Resolutions, Declarations, and Other Documents

1. Agreement in ARA Libertad Arbitration (Argentina v. Ghana) (September 27, 2013)
<http://www.pca-cpa.org/showpage.asp?pag_id=1526>

Argentina and Ghana have concluded an Agreement regarding their dispute over the ARA Libertad, an Argentine frigate detained in Port of Tema, Ghana, in October 2012, and the subject of subsequent court proceedings. The Agreement signals the end of an arbitration proceeding initiated at the Permanent Court of Arbitration pursuant to Annex VII to the United Nations Convention on the Law of the Sea. The States agreed that, among other conciliatory gestures, the Ghanaian Supreme Court's ruling that "upholds the customary international law position on the immunity of warships" constituted "sufficient satisfaction to discharge any injury occasioned by the injunction measure over the Argentine warship." The Arbitral Tribunal issued an official Termination Order on November 11, 2013.

2. UN General Assembly Calls for End to U.S. Embargo Against Cuba (October 29, 2013)
<http://www.un.org/ga/search/view_doc.asp?symbol=A/68/L.6>

On October 29, 2013, the UN General Assembly adopted a resolution calling for an end to the economic, commercial, and financial blockade imposed by the United States against Cuba. This is the twenty-second consecutive year that the General Assembly has adopted a resolution on the matter. Passed by a vote of 188 Member States in favor, two against (the United States and Israel), and three abstaining (Marshall Islands, the Federated States of Micronesia, and Palau), the General Assembly again urged all Member States "that have and continue to apply such laws and measures to take the necessary steps to repeal or invalidate them as soon as possible in accordance with their legal regime."

Judicial and Similar Proceedings

1. Balintulo et al. v. Daimler AG et al. (2d Cir. August 21, 2013)
<http://law.justia.com/cases/federal/appellate-courts/ca2/09-2778/09-2778-2013-08-21.html>

The Second Circuit held that the U.S. Supreme Court's June 2013 decision in *Kiobel v. Royal Dutch Petroleum* bars the Alien Tort Statute claims against Ford, Daimler, and IBM for allegedly aiding and abetting the apartheid regime in South Africa. The plaintiffs had claimed that defendants "sold cars and computers to the South African government, thus making the defendants, their parent companies, liable for the apartheid regime's innumerable race-based depredations and injustices, including rape, torture, and extrajudicial killings." Reasoning that "the *Kiobel* decision, combined with the opportunity to move for dismissal in the District Court, provides an adequate ground for dismissing all remaining claims," the Court denied defendants' petition for a writ of mandamus and vacated the stay it had placed on proceedings in the District Court.

2. Janoweic and Others v. Russia (ECHR October 21, 2013)
<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-127684>

The Grand Chamber of the European Court of Human Rights ruled in the *Janoweic and Others v. Russia* case brought by relatives of victims the Katyń massacre—the killing of more than 20,000 prisoners of war in the wake of the Red Army's invasion of Poland in 1939—who argued that Russia had not carried out an effective investigation into their relatives' deaths while displaying a dismissive attitude towards their requests for information. The Court first found that it was not competent under Article 2 (right to life) of the European Convention on Human Rights to examine the adequacy of an investigation into events occurring before the Convention began its existence in 1950. The Court also held that there was no violation of Article 3 (prohibition on inhuman or degrading treatment) because the death of the prisoners of war had become established historical fact by the time Russia adopted the Convention. However, the Court ruled that Russia had failed to furnish necessary facilities for examination of the case, pursuant to Article 38, when it failed to provide the Court with a 2004 top-secret classified decision to discontinue the Katyń investigation.

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3. Del Río Prada v. Spain (ECHR October 21, 2013)
<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-127697>

On October 21, 2013, the Grand Chamber of the European Court of Human Rights ruled in the case of *Del Río Prada v. Spain* that Spain violated Article 7 (no punishment without law) and Article 5 § 1 (no unlawful detention) of the European Convention on Human Rights. Ms. Inés del Río Prada, who was convicted of perpetrating multiple terrorist attacks between 1982 and 1987, had complained that a new sentencing approach adopted by the Supreme Court after her sentencing resulted in the date of her release being postponed by almost nine years. The Grand Chamber ordered Spain to release Ms. del Río Prada at the earliest date possible and to pay her 30,000 euros in non-pecuniary damages and 1,500 euros in costs and expenses.

4. Prosecutor v. William Samoei Ruto and Joshua Arap Sang (ICC October 25, 2013)
<http://www.icc-cpi.int/iccdocs/doc/doc1669852.pdf>

On October 25, 2013, in the *Prosecutor v. William Samoei Ruto and Joshua Arap Sang* case, the Appeals Chamber of the International Criminal Court ruled that, according to the press release, "the absence of an accused person from trial is permissible under exceptional circumstances if the accused has explicitly waived his right to be present at trial." The Trial Chamber thus unanimously reversed the decision of Trial Chamber V(a), conditionally granting William Samoei Ruto's request to be excused from being physically present continuously throughout the trial, with the exception of a number of sessions including the opening and closing statements as well as the victims' presentation of their views and concerns. The Appeals Chamber held that the Trial Chamber had interpreted its discretion too broadly and thus may make a new decision on the matter in light of the Appeals Chamber's criteria. Ruto is currently serving as Deputy President of Kenya and is accused of being criminally responsible for crimes against humanity.

5. ConocoPhillips Petrozuata B.V. et al. v. Bolivarian Republic of Venezuela (ICSID September 3, 2013)
<https://icsid.worldbank.org/ICSID/FrontServlet?requestType=CasesRH&actionVal=showDoc&docId=DC3772_En&caseId=C259>

The ICSID Arbitral Tribunal issued a partial ruling in the dispute between ConocoPhillips and Venezuela regarding the latter's 2007 taking of ConocoPhillips oil assets located in the country. ConocoPhillips submitted the dispute to ICSID in 2007 pursuant to Article 36 of the ICSID Convention, basing its claims on the Venezuelan Law on the Promotion and Protection of Investments and the 1991 Agreement on Encouragement and Reciprocal Protection of Investments between the Kingdom of the Netherlands and the Republic of Venezuela (BIT). ConocoPhillips claimed Venezuela's 2007 actions violated both Venezuelan law and the BIT, effecting an unlawful expropriation (or equivalent measures) of ConocoPhillips investments, evidencing a failure to accord those investments "fair and equitable treatment" and "full protection and security," and constituting "arbitrary and discriminatory measures impairing the use and enjoyment of its investments in Venezuela." ConocoPhillips requested that Venezuela pay damages to ConocoPhillips for its breaches of the law and BIT, as well as arbitration costs and expenses and other relief the Tribunal considers appropriate.

The Tribunal determined that under Article 9 of the BIT it had jurisdiction over most of ConocoPhillips' claims, though not as to its claim regarding the loss of future tax credits, which it dismissed accordingly. The Tribunal further found that Venezuela breached its obligation under Article 6(c) of the BIT "to negotiate in good faith for compensation for its taking of the ConocoPhillips assets. . . ." Damages, costs, and expenses of the Tribunal will be determined in an additional proceeding; ConocoPhillips has provisionally claimed that Venezuela owes over $30.3 billion, while Venezuela claims that compensation should be limited to $570.5 million.

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