THE ICSID CASELOAD – STATISTICS

(ISSUE 2014-1)
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(Issue 2014-1)

This issue of the *ICSID Caseload – Statistics* updates the profile of the ICSID caseload, historically and for the calendar year 2013. It is based on cases registered or administered by ICSID as of December 31, 2013.

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

The Secretariat will continue to publish the *ICSID Caseload – Statistics* on a bi-annual basis, and welcomes any comments or suggestions by email at ICSIDsecretariat@worldbank.org.
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1 The data is based on ICSID statistics as of December 31, 2013.
2 The ICSID Fiscal Year covers the period July 1 to June 30.
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PART I

ALL CASES REGISTERED AND ADMINISTERED BY ICSID
1. Map of the ICSID Contracting States and Other Signatories to the ICSID Convention as of December 31, 2013
2. Cases Registered by ICSID

Chart 1: Total Number of ICSID Cases Registered, by Calendar Year:

As of December 31, 2013, ICSID had registered 459 cases under the ICSID Convention and Additional Facility Rules.
Chart 2: Number of Cases Registered under the ICSID Convention and Additional Facility Rules by Calendar Year:

Chart 3: Type of Cases Registered under the ICSID Convention and Additional Facility Rules:
3. Non-ICSID Cases Administered by the ICSID Secretariat

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

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

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

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

- Agreement between the United States of America and the Sultanate of Oman on the Establishment of a Free Trade Area (Oman-U.S. FTA) 0.5%
- North American Free Trade Agreement (NAFTA) 3.0%
- Investment Law of the Host-State 8.0%
- Investment Contract between the Investor and the Host-State 19.0%
- Energy Charter Treaty (ECT) 5.0%
- ASEAN Agreement for the Promotion and Protection of Investments 0.5%
- Dominican Republic-United States-Central America Free Trade Agreement (DR-CAFTA) 1.0%
- Bilateral Investment Treaty (BIT) 63.0%
5. Geographic Distribution of All ICSID Cases, by State Party Involved

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

6. Distribution of All ICSID Cases by Economic Sector

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

- Oil, Gas & Mining: 26%
- Construction: 7%
- Electric Power & Other Energy: 13%
- Water, Sanitation & Flood Protection: 6%
- Transportation: 10%
- Other Industry: 13%
- Services & Trade: 4%
- Agriculture, Fishing & Forestry: 4%
- Information & Communication: 6%
- Finance: 7%
- Tourism: 4%

7. ICSID Arbitration and Conciliation Proceedings – Outcomes

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

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

* Pursuant to ICSID Arbitration Rule 41(5) and Article 45(6) of the Arbitration (Additional Facility) Rules, as adopted by the ICSID Administrative Council in 2006, a party may, at an early stage of the proceeding, file an objection that a claim is manifestly without merit. If the Tribunal decides that the claims are manifestly without legal merit, it shall render an award to that effect.
Chart 8b: Disputes Settled or Proceedings Otherwise Discontinued under the ICSID Convention and Additional Facility Rules – Basis:

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

- Conciliation Commission Report issued 71% (see chart 10)
- Proceeding Discontinued 29%

**Chart 10:** Conciliation Proceedings under the ICSID Convention – Commission Reports:

- Report recording failure of the Parties to reach agreement 80%
- Report recording agreement of the Parties 20%
8. Annulment Proceedings under the ICSID Convention – Outcomes

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

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

* The classification of the geographic regions above is based on the World Bank’s regional system, available at http://web.worldbank.org/WEBSITE/EXTERNAL/COUNTRIES/0,,pagePK:180619~theSitePK:136917,00.html, and also includes World Bank donor countries. The chart reflects appointments made to Tribunals and \textit{ad hoc} Committees constituted until December 31, 2013.
Chart 13: Arbitrators, Conciliators and ad hoc Committee Members Appointed in Cases Registered under the ICSID Convention and Additional Facility Rules – Distribution of Appointments by ICSID and by the Parties (or Party-appointed Arbitrators) by Geographic Region*:

* The geographical classification is based on the World Bank’s regions as set forth at http://web.worldbank.org/WEBSITE/EXTERNAL/COUNTRIES/0,,pagePK:180619~theSitePK:136917,00.html, and also includes World Bank donor countries. The chart reflects appointments made to Tribunals and ad hoc Committees constituted until December 31, 2013.
Chart 14: State of Nationality of Arbitrators, Conciliators and ad hoc Committee Members Appointed in Cases Registered under the ICSID Convention and Additional Facility Rules:
PART II

CASES REGISTERED AND ADMINISTERED
BY ICSID IN 2013
1. New Cases Registered by ICSID in 2013

Chart 1: Number of New Cases Registered under the ICSID Convention and Additional Facility Rules in 2013:

2. Non-ICSID Cases Administered by the ICSID Secretariat in 2013

Chart 2: Number of Non-ICSID Cases Administered by the ICSID Secretariat in 2013:
3. Basis of Consent Invoked to Establish ICSID Jurisdiction in New Cases Registered in 2013

Chart 3: Basis of Consent Invoked to Establish ICSID Jurisdiction in New Cases Registered in 2013 under the ICSID Convention and Additional Facility Rules:

- Bilateral Investment Treaty (BIT): 57%
- Energy Charter Treaty (ECT): 12%
- Investment Law of the Host-State: 17%
- Investment Contract between the Investor and the Host-State: 14%
4. Geographic Distribution of New ICSID Cases Registered in 2013, by State Party Involved

Chart 4: Geographic Distribution of New Cases Registered in 2013 under the ICSID Convention and Additional Facility Rules, by State Party Involved*

* The classification of the geographic regions above is based on the World Bank’s regional system, available at http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/0,,pagePK:180619~theSitePK:136917,00.html, and also includes World Bank donor countries.
**Chart 5: Geographic Distribution of New Cases Registered in 2013 under the ICSID Convention and Additional Facility Rules, by State Party Involved – Further Details***:

* The classification of the geographic regions above is based on the World Bank’s regional system, available at http://web.worldbank.org/WEBSITE/EXTERNAL/COUNTRIES/0,,pagePK:180619~theSitePK:136917,00.html, and also includes World Bank donor countries.
5. Distribution of New ICSID Cases Registered in 2013, by Economic Sector

Chart 6: Distribution of New Cases Registered in 2013 under the ICSID Convention and Additional Facility Rules, by Economic Sector*:

6. ICSID Arbitration Proceedings Concluded in 2013 – Outcomes

Chart 7: Arbitration Proceedings under the ICSID Convention and Additional Facility Rules concluded in 2013 – Outcomes:

- Dispute decided by Tribunal: 83% (see chart 7a)
- Dispute settled or proceeding otherwise discontinued: 17% (see chart 7b)
Chart 7a: Disputes Decided by Arbitral Tribunals under the ICSID Convention and Additional Facility Rules in 2013 – Findings:

- Award declining jurisdiction: 40%
- Award dismissing all claims: 30%
- Award upholding claims in part or in full: 30%
Chart 7b: Disputes Settled or Proceedings Otherwise Discontinued under the ICSID Convention and Additional Facility Rules in 2013 – Basis:

1. ICSID Arbitration Rule 43(1) and Arbitration (Additional Facility) Rule 49(1).
2. ICSID Arbitration Rule 43(2). No case concluded to date on the basis of Arbitration (Additional Facility) Rule 49(2).
7. Arbitrators, Conciliators and ad hoc Committee Members Appointed in ICSID Cases in 2013

Chart 8: Arbitrators, Conciliators and ad hoc Committee Members Appointed in 2013 in Cases Registered under the ICSID Convention and Additional Facility Rules – Distribution of Appointments by Geographic Region*:

* The classification of the geographic regions above is based on the World Bank’s regional system, available at http://web.worldbank.org/WEBSITE/EXTERNAL/COUNTRIES/0,,pagePK:180619~theSitePK:136917,00.html, and also includes World Bank donor countries. The chart reflects appointments made to Tribunals and ad hoc Committees constituted in 2013.
Chart 9: Arbitrators, Conciliators and ad hoc Committee Members Appointed in 2013 in Cases Registered under the ICSID Convention and Additional Facility Rules – Distribution of Appointments by ICSID and by the Parties (or Party-appointed Arbitrators) by Geographic Region*:

* The classification of the geographic regions above is based on the World Bank’s regional system, available at http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/0,,pagePK:180619~theSitePK:136917,00.html, and also includes World Bank donor countries. The chart reflects appointments made to Tribunals and ad hoc Committees constituted in 2013.
Chart 10: State of Nationality of Arbitrators, Conciliators and ad hoc Committee Members Appointed in 2013 in Cases Registered under the ICSID Convention and Additional Facility Rules:

Number of Appointments

State of Nationality of Appointee

- France 27
- United States of America 10
- United Kingdom 10
- Spain 12
- Switzerland 8
- United Kingdom/France 4
- Colombia 4
- Canada 4
- Australia 5
- Chile 5
- South Africa 3
- New Zealand 3
- Australia 3
- Austria 3
- Australia 3
- Costa Rica 3
- United Kingdom/France 3
- France 3
- United Kingdom 3
- United States of America 3
- China 2
- Germany 2
- Belgium 2
- Argentina 2
- Singapore 3
- Sweden 3
- Switzerland/Brazil 2
- United States of America/Switzerland 2
- France/Sweden/Bahrain 2
- Uruguay 1
- Switzerland/Ireland 1
- Switzerland/Ireland 1
- Iran, Islamic Rep. of/France 1
- United Kingdom/Ghana 1
- Malaysia 1
- Korea, Rep.of 1
- Japan 1
- Guatemala 1
- Germany/Austria 1
- Finland 1
- Brazil 1
- Somalia 1
- Philippines 1
- Pakistan 1
- Bulgaria 1
- Morocco 2
- United States of America/Switzerland 2