



*A portrait
of transnational power*

in MEXICO

*the investment
protection regime
and its consequences*

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For more information about the impacts of the investment protection regime in Latin America and the Caribbean: www.ISDS-AmericaLatina.org

SUMMARY

This report is an overview of the latest published figures **for known investor-state cases against MEXICO up to 30 June 2024**. All claims are initiated on the basis of an international investment treaty. Here are the key findings:

MEXICO is party to **31 Bilateral Investment Treaties (BITs)** and **11 Free Trade Agreements (FTAs)** that include a recourse to international arbitration tribunals as the main mechanism for resolving disputes between investors and states, known as Investor-State Dispute Settlement (ISDS)



With a total of **55 claims** **MEXICO** is the **third most sued country** in Latin America and the Caribbean and the **fourth worldwide**.

US, Canadian and European investors account for **93% of all lawsuits**.



14 cases have already been resolved **favouring the investors**.

MEXICO has been ordered or agreed to pay a total of **US\$ 341 million**,

which represent **3 times** the **2024 budget** of the **Ministry of Culture** and is more than the **total combined budget** that Mexico foresees in 2024 for the search of missing persons, the Special Prosecutor's Office for the Investigation of Crimes of Enforced Disappearance and the Special Prosecutor's Office for the Investigation of the Crime of Torture.



Of the filed cases, **23** are **pending**, in which investors are claiming more than **US\$ 13.635 billion**

The actual amount could be even higher since not all the information is made public.

This would be enough to finance **Mexico's Maternal Sexual and Reproductive Health programme** for **82 years**.



The economic sectors with the highest number of claims are **MINING, GAS and OIL**



MEXICO

A portrait of transnational power: the investment protection regime and its consequences

*In 2023, **Mexico had received the most investment arbitration claims under investment protection treaties worldwide.** With 55 cases in total, Mexico is now among the most sued countries by foreign investors before international arbitration tribunals and the third highest in Latin America and the Caribbean. An increasing volume of public money may end up being paid to foreign investors' multi-million-dollar claims resulting from arbitrations. Despite this, Mexico continues to sign new investment protection treaties that include recourse to international arbitration tribunals as the main mechanism for Investor-State Dispute Settlement (ISDS).*

In recent years, Mexico ratified the CPTPP; renegotiated the Treaty between Mexico, the United States and Canada (NAFTA 2.0/USMCA), maintaining the ISDS system between Mexico and the US; and concluded the renegotiation 'in principle' of the Trade Agreement with the European Union (EU), which includes a new investment protection chapter. In 2018 it also became a full member of the World Bank's International Centre for Settlement of Investment Disputes (ICSID) Convention.

In this report we look at Mexico's investment protection regime and outline its main consequences for the country.

What is the Investor-State Dispute Settlement Mechanism?

The Investor-State Dispute Settlement mechanism (ISDS) allows foreign investors, mainly large transnational corporations (TNCs) and investment funds, to sue states before international arbitration tribunals when they believe that national laws, regulations, legal decisions or other public measures violate their treaty protections. Cases are usually decided by three arbitrators, often private-sector lawyers with strong pro-investor biases. Academics, practitioners and civil society organisations (CSOs) have expressed many criticisms of ISDS, including:

- The lack of transparency in arbitration proceedings.
- The lack of impartiality and independence of arbitrators.
- Award enforcement can take place anywhere in the world.
- The higher cost of Investor-State arbitration compared to trials in national courts.
- The system is unilateral: only the investor can initiate a lawsuit.
- The lack of a mechanism for victims to obtain justice in cases of abuse by TNCs.

Mexico's universe of investment protection treaties

Mexico is party to 31 enforced Agreements for the Promotion and Reciprocal Protection of Investments (APPRI in Spanish), or Bilateral Investment Treaties (BITs), most of which are with European countries (18). All but three entered into force after 2000. Twenty-two of the 31 BITs could already be terminated since the stipulated 10-year validity phase has expired, therefore giving **Mexico the opportunity to revise and/or withdraw from more than 70% of its existing BITs.**

However, the Mexican government's policy has been to continue signing investment protection treaties. In recent years, Mexico signed several BITs, most of which are already in force, except the one with Haiti signed in 2015.

TABLE 1 • MEXICO'S BITs

READY FOR TERMINATION				
BIT with	Signing date	Date of entry into force	Date after which the treaty could be unilaterally terminated	Duration of Sunset Clause
Singapore	12/11/2009	03/04/2011	2021 (art 30)	15 years
Austria	29/06/1998	26/03/2001	2011 (art 30)	10 years
Czech Republic	04/04/2002	13/03/2004	2014 (art 25)	10 years
Denmark	13/04/2000	24/09/2000	2010 (art 23)	10 years
Finland	22/02/1999	30/08/2000	2010 (art 24)	10 years
France	12/11/1998	12/10/2000	2010 (art 13)	15 years
Germany	25/08/1998	23/02/2001	2011 (art 22)	15 years
Sweden	03/10/2000	01/07/2001	2011 (art 21)	10 years

United Kingdom	12/05/2006	25/07/2007	2017 (art 27)	15 years
Argentina	13/11/1996	22/06/1998	2008 (art. 13)	10 years
Cuba	30/05/2001	29/03/2002	2012 (art 14)	10 years
Iceland	24/06/2005	28/04/2006	2016 (art 26)	10 years
South Korea	14/11/2000	27/06/2002	2012 (art 19)	10 years
Spain	10/10/2006	03/04/2008	2018 (art 23)	10 years
Switzerland	10/07/1995	14/03/1996	2006 (art 14)	10 years
Trinidad and Tobago	03/10/2006	16/09/2007	2017 (art 33)	10 years
Uruguay	30/06/1999	01/07/2002	2012 (art 13)	10 years
Slovakia	26/10/2007	08/04/2009	2019 (art 32)	10 years
Belarus	04/09/2008	27/08/2009	2019 (art 33)	10 years
China	11/07/2008	06/06/2009	2019 (art 32)	10 years
Brazil ¹	26/05/2015	07/10/2018	2018 (Art 21)	none
Bahrain	29/11/2012	30/07/2014	2024 (art 31)	10 years

AFTER THE INITIAL VALIDITY PHASE, IT WAS RENEWED AND A NEW EXPIRATION DATE WAS AGREED

BIT with	Signing date	Date of entry into force	Date after which the treaty could be unilaterally terminated	Duration of Sunset Clause
BLEU Belgium-Luxembourg Economic Union	27/08/1998	18/03/2003	2033 (art 22)	10 years
Greece	30/11/2000	26/09/2002	2032 (art 21)	10 years
Italy	24/11/1999	05/12/2002	2032 (art 12)	10 years
Netherlands	13/05/1998	01/10/1999	2029 (art 13)	15 years
Portugal	11/11/1999	04/09/2000	2030 (art 21)	10 years

THE INITIAL PHASE OF (USUALLY) 10 YEARS HAS NOT YET ENDED. ONCE REACHED, THE BIT CAN BE TERMINATED AT ANY TIME

BIT with	Signing date	Date of entry into force	Date after which the treaty could be unilaterally terminated	Duration of Sunset Clause
Kuwait	22/02/2013	28/04/2016	2026 (art 30)	10 years
Hong Kong	23/01/2020	16/06/2021	2031 (art 36)	10 years
United Arab Emirates	19/01/2016	25/01/2018	2028 (art 31)	10 years
Turkey	17/12/2013	17/12/2017	2027 (art 33)	10 years

Source: The authors, based on UNCTAD Investment Policy Hub.

Main Provisions of Investment Protection Treaties Allowing Lawsuits against States

1 Compensation for 'Indirect Expropriation'

While the term expropriation originally referred to the physical forfeiture of a property, the current rules also protect investors against 'indirect' expropriation, with reference to regulations and other government actions that significantly reduce the value of a foreign investment or hinder expected profits.

As a result, corporations can now sue a state for compensation for environmental, health or other public interest laws and regulations adopted through a democratic process, which they regard as encroaching on their interest. While the courts cannot force a government to revoke a law or a regulation, the threat of being ordered to pay large sums in damages can have a 'chilling effect' on reasonable national policies.

2 The most frequently used provision of 'Fair and Equitable Treatment'

Arbitrators have interpreted this provision so broadly that it has been very favourable to transnational investors. Any government action that negatively affects the investor's business can be interpreted as 'discriminatory' and therefore breach 'fair and equitable treatment'.

3 National Treatment and Most-Favoured-Nation Principle

Governments must treat foreign investors and their investments at least as favourably as domestic investors (national treatment) and those from any third country (most-favoured-nation treatment). Although touted as a basic principle of fairness, in practice this strips governments of the power to implement the kind of national development strategies that virtually all successful economies adopted in the past. Moreover, a regulatory measure that applies to all companies but has a disproportionate impact on a foreign investor could be considered a violation of national treatment.

4 Prohibition of Capital Controls

Governments are prohibited from applying restrictions on capital flows, although many governments have adopted such controls to effectively prevent and mitigate volatility and financial bubbles. Even the International Monetary Fund (IMF) itself now recognises that in some circumstances capital controls are important public policy tools.

5 Prohibition of Investment Performance Requirements

Governments must surrender their authority and refrain from requiring foreign investors to use a certain percentage of locally produced inputs in their products and to transfer technology, and from imposing other guidelines that in the past were tools of responsible economic development policies.

6 Full Protection and Security Standard

This standard covers physical and legal damages affecting investments, allegedly caused by the state or by third parties (e.g. civil society or communities defending their natural and territorial resources). Drawing little attention until recently, investors have increasingly used this component of investment treaties. This standard commands, for example, the state's use of force or other means to ensure the protection of investors when communities protest against their projects.

In addition to its 31 BITs, **Mexico is party to 11 existing Trade Agreement** which include an investment chapter and allow recourse to investment arbitration as the main ISDS mechanism.

TABLE 2 • TRADE AGREEMENTS SIGNED BY MEXICO THAT INCLUDE AN INVESTMENT CHAPTER AND AN ARBITRATION MECHANISM FOR INVESTORS

Trade Agreement	Date of entry into force
United States-Mexico-Canada Agreement (USMCA)	2020
Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)	2018
Additional Protocol to the Framework Agreement of the Pacific Alliance signed between Mexico, Chile, Colombia and Peru	2016
Mexico-Panama FTA	2015
Mexico-Peru FTA	2012
Mexico FTA with the Central American Common Market	2013
Mexico-Japan Agreement for the Strengthening of Economic Partnership	2005
Mexico-Uruguay FTA	2004
Mexico-Chile FTA	1999
Mexico-Nicaragua FTA	1998
Mexico-Colombia-Venezuela FTA	1996

Source: The authors, based on UNCTAD Investment Policy Hub.

USMCA (NAFTA 2.0)

Mexico has renegotiated NAFTA with the US and Canada. **This agreement, which has been in force for more than 20 years, has not only generated adverse economic, social and environmental consequences², but is also responsible for 38 of the 55 claims that investors have filed against Mexico using the arbitration system.**

On 1 October 2018, the three governments agreed to a NAFTA 2.0, or USMCA, for United States, Mexico and Canada Agreement. The USMCA entered into force on 1 July 2020 and amends NAFTA's Chapter 11 on Investment which allowed claims through the ISDS mechanism. The new treaty eliminates the possibility of Investor-State lawsuits between the United States and Canada, but with some limitations leaves the door open for ISDS claims by US investors against Mexico and vice versa (although the latter is less likely).

Under the USMCA, investors will only be able to sue if the 'most favoured nation' and 'national treatment' clauses are breached or in the case of direct (not indirect) expropriation, applicable to certain sectors like oil and gas, power generation, transport, telecommunications or other infrastructures.³ In addition, NAFTA's investment protection chapter 11 remained in force for three more years for the three countries (until June 2023), under the so-called 'legacy clause'.⁴

Despite the restrictions on lawsuits that the USMCA supposedly imposes, in only two years it has become the second most harmful investment treaty for Mexico, since 15 of the lawsuits against the country invoke this treaty (in parallel to NAFTA). This shows that it is not enough to reform agreements if these do not completely prevent the use of ISDS because investors will always find a way to sue states in the arbitration system.

Mexico expands privileges to foreign investors

Although Mexico ranks globally among the most sued countries by foreign investors, the Mexican government has persisted in granting protection rights.

TPP-11: Mexico Was the First to Ratify

On 8 March 2018, in Santiago de Chile, 11 countries signed the revised version of the Trans-Pacific Partnership (TPP) – Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam – without the United States, since former President Donald Trump withdrew from the negotiations. **This Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) is also known as TPP-11.** The negotiations accelerated after the US withdrawal and were completed in only five months. Six countries ratified the CPTPP to trigger its entry into force on 30 December 2018. Submitted to Congress, which voted in favour, Mexico was the first country to ratify the TPP-11, only six weeks after its signature.

The CPTPP includes an investment protection chapter that grants special rights to investors, including the access to investment arbitration, for example. New Zealand and Australia agreed not to apply the treaty's Investor-State dispute provisions and invited other CPTPP members to follow suit.⁵ Mexico could have signed similar side-agreements but chose to keep the ISDS provision intact.

Mexico is the first country to receive ISDS claims under the CPTPP, namely the Canadian electric utilities Caisse de Dépôt et Placement du Québec and CDP Groupe Infrastructures Inc. v. United Mexican States (ICSID Case No. ARB/23/53)⁶ and from the Canadian mining company Almadex and Almaden (ICSID Case No. ARB/24/23).⁷

On 28 April 2020, in the midst of the COVID-19 crisis, **Mexico and the EU announced the end of their negotiation to modernise their FTA**, which had been in force since 2000, **and signed an 'agreement in principle'**.⁸ A key point of the modernisation is the inclusion of an investment protection chapter, absent from the former EU-Mexico agreement. With the addition of this new chapter, privatisations and pro-corporate reforms in Mexico's oil and gas sector will be protected from future intentions to revert them, or investors could use the treaty to sue Mexico.⁹

Proponents of modernisation argue that the dispute settlement mechanism proposed in the agreement, now called the Investment Court System (ICS), is an improved version of the former ISDS system. This is far from the reality: although the ICS may improve administrative procedures, the main problem with the system remains – allowing foreign investors to sue Mexico for any legislation affecting their profits, including policies on health or climate change.¹⁰

Finally, **Mexico is negotiating other FTAs that could contain investment protection provisions**, including with Turkey¹¹, Ecuador¹²¹³ and the renewal of the Mexico-Chile trade agreement.

ICSID Accession



In July 2018, Mexico became the 154th member of the International Centre for Settlement of Investment Disputes (ICSID), the World Bank's international arbitration body.¹⁴ According to sources close to the Mexican government, the decision was directly related to the uncertain US position regarding the future of the USMCA investment chapter. **By joining ICSID, Mexico sent a strong signal to foreign investors that their economic interests will be protected regardless of future government's policies.**¹⁵ The community of investment lawyers applauded the Mexican government's move, declaring that '[T]he country did much to fight the perception that it is anti-arbitration by signing the ICSID and New York Conventions last year and also appears to be supporting the retention of Investor-State disputes provisions in NAFTA'¹⁶

This statement is based on one of the ideological pillars of the global economy of the 1990s, which believed that foreign direct investment (FDI) could be guaranteed only by granting legal security to capital investors. However, international organisations (such as the OECD and UNCTAD), academics, lawyers and CSOs have increasingly questioned the supposed benefits of this system, including free trade and investment agreements.

By joining ICSID, Mexico lost the opportunity to be one of the leading countries in rethinking its trade and investment policy.

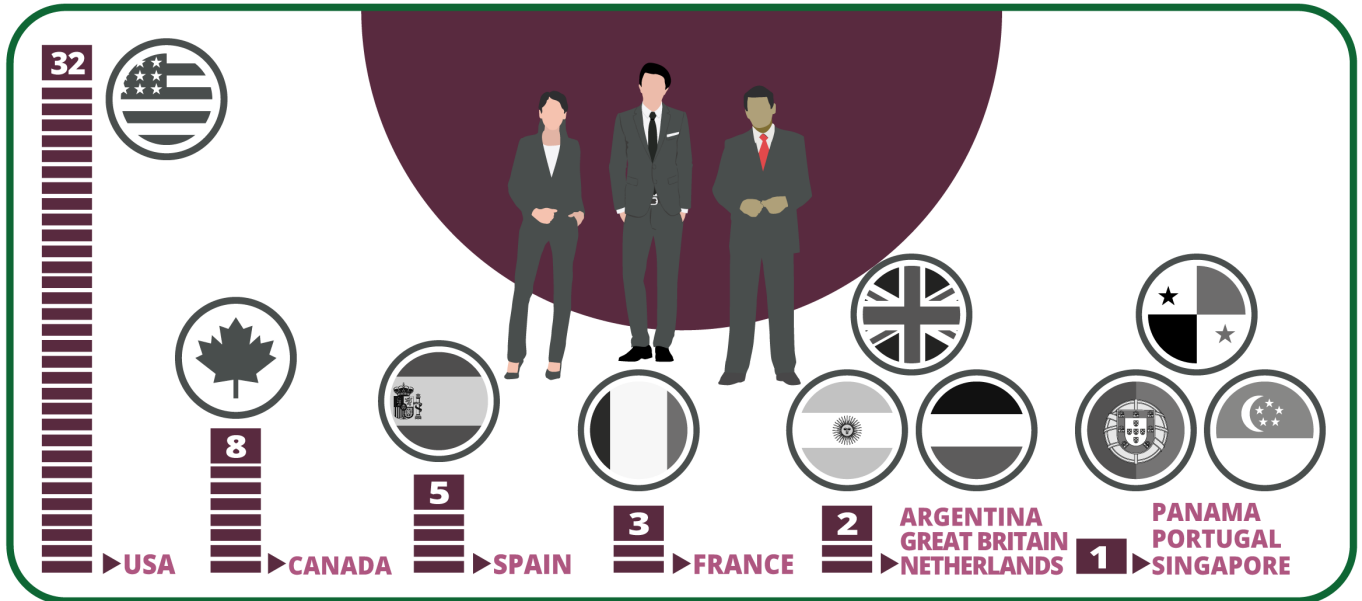
Mexico – the third most sued country in the region

Mexico is the third most sued country in Latin America and the Caribbean and the fourth globally,¹⁷ with **55 known Investor-State claims** as of 30 June 2024.¹⁸ Most of the claims were resolved before an ICSID tribunal, only three claims involved ad-hoc tribunals while in one case it is not known which institution is supervising the case. ICSID arbitration rules apply as from mid-2018 when Mexico formally became an ICSID member (23 claims), whereas ICSID Additional Facility rules were applied in claims made before 2019 (19 claims) or were dealt with under UNCITRAL rules, the United Nations Commission on International Trade Law (13 claims).

INVESTORS SUING

Of all the investors suing Mexico, **56% are from the US.** When adding investors from Canada and Europe, **93% of the ISDS lawsuits were initiated by investors from these two regions.**¹⁹ Interestingly, most of the arbitrators at ICSID are from North American and European countries.²⁰ Conversely, only seven lawsuits were brought by Mexican companies against other countries, two against Spain and the US, and one each against Colombia, Honduras and Peru.²¹

GRAPH 1 • NATIONALITY OF INVESTORS SUING

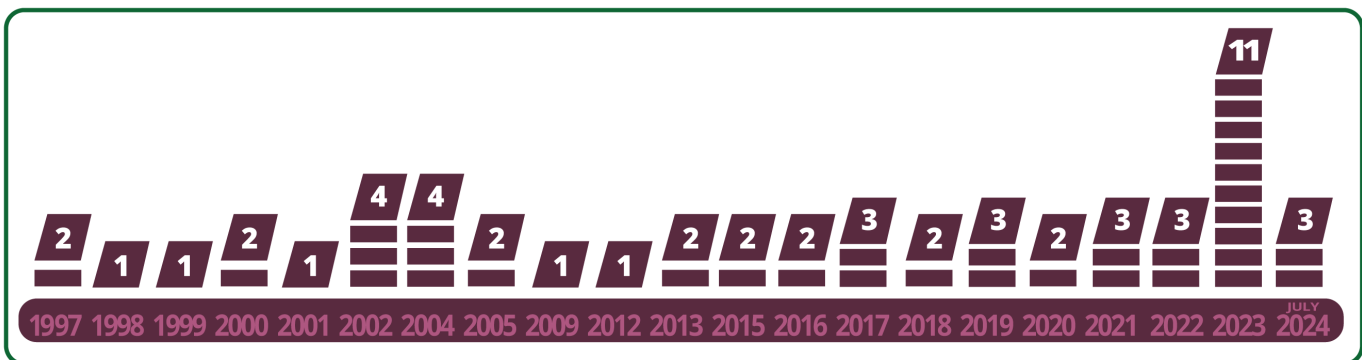


Source: The authors, based on UNCTAD Investment Policy Hub, ICSID and other arbitration tribunals.

NUMBER OF CLAIMS PER YEAR

Mexico received its first investment arbitration claim in 1997 from the US company Metalclad, which wanted to build a confinement of carcinogenic waste (asbestos) in subway aquifers in an area that the municipal government of Guadalcazar, in the state of San Luis Potosí, later declared as a natural reserve. **Since 2015, not a year has gone by without Mexico receiving a ISDS lawsuit from foreign investors. This avalanche of lawsuits peaked in 2023 with 11 lawsuits, more than any other country worldwide that year.**

GRAPH 2 • NUMBER OF CLAIMS PER YEAR



Source: The authors, based on UNCTAD Investment Policy Hub, ICSID and other arbitration tribunals.

THE OUTCOMES OF ISDS CLAIMS

There are **55 claims against Mexico, 14 have benefited the investor**, either by award or by agreement between the parties, and in 12 claims the tribunal rejected the investor’s claim. In addition, six claims were discontinued, while 23 are still pending.

GRAPH 3 • STATUS OF CLAIMS WHERE THERE IS A TRIBUNAL DECISION

Pending	Discontinued	Award in favour of the State	Award in favour of the Investor	Agreement between the parties	Total
23	6	12	11	3	55
Cases without an outcome		Cases resolved in favour of either party			

Source: The authors, based on UNCTAD Investment Policy Hub, ICSID and other arbitration tribunals.

THE COST OF THE CLAIMS

To date, **Mexico has been ordered to pay almost US\$ 341 million** in compensation to investors for 11 lost cases. This figure represents **3 times the 2024 budget of the Ministry of Culture** and is even more than the total budget that Mexico foresees in 2024 for the search for missing persons, the Special Prosecutor's Office for the Investigation of Enforced Disappearance and the Special Prosecutor's Office for the Investigation of the Crime of Torture combined.²² This is very worrying in view of the serious human rights situation and the growing number of disappeared persons in Mexico.

Considering only the **23 pending lawsuits, the total amount claimed by investors amounts to US\$13.635 billion**, the true sum is even higher, since in nine of the 23 pending lawsuits the compensation claimed by the investor is not known. **This sum could finance the work of the Ministry of Agriculture and Rural Development for three years**, the 2024 budget for which is US\$ 4.3 billion, **and for 82 years Mexico's Maternal, Sexual and Reproductive Health programme.**²³

Mexico and the Boom of Claims by Mining Companies

Of the more than **US\$ 13 billion** for which Mexico is being sued, more than half, **US\$ 6.7 billion**, relates to claims filed by mining companies.

In 2023 alone, Mexico received four ISDS claims in relation to mining projects, although the most spectacular of these are from 2019. In September 2018, shortly after the USMCA renegotiated text was made public, the US mining company **Legacy Vulcan LLC** and its Mexican subsidiary Calizas Industriales del Carmen (Calica), filed a notice of intent to sue Mexico under NAFTA over an environmental dispute concerning limestone quarrying in the state of Quintana Roo. The company is in conflict with the municipality of Solidaridad, whose Programmes on Local Ecological Land Use Planning and on Urban Development have prevented the company from exploiting two properties.

The company submitted its claim to arbitration at ICSID on 3 January 2019, seeking compensation of around US\$ 1.9 billion.²⁴ President Andrés Manuel López Obrador (AMLO) invited Legacy Vulcan LLC to negotiate a settlement by offering favourable conditions to develop a tourism project instead of the mine²⁵, and even suggested buying the site for more than US\$ 389 million.²⁶

Following this lawsuit, in early 2019, the US firm **Odyssey Marine Exploration Inc.** filed a notice of intent to sue Mexico under NAFTA, for a whopping US\$ 3.54 billion 'at least', for failing to approve the environmental permits it needed to advance its offshore subsoil phosphate mining project off the coast of Baja California Sur, giving in to the opposition of fishing groups.²⁷

'The fishing concessions of the Puerto Chale Fishing Cooperative are where the company would like to dredge the seafloor. The Cooperative has opposed the project from the start and filed for permission to submit its concerns to the NAFTA tribunal in October with help from the Center for International Environmental Law (CIEL). They sought to communicate the impacts that this company's project could have on their lives and environment, and why it was correct for Mexico's environmental regulator to turn down a permit for the seabed mine according to the precautionary principle as found in national and international law. As is common for an arbitration system designed to favor transnational corporations, the NAFTA tribunal recently refused to admit their submission.'²⁸



Odyssey, a treasure explorer turned mining company with little of its own revenue, secured funding from a third party to pursue the claim: the US law firm Poplar Falls which specialises in litigation.

Millions of dollars incurred in embarking on Investor-State arbitration must be added to the total claimed by investors, including arbitrators’ fees, the administrative costs of the dispute settlement centre where the case is filed (such as ICSID) and other tribunal expenses. In some cases, the state not only pays its own defence costs but also bears the claimant’s share. For example, in *Cargill v. Mexico*, Mexico had to pay half of the fees charged by Cargill’s attorneys, totalling US\$ 3.3 million in arbitration costs.²⁹ The *Lion Mexico Consolidated v. Mexico* case led the country to pay US\$ 2.25 million to the investor for its arbitration expenses³⁰, while in *Gemplus v. Mexico* the amount was US\$ 5.4 million.³¹

Unlike most countries, Mexico has frequently used its own team of defence lawyers. When it relied on the services of a law firm, it has chosen Pillsbury Winthrop Shaw Pittman and Thomas & Partners and subsequently Tereposky & DeRose. Mexico has also hired Curtis Mallet-Prevost Colt & Mosle on a few occasions.

SECTORS OF CLAIMS

Mexico has a diversified economy, so it is not surprising that the 55 lawsuits against the country affect a wide variety of sectors, although the sectors most affected have been mining and hydrocarbons with eleven lawsuits. This is followed by water supply and waste management with seven, and information and communication, manufacturing and transport with five lawsuits respectively.

GRAPH 4 • SECTORS WITH THE HIGHEST NUMBER OF CLAIMS



Source: The authors, based on UNCTAD Investment Policy Hub, ICSID and other arbitration tribunals.

Conclusions and recommendations

Mexico's economic strategy of opening the country to foreign investors, granting them ever more privileges through investment protection treaties, has cost it dearly. Year after year Mexico receives more demands from investors and threats that weaken the basic function of the state: its legislative and executive power. The mere threat of a lawsuit could be enough to reverse an important measure, as in the case of Talos Energy vs Mexico, which was never registered. The company only sent the Notice of Intent, which forced the Mexican government to negotiate and give a greater participation to Talos in a Pemex oil project. This is an important case of the so-called 'chilling effect' and how Annex 14-D of the USMCA has been used for the first time to effectively threaten Mexico.³²

Facing new challenges, such as the climate crisis or the health crisis, requires innovative and flexible measures that can adapt to immediate demands. Yet, investment protection treaties can put the brakes on these initiatives, as they could lead to new lawsuits running into billions if new government measures or regulations go against perceived corporate interests. A sovereign policy, focused on the welfare of the population, the protection of the environment, responding to climate breakdown, and the promotion of local companies is irreconcilable with the rights that investment protection treaties grant to investors. If Mexico wants to get out of the vicious circle of receiving ISDS lawsuits every time it wants to adapt its policies and regulations, it needs to revise its investment protection regime. The only way Mexico can avoid new investment arbitrations is to renounce the trade and investment treaties and agreements already signed and neither renew them nor sign new ones, since they make it possible to file other claims. Bolivia and Ecuador have already taken this path in the region.

We therefore recommend:

- **Conducting an audit** of all investment protection treaties and their impact on the Mexican economy and society.
- **Suspending the possibility for foreign companies to file Investor-State lawsuits** for the duration of the audit and take the necessary steps once the audit's recommendations are made public.
- **Exiting ICSID** and promoting national and regional options for the resolution of Investor-State disputes.
- **Not signing new treaties with investment protection provisions**, and instead
 - » **give priority** to the protection of human and environmental rights, natural resources and ecosystems.
 - » **guarantee** basic sectors for the population: energy, food, public services, safeguarding their sovereignty in the face of international investment rules.



- » **enable** the participation of those affected by projects undertaken by foreign companies according to free, prior and informed consent (FPIC), and conducting monitoring and evaluation (M&E) of their development.
- » **allow the government** the space to develop policies and implement measures for the promotion of small and medium enterprises (SMEs) and regional development, specific sectors, and impose certain performance requirements on investors.
- » **demand accountability** of TNC investors in terms of labour, social, environmental rights, consistent with similar regulations they have in their domestic jurisdiction.
- » **support the development** of a Binding Treaty on Business and Human Rights at the UN level.

Annex

Claims against Mexico up to 30 June 2024

Name of the case	Year the case started	Nationality of investor	Invoked treaty	Case number	Result of the claim	Total amount claimed by the investor	Total amount the state was ordered to pay	Economic sector
Bacanora Lithium Limited, Sonora Lithium Ltd. and Ganfeng International Trading (Shanghai) Co. Ltd. v. Mexico	2024	Great Britain China	Mexico-Great Britain BIT, Mexico-China BIT	ICSID Case No. ARB/24/21	Pending	n/d	0	Mining and Oil & Gas
Almaden y Almadex Minerals v. Mexico	2024	Canada	CPTPP	ICSID Case No. ARB/24/23	Pending	US\$ 200 million	0	Mining and Oil & Gas
Fotowatio Renewable Ventures and others v. Mexico	2024	Spain	Mexico-Spain BIT	ICSID Case No. ARB/24/5	Pending	n/d	0	Electricity, gas, steam and air conditioning supply
Caisse de dépôt et placement du Québec y CDP Groupe Infrastructures Inc. v. Mexico	2023	Canada	CPTPP	ICSID Case No. ARB/23/53	Pending	n/d	0	Electricity, gas, steam and air conditioning supply
Cyrus Capital Partners and Contrarian Capital Management v. Mexico	2023	USA	NAFTA, USMCA	ICSID Case No. ARB/23/33	Pending	US\$ 219 million	0	Financial and insurance activities
Mario Noriega Willars v. Mexico	2023	USA	NAFTA, USMCA	ICSID Case No. ARB/23/29	Pending	n/d	0	Transport
First Majestic Silver Corp. v. Mexico II	2023	Canada	NAFTA, USMCA	ICSID Case No. ARB/23/28	Pending	n/d	0	Mining and Oil & Gas
Arbor Confections and others v. Mexico	2023	USA	NAFTA, USMCA	ICSID Case No. ARB/23/25	Pending	US\$ 80 million	0	Manufacturing
Silver Bull Resources v. Mexico	2023	USA	NAFTA, USMCA	ICSID Case No. ARB/23/24	Pending	US\$ 408 million	0	Mining and Oil & Gas
Enerflex and Exterran Energy Solutions v. Mexico	2023	USA	NAFTA, USMCA	ICSID Case No. ARB/23/22	Settlement agreement	US\$ 120 million	0	Mining and Oil & Gas
Access Business Group v. Mexico	2023	USA	NAFTA, USMCA	ICSID Case No. ARB/23/15	Pending	US\$ 3 billion	0	Agriculture, forestry and fish farming
Amerra Capital Management and others v. Mexico	2023	USA	NAFTA, USMCA	ICSID Case No. UNCT/23/1	Pending	n/d	0	Financial and insurance activities
Sepadeve International v. Mexico	2023	USA	NAFTA, USMCA	ICSID Case No. ARB/23/6	Discontinued	n/d	0	Transport
Goldgroup Resources v. Mexico	2023	Canada	NAFTA, USMCA	ICSID Case No. ARB/23/4	Pending	n/d	0	Mining and Oil & Gas
Doups Holdings v. Mexico	2022	USA	NAFTA, USMCA	ICSID Case No. ARB/22/24	Pending	n/d	0	Transport
Coeur Mining v. Mexico	2022	USA	NAFTA, USMCA	ICSID Case No. UNCT/22/1	Pending	n/d	0	Mining and Oil & Gas
Consolidated Water v. Mexico	2022	Netherlands	Mexico-Netherlands BIT	ICSID Case No. ARB/22/6	Settlement agreement	US\$ 57.6 million	US\$ 44.5 million	Water supply, sewage, waste management, and recycling
L1bre v. Mexico	2021	USA	NAFTA, USMCA	ICSID Case No. ARB/21/55	Discontinued	US\$ 852 million	0	Information and communication
Finley and others v. Mexico	2021	USA	NAFTA, USMCA	ICSID Case No. ARB/21/25	Pending	US\$ 200 million	0	Mining and Oil & Gas

Name of the case	Year the case started	Nationality of investor	Invoked treaty	Case number	Result of the claim	Total amount claimed by the investor	Total amount the state was ordered to pay	Economic sector
First Majestic v. Mexico	2021	Canada	NAFTA, USMCA	ICSID Case No. ARB/21/14	Pending	US\$ 500 million	0	Mining and Oil & Gas
ES Holdings and L1bre v. Mexico	2020	Canada	NAFTA	ICSID Case No. ARB/20/13	Pending	US\$ 2.3 billion	0	Information and communication
Rabobank v. Mexico	2020	Netherlands	Mexico-Netherlands BIT	ICSID Case No. ARB/20/23	Discontinued	US\$ 230 million	0	Transport
Highlands v. Mexico	2019	Great Britain	Mexico-Great Britain BIT	ICSID Case No. ARB/19/26	Pending	US\$ 80 million	0	Transport
Odyssey v. Mexico	2019	USA	NAFTA	ICSID Case No. UNCT/20/1	Pending	US\$ 3.54 billion	0	Mining and Oil & Gas
Legacy Vulcan v. Mexico	2019	USA	NAFTA	ICSID Case No. ARB/19/1	Pending	US\$ 1.9 billion	0	Mining and Oil & Gas
Alicia Grace and others v. Mexico	2018	USA	NAFTA	ICSID Case No. UNCT/18/4	Pending	US\$ 700 million	0	Administrative and related service activities
PACC v. Mexico	2018	Singapore	Mexico-Singapore BIT	ICSID Case No. UNCT/18/5	Decided in favour of the investor	US\$ 227 million	US\$ 6.7 million	Administrative and related service activities
Eutelsat v. Mexico	2017	France	Mexico-France BIT	ICSID Case No. ARB (AF)/17/2	Decided in favour of the State	US\$ 120 million	0	Information and communication
Sastre and others v. Mexico	2017	Argentina, France, Portugal	Mexico-Portugal BIT, Argentina-Mexico BIT	ICSID Case No. UNCT/20/2	Decided in favour of the State	US\$ 80 million	0	Food and Lodging Services
Vento v. Mexico	2017	USA	NAFTA	ICSID Case No. ARB(AF)/17/3	Decided in favour of the State	US\$ 2.748 billion	0	Manufacturing
B-Mex and others v. Mexico	2016	USA	NAFTA	ICSID Case No. ARB(AF)/16/3	Pending	US\$ 100 million	0	Arts, entertainment and recreation
Nelson v. Mexico	2016	USA	NAFTA	ICSID Case No. UNCT/17/1	Decided in favour of the State	US\$ 500 million	0	Information and communication
Lion v. Mexico	2015	Canada	NAFTA	ICSID Case No. ARB(AF)/15/2	Decided in favour of the investor	US\$ 99.1 million	US\$ 47 million	Construction
Shanara and Marfield v. Mexico	2015	Panama	Mexico-Panama BIT	n/d	Pending	US\$ 408 million	0	Administrative and related service activities
Cemusa v. Mexico	2013	Spain	Mexico-Spain BIT	ICSID Case No. ARB(AF)/13/2	Discontinued	US\$ 22.5 million	0	Professional, scientific and technical activities
KBR v. Mexico	2013	USA	NAFTA	ICSID Case No. UNCT/14/1	Decided in favour of the State	US\$ 465 million	0	Construction
Telefonica v. Mexico	2012	Spain	Mexico-Spain BIT	ICSID Case No. ARB(AF)/12/4	Settlement agreement	US\$ 1.06 billion	n/d	Information and communication
Abengoa v. Mexico	2009	Spain	Mexico-Spain BIT	ICSID Case No. ARB(AF)/09/2	Decided in favour of the investor	US\$ 70 million	US\$ 40.3 million	Water supply, sewage, waste management, and recycling
Bayview v. Mexico	2005	USA	NAFTA	ICSID Case No. ARB(AF)/05/1	Decided in favour of the State	US\$ 667.6 million	0	Agriculture, forestry and fish farming

Name of the case	Year the case started	Nationality of investor	Invoked treaty	Case number	Result of the claim	Total amount claimed by the investor	Total amount the state was ordered to pay	Economic sector
Cargill v. Mexico	2005	USA	NAFTA	ICSID Case No. ARB(AF)/05/2	Decided in favour of the investor	US\$ 123.8 million	US\$ 77.3 million	Manufacturing
ADM v. Mexico	2004	USA	NAFTA	ICSID Case No. ARB(AF)/04/5	Decided in favour of the investor	US\$ 100 million	US\$ 33.5 million	Manufacturing
Corn Products v. Mexico	2004	USA	NAFTA	ICSID Case No. ARB(AF)/04/1	Decided in favour of the investor	US\$ 325 million	US\$ 58 million	Manufacturing
Gemplus v. Mexico	2004	France	Mexico-France BIT	ICSID Case No. ARB(AF)/04/3	Decided in favour of the investor	US\$ 37 million	US\$ 4.5 million	Professional, scientific and technical activities
Talsud v. Mexico	2004	Argentina	Argentina Mexico TBI	ICSID Case No. ARB(AF)/04/4	Decided in favour of the investor	US\$ 37 million	US\$ 6.4 million	Professional, scientific and technical activities
Fireman's Fund v. Mexico	2002	USA	NAFTA	ICSID Case No. ARB(AF)/02/1	Decided in favour of the State	US\$ 50 million	0	Financial and insurance activities
Frank v. Mexico	2002	USA	NAFTA	n/d	Discontinued	US\$ 1.5 million	0	Real estate activities
GAMI v. Mexico	2002	USA	NAFTA	n/d	Decided in favour of the State	US\$ 27.8 million	0	Agriculture, forestry and fish farming
Thunderbird v. Mexico	2002	Canada	NAFTA	n/d	Decided in favour of the State	US\$ 100 million	0	Arts, entertainment and recreation
Adams v. Mexico	2001	USA	NAFTA	n/d	Discontinued	US\$ 75 million	n/d	Real estate activities
Tecmed v. Mexico	2000	Spain	Mexico-Spain BIT	ICSID Case No. ARB(AF)/00/2	Decided in favour of the investor	US\$ 52 million	US\$ 5.5 million	Water supply, sewage, waste management, and recycling
Waste Management v. Mexico (II)	2000	USA	NAFTA	ICSID Case No. ARB(AF)/00/3	Decided in favour of the State	US\$ 36.6 million	0	Water supply, sewage, waste management, and recycling
Feldman v. Mexico	1999	USA	NAFTA	ICSID Case No. ARB(AF)/99/1	Decided in favour of the investor	US\$ 30.3 million	US\$ 740.000	Wholesale and retail sale, repair of motor vehicles and motorcycles
Waste Management v. Mexico (I)	1998	USA	NAFTA	ICSID Case No. ARB(AF)/98/2	Decided in favour of the State	US\$ 36 million	0	Water supply, sewage, waste management, and recycling
Azinian v. Mexico	1997	USA	NAFTA	ICSID Case No. ARB (AF)/97/2	Decided in favour of the State	US\$ 19.2 million	0	Water supply, sewage, waste management, and recycling
Metalclad v. Mexico	1997	USA	NAFTA	ICSID Case No. ARB(AF)/97/1	Decided in favour of the investor	US\$ 90 million	US\$ 16.7 million	Water supply, sewage, waste management, and recycling

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