

# **THE ICSID CASELOAD – STATISTICS (SPECIAL FOCUS – EUROPEAN UNION)**

# The ICSID Caseload – Statistics

## (Special Focus – European Union)

This issue of the *ICSID Caseload – Statistics (Special Focus – European Union)* provides an overview of the ICSID caseload involving Member States of the European Union (EU). It is based on ICSID cases registered as of March 1, 2014.

This document looks at cases involving an EU member State as the State Party to the dispute and illustrates the number of cases registered, the type of cases registered, the basis of consent to ICSID jurisdiction invoked in such cases, the economic sectors involved, and the geographic origin and type of investors involved in such cases. It also contains data on outcomes in arbitration proceedings involving an EU member State, including further information on disputes decided by tribunals and on settled or discontinued cases.

This document further looks at cases involving investors from an EU member State and illustrates the number of cases registered, the type of cases registered, the basis of consent to ICSID jurisdiction invoked in such cases, and the economic sectors concerned in disputes involving EU investors. It also contains data on outcomes in ICSID arbitration proceedings involving an investor from an EU member State, including further information on disputes decided by tribunals and on settled or discontinued cases.

Finally, this document looks at the nationalities and geographic origins of arbitrators, conciliators and *ad hoc* committees members appointed in all ICSID cases.

The analysis considers all ICSID cases involving an EU member State irrespective of their date of registration.

The Secretariat welcomes any comments or suggestions by email at [ICSIDsecretariat@worldbank.org](mailto:ICSIDsecretariat@worldbank.org).

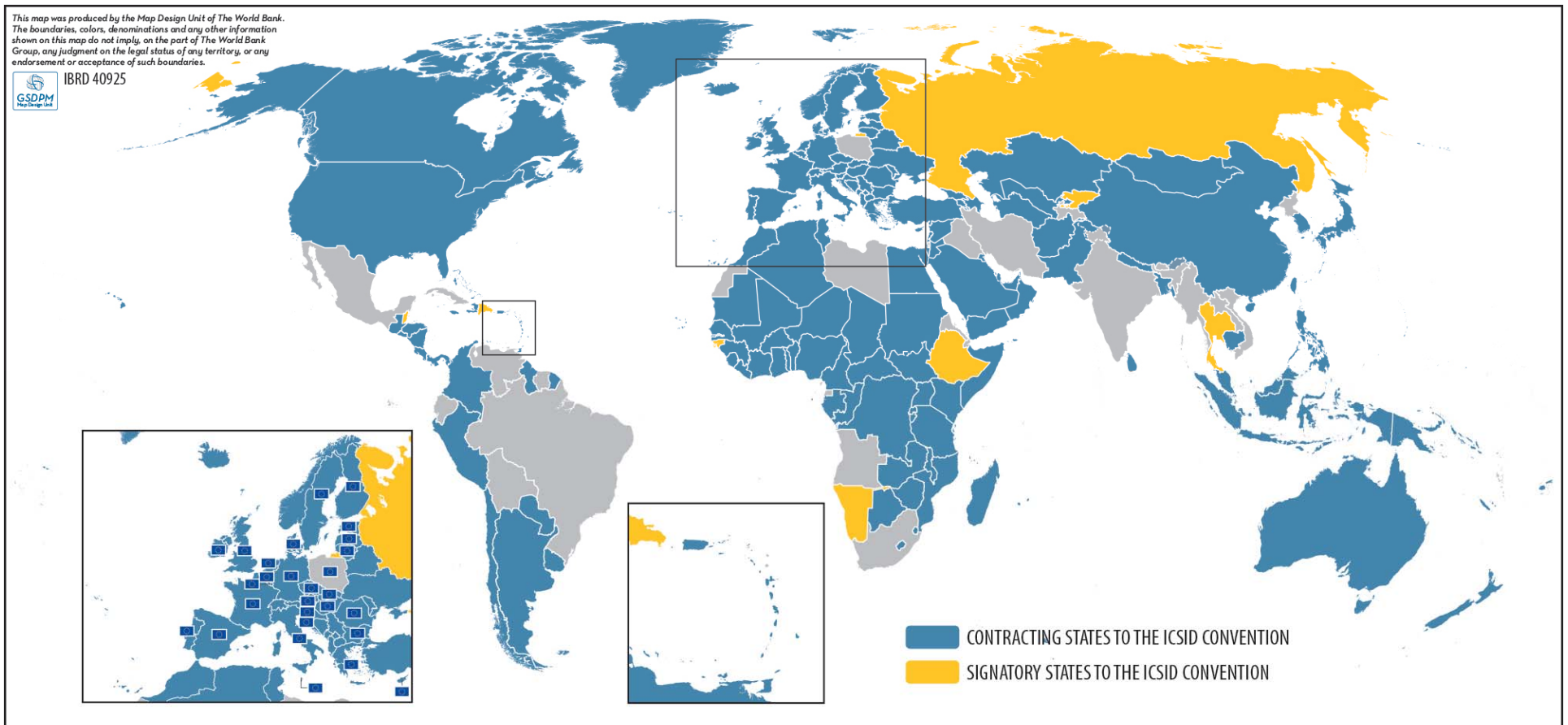
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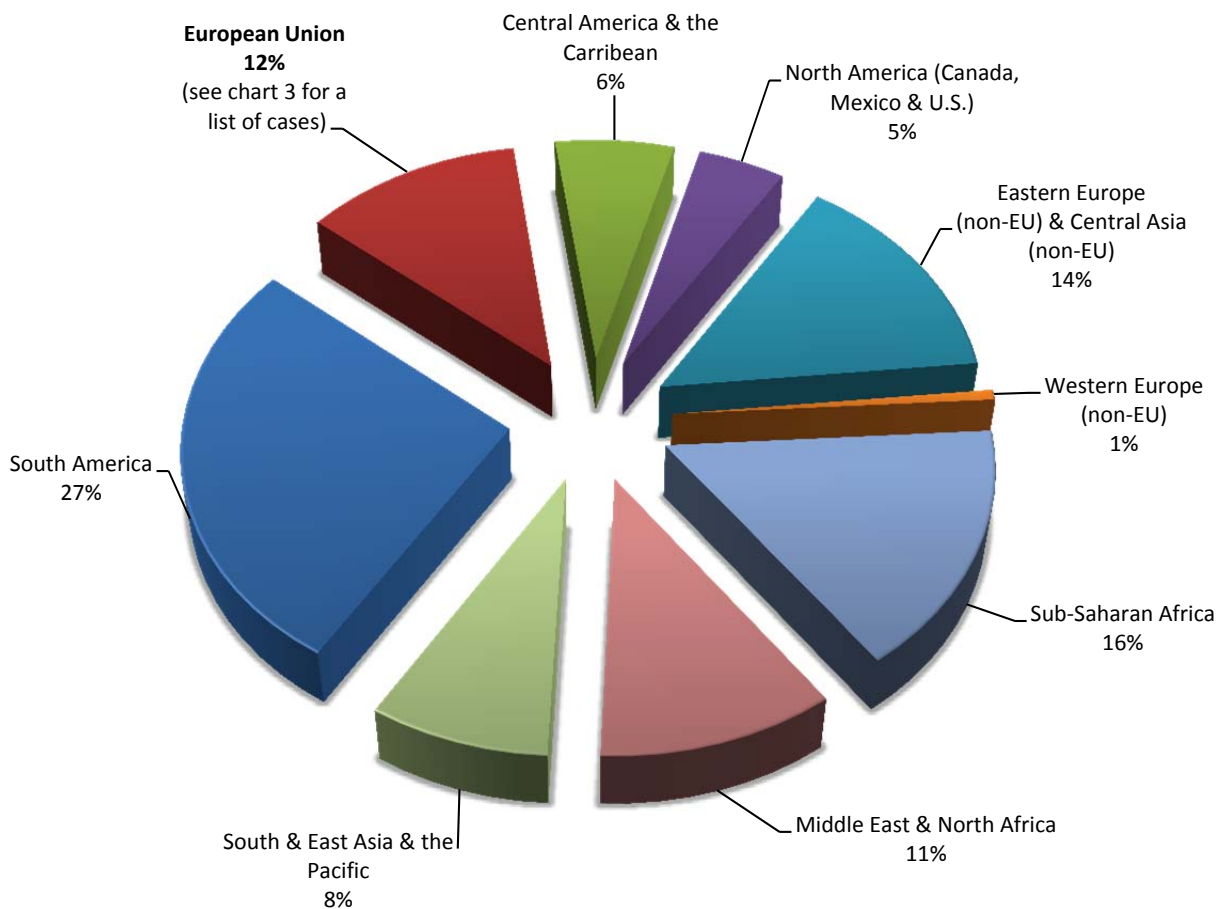
## 1. Map of the ICSID Contracting States and Other Signatories to the ICSID Convention (as of March 1, 2014)



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

As of March 1, 2014, ICSID had registered 463 cases under the ICSID Convention and Additional Facility Rules. Fifty-five (55) of these cases (12%) involved a State Party from the European Union. A list of EU Member States is attached as Annex 1. For a complete list of cases registered by ICSID involving an EU Member State, see Annex 2.

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



\* The classification of the geographic regions above is based on EU Membership, available at [http://europa.eu/about-eu/countries/index\\_en.htm](http://europa.eu/about-eu/countries/index_en.htm), and 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.



### 3. ICSID Cases Involving a State Party from the EU – Further Details

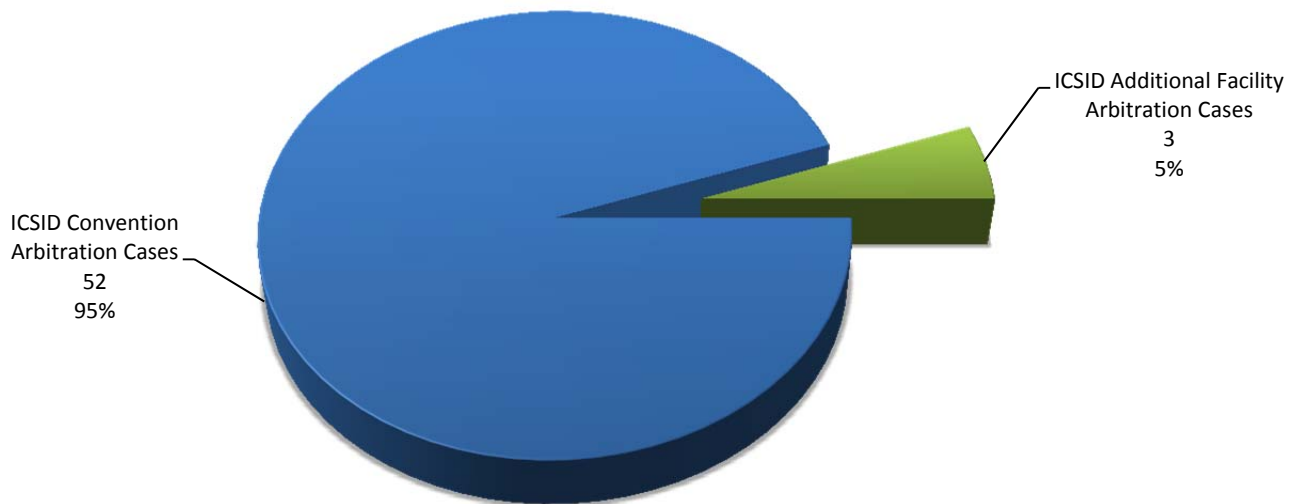
**Chart 2:** Number of ICSID Cases involving a State Party from the EU:

The chart below lists each EU Member State and the number of cases in which each has been involved as a Respondent. A complete list of ICSID cases involving a State Party from the EU is attached as Annex 2. In addition, procedural details about each case can be found on the ICSID website at [www.worldbank.org/icsid](http://www.worldbank.org/icsid).

	<b>EU Member State</b>	<b>Number of ICSID Cases</b>
1.	Austria	0
2.	Belgium	1
3.	Bulgaria	4
4.	Croatia	3
5.	Cyprus	1
6.	Czech Republic	1
7.	Denmark	0
8.	Estonia	3
9.	Finland	0
10.	France	1
11.	Germany	2
12.	Greece	1
13.	Hungary	11
14.	Ireland	0
15.	Italy	1
16.	Latvia	1
17.	Lithuania	1
18.	Luxembourg	0
19.	Malta	0
20.	Netherlands	0
21.	Poland	3
22.	Portugal	0
23.	Romania	9
24.	Slovak Republic	3
25.	Slovenia	3
26.	Spain	6
27.	Sweden	0
28.	United Kingdom	0

**Chart 3:** Type of Cases Registered under the ICSID Convention and Additional Facility Rules involving a State Party from the EU:

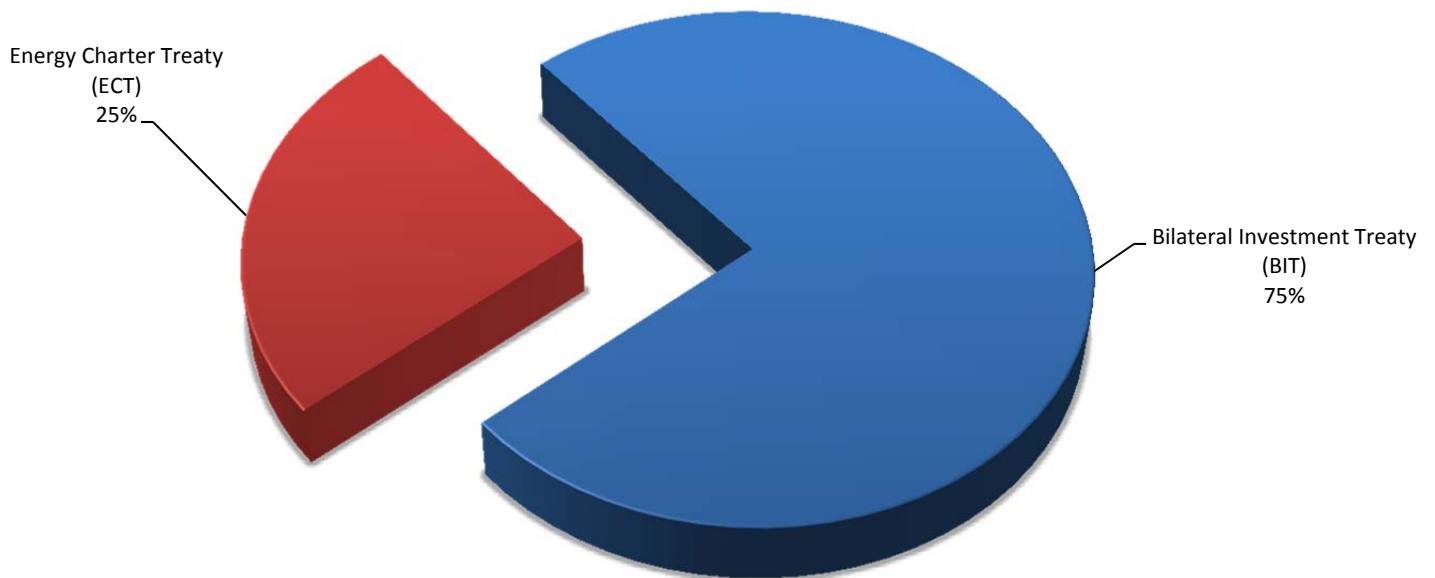
Of the 55 ICSID cases involving an EU member State, 52 were commenced under the ICSID Convention, and 3 were initiated under the Additional Facility Rules. As of March 1, 2014, no conciliation cases had been registered by ICSID involving a State Party from the EU.





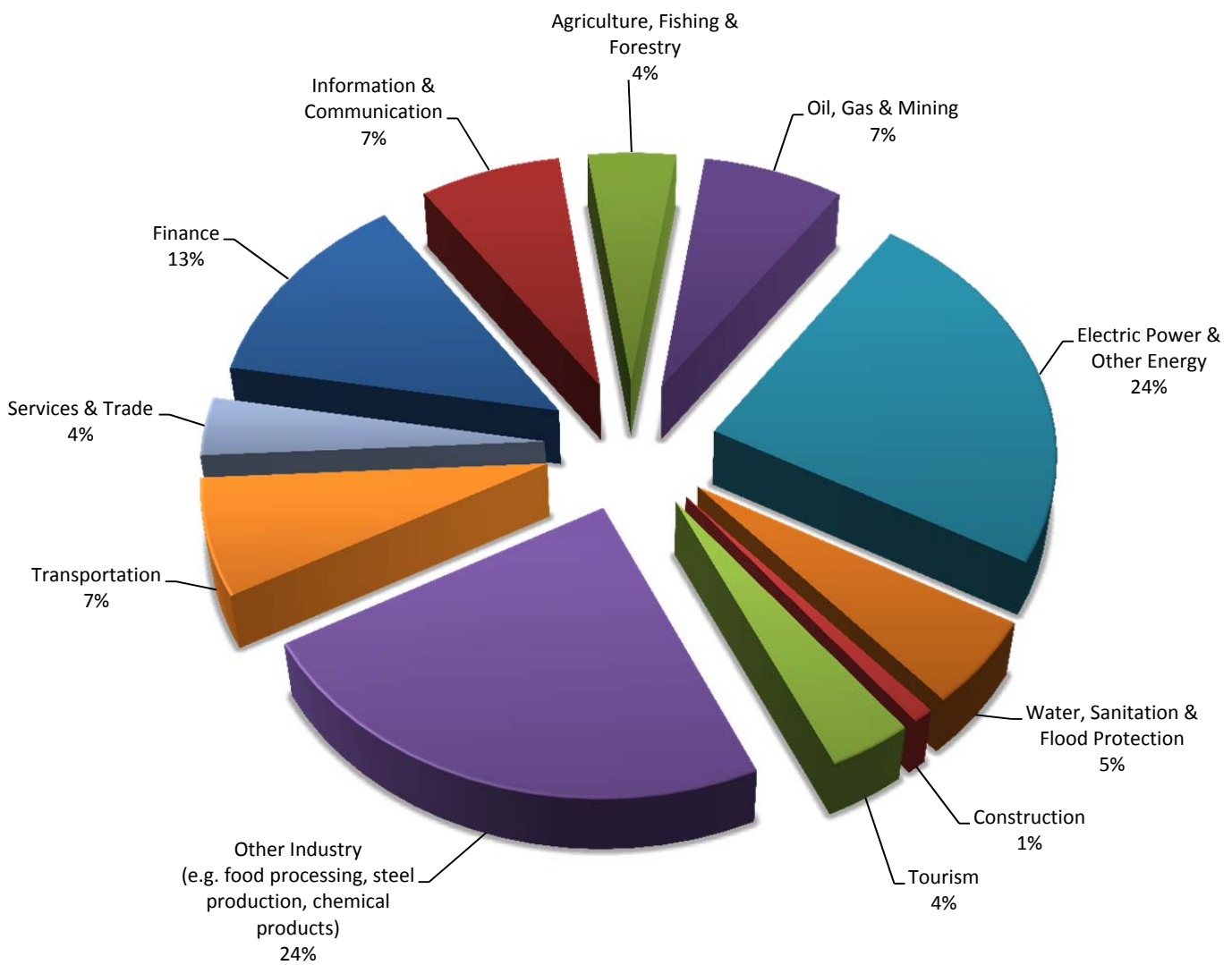
**Chart 4:** Basis of Consent Invoked to Establish ICSID Jurisdiction in Cases Registered under the ICSID Convention and Additional Facility Rules involving a State Party from the EU:

Of the 55 ICSID cases involving an EU member State, 25% were based on the State’s consent to arbitrate in the Energy Charter Treaty (ECT). The other 75% of the cases relied on consent found in bilateral investment treaties negotiated by the States.



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

The 55 disputes involving an EU member State arose in the context of a variety of economic sectors.



\* This sector classification is based on the World Bank's sector codes, available at <http://siteresources.worldbank.org/PROJECTS/Resources/SectorCodesLists.pdf>.

**Chart 6:** Cases Registered under the ICSID Convention and Additional Facility Rules involving a State Party from the EU – Geographic Origin of Investors:

In the 55 ICSID cases involving an EU member State, 71% were commenced by an investor who was also from an EU member State (“Intra-EU”). The remaining 29% were commenced by investors from States outside the EU.



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

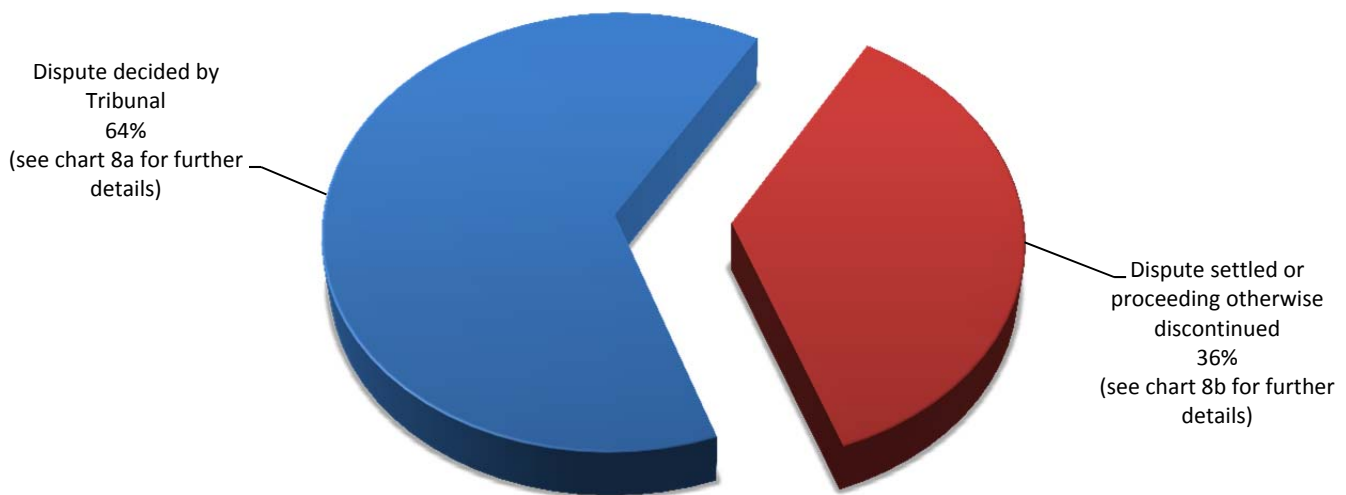
Of the 55 ICSID cases involving an EU member State, 27% were instituted by individual persons (“natural persons”). A further 73% involved juridical persons. This term refers to legal entities such as corporations, partnerships, or joint ventures, and includes small and medium sized enterprises, as well as large companies.



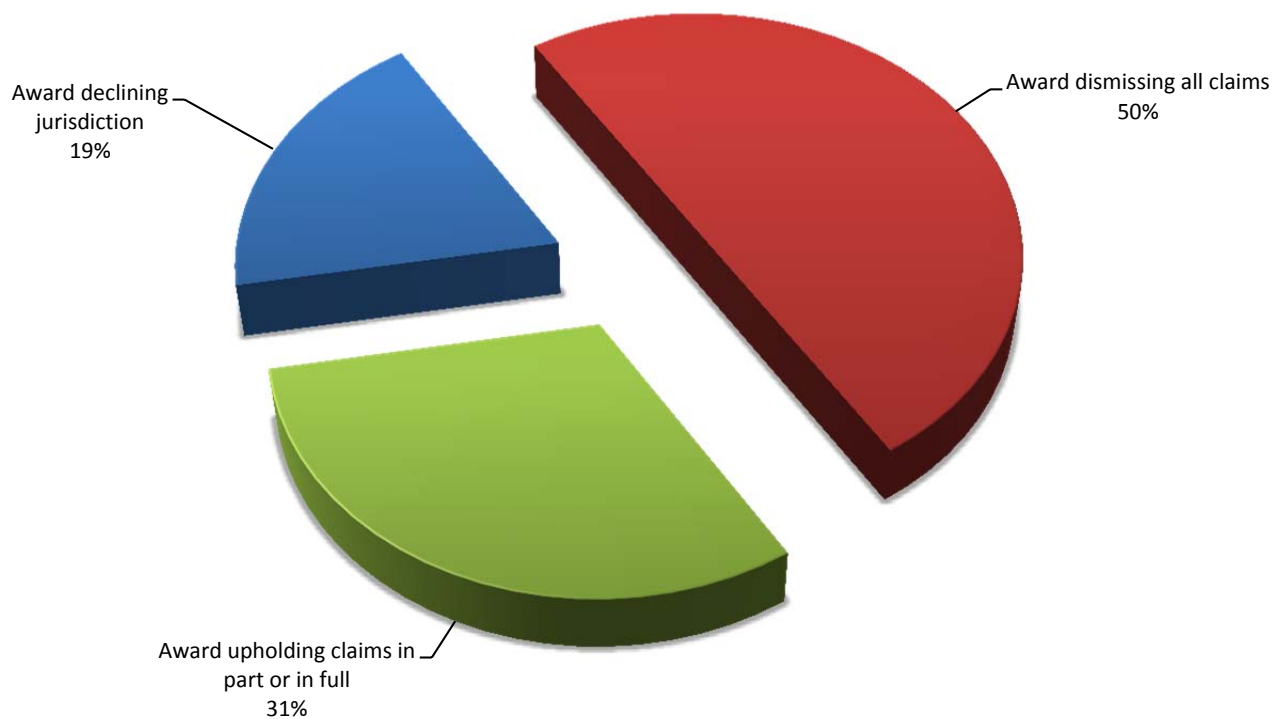
**Chart 8:** Arbitration Proceedings under the ICSID Convention and Additional Facility Rules involving a State Party from the EU – Outcomes:

In the arbitrations involving an EU member State that have concluded, 36% 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.

The other 64% were resolved by a final award by the tribunal. Where the tribunal rendered a final award, 19% of the awards declined jurisdiction, 50% dismissed all claims, and 31% upheld the claims in part or in full (see Chart 8a).

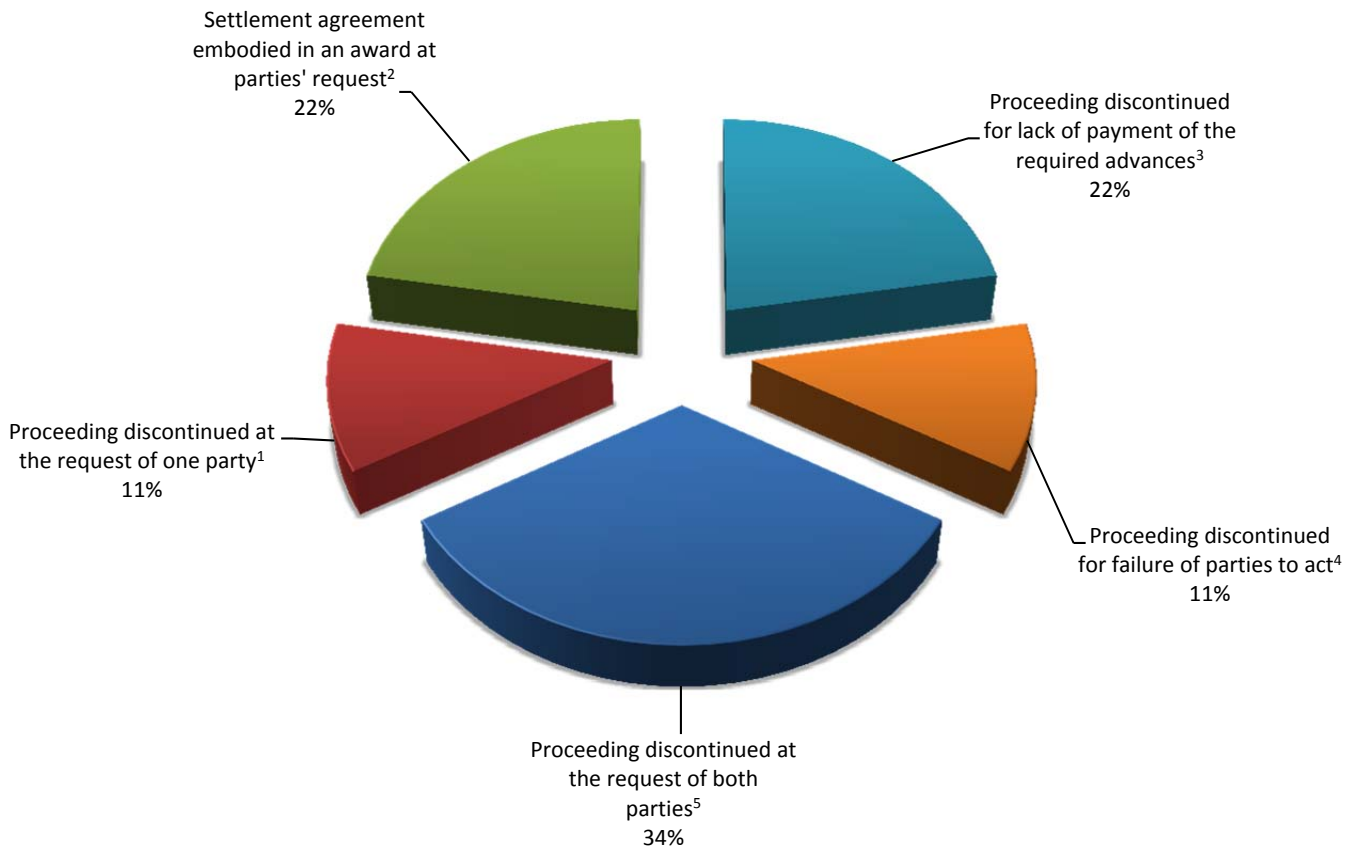


**Chart 8a:** Disputes Decided by Arbitral Tribunals under the ICSID Convention and Additional Facility Rules involving a State Party from the EU – Findings:





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



<sup>1</sup> ICSID Arbitration Rule 44. No case concluded to date on the basis of Arbitration (Additional Facility) Rule 50.

<sup>2</sup> ICSID Arbitration Rule 43(2). No case concluded to date on the basis of Arbitration (Additional Facility) Rule 49(2).

<sup>3</sup> ICSID Administrative & Financial Regulation 14(3)(d).

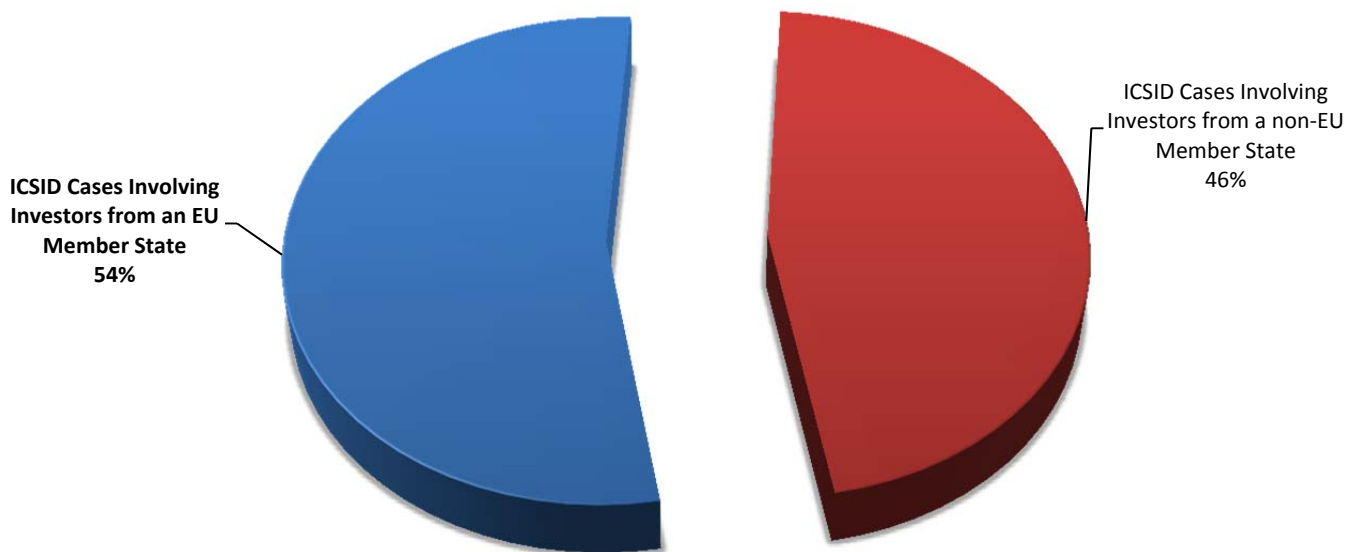
<sup>4</sup> ICSID Arbitration Rule 45. No case concluded to date on the basis of Arbitration (Additional Facility) Rule 51.

<sup>5</sup> ICSID Arbitration Rule 43(1) and Arbitration (Additional Facility) Rule 49(1).

#### 4. ICSID Cases involving Investors from EU Members States – Details

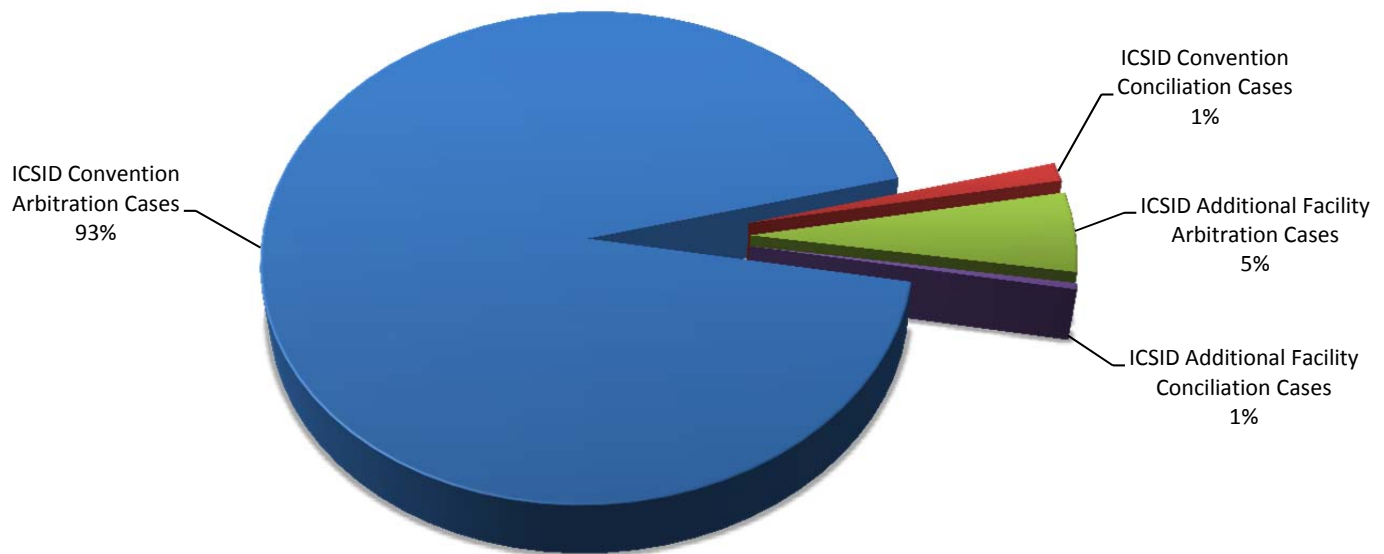
**Chart 9:** All Cases Registered under the ICSID Convention and Additional Facility Rules – Geographic Origin of Investor\*:

Investors from an EU member State were involved in 54% of registered ICSID cases. The data is based on the nationality of Investors as reported at the time of registration.



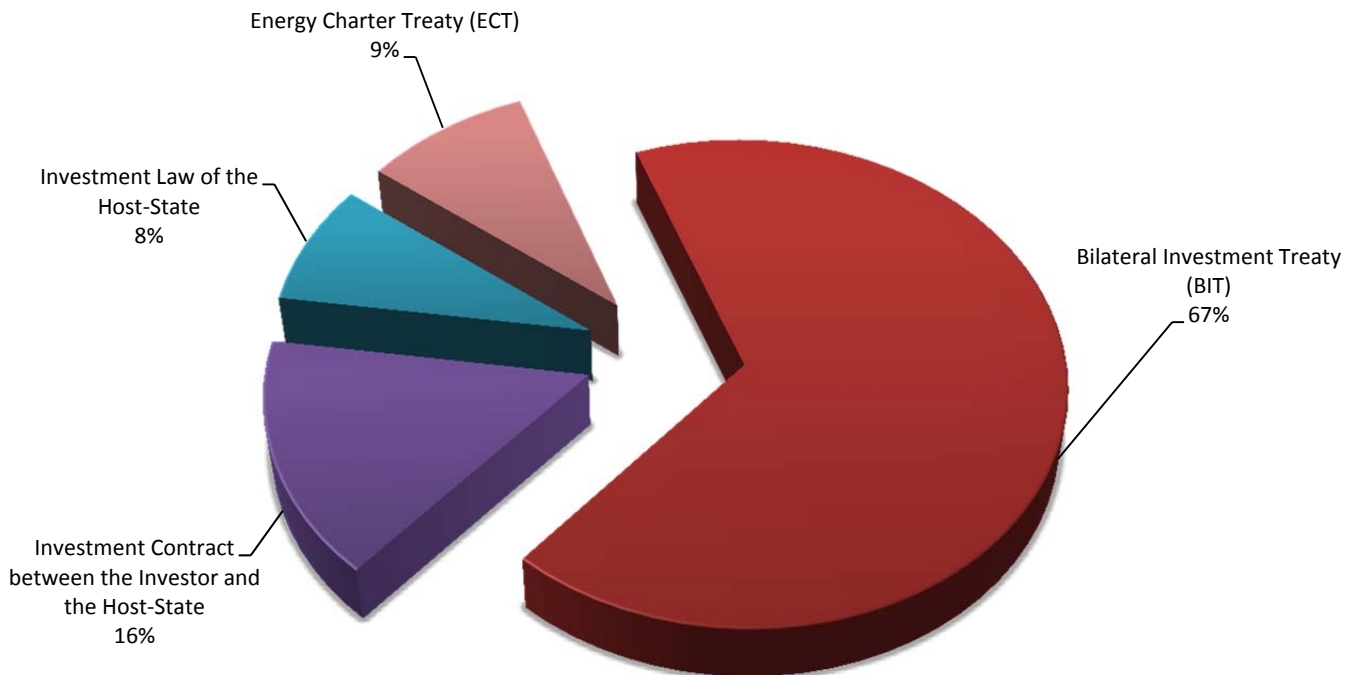
**Chart 10:** Type of Cases Registered under the ICSID Convention and Additional Facility Rules involving Investors from EU Member States:

Investors from an EU member State relied primarily on the arbitration mechanism established by the ICSID Convention (93%), and the Additional Facility Rules (5%). In addition, 2% of the cases involving an investor from an EU member State were conciliation proceedings under either the ICSID Convention or the Additional Facility Rules.



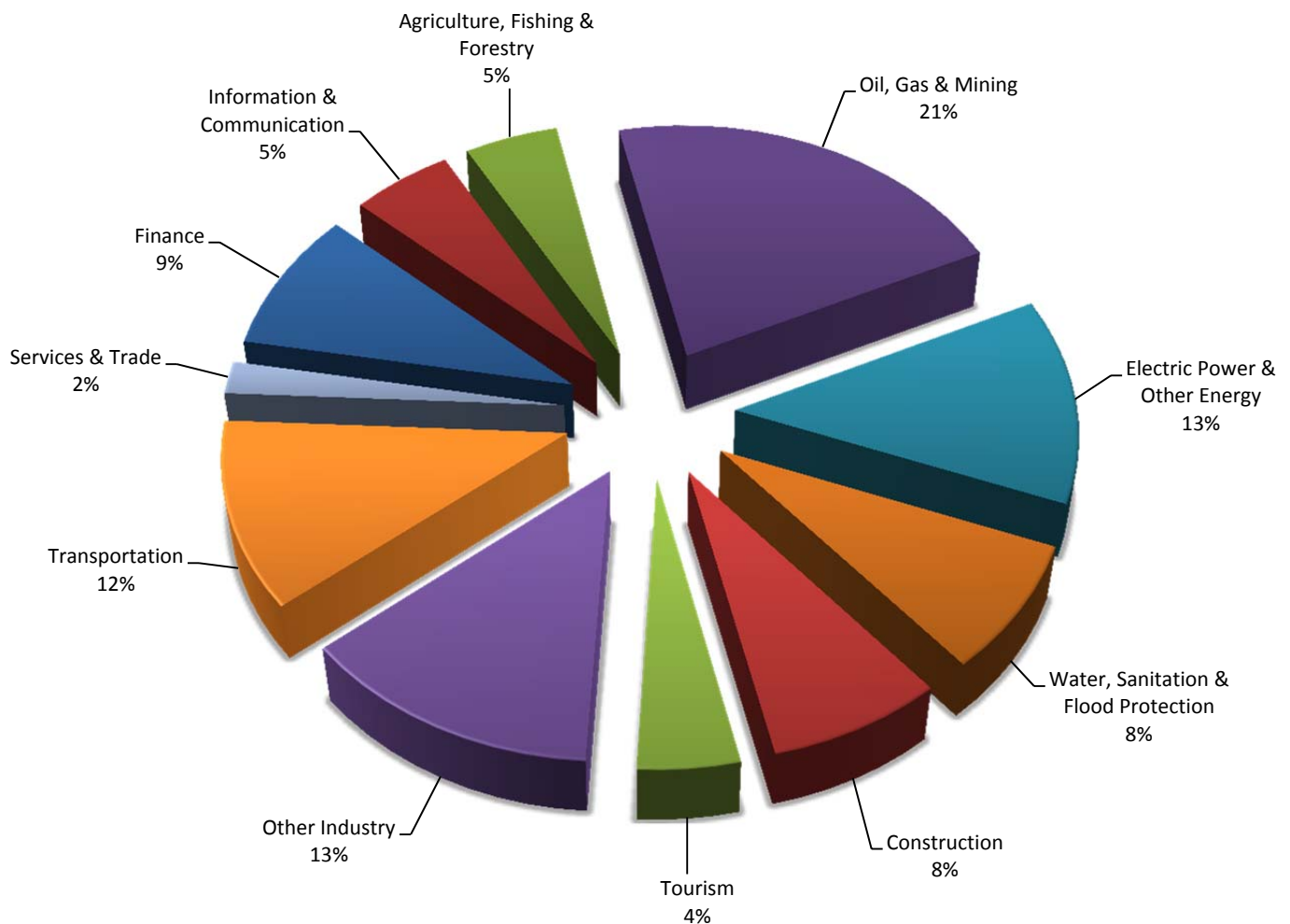
**Chart 11:** Basis of Consent Invoked to Establish ICSID Jurisdiction in Cases Registered under the ICSID Convention and Additional Facility Rules involving Investors from EU Member States:

Of the ICSID cases involving an investor from an EU member State, 67% were based on the State’s consent to arbitrate in bilateral investment treaties negotiated by the State. Sixteen percent (16%) relied on an ICSID dispute settlement provision in an investment contract between the investor and the Host-State. The remaining cases invoked the State’s consent to ICSID jurisdiction in the Energy Charter Treaty (9%), and the State’s consent found in the investment law of the Host-State (8%).



**Chart 12:** Distribution of Cases Registered under the ICSID Convention and Additional Facility Rules involving Investors from EU Member States, by Economic Sector\*:

The disputes involving an investor from an EU member State concerned a variety of economic sectors.

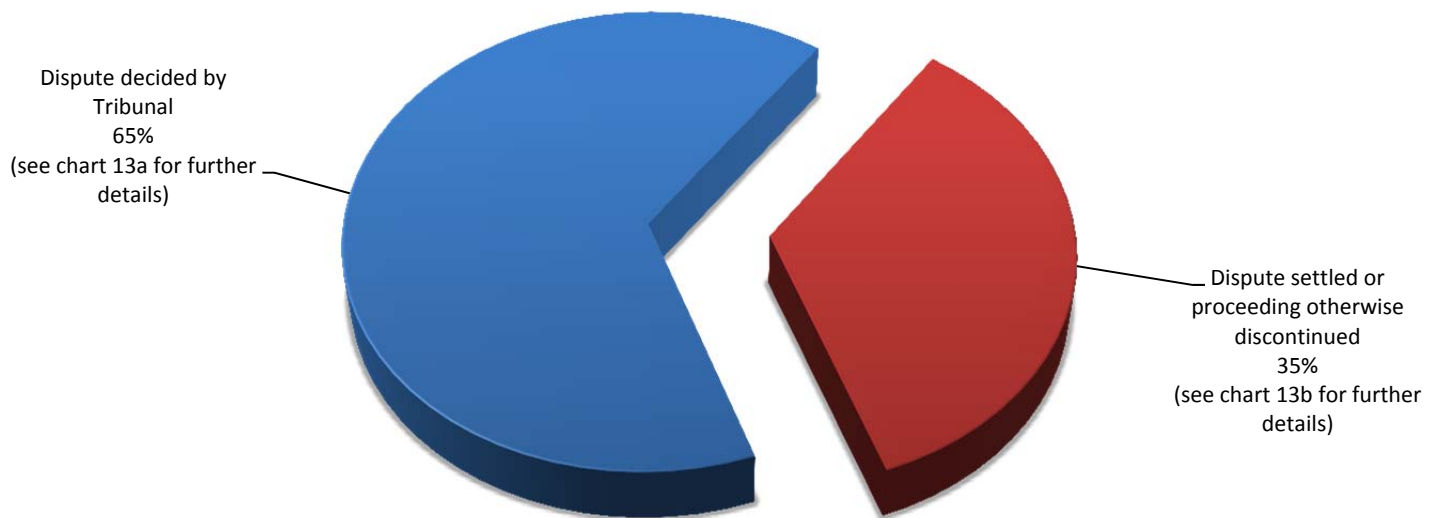


\* This sector classification is based on the World Bank's sector codes, available at <http://siteresources.worldbank.org/PROJECTS/Resources/SectorCodesLists.pdf>.

**Chart 13:** Arbitration Proceedings under the ICSID Convention and Additional Facility Rules involving Investors from EU Member States – Outcomes:

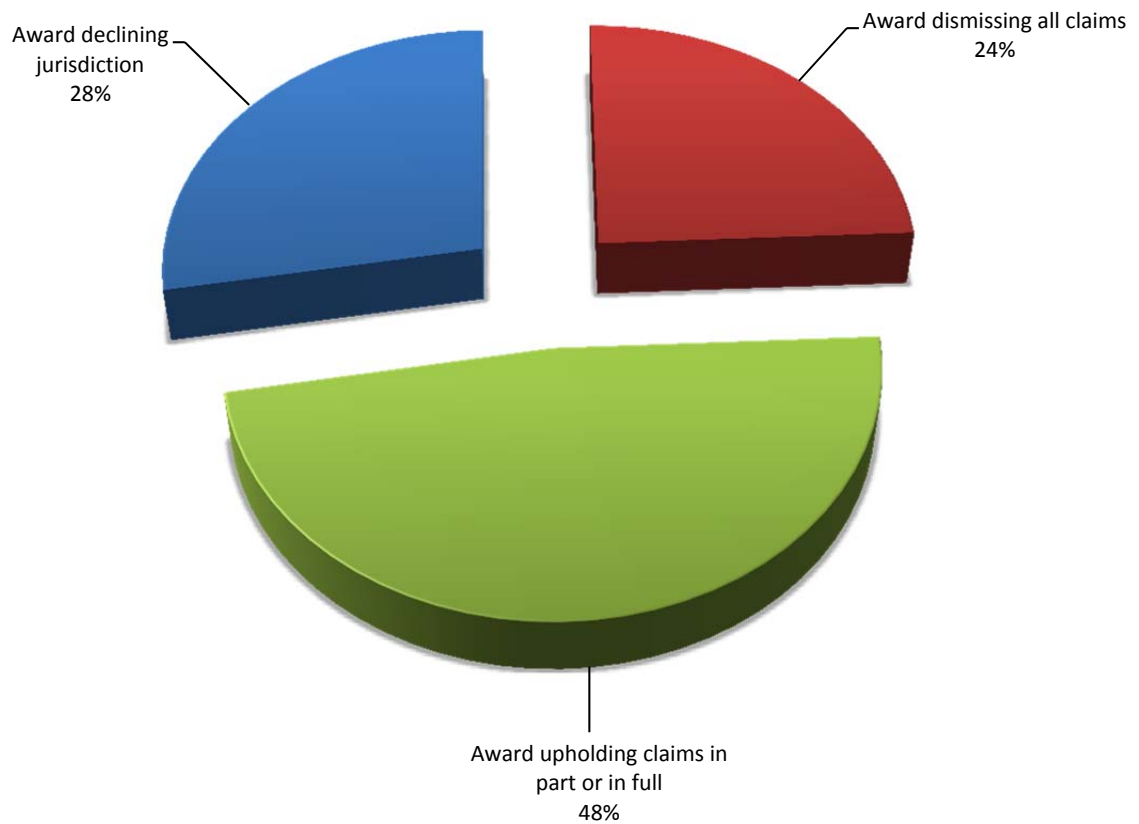
In the ICSID arbitrations involving an investor from an EU member State that have been concluded, 35% were settled by the parties or discontinued before a final determination of the tribunal. The basis for settlement or discontinuance is indicated in Chart 13b.

The other 65% were resolved in a final award by the tribunal. Where the tribunal rendered a final award, 28% of the awards declined jurisdiction, 24% dismissed all claims, and 48% upheld the claims in part or in full (see Chart 13a).

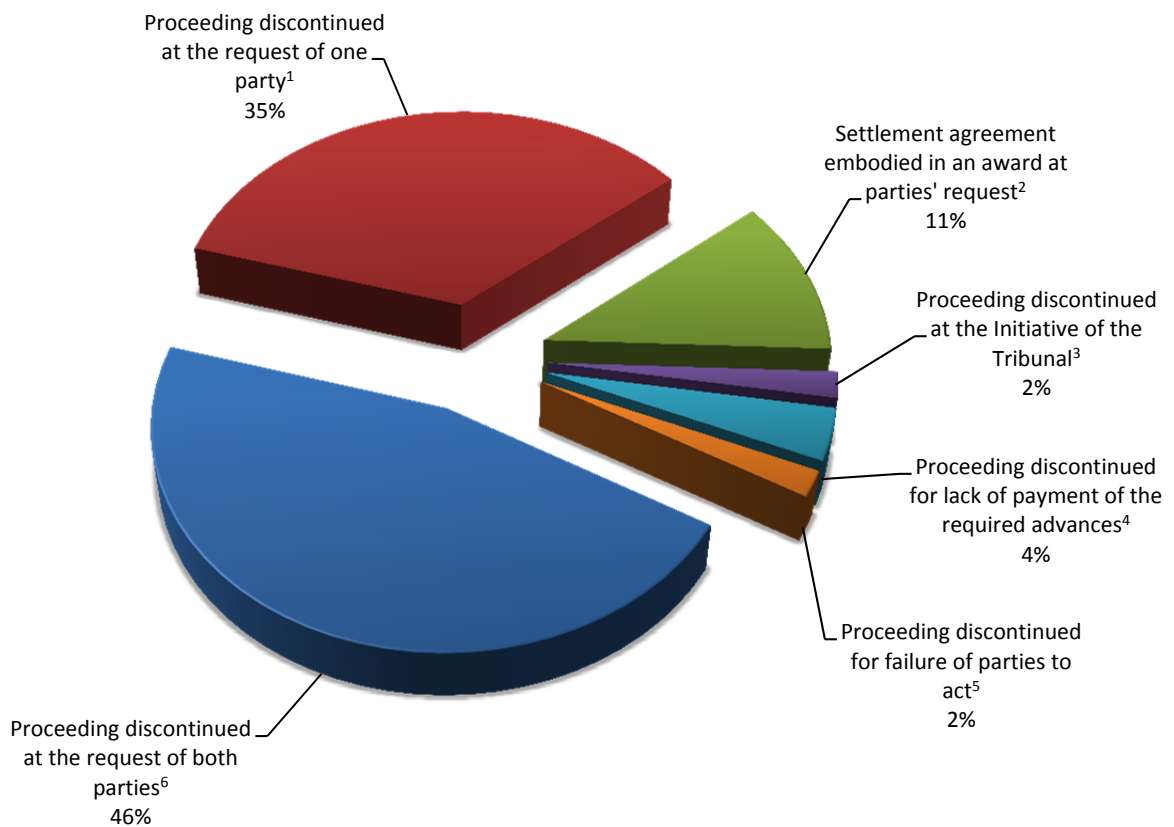




**Chart 13a:** Disputes Decided by Arbitral Tribunals under the ICSID Convention and Additional Facility Rules involving Investors from EU Member States – Findings:



**Chart 13b:** Disputes Settled or Proceedings Otherwise Discontinued under the ICSID Convention and Additional Facility Rules involving Investors from EU Member States – Basis:



<sup>1</sup> ICSID Arbitration Rule 44. No case concluded to date on the basis of Arbitration (Additional Facility) Rule 50.

<sup>2</sup> ICSID Arbitration Rule 43(2). No case concluded to date on the basis of Arbitration (Additional Facility) Rule 49(2).

<sup>3</sup> In accordance with Article 44 of the ICSID Convention.

<sup>4</sup> ICSID Administrative & Financial Regulation 14(3)(d).

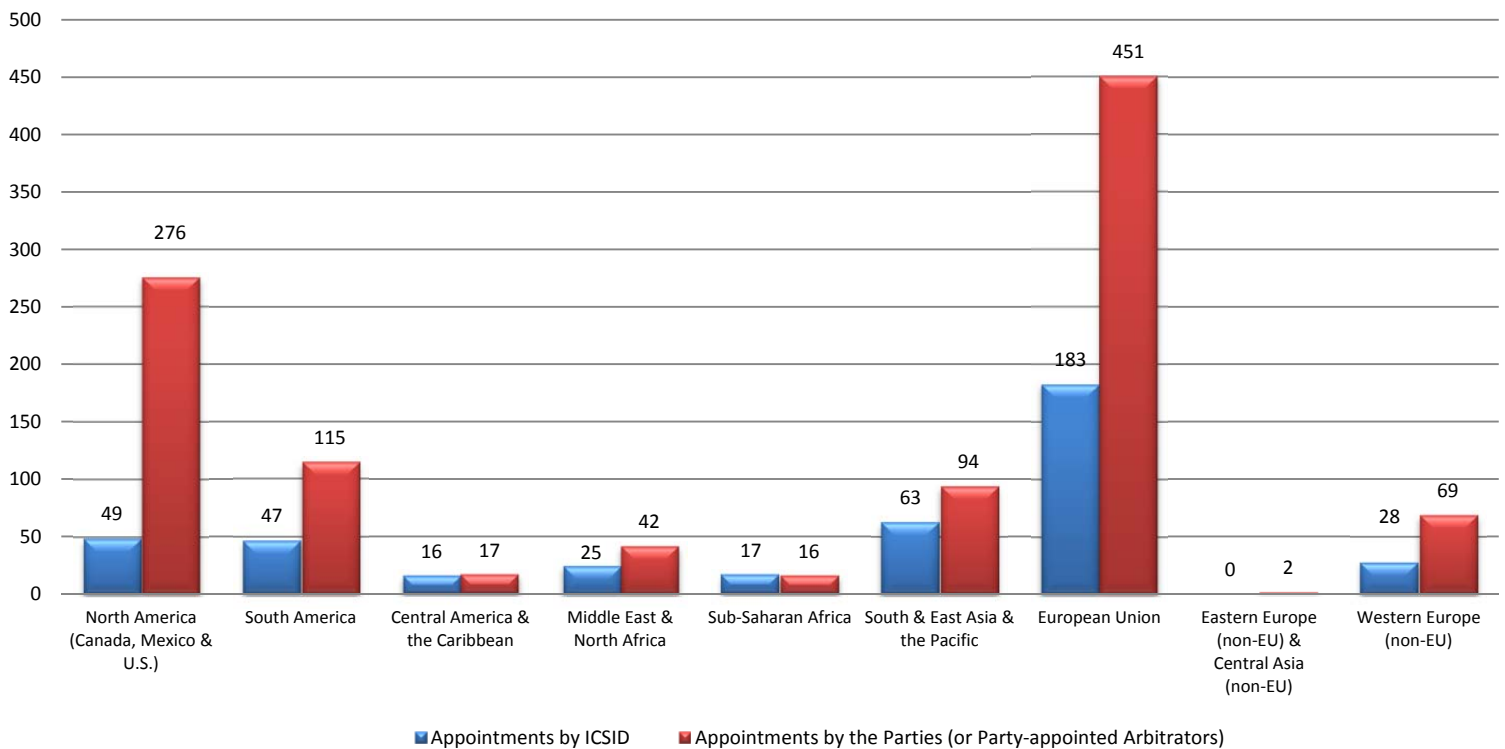
<sup>5</sup> ICSID Arbitration Rule 45. No case concluded to date on the basis of Arbitration (Additional Facility) Rule 51.

<sup>6</sup> ICSID Arbitration Rule 43(1) and Arbitration (Additional Facility) Rule 49(1).

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

**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) by Geographic Region\*:

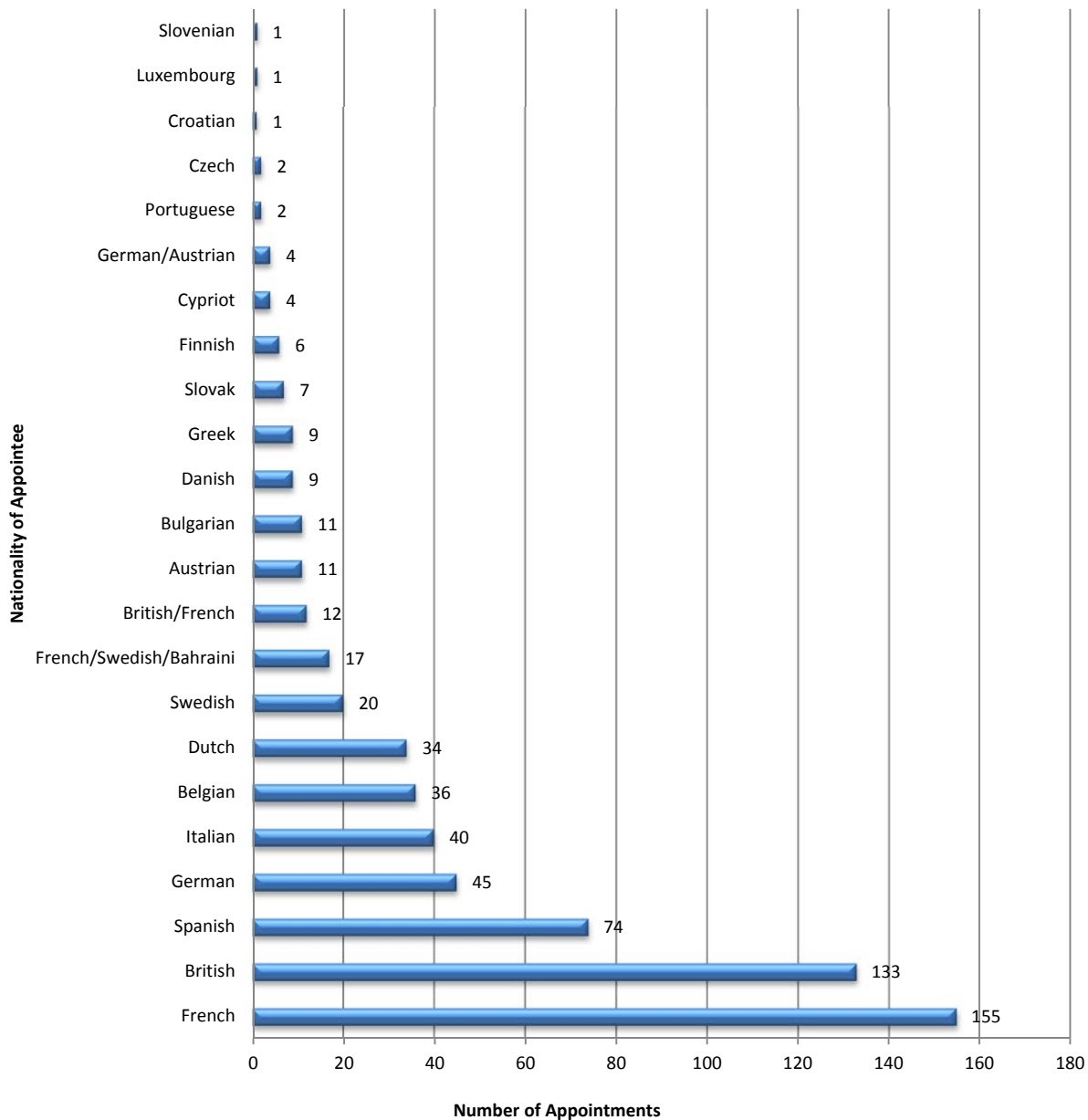
In approximately 75% of the appointments made in ICSID cases, the parties select the appointees (indicated in red, below). A number of such appointees are nationals of an EU member State. The remaining 25% of appointments are made by ICSID (indicated in blue, below).



\* The classification of the geographic regions above is based on EU membership available at [http://europa.eu/about-eu/countries/index\\_en.htm](http://europa.eu/about-eu/countries/index_en.htm) and 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 until December 31, 2013.

**Chart 15:** State of Nationality of Arbitrators, Conciliators and *ad hoc* Committee Members from EU Member States Appointed in Cases Registered under the ICSID Convention and Additional Facility Rules:

A number of EU nationals served as arbitrators, conciliators or *ad hoc* Committee members in ICSID cases. In total, about 42% of all appointments made in ICSID cases involved nationals from an EU member State.



## ANNEX 1 – EU Member States (as of March 1, 2014)

- [Austria](#)
- [Belgium](#)
- [Bulgaria](#)
- [Croatia](#)
- [Cyprus](#)
- [Czech Republic](#)
- [Denmark](#)
- [Estonia](#)
- [Finland](#)
- [France](#)
- [Germany](#)
- [Greece](#)
- [Hungary](#)
- [Ireland](#)
- [Italy](#)
- [Latvia](#)
- [Lithuania](#)
- [Luxembourg](#)
- [Malta](#)
- [Netherlands](#)
- [Poland](#)
- [Portugal](#)
- [Romania](#)
- [Slovakia](#)
- [Slovenia](#)
- [Spain](#)
- [Sweden](#)
- [United Kingdom](#)

## ANNEX 2 – List of ICSID Cases involving State Parties from the EU (as of March 1, 2014)

	<u>Case No.</u>	<u>Claimant(s)</u>		<u>Respondent</u>
1.	ARB/97/4	Ceskoslovenska obchodní banka, a.s.	v.	Slovak Republic
2.	ARB/97/7	Emilio Agustín Maffezini	v.	Kingdom of Spain
3.	ARB/99/2	Alex Genin and others	v.	Republic of Estonia
4.	ARB/01/4	AES Summit Generation Limited	v.	Republic of Hungary
5.	ARB/01/11	Noble Ventures, Inc.	v.	Romania
6.	ARB/03/16	ADC Affiliate Limited and ADC & ADMC Management Limited	v.	Republic of Hungary
7.	ARB/03/24	Plama Consortium Limited	v.	Republic of Bulgaria
8.	ARB/04/6	OKO Pankki Oyj and others	v.	Republic of Estonia
9.	ARB(AF)/04/2	Cargill, Incorporated	v.	Republic of Poland
10.	ARB/04/15	Telenor Mobile Communications AS	v.	Republic of Hungary
11.	ARB/04/17	Interbrew Central European Holding B.V.	v.	Republic of Slovenia
12.	ARB/05/8	Parkerings-Compagniet AS	v.	Republic of Lithuania
13.	ARB/05/13	EDF (Services) Limited	v.	Romania
14.	ARB/05/20	Ioan Micula, Viorel Micula and others	v.	Romania
15.	ARB/05/24	Hrvatska Elektroprivreda d.d.	v.	Republic of Slovenia
16.	ARB/06/1	Spyridon Roussalis	v.	Romania
17.	ARB/06/3	The Rompetrol Group N.V.	v.	Romania
18.	ARB/06/5	Phoenix Action Ltd	v.	Czech Republic
19.	ARB/06/6	Rail World LLC and others	v.	Republic of Estonia
20.	ARB/06/9	Branimir Mensik	v.	Slovak Republic
21.	ARB/07/13	S&T-Oil Equipment & Machinery Ltd.	v.	Romania
22.	ARB/07/19	Electrabel S.A.	v.	Hungary
23.	ARB/07/22	AES Summit Generation Limited and AES-Tisza Erőmű Kft.	v.	Hungary
24.	ARB/09/6	Vattenfall AB, Vattenfall Europe AG, Vattenfall Europe Generation AG	v.	Federal Republic of Germany
25.	ARB/10/13	Hassan Awadi, Enterprise Business Consultants, Inc. and Alfa El Corporation	v.	Romania
26.	ARB(AF)/10/1	David Minnotte and Robert Lewis	v.	Republic of Poland
27.	ARB/10/22	Ömer Dede and Serdar Elhüseyni	v.	Romania
28.	ARB/11/3	Accession Eastern Europe Capital AB and Mezzanine Management Sweden AB	v.	Republic of Bulgaria
29.	ARB(AF)/11/3	Vincent J. Ryan, Schooner Capital LLC, and Atlantic Investment Partners LLC	v.	Republic of Poland
30.	ARB/11/22	Vigotop Limited	v.	Hungary



	<u>Case No.</u>	<u>Claimant(s)</u>		<u>Respondent</u>
31.	ARB/12/2	Emmis International Holding B.V., Emmis Radio Operating B.V., and MEM Magyar Electronic Media Kereskedelmi Szolgáltató Kft.	v.	Hungary
32.	ARB/12/3	Accession Mezzanine Capital L.P. and Danubius Kereskedőház Vagyonkezelő Zrt.	v.	Hungary
33.	ARB/12/7	Slovak Gas Holding BV, GDF International SAS and E.ON Ruhrgas International GmbH	v.	Slovak Republic
34.	ARB/12/9	Dan Cake (Portugal) S.A.	v.	Hungary
35.	ARB/12/12	Vattenfall AB and others	v.	Federal Republic of Germany
36.	ARB/12/16	Novera AD, Novera Properties B.V. and Novera N.V.	v.	Republic of Bulgaria
37.	ARB/12/17	Inversión y Gestión de Bienes, IGB, S.L. and IGB18 Las Rozas, S.L.	v.	Kingdom of Spain
38.	ARB/12/25	Marco Gavazzi and Stefano Gavazzi	v.	Romania
39.	ARB/12/29	Ping An Life Insurance Company of China, Limited and Ping An Insurance (Group) Company of China, Limited	v.	Kingdom of Belgium
40.	ARB/12/33	UAB E energija (Lithuania)	v.	Republic of Latvia
41.	ARB/12/39	Georg Gavrilovic and Gavrilovic d.o.o.	v.	Republic of Croatia
42.	ARB/13/8	Poštová banka, a.s. and ISTROKAPITAL SE	v.	Hellenic Republic
43.	ARB/13/10	Impresa Grassetto S. p. A., in liquidation	v.	Republic of Slovenia
44.	ARB/13/12	Lieven J. van Riet, Chantal C. van Riet and Christopher van Riet	v.	Republic of Croatia
45.	ARB/13/17	EVN AG	v.	Republic of Bulgaria
46.	ARB/13/21	Edenred S.A.	v.	Hungary
47.	ARB/13/22	Erbil Serter	v.	French Republic
48.	ARB/13/27	Marfin Investment Group Holdings S.A., Alexandros Bakatselos and others	v.	Republic of Cyprus
49.	ARB/13/30	RREEF Infrastructure (G.P.) Limited and RREEF Pan-European Infrastructure Two Lux S. à r.l.	v.	Kingdom of Spain
50.	ARB/13/31	Antin Infrastructure Services Luxembourg S.à.r.l. and Antin Energia Termosolar B.V.	v.	Kingdom of Spain
51.	ARB/13/32	MOL Hungarian Oil and Gas Company Plc	v.	Republic of Croatia
52.	ARB/13/35	Le Chèque Déjeuner and C.D Holding Internationale	v.	Hungary
53.	ARB/13/36	Eiser Infrastructure Limited and Energía Solar Luxembourg S.à r.l.	v.	Kingdom of Spain
54.	ARB/14/1	Masdar Solar & Wind Cooperatief U.A.	v.	Kingdom of Spain
55.	ARB/14/3	Blusun S.A., Jean-Pierre Lecorcier and Michael Stein	v.	Italian Republic