8. DAMAGES

8.4. Additional Considerations

8.4.4

Respondent says that any award of damage should be expressed in pesos, arguing that all payments to be made under the Concession Agreement were to be in pesos. This contention in the pre-hearing pleadings was addressed particularly to Claimants’ case for damages, based as it was on a lost profits analysis. However, it is not disputed that CGE/Vivendi’s investments were made in US dollars and/or French francs, and that the peso has since 2002 been devalued and depreciated very significantly against the US dollar.

8.4.5

In the Lighthouses Arbitration, the Permanent Court of Arbitration held that an injured party has the right to receive the equivalent at the date of the award of the loss suffered as the result of the illegal act and ought not to be prejudiced by the effects of a devaluation that takes place between the date of the wrongful act and the determination of the amount of compensation.\(^429\) We agree with this principle and also note that it is frequently the practice of international tribunals to provide for payment in a convertible currency.\(^430\) Accordingly, all sums awarded in and to be paid by reason of this Award are expressed in US dollars.

Referring Principles:

VII.3.3 - Currency in which to assess damages