

**NAFTA Chapter 11 Investor-State Arbitration:**  
**From Text to Reality – An Empirical Assessment**

A THESIS  
SUBMITTED TO THE  
STANFORD PROGRAM IN INTERNATIONAL LEGAL STUDIES  
AT THE STANFORD LAW SCHOOL,  
STANFORD UNIVERSITY  
IN PARTIAL FULFILLMENT OF THE REQUIREMENTS  
FOR THE DEGREE OF  
MASTER OF THE SCIENCE OF LAW

Advised under the faculty supervision of Alan O. Sykes

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May 2010

## *Abstract*

The focus of this Thesis is the investor-State dispute resolution system provided for under Chapter 11 of the North American Free Trade Agreement. It answers the question of how this system has functioned from its coming into force on January 1, 1994 to May 1, 2010. Additionally, it empirically assesses the veracity of claims made about the system. Doing so, it serves three purposes: (a) to present and explain the system's design; (b) to offer descriptive, quantitative data about the system; and (c) to test attributive hypotheses about the system.

As no comprehensive empirical study of the NAFTA's investor-State arbitral system has been undertaken since the system's creation, this Thesis fills this empirical void by offering descriptive statistics to demonstrate how the system has functioned since its inception. In addition, it specifically addresses five assertions disseminated by the media, government representatives, scholarly commentators and NGOs about Chapter 11.

To test those assertions, it empirically examines (1) whether investors always win; (2) whether arbitral tribunals tend to render large awards; (3) whether Mexico has been the main target of the system's mechanisms; (4) whether the system is managed by an "arbitration mafia;" and finally, (5) whether North America has witnessed a "litigation explosion" since the NAFTA's inception. Through this analysis, some claims and assertions are affirmed, while others are refuted.