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**Human Rights Council**

**Thirtieth session**

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

 Report of the Independent Expert on the promotion
of a democratic and equitable international order,
Alfred-Maurice de Zayas

 Corrigendum

 1. Paragraph 17

For the existing text substitute

17. Spanish arbitrator Fernández-Armesto notes: “When I wake up at night and think about arbitration, it never ceases to amaze me that sovereign states have agreed to investment arbitration at all … Three private individuals are entrusted with the power to review, without any restriction or appeal procedure, all actions of the government, all decisions of the courts, and all laws and regulations emanating from parliament.”[[1]](#footnote-2) Indeed, it is disturbing that arbitrators can disregard basic principles such as respect for the “margin of discretion” of States, State legislation and even the judicial pronouncements of the highest domestic courts. The one-way street of investor protection has not contributed to a culture of investor–State cooperation but fuelled an aggressive tendency to litigate and demonstrably generated a “regulatory chill”. Arbitration may take place in Washington under the auspices of the World Bank’s ICSID, but there is a worrisome degree of forum-shopping, and tribunals may meet before the [London Court of International Arbitration](http://en.wikipedia.org/wiki/London_Court_of_International_Arbitration), the [International Chamber of Commerce](http://en.wikipedia.org/wiki/International_Chamber_of_Commerce), the Stockholm Chamber of Commerce or the [Hong Kong International Arbitration Centre](http://en.wikipedia.org/wiki/Hong_Kong_International_Arbitration_Centre). There is a growing number of arbitrations that privilege profit over human rights.[[2]](#footnote-3) According to UNCTAD, many investor–State dispute settlement arbitrations are completely confidential and information is available only regarding some 608 awards.[[3]](#footnote-4) The Independent Expert refers to his forthcoming report to the General Assembly and flags a few cases in order to illustrate litigation practices and their human rights implications.

 2. Paragraph 26

For the existing text substitute

26. In 2009, an Ecuadorian court fined Chevron for environmental damage caused by its activities. Chevron refused to pay and sought damages from Ecuador for lost profits in the arbitration proceeding instituted under the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules.[[4]](#footnote-5)44 Arbitration is ongoing.

1. www.theguardian.com/commentisfree/2013/nov/04/us-trade-deal-full-frontal-assault-on-democracy. [↑](#footnote-ref-2)
2. European Center for Constitutional and Human Rights, “Human rights inapplicable in international investment arbitration?”, available from www.ecchr.de/worldbank/articles/human-rights-inapplicable-in-international-investment-arbitration.html. [↑](#footnote-ref-3)
3. UNCTAD, *IIA Issues Note*, No. 1 (February 2015), available from [unctad.org/en/PublicationsLibrary/webdiaepcb2015d1\_en.pdf](http://unctad.org/en/PublicationsLibrary/webdiaepcb2015d1_en.pdf). [↑](#footnote-ref-4)
4. 44 [www.italaw.com/cases/257](file:///C%3A/Users/ISomova/AppData/Local/Temp/AppData/Local/ISomova/AppData/Local/Temp/AppData/Local/Maio/AppData/Local/Temp/notes644D56/www.italaw.com/cases/257). See also [truth-out.org/news/item/23788](file:///C%3A/Users/ISomova/AppData/Local/Temp/AppData/Local/ISomova/AppData/Local/Temp/AppData/Local/Maio/AppData/Local/Temp/notes644D56/truth-out.org/news/item/23788), [fpif.org/nafta-20-model-corporate-rule/](file:///C%3A/Users/ISomova/AppData/Local/Temp/AppData/Local/ISomova/AppData/Local/Temp/AppData/Local/Maio/AppData/Local/Temp/notes644D56/fpif.org/nafta-20-model-corporate-rule/), and content.time.com/time/world/article/0,8599,2053075,00.html. [↑](#footnote-ref-5)