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TABLE OF NAFTA "CHAPTER 11" FOREIGN INVESTOR-STATE CASES AND CLAIMS November 2010

The North American Free Trade Agreement (NAFTA) included an array of new corporate investment rights and protections that were unprecedented in scope and power. These special privileges promote offshoring of jobs by providing special treatment for firms that relocate, provide foreign investors new rights to own and control other countries' natural resources and land, and expose domestic environmental, financial and health laws to attack in international tribunals. These extreme rules have been replicated in various U.S. "free trade agreements" (FTAs), including CAFTA and various bilateral FTAs.

All U.S. FTAs except the Australia agreement empower foreign investors and firms to privately enforce their extraordinary new investor privileges by suing national governments in foreign tribunals.[1] Not only do the pacts provide foreign firms a way to attack other countries' domestic public interest laws and skirt their court systems, but the international tribunals empowered to decide these cases offer none of the basic due process or openness guarantees afforded in national courts. These so-called "investor-state" cases are litigated in special international arbitration bodies of the World Bank and the United Nations, which are closed to public participation, observation and input. A three-person panel composed of professional arbitrators listens to arguments in the case, with powers to award an unlimited amount of taxpayer dollars to corporations if they feel that a domestic policy or government decision has undermined such firms' new trade pact privileges and threatens their "expected future profits." Not only do these outlandish rules elevate overnight private foreign firms to the same stature of government signatories to international agreements, but if a corporation wins its private enforcement case, the taxpayers of the "losing" country must foot the bill. Over $326 million in compensation has already been paid out by governments to corporations in the 66 NAFTA cases filed to date. This includes attacks on natural resource policies, environmental protection and health and safety measures, and more.

This extraordinary attack on governments' ability to regulate in the public interest is a key element of recent and proposed NAFTA expansions. A fundamental battle that will play out in negotiations around a possible Trans-Pacific Partnership agreement is whether these extreme, damaging investor rights or their private enforcement will be included, especially given the growing recognition of these terms' damage.

[1] The U.S.-Jordan and U.S.-Israel trade agreements, which do not follow the standard U.S. FTA model in most respects, also do not contain investor-state dispute settlement. The U.S.-Bahrain FTA does not contain investor-state dispute settlement, but the U.S. has a separate bilateral investment treaty with Bahrain that does.

Key
*Indicates date Notice of Intent to File a Claim was filed, the first step in the NAFTA investor-state process, when an investor notifies a government that it intends to bring a NAFTA Chapter 11 suit against that government.
**Indicates date Notice of Arbitration was filed, the second step in the NAFTA investor-state process, when an investor notifies an arbitration body that it is ready to commence arbitration under NAFTA Chapter 11.

Cases & Claims Against the United States

Corporation or Investor	Venue	Damages Sought (U.S.$)	Status of Case	Issue
Loewen Oct. 30, 1998*	ICSID	$725 million	Dismissed	First NAFTA Chapter 11 case challenging a domestic court ruling. Canadian funeral home conglomerate challenged Mississippi state court jury's damage award in a private contract dispute and various rules of civil procedure relating to posting bond for appeal. The underlying case involved a local funeral home that claimed Loewen engaged in anti-competitive and predatory business practices in breach of contract. June 2003: Claim dismissed on procedural grounds. Tribunal found that Loewen's reorganization under U.S. bankruptcy laws as a U.S. corporation no longer qualified it to be a "foreign investor" entitled to NAFTA protection. However, the tribunal's ruling discussed the merits of the case, noting that domestic court rulings in private contract disputes are subject to NAFTA investor-state claims. October 2005: A U.S. District Court rejected an application by Loewen to vacate the procedural ruling and revive the case.
Mondev May 6, 1999* Sept. 1, 1999**	ICSID	$50 million	Dismissed	Canadian real estate developer challenged Massachusetts Supreme Court ruling regarding local government sovereign immunity and land-use policy. October 2002: Claim dismissed on procedural grounds. Tribunal found 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.
Methanex June 15, 1999* Dec. 3, 1999**	UNCITRAL	$970 million	Dismissed	Canadian corporation that produced methanol, a component chemical of the gasoline additive MTBE, challenged California phase-out of the additive, which was contaminating drinking water sources around the state. August 2005: Claim 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. Tribunal orders Methanex to pay U.S. $3 million in legal fees. The tribunal permitted NGOs to submit amici briefs and Methanex allowed hearings to be open to the public.
ADF Group Feb. 29, 2000* July 19, 2000**	ICSID	$90 million	Dismissed	Canadian steel contractor challenged U.S. Buy America law related to Virginia highway construction contract. January 2003: Claim dismissed on procedural grounds. Tribunal found 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.
Canfor Nov. 5, 2001* July 9, 2002**	UNCITRAL	$250 million	Concluded	Canadian softwood lumber company sued for damages relating to U.S. anti-dumping and countervailing duty measures implemented in U.S.-Canada softwood lumber dispute. September 2005: Case consolidated with Tembec claim - see "Softwood Lumber" below.
Kenex Jan. 14, 2002* Aug. 2, 2002**	UNCITRAL	$20 million	Arbitration never began	Canadian hemp production company challenged new U.S. Drug Enforcement Agency regulations criminalizing the importation of hemp foods. 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.
James Baird March 15, 2002*		$13.58 billion	Arbitration never began	Canadian investor challenged U.S. policy of disposing nuclear waste at Yucca Mountain, Nevada site. Investor held patents for competing waste disposal method and location.
Doman May 1, 2002*		$513 million	Arbitration never began	Canadian softwood lumber company sued for damages related to U.S. anti-dumping and countervailing duties measures implemented in U.S.-Canada softwood lumber dispute.
Tembec Corp. May 3, 2002* Dec. 3, 2003**	UNCITRAL	$200 million	Concluded	Canadian softwood lumber company sued for damages related to U.S. anti-dumping and countervailing duties measures implemented in U.S.-Canada softwood lumber dispute. September 2005: Consolidated with Terminal Forest Products and Canfor - see "Softwood Lumber" below.
Ontario Limited Sept. 9, 2002*		$38 million	Arbitration never began	Canadian company filed suit seeking return of property after its bingo halls and financial records were seized during an investigation for RICO

				violations in Florida.
Terminal Forest Products Ltd. June 12, 2003* March 30, 2004**	UNCITRAL	$90 million	Concluded	Canadian softwood lumber company sued for damages related to U.S. anti-dumping and countervailing duties measures implemented in U.S.-Canada softwood lumber dispute. September 2005: Case consolidated with Canfor and Tembec - see "Softwood Lumber" below.
Glamis Gold Ltd. July 21, 2003* Dec. 9, 2003**	UNCITRAL	$50 million	Dismissed	Canadian company sought compensation for California law requiring backfilling and restoration of open-pit mines near Native American sacred sites. The company's American 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. When backfilling and restoration regulations were issued by California, Glamis filed a NAFTA claim rather than proceed with its application in compliance with the regulations. The tribunal dismissed Glamis' claims in June 2009 on the grounds that – with the high price for gold, among other factors – the economic impact of the regulations did not a high enough dollar amount to constitute an indirect expropriation.
Grand River Enterprises Sept. 15, 2003* March 12, 2004**	UNCITRAL	$340 million	Pending	Canadian company sought damages over 1998 U.S. Tobacco Settlement, which requires tobacco companies to contribute to state escrow funds to help defray medical costs of smokers. July 2006: Jurisdictional ruling dismissed some of the claims as time-barred, but permitted other claims relating to cigarettes sold on Indian reservations to proceed to a hearing on the merits.
Canadian Cattlemen for Fair Trade Aug. 12, 2004* March 16 2005-June 2, 2005**	UNCITRAL	$235 million	Dismissed	Group of Canadian cattlemen and feedlot owners sought compensation for losses incurred when the U.S. halted imports of live Canadian cattle after the discovery of a case of BSE (mad cow disease) in Canada in May 2003. January 2008: Claim dismissed on procedural grounds. Tribunal ruled 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.
Softwood Lumber Consolidated Proceeding Sept. 7, 2005	ICSID		Concluded	September 2005: Tribunal approved 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. July 2007: A final ruling in the Canfor and Terminal Forest cases was issued concluding the cases and apportioning costs in these cases and in

				the Tembec case. The Canfor and Terminal Forest cases were terminated after a new softwood lumber agreement was entered into by the U.S. and Canada in October 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.
Domtar Inc. April 16, 2007*	UNCITRAL	$200 million	Pending	Canadian softwood lumber company filed suit post-2006 softwood lumber agreement to try to recover the money it paid out while U.S. countervailing duties were in place - see "Softwood Lumber" case above.
Apotex Dec. 12, 2008*	UNCITRAL	$8 million	Pending	A Canadian generic drug manufacturer sought 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 muddled 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, NAFTA expropriation, discrimination and a violation of its NAFTA rights to a "minimum standard of treatment."
CANACAR [Mexican trucks] April 2, 2009*	UNCITRAL	$6 billion	Pending	A group of Mexican truckers filed a NAFTA Chapter 11 suit after Congress took action in 2009 to cancel a Bush administration pilot program allowing 26 Mexican carriers full access to U.S. roadways. The truckers claimed that this refusal of entry, combined with the U.S. policy that prohibits Mexican carriers from owning businesses in the United States that provide cross-border trucking services, violated the nondiscrimination and most favored nation provisions of NAFTA Chapter 11. They also alleged a violation of the minimum standard of treatment, arguing that the U.S. policies are not compliant with a 2001 NAFTA state-state panel decision on Mexican trucks. 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 Chapter 11.

Apotex June 6, 2009**	UNCITRAL	$8 million	Pending	Canadian drug manufacturer sought to develop 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 Chapter 11 suit claiming that the United States violated the national treatment, minimum standard of treatment, and expropriation and compensation articles of NAFTA Chapter 11.
Cemex Sept. 2009*		N/A	Pending	Mexican cement company Cemex filed a notice of intent to bring a NAFTA Chapter 11 suit 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.

Cases & Claims Against Canada

Signa March 4, 1996*		$3.65 million	Withdrawn	Mexican generic drug manufacturer claimed that Canadian Patent Medicines "Notice of Compliance" regulations deprived it of Canadian sales for the antibiotic CIPRO.
Ethyl April 14, 1997*	UNCITRAL	$250 million	**Settled; Ethyl win, $13 million**	U.S. chemical company challenged Canadian environmental ban of gasoline additive MMT. July 1998: Canada loses NAFTA jurisdictional ruling, reverses ban, paid $13 million in damages and legal fees to Ethyl.
S.D. Myers July 22, 1998* Oct. 30, 1998**	UNCITRAL	$20 million	**S.D. Myers win, $5 million**	U.S. waste treatment company challenged temporary Canadian ban of PCB exports that complied with multilateral environmental treaty on toxic-waste trade. November 2000: Tribunal dismissed S.D. Myers claim of expropriation, but upheld claims of discrimination and determined that the discrimination violation also qualified as a violation of the "minimum standard of treatment" foreign investors must be provided under NAFTA. Panel also stated that a foreign firm's "market share" in another country could be considered a NAFTA-protected investment. February 2001: Canada petitioned to have the NAFTA tribunal decision overturned in a Canadian Federal Court. January 2004: The Canadian federal court dismissed the case, finding that any jurisdictional claims were barred from being raised since they had not been raised in the NAFTA claim. The federal court judge also ruled that upholding the tribunal award would not violate Canadian "public

				policy" as Canada had argued.
Sun Belt Dec. 2, 1998* Oct. 12, 1999**		$10.5 billion	Arbitration never began	U.S. water company challenged British Columbia bulk water export moratorium.
Pope & Talbot Dec. 24, 1999* March 25, 1999**	UNCITRAL	$508 million	**P&T win, $621,000**	U.S. timber company challenged Canadian implementation of 1996 U.S.-Canada Softwood Lumber Agreement. April 2001: Tribunal dismissed claims of expropriation and discrimination, but held that the rude behavior of the Canadian government officials seeking to verify firm's compliance with lumber agreement constituted a violation of the "minimum standard of treatment" required by NAFTA for foreign investors. Panel also stated that a foreign firm's "market access" in another country could be considered a NAFTA-protected investment.
United Parcel Service Jan. 19, 2000* April 19, 1999**	UNCITRAL	$160 million	Dismissed	UPS, the private U.S. courier company, claimed that the Canadian post office's parcel delivery service was unfairly subsidized because it was a part of the larger public postal service, Canada Post. As the first NAFTA case against a public service, the case was closely watched and included amici briefs submitted by the Canadian Union of Postal Employees and other citizen groups. May 2007: Claims dismissed. The tribunal concluded that key NAFTA rules concerning competition policy from NAFTA Chapter 15 could not be invoked because UPS was inappropriately framing Canada Post as a "party" to Chapter 11. UPS's complaint that Canada Post received preferential treatment for publications was rejected as publications were protected under Canada's "cultural industries" exception. The tribunal also ruled that Canada's customs procedures did not discriminate against UPS, because the distinctions between postal traffic and courier shipments had been long established under the World Customs Organization. UPS's contention that Canada Post received preferential treatment by exempting rural route mail couriers from the application of the Canada Labor Code was dismissed with little discussion. A lengthy dissenting opinion was filed by one tribunalist, indicating that a similar case could generate a very different result.
Ketcham and Tysa Investments Dec. 22,		$30 million	Withdrawn	U.S. softwood lumber firms challenged Canadian implementation of 1996 Softwood Lumber Agreement.

2000*				
Trammel Crow Sept. 7, 2001*		$32 million	Withdrawn	U.S. real estate company claimed discrimination over Canada Post's competitive bidding process.
Crompton/ Chemtura Original notice of claim dated Nov. 6, 2001* Feb. 10, 2005**	UNCITRAL	$100 million	Dismissed	U.S. chemical company, producer of pesticide lindane, a hazardous persistent organic pollutant, challenged voluntary agreement between manufacturers and the government to restrict production. In 2005, Crompton Corporation and Great Lakes Chemical Corporation merged, becoming Chemtura Corporation. Claims involve discrimination, performance requirements, expropriation and a violation of the "minimum standard of treatment" rule. In August 2010, the tribunal ruled against the company in part because the company's own actions initiated the ban.
Albert J. Connolly Feb. 19, 2004*		Not avail.	Withdrawn	U.S. investor claimed real estate was expropriated by Canadian government to be used as a park.
Contractual Obligations June 15, 2004*		$20 million	Withdrawn	U.S. animation production company challenged Canadian federal tax credits available only to Canadian firms employing Canadian citizens and residents.
Peter Pesic July 2005*			Withdrawn	U.S. investor claimed that Canadian decision not to extend work visa impaired his investment in Canada.
Great Lake Farms Feb. 28, 2006* June 5, 2006**	UNCITRAL	$78 million	Arbitration never began	U.S. agribusiness challenged Canadian provincial and federal restrictions on the exportation of milk to the U.S. alleging violation of NAFTA's most favored nation rule, "minimum standard of treatment" rule, expropriation and Chapter 15 rules on monopolies and state enterprises.
Merrill and Ring Forestry Sept. 25, 2006* Dec. 27, 2006**	UNCITRAL	$25 million	Dismissed	U.S. forestry firm challenged Canadian federal and provincial regulations restricting the export of raw logs. Numerous labor groups have petitioned to submit amici briefs in the case. These groups want to maintain and strengthen Canada's raw log export controls at both the provincial and federal levels. They believed that the claim by Merrill would, if successful, lead to similar claims ultimately leading to the abandonment of log export controls which they deem essential to the continued employment of tens of thousands of Canadian workers. March 2010: Tribunal rules against Merrill and Ring Forestry but orders Canada to pay half of arbitration costs, amounting to about $500,000.
V. G. Gallo Oct. 12, 2006* March 30,	UNCITRAL	$355.1 million	Pending	U.S. citizen owned a decommissioned open-pit iron ore mine in Northern Ontario. He challenged decision by newly-elected Ontario government to

2007**				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.
ExxonMobil and Murphy Oil Aug. 2, 2007* Nov. 1, 2007**	ICSID	$60 million	Pending	U.S. oil firms challenged 2004 Canada-Newfoundland Offshore Petroleum Board's Guidelines for Research and Development Expenditures that 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 that had been developed after significant infusions of public and private funds were discovered to be far larger than anticipated, prompting a variety of new government measures. The NAFTA claim argued that the new guidelines violated NAFTA's prohibition on performance requirements. Subsequent agreements by oil companies to grant the provinces an increased equity stake in extraction projects in the region may affect this NAFTA case.
Gottlieb *et.al.* Oct. 30, 2007*		$6.5 million	Pending	This case involved a number of U.S. citizens who invested in Canada's energy sector in vehicles called "energy trusts." The manner in which Canada taxed those trusts changed in 2006. Investors alleged that this change effectively eliminated the income trust model as an investment option and caused "massive destruction" to their holdings. April 2008: An exchange of letters between the U.S. and Canadian tax agencies confirmed that the claim under expropriation cannot proceed, but this determination did not affect the claims under the National Treatment, Most Favored Nation, and Fair and Equitable Treatment articles of NAFTA.
Clayton/ Bilcon Feb. 5, 2008* May 26, 2008**	UNCITRAL	$188 million	Pending	Members of the Clayton family and a corporation they control, Bilcon, alleged that numerous provincial and federal agencies violated their NAFTA rights by placing unduly burdensome requirements on their plans to open a basalt quarry and a marine terminal in Nova Scotia. Specifically, they claimed that the federal and provincial environmental reviews were arbitrary, discriminatory and unfair.
Georgia Basin Feb. 5, 2008*			Other	Georgia Basin is a limited partnership based in Washington State that owns timber lands in British Columbia. It alleged that Canada's export controls on logs harvested from land in British Columbia under federal jurisdiction violated Canada's 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, see above.
Howard/ Centurion Health July 11, 2008* Jan. 5, 2009**	UNCITRAL	$160 million	Other	A U.S. citizen and his firm, Centurion Health Corporation, challenged aspects of Canada's national health-care 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 health-care 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. A tribunal terminated the claim in August 2010, 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	Pending	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. Other Canadian provinces are considering similar bans.
Malbaie River Outfitters Inc. Sept. 10, 2008*		$5 million	Pending	U.S. citizen William Jay Greiner owned a business called Malbaie River Outfitters Inc., which provided fishing, hunting, and lodging for mostly American 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 damaged the investor's business." Also challenged was Quebec's decision to revoke Greiner's outfitter's license for three rivers which he contended effectively destroyed his business.
David Bishop Oct. 8, 2008*		$1 million	Pending	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	Pending	The Shiell family has dual American 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 Chapter 11 obligations.
Christopher and Nancy Lacich Apr. 2, 2009*		$1,178	Withdrawn	This case is very similar to the Gottlieb et.al case. Christopher and Nancy Lacich were U.S.-based investors involved in Canadian energy trusts when the government changed the tax structure

				of the trusts. 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**	In December 2008, AbitibiBowater closed a paper mill in Newfoundland, putting 800 employees out of work. The government of the province argued that various timber and water rights held by AbitibiBowater 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 has claimed that Newfoundland's action constitutes 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*		$1,500 million	Pending	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 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 has claimed that this law constitutes expropriation of its investment (the Ambassador Bridge) and violates its right to a minimum standard of treatment.
John R. Andre, March 19, 2010		$4 million +	Pending	Andre, a Montana investor, operates a caribou hunting lodge in the Northwest Territories, and complains that the territorial government expropriated his investment through its caribou conservation measures, among other allegations.

Cases & Claims Against Mexico

Amtrade International April 21, 1995*		$20 million	Arbitration never began	U.S. company claimed it was discriminated against by a Mexican company while attempting to bid for pieces of property, in violation of a pre-existing settlement agreement.
Halchette 1995			Arbitration never began	No documents regarding this case are public.
Metalclad Dec. 30, 1996* Jan. 2, 1997**	ICSID	$90 million	**Metalclad win, $15.6 million**	U.S. firm challenged Mexican municipality's refusal to grant construction permit for toxic waste facility unless the firm cleaned up existing toxic waste problems that had resulted in the

				facility being closed when it was owned by a Mexican firm from which Metalclad acquired the facility. Metalclad also challenged establishment of an ecological preserve on the site by a Mexican state government. August 2000: Tribunal ruled that the denial of the construction permit and the creation of an ecological reserve are tantamount to an "indirect" expropriation and that Mexico violated NAFTA's "minimum standard of treatment" guaranteed foreign investors, because the firm was not granted a "clear and predictable" regulatory environment. October 2000: 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. In 2004, the Mexican federal government's effort to hold the involved state government financially responsible for the award failed in the Mexican Supreme Court.
Azinian, *et al* Dec. 10, 1996* March 10, 1997**	ICSID	$17 million +	Dismissed	U.S. firm challenged Mexican federal court decision revoking waste management contract for a suburb of Mexico City. November 1999: Claim dismissed. Tribunal ruled that the firm made a fraudulent misrepresentation with regard to its experience and capacity to fulfill the contract, and dismissed claims of expropriation and unfair treatment.
Karpa Feb. 16, 1998* Apr. 7, 1999**	ICSID	$50 million	**Karpa win, $1.5 million**	U.S. cigarette exporter challenged denial of export tax rebate by Mexican government. December 2002: Tribunal rejected an expropriation claim, but upheld a claim of discrimination after the Mexican government failed to provide evidence that the firm was being treated similarly to Mexican firms in "like circumstances." December 2003: Canadian judge dismissed Mexico's effort to set aside award.
Waste Management June 30, 1998* Sept. 29, 1998** Resubmitted: Sept. 18, 2000**	ICSID	$60 million	Dismissed	U.S. waste disposal giant challenged City of Acapulco's revocation of waste disposal concession. The case also implicated the function of Mexican courts and the actions of Mexican government banks. April 2004: Claim dismissed. Tribunal found 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 ruled "it is not the function of Article 1110 to compensate for failed business ventures."
Scott Ashton Blair May 21, 1999*		Not avail.	Arbitration never began	U.S. citizen purchased a residence and restaurant in Mexico and claimed he was victimized by Mexican government officials because he was a U.S. citizen.
Fireman's Fund Nov. 15, 1999* Jan. 15, 2002**	ICSID	$50 million	Dismissed	U.S. insurance corporation alleged that Mexico's handling of debentures, or bonds issued by a firm or government in return for long or medium term investment of funds, was discriminatory. July 2003: Tribunal dismissed most claims including claims of discrimination, but allowed the expropriation claim to proceed. July 2007: 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.
Adams, *et al* Nov. 10, 2000* April 9, 2002**		$75 million	Arbitration never began	U.S. landowners challenged Mexican court ruling that developer who sold them property did not own land and therefore could not convey it.
Lomas Santa Fe Aug. 28, 2001*		$210 million	Arbitration never began	An American real estate development company claimed Mexican government expropriated land for the development of streets. It alleged the government's actions were rooted in discrimination.
GAMI Investments Oct. 1, 2001* April 9, 2002**	UNCITRAL	$55 million	Dismissed	U.S. investors in Mexican sugar mills challenged failure of government to ensure profitability of mills and September 2001 expropriation of five mills. November 2004: Tribunal dismissed all claims and awarded no costs, after Mexican Supreme Court reversed the challenged expropriations.
Francis Kenneth Haas Dec. 12, 2001*			Arbitration never began	American citizen claimed he was cheated out of his rights in an investment firm held with former Mexican business partners.
Calmark Jan. 11, 2002*		$400, 000	Arbitration never began	U.S. company challenged Mexican domestic court decisions regarding a development project planned for Cabo San Lucas, alleging company was cheated out of property and compensation by various individuals.
Robert J.	UNCITRAL	$1.5	Arbitration	U.S. citizen challenged government confiscation

Frank Feb. 12, 2002* Aug. 5, 2002**		million	never began	of property alleged to be his in Baja California, Mexico.
Thunderbird Gaming March 21, 2002* Aug. 1, 2002**	UNCITRAL	$100 million	Dismissed	Canadian company operating three video gaming facilities in Mexico challenged government closure of facilities. Government contended that most forms of gambling have been illegal in Mexico since 1938. January 2006: Tribunal dismissed all claims and ordered Thunderbird to pay Mexico $1.25 million for costs. Tribunal ruled that the company failed to demonstrate that it was treated in a discriminatory manner or in a manner that violated the "minimum standard of treatment" rule. The tribunal also ruled that no expropriation occurred because the firm did not have a vested right to conduct the prohibited business activity. February 2007: U.S. court rejects Thunderbird's petition to vacate ruling.
Corn Products International Jan. 28, 2003* Oct. 21, 2003**	ICSID	$325 million	**Corn Products win, $58.38 million**	U.S. company producing high fructose corn syrup (HFCS), a soft drink sweetener, sought compensation from Mexican government for imposition of a tax on beverages sweetened with HFCS, but not Mexican cane sugar. See ADM and Cargill cases below. April 2009: January 2008 award finally became public. Tribunal ruled for CPI on the merits, then began a monetary damages assessment. Panel dismissed most claims but found that Mexico 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." August 2009 tribunal awards CPI $58.38 million.
ADM/Tate & Lyle Oct. 14, 2003* Aug. 4, 2004**	ICSID	$100 million	**ADM win, $33.5 million**	U.S. company producing high fructose corn syrup sought compensation against Mexican government for imposition of a tax on beverages made with HFCS, but not Mexican cane sugar. Mexico argued that the tax was legitimate because the U.S. had failed to open its market sufficiently to Mexican cane sugar exports under NAFTA. November 2007: NAFTA tribunal ruled that the HFSC tax was discriminatory and a NAFTA-illegal performance requirement, but did not find it was an expropriation. This issue was also litigated in the WTO, which issued a ruling against Mexico and in favor of the U.S. in 2006.

Bayview Irrigation Aug. 27, 2004* Jan. 19, 2005**	ICSID	$554 million	Dismissed	Group of 17 U.S. irrigation districts charged that Mexico diverted water owned by U.S. water districts from the Rio Grande to help irrigate Mexican farmland at the cost of U.S. farms. June 2007: Case dismissed on procedural grounds. Tribunal issued a jurisdictional ruling that the claimants, who were located in the U.S. and whose investment was located in the U.S., did not qualify as "foreign investors" under NAFTA.
Cargill Aug. 30, 2005 Registered at ICSID	ICSID	$100 million	**Cargill win, $77.3 million**	U.S. company producing high fructose corn syrup sought compensation against Mexican government for imposition of a tax on beverages sweetened with HFCS, but not Mexican cane sugar. See ADM and Corn Products cases above. Sept. 2009 tribunal rules in favor of Cargill awarding $77.3 million, the largest award in a NAFTA investment dispute to date.

Summary

Total Claims Filed Against All 3 NAFTA Parties:	**64**			64 cases, not triple-counting the three consolidated softwood lumber cases.
Dismissed Cases (Won by NAFTA Parties):	**15 Cases**			Loewen, Mondev, Methanex, Glamis Gold Ltd., Canadian Cattlemen for Fair Trade, United Parcel Service, Merrill and Ring Forestry, Chemtura, ADF Group, Azinian, et al, Waste Management, Fireman's Fund, GAMI Investments, Thunderbird Gaming, Bayview Irrigation
Cases Won by Investors:	**9 Cases**	**$326.9 million paid to foreign investors**		Ethyl, S.D. Myers, Pope & Talbot, AbitibiBowater, Metalclad, Karpa, Corn Products International, ADM/Tate & Lyle, Cargill