

Brief information about thirty international courts

This book focuses on 24 international courts, but this appendix includes brief information about every IC mentioned in Chapter 3, thirty in all. For most ICs, there is very little information or scholarly research on why the court was created or what issues are litigated. Data on court usage was collected from a variety of sources including official reports, web sites where rulings are posted, and scholarly analysis where reports were not available. I list Court Treaties and the data sources, providing links to web based material. I was unable to find permanent citations for a number of Court Treaties. The ‘Year court became operational’ captures my best sense of when the court was first ready to consider cases. Website locations frequently change. These websites were accurate as of January 2013. Additional information can be found on the PICT websites (<http://www.pict-pcti.org/> <http://www.aict-ctia.org/>) and sometimes on the websites of international institutions. WorldCourts maintains some information about a number of international legal and judicial institutions (<http://www.worldcourts.com/index/eng/about.htm>). The new iCourts Center for Excellence intends to keep an updated version of this information (jura.ku.dk/icourts/).

The African Court on Human and Peoples’ Rights (ACtHPR)

Year court became operational:	2006
Location:	Arusha, Tanzania
Subject matter:	Human Rights
Countries accepting IC’s compulsory jurisdiction:	26 states subject to ACtHPR jurisdiction: Algeria, Burkina Faso, Burundi, Côte D’Ivoire, Comoros, Congo, Gabon, Gambia, Ghana, Kenya, Libya, Lesotho, Mali, Malawi, Mozambique, Mauritania, Mauritius, Nigeria, Niger, Rwanda, South Africa, Senegal, Tanzania, Tunisia, Togo, Uganda
Court Treaty:	Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights CAB/LEG/665 (http://www.achpr.org/english/_info/court_en.html)
Litigation data:	http://www.african-court.org/en/index.php/2012-03-04-06-06-00/finalised-cases-closed
Court Web Page:	www.african-court.org/en

In 1998, after a decade of discussion, African leaders agreed to a draft protocol to create an ACtPHR. It took 6 more years for the necessary fifteen African states to ratify the protocol, and another two years for judges to be appointed. The ACtHPR, has a broad jurisdiction that covers cases involving any international human rights treaty ratified by the concerned state. In addition, the Court will be able to apply any human rights related international law ratified by the state whose policy is being challenged. The Court may also provide advisory opinions to the member states and organs of the Organization of African Unity (OAU). African non-government organizations, if recognized by the OAU, may also request advisory opinions from the ACtHPR, provided the state at issue has accepted this type of jurisdiction. Currently there is a discussion about merging the ACtHPR with the African Court of Justice. Drafts of the proposed merged court suggest that the Court’s jurisdiction will covers contentious cases between member states and between a state and an

OAU organ. It may even cover cases brought by individuals against a member state if the state has accepted jurisdiction for individual appeals. The proposed merger has slowed down the functioning of the ACtHPRs because it makes the ultimate jurisdiction of the court subject to question. The ACtHPR issued its first ruling on 15 December 2009; it denied itself jurisdiction for the case. Starting in 2011, the Court began issuing rulings in contentious cases, and rulings regarding provisional measures. As of 2012, 26 countries had accepted the court's authority and the court had issued twelve binding rulings (with more cases pending).

African Court of Justice

Year court became operational:	Not yet in existence, and likely to be merged with ACtHPR
Subject matter:	General
Countries potentially falling under IC's jurisdiction:	Members of Organization of African Unity
Court Treaty:	Protocol of the Court of Justice of the African Union. Adopted in Maputo, Mozambique, July 11, 2003.
Litigation data:	none
Court Web Page:	http://www.africa-union.org/root/au/organs/Court_of_Justice_en.htm

There is a Court Treaty for the African Court of Justice that suggests that this court would become an African version of the International Court of Justice (ICJ). The Court Treaty envisions that member states, the Commission, the Parliament and the Assembly, as well as other third parties given permission to do so by the Assembly can seize the court. Most of the rulings will be advisory, but in some cases the rulings will be binding. Like the ICJ, only states that have signed on to the Court's jurisdiction can seize the African Court. These provisions are likely to change before the court is finally constituted. There is a proposal to create a criminal chamber, and the African Court is likely to merge with the ACtPHR.

Andean Tribunal of Justice (ATJ)

Year court became operational:	1984
Location:	Quito, Ecuador
Subject matter:	Economic Agreement
Countries accepting IC's compulsory jurisdiction:	Bolivia, Colombia, Ecuador, Peru and Venezuela (withdrew 2005)
Court Treaty:	Treaty Creating the Court of Justice of the Cartagena Agreement (Amended by the Cochabamba Protocol) http://www.comunidadandina.org/INGLES/normativa/ande_trie2.htm
Litigation data:	ATJ's website under Estadísticas: http://www.tribunalandino.org/ec/ Andean decisions available at: http://www.comunidadandina.org/canprocinternet/procedimientos.aspx
Court Web Page:	http://www.tribunalandino.org/ec/

The Andean Tribunal of Justice (ATJ) is the judicial body of the Andean Community. The Andean Community (Comunidad Andina), previously known as the Andean Pact or Andean Common Market, is a sub-regional economic integration organization, originally created by the Cartagena Agreement of May 26, 1969. The Cartagena Agreement was subsequently modified in 1987 by the Quito Protocol (the Andean Pact Treaty), by the Trujillo Act of March 10, 1996, and by the Protocol of Sucre signed on June 25, 1997. The original Andean Pact did not include a Court. Member states added the court in 1984, using the European Court of Justice as a model. Member states expanded the Tribunal's jurisdiction in 1996 in the Cochabamba Protocol. The mission of the ATJ is to ensure the respect of Community law, settle disputes about Community law, and facilitate a uniform interpretation of Andean rules across countries. The jurisdiction of the ATJ is divided into three types of cases. Nullification suits allow the ATJ to review decisions of the Commission of the Andean Community, a quasi-legislative organ of the Andean Community, and the Andean Secretariat. These include Secretariat decisions regarding the legality of state safeguards. The 1996 reforms authorized the ATJ to hear complaints regarding the Andean Secretariat's failure to act. Noncompliance cases involve challenges to member state compliance with Community law. These complaints are first raised to the General Secretariat, which investigates and usually pursues the case. Since 1996 private litigants can also raise noncompliance suits first with the Secretariat and then directly in front of the ATJ. Preliminary ruling references lead to binding interpretations of Community law that national judges then apply. As of 2007, most preliminary ruling references had involved Andean intellectual property law. All decisions of the ATJ are directly applicable within member States without the need of further incorporation into domestic law. As of 2010, the ATJ had issued over 2000 rulings.

Arab Investment Court

Year court became operational:	2003
Location:	Unclear
Subject matter:	Economic Agreement
Countries accepting IC compulsory jurisdiction:	Bahrain, Djibouti, Egypt, Iraq, Jordan Kuwait, Lebanon, Libya, Mauritania, Oman, Palestine, Qatar, Saudi Arabia, Syria, Somalia, Sudan, Tunisia, United Arab Emirates, Yemen (Algeria & Comoros had yet to ratify the agreement)
Court Treaty:	Unified Agreement for the Investment of Arab Capital in the Arab Region League of Arab States (1982). <i>Economic Documents</i> , No. 3 (Tunis: League of Arab States).
Litigation data:	No litigation to date

The draft statute for the Arab Investment Court came into force 2 February 1985, but the court only became operational in 2003 when the Arab League's Economic and Social Council decided to activate it.¹ The investment agreement defines the legal terms governing investment, and it indicates that conciliation and arbitration are the first means for dispute settlement. The investment dispute tribunal serves as a regional alternative to arbitration in France or elsewhere, but it also hears a

¹ (Ben Hamida, 2006: 700)

broader range of investment complaints including charges of abusive customs treatment and even a challenge to a domestic ruling that according to the plaintiff was linked to an investment dispute. The Arab Investment Court can be appealed to when an arbitration agreement is not implemented in three months time. The Court issued its first ruling in 2004. Since this is the first court of the Arab League, designed to adjudicate disagreements among Arab states, some see it as a kernel for building more international courts.

Arab Maghreb Union Instance Judiciaire

Year court became operational:	Supposedly operational in 2001
Location:	Nouakchott, Mauritania
Subject matter:	Economic Agreement
Countries accepting IC compulsory jurisdiction:	Algeria, Libya, Mauritania, Morocco, Tunisia
Court Treaty:	Statute of the Judicial Organ of the Arab Maghreb Union. Available in Documents fondamentaux de l'Union de Maghreb Arabe, General Secretariat, Rabat Ed Maarif El Djaddid (Rabat 1994).
Litigation data:	No litigation to date

Established by the Treaty of Marrakech, the Court's jurisdiction will cover disputes concerning the interpretation and application of the Treaty and other legal instruments adopted by the Arab Maghreb Union. The Court will also be able to adjudicate disputes between member states. Only the Presidential Council or a member state may bring such disputes to the Court. The current court treaty does not authorize private parties to initiate litigation. The Court will be able to issue advisory opinions at the request of the Presidential Council. As of 20120, this legal system was not yet operational. The court treaty could well be revised before the court is created. For more, see: http://www.aict-ctia.org/courts_subreg/amu/amu_home.html.

Association of Southeast Asian Nations (ASEAN)

Year court became operational:	Not yet operational
Subject matter:	Primarily Economic, but it also has security and cultural agreements
Countries accepting IC compulsory jurisdiction:	Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, Vietnam
Court Treaty:	Protocol on Enhanced Dispute Settlement Mechanism: http://www.asean.org/communities/asean-economic-community/item/the-1996-protocol-on-dispute-settlement-mechanism
Litigation data:	http://www.aseansec.org/20440.htm
Court Web Page:	http://www.aseansec.org/index2008.html

Founded in 1967, the Association of Southeast Asian Nations is a general organization to facilitate cooperation among member states. In 1992, members launched the ASEAN Free Trade Area (AFTA). The vision statement of the organization aims to eliminate tariff and non-tariff barriers among member

countries. Member states signed the ASEAN Charter on 20th November 2007, in which they agreed to create a dispute settlement system. So far, the organization has been able to eliminate many tariffs, and lay the beginning foundations for an economic and monetary union, and for enhanced coordination transportation infrastructure. In 2008 ASEAN states agreed to a redesigned dispute settlement system, as part of a revived economic initiative. On 9 April 2010, states finally signed the protocol for the dispute settlement system and governments again affirmed their commitment to establish this system in October of 2012. The dispute settlement system will hear disputes regarding the ASEAN charter, and other ASEAN agreements (unless the agreement identifies an alternative dispute resolution system). The economic part of the ASEAN system is modeled on the WTO, with cases first mediated, then arbitrated by ad hoc panels. Panel reports can be appealed by the litigant states to an appellate body composed of seven permanent appointees (3 of whom will hear the appeal). It is not clear how much authority the arbitral bodies will have. One challenge for the dispute settlement system is that one of the fundamental principles of ASEAN is non-interference in internal affairs of other member states. It is also possible that arbitral bodies may be required to respect the internal procedures within litigating states.

Court of Justice of the Benelux Economic Union (BCJ)

Year court became operational:	1974
Location:	Brussels, Belgium
Subject matter:	Economic
Countries accepting IC's compulsory jurisdiction:	Luxembourg, the Netherlands, Belgium
Court Treaty:	The Treaty Establishing the Benelux Economic Union 381 U.N.T.S. 165 (1960). A special Treaty was adopted for the court March 31, 1965, and modified via protocols June 10, 1981 and November 23 1984. The updated treaties are available as the Le Traité du 31 mars 1965. http://www.courbeneluxhof.be/fr/basisdocumenten.asp http://www.courbeneluxhof.be/fr/arresten_lst.asp
Litigation data:	http://www.courbeneluxhof.be/fr/arresten_lst.asp
Court Web Page:	http://www.courbeneluxhof.be/fr/index.asp

Codified in 1958, the Treaty establishing the Benelux Economic Union aims to promote economic cooperation between Belgium, Luxembourg, and the Netherlands. Since all three countries are members of the European Union, the Benelux union works to create common positions on European Union issues, and to coordinate economic legislation in areas not governed by European Community law. The original Benelux treaty envisioned a court, but only in 1965 was the treaty establishing a Benelux court created. The court did not actually start to function until 1 January 1974, perhaps because there were no cases to adjudicate until a body of Benelux secondary rules had been created. Formally speaking, the Benelux Court is not part of the Benelux institutions, although its jurisdiction is concurrent to the Benelux system. The court is composed of judges from the supreme courts of the three member states, and its primary objective is to create a uniform interpretation

for legal rules the countries have in common. Today, Benelux law regulates a number of economic issues such as trademarks, protection of designs, penalties for intellectual property violations, motor vehicle insurance, movement of persons, and the protection of birds. National courts in the three contracting states can request the BCJ to render preliminary rulings over legal issues that touch on the Treaty. The rulings given by the BCJ are binding. Member states can seek advisory opinions about the interpretation of common rules. Most of the Benelux litigation involves intellectual property issues. Between its founding through 2009, the Benelux Court had issued 139 binding decisions and 1 advisory decision. The original Benelux Economic Union treaty expires in 2010, but it has been replaced by a new treaty of June 17, 2008, which generally refers to provisions of the original treaty. The court is slated to exist as long as the Benelux Union exists.

Caribbean Court of Justice (CCJ)

Year court became operational:	2001 formally established, 2005 began operation
Location:	Port of Spain, Republic of Trinidad and Tobago
Subject matter:	Economic; As a Replacement for the Privy Council it can hear a broad range of appeals
Countries accepting IC's compulsory jurisdiction:	12 members: Antigua & Barbuda; Barbados; Belize; Grenada, Guyana, Jamaica, St. Kitts & Nevis, St. Lucia, Suriname, Trinidad & Tobago, Dominica, St. Vincent & The Grenadines
Court Treaty:	Agreement Establishing the Caribbean Court of Justice http://www.caribbeancourtjustice.org/court_instruments.html (this agreement repeats provisions found in http://www.caricom.org/jsp/community/revised_treaty-text.pdf)
Litigation data:	http://www.caribbeancourtjustice.org/judgments.html
Court Web Site:	http://www.caribbeancourtjustice.org/default.htm

The CCJ is the court of the Caribbean Community, for which it has exclusive jurisdiction to adjudicate disputes between member states and between a member state and the community. As a court of the Caribbean Community, the CCJ can render preliminary rulings at the request of national courts of member states, and provide advisory opinions in response to applications by nationals of member states regarding the Treaty. The CCJ also replaced the Judicial Committee of the Privy Council and functions as the court of final appeal for the states that have ratified the Agreement Establishing the CCJ. A number of Caribbean countries have chosen the Eastern Caribbean Supreme Court as an alternative to the CCJ (see the entry in this appendix). Most of the CCJ's rulings have been appeals of national judicial decisions and thus decisions rendered in the role of a replacement Privy Council. Many of these cases involve the death penalty. But the CCJ has also exercised original jurisdiction as a dispute resolution body in cases involving private actors and state or Community institutions. The CCJ issued its first ruling in 2005, and by the end of 2011 it had issued 59 rulings.

Central African Economic and Monetary Community (CEMACCJ) Court of Justice

Year court became operational:	2000
Location:	N'Djamena, Chad
Subject matter:	Economic
Member States:	Cameroon, Central African Republic, Chad, Republic of Congo, Equatorial Guinea, Gabon
Countries accepting IC compulsory jurisdiction:	Convention Governing the Court of Justice of the CEMAC (July 5, 1996) supplemented by various rules of procedure available at http://www.aict-ctia.org/courts_subreg/cemac/cemac_docs.html
Litigation data:	Not available
Court Web Site:	Not available

The Central African Economic and Monetary Community (CEMAC) is the name given to what was a relaunching in 1994 of the Customs and Economic Union of Central Africa (UEAC/UDEAC created in 1964). This community encompasses the Economic Union of Central Africa (UEAC) and the Monetary Union of Central Africa (UMAC), and it includes members of the Central African Franc Currency zone. The Court's role is somewhat different under each monetary system. The CEMAC court has both a Judicial Chamber and Chamber of Auditors. Modeled on the European Court of Justice, the CEMAC Court's jurisdiction covers disputes between member states concerning the Community law, and disputes involving organs of the community. The Judicial Chamber of CEMAC also allows member states, the Executive Secretary, organs of the community and any legal person to have standing regarding cases that affect them, but its role in these cases varies. Sometimes the CEMAC court is a first instance body, and other times a last instance or appellate body. Overall, there are many avenues for litigants to use to challenge conflicting state laws and practices. Also, any national court within a member states may refer questions regarding the interpretation of the community law to the Court, and national courts of last instance must refer cases involving community law. Business transactions within many CEMAC member states are regulated by the OHADA system. Although the CEMAC Court is the ultimate arbiter of community law, litigants may choose between applying the community law or OHADA law, thereby also choosing the forum in which disputes will be resolved. Information about the CEMAC court is hard to find, although the *PICT* website reports that the court has decided a number of cases since it was founded. For more see: http://www.aict-ctia.org/courts_subreg/cemac/cemac_home.html

Central American Court of Justice (CACJ)

Year court became operational:	1994
Location:	Managua, Nicaragua

Subject matter:	Economic; General
Countries accepting IC's compulsory jurisdiction:	El Salvador, Guatemala, Honduras, and Nicaragua
Court Treaty:	Statute of the Central American Court of Justice 34 <i>I.L.M.</i> 921 (1995)
Litigation data:	http://portal.ccj.org.ni/ccj2/Jurisprudencia/tabid/59/Default.aspx
Court Web Site:	http://portal.ccj.org.ni/ccj2/

This body is in many ways a resurrection of the Central American Court of Justice (1907-1917). The CACJ was intended to promote regional integration of the member states of the Organization of Central American States, resolve disputes, and interpret the laws of the organization. Signatory states can sign on to an optional provision of the charter of the Organization of Central America States, thereby accepting the Court's jurisdiction. Belize, Costa Rica and Panama are yet to do so. The Court's jurisdiction is among the broadest of any international court, covering disputes between member states and with consent, between a member state and a non-member state. Natural or legal persons of member states also have access to the Court for resolving disputes with member states. The Court's jurisdiction also covers disputes between organs of the Organization and a member state, or a private party of a member state. The Court also provides judicial opinions to national courts on issues relating to the law of the Organization. As of 2001, the CACJ had issued 65 rulings in contentions cases, 12 preliminary rulings and 43 advisory opinions. A number of the cases involve litigation by members of the Central American system itself.

Court of Justice of the Common Market for Eastern and Southern Africa (COMESA)

Year court became operational:	1994 (although it is not clear if this court is truly operational)
Location:	Khartoum, Republic of Sudan
Subject matter:	Trade/ Economic
Countries accepting IC's compulsory jurisdiction:	Burundi, Comoros, Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia and Zimbabwe (Former members include Angola, Lesotho, Mozambique, Tanzania, and Namibia)
Court Treaty:	Treaty Establishing the Common Market of Eastern and Southern Africa. Available in (Ebobrah and Tanoh, 2010: 3)
Litigation data:	Not available but > 0
Court Web Site:	http://about.comesa.int/lang-en/institutions/court-of-justice

The COMESA Court is the supreme court of the Common Market for Eastern and Southern Africa, modeled on the European Court of Justice. The jurisdiction of the COMESA Court covers disputes between member states. The Court may also hear noncompliance cases against member states charged with failing to fulfill their

obligations under the Treaty. Any member state or private litigant from a member states can challenge the legality of any measure of the COMESA Council. Moreover, the Court adjudicates cases filed by COMESA employees and other parties against COMESA or its organs. It may also arbitrate disputes arising from a contract involving COMESA or its organs as a party. I was unable to find information about litigation involving the COMESA court, although I have heard of at least 3 rulings of this court.

East African Community (EACJ) Court of Justice

Year court became operational:	2001
Location:	Arusha, Tanzania
Subject matter:	General
Countries accepting IC's compulsory jurisdiction:	5 members: Burundi, Kenya, Rwanda, Uganda, and the United Republic of Tanzania
Court Treaty:	Treaty for the Establishment of the East African Community (Chapter 8) available in (Ebobrah and Tanoh, 2010: 37)
Litigation data:	http://www.eacj.org/judgments.php (plus other related links)
Court Web Site:	http://www.eacj.org/ http://www.eac.int/organs/eacj.html

In 1993 East African States resurrected their defunct community to engage in programs of cooperation in political, economic, social and cultural fields, research and technology, defense, security, legal and judicial affairs. The East African community was revived on November 30, 1999, when the treaty for its re-establishment was signed. The EACJ replaced the defunct East African Court of Appeal, which in its original design could hear appeals of decisions of national courts involving both civil and criminal matters (constitutional matters and the offence of treason for Tanzania were precluded). The EACJ has broad jurisdiction. It adjudicates cases concerning the interpretation and application of the treaty. The treaty contains goals like gender mainstreaming, promoting good governance and promoting 'good neighborliness among partner states' and the expectation that states recognize and promote human rights. Member states can bring lawsuits against other member states or organs of the community regarding claims that the state or community failed to fulfill Treaty obligations, and over alleged violations of the community law. With the consent of the Council, the Secretary General of the community may also bring noncompliance cases against member states. In addition, national courts may refer issues relating to community law to the Court. Private parties may also bring cases to the Court. At the request of the Summit of Heads of State, the Council Ministers or a member state, the Court may issue advisory opinions over questions of the community law. The EACJ issued its first ruling in 2006, and as of 2012 it had issued 26 binding rulings on the merits including rulings in high stakes political cases. There are discussions about extending the EACJ's jurisdiction to include human rights issues. Meanwhile core common market provisions include parallel dispute settlement proceedings. Although the EACJ is

clear that it has jurisdiction over common market instruments, business groups profess confusion on this issue.

Eastern Caribbean Supreme Court

Year court became operational:	2004
Location:	Castries, Saint Lucia
Subject matter:	Not Applicable
Countries accepting IC's compulsory jurisdiction:	9 members: Anguilla, Antigua & Barbuda, Commonwealth of Dominica, Grenada, Montserrat, Saint Kitts & Nevis, Saint Vincent & the Grenadines, Saint Lucia, Territory of the Virgin Islands.
Court Treaty:	West Indies Associated States Supreme Court Order No. 223 of 1967. Associated State Constitution of 1967 and the Independence Constitutions of the respective States beginning with the Independence Constitution of Grenada in 1974.
Litigation data:	http://www.eccourts.org/judgments.html
Court Web Site:	http://www.eccourts.org/

This court is a regional appellate body for domestic law rather than an international court applying international rules. It operates as an associated body uniting the Supreme Courts of member states, and an appellate review body for different member states. It represents an alternative option to the CCJ's appellate review jurisdiction.

Economic Community of West African States (ECOWAS) Court of Justice

Year court became operational:	2001
Location:	Abuja, Nigeria
Subject matter:	Economic
Countries accepting IC's compulsory jurisdiction:	15 members: Benin, Burkina Faso, Cape Verde, Cote d'Ivoire,, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Nigeria, Senegal, Sierra Leone, and Togo
Court Treaty:	Revised Treaty for the Establishment of the Economic Community of West African States. Protocol on the Community Court of Justice. Supplementary Protocol Amending the Protocol Relating to the Community Court of Justice (1991/1996). Available in (Ebobrah and Tanoh, 2010: 194-201)
Litigation data:	The court is starting to list and publish its rulings: http://www.courtecowas.org/site2012/index.php?option=com_content&view=article&id=157&Itemid=27
Court Web Site:	http://www.courtecowas.org/

The Court of Justice of the ECOWAS was initially created to hear contentious cases brought only by member states and to provide advisory opinions to institutions of the community. In 2005, the access to the Court was extended to include cases involving violations of human rights raised by private litigants. Also added was a clause allowing national courts of member states to request advisory opinions on questions concerning the interpretation of community law. As of 2012, the ECCJ

had received 67 cases (including staff cases), and had issued over 50 binding rulings and decisions.

European Free Trade Association Court (EFTAC)

Year court became operational:	Treaty ratified 1992; Rules of Procedure adopted 1994.
Location:	Luxemburg City, Luxembourg
Subject matter:	Economic
Countries accepting IC's compulsory jurisdiction:	Iceland, Liechtenstein, Norway (Switzerland did not ratify the EEA Agreement, though it is a member of the EFTA)
Court Treaty:	Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice
Litigation data:	http://www.eftacourt.int/index.php/cases
Court Web Site:	http://www.eftacourt.int/

In 1992, the states under the European Free Trade Agreement (EFTA) and the European Communities created a European Economic Area (EEA). The EFTA Court exists to extend legal oversight to EFTA members that are not part of the European Union. The Court is modeled on the ECJ. The Court primarily hears infringement actions brought by the EFTA Surveillance Authority against an EFTA State with regard to the implementation, application or interpretation of an EEA rule. The Court can also hear disputes between two or more EFTA States, and appeals concerning decisions taken by the EFTA Surveillance Authority. Whereas the European Court of Justice can issue binding preliminary ruling decisions, based upon cases referred by national courts, the EFTA Court's preliminary rulings are advisory only. To ensure uniform interpretation of the EEA law, the EFTA pays due respect to the jurisprudence of the ECJ. Disagreement in the interpretations by the two courts is to be decided by the EEA Joint Committee Court, or ultimately the ECJ. As of 2008, the EFTAC court had issued 94 decisions, which is a fairly large amount given the small number of countries covered only by the EFTA community.

Court of Justice of the European Union (ECJ) & General Court

Year court became operational:	ECJ: 1952 General court (then the Tribunal of First Instance): 1988
Location:	Luxembourg
Subject matter:	Economic
Countries accepting IC's compulsory jurisdiction:	27 members of the European Union as of 2010: Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Republic of Ireland, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom
Court Treaty:	Treaty establishing the European Community (consolidated text) Official Journal C 325 of 24 December 2002 http://europa.eu.int/eur-lex/lex/en/treaties/index.htm

Litigation data: Statistics of Judicial Activity of the Court of Justice
 Available at:
http://curia.europa.eu/en/instit/presentationfr/rapport/stat/06_cour_stat.pdf
 Court Web Site: http://curia.europa.eu/jcms/jcms/j_6/

When created in 1952, the European Court of Justice was first the judicial organ for the European Coal and Steel Community (ECSC). Its jurisdiction, however, expanded in 1957 to cover disputes arising out of two other European communities, the European Atomic Energy Community (Euratom) and the European Economic Community. The ECJ is famous for having transformed its judicial and political role through bold legal rulings establishing the supremacy and direct effect of community law within member states. The ECJ today functions as a supreme court for Europe. Its orders and rulings bind all the member states. To ensure the uniform implementation of the laws of the European Community, national courts may refer cases to the ECJ. Courts of last instance must refer questions of European law to the ECJ. All the parties to the cases may participate in the proceedings before the ECJ, and its rulings and orders bind the national courts. Member states or the Commission may also bring actions for failure to fulfill obligations to the ECJ. Financial penalties may be imposed on the state found not in compliance with the Court's judgment. The jurisdiction of ECJ also includes actions for annulment, which challenges the legality of a measure adopted by a community institution. When such actions are initiated by individuals, the renamed General Court has jurisdiction over them. Orders and judgments made by the General Court may be appealed to the ECJ, which may either set aside the judgment and render its own decision, or send it back to the General Court. I use the old name of the court throughout this book, since all of the cases discussed occurred when the old name was operative, and this acronym remains distinct.

European Court of Human Rights (ECtHR)

Year court became operational: 1959
 Location: Strasbourg, France
 Subject matter: Human Rights Violation
 Countries accepting IC's compulsory jurisdiction: The 47 member states of the Council of Europe: Belgium, Denmark, France, Ireland, Italy, Luxembourg, the Netherlands, Norway, Sweden, the United Kingdom, Greece, Turkey, Iceland, Germany, Austria, Cyprus, Switzerland, Malta, Portugal, Spain, Liechtenstein, San Marino, Finland, Hungary, Czechoslovakia, Poland, Bulgaria, Estonia, Lithuania, Slovenia, Czech Republic, Slovakia, Romania, Andorra, Latvia, Albania, Moldova, Macedonia, Ukraine, Russia, Croatia, Georgia, Armenia, Azerbaijan, Bosnia and Herzegovina, Serbia, Monaco, Montenegro
 Court Treaty: European Convention on Human Rights (ETS 5, 213 U.N.T.S. 222) and Additional Protocols
<http://www.echr.coe.int/ECHR/EN/Header/Basic+Texts/Basic+Texts/The+European+Convention+on+Human+Rights+and+its+Protocols/>
 Protocol 11 (ETS No. 155, Strasbourg, 11.V.1994.)
 Litigation data: Annual Reports available at:
<http://www.echr.coe.int/ECHR/EN/Header/Reports+and+Statistics/Reports/Annual+Reports/>

Court Web Site: <http://www.echr.coe.int/echr/>

Established by the European Convention for the Protection of Human Rights and Fundamental Freedoms, the European Court of Human Rights supervises the member states' observance of basic rights and freedoms stipulated in the Convention. As the most active and arguably the most successful international human rights tribunal, the ECtHR has seen a continuous growth of its caseload. Scholarship suggests that most member states pay the awards required by the court, and that the ECtHR is generally effective in promoting state respect for its rulings. In 1994 the institution was further strengthened by the adoption of Protocol 11, which merged the ECtHR with European Commission of Human Rights and required all members to accept what had previously been optional; the Court's compulsory jurisdiction and the right of private appeal. The new ECtHR allows individuals to bring their claims to the court as long domestic remedies have been exhausted. In certain situations the individuals may even request a rehearing of their cases by the Court's Grand Chamber.

Economic Court of the Commonwealth of Independent States (ECCIS) and the Court of the Eurasian Economic Community

Year court became operational:	1993
Subject matter:	Economic; General
Countries accepting IC's compulsory jurisdiction:	CIS countries: Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan (unofficial associate member), Ukraine (de facto participating; officially not a member), Uzbekistan Eurasian Economic Community Countries: Belarus, Kazakhstan, Kyrgyzstan, Russia, Tajikistan (Uzbekistan withdrew in 2008)
Court Treaty:	Agreement Establishing the Commonwealth of Independent States
Litigation data:	http://www.sudsng.org/database/deed/

There is little information about this court, and most of what exists is in Russian (for an exception, see: <http://www.worldcourts.com/eccis/eng/index.htm>). The Economic Court of the Commonwealth of Independent States interprets the Agreement Establishing the Commonwealth of Independent States (CIS). The ECCIS court has compulsory jurisdiction for disputes between member states. In addition, CIS member states can stipulate that the ECCIS Court will resolve disputes involving treaties adopted by countries in the Commonwealth of Independent States. The Court also offers advisory opinions with regard to the CIS Agreement and other acts of the CIS. Only states can bring contentious cases to the Court. Private parties must be represented by their governments. Advisory opinions, however, may be requested by member states, institutions of the CIS, and national courts. The ECCIS Court issued its first ruling in 1994. There is some question of whether the ECCIS Court has exclusive jurisdiction. The Treaty on the Establishment of the Economic Union of 1993 seemed to open the door for litigants to use other international judicial venues. In an advisory ruling, the ECCIS court found that states parties to the

Treaty of 1993 “have no right to resort to other international judicial organs without first turning to the Economic Court”, and that they may turn to other international judicial organs only if it is not possible to resolve their differences through the Court.” The court also ruled that the state parties have no right to challenge decisions of the Court in other judicial organs.”² A number of proposals to expand the role of the court, to make it more like the ECJ, have been rebuffed.³ The CIS court has also sought to increase its role through its rulings.⁴ Yet there still seem to be questions as to whether ECCIS rulings in contentious cases are actually binding.⁵ As of 2012 the ECCIS court had issued 119 rulings, including 30 advisory opinions. The Court describes its case law as mostly concerning interpretation of agreements of CIS states (<http://sudsng.org/database/sudobzor/>). Russian speaking scholars who have consulted the website say that the ECCIS has primarily heard cases related to the dissolution of the Soviet Union (e.g. pension disputes regarding veterans).

Inter-American Court of Human Rights (IACtHR)

Year court became operational:	1979
Location:	San José, Costa Rica
Subject matter:	Human Rights Violation
Countries accepting IC’s compulsory jurisdiction:	22 American states: Argentina, Barbados, Bolivia, Brazil, Colombia, Costa Rica, Chile, Dominica, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, Suriname, Uruguay and Venezuela (which in 2012 indicated an intention to withdraw from the system, effective 2013). (http://www.cidh.org/basicos/english/Basic4.Amer.Conv.Ratif.htm)
Court Treaty:	American Convention on Human Rights, O.A.S. Treaty Series No. 36, 1144 U.N.T.S. 123, entered into force July 18, 1978, reprinted in Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 25 (1992). http://www1.umn.edu/humanrts/oasinstr/zoas3con.htm
Litigation data:	For data on judgments and decisions, see: http://www.corteidh.or.cr/casos.cfm
Court Web Site:	For data on number of submissions, see Annual Report 2009: http://www.corteidh.or.cr/informes.cfm http://www.corteidh.or.cr/

Established by the American Convention of Human Rights, the Inter-American Court of Human Rights supervises the member states’ observance of basic rights and freedoms stipulated in the Convention. Though the institution aims at duplicating the success of its European counterpart, the ECtHR, there are significant

² Advisory opinion of the CIS Economic Court No. C-1/19–96 (May 15, 1997) discussed in (Kembayev, 2009: 64-5).

³ Ibid. 65-6.

⁴ Ibid. 66-7.

⁵ Ibid. 67 and (Danilenko, 1999: 906-7).

differences in the design of the two courts. The IACtHR's jurisdiction over the member states is conditioned on their consent. Most importantly, individuals must have the Inter-American Commission screen their cases, and only recently did private actors gain representation in legal cases before the court. In 2001 the Commission adopted internal reforms, deciding to refer more cases to the Court. These reforms have contributed to the greater judicial activity of the IACtHR. By the end of 2011, it had issued 239 rulings in contentious cases and 20 advisory rulings. It is still, however, the case that the vast majority of cases are dealt with at the Commission, never reaching the Inter-American Court.

International Court of Justice (ICJ)

Year court became operational:	1945
Location:	The Hague, Netherlands
Subject matter:	General
Countries accepting ICJ's compulsory jurisdiction:	66 states have made optional declarations reciprocally accepting the ICJ's compulsory jurisdiction. (List available at: http://www.icj-cij.org/jurisdiction/index.php?p1=5&p2=1&p3=3)
Court Treaty:	The Statute of the International Court of Justice
Litigation data:	The ICJ lists cases by when they filed, or when the parties formally closed the case. But many cases are closed when parties ask for the case to be removed from the Court's docket. One must thus consult each case individually to determine if there is a binding ruling denying jurisdiction, removing the case from the docket, or otherwise determining the merits of the claims. http://www.icj-cij.org/docket/index.php?p1=3&p2=2&sort=2&p3=0 Decisions of the Permanent Court of Justice available at: http://www.icj-cij.org/pcij/index.php?p1=9
Court Web Site:	http://www.icj-cij.org/

The first and most global international court, the ICJ is for many lawyers the archetype model an IC. But it actually is somewhat exceptional compared to other permanent ICs in that its jurisdiction is often reciprocal in its reach (Article 36), and states that lack a judge on the ICJ can appoint an ad hoc judge to join with other ICJ judges in adjudicating their case. The International Court of Justice (ICJ), the judicial body of the United Nations (UN), is a reincarnation of the Permanent Court of Justice, which between 1922 and 1940 dealt with 29 contentious cases. The ICJ can render binding rulings only for contentious cases submitted by states. The ICJ's jurisdiction is not compulsory, except for countries that have signed onto the ICJ's optional protocol accepting the ICJ's compulsory jurisdiction. Individual treaties can also indicate that any dispute arising from the treaty will be brought to the ICJ for resolution, and even grant the ICJ compulsory jurisdiction with respect to the specific treaty. For this reason, the list of states submitting declarations accepting the ICJ's compulsory jurisdiction incompletely represents the extent to which the ICJ has compulsory jurisdiction for disputes between states. ICJ rulings in contentious cases are binding and final, and formally speaking ICJ rulings can be "enforced" by the United Nations Security Council (although this has never happened). The ICJ also provides advisory opinions on legal questions submitted by U.N. organs and

U.N. specialized agencies. As of this writing, the IC had registered 152 cases on its general list. Twelve cases were pending, and twenty-four concerned advisory decisions. My Litigation data focuses on binding rulings in the 115 contentious cases that are officially closed. A number of these disputes were removed before the ICJ could issue any ruling. By my count, the ICJ either denied its jurisdiction or issued binding rulings relating to the merits of the case in 76 rulings from its founding through the end of 2009. Of these rulings, the ICJ ruled in 26 cases that the case was inadmissible or that it lacked jurisdiction to decide on the merits of the case.

International Tribunal for the Law of the Sea (ITLOS)

Year court became operational:	1996
Location:	Hamburg, Germany
Subject matter:	United Nations Convention on the Law of the Seas and related conventions and agreements
Countries designating ITLOS for most disputes involving the treaty:	Angola, Argentina, Australia, Austria, Bangladesh, Bahrain, Canada, Cape Verde, Chile, Croatia, Fiji, Finland, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Mexico, Montenegro, Norway, Portugal, St. Vincent and the Grenadines, Switzerland, Tanzania, Trinidad and Tobago, Tunisia, Uruguay.
Court Treaty:	United Nations Convention on the Law of the Sea 1833 UNTS 3; 21 ILM 1261 (1982) discusses the obligation for dispute resolution. A Statute for the Tribunal of the Law of the Seas defines procedures, jurisdiction and the court's operation. Separate agreements govern rules of procedure and additional agreements can confer jurisdiction on the tribunal. These "Basic Texts" are available at the Court's website.
Litigation data:	http://www.itlos.org/index.php?id=37
Court Web Site:	http://www.itlos.org/index.php?id=2&L=0

The United Nations Convention on the Law of the Sea regulates the use of the resources of the sea. The Tribunal generally lacks compulsory jurisdiction, although signatory states can indicate that the ITLOS court will be used to resolve any dispute arising from the use of the sea. Signatory states may also choose to instead use the International Court of Justice to resolve disagreements involving the Law of the Seas Convention, or an arbitral tribunal, and they may file "Article 298 exceptions" to the compulsory jurisdiction of the ITLOS court. Many countries have not yet specified the body they will use for dispute adjudication, which does not decrease their obligations to adjudicate disagreements, especially disputes concerning the prompt release of vessels. The special Seabed Dispute Chamber has compulsory jurisdiction over disputes concerning activities in the areas managed by the International Seabed Authority. In addition to states and international organs and agencies, the Seabed Dispute Chamber grants standing to individuals and companies of party states. In adjudicating cases, the Chamber can employ a wide range of legal bases, not limited to codified international law. Since few actors are mining the deep seas, as of 2009 the Seabed authority had not become active (although in 2010 the ITLOS court issued an advisory opinion involving the Seabed Authority). As of 2012, the ITLOS court had issued 20 rulings and one advisory opinion, most

involving the prompt release of boats that had strayed into contested territory or abused their fishing licenses. The ITLOS court has also, however, heard cases involving maritime boundary disputes and fishing agreements.

International Criminal Court (ICC)

Year court became operational:	1998 (Ratification date); 2002 Court operational.
Location:	The Hague, Netherlands
Subject matter:	War Crimes
State Parties to the Rome Statute :	121 states as of January 2013, List of state parties: http://www.icc-cpi.int/en_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx
Court Treaty:	Rome Statute of the International Criminal Court UN Doc. A/CONF. 183/9; 37 ILM 1002 (1998); 2187 UNTS 90
Litigation data:	http://www.icc-cpi.int/en_menus/icc/situations%20and%20cases/cases/Pages/cases%20index.aspx
Court Web Site:	http://www.icc-cpi.int/menus/icc/

Established by the Rome Statute of the International Criminal Court, International Criminal Court is intended to punish the most serious war crimes. The Rome Statute defines the court's jurisdiction, including what constitutes war crimes, crimes against humanity and genocide. As of January 2013, 121 countries have ratified the Rome Statute. The Statute envisions that the ICC may one day have jurisdiction to assess the crime of aggression, and there has been some recent progress in defining the concept of aggression. In contrast to other international criminal tribunals such as the ICTY and the ICTR, the ICC is intended to complement national courts. The ICC will focus on serious international crimes that national courts are unwilling or unable to investigate and prosecute. Interviews suggest that the officials in the ICC hope to prosecute the leaders most responsible for creating the climate leading up to war crimes. Officials intend to leave to national courts the job of prosecuting lower level perpetrators of war crimes. The Assembly of the States who are parties to the Rome Statute supervises the ICC, but the Prosecutor has wide autonomy to decide which cases to pursue. The U.N. Security Council can refer cases to the Prosecutor, and it can vote to suspend investigations for six-month increments. Private parties are allowed to participate in the proceedings of ICC cases and claim reparation from alleged wrongdoers, but only the Prosecutor can initiate litigation. At the time of the publishing of the Report of the International Criminal Court to the United Nations for 2009/10, the ICC had a number of situations under investigation, including in Uganda, the Democratic Republic of the Congo, the Central African Republic, Libya, Kenya, the Ivory Coast and Darfur.

International Criminal Tribunal for the Former Yugoslavia (ICTY)

Year court became operational:	1993
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Location: The Hague, Netherlands
Subject matter: War Crimes; Human Rights Violation
Member States: The ICTY has jurisdiction for crimes committed in the Former Yugoslavia since 1991.
Court Treaty: Statute of the International Criminal Tribunal for the Former Yugoslavia 32 I.L.M. 1203 (1993)
Litigation data: <http://www.psci.unt.edu/~meernik/International%20Criminal%20Tribunals%20Website.htm>
Court Web Site: <http://www.icty.org/>

The International Criminal Tribunal for the Former Yugoslavia was created to prosecute serious war crimes and human rights violations committed during the wartime in the area of former Yugoslavia. It was established by a resolution passed by the U.N. Security Council. No state or international organs or agencies have standing in the court. The Prosecutor investigates crimes and presses charges against individual suspects. The ICTY does not have exclusive jurisdiction over serious crimes committed in the areas of former Yugoslavia. However, it has the power to request national courts to defer competence if the case is deemed better adjudicated by the ICTY. Notwithstanding its plan to finish trials and close, PICT includes this court in its count of permanent courts because its jurisdiction is permanent.

International Criminal Tribunal for Rwanda (ICTR)

Year court became operational: 1994
Location: Arusha, Tanzania
Subject matter: War Crimes; Human Rights Violation
Member States: The ICTR has jurisdiction over war crimes committed in Rwanda between 1 January 1994 and ending on 31 December 1994.
Court Treaty: Statute of the International Criminal Tribunal for Rwanda 33 I.L.M. 1598 (1994)
Litigation data: <http://www.psci.unt.edu/~meernik/International%20Criminal%20Tribunals%20Website.htm>
Court Web Site: <http://www.unicttr.org/>

Established by a U.N. Security Council resolution, which is codified in the Statute of the International Criminal Tribunal for Rwanda, the ICTR is an ad hoc tribunal investigating and prosecuting serious crimes against international humanitarian law committed in Rwanda in 1994. Its work involves mainly the prosecution of criminals who were likely already incarcerated in Rwanda and its neighboring states. Similar to the ICTY, states and international agencies do not have standing in the court. And as soon as the prosecutions are complete, the ICTR will be dissolved. Notwithstanding its plan to finish trials and close, PICT includes this court in its count of permanent courts because its jurisdiction is permanent.

Organization of Arab Petroleum Exporting Countries Judicial Tribunal (OAPEC)

Year court became operational: 1968 (although it is not clear if this court is really operational)
Location: Kuwait

Subject matter:	Economic
Member States falling under the court's potential jurisdiction:	Algeria, Bahrain, Egypt, Iraq, Kuwait, Libya, Qatar, Saudi Arabia, Syria, Tunisia (suspended), and United Arab Emirates.
Court Treaty:	Agreement for the Establishment of the Organization of Arab Petroleum Exporting Countries
Litigation data:	Not available
Court Web Site:	http://www.oapecorg.org/ (main OAPEC website)

Created by the Agreement for the Established of the Organization of Arab Petroleum Exporting Countries, the Judicial Tribunal has compulsory jurisdiction over disputes concerning the interpretation of the Agreement. The Court is also competent to adjudicate cases between member states over issues concerning petroleum operations. In addition, the Court takes cases referred to it by the Council. If the parties to a dispute consent, the Court may adjudicate disputes between a member state and a petroleum company operating in the state's territory, or between any member state and a petroleum company belonging to another member state, or between member states. The judgments of the Tribunal are binding and final. There is little information about this tribunal. One used to be able to find documents about judges on the tribunal, but my best sense is that it is inactive, existing mostly on paper.

Organization for the Harmonization of Corporate Law in Africa Common Court of Justice and Arbitration (OHADA)

Year court became operational:	1996
Location:	Côte d'Ivoire
Subject matter:	Economic
States falling under IC's compulsory jurisdiction:	Benin, Burkina Faso, Cameroon, Central African Republic, Comoros, Côte d'Ivoire, Equatorial Guinea, Gabon, Guinea, Guinea-Bissau, Mali, Niger, Republic of the Congo, Senegal, and Togo.
Court Treaties:	Treaty on the Harmonization of Corporate Law in Africa.
Litigation data:	http://www.ohada.com/jurisprudence/
Court Web Site:	http://www.ohada.com/index.php?newlang=english

The Organization for the Harmonization of Corporate Law in Africa (OHADA) was established to harmonize laws and regulations in the member states to attract business investment. Four institutions were created to achieve that goal, and one of them is the Common Court of Justice and Arbitration. The Court provides advisory opinions to the Council of Justice and Financial Ministers, another institution created alongside the OHADA, on legislative proposals. It may also nullify measures deemed against the uniform laws. The Court is most active regarding cases concerning the uniform law referred to it by either party or by national courts. In addition, the Court may appoint arbitrators, oversees arbitration proceedings, and review arbitral awards when disputes arise in or concerning the member states of OHADA. While the OHADA court does have a website (OHADA.org), the best information about litigation and case law is available on the website sponsored by a

non-governmental organization (UNIDA), located at OHADA.com. This searchable website also posts national judicial rulings involving OHADA law, providing in many cases the only public record of national legal proceedings. UNIDA also facilitates the dissemination of legal doctrine involving OHADA. The OHADA Common Court of Justice and Arbitration issued its first ruling in 1999. By 2011 it had issued 569 binding rulings. This number does not, however, reflect all legal disputes involving OHADA law since litigants can choose to appeal cases to national courts instead of the OHADA Common Court. The OHADA.com website includes over 2600 national judicial rulings applying OHADA law. Legal rulings in the OHADA system appear to have declined, but this is mostly an artifact of the political instability in the Ivory Coast, which made it harder for litigants to use the court (indeed at one point the court closed operations to protect the security of staff). See the case study in chapter 5 for more.

Southern African Development Community (SADC) Tribunal

Year court became operational:	2005
Location:	Windhoek, Republic of Namibia
Subject matter:	Economic
States falling under IC's compulsory jurisdiction:	Angola, Botswana, Democratic Republic of Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, and Zimbabwe
Court Treaty:	Declaration and Treaty Establishing the Southern African Development Community, Protocol on Tribunal and Rules of Procedure thereof (2000/2001). Available in: (Ebobrah and Tanoh, 2010: 339 and 383)
Litigation data:	http://www.sadc-tribunal.org/pages/decisions.htm
Court Web Site:	http://www.sadc.int/tribunal/

The Tribunal of the SADC was created to promote cooperation and integration of the community. The Tribunal has compulsory jurisdiction for issues concerning the interpretation and application of the community law. The Tribunal adjudicates contentious cases between member states, between a community institution and a member state, and (as originally constituted) between natural or legal person and a member state or community organ. In addition to community institutions, national courts of member states may request preliminary ruling from the Court on issues concerning the community law. Most legislation in SADC occurs via protocols, and these protocols can define the terms of adjudication. For example, the Protocol on Trade establishes a WTO style adjudicatory system for trade disputes related to the protocol. The SADC Tribunal, however, sits as an appellate body for panel decisions associated with specific protocols. The Tribunal's jurisprudence is not limited to the treaty and ratified protocols. In rendering judgment and advisory opinions, the Tribunal may use international law, principles of international law, and even national laws. In other words, the SADC Tribunal, modeled after the ECJ, has the institutional potential to accelerate the regional integration of the community. Human rights activists have tried to invoke the SADC Tribunal, and in 2009 the

Tribunal issued a ruling concerning the Zimbabwean farmers, which led Zimbabwe to challenge its jurisdiction. The controversy surrounding this ruling put the SADC Tribunal's authority and existence in question. In August of 2012, the Tribunal was still suspended and its fate became uncertain.

Southern Common Market (Mercosur)

Year court became operational:	The Olivos Protocol (2002) creates a permanent appellate body.
Location:	Asunción, Paraguay
Subject matter:	Economic
States falling under IC's compulsory jurisdiction:	Argentina, Brazil, Paraguay, Uruguay (and now Venezuela)
Court Treaty:	Olivos Protocol for the Settlement of Disputes in Mercosur 42 <i>ILM</i> 2 (2003). Revisions to this protocol, including the provision on national court references, are in Acordada 13/2008 MERCOSUR/CMC/DEC. N° 37/03
Litigation data:	The Mercosur website only has data from after the adoption of the Olivos Protocol. (http://www.mercosur.int/t_generic.jsp?contentid=375&site=1&channel=secretaria&seccion=6)
Court Web Site:	Earlier litigation is reported at: http://www.sice.oas.org/dispute/mercosur/ind_s.asp http://www.mercosur.int/ (Spanish or Portuguese)

The Southern Common Market was created to promote free trade and the easy movement of goods, people, and currency between its members. The Treaty of Asunción (signed on 26 March 1991) envisioned a dispute resolution system, but the system was informal until the Olivos Protocol in 2002 (which replaced the Brasilia and Ouro Preto protocols). The Mercosur system of the Olivos Protocol is modeled on the WTO system, with panels that can be appealed to a permanent appellate body. Mercosur rules are not directly applicable; Mercosur rules are domestically binding only if a state has ratified a Mercosur provision and the provision is the last law passed. Any disputes between the State Parties regarding the interpretation, application or breach of the Treaties, protocols, agreements, and the Instructions of the Mercosur Trade Commission can be submitted to the Court. While not expressly stated in the Olivos protocol, decisions of Mercosur's political organs authorize national supreme courts to request advisory opinions. The intention is that Supreme Court references will provide private actors with access to the Mercosur system. In practice, most disputes get resolved at the political and diplomatic level. Ten cases resulted in ad hoc panel rulings in the more informal Brasilia dispute settlement system. The Permanent Court only began issuing rulings in 2005. As of 2010, the permanent appellate body had issued 5 rulings, and 3 consultative decisions based on references from national supreme courts. The Mercosur system of the Olivas protocol allows litigants to choose between the WTO and the Mercosur dispute settlement mechanism, but it requires that litigants pick a single venue for dispute resolution. Notwithstanding this provision, there has been some forum shopping because the WTO does not require a state to choose a single venue. The smaller member states, Paraguay and Uruguay, would prefer an ECJ style court, but Brazil and Argentina prefer to keep the Mercosur system highly intergovernmental.

Special Court for Sierra Leone

Year court became operational:	2002
Location:	Freetown, Sierra Leone
Subject matter:	War Crime; Human Rights
Member States:	The court's jurisdiction only applies to crimes committed during the Sierra Leone conflict
Court Treaty:	Statute of the Special Court for Sierra Leone 34 <i>ILM</i> (1995) 482
Litigation data:	http://www.sc-sl.org/CASES/tabid/71/Default.aspx
Court Web Site:	http://www.sc-sl.org/

Pursuant to an agreement between the U.N. and Sierra Leone, the Special Court for Sierra Leone was established to prosecute serious human rights violations and war crimes committed since November 1996. The Court prosecutes persons found responsible for acts against international humanitarian law and Sierra Leonean law. If authorized by the Security Council, the Court may also exercise jurisdiction over personnel present in Sierra Leone pursuant to international or regional agreements, or with the consent of the Sierra Leone government, if the sending State is unwilling or unable to conduct an investigation or prosecution. Though the Special Court and the national courts of Sierra Leone have concurrent jurisdiction, the former has primacy over the latter. The Court's most famous cases is proceeding; the indictment of Charles Taylor (see Chapter 7 for more).

West African Economic and Monetary Union (WAEMU) Court of Justice

Year court became operational:	1994
Subject matter:	Economic
States falling under IC's compulsory jurisdiction:	Benin, Burkina Faso, Cote d'Ivoire, Guinea, Bissau, Mali, Niger, Senegal, and Togo
Court Treaty:	Treaty Establishing the West African Economic and Monetary Union and Additional Protocol No. 1 relative to the Organs of Control of WAEMU (UEMOA). Done in Dakar, Senegal on January 10, 1994.
Litigation data:	Obtained from Court Registrar, May 2011.
Court Web Site:	http://www.uemoa.int/organes/organes_controle.htm (French only)

The Court of Justice of WAEMU has jurisdiction over cases brought by any legal and natural person, member state, the Commission, and the Council of Ministers. National courts of member states may request preliminary rulings from the Court over issues concerning the Union law. The Commission may request the Court to review domestic legislations or judicial interpretations in member states to ensure that they comply with the Union law. The Court's judgments and orders are binding and final. They are directly enforceable in member states. Because members of the WAEMU also belong to other regional communities, the Court of Justice of

WAEMU is subject to the competition from two other regional courts, the ECOWAS Court of Justice and the Common Court of Justice and Arbitration of OHADA.

World Trade Organization Dispute Settlement Mechanism

Year court became operational:	1994
Location:	Switzerland
Subject matter:	Trade
States falling under IC's compulsory jurisdiction:	153 states to date: see http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm
Court Treaty:	Understanding on Rules and Procedures Governing the Settlement of Disputes 1869 UNTS 401; 33 ILM 1226 (1994)
Litigation data:	WTO data on Court Website below For WTO, I use World Bank data through 2005, and work from WTO reports after 2005 GATT data compiled from (Hudec, 1993) and generously shared by Erik Reinhardt and Marc Busch. For links to these sources see: http://www9.georgetown.edu/faculty/ev42/ICdata_files/Page483.htm Appellate Body reports and appellate status updates: http://www.wto.org/english/tratop_e/dispu_e/ab_reports_e.htm
Court Web Site:	http://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm List of members: http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm

The WTO's dispute settlement system has compulsory jurisdiction regarding trade disputes among WTO members. The Dispute Settlement Mechanism (DSM) does not render binding rulings, rather its rulings must be adopted by the Dispute Settlement Body to become binding. But adoption is pretty much automatic, so its rulings are seen as legally binding. When a trade dispute arises between two or more member states, any one of them can file a complaint in the WTO's DSM. Upon the filing of the complaint, the parties are obligated to enter into consultation. If the consultation fails to resolve the dispute, the parties can request a Panel decision. The Panel, composed of experienced jurists who are chosen with input from the disputing states, conducts hearings and renders a report, which will be adopted if the Dispute Settlement Body (DSB) does not unanimously reject it. The parties can appeal the Panel ruling to the permanent Appellate Body, which has a standing membership. Functioning as an appellate court, the Appellate Body reviews the Panel ruling and submits its own decision to the DSB. Barring a unanimous rejection by the DSB members, the Appellate Body ruling is final and adopted for compliance by the concerned parties. Continued noncompliance will subject the party to authorized retaliation by the injured state. The WTO is used to resolve disputes involving a series of WTO agreements, including the Agreement on Trade-Related Aspects of

Intellectual Property Rights and the Agreement on Agriculture. Disputes can involve issues such as steel tariffs, broadcastings rights, the regulation of asbestos, and restrictions on genetically modified food. The GATT and WTO combined have issued over 400 rulings as of 2012. Some of these cases ended with panel reports that were adopted; some GATT and WTO cases were appealed. There are many more cases that are settled before the issuing of a binding ruling.

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