THE ICSID CASELOAD —
STATISTICS
(ISSUE 2017-1)
The ICSID Caseload – Statistics
(Issue 2017-1)

This issue of the *ICSID Caseload – Statistics* updates the profile of the ICSID caseload, historically and for the calendar year 2016. It is based on cases registered or administered by ICSID as of December 31, 2016.

As in the previous issues, this document illustrates: the number of cases registered under the ICSID Convention and Additional Facility Rules; the number of other cases administered by the ICSID Secretariat; the basis of consent to ICSID jurisdiction invoked in registered arbitration and conciliation cases; the geographic distribution of ICSID cases by the State party to the dispute, and the economic sectors involved in ICSID disputes. It also contains data on outcomes in ICSID arbitration and conciliation proceedings, including further information on disputes decided by arbitral tribunals, data on discontinued ICSID arbitration proceedings, and outcomes to date in annulment proceedings under the ICSID Convention. The nationalities and geographic origins of arbitrators, conciliators and *ad hoc* committee members appointed in ICSID cases are also featured.

The Secretariat will continue to publish the *ICSID Caseload – Statistics* on a bi-annual basis, and welcomes any comments or suggestions by email at ICSIDsecretariat@worldbank.org.
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1 The data is based on ICSID statistics as of December 31, 2016.
2 The ICSID Fiscal Year covers the period July 1 to June 30.
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PART I

ALL CASES REGISTERED AND ADMINISTERED BY ICSID
1. Map of the ICSID Contracting States and Other Signatories to the ICSID Convention as of December 31, 2016
2. Cases Registered by ICSID

As of December 31, 2016, ICSID had registered 597 cases under the ICSID Convention and Additional Facility Rules.
Chart 2: Number of Cases Registered under the ICSID Convention and Additional Facility Rules by Calendar Year:

- ICSID Convention Arbitration Cases
- ICSID Convention Conciliation Cases
- ICSID Additional Facility Arbitration Cases
- ICSID Additional Facility Conciliation Cases

Chart 3: Type of Cases Registered under the ICSID Convention and Additional Facility Rules:

- ICSID Convention Arbitration Cases: 534 (89.5%)
- ICSID Convention Conciliation Cases: 8 (1.3%)
- ICSID Additional Facility Arbitration Cases: 53 (8.9%)
- ICSID Additional Facility Conciliation Cases: 2 (0.3%)
3. Non-ICSID Cases Administered by the ICSID Secretariat

Chart 4: Number of Non-ICSID Cases Administered by the ICSID Secretariat over the Past Ten Fiscal Years:

The ICSID Secretariat offers various levels of administrative and organizational support for non-ICSID dispute settlement in State-State or investor-State proceedings. Among the State-State cases administered in the past decade are the Southern Bluefin Tuna case (Australia and New Zealand v. Japan), an expert determination proceeding under the Indus Waters Treaty of 1960, and an arbitration under the Softwood Lumber Agreement of 2006 (United States v. Canada).

The Centre also frequently provides administrative assistance to investor-State arbitrations under the UNCITRAL Rules or other ad hoc dispute settlement provisions. The Centre’s services in these proceedings range from support with the organization of hearings to administrative services comparable to those provided in ICSID cases. The Secretariat also acts as appointing authority, and decides proposals for disqualification of arbitrators, upon request. In addition to administering UNCITRAL arbitrations, ICSID has also assisted with the organization of hearings in arbitration proceedings conducted under the auspices of the ICC, LCIA, PCA, and other institutions.
4. Basis of Consent Invoked to Establish ICSID Jurisdiction in Registered ICSID Cases

Chart 5: Basis of Consent Invoked to Establish ICSID Jurisdiction in Cases Registered under the ICSID Convention and Additional Facility Rules:

- **Bilateral Investment Treaty (BIT)**: 59.8%
- **Investment Contract between the Investor and the Host-State**: 16.7%
- **Investment Law of the Host-State**: 9.5%
- **North American Free Trade Agreement (NAFTA)**: 3.0%
- **Oman-U.S. Free Trade Agreement (Oman-U.S. FTA)**: 0.1%
- **ASEAN Agreement for the Promotion and Protection of Investments**: 0.1%
- **Energy Charter Treaty (ECT)**: 9.5%
- **Dominican Republic-United States-Central America Free Trade Agreement (DR-CAFTA)**: 0.7%
- **Canada-Mexico Free Trade Agreement (Canada-Mexico FTA)**: 0.1%
- **Central America-Panama Free Trade Agreement**: 0.1%
- **Colombia-Mexico Free Trade Agreement (U.S.-Panama TPA)**: 0.2%
- **Canada-Peru Free Trade Agreement (Canada-Peru FTA)**: 0.1%
- **Dominican Republic-United States-Central America Free Trade Agreement (DR-CAFTA)**: 0.7%
- **Dominican Republic-United States-Central America Free Trade Agreement (DR-CAFTA)**: 0.7%
- **Central America-Panama Free Trade Agreement**: 0.1%
- **Investment Law of the Host-State**: 9.5%
5. Geographic Distribution of All ICSID Cases, by State Party Involved

Chart 6: Geographic Distribution of All Cases Registered under the ICSID Convention and Additional Facility Rules, by State Party Involved*:

- South America: 24%
- Sub-Saharan Africa: 15%
- Middle East & North Africa: 10%
- South & East Asia & the Pacific: 8%
- Western Europe: 7%
- Eastern Europe & Central Asia: 25%
- North America (Canada, Mexico & U.S.): 5%
- Central America & the Caribbean: 6%

* The classification of the geographic regions above is based on the World Bank's regional system, available at http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/0,,pagePK:180619~theSitePK:136917,00.html, and also includes World Bank donor countries.
6. Distribution of All ICSID Cases by Economic Sector

Chart 7: Distribution of All Cases Registered under the ICSID Convention and Additional Facility Rules, by Economic Sector*:

- Oil, Gas & Mining: 25%
- Electric Power & Other Energy: 17%
- Water, Sanitation & Flood Protection: 5%
- Construction: 7%
- Tourism: 4%
- Other Industry: 13%
- Transportation: 9%
- Services & Trade: 3%
- Information & Communication: 6%
- Finance: 7%
- Agriculture, Fishing & Forestry: 4%

7. ICSID Arbitration and Conciliation Proceedings – Outcomes

Chart 8: Arbitration Proceedings under the ICSID Convention and Additional Facility Rules – Outcomes:

- Dispute decided by Tribunal: 64% (see charts 8a and 8b)
- Dispute settled or proceeding otherwise discontinued: 36% (see charts 8a and 8c)
Chart 8a: Arbitration Proceedings under the ICSID Convention and Additional Facility Rules – Tribunal Rulings, Settlement & Discontinuations:

- **Award upholding claims in part or in full**: 29.1%
- **Award dismissing all claims**: 18.3%
- **Award declining jurisdiction**: 16.1%
- **Award deciding that the claims are manifestly without legal merit**: 0.5%
- **Proceeding discontinued at the request of both parties**: 17.3%
- **Proceeding discontinued at the request of one party**: 9.2%
- **Settlement agreement embodied in an award at parties’ request**: 5.4%
- **Proceeding discontinued at the Initiative of the Tribunal**: 0.2%
- **Proceeding discontinued for lack of payment of the required advances**: 2.9%
- **Proceeding discontinued for failure of parties to act**: 1.0%

- **Dispute decided by Tribunal (64%)**
- **Dispute settled or proceeding otherwise discontinued (36%)**
Cart 8b: Disputes Decided by Arbitral Tribunals under the ICSID Convention and Additional Facility Rules – Findings:

* Pursuant to ICSID Arbitration Rule 41(5) and Article 45(6) of the Arbitration (Additional Facility) Rules, as adopted by the ICSID Administrative Council in 2006, a party may, at an early stage of the proceeding, file an objection that a claim is manifestly without merit. If the Tribunal decides that the claims are manifestly without legal merit, it shall render an award to that effect.

- Award declining jurisdiction 25%
- Award deciding that the claims are manifestly without legal merit* 1%
- Award dismissing all claims 29%
- Award upholding claims in part or in full 45%
Chart 8c: Disputes Settled or Proceedings Otherwise Discontinued under the ICSID Convention and Additional Facility Rules – Basis:

<table>
<thead>
<tr>
<th>Basis</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proceeding discontinued at the request of one party</td>
<td>25%</td>
</tr>
<tr>
<td>Proceeding discontinued at the request of both parties</td>
<td>48%</td>
</tr>
<tr>
<td>Settlement agreement embodied in an award at parties' request</td>
<td>15%</td>
</tr>
<tr>
<td>Proceeding discontinued at the Initiative of the Tribunal</td>
<td>1%</td>
</tr>
<tr>
<td>Proceeding discontinued for lack of payment of the required advances</td>
<td>8%</td>
</tr>
<tr>
<td>Proceeding discontinued for failure of parties to act</td>
<td>3%</td>
</tr>
</tbody>
</table>

1 ICSID Arbitration Rule 44. No case concluded to date on the basis of Arbitration (Additional Facility) Rule 50.
2 ICSID Arbitration Rule 43(2) and Arbitration (Additional Facility) Rule 49(2).
3 In accordance with Article 44 of the ICSID Convention.
5 ICSID Arbitration Rule 45 and Arbitration (Additional Facility) Rule 51.
6 ICSID Arbitration Rule 43(1) and Arbitration (Additional Facility) Rule 49(1).
Chart 9: Conciliation Proceedings under the ICSID Convention and Additional Facility Rules – Outcomes:

Chart 10: Conciliation Proceedings under the ICSID Convention and Additional Facility Rules – Commission Reports:
8. Annulment Proceedings under the ICSID Convention – Outcomes

Chart 11: Awards Rendered and Outcomes in Annulment Proceedings under the ICSID Convention, by Decade:
9. Arbitrators, Conciliators and *ad hoc* Committee Members Appointed in ICSID Cases

**Chart 12:** Arbitrators, Conciliators and *ad hoc* Committee Members Appointed in Cases Registered under the ICSID Convention and Additional Facility Rules – Distribution of Appointments by Geographic Region*:

- **North America** (Canada, Mexico & U.S.) 21%
- **South America** 11%
- **Central America & the Caribbean** 2%
- **Middle East & North Africa** 4%
- **Sub-Saharan Africa** 2%
- **South & East Asia & the Pacific** 11%
- **Eastern Europe & Central Asia** 2%
- **Western Europe** 47%

* The classification of the geographic regions above is based on the World Bank’s regional system, available at http://web.worldbank.org/WEBSITE/EXTERNAL/COUNTRIES/0,,pagePK:180619~theSitePK:136917,00.html, and also includes World Bank donor countries. The chart reflects appointments made to Tribunals and *ad hoc* Committees constituted until December 31, 2016.
Chart 13: Arbitrators, Conciliators and ad hoc Committee Members Appointed in Cases Registered under the ICSID Convention and Additional Facility Rules – Distribution of Appointments by ICSID and by the Parties (or Party-appointed Arbitrators) by Geographic Region*:

* The geographical classification is based on the World Bank’s regions as set forth at http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/0,,pagePK:180619~theSitePK:136917,00.html, and also includes World Bank donor countries. The chart reflects appointments made to Tribunals and ad hoc Committees constituted until December 31, 2016.
Chart 14: State of Nationality of Arbitrators, Conciliators and ad hoc Committee Members Appointed in Cases Registered under the ICSID Convention and Additional Facility Rules:

[Diagram showing the state of nationality and number of appointments for various countries.]

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PART II

CASES REGISTERED AND ADMINISTERED BY ICSID IN 2016
1. New Cases Registered by ICSID in 2016

Chart 1: Number of New Cases Registered under the ICSID Convention and Additional Facility Rules in 2016:

2. Non-ICSID Cases Administered by the ICSID Secretariat in 2016

Chart 2: Number of Non-ICSID Cases Administered by the ICSID Secretariat in 2016:
3. Basis of Consent Invoked to Establish ICSID Jurisdiction in New Cases Registered in 2016

Chart 3: Basis of Consent Invoked to Establish ICSID Jurisdiction in New Cases Registered in 2016 under the ICSID Convention and Additional Facility Rules:

Chart 4: Geographic Distribution of New Cases Registered in 2016 under the ICSID Convention and Additional Facility Rules, by State Party Involved*:

* The classification of the geographic regions above is based on the World Bank’s regional system, available at http://web.worldbank.org/WEBSITE/EXTERNAL/COUNTRIES/0,,pagePK:180619~theSitePK:136917,00.html, and also includes World Bank donor countries.
Chart 5: Geographic Distribution of New Cases Registered in 2016 under the ICSID Convention and Additional Facility Rules, by State Party Involved – Further Details*:

* The classification of the geographic regions above is based on the World Bank’s regional system, available at http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/0,,pagePK:180619~theSitePK:136917,00.html, and also includes World Bank donor countries.
5. Distribution of New ICSID Cases Registered in 2016, by Economic Sector

Chart 6: Distribution of New Cases Registered in 2016 under the ICSID Convention and Additional Facility Rules, by Economic Sector*:

- Agriculture, Fishing & Forestry: 6%
- Oil, Gas & Mining: 21%
- Electric Power & Other Energy: 23%
- Construction: 11%
- Tourism: 8%
- Other Industry: 13%
- Transportation: 6%
- Information & Communication: 8%
- Services & Trade: 2%
- Finance: 2%
- Other Industry: 13%

6. ICSID Arbitration Proceedings Concluded in 2016 – Outcomes

Chart 7: Arbitration Proceedings under the ICSID Convention and Additional Facility Rules concluded in 2016 – Outcomes:
Chart 7a: Disputes Decided by Arbitral Tribunals under the ICSID Convention and Additional Facility Rules in 2016 – Tribunal Rulings, Settlement & Discontinuances:

- Award upholding claims in part or in full (30%)
- Award dismissing all claims (27%)
- Award declining jurisdiction (11%)
- Proceeding discontinued at the request of both parties (18%)
- Proceeding discontinued at the request of one party (5%)
- Settlement agreement embodied in an award at parties’ request (5%)
- Proceeding discontinued for lack of payment of the required advances (2%)
- Proceeding discontinued for failure of parties to act (2%)
- Settlement agreement embodied in an award at parties’ request (5%)

- Dispute decided by Tribunal (68%)
- Dispute settled or proceeding otherwise discontinued (32%)
Chart 7b: Disputes Decided by Arbitral Tribunals under the ICSID Convention and Additional Facility Rules in 2016 – Findings:

- Award dismissing all claims: 40%
- Award declining jurisdiction: 17%
- Award upholding claims in part or in full: 43%
Chart 7c: Disputes Settled or Proceedings Otherwise Discontinued under the ICSID Convention and Additional Facility Rules in 2016 – Basis:

- Proceeding discontinued at the request of one party: 15%
- Proceeding discontinued at the request of both parties: 57%
- Settlement agreement embodied in an award at parties’ request: 14%
- Proceeding discontinued for lack of payment of the required advances: 7%
- Proceeding discontinued for failure of parties to act: 7%
7. Arbitrators, Conciliators and ad hoc Committee Members Appointed in ICSID Cases in 2016

Chart 8: Arbitrators, Conciliators and ad hoc Committee Members Appointed in 2016 in Cases Registered under the ICSID Convention and Additional Facility Rules – Distribution of Appointments by Geographic Region*:

* The classification of the geographic regions above is based on the World Bank’s regional system, available at http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/0,,pagePK:180619~theSitePK:136917,00.html, and also includes World Bank donor countries. The chart reflects appointments made to Tribunals and ad hoc Committees constituted in 2016.
Chart 9: Arbitrators, Conciliators and ad hoc Committee Members Appointed in 2016 in Cases Registered under the ICSID Convention and Additional Facility Rules – Distribution of Appointments by ICSID and by the Parties (or Party-appointed Arbitrators) by Geographic Region*:

* The classification of the geographic regions above is based on the World Bank’s regional system, available at http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/0,,pagePK:180619~theSitePK:136917,00.html, and also includes World Bank donor countries. The chart reflects appointments made to Tribunals and ad hoc Committees constituted in 2016.
Chart 10: State of Nationality of Arbitrators, Conciliators and *ad hoc* Committee Members Appointed in 2016 in Cases Registered under the ICSID Convention and Additional Facility Rules: