

Annex 2: Selected treaty-based arbitrations by Dutch investors
(Draft, not for circulation, 10 March 2014)

No.	Short case title	Year the case was initiated	Nature of dispute/claim	Policy issue or systemic ISDS issue involved	Applicable legal instrument	Amount of relief claimed (best figure available) <i>US \$ million</i>	Amount of relief awarded (best figure available, excluding interest) <i>US \$ million</i>	Status/outcome of case: Awarded in favour of the State (1), investor (2), settled (3), pending (4), unknown (5) or discontinued (for reasons other than settlement) (6)	Reaction to the case, if known
1	CME v. Czech Republic	2000	Claims arising from actions and omissions attributed to the Media Council, an organ of the Czech Republic, that allegedly commercially destroyed the broadcasting station operator which was partly owned by the investor	Parallel claims: same facts gave rise to two cases under different BITs (the second case is <i>Lauder v. Czech Republic</i>) The two tribunals reached opposite conclusions on the case	Czech Republic-Netherlands BIT	495.2	270	2 - in favour of investor	The Czech Republic unsuccessfully sought to set aside the award in Swedish courts According to the company's website, CME still operates in the Czech Republic
2	Saluka v. Czech Republic	2001	Claims arising out of the imposition of forced administration of the investor's banking enterprise by the Czech National Bank (CNB)	Regulation of banking sector	Czech Republic-Netherlands BIT	1000	236	3 - settled	Unknown
3	Aguas del Tunari v. Bolivia	2002	Claims arising out of the alleged expropriation of a concession	Regulation of provision of water services to population The jurisdictional phase of the proceedings alone took 4 years	Bolivia-Netherlands BIT	not quantified	N/A	3 - settled	Bolivia denounced the ICSID Convention in 2007. This case might have contributed to this decision
4	Eureko B.V. v. Republic of Poland		Claims arising out of the Government's reversal of plans to privatize Poland's leading life insurance company (PZU)	Health insurance policy Privatisation	Netherlands-Poland BIT	13000	N/A	3 - settled	Reportedly, Poland agreed to pay USD 6 billion. Eureko agree to considerably reduce its shareholding in PZU.
5	Eastern Sugar v. Czech Republic	2004	Claims arising out of new sugar industry pricing decrees	Regulation of domestic sugar industry Relationship between BIT obligations and EU law	Czech Republic-Netherlands BIT	(123 million Euros)	(25 million Euros)	2 - in favour of investor	Unknown
6	Offshore Power v. India	2004	Claims arising out of the cancellation of the second phase of the Dabhol Power Project	Large-scale infrastructure Multiple (nine) parallel claims relating to the same project under various BITs	India-Netherlands BIT	4000	N/A	3 - settled	Some press-reports suggest that the settlement terms were favourable to investors

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7	K+ Venture Partners v. Czech Republic	2005	Claims arising out of the termination of a contract amid allegations of corruption	Corruption (the claimant allegedly fell victim of misuse of funds by public officials)	Czech Republic-Netherlands BIT	5.1	N/A	3 - settled	Unknown
8	Funnekotter and Others v. Zimbabwe	2005	Claims arising out of expropriations of claimants' farms in Zimbabwe	Direct expropriation of land	Netherlands-Zimbabwe BIT	15	12	2 - in favour of investor	Investors left the country. They have so far been unsuccessful in trying to enforce the arbitral award against Zimbabwe.
9	Rompetrol v. Romania	2006	Claims arising out of an investigation by Romanian anti-corruption and criminal prosecution authorities into alleged tax evasion which the investors claimed to be unfounded	Criminal investigations against physical persons	Netherlands-Romania BIT	unknown	0 (Claimant failed to establish economic loss)	Tribunal found breach of the BIT but did not award compensation (neither claimant nor respondent won)	Investor stayed in the country
10	Oostergetel & Laurentius v. Slovak Republic	2006	Claims arising out of allegations that the Respondent pushed the investors' enterprise into bankruptcy	Taxation policy	Netherlands-Slovak Republic BIT	40	0	1 - in favour of the State	Investors stayed in the country but lost their investment (real property) in the bankruptcy proceedings which were the subject-matter of the arbitration.
11	Saba Fakes v. Turkey	2007	Claims arising out of the receipt and subsequent sale by the Turkish authorities of assets held by Telsim, a major mobile phone company	Nationality-planning by claimant	Netherlands-Turkey BIT	19000	N/A	1 - tribunal declined jurisdiction	Investor left the country
12	ConocoPhillips et al v. Venezuela	2007	Claims arising out of nationalization by Venezuela of Conoco stakes in three oil projects	Large-scale nationalisation	Netherlands-Venezuela BIT	30000	pending	4 - pending	Unknown (likely that investor left the country)
13	Itera v. Georgia	2008	Claims arising out of the Country's alleged breach of the underlying investment contracts as well as orchestrating the bankruptcy of one of the investor's company	Parallel cases by the same claimant	United States-Georgia BIT and Netherlands-Georgia BIT	unknown	N/A	3 - settled	Investor left the country

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14	CEMEX v. Venezuela	2008	Claims arising out of the nationalisation of a company in which the claimants had indirect ownership interest	Large-scale nationalisation	Netherlands-Venezuela BIT	1200	N/A	3 - settled	Unknown (likely that investor left the country)
15	Millicom v. Senegal		Claims arising out of a forced renegotiation of a concession agreement and payment of additional licence fees	Forced renegotiation of a concession by a new government	Netherlands-Senegal BIT	unknown	N/A	3 - settled	Investor stayed in the country
16	HICEE v. Slovak Republic	2008	Claims arising out of the alleged reversal of a series of health care reforms initiated by a previous administration (including the requirement that insurance must be provided on a not-for-profit basis)	Health insurance policy	Netherlands-Slovak Republic BIT	1000	N/A	1 - tribunal declined jurisdiction	Unknown
17	Holcim v. Venezuela	2009	Claims arising out of the nationalisation of the investor's subsidiary	Large-scale nationalisation	Netherlands-Venezuela BIT	unknown	N/A	4 - pending while waiting for settlement to be paid out	Unknown (likely that investor left the country)
18	KT Asia v. Kazakhstan	2009	Claims arising out of the alleged expropriation of Kazakhstan's largest bank	Nationality-planning	Kazakhstan-Netherlands BIT	1500	N/A	1 - tribunal declined jurisdiction	Investor (ultimate owner) fled the host State; currently in detention in France
19	Achmea v. Slovak Republic (formerly Eureko v. Slovak Republic)	2009	Claims arising out of the government's reversal of a previous health insurance market liberalisation	Health insurance policy	Netherlands-Slovak Republic BIT	unknown	28.4	2 - in favour of investor (However, Slovakia is trying to contest the result of the arbitration in German courts.)	Achmea kept its presence in Slovakia but brought another case against the host State (in 2013) seeking to prevent expropriation of its assets
20	Novera v. Bulgaria	2012	Claims arising out of the termination of a waste management venture	Confidentiality/lack of information	Bulgaria-Netherlands BIT	unknown	pending	4 - pending	Unknown

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21	MNSS v. Montenegro		Claims arising out of the Government's actions that allegedly drove enterprise into bankruptcy, triggered by owner's disagreements with trade unions over job cuts and unpaid wages	Social/labour issues connected to economic restructuring of investment	Montenegro-Netherlands BIT; and Montenegrin Foreign Investment Law	98	pending	4 - pending	Unknown (likely that investor left the country)