

GUIDE TO MEMBERSHIP IN THE ICSID CONVENTION

Introduction

The International Centre for Settlement of Investment Disputes (ICSID) is an intergovernmental organization established in 1966 by the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (also known as the ICSID Convention).

ICSID is one of the five member organizations of the World Bank Group (along with the International Bank for Reconstruction and Development (IBRD), the International Development Association (IDA), the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA)). Each organization serves a different function, yet they all promote the common goals of reducing extreme poverty and boosting shared prosperity. ICSID contributes to these goals by offering an impartial forum for international dispute resolution.

ICSID is the world's leading facility for the arbitration and conciliation of disputes between States and foreign investors, having administered about 70% of all known cases globally. These cases arise under contracts, investment laws, and bilateral and multilateral investment treaties negotiated by Member States. ICSID provides impartial, cost-effective and efficient facilities for the proceedings conducted under its auspices. Independent arbitrators and conciliators appointed in each case are responsible for hearing the evidence and determining the outcome of the dispute before them.

ICSID's governance structure consists of an Administrative Council and a Secretariat. The Administrative Council is composed of one representative of each ICSID Member State. The Chairman of the Administrative Council is the President of the World Bank Group. Each representative has one vote on the Administrative Council. The Chairman does not have a vote.

The ICSID Secretariat administers the cases. The Secretariat consists of approximately 65 staff of diverse backgrounds and nationalities. ICSID assists the parties and the tribunals throughout the process and provides expert support in the administration of cases. It also maintains an active outreach and publications program in the fields of foreign investment law and international investment dispute settlement. The ICSID Secretariat is headed by a Secretary-General, who is elected by the Administrative Council.

The ICSID Convention was opened for signature by States on March 18, 1965 and entered into force on October 14, 1966. As of December 31, 2015, the Convention has been signed and ratified by 152 States. The three official languages of ICSID are English, French and Spanish.

The IBRD is the depositary for the ICSID Convention. It keeps custody of the original Convention, receives signatures and instruments of ratification, and performs related functions set forth in the ICSID Convention.

Eligibility

The ICSID Convention is open for signature on behalf of:

- all States that are members of the International Bank for Reconstruction and Development (IBRD); and
- any other State which is a party to the Statute of the International Court of Justice (ICJ), on the invitation of the ICSID Administrative Council by a vote of two-thirds of its members (Article 67 of the ICSID Convention).

Only a State that has signed the ICSID Convention is eligible to deposit an instrument of ratification, acceptance or approval and thereby become an ICSID Contracting State. The ICSID Convention is not open for accession.

There is no cost to join or maintain membership in ICSID.

The Process

Articles 67 through 75 of the ICSID Convention address membership matters. The process of joining the ICSID Convention consists of the following steps: (i) signature; (ii) ratification; and (iii) entry into force.

➤ *Signature*

A State begins the process of becoming a member State by advising the ICSID Secretary-General of its intent to join ICSID by signing the ICSID Convention.

- An appointment to sign the ICSID Convention is made with the depositary.
- The signature on behalf of a State is affixed at a signing ceremony at the World Bank, located at 1818 H Street, NW, Washington, D.C. 20433, where the original of the ICSID Convention is kept.
- A Head of State, Head of Government or Minister of Foreign Affairs of a State may sign the ICSID Convention on behalf of the State without an instrument of full powers.
- Alternatively, a State may authorize a diplomat or other official to sign the ICSID Convention on its behalf by providing that individual with an instrument of full powers, signed by the Head of State, Head of Government or Minister of Foreign Affairs of the State concerned. A model instrument of full powers is attached as **Annex A**.
- An advance signed copy of the full powers instrument must be sent to ICSID and the depositary for verification prior to the signing ceremony. The representative empowered to sign the Convention provides the original of the instrument of full powers to the officers of the depositary at the signing ceremony.

States that have signed the ICSID Convention are referred to as signatory States.

➤ *Ratification, Acceptance, Approval*

Upon completion of the above steps, the signatory State is entitled to deposit an instrument of ratification, acceptance or approval of the ICSID Convention in order to become a Contracting State (Article 68(1) of the ICSID Convention).

- At the national level, States ratify, accept or approve the ICSID Convention in accordance with their own constitutional procedures on matters relating to treaties.
- At the international level, the State executes an instrument of ratification, acceptance or approval of the ICSID Convention. The instrument recites the title of the Convention, affirms that the Convention has been duly signed and ratified, accepted or approved on behalf of the State, and affirms the State's willingness to carry out the obligations contained in the Convention. The ratification instrument is signed by the Head of State, Head of Government or Minister of Foreign Affairs of the State concerned. A model form of this instrument is attached as **Annex B**.
- The instrument of ratification, acceptance or approval of the ICSID Convention is deposited with the depositary (Article 73 of the ICSID Convention).
- There are two ways to deposit an instrument of ratification, acceptance or approval of the ICSID Convention: (i) in person; or (ii) by mail. In both instances, a copy is sent to the depositary in advance to ensure all formal requirements have been met. When the deposit is made in person, an appointment will be made and the instrument will be handed over to an officer of the depositary. A person depositing the instrument of ratification of the ICSID Convention is not required to produce a full powers instrument. Alternatively, the original of the instrument may be sent to the depositary by mail.

The recorded date of deposit is the date on which the instrument is received by the depositary.

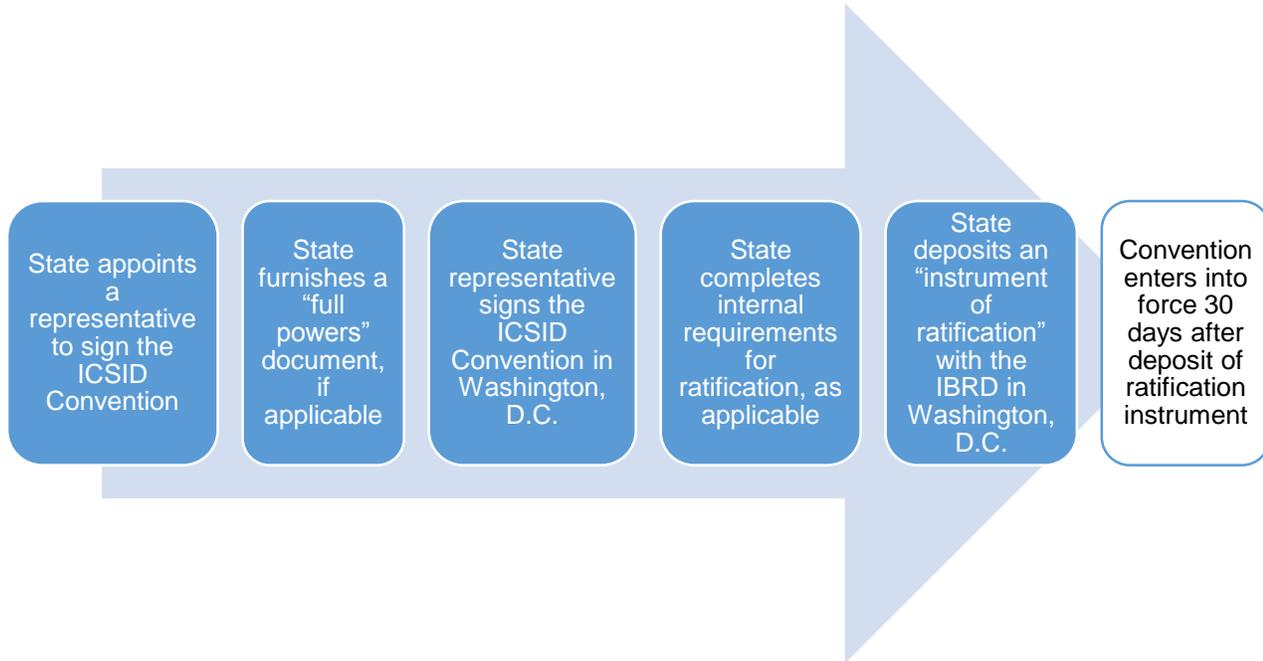
➤ *Entry into force*

The ICSID Convention enters into force for the ratifying State 30 calendar days after the date of deposit of the instrument of ratification, acceptance or approval (Article 68(2) of the ICSID Convention). Once the ICSID Convention enters into force in respect of a State, it becomes legally binding on that State.

States that have completed the membership procedures are referred to as ICSID Contracting States.

Summary

In summary, the steps to ICSID Convention membership are:



For further information on how to join ICSID, please see the [Memorandum on Signature and Ratification, Acceptance or Approval of the ICSID Convention](#) (available on the ICSID website). The Memorandum is a practical guide to the World Bank's depositary practice under the ICSID Convention and is designed for use by States.

State representatives may also contact the ICSID Secretary-General at icsidsecretariat@worldbank.org.

➤ *Translations*

Formal communications addressed to the depositary of the ICSID Convention may be in English, French or Spanish. If the instrument for deposit is drafted in a language other than English, French or Spanish, the State generally provides the depositary with a courtesy translation of the instrument into one of these three languages.

➤ *Contacts*

International Center for Settlement of Investment Disputes (ICSID)
1818 H Street, N.W.
MSN J2-200
Washington, D.C. 20433
USA
Phone No. (202) 458-1534
Fax No. (202) 522-2615
E-mail: ICSIDsecretariat@worldbank.org
Website: <https://icsid.worldbank.org/>

Attributes of ICSID Membership

ICSID is a global intergovernmental organization and the world's leading international investment arbitration institution. Participation in the ICSID Convention offers many unique benefits to Member States. Key advantages include:

- ICSID Member States have access to specialized international investment dispute settlement under the ICSID Convention and the ICSID Additional Facility Rules.
- The ICSID Secretariat is also available to administer proceedings under the UNCITRAL or other sets of arbitration rules, if so requested.
- ICSID Member States participate in the governance of ICSID through representation on the Administrative Council.
- ICSID Member States have the right to propose and vote on amendments to the ICSID Convention and rules.
- ICSID Member States help to write the rules of procedure for the conduct of ICSID arbitration and conciliation proceedings and adopt these by Administrative Council vote.
- ICSID Member States designate the members of the ICSID Panels of Arbitrators and of Conciliators from which adjudicators can be drawn in ICSID cases.
- ICSID Member States make designations and notifications under the ICSID Convention for the purposes of implementing the Convention.
- ICSID Member States create a world-wide network of courts for enforcement of ICSID Convention awards through designations pursuant to Article 54 of the Convention.
- ICSID proceedings offer the most cost-effective option for dispute settlement, with a transparent fee structure and a cap on the daily fees of the arbitrators.
- The ICSID Secretariat offers multilingual proceedings, state-of-the-art hearing facilities around the world, and expert assistance throughout the proceedings from the initial request to the final award.
- ICSID Member States develop expertise in international investment dispute settlement through participation in presentations and training courses for government officials provided around the world by the ICSID Secretariat.
- ICSID Member States receive continuous support from the institutional affairs team of the ICSID Secretariat in all matters relating to membership.

Frequently Asked Questions

➤ *Does the ICSID Convention provide for treaty reservations?*

The ICSID Convention does not provide for treaty reservations. However, a Member State may make notifications and designations upon signature or ratification, or at any time thereafter.

➤ *What kind of designations and notifications can a Member State make?*

- ***Designations***

Member States may designate up to four persons to serve on the Panel of Arbitrators and of Conciliators for a renewable period of six years. These persons may be nationals of the Member State or they may have a different nationality (Articles 14 and 15 of the ICSID Convention).

Member States may also designate a constituent subdivision or agency to extend the jurisdiction of the ICSID Convention to any legal dispute arising directly out of an investment between a Contracting State or the constituent subdivision or agency, and a national of another Contracting State (Article 25(1) and (3) of the ICSID Convention).

Further, Member States may designate the competent court or other authority in its territory for the purposes of recognition or enforcement of an ICSID award (Article 54(2) of the ICSID Convention).

- ***Notifications***

The ICSID Convention applies to all territories for whose international relations a Member State is responsible. However, a Member State may exclude a territory from application of the ICSID Convention by providing a written notice to the depositary (Article 70 of the ICSID Convention).

A Member State may also notify ICSID of the class or classes of dispute that it would or would not consider submitting to the jurisdiction of ICSID (Article 25(4) of the ICSID Convention).

➤ *Can a Member State withdraw from the ICSID Convention?*

A Member State may withdraw from the ICSID Convention by written notice to the depositary (Article 71 of the ICSID Convention). Withdrawal takes effect six months after the date of receipt of the written notice. The ICSID Convention contains provisions to safeguard legal rights and obligations before the withdrawal takes effect (Article 72 of the ICSID Convention).

➤ *Where can a Member State obtain additional information about ICSID?*

The text of the ICSID Convention, other official documents, and information about cases and the institution are available on ICSID's website: <https://icsid.worldbank.org/>

ANNEX A

THE ICSID CONVENTION – MODEL INSTRUMENT OF FULL POWERS

FULL POWERS *

I, [name and title of the Head of State, Head of Government or Minister of Foreign Affairs],

HEREBY AUTHORIZE [name and title of the authorized State official] to sign the Convention on the Settlement of Investment Disputes between States and Nationals of Other States on behalf of [name of State] ^{**}and to deposit with the International Bank for Reconstruction and Development [name of State]'s instrument of [ratification, acceptance, approval] of the said Convention in accordance with Articles 68 and 73 of the Convention].

Done at [place] on [date].

[Signature]^{***}

*The style of this model form is subject to modification if required to conform to the diplomatic usage of the prospective member.

** As appropriate.

*** To be signed by Head of State, Head of Government or Minister of Foreign Affairs.

ANNEX B

THE ICSID CONVENTION – MODEL INSTRUMENT OF RATIFICATION, ACCEPTANCE OR APPROVAL

RATIFICATION / ACCEPTANCE / APPROVAL*

WHEREAS the Convention on the Settlement of Investment Disputes between States and Nationals of Other States was duly signed on behalf of [name of State] on [date];

WHEREAS Articles 68 of the said Convention provides for the ratification, acceptance or approval by the signatory States;

NOW THEREFORE, I [name and title of Head of State, Head of Government or Minister of Foreign Affairs] certify that the Government of [name of State] [ratifies, accepts, approves] the said Convention and undertakes faithfully to observe and perform all obligations therein contained.

IN WITNESS WHEREOF, I have signed and sealed this Instrument of [Ratification / Acceptance / Approval].

DONE at [place] on [date].

[Signature]**

*The style of this model form is subject to modification if required to conform to the diplomatic usage of the prospective member, subject to the special stipulations concerning content in the *Memorandum on Signature and Ratification, Acceptance or Approval of the ICSID Convention*.

** To be signed by Head of State, Head of Government, or Minister of Foreign Affairs.