



ICSID

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

2012
ANNUAL
REPORT



ICSID

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

2012
ANNUAL
REPORT

CONTENTS

Letter of Transmittal	1
ICSID Secretariat	2
Chapter 1: Introduction	5
Chapter 2: Membership	9
Chapter 3: Panels of Conciliators and of Arbitrators	17
Chapter 4: Operations of the Centre	21
Chapter 5: Outreach	43
Chapter 6: Forty-fifth Annual Meeting of the Administrative Council	51
Chapter 7: Finance	53
Financial Statements	54
Independent Auditors' Report	67

The photos of art in this Annual Report come from the World Bank collection and are reproduced with the kind permission of the curator of the World Bank.



INTERNATIONAL CENTRE FOR SETTLEMENT OF
INVESTMENT DISPUTES

September 6, 2012

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, 2011 to June 30, 2012.

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

Yours sincerely,

Meg Kinnear
Secretary-General

Dr. Jim Yong Kim
Chairman
Administrative Council
International Centre for Settlement of Investment Disputes

SECRETARIAT OF THE INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

JUNE 30, 2012

Meg Kinnear, Secretary-General

LEGAL STAFF

Aurélia Antonietti, Team Leader/Legal Counsel
Gonzalo Flores, Team Leader/Legal Counsel
Milanka Kostadinova, Team Leader/Legal Counsel
Eloïse Obadia, Team Leader/Legal Counsel
Martina Polasek, Team Leader/Legal Counsel
Mercedes Cordido-Freytes de Kurowski, Legal Counsel
Aïssatou Diop, Legal Counsel
Anneliese Fleckenstein, Legal Counsel
Michael Gagain, Legal Counsel – Institutional Matters
Ann Catherine Kettlewell, Legal Counsel
Mike King, Legal Counsel – Institutional Matters
Paul-Jean Le Cannu, Legal Counsel
Lindsey Marchessault, Legal Counsel – Institutional Matters
Alicia Martín Blanco, Legal Counsel
Marco Tulio Montañés-Rumayor, Legal Counsel
Frauke Nitschke, Legal Counsel
Natalí Sequeira, Legal Counsel
Mairée Uran Bidegain, Legal Counsel
Janet Whittaker, Legal Counsel
Shingirirai Chaza, Intern
Louis-Philippe Coulombe, Intern

FINANCIAL AND GENERAL ADMINISTRATION STAFF

Javier Castro, Team Leader/Program Officer
Zelalem Tesfa Dagnaw, Financial Officer
Rita A. Rovira, Information Analyst
William D. Casson, Consultant
Lamiss Al-Tashi, Hearings Organizer
Sonia Lee, Financial Assistant
Walter Meza-Cuadra, Financial Assistant
Malkiat Singh, Financial Assistant
Richard Carter, Information Specialist

PARALEGAL, ADMINISTRATIVE AND CLIENT SUPPORT STAFF

Daniela Argüello, Paralegal
Anna D. Avilés-Alfaro, Paralegal
Ivania Fernandez, Paralegal
Maria Cristina Padrao, Paralegal
Danielle Paas, Paralegal
Eric Stanculescu, Paralegal
Angela Ting, Paralegal
Alix Ahimon, Program Assistant
Cindy Ayento, Administrative Assistant to Secretary-General
Claudio Batista, Program Assistant
Paula Carazo, Program Assistant
Cinthya Ibáñez Rodríguez, Program Assistant
Lanny Isimbi, Program Assistant
Annie An, Receptionist





CHAPTER 1

INTRODUCTION

The recent growth in investor-State arbitration has continued apace. ICSID registered a record 38 cases in 2011, and had registered 19 further cases by June 30, 2012. Included in these numbers are 3 new conciliation cases, showing an increased resort not simply to arbitration but also to alternative methods of dispute resolution available under the ICSID Convention and Additional Facility. Over the past year, ICSID administered more than 100 hearings in cities around the world, and numerous case decisions and awards were rendered by tribunals and *ad hoc* Committees. Approximately 45% of all cases ever registered at ICSID are currently on the docket, so one can safely predict that these trends will continue in the upcoming year.

Such statistics should not be considered in isolation from their broader economic context. There have been unprecedented increases in global flows of foreign direct investment in the last two decades. Globalization, increased cross-border trade and investment, and growing economic interdependence between sovereign States have resulted in numerous States becoming simultaneously importers and exporters of capital. In turn, a number of States have updated their investment treaties, adopted model treaties, and entered into new agreements with diverse governmental and private partners.

These statistics must also be read in light of the fact that international investment law and investor-State dispute settlement are a new discipline. The first bilateral investment treaty (BIT) was signed by Pakistan and Germany in 1959, only 53 years ago. The first BIT offering investor-State arbitration was concluded between the Netherlands and Indonesia in 1968, and the first investment treaty case at ICSID was decided in 1990, only 22 years ago. Indeed, some commentators estimate that about 75% of all investor-State awards have been issued in the last five years.

ICSID continues to play a vital role in the evolving international investment legal system. Its primary job is very specific: to offer foreign investors and host States an impartial, effective and accessible facility for arbitration and conciliation of international investment disputes. ICSID has taken numerous steps in the past year to enhance its capacity to fulfill this role. In September of

2011, ICSID announced a new list of Chairman's appointees to the Panel of Arbitrators and Panel of Conciliators. A number of States have also updated their arbitrator and conciliator lists, offering disputing parties more potential panelists for disputes. These designations are most welcome, as increasing the number of qualified arbitrators and conciliators is one of the keys to ensuring that the caseload is addressed in a timely and expert fashion.

The Centre continued to improve its internal practices to ensure optimal service for facility users. For example, we developed electronic document management and case management systems to better manage the substantial documentation generated in each case. We have implemented consistent best practices in case administration, incorporating service standards by which we can ensure timely, high quality, and consistent practices in each case. ICSID continues to encourage transparent proceedings, for example by offering parties the option to webcast proceedings and to publish decisions and awards rendered in individual cases. The operations of the Centre and the profile of its caseload are detailed in Chapter 4 of this report, and demonstrate the dynamism of the work done by the ICSID Secretariat.

ICSID will continue its efforts to provide excellent service to disputing parties in the upcoming year. Work has already begun on designing a revised website which will provide better navigation, have enhanced search capacity, an improved look and feel, and expanded information about arbitration and conciliation under the ICSID Convention and Additional Facility. Similarly, the Centre will start planning the second phase of our case management system which will allow facility users to file and access case-related materials electronically. These and other initiatives will allow ICSID to remain the premier facility for resolution of international investment disputes.

It is an extraordinary privilege to serve as Secretary-General of ICSID, and I would like to thank Contracting States and facility users for their confidence in the Centre. We will make every effort to continue to earn this confidence over the coming year. Finally, I am most grateful to the staff of ICSID for their collegiality, work ethic, skill, and enthusiasm. Their efforts make the Centre a unique facility, and I look forward to our achievements in the upcoming year.

Meg Kinnear
Secretary-General



Gerald Chukwuma, Nigeria
The Thin Line



CHAPTER 2 MEMBERSHIP

As of June 30, 2012, 158 States were signatory to the ICSID Convention. Of these, 148 States were ICSID Contracting States by virtue of their having deposited instruments of ratification, acceptance or approval of the ICSID Convention.

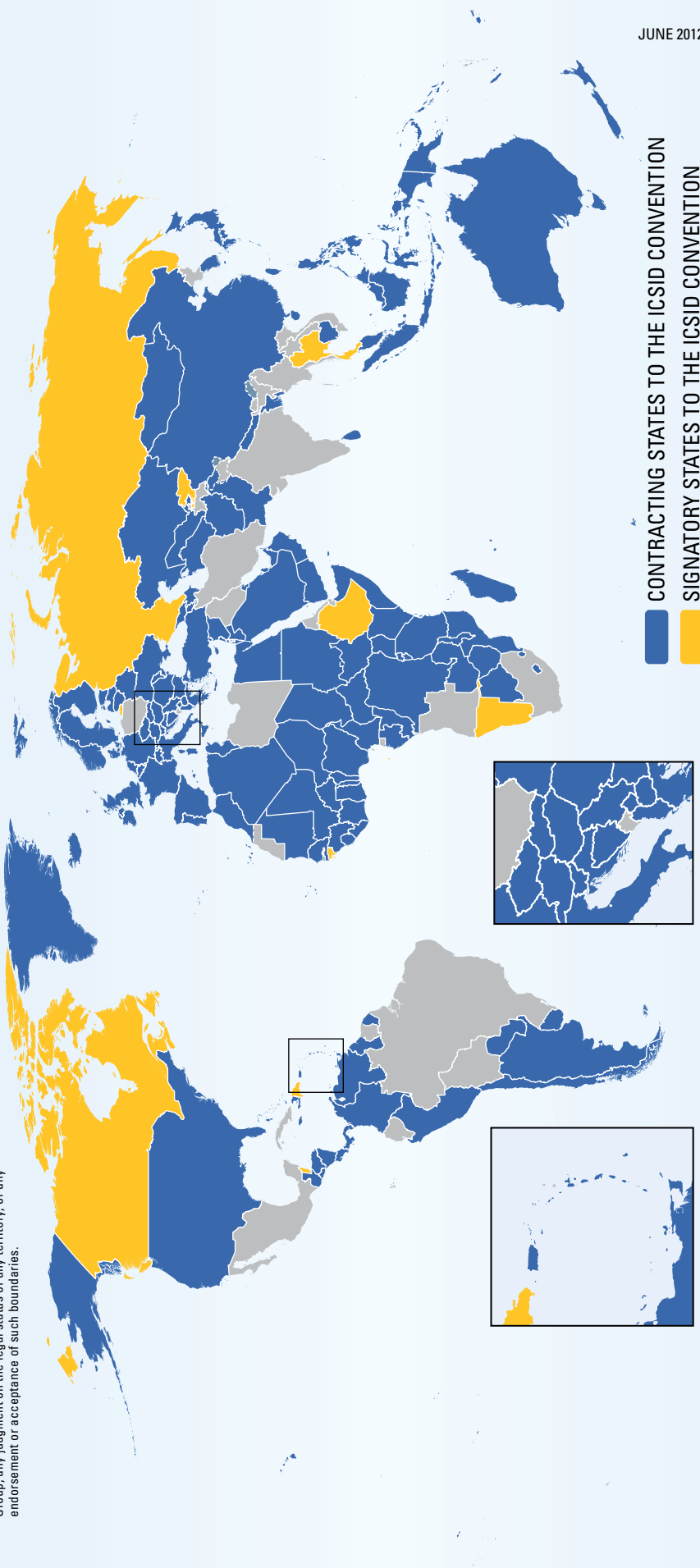
On January 24, 2012, the World Bank received a written notice of denunciation of the Convention from the República Bolivariana de Venezuela. The denunciation took effect on July 25, 2012.

The Republic of South Sudan signed and deposited its instrument of ratification of the Convention with the World Bank on April 18, 2012. The ICSID Convention entered into force for South Sudan on May 18, 2012. Shortly following the end of FY2012, on July 19, 2012, Montenegro signed the ICSID Convention.

A map showing the distribution of current ICSID membership and a complete list of the Contracting States and other signatories of the ICSID Convention, both as of June 30, 2012, follow.

IBRD 39525

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 Group, any judgment on the legal status of any territory, or any endorsement or a acceptance of such boundaries.



LIST OF CONTRACTING STATES AND OTHER SIGNATORIES OF THE CONVENTION

AS OF JUNE 30, 2012

The 158 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 148 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
South Sudan	Apr. 18, 2012	Apr. 18, 2012	May 18, 2012
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

State	Signature	Deposit of Ratification	Entry into Force of Convention
Sudan	Mar. 15, 1967	Apr. 9, 1973	May 9, 1973
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



10/100

Ann D. H.

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 State. 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 make designations 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 FY2012, Mr. Robert B. Zoellick, then-President of the World Bank in his capacity as Chairman of the ICSID Administrative Council, designated 10 persons to each Panel. In addition, 17 ICSID Contracting States made designations to the ICSID Panels, namely, the Bahamas, Bahrain, Chile, Colombia, Democratic Republic of the Congo, Denmark, France, Grenada, Honduras, Japan, Kuwait, Lebanon, Moldova, Nepal, Seychelles, Switzerland, and Timor-Leste. In all, 77 persons were designated or re-designated to the Panels. At the end of FY2012, there were 556 individuals on the ICSID Panels of Conciliators and of Arbitrators.

The names of designees to the ICSID Panels made in FY2012 are provided on the following page.

CHAIRMAN OF THE ADMINISTRATIVE COUNCIL

Panel of Conciliators

Designations effective September 15, 2011:
Luiz Olavo Baptista, Lawrence Boo, Laurence Boulle, David J. A. Cairns, Nayla Comair-Obeid, Roberto Echandi, Siegfried H. Elsing, Anna Joubin-Bret, James Ogoola, and Jeswald W. Salacuse

Panel of Arbitrators

Designations effective September 15, 2011:
Teresa Cheng, Azzedine Kettani, Makhdoom Ali Khan, Donald M. McRae, Tinuade Oyekunle, Alain Pellet, Lucy Reed, Pierre Tercier, Claus von Wobeser, and Eduardo Zuleta

BAHAMAS

Panels of Conciliators and of Arbitrators

Designations effective March 30, 2012:
Bertha Cooper-Rousseau, Caryl Lashley, and Rubie Nottage

BAHRAIN

Panel of Arbitrators

Designations effective December 1, 2011:
Tariq Baloch, Jan Paulsson, and Stephen M. Schwebel

CHILE

Panel of Conciliators

Designations effective September 1, 2011:
Gonzalo Biggs, Jorge Carey, Carlos Eugenio Jorquiera Malschafsky, and León Larrain Abascal

Panel of Arbitrators

Designations effective September 1, 2011:
Enrique Barros Bourie, Hernán Fontaine Talavera, Andrés Jana Linetzky, and Arturo Yrarrázaval Covarrubias

COLOMBIA

Panel of Conciliators

Designations effective February 27, 2012:
Juan Pablo Cárdenas Mejía, Néstor Humberto Martínez Neira, José Antonio Rivas, and Jorge Suescún Melo

Panel of Arbitrators

Designations effective February 27, 2012:
Martín Carrizosa Calle, Enrique Gómez-Pinzón, Nicolás Lloreda, and Carlos Urrutia Valenzuela

DEMOCRATIC REPUBLIC OF THE CONGO

Panel of Arbitrators

Designation effective March 26, 2012:
Adèle Kalambay Ndaya Moleka

DENMARK

Panels of Conciliators and of Arbitrators

Designations effective May 15, 2012:
Jan Schans Christensen, Per Magid, Mogens Skipper-Pedersen, and Jon Ulrik Stokholm

FRANCE

Panel of Conciliators

Designations effective May 16, 2012:
Claire Favre, Pierre Mayer, Pierre Raoul-Duval, and Henri Toutée

Panel of Arbitrators

Designations effective May 16, 2012:
Geneviève Bastid Burdeau, Magali Bouvier, Emmanuel Gaillard, and Gilbert Guillaume

GRENADA

Panels of Conciliators and of Arbitrators

Designation effective November 21, 2011:

Jonathan Jacob Gass

HONDURAS

Panels of Conciliators and of Arbitrators

Designations effective September 13, 2011:

Joaquín Donato Alcerro Díaz, César Augusto Batres Galeano, Juan Carlos Basombrío, and Juan Arnaldo Hernández Espinoza

JAPAN

Panel of Conciliators

Designations effective March 30, 2012:

Hiroshi Fukuda and Kiyoto Ido

KUWAIT

Panels of Conciliators and of Arbitrators

Designations effective August 17, 2011:

Ahmed Al-Melhem, Eli Whitney Debevoise II, Mahmoud Ahmed Mahmoud, and Nassib G. Ziadé

LEBANON

Panel of Arbitrators

Designation effective July 4, 2011:

Nayla Comair-Obeid

MOLDOVA

Panel of Conciliators

Designations effective October 13, 2011:

Violeta Cojocaru and Natalia Suceveanu

Panel of Arbitrators

Designations effective October 13, 2011:

Ion Capatina and Mark A. Meyer

Panels of Conciliators and of Arbitrators

Designations effective October 13, 2011:

Victor Burac and Mihail Buruiana

NEPAL

Panels of Conciliators and of Arbitrators

Designation effective March 12, 2012:

Surya P. Subedi

SEYCHELLES

Panel of Arbitrators

Designation effective May 14, 2012:

Mahnaz Malik

SWITZERLAND

Panel of Arbitrators

Designation effective April 30, 2012:

Paolo Michele Patocchi

TIMOR-LESTE

Panels of Conciliators and of Arbitrators

Designation effective August 17, 2011:

Ruth Wedgwood

Panel of Arbitrators

Designation effective June 28, 2012:

Cherie Booth



Untitled



CHAPTER 4 OPERATIONS OF THE CENTRE

SUMMARY OF ICSID OPERATIONS

ICSID Cases

ICSID is an autonomous international institution established by the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the ICSID Convention or the Washington Convention). Its primary purpose is to provide facilities for conciliation and arbitration of international investment disputes. The initiation and conduct of cases under the Centre's auspices may be governed by one of ICSID's two sets of procedural rules. These are the ICSID Convention, Regulations and Rules or the ICSID Additional Facility Rules.

Conciliation and arbitration under the ICSID Convention must involve a legal dispute between an ICSID Contracting State and a national of another ICSID Contracting State. Additionally, such disputes must arise directly out of an investment and the disputing parties must have consented in writing to the submission of their dispute to ICSID.

The ICSID Additional Facility 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. These rules have been available since 1978.

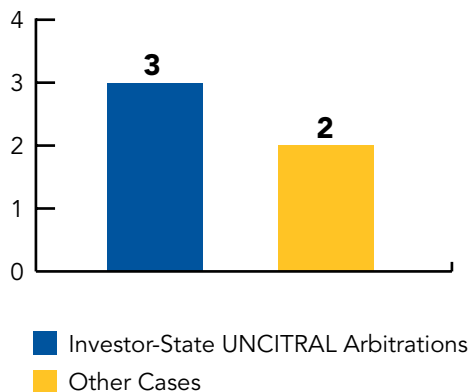
While the vast majority of cases before the Centre are arbitrations administered under the ICSID Convention, the last year has seen an increase in the use of ICSID conciliation services.

Non-ICSID Cases

The ICSID Secretariat also administers international dispute settlement proceedings under rules and treaties other than the ICSID Convention or the ICSID Additional Facility. In particular, the Secretariat often assists parties and tribunals with investment arbitrations conducted pursuant to the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL Arbitration Rules).

The services provided in non-ICSID proceedings are similar to those available under the ICSID Rules, ranging from handling specific aspects of a case to offering full administrative services. In the past fiscal year, the Centre administered 2 investor-State proceedings under the UNCITRAL rules, which are pending. ICSID also received requests to act as appointing authority in 4 non-ICSID cases. Finally, ICSID provided hearing organization services in 1 case administered by the London Court of International Arbitration.

Non-ICSID Cases Administered by the ICSID Secretariat in FY2012



Overview of ICSID Arbitration

ICSID Convention arbitration is initiated by the submission of a Request for Arbitration to the Secretary-General. The Request is filed by the potential claimant and outlines the basic facts and legal issues to be addressed. The Request must be registered unless the dispute is manifestly outside the jurisdiction of ICSID. In the past year, Requests for Arbitration were processed on average within 25 days 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 of the party-appointed arbitrators. The parties may 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. In FY2012, ICSID made such appointments on average within 38 days of receiving the request to appoint.

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



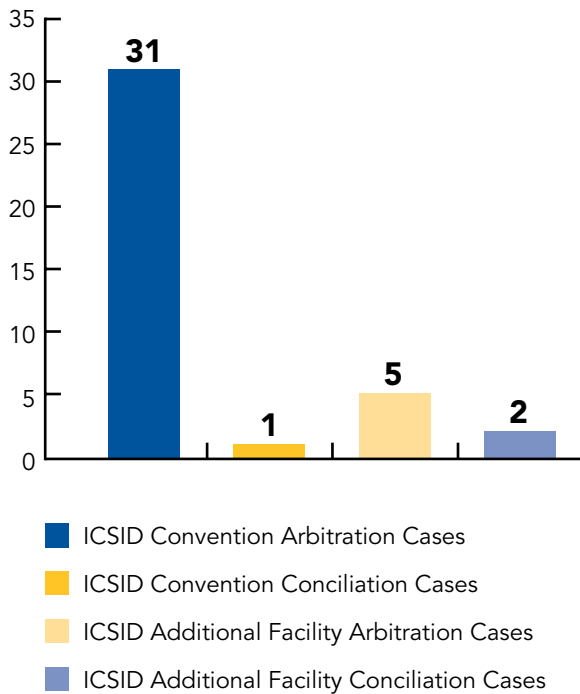
Arbitration under the ICSID Additional Facility is similar in process to ICSID Convention arbitration with some notable differences. In particular, parties must obtain approval of access to the Additional Facility prior to instituting proceedings, and post-award remedies under the Additional Facility Rules are limited to interpretation, correction, and supplementary decision by the original tribunal.

New ICSID Cases Registered

Thirty-nine new ICSID cases were registered in FY2012. This is the most cases registered at ICSID in a single fiscal year and is a 20% increase over the number of cases registered in FY2011. Thirty-six

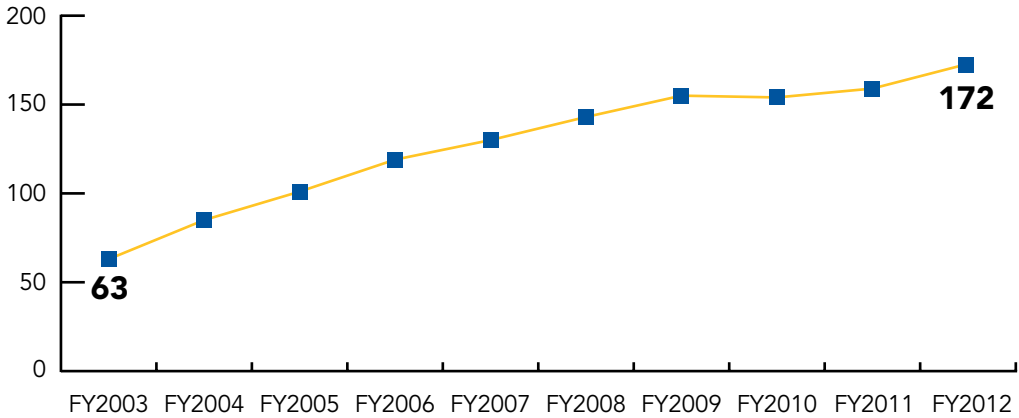
of the new proceedings are arbitrations: 31 under the ICSID Convention and 5 under the Additional Facility. In addition, 3 conciliation proceedings were registered in FY2012. Two of the conciliation proceedings registered in FY2012 are the first conciliation cases to be conducted under the Additional Facility Rules. One conciliation proceeding was initiated jointly by agreement of the parties involved.

New Cases Registered under the ICSID Convention and Additional Facility Rules in FY2012



In total, the Centre administered a record 172 cases over the course of the year. This is the highest number of pending cases facilitated by ICSID in a single year and represents 44% of the 390 ICSID cases ever administered by the Centre.

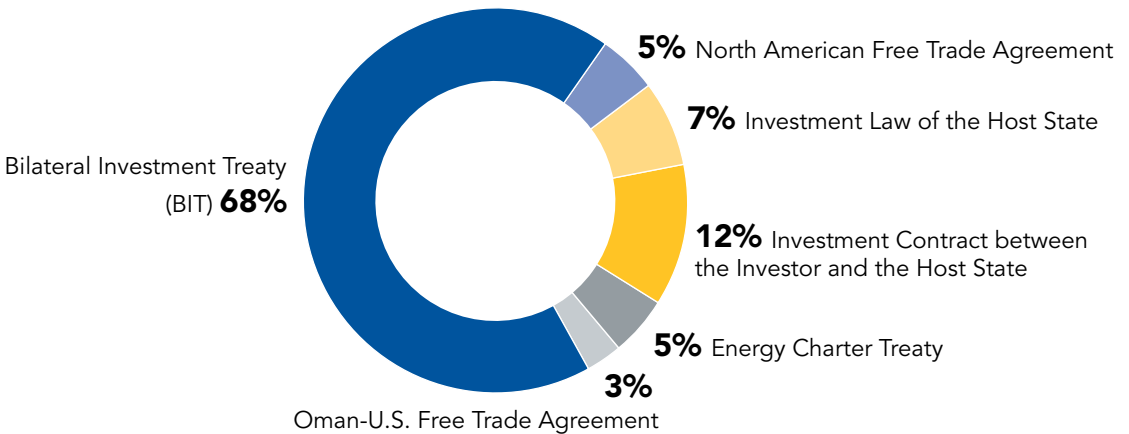
ICSID Cases Administered by the Secretariat (FY2003–FY2012)



Basis of Consent to ICSID Proceedings

Arbitration and conciliation under the ICSID Convention and Additional Facility 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.

Basis of Consent Invoked to Establish ICSID Jurisdiction in New Cases Registered in FY2012 under the ICSID Convention and Additional Facility Rules

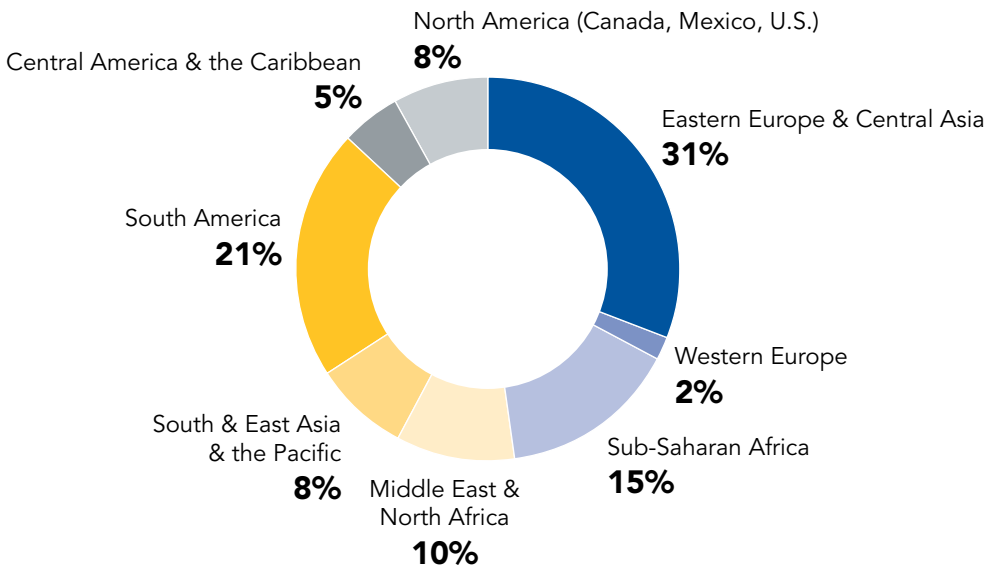


Of the new cases registered in FY2012, the vast majority (28 cases) asserted ICSID jurisdiction on the basis of a bilateral investment treaty (BIT). In 5 cases, the parties invoked ICSID arbitration clauses in multilateral investment agreements such as the Oman-U.S. Free Trade Agreement, the North American Free Trade Agreement, and the Energy Charter Treaty. Investors claimed under investment contracts in 5 further cases, and 3 cases relied on investment laws. One of these cases invoked both a BIT and a law as bases of consent and another invoked both a law and a contract.

State Parties to ICSID Proceedings Registered in FY2012

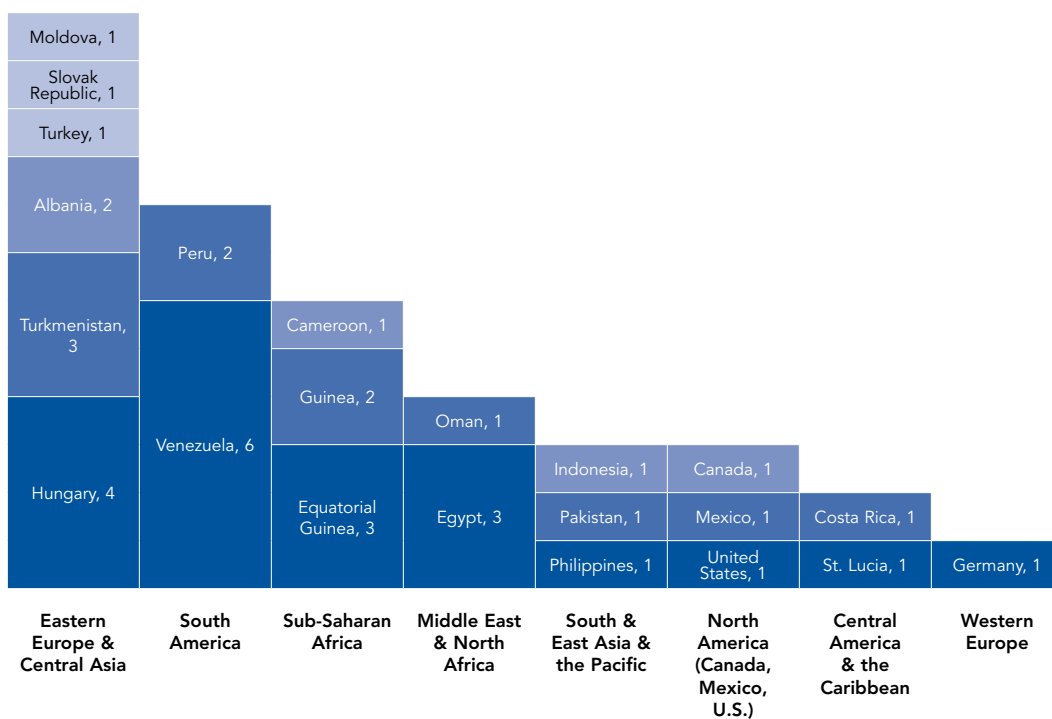
State parties involved in ICSID disputes registered in FY2012 remained diverse and included States from every region of the world. This year, Eastern Europe and Central Asia was the region with the greatest number of States involved in newly registered ICSID cases.

Geographic Distribution of New Cases Registered in FY2012 under the ICSID Convention and Additional Facility Rules by State Party Involved



Six Eastern European and Central Asian States were named as respondent in 12 cases, while 8 cases were instituted against 2 States in South America. States from Sub-Saharan Africa were involved in 6 cases, and 4 cases were instituted against States in the Middle East and North Africa region. Three cases were brought against States in North America, 3 against States in the South and East Asia region, and 2 against States in the Caribbean and Central America region. Finally, 1 case was brought against a State in Western Europe. Notably, 31% of newly registered cases in FY2012 involved State parties from high income economies.

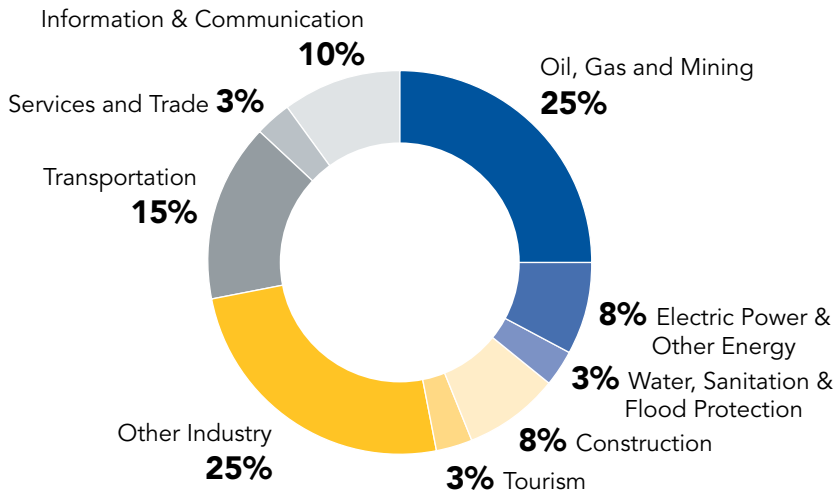
State Parties in New Cases Registered in FY2012 under the ICSID Convention and Additional Facility Rules by Geographic Region



Economic Sectors Involved in New Proceedings

The investment disputes commenced in FY2012 involved a variety of economic sectors. Based on World Bank industry sector codes, the oil, gas, and mining sector remained dominant, with 25% of cases registered in FY2012. However, this fiscal year has seen an increase in the diversity of other industries represented, with 25% of cases involving pharmaceuticals, chemicals, gaming, textiles, and food production. The number of cases registered concerning transportation increased from 6% in FY2011 to 15% in FY2012. Ten percent of the new cases concerned the information and communication sector. The segment of the new cases relating to electric power and other energy decreased to 8% and the number of cases involving the construction industry increased slightly to 8%. The remaining cases involved tourism; services and trade; and water, sanitation, and flood protection.

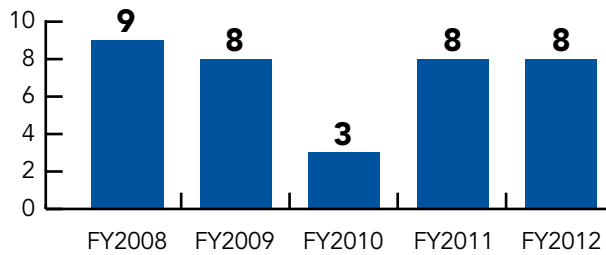
Distribution of New Cases Registered in FY2012 under the ICSID Convention and Additional Facility Rules by Economic Sector



Post-Award Remedy Applications

In FY2012, the Centre also registered 9 proceedings in which the parties sought post-award remedies under the ICSID Convention. Parties applied to revise 1 award and filed 8 applications for annulment. The number of registered annulment applications in FY2012 remained the same as in FY2011. Of the 8 applications for annulment initiated in FY2012, 5 were brought by the State party to the dispute, and 3 were brought by investors.

Number of Annulment Applications Registered by ICSID (FY2008–FY2012)



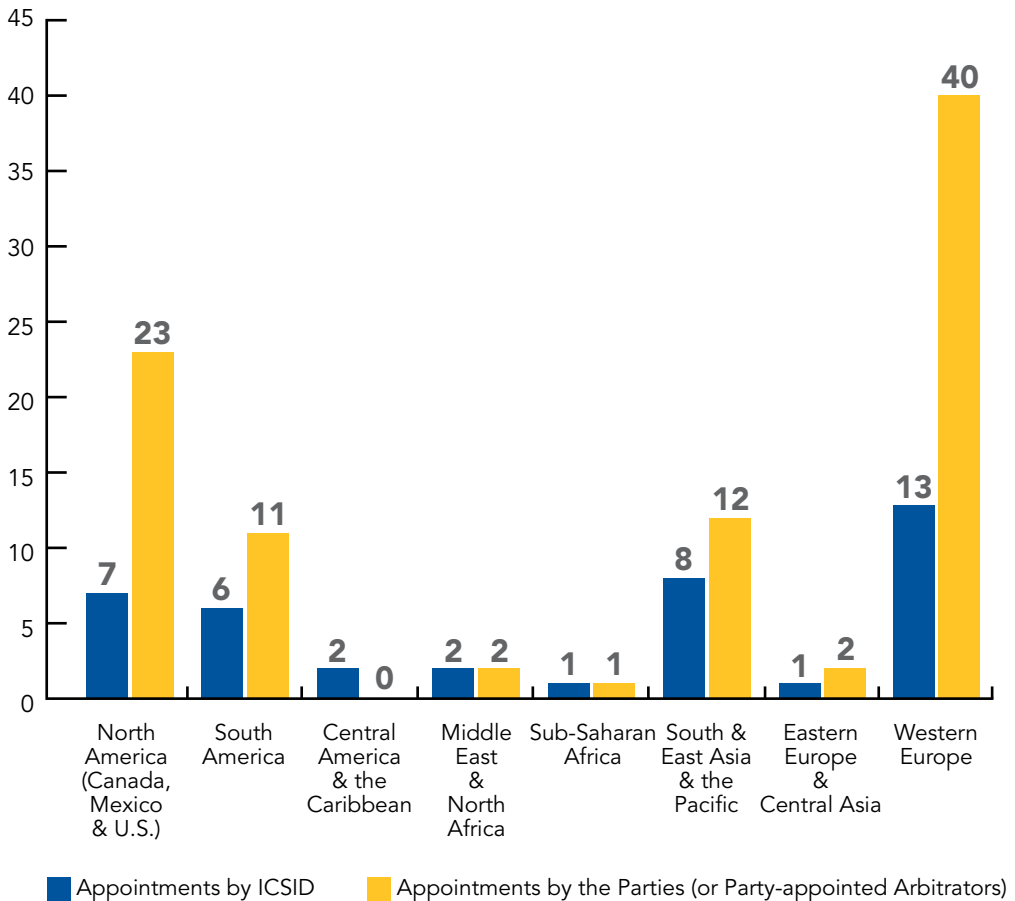
Constitution of Tribunals and *ad hoc* Committees in ICSID Cases

In the course of the fiscal year, 37 tribunals, 8 *ad hoc* Committees, and 1 conciliation commission were constituted or reconstituted in proceedings pending before the Centre. A total of 131 individual appointments were made by the parties and by ICSID. This is the most appointments made in a single fiscal year. Overall, 82 individuals from 33 different countries were appointed to serve as arbitrators, conciliators, or *ad hoc* Committee members in ICSID cases in FY2012.

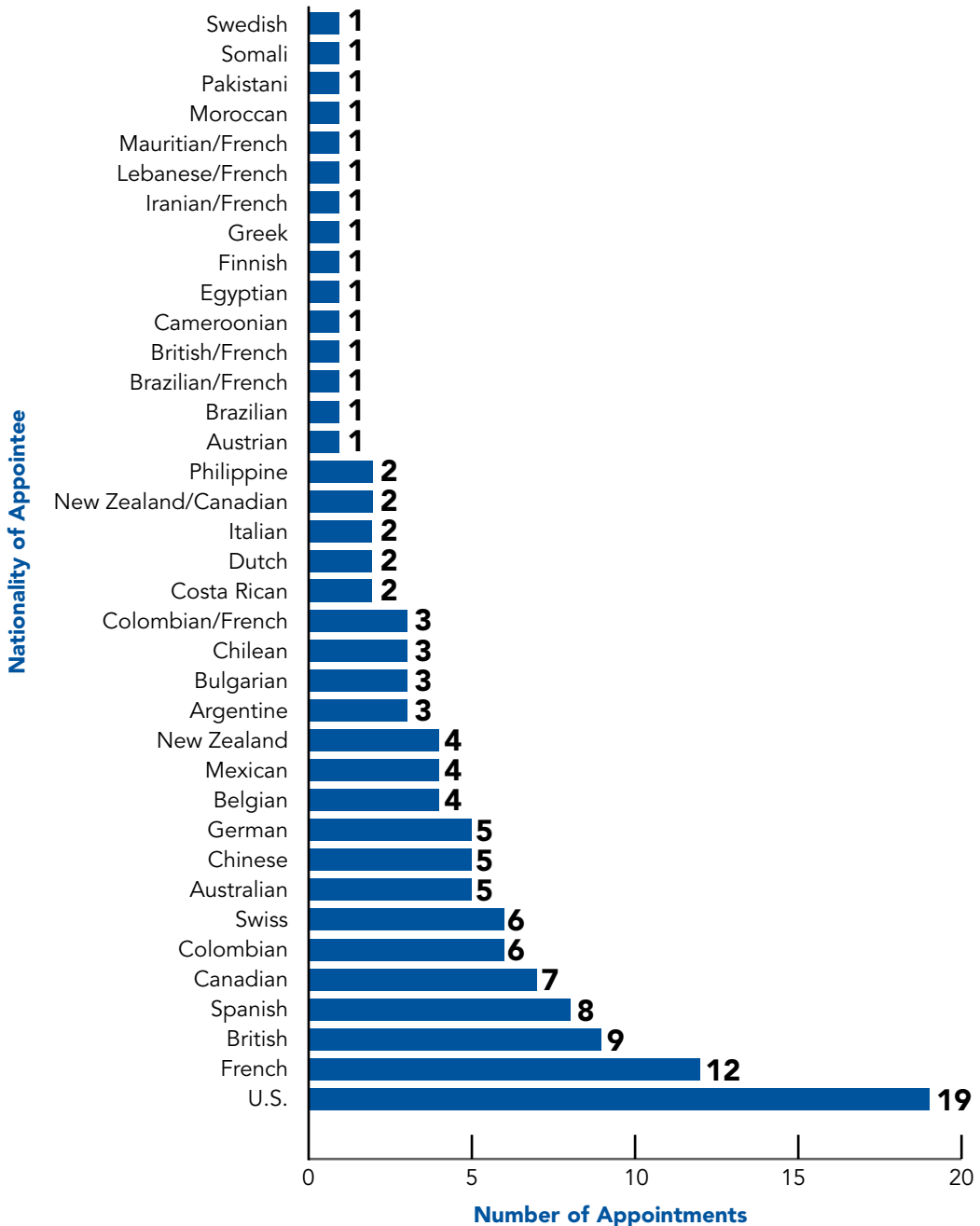
In FY2012, the pool of arbitrators, conciliators and *ad hoc* Committee members continued to expand. In terms of diversity, 31% of the new appointees were nationals of developing countries, and 9% of the new appointees were women.

About 70% of the appointments were made either by the parties or by the party-appointed arbitrators, while the other 30% were made by the Chairman of the Administrative Council or the ICSID Secretary-General. In total, the Centre acted as appointing authority 40 times in FY2012 and appointed 33 different individuals of 22 different nationalities. Almost 50% of the appointments by ICSID involved nationals of developing economies, and 13% involved women.

**Arbitrators, Conciliators and *ad hoc* Committee Members Appointed in FY2012 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**



Nationality of Arbitrators, Conciliators and *ad hoc* Committee Members Appointed in FY2012 in Cases Registered under the ICSID Convention and Additional Facility Rules



Challenges to Arbitrators and Counsel

During the fiscal year, parties to ICSID proceedings proposed the disqualification of 5 arbitrators and 1 *ad hoc* Committee member in ICSID proceedings. Five of these proposals were declined and the *ad hoc* Committee member resigned following the filing of the proposal. One further decision was issued dismissing a challenge to an *ad hoc* Committee member that was originally filed in FY2011.

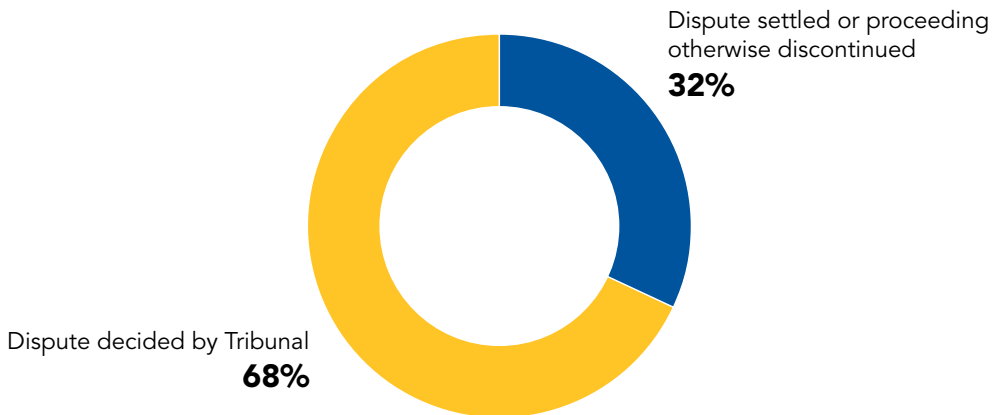
In 1 case in FY2012, the parties to the proceeding each proposed the disqualification of the other party's counsel. The tribunal declined both of these proposals.

Cases concluded in FY2012

Thirty-one proceedings were concluded in the course of the fiscal year. Twenty-two of these were arbitration cases, 7 were annulment proceedings, and 2 were revision proceedings.

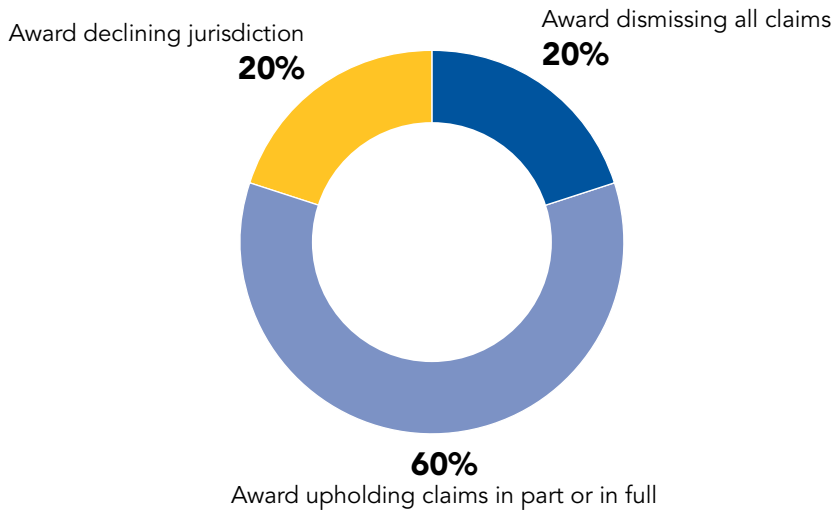
In the 22 concluded arbitration proceedings, 15 disputes were decided by a tribunal, and 7 cases were discontinued or settled.

Arbitration Proceedings under the ICSID Convention and Additional Facility Rules Concluded in FY2012—Outcomes



Of the 15 cases decided by a tribunal, 3 awards declined ICSID jurisdiction, 3 tribunals rejected all of the investors' claims, and 9 upheld the investors' claims in part or in full.

Disputes Decided by Arbitral Tribunals under the ICSID Convention and Additional Facility Rules in FY2012—Outcomes



Of the 7 arbitration cases that were discontinued or settled, 4 were discontinued following agreement by the parties, 1 was discontinued at the request of one party, and 1 was discontinued for lack of payment of the required advances. In 1 further case, the parties' settlement agreement was embodied in an award.

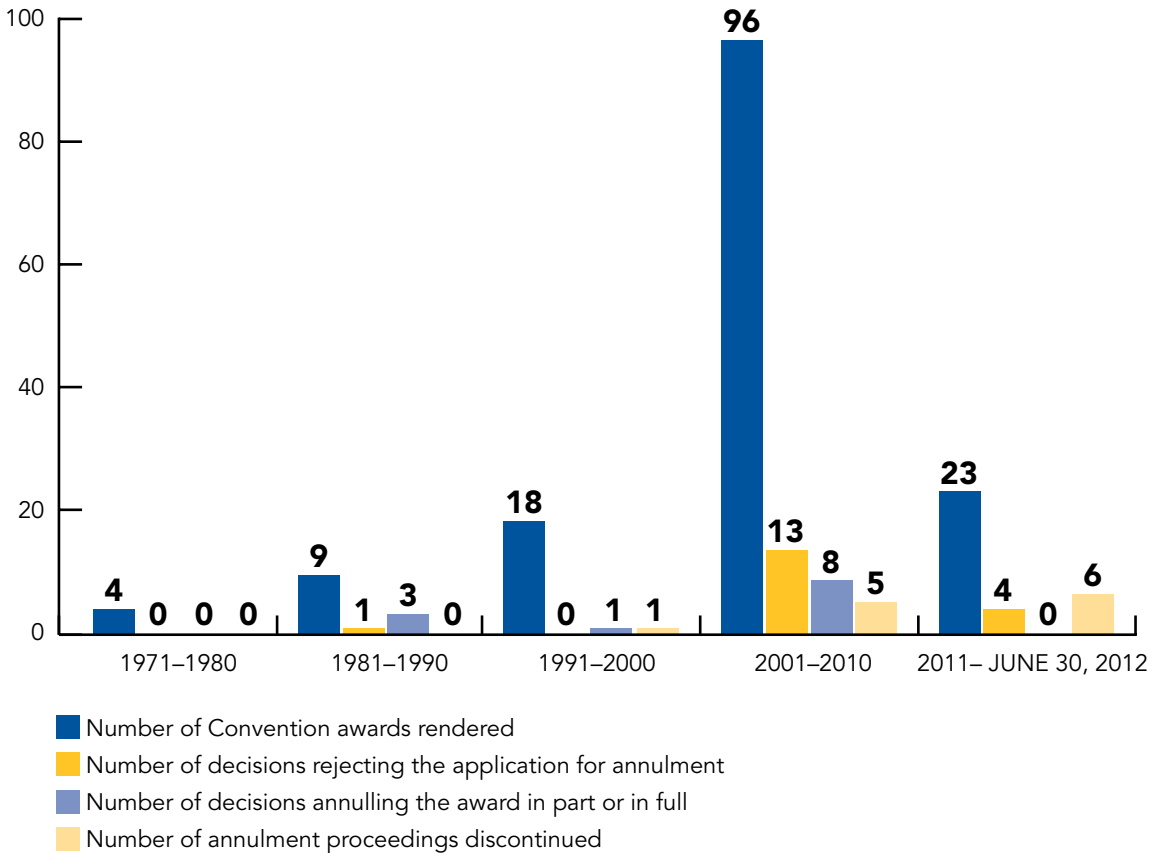
Both of the revision proceedings that concluded during FY2012 were also discontinued following agreement by the parties.

The majority of arbitrations concluded in FY2012 lasted between 3 to 4 years from the date of the tribunal's constitution. The Centre has recently adopted a number of new practices in an effort to reduce the length and cost of arbitrations while respecting the due process rights of the parties. These include: (i) requiring arbitrators to submit calendars indicating their long-term availability when

accepting their appointment, (ii) updating parties on a regular basis concerning the costs expended to date, (iii) encouraging tribunal members to establish a budget at the outset of a case outlining anticipated arbitrator fees and expenses, (iv) encouraging tribunal consultations immediately prior to hearings and deliberations immediately after hearings, and (v) requiring tribunals to report to the parties on the timing of outstanding decisions or awards.

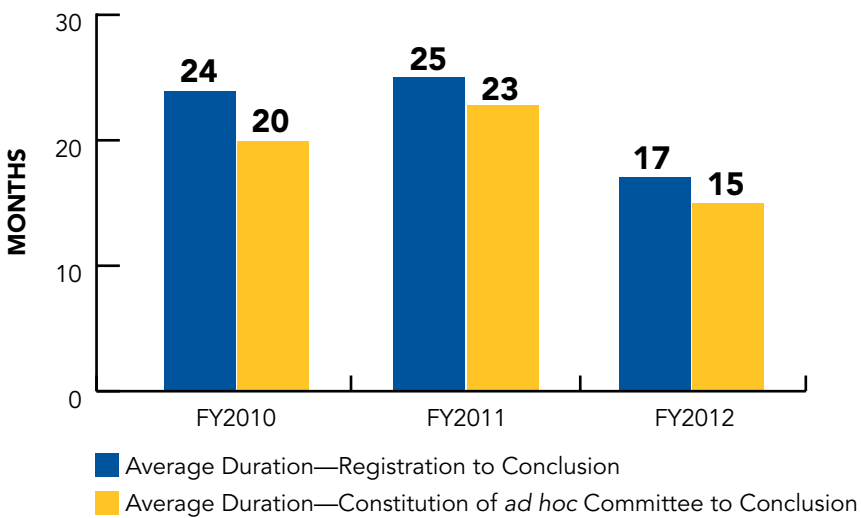
Seven annulment proceedings were concluded in FY2012. In 3 cases, the *ad hoc* Committee rejected the application for annulment of the award. Three annulment proceedings were discontinued at the request of one or both parties, and 1 case was discontinued for failure to pay the required advances. No awards were annulled in FY2012.

Awards Rendered and Outcomes in Annulment Proceedings under the ICSID Convention, by Decade



The average duration of annulment proceedings concluded in FY2012 was shortened by about a third, from an average duration of 25 months in FY2011, to an average of 17 months from the date of registration of the application.

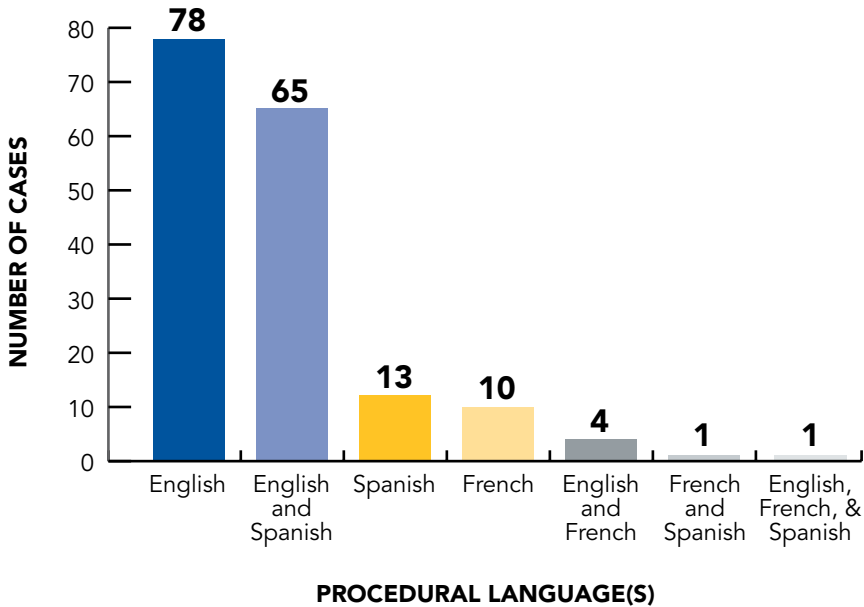
Average Duration of ICSID Annulment Proceedings Concluded in FY2010–FY2012 (in months)



Matters of Procedure in ICSID Cases in FY2012

Of the 172 ICSID cases administered in FY2012, 78 were conducted in English, 10 in French and 13 in Spanish, which are the three official languages of the Centre. Seventy 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.

Cases Administered in FY2012 under the ICSID Convention and Additional Facility Rules by Procedural Language(s)



In the course of the year, 109 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, reflecting the Centre’s continuing efforts to reduce the cost and increase the efficiency of proceedings. The number of proceedings conducted by telephone and video conference increased significantly in FY2012, resulting in about 40% of all sessions and hearings in FY2012 being held in this manner.

During the fiscal year, 16 awards and 180 decisions and procedural orders were issued by arbitral tribunals, conciliation commissions and *ad hoc* Committees. A number of these rulings have been published on the Centre’s website with the parties’ permission. Where parties refused permission to publish awards, the Centre published excerpts of the legal reasoning of the tribunal.

Comprehensive and up-to-date information about the procedural steps taken in each case, the composition of the tribunal, commission, or *ad hoc* Committee, the party appointing each arbitrator, counsel representing the parties, and the outcome of proceedings is found on the ICSID website at www.worldbank.org/icsid.

INSTITUTIONAL MATTERS

In FY2012, ICSID undertook numerous institutional initiatives. These included support for the ICSID Administrative Council, expanding the Centre's network of institutional cooperation agreements, and collaborating with other international organizations on matters related to investment law and dispute resolution. ICSID continued efforts in FY2012 to improve service, increase efficiency, and enhance the cost-effectiveness of ICSID proceedings.

Developments related to the Administrative Council

Dr. Jim Yong Kim became the *ex officio* Chairman of the ICSID Administrative Council after becoming President of the World Bank on July 1, 2012. He succeeded Mr. Robert B. Zoellick, who held the position from July 1, 2007 to June 30, 2012.

At the Annual Meeting of the ICSID Administrative Council held in September 2011, ICSID undertook to prepare a background paper on the ICSID annulment mechanism. This paper was prepared by the Secretariat over the course of FY2012 and was transmitted to all Contracting States in August 2012. The paper provided a comprehensive overview of the drafting of the annulment provisions, procedure in annulment cases, a summary of *ad hoc* Committee decisions, and empirical data on all aspects of annulment. The background paper reiterated the well-established principle that the drafters of the ICSID Convention intended annulment to be a limited and extraordinary remedy. Consistent with this intent, of the 344 cases ever registered, only 6 have been annulled in full and 6 have been annulled in part.

Annulment Proceedings under the ICSID Convention — Overview



Institutional Arrangement Agreements

In FY2012, ICSID continued to develop partnerships with other arbitration institutions to enhance its ability to offer hearings in locations around the world. In the past year, ICSID entered its first facilities cooperation agreement with an arbitration center in Latin America, the Centre for Arbitration and Conciliation at the Chamber of Commerce in Bogota, Colombia. ICSID now has 12 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; the Hong Kong International Arbitration Centre; 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.

Cooperation with Other International Organizations

ICSID continued its collaboration with other multilateral institutions on issues pertinent to international investment law and dispute settlement during FY2012. For example, ICSID participated in several conferences organized by the United Nations Commission on International Trade Law (UNCITRAL) which addressed transparency in treaty-based investor-State arbitration. This project

included the Working Group II Meetings on Arbitration and Conciliation in Vienna, Austria on October 3–7, 2011 and in New York City on February 6–10, 2012. ICSID also participated in an UNCITRAL Expert Group Meeting in Vienna, Austria on December 12–13, 2011 to discuss the UNCITRAL Recommendations to assist arbitral institutions and other interested bodies with regard to arbitration under the UNCITRAL Arbitration Rules, as revised in 2010.

The Secretary-General and several senior ICSID staff lawyers contributed to a series of discussions about current issues in investor-State dispute settlement and investment law sponsored by the United Nations Conference on Trade and Development (UNCTAD). These were informal discussions with practitioners, negotiators, civil society, and academia, and were organized by UNCTAD in a number of States around the world.

ICSID also participated in an Organization for Economic Co-operation and Development (OECD) roundtable on Freedom of Investment held in March 2012 in Paris, which involved a discussion of key issues in investor-State dispute settlement.

In FY2012, ICSID Secretary-General Meg Kinnear was elected to the governing bodies of the International Federation of Commercial Arbitration Institutions and the International Council for Commercial Arbitration. Finally, in FY2012, the Secretary-General and senior staff participated in several International Bar Association (IBA) committees and contributed to projects concerning various issues in investment arbitration, including the potential for alternative dispute resolution of investment disputes.

Best Practices

During FY2012, ICSID continued to develop and implement best practices to increase cost-effectiveness and efficiency. This included templates and specific targeted timetables for conclusion of internal steps by the Secretariat. As examples, two key best practices are the acknowledgement within 24 hours of receipt of an electronic copy of a Request for Arbitration, and completion of the registration procedure in an average of 25 days from the time the lodging fee and hard copy of the Request for Arbitration are received. Regarding parties' requests for the Centre to appoint arbitrators under Article 38 of the ICSID Convention, the Centre adopted and met the goal of completing these appointments in an average of six weeks after the request was filed. Upon constitution of the tribunal,

the Centre requires the first session hearing to be held within 60 days or less. Immediately upon constitution, ICSID requests an availability calendar from tribunal members and encourages the tribunal to meet the day before a hearing and to stay after the hearing to plan their next steps.

The Centre also developed similar practices with regard to annulment proceedings. For instance, the Centre aims to register applications for annulment within one week from the date of receipt, and to constitute *ad hoc* Committees within four weeks from the date of registration.

Technology

ICSID continued to harness technology in FY2012 to increase its ability to deliver cost-effective, high-quality service. For example, the Centre revised and enhanced its knowledge management tools and archiving practices. This involved the institution of a new document management system for both the Centre's pending cases and its institutional documents. The system contains over 150,000 documents, which are organized for easy location and search. Moreover, ICSID developed a new case management system, which aids ICSID staff in the efficient administration of the Centre's growing caseload. The new systems will facilitate the Secretariat's management of case-related and institutional documents, and monitoring procedural developments in cases. Among other things, the case management system will allow ICSID staff to share case-related information more efficiently, generate a variety of case-related statistics and reports, record and track procedural details in cases, and maintain a centralized contacts database.

Staffing

The number of ICSID staff was increased in FY2012 to respond to the challenges of the Centre's growing caseload. This entailed the appointment of additional legal staff, and there are now 19 full-time legal counsel dedicated to case administration or institutional affairs. The Centre also enlarged its paralegal, administrative, and client support staff through recent hiring. In an effort to expose young lawyers and recent law school graduates to investor-State dispute settlement at ICSID, the Centre instituted a one-year internship program starting in January, 2012. Currently, there are two ICSID legal interns working on a variety of case-related issues.



CHAPTER 5

OUTREACH

PUBLICATIONS UPDATE

ICSID REVIEW—FOREIGN INVESTMENT LAW JOURNAL — During FY2012, the Centre published one issue of the *Review* (Fall 2011). The issue featured articles exploring a diverse range of topics in international arbitration, including the role of international courts and tribunals; most-favored-nation clauses and international dispute settlement; the right of access to information and investment arbitration; the nature of investment protection rights; the legal framework of foreign investment in Rwanda; and moral damages in ICSID arbitration.

In November, 2011, ICSID announced a new partnership with Oxford University Press for publication of the *ICSID Review* in print and electronic form, beginning with the Spring 2012 issue. Through this new partnership, the full archive of the *ICSID Review* is now available online for the first time. The publication arrangement will increase access to the *Review* for international audiences, simplify legal research, and complement the research initiatives of the Centre.

In addition, beginning with the Spring 2012 issue, the structure and content of the *Review* has been updated. The *Review* has expanded its editorial board to include an editorial advisory board and a standing peer review board. The *Review* will be organized into three sections with case comments, articles and notes. Case comments will feature critical analyses of significant decisions. Articles will continue to address diverse topics related to investment law and arbitration, and may include a thematic focus from time to time. Notes will address current issues in investment arbitration law and procedure on a more focused basis. All submissions for these sections will be evaluated under a double-blind peer review process.

ICSID also held the second annual *ICSID Review* Student Writing Competition in 2011. One winner was selected by a panel of experts and the student's paper was published in the Fall 2011 issue of the *Review*. The 2012 Competition is currently underway. The Student Writing Competition furthers an important aspect of the Centre's mission by encouraging students to critically analyze current issues in international investment law.

COLLECTIONS — In FY2012, the Centre published four releases of its loose-leaf collections, *Investment Laws of the World* and *Investment Treaties*. The two *Investment Laws of the World* releases

contained new or revised investment legislation passed by: Afghanistan, Angola, Comoros, and Timor-Leste (release 2012–1); and Benin, Chad, Honduras, Indonesia, and Yemen (release 2012–2). The two *Investment Treaties* releases contained the texts of 35 bilateral investment agreements and protocols, concluded by 32 countries from all regions of the world between 1997 and 2012.

THE ICSID CASELOAD—STATISTICS — In FY2012, the Centre published Issues 2011–2 and 2012–1 of the *ICSID Caseload—Statistics* online in English, French and Spanish. In these issues, the Centre continued its practice of profiling the ICSID caseload by reporting quantitative analyses on the cases registered and 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; the economic sectors involved in ICSID disputes; the outcomes in ICSID arbitration and conciliation proceedings; the nationality and geographic origins of arbitrators, conciliators and *ad hoc* Committee members appointed in ICSID proceedings; and the outcomes in annulment proceedings under the ICSID Convention.

PUBLICATION INITIATIVE — The Centre continued its efforts to publish awards, decisions and orders in ICSID cases with the consent of the parties. At the outset of each current ICSID proceeding, parties are encouraged to consider whether they would agree to publication of any award or decision rendered in the case. The Centre continued to contact ICSID parties in concluded cases to seek their authorization to publish all rulings. ICSID published numerous awards, decisions, and orders on its website during FY2012. This ongoing initiative supports the Centre’s outreach mission by enhancing public understanding of ICSID proceedings and investment law and offering free access to as much ICSID case law as possible.

PUBLIC HEARING WEBCASTS — The Centre continued to offer parties to ICSID cases the option of webcasting proceedings. During FY2012, a hearing on the merits in *Railroad Development Corporation v. Republic of Guatemala* (ICSID Case No. ARB/07/23) was webcasted from December 8–16, 2011, and a hearing on jurisdiction in *Apotex Inc. v. United States of America* (NAFTA/UNCITRAL) was webcasted on February 15–16, 2012. Both hearings were held in Washington, D.C.

WEB UPDATES — ICSID continued to utilize its website as a primary means of communicating information in English, French, and Spanish about ICSID cases and practices, as well as significant events and institutional developments.

CONFERENCES

During FY2012, ICSID participated in numerous conferences as a co-sponsoring institution with other arbitration associations and as a partner with multilateral institutions. The Centre also held several of its own events during the year.

ICSID co-sponsored the 28th AAA/ICC/ICSID *Joint Colloquium on International Arbitration* in New York City on November 18, 2011. The colloquium focused on diverse topics including: time and costs issues and initiatives; tailoring alternative dispute resolution to meet the challenges of unique catastrophes; arbitrator immunity; participation by *amici* in arbitration; enforcement of awards; and the perspective of corporate counsel and investors on arbitration, conciliation, mediation, and alternative dispute resolution.

On July 20, 2011, ICSID held its one-day ICSID practice and procedure course called “*ICSID 101*” at the World Bank in Washington, D.C. ICSID lawyers explained how the ICSID system functions and gave advice on effective case presentation under the ICSID Convention and Rules. The event was attended by counsel, policymakers, and government officials. Another ICSID 101 course was held at the World Trade Institute in Bern, Switzerland on July 13 and 14, 2011.

On November 14–17, 2011, ICSID partnered with the Legal Departments of the World Bank, International Finance Corporation, and the Multilateral Investment Guarantee Agency to co-organize the Law, Justice and Development Week 2011 at the World Bank in Washington, D.C. The conference focused on the contributions of legal innovation and empowerment to development. Experts discussed myriad global legal and development issues, including international financial regulation; the challenges faced by fragile and conflict-affected States; and legal harmonization and legal innovation as tools for integration and empowerment. The conference was attended by over 700 participants representing governments, international financial institutions, the legal and international development community, academia, civil society, and the World Bank.

The Centre participated in the Sixth Annual Investment Treaty Arbitration Conference on March 27, 2012 in Washington, D.C., organized by Juris Conferences LLC. The conference was dedicated to investment protection in the Americas and featured topics focusing on NAFTA and CAFTA arbitration.

In addition to the events listed above, ICSID staff participated as speakers in numerous other events taking place in locations all over the world including Auckland, Bogota, Dubai, London, Montreal, Paris, and New York.

ICSID STAFF PUBLICATIONS

Mairée Urain Bidegain (with Chiara Giorgetti and Carolyn B. Lamm), *International Centre for Settlement of Investment Disputes, in The Rules, Practice, and Jurisprudence of International Courts and Tribunals* (Chiara Giorgetti ed., Martinus Nijhoff 2012)

Anneliese Fleckenstein, Introductory Note: *Repsol YPF Ecuador, S.A. v. Empresa Estatal Petroleos Del Ecuador (Petroecuador)* (ICSID Case No. ARB/01/10), Decisión sobre Competencia (23 de enero de 2003) and Laudo (20 de febrero de 2004), 26 ICSID REV.—FILJ 215 (2011)

Jenna Godfrey, Introductory Note: *Consortium R.F.C.C. v. Kingdom of Morocco* (ICSID Case No. ARB/00/6) (Annulment Proceeding), Décision du Comité *ad hoc* sur la demande d'annulation du Consortium R.F.C.C. (18 janvier 2006), 26 ICSID REV.—FILJ 184 (2011)

Meg Kinnear, Presentation at *Preparation of Cases before International Courts and Tribunals*, Mar. 29, 2012, Washington, D.C., PROC. 106TH ANNUAL MEETING OF ASIL (forthcoming 2012)

Meg Kinnear, *Current Problems and Developments in Investment Arbitration*, First Karl-Heinz Böckstiegel Lecture, German Institution of Arbitration, Cologne, Germany, Sept. 9, 2011 (SchiedsVZ)

Martina Polasek, *The Threshold for Registration of a Request for Arbitration under the ICSID Convention*, 5(2) DISP. RES. INT'L 177 (2011)

Martina Polasek, *Treaty Arbitration Before the International Centre for Settlement of Investment Disputes*, 4(5) JFT (TIDSKRIFT UTGIVEN AV JURIDISKA FÖRENINGEN I FINLAND) 582 (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 from Oxford University Press, Journals Customer Service Department, 2001 Evans Road, Cary, N.C. 27513, U.S.A.; Tel.: 800–852–7323; Fax: 919–677–1714; URL: <http://icsidreview.oxfordjournals.org>; Email: jnlorders@oup.com at \$65 for individuals (print and online combined) and \$150, \$165, or \$180 for institutions for online, print, or print and online combined subscriptions)

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* (eleven loose-leaf volumes) (available from Oxford University Press, Order Management Department, North Kettering Business Park, Hipwell Road, Kettering, Northamptonshire, NN14 1UA, UK; Tel.: +44 (0) 1536 452773; Email: customer.services@oup.com at US\$2,420 for both sets, US\$1,210 for the *Investment Laws of the World* volumes only and US\$1,210 for the *Investment Treaties* volumes only)

The ICSID Caseload—Statistics, Issues 2010-1, 2010-2, 2011-1, 2011-2, 2012-1 (contains a profile of the ICSID caseload; semi-annual updates) (English, French and Spanish) (Internet edition only)



Epee Mbounja Louis (Louisepee), Cameroon
Port de Peche I, 2007



CHAPTER 6

FORTY-FIFTH ANNUAL MEETING OF THE ADMINISTRATIVE COUNCIL

The Forty-fifth Annual Meeting of the Administrative Council took place on September 23, 2011, 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 2011 Annual Report and its administrative budget for FY2012 at that meeting.

AC(45)/RES/119—

Approval of the Annual Report

The Administrative Council

RESOLVES

To approve the 2011 Annual Report on the operation of the Centre.

AC(45)/RES/120—

Adoption of Budget for Fiscal Year 2012

The Administrative Council

RESOLVES

To adopt, for the period July 1, 2011 to June 30, 2012, the budget set forth in paragraph 2 of the Report and Proposal of the Secretary-General on the Budget for Fiscal Year 2012, dated June 29, 2011.



CHAPTER 7

FINANCE

ICSID's administrative expenditures in FY2012 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 FY2012 are set forth in the following pages.

FINANCIAL STATEMENTS

ALL AMOUNTS EXPRESSED IN U.S. DOLLARS UNLESS OTHERWISE NOTED

STATEMENTS OF FINANCIAL POSITION

JUNE 30, 2012 AND JUNE 30, 2011

	<u>2012</u>	<u>2011</u>
ASSETS:		
Cash	\$ 3,239,450	\$ 2,036,300
Share of cash and investments in the Pool (Notes 2 and 3)	22,192,061	19,357,700
Due from parties to arbitration/conciliation proceedings (Note 2)	279,700	470,534
Other receivables	32,092	54,759
Other assets, net (Note 4)	377,813	505,508
Total assets	\$ 26,121,116	\$ 22,424,801
LIABILITIES AND NET ASSETS:		
Liabilities:		
Payable to International Bank for Reconstruction and Development (Note 2)	\$ 899,744	\$ 814,358
Accrued expenses related to arbitration/conciliation proceedings	6,360,496	5,771,787
Deferred revenue (Note 2)	1,562,019	1,023,333
Advances from parties to arbitration/conciliation proceedings (Note 2)	16,111,265	14,056,447
Advance from International Bank for Reconstruction and Development (Note 5)	569,157	758,876
Total liabilities	25,502,681	22,424,801
Net assets, unrestricted (Note 6)	618,435	—
Total liabilities and net assets	\$ 26,121,116	\$ 22,424,801

STATEMENTS OF ACTIVITIES

FOR THE YEARS ENDED JUNE 30, 2012 AND JUNE 30, 2011

	<u>2012</u>	<u>2011</u>
SUPPORT AND REVENUES:		
Revenues from arbitration/conciliation proceedings (Notes 2 and 8)	\$ 28,084,175	\$ 24,016,191
In-kind contributions (Notes 2 and 10)	2,796,419	1,519,456
Net investment income (Note 2)	48,074	41,060
Sales of publications	16,088	18,717
Total support and revenues	30,944,756	25,595,424
EXPENSES:		
Expenses related to arbitration/conciliation proceedings (Notes 2 and 9)	23,779,301	19,914,865
Administrative expenses (Note 10)	6,371,251	5,524,019
Amortization expenses (Notes 2, 4 and 10)	127,695	115,480
Net investment income applied to arbitration/conciliation proceedings (Note 2)	48,074	41,060
Total expenses	30,326,321	25,595,424
Change in net assets	\$ 618,435	\$ —
Net assets, beginning of the year	—	—
Net assets, end of the year	\$ 618,435	\$ —

STATEMENTS OF CASH FLOWS

FOR YEARS ENDED JUNE 30, 2012 AND JUNE 30, 2011

	<u>2012</u>	<u>2011</u>
CASH FLOWS FROM OPERATING ACTIVITIES:		
Change in net assets	\$ 618,435	\$ —
Adjustments to reconcile change in net assets to net cash provided by operating activities:		
Amortization	127,695	115,480
Decrease in due from parties to arbitration/conciliation proceedings	190,834	162,172
Decrease/(Increase) in other receivables	22,667	(29,756)
Increase/(Decrease) in payable to International Bank for Reconstruction and Development	85,386	(69,209)
Increase in accrued expenses related to arbitration/conciliation proceedings	588,709	504,133
Increase/(Decrease) in deferred revenue	538,686	(1,667)
Increase in advances from parties to arbitration/conciliation proceedings	2,054,818	150,492
Net cash provided by operating activities	<u>4,227,230</u>	<u>831,645</u>
CASH FLOWS FROM INVESTING ACTIVITIES:		
Increase in share in pooled investments	(2,834,361)	(816,796)
Purchase of other assets	—	(218,163)
Net cash used in investing activities	<u>(2,834,361)</u>	<u>(1,034,959)</u>
CASH FLOWS FROM FINANCING ACTIVITIES:		
Advance from International Bank for Reconstruction and Development	—	218,163
Payment of advance from International Bank for Reconstruction and Development	(189,719)	—
Cash provided by financing activities	<u>(189,719)</u>	<u>218,163</u>
Net increase in cash	<u>1,203,150</u>	<u>14,849</u>
Cash at beginning of the year	<u>2,036,300</u>	<u>2,021,451</u>
Cash at end of the year	<u><u>\$ 3,239,450</u></u>	<u><u>\$ 2,036,300</u></u>

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

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2012 AND JUNE 30, 2011

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 10 without charge.

The Centre, pursuant to the Regulations is required within a reasonable time prior to the end of each fiscal year, to inform IBRD of the estimated type and quantity of services, and facilities that are required for the next fiscal year. In turn, IBRD will inform the Centre of the amount approved by the Executive Directors of IBRD which will constitute IBRD's in-kind contribution for the next fiscal year.

Effective February 2012, pursuant to the Operational Guidelines for the Funding of the Operations of the Centre entered into by IBRD and the Centre, at the end of each subsequent fiscal year, if the Centre's total expenditure less IBRD's in-kind contribution is less than the revenues collected by the Centre, the accumulated surplus amount will be retained by the Centre and may be carried forward

indefinitely. In the event the Centre's total expenditure, less the IBRD's in-kind contribution, is greater than the revenues collected by the Centre during the year, such excess expenditure will be charged against the balance of any accumulated surpluses retained by the Centre before the Centre computes supplementary funding requests from IBRD.

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 U.S. 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: Investments in the Pool are held for trading and they are 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.

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

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 website development costs; which, upon achieving technological feasibility, 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.

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 9). 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 8):

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 an initial administration fee following the constitution of the Conciliation Commission, Arbitral Tribunal or *ad hoc* Committee concerned and the same amount on an annual basis thereafter. Effective January 1, 2012, the Centre revised the administration fee from \$20,000 to \$32,000. 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. Effective January 1, 2012, the Centre ceased charging case attendance fees.

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 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.

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

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: 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 is effective for annual periods beginning after December 15, 2011, and IFRS 13 is effective for annual periods beginning after January 1, 2013. The Centre is currently evaluating the impact of these amendments.

International Accounting Standards Board (IASB): 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. IFRS 9 as amended is mandatorily effective for annual periods beginning on or after January 1, 2015. The Centre is currently evaluating the impact of these amendments.

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, which maintains an investment portfolio (the Pool) for all of the trust funds administered by the World Bank Group.

IBRD, on behalf of the World Bank Group, 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. Generally, the Pool includes cash and financial instruments such as time deposits, money market securities, government and agency obligations, and asset-backed securities. The Pool may also include securities pledged as collateral under repurchase agreements and derivatives, and receivables from resale agreements as well as derivatives for which it has accepted collateral. Additionally, the Pool also includes derivative contracts such as currency forward contracts, currency swaps, interest rates swaps and contracts to purchase or sell mortgage-backed-securities to-be-announced (TBA). Payables and receivables associated with the investment activities are also included in the Pool. 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 each 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, on behalf of the World Bank Group, has an established and documented process of determining fair values. Fair value is based upon quoted market prices for the same or similar instruments, where available. Financial instruments for which quoted market prices are not readily available are valued based on discounted cash flow models. 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.

The Pool'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

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

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.

Hierarchy level	June 30, 2012	June 30, 2011
Level 1	\$ 2,155,769	\$ 2,693,353
Level 2	20,036,292	16,664,347
Level 3	—	—
Total	\$ 22,192,061	\$ 19,357,700

As of June 30, 2012 and June 30, 2011, ICSID does not have any financial instruments measured at fair value on a non-recurring basis. During the fiscal year ended June 30, 2012, transfers between levels were not significant.

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 website development costs. Amortization charges amounted to \$127,695 for the year ended June 30, 2012 (2011: \$115,480). None of these assets are considered impaired.

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.

At June 30, 2012, the Centre had borrowed \$758,876 and repaid \$189,719 (2011: Nil), with an outstanding balance of \$569,157 (2011: \$758,876).

NOTE 6 — NET ASSETS, UNRESTRICTED

As described in Note 1, during the fiscal year ended June 30, 2012, ICSID recognized an accumulated surplus to retain and carry forward excess revenue, if any. The amount in the accumulated surplus is unrestricted, and may be carried forward indefinitely.

NOTE 7 — 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, 2012 is equivalent to the gross value of the remaining assets amounting to \$25,213,603 (2011: \$21,669,293). 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 securities. The Centre's share of the cash and investments in the Pool is not traded in any market; however, the assets within

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

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.

At the reporting date, 100% of the Centre's share of the investment portfolio is held in securities rated at least A (2011: 100%) and 65% is held in securities rated at least AA- (2011: 67%). 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 8 — REVENUE FROM ARBITRATION/CONCILIATION PROCEEDINGS

Revenue from arbitration/conciliation proceedings comprise:

	<u>2012</u>	<u>2011</u>
Drawdown of Advances from parties for direct expenses related to arbitration/conciliation proceedings*	\$ 23,779,301	\$ 19,914,865
Administrative fees	2,901,234	2,607,440
Case registration fees	1,216,890	1,121,886
Case attendance fees	186,750	372,000
Total	<u>\$ 28,084,175</u>	<u>\$ 24,016,191</u>

*The Centre recognizes revenue to the extent expenses are incurred related to arbitration/conciliation proceedings. The details of the expenses are provided in Note 9.

NOTE 9 — 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:

	<u>2012</u>	<u>2011</u>
Arbitrators fees and expenses	\$ 20,569,583	\$ 16,779,099
Arbitration/conciliation meeting costs	2,733,777	2,811,218
Travel expenses	320,613	218,602
Other costs	155,328	105,946
Total	<u>\$ 23,779,301</u>	<u>\$ 19,914,865</u>

NOTE 10 — 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 will 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:

	<u>2012</u>	<u>2011</u>
Recorded value of services provided by IBRD		
Staff services (including benefits)	\$ 4,680,759	\$ 3,928,428
Administrative services and facilities:		
Contractual services	409,300	416,065
Administrative services	197,759	234,697
Communications and information technology	434,793	401,832
Office accommodations	563,514	457,464
Travel	85,126	85,533
Total administrative services and facilities	<u>6,371,251</u>	<u>5,524,019</u>
Amortization expense	127,695	115,480
Total recorded value of services provided by IBRD	<u>6,498,946</u>	<u>5,639,499</u>
Less: ICSID contributions	3,702,527	4,120,043
In-kind contributions	<u>\$ 2,796,419</u>	<u>\$ 1,519,456</u>

NOTE 11 — AUTHORIZATION OF FINANCIAL STATEMENTS

ICSID's management has evaluated subsequent events through August 28, 2012, the date the financial statements were approved and authorized for issue.



KPMG LLP
Suite 12000
1801 K Street, NW
Washington, DC 20006

Independent Auditors' Report

To: International Centre for Settlement of Investment Disputes

We have audited the accompanying statements of financial position of International Centre for Settlement of Investment Disputes as of June 30, 2012 and 2011 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 Company'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, 2012 and 2011, 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 28, 2012



ICSID

1818 H STREET, NW
WASHINGTON, D.C. 20433
USA

TELEPHONE (202) 458 1534
FACSIMILE (202) 522 2615