

# Kluwer Arbitration Blog

## Scorecard of Investment Treaty Cases Against Argentina Since 2001

Lucy Reed (International Council for Commercial Arbitration) · Monday, March 2nd, 2009 · Freshfields Bruckhaus Deringer

In light of interest in the international arbitration community concerning investment treaty cases against Argentina since the 2001 economic crisis, we thought it could be useful to share Freshfields' working collation. We caution that this is based only on public records and press reports. Corrections are welcome.

According to our data, 46 treaty cases have been filed against Argentina since 2001; 43 cases have been registered with ICSID and 3 cases have been filed under the UNCITRAL Rules; awards have been issued in 12 cases (3 of them denying jurisdiction to the Claimants); an annulment decision has been issued in only one case and requests for annulment are pending in other 6 cases; one award is being challenged before the Washington, DC Courts; over \$100m has been awarded against Argentina, of which nothing has yet been paid. 18 cases are still pending, and proceedings have been suspended or discontinued in 16 cases.

### Cases where an Award has been Issued

1. CMS Gas Transmission Company (Gas transportation – ICSID case) Date Registered: 24 August 2001; Award in favor of the claimant for \$133.2m rendered on 12 May 2005; Annulment proceedings rejecting the application concluded (decision rendered on 25 September 2007).
2. Azurix Corp. (Water and sewer services concession – ICSID case) Date Registered: 23 October 2001; Award in favor of the claimant for \$165.2m rendered on 14 July 2006; Annulment proceedings pending.
3. Siemens A.G. (Informatic services contract – ICSID case) Date Registered: 17 July 2002; Award in favour of the claimant for \$237.8m rendered on 6 February 2007; Annulment proceeding pending.
4. LG&E Energy Corp., LG&E Capital Corp. and LG&E International Inc. (Gas distribution – ICSID case) Date Registered: 31 January 2002; Award in favor of the claimant for \$57.4m rendered on 25 July 2007; Request for supplementary decision denied on 8 July 2008; Claimants' request for annulment of the "necessity" defence section of the award is pending.
5. Enron Corporation and Ponderosa Assets L.P. (Gas transportation – ICSID case) Date Registered: 11 April 2001; Award in favor of the claimant for \$106.2m rendered on 22 May 2007;

Award rectification proceedings concluded on 25 October 2007; Annulment proceedings pending.

6. Sempra Energy International (Gas supply and distribution – ICSID case) Date Registered: 6 December 2002; Award in favor of the claimant for \$128.2m rendered on 28 September 2007; Annulment proceedings pending.

7. BG Group Plc (Gas distribution – UNCITRAL case); Award in favor of the claimant for \$185.2m rendered on 24 December 2007; Challenge of the award pending before the Washington, DC Courts.

8. Metalpar S.A. and Buen Aire S.A. (Motor vehicle enterprise – ICSID case) Date Registered: 7 April 2003; Award denying jurisdiction rendered on 6 June 2008.

9. Continental Casualty Company (Insurance company – ICSID case) Date Registered: 22 May 2003; Award in favor of the claimant for \$2.8m rendered on 5 September 2008. Claimants' request for annulment of the "necessity" defence section of the award is pending.

10. National Grid plc (Electricity transmission – UNCITRAL case); Award rendered in favor of the claimant for \$54m on 3 November 2008.

11. Wintershall Aktiengesellschaft (Gas and Oil Production – ICSID case) Date Registered: 15 July 2004; Award denying jurisdiction rendered on 8 December 2008.

12. TSA Spectrum de Argentina, S.A. (Telecommunications service provider – ICSID case) Date Registered: 8 April 2005; Award denying jurisdiction rendered on 19 December 2008.

### **Pending Cases**

1. El Paso Energy International Company (Hydrocarbon and Electricity Concessions – ICSID case) Registered: 12 June 2003; Hearing on the merits concluded in June 2007.

2. Suez, Sociedad General de Aguas de Barcelona S.A. and Interagua Servicios Integrales de Agua S.A. (Water services concession – ICSID case) Registered: 17 July 2003; Jurisdictional phase concluded; Hearing on the merits concluded in November 2007; Proceedings resumed pursuant to a request for disqualification of an arbitrator declined on 12 May 2008.

3. Suez, Sociedad General de Aguas de Barcelona S.A., Vivendi Universal S.A. (Water and sewer services concession – ICSID case) Registered: 17 July 2003; Hearing on the merits concluded in November 2007; Proceedings resumed pursuant to a request for disqualification of an arbitrator declined on 12 May 2008.

4. AWG Group Ltd. (Water and sewer services concession – UNCITRAL case) Registered: 17 July 2003; Hearing on the merits concluded in November 2007; Proceedings resumed pursuant to a request for disqualification of an arbitrator declined on 12 May 2008.

5. EDF International, SAUR International and León Participaciones Argentinas (Electricity Distribution – ICSID case) Registered: 12 August 2003; Hearing on the merits concluded in September 2008.

6. Azurix Corp. (Mendoza case) (Water and sewer services concession – ICSID case) Date Registered: 8 December 2003; Tribunal constituted on 28 March 2008.

7. Total S.A. (Gas Transportation / Power Generation / Gas and Oil Production – ICSID case) Registered: 22 January 2004; Hearing on the merits concluded in January 2008.
8. CIT Group Inc. (Leasing Enterprise – ICSID case) Registered: 27 February 2004; Jurisdictional phase concluded.
9. Mobil Exploration and Development Inc. Suc. Argentina and Mobil Argentina S.A. (Gas Production – ICSID case) Registered: 5 August 2004; Tribunal constituted on 14 August 2008.
10. DaimlerChrysler Services AG (Leasing and Financial Services – ICSID case) Registered: January 14, 2005; Tribunal constituted on 21 September 2005.
11. Asset Recovery Trust S.A. (Collection contract – ICSID case) Registered: 23 June 2005; Tribunal constituted on 24 March 2006.
12. Giovanna Beccara and others (Bondholders – ICSID case) Registered: 7 February 2007; Tribunal constituted on 6 February 2008.
13. Giovanni Alemanni and others (Bondholders – ICSID case) Registered: 27 March 2007; Tribunal constituted on 3 July 2008.
14. Impregilo S.p.A (Water services concession – ICSID case) Registered: 25 July 2007; Tribunal constituted on 27 May 2008.
15. Urbaser S.A. and Consorcio de Aguas Bilbao Biskaia, Bilbao Biskaia Ur Partzuergoa (Water services concession – ICSID case) Registered: 1 October 2007; Tribunal not yet constituted.
16. HOCHTIEF Aktiengesellschaft (Highway construction contract – ICSID case) Registered: 18 December 2007; Tribunal not yet constituted.
17. Giordano Alpi and others (Bondholders – ICSID case) Registered: 28 July 2008; Tribunal constituted on 5 December 2008.
18. Impregilo S.p.A (Highway construction concession – ICSID case) Registered: 15 October 2008; Tribunal not yet constituted.

#### **Proceedings Suspended or Discontinued**

1. AES Corporation (Electricity generation and distribution – ICSID case) Registered: 19 December 2002; Jurisdictional phase concluded; Suspended by agreement of the parties on 23 January 2006.
2. Camuzzi International S.A. (Gas Supply and Distribution – ICSID case) Registered: 27 February 2003; Hearing on the merits concluded in February 2006. Suspended by agreement of the parties on 21 June 2007.
3. Compañía General de Electricidad S.A. and CGE Argentina S.A. (Electricity Distribution – ICSID case) Registered: 4 February 2005; Jurisdictional phase concluded; Suspended by agreement of the parties on 22 February 2008.
4. Electricidad Argentina S.A. and EDF International S.A. (Electricity Distribution – ICSID case)

- Registered: 12 August 2003; Tribunal constituted on 2 June 2004; Suspended by agreement of the parties on February 5, 2008
5. Enersis S.A. and Others (Electricity Distribution – ICSID case) Registered: 22 July 2003; Tribunal constituted on 21 January 2004; Suspended by agreement of the parties on 28 March 2006.
6. Gas Natural SDG, S.A. (Gas Supply and Distribution – ICSID case) Registered: 29 May 2003; Jurisdictional phase completed; Suspended by agreement of the parties on 11 November 2005.
7. SAUR International (Water and sewer services concession – ICSID case) Registered: 27 January 2004; Jurisdictional phase concluded; Suspended by agreement of the parties on 7 April, 2006.
8. Telefónica S.A.(Telecommunications service provider – ICSID case) Registered: 21 July 2003; Tribunal constituted on 12 April 2004; Suspended by agreement of the parties on 8 April 2008.
9. Unisys Corporation (Information Storage and Management Project – ICSID case) Registered: 15 October 2003; Tribunal constituted on 3 September 2004; Suspended by agreement of the parties on 26 October 2004.
10. Aguas Cordobesas SA, Suez, and Sociedad General de Aguas de Barcelona S.A.- (Water services concession – ICSID case) Registered: 17 July 2003; Settlement agreed by the parties and proceedings discontinued at their request on 24 January 2007.
11. BP America Production Company and others (Hydrocarbon Concessions and Power Generation – ICSID case) Registered: 27 February 2004; Settlement agreed by the parties and proceedings discontinued at their request on 20 August 2008.
12. Camuzzi International S.A. (Electricity distribution and transportation – ICSID case) Registered: 23 April 2003; Settlement agreed by the parties and proceedings discontinued at their request on 25 January 2007.
13. France Telecom S.A. (Telecommunications service provider – ICSID case) Registered: 26 August 2004; Settlement agreed by the parties and proceedings discontinued at their request on 30 March 2006.
14. Pan American Energy LLC and BP Argentina Exploration Company (Hydrocarbon and Electricity Concessions – ICSID case) Registered: 6 June 2003; Settlement agreed by the parties and proceedings discontinued at their request on 20 August 2008.
15. Pioneer Natural Resources Company, Pioneer Natural Resources (Argentina) S.A. and Pioneer Natural Resources (Tierra del Fuego) S.A. (Hydrocarbon and Electricity Concessions – ICSID case) Registered: 5 June 2003; Settlement agreed by the parties and proceedings discontinued at their request on 23 June 2005.
16. RGA Reinsurance Company (Financial Reinsurance Services – ICSID case) Registered: 11 November 2004; Settlement agreed by the parties and proceedings discontinued at their request on 14 September 2006.

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