



Special Rapporteur on human rights and the environment

Distr.: General
10 July 2023

Original: English

Annex 2: Examples of ISDS Claims Launched in Response to Climate Actions

Supplementary information to the report of the Special Rapporteur, David R. Boyd, on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment to the General Assembly

The following information is supplementary to the report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment to the General Assembly. It is available on the website of the Office of the High Commissioner for Human Rights

<https://www.ohchr.org/en/special-procedures/sr-environment/annual-thematic-reports>

Annex 2 to A/78/168

<i>Case Name</i>	<i>Year</i>	<i>Applicable IIA</i>	<i>Climate Action Challenged</i>	<i>Outcome/Stage of Proceedings</i>
<i>TRUenergy v Australia</i>	2009	Hong Kong-Australia BIT	Claim challenging allegedly inadequate compensation for coal-fired plants and other heavy polluters affected by climate-related legislation.	This claim was threatened but never brought. Australia increased proposed compensation for polluting industries in November 2009. The climate legislation ultimately did not pass in the Senate.
<i>Vattenfall v Germany (I) and (II)</i>	2009/2012	ECT	<i>Vattenfall (I)</i> arose in response to environmental measures imposed by the German government on a coal-fired power plant to avoid overheating the Elbe River. <i>Vattenfall (II)</i> arose out of Germany's plan for a nuclear power phase-out by 2022.	Both proceedings settled. Vattenfall sought \$1.7 billion USD in <i>Vattenfall (I)</i> , but compensation determined in the settlement is unknown. Vattenfall sought \$5.1 billion USD in <i>Vattenfall (II)</i> and settled for \$1.7 billion USD. ¹
<i>Lone Pine v Canada</i>	2013	NAFTA	Claim arising in response to the revocation of an oil and gas exploration license pursuant to the coming into force <i>An Act to limit oil and gas activities</i> in Quebec, Canada.	This claim was decided in favour of the State, and costs of the proceeding were borne by the respective parties.
<i>TransCanada v USA</i>	2016	NATFA	Claim for \$15 billion USD arising in response to the US government's decision to deny a permit for the Keystone XL pipeline, based in part on the pipeline's impact on climate change.	Settled, with non-pecuniary relief rather than compensation. The Trump administration approved permits that had previously been denied.
<i>Rockhopper v Italy</i>	2017	ECT	Claim arising in response to the Italian government's ban on oil drilling within 12 miles of its shoreline.	Awarded over \$290 million USD.
<i>Vermilion v France</i>	2017	ECT	Threat of claim arising in response to the proposed French law to prohibit renewing oil exploitation permits and end fossil fuel extraction by 2040.	This claim was threatened but never brought, as France backed away from taking the proposed climate action.
<i>Westmoreland v Canada (I) and (II)</i>	2018/2019	NAFTA	Westmoreland (I) and (II) claims arising in response to the Alberta provincial governments decision in 2015 to phase out coal-fired power plants in the province by 2030.	<i>Westmoreland (I)</i> was discontinued. <i>Westmoreland (II)</i> was dismissed in its entirety for technical reasons. ²
<i>Lama v Canada</i>	2019	NAFTA	Claim arising in response to delays to regulatory approval for a major oil sands project.	Notice of intent to bring a claim. Unlikely to proceed because subsequent provincial government provided regulatory approval.

¹ See summary of dispute here: <https://investmentpolicy.unctad.org/investment-dispute-settlement/cases/467/vattenfall-v-germany-ii->.

² *Westmoreland v Canada*, ICSID Case No. UNCT/20/30, Final Award, 31 January 2022.

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<i>Ascent Resources v Slovenia</i>	2020	ECT	Claim arising in response to Slovenia requiring Ascent Resources to conduct an environmental impact study and obtain an environmental permit before fracking near a water source.	Notice of intent, seeking \$540 million in compensation.
<i>Uniper v The Netherlands</i>	2021	ECT	Claim arising in response to the <i>Law Prohibiting the use of Coal with the Production of Electricity</i> in the Netherlands, which introduced a phase-out plan that would require the closure of all coal plants in 2030.	Notice of dispute.
<i>RWE v The Netherlands</i>	2021	ECT	Claim arising in response to the <i>Law Prohibiting the use of Coal with the Production of Electricity</i> in the Netherlands, which introduced a phase-out plan that would require the closure of all coal plants in 2030.	Pending.
<i>Discovery Global LLC v Slovak Republic</i>	2021	Czech and Slovak Republic-United States BIT	Claim arising after dispute regarding the requirements for environmental impact assessments of proposed oil and gas developments.	Request for Arbitration seeking \$2.11 billion in compensation.
<i>TC Energy v United States</i>	2021	USMCA NAFTA Legacy Provision	Claim arising from the US Government's revocation of a permit for the construction and operation of the Keystone XL pipeline after the election of a new government that cited environmental and climate change concerns.	Notice of intent to bring a claim, seeking \$15 billion USD in compensation.
<i>Glencore International v Colombia</i>	2021	Colombia-Switzerland BIT (2006)	Claim related to an Order from Colombia's Constitutional Court that suspended the investors plans to modify a water body that is important for a nearby Indigenous community	Request for arbitration. The amount in dispute is confidential.
<i>Alberta PMC v United States</i>	2022	NAFTA	Claim arising from the US Government's revocation of a permit for the construction and operation of the Keystone XL pipeline after the election of a new government that cited environmental and climate change concerns.	Notice of dispute.
<i>Clara Petroleum v Romania</i>	2022	ECT	Claim related to hydrocarbon development in Romania.	Arbitration in progress. The amount in dispute is confidential.
<i>Ruby River Capital LLC v Canada</i>	2023	USMCA NAFTA Legacy Provision	Claim arising from the Governments of Canada and Quebec's decisions not to permit the construction and operation of a liquified natural gas plant after environmental assessments	Request for Arbitration, seeking \$20 billion in compensation.

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			concluded there were major environmental and climate change concerns.	
<i>Korea National Oil Corporation and others v Nigeria</i>	2023	Nigeria-Republic of Korea BIT	Claim related to oil production in Nigeria.	Request for Arbitration.
<i>Zenith Energy v Tunisia</i>	2023	UK-Tunisia BIT	Claim related to oil production in Tunisia.	Request for Arbitration.