



Introduction to ICSID Practice and Procedure

Celeste Mowatt, ICSID Legal Counsel
Sunday, October 29, 2017
National University of Singapore

Part I: Introduction to ICSID

Establishment of ICSID

- The ICSID Convention is an international treaty
- ICSID is 1 of the 5 WBG institutions and its only “non-financial” arm
- It is the premier facility for investment dispute settlement in the world – has administered 70% of all known disputes



See Annex 1 – 50 Years of ICSID – Timeline with Significant Milestones in ICSID’s History

Comparing Commercial and Investment Dispute Settlements

Investor-State Dispute Settlement	Commercial Dispute Settlement
<ul style="list-style-type: none">• Between a private party and a State/State entity• Breach of international law obligations• Cases are decided in accordance with treaty provisions and International Law• Increasingly transparent proceedings with options for confidentiality	<ul style="list-style-type: none">• Between two private parties (individuals or companies)• Breach of (international) contractual obligations• Cases are decided in accordance with the applicable law as agreed by the parties, usually in their contract• Proceedings are confidential

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 (70 people)

FUNCTIONS

- Support proceedings
- Training and technical assistance
- Publications

See Annex 2 – ICSID in the World Bank Group

Mandate of ICSID

- ICSID offers facilities and procedures to resolve investment disputes between States and foreign investors
- Availability of ICSID contributes to:
 - attracting and retaining private investment
 - creating stable investment climates
 - rules-based international trade and investment

Link to the WBG

- Part of comprehensive WBG approach:

→  **IFC** – encourage private investment

→  **THE WORLD BANK** – grievance prevention mechanisms (IGM/SIRM)
IBRD • IDA | WORLD BANK GROUP

→  **MIGA** – political risk insurance

→  **ICSID** – arbitration and conciliation

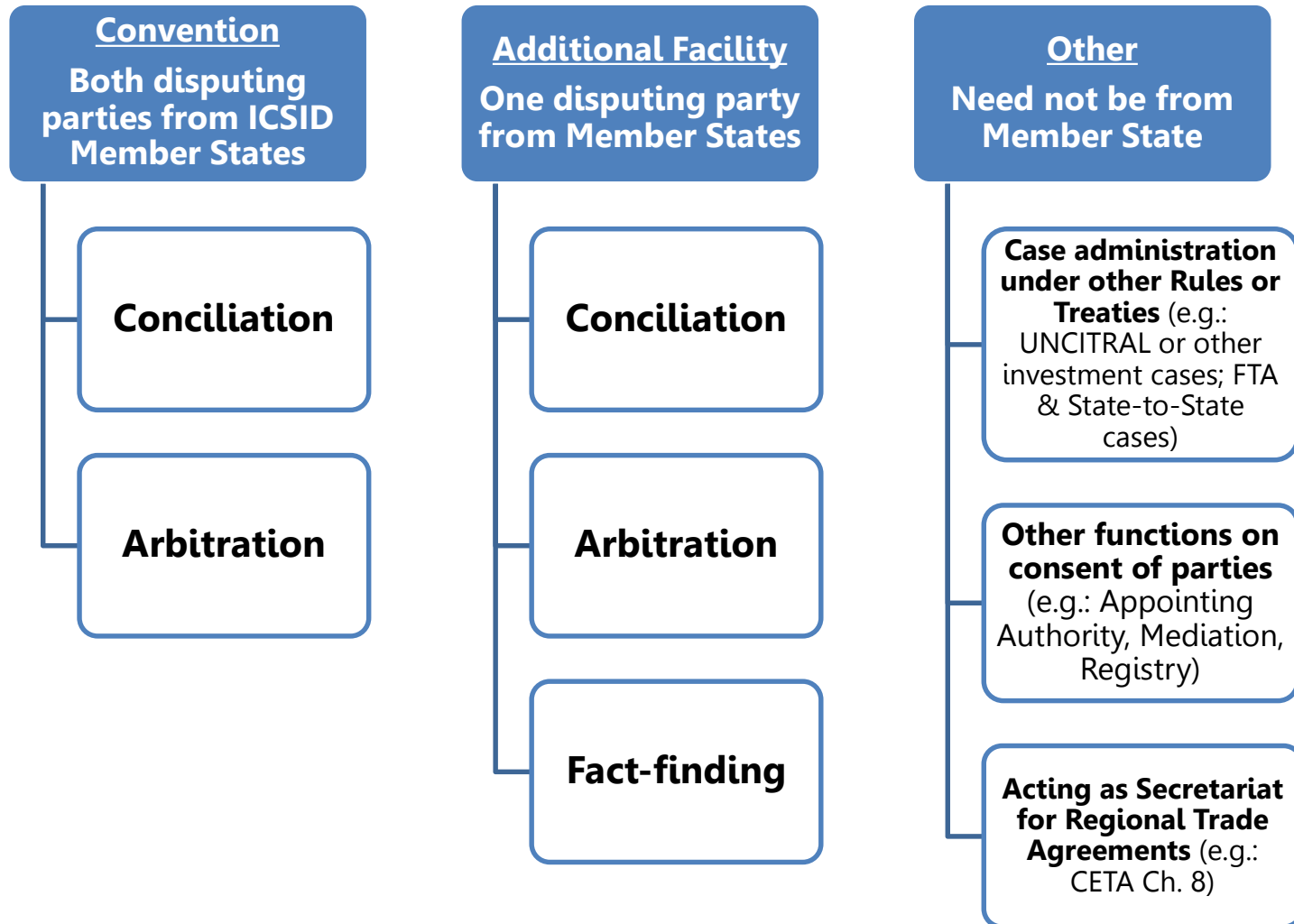
Membership Benefits

- IBRD members join ICSID at no cost – benefits are numerous:
 - **Complements Domestic Economic Policy:** promotes increased FDI, protects investors in foreign host State
 - **Leadership in ISDS:** join premier global investment dispute-resolution facility - active governance role for States in ISDS rule amendment and roster of arbitrators
 - **Impartial Dispute Settlement:** cost-effective rules, impartial international Centre, global facilities, expertise of Centre
 - **Technical assistance:** regular training and specialized publications

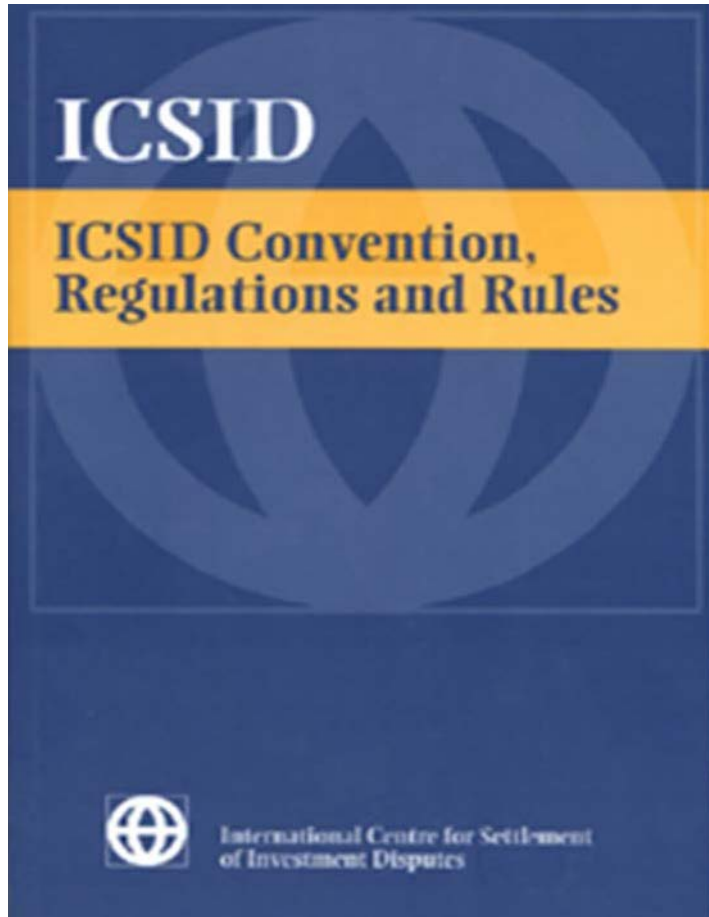
Special Features of ICSID

- Impartial and delocalized facility
- Cost-effective fee structure
- Only institution that can administer ISDS under the three main set of rules (ICSID Convention, ICSID Additional Facility and UNCITRAL)
- Full-time Secretariat with experienced legal counsel and support team
- ICSID is the ISDS Court Secretariat under CETA
- Access to hearing facilities internationally

ICSID Proceedings



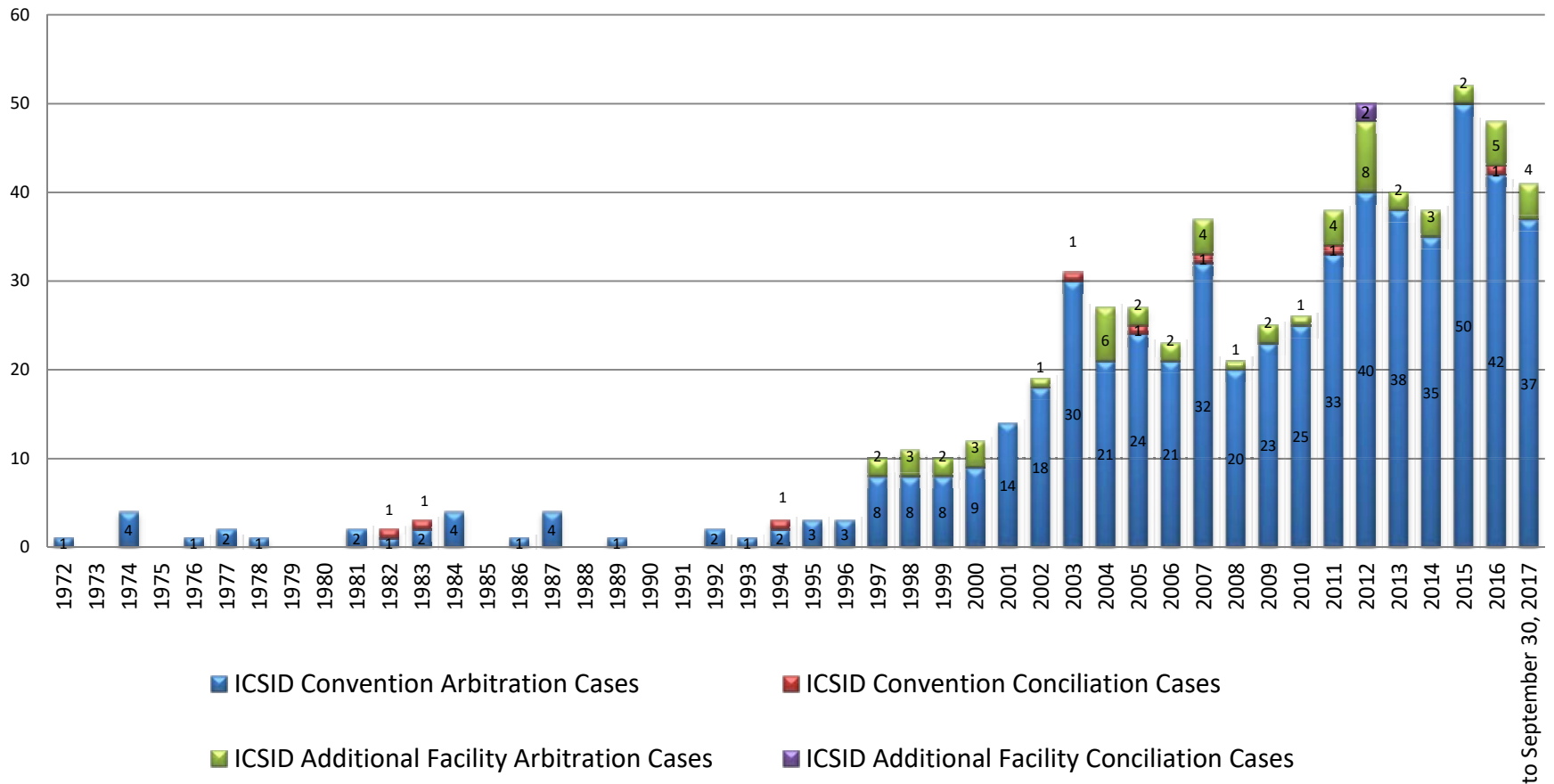
ICSID Convention & Rules



- **ICSID Convention** – the treaty between States (pp. 9-33)
- **Administrative & Financial Regulations** – costs of cases & role of the Centre (pp. 53-71)
- **Institution Rules** – how to initiate a case (pp. 75-79)
- **Arbitration Rules** – procedure after case is registered (pp. 101-128)

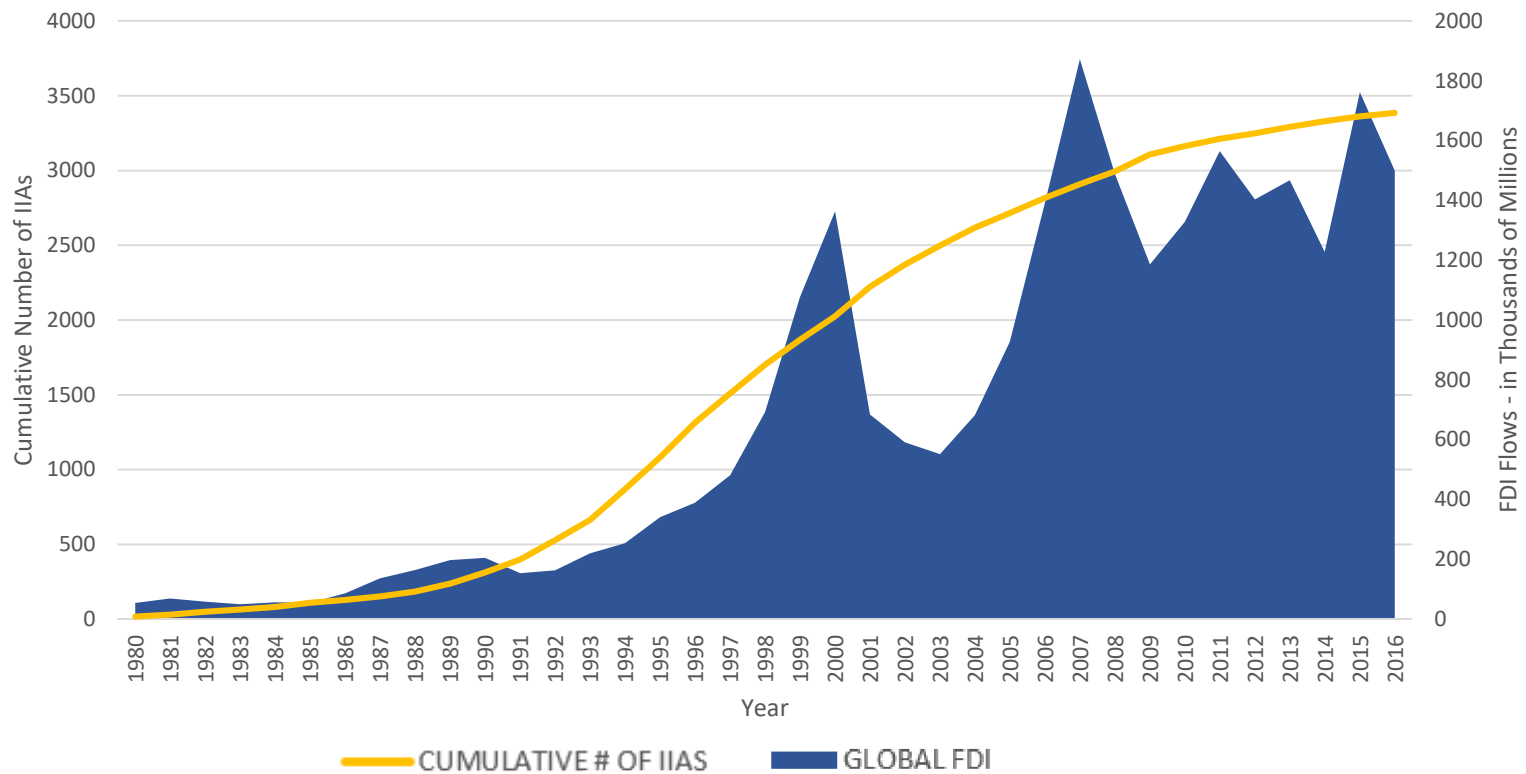
ICSID Caseload

Cases Registered – 30 September 2017



Global Context - Increase in FDI & IIAs

Growth in IIAs & FDI



Sources: UNCTAD, FDI database (www.unctad.org/fdistatistics) & IIA database (<http://investmentpolicyhub.unctad.org/IIA>)

Part II: ICSID Jurisdiction



Conditions for ICSID Jurisdiction - Article 25(1) of the ICSID Convention

- Legal Dispute
- Arising Directly out of an Investment
- Between a Member State, and
- A National of Another Member State
- Consent in Writing

See Annex 4 – ICSID Convention, Article 25

(1) What is a “Legal Dispute”?

- Concerns the existence or scope of a legal right or obligation
- Cannot be a mere conflict of interest

(2) What is an “Investment”?

Objective

An economic activity must:

- Satisfy the requirement for an investment established on the basis of “objective” criteria.

and

- Satisfy the definition of investment in the instrument of consent.

Subjective

Compliance with the definition of investment in the instrument of consent = compliance with the requirement for an “investment” in Article 25.

Investment: Objective Criteria

An investment has certain inherent features:

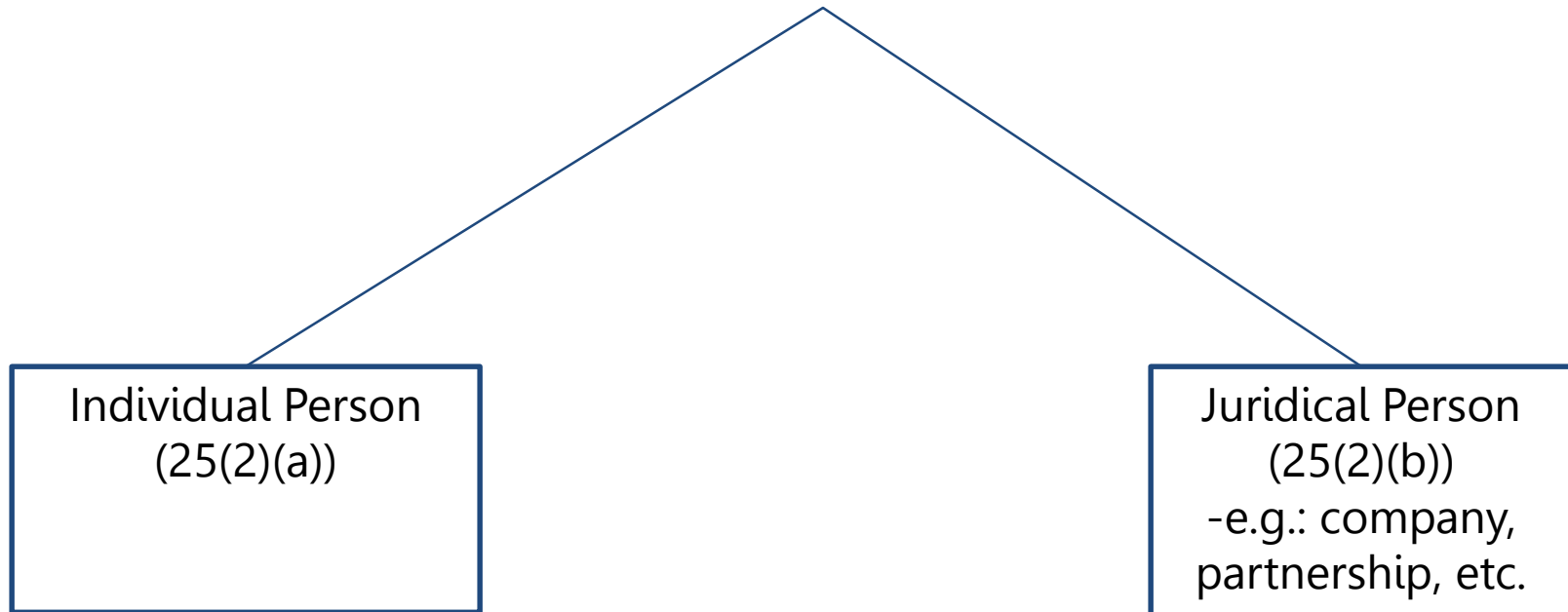
1. Contribution (in money or assets) made by investor
2. Duration of the activities / performance
3. Participation in the risk of the transaction
4. Regularity of profits expected
5. Contribution to the economic development of the Host State [?]

(3) Between A Member State...

- Must have ratified the ICSID Convention
- A subdivision or agency of a Member State may be a party if:
 - It has been designated to ICSID (ICSID Convention Article 25(1)), and
 - The State has approved its consent to arbitration (ICSID Convention Article 25(3))

(4) And a National of Another Member State

Article 25 (2)



A National of Another Member State - Article 25(2)(a) of the ICSID Convention

- An **individual**:
 - must be a national of another Member State at the time of consent and at the date of registration of the Request, and
 - cannot have the same nationality as the host State





A National of Another Member State - Article 25(2)(b) of the ICSID Convention

- A **company** must be a national of another Member State at the date of consent
- **Exception:** a company may have the same nationality as the host State if:
 - it is under foreign control, and
 - the parties agree to treat it as a foreign national

(5) Consent in Writing

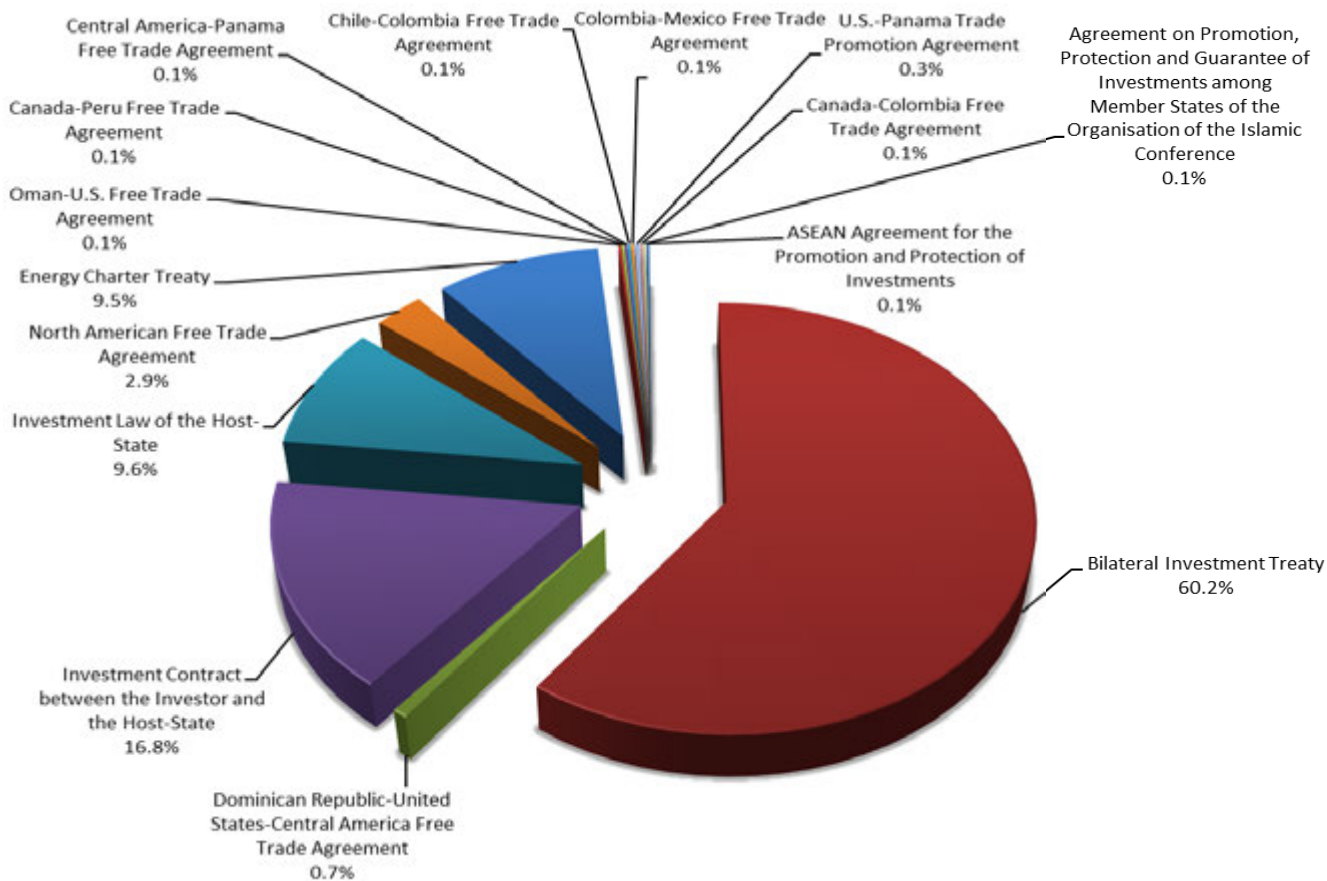
Sources of Consent:

- Contracts
- Investment Laws
- Bilateral or Multilateral Investment Treaties



Basis to Commence Cases at ICSID

- Submitted voluntarily: need State and investor consent in writing
- Consent is usually found in investment treaty, contract or investment law



Scope of Consent

- Parties may limit the scope of consent – e.g.:
 - Requirement to exhaust local remedies
 - Types of dispute covered
 - Investors covered
 - Time limitations
- But Parties cannot derogate from the Convention by consent

See Annex 5 – Measures Taken by States (ICSID/8)

Philip Morris v. Uruguay (ICSID Case No. ARB/10/7)

- Challenge to “Single Presentation Requirement” and 80% label requirement of Uruguay



See Annex 6 – PMI v. Uruguay - Case Details, Materials, Procedural Details (ICSID Website)

See Annex 7– PMI v. Uruguay - Decision on Jurisdiction

See Annex 8 – PMI v. Uruguay - Award

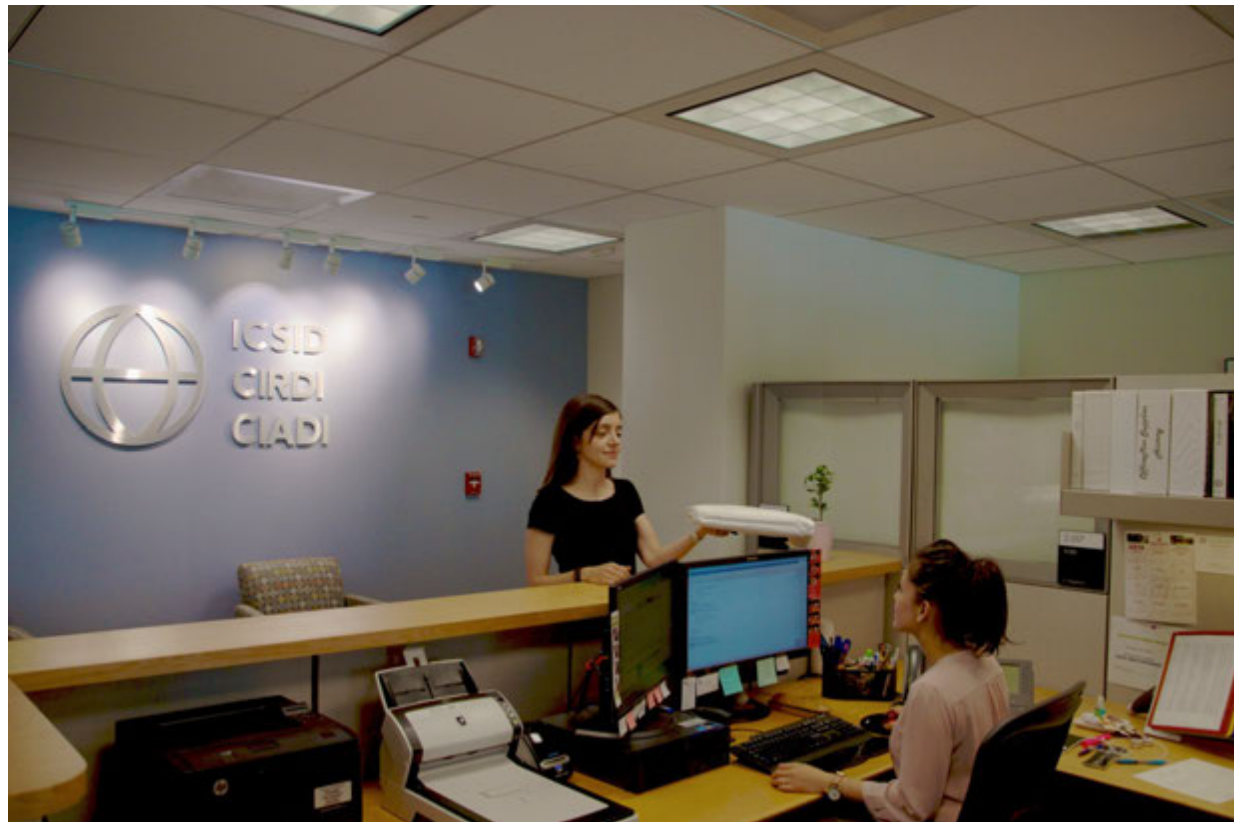
See Annex 9 – Switzerland – Uruguay BIT (1988)

Example of ICSID Jurisdiction

Philip Morris Brands Sàrl, Phillip Morris Products S.A., and Abal Hermanos S.A. v. Uruguay (ICSID Case No. ARB/10/7)

Legal Dispute	The dispute concerned an alleged substantial decrease in sales and deprivation of intellectual property rights due to Uruguay's investor's breach of BIT
Investment	The Claimants' investment included: a local manufacturing facility; shares in Abal; rights to royalty payments; trademarks and goodwill
Member State	Respondent was the Oriental Republic of Uruguay – an ICSID member since 2000
National of Another Member State	Claimants were 2 Swiss tobacco companies and a Uruguayan company under foreign control
Consent	Consent to ICSID arbitration was found in the Switzerland-Uruguay BIT

Part III: Institution of Arbitration Proceedings



Procedural Framework



Provisions of the applicable investment
treaty, contract or law

Provisions of the ICSID
Convention

ICSID Arbitration Rules
in effect at the time of
consent to arbitration

Procedural
Orders

Conduct of an ICSID Arbitration



*See Annex 10– Practice Notes for Respondents
See Annex 11 – Detailed Flow Chart*

The Request for Arbitration

- The process of filing a request is governed by the Institution Rules
- Filed by the Claimant – usually the investor; could be the State (or in some circumstances, a subdivision or agency of a State)
- Claimant pays a non-refundable lodging fee of 25,000 USD – helps prevent frivolous claims

See Annex 12 – How to file a Request for Arbitration

Review of the Request

- ICSID reviews the request in light of the Convention and the instrument of consent
- The request is registered unless it is “**manifestly outside the jurisdiction of the Centre**” (Article 36(3) ICSID Convention)



Registration of a Request

- The Secretary-General must issue a notice of registration or refuse to register
- Registration process now takes 16 days on average
- No appeal against the registration decision

See Annex 13– Notice of Registration

Part IV: Constitution of the Tribunal

Relevant Provisions:

- ICSID Convention, Articles 12-16, 37- 40, 56-58
- ICSID Arbitration Rules 1-12



Constitution of the Tribunal - Process

Step 1
(HOW)

- Determine the **number** of arbitrators and the **method** of their appointment

Step 2
(WHO)

- **Selection** and **appointment** of Tribunal members

Step 3
(FINAL STEPS)

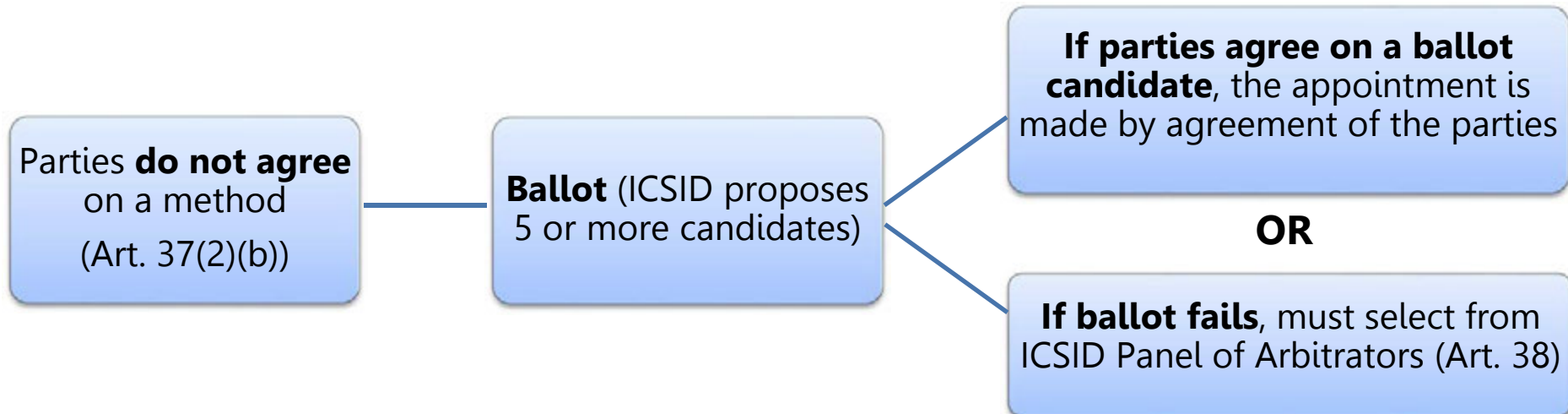
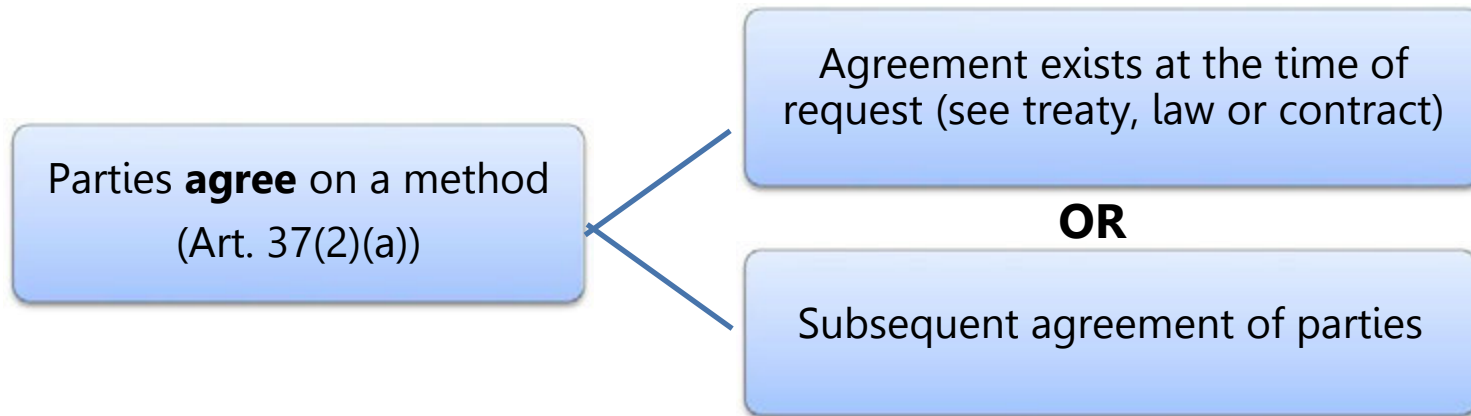
- **Acceptance** of appointment and **constitution** of the Tribunal

Number of Arbitrators on a Tribunal



- A sole arbitrator or any uneven number of arbitrators if the parties so agree (Art. 37)

Method of Appointment of Tribunal



Tribunal Selection and Appointment

- Parties can select anyone who meets qualifications in Article 14:
 - High moral character
 - Recognized competence
 - Independent judgment

- **Nationality:**
(Art. 39, Rule 1(3))
 - Majority shall be nationals of States other than the State party to dispute and the State of investors' nationality (unless parties otherwise agree)

See Annex 14 – What Makes a Good Arbitrator? (video)

See Annex 15 – List of Arbitrator Videos

Requirements for Appointees

Qualifications:
(Art. 14)

- High moral character
- Recognized competence
- Independent judgment

Nationality:
(Art. 39, Rule 1(3))

- Majority shall be nationals of States other than the State party to dispute and the State of investors' nationality
- If the Tribunal consists of 3 members, a national of either State may not be appointed by a disputing party without the agreement of the other

Appointment by Chairman – Convention Article 38

- If no appointment in 90 days a party can ask Chairman to appoint the missing arbitrator
- Process: ballot of 5 persons sent to parties – if no consensus, Chairman appoints
- Chairman must appoint from ICSID Panel of Arbitrators (Panel consists of 4 persons designated by each State and 10 persons by Chairman)

See Annex 16– Panel of Arbitrators (ICSID 10)

See Annex 17– Sample Ballot

Acceptance of Appointment & Declaration – Constitution of the Tribunal

- ICSID seeks acceptance from appointees (Arbitration Rule 5(2))
- Declaration of Arbitrator (Arbitration Rule 6):
 - To keep information confidential
 - To judge fairly as between the parties
 - Statement of relationship with parties or other circumstance if needed
 - Continuing obligation to disclose any such relationship or circumstance that arises subsequently

See Annex 18 – Declaration – Arb. Rule 6(2)

Constitution of Tribunal

The Tribunal is constituted when all arbitrators have accepted their appointments.



Disqualification of Arbitrators

Relevant Provisions

- ICSID Convention Articles 57-58
- ICSID Arbitration Rules 8-12



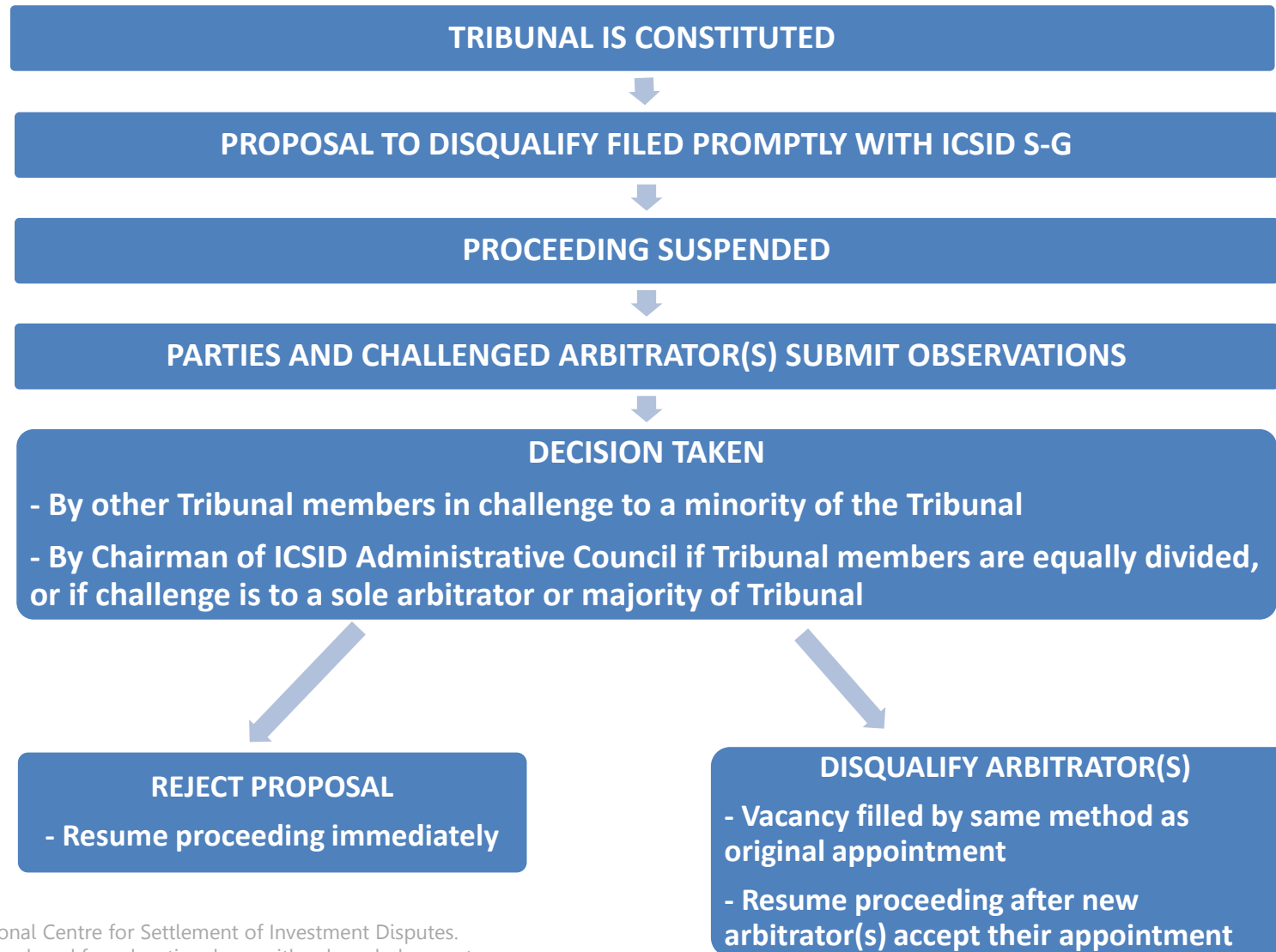


Grounds for Disqualification - Article 57

- Manifest lack of the qualities in Article 14(1)
 - High moral character
 - Recognized competence in law, commerce, industry or finance
 - Reliability to exercise independent judgment
- Nationality requirements not met
- Objective test from perspective of reasonable third person
- Burden of proof on applicant

See Annex 19 – List of Decisions on Disqualification

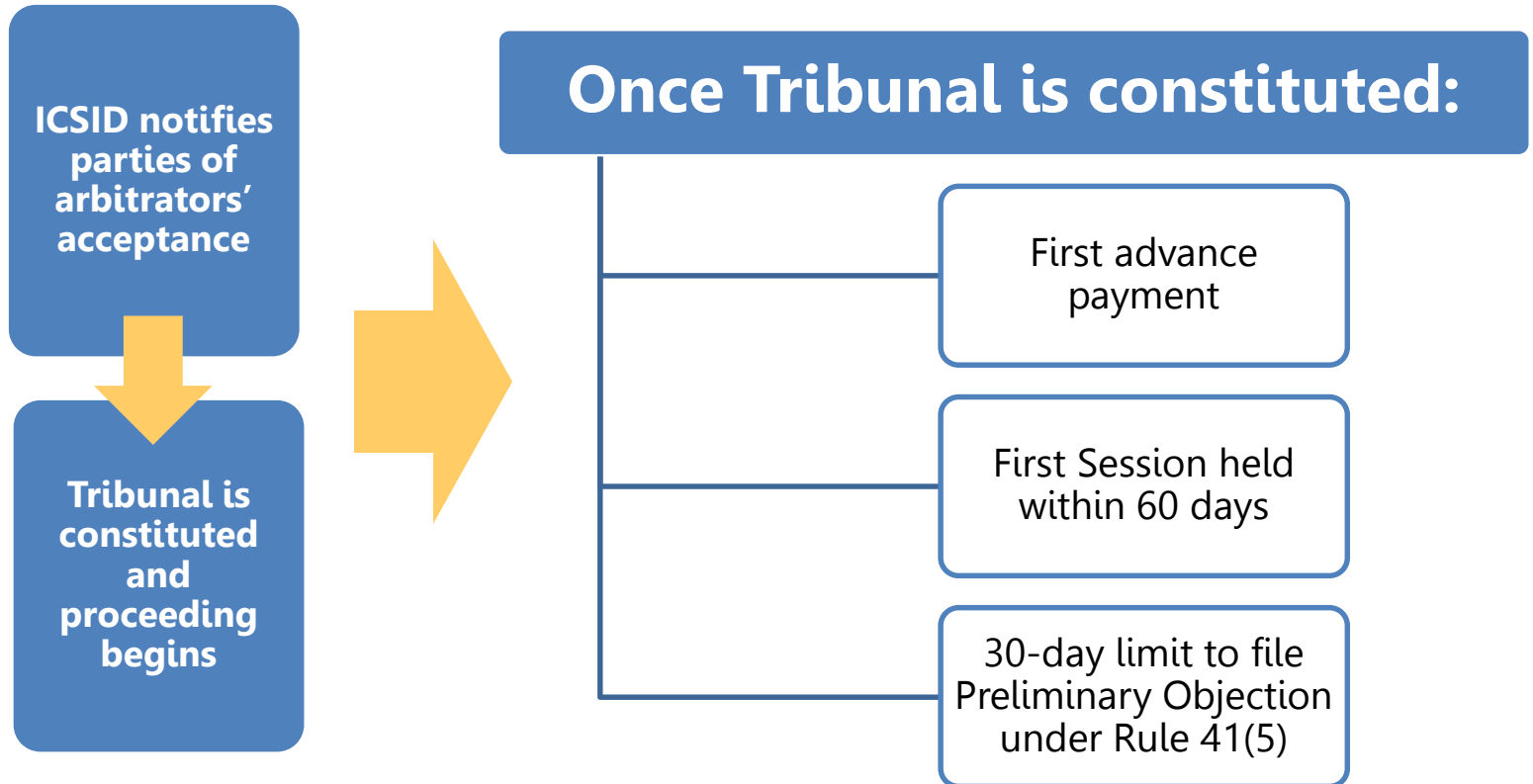
Challenge – Procedure



Part V: Commencement of Proceedings, First Session and Procedural Order No. 1



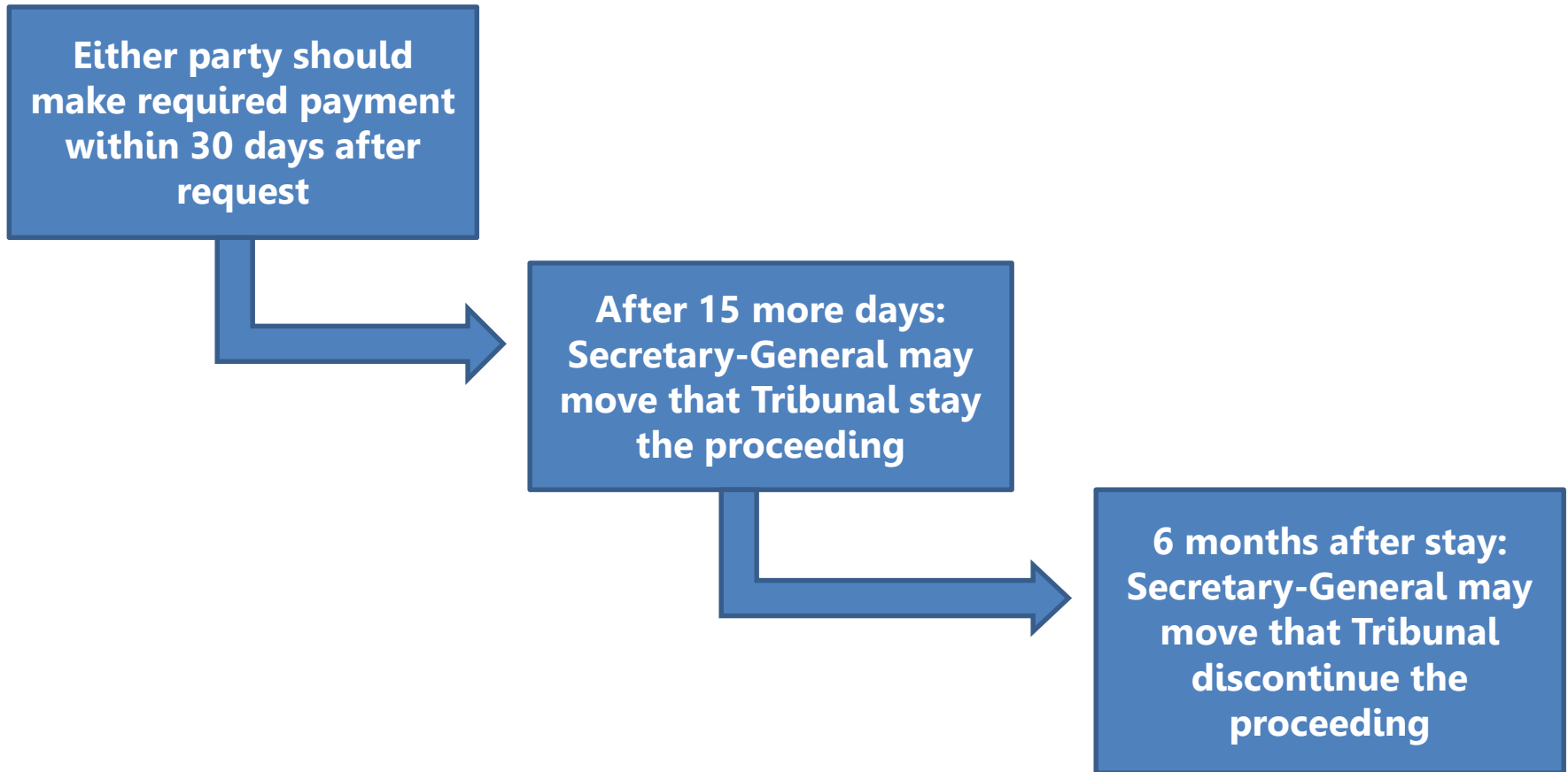
Commencement of Arbitration



Request for Advances

- Advance payments requested periodically
 - Initial advance payment to be paid before the First Session
- Each party normally pays $\frac{1}{2}$ of each advance (Admin. & Fin. Reg. 14 (3)(d))
- Put in a separate case fund
- Used to pay the arbitrators fees and expenses, ICSID administrative fee, and other disbursements

Non-Payment of Advances Admin. & Fin. Reg. 14 (3)(d)



First Session of the Tribunal - Practical Considerations

To be held within 60 days from Tribunal constitution (unless otherwise agreed)

Date fixed by Tribunal in consultation with the parties and Secretary-General

Held in any venue agreed by parties –
(Washington, D.C. as default)

ICSID encourages parties to consider video or teleconference to reduce costs

Procedural Order No. 1

- Contains the parties' agreements and the Tribunal's decisions
- Point of reference throughout the proceeding
- Can be amended or supplemented

See Annex 20 – Sample Procedural Order No. 1

Part VI: Other Procedures



Expedited Preliminary Objections - Manifest Lack of Legal Merit

Relevant Provisions

ICSID Arbitration Rule 41(5)



Manifest Lack of Legal Merit

- Allows early dismissal of claims that manifestly lack legal merit
- Applies to absence of jurisdiction and merits
- Standard is high – the lack of legal merit must be obvious

See Annex 21 – List of Decisions on Rule 41(5)

Procedure – Rule 41(5)



Preliminary Objections Relevant Provisions

- ICSID Convention Article 41
- ICSID Arbitration Rule 41



Preliminary Objections

- Usually an objection to the jurisdiction of the Tribunal
- Must be made as early as possible, but in any event before filing the Respondent's Counter-Memorial
- Can be made even if the same objection was dismissed under Arbitration Rule 41(5)
- If the Tribunal finds that there is no jurisdiction, it renders an award

Bifurcation

Relevant Provisions

- ICSID Convention, Article 41
- ICSID Arbitration Rule 41(3)



Bifurcation of Proceedings

- allows tribunal to hear discrete aspects of the case in different stages (often for jurisdiction)
- criteria:
 - does the objection have substance (not frivolous)
 - would bifurcation materially reduce time and cost
 - is bifurcation impractical because jurisdiction and merits are so intertwined

See Annex 22 – Possible Sequences

Provisional Measures Relevant Provisions

- ICSID Convention Article 47
- ICSID Arbitration Rule 39



What Measures Can Be Requested?

- Measures to preserve the rights of a party
- Conditions for granting measures:
 - Urgency
 - Necessity – Irreparable harm
 - Rights are in dispute (can be procedural rights)
- Requested from Tribunal at any time, by either party

Production of Documents

Relevant Provisions

- ICSID Arbitration Rule 34



Timing

- The Parties can request documents from each other
 - Tribunal decides on contested requests for documents
- Timing usually decided in Procedural Order No. 1
- The Tribunal may ask the parties to produce documents or other evidence at any stage of the case

How to Request Documents

- The requests include:
 - description of documents or categories of documents requested
 - relevance and materiality to the case
 - indication that the requesting party does not possess the documents requested
 - the basis on which to assert that the other party has the documents

See Annex 23 – Model Redfern Schedule

Examples of Objections to Production of Documents

- The category of documents sought is too broad
- Document is not relevant to the dispute
- Document is protected by attorney-client privilege
- Document is in possession of third party

See Annex 24 – IBA Rules on Taking of Evidence



Written Pleadings

(ICSID Convention Art. 43-44; Arbitration Rules 29-38)

- Normally two rounds of pleadings:
 - ➔ Claimant's Memorial
 - ➔ Respondent's Counter-memorial
 - ➔ Claimant's Reply
 - ➔ Respondent's Rejoinder
- Same structure for jurisdiction, merits and *quantum* phases

Memorial

- Statement of the relevant facts
- Statement of the law
- Argument
- All evidence a party plans to rely upon:
 - Exhibits
 - Legal Authorities



Transparency



CASES

RECENTLY REGISTERED

September 8, 2014
BSG Resources Limited v. Republic of Guinea
(ICSID Case No. ARB/14/22)

August 18, 2014
Bear Creek Mining Corporation v. Republic of
Peru (ICSID Case No. ARB/14/21)

August 15, 2014
Sodexo Pass International SAS v. Hungary
(ICSID Case No. ARB/14/20)

August 5, 2014
VICAT v. Republic of Senegal (ICSID Case No.
ARB/14/19)

RECENTLY CONSTITUTED

October 16, 2014
Cyprus Popular Bank Public Co. Ltd. v. Hellenic
Republic (ICSID Case No. ARB/14/16)

October 2, 2014
Anglo American PLC v. Bolivarian Republic of
Venezuela (ICSID Case No. ARB/AF/14/1)

September 30, 2014
Adem Dogan v. Turkmenistan (ICSID Case No.
ARB/09/5)

September 29, 2014
Infinito Gold Ltd. v. Republic of Costa Rica
(ICSID Case No. ARB/14/5)

RECENTLY PUBLISHED

October 17, 2014 - Mercer International, Inc. v.
Canada (ICSID Case No. ARB(AF)/12/3)
Procedural Order No. 4 (December 19, 2013)

October 17, 2014 - Mercer International, Inc. v.
Canada (ICSID Case No. ARB(AF)/12/3)
Procedural Order No. 3 (June 7, 2013)

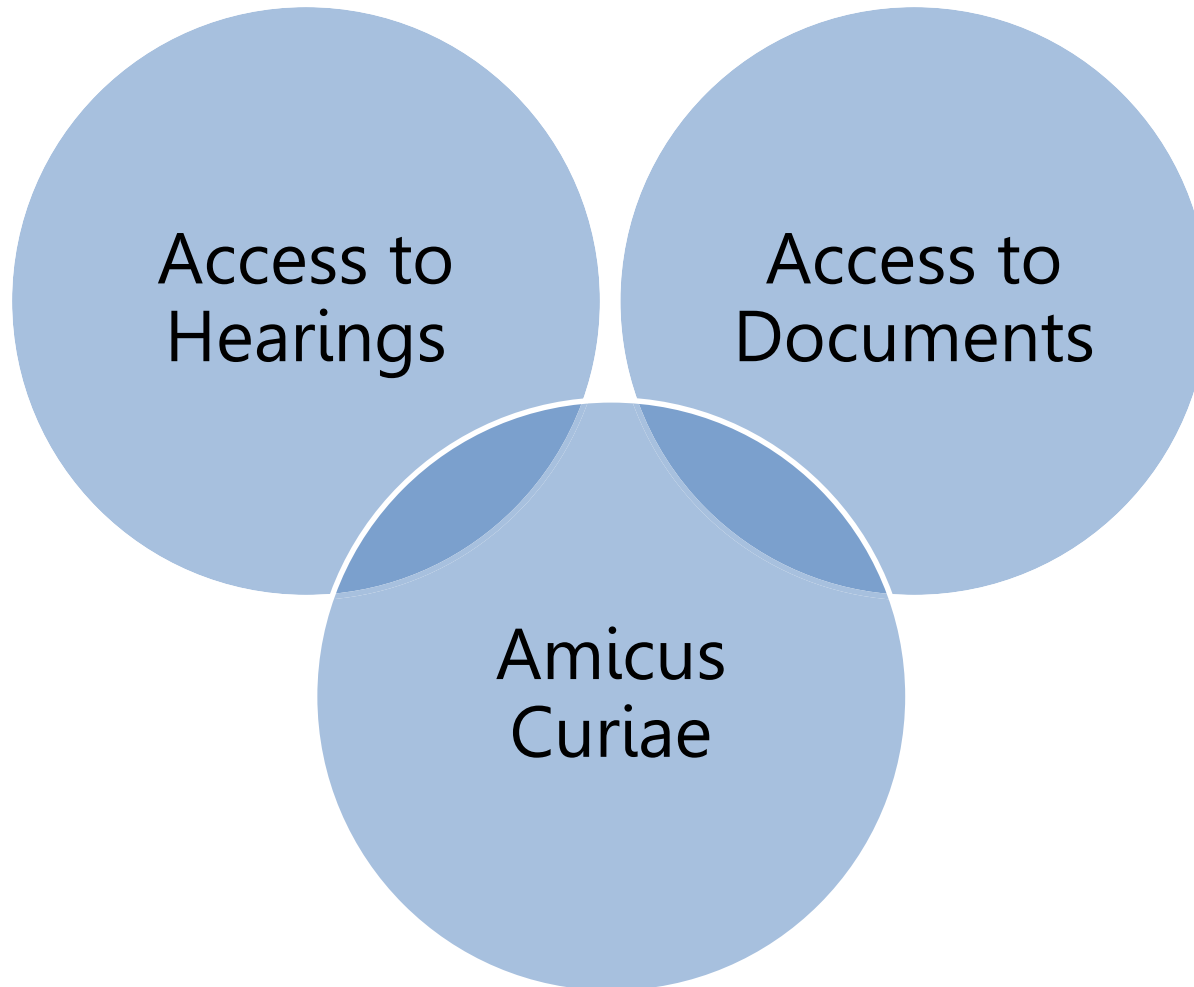
October 17, 2014 - Mercer International, Inc. v.
Canada (ICSID Case No. ARB(AF)/12/3)
Procedural Order No. 2 (April 29, 2013)

October 17, 2014 - Mercer International, Inc. v.
Canada (ICSID Case No. ARB(AF)/12/3)
Procedural Order No. 1 (January 24, 2013)

Relevant Provisions

- ICSID Arbitration Rules 6(2), 15, 32(2), 37(2), 48(4)
- Administrative and Financial Regulations 22-23

Transparency (cont.)



See Annex 25 – NDP Decisions

Part VII: Oral Process

Relevant Provisions:

- ICSID Convention, Articles 62,63
- ICSID Arbitration Rules 32-37



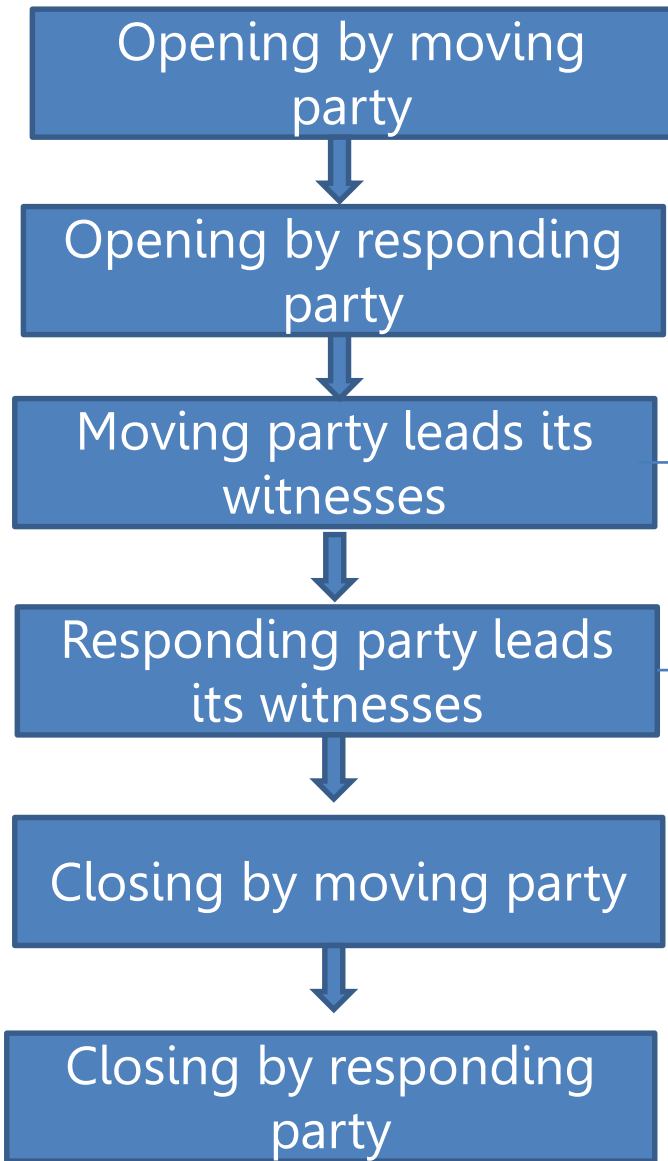
Before the Hearing

- Pre-hearing organizational meeting deals with e.g.:
 - Daily Schedule, Order of proceedings and allocation of time
 - Procedure for open hearings
 - Sequestration of witnesses and experts
- Checklist of Preparation for Hearing, e.g.
 - Request interpretation
 - Request travel certificate from ICSID in support of visa applications
 - Prepare hearing bundles

See Annex 26 – Checklist for Hearing Preparation

See Annex 27 – List of Institutions with which ICSID has Facilities Agreements

The Hearing



Examination of witnesses and experts:

- Direct
- Cross
- Re-direct



Spence International et al. v. Republic of Costa Rica
(UNCT/13/2), Hearing on Merits (CAFTA), April 2015
Tribunal's Opening Remarks

Spence International et al. v. Republic of Costa Rica
(UNCT/13/2), Hearing on Merits (CAFTA), April 2015
Claimant's Opening

Spence International et al. v. Republic of Costa Rica
(UNCT/13/2), Hearing on Merits (CAFTA), April 2015
Cross-Examination of Claimant's Witness



Spence International et al. v. Republic of Costa Rica **(UNCT/13/2), Hearing on Merits (CAFTA), April 2015** **Respondent's Closing**



Part VIII: The Award or Termination of the Proceedings- Settlement/Discontinuance



Discontinuance of the Proceeding - Grounds and Relevant Provisions

Arbitration Rule 43

- On settlement or agreement on discontinuance by the parties

Arbitration Rule 44

- On request of a party if there is no objection by the other party

Arbitration Rule 45

- For failure of the parties to act

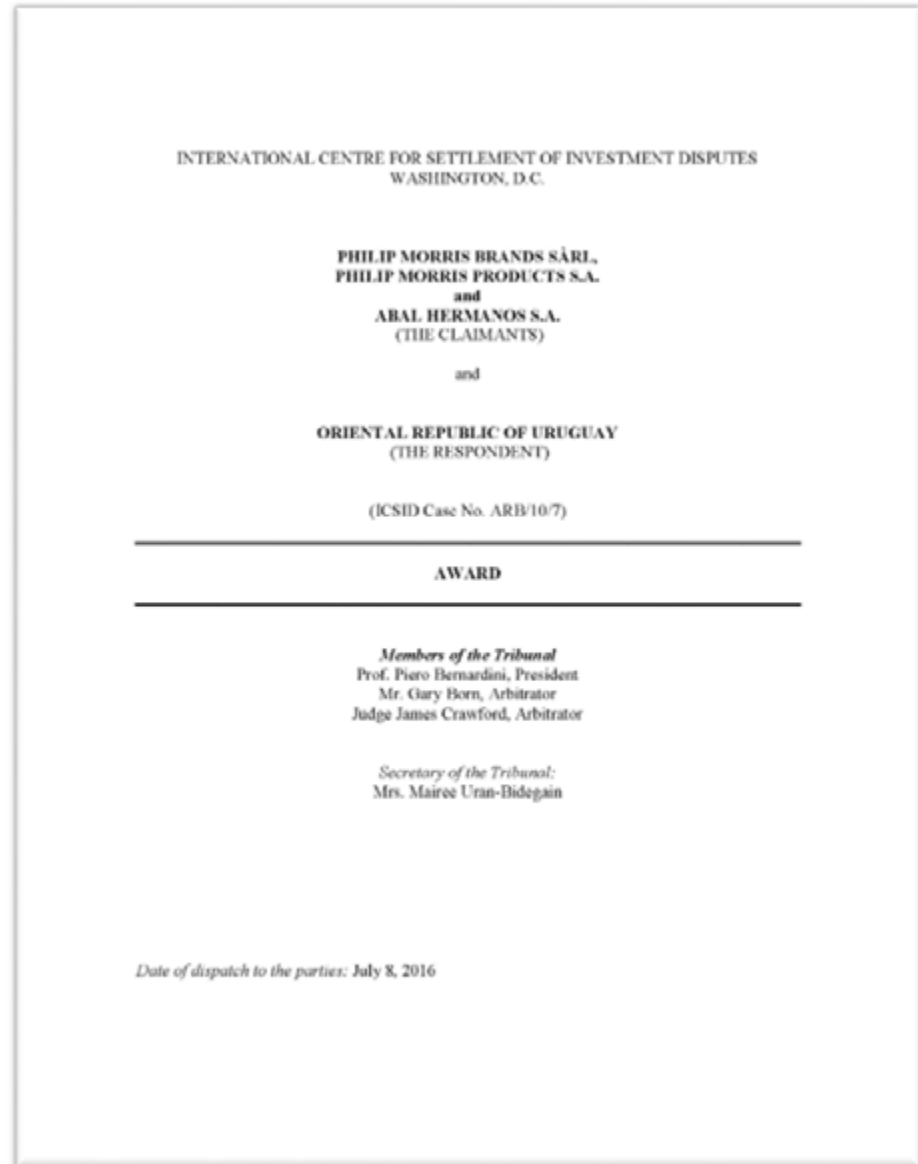
Regulation 14(3)(d) and (e)

- For failure of the parties to pay advances

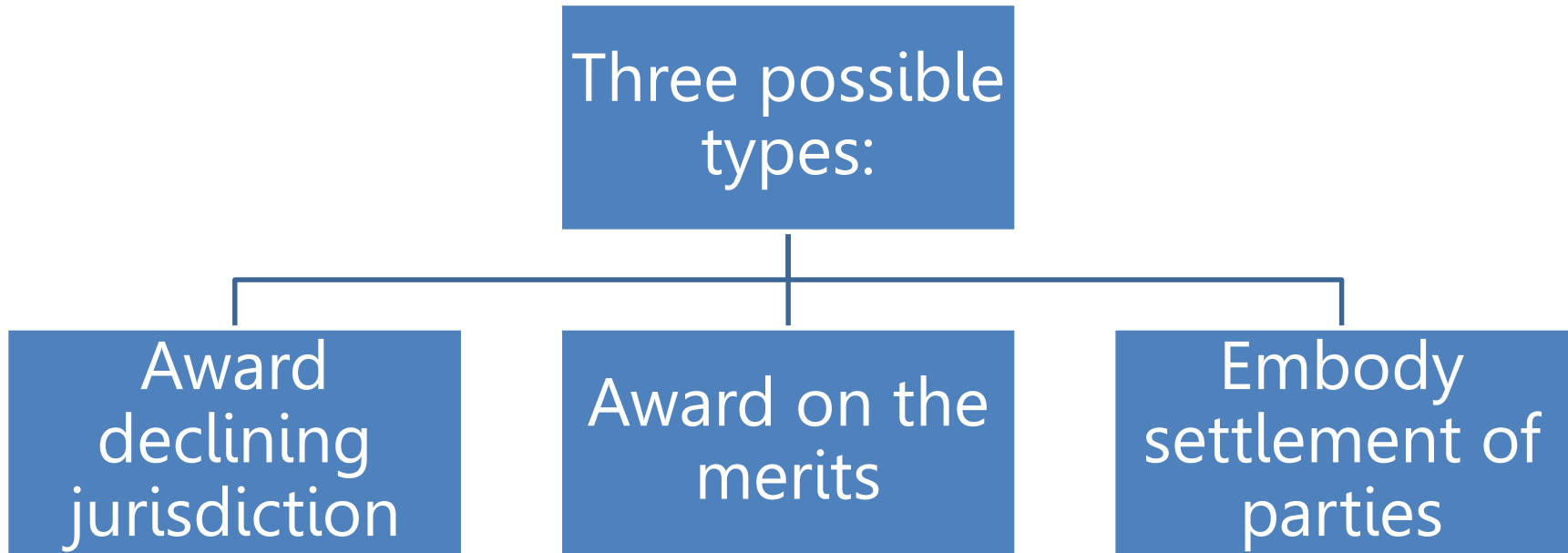
The Award

Relevant Provisions

- ICSID Convention
Article 48
- ICSID Arbitration
Rules 46-48



Awards



No partial award in the ICSID system

Special Features of ICSID Convention Awards

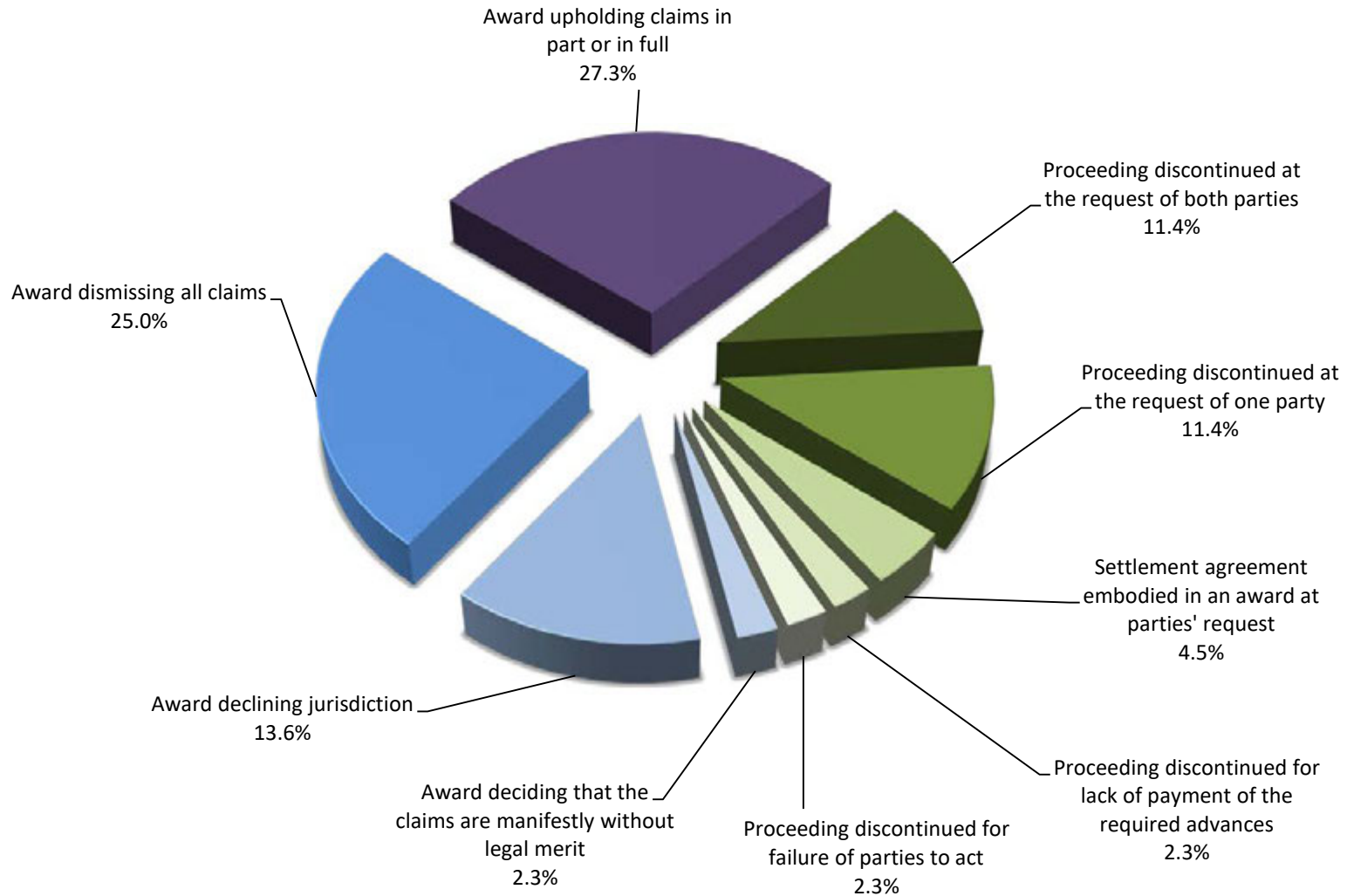
- Awards are final and binding
- Annulment – no appeal in local courts
- Member States must recognize monetary awards without further process
- Monetary award enforceable as a final judgment in any Contracting State

Rendering the Award

Arbitration Rules 46-48

- Rendered in writing within 120 days after closing of the proceeding
 - Possible 60-day extension
- Secretary-General dispatches certified copy of award with date of dispatch
 - Post-award remedies run from date of dispatch

Outcomes in ICSID Cases

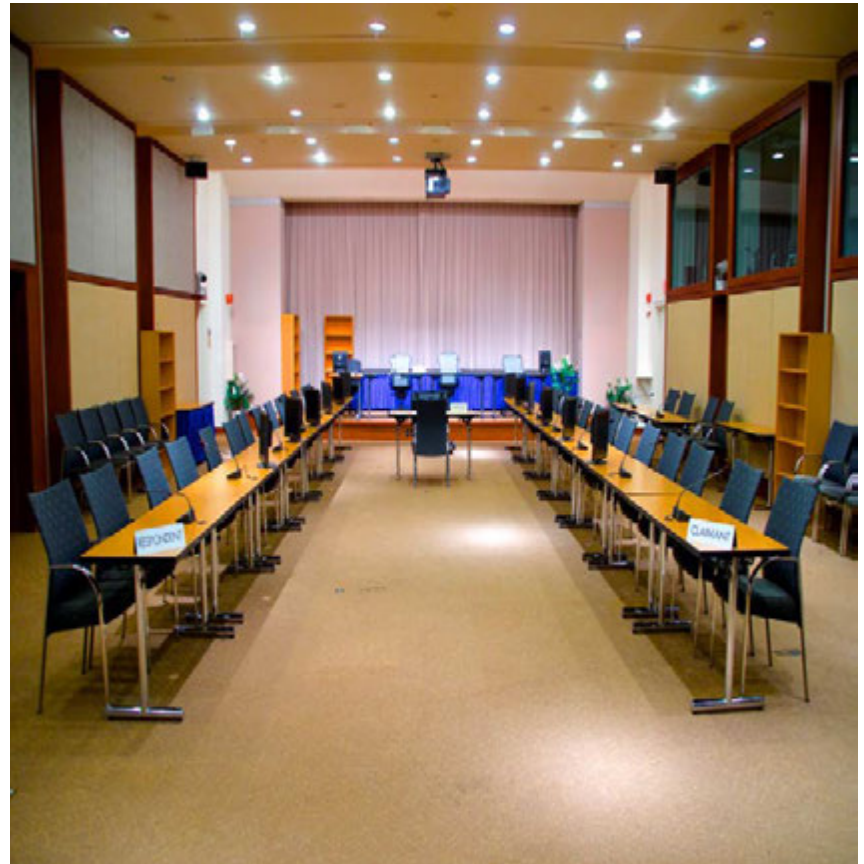


Part IX:

Costs of Arbitration

Relevant Provisions:

- ICSID Convention Article 61
- ICSID Arbitration Rule 28
- Administrative and Financial Regulation 14
- ICSID Schedule of Fees



Costs of Arbitration - 3 Components

Parties' expenses

- Cost of legal representation
- Witnesses
- Experts
- Any other cost relating to the presentation of a party's case

90%

Arbitrators' Fees and expenses

- 3,000 USD per day (\$375/hour)
- Plus:
 - Direct expenses reasonably incurred, travel expenses and subsistence allowance (when traveling)

Centre's administrative charges

- 42,000 USD/yearly usually shared by parties (21,000 USD each)
- Includes:
 - Hearing facilities at the World Bank, services of the Tribunal Secretary and case team, and financial administration

10%

Part X: Post-Award Remedies

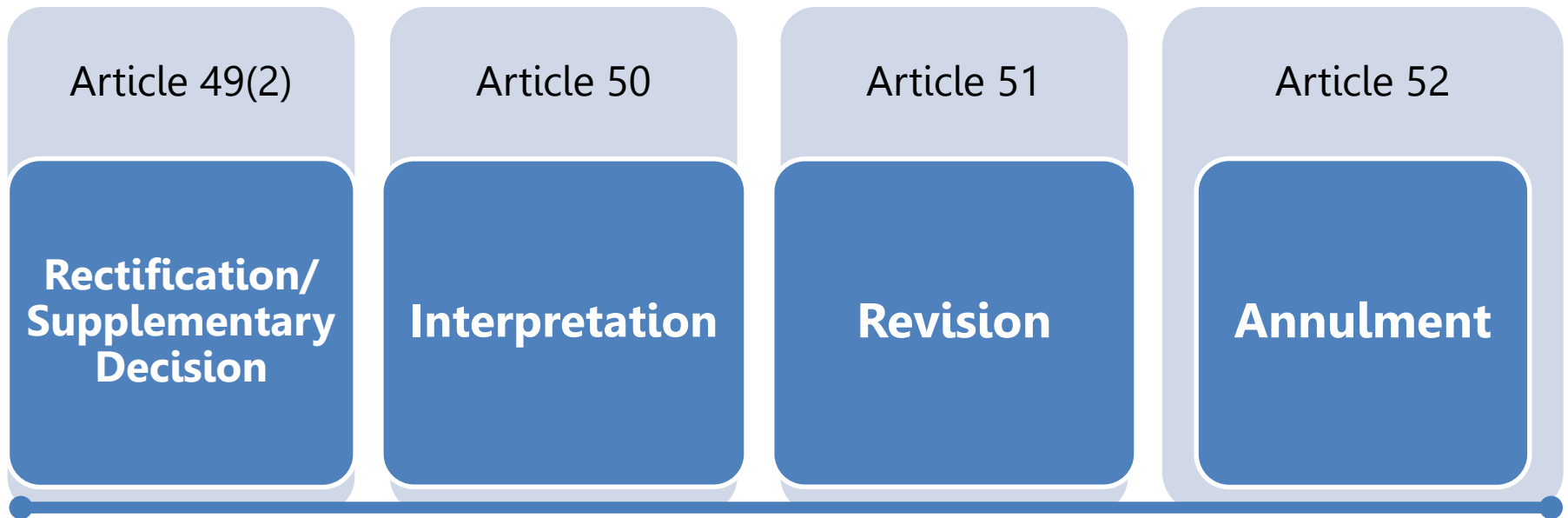
ICSID Convention, Articles 50-52

ICSID Arbitration Rules, Articles 50-55



ICSID System is Self-Contained

- No domestic court review of decisions or awards
- Post-award remedies under the ICSID Convention:



Annulment

Article 52 of the ICSID Convention

When?

- 5 grounds for annulment, Article 52(1)(a) to (e)

Time limits

- 120 days after the award is rendered
- In case of corruption of a Tribunal member, 120 days after discovery and within 3 years of award

Who decides?

- *Ad hoc* Committee of 3 members appointed from Panel of Arbitrators

Stay of enforcement

- Stay of enforcement may be granted during proceeding

Decision

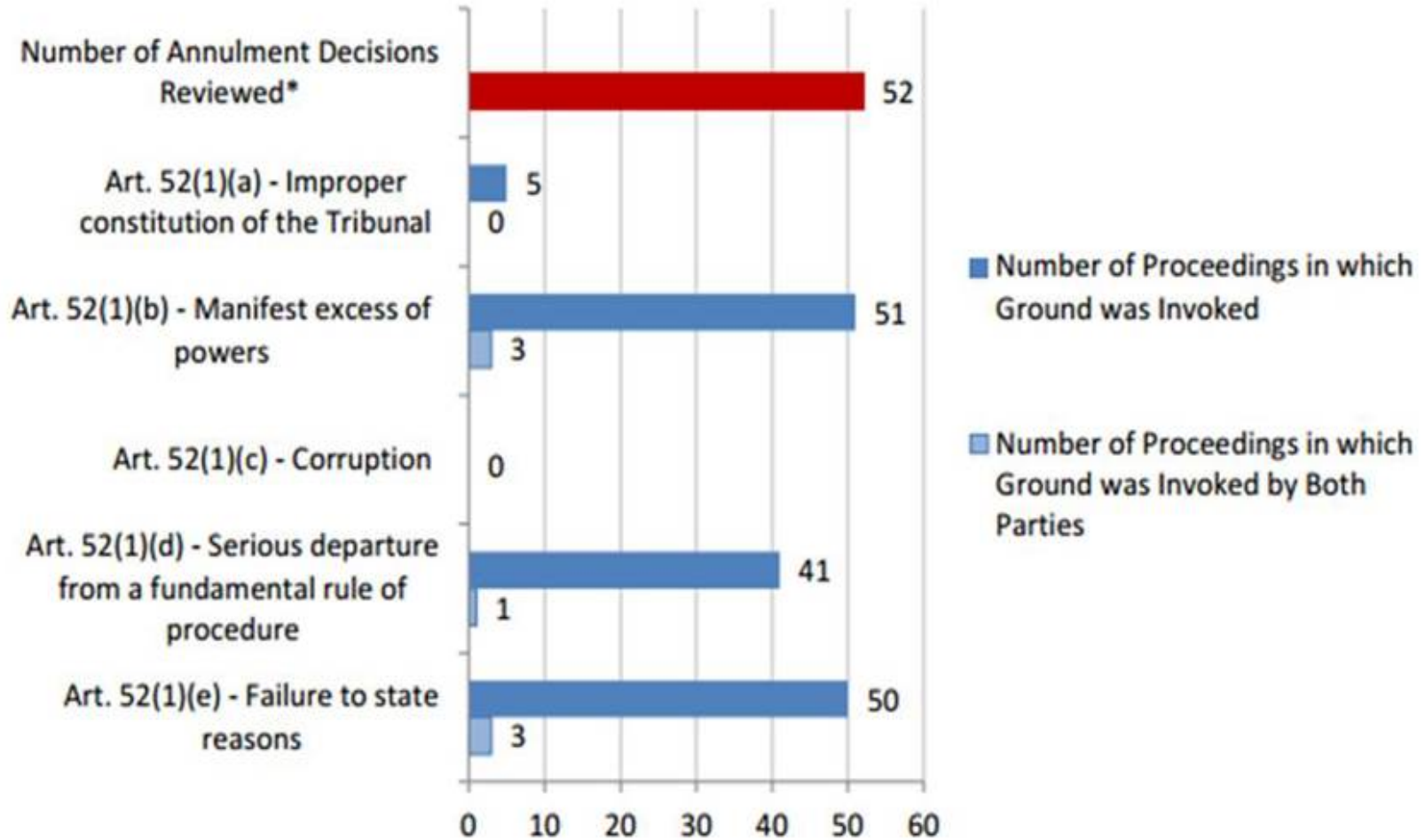
- Decision on annulment can annul award in full or in part

See Annex 28 – List of Decisions on Annulment

Annulment - Grounds

- The Tribunal was not properly constituted
- The Tribunal has manifestly exceeded its powers
- Corruption on the part of a Tribunal member
- A serious departure from a fundamental rule of procedure
- The award fails to state the reasons on which it is based

Grounds Invoked in Annulment Proceedings



Stay of Enforcement in Annulment Proceedings

Article 52(5) of the ICSID Convention

When?

- When a party wishes to stay the enforcement of an obligation in the award

Who may stay enforcement?

- The Secretary General provisionally before *ad hoc* Committee is constituted and *ad hoc* Committee during the proceeding

Time limits

- May be requested in Application or at any time during the proceeding

Procedure

- Request must specify the circumstances that require the stay of enforcement
- Each party is given the opportunity to file observations

Condition

- Stay of enforcement may be subject to bond or other security

Partial or Full Annulment

- A full annulment means the Committee upheld one or more grounds for annulment in respect of the entire award
- A partial annulment means Committee upheld one or more grounds in respect of a part of the award
 - the consequences of the annulment depend on the relevant part annulled
 - *E.g. CMS* – annulled liability under umbrella clause
 - *E.g. TECO* – annulled specific holdings on damages, interest and costs

Consequences of Partial or Full Annulment

- The binding force of the annulled portion of the award is terminated
- A party is entitled to resubmit the dispute following annulment
 - 17 awards annulled in part or in full, 16 of which have led to 8 resubmissions

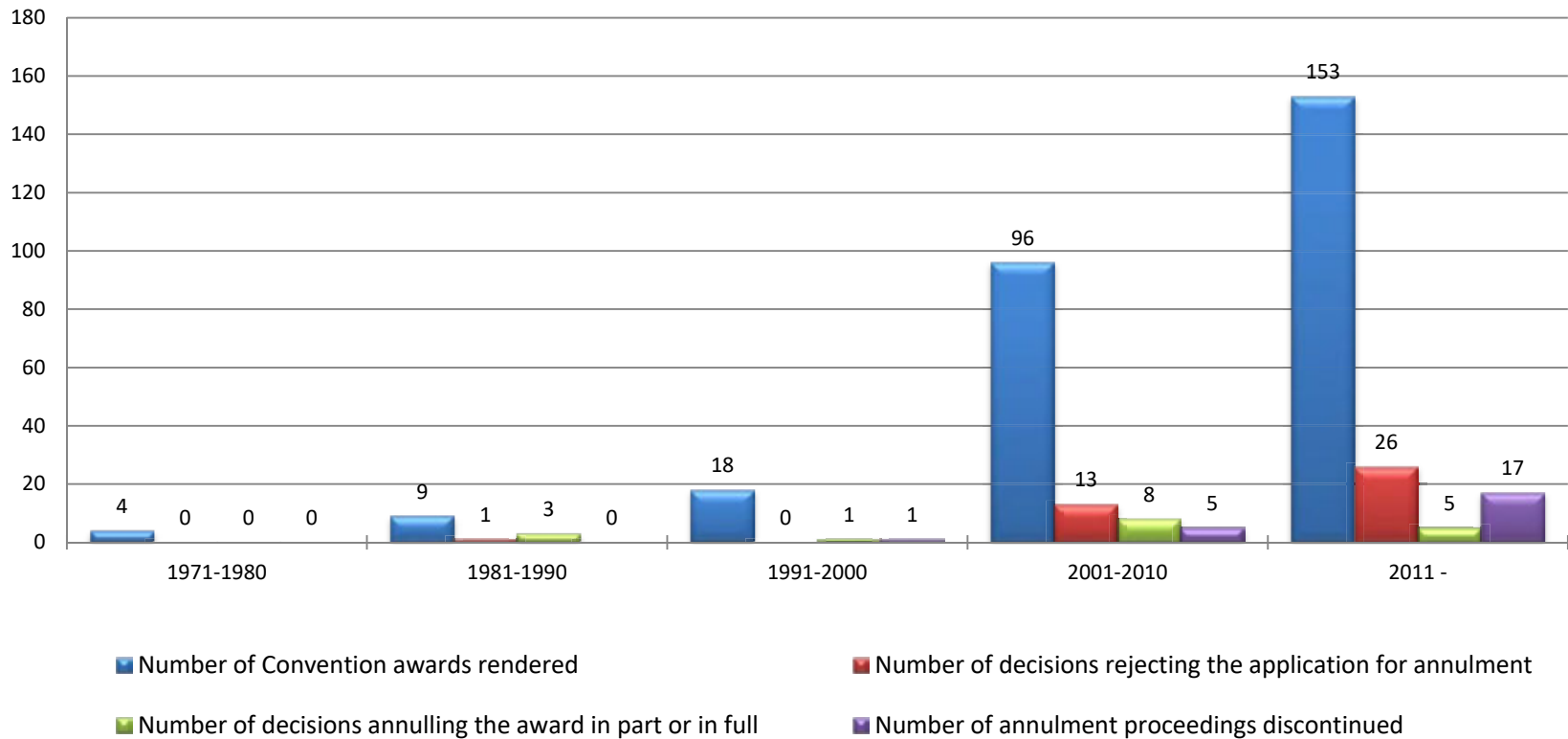
Annulment is not Appeal

Article 53 of the ICSID Convention

- Limited & extraordinary remedy
- Maintains integrity of the process
- Can annul the original award in its entirety or in part
- Either party may resubmit the dispute to a new Tribunal

See Annex 29 – 2016 Background Paper on Annulment for the Administrative Council of ICSID

Annulment Outcomes (to September 30, 2017)



Comparing Review Mechanisms in ISDS

ICSID Convention – Self-contained Remedies	Non-ICSID Convention – Limited Judicial Control
<p>Review of ICSID cases by <i>ad hoc</i> Committees under the Annulment mechanism (ICSID Convention, Article 52):</p> <p>Limited review on 5 specific grounds:</p> <ul style="list-style-type: none"> • improper constitution of tribunal • manifest excess of power of Tribunal • corruption of a member • serious departure from a fundamental rule of procedure • failure to state reasons 	<p>Procedure to set aside an award / review in domestic courts at the seat of arbitration, through domestic law (often based on the UNCITRAL Model Law, Article 34):</p> <p>UNCITRAL Model Law has limited grounds :</p> <ul style="list-style-type: none"> • improper constitution of tribunal / due process • excess of powers • violation of public policy of reviewing State • a party lacks capacity to conclude an arbitration agreement / lack of a valid arbitration agreement • non-arbitrability of subject-matter of dispute • no appeal on law or facts

Existing Recognition and Enforcement Mechanisms in ISDS

ICSID Convention – Simplified Mechanism	Non-ICSID Convention – Separate Recognition & Enforcement
<p>Simplified recognition and enforcement mechanism:</p> <ul style="list-style-type: none"> • No review of the award by domestic courts • Obligation to enforce pecuniary obligations upon presentation of certified award 	<p>Separate recognition and enforcement:</p> <ul style="list-style-type: none"> • Under domestic law based on the UNCITRAL Model Law • Under the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards



Part XI: Recognition and Enforcement of Awards

ICSID Convention, Articles 53-55

Recognition and Enforcement of Awards

Articles 53 and 54 of the ICSID Convention

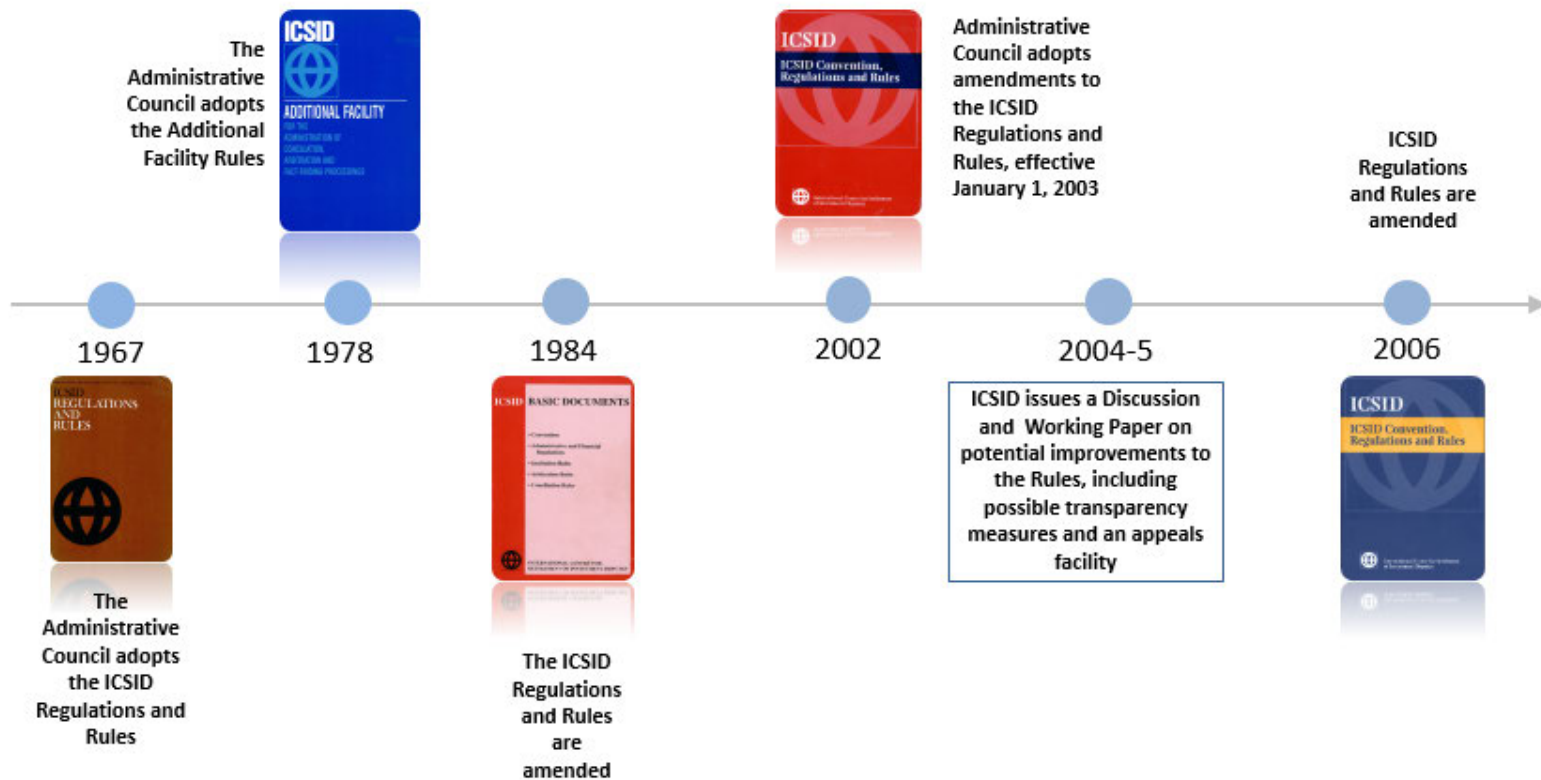
- ICSID Awards are binding and parties must comply with them
- Awards are treated as final judgments of national courts of Member States
- Pecuniary obligations can be enforced in any Member State
- National courts proceed on the basis of a certified copy of the award and cannot review the award
- Limitation: Rules on State immunity from execution apply

Compliance with ICSID Awards

- Compliance is important to maintain confidence in the process
- Could be considered by providers of political risk insurance
- Non-compliance is a breach of ICSID Convention and could lead to a State-to-State dispute for treaty violation before the ICJ

Current Rule Amendment

- Periodic modernization through amendment



ICSID Rules Amendment

- Last rules amendments in 2006
- Opening process now:
 - State and public consultations
 - May consider making changes in several tranches depending on subjects to be covered
- Scope of amendments TBD:
 - Reduce time
 - Reduce costs where possible
 - Housekeeping/modernizing

Features of the ICSID website

www.worldbank.org/icsid

The screenshot displays the ICSID website interface. At the top, the ICSID logo and name are followed by a navigation menu with links for ABOUT, SERVICES, PROCESS, CASES, ARBITRATORS, ICSID DOCUMENTS, and RESOURCES. A search bar is also present. Below the navigation is a large banner image of a modern office building. The main content area is organized into three columns:

- NEWS:** A list of recent news items with dates and brief descriptions, such as "May 31, 2016 ICSID Secretary General Participates in ICCA Mauritius 2016 Conference" and "May 6, 2016 Eli Lilly and Company v. Government of Canada (ICSID Case No. UNCT/14/2) - Public Hearing".
- CONVENTION AND RULES:** A section featuring two book covers: "ICSID Convention" and "ICSID Arbitration Rules".
- FEATURED:** A section highlighting a book titled "Building International Investment Law: The First 50 Years of ICSID".
- UPCOMING EVENTS:** A list of future events with dates and locations, including "June 15, 2016 25th Annual ITA Workshop, Dallas" and "September 9, 2016 Introduction to ICSID Practice and Procedure, London".



ICSID

1818 H Street, NW

Washington, DC 20433, USA

Tel: +1 (202) 458-1534

Fax: +1 (202) 522-2615

Email: icsidsecretariat@worldbank.org

www.worldbank.org/icsid