

REFERENCES

- Almeida, F. (2015). *Strengths and Limitations of Qualitative and Quantitative Research Methods*. Academia.edu.
https://www.academia.edu/34501083/STRENGTHS_AND_LIMITATIONS_OF_QUALITATIVE_AND_QUANTITATIVE_RESEARCH_METHODS
- Alschner, W. (2013). Americanization of the BIT Universe: The Influence of Friendship, Commerce and Navigation (FCN) Treaties on Modern Investment Treaty Law. *Social Science Research Network*.
- Alvarez, G. A., & Park, W. W. (2003). The New Face of Investment Arbitration: NAFTA Chapter 11. *The Yale Journal of International Law*, 28(2), 9.
- Amenta, E., & Scott, A. (2012). *The Wiley-Blackwell Companion to Political Sociology*.
<https://orbi.uliege.be/bitstream/2268/263229/13/The-Wiley-Blackwell-Companion-to-Political-Sociology.pdf#page=72>
- Bahri, A., & Lugo, M. (2020). Trumping Capacity Gap with Negotiation Strategies: the Mexican USMCA Negotiation Experience. *Journal of International Economic Law*, 23(1). <https://doi.org/10.1093/jiel/jgz029>
- Broadberry, S., & Arthur, W. B. (1996). Increasing Returns and Path Dependence in the Economy. *Economica*, 63(249), 163. <https://doi.org/10.2307/2554641>
- Brower, C. N., & Steven, L. A. (2001). *Who Then Should Judge? Developing the International Rule of Law under NAFTA Chapter 11*. Chicago Unbound.
<https://chicagounbound.uchicago.edu/cjil/vol2/iss1/12/>
- Carr, C. (2018). *Trump's Climate-Denying NAFTA Proposal Would Perpetuate Outsourcing of Pollution and Jobs*. Sierraclub.org.
<https://www.sierraclub.org/press-releases/2018/10/trump-s-climate-denying-nafta-proposal-would-perpetuate-outsourcing-pollution>
- Collier, D. (2011). Understanding Process Tracing. *PS: Political Science & Politics*, 44(04), 823–830.
- Congressional Research Service. (2019). *NAFTA Renegotiation and the Proposed United States-Mexico-Canada Agreement (USMCA)*.
<https://crsreports.congress.gov/product/pdf/R/R44981/15>
- Côté, C.-E., & Ali, H. (2021). *The USMCA and Investment: A New North American Approach?* (pp. 81–98). https://doi.org/10.1007/978-3-030-81694-0_6

- Crespo, C. S. (2018). A Mexican Outlook on NAFTA, TPP and their Renegotiation: Investment Arbitration's Transparency and their Renegotiation. *Houston Journal of International Law*, 40(3), 937.
https://www.researchgate.net/profile/Camilo-Soto-10/publication/328367702_A_Mexican_Outlook_on_NAFTA_TPP_and_their_Renegotiation_Investment_Arbitration
- Crowe, S., Cresswell, K., Robertson, A., Huby, G., Avery, A., & Sheikh, A. (2011). The case study approach. *BMC Medical Research Methodology*, 11(1), 1–9. NCBI.
<https://doi.org/10.1186/1471-2288-11-100>
- Dadashova, B., Cline, J., Li, X., Sanchez, A., Gurbuz, O., & Aldrete, R. (2020). *POTENTIAL IMPLICATIONS OF USMCA ON ENERGY AND TRANSPORTATION SECTORS: PHASE I Phase I Final Report*.
<https://static.tti.tamu.edu/tti.tamu.edu/documents/185919-00015.pdf>
- de Jong, J. A. (2018). *Major changes for investor-state dispute settlement in new United States-Mexico-Canada Agreement | Canada | Global law firm | Norton Rose Fulbright*.
<https://www.nortonrosefulbright.com/En/Knowledge/Publications/Imported/2018/10/26/19>.
<https://www.nortonrosefulbright.com/en/knowledge/publications/91d41adf/major-changes-for-investor-state-dispute-settlement-in-new-united-states-mexico-canada-agreement>
- Dodge, W. S. (2005). Investor-State Dispute Settlement Between Developed Countries: Reflections on the Australia-United States Free Trade Agreement. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.749504>
- Donnan, S. (2017, August 24). *Business groups fire warning shot over Nafta shake-up*. @FinancialTimes; Financial Times.
<https://www.ft.com/content/f8bd9e3c-88e3-11e7-bf50-e1c239b45787>
- Dreiling, M. C., & Darves, D. (2016). *Agents of neoliberal globalization : corporate networks, state structures, and trade policy*. Cambridge University Press.
- Ebbinghaus, B. (2005). *Can Path Dependence Explain Institutional Change? Two Approaches Applied to Welfare State Reform*.
<https://www.econstor.eu/bitstream/10419/19916/1/dp05-2.pdf>
- Esty, D. C., & Salzman, J. (2017). Rethinking NAFTA: Deepening the Commitment to Sustainable Development. In *A Path Forward for NAFTA*. Peterson Institute for International Economics.

- Fioretos, O., Falleti, T. G., & Sheingate, A. (2016). Historical Institutionalism in Political Science. In O. Fioretos, T. G. Falleti, & A. Sheingate (Eds.), *Oxford Handbooks Online*. Oxford University Press.
<https://doi.org/10.1093/oxfordhb/9780199662814.013.1>
- Floyd, D. (2023, January 24). *How Did NAFTA Affect the Economies of Participating Countries?* Investopedia.
<https://www.investopedia.com/articles/economics/08/north-american-free-trade-agreement.asp>
- Friedrichs, G. M. (2021). Polarized we trade? Intraparty polarization and US trade policy. *International Politics*. <https://doi.org/10.1057/s41311-021-00344-x>
- Gagné, G., Polaski, S., & Rioux, M. (2022). Conclusion—NAFTA's Impacts: Can the USMCA Do Better? In *NAFTA 2.0 From the first NAFTA to the United States-Mexico-Canada Agreement*. Springer International Publishing.
<https://doi.org/10.1007/978-3-030-81694-0>
- Gaines, S. E. (2000). NAFTA CHAPTER 11 AS A CHALLENGE TO ENVIRONMENTAL LAW MAKING— ONE VIEW FROM THE UNITED STATES . *EnviReform First Annual Conference*.
- Gantz, D. A. (2017). Increasing Host State Regulatory Flexibility in Defending Investor-State Disputes: The Evolution of U.S. Approaches from NAFTA to the TPP. *International Lawyer*, 50(2), 231–259.
- Gantz, D. A. (2020, April 3). *Canada's Approaches to Investor State Dispute Settlement: Addressing Divergencies among CETA, USMCA, CPTPP and the Canada-China FIPA*. Ssrn.com. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3568230
- George, A. L., & Bennett, A. (2005). *Case studies and theory development in the social sciences*. MIT Press.
- Gertz, G. (2017). *Renegotiating NAFTA: Options for Investment Protection*. <https://www.brookings.edu/wp-content/uploads/2017/03/global-20170315-nafta.pdf>
- Global Affairs Canada. (2002, July 31). *Ethyl Corporation v. Government of Canada*. GAC.
<https://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/disp-diff/ethyl.aspx?lang=eng>
- Groch, M., & Washington, D. (2017). *As Battle Over NAFTA Investor Protections Heats Up, Trilateral Coalition Delivers 400,000 Petitions Demanding Elimination of Corporate Rights and Tribunals Investor-State Dispute Settlement Becomes Key Measure of Whether NAFTA Renegotiations Will Benefit Working People or Expand*

<https://www.citizen.org/wp-content/uploads/isds-petition-release-10112017.pdf>

Hay, C., & Wincott, D. (1998). Structure, Agency and Historical Institutionalism. *Political Studies*, 46(5), 951–957. <https://doi.org/10.1111/1467-9248.00177>

Hufbauer, C., Cimino, C., & Moran, T. (2014). *NAFTA at 20: Misleading Charges and Positive Achievements*. https://relooney.com/NS3040/000_New_1111.pdf

ICSID. (2024). *Search Cases* | ICSID. [Icsid.worldbank.org. https://icsid.worldbank.org/cases/case-database](https://icsid.worldbank.org/cases/case-database)

International Institute for Sustainable Development. (2018). *The Federal Court of Canada and the End of Investor-state Dispute Settlement in NAFTA?* International Institute for Sustainable Development. <https://www.iisd.org/articles/insight/federal-court-canada-and-end-investor-state-dispute-settlement-nafta>

Judy, H., & Sgro, A. (2021). *INVESTOR-STATE DISPUTE SETTLEMENT: SOME CONSIDERATIONS FOR CANADA Report of the Standing Committee on International Trade*. <https://www.ourcommons.ca/Content/Committee/432/CIIT/Reports/RP11415350/ciitrp08/ciitrp08-e.pdf>

Katznelson, I. (1999). Structure and Configuration in Comparative Politics. In *Comparative Politics Rationality, Culture, and Structure* (Vol. 28, Issue 2, pp. 81–112). Cambridge University Press. <https://doi.org/10.2307/2654888>

Kent, R. D., & Morris, D. (2018, May 3). *Infrastructure Series: NAFTA Renegotiation: Energy Infrastructure and Investor-State Disputes*. Wilmerhale.com; WilmerHale. <https://www.wilmerhale.com/insights/client-alerts/2018-05-03-infrastructure-series-nafta-renegotiation-energy-infrastructure-and-investor-state-disputes>

Lai, J. L. (2021). *A Tale of Two Treaties: A Study of NAFTA and the USMCA's Investor-State Dispute Settlement Mechanisms*. Emory Law Scholarly Commons. <https://scholarlycommons.law.emory.edu/eilr/vol35/iss2/3/>

Laurens, N., Dove, Z., Morin, J. F., & Jinnah, S. (2019). NAFTA 2.0: The Greenest Trade Agreement Ever? *World Trade Review*, 18(4), 659–677. <https://doi.org/10.1017/s1474745619000351>

Lopez, A. (2023, November 25). *ISDS Under the USMCA: The First Three Years at a Glance*. Kluwer Arbitration Blog.

<https://arbitrationblog.kluwerarbitration.com/2023/11/25/isds-under-the-usmca-the-first-three-years-at-a-glance/>

Mahoney, J. (2000). Path Dependence in Historical Sociology. *Theory and Society*, 29(4), 507–548. <https://www.jstor.org/stable/3108585>

Mahoney, J. (2001). Path-Dependent Explanations of Regime Change: Central America in Comparative Perspective. *Studies in Comparative International Development*, 36(1), 111–141. <https://doi.org/10.1007/bf02687587>

Makris, N. (2022). *Ignoring Native Voices: Environmental and Cultural Impact of Oil Pipelines*.
https://research.library.fordham.edu/cgi/viewcontent.cgi?article=1124&context=enviro_n_2015

Menezes, R. G., Mariano, K. L. P., & Contrera, F. (2022). Hard Times: The United States and Mexico in NAFTA's "Renegotiation" Process. *Contexto Internacional*, 44(2). <https://doi.org/10.1590/s0102-8529.20224402e20200112>

Merrill, E., & Brauch, M. D. (2024, November 18). *U.S. Climate Leadership Must Reject ISDS: As the United States Faces Another \$15 Billion Suit from the Fossil Fuel Industry, it's Time for President Biden to Take a Decisive Stance* | Columbia Center on Sustainable Investment. Columbia.edu.
<https://ccsi.columbia.edu/news/us-climate-leadership-must-reject-isds-united-states-faces-another-15-billion-suit-fossil-fuel>

Moonen, E. E. (2016). *Worldwide Diffusion of BITs: Domination or Development?* [Thesis].

Müller, B., Perez-Rocha, M., & Olivet, C. (2024). *A portrait of transnational power in MEXICO the investment protection regime and its consequences*.
<https://ips-dc.org/wp-content/uploads/2024/09/ISDS-Mexico-September-2024-Report-ENGLISH.pdf>

Nogales, F. (2002). The NAFTA Environmental Framework. *Annual Survey of International & Comparative Law*, 8. <https://core.ac.uk/download/pdf/233099325.pdf>

Odell, J. S. (2000). *Negotiating the world economy*. Cornell University Press.

Patel, N. (2017). *An Emerging Trend in International Trade: A Shift to Safeguard Against ISDS Abuses and Protect Host-State Sovereignty* Note An Emerging Trend in International Trade: A Shift to Safeguard Against ISDS Abuses and Protect Host-State Sovereignty.
<https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1310&context=mjil>

- Pérez-Rocha, M. (2020, January 17). *With Passage of NAFTA 2.0, Congress Boosts Fossil Fuel Polluters, Particularly in Mexico* - *Inequality.org*. *Inequality.org*.
<https://inequality.org/research/nafta-investment-mexico/>
- Pérez-Rocha, M. (2024, May 20). *LETTER: NAFTA Made Climate Action Harder. That Needs to Be Fixed.* - *Institute for Policy Studies*. *Institute for Policy Studies*.
<https://ips-dc.org/trinational-letter-usmca-nafta-isds/>
- Pierson, P. (2000). The Limits of Design: Explaining Institutional Origins and Change. *Governance*, 13(4), 475–499. <https://doi.org/10.1111/0952-1895.00142>
- Plaček, M., Vaceková, G., Valentinov, V., & Ochrana, F. (2022). Historical institutionalism: a tool for researching the nonprofit sector in times of pandemic. *Innovation: The European Journal of Social Science Research*, 1–15.
<https://doi.org/10.1080/13511610.2022.2052027>
- Polanco, R. (2019). The Rise of and Backlash against Investor–State Arbitration. *Cambridge University Press EBooks*, 29–52. <https://doi.org/10.1017/9781108628983.003>
- Reiss, P. (2024). *The Good, the Bad and the Not Necessarily Ugly Future of Investor State Arbitration. What will become of the investor-state dispute settlement system?*
https://nahmiaslegal.com/wp-content/uploads/2024/04/06-CEIA-revista_2024-N.-49.pdf
- Runnals, D., & Fuller, K. S. (2001). Preface. In *Private Rights, Public Problems: A Guide to NAFTA's Controversial Chapter on Investor Rights*. International Institute For Sustainable Development.
- Sachs, L. E., Johnson, L., & Merrill, E. (2020). *Environmental Injustice: How Treaties Undermine Human Rights Related to the Environment*. Scholarship Archive.
https://scholarship.law.columbia.edu/sustainable_investment_staffpubs/71/
- Sinclair, S. (2018). *Canada's Track Record Under NAFTA Chapter 11 North American Investor-State Disputes to January 2018*. Canadian Centre for Policy Alternatives.
- Sinclair, S. (2021). *The Rise and Demise of NAFTA Chapter 11*.
https://policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2021/04/The_Rise_and_Demise_of_NAFTA_Chapter_11.pdf
- Sinclair, S. (2023). *Toxic legacy Énergie Saguenay, climate action and investment arbitration*. The Monitor. <https://monitormag.ca/reports/toxic-legacy/>
- Skocpol, T., & Pierson, P. (2002). “Historical Institutionalism in Contemporary Political Science.” In *Political Science: State of the Discipline* (pp. 693–721). W.W. Norton.

<https://scholar.harvard.edu/thedaskocpol/publications/%E2%80%9Chistorical-institutionalism-contemporary-political-science%E2%80%9D>

Solomon, I., & Paul, I. (2024). *Trading Away Our Climate How Corporations Use Trade and Investment Agreements to Undermine Action on Climate Change* TRADING AWAY OUR CLIMATE 1.

https://www.sierraclub.org/sites/default/files/2024-06/V6_ISDS-Report-6.1.pdf

Stanley, L. E. (2007). The diffusion of BITs and policy degrees of freedom: A comparison between Latin American and Asian countries. *Centro de Estudios de Estado Y Sociedad*.

Thelen, K. (2016). *The Explanatory Power of Historical Institutionalism*. https://pts.org.pl/wp-content/uploads/2016/04/thelen_2002_explanatory_power_of_hi.pdf

Thomas, J. (2021). Dispute Resolution under USMCA. *European Journal of Law Reform*, 23(4), 428–449. <https://doi.org/10.5553/ejlr/138723702022023004002>

Tienhaara, K. (2017). Investor–state dispute settlement. In P. Drahos (Ed.), *Regulatory Theory Foundations and Applications*. ANU Press.

Tienhaara, K. (2019). NAFTA 2.0: What are the implications for environmental governance? *Earth System Governance*, 1(1), 100004. <https://doi.org/10.1016/j.esg.2019.100004>

Tienhaara, K. (2024, August 8). *Keystone XL: The verdict against TC Energy shows the importance of protecting climate policies*. The Conversation. <https://theconversation.com/keystone-xl-the-verdict-against-tc-energy-shows-the-importance-of-protecting-climate-policies-234996>

Tienhaara, K., Thrasher, R., Simmons, B. A., & Gallagher, K. P. (2022). Investor-state disputes threaten the global green energy transition. *Science*, 376(6594), 701–703. <https://doi.org/10.1126/science.abo4637>

Tollefson, C. (2002). *Metalclad v. United Mexican States Revisited: Judicial Oversight of NAFTA's Chapter Eleven Investor-State Claim Process*. Scholarship Repository. https://scholarship.law.umn.edu/mjil/205?utm_source=scholarship.law.umn.edu%2Fmjil%2F205&utm_medium=PDF&utm_campaign=PDFCoverPages

Tran, P. (2016). *A Review of NAFTA Investor-State Dispute Settlement Claims From 2007 to 2017*. SMU Scholar. <https://scholar.smu.edu/lbra/vol22/iss4/8>

Treat, S. A. (2018). *More than 300 State Legislators Urge Removing Corporate-Friendly ISDS Provisions from NAFTA*. Iatp.org.

<https://www.iatp.org/blog/201901/more-300-state-legislators-urge-removing-corporate-friendly-isds-provisions-nafta>

Trew, S., & Tienhaara, K. (2023). *The Monitor | Canada's options for intervening in the Keystone XL.... The Monitor.*
<https://monitormag.ca/reports/canadas-options-for-intervening-in-the-keystone-xl-cusma-lawsuit/>

UNCTAD. (2022). *TREATY-BASED INVESTOR-STATE DISPUTE SETTLEMENT CASES AND CLIMATE ACTION.* IIA Issues Note.
https://unctad.org/system/files/official-document/diaepcbinf2022d7_en.pdf

Villarreal, M., & Fergusson, I. (2017a). *NAFTA Renegotiation and Modernization.*
<https://ecommons.cornell.edu/server/api/core/bitstreams/4a1b5c76-856e-4d3a-b1c8-2833bc2228c4/content>

Villarreal, M., & Fergusson, I. (2017b). *The North American Free Trade Agreement (NAFTA).* <https://sgp.fas.org/crs/row/R42965.pdf>

Wagner, M., & Ries, B. (2018, October). *Trump gives remarks on US-Mexico-Canada deal.* CNN.
<https://edition.cnn.com/politics/live-news/trump-us-mexico-canada-remarks-oct-18/index.html>

Wanamaker, G. (2019, October 11). *How green is natural gas? The case for and against Quebec's Énergie Saguenay project.* CBC.
<https://www.cbc.ca/news/canada/montreal/energie-saguenay-how-green-is-natural-gas-1.5316626>

West, A. (2018). *The Future of NAFTA's ISDS and AD-CVD Dispute Settlement Mechanisms in the Trump Era and their Role in NAFTA Renegotiation on JSTOR.* Jstor.org.
<https://www.jstor.org/stable/27009648>

Wiggins, N. (2021). T-TIP Negotiations Round Two: An Opportunity to Redirect the Trajectory of International Investment Law. *SSRN Electronic Journal.*
<https://doi.org/10.2139/ssrn.3866234>

Wilson, T. (2000). *Law and Business Review of the Americas Trade Rules: Ethyl Corporation v. Canada (NAFTA Chapter 11) -Part 1: Claim and Award on Jurisdiction Recommended Citation.* <https://core.ac.uk/download/pdf/147642872.pdf>

Ylikoski, P., & Zahle, J. (2019). Case study research in the social sciences. *Studies in History and Philosophy of Science Part A*, 78, 1–4.
<https://doi.org/10.1016/j.shpsa.2019.10.003>



Locked-In Legacy: Path Dependence in Shaping Investor-State Dispute Settlement (ISDS) and Trade-Environment Dynamics in North America

Belinda Zabrina Lailani, Dr. Titik Firawati, S.I.P., MA

Universitas Gadjah Mada, 2025 | Diunduh dari <http://etd.repository.ugm.ac.id/>

UNIVERSITAS
GADJAH MADA

Zhang, I. (2023). *The Research of USMCA*. <https://doi.org/10.4108/eai.19-5-2023.2334224>