

International Protection of Investments

This book outlines the protection standards typically contained in international investment agreements as they are actually applied and interpreted by investment tribunals. It thus provides a basis for analysis, criticism, and stocktaking of the existing system of investment arbitration. It covers all main protection standards, such as expropriation, fair and equitable treatment, full protection and security, the non-discrimination standards of national treatment and MFN, the prohibition of unreasonable and discriminatory measures, umbrella clauses and transfer guarantees. These standards are covered in separate chapters providing an overview of textual variations, explaining the origin of the standards and analysing the main conceptual issues as developed by investment tribunals. Relevant cases with quotations that illustrate how tribunals have relied upon the standards are presented in depth. An extensive bibliography guides the reader to more specific aspects of each investment standard permitting the book's use as a commentary of the main investment protection standards.

AUGUST REINISCH is a professor of international and European law at the University of Vienna. He is a Member of the International Law Commission, a membre associé of the Institut de droit international and President of the Austrian Branch of the International Law Association. Professor Reinisch has served as arbitrator in investment cases mostly under ICSID and UNCITRAL Rules. He is a Member of the ICSID Panels of Conciliators and of Arbitrators and of the Court of the PCA.

CHRISTOPH SCHREUER was a professor of International Law at Salzburg University, The Johns Hopkins University and the University of Vienna. He has served as arbitrator in investment cases mostly under the ICSID and UNCITRAL Rules. He is a member of the ICSID Panels of Conciliators and of Arbitrators. He is the author of numerous books and articles in the field of international investment law.

Cambridge University Press
978-1-107-01358-2 – International Protection of Investments
August Reinisch , Christoph Schreuer
Frontmatter
[More Information](#)

INTERNATIONAL PROTECTION OF INVESTMENTS

The Substantive Standards

AUGUST REINISCH

University of Vienna

CHRISTOPH SCHREUER

Zeiler Partners, Vienna



Cambridge University Press
978-1-107-01358-2 — International Protection of Investments
August Reinisch, Christoph Schreuer
Frontmatter
[More Information](#)

CAMBRIDGE
UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom
One Liberty Plaza, 20th Floor, New York, NY 10006, USA
477 Williamstown Road, Port Melbourne, VIC 3207, Australia
314–321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre, New Delhi – 110025, India
79 Anson Road, #06–04/06, Singapore 079906

Cambridge University Press is part of the University of Cambridge.

It furthers the University's mission by disseminating knowledge in the pursuit of education, learning, and research at the highest international levels of excellence.

www.cambridge.org

Information on this title: www.cambridge.org/9781107013582

DOI: 10.1017/9781139004978

© August Reinisch and Christoph Schreuer 2020

This publication is in copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of Cambridge University Press.

First published 2020

Printed in the United Kingdom by TJ International Ltd, Padstow Cornwall

A catalogue record for this publication is available from the British Library.

Library of Congress Cataloging-in-Publication Data

Names: Reinisch, August, author. | Schreuer, Christoph, author.

Title: International protection of investments : the substantive standards / August Reinisch, University of Vienna; Christoph Schreuer, Zeiler Partners, Vienna.

Description: Cambridge, United Kingdom ; New York, NY, USA : Cambridge University Press, 2020. | Includes bibliographical references and index.

Identifiers: LCCN 2019052444 (print) | LCCN 2019052445 (ebook) | ISBN 9781107013582 (hardback) | ISBN 9781139004978 (epub)

Subjects: LCSH: Investments, Foreign (International law)

Classification: LCC K3830 .R447 2020 (print) | LCC K3830 (ebook) | DDC 346/.092–dc23

LC record available at <https://lcn.loc.gov/2019052444>

LC ebook record available at <https://lcn.loc.gov/2019052445>

ISBN 978-1-107-01358-2 Hardback

Cambridge University Press has no responsibility for the persistence or accuracy of URLs for external or third-party internet websites referred to in this publication and does not guarantee that any content on such websites is, or will remain, accurate or appropriate.

CONTENTS

<i>Preface</i>	<i>page</i> xvii
<i>Table of Cases</i>	xix
<i>List of Abbreviations</i>	xlvii
1 Expropriation	1
I Introduction	5
A General	5
B Historic Background of Property Protection	5
1 The International Minimum Standard: The Treatment of Foreigners	5
2 The Contribution of Human Rights Law	11
3 The Contribution of the Iran–US Claims Tribunal: The <i>Lex Specialis</i> Problem of the Algiers Accord	13
C The Continued Relevance of the Customary International Law on Expropriation	14
D Historic Origin of Expropriation Clauses	16
E The Relevance of Textual Variations of Expropriation Clauses	18
II The Object of Protection: ‘Investments’	19
A The Broadening of the Object of Property Protection	20
B ‘Possessions’ as Objects of Expropriation in Human Rights Law	24
C Intangible Rights	26
D Contractual Rights	28
E Market Access	33
F Judicial and Arbitral Decisions	34
III The Notion of Expropriation	36
A General	36
B Direct Expropriation	39
C Confiscation	45
D Nationalization	45
E Indirect Expropriation	46
1 Scholarly Attempts to Define Indirect Expropriation	46
2 Recent Attempts to Define Indirect Expropriation in IIAs	48
IV General Considerations on Indirect Expropriation	51
A Fact-Based Case-by-Case Analysis	51
B Interchangeable Use of Indirect Expropriation Terms	52
C Measures Tantamount to Expropriation and Indirect Expropriation	54
	v

D Measures Tantamount to Expropriation and Dispossession	57
E Creeping Expropriation	57
F Acts and Omissions	69
G Property Deprivation: An Expropriation Need Not Benefit the State	71
H Judicial Expropriation	76
I The Problem of Partial Expropriation	81
J Regulatory Expropriation	85
1 The Difficulty of Distinguishing between Legitimate Regulation and Regulatory Expropriation	86
2 Legitimate Regulatory Purposes	88
(a) Taxation	91
(b) Monetary Regulation	99
(c) Environmental Regulation	100
(d) Health Regulation	102
3 The Methanex/Saluka Doctrine: Legitimate Regulatory Measures	103
4 Beyond Methanex and Saluka	104
V The Main Criteria Used to Identify Indirect Expropriation in Arbitral Practice	112
A Severity of Interference: Substantial Deprivation	112
1 The Severity of Interference in NAFTA Cases	115
2 The Intensity/Severity of Interference in Other Investment Cases	119
B Durational Aspects of Expropriation	135
C Loss of Control	140
1 De Facto Deprivation of Facilities	142
2 Loss of Control Indirectly Acknowledged	146
3 The Compulsory Nature of the Transfer of Property/Loss of Control	149
4 The Role of Governmental Intent: 'Sole Effects' Doctrine	149
D Protection of Legitimate Investor Expectations	156
1 Specific Assurances	157
2 General Assurances	159
3 High-Risk Investments	162
E Predictability and Stability	164
F Discrimination	166
G Proportionality	168
H Transparency	170
I Due Process	171
J Governmental Interference in Case of Takings of Contractual Rights	172
1 Breach of Contract or Expropriation of Contractual Rights	172
2 Expropriation of Contractual Rights: the Exercise of Governmental Authority	175
3 The Rare Cases of Expropriation of Contractual Rights vis-à-vis Private Parties	187
VI Lawfulness of Expropriation	188
A Public Interest	190
1 Textual Variations	190
2 Relationship to Customary International Law	191

<i>Contents</i>	vii
3 The Review of Public Interest on the Basis of IIA Provisions	194
4 Main Issues and Purpose	195
5 Scope of Review	195
(a) Wide Discretion of Host States to Determine Public Interest	196
(b) Limited Review of Host State Determinations of Public Interest	199
6 Summary	204
B Non-discrimination	204
1 Textual Variations	204
2 Relationship to Customary International Law	204
3 Main Issues and Purpose	206
(a) Discrimination of Foreigners	206
(b) Racial Discrimination	210
(c) ‘Justified’ Discrimination	211
4 Summary	213
C Due Process	213
1 Textual Variations	214
2 Relationship to Customary International Law	215
3 Main Issues and Purpose	216
(a) Meaning of Due Process	216
(b) Due Process As a Right to Have an Expropriation Reviewed	217
(c) Due Process As an Obligation to Expropriate According to Host State Law	222
4 Summary	223
D Compensation for Expropriation	223
1 Textual Variations	223
2 Compensation under Customary International Law	225
3 The Compensation Requirement under IIAs	228
4 The Adequacy of Compensation: ‘Full’, ‘Adequate’, or ‘Appropriate’	229
5 Prompt Compensation	233
(a) Offers of Compensation	236
(b) Compensation in Cases of Indirect Expropriation	238
6 Effective Compensation	241
7 Summary	242
E Damages for Unlawful Expropriation	242
1 The Differentiation between Compensation and Damages in Theory	243
2 The Differentiation in Practice under Customary International Law	244
3 The Differentiation in Practice under Treaty Law	246
VII Conclusions	250
2 Fair and Equitable Treatment	251
I Introduction	254
A General	254
B Historic Origin	255
C Scholarly Debates	257

II FET Clauses in International Investment Agreements	259
A Textual Variations of FET Clauses	261
1 Stand-alone FET Clauses	263
2 Combined FET Clauses	263
3 FET Clauses Referring to International Law	264
(a) References to International Law in General	264
(b) References to Customary International Law	265
(c) References to the International Minimum Standard	266
4 FET Clauses Stressing Individual Elements	266
5 FET Clauses Containing More Detailed Explanations	267
6 FET Clauses Referring to Domestic Law	269
B The Importation of FET Obligations via MFN Clauses	270
III Interpretative Approaches to FET Clauses	272
A Ordinary Meaning	274
1 The ‘Dictionary Approach’	274
2 Criticism of the ‘Dictionary Approach’	277
B Contextual Interpretation	279
1 Other Treaty Provisions as ‘Context’	279
2 Treaty Preambles as ‘Context’	281
3 Broader ‘Context’	282
4 Human Rights and Trade Treaty Provisions as ‘Context’	285
5 International Law and Jurisprudence as ‘Context’	287
C Object and Purpose	287
D Resulting Expansive or Restrictive Interpretations of FET	290
1 High Level of Protection	291
2 Low Level of Protection	294
IV Conceptual Aspects of FET	295
A The Legal Basis of Fair and Equitable Treatment: Good Faith	296
1 Bad Faith Is Not Required for a Breach of FET	297
2 Bad Faith Is a Strong Indication for a Breach of FET	300
B Fair and Equitable Treatment Distinguished from <i>Ex Aequo et Bono</i>	302
C Fair and Equitable Treatment as Customary International Law Minimum Standard or as Autonomous (Higher) Standard	303
1 The Content of the International Minimum Standard	305
(a) The Jurisprudence of Mixed Claims Commissions	305
(b) The Neer Standard	306
(c) Further Development of the Neer Standard	307
(d) The Evolutive Character of the International Minimum Standard	310
2 FET As Equivalent to the International Minimum Standard	314
3 An Autonomous Higher Standard	324
(a) An Autonomous Standard Where IIAs Do Not Refer to International Law	325
(b) An Autonomous Standard Where IIAs Refer to International Law	328
4 The Approximation of the Autonomous and the Customary Standard	333
D Fair and Equitable Treatment as Treatment under Customary International Law Does Not Incorporate Other International Law Guarantees	338

Contents

ix

E Fair and Equitable Treatment as an Expression of General Principles of Law	339
F Fair and Equitable Treatment as an Expression of the Rule of Law	342
G Fair and Equitable Treatment and Proportionality	344
H Fair and Equitable Treatment as a Non-Contingent Standard	346
I Cumulative Effect of Several Acts as Violations	347
J The Delimitation between Fair and Equitable Treatment and Other Protection Standards as Well as Their Interrelationship	349
1 Expropriation	351
(a) Breach of Contract under Expropriation and FET	354
(b) Due Process	357
2 Full Protection and Security	358
3 Non-Discrimination Standards	363
(a) The Prohibition of Arbitrary and Discriminatory Treatment	363
(b) National Treatment and MFN	365
4 Transfer Clauses	365
V The Elements of FET Identified in the Jurisprudence of Investment Tribunals	367
A Fact-Specific Assessment of FET Claims	368
B The Relevance of Jurisprudence and Scholarship	369
C Jurisprudential Summaries of the Elements of FET	371
D Procedural Fairness and Due Process	376
1 Due Process and Denial of Justice	379
2 Due Process Scrutiny Distinguished from Appellate Review	382
3 Due Process Scrutiny and Exhaustion of Local Remedies ('Finality Rule')	386
(a) The Exhaustion of Local Remedies and Access to ISDS	388
(b) The 'Exhaustion of Local Remedies' and the Requirement of Final Judicial Acts to Ascertain a Denial of Justice	390
4 Due Process Requirements Apply to Civil, Criminal and Administrative Proceedings	396
(a) Due Process in Civil Proceedings	396
(b) Due Process in Criminal Proceedings	396
(c) Due Process in Administrative Proceedings	398
5 The Content of the Due Process Obligation of Host States	402
(a) Access to Court	408
(b) Undue Delay	410
(c) Fair Procedure	416
(d) Equality of Treatment	418
(e) Right to be Heard	419
(f) Independence and Impartiality	422
(g) Manifestly Unjust Outcome	423
E Good Faith-Inspired FET Requirements: No Harassment and Abuse of Power	427
F A Possible Duty to Negotiate in Good Faith	432

G	Absence of Discrimination and Arbitrariness	434
1	Discriminatory Measures	436
2	Arbitrary Measures	439
H	Reasonableness	441
I	Proportionality	446
J	Transparency	453
1	High Level of Transparency	455
2	Low Level of Transparency	459
3	Challenges to Transparency As an Element of FET	460
K	Stability and Predictability	461
1	Policy Reasons for Stability and Predictability	462
2	Stability and Predictability As Part of FET	462
3	Consistency	468
4	How Much Stability?	471
5	The Right to Regulate	478
L	Legitimate Expectations	480
1	Legitimate Expectations As an Expression of Good Faith	482
2	Ascertaining Legitimate Expectations by a Comparative Law Method	483
3	Legitimate Expectations As a Controversial Aspect of FET	484
4	The Objective Nature of Legitimate Expectations	486
5	The Role of Investor Due Diligence for ‘Legitimate Expectations’	492
6	The Timing of Legitimate Expectations	496
7	The Host State’s Role in Creating Legitimate Expectations	500
(a)	Types of Host State Acts Creating Legitimate Expectations	503
(i)	Contracts	503
(ii)	Unilateral Promises	507
(iii)	Unilateral Statements	508
(iv)	Regulatory Framework and Legislation	510
(b)	Specificity of Host State Acts	517
8	Legitimate Expectations and the Host State’s Right to Regulate	524
M	Legality	530
1	Not Every Breach of Domestic Law by Host States Violates FET	530
2	Legal or Illegal Host State Behaviour As an Indication of FET Violations	532
VI	Conclusions	535
3	Full Protection and Security	536
I	Introduction	540
A	General	540
B	Historic Origin	540
II	Functioning and Basic Concepts	542
A	Textual Variations of FPS Provisions	542
B	FPS and Customary International Law	545
1	International Law As a Floor	546
2	International Law As a Ceiling	548

<i>Contents</i>	xi
C FPS and Fair and Equitable Treatment	550
1 FPS and FET As a Unitary Concept	550
2 FPS and FET As Separate Standards	554
III The Application of FPS in Arbitral Practice	558
A Physical Protection	558
1 Protection against Private Violence	561
2 Protection against Violence by State Organs	565
B Legal Protection	568
1 Inclusion of Legal Security	568
2 Exclusion of Legal Security	576
C The Standard of Liability for FPS	580
1 Due Diligence	580
2 The Relevance of Economic and Social Conditions	584
IV Conclusions	586
4 National Treatment	587
I Introduction	591
A General	591
B Historic Origin	592
II National Treatment Clauses in International Investment Agreements	594
A Textual Variations of National Treatment Provisions	595
B Exceptions from National Treatment Obligations	595
C National Treatment and Entry or Establishment	597
D Overlap with Other Standards: The Prohibition of Arbitrary and Discriminatory Measures	599
III The Functioning and Basic Concepts of National Treatment Clauses	603
A National Treatment as an Expression of Non-Discrimination	603
B Non-Discrimination as a Normative Concept	604
C National Treatment and Customary International Law	605
D National Treatment and the International Minimum Standard	606
E The Function of National Treatment	607
F Inherent Limitation of the Availability of the National Treatment Claim	608
IV Interpretation of National Treatment Clauses	609
A The Relevance of GATT/WTO Jurisprudence	609
1 Tribunals Accepting the Interpretative Value of Trade Law Concepts	610
2 Tribunals Reluctant to Accept the Interpretative Value of Trade Law Concepts	611
B The Relevance of MFN Jurisprudence	615
C Discriminatory Intent as a Requirement for a Breach of National Treatment?	616
1 No Intent Requirement	616
2 A Possible Intent Requirement	619
3 Proven Intent As an Indication of Discrimination	621

V Application in Practice: The Three-Step Test and Its Variations	623
A The Identification of a Domestic Comparator: ‘Like Circumstances’ or ‘Like Situations’	626
1 Textual Variations	627
2 A Flexible, Fact-Specific Approach to ‘Likeness’	630
3 The Relevance of ‘Economic’ or ‘Business’ Sectors	632
4 Number of Competitors	638
5 The Existence of a Competitive Relationship	639
6 The Need for ‘Substantially’ or ‘Materially’ Similar Circumstances	643
7 Examples of ‘Circumstances’ Which Are Not ‘Like’	644
B Less Favourable Treatment: Discrimination	653
1 What Constitutes ‘Treatment’?	654
2 ‘No Less Favourable’ Treatment or ‘Most Favourable’ Treatment?	656
3 De Jure and De Facto Discrimination	658
4 Factually Discriminatory Treatment	661
5 Any Discrimination or Only Sufficiently Serious Discrimination?	663
6 Examples of Discrimination and Lack of Discrimination	664
C Lack of Justification	667
1 The Possibility of Justification As an Implicit Element of Discrimination Claims	668
2 Legitimate Reasons to Differentiate As ‘Justification’ or As an Element to Assess ‘Like Circumstances’?	669
3 Few Genuine Examples of Investment Awards Justifying Different Treatment	672
D Burden of Proof	672
1 Claimants Have to Prove Discrimination in ‘Like Circumstances’	673
2 Respondents Have to Prove Affirmative Defences	674
VI Conclusions	679
5 Most-Favoured-Nation Treatment	680
I Introduction	686
A General	686
B Historic Origin	687
C Scholarly Debates	689
D The Use of MFN Clauses in Different Contexts	691
II MFN in Trade Matters	691
III MFN in International Investment Agreements	693
A Textual Variations of MFN Provisions	694
1 MFN in the Pre-establishment Phase	695
2 MFN Linked to Fair and Equitable Treatment	696
3 MFN Linked to Full Protection and Security	698
4 MFN and National Treatment Combined	698
5 MFN Clauses and Dispute Settlement	698
6 Exceptions from MFN Obligations	702
IV The Functioning and Basic Concepts of MFN Clauses	704
A The Multilateralizing Effect of MFN Treatment	705

<i>Contents</i>	xiii
B MFN Treatment as Treatment of Foreign Investments and Investors	705
C MFN as a Treaty, Not a Custom-based Obligation	709
D The ‘Basic Treaty’ as the Legal Basis of MFN Treatment	710
E MFN Clauses as Treaty Provisions Are Subject to Treaty Interpretation Rules	711
F Temporal Issues concerning MFN Treatment	712
1 The Prospective and/or Retrospective Effect of MFN Clauses	713
2 The Effect of MFN Clauses on the Temporal Scope of Application of a BIT	716
G The Scope of MFN Clauses: The <i>Ejusdem Generis</i> Principle	719
H The Scope of MFN Treatment: Treaty Stipulations and De Facto Treatment	725
I The Relevance of National Treatment Jurisprudence for MFN Cases	726
J Application of the Three-Step Test in Factual Discrimination Cases	727
1 ‘In Similar/Like Situations/Circumstances’	728
2 Treatment ‘No Less Favourable’: Not ‘Equal’ Treatment	732
3 What Constitutes More/Less Favourable Treatment?	732
K The Scope of MFN Treatment: Third Party Treatment in Its Entirety or Selectively – The ‘Cherry Picking’ Issue	735
V The Rationale/Purpose of MFN Clauses in International Investment Agreements	738
A Creating Equal Competitive Conditions for Investors	738
B Expansion of Investor Rights	740
VI The Application of MFN Clauses in Investment Practice	740
A MFN and the Scope of Protected Investments and Investors	740
B MFN As a Tool to Import Substantive Treatment Standards	743
1 Fair and Equitable Treatment in NAFTA	744
2 Fair and Equitable Treatment in Other Cases	746
3 Other Treatment Standards	749
4 MFN and Expropriation	754
5 MFN and De Facto Discrimination	756
C Treatment in Regard to Dispute Settlement	759
1 The Maffezini Case	764
2 Post-Maffezini Cases	766
3 Cases Following and Widening the Maffezini Approach	767
D Cases Rejecting the <i>Maffezini</i> Approach	779
VII The Main Aspects of the Post- <i>Maffezini</i> Debate	799
A The Use of Presumptions	800
B The Relevance of the Specific Wording of an MFN Clause	801
1 ‘Treatment’	802
2 ‘Treatment with Respect to the Management, Maintenance, Use, Enjoyment or Disposal of Investments’	804
3 ‘In the Territory’	805
4 ‘All Matters Subject to this Agreement’	807
5 ‘In Like Situations/Circumstances’	808
6 Exceptions	808

xiv	<i>Contents</i>	
	C Harmonization or More Inconsistency on the Interpretation of MFN Clauses in Procedural Matters?	810
	VIII Conclusions	812
6	Protection against Arbitrary or Discriminatory Measures	813
	I Introduction	816
	A General	816
	B Historic Origin	817
	II Functioning and Basic Concepts	819
	A Textual Variations	819
	B The Meaning of Unreasonable/Arbitrary Measures	820
	1 Ordinary Meaning	821
	2 Rule of Law	821
	3 Due Process	824
	4 Shock, Outrage and Surprise	825
	5 Expectations	826
	6 Bad Faith/Adverse Intention	827
	7 Rational Decision-Making	828
	8 Synopsis of Practice	834
	C The Meaning of Discriminatory Measures	835
	1 The Basis of Comparison for Discrimination	836
	2 Discriminatory Intent or de Facto Discrimination	839
	D Relationship to Customary International Law	843
	E Relationship to Fair and Equitable Treatment	845
	1 Unitary Concept with FET	846
	2 Separate Standards	851
	III Conclusions	854
7	Umbrella Clause	855
	I Introduction	857
	A General	857
	B Origin of the Term ‘Umbrella Clause’ and Other Designations	858
	C Historic Origin of Umbrella Protection	859
	D Scholarly Debates	860
	II Umbrella Clauses in International Investment Agreements	865
	A Textual Variations of Umbrella Clauses	867
	1 Umbrella Clauses Referring to Obligations ‘Entered Into’	868
	2 Umbrella Clauses Referring to Obligations ‘With Regard to Investments’ or ‘With Regard to Specific Investments’	869
	3 Umbrella Clauses Referring to ‘Any Obligations Whether General or Specific’	869
	4 Umbrella Clauses Referring to ‘Any Obligations Assumed’	870
	5 Umbrella Clauses Referring to Obligations ‘Entered Into’ by Third Parties	870

Contents

xv

6 Umbrella Clauses Constantly Guaranteeing the Observance of Commitments	871
7 Umbrella Clauses Making Observance of Obligations ‘Subject to Host State Law’	871
8 Umbrella Clauses Specifying the Applicable Law	872
9 Umbrella Clauses Clarifying Their Legal Effect	872
10 Opting Out from Umbrella Clauses	873
B Treaty Provisions Similar, but Distinct from, Umbrella Clauses	874
1 Clauses Generally Requiring Respect for Contractual Obligations	874
2 Preservation of Rights Clauses	876
3 ‘Floor’ Provisions	877
III The Interpretation of Umbrella Clauses	878
A Ordinary Meaning	879
B Object and Purpose	880
C Contextual Interpretation	881
D Expansive or Restrictive Interpretation	883
IV Conceptual Aspects of the Use of Umbrella Clauses	884
A The Purpose of Umbrella Clauses	885
1 Pacta Sunt Servanda	885
2 Access to Treaty Arbitration	886
B Scope of Umbrella Clauses	889
1 Unilateral Obligations – Host State Legislation and Regulation	890
2 Obligations Relating to Investments	901
(a) All Contractual Obligations or only Investment-Related Agreements?	901
(b) Specific Agreements and Other Treaty Provisions	903
3 Personal Scope of Obligations – Privity between Investors and Host States?	904
(a) Sub-state Entities	905
(b) Subsidiaries	915
(c) Conclusion on Privity	924
C The Possible Exclusion of Purely Commercial Commitments	924
D The Potential Need for a Governmental Act to Violate an Umbrella Clause	926
E The Power of Investors to Waive Rights under an Umbrella Clause	927
V Overview of the Jurisprudence on Umbrella Clauses	928
A Decisions de Facto Depriving Umbrella Clauses of any Practical Effect	930
B Decisions Requiring an Element of Sovereign Authority	933
1 Sovereign or Governmental versus Purely Commercial Obligations	934
2 Sovereign or Governmental versus Commercial Breaches of Obligations	937
C Decisions Giving Effect to Umbrella Clauses and the Issue of Applicable Law	944
D Decisions Giving Effect to Umbrella Clauses but Giving Precedence to Contractually Agreed upon Dispute Settlement Mechanisms	951

xvi	<i>Contents</i>	
	E Decisions Fully Internationalizing Contract Breaches through Umbrella Clauses	956
	F Passing References to Umbrella Clauses	962
	VI Conclusions	968
8	Transfer Clauses	970
	I Introduction	976
	II The Liberalization of Payments and Capital Transfers	976
	III Purpose of Transfer of Funds Provisions and Monetary Sovereignty	978
	IV The Texts of Transfer of Funds Provisions	980
	A Historic Origin	980
	B Textual Variations of Transfer Clauses	981
	1 In- and Outbound Transfers or Only Outbound Transfers	981
	2 Types of Transfers Covered	982
	3 Transfers Subject to Host State Law	983
	4 Time Element	984
	5 Types of Currencies Available for Transfers	984
	6 Applicable Exchange Rates	985
	C Exceptions from Transfer Obligations	986
	1 Exceptions relating to Judicial Proceedings	986
	2 Balance of Payments Exceptions	986
	V The Compatibility of Transfer Provisions with EU Law	987
	VI Application of Transfer Provisions in Practice	989
	A The Argentinian Financial Crisis	990
	B Violations of Transfer Obligations	992
	C No State Interference with Transfers	994
	D No Violations of Transfer Obligations	994
	VII Transfer Obligations Distinguished from other Treatment Standards	996
	VIII Conclusions	998
	<i>Bibliography</i>	999
	<i>Index</i>	1040

PREFACE

The aim of this book is to describe and explain the investment protection standards typically contained in international investment agreements (IIAs) as applied by investment tribunals. It will provide a basis for analysis, criticism and argument. In this book we do not offer our own views on how investment standards should be interpreted. Rather, we have collected, analysed and systematized the sometimes heterogeneous, if not contradictory, interpretations reached by various investment tribunals. Thus, this book permits a stocktaking of how tribunals have addressed arguments and interests of parties and stakeholders in the area of investment arbitration. It is neither a critique of nor an apology for the existing system.

Conspicuous features of tribunal practice are the inconsistencies and contradictions encountered when interpreting key issues such as the scope of most-favoured-nation (MFN) clauses, the elements of fair and equitable treatment (FET), of umbrella clauses, the defining point of indirect expropriation. At the same time, practice shows the harmonious interpretation of many other elements of the main investment protection standards.

The absence of a fully consistent practice is due, at least in part, to a multitude of bilateral investment treaties (BITs) and a few multilateral agreements with investment chapters which reflect these standards with some variation. In addition, we are dealing with decisions of a wide variety of mostly ad hoc arbitral tribunals deciding specific cases.

Our aim has been to analyse these arbitral interpretations of different treaties by focusing and concentrating on common underlying concepts expressed in often varying language. This approach explains the structure of the book.

We have concentrated on the main protection standards contained in IIAs: expropriation, FET, full protection and security, the non-discrimination standards of national treatment and MFN, the prohibition of unreasonable and discriminatory measures, umbrella clauses and transfer guarantees.

Each chapter provides an overview of the variations of language employed by treaty-makers while stressing the common core of the respective standard. It explains the origin of the standard and analyses the main conceptual issues, focusing on the way tribunals have interpreted them. Each chapter discusses the

relevant cases with quotations that illustrate how tribunals have actually addressed the standard. An extensive, though not exhaustive, bibliography should guide the reader to more specific aspects of the investment standards discussed in this book. These features explain the book's resemblance to a commentary on the main investment protection standards.

The growing case-law in the field and the fact that some decisions and awards remain confidential makes an exhaustive treatment impossible. We have strived to keep the chapters current as of the end of 2018.

This book was made possible by the generous support of the Austrian Science Fund which has funded research projects of Professor Reinisch on the interpretation and application of international investment law. Research and project assistants at the University of Vienna have made valuable contributions to this book: in particular, Christina Knahr, Lukas Stifter, Aima Samatova, Jose Mag-naye, Florentina Simlinger, Céline Braumann, Sara Mansour Fallah and Johannes Tropper. The University of Vienna has granted a sabbatical to Professor Reinisch, enabling him to finalize large parts of the manuscript during summer term of 2018.

Vienna, June 2019

TABLE OF CASES

<i>AIY Ltd. v. Czech Republic</i> , ICSID Case No. UNCT/15/1, Decision on Jurisdiction, 9 February 2017; Award, 29 June 2018	111, 798, 799, 877, 904
<i>Abaclat and others v. The Argentine Republic</i> , ICSID Case No. ARB/07/5, Decision on Jurisdiction and Admissibility, 4 August 2011	752, 811, 888, 941, 942, 966, 967
<i>ABCI Investments N.V. v. Republic of Tunisia</i> , ICSID Case No. ARB/04/12, Decision on Jurisdiction, 18 February 2011	718
<i>Abengoa, S.A. y COFIDES, S.A. v. United Mexican States</i> , ICSID Case No. ARB(AF)/09/2, Award, 18 April 2013	181
<i>Accession Mezzanine Capital L.P. and Danubius Kereskedőház Vagyonkezelő Zrt. v. Hungary</i> , ICSID Case No. ARB/12/3, Decision on Respondent's Objection under Arbitration Rule 41(5), 16 January 2013; Award, 17 April 2015	9, 32, 33, 37, 755, 756
<i>Achmea B.V. v. The Slovak Republic [I]</i> , PCA Case No. 2008-13, Final Award, 7 December 2012	137, 350, 360, 366, 444, 498, 992, 998
<i>Achmea B.V. v. The Slovak Republic [II]</i> , PCA Case No. 2013-12, Award on Jurisdiction and Admissibility, 20 May 2014	6, 242, 353
<i>ADC Affiliate Limited and ADC & ADMC Management Limited v. The Republic of Hungary</i> , ICSID Case No. ARB/03/16, Award, 2 October 2006	8, 86, 164, 178, 179, 195, 200, 201, 209, 218, 222, 247, 248, 249, 357, 408, 422, 478
<i>ADF Group Inc. v. United States of America</i> , ICSID Case No. ARB (AF)/00/1, Award, 9 January 2003	265, 311, 312, 313, 318, 319, 347, 549, 597, 635, 645, 646, 660, 674, 728, 745, 845, 846
<i>AES Corporation and Tau Power B.V. v. Republic of Kazakhstan</i> , ICSID Case No. ARB/10/16, Award, 1 November 2013	366, 451, 527, 528, 849, 966, 992, 997
<i>AES Corporation v. The Argentine Republic</i> , ICSID Case No. ARB/02/17, Decision on Jurisdiction, 26 April 2005	389
<i>AES Summit Generation Limited and AES-Tisza Erőmű Kft. v. Republic of Hungary</i> , ICSID Case No. ARB/07/22, Award, 23 September 2010	129, 274, 295, 441, 473, 474, 497, 582, 602, 664, 733, 757, 817, 831, 832, 878
<i>AGIP v. People's Republic of the Congo</i> , ICSID Case No. ARB/77/1, Award, 30 November 1979	15

<i>AHS Niger and Menzies Middle East and Africa S.A. v. Republic of Niger</i> , ICSID Case No. ARB/11/11, Award (Excerpts), 15 July 2013	145
<i>AIG Capital Partners, Inc. and CJSC Tema Real Estate Company v. Republic of Kazakhstan</i> , ICSID Case No. ARB/01/6, Award, 7 October 2003	9
<i>Adel A Hamadi Al Tamimi v. Sultanate of Oman</i> , ICSID Case No. ARB/11/33, Award, 3 November 2015	30, 111, 176, 190, 319, 320, 430, 447, 460, 468, 549, 583, 643, 661, 678
<i>Mohammad Ammar Al-Bahloul v. Republic of Tajikistan</i> , SCC Case No. V064/2008, Partial Award on Jurisdiction and Liability, 2 September 2009	175, 376, 411, 421, 424, 430, 486, 574, 575, 580, 608, 655, 830, 893, 961, 962
<i>Fouad Alghanim & Sons Co. for General Trading & Contracting, W.L.L. and Fouad Mohammed Thunyan Alghanim v. Hashemite Kingdom of Jordan</i> , ICSID Case No. ARB/13/38, Award, 14 December 2017	363, 434, 825
<i>Allard v. Sweden</i> , ECtHR, Application No. 35179/97, 24 June 2003 [2003] 39 EHRR 14	77
<i>Peter A. Allard v. The Government of Barbados</i> , PCA Case No. 2012-06, Award, 27 June 2016	130, 336, 528
<i>Kristian Almås and Geir Almås v. The Republic of Poland</i> , PCA Case No. 2015-13, Award, 27 June 2016	186
<i>Alpha Projektholding GmbH v. Ukraine</i> , ICSID Case No. ARB/07/16, Award, 8 November 2010	73, 74, 128, 140, 435, 500, 502, 617, 622, 629, 630, 654, 659, 663, 673, 914
<i>Hesham Talaat M. Al-Warraq v. The Republic of Indonesia</i> , UNCITRAL, Final Award, 15 December 2014	91, 121, 271, 379, 397, 544, 724, 748
<i>The Ambatielos Case (Greece v. United Kingdom)</i> (1963) 12 RIAA 83	720, 721, 722, 723, 724, 768
<i>Amco Asia Corporation v. Republic of Indonesia</i> , ICSID Case No. ARB/81/1, Decision on Jurisdiction, 25 September 1983, 1 ICSID Reports 389; Award, 20 November 1984, 1 ICSID Reports 413	15, 69, 73, 193, 227, 290, 545, 883
<i>American International Group Inc., et al. v. Government of the Islamic Republic of Iran</i> (1986) 4 Iran-USCTR 96	193, 226
<i>American Manufacturing & Trading, Inc. v. Republic of Zaire</i> , ICSID Case No. ARB/93/1, Award, 21 February 1997	359, 358, 547, 566, 567, 582, 584
<i>Amoco International Finance Corp. v. Government of the Islamic Republic of Iran</i> (1987) 15 Iran-USCTR 189	23, 24, 149, 193, 196, 206, 212, 229, 236, 245, 246, 247
<i>Ampal-American Israel Corp., EGI-Fund (08-10) Investors LLC, EGI-Series Investments LLC, BSS-EMG Investors LLC and David Fischer v. Arab Republic of Egypt</i> , ICSID Case No. ARB/12/11, Decision on Liability and Heads of Loss, 21 February 2017	54, 84, 99, 187, 209, 548, 565, 583, 964
<i>Limited Liability Company AMTO v. Ukraine</i> , SCC Case No. 80/2005, Final Award, 26 March 2008	323, 342, 343, 382, 384, 409, 412, 422, 875, 906, 907, 922

Table of Cases

xxi

<i>Alasdair Ross Anderson et al. v. Republic of Costa Rica</i> , ICSID Case No. ARB(AF)/07/3, Award, 19 May 2010.....	494
<i>Anglia Auto Accessories Limited v. The Czech Republic</i> , SCC Case No. 2014/181, Final Award, 10 March 2017	80, 121, 797, 798
<i>The Anglo-Iranian Oil Company Case (United Kingdom v. Iran)</i> (Judgment) [1952] ICJ Reports 93	11, 686, 710, 720, 768, 858, 859, 860, 862
<i>Ansung Housing Co., Ltd. v. People's Republic of China</i> , ICSID Case No. ARB/14/25, Award, 9 March 2017	767, 796
<i>Antaris Solar GmbH and Dr. Michael Göde v. Czech Republic</i> , PCA Case No. 2014-01, Award, 2 May 2018; Dissenting Opinion of Gary Born, 2 May 2018	478, 480, 495, 503, 517, 518, 565, 832, 833, 849
<i>Antin Infrastructure Services Luxembourg S.à.r.l. and Antin Energia Termosolar B.V. v. The Kingdom of Spain</i> , ICSID Case No. ARB/13/31, Award, 15 June 2018.....	231, 249, 276, 277, 290, 332, 476, 480, 494, 495, 497, 516, 520, 521, 901
<i>Apotex Holdings Inc. and Apotex Inc. v. United States of America</i> , ICSID Case No. ARB(AF)/12/1, Award, 25 August 2014.....	392, 405, 631, 635, 670, 671, 678, 728, 745
<i>Apothekenurteil</i> , German Federal Constitutional Court [1958] BVerfGE 7.....	344
<i>Archer Daniels Midland Company and Tate & Lyle Ingredients Americas, Inc. v. The United Mexican States</i> , ICSID Case No. ARB(AF)/04/5, Award, 21 November 2007	94, 117, 147, 604, 607, 622, 623, 624, 626, 628, 631, 634, 641, 658, 659, 663, 665
<i>Mr. Franck Charles Arif v. Republic of Moldova</i> , ICSID Case No. ARB/11/23, Award, 8 April 2013	79, 329, 361, 384, 406, 417, 425, 488, 499, 527, 533, 556, 584, 752, 853, 876, 877
<i>Asian Agricultural Products Ltd. (AAPL) v. Republic of Sri Lanka</i> , ICSID Case No. ARB/87/3, Award, 27 June 1990; Dissenting Opinion of Samuel K.B. Asante, 15 June 1990	358, 359, 543, 554, 566, 571, 577, 580, 583, 585, 606, 675, 735, 743
<i>Asylum Case (Colombia v. Peru)</i> (Judgment) [1950] ICJ Reports 266.....	404
<i>ATA Construction, Industrial and Trading Company v. The Hashemite Kingdom of Jordan</i> , ICSID Case No. ARB/08/2, Award, 18 May 2010	35, 271, 513, 748
<i>Atlantic Triton Company Limited v. People's Revolutionary Republic of Guinea</i> , ICSID Case No. ARB/84/1, Award, 21 April 1986	15
<i>Austrian Airlines AG v. The Slovak Republic</i> , UNCITRAL, Final Award, 9 October 2009; Separate Opinion Judge Brower 9 October 2009	762, 767, 786, 787, 800, 811
<i>Hassan Awdi, Enterprise Business Consultants, Inc. and Alfa El Corporation v. Romania</i> , ICSID Case No. ARB/10/13, Award, 2 March 2015	522
<i>Robert Azinian, Kenneth Davitian, & Ellen Baca v. The United Mexican States</i> , ICSID Case No. ARB (AF)/97/2, Award, 1 November 1999.....	78, 174, 316, 383, 403, 409, 410, 411, 414, 417, 424

<i>Azurix Corp. v. The Argentine Republic</i> , ICSID Case No. ARB/01/12, Award, 14 July 2006.....	13, 105, 106, 127, 138, 139, 152, 160, 169, 170, 178, 292, 321, 329, 334, 360, 361, 448, 544, 547, 554, 571, 573, 816, 821, 822, 827, 852, 861, 906, 915, 916, 919
<i>Banco Nacional de Cuba v. Farr</i> , District Court, S.D. New York, 243 F.Supp. 957 (S.D.N.Y. 1965).....	206
<i>Banco Nacional de Cuba v. Sabbatino</i> , United States Court of Appeals, Second Circuit, 307 F.2d 845, 868 (1962)	206
<i>Barcelona Traction, Light and Power Company (Belgium v. Spain)</i> (Judgment) [1970] ICJ Reports 3	11, 52
<i>Walter Bau AG (in liquidation) v. The Kingdom of Thailand</i> , UNCITRAL Award, 1 July 2009	67, 348
<i>Kaiser Bauxite Company v. Jamaica</i> , ICSID Case No. ARB/74/3, Award, 6 July 1975	15
<i>Bayindir Insaat Turizm Ticaret Ve Sanayi A.S. v. Islamic Republic of Pakistan</i> , ICSID Case No. ARB/03/29, Decision on Jurisdiction, 14 November 2005; Award, 27 August 2009	29, 82, 106, 107, 121, 163, 181, 185, 270, 271, 292, 300, 466, 490, 491, 496, 608, 615, 618, 624, 631, 637, 644, 650, 651, 656, 662, 714, 732, 746, 747
<i>Bear Creek Mining Corporation v. Republic of Perú</i> , ICSID Case No. ARB/14/21, Award, 30 November 2017	110, 220
<i>Beijing Urban Construction Group Co. Ltd. v. Republic of Yemen</i> , ICSID Case No. ARB/14/30, Decision on Jurisdiction, 31 May 2017	767, 796, 807
<i>Valeri Belokon v. The Kyrgyz Republic</i> , PCA Case No. AA518, Award, 24 October 2014	94, 130, 368, 397
<i>S.A.R.L. Benvenuti & Bonfant v. People's Republic of the Congo</i> , ICSID Case No. ARB/77/2, Award, 8 August 1980, 1 ICSID Reports 330.....	15, 59, 115, 144, 227
<i>Vladimir Berschader and Moise Berschader v. The Russian Federation</i> , SCC Case No. 080/2004, Award, 21 April 2006; Separate Opinion by Todd Weiler, 21 April 2006.....	711, 713, 743, 766, 783, 784, 785, 786, 805, 808, 811, 812
<i>BG Group Plc. v. The Argentine Republic</i> , UNCITRAL, Final Award, 24 December 2007.....	36, 122, 465, 480, 496, 512, 577, 602, 820, 826, 837, 839, 916
<i>Biloune and Marine Drive Complex Ltd. v. Ghana Investments Centre and the Government of Ghana</i> , Ad hoc Tribunal, Award on Jurisdiction and Liability, 27 October 1989 (1994) 95 ILR 183	29, 60, 61, 67, 69, 115, 143, 144, 152
<i>Rupert Binder v. The Czech Republic</i> , UNCITRAL, Final Award (Redacted), 15 July 2011	81, 382, 394, 395, 396, 422, 428, 470
<i>Biwater Gauff (Tanzania) Ltd. v. United Republic of Tanzania</i> , ICSID Case No. ARB/05/22, Award, 24 July 2008.....	30, 65, 124, 136, 142, 175, 293, 297, 325, 360, 374, 437, 442, 486, 490, 493, 496, 544, 566, 567, 573, 575, 582, 830, 846, 996

Table of Cases

xxiii

<i>Blusun S.A., Jean-Pierre Lecorcier and Michael Stein v. Italian Republic</i> , ICSID Case No. ARB/14/3, Award, 27 December 2016.....	80, 349, 467, 516, 517, 518, 522
<i>Iurii Bogdanov, Agurdino-Invest Ltd. and Agurdino-Chimia JSC v. Republic of Moldova [I]</i> , SCC, Arbitral Award, 22 September 2005	127, 189, 440, 454, 545
<i>Yuri Bogdanov v. Republic of Moldova [II]</i> , SCC Case No. V114/2009, Final Award, 30 March 2010	437
<i>Yuri Bogdanov and Yulia Bogdanova v. Republic of Moldova [III]</i> , SCC Case No. V091/2012, Final Award, 16 April 2013	478, 627
<i>Luigiterzo Bosca v. The Republic of Lithuania</i> , PCA Case No. 2011-05, Award, 17 May 2013	262, 385, 433, 532, 851
<i>Luigiterzo Bosh International, Inc and B&P Ltd Foreign Investments Enterprise v. Ukraine</i> , ICSID Case No. ARB/08/11, Award, 25 October 2012	125, 375, 382, 400, 913, 954, 955
<i>BP (British Petroleum) Exploration Company (Libya) Ltd v. Government of the Libyan Arab Republic</i> , Award, 10 October 1973 and 1 August 1974, (1979) 53 ILR 297	11, 24, 40, 192, 207, 236
<i>Bramelid and Malmström v. Sweden</i> , European Commission of Human Rights, Applications Nos. 8588/79 and 8589/79 (1982), 12 October 1982, 29 Decisions & Reports 64	25
<i>British Caribbean Bank Limited (Turks & Caicos) v. The Government of Belize</i> , PCA Case No. 2010-18, Award, 19 December 2014	203, 273, 351, 439
<i>British-American Tobacco Company Ltd. v. The Netherlands</i> , ECtHR, Application No. 19589/92, 20 November 1995 [1995] 21 EHRR 409	25
<i>Brumărescu v. Romania</i> , ECtHR, Application No. 28342/95, 28 October 1999 [1999] ECHR 105	34, 197
<i>Bureau Veritas, Inspection, Valuation, Assessment and Control, BIVAC B.V. v. The Republic of Paraguay</i> , ICSID Case No. ARB/07/9, Decision of the Tribunal on Objections to Jurisdiction, 29 May 2009; Further Decision on Objections to Jurisdiction, 9 October 2012	6, 356, 868, 879, 880, 882, 928, 944, 952, 953, 955
<i>Burlington Resources Inc. v. Republic of Ecuador and Empresa Estatal Petróleos del Ecuador (PetroEcuador)</i> , ICSID Case No. ARB/08/5, Decision on Jurisdiction, 2 June 2010; Decision on Liability, 14 December 2012; Dissenting Opinion of Arbitrator Orrego Vicuña, 8 November 2012; Decision on Reconsideration and Award, 7 February 2017.....	42, 44, 67, 82, 91, 94, 95, 129, 139, 152, 237, 356, 430, 790, 878, 899, 918, 919, 926, 943
<i>Ivan Peter Busta and James Peter Busta v. The Czech Republic</i> , SCC Case No. V 2015/014, Final Award, 10 March 2017	69, 71, 132, 797, 798
<i>Mike Campbell (Pvt) Ltd and Others v. Republic of Zimbabwe</i> , Southern African Development Community Tribunal, SADC (T) Case No. 2/2007, Judgment, 28 November 2008	211

<i>Camuzzi International S.A. v. The Argentine Republic [I]</i> , ICSID Case No. ARB/03/2, Decision on Jurisdiction, 11 May 2005	724, 766, 768, 769
<i>Camuzzi International S.A. v. Argentine Republic [II]</i> , ICSID Case No. ARB/03/7, Decision on Jurisdiction, 10 June 2005	769
<i>Caratube International Oil Company LLP and Devincci Salah Hourani v. Republic of Kazakhstan</i> , ICSID Case No. ARB/13/13, Award, 27 September 2017	40, 132, 180, 193, 246
<i>Cargill, Incorporated v. Republic of Poland</i> , ICSID Case No. ARB(AF)/04/2, Final Award, 5 March 2008	84, 121, 324, 333, 454, 459, 463, 491, 611, 614, 619, 641, 665, 841
<i>Cargill, Incorporated v. United Mexican States</i> , ICSID Case No. ARB(AF)/05/2, Award, 18 September 2009	55, 118, 300, 301, 313, 339, 373, 440, 461, 463, 612, 642, 645, 727, 729
Case C-118/07 <i>Commission v. Finland</i> EU:C:2009:715 [2009] ECR I-10889	988
Case C-120/78 <i>REWE Zentral AG v. Bundesmonopolverwaltung für Branntwein (Cassis de Dijon)</i> EU:C:1979:42 [1979] ECR 649	978
Case C-205/06 <i>Commission v. Austria</i> EU:C:2009:118 [2009] ECR I-1301	988
Case C-249/06 <i>Commission v. Sweden</i> EU:C:2009:119 [2009] ECR I-1335	988
Case C-548/09 <i>P Bank Melli Iran v. Council</i> EU:C:2011:735, [2011] ECR I-11381	377
<i>Case Concerning Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)</i> (Judgment) [2010] ICJ Reports 639	11, 390
<i>Case Concerning Certain German Interests in Polish Upper Silesia (Germany v. Poland)</i> (Judgment on Merits) [1926] PCIJ Series A, No. 7	11, 20, 22, 23
<i>Case Concerning the Payment of Various Serbian Loans Issued in France (France v. Serbia)</i> (Judgment) [1929] PCIJ Series A No 20/21	860
<i>Case of James and Others v. United Kingdom</i> , ECtHR, Application No. 8793/79, 21 February 1986 [1986] ECHR 2	106, 168, 196, 448
<i>Case of the former King of Greece and Others v. Greece</i> , ECtHR, Application No. 25701/94, 23 November 2000 [2000] ECHR 640	168
<i>Casinos Austria International GmbH and Casinos Austria Aktiengesellschaft v. Argentine Republic</i> , ICSID Case No. ARB/14/32, Decision on Jurisdiction, 29 June 2018	134, 344, 427, 652, 660, 666
<i>CCL v. Republic of Kazakhstan</i> , SCC Case No. 122/2001, Final Award, 1 January 2004, (2005) 1 SIAR 123	154
<i>Cervin Investissements S.A. and Rhone Investissements S.A. v. Republic of Costa Rica</i> , ICSID Case No. ARB/13/2, Decision on Jurisdiction, 15 December 2014; Award, 7 March 2017	147, 327, 391, 440, 823
<i>Československá Obchodní Banka A.S. v. The Slovak Republic</i> , ICSID Case No. ARB/97/4, Award, 29 December 2004	571
<i>Champion Trading Company, Ameritrade International, Inc. v. Arab Republic of Egypt</i> , ICSID Case No. ARB/02/9, Award, 27 October 2006	458, 604, 608, 627, 636, 668
<i>Charanne B.V. and Construction Investments S.A.R.L. v. The Kingdom of Spain</i> , SCC Case No. V 062/2012, Award, 21 January 2016	134, 135, 450, 467, 475, 476, 480, 482, 490, 514, 520

Table of Cases

xxv

- Chemtura Corporation (formerly Crompton Corporation) v. Government of Canada*, UNCITRAL (NAFTA), Award, 2 August 201052, 109, 118, 119, 153, 312, 319, 758
- Madame Chevreau (France v. United Kingdom) (1931) 2 RIAA 1113* 380
- Chevron Corporation and Texaco Petroleum Corporation v. The Republic of Ecuador [I]*, PCA Case No. 34877, Interim Award, 1 December 2008; Partial Award on the Merits, 30 March 2010 394, 413, 415
- Chevron Corporation and Texaco Petroleum Corporation v. The Republic of Ecuador [II]*, PCA Case No. 2009-23, Second Partial Award on Track II, 30 August 2018 379, 382, 423, 942, 943
- William Ralph Clayton and others and Bilcon of Delaware, Inc. v. Government of Canada*, UNCITRAL (NAFTA), PCA Case No. 2009-04, Award on Jurisdiction and Liability, 17 March 2015 319, 375, 534, 613, 618, 644, 666, 671, 676, 677
- CME Czech Republic B.V. v. The Czech Republic*, UNCITRAL, Partial Award, 13 September 2001; Final Award, 14 March 2003; Separate Opinion by Ian Brownlie on the Issues at the Quantum Phase, 14 March 200326, 27, 53, 73, 120, 163, 188, 326, 347, 389, 390, 570, 571, 576, 580, 754, 755, 762, 782, 826, 827
- CMS Gas Transmission Company v. The Argentine Republic*, ICSID Case No. ARB/01/8, Decision on Objections to Jurisdiction, 17 July 2003; Award, 12 May 2005; Decision on Annulment, 25 September 2007 120, 247, 299, 300, 320, 363, 434, 462, 463, 464, 465, 497, 511, 704, 821, 848, 872, 890, 891, 894, 897, 898, 919, 920, 939, 940, 943, 990
- Compañía de Aguas del Aconquija S.A. and Vivendi Universal v. Argentine Republic*, ICSID Case No. ARB/97/3, Award, 20 August 2007; Decision on Annulment, 3 July 200230, 64, 105, 125, 154, 331, 550, 572, 888
- Compañía del Desarrollo de Santa Elena SA v. The Republic of Costa Rica*, ICSID Case No. ARB/96/1, Award, 17 February 200041, 61, 100, 101, 153, 193, 227, 230
- ConocoPhillips Petrozuata B.V., ConocoPhillips Hamaca B.V. and ConocoPhillips Gulf of Paria B.V. v. Bolivarian Republic of Venezuela*, ICSID Case No. ARB/07/30, Decision on Jurisdiction and the Merits, 3 September 2013; Dissenting Opinion to Decision on Jurisdiction and Merits of Abi-Saab, 19 February 2015; Interim Decision, 17 January 2017 159, 238, 249, 820
- Consortium Groupement L.E.S.I.-DIPENTA v. People's Democratic Republic of Algeria*, ICSID Case No. ARB/03/8, Award, 10 January 2005 887
- Consortium RFCC v. Kingdom of Morocco*, ICSID Case No. ARB/00/6, Award, 22 December 2003 29, 138, 177, 178, 506
- Continental Casualty Company v. The Argentine Republic*, ICSID Case No. ARB/03/9, Award, 5 September 2008 88, 99, 108, 122, 263, 330, 463, 498, 504, 508, 518, 858, 898, 899, 903, 919, 921, 923, 949, 977, 979, 982, 983, 991
- Conviao Callao S.A. and CCI - Compañía de Concesiones de Infraestructura S.A. v. Republic of Peru*, ICSID Case No. ARB/10/2, Final Award, 21 May 2013... 184

<i>Copper Mesa Mining Corporation v. The Republic of Ecuador</i> , PCA Case No. 2012-2, Award (Redacted), 15 March 2016	110, 111, 198, 221, 529
<i>Corn Products International, Inc. v. The United Mexican States</i> , ICSID Case No. ARB(AF)/04/01, Decision on Responsibility, 15 January 2008	37, 118, 167, 603, 610, 612, 622, 623, 625, 626, 655, 659, 665, 668
<i>Corona Materials, LLC v. Dominican Republic</i> , ICSID Case No. ARB(AF)/14/3, Award on the Respondent's Expedited Preliminary Objections in Accordance with Article 10.20.5 of the DR-CAFTA, 31 May 2016	395
<i>Crystallex International Corporation v. Bolivarian Republic of Venezuela</i> , ICSID Case No. ARB(AF)/11/2, Award, 4 April 2016	59, 68, 177, 196, 209, 218, 239, 299, 313, 328, 376, 454, 470, 524, 531, 546, 579
<i>Tomasz Czeszcik and Robert Aleksandrowicz v. Republic of Cyprus</i> , SCC Case No. V2014/169, Award, 11 February 2017	36, 133
<i>Daimler Financial Services AG v. Argentine Republic</i> , ICSID Case No. ARB/05/1, Award, 22 August 2012; Dissenting Opinion of Judge C. N. Brower, 15 August 2012	28, 228, 699, 707, 724, 732, 734, 738, 760, 790, 791, 792, 793, 801, 803, 806, 807, 809, 811, 812, 967
<i>Dan Cake (Portugal) S.A. v. Hungary</i> , ICSID Case No. ARB/12/9, Decision on Jurisdiction and Liability, 24 August 2015	407, 534, 817
<i>de Sabla Claim (US v. Panama)</i> (1933) 6 RIAA 358	6, 225
<i>Ömer Dede and Serdar Elhüseyni v. Romania</i> , ICSID Case No. ARB/10/22, Award, 5 September 2013	760
<i>Delagoa Bay and East African Railway Co (US and Great Britain v. Portugal)</i> , in M. M. Whiteman (ed), 3 <i>Damages in International Law</i> (1943)	235
<i>Desert Line Projects LLC v. The Republic of Yemen</i> , ICSID Case No. ARB/05/17, Award, 6 February 2008	431
<i>Deutsche Bank AG v. Democratic Socialist Republic of Sri Lanka</i> , ICSID Case No. ARB/09/2, Award, 31 October 2012; Dissenting Opinion of Makhdoom Ali Khan, 23 October 2012	24, 170, 172, 298, 327, 335, 375, 400, 576
<i>CC/Devas (Mauritius) Ltd., Devas Employees Mauritius Private Limited and Telcom Devas Mauritius Limited v. The Republic of India</i> , PCA Case No. 2013-09, Award on Jurisdiction and Merits, 25 July 2016	199, 313, 335, 363, 435, 482, 749, 851, 914
<i>Case Concerning Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)</i> (Preliminary Objections: Judgment) [2007] ICJ Reports 582	11, 390
<i>Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua)</i> (Judgment) [2009] ICJ Reports 213	442
<i>Duke Energy Electroquil Partners & Electroquil S.A. v. Republic of Ecuador</i> , ICSID Case No. ARB/04/19, Award, 18 August 2008	298, 356, 490, 491, 497, 498, 584, 822, 826, 852, 858, 893, 916, 917, 918, 926, 943, 961
<i>Duke Energy International Peru Investments No. 1, Ltd. v. Republic of Peru</i> , ICSID Case No. ARB/03/28, Award, 18 August 2008	997

Table of Cases

xxvii

<i>Eastern Sugar B.V. (Netherlands) v. The Czech Republic</i> , SCC Case No. 088/2004, Partial Award, 27 March 2007; Partial Dissenting Opinion of Robert Volterra, 12 April 2007	123, 438, 443, 444, 445, 559, 560, 840
<i>ECE Projektmanagement International GmbH and Kommanditgesellschaft PANTA Achtundsechzigste Grundstücksgesellschaft mbH & Co v. The Czech Republic</i> , PCA Case No. 2010-5, Award, 19 September 2013	156, 334, 385, 395, 838
<i>EDF (Services) Limited v. Romania</i> , ICSID Case No. ARB/05/13, Award, 8 October 2009.....	163, 405, 439, 450, 471, 472, 480, 481, 489, 518, 834, 908
<i>EDF International S.A., SAUR International S.A. and León Participaciones Argentinas S.A. v. Argentine Republic</i> , ICSID Case No. ARB/03/23, Award, 11 June 2012; Decision on Annulment, 5 February 2016	579, 584, 752, 850, 941, 942
<i>Eiser Infrastructure Limited and Energía Solar Luxembourg S.à r.l. v. Kingdom of Spain</i> , ICSID Case No. ARB/13/36, Award, 4 May 2017	280, 467, 468, 475, 476, 477, 479, 480, 515
<i>El Oro Mining and Railway Company (Limited) (Great Britain) v. United Mexican States</i> (1931) 5 RIAA 191.....	410
<i>El Paso Energy International Company v. The Argentine Republic</i> , ICSID Case No. ARB/03/15, Decision on Jurisdiction, 27 April 2006; Award, 31 October 2011	109, 148, 297, 321, 322, 335, 347, 348, 349, 350, 361, 363, 472, 473, 481, 482, 489, 490, 508, 509, 513, 520, 525, 550, 556, 563, 583, 821, 831, 837, 840, 850, 853, 868, 901, 925, 934, 935, 936, 943
<i>Electrabel S.A. v. Republic of Hungary</i> , ICSID Case No. ARB/07/19, Decision on Jurisdiction, Applicable Law and Liability, 30 November 2012; Award, 25 November 2015	82, 134, 148, 367, 374, 441, 449, 478, 481, 486, 518, 525, 529, 556, 575, 581, 621, 835, 836, 841
<i>Eltronica Sicula SpA (ELSI) (United States of America v. Italy)</i> (Judgment) [1989] ICJ Reports 15	11, 76, 292, 294, 311, 383, 387, 398, 402, 404, 405, 407, 416, 417, 423, 441, 532, 540, 547, 561, 562, 569, 580, 583, 619, 620, 821, 822, 823, 824, 825, 826, 827, 847
<i>Eli Lilly and Company v. Government of Canada</i> , ICSID Case No. UNCT/14/2, Final Award, 16 March 2017	81, 833, 847
<i>Emanuel Too v. Greater Modesto Insurance Associates</i> (1989) 23 Iran-USCTR 378	86, 92, 314
<i>Emmis International Holding, B.V., Emmis Radio Operating, B.V., MEM Magyar Electronic Media Kereskedelmi és Szolgáltató Kft. v. The Republic of Hungary</i> , ICSID Case No. ARB/12/2, Award, 16 April 2014	20, 31, 32
<i>EnCana Corporation v. Republic of Ecuador</i> , LCIA Case No. UN3481, Award, 3 February 2006	84, 96, 123, 470
<i>Eni Dación B.V. v. Bolivarian Republic of Venezuela</i> , ICSID Case No. ARB/07/4, Order Taking Note of the Discontinuance of the Proceeding, 18 April 2008	43
<i>Enkev Beheer B.V. v. The Republic of Poland</i> , PCA Case No. 2013-01, First Partial Award, 29 April 2014.....	130, 148, 336, 435

<i>Enron Corporation and Ponderosa Assets, L.P. v. Argentine Republic</i> , ICSID Case No. ARB/01/3, Award, 22 May 2007; Decision on Annulment, 30 July 2010.....	38, 39, 122, 273, 284, 298, 329, 340, 369, 370, 463, 496, 576, 600, 829, 830, 839, 878, 885, 892, 893, 920, 921, 938
<i>Eureko B.V. v. Republic of Poland</i> , Ad hoc Arbitration, Partial Award, 19 August 2005; Dissenting Opinion Jerzy Rajski, 19 August 2005	69, 83, 84, 167, 208, 294, 331, 437, 460, 504, 567, 859, 879, 881, 883, 912, 925, 932, 937, 957, 958, 960
<i>European American Investment Bank AG (Austria) v. The Slovak Republic</i> , PCA Case No. 2010-17, Award on Jurisdiction, 22 October 2012	767, 786, 787, 788
<i>European Media Ventures SA v. The Czech Republic</i> , UNCITRAL, Partial Award on Liability, 8 July 2009	188
<i>Affaire Fabiani (France v. Venezuela)</i> (1896) cited in, John Bassett Moore, <i>History and Digest of the International Arbitrations to which the United States has been a Party</i> , vol. V. (1898)	410
<i>Factory at Chorzów (Claim for Indemnity) (Germany v. Poland)</i> , (Judgment on Merits) [1928] PCIJ Series A, No. 17.....	11, 22, 23, 24, 244, 245, 247, 248, 249, 250
<i>Fedax N. V. v. The Republic of Venezuela</i> , ICSID Case No. ARB/96/3, Award, 9 March 1998.....	956, 957
<i>Feldman and Slovyanskyy Bank v. Ukraine</i> , ECtHR, Application No. 42758/05, 21 December 2017 [2017] ECHR 1176	25
<i>Marvin Roy Feldman Karpa v. United Mexican States</i> , ICSID Case No. ARB(AF)/99/1, Interim Decision on Preliminary Jurisdictional Issues, 6 December 2000; Award, 16 December 2002; Dissenting Opinion Jorge Covarrubias Bravo, 3 December 2002	19, 40, 51, 56, 62, 85, 86, 90, 93, 94, 104, 116, 146, 164, 165, 171, 197, 403, 603, 618, 619, 626, 635, 636, 638, 657, 661, 670, 675, 677, 678, 728, 836, 837, 840
<i>Fireman's Fund Insurance Company v. The United Mexican States</i> , ICSID Case No. ARB(AF)/02/01, Award, 17 July 2006.....	14, 37, 70, 86, 117, 125, 167, 170, 205, 286
<i>Flemingo DutyFree Shop Private Limited v. Republic of Poland</i> , UNCITRAL, Award, 12 August 2016	30, 180, 273, 301, 349, 365, 433, 467
<i>Flughafen Zürich A.G. and Gestión e Ingeniería IDC S.A. v. Bolivarian Republic of Venezuela</i> , ICSID Case No. ARB/10/19, Award, 18 November 2014	75, 392
<i>Fraport AG Frankfurt Airport Services Worldwide v. Republic of the Philippines</i> , ICSID Case No. ARB/03/25, Award, 16 August 2007	279, 881
<i>Fredin v. Sweden</i> , ECtHR, Application No. 12033/86, 18 February 1991 [1991] ECHR 2	25
<i>Frontier Petroleum Services Ltd. v. The Czech Republic</i> , UNCITRAL, Final Award, 12 November 2010	285, 300, 362, 393, 399, 418, 453, 480, 497, 499, 545, 558, 567, 574, 580, 585
<i>Bernardus Henricus Funnekotter and others v. Republic of Zimbabwe</i> , ICSID Case No. ARB/05/6, Award, 22 April 2009	210, 211

Table of Cases

xxix

- GAMI Investments, Inc. v. The Government of the United Mexican States*, UNCITRAL (NAFTA), Final Award, 15 November 2004 212, 435, 530, 531, 623, 642, 645, 845
- Garanti Koza LLP v. Turkmenistan*, ICSID Case No. ARB/11/20, Decision on the Objection to Jurisdiction for Lack of Consent, 3 July 2013; Dissenting Opinion by Laurence Boisson de Chazournes, 3 July 2013; Award, 19 December 2016 80, 346, 469, 701, 724, 734, 737, 760, 766, 775, 776, 777, 850, 859, 888, 914, 915, 950, 951
- Adriano Gardella v. Ivory Coast*, ICSID Case No. ARB/74/1, Award, 29 August 1977 15
- Gas Natural SDG, S.A. v. The Argentine Republic*, ICSID Case No. ARB/03/10, Decision on Preliminary Questions on Jurisdiction, 17 June 2005 724, 733, 760, 766, 767, 769, 770, 800, 802, 810, 811, 990
- Marco Gavazzi and Stefano Gavazzi v. Romania*, ICSID Case No. ARB/12/25, Decision on Jurisdiction, Admissibility and Liability, 21 April 2015 523
- Georg Gavrilovic and Gavrilovic d.o.o. v. Republic of Croatia*, ICSID Case No. ARB/12/39, Award, 26 July 2018 45, 140, 240, 487, 495, 497, 499, 534, 603, 626, 653, 667, 907
- GEA Group Aktiengesellschaft v. Ukraine*, ICSID Case No. ARB/08/16, Award, 31 March 2011 34, 35, 79, 383, 421, 563, 598, 730, 846, 986
- Gemplus, S.A., SLP, S.A. and Gemplus Industrial, S.A. de C.V. v. United Mexican States*, ICSID Case No. ARB(AF)/04/3 and *Talsud S.A. v. United Mexican States*, ICSID Case No. ARB(AF)/04/4, Award, 16 June 2010 42, 155, 161, 229, 440, 558, 581
- Generation Ukraine, Inc. v. Ukraine*, ICSID Case No. ARB/00/9, Award, 16 September 2003 9, 61, 70, 87, 119, 152, 162, 348, 389, 391, 481, 584
- Alex Genin, Eastern Credit Limited, Inc. and A.S. Baltoil v. The Republic of Estonia*, ICSID Case No. ARB/99/2, Award, 25 June 2001 295, 298, 300, 321, 322, 347, 398, 405, 584, 601, 620, 824, 827, 844, 845, 852
- German Settlers' Case (Germany v. Poland)* (Advisory Opinion) [1923] PCIJ Ser. B, No. 6 21
- Getma International and others v. Republic of Guinea*, ICSID Case No. ARB/11/29, Award, 16 August 2016 138
- Glamis Gold, Ltd. v. United States of America*, UNCITRAL (NAFTA), Award, 8 June 2009 9, 37, 85, 304, 312, 336, 337, 458, 461, 488, 508
- Glencore Finance (Bermuda) Limited v. Plurinational State of Bolivia*, PCA Case No. 2016-39 (pending) 44
- Antoine Goetz and others v. Republic of Burundi [I]*, ICSID Case No. ARB/95/3, Decision on Liability, 2 September 1998; The Parties' Agreement, 23 December 1998; Award, 10 February 1999 147, 161, 197, 217, 236, 241, 629, 835, 836

<i>Antoine Goetz and others v. Republic of Burundi [II]</i> , ICSID Case No. ARB/01/2, Award, 21 June 2012	147
<i>Gold Reserve Inc. v. Bolivarian Republic of Venezuela</i> , ICSID Case No. ARB(AF)/09/1, Award, 22 September 2014	52, 86, 185, 313, 454, 559
<i>Goldenberg Case (Germany v. Romania)</i> (1928) 2 RIAA 909	20, 233
<i>Golder v. United Kingdom</i> , ECtHR, Application No. 4451/70, 21 February 1975 [1975] ECHR 1	306, 408
<i>Grand River Enterprises Six Nations, Ltd., et al. v. United States of America</i> , UNCITRAL (NAFTA), Award, 12 January 2011	84, 85, 96, 119, 319, 338, 339, 624, 635, 665, 728, 729, 733
<i>Greentech Energy Systems A/S, Foresight Luxembourg Solar 1 S.A.R.L., Foresight Luxembourg Solar 2 S.A.R.L., GWM Renewable Energy I S.P.A. and GWM Renewable Energy II S.P.A. v. The Kingdom of Spain</i> , SCC Case No. V2015/150, Final Award, 14 November 2018	135, 477, 849, 901
<i>Greentech Energy Systems A/S, NovEnergia II Energy & Environment (SCA) SICAR, and NovEnergia II Italian Portfolio SA v. The Italian Republic</i> , SCC Case No. V2015/095, Award, 23 December 2018	522, 530, 826, 833, 894
<i>Philippe Gruslin v. Malaysia</i> , ICSID Case No. ARB/99/3, Award, 27 November 2000	989
<i>Guaracachi America, Inc. and Rurelec PLC v. The Plurinational State of Bolivia</i> , UNCITRAL, PCA Case No. 2011-17, Award (corrected), 31 January 2014	6, 44, 198, 221, 231, 250
<i>H v. Belgium</i> , ECtHR, Application No. 8950/80, 30 November 1987 [1987] ECHR 30	156
<i>H&H Enterprises Investments, Inc. v. Arab Republic of Egypt</i> , ICSID Case No. ARB/09/15, Award, 6 May 2014	795
<i>Gustav F W Hamester GmbH & Co KG v. Republic of Ghana</i> , ICSID Case No. ARB/07/24, Award, 18 June 2010	128, 182, 218, 505, 858, 905, 908, 909, 950
<i>Harold Birnbaum v. Islamic Republic of Iran</i> (1993) 29 Iran-USCTR 260	151
<i>Helnan International Hotels A/S v. The Arab Republic of Egypt</i> , ICSID Case No. ARB/05/19, Award, 3 July 2008	385, 430
<i>HICEE B.V. v. The Slovak Republic</i> , UNCITRAL, Partial Award, 23 May 2011	741, 802
<i>Hochtief AG v. Argentine Republic</i> , ICSID Case No. ARB/07/31, Decision on Jurisdiction, 24 October 2011; Decision on Liability, 29 December 2014; Award, 21 December 2016	350, 355, 401, 466, 503, 734, 738, 766, 773, 805, 810, 811, 965
<i>Joseph Houben v. Republic of Burundi</i> , ICSID Case No. ARB/13/7, Award, 12 January 2016	70, 132
<i>Hulley Enterprises Limited (Cyprus) v. The Russian Federation</i> , PCA Case No. AA 226, Final Award, 18 July 2014	98, 99, 202, 217, 250
<i>Hunguest Zrt v. Hungary</i> , ECtHR, Application No. 66209/10, 30 August 2016 [2016] ECHR 709	410

Table of Cases

xxxi

<i>Iatridis v. Greece</i> , ECtHR, Application No. 31107/96, 25 March 1999 [1999] ECHR 14.....	26
<i>Iberdrola Energía S.A. v. Republic of Guatemala</i> , ICSID Case No. ARB/09/5, Award, 17 August 2012	403, 409, 413, 417, 418, 426
<i>Içkale Insaat Limited Sirketi v. Turkmenistan</i> , ICSID Case No. ARB/10/24, Award, 8 March 2016	33, 80, 186, 712, 759, 808
<i>ICS Inspection and Control Services Limited v. The Argentine Republic</i> , PCA Case No 2010-9, Award on Jurisdiction, 10 February 2012	701, 705, 708, 712, 738, 767, 793, 804, 806, 811, 812, 965
<i>Impregilo S.p.A. v. Argentine Republic</i> , ICSID Case No. ARB/07/17, Award, 21 June 2011; Concurring and Dissenting Opinion of Professor Brigitte Stern, 21 June 2011; Concurring and Dissenting Opinion of Judge Charles N. Brower, 21 June 2011	155, 183, 273, 335, 358, 359, 364, 466, 481, 707, 734, 766, 772, 810, 811
<i>Impregilo S.p.A. v. Islamic Republic of Pakistan</i> , ICSID Case No. ARB/03/3, Decision on Jurisdiction, 22 April 2005.....	126, 176, 177, 355, 506, 847, 905, 906, 943, 944
<i>INA Corp. v. Iran</i> (1985) 8 Iran-USCTR 373; J. Lagergren, Separate Opinion.....	156, 193
<i>Industria Nacional de Alimentos, S.A. and Indalsa Perú, S.A. v. The Republic of Peru</i> , ICSID Case No. ARB/03/4, Decision on Annulment, 5 September 2007.....	882
<i>Inmaris Perestroika Sailing Maritime Services GmbH and others v. Ukraine</i> , ICSID Case No. ARB/08/8, Excerpts of Award, 1 March 2012	33, 180, 327, 373, 432, 825
<i>Interhandel Case (Switzerland v. United States of America)</i> (Preliminary Objections) [1959] ICJ Reports 6	11, 387
<i>International Thunderbird Gaming Corporation v. The United Mexican States</i> , UNCITRAL (NAFTA), Award, 26 January 2006; Separate Opinion Thomas Wälde, 26 January 2006	33, 297, 312, 340, 399, 404, 482, 483, 486, 500, 549, 604, 608, 609, 619, 662, 673, 835, 837
<i>Inversión y Gestión de Bienes, IGB, S.L. and IGB18 Las Rozas, S.L. v. Kingdom of Spain</i> , ICSID Case No. ARB/12/17, Award (Excerpts), 14 August 2015.....	31
<i>Invesmart, B.V. v. Czech Republic</i> , UNCITRAL, Award (Redacted), 26 June 2009	15, 107, 300, 372, 437, 475, 481, 493, 494 518, 830, 859, 964, 965
<i>Isolux Infrastructure Netherlands, B.V. v. Kingdom of Spain</i> , SCC Case No. V2013/ 153, Award, 12 July 2016; Dissenting Opinion of Arbitrator Prof. Dr. Guido Santiago Tawil, 6 July 2016.....	134, 467, 468, 494, 832, 848, 900
<i>ITT Industries Inc. v. Government of the Islamic Republic of Iran</i> (1983) 2 Iran- USCTR 348	114
<i>Jalapa Railroad and Power Co.</i> , American–Mexican Claims Commission, 1948, 8 Whiteman, Digest of International Law 908 (1976)	173

<i>Laura M. B. Janes and others (USA) v. United Mexican States</i> , Mexican-US General Claims Commission (1926) 5 RIAA 82	307
<i>Joy Mining Machinery Limited v. The Arab Republic of Egypt</i> , ICSID Case No. ARB/03/11, Award on Jurisdiction, 6 August 2004	933
<i>Judgments of the Administrative Tribunal of the ILO upon complaints made against UNESCO</i> (Advisory Opinion) [1956] ICJ Reports 77	419
<i>Jurisdiction of the Courts of Danzig Case</i> (Advisory Opinion) [1928] PCIJ Series B No 15	706
<i>Ioannis Kardassopoulos and Ron Fuchs v. The Republic of Georgia</i> , ICSID Case Nos. ARB/05/18 and ARB/07/15, Decision on Jurisdiction, 6 July 2007; Award, 3 March 2010	42, 108, 197, 213, 216, 218, 219, 229, 246, 249, 280, 499, 510
<i>Karkey Karadeniz Elektrik Uretim A.S. v. Islamic Republic of Pakistan</i> , ICSID Case No. ARB/13/1, Award, 22 August 2017	32, 81, 367, 942, 966 983, 993, 995
<i>Khan Resources Inc., Khan Resources B.V., and CAUC Holding Company Ltd. v. The Government of Mongolia</i> , PCA Case No. 2011-09, Decision on Jurisdiction, 25 July 2012; Award on the Merits, 2 March 2015	28, 128, 172, 506, 894
<i>Kılıç İnşaat İthalat İhracat Sanayi ve Ticaret Anonim Şirketi v. Turkmenistan</i> , ICSID Case No. ARB/10/1, Award, 2 July 2013; Decision on Annulment, 14 July 2015	793, 794, 795, 811
<i>Klöckner Industrie-Anlagen GmbH and others v. United Republic of Cameroon and Société Camerounaise des Engrais</i> , ICSID Case No. ARB/81/2, Award, 21 October 1983	15
<i>Koch Minerals Sarl and Koch Nitrogen International Sarl v. The Bolivarian Republic of Venezuela</i> , ICSID Case No. ARB/11/19, Award, 30 October 2017	220, 240, 320, 965
<i>Könyv-Tár Kft and Others v. Hungary</i> , ECtHR, Application No. 21623/13, 16 October 2018 [2018] ECHR 830	26
<i>Kügele v. Polish State</i> , Upper Silesian Claims Tribunal (1932) 6 ILR 69	92
<i>Kuwait v. American Independent Oil Company (AMINOIL)</i> , Award, 24 March 1982 (1982) 21 ILM 976	40, 156, 205, 212, 226
<i>L.E.S.I. S.p.A. and ASTALDI S.p.A. v. People's Democratic Republic of Algeria</i> , ICSID Case No. ARB/05/3, Award, 12 November 2008	29, 470, 562, 747
<i>Antoine Abou Lahoud and Leila Bounafteh-Abou Lahoud v. Democratic Republic of the Congo</i> , ICSID Case No. ARB/10/4, Award, 7 February 2014	202
<i>Lanco International Inc. v. Argentina</i> , ICSID Case No. ARB/97/6, Award on Jurisdiction, 8 December 1998	389
<i>Ronald S. Lauder v. The Czech Republic</i> , UNCITRAL, Final Award, 3 September 2001	52, 53, 72, 120, 287, 363, 468, 570, 596, 597, 601, 659, 792, 817, 821, 822, 823, 828, 829, 836, 841, 852

Table of Cases

xxxiii

- Le Chèque Déjeuner and C.D Holding Internationale v. Hungary*,
 ICSID Case No. ARB/13/35, Decision on Preliminary Issues of Jurisdiction,
 3 March 2016 713, 715, 735, 739, 742, 778, 779
- Joseph Charles Lemire v. Ukraine*, ICSID Case No. ARB/06/18, Decision on
 Jurisdiction and Liability, 14 January 2010; Award, 28 March 2011 277
 279, 280, 288, 297, 298, 307, 330, 364, 368, 375, 376, 384, 391, 392, 417, 428, 438,
 439, 455, 494, 497, 525, 531, 532, 596, 597, 817, 823, 824, 834, 838, 843, 850,
 853, 864
- Les Laboratoires Servier, S.A.S., Biofarma, S.A.S., Arts et Techniques du Progrès S.A.S.
 v. Republic of Poland*, UNCITRAL, Interim Award on Jurisdiction, 3 December
 2010; Final Award, 14 February 2012 767, 789
- Renée Rose Levy de Levi v. The Republic of Peru*, ICSID Case No. ARB/10/17, Award,
 26 February 2014 163, 454, 472, 575, 625, 630,
 636, 651, 846
- LG&E Energy Corp., LG&E Capital Corp., LG&E International Inc. v. Argentine
 Republic*, ICSID Case No. ARB/02/1, Decision on Liability,
 3 October 2006 40, 53, 63, 106, 120, 136, 169, 170, 281, 298, 372,
 436, 437, 448, 457, 462, 463, 465, 466, 486, 496, 511, 600, 619, 620, 821, 829, 842,
 853, 884, 892, 898, 902, 903
- Liberian Eastern Timber Corporation v. Republic of Liberia*, ICSID Case No. ARB/83/
 2, Award, 31 March 1986, 2 ICSID Reports 343 15, 60, 200, 207,
 209, 236
- Libyan American Oil Company (LIAMCO) v. The Libyan Arab Republic*, Arbitral
 Award, 12 April 1977 (1982) 62 ILR 140 11, 24, 40, 192, 196, 199, 205, 207
- Liman Caspian Oil BV and NCL Dutch Investment BV v. Republic of Kazakhstan*,
 ICSID Case No. ARB/07/14, Excerpts of Award, 22 June 2010 79, 332,
 382, 384, 560, 894
- Link–Trading Joint Stock Company v. Department for Customs Control of the
 Republic of Moldova*, Decision on Jurisdiction, 16 February 2001; Final Award,
 18 April 2002 92, 93, 891, 949
- Lithgow v. United Kingdom*, ECtHR, Application Nos. 9006/80, 9262/81, 9263/81,
 9265/81, 9266/81, 9313/81, 9405/81, 8 July 1986 [1986] ECHR 8 25
- The Loewen Group, Inc. and Raymond L. Loewen v. United States of America*, ICSID
 Case No. ARB(AF)/98/3, Decision on Hearing of Respondent’s Objection to
 Competence and Jurisdiction, 5 January 2001; Award, 26 June 2003 218,
 298, 319, 388, 392, 404, 417, 418, 594, 638, 639, 663, 845, 846
- M.C.I. Power Group L.C. and New Turbine Inc. v. Republic of Ecuador*,
 ICSID Case No. ARB/03/6, Award 31 July 2007; Decision on Annulment,
 19 October 2009 123, 258, 265, 303, 718
- Emilio Agustín Maffezini v. The Kingdom of Spain*, ICSID Case No. ARB/97/7,
 Decision on Jurisdiction, 25 January 2000; Award, 13 November 2000 454,
 687, 690, 698, 699, 700, 701, 702, 704, 715, 718, 719, 722, 723, 724, 733, 755, 759,

760, 761, 764, 765, 766, 767, 768, 769, 771, 774, 779, 780, 781, 782, 783, 784, 785, 789, 790, 791, 793, 794, 798, 799, 800, 801, 802, 803, 805, 807, 809, 810, 811, 873	
<i>Malicorp Limited v. The Arab Republic of Egypt</i> , ICSID Case No. ARB/08/18, Award, 7 February 2011	31, 182, 185, 353, 890
<i>Malik v. United Kingdom</i> , ECtHR, Application No. 23780/08, 13 March 2012 [2012] ECHR 438	26
<i>Mamidoil Jetoil Greek Petroleum Products Societe S.A. v. Republic of Albania</i> , ICSID Case No. ARB/11/24, Award, 30 March 2015; Dissenting Opinion of Steven A. Hammond, 20 March 2015	131, 273, 361, 429, 464, 499, 508, 528, 529, 556, 581, 585, 832
<i>Marfin Investment Group Holdings S.A., Alexandros Bakatselos and others v. The Republic of Cyprus</i> , ICSID Case No. ARB/13/27, Award, 26 July 2018	107, 396, 452, 851
<i>Maritime International Nominees Establishment (MINE) v. Guinea</i> , ICSID Case No. ARB/84/4, Decision on Annulment, 14 December 1989, 4 ICSID Rep 87	419
<i>Masdar Solar & Wind Cooperatief U.A. v. Kingdom of Spain</i> , ICSID Case No. ARB/14/1, Award, 16 May 2018	135, 476, 521
<i>M. Meerapfel Söhne AG v. Central African Republic</i> , ICSID Case No. ARB/07/10, Excerpts of Award, 12 May 2012	67, 93, 126, 175, 329
<i>Mellacher v. Austria</i> , ECtHR, Application Nos. 10522/83; 11011/84; 11070/84, 19 December 1989 [1989] ECHR 25	90
<i>Menzies Middle East and Africa S.A. and Aviation Handling Services International Ltd. v. Republic of Senegal</i> , ICSID Case No. ARB/15/21, Award, 5 August 2016	145, 693, 795
<i>Mercer International Inc. v. Canada</i> , ICSID Case No. ARB(AF)/12/3, Award, 6 March 2018	677
<i>Merrill & Ring Forestry L.P. v. The Government of Canada</i> , UNCITRAL, ICSID Administered, Award, 31 March 2010	34, 296, 307, 310, 312, 314, 319, 337, 340, 368, 382, 467, 613, 631, 654, 655, 664
<i>Mesa Power Group, LLC v. Government of Canada</i> , UNCITRAL (NAFTA), PCA Case No. 2012-17, Award, 24 March 2016	312, 319, 703, 758
<i>Metalclad Corporation v. The United Mexican States</i> , ICSID Case No. ARB(AF)/97/1, Award, 30 August 2000; <i>The United Mexican States v. Metalclad Corporation</i> , Judgment by the Supreme Court of British Columbia, 2 May 2001, 2001 BCSC 664, 5 ICSID Reports 236	39, 62, 74, 75, 116, 120, 128, 153, 155, 156, 158, 159, 168, 170, 171, 247, 420, 455, 456, 458, 461, 549
<i>Metalpar S.A. and Buen Aire S.A. v. The Argentine Republic</i> , ICSID Case No. ARB/03/5, Award, 6 June 2008	409, 492, 504, 836, 990, 991
<i>Metal-Tech Ltd. v. The Republic of Uzbekistan</i> , ICSID Case No. ARB/10/3, Award, 4 October 2013	742
<i>Methanex Corporation v. United States of America</i> , UNCITRAL (NAFTA), Award on Jurisdiction, 7 August 2002; Final Award of the Tribunal on Jurisdiction and Merits, 3 August 2005	15, 26, 86, 100, 102, 103, 104, 105, 106, 108, 109, 110, 111, 165, 166, 190, 195, 274, 290, 294, 316, 436, 458, 460, 549, 606, 610,

Table of Cases

xxxv

611, 612, 613, 614, 615, 620, 621, 623, 624, 631, 635, 641, 647, 654, 728, 731, 836, 837, 841, 878, 883	
<i>Ioan Micula, Viorel Micula, S.C. European Food S.A, S.C. Starmill S.R.L. and S.C. Multipack S.R.L. v. Romania</i> , ICSID Case No. ARB/05/20, Final Award, 11 December 2013.....	278, 299, 303, 371, 428, 442, 453, 458, 479, 480, 497, 518, 831, 878, 879, 895, 946, 947, 948
<i>Middle East Cement Shipping and Handling Co. S.A. v. Arab Republic of Egypt</i> , ICSID Case No. ARB/99/6, Award, 12 April 2002.....	83, 138, 139, 161, 162, 420
<i>Milasi v. Italy</i> , ECtHR, Application No. 10527/83, 25 June 1987 [1987] 10 EHRR 333	410
<i>David Minnotte and Robert Lewis v. Republic of Poland</i> , ICSID Case No. ARB(AF)/10/1, Award, 16 May 2014.....	188, 472, 518, 523
<i>Patrick Mitchell v. Democratic Republic of the Congo</i> , ICSID Case No. ARB/99/3, Excerpts of Award, 9 February 2004	145, 594, 604, 668, 669
<i>MNSS B.V. and Recupero Credito Acciaio N.V. v. Montenegro</i> , ICSID Case No. ARB (AF)/12/8, Award, 4 May 2016	80, 335, 356, 364, 399, 565, 580, 731, 757, 927, 994
<i>Mobil Corporation and others v. Bolivarian Republic of Venezuela</i> , ICSID Case No. ARB/07/27, Decision on Jurisdiction, 10 June 2010	131
<i>Mobil Exploration and Development Argentina Inc. Suc. Argentina and Mobil Argentina Sociedad Anónima v. The Argentine Republic</i> , ICSID Case No. ARB/04/16, Decision on Jurisdiction and Liability, 10 April 2013	86, 147, 299, 322, 350, 428, 481, 526, 550, 559, 564, 580
<i>Mobil Investments Canada Inc. and Murphy Oil Corporation v. Canada</i> , ICSID Case No. ARB(AF)/07/4, Decision on Liability and on Principles of Quantum, 22 May 2012	319, 463, 518
<i>Mobil Oil and Others v. New Zealand</i> , ICSID Case No. ARB/87/2, Findings on Liability, Interpretation and Allied Issues, 4 May 1989	15
<i>MOL Hungarian Oil and Gas Company PLC v. Republic of Croatia</i> , ICSID Case No. ARB/13/32, Decision on Respondent's Application Under ICSID Arbitration Rule 41(5), 2 December 2014	873, 874
<i>Mondev International Ltd. v. United States of America</i> , ICSID Case No. ARB(AF)/99/2, Award, 11 October 2002	265, 286, 290, 299, 303, 310, 312, 313, 317, 318, 337, 368, 370, 381, 383, 394, 421, 425, 507, 549, 845, 846, 847, 883
<i>MTD Equity Sdn. Bhd. and MTD Chile S.A. v. Republic of Chile</i> , ICSID Case No. ARB/01/7, Award, 25 May 2004; Decision on Annulment, 21 March 2007	159, 273, 275, 277, 292, 293, 294, 316, 372, 448, 457, 468, 469, 485, 493, 696, 714, 743, 750, 751, 810, 848
<i>Murphy Exploration and Production Company International v. Republic of Ecuador [I]</i> , ICSID Case No. ARB/08/4, Award on Jurisdiction, 15 December 2010.....	791

<i>Murphy Exploration and Production Company International v. The Republic of Ecuador [III]</i> , PCA Case No. 2012-16 (formerly AA 434), Partial Final Award, 6 May 2016; Final Award, 10 February 2017	334, 338, 966
<i>Mytilineos Holdings SA v. State Union of Serbia & Montenegro and Republic of Serbia</i> , UNCITRAL, Partial Award on Jurisdiction, 8 September 2006	390
<i>N.V. Verenigde Deli-Maatschapijen and N.V. Senembah-Maatchappij v. Deutsch-Indonesische Tabak-Handelsgesellschaft m.b.H.</i> , Hanseatic Court of Appeals, 1 1 U 159/1959 and 1 U 201/1959 1 21 August 1959	207
<i>William Nagel v. The Czech Republic</i> , SCC Case No. 049/2002, Award, 9 September 2003	907
<i>National Grid P.L.C. v. Argentine Republic</i> , UNCITRAL, Decision on Jurisdiction, 20 June 2006; Award, 3 November 2008	26, 127, 275, 299, 496, 497, 501, 512, 552, 571, 572, 699, 700, 711, 723, 724, 739, 766, 770, 771, 809, 810, 811, 820, 835, 837, 968
<i>Nations Energy Inc., Electric Machinery Enterprises Inc., and Jamie Jurado v. Republic of Panama</i> , ICSID Case No. ARB/06/19, Award, 24 November 2010	129, 351
<i>LFH Neer and Pauline Neer (USA) v. United Mexican States</i> , Mexican-US General Claims Commission (1926) 4 RIAA 60	294, 305, 306, 307, 308, 310, 311, 312, 313, 330, 337, 380, 382
<i>Nejdet Şahin and Perihan Şahin v. Turkey</i> , ECtHR, Application No. 13279/05, Joint Dissenting Opinion, 20 October 2011	343
<i>Noble Energy, Inc. and Machalapower CIA. LTDA v. The Republic of Ecuador and Consejo Nacional de Electricidad</i> , ICSID Case No. ARB/05/12, Decision on Jurisdiction, 5 March 2008	893, 962, 963
<i>Noble Ventures, Inc. v. Romania</i> , ICSID Case No. ARB/01/11, Award, 12 October 2005	76, 550, 551, 562, 581, 822, 826, 842, 850, 852, 881, 884, 886, 896, 897, 900, 910, 911, 912, 931, 937, 958, 959, 960
<i>Nordzucker AG v. The Republic of Poland</i> , UNCITRAL, Second Partial Award (Merits), 28 January 2009	432, 433, 459
<i>Norwegian Shipowners' Claims (Norway v. US)</i> (1922) 1 RIAA 307	21, 24, 187, 191, 225, 233, 246
<i>Nottebohm Case (Liechtenstein v. Guatemala)</i> (Judgment) [1955] ICJ Reports 4	11
<i>Novenergia II - Energy & Environment (SCA) (Grand Duchy of Luxembourg), SICAR v. The Kingdom of Spain</i> , SCC Case No. 2015/063, Final Award, 15 February 2018	87, 135, 468, 476, 481, 494, 497, 515, 529, 901
<i>Jan de Nul N.V. and Dredging International N.V. v. Arab Republic of Egypt</i> , ICSID Case No. ARB/04/13, Award, 6 November 2008	299, 411, 424, 425, 488, 555
<i>Nykomb Synergetics Technology Holding AB v. The Republic of Latvia</i> , SCC Case No. 118/2001, Award, 16 December 2003	146, 364, 630, 675, 676, 837
<i>OAO Tatneft v. Ukraine</i> , PCA UNCITRAL, Award on the Merits, 29 July 2014	59, 72, 76, 79, 152, 208, 313, 348, 376, 438, 552, 565, 568, 743, 748, 749

Table of Cases

xxxvii

- Occidental Exploration and Production Company v. The Republic of Ecuador*, LCIA Case No. UN 3467, Final Award, 1 July 2004.....94, 120, 282, 358, 359, 361, 462, 463, 548, 550, 552, 554, 571, 596, 614, 615, 617, 626, 628, 632, 637, 640, 641, 666, 668, 821, 827, 829, 838, 839, 840, 852
- Occidental Petroleum Corporation and Occidental Exploration and Production Company v. Republic of Ecuador*, ICSID Case No. ARB/06/11, Award, 5 October 2012; Decision on Annulment of the Award, 2 November 2015..... 187, 344, 345, 447, 450
- OI European Group B.V. v. Bolivarian Republic of Venezuela*, ICSID Case No. ARB/11/25, Award, 10 March 2015.....46, 71, 74, 178, 200, 208, 217, 219, 220, 234, 335, 357, 358, 431, 551, 558, 565, 825, 835, 845, 859, 895, 896, 962, 984, 995
- Oil Platforms (Islamic Republic of Iran v. United States of America)* (Judgment) [1996] ICJ Reports 803; Separate Opinion of Judge Higgins, ICJ Reports 847 302
- OKO Pankki Oyj, VTB Bank (Deutschland) AG and Sampo Bank Plc v. The Republic of Estonia*, ICSID Case No. ARB/04/6, Award, 19 November 2007 262, 273, 277, 323, 326, 342, 369, 518
- Eudoro Armando Olguín v. Republic of Paraguay*, ICSID Case No. ARB/98/5, Award, 26 July 2001.....71, 72, 493, 584
- Olin Holdings Limited v. State of Libya*, ICC Case No. 20355/MCP, Final Award, 25 May 2018 133, 138, 198, 208, 223, 229, 386, 414, 429, 435, 454, 470, 502, 534, 579, 660, 823
- Jan Oostergetel and Theodora Laurentius v. The Slovak Republic*, UNCITRAL, Final Award, 23 April 2012..... 362, 385, 406, 413, 418, 423, 424, 426, 429, 518
- Oppenheimer v. Inland Revenue Commissioner* [1975] 1 All ER 538 210
- Oscar Chinn Case (United Kingdom v. Belgium)* (Judgment) [1934] PCIJ Series A/B, No. 63 11, 21, 22, 163, 187
- Osman v. United Kingdom*, ECtHR, Application No. 23452/94, 28 October 1998 [1998] ECHR 101 408
- Otis Elevator Co. v. Islamic Republic of Iran and Bank Mellat* (1987) 14 Iran-USCTR 283, 84 ILR 618 141
- Oxus Gold v. The Republic of Uzbekistan*, UNCITRAL, Final Award, 17 December 2015 68, 365, 506, 850, 897, 906, 964
- Pan American Energy LLC and others v. The Argentine Republic*, ICSID Case No. ARB/03/13 and *BP America Production Company and others v. The Argentine Republic*, ICSID Case No. ARB/04/8, Decision on Preliminary Objections, 27 July 2006..... 858, 868, 901, 925, 934, 935, 936, 943, 990
- Pantechniki S.A. Contractors & Engineers (Greece) v. The Republic of Albania*, ICSID Case No. ARB/07/21, Award, 30 July 2009..... 393, 396, 426, 563, 583, 585
- Papamichalopoulos and Others v. Greece*, ECtHR, Application No. 14556/89, 24 June 1993 [1993] ECHR 28 142
- Parkerings-Compagniet AS v. Republic of Lithuania*, ICSID Case No. ARB/05/8, Award, 11 September 2007181, 262, 480, 491, 493, 501,

	505, 507, 510, 522, 543, 560, 562, 573, 594, 606, 608, 615, 616, 617, 662, 672, 726, 729, 730, 757
<i>Sergei Paushok, CJSC Golden East Company, CJSC Vostokneftegaz Company v. The Government of Mongolia</i> , UNCITRAL, Award on Jurisdiction and Liability, 28 April 2011	96, 123, 267, 568, 582, 697, 752, 753, 837, 839, 858, 905
<i>Perenco Ecuador Limited v. The Republic of Ecuador</i> , ICSID Case No. ARB/08/6, Decision on Remaining Issues of Jurisdiction and Liability, 12 September 2014.....	95, 96, 131, 178, 328, 489, 503, 563
<i>Petrobart Limited v. The Kyrgyz Republic</i> , SCC Case No. 126/2003, Arbitral Award, 29 March 2005	126, 127, 343, 417, 432, 551
<i>Petrushko v. Russia</i> , ECtHR, Application No. 36494/02, 24 February 2005 [2005] ECHR 137	26
<i>Víctor Pey Casado and President Allende Foundation v. Republic of Chile [I]</i> , ICSID Case No. ARB/98/2, Award, 8 May 2008	140, 285, 410, 414, 415, 434
<i>Bernhard von Pezold and others v. Republic of Zimbabwe</i> , ICSID Case No. ARB/10/15, Award, 28 July 2015	39, 203, 211, 219, 229, 313, 518, 559, 565, 835, 993
<i>Phelps Dodge Corp. et al. v. Iran</i> (1986) 10 Iran-USCTR 121	151
<i>Philip Morris Asia Limited v. The Commonwealth of Australia</i> , UNCITRAL, PCA Case No. 2012-12, Award on Jurisdiction and Admissibility, 17 December 2015	102
<i>Philip Morris Brands Sàrl, Philip Morris Products S.A. and Abal Hermanos S.A. v. Oriental Republic of Uruguay</i> , ICSID Case No. ARB/10/7, Award, 8 July 2016; Concurring and Dissenting Opinion Gary Born, 8 July 2016.....	55, 82, 86, 102, 130, 170, 313, 343, 386, 441, 451, 479, 518, 851, 899, 931
<i>Phillips Petroleum Co. v. Government of the Islamic Republic of Iran</i> (1989) 21 Iran-USCTR 79	24, 59, 114, 173, 247
<i>Pine Valley Developments Ltd v. Ireland</i> , ECtHR, Application No. 12742/87 (A/222), 29 November 1991 [1993] 16 EHRR 379	90
<i>PL Holdings S.à.r.l. v. Republic of Poland</i> , SCC Case No. V 2014/163, Partial Award, 28 June 2017	54, 106, 170
<i>Plama Consortium Limited v. Republic of Bulgaria</i> , ICSID Case No. ARB/03/24, Decision on Jurisdiction, 8 February 2005; Award, 27 August 2008.....	125, 350, 364, 467, 468, 509, 570, 581, 624, 694, 699, 707, 723, 724, 734, 766, 767, 780, 781, 782, 783, 784, 791, 795, 801, 803, 804, 810, 811, 812, 820, 821, 830, 835, 852, 880, 893
<i>Pope & Talbot Inc. v. The Government of Canada</i> , UNCITRAL (NAFTA), Interim Award, 26 June 2000; Award on the Merits of Phase 2, 10 April 2001; Award in Respect of Damages, 31 May 2002	14, 26, 33, 34, 56, 85, 101, 115, 120, 122, 124, 162, 282, 283, 284, 289, 311, 315, 316, 317, 328, 370, 445, 549, 604, 611, 612, 616, 630, 631, 632, 633, 634, 635, 636, 647, 658, 660, 669, 670, 671, 675, 676, 677, 726, 728, 744, 745, 825, 836, 837, 846
<i>Pressos Compania Naviera S.A. v. Belgium</i> , ECtHR, Application No. 17849/91, 20 November 1995 [1995] ECHR 471	25, 168

Table of Cases

xxxix

- PSEG Global Inc. and Konya Ilgin Elektrik Üretim ve Ticaret Limited Sirketi v. Republic of Turkey*, ICSID Case No. ARB/02/5, Award, 19 January 2007..... 124, 274, 299, 349, 352, 400, 469, 474, 507, 512, 533, 552, 576, 577, 849, 858
- Pulp Mills on the River Uruguay (Argentina v. Uruguay)* (Judgment) [2010] ICJ Reports 14 677, 678
- Quasar de Valores SICAV S.A. and others (formerly Renta 4 S.V.S.A and others) v. The Russian Federation*, SCC Case No. 24/2007, Award, 20 July 2012; Judgment of Stockholm District Court, 11 September 2014 67, 98, 229, 708
- Quiborax S.A. and Non Metallic Minerals S.A. v. Plurinational State of Bolivia*, ICSID Case No. ARB/06/2, Award, 16 September 2015; Partially Dissenting Opinion Brigitte Stern, 7 September 2015 44, 107, 130, 198, 209, 218, 239, 335, 430, 850
- R. v. Oakes*, Canadian Supreme Court [1986] 1 S.C.R. 103 344
- Railroad Development Corporation (RDC) v. Republic of Guatemala*, ICSID Case No. ARB/07/23, Award, 29 June 2012 125, 173, 313, 651
- Dawood Rawat v. The Republic of Mauritius*, PCA Case No. 2016-20, Award on Jurisdiction, 6 April 2018 725
- Renta 4 S.V.S.A, Ahorro Corporación Emergentes F.I., Ahorro Corporación Eurofondo F.I., Rovime Inversiones SICAV S.A., Quasar de Valores SICAV S.A., Orgor de Valores SICAV S.A., GBI 9000 SICAV S.A. v. The Russian Federation*, SCC No. 24/2007, Award on Preliminary Objections, 20 March 2009 316, 324, 708, 767, 785, 786, 804, 810
- In the Matter of Revere Copper and Brass Inc. v. Overseas Private Investment Corporation*, Award, 24 August 1978 (1978) 56 ILR 258 96, 97, 113, 141, 157, 165
- The Case Concerning Rights of Nationals of the United States of America in Morocco (France v. United States of America)* (Judgment) [1952] ICJ Reports 176 442, 691, 709, 720, 721, 768
- Rafat Ali Rizvi v. The Republic of Indonesia*, ICSID Case No. ARB/11/13, Award on Jurisdiction, 16 July 2013 741
- Harry Roberts (USA) v. United Mexican States*, Mexican-US General Claims Commission (1926) 4 RIAA 77 297, 307
- The Rompetrol Group N.V. v. Romania*, ICSID Case No. ARB/06/3, Award, 6 May 2013 286, 329, 378, 396, 397, 406, 533, 553
- RosInvestCo UK Ltd. v. The Russian Federation*, SCC Case No. Arb. V079/2005, Award on Jurisdiction, 5 October 2007; Award, 12 September 2010 66, 67, 96, 97, 98, 121, 208, 383, 737, 766, 767, 773, 774, 779, 785, 805, 809, 811, 812
- Spyridon Roussalis v. Romania*, ICSID Case No. ARB/06/1, Award, 7 December 2011 67, 360, 385, 414, 425, 580, 824, 848, 960
- RREEF Infrastructure (G.P.) Limited and RREEF Pan-European Infrastructure Two Lux S.à r.l. v. Kingdom of Spain*, ICSID Case No. ARB/13/30, Award, 30 November 2018 443, 445, 467, 477, 535

<i>RSM Production Corporation and others v. Grenada [III]</i> , ICSID Case No. ARB/10/6, Award, 10 December 2010	299, 301, 302, 569
<i>Rudloff Case (US v. Venezuela)</i> (1903) 9 RIAA 244	6, 20
<i>Ruiz-Mateos v. Spain</i> , ECtHR, Application No. 12952/87, 23 June 1993 [1993] 16 EHRR 505	410
<i>Rumeli Telekom A.S. and Telsim Mobil Telekomunikasyon Hizmetleri A.S. v. Republic of Kazakhstan</i> , ICSID Case No. ARB/05/16, Award, 29 July 2008	66, 75, 76, 154, 267, 271, 334, 373, 374, 401, 420, 426, 454, 487, 542, 559, 582, 747, 749, 849, 861
<i>Rusoro Mining Limited v. The Bolivarian Republic of Venezuela</i> , ICSID Case No. ARB (AF)/12/5, Award, 22 August 2016	43, 198, 208, 220, 237, 334, 335, 358, 554, 672, 980, 995
<i>Vincent J. Ryan, Schooner Capital LLC, and Atlantic Investment Partners LLC v. Republic of Poland</i> , ICSID Case No. ARB(AF)/11/3, Award, 24 November 2015	99, 994
<i>S.D. Myers, Inc. v. Government of Canada</i> , UNCITRAL (NAFTA), Partial Award, 13 November 2000	34, 39, 56, 72, 82, 85, 88, 101, 116, 133, 136, 138, 162, 294, 315, 328, 445, 617, 621, 622, 621, 632, 634, 639, 640, 654, 661, 669, 670, 836, 837, 840, 845, 846
<i>Saar Papier Vertriebs GmbH v. Republic of Poland</i> , UNCITRAL, Final Award, 16 October 1995	119
<i>Saint-Gobain Performance Plastics Europe v. Bolivarian Republic of Venezuela</i> , ICSID Case No. ARB/12/13, Decision on Liability and the Principles of Quantum, 30 December 2016	44, 70, 145, 146, 214, 215, 216, 234, 235, 236, 240, 357, 519
<i>Saipem S.p.A. v. The People's Republic of Bangladesh</i> , ICSID Case No. ARB/05/07, Decision on Jurisdiction and Recommendation on Provisional Measures, 21 March 2007; Award, 30 June 2009	27, 34, 35, 76, 77, 150, 153, 182
<i>Salini Costruttori S.p.A. and Italstrade S.p.A. v. The Hashemite Kingdom of Jordan</i> , ICSID Case No. ARB/02/13, Decision on Jurisdiction, 15 November 2004	35, 723, 724, 766, 767, 769, 779, 780, 783, 807, 810, 811, 812, 874, 875, 932, 958
<i>Saluka Investments BV (The Netherlands) v. The Czech Republic</i> , UNCITRAL, Partial Award, 17 March 2006	15, 74, 86, 87, 89, 102, 103, 104, 105, 106, 107, 108, 109, 110, 190, 195, 273, 274, 277, 279, 281, 288, 289, 293, 294, 303, 321, 322, 326, 333, 334, 336, 368, 370, 372, 418, 436, 437, 438, 442, 443, 445, 449, 474, 475, 481, 486, 488, 490, 524, 525, 529, 559, 569, 581, 582, 624, 823, 830, 831, 838, 848, 881
<i>Sanum Investments Limited v. The Government of Lao People's Democratic Republic [I]</i> , PCA Case No. 2013-13, Award on Jurisdiction, 13 December 2013	697
<i>Sapphire International Petroleum Ltd. v. National Iranian Oil Co.</i> , Award, 15 March 1963 (1963) 35 ILR 136	40
<i>Saudi Arabia v. Arabian American Oil Company (ARAMCO)</i> , Award, 23 August 1958 (1963) 27 ILR 117	40

Table of Cases

xli

<i>SAUR International S.A. v. Argentine Republic</i> , ICSID Case No. ARB/04/4, Decision on Jurisdiction and Liability, 6 June 2012	313, 365, 834, 848
<i>Sea-Land Serv., Inc. v. Iran</i> (1984) 6 Iran-USCTR 149	71, 151, 166
<i>SEDCO, Inc. v. National Iranian Oil Company</i> (1985) 9 Iran-USCTR 248	86, 88, 114, 151
<i>Mr. Franz Sedelmayer v. The Russian Federation through the Procurement Department of the President of the Russian Federation</i> , SCC Case No. 106/1998, Award, 7 July 1998	41, 105
<i>Seismograph Service Corp. et al. v. National Iranian Oil Company and Iran</i> (1989) 22 Iran-USCTR 3	141
<i>Sempra Energy International v. Argentine Republic</i> , ICSID Case No. ARB/02/16, Award, 28 September 2007; Decision on Annulment, 29 June 2010	31, 329, 352, 363, 500, 508, 512, 577, 600, 768, 829, 839, 885, 921, 938, 939
<i>SGS Société Générale de Surveillance S.A. v. Islamic Republic of Pakistan</i> , ICSID Case No. ARB/01/13, Decision on Jurisdiction, 6 August 2003	790, 857, 858, 859, 864, 871, 875, 879, 880, 882, 883, 884, 891, 916, 925, 928, 929, 930, 931, 932, 934, 935, 939, 950, 954, 957, 958, 968
<i>SGS Société Générale de Surveillance S.A. v. Republic of the Philippines</i> , ICSID Case No. ARB/02/6, Decision of the Tribunal on Objections to Jurisdiction, 29 January 2004; Dissenting Opinion Crivellaro, 29 January 2004	176, 503, 857, 861, 870, 872, 876, 881, 882, 884, 896, 902, 916, 928, 929, 935, 937, 939, 944, 945, 951, 952, 953, 954, 955, 957, 958
<i>SGS Société Générale de Surveillance S.A. v. The Republic of Paraguay</i> , ICSID Case No. ARB/07/29, Decision on Jurisdiction, 12 February 2010; Award, 10 February 2012	356, 357, 505, 888, 916, 926, 929, 936, 943, 944, 946, 956
<i>Shahin Shaine Ebrahimi v. Government of the Islamic Republic of Iran</i> (1994) 30 Iran-USCTR 170; Separate Opinion of Richard C. Allison	151, 227
<i>Shufeldt Claim (US v. Guatemala)</i> (1930) 2 RIAA 1079	20, 173, 196
<i>Tza Yap Shum v. Republic of Peru</i> , ICSID Case No. ARB/07/6, Decision on Jurisdiction and Competence, 19 June 2009; Award, 7 July 2011	86, 90, 760, 762, 767, 783, 811, 812, 823
<i>Waguih Elie George Siag and Clorinda Vecchi v. The Arab Republic of Egypt</i> , ICSID Case No. ARB/05/15, Award, 1 June 2009; Dissenting Opinion of Francisco Orrego Vicuña, 11 May 2009	6, 15, 42, 189, 201, 202, 207, 219, 228, 234, 296, 367, 372, 381, 415, 428, 482, 533, 573, 580, 754, 816, 965
<i>Siderman de Blake v. Argentina</i> , United States Court of Appeals, Ninth Circuit, 965 F 2d 699 (1972)	210
<i>Siemens A.G. v. The Argentine Republic</i> , ICSID Case No. ARB/02/8, Decision on Jurisdiction, 3 August 2004; Award, 6 February 2007	30, 62, 63, 64, 153, 178, 194, 228, 248, 249, 274, 275, 287, 290, 297, 348, 360, 410, 544, 550, 553, 568, 617, 706, 707, 720, 721, 723, 724, 736, 738, 766, 767, 768, 769, 773, 779, 784, 790, 800, 803, 804, 810, 811, 821, 822, 827, 840, 852, 861, 883, 916, 919, 937, 943, 944, 960

<i>Sistem Mühendislik In aat Sanayi ve Ticaret A.S. v. Kyrgyz Republic</i> , ICSID Case No. ARB(AF)/06/1, Award, 9 September 2009	74, 76
<i>Smith Kline and French Laboratories v. The Netherlands</i> , European Commission of Human Rights, Applications No. 12633/87, Decision, 4 October 1990, 66 Decision & Reports 70	25
<i>Société Commerciale de Belgique (Belgium v. Greece)</i> (Judgment) [1939] PCIJ Series A/B, No. 78.....	11
<i>Société Générale in respect of DR Energy Holdings Limited and Empresa Distribuidora de Electricidad del Este, S.A. v. The Dominican Republic</i> , LCIA Case No. UN 7927, Preliminary Objections to Jurisdiction, 19 September 2008.....	125, 741
<i>Société Ouest Africaine des Bétons Industriels v. Senegal</i> , ICSID Case No. ARB/82/1, Award, 25 February 1988	15
<i>South American Silver Limited v. Plurinational State of Bolivia</i> , PCA Case No. 2013-15 (pending)	44
<i>Southern Pacific Properties (Middle East) Limited v. Arab Republic of Egypt</i> , ICSID Case No. ARB/84/3, Award, 20 May 1992, 3 ICSID Reports 189	28, 73, 91, 194, 245
<i>Sporrong and Lönnroth v. Sweden</i> , ECtHR, Application Nos. 7151/75 (A/52), 7152/75 (A/52), 23 September 1982 [1982] ECHR 5	52, 89, 90, 168
<i>ST-AD GmbH v. The Republic of Bulgaria</i> , PCA Case No. 2011-06, Award on Jurisdiction, 18 July 2013	719, 742, 767
<i>Starrett Housing Corp. v. Government of the Islamic Republic of Iran</i> (1983) 4 Iran-USCTR 122	23, 59, 113, 114, 128, 163
<i>State v. Makwanyane & Another</i> , South African Constitutional Court [1995] (3) SA 391, 436 (CC)	344
<i>Anatolie Stati, Gabriel Stati, Ascom Group S.A. and Terra Raf Trans Trading Ltd v. The Republic of Kazakhstan</i> , SCC Case No. V116/2010, Award, 19 December 2013	278, 348, 368, 371, 430, 849, 966
<i>Stran Greek Refineries and Stratis Andreadis v. Greece</i> , ECtHR, Application No. 13427/87, 9 December 1994 [1994] ECHR 48	26, 34, 142
<i>Suez, Sociedad General de Aguas de Barcelona S.A. and Vivendi Universal S.A v. The Argentine Republic</i> , ICSID Case No. ARB/03/19 and <i>AWG Group Ltd. v. The Argentine Republic</i> , UNCITRAL, Decision on Jurisdiction, 3 August 2006; Decision on Liability, 30 July 2010; Separate Opinion of Arbitrator Pedro Nikken, 30 July 2010; Decision on Annulment, 5 May 2017.....	24, 27, 31, 36, 87, 128, 129, 183, 273, 278, 280, 291, 304, 324, 329, 332, 358, 370, 480, 485, 487, 503, 555, 578, 700, 724, 732, 760, 766, 767, 771, 772, 800, 803, 804, 805, 809, 810
<i>Suez, Sociedad General de Aguas de Barcelona S.A., and InterAgua Servicios Integrales del Agua S.A.v. The Argentine Republic</i> , ICSID Case No. ARB/03/17, Decisions on Jurisdiction, 16 May 2006; Decision on Liability, 30 July 2010.....	329, 540, 543, 555, 556, 578, 580, 767, 811
<i>Supervisión y Control S.A. v. The Republic of Costa Rica</i> , ICSID Case No. ARB/12/4, Award, 18 January 2017	859, 922

Table of Cases

xliii

<i>SwemBalt AB, Sweden v. The Republic of Latvia</i> , UNCITRAL, Decision by the Court of Arbitration, 23 October 2000	228
<i>Swisslion DOO Skopje v. The Former Yugoslav Republic of Macedonia</i> , ICSID Case No. ARB/09/16, Award, 6 July 2012.....	78, 377, 399, 846, 963
<i>Técnicas Medioambientales Tecmed S.A. v. The United Mexican States</i> , ICSID Case No. ARB (AF)/00/2, Award, 29 May 2003.....	13, 36, 40, 51, 57, 63, 74, 75, 86, 101, 106, 116, 120, 136, 149, 152, 155, 160, 165, 169, 170, 286, 291, 292, 293, 294, 295, 296, 297, 328, 372, 418, 447, 448, 456, 457, 458, 460, 482, 496, 500, 561, 581, 673, 717, 718, 762, 766
<i>TECO Guatemala Holdings, LLC v. The Republic of Guatemala</i> , ICSID Case No. ARB/10/23, Award, 19 December 2013	108, 319, 402, 439, 463, 532
<i>Tehran, Inc., et al. v. Government of the Islamic Republic of Iran, et al.</i> (1986) 10 Iran-USCTR 228	151
<i>Teinver S.A., Transportes de Cercanías S.A. and Autobuses Urbanos del Sur S.A. v. The Argentine Republic</i> , ICSID Case No. ARB/09/1, Decision on Jurisdiction, 21 December 2012; Award, 21 July 2017	39, 45, 199, 210, 221, 229, 277, 282, 327, 370, 503, 504, 527, 557, 576, 734, 749, 753, 760, 766, 774, 807, 810, 811, 820, 828, 834, 967
<i>Telefónica S.A v. The Argentine Republic</i> , ICSID Case No. ARB/03/20, Decision of the Tribunal on Objections to Jurisdiction, 25 May 2006.....	723, 734, 770
<i>Telenor Mobile Communications A.S. v. The Republic of Hungary</i> , ICSID Case No. ARB/04/15, Award, 13 September 2006.....	40, 41, 54, 56, 62, 121, 122, 152, 348, 724, 762, 766, 767, 782, 783, 786, 811, 812
<i>Tenaris S.A. and Talta - Trading e Marketing Sociedade Unipessoal Lda. v. Bolivarian Republic of Venezuela [I]</i> , ICSID Case No. ARB/11/26, Award, 29 January 2016	44, 222, 237, 437, 567
<i>Tenaris S.A. and Talta - Trading e Marketing Sociedade Unipessoal Lda. v. Bolivarian Republic of Venezuela [II]</i> , ICSID Case No. ARB/12/23, Award, 12 December 2016.....	46, 132
<i>Texaco Overseas Petroleum Company (Topco)/California Asiatic (Calasiatic) Oil Company v. Government of the Libyan Arabic Republic</i> , Award, 19 January 1977 (1978) 17 ILM 1; (1979) 53 ILR 389	6, 11, 24, 40, 157, 207, 208, 245, 860
<i>Thomas Earl Payne v. Government of the Islamic Republic of Iran</i> (1986) 12 Iran-USCTR 3.....	151
<i>Tidewater Investment SRL and Tidewater Caribe, C.A. v. The Bolivarian Republic of Venezuela</i> , ICSID Case No. ARB/10/5, Award, 13 March 2015.....	239, 351, 376
<i>Tippetts, Abbott, McCarthy, Stratton v. TAMS-AFFA Consulting Engineers of Iran</i> (1984) 6 Iran-USCTR 219.....	75, 114, 136, 150, 152
<i>Tiramavia S.R.L. and Others v. Republic of Moldova</i> , ECtHR, Application Nos. 54115/09, 55707/09 and 55770/09, 4 September 2018	25
<i>Tokios Tokelés v. Ukraine</i> , ICSID Case No. ARB/02/18, Award, 26 July 2007; Dissenting Opinion of Prosper Weil, 29 April 2004	429

<i>Total S.A. v. Argentine Republic</i> , ICSID Case No. ARB/04/01, Decision on Liability, 27 December 2010.....	57, 129, 262, 275, 281, 286, 287, 297, 331, 334, 341, 377, 428, 449, 462, 463, 464, 474, 484, 501, 502, 519, 520, 525, 572, 611, 616, 629, 660, 674, 727
<i>Toto Costruzioni Generali S.p.A. v. Republic of Lebanon</i> , ICSID Case No. ARB/07/12, Decision on Jurisdiction, 11 September 2009; Award, 7 June 2012	285, 341, 355, 393, 412, 411, 471, 564, 584, 834, 907, 949, 954
<i>TRACO Deutsche Travertinwerke GmbH v. The Republic of Poland</i> , UNCITRAL, First Partial Award, 5 September 2012	834
<i>Tradex Hellas S.A. v. The Republic of Albania</i> , ICSID Case No. ARB/94/2, Award, 29 April 1999	61, 149
<i>Tre Traktörer AB v. Sweden</i> , ECtHR, Application No. 10873/84, 7 July 1989 [1989] ECHR 15.....	25
<i>Tulip Real Estate Investment and Development Netherlands B.V. v. Republic of Turkey</i> , ICSID Case No. ARB/11/28, Award, 10 March 2014	33, 186, 275, 580, 900
<i>UAB E Energija (Lithuania) v. Republic of Latvia</i> , ICSID Case No. ARB/12/33, Award, 22 December 2017	107, 132, 155, 296, 464, 489, 559, 823
<i>Ulysseas, Inc. v. The Republic of Ecuador</i> , UNCITRAL, Final Award, 12 June 2012.....	183, 313, 331, 362, 556, 564, 830, 835, 841
<i>Marion Unglaube and Reinhard Unglaube v. Republic of Costa Rica</i> , ICSID Case Nos. ARB/08/1 and ARB/09/20, Award, 16 May 2012.....	137, 294, 370, 374, 445, 466, 575, 841, 964
<i>Unión Fenosa Gas, S.A. v. Arab Republic of Egypt</i> , ICSID Case No. ARB/14/4, Award, 31 August 2018	322, 487, 510
<i>United Parcel Service of America Inc. v. Government of Canada</i> , UNCITRAL (NAFTA), Award on Jurisdiction, 22 November 2002; Award on the Merits, 24 May 2007; Separate Statement of Dean Cass, 24 May 2007	439, 549, 618, 625, 631, 635, 648, 649, 673, 674, 676, 677, 728
<i>UP and CD Holding Internationale v. Hungary</i> , ICSID Case No. ARB/13/35, Award, 9 October 2018.....	28, 62, 121, 203, 210, 240, 712
<i>Urbaser S.A. and Consorcio de Aguas Bilbao Biskaia, Bilbao Biskaia Ur Partzuergoa v. The Argentine Republic</i> , ICSID Case No. ARB/07/26, Award, 8 December 2016	123, 273, 314, 326, 369, 454, 489, 503, 526, 820, 843, 849
<i>V. Verenigde Deli-Maatschappijen and N.V. Senembah-Maatchappij v. Deutsch-Indonesische Tabak-Handelsgesellschaft m.b.H.</i> , Bremen District Court, 27 Q 12 and 13/195, 21 April 1959, and 7 Q 26/195, 16 June 1959.....	207
<i>Vacuum Salt v. Ghana</i> , ICSID Case No. ARB/92/1, Award, 16 February 1994.....	15
<i>Valores Mundiales, S.L. and Consorcio Andino, S.L. v. Bolivarian Republic of Venezuela</i> , ICSID Case No. ARB/13/11, Award, 25 July 2017	68, 121, 229, 327, 353, 416, 823, 852, 984, 993, 998

Table of Cases

xlv

<i>Van Marle and Others v. The Netherlands</i> , ECtHR, Application Nos. 8543/79; 8674/79; 8675/79; 8685/79, 26 June 1986 [1986] 8 EHRR 483	26, 156
<i>Vannessa Ventures Ltd. v. The Bolivarian Republic of Venezuela</i> , ICSID Case No. ARB(AF)/04/6, Award, 16 January 2013	184, 406, 413, 422, 423, 472, 553, 575, 580, 742
<i>Venezuela Holdings, B.V., Mobil Cerro Negro Holding, Ltd., Mobil Venezolana de Petróleos Holdings, Inc., Mobil Cerro Negro, Ltd., and Mobil Venezolana de Petróleos, Inc. v. Bolivarian Republic of Venezuela</i> , ICSID Case No. ARB/07/27, Award 9 October 2014.....	43, 131, 190, 231, 238, 239, 352, 748
<i>Venezuela US, S.R.L. v. The Bolivarian Republic of Venezuela</i> , PCA Case No. 2013-34, Interim Award on Jurisdiction on the Respondent Objection to Jurisdiction <i>Ratione Voluntatis</i> , 26 July 2016	766, 776, 777
<i>Vestey Group Ltd v. Bolivarian Republic of Venezuela</i> , ICSID Case No. ARB/06/4, Award, 15 April 2016.....	190, 199, 222, 239
<i>Veteran Petroleum Limited (Cyprus) v. The Russian Federation</i> , PCA Case No. AA 228, Final Award, 18 July 2014	98, 202, 217, 250
<i>Vigotop Limited v. Hungary</i> , ICSID Case No. ARB/11/22, Award, 1 October 2014.....	185, 186, 210
<i>Waite and Kennedy v. Germany</i> , ECtHR, Application No. 26083/94, 18 February 1999 [1999] ECHR 13	408
<i>Walter Fletcher Smith Claim (US v. Cuba)</i> (1929) 2 RIAA 913	191, 199, 245
<i>Waste Management, Inc. v. United Mexican States [I]</i> , ICSID Case No. ARB(AF)/98/2, Award, 2 June 2000; Dissenting Opinion of Keith Highet, 8 May 2000; 40 ILM 56, 73 (2001).....	62
<i>Waste Management, Inc. v. United Mexican States [II]</i> , ICSID Case No. ARB(AF)/00/3, Award, 30 April 2004.....	55, 82, 83, 84, 177, 294, 318, 335, 355, 375, 389, 404, 406, 411, 417, 427, 438, 440, 460, 505, 549, 845, 847, 861, 867, 963
<i>Wena Hotels Limited v. Arab Republic of Egypt</i> , ICSID Case No. ARB/98/4, Award, 8 December 2000; Decision on Annulment, 5 February 2002; Decision on the Application by Wena Hotels Limited for Interpretation of the Award, 31 October 2005	29, 69, 137, 138, 142, 359, 552, 553, 554, 561, 571, 577, 582
<i>Western NIS Enterprise Fund v. Ukraine</i> , ICSID Case No ARB/04/2, Order, 16 March 2006	720
<i>Whaling in the Antarctic (Australia v. Japan: New Zealand intervening)</i> (Judgment) [2014] ICJ Reports 226	442
<i>White Industries Australia Limited v. The Republic of India</i> , UNCITRAL, Final Award, 30 November 2011	24, 35, 179, 293, 413, 522, 584, 750, 763, 994
<i>Windstream Energy LLC v. Government of Canada</i> , PCA Case No. 2013-22, Award, 27 September 2016	278, 649
<i>Wintershall Aktiengesellschaft v. Argentine Republic</i> , ICSID Case No. ARB/04/14, Award, 8 December 2008	760, 763, 767, 789, 790, 791, 797, 801, 805, 811

<i>Jürgen Wirtgen and others v. The Czech Republic</i> , PCA Case No. 2014-03, Final Award, 11 October 2017	477, 521, 569, 965
<i>WNC Factoring Limited v. The Czech Republic</i> , PCA Case No. 2014-34, Award, 22 February 2017	107, 798, 859, 885, 923
WTO Appellate Body Report, <i>Canada — Certain Measures Affecting the Automotive Industry</i> , 31 May 2000, WT/DS139/AB/R and WT/DS142/AB/R	692
WTO, Appellate Body Report, <i>European Communities — Regime for the Importation, Sale and Distribution of Bananas [III]</i> , 25 September 1997, WT/DS27/AB/R	612
WTO Appellate Body Report, <i>European Communities — Measures Affecting Asbestos and Asbestos-Containing Products</i> , 12 March 2001, WT/DS135/AB/R	345, 610, 612
WTO Appellate Body Report, <i>Japan — Alcoholic Beverages [III]</i> , 1 November 1996, WT/DS38/AB/R	610
WTO Appellate Body Report, <i>United States — Measures Affecting Imports of Woven Wool Shirts and Blouses from India</i> , 23 May 1997, WT/DS33/AB/R.....	675, 678
WTO Panel Report, <i>Brazil — Measures Affecting Imports of Retreaded Tyres</i> , 12 June 2007, WT/DS332/R	345
WTO Panel Report, <i>Canada — Patent Protection of Pharmaceutical Products</i> , 18 August 2000, WT/DS114/R	605
WTO Panel Report, <i>United States — Measures Affecting Alcoholic and Malt Beverages</i> , 19 June 1992, WT/DS23/R – 39S/206	612
<i>Yaung Chi Oo Trading Pte Ltd. v. Government of the Union of Myanmar</i> , ASEAN Case No. ARB/01/1, Award, 31 March 2003	388, 389, 742
<i>Yukos Universal Limited (Isle of Man) v. The Russian Federation</i> , PCA Case No. AA 227, Final Award, 18 July 2014	98, 202, 217, 249, 250
<i>Zelena N.V. and Energo-Zelena d.o.o. Indija v. The Republic of Serbia</i> , ICSID Case No. ARB/14/27, Award, 9 November 2018	495, 535

ABBREVIATIONS

ACHR	American Convention on Human Rights
ACP	African, Caribbean and Pacific Group of States
ASEAN	Association of South East Asian Nations
BITs	Bilateral investment treaties
BLEU	Belgium-Luxembourg Economic Union
CAFTA	United States-Dominican Republic-Central America Free Trade Agreement
CARICOM	Caribbean Community
CETA	Canada-EU Comprehensive Economic and Trade Agreement
COMESA	Common Market for Eastern and Southern Africa
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECJ	European Court of Justice
ECT	Energy Charter Treaty
ECtHR	European Court of Human Rights
EU	European Union
FCN	Friendship, Commerce and Navigation
FET	Fair and equitable treatment
FILJ	Foreign Investment Law Journal
FIT	Feed-in-Tariff
FPS	Full protection and security
FTA	Free trade agreement
GA	General Assembly
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
HFCS	High fructose corn syrup
ICC	International Chamber of Commerce
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Court of Justice
ICSID	International Centre for Settlement of Investment Disputes
IIA	International investment agreements
ILA	International Law Association
ILC	International Law Commission
ILM	International Legal Materials
ILO	International Labour Organization
ILR	International Law Reports

IMF	International Monetary Fund
IPO	Initial public offering
ITO	International Trade Organization
JAA	Joint Aviation Authorities
LCIA	London Court of International Arbitration
MAI	Mutual Agreement on Investment
MFN	Most-favoured-nation
NAFTA	North American Free Trade Agreement
NAFTA FTC	NAFTA Free Trade Commission
OECD	Organisation for Economic Co-operation and Development
OEPC	Occidental Exploration and Production Company
OIC	Organisation of the Islamic Conference
OPEC	Organization of the Petroleum Exporting Countries
OPIC	Overseas Private Investment Corporation
PCA	Permanent Court of Arbitration
PCIJ	Permanent Court of International Justice
REIO	Regional economic integration organization
Res.	Resolution
RSE	Renewable Sources of Energy
RIAA	Reports of International Arbitral Awards
SCC	Stockholm Chamber of Commerce
TEC	Treaty Establishing the European Community
TFEU	Treaty on the Functioning of the European Union
TTIP	EU–US Transatlantic Trade and Investment Pact
UDHR	Universal Declaration of Human Rights
UN	United Nations
UN GA	United Nations General Assembly
UNCITRAL	United Nations Commission on International Trade Law
UNCTAD	United Nations Conference on Trade and Development
UNESCO	United Nations Educational, Scientific and Cultural Organization
US	United States of America
VAT	Value added tax
VCLT	Vienna Convention on the Law of Treaties
WTO	World Trade Organization