Investor - State Dispute Settlement

Investment treaty disputes are complex, high-stakes matters that demand experienced, specialized counsel. Clients turn to one of Canada's largest and most active international arbitration teams for strategic, results-driven representation.

BLG has one of the country's largest portfolios of active international disputes and highest value of pending counsel work (over US$3.5 billion in 2025). We have acted for governments, state-owned entities, businesses and even individual investors in dozens of ICSID and UNCITRAL investor-state disputes.

Top-ranked investor–state arbitration and investor-state dispute settlement (ISDS) team

The firm's international arbitration accolades are impressive. Chambers (Canada and Global),Benchmark Litigation, Best Lawyers, Lexpert and Lexology Index have all recognized our team members, and GAR 100 has included BLG in its guide to "approved" international arbitration specialists every year since 2018.

Proven results in ICSID and UNCITRAL disputes

We're known for our past work representing Mexico, for having secured pre-judgment attachments and successfully defeated the Republic of India's sovereign immunity in enforcement proceedings — where our work has helped establish leading case law in the country— and advising both investors and sovereigns on investor-state and state-to-state claims and structuring of investments to maximize available protections. We've had impressive wins in high stakes ISDS arbitrations across industries, particularly mining, energy, infrastructure, construction and telecommunications.

The experience you need: end-to-end investment treaty arbitration capability

BLG is one of the only Canadian firms with experience across the entire life cycle of an investor-state dispute, from structuring of investments and acquisitions, pre-arbitration consultations, representing clients—both investors and states—in the arbitration process, set-aside applications, through to enforcement of awards before the courts. Our team draws on deep experience in public international law, international arbitration and domestic litigation to address the full range of legal, strategic and policy issues that arise in ISDS matters. We advise on strategies, negotiate early settlements, conduct detailed reviews and recommend alternative forms of resolution. Our excellent relationships with experts, particularly when determining the value of claims, helps you maximize available damages.

Members of the BLG team bring experience at the highest levels of government and international organizations, grounding our ISDS practice in exceptional depth across public international law and international arbitration.

Unique insight from treaty negotiation and drafting

BLG's ISDS team is part of a small group of lawyers in private practice worldwide who negotiate treaties on behalf of governments. This experience helps us confidently interpret treaties and determine where opportunities and risks may lie for our investor clients. On the flip side, our experience working for investors helps us draft better clauses when negotiating treaties for government clients.

Third-party funding and arbitration cost strategies

We have solid relationships with many third-party funders, including Fortress Investment Group, as well as Burford Capital and Omni Bridgeway, both of which have spoken publicly about their confidence in our team. And because legal fees can quickly escalate on ISDS files, we work hard to maximize value and minimize cost, efforts that were recently commended by an international arbitral tribunal.

International arbitration lawyers with global experience

Our multi-lingual (including Spanish) ISDS lawyers — a number of whom have the FCIArb designation — are sought-after arbitrators, academics, media commentators, authors and treaty advisors. Many have been involved in large ICSID investment treaty disputes at global firms and the Permanent Court of Arbitration before coming to BLG. The Honourable Edward Chiasson — who co-founded BLG's arbitration practice in the 1980s — continues to provide strategic input today as senior counsel.

How we can help you with your investor-state dispute resolution

Our ISDS team has successfully assisted clients with:

- Disputes under bilateral investment treaties, free trade agreements, regional and multilateral treaty regimes and contracts with state parties, including investment agreements, concessions and licenses.
- Claims involving a social licence to operate, human rights and environmental issues, including impact assessments.
- Denial of justice and discriminatory treatment claims.
- Umbrella clauses and claims involving taxation.
- Structuring foreign investments in the most advantageous way to maximize protection under applicable treaties.
- Procedural strategies, including choice of jurisdiction, institutional rules, seat and arbitrator, and arbitrator challenges.
- Substantive strategies, including determining the strength of a claim under a particular treaty, assessing damages, finding experts and assessing the likelihood that a home state will make a claim on behalf of an investor.
- Pre-arbitration consultations and negotiations, as required under certain treaties and to avoid arbitration.
- Arbitrations involving United Nations Commission on International Trade Law (UNCITRAL), International Centre for Settlement of Investment Disputes (ICSID), International Chamber of Commerce (ICC), Stockholm Chamber of Commerce (SCC), Vienna International Arbitral Center

(VanIAC), International Centre for Dispute Resolution/American Arbitration Association (ICDR/AAA) and Permanent Court of Arbitration (PCA).
- Negotiating treaties on behalf of governments.
- Obtaining third-party funding.
- Negotiations to de-escalate conflict, find common ground and achieve dismissal of claims.
- Developing global, multi-jurisdictional investor-state award-enforcement strategies.
- Recognition and enforcement of investor-state awards before Canadian courts.
- Securing pre-judgment attachments in the context of recognition and enforcement proceedings.

Experience

- Representing investors in Devas Multimedia Private Ltd. in the enforcement in Québec of a US$110 million investment treaty award against India. BLG successfully defeated India's sovereign immunity and secured pre-judgment attachments of funds held by Montréal-based International Air Transport Association (IATA).
- Acted as counsel to the Government of Mexico related to 17 investor-state arbitrations involving claims for damages ranging from $20 million to $1.2 billon.
- Successfully advised Geophysical Service in a US$2.6 billion NAFTA claim against Canada relating to the handling of proprietary seismic data. BLG succeeded in disqualifying a member of Canada's counsel team from the case because of her prior employment at a third-party funder.
- Successfully represented an international energy company against a South American state, resulting in one of the largest awards at the time.
- Provided comprehensive advice to a global mining corporation regarding potential claims against a Latin American state under the Comprehensive and Progressive Trans-Pacific Partnership.
- Achieved a favourable settlement for the Government of South Africa in an ICSID proceeding against European investors in South Africa's mining sector.
- Successfully represented a European state in ICSID proceedings arising out of the Energy Charter Treaty.
- Successfully represented a U.S. investor in ICSID proceedings relating to gas supply in a European state.
- Represented a Middle Eastern investor claiming against Yemen for expropriation and discriminatory treatment regarding its telecommunications investment under UNCITRAL rules.
- Representing a Canadian mining company in the enforcement of a US$1 billion arbitral award against the Government of Venezuela in connection with the expropriation of mineral tenures.
- Represented the Government of Mexico before the Superior Court of Ontario and the Court of Appeal of Ontario in the set aside of a partial award on jurisdiction issued by an arbitral tribunal constituted under the ICSID Additional Facility Rules.
- Advising a Ukrainian entity in international enforcement efforts of a multi-billion award against the Russian Federation.
- Advised a Canadian investor regarding possible claims against a Caribbean state over unfair treatment regarding the operation of a waste management business.
- Advised a Canadian investor regarding structuring of a precious metals investment with respect to possible treaty protections.
- Acted as Tribunal secretary in an investment treaty claim in the construction sector against Albania.
- Assisted an arbitral tribunal determining a claim by a Turkish investor against a Central Asian state as part of work at the Permanent Court of Arbitration in The Hague.

- Advised the Government of Mexico as a NAFTA party intervener in five cases against the Government of Canada.
- Advised resource sector clients on protection accorded under Canada's bilateral investment treaties and free trade agreements with Latin American States.
- Advised a Canadian mining company on structuring a proposed royalty acquisition to maximize available treaty protections.
- Advised private sector clients on structuring foreign direct investment to obtain treaty protection backed by political risk insurance.
- Counsel of record in treaty proceedings against Ecuador involving a large infrastructure project.
- Advising a gold miner in respect of treaty claims concerning the non-renewal of a mining licence in an African state, following a change in the domestic mining legislation.

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 800 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

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