

Max Planck Encyclopedias of International Law



Site Visit

Marco Benatar

Content type: Encyclopedia entries

Product: Max Planck Encyclopedias of International Law [MPIL]

Module: Max Planck Encyclopedia of International Procedural Law [MPEiPro]

Article last updated: September 2016

Subject(s):

Expert evidence — International courts and tribunals, powers — Fact-finding and inquiry

Published under the direction of H el ene Ruiz Fabri, with the support of the Department of International Law and Dispute Resolution, under the auspices of the Max Planck Institute Luxembourg for Procedural Law.

A. Introduction

1 In proceedings before international courts and tribunals it is predominantly the parties who bear the primary responsibility of producing evidence (→ *International Courts and Tribunals, Evidence*). Notable exceptions are international criminal tribunals, whose prosecutors and large investigation divisions exercise broad powers to collect evidence. Prosecutors may even undertake a number of measures on the territory of a State without seeking the authorities' assistance (→ *Fact-finding powers of international courts and tribunals*); → *Fact-finding powers of international prosecutors*). The set-up and fact-finding powers of non-criminal international courts and tribunals are rather different in this regard. Yet, this does not mean they are relegated to playing a merely passive role in the realm of evidence. International adjudicators may exercise a number of powers *proprio motu* geared towards the establishment of facts relevant to the case under consideration (→ *Fact-finding powers of international courts and tribunals*). One such power is the ability to conduct a site visit (or *descente sur les lieux*), ie a visit to a locality or spot connected to the case under consideration. By visiting relevant sites, judges and arbitrators are able to familiarize themselves with the situation on the ground (Rosenne, 2006, vol 3, 1325). Others however maintain that *in loco* inspections should be carried out for the purpose of gathering evidence (Higgins, 2009, vol 2, 1373).

2 This entry will first discuss the legal framework governing site visits by non-criminal international courts, exploring the juridical basis for ordering inspections on the spot and the conditions under which they are carried out. A second part will take a closer look at the site visits that have been conducted as well as cases in which suggested visits were declined. A final part reveals several patterns that have emerged and assesses the impact of visits *in situ* on the evidentiary practice of international courts and tribunals.

B. Legal Framework

1. Power to Order Site Visits

3 Only in some instances do international courts and tribunals derive their power to perform site visits from explicit provisions in their constitutive instruments. An early illustration can be observed in a founding document of the → *Permanent Court of Arbitration (PCA)*, Article 76 Convention for the Pacific Settlement of International Disputes (1907). Shifting to the contemporary era of the PCA, its most recent rules for use in arbitrating disputes involving at least one State, State-controlled entity, or intergovernmental organization provide for the option of performing site visits (Art 27 (3) PCA Arbitration Rules [2012]; → *Arbitration Rules (2012): Permanent Court of Arbitration (PCA)*). In accordance with its Statute, the → *International Court of Justice (ICJ)* can take 'steps ... to procure evidence on the spot' (Art 44 (2) Statute of the International Court of Justice [1945] ['ICJ Statute']). The 1978 revision of the Court's Rules led to the adoption of the first provision specifically regulating site visits (Art 66 Rules of the International Court of Justice [1978] ['ICJ Rules']). Arbitral tribunals constituted under UNCLOS (United Nations Convention on the Law of the Sea [1982]) may 'visit the localities to which the case relates' (Annex VII Art 6 (b) UNCLOS; → *Annex VII arbitration: United Nations Convention on the Law of the Sea (UNCLOS)*). This and other aspects of UNCLOS arbitral proceedings apply *mutatis mutandis* to so-called 'special arbitration' pursuant to said Convention (Annex VIII Art 4 UNCLOS; → *Annex VIII special arbitration: United Nations Convention on the Law of the Sea (UNCLOS)*). Turning to the → *International Centre for Settlement of Investment Disputes (ICSID)*, the ICSID Convention (Art 43 (b) Convention on the Settlement of Investment Disputes between States and Nationals of other States [1965]) and Arbitration Rules (Art 37 (1) ICSID Rules of Procedure for Arbitration Proceedings [2006]) empower ICSID tribunals to visit locations connected with the dispute or conduct enquiries there

(Schreuer, Malintoppi, Reinisch, and Sinclair, 2009, 670–71; → *Arbitration: International Centre for Settlement of Investment Disputes (ICSID)*).

4 Other international courts and tribunals have bestowed upon themselves the power to visit localities. This was achieved through the adoption of internal rules providing for this possibility. Although the Statute of the International Tribunal for the Law of the Sea ('ITLOS'; → *International Tribunal for the Law of the Sea*) is silent on this matter, the Tribunal adopted an explicit provision on site visits in its Rules (Art 81 Rules of the International Tribunal for the Law of the Sea [2009]). Similarly, an annex to the Rules of the → *European Court of Human Rights (ECtHR)* on investigative measures sets out the modalities of on-site inspections (Rules of the European Court of Human Rights [2016]).

5 The argument has been made that international courts and tribunals enjoy → *inherent powers* to conduct visits of localities. The site visits performed by a number of arbitral tribunals without an express provision to that effect lend support to this claim. Regardless of the existence of such a power, it should be emphasized that no site visit has been carried out without the agreement of the parties to the case (Brown, 2007, 111–12).

2. Conditions

6 Although the power to order site visits is discretionary and may even be exercised *proprio motu* by international courts and tribunals, the parties to the dispute have a key role to play. Most applicable rules specify that any decision on site inspections can only be taken after consultation with the parties. The latter requirement can be deemed a manifestation of the procedural → *fairness* principle guiding international litigation. Another indication of the parties' important involvement is that site visits can only be performed if the State in whose territory the inspections will take place—usually one or both of the parties—has given its consent. It further transpires from case law that the parties are often closely engaged in planning the program and modalities of the visit, which has been viewed as a key factor to a successful site visit (Meadows, 1998, 606).

7 As visiting a site entails travel and accommodation, often in a territory other than the seat of the tribunal, the privileges and immunities of judges and arbitrators are a paramount consideration (→ *Privileges and immunities of international courts and tribunals*). Sound planning of the itinerary and logistical arrangements ensures that this aspect is duly taken into account.

8 In general, the applicable rules do not impose restrictions *ratione temporis* on conducting site inspections. The period between the closing of the written submissions and the opening of the hearings is, however, considered a suitable moment for organizing visits (Anderson, 2006, 230).

9 As the costs of on-site fact-finding may be substantial, it is important to specify how these are allocated (→ *Financial aspects of international adjudication*). The approach followed by standing courts is not always uniform. The ICJ is illustrative in this respect. Neither the ICJ Statute nor the ICJ Rules address who will pay the expenses incurred in the context of a site visit. In *Gabčíkovo-Nagymaros Project, Hungary/Slovakia*, 1997 (→ *Gabčíkovo-Nagymaros Case (Hungary/Slovakia)*; '*Gabčíkovo-Nagymaros*') (described below), each party paid 50 per cent of the judges' air travel expenses and covered those costs associated with activities conducted on its respective territory (Tomka and Wordsworth, 1998, 138). This stands in contrast with the visit performed by judges of the → *Permanent Court of International Justice (PCIJ)* in the *Diversion of Water from the Meuse* case (described below) (→ *Meuse, Diversion of Water Case (Netherlands v Belgium)*), which was covered by the Court's budget (Walter, 2012, 1180). In arbitration, the unsuccessful party will bear the costs of arbitration, which includes any site visit. The arbitral tribunal

may decide, however, in light of the circumstances of the case, to apportion the costs between the parties (eg Art 42 (1) PCA Arbitration Rules [2012]; → *Decision with respect to costs*).

10 Once the decision has been taken to perform a site visit, the parties are required to facilitate the work of the court or tribunal. Whereas some rules explicitly mention this obligation (eg Annex VII Art 6 UNCLOS), it can be submitted that the duty of parties to cooperate in good faith requires such behaviour. Parties must therefore allow access to the locations and furnish technical assistance (Benzing, 2012, 1260).

C. Practice

11 The PCIJ's experience with site visits is limited to a single dispute that pitted the Netherlands against Belgium over water use of the Meuse River. Adopting an itinerary jointly proposed by the parties, members of the bench saw first-hand how locks and installations on the Meuse operated, and were given technical explanations (*Diversion of Water from the Meuse, Netherlands v Belgium*, 1937, 9; Hudson, 1937, 696–97).

12 The judges of the ICJ have made a site visit only once, namely in the *Gabčíkovo-Nagymaros* case at the initiative of both Hungary and Slovakia (*Gabčíkovo-Nagymaros*, para 10). The dispute arose out of a failed joint undertaking to construct and operate a system on the Danube River comprising *inter alia* a series of locks, dams, and hydroelectric power plants. Following an itinerary charted by the parties, the members of the Court saw various spots along the Danube and were given technical accounts by party-designated individuals. During the subsequent oral phase, parties were able to comment on the information gained from the visit. The judges' inspection of the locations has been both criticized and lauded. According to certain commentators, the site visit was not conducted with the aim of collecting evidence—the goal that the drafters of Article 66 ICJ Rules had in mind (Higgins, 2009, vol 2, 1373). Conversely, former Judge Bedjaoui, who presided over the bench that partook in the visit, has described the experience in positive terms (1998, at 21; for a positive account by another judge who participated in the visit, see Schwebel, 2011, 96).

13 It cannot be said that other standing international courts make extensive use of this investigative power either. The ITLOS has yet to perform a site visit. As for the ECtHR, the number of on-the-spot inspections has diminished over recent years. This has much to do with the disappearance of the European Commission of Human Rights, which actively engaged in fact-finding. In light of these developments, some have even described *in situ* inspection as an 'investigative measure of last resort' of the ECtHR (O'Boyle and Brady, 2013, 389). The seriousness of the alleged human rights violations is a relevant factor in deciding whether to conduct a site visit (Costa, 2008, 52–53). The practice of certain quasi-judicial human rights bodies is also of relevance. The → *Inter-American Commission on Human Rights (IACommHR)* may carry out on-site investigations to gather and verify the facts of petitions. The discretionary nature of the IACommHR's power to perform site visit has been confirmed by the → *Inter-American Court of Human Rights (IACtHR)* (*Velásquez Rodríguez v Honduras*, 1989, paras 47–50). So far, the IACommHR has only exercised this power in relation to a small fraction of the petitions it receives on account of budgetary constraints and limited staff (Pasqualucci, 2013, 103–5). The → *African Commission on Human and Peoples' Rights (ACommHPR)* has undertaken several on-site visits related to pending communications. Experts have argued that the Commission has not fully utilized the potential of such missions with respect to the gathering of information (Murray, 2008, 146–48; Niyungeko, 2007, 1336–41).

14 International arbitration has proven to be the most fertile domain for site visits, with case law spanning back to at least the late nineteenth century. Most often, recourse was had to site inspections in territorial and/or maritime boundary disputes (*'Meerauge' Lake Arbitration, Austria v Hungary*, 1902, 383; *Grisbådarna Arbitration, Norway v Sweden*, 1909, 157 (→ *Grisbadarna Case*); *Beagle Channel Arbitration, Argentina v Chile*, 1977, 72 (→ *Beagle Channel Dispute*); *Dubai-Sharjah Border Arbitration, Dubai v Sharjah*, 1981, 551; *Taba Arbitration, Egypt v Israel*, 1988, 9 (→ *Taba Arbitration*); *Boundary Dispute concerning the Frontier Line between Boundary Post 62 and Mount Fitzroy, Argentina v Chile*, 1994, 10; → *Territorial disputes*). Arbitrators have inspected places in other types of cases as well. In the → *Trail Smelter Arbitration*, a landmark case in the development of international environmental law, the members of the tribunal toured the affected area in the United States (US) and inspected the smelter plant situated in Canada (*Trail Smelter Arbitration, United States v Canada*, 1938 and 1941, 1912 and 1939). Another precedent worthy of mention is the *Ben Tillet Arbitration*, which concerned the treatment accorded to a foreigner. The sole arbitrator travelled to the prison in Antwerp where the individual in question was being held (*Ben Tillet Arbitration, United Kingdom v Belgium*, 1898).

15 Recent arbitral practice shows promise for the revitalization of site visits. The tribunal constituted for the purpose of determining the maritime boundary between Bangladesh and India carried out elaborate inspections by helicopter and hovercraft. By procedural → *order*, photographs and video segments of the activities were formally admitted into evidence (*Bay of Bengal Maritime Boundary Arbitration, Bangladesh v India*, 2014, paras 18-26; → *Bay of Bengal Maritime Boundary Arbitration (Bangladesh and India)*). Arguably the most effective illustration of site visits can be witnessed in the → *Indus Waters Kishenganga Arbitration (Pakistan v India)*. Pakistani concerns over the impact of the construction and future operation of an Indian hydroelectric power plant on water flow led to the institution of proceedings. The panel, which included an engineer, was faced with a considerable volume of technical data and problems of science. In tackling the complex fact pattern, skilful use was made of site visits. On two separate occasions, relevant spots were inspected. The procedural orders made very detailed arrangements for the visits. Information acquired during the site visits elicited reactions from the parties. It is nonetheless not clear to what extent insights gained from the site visit factored into the reasoning of the arbitral tribunal's subsequent decisions (*Indus Waters Kishenganga Arbitration, Pakistan v India*, 2013, paras 33-40 and 77-88; Becker and Rose, 2017, 233-34).

16 All precedents mentioned so far relate to site visits conducted by the bench. In practice, variations of this formula have taken root. An example is a trip undertaken by an individual judge at his or her own initiative. An ICJ judge paid a private visit to the parcels of land claimed by the Netherlands and Belgium in the → *Sovereignty over Certain Frontier Land Case (Belgium/Netherlands) (Sovereignty over Certain Frontier Land, Belgium/Netherlands, Judgment (Dissenting opinion of Judge Moreno Quintana), 1959)*. A notable substitute for site visits by adjudicators is for court-appointed experts to inspect locations. The → *Corfu Channel Case* is a case in point. The ICJ ordered a team of senior naval officers to visit the strait with the aim of illuminating certain facts of the case. They later submitted a technical report of their findings (*Corfu Channel, United Kingdom v Albania*, 1949, 9). The ICJ recently sought an expert opinion in a pending maritime delimitation case between Costa Rica and Nicaragua. Two experts were appointed to visit an area along the coastline of both parties in order to make several geographical, geological and geomorphological findings (*Maritime Delimitation in the Caribbean Sea and the Pacific Ocean, Costa Rica v Nicaragua*, 2016). In the *Maritime Boundary Arbitration* between Guyana and Suriname (→ *Guyana v Suriname Maritime Boundary Arbitration*), the tribunal's hydrographer, accompanied by the registrar and party representatives, travelled to various sites in Guyana. A corrected report of the visit, reflecting the parties' comments, was later filed by the hydrographer (*Maritime Boundary Arbitration, Guyana v Suriname*, 2007, paras 120-26). Experts appointed by the

Iran-United States Claims Tribunal have inspected locations of interest (*Starrett Housing Corporation v Iran*, 1987, 118; Amerasinghe, 2005, 159).

17 International courts and tribunals have declined to perform site visits on several occasions. In certain instances, the proposed *in loco* inspection was rejected despite both parties being in favour of such an initiative or at least in the absence of objection by the other party. In the → *Free Zones of Upper Savoy and Gex Case*, the PCIJ refused to conduct France's request to conduct an inspection *in situ*. What is notable about the rejection is that the special agreement referring the dispute to the Court contained a provision stipulating that either party may request the PCIJ to form a delegation for the purpose of conducting investigations on the spot (*Free Zones of Upper Savoy and the District of Gex, Switzerland v France*, 1932, 99). The ICJ rejected a proposed site visit submitted by El Salvador in the → *Land, Island and Maritime Frontier Dispute Case (El Salvador/Honduras: Nicaragua Intervening)*. The Court does not put on record Honduras's view as to the desirability of performing a visit on the spot (*Land, Island and Maritime Frontier Dispute, El Salvador/Honduras: Nicaragua intervening*, 1992, para 22). A pair of joined cases between Nicaragua and Costa Rica form a relevant precedent (→ *Joinder of cases and proceedings*). Costa Rica pointed to the possibility of a site visit to the road that played a significant part in the dispute between the parties. Nicaragua voiced its readiness to provide assistance in organizing such a visit. Reiterating its own proposal that an expert be appointed by the Court to assess the construction of said road, Nicaragua further suggested that the expert should be included in any Court delegation conducting a site visit. Costa Rica held the view that the appointment of such an expert was unnecessary. The Court did not carry out an on-site inspection (*Certain Activities carried out by Nicaragua in the Border Area, Costa Rica v Nicaragua*, 2015, para 33; *Construction of a Road in Costa Rica along the San Juan River, Nicaragua v Costa Rica*, 2015, para 33). This practice tends to reaffirm the discretionary nature of the adjudicators' power in relation to site visits.

18 As for other cases in which site inspections were contemplated but not undertaken, the objection of one or more of the parties was decisive. In the *South West Africa* cases (→ *South West Africa/Namibia (Advisory Opinions and Judgments)*), both Ethiopia and Liberia objected to South Africa's broad proposal to visit the territories of South West Africa (nowadays Namibia), South Africa, Ethiopia, Liberia, and one or two sub-Saharan countries (*South West Africa, Ethiopia v South Africa; Liberia v South Africa*, 1965; Favoreu, 1965, 271-77). It appears that the parties to the → *Gulf of Maine Case*, the US and Canada, had some form of understanding that no visit to locations would take place. Canada later withdrew its reservations over site visits and prepared a film about the relevant area to be shown to the Chamber of the ICJ formed to hear the case. After strong objections by the US to the visit and the film, Canada chose not to pursue these issues any further (*Delimitation of the Maritime Boundary in the Gulf of Maine Area, Canada/United States of America*; Rosenne, 2007, 227-29). The *South China Sea Arbitration* constitutes a noteworthy recent development. The rules of procedure of the arbitral tribunal (constituted under Annex VII UNCLOS) allowed for site visits to be organized. Although the Philippines opined that having the tribunal visit relevant insular features would be useful, it also acknowledged the practical challenges of undertaking such an endeavour. No visits were held. An offer from Taiwan to visit a feature it administers was equally turned down by the tribunal. Although China refused to participate in the proceedings, it sent a letter to the tribunal expressing its 'firm opposition' to any site visit (*South China Sea Arbitration, Philippines v China*, 2016, paras 40-42 and 142).

19 The reticence of international courts and tribunals to conduct inspections on the ground is not an approach endorsed by all adjudicators. Through individual opinions, judges have criticized the absence of fact-finding *in loco* (*Military and Paramilitary Activities in and against Nicaragua, Nicaragua v United States*, Merits (Dissenting opinion of Judge Schwebel), 1986, para 132; *Pulp Mills on the River Uruguay, Argentina v Uruguay*, Judgment (Separate opinion of Judge Cançado Trindade), 2010, para 151; see also → *Military and Paramilitary Activities in and against Nicaragua Case (Nicaragua v United States of America)*; → *Pulp Mills on the River Uruguay (Argentina v Uruguay)*).

D. Evaluation

20 A few trends can be deduced from the practice of site visits. It stands to reason that site visits lend themselves well to certain kinds of disputes. Cases concerning territorial boundaries, maritime delimitation and waterways appear most suited for site visits, because travelling to relevant places enables judges and arbitrators to get a better grasp of the relevant geographical setting.

21 On the whole, however, visits *in situ* remain a rare occurrence in international adjudication. Site visits are often not the outcome of judicial initiative; in many cases, locations were visited at the parties' suggestion. Several precedents show that adjudicators have refused requests from parties to inspect sights of significance to the case at hand. A number of reasons may be given for the reluctance to exercise this investigate power: the (out-dated) view that international courts and tribunals are chiefly concerned with settling disputes concerning the law, not facts; unsafe conditions on the ground; and the expenses associated with organizing such an endeavour (Riddell, 2014, 855–56). A more fundamental concern might be that breaking the distance from the scene, a typical feature of international litigation, might lead to a politicization of the case (Rosenne, 2007, 232).

22 Nonetheless, the infrequent recourse to this fact-finding technique has not deterred commentators from emphasizing the benefits of site visits. When contentious points of facts arise in a dispute, the information acquired during a visit can prevent the bench from being led astray by the parties' inaccurate portrayals (Kamto, 2006, 275–78). The inspection of localities has also been noted for its potential utility in international disputes involving complex scientific questions (Foster, 2011, 29; → *Scientific evidence*). Finally, it has been argued that by conducting site visits, international courts or tribunals might improve their image among local populations (Costa, 2008, 54).

Marco Benatar 

Cited Bibliography

MO Hudson, 'Visits by International Tribunals to Places concerned in Proceedings' (1937) 31 AJIL 696–97.

L Favoreu, 'Récusation et administration de la preuve devant la Cour internationale de Justice. A propos des affaires du Sud-Ouest africain (fond)' (1965) 11 AFDI 233–77.

M Bedjaoui 'La "descente sur les lieux" dans la pratique de la Cour internationale de Justice et de sa devancière' in G Hafner, G Loibl, A Rest, L Sucharipa-Behrmann, and K Zemanek (eds), *Liber Amicorum Professor Ignaz Seidl-Hohenveldern in Honour of his 80th Birthday* (Kluwer The Hague 1998) 1–23.

F Meadows, 'The First Site Visit by the International Court of Justice' (1998) 11 LJIL 603-8.

P Tomka and SS Wordsworth, 'The First Site Visit of the International Court of Justice in Fulfillment of its Judicial Function' (1998) 92 AJIL 133-40.

CF Amerasinghe, *Evidence in International Litigation* (Nijhoff Leiden 2005).

D Anderson 'Article 81' in P Chandrasekhara Rao and P Gautier, *The Rules of the International Tribunal for the Law of the Sea: A Commentary* (Nijhoff Leiden 2006) 229-30.

M Kamto, 'Les moyens de preuve devant la Cour internationale de Justice à la lumière de quelques affaires récentes portées devant elle' (2006) 49 GYIL 259-92.

S Rosenne, *The Law and Practice of the International Court, 1920-2005* vol 3 *Procedure* (4th edn Nijhoff Leiden 2006).

C Brown, *A Common Law of International Adjudication* (OUP Oxford 2007).

G Niyungeko 'L'établissement des faits dans la pratique de la Commission africaine des droits de l'homme et des peuples, lors de l'examen des communications émanant de particuliers' in N Angelet, O Corten, E David, and P Klein (eds), *Droit du pouvoir, pouvoir du droit: mélanges offerts à Jean Salmon* (Bruylant Bruxelles 2007) 1317-58.

S Rosenne, 'Visit to the Site by the International Court' in *Essays on International Law and Practice* (Nijhoff Leiden 2007) 221-33.

JP Costa 'Les enquêtes sur place de la Cour européenne des droits de l'homme' in *Mélanges en l'honneur de Jean-Pierre Puissochet: l'Etat souverain dans le monde d'aujourd'hui* (Pedone Paris 2008) 47-57.

R Murray 'Evidence and Fact-finding by the African Commission' in M Evans and R Murray (eds), *The African Charter on Human and Peoples' Rights: The System in Practice 1986-2006* (2nd edn CUP Cambridge 2008) 139-70.

R Higgins 'The Judicial Determination of Relevant Facts, Speech to the Sixth Committee of the General Assembly, 2 November 2007' in *Themes and Theories: Selected Essays, Speeches, and Writings in International Law* vol 2 (OUP Oxford 2009) 1369-77.

CH Schreuer, L Malintoppi, A Reinisch, and A Sinclair, *The ICSID Convention: A Commentary* (2nd edn CUP Cambridge 2009).

CE Foster, *Science and the Precautionary Principle in International Courts and Tribunals: Expert Evidence, Burden of Proof and Finality* (CUP Cambridge 2011).

SM Schwebel 'A Site Visit of the World Court' in *Justice in International Law: Further Selected Writings* (CUP Cambridge 2011) 95-100.

M Benzing 'Evidentiary Issues' in A Zimmermann, C Tomuschat, K Oellers-Frahm, and CJ Tams (eds), *The Statute of the International Court of Justice* (2nd edn OUP Oxford 2012) 1234-75.

C Walter 'Article 44' in A Zimmermann, C Tomuschat, K Oellers-Frahm, and CJ Tams (eds), *The Statute of the International Court of Justice* (2nd edn OUP Oxford 2012) 1172-81.

M O'Boyle and N Brady, 'Investigatory Powers of the European Court of Human Rights' (2013) 4 EHRLR 378-91.

JM Pasqualucci, *The Practice and Procedure of the Inter-American Court of Human Rights* (2nd edn CUP Cambridge 2013).

A Riddell 'Evidence, Fact-Finding, and Experts' in CPR Romano, KJ Alter, and Y Shany (eds), *The Oxford Handbook of International Adjudication* (OUP Oxford 2014) 848-70.

MA Becker and C Rose, 'Investigating the Value of Site Visits in Inter-State Arbitration and Adjudication' (2017) 8 *Journal of International Dispute Settlement* 219-49.

Further Bibliography

J-M Thouvenin, 'La descente de la Cour sur les lieux dans l'affaire relative au projet Gabčíkovo-Nagymaros' (1997) 43 *AFDI* 333-40.

R Murray, 'On-Site Visits by the African Commission on Human and Peoples' Rights: A Case Study and Comparison with the Inter-American Commission on Human Rights' (1999) 11 *AfrJIntl&CompL* 460-73.

B Santoscoy, 'Las visitas in loco de la Comisión Interamericana de Derechos Humanos' in *Memoria del Seminario 'El sistema interamericano de protección de los derechos humanos en el umbral del siglo XXI'* vol 1 (Corte Interamericana de Derechos Humanos San José 2003) 607-28.

Cited Documents

Convention for the Pacific Settlement of International Disputes (signed 18 October 1907, entered into force 26 January 1910) 205 *CTS* 233.

Convention on the Settlement of Investment Disputes between States and Nationals of other States (adopted 18 March 1965, entered into force 14 October 1966) 575 *UNTS* 159 (ICSID Convention).

ICSID Rules of Procedure for Arbitration Proceedings (10 April 2006).

PCA Arbitration Rules (2012).

Rules of the European Court of Human Rights (14 November 2016).

Rules of the International Court of Justice (14 April 1978).

Rules of the International Tribunal for the Law of the Sea (17 March 2009).

Statute of the International Court of Justice (adopted 26 June 1945, entered into force 24 October 1945) 15 *UNCIO* 355 (ICJ Statute).

United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3 (UNCLOS).

Further Documents

Rules of Procedure of the Inter-American Commission on Human Rights (1 August 2013).

Statute of the Inter-American Commission on Human Rights (1 October 1979) OAS Doc OEA/Ser.P/IX.0.2/80.

Cited Cases

International Court of Justice (ICJ)

Certain Activities carried out by Nicaragua in the Border Area, Costa Rica v Nicaragua, Judgment, 16 December 2015.

Construction of a Road in Costa Rica along the San Juan River, Nicaragua v Costa Rica, Judgment, 16 December 2015.

Corfu Channel, United Kingdom v Albania, Merits, 9 April 1949, ICJ Rep 4.

Delimitation of the Maritime Boundary in the Gulf of Maine Area, Canada/United States of America, Judgment, 12 October 1984, ICJ Rep 246.

Gabčíkovo-Nagymaros Project, Hungary/Slovakia, Judgment, 25 September 1997, ICJ Rep 7.

Land, Island and Maritime Frontier Dispute, El Salvador/Honduras: Nicaragua intervening, Judgment, 11 September 1992, ICJ Rep 351.

Maritime Delimitation in the Caribbean Sea and the Pacific Ocean, Costa Rica v Nicaragua, Order, 16 June 2016.

Military and Paramilitary Activities in and against Nicaragua, Nicaragua v United States, Merits (Dissenting opinion of Judge Schwebel), 27 June 1986, ICJ Rep 14.

Pulp Mills on the River Uruguay, Argentina v Uruguay, Judgment (Separate opinion of Judge Cançado Trindade), 20 April 2010, ICJ Rep 135.

South West Africa, Ethiopia v South Africa; Liberia v South Africa, Order, 29 November 1965, ICJ Rep 9.

Sovereignty over Certain Frontier Land, Belgium/Netherlands, Judgment (Dissenting opinion of Judge Moreno Quintana), 20 June 1959, ICJ Rep 252.

Other Courts

Bay of Bengal Maritime Boundary Arbitration, Bangladesh v India, Award, Permanent Court of Arbitration, 7 July 2014.

Beagle Channel Arbitration, Argentina v Chile, Report and Decision, 18 February 1977, 21 RIAA 53.

Ben Tillet Arbitration, United Kingdom v Belgium, Award, 26 December 1898, 6 RGDIP (1899) 46.

Boundary Dispute concerning the Frontier Line between Boundary Post 62 and Mount Fitzroy, Argentina v Chile, Decision, 21 October 1994, 22 RIAA 3.

Diversion of Water from the Meuse, Netherlands v Belgium, Judgment, 28 June 1937, PCIJ Series A/B no 70, 3.

Dubai-Sharjah Border Arbitration, Dubai v Sharjah, Award, 19 October 1981, 91 ILR 543.

Free Zones of Upper Savoy and the District of Gex, Switzerland v France, Judgment, 7 June 1932, PCIJ Series A/B no 46, 95.

Grisbådarna Arbitration, Norway v Sweden, Award, Permanent Court of Arbitration, 23 October 1909, 11 RIAA 147.

Indus Waters Kishenganga Arbitration, Pakistan v India, Partial Award, Permanent Court of Arbitration, 18 February 2013.

Maritime Boundary Arbitration, Guyana v Suriname, Award, Permanent Court of Arbitration, 17 September 2007, 30 RIAA 1.

'Meerauge' Lake Arbitration, Austria v Hungary, Decision, 13 September 1902, 28 RIAA 379.

South China Sea Arbitration, Philippines v China, Award, Permanent Court of Arbitration, 12 July 2016.

Starrett Housing Corporation v Iran, Final Award, 14 August 1987, 16 Iran-US CTR 112.

Taba Arbitration, Egypt v Israel, Decision, 29 September 1988, 20 RIAA 1.

Trail Smelter Arbitration, United States v Canada, Decisions, 16 April 1938 and 11 March 1941, 3 RIAA 1905.

Velásquez Rodríguez v Honduras, Preliminary Objections, IACtHR Series C no 1, 26 June 1989.