ICSID | International Centre for Settlement of Investment Disputes
WORLD BANK GROUP

An Introduction to ICSID and the Work of a Tribunal Secretary

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ICSID Secretary-General &
World Bank Group Vice-President

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Established as Part of World Bank Group

- ICSID was established in 1966 by the World Bank Executive Directors, under the *Convention on the Settlement of Investment Disputes between States and Nationals of Other States* (ICSID Convention)

- Entered into force on October 14, 1966, after the first 20 State ratifications

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ICSID and the World Bank Group

ICSID	IBRD	IDA	IFC	MIGA
International Centre for Settlement of Investment Disputes	International Bank for Reconstruction and Development	International Development Association	International Financial Corporation	Multilateral Investment Guarantee Agency
MISSION:	**MISSION:**	**MISSION**:	**MISSION:**	**MISSION:**
➢ Provides facilities for conciliation and arbitration of international investment disputes	➢ Lends funds to governments of middle and low-income countries	➢ Provides interest-free loans and grants to governments of poorest countries	➢ Provides loans, equity and technical assistance to stimulate private sector investment in developing countries	➢ Guarantees for investors in developing countries against non-commercial risk

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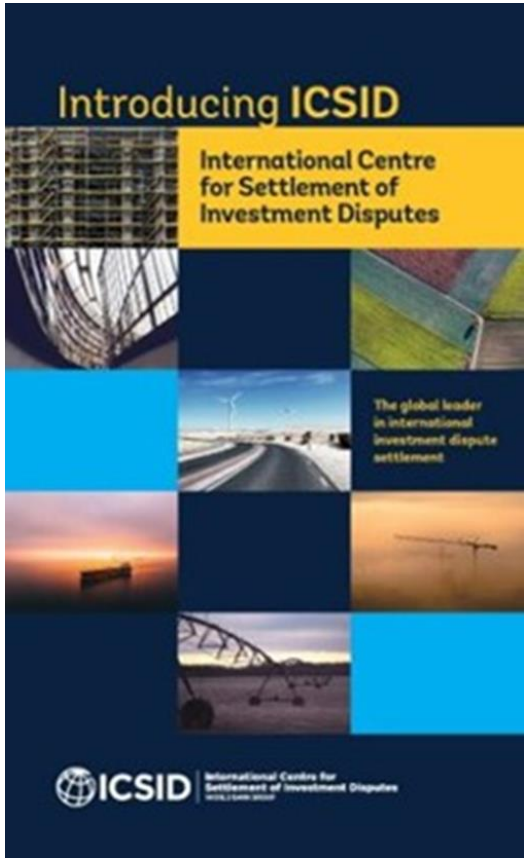
Unique and Innovative Features of the ICSID System

- Allows individuals and legal persons to have **direct recourse to arbitration** against a State
- Designed to maintain a **careful balance** between the interests of investors and host States
- An **impartial**, **autonomous** and **self-contained system**
  - No issue of seat of arbitration in unfamiliar jurisdiction
  - Post-award remedies (interpretation, revision and annulment) are all administered by ICSID
- **Enforcement** mechanism
  - Specialized and **simplified enforcement** mechanism
  - High rate of voluntary compliance
  - Saves time, money and ensures predictability



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Special Enforcement Features of ICSID Convention Awards

- ICSID Awards are final and binding, subject to limited post-award remedies (Arts. 50-52 ICSID Convention)
- Annulment available under Art. 52 ICSID Convention – no appeal in local courts
- ICSID annulments are decided by an *ad hoc* Committee, whose members are appointed by the Chairman of the Administrative Council from the ICSID Panel of Arbitrators
- Member States must recognize monetary awards without further process
- Monetary award is enforceable as a final judgment in any Contracting State

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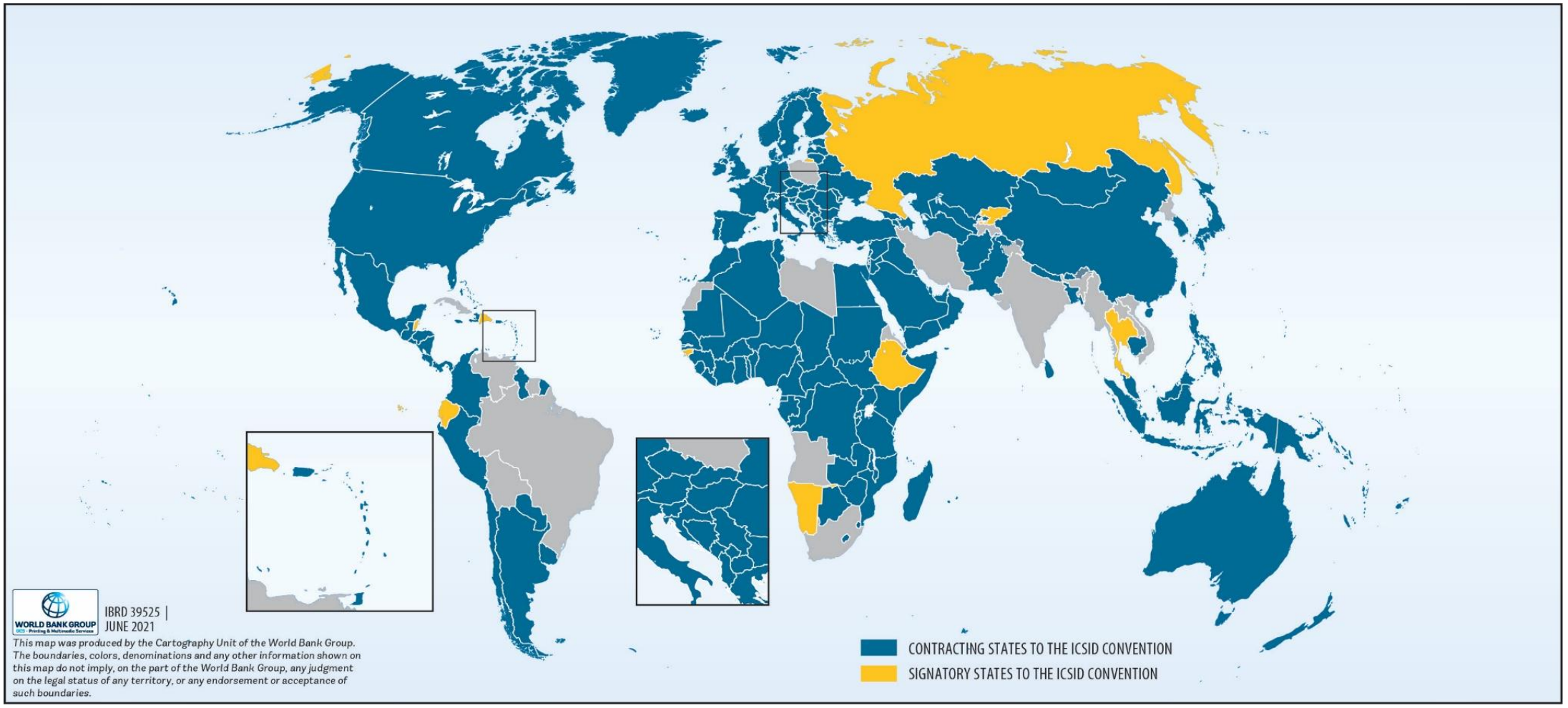
International Membership: 156 States & 8 Signatories (ICSID/ 3)



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Newest ICSID Members: Djibouti

- July 9, 2020 (in force)

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Newest ICSID Members: Republic of Ecuador

- September 3, 2021 (in force)

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Structure of ICSID

ADMINISTRATIVE COUNCIL

- One representative of each Member State
- One vote per State
- Chairman is President of the World Bank (no vote)

FUNCTIONS

- Adopt ICSID arbitration and conciliation rules
- Adopt annual budget and approve annual report
- Select SG and DSG(s)
- Designate persons to Panels of Arbitrators and Conciliators

SECRETARIAT

- Secretary-General
- Deputy Secretaries-General
- Staff (67 people)

FUNCTIONS

- Support proceedings
- Training and technical assistance
- Publications

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ICSID Secretariat

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Areas of Work: Case Administration

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ICSID Proceedings

Convention

Both disputing parties from ICSID Member States

- **Conciliation**
- **Arbitration**

Additional Facility

One disputing party from Member States

- **Conciliation**
- **Arbitration**
- **Fact-finding**

Other

Need not be from Member State

- **Case administration under other Rules or Treaties** (*e.g.*: UNCITRAL or other investment cases; FTA & State-to-State cases)
- **Other functions on consent of parties** (*e.g.*: Appointing Authority, Mediation, Registry)
- **Acting as Secretariat for Regional Trade Agreements** (*e.g.*: CETA, EU-Singapore; EU-Vietnam; EU-Mexico)

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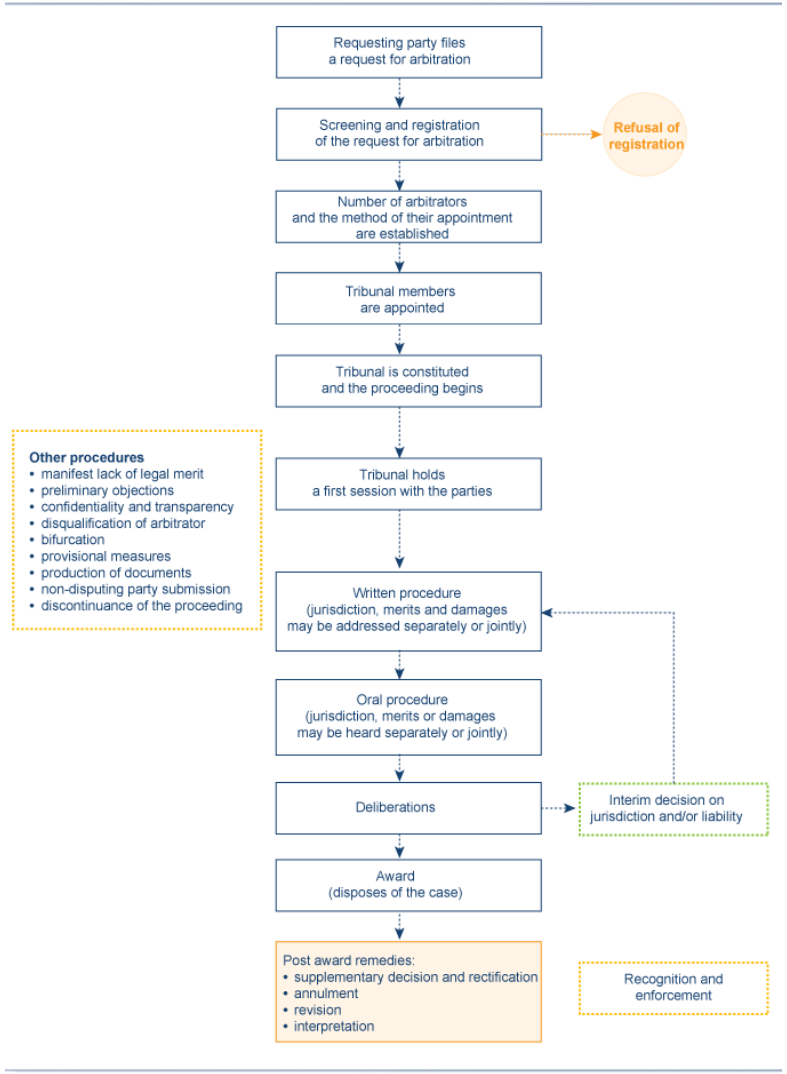
Conduct of an ICSID Convention Arbitration



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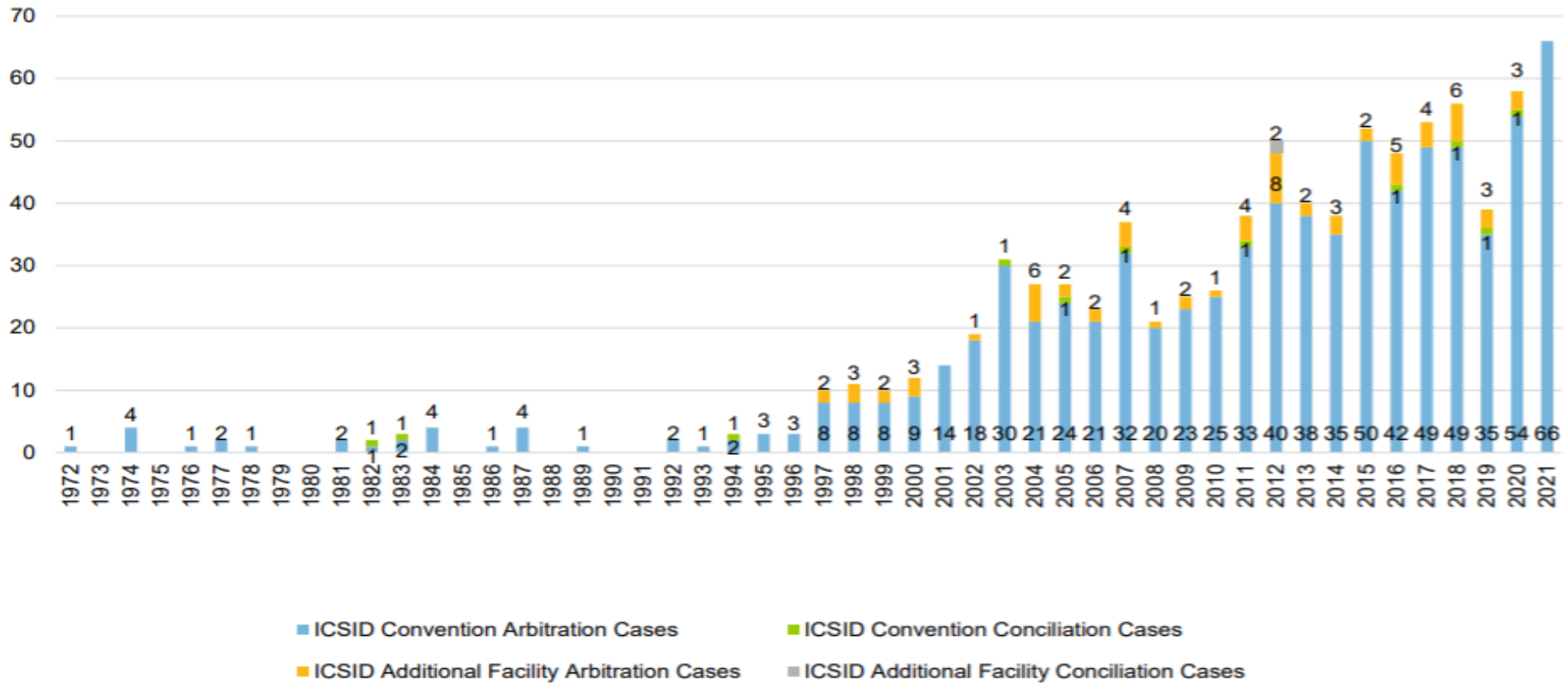
ICSID Caseload



** See ICSID Caseload Statistics 2022-1*

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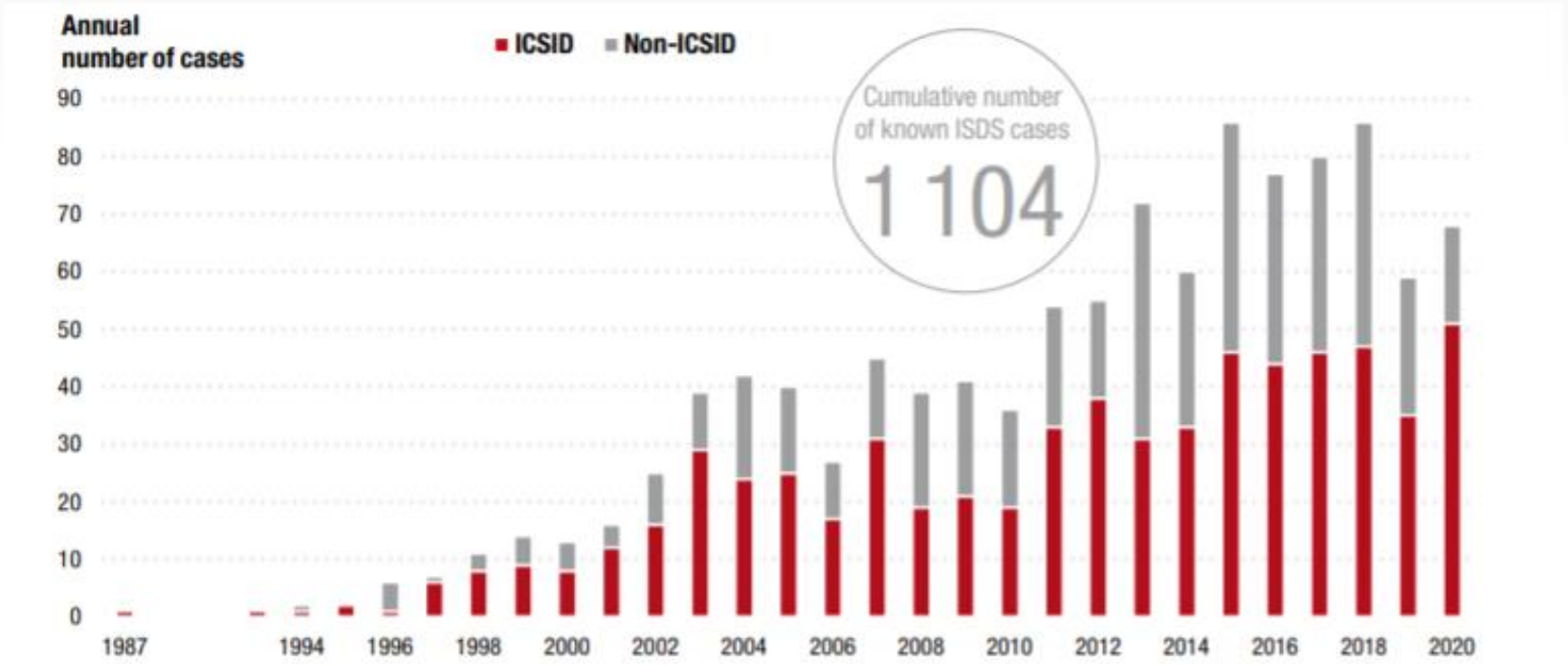
Increase of ISDS

Figure 1. Trends in known treaty-based ISDS cases, 1987–2020



Source: UNCTAD, ISDS Navigator.

Note: Information has been compiled from public sources, including specialized reporting services. UNCTAD's statistics do not cover investor–State cases that are based exclusively on investment contracts (State contracts) or national investment laws, or cases in which a party has signaled its intention to submit a claim to ISDS but has not commenced the arbitration. Annual and cumulative case numbers are continually adjusted as a result of verification processes and may not match exactly case numbers reported in previous years.

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Role of ICSID Counsel

- Main role is casework
- Expected to help with outreach – presentations on ICSID and ISDS
- Part of ongoing projects related to ISDS – e.g.: Code of Conduct, case management systems
- Help with ICSID Review

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Areas of Work: Outreach

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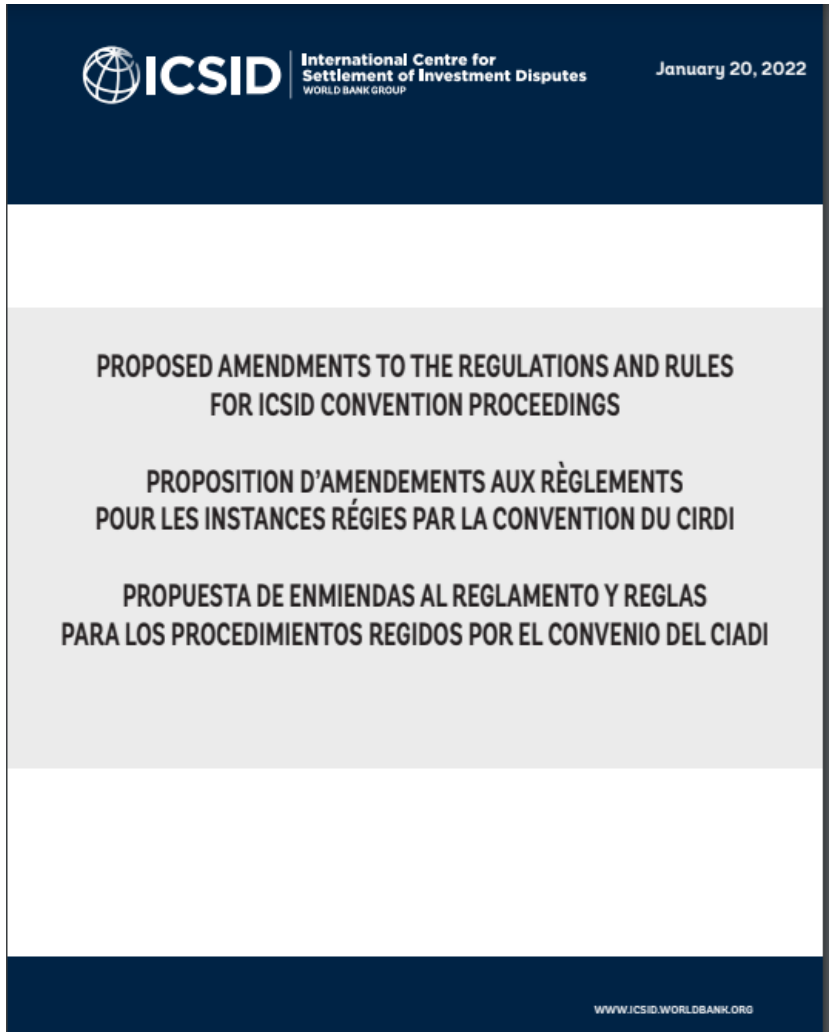
Areas of Work: Institutional Projects



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Working at ICSID

- Truly international environment
- Small, diverse staff
- Individual responsibility for cases
- Interesting cases in a new, growing area of law
- Close contact with renowned jurists, counsel & State officials
- Other side of the “looking glass”
- Involvement in shaping procedural reform

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Characteristics of Employment at ICSID

- Must maintain strict neutrality
- Assist the process, but are not the decision-maker; unique role
- Who are your clients?
  - Member States
  - Parties and their representatives
  - Arbitrators

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Further Reading

- Primer on ICSID
- The ICSID Caseload – Statistics (2022-1)
- 2021 ICSID Annual Report
- ICSID/3 - List of Contracting States
- ICSID/8 – Measures by Member States
- ICSID/10 - ICSID Panel of Arbitrators
- Guide to Membership in the ICSID Convention
- Special Features and Benefits of ICSID Membership

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