

VIII. Conclusions

This thesis tried to show that international IP treaties can be used as a basis for legitimate expectations but in a fairly limited manner. Not only is the establishment of the link between an IIA and an international IP treaty beset with problems but this link itself is in many ways undesirable. The thesis likewise endeavored to show that conferring power to investment Tribunals to rule on treaties and bodies of law which they might not be acquainted with can produce undesirable results. However, the role of international IP treaties should not be totally excluded in investment arbitration. Their application and definite interpretation should be encouraged in the proper fora. Therefore, when the investment Tribunals apply IP treaties as the “applicable law” they would not need to interpret the law themselves. By encouraging state to state dispute resolution through the appropriate mechanisms and adjudicatory bodies and by adopting the ensuing legal interpretations several things would be resolved. First of all, the international IP treaties and their interpretation will remain rightly in the domain of public international law and the states which they primarily address. This would ensure that the policy objectives of IP law are still respected. Moreover, by encouraging interpretation at the appropriate level the investment Tribunals will be able to get a “final product” in the form of a definite interpretation. Finally, by defining and respecting the limits of international IP law and international investment law, the legitimacy of both systems of law would be ensured.

