

TTIP and Enforcement of Arbitral Awards

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Abstract

My doctoral dissertation focuses on the investor-state dispute settlement (ISDS) procedures in the context of the Transatlantic Trade and Investment Partnership (TTIP). I have written my Master's thesis on the ISDS arbitration procedures mainly under the International Center for Settlement of Investment Disputes (ICSID) Convention. I am planning to write about the potential changes in the climate of the decisions rendered in international investment disputes, which the TTIP may bring if and when it comes into force.

The New York Convention and the ICSID Convention have traditionally been the two most popular instances to provide protection for the enforcement of arbitral awards. Of these two, the enforcement mechanism of arbitral awards in the ICSID Convention has been regarded as the more efficient one, because it states clearly that the awards are final and binding as according to the ICSID Convention Article 54 (1) the contracting states shall recognize an award "as if it were a final judgment of a court in that state". However, non-ICSID awards, e.g. awards rendered under the UNCITRAL rules and enforced by the New York Convention, can be final and binding as well. The hardship of an additional national review may sometimes even actually benefit the awards.

Due to the TTIP, the landscape of these enforcement protections is prone to changes, as it is not clear, whether the ISDS arbitration, as we now know it, will be abolished altogether. If that happens, the enforcement of arbitral awards under the ICSID Convention will no longer bear meaning at least in investment disputes arising under the TTIP. Furthermore the role of the New York Convention will be unclear, if a new permanent international investment court will be established.

I. Introduction

This paper discusses the present state of enforcing arbitral awards in international investment disputes in relation to the upcoming Transatlantic Trade and Investment Partnership Agreement (TTIP). The themes of this paper are wrapped around the main differences and similarities and the advantages and disadvantages of the two most prominent enforcement mechanisms of arbitral awards, namely the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (hereafter ICSID Convention or the Washington Convention) and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (The New York Convention), while extensive and exhaustive inspection of these two mechanisms is not possible in the limits of this paper. In addition to that I am going to speculate on the impact of TTIP (if and when it comes into force) to these aforementioned mechanisms, or whether it has any. Lastly I am assessing whether any reforms should be made to either of these mechanisms and if the TTIP would be the right platform to do so. (taking into account the position of China as an eager signatory state of bilateral investment treaties (BITs)).¹

Due to the TTIP, the landscape of these enforcement protections is prone and due to changes, as it is not clear, whether the ISDS arbitration, as we now know it, will be abolished altogether. If that happens, the enforcement of arbitral awards under the ICSID Convention will no longer bear meaning at least in investment disputes arising under the TTIP. Furthermore the role of the New York Convention will be unclear, if a new permanent international investment court will be established.

What complicates the situation around the TTIP even more, is that the negotiations are currently facing extreme headwind after the Greenpeace TTIP-leaks². On 2.5.2016 Greenpeace Netherlands are said to have leaked an approximate 3/4 of the consolidated TTIP texts, which has yet again caused a massive stir around the negotiations. The pouring outcry has resulted for example in France threatening to exit the TTIP negotiations³. Naturally even one withdrawal of a state from the negotiations is enough to dent the TTIP negotiations to the extent that TTIP will not come into force. In turn that would leave the situation surrounding the ISDS even more hazed than it is now.

¹ <http://investmentpolicyhub.unctad.org/IIA/CountryBits/42> (China is a signatory of 145 BITs, of which 109 are currently in force.)

² <https://ttip-leaks.org/>

³ <http://www.euractiv.com/section/trade-society/news/france-threatens-to-pull-out-of-ttip-negotiations/>

The side effects of the TTIP and its potential demolition would then trickle down on to the ISDS system and therefore also the enforcement mechanism of especially the ICSID Convention.

II. Washington vs New York

As said above, The New York Convention and the ICSID Convention are the two prominent mechanisms, of which the parties to the dispute have been able to choose from when entering into investment arbitration to provide protection for the enforcement of arbitral awards. The freedom of choice between these mechanisms is though limited to the condition of whether the dispute at hand is contract-based or not. If a dispute is based on a contract instead of an investment treaty, it is a non-ICSID case. In contract-based cases, it is generally the New York Convention that makes arbitral awards rendered enforceable in the states that are parties to the Convention, whereas disputes based on investment treaties are overseen by the ICSID Convention and are subject to its enforcement mechanism.⁴ Of these two, the enforcement mechanism of the ICSID Convention has been regarded as the more efficient one⁵ because of its simplicity and because it has amassed 161 contracting states at the time of writing this paper.⁶

One of the main differences of the ICSID Convention and the New York Convention is thus in the set of tools a responding state has at its disposal when not willing to comply with the arbitral award. The ICSID Convention is fairly exhaustive in stating that the awards are final and binding as according to the ICSID Convention Article 54 (1) the contracting states shall recognize an award "as if it were a final judgment of a court in that state" In ICSID Convention the only way to challenge an award is through annulment procedures, as parties are not able to appeal the merits of the award.⁷ The annulment procedures consist of five exhaustive reasons.⁸ Between 1966-2000 only

⁴ <http://www.oecd.org/investment/toolkit/policyareas/investmentpolicy/internationalarbitrationinstruments.htm>

⁵ http://www.shearman.com/~media/Files/Services/International-Arbitration/Articles/20091001_YB_Book-ICCA-Congress-series-14_Defending-Investment-Treaty-AwardsICSID-Advantage.pdf p. 1

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<https://icsid.worldbank.org/apps/ICSIDWEB/icsiddocs/Documents/List%20of%20Contracting%20States%20and%20Other%20Signatories%20of%20the%20Convention%20-%20Latest.pdf>

⁷ Bjorklund 2005, p. 471

⁸ ICSID Convention Article 52 (1): Either party may request annulment of the award by an application in writing addressed to the Secretary-General on one or more of the following grounds:

(a) that the Tribunal was not properly constituted;

5 annulment applications were registered with the ICSID Secretariat, but for example, between 2001 and 2011 already 39 annulment applications were filed. This rising trend in the amount of annulment applications also reflects the increasing recourse to investor-state arbitration in general.⁹ Nowadays one could even go as far as to claim that the annulment procedures have started to resemble a form of a standard appeal and used more as a rule than as an exception.¹⁰ Although the ICSID Convention's enforcement system is portrayed as efficient, the increased reliance on the Article 52 annulment procedures has significantly hindered and complicated the ICSID proceedings by increasing their average duration. Even if the claimant eventually still wins the case, the procedures take unnecessary time and may still cast a shadow on the legitimacy of the case. Naturally if the award is annulled in its entirety or even partially, it means that the award creditor has to go back to the drawing board and start over.¹¹

Non-ICSID awards, e.g. awards rendered under the UNCITRAL rules and enforced by the New York Convention, can naturally be final and binding as well. However, the equivalent of the ICSID Convention's annulment procedures in the New York Convention is the refusal of enforcement. Unlike in the ICSID Convention, the arbitral award has to go through the procedure of the state's grounds for refusal of enforcement. The list contains eight exhaustive conditions, under which a state may refuse the enforcement of an award.¹² Particularly annoying in the eyes of the award creditor is the hurdle of public policy exception¹³, which the national courts tend to invoke even when they should not do so,¹⁴ as national courts may be reluctant in general to give up public policy

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- (b) that the Tribunal has manifestly exceeded its powers;
 - (c) that there was corruption on the part of a member of the Tribunal;
 - (d) that there has been a serious departure from a fundamental rule of procedure; or
 - (e) that the award has failed to state the reasons on which it is based.

⁹Baetens 2013, p. 4

¹⁰Baetens 2013, p. 6

¹¹Baetens 2013, p.5

¹² See New York Convention Article V

¹³ New York Convention Article V 3 (h) Enforcement of an arbitral award shall be refused if, at the request of the party against whom the award is invoked, that party asserts and proves that: enforcement of the award would violate international public policy as prevailing in the country where enforcement is sought.

¹⁴ See e.g. Cour d'appel (Paris), *SOABI v. Senegal*, Dec. 5, 1989, published in 2 ICSID REP. 337; 117 JOURNAL DU DROIT INTERNATIONAL 141 (1990)

as the last bastion of protecting state interests¹⁵. This so-called national review process can result in a refusal to enforce an arbitral award, if the competent authority is submitted sufficient proof of one of the grounds for refusal of recognition and enforcement of the award. The competent authority, e.g. a national court of a responding state, can also adjourn the decision of the enforcement and order suitable security for award creditor for the time the decision is postponed.¹⁶ A party seeking enforcement may resort to other more favourable bases for enforcement, as in domestic laws or multilateral treaties, that are in force in the country where the party seeks enforcement.¹⁷

Juxtaposition of the efficacy of the enforcement mechanisms of the ICSID Convention and the New York Convention is not as straightforward as one might think. Both conventions have their distinctive advantages and disadvantages, and although there are no official statistics of the success rate in the compliance of enforcement in either of the mechanisms, it seems they are fairly equally effective after all¹⁸. That might be hard to argue in a legal research paper such as this, but one important piece of evidence that the state of affairs is such, is that there are few cases, where claimants have actually had to resort to national courts for the enforcement of their arbitral awards. However, if it so happens that a claimant has to resort to national court enforcement, state respondents generally do comply even with adverse arbitral awards, or are at least willing to negotiate a mutually acceptable post-award settlement. In rare occasions the responding states disagree with the outcome of the arbitral proceeding. Even that does not necessarily dent the claimant's chances of enforcing the award, as the claimant may seek enforcement in another country, against which the arbitral award was obtained, given that the responding state's assets are present in the other state, of which enforcement laws may be more favourable for the claimant. The New York Convention signatories offer a wide range of options for these kinds of purposes.¹⁹

To conclude this Washington vs. New York comparison, the two might not be that different after all. An argument that there is no reason to prioritize the ICSID enforcement could be made, because there are even some advantages that the New York Convention has over it. Firstly, the state perception of these two mechanisms does not really differ, as both treaties have some of the highest

¹⁵Draguiev 2014, p. 631 See also e.g. Kudrna 2015 “Sovereigns Rule Again: Recent Challenges to Enforcement and Execution of Arbitral Awards Against Sovereigns” p. 1.

¹⁶ New York Convention Article VI

¹⁷ New York Convention Article VII

¹⁸Baetens 2013, p. 20

¹⁹Baetens 2013, p. 17

membership rates of all multilateral treaties.²⁰ Some states have even chosen to denounce the ICSID Convention while retaining membership of the New York Convention.²¹ Secondly, all arbitral awards have to face enforcement hurdles, whether in the form of annulment procedures or a national review process. Thirdly, the "refusal of enforcement" mechanism in the New York Convention may sometimes even benefit the legitimacy of the arbitral awards and lastly, it can be viewed as positive that refusal to enforce an arbitral award does not have as drastic effects as an annulment does.²²

III. European Union's Proposal for Investment Protection and Resolution of Investment Disputes

As we know, in 2015 the investor-state dispute settlement became perhaps the single biggest hurdle in the way of going forward in the TTIP negotiations. The resistance of ISDS arbitration was so monumental, that it forced the European Commission to discover and consider other alternatives for the resolution of investment disputes in TTIP. On 12 November 2015 the European Commission finally made public the "European Union's proposal for Investment Protection and Resolution of Investment Disputes". The proposal was then submitted to the United States for consideration. The EC proposal is meaningful for the enforcement of (arbitral) awards in a number of ways, e.g. because of the whole new investment court system, the appellate mechanism and finally of course the article on enforcement of the awards. These three topics will be separately discussed below.

Investment court system

Upon the entry of the EC proposal²³, a committee will be established to appoint 15 judges to the Tribunal of First Instance. Five of these judges shall be nationals of member states of the European Union, five nationals of the United States and five and the last five shall be nationals of third

²⁰ Approximately 75% of States have ratified either or both Conventions.

²¹Baetens 2013, p. 15-16

²²Baetens 2013 p. 9

²³ European Union's Proposal for Investment Protection and Resolution of Investment Disputes (http://trade.ec.europa.eu/doclib/docs/2015/november/tradoc_153955.pdf)

countries. The number of judges may then be increased or decreased by multiples of three in the future. The judges of the Tribunal of First Instance must have the necessary qualifications in their home countries to hold a judicial office or otherwise be lawyers of recognized competence. Appointed judges have to have demonstrated expertise in public international law and in particular international investment law, international trade law and resolution of investment disputes. The vacancies will be for 6 year terms that are renewable once. The Tribunal shall hear cases in divisions of three judges; one will be a national of an EU member state, one a national of the United States and one a national of a third country. The division will be chaired by the national of a third country. Disputing parties may however agree that a case will be heard by a sole judge from a third country especially in smaller cases. The President of the Tribunal appoints the judges into divisions within 90 days of the submission of a claim. The judges will hear the case on a rotation basis to ensure that the composition of divisions is random and that all judges have an equal opportunity to serve. The judges will be paid a fixed monthly retainer fee in order for them to be available at all times and on short notice. The EU suggests the retainer fee to be 1/3 of the retainer fee paid to the WTO appellate body members, i.e. around 2000 euros per month. The disputing parties equally pay the retainer fee to an account managed by the ICSID Secretariat. The ICSID Secretariat will also act as the Secretariat for the Tribunal providing it with the appropriate support.²⁴

Appellate mechanism

Firstly, it is notable, that the European Commission's Proposal for Investment Protection and Resolution of Investment Disputes includes an appellate mechanism, which is absent in current ISDS arbitrations under the ICSID. As the prejudices towards ISDS arbitration grew larger and larger, especially during 2015, the demand for some sort of an appellate mechanism was evident. At first, though, an appellate mechanism was supposed to be implemented to the renewed and improved and more transparent ISDS arbitration system the TTIP was meant to introduce. However, even though now it seems that an investment court is the frontrunner as the new ISDS system in the TTIP, an appellate mechanism is certainly still a much-needed and welcomed addition in settling international investment disputes, whether through arbitration or by a permanent court. Article 10 of Section 3²⁵ of the EC proposal presents the framework for a new appeal tribunal. Naturally the appeal tribunal is only available for the decisions rendered by the actual tribunal of the

²⁴ European Union's Proposal for Investment Protection and Resolution of Investment Disputes Section 3, Sub-section 4, Article 9

²⁵Resolution of Investment Disputes and Investment Court System

case at hand. Once a decision is enforced, the enforcement can no longer be appealed to the appeal tribunal, or any other instance for that matter²⁶.

The Appeal Tribunal will be permanent and it is established to hear appeals from the awards issued by Tribunal of First Instance. The Appeal Tribunal comprises six members, two nationals of an EU member state, two nationals of the United States and two nationals of third countries. The EU suggests that the members of the Appeal Tribunal are paid a monthly retainer fee, as are the judges of the first instance, as well as a fee for each working day of 7000e per month combined. Other than these differences the content of Article 10 is similar to the content of Article 9 regarding the rules of the Tribunal of First instance of the investment court system.

Article 30 “Enforcement of the awards”

The TTIP may have various impacts on the enforcement of arbitral awards on both of the enforcement mechanisms discussed above in chapter II. If investor-state arbitration procedures were excluded from the TTIP treaty, one might think that it would automatically mean also the exclusion of ICSID Convention’s enforcement system in investment disputes under TTIP. As of now, however, it is uncertain whether that kind of a situation will actualize. If the ISDS arbitration in fact is dropped from the TTIP as the vast majority of the public seems to want, and a new permanent investment court is established, one might think that it would completely erase the enforcement mechanisms of both the Washington and the New York Convention. As the two Conventions strictly regulate only the enforcement of **arbitral** awards, they should not have any significance over the decisions rendered by a specialized and permanent investment court, at least in my mind. However, that seems to not be the case. To me it is very surprising that in the European Commission’s proposal to U.S. for investment protection and a new investment court, both the New York Convention and the Washington Convention are included and represented.

Article 30 of the European Commission’s proposal is the centerpiece of this paper, as it regulates the enforcement of awards. Already the spelling of the title in Article 30 raises eyebrows, as it does not speak of enforcement of “arbitral awards”, but only “awards”. On one hand the spelling of the title makes a distinction to “arbitral awards” rendered by arbitral tribunals, as it also should, because the matter is not about arbitration anymore, but rather a permanent investment court. On the other hand, the term “award” usually indicates in particular awards rendered by an arbitral tribunal

²⁶European Commission’s Proposal for Investment Protection and Resolution of Investment Disputes 2015 p. 31

Article 30 (1):Final awards issued pursuant to this Section by the Tribunal shall be binding between the disputing parties and shall not be subject to **appeal, review, set aside, annulment or any other remedy.**

especially in international investment law. I would suggest that a term like “judgment” or “decision” would better describe the results an investment court ends up with. It seems like the proposed investment court system will be some sort of a mixture of an arbitral tribunal and a special court.

Article 30 (1) states that the final awards rendered by the investment court tribunal are final and binding on the disputed parties and that the award cannot be remedied in any way. In Article 30 (2) it is stated that each party should treat the awards as a “pecuniary obligation within its territory as if it were a final judgment of a court in that Party”²⁷. According to paragraph 3 of article 30, execution of the awards will be governed by local laws in force, where such an execution is sought. Paragraph 4 in turn ensures that the rights and obligations under the agreement in question will not prevent enforcement of the award.

Paragraphs 5 and 6 of Article 30 are perhaps the most interesting content of the European Commission's proposal for the purposes of this paper. Namely these paragraphs tie the EC's proposal to the New York Convention and the ICSID Convention. Paragraph 5 of Article 30 reads as follows:

"For the purposes of Article 1²⁸ of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, final awards pursuant to this Section shall be deemed to be arbitral awards and to relate to claims arising out of a commercial relationship or transaction."

Paragraph 5 of Article 30 thus assimilates the final awards of the investment court to arbitral awards meant in the New York Convention. Personally I don't see this as a good look for the new investment court, if in fact the content of the consolidated version of this article reads as such. While trying to move forward from ISDS arbitration to decisions of a permanent court, I don't see why the awards should be treated as if they were arbitral awards defined in the New York Convention. In my view this kind of treatment of an award or decision takes away some of the basis of establishing the investment court. Surely there are other positives in establishing the investment court in the way its structures are built, as I have described above, because there is indeed a lot of room for improvement in the ISDS arbitration system. But to treat the final and binding award the same as an arbitral award meant in the New York Convention is almost frustrating. Although

²⁷ Equivalent articles are also found in the New York Convention (Article 3) and the ICSID Convention (Article 54 (1)).

²⁸ New York Convention Article 1 paragraph 2: "The term "arbitral awards" shall include not only awards made by arbitrators appointed for each case but also made by permanent arbitral bodies to which the parties have submitted."

Article 10 of the EC proposal states that the final awards cannot be remedied, it is still unclear whether that actually is the case. If an award of the investment court is treated similar to an arbitral award of the New York Convention, it opens the door for a national review, which in turn hinders and otherwise complicates the enforcement of the award.

Paragraph 6 of Article 30 reads:

"For greater certainty and subject to paragraph 1²⁹, where a claim has been submitted to dispute settlement pursuant to Article 6(2)(a)³⁰, a final award issued pursuant to this Section shall qualify as an award under Section 6³¹ of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States of 18 March 1965 (ICSID)."

The content of the paragraph hence means that if an investment dispute is brought before the court utilizing the arbitration rules of the ICSID Convention, also the final award has to be treated, as if it were an arbitral award rendered by an ICSID ad-hoc arbitral tribunal. Again, as is the case with paragraph 5, I view this as a deficiency. The enforcement of arbitral awards under the ICSID Convention makes the awards suspect for annulment procedures, which I have discussed more closely above. Paragraphs 5 and 6 both further complicate the enforcement of the final award of the investment court by applying rules of the New York Convention and the ICSID Convention. I think it is unnecessary and even detrimental to conform awards of a permanent investment court with the arbitral awards meant in the New York Convention or the ICSID Convention. It seems to me like the EC proposal for investment protection and an investment court might end up being only half-a-step forward instead of a big leap, what many had hopes for.

Other notables

In addition to the three topics discussed above, the Investment court section of the EC proposal contains various other interesting and important articles. Due to the limitations of this paper I will only superficially mention them. According to Section 3 Article 6³²(2) a claim may be submitted to

²⁹ See citation 23.

³⁰ European Commission 2015 Article 6(2)(a): "A claim may be submitted to the Tribunal under one of the following sets of rules on dispute settlement: a) the Convention on the Settlement of Investment Disputes between States and Nationals of Other States of 18 March 1965 (ICSID)"

³¹ Section 6 of the ICSID Convention regulates the "Recognition and Enforcement of the Award".

³² "Submission of a claim"

the Tribunal under different sets of rules including rules of the ICSID Convention, ICSID Additional Facility rules, and the UNCITRAL arbitration rules. At the request of the claimant, the parties may also opt to agree to the use of any other set of rules.

Another notable rule is in Article 11 “Ethics”. The public against the TTIP and ISDS in general have often blamed investment arbitrators of biased decisions, because of their hidden agendas, usually in the favor of the investor and at the expense of the state. The “Ethics” article aims to ensure that the judges are “persons whose independence is beyond doubt” meaning that they are not affiliated with any government and that they shall not take instructions from the government or organization that is in any way related to the dispute. Parties have the right to challenge the appointment of a judge if they suspect a judge to have a conflicting interest.³³

The transparency of the TTIP negotiations as a whole, as well as in ISDS arbitrations in general has also been heavily criticized by the adversaries of TTIP and ISDS. The “UNCITRAL Transparency Rules were proposed already to be implemented to the renewed and improved ISDS arbitration system, which was first introduced in the midst of the TTIP negotiations. Article 18 on “Transparency” of the EC proposal contains the implementation of the UNCITRAL Transparency rules into disputes under the investment court.

IV. Conclusions

The deliberations of this article seem to present some answers to the future state of enforcement of (arbitral) awards in international investment disputes. But just as much it leaves open for question and raises new questions. At first sight establishing an investment court sounds like it would mean the disposal of the enforcement mechanisms in the ICSID Convention and the New York Convention, as they regulate and are focused precisely on ISDS arbitration. But as is presented in this article, that seems to not be the case, even if the United States approves of the EC proposal for investment protection and a new investment court. So, firstly it is unclear whether the proposal will come through and actualize. If we assume that it will, both the New York Convention and the ICSID Convention will very much bear meaning as enforcement mechanisms of the final and binding awards of the investment court, as I have pointed out in chapter III.

It is completely another question, whether the place of these conventions is in the functioning of the investment court. In my opinion, if we take the step to stray from the ISDS arbitration altogether,

³³ Article 11 paragraphs 1-2

there is no reason to drag the enforcement mechanisms of **arbitral** awards along, because the decisions of the investment court are not arbitral awards and therefore probably shouldn't be treated as such. Wouldn't the enforcement according to the laws of the responding state be enough? Wouldn't it also make the enforcement process more simple and efficient, if the hurdles of annulment and national review were no more? Why drag these hurdles to enforce awards that aren't even products of an arbitration case? The situation would have been completely different and perfectly plausible, were these mechanisms implemented to the improved and renewed ISDS system that was first on the table in the TTIP negotiations. When added to the investment court system, they seem unnecessary or even misplaced.

Another question is the exploitation of the ICSID institution in the investment court system. On one hand I believe that a clear gap should be formed to isolate the investment court and ICSID arbitration, but on the other hand the complete omission of the ICSID institution seems a bit harsh and unlikely. The ICSID institution is tangled in the proposal in more ways than just regarding the enforcement of the awards. Namely the ICSID Secretariat is projected to provide support to manage the accounts, where the retainer fees of the judges are paid, as well as otherwise giving appropriate support for the Tribunals. I don't promote the ICSID institution to have even that kind of a role in the investment court system, but I see that less harmful than the treatment of the awards as "arbitral" awards defined in the ICSID Convention and the New York Convention. In my mind already the submission of claims should not include the possibility to choose ICSID arbitration rules or even UNCITRAL arbitration rules for that matter, because the investment court is not an arbitration body and should not function as a seat of arbitration operating under arbitration rules.

Finally, when examined closely, the investment court system comes across as a bit of a disappointment. Sure, it has many of the improvements that are vital for the development of resolution of investment disputes. But the improvements could have been achieved inside the ISDS arbitration system as well. That I would have been perfectly satisfied with. But to implement arbitration rules in to the functioning of an investment court is a shot in the dark. Furthermore, the investment court should send a positive signal to the public suspicious of arbitration. Now it cannot hold up to closer inspection and thus fails to send that proper signal, that I am sure was the agenda behind the whole undertaking. After all the investment court constructed as in the EC proposal looks a little bit like a fish out of water. It doesn't belong and it doesn't fit. The investment court is neither in the camp of arbitration, nor the camp of judicial resolution. It is an odd mixture of both, like a permanent arbitral court.

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<http://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=1058&context=annlsurvey>

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http://papers.ssrn.com/sol3/Papers.cfm?abstract_id=2573230

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2195016

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