



# ICSID

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

**2011**  
**ANNUAL**  
**REPORT**





# ICSID

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

# 2011 ANNUAL REPORT



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INTERNATIONAL CENTRE FOR SETTLEMENT OF  
INVESTMENT DISPUTES

September 9, 2011

Dear Mr. Chairman,

Pursuant to Administrative and Financial Regulation 5(4), I am pleased to submit to the Administrative Council for its approval the Annual Report on the operation of the International Centre for Settlement of Investment Disputes required by Article 6(1)(g) of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States. This Annual Report covers the fiscal year from July 1, 2010 to June 30, 2011.

The Report includes the audited financial statements of the Centre, presented pursuant to Administrative and Financial Regulation 19.

Yours sincerely,

Meg Kinnear  
Secretary-General

Mr. Robert B. Zoellick  
Chairman  
Administrative Council  
International Centre for Settlement of Investment Disputes

# SECRETARIAT OF THE INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

JUNE 30, 2011

Meg Kinnear, Secretary-General

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Zwelethu Mthethwa, South Africa  
*Waiting*, 1996



## CHAPTER 1 INTRODUCTION

The Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the ICSID Convention) is a multilateral international treaty that came into force in 1966. Inspired by the desire to increase cross-border flows of private capital, the Convention sought to create a positive investment climate by depoliticizing investment disputes. The vehicle to achieve this goal was the creation of a neutral, independent, and effective facility for resolution of investment disputes under the auspices of the World Bank. That facility is the International Centre for Settlement of Investment Disputes (ICSID).

The design of the ICSID system is very much the product of its purpose. Use of ICSID facilities is voluntary, and requires consent of both the investor and the State concerned. Once such consent is given, it cannot be withdrawn unilaterally and it becomes a binding undertaking. Perhaps the

most unique feature of ICSID is that it is the only arbitral system that is de-localized from national jurisdictions, or self-contained. Proceedings are conducted under the ICSID rules of procedure by a neutral panel of arbitrators or conciliators. National courts may not intervene in an ICSID proceeding, and the ICSID Convention provides the sole mechanism for recourse against an ICSID award (ICSID Convention, Article 53). In turn, the ICSID Convention imposes an obligation on each member State to recognize an ICSID award as binding and to enforce its pecuniary obligations “as if it were a final judgment of a court in that State” (ICSID Convention, Article 54). This aspect of ICSID is especially important to ensuring that all facility users are confident in the neutrality and efficacy of the process.

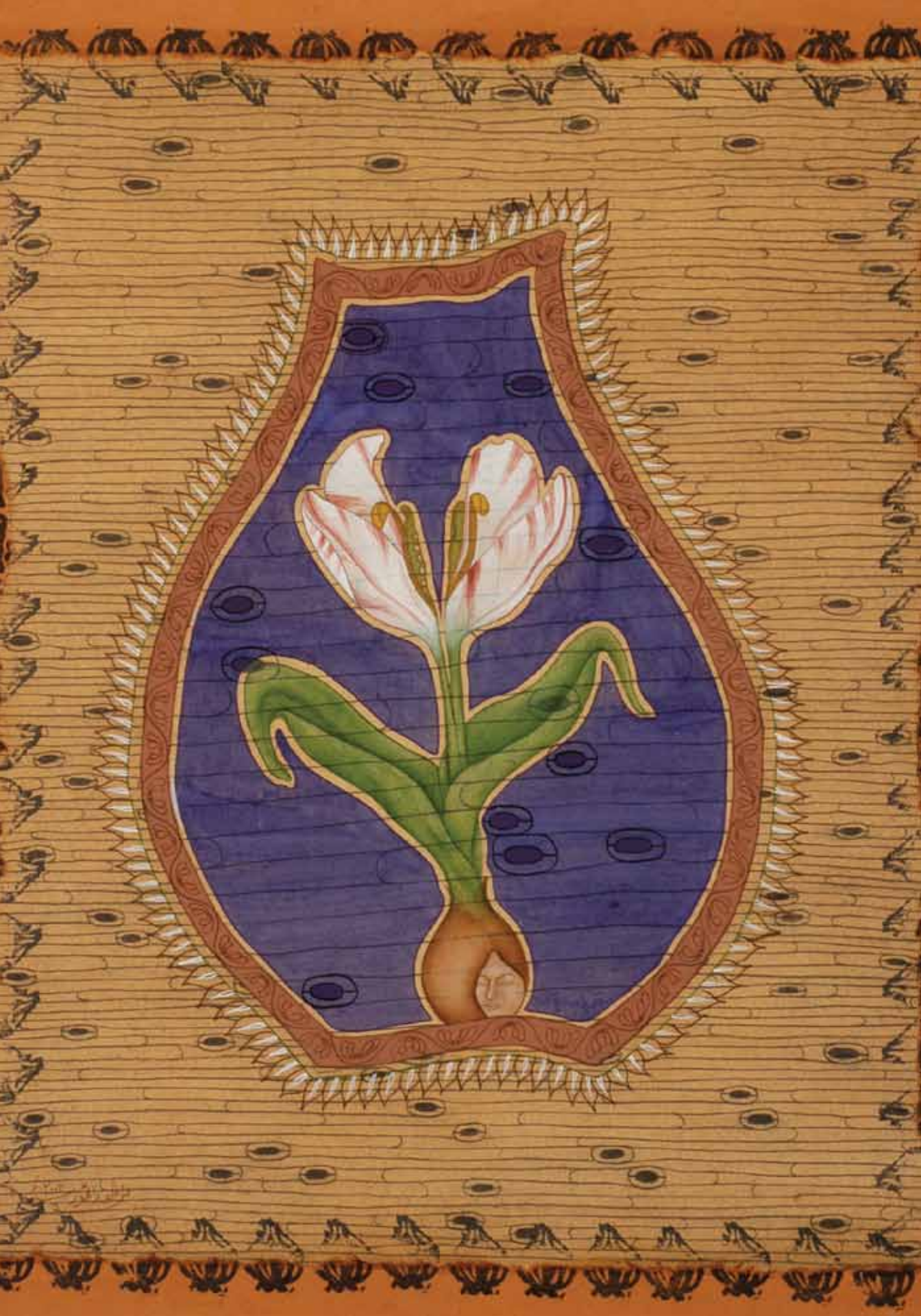
The ICSID system is now 45 years old, and ICSID remains a unique legal institution. ICSID has seen unprecedented growth since its first case was instituted in 1972. ICSID has established itself as the premier facility in international investment dispute settlement and takes pride in being a leader in the field. Confidence in the ICSID system continues, demonstrated by the increase in membership to 147 Contracting States and a 20% growth in caseload in FY2011.

As always, the Centre remains dedicated to meeting the needs of facility users and providing expert, timely, and cost-effective service. Numerous initiatives have been taken in FY2011 to improve our capacity to meet user needs. We have improved our knowledge management tools, made organizational changes within the Secretariat, increased staffing, developed best practices in case administration, and offered new technical assistance programs. These initiatives are detailed in chapters 4 and 5 of this Annual Report and will continue in FY2012.

It is a privilege to serve as Secretary-General of ICSID and I would like to thank ICSID member States and facility users for their confidence in the Centre. I would also like to thank the Centre staff for their extraordinary support, dedication, and hard work over the year. It is inspiring to work in an international institution dedicated to serving the public good and we will continue to make every effort to fulfill the promise of the ICSID system.

Meg Kinnear  
Secretary-General





## CHAPTER 2

# MEMBERSHIP

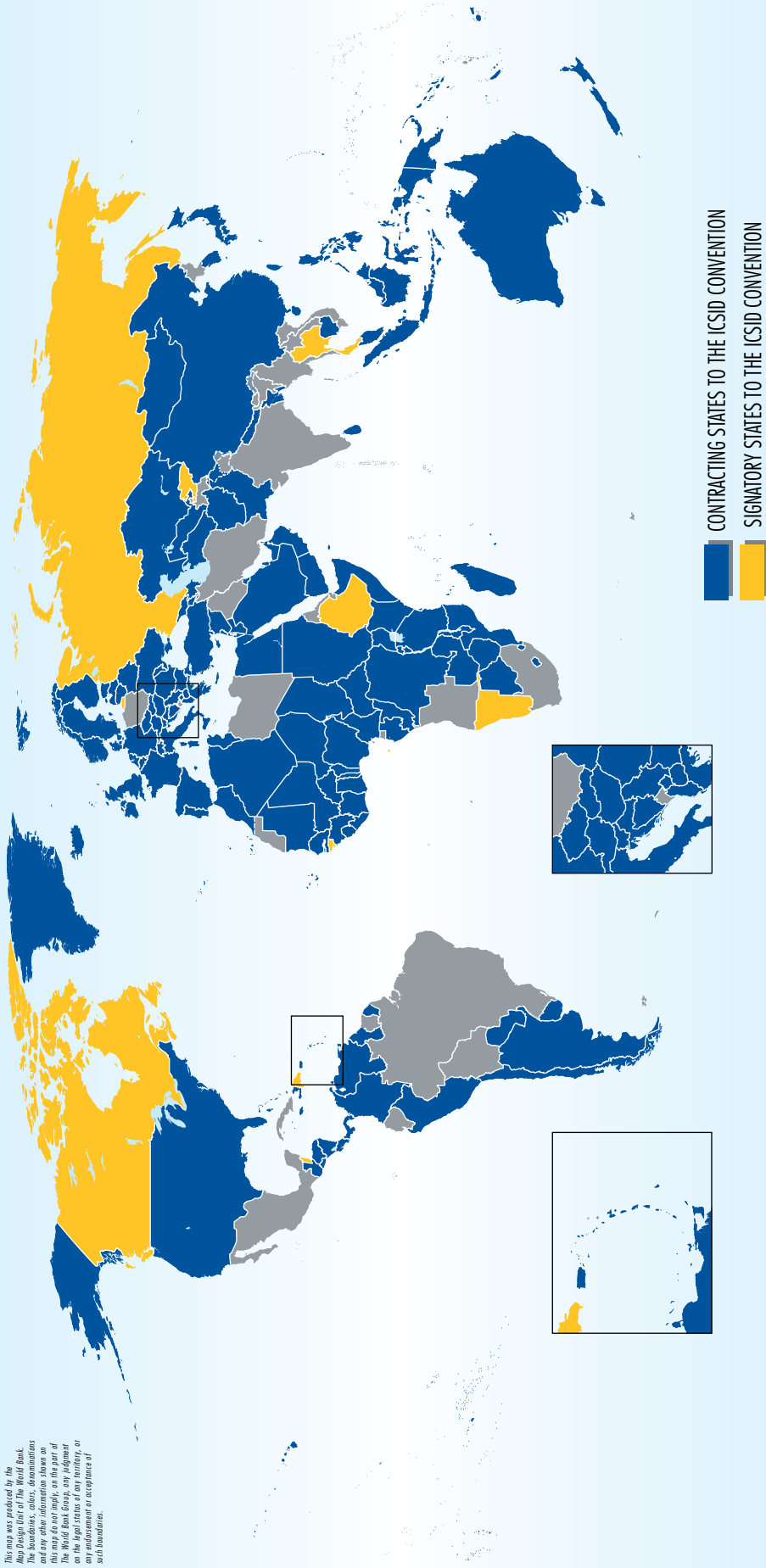
As of June 30, 2011, 157 States were signatory to the ICSID Convention. Of these, 147 States are ICSID Contracting States by virtue of their having deposited instruments of ratification, acceptance or approval of the ICSID Convention.

On September 30, 2010, the State of Qatar signed the ICSID Convention and deposited its instrument of ratification of the Convention with the International Bank for Reconstruction and Development on December 21, 2010. The Republic of Cape Verde signed the ICSID Convention on December 20, 2010 and within the same month deposited its instrument of ratification on December 27, 2010. The ICSID Convention entered into force for the State of Qatar on January 20, 2011 and for the Republic of Cape Verde on January 26, 2011.

Having signed the ICSID Convention on August 12, 1992, the Republic of Moldova deposited its instrument of ratification on May 5, 2011. On its ratification of the Convention, the Republic of Moldova notified the depositary pursuant to Article 70 of the ICSID Convention of the exclusion of certain territory from the coverage of the Convention. The ICSID Convention entered into force for the Republic of Moldova on June 4, 2011.

A map showing the distribution of the current ICSID membership and a complete list of the Contracting States and other signatories of the ICSID Convention follow.

This map was produced by the Map Design Unit of the World Bank. The boundaries, colors, denominations and any other information shown on this map do not imply, on the part of the World Bank, any judgment on the legal status of any country, territory, or other area, or on its endorsement or acceptance of such boundaries.





# LIST OF CONTRACTING STATES AND OTHER SIGNATORIES OF THE CONVENTION

AS OF JUNE 30, 2011

The 157 States listed below have signed the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States on the dates indicated. The names of the 147 States that have deposited their instruments of ratification are in bold, and the dates of such deposit and of the attainment of the status of Contracting State by the entry into force of the Convention for each of them are also indicated.

State	Signature	Deposit of Ratification	Entry into Force of Convention
Afghanistan	Sep. 30, 1966	June 25, 1968	July 25, 1968
Albania	Oct. 15, 1991	Oct. 15, 1991	Nov. 14, 1991
Algeria	Apr. 17, 1995	Feb. 21, 1996	Mar. 22, 1996
Argentina	May 21, 1991	Oct. 19, 1994	Nov. 18, 1994
Armenia	Sep. 16, 1992	Sep. 16, 1992	Oct. 16, 1992
Australia	Mar. 24, 1975	May 2, 1991	June 1, 1991
Austria	May 17, 1966	May 25, 1971	June 24, 1971
Azerbaijan	Sep. 18, 1992	Sep. 18, 1992	Oct. 18, 1992
Bahamas, The	Oct. 19, 1995	Oct. 19, 1995	Nov. 18, 1995
Bahrain	Sep. 22, 1995	Feb. 14, 1996	Mar. 15, 1996
Bangladesh	Nov. 20, 1979	Mar. 27, 1980	Apr. 26, 1980
Barbados	May 13, 1981	Nov. 1, 1983	Dec. 1, 1983
Belarus	July 10, 1992	July 10, 1992	Aug. 9, 1992
Belgium	Dec. 15, 1965	Aug. 27, 1970	Sep. 26, 1970
Belize	Dec. 19, 1986		
Benin	Sep. 10, 1965	Sep. 6, 1966	Oct. 14, 1966
Bosnia and Herzegovina	Apr. 25, 1997	May 14, 1997	June 13, 1997
Botswana	Jan. 15, 1970	Jan. 15, 1970	Feb. 14, 1970
Brunei Darussalam	Sep. 16, 2002	Sep. 16, 2002	Oct. 16, 2002
Bulgaria	Mar. 21, 2000	Apr. 13, 2001	May 13, 2001
Burkina Faso	Sep. 16, 1965	Aug. 29, 1966	Oct. 14, 1966
Burundi	Feb. 17, 1967	Nov. 5, 1969	Dec. 5, 1969
Cambodia	Nov. 5, 1993	Dec. 20, 2004	Jan. 19, 2005
Cameroon	Sep. 23, 1965	Jan. 3, 1967	Feb. 2, 1967
Canada	Dec. 15, 2006		
Cape Verde	Dec. 20, 2010	Dec. 27, 2010	Jan. 26, 2011
Central African Republic	Aug. 26, 1965	Feb. 23, 1966	Oct. 14, 1966
Chad	May 12, 1966	Aug. 29, 1966	Oct. 14, 1966
Chile	Jan. 25, 1991	Sep. 24, 1991	Oct. 24, 1991

State	Signature	Deposit of Ratification	Entry into Force of Convention
China	Feb. 9, 1990	Jan. 7, 1993	Feb. 6, 1993
Colombia	May 18, 1993	July 15, 1997	Aug. 14, 1997
Comoros	Sep. 26, 1978	Nov. 7, 1978	Dec. 7, 1978
Congo, Democratic Rep. of	Oct. 29, 1968	Apr. 29, 1970	May 29, 1970
Congo, Rep. of	Dec. 27, 1965	June 23, 1966	Oct. 14, 1966
Costa Rica	Sep. 29, 1981	Apr. 27, 1993	May 27, 1993
Côte d'Ivoire	June 30, 1965	Feb. 16, 1966	Oct. 14, 1966
Croatia	June 16, 1997	Sep. 22, 1998	Oct. 22, 1998
Cyprus	Mar. 9, 1966	Nov. 25, 1966	Dec. 25, 1966
Czech Republic	Mar. 23, 1993	Mar. 23, 1993	Apr. 22, 1993
Denmark	Oct. 11, 1965	Apr. 24, 1968	May 24, 1968
Dominican Republic	Mar. 20, 2000		
Egypt, Arab Rep. of	Feb. 11, 1972	May 3, 1972	June 2, 1972
El Salvador	June 9, 1982	Mar. 6, 1984	Apr. 5, 1984
Estonia	June 23, 1992	June 23, 1992	July 23, 1992
Ethiopia	Sep. 21, 1965		
Fiji	July 1, 1977	Aug. 11, 1977	Sep. 10, 1977
Finland	July 14, 1967	Jan. 9, 1969	Feb. 8, 1969
France	Dec. 22, 1965	Aug. 21, 1967	Sep. 20, 1967
Gabon	Sep. 21, 1965	Apr. 4, 1966	Oct. 14, 1966
Gambia, The	Oct. 1, 1974	Dec. 27, 1974	Jan. 26, 1975
Georgia	Aug. 7, 1992	Aug. 7, 1992	Sep. 6, 1992
Germany	Jan. 27, 1966	Apr. 18, 1969	May 18, 1969
Ghana	Nov. 26, 1965	July 13, 1966	Oct. 14, 1966
Greece	Mar. 16, 1966	Apr. 21, 1969	May 21, 1969
Grenada	May 24, 1991	May 24, 1991	June 23, 1991
Guatemala	Nov. 9, 1995	Jan. 21, 2003	Feb. 20, 2003
Guinea	Aug. 27, 1968	Nov. 4, 1968	Dec. 4, 1968
Guinea-Bissau	Sep. 4, 1991		
Guyana	July 3, 1969	July 11, 1969	Aug. 10, 1969
Haiti	Jan. 30, 1985	Oct. 27, 2009	Nov. 26, 2009
Honduras	May 28, 1986	Feb. 14, 1989	Mar. 16, 1989
Hungary	Oct. 1, 1986	Feb. 4, 1987	Mar. 6, 1987
Iceland	July 25, 1966	July 25, 1966	Oct. 14, 1966
Indonesia	Feb. 16, 1968	Sep. 28, 1968	Oct. 28, 1968

State	Signature	Deposit of Ratification	Entry into Force of Convention
Ireland	Aug. 30, 1966	Apr. 7, 1981	May 7, 1981
Israel	June 16, 1980	June 22, 1983	July 22, 1983
Italy	Nov. 18, 1965	Mar. 29, 1971	Apr. 28, 1971
Jamaica	June 23, 1965	Sep. 9, 1966	Oct. 14, 1966
Japan	Sep. 23, 1965	Aug. 17, 1967	Sep. 16, 1967
Jordan	July 14, 1972	Oct. 30, 1972	Nov. 29, 1972
Kazakhstan	July 23, 1992	Sep. 21, 2000	Oct. 21, 2000
Kenya	May 24, 1966	Jan. 3, 1967	Feb. 2, 1967
Korea, Rep. of	Apr. 18, 1966	Feb. 21, 1967	Mar. 23, 1967
Kosovo, Rep. of	June 29, 2009	June 29, 2009	July 29, 2009
Kuwait	Feb. 9, 1978	Feb. 2, 1979	Mar. 4, 1979
Kyrgyz Republic	June 9, 1995		
Latvia	Aug. 8, 1997	Aug. 8, 1997	Sep. 7, 1997
Lebanon	Mar. 26, 2003	Mar. 26, 2003	Apr. 25, 2003
Lesotho	Sep. 19, 1968	July 8, 1969	Aug. 7, 1969
Liberia	Sep. 3, 1965	June 16, 1970	July 16, 1970
Lithuania	July 6, 1992	July 6, 1992	Aug. 5, 1992
Luxembourg	Sep. 28, 1965	July 30, 1970	Aug. 29, 1970
Macedonia, former Yugoslav Rep. of	Sep. 16, 1998	Oct. 27, 1998	Nov. 26, 1998
Madagascar	June 1, 1966	Sep. 6, 1966	Oct. 14, 1966
Malawi	June 9, 1966	Aug. 23, 1966	Oct. 14, 1966
Malaysia	Oct. 22, 1965	Aug. 8, 1966	Oct. 14, 1966
Mali	Apr. 9, 1976	Jan. 3, 1978	Feb. 2, 1978
Malta	Apr. 24, 2002	Nov. 3, 2003	Dec. 3, 2003
Mauritania	July 30, 1965	Jan. 11, 1966	Oct. 14, 1966
Mauritius	June 2, 1969	June 2, 1969	July 2, 1969
Micronesia, Federated States of	June 24, 1993	June 24, 1993	July 24, 1993
Moldova	Aug. 12, 1992	May 5, 2011	June 4, 2011
Mongolia	June 14, 1991	June 14, 1991	July 14, 1991
Morocco	Oct. 11, 1965	May 11, 1967	June 10, 1967
Mozambique	Apr. 4, 1995	June 7, 1995	July 7, 1995
Namibia	Oct. 26, 1998		
Nepal	Sep. 28, 1965	Jan. 7, 1969	Feb. 6, 1969
Netherlands	May 25, 1966	Sep. 14, 1966	Oct. 14, 1966

State	Signature	Deposit of Ratification	Entry into Force of Convention
New Zealand	Sep. 2, 1970	Apr. 2, 1980	May 2, 1980
Nicaragua	Feb. 4, 1994	Mar. 20, 1995	Apr. 19, 1995
Niger	Aug. 23, 1965	Nov. 14, 1966	Dec. 14, 1966
Nigeria	July 13, 1965	Aug. 23, 1965	Oct. 14, 1966
Norway	June 24, 1966	Aug. 16, 1967	Sep. 15, 1967
Oman	May 5, 1995	July 24, 1995	Aug. 23, 1995
Pakistan	July 6, 1965	Sep. 15, 1966	Oct. 15, 1966
Panama	Nov. 22, 1995	Apr. 8, 1996	May 8, 1996
Papua New Guinea	Oct. 20, 1978	Oct. 20, 1978	Nov. 19, 1978
Paraguay	July 27, 1981	Jan. 7, 1983	Feb. 6, 1983
Peru	Sep. 4, 1991	Aug. 9, 1993	Sep. 8, 1993
Philippines	Sep. 26, 1978	Nov. 17, 1978	Dec. 17, 1978
Portugal	Aug. 4, 1983	July 2, 1984	Aug. 1, 1984
Qatar	Sep. 30, 2010	Dec. 21, 2010	Jan. 20, 2011
Romania	Sep. 6, 1974	Sep. 12, 1975	Oct. 12, 1975
Russian Federation	June 16, 1992		
Rwanda	Apr. 21, 1978	Oct. 15, 1979	Nov. 14, 1979
Samoa	Feb. 3, 1978	Apr. 25, 1978	May 25, 1978
Sao Tome and Principe	Oct. 1, 1999		
Saudi Arabia	Sep. 28, 1979	May 8, 1980	June 7, 1980
Senegal	Sep. 26, 1966	Apr. 21, 1967	May 21, 1967
Serbia	May 9, 2007	May 9, 2007	June 8, 2007
Seychelles	Feb. 16, 1978	Mar. 20, 1978	Apr. 19, 1978
Sierra Leone	Sep. 27, 1965	Aug. 2, 1966	Oct. 14, 1966
Singapore	Feb. 2, 1968	Oct. 14, 1968	Nov. 13, 1968
Slovak Republic	Sep. 27, 1993	May 27, 1994	June 26, 1994
Slovenia	Mar. 7, 1994	Mar. 7, 1994	Apr. 6, 1994
Solomon Islands	Nov. 12, 1979	Sep. 8, 1981	Oct. 8, 1981
Somalia	Sep. 27, 1965	Feb. 29, 1968	Mar. 30, 1968
Spain	Mar. 21, 1994	Aug. 18, 1994	Sept. 17, 1994
Sri Lanka	Aug. 30, 1967	Oct. 12, 1967	Nov. 11, 1967
St. Kitts & Nevis	Oct. 14, 1994	Aug. 4, 1995	Sep. 3, 1995
St. Lucia	June 4, 1984	June 4, 1984	July 4, 1984
St. Vincent and the Grenadines	Aug. 7, 2001	Dec. 16, 2002	Jan. 15, 2003
Sudan	Mar. 15, 1967	Apr. 9, 1973	May 9, 1973

State	Signature	Deposit of Ratification	Entry into Force of Convention
Swaziland	Nov. 3, 1970	June 14, 1971	July 14, 1971
Sweden	Sep. 25, 1965	Dec. 29, 1966	Jan. 28, 1967
Switzerland	Sep. 22, 1967	May 15, 1968	June 14, 1968
Syria	May 25, 2005	Jan. 25, 2006	Feb. 24, 2006
Tanzania	Jan. 10, 1992	May 18, 1992	June 17, 1992
Thailand	Dec. 6, 1985		
Timor-Leste	July 23, 2002	July 23, 2002	Aug. 22, 2002
Togo	Jan. 24, 1966	Aug. 11, 1967	Sep. 10, 1967
Tonga	May 1, 1989	Mar. 21, 1990	Apr. 20, 1990
Trinidad and Tobago	Oct. 5, 1966	Jan. 3, 1967	Feb. 2, 1967
Tunisia	May 5, 1965	June 22, 1966	Oct. 14, 1966
Turkey	June 24, 1987	Mar. 3, 1989	Apr. 2, 1989
Turkmenistan	Sep. 26, 1992	Sep. 26, 1992	Oct. 26, 1992
Uganda	June 7, 1966	June 7, 1966	Oct. 14, 1966
Ukraine	Apr. 3, 1998	June 7, 2000	July 7, 2000
United Arab Emirates	Dec. 23, 1981	Dec. 23, 1981	Jan. 22, 1982
United Kingdom of Great Britain and Northern Ireland	May 26, 1965	Dec. 19, 1966	Jan. 18, 1967
United States of America	Aug. 27, 1965	June 10, 1966	Oct. 14, 1966
Uruguay	May 28, 1992	Aug. 9, 2000	Sep. 8, 2000
Uzbekistan	Mar. 17, 1994	July 26, 1995	Aug. 25, 1995
Venezuela	Aug. 18, 1993	May 2, 1995	June 1, 1995
Yemen, Republic of	Oct. 28, 1997	Oct. 21, 2004	Nov. 20, 2004
Zambia	June 17, 1970	June 17, 1970	July 17, 1970
Zimbabwe	Mar. 25, 1991	May 20, 1994	June 19, 1994

Dolorosa Sinaga, Indonesia  
*Solidarity*



## CHAPTER 3

# PANELS OF CONCILIATORS AND OF ARBITRATORS

The ICSID Convention requires the Centre to maintain a Panel of Conciliators and a Panel of Arbitrators. Under Article 13 of the Convention, each Contracting State may designate up to four persons to each Panel. The designees serve for a renewable period of six years and may be nationals or non-nationals of the designating country. In addition, up to ten persons may be designated to each Panel by the Chairman of the ICSID Administrative Council.

The Panels are an important component of the ICSID system of dispute settlement. When the Chairman of the Administrative Council is called upon to appoint conciliators, arbitrators or *ad hoc* Committee members under Articles 30, 38 or 52 of the ICSID Convention, these appointees must be drawn from the Panels. With an increasing ICSID caseload, it has become ever more important for States to exercise their right to designate nominees to the ICSID Panels. To this end, the Centre continues to encourage States to name qualified candidates where nominations have expired or the panels are otherwise incomplete.

During FY2011, eleven ICSID Contracting States made designations to the ICSID Panels, namely, Albania, Australia, Burundi, Costa Rica, Lebanon, Paraguay, Peru, Portugal, the Slovak Republic, Somalia, and Spain. Thirty-seven persons were designated or re-designated to the Panels. At the end of FY2011, there were 526 individuals on the ICSID Panels of Conciliators and of Arbitrators.

Details about the designations to the ICSID Panels made in FY2011 are provided below.

## ALBANIA

*Panels of Conciliators and of Arbitrators*

Designations effective June 16, 2011:

Eris Hysi, Inida Methoxha, Adrian Neritani, and Masim Qoku

## COSTA RICA

*Panels of Conciliators and of Arbitrators*

Designations effective July 26, 2010:

Rodrigo Barahona Israel, Thomas Buergenthal, Rodrigo Oreamuno, and Oscar Solcy Soler

## AUSTRALIA

*Panel of Conciliators*

Designations effective July 7, 2010:

Neil Brown, Ian Hanger, Henry Jolson, and Laurence Street

## LEBANON

*Panel of Arbitrators*

Designations effective July 6, 2010:

Ghaleb S. Mahmassani and Nathalie Najjar

*Panel of Arbitrators*

Designations effective July 7, 2010:

Gavan Griffith, Doug Jones, Michael Kirby, and Michael C. Pryles

## PARAGUAY

*Panel of Arbitrators*

Designations effective September 17, 2010:

Rafael Llano Oddone and Diego Zavala Serrati

## BURUNDI

*Panel of Arbitrators*

Designations effective September 17, 2010:

Nicolas Angelet, Sixte Sizimwe Kazirukanyo, Gérard Niyugeko, and Fabien Segatwa

## PERU

*Panels of Conciliators and of Arbitrators*

Designations effective March 22, 2011:

Eduardo Ferrero Costa, Delia Revoredo de Mur, Alfonso De los Heros Pérez Albela, and Shoschana Zusman Tinman



## PORTUGAL

### *Panel of Conciliators*

Designation effective March 16, 2011:  
José Manuel Ribeiro Sérulo Correia

### *Panel of Arbitrators*

Designation effective March 16, 2011:  
Miguel Galvão Teles

### *Panels of Conciliators and of Arbitrators*

Designations effective March 16, 2011:  
José Miguel Júdice, Agostinho Miranda, and  
Dário Moura Vicente

## SLOVAK REPUBLIC

### *Panel of Arbitrators*

Designation effective July 7, 2010:  
David A. Pawlak

## SOMALIA

### *Panel of Arbitrators*

Designation effective October 28, 2010:  
Abdu Lqawi Ahmed Yusuf

## SPAIN

### *Panels of Conciliators and of Arbitrators*

Designations effective July 14, 2010:  
Bernardo M. Cremades and José Carlos  
Fernández Rozas



# CHAPTER 4

## OPERATIONS OF THE CENTRE

### GENERAL OVERVIEW

#### ICSID Cases

ICSID is an autonomous international institution established under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the ICSID or the Washington Convention). Its primary purpose is to provide facilities for conciliation and arbitration of international investment disputes.

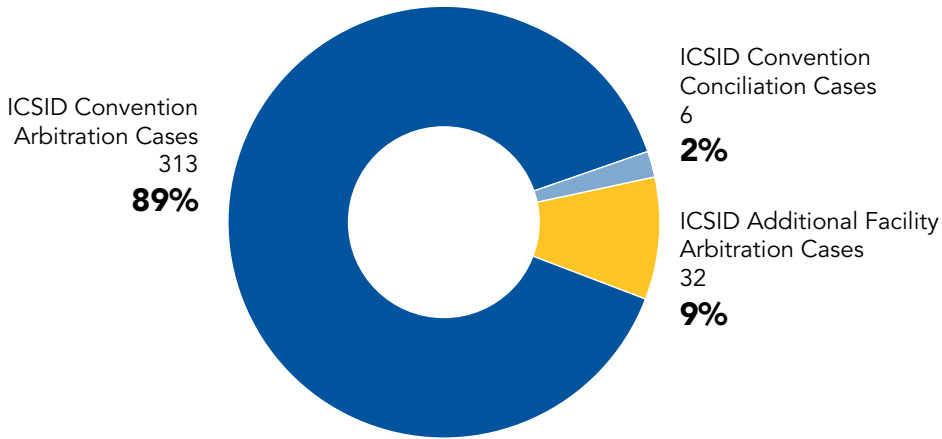
The Centre itself does not conciliate or arbitrate disputes; rather, it provides the institutional and procedural framework for independent Conciliation Commissions, arbitral tribunals, and *ad hoc* Committees constituted in each case to resolve the dispute. Two sets of procedural rules may govern the initiation and conduct of cases under the Centre's auspices. These are the ICSID Convention, Regulations and Rules or the ICSID Additional Facility Rules.

Disputes under the ICSID Convention must be between an ICSID Contracting State and a national of another ICSID Contracting State. Additionally, the dispute must be a legal dispute arising directly out of an investment and the disputing parties must have consented in writing to the submission of their dispute to ICSID.

Conciliation and arbitration under the ICSID Additional Facility Rules have been available since 1978. These rules allow the ICSID Secretariat to administer conciliation and arbitration of investment disputes where either the State party or the home State of the foreign investor is not an ICSID Contracting State. They also authorize conciliation and arbitration of disputes that do not arise directly out of an investment where at least one of the disputing parties is a Contracting State or a national of a Contracting State. In addition, the Additional Facility Rules offer fact-finding proceedings.

The vast majority of cases before the Centre are arbitrations administered under the ICSID Convention.

### Types of Cases Registered under the ICSID Rules

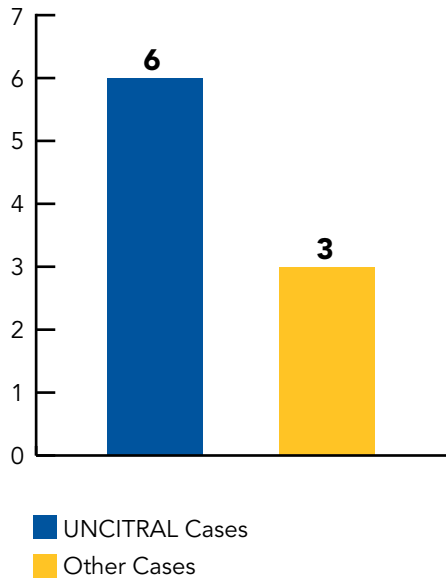


### Non-ICSID Cases

The ICSID Secretariat also administers international dispute settlement proceedings under other rules or treaties. In particular, the Secretariat frequently assists parties and tribunals in investor-State arbitrations conducted under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL). The services provided in UNCITRAL proceedings are similar to those available under the ICSID Rules, ranging from handling specific aspects of a case to full administrative services. In the past fiscal year, the Centre administered 4 UNCITRAL proceedings. Two of these proceedings concluded with an award and 2 further cases are currently pending. The Secretary-General also acted as appointing authority in 2 UNCITRAL cases following a request by the parties involved.

Finally, the ICSID Secretariat offers administrative and logistical services for other international dispute proceedings including arbitrations conducted under the auspices of other arbitral institutions. In the course of FY2011, the Centre assisted with the organization of hearings in cases administered by the London Court of International Arbitration, the Permanent Court of Arbitration, and the International Chamber of Commerce.

### Non-ICSID Cases Administered by ICSID in FY2011



### General Overview of ICSID Convention Arbitration

An ICSID Convention arbitration is initiated by the submission of a Request for Arbitration to the Secretary-General of ICSID. The Request is filed by the potential Claimant and outlines the facts and legal issues to be addressed. The Request must be registered unless the dispute is manifestly outside the jurisdiction of ICSID. On average, Requests for Arbitration are processed within a month of being filed at ICSID.

The next procedural step is constitution of the arbitral tribunal. The ICSID Arbitration Rules allow significant flexibility regarding the number of arbitrators and the method of their appointment. In most instances, the tribunals consist of 3 arbitrators: 1 arbitrator appointed by each party, and the third, presiding, arbitrator appointed by agreement of the parties or by their party-appointed arbitrators. The parties may also ask the Centre to assist with the appointment of arbitrators, either in accordance with a previous agreement or pursuant to the default provisions in the ICSID Rules.

Proceedings are deemed to have begun once the tribunal is constituted. The tribunal holds a first session within 60 days of its constitution. Preliminary questions of procedure are dealt with at the first session. Subsequently, the proceeding usually comprises 2 distinct phases: a written procedure followed by in-person hearings. After the parties present their case, the tribunal deliberates and renders its award.

Once an ICSID Convention award is rendered, it is binding and not subject to any appeal or other remedy except those provided by the Convention. The Convention allows the parties to request a supplementary decision or rectification of the award, or to seek the post-award remedies of annulment, interpretation or revision.

**Conduct of an ICSID Convention Arbitration**

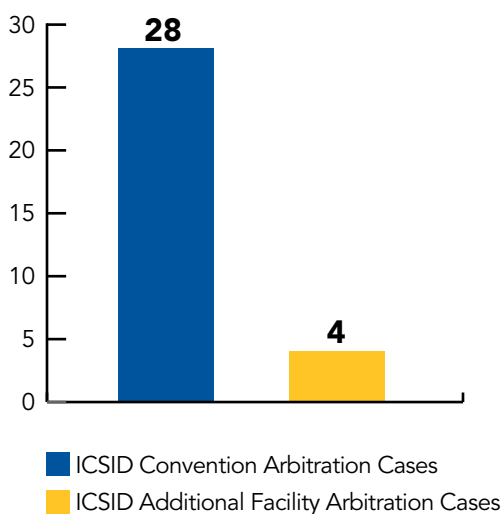


## ADMINISTRATION OF PROCEEDINGS IN FY2011

### New ICSID Cases Registered in FY2011

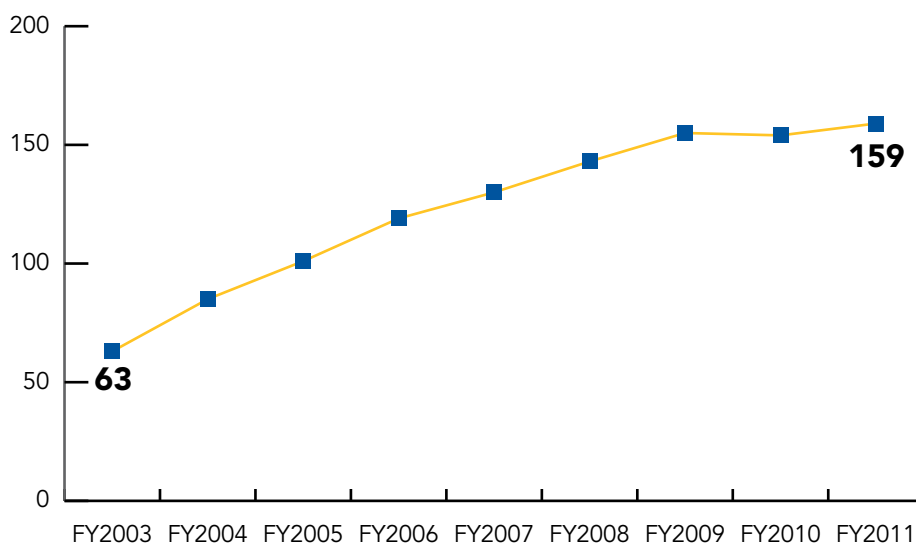
In the past fiscal year, the number of ICSID cases continued to increase: 32 new arbitration proceedings were registered. Twenty-eight of the new cases registered in FY2011 are being conducted under the ICSID Convention, and 4 are under the Additional Facility Rules.

#### Cases Registered under the ICSID Convention and Additional Facility Rules in FY2011



This represents a 20% increase over the number of cases registered during FY2010 and continues a trend which began in the mid 1990s of increasing resort to investor-State arbitration. As of June 30, 2011, the Centre had registered 351 ICSID cases since its establishment. Of those, 159 ICSID cases were administered by the Centre during the past year. This represents the largest caseload managed by the Secretariat in a single fiscal year.

### ICSID Cases Administered by the Secretariat (FY2003–FY2011)

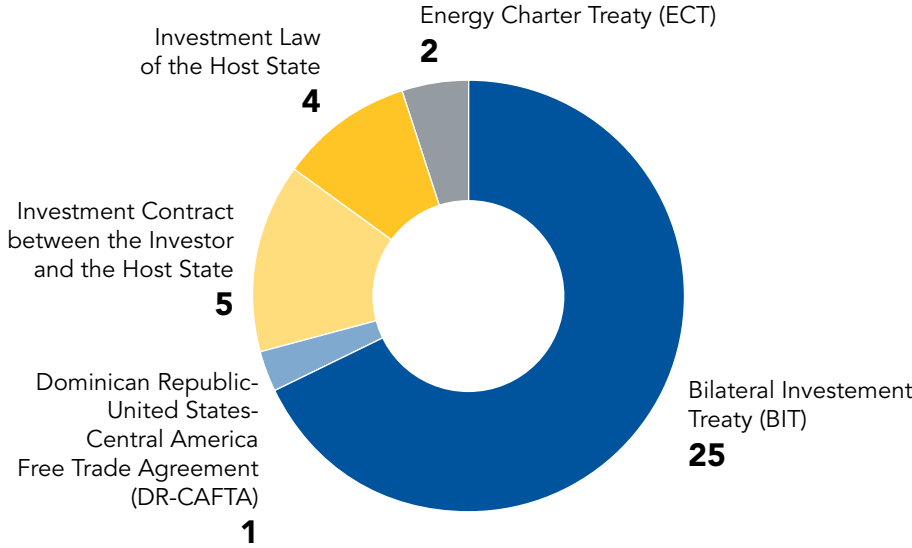


Arbitration and conciliation under the Convention are entirely voluntary. The basis of the parties' consent to ICSID jurisdiction can be found in a variety of sources, including investment laws, contracts concluded between a foreign investor and the host State of the investment, and bilateral or multilateral treaties.

Of the 32 new arbitration cases registered in FY2011, the vast majority (25 cases) asserted ICSID jurisdiction on the basis of a bilateral investment treaty (BIT). In 3 cases, the parties invoked ICSID arbitration clauses in multilateral investment agreements. Two of these were instituted on the basis of the Energy Charter Treaty (ECT), and 1 relied on the Dominican Republic–United States–Central America Free Trade Agreement (DR–CAFTA). Investors claimed under investment contracts in 5 cases, and 4 cases relied on investment laws. In some instances, the investor relied on multiple bases of consent. For example, in 3 cases registered this year, the claimants asserted ICSID jurisdiction on 2 alternative bases and in 1 case, the claimant sought to establish ICSID jurisdiction on 3 alternative bases.



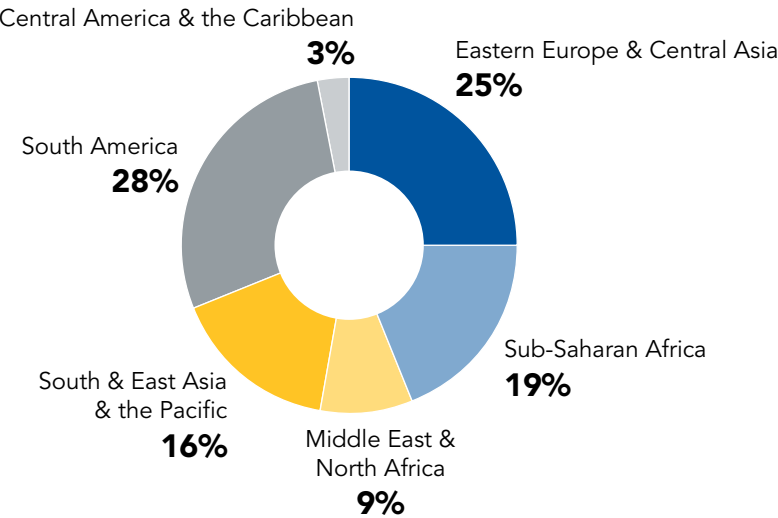
**Basis of Consent for ICSID Jurisdiction in Cases Registered in FY2011 (cases)**



The number of new cases initiated by natural persons increased significantly in the past year. While in FY2010 about 10% of the new cases were initiated by individuals as claimants or co-claimants, that number more than doubled to 25% in FY2011. The number of new cases instituted by investors from developing economies against respondent States from the developing world remained consistent with the previous fiscal year, constituting about 25% of the newly registered cases.

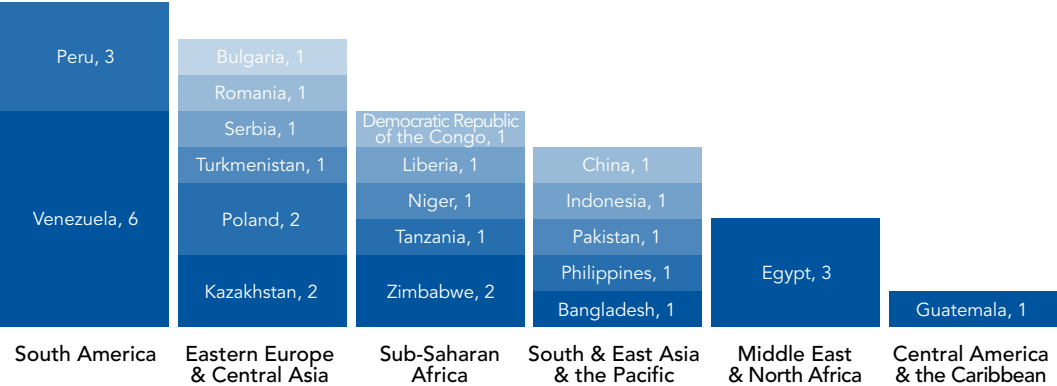
The geographic diversity of State parties involved in ICSID disputes registered in FY2011 also remained similar to previous years.

**Geographic Distribution of ICSID Cases Registered in FY2011 by State Party Involved**



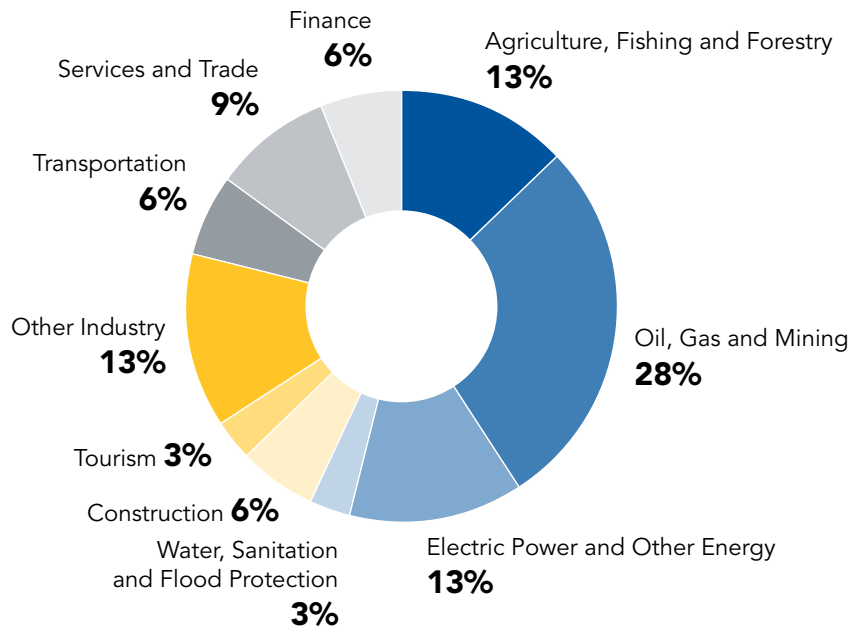
The greater part of the disputes registered in FY2011, i.e. 9 cases, involved States from South America, followed by 8 cases instituted against States in Eastern Europe and Central Asia. Respondent States from Sub-Saharan Africa were involved in 6 cases, and 5 cases were instituted against States in the South and East Asia region. Three further cases were instituted against a single Respondent State in the Middle East and North Africa region, and 1 case was initiated against a State from Central America and the Caribbean. In total, 20 different States were named in ICSID cases in the past year.

**State Parties in ICSID Cases Registered in FY2011 by Geographic Region**



The investment disputes commenced in FY2011 involved a variety of economic sectors. Using the World Bank’s industry sector codes to classify the new ICSID cases, the oil, gas and mining sector remained dominant with 28%, albeit decreasing by almost 10% from the 37% reached in FY2010. The segment of the new cases relating to electric power and other energy increased to 13%, almost doubling from 7% of newly registered cases in FY2010. The agriculture, fishing and forestry sector also increased significantly, from 4% in FY2010 to 13% in FY2011. A further 9% of the new disputes relate to services and trade. The construction, transportation and finance sectors were involved in 18% of the disputes in equal shares (6% each). The remaining cases involved tourism, water, sanitation and flood protection, and a variety of other industries.

**Distribution of ICSID Cases Registered in FY2011 by Economic Sector**



In addition to the 32 new arbitration cases registered under the ICSID Convention and the ICSID Additional Facility, the Centre registered 2 requests for resubmission of a dispute.

In FY2011, the Centre also registered 11 proceedings in which the parties sought post-award remedies under the ICSID Convention. In 2 cases, the Centre registered applications for revision of the award on the ground of discovery of some fact that was unknown at the time the award was rendered. In 1 further case, an interpretation proceeding was commenced to resolve a dispute between the parties as to the meaning or scope of an award previously rendered.

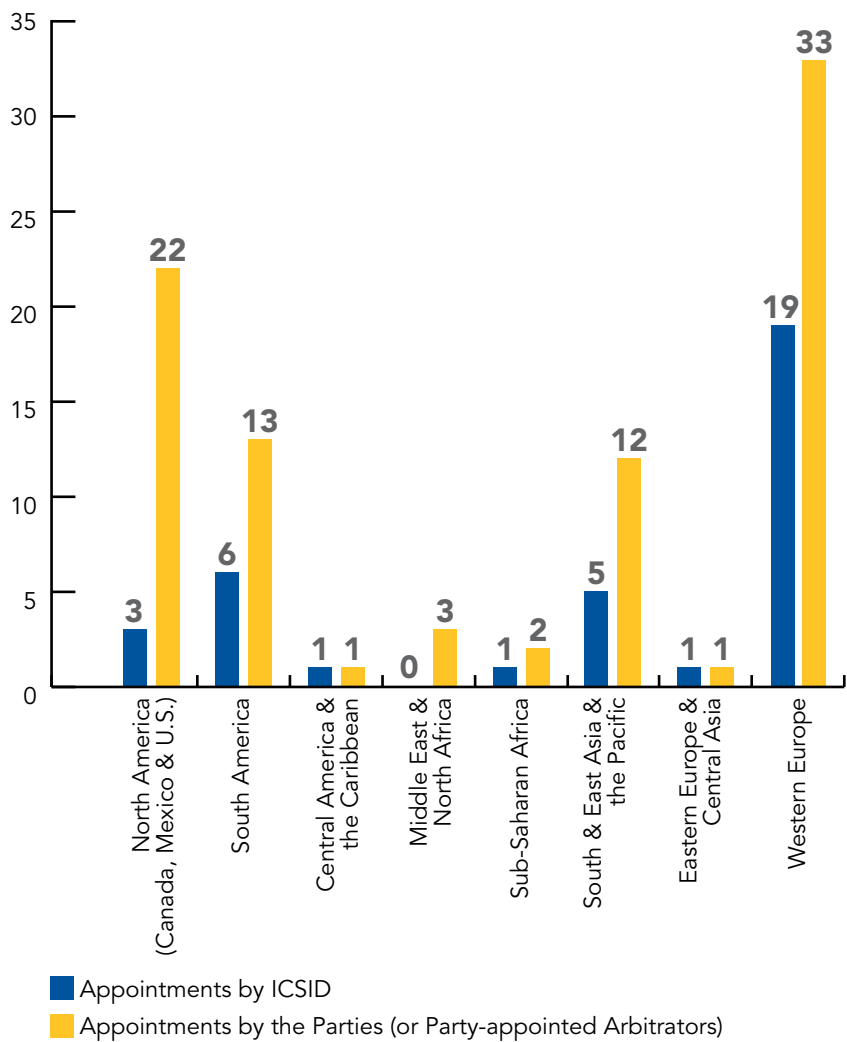
Parties applied for annulment of an award in 8 cases. While this number has increased compared to FY2010, it remains at the same level as in FY2009 (8 cases), and is one less than in FY2008 (9 cases). The annulment mechanism created by the drafters of the ICSID Convention was designed purposefully to confer a very limited scope of review. The increased number of annulment applications in recent years is, in large part, a reflection of the greater number of awards rendered.

### Constitution of Tribunals and *ad hoc* Committees in ICSID Cases

In the course of the fiscal year, 34 tribunals and 7 *ad hoc* Committees were constituted or reconstituted in proceedings pending before the Centre. A total of 123 appointments were made by the parties and by ICSID. This represents an increase of about 30% compared to the number of appointments made during FY2010.

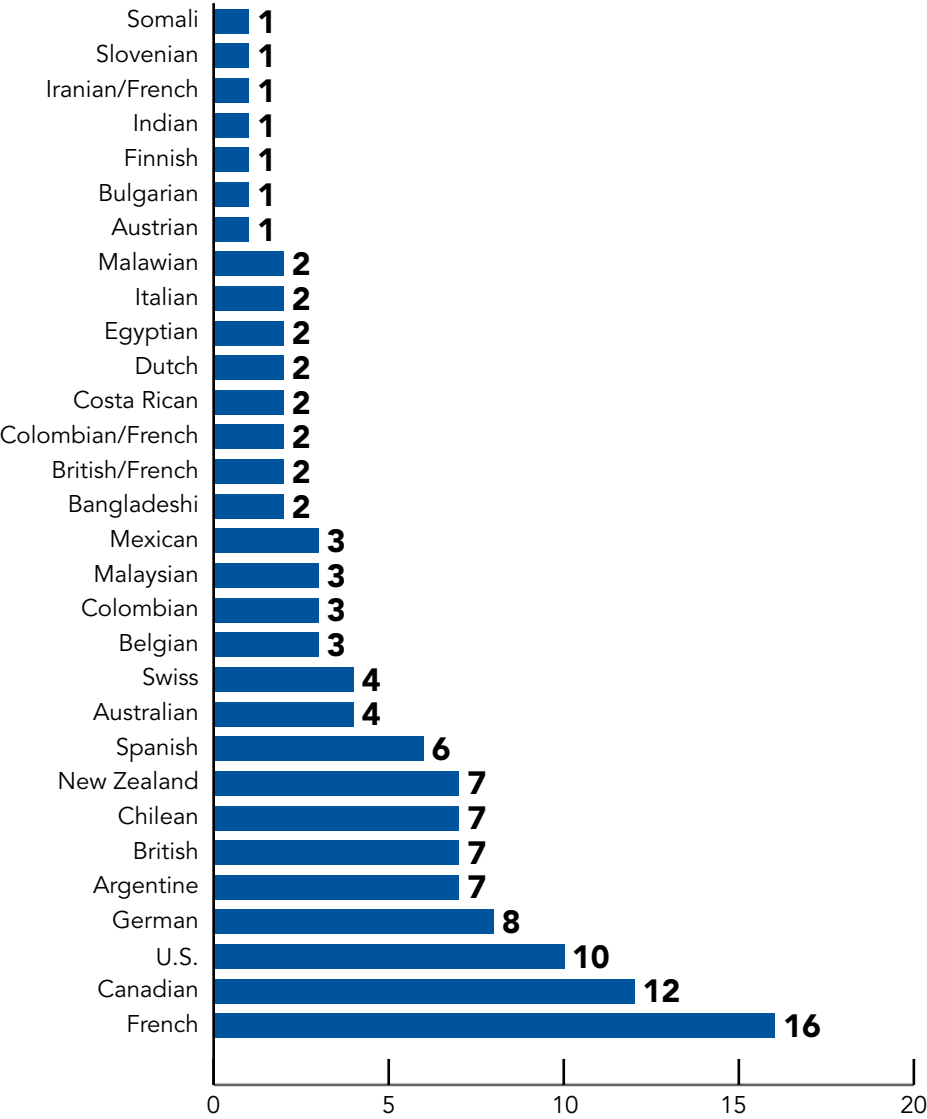
About 70% of the appointments were made either by the parties or the party-appointed arbitrators, while 30% were made by the Chairman of the Administrative Council or the ICSID Secretary-General. In total, the Centre acted as appointing authority 36 times in FY2011, and appointed 23 different individuals of 17 different nationalities. One-third of the Centre's appointees were nationals from developing economies. In addition, the Centre successfully assisted the parties in a further 6 instances to agree on a mutually acceptable candidate to serve as the President of the respective tribunal.

**Arbitrators and *ad hoc* Committee Members Appointed in ICSID Cases in FY2011—  
Distribution of Appointments by ICSID and by the Parties (or Party-appointed Arbitrators)  
by Geographic Region**



Overall, 67 individuals from 28 different countries were appointed to serve as arbitrators or *ad hoc* Committee members in ICSID cases in FY2011.

Nationality of Tribunal and *ad hoc* Committee Members Appointed in FY2011



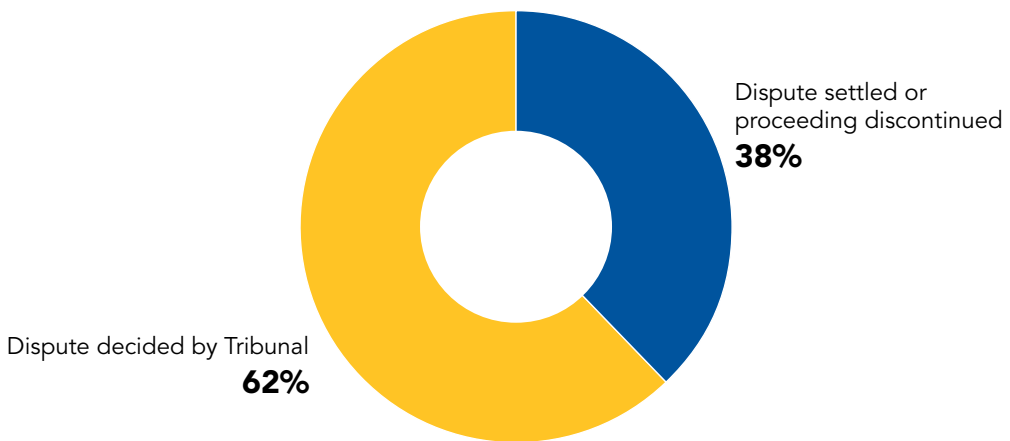
During the fiscal year, parties to ICSID proceedings proposed the disqualification of 8 arbitrators appointed in ICSID proceedings. Five of these proposals were declined, 2 arbitrators resigned following the filing of the proposal, and 1 proposal for disqualification is currently pending.

### Cases concluded in FY2011

Thirty-seven proceedings were concluded in the course of the fiscal year. Twenty-six of these were arbitration cases, 9 were annulment proceedings and 2 were interpretation applications.

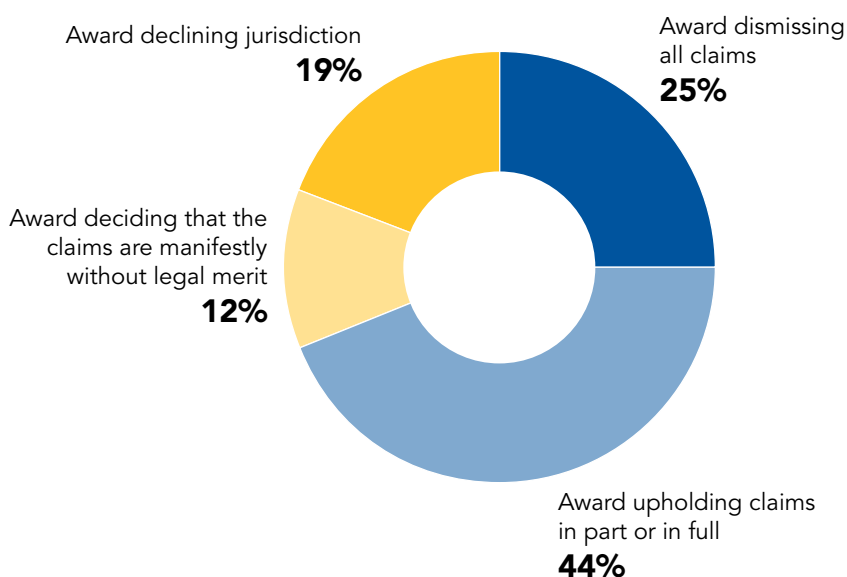
In the 26 concluded arbitration proceedings, 16 disputes were decided by an award of the tribunal, and 10 cases were discontinued or settled.

#### ICSID Convention and Additional Facility Arbitrations Concluded in FY2011—Outcomes



Of the 16 disputes decided by a tribunal, 2 awards dismissed the investors' claims for manifest lack of legal merit under ICSID Arbitration Rule 41(5). These were the first dismissals under the preliminary objection procedure introduced in 2006. Three further tribunals declined ICSID jurisdiction. Four awards rejected all of the investors' claims, and 7 upheld the investors' claims in part or in full.

### Tribunal Holdings in ICSID Convention and Additional Facility Arbitrations in FY2011

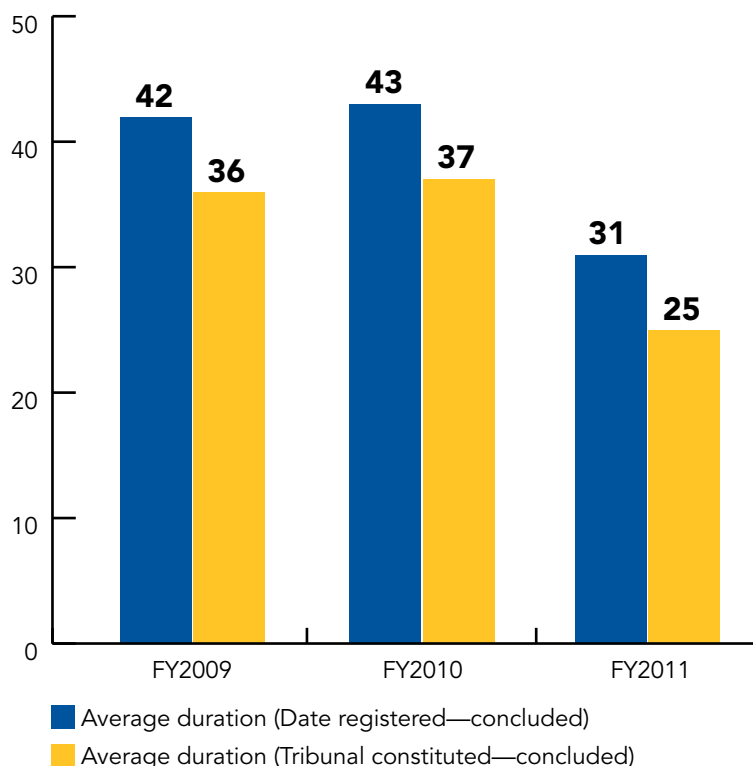


Of the 10 arbitration cases that were discontinued or settled, 6 were discontinued at the request of a party, 3 were discontinued for lack of payment of the required advances, and 1 was settled following agreement by the parties.

The average duration of arbitration proceedings concluded in the course of the fiscal year, calculated from registration of the Request for Arbitration to conclusion of the proceeding, decreased considerably from 43 months in FY2010 to 31 months in FY2011. Likewise, the average duration of proceedings concluded in FY2011, calculated from constitution of the tribunal to the conclusion, decreased from 37 months in FY2010 to 25 months in FY2011. The Secretariat notes this trend favorably and will continue its initiatives to make arbitrations as expeditious as possible.



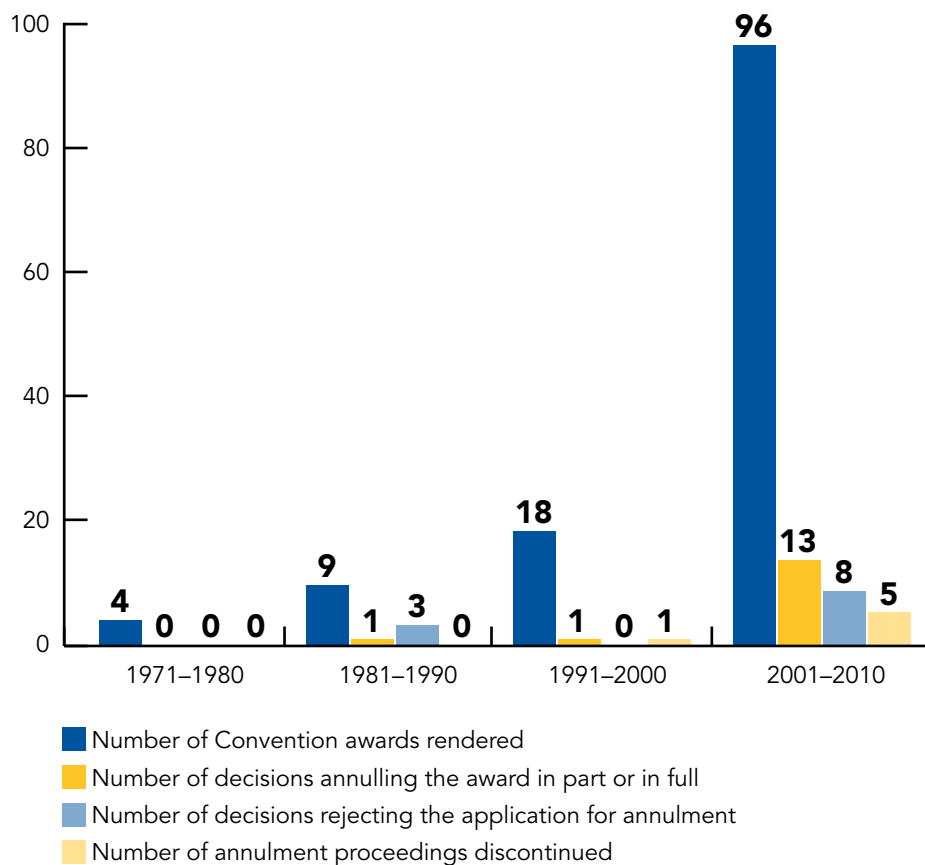
**Duration of ICSID Arbitrations Concluded in FY2009–FY2011 (in months)**



The two interpretation proceedings concluded in FY2011 resulted in 1 interpretation of the award issued by the tribunal, while 1 interpretation proceeding was discontinued at the request of a party.

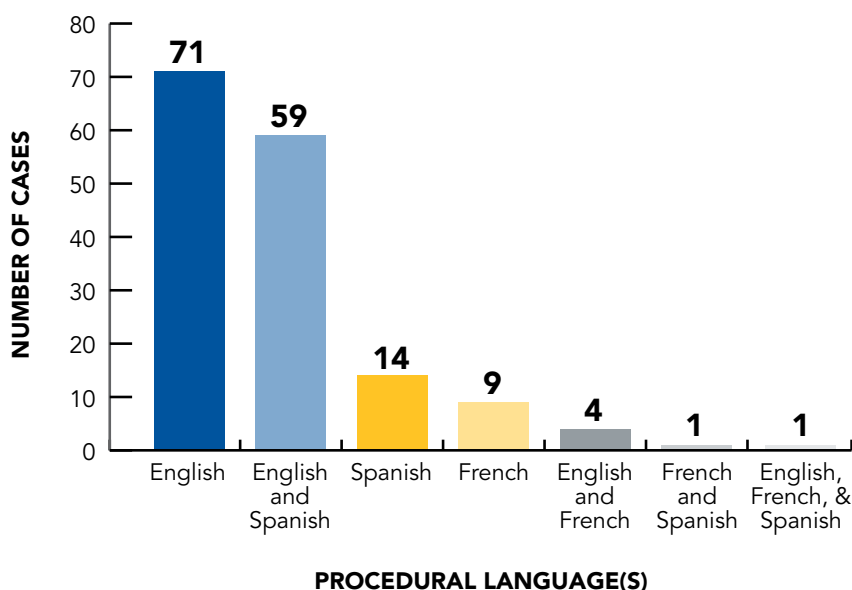
In the course of the fiscal year, 9 annulment proceedings were also concluded. In 3 cases, the *ad hoc* Committee rejected the application for annulment of the award. In 1 case, the *ad hoc* Committee annulled the award in full, and 1 further award was partially annulled. One annulment proceeding was discontinued at the request of a party, 2 annulment proceedings were discontinued for failure to pay the required advances, and 1 annulment proceeding was discontinued for failure of the parties to act pursuant to ICSID Arbitration Rule 45. The discontinuance for failure to act was the first time that an ICSID proceeding has been discontinued on the basis of this default provision.

**Outcomes in ICSID Convention Annulment Applications by Decade**



Of the 159 cases administered in FY2011, 71 were conducted in English, 9 in French and 14 in Spanish, which are the three official languages of the Centre. Sixty-four proceedings were conducted in 2 official languages, with the English-Spanish combination continuing to be the most frequent. One further case was administered in all three official languages.

### ICSID Cases Administered in FY2011 by Procedural Language(s)



In the course of the year, 86 sessions or hearings were held in the cases administered by ICSID. These were held at the seat of the Centre in Washington, D.C., at the World Bank offices in Paris, or at other venues as agreed by the parties. Where suitable, hearings and sessions were conducted by telephone or video conference, mindful of cost and efficient use of time for all involved. In total, about one quarter of all sessions and hearings in FY2011 were held in this manner.

During the fiscal year, 168 decisions and procedural orders were issued by arbitral tribunals and *ad hoc* Committees. A number of these rulings have been published on the Centre's website with the parties' permission.

Comprehensive and up-to-date information about the procedural steps taken in each case, the composition of the tribunal or *ad hoc* Committee, and the outcome of proceedings is found on the ICSID web site at [www.worldbank.org/icsid](http://www.worldbank.org/icsid).

## INSTITUTIONAL MATTERS

ICSID has taken a number of steps this year to inform Contracting States about institutional matters, to work with other multilateral institutions, and to collaborate with arbitration institutions around the world. ICSID has also developed an internal business plan with short, medium and long-term initiatives. This will allow it to provide greater service to parties and arbitrators in a timely and cost-effective manner.

With respect to Contracting States, the ICSID Administrative Council meeting held in the fall of 2010 included a detailed report from the Secretary-General of ICSID for member State representatives. The report reviewed the operations of the Centre, described the profile of recent arbitrations and trends at the Centre, and noted challenges for the future. A similar report will be provided to member States at the time of the 2011 Annual Meeting of the ICSID Administrative Council. ICSID also undertook to survey Contracting States on applicable codes of ethical conduct in arbitration in their respective jurisdictions. The results of this survey were compiled and sent to all members in March 2011. Various members have subsequently contributed additional materials on the topic, and the ICSID Secretariat is updating the survey to include these contributions.

ICSID continued to develop partnerships with other arbitration institutions to enhance its ability to offer services in locations around the world. In the past year, ICSID entered into a facilities cooperation agreement with the Hong Kong International Arbitration Centre (HKIAC), allowing it to hold arbitration or conciliation meetings at that Centre. ICSID now has 11 such agreements in place, including agreements with: the Australian Centre for International Commercial Arbitration in Melbourne; the Australian Commercial Disputes Centre in Sydney; the German Institution of Arbitration; the Gulf Cooperation Council Commercial Arbitration Centre in Bahrain; Maxwell Chambers in Singapore; the Permanent Court of Arbitration in The Hague; the Regional Arbitration Centres of the Asian-African Legal Consultative Committee in Cairo, Kuala Lumpur and Lagos; and the Singapore International Arbitration Centre.

A further institutional priority in the past year has been to increase cooperation between ICSID and other multilateral organizations that focus on investment law and arbitration. For example, ICSID participated in numerous events sponsored by the United Nations Conference on Trade and Development (UNCTAD), including: a conference examining how alternative dispute resolution might be used more effectively in investment disputes; a working group on mediation in investor-State arbitration; training courses on investment arbitration; and a series of small group conversations with participants in investment arbitration to examine current trends and consider how the discipline might be improved. ICSID also participated in meetings organized by the United Nations Commission on International Trade Law (UNCITRAL) concerning transparency in the arbitral process. In particular, ICSID shared its experience in implementing transparent processes mandated by the 2006 amendments to the ICSID rules. In the spring of 2011, ICSID participated in a meeting sponsored by the Organisation for Economic Co-operation and Development (OECD) discussing possible appellate mechanisms in investment arbitration.

Finally, an extensive amount of work has been done within ICSID to enhance the ability of the Secretariat to deliver high-quality, timely and cost-effective service. One aspect of this has been to modernize ICSID's knowledge management capacity. The Centre revised its archiving practices and has adopted a "next generation" document management system. It is currently designing a complementary case management system, which ultimately will allow facility users to exchange case materials electronically. Another aspect of this work has been to review each function of the Secretariat in a case and to ensure that ICSID staff use best and consistent practices in every case. Related to these efforts have been several innovations to respond to the needs of the ICSID user community. For example, ICSID is developing service standards for the steps in a case, has created a ballot system to assist parties to reach consensus on the nomination of arbitrators, and has implemented a planning calendar upon constitution of a tribunal to encourage advance scheduling within a case. The adoption of best practices has been complemented by strategic staffing, including hiring 2 new counsel to act as secretaries to arbitral tribunals and 2 staff dedicated exclusively to information management and hearings organization, respectively. These efforts are already yielding efficiency gains, and they will be accelerated in the coming fiscal year.



Eglon Daley, Jamaica  
*School Children*, 1984



## CHAPTER 5 OUTREACH

### PUBLICATIONS UPDATE

*ICSID REVIEW* — During FY2011, the Centre celebrated the 25th anniversary of the *ICSID Review — Foreign Investment Law Journal*. The Centre published five issues (Spring 2009, Fall 2009, Spring 2010, Fall 2010, and Spring 2011), bringing the publication schedule of the journal up-to-date. These issues featured articles exploring a diverse range of topics in international arbitration, including: conflicts of interest; third-party funding; human rights and investment; the effect of corruption on investment obligations; implications of the financial crisis; regional approaches to bilateral investment treaties; the scope of the terms “investment” and “investor”; limits on access to arbitral jurisdiction; precedent; the International Law Commission Articles on State Responsibility; the history and future of NAFTA Chapter 11; and arbitrator appointment.

ICSID also held the first annual *ICSID Review* Student Writing Competition in 2010. Two winners were selected by a panel of experts and their papers were published in the Fall 2010 issue of the *ICSID Review*. The 2011 *ICSID Review* Student Writing Competition is currently underway. The Student Writing Competition supports an important component of the Centre's mission by encouraging the next generation of scholarship in the field of international investment law.

*COLLECTIONS* — In FY2011, the Centre published 5 releases of its loose-leaf collections, *Investment Laws of the World* and *Investment Treaties*. The 2 *Investment Laws of the World* releases contained new or revised investment legislation passed by: Burundi; Madagascar; Pakistan; Sierra Leone; Sri Lanka (release 2011-1); Liberia; Libya; Montenegro; Qatar; Solomon Islands; and Thailand (release 2011-2).

The 3 *Investment Treaties* releases contained the texts of 60 bilateral investment agreements and protocols, concluded by 53 countries from all major regions of the world between 1987 and 2009. One of these releases featured 20 bilateral investment agreements concluded by China between 1992 and 2009.

*THE ICSID CASELOAD — STATISTICS* — In FY2011, the Centre published Issues 2010-2 and 2011-1 of *The ICSID Caseload – Statistics* online in English, French and Spanish. In response to inquiries by facility users, the Centre expanded coverage of this publication to include quantitative analyses regarding annulment proceedings under the ICSID Convention, as well as further details on outcomes of ICSID proceedings. In addition, Issue 2011-2, reporting statistical information current to June 30, 2011, is currently available on the Centre's website.

*PUBLICATION INITIATIVE* — The Centre is engaged in a continuous effort to publish awards, decisions and orders in ICSID cases with the consent of the parties. Parties are encouraged to consider whether they would agree to publication at an early stage in each current ICSID proceeding. In addition, the Centre continued to contact ICSID parties in concluded cases to seek their authorization to publish all rulings. The purpose of this initiative is to offer access to as much procedural and substantive case law as possible, thereby enhancing public understanding of ICSID proceedings and investment law. As a result of the project, a significant number of awards, decisions and orders have been posted on ICSID's website in FY2011.



*PUBLIC HEARING WEBCAST* — Parties are routinely offered the opportunity to webcast proceedings should they wish to do so. Over the course of FY2011, a hearing on preliminary objections in *Commerce Group Corp. and San Sebastian Gold Mines, Inc. v. Republic of El Salvador* (ICSID Case No.ARB/09/17) was webcast on November 15, 2010, and a hearing on jurisdiction in *Pac Rim Cayman LLC v. Republic of El Salvador* (ICSID Case No.ARB/09/12) was webcast on May 2–4, 2011. Both hearings were held in Washington, D.C.

*WEB UPDATES* — Increasingly, ICSID uses its website to communicate information about cases, practices, and institutional updates. Website announcements are issued in English, French, and Spanish.

## CONFERENCES

In FY2011, ICSID co-sponsored events with other arbitration institutions, partnered with several multilateral organizations on technical assistance initiatives, and participated in numerous conferences and presentations.

For example, ICSID co-sponsored the 27th AAA/ICC/ICSID *Joint Colloquium on International Arbitration* in Paris on November 17, 2010. The colloquium focused on diverse topics including: privilege in international arbitration; allocation of costs as a tool to manage arbitral proceedings; amicable dispute resolution; and State court intervention.

On December 1, 2010, ICSID held its one-day primer course called “ICSID 101” in Bogota. ICSID lawyers explained the workings of the ICSID system and gave advice on effective case presentation under the ICSID Convention and rules. The event was conducted in Spanish and was attended by private practitioners, diplomats, policymakers and government officials.

ICSID co-organized a conference about investment arbitration with the Asia Pacific Regional Arbitration Group (APRAG) in Seoul on March 3, 2011. This conference explored current issues in investment law and practice and the future for investment arbitration in the Asian context.

On June 9–10, 2011, ICSID co-organized a conference examining ten years of Energy Charter Treaty arbitration with the Arbitration Institute of the Stockholm Chamber of Commerce and the Energy Charter Secretariat in Stockholm. The conference analyzed the awards and decisions rendered in the first ten years of arbitration under the Energy Charter Treaty and explored future challenges for energy investment in general and energy investment arbitration in particular. Potential conflict between investment treaties and European Union law was also addressed by an international panel of specialists.

ICSID continued to collaborate with other multilateral institutions on questions of mutual interest over the past fiscal year. For example, ICSID participated in a conference organized by the United Nations Commission on International Trade Law and the International Arbitral Centre of the Austrian Federal Economic Chamber concerning transparency in treaty-based investor-State arbitration on April 14, 2011 in Vienna. ICSID also participated in an Expert Dialogue on International Investment Agreements and Investor-State Dispute Settlement organized by the Organisation for Economic Co-operation and Development in Paris on March 21, 2011.

On April 5, 2011, the Fifth Annual Investment Treaty Arbitration Conference sponsored by Juris Conferences LLC held a conference in Washington, D.C. on the “Future of ICSID.” Topics covered included the definition of “investment”; review of awards by *ad hoc* Committees; and compliance with adverse awards.

ICSID also took part in a conference on costs in international arbitration organized by the International Federation of Commercial Arbitration Institutions and the German Institution of Arbitration.

In addition to the above, ICSID staff participated in numerous other speaking engagements in locations as diverse as Berlin, Buenos Aires, New York, and Vancouver.

## ICSID STAFF PUBLICATIONS

Aïssatou Diop, *Objection under Rule 41(5) of the ICSID Arbitration Rules*, 25 ICSID REV.—FILJ 312 (2010).

Jenna Godfrey, *Americanization of Discovery, Why Statutory Interpretation Bars 28 U.S.C. § 1782(a)'s Application in Private International Arbitration Proceedings*, 60 AM. U. L. REV. 102 (2010).

Meg Kinnear, *Preface: Chapter 17 – Limits to NAFTA: Investment and Water Resources*, in SUSTAINABLE DEVELOPMENT IN INTERNATIONAL INVESTMENT LAW (Markus Gehring et al. eds., Kluwer 2010).

Meg Kinnear, *ICSID: Its Role and Possibilities*, 25 ICSID REV.—FILJ 79 (2010).

Meg Kinnear, *The Energy Charter Treaty and the International Centre for Settlement of Investment Disputes (ICSID) – Introductory Remarks and Opening Comments*, in ENERGY DISPUTE RESOLUTION: INVESTMENT PROTECTION, TRANSIT AND THE ENERGY CHARTER TREATY (Graham Coop ed., Juris 2011)

Paul-Jean Le Cannu, *Introductory Note: Compagnie d'Exploitation du Chemin de Fer Transgabonais v. Republic of Gabon* (ICSID Case No. ARB/04/5), *Décision sur la compétence du Tribunal* (December 19, 2005), *Sentence finale du Tribunal* (March 7, 2008), and *Décision du Comité ad hoc sur la demande d'annulation de la République Gabonaise* (May 11, 2010), 26 ICSID REV.—FILJ 153 (2011).

Lindsey Marchessault, *Recent Trends in International Investment Agreements in Asia*, TRANSNAT'L DISP. MGMT. (2011).

Lindsey Marchessault, *Introductory Note: Chevron Bangladesh Block Twelve, Ltd. and Chevron Bangladesh Blocks Thirteen and Fourteen, Ltd. v. People's Republic of Bangladesh* (ICSID Case No. ARB/06/10), *Award* (May 17, 2010), 26 ICSID REV.—FILJ 256 (2011).

Sergio Puig & Meg Kinnear, *NAFTA Chapter Eleven at Fifteen: Contributions to a Systemic Approach in Investment Arbitration*, 25 ICSID REV.—FILJ 225 (2010).

Nassib G. Ziadé, *How Many Hats Can a Player Wear: Arbitrator, Counsel, Expert?*, 24 ICSID REV.—FILJ 49 (2009).

Nassib G. Ziadé, *Opening Remarks, Proceedings of the Joint Conference on the Revision of the UNCITRAL Arbitration Rules in Light of Thirty Years of Experience*, Supplement to 8 MAJALLAT AL-TAHKIM 66 (October 2010) (in Arabic).

Nassib G. Ziadé, *Challenge of the Arbitrator under the UNCITRAL and the ICSID Arbitration Rules, Proceedings of the Joint Conference on the Revision of the UNCITRAL Arbitration Rules in Light of Thirty Years of Experience*, Supplement to 8 MAJALLAT AL-TAHKIM 713 (October 2010) (in Arabic).

Nassib G. Ziadé, *Challenges and Prospects Facing the International Centre for Settlement of Investment Disputes*, in *THE FUTURE OF THE INTERNATIONAL INVESTMENT REGIME* 120 (J. Alvarez et al. eds., 2011).

Nassib G. Ziadé, *Discours d'ouverture*, in *CIRDI, 45 ANS APRES : BILAN D'UN SYSTEME* 5 (sous la direction de Ferhat Horchani, éditions Pedone 2011) (in French).

Nassib G. Ziadé, *Les frais et dépens dans l'arbitrage CIRDI*, in *CIRDI, 45 ANS APRES : BILAN D'UN SYSTEME*, et discussion aux pages 277, 288–289 (sous la direction de Ferhat Horchani, éditions Pedone 2011) (in French).

Nassib G. Ziadé, *Introductory Note to Judgment of November 3, 2010 of the UK Supreme Court in Dallah v. Government of Pakistan*, 50 I.L.M. (2011).

Nassib G. Ziadé, *Introductory Remarks to the Panel “State Court Intervention in Arbitration”*, 26 ICSID REV.—FILJ 91 (2011).

Nassib G. Ziadé, *Introductory Remarks to the Panel “Recent Trends in Investment Arbitration”*, in PROCEEDINGS OF THE 105TH ANNUAL MEETING OF THE AMERICAN SOCIETY OF INTERNATIONAL LAW (2011).

## ICSID DOCUMENTS AND OTHER PUBLICATIONS

AVAILABLE FROM THE CENTRE FREE OF CHARGE UNLESS OTHERWISE INDICATED

*List of Contracting States and Other Signatories of the Convention*, Doc. ICSID/3 (periodic updates) (English, French and Spanish)

*Contracting States and Measures Taken by Them for the Purpose of the Convention*, Doc. ICSID/8 (periodic updates) (English)

*Members of the Panels of Conciliators and of Arbitrators*, Doc. ICSID/10 (periodic updates) (English)

*ICSID Regulations and Rules*, Doc. ICSID/4/Rev. 1 (May 1975) (contains the texts of the Centre’s Regulations and Rules in effect from January 1, 1968 to September 25, 1984) (English, French and Spanish)

*ICSID Basic Documents*, Doc. ICSID/15 (January 1985) (contains the texts of the Centre’s Regulations and Rules in effect from September 26, 1984 to December 31, 2002 and the text of the ICSID Convention) (English, French and Spanish)

*ICSID Convention, Regulations and Rules*, Doc. ICSID/15/Rev. 1 (January 2003) (contains the texts of the Centre’s Regulations and Rules in effect from January 1, 2003 to April 9, 2006 and the text of the ICSID Convention) (English, French and Spanish)

*ICSID Convention, Regulations and Rules*, Doc. ICSID/15 (April 2006) (contains the texts of the Centre's Regulations and Rules in effect from April 10, 2006 and the text of the ICSID Convention) (English, French and Spanish)

*ICSID Additional Facility for the Administration of Conciliation, Arbitration and Fact-Finding Proceedings*, Doc. ICSID/11 (June 1979) (contains the texts of the Additional Facility Rules in effect from September 27, 1978 until December 31, 2002) (English, French and Spanish)

*ICSID Additional Facility Rules*, Doc. ICSID/11/Rev. 1 (January 2003) (contains the texts of the Additional Facility Rules in effect from January 1, 2003 to April 9, 2006) (English, French and Spanish)

*ICSID Additional Facility Rules*, Doc. ICSID/11 (April 2006) (contains the texts of the Additional Facility Rules in effect from April 10, 2006) (English, French and Spanish)

*ICSID Model Clauses*, Doc. ICSID/5/Rev. 1 (February 1, 1993) (English, French and Spanish) (Internet edition only)

*Bilateral Investment Treaties 1959–1996: Chronological Country Data and Bibliography*, Doc. ICSID/17 (May 30, 1997) (English) (Internet edition only)

*Bilateral Investment Treaties 1959–2007: Chronological Country Data* (Internet edition only)

*ICSID Annual Report (1967—)* (English, French and Spanish)

*ICSID Review—Foreign Investment Law Journal* (semi-annual) (available at US\$ 90 per year for subscribers in OECD countries and US\$45 per year for those in non-OECD countries)

*Documents Concerning the Origin and Formulation of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States* (1967; 2001; 2006) (English, French and Spanish) (available from the Centre at US\$250)

*Investment Laws of the World* (ten loose-leaf volumes) and *Investment Treaties* (ten loose-leaf volumes) (available from Oxford University Press, Order Department, 2001 Evans Road, Cary, N.C. 27513, U.S.A.; Tel.: 800-624-0153; Fax: 919-677-8877; E-mail: library.sales@oup.com at US\$2,330 for both sets, US\$1,165 for the *Investment Laws of the World* volumes only and US\$1,165 for the *Investment Treaties* volumes only)

*The ICSID Caseload – Statistics*, Issues 2010-1, 2010-2, 2011-1, 2011-2 (contains a profile of the ICSID caseload; the Secretariat will update this information on a semi-annual basis) (English, French and Spanish) (Internet edition only)







## CHAPTER 6

# FORTY-FOURTH ANNUAL MEETING OF THE ADMINISTRATIVE COUNCIL

The Forty-fourth Annual Meeting of the Administrative Council took place on October 8, 2010, in Washington, D.C. on the occasion of the Annual Meetings of the Boards of Governors of the World Bank Group and the International Monetary Fund.

The Administrative Council approved the Centre's 2010 Annual Report and its administrative budget for FY2011 at that meeting. The Resolutions adopted at the Meeting are reproduced below.

### **AC(44)/RES/117—**

#### **Approval of the Annual Report**

The Administrative Council

RESOLVES

To approve the 2010 Annual Report on the operation of the Centre.

### **AC(44)/RES/118 —**

#### **Adoption of Budget for Fiscal Year 2011**

The Administrative Council

RESOLVES

To adopt, for the period July 1, 2010 to June 30, 2011, the budget set forth in paragraph 2 of the Report and Proposal of the Secretary-General on the Budget for Fiscal Year 2011, dated June 29, 2010.



Soledad Salame, Chile  
*As Old As My Soul II*



## CHAPTER 7 FINANCE

ICSID's administrative expenditures in FY2011 were covered by the International Bank for Reconstruction and Development (IBRD) pursuant to the Memorandum of Administrative Arrangements concluded between the IBRD and ICSID, and also by fee income. It is therefore not necessary to assess any excess expenditures on Contracting States pursuant to Article 17 of the Convention.

Expenditures relating to pending arbitration proceedings are borne by the parties in accordance with ICSID's Administrative and Financial Regulations.

The Financial Statements of the Centre for FY2011 are set forth in the following pages.

# FINANCIAL STATEMENTS

## EXPRESSED IN UNITED STATES DOLLARS

### STATEMENTS OF FINANCIAL POSITION

	June 30, 2011	June 30, 2010
<b>ASSETS</b>		
Cash	\$ 2,036,300	\$ 2,021,451
Share of cash and investments in the Pool (Notes 2 and 3)	19,357,700	18,540,904
Due from parties to arbitration/conciliation proceedings (Note 2)	470,534	632,706
Other receivables	54,759	25,003
Other assets, net (Note 4)	505,508	402,824
<b>Total assets</b>	<b>\$ 22,424,801</b>	<b>\$ 21,622,888</b>
<b>LIABILITIES AND NET ASSETS</b>		
Liabilities:		
Payable to International Bank for Reconstruction and Development (Note 2)	\$ 814,358	\$ 883,567
Accrued expenses related to arbitration/conciliation proceedings	5,771,787	5,267,654
Deferred revenue (Note 2)	1,023,333	1,025,000
Advances from parties to arbitration/conciliation proceedings (Note 2)	14,056,447	13,905,955
Advance from International Bank for Reconstruction and Development (Note 5)	758,876	540,712
<b>Total liabilities</b>	<b>22,424,801</b>	<b>21,622,888</b>
<b>Net assets</b>	<b>—</b>	<b>—</b>
<b>Total liabilities and net assets</b>	<b>\$ 22,424,801</b>	<b>\$ 21,622,888</b>

### STATEMENTS OF ACTIVITIES

	For the year ended June 30, 2011	June 30, 2010
<b>Support and revenues:</b>		
Revenues from arbitration/conciliation proceedings (Notes 2 and 7)	\$ 24,016,191	\$ 25,768,558
In-kind contributions (Notes 2 and 9)	1,519,456	1,521,393
Net investment income (Note 2)	41,060	63,139
Sales of publications	18,717	30,911
<b>Total support and revenues</b>	<b>25,595,424</b>	<b>27,384,001</b>
<b>Expenses:</b>		
Expenses related to arbitration/conciliation proceedings (Notes 2 and 8)	19,914,865	22,083,731
Administrative expenses (Note 9)	5,524,019	5,134,203
Net investment income applied to arbitration/conciliation proceedings (Note 2)	41,060	63,139
Amortization expenses (Notes 2 and 4)	115,480	102,928
<b>Total expenses</b>	<b>25,595,424</b>	<b>27,384,001</b>
<b>Change in net assets</b>	<b>\$ —</b>	<b>\$ —</b>

## STATEMENTS OF CASH FLOWS

	For the year ended	
	June 30, 2011	June 30, 2010
Cash flows from operating activities:		
Change in net assets	\$ —	\$ —
Adjustments to reconcile change in net assets to net cash provided by operating activities:		
Amortization	115,480	102,928
Decrease in due from parties to arbitration/ conciliation proceedings	162,172	261,748
Increase in other receivables	(29,756)	(10,402)
(Decrease)/Increase in payable to International Bank for Reconstruction and Development	(69,209)	678,989
Increase in accrued expenses related to arbitration/ conciliation proceedings	504,133	1,046,026
(Decrease)/Increase in deferred revenue	(1,667)	192,434
Increase/(Decrease) in advances from parties to arbitration/conciliation proceedings	150,492	(1,170,746)
Net cash provided by operating activities	831,645	1,100,977
Cash flows from investing activities:		
Increase in share in pooled investments	(816,796)	(137,029)
Purchase of other assets	(218,163)	(179,240)
Net cash used in investing activities	(1,034,959)	(316,269)
Cash flows from financing activities:		
Advance from International Bank for Reconstruction and Development	218,163	179,240
Cash provided by financing activities	218,163	179,240
<b>Net increase in cash</b>	<b>14,849</b>	<b>963,948</b>
<b>Cash at beginning of the year</b>	<b>2,021,451</b>	<b>1,057,503</b>
<b>Cash at end of the year</b>	<b>\$ 2,036,300</b>	<b>\$ 2,021,451</b>

The notes to the financial statements are an integral part of these statements.

## NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2011 AND 2010

### NOTE 1 — ORGANIZATION

The International Centre for Settlement of Investment Disputes (ICSID or the Centre), established on October 14, 1966, is a member of the World Bank Group which also includes the International Bank for Reconstruction and Development (IBRD), the International Finance Corporation (IFC), the International Development Association (IDA) and the Multilateral Investment Guarantee Agency (MIGA). The Centre provides facilities for the conciliation and arbitration of investment disputes between Contracting States (Countries that have ratified the ICSID Convention) and nationals of other Contracting States. The Centre provides such facilities for cases brought under the ICSID Convention, the ICSID Additional Facility Rules, or where parties involved so request, under the Arbitration Rules of the United Nations Commission on International Trade Law. In order to process the cases, the Centre constitutes Conciliation Commissions, Arbitral Tribunals or *ad hoc* Committees, as necessary. On February 13, 1967, IBRD and the Centre entered into Administrative Arrangements, which were effective as of the date of the establishment of the Centre. The Memorandum of Administrative Arrangements (the Memorandum) provides that, except to the extent that ICSID, pursuant to its Administrative and Financial Regulations (Regulations), collects funds from the parties to proceedings to cover the Centre's administrative expenses, IBRD shall provide reasonable facilities and services to ICSID, as described in Notes 2 and 9, without charge.

### NOTE 2 — SIGNIFICANT ACCOUNTING POLICIES

***Basis of Accounting and Financial Statement Presentation:*** The financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (U.S. GAAP) and with International Financial Reporting Standards (IFRS), as issued by the International Accounting Standards Board (IASB).



**Use of Estimates:** The preparation of financial statements in conformity with US GAAP and IFRS requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses, together with the related disclosures as at the date of the financial statements.

Management estimates the amount of unbilled expenses incurred by arbitrators, and related revenues, for ongoing cases at each year end. The nature of arbitration/conciliation cases handled by the Centre requires the use of external arbitrators, who charge fees for their service based on time spent on the cases. The estimation process uses information received from the arbitrators about unbilled time spent on the cases through the end of the fiscal year. In some cases the determination of arbitrators' fees and expenses incurred for ongoing cases is based on estimated time spent by the arbitrators in relation to the progress of the case and the number of proceedings through the end of the year. Actual results of arbitrator fees earned but unbilled, and arbitration/conciliation case expenses incurred for the year may differ materially from management's estimates.

**Cash:** Cash consists of cash held in a bank account.

**Share of the Cash and Investments in the Pool:** The Centre's share in the cash and investments in the Pool is held for trading and is reported at fair value. Resulting gains or losses are reported as an increase or reduction, in Net investment income in the Statement of Activities. All income earned is required to be used by the parties to arbitration/conciliation proceedings to offset the costs of their proceedings.

**Due from Parties to the arbitration/conciliation proceedings:** Direct expenses incurred by arbitrators in excess of advance payments made by the parties to the ongoing arbitration/conciliation proceedings are recognized as due from parties to arbitration/conciliation proceedings and are payable in accordance with the Centre's Regulations.

**Other assets and amortization:** The Centre's other assets comprise computer systems software and web site development costs, which are capitalized at cost and amortized using the straight line method over a range of four to ten years. Amortization is charged from commencement of the use of the software.

## NOTES TO FINANCIAL STATEMENTS (CONTINUED)

The Centre evaluates the carrying value of software and website annually, and whenever events or changes in circumstances indicate that impairment has occurred. Impairment is considered to have occurred if the carrying amount exceeds its recoverable amount, at which time, a write-down would be recorded.

***Payable to International Bank for Reconstruction and Development:*** These amounts represent the balance of outstanding expenses paid by IBRD on behalf of ICSID, which are incurred in the normal course of business.

***Advances from parties to arbitration/conciliation proceedings:*** In accordance with the Regulations, the Centre periodically requests parties to arbitration/conciliation proceedings to make advance payments to cover administrative charges and the fees and expenses of the Conciliation Commissions, Arbitral Tribunals or *ad hoc* Committees. These advances are recorded as liabilities.

***Revenues from arbitration/conciliation proceedings:*** The Centre's direct expenses attributable to arbitration/conciliation proceedings are borne by the parties in accordance with the Centre's Regulations. These direct expenses, which include fees and travel expenses and the costs associated with meeting rooms and support services for conducting proceedings, are paid from Advances from parties (see Note 8). Accordingly, the Centre recognizes revenues from these transactions to the extent expenses related to arbitration/conciliation proceedings are incurred during the period.

In addition, revenues from arbitration/conciliation proceedings also include the following (see Note 7):

***Case registration fees:*** The Centre charges a non-refundable fee of \$25,000 to parties wishing to institute an arbitration/conciliation proceeding or \$10,000 to parties wishing to request a supplementary decision to, or the rectification, interpretation, revision or annulment of an arbitral award, or request resubmission of a dispute to a new Tribunal after the annulment of an arbitral award. The revenues are recognized upon receipt of payment from the parties to the case.

***Administration fees:*** The Centre charges \$20,000 following the constitution of the Conciliation Commission, Arbitral Tribunal or *ad hoc* Committee concerned and the same amount on an annual basis thereafter. The Centre collects administration fees from advance deposits from the parties to arbitration/conciliation proceedings. The revenues are recognized on a straight-line basis, over the twelve month period during which services are performed. The unearned revenue at year end is deferred and recognized in the subsequent fiscal year.



**Case attendance fees:** If the proceeding is held away from the seat of the Centre (Washington, D.C.), the Centre charges a case attendance fee of \$1,500 per day when the Secretary of the Commission, Tribunal, or Committee attends the meetings. The Centre collects these fees from advance deposits from the parties to the arbitration/conciliation proceedings. The fees are recognized as revenue when the service is rendered.

**Investment of undisbursed advances from parties and refund of surplus to the parties:** Net investment income earned on funds advanced from parties is recorded as revenue and expense in the Statement of Activities, and applied to Advances from parties to arbitration/conciliation proceedings, which can be used for expenses related to arbitration/conciliation proceedings. After the completion of an arbitration/conciliation proceeding, if it is determined that there is an excess of advances and investment income over expenditures for the proceedings, the surplus is refunded to the parties in proportion to the amounts advanced by each party to the Centre.

**Value of services provided by the Bank and in-kind contributions:**

IBRD provides support services and facilities to the Centre including the following:

- (1) the services of staff members and consultants; and
- (2) other administrative services and facilities, such as travel, communications, office accommodations, furniture, equipment, supplies, and printing.

The Centre recognizes expenses, as incurred, for the value of services provided by IBRD, which is determined by the estimated fair value of such services. Services by IBRD for which the Centre provides no compensation are similarly recognized and measured, and are recorded as in-kind contribution revenue.

**Relevant accounting and reporting developments**

**Financial Accounting Standards Board:** Effective July 1, 2010, ICSID adopted the requirements of *Accounting Standards Update (ASU) 2010-6, Improving Disclosures about Fair Value Measurements* issued by the FASB. The ASU amends existing disclosure requirements under *ASC 820, Fair Value Measurements and Disclosures*, by adding required disclosures about items transferred into and out of Levels 1 and 2 in the fair value hierarchy; adding separate disclosures about purchase, sales, issuances, and settlements relative to Level 3 measurements; and clarifying, among other things, the existing fair value disclosures about the level of disaggregation.

## NOTES TO FINANCIAL STATEMENTS (CONTINUED)

In May 2011, the FASB issued ASU 2011-04, *Fair Value Measurement (Topic 820): Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and International Financial Reporting Standards (IFRS)*. The amendments result in common fair value measurement and disclosure requirements in U.S. GAAP and IFRSs. The ASU is similar to IFRS 13, *Fair Value Measurement* issued by the International Accounting Standards Board in May 2011. While many of the amendments are changes in wording that are not expected to significantly impact current practice, some of the amendments change the existing fair value measurement and disclosure requirements. The ASU and IFRS 13 are effective for ICSID for interim and annual periods beginning after December 15, 2011 and January 1, 2013 respectively. These standards are not expected to have material impact on the Centre's financial reporting.

**International Accounting Standards Board (IASB):** In October 2010, the IASB issued amendments to IFRS 7 *Financial Instruments: Disclosures*, which are applicable for annual periods beginning on or after July 1, 2011. The amendments center on the improvement of disclosure requirements relating to transfers of financial assets that would help financial statement users improve their understanding of financial asset transfer transactions (e.g., securitizations), including understanding the risks that may remain with the entity that transferred the assets. The amendments also require additional disclosures if a disproportionate amount of transfer transactions are undertaken around the end of a reporting period. These amendments are not expected to have material impact upon the Centre's financial reporting.

In November 2009, the IASB issued IFRS 9 *Financial Instruments* as the first step in its project to replace IAS 39 *Financial Instruments: Recognition and Measurement*. IFRS 9 introduces new requirements for classifying and measuring financial assets. In October 2010, the IASB reissued IFRS 9, incorporating new requirements on accounting for financial liabilities, and carrying over from IAS 39 the requirements for derecognition of financial assets and financial liabilities. Both standards are mandatorily effective for annual periods beginning on or after January 1, 2013. The standard is not expected to have material impact on the Centre's financial reporting.

### NOTE 3 — SHARE OF CASH AND INVESTMENT IN THE POOL AND FAIR VALUE MEASUREMENT

Amounts paid to the Centre, but not yet disbursed, are managed by IBRD as Administrator, which maintains a single investment portfolio (the Pool) for all of the trust funds administered by the World Bank Group, and the funds of the Centre. IBRD as Administrator maintains the Pool's assets separate and apart from the funds of the World Bank Group.

The Pool is divided into sub-portfolios to which allocations are made based on fund specific investment horizons, risk tolerances and/or other eligibility requirements for trust funds with common characteristics as determined by IBRD as Administrator. Generally, the Pool is invested in cash and liquid financial instruments such as time deposits, money market instruments, government and agency obligations, and asset-backed securities. The Pool may also include securities pledged as collateral under repurchase agreements with other counterparties and receivables from resale agreements for which it has accepted collateral. Additionally, the Pool also includes derivative contracts such as currency forward contracts, currency swaps and interest rates swaps. The Centre's funds are invested in a sub-portfolio of the Pool, which invests solely in cash and money market instruments such as overnight time deposits, time term deposits, certificate of deposits and commercial paper with terms of three months or less recorded at par value which approximates fair value.

The share in pooled cash and investments represents the Centre's share of the Pool's fair value at the end of the reporting period. Net investment income consists of the Centre's allocated share of: interest income earned by the Pool, realized gains/losses from sales of securities, and unrealized gains/losses resulting from recording the assets held by the Pool at fair value. As explained in Note 2, Net investment income is recorded as revenue and expense in the Statement of Activities, and applied to Advances from parties to arbitration/conciliation proceedings, which can be used for expenses related to arbitration/conciliation proceedings.

IBRD as Administrator, on behalf of ICSID, has an established and documented process of determining fair values. Fair value is based upon quoted market prices for identical and similar instruments, where available. Financial instruments for which quoted market prices are not readily available are valued based on discounted cash flow methods. These models primarily use market-based or independently-sourced market parameters such as yield curves, interest rates, volatilities, foreign exchange rates and credit curves and may incorporate unobservable inputs. Selection of these inputs involves judgment.

## NOTES TO FINANCIAL STATEMENTS (CONTINUED)

ICSID's financial instruments are categorized based on the priority of the inputs to the valuation technique. The fair value hierarchy gives the highest priority to quoted prices in active markets for identical assets or liabilities (Level 1), the next highest priority to observable market-based inputs or inputs that are corroborated by market data (Level 2) and the lowest priority to unobservable inputs that are not corroborated by market data (Level 3). When the inputs used to measure fair value fall within different levels of the hierarchy, the level within which the fair value measurement is categorized is based on the lowest level input that is significant to the fair value measurement of the instrument in its entirety. ICSID categorizes overnight time deposits as Level 1 and the other money market instruments as Level 2.

The following table presents the fair value hierarchy for ICSID's share of financial instruments held in the Pool and measured at fair value on a recurring basis as of June 30, 2011 and 2010:

<u>Hierarchy level</u>	<u>June 30, 2011</u>	<u>June 30, 2010</u>
Level 1	\$ 2,693,353	\$ 3,151,954
Level 2	16,664,347	15,388,950
Level 3	—	—
<b>Total</b>	<b><u>\$ 19,357,700</u></b>	<b><u>\$ 18,540,904</u></b>

As of June 30, 2011 and 2010, ICSID does not have any financial instruments measured at fair value on a non-recurring basis. During the fiscal year ended June 30, 2011 transfers between levels were not significant. Therefore, no further disclosures on these items are included.

All other financial assets and financial liabilities are carried at cost. Their carrying values are considered to be a reasonable estimate of fair value because these instruments tend to be very short term in nature and none are considered to be impaired.

### NOTE 4 — OTHER ASSETS

Other assets comprise computer systems software and web site development costs. Amortization charges amounted to \$115,480 for the year ended June 30, 2011 (2010: \$102,928).

## NOTE 5 — ADVANCE FROM INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

During the year ended June 30, 2008, IBRD agreed to lend up to \$917,000 to the Centre to enable the Centre to acquire software and develop an information system. The loan bears no interest and is repayable in full within four years upon completion of the development of the information system. The information system is being developed in phases, some of which are still in progress. At June 30, 2011, the Centre had borrowed \$758,876 (2010: \$540,712) from IBRD.

## NOTE 6 — RISK ARISING FROM FINANCIAL INSTRUMENTS

The Centre's financial assets consist of its share of cash and investments in the Pool, cash and other receivables. The Pool is actively managed and invested in accordance with the investment strategy established by IBRD for all trust funds administered by the World Bank Group. The objectives of the investment strategy are foremost to maintain adequate liquidity to meet foreseeable cash flow needs and preserve capital and then to maximize investment returns. The Centre holds the Cash in a depository bank account.

The Centre is exposed to credit and liquidity risks. There has been no significant change during the financial year, to the types of financial risks faced by the Centre or the Centre's general approach to the management of those risks. The exposure and the risk management policies employed to manage these risks are discussed below:

*Credit risk* — The risk that one party to a financial instrument will fail to discharge an obligation and cause the other party to incur a financial loss. Of the Centre's financial assets, Cash held in the depository bank account which is subject to U.S. Federal Deposit Insurance Corporation (FDIC) insurance limits is not subject to credit risk. Therefore, the Centre's maximum credit exposure at June 30, 2011 is equivalent to the gross value of the remaining assets amounting to \$21,669,293 (2010: \$20,970,064). The Centre does not hold credit enhancements or collateral to mitigate credit risk.

IBRD invests the Centre's share of Pooled investments in money market instruments. The Centre's share of the cash and investments in the Pool is not traded in any market; however, the assets within the Pool are traded in the market and are reported at fair value. IBRD's policy is to only invest in money market instruments issued or guaranteed by financial institutions whose senior debt securities are rated at least A- in the U.S. markets or equivalent.

## NOTES TO FINANCIAL STATEMENTS (CONTINUED)

At the reporting date, 100% of the Centre's share of the investment portfolio is held in securities rated at least A (2010: 100%) and 67% is held in securities rated at least AA- (2010: 73%). IBRD defines the concentration of credit risk as the extent to which the Pooled investments are held by an individual counterparty. The concentration of credit risk with respect to the Pool of investments is mitigated because IBRD has investment policies that limit the amount of credit exposure to any individual issuer.

Other receivables and amounts due from parties to arbitration/conciliation proceedings result from the ordinary course of business. The amounts are neither past due nor impaired.

*Liquidity risk* — The risk that an entity will encounter difficulty in raising liquid funds to meet its commitments. ICSID regulations require parties to disputes to make advance deposits with the Centre to meet anticipated expenses of arbitration/conciliation proceedings. The Centre invests funds in highly liquid money market instruments and liabilities carried generally have no stated maturity.

### NOTE 7 — REVENUE FROM ARBITRATION/CONCILIATION PROCEEDINGS

Revenue from arbitration/conciliation proceedings comprise:

	2011	2010
Drawdown for direct expenses from Advances from parties for expenses related to arbitration/ conciliation proceedings*	\$ 19,914,865	\$ 22,083,731
Administrative fees	2,607,440	2,410,961
Case registration fees	1,121,886	913,866
Case attendance fees	372,000	360,000
<b>Total</b>	<b>\$ 24,016,191</b>	<b>\$ 25,768,558</b>

\*The Centre recognizes revenues to the extent expenses are incurred related to arbitration/conciliation proceedings. The details of the expenses are provided in Note 8.

## NOTE 8 — EXPENSES RELATED TO ARBITRATION/CONCILIATION PROCEEDINGS

Direct expenses related to arbitration/conciliation proceedings are paid out of advances made by parties to arbitration/conciliation proceedings. The expenses comprise:

	2011	2010
Arbitrators fees and expenses	\$ 16,779,099	\$ 18,431,712
Arbitration/conciliation meeting costs	2,811,218	3,392,415
Travel expenses	218,602	199,388
Other costs	105,946	60,216
<b>Total</b>	<b>\$ 19,914,865</b>	<b>\$ 22,083,731</b>

## NOTE 9 — IN-KIND CONTRIBUTIONS

As described in Note 1, the Memorandum provides that, except to the extent that the Centre may charge the parties to proceedings for fees and expenses of members of Conciliation Commissions, Arbitral Tribunals or *ad hoc* Committees, IBRD shall provide facilities and services to the Centre. Therefore, in-kind contributions represent the value of services provided by IBRD less amounts reimbursed to IBRD using proceeds from non refundable fees and the sale of publications.

A summary is provided below:

	For the year ended	
	June 30, 2011	June 30, 2010
<b>Recorded value of services provided by IBRD</b>		
Staff services (including benefits)	\$ 3,928,428	\$ 3,311,732
Administrative services and facilities:		
Contractual services	416,065	791,222
Administrative services	234,697	452,701
Communications and information technology	401,832	50,289
Office accommodations	457,464	441,722
Amortization expense	115,480	102,928
Travel	85,533	86,537
<b>Total recorded value of services provided by IBRD</b>	<b>5,639,499</b>	<b>5,237,131</b>
Less: ICSID contribution	4,120,043	3,715,738
<b>In-kind contributions</b>	<b>\$ 1,519,456</b>	<b>\$ 1,521,393</b>

## NOTE 10 — AUTHORIZATION OF FINANCIAL STATEMENTS

ICSID's management has evaluated subsequent events through August 26, 2011, the date the financial statements were approved and authorized for issue.





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## Independent Auditors' Report

To: International Centre for Settlement of Investment Disputes

We have audited the accompanying statements of financial position of the International Centre for Settlement of Investment Disputes ("the Centre") as of June 30, 2011 and 2010 and the related statements of activities and cash flows for the years then ended. These financial statements are the responsibility of the Centre's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America and International Standards on Auditing. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Centre's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the International Centre for Settlement of Investment Disputes as of June 30, 2011 and 2010, and the results of its operations and its cash flows for the years then ended in conformity with U.S. generally accepted accounting principles and International Financial Reporting Standards as issued by the International Accounting Standards Board.

KPMG LLP

August 26, 2011

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the U.S. member firm of KPMG International Cooperative  
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