



DAVID A. PAWLAK

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CAREER

DAVID A. PAWLAK LLC, 2005 - present

International counsel and advisor leading an independent boutique law practice and consultancy, providing cost-effective representation and advisory services in international arbitration, with a particular focus on investment treaty matters.

U.S. DEPARTMENT OF STATE, OFFICE OF THE LEGAL ADVISER, 2001 - 2005

Attorney-Adviser dedicated exclusively to investment treaty matters as a key member of US team that has prevailed in every investor-State arbitration decided to date.

MILBANK, TWEED, HADLEY & MCCLOY, 1998 - 2001

Litigation and arbitration associate in New York office.

U.S. DEPARTMENT OF JUSTICE, HONORS PROGRAM, 1996 - 1998

Assistant District Counsel in New York.

BAR ADMISSIONS

New York, 1997

US District Court for the Southern District of New York

US District Court for the Eastern District of New York

US Court of International Trade

PRACTICE

Investment Treaty Arbitration (UNCITRAL, ICSID, ICSID Additional Facility, ICC)

International Commercial Arbitration (UNCITRAL, VIAC, ICC)

Treaty Negotiation Support

Management of Investment Treaty Obligations

Management of Investment Treaty Disputes

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.

Swiss investment treaty claimant v. Slovak Republic

Lead counsel in defense of a BIT claim brought under the Switzerland-Slovakia BIT and the UNCITRAL Arbitration Rules raising claims of denial of justice and full protection and security. The tribunal's March 2011 award dismissed all claims, with an award of costs, including costs of legal representation, in favor of Slovakia.

Investment treaty claimant v. Republic of Poland

Co-counsel in defense of a BIT claim brought under the ICC Rules. Following the principal pleadings and evidence discovery, the investor abandoned its claim. The tribunal's August 2011 award ordered the investor to pay Poland's legal fees.

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 dispute relates to the regulation of the Slovak health insurance sector.

Inmaris Perestroika Sailing Maritime Services GmbH v. Ukraine

Advisor to counsel team defending an ICSID claim brought under the Germany-Ukraine BIT. The dispute arises in connection with the operation of a windjammer sail training ship that is 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 (VIAC) to resolve a €2 billion dispute over control of a telecommunications joint venture.

Cargill, Incorporated v. Republic of Poland

Led the defense of a \$150 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 of America

Defended initial phases of a \$50 million claim under the UNCITRAL Arbitration Rules by a Canadian gold mining company claiming expropriation and denial of the minimum standard of treatment resulting from federal and state measures concerning open-pit mining. The tribunal's 2009 award dismissed all claims.

Methanex v. United States of America

Defended a \$970 million claim 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 of America

Defended a \$50 million claim by a Canadian developer under the NAFTA and the ICSID Additional Facility Rules. Claimant asserted violations based on a decision of Massachusetts' highest court. Argued the central issues of the international minimum standard of treatment and denial of justice. The tribunal decided issues and case in favor of the United States.

ADF v. United States of America

Defended a \$90 million claim 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 under the ICSID Additional Facility Rules. Fireman's alleged violations of 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.

ADVISORY / CONSULTANCY WORK

Investor Consultations and Amicable Settlements, Advisor-Consultant, Ministry of Trade, Industry and Tourism, Bogotá, Colombia (April 2010).

Model BIT Review, Advisor-Lecturer, General Directorate for International Economic Affairs (DIRECON), Santiago, Chile (Sept. 2009).

Investment Protection under the Morocco-US Free Trade Agreement, Consultant-Lecturer, Commercial Law Development Program Workshop, Ministry of Economy and Finance, Rabat, Morocco (April 2008).

Investor Protection and the Implementation of Investment Treaty Obligations, Training Seminar II, Lecturer, Ministry of Trade, Industry and Tourism, Bogotá, Colombia (Feb. 2007).

Investor Protection and the Implementation of Investment Treaty Obligations, Training Seminar I, Lecturer, Ministry of Trade, Industry and Tourism, Bogotá, Colombia (Nov. 2006).

Model BIT Review & Investment Agreement Negotiations, Advised US government officials on drafting investment and dispute resolution provisions of international investment agreements as attorney-adviser at US Department of State (2001-2005).

SPEAKING ENGAGEMENTS

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. 2010).

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 2009).

Investment Protection under Colombia's International Investment Agreements, Lecturer, Training Workshop for Government Officials, Ministry of Trade, Industry and Tourism, Bogotá, Colombia (Feb. 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. 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. 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. 2008).

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 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. 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 2007).

Arbitration Theory and Practice, Lecturer, Development Lawyers Course, International Development Law Organization, Rome, Italy (April 2007).

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 2003).

Investor-State Arbitration under Bilateral Investment Treaties, *Speaker*, A Forum on Arbitration of International Commercial Disputes, American Arbitration Association, Pittsburgh, Pennsylvania (Dec. 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).

MEMBERSHIPS & AWARDS

Panel of Arbitrators, International Centre for Settlement of Investment Disputes (ICSID).

Member, United Nations Conference on Trade and Development (UNCTAD) international investment agreements experts group.

ACQ Country Awards, Litigation Law Firm of the Year, Czech Republic, 2010.

U.S. Department of State, Meritorious Honor Award for work on investor-State treaty arbitration matters, 2003.

Milbank Tweed Hadley & McCloy, *Pro Bono Publico* Award, 1999.

EDUCATION

THE UNIVERSITY OF PITTSBURGH, 1992 - 1996

Juris Doctorate / Masters in Public & International Affairs - Joint Degree
Graduate Certificate - Center for Latin American Studies

JOHNS HOPKINS SCHOOL FOR ADVANCED INTERNATIONAL STUDIES, 1992

Summer Program

THE UNIVERSITY OF MICHIGAN, 1986 - 1990

Bachelor of Arts, Political Science

PUBLICATIONS

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).

LANGUAGE

Spanish (proficiency)

CITIZENSHIP

United States of America

European Union (Irish)