

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

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This Digest annotates publicly available final decisions¹ rendered on or before 30 July 2008 in investor-State arbitrations conducted pursuant to investment treaties.² It excludes unpublished decisions rendered in such cases, and excludes arbitrations arising from contracts.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

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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.

ARBITRAL AWARDS

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 Treaty Arbitration: <http://ita.law.uvic.ca>
- Investment Claims: <http://www.investmentclaims.com>
- ICSID: <http://www.worldbank.org/icsid/cases/cases.htm>
- NAFTA Claims: <http://www.naftaclaims.com>
- Canada Department of Foreign Affairs:
<http://http://international.gc.ca/trade-agreements-accords-commerciaux/disp-diff/nafta.aspx?lang=en>
- 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
Subject-matter:	Procedure (15-74) Treaty interpretation (16-18) Language Appointment of arbitrator (20-23) Production of documents (32-53)

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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

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

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:	Construction contracts
Opinions & Decisions:	Dissenting Opinion by Arbitrator de Witt Wijnen
Language(s):	French
Place of Arbitration:	ICSID
Subject-matter:	Procedure (1-21) Additional information required by ICSID (3-4) Challenge of Arbitrator (8) Resignation of Arbitrator (11) Jurisdiction (22-123) Existence of a contract (24-56) Request for production of documents by Tribunal (28) Conditions of existence (31-35) UNIDROIT Principles (32, 35, 121) Proof (32-33, 38-39, 42-55) Witness (32-33, 38-89) Proof of content referred to in other documents (34-38) Burden of proof (42) Force majeure (45-46) Corruption (48-55) Conclusive evidence (52, 54-55) Assignment of a right to payment (57-96) Existence (60-63) <i>Jus standi</i> of claimant(64-73) No investment contract with the State (71) Investment (74-84, 97-103) BIT (74-84) Transferee (75-84) Contribution to economic development of the State (80, 83) Ownership (96, 103) Control of a company (97-103) Indirect (99) Nationality (85-103) Applicable law (94) BIT Prior consultation and negotiation (105-107) <i>Ratione temporis</i> (114-122) Proof (117-119) Costs (124-125) Equal apportionment
IA 117. Claimant(s):	Biwater Gauff (Tanzania) Ltd
Respondent(s):	United Republic of Tanzania
Type of Decision, Date:	Award, 24 July 2008

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Decision:	Claims partially upheld
Arbitrator(s):	Bernard Hanotiau (President), Gary Born, Toby Landau
Jurisdiction founded on:	Tanzania / UK BIT of 7 January 1994
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:	Water and sewer services concession agreement
Opinions & Decisions:	Concurring and Dissenting Opinion by Arbitrator Born Procedural Order No. 6, 25 April 2007 Procedural Order No. 5 on amicus curiae, 2 February 2007 Procedural Order No. 3, 29 September 2006 Procedural Order No. 2, 24 May 2006 Procedural Order No. 1 (Request for provisional measures, documents production), 31 March 2006
Language(s):	English
Place of Arbitration:	ICSID
Subject-matter:	Procedure (1-94) Provisional Measures (31-42) Request for Production of documents (43-44, 52-56) Confidentiality (45-51) Amicus Curiae (57-68, 76-85) Security for Costs application (69-70) Facts (95-228) Bidding (101-122) Critical events (202-228) Jurisdiction (229-353) Arising directly out of an investment (307-322) Investment Positive economic value “Salini test” Authority of shareholder (323-325) Investment law (326-337) Consent Waiting periods (338-353) Amici brief (356-392) Relevance (392) Expropriation (393-521) Standard (451-454) Evidence (455-456) Totality of evidence Cumulative effect of distinct acts / omissions State as merchant / State as sovereign (457-460) Absence of economic damage (461-467) Cause of action (465) Causation / quantum (465) Effect of contractual arbitration award (468-478) ICSID Arbitration Rule 47(1) (473)

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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
See also **IA 98.1.** Decision on Jurisdiction, 17 October 2006
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
Subject-matter: Procedure (9-49)
Applicable law (100)
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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 See also IA 88.1. Decision on Jurisdiction, 27 April 2006
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
Subject-matter:	Procedure (1-59) Evidence (33-56, 153-158) Experts (33-56, 153) Witness (33-56, 153) Admissibility (153-158) Merits (63-233) Arising directly out of an investment (75-78, 218-233) No damages (220-233) Discrimination (79-107, 161-164) Non-discrimination (164) Expropriation (88-100, 165-175) Indirect expropriation (88-100, 174) Sole effect doctrine (90) Moderate judgment theory (90-91) Compensation (93-94) Measures tantamount (148) Theory of impact (96, 172-174) Interference (101-106, 175) Full protection and security (92) Transfer of funds (107-111, 176-179) Fair and equitable treatment (112-123, 180-188) Minimum standard (115, 117-123) Plain meaning (115) Legitimate expectations (182-187) Margin of appreciation (197-204) Compensation (124-133) State of necessity (134-143, 208-213) Mitigation (144-147, 216-217) Costs (234)
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. Veeder (President), Donald M. McRae, James Crawford

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

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: Oil exploration concession

Opinions & Decisions:

Language(s): English

Place of Arbitration: ICSID

Subject-matter: Claims and relief (1-18)
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- IA 41.2. Claimant(s):** Víctor Pey Casado
 President Allende Foundation
- Respondent(s):** Republic of Chile
- Type of Decision, Date: Award, 8 May 2008
 See also **IA 41.1.** Decision on Jurisdiction, 8 May 2002
- 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
 Decision on Provisional Measures, 25 September 2001
- Language(s): French, Spanish
- Place of Arbitration: ICSID
- Subject-matter: Procedure (4-54)
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 Temporal scope of BIT (575-626)
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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://icsid.worldbank.org>
<http://ita.law.uvic.ca>
<http://www.investmentclaims.com>
- Transaction: Oil refinery

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Opinions & Decisions:	
Language(s):	English
Place of Arbitration:	ICSID
Subject-matter:	Procedure (1-31) Facts (32-49) Privatization (32-47) Anti-corruption investigation (48-49) Jurisdiction (50-54, 60-68, 75-110) Applicable law (77-78) Nationality (79-110) Juridical persons (81-83) BIT conclusive (83) “Real and effective nationality” (84-110) Abuse of ICSID mechanism (85) Nationality of capital General international law (86-93) Relationship with treaty regime (91) BIT (94-109) “For the purposes of this Agreement” (97) Plain text (101) “Opposibility” (102-109) Article 31(2), Vienna Convention on Treaties (106) ICSID Convention controlling interpretation (107) Human rights (109) Admissibility (57-59, 69, 111-114) Power to consider objection (112) Particularity (113) Formalism (113) Premature objection (113-114) Abuse of process (115) Party’s motivation Sufficiency of pleading Withdrawal of objection Costs (116) Reserved
IA 114. Claimant(s):	Noble Energy, Inc. Machalpower Cia. Ltda.
Respondent(s):	Republic of Ecuador Consejo Nacional de Electricidad
Type of Decision, Date:	Decision on Jurisdiction, 5 March 2008
Decision:	Jurisdiction upheld
Arbitrator(s):	Gabrielle Kaufmann-Kohler (President), Bernardo M. Cremades, Henri Alvarez
Jurisdiction founded on:	Ecuador / USA BIT of 27 August 1993 Investment Agreement of 15 October 2001 Concession Contract of 15 October 2001
Arbitration mechanism:	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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Language(s):	English, Spanish
Place of Arbitration:	ICSID
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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:
Language(s): English
Place of Arbitration: ICSID
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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/1/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)
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DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

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IA 111. Claimant(s): BG Group Plc
Respondent(s): Argentine Republic
 Type of Decision, Date: Award, 24 December 2007
 Decision: Jurisdiction partially upheld
 Claims 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.
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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
 See also **IA 73.2.** Decision on Annulment, 5 September 2007;
IA 73.1. Award, 7 February 2005

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
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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) <i>Res judicata</i> (81-88) Article 52(1)(b) ICSID Convention (34-45, 54-58, 99-116) Jurisdiction (99) “Manifestly” (100-102) <i>Rationae temporis</i> (103-116) Article 52(1)(d) ICSID Convention (46-50, 59-61, 117-125) Characterization of claims (117-123) Presumption of innocence (124-125) Article 52(1)(e) ICSID Convention (51-52, 62-63, 126-130) Contradictory Unclear Costs (131) Circumstances of the case

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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; IA58.2. 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) Express request (42-43) Implied request (44, 48-51) ILC Articles on State Responsibility (45-47) Compensatory or moratory interest Role of request (52-55) Costs (58) Good faith
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

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

	(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 (5-6) 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) Indirect expropriation (244-249)

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Circumstances of the case and decisions

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) <i>Kompetenz-kompetenz</i> 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) Joinder to merits BIT / ICSID jurisprudence (49) Jurisdiction (50-156) Consent (56-75) BIT as arbitration agreement (72-74) <i>Ratione materiae</i> (76-139) BIT (105-123) Plain meaning interpretation (105-118) Multiple jurisdictional clauses (108-118) Supplementary means of interpretation (119-123) Dynamic interpretation (121) Arbitrator declaration (123) Most-favored-nation clause (50-55, 124-139)

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IA 78.2. Claimant(s): Sempra Energy International
Respondent(s): Argentine Republic
Type of Decision, Date: Award, 28 September 2007
See also **IA 78.1.** Decision on Jurisdiction, 11 May 2005
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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Emergency (325-397)
Necessity
Constitution (328-332)
Customary international law (333-355)
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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>

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
Subject-matter:	Procedure (1-29) Submission of authorities (24-25) Dispute (30-40) Grounds for annulment (41-45) Article 52(1)(b) ICSID Convention (46-52) Article 52(1)(e) ICSID Convention (53-57) Standing (58-76) Jurisdiction (68) Applicable law Article 25 ICSID Convention General international law (69) Investment (71-73) Locally incorporated company (74) Fair and equitable treatment (77-85) Reasoning (85) Umbrella clause (86-100) Impossible to follow reasoning (94-97) Manifest excess of powers (98) Award severable (99-100) State of necessity (101-150) Failure to state reasons (120-127) Manifest excess of powers (128-136) Temporary character / compensation (137-150) Compensation (151-157) Reasoning (154-157) Costs (161-162) Existing practice and all circumstances Discretion
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
Link to Award / Decision:	http://icsid.worldbank.org http://ita.law.uvic.ca http://www.investmentclaims.com
Transaction:	Public parking concession
Opinions & Decisions:	

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Language(s):	English
Place of Arbitration:	ICSID
Subject-matter:	<p>Procedure (10-50)</p> <p> Witnesses in hearing (36)</p> <p>Facts (51-193)</p> <p> Tender (51-53)</p> <p> Competitive bidding (54-72)</p> <p> Termination of agreement (188-193)</p> <p>Issues (233)</p> <p>Jurisdiction (234-266)</p> <p> Arising directly out of an investment (249-255)</p> <p> Treaty claims (256-266)</p> <p>Merits (267-456)</p> <p> Equitable and reasonable treatment (267-346)</p> <p> Fair and reasonable (271-279)</p> <p> Unfair and discriminatory (280-292)</p> <p> Arbitrary (293-320)</p> <p> Force majeure (310-313)</p> <p> Legitimate expectations (321-346)</p> <p> Obligation of protection (347-361)</p> <p> Availability of judicial system (360)</p> <p> Most-favored-nation (362-430)</p> <p> Expropriation (431-456)</p> <p> Indirect expropriation (439)</p> <p> Breach of contract (443-456)</p> <p> Sovereign power (443-447)</p> <p> Domestic courts (448-454)</p> <p> Decrease in value of investment (455-456)</p> <p>Costs (457-464)</p> <p> Discretion (461)</p> <p> Costs follow the event (462)</p> <p> Equity (464)</p>
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 Zalduendo, 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 Zalduendo
Language(s):	Spanish

ARBITRAL AWARDS

Place of Arbitration:	ICSID
Subject-matter:	Procedure (1-17) Jurisdiction (18-304) Relevant facts (18-98) <i>Rationae temporis</i> (105-503) <i>Rationae materiae</i> (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 Vera
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 <i>ad hoc</i> 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)

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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)
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Right of eminent domain (232-236)
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Article 25 definition of investment (305)
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Estoppel (346-347)
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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 Irrarrázabal
- 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)
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- 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)
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- Good faith (98-116)
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 - Exception to non-retroactivity (108)
- Most-favored-nation clause (118-128)
 - Non-applicability (127-128)
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 - Inter-temporality (133-134)
 - ILC Articles on State Responsibility (135)
- Rationae materiae* (137-170)
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 - 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)
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Harassment of management (354-371)
Fair and equitable treatment (369-370)
Act contrary to law (369)
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IA 61.2. Claimant(s): Tokios Tokelès
Respondent(s): Ukraine
Type of Decision, Date: Award, 26 July 2007
See also **IA 61.1.** Decision on Jurisdiction, 29 April 2004
Decision: Jurisdiction upheld
Claims dismissed
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)
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 Sufficiency of evidence (122)
Fair and equitable treatment / full protection and security (123-137)
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 Adequacy of justification (131)
 Electoral commission (132)
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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 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://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 Award 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) “ <i>But for</i> ” (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)

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IA 67.2. Claimant(s):	Hussein Nuaman Soufraki
Respondent(s):	United Arab Emirates
Type of Decision, Date:	Decision on Annulment, 5 June 2007 See also IA 67.3. Rectification of the Decision on Annulment, 13 August 2007; IA 67.1. Award, 7 July 2004
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 http://www.investmentclaims.com
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) <i>Kompetenz-kompetenz</i> 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 See also IA.44.1. Award on Jurisdiction, 22 November 2002
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 http://www.international.gc.ca/trade-agreements-accords-commerciaux/disp-diff/nafta.aspx?lang=en
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

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

	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
	Procedural 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

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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 See also IA 101.1. 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://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):	Waguïh 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
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) <i>Rationae personae</i> (142-201)

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	Abuse of rights (213)
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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
	See also IA 101.2. 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://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)
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	Automatic supersession of BITs (126-129)
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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 See also IA 64.1. Award, 25 May 2004
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) Costs (109-112)
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

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

Arbitrator(s):	Provisional measures partially granted 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:	
Language(s):	English
Place of Arbitration:	ICSID
Subject-matter:	Facts (1-41) Procedure (42-60) Challenge of arbitrator (47) ICSID jurisprudence (66-67) Applicable law (68-70, 78-82) Jurisdiction (83-149) Burden of proof (83) Standard (84-91) Article 25 ICSID Convention (92-115) Legal dispute (93-97) Arising directly out of an investment (98-114) BIT (116-149) Investment (119-128) Expropriation (129-134) Consent (135-138) 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) Article 42 ICSID Convention (77) Human rights law (79) Facts (81-97) 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) Discriminatory (320-321) 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

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

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)(e) 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
See also **IA 54.1.** Decision on Jurisdiction, 21 October 2003
- 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)
Merits (90-164)
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
See also **IA 98.2.** Award, 3 July 2008
- 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>
- Transaction: Hotel lease and development agreements
- Opinions & Decisions: Award, 3 July 2008
- Language(s): English
- Place of Arbitration: ICSID

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

Subject-matter:	Background (1-7) Procedure (8-30) Jurisdiction (31-95) <i>Rationae temporis</i> (33-57) “dispute / divergence” (51-52) <i>Rationae materiae</i> (58-81) Arising directly out of an investment (58-81) Investment Article 25 ICSID Convention (74-77) “Salini test” (77) BIT (78-79) Prima facie case (81) <i>Rationae personae</i> (82-94) EGOTH Costs (96-97)
IA 62.2. Claimant(s):	LG&E Energy Corp. 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 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://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 Award, 25 July 2007 Decision on Jurisdiction, 30 April 2004
Language(s):	English, Spanish
Place of Arbitration:	ICSID
Subject-matter:	Procedure (8-32) Motion to suspend proceedings (15) Jurisdiction decision (19-24) Facts (33-71) Standing (77-79) Applicable law (80-99) Article 42 ICSID Convention Supremacy of international law (94) Role of domestic law (99) Merits (100-266)

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Fair and equitable treatment (100-139)
 Bad faith (129)
 Limits (130)
Discriminatory treatment (140-148)
Arbitrary treatment (149-163)
Umbrella clause (164-175)
Expropriation (176-200)
 Indirect expropriation
State of necessity (201-266)
 BIT (204-206)
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 Existence of necessity (215-261)
 Economic crisis (238)
 Stop-gap measure (241)
 National emergency (243-245)
 BIT and general international law (245)
 ILC Articles on State Responsibility (246-260)
 BIT (261)
 Consequences of necessity (262-266)
Costs (267)

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

Opinions & Decisions:

Language(s): English

Place of Arbitration: ICSID

Subject-matter: Procedure (11-78)
 Confidentiality (64-68)
 Agreed statement of facts (79)
 Facts (80-285)
 Credibility of witnesses (250-257)
 Applicable law (288-293)
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DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

“Investor” (332-362)
“Genuine link”
Consent (363)
Merits (365-476)
Expropriation (365-475)
Right to regulate (423-425)
Applicable law (426-428)
Public interest (429-433)
Due process of law (434-440)
Non-discrimination (441-443)
Just compensation (444)
Fair and equitable treatment (445)
Defences (446-475)
Remedies (477-524)
Compensation
Applicable standard (479-500)
Market value
Unjust enrichment
Methodology (501-516)
DCF method
“Balancing” method
Computation (517-524)
Restitution approach (517)
Costs (525-542)
Principle (530-533)
Loser-pays
Computation (534-544)
Reasonableness

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
See also **IA 90.1.** Decision on Jurisdiction, 16 May 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

ARBITRAL AWARDS

Language(s):	English, Spanish
Place of Arbitration:	ICSID
Link to Award / Decision:	http://ita.law.uvic.ca http://www.investmentclaims.com/oa1.html
Subject-matter:	Procedure Discontinuance of proceedings (16-18) Article 25 ICSID Convention Arising “directly” out of an investment (27-32) “Legal” dispute (33-37) Preclusive effect of contractual dispute resolution clause (41-45) Shareholder claims (46-51) MFN clause (52-68) Pre-conditions to arbitrate Waiting periods
IA 96. Claimant(s):	Pan American Energy LLC BP Argentina Exploration Company BP America Production Company Pan American Sur SRL Pan American Faguina SRL Pan American Continental SRL
Respondent(s):	Argentine Republic
Type of Decision, Date:	Decision on Preliminary Objections, 27 July 2006
Decision:	Jurisdiction upheld
Arbitrator(s):	Lucius Cafilisch (President), Brigitte Stern, 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/oa1.html
Transaction:	Oil & gas production and electricity generation
Opinions & Decisions:	
Language(s):	English, Spanish
Place of Arbitration:	ICSID
Subject-matter:	Procedure (1-10) Parallel arbitrations Institution of Proceedings (40) Pre-conditions to arbitrate (41) Consultations ICSID jurisprudence (42) Jurisdiction standard (43-54) Burden of proof (50) <i>Prima facie</i> (50) Parameters (51) ICSID Arbitration Rule 41 (54) Article 25 ICSID Convention (55-116) Arising “directly” out of an investment (55-70)

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- General measures (64)
- Specific effect (64)
- “Directed to” (64)
- “Direct” relationship (66-67)
- “Legal” dispute (71-116)
- Legal rights (73-82)
- Contract rights (83-93)
- Umbrella clause (95-116)
 - State as merchant / State as sovereign (108)
 - Additional investment protections (109)
 - Restraint (110)
 - Treaty claims / contract claims (116)
 - Concurrent claims
- Exclusionary clause (117-139)
 - Taxation measures
 - Exception to exception (139)
 - Joinder to merits (138-139)
- Estoppel (140-161)
 - Forum selection (155)
 - Test (159-160)
- Hypothetical claim (162-180)
 - Damage (177-179)
 - Certainty (178)
- Standing (181-226)
 - Joinder to merits (209)
 - Sufficiency of evidence (210-213, 223-226)
 - Shareholder claims (214-220)
 - Denial of benefits (221)
- Costs
 - Reserved

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/1/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

ARBITRAL AWARDS

Language(s):	English
Place of Arbitration:	Washington, D.C.
Subject-matter:	Procedure Bifurcation (27-29) Amendment of pleadings (95-102) Claims Extinctive prescription (33) Relating to earlier events (84-94) Treaty interpretation (34-36) Burden of proof (37) Articles 1116(2) and 1117(2) NAFTA (38) Knowledge Actual knowledge of measures (53-57) Constructive knowledge of measures (58-72) Knowledge and incurrence of loss or damage (73-83)
IA 55.2. Claimant(s):	Azurix Corp.
Respondent(s):	Argentine Republic
Type of Decision, Date:	Award, 14 July 2006 See also IA 55.1. Decision on Jurisdiction, 8 December 2003
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#awardarb0522
Transaction:	Water distribution and treatment concession
Opinions & Decisions:	Decision on Jurisdiction, 8 December 2003
Language(s):	English, Spanish
Place of Arbitration:	ICSID
Subject-matter:	Applicable law (58-68) Attribution (50, 53, 76) Jurisdiction standard (51) <i>Exceptio non adimpleti contractus</i> (260) Treaty interpretation (307) Expropriation (308-323) Tantamount (308-313) Breach of contract (314-315) Legitimate expectation (316-321) Fair and equitable treatment (358-383) Minimum standard (359-372) Content (373-378) Observance of obligations (384) Arbitrary and discriminatory measures (390-393) Full protection and security (406-408)

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 Interest (440)
 Compound interest
 Costs (441)

- 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
- Opinions & Decisions:
- Language(s): French
- Place of Arbitration: ICSID
- Subject-matter: Procedure
 Chronology (3-37, 43-55)
 Prior proceeding (38-42, 56)
 Article 25 ICSID Convention (59-79)
 “Legal” dispute (63-68)
 Arising directly out of an investment (75-79)
 Consent (80-85)
 Standing (89-95)
 Costs (96-97)
- 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.
- Subject-matter: Jurisdiction: Applicable Law (50-51)
 MFN clause (79-94)

ARBITRAL AWARDS

Pre-conditions to arbitrate
Waiting periods
Interpretation (80-82)
Expressio Unius est exclusio alterius (82)
“Treatment” (83-94)
Procedure
Investment
Continuous ownership (114-122)
Dispute “with regard to” (135-141)
“Related to” (139)
Prima facie standard (140)
“Legal” nature of dispute (159-160)
Contract claims and legal dispute (160)
Shareholder claims (165)
Preclusive effect of contractual dispute resolution clause (169)

IA 92. Claimant(s): Jan de Nul N.V.
Dredging International N.V.
Respondent(s): Arab Republic of Egypt
Type of Decision, Date: Decision on Jurisdiction, 16 June 2006
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>
<http://www.investmentclaims.com/oa1.html>
Transaction: Dredging project
Opinions & Decisions:
Language(s): English
Place of Arbitration: ICSID
Subject-matter: Jurisdiction: Applicable law (65-68)
Jurisdiction standard (69-71)
Treaty claims / contract claims (79-82)
Attribution (83-89)
Investment (90-106)
Application of successor Treaties (110-136)

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>

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

Transaction:	http://www.state.gov/s/1/c7424.htm
Opinions & Decisions:	Softwood lumber products Procedural Order No. 5, 28 May 2004 Procedural Order No. 4, 26 March 2004 Decision (Place of Arbitration, Statement of Defence, Bifurcation), 23 January 2004 Minutes of the Organizational Hearing, 3 November 2003 Procedural Order No. 2, 3 November 2003 Procedural Order No. 1, 3 November 2003
Language(s):	English
Place of Arbitration:	Washington, D.C.
Subject-matter:	Procedure Consolidation (3-7) Withdrawal of a Party (28) Chapter 19 NAFTA (39-53) Jurisdiction Characterization of claims (141-147) Jurisdiction standard (167-173) Interpretation rules (185-187) Article 201 NAFTA (148-149) “Measures” “Conduct”, “treatment” (150) Article 1901(3) NAFTA (175-176) Interpretation Burden of proof (176) Treaty interpretation (177-181) Good faith (182-184) Article 1901(3) NAFTA (188-346) Interpretation (191-273) Ordinary meaning (191-220) Scope of Antidumping and Countervailing Law (191-202) Meaning of “Law” (203-209) “Application” of law (209-212) Administrative Practice (213-216) Different languages of treaty text (217-220) Context (221-231) Article 2004 NAFTA (222-224) Article 1112(1) NAFTA (225-228) Article 1115 NAFTA (229-230) Confidential information (231) Object and Purpose (232-242) Concurrent / parallel proceedings (243) Presumption Parallel Chapter 19 NAFTA and Chapter 11 NAFTA Proceedings (244-246) Scope of NAFTA Restrictions (247-264) Purpose of Article 1901(3) NAFTA (265-272) Byrd Amendment (274-346)

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Whether Antidumping and Countervailing Law (293-334)
Whether within Chapter 11 NAFTA Claims (335-346)
Joinder to merits (341-342)
Costs (351)
Reserved

- IA 83.2. Claimant(s):** Noble Ventures, Inc.
Respondent(s): Romania
Type of Decision, Date: Rectification of Award, 19 May 2006
See also **IA 83.1** Award, 12 October 2005
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
Sociedad General de Aguas de Barcelona S.A.
InterAguas Servicios Integrales del Agua S.A.
Respondent(s): Argentine Republic
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
Opinions & Decisions: Procedural Order No. 1 (Discontinuance of Proceedings), 14 April 2006
Decision on Amicae, 17 March 2006
Language(s): English, Spanish
Place of Arbitration: ICSID
Subject-matter: Procedure
Discontinuance of Proceedings (38-40)

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

Article 25 ICSID Convention
 Arising “directly” out of an investment(27-32)
 “Legal” dispute (33-37)
 Preclusive effect of contractual dispute resolution clause (41-45)
 Shareholder claims (46-51)
 MFN clause (52-66)
 Pre-conditions to arbitrate
 Waiting periods

IA 89. Claimant(s): El Paso Energy International Company
Respondent(s): Argentine Republic
 Type of Decision, Date: Decision on Jurisdiction, 27 April 2006
 Decision: Jurisdiction partially upheld
 Arbitrator(s): Lucius Cafilich (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#awardarb0522>
 Transaction: Oil, gas and power
 Opinions & Decisions:
 Language(s): English, Spanish
 Place of Arbitration: ICSID
 Subject-matter: Jurisdiction: Applicable law (35-36)
 Jurisdiction standard (37-46)
 Article 25 ICSID Convention
 “Legal nature” of dispute (47-88)
 “Nature”
 Standard (60)
 “Dispute” (61)
 “Legal” dispute (62)
 Contract claims (63-65, 87)
 Umbrella Clause (66-67, 70-86)
 Treaty interpretation (68-70)
 State as merchant / State as sovereign (79-82)
 Arising “directly” out of an investment(89-100)
 Exclusionary clause (101-116)
 Taxation measures
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 Continuous ownership (135-136)
 Shareholder claims (137-139)

IA 88.1. Claimant(s): Metalpar S.A.
 Buen Aire S.A.
Respondent(s): Argentine Republic
 Type of Decision, Date: Decision on Jurisdiction, 27 April 2006
 See also **IA 88.2.** Award on the Merits, 6 June 2008

ARBITRAL AWARDS

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/oa1.html
Transaction:	Motor vehicle enterprise
Opinions & Decisions:	
Language(s):	Spanish
Place of Arbitration:	ICSID
Subject-matter:	Procedure (3-8) Article 25 ICSID Convention (21-23) Investor Sufficiency of evidence (24-25) BIT (24-25) Vienna Convention on Treaties (24) Foreign control (26) Foreign investment (26) “Legal” dispute (30-34) Article 31 of Vienna Convention on Treaties (32) Consent (34-36) Entry into force of ICSID Convention in Argentina (35) BIT as arbitration agreement (35-36) Contract (36-38) ICSID Convention and BIT (36-38) Emergency measures (38-39) Article 26 ICSID Convention (40-41)
IA 63.2. Claimant(s):	Saluka Investments BV
Respondent(s):	Czech Republic
Type of Decision, Date:	Partial Award on Jurisdiction and Liability, 17 March 2006 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/oa1.html
Transaction:	Financial services
Opinions & Decisions:	Decision on Jurisdiction over the Czech Republic’s Counterclaim, 7 May 2004
Language(s):	English
Place of Arbitration:	Geneva
Subject-matter:	Counterclaim Identity of parties (179-182)

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

- Identity of subject-matters (181)
- Time limits (190-191)
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 - Share-holding (203-205)
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 - Lack of factual links with home country (239-242)
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 - Standard for police powers (263-265)
 - Test (266)
 - Justifiable state action (267-274)
 - Fair and equitable Treatment (283-456)
 - Concept (282-284)
 - Interpretation (296)
 - Ordinary meaning (297)
 - Context (298)
 - Object and Purpose (299-301)
 - Legitimate expectations (302-308)
 - Limits (307-308)
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- Application
 - Discriminatory state action (313)
 - Relevance of investor’s conduct (319)
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 - Evidence of change in policy position (331)
 - Strategic / portfolio investor (334)
 - Privatization (337)
 - Failure to provide reasonable justification (347)
 - Failure to negotiate in good-faith (363-407)
 - Lack of even-handedness (408-416)
 - Lack of consistency (417-419)
 - Lack of transparency (420-425)
 - Lack of adequate communication (426-432)
 - State financial assistance (433-447)
 - Unjust enrichment (448-456)
 - Non-impairment of investment (457-481)
 - Meaning (458-463)

ARBITRAL AWARDS

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and Deprivation (468-470)
Causation (471-481)
Full protection and security (482-496)
Meaning (483-484)
Police powers and harassment (485-496)
Totality of evidence (497-505)
Procedure (506-511)
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IA 87. Claimant(s):	Continental Casualty Company
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
Opinions & Decisions:	
Language(s):	English
Place of Arbitration:	ICSID
Subject-matter:	Jurisdiction standard (57-93) Parameters (57-58) Characterization of claims (61-62) Legal basis for claims (63) Relief sought (64) Substantiation of claims (91-93) Article 25 ICSID Convention Consent (34-36) “Legal” dispute (66-69) Arising “directly” out of an investment(70-75) Shareholder claims (76-88) Damage incurred and indemnifiable Treaty breach (89-90)
IA 60.2. Claimant(s):	EnCana Corporation
Respondent(s):	Republic of Ecuador
Type of Decision, Date:	Award, 3 February 2006 See also IA 60.1. Partial Award on Jurisdiction, 27 February 2004
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

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

Transaction:	VAT Refunds on Petroleum Exploration and Exploitation
Opinions & Decisions:	Dissenting Opinion by Arbitrator Naón Partial Award on Jurisdiction, 27 February 2004 Award on Interim Measures of Protection, 31 January 2004
Language(s):	English, Spanish
Place of Arbitration:	London
Subject-matter:	Procedure Parallel arbitrations (6-10) Treatment of pleadings and documents (6) Respondent appointing same arbitrator (10) Questions to parties after deliberations (19) Discontinuance of domestic proceedings (89) Complexity of domestic legislation (56-57) Government position (99) Diplomatic exchanges (105) Renegotiation (106) Jurisdiction (109-168) Characterization of claims (109-110) Exclusionary clause (110) Standing (115-132) Shareholder claims Third-country subsidiaries (115-122) Loss (117) Sufficiency of evidence Subsidiary's share sale pending arbitration (123-132) Claims for loss accrued up to time of sale (126) "Any dispute" (130-132) Exclusionary clause (133-161) Taxation measures (141-145) Normal meaning (142-143) VAT Refunds (144-145) Scope of exclusionary clause (146-149) VAT Refunds and contract (150) Mistake by Government (151-153) Acts of State-owned entity (154-161) Renegotiation process (161) Events after to commencement of arbitration (163) Continuing breach (163-164) Merits (169-199) Expropriation (169-199) Indirect expropriation (172-178) Taxation measures (177) Direct expropriation (179-199) Cancelling pre-existing liability owed (183) Retrospective application of law (183) Applicable law to entitlement (184-191) Executive action (192-195) Good faith (196)

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 Equity (202)
 Individual costs (204)

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
 See also **IA 71.1.** Decision on Jurisdiction, 29 November 2004
 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#awardarb0522>
 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)
 Burden of proof (70-75)
 Existence of Treaty, custom or agreement (74-75)
 Oral agreement (76-80)
 Form requirements and binding nature (78-80)
 Evidence (81-100)
 Written agreed record of meeting (86)
 Unilateral record of meeting (87)
 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. Walde
 Jurisdiction founded on: NAFTA of 1 January 1994

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

Arbitration mechanism:	UNCITRAL Arbitration Rules
Link to Award / Decision:	http://ita.law.uvic.ca http://www.investmentclaims.com/oa1.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) <i>Culpa</i> (177) Classes of investors (183) Minimum Standard of Treatment (192-201) Interpretation (192-193) FTC Interpretation (192) Legal standard (194) Sufficiency of evidence (196-201) Expropriation (208) Vested right (208) Costs (210-221) Articles 40(1) and 40(2), UNCITRAL Rules (213) Loser pays principle (214-218) Mitigating factors (217-218)
IA 85. Claimant(s):	Bayindir Insaat 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

ARBITRAL AWARDS

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/oa1.html http://www.worldbank.org/icsid/cases/awards.htm#awardarb0522
Transaction:	Construction of highway
Opinions & Decisions:	
Language(s):	English
Place of Arbitration:	ICSID
Subject-matter:	Procedure <ul style="list-style-type: none">Provisional Measures<ul style="list-style-type: none">Stay of related arbitration (45-46)Jurisdiction objections and (47)Tribunal examination of jurisdiction <i>proprio motu</i> (78)Joinder to merits (263)Stay of Proceedings (264-273)<ul style="list-style-type: none">Power to stay (266)Appropriateness (271)ICSID jurisprudence (73-76)Jurisdiction: Applicable law (79-86)Pre-conditions to arbitrate (88-103)<ul style="list-style-type: none">Notification of dispute“Investment” (104-138)<ul style="list-style-type: none">Treaty (105-121)Know-how, equipment and personnel (115-117)Financial contribution (118-120)ICSID Convention (122-138)<ul style="list-style-type: none">Object of contract (127-129)“Salini test” (130-138)Treaty claims / contract claims (139-167)<ul style="list-style-type: none">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)<ul style="list-style-type: none">Substantiation of claims<ul style="list-style-type: none">Burden of proof (190-192)Applicable standard (187-189, 193-200)MFN claim (201-224)<ul style="list-style-type: none">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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Preamble (230)
 MFN clause (231-232)
 Failure to provide stable investment framework (236-241)
 Expulsion (242-250)
 Corruption (251)
 Judicial independence (252)
 Expropriation (253-262)
 Contract rights (255)
 Costs (274-278)
 Reserved (278)
 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
 See also **IA 29.4**, Award, 20 August 2007; **IA 29.2**, Decision on Annulment, 3 July 2002; **IA 29.1**, Award, 21 November 2000

Decision: Jurisdiction upheld

Arbitrator(s): J. William Rowley (President), Gabrielle Kaufmann-Kohler, Carlos Bernal Vereza

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
 See also **IA 20.3**, Decision on Annulment, 28 January 2002;

ARBITRAL AWARDS

	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 Fadlallah, 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 Relevant provisions (73-79) 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) Postponement of hearings (29-37) Presentation of witnesses (39-42) Tribunal power to restate jurisdiction objections (78) Production of documents (324-327) Applicable law (86-93) Government statement and Treaty interpretation (49)

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Identity of jurisdiction instruments (112-113)
Identity of subject-matters (114)
Intent of parties (115)
Waiver of ICSID arbitration (116-122)
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Renvoi to domestic law and courts from Treaty (142-155)
Admission of investments clause (145-154)
Change of corporate nationality (160-180)
Breach of investor's representations (188-192)
Jurisdiction
Sufficiency of evidence (193-205)
Indirect ownership (214-323)
Control and ownership (222-223)
Evidence (224)
"Controlled directly or indirectly" (225-323)
Plain meaning (225-239)
Context (240-248)
Statements of one Treaty signatory (249-263)
Treaty interpretation (264-265)
Confirming meaning (266-314)
Negotiating history (268-286)
ICSID jurisprudence (287-288)
BIT Practice of both States (289-314)
Facts (315-323)
National routing of investments (328-333)

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/oa1.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)
Obligation to negotiate (117-159)

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Full protection and security (160-167)
Fair and equitable treatment
 Arbitrary and discriminatory measures (175-183)
Good faith (184-193)
Pacta sunt servanda (194-202)
Expropriation (203-216)
Pre-emption rights (217-223)
Damages
 Discounted cash flow (224-229)
Costs (230-236)

IA 82. Claimant(s): Iurii Bogdanov
Agurdino-Invest Ltd.
Agurdino-Chimia JSC
Republic of Moldova

Respondent(s): Republic of Moldova
Award, 22 September 2005

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:
Language(s): 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)

Pre-conditions to arbitrate
 Waiting periods (1.5)
BIT as arbitration agreement (2)
Jurisdiction
 Ratione Materiae (2.1)
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 Application of other treaties
 Ratione Personae (2.2)
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 Domestic investment vehicle
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 Claimant's authorized representative
 Correction to relief and clerical error

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

Jura novit curia (2.2.1, 4.2.2)
New legal sources
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)
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Fair and equitable treatment (4.2.4)
Cap on share ownership
Discriminatory measures
Interpretation
Transparency
Legitimate expectations
Good faith
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)
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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): Eureka 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

ARBITRAL AWARDS

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)
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	Preclusive effect of contractual dispute resolution clause (92-11)
	Concurrent breach of contract and Treaty (112-113)
	No bar to jurisdiction (113)
	Attribution (115-134)
	State as merchant / State as sovereign (123-125, 130)
	Domestic law (127-129)
	ILC Articles on State Responsibility
	Cumulative nature (131-134)
	Tribunal clarifications (121)
	“Investment” (135-160)
	Corporate governance rights (139-146)
	Economic value of rights (145)
	Rights to an IPO (147-160)
	Contractual (152)
	Acquired and vested, not contingent, right (160)
	Waiver (161-184)
	Scope of contractual waiver (169-173)
	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)
	“Measures” (185-189)
	Acts and omissions
	Merits (190-260)
	State responsibility (191-230)
	About face in respect of privatization strategy (197)
	Withdrawal from agreement to sell shares in privatization strategy (205-207)
	“Foreign hands” (208)
	Forgery as an excuse (210-211)
	Role of Privatization Advisors (216-217)
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- Full Protection and Security (236-237)
 - Harassment
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 - Failure to prevent harassment
- Deprivation (238-243)
 - Of shares (239)
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 - Discriminatory (242)
- Umbrella clause (244-260)
 - Prima facie* (244)
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 - “any” obligations
 - Article 31, Vienna Convention on Treaties (247)
 - Object and purpose (248)
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- Autonomous standard (249)
- Scholarly comment (251)
- ICSID jurisprudence (252-257)
 - In dubio mitius* (258)
 - Place of clause in Treaty (259)
- Costs (261)
 - Loser-pays principle
 - Joint costs
 - Individual costs
 - Submissions on costs
- Bifurcation

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/l/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) <i>Culpa</i> 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

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

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
 Arising “directly” out of an investment (21)
 “Legal” dispute (22)
 Pre-conditions to arbitrate
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 MFN clause (29-30)
 Domestic remedies requirement in BIT (30)
 Shareholder claims (32-35)
 ICSID jurisprudence (37-52)
 Merits (52)

IA 50.2. Claimant(s): CMS Gas Transmission Company
Respondent(s): Argentine Republic
 Type of Decision, Date: Award, 12 May 2005
 See also **IA 50.3.** Decision on the Application for Annulment, 25 September 2007; **IA 50.1.** Decision on Jurisdiction, 17 July 2003

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#awardarb0522>

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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Right to adjustment of tariffs in accordance with US PPI (139-144)
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Duration of Licence (196-199)
Legal and contractual obligations under Argentine law (200-238)
State of necessity
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Improvision
Attribution (239-246)
Specific effects of general measures (247-251)
Indirect expropriation (252-265)
Fair and equitable treatment (266-284)
Arbitrary and discriminatory measures (285-295)
Umbrella clause (296-303)
State of necessity
Article 25 ILC Articles on State Responsibility (304-394)
Remedies
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Costs (472)

IA 79. Claimant(s): Camuzzi International S.A.
Respondent(s): Argentine Republic
Type of Decision, Date: Decision on Jurisdiction, 11 May 2005
Decision: Jurisdiction upheld
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#awardarb0522>
Transaction: Gas distribution
Opinions & Decisions:
Language(s): English, Spanish
Place of Arbitration: ICSID
Subject-matter: Procedure
Consolidation / Concurrent proceedings (4, 7)
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 - Joint control (34-37)
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- Indirect losses (54-67)
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 - Arising “directly” out of an investment (56-66)
 - Concurrent application of domestic and international law (57)
- Standing (78-91)
 - Shareholder claims
 - Minority shareholders (79-81)
- Treaty claims / contract claims (82-89)
 - Preclusive effect of contractual dispute resolution clause (86-87)
 - Concurrent breach of contract and Treaty (88-90)
- Umbrella clause (90)
- Claims not ripe (96-102)
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 - Meaning of admissibility (98)
 - 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)
- Proof of investor status (104)
- 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)
- MFN clause (120-121)
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- BIT as arbitration agreement (131)
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 - Compromis* additional to arbitration agreement (132)
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- Competence to interpret (135)
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Diplomatic Protection and BITs (138-143)
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Formation of customary international law by BITs (144-145)

IA 78.1 Claimant(s): Sempra Energy International
Respondent(s): Argentine Republic
Type of Decision, Date: Decision on Jurisdiction, 11 May 2005
See also **IA 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#awardarb0522>
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)
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Article 25(2)(b) ICSID Convention (38-58)
Foreign control (39-41)
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DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

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 - Pending renegotiation between parties (108)
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 - Substantiation of quantified damages (110)
 - Asymmetric treatment between nationals and foreigners (111)
 - Extension of BIT to domestic citizens
 - Claims for effects of measures on domestic investment vehicle (112)
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- Preclusive effect of contractual dispute resolution clause (98, 120-128)
 - Treaty claims / contract claims (120-123)
 - Various causes of actions (124-126)
 - Electa una via* (127)
- Consent to ICSID arbitration (139)
- BIT as arbitration agreement (140)
- Treaty interpretation (141-143)
 - Article 31 Vienna Convention on Treaties (141)
 - Context of BITs (142)
 - Subsequent practice of Treaty parties (143)
- Harmonious interpretation of BITs (144)
- Relevance of other BIT Contracting Party's affirmation / arguments on similar issues (145)
- Law creative unilateral acts of States (146)
- Competence to interpret (147)
- ICSID jurisprudence (148)
 - Criticisms
- Diplomatic Protection and BITs (150-155)
 - Shareholders
- Formation of customary international law by BITs (156-157)

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>

ARBITRAL AWARDS

Transaction:	Electricity generation and distribution
Opinions & Decisions:	
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) Article 25 ICSID Convention “Legal” dispute (42-47) Test (43-44) <i>Prima facie</i> standard (44-47) Arising “directly” out of an investment (48-61) <i>Prima facie</i> standard (56) General measures and specific commitments (57-59) Directness in NAFTA and in ICSID (59) Broad interpretation (60) Claims not ripe (62-74) Customary international law (64) Pre-conditions to arbitrate Waiting periods Negotiations (65) International law (66) Treaty (67) Factual question (68) Domestic remedies (69-71) Quantification of loss (72-73) “Investor” (75-89) Applicable law to nationality (77-79) Treaty (77) Article 42 ICSID Convention (78) Home country law (79) Proof of corporate nationality (80) Proof of ownership and control (81-84) Shareholder claims (85-89) Preclusive effect of contractual dispute resolution clause (90-99) Identity of legal orders (92-93) Identity of parties (93) Treaty claims / contract claims (94) Waiver of ICSID arbitration (97) Calvo doctrine (97-99)
IA 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

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

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#awardarb0522>

Transaction: Construction of Hydroelectric Power Facilities
 Opinions & Decisions:
 Language(s): English
 Place of Arbitration: ICSID
 Subject-matter: *Ratione Personae* (111-184)
 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)
 Contract claims (186-225)
 Scope of BIT Dispute Resolution Clause (198-219)
 MFN clause (220-223)
 Preclusive effect of Contractual Dispute Resolution Clause (224-225)
 Treaty claims (226-290)
 Qualification as Treaty claims (237-254)
 Treaty claims / contract claims (255-285)
 Preclusive effect of Contractual Dispute Resolution clause (286-290)
Ratione Temporis (291-315)
 Relevant Principles (299-304)
 Facts (305-313)

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
 Jurisdiction founded on: Energy Charter Treaty of 17 December 1994
 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: Procedure
 Written submission (16-17)
 Domestic foreign investment law (8-10)
 ECT (10-15)

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Gibraltar (60-63)
Article 17 (63)
Res judicata (64-66)
Collateral estoppel (66-68)
Investor and investment (68-73)
Pre-conditions to arbitrate (73)
Waiting periods
Article 26 Energy Charter Treaty
Articles 10, 13 and 22 Energy Charter Treaty (73-77)
Damages (77-88)
Payment for delivered goods (85)
Lost profits (86)
Outlays and expenses (87)
Interest (87-88)
Costs (88)

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
Jurisdiction founded on: Energy Charter Treaty of 17 December 1994
Bulgaria / Cyprus BIT of 12 November 1987
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: Oil refinery
Opinions & Decisions: Order (Provisional Measures), 6 September 2005
Language(s): English
Place of Arbitration: ICSID
Subject-matter: Applicable law (117)
Vienna Convention on Treaties
Burden of proof (118-120)
Tribunal discretion (119)
Pro tem (119-120)
Merits (120)
Adverse inferences (120)
ECT (121-179)
Article 26 (121-142)
Contracting Parties (123)
Investor (124)
Investment (125-131)
Misrepresentation (126)
Wilful failure to disclose true ownership (126)
Jurisdiction matter (127)

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

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- Consent to acquisition of shares (129)
- ECT consent
- Alleged breach (132)
- Investor consent (133-137)
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 - Corporate or shareholder authorization (135)
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- State consent (138-142)
 - ECT as arbitration agreement (138-141)
 - Reservation to “unconditional assent” (139-140)
- Article 17 (143-178)
 - “and” (143)
 - Exercise of right to deny Treaty benefit (144)
 - Use of present tense (145)
 - Jurisdiction matter (146-151)
 - Non-application to Part V (147)
 - Reliance on title of provision (147)
 - Treaty drafting (148)
 - Object and purpose (149)
 - Validity of exercise of right (149)
 - Consequence as basis for interpretation (149)
 - Harmonious interpretation (150)
 - Investor as subject of international law (139, 150)
 - Tribunal deciding academic issue (151-152, 165)
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 - Merits (152-178)
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 - Reliance on other treaties
 - Permissive wording (155)
 - Netherlands BIT (155)
 - USA BIT (155)
 - Contrasting drafting (156)
 - Unambiguous text (156)
 - Legislating into Treaty (156)
 - Object and purpose (157)
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 - Unreasonable interpretation (157)
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 - Ambiguous text (159)
 - Object and purpose (160)
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 - Putative investor (161)
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 - National routing of investments (161)

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- Investment planning and retrospective effect of denial of benefits (162)
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 - Question of fact (169)
 - Admission of assertion (168-169)
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 - Effect of domestic court decision (181)
 - Shareholder disputes (181)
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 - Investor (185)
 - Dispute settlement clause (186)
 - MFN clause (187)
 - Interpretation (188)
 - Treatment (189-200)
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 - Ejusdem generis* (189)
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 - Respondent’s state practice (195)
 - Preparatory work of treaty (196)
 - Intention (197)

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Other MFN clauses (201-203)
Specific exclusion in one whether implies inclusion in other (203)
Intention to cover dispute settlement clause (204-209)
Clear and unambiguous (204)
Scope of MFN clause (205)
Scope of BIT dispute resolution clause (206)
Scope of more favourable (208)
Different arbitration mechanisms (209)
Incorporation of Treaty dispute settlement clause into contract (211)
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MFN clause
Automatic incorporation of arbitration agreement by reference (213-215)
ICSID jurisprudence (210, 218-226)
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Use of public policy as limiting factor (220-221)
Distinguishing awards (222-224)
Misrepresentation (228-230)
Whether vitiates consent to permit investment (228-230)
Whether jurisdiction matter (229)
Joinder to merits (230)
ICSID Registration of Request for Arbitration (231-234)
Whether limitative arbitral tribunal's jurisdiction
Costs (235-239)
Co-operative stance of parties (238)
Reserved (239)

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

ARBITRAL AWARDS

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:	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) <i>Ratione Temporis</i> (27-62) Continuing dispute (27, 36, 37) “Dispute” (48) Time conflicting views about rights or interests (49) End of dispute (50) Real cause / subject matter of disputes (50) Existence of one or two disputes (50) Subject-matter / origin of dispute (51-53) Decree (51) Reference in Decree to prior events (52) Relationship between Decree and prior events (53) Other elements that separate a dispute (54-57) Court ruling (54-55) Time gap (56) <i>Res judicata</i> status of local court judgments (56) 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#awardarb0522
Transaction:	Construction of dam
Opinions & Decisions:	

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

Language(s):	French
Place of Arbitration:	ICSID
Subject-matter:	<p>Procedure (I, 3-51)</p> <p>Jurisdiction: Applicable law (II, 3-4)</p> <p>Article 25 ICSID Convention</p> <p>“Legal” dispute (II, 5-9)</p> <p>Arising directly out of an investment (II, 10-15)</p> <p>Dispute with a Contracting Party (II, 16-20)</p> <p>Consent (II, 21-26)</p> <p>Pre-conditions to arbitrate</p> <p>Waiting periods (II, 29-33)</p> <p>Standing</p> <p>Different claimant and contract signatories (II, 34-41)</p> <p>Costs (II, 43)</p>
IA 19.3. Claimant(s):	Ceskoslovenska Obchodni Banka A.S.
Respondent(s):	Slovak Republic
Type of Decision, Date:	<p>Award, 29 December 2004</p> <p>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</p>
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:	<p>http://ita.law.uvic.ca</p> <p>http://www.investmentclaims.com/oa1.html</p>
Transaction:	Financial services
Opinions & Decisions:	<p>Decision on Jurisdiction (No. 2), 1 December 2000</p> <p>Procedural Order No. 5, 1 March 2000</p> <p>Decision on Jurisdiction (No. 1), 24 May 1999</p> <p>Procedural Order No. 4, 11 January 1999</p> <p>Procedural Order No. 3, 5 November 1998</p> <p>Procedural Order No. 2, 9 September 1998</p>
Language(s):	English
Place of Arbitration:	ICSID
Subject-matter:	<p>Resignation of Presiding Arbitrator (6)</p> <p>Privatization process (18-36)</p> <p>Jurisdiction (41-42)</p> <p>Domestic litigation: suspension (44)</p> <p>Applicable law (47-72)</p> <p>Contract (47)</p> <p>Political resolution (48-53)</p> <p>Framework Agreement (49-57)</p> <p>International law (58-63)</p> <p>Treaty (59)</p> <p>State contract (61-62)</p> <p>BIT (63)</p>

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Domestic law (64-72)
Public law (64-70)
Private law (71-72)
Contract interpretation (73-175)
Domestic law (82-93)
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“Coverage” (142-155)
Ultra vires (160-166)
Standing (168-175)
Compensation (219-368)
Full compensation (220-230)
Principal amount (231-237)
Interest (238-265)
Capitalization (266-282)
Penalty (303-313)
Lost profits (314-352)
Operating costs (353-359)
Taxes (360-368)
Costs (369-372)
Arguments (371)
Management time costs (371)
Loser pays principle (372)
Individual costs (372)
Discretion
Relief sought (373)
Tribunal’s power *suo motu*

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: Procedure
Arbitrator acting as counsel in different arbitration (5,9)
Abandonment of claim (158)
Jurisdiction: Applicable law (62-67)

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Preclusive effect of contractual dispute resolution clause (70-96)
 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>
http://www.economia.gob.mx/work/snci/negociaciones/Controversias/Casos_Mexico/Gami/Gami.htm
 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

ARBITRAL AWARDS

	Decision, 6 September 2004 See also IA 32.2. Award, 26 June 2003; IA 32.1. Decision on Jurisdiction, 5 January 2001
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#awardarb0522
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 See also IA 68.2. Award, 6 February 2007
Decision:	Jurisdiction upheld
Arbitrator(s):	Andrés Rigo Sureda (President), Charles N. Brower,

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

Jurisdiction founded on:	Domingo Bello Janeiro 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#awardarb0522
Transaction:	Migration control and personal identification services
Opinions & Decisions:	
Language(s):	English, Spanish
Place of Arbitration:	ICSID
Subject-matter:	Procedure (1-22) Jurisdiction: Applicable law (29-31) MFN clause (32-121) Treaty interpretation (80-81) Textual comparison (82-90) “Investments” or “investors” (91-92) Treatment (93) Arbitration matters (94-103) Domestic remedies (104-105) Change to model German BIT (106) Right of State to bring domestic litigation (107) All BIT provisions (108-109) Fork-in-the-road clause (111-121) Standing Investor / investment relationship (122-144) Arising “directly” out of an investment (145-150) Hypothetical dispute Time of notice of arbitration (151-163) Notification of dispute Additional issues (163-173) Preclusive effect of contractual dispute resolution clause (174-182)
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#awardarb0522
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

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

Place of Arbitration:	London
Subject-matter:	Jurisdiction / Admissibility (37-92) Fork-in-the-road clause (38-63) Exclusionary clause (64-77) Proof of Expropriation (78-92) Merits: Applicable law (93-155) Contract (95-116) Domestic law (117-144) Andean Community Law (145-152) WTO Law (153-155) Merits (156-197) Impairment (159-166) No less favourable treatment (167-179) Fair and equitable Treatment (180-192) Stability (185) Absence of full protection and security (187) International law standard (188-192) Breach of Estoppel (194-196) Exclusionary clause (197) Remedies (198-215) Compensation (198-210) Causal link (201) Adjustments (207) Multiple recovery (209) Indeterminate damages (210) Interest (211-212) Domestic law irrelevant (211) Discretionary rate (211) Future conduct (213-215) 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/oa1.html

ARBITRAL AWARDS

Transaction:	http://www.worldbank.org/icsid/cases/pending.htm 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#awardarb0522
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) Jurisdiction (90-97) 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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	Failure to grant permits (197-206)
	Indirect expropriation (207-214)
	Damages (215-251)
	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/oa1.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)
	<i>Prima facie</i> (36)
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	Articles 19 and 21 UNCITRAL
	<i>Ratione personae</i>
	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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Parties to contract (47-53)
Essential basis of claim (54-58)
 Arising out of an Agreement (57)
 Contractual arbitration clause (57)
Subject-matter (59-82)
 “Concerning an investment” (60)
 Connection between claim and counterclaim (61-80)
 Consent of parties (62)
 Expression of close connection (63)
 Reliance on Precedent (64)
 “Indivisible” and “Interdependent” (65-67)
 Iran-US Claims Tribunal (68-74)
 Unity of source (75)
 General principle of law (76-77)
 “Indivisible whole” (78-79)
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 Identical sources (78-79)
 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/oa1.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: Procedure (1-39)
 Preclusive effect of prior unsuccessful proceedings (4-11)
 “Award” (15)
 Final and dispositive
 Preliminary / interim decision (15-17)
 Supplementing / clarifying / correcting

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

	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 IA 62.3. Award, 25 July 2007; IA 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)
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	Standing (48-63)
	ICSID Convention (48)
	Article 25(2)(b) (49-51)
	“Foreign control” (50)
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	Domestic investment vehicle
	Investment
	Minority / majority shareholders
	Relevance of control in ICSID Convention (51)
	Diplomatic protection and BITs (52)

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Claimant not holder of license (53)
BIT and Article 25(2)(b) ICSID Convention (54)
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 Domestic law (55)
 More favourable law clause (56)
 Domestic investment vehicle (57-62)
 Domestic regulatory law (58-59)
 Preclusive effect of contractual dispute resolution clause
 Relation with Investor (60-62)
 Identity of jurisdiction instruments (61)
 Identity of rights (61)
 Direct rights of shareholder (62)
 Indirect operation of investment (63)
Investment dispute (64-68)
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 Cornerstone of ICSID Convention (70)
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Multiple jurisdiction clause (72-78)
 BIT as arbitration agreement (73)
 Interpretation of multiple clause (74)
 Relevance of domestic litigation by subsidiary (75)
 Proof of choice for fork-in-the-road clause (76)
ICSID Convention
 Domestic remedies (77-78)
 Article 26 ICSID Convention
Pre-conditions to arbitrate (79-80)
 Negotiations
 Waiting periods
Renegotiation process (82)
 ICSID jurisprudence (82)
Costs (84(d))
 Reserved

IA 61.1 Claimant(s):	Tokios Tokelès
Respondent(s):	Ukraine
Type of Decision, Date:	Decision on jurisdiction, 29 April 2004 See also IA 61.2. Award, 26 July 2007
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

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

Link to Award / Decision: <http://ita.uvic.ca>
<http://www.investmentclaims.com/oa1.html>
<http://www.worldbank.org/icsid/cases/awards.htm#awardarb0522>

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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 BIT (27-41)
 Incorporation of company / residence of control (42-52)
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 "Veil piercing" (53-56)
 ICSID jurisprudence (58-70)
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 Source of capital (72, 80-82)
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 In accordance with domestic law (83-86)
 Dispute arising directly out of an investment (87-93)
 Pre-conditions to arbitrate (94-107)
 Improper and untimely consent (94-100)
 Waiting periods / negotiations
 Identity of parties and claims (101-107)

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

ARBITRAL AWARDS

Language(s): Place of Arbitration: Subject-matter:	Dissenting Opinion by Arbitrator Naón Award on Interim Measures, 31 January 2004 English, Spanish London Procedure Parallel arbitrations (43-46) Confidentiality (43) Respondent represented by same law firm (43) Procedural inequity (44) Respondent appointing same arbitrator (44-45) Consent and Waiver (7-20) Article XIII(3) BIT (10) Consent: Article XIII(3)(a) BIT (12-15) Waiver: Article XIII(3)(b) BIT (16-20) Subject matter jurisdiction (21-40) Applicable law and principles (22-26) Treaty Interpretation (23) Characterization (24) Objective test (25) Preliminary issues (26) Joinder (26) Role of investor-state dealings (33) Characterization of claims (34-38) Joinder of issues (38-39) Proof of expropriation (39) Costs (41) Reserved
IA 59. Claimant(s): Respondent(s): Type of Decision, Date: Decision: Arbitrator(s): Jurisdiction founded on: Arbitration mechanism: Link to Award / Decision: Transaction: Opinions & Decisions: Language(s): Place of Arbitration: Subject-matter:	SGS Société Générale de Surveillance S.A. Republic of the Philippines Decision on Jurisdiction, 29 January 2004 Jurisdiction partially upheld, Claims inadmissible, Proceedings stayed Ahmed S. El-Kosheri (President), James Crawford, Antonio Crivellaro Philippines / Switzerland BIT of 31 March 1997 ICSID Convention and Arbitration Rules http://ita.law.uvic.ca http://www.investmentclaims.com/oa1.html http://www.worldbank.org/icsid/cases/pending.htm Pre-shipment inspection and certification services Supplementary declaration by Arbitrator Crivellaro, 29 January 2004 English ICSID Procedure (1-11) Contract (19-25) Article 25 ICSID Convention / BIT provisions (26-34)

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Investment in the territory of Contracting State (99-112)
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Relevance of contractual dispute resolution clause (123)
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Treaty claim / contract claim (156-164)
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Claims within jurisdiction but inadmissible (170-176)
Flexibility in approach
Stay of proceedings

IA 58.1. Claimant(s): Enron Corporation
Ponderosa Assets, L.P.
Respondent(s): Argentine Republic
Type of Decision, Date: Decision on Jurisdiction, 14 January 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 58.2.** Decision on Jurisdiction (Ancillary claim), 2 August 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>
<http://www.investmentclaims.com/oa1.html>
Transaction: Gas industry
Opinions & Decisions: Decision on Jurisdiction (Ancillary Claim), 2 August 2004
Language(s): English, Spanish
Place of Arbitration: ICSID
Subject-matter: Procedure (1-19)
Hypothetical dispute (72-74)
Power to order injunctive relief (76-81)
ICSID jurisprudence (24)
Exclusionary clause
Taxation measures (25-32)
Conditional consent (61-71)
Standing

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Minority shareholder (33-57)
Applicable law (38-40)
Shareholders (42-57)
“Investment” (42-56)
 Indirect losses (42-48)
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 Scope of consent (52-56)
Arising directly out of an investment (58-60)
Jurisdiction standard (67)
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Pre-conditions to arbitrate (82-88)
 Notification of dispute
 Waiting periods
 Ancillary / additional claims
Treaty claims / contract claims (89-98)
 Electa una via
 Fork-in-the-road clause

IA 35.2. Claimant(s): Consortium RFCC
Respondent(s): Kingdom of Morocco
Type of Decision, Date: Award, 22 December 2003
 See also **IA 35.1.** Decision on Jurisdiction, 16 July 2001
Decision: Claims dismissed
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)
 Treaty claims / contract claims (29-35)
 Independent claims
 State responsibility
 Breach of contract (36-46)
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 Promotion and protection of investments (51)
 Arbitrary and discriminatory measures (51)
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DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

	Loss caused by exceptional weather conditions (76-80)
	Just and equitable treatment (90-108)
	Denial of justice (92-95)
	Exclusion from market (106-108)
	Attribution (109)
	Costs (112-113)
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
Subject-matter:	Investment (11-18)
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	Validity (13-17)
	<i>Prima facie</i> (16-17)
	Certificate of final delivery (18)
	Consent (19-30)
	Right to arbitrate
	Sovereignty (23, 28)
	ICSID Convention (24)
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	Investor (31-49)
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	Investment (39-40)
	Indirect owner (41)
	Corporate personality (42)
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	Identity of parties (55)
	Treaty claims / contract claims (56-70)
	Domestic Law (71-73)
	International law forming part of
	Expired claims (74-76)
	Domestic remedies (77-85)
	Pleadings (88)

ARBITRAL AWARDS

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
Jurisdiction founded on:	Energy Charter Treaty of 17 December 1994
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:	Investor's own loss (1.2.3) Investment (2.1-2.2) Shares Giving of credits Causal link (2.2) Contract claim (2.4) Identity of parties (2.4) Multiple recovery (2.4) Treaty reservations (2.4) Domestic remedies (2.4) Proof of domestic law (3.5.5) Effect of domestic court decision on Contract (3.7) Contract <i>force majeure</i> (3.8) State responsibility (4.1) Source of investment (4.2) Government knowledge of non-payment (4.2) Government's failure to correct situation (4.2) Attribution (4.2) Expropriation (4.3.1) Regulatory takings Degree of possession taking or control over enterprise Fair and equitable treatment (4.3.2) Relevance of other Treaty provisions Discrimination "Compare with like" Treaty limitations (4.3.3) Contract predating Treaty Right to double tariff predating Treaty Commercial risk upon investor Contract whether commercial Damages (5) Customary international law (5.1) Restitution Assessment (5.2) Reduced flow of income to subsidiary whether investor's

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

	<ul style="list-style-type: none"> loss Capitalized earnings value Sufficiency of evidence Discretion <ul style="list-style-type: none"> Causation, foreseeability, reasonableness Speculative losses Interest (5.3) <ul style="list-style-type: none"> Prevailing domestic rate Contractual rate Costs (6) <ul style="list-style-type: none"> Successful claimant (6.2) Joint costs (6.3) <ul style="list-style-type: none"> Reasonableness Individual costs (6.4) <ul style="list-style-type: none"> Reasonableness Reduction of costs
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
Subject-matter:	<ul style="list-style-type: none"> Procedure <ul style="list-style-type: none"> Provisional measures (12-14) Strike-out of Jurisdiction Objection (67-68) Timeliness of Objection (67) Tribunal examination <i>proprio motu</i> (68) Suspension of ICSID proceeding (102) Proof of ownership and control (18) Jurisdiction: Applicable law (25, 47-50, 93-101) <ul style="list-style-type: none"> Article 42 ICSID Convention (48) Article 21 ICSID Convention (49) Article 25 ICSID Convention (50) Consequence as basis for interpretation (25, 93-101) <ul style="list-style-type: none"> <i>Forum non conveniens</i> (94) Comparable creditors inequity (94) Interpretation of contract (95) <ul style="list-style-type: none"> Tribunal exercising regulatory powers

ARBITRAL AWARDS

- Joinder to merits
- Pre-conditions to arbitrate
 - Negotiations (55)
 - Failure
 - Existence of investment dispute
- BIT as arbitration agreement (56)
- Nationality of corporation (57)
 - Sufficiency of evidence
 - Controlled by third-country nationals
- “Legal” dispute (58)
- Arising “directly” out of an investment (57-66)
 - “Investment” (59-65)
 - Concession agreement (62)
 - Claims to money / performance having economic value (63)
 - Company stock (63)
 - Form of investment (63)
 - Owner control (63)
 - BIT definition (64)
 - Objective definition (64)
 - Real interests in investment (64)
 - Cumulative investment (65)
 - Shareholding
 - Control rights
 - Concession agreement
 - “Directly” (66)
 - Shareholder claims (67-74, 96-100)
 - Standing (67)
 - Indirect claims (69-74)
 - Diplomatic protection and BITs (72)
 - Treaty language (73)
 - Direct rights of shareholders
 - Binding shareholders to subsidiary company’s commitments (74)
 - Shareholder claimant as *alter ego* (99-100)
 - Domestic investment vehicle (100)
 - Multiple recovery (101)
 - Compensation awarded for actual loss to Claimant
 - Preclusive effect of contractual dispute resolution clause (26-36, 75-85)
 - Pacta sunt servanda* (28)
 - Validity of waiver under international law (83-84)
 - Denial of justice (84)
 - Identity of parties (85)
 - Commitment of waiver (85)
 - Fork-in-the-road clause (86-92)
 - Lis pendens* (88)
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	Identity of parties (89-90)
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	Identity of jurisdictional instruments (89)
	Municipal authority (89-92)
	“Administrative Tribunal” (90)
	Independent body (90)
	Judicial function (90)
	Abuse of process (96)
	Finding
	Economic impact / variables of formulated claim (97-98)
	Joinder to merits
	Costs (104)
	Reserved
IA 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 See also IA 54.2 . Award, 27 October 2006
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:	
Language(s):	English
Place of Arbitration:	ICSID
Subject-matter:	Procedure
	Hearings by video conference (5)
	Nationality of claimants
	Physical persons
	Dual nationality (11)
	<i>Jus sanguinis</i> (11)
	Fraud (10)
	Effective nationality and ICSID Convention (16)
	Treaty interpretation (16)
	Ordinary meaning (16-17)
	Facts (17)
	Corporations (18)
	Dual nationality of shareholders (18)
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Parallel Proceedings (19)
Fork-in-road-the clause (19)
Same parties (19)
Costs (19)
Reserved (19)

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
Subject-matter: Jurisdiction (150-154)
Existence of investment (150)
Whether jurisdictional matter (150)
“double relevance” theory of international civil procedure (150)
Limitation contained in Dispute Settlement Clause (151)
Preclusive effect of contractual dispute settlement clause (151-154)
Attribution (152)
State as party (152-153)
“Parent corporation” (153)
“Affiliates” (153)
Whether settlement release includes State (154)
Lack of specific drafting (154)
Treaty remedy / Contract remedy (154)
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Sufficiency of evidence (155-156)
Lack of proof: Respondent (155-156)
Treaty interpretation (156)
Domestic law
“Investment” (156-165)
Domestic law (157)
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Right or claim having financial value (157)
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Claims (157)
Well-founded
Legitimate expectations of future performance

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

- Contract (158-165)
 - Creative of obligations (158-162)
 - Undertaking to cooperate (161)
 - State as party (162-163)
 - Undertaking whether investment (163-164)
 - Jurisdiction over breach (165)
- Limitation period (165)
 - Domestic law
 - Equity
- Costs (166-167)
 - Discretion (166)
 - Reasonableness of State's costs (166)
 - Direct comparison between investor and State (167)
 - Reasonable estimation (167)
 - Reduction of costs

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/oa1.html>
Transaction: Commercial property
Opinions & Decisions:
Language(s): 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)
 - Permanent Court of Arbitration
- Claimant's authorized representative (16.1)
 - Timeliness of objection
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 Discipline
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 Individual costs

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>

ARBITRAL AWARDS

Transaction:	http://www.investmentclaims.com/oa1.html
Opinions & Decisions:	Pre-shipment inspection and certification services
Language(s):	Procedural Order No. 2, 16 October 2002
Place of Arbitration:	English
Subject-matter:	ICSID
	Procedure
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	Treaty claims (187)
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IA 50.1. Claimant(s):	CMS Gas Transmission Company
Respondent(s):	Argentine Republic
Type of Decision, Date:	Decision on Jurisdiction, 17 July 2003
	See also IA 50.3. Decision on the Application for Annulment, 25 September 2007; IA 50.2. Award, 12 May 2005
Decision:	Jurisdiction upheld

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

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#awardarb0522
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 <ul style="list-style-type: none"> Ancillary / additional claims (116-120) <ul style="list-style-type: none"> Separability in time (116) Subject-matter of dispute (117) Arising directly out of (117) Incidental claims (119) Additional claims (119) ICSID jurisprudence (120) Abandonment of claims (128) Admissibility (23-35) <ul style="list-style-type: none"> General economic measures / specific investment measures (25) "Directly" out of an investment (27-35) <ul style="list-style-type: none"> Direct relationship (27) Right to pursue economic policies (28-31) Restriction on transfers (32) Specific measures / general measures with direct impact (33) <ul style="list-style-type: none"> Question of fact (34) <i>Prima facie</i> standard (35) Shareholder claims (36-69) <ul style="list-style-type: none"> Admissibility / Jurisdiction (41) Corporate personality under domestic law (42) <ul style="list-style-type: none"> Not determinative Shareholder rights under international law (43-48) <ul style="list-style-type: none"> Shareholder claims (48) Treaties creating general rule (48) Article 25 ICSID Convention (49-56) <ul style="list-style-type: none"> No bar for shareholder action Minority or non-controlling shareholder Shareholder rights under BIT (57-65) <ul style="list-style-type: none"> Materiality of shareholder being party to investment agreement (65) "Directly" arising out of an investment (66-69) <ul style="list-style-type: none"> Rights of domestic investment vehicle (66-68)

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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/oa1.html http://www.economia.gob.mx/work/sncl/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:	<ul style="list-style-type: none"> Procedure <ul style="list-style-type: none"> Registration under ICSID Additional Facility (9-13) Denial of Request for Production of Documents (21) <ul style="list-style-type: none"> Preparatory works of Treaty Admissibility of unsolicited evidence (28) Article 1128 NAFTA Filings (35-36) Exclusion of investor from restructuring plan (54-55) Request by investor to be included into plan (58) Interpretation (62-64) <ul style="list-style-type: none"> International law (62-63) Policy considerations (64) <ul style="list-style-type: none"> Presumption in favour of investor protection Article 1101(3) NAFTA (65) Chapters 11 and 14 NAFTA (66-67) Article 1110 NAFTA (67) Article 1401 NAFTA (76-91) <ul style="list-style-type: none"> Financial institutions (76-91) <ul style="list-style-type: none"> Article 1416 (80-82) <ul style="list-style-type: none"> Narrow construction (81) Financial entities (82)

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Article 201(1) NAFTA
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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
See also **IA 32.3.** Decision on Respondent's Request for a
Supplementary Decision, 6 September 2004; **IA 32.1.**
Decision on Jurisdiction, 5 January 2001
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/1/c3755.htm>
Transaction: Funeral home
Opinions & Decisions: Decision on Respondent's Request for a Supplementary
Decision, 6 September 2004
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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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/sneci/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

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

	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) Whether seeks new decision (10) 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 Resignation of arbitrator (13-15) Expert evidence (28) Timely submission of claims (72-74) Jurisdiction (52-92) Temporal (53-71) “Retroactive” (55) Party claims (56) Separate claims (60) Acts as process (62) Isolated acts (67) Concurrent acts (68) MFN clause (69) Good faith (70) Article 18 Vienna Convention on Treaties (71) Investment (75-92) Merits (93-182) Expropriation (95-151) Definition (113) Tantamount (114) Measures equivalent (115) International law (116) Deprivation Police power (118-122) Domestic law (124)

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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:	<i>Ad hoc</i> 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) <i>mutatis mutandis</i> (3) Provisional Measures (12) Damages as adequate remedy Discovery of documents (14) Audited Accounts Permanent Sovereignty over Natural Resources (21) Later Treaty whether amends or extends old one (24) Privity of claim (39) Exhaustion of Contract remedies (40) Exhaustion of Domestic remedies (40) Investment (43-45) “Round-tripping” (45) Investor (46-52) Domestic incorporation (49) Effective management (49) Protection shopping (52) Investment (53-63) Written approval (59) Coverage of investment made prior to entry into force (60) ASEAN Framework Agreement 1988 (64-66) Free-standing (66) Different treaties with different definitions of investment (82) Costs (87) Equal apportionment
IA 38.2. Claimant(s):	CME Czech Republic B.V.
Respondent(s):	Czech Republic
Type of Decision, Date:	Final Award, 14 March 2003 See also IA 38.1. Partial Award 13 September 2001
Decision:	Claims upheld

ARBITRAL AWARDS

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 Hándl
Language(s):	English
Place of Arbitration:	Stockholm
Subject-matter:	Procedure IBA Rules on Evidence (39) Data rooms (86) Respondent's relitigation of issues (414-422) Partial Award (423-425) UNCITRAL Rules (425) Applicable law (396-413) Hierarchy of sources in BIT (400-402) "on the basis of law" (403-406) 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) Parallel Arbitrations (426-437) Refusal to coordinate arbitrations (426-430) Waiver of <i>res judicata</i> (430) Explicit waiver of <i>lis pendens</i> or <i>res judicata</i> defence (431) Abuse of process Application of <i>res judicata</i> (432-437) Identity of parties (432) Identity of BITs (432) Identity of facts (432) Identity of claims and BITs (433) <i>Lis pendens</i> (434) <i>Res judicata</i> test (435-436) Identity of dispute Identity of parties Identity of subject-matters Identity of causes of action Exception (436) Single economic entity Company group Netherlands position (437)

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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

ARBITRAL AWARDS

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/1/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
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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)
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 “National of another contracting state” (148-151)
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	Tribunal's decision on costs
	Whether Tribunal can issue in form of award (177)
	Correction
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IA 28.3. Claimant(s):	S.D. Myers, Inc.
Respondent(s):	Government of Canada
Type of Decision, Date:	Award, 30 December 2002
	See also IA 28.2. Second Partial Award, 21 October 2002;
	IA 28.1. Partial Award, 13 November 2000
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/oa1.html
	http://dfait-maeci.gc.ca/tna-nac/SDM-en.asp
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
	See also IA 31.3. Decision on Correction and Interpretation

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	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/oa1.html http://www.economia.gob.mx/work/sneci/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:	Procedure (24-45) Interim Decision (46-52) Standing (48) Limitation period (49) Admissibility of additional claim (50) Claims pre-dating NAFTA's entry into force (51-52) Tribunal power to grant declaratory relief (80-88) Audit / taxation assessment Jurisdiction (53-88) Estoppel (53-65) Limitation period Basis of claim Domestic remedies (66-78) Expropriation (89-153) Applicable law (96-107) Article 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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	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://www.investmentclaims.com/oa1.html http://dfait-maeci.gc.ca/tna-nac/pope-en.asp
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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Transaction:	http://www.investmentclaims.com/oa1.html
Opinions & Decisions:	http://dfait-maeci.gc.ca/tna-nac/parcel-en.asp Postal services 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) <i>Prima facie</i> 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 See also IA 28.3. Award, 30 December 2002; IA 28.1. Partial Award, 13 November 2000
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

ARBITRAL AWARDS

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. Schwebel
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/c3758.htm
Transaction:	Commercial real estate development
Opinions & Decisions:	
Language(s):	English
Place of Arbitration:	Washington, D.C.
Subject-matter:	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

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	See also IA 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) <i>Kompetenz-kompetenz</i> doctrine (106-107) <i>Prima facie</i> standard (108-118) Article 1101 NAFTA Ruling on jurisdiction postponed (148-169) Costs (170-171)

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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://www.investmentclaims.com/oa1.html http://www.worldbank.org/icsid/cases/vivendi_annul.pdf
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)(e) 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

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

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/oa1.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) <i>Res judicata</i> (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 See also IA 24.4. Award on Costs, 26 November 2002; IA 24.2. Merits Award (Phase 2), 10 April 2001; IA 24.1. Interim Award, 26 June 2000
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/oa1.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)

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Violation of (67-69)
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
Arbitrator(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/oa1.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

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

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/oa1.html
Transaction:	Import of consumer products
Opinions & Decisions:	Decision on Jurisdiction, 16 February 2001
Language(s):	English
Place of Arbitration:	Chisinau, Moldova
Subject-matter:	Procedure (8-28) Jurisdiction (54) Standing (55) Critical date Cause of action Contract claims (61) Limitation period (62) Domestic periods Expropriation / non-discrimination Taxation measures (63-92) Costs (93-96)
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/oa1.html http://www.worldbank.org/icsid/cases/conclude.htm
Transaction:	Business concession
Opinions & Decisions:	
Language(s):	English
Place of Arbitration:	ICSID
Subject-matter:	Procedure Adjournment (12-14, 39-42) Unavailability of party Inability of party Hearing by telephone (15-17) Suspension of proceedings (35-38) Inter-governmental negotiations Exchange of verbal notes Inter-state dispute Absent Respondent (44) Suspension of deliberations (62)

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- Non-payment of advance on costs
- Admissibility of later additional claims (64-65)
 - Reply memorial
 - Translation of documents (66-67)
 - Alterations in name of claimant (68-69)
 - Withdrawal of accusation (74-75)
 - Closure of proceedings (76-78)
- Standing (69)
 - Totality of evidence
- Preclusive effect of exercise of domestic remedies (70-73)
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 - More favourable law clause (86)
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- Burden of proof (88-91)
 - Claimant to establish claim (89)
 - 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
 - Prima facie*
- Investment (98-101)
 - Import / storage license
- Taking (107)
 - Creeping
 - Four months duration
- Market Value (108-156)
 - Duration (108-112)
 - Lost net profits (113-123)
 - Principles to calculate lost profits (124-127)
 - Future earning capacity (127)
 - Sufficiency of evidence (128-129)
 - Incurred damages (130-156)
 - Ship (134-138)
 - Seizure and auction by domestic court whether expropriation (139-144)
 - Quantum of market value for expropriation (145-151)
 - Auction (147)
 - Use of discretion in evidence (145-151)
 - Incurred losses (152-156)
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 - Foreign employee compensation (155)
 - Liquidation expenses (155)

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Sufficiency of evidence (156)
 Misinterpretation of law by Government (157-162)
 Whether tantamount to expropriation (159)
 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)
 Economic feasibility of duty (168)
 Duty to make further investments (169)
 Denial of duty to mitigate damages (170)
 Burden of proof for duty and failure to perform (170)
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 Interest as element of compensation
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 Compound interest as element of “adequate and effective”
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 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/oa1.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: Procedure (1-9)
 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 See also IA.20.4. Decision on Application for Interpretation of Award, 31 October 2005; IA 20.2. Award, 8 December 2000; IA 20.1. Decision on Jurisdiction, 29 June 1999
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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	Costs (112)
	Importance of question
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 Hándl
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 Hándl 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 Merits (427-614) 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)

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Damages (615-618)
Reparation
Content of obligation
Costs (619-623)

IA 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/oa1.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)
Pre-conditions to arbitrate (181-191)
Waiting periods
Sufficiency of evidence
Expropriation (196-204)
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Indirect / creeping
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Good faith
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Protection of property
Arbitrary and discriminatory measures (214-288)
Fair and equitable treatment (289-304)
Full protection and security (305-314)
Costs (315-319)

IA 36. Claimant(s): Salini Costruttori S.p.A.
Italstrade S.p.A.
Respondent(s): Kingdom of Morocco
Type of Decision, Date: Decision on Jurisdiction, 23 July 2001
Decision: Jurisdiction upheld

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

- 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: Procedure (6-8)
 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
 See also **IA 25.1.** Decision on Jurisdiction, 8 August 2000
- Decision: Claims dismissed
- Arbitrator(s): Rodrigo Oreámuno (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>
 Yearbook XXVII (2002) pp. 13-17, 39-47 (excerpt)
- 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

ARBITRAL AWARDS

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#award11
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#award11 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

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

	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/oa1.html http://dfait-maeci.gc.ca/tna-nac/pope-en.asp
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 2000)
 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.
 Raymond L. Loewen
Respondent(s): United States of America
 Type of Decision, Date: Decision on Jurisdiction, 5 January 2001
 See also **IA 32.3.** Decision on Respondent's Request for a
 Supplementary Decision, 6 September 2004; **IA 32.2.**
 Award, 26 June 2003

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

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)

ARBITRAL AWARDS

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 (1220124)
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

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

Language(s):	Procedural Order No. 3, 17 July 2000
Place of Arbitration:	Order, 19 June 2000
Subject-matter:	Procedural Order No. 2, 3 May 2000
	Procedural Order No. 1, 3 April 2000
	English, Spanish
	Ottawa
	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 Buergethal (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/oa1.html
	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:	Procedure
	Pleadings (7)
	Volume
	Jurisdiction
	Parameters (22)
	Characterization (23-24)

ARBITRAL AWARDS

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/oa1.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)

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

	<ul style="list-style-type: none"> Exceptions (27.6-27.8) Nuisance claim (27.9) Layman (27.10-27.11)
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 See also IA 29.4. Award, 20 August 2007; IA 29.3. Decision on Jurisdiction, 14 November 2005; IA 29.2. Decision on Annulment, 3 July 2002
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
Link to Award / Decision:	http://ita.law.uvic.ca http://www.investmentclaims.com/oa1.html http://www.worldbank.org/icsid/cases/ada_AwardoftheTribunal.pdf Yearbook XXVI (2001) pp. 61-86 (excerpt)
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) Tribunal list of questions Jurisdiction (40-55) State responsibility (43) Attribution (49) Direct acts of State (50) Article 25(1), (3) ICSID Convention (51-52) Preclusive effect of contractual dispute resolution clause (53) Preclusive effect of exercise of domestic remedies (55) Merits (56-92) Treaty claims / contract claims (62-64, 77-82) Attribution (64)

ARBITRAL AWARDS

Acts of province (77-82)
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)
Bad faith (70-76)
Failure of renegotiations (82)
Government's failure to correct situation (83-92)
Sufficiency of evidence (92)
Costs (93-96)
Applicable law (93)
ICSID jurisprudence (94)
Loser pays principle (95)
Novelty of issues / complexity (95)
Efficiency of counsel (95)
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 Buerghenthal,
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>
Yearbook XXVII (2002) pp. 13-17, 39-47 (excerpt)
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)

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

	<ul style="list-style-type: none"> BITs (64) Environmental impact assessment (65-71) Transfer of funds (72-83) Disinvestment negotiations (84-91) Limitation period (92-93) Compensation (94-96) Interest (97) <ul style="list-style-type: none"> Compound interest Costs (98-99) <ul style="list-style-type: none"> Loser pays principle
IA 28.1. Claimant(s):	S.D. Myers, Inc.
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:	<ul style="list-style-type: none"> Procedure <ul style="list-style-type: none"> Confidentiality (20, 49) Challenge of arbitrator (25, 28-29) Production of documents (38-39, 50, 53-54) <ul style="list-style-type: none"> Crown privilege Procedural Order (43) Reasons Proof of law (57-60) Related arbitration (63, 84) Witness testimony (70) Bifurcation (302-303) International obligation (99) <ul style="list-style-type: none"> Domestic implementation of international law (100) USA / Canada Transboundary Agreement (103-104, 190) Basel Convention (105-108) “Enforcement discretion” (118-119, 191) Export ban (123-128) <ul style="list-style-type: none"> Policy (161-163) Effect (193)

ARBITRAL AWARDS

- Motivation (194-195)
- Treaty Interpretation (196-221)
 - Text of NAFTA (196-200)
 - Vienna Convention on Treaties (201-204)
 - Transboundary Agreement (205-208)
 - Basel Convention (210-215)
 - NAFTA Environment Side Agreement (216-220)
 - WTO (221)
- Investor (223-224, 230-232)
- Investment (225-229, 232)
 - Market share
- “Relating to” (233-236)
 - Article 1101 NAFTA
- Article 1102 NAFTA (238-257)
 - Like circumstances (243-251)
 - Motivation for measure (252-255)
- Article 1105 NAFTA (258-269)
 - Minimum standard of treatment
 - Unjust or arbitrary (263)
 - Breach of international law (264, 267)
- Article 1106 NAFTA (270-278)
 - GATT (274)
 - “Requirements” (275, 277)
- Article 1110 NAFTA (279-288)
 - Deprivation (280-284)
 - Temporary (283-284)
 - “Tantamount” (285-286)
 - Benefit of measure (287)
- Chapter 3 NAFTA (291-298)
 - Overlap of NAFTA Chapters
 - Causation
- Chapter 12 NAFTA (299-300)
 - Services
- Compensation (301-319)
 - Principles (304-319)
 - Standard (304)
 - Expropriation (305-307)
 - Fair Market Value (307)
 - Non-expropriation claims (309-315)
 - Discretion (309)
 - International law (310-315)
 - Burden of proof (316-317)
 - Sufficiency of evidence (316-317)
 - Multiple recovery (316-317)
 - Cumulative Treaty rights (318-319)
- Costs (327)
 - Reserved

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

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 Service (1) Diplomatic exchanges (3) Absent Respondent (5-6) Pleadings (6) Late submissions Sufficiency of (26) Jurisdiction (27-35) <i>Prima facie</i> (270) Treaty as arbitration agreement (28) Investment (29-35) Ownership (30) Use of ship (30-31) Compliance with domestic law (32) Validity of agreement (33-34) Lack of written agreement Probabilities (35) Attribution (36-38) Causation (36) Identity of state authority (37) Liability (38) Compensation (39-43) Loss of ship (39-40) Replacement value (39-40) Deterioration (40) Loss of furnishings / equipment (41) Sufficiency of evidence Loss of income (42-43) Sufficiency of evidence (42) Discretion (43) Interest (44-47) Compensatory (45) Rate (46) International law

ARBITRAL AWARDS

	Domestic law
	Law of place of injury
	Law of Claimant
	Law of place of arbitration
	Law of place of arbitration (47)
	Costs (48-49)
	Loser pays principle
	International practice
	VAT
	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/oa1.html http://www.naftaclaims.com/disputes_mexico_metalclad.htm Yearbook XXVI (2001) pp. 99-118 (excerpt)
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)
	Events after commencement of arbitration
	Anticipated breach (66)
	Applicable law (70-71)
	“Ensure”
	Governmental position on Treaty (24, 27)
	Attribution (73)
	Article 1105 NAFTA (74-101)
	Object and purpose (75)
	Transparency (76, 88, 99)
	Domestic law (85-86, 100)
	Absence of rule / practice / procedure (88)
	Representations by State (89)
	Denial of permit (93, 97)
	Domestic remedies (97)
	Article 1114 NAFTA (98)

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

Timeliness of State measure (99)
Article 1110 NAFTA (102-112)
Scope (102-103)
Acquiescence by State (104)
Indirect expropriation (105-112)
Measures (105-107)
Denial of permit (108)
Ecological Decree (109-112)
Enactment (109)
Culpa (111)
Implementation (112)
Compensation (113-127)
Valuation (113-125)
Full compensation (113)
Fair market value (118-125)
Discretion
DCF Method (119)
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Speculative (121)
Actual investments (122)
Status quo ex ante
Proof (123-1254)
Tax returns (123-124)
Audit documents (123-124)
Pre-contract expenditures (125)
“Bundling” (126)
Relinquishment of title (127)
Recipient (129)
Interest (128-129)
Date
Compound interest
Discretion
Costs (130)
Equity

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 Oremano (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>
Yearbook XXVII (2002) pp. 48-51 (excerpt)
Transaction: Food products enterprise

ARBITRAL AWARDS

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)
 Article 1102 NAFTA (41-44)
 National Treatment (43-44)
 Article 1105 NAFTA (43-44)
 Joinder
 Article 1106 NAFTA (45-80)
 Interpretation (65-69)
 Vienna Convention on Treaties (66-68)
 Textual interpretation (69)
 Article 1106(5) NAFTA (70)
 Article 1106(1) / Article 1106(3) NAFTA (71-78)
 “Advantage” (73)
 Requirement to export (74)
 Any level

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

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“Export” (78)
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Title
Export / domestic sales (79-80)
Article 1110 NAFTA (81-105)
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Market access
Police powers (99)
Exception
Ordinary meaning (100)
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Degree of interference (102)
Measures (103)
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Customary international law
“Tantamount” (104)
Estoppel (105-112)
Letter (106-109)
Conduct / representations (110)
International law (111)
Representation (112)
Reliance (112)
Sufficiency of evidence (112)
Annex

IA 23.1. Claimant(s): Waste Management, Inc.
Respondent(s): United Mexican States
Date / Type of Decision: Award, 2 June 2000
See also **IA 23.3.** Award, 30 April 2004; **IA 23.2.** Decision on Jurisdiction (for second claim), 26 June 2002
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
Yearbook XXVII (2002) pp. 98-116 (excerpt)
Transaction: Waste Management Services
Related Documents: Dissenting opinion by Arbitrator Highet
Language(s): English, Spanish
Place of Arbitration: Not indicated
Subject-matter: Article 1121 NAFTA (4-7)
Waiver
Article 1119 NAFTA

ARBITRAL AWARDS

Curing of defect
Form (7)
Subsequent conduct (7)
Applicable law (8-9)
NAFTA
Vienna Convention on Treaties
Chapter 11 NAFTA (10-13)
Procedure
Pre-conditions to arbitrate
Article 1121(2)(b) NAFTA (14-31)
Consent (16-17)
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Ad probationem
Materiality (24-25)
Intent
Conduct (26-28)
Domestic litigation
Identity of actions (29)
Validity (31)
Costs
Joint
Loser pays principle
Individual

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>
Yearbook XXVII (2002) pp. 13-17, 19-39 (excerpt)
Transaction: Production and Distribution of Chemical Products
Opinions & Decisions:
Language(s): Spanish
Place of Arbitration: Washington, D.C.
Subject-matter: Domestic remedies (19-37)

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

- MFN clause (38-64)
 Standing (65-70)
 Attribution (71-89)
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- 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>
 Yearbook XXV (2000) pp. 262-278 (excerpt)
- Transaction: Waste management
- Opinions & Decisions:
- Language(s): English, Spanish
- Place of Arbitration: Toronto
- Subject-matter: Procedure (36-74)
 Scope of NAFTA protection (77-84)
 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) <i>Prima facie</i> 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 See also IA 19.3. Award, 29 December 2004; IA 19.2. Decision on Respondent's Further and Partial Objection to Jurisdiction, 1 December 2000
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 Yearbook XXIV (1999) pp. 44-70 (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:	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

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

- 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
 See also **IA 12.1.** Decision on Jurisdiction, 24 December 1996
- 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>
 Yearbook XXV (2000) pp. 221-261 (excerpt)
- Transaction: Agricultural joint venture
 Opinions & Decisions: Decision on Jurisdiction, 24 December 1996
 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:	Yearbook XXVI (2001) pp. 24-46 (excerpt) 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)

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

- Broad definition
- Shareholding
- Concession agreement (11-14)
 - Shareholder claims (12)
 - Liability (13-14)
 - Whether investment agreement (16)
- Investment dispute (17-20)
 - Foreign investment (18)
 - Exclusive
 - Non-mention of BIT in Contract (19)
- Pre-conditions to arbitrate (21-28)
 - Domestic courts (22)
 - Previously agreed procedures (23-28)
 - “Previously agreed” (25)
 - Federal Administrative Tribunals (26)
 - Selection of jurisdiction
 - Time (27)
 - Date dispute arose
- Submission to arbitration (29-30)
 - Different language of treaty texts
- BIT as arbitration agreement (31-36)
- Domestic remedies (37-39)
- Article 25 ICSID Convention (41-48)
 - Consent (42-44)
 - Rationae personae*
 - Nature of parties (45)
 - Nationality of corporation (46)
 - Subject-matter jurisdiction
 - Legal nature (47)
 - Arising directly out of investment (48)

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)

ARBITRAL AWARDS

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):

Respondent(s):

Type of Decision, Date:

Decision:

Ethyl Corporation
Government of Canada
Award on Jurisdiction, 24 June 1998
Jurisdiction upheld

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

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:

Language(s): English

Place of Arbitration: Toronto

Subject-matter: Parliamentary bill (5, 10, 21)
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 Place of arbitration (27-28)
 Submissions (33-34)
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 New claims (93-95)
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 NAFTA
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 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)
 Pre-conditions to arbitrate (74-
 Timing (74)
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 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

	See also IA 14.1. Decision on Jurisdiction, 11 July 1997
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 <ul style="list-style-type: none"> Documents submitted at hearing (13) Abandonment of objections (44) Jurisdiction (15-45) <ul style="list-style-type: none"> Legal dispute (15) <i>Rationae personae</i> (17) Investment (18-43) <ul style="list-style-type: none"> Foreign direct investment (19) Article 25 ICSID Convention (22-29) <ul style="list-style-type: none"> 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) <ul style="list-style-type: none"> Evidence of loan (29, 39) Identity of investor / identity of investment (40) BIT (30-33) <ul style="list-style-type: none"> Broad interpretation (32) “Titles to money” (33) International practice (34-36) <ul style="list-style-type: none"> 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) <ul style="list-style-type: none"> 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

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

- 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>
 Yearbook XXIV (1999) pp. 23-43 (excerpt)
- Transaction: Promissory notes
 Related Documents: Decision on Jurisdiction, 11 July 1997
 Language(s): English, Spanish
 Place of Arbitration: ICSID
 Subject-matter: Procedure (1-24)
 Acknowledgment of liability (19, 21-22)
 Currency of payment (21)
 Discontinuance of proceedings (28)
 Facts uncontested by Respondent (25)
 Offer of settlement (27)
 Applicable law (30)
 Principal amount (31)
 Interest (32)
 Date of payment (33)
 Costs (34-35)
 Joint costs
 Individual costs
- IA 13. Claimant(s):** American Manufacturing & Trading, Inc.
Respondent(s): Republic of Zaire
 Date / Type of Decision: Award, 21 February 1997
 Decision: Claims upheld
 Arbitrators: Sompong Sucharitkul (President), Herbert Golsong, Keba Mbaye
- Jurisdiction founded on: USA / Zaire 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/oa1.html>
 Yearbook XXII (1997) pp. 60-86 (excerpt)
- Transaction: Manufacturing and trading enterprise
 Related Documents: Individual opinions by Arbitrators Golsong and Mbaye
 Language(s): English
 Place of Arbitration: ICSID
 Subject-matter: Parties
 Change of name (1.04)
 Procedure
 Constitution of tribunal (2.01-2.04)
 Absent Respondent (3.23-3.24)
 Ex parte hearing
 Second hearing (3.25-3.27)
 Joinder (4.09)
 Registration of Request (5.01-5.02)
 Jurisdiction (4.01-5.46)
 Article 25 ICSID Convention (5.04-5.27)

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)
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 - 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)
 - Acts of violence (6.13-6.14)
 - Causation (6.15-6.18)
 - Remedies (6.20-6.24)
 - Pecuniary
- Compensation (7.01-7.21)
 - Methods (7.03)
 - Minimum standard of treatment
 - Fair market value
 - Expropriation
 - Army (7.04-7.09)
 - Presidential pardon (7.10-7.12)
 - False conflict (7.13)
 - Lucrum cessans* (7.14)
 - 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

DIGEST OF INVESTMENT TREATY DECISIONS AND AWARDS

Arbitration mechanism:	Albania / Greece BIT of 1 August 1991 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) Investment Treaty (178-180) 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) Foreign investor (181-182) Good faith efforts to settle dispute amicably (182-184) Proof of expropriation (184-185) Retroactive application of domestic investment law (185-195) Jurisdiction standard (185) Relevant dates for ICSID arbitration (185-186) Consent (186) When dispute arose (187-192) "Arise" (187-188) "Arises" (189) Acts predating effective date (190) "Shall" (191) Interpretation (192-195) Context (192) 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
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Failure to provide adequate protection (72-86)
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 Full value
Interest (112-115)
Costs (116)

IA 1. – IA 10. Reserved