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TABLE OF FOREIGN INVESTOR-STATE CASES AND CLAIMS UNDER NAFTA AND OTHER U.S. "TRADE" DEALS
August 2013

The North American Free Trade Agreement (NAFTA) included an array of new corporate investment rights and protections that were unprecedented in scope and power. NAFTA's extreme rules have been replicated in various U.S. "free trade" agreements (FTAs), including CAFTA and bilateral FTAs with Peru, Oman, Korea, Panama and Colombia.

These special privileges provide foreign investors new rights to own and control other countries' natural resources and land, establish or acquire local firms, and to operate them under privileged terms relative to domestic enterprises. The scope of the "investments" covered by these rules is vast, including derivatives and other financial instruments, intellectual property rights, government licenses and permits, as well as more traditional forms of investment. The pacts provide foreign firms with a way to attack domestic public interest, land use, regulatory and other laws if they feel that a domestic policy or government decision has undermined the firms' new "trade" pact privileges by contravening their "expectations" or threatening their "expected future profits."

These firms have access under the deals to an "investor-state" enforcement system, which allows them to skirt national court systems and privately enforce their extraordinary new investor privileges by directly challenging national governments before extrajudicial tribunals. These investor-state cases are litigated outside any domestic legal system in special international arbitration bodies of the World Bank and the United Nations. A three-person panel composed of private attorneys listens to arguments in the case, with the power to award an unlimited amount of taxpayer dollars to corporations. Because the mechanism elevates private firms and investors to the same status as sovereign governments, it amounts to a privatization of the justice system.

If a corporation wins its investor-state case, the taxpayers of the "losing" country must foot the bill. Over $400 million in compensation has already been paid out to corporations in a series of investor-state cases under NAFTA-style deals. This includes attacks on natural resource policies, environmental protections, health and safety measures and more. In fact, of the more than $14 billion in the 15 pending claims under NAFTA-style deals, all relate to environmental, energy, financial regulation, public health, land use and transportation policies – not traditional trade issues.

The investor-state system has additional worrying implications. Many argue that it promotes the offshoring of jobs by providing special protections and rights for firms that relocate abroad. And the bipartisan National Conference of State Legislatures (the national association of U.S. state parliamentary bodies) has strongly opposed this system for its negative impact on federalism. States whose laws are challenged have no standing in the cases and must rely on the federal government to defend state policies which the federal government may or may not support. Since 2000, the cumulative number of investor-state cases worldwide has multiplied tenfold, intensifying concerns about the investor-state system's threats to democracy, taxpayers, and public interest policies.[1]

Key
* Indicates date Notice of Intent was filed, the first step in the investor-state process, when an investor notifies a government that it intends to bring a claim against that government
** Indicates date Notice of Arbitration was filed, the second step in the investor-state process, when an investor notifies an arbitration body that it is ready to commence arbitration under an FTA

Corporation or Investor	Venue	Damages Sought (US$)	Status of Case	Issue

FTA Cases & Claims against the United States[2]

Loewen July 29, 1998* Oct. 30, 1998**	ICSID	$725 million	Dismissed[3]	Loewen, a Canadian funeral home conglomerate, challenged a Mississippi state court ruling in a private contract dispute. In the underlying case challenged by Loewen, a Mississippi jury determined that Loewen had engaged in anti-competitive and predatory business practices that "clearly violated every contract it ever had" with a local Mississippi funeral home. After losing the case and reaching a settlement with the local funeral home for $85 million, Loewen launched a NAFTA case against the U.S. government for $725 million. The corporation attacked the Mississippi jury's verdict and the state's civil procedure rules, using claims of national treatment, "fair and equitable treatment," and expropriation violations. This was the first NAFTA investor-state case challenging a domestic court ruling, and the NAFTA tribunal decided that a foreign corporation could call on a NAFTA tribunal to review a domestic jury decision in a private contract dispute. The tribunal did not place limits on a NAFTA tribunal's power to review court decisions. The tribunal narrowly dismissed Loewen's claim on procedural grounds. (The tribunal found that Loewen's reorganization under U.S. bankruptcy laws as a U.S. corporation no longer qualified it as a "foreign investor" entitled to NAFTA protection.) However, the tribunal's ruling "criticized the Mississippi proceedings in the strongest terms" and made clear that foreign corporations that lose tort cases in the United States can use NAFTA to attempt to evade liability by shifting the cost of their court damages to U.S. taxpayers. For more information, see: http://www.citizen.org/documents/Loewen-Case-Brief-FINAL.pdf

Mondev May 6, 1999* Sept. 1, 1999**	ICSID	$50 million	Dismissed	Mondev, a Canadian real estate developer, challenged a Massachusetts Supreme Court ruling regarding local government sovereign immunity and land-use policy. Mondev claimed that the city of Boston had unfairly interfered with an optional second phase of a construction project by planning a road to run through a parcel of land on which it had been operating a garage business. The Massachusetts Supreme Court held that the investor had been unable to demonstrate that it was willing and able to perform its contractual obligations and ruled that the Boston Redevelopment Authority (of the city government) was immune from civil suits. After the U.S. Supreme Court denied Mondev's request for a re-hearing, Mondev launched a NAFTA investor-state claim against the United States. A NAFTA tribunal dismissed the claim on procedural grounds, finding that the majority of Mondev's claims, including its expropriation claim, were time-barred because the dispute on which the claim was based predated NAFTA. For more information, see: http://www.citizen.org/trade/article_redirect.cfm?ID=1887
Methanex June 15, 1999* Dec. 3, 1999**	UNCITRAL	$970 million	Dismissed	Methanex, a Canadian corporation that produced methanol, a component chemical of the gasoline additive MTBE, challenged California's phase-out of the additive. Studies have linked MTBE with neurotoxological and carcinogenic health impacts, along with risks to the environment. The state decided to phase out the chemical to halt contamination of drinking water sources around the state. In its NAFTA case, Methanex alleged that the California phase-out of MTBE was discriminatory and violated the company's right to a "minimum standard of treatment." The claim was dismissed on procedural grounds. The tribunal ruled that it had no jurisdiction to determine Methanex's claims because California's MTBE ban did not have a sufficient connection to the firm's methanol production to qualify Methanex for protection under NAFTA's investment chapter. The tribunal ordered Methanex to pay U.S. $3 million in legal fees. For more information, see: http://www.citizen.org/documents/Issue6.pdf

ADF Group Feb. 29, 2000* July 19, 2000**	ICSID	$90 million	Dismissed	ADF group, a Canadian steel contractor, challenged the U.S. Buy America law in relation to a Virginia highway construction contract. At issue was a 1980s law developed to recycle taxpayer funds back into the U.S. economy in a sector – steel – that was considered vital for U.S. infrastructure and national defense. A tribunal dismissed the claim, finding that the basis of the claim constituted "government procurement" and therefore was not covered under NAFTA Article 1108. Starting with CAFTA, FTA investment chapters have included foreign investor protections for aspects of government procurement activities. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
Canfor Nov. 5, 2001* July 9, 2002**	UNCITRAL	$250 million	Consolidated	Canfor, a Canadian softwood lumber company, claimed damages relating to U.S. anti-dumping and countervailing duty measures implemented in a U.S.-Canada softwood lumber dispute. The case was consolidated with the Tembec and Terminal Forest Products claims – see "Softwood Lumber" below. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
Kenex Jan. 14, 2002* Aug. 2, 2002**	UNCITRAL	$20 million	Arbitration never began	Kenex, a Canadian hemp production company, challenged new U.S. Drug Enforcement Agency regulations criminalizing the importation of hemp foods. Kenex tried to import WTO requirements to use "sound science" into U.S. NAFTA obligations, and argued that the regulation was arbitrary and unfair. In 2004, Kenex won a U.S. federal court case that held the agency overstepped its statutory authority when issuing the rules. The NAFTA investor-state case was abandoned. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
James Baird March 15,		$13.58 billion	Arbitration never began	James Baird, a Canadian investor, challenged a U.S. policy of disposing nuclear waste at a Yucca Mountain, Nevada site. The investor held patents for a competing sub-sealed waste disposal method

2002*				and location. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
Doman May 1, 2002*		$513 million	Arbitration never began	Doman, a Canadian softwood lumber company, claimed damages related to U.S. anti-dumping and countervailing duties measures implemented in a U.S.-Canada softwood lumber dispute. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
Tembec Corp. May 3, 2002* Dec. 3, 2003**	UNCITRAL	$200 million	Consolidated	Tembec, a Canadian softwood lumber company, claimed damages related to U.S. anti-dumping and countervailing duties measures implemented in a U.S.-Canada softwood lumber dispute. The case was consolidated with the Terminal Forest Products and Canfor claims – see "Softwood Lumber" below. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
Ontario Limited Sept. 9, 2002*		$38 million	Arbitration never began	Ontario Limited, a Canadian company, launched a NAFTA claim seeking return of property after its bingo halls and financial records were seized during an investigation for violations of the Racketeer Influenced and Corrupt Organizations Act (RICO) in Florida. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
Terminal Forest Products Ltd. June 12, 2003* March 30, 2004**	UNCITRAL	$90 million	Consolidated	Terminal Forest Products, a Canadian softwood lumber company, claimed damages related to U.S. anti-dumping and countervailing duties measures in a U.S.-Canada softwood lumber dispute. The case was consolidated with the Canfor and Tembec claims – see "Softwood Lumber" below. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf

Glamis Gold Ltd. July 21, 2003* Dec. 9, 2003**	UNCITRAL	$50 million	Dismissed	Glamis Gold, a Canadian mining company, sought compensation for a California law requiring backfilling and restoration of open-pit mines near Native American sacred sites. The company's U.S. subsidiary had acquired federal mining claims and was in the process of acquiring approval from state and federal governments to open an open-pit cyanide heap leach mine. Many nations (and the U.S. state of Montana) have banned cyanide heap-leach mining altogether, given the environmental dangers. The discarded heaps of contaminated earth around such mines can swell as much as 40 percent and poison water resources in the area. When backfilling and restoration regulations were issued by California to protect Native American sites, Glamis filed a NAFTA claim rather than proceed with its application in compliance with the regulations. The company argued that the environmental and safety regulations amounted to expropriation and a violation of "fair and equitable treatment" under NAFTA. The tribunal dismissed Glamis' claims in June 2009, reasoning that the regulations were not sufficiently egregious and that their economic impact was not large enough to constitute an expropriation. For more information, see: http://www.citizen.org/documents/GlamisBackgrounderFINAL.pdf
Grand River Enterprises et. al. Sept. 15, 2003* March 12, 2004**	UNCITRAL	$340 million	Dismissed	Grand River Enterprises, a Canadian tobacco manufacturer, (in addition to its two individual owners and one U.S. business associate) sought damages over a 1998 U.S. Tobacco Settlement, which requires tobacco companies to contribute to state escrow funds to help defray medical costs of smokers. The Canadian tobacco company had utilized loopholes in the escrow scheme to expand its U.S. sales – loopholes that the states ultimately closed. This loophole closing was a central basis of the corporation's claim. While finding that no NAFTA violation occurred, a tribunal decided that the United States had to bear its own defense costs, arguing that the United States did not consult with indigenous businesses before implementing the challenged aspects of the Tobacco Settlement. The tribunal also questioned whether these aspects of the tobacco control policy contributed to public health, despite deep drops in teenage smoking over the period. For more information, see:

				http://www.citizen.org/documents/NAFTAReport_Final.pdf
Canadian Cattlemen for Fair Trade Aug. 12, 2004* March 16 2005-June 2, 2005**	UNCITRAL	$235 million	Dismissed	A group of Canadian cattlemen and feedlot owners sought compensation for losses incurred when the United States halted imports of live Canadian cattle after the discovery of a case of BSE (mad cow disease) in Canada in May 2003. A tribunal dismissed the claim, ruling that the cattlemen did not have standing to bring the claim because they did not have an investment in the U.S., nor did they intend to invest in the U.S. For more information, see: http://www.citizen.org/documents/CanadianCattlemen_for_FairTrade.pdf
Softwood Lumber Consolidated Proceeding Sept. 7, 2005	ICSID		Concluded	Canfor, Terminal Forest and Tembec – Canadian softwood lumber companies – challenged U.S. anti-dumping and countervailing duties measures implemented in a U.S.-Canada softwood lumber dispute. The agreement had been signed to avert a trade war over U.S. industry complaints that Canada was unfairly subsidizing logging companies. The companies alleged violations of NAFTA provisions on minimum standard of treatment, national treatment and expropriation, among others. A tribunal approved the U.S. request to consolidate Canfor, Terminal Forest and Tembec cases under ISCID rules. The Tembec case was withdrawn in 2005, but a dispute over litigation costs continued to be adjudicated by the NAFTA tribunal. A final ruling terminated the Canfor and Terminal Forest cases in 2007, and apportioned costs in all three cases. The termination followed a new softwood lumber agreement that the U.S. and Canada entered into in 2006 which resolved many NAFTA and domestic court cases on the issue. The softwood lumber dispute was also litigated at the WTO and in NAFTA's state-state dispute resolution system before the 2006 agreement was reached. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
Domtar Inc. April 16, 2007*	UNCITRAL	$200 million	Arbitration never began	Domtar, a Canadian softwood lumber company, filed a claim after a 2006 U.S.-Canada softwood lumber agreement to try to recover the money it paid out while U.S. countervailing duties were in place. Domtar claimed numerous violations,

				including minimum standard of treatment, national treatment and transfers of investments violations. (See also "Softwood Lumber" case above.)
Apotex Dec. 12, 2008*	UNCITRAL	$8 million	Dismissed	Apotex, a Canadian generic drug manufacturer, challenged the decision of U.S. courts not to clarify patent issues relating to its plan to develop a generic version of the Pfizer drug Zoloft (sertraline) when the Pfizer patent expired in 2006. Due to legal uncertainty surrounding the patent, the firm sought a declaratory judgment in U.S. District Court for the Southern District of New York to clarify the patent issues and give it the "patent certainty" to be eligible for final FDA approval of its product upon the expiration of the Pfizer patent. The court declined to resolve Apotex's claim and dismissed the case in 2004, and this decision was upheld by the federal circuit court in 2005. In 2006, the case was denied a writ of certiorari by the U.S. Supreme Court. Because the courts declined to clarify the patent situation, another generic competitor got a head-start in producing the drug. Apotex challenged all three court decisions as a misapplication of U.S. law, and as violations of NAFTA's expropriation, discrimination and "minimum standard of treatment" provisions. The tribunal dismissed the claim in 2013, arguing that neither Apotex's drugs nor its related expenditures constituted an "investment" in the United States that was protected under NAFTA.
CANACAR April 2, 2009*	UNCITRAL	$6 billion	Pending	CANACAR, a group of Mexican truckers, launched a NAFTA claim after a bipartisan coalition in Congress set specific safety and environmental conditions that had to be met before a controversial Bush administration program, allowing 26 Mexican carriers full access to U.S. roadways, could take effect. The Bush pilot program was an effort to comply with a NAFTA obligation to make U.S. highways fully accessible to Mexican trucks. The Clinton administration had resisted implementing that obligation, given U.S. Department of Transportation studies that revealed severe safety and environmental problems with Mexico's truck fleet and drivers' licensing. Such resistance had prompted Mexico to initiate a state-to-state NAFTA dispute, resulting in a tribunal ruling that the United States had to grant full roadway access to Mexican-domiciled trucks or face trade sanctions. CANACAR launched its investor-state case to further pressure the United States to grant access to Mexican trucks after Congress' initiative to place safety and

				environmental conditions on such access. In its NAFTA claim, CANACAR claimed that such requirements violated the nondiscrimination, most favored nation, and "fair and equitable treatment" investor protections in NAFTA. The claimants created a novel argument that, due to the fact that they pay certification fees to the Federal Motor Carrier Safety Administration, they have an "investment" in the United States and qualify as "investors" under NAFTA.[4] After the Mexican government levied further threats of trade sanctions against the United States for continued restrictions on Mexican-domiciled trucks, the Obama administration signed a deal in 2011 to allow the trucks into the U.S. interior for three years, despite the unresolved safety and environmental concerns. The first Mexico-domiciled truck crossed into the U.S. interior in October 2011 without needing to show it was built to U.S. safety standards. For more information, see: http://www.citizen.org/documents/NAFTAs-Broken-Promises.pdf
Apotex June 6, 2009**	UNCITRAL	$8 million	Dismissed	Apotex, a Canadian drug manufacturer, challenged the decision of the FDA not to approve development of a generic version of the Bristol Myers Squibb drug Pravachol (provastatin sodium). The firm was unable to obtain approval from the FDA. Apotex filed a NAFTA claim, arguing that the United States violated the national treatment, minimum standard of treatment, and expropriation and compensation obligations of NAFTA. The tribunal dismissed the claim in 2013, arguing that neither Apotex's drugs nor its related expenditures constituted an "investment" in the United States that was protected under NAFTA.
Cemex Sept. 2009*		N/A	Pending	Cemex, a Mexican cement company, filed a notice of intent to bring a NAFTA claim against the U.S. government after the state of Texas launched a lawsuit against Cemex for not paying royalties on metals the company extracted from state-owned land.[5] Cemex sought to use the NAFTA claim to indemnify itself against potential losses in the Texas courts.
Apotex Feb. 29,	ICSID	$520 million	Pending	Apotex, a Canadian drug manufacturer, launched a NAFTA case against FDA-imposed restrictions on imports of Apotex drugs, which followed FDA

2012**				inspections of Apotex manufacturing facilities. In its claim, Apotex argued that FDA inspections practices were discriminatory and violated a NAFTA-guaranteed "minimum standard of treatment" for the company.[6]
Victims of the Stanford Ponzi Scheme Dec. 28/29, 2012*		$50.8 million	Pending	Individual investors from Central America, South America and the Caribbean filed notices of intent in separate claims against the U.S. government under CAFTA, the U.S.-Peru FTA and the U.S.-Chile FTA. The investors stated that they lost money as a result of a Ponzi scheme run by convicted U.S. ex-financier Allen Stanford. They argued that the U.S. Securities and Exchange Commission failed to promptly shut down Stanford's scheme, which the investors alleged as a violation of national treatment, fair and equitable treatment and most favored nation obligations.

NAFTA Cases & Claims against Canada

Signa March 4, 1996*		$3.65 million	Withdrawn	Signa, a Mexican generic drug manufacturer, launched a claim against a Canadian patent law that prevented the company from manufacturing a generic form of the antibiotic CIPRO. The company claimed that Canadian law allowed Bayer, the owner of the CIPRO patent, to block the generic manufacture of CIPRO without requiring any preliminary judicial consideration of the contested patent. Signa alleged this as a violation of NAFTA rules against expropriation, though arbitration never began. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
Ethyl April 14, 1997*	UNCITRAL	$250 million	**Settled; Ethyl win, $13 million**	Ethyl, a U.S. chemical company, launched an investor-state case over the Canadian ban of MMT, a toxic gasoline additive used to improve engine performance. MMT contains manganese – a known human neurotoxin. Canadian legislators, concerned about the public health and environmental risk of MMT emissions, and about MMT's interference with emission-control systems, banned MMT's transport and import in 1997, despite Ethyl's explicit threat that it would respond with a NAFTA challenge. MMT is not

				used in most countries outside Canada, and is banned by the U.S. Environmental Protection Agency in reformulated gasoline. Making good on its threat, Ethyl initiated a NAFTA claim against the toxics ban, arguing that it constituted a NAFTA-forbidden indirect expropriation of its assets. Though Canada argued that Ethyl did not have standing under NAFTA to bring the challenge, a NAFTA tribunal rejected Canada's objections in a June 1998 jurisdictional decision that paved the way for a ruling on the substance of the case. Less than a month after losing the jurisdictional ruling, the Canadian government announced that it would settle with Ethyl, paying $13 million in damages and legal fees. Unusually, the Canadian government simultaneously announced it would reverse the ban on MMT – only recently passed to protect its citizens – allowing the toxin to reenter Canada's gasoline supply. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
S.D. Myers July 22, 1998* Oct. 30, 1998**	UNCITRAL	$20 million	**S.D. Myers win, $5.6 million** ($3.9 million + $1.7 million interest)	S.D. Myers, a U.S. waste treatment company, challenged a temporary Canadian ban on the export of a hazardous waste called polychlorinated biphenyls (PCB), which complied with a multilateral environmental treaty encouraging domestic treatment of toxic waste. The EPA has determined that PCBs are harmful to humans and toxic to the environment. S.D. Myers argued that the ban constituted disguised discrimination in violation of NAFTA fair and equitable treatment requirements, and was "tantamount to an expropriation." A tribunal dismissed S.D. Myers' claim of expropriation, but upheld claims of discrimination and deemed the export ban as a violation of the "minimum standard of treatment" foreign investors must be provided under NAFTA, because it limited S.D. Myers' plan to treat the waste in Ohio. The panel also stated that a foreign firm's "market share" in another country could be considered a NAFTA-protected investment. A Canadian Federal Court dismissed Canada's petition to have the decision overturned, finding that any jurisdictional claims were barred from being raised since they had not been raised in the NAFTA claim, and that upholding the tribunal

				award would not violate Canadian "public policy" as Canada had argued. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
Sun Belt Dec. 2, 1998* Oct. 12, 1999**		$10.5 billion	Arbitration never began	Sun Belt, a U.S. bulk water importer/exporter, challenged a British Columbia bulk water export moratorium. Public protests had forced the moratorium, as many Canadians were concerned that if Canadian provinces mass-exported water it would begin to be treated as a commodity under NAFTA, making it difficult for Canada to limit water withdrawals from the Great Lakes. In its notice of intent to launch a NAFTA dispute, the U.S. company argued that the popularly-pushed water export moratorium was discriminatory and violated the company's entitlement to a "minimum standard of treatment" under NAFTA. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
Pope & Talbot Dec. 24, 1999* March 25, 1999**	UNCITRAL	$508 million	**P&T win, $0.5 million** ($0.46 million + $0.04 million interest)	Pope & Talbot, a U.S. timber company with operations in British Columbia, challenged Canadian implementation of the 1996 U.S.-Canada Softwood Lumber Agreement. Pope & Talbot claimed that quotas on duty-free imports of Canadian timber into the United States violated NAFTA national treatment and minimum standard of treatment guarantees, and constituted expropriation. The U.S. and Canadian governments had agreed on the quotas to avert a trade war over U.S. industry complaints that Canada was unfairly subsidizing logging companies. Although the company was treated in the same manner as similar companies in British Columbia, it pointed to logging companies in other provinces not subject to the quota to support its allegation of discrimination. A NAFTA tribunal dismissed the company's claims of expropriation and discrimination, but held that, even though Canada reasonably implemented the lumber agreement, the allegedly rude behavior of Canadian government officials seeking to verify Pope & Talbot's compliance constituted a violation of the "minimum standard of treatment" required by NAFTA for foreign investors. The panel also stated that a foreign firm's "market access" in another country could be considered a NAFTA-

				protected investment. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
United Parcel Service Jan. 19, 2000* April 19, 1999**	UNCITRAL	$160 million	Dismissed	UPS, the world's largest package delivery company, claimed that the Canadian post office's parcel delivery service was unfairly subsidized by virtue of being part of the public postal service – Canada Post. As the first NAFTA case against a public service (and since mail delivery is a publicly-owned service in numerous countries), the case was closely watched and included amici briefs submitted by the Canadian Union of Postal Employees and other citizen groups. UPS's claims were dismissed. A tribunal concluded that key NAFTA rules concerning competition policy could not be invoked because UPS was inappropriately framing Canada Post as a "party" to Chapter 11. In addressing whether Canada's treatment of UPS comported with customary international law, the tribunal found that there was no customary international law prohibiting or regulating anticompetitive behavior. A lengthy dissenting opinion was filed by one tribunalist, indicating that a similar case could generate a very different result. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
Ketcham and Tysa Investments Dec. 22, 2000*		$30 million	Withdrawn	Several U.S. softwood lumber firms challenged Canadian implementation of a 1996 Softwood Lumber Agreement. The firms claimed that Canada gave higher quotas to domestic firms than to the firms' Canadian subsidiaries, and that this constituted expropriation and a breach of national treatment and minimum standard of treatment provisions.
Trammell Crow Sept. 7, 2001*		$32 million	Withdrawn	Trammell Crow, a U.S. real estate company, filed notice of its intent to launch a NAFTA claim over alleged discrimination in Canada Post's bidding processes. The company claimed that the Canadian government skirted a competitive bidding process and extended an old contract to manage post facilities after the company had spent time and money preparing a bid for a new contract.

				For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
Crompton/ Chemtura Original notice of claim dated Nov. 6, 2001* Feb. 10, 2005**	UNCITRAL	$100 million	Dismissed	Crompton, a U.S. chemical company and producer of pesticide lindane – a hazardous persistent organic pollutant – challenged a voluntary agreement between manufacturers and the Canadian government to restrict production of the pesticide. The EPA considers lindane a possible human carcinogen. The U.S. does not allow lindane for seed treatment of canola, but Canada historically has. Beginning in 1998, the Canadian Pesticide Management Regulatory Agency (PMRA) and canola growers represented by the Canadian Canola Council organized companies to voluntarily phase out the production of lindane for canola. In threatening a NAFTA claim, Crompton – which later merged with another company to become the Chemtura Corporation – argued that the voluntary phase-out program violated NAFTA provisions against discrimination, performance requirements and expropriation, and failed to provide the company a "minimum standard of treatment." In August 2010, the tribunal ruled against the company, in part because the company's own actions helped intitiate the ban. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
Albert J. Connolly Feb. 19, 2004*		Not availab le	Arbitration never began	Albert J. Connolly, a U.S. investor, claimed that real estate he owned in Canada was expropriated by the province of Ontario for the purpose of building a park as part of Ontario's Living Legacy Program. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
Contractual Obligations June 15, 2004*		$20 million	Arbitration never began	Contractual Obligations, a U.S. animation production company, challenged as a NAFTA violation Canadian federal tax credits that were only available to Canadian firms employing Canadian citizens and residents.

Peter Pesic July 2005*			Withdrawn	Peter Pesic, a U.S. investor, claimed that a Canadian decision not to extend a work visa impaired his investment in Canada.
Great Lake Farms Feb. 28, 2006* June 5, 2006**	UNCITRAL	$78 million	Arbitration never began	A U.S. agribusiness challenged Canadian provincial and federal restrictions on the exportation of milk to the U.S. The company alleged violation of NAFTA's most favored nation rule, "minimum standard of treatment" rule, expropriation prohibition, and rules on monopolies and state enterprises.
Merrill and Ring Forestry Sept. 25, 2006* Dec. 27, 2006**	UNCITRAL	$25 million	Dismissed	Merrill and Ring Forestry, a U.S. forestry firm, challenged Canadian federal and provincial regulations restricting the export of raw logs. Numerous labor groups petitioned to submit amici briefs in the case, seeking to maintain and strengthen Canada's raw log export controls at both the provincial and federal levels. They stated that such NAFTA claims could lead to the abandonment of log export controls which they deem essential to the continued employment of tens of thousands of Canadian workers. Merrill and Ring Forestry argued that the export regulations violated NAFTA national treatment and minimum standard of treatment provisions. A tribunal ruled against Merrill and Ring Forestry, but ordered Canada to pay half of arbitration costs, amounting to about $500,000.
V. G. Gallo Oct. 12, 2006* March 30, 2007**	UNCITRAL	$355.1 million	Dismissed	Gallo, a U.S. citizen, owned a company that bought a decommissioned open-pit iron ore mine in Northern Ontario. He challenged a 2004 decision by the newly-elected Ontario government to block a proposed landfill on the site. Gallo claimed this decision was "tantamount to an expropriation" and deprived Gallo of a "minimum standard of treatment" under NAFTA. A tribunal ruled that Gallo did not have ownership of the mine at the time of the alleged infraction, but ruled that Canada still had to cover its own legal costs.[7]
(Exxon) Mobil Investments and Murphy Oil Aug. 2, 2007* Nov. 1,	ICSID	$60 million	**Mobil win**	Large U.S. oil corporations Mobil (of ExxonMobil) and Murphy Oil used NAFTA to challenge the Canada-Newfoundland Offshore Petroleum Board's Guidelines for Research and Development Expenditures. The guidelines require oil extraction firms to pay fees to support R&D in Canada's poorest provinces, Newfoundland and Labrador. Offshore oil fields in the region, developed after significant infusions of public and private funds, were discovered to be far larger than anticipated,

2007**				prompting a variety of new government measures. In their NAFTA claim, the oil corporations argued that the new guidelines violated NAFTA's prohibition on performance requirements. In 2012 a tribunal ruled in favor of Mobil and Murphy Oil, deeming the requirement to use larger-than-expected oil revenue to fund research and development as a NAFTA-barred performance requirement. While the amount of the fine has not been made public, it is expected to include the tribunal's estimation of the corporations' expected future profits.[8]
Marvin Gottlieb et.al. Oct. 30, 2007*		$6.5 million	Arbitration never began	Marvin Gottlieb and other foreign investors challenged an increase in Canadian taxation of income trusts –legal structures commonly used by energy companies to reduce taxation. Concerned about a declining corporate tax base, Canada changed the manner in which income trusts were taxed in 2006. Investors alleged that this change effectively eliminated the income trust model as an investment option and caused "massive destruction" to their holdings. An exchange of letters between the U.S. and Canadian tax agencies confirmed that the investors' claim of NAFTA-prohibited expropriation could not proceed. However, this determination did not affect the investors' claims that the new tax policy violated NAFTA's national treatment, most favored nation and fair and equitable treatment obligations.
Clayton/ Bilcon Feb. 5, 2008* May 26, 2008**	UNCITRAL	$188 million	Pending	Members of the U.S.-based Clayton family and a corporation they control, Bilcon, challenged Canadian environmental requirements affecting their plans to open a basalt quarry and a marine terminal in Nova Scotia. The family planned to extract and ship out large quantities of basalt from the proposed 152-hectare project, located in a key breeding area for several endangered species, including the world's most endangered large whale. Canada's Department of Fisheries and Oceans determined that blasting activity in this sensitive area raised environmental concerns and thus required a rigorous assessment. The Clayton family argued that said assessment was arbitrary, discriminatory, and unfair, and thus a breach of NAFTA's national treatment and most favored nation obligations.[9]
Georgia Basin			Other	Georgia Basin is a limited partnership based in Washington State that owns timber lands in

Feb. 5, 2008*				British Columbia. It alleged that Canada's export controls on logs harvested from land in British Columbia under federal jurisdiction violated Canada's NAFTA obligations regarding expropriation, "minimum standard of treatment," discrimination, most favored nation treatment and performance requirements. A tribunal decided on January 31, 2008 to not allow Georgia Basin to participate in the Merrill and Ring Forestry hearings described above.
Centurion Health July 11, 2008* Jan. 5, 2009**	UNCITRAL	$160 million	Terminated	A U.S. citizen and his firm, Centurion Health Corporation, challenged aspects of Canada's national healthcare system and "serious inconsistencies" between provinces regarding private-sector provision of health-care service. Howard and his firm sought to take advantage of an "increasing openness" to private involvement in the Canadian healthcare system in order to build a large, private surgical center in British Columbia. He claimed his project was thwarted by discriminatory and "politically motivated" road blocks. He alleged violations of NAFTA's national treatment and minimum standard of treatment obligations, among others. A tribunal terminated the claim because the investor had not made a deposit to cover the costs of arbitration.
Dow Chemical Aug. 25, 2008* Mar. 31, 2009**	UNCITRAL	$2 million	Settled	Dow AgroSciences LLC, a subsidiary of the U.S. Dow Chemical Company, filed a NAFTA Chapter 11 claim for losses it alleged were caused by a Quebec provincial ban on the sale and certain uses of lawn pesticides containing the active ingredient 2,4-D. Quebec and other provinces banned the ingredient as an environmental precaution, and responses to public comments suggested about 90% popular support for the pesticide bans.[10] When Dow filed the NAFTA claim, other provinces were still considering the ban, and there was speculation that the claim was intended to deter them.[11] But after five provinces followed Quebec's lead and banned the pesticide, Dow decided to settle with Canada in a deal that left the bans intact and required no taxpayer compensation to the corporation.[12]
Malbaie River Outfitters Inc. Sept. 10, 2008*		$5 million	Withdrawn	U.S. citizen William Jay Greiner owned a business called Malbaie River Outfitters Inc., which provided fishing, hunting, and lodging for mostly U.S. clients in the province of Quebec. Greiner claimed that by changing the lottery system for obtaining salmon fishing licenses in 2005, the provincial government of Quebec "severely

Dec. 2, 2010**				damaged the investor's business." He also challenged Quebec's decision to revoke his outfitter's license for three rivers, which he contended effectively destroyed his business.
David Bishop Oct. 8, 2008*		$1 million	Arbitration never began	U.S. citizen David Bishop claimed that his outfitting business Destinations Saumon Gaspésie Inc. was harmed by Quebec's 2005 changes to the lottery system for obtaining salmon fishing licenses in a manner similar to the Malbaie River Outfitters case above.
Shiell Family Oct. 8, 2008*		$21.3 million	Arbitration never began	The Shiell family has dual U.S. and Canadian citizenship and owned companies in both nations. They claimed that one of their companies, Brokerwood Products International, was forced into a fraudulent bankruptcy by the Bank of Montreal. The family claimed that it was not protected by the Canadian courts and various Canadian regulators, in violation of Canada's NAFTA investor protection obligations.
Christopher and Nancy Lacich Apr. 2, 2009*		$1,178	Withdrawn	This case is very similar to the Gottlieb et.al case above. Christopher and Nancy Lacich were U.S.-based investors involved in Canadian energy trusts when the government changed the tax structure of the trusts to counteract a declining tax base. Christopher and Nancy claimed that this taxation rule change constituted expropriation.
Abitibi-Bowater Inc. Apr. 23, 2009* Feb. 25, 2010**	UNCITRAL	$467.5 million	**Settled, Abitibi-Bowater gets $122 million**	AbitibiBowater, a paper corporation, challenged the decision of Newfoundland and Labrador, a Canadian province, to confiscate various timber, water rights and equipment held by AbitibiBowater after the corporation closed a paper mill in Newfoundland, putting 800 employees out of work. The government of the province argued that the rights were contingent on its continued operation of the paper mill, pursuant to a 1905 concessions contract. Shortly after closure of the mill, Newfoundland seized water rights, timber rights, and equipment of the company. AbitibiBowater claimed that Newfoundland's action constituted expropriation under NAFTA. In August 2010, the government of Canada announced that it would pay AbitibiBowater $122 million to settle the case.
Detroit International Bridge Company Jan. 25, 2010*		$3.5 billion	Pending	Detroit International Bridge Company, a U.S.-based corporation, challenged a Canadian law on safety and security measures for international bridges. In February 2007, Canada enacted the International Bridges and Tunnels Act, which gave the government the power to mandate safety and security measures at international

April 29, 2011**				bridges, require approval before the transfer of ownership of international bridges or substantial structural changes to the bridge, and regulate toll fees, among other reforms. The Detroit International Bridge Company claimed that this law constituted expropriation of its investment (the Ambassador Bridge) and violated its NAFTA-protected right to a minimum standard of treatment. Protesting the government's plans to build a second bridge to absorb increased traffic flow (rather than expand the company's own bridge), the company alleged that it had an "exclusive" right, enforceable under NAFTA, to operate a bridge across the Detroit River.[13]
John R. Andre, March 19, 2010*		$5.4 million	Arbitration never began	Andre, a Montana investor who operated a caribou hunting lodge in Canada's Northwest Territories, complained that the territorial government expropriated his investment through its caribou conservation measures. He claimed that cuts in the number of caribou hunting licenses resulted in a regulatory taking, and that the closure of the area to hunting by the provincial government was a full expropriation, driven by animus toward U.S. businesspersons.
St. Mary's VCNA, LLC, May 13, 2011*		$275 million	**Settled, St. Mary's gets $15 million**	A Brazilian company with a U.S. subsidiary that in turn owns a Canadian company sought to engage in rock quarrying activities in Canada. The investor complained that various subfederal government actions slowed the permitting process, resulting in a "substantial deprivation of its interest in the Quarry Site." Though the company's claim to be able to access NAFTA as a U.S.-based company was under dispute (given an apparent lack of substantial business activities in the U.S.), Canadian officials announced in 2013 that the government would settle with the company, paying it $15 million.
Mesa Power Group, July 6, 2011*		$746 million	Pending	Mesa Power Group, a U.S.-based corporation owned by Texas oil magnate T. Boone Pickens, challenged a green jobs program of the government of Ontario. The provincial government's green jobs program incentivizes clean energy production by paying preferential rates to solar and wind power generators that source their equipment locally. In its first two years, the program created 20,000 jobs, attracted $27 billion in private investment, and contracted 4,600 megawatts of renewable energy.[14] Mesa Power Group claimed that the successful program had prohibitive rules, taking particular issue with the buy local stipulations. The corporation alleged that such requirements

				violate its NAFTA-enshrined rights to most favored nation treatment, national treatment, and fair and equitable treatment.[15]
Mercer January 26, 2012* April 30, 2012**		$241 million	Pending	Mercer International, a US-based wood pulp company, challenged Canadian energy sector regulations.[16] At issue was the treatment that Mercer's subsdiary, the Celgar Pulp Mill, received from the provincial government of British Columbia and BC Hydro, a public provincial power company. Mercer alleged that the public entities unfairly discriminated against Celgar by offering lower input electricity rates to its BC-based competitors. Celgar, like other mills, both purchases and generates electricity. Mercer claimed that while domestic mills were permitted to sell their electricity at high rates and buy at low rates, provincial regulation prevented Celgar from doing so. The company alleged violations of national treatment, most favored nation treatment, the minimum standard of treatment, and provisions concerning monopolies and state enterprises.[17] Nearly 75 percent of the $250 million claim is for projected future lost profits.[18]
Windstream Energy LLC October 15, 2012*		$457 million	Pending	Windstream Energy, a U.S.-based energy corporation, notified Canada it intends to launch an investor-state case over its inability to participate in Ontario's green energy program – the same one targeted by Mesa Power Group (above). The corporation had contracted with Ontario's provincial government to provide energy generated by an offshore wind farm located in Lake Ontario. But in February 2011, the provincial government declared a moratorium on offshore wind production, stating that time was needed to study the environmental impacts of the relatively new energy source (currently there are only a few freshwater offshore wind farms in the world). Windstream's notice alleged that the moratorium "effectively annulled the existing regulatory framework" and thus contravened Canada's NAFTA obligations concerning "fair and equitable treatment," expropriation, and discrimination. For more information, see: http://bit.ly/W7eHBP
Eli Lilly and Company June 13, 2013*		$481 million	Pending	Indiana-based Eli Lilly, the fifth-largest U.S. pharmaceutical corporation, notified Canada that it intends to launch an investor-state case against the decisions of Canadian courts to invalidate the company's patents for Strattera and Zyprexa,

(combined notice for Strattera and Zyprexa)				drugs used to treat attention deficit hyperactivity disorder (ADHD), schizophrenia and bipolar disorder. Canadian federal courts ruled that the patented drugs failed to deliver the benefits that Eli Lilly had promised when applying for the patents' monopoly protection rights. The resulting invalidations of the patents paved the way for Canadian drug producers to produce less expensive, generic versions of the drugs. Eli Lilly's notice argued that Canada's entire legal basis for determining a patent's validity – that a pharmaceutical corporation should be required to deliver on its promises of a drug's utility in order to maintain the drug's patent – is "discriminatory, arbitrary, unpredictable and remarkably subjective." The company alleged violation of the NAFTA-guaranteed investor privilege of a "minimum standard of treatment," in addition to expropriation and national treatment allegations. For more information, see: https://www.citizen.org/eli-lilly-investor-state-factsheet
Lone Pine Resources Inc. November 8, 2012*		$241 million	Pending	Lone Pine Resources, a U.S.-based corporation, challenged Quebec's moratorium on the controversial practice of hydraulic fracturing, or fracking, for natural gas. The provincial government declared the moratorium in 2011 so as to conduct an environmental impact assessment of the extraction method widely accused of leaching chemicals and gases into groundwater and the air. Lone Pine Resources, a Delaware-headquartered gas and oil exploration and production company, had plans and permits to engage in fracking on over 30,000 acres of land directly beneath the St. Lawrence River. Lone Pine argued that the fracking moratorium nullified those permits. According to Lone Pine, such policymaking contravened NAFTA's protections against expropriation and for "fair and equitable treatment." For more information, see: http://bit.ly/W7eHBP

NAFTA Cases & Claims against Mexico

Amtrade International April 21, 1995*		$20 million	Arbitration never began	Amtrade International, a U.S. company, claimed it was discriminated against by a Mexican government-owned oil firm (Petroleos Mexicanos) while attempting to bid for pieces of the firm's property. The U.S. corporation accused Petroleos Mexicanos of violating a pre-existing settlement agreement by failing to auction government-owned items. Amtrade argued that this inaction amounted to a violation of numerous NAFTA provisions, including restrictions on the powers of government monopolies and state enterprises. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
Halchette 1995			Arbitration never began	No documents regarding this case are public.
Metalclad Dec. 30, 1996* Jan. 2, 1997**	ICSID	$90 million	**Metalclad win, $16.2 million** ($15.6 million + $0.6 million interest)	Metalclad, a U.S. waste management corporation, challenged the decision of Guadalcazar, a Mexican municipality, not to grant a construction permit for a toxic waste facility unless the firm cleaned up existing toxic waste problems. The same decision had been made for the Mexican firm from which Metalclad acquired the facility. Metalclad also challenged the establishment of an ecological preserve on the site by a Mexican state government. Metalclad argued that the continuing decision to deny a permit amounted to expropriation without compensation, and a denial of fair and equitable treatment. The tribunal ruled that the denial of the construction permit and the creation of an ecological reserve were tantamount to an "indirect" expropriation and that Mexico violated NAFTA's obligation to provide foreign investors with a "minimum standard of treatment," because the firm was not granted a "clear and predictable" regulatory environment. The decision has been described as creating a duty for the Mexican government to walk Metalclad through the complexities of Mexican municipal, state and federal law and ensure that officials at different levels never give different advice. When the Mexican government challenged the NAFTA ruling in Canadian court, alleging arbitral

				error, a Canadian judge ruled that the tribunal erred in part by importing transparency requirements from NAFTA Chapter 18 into NAFTA Chapter 11 and reduced the award by $1 million. The Mexican federal government's effort to hold the involved state government financially responsible for the award failed in the Mexican Supreme Court. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
Azinian, et al Dec. 10, 1996* March 10, 1997**	ICSID	$17 million +	Dismissed	Investors purportedly representing a U.S. firm challenged a Mexican federal court decision revoking a waste management contract for a suburb of Mexico City. The decision came after the court found 27 irregularities in the multimillion dollar contract. It was later revealed that the investors had lied about their business experience (e.g. claiming 40 years when they had just over one year, which ended in bankruptcy) and were in no position to deliver on the promises they made in the contract. The investors launched their NAFTA claim with the argument that the contract cancellation violated their right to "fair and equitable treatment." A tribunal ruled that the firm had made fraudulent misrepresentations with regard to the contract, and dismissed their claims of expropriation and unfair treatment. In an uncharacteristic move, the tribunal stated that the NAFTA dispute settlement system should not be seen as a place to litigate any governmental contract breach, or as a court of appeal for any disliked domestic court ruling. For more information, see: http://www.citizen.org/documents/ACF186.PDF
Feldman Karpa Feb. 16, 1998* Apr. 7, 1999**	ICSID	$50 million	**Feldman Karpa win, $1.9 million** ($0.9 million + $1 million interest)	Feldman, the owner of a U.S. cigarette exporter, challenged the Mexican government's decision to deny the firm an export tax rebate. Feldman called this a "creeping expropriation" and also claimed that Mexico had failed to give the same treatment it gave to Mexican investors in like circumstances. The tribunal rejected the expropriation claim, but upheld a claim of discrimination after the Mexican government did not provide evidence that the firm was being treated similarly to Mexican firms in "like circumstances." Mexico, citing the need

				to protect confidential business information, had not provided evidence on the national treatment claim. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
Waste Management June 30, 1998* Sept. 29, 1998** Resubmitted: Sept. 18, 2000**	ICSID	$60 million	Dismissed	Waste Management, a U.S. waste disposal giant, challenged the Mexican City of Acapulco, alleging that the city failed to honor a contract with the company for the provision of waste services. The corporation accused the city of failing to make contractual payments, while accusing Mexico's courts, public banks, and central government of violating the company's NAFTA-protected right to a minimum standard of treatment. A tribunal dismissed the claim, finding that the investor's business plan was based on unsustainable assumptions and that none of the government bodies named in the complaint failed to accord the "minimum standard of treatment," nor did the city's actions amount to an expropriation. Further, the tribunal stated that NAFTA was not intended to place the onus on government entities to assume all risks in business deals or to compensate for business failures. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
Scott Ashton Blair May 21, 1999*		Not avail.	Arbitration never began	Scott Ashton Blair, a U.S. citizen who had purchased land in Mexico to build a residence and restaurant, claimed he was victimized by Mexican government officials because he was a U.S. citizen. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
Fireman's Fund Nov. 15, 1999* Jan. 15, 2002**	ICSID	$50 million	Dismissed	Fireman's Fund, a U.S. insurance corporation, alleged that Mexico's handling of financial crises discriminated against foreign investors. The U.S. corporation claimed that when financial difficulties such as the 1997 peso crisis struck, Mexican officials bailed out domestic investors, but not foreign investors like Fireman's Fund. In 2003 a tribunal dismissed most claims,

				including claims of discrimination, but allowed an expropriation claim to proceed. In 2007 the tribunal ruled that, although there is a "clear case of discriminatory treatment," the only question before them was the question of expropriation and that the actions of the Mexican government did not rise to the level of expropriation. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
Adams, et al Nov. 10, 2000* April 9, 2002**		$75 million	Arbitration never began	A group of U.S. citizens who claimed to own properties in Mexico challenged a Mexican federal court ruling that the developer who sold them the properties had not owned the land and thus could not legally sell it. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
Lomas Santa Fe Aug. 28, 2001*		$210 million	Arbitration never began	Lomas Santa Fe, a U.S.-based real estate development company, challenged the Mexican government's refusal to allow commercial development on property that the company owned in Mexico. The company claimed discriminatory treatment, and also alleged that the government later expropriated the land. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
GAMI Investments Oct. 1, 2001* April 9, 2002**	UNCITRAL	$55 million	Dismissed	U.S. minority shareholder investors in a Mexican sugar company (GAM) challenged a government policy to support sugar farmers' income and alleged inadequate enforcement of policies to support the profitability of GAM. The Mexican government required sugar mills (such as those owned by GAM) to pay a fixed amount to Mexican sugar farmers, who faced downward income pressure due to a NAFTA-enabled influx of U.S. highly-subsidized high fructose corn syrup. In addition to challenging this policy, the U.S. investors, with a 14% stake in GAM, alleged that the Mexican government insufficiently and discriminatorily enforced policies to support sugar companies. The investors also challenged Mexico's expropriation of several of GAM's debt-ridden sugar mills, while GAM itself challenged the expropriations in a court case in Mexico.

				A NAFTA tribunal allowed the U.S. investors' claim to proceed even though they were a minority shareholder, and even though there was no allegation that the Mexican government had directly interfered with their shares (only that government regulations had indirectly affected the value of those shares). The tribunal also allowed the claim to proceed even though GAM sought resolution via domestic courts and though NAFTA prohibits claims from being simultaneously pursued in domestic courts and under NAFTA's investor-state regime. The tribunal ultimately dismissed all claims, ruling the discrimination allegations to be without validity and throwing out the expropriation claim after a ruling in GAM's domestic case reversed the challenged expropriations. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
Francis Kenneth Haas Dec. 12, 2001*		$17 million	Arbitration never began	Haas, a U.S. citizen, claimed he was cheated out of his investment in a business he had co-owned with Mexican business partners, and that the state of Chihuahua, via alleged incompetence and procedural irregularities, violated its NAFTA obligation to ensure fair and equitable treatment. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
Calmark Jan. 11, 2002*		$0.4 million	Arbitration never began	Calmark, a U.S. company, challenged Mexican domestic courts for allegedly failing to assist the company in recouping compensation in a business deal that went awry. Calmark claimed that its business partners cheated the company out of a property in Mexico, and that its own lawyer then betrayed the company by settling the resulting domestic case in a way that left Calmark without compensation. Calmark alleged that the Mexican judiciary violated NAFTA by not assisting the company in securing the money it was owed. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf

Robert J. Frank Feb. 12, 2002* Aug. 5, 2002**	UNCITRAL	$1.5 million	Arbitration never began	Frank, a U.S. citizen, challenged government confiscation of property alleged to be his in Baja California, Mexico. His claim made no mention of an attempt to first pursue the case in the Mexican legal system. For more information, see: http://www.citizen.org/documents/Chapter-11-Report-Final.pdf
Thunderbird Gaming March 21, 2002* Aug. 1, 2002**	UNCITRAL	$100 million	Dismissed	Thunderbird Gaming, a Canadian company operating video gaming facilities in three Mexican cities, challenged the government's closure of the facilities. Gambling has been illegal in Mexico since 1947, banned for its connection to crime and poverty. Thunderbird had installed "skill machines" (hard to distinguish from slot machines), gaining government authorization on the condition that they were truly based on skill and were not a form of gambling. In a later inspection of the facilities, government authorities determined that the games were not based on skill, that they constituted illegal gambling, and that they had to be shut down. Thunderbird claimed violations of national treatment and fair and equitable treatment. A tribunal dismissed all claims, ruling that the company had failed to demonstrate that it was treated in a discriminatory or unfair manner. For more information, see: http://www.citizen.org/documents/Chapter-11-Report-Final.pdf
Corn Products International Jan. 28, 2003* Oct. 21, 2003**	ICSID	$325 million	**Corn Products win, $58.4 million**	Corn Products International (CPI), a U.S. agribusiness producing high fructose corn syrup (HFCS) – a derived sweetener linked to obesity – challenged a government tax levied on beverages sweetened with HFCS (i.e. soft drinks) but not those sweetened with cane sugar. Mexico argued that the tax, which impeded U.S. exports of HFCS to Mexico, was legitimate as a counter to the U.S. refusal to open its market to Mexican cane sugar as stipulated by NAFTA. The tax also helped safeguard the Mexican cane sugar industry, consisting of hundreds of thousands of jobs, from the post-NAFTA influx of U.S.-subsidized HFCS that threatened those jobs. CPI asserted that Mexico's HFCS tax violated its NAFTA obligation to provide foreign investors with national treatment. A tribunal ruled that Mexico's HFCS tax violated the national treatment rule by "fail[ing] to accord

				CPI, and its investment, treatment no less favourable than that it accorded to its own investors in like circumstances, namely the Mexican sugar producers who were competing for the market in sweeteners for soft drinks." It rejected Mexico's defense that the tax was a countermeasure to a U.S. NAFTA breach by ruling that countermeasure defenses, while allowed by international law in state-to-state cases, are not applicable in investor-state cases under the same treaties. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
ADM/Tate & Lyle Oct. 14, 2003* Aug. 4, 2004**	ICSID	$100 million	**ADM win, $37 million** ($33.5 million + $3.5 million interest)	Archer Daniels Midland (ADM), one of the largest U.S. agribusiness corporations and a producer of high fructose corn syrup (HFCS), and AE Staley, a U.S. subsidiary wholly owned by the British corporation Tate & Lyle, challenged the same Mexican tax on HCFS described in the Corn Products International (CPI) case above. The tax was levied on beverages sweetened with HFCS, but not those sweetened with cane sugar. As in the CPI case, Mexico argued that the tax, which impeded U.S. exports of HFCS to Mexico, was legitimate as a counter to the U.S. refusal to open its market to Mexican cane sugar as stipulated by NAFTA. The tax also helped safeguard the Mexican cane sugar industry, consisting of hundreds of thousands of jobs, from the post-NAFTA influx of U.S.-subsidized HFCS that threatened those jobs. ADM and AE Staley asserted that Mexico's HFCS tax violated its NAFTA obligation to provide foreign investors with national treatment and constituted a NAFTA-illegal performance requirement and an expropriation. A tribunal ruled that Mexico's HFSC tax violated NAFTA's national treatment and performance requirement rules (but did not find it was an expropriation). It decided that Mexican sugar producers and U.S. and British HFSC producers were "in like circumstances" and that the HFSC-only tax thus discriminated against the foreign HFCS producers, even though it also applied to Mexican HFCS producers. The tribunal further declared that the tax amounted to a NAFTA-banned performance requirement. For more information, see: http://www.citizen.org/documents/NAFTAReport

				Final.pdf
Bayview Irrigation Aug. 27, 2004* Jan. 19, 2005**	ICSID	$554 million	Dismissed	A group of 17 U.S. irrigation districts claimed that Mexico diverted water from the Rio Grande, which forms the U.S.-Mexico border, to help irrigate Mexican farmland at the cost of U.S. farms, in violation of a 1944 U.S.-Mexico water-sharing treaty. Water shortage is a major concern both the southwestern United States and in Mexico, where many consider the enduring shortage to be a national security issue. A tribunal dismissed the case on procedural grounds, determining that the claimants, who were in the United States, and whose "investment" was in the United States, did not qualify as "foreign investors" in Mexico. For more information, see: http://www.citizen.org/documents/NAFTAReport_Final.pdf
Cargill Sept. 30, 2004* Dec. 29, 2004**	ICSID	$100 million	**Cargill win, $90.7 million** ($77.3 million + $13.4 million interest)	Cargill, the largest privately-held corporation in the United States and a producer of high fructose corn syrup (HFCS), challenged the same Mexican tax on HCFS described in the Corn Products International (CPI) and Archer Daniels Midland (ADM) cases above. The tax was levied on beverages sweetened with HFCS, but not those sweetened with cane sugar. As in the CPI and ADM cases, Mexico argued that the tax, which impeded U.S. exports of HFCS to Mexico, was legitimate as a counter to the U.S. refusal to open its market to Mexican cane sugar as stipulated by NAFTA. The tax also helped safeguard the Mexican cane sugar industry, consisting of hundreds of thousands of jobs, from the post-NAFTA influx of U.S.-subsidized HFCS that threatened those jobs. Cargill asserted that Mexico's HFCS tax violated NAFTA's obligations concerning national treatment, most favored nation treatment, expropriation, fair and equitable treatment and performance standards. A tribunal ruled in favor of Cargill, awarding $77.3 million, the largest award to date in an investor-state dispute brought under a U.S. FTA. In addition, the tribunal ordered Mexico to pay for the tribunal's costs and half of Cargill's own legal fees. The tribunal decided that U.S. agribusiness giant Cargill and Mexican sugar producers were "in like circumstances" and that the HFSC-only tax thus discriminated against Cargill, even though it also applied to Mexican HFCS producers. The tribunal further declared that the

				tax amounted to a NAFTA-banned performance requirement and a violation of Cargill's right to "fair and equitable treatment." For more information, see: http://citizen.typepad.com/eyesontrade/2011/03/cola-wars-beat-drug-wars.html
Internacional Vision (INVISA), et. Al Feb. 15, 2011*		$9.7 million	Pending	A group of U.S. investors challenged a Mexican government decision not to grant an extension of a ten-year agreement that had allowed them to place billboards on Mexican federal land near a U.S.-Mexico border crossing. The investors argue that the decision to not continue renting out federal land, in addition to the resulting removal of the billboards, constituted an expropriation and violated their NAFTA-enshrined rights to national treatment and fair and equitable treatment.

CAFTA Cases & Claims against the Dominican Republic

TCW Group, et. al. March 15, 2007* June 17, 2008**	UNCITRAL	$606 million	**Settled, TCW gets $26.5 million**	TCW Group, a U.S. investment management corporation that jointly owned with the government one of the Dominican Republic's three electricity distribution firms, claimed that the government violated CAFTA by failing to raise electricity rates and failing to prevent electricity theft by poor residents. The French multinational Société Générale (SG), which owned the TCW Group, filed a parallel claim under the France-Dominican Republic Bilateral Investment Treaty.[19] The concerns detailed by TCW, which initiated its claim two weeks after CAFTA's enactment, related to decisions taken before the treaty's implementation.[20] TCW took issue with the government's unwillingness to raise electricity rates, a decision undertaken in response to a nationwide energy crisis. TCW also protested that the government did not subsidize electricity rates, which would have diminished electricity theft by poor residents. The New York Times noted that such subsidization was not feasible for the government after having just spent large sums to rectify a banking crisis.[21] TCW alleged expropriation and violation of CAFTA's guarantee of fair and equitable treatment. TCW demanded $606 million from the

				government for the alleged CAFTA violations, despite having spent just $2 to purchase the business from another U.S. investor.[22] The company also admitted to having "not independently committed additional capital" to the electricity distribution firm after its $2 purchase in 2004.[23] After a tribunal constituted under the France-Dominican Republic Bilateral Investment Treaty issued a jurisdictional ruling in favor of SG, allowing the case to move forward, the government decided to settle with SG and TCW. The government paid the foreign firms $26.5 million to drop the cases, reasoning that it was cheaper than continuing to pay legal fees.[24]

CAFTA Cases & Claims against El Salvador

Pac Rim Cayman LLC Dec. 9, 2008* April 30, 2009**	ICSID	$200 million	CAFTA claims dismissed, claims pending at ICSID under domestic investment law	Pacific Rim Mining Corp., a Canadian-based corporation that sought to establish a massive gold mine using water-intensive cyanide ore processing in El Salvador, claimed that the government violated CAFTA by not issuing a permit for the mine. This proposed project, to be located in the basin of El Salvador's largest river, as well as applications filed by various companies for 28 other gold and silver mines, generated a major national debate about the health and environmental implications of mining in El Salvador, a densely populated country with limited water resources.[25] Leaders of El Salvador's major political parties, the Catholic Church and a large civil society network expressed concerns.[26] In April 2008, one month after El Salvador's president announced that he would not grant mining permits until the legislature undertook an in-depth environmental study of the proposed mining projects, a new U.S.-based Pacific Rim subsidiary sent a letter to the Salvadoran government to threaten a CAFTA claim.[27] The corporation had incorporated the subsidiary – Pac Rim Cayman LLC – just five months earlier.[28] Pacific Rim never completed the feasibility study necessary to obtain an exploitation permit for its mine and in July 2008 ceased exploratory drilling.[29] Later that year, the company launched its CAFTA challenge, claiming that the Salvadoran government's decision to not grant the mining

				permit violated CAFTA's rules on expropriation and national treatment, among others.[30] In a CAFTA tribunal's 2012 jurisdictional ruling, El Salvador lost on three out of four counts. The tribunal allowed Pac Rim to continue pursuing its claims at the World Bank's International Centre for Settlement of Investment Disputes (ICSID) under a domestic investment law with provisions similar to CAFTA. For more information, see: http://www.citizen.org/documents/Pacific_Rim_Backgrounder1.pdf
Commerce Group Corp. March 16, 2009* July 2, 2009**	ICSID	$100 million	Application for annulment in process	The Commerce Group Corporation, a mining corporation based in Wisconsin,[31] challenged El Salvador's revocation of its environmental permits for a gold mine after the company failed its environmental audit.[32] In April 2010, the Salvadoran Supreme Court ruled that the company had been accorded due process during and after the audit.[33] But Commerce Group had launched a parallel CAFTA challenge related to its environmental permits in March 2009, claiming expropriation and denial of fair and equitable treatment. In March 2011 a tribunal dismissed the case on a technicality. If Commerce Group had simply written a letter to the Salvadoran judiciary to state that it was waiving its right to challenge revocation of its environmental permits in Salvadoran courts, then its claim would likely be permitted to move forward under CAFTA. When El Salvador attempted to recoup its estimated $800,000 in legal costs, the tribunal denied the request, siding with Commerce Group that its case was not frivolous.[34] The corporation requested an annulment of the award in July 2011 and the case remains open. For more information, see: http://www.citizen.org/documents/CAFTA-investor-rights-undermining-democracy.pdf

CAFTA Cases & Claims against Guatemala

Railroad Development Corporation June 14, 2007**	ICSID	$64 million	**RDC win, $18.6 million** ($13.5 million + $5.1 million interest)	Railroad Development Corporation (RDC), a U.S.-based company, claimed that the Guatemalan government violated CAFTA by initiating a legal process to weigh revocation of the company's disputed railroad contract. Guatemala privatized its railroad system in 1997 and concessioned it to a subsidiary of RDC, which had presented proposals to rehabilitate the entire network in five phases. In its first eight years of operation, RDC only completed the first phase.[35] Unsatisfied with the slow progress, in 2006 Guatemala declared parts of the RDC scheme "injurious to the interests of the state" (lesivo), the first step in an administrative legal process to determine whether a contract should be revoked.[36] While no decision had been reached, RDC initiated a CAFTA claim the following year, alleging the lesivo declaration itself to be an indirect expropriation and a violation of CAFTA's national treatment and fair and equitable treatment rules. The majority of the $64 million claim was for the alleged loss of future anticipated profits.[37] In 2012 a tribunal produced a judgment in favor of RDC and against Guatemala. While the tribunal determined the national treatment and indirect expropriation accusations to be baseless, it upheld the allegation that Guatemala's non-binding lesivo declaration had failed to afford RDC a minimum standard of "fair and equitable treatment." In doing so, the tribunal ignored the definition of that standard found in CAFTA and reiterated by other governments, instead borrowing a broad interpretation from another investor-state tribunal (the one in the NAFTA Waste Management case above).[38] For more information, see: http://www.citizen.org/RDC-vs-Guatemala
Tampa Electric Company (TECO) Guatemala Holdings LLC Jan. 13, 2009* Oct. 20,	ICSID	$286 million	Pending	Tampa Electric Company (TECO), a U.S.-based energy company, challenged Guatemala's decision to lower the electricity rates that a private utility could charge. Guatemala privatized its electricity distribution system in 1998. In August 2008, it lowered the electricity rates that the privatized utility could charge. TECO indirectly owned a small stake in the electric utility: its Guatemalan subsidiary indirectly held a 24 percent share in Deca II, a holding company with

2010**				a majority stake in the Guatemalan utility company. TECO began threatening a CAFTA claim in response to the lowering of electricity rates as early as one month after the new rates were announced. The corporation launched its CAFTA claim against Guatemala on October 20, 2010, alleging a violation of a "minimum standard of treatment." The next day, TECO sold its indirect stake in Deca II, leaving it with no investment in the electricity utility.[39] The claim is still pending.

Peru FTA Cases & Claims against Peru

Renco Group, Inc. / Doe Run Peru Dec. 29, 2010*	UNCITRAL	$800 million	Pending	The Renco Group, a corporation owned by Ira Rennert, one of the wealthiest people in the United States, claimed that the Peruvian government violated the U.S.-Peru FTA by not granting the company an extension on its overdue commitment to clean up environmental contamination. Doe Run Peru, Renco's Peruvian subsidiary, failed to meet its environmental clean-up commitments under the terms of a 1997 privatization of one of the world's most polluted sites: a metal smelter in La Oroya, Peru. The Peruvian government granted two extensions of the 2007 date by which Doe Run was to have built a sulfur oxide treatment facility – a commitment that the corporation repeatedly failed to fulfill. In 2007 and 2008, Doe Run was challenged in class action lawsuits in Missouri courts, claiming damages to children for toxic emissions from the smelter since its acquisition by Renco .[40] In 2010, the company launched an $800 million investor-state claim against Peru under the FTA. The company claimed a violation of fair and equitable treatment, blamed Peru for not granting a third extension to comply with its unfulfilled 1997 environmental commitments, and stated that Peru, not Renco, should have assumed liability for the Missouri cases. Some analysts believe that Renco is using the investor-state claim to derail the Missouri-based lawsuit seeking compensation for La Oroya's children. Renco had previously tried three times to remove the case to federal court from the Missouri courts, where the jury pool was likely to be skeptical of the company after its highly publicized pollution in Missouri. Renco had failed

				each time. But one week after launching its investor-state claim, Renco tried a fourth time to remove the case to federal courts and succeeded. The same judge that had denied the previous requests now granted it, citing the FTA claim as the reason. After Renco's filing of the claim, the Peruvian government allowed the La Oroya smelter to restart zinc smelting operations,[41] and in 2012 Doe Run took the first steps to restart lead smelting, which soon resulted in reports of fresh emissions.[42] For more information, see: http://www.citizen.org/documents/renco-la-oroya-memo.pdf

Oman FTA Cases & Claims against Oman

Adel a Hamadi al Tamimi April 19, 2011* Dec. 5, 2011**	ICSID	$560 million	Pending	Mr. Al Tamimi, a naturalized U.S. citizen whose companies partnered with the Oman Mining Company (OMCO, a state-owned enterprise) on a limestone quarry investment, claimed that the government violated the U.S.-Oman FTA by terminating the project on environmental grounds. In 2007, al Tamimi commenced the limestone operation after being informed by OMCO that necessary environmental permits had been obtained. Within weeks, officials from the Commerce and Environmental Ministries told al Tamimi that the final permits had actually not been obtained, and various stop-work orders were issued.[43] As al Tamimi stated, "OMCO now had to make a choice: it could fulfill its obligations under the Lease Agreements [with al Tamimi], which would mean disobeying or confronting the Environmental and Commerce Ministries, or it could use whatever leverage it had over [al Tamimi's] Companies and exert every effort to get them to suspend their operations until a solution could be found to the permitting issues. It chose the latter." Al Tamimi did not cease operations until April 2008.[44] He had racked up various environmental fees, which he apparently did not pay.[45] In 2009 he was arrested and convicted for violation of environmental laws,[46] though his conviction was later overturned by an appeals court.[47] In his

				claim, Al Tamimi alleged that Oman expropriated his property rights by terminating the limestone operation leases,[48] discriminated against him,[49] and violated the FTA obligation to afford fair and equitable treatment by undermining his "legitimate expectations."

Summary

Total Claims Filed under NAFTA-style Deals:	**80 Claims** [50]			
Cases Dismissed (Won by gov'ts):	**19 Cases**[51]			Loewen, Mondev, Methanex, Glamis Gold Ltd., Canadian Cattlemen for Fair Trade, Grand River, United Parcel Service, Merrill and Ring Forestry, Chemtura, Azinian, et al, Waste Management, Fireman's Fund, GAMI Investments, Thunderbird Gaming, Bayview Irrigation, V.G. Gallo, ADF Group, Apotex (2 cases)
Cases Won by Investors (or resulting in payments to investors):	**13 Cases**	**$405.4 million paid to foreign investors**		Ethyl, S.D. Myers, Pope & Talbot, AbitibiBowater, Metalclad, Karpa, Corn Products International, ADM/Tate & Lyle, Cargill, TCW Group, Mobil Investments, RDC, St. Mary's

ENDNOTES

[1] UNCTAD, "IIA Issues Note: Recent Developments in Investor-State Dispute Settlement (ISDS)," May 2013, at 3. Available at: http://unctad.org/en/PublicationsLibrary/webdiaepcb2013d3_en.pdf.
[2] All claims against the U.S. were brought under NAFTA except for the victims of the Stanford Ponzi Scheme claims.
[3] Even when governments "win" investor-state disputes, they often must pay a portion of the tribunal's costs, their own legal fees and sometimes even the legal fees of the corporation. Such costs are not reflected in this table.
[4] Luke Engan, "Mexican Truckers File NAFTA Investor Claim; DOT Gives Proposal To NSC," Inside U.S. Trade, June 9, 2011. While the Notice of Intent includes no specific amount, Inside U.S. Trade reports that, "A lawyer familiar with the case explained that while the Mexican government has found the lost commercial opportunities to exceed $2 billion per year (Inside U.S. Trade, March 20), CANACAR members are entitled to three years' worth of reimbursement equivalent to this amount, due to NAFTA's three-year statute of limitations."
[5] Luke Eric Peterson, "Mexican cement company puts US Government on notice of NAFTA claim," Investment Arbitration Reporter, Sept. 19, 2009.
[6] Jarrod Hepburn and Luke Eric Peterson, "As United States is hit with another arbitration claim, pharma companies are growing creative in their use of investment treaties," Investment Arbitration Reporter, March 13, 2012.
[7] Luke Eric Peterson, "Canada prevails in NAFTA arbitration over thwarted garbage disposal project," Investment Arbitration Reporter, Sept. 27, 2011.
[8] Jarrod Hepburn, "Canada loses NAFTA claim; provincial R&D obligations imposed on US oil companies held to constitute prohibited performance requirements," Investment Arbitration Reporter, June 1, 2012.
[9] Luke Eric Peterson, "Canada Sets Out Arguments in NAFTA Claim Arising out of Environmental Assessment of Quarry and Shipping Project," Investment Arbitration Reporter, Sept. 19, 2009.
[10] Luke Eric Peterson, "Dow Chemicals Puts Canada on Notice of Arbitration over Lawn Pesticides Ban," Investment Arbitration Reporter, Oct. 22, 2008.
[11] Luke Eric Peterson, "NAFTA Claim by Dow Chemical Corp on Slow Track as other Canadian Provinces Persist with Bans on Contested Lawn Pesticide," Investment Arbitration Reporter, Nov. 13, 2009.
[12] Luke Eric Peterson, "Dispute over Pesticde Phase-out Ends Ambiguously, with Investor Abandoning Case, Measures Remaining in Place, But Canadian Province Offering Statement which May Be Brandished in other Jurisdictions," Investment Arbitration Reporter, June 9, 2011.
[13] Luke Eric Peterson, "U.S. Investor Adds New Claims in Its NAFTA Arbitration over Detroit Border Crossing," Investment Arbitration Reporter, May 28, 2013.
[14] See Public Citizen and Sierra Club, "Ontario's Feed-in Tariff: Will the WTO Trump Climate Imperatives?" PC and SC briefing paper, June 2013. Available at: http://www.citizen.org/documents/ontario-feed-in-tariff-briefing-paper.pdf.
[15] Luke Eric Peterson, "Green Energy Arbitration Moves Forward as Arbitrators Are Picked and Preliminary Arguments Tabled by Investor (Mesa) and Canada," Investment Arbitration Reporter, Jan. 29, 2013.
[16] Foreign Affairs and International Trade Canada, "Cases Filed Against the Government of Canada: Mercer International Inc. v. Government of Canada," http://www.international.gc.ca/trade-agreements-accords-commerciaux/disp-diff/mercer.aspx?view=d.
[17] Mercer International, "Notice of Intent to Submit a Claim to Arbitration: Mercer International vs. Government of Canada," January 26, 2012, at para. 16-17, http://italaw.com/sites/default/files/case-documents/ita0930.pdf.
[18] "Mercer International Inc. Files Arbitration Request Under NAFTA Seeking $250 Million in Damages From the Government of Canada," MarketWatch, May 1, 2012, http://www.marketwatch.com/story/mercer-international-inc-files-arbitration-request-under-nafta-seeking-250-million-in-damages-from-the-government-of-canada-2012-05-01.
[19] Luke Eric Peterson, "UNCITRAL Tribunal Rules that Electricity Claim Can Proceed against Dominican Republic; Parallel CAFTA Claim Also Afoot," Investment Arbitration Reporter, Oct. 9, 2008.
[20] Letter from Paul Hastings Attorneys to the Dominican Republic Direccion de Comercio Exterior, "Notice of Violations of Chapter 10 of the Central America - Dominican Republic - United States Free Trade Agreement," March 15, 2007.
[21] Luke Eric Peterson, "UNCITRAL Tribunal Rules that Electricity Claim Can Proceed against Dominican Republic; Parallel CAFTA Claim Also Afoot," Investment Arbitration Reporter, Oct. 9, 2008.
[22] Luke Eric Peterson, "Dominican Republic Settles Trio of Electricity Arbitrations," Investment Arbitration Reporter, Sept. 19, 2009.
[23] TCW Group, Inc., et. al v. the Dominican Republic, Claimants' Counter-Memorial on Jurisdiction, Feb. 13, 2009, at footnote 62.
[24] Luke Eric Peterson, "Dominican Republic Settles Trio of Electricity Arbitrations," Investment Arbitration Reporter, Sept. 19, 2009.
[25] Florian Erzinger, et. al, "El Lado Oscuro del Oro," Unidad Ecologica Salvadoreña (UNES) and Development and Peace report, December 2008, at chapter 1.
[26] Letter from Archbishop Lacalle and Bishops Cabrera, Astorga, Alfaro, Morales, Avelar, Aquino, Alas, Morao, "Cuidemos La Casa de Todos: Pronunciamento de la Conferencia Episcopal de El Salvador sobre la explotacion de minas de oro y plata," May 3, 2007; Institute for Policy Studies, "The Struggle Against Free Trade Continues," Oct. 27, 2009. Available at: www.ips-dc.org/articles/the_struggle_against_free_trade_continues
[27] Reference to an April 14, 2008 letter from Tom Shake to President Saca in the Pac Rim Cayman LLC Notice of Arbitration, at 31. http://www.pacrim-mining.com/l/pdf/2009-04-30_CAFTAF.pdf
[28] Nevada Secretary of State, "Entity Actions for Pac Rim LLC," Date of Creation 9-10-1997, Cayman Islands. Accessed May 19, 2010. Available at: http://nvsos.gov/sosentitysearch/corpActions.aspx?lx8nvq=w6tC2v9USQe57l6%252bqrhmKg%253d%253d&CorpName=PAC+RIM+CAYMAN+LLC.

[29] Pacific Rim Mining Corp, "El Dorado, El Salvador." Accessed May 25, 2010. Available at: http://www.pacrim-mining.com/s/ES_Eldorado.asp.
[30] Pacific Rim Mining Corp., "Pacific Rim Files Notice of Intent to Seek CAFTA Arbitration," press release, December 2008. Accessed May 2, 2010. Available at: http://www.marketwire.com/press-release/Pacific-Rim-Files-Notice-of-Intent-to-Seek-CAFTA-Arbitration-TSX-PMU-928202.htm
[31] 10-K from FY 2002, at page 4. United States Securities And Exchange Commission, Form 10-K, (X) Annual Report Pursuant To Section 13 or 15(D) Of The Securities Exchange Act Of 1934 For The Fiscal Year Ended March 31, 2002, Commission File Number 1-7375, Commerce Group Corp. Available at: http://www.sec.gov/Archives/edgar/data/109757/000100233402000046/m10k.txt.
[32] Administrative Litigation Chamber of the Supreme Court of Justice of El Salvador, Case Number 308-2006, April 29, 2010, English translation at page at page 5, paragraph 2. (note that the English translation follows the Spanish). Available at: http://www.commercegroupcorp.com/images/cafta/R-5._Decision_Case_308-2006%5B1%5D.pdf
[33] Administrative Litigation Chamber 308-2006 English translation at page 12.
[34] Commerce Group Corp. and San Sebastian Gold Mines Inc. v. Republic of El Salvador, Award, ICSID Case No. ARB/09/17, March 14, 2011, at paragraph 137.
[35] "Third Statement of Henry Posner III," International Centre for Settlement of Investment Disputes: Railroad Development Corporation v. The Republic of Guatemala, October 5, 2010, see paras. 3-9.
[36] Railroad Development Corporation and Republic of Guatemala: Award, International Centre for Settlement of Investment Disputes, June 29, 2012, http://italaw.com/sites/default/files/case-documents/ita1051.pdf, at para. 61.
[37] Railroad Development Corporation v. The Republic of Guatemala, Claimant's Memorial on the Merits, ICSID Case No. ARB/07/23, June 26, 2009. Damages breakdown at para 236. See also "U.S. Company Claims Indirect Expropriation in First CAFTA Investment Case," Inside U.S. Trade, July 10, 2009.
[38] Railroad Development Corporation and Republic of Guatemala: Award, International Centre for Settlement of Investment Disputes, June 29, 2012, http://italaw.com/sites/default/files/case-documents/ita1051.pdf, at para. 219.
[39] "TECO challenges Guatemalan tariff actions," Tampa Bay Business Journal, Jan. 21, 2009; Transcript of Progress Energy at Merrill Lynch Global Power and Gas Conference, September 24, 2008. According to TECO's 10-K filing for FY 2010, page 53: "On Jan. 13, 2009, TGH delivered a Notice of Intent to the Guatemalan government that it intended to file an arbitration claim against the Republic of Guatemala under the Dominican Republic Central America – United States Free Trade Agreement (DR – CAFTA) alleging a violation of fair and equitable treatment of its investment in EEGSA. On Oct. 20, 2010, TGH filed a Notice of Arbitration with the International Centre for Settlement of Investment Disputes to proceed with its arbitration claim. The arbitration was prompted by actions of the Guatemalan government in July 2008 which, among other things, unilaterally reset the distribution tariff for EEGSA at levels well below the tariffs in effect at the time that the distribution tariff was reset. These actions caused a significant reduction in earnings from EEGSA. As discussed above, until Oct. 21, 2010, TGH held a 24% ownership interest in EEGSA through a holding company DECA II when TGH's interest was sold. In connection with the sale of TGH's ownership interest in EEGSA, TGH reserved the right to pursue the arbitration claim described above. Iberdrola is in international arbitration under the bilateral trade treaty in place between the Republic of Guatemala and the Kingdom of Spain."
[40] Sister Kate Reid and Megan Heeney as Next Friends of AAZA et. al. v. Doe Run Resources Corporation et. al., U.S. District Court, E.D. Missouri, Second Amended Petition for Damages, Personal Injury, Dec. 5, 2007. See limitation of damages claim at paras 33 and 39.
[41] "Reinicio de operaciones de Doe Run beneficiara a 500 trabajadores," RPP Noticias, June 29 2012. Available at: http://www.rpp.com.pe/2012-07-29-reinicio-de-operaciones-de-doe-run-beneficiara-a-500-trabajadores-noticia_506538.html.
[42] Tiffany Grabski, "Doe Run denied lead circuit emissions at La Oroya," BNamericas, Nov. 21, 2012. Available at: http://www.bnamericas.com/news/metals/doe-run-denies-lead-circuit-emissions-at-la-oroya1.
[43] Request for Arbitration, Al Tamimi v. Oman, at para. 40.
[44] Request for Arbitration, Al Tamimi v. Oman, at paras. 47-48.
[45] Request for Arbitration, Al Tamimi v. Oman, at para. 53.
[46] Request for Arbitration, Al Tamimi v. Oman, at para. 59.
[47] Request for Arbitration, Al Tamimi v. Oman, at paras. 60-62.
[48] Request for Arbitration, Al Tamimi v. Oman, at paras. 91-92.
[49] Request for Arbitration, Al Tamimi v. Oman, at para. 99.
[50] This does not double-count the three NAFTA softwood lumber cases that were consolidated.
[51] Even when governments "win" investor-state disputes, they often must pay a portion of the tribunal's costs, their own legal fees and sometimes even the legal fees of the corporation. Such costs are not reflected in this table.