

IBA Investment Arbitration Subcommittee:

Report and recommendations on third-party participation in investment arbitration

Annex 1 - Third-party participation applications

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INTRODUCTION

1. This document has been prepared further to the International Bar Association (**IBA**) **Investment Subcommittee’s Project on third-party participation (TPP)** in investment arbitration. The document sets out research on TPP in investment arbitration. Specifically, the document identifies:
 - (i) the number of TPP applications that have been filed and by whom;
 - (ii) how many TPP applications have been granted and to whom; and
 - (iii) once TPP applications have been granted, how they are treated by tribunals

2. The research, as set out in the seven tables below, covers cases from the following international arbitration institutions:
 - (i) International Chamber of Commerce (**ICC**) - **Section A**.
 - (ii) Permanent Court of Arbitration (**PCA**) – **Section B**.
 - (iii) Stockholm Chamber of Commerce (**SCC**) – **Section C**.
 - (iv) International Centre for Settlement of Investment Disputes (**ICSID**) – **Section D**.
 - (v) Ad Hoc arbitrations (as available in the public domain) – **Section E**.

A. THIRD PARTY PARTICIPANTS (TPP) IN ICC ARBITRATIONS

Source: We contacted the ICC, and the institution confirmed the details below

S/N	Case Details	Name(s) of TPP Applicant	Date of Application	Number of TPP Applications	Outcome of TPP Application	TPP Treatment by the Tribunal
1.	Confidential: details not in public domain or not to be linked to published case	Confidential	Unknown	One	Granted	<p>The ICC have confirmed that they have administered a total of 47 ISDS cases to date.</p> <p>27 of these cases are named on the UN Trade & Development Investment Policy Hub.</p> <p>In the confidential case that has been confirmed by the ICC, the Tribunal dealt with the public body's request for TPP permission via a procedural order. The Tribunal elected to grant permission for the public body to make a TPP submission.</p> <p>The details are confidential.</p>
<p>Researchers' Comments</p> <p>ICC has confirmed to us that of the 47 ISDS cases it has administered, a TPP application has only been filed in one case. This application was granted by the Tribunal. However, the details of the case and the treatment of the TPP application is confidential.</p>						

B. THIRD PARTY PARTICIPANTS (TPP) IN PCA ARBITRATIONS

Source: PCA website: <https://pca-cpa.org/en/cases/>. We received the aforementioned link from the PCA and was last accessed on 11 December 2024.

S/N	Case Details	Name(s) of TPP Applicant	Date of TPP Application	Number of TPP Applications	Outcome of TPP Application	TPP Treatment by the Tribunal
1.	Antonio del Valle Ruiz and Others V The Kingdom of Spain Case Number: 2019-17 Status: Concluded	The European Commission (Supranational body)	2019	One	Conditionally Granted	In granting this TPP application, the Tribunal included certain procedural limitations: (i) the TPP should file its amicus brief after the Respondent files its Statement of Defence; (ii) the TPP's brief should not exceed 10,000 words including footnotes; and (iii) the disputing Parties would have an opportunity to provide their comments on the TPP's submission in the Reply and Rejoinder, respectively. See Paragraph 44 of the Final Award.

2.	Everest Estate LLC et al V The Russian Federation Case number: 2015-36 Status: Concluded	Ukraine (Sovereign State)	Unknown (documents unavailable)	One	Granted.	The TPP application was a request to file written submissions. This request was granted by the Tribunal. We only gained access to the press releases on this case. Therefore, we are uncertain whether the submissions were considered in the award issued by the Tribunal or not.
3.	Stabil LLC & 10 ors V The Russian Federation Case number: 2015-35	Ukraine (Sovereign State)	2016	One	Granted	The TPP application was a request to file written submissions. This request was granted by the Tribunal. We only gained access to the press releases on this case. Therefore, we are uncertain whether the submissions were

	Status: Concluded					considered in the award issued by the Tribunal or not.
4.	PJSC Ukrnafta V The Russian Federation Case Number: 2015-34 Status: Concluded	Ukraine (Sovereign State)	Unknown	Two Applications by Ukraine	1. The first TPP application: Granted . 2. The second TPP application: Denied .	The first TPP application was a request to file written submissions. This request was granted by the Tribunal. The second TPP application was a request to attend and participate in the hearing on jurisdiction and admissibility. This request was denied. We only gained access to the press releases on this case. Therefore, we are uncertain whether the submissions were considered in the award issued by the Tribunal or not.

						Reason not stated (The document on IA reporter is in Russian and google translate is not assisting in this regard)
5.	Limited Liability Company Lugzor & 4 Ors V The Russian Federation Case Number: 2015-29 Status: Concluded	Ukraine (Sovereign State)	Unknown	One	Granted	We only saw a press release issued by the PCA which indicated that the TPP application was granted by the Tribunal. The press release does not go into detail on whether the TPP submissions were considered in the award issued by the Tribunal. Reason not stated

6.	<p>Sea Search-Armada, LLC (USA)</p> <p>V</p> <p>The Republic of Colombia</p> <p>Case number: 2023-37</p> <p>Status: Pending</p>	Kingdom of Spain (Sovereign State)	2021	One	Denied	<p>The TPP application was a request by Spain to file written submissions. This request was refused by the Tribunal. The Tribunal decided that it was unlikely that the submissions from Spain would be helpful to it.</p> <p>Furthermore, the Tribunal held that an intervention by Spain after the conclusion of the Hearing on the Respondent's jurisdictional objections, and with the Tribunal decision on those objections due very shortly – would be highly disruptive of the proceedings.</p>
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7.	<p>JSC CB PrivatBank V</p> <p>The Russian Federation</p> <p>Case number: 2015-21</p> <p>Status: Pending</p>	Ukraine (Sovereign State)	2016	One	Granted	<p>The Tribunal granted the TPP's request to intervene as a non-disputing party and permitted the TPP to file written submissions.</p> <p>The TPP's submissions were considered and analysed by the Tribunal at paragraphs 129 –140 of the Interim Award.</p>
8.	<p>Aeroport Belbek LLC and Mr. Igor Valerievich Kolomoisky</p> <p>V</p> <p>The Russian Federation</p> <p>Case number: 2015-07</p>	Ukraine (Sovereign State)	Unknown	Two	<p>First Application: Granted</p> <p>Second Application: Denied</p>	<p>The first TPP application was an application to make written submissions, and it was granted by the Tribunal. However, the second TPP application was a request to attend and participate in the hearing on jurisdiction and admissibility. This request was denied.</p> <p>We only gained access to the press releases on this</p>

	Status: Pending					<p>case. Therefore, we do not know whether the submissions were considered in the award issued by the court.</p> <p>Reason not stated</p>
9.	<p>Chevron Corporation and Texaco Petroleum Company V The Republic of Ecuador</p> <p>Case number: 2009-23</p> <p>Status: Pending</p>	<p>1. Fundación Pachamama (Pachamama)</p> <p>2. The International Institute for Sustainable Development (IISD).</p>	2014	One	Denied	<p>The Tribunal rejected the TPP's request to intervene as a non-disputing party. In doing so, the Tribunal agreed with the disputing parties that the amicus submissions of the TPP will not be helpful to the Tribunal at the Jurisdictional stage of the proceedings.</p> <p>Furthermore, the disputing parties to the arbitration had already fully argued the merits on jurisdictional issues and the Tribunal and parties did not believe that the</p>

						<p>TPP application would add any unique legal insights not already argued by the parties. See paragraph 18-20 of Procedural Order 8.</p>
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Researchers' Comments

Per the information available from the PCA website:

- a) A total of eleven (11) applications were filed in PCA-administered arbitrations.
- b) Seven (7) of these applications were granted.
- c) Four (4) applications were denied.

D. THIRD PARTY PARTICIPANTS (TPP) IN SCC ARBITRATIONS

Source: The SCC provided us (via email) with a table of cases containing TPP Applications administered by the SCC.

S/N	Case Details	Name(s) of TPP Applicant	Date of TPP Application	Number of TPP Applications	Outcome of TPP Application	TPP Treatment by the Tribunal
1.	CSP Equity Investment v. Spain SCC Case No. 094/2013 Status: Concluded	European Commission (Supranational body)	2014	One	Granted	<p>On 19 Dec 2014, the Tribunal issued PO No 4 where it allowed the EC to intervene as a non-disputing party. It placed requirements on the EC in granting the permission, such as limiting the brief to 25 pages and setting a date to provide the submissions. It also limited the EC's submissions to specific issues listed in an appendix, which mainly related to the issues of jurisdiction and admissibility only. The claimant objected to this, arguing that any views expressed by the EC should be inadmissible. The Tribunal rejected the claimant's arguments and allowed the EC to send in its brief, which the Tribunal referenced throughout its 16 Nov 2021 Final Award.</p> <p>It is interesting that this case was filed in 2013, and the Final Award was issued in 2021.</p>
2.		European Commission	2014	One	Granted	On 12 Nov 2014, the EC sent a request to intervene as an amicus curiae. The claimant

	<p>Isolux Infrastructure v. Spain</p> <p>SCC Case No. 153/2013</p> <p>Status: Concluded</p>	(Supranational body)				<p>opposed this but the respondent welcomed their involvement. On 12 Dec 2014, the Tribunal issued PO No 3 allowing the EC to make an amicus brief which it sent to the Tribunal on 20 Feb 2015. The Tribunal welcomed the expertise and opinions of the EC but noted that the submissions presented by the EC were not persuasive.</p>
3.	<p>GPF GP S.à.r.l v. Poland</p> <p>SCC Case No. 168/2014</p> <p>Status: Concluded</p>	<p>European Commission</p> <p>(Supranational Body)</p>	2018	One	Granted	<p>On 8 Jan 2019, the Tribunal made a decision to allow the EC to make submissions as a TPP, noting that it does not intervene in the proceedings. The Tribunal allowed the EC to file a written submission which was to be limited to the legal consequences of the Achmea judgment only as it noted this would not disrupt the proceedings or unduly burden the parties.</p> <p>In the Final Award of 29 April 2020, the Tribunal pointed out on para 226 that the EC exceeded its scope in its brief by also commenting on the impact of res judicata and functus officio principles. The Tribunal said that while the EC exceeded its scope on making this views, the claimant did not object to their admissibility. The award then tastefully addresses the views of the EC and the parties.</p>

4.	Dutch V EU State 036/2015 Status: Concluded	European Commission (Supranational Body) s	2020	One	Granted	On 4 Feb 2020, the Tribunal issued PO Number 8, allowing the EC to act as a TPP. Interestingly, it seems that the partial award issued on 21 Feb 2018 agreed to admit the EC as amicus but it never communicated this decision to the EC. Two years lapsed since the partial award was issued without the Tribunal having sent any communication to the EC on its involvement in the proceedings. The parties since filed their pleadings and it seems the parties had concerns over whether the Tribunal should now allow the EC to act as amicus. This caused an issue later on in the proceedings because the Tribunal still allowed the EC to send its brief but by a shorter deadline. It seems the EC asked for a longer time frame saying its agent was on maternity leave. The Tribunal wrote to each other on 2 Feb 2020 saying that it should allow the EC to make submissions by 13 March 2020 and that the Tribunal should not allow the EC access to the partial award that it issued on 21 Feb 2018. In the end, it issued PO 8 and allowed the EC to make submissions. The PO addressed this issue noting that the Tribunal member at the time who received the communication from the EC in 2019 about setting a time to prepare a brief, passed away. This interrupted the communication

						<p>between the Tribunal and the EC. It nevertheless set a hearing to discuss the issues and the parties agreed to the EC's participation.</p> <p>The issues here stemmed from an unfortunate set of circumstances and no blame was cast onto the EC. The EC was allowed to prepare its brief which the Tribunal took into account in its Final Award on 1 Aug 2022. The end result was that the arbitration was terminated because the parties agreed to settle the dispute and have the settlement recorded in the award.</p>
5.	<p>Greentech Energy Systems A/S, NovEnergia II Energy & Environment (SCA) SICAR, and NovEnergia II Italian Portfolio SA Claimants</p> <p>v.</p> <p>Italy</p> <p>SCC Case No. 095/2015</p>	European Commission (Supranational Body)	2016	One	Granted	<p>On 28 April 2017, the EC submitted its amicus brief which it limited to jurisdictional issues only. The Tribunal addressed the amicus brief in detail from paragraph 278 of the Final Award, noting its arguments and the comments raised by the parties. From paragraphs 316 to 334, the Tribunal addresses the issues raised by the EC. From paragraphs 337 to 340, the Tribunal explains why the EC's submissions are not persuasive to the Tribunal.</p>

	Status: Concluded					
6.	Foresight Luxembourg Solar 1 S. Á.R1. and others v. Spain SCC Case No. 150/2015 Status: Concluded	European Commission (Supranational Body)	2017	One	Granted	From paragraphs 278 to 300 of the Final Award, the Tribunal notes the views presented by the EC and the views of the claimant and respondent to the issues raised by the EC as a disputing party. The EC's submissions formed a large part of the award, with the Tribunal going on from paragraph 316 to relay the concerns of the parties to the EC. Paragraphs 335 to 337 then go on to explain the Tribunal's decision with respect to the views raised by the EC in its amicus brief. While it respected the views of the EC, the Tribunal did not find their arguments persuasive.
7.	CEF Energia BV v. Italy SCC Case No. 158/2015 Status: Concluded	European Commission (Supranational Body)	2017	One	Granted	The Tribunal addressed the EC's submission but explained on pages 22-23 of the Final Award that it does not alter the Tribunal's overall finding. There is no evidence the Tribunal did not give weight to the EC's submission.

8.	<p>Green Power K/S and Obton A/S v. Spain</p> <p>SCC Case No. 2016/135</p> <p>Status: Concluded</p>	<p>European Commission (Supranational Body)</p>	2018	One	Granted	<p>EC acted as a TPP or 'non-disputing party' in this case. It submitted its request on 15 Nov 2018 and the Tribunal found it appropriate to have the EC make submissions as a non-disputing party. The Tribunal limited the TPP's submissions to jurisdiction and admissibility only (it will not provide comments on the merits). It also placed additional limitations on the TPP (maximum 20 page brief, submitted by 14 Dec 2018 and the EC must bear its own costs)</p> <p>In the Final Award on page 79, the Tribunal pointed out that the EC, in its submissions, made comments on the merits of the dispute, which the Tribunal noted it would not take into account as it instructed the EC to limit its submissions to jurisdiction and admissibility only.</p>

9.	Triodos SICAV II v. Spain SCC Case No. 2017/194 Status: Concluded	European Commission (Supranational Body)	2018	One	Granted	The EC's submission as a non-disputing party formed a large part of the Final Award. The Tribunal welcomed the submissions of the TPP in Procedural Order NO.2 and which also set out some general conditions in section 3.8 of the PO.
10.	Mercuria Energy Group Limited v. Poland SCC Case No. 2019/126 Status: Concluded	European Commission (Supranational Body)	2021	One	Granted	Fair treatment by the Tribunal in allowing the TPP (the European Commission on behalf of the EU) to make submissions as a non-disputing party, in line with Appendix III to the 2017 SCC Rules, Article 4. The Tribunal placed the TTP on notice in its Procedural Order No 7 that any submission from the TTP does not disrupt or unduly burden the arbitral proceedings or unduly prejudice any disputing party. The Tribunal limited the scope of what the TTP could provide submissions on, which was the interpretation of Article 26 of the ECT.
11.	Luxembourgian V	European Commission	2014	One	Granted	Tribunal received a letter from the EC 18 Dec 2014 asking for time to prepare an AC brief, which the Tribunal allowed (but Claimants

	EU State 2017/062- Additional File Found Status: Concluded	(Supranational Body)				opposed). Tribunal gave a two-week extension so the EC can prepare the brief - which it sent on 20 Jan 2015. No evidence that the TPP was treated poorly. Its submissions were welcomed as part of the process and the Tribunal allowed the EC time to prepare the amicus brief. It also noted on page 129 of the Final Award that it gave careful consideration to the EC brief and it found it helpful.
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Researchers' Comments

According to the information emailed to us by the SCC:

- a. A total of eleven (11) applications were filed in SCC-administered arbitrations.
- b. All eleven (11) applications were granted.

F. THIRD PARTY PARTICIPANTS (TPP) IN ICSID ARBITRATIONS (WITHOUT ANNULMENT PROCEEDINGS)

Sources:

(i) ICSID website: [Decisions on Non-Disputing Party Participation | ICSID \(worldbank.org\)](#). This link was provided to us by ICSID and last accessed for research purposes on 11 December 2024.

(ii) Italaw website: [italaw](#)

(iii) Targeted desktop searches where necessary.

S/N	Case Details	Name of TPP Applicant	Date of Application.	Number of TPP Applications	Outcome of TPP Application	TPP Treatment by the Tribunal
1.	Theodoros Adamakopoulos and others v Republic of Cyprus ICSID Case No. ARB/15/49	The European Commission (Supranational body)	2018	One	Granted	In granting the TPP application, the Tribunal stated that the TPP could only file submissions relating to jurisdictional issues on whether the intra-EU BITs contradicted EU law and not on the more substantive matters on "state aid." (Paragraph 40 of the Decision on Jurisdiction). In reaching the above decision, the Tribunal appeared to have been influenced by the Claimant's submissions that the TPP did not fulfil the requirements of demonstrating interest and aid to the Tribunal on the substantive

	Status: Pending					points (Paragraph 37 of the Decision on Jurisdiction). The Tribunal analysed and considered the submissions made by the TPP and other parties in determining the jurisdictional challenge. (Paragraph 139-149 of the Decision on Jurisdiction).
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2.	<p>Electrabel S.A. v. Hungary</p> <p>(ICSID Case No. ARB/07/19)</p> <p>Status: Concluded</p>	<p>European Commission (Supranational body)</p>	2008	One	Granted	<p>In granting the TPP application, the Tribunal allowed the TPP (the European Commission) to file a written submission as a non-disputing party in this case.</p> <p>However, the Tribunal appeared to have disregarded the TPP submissions in deciding the case. The Tribunal held that the TPP exceeded its role as an “amicus curiae” and became a second respondent in the case. According to the Tribunal:</p> <p>“However, Electrabel had to expend much time and cost to deal with the Commission’s submissions. In effect, far from exercising the traditional role of an “amicus curiae”, the Commission became a second respondent more hostile to Electrabel than Hungary itself. If accepted by the Tribunal, the Commission’s submissions would have been fatal to Electrabel’s case. The Tribunal was required to decide these issues at length in its Decision and there reject a material part of the Commission’s submissions. Overall, the</p>
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						<p>Commission's participation in this arbitration was a hugely complicating factor, as were to a lesser extent the pending legal proceedings in Luxembourg (being only concluded on 1 October 2015). For all these, Electrabel bore by far the greatest burden."</p>
3.	<p>Veolia Environment S.A. and others</p> <p>v</p> <p>Republic of Lithuania</p> <p>ICSID Case No. ARB/16/3</p>	<p>Unknown</p> <p>(Documents are either unavailable or confidential)</p>	2018	One	Granted	<p>Unknown</p> <p>From the procedural details on the ICSID's website, it is clear that a TPP application was filed. However, from the available documents, we are uncertain of its treatment by the Tribunal.</p>

	Status: Pending					
4.	Eurus Energy Holdings Corporation v Kingdom of Spain	European Commission (Supranational body)	2018	One	Granted	<p>The TPP had made an application to intervene on jurisdictional issues and the substantive issue of "state aid". The Tribunal, after taking comments from the parties, stated that it would grant interventions only on the substantive issue of "state aid" on the condition that the TPP makes an undertaking for costs resulting from the application/submission (Procedural Order 6).</p> <p>The TPP subsequently requested the Tribunal to remove the</p>

	ICSID Case No. ARB/16/4 Status: Pending					<p>condition of provision of an undertaking on costs, or alternatively, that the submissions in its application to intervene be admitted into the record instead of another written submission.</p> <p>The Tribunal refused the request to waive the undertaking for costs but accepted the request that the application to intervene be included in the record. (Procedural Order 7). The submissions in the TPP application were then considered and analysed vis-a-vis the submission of the parties in issuing the award.</p>
5.	ESPF Beteiligungs GmbH, ESPF Nr. 2 Austria Beteiligungs	European Commission (Supranational body)	2017	One	Application one: Partially Granted	The TPP application, was partially granted, the Tribunal (i) denied the TPP's request for leave to present its views at an oral hearing; and (ii)

	<p>GmbH, and InfraClass Energie 5 GmbH & Co. KG</p> <p>v</p> <p>Italy</p> <p>ICSID Case No. ARB/16/5</p> <p>Status: Concluded</p>					<p>granted the TPP leave to submit a “single written submission.</p> <p>The Tribunal considered the submissions of the TPP, weighing and analysing it alongside the submission of the parties in arriving at its decision in the Final Award (Paragraphs 311, 209, 238 of the Final Award). The Tribunal also identified instances of alignment between the non-disputing party and other parties.</p>
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6.	<p>Nova Group Investments, B.V.</p> <p>v</p> <p>Romania</p> <p>(ICSID Case No. ARB/16/19)</p> <p>Status: Concluded</p>	<p>Unknown</p> <p>(Documents are either unavailable or confidential)</p>	2018	<p>One</p> <p>(Documents are either unavailable or confidential)</p>	<p>Granted</p> <p>(Documents are either unavailable or confidential)</p>	<p>Unknown</p> <p>From the procedural details on the ICSID's website, it is clear that a TPP application was filed. However, from the available documents, we are uncertain of its treatment by the Tribunal.</p>

7.	<p>ČEZ, a.s.</p> <p>V</p> <p>Republic of Bulgaria</p> <p>ICSID Case No. ARB/16/24)</p> <p>Status: Pending</p>	<p>Unknown</p> <p>(Documents are either unavailable or confidential)</p>	2018	One	Granted	<p>Unknown</p> <p>From the procedural details on the ICSID's website, it is clear that a TPP application was filed. However, from the available documents, we are uncertain of its treatment by the Tribunal.</p>

8.	<p>Sevilla Beheer B.V. and others. v Kingdom of Spain</p> <p>ICSID Case No. ARB/16/27)</p> <p>Status: Concluded</p>	<p>European Commission (Supranational body)</p> <p>We are not certain of the identity of the second applicant due to the unavailability of documents.</p>	2018	One	Granted with Conditions.	<p>The Tribunal partially granted the application of the TPP to intervene. On the one hand, the Tribunal allowed the TPP to submit written submissions on the condition that the TPP makes an undertaking for costs. On the other hand, the Tribunal denied the TPP's request to access the documents that had been filed in the proceedings and to attend the hearing to make oral arguments.</p> <p>Thereafter, the TPP made a reconsideration request that the Tribunal remove the condition of providing an undertaking for costs (attached to its filing of a written submission), or alternatively, that its application to intervene be admitted into the record. The Tribunal refused the TPP's request to waive the undertaking for costs</p>

						<p>but decided that the application be admitted into the record.</p> <p>However, the TPP was unwilling to make an undertaking for costs and consequently decided not to make an amicus curiae submission.</p>
9.	UniCredit Bank Austria AG and Zagrebacka banka d.d.	European Commission (Supranational body)	<p>First application: 2018</p> <p>Second application: 2019</p>	Two	<p>First Application: Denied</p> <p>2nd Application:</p>	The matter was discontinued due to a settlement between the parties.

	V Republic of Croatia ICSID Case No. ARB/16/31 Status: Concluded				Granted with conditions (The exact conditions are unclear from the documents available)	
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10.	<p>ENGIE SA, GDF International SAS and ENGIE International Holdings BV</p> <p>V</p> <p>Hungary</p> <p>ICSID Case No. ARB/16/14</p> <p>Status: Concluded</p>	<p>Unknown (Documents are either unavailable or confidential)</p>	2017	One	<p>Denied (Documents are either unavailable or confidential)</p>	The matter was discontinued.

11.	AES Summit Generation Limited and AES-Tisza Erömu Kft V The Republic of Hungary	European Commission (Supranational body)	2008	One	Granted	<p>The Tribunal granted the TPP's request to intervene as a non-disputing party and permitted the TPP to file written submissions. The disputing parties filed observations in relation to the TPP's submissions.</p> <p>The TPP's written submissions were considered by the Tribunal in the Final Award. In particular, the Tribunal expressly noted that it had "duly considered the points</p>

	ICSID Case No. ARB/07/22 Status: Concluded					<i>developed in [the TPP's] amicus curiae brief in its deliberations".</i>
12.	Caratube International	Unknown	2011	One	Denied	In the Final Award, the Tribunal noted, without giving reasons, that the submission of the TPP will not

	Oil Company LLP V Republic of Kazakhstan ICSID Case No. ARB/08/12 Status: Concluded	(Documents are either unavailable or confidential)				be admitted. Paragraph 107 of the Final Award.
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13.	<p>STEAG GmbH</p> <p>V</p> <p>Kingdom of Spain</p> <p>ICSID Case No. ARB/15/4</p> <p>Status: Concluded</p>	<p>Unknown</p> <p>(Documents are either unavailable or confidential)</p>	2018	One	Granted	<p>From the procedural details on the ICSID's website, it is clear that a TPP application was filed. However, from the available documents, we are uncertain of its treatment by the Tribunal.</p>

14.	<p>ABCI Investments Limited</p> <p>v.</p> <p>Republic of Tunisia</p> <p>(ICSID Case No. ARB/04/12)</p> <p>Status: Concluded</p>	European Commission	2019	One	Granted	<p>The Tribunal accepted the TPP's position that it had an interest in acting as a non-disputing Party and found that the TPP had satisfactorily established that it had the "expertise, experience and independence to be of assistance"</p>

15.	<p>Masdar Solar & Wind Cooperatief U.A.</p> <p>v.</p> <p>Kingdom of Spain</p> <p>(ICSID Case No. ARB/14/1)</p> <p>Status: Concluded</p>	<p>European Commission (Supranational body)</p>	2014	One	Partially Granted	<p>The Tribunal granted the TPP leave to file a written submission subject to a number of conditions, including the requirement that the TPP provide a written undertaking that it would “bear any costs consequences arising from its intervention, including, but not limited to, reasonable institutional and tribunal costs, which the Tribunal, in the exercise of its discretion, deems appropriate.” (the “Undertaking on Costs”). Paragraph 12 of the Award.</p>

16.	Eiser Infrastructure Limited and Energia Solar Luxembourg S.à r.l. v. Kingdom of Spain	European Commission (Supranational body)	First Application: 2014 Second Application: 2015 Third Application: 2023	Three	First Application: Partially Granted. Second Application: Granted Third Application: Unknown	For the first application, the Tribunal granted the TPP leave to file a written submission subject to a number of conditions, including the requirement that the TPP provide a written undertaking that it would “bear any costs” consequences arising from its intervention, including, but not limited to, reasonable institutional and tribunal costs, which the Tribunal, in the exercise of its discretion, deems appropriate.” (the “Undertaking on Costs”).

	<p>(ICSID Case No. ARB/13/36)</p> <p>Status: Pending</p>					<p>For the second applications the documents available show that the applications were granted but do not indicate the conditions or reasons for granting the applications.</p> <p>For the third application, the documents available do not disclose if the application was granted or denied.</p>
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17.	<p>MOL Hungarian Oil and Gas Company Plc</p> <p>v.</p> <p>Republic of Croatia</p> <p>(ICSID Case No. ARB/13/32)</p> <p>Status: Concluded</p>	<p>European Commission (Supranational body)</p>	2018	One	Denied	<p>The Tribunal refused the TPP's application on the basis that it was made at a late stage of the proceedings. See Paragraph 198 of the Arbitral Award.</p>

18.	Antin Infrastructure Services Luxembourg S.à.r.l. and Antin Energia Termosolar B.V. v.	European Commission (Supranational body)	1st Application: 2014 2nd Application: 2015	Two	First Application: Denied Second Application: Conditionally Granted.	For the first TPP application, the Tribunal found that the TPP's application was premature considering that the Respondent had not yet submitted its jurisdictional objections to the Tribunal and therefore dismissed the application without prejudice to the TPP making a new request in due course.

	<p>Kingdom of Spain</p> <p>(ICSID Case No. ARB/13/31)</p> <p>Status: Concluded</p>					<p>For the second TPP application, the Tribunal authorized the TPP to make a written submission by 1 March 2016, upon the submission of a written undertaking that it would comply with any decision on costs ordered by the Tribunal. The Tribunal noted further that the written submission should be limited to 15 pages and be focused on the interpretation of European Union law regarding the issue of jurisdiction. The Tribunal denied the TPP access to the record of the arbitration, to the Parties' pleadings, and to any hearings and also noted that the TPP would have to bear its own costs for its participation as non-disputing party.</p>
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19.	RREEF Infrastructure (G.P.) Limited and RREEF Pan-European Infrastructure Two Lux S.à r.l.) v. Kingdom of Spain	European Commission (Supranational body)	First Application: 2014 2nd Application: 2015	Two	First Application: Denied Second Application: Denied	On the First TPP application, the Tribunal held that the TPP's application for leave to intervene is inadmissible. The second TPP application was denied without comments.

	(ICSID Case No. ARB/13/30) Status: Concluded					
20.	Marfin Investment	Unknown	2017	One	Unknown	

	<p>Group Holdings S.A., Alexandros Bakatselos and others</p> <p>v.</p> <p>Republic of Cyprus</p> <p>(ICSID Case No. ARB/13/27)</p> <p>Status: Concluded</p>	<p>(Documents are either unavailable or confidential)</p>			<p>(Documents are either unavailable or confidential)</p>	<p>It appears that one TPP application was made in the case. The publicly available documents do not disclose the outcome of the Tribunal's decision on the TPP application. However, from the procedural details reported on the ICSID website, it appears that the TPP application was denied.</p>
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21.	<p>EVN AG</p> <p>v.</p> <p>Republic of Bulgaria</p> <p>ICSID Case No.ARB/13/17</p> <p>Status: Concluded</p>	<p>Unknown</p> <p>(Documents are either unavailable or confidential)</p>	2018	One	<p>Unknown</p> <p>(Documents are either unavailable or confidential)</p>	<p>It appears that one TPP application was made in the case. The publicly available documents do not disclose the outcome of the Tribunal's decision on the TPP application. However, from the procedural details reported on the ICSID website, it appears that the TPP application was denied.</p>

22.	<p>Impresa Grassetto S.p.a., in liquidation</p> <p>v.</p> <p>Republic of Slovenia</p> <p>(ICSID Case No. ARB/13/10)</p> <p>Status: Concluded</p>	<p>Unknown</p> <p>(Documents are either unavailable or confidential)</p>	2018	One	<p>Unknown</p> <p>(Documents are either unavailable or confidential)</p>	<p>It appears that one TPP application was made in the case. The publicly available documents do not disclose the outcome of the Tribunal's decision on the TPP application. However, from the procedural details reported on the ICSID website, it appears that the TPP application was denied. However, the matter was discontinued.</p>

23.	<p>LSF-KEB Holdings SCA and others</p> <p>v.</p> <p>Republic of Korea</p> <p>(ICSID Case No. ARB/12/37)</p> <p>Status: Concluded</p>	MINBYUN (NGO)	<p>First Application: 2015</p> <p>Second Application: 2018</p>	Two	<p>First Application - Denied.</p> <p>Second Application - Denied</p>	<p>The Tribunal denied the TPP's first application. In the Tribunal's view, granting the TPP's request would disrupt the proceedings and unduly burden or unfairly prejudice the Parties. The Tribunal specifically noted that granting the TPP's application would likely cause Phase III of the Hearing to be adjourned or, at least, require a separate phase at significant time and cost to the Parties. Moreover, the Tribunal was not persuaded that the TPP had a perspective or particular knowledge or insight that was materially different from that of the Parties, particularly their Counsel and expert witnesses.</p> <p>The Tribunal also rejected the TPP's second application on the ground that the situation in the arbitration had not materially changed, except for the arbitration's more advanced stage, which made the Second Request even more inappropriate. <i>See paragraph 89 & 99 of Arbitral Award.</i></p>

24.	<p>Vattenfall AB and others</p> <p>v.</p> <p>Federal Republic of Germany</p> <p>(ICSID Case No. ARB/12/12)</p> <p>Status: Concluded</p>	<p>European Commission</p> <p>(Supranational body)</p>	2015	One	Granted	<p>The TPP application was granted. However, the proceedings were subsequently discontinued following the settlement of the disputing parties.</p>

25.	Dan Cake S.A. v. Hungary Status: Concluded	Unknown (Documents are either unavailable or confidential)	2018	One	Granted	From the procedural details on the ICSID's website, it is clear that a TPP application was filed. However, from the available documents, we are uncertain of its treatment by the Tribunal.

26.	<p>NextEra Energy Global Holdings B.V. and NextEra Energy Spain Holdings B.V.</p> <p>v.</p> <p>Kingdom of Spain</p> <p>(ICSID Case No. ARB/14/11)</p> <p>Status: Concluded</p>	<p>European Commission</p> <p>(Supranational body)</p>	2014	One	Granted;	<p>On the TPP application, the Tribunal (i) authorized the TPP to file a written submission on the issue of the application of the Energy Charter Treaty to intra-EU disputes; (ii) granted the Parties an opportunity to file observations on the TPP's written submission; (iii) granted the TPP access to certain portions of the Parties' written pleadings relating to the issue on which the TPP would make its submission, with redactions of commercially sensitive information; (iv) denied the TPP's request to attend the Hearing to present oral argument, but invited the Parties to inform the Tribunal, after receipt of the TPP's written submission, whether they would agree to the TPP's attendance at a limited portion of the Hearing for the exclusive purpose of answering any questions that the Tribunal and/or the Parties might have concerning such written submission; and (v) rejected Claimants' request that the intervention by the TPP be subject to the condition that the TPP undertakes to pay the Claimants'</p>

						costs for dealing with the TPP's intervention application.
27.	<p>Infinito Gold Ltd.</p> <p>v.</p> <p>Republic of Costa Rica</p> <p>(ICSID Case No. ARB/14/5)</p> <p>Status: Concluded</p>	<p>1.Asociación Preservacionista de Flora y Fauna Silvestre ("APREFLOFAS") (NGO)</p> <p>2.Asociación Preservacionista de Flora y Fauna Silvestre ("APREFLOFAS") (NGO)</p> <p>3. Canada (Sovereign State)</p>	<p>First Application: 2014</p> <p>Second Application: 2018</p> <p>Third Application: 2018</p>	Three	<p>First Application: Granted.</p> <p>Second Application: Granted.</p> <p>Third application: Granted.</p>	<p>For the first TPP application, the Tribunal decided that the TPP's input may assist it in better understanding certain factual and legal aspects which may impact its jurisdiction and possibly the merits of the claims. See page 10 of the Procedural Order No. 2.</p> <p>On the second TPP application, the Tribunal (i) authorized the TPP to file a Non-Disputing Party Submission; (ii) granted it access to the Parties' pleadings on jurisdiction and the Claimant's Memorial on the merits and an index of exhibits and legal authorities on the record, subject to confidentiality restrictions; and (iii) afforded the Parties an opportunity to present their</p>

						<p>observations on the TPP's Non-Disputing Party Submission in their submissions on the merits.</p> <p>The Third TPP application was made by Canada. In granting the application, the Tribunal authorized Canada to file a Non-Disputing Party Submission by 30 November 2018, limited to providing comments on the BIT provisions in dispute. The Tribunal ruled that should Canada wish to file documents together with its written submission, it could only submit documents not already on the record; see page 18 & 19 of Award</p>
28.	Mainstream Renewable Power Ltd and others	European Commission (Supranational body)	2022	One	Granted	<p>The TPP's request to intervene was granted on the conditions that:</p> <p>(i) the TPP's intervention will be</p>

	<p>v.</p> <p>Federal Republic of Germany</p> <p>(ICSID Case No. ARB/21/26)</p> <p>Status: Pending</p>					<p>limited to one written submission no longer than 30 pages;</p> <p>(ii) the written submission shall address the single issue: whether or not, from the EC's perspective, Article 26 of the Energy Charter Treaty, properly construed, applies intra-EU in general, and in the relationship between the Federal Republic of Germany and the Republic of Ireland, in particular, so that the Arbitral Tribunal lacks jurisdiction.</p> <p>The Tribunal declined the TPP's requests to (i) access the case file, and (ii) attend the hearing. The Tribunal also refused the Claimants' request that the TPP bear the costs arising out of its intervention.</p> <p>See Page 20 Of the Procedural Order No. 5</p>
29.	Encavis and others	European Commission	2022	One	Granted	In granting the TPP's application , the Tribunal permitted the TPP to file a written submission as a non-disputing party on the European

	v. Italian Republic (ICSID Case No. ARB/20/39) Status: Concluded	(Supranational body)				<p>Union ["EU"] law issues concerning the Tribunal's jurisdiction, to focus solely on the Respondent's intra-EU objection.</p> <p>The Tribunal, however, rejected the TPP's request to access the case file, subject to the possibility of accessing the Parties' main written submissions and requesting specific documents in the future. The Tribunal also rejected the TPP's request to attend and present oral arguments at the hearing and the Claimants' request to order the TPP to bear the costs associated with its participation in this arbitration. See page 14 & 15 of the Arbitral Award</p>
30.	Huawei Technologies Co., Ltd v.	European Commission (Supranational body)	2024	One	Granted	The tribunal noted the significance of the TPP's role in the determination of the arbitration and allowed the TPP to file a submission limited to addressing the Security Regulation Matter, which may be supported by legal

	<p>Kingdom of Sweden</p> <p>(ICSID Case No. ARB/22/2)</p> <p>Status: Pending</p>					<p>authorities and must not exceed 20 pages. See page 7 of the Procedural Order No. 6</p>
31.	<p>Raiffeisen Bank International AG and Raiffeisenbank Austria d.d.</p> <p>v.</p> <p>Republic of Croatia</p>	<p>European Commission (Supranational body)</p>	2018	One	Granted	<p>From the procedural details on the ICSID's website, it is clear that a TPP application was filed. However, from the available documents, we are uncertain of its treatment by the Tribunal.</p>

	(ICSID Case No. ARB/17/34) Status: Concluded					
32.	Rockhopper Italia S.p.A., Rockhopper Mediterranean Ltd, and Rockhopper Exploration Plc v. Italian Republic	European Commission (Supranational body)	2018	Two	First Application – Granted Second Application - decision yet to be made public, just issued on October 1, 2024	On the first TPP application, the Tribunal concluded that the TPP should be allowed to intervene only in writing, without access to the record of the case or to the oral hearing. The Tribunal also noted that the TPP’s written submissions should be confined to the TPP answering the questions that the Tribunal submitted to the Parties beforehand. Furthermore, the TPP's intervention was subject to the provision of a written undertaking that it would comply with any

	(ICSID Case No. ARB/17/14) Status: Pending					decision on costs ordered by the Tribunal.
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33.	SolEs Badajoz GmbH v. Kingdom of Spain (ICSID Case No. ARB/15/38) Status: Concluded	European Commission (Supranational body)	2016 2017	Two	First Application: Denied. Second Application: Granted	<p>The Tribunal dismissed the first TPP application on the ground that application was premature. The Tribunal observed that the TPP sought to address the Tribunal's alleged lack of jurisdiction at a time in which the Respondent had not yet indicated whether it intended to object to the Tribunal's jurisdiction.</p> <p>The Tribunal noted that it would be “unable to determine the existence or the extent of any disagreement between the Parties regarding the jurisdiction of the Centre or of this Tribunal” until it received Claimant’s memorial and Respondent’s counter-memorial. Pages 3-6 of the Award.</p> <p>As to the second TPP application, the Tribunal authorized the TPP to file a written non-disputing party submission. The Tribunal noted that while it would be premature for the Tribunal to decide whether any costs attributable to the participation of the Commission should be borne by the TPP, the TPP shall include in its submission an undertaking that it will comply</p>
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						with any decision on costs to be issued by the Tribunal.
34.	Odyssey Marine Exploration, Inc. v. United Mexican States	1) Center for International Environmental Law ("CIEL") and (NGO) 2)The Sociedad Cooperativa de Producción Pesquera Puerto Chale S.C.L. (Private Society)	2021	One (Joint Application)	Denied	In refusing the TPP application, the Tribunal decided that the TPP did not have significant interest in the arbitration and had not proven to be able to provide assistance in matters that the disputing parties were not able to address. However, there was a dissenting opinion by one of the members of the Tribunal. In his view, the TPP had shown significant interest in the outcome of the arbitration.

	<p>(UNCT/20/1)</p> <p>Status: Concluded</p>					<p>See Page 6 Of the Decision on the Application for Leave to File a Non-Disputing Party Submission (Amicus Curiae) (Procedural Order No. 6).</p> <p>It is important to note that the Government of Canada made a submission pursuant to Article 1128 of the North American Free Trade Agreement (“NAFTA”), which authorizes non-disputing Parties to make submissions to a tribunal on a question of interpretation of the NAFTA.</p>
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35.	<p>Angel Samuel Seda and others</p> <p>v.</p> <p>Republic of Colombia</p> <p>(ICSID Case No. ARB/19/6)</p> <p>Status: Concluded</p>	<p>Mr. Victor Mosquera Marín</p> <p>(Private Individual)</p>	2021	One	Denied	<p>In refusing the TPP application, the Tribunal concluded that the TPP had not shown significant interest in the proceedings. Page 13 & 14 of the Procedural Order No. 7</p> <p>It is important to note that the United States of America filed a written submission as a non-disputing State Party pursuant to US-Colombia TPA Article 10.20.2.</p>

36.	<p>Daniel W. Kappes and Kappes, Cassidy & Associates</p> <p>v. Republic of Guatemala</p> <p>(ICSID Case No. ARB/18/43)</p> <p>Status: Pending</p>	La Puya (NGO)	2019 2020	Two	<p>First Application: Reserved</p> <p>Second Application: Unknown</p>	<p>In the first application, the Tribunal noted that the TPP application was premature, given that the current phase of proceedings was directed entirely to the Respondent's preliminary objections. The Tribunal took the view that the TPP application will be moot if those objections are successful. In the circumstance, the Tribunal reserved its decision on the TPP application, until after its decision on the preliminary objections.</p> <p>Thereafter, the Tribunal dismissed the Respondent's preliminary objection. The TPP filed its renewed petition for amicus participation. However, the available documents do not</p>

						<p>disclose whether the TPP's renewed petition was granted.</p> <p>It is important to note that the Republic of El Salvador, the United States of America, the Republic of Costa Rica and the Dominican Republic each filed a written submission as a non-disputing State Party pursuant to DR-CAFTA Article 10.20.2.</p>
37.	Aris Mining Corporation (formerly known as GCM Mining	Mutual Association of Miners of "El Cogote,"	2020	One	Partially Granted	The Tribunal granted the TPP application and in doing so:

	<p>Corp. and Gran Colombia Gold Corp.)</p> <p>v.</p> <p>Republic of Colombia</p> <p>(ICSID Case No. ARB/18/23)</p> <p>Status: Pending</p>	<p>(Private Association)</p>				<p>(i) Permitted the TPP to file a written submission on some of the issues raised in its application</p> <p>(ii) directed that the TPP’s written submission comply with the requirements of Annex 831(2) of the FTA, including specifically that the submission be no more than 20 pages;</p> <p>(iii) directed that the submission of the El Cogote Association be filed electronically (in English and Spanish) with the ICSID Secretariat</p> <p>(iv) denied the TPP’s invitation to the Tribunal to conduct a site visit. See procedural order No.10</p>
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38.	Alicia Grace and others v. United Mexican States (UNCT/18/4) Status: Concluded	Alterna Capital Partners LLC (US), Asia Research & Capital Management Ltd. (HK), Contrarian Capital Management, LLC (US), CQS (UK) LLP for and on behalf of funds managed and or advised by it, GHL Investments Ltd. (Europe), and Ship Finance International Limited (UK Territory/Bermuda) (Private Associations)	2019	One	Denied	In refusing the TPP application, the Tribunal decided that the TPP would not assist in the determination of factual issues related to this arbitration. See Page 11 of Procedural Order No. 4

39.	<p>Sun-Flower Olmeda GmbH & Co KG and others</p> <p>v.</p> <p>Kingdom of Spain</p> <p>(ICSID Case No. ARB/16/17)</p> <p>Status: Concluded</p>	<p>Unknown</p> <p>(Documents are either unavailable or confidential)</p>	2018	One	Granted with Conditions.	<p>From the procedural details on the ICSID's website, it is clear that a TPP application was filed. However, from the available documents, we are uncertain of its treatment by the Tribunal.</p>

40.	<p>Infra-capital F1 S.à r.l. and Infracapital Solar B.V.</p> <p>v.</p> <p>Kingdom of Spain</p> <p>(ICSID Case No. ARB/16/18)</p> <p>Status: Concluded</p>	<p>First Application: European Commission (Supranational body)</p> <p>Second Application: Unknown</p> <p>(Documents are either unavailable or confidential)</p>	2018	One	Granted	The tribunal did not seem to have analysed the written submissions of the TPP in issuing its decision of Jurisdiction, Liability and Directions on Quantum or the Final Award.
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41.	<p>VC Holding II S.a.r.l. and others</p> <p>v.</p> <p>Italian Republic</p> <p>(ICSID Case No. ARB/16/39)</p> <p>Status: Pending</p>	<p>Unknown</p> <p>(Documents are either unavailable or confidential)</p>	2018	One	<p>Unknown</p> <p>(Documents are either unavailable or confidential)</p>	<p>It appears that one TPP application was made in this case. The publicly available documents do not disclose the outcome of the Tribunal's decision on the TPP application. However, from the procedural details reported on the ICSID website, it appears that the TPP application was denied.</p>

42.	Bank of Cyprus Public Company Limited v. Hellenic Republic ICSID Case No. ARB/17/4	Unknown (Documents are either unavailable or confidential)	2018	One	Granted	Unknown (Documents are either unavailable or confidential). We know, however, that each party filed observations on the TPP's written submission.

	Status: Concluded					
43.	<p>Cavalum SGPS, S.A.</p> <p>v.</p> <p>Kingdom of Spain</p> <p>(ICSID Case No. ARB/15/34)</p> <p>Status: Pending</p>	<p>The European Commission</p> <p>(Supranational body)</p>	<p>2016</p> <p>2017</p>	Two	<p>First Application: Denied</p> <p>Second Application: Granted</p>	<p>For the first TPP application, the Tribunal refused it without prejudice to the TPP's ability to file a fresh application. The TPP's application was refused because it was considered premature at that stage of the proceedings.</p> <p>For the second TPP application, the TPP was allowed to submit written submissions.</p> <p>The written submissions by the EC were analysed vis-à-vis the submissions by the other parties in the decision of the Tribunal on Jurisdiction, Liability and</p>

						Directions on Quantum (Pages 24, 26, 88, 92, 111 of the Decision on Jurisdiction, Liability and Directions on Quantum). The Tribunal seemed to place the arguments by the TPP on the same pedestal as the disputing parties' submission and analysed all arguments in making its final decision.
44.	E. ON SE, E. ON Finanzanlagen GmbH and E. ON Iberia Holding GmbH v. Kingdom of Spain	Unknown (Documents are either unavailable or confidential)	2016 2018 2020	Three	First Application: Granted. Second Application: Granted. Third Application: Unknown	From the procedural details on the ICSID's website, it is clear that three TPP applications were filed. However, from the available documents, we are uncertain of the treatment of the first and second applications by the Tribunal and the status and treatment of the third application by the Tribunal.

	(ICSID Case No. ARB/15/35) Status: Pending				(Documents are either unavailable or confidential)	
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45.	<p>OperaFund Eco-Invest SICAV PLC and Schwab Holding AG</p> <p>v.</p> <p>Kingdom of Spain</p> <p>(ICSID Case No. ARB/15/36)</p> <p>Status: Concluded</p>	<p>European Commission (Supranational body)</p>	2017	One	Granted	<p>The Tribunal granted the TPP's application to intervene in the proceedings. The TPP was allowed to submit written submissions and attend only the first day of the hearing where parties make their opening statements.</p> <p>The Tribunal considered the TPP's submissions in reaching their decisions. (Pages 70- 74, 96- 99, 102 of the Award)</p>
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46.	Mathias Kruck and others v. Kingdom of Spain	Unknown (Documents are either unavailable or confidential)	2016	One	Granted	<p>The Final Award does not disclose the identity of the TPP applicant nor the outcome and treatment of the TPP by the Tribunal.</p> <p>However, from the procedural details reported on the ICSID website, it appears that there was a TPP application, and it was granted by the Tribunal.</p>

	(ICSID Case No. ARB/15/23) Status: Pending					
47.	KS Invest GmbH and	Unknown	2016	Two	First Application: Denied	Unknown (Documents are either unavailable or confidential). However, from the procedural

	<p>TLS Invest GmbH</p> <p>v.</p> <p>Kingdom of Spain</p> <p>(ICSID Case No. ARB/15/25)</p> <p>Status: Pending</p>	<p>(Documents are either unavailable or confidential)</p>	<p>2017</p>		<p>Second Application: Granted</p>	<p>details reported on the ICSID website, it appears that there were two TPP application, and the first TPP application was denied while the second TPP application was granted by the Tribunal.</p>
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48.	JGC Corporation v. Kingdom of Spain (ICSID Case No. ARB/15/27) Status: Concluded	European Commission (Supranational body)	2019	One	Denied	The TPP application was denied because the proceedings had reached an advanced stage, as the parties had already filed their post-hearing briefs and submission on costs. (paragraph 89 of the decision on jurisdiction, liability and certain issues of quantum).

49.	<p>Gabriel Resources Ltd. and Gabriel Resources (Jersey) Ltd.</p> <p>v.</p> <p>Romania (ICSID Case No. ARB/15/31)</p> <p>Status: Pending</p>	<p>First Application</p> <p>i) Alburnus Maior,</p> <p>(ii) Greenpeace Romania, and</p> <p>(iii) The Independent Center for the Development of Environmental Resources (ICDER). (NGOs)</p> <p>Second Application: European Commission (Supranational body)</p> <p>Third Application: The Independent Center for the Development of</p>	<p>2018</p> <p>2019</p> <p>2022</p> <p>2023</p> <p>2023</p>	<p>Five</p>	<p>First Application: Granted</p> <p>Second Application: Granted</p> <p>Third Application: Granted</p> <p>Fourth Application: Denied</p> <p>Fifth Application: Denied</p>	<p>The first TPP application was granted with the conditions that the TPPs rectify all formal defects in their application and submission, and that certain sections of the application containing factual arguments not within the specific knowledge of the TPPs, arguments on laws, and references to or reliance on testimonies are excluded.</p> <p>The second TPP application was made by the European Commission (EC). This application was also granted. The EC was permitted to submit written submissions but was not permitted to attend hearings to make oral submissions. The submissions by the European Commission were expressly summarized and analysed by the Tribunal in making its decisions. However, other non-disputing party submissions were not</p>

		<p>Environmental Resources (ICDER) and Greenpeace Romania. (NGOs)</p> <p>Fourth Application: The Independent Center for the Development of Environmental Resources (ICDER) and Greenpeace Romania. (NGOs)</p> <p>Fifth Application: Ms. Elena Bibescu (Private Individual)</p>				<p>expressly summarized or analysed in decisions.</p> <p>The fourth and fifth TPP applications were denied on the ground that the proceedings had reached an advanced stage and thus any such TPP intervention would not be helpful to the Tribunal.</p>
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50.	<p>BayWa r.e. renewable energy GmbH and BayWa r.e. Asset Holding GmbH</p> <p>v.</p> <p>Kingdom of Spain</p> <p>(ICSID Case No.ARB/15/16)</p> <p>Status: Concluded</p>	<p>The European Commission</p> <p>(Supranational body)</p>	<p>2016</p> <p>2017</p> <p>2018</p>	<p>Three</p>	<p>First Application: Denied.</p> <p>Second Application: Denied.</p> <p>Third Application: Unknown</p>	<p>The first two TPP applications were denied because the Tribunal felt that they were premature and would not be relevant in helping the Tribunal gain any new insights that it wasn't aware of.</p>

51.	ENERGO-PRO a.s v. Republic of Bulgaria	Unknown (Documents are either unavailable or confidential)	2017 2018	Two	Denied	Unknown (Documents are either unavailable or confidential). However, from the procedural details reported on the ICSID website, it appears that there were two TPP applications, and they were denied by the Tribunal.

	(ICSID Case No. ARB/15/19) Status: Concluded					
52.	Stadtwerke München GmbH, RWE Innogy GmbH, and others v. Kingdom of Spain (ICSID Case No. ARB/15/1) Status: Concluded	The European Commission (Supranational body)	2017	One	Granted.	The TPP application was granted subject to the TPP's fulfilment of conditions including making an undertaking for costs. The TPP failed to fulfil the conditions and thus its submission was not admitted into the records of the arbitration neither was any weight attached to it.

53.	Ioan Micula, Viorel Micula and others v. Romania (ICSID Case No. ARB/05/20) Status: Concluded	European Commission (Supranational body)	2009	One	Granted	For the first application, the Tribunal was particularly sensitive to the fact that the European Commission may bring a factual or legal perspective that could assist the Tribunal in the adjudication of the Parties' rights . In granting leave to the TPP to participate as a non-disputing party, the Arbitral Tribunal was mindful of the need to preserve due process and the good order of the proceeding. In particular, the TPP would act as amicus curiae and not as amicus actoris vel rei. In other words, the TPP shall remain a friend of the court and not a friend of either Party. See paragraph 27 of the Award.

54.	RENERGY S.à r.l. v. Kingdom of Spain ICSID Case No. ARB/14/1 8 Status: Concluded	European Commission (Supranational body)	2014 2015	Two	First Application: Denied. Second Application: Granted.	The first TPP Application was denied by the Tribunal. The application was denied because the Tribunal considered the application premature. According to the Tribunal the jurisdictional question specified in the Application had not been raised by either Party thus far. The second Application were granted. The written submissions by the TPP were analysed and considered by the Tribunal at paragraph 318-328 of the Award.

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55.	<p>Sodexo Pass International SAS</p> <p>v.</p> <p>Hungary</p> <p>ICSID Case No. ARB/14/20)</p> <p>Status: Concluded</p>	<p>European Commission</p> <p>(Supranational body)</p>	2018	One	Granted	<p>The application was granted by the tribunal (See page 18 of the Award), however it is unclear how the Tribunal treated the TPP in issuing it in Award. (See page 18 of the Award.)</p>

56.	B3 Croatian Courier U.A. v. Croatia (ARB/15/5) Status: Concluded	European Commission (Supranational body)	2019	One	Denied	The procedural details on the ICSID website disclose that a TPP application was made and same was denied. The documents available do not disclose the reasons for the refusal.
57.	Philip Morris Brand Sàrl (Switzerland), Philip Morris Products S.A. (Switzerland)	First Application: World Health Organization and Framework Convention on Tobacco Control	2015 2015 2015	Four	First Application: Granted.	The first and second TPP applications were granted by the Tribunal. In granting the TPP applications, the Tribunal noted that the TPP submissions would be beneficial to its decision-making

	<p>and Abal Hermanos S.A. (Uruguay)</p> <p>v.</p> <p>Oriental Republic of Uruguay</p> <p>ICSID Case No. ARB/10/7</p> <p>Status: Concluded</p>	<p>Secretariat. (International Organisation)</p> <p>Second Application: Pan American Health Organization. (NGO)</p> <p>Third Application: Avaz Foundation. (NGO)</p> <p>Fourth Application: Inter-American Association of Intellectual Property (ASIPI) (Private Association)</p>	<p>2015</p>		<p>Second Application: Granted.</p> <p>Third Application: Denied.</p> <p>Fourth Application: Denied</p>	<p>process, especially considering the knowledge and expertise of the two TPP entities regarding the matters in dispute. The Tribunal also noted that considering the public interest element of the case, granting the TPP application would support the transparency of the proceeding and its acceptability by users at large.</p> <p>The third and fourth TPP applications were denied on the ground, among others, that, they were submitted late - when the proceedings had gotten to an advanced stage. Furthermore, the Tribunal did not consider that the perspectives to be offered by the TPP applicants would be especially beneficial to its determination of the issues.</p> <p>Particularly, for the fourth application, the Tribunal highlighted the relationship between the TPP applicant and the parties thus: <i>“the Tribunal must not only consider whether the person or organization that seeks</i></p>
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						<p><i>to intervene has the required expertise or experience, but also whether it is sufficiently independent from the disputing parties to be of assistance to the Tribunal. Prior ICSID tribunals have already recognized the importance of the lack of connection between the petitioner and the disputing parties for the tribunal's determination to accept or deny non-disputing parties' submissions. The Respondent has brought to the Tribunal's attention, the "close relationship between ASIPI and Claimants," by identifying the participation of Claimants' lawyers on the management board and on specific thematic committees of ASIPI. The Tribunal cannot ignore this detailed information." (Paragraph 55 of the Award)</i></p>
58.	<p>InfraRed Environmental Infrastructure GP Limited and others</p> <p>V</p>	<p>European Commission (Supranational body)</p>	<p>2014</p> <p>2015</p>	Two	<p>First Application: Denied</p>	<p>The first TPP application was denied by the Tribunal because the TPP sought to intervene regarding an issue that was not raised by the Parties.</p> <p>The second application was granted with considerations by the Tribunal; one of such</p>

	<p>Kingdom of Spain</p> <p>ICSID Case No. ARB/14/12</p> <p>Status: Concluded</p>				<p>Second Application: Granted</p>	<p>considerations is an undertaken for costs. The TPP asked for a reconsideration concerning this but it was denied. Therefore the TPP did not make submissions.</p>
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59.	<p>United Utilities (Tallinn) B.V. and Aktsiaselts Tallinna Vesi</p> <p>v.</p> <p>Republic of Estonia</p> <p>ICSID Case No. ARB/14/24)</p>	<p>European Commission (Supranational body)</p>	2018	One	Granted	<p>In granting the TPP application, the TPP applicant was only permitted to file written submissions. The TPP applicant's requests for access to the documents filed in the arbitration and access to the hearing in the case were rejected. See page 3 & 4 of the Decision on the Application for Leave to Intervene as a Non-Disputing Party Submitted by the European Commission.</p> <p>The Tribunal considered the written submissions of the TPP in its final award.</p>

	Status: Concluded					
60.	RWE Innogy GmbH and RWE Innogy Aersa S.A.U. v. Kingdom of Spain	European Commission (Supranational body)	2015 2016	Two	First Application: Denied Second Application: Granted	For the first TPP application the Tribunal issued Procedural Order No. 2 dismissing the TPP Application pursuant to ICSID Arbitration Rule 37(2). The Tribunal noted that the proceeding was still at a very early stage and the Respondent had not yet raised any jurisdictional objections. The Tribunal felt that it was ill-equipped at the time to assess whether the TPP's submission would assist it in the

	<p>ICSID Case No. ARB/14/34</p> <p>Status: Concluded</p>					<p>determination of an issue related to the proceeding by bringing a perspective, particular knowledge or insight that is different from that of the disputing Parties. Paragraph 15 of the Final Award.</p> <p>For the second TPP application, while the TPP was refused permission to attend any hearings or to gain access to the documents filed, it was allowed to file written submissions. See page 5 of the Final award.</p>
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61.	<p>Lion Mexico Consolidated L.P.</p> <p>v</p> <p>United Mexican States</p> <p>ICSID Case No. ARB(AF)/15/2</p>	<p>First Application: Mr. Iván Mercado. (Private Individual)</p>	2017	One	Denied.	<p>The TPP application was denied because Mr Mercado failed to reveal sufficient details about himself and how he was related to the dispute between the parties. See page 2 of the Decision on the Non-Disputing Party's Application (May 23, 2017).</p>

	Status: Concluded					
62.	Cube Infrastructure Fund SICAV and others v. Spain (ICSID Case No. ARB/15/20)	European Commission (Supranational body)	2018	One	Denied	The first TPP application was denied because " <i>allowing the Commission to intervene at this stage would significantly disrupt the proceedings.</i> " Page 62 of the Decision On Jurisdiction, Liability And Partial Decision On Quantum.

	Status: Concluded					
63.	B von Pezold and others v.	i) European Centre for Constitution and Human Rights ("ECCHR") (NGO) and	2012	One	Denied	The TPP sought permission to (a) file written submission in the arbitration (b) access the key documents; and (c) attend the oral hearings and reply to specific questions of the Tribunals on the

	Zimbabwe (ICSID Case No. ARB/10/15) Status: Concluded	ii) Four Indigenous communities of Zimbabwe				ground that it had significant interest in the proceeding. However, the Tribunal refused the application. In refusing the application, the Tribunal found that the TPP: (a) had not shown significant interest in the proceeding, (b) the circumstances of their application casted legitimate doubts on their independence or neutrality and (c) their application had not satisfied any of the criteria in Rule 37(2).
64.	Aguas del Tunari, S.A. v.	European Commission (Supranational body)	2002	One	Denied	The Tribunal refused the TPP application. In refusing the application, the Tribunal found that it was beyond its power to grant the application in the absence of consent/agreement by the parties. The Tribunal was also of the view that there was no need

	<p>Bolivia</p> <p>(ICSID Case No. ARB/02/3)</p> <p>Status: Concluded</p>					<p>for supplementary non-party submissions at the jurisdictional phase.</p>
65.	<p>Apotex Holdings Inc. & Apotex Inc.</p> <p>v.</p> <p>United States of America</p>	<p>First Application</p> <p>Business Neatness Magnanimity Srl (Corporate body)</p> <p>Second Application</p>	<p>2013</p> <p>2013</p>	Two	<p>First and Second Application - Denied</p>	<p>First Application</p> <p>In the first application, the TPP sought leave to file submissions intended to address “the scope of definition of ‘investment’ under Article 1139(g) NAFTA”. In refusing the application, the Tribunal found that it would be materially disruptive and unduly burden the Parties to grant the application, given the fact that the application</p>

	(ICSID Case No. ARB(AF)12/1) Status: Concluded	Mr. Barry Appleton (Private Individual)				<p>did not address the relevant facts and arguments advanced in the arbitration. The Tribunal also found that TPP did not demonstrate its significant interest in the dispute and that it did not have any special knowledge or relevant expertise or experience with the subject matter of the dispute.</p> <p>Second Application</p> <p>In the second application, the TPP sought leave to submit a non-disputing party submission on the ground that as an international lawyer (with extensive experience with disputes under NAFTA), he could provide expertise and knowledge not provided by the disputing parties. In refusing the application, the Tribunal found that it was unlikely that the TPP applicant would provide the Tribunal with any particular perspective or insight different from that provided by the disputing parties, given the considerable experience possessed</p>
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						<p>by the disputing parties' counsel. Please see paragraph 30 to 47 of the Procedural Order on the participation of the Applicant, Mr. Barry Appleton as a Non-Disputing Party</p>
66.	<p>Biwater Gauff Limited v. Tanzania</p> <p>(ICSID Case No. ARB/05/22)</p> <p>Status: Concluded</p>	<p>(i)The Lawyers' Environmental Action Team (LEAT) & 4 Others (NGOS)</p>	2007	One	Granted	<p>The TPP filed a petition for amicus curiae "status" (including access to key arbitral documents and access to oral hearings) on the ground that the arbitration process went beyond merely resolving commercial or private conflicts, as it had substantial influence on the population's ability to enjoy basic human rights.</p> <p>In granting the application, the Tribunal noted that the ICSID Arbitration Rules do not, in terms, provide for a general amicus curiae "status". Rather, the Arbitration</p>

						<p>Rules expressly contemplate two specific types of participation by non-parties, namely: (a) the filing of a written submission (Rule 37(2)) and (b) the attendance at hearings.</p> <p>The Tribunal also noted that permitting the TPP to file written submissions would be beneficial to its decision-making process and will secure wider confidence in the arbitral process, considering the knowledge and expertise of the each TPP in relation to the matters in dispute.</p> <p>Please see Paragraph 50 of Procedural Order No. 5.</p> <p>The TPPs' submissions were extensively summarized and analysed by the Tribunal in the final award. Please see pages 356-392 of the Award.</p>
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67.	<p>Piero Foresti, Laura de Carli and others</p> <p>v. South Africa</p> <p>(ICSID Case No. ARB(AF)/07/1)</p> <p>Status: Concluded</p>	<p>First Application</p> <p>(i)The Centre for Applied Legal Studies (CALS), (ii) The Legal Resources Centre (LRC), (iii)The Center for International Environmental Law (CIEL), (iv)The International Centre for the Legal Protection of Human Rights (INTERIGHTS) (NGOs)</p> <p>Second Application</p> <p>The International Commission of Jurists (Professional Body)</p>	<p>2009</p> <p>2009</p>	Two	<p>First Application: Granted</p> <p>Second Application: Unknown</p>	<p>First Application</p> <p>The TPP applicants sought leave to file written submissions, access key documents and attend hearings on the ground that the arbitration gives rise to a number of issues that are of direct concern to South African citizens and the civil society groups that represent them, as well as a wide range of issues of concern to the citizens of all countries.</p> <p>In granting the application, the Tribunal allowed the TPP Applicants to participate in this proceeding noting that while their participation is intended to enable them give useful information to the Tribunal, their participation was not intended to be a mechanism for enabling them to obtain information from the Parties.</p> <p>Second Application</p> <p>There is no information available online in respect of this application.</p>
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68.	<p>Erste Group Bank AG and others v. Republic of Croatia</p> <p>(ICSID Case No. ARB/17/49)</p> <p>Status: Concluded</p>	<p>European Commission (Supranational body)</p>	2018	One	Granted	<p>The matter was discontinued. However, from the procedural details reported on the ICSID website, it appears that there was a TPP application, and it was granted by the Tribunal.</p> <p>See page 8 & 10 of the Discontinuance Order.</p>
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69.	<p>Magyar Farming Company Ltd, Kintyre Kft and Inicia Zrt</p> <p>v.</p> <p>Hungary</p> <p>(ICSID Case No. ARB/17/27)</p> <p>Status: Concluded</p>	<p>European Commission</p> <p>(Supranational body)</p>	2018	One	Granted	<p>The Tribunal (a) granted the TPP leave to file a written amicus curiae submission limited to the legal consequences of the Achmea Judgment for the present case; (b) allowed the TPP access the relevant parts of the Parties' written submissions (excluding evidence) but denied the TPP's request to attend hearings and to present oral arguments. See paragraph 61 of the Final Award.</p> <p>There was no analysis of the submission of the TPP by the Tribunal while making its award in this case.</p>

70.	<p>Hydro Energy 1 S.à r.l. and Hydroxana Sweden AB</p> <p>v.</p> <p>Kingdom of Spain</p> <p>(ICSID Case No. ARB/15/42)</p> <p>Status: Concluded</p>	<p>European Commission</p> <p>(Supranational body)</p>	2018	One	Granted	<p>In granting the TPP's application, the Tribunal was satisfied that the requirements under the Arbitration Rule had been satisfied. However, the Tribunal only allowed the TPP applicant to intervene in writing, without access to the record of the case and subject to conditions, including that the submission be no longer than twenty pages. Furthermore, the Tribunal did not consider it necessary to require the European Commission to provide an undertaking on costs as a condition for its intervention and therefore, rejected the Claimants' request in this regard. Page 10 of the Decision On Jurisdiction, Liability And Directions On Quantum</p> <p>From the documents available online, it appears that there was no analysis of the submission of the TPP by the Tribunal while making its award in this case.</p>

71.	Canepa Green Energy Opportunities I, S.á r.l. and Canepa Green Energy Opportunities II, S.á r.l.	European Commission (Supranational body)	2019	One	Granted	<p>From the procedural Order No.3, it appears that the Tribunal granted the TPP's request to intervene as a non-disputing party in the arbitration.</p> <p>It is, however, unclear how the Tribunal treated the TPP's application in granting the final</p>

	<p>v. Kingdom of Spain</p> <p>(ICSID Case No. ARB/19/4)</p> <p>Status: Pending</p>					<p>award as the Final award is not publicly available for review.</p>
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72.	Alverley Investments Limited and Germen Properties Ltd v. Romania (ICSID Case No. ARB/18/30) Status: Concluded	European Commission (Supranational body)	2019	One	Granted	The Tribunal granted the TPP leave to submit a written intervention. The TPP's intervention was confined to a written statement because the Claimant objected to the TPP's participation in the hearing.
73.	LSG Building Solutions GmbH et al v. Romania	European Commission (Supranational body)	2019 2024	Two	First Application – Granted	The TPP requested leave to file an amicus curiae submission, have access to the case file to the extent necessary for its intervention, attend hearings, and present oral arguments.

	(ICSID Case No. ARB/18/19) Status: Concluded				Second Application Unknown –	<p>The application was granted by the Tribunal only in relation to the TPP's submission on jurisdiction.</p> <p>From the documents available online, it appears that there was no analysis of the submission of the TPP by the Tribunal while making its award in this case.</p> <p>However, from the Award, the Tribunal noted that it had jurisdiction to entertain the dispute.</p>
74.	Watkins Holdings S.à r.l. and others v. Kingdom of Spain	European Commission (Supranational body)	2017	One	Granted	The TPP filed an application for leave to intervene as a non-disputing party. In granting the application, the Tribunal found that the TPP had a particular knowledge or insight which may

	<p>(ICSID Case No. ARB/15/44)</p> <p>Status: Concluded</p>					<p>be of assistance to the Tribunal in its consideration of the jurisdictional issue. However, the Tribunal also ordered that the TPP give an undertaking as to cost as a condition for being given leave to file a non-disputing party submission. The TPP informed the Tribunal that they would not provide the undertaking as to cost, as such, its submission was not admitted into the records, neither was it considered in the Final award Please see paragraph 40 of the Award.</p>
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75.	<p>European Solar Farms A/S</p> <p>v.</p> <p>Kingdom of Spain</p> <p>(ICSID Case No. ARB/18/45)</p> <p>Status: Pending</p>	<p>Unknown (Documents are either unavailable or confidential)</p>	2019	One	<p>Unknown (Documents are either unavailable or confidential)</p>	<p>From the procedural details on ICSID's website, it is clear that a TPP application was filed and granted by the Tribunal. However, from other available information, we are uncertain of the status or treatment of the TPP application by the Tribunal</p>

76.	<p>International Mining Company Invest, Inc. v. Kyrgyz Republic</p> <p>(ICSID Case No. ARB/22/25)</p> <p>Status: Pending</p>	<p>Unknown (Documents are either unavailable or confidential)</p>	2023	One	Granted	<p>From the procedural details on the ICSID's website, it is clear that a TPP application was filed, and it appears to have been granted. However, from other available documents and information, we are uncertain of the treatment of this TPP application by the Tribunal.</p>

77.	<p>United Group B.V., Adria Serbia Holdco B.V., and Serbia Broadband-srpske kablovske mreže d.o.o. Beograd</p> <p>v.</p> <p>Serbia</p> <p>(ICSID Case No. ARB/21/5)</p> <p>Status: Pending</p>	<p>Unknown (Documents are either unavailable or confidential)</p>	2023	One	Granted	<p>From the procedural details on the ICSID's website, it is clear that a TPP application was filed, and it appears to have been granted. However, from the available documents and information, we are uncertain of the treatment of this TPP application by the Tribunal.</p>

78.	<p>Mitsui & Co., Ltd. v. Kingdom of Spain</p> <p>(ICSID Case No. ARB/20/47)</p> <p>Status: Pending</p>	<p>Unknown (Documents are either unavailable or confidential)</p>	2022	One	Granted	<p>From the procedural details on the ICSID's website, it is clear that a TPP application was filed, and it appears to have been granted. However, from the available documents and information, we are uncertain of the treatment of this TPP application by the Tribunal.</p>

79.	Sapec, S.A. v. Kingdom of Spain (ICSID Case No. ARB/19/23) Status: Pending	Unknown (Documents are either unavailable or confidential)	2021 2021	Two	Unknown (Documents are either unavailable or confidential)	From the procedural details on the ICSID's website, it is clear that two applications were filed. However, from the available documents and information, we are uncertain of the status or treatment of this TPP applications by the Tribunal
80.	Strabag SE and others v. Federal	Unknown (Documents are either unavailable or confidential)	2020	One	Unknown (Documents are either	From the procedural details on the ICSID's website, it is clear that a TPP application was filed. However, from the available documents and

	<p>Republic of Germany</p> <p>(ICSID Case No. ARB/19/29)</p> <p>Status: Pending</p>				unavailable or confidential)	information, we are uncertain of its status or treatment by the Tribunal.
81.	<p>VM Solar Jerez GmbH and others v Kingdom of Spain</p> <p>(ICSID Case No. ARB/19/30)</p> <p>Status: Pending</p>	<p>Unknown (Documents are either unavailable or confidential)</p>	2021	One	Unknown (Documents are either unavailable or confidential)	From the procedural details on the ICSID's Website, it is clear that a TPP application was filed. However, from the available documents and information, we are uncertain of its status or treatment by the Tribunal.
82.	<p>Border Timbers Ltd., Border Timbers</p>	<p>(i)The European Center for</p>	2012	One (submitted by 2 groups)	Denied	In refusing the application, the Tribunal noted that it was not persuaded that the TPPs should be permitted to make a submission in

	<p>International (Private) Limited, and Hangani Development Co. (Private) Limited v. Republic of Zimbabwe</p> <p>(ICSID Case No. ARB/10/25)</p> <p>Status: Concluded</p>	<p>Constitutional and Human Rights (NGOs) and</p> <p>(ii) Four indigenous communities of Zimbabwe. (Indigenous communities)</p>				<p>these proceedings because they had not satisfied any of the criteria in the Arbitration Rules. In particular, the Tribunal noted that the TPPs did not propose to make submissions that would assist them “in the determination of a factual or legal issue related to the proceeding”, as their proposed submissions on the legal and factual issues that were unrelated to the matters before the Arbitral Tribunals.</p> <p>The Tribunal further noted that the circumstances of the TPP Application gave rise to legitimate doubts as to the independence or neutrality of the TPPs.</p>
83.	<p>Société Générale S.A.</p> <p>v.</p> <p>Republic of Croatia</p>	<p>Unknown (Documents are either unavailable or confidential)</p>	2023	One	<p>Unknown (Documents are either unavailable or confidential)</p>	<p>From the procedural details on the ICSID’s Website, it is clear that a TPP application was filed. However, from the available documents and information, we are uncertain of its status or treatment by the Tribunal.</p>

	(ICSID Case No ARB/19/33) Status: Pending					
84.	9REN Holding S.a.r.l. v. Kingdom of Spain (ICSID Case No. ARB/15/15) – Status: Concluded	European Commission	2018	One	Denied	the documents available show that the TPP application was refused but do not indicate the conditions or reasons for refusing the application.
85.	Landesbank Baden-Württemberg et al.	European Commission (Supranational body)	2018 2019	Two	Denied Granted	The Tribunal rejected the request of the TPP to intervene in the proceedings because the request was made too late to be accommodated within the schedule of the Tribunal. Nevertheless, the Tribunal stated

	<p>v.</p> <p>Kingdom of Spain</p> <p>(ICSID Case No. ARB/15/45)</p> <p>Status: Pending</p>					<p>that the detailed submissions already contained in the Application [to intervene] were a sufficient statement of the TPP's views and should form part of the record in the case. Furthermore, the Tribunal noted that the disputing parties could comment on the TPP's views by written submissions and at the hearing.</p> <p>Publicly available information suggests that the second application was granted</p>
86.	<p>AS Norvik Banka and others v. Republic of Latvia</p> <p>(ICSID Case No. ARB/17/47)</p> <p>Status: Pending</p>	<p>European Commission (Supranational body)</p>	2018	One	Granted	<p>For the TPP application Tribunal ordered that the TPP file a written non-disputing party submission addressing as a legal issue whether the investor-state arbitration mechanism in the Latvia/UK BIT remains available. The tribunal further commented that Claimant's contentions may affect the weight given to the written submissions by the non-disputing party.</p> <p>The Tribunal however, refused the TPP's relief for access to the documents filed in the case and permission to attend hearings in</p>

						<p>order to present oral argument and reply to the questions of [the] Tribunal at those hearings.</p> <p>For the second application, the documents are either unavailable or confidential.</p>
87.	<p>Elitech B.V. and Razvoj Gold D.O.O.</p> <p>v.</p> <p>Croatia</p> <p>(ICSID Case No. ARB/17/32)</p> <p>Status: Concluded</p>	<p>Unknown (Documents are either unavailable or confidential)</p>	<p>2018</p> <p>2019</p>	Two	Granted	<p>From the procedural details on the ICSID's website, there were two TPP applications. The Tribunal appears to have granted them. However, their treatment is unclear from the information available.</p>
88.	Portigon AG	<p>Unknown (Documents are</p>	2018	One	Granted	<p>From the procedural details on ICSID's website, it is clear that there was a TPP application. The Tribunal appears to have granted it.</p>

	<p>v. Kingdom of Spain</p> <p>(ICSID Case No. ARB/17/15)</p> <p>Status: Pending</p>	<p>either unavailable or confidential)</p>				<p>However, its treatment is unclear from the information available.</p>
89.	<p>Eni International B.V., Eni Oil Holdings B.V. and Nigerian Agip Exploration Limited v. Federal Republic of Nigeria</p> <p>(ICSID Case No. ARB/20/41)</p>	<p>(i) ReCommon, the Human and Environmental Development Agenda (“HEDA”) and (ii) Corner House Research (“CHR”) (NGOs)</p>	2022	One (Joint Application)	Granted	<p>In granting the TPP application (allowing the TPP’s make written submissions and access key documents in the arbitration), the Tribunal found that the TPPs could offer particular knowledge regarding the factual aspects of the corruption allegations at issue in the proceedings, which knowledge could differ from that of the disputing parties and could assist the Tribunal in better understanding the dispute.</p>

	Status: Pending					
90.	Spanish Solar 1 Limited and Spanish Solar 2 Limited v. Kingdom of Spain (ICSID Case No. ARB/21/39) Status: Pending	Unknown (Documents are either unavailable or confidential)	2023	One	Unknown (Documents are either unavailable or confidential)	From the details on ICSID's website, it is clear that a TPP application was filed. However, from the available documents, we are uncertain of its status or treatment by the Tribunal
91.	DCM Energy GmbH & Co. Solar 1 KG and others v. Kingdom of Spain (ICSID Case No. ARB/17/41)	Unknown (Documents are either unavailable or confidential)	2018 2019	Two	Unknown (Documents are either unavailable or confidential)	From the procedural details on the ICSID's website, it is clear that two TPP applications were filed. However, from the available documents, we are uncertain of its status or treatment by the Tribunal.

	Status: Concluded					
92.	WOC Photovoltaik Portfolio GmbH & Co. KG and others v. Kingdom of Spain (ICSID Case No. ARB/22/12) Status: Pending	European Commission (Supranational body)	2023	One	Unknown (Documents are either unavailable or confidential)	The TPP submitted an Application for Leave to Intervene as Non-Disputing Party. Separately, the TPP also provided the Tribunal with an amicus submission for use in the event that the Tribunal decides to accede to the request to intervene and the schedule of the proceedings requires immediate follow-up. However, we are not aware whether the said Application was granted from the documents available
93.	Itochu Corporation v. Kingdom of Spain	Unknown (Documents are either unavailable or confidential)	2019	One	Unknown (Documents are either unavailable or confidential)	From the procedural summary on the ICSID's website, it is clear that a TPP application was filed. However, from the available documents, we are uncertain of its status or treatment by the Tribunal.

	(ICSID Case No. ARB/18/25) Status: Pending					
94.	Adria Group B.V. and Adria Group Holding B.V. v. Republic of Croatia (ICSID Case No. ARB/20/6) Status: Pending	First Application: European Commission (Supranational body) Second Application: Netherlands (Sovereign State)	2021 2021	Two	Granted	For the first and second TPP applications, the TPPs were allowed to submit written submissions. The submissions by the TPPs were expressly summarized and analysed vis-a-vis the submission of the parties in its decision on intra-EU Jurisdictional Objection. Please see paragraphs 101 to 104 of the Decision.

95.	<p>EBL (Genossenschaft Elektra Baselland) and Tubo Sol PE2 S.L. v. Kingdom of Spain</p> <p>(ICSID Case No. ARB/18/42)</p> <p>Status: Concluded</p>	European Commission (Supranational body)	2019	One	Granted	<p>In granting the application, the Tribunal (i) authorized the TPP to file a written submission limited to 25 pages; (ii) denied the TPP's request for access to the record of this proceeding; (iii) denied the TPP's request for leave to attend and participate in oral hearings in the proceedings.</p> <p>The submissions by the TPP were expressly summarized and analysed by the Tribunal in making its decisions.</p> <p>Please see paragraph 652 to 673 of the Award.</p>
96.	<p>EP Wind Project (Rom) Six Ltd. v. Romania</p>	European Commission (Supranational body)	2023	One	Unknown (Documents are either unavailable or confidential)	<p>From the procedural details on the ICSID's Website, it is clear that a TPP application was filed. However, from the available documents and information, we are uncertain of its status or treatment by the Tribunal</p>

	(ICSID Case No. ARB/20/15) Status: Pending					
97.	Suez, Sociedad General de Aguas de Barcelona, S.A. and Vivendi Universal, S.A. v. Argentine Republic (ICSID Case No. ARB/03/19) Status: Concluded	(i)Asociación Civil por la Igualdad y la Justicia (ACIJ), (ii) Centro de Estudios Legales y Sociales (CELS), (iii) Center for International Environmental Law (CIEL), (iv) Consumidores Libres Cooperativa Ltda. de Provisión de Servicios de Acción Comunitaria, and	2005 2006	Two	First Application: Denied Second Application: Granted	In the first TPP application, the Tribunal denied the TPPs' requests to attend the hearings of this case and to file written submissions on the ground that the TPPs had not disclosed sufficient interest as an amicus curiae. In essence, the Tribunal found that the TPPs had not provided it with sufficient specific information and reasons to conclude that they qualify as amici curiae in this case. The Tribunal however noted that in the event that the TPPs' were to present a new application for leave to submit amicus curiae submissions, with appropriate and sufficient information and reasons, the Tribunal would be prepared to consider whether TPPs qualify as amici curiae and to grant them leave to make amicus submissions.

		(v) Unión de Usuarios y Consumidores				<p>The TPPs subsequently filed a second TPP application which the tribunal granted. In granting the second application, the Tribunal found that the TPPs had demonstrated sufficient interest to make amicus submissions, as they had the expertise, experience and independence. The TPPs were directed to file a single joint amicus curiae submission.</p> <p>From the documents available, it appears that there was no analysis of the submission of the TPPs by the Tribunal while making its award in this case.</p>
98.	Suez, Sociedad General de Aguas de Barcelona S.A. and Interagua Servicios Integrales de Agua S.A. v.	(i) the Fundación para el Desarrollo Sustentable, (ii) Professor Ricardo Ignacio Beltramino, Dr. (iii) Ana María Herren, and (iv) Dr. Omar Darío Heffes	2005	One	Denied	<p>The Tribunal denied the TPPs' application on the ground that the TPPs had not disclosed sufficient interest as an amicus curiae. The Tribunal, however, noted that in the event that the TPPs' were to present a new application for leave to submit amicus curiae submissions, with appropriate and sufficient information, the Tribunal would be inclined to consider whether the TPPs qualify</p>

	Argentine Republic (ICSID Case No. ARB/03/17) Status: Concluded					as amici curiae and to grant them leave to make amicus submissions. From the documents available, it is not clear if the TPPs' filed another TPP application.
99.	Micula and others v. Romania (ICSID Case No. ARB/14/29) Status: Concluded	European Commission (Supranational Commission)	2019	One	Denied	The TPP application was denied by the Tribunal. In denying the application, the Tribunal observed that the TPP had met the requirements to intervene under the Rules, but the issues in respect of which the TPP sought to intervene had been fully briefed by the disputing parties and it was doubtful that the TPP's submission would materially assist the Tribunal on those issues. The Tribunal further noted that the Hearing on the merits had already taken place, and that the Tribunal had a duty to ensure that the proceeding was not disrupted

						and the disputing parties not unduly burdened.
100.	Clara Petroleum Ltd v. Romania (ICSID Case No. ARB/22/10) Status: Pending	Unknown (Documents are either unavailable or confidential)	2023	One	Granted	From the procedural details on the ICSID's website, it is clear that a TPP application was filed, and it appears to have been granted. However, from the available documents and information, we are uncertain of the treatment of this TPP application by the Tribunal.
101.	Fin.Doc S.r.l. and others v. Romania (ICSID Case No. ARB/20/35)	Unknown (Documents are either unavailable or confidential)	June 9, 2023	One	Unknown (Documents are either unavailable or confidential)	From the procedural details on the ICSID's website, it is clear that a TPP application was filed. However, from the available documents, we are uncertain of its status or treatment by the Tribunal.

	Status: Pending					
102.	UP and C.D Holding International v. Hungary ICSID Case No. ARB/13/35) Status: Concluded	1- European Commission (Supranational body) 2- Unknown (Documents are either unavailable or confidential)	2018	Two	First Application – Denied Second Application – Granted	The first TPP application was denied by the Tribunal. The Tribunal did not state any reasons for its denial of the application. See paragraph 98 of the Final Award.
103.	Finetis SARL et Finetis Maroc S.A. c/	Unknown (Documents are	2022	One	Unknown (Documents are either	From the procedural details on the ICSID’s website, it is clear that a TPP application was filed. However,

	Royaume du Maroc V Kingdom of Morocco (ICSID Case No. ARB/21/44) Status: Pending	either unavailable or confidential)			unavailable or confidential)	from the available documents, we are uncertain of its status or treatment by the Tribunal.
104.	Pac Rim Cayman LLC	Center for International	2014	One	Granted	There are no documents available to show the conditions for the grant of the application.

	<p>v.</p> <p>El Salvador</p> <p>(ICSID Case No. ARB/09/12)</p> <p>Status: Concluded</p>	<p>Environmental Law (CIEL)</p>				<p>The Tribunal did not consider the submissions of the CIEL as in its view, the legal case advanced by CIEL was not required in the consideration of the Award. Please see paragraph 3.30 of the Award.</p>
<p>Researchers' Comments</p>						

Per the information available to us from the link provided by ICSID and other case reporting platforms:

- a. A total of 142 TPP applications were filed in ICSID arbitrations (excluding annulment proceedings).
- b. Of these, 75 applications were granted. Among the granted applications, 67 were fully granted, while 8 were partially granted.
- c. 41 applications were denied.

H. THIRD PARTY PARTICIPANTS (TPP) IN ICSID ARBITRATIONS (ANNULMENT PROCEEDINGS)

Sources:

(i) ICSID website: [Decisions on Non-Disputing Party Participation | ICSID \(worldbank.org\)](#). This link was provided to us by ICSID and last accessed for research purposes on 11 December 2024,

(ii) Italaw website: [italaw](#)

(iii) Targeted desktop searches where necessary.

S/N	Case Details	Name(s) of TPP Applicant	Date of TPP Application	Number of TPP Applications	Outcome of TPP Application	TPP Treatment by the Tribunal
1	ESPF Beteiligungs GmbH, ESPF Nr. 2 Austria Beteiligungs GmbH, and InfraClass Energie 5 GmbH & Co. KG (Respondent for annulment proceedings) v Italy	European Commission (Supranational body)	2021	One	Denied	The TPP application was denied. The application was made during the annulment proceedings. The ad hoc committee presiding over the proceedings refused the application because the request was outside the scope of an annulment proceedings.

	<p>(Applicant for the annulment proceedings)</p> <p>ICSID Case No. ARB/16/5</p> <p>Status: Concluded</p>					
2	<p>Sevilla Beheer B.V. and others</p> <p>(Respondent for Annulment Proceedings)</p> <p>V</p> <p>Kingdom of Spain</p> <p>(Applicant for the annulment proceedings)</p>	Unknown	2024	One	Unknown	Unknown

	ICSID Case No. ARB/16/27)					
	Status: Concluded					
3	Iberdrola Energía S.A. V Republic of Guatemala ICSID Case No. ARB/09/5 Status: Concluded	European Commission (Supranational body)	Both applications were brought in 2014	Two	Unknown	The publicly available documents do not disclose the outcome of the Ad hoc Committee's decision on the TPP application. However, from the procedural details reported on the ICSID website, it appears that the TPP applications were denied.
4	STEAG GmbH V Kingdom of Spain ICSID Case No. ARB/15/4 Status: Concluded	Unknown	2022	One	Granted	From the procedural details on the ICSID's website, it is clear that a TPP application was filed. However, from the available documents, we are uncertain of its treatment by the Tribunal.

5	<p>Masdar Solar & Wind Cooperatief U.A.</p> <p>(Respondent for the Annulment Proceedings)</p> <p>v.</p> <p>Kingdom of Spain</p> <p>(Applicant in the Annulment proceeding)</p> <p>(ICSID Case No. ARB/14/1)</p> <p>Status: Concluded</p>	European Commission	2019	One	Granted	For the application, the documents available show that the TPP applications were granted but do not indicate the conditions or reasons for granting the applications.
6	<p>Eiser Infrastructure Limited and Energia Solar Luxembourg S.à r.l.</p> <p>(Respondent for the</p>	European Commission (Supranational body)	2018	One	Granted	The documents available show that the applications were granted but do not indicate the conditions or reasons for granting the applications.

	<p>Annulment Proceedings)</p> <p>V</p> <p>Kingdom of Spain</p> <p>(Applicant in the Annulment proceeding)</p> <p>(ICSID Case No. ARB/13/36)</p> <p>Status: Pending</p>					
7	<p>Antin Infrastructure Services Luxembourg S.à.r.l. and Antin Energia Termosolar B.V.</p> <p>(Respondent in the annulment proceedings)</p> <p>v.</p>	<p>European Commission (Supranational body)</p>	<p>1st Application: 2019</p> <p>2nd Application: 2020</p>	Two	<p>1st Application: Granted</p> <p>2nd Application: Denied</p>	<p>For the first application, the Tribunal decided that the TPP may file an application to intervene after the Parties have completed their written submissions. For the second application, it was denied, but the reasons for the denial are not contained in the documents available.</p>

	<p>Kingdom of Spain (Applicant in the Annulment proceeding)</p> <p>(ICSID Case No. ARB/13/31)</p> <p>Status: Concluded</p>					
8	<p>RREEF Infrastructure (G.P.) Limited and RREEF Pan-European Infrastructure Two Lux S.à r.l. (Respondent in the annulment proceedings)</p> <p>v. Kingdom of Spain (Applicant in</p>	<p>European Commission (Supranational body)</p>	2020	One	Granted	<p>The Tribunal granted leave to the TPP to submit a written submission addressing the sole question of whether Article 26 of the ECT applies to disputes between parties to whom European Union (“EU”) law applies.</p>

	<p>the Annulment proceeding)</p> <p>(ICSID Case No. ARB/13/30)</p> <p>Status: Concluded</p>					
9	<p>Edenred v. Hungary (ARB/13/21)</p> <p>Status: Concluded</p>	Unknown	2019	One	Unknown	<p>It appears that one TPP application was made in the case. The publicly available documents do not disclose the outcome of the Tribunal's decision on the TPP application. However, from the procedural details reported on the ICSID website, it appears that the TPP application was denied.</p>

10	<p>UAB E energija (Respondent in the annulment proceedings)</p> <p>v.</p> <p>Republic of Latvia (Applicant in the Annulment proceeding)</p> <p>(ICSID Case No. ARB/12/33)</p>	European Commission (Supranational body)	<p>First Application: 2018</p> <p>Second Application: 2019</p>	Two	<p>First Application: Denied.</p> <p>Second Application: Denied</p>	The Tribunal rejected the two TPP applications. From the available documents, there are no reasons for the refusal

	Status: Concluded					
11	Dan Cake S.A. (Respondent in the annulment proceedings) v. Hungary (Applicant in the annulment proceedings) (ICSID Case No. ARB/12/9) – Annulment Status: Concluded	Unknown (Documents are either unavailable or confidential)	2018	One	Granted	From the procedural details on the ICSID's website, it is clear that a TPP application was filed. However, from the available documents, we are uncertain of its treatment by the Tribunal.
12	NextEra Energy Global Holdings B.V. and NextEra Energy Spain Holdings B.V.	European Commission (Supranational body)	2020	One	Granted	On 3 April 2020, the Annulment Committee issued its Decision on the EC's Application to Intervene as a Non-Disputing Party, granting EC permission to present a

	<p>(Respondent in the annulment proceedings)</p> <p>v.</p> <p>Kingdom of Spain (Applicant in the Annulment proceeding)</p> <p>(ICSID Case No. ARB/14/11)</p> <p>Status: Concluded</p>					<p>written submission, “addressing why the Arbitral Tribunal lacked jurisdiction based upon the conflict of EU Law and the ECT”</p> <p>The Annulment Committee denied the EC’s “participation in the ruling of the stay of enforcement” and deferred its decision on whether to allow the EC to participate in the hearing.</p>
13	Watkins Holdings S.à r.l. and others	European Commission (Supranational body)	2021	One	Granted	The TPP applied for leave to intervene as a non-disputing party which the Tribunal granted on condition that the TPP provide a “written

	<p>(Respondent in the annulment proceedings)</p> <p>v. Kingdom of Spain (Applicant in the Annulment Proceedings)</p> <p>(ICSID Case No. ARB/15/44)</p> <p>Status: Concluded</p>					<p><i>undertaking [...] to pay the additional costs of legal representation which may be reasonably incurred by the parties in responding to the Commission's Submissions".</i></p> <p>The TPP's subsequent request to remove this condition was declined by the Tribunal. As such, the TPP did not present a submission. Please see paragraph 10 of the Decision for Annulment.</p>
14	9REN Holding S.a.r.l. v. Kingdom of Spain	European Commission (Supranational Body)	2021	One	Granted	The documents available show that the TPP application was granted but do not indicate the conditions or reasons for granting the application.

	(ICSID Case No. ARB/15/15) – Status: Concluded					
15	Rasia FZE and Joseph K. Borkowski (Applicant in the annulment proceedings) v. Republic of Armenia (Respondent in the annulment proceedings) (ICSID Case No. ARB/18/28) Status: Pending	Unknown (Documents are either unavailable or confidential)	2024	One	Unknown (Documents are either unavailable or confidential)	From the procedural details on the ICSID's Website, it is clear that a TPP application was filed in the annulment proceedings. However, from the available documents, we are uncertain of its status or treatment by the Tribunal

16	<p>UP and C.D Holding Internationale</p> <p>(Applicant in the Annulment Proceedings)</p> <p>v.</p> <p>Hungary (Respondent in the Annulment proceedings)</p> <p>ICSID Case No. ARB/13/35)</p> <p>Status: Concluded</p>	<p>Unknown (Documents are either unavailable or confidential)</p>	2019	One	Granted	<p>There are no publicly available documents on the annulment proceedings. However, from the procedural details reported on the ICSID website, it is clear that the TPP application was granted, the TPP was permitted to file written submissions, and the disputing parties filed their observations in relation to the TPP submissions.</p>
17	<p>Rockhopper Italia S.p.A., Rockhopper Mediterranean Ltd, and</p>	<p>Second Application: Unknown</p>	2024	One	Decision yet to be made public, just issued on October.	<p>Second Application - decision yet to be made public, just issued on October.</p>

	<p>Rockhopper Exploration Plc (Respondent for Annulment proceedings)</p> <p>v.</p> <p>Italian Republic (Applicant for Annulment Proceedings)</p> <p>(ICSID Case No. ARB/17/14)</p> <p>Status: Pending</p>					
18	<p>SoIEs Badajoz GmbH (Respondent for Annulment proceedings)</p> <p>v.</p>	<p>European Commission (Supranational body)</p>	2020	One	Denied	<p>The annulment committee held that the TPP's intervention could not bring a "perspective, particular knowledge or insight that was different from that of the disputing parties" as required under Rule 37(2)(a) of the</p>

	<p>Kingdom of Spain (Applicant for Annulment Proceedings)</p> <p>(ICSID Case No. ARB/15/38)</p>					ICSID Arbitration Rules. See page 5 of the Decision on Annulment.
19	<p>Sun-Flower Olmeda GmbH & Co KG and others (Respondent for Annulment Proceedings)</p> <p>v.</p> <p>Kingdom of Spain (Applicant for Annulment Proceedings)</p>	<p>Unknown</p> <p>(Documents are either unavailable or confidential)</p>	2022	One	Granted	Unknown

	(ICSID Case No. ARB/16/17)					
	Status: Concluded					
20	<p>Infra-capital F1 S.à r.l. and Infracapital Solar B.V.</p> <p>(Respondent for Annulment Proceedings)</p> <p>v.</p> <p>Kingdom of Spain (Applicant for Annulment Proceedings)</p> <p>(ICSID Case No. ARB/16/18)</p>	<p>Second Application</p> <p>Unknown</p> <p>(Documents are either unavailable or confidential)</p>	2024	One	Unknown	Unknown

	Status: Concluded					
21	Cavalum SGPS, S.A. (Respondent in Annulment Proceedings) v. Kingdom of Spain (Applicant in annulment proceedings) (ICSID Case No. ARB/15/34) Status: Pending	Uknown	2024	One	Granted	The TPP was allowed to update its earlier written submission in light of the "Achema Judgement"
22	OperaFund Eco-Invest SICAV PLC and Schwab Holding AG (Respondent	European Commission	2020	One	Conditionally Granted	The TPP was not permitted to attend the annulment hearings or gain access to documents filed in the case, but it could file a written submission.

	<p>in Annulment Proceedings)</p> <p>v.</p> <p>Kingdom of Spain (Applicant in annulment proceedings)</p> <p>(ICSID Case No. ARB/15/36)</p> <p>Status: Concluded</p>					
23	<p>JGC Corporation (Respondent in Annulment Proceedings)</p> <p>v.</p>	<p>European Commission (Supranational body)</p>	2023	One	Denied	<p>The Ad hoc Committee deemed that (a) the purported submission by the TPP was not a matter directly related to the questions regarding the annulment but rather to the merits of the arbitration; (b) the TPP would not bring a different perspective from the disputing parties; (c) the</p>

	<p>Kingdom of Spain (Respondent in Annulment Proceedings)</p> <p>(ICSID Case No. ARB/15/27)</p> <p>Status: Concluded</p>					<p>information contained in the record, including that in the TPP application itself, was robust enough to contribute to the Committee's determination in any case; and (d) given the late stage in the proceedings, (oral hearings on annulment had occurred) there would be an unnecessary disruption (Paragraph 34 of the decision on annulment)</p>
24	<p>BayWa r.e. renewable energy GmbH and BayWa r.e. Asset Holding GmbH</p> <p>(Respondent in the annulment proceedings)</p>	The European Commission	2021	One	Granted	<p>The TPP application was granted in the annulment proceedings and the submissions of the TPP were analysed by the Annulment Committee vis-a-vis the other submissions from parties.</p>

	<p>v.</p> <p>Kingdom of Spain (Applicant in the Annulment Proceedings)</p> <p>(ICSID Case No.ARB/15/16)</p> <p>Status: Concluded</p>					
25	<p>Ioan Micula, Viorel Micula and others (Respondent in annulment proceedings)</p> <p>v.</p> <p>Romania Applicant in the</p>	<p>European Commission (Supranational body)</p>	2014	One	Denied	<p>The TPP application was denied because the Annulment Committee was of the view that it was doubtful that the TPP's submission would materially assist the Tribunal on the issues it was seeking to make submissions on. The Annulment Committee also noted that because the proceedings had advanced beyond the point of arguments on the merits, an intervention by the TPP would be too much of a disruption.</p>

	Annulment Proceedings) (ICSID Case No. ARB/05/20) Status: Concluded					
26	Cyprus Popular Bank Public Co. Ltd. (Respondent in annulment proceedings) v. Hellenic Republic (Applicant in the Annulment Proceedings)	European Commission (Supranational body)	2022	One	Denied	The TPP application was denied because the ad hoc committee found that the TPP application addressed jurisdictional issues that had been submitted before the Tribunal, and not the specific and limited questions which ad-hoc Committees are competent to decide under Article 52(2) of the ICSID Convention.

	(ICSID Case No. ARB/14/16) Status: Concluded					
27	REENERGY S.à r.l. (Respondent in annulment proceedings) v. Kingdom of Spain (Applicant in annulment proceedings) ICSID Case No. ARB/14/18 Status: Concluded	European Commission	2024	One	Granted	From the procedural details and annulment decision it is clear that the tribunal denied the application. However, the reasons for the denial are not stated.

28	<p>Sodexo Pass International SAS</p> <p>(Respondent in annulment proceedings)</p> <p>v.</p> <p>Hungary</p> <p>Applicant in annulment proceedings)</p> <p>ICSID Case No. ARB/14/20)</p> <p>Status: Concluded</p>	European Commission (Supranational body)	2020	One	Denied	<p>In the application, the TPP (a) sought leave to intervene in the proceedings as well as access to the relevant parts of the contested Award.</p> <p>The TPP application was denied for two reasons. First, the Tribunal was of the view that it was doubtful that the TPP's submission would materially assist the Tribunal on the issues that the TPP was seeking to make submissions on. Second, the proceedings were at an advanced stage and any intervention by the TPP would be too much of a disruption. See page 7 & 8 of the Procedural Order No. 4 (January 22, 2021)</p>
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29	<p>RWE Innogy GmbH and RWE Innogy Aersa S.A.U.</p> <p>(Respondent for annulment proceedings)</p> <p>v.</p> <p>Kingdom of Spain (Applicant for annulment proceedings).</p> <p>ICSID Case No. ARB/14/34</p> <p>Status: Concluded</p>	<p>European Commission (Supranational body)</p>	2021	One	Granted	<p>The TPP was allowed to file a 20-page written submission limited to the ground of annulment consisting in the alleged manifest excess of powers as it related to the law applicable to the dispute, the applicability of Article 26 of the Energy Charter (ECT) to intra-EU disputes, and the pertinence of EU Law on State aid in interpreting the investment protection provided for by the ECT.</p>
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30	<p>Cube Infrastructure Fund SICAV and others (Respondent of the Annulment Proceedings)</p> <p>v.</p> <p>Spain (Applicant in the Annulment Proceedings)</p> <p>(ICSID Case No. ARB/15/20)</p> <p>Status: Concluded</p>	European Commission (Supranational body)	2020	One	Denied	<p>The application was refused because the Ad-hoc committee for the annulment proceeding was not persuaded that the submission would assist the Committee in any substantive way.</p> <p>(See page 12 of the Decision On The European Commission's Application For Leave to Intervene as a non-disputing party.)</p>
31	<p>Magyar Farming Company Ltd, Kintyre Kft and Inicia Zrt</p> <p>(Respondent in the</p>	European Commission (Supranational body)	2021	One	Granted	<p>The ad-hoc Committee granted the European Commission leave to submit a written submission on the issues it raised in its Application. It is unclear which issues were mentioned in the EC's application and how it influenced the decision</p>

	Annulment proceedings) v. Hungary (Applicant in the Annulment proceeding) (ICSID Case No. ARB/17/27) Status: Concluded					on annulment. See paragraph 25 of the Decision on Annulment.
32	Hydro Energy 1 S.à r.l. and Hydroxana Sweden AB (Respondent in the Annulment proceedings) v.	European Commission	2021 2021	Two	First application: Denied Second Application: Denied	For the first application: The Committee issued Procedural Order No. 3 (not publicly available) refusing the application on the ground that it was premature. See paragraph 33 of the Decision on Annulment.

	<p>Kingdom of Spain</p> <p>Applicant in the Annulment proceeding)</p> <p>(ICSID Case No. ARB/15/42)</p> <p>Status: Concluded</p>					<p>In refusing the second application, the Committee found that the TPP had failed to meet the requirements of Arbitration Rule 37(2). (i.e., the application displayed no significant interest to the dispute and no assistance to the tribunal. Furthermore, the Committee found that the proposed submission would not be within the scope of the dispute) Please see paragraph 43 of the Annulment decision</p>
33	<p>InfraRed Environmental Infrastructure GP Limited and others (Respondent in annulment proceedings)</p> <p>V</p> <p>Kingdom of Spain (Applicant in</p>	European Commission	2020	One	Partially Granted	<p>The Ad hoc Committee partially granted the TPP's request to intervene in the annulment proceeding by permitting the TPP to only file a written submission. The ad hoc Committee refused the TPP's request to have access to the documents filed in the arbitration and to make oral submission at the hearing.</p> <p>The Ad hoc Committee also granted the TPP leave to comment on the TPP's</p>

	annulment proceedings) ICSID Case No. ARB/14/12 Status: Concluded					submission. See page 6 of the Annulment decision.
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Researchers' Comments

Per the information available to us from the link provided by ICSID and other case reporting platforms stated in the source column:

- (a) There have been 37 TPP Applications in the context of annulment proceedings.
- (b) 18 of the applications in (a) above were granted. Of the 18 (eighteen) granted applications, 16 (sixteen) were fully granted and 2(two) were partially granted.
- (c) 12 of the applications have been denied

We note that for the purposes of the draft report, applications made during annulment proceedings are also classified as TPP applications under ICSID. Therefore, the total numbers for ICSID (investment arbitration and annulment) are as follows:

- (a) Number of TPP Applications under ICSID =179 (One Hundred and Seventy-nine) applications.
- (b) 93 (Ninety-three) of the applications in (a) above were granted.
- (c) 53 (Fifty-three) of the applications were denied.
- (d) The outcome of 33 (Thirty-three) of the applications are unknown from publicly available data.

J. THIRD PARTY PARTICIPANTS (TPP) IN AD-HOC ARBITRATIONS (as available in the public domain)

Source: The data presented in this table was obtained from publicly available sources through desktop research.

S/N	Case Details	Name(s) of TPP Applicant	Date of Application	Number of TPP Applications	Outcome of TPP Application	TPP Treatment by the Tribunal
1.	Methanex Corporation v. United States of America; Ad hoc under UNCITRAL rules)	Category: Non-governmental organisations Communities for a Better Environment; Earth Island Institute; The Bluewater Network of Earth Island Institute; Centre for International Environmental Law (<i>see column on right</i>)	First Application: 2000 Second Application: 2000	Two (<i>see column on right</i>)	Granted	While the timeline is complex as various applications were merged or discontinued, ultimately two separate applications were considered together by a procedural order. The applications: <ul style="list-style-type: none"> • One joint application by two environmental groups (Communities for a Better Environment; Earth Island Institute); superseded by an amended petition by Communities for Better Environment, the Bluewater Network of Earth Island Institute and Centre for International Environmental Law • One application by the International Institute for Sustainable Development Both broadly requested permission:

					<p>(i) to file an amicus brief (preferably after reading the parties' written pleadings), (ii) to make oral submissions, (iii) to have observer status at oral hearings.</p> <p>Permission was granted to file an amicus brief, the two amicus curiae submissions were received and Methanex responded. The submissions are substantially considered in the final award.</p> <p>The Tribunal stated: <i>Permission was sought on the basis of the immense public importance of the case and the critical impact that the Tribunal's decision will have on environmental and other public welfare law-making in the NAFTA region...It was argued that there was an increased urgency in the need for amicus participation in the light of the award dated 30th August 2000 in Metalclad Corporation v. United Mexican States and an alleged failure to consider environmental and sustainable development goals in that NAFTA arbitration.</i></p>
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					<p><i>...whilst it is at present minded to receive such submissions subject to procedural limitations still to be determined by the Tribunal (to be considered with the Disputing Parties), it will make a final decision whether or not to receive them at a later stage of these arbitration proceedings; and accordingly the Petitions are accepted by the Tribunal to this extent, but otherwise rejected.</i></p> <p><i>On 23rd April 2004, Methanex submitted its Reply to the Submissions of Earthjustice and the International Institute for Sustainable Development as amici. At the main hearing in June 2004, the legal representatives of the amici had no special status, although they were of course entitled to attend (and did attend) in the special room set aside for members of the public at the World Bank to witness the main hearing.</i></p> <p>Consideration of the submissions in the final award: <i>In its Rejoinder, the USA argues that Methanex had received national treatment, the GATT provisions were irrelevant and Methanex</i></p>
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						<i>had not proved that it had received less favourable treatment. The International Institute for Sustainable Development (IISD), in its carefully reasoned Amicus submission, also disagrees with Methanex's contention that "trade law approaches can simply be transferred to investment law"</i>
2.	UPS v Canada (ad hoc under UNCITRAL rules)	Categories: public body, union Canadian Union of Postal Workers; Council of Canadians	First Application: 2000 Second Application: 2000	Two	Granted	Both TPP applications were granted by the Tribunal via a procedural order. The parties also elected to respond to the submissions. The final award makes reference to the two TPP submissions, however does not in the substantive reasoning.
3.	Glamis Gold v USA	Categories: environmental groups, industry body, indigenous groups National Mining Association; Quechan Indian Nation;	First Application: 2005 Second Application: 2005 Third Application: 2006	Four	Granted	All four applications were granted. While briefly referenced in the final award, the Tribunal explicitly stated that it did not reach the particular issues from within these submissions. <i>The respondent stated its full support of amicus participation, as long as that participation was effectuated in a manner that avoided placing undue burden on</i>

	Ad hoc under UNCITRAL rules	Sierra Club; Earthworks; Friends of the Earth	Fourth Application: 2006			<p><i>the Parties. Claimant did not object to the applications of the National Mining Association, the Quechan Indian Nation, or the Sierra Club and Earthworks, as it already had filed substantive comments with respect to these submissions. Claimant, however, did object to the application of the Friends of the Earth as, Claimant argued, it largely addressed the nationality of Glamis (now Goldcorp, Inc.) which is not at issue in this case.</i></p> <p><i>On February 15, 2007, the Tribunal issued its decisions on the non-disputing party applications to file submissions in separate letters to each of the National Mining Association, the Quechan Indian Nation, Sierra Club and Earthworks, and Friends of the Earth. The Tribunal decided to accept each submission and consider it, as appropriate, in accordance with the principles stated in the FTC Statement and the particular criterion mentioned by Respondent that each submission bring "a perspective, particular knowledge or insight that is different from that of the disputing parties.</i></p>
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						<p><i>Second, inasmuch as the State Parties to the NAFTA have agreed to allow amicus filings in certain circumstances, it is the Tribunal's view that it should address those filings explicitly in its Award to the degree that they bear on decisions that must be taken. In this case, the Tribunal appreciates the thoughtful submissions made by a varied group of interested non-parties who, in all circumstances, acted with the utmost respect for the proceedings and Parties. Given the Tribunal's holdings, however, the Tribunal does not reach the particular issues addressed by these submissions.</i></p>
4.	AWG v Argentina	Category: Environmental groups	2005	One (joint)	Unclear	<p>TPP is not referenced in the final award, but a request for TPP permission is referenced by Tribunal at jurisdictional stage. The Tribunal provided a set of criteria under which it would permit TPP although it is not clear if this ever proceeded.</p> <p><i>On January 28, 2005, five non-governmental organizations, Asociación Civil por la Igualdad y la Justicia (ACIJ), Centro de Estudios Legales y Sociales (CELS), Center for International Environmental Law (CIEL);</i></p>

		Consumidores Libres Cooperativa Ltda. de Provisión de Servicios de Acción Comunitaria; Unión de Usuarios y Consumidores				<i>Environmental Law (CIEL), Consumidores Libres Cooperativa Ltda. de Provisión de Servicios de Acción Comunitaria, and Unión de Usuarios y Consumidores, filed a "Petition for Transparency and Participation as Amicus Curiae" (the "Petition") with the Secretary of the Tribunal. Following the filing of the Petition, the Tribunal invited the parties to make any observations they might have in this regard, and both parties submitted their views on this matter. On May 19, 2005, the Tribunal issued an Order in Response to a Petition for Participation as Amicus Curiae (available online at ICSID's web site at www.worldbank.org/icsid) setting out the conditions under which the Tribunal would consider amicus curiae submissions.</i>
5.	WWM v Kazakhstan (II) Ad hoc under UNCITRAL rules	"State D" —an anonymous non-party state	Unknown	One (confirmed)	Granted	The final award is not in the public domain, however there are references to TPP in this award in an English court case (Judgment of the High Court of Justice of England and Wales [2019] EWHC 799): <i>The Arbitrators addressed the State D Submissions in their Partial Award as follows:-</i>

					<p>"Respondent sharply criticized State D's submission, finding it 'based largely on [State D's] own selection of unpublished memoranda and materials, internal documents [...] Notwithstanding Claimants' assertions, State D's supposedly 'thorough review' of its record is not 'an objective exposition of the record.'"</p> <p>Then at paragraph 264:</p> <p>"The Tribunal has carefully reviewed the thirty-three documents drawn from State D's official files that accompanied the submission. Most are internal State D Government communications or, in one case, a letter from a State D official to a State D professor. While these documents were not communicated to Respondent at the time they were created, some provide useful context for exchanges that did take place between the two states. Others indicate or clarify State D officials' understandings or intentions [...]. <u>In this regard, State D's non-disputing party submission has</u></p>
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						<p><u>made a useful contribution to the proceedings.</u></p> <p><i>However, State D's legal analysis, in particular its legal conclusion [...], goes to matters that the Tribunal must itself decide on the basis of its own independent appraisal of all relevant facts and legal principles."</i></p>
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Researchers' Comments

Based on publicly available information, we note the following:

- a. A total of ten (10) TPP applications were filed in ad hoc arbitrations.
- b. Nine (9) of these applications were granted.
- c. The status of one (1) application could not be determined from the available data.

It should be noted that most ad hoc proceedings are typically confidential and, as such, may not be publicly accessible.