation (7, 32-40)
  Export control regime
  Limitation period (9)
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    National Treatment (43-44)
    Article 1105 NAFTA (43-44)
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  Article 1106 NAFTA (45-80)
    Interpretation (65-69)
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      Textual interpretation (69)
    Article 1106(5) NAFTA (70)
    Article 1106(1) / Article 1106(3) NAFTA (71-78)
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Sufficiency of evidence (112)
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IA 23.1. Claimant(s): Waste Management, Inc.
Respondent(s): United Mexican States
Date / Type of Decision: Award, 2 June 2000
Decision: Jurisdiction denied
Arbitrators: Bernardo M. Cremades (President), Keith Highet, Eduardo Siqueiros
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: ICSID Additional Facility
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.naftaclaims.com/disputes_mexico_waste.htm
Transaction: Waste Management Services
Related Documents: Dissenting opinion by Arbitrator Hight
Language(s): English, Spanish
Place of Arbitration: Not indicated
Subject-matter: Article 1121 NAFTA (4-7)
Waiver
Article 1119 NAFTA

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Curing of defect
Form (7)
Subsequent conduct (7)
Applicable law (8-9)
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Chapter 11 NAFTA (10-13)
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Pre-conditions to arbitrate
Article 1121(2)(b) NAFTA (14-31)
Consent (16-17)
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IA 22.1. Claimant(s): Emilio Agustin Maffezini
Respondent(s): Kingdom of Spain
Type of Decision, Date: Decision on Jurisdiction, 25 January 2000
See also IA 22.3. Rectification of Award, 31 January 2001;
IA 22.2. Award, 13 November 2000,
Decision: Jurisdiction upheld
Arbitrator(s): Francisco Orrego Vicuña (President), Thomas Buergenthal,
Maurice Wolf
Jurisdiction founded on: Argentina / Spain BIT of 3 October 1991
Chile / Spain BIT of 2 October 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
Transaction: Production and Distribution of Chemical Products
Opinions & Decisions: Spanish
Language(s):
Place of Arbitration: Washington, D.C.
Subject-matter: Domestic remedies (19-37)
IA 21. Claimant(s): Robert Azinian
Kenneth Davitian
Ellen Baca
Respondent(s): United Mexican States
Type of Decision, Date: Award, 1 November 1999
Decision: Claims dismissed
Arbitrator(s): Jan Paulsson (President), Benjamin R. Civiletti, Claus von Wobeser
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: ICSID (Additional Facility) Rules
Link to Award / Decision: http://ita.law.uvic.ca
Transaction: Waste management
Language(s): English, Spanish
Place of Arbitration: Toronto
Subject-matter: Procedure (36-74)
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Article 1110 and Article 1105 NAFTA (85-124)
Confiscatory breach of contract
Attribution (98-100)
Judiciary
Costs (125-127)

IA 20.1. Claimant(s): Wena Hotels Ltd
Respondent(s): Arab Republic of Egypt
Type of Decision, Date: Decision on Jurisdiction, 29 June 1999
See also IA 20.4. Decision on Application for Interpretation of Award, 31 October 2005; IA 20.3. Decision on Annulment, 28 January 2002; IA 20.2. Award, 8 December 2000
Decision: Jurisdiction upheld
Arbitrator(s): Monroe Leigh (President), Ibrahim Fadlallah, Hamzeh Ahmad Haddad
Jurisdiction founded on: Egypt / UK BIT of 11 June 1975
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
Transaction: Hotel lease and development agreements
Opinions & Decisions: Decision on Application for Interpretation of Award, 31 October 2005
Decision on Annulment, 28 January 2002
Award on Merits, 8 December 2000
Statement by Arbitrator Wallace
**ARBITRAL AWARDS**

**Language(s):** English  
**Place of Arbitration:** ICSID  
**Subject-matter:** Procedure (Section I)  
  - Agreement to arbitrate (Section IV)  
  - Foreign company  
  - Nationality of shareholders  
  - Article 25 ICSID Convention  
  - Investment (Section V)  
  - Legal dispute (Section VI)  
    - *Prima facie* test  
  - Consent (Section VII)

**IA 19.1. Claimant(s):** Ceskoslovenska Obchodni Banka, A.S.  
**Respondent(s):** The Slovak Republic  
**Type of Decision, Date:** Decision on Jurisdiction, 24 May 1999  
**Decision:** Jurisdiction upheld  
**Arbitrator(s):** Thomas Buergenthal (President), Piero Bernardini, Andreas Bucher  
**Jurisdiction founded on:** Agreement of 17 December 1993  
**Arbitration mechanism:** ICSID Convention and Arbitration Rules  
**Link to Award / Decision:** http://ita.law.uvic.ca  
**Transaction:** Financial services  
**Opinions & Decisions:** Decision on Jurisdiction (No. 2), 1 December 2000  
  - Procedural Order No. 5, 1 March 2000  
  - Decision on Jurisdiction (No. 1), 24 May 1999  
  - Procedural Order No. 4, 11 January 1999  
  - Procedural Order No. 3, 5 November 1998  
  - Procedural Order No. 2, 9 September 1998

**Language(s):** English  
**Place of Arbitration:** ICSID  
**Subject-matter:** Procedure (1-14)  
  - National of a contracting state  
  - Independent State Agency (15-32)  
    - Party bearing economic risk of claims (28-32)  
  - Consent (33-59)  
    - Entry into force of BIT (37-43)  
    - Notice published in Official Gazette (44-48)  
    - Consolidation Agreement  
    - Arbitration agreement  
    - Incorporation by reference (49-59)  
  - Legal dispute arising directly out of an investment (60-91)  
    - Political nature of dispute (61)  
    - “Investment” (63-70)  
    - Broad interpretation
Consent of parties
Individual transaction of overall operation (72-90)
"Directly" (71-74)
Relates to dispute, not investment

IA 12.2. Claimant(s): Tradex Hellas S.A.
Respondent(s): Republic of Albania
Type of Decision, Date: Award, 29 April 1999
Decision: Claims denied
Arbitrator(s): Karl-Heinz Böckstiegel (President), Fred F. Fielding, Andrea Giardina
Jurisdiction founded on: 1994 Albanian Foreign Investment Law
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oal.html
Transaction: Agricultural joint venture
Language(s): English
Place of Arbitration: ICSID
Subject-matter:
  Procedure (5-49)
  Admissibility of documents submitted after the Hearing (45-46)
  Jurisdiction parameters (67-71)
  Burden of proof (73-74)
  Evaluation of evidence: Rules (76-84)
  "Foreign investment" (86-90, 103-131)
  Broad interpretation
  Source of capital
  Expropriation (91-99, 132-205)
  Illegality
  Wrongfulness
  Compensation (100)
  Appropriate
  Costs (206-207)

IA 18. Claimant(s): Antoine Goetz and Others
Respondent(s): Republic of Burundi
Type of Decision, Date: Award, 10 February 1999
Decision: Claims upheld
Arbitrator(s): Prosper Weil (President), Mohammed Bedjaoui, Jean Denis Bredin
Jurisdiction founded on: Belgo-Luxembourg / Burundi BIT of 13 April 1989
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://investmentclaims.com/oal.html
ARBITRAL AWARDS

Transaction:
Production and marketing of precious metals

Opinions & Decisions:

Language(s) : French

Place of Arbitration: ICSID

Subject-matter: Procedure (19-57)

Absent Respondent

Article 45 ICSID Convention
Whether Tribunal limited to evidence formally submitted by parties

BIT as arbitration agreement (63-76)

Jurisdiction (77-85)

Admissibility of request (86-93)
Standing (86-89)

Shareholders

Pre-conditions to arbitrate (90-93)

Notification of dispute

Waiting periods

Applicable law (94-100)

Article 42 ICSID Convention

Domestic law (100-119)

International law (120-133)

Discriminatory measures (121)

Measures tantamount to expropriation (124-133)

Remedies (134-137)

Alternative

Adequate and effective compensation

New certificate within fixed time period

Settlement

IA 17. Claimant(s):
Lanco International, Inc.

Respondent(s):
Argentine Republic

Date / Type of Decision: Preliminary Decision: Jurisdiction of the Arbitral Tribunal, 8 December 1998

Decision: Jurisdiction upheld

Arbitrators: Bernardo Cremades (President), Guillermo Aguilar Alvarez, Luiz Olavo Baptista

Jurisdiction founded on: Argentina / USA BIT of 14 November 1991

Arbitration mechanism: ICSID Convention and Arbitration Rules

Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html

Transaction: Development and operation of port terminal

Related Documents:

Language(s): English

Place of Arbitration: Washington, D.C.

Subject-matter:
Preclusive effect of Contractual dispute resolution clause (7)

Jurisdiction parameters (9)

Investment (10-16)
161

IA 16. Claimant(s): Franz Sedelmayer
Respondent(s): Russian Federation
Date / Type of Decision: Arbitration Award, 7 July 1998
Decision: Claims upheld
Annulment: Award challenged in Swedish courts – annulment refused
Arbitrators: Staffan Magnusson (President), Jan Peter Wachler, Ivan S. Zykin
Jurisdiction founded on: Germany / Russia BIT of 13 June 1989
Arbitration mechanism: Arbitration Institute of the Stockholm Chamber of Commerce
Link to Award / Decision: http://ita.law.uvic.ca
Transaction: Security services
Related Documents: Dissenting opinion by Arbitrator Zykin
Language(s): English
Place of Arbitration: Stockholm
Subject matter: Jurisdiction (2.1.1-2.6.2)
Investor (2.1.1-2.1.5)
Permanent residence (2.1.5)
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Natural person
Investments through company
“Theory of control”
de facto investor
Investment (2.2.1-2.2.4)
Broad definition
Sufficiency of evidence
Registration certificate
Violations of domestic law
Substantiation of claims (2.3.1-2.3.4)
Expropriation (2.3.1-2.3.4)
Significant interference (2.3.4)
Motivation
Lis pendens (2.4.1-2.5.3)
Identity of subject-matters
Identity of parties (2.5.1-2.5.3)
Proper Respondent
Attribution
Procurement Department
Domestic law
Pre-conditions to arbitrate (2.6.1-2.6.2)
Waiting periods
Procedural requirements
Merits (3.1-3.5)
Share capital (3.1.1-3.1.4)
Compensation
Vehicles (3.2.1-3.2.4)
Moveable equipment
Expropriation
Compensation
Premises (3.3.1-3.3.4)
Right to use
Compensation
Personal belongings (3.4.1-3.5)
Interest (3.6.1-3.6.3)
Date
Rate
“In effect”
Treaty
Currency of payment
Costs (3.7)
Appropriate

IA 15. Claimant(s): Ethyl Corporation
Respondent(s): Government of Canada
Type of Decision, Date: Award on Jurisdiction, 24 June 1998
Decision: Jurisdiction upheld
Arbitrator(s): Karl-Heinz Böckstiegel (President), Charles N. Brower, Marc Lalonde
Jurisdiction founded on: NAFTA of 1 January 1994
Arbitration mechanism: UNCITRAL Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
Transaction: Petrochemicals manufacture and distribution
Opinions & Decisions: English
Place of Arbitration: Toronto
Subject-matter: Parliamentary bill (5, 10, 21)
Procedure (22-39)
Place of arbitration (27-28)
Submissions (33-34)
Language of arbitration
New claims (93-95)
Terminology of pleadings (94)
Amendment of pleadings (95)
Joiner (96(2))
Jurisdiction: Applicable law (50-54)
NAFTA
UNCITRAL Rules
Article 21(4)
Treaty interpretation (55-56)
Strict interpretation
Object and purpose
Jurisdiction parameters (58-60)
Procedural rules distinguished
Pre-conditions to arbitrate
Ouster of jurisdiction / delay in proceedings
Scope of consent (61-73)
Section A, Chapter 11 NAFTA (61)
Investment / Trade in goods (62-64)
Measure (65-69)
Territoriality (70-73)
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Timing (74)
Consultations (77-78)
Notice of intent to arbitrate (79-88)
Waiting periods
Costs (88)
Waiver (89-92)
Costs (88, 96(3))

IA 14.2. Claimant(s): Fedax N.V.
Respondent(s): Republic of Venezuela
Date / Type of Decision: Award, 9 March 1998
ARBITRAL AWARDS

Decision: Jurisdiction upheld
Arbitrators: Francisco Orrego Vicuna (President), Meir Heth, Roberts B. Owen
Jurisdiction founded on: Netherlands / Venezuela BIT of 22 October 1991
Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
Transaction: Promissory notes
Related Documents: Award, 9 March 1998
Language(s): English, Spanish
Place of Arbitration: ICSID
Subject-matter: Procedure
Documents submitted at hearing (13)
Abandonment of objections (44)
Jurisdiction (15-45)
Legal dispute (15)
Rationae personae (17)
Investment (18-43)
Foreign direct investment (19)
Article 25 ICSID Convention (22-29)
Broad interpretation (22)
New types of investment (23)
Textual interpretation (24)
ICSID jurisprudence (25-26)
MIGA Convention (27)
Additional Facility (28)
Promissory notes (29, 37-40)
Evidence of loan (29, 39)
Identity of investor / identity of investment (40)
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Broad interpretation (32)
“Titles to money” (33)
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BIT practice of both States (34, 36, 41)
World Bank Guidelines on Treatment of Foreign Direct Investment (35)
“In the territory” (41)
Underlying transaction (40, 42-43)
Volatile capital (43)

IA 14.1. Claimant(s): Fedax N.V.
Respondent(s): Republic of Venezuela
Date / Type of Decision: Decision on Jurisdiction, 11 July 1997
See also IA 14.2. Award, 9 March 1998
Decision: Claims upheld
Arbitrators: Francisco Orrego Vicuna (President), Meir Heth, Roberts B. Owen
Debe de ser leído:
ARBITRAL AWARDS

“Legal” dispute (5.06)  
“National of another Contracting State” (5.07-5.16)  
Sufficiency of evidence (5.09)  
Domestic company (5.15, 5.24-5.25)  
Shareholder claims  
Consent (5.17-5.27)  
BIT as arbitration agreement  
Pre-conditions to arbitrate (5.26-5.28)  
Standard of proof (5.29-5.32)  
Preservation of rights clause (5.29-5.32)  
Tribunal acting proprio motu (5.40-5.45)  
Consultations  
Merits (6.01-6.24)  
State responsibility (6.02-6.19)  
Full protection and security (6.04-6.19)  
Burden of proof (6.05)  
Content (6.06-6.07)  
Omission (6.08)  
Res ipsa loquitur (6.09)  
Preferential treatment (6.10)  
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Pecuniary Compensation (7.01-7.21)  
Methods (7.03)  
Minimum standard of treatment  
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Discretion (7.15)  
Calculation (7.16-7.21)  
Tribunal-appointed Expert  
Discretion  
Interest  
Costs

IA 12.1. Claimant(s): Tradex Hellas S.A.
Respondent(s): Republic of Albania
Type of Decision, Date: Decision on Jurisdiction, 24 December 1996
See also IA 12.2. Award, 29 April 1999
Decision: Jurisdiction upheld
Arbitrator(s): Karl-Heinz Böckstiegel (President), Fred Fielding, Andrea Giardina
Jurisdiction founded on: 1994 Albanian Foreign Investment Law
Albania / Greece BIT of 1 August 1991

Arbitration mechanism: ICSID Convention and Arbitration Rules
Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
http://www.worldbank.org/icsid/cases/conclude.htm

Transaction: Agricultural joint venture
Opinions & Decisions: Final award, 29 April 1999
Language(s): English
Place of Arbitration: ICSID
Subject-matter: UNCITRAL Rules (171)
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Request for Arbitration before Treaty’s entry into force (179)
Time for establishing jurisdiction (179-180)
Time of filing the claim (179)
Future tense of language (179-180)
“shall apply to all investments” (179-180)
Parties (180-182)
“Dispute arising out of an investment” (180)
State owned contractor (180)
Direct acts of State (180-181)
Acts of private co-contractor (180-181)
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When dispute arose (187-192)
“Arise” (187-188)
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“Shall” (191)
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Substantive / procedural retroactivity (192-193)
Presumption that arbitration only for future disputes (194)
Interpretation in favour of investor protection (194)
Role of State action (194-195)

IA 11. Claimant(s): Asian Agricultural Products Ltd
Respondent(s): Republic of Sri Lanka
Type of Decision, Date: Award, 27 June 1990
Decision: Claims upheld
Arbitrator(s): Ahmed Sadek El-Kosheri (President), Berthold Goldman,
Samuel K.B. Asante
Jurisdiction founded on: Sri Lanka / UK BIT of 13 February 1980
Arbitration mechanism: ICSID Convention and Arbitration Rules
ARBITRAL AWARDS

Link to Award / Decision: http://ita.law.uvic.ca
http://www.investmentclaims.com/oa1.html
Yearbook XVII (1992) p. 106 (excerpt)

Transaction: Shrimp farms

Opinions & Decisions: Dissenting Opinion by Arbitrator Asante

Language(s): English

Place of Arbitration: ICSID

Subject-matter:
- Procedure (1-16)
- Applicable law (17-24)
- Treaty interpretation (38-42)
  - Where meaning is clear (40)
  - Common use of language (40)
  - Ambiguous text (40)
  - Integral context (40)
  - Effectiveness, effet utile (40)
  - Precedent (40)
- Full protection and security (45-53)
  - Strict liability
- MFN clause (54)
- Failure of state to act with due diligence (56-71)
  - Burden of proof
  - Appropriate remedy
- Failure to provide adequate protection (72-86)
- Damages (87-108)
  - Full value
  - Interest (112-115)
- Costs (116)

IA 1. – IA 10. Reserved