

# Is “Moonlighting” a Problem? The role of ICJ judges in ISDS

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The International Court of Justice (ICJ) is the principal judicial organ of the United Nations (UN). It is typically the first permanent international court that comes to mind, based on its tradition, broad jurisdiction and importance for the development of public international law. Its 15 full-time judges—elected by states for nine-year terms by the UN General Assembly and Security Council—are held to high standards of ethics and legal competence.

Unsurprisingly, ICJ judges may not act as counsel in any case or participate in the decision of any case in which they previously took part in a different capacity. Neither may they exercise political or administrative functions or “engage in any other occupation of a professional nature,” according to the [Statute of the ICJ](#).

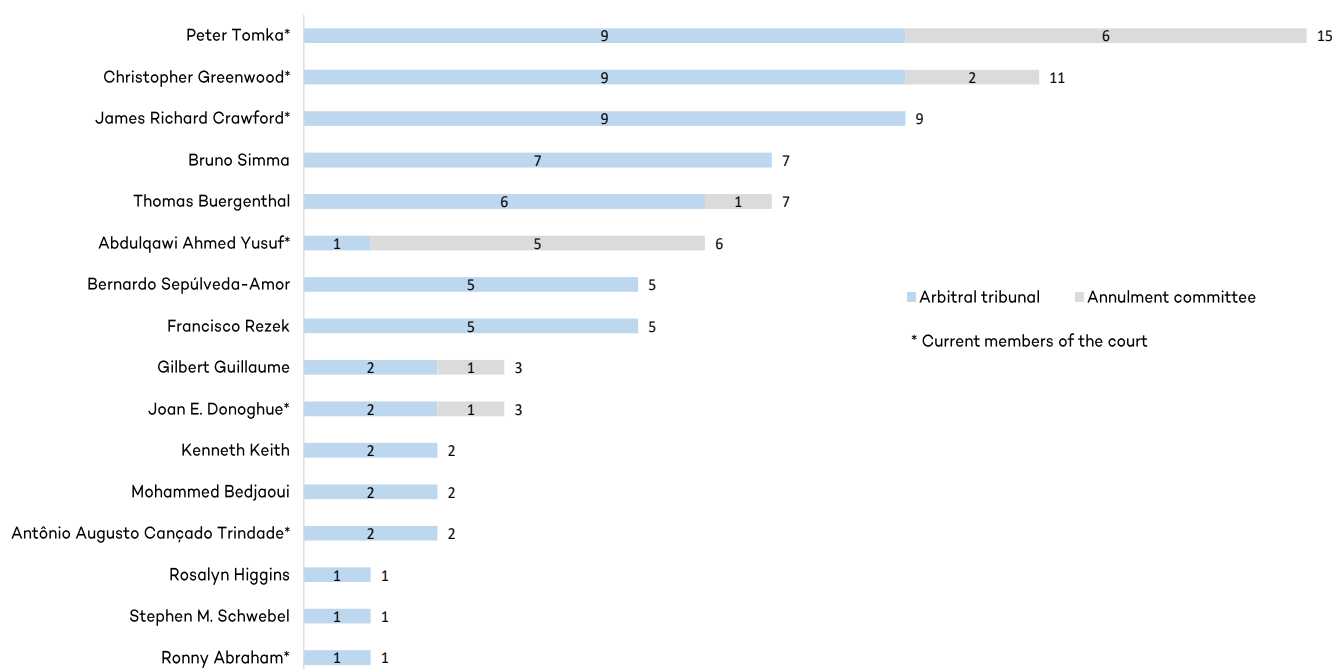
Yet at least 7 current ICJ judges and 13 former ICJ judges have worked—or are currently working—as arbitrators (or annulment committee members at the International Centre for Settlement of Investment Disputes [ICSID]) in investor–state dispute settlement (ISDS) cases during their ICJ terms.<sup>1</sup> Those 20 individuals were appointed at least 92 times, either during or before the start of their ICJ terms, and served as arbitrators in at least 90 cases while sitting as ICJ judges (see Annex). (In two cases, two sitting ICJ judges served concomitantly as arbitrators in the same tribunal.)

If we consider only the 78 treaty-based cases among those 90 and the [full universe of 817](#) treaty-based ISDS cases known as of July 31, 2017, this means that **ICJ judges have sat as arbitrators in roughly 10 per cent of all known investment treaty cases during their tenure.**

To our knowledge, there has never been a formal challenge against an ICJ judge for taking on an arbitration case based on the prohibition to “engage in any other occupation of a professional nature.” According to the [Statute of the ICJ](#), it would fall on the court itself to settle “any doubt on this point.”

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<sup>1</sup> Source: IISD research of public databases of ISDS cases including: [Investment Policy Hub](#); [www.italaw.com](#); [International Centre for Settlement of Investment Disputes](#); [Permanent Court of Arbitration Case Repository](#); [Investment Arbitrator Reporter](#)



**Figure 1. Sitting ICJ judges acting as arbitrators and annulment committee members in treaty-based ISDS disputes known as of July 31, 2017**

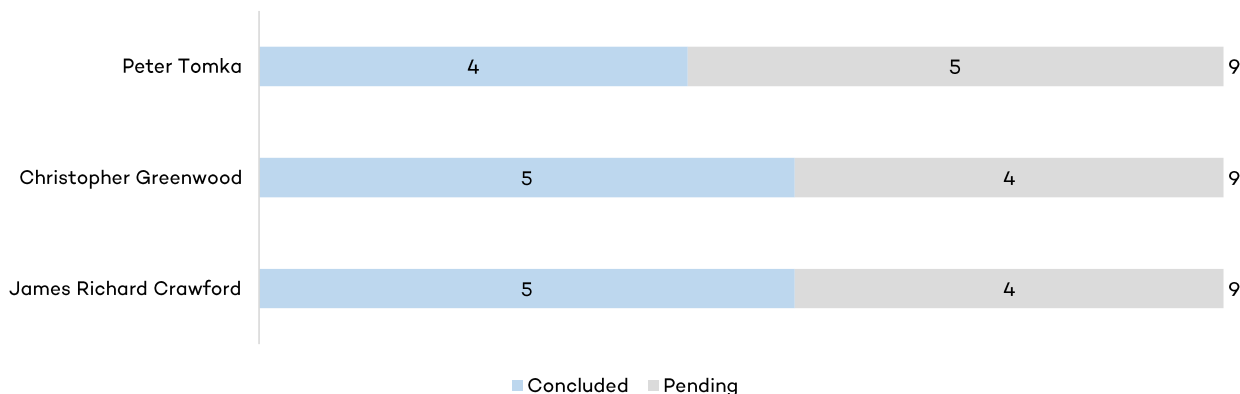
Note: These numbers include treaty-based cases only, to the exclusion of contract-based cases.

## Economic Incentives for ICJ Judges to Serve as Arbitrators

The ICJ pays each judge an annual salary of roughly USD 173,000 (as of 2016), plus a post-adjustment allowance for living and working in the Netherlands. The president of the ICJ receives a special supplementary allowance of USD 15,000. All amounts are free of taxation. After leaving the court, judges receive an annual pension equal to 50 per cent of the annual base salary.

By contrast, arbitrators are typically paid per hour or day. The longer the dispute takes and the more claims they are appointed to decide, the more they earn. At ICSID, for example, each arbitrator is entitled to receive a fee of USD 3,000 per day of work.

Typically, the fees paid to each arbitrator are not publicly disclosed, but some fees are laid out in arbitral awards. In an attempt to shed light onto the fees paid, we examined the 27 treaty-based investment arbitrations in which the “top three” ICJ judges have sat or are sitting as arbitrators. In the pending cases, we have no indication on the fees paid so far. In the concluded cases, some but not all awards listed the fees paid.



**Figure 2. Three ICJ judges sitting most frequently as arbitrators in ISDS disputes known as of July 31, 2017**

Note: These numbers do not include ICSID annulment cases.



The amounts paid to ICJ judges Peter Tomka, Christopher Greenwood and James Richard Crawford for their work as ISDS arbitrators were disclosed in 9 of the 14 concluded cases. One of the nine cases was discontinued, and in another, the judge-arbitrator resigned. In the remaining 7 cases, the judges were paid over USD 1.1 million—an average of over USD 159,000 per case per ICJ judge sitting as arbitrator.

The judges are likely to have received higher fees as ISDS arbitrators in other cases. According to a [study](#) by the Organisation for Economic Co-operation and Development (OECD), the average arbitrator fees amount to USD 1.28 million per case. Considering that tribunals typically have three arbitrators, the individual fee per arbitrator amounts to USD 426,000 per case on average.

**Table 1. Amounts paid to the three ICJ judges sitting most frequently as ISDS arbitrators (concluded cases as of July 31, 2017)**

| AMOUNT PAID   | NATURE            | CASE   | RULES (INSTITUTION)                                     | DATE OF APPOINTMENT (BEFORE OR DURING ICJ TERM)       | DATE OF AWARD                        |
|---|-------------------|--|---|---|--------------------------------------|
| <b>Peter Tomka – ICJ judge since Feb 6, 2003</b>            |                   |  | <b>Total amount paid as arbitrator:* USD 180,764.84</b> |   |                                      |
| Not available   | --                | <i>Beijing Shougang and others v. Mongolia</i> | UNCITRAL Rules (PCA)                                    | Not available; proceedings commenced in 2010 (during) | Jun 30, 2017 (not public)            |
| EUR 5,000.00  | Fees              | <i>Achmea v. Slovakia (I)</i>                  | UNCITRAL Rules (PCA)                                    | Nov 26, 2008 (during); resigned on Apr 7, 2009        | Dec 7, 2012                          |
| EUR 84,625.00<br>EUR 30,500.00                              | Fees              | <i>HICEE v. Slovakia</i>                       | UNCITRAL Rules (PCA)                                    | Feb 23, 2009 (during)                                 | May 23, 2011<br>Oct 17, 2011         |
| USD 13,687.50   | Fees              | <i>Centurion v. Canada</i>                     | UNCITRAL Rules (PCA)                                    | Nov 2, 2009 (during)                                  | Aug 2, 2010                          |
| <b>Christopher Greenwood – ICJ judge since Feb 6, 2009</b>  |                   |  | <b>Total amount paid as arbitrator:* USD 405,898.51</b> |   |                                      |
| EUR 173,750.00<br>EUR 53,000.00                             | Fees              | <i>EURAM Bank v. Slovakia</i>                  | UNCITRAL Rules (PCA)                                    | July 13, 2010 (during)                                | Aug 20, 2014                         |
| GBP 64,850.00   | Fees              | <i>European Media Ventures v. Czechia</i>      | UNCITRAL Rules (LCIA)                                   | Between Aug and Dec, 2005 (before)                    | Jan 28, 2010                         |
| Not available   | --                | <i>Azpetrol v. Azerbaijan</i>                  | ICSID Rules (ICSID)                                     | Tribunal constituted on Jan 18, 2007 (before)         | Sept 8, 2009                         |
| Not available   | --                | <i>Corn Products v. Mexico</i>                 | ICSID Rules (ICSID)                                     | Tribunal constituted on April 28, 2004 (before)       | Aug 18, 2009 (not public)            |
| Not available   | --                | <i>Mittal v. Czechia</i>                       | UNCITRAL Rules (ad hoc)                                 | Tribunal constituted in November 2006                 | May 7, 2009 (settlement; not public) |
| <b>James Richard Crawford – ICJ judge since Feb 6, 2015</b> |                   |  | <b>Total amount paid as arbitrator:* USD 552,119.54</b> |   |                                      |
| USD 201,316.25  | Fees              | <i>WNC Factoring v. Czechia</i>                | UNCITRAL Rules (PCA)                                    | Oct 27, 2014 (before)                                 | Feb 22, 2017                         |
| Not available   | --                | <i>JKX Oil &amp; Gas and others v. Ukraine</i> | UNCITRAL Rules (PCA)                                    | Proceedings commenced in 2015                         | Feb 6, 2017                          |
| USD 130,102.07  | Fees              | <i>Blusun, Lecorcier &amp; Stein v. Italy</i>  | ICSID Rules (ICSID)                                     | June 12, 2014 (before)                                | Dec 27, 2016                         |
| USD 155,477.80  | Fees and expenses | <i>Philip Morris v. Uruguay</i>                | ICSID Rules (ICSID)                                     | Oct 1, 2010 (before)                                  | July 8, 2016                         |
| EUR 59,200.00   | Fees              | <i>Almás v. Poland</i>                         | UNCITRAL Rules (PCA)                                    | June 23, 2014 (before)                                | June 27, 2016                        |

\* EUR and GBP amounts converted to USD at the rate of the date of the award.

Notes: This table does not include ICSID annulment cases.



The same three ICJ judges are also sitting as arbitrators in 13 investment tribunals in cases pending as of July 31, 2017. In all these cases, the judges accepted their appointments as arbitrators *during* their ICJ term.

**Table 2. Pending ISDS cases with the three ICJ judges sitting most frequently as arbitrators (as of July 31, 2017)**

| Case  | Rules (institution)  | Date of constitution of tribunal | Appointed by                             |
|---|----------------------|----------------------------------|--|
| <b>Peter Tomka – ICJ judge since Feb 6, 2003</b>            |                      |                                  |  |
| <i>Transban v. Venezuela</i>                                | ICSID Rules (ICSID)  | Feb 4, 2014                      | Chairman of ICSID Administrative Council |
| <i>Antaris v. Czech Republic</i>                            | UNCITRAL Rules (PCA) | 2014                             | Respondent                               |
| <i>Venezuela U.S. v. Venezuela</i>                          | UNCITRAL Rules (PCA) | Nov 13, 2013                     | Disputing parties                        |
| <i>JSW Solar v. Czech Republic</i>                          | UNCITRAL Rules (n/a) | 2013                             | Respondent                               |
| <i>Perenco v. Ecuador</i>                                   | ICSID Rules (ICSID)  | Reconstituted on May 6, 2010     | Chairman of ICSID Administrative Council |
| <b>Christopher Greenwood – ICJ judge since Feb 6, 2009</b>  |                      |                                  |  |
| <i>Biram and others v. Spain</i>                            | ICSID Rules (ICSID)  | Sept 21, 2016                    | Disputing parties                        |
| <i>Landesbank Baden-Württemberg and others v. Spain</i>     | ICSID Rules (ICSID)  | June 7, 2016                     | ICSID Secretary-General                  |
| <i>Mobil Investments v. Canada (II)</i>                     | ICSID Rules (ICSID)  | Sept 11, 2015                    | Disputing parties                        |
| <i>EGS v. Bosnia and Herzegovina</i>                        | ICSID Rules (ICSID)  | July 2, 2015                     | Co-arbitrators                           |
| <b>James Richard Crawford – ICJ judge since Feb 6, 2015</b> |                      |                                  |  |
| <i>Salini Impregilo v. Argentina ICSID Rules (ICSID)</i>    | ICSID Rules (ICSID)  | July 11, 2016                    | Co-arbitrators                           |
| <i>Resolute Forest Products v. Canada</i>                   | UNCITRAL Rules (PCA) | June 2016                        | Disputing parties                        |
| <i>Eurus Energy v. Spain</i>                                | ICSID Rules (ICSID)  | May 2, 2016                      | Disputing parties                        |
| <i>BayWa r.e. v. Spain</i>                                  | ICSID Rules (ICSID)  | Nov 6, 2015                      | ICSID Secretary-General                  |

Notes: This table does not include ICSID annulment cases.

## ICJ Judges as Arbitrators: What Does This Mean?

The involvement of sitting ICJ judges as arbitrators in investor–state disputes raises a number of issues for governments to think about, particularly considering the pre-eminence of the role of ICJ judges in international law.

First, how does their work as arbitrators relate to their prohibition to “engage in any other occupation of a professional nature,” and how does it affect the time they can dedicate to the court caseload? If ICJ judges can supplement their income by serving as arbitrators, they have an incentive to work less time for the court, where their salary is fixed.

Also, how would their simultaneous role as ICJ judge and arbitrator affect their perceived and actual independence and impartiality? Judges are not immune from incentives that we assume affect other people. Indeed, judges have security of tenure and guaranteed salaries and pensions precisely because we want to insulate courts from the risk that their decisions are affected by the judges’ economic interests.



For example, in contrast to the state-led election of permanent ICJ judges, arbitrators in investment tribunals are typically party-appointed. Would there be an incentive for an ICJ judge to rule one way rather than another, or in favour of one state rather than another, to influence appointments in investment arbitrations? Even though the ICJ deliberates in secret, judgments are public and **must contain the names of the judges** constituting the majority. Any judge may append an individual opinion to the judgment.

Similarly, there may be overlaps between issues arising in ICJ cases and in investment arbitration. In the *Certain Iranian Assets* case pending before the ICJ, Iran seeks a declaration that the United States breached clauses often found in investment treaties, such as fair and non-discriminatory treatment, protection and security, and expropriation. In considering this case, how will the ICJ take into account arbitral awards rendered by tribunals presided over by or composed of one or more ICJ judges? For example, what value would the court give to an award relating to expropriation that was decided by such a tribunal?

A final comment relates to the possible roles of ICJ judges in deciding challenges of arbitrators or of the president of the ICJ as an appointing authority. Given that ICJ judges have sat, are sitting and may sit as arbitrators in investment arbitration cases, their independence and impartiality could be affected when they decide challenges against “fellow” arbitrators, or when they appoint arbitrators to disputes between investors and states who might in the future appoint ICJ judges as arbitrators.

## Conclusion

In this short commentary, we are not advocating for a specific way forward to ensure the sound administration of justice. However, we call upon states and other stakeholders to analyze and discuss the implications of ICJ judges sitting as investment arbitrators. This practice appears to entangle the ICJ in situations that undermine its reputation for independence as the highest authority on public international law. As international investment arbitration continues to expand, the entanglements will become more pervasive and complex.

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**Annex. Known ISDS Cases in Which Sitting ICJ Judges Worked as Arbitrators or Annulment Committee Members as of July 31, 2017**

| Case name   | Function             | Date registered | Time of appointment in relation to ICJ term              |
|---|----------------------|-----------------|--|
| <b>Current members of the court</b>   |                      |                 |  |
| <b>Judge Ronny Abraham (France) – ICJ judge since 2005, President since 2015</b>  |                      |                 |  |
| Millicom International Operations B.V. and Sentel GSM S.A. v. Republic of Senegal (ICSID Case No. ARB/08/20)  | Co-arbitrator        | 2008            | During   |
| <b>Judge James Richard Crawford (Australia) – ICJ judge since 2015</b>  |                      |                 |  |
| Resolute Forest Products Inc. v. Canada (PCA Case No. 2016-13)  | Presiding arbitrator | 2016            | During   |
| Eurus Energy Holdings Corporation and Eurus Energy Europe B.V. v. Kingdom of Spain (ICSID Case No. ARB/16/4)  | Presiding member     | 2016            | During   |
| BayWa r.e. Renewable Energy GmbH and BayWa r.e. Asset Holding GmbH v. Kingdom of Spain (ICSID Case No. ARB/15/16)   | Presiding member     | 2015            | During   |
| JKX Oil & Gas plc, Poltava Gas B.V. and Poltava Petroleum Company v. Ukraine  | Presiding member     | 2015            | During   |
| Salini Impregilo S.p.A. v. Argentine Republic (ICSID Case No. ARB/15/39)  | Presiding member     | 2015            | During   |
| Blusun S.A., Jean-Pierre Lecorcier and Michael Stein v. Italian Republic (ICSID Case No. ARB/14/3)  | Presiding member     | 2014            | Before (continued serving as arbitrator during ICJ term) |
| WNC Factoring Ltd (WNC) v. The Czech Republic   | Co-Arbitrator        | 2014            | Before (continued serving as arbitrator during ICJ term) |
| Kristian Almås and Geir Almås v. The Republic of Poland (PCA Case No. 2015-13)  | Presiding member     | 2013            | Before (continued serving as arbitrator during ICJ term) |
| Philip Morris Brand Sàrl (Switzerland), Philip Morris Products S.A. (Switzerland) and Abal Hermanos S.A. (Uruguay) v. Oriental Republic of Uruguay (ICSID Case No. ARB/10/7)    | Co-Arbitrator        | 2010            | Before (continued serving as arbitrator during ICJ term) |
| <b>Judge Joan E. Donoghue (United States) – ICJ judge since 2010</b>  |                      |                 |  |
| Annulment proceeding in Vestey Group Ltd v. Bolivarian Republic of Venezuela (ICSID Case No. ARB/06/4)  | Presiding member     | 2016            | During   |
| SolEs Badajoz GmbH v. Kingdom of Spain (ICSID Case No. ARB/15/38)   | Presiding member     | 2015            | During   |
| Rafat Ali Rizvi v. Republic of Indonesia (ICSID Case No. ARB/11/13)   | Co-arbitrator        | 2011            | During   |
| <b>Judge Christopher Greenwood (United Kingdom) – ICJ judge since 2009</b>  |                      |                 |  |
| Annulment proceeding in CEAC Holdings Limited v. Montenegro (ICSID Case No. ARB/14/8)   | Presiding member     | 2016            | During   |
| Sun-Flower Olmeda GmbH & Co KG and others v. Kingdom of Spain (ICSID Case No. ARB/16/17)  | Presiding arbitrator | 2016            | During   |
| Landesbank Baden-Württemberg, HSH Nordbank AG, Landesbank Hessen-Thüringen Girozentrale and Norddeutsche Landesbank-Girozentrale v. Kingdom of Spain (ICSID Case No. ARB/15/45) | Presiding member     | 2015            | During   |



| Case name  | Function  | Date registered | Time of appointment in relation to ICJ term              |
|--|---|-----------------|--|
| Mobil Investments Canada Inc. v. Canada (ICSID Case No. ARB/15/6)  | Presiding member  | 2015            | During   |
| Elektrogospodarstvo Slovenije– razvoj inženiring d.o.o. v. Bosnia and Herzegovina(ICSID Case No. ARB/14/13)  | Presiding member  | 2014            | During   |
| Annulment proceeding in EDF International S.A., SAUR International S.A. and León Participaciones Argentinas S.A. v. Argentine Republic (ICSID Case No. ARB/03/23)                                  | Presiding member  | 2012            | During   |
| European American Investment Bank AG (EURAM) v. Slovak Republic, UNCITRAL  | Presiding arbitrator  | 2009/2010       | During   |
| Azpetrol International Holdings B.V., Azpetrol Group B.V. and Azpetrol Oil Services Group B.V. v. Republic of Azerbaijan (ICSID Case No. ARB/06/15)  | Co-arbitrator   | 2006            | Before (continued serving as arbitrator during ICJ term) |
| European Media Ventures SA v. The Czech Republic, UNCITRAL   | Co-arbitrator   | 2005            | Before (continued serving as arbitrator during ICJ term) |
| Mittal Steel Company N.V.(Dutch company) v Czech Republic, UNCITRAL  | Co-arbitrator   | 2005            | Before (continued serving as arbitrator during ICJ term) |
| Corn Products International, Inc. v. United Mexican States (ICSID Case No. ARB(AF)/04/1)   | Presiding arbitrator  | 2004            | Before (continued serving as arbitrator during ICJ term) |
| <b>Peter Tomka (Slovakia) – ICJ judge since 2003</b>   |   |                 |  |
| Annulment proceeding in Tulip Real Estate Investment and Development Netherlands B.V. v. Republic of Turkey (ICSID Case No. ARB/11/28)   | President of ICSID Annulment Committee                        | 2014            | During   |
| Venezuela US, S.R.L. v. Bolivarian Republic of Venezuela (PCA Case No. 2013-34)  | Presiding arbitrator  | 2014            | During   |
| Mr. Jürgen Wirtgen, Mr. Stefan Wirtgen, and JSW Solar (zwei) GmbH & Co.KG v. Czech Republic  | Co-arbitrator   | 2013            | During   |
| Antaris Solar GmbH and Dr. Michael Göde v. The Czech Republic  | Co-arbitrator   | 2013            | During   |
| Transban Investments Corp. v. Bolivarian Republic of Venezuela (ICSID Case No. ARB/12/24)  | Presiding arbitrator  | 2012            | During   |
| China Heilongjiang International Economic & Technical Cooperative Corp., Beijing Shougang Mining Investment Company Ltd., and Qinhuangdaoshi Qinlong International Industrial Co. Ltd. v. Mongolia | Presiding arbitrator (appointed in replacement of D. Donovan) | 2010            | During   |
| Annulment proceeding in Waguih Elie George Siag and Clorinda Vecchi v. Arab Republic of Egypt (ICSID Case No. ARB/05/15)   | Co-member   | 2009            | During   |
| Melvin J. Howard, Centurion Health Corp. & Howard Family Trust v. The Government of Canada, UNCITRAL, PCA Case No. 2009-21   | Presiding arbitrator  | 2009            | During   |
| Achmea B.V. (formerly Eureko B.V.) v. The Slovak Republic (I) (PCA Case No. 2008-13)   | Co-arbitrator   | 2008            | During   |
| *Annulment proceeding in Duke Energy International Peru Investments No. 1 Ltd. v. Republic of Peru (ICSID Case No. ARB/03/28)  | Co-member   | 2008            | During   |



| Case name   | Function                                 | Date registered | Time of appointment in relation to ICJ term              |
|---|--|-----------------|--|
| Annulment proceeding in Fraport AG Frankfurt Airport Services Worldwide v. Republic of the Philippines (ICSID Case No. ARB/03/25)         | Presiding member                         | 2008            | During   |
| HICEE B.V. v. The Slovak Republic, UNCITRAL, PCA Case No. 2009-11   | Co-arbitrator                            | 2008            | During   |
| Perenco Ecuador Limited v. Republic of Ecuador (ICSID Case No. ARB/08/6)  | Presiding arbitrator (appointed in 2010) | 2008            | During   |
| Annulment proceeding in Ahmonseto, Inc. and others v. Arab Republic of Egypt (ICSID Case No. ARB/02/15)                                   | Co-member                                | 2007            | During   |
| Annulment proceeding in M.C.I. Power Group, L.C. and New Turbine, Inc. v. Republic of Ecuador (ICSID Case No. ARB/03/6)                   | Co-member                                | 2007            | During   |
| Annulment proceeding in Malaysian Historical Salvors, SDN, BHD v. Malaysia (ICSID Case No. ARB/05/10)                                     | Co-member                                | 2007            | During   |
| <b>Antônio Augusto Cançado Trindade (Brazil) – ICJ judge since 2009</b>   |  |                 |  |
| Asset Recovery Trust S.A. v. Argentine Republic (ICSID Case No. ARB/05/11)  | Co-arbitrator                            | 2005            | Before (continued serving as arbitrator during ICJ term) |
| Azurix Corp. v. Argentine Republic (ICSID Case No. ARB/03/30)   | Co-arbitrator (resigned in 2010)         | 2003            | Before (continued serving as arbitrator during ICJ term) |
| <b>Judge Abdulqawi Ahmed Yusuf (Somalia) – ICJ judge since 2009 – Vice-President since 2015</b>   |  |                 |  |
| Annulment proceeding in Tidewater Investment SRL and Tidewater Caribe, C.A. v. Bolivarian Republic of Venezuela (ICSID Case No. ARB/10/5) | President                                | 2015            | During   |
| Annulment proceeding in Ioan Micula, Viorel Micula and others v. Romania (I) (ICSID Case No. ARB/05/20)                                   | Co-member                                | 2014            | During   |
| Annulment proceeding in SAUR International v. Argentine Republic (ICSID Case No. ARB/04/4)  | Co-member                                | 2014            | During   |
| Annulment proceeding in SGS Société Générale de Surveillance S.A. v. Republic of Paraguay (ICSID Case No. ARB/07/29)                      | Co-member (appointed in 2012)            | 2012            | During   |
| Veolia Propreté v. Arab Republic of Egypt (ICSID Case No. ARB/12/15)  | Presiding arbitrator                     | 2012            | During   |
| Annulment proceeding in AES Summit Generation Limited and AES-Tisza Erömü Kft. v. Hungary (ICSID Case No. ARB/07/22)                      | Co-member                                | 2011            | During   |
| *Annulment proceeding in RSM Production Corporation v. Central African Republic (ICSID Case No. ARB/07/2)                                 | Co-member (appointed in 2012)            | 2011            | During   |





| Case name  | Function                                | Date registered | Time of appointment in relation to ICJ term              |
|--|---|-----------------|--|
| <b>Past members of the court</b>   |   |                 |  |
| <b>Mohammed Bedjaoui (Algeria) – ICJ judge 1982–2001, President 1994–1997</b>  |   |                 |  |
| Victor Pey Casado and President Allende Foundation v. Republic of Chile (ICSID Case No. ARB/98/2)  | Co-arbitrator (disqualified in 2006)    | 1998            | During   |
| Antoine Goetz et consorts v. République du Burundi (ICSID Case No. ARB/95/)  | Co-arbitrator                           | 1995            | During   |
| <b>Thomas Buergenthal (United States) – ICJ judge 2000–2010</b>  |   |                 |  |
| Teinver S.A., Transportes de Cercanías S.A. and Autobuses Urbanos del Sur S.A. v. The Argentine Republic (ICSID Case No. ARB/09/1)   | Presiding arbitrator                    | 2009            | During   |
| UAB “ARVI” ir ko and UAB “SANITEX” v. Republic of Serbia (ICSID Case No. ARB/09/21)  | Presiding arbitrator                    | 2009            | During   |
| *Chevron Bangladesh Block Twelve, Ltd. and Chevron Bangladesh Blocks Thirteen and Fourteen, Ltd. v. People’s Republic of Bangladesh (ICSID Case No. ARB/06/10)   | Presiding arbitrator                    | 2006            | During   |
| Industria Nacional de Alimentos, S.A. and Indalsa Perú, S.A. (formerly Empresas Lucchetti, S.A. and Lucchetti Perú, S.A.) v. Republic of Peru (ICSID Case No. ARB/03/4)  | Presiding arbitrator                    | 2003            | During   |
| Annulment proceeding in Philippe Gruslin v. Malaysia (ICSID Case No. ARB/99/3)   | Presiding member                        | 2000            | During   |
| Ceskoslovenska Obchodni Banka, A.S. v. The Slovak Republic (ICSID Case No. ARB/97/4)   | Presiding arbitrator (resigned in 2001) | 1997            | Before (continued serving as arbitrator during ICJ term) |
| Compañía de Aguas del Aconquija S.A. and Vivendi Universal S.A. v. Argentine Republic (ICSID Case No. ARB/97/3) (formerly Compañía de Aguas del Aconquija, S.A. and Compagnie Générale des Eaux v. Argentine Republic) | Co-arbitrator                           | 1997            | Before (continued serving as arbitrator during ICJ term) |
| Emilio Agustín Maffezini v. The Kingdom of Spain (ICSID Case No. ARB/97/7)   | Co-arbitrator                           | 1997            | Before (continued serving as arbitrator during ICJ term) |
| <b>Gilbert Guillaume (France) – ICJ judge 1987–2005 – President 2000–2003</b>  |   |                 |  |
| Annulment proceeding in MTD Equity Sdn. Bhd. and MTD Chile S.A. v. Chile (ICSID Case No. ARB/01/7)   | Presiding member                        | 2004            | During   |
| *Eurotunnel Group v. France and United Kingdom   | Co-arbitrator                           | 2003            | During   |
| Impregilo S.p.A. v. Islamic Republic of Pakistan (ICSID Case No. ARB/03/3)   | Presiding arbitrator                    | 2003            | During   |
| Salini Costruttori S.p.A. and Italstrade S.p.A. v. Hashemite Kingdom of Jordan (ICSID Case No. ARB/02/13)  | Presiding arbitrator                    | 2002            | During   |
| *World Duty Free Company Limited v. Republic of Kenya (ICSID Case No. ARB/00/7)  | Presiding arbitrator                    | 2000            | During   |
| <b>Rosalyn Higgins (United Kingdom) – ICJ judge 1995–2009, President 2006–2009</b>   |   |                 |  |
| Capital India Power Mauritius I and Energy Enterprises (Mauritius) Company v. Government of India, UNCITRAL  | Presiding arbitrator                    | 2003            | During   |



| Case name  | Function                                | Date registered | Time of appointment in relation to ICJ term              |
|--|---|-----------------|--|
| <b>Sir Robert Yewdall Jennings (United Kingdom) – ICJ judge 1982–1995, President 1991–1994</b>   |   |                 |  |
| *Vacuum Salt Products Ltd. v. Republic of Ghana (ICSID Case No. ARB/92/1)  | Presiding arbitrator                    | 1992            | During   |
| <b>Kenneth Keith (New Zealand) – ICJ judge 2006–2015</b>   |   |                 |  |
| ConocoPhillips Company and others v. Bolivarian Republic of Venezuela (ICSID Case No. ARB/07/30)   | Presiding arbitrator                    | 2007            | During   |
| United Parcel Service of America Inc. v. Government of Canada, UNCITRAL  | Presiding arbitrator                    | 2000            | Before (continued serving as arbitrator during ICJ term) |
| <b>Kéba Mbaye (Senegal) – ICJ judge 1982–1991, Vice-President 1987–1991</b>  |   |                 |  |
| *Second annulment proceeding in Klöckner Industrie-Anlagen GmbH and others v. United Republic of Cameroon and Société Camerounaise des Engrais (ICSID Case No. ARB/81/2)   | Co-member                               | 1988            | During   |
| *Annulment proceeding in Maritime International Nominees Establishment v. Republic of Guinea (ICSID Case No. ARB/84/4)   | Co-member                               | 1988            | During   |
| *Société Ouest Africaine des Bétons Industriels v. Senegal (ICSID Case No. ARB/82/1)   | Co-arbitrator                           | 1982            | During   |
| <b>Sture Petrén (Sweden) – ICJ judge 1967–1976</b>   |   |                 |  |
| *Holiday Inns S.A. and others v. Morocco (ICSID Case No. ARB/72/1)   | Presiding arbitrator (replaced in 1976) | 1972            | During   |
| <b>Raymond Ranjeva (Madagascar) – ICJ judge 1991–2009, Vice-President 2003–2006</b>  |   |                 |  |
| *SEDITEX Engineering Beratungsgesellschaft für die Textilindustrie m.b.H. v. Madagascar (ICSID Case No. CONC/94/1)   | Co-arbitrator                           | 1994            | During   |
| <b>Francisco Rezek (Brazil) – ICJ judge 1996–2006</b>  |   |                 |  |
| LG&E Energy Corp., LG&E Capital Corp., and LG&E International, Inc. v. Argentine Republic (ICSID Case No. ARB/02/1)  | Co-arbitrator                           | 2002            | During   |
| CMS Gas Transmission Company v. The Republic of Argentina (ICSID Case No. ARB/01/8)  | Co-arbitrator                           | 2001            | During   |
| *GRAD Associates, P.A. v. Bolivarian Republic of Venezuela (ICSID Case No. ARB/00/3)   | Co-arbitrator                           | 2000            | During   |
| Eudoro Armando Olguín v. Republic of Paraguay (ICSID Case No. ARB/98/5)  | Co-arbitrator                           | 1998            | During   |
| Victor Pey Casado and President Allende Foundation v. Republic of Chile (ICSID Case No. ARB/98/2)  | Presiding arbitrator (resigned in 2001) | 1998            | During   |
| Compañía de Aguas del Aconquija S.A. and Vivendi Universal S.A. v. Argentine Republic (ICSID Case No. ARB/97/3) (formerly Compañía de Aguas del Aconquija, S.A. and Compagnie Générale des Eaux v. Argentine Republic) | Presiding arbitrator                    | 1997            | During   |
| <b>Stephen M. Schwebel (United States) – ICJ judge 1981–2000, President 1997–2000, Vice-President 1994–1997</b>  |   |                 |  |
| Mondev International Ltd. v. United States of America (ICSID Case No. ARB(AF)/99/2)  | Co-arbitrator                           | 1999            | During   |



| Case name  | Function             | Date registered | Time of appointment in relation to ICJ term |
|--|----------------------|-----------------|---|
| <b>Bernardo Sepúlveda-Amor (Mexico) – ICJ judge 2006–2015</b>  |                      |                 |   |
| Iberdrola, S.A. and Iberdrola Energía, S.A.U. v. Plurinational State of Bolivia (PCA Case No. 2015-05)                                       | Presiding arbitrator | 2014            | During                                      |
| AES Solar and others v. Spain, UNCITRAL  | Co-arbitrator        | n/a             | During                                      |
| Bycell (Maxim Naumchenko, Andrey Polouektov and Tenoch Holdings Ltd) v. India  | Presiding arbitrator | 2013            | During                                      |
| Empresa Eléctrica del Ecuador, Inc. (EMELEC) v. Republic of Ecuador (ICSID Case No. ARB/05/9)  | Presiding arbitrator | 2005            | During                                      |
| Grupo Francisco Hernando Contreras v. Republic of Equatorial Guinea (ICSID Case No. ARB(AF)/12/2)  | Presiding arbitrator | 2012            | During                                      |
| <b>Bruno Simma (Germany) – ICJ judge 2003–2012</b>   |                      |                 |   |
| Merck Sharpe & Dohme (I.A.) Corporation v. The Republic of Ecuador, UNCITRAL, PCA  | Co-arbitrator        | 2011            | During                                      |
| Copper Mesa Mining Corporation v. Republic of Ecuador (PCA No. 2012-2) (PCA Case No. 2012-2)   | Co-arbitrator        | 2011            | During                                      |
| Olyana Holdings LLC v. Republic of Rwanda (ICSID Case No. ARB/10/10)   | Presiding arbitrator | 2010            | During                                      |
| BTA Bank JSC v. Kyrgyz Republic  | Co-arbitrator        | 2009            | During                                      |
| Ambiente Ufficio S.p.A. and others v. Argentine Republic (ICSID Case No. ARB/08/9) (formerly Giordano Alpi and others v. Argentine Republic) | Presiding arbitrator | 2008            | During                                      |
| Clayton/ Bilcon v. Canada, NAFTA, UNCITRAL, PCA Case No. 2009-04   | Presiding arbitrator | 2008            | During                                      |
| E.T.I. Euro Telecom International N.V. v. Plurinational State of Bolivia (ICSID Case No. ARB/07/28)  | Presiding arbitrator | 2007            | During                                      |

*\*An asterisk indicates ISDS cases based on legal instruments other than investment treaties.*

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