



ICSID

**International Centre for
Settlement of Investment Disputes**
WORLD BANK GROUP

THE ICSID CASELOAD — STATISTICS

Special Focus – South & East Asia
& the Pacific Region (June 2019)

The ICSID Caseload – Statistics

Special Focus – South & East Asia & the Pacific Region

(June 2019)

This issue of the *ICSID Caseload – Statistics* provides an overview of the ICSID caseload involving States in the South & East Asia & the Pacific (SEAP) region.¹ It is based on ICSID cases registered as of June 30, 2019.

The report looks at two categories of cases: a) those involving a SEAP State as the State Party to an ICSID dispute; and b) those involving investors from a SEAP State. For each category the report compiles data on the number and type of cases registered, the basis of consent to ICSID jurisdiction, the relevant economic sectors,² and the geographic origin and type of the investors involved in the case. It also contains data on outcomes in these proceedings, including further information on disputes decided by tribunals and on settled or discontinued cases.

Finally, this document looks at the geographic origins of arbitrators, conciliators and *ad hoc* committee members appointed in all ICSID cases, and includes a breakdown of appointments involving nationals from the SEAP region.

The Secretariat welcomes any comments or suggestions by email at ICSIDsecretariat@worldbank.org.

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¹ See Annex 1 for a list of the States from the SEAP Region. The classification of the SEAP region 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.

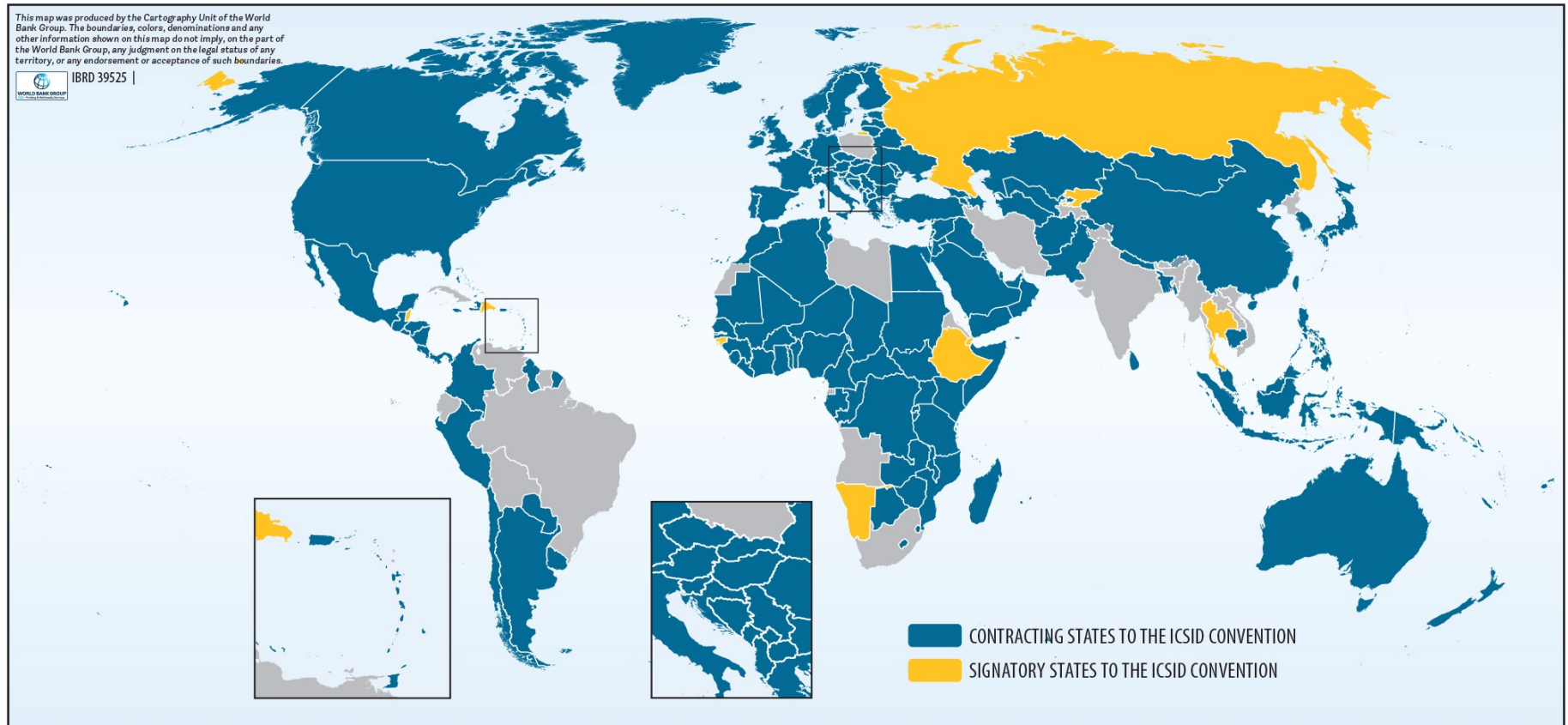
² The economic sector classification is based on the World Bank's sector codes, available at <http://projects.worldbank.org/sec tor?lang=>.

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1. Map of the Contracting States and Other Signatories of the ICSID Convention as of June 30, 2019



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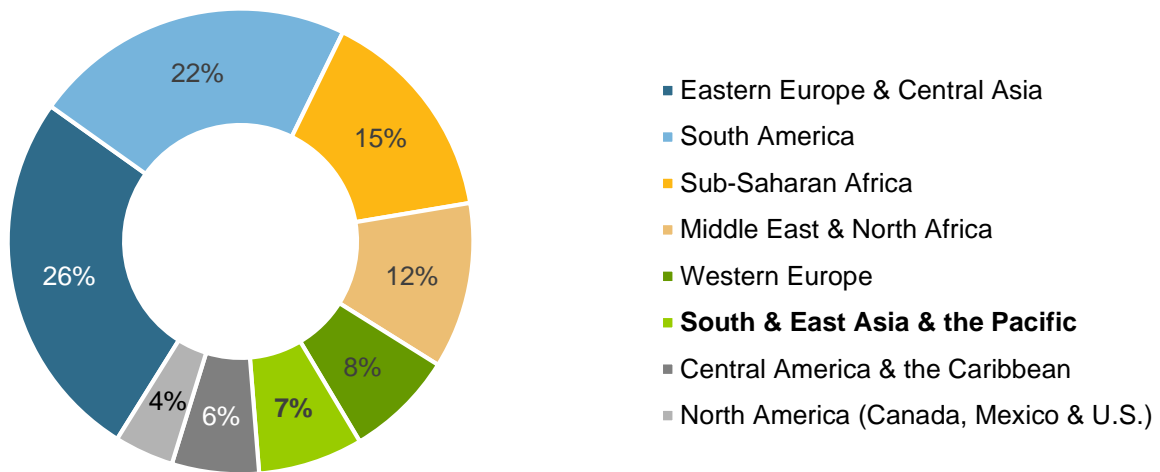
2. Map of the Contracting States and Other Signatories of the ICSID Convention in the South & East Asia & the Pacific Region as of June 30, 2019



3. Geographic Distribution of All ICSID Cases, by State Party Involved

As of June 30, 2019, ICSID had registered 728 cases under the ICSID Convention and Additional Facility Rules. Fifty-three (53) of these cases (7%) involved a State Party from the South & East Asia & the Pacific (SEAP) Region. A list of the States from the SEAP Region is attached as Annex 1. For a complete list of cases registered by ICSID involving a State party from the SEAP Region, see Annex 2.

Chart 1: Geographic Distribution of All Cases Registered under the ICSID Convention and Additional Facility Rules, by State Party Involved



4. ICSID Cases involving a State Party from the SEAP Region – Further Details

The chart below lists each SEAP State and the number of ICSID cases in which it has been involved as a party to the dispute. A complete list of ICSID cases involving a State Party from the SEAP Region is attached as Annex 2. In addition, procedural details about each case can be found on the ICSID website at www.icsid.worldbank.org/.

Chart 2: Number of ICSID Cases involving a State Party from the SEAP Region

SEAP State	Number of ICSID Cases
Indonesia	8
Pakistan	8
Bangladesh	7
Philippines	5
Sri Lanka	5
China	3
Korea, Rep. of	3
Malaysia	3
Papua New Guinea	3
Lao PDR	2
Cambodia	1
Mongolia	1
Nepal	1
New Zealand	1
Timor-Leste	1
Vietnam	1

Chart 3: Type of Case Registered under the ICSID Convention and Additional Facility Rules involving a State Party from the SEAP Region

Of the 53 ICSID cases involving a SEAP State, 50 were commenced under the ICSID Convention, and 3 were initiated under the Additional Facility Rules. As of June 30, 2019, no conciliation cases had been registered by ICSID involving a State Party from the SEAP Region.

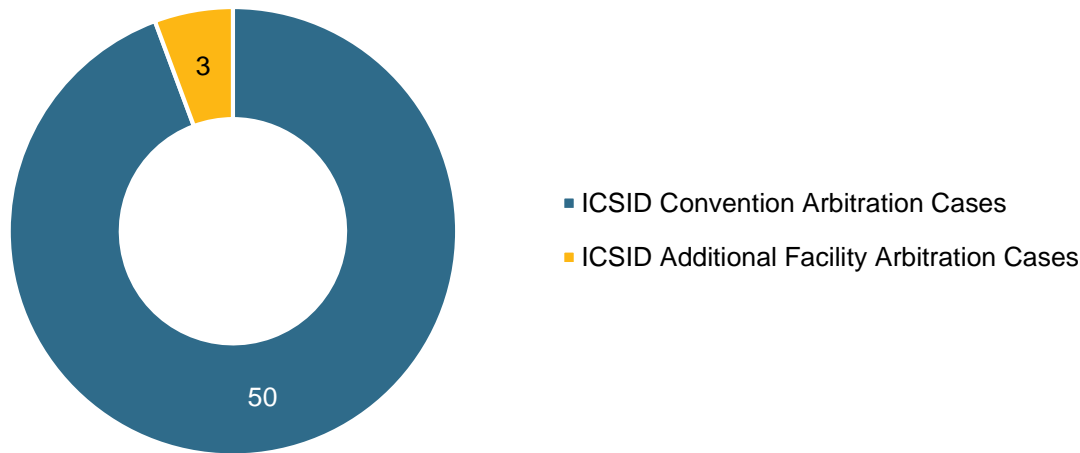


Chart 4: Basis of Consent Invoked to Establish ICSID Jurisdiction in Cases Registered under the ICSID Convention and Additional Facility Rules involving a State Party from the SEAP Region

Of the 53 ICSID cases involving a SEAP State, the vast majority (64%) asserted ICSID jurisdiction on the basis of a bilateral investment treaty (BIT). Twenty-nine percent (29%) of the cases relied on the State’s consent to arbitrate under investment contracts. A further 3% of the cases relied on the State’s consent in an investment law to assert ICSID jurisdiction. The remaining 4% of the cases invoked the State’s consent to ICSID jurisdiction in the ASEAN Agreement for the Promotion and Protection of Investments and the Energy Charter Treaty (each 2%).

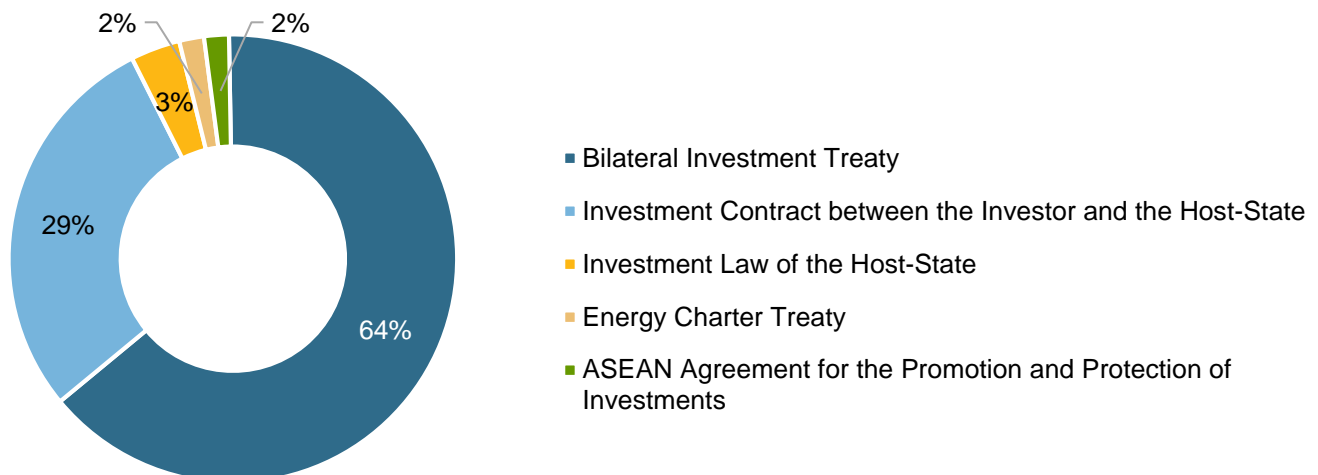


Chart 5: Distribution of Cases Registered under the ICSID Convention and Additional Facility Rules involving a State Party from the SEAP Region, by Economic Sector

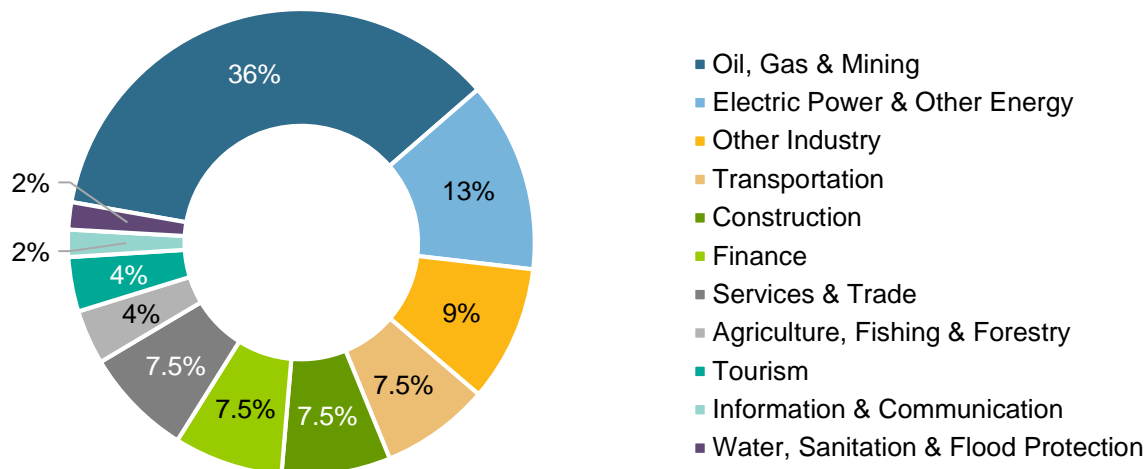
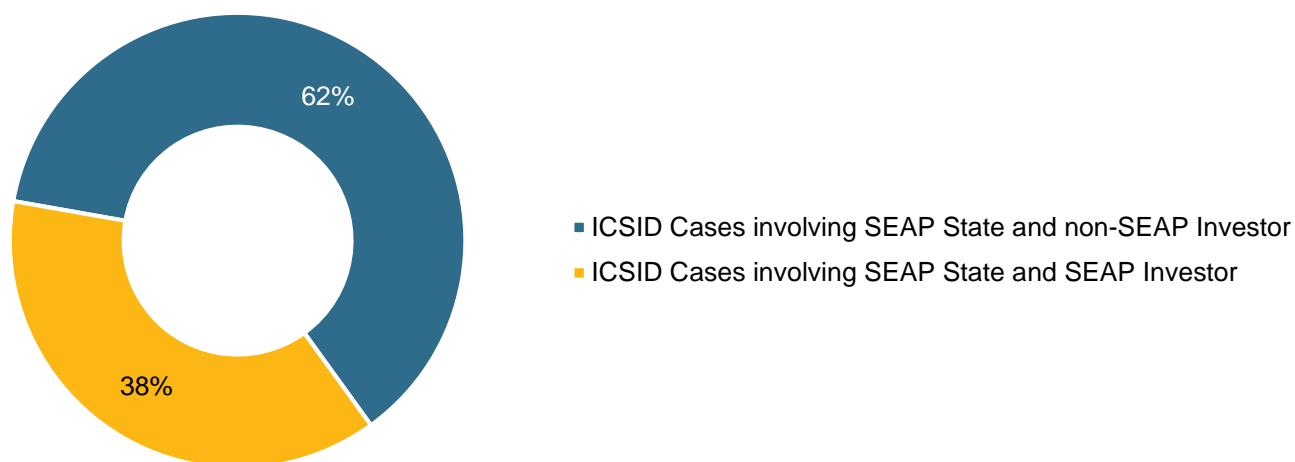


Chart 6: Cases Registered under the ICSID Convention and Additional Facility Rules involving a State Party from the SEAP Region – Geographic Origin of Investors³

In the 53 ICSID cases involving a SEAP State, 20 involved investors who reported SEAP nationality at the time of case registration. The remaining 33 cases involved investors from States outside of the SEAP Region.



³ The data is based on the nationality of investors as reported at the time of registration.

Chart 7: Cases Registered under the ICSID Convention and Additional Facility Rules involving a State Party from the SEAP Region – Type of Investor

Of the 53 ICSID cases involving a SEAP State, 9% were instituted by individual persons (“natural persons”). A further 91% involved juridical persons. This term refers to legal entities such as corporations, partnerships, or joint ventures, and includes small, medium, and large enterprises.

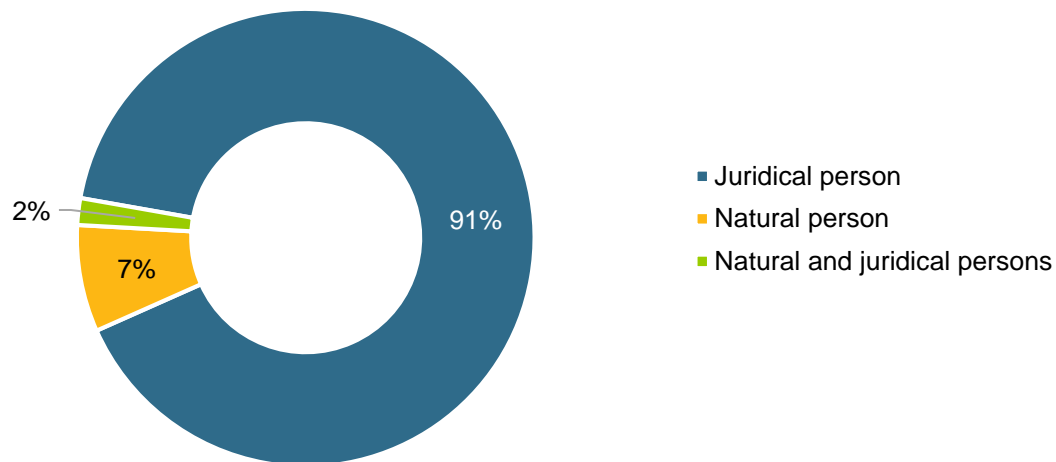


Chart 8: Arbitration Proceedings under the ICSID Convention and Additional Facility Rules involving a State Party from the SEAP Region – Outcomes

In the concluded arbitrations involving a SEAP State Party, 57% were resolved by a final award by the tribunal. Where the tribunal rendered a final award, 44% of the awards declined jurisdiction, 30% upheld the claims in part or in full, 22% dismissed all claims, and 4% decided that the claims were manifestly without legal merit (see Chart 8a). The other 43% were settled by the parties or discontinued before a final determination of the tribunal. The basis for settlement or discontinuance is indicated in Chart 8b.

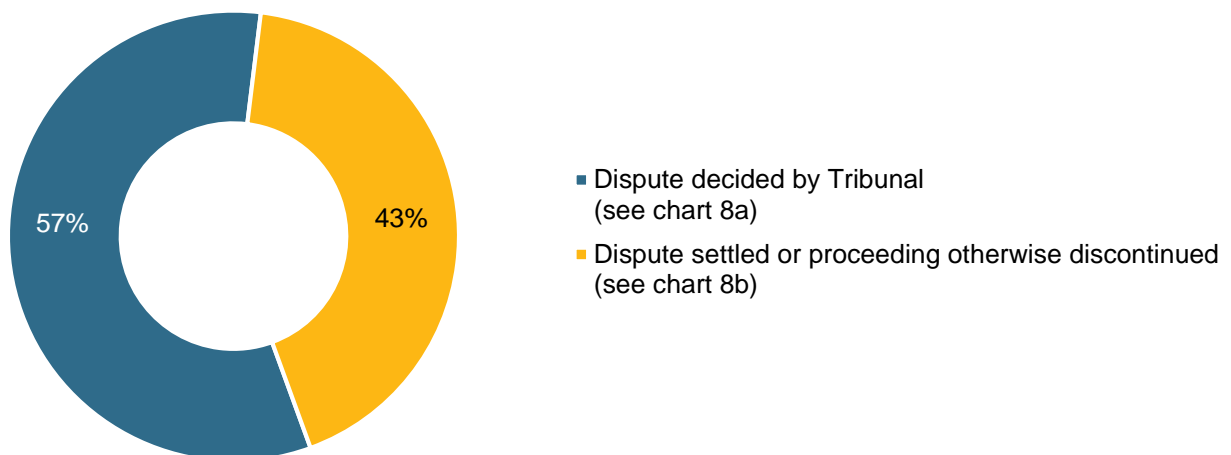


Chart 8a: Disputes Decided by Arbitral Tribunals under the ICSID Convention and Additional Facility Rules involving a State Party from the SEAP Region – Findings

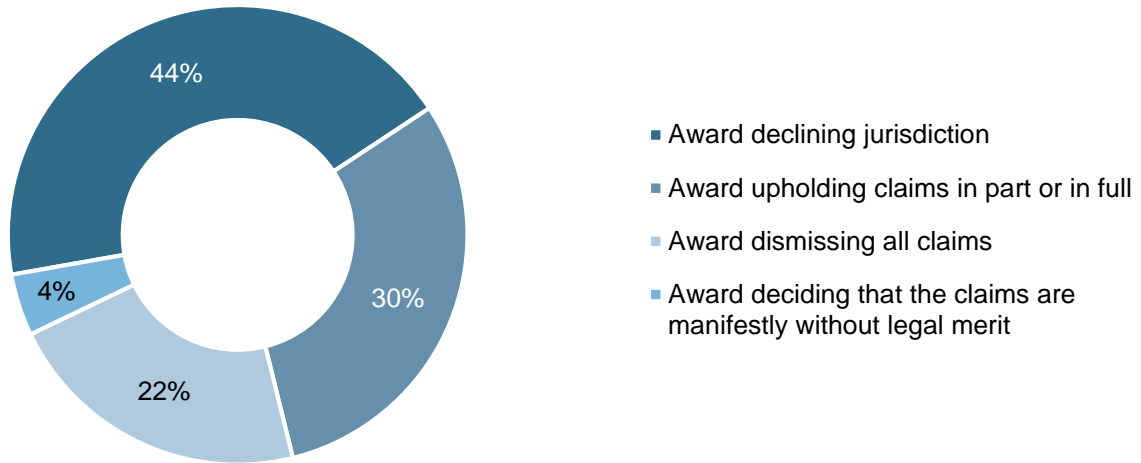
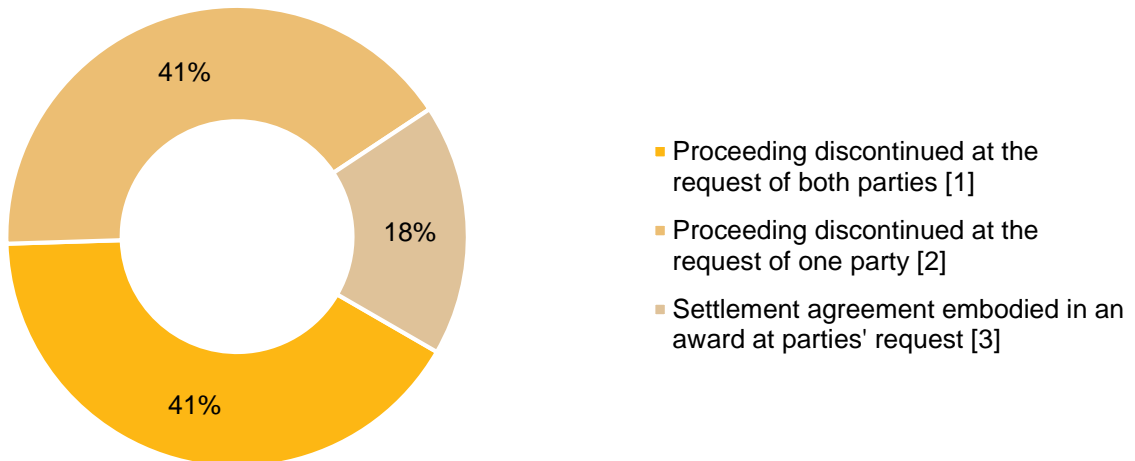


Chart 8b: Disputes Settled or Proceedings Otherwise Discontinued under the ICSID Convention and Additional Facility Rules involving a State Party from the SEAP Region – Basis



[1] ICSID Arbitration Rule 43(1). No case concluded to date on the basis of Arbitration (Additional Facility) Rule 49(1).

[2] ICSID Arbitration Rule 44. No case concluded to date on the basis of Arbitration (Additional Facility) Rule 50.

[3] ICSID Arbitration Rule 43(2). No case concluded to date on the basis of Arbitration (Additional Facility) Rule 49(2).

5. ICSID Cases involving Investors with SEAP Nationality – Details⁴

Chart 9: All Cases Registered under the ICSID Convention and Additional Facility Rules – Geographic Origin of Investor

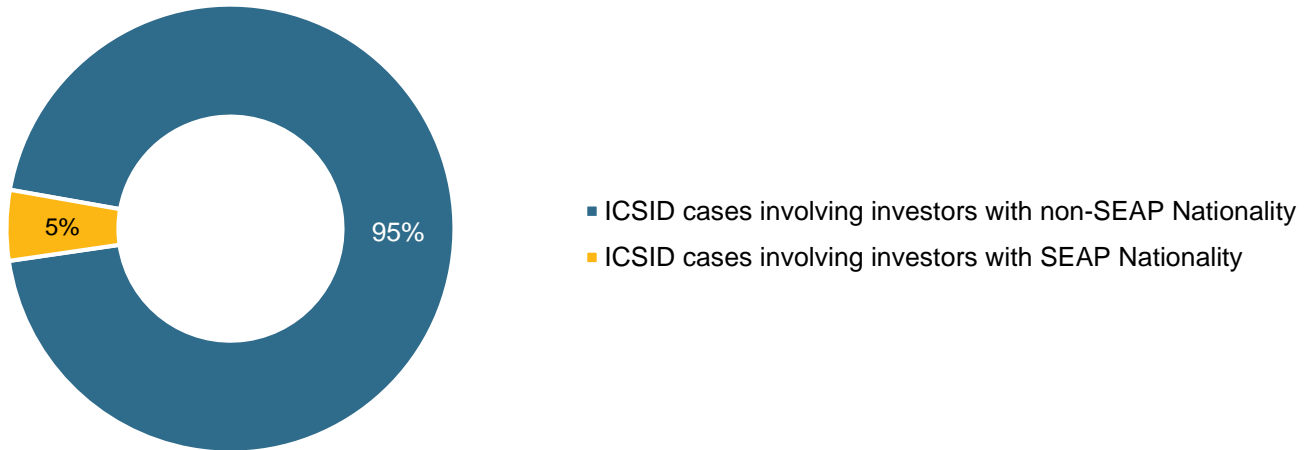


Chart 10: Basis of Consent Invoked to Establish ICSID Jurisdiction in Cases Registered under the ICSID Convention and Additional Facility Rules involving Investors with SEAP Nationality

Of the ICSID cases involving a SEAP State, 97% were commenced under the ICSID Convention, and 3% were initiated under the Additional Facility Rules. Forty-two percent (42%) of the cases relied on the State’s consent to arbitrate in a bilateral investment treaty (BIT). Thirty-five percent (35%) were based on an ICSID dispute settlement provision in an investment contract between the investor and the Host-State. A further 10% invoked the State’s consent contained in an investment law. The remaining cases invoked the State’s consent to ICSID jurisdiction in the Energy Charter Treaty (7%), in the ASEAN Agreement for the Promotion and Protection of Investments (3%) and in the Peru-Singapore Free Trade Agreement (3%).



⁴ The data is based on the nationality of investors as reported at the time of registration.

Chart 11: Distribution of Cases Registered under the ICSID Convention and Additional Facility Rules involving Investors with SEAP Nationality, by Economic Sector

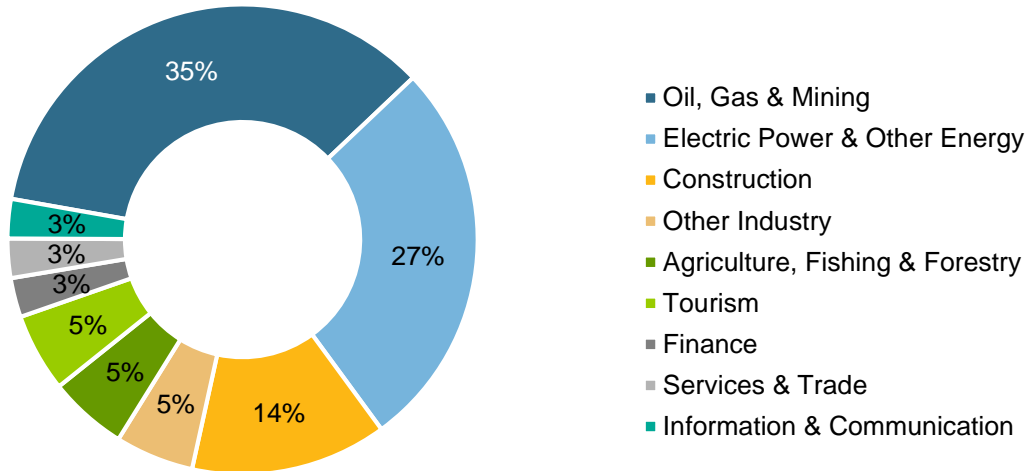


Chart 12: Arbitration Proceedings under the ICSID Convention and Additional Facility Rules involving Investors with SEAP Nationality – Outcomes

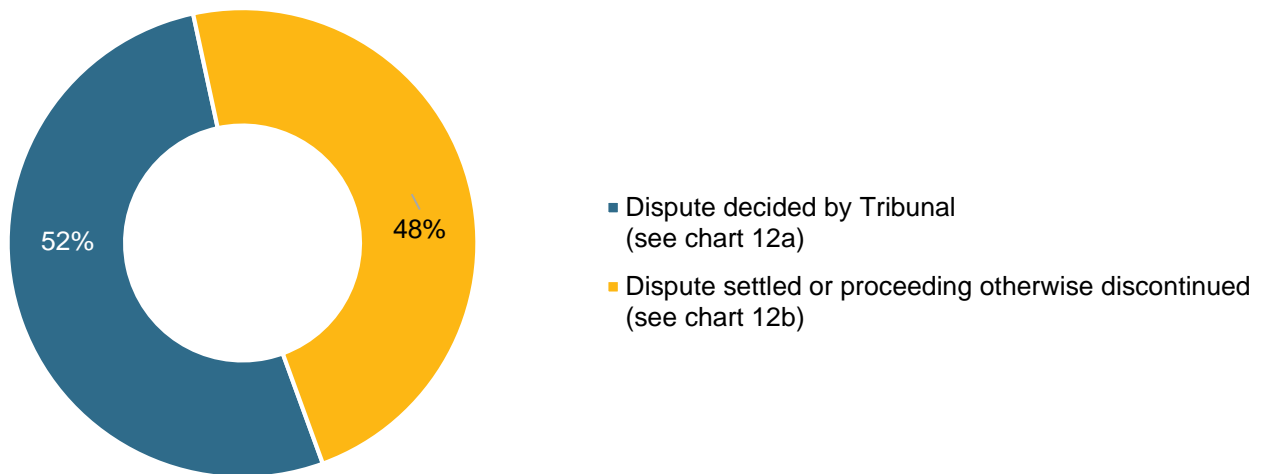


Chart 12a: Disputes Decided by Arbitral Tribunals under the ICSID Convention and Additional Facility Rules involving Investors with SEAP Nationality – Findings

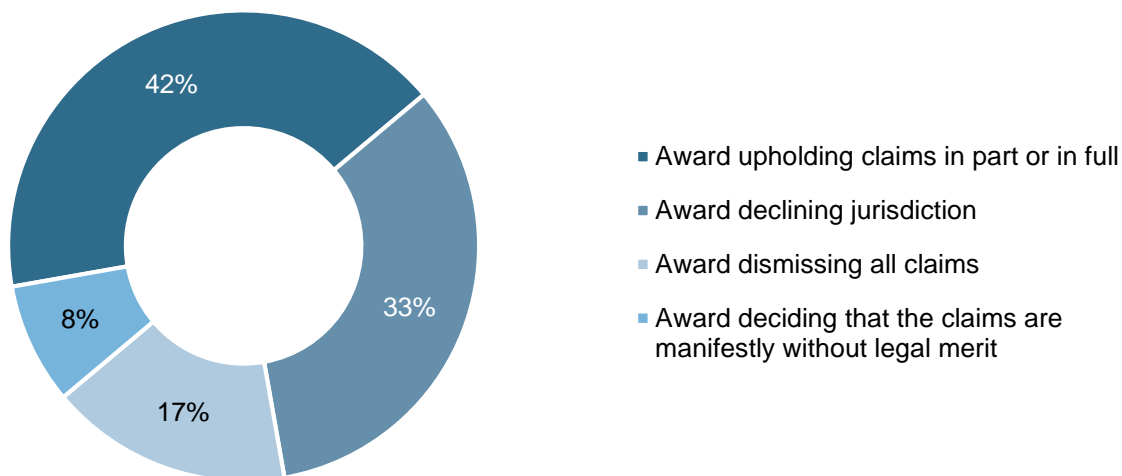
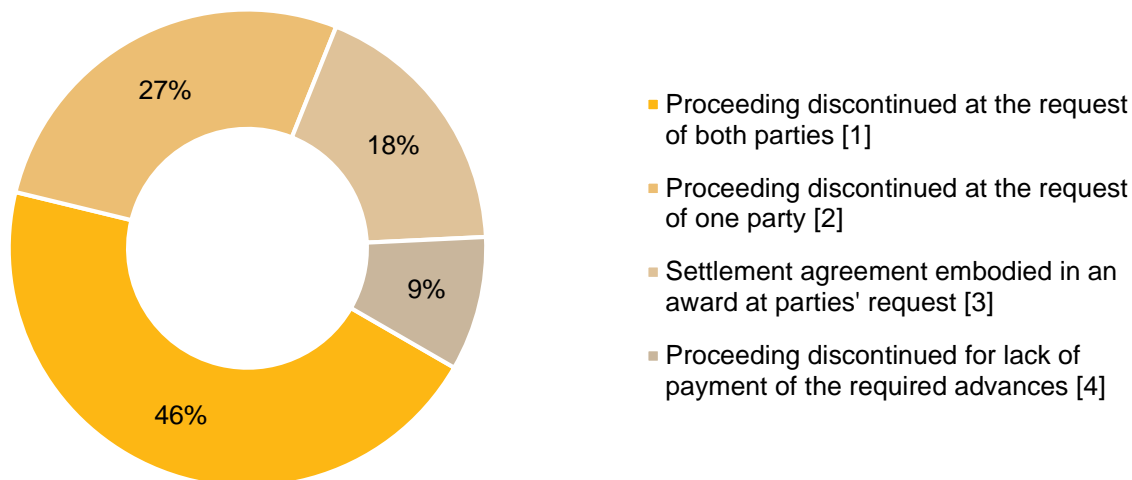


Chart 12b: Disputes Settled or Proceedings Otherwise Discontinued under the ICSID Convention and Additional Facility Rules involving Investors with SEAP Nationality – Basis



[1] ICSID Arbitration Rule 43(1). No case concluded to date on the basis of Arbitration (Additional Facility) Rule 49(1).

[2] ICSID Arbitration Rule 44. No case concluded to date on the basis of Arbitration (Additional Facility) Rule 50.

[3] ICSID Arbitration Rule 43(2). No case concluded to date on the basis of Arbitration (Additional Facility) Rule 49(2).

[4] ICSID Administrative & Financial Regulation 14(3)(d).

6. Arbitrators, Conciliators and *ad hoc* Committee Members Appointed in ICSID Cases

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 Geographic Region

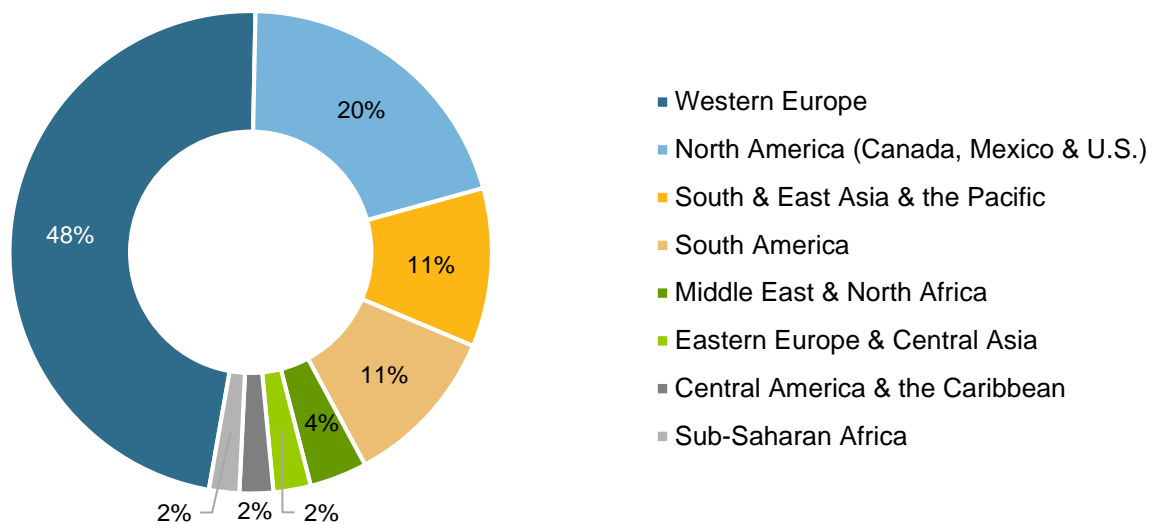


Chart 14: Arbitrators, Conciliators and *ad hoc* Committee Members Appointed in Cases Registered under the ICSID Convention and Additional Facility Rules – Distribution of Appointments by ICSID and by the Parties (or Party-appointed Arbitrators or Conciliators) by Geographic Region

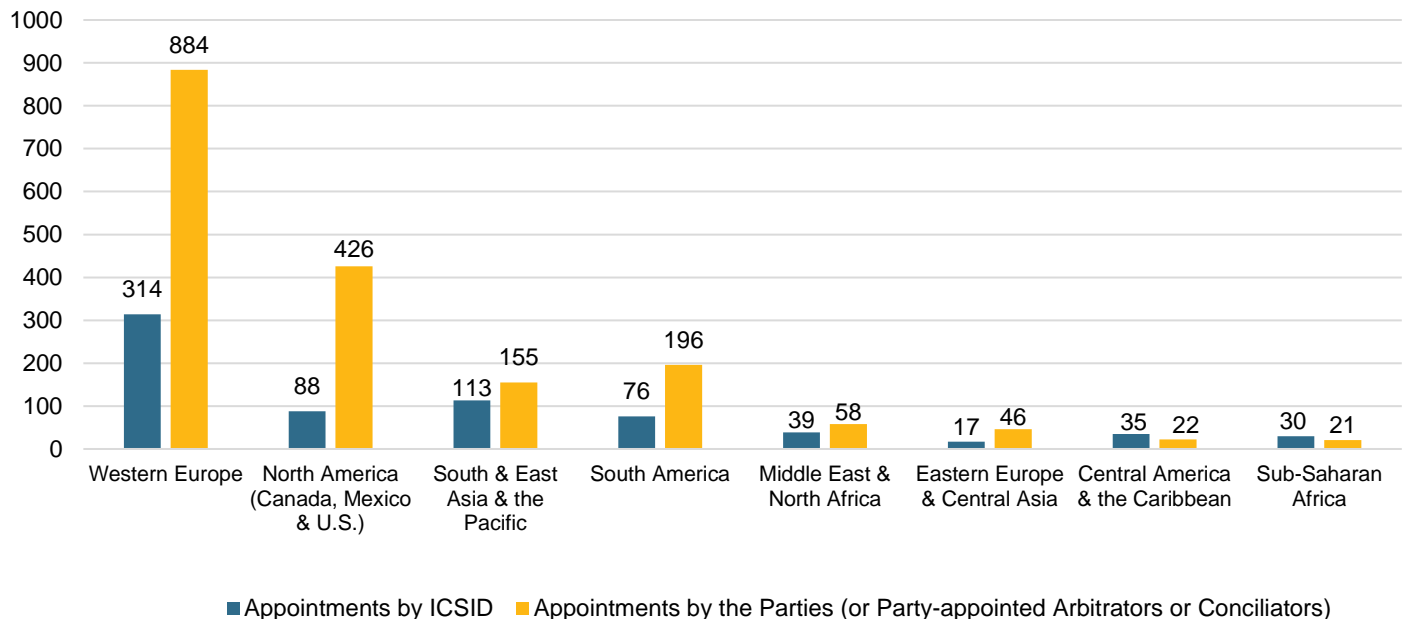


Chart 15: State of Nationality of Arbitrators and *ad hoc* Committee Members with SEAP Nationality Appointed in Cases Registered under the ICSID Convention and Additional Facility Rules

Nationality/ Nationalities	As of June 30, 2019
Australia	96
New Zealand	49
Singapore	20
China	14
Pakistan	14
Bangladesh	12
Malaysia	12
Philippines	11
Korea, Rep.of	10
Australia/Ireland	7
Thailand	7
India	6
New Zealand/United Kingdom	4
Japan	2
Australia/Germany	1
Pakistan/United States of America	1
Sri Lanka	1
United Kingdom/Pakistan	1

Chart 16: Arbitrators and *ad hoc* Committee Members with SEAP Nationality Appointed in Cases Registered under the ICSID Convention and Additional Facility Rules – Distribution of Appointments by Gender

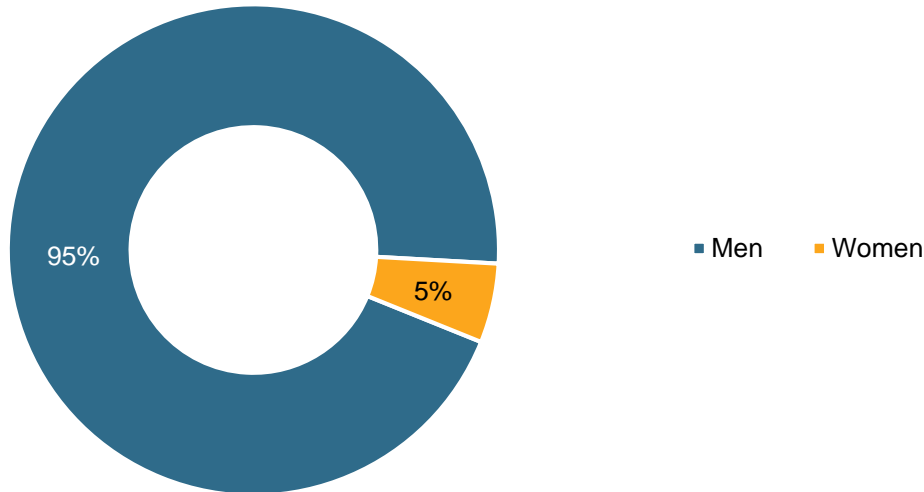
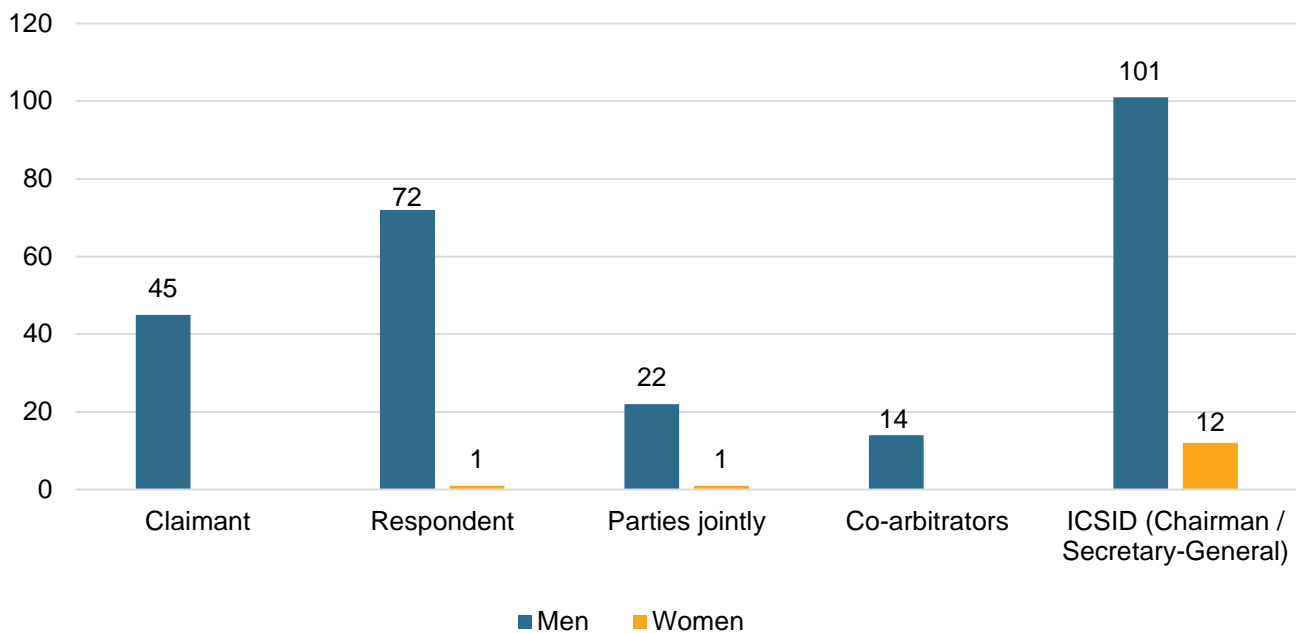


Chart 17: Arbitrators and *ad hoc* Committee Members with SEAP Nationality Appointed in Cases Registered under the ICSID Convention and Additional Facility Rules – Distribution of Appointments by ICSID and by the Parties (or Party-appointed Arbitrators), by Gender



Annex 1: List of States from the SEAP Region (as of June 30, 2019)

	Signature	Entry into Force
Afghanistan	Sep. 30, 1966	July 25, 1968
Australia	Mar. 24, 1975	June 1, 1991
Bangladesh	Nov. 20, 1979	Apr. 26, 1980
Bhutan		
Brunei Darussalam	Sep. 16, 2002	Oct. 16, 2002
Cambodia	Nov. 5, 1993	Jan. 19, 2005
China	Feb. 9, 1990	Feb. 6, 1993
Fiji	July 1, 1977	Sep. 10, 1977
India		
Indonesia	Feb. 16, 1968	Oct. 28, 1968
Japan	Sep. 23, 1965	Sep. 16, 1967
Kiribati		
Korea, Dem. People's Rep.		
Korea, Rep. of	Apr. 18, 1966	Mar. 23, 1967
Lao PDR		
Malaysia	Oct. 22, 1965	Oct. 14, 1966
Maldives		
Marshall Islands		
Micronesia, Fed. Sts.	June 24, 1993	July 24, 1993
Mongolia	June 14, 1991	July 14, 1991
Myanmar		
Nauru	Apr. 12, 2016	May 12, 2016
Nepal	Sep. 28, 1965	Feb. 6, 1969
New Zealand	July 6, 1965	Oct. 15, 1966
Pakistan	July 6, 1965	Oct. 15, 1966

	Signature	Entry into Force
Palau		
Papua New Guinea	Oct. 20, 1978	Nov. 19, 1978
Philippines	Sep. 26, 1978	Dec. 17, 1978
Samoa	Feb. 3, 1978	May 25, 1978
Singapore	Feb. 2, 1968	Nov. 13, 1968
Solomon Islands	Nov. 12, 1979	Oct. 8, 1981
Sri Lanka	Aug. 30, 1967	Nov. 11, 1967
Thailand	Dec. 6, 1985	
Timor-Leste	July 23, 2002	Aug. 22, 2002
Tonga	May 1, 1989	Apr. 20, 1990
Tuvalu		
Vanuatu		
Vietnam		

Annex 2: List of ICSID Cases involving State Parties from the SEAP Region (as of June 30, 2019)

	Case No.	Claimant(s)		Respondent	Case Status
1	ARB/81/1	Amco Asia Corporation and others	v.	Republic of Indonesia	Concluded
2	ARB/84/2	Colt Industries Operating Corporation	v.	Republic of Korea	Concluded
3	ARB/87/2	Mobil Oil Corporation and others	v.	New Zealand	Concluded
4	ARB/87/3	Asian Agricultural Products Limited	v.	Democratic Socialist Republic of Sri Lanka	Concluded
5	ARB/87/4	Occidental of Pakistan, Inc.	v.	Islamic Republic of Pakistan	Concluded
6	ARB/92/2	Scimitar Exploration Limited	v.	Bangladesh and Bangladesh Oil, Gas and Mineral Corporation	Concluded
7	ARB/94/1	Philippe Gruslin	v.	Malaysia	Concluded
8	ARB/96/2	Misima Mines Pty. Ltd.	v.	Independent State of Papua New Guinea	Concluded
9	ARB/99/3	Philippe Gruslin	v.	Malaysia	Concluded
10	ARB/00/2	Mihaly International Corporation	v.	Democratic Socialist Republic of Sri Lanka	Concluded
11	ARB/01/13	SGS Société Générale de Surveillance S.A.	v.	Islamic Republic of Pakistan	Concluded
12	ARB/02/2	Impregilo S.p.A.	v.	Islamic Republic of Pakistan	Concluded
13	ARB/02/6	SGS Société Générale de Surveillance S.A.	v.	Republic of the Philippines	Concluded
14	ARB/03/3	Impregilo S.p.A.	v.	Islamic Republic of Pakistan	Concluded
15	ARB/03/25	Fraport AG Frankfurt Airport Services Worldwide	v.	Republic of the Philippines	Concluded
16	ARB/03/29	Bayindir Insaat Turizm Ticaret Ve Sanayi A.S.	v.	Islamic Republic of Pakistan	Concluded
17	ARB/04/3	Cemex Asia Holdings Ltd	v.	Republic of Indonesia	Concluded
18	ARB/04/10	Alstom Power Italia SpA and Alstom SpA	v.	Republic of Mongolia	Concluded
19	ARB/05/7	Saipem S.p.A.	v.	People's Republic of Bangladesh	Concluded
20	ARB/05/10	Malaysian Historical Salvors, SDN, BHD	v.	Malaysia	Concluded
21	ARB/06/10	Chevron Bangladesh Block Twelve, Ltd. and Chevron Bangladesh Blocks Thirteen and Fourteen, Ltd.	v.	People's Republic of Bangladesh	Concluded

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	Case No.	Claimant(s)		Respondent	Case Status
22	ARB/07/3	Government of the Province of East Kalimantan	v.	PT Kaltim Prima Coal and others	Concluded
23	ARB/09/2	Deutsche Bank AG	v.	Democratic Socialist Republic of Sri Lanka	Concluded
24	ARB/09/18	Cambodia Power Company	v.	Kingdom of Cambodia	Concluded
25	ARB/10/11	Niko Resources (Bangladesh) Ltd.	v.	Bangladesh Petroleum Exploration & Production Company Limited ("Bapex") and Bangladesh Oil Gas and Mineral Corporation ("Petrobangla")	Pending
26	ARB/10/18	Niko Resources (Bangladesh) Ltd.	v.	Bangladesh Petroleum Exploration & Production Company Limited ("Bapex") and Bangladesh Oil Gas and Mineral Corporation ("Petrobangla")	Pending
27	ARB/11/8	Agility for Public Warehousing Company K.S.C.	v.	Islamic Republic of Pakistan	Concluded
28	ARB/11/12	Fraport AG Frankfurt Airport Services Worldwide	v.	Republic of the Philippines	Concluded
29	ARB/11/13	Rafat Ali Rizvi	v.	Republic of Indonesia	Concluded
30	ARB/11/15	Ekran Berhad	v.	People's Republic of China	Concluded
31	ARB/11/27	Baggerwerken Decloedt En Zoon NV	v.	Republic of the Philippines	Concluded
32	ARB/12/1	Tethyan Copper Company Pty Limited	v.	Islamic Republic of Pakistan	Pending
33	ARB/12/14	Churchill Mining PLC	v.	Republic of Indonesia	Concluded
34	ARB(AF)/12/6	Lao Holdings N.V.	v.	Lao People's Democratic Republic	Pending
35	ARB/12/37	LSF-KEB Holdings SCA and others	v.	Republic of Korea	Pending
36	ARB/12/40	Planet Mining Pty Ltd	v.	Republic of Indonesia	Concluded
37	ARB/13/1	Karkey Karadeniz Elektrik Uretim A.S.	v.	Islamic Republic of Pakistan	Pending
38	ARB/13/33	PNG Sustainable Development Program Ltd.	v.	Independent State of Papua New Guinea	Concluded
39	ARB/14/15	Nusa Tenggara Partnership B.V. and PT Newmont Nusa Tenggara	v.	Republic of Indonesia	Concluded
40	ARB/14/25	Ansung Housing Co., Ltd.	v.	People's Republic of China	Concluded
41	ARB/15/2	Lighthouse Corporation Pty Ltd and Lighthouse Corporation Ltd, IBC	v.	Democratic Republic of Timor-Leste	Concluded
42	ARB/15/17	Hanocal Holding B.V. and IPIC International B.V.	v.	Republic of Korea	Concluded

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	Case No.	Claimant(s)		Respondent	Case Status
43	ARB(AF)/16/2	Lao Holdings N.V.	v.	Lao People's Democratic Republic	Pending
44	ARB/16/22	Shell Philippines Exploration B.V.	v.	Republic of the Philippines	Pending
45	ARB/16/25	Raymond Charles Eyre and Montrose Developments (Private) Limited	v.	Democratic Socialist Republic of Sri Lanka	Pending
46	ARB/16/26	Oleovest Pte. Ltd.	v.	Republic of Indonesia	Concluded
47	ARB/17/19	Hela Schwarz GmbH	v.	People's Republic of China	Pending
48	ARB/17/26	Puma Energy PNG Supply Ltd and Puma Energy PNG Refining Limited	v.	Independent State of Papua New Guinea	Concluded
49	ARB(AF)/18/2	Shin Dong Baig	v.	Socialist Republic of Vietnam	Pending
50	ARB/18/15	NEPC Consortium Power Limited	v.	Bangladesh Power Development Board	Pending
51	ARB/18/39	KLS Energy Lanka Sdn. Bhd.	v.	Democratic Socialist Republic of Sri Lanka	Pending
52	ARB/19/15	Axiata Investments (UK) Limited and Ncell Private Limited	v.	Federal Democratic Republic of Nepal	Pending
53	ARB/19/18	Niko Exploration (Block 9) Ltd.	v.	People's Republic of Bangladesh and Bangladesh Oil Gas and Mineral Corporation	Pending

ICSID is the world's leading institution devoted to international investment dispute settlement. It has extensive experience in this field, having administered the majority of all international investment cases. States have agreed on ICSID as a forum for investor-State dispute settlement in most international investment treaties and in numerous investment laws and contracts.

ICSID was established in 1966 by the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the ICSID Convention). The ICSID Convention is a multilateral treaty formulated by the Executive Directors of the World Bank to further the Bank's objective of promoting international investment. ICSID is an independent, depoliticized and effective dispute-settlement institution. Its availability to investors and States helps to promote international investment by providing confidence in the dispute resolution process. It is also available for State-State disputes under investment treaties and free trade agreements, and as an administrative registry.