

Lucchetti v Peru (Chile-Peru BIT)

AREAS OF POLICY AFFECTED: environmental protection (wetlands protection), land use planning (conservation), resource management (water), local government (urban planning).

CASE SUMMARY: The case involved a lawsuit under the Chile-Peru bilateral investment treaty. The claim was brought by owners of a pasta factory in Lima, Peru. The municipal government annulled the owners' permits for the factory's construction. This step was taken as part of a program to preserve and protect marshes, wetlands, and subterranean wells in the municipality, especially in the Ecological Reserve of Pantanos de Villa. The investor claimed that the plant would not draw water from the protected water sources.

The claim was dismissed by the tribunal on the basis that the dispute arose before the relevant treaty entered into force.

COMMENT: The case was decided on jurisdictional grounds. Thus, it does not offer conclusions on whether investment treaty provisions against expropriation, for example, would require payment of public compensation to an investor in the circumstances of the case. The case is a relatively rare example of a claim brought by a developing country investor.

Source: www.iiapp.org (February 2011), based on information in publicly-available awards and materials in known investment arbitrations (for texts of awards, see www.italaw.com). This report was produced by a research team coordinated by professor Gus Van Harten (gvanharten@osgoode.yorku.ca) of Osgoode Hall Law School of York University in Toronto, Canada. Please see the disclaimer and statement on terms of use available at www.iiapp.org. © Gus Van Harten 2011. *You may forward or re-publish the information in this report with attribution to www.iiapp.org.*