# TABLE OF CONTENTS

Editors’ Note v

**ARTICLES**

Damages in Investment Arbitration—a Revolutionary Remedy or Reward for Rich Corporations at the Expense of the World’s Poor? A Fundamental Examination of *Chorzów’s Children* 1  
*John D. Branson*

Valuation Date in Investment Arbitration: A Fundamental Examination of *Chorzów’s Principles* 33  
*Floriane Lavaud and Guilherme Recena Costa*

Curing Uncompensated Expropriation under *Chorzów* 73  
*Nicholas J. Birch*

*Borzu Sabahi and Lukáš Hoder*

The Present and Future of Moral Damages in Investment Arbitration 115  
*Stanimir A. Alexandrov*

**BOOK REVIEW**

*Damages in International Arbitration under Complex Long-Term Contracts* by Herfried Wöss, Adriana San Román Rivera, Pablo T. Spiller, Santiago Dellepiane 131  
*Irmgard Marboe*
CASE NOTES

Tenaris S.A. and Talta-Trading E Marketing Sociedad Unipessoal LDA v. Bolivarian Republic of Venezuela, ICSID Case No. ARB/11/26 135

Crystallex International Corporation v. Bolivarian Republic of Venezuela, ICSID Case No. ARB(AF)/11/2 155

Murphy Exploration & Production Company – International v. Republic of Ecuador, UNCITRAL, PCA Case No. AA434 169
# THE JOURNAL OF DAMAGES IN INTERNATIONAL ARBITRATION

**Vol. 3** 2016  **No. 1**

**TABLE OF CONTENTS**

Editors’ Note

**ARTICLES**

Alternative Remedies in Investment Arbitration
*Christoph Schreuer*  
1

Compensation in the Context of Unlawful Expropriations
*Rafael Cox Alomar*  
31

Lawful versus Unlawful Expropriation: Heads I Win, Tails You Lose
*Christina L. Beharry*  
57

2015 International Arbitration Damages Research: Closing the Gap between Claimants and Respondents
*PricewaterhouseCoopers*  
99

Calculating Trade Secret Damages in International Arbitrations: An Analysis of Trade Secret Protection in Major EU Member States and the USA
*Elisabeth Macher, Jeffrey M. Buchakjian*  
111

Logic and Ethics in the Practice of Expert Witness Services
*Richard E. Walck*  
149

University of Oslo FDI Moot Memorial
*Vasiuki LLC v. Republic of Barancasia*  
169

**CASE NOTES**

*Hrvatska Elektroprivreda d.d. v. Republic of Slovenia*
ICSID Case No. ARB/05/24  
225

*Mobil Investments Canada Inc. & Murphy Oil Corporation v. Canada,* ICSID Case No. ARB(AF)/07/4  
237
Tidewater Investment SRL & Tidewater Caribe C.A. v. The Bolivarian Republic of Venezuela, ICSID Case No. ARB/10/5 257

Public Warehousing Company K.S.C. and Professional Contract Administrators, Inc. v. Supreme Foodservice GmbH (formerly known as Supreme Foodservice AG) and Supreme Foodservice GmbH & Co. KG, ICDR Case No. 50 181 T 00321 08 273
TABLE OF CONTENTS

Editors’ Note v

ARTICLES

The Yukos Awards – A Comment
Sophie Nappert 1

Yukos v. Russian Federation: Observations on the Tribunal’s Ruling on Damages
Borzu Sabahi and Diora Ziyaeva 41

Yukos and Contributory Fault
Wojciech Sadowski 73

Arbitral Tribunals Tend to Pay Lip Service to the Chorzów Factory Full Reparation Principle, Disregarding the Context and Full Implication of the Dictum
Diora M. Ziyaeva 121

When It Comes to Applying Chorzów, Arbitrators Are Staying on the Marked Paths
Mallory Silberman 163

ISDS: Who Wins More, Investors or States?
Howard Mann 201

Size and Trend of Concluded ICSID Awards
Leonardo Giacchino, Joseph Coscia and Thomas Sturma 205

CASE NOTES

Flughafen Zürich A.G. and Gestión e Ingeniería IDC S.A. v. Bolivarian Republic of Venezuela, ICSID Case No. ARB/10/19 233
Ol European Group B.V. v. Bolivarian Republic of Venezuela, ICSID Case No. ARB/11/25 249

Hassan Awdi, Enterprise Business Consultants, Inc. and Alfa El Corporation v. Romania, ICSID Case No. ARB/10/13 265

Khan Resources Inc. v. Mongolia (UNCITRAL) 283
# The Journal of Damages in International Arbitration

**Vol. 2** 2015  **No. 1**

## Table of Contents

| Editors' Note | v |
| ARTICLES |
| “Going Concern” as a Limiting Factor on Damages in Investor-State Arbitrations | 1 |
| *José Alberro and George D. Ruttinger* |
| Dollars and Common Sense: Understanding Reasonable Certainty in International Arbitration | 23 |
| *Neil Steinkamp, Elizabeth J. Shampnoi and Robert Levine* |
| Damages in International Arbitration with Respect to Income Generating Assets or Investments in Commercial and Investment Arbitration | 37 |
| *Herfried Wöss and Adriana San Román Rivera* |
| Damages Issues in the Arbitration of Energy Trading Disputes | 63 |
| *Louis-Alexis Bret and Craig S. Miles* |
| Fifty Billion Dollars; The Yukos Damages Awards | 91 |
| *Mark Kantor* |

## Case Notes

  - 151

- *Gold Reserve Inc. v. Bolivarian Republic of Venezuela,* ICSID Case No. ARB(AF)/09/1
  - 171

- *Saur International v. Republic of Argentina,* ICSID No. ARB/04/4
  - 187
THIRD ANNUAL JURIS DAMAGES IN INTERNATIONAL ARBITRATION CONFERENCE TRANSCRIPT

PANEL 1: WHAT IS GOOD EVIDENCE, AND WHAT IS NECESSARY TO MEET THE BURDEN OF PROOF
Remarks by Loukas Mistelis 219

PANEL 2: EXPERTS PERSPECTIVE—WHAT IS NECESSARY TO SUPPORT AN OPINION OF DAMAGES
Remarks by Victor Goldberg 247

PANEL 3: QUANTIFICATION OF DAMAGES AND WHAT IS REASONABLY VIEWED AS PROVEN VERSUS SPECULATIVE
Remarks by Laurence Shore 277

PANEL 4: COLLECTIVE PERSPECTIVES
Remarks by Franco Ferrari 305
THE JOURNAL OF DAMAGES
IN INTERNATIONAL ARBITRATION

Vol. 1  2014  No. 2

TABLE OF CONTENTS

Editors’ Note  v

ARTICLES

How Useful Are Party-Appointed Experts in International Arbitration?
Howard Rosen  1

Delay Damages in Construction Arbitration
Peter V. Badala and James G. Zack  9

Wrong Direction: “Exceptional Circumstances” and Moral Damages in International Investment Arbitration
Patrick Dumberry and Sébastien Cusson  33

Whose Money Is It and Should It Matter?
An Essay on the Cost of Capital in International Arbitration
Mick Smith and Romans Vikis  77

A Case Study in Damages Estimation:
Bolivia’s Nationalization of EGSA
Jonathan A. Lesser  103

CASE NOTES


Anatolie Stati, Gabriel Stati, Ascom Group S.A., Terra Raf Trans Traiding Ltd. v. Republic of Kazakhstan, Case No. 1:14-cv-00175-ABJ  131

THE JOURNAL OF DAMAGES
IN INTERNATIONAL ARBITRATION

Vol. 1  2014  No. 1

TABLE OF CONTENTS

Editors’ Note  v

ARTICLES

Assessing Damages in International Arbitration:
Practical Considerations  1
  Hilary Heilbron

Advocacy Regarding Damages in International
Arbitration  31
  Craig S. Miles

Approaches to the Award of Interest by Arbitration
Tribunals  51
  Mark Beeley and Richard E. Walck

A Factory in Chorzów: The Silesian Dispute that
Continues to Influence International Law and
Expropriation Damages Almost a Century Later  77
  Timothy G. Nelson

What Is a Distressed Investor to Do?  103
  Michael D. Nolan and Frédéric G. Sourgens

DAMAGES IN INTERNATIONAL ARBITRATION
SECOND ANNUAL CONFERENCE
From Case Filing to Arbitral Award

Introduction  127
  Sabine Konrad, Rory Walck

Panel 1: Perspectives on Valuing a Case  129
  Remarks by Michael Nolan
  Michael Nolan, Moderator
  Larry Work-Dembowski
  Joseph Profaizer
  Geoffrey Senogles
Panel 2: Perspectives on Damages Claims
Remarks by Lisa Richman
Irmgard Marboe, Moderator
Leonardo Giacchino
James Zack
Greig Taylor
Craig Miles

Panel 3: Perspectives on Advocacy
Remarks by Rory Walck
Alden Atkins, Moderator
Grant Hanessian
Miriam Harwood
Timothy Nelson
Sirshar Qureshi

Panel 4: Perspectives of the Tribunal
Remarks by Lisa Richman
Jackie van Haersolte-van Hof, Moderator
James Carter
Brian Casey

Round Table Discussion/Open Forum
Remarks by Rory Walck
Roberto Aguirre Luzi