



Services

Investment Treaty
Arbitration

International Commercial
Arbitration

Treaty Negotiation Support

Management of Investment
Treaty Obligations

In 2005, David Pawlak established an independent law practice and consultancy, David A. Pawlak LLC (“DAP LLC”), following several years with prestigious private- and public-sector law offices in the USA. The practice provides cost-effective advisory and representation services in international arbitration, with a particular focus on investment treaty matters.

In addition to providing full-service representation, DAP LLC collaborates with or advises existing legal teams, including outside counsel or government officers. DAP LLC assists in arbitration representations by providing strategic advice, developing lines of argument, summarizing relevant legal materials, managing discovery, identifying and preparing effective fact and expert witness presentations, drafting – in whole or in part – tribunal submissions and correspondence for signature, conducting witness examinations, presenting oral argument at tribunal hearings, and advising company or government officials on arbitrator selection, the retention of experts and claim administration.

Understanding clients’ budgetary constraints, DAP LLC maintains a lean and efficient operation. The independence of the practice allows for flexible retention arrangements.



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Services

Investment Treaty
Arbitration

International Commercial
Arbitration

Treaty Negotiation Support

Management of Investment
Treaty Obligations

Management of Investment
Treaty Disputes

Bar Admissions

New York

US District Court Southern
District of New York

US District Court Eastern
District of New York

US Court of International
Trade

Languages

English, Spanish
(proficiency)

BIOGRAPHY

David Pawlak, an attorney admitted to the bar of the State of New York, provides advisory and representation services in international arbitration matters with a focus on investor-State disputes.

Mr. Pawlak has represented clients in arbitration matters under the rules of the United Nations Commission on International Trade Law (UNCITRAL); the International Centre for Settlement of Investment Disputes (ICSID) Additional Facility; the International Arbitral Center of the Austrian Federal Economic Chamber, Vienna (VIAC); and the International Chamber of Commerce (ICC).

Mr. Pawlak's recent engagements include, among other matters, serving as lead counsel to the Slovak Republic in defense of a multi-million Euro investment treaty claim. He also led the defense of a multi-million dollar claim brought against Poland under the UNCITRAL Arbitration Rules and the Poland-U.S. bilateral investment treaty. He has been retained to advise the Ukraine in connection with two ICSID investment treaty matters.

Mr. Pawlak also has assisted the Colombian government in the implementation of its investment treaty obligations. The United Nations Conference on Trade and Development (UNCTAD) has called upon him to provide training on investment treaty matters for officials from dozens of governments at courses in Malaysia, Ukraine, Belarus and Peru. He also has provided technical assistance to Morocco on the investment provisions of the Morocco-US Free Trade Agreement, and advised Chile on revisions to its Model BIT. Mr. Pawlak's recent commercial arbitration matters include a high-value European telecommunications industry arbitration sited in Vienna.

Until August 2005, Mr. Pawlak served as an Attorney-Adviser in the Office of the Legal Adviser at the US Department of State. He was a key member of the US legal team dedicated exclusively to investment treaty matters. The US team has prevailed in every investor-State arbitration that has been decided to date. In one such case – *Methanex v. USA* – the tribunal not only dismissed all claims, but also awarded the US its costs of defending the case.

In his role at the US State Department, Mr. Pawlak also evaluated investors' requests for espousal under international law and participated in interventions with host State government authorities on behalf of US investors. He also advised on the drafting and negotiation of investment and dispute resolution provisions in bilateral investment treaties and investment chapters of free trade agreements.

Prior to beginning work with the US Department of State in 2001, Mr. Pawlak was an associate at Milbank, Tweed, Hadley & McCloy in New York. While there, he focused on complex commercial litigation and international arbitration. Prior to Milbank Tweed, he held the position of Assistant District Counsel in the US Department of Justice Honors Program.

Honors and Awards

Mr. Pawlak earned the US Department of State's Meritorious Honor Award for his work on investment treaty arbitration. He received the *Pro Bono Publico* Award from the law firm Milbank Tweed Hadley & McCloy.

Activities

David Pawlak has lectured on arbitration, including at international conferences and training programs in Asia, Africa, Europe, Latin America and the United States. He is a member of UNCTAD's international investment agreements experts group, and the Panel of Arbitrators at the International Centre for Settlement of Investment Disputes (ICSID).

Education

Mr. Pawlak is a graduate of the University of Pittsburgh's joint-degree program offered by the School of Law and Graduate School of Public and International Affairs (JD/MPIA), and holds a graduate certificate from the University's Center for Latin American Studies. He also undertook graduate studies at the Johns Hopkins School for Advanced International Studies. Mr. Pawlak earned his undergraduate degree from the University of Michigan at Ann Arbor.

Publications

Mr. Pawlak has written on international arbitration and trade and investment treaty issues, including a book chapter entitled *Managing Investment Treaty Obligations And Investor-State Disputes: A Guide for Government Officials* (Kluwer International Law 2008).

For a traditional format CV, please click [here](#).

SELECTED ARBITRATION MATTERS

- ***Swiss investment treaty claimant v. Slovak Republic.*** Lead counsel in defense of a claim brought under the Switzerland-Slovakia BIT and the UNCITRAL Arbitration Rules. The tribunal's March 2011 award dismissed all claims, with an award of all costs, including costs of legal representation, in favor of Slovakia.
- ***Investment treaty claimant v. Republic of Poland.*** Co-counsel in defense of a claim brought under a Polish BIT and the ICC Rules.
- ***Austrian investment treaty claimant v. Slovak Republic.*** Lead counsel in defense of a multi-million Euro BIT claim brought under the Austria-Slovakia BIT and the UNCITRAL Arbitration Rules. In its October 2009 final award, the tribunal dismissed the investor's claims.
- ***Austrian investment treaty claimant v. Slovak Republic.*** Co-counsel in defense of a claim under the Austria-Slovakia BIT and the UNCITRAL Arbitration Rules. The claim targets the regulation of the Slovak health insurance sector.
- ***Inmaris Perestroika Sailing Maritime Services GmbH v. Ukraine.*** Advisor to counsel team defending an ICSID claim under the Germany-Ukraine BIT. The claim arises in connection with the operation of a windjammer sail training ship owned by an education institution of Ukraine.
- ***A major European telecommunications industry arbitration*** sited in Vienna under the Rules of Arbitration of the International Arbitral Center of the Federal Economic Chamber in Vienna to resolve disputes over control of a telecommunications joint venture.
- ***Cargill, Incorporated v. Republic of Poland.*** Led the defense of a multi-million dollar claim against Poland under the UNCITRAL Arbitration Rules. Claimant asserted that the imposition of EU-mandated agricultural product quotas resulted in violations of the Poland-U.S. BIT.
- ***Glamis Gold v. United States.*** Defended initial phases of a \$50 million claim against the U.S. under the UNCITRAL Arbitration Rules by a Canadian gold mining company. Claimant asserted a denial of the minimum standard of treatment and expropriation resulted from government measures concerning open-pit mining. The tribunal's 2009 award dismissed all claims against the United States.
- ***Methanex v. United States.*** Defended a \$970 million claim against the U.S. by a Canadian methanol producer under the UNCITRAL Arbitration Rules. Claimant argued that California's ban of the fuel additive MTBE violated NAFTA's national treatment, fair and equitable treatment, and expropriation provisions. The tribunal dismissed all claims and awarded the U.S. its costs of defending the claim.
- ***Mondev v. United States.*** Defended a \$50 million claim against the U.S. by a developer under the NAFTA and the ICSID Additional Facility Rules. Claimant asserted violations based on a decision of Massachusetts' highest court. Successfully argued the central issues of the international law minimum standard of treatment and denial of justice. The tribunal decided issues and case in favor of the United States.



SELECTED ARBITRATION MATTERS (cont'd)

- **ADF v. United States.** Defended a \$90 million claim against the U.S. by a steel producer under the NAFTA and the ICSID Additional Facility Rules involving the application of the federal Surface Transportation Act. Presented factual submissions and argument on fair and equitable treatment. The tribunal decided the case in favor of the United States.
- **Fireman's Fund v. Mexico.** Represented U.S. interests as NAFTA Party on issues of treaty interpretation in a \$50 million claim against Mexico under the ICSID Additional Facility Rules. Fireman's alleged violations of the NAFTA's investment and financial services chapters in connection with an investment in bonds issued by a Mexican bank holding company.
- **Waste Management II v. Mexico.** Represented U.S. interests as NAFTA Party on issues of treaty interpretation in a \$60 million claim against Mexico under the ICSID Additional Facility Rules alleging breach of the fair and equitable treatment obligation and expropriation.

SELECTED SPEAKING ENGAGEMENTS AND TRAINING SEMINARS

- ***Rethinking Investment Treaty Law: A Policy Perspective***, Lecturer, London School of Economics Transnational Law Project, London, UK (May 23, 2011).
- ***Dispute Settlement in International Investment Agreements***, Lecturer, Workshop on International Investment Agreements, organized by the General Directorate for International Economic Affairs (DIRECON), Santiago, Chile (April 13, 2011).
- ***Relative Standards of Treatment, Absolute Standards of Treatment, and Dispute Settlement***, Lecturer and Handbook Peer Reviewer, Seminar for Negotiators of International Investment Agreements, sponsored by the Asia Pacific Economic Cooperation (APEC), the Ministry of Foreign Affairs of Chile, the Ministry of Economy of Mexico and U.N. Conference on Trade & Development, Santiago, Chile (April 11-13, 2011).
- ***Most Favored Nation Treatment in Investment Agreements***, Discussant, Organisation for Economic Co-operation and Development (OECD), International Investment Agreements and Investor-State Dispute Settlement at a Crossroads, Paris, France (Dec. 14, 2010).
- ***Investor Consultations and Amicable Settlements***, Advisor-Consultant, Ministry of Trade, Industry and Tourism, Bogotá, Colombia (Apr. 15-16, 2010).
- ***Model BIT Review***, Advisor-Lecturer, General Directorate for International Economic Affairs (DIRECON), Santiago, Chile (Sept. 9-10, 2009).
- ***Fair and Equitable Treatment; Management of Investment Treaty Disputes; Alternative Dispute Resolution and Dispute Prevention Policies***, Lecturer, Asia Pacific Economic Cooperation (APEC), Regional Training Course on the Core Elements of International Investment Agreements, Kuala Lumpur, Malaysia (June 15-19, 2009).
- ***Investment Protection under Colombia's International Investment Agreements***, Lecturer, Training Workshop for Government Officials, Ministry of Trade, Industry and Tourism, Bogotá, Colombia (Feb. 23-25, 2009).
- ***Expert Meeting on Investment for Development: The Development Dimension of International Investment Agreements***, Invited Participant, U.N. Conference on Trade & Development, Geneva, Switzerland (Feb. 10-11, 2009).
- ***Investment Treaties and National Security Issues***, Lecturer, Conference on Investment Treaty Arbitration, Court of Arbitration at the Polish Chamber of Commerce in Warsaw, sponsored by Sołtysiński, Kawecki & Szlęzak, Warsaw, Poland (Nov. 13, 2008).
- ***Managing Investment Obligations: A Guide for Government Officials***, Lecturer, Seminar on Investment Agreements and Investor-State Disputes for Latin American Officials, sponsored by the Inter-American Development Bank, Organization of American States and U.N. Conference on Trade & Development, Bogotá, Colombia (Sept. 10-11, 2008).

SELECTED SPEAKING ENGAGEMENTS AND TRAINING SEMINARS
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- ***Alternative Methods of Investor-State Dispute Resolution***, Lecturer & Resource Person, U.N. Conference on Trade & Development and Ministry of Justice of Ukraine, Conference for Countries from Eastern and Southern Europe and Central Asia, Kiev, Ukraine (June 2-3, 2008).
- ***Investment Protection under the Morocco-US Free Trade Agreement***, Lecturer, Commercial Law Development Program Workshop, Ministry of Economy and Finance, Rabat, Morocco (Apr. 21-23, 2008).
- ***Grounds for Initiating Arbitration involving Governments, Government Agencies & State-owned Companies; Avoiding Disputes under International Law and Bilateral Investment Treaties***, Lecturer, Ministry of Justice Program on International Arbitration Involving States or State-owned Entities, Kiev, Ukraine (Nov. 26-29, 2007).
- ***Fair and Equitable Treatment; National Treatment; Transparency in International Investment Agreements; Comparing the UNCITRAL & ICSID Arbitration Rules***, Lecturer & Resource Person, U.N. Conference on Trade & Development, Regional Training Session on International Investment Agreements and Investment Disputes for Countries of Eastern & Southern Europe and Central Asia, Minsk, Belarus (July 16-25, 2007).
- ***Arbitration Theory and Practice***, Lecturer, Development Lawyers Course, International Development Law Organization, Rome, Italy (April 16-17, 2007).
- ***Investor Protection and the Implementation of Investment Treaty Obligations***, Training Seminar II, Lecturer, Ministry of Trade, Industry and Tourism, Bogotá, Colombia (Feb. 12-14, 2007).
- ***Investor Protection and the Implementation of Investment Treaty Obligations***, Training Seminar I, Lecturer, Ministry of Trade, Industry and Tourism, Bogotá, Colombia (Nov. 6-9, 2006).
- ***Dispute Resolution under NAFTA Chapter Eleven***, Guest Lecturer, International Dispute Resolution, American University Washington College of Law, Washington, D.C. (April 2004).
- ***The International Minimum Standard of Treatment of Foreign Investment: Fair and Equitable Treatment***, Speaker, United Nations Conference on Trade & Development, Intensive Training Course for Negotiators of International Investment Agreements, Lima, Peru (Oct. 2003).
- ***NAFTA Investment Disputes Docket Briefing***, Speaker & US State Department Representative, National Advisory Committee to the U.S. Representative to the Commission for Environmental Cooperation, Washington, D.C. (May 8-9, 2003).

SELECTED SPEAKING ENGAGEMENTS AND TRAINING SEMINARS
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- ***Investor-State Arbitration under Bilateral Investment Treaties***, Speaker, A Forum on Arbitration of International Commercial Disputes, American Arbitration Association, Pittsburgh, Pennsylvania (Dec. 12, 2002).
- ***Investor-State Arbitration under NAFTA Chapter Eleven: The Role of Government Counsel***, Speaker, Inter-American Bar Association Annual Conference, Cochabamba, Bolivia (June 2002).
- ***Rules of Origin Determinations & The Future of the Free Trade Area of the Americas***, Speaker, Inter-American Bar Association Annual Conference, Quito, Ecuador (Fall 1995).



SELECTED PUBLICATIONS

- *Does the Essential Security Exception in US International Investment Agreements Really Shield the CFIUS from International Arbitral Scrutiny?* (co-author) (forthcoming).
- *Managing Investment Treaty Obligations and Investor-State Disputes: A Guide for Government Officials* (co-author), in *LATIN AMERICAN INVESTMENT TREATY ARBITRATION: THE CONTROVERSIES AND CONFLICTS* (Thomas E. Carbonneau ed., Kluwer Law International 2008).
- *Western Nations Could Be Hit by Legal Action on SWFs*, *FINANCIAL TIMES*, June 26, 2008 (Comment & analysis, Letters).
- *Enforcement of Foreign Arbitral Awards*, *INTERNATIONAL LAWYER: THE YEAR IN REVIEW* (Summer 2005).
- *International Trade in the Americas: The Inter-American Lawyer's Guide to Origin Determinations*, 5 *TULANE J. OF INT'L & COMP. L.* (1997).
- *Learning from Computers: The Future of the Free Trade Area of the Americas*, 27 *UNIV. OF MIAMI INTER-AMER. L. REV.* (1996).