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Investment Treaty Arbitration

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Fair and Equitable Treatment

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Summary

Introduction

The fair and equitable treatment (FET) standard remains one of the key protections relied on by investors in investment disputes. Yet the FET standard is often left undefined. Nonetheless, despite the differences in the wording of the FET provisions across treaties, especially bilateral investment treaties (BITs), there appears to be a general consensus on the core content of the FET standard: (1) protection afforded to the legitimate expectations of the investor; (2) protection against arbitrary or discriminatory treatment; and (3) protection against a host state's denial of justice to the investor.

This chapter briefly reviews recent awards that have discussed and applied the FET standard, in which tribunals had to balance investors' rights, including their legitimate expectations, with states' sovereign right to legislate and regulate.

Recent cases on the principles of FET

ACF Renewable Energy Limited v. Republic of Bulgaria[2]

This arbitration started in 2018 on the basis of the Energy Charter Treaty 1994 (ECT), and arose out of changes to the regulatory framework in the electricity sector in Bulgaria between 2012 and 2018. The claimant was a company incorporated under the laws of the Republic of Malta and indirectly owned a photovoltaic plant in the respondent state. In reliance on the guarantee of full offtake of renewable energy production as included in the Energy from Renewable Sources Act of 2011 (ERSA), SunEdison SLU, the joint-venture partner of First Reserve (i.e., a shareholder of the claimant), proceeded to maximise the efficiency of the plant by installing a higher capacity of solar modules than the capacity of the inverters of the plant.

The dispute relates to the respondent's alleged failure to fulfil legislative and regulatory commitments, set out in the ERSA, which in the view of the claimant constituted breaches of FET protected under Article 10(1) of the ECT and Article 31 of the ERSA. The tribunal considered three factors in determining whether there was a breach of FET: (1) a breach of legitimate expectations; (2) fundamental alteration of investment frameworks; and (3) the permanent grid access fee.

Most of the tribunal's analysis in relation to FET was on factor (1). At the outset, the tribunal stated that an expectation is legitimate only if, based on all the circumstances of a case, it is an expectation that was actually held by the specific investor in question, and it would have been objectively reasonable for an objectified normal investor to hold that expectation under the given circumstances.[3] Applying this test, the tribunal found that there was a protected legitimate expectation that once an investment had met the conditions of the ERSA regime, the price, the offtake and the period over which an investor would receive the set price for its offtake were fixed and could be relied upon.[4] Consequently, the state operating the incentive scheme assumes the risks of negative change, of setting parameters wrongly and of later discovering that it chose the wrong incentive regime.[5] Accordingly, the absence of a stabilisation clause that would cover all three key parameters is not relevant.[6]

The tribunal also found that the expectation of lawful behaviour is protected despite fears of worst-case scenarios or expectations of possibly unlawful behaviour. Therefore, any expectation that the respondent might unlawfully try to claw back granted advantages from other investors cannot and does not undermine the claimant's protected expectations that the respondent would obey its commitments to the claimant.[7>] The tribunal emphasised that it would not be fair or equitable to assume that the claimant had the 'same breadth of information' as that to which the respondent had access.[8>]

The respondent argued that the claimant failed to establish any legitimate expectations of its own and relied on expectations of its shareholders and lenders.[9>] However, the tribunal found that the claimant's shareholders' expectations are the raison d'être of the claimant and can form the legitimate expectations of the claimant. As for the lenders, the tribunal found that their expectations represent what objective expectations would have arisen contemporaneously.[10p>]

Applying these arguments to the facts, the tribunal found that the measures instituted by the respondent were of such a magnitude that they violated the legitimate expectations of the claimant and the FET obligation.

On factor (2), the tribunal found that FET is not accorded 'when after an investment is executed and costs are sunk, conditions that formed the basis for an investment are not kept stable to a certain degree, or when an investment is not treated in a stable and consistent manner to a sufficient degree, or when it turns out that a host state was insufficiently transparent about the true conditions for an investment'.[11p>] The tribunal agreed with the decisions of the tribunals in Eiser[12p>] and Antin[13p>] that the Article 10(1) obligation to accord FET necessarily encompasses an obligation to provide fundamental stability in the essential characteristics of the legal regime relied upon by investors in making long-term investments and found that the respondent had breached its FET obligation by fundamentally altering the ERSA framework.

Relatedly, and on factor (3), the tribunal found that non-transparency would need to exceed a certain threshold to be relevant for the finding of a breach of Article 10(1) of the ECT.[14p>] While the tribunal cast doubt on whether the threshold described in Stadtwerke[15p>] would be applicable, it ultimately dismissed, for lack of causation, the claimant's arguments that the introduction of balancing cost exposure and temporary grid access fee constituted a breach. Nonetheless, the tribunal granted the claimant's claim regarding the permanent grid access fee, as a comprehensive analysis of all circumstances led to the conclusion that the imposition of the permanent grid access fee constituted a breach of the FET obligation: this was a significant change from the respondent's approach to grid-access costs at the time of the investment and the ERSA regime with the permanent grid access fee was less attractive than the regime in place at the time of the investment. The permanent grid access fee was targeted at investors like the claimant, and the permanent grid access fee had de facto retroactive application.

Finally, the tribunal also found that the Article 10(1) of the ECT sets out a stand-alone obligation, which prohibits unreasonable impairment, independent of the FET obligation.-[16p>]

Peteris Pildegovics and SIA North Star v. Kingdom of Norway[17p>]

The claimants were a Latvian fishing company, SIA North Star (North Star), and its owner. The claimants were engaging in a snow crab harvesting business in the area known as the Loop Hole in the Barents Sea, an area the seabed of which is divided between the extended continental shelf of Norway and the Russian Federation. Between 2016 and 2017, Norwegian authorities arrested and fined the claimants' vessel twice for harvesting snow crab in the Norwegian sector of the Loop Hole, with North Star and the vessel's captain facing criminal proceedings in Norway after refusing to pay. Thereafter, North Star ceased to be able to harvest snow crab in the Barents Sea.

Snow crabs were not native to the Barents Sea and were only harvested in significant quantities in the Barents Sea from 2013.18p> While snow crab harvesting in the Norwegian sector was previously unregulated, it was subsequently prohibited via regulations that came into force in January 2015. On 1 April 2020, the claimants brought the first-ever ICSID case against Norway, the respondent state, under the BIT between Norway and Latvia, arguing, inter alia, that the respondent breached the FET standard.

It was undisputed that there was no difference between a requirement of 'equitable and reasonable treatment' and one of 'fair and equitable treatment'. The tribunal found that the FET standard under Article III of the BIT comprised the obligations: (1) to respect legitimate expectations; (2) not to act arbitrarily and in bad faith; and (3) to act transparently and consistently.

As to (1), the tribunal found that legitimate expectations could be of a general character or derived from specific assurances given to the investor.19p> The tribunal rejected the claim based on a general legitimate expectation that there would be no legislation restricting snow crab harvesting. According to the tribunal, legitimate expectations did not include an expectation that the law affecting the investment will remain unchanged unless specific promises or representations are made.20p> It was found that the absence of any Norwegian legislation before December 2015 could not give rise to a legitimate expectation that restrictions would not be placed in the future. In reaching this conclusion, the tribunal pointed out that while parties spoke of 'long-held assumptions', snow crabs only recently arrived in the Barents Sea.

The tribunal also rejected the claim based on a legitimate expectation derived from specific assurances. First, the emails between the Norwegian authorities and the claimants, sent before 2015, related to the taking of snow crabs by Norwegian (rather than European Union) vessels and the landing (rather than harvesting) of snow crabs in Norway, and did not suggest the respondent would not restrict snow crab harvesting.

Second, the fact that Norwegian government ships had previously accepted North Star's North East Atlantic Fisheries Commission port state control forms without inquiring as to the source of the crabs could not give rise to a legitimate expectation, since snow crabs were mostly harvested from the Russian sector at the time and it would have been difficult for the authorities to determine the source of the snow crabs.

Last, the actions of the Mayor of Båtsfjord and visiting politicians to Båtsfjord, where the claimants processed snow crab, were not of a character such as to give rise to legitimate expectations. They took place after the investment had been made and occurred when North Star's activities were concentrated in Russian waters. Accordingly, the claims based on legitimate expectations were rejected.

As to (2), the tribunal found that the duty to act in good faith was expressly provided for in Article 300 of the United Nations Convention on the Law of the Sea (UNCLOS) and existed as a matter of customary law. The tribunal endorsed the definition of arbitrariness in the ELSI case, where arbitrariness was found to be 'a wilful disregard of due process of law, an act which shocks, or at least surprises, a sense of judicial propriety'.21p> The claimants argued that the respondent acted arbitrarily, first, in determining that snow crab is a sedentary species and, second, by introducing and maintaining the ban on EU vessels taking snow crab in the Norwegian sector. Whether snow crabs were sedentary affected whether they would be subject to regional fisheries accords or to domestic Norwegian law. The former argument was rejected as (1) snow crabs had generally been treated as falling within the Article 77(4) definition of sedentary species and (2), in line with general international practice, the respondent obtained both scientific and legal advice before reaching its conclusion. The respondent was also found not to have acted arbitrarily or in bad faith by imposing the ban. The tribunal found that since coastal states have the right to enjoy the benefit of resources on the continental shelf (pursuant to Articles 77(1) and (2) UNCLOS), the respondent was not acting extraneously or improperly by excluding EU vessels from harvesting snow crab and reserving them for its own fishing industry.

As to (3), the tribunal noted that the claimants' case repeated the arguments made in relation to (1) and (2). The tribunal therefore briefly noted that the respondent's practice of allowing the landing of snow crabs harvested in the Russian sector was not inconsistent with the respondent's subsequent ban on the taking of snow crabs in the Norwegian sector.

Orazul International Espana Holdings SL v. Argentine Republic22p>

The claimant was a Spanish company that acquired indirect interests in two Argentinian power plants held through a local subsidiary, Cerros Colorados, in December 2003. The claimant commenced arbitration in September 2019, alleging, inter alia, that the respondent had made 'temporary' modifications to its electricity regulations in 2003 that were meant to last only until 2006 or 2010, but were never reversed, causing the claimant to suffer investment losses of up to US$667 million from reduced power generators' revenues and being disadvantaged by a discriminatory pricing regime.

The claimant argued that the respondent had breached Article IV(1) of the Argentina–Spain BIT by failing to accord the claimant FET because the respondent had: (1) failed to protect its legitimate expectations and to provide a stable and predictable legal environment; (2) failed to provide transparency and due process; (3) acted arbitrarily and unreasonably; (4) acted discriminatorily against the claimant; and (5) abused its authority in violation of the FET standard.23p>

The majority of the tribunal dismissed all the claims, while the dissenting arbitrator found that there was an abuse of authority and thus a breach of the FET standard.24p>

The tribunal found that the decisive point in time to assess the claimant's legitimate expectations was the time of the claimant's investment.25p>

The majority found that there were no legitimate expectations accorded, distinguishing the present case from previous investment cases arising from the same change in the Argentine electricity regulations26p> on the basis that the investors in those cases invested long before the claimant did, when the prevailing regulatory framework was still that of the 1990s and where the legal environment of Argentina's energy sector was still favourable.-

27p> In contrast, the claimant had invested in a highly unstable climate and was thus aware of the risk of high losses and the potentially limited options for recovery of its receivables.28p> Therefore, the circumstance at the time of the claimant's investment (i.e., December 2003) could not give rise to a legitimate expectation that the regulatory framework as applicable in the 1990s would be restored by mid-2006 or by 2010.29-p> Additionally, although the changes to the regulatory framework were described as 'transitory' or 'temporary', such description did not amount to any specific promise that the respondent would revert the regulatory framework back to that prevailing during the 1990s.30p>

In contrast, the dissenting arbitrator found that the claimant had a legitimate expectation that the 2003 regulations were transitory, and the mandatory parts of the earlier regulations would be restored by 2006 or 2010 at the latest. In his view, this legitimate expectation arose from the repeated use of the term 'transitory' in government documents and the National Energy Plan, which referred to 'May 2004–December 2006' as the 'Transition Period'.31p> He also found that the claimant did not invest in a climate of great uncertainty, as Argentina had made a strong recovery from the 2001 crisis by May 2003 and there was thus significant optimism in the growth of Argentina's economy.32p>

As to (1), the majority found that the respondent had acted transparently because it had made accessible the legal and administrative requirements applicable to the claimant's investment and that all acts could be traced to the applicable legal framework.33p>

As to (2), the majority found that the respondent had not acted without due process. The mere fact that the Energy Secretariat did not reply to all of the claimant's petitions and that the claimant was not given an opportunity to appear before the adverse measures were put in place did not indicate a breach of due process, since the claimant had the right to challenge this in the Argentine courts.34p>

As to (3), the majority found that the respondent did not act arbitrarily and unreasonably. The measures impugned by the claimant all bore a reasonable relationship with the respondent's objective of normalising the wholesale electricity market. Whether those measures effectively reached the objective or whether other measures could have achieved other results were separate questions from whether the measures were arbitrary and unreasonable.35p>

As to (4), the majority found that the respondent did not act discriminatorily against the claimant. The claimant had not shown that Cerros Colorados was treated any differently from any other generators, nor specifically that the measures would have reflected a nationality or other bias.36p>

As to (5), the majority found that the respondent did not abuse its authority in violation of the FET standard. The claimant has not shown that the claimant was compelled to enter the subsequent programmes initiated by the Energy Secretariat. Even if the claimant had no economically viable alternatives, that did not suffice to meet the threshold of abuse of authority given that the economically difficult situation already existed at the time of the claimant's investment.37p> In contrast, the dissenting arbitrator concurred with the decision in Total SA and agreed that the FONINVEMEM scheme, which was implemented after the claimant's investment, forced the claimant to convert its receivables into a stake in FONINVEMEM, which constituted an abuse of authority and a corresponding breach of the FET standard.

IC Power Ltd and Kenon Holdings Ltd v. Republic of Peru 38p>

The claimants were holding companies incorporated in Singapore, from where they oversaw and managed their investments overseas. At the material time, the claimants controlled three Peruvian companies (the Peruvian Subsidiaries) which in turn owned and operated various electric power plants in Peru (the Plants). Through the Plants, the Peruvian Subsidiaries transmitted power through the Peruvian network and provided certain ancillary services. The claimants' claims arose out of resolutions passed by the Peruvian regulator of the mining and energy sector, which the claimants alleged were inconsistent with Peru's obligations under the Free Trade Agreement between Peru and Singapore (the Peru–Singapore FTA).

The first resolution regulated the provision of the secondary frequency regulation service for the Peruvian electricity grid (Resolution No. 141). The second resolution modified the costs apportioning methodology for the use of electricity system transmission lines by generators (Resolution No. 164). The claimants complained that the resolutions constituted breaches of Peru's obligation under Article 10.5 of the Peru–Singapore FTA to afford foreign investors, among other things, fair and equitable treatment 'in accordance with the minimum standard of treatment of aliens' (MST/FET obligation).

The tribunal was of the view that Article 10.5 could only be understood as acknowledging that FET is now part of the minimum standard of treatment under customary international law.39p> This confirms that the MST/FET standard has evolved since Neer v. Mexico,40p> when only 'outrageous' behaviour was prohibited. However, the tribunal found that Article 10 did not set a higher threshold for finding a breach than under an autonomous FET provision not tethered to customary international law.41p> Indeed, it agreed with the respondent that, had parties intended to afford the same degree of protection as an autonomous FET standard, the reference to customary international law would not have been required.42p> Accordingly, the tribunal found that the MST/FET standard imposes a high threshold for finding a breach.

The tribunal agreed with the claimant that the MST/FET standard included an obligation to: (1) not to frustrate an investor's legitimate expectation; and (2) not to act arbitrarily or discriminatorily, albeit subject to a high threshold.43p> However, the tribunal agreed with the respondent that there was no obligation to guarantee a stable and transparent legal and regulatory framework.44p>

In respect of Resolution No. 141, the tribunal found that the respondent had by way of Resolution No. 141 breached its MST/FET obligation, as the resolution was 'seriously arbitrary' as it: (1) constituted an 'unexpected and shocking repudiation' of the purpose of the bid terms;45p> (2) was 'taken for reasons that are different from those put forward by the decision maker' since it was revealed that the true motive for the resolution was to avoid the costs of permanently dispatching the Peruvian Subsidiary's units, which the regulator belatedly considered excessive and wasteful;46p> and (3) was issued in disregard of fundamental principles and procedures of Peruvian law.47p> Having made this finding, the tribunal did not consider it necessary to consider if Resolution No. 141 also frustrated the claimants' legitimate expectations.

In respect of Resolution No. 164, the tribunal was not satisfied that the claimant had met the high threshold of showing that the resolution was 'seriously' arbitrary or discriminatory as

required under the MST/FET standard.[48p>] Among other reasons, the tribunal found that 'mere incompatibility' of a regulation with a law is insufficient to breach the high threshold.

Michael Anthony Lee-Chin v. The Dominican Republic[49p>]

The claimant, a Jamaican national, was the indirect owner of a Dominican company, Lajun. On 1 March 2007, Lajun entered into a concession agreement with the Municipality of Santo Domingo Norte (ASDN) for the administration and operation of the Duquesa Landfill, in which final disposal of urban solid waste was carried out in the area of the Gran Santo Domingo in the Dominican Republic. On 9 July 2023, under the pretext of Lajun's failure to comply with certain environmental regulations, ASDN notified Lajun of its decision to rescind the concession agreement, took possession of the Duquesa Landfill and ejected Lajun and its employees from the property.

Between February 2014 to July 2017, ASDN and Lajun executed two settlement agreements that allowed Lajun to regain control of its property. However, around July 2017, ASDN exercised its unilateral termination right under the concession agreement, notifying Lajun of alleged breaches of the concession agreement and giving Lajun 30 days to remedy the breaches. Before the expiry of the remediation period, ASDN initiated an administrative proceeding before the Superior Administrative Court of the Dominican Republic seeking nullification of the concession agreement, which was granted on 25 October 2018.

The claimant commenced proceedings pursuant to the Agreement on Reciprocal Promotion and Protection of Investments contained in Annex III of the Agreement Establishing the Free Trade Area between the Caribbean Community and the Dominican Republic, signed on 22 August 1998 and which entered into force on 5 February 2002 (the CARICOM–DR FTA). Article IV of Annex III of the CARICOM–DR FTA provided for the obligation to accord FET, stating as follows: 'Each party shall ensure, at all times, fair and equitable treatment for investments and returns, which shall thus enjoy full protection and security, and shall not receive a treatment less favourable than established under international law.'

The tribunal found that four elements constitute the applicable standard: (1) the obligation to honour legitimate expectations; (2) the obligation to act in a non-discriminatory fashion; (3) the obligation to act transparently; and (4) the obligation to act consistently. In laying down these elements, the tribunal accepted the claimant's submission that bad faith no longer needs to be proven under customary international law and rejected the standard laid down in Neer v. Mexico,[50p>] when investor-state disputes 'bore very little resemblance to those arising these days'.

As to (1), the tribunal considered that, for legitimate expectations to exist, there must be objective expectations that are reasonable, based on specific promises made to the investor, which the investor reasonably relied upon, and that were decisive in the decision to invest. On due diligence, the tribunal found that an investor could not rely on legitimate expectations if it failed to conduct adequate due diligence that could have enabled it to identify certain risks for its investment.

The respondent contended that the claimant could not have any legitimate expectation that, if he breached the terms of the concession agreement and environmental and health regulations, thereby jeopardising the health of millions of people and the Dominican environment, the respondent would not take any measures to prevent or attempt to

remedy that situation. While the tribunal accepted this as a proposition, it disagreed on the facts that a serious emergency or public health situation had occurred. The tribunal acknowledged that it was not in a position to conduct a comprehensive de novo revision of the legal actions filed in the state. However, the respondent had challenged the validity of the concession agreement even though parties had agreed to continue performing the concession agreement.

As to (2), the tribunal acknowledged that the respondent had rightfully raised serious environmental concerns, but was not satisfied that these concerns were the only ones that motivated the respondent's conduct that the claimant complained of. The alleged concerns did not prevent the second settlement agreement from being approved. In this context, the series of inconsistent declarations by the respondent were sufficient proof of some arbitrariness in the respondent's conduct – no pattern of reasonableness or plausible justifications could be discerned in the respondent's changing attitudes throughout the investment. Separately, the tribunal found that the facts did not establish any discriminatory intent on the part of the respondent towards the claimant on the basis of the claimant's nationality.

As to (3), the tribunal found that the obligation for the state to act transparently under Article IV of Annex III of the CARICOM–DR FTA further requires the state not to prevent the exchange of relevant and available information. The tribunal found that a requirement of a certain degree of transparency has reached the level of customary international law. It found that the claimant had failed to argue an alleged violation as regards publication of laws, judgments, administrative practices and procedures relating to investment, except for a report that included certain recommendations to improve operations at the Duquesa Landfill.

As to (4), the tribunal opined that a state may change its position on a specific policy and thus legislate or adopt decisions inconsistent with its previous behaviour. However, those changes in a state's conduct should not violate the other constituent elements of the standard applicable. Here, the respondent, on the one hand, sought to reassure the claimant regarding the successful operation of his investment and, on the other hand, actually intended to terminate this operation on the basis that it was anything but successful. This inconsistency amounted to a violation of the applicable FET requirement, not because it represented a change of the state's position per se, but because it was a change of position against the constituent elements of the FET standard as a whole.

Accordingly, the tribunal found that the respondent failed to comply with its obligation under Article IV of Annex III of the CARICOM–DR FTA to provide FET to the claimant's investment by frustrating the claimant's legitimate expectations.

Endnotes

1 Kelvin Poon SC, Matthew Koh and David Isidore Tan are partners, Dennis Saw and Benny Santoso are senior associates, Jodi Siah, Timothy James Chong and Jerry Wang are associates, and Sean Gregory Rappa is a practice trainee at Rajah & Tann Singapore LLP.

2 ACF Renewable Energy Limited v. Republic of Bulgaria, ICSID Case No. ARB/18/1, Award, 5 Jan 2024 (ACF).

3 ibid. at [1528].

4 ibid. at [1535].

5 ibid. at [1554].

6 ibid. at [1556].

7 ibid. at [1568].

8 ibid. at [1569].

9 ibid. at [1574].

10 ibid. at [1583].

11 ibid. at [1727].

12 Eiser Infra Ltd and Energia Solar Lux Sàrl v. Kingdom of Spain, ICSID Case No. ARB/13/36, Award, 4 May 2017 at [382].

13 Antin Infra Servs Lux Sàrl & Antin Energia Termosolar BV v. Kingdom of Spain, ICSID Case No. ARB/13/31, Award, 15 June 2018 at [532].

14 ACF at [1735].

15 Stadtwerke München GmbH, RWE Innogy GmbH, and others v. Kingdom of Spain, ICSID Case No. ARB/15/1, Award, 2 December 2019 at [311].

16 ACF at [1759].

17 Peteris Pildegovics and SIA North Star v. Kingdom of Norway, ICSID Case No. ARB/20/11, Award, 22 December 2023 (Peteris).

18 ibid. at [508].

19 ibid. at [504].

20 ibid. at [505].

21 ibid. at [533], citing Case Concerning Elettronica Sicula SpA (ELSI) (United States of America v. Italy), ICJ, Judgement, 20 July 1989, Paragraph 128.

22 Orazul International España Holdings SL v Argentine Republic, ICSID Case No. ARB/19/25, Final Award, 14 December 2023 (Orazul).

23 ibid. at [301].

24 Orazul, Dissenting Opinion, 14 December 2023 (Dissenting Opinion), at [34]–[35].

25 Orzaul at [631].

26 Total SA v. Argentine Republic, ICSD Case No ARB/04/01 (Total SA) and El Paso Energy International Company v. Argentine Republic, ICSD Case No ARB/03/15.

27 Orzaul at [708] and [709].

28 ibid. at [137]–[155], [646]–[650], [812].

29 ibid. at [652].

30 ibid. at [668].

31 Orazul, Dissenting Opinion, at [5]–[15]. See also [20]–[23], [30].

32 Orazul, Dissenting Opinion, at [19].

33 ibid. at [726].

34 ibid. at [734]–[736].

35 ibid. at [761].

36 ibid. at [781].

37 ibid. at [810].

38 IC Power Ltd and Kenon Holdings Ltd v. Republic of Peru, ICSID Case No. ARB/19/19, Award, 3 October 2023 (IC Power).

39 ibid. at [288]–[289].

40 Neer v. Mexico, Mexico-US General Claims Commission, Docket No. 136, Opinion dated 15 October 1926 (Neer v. Mexico).

41 IC Power at [290].

42 ibid. at [290].

43 ibid. at [306]–[311].

44 ibid. at [313]–[315].

45 ibid. at [450].

46 ibid. at [452].

47 ibid. at [453].

48 ibid. at [495]–[497], [499]–[500], [502]–[505] and [508]–[512].

49 Michael Anthony Lee-Chin v. The Dominican Republic, ICSID Case No. UNCT/18/3, Final Award, 6 October 2023.

50 L Fay H Neer and Pauline Neer (USA) v. United Mexican States, 15 October 1926.

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